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CONGRESSIONAL RECORD:

CONTAINING

THE PROCEEDINGS AND DEBATES

OF THE

SIXTY-THIRD CONGRESS, SECOND SESSION.

VOLUME LI.

WASHINGTON
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CONGRESSIONAL RECORD,

SIXTY-THIRD CONGRESS, SECOND SESSION.

SENATE.

THURSDAY, *May 28, 1914.*

The Senate met at 11 o'clock a. m.

The Chaplain, Rev. Forrest J. Prettyman, D. D., offered the following prayer:

Almighty God, the fairest vision that we have gained in life is that which has brought Thee to a personal relation to Thy creatures. We have seen Thy handiwork in the sky above us and Thy great glory in all the work of creation. But our supreme vision is when we look into the face of God as our Father and know that Thou dost reveal Thyself unto us. We pray that this day the light of this vision may guide us in the discharge of the duties that are before us, for Thou in Thyself hast opened to us the portals of the temple of truth. So do Thou lead us on. Grant that Thy grace, ministered through those that know Thee, may push back the boundaries of ignorance and lift the burdens that are unbearable in life, and bring in the reign of God's love and peace among men. For Christ's sake. Amen.

The VICE PRESIDENT resumed the chair.

The Journal of yesterday's proceedings was read and approved.

RATES ON SUGAR.

The VICE PRESIDENT laid before the Senate a communication from the Interstate Commerce Commission, transmitting, in response to a resolution of the 26th instant, a copy of the transcript of testimony taken before the Interstate Commerce Commission in the matter of the application of R. H. Countiss, agent, in behalf of transcontinental carriers, for relief from certain provisions with respect to rates on sugar from points in California and other States to Chicago, which, with accompanying papers, was referred to the Committee on Printing.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by D. K. Hempstead, its enrolling clerk, announced that the House agrees to the conference asked for by the Senate on the amendments of the Senate to the bill (H. R. 13679) making appropriations for the Department of Agriculture for the fiscal year ending June 30, 1915, and had appointed Mr. LEVER, Mr. LEE of Georgia, and Mr. HAUGEN managers at the conference on the part of the House.

The message also announced that the House further insists upon its amendments to the bill (S. 2860) providing a temporary method of conducting the nomination and election of United States Senators, disagreed to by the Senate, agrees to the further conference asked for by the Senate on the disagreeing votes of the two Houses thereon, and had appointed Mr. RUCKER, Mr. BROUSSARD, and Mr. AINEY managers at the further conference on the part of the House.

PETITIONS AND MEMORIALS.

The VICE PRESIDENT presented petitions of sundry citizens of Homer City, Broomall, North Girard, and Khedive, in the State of Pennsylvania; of Wichita and Walton, in the State of Kansas; of Mount Ayr and Bussey, in the State of Iowa; of Omaha, Nebr.; of Smithfield, Ohio; of Springfield, Mass.; of Los Angeles, Cal.; of Milan, Minn.; of Green Bay, Wis.; and of North Yakima, Wash., praying for the adoption of an amendment to the Constitution to prohibit polygamy, which were referred to the Committee on the Judiciary.

Mr. DU PONT presented memorials of sundry citizens of Edgemoor and Wilmington, in the State of Delaware, remonstrating against the adoption of an amendment to the Constitution to prohibit the manufacture, sale, and importation of intoxicating beverages, which were referred to the Committee on the Judiciary.

Mr. ROBINSON presented a petition of sundry citizens of Wilmar, Ark., praying for the adoption of an amendment to the Constitution to prohibit the manufacture, sale, and importation of intoxicating beverages, which was referred to the Committee on the Judiciary.

Mr. LODGE. I present resolutions adopted by the Chamber of Commerce of Boston, Mass., which I ask may be printed in the RECORD and referred to the Committee on Interstate Commerce.

There being no objection, the resolutions were referred to the Committee on Interstate Commerce and ordered to be printed in the RECORD, as follows:

Resolved, That, in the opinion of the board of directors of the Boston Chamber of Commerce—

(1) What the country needs at the present time is a rest from new legislation affecting business and an opportunity to adjust itself to the new conditions created by recent Federal legislation, such as the income tax, the revision of the tariff, and the currency law.

(2) There is not sufficient time during the present session of Congress to consider, with the deliberation to which it is entitled, the matter of so-called trust regulation or any general legislation contemplating changes in or additions to the present restrictions on interstate or foreign trade.

(3) Accordingly the board of directors is opposed to the consideration or enactment of any form of such legislation during the present session of Congress.

(4) The whole subject of such legislation should be postponed until the next session of Congress, and in the meantime Congress, by its committee, should take the opportunity to invite the cooperation of business men throughout the country in framing needful legislation.

FRANCIS R. BANGS.	DANIEL D. MORSS.
LOUIS A. COOLIDGE.	JAMES J. PHELAN.
ALBERT GREENE DUNCAN.	RUSSELL ROBB.
EDWARD K. HALL.	CHARLES STEWART.
CHARLES J. HUBBARD.	ALEXANDER WHITESIDE.
JOHN MASON LITTLE.	SYDNEY R. WRIGHTINGTON.
GEORGE F. MEAD.	

Mr. LODGE presented petitions of sundry citizens of Fitchburg, New Bedford, Gardner, Provincetown, and Middleboro, all in the State of Massachusetts, praying for national prohibition, which were referred to the Committee on the Judiciary.

He also presented memorials of sundry citizens of New Bedford, Boston, Lowell, Worcester, Roslindale, Westport, Mattapoisett, Holyoke, Lawrence, Fall River, Chelmsford, Chicopee, Methuen, Cambridge, Randolph, Dedham, Fairhaven, and Springfield, all in the State of Massachusetts, remonstrating against national prohibition, which were referred to the Committee on the Judiciary.

Mr. HITCHCOCK presented petitions of sundry citizens of Fillmore County, Omaha, and Edgar, all in the State of Nebraska, praying for the adoption of an amendment to the Constitution to prohibit the manufacture, sale, and importation of intoxicating beverages, which were referred to the Committee on the Judiciary.

Mr. PAGE presented a petition of sundry citizens of Plainfield, Vt., praying for the adoption of an amendment to the Constitution to prohibit the manufacture, sale, and importation of intoxicating beverages, which was referred to the Committee on the Judiciary.

Mr. KENYON presented memorials of sundry citizens of Iowa, remonstrating against the adoption of an amendment to the Constitution to prohibit the manufacture, sale, and importation of intoxicating beverages, which were referred to the Committee on the Judiciary.

He also presented petitions of sundry citizens of Iowa, praying for the adoption of an amendment to the Constitution to prohibit the manufacture, sale, and importation of intoxicating beverages, which were referred to the Committee on the Judiciary.

He also presented memorials of sundry citizens of Iowa, remonstrating against the repeal of the law granting compensatory time privilege for Sunday services performed by employees of the Post Office Department, which were referred to the Committee on Post Offices and Post Roads.

He also presented a petition of sundry citizens of Iowa, praying for Federal intervention in an effort to settle the difficulties between miners and operators in the State of Colorado, which was referred to the Committee on Education and Labor.

Mr. KERN presented petitions of sundry citizens of Warren County, Laporte, and Indianapolis, all in the State of Indiana, praying for the adoption of an amendment to the Constitution to prohibit the manufacture, sale, and importation of intoxicating beverages, which were referred to the Committee on the Judiciary.

He also presented memorials of sundry citizens of Indianapolis, Clinton, Anderson, Fort Wayne, and Terre Haute, all in the State of Indiana, remonstrating against the adoption of an amendment to the Constitution to prohibit the manufacture, sale, and importation of intoxicating beverages, which were referred to the Committee on the Judiciary.

Mr. CRAWFORD presented a petition of sundry citizens of Parker, S. Dak., praying for the adoption of an amendment to the Constitution to prohibit the manufacture, sale, and importation of intoxicating beverages, which was referred to the Committee on the Judiciary.

Mr. GALLINGER presented a petition of the Men's Club of Grace Church, of Manchester, N. H., praying for the enactment of legislation to promote the welfare of American seamen in the merchant marine, which was ordered to lie on the table.

He also presented a petition of Local Branch No. 3, National Association of United States Civil Service Employees, of Portsmouth, N. H., praying for the enactment of legislation granting leaves of absence to per diem clerks and other employees in the navy yards of the country, which was ordered to lie on the table.

Mr. JAMES presented a petition of sundry citizens of the State of Kentucky, praying for the enactment of legislation pro-

viding for the building annually by the Government of two battleships, which was ordered to lie on the table.

Mr. SMITH of Maryland presented petitions of sundry citizens of Royal Oak, Mount Rainier, and Travilah, all in the State of Maryland, praying for the adoption of an amendment to the Constitution to prohibit the manufacture, sale, and importation of intoxicating beverages, which were referred to the Committee on the Judiciary.

He also presented memorials of sundry citizens of Baltimore, Md., remonstrating against the adoption of an amendment to the Constitution to prohibit the manufacture, sale, and importation of intoxicating beverages, which were referred to the Committee on the Judiciary.

He also presented a petition of the Woman's Christian Temperance Union of Washington, D. C., praying for the enactment of legislation to provide for Federal censorship of motion pictures, which was referred to the Committee on Education and Labor.

Mr. SHIVELY presented a petition of Ralph N. Smith, Thomas Brown, M. A. Chase, and sundry other citizens of Laporte, Ind., praying for the adoption of an amendment to the Constitution to prohibit the manufacture, sale, and importation of intoxicating beverages, which was referred to the Committee on the Judiciary.

He also presented a memorial of William Haley, Charles T. Sears, William Sears, and sundry other citizens of New Albany, Ind., remonstrating against the adoption of an amendment to the Constitution to prohibit the manufacture, sale, and importation of intoxicating beverages, which was referred to the Committee on the Judiciary.

He also presented a petition of Local Lodge No. 465, International Brotherhood of Maintenance-of-Way Employees of the Cincinnati, Hamilton & Dayton Railway Co., of Connersville, Ind., praying for the enactment of legislation to promote the safety of employees and passengers on railroads engaged in interstate or foreign commerce, which was referred to the Committee on Interstate Commerce.

Mr. LEE of Maryland presented petitions of sundry citizens of Maryland, praying for the adoption of an amendment to the Constitution to prohibit the manufacture, sale, and importation of intoxicating beverages, which were referred to the Committee on the Judiciary.

Mr. MYERS presented petitions of the Christian Endeavor Society of the Presbyterian Church of Oliver Gulch, Mont., and of sundry citizens of Kalispell, Mont., praying for national prohibition, which were referred to the Committee on the Judiciary.

Mr. POINDEXTER presented a memorial of Local Union No. 258, United Mine Workers of America, of Roslyn, Wash., remonstrating against existing conditions in the mining districts of Colorado, which was referred to the Committee on Education and Labor.

He also presented petitions of sundry citizens of the State of Washington, praying for national prohibition, which were referred to the Committee on the Judiciary.

He also presented memorials of sundry citizens of Tacoma, Seattle, Walla Walla, Spokane, and Vancouver, all in the State of Washington, remonstrating against national prohibition, which were referred to the Committee on the Judiciary.

IMPORTS AND EXPORTS.

Mr. STONE. Mr. President, I ask leave of the Senate to occupy a few moments of time. I desire to call attention to some remarks made a few days since by the senior Senator from Utah [Mr. SMOOT] and to make some remarks of my own by way of a response, and this I shall do for the especial benefit of the Senator from Utah.

On the 20th of the present month the Senator from Utah took an inopportune occasion to make a tariff speech, basing his remarks on a Government report showing imports and exports for the month of April last. I did not hear the Senator's speech, not being present at the time. I read his remarks, however, in the RECORD the following day, always being interested in his fulminations. They will be found on pages 8874 and 8875 of the RECORD.

After reading this address by the Senator——

Mr. SMOOT. Not an address, a statement.

Mr. STONE. Well, after reading the statement of the Senator from Utah, and not having immediate facilities at hand nor time at my disposal to examine into the accuracy of the Senator's compilations and assertions, I wrote a note to the Secretary of Commerce, who has ready and abundant facilities for examining into statistical data, and asked him to examine the statement of the Senator and furnish me with information with respect to the matter covered by the Senator's speech, with any comparative data that might be pertinent as bearing on the Senator's assertions and deductions. In reply I have a letter from the Secretary, which I think it would not be inappropriate to read. If it is considered objectionable to read a communication of this character from a Cabinet officer criticizing a Senator's statement made in debate, I will not read it, but merely use the information conveyed in the communication.

Mr. SMOOT. I certainly have no objection, because every figure that I quoted to the Senate in that statement is quoted from the Department of Commerce. I shall be pleased indeed if the Senator will have the letter read, and then I will ask that the report of the Department of Commerce be put in the RECORD.

Mr. STONE. I did not ask particularly whether it would be pleasing or displeasing to the Senator from Utah, but whether it would be proper as a senatorial proceeding to read the letter. If no one objects, I will read it. It is dated May 25, 1914. The Secretary of Commerce says:

MY DEAR SENATOR: I have, thanks to your kind favor of the 22d, read with some interest, not unmixed with amusement—

I hope it is not offensive to the Senator from Utah that the Secretary should be amused.

Mr. SMOOT. Not in the least.

Mr. STONE (reading)—

not unmixed with amusement, the outputting of Senator SMOOT as reported in the CONGRESSIONAL RECORD for May 20, 1914, page 8874, to which you kindly call my attention.

My first suggestion is that to select any single month as indicating anything special is so absurd a proceeding as to need no reply. Pretty much anything could be shown by such a course as that. Such a statement taken by itself alone amounts to nothing at all.

Senator SMOOT dwells upon "a loss in exports"—

The Secretary is quoting from the Senator now—

"a loss in exports of $37,434,586 in a single month."

This was the month of April.

We do not know fully yet what the exports were that thus fell off. We do, however, know that $19,000,000 of them, more than half, were in exports of raw cotton, cottonseed oil, and foodstuffs, including meat. These are not related to the tariff at all. Nor do we know yet in what lines of goods the increased imports from April are. Nothing can be suggested as to tariff effects from these April figures till the facts are known, which is not yet the case.

It is amusing, however, and instructive, in view of the outbreak you bring to my attention, to call to your notice the following words of Senator SMOOT—

Now, the Secretary again quotes from the Senator—

"The imports exceeded exports in April by $10,271,872. Thus we are coming to a condition which has existed under former Democratic tariff laws, when distress everywhere prevailed."

That is what the Senator said. Undoubtedly the main purpose the Senator had in rising on that occasion was to make the observation which appears in the closing paragraph I have just quoted, with several others of like kind.

The Secretary proceeds to say:

Looking back to the last time—

That is, the last time before April—

Looking back to the last time when the imports—

I want the attention of the Senator from Utah when he is through with the conversation he is holding, for I am reading this especially for his benefit. I want to rub this on his sore spots with cayenne ointment, hoping that in spite of the pain it may have some good effect on the intellectual and moral obtuseness he displays whenever he undertakes to discuss the tariff.

I read again:

Looking back to the last time when imports exceeded exports, we discover that it was while the Payne-Aldrich—

I am not content with that designation; I prefer to name it the Payne-Aldrich-Smoot law, for that much is due the Senator from Utah—

the Payne-Aldrich law was in effect that this event took place. The trade balance in our favor during the 10 months ending with April, 1910—

During the period when the Smoot-Aldrich-Payne law was in effect—

the trade balance in our favor during the 10 months ending with April, 1910, was $170,931,416, or over $300,000,000 less than during the 10 months ending with the present April.

Let the full force of that be understood. During the first 10 months of the operation of the tariff law which bears the names of Smoot, Aldrich, and Payne the balance of trade in our favor was $300,000,000 less than it was during the 10 months ending with April, 1914—the April which looks so dark to the Senator from Utah.

Mr. JAMES. That was under the existing law.

Mr. STONE. Yes; as my friend from Kentucky says, "that was under the existing law." It was under the Underwood-Simmons law that this larger trade balance occurred—this Democratic law which the Senator from Utah strives so hard but vainly to discredit.

I proceed with the Secretary's letter:

Not only so, but during the first year of the Payne-Aldrich tariff law—

The Smoot-Aldrich-Payne law—

five months showed the imports in excess of the exports, and one of these months, namely, March, 1910, showed an excess of imports of $19,341,578.

Mr. SMOOT. Mr. President——

Mr. STONE. Now, wait a moment. I want this to sink in deep on the Senator's consciousness:

And one of these months—

Says Secretary Redfield—

namely, March, 1910, showed an excess of imports of $19,341,578—

Or nearly twice as much as the shortage, so called, occurring in the month of April, 1914, about which the Senator uttered such tearful, albeit vociferous, lamentations.

Mr. SMOOT. Not half as much, instead of twice as much.

Mr. STONE. Here is what the Senator said:

The imports exceeded exports in April by $10,271,872.

That is what the Senator said. I am reading from his own speech. The Senator may not be correct in his statement; that is a possibility always when he is discussing the tariff. When he is talking about post offices and other things he gets nearer to dependable facts.

Mr. SMOOT. I believe the Senator wants to be correct in his statements.

Mr. STONE. The Senator can have his chance; but I want to rub this on now. I want the Senator to be still while I apply this remedy to his disease.

Mr. SMOOT. I thought the Senator wanted to state the facts regarding a statement which I have made.

Mr. STONE. I do. I have read absolutely word for word what appears in the Senator's speech.

Mr. SMOOT. I will read it afterwards, Mr. President.

Mr. STONE. Well, read it afterwards. The Secretary further says:

Any statement as to the effects of a tariff based upon figures for six or eight months is necessarily illusive.

The Secretary does not seek to take advantage of what the figures show for five months of the first year of the Smoot bill. He says such figures are more or less illusive and unreliable as a basis for sound calculation, and the Senator from Utah knows that, too, though he did not say it the other day. He would have said it if he had been back to 1910 and talking about the excess of imports over exports during five months of that year, but he happened to be talking about this Democratic bill, and that was a horse of another color. Hence he did not remember last week that the exports and imports for one month were not a sound basis upon which to make an argument as to the continuing effects of a tariff measure. It did not suit his purpose to remember it at that time.

Any statement as to the effects of a tariff based upon figures for six or eight months—

Says the Secretary—

is necessarily illusive, but if the present tariff is to be judged that way and condemned because of the excess of imports in one month since its passage, what shall be said of the Payne law—

Or, rather, I say, of the Smoot law—

when in a like period after it came into effect there were three months in which the imports exceeded exports, and in one of these that excess was nearly double that about which so much is now said.

I see the Senator is putting on a serious look, and well he might. [Laughter.] I know it hurts. I am applying this caustic, however, with as great tenderness as possible. I really do not mean to be cruel.

Mr. SMOOT. I am sure the Senator is not.

Mr. STONE. But it is necessary sometimes to burn a little. Now, again, the Secretary says:

The criticism made of the present law on the basis of April figures is either good or bad—

That is, it is justified or it is not—

If it is good, then by so much the more is the Payne law—

The Smoot law—

condemned for showing results of the same character, but to a far greater extent.

Is not that so? I am asking the Senator from Utah if that is not so? If you condemn the Underwood law for an excess of imports over exports for one month since it came into effect, and if for the same corresponding period of time after the Smoot law went into effect there were three months of such excess, should you not likewise condemn that law?

The Secretary says:

If the criticism is bad, as I think it is, it falls by its own utterance. You might fairly offset Senator SMOOT'S remarks about "one shipment of tin plate of 12,000 cases landed in the port of New York" by these words from Bradstreet's for May 23, volume 42, No. 1873, page 340:

"The Standard Oil Co. has awarded a contract for 600,000 base boxes, or 30,000 tons, of tin plate to the American Sheet & Tin Plate Co. The order was taken in active competition with Welsh mills."

In the present law we reduced the duty on tin plate from the equivalent ad valorem of about 25 per cent to 15 per cent, and the Senator, by calling attention to the fact that 12,000 cases of tin had come into New York, sought to create the impression and send it broadcast that the tin industry could not compete with foreign mills, and yet here is a statement from a source so authoritative that it will not be questioned that the enormously large contract referred to was given to an American concern in open competition with foreign mills.

Mr. President, I think this communication from the Secretary demolishes absolutely the bad impression, the wrong impression, the remarks of the Senator from Utah were intended to convey to the public.

Mr. GALLINGER. Mr. President, may I ask the Senator a question?

The VICE PRESIDENT. Does the Senator from Missouri yield to the Senator from New Hampshire?

Mr. STONE. Yes.

Mr. GALLINGER. Is it or is it not a fact that during the six months of the present tariff law 33,000,000 pounds of tin plate have come into this country as against 3,000,000 pounds previously for the same length of time?

Mr. STONE. Does the Senator assert that to be absolutely the fact as to the amounts stated?

Mr. GALLINGER. I assert it as a fact, as it comes to me from what I conceive to be an entirely reliable source.

Mr. STONE. The Senator is not in the habit of making statements that are not very well authenticated, and I am not prepared at this moment to say whether he is correct as to his figures or not. It may be that more came in during the first six months of the present law than came in during the first six months of the Smoot law. Perhaps, as the Senator says, during the last——

Mr. GALLINGER. No; ten times as much—33,000,000 pounds as against 3,000,000 pounds.

Mr. STONE. Possibly ten times as much; but the point I make is that if the American tin-plate manufacturers can successfully compete with foreign mills under present duties, I see no reason why American manufacturers using tin plate, as well as American ultimate consumers, should not have the benefit of this competition and of consequent lower prices. We have argued that question here over and over again, and I do not care to go over it again at this time. My present purpose is simply to put against what the Senator from Utah said the other day—not wishing it to go uncontradicted—the statement which I have read from Secretary Redfield.

And now, for the benefit of the Senator from Utah, also the Senator from North Dakota [Mr. MCCUMBER], and for the other side of the Chamber generally, I want to read a few lines from a letter which I received the other day from a prominent farmer in my State, Mr. B. B. Adams, of Republic, Mo. This letter was written in response to some letters I sent out into the State making inquiry of the people along the lines of industrial conditions in our Commonwealth, since so much is being said here regarding existing conditions. Senators have a habit, some of them, of getting up here from time to time and launching attacks with bold assertions, and they do it with such confidence and with such long faces and upward eye rollings that it is a little hard to stand up in their presence and on the spur of the moment contradict what they say. I have been trying to load up a little on this subject. [Laughter.] Here is one sample of the ammunition I have been able to gather——

Mr. OLIVER. Mr. President——

The VICE PRESIDENT. Does the Senator from Missouri yield to the Senator from Pennsylvania?

Mr. STONE. Always—with pleasure.

Mr. OLIVER. Mr. President, I hesitate to break in upon this enlightening discourse of the Senator from Missouri; but, in the interest of the orderly conduct of the business of the Senate, I feel that I must ask that the regular order be proceeded with.

Mr. STONE. Well, the Senator from Utah desires to be heard, and therefore I suppose the Senator from Pennsylvania does not wish now to urge the regular order so much.

Mr. OLIVER. Mr. President, I do not think the Senator from Missouri has any right to break into the regular order of the business of the Senate in this way. He can talk upon this subject at the proper time; but this is not the proper time.

Mr. JAMES. Nobody objected to the Senator from Utah proceeding the other day.

Mr. STONE. How did the Senator from Utah break in?

Mr. SMOOT. I asked unanimous consent of the Senate.

Mr. STONE. So did I.

Mr. OLIVER. I beg pardon of the Senator; he asked for no unanimous consent.

Mr. STONE. I said in the beginning that I wished by the consent of the Senate to submit some remarks.

Mr. OLIVER. I insist on the regular order, Mr. President.

Mr. JAMES. I should like to ask the Senator from Pennsylvania if, in view of the fact that the Senator from Utah [Mr. SMOOT] made a speech on this subject by unanimous consent, in granting which this side participated, would the Senator now call for the regular order and shut off the Senator from Missouri, who is replying to the speech of the Senator from Utah, under such circumstances? Is that the idea of fairness the Senator from Pennsylvania would invoke in this Chamber?

Mr. OLIVER. There can be no objection to the Senator from Missouri proceeding at the proper time with his remarks.

Mr. STONE. Very well; I will proceed.

Mr. SMOOT. Mr. President, I sincerely trust that the Senator from Pennsylvania will withdraw his request that the regular order be proceeded with. I should like to hear the Senator from Missouri conclude, and I think that he ought to be allowed to conclude.

Mr. OLIVER. Mr. President, I thought the Senator from Missouri was through. I have listened to his remarks, but he is now starting out upon a new line, and we do not know where he will lead us.

Mr. STONE. No; the Senator does not know where I am going to lead him; that is the trouble with him. [Laughter.] The Senator does not want to be led. He is like some other creatures that I know of, distinguished in my State; you can lead them to water, but you can not make them drink; you can tell the Senator the truth, but he will not absorb it. [Laughter.]

Mr. OLIVER. Mr. President, I am willing to hear the truth at all times, and I am always amused when listening to the Senator from Missouri; but just now I happen to be looking forward to saying something myself on another subject, and I should like the Senator to get through in some reasonable time. I withdraw my point of order, Mr. President.

Mr. STONE. Oh, I thought the Senator would withdraw it in due time and on proper solicitation from agreeable sources.

The letter I was going to read from this very prominent and leading farmer in my State is as follows. Let me read now from Mr. Adams's letter:

> Public sentiment here is strongly behind Wilson. Of course, there are knockers—

Yes; knockers there, as there are here—

> Of course, there are knockers; we expect that; but the thinking business people are all pleased with the tariff and the bank bill, and are behind Wilson in Mexico, too. Now, listen: Wool is selling at 21 cents per pound, the highest price in 10 years; frying chickens 35 cents, old hens 13 cents, hogs 8 cents on foot, and an ordinary yearling calf brings $40 and up; horses and mules almost out of sight. Manufactured goods are lower. Clothing from one-fourth to one-third; hardware down some, and sugar $4.50 a hundred pounds—it has been $6.50 and $7 per hundred for 8 or 10 years. That looks good. A man can sell a 200-pound hog for $16, buy a hundred pounds of sugar, and have $11.50 left; under the Republican tariff he could only have $9 left. Some difference; see?

Mr. President, so as not to trespass further upon the patience and good nature of the Senator from Pennsylvania, I will conclude my observations this morning with this letter, asking the Senator from Utah especially to give prayerful attention to both the masterly communications I have submitted. They ought to help him.

Mr. SMOOT. Mr. President, I did not think the short statement I made would touch the tender nerves of the Secretary of Commerce and the distinguished Senator from Missouri so keenly and wound so deeply. I made no comments in presenting the figures to speak of, and I wish to say now that I defy the Secretary of Commerce and I defy the Senator from Missouri to say that there is one assertion or one figure in the statement that is incorrect.

I have here the statement of the Department of Commerce from which I quoted every figure, and I say now that there is not one figure that I quoted that is not found in and based upon the report of the Department of Commerce—not one. I call the attention of the Senator to the very opening statement that I made:

> Mr. President, the tariff law has been in force now some six months, and it can now be judged as to what the future result of the workings of that bill will be as affecting our commerce.
>
> I am in receipt of the report from the Bureau of Foreign and Domestic Commerce, Department of Commerce, showing the total values of imports and exports of the United States for the month of April, 1914.

Mr. President, I knew well what the importations and exportations were for the last 10 months. They are found in this same report. But how often have the Senators upon the other side of the Chamber, when attention has been called in the past to the working of the bill, stated that there had not yet been time to judge of the results of the Democratic tariff bill; and I agreed with them. Orders could not be placed at once; goods could not be made at once in a foreign country; it takes time for the goods to arrive in this country; and it was unfair to judge of the workings of the tariff bill until time had elapsed. I particularly stated that the figures I gave were for the month of April; and, Mr. President, is it any better for the month of May? Are not our importations so far this month exceeding the amount of importations a year ago to a greater extent than the importations of April did a year ago last April?

I received but this morning the daily statement of the United States Treasury. I find that in the case of the receipts to the Government from customs during this month, up to date, the amount collected upon goods imported into this country is $17,742,117.43. In the case of the corresponding month and date of the fiscal year 1913, a year ago, with a rate considerably exceeding the present rate—as announced by the Senator having the bill in charge, 26 per cent ad valorem as against 42 per cent—we find that the revenue collected at that time for that particular month was $16,920,542.08. There has been collected for the Treasury of the United States for the present month, as against a year ago, $821,575.35 more up until the 26th of May, 1914. Think of the millions of dollars more that have been imported into this country at the present rate to bring about that condition.

Mr. REED. Mr. President, will the Senator permit me to ask him a question?

Mr. SMOOT. Certainly, Mr. President.

Mr. REED. Does the Senator think the goods are being sold any cheaper?

Mr. SMOOT. Mr. President, in my investigation I have failed to find a case where they have been sold cheaper.

Mr. REED. Then, if they are not sold any cheaper, why is it that they should come in at all, if the prices remain just the same as they did before?

Mr. SMOOT. Oh, Mr. President, that question has been asked and answered at least a hundred times in the Senate; but I will answer the Senator once more.

Mr. REED. I should like to hear it answered once.

Mr. SMOOT. I will gladly do so if I can, and I hope it will be to the satisfaction of the Senator from Missouri; but if not I can not help it.

The goods that are imported into this country are imported at a cost slightly below the goods that are made in this country—just enough below to secure the order. When they arrive, they are in the hands of the importer. The difference between the cost in a foreign country and in this, and the difference between the price for which the importer sells the goods and the price which the ultimate consumer pays is divided, first, with the foreign manufacturer; second, with the importer; third, with the wholesalers and jobbers of this country; and, fourth, with the retailer. The customer at the end receives no benefit.

Take, for instance, gloves. A difference of $1 a dozen in the cost of gloves would mean a great advantage to an importer; it would, in some cases, mean a fair profit. But do you think the retailer is going to sell a $2 pair of gloves for any less than he did before? That has been demonstrated so many times that I thought everybody understood it.

By the way, Mr. President, at this particular time I wish to disavow any of the credit that the senior Senator from Missouri [Mr. STONE] undertakes to ascribe to me for the passage of the Payne-Aldrich bill. I had not the bill in charge; but I want to acknowledge that I did everything in my power to see that it did pass, humble as that may have been.

Mr. REED. Mr. President——

The VICE PRESIDENT. Does the Senator from Utah yield to the Senator from Missouri?

Mr. SMOOT. I yield.

Mr. REED. I simply wish to ask the Senator if there are two sources of supply instead of one, and if one of those sources of supply, the foreign source, augments so that there are more goods actually brought into the country, does not that inevitably produce a reduction?

Mr. SMOOT. To the importer, the jobber, and to the retailer, yes; but not to the consumer.

Mr. REED. If the jobber——

Mr. SMOOT. Mr. President, I have not the time now to go into the details of this question further, because——

Mr. REED. Very well.

Mr. SMOOT. The Senator from Pennsylvania [Mr. OLIVER] is waiting to proceed with his speech, and therefore I do not want to take the time of the Senate any longer than necessary. I simply wish to say to the Senator from Missouri and to the

Senate that from the same report from which I quoted I now want to quote the excess of exports for the 10 months ending the fiscal year 1912–13, and for the year 1914. Let them speak for themselves. I care not what the Secretary of Commerce may say. These are the figures, and these figures tell the truth.

Mr. President, the excess of exports for the 10 months ending April, 1912, was $524,172,358. For 1913, $559,833,167. Now, mark you, the excess of exports for 1914 was but $474,371,465.

I care not what the Secretary of Commerce may have written to the Senator from Missouri. Those figures emanated from his office. They are the figures showing the customs receipts of the Government of the United States, and also showing the amount of exports as reported by the Department of Commerce.

In order that the Senator from Missouri may know exactly what I did say as to the excess of exports, I read from my remarks of May 20:

> The returns of the Department of Commerce show that the merchandise exports for April of this year amounted to $162,368,852, as compared with $199,813,438 for the corresponding month of last year under a protective tariff. This is, as I stated, a loss in exports of $37,434,586 in a single month.

That is what I stated, and that is exactly what the RECORD shows, and that is exactly what is shown by the statement I hold in my hand from the Department of Commerce.

Mr. STONE. Does the Senator deny that he used the words I read from his speech?

Mr. SMOOT. I think the Senator, in quoting the words, applied the $10,000,000 to another subject matter entirely, and compared it with another subject matter—not the Secretary of Commerce—that I do not say, but the Senator, as I understood him.

Mr. STONE. The Secretary of Commerce shows that over $19,000,000 of it was for foodstuffs, raw cotton, and cotton seed. That has nothing whatever to do with the tariff.

Mr. SMOOT. Why, Mr. President, cottonseed oil and foodstuffs and cotton are always exported every year; the percentage of decrease in these articles no doubt is about the same as all other goods exported. We all know there would be a less exportation of cotton if there was such a falling off in exports as was the case, but it was universal in all lines of exportations.

Mr. President, I do not wish to detain the Senate any longer. I simply wish to say to the Senator and to the Senate that there is not a single statement made by me on the 20th of May that can be successfully contradicted. My statements are true; and, if the Senate will remember, I confined myself on that day to just what the figures show. I did not go into any elaborate discussion. I was not on the floor more than five minutes; but I thought what I then said ought to go into the RECORD, and for that purpose I took the floor.

Mr. SIMMONS. Mr. President, I should like to ask the indulgence of the Senate, not for the purpose of making any argument supplementary to the very admirable statement made by the Senator from Missouri [Mr. STONE], but simply in order to put into the RECORD some figures with reference to our imports and exports during the past nine months, as compared with the same nine months of last year, and during the month of March of this year, as compared with the month of March of last year. I shall not attempt any discussion. I expected to do that to-morrow morning, but the Senator from Missouri [Mr. STONE] has anticipated me, and I am very glad that he has done so.

Mr. President, with reference to the increase of imports and falling off of exports for the month of April, referred to by the Senator from Utah [Mr. SMOOT] a few days ago, during my absence on account of illness, I think it will be admitted, and if not admitted the official statistics will demonstrate the fact, that the increase in imports for that month was very largely the result of the increased imports of food products, and that the falling off in exports in that month was likewise due to the decrease in exports of certain raw products, including food products, raw cotton, cottonseed oil, and so forth.

It is a fact that for the last 16 years there has been a constant increase in our importations of food products from foreign countries. This has been due to the fact that in recent years the increase in our food production has not kept pace with the increase in our population and the increased demand for those products for domestic consumption.

I want to call the attention of the Senator from Utah, if the Senator from Massachusetts [Mr. LODGE] will permit me to have the attention of the Senator from Utah——

Mr. OLIVER. Mr. President——

The VICE PRESIDENT. Does the Senator from North Carolina yield to the Senator from Pennsylvania?

Mr. SIMMONS. It is going to take but a few minutes for me to complete my statement.

Mr. OLIVER. I have no objection to the Senator putting in all the figures he wishes, but I do object to further discussion of this subject at this time.

Mr. SIMMONS. The time for the Senator to have made that objection was when I asked consent that I might be allowed to make this statement. He was silent then, and I think it comes——

Mr. OLIVER. I call for the regular order.

Mr. SIMMONS. It comes with bad grace for the Senator to interrupt me in the middle of a sentence to make this objection.

Mr. OLIVER. The Senator said he did not intend to discuss the question, and he is now proceeding to discuss it, and I object to the discussion of it at this time.

Mr. SIMMONS. I have to state facts in order that the Senate may understand the significance of the figures which I give.

The VICE PRESIDENT. Does the Senator from Pennsylvania insist on the regular order?

Mr. OLIVER. I insist on the regular order.

Mr. SIMMONS. I trust the Senator from Pennsylvania will permit me to proceed for a few minutes.

Mr. OLIVER. I do not insist on it to the extent of objecting to the Senator putting in any figures.

Mr. SIMMONS. It will not take 10 minutes.

Mr. OLIVER. Ten minutes are too much, and even five minutes are too much. The discussion never should have taken place at this time.

Mr. SIMMONS. I ask the Senator to permit me to finish my statement.

Mr. OLIVER. Well, Mr. President, I have the reputation of being very easy, and I withdraw the objection.

Mr. SIMMONS. Mr. President, to show to what extent the importations of food products of this country have been increasing in recent years, I desire to put in the RECORD the fact that in 1898 our imports of food products to this country amounted to only $190,000,000, and in 1913 our importations of food products amounted to $405,000,000. This increase was under Republican tariff laws. In 1898 our export of food products amounted to $590,000,000, and in 1913, 15 years afterwards, it amounted to only $502,000,000. This falling off was under Republican tariff laws.

If the Senator from Utah had gone back to the month of March he would have seen that a condition existed that is very different from that which existed in the month of April. If you confine yourself to a single month in any year, under any tariff law—by picking out a particular month, you can show a marked discrepancy with reference to the imports and the exports of that month as compared with the like month in a previous year. That would be no indication of the current of trade at all. You must take a period extending over several months in a year in order to ascertain what is the indication of trade.

If the Senator had taken the month of March, 1913, he would have found that in that month the imports of merchandise amounted to $155,000,000, in round numbers, and to $82,000,000 in the month of March, 1914. He would have found that the exports of merchandise for the month of March, 1913, amounted to $183,000,000, while the exports for the month of March, 1914, amounted, in round numbers, to exactly the same amount—$183,000,000. In the month of March, 1914, our exports were almost exactly equal to our exports in March, 1913.

Now, take the imports for the period of nine months ending with March during the last three years. We had during those nine months in 1912 imports amounting to $1,203,000,000 in round figures, and in 1913 amounting to $1,401,000,000. In 1913, with the Payne-Aldrich law in operation, there was an increase in imports from $1,203,000,000 to $1,401,000,000 during those nine months. For 1914, during those nine months the imports were $1,398,000,000. So the imports for the nine months ending in March, 1914, were less than the imports for the nine months ending in March, 1913, when the Payne-Aldrich bill was in operation.

Now, when you come to the exports, you find that during the nine months ending in March, 1912, the exports of merchandise were $1,689,000,000; in 1913, $1,881,000,000; in 1914, for these nine months, $1,859,000,000. There was a very small falling off during the nine months ending with March, 1914, as compared with the exports for the nine months ending March, 1913.

Mr. WILLIAMS. I should like to ask the Senator before he takes his seat, were these goods which we imported in sufficient quantities——

Mr. OLIVER. Mr. President, I will ask the Senator from North Carolina if he has concluded?

Mr. SIMMONS. I have concluded; but I think the Senator ought to have the courtesy to permit the Senator from Mississippi to ask me a question.

Mr. OLIVER. If the Senator has concluded, I object to further discussion.

Mr. WILLIAMS. Never mind, I shall not insist. I just wanted to ask the Senator a question before he took his seat.

Mr. SIMMONS. I have not said what I wanted to say, but owing to the impatience of the Senator from Pennsylvania, who seems this morning to be exceedingly desirous to suppress any discussion on this side in reply to what the Senator from Utah said some days ago, I will not consume any further time.

Mr. OLIVER. The Senator from Pennsylvania is exceedingly patient. I do not object to the Senator from North Carolina concluding, but I do object to further discussion here on the part of other Senators.

Mr. SIMMONS. I will not interrupt the Senator further.

Mr. WILLIAMS. I had no idea of discussing anything. I wanted to ask a question of the Senator from North Carolina before he took his seat.

Mr. OLIVER. I supposed the Senator from Mississippi was only coming in with one of his little interludes. We know what that means.

Mr. WILLIAMS. I will state further that I am heart and soul with the Senator from Pennsylvania, and I hope the example he now sets of discussing the tolls bill and keeping it under discussion, with nothing at any time to interfere, will be adopted by the Senate and followed out.

Mr. OLIVER. I should be glad to hear the Senator from Mississippi on one subject——

Mr. O'GORMAN. I ask that the tolls bill be laid before the Senate.

Mr. RANSDELL. Before that is done——

The VICE PRESIDENT. The morning business has not been concluded, and the request of the Senator from New York is not in order. We are still on the presentation of petitions and memorials.

Mr. O'GORMAN. I withdraw the request. There have been so many addresses this morning I assumed that the morning business had been closed.

COEUR D'ALENE INDIAN RESERVATION.

Mr. BRADY. On the 26th of May I introduced a bill appropriating $100,000 for the construction of a system of wagon roads on the Cœur d'Alene Indian Reservation in Idaho.

I have a letter which I have received from the officials of the Plummer highway district stating in very concrete form many good reasons why the bill should be passed.

Every homesteader had to pay the Government for his land. There are many Indian allotments in the district, and the Indians pay no taxes and do no work on the roads, and the homesteaders even have to pay for the right of way and must build the roads over the Indian lands. I am desirous that the records may show the great need of the passage of this bill. People have settled in the Plummer district from all parts of the United States and have taken up homesteads with the intent to build homes and develop the country. These people are among the best class of our citizens and certainly deserve this recognition. I ask that the letter may be printed in the RECORD and referred to the Committee on Indian Affairs.

There being no objection, the letter was referred to the Committee on Indian Affairs and ordered to be printed in the RECORD, as follows:

BOARD OF COMMISSIONERS,
PLUMMER HIGHWAY DISTRICT,
Plummer, Idaho, May 9, 1914.

Hon. JAMES H. BRADY,
United States Senate, Washington, D. C.

DEAR SENATOR: Inclosed herewith you will find a certified copy of our minutes of a special meeting held to-day.

The Coeur d'Alene Reservation was opened to entry May 2, 1910. Plummer is virtually the center of that reservation. People came here from all over the United States and took up homesteads with the desire to build homes and to develop the country and make it a good place in which to live. Homesteaders, as you know, are poor, ordinarily. There was not one mile of road built within miles of the village of Plummer. There were no roads laid out, even. Homesteaders cut trails across the mountains to reach some place where they could secure supplies.

In 1912 we formed a highway district under the laws of the State. We bonded ourselves for $45,000 in the year 1913. We taxed ourselves for the purpose of building roads as heavily as we could, with the result that we will have in taxes this year about $16,000, all told. This indicates we believe, the good faith of the people here. It shows that they are in earnest, that they are taking the Government domain that was raw land and are attempting to change it into farms and beautiful homes.

Every homesteader had to pay the Government for his land. The country is sprinkled with Indian allotments. The Indians pay no taxes, do no work on the roads, but, on the contrary, charge the people for a right of way, and the people must build over these Indian lands. These roads benefit the Indians as much as they do anyone else. This is a hard country to build roads in. Brush must be cut, stumps must be blown out, and the roads graded at great expense. Under the circumstances, we believe that no one would oppose a bill appropriating the sum of $100,000 to the Plummer Highway District for the purpose of building a system of roadways. Nothing could do more to build up the country, and in view of the hardships and the sufferings that homesteaders here have gone through, no one is more entitled to Federal aid.

We would like to impress upon you as forcibly as we can the necessity of the appropriation which we ask. It would simply be a case where the Government would be treating its own homesteaders in a manner in which they deserve to be treated.

We therefore ask and petition you that you use your best efforts to have the appropriation we ask for passed at this session of Congress.

If there is anything that we can do to help you in the matter, kindly let us know.

Very respectfully,

THE PLUMMER HIGHWAY DISTRICT,
WILLIAM HOUCK,
President Board of Commissioners.
WILLIAM RIORDAN, *Commissioner.*
MAHLON E. HARVEY, *Commissioner.*

Attest:

GEORGE J. MCFADDEN, *Secretary.*

REPORTS OF COMMITTEE ON MILITARY AFFAIRS.

Mr. DU PONT, from the Committee on Military Affairs, to which were referred the following bills, submitted adverse reports thereon, which were agreed to, and the bills were postponed indefinitely:

A bill (S. 3869) to amend the military record of John Morrow (Rept. No. 564); and

A bill (S. 3989) for the relief of Alfred E. Smith (Rept. No. 565).

RESTORATION OF ANNUITIES.

Mr. LEWIS. In behalf of the Senator from Minnesota [Mr. CLAPP] I ask that the bill (H. R. 11246) for the restoration of annuities to the Medawakanton and Wahpakoota (Santee) Sioux Indians, declared forfeited by the act of February 16, 1863, be taken from the calendar and recommitted to the Committee on Indian Affairs.

The VICE PRESIDENT. Without objection, it is so ordered.

MABLE PETERS AND LORETTA PETERS.

Mr. WILLIAMS. From the Committee to Audit and Control the Contingent Expenses of the Senate I report back favorably without amendment Senate resolution 369. I call the attention of the Senator from Kentucky [Mr. JAMES] to the report, and I ask unanimous consent for the present consideration of the resolution.

Mr. SMOOT. I shall not object to this resolution on account of its nature, but I shall object to the consideration of any bills during the morning hour.

Mr. WILLIAMS. I should not ask for the consideration of any measure that would take much time. This is merely the usual routine matter.

The VICE PRESIDENT. Is there objection to the present consideration of the resolution?

There being no objection, the resolution was read, considered by unanimous consent, and agreed to, as follows:

Resolved, That the Secretary of the Senate be, and he is hereby, authorized and directed to pay, out of the contingent fund of the Senate, to Mable Peters and Loretta Peters, sisters of George Peters, late a messenger to the Committee on Patents, a sum equal to six months' salary, at the rate he was receiving by law at the time of his death, said sum to be considered as including funeral expenses and all other allowances.

SENATOR FROM MARYLAND.

Mr. KERN. I am directed by the Committee on Privileges and Elections to submit a report (No. 566) relative to the claim of Hon. BLAIR LEE for $2,500 for expenses and counsel fees made necessary by the objections made to his taking his seat in the Senate as a Senator from the State of Maryland. Accompanying the report is a resolution, which I ask may be read and referred to the Committee to Audit and Control the Contingent Expenses of the Senate.

The VICE PRESIDENT. The resolution will be read.

The resolution (S. Res. 379) was read and referred to the Committee to Audit and Control the Contingent Expenses of the Senate, as follows:

Resolved, That the sum of $1,500 be paid to BLAIR LEE out of the contingent fund of the Senate, which payment shall be in full of all demands of the said BLAIR LEE for expenses incurred by him in the proceedings involving the validity of his credentials and his right to a seat in this body.

HON. FRANK P. GLASS.

Mr. KERN. From the Committee on Privileges and Elections I submit a report (No. 567) relative to the claim presented by Frank P. Glass for $2,889.53 for personal expenses and counsel fees in the prosecution of his application to be admitted to a seat in the Senate as a Senator from the State of Alabama. Accompanying the report is a resolution, which I ask may be read and referred to the Committee to Audit and Control the Contingent Expenses of the Senate.

The VICE PRESIDENT. The resolution will be read.

The resolution (S. Res. 380) was read and referred to the Committee to Audit and Control the Contingent Expenses of the Senate, as follows:

Resolved, That the sum of $1,500 be paid to Frank P. Glass out of the contingent fund of the Senate, which payment shall be in full of all demands of the said Glass for expenses incurred by him in the proceedings brought to establish his right to a seat in this body under the appointment of the governor of Alabama.

PRIBILOF ISLANDS FUR SEAL.

Mr. THORNTON. From the Committee on Fisheries I report back favorably, with an amendment, the joint resolution (S. J. Res. 150) providing for the taking for purposes of illustration of 30 specimens of Pribilof Islands fur seal for the collection of the United States National Museum. I ask unanimous consent for the present consideration of the joint resolution, for the reason that it is necessary to act promptly, because the Commissioner of Fisheries has just left for Alaska, and it will be necessary for him to make the collection this summer in order to make it available.

The VICE PRESIDENT. Is there objection to the present consideration of the joint resolution?

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the joint resolution.

The amendment was, in line 4, after the word "taken," to strike out "from" and insert "for," so as to make the joint resolution read:

Resolved, etc., That the Secretary of Commerce be, and he is hereby, authorized to have taken for the collections of the United States National Museum a series of specimens of the Pribilof Islands fur seal, to properly illustrate the range of variation in both sexes at all ages, said collection not to exceed 30 specimens in number.

The amendment was agreed to.

The joint resolution was reported to the Senate as amended and the amendment was concurred in.

The joint resolution was ordered to be engrossed for a third reading, read the third time, and passed.

BILLS INTRODUCED.

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. SHIVELY:

A bill (S. 5687) granting an increase of pension to George Willis; and

A bill (S. 5688) granting a pension to Eliza L. Johnsonbough (with accompanying papers); to the Committee on Pensions.

By Mr. WILLIAMS:

A bill (S. 5689) for the relief of Alice Petrie Watkins, Charles Petrie, and the heirs of Eva Petrie Hamilton, or their personal representatives (with accompanying paper); to the Committee on Claims.

By Mr. SMOOT:

A bill (S. 5690) granting an increase of pension to Charles Brink (with accompanying papers); to the Committee on Pensions.

By Mr. LANE:

A bill (S. 5691) granting an increase of pension to George W. Sullivan (with accompanying papers); to the Committee on Pensions.

By Mr. BRYAN (for Mr. FLETCHER):

A bill (S. 5692) granting an increase of pension to Mary B. Jenks; to the Committee on Pensions.

By Mr. MARTIN of Virginia:

A bill (S. 5693) to provide for the promotion of Pay Director William W. Galt, United States Navy, to the rank of rear admiral in the Pay Corps of the Navy upon his retirement from the service; to the Committee on Naval Affairs.

By Mr. BRADY:

A bill (S. 5694) granting an increase of pension to George M. Getts; to the Committee on Pensions.

By Mr. SMITH of Maryland:

A bill (S. 5695) for the relief of the Southern Transportation Co. (with accompanying papers); to the Committee on Claims.

By Mr. CHAMBERLAIN:

A bill (S. 5696) granting a pension to Andrew J. Mills (with accompanying papers); to the Committee on Pensions.

AMENDMENTS TO APPROPRIATION BILLS.

Mr. WILLIAMS submitted an amendment relative to the rights of the Mississippi Choctaw Indians whose names do not appear upon the approved rolls of the Choctaws in Oklahoma, etc., intended to be proposed by him to the Indian appropriation bill, which was ordered to lie on the table and be printed.

Mr. ROBINSON submitted an amendment proposing to appropriate $334,435 for labor and material required in the installation of a drainage system in the city of Hot Springs, Ark., to care for storm waters from the mountains of the Hot Springs Reservation and for perfecting a sanitary sewer system in that city, etc., intended to be proposed by him to the sundry civil appropriation bill, which was referred to the Committee on Appropriations and ordered to be printed.

Mr. SIMMONS submitted four amendments intended to be proposed by him to the river and harbor appropriation bill, which were referred to the Committee on Commerce and ordered to be printed.

Mr. GORE submitted an amendment providing that the unobligated balances in the appropriation "Public works, Bureau of Yards and Docks," for the year ending June 30, 1914, or so much thereof as may be deemed necessary by the Secretary of the Navy, may be by him expended for the construction of storage tanks for oil, for the purchase and treatment of oil for naval purposes, etc., intended to be proposed by him to the naval appropriation bill, which was ordered to lie on the table and be printed.

NAVAL CLAIMS.

Mr. SMITH of Maryland submitted an amendment intended to be proposed by him to the bill (S. 5489) making appropriation for payment of certain claims in accordance with findings of the Court of Claims, reported under the provisions of the acts approved March 3, 1883, and March 3, 1887, and commonly known as the Bowman and the Tucker Acts, which was referred to the Committee on Claims and ordered to be printed.

FUNERAL EXPENSES OF THE LATE SENATOR BRADLEY.

Mr. JAMES submitted the following resolution (S. Res. 381), which was read and referred to the Committee to Audit and Control the Contingent Expenses of the Senate:

Resolved, That the Secretary of the Senate be, and he is hereby, authorized and directed to pay, from the miscellaneous items of the contingent fund of the Senate, the actual and necessary expenses incurred by the committee appointed by the President of the Senate in arranging for and attending the funeral of the late Senator William O. Bradley, from the State of Kentucky, vouchers for the same to be approved by the Committee to Audit and Control the Contingent Expenses of the Senate.

NEW YORK CENTRAL & HUDSON RIVER RAILROAD CO.

Mr. NORRIS. I submit a resolution and ask unanimous consent for its present consideration.

The resolution (S. Res. 382) was read, as follows:

Whereas the New York Central & Hudson River Railroad Co., through its ownership of the stock of the Lake Shore & Michigan Southern Railway Co., forms a continuous line of railway from Chicago, through Buffalo, to New York City; and

Whereas said New York Central & Hudson River Railroad Co. controls by lease the West Shore Railroad Co.; and the said Lake Shore & Michigan Southern Railway Co. owns the stock of the New York, Chicago & St. Louis Railroad Co. (Nickel Plate), which, together with the said West Shore Railroad Co., constitutes a railroad running parallel to the Lake Shore & Michigan Southern Railway Co. and the New York Central & Hudson River Railroad Co. from Chicago, through Buffalo, to New York City; and

Whereas the New York Central & Hudson River Railroad Co. owns the stock in the Michigan Central Railway Co., a line of railway extending from Chicago to Buffalo; and

Whereas said New York Central & Hudson River Railroad Co. owns the stock in the Western Transit Co. and the Rutland Transit Co., constituting a water-navigation line engaged in interstate commerce between Buffalo and Chicago and intermediate points; and

Whereas this ownership results in a combination under one control of four competing lines of transportation between Chicago and Buffalo and two competing lines between Buffalo and New York City; and

Whereas the said Lake Shore & Michigan Southern Railway Co., in addition to the ownership of the said New York, Chicago & St. Louis Railroad Co., owns all of the stock of the Toledo & Ohio Central Railway Co.; of the Chicago, Indiana & Southern Railroad Co.; and of the Jamestown, Franklin & Clearfield Railroad Co.; and also owns more than 50 per cent of the stock of the Pittsburgh & Lake Erie Railroad Co.; and

Whereas the said New York Central & Hudson River Railroad Co. controls the Western Maryland Railway Co., which together with the said Pittsburgh & Lake Erie Railroad Co. constitutes another competing line between territory covered by the Lake Shore & Michigan Southern Railway Co. and the New York, Chicago & St. Louis Railroad Co. with the Atlantic seaboard; and

Whereas the said New York Central & Hudson River Railroad Co. is now taking the necessary steps to more completely consolidate all of the aforesaid railroads, together with others, under one ownership and control: Therefore be it

Resolved, That the Attorney General be, and he is hereby, directed to inform the Senate whether the various combinations of railroads above set forth are in violation of the Sherman antitrust law or any other statute of the United States, and whether the Department of Justice has in contemplation any action for the dissolution of said combination.

The VICE PRESIDENT. The Senator from Nebraska asks unanimous consent for the present consideration of the resolution. Is there objection?

Mr. REED. Has this resolution been before a committee of the Senate?

The VICE PRESIDENT. It is an original resolution submitted by the Senator from Nebraska.

Mr. REED. I think a resolution of its importance ought to go to a committee. If I have caught its import, I am heartily in accord with it; but to have a resolution read without having it printed and thus being before the Senate, and im-

mediately put on its passage without any consideration, and especially a resolution of this importance, demanding statements from a department, it seems to me is not according that degree of care which we ought to manifest. I repeat, if I have properly understood the resolution, I shall probably be heartily in accord with it; but it is a little hasty, it seems to me, to have a resolution offered in this way, with unanimous consent asked for its consideration, and action expected on the instant. Is not the Senator from Nebraska willing to let the resolution lie over for a day, so that we may examine it?

The VICE PRESIDENT. Is there objection to the present consideration of the resolution?

Mr. REED. I did not wish to put it in that form.

Mr. NORRIS. I should like to say to the Senator that an objection, of course, will take the resolution over until to-morrow, and I have no objection to its going over. I am perfectly willing, if the Senator from Missouri or any other Senator desires to examine the resolution, to allow it to go over. It only calls for certain information from the Attorney General, and, I repeat, I have no objection to its going over until to-morrow, if the Senator from Missouri desires that it shall do so in order that he may fully examine it.

Mr. REED. I made the request, but I did not wish to put it in the form of an objection. I should, however, like an opportunity to examine the resolution, and I probably shall be in favor of it when I shall have examined it. I ask that it may go over.

The VICE PRESIDENT. The resolution will go over until to-morrow.

LOCATION OF FEDERAL RESERVE DISTRICTS.

Mr. HITCHCOCK. Mr. President, I desire to ask for a reconsideration of the order of the Senate for the printing of certain briefs and articles presented to the organization committee of the Federal Reserve Board relative to the location of reserve districts in the United States. I make this request for the purpose of amending the order.

The VICE PRESIDENT. Is there objection? The Chair hears none, and the order is reconsidered.

Mr. HITCHCOCK. I ask that the letter of the reserve bank organization committee submitted to the Senate May 18, 1914, transmitting the briefs and arguments presented to the organization committee of the Federal Reserve Board relative to the location of reserve districts in the United States, together with such accompanying maps and diagrams as may be necessary, be printed as a Senate document.

Mr. President, by way of explanation, I will say that the first order did not give authority for the printing of maps and diagrams and accompanying documents. I have since that time gone over the maps and diagrams with the printing clerk and have eliminated such as are not necessary, and this order merely contemplates the printing of those that are necessary to explain the written matter.

I ask for the entry of the order.

The VICE PRESIDENT. Is there objection? The Chair hears none, and it is so ordered.

RURAL CREDITS.

On motion of Mr. HOLLIS, it was

Ordered, That 8,000 additional copies of the bill (S. 5542) to provide capital for agricultural development, to create a standard form of investment based upon farm mortgages, to equalize rates of interest upon farm loans, to furnish a market for United States bonds, to provide a method of applying postal savings deposits to the promotion of the public welfare, and for other purposes, be printed for the use of the Senate document room.

ADDRESS BY HON. JOHN D. RYAN.

Mr. WALSH. Mr. President, I send to the desk a copy of an address delivered yesterday before the national foreign-trade convention by a distinguished citizen of Montana, Hon. John D. Ryan, entitled "The Sherman Law and its Effect on Export Trade." It deals with an important feature of the trust problem now engaging the attention of Congress. I ask that it may be printed as a Senate document, for the information of Members of both Houses.

Mr. SMOOT. Will the Senator allow it to be referred to the Committee on Printing?

Mr. WALSH. I will be very glad to have that done.

Mr. SMOOT. It is the course that is usually taken in such matters.

Mr. WALSH. Very well.

The VICE PRESIDENT. The address will be referred to the Committee on Printing.

DEMOCRACY IN BANKING.

Mr. JAMES. I ask to have printed in the RECORD an address by John Skelton Williams, Comptroller of the Currency, delivered before the annual convention of the North Carolina Bankers' Association in the house of representatives at the capitol at Raleigh May 13, 1914, on the subject of Democracy in Banking.

Mr. SMOOT. Will the Senator allow it to be referred to the Committee on Printing, just as all similar matters are?

Mr. JAMES. I desire it printed in the RECORD. I do not wish to have it printed as a public document, but merely that it be printed in the RECORD. It is a very able address.

Mr. SMOOT. I have not any question as to that, nor have I any desire to withhold it from publication.

Mr. JAMES. It is not usual to have referred to the Committee on Printing matters intended to be printed in the RECORD.

Mr. SMOOT. Oh, no; not if it is only intended for the RECORD.

Mr. JAMES. This is only for the RECORD.

The VICE PRESIDENT. Is there objection? The Chair hears none, and it is so ordered.

The matter referred to is as follows:

DEMOCRACY IN BANKING.

[Address of John Skelton Williams, Comptroller of the Currency, delivered before the annual convention of the North Carolina Bankers' Association in the house of representatives at the capitol at Raleigh, May 13, 1914.]

Mr. President and members of the North Carolina Bankers' Association, about a week from now those of you who believe in the Mecklenburg Declaration of Independence will celebrate it. Maybe some of those who will celebrate will have doubts, and I shall not undertake either to change those doubts to full faith or to confirm them. The Government assumes that I am to do a certain amount of work for it, and experience proves that he who becomes thoroughly involved and interested in discussion of the Mecklenburg declaration, whether for the affirmative or the negative, will have no time left for other matters. Whether Thomas Jefferson, of Virginia, borrowed his declaration from the work of a talented North Carolinian may be left, like that other question between the two States—of which sent to the front the gallant soldier whose lifeblood flowed highest on the heights of Gettysburg—for each man to decide for himself. In both those great events of American history there is honor enough for all the participants.

My purpose is to talk to you of a new declaration of independence, involving no shock of arms, no shedding of blood, no severance of ties, yet mighty in its consequences for the present and the times to come after. Nowhere in the world could such a theme be presented more appropriately than in the capital of a people who from the beginning of their history on this continent have been foremost in protest against error, evil, and oppression; most restless under injustice; most energetic in demand for freedom, and the rights conferred by freedom and constituting it.

The new banking law, of which I, as Comptroller of the Currency, am asked to talk to you North Carolina bankers, is not only a declaration but a guaranty of the freedom of the financial and commercial interests of our country from the possibility of the rule of a small group of men, sometimes unknown, sometimes too well known.

It is a plan of decentralization and distribution, demanded by the expansion and growth of our Republic. It is not intended to injure anybody, and it will not injure any but those who insist on being injured, and let us hope that there will be none such. There is strength in voluntary and accepted unity, but there is none in servitude of units enforced by law. There is vigor irresistible in the willing combination of many for a common purpose. There is weakness and inevitable and infinite corruption in the concentration of power which means tyranny on one side and enslavement on the other. We have been living in swaddling clothes, which have become fetters—tightened or loosened by a few strong hands. Alternately business has been stimulated to feverish and sometimes wild exertion, and given knock-out drops, reducing it to helplessness and the very appearance of death. We have grown, but the growth has been uneven and therefore sometimes unhealthy. Too often our prosperity has been of the kind that shows in statistics splendid aggregates, but is not felt or enjoyed by the average individual citizen.

The system we have endured through half a century hampered us, because it checked our growth and was unequal to our needs. It was dangerous—deadly dangerous—not only because it compressed control of our increasing resources and wealth into the keeping of a small number of individuals at certain great centers, but because it aided in the heaping up of vast fortunes, inciting discontent and resentment, the parents of revolution, the forerunners of destruction.

Poverty is not always felt acutely until contrasted with riches. Inequalities vividly evident are the worst foes of any Government, the surest evidence of its inadequacy, the urgent signals for its amendment. When nobody is swollen abnormally with riches nobody feels pinched or is made angry or desperate by lack of them.

This new measure is part of a general and deep movement for a new life, new standards, new methods for the United States. A change is necessary and is coming, and common sense tells us to prepare ourselves and our affairs for it. When loans and discounts of the national banks in the 50 reserve and central reserve cities increase, as they have done, from $1,800,000,000 in 1903 to more than $3,000,000,000 in 1914 we surely need a banking and currency system with the capacity to stretch and give.

When a dozen men own among themselves $1,600,000,000, and through a system of interlocking directorates control as much more directing an amount equal to the total currency supply for 100,000,000 people, we should realize that such power is a peril, not only to our commerce and to the people at large, but to the Government itself. I have heard it said those men have held this huge Republic by the throat, but if that statement is strong, we do know that under the conditions which have existed they could precipitate a panic or force artificial and injurious activity at their will. Working from ambush, seen by none, felt by all, they could have shaken the credit of the country so as to paralyze and make in time of peace ruin and desolation worse than war. There is no need to quarrel with these men. Considering what they could and might have done, we may say, as was said of Warren Hastings in India, we are astonished at their moderation.

Some of these commanders in chief of finance and captains of industry have proved that they had high patriotic instincts and came to the help of the Government and people in time of stress. Others had the sound wisdom to realize that their real prosperity and the stability

of their great possessions were best promoted by reasonable prosperity and hopefulness among the masses of the people. Yet it is not right or safe that the happiness and hope of all these scores of millions of our citizens should depend on the mercy, the caprice, or the opinions of any 12 or 50 or 100 men.

Some of the greatest fortunes, the magnitude of which takes the breath of the ordinary man and strains his imagination, are results of our system of banking and finance, of a protective tariff, taxing many for the benefit of the few, and of laxity in the enforcement of laws, inadequate and feeble at their best. They are dangerous not only to the general body of the people but to their possessors, and it must be remembered that a huge mass of money does not always either prove or supply wisdom, and to the contrary sometimes upsets it.

There is a suggestion of cynical satire in the mythological story that King Midas, whose touch changed to gold everything upon which it fell, was given at last the ears of an ass. He prayed to the gods to relieve him of the rich but deadly faculty which forbade him even from eating food possible to digest. So men with the genius, the faculty, the instinct—whatever it is—for what we call making money may well pray for a law or dovetailing plan of laws forbidding them from piling up money in quantities greater than any man can use comfortably or can be intrusted with safety.

There is no natural limit to greed and the ambition to acquire. If we can not provide artificial limitations we can, at least, devise and provide plans to prevent centralization and to protect the public. As we have seen within the last few years, men who have learned arrogant confidence in the overwhelming power of gathered gold have been led, perhaps almost imperceptibly to themselves, to use it for the mastery of politics and legislation. The man of the most ordinary mind must know that secret partnership between private capital and the machinery of government is far more destructive to both than could be any assault of either on the other. An open wound may be healed and a direct attack may be repelled, but hidden rot in the vitals will kill the strongest living thing, and poison saps the sources and roots of life.

We were led unseeing from the concentration of financial power to the concentration of political by the aid of financial power; from the interlocking directorates to the interlocking of the interests and influence of the concealed controllers of money, and the known leaders of political parties. We lived beneath a potent despotism; we could not see a touch or quite understand, but which every man of us could realize and feel every day of his life.

We could see things done; effects were before us plainly. But we could not know how nor by whom they were done nor the processes by which the effects were produced. We stood on a gathering volcano of unrest. Observing men could note the symptoms and threats, but were bewildered in seeking causes.

No sane or patriotic man or party or administration desires to seek vengeance, to destroy, overthrow, or uproot. All sane and patriotic men will understand that the time has come to reconstruct, to rebuild on a better and broader plan than we have used heretofore. We need to replace the foundation, to discard the patchwork and false work on which we have operated. The strongest, surest, the deepest foundation possible for our financial structure is the confidence and assured safety and contentment of the people who do the voting, with whom rests the final decision—the ultimate giant power, which, blinded and strong, would pull away the pillars of the temple; which, seeing and working intelligently and hopefully, will help, in our work of building, those of us who are trying to build.

We have grown and prospered in spite of an imperfect, repressing, and perilous banking and currency system. We have grown as a vine sometimes forces its way through a crevice in a wall, our very growth inviting disaster and death, our wonderful vitality hastening catastrophe, because the more brilliant the flower and the more abundant the fruit the sooner must the withering be when the roots are among stones and can gather no new life. Over 50 years of growth under the old banking act has been forced by the generosity of the soil of a new land, by the unconquerable energy and resiliency of a virile and courageous people; yet it has been interrupted by periods of business depression and stagnation; our progress punctuated by panics, discreditable, appalling—to many ruinous. These have usually come at intervals of about 10 years, more or less, sometimes preceded by long months of sickening apprehension, sometimes foreseen by the far-seeing, sometimes bursting upon us with dreadful suddenness. The immediate results, seen by all, have been crashing of banks and trusted commercial houses, the wholesale stoppage of industries, the wiping away or cruel draining of the results of honest thrift, denial to willing and hungry labor of the opportunity to earn bread and shelter.

We believe one of the most valuable and beneficial effects of this new banking bill will be to make such panics as we have had in the past virtually impossible. When there is confidence there can be no panic. The panic is, as its name signifies, fear, distrust. When the people know that their financial institutions are stable, that behind them stands a Gibraltar of solid assets, that checks will be honored on presentation, and that their deposits are safe, there is no fear or doubt. It is a familiar maxim that a bank is like a woman's reputation—likely to be injured by the faintest whisper. When the banks have behind them substantially the combined strength of all other banks and supplies of currency ready to answer their needs, limited practically only by their valid values, malice can not invent nor credulity or ignorance accept reports to hurt or drag them down.

Nor will their credit or their lives any longer be held at the mercy of any so-called Money Trust. Help for their just needs will be theirs by right, by requirement of law; they can ask with high confidence of receiving aid, instead of depending for it on the doubtful answer to their supplications. They will not know, as many of them have known, the misery of begging vainly for the use of their own money held by reserve or central reserve banks, and of suffering impairment or disaster because of being denied return of what they had intrusted for safekeeping. A leading banker of Seattle, vice president of the clearing house, testified before the reserve bank organization committee, sitting in that city a few weeks ago, as follows:

"Let us go back," said he, "for a moment to the panic of 1907. If we could have drawn our money in this district from Chicago, New York, and St. Louis we would not have known that there was a panic in existence. Conditions were all right out here, but our resources were simply tied up and we were helpless."

Understand it is not assumed or promised that this new law will perform the functions of Divine Providence—shower blessings on everybody or establish universal prosperity. Nor will it bolster up or save banks improvidently, recklessly, or corruptly managed. It is intended to enable banks honestly and sagaciously conducted to enjoy the legitimate results of their own integrity and sagacity. Its purpose is to enable the natural and just laws of trade, beautiful, symmetrical, and sane, when undisturbed—as is the law of gravitation—to work to their results naturally and smoothly. It will provide no artificial stimulant or prop. It will remove artificial barriers to prosperity, unnecessary burdens, perils, and impediments. It can not provide immunity from such disasters as short crops, great fires or earthquakes, or disorders at home, or complications abroad. It will, we think, restrain the effects of these within the limits of the unavoidable and prevent them from being exaggerated and wantonly magnified in their effects.

It will save prudence and good faith from sharing the punishment earned by imprudence and bad faith, perhaps a thousand miles away. It will guard straight and open business against the evils brought by crooked and crafty business. It will protect sturdy conservation and well-intended enterprise from the violence, the cupidity, and the mastery of dollars assembled and used for brigandage; establish barricades about capital properly employed against what a distinguished traveler and expert has described as "predatory wealth." It is hoped and believed that this law will prevent the alternating money gluts and money famines daily reported in the newspapers, by providing supplies of money to flow automatically, responsive to need. We can not see how it is possible with this law that we can undergo again the dismal, man-killing, heart-racking conditions of 1907 and 1893 and other "panic years," when money could not be borrowed for any emergency or on any collateral or terms; or that it will hereafter be within the power of any group or confederation of financiers, however ravenous, cruel, or crazed, to force a panic or conditions to cause one; for the money supply may not hereafter be impounded, locked up, or deviated from its channels, but should rise irresistibly to the level of the necessity.

The history of commerce teaches us that the business man can provide against every danger that may come in the natural course of things; he is overwhelmed by manufactured explosions or insidious attacks coming suddenly from rear or flank. We are told that for every disease, loss, or pain nature inflicts she provides a remedy; that for every sorrow and trouble permitted by Divine Providence to come upon the sons of men there is alleviation. It remained for the rapacious ingenuity or blundering blindness of man, or the two in diabolic combination, to devise hurts for which there is no relief but comprehensive changes of systems and machinery.

New York has become the commercial capital of the country, the great citadel of the money power, the reservoir of money supply. It is the walled city from which the barons have levied tribute on a territory and population vaster than any lord or king of the Middle Ages dreamed of, yet sometimes using methods ruthless and savage as those of the fiercest of the robber nobles—forays and levies devastating by scientific, artful methods; pillaging under form of law, smiting with swords which bite deep, although we can not see them, consuming with fire which comes invisible and unsuspected. The simile seems strong, but it is justified by facts.

No sudden swoop by a feudal magnate on his peaceful neighbors was a more cruel or shameless plundering expedition than some of the transactions which have been brought to light by which the shareholders of railways and other great enterprises, established to build up the country and to promote the public interests, were despoiled. Their property and money were taken from them by the might of masses of money working stealthily. The raids had none of the attractions of the picturesque or the merit of courage. They were cold-blooded, relentless seizure of other men's goods by plots, treachery, and betrayal of trusts which should have been held sacred.

Yet it would be foolish, unjust, and wicked to hold New York as a community, or her leading citizens generally, among whom are men as high and honorable as any country contains, responsible for the misdeeds, treachery, and lawlessness of certain conspicuous offenders. Without doubt the overwhelming majority of the citizens of our great cities, as of our people generally, have viewed such violations of laws, legal and moral, with as great abhorrence as any of us, and have felt the blush of shame that such crimes are possible in this enlightened age and under the form of government which has also produced our long procession of heroes, patriots, and statesmen.

Every thinking and patriotic American must exult in New York's splendid achievements, in the glories she has built, which have made her the wonder and admiration of the world. The people of the South would be ungrateful if they forgot the generosity of her people when trouble had come upon them from fire, earthquake, and pestilence, and her purse has been opened wide to every appeal from any part of the land.

The purpose should be to change the relation of New York to the country generally from an attitude of dominating ownership to friendly partnership. Big as New York is, it is not big enough to direct the destinies of this continent. Fast as it has grown, it has not grown so fast as the United States has grown in wealth, capacity, population, thought, and aspiration.

No one reservoir is wide or strong enough to hold and control the money supply for the inconceivably tremendous activities in which we are engaged, for our endless variety of industries and enterprises, our different climates, seasons, and products, our requirements sometimes crowding and conflicting with each other. No group of men at any center, however broad in mental grasp or earnest in intent to seek the best results for all, can be intrusted safely with the unlimited and unrestrained control and direction of the flowing and recall of supplies of currency for the needs of the present, and the increasing needs that will come with the near future.

In our political affairs we impose on those to whom we intrust authority the most careful and elaborate restrictions. We draw lines beyond which no Government or representative of Government is permitted to step. We have decreed that the humblest home shall not be invaded by State or Federal officials, the smallest bit of property shall not be seized, the most obscure man shall not be deprived of his liberty without due process of law. Yet we have permitted to grow up what is aptly called an "invisible government," more powerful in many respects than the visible government, touching our daily lives more intimately and immediately than any government can do, reaching into the vaults of our banks, the safes of our merchants, the cupboards of our housewives. On the power of this we have set no limit. We have left it unrestrained. We have allowed it omnipotence without responsibility; permitted its operations to be conducted, too often, without possibility of appeal or redress.

We demand of a township constable, the pettiest officer of the law, that he give bond for faithful performance of his duties; that he shall oppress no citizen, shall faithfully return the few dollars he may collect. Under our laws control of millions and billions of dollars, power to confiscate or destroy railway systems, great manufacturing industries, towns, and cities are forced to the keeping of unknown men who give no security, are responsible to nobody, who remain undiscovered, and act frequently through acknowledged "dummies," until some accident, some chance question by an investigating Congressman, or inquiry by a news-

paper reporter, brings them and their transactions into the light. Even then usually there is no provision for recovery by the injured or for punishment of the wrongdoer, no bond on which anybody can sue.

Beneath his skin every American citizen of every station and avocation, and whatever party name he may wear, is a Democrat in all the essentials and fundamentals. That is, he is attached passionately to the principles of local self-government, of the widest individual liberty compatible with the general weal and order of society. This new currency measure is democratic essentially. It looks to decentralization of direct financial control, to financial local self-government, so far as is consistent with stability and the general safety; to a currency which will be worth its face value everywhere, which will be based on the actual values it purports to represent, as well as the faith and credit of the General Government, and which yet will be elastic, expanding to meet needs where and when they develop, receding when not needed; a system fitted to meet any emergency, moving smoothly and noiselessly for the ordinary uses of business in tranquil times.

Too much money and too little money are alike evil and dangerous. Opinions differ as to which is the worse. Probably one is as bad as the other. The design of the new law is to supply just enough money or credit, when and where business needs it, to create for our commerce, as has been said, foundations so even, so broadly laid, and so deeply planted that they can not be shaken.

As it is, the country bleeds and sweats to the big financial centers. Take the South as an instance—and the conditions with which you here in North Carolina are familiar exist everywhere in the country. Most of our railway systems are controlled frequently through the trust known as the voting trust—by men who are interested in the great banks in the three central reserve cities. So it happens that the large deposits of the railways, their collections from the southern people, as also from the western people, are sent on largely to those banks. The same is true of the telegraph and telephone companies, the life and fire insurance companies, and of many of the larger manufacturing enterprises. The merchants and manufacturers of North Carolina pay their freight bills to the railways. The money goes largely and promptly to New York, and is lent out and used there in stock-market operations, or as the directors of the banks, who are also often the directors of the roads and other corporations, may elect. Of course there is no law which provides for the carrying of the reserves and bank balances of railways and industrial corporations in the central reserve cities, where the national banks of the country have also been accustomed to keep their reserves.

When North Carolina needs money to move the cotton crop her banks must call on New York for money which should be in their own vaults; for the return of money paid in here in freight bills, insurance premiums, and otherwise; and your banks sometimes think themselves lucky if they can be allowed the use of any part of it. Let us illustrate more concisely: In February last the national banks of New York and Chicago held on deposit from the banks and trust companies throughout the United States more than a thousand million dollars—an amount equal to nearly one-third of the total money in circulation in the entire country. No wonder you and the financial business men of the country shook with violent ague whenever New York chose to show indications of having cold feet. Of this thousand million dollars placed with the New York and Chicago national banks by the banks and trust companies throughout the country, less than eighty-five million, in January last, was being loaned back to the banks and trust companies of the United States. Of the balance of the money sent to the national banks of New York and Chicago, about two hundred millions was invested in bonds and securities; about three hundred millions had been loaned to noncustomers of these banks—that is to say, to borrowers who kept no accounts with them—on "bought paper" and loans secured by stock-exchange and other collateral—this is, of course, in addition to hundreds of millions which the banks were lending their own customers on stock-exchange and other similar securities.

These deposits of $1,000,000,000 placed with the national banks of New York and Chicago by other banks and trust companies are exclusive, it should be observed, of the huge balances sent on to them by the trusts and great corporations located everywhere, but controlled *largely in the big cities*. As you know, and as the Seattle banker I have quoted testified, there have been times when your banks were frightened or crippled because you could not get back from the banks which carried your reserves the money you had intrusted to them at 2 per cent interest to keep for you.

It is not hard to see how centralization of financial resources and money supply and concentration of financial power has been forced, and the invisible and irresponsible despotism created by acts of Congress and policies of government made necessary by those acts.

Now, we do not propose to use violence to force disintegration and decentralization, to do anything with a jolt and a jerk. It is understood clearly that to rush headlong and at full speed over an evil or an obstacle may cause derailment or jarring, uncomfortable and bad for passengers. The thought or plan, as I understand it, is to invite decentralization, to encourage it, to give opportunity for it, to make local self-government possible, to remove the influences which draw to a few centers the money that is paid out to the corporations and deposited in the local banks.

Real science is the exploration of the secrets and hidden forces of nature, and intelligent application of them when they have been discovered. This new system has been drawn with infinite pains and care on that principle—the exploration, discovery, and application of the natural laws of trade and human nature—the conditions in our own country, and our relations with other countries.

Of course, absolutely free banking is as impossible as it would be to leave to each individual the regulation of his own conduct according to his own impulses or conclusions. You would realize this more clearly than you do if you could be behind the scenes in the comptroller's office. You would learn that the banking business is one of the safest as well as one of the most worthy in the world when conducted with close compliance to the laws and regulations and the demands of honesty. Defalcations, excessive loans, and concentration of credits to single or allied interests are the three most fatal maladies.

It would do no harm if every president of a national bank would read over and study his oath of office at least once a month. I venture the assertion that some of them—present company excepted, of course—do not know what they have sworn to do and not to do. On one occasion a Member of Congress, now past history, complained personally to a Comptroller of the Currency of criticism of excessive loans made by the bank of which he was president—loans far beyond the legal limit he had sworn should not be exceeded. He did not understand really his obligations and legal limitations.

Another bank in the West that came under the observation of the comptroller's office had a board of directors composed of the president, his wife, son, daughter, and son-in-law, and reported that directors' meetings were held each morning at the breakfast table. Rather different was another bank in which the cashier and president refused to call a meeting of the directors until emphatically required by the examiner to do so. The directors appeared, rejoicing, and it was discovered that by a by-law they were entitled to $10 each for every meeting attended. The directors urged the bank examiner to call again soon, but the president was not at all hospitable.

I have taken advantage of the privilege of being the only speaker to talk to you at some length. It is an unusual and happy experience to have no competition or limitation in oratory, with the knowledge that I shall escape the criticism by taking an early train for Washington. It is delightful for a speaker to have an audience at his mercy; makes him feel quite like a New York financial potentate. Now, I will detain you just a little longer to tell you certain details of the practical operation of the new law, which may be of special interest to you.

The law does not require a single business man to change his account from the bank with which he has kept it or any business man or bank to suspend dealings with the bank or banks in the central reserve or reserve cities with which they have in the past been doing business. It does offer to banks freedom of choice. It says to the banker that he can follow his preferences, sentiments, or habit in selecting the source of his borrowing; and the member banker of any Federal reserve district may feel free and peaceful and at ease when he knows that he has in his portfolio notes, drafts, and bills of exchange arising out of actual commercial transactions, which he can convert into money at his Federal reserve bank with greater ease and promptness than it has sometimes been possible for him to withdraw his cash balances from his reserve agents and almost with as much ease as it has ever been possible to draw on credit balances with any correspondent. He is not dependent on the whims or fortunes of any other bank. He need not shiver at the prospect of abundant crops for fear he may not have available the funds with which to meet demands for moving them. He will know that if he needs money to accommodate the bank's customers he can, as a matter of right, call on his Federal reserve bank.

Secretary McAdoo last summer met with admirable foresight and wisdom the annual crop-moving scare by putting the resources of the Federal Treasury at the service of the farmers and bankers of the country just when there were evidences of a purpose to make money scarce and high and to bring on trouble. The country is under endless obligations for that, but we can not depend on having always in command of the Treasury Department a man so courageous, so ready, so careful of the public needs, and so careless of the wishes of a selfish money power.

Among other benefits the new currency law, by its direct system of clearances, will release and make available for purposes of trade and commerce hundreds of millions of dollars which under the old system have been tied up in tedious processes of collection. It will also save to banks and to merchants and business men generally some millions of dollars which they are now paying, directly and indirectly, for the collection of country checks and checks on outside cities.

To refer more particularly to your own district, the fifth, I will try to explain to you how the new method will work in transactions of domestic exchange.

In this district, embracing the States of North and South Carolina, Virginia, West Virginia (except four counties), the District of Columbia, and Maryland, there are some 475 member banks.

A cotton mill at Columbia, S. C., under the old plan sends its check on its Columbia bank for a shipment of coal to the coal company at Bluefield, W. Va. The local bank at Bluefield forwards this check to its correspondent in Richmond. This correspondent sends the check to its own correspondent in Columbia, who makes the collection from the Columbia bank and then draws a check on New York for New York exchange, which it remits to Richmond. The Richmond bank thereupon notifies the Bluefield bank of the collection of the item. The collection and exchange charges on distant country banks amount usually to from one-tenth to one-fourth of 1 per cent, or possibly more, and probably a week or more elapses between the remittance of the South Carolina check to the Bluefield bank and the time when the Bluefield bank gets its report that the item has been collected and placed to its credit in Richmond.

Under the new currency act "every Federal reserve bank shall receive on deposit at par from member banks * * * checks and drafts drawn upon any of its depositors." That means that the Bluefield bank receiving the check on the Columbia, S. C., bank mails it to the Federal reserve bank at Richmond. The Federal reserve bank at Richmond thereupon charges the Columbia bank with the amount of the check, credits the Bluefield bank with the proceeds, and notifies the two banks accordingly.

The Federal reserve act also provides that each Federal reserve bank shall receive at par, and credit accordingly, all checks and drafts drawn upon any of its member banks, from every other Federal reserve bank; that all checks and drafts drawn by any depositor—that is to say, by any member bank—on any Federal reserve bank shall be received and credited at par by every other Federal reserve bank. This means that the checks of the member banks in the country towns throughout these five States are worth their full face value, without deduction for exchange or collection charges, to every other member bank, and that the amount of each check may be cashed at par immediately, without following the devious and roundabout courses now observed in the collection of checks. Virtually every bank in the fifth district is only one night distant from Richmond, and a check mailed one afternoon in the most distant portions of the district should reach Richmond the following day in time to be included in that day's operations of the Federal reserve bank.

Let us now consider another aspect of the new law: Under the old national bank act a national bank with a capital of, say, $200,000, deposits of, say, $1,500,000, bills receivable amounting to $1,200,000, and $300,000 reserve would only be permitted to borrow a total of $200,000, the amount of its capital. If a run should start on such a bank, the amount which it could raise by loans, if strictly held to the old law, would be but $200,000, the amount of its capital, which might be quite inadequate to meet a run, and the bank, though thoroughly solvent, might be forced to suspend.

Under the new law, however, if a bank with $200,000 capital and deposits of $1,500,000 should have loaned $1,200,000 to its customers on commercial paper and should encounter an unexpected run, in addition to borrowing $200,000, the amount of its capital, such a bank would have authority to rediscount with the Federal reserve bank of which it is a member, notes, drafts, and bills of exchange issued or drawn for agricultural, industrial, or commercial purposes, having not more than 90 days to run, to any reasonable extent which may be approved by the Federal reserve bank to which application for such re-

discounts may be made. In other words, if such a national bank as we have used in this illustration should have loaned the entire amount of its deposits, less the 15 per cent which it is required to keep as reserve, to its customers on acceptable commercial paper, and for any unexpected reason should be subjected to a run, the Federal reserve bank of its district would have the authority to rediscount for the member bank the entire amount of its bills receivable, as represented by its commercial paper, thus enabling the bank to pay its depositors immediately and in full.

We can not overestimate the value of the additional security which this provision of the act confers upon every honestly, capably managed member bank, and the relief from strain and anxiety and from the fear and apprehension of panics and unreasoning runs which it gives to the officers of every member bank.

Another important change provided for by the Federal reserve act is the new arrangement for the compensation of national bank examiners. Under the present law the compensation of national bank examiners is based, except as to reserve cities, on the capital stock of the bank examined. Under the operations of this law a national bank examiner has been receiving for the examination of a certain national bank in the fifth district, with over $9,000,000 of assets and many thousands of accounts, the munificent sum of $25. It is, of course, clear that an examiner could make only an imperfect examination of such a bank in the space of three days at a compensation of, say, $8 per day, out of which $8 allowance he has to pay his own railroad fare, hotel expenses, as well as clerical assistance. It is not unnatural that but few examiners would willingly spend the 10 days or two weeks which it might require to make a thorough examination of such a bank when he is running personally in debt in doing so.

Under the new currency law the Federal Reserve Board, upon the recommendation of the Comptroller of the Currency, is given authority to fix the compensation of bank examiners on the basis of annual salary, so that those banks which need additional time and attention from the examiner may receive the careful, close scrutiny which the case may call for. It is believed that the new system of bank examinations will reduce materially the number of bank failures and enable the department to check up many abuses and correct many evil situations which in the past have been ignored or glossed over by examiners in their hasty and incomplete investigations.

I thank you, gentlemen, for the opportunity to address you. Approaching the study of this new and revolutionary measure with the caution natural to every man trained in banking under the system with which we have grown up, I have become more thoroughly aroused to its merits and more deeply impressed as I have watched the methods of construction, the processes of growth, and have considered the underlying principles directing those who did the work.

It would be unjust, in congratulating ourselves upon the benefits and blessings we are to receive from this epoch-marking piece of legislation, not to acknowledge the obligations we owe for the splendid results achieved to the patient and untiring labors, resourcefulness, and constructive genius of the distinguished chairmen of the Banking and Currency Committees of the Senate and House of Representatives and to the Secretary of the Treasury, whose counsel, skill, and support in the shaping and enactment of this great measure were of inestimable value.

Here in North Carolina the records show magnificent natural progress and you have special interest in changes in the banking system which are so surely destined to promote and encourage your growth and expansion.

In the triumphs of peace and industry, as in the glories won on battle fields, and in the domain of statesmanship, all classes of your people have done full and honorable parts; have united in making the name of your State stand high and shine bright in the roll of the States in building and maintaining this mighty Republic of ours. You are living true to your record; have furnished to the Cabinet two of its ablest and most useful members, North Carolinians, tireless, faithful, and courageous, the strong supporters of huge responsibilities.

I invoke your aid to promote the success of this new system in which your calling gives you special interest and opportunity. It is a system designed to distribute the benefits and blessings of ever increasing resources and wealth equitably among your people of all stations who have done so well their respective parts toward creating your greatness. I believe this new system, for which we are indebted in a great measure to the patient guidance and masterly leadership of the scholar and statesman chosen to the Presidency, will bring new strength, new scope, new assurance to our entire commercial system, and for your State and my State and all the States and the people as a whole mean deliverance from dangers that beset us, and a new career of advancement based on the solid foundation of real substance, honesty, justice, and democracy in its highest meaning and purpose.

RIVER AND HARBOR BILL.

Mr. RANSDELL. I ask unanimous consent to have printed in the RECORD a very interesting and learned article on rivers and harbors. It is entitled "The Inside of the Pork Barrel," by Hon. BENJAMIN G. HUMPHREYS, of Mississippi, published in the Saturday Evening Post of May 23.

The VICE PRESIDENT. Is there objection?

Mr. GALLINGER. What is the request?

Mr. RANSDELL. That an article on the river and harbor bill entitled "The Inside of the Pork Barrel," by Hon. BENJAMIN G. HUMPHREYS, of Mississippi, published in the Saturday Evening Post of May 23, may be printed in the RECORD.

Mr. GALLINGER. That is a most interesting pork barrel—the river and harbor bill. I have been looking at it, and if this throws any light on the subject I think we ought to have it printed in the RECORD.

Mr. RANSDELL. It throws a good deal of light on it, and I hope the Senator from New Hampshire will read it and that every other Senator will read it.

There being no objection, the matter referred to was ordered to be printed in the RECORD, as follows:

THE INSIDE OF THE PORK BARREL.

[By B. G. Humphreys.]

In a few days Congress is going to pass an omnibus river and harbor bill, and then in a few more days the newspapers will be discoursing on the evils of the pork barrel—and why not? Heaven knows they frequently discourse on much worse things, though rarely, it must be admitted, on topics about which they really know quite so little.

The first thing one does when he leaves the grammar school is to forget his geography. Why should these gentlemen who write editorials for our great newspapers, and who know about tariffs and things, burden their minds with mere geography? Why bother about Raccoon Creek when it is so easy to remember the Suwanee River? Why keep such prosy old names as Pollock Rip and Cooper River in mind when it is so much pleasanter to let one's thoughts rest on the banks of the Wabash, or where rolls the Oregon?

A good Massachusetts friend, for many years a member of the Rivers and Harbors Committee, told us that a Harvard man took him to task on one occasion for wasting money on so many insignificant and worthless streams. "Why," he replied, "the trouble is not with the legislation—it is with you; you don't know the geography of your country." Naturally this was protested. "Well, I will name a river in this country navigable for 300 miles that you never heard of." And naturally enough this, too, went to protest. "The Coosa." And his friend owned up.

When the new man comes to Congress he has to start something—so many of them believe; and about the surest way to the headlines is to denounce the pork barrel. A very wise old man told me many years ago down in Mississippi, when I was beginning to look around politically and take notice, that the very best thing a young man so intentioned could do was to get into a fight with the devil. "It does not make much difference what devil it is. An imaginary one will answer the purpose, just so you fight him loud." Since that day I have come to believe that this old sage has lectured pretty generally around this country.

THE INTRACOASTAL CANAL.

When the river and harbor bill was before Congress a year ago one of this old teacher's pupils grew almost eloquent—at any rate, he fought loud—denouncing the pork barrel. Naturally he was requested to indicate the particular project he wished to have eliminated, so he concluded to read the bill and try to guess the answer. The House adjourned over Sunday, and when we resumed consideration of the bill on Monday he was ready to specify. Somebody has had a big map of the United States printed, with a broad blue strip running from Boston a short distance inland along the whole Atlantic coast, across Florida, around the Gulf to the Mexican border.

This is supposed to indicate the course of the intracoastal canal. The usual amount of study devoted to this project consists of a more or less casual glance at the map and a somewhat more definite "Well, I'll be darned!" The real project for this inland route may be stated in a few words, and a somewhat careful examination of the map will probably suggest the thought that it is manifestly feasible. A cut across Cape Cod—and private enterprise is now making it—gives a protected course behind Long Island into New York from Boston. The tonnage actually carried now and subjected to the dangers of the passage through Marthas Vineyard and round Cape Cod is difficult to ascertain with exactness. It is very large—just how many millions can only be roughly estimated, but certainly larger than the tonnage that passes through the Suez Canal; and the passenger traffic is enormous.

Surely it would not be a foolish thing to make the way safe. The next cut is across New Jersey from Raritan Bay to the Delaware River, and private enterprise dug that many years ago. The next cut is across Delaware from the river to Chesapeake Bay; and there, too, private enterprise has long since constructed the Delaware & Chesapeake Canal. Running down this protected course several hundred miles through Chesapeake Bay, the next cut is from the Chesapeake to Albemarle Sound.

Strangely enough, these two waters are already connected by two privately dug canals—one through the Dismal Swamp; the other known as the Chesapeake & Albemarle Canal. The traffic carried through both these canals, though the depth is only 6 feet, was given as 700,000 tons the year before Congress purchased the last named. All of it, of course, was compelled to pay toll to the companies that owned and operated them. It would require an ordinary freight train of 30 loaded cars two trips daily every day in the year to transport this tonnage.

Just what the saving to the commerce of the coast will amount to when this canal is deepened and widened and made a free waterway can only be guessed; but the Engineer Corps of the Army, after a very thorough study of the question, reported that the expense of the improvement, including the purchase price, was justified by the needs of commerce; and thereupon Congress adopted the project. It will enable the smaller craft engaged in the coastwise trade to avoid the storms and hidden reefs off Cape Hatteras, the most dangerous point on our Atlantic seaboard, where many fortunes and human lives are annually lost.

From Beaufort to Savannah the difficulty will be greater, but future Congresses may find it worth while to undertake this section. From Savannah to Key West the project will require little excavation and the cost will be small.

Along the Gulf of Mexico nature has providently so disposed the sea islands as to provide this section of the canal almost without the necessity for human activities to amplify. Look at the map if your curiosity or interest is roused.

However, as one of those immortals who used to gather around the table at the coffeehouse and hear Dr. Johnson's long sentences expressed it, "This is going far afield." I must return to our friend the orator. To use expressive slang, the intracoastal canal "got its!" It was the biggest and the greasiest piece of pork in the barrel! When Clearwater Harbor was reached in the bill it must be stricken out. The chairman explained that this was not a part of this inland waterway.

"Judging from its name I had assumed that it must be some distance inland," the objector explained. Most natural assumption. How could Clearwater Harbor be near the ocean? Traversing the broad prairies from the land of the cactus on his triumphal march to the Nation's Capital, he had crossed many rivers—the Red, the Arkansas, and even the Father of Waters. All were rushing in tawny currents on and into the sea, and surely this common receptacle of so much silt must be the muddiest hole in Christendom. Clearwater Harbor near the ocean—the idea!

The rivers whose improvement and maintenance are provided for in the bill now pending in Congress floated last year a commerce amounting to 203,313,128 tons. This is exclusive of the traffic on the rivers connecting the Great Lakes, and does not include the tonnage of our harbors. These figures will be more readily understood when compared with the tonnage of other transportation routes which hold a prominent place in the public mind. Mr. Emery Johnson, the official expert upon whose figures the House relied when the rate of tolls was

fixed for the Panama Canal, estimated that the total tonnage which would pass through the canal in 1915 would be ten and a half million tons. The tonnage of the Suez Canal for 1912 was 20,125,120 tons. The freight carried from coast to coast by all our transcontinental railroads combined is 3,000,000 tons. It is estimated that the coastwise traffic which will pass through the canal will be 1,250,000 tons annually, and it is the exemption or nonexemption of this million and a quarter tons from the payment of tolls which has caused so much acrimonious debate. In other words, the rivers, large and small, for which we are providing in our rivers and harbors bills, float nearly as much tonnage annually as will pass through the Panama Canal and the Suez Canal, plus the cross-continent tonnage of all the railroads during the next 10 years.

SENATOR BURTON'S CHANGE OF TUNE.

Then the creeks and the insignificant rivers—what of the money wasted in their improvement? Surely this is pork, and distributed, too, among the Members in such fashion as to make the passage of the barrel certain. What a curious notion, that a Congressman could gain favor at home by securing appropriations of money to waste on worthless creeks! Surely this could gain votes only in the immediate vicinity of the miserable creek, and there better than anywhere else would it be known that the money was in fact being wasted. Are the people dunces? Do these creeks all flow through the grounds of some insane asylum? Otherwise how could a Congressman gain popular favor by reckless expenditures of the tax-raised money on impossible and worthless creeks?

Senator BURTON was chairman of the Rivers and Harbors Committee for 10 years. During that time he spent much money on the Great Lakes and viewed the magical growth of commerce there with commendable pride. He also spent much money on the ridiculous creeks, and was severer perhaps than anyone else in his judgment and in his criticisms of those who spoke of the pork barrel. When the first rivers and harbors bill, after he reached the Senate, was reported to that body, word came over to the House that he was making a most vigorous attack on it. Pork barrel, in fact, had been one of the phrases used.

D. S. Alexander, one of the most conscientious patriots who ever served in Congress, and certainly one of the most lovable of men, had been Mr. BURTON'S pupil for those 10 years and now had succeeded to the chairmanship of the House committee. He had framed this bill on the identical lines so long laid down and so well defended by Mr. BURTON, and he refused to believe the story. The old Members followed him post haste to the other Chamber, to be resolved if Brutus so unkindly knocked or no. Which particular rôle he was essaying, Brutus or Casca, nobody knew. All soon were aware, however, that he was knocking, and knocking hard at that.

The Brazos, the Trinity, and some other projects that were the children of his own brain—or, at least, had been ushered into this breathing world under his skillful legislative attention—shared the shafts of his forceful criticisms. In this he seemed to be playing no favorites, whatever else he might be playing.

Alexander was speechless; but being a Member of the House, and at the moment only a visitor de gratia in the Senate, this was not surprising; the rules required it. He had known Saul of Tarsus, but this was Paul! After it was over he led his committee colleagues back to the House, a madder if not a wiser man. They believed the great Senator, at whose feet they had learned how to frame river and harbor bills, had for some reason put an antic disposition on. The charge of pork barrel, however, had been revived and this time sponsored by a man whose opinion was worth something and whose words carried weight.

The old adage says that bad news travels fast. There are some stories that are hardly to be classed as bad news, but that are nevertheless entitled to honorable mention in these speed contests. Videlicet: Once upon a time there was an old priest, Abbé Huc, who visited China and wrote a book, in which he said the Yellow River had, by reason of the levees along its banks, filled its channel until the bottom of the river was higher than the adjacent territory. There was no truth in the story; but it took the wings of the morning and flew to the uttermost parts of the earth.

WORK ON THE TRINITY.

How very many people have heard it, and how very few people ever read the book or heard of the abbé. So with the Trinity River. Dallas, Tex., is on this river, a few miles above its confluence with the East Fork. There has rarely been a situation where a competing water route to the sea was more clearly indicated, as the doctors say, than at Dallas. In the center of the greatest cotton belt in the world, it was actually being strangled by the railroads. It was proposed to improve the Trinity; but then the question was raised whether there was sufficient water in the short stretch down to the point where the two forks united to maintain the required depth if a lock and dam were put there.

In an unhappy moment an engineer suggested that if there were any doubts on this point artesian wells could be sunk to supply the deficiency. How that tale spread and how it has grown and waxed fat as repetition as well as distance lent enchantment. It has been repeated in infinite variations until there are but few who have not heard at least one version of it.

The very matter-of-fact business men of Dallas were confronted with the condition, while the theory was cutting its fantastic tricks as clever paragraphers about the country gave it additions and much currency. Everybody smiled when the Trinity was mentioned; and so these self-same business men went down into their pockets and dug up some $66,000 wherewith to construct a lock and dam to demonstrate that there was ample water in this short section of the river. This they did to everybody's satisfaction, and Congress thereupon adopted the project. It was understood from the very outset that no commerce could develop until the series of locks and dams were completed to the Gulf. There was nothing stranger in this than that there would be no commerce at Panama until the canal was completed. In a few years the improvement of the Trinity will be completed and this greatest cotton-producing section of the world will then be enabled to use it. Until that good day comes, however, it must serve our orators and editors as an illustration of the wicked waste involved in the annual pork barrel, where money is spent on a stream that bears no commerce.

The Brazos has to run this same gantlet until its progressing improvement brings Waco in touch with the Gulf of Mexico.

These are the bright particular spots that illumine every article on the "pork barrel," and they are the horrible examples pointed to by the orators who fight this same devil—that is, by those who happen to know these projects are being provided for. As a rule, of course, your political orator does not labor under the handicap of accurate information.

The climax of pork-barrel orations and editorials usually—almost invariably—finds its fitting cap in the waste of the people's money on ridiculous creeks. How I have heard the changes rung on these worthless creeks!

A party of Congressmen were riding round Boston Harbor some years ago. We were being shown the shipping and the wonderful facilities of that great port by one of the jolliest and cleverest sons of the Old Bay State. We passed a curious old hulk lying in a rather neglected nook of the harbor, when our guide pointed it out as the old *Constitution*, and really grew eloquent in his recount of its heroic achievements. We were charmed.

Then another less imaginative Bostonian broke in to explain that this was all a mistake. So far from being the *Constitution*, it was nothing more than an unworthy barge converted into a houseboat. Turning on this iconoclast, our host shouted:

"Well, I knew that all along; but it was serving the purpose most excellent well, and now you have converted this delightful surprise into the biggest disappointment of the morning—and that, too, simply for the sake of uninteresting truth."

THE TONNAGE OF THE CREEKS.

If it were not for the fact that it would be doing ill service to the cause of waterway improvement by poisoning the public conscience with palatable though thoroughly unwholesome fallacies, I would not break this insignificant-creek idol; but I must. Let us, therefore, consider some dry though very pertinent facts.

During the past four years Congress has passed four rivers and harbors appropriation bills. The total carried in those four bills for the improvement of creeks, all told, was $901,000. These same bills carried, for all rivers and all harbors, something more than $100,000,000. Of this sum the creeks got something less than 1 per cent. During those same four years those same creeks, counting all, floated in commerce among our people a tonnage officially valued at $1,000,000,000.

The Ohio River runs for a thousand miles through one of the busiest valleys of this turbulent earth. We are now hurrying to completion a project there for a 9-foot depth from Pittsburgh to the Mississippi River, where it will connect with another 9-foot channel out to the Gulf. We are going to spend on this Ohio River project $63,000,000, and everybody applauds the enterprise, as everybody must. The tonnage of the Ohio River is about 10,000,000 annually.

Those creeks, which cost us less than $1,000,000 in four years, bear an annual commerce of nearly 7,000,000 tons. How many railroads are there in these United States that can carry a billion dollars of commerce with a trackage-maintenance charge of $901,000? Our maintenance charges at Panama, military included, are going to be some twenty-five or thirty million dollars annually.

Is there any poet now in captivity who expects to see $30,000,000,000 of commerce pass through the Panama Canal annually? If it does not, then the creeks will show better in the comparison.

We are all gratified at the commerce on the Great Lakes. It amounted last year to 78,000,000 tons. We have spent something less than $50,000,000 in their improvement and maintenance to date. Four-fifths of the commerce of the Lakes is ore and coal. Expressed in tons of ore this billion dollars of commerce floated on our creeks during the past four years would load 55,000 ore ships of 6,000 tons' burden each. If these could set out on the ocean in line, three ships to the mile—and the law will not permit them to travel that close together—we should have a line of loaded ships from Boston through the Panama Canal and across the Pacific Ocean to Hongkong.

If this ore were loaded on cars carrying 30 tons each, it would fill 11,000,000 cars and require 370,000 locomotives to pull them. Putting the trains 1 mile apart—less distance would be dangerous—they would cover every mile of track in the United States and have enough trains left over to encircle the world four times, a double track round the world at the Equator, and another double track round the world passing through the North and South Poles on the way.

If one is at all interested in the development of our transportation facilities, the next time he meets one of these much-maligned creeks he should take his hat off to it.

This is what the inside of the pork barrel looks like.

Senator BURTON'S criticism was not confined to the items of the bill. No man understands all the phases of waterway improvement better than he. That Congress has invested many dollars in waterway projects which have not returned the service hoped for and expected is most certainly true. That the future will demonstrate we are to-day no better prophets in such matters than our predecessors may well be granted. No project was ever more ardently advocated both in and out of Congress than the old Hennepin Canal.

HOW THE MONEY IS SPENT.

Representatives, and maybe some Senators as well, came in on the flow as their predecessors went out on the ebb of the tide of popular clamor for the construction of this once far-famed canal. It was the most paramount of all the paramount issues in a number of districts of the Middle West. It serves to-day as the horrible example.

"But yesterday the word of Cæsar might
Have stood against the world; now lies he there,
And none so poor to do him reverence."

Mr. BURTON'S criticism went to the method of appropriating rather than to the items for which the appropriations were made. I should say, perhaps, his shafts were better aimed at the method than at the items.

In the days of his chairmanship, rivers and harbors bills were passed only every two or three years. A cash appropriation would be made and then authority given the Secretary of War to enter into contracts for continuing the improvement for several years ahead, to be paid for by the Committee on Appropriations from time to time as the work progressed.

Great pressure was brought on Congress to have an annual rivers and harbors bill just as we have annual bills for the Army, the Navy, and so on. This plan became so popular, in fact, and for obvious reasons, that the committee could not resist either the clamor or the arguments in its favor. Mr. ALEXANDER therefore determined to try it. Until it could be tested by actual practice and experience no man could foretell with certainty its success or failure as an economic policy. There were no prophets to read the future—none, at any rate, who could show any divine commission; so the policy was looked on as an experiment.

If it was to be attempted, every consideration of wisdom and expediency required that the test be fair and complete. Interpreted in the light of this purpose, the conclusion was irresistible that the annual bill should carry no authorization for continuing contracts. Cash sufficient to carry on the work for one year only made it certain that the next year's bill would pass. In this way alone could a fair trial be had.

Four annual bills have since been passed, and the fifth is on the House calendar to-day ready for action. The policy is now as completely

fixed as a part of the legislative program as the policy of any other annual appropriation bill. Several lessons have been learned.

Under the plan universally followed by Congress no river or harbor improvement is ever undertaken until it has first been investigated by the engineers of the Army and recommended by them as desirable, cost and commerce both considered. Before the annual-bill policy was adopted it therefore frequently happened that a bill providing for a survey would remain on the committee's calendar for three years; and after the survey was ordered another three years would intervene before the report of the engineers could be acted on.

This country is growing at a very rapid pace. Six years is a long time to wait; so it can be asserted with assurance that the annual bill, in obviating this needless and costly delay, has justified itself.

This, however, is not the whole story. Mr. BURTON thought the continuing-contract system was the economical way to do the work, and time and experience have abundantly justified his theory. When a project has been adopted that will require 5 or even 10 years to complete—the 9-foot project for the Ohio River, for illustration—the businesslike course is to ascertain just how rapidly the work can most economically progress, and then authorize the engineers to proceed.

One Congress can not bind its successor, and there can be no guaranty that funds will be provided next year if the matter be left entirely to the determination of a future Congress. Contractors hesitate to invest in the necessary plant if work for only one year is absolutely assured, and but one method of assurance is possible, and that is to give authority by statute to the Secretary of War to enter into binding contracts.

THE SHIBBOLETH OF ECONOMY.

Experience is the best of all schools, and Congress now has taken the course prescribed. We have learned the lesson and must either return to that system or be convicted of wasteful negligence. The policy of annual bills has been thoroughly justified for the reasons above referred to, though not amplified, and should and will continue; but if just criticism and even censure are to be avoided, those projects which can be most economically prosecuted under authority to make contracts for work or materials for several years ahead must be so undertaken.

Congress is always sensitive—supersensitive, in fact. Members must return to their constituents every two years for judgment. The cry of economy and the charge of extravagance are always the shibboleths of the opposition.

The temptation, then, is indeed great to adhere to the policy of making allowance only for one year's work, though conscious all the while that by so doing the cost of the completed project will be increased. This is the real measure of the service rendered to the taxpayers of the country by those whose zeal for economy focuses their mental vision on the total, let the items be what they may.

If constituencies can be satisfied by assurance that the year's budget is no larger than its predecessor, the election returns will give no cause for complaint, and the professional economist can continue his wasteful practices while the happy taxpayer foots the bills.

Every thoughtful citizen understands and confidently expects that the growing needs of this developing country will be reflected in increasing demands on the Public Treasury. What it is their right to demand and duty to require is that no project for the improvement of any waterway be undertaken by Congress that can not reasonably be expected to promote the general welfare. When such a project is adopted it is the part of statesmanship, as it is the duty of patriotism, to provide for its completion in such manner and in such reasonable time as will effect the result at the minimum cost.

If this rule be faithfully followed, the criticism of those who speak without knowledge and the censure of those who scold without reason may well be disregarded.

PRESIDENTIAL APPROVALS.

A message from the President of the United States, by Mr. Latta, executive clerk, announced that the President had approved and signed the following acts:

On May 27, 1914:

S. 4096. An act to amend the act authorizing the National Academy of Sciences to receive and hold trust funds for the promotion of science, and for other purposes.

On May 28, 1914:

S. 4632. An act for the relief of settlers on the Fort Berthold, Cheyenne River, Standing Rock, Rosebud, and Pine Ridge Indian Reservations, in the States of North and South Dakota.

PANAMA CANAL TOLLS.

Mr. THORNTON. Mr. President, I ask that the unfinished business, being the Panama Canal tolls bill, be laid before the Senate for consideration.

The VICE PRESIDENT. Is there objection?

There being no objection, the Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 14385) to amend section 5 of an act to provide for the opening, maintenance, protection, and operation of the Panama Canal and the sanitation of the Canal Zone, approved August 24, 1912.

Mr. OLIVER. Mr. President, on the 7th of August, 1912, when the Panama Canal bill was before the Senate, I was one of the eleven Senators who voted to strike from the bill the provision for exempting vessels engaged exclusively in the coastwise trade of the United States from the payment of tolls. I did so because it then seemed to me that the exemption of our vessels was in contravention of the obligations imposed on our country by the Hay-Pauncefote treaty of 1901. As to the economic policy involved in such exemption I never was in doubt, and if the question had been free from the complications involved in the treaty I would, without hesitation, have cast my vote in favor of exemption; but I am one of those who believe that men and nations should live up to their contracts under all circumstances and at whatever cost, and I voted as I did because it then seemed to me that the treaty imposed on us the obligation of charging our own vessels the same tolls as we proposed to charge those flying other flags. I will frankly confess that I have changed my mind on this proposition. In doing this I have followed an illustrious example. In August, 1912, immediately after the enactment of the legislation which he now asks us to repeal, the distinguished gentleman who is now President of the United States gave that legislation his approval in these words:

> One of the bills passed yesterday by the Senate, as it had passed the House, provides for free tolls for American ships through the canal. * * *
>
> We want water carriage to compete with land carriage, so as to be perfectly sure that you are going to get better rates around the canal than you would across the continent. Everything that is done in the interest of free transportation is done directly for the farmer as well as for other men. So that you ought not to grudge the millions poured out for the deepening and opening of old and new waterways. Our platform is not molasses to catch flies. It means business. It means what it says. It is the utterance of earnest and honest men, who intend to do business along those lines, and who are not waiting to see whether they can catch votes with those promises before they determine whether they are going to act upon them or not.

The platform upon which the President was nominated contained the following plank:

> We favor the exemption from tolls of American ships engaged in the coastwise trade in passing through the Panama Canal.

The President's acceptance of this plank was distinct and unequivocal. So that as late as the summer and fall of 1912 Mr. Wilson was unquestionably favorable to this exemption, and yet on the 5th of March last he addressed Congress in the following words:

> I have come to ask you for the repeal of that provision of the Panama Canal act of August 24, 1912, which exempts vessels engaged in the coastwise trade of the United States from payment of tolls, and to urge upon you the justice, the wisdom, and the large policy of such a repeal with the utmost earnestness of which I am capable.

I have as much right to change my mind as the President of the United States has to change his. In fact, I think that my right in that respect is even greater than his, because my responsibility is less. When I undergo a change of mind it is only my own opinion that is being altered, while, as must be evident to everybody who has observed the course of events during the past few months, a change of mind on the part of the President involves a shifting of opinion on the part of a great majority of those who represent his party in both Houses of Congress. No one for an instant believes that this legislation could receive the support which is now being given it on the other side of the Chamber if it were not for the insistence of the masterful and all-compelling man who moves the minds of his followers from place to place like the figures on a chessboard.

As I stated before, I voted against exemption because it then seemed to me that it was in violation of our treaty obligations. Upon a more careful study of the treaty and of the circumstances which led to its adoption, and of the radical differences between it and the Clayton-Bulwer treaty which it superseded, as well as an earnest consideration of matters which have come to light since the enactment of the legislation which it is now proposed to repeal, I am convinced that the exemption of our shipping, coastwise or otherwise, from the payment of tolls, is in no way an infraction of the treaty. Not only this, but, notwithstanding the protests of the British Government, I do not believe that, so far as coastwise shipping is concerned, that Government in reality entertains the view that it is such an infraction. The President says "whatever may be our own differences of opinion concerning this much-debated measure, its meaning is not debated outside of the United States." I must take issue with this statement. Our right to exempt our coastwise shipping has been officially conceded outside of the United States, even by the British Government. On the 8th of July, 1912, just before the passage of the Panama Canal bill, Mr. A. Mitchell Innes, chargé d'affaires of the British Embassy at Washington, addressed a note to Secretary Knox, in which he used this language:

> As to the proposal that exemption shall be given to vessels engaged in the coastwise trade, a more difficult question arises. If the trade should be so regulated as to make it certain that only bona fide coastwise traffic which is reserved for United States vessels would be benefited by this exemption, it may be that no objection could be taken.

He then follows it by saying:

> But it appears to my Government that it would be impossible to frame regulations which would prevent the exemption from resulting, in fact, in a preference to United States shipping and consequently in an infraction of the treaty.

At the time when the canal bill was passed, in August, 1912, this note of Mr. Innes was all that our Government knew concerning the sentiment of the British Government on this subject. At that time we had not heard of the doctrine, which has since been advanced, that the neutrality of the canal meant equality with its owner. No argument or reason of any kind had then been advanced showing or tending to show that we had parted with the right to regulate our own commerce between the

different ports of our own country in our own way. The utmost suggestion contained in Mr. Innes's note with reference to our coastwise vessels was that it might be difficult to enforce a law exempting them from payment of tolls. He in effect concedes our right to make such a law. Now, this right being conceded, the suggestion seems presumptuous and preposterous that the United States, having enacted such a law, could not or would not in good faith provide against its infraction or evasion.

The protest of the British Government was not received by our Secretary of State until the 9th of December, 1912, and then for the first time Great Britain disclosed the strength and weakness of her demand, and set out in detail the reasons upon which it was founded and the arguments in support of such reasons. There is a sharp distinction between what we did in 1912 and what we are now called upon to do. We were then merely considering an economic question of a purely domestic nature, the answer to which could in no way affect our dominion over the canal or our power to encourage the upbuilding of our domestic commerce. Now our action involves the acceptance or rejection of a demand to surrender for all time attributes of sovereignty and rights of ownership, the full import and consequence of which upon our peace and prosperity it is impossible to foresee.

In the note of Mr. Innes, which antedated the passage of the canal act, he mentions the fact that it was proposed to exempt not simply the coastwise shipping but all American shipping from the payment of tolls, and he stated that this would, in the opinion of His Majesty's Government, be an infraction of the treaty. When the canal act was signed by President Taft, he thought it wise to take cognizance of this suggestion, and in a memorandum accompanying his approval he repudiated the claim that we could not exempt our vessels engaged in foreign as well as domestic commerce if we elected so to do. The statement of President Taft in this respect is lucid and convincing, but the act contained no such exemption and only exempted coastwise vessels, and this right the British Government had admitted. Here the business should have ended; but the forces behind the British foreign office were insistent, and as a result of this insistence, on the 9th of December, 1912, there was handed to Secretary Knox a lengthy statement by Sir Edward Grey, the purpose of which was to advance an argument why the United States could not exempt its coastwise vessels using the canal, a right which was admitted in the first protest and a thing which the United States had already done. The chief argument in this statement was that in computing tolls, in order to insure that equal treatment which the treaty called for, all vessels using the canal should be taken into consideration, and that to grant an exemption to our coastwise vessels would be to increase the tolls on British ships over and above what they would have to pay if no such exemption were made.

Now, this is all there was to the British case at that time, and all there is in the protest beyond this claim is argument put forth to establish the proposition that the treaty gives Great Britain that equality with us which makes our refusal to consider all vessels in computing tolls a violation of British rights. The answer to this complaint was obvious. President Taft in fixing the tolls to be paid had taken into consideration all the vessels of every nation, our own included, which it was expected would pass through the canal, and Secretary Knox lost no time and wasted no energy in discussing reasons why we should fix the tolls upon a formula which we had already adopted.

After first informing Great Britain that we did not agree with the construction placed by the British Government upon the Hay-Pauncefote treaty or upon the Clayton-Bulwer treaty as set out in the communication, and that we did not deem it necessary at that time to amplify or reiterate the American position upon the construction of those treaties, the Secretary proceeded to point out that the complaint had no basis of fact. He directed attention to the fact, which I have already referred to, that the President in fixing the rate on the basis of $1.20 per net ton took into consideration all vessels of every description under any flag which will use the canal; that the proclamation of the President fixing the tolls is based upon a report by Prof. Johnson, which estimates that the revenue necessary to maintain the canal will be $19,000,000; that the report took as a basis all competitive vessels engaged in the coastwise trade of the United States, United States vessels engaged in foreign commerce, and foreign vessels of a like description, and that upon this just and equitable basis the tolls were fixed. Moreover, British attention was directed to the fact that this revenue would not be sufficient to maintain the canal—at least for the first few years—and that by this basis for tolls the United States Government bears whatever loss is necessitated by taking into consideration the tolls of even nonpaying vessels. The tolls were therefore fixed on a basis fully in agreement with the suggestions of the British Government, and the chief contention of Sir Edward Grey falls to the ground.

Here again was a place where this controversy should have ceased, and so far as anyone seems to know the information to Great Britain in Mr. Knox's answer to Sir Edward Grey was accepted at its face value. The ground of the British protest had been swept away and our canal act stood unimpeached. Great Britain had mistakenly assumed that our tolls at Panama would be fixed without reference to the use of the canal by American coasting vessels, and based her argument of treaty violation on that mistaken assumption, and asked us to arbitrate on the soundness of her position. We showed her that we had taken the same position and that the tolls were fixed in exact conformity to her own contention. What more was there, then, to the case? Nothing, until we are now urged to repeal the act on the ground that the arguments were sound as advanced by Great Britain to maintain a demand which we had already granted by anticipation.

The present issue as presented to us by the President is: Shall we repeal the law that does Great Britain no harm for the reasons assigned by Great Britain when she mistakenly supposed it did her an injury? That is to say, has Great Britain the equality with the United States under the Hay-Pauncefote treaty which she claimed when she supposed that equality was infringed?

The real purpose of the Hay-Pauncefote treaty was to settle the privileges other nations should enjoy in the use of the canal which the United States had determined to build. It required no treaty to settle the owner's privileges or rights—they are incident to ownership.

Note the language of the treaty. The rules for the government of the canal are not the joint rules of the two contracting parties, but are adopted by the United States in order to prescribe the terms under which the canal could be used by such nations as would observe the rules. It required no rules to establish the owner's right to use its own canal, and what shall be the terms of such use is a matter solely for domestic legislation.

The effort to take advantage of the general language of rule 1, extending the use of our canal to all nations upon equal terms, and to construe them in utter disregard of our different relation to the subject, constitutes a plausible but unsound argument upon which, to the credit of Great Britain, it is only fair to say, she does not rely. Sir Edward Grey does not find the terms of limitation wholly in rule 1. He predicates his claim that we are limited in our freedom of action in respect to the canal by the Hay-Pauncefote treaty upon the ground that, as he claims, the neutrality which we established by that treaty means equality, and that equality between the United States and Great Britain is the same equality that was stipulated in the Clayton-Bulwer treaty. The Clayton-Bulwer treaty can only be read intelligently when the purposes designed to be accomplished and the means of their accomplishment are steadily kept in mind. The purposes were to establish a common policy of the two nations to require of a canal to be built by outside parties that it should be neutral territory—that both countries should enjoy it upon the same terms—and that this should be accomplished by encouraging such outside party to construct the canal, which they jointly agreed to protect, if such third party would give them as good terms for its use as it gave to any other nation.

In the protest of Sir Edward Grey (see Senate Document No. 11, Sixty-third Congress, page 14) he uses the following language:

> They (the British Government) consider that by the Clayton-Bulwer treaty the United States had surrendered the right to construct the canal, and that by the Hay-Pauncefote treaty they recovered that right upon the footing that the canal should be open to British and United States vessels upon terms of equal treatment.

This assertion takes no account of the essential purposes of the treaties and the changed circumstances under which the Hay-Pauncefote treaty was effected.

Article 8 of the Clayton-Bulwer treaty says:

> In granting, however, their joint protection to any such canals or railways as are by this article specified, it is always understood by the United States and Great Britain that the parties constructing or owning the same shall impose no other charges or conditions of traffic thereupon than the aforesaid Governments shall approve of as just and equitable; and that the same canals or railways, being open to the citizens and subjects of the United States and Great Britain on equal terms, shall also be open on like terms to the citizens and subjects of every other State which is willing *to grant thereto such protection* as the United States and Great Britain engage to afford.

From this it will be seen—and it seems to me that it ought to be accepted without question—that the consideration for equal terms rested solely upon the protection to be granted by

the two nations to the canal. On no other condition were equal terms to be granted to the subjects of Great Britain and the citizens of the United States. Sir Edward Grey attempts to fuse this with the "general principle" of neutralization referred to in the eighth article of the Clayton-Bulwer treaty, to which it has no relation whatever.

The "general principle" referred to in the preamble of the Hay-Pauncefote treaty is, by the language of the treaty itself, the "general principle" of article 8 of the Clayton-Bulwer treaty. Now, the "general principle" of this article of the latter treaty is the principle of protection, and protection alone; that is, that all countries protecting the canal shall enjoy an equality of treatment in the use of the canal, with the provision that if at any time the treatment becomes unequal the nation discriminated against shall thereafter be relieved from the duty of protection. In other words, equality of treatment was predicated and dependent upon protection. This article 8 of the Clayton-Bulwer treaty, and all other treaty articles dealing with the question, show beyond doubt, first, that the powers extending protection to the canal should enjoy preferential treatment in the use of the canal, and, secondly, that protection of the canal and equality of treatment were mutually interdependent conditions; that protection was to be extended only so long as the treatment was equal, and that the only remedy of such nations in case of unequal treatment was to withdraw their protection. Protection and equal treatment went hand in hand; were mutually interdependent.

The first Hay-Pauncefote treaty incorporated this "general principle" by providing for joint protection of the canal by the United States and Great Britain, and for an equality of treatment and management of the canal as between them. The two things, protection and equality, were in this treaty mutually interdependent, as they were in the Clayton-Bulwer treaty, but the Senate refused its advice and consent to this treaty and sent it back to the President so modified as to relieve England from any duty or responsibility to protect, all such duty and responsibility being put upon the United States, and also so modified as to reserve to the United States the whole right to regulate the canal. Great Britain declined to accede to these modifications and the treaty fell; but all the principles involved in the modifications were incorporated in the treaty of 1901, which is now existent. Therefore England, no longer bound to protect the canal—the sole and only consideration upon which a demand for equality of treatment could be based—lost the only right she possessed to demand equality of treatment with the protecting power, the United States. As a consequence, the demand for equality of treatment now made stands without any equivalent from her. No longer bound to protect, she is no longer entitled to the same treatment which is extended to the protecting nation, and by the very "general principle" which she invokes, protecting nations stand upon a different and preferential basis as to equality of treatment from all the rest of the world.

Article 3 of the Hay-Pauncefote treaty, the only treaty which is now in force, appears to me to adequately carry out the "general principle" of neutrality, which was not to be impaired, and also comprehends the spirit of that principle. If absolute rights of ownership and control, and therefore freedom to deal with its own commerce in the use of the canal as it sees fit, are not recognized and conferred by article 2 of that treaty, then it is verily a source of wonder what the language does mean. I will read it:

ART. 2. It is agreed that the canal may be constructed under the auspices of the Government of the United States either directly at its own cost or by gift or loan of money to individuals or corporations or through subscriptions to or purchase of stock or shares, and that, subject to the provisions of the present treaty, the said Government shall have and enjoy all the rights incident to such construction as well as the exclusive right of providing for the regulation and management of the canal. (S. Doc. 456, 63d Cong., 2d sess., p. 21.)

With respect to the value of the consideration given Great Britain for superseding the Clayton-Bulwer treaty, Sir Edward Grey refers to the account of the negotiations preceding the ratification by the United States Senate of the Hay-Pauncefote treaty, which Secretary Hay sent to the Senate Committee on Foreign Relations. (See Senate Document No. 456, Sixty-third Congress, second session.) Since the British Government, by that reference, recognizes the credibility and authority of this document, I feel warranted in referring to it in answering their contention. In that document Secretary Hay says:

The whole theory of the treaty is that the canal is to be an entirely American canal. The enormous cost of constructing it is to be borne by the United States alone. When constructed it is to be exclusively the property of the United States, and is to be managed, controlled, and defended by it. Under these circumstances, and considering that now by the new treaty Great Britain is relieved of all the responsibility and burden of maintaining its neutrality and security, it is thought entirely fair to omit the prohibition that "no fortification shall be erected commanding the canal or waters adjacent."

Further along in the same document it is stated:

Upon a full exchange of views this article proposed by the United States was accepted by Great Britain and becomes article 4 of the treaty now submitted. It is thought to do entire justice to the reasonable demands of Great Britain in preserving the general principle of neutralization and at the same time to relieve the United States of the vague, indefinite and embarrassing obligations imposed by the eighth article of the Clayton-Bulwer treaty.

The clear purport of these statements is that the British Government, in agreeing to the supercession of the Clayton-Bulwer treaty, had in view as a consideration the relief it would have from the obligation to protect the neutrality and security of the canal. This view is abundantly substantiated in a memorandum inclosed in a dispatch from Lord Lansdowne to Mr. Lowther, under date of August 3, 1901 (see Senate Document No. 456, Sixty-third Congress, second session, page 50), which says:

It is also to be borne in mind that owing to the omission of the words under which the country became jointly bound to defend the neutrality of the canal, and the abrogation of the Clayton-Bulwer treaty, the obligations of Great Britain would be materially diminished. This is a most important consideration.

It can thus be seen that Great Britain in consenting to any modification of the Clayton-Bulwer treaty was not unmindful of the obligations imposed upon her by that treaty, and of the relief which such modification would bring from the obligation of protecting and defending the canal and of guaranteeing its neutrality. But it seems to me that there was another and more compelling reason why the Government of Great Britain should not only be willing but anxious to accede to any terms which the United States might propose, and that is the advantage which would inevitably accrue to that country from the very construction of the canal. Great Britain is the greatest shipowner in the world. Her flag flies on every sea. According to the report of the Commissioner of Navigation, the steam mercantile marine of Great Britain on the 1st of July last consisted of 10,009 vessels, with a total gross tonnage of 19,849,167 tons. This is more than equal to the combined mercantile marines of the United States, Germany, France, Italy, Japan, Russia, the Netherlands, Norway, and Sweden. These countries together own 10,523 vessels, and their combined capacity is only 16,173,936 tons. The canal will, of course, facilitate and stimulate ocean navigation, and as a consequence of her enormous preponderance as a shipowner Great Britain will naturally reap more benefit from its construction than all the world besides. Her government, therefore, could in no way afford to be a stickler for terms when another government was ready and willing not only to construct the canal but to assume the entire responsibility for its maintenance and protection.

The avowed purpose of the Hay-Pauncefote treaty was to facilitate the construction of a ship canal *by the United States* and to remove any objection which might arise out of the Clayton-Bulwer treaty to the construction of such a canal under the auspices of the United States without impairing the "general principle of neutralization" established in article 8 of the convention.

Now, note, the object was to facilitate the construction by the United States—not to give the United States permission to construct. How did it facilitate the construction? In one way only. It was the fulfillment of our engagement in the Clayton-Bulwer treaty to extend the principle of neutralization to the Panama Canal as we had agreed to do.

The contention of Great Britain is not advanced by the allegation that we secured our right to build the canal by the abrogation of the Clayton-Bulwer treaty. The real question is, What rights has Great Britain in our canal under the Hay-Pauncefote treaty? Great Britain never had any rights in any canal under the Clayton-Bulwer treaty. There was no canal. All that the United States and Great Britain agreed to was that if one were constructed by some country other than the United States or Great Britain, or by private parties or a private corporation, the two contracting nations would defend it if they were given equal rights and equal tolls, a policy in which they agreed they would ask all the world to join, which they never did.

The Clayton-Bulwer treaty, under which the two nations, the United States and Great Britain, jointly agreed to protect a canal to be built by outside parties, is abrogated in express terms. Its place is taken by the Hay-Pauncefote treaty, by the terms of which the United States undertakes not only to build but to protect and defend the canal, and as its builder, protector, defender, and owner it adopts rules under which the citizens and subjects of other nations can share the results of its enterprise and expenditure.

Now, let us look at the terms of this treaty. But first I wish to point out the strong line of distinction between the Clay-

ton-Bulwer treaty and the first Hay-Pauncefote treaty on the one hand and the existing Hay-Pauncefote treaty on the other. Article 1 of the Clayton-Bulwer treaty reads as follows:

The Governments of the United States and Great Britain hereby declare that neither the one nor the other will ever obtain or maintain for itself any exclusive control over the said ship canal; agreeing that neither will ever erect or maintain any fortifications commanding the same or in the vicinity thereof, or occupy, or fortify, or colonize, or assume, or exercise any dominion over Nicaragua, Costa Rica, the Mosquito coast, or any part of Central America; nor will either make use of any protection which either affords or may afford, or any alliance which either has or may have to or with any state or people, for the purpose of erecting or maintaining any such fortifications, or of occupying, fortifying, or colonizing Nicaragua, Costa Rica, the Mosquito coast, or any part of Central America, or of assuming or exercising dominion over the same; nor will the United States or Great Britain take advantage of any intimacy, or use any alliance, connection, or influence that either may possess with any state or government through whose territory the said canal may pass, for the purpose of acquiring or holding, directly or indirectly, for the citizens or subjects of the one, any rights or advantages in regard to commerce or navigation through the said canal which shall not be offered on the same terms to the citizens or subjects of the other.

The first paragraph of article 2 of the Hay-Pauncefote treaty of 1900, which was never ratified, reads:

The high contracting parties, desiring to preserve and maintain the "general principle" of neutralization established in article 8 of the Clayton-Bulwer convention, adopt as the basis of such neutralization the following rules, substantially as embodied in the convention between Great Britain and certain other powers signed at Constantinople October 29, 1888, for the free navigation of the Suez Maritime Canal; that is to say:

It will be noted that in both of these treaties the two nations stood on terms of exact equality, and Great Britain equally with the United States was a party to the adoption of the rules under which the proposed canal should be operated. Now, compare this with articles 2 and 3 of the present Hay-Pauncefote treaty:

ARTICLE 2.

It is agreed that the canal may be constructed under the auspices of the Government of the United States either directly at its own cost, or by gift or loan of money to individuals or corporations, or through subscription to or purchase of stocks or shares; and that, subject to the provisions of the present treaty, the said Government shall have and enjoy all the rights incident to such construction, as well as the exclusive right of providing for the regulation and management of the canal.

ARTICLE 3, PARAGRAPH 1.

The United States adopts, as the basis of the neutralization of such ship canal, the following rules, substantially as embodied in the convention of Constantinople, signed the 28th October, 1888, for the free navigation of the Suez Canal; that is to say:

It will thus be seen that Great Britain in this treaty retires from the position she occupied under both of the others, and that the United States, and the United States alone, adopts and prescribes the rules under which the canal shall be operated. The first of these rules is the chief bone of contention:

RULE 1.

The canal shall be free and open to the vessels of commerce and of war of all nations observing these rules on terms of entire equality, so that there shall be no discrimination against any such nation, or its citizens or subjects, in respect of the conditions or charges of traffic or otherwise. Such conditions and charges of traffic shall be just and equitable.

Now, let us examine this rule, always keeping in mind that it is a rule laid down by the United States, the sole owner of the canal. It says:

The canal shall be free and open to the vessels of commerce and of war of all nations observing these rules on terms of entire equality.

I presume it will be conceded that the phrase "vessels of commerce" as applied to any nation means the vessels of commerce belonging to citizens or subjects of that nation and flying its flag, and that the phrase "vessels of war" means the vessels owned by the government itself. "Vessels of commerce and of war" of the United States would therefore mean all vessels flying the flag of the United States. Now, under this rule vessels of war as well as of commerce must pay tolls. That is conceded. On the 19th of November, 1912, following the enactment of the Panama Canal bill, President Taft issued his proclamation prescribing the following rates of toll to be paid by vessels using the canal:

1. On merchant vessels carrying passengers or cargo, $1.20 per net vessel ton—each 100 cubic feet—of actual earning capacity.
2. On vessels in ballast without passengers or cargo, 40 per cent less than the rate of tolls for vessels with passengers or cargo.
3. Upon naval vessels, other than transports, colliers, hospital ships, and supply ships, 50 cents per displacement ton.
4. Upon army and navy transports, colliers, hospital ships, and supply ships, $1.20 per net ton, the vessels to be measured by the same rules as are employed in determining the net tonnage of merchant vessels.

It will here be seen that all vessels, both of commerce and of war, must pay tolls. None are excluded. If, then, the phrase "all nations observing these rules," as contained in rule 1 of the Hay-Pauncefote treaty, includes the United States, the grantor, it must necessarily follow that the naval vessels of the United States, and the army and navy transports, colliers, hospital ships, and supply ships owned by it, must be charged tolls as well as like ships of other nations. Now, this is a construction which nobody places upon this rule. Everybody concedes that the naval vessels of the United States can pass free, or, at least, that the United States has the power to allow them free passage without being charged with a violation of the treaty. How, then, can we escape the conclusion that this power or this rule carries with it the right to exempt its ships of commerce as well? There can be no other conclusion.

Now, let us suppose that two battleships appear in the harbor of Colon at the same time, bound for the Pacific. One belongs to the United States Navy, the other to Great Britain. They pass through the canal on the same day. The British ship pays toll at the rate of 50 cents per displacement ton; that of the United States pays nothing. Neither Great Britain nor the advocates of repeal, nor any other person, will contend that this is an infraction of rule 1. Why construe the rule one way as to warships and another as to merchant vessels? The language of the treaty is precisely the same with regard to both—

The canal shall be free and open to the vessels of commerce and of war of all nations observing these rules, on terms of entire equality.

But let us go a little further in the examination of this treaty. In addition to rule 1, which is the main subject of contention, it lays down five other rules under which the canal shall be used. Not one of these five can by any possibility be held to apply to the United States as a user of the canal.

The second rule provides that—

The canal shall never be blockaded, nor shall any right of war be exercised nor any act of hostility be committed within it. The United States, however, shall be at liberty to maintain such military police along the canal as may be necessary to protect it against lawlessness and disorder.

It surely can not be contended that this rule is in any way intended to apply to the United States, for it stands to reason that no country would ever under any circumstances institute a blockade of its own canal, and its right to fortify and to protect it is conceded by everybody. This rule is laid down by the United States as one of the conditions under which other nations shall be allowed to use its canal.

Third. Vessels of war of a belligerent shall not revictual nor take any stores in the canal, except so far as may be strictly necessary; and the transit of such vessels through the canal shall be effected with the least possible delay in accordance with the regulations in force, and with only such intermission as may result from the necessities of the service.

Prizes shall be in all respects subject to the same rules as vessels of war of the belligerents.

If these rules are intended to govern the United States as well as other nations, it would prevent our Government from using the canal as a harbor of refuge in case of war with any other power, and such use is in reality the chief reason why this Government incurred the enormous expense involved in building and assumes the great responsibility of maintaining it.

The other rules read as follows:

Fourth. No belligerent shall embark or disembark troops, munitions of war, or warlike materials in the canal, except in case of accidental hindrance of the transit, and in such case the transit shall be resumed with all possible dispatch.

Fifth. The provisions of this article shall apply to waters adjacent to the canal within 3 marine miles of either end. Vessels of war of a belligerent shall not remain in such waters longer than 24 hours at any one time, except in case of distress, and in such case shall depart as soon as possible, but a vessel of war of one belligerent shall not depart within 24 hours from the departure of a vessel of war of the other belligerent.

Sixth. The plant, establishments, buildings, and all works necessary to the construction, maintenance, and operation of the canal shall be deemed to be part thereof for the purposes of this treaty and in time of war as in time of peace shall enjoy complete immunity from attack or injury by belligerents and from acts calculated to impair their usefulness as part of the canal.

If these rules are to control the United States as well as other nations, we could not maintain any depot of supplies on the canal; we could not revictual our ships or maintain a coaling station; or, in fact, use the canal or the canal territory for any other purposes of war. Why, then, may I ask, did we build it? It is not necessary to go into any lengthy discussion of this proposition, for nobody contends that the United States is in any way bound by the last five of the treaty rules. Why, then, contend that it is bound by rule 1? To use the concise and convincing words of Mr. Olney:

When five out of six of the treaty rules for the use of the canal do not apply to the United States it is a reasonable conclusion that the sixth also was not meant to apply.

Mr. President, it seems to me that a careful consideration of the subject leads inevitably to the conclusion that the canal is the property of the United States, built across her own territory by her own sons with her own money; that she can handle and manage this property of hers in any manner that seems best to her, subject only to the limitations she has placed upon herself in the treaties with Great Britain and the

Republic of Panama; that the exemption of her own shipping from the payment of tolls is in no way a violation of either of those treaties, especially in view of the fact that the tolls which we propose to charge to vessels of other nations are so low that if we add to the revenues derived from them the amounts we would receive if we charged tolls for our own shipping the total sum would be several million dollars short of the amount necessary to operate the canal, to say nothing of a return on the investment.

Now, a few words as to the policy of doing this. In the years that are past the United States has spent many millions upon her waterways and her harbors. Not a dollar of tolls is charged upon any of them. Why should we make an exception of this, the greatest and most important of all? Senators upon the other side say it is a subsidy. Subsidy is a great scare word for our Democratic friends, but only when it is coupled with the word "ship." Other subsidies do not frighten them. If the subsidy takes the shape of an appropriation of $678,240 for the extermination of the cotton-boll weevil, or of $400,000 for the eradication of the southern cattle tick, or of any other of the multiform ways of spending Government money, of which latter-day statesmen are so fond, they do not run away from it. I will frankly say that I am not afraid of subsidies, called even by that opprobrious name and applied to American shipping. If Congress would spend for the encouragement of American shipping a tithe of the money it annually wastes in subsidizing certain favored localities and classes, the country would fare infinitely better. I wonder if we realize the tribute we are yearly paying to other countries for carrying our foreign commerce. For the fiscal year of 1913 the total value of our exports and imports was $3,773,030,864. Of this we carried in our own ships only $381,032,495, or almost exactly the same value as we carried away back in the year 1861. In 1861 we carried 65.2 per cent of our foreign commerce in our own bottoms. In 1913 we carried just 11.2 per cent. The amount of toll we pay to the people of other nations, and particularly to Great Britain, for carrying our foreign commerce is almost beyond computation, and a comparatively small sum paid annually for the encouragement of American shipping would return us twenty, sixty, or a hundred fold.

If this toll exemption is a subsidy, then practically every appropriation we make, except for actual running expenses, can be called by that name.

For nearly 50 years a private corporation maintained a series of locks and dams upon the Monongahela River in my State. This company charged tolls upon every vessel passing up and down the river. The tonnage was, and still is, very great, consisting largely of coal, and the company reaped large profits. About 20 years ago the Government bought out this company and freed the commerce of the river, relieving the coal-mining industry of what had been rather a heavy burden. Now, in doing this the Government subsidized somebody. If the freeing of the river from tolls reduced the price of coal, the steel manufacturers and the people down the Ohio and Mississippi who used it were subsidized. If, as I believe, it made little or no impression upon the price, the coal operators were the direct beneficiaries of the subsidy.

The Agricultural bill, which passed the Senate last week, carried an appropriation of $50,000 to enable the Secretary of Agriculture, in cooperation with the authorities of the States concerned or with individuals, to make investigations and demonstrations in connection with the development of live-stock production in the cane-sugar and cotton districts of the United States. The Senate, in its wisdom and liberality, voted by a majority of two to one to increase this appropriation to $100,000. What else is this but a subsidy intended, I presume, to reconcile the heretofore sugar growers of Louisiana to the cruel stab they received in the house of their friends by the enactment of the tariff bill? This exemption of tolls, Mr. President, is no more—in fact, it is even less—of a subsidy than this and many other grants like those I have referred to which pass Congress almost daily. It surely is no more of a subsidy to-day than it was on the 7th of August, 1912, when every Democrat in the Senate voted in its favor.

I believe that under the treaty we have this right. I believe we have it not only as applied to our coastwise shipping, but to that engaged in foreign trade. I believe that the right ought to be exercised, for I do not think that so far as the ships flying our flag are concerned they should be subjected to any other rule than that which governs our other waterways. I will therefore vote against the repeal. I will go further—I will vote for any proposition which seeks to amend the existing law so as to exempt our foreign as well as our coastwise shipping from the payment of tolls. At the same time, Mr. President, I realize that the subject is not free from controversy. I have been deeply impressed with the arguments presented by Senators who have so ably spoken on the other side of the question. If by our treaty we have precluded ourselves from passing our own ships free through the canal, which I do not believe, we ought to stand by our bargain. Inasmuch as the Government of Great Britain, which in the note of Mr. Innes conceded our right to exempt our own shipping, now insists on another interpretation of the treaty, and as this view is taken by many of our own people, I think it is a fair case for arbitration, and I will vote for any amendment which provides for submitting the question to any impartial tribunal. I firmly believe that any such tribunal will decide that the United States has a full right to do as she pleases with her own. If the judgment is otherwise, we should abide by it.

Mr. DU PONT. Mr. President, to those who have not given the subject special attention it might seem, at the first blush, that, despite the differences of opinion, the proposed repeal of the exemption from the payment of tolls of our vessels engaged in coastwise trade is not a complex proposition. As a matter of fact, however, the whole question is a very intricate one, involving a number of highly important considerations, including the controversy between the British Government and our own in regard to the proper interpretation of the Hay-Pauncefote treaty.

Under date of the 8th of July, 1912, prior to the passage of the Panama Canal act on the 24th of the following month, which exempted our coastwise trade from tolls, the British Government made a general protest against any exemption from tolls in favor of American shipping passing through the canal, followed, November 14, 1912, by a much fuller note on the same subject, special exception being taken to the Panama Canal act as an infraction of the treaty. This note stated that the British Government—

recognizes that many persons of note in the United States, whose opinions are entitled to great weight, hold that the provisions of the act do not infringe the conventional obligations by which the United States is bound, and under these circumstances they desire to state their perfect readiness to submit the question to arbitration if the Government of the United States would prefer to take this course—

And that—

a reference to arbitration would be rendered unnecessary if the Government of the United States should be prepared to take such steps as would remove the objections to the act which His Majesty's Government have stated.

The steps referred to being, apparently, the repeal of the Panama Canal act.

In its reply to the preceding notes, on the 17th of January, 1913, Mr. Knox, our Secretary of State, after dissenting from the interpretation placed upon the treaty by the British Government, expressed the opinion that arbitration would not be in order until the completion of the Panama Canal, as the provisions of the treaty in regard to its use would not become operative until the canal was opened; and added that the arbitration proposal might be carried out either under special agreement or under a proposed arbitration treaty which was being negotiated between the two powers.

This was followed by another note from the British Government, dated February 27, 1913, suggesting that—

the difference which exists between the two Governments is clearly one which falls within the meaning of article 1 of the arbitration treaty of 1908—

And that the—

interest of both countries requires that issue to be settled promptly before the opening of the canal, and by means which will leave no ground for regret or complaint. The avoidance of possible friction has been one of the main objects of those methods of arbitration of which the United States has been for so long a foremost and consistent advocate.

Mr. President, the various questions involved in the discussion of the pending bill may be summed up under three heads:

First. As to whether the coastwise exemption provided for in the Panama act was in violation of the Hay-Pauncefote treaty of 1901, as asserted by the British Government and by President Wilson.

Second. As to the economic questions involved in the repeal of the coastwise exemption.

Third. As to the precedents which might thereby be created and as to our moral and patriotic obligations to the people of the United States.

So far as the first head is concerned, I do not propose to trace the diplomatic history of the Hay-Pauncefote treaty, nor to discuss the question as to whether the words "all nations" include, or do not include, the United States, this having been done most fully and most ably by others, and I shall merely refer to a few points in connection with the bill which have made a certain impression upon my mind.

Under the third article of the Hay-Pauncefote treaty the United States adopted six rules in regard to the neutralization and use of the Panama Canal. The first of these rules reads as follows:

The canal shall be free and open to the vessels of commerce and of war of all nations observing these rules, on terms of entire equality, so that there shall be no discrimination against any such nation, or its citizens or subjects, in respect of the conditions or charges of traffic or otherwise. Such conditions and charges of traffic shall be just and equitable.

The Panama Canal act of August 24, 1912, declared that vessels engaged in our coastwise trade were exempted from the payment of tolls passing through the canal. It is claimed not only by the British Government, but by the President of the United States and a number of our prominent statesmen and jurists, that this legislation was in contravention of the rule just quoted. On the other hand, many of our distinguished international lawyers and statesmen, including ex-President Taft, ex-Secretary of State Knox, the Speaker of the House of Representatives, and numerous others, take a wholly different view, which, it may be observed, has the support of several English authorities as well.

When the Hay-Pauncefote treaty was concluded in 1901, the vessels engaged exclusively in our coastwise trade, or, as it is entitled in the Revised Statutes, our domestic commerce, consisted of those enrolled under our navigation laws and which paid an annual license to the Government. These vessels plied between the different ports of the United States, including, by virtue of special acts of Congress, the ports in Porto Rico, Hawaii, and Alaska, and were at all times, except when on the high seas, in territory under the jurisdiction of the United States. As the Hay-Pauncefote treaty referred to a canal which was to be constructed on the soil of a foreign power, it is a serious question whether the treaty could have referred to our coastwise vessels, inasmuch as such vessels sailing from an Atlantic port to a Pacific port, or the reverse, and which to reach their destination would have had to pass for some 40 miles through the territory of a foreign nation, were evidently differentiated from our vessels engaged in domestic commerce which sailed directly from one port to another port of this country and were never beyond its jurisdiction except when on the high seas.

I never have been able to bring myself to believe, Mr. President, that when the treaty of 1901 was negotiated the British Government had our coastwise vessels specifically in mind. I believe that these vessels were excluded from consideration not only because they were engaged exclusively in our domestic commerce with which British ships could not compete, but because domestic commerce in general, or "cabotage," as it is called in continental Europe, refers exclusively to commerce carried on under domestic jurisdiction. A precisely analogous case, with which the British Government must necessarily have been familiar, is to be found in Europe. The commerce of Russia between its ports on the Baltic Sea and its ports on the Black Sea, which only reaches its destination by passing for many miles through the Dardanelles in Turkish territory, can not be considered as cabotage, or coastwise trade.

The assertion has been made that it was clearly understood between the contracting powers that the above rule did cover specifically our coastwise vessels, and that therefore we are bound in good faith not to discriminate in their favor. Admitting, for the sake of argument, that the above assertion was correct, it could only have referred to the understanding between the British Government and the representatives of the Executive branch of our own Government who conducted the negotiations; but, Mr. President, under the Constitution the President of the United States does not possess the exclusive treaty-making power, but shares it with the Senate. In fairness, therefore, when we consider this point, the intent of the Senate when it ratified the treaty should be taken into account, and it is the practically unanimous testimony of those who were then members of that body that it was the clear and definite understanding of the Senate that the United States had the full right to exempt its coastwise vessels from the imposition of tolls without incurring any imputation of thereby violating the treaty.

Some two years later, the situation was entirely changed when the Republic of Panama ceded to our country a tract of territory extending from the Atlantic to the Pacific Ocean, known as the Canal Zone, over which the United States enjoys full and complete sovereignty, as is affirmed by a decision of the Supreme Court. Under these conditions it is evident that our coastwise vessels plying between the Atlantic and Pacific and not touching at any foreign ports would be always within American territory except when on the high seas, and that their status, therefore, would be identical with those vessels which sail from one Atlantic port to another, or from one Pacific port to another. It is to be observed that the change of conditions incident to our newly acquired sovereignty was recognized by Great Britain in her second note, which concedes that—

Now that the United States has become the practical sovereign of the canal, His Majesty's Government do not question its title to exercise belligerent rights for its protection.

Taking up now, Mr. President, the second branch of my subject—as to the economic questions involved—I will say that I have always been a strong advocate of a wise and well-considered system of subsidies for American commerce, believing this to be the only way in which our almost nonexistent merchant marine can be restored. Two years ago I voted against the conference report on the "act to provide for the opening, maintenance, protection, and operation of the Panama Canal," and when the vote was taken on the motion to strike out the clause exempting American coastwise vessels from the payment of tolls, I stated that had I not been paired I would have voted "yea." My action at that time was based on the belief that if subsidies were to be granted to our coastwise shipping it was far wiser and better to grant them directly and openly by refunding their canal tolls than to do so in the indirect way provided for in the act just mentioned, particularly as by the former method we would not have involved ourselves in a controversy as to the observance or nonobservance of our treaty obligations. Had the interests of our coastwise shipping been thus treated, the British Government would have had no valid grounds for objection, as, like all the other great powers, it has always granted subsidies to its own merchant marine, these subsidies being one of the factors which have brought about the practical extinction of our merchant marine.

Now, Mr. President, I am aware of the fact that it is alleged that an exemption from tolls is not a subsidy, and the junior Senator from New York, in his very able speech on the bill now before the Senate, has defined a subsidy as "a gift of public funds from the Government to a private person or corporation to aid in the establishment or support of an enterprise deemed advantageous to the public"; which definition, in my judgment, is far too narrow. A subsidy is defined in Webster's International Dictionary to be "a grant from the Government, from a municipal corporation, or the like, to a private person or company to assist in the establishment or support of an enterprise deemed advantageous to the public; a subvention"; and a subvention is defined by the same authority to be "the act of relieving, as of a burden; support; aid; assistance; help. A Government aid or bounty." If the definitions of the International Dictionary be accepted, it is evident that a subsidy is not confined to a gift in the shape of money, but to aid, assistance, or help in any form. As instances, we may cite the extensive grants of land made by the Government to our transcontinental railroads and the donations of land or exemptions from local taxation so often made by municipalities to encourage the location of new enterprises within their corporate limits. Going a step further, let us take the case of a river which is of sufficient depth for ordinary vessels of commerce, but which has a bar at its mouth which renders it inaccessible. Now, the Government could make a grant of money to the communities interested for the purpose of enabling them to dredge the bar and make the stream accessible, and it could not be disputed that this would be a subsidy; but should the Government say "No; we will not give the money directly, but will dredge the bar at our own cost and in our own way," it seems to me that such an expenditure of public funds would amount practically to the same thing. In short, Mr. President, to my mind any aid extended for the establishment or support of enterprises deemed advantageous to the public—whether in the form of direct grants of money, land, or other valuable considerations, or by the expenditure of funds to improve our rivers and harbors—is a subsidy, in a direct or indirect form.

Another argument presented in support of the pending bill is based upon the prediction that if the exemption from tolls be retained it would not be of any avail to the general public by the reduction of freight rates, but would simply permit the vessel owners to reap larger profits at the expense of the taxpayers. Economic predictions, Mr. President, when they refer to special and particular cases, are somewhat hazardous. A great many unsound ones have been made in the past. Many years ago it was insisted that the removal of the duty on coffee by the so-called "free breakfast table" act would be of great benefit to the consumer; but the sequel proved that all that ensued was that the Treasury of the United States was the loser without any benefit to the consumer. A similar instance was the forecast made as to the loss to the cattle owners throughout the land when hides were put on the free list, the fact being that after this action was taken the price of hides advanced. Confident and reiterated predictions, as we all know,

have been made that the reduction of the tariff would greatly reduce the cost of living, but up to the present moment these have not been fulfilled. All such economic considerations, however, Mr. President, are relatively unimportant, in my judgment, the chief points at issue being whether the exemption from tolls of our coastwise traffic was or was not a violation of the treaty, and as to our responsibilities to the people of this country in any action which may be taken.

Passing now, Mr. President, to the last branch of my subject, in a much more able way than I could have done the junior Senator from Utah has anticipated much of what I had intended to say in regard to the precedent which would be established by the repeal of the exemption. Should the question in dispute be arbitrated in the future, it is very plain, Mr. President, that a repeal of the act exempting our coastwise vessels from the payment of tolls would be treated as a confession that in enacting the legislation of August 24, 1912, we had exceeded our rights and powers under the treaty. Should this act be repealed, we will have needlessly sacrificed our liberty of action, and will be compelled to depend upon direct money subsidies if it be found necessary hereafter to help our merchant marine.

Mr. President, the past and especially the present administration has taken such strong ground in regard to the arbitration of all differences which may arise between ourselves and other nations that it was a matter of very great surprise to me that the message of the President of the United States did not recommend that the question in regard to the exemption of tolls should be settled in this way, as proposed by the British Government. I for one would be glad to see it referred for adjustment to a proper tribunal. The question is difficult as well as delicate, and it seems to me that arbitration would be an eminently proper method of bringing about a settlement, but the message, while not making the slightest reference to such a course, simply urges the absolute and unconditional repeal of the exemption of tolls so far as our coastwise vessels are concerned.

In making his recommendation, which involves the legal interpretation of the Hay-Pauncefote treaty, the President thereby absolutely reverses the judgment of the previous administration, which, it is to be observed, was especially equipped for the proper interpretation of questions of this character in view of the eminent legal attainments of the former President and former Secretary of State, both of whom have presented very full and complete arguments in explanation of their conclusions. While not disputing the right of President Wilson to take such action as he may think proper and to ignore the attitude of the previous administration, we may well consider for the moment the grounds upon which he demands the repeal of the act. He states that in his "own judgment," after mature consideration, the act of August 24, 1912, is "in plain contravention of the treaty with Great Britain concerning the canal concluded on November 18, 1901," but does not give us the legal reasons upon which his conclusions are based. He next states that his interpretation of the treaty is in accord with that of foreigners in general, and that everywhere, except in the United States, the "language of the treaty is given but one interpretation, and that interpretation precludes the exemption I am asking you to repeal." He also refers to the effect of the repeal upon the foreign policy of the administration, but his reference is so vague that it is impossible to draw any specific conclusions. In brief, the message pressingly urges Congress to absolutely reverse the position it took two years ago in regard to the exemption of our coastwise trade from the payment of tolls in deference to public opinion abroad and upon the "judgment" of President Wilson. Further, the message in question is misleading and unsatisfactory, first, because it fails to make any mention of the notes of the British Government asserting that the Panama Canal Act of 1912 violated the Hay-Pauncefote treaty, which was the origin of the whole controversy, and, second, because it absolutely ignores the British proposals to settle the matters in dispute by arbitration.

To conclude, Mr. President, I should much prefer to see the differences of opinion in regard to the interpretation of the treaty settled by arbitration, but if this be not possible, after a very careful consideration of the whole question, I feel that I would not be justified in agreeing to unconditionally surrender, as is so strongly urged by President Wilson, any legal or equitable rights which the United States may possess in the premises, nor to take a step which, in my judgment, impinges upon the dignity of our country and upon the self-respect of every American citizen. I shall, therefore, vote against the bill.

Mr. WEST. Mr. President, after so much has been said in the matter of free tolls, touching almost every feature of this great question of such vital and serious consequence to this Nation, I fear I shall not be able to follow other than a beaten track in my efforts to offer anything new, illuminating, or calculated in any way to cause anyone to look at this difficult problem in a light different to that in which it has hitherto been presented. Yet in some respects—not commercial or material in their nature—in my judgment, it is the gravest problem, save one, that has been presented for solution by this Government since the great question that preceded and followed in the wake of the War between the States. How important, then, is it that we should make no mistake in considering well this great question before it is finally determined?

We have a country of wonderful resources, of splendid possibilities in the long line of development that still lies before us, and, in my judgment, of the greatest population-sustaining potentiality of any country on earth of the same territorial extent. It is not worth while in this discussion, as serious as the matter is, not only to this but other civilized nations of the earth, for us to become unduly alarmed, fearing that we will part with some of our sovereign or inalienable rights under the Constitution. When the United States was in its infancy, isolated as it is, no other nation dared to attempt to land on our shores since the treaty of Ghent, nearly a hundred years ago, to invade any portion of our territory.

Now, with a hundred million people, matchless in advancement and civilization, all united in a common cause, with immeasurable resources, the greatest factor in the world to make a nation puissant and all-conquering, why should we fear and tremble lest our rights should be invaded or be unduly filched from us by any power meditating our overthrow?

I fear some of the Senators are resorting to an extreme position in becoming unduly apprehensive for fear we yield our rights under the Hay-Pauncefote treaty to England and other nations using the canal on terms of entire equality. A great Nation like the United States can afford to be broad and liberal in the construction of treaties and treaty rights. If there is even a reasonable doubt as to the proper construction of the Hay-Pauncefote treaty, this Government, with strong argument to support her contention in favor of passing our coastwise vessels through the canal free, should yield in the face of the fact that England and nearly every other civilized nation of the world are considerately opposing our contention for free tolls.

As the question has been so ably argued both for and against free tolls for our coastwise vessels, exhausting every possible source of information, I shall content myself with only a brief argument in my effort to demonstrate that under the Hay-Pauncefote treaty we have no right to pass our merchant marine plying the seas from the Atlantic to the Pacific coastwise except on terms of entire equality.

When we pass to an economic consideration of this vitally important subject, it is not by any means because I deem the economic side of the question of more serious consequence to the United States or to the interests of the great industrial force of our Nation.

My purpose to leave alone any extended discussion of the Hay-Pauncefote treaty or the Clayton-Bulwer convention is because many of the distinguished Senators, with more accurate knowledge of treaties, treaty making, and treaty obligations, have been, it seems to me, convincing in their arguments that the United States were included in "all nations," the vessels of whose citizens were to use this canal on terms of entire equality. The senior Senator from New York [Mr. ROOT], whose argument last week seemed to be so conclusive, was intimately identified with Mr. Hay, our great diplomat and one of the controlling spirits in directing and framing the Hay-Pauncefote treaty, and he says that it was their intention, and there was no other understanding with Mr. Choate, Lord Pauncefote, and Lord Lansdowne in all the writings leading up to the signing of the Hay-Pauncefote treaty, that not only the United States but all other countries observing these rules should use the canal on terms of entire equality.

Mr. Joseph H. Choate, then ambassador to Great Britain from the United States, assisted in the negotiation of the treaty. Mr. Choate—and what he says was vouched for in the very able argument by the distinguished senior Senator from New York [Mr. ROOT] delivered in this body a few days ago—speaking for Mr. Hay and Lord Pauncefote, whose lips are now sealed in death, says that there was no suggestion at any stage of the negotiations leading up to the signing of this treaty that there should be toll exemption for any nation or any of its citizens or subjects. Not only Mr. Hay, Mr. Root, Mr. Choate, and Mr. Andrew D. White, but Lords Pauncefote and Lansdowne and a host of other distinguished men like Senator Lodge, Senator Burton, Charles W. Eliot, Oscar S. Strauss, George F. Edmunds, Col. George W. Goethals, and others corroborate the men who

were actively engaged in the negotiations leading up to the signing of this important treaty.

It seems to me that all this array of indisputable testimony should establish beyond any sort of peradventure that free tolls through the Panama Canal were never contemplated or mentioned by either of the signatories to the treaty. It is true some of the Senators in their arguments in favor of free tolls have advanced quite a number of German authorities in the endeavor to establish their contention. While Germany is noted for her men of erudition and broad scholarship—her great lawyers and publicists—her position, when it comes to passing upon the rights of the British Government, should be considered in connection with the attitude she has sustained toward England for many years.

Both of these great nations would feel easier were they further removed from each other, and it is rather natural that, ancient enemies as they are, Germany does not want England, with her great merchant marine, to occupy any vantage ground, so a jealous, selfish interest may have something to do in shaping the legal diplomatic opinions that emanate from her great writers on treaties and international law.

It hardly seems necessary for me to go into the discussion—any more than to merely mention it—of the Hay-Pauncefote treaty with such weight of authority establishing conclusively to my mind its entire equality to all nations—preferring none. Admitting, however, my limited knowledge as to the construction of the treaties and treaty rights, I shall be brief in considering our rights and obligations under the Hay-Pauncefote treaty.

I ask to have inserted in the RECORD the Hay-Pauncefote treaty at this time.

The PRESIDING OFFICER (Mr. PAGE in the chair). In the absence of objection, permission to do so is granted.

The treaty referred to is as follows:

The United States of America and His Majesty Edward VII, of the United Kingdom of Great Britain and Ireland, and of the British Dominions beyond the Seas, King, and Emperor of India, being desirous to facilitate the construction of a ship canal to connect the Atlantic and Pacific Oceans, by whatever route may be considered expedient, and to that end to remove any objection which may arise out of the convention of the 19th April, 1850, commonly called the Clayton-Bulwer treaty, to the construction of such canal under the auspices of the Government of the United States, without impairing the "general principle" of neutralization established in article 8 of that convention, have for that purpose appointed as their plenipotentiaries:

The President of the United States, John Hay, Secretary of State of the United States of America;

And His Majesty Edward VII, of the United Kingdom of Great Britain and Ireland, and of the British Dominions beyond the Seas, King, and Emperor of India, the Right Hon. Lord Pauncefote, G. C. B., G. C. M. G., His Majesty's ambassador extraordinary and plenipotentiary to the United States;

Who, having communicated to each other their full powers, which were found to be in due and proper form, have agreed upon the following articles:

"ARTICLE 1.

"The high contracting parties agree that the present treaty shall supersede the aforementioned convention of the 19th April, 1850.

"ARTICLE 2.

"It is agreed that the canal may be constructed under the auspices of the Government of the United States either directly at its own cost, or by gift or loan of money to individuals or corporations, or through subscription to or purchase of stock or shares, and that, subject to the provisions of the present treaty, the said Government shall have and enjoy all the rights incident to such construction, as well as the exclusive right of providing for the regulation and management of the canal.

"ARTICLE 3.

"The United States adopts, as the basis of the neutralization of such ship canal, the following rules, substantially as embodied in the convention of Constantinople, signed the 28th October, 1888, for the free navigation of the Suez Canal, that is to say:

"1. The canal shall be free and open to the vessels of commerce and of war of all nations observing these rules, on terms of entire equality, so that there shall be no discrimination against any such nation, or its citizens or subjects, in respect of the conditions or charges of traffic or otherwise. Such conditions and charges of traffic shall be just and equitable.

"2. The canal shall never be blockaded, nor shall any right of war be exercised nor any act of hostility be committed within it. The United States, however, shall be at liberty to maintain such military police along the canal as may be necessary to protect it against lawlessness and disorder.

"3. Vessels of war of a belligerent shall not revictual nor take any stores in the canal except so far as may be strictly necessary; and the transit of such vessels through the canal shall be effected with the least possible delay in accordance with the regulations in force, and with only such intermission as may result from the necessities of the service.

"Prizes shall be in all respects subject to the same rules as vessels of war of the belligerents.

"4. No belligerent shall embark or disembark troops, munitions of war, or warlike materials in the canal, except in case of accidental hindrance of the transit, and in such case the transit shall be resumed with all possible dispatch.

"5. The provisions of this article shall apply to waters adjacent to the canal, within 3 marine miles of either end. Vessels of war of a belligerent shall not remain in such waters longer than 24 hours at any one time, except in case of distress, and in such case shall depart as soon as possible; but a vessel of war of one belligerent shall not depart within 24 hours from the departure of a vessel of war of the other belligerent.

"6. The plant, establishments, buildings, and all works necessary to the construction, maintenance, and operation of the canal shall be deemed to be part thereof, for the purposes of this treaty, and in time of war, as in time of peace, shall enjoy complete immunity from attack or injury by belligerents, and from acts calculated to impair their usefulness as part of the canal.

"ARTICLE 4.

"It is agreed that no change of territorial sovereignty or of international relations of the country or countries traversed by the before-mentioned canal shall affect the general principle of neutralization or the obligation of the high contracting parties under the present treaty.

"ARTICLE 5.

"The present treaty shall be ratified by the President of the United States, by and with the advice and consent of the Senate thereof, and by His Britannic Majesty; and the ratifications shall be exchanged at Washington or at London at the earliest possible time within six months from the date hereof.

"In faith whereof the respective plenipotentiaries have signed this treaty and hereunto affixed their seals.

"Done in duplicate at Washington, the 18th day of November, in the year of our Lord 1901.

"JOHN HAY. [SEAL.]
"PAUNCEFOTE. [SEAL.]"

Mr. WEST. In transmitting to the President the Hay-Pauncefote treaty, Mr. Hay said:

THE PRESIDENT:

I submit for your consideration and for transmission to the Senate, should you deem it proper to do so, with a view to obtaining the advice and consent of that body to its ratification, a convention signed November 18, 1901, by the respective plenipotentiaries of the United States and Great Britain to facilitate the construction of a ship canal to connect the Atlantic and Pacific Oceans by whatever route may be considered expedient, and to that end to remove any objection which may arise out of the convention of April 19, 1850, commonly called the Clayton-Bulwer treaty, to the construction of such canal under the auspices of the Government of the United States, without impairing the "general principle" of neutralization established in article 8 of that convention.

Respectfully submitted.

JOHN HAY.

DEPARTMENT OF STATE,
Washington, December 2, 1901.

Now, in his letter to the President, Mr. Hay said:

Without impairing the "general principle" of neutralization established in article 8 of that convention.

To show the temper of the Senate, when the treaty came up for ratification in that body, Senator Bacon, of Georgia, proposed the following amendments:

In the preamble strike out all after the words "United States," in the tenth line, down to and including the word "convention," in line 11.

Strike out from article 2, in line 10, the following words: "Subject to the provisions of the present treaty."

Strike out all of articles 3 and 4.

The preamble reads as follows:

The United States of America and His Majesty Edward VII, of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas, King, and Emperor of India, being desirous to facilitate the construction of a ship canal to connect the Atlantic and Pacific Oceans, by whatever route may be considered expedient, and to that end to remove any objection which may arise out of the convention of the 19th April, 1850, commonly called the Clayton-Bulwer treaty, to the construction of such canal under the auspices of the Government of the United States, without impairing the "general principle" of neutralization established in article 8 of that convention, have for that purpose appointed as their plenipotentiaries:

The President of the United States, John Hay, Secretary of State of the United States of America;

And His Majesty Edward the Seventh, of the United Kingdom of Great Britain and Ireland, and of the British Dominions beyond the Seas, King, and Emperor of India, the Right Honorable Lord Pauncefote, G. C. B., G. C. M. G., His Majesty's Ambassador Extraordinary and Plenipotentiary to the United States;

Who, having communicated to each other their full powers, which were found to be in due and proper form, have agreed upon the following articles.

And the amendments of Senator Bacon proposed to strike out "without impairing the 'general principle' of neutralization established in article 8 of that convention."

Referring to the Clayton-Bulwer treaty, we find article 8 in that convention, which Senator Bacon was desirous of getting rid of, reads as follows:

The Governments of the United States and Great Britain, having not only desired in entering into this convention to accomplish a particular object but also to establish a general principle, they hereby agree to extend their protection by treaty stipulations to any other practicable communications, whether by canal or railway, across the Isthmus which connects North and South America, and especially to the interoceanic communications, should the same prove to be practicable, whether by canal or railway, which are now proposed to be established by the way of Tehuantepec or Panama. In granting, however, their joint protection to any such canals or railways as are by this article specified it is always understood by the United States and Great Britain that the parties constructing or owning the same shall impose no other charges or conditions of traffic thereupon than the aforesaid Governments shall approve of as just and equitable; and that the same canals or railways, being open to the citizens and subjects of the United States and Great Britain on equal terms, shall also be open on like terms to the citizens and subjects of every other state which is willing to grant thereto such protection as the United States and Great Britain engage to afford.

If this article meant nothing to the Hay-Pauncefote treaty, what object could Senator Bacon have had in moving to strike out the words above referred to in the preamble? The distin-

guished Senator was too well versed in matters of foreign relations and international law not to know the full force and effect of this clause in the preamble of the present treaty. But let us go a step further in the matter of amendments offered by Senator Bacon. He proposed to strike out in article 11 in the Hay-Pauncefote treaty the words "subject to the provisions of the present treaty," and then the article would read:

It is agreed that the canal may be constructed under the auspices of the Government of the United States, either directly at its own cost or by gift or loan of money to individuals or corporations or through subscription to or purchase of stock or shares, and that the said Government shall have and enjoy all the rights incident to such construction, as well as the exclusive right of providing for the regulation and management of the canal.

To go still further, the Senator proposed to strike out articles 3 and 4, leaving, as amended, only three articles—1, 2, and 5, in the entire treaty, which would read as follows:

ARTICLE 1.

The high contracting parties agree that the present treaty shall supersede the aforementioned convention of the 19th April, 1850.

ARTICLE 2.

It is agreed that the canal may be constructed under the auspices of the Government of the United States, either directly at its own cost or by gift or loan of money to individuals or corporations or through subscription to or purchase of stock or shares, and that the said Government shall have and enjoy all the rights incident to such construction, as well as the exclusive right of providing for the regulation and management of the canal.

ARTICLE 5.

The present treaty shall be ratified by the President of the United States, by and with the advice and consent of the Senate thereof, and by His Britannic Majesty; and the ratifications shall be exchanged at Washington or at London at the earliest possible time within six months from the date hereof.

In faith whereof the respective plenipotentiaries have signed this treaty and hereunto affixed their seals.

Done in duplicate at Washington the 18th day of November, in the year of our Lord one thousand nine hundred and one.

JOHN HAY. [SEAL.]
PAUNCEFOTE. [SEAL.]

Now, if the distinguished Senator had succeeded in passing these amendments, only one of which means anything, and that as amended has reference to construction and providing for the regulation and management of the canal by the United States—article 1 merely states that the present treaty supersedes the Clayton-Bulwer convention, and article 5 has reference only to the ratification of the signatory powers—had these amendments been agreed to the opposition to the pending bill might have had good ground for their contention, for the whole matter of construction and regulation of the Panama Canal would have been left to the United States.

But how did the Senate view the amendments offered by Senator Bacon?

They were defeated by a vote of 18 yeas to 60 nays.

Senator McLaurin, of Mississippi, proposed to strike out of article 3 the following:

Substantially as amended in the convention of Constantinople, signed the 28th October, 1888, for the free navigation of the Suez Canal.

And this amendment was likewise disagreed to.

Had the amendment proposed by the Senator from Mississippi prevailed, then the remainder of the paragraph would read as follows:

The United States adopts, as the basis of the neutralization of such ship canal, the following rules—that is to say:

1. The canal shall be free and open to the vessels of commerce and of war of all nations observing these rules on terms of entire equality, so that there shall be no discrimination against any such nation or its citizens or subjects in respect of the conditions or charges of traffic or otherwise. Such conditions and charges of traffic shall be just and equitable.

If this part of the section, "substantially as embodied in this convention of Constantinople, signed the 28th of October, 1888, for the free navigation of this canal," meant nothing, why was it put into the section? It meant, just as the Suez Canal is operated to-day, that, including England, all nations must be on entire equality. It meant, as the convention of Constantinople included England, so this Hay-Pauncefote treaty includes the United States.

Now, it seems to me the only escape for the United States from the terms of this section is to say that the part England took in making the treaty was merely pro forma, and it was, so construing it, clearly an edict, declaration, propaganda, or pronunciamento, and England was not in anywise considered a party thereto. But how two parties can enter into a compact and one is bound and the other is not is entirely beyond my comprehension.

How you can include the one and exclude the other without in express terms so declaring in the instrument is to my mind the knotty problem.

Besides, as the Senator from Ohio [Mr. BURTON] has with the most painstaking diligence and careful research shown that this great Nation in all her treaties has for more than a hundred years placed herself, her citizens, and subjects on entire equality with the other signatory powers. Then, with all the language in the Hay-Pauncefote treaty tending to establish beyond any sort of cavil the entire equality of not only the two signatory powers, but all nations observing the rules, I can not see how anyone can escape the conclusion that the United States are included among "all nations."

As to the acquisition of the belt of land stretching across the Isthmus of Panama, it is made clear in the treaty that it in nowise would change the terms of the convention. In the purchase of this strip of land from Panama, it seems to be clear that the United States were to use it in accordance with the terms of the Hay-Pauncefote treaty; and should this Government at any time abandon it or convert it to uses other than for canal purposes, it would revert to Panama. In other words, it is my candid judgment that this Government could not, on the terms the purchase was made, establish there a tubercular hospital or a leprotarium, or anything of like character.

Much has been said in the discussion in reference to the Welland and other canals in the Dominion of Canada, and rebates that were allowed to vessels discharging their cargoes in the Canadian ports. This was done, and a rebate of 18 cents out of 20 cents was allowed to all vessels going east to Montreal and points beyond. While the terms of the treaty regulating the traffic upon this canal were not near so clear and definite in meaning, the United States declared it was a patent discrimination against the citizens and subjects of this Government, and that this gross injustice under the treaty stipulation had to cease.

After congressional protests and long diplomatic correspondence the troubles arising out of the discrimination favoring Canadian citizens were settled, yet the Dominion of Canada was unceasing in protesting that she was transgressing no rights under the treaty that belong to citizens of the United States.

She finally yielded to the demands made by this Government, and all discrimination against our citizens ceased.

Some who have taken a position favoring free tolls through the Panama Canal have sought to justify the contention so assumed, because in the face of treaty rights Canada persisted in giving rebates to all vessels going east discharging cargoes at Montreal and points beyond.

Should the transgression of Canada of a treaty and treaty rights, especially after she has ceased to do what is inhibited under the treaty, furnish a pretext years after the wrongdoing for this Government to enter the field with a view of retaliating after the incident is closed and almost forgotten? To pursue such a course would be ill-becoming a great nation; besides we would leave ourselves open to the criticism and animadversion of the civilized nations of the earth. But let not this great Government appear in the rôle of administering retributive justice to such nations as failed in the past to observe their treaty obligations. The United States surely could not justify herself in pursuing such a course.

This is the charitable view of the strong toward the weak, and should be the guiding principle of our Government that has been the foremost among the nations of the earth in advocating universal peace and international brotherhood.

To those who do not think the United States are included in the term "all nations" I desire now as briefly as possible to call their attention to the economic and commercial view of the question, and determine the rights of our citizens from an economic standpoint.

I shall first consider briefly the Suez Canal, that is giving service on terms of entire equality to all nations observing the rules under the convention of Constantinople, October 28, 1888, for the free navigation of this canal. The cutting of this canal at this time by De Lesseps was regarded as a wonderful piece of engineering skill, and cost the stockholders about $127,000,000.

This great water highway that floats the vessels of almost every civilized nation of the globe is 103 miles long, 28 feet deep, and 17 hours are required for vessels to pass through it. This canal is operated under a stock company, and the total number of shares is 379,245.

It is said the British Government owns 176,602 of these shares, and the last dividend declared showed a net income of 31 per cent. The charges per net ton for vessels with cargo were $1.30, and 82 cents per ton for vessels in ballast, and $1.93 for each passenger 12 years of age or over. It can be seen that this is a magnificent property, and if it were owned by shareholders under our Government, being a public-utility corporation, the stockholders would not long draw 31 per cent, for the Government would step in and demand that the charges be reduced.

The Panama Canal before it is ready for service will cost the United States more than three times as much as the Suez Canal cost its stockholders; so, with equal tonnage, which we will not likely have, and the same expense of operating, this Government would have to charge three times as much. But even on a much smaller tonnage estimate, according to the report of traffic experts, the Panama Canal would pass through its locks 10,500,000 net tons, whereas the Suez Canal passed in round numbers 16,582,000. Now, this Government proposes to charge only $1.20 per net registered ton. It takes no financier, when considering the cost of construction and upkeep, to determine that the rates fixed by this Government are extremely reasonable; besides, there is no charge for passengers passing through the canal.

It has even been contended in this Chamber that as we will be unable to pay for maintenance and upkeep ($6,000,000) and the guarding and policing the fortifications ($10,000,000), we should not only allow free tolls to our ships but subsidize the ships of all nations to the extent of the tolls that the United States would collect. As Proctor Knott once said in a notable speech—commonly known as his "Duluth speech"—delivered in the House of Representatives in 1871, where the bill sought that the Government donate large tracts of land to build a railroad to Duluth, that his relation was only a "trustee to an express trust." That is the relation we sustain to this canal, and we have no right, in order to save to our coastwise shipping interests about $1,000,000 annually, to donate about $10,000,000 out of the hard earnings of the masses of the United States to the nations of the world. Yet, as a matter of right, I hope to be able to show that we are not in a much better position when we undertake to extort from all the people in order to give the few in the trade constituting, if I am to believe what has been stated in this Chamber, a great monopoly—a trust, if you please; that more familiar word in legislation and political parlance.

I expect to show that the coastwise trade has in a sense been a legalized subsidy for nearly a hundred years—worse than a subsidy, for, without regulation under the Interstate Commerce Commission, they have charged everything the commodity carried would bear without let or hindrance, or without fear on the high seas of any competition, for no nation on earth save the United States can engage in our coastwise trade, and who can this prohibition hurt, and I ask this question for the benefit of those who have said on this floor it was not for the people engaged in coastwise shipping they were concerned, but for the dear people—the masses who consume these products that were shipped in under free tolls. But I will illustrate with a concrete example and let those contending for free tolls answer my contention.

For the sake of this illustration I will take a coastwise vessel passing from New York to New Orleans, and will say the charges on this vessel are $3 per ton, but if our coastwise shipping was open to all nations the same commodity could be hauled at $2 per ton. Now, according to the arguments made on this floor for free tolls, the people generally would receive in the reduced price this difference of $1 per ton. But the people do not get it, and in a form it is a clear subsidy to our coastwise vessels; and neither would the people get the other subsidy, the $1, I will say for the sake of this argument, allowed for free tolls through the Panama Canal. This, I claim, is worse than a subsidy, for the United States clearly discriminates between coastwise vessels passing through the canal and those not going through. Let me illustrate by taking the vessels sailing under the United States flag and all bound for New Orleans.

One, I will say, is a coastwise vessel from New York, the second a coastwise vessel from San Francisco, and the third a vessel from the Orient flying the American flag.

It is quite clear to the minds of all that the coastwise vessel from San Francisco enjoying free tolls has $1 per ton differential over the vessel flying the American flag from the Orient, and as all vessels passing through the canal except coastwise vessels pay tolls, it necessarily gives the vessel from San Francisco advantage over the New York vessel, for the $1 per ton is a clear subsidy, as no vessel is allowed it except the one from San Francisco. The Government is not only subsidizing coastwise vessels passing through the canal—amounting, as I have already shown, to a double subsidy—but she, in allowing coastwise ships to pass free through the canal, is accomplishing what we have tried to prevent so long, driving ships that float the American flag from the high seas.

I want those who advocate free tolls, and are as a consequence so deeply moved in their efforts to advance the interests of the people suffering for the want of free tolls, to turn their attention to another thing that might really help the people in the United States. The vessels from any land may bring the products of their countries into our ports, and having landed them here, it may be, free, if there be no tariff, they can pass through free on the subsidized vessels. These foreign products come into the United States, and if they should be transferred in any of our ports they go through the canal free, yet our American vessel, flying the American flag—or any other vessel, as to that, from any other country on earth—must pay the tolls.

But I must pass to the consideration of another branch of the question of free tolls. Failing in cutting a canal through the Isthmus of Panama, it was once the dream of the people that a great railroad on the leviathan order might be constructed over the Isthmus so that a ship and cargo might be transported without breaking bulk. Suppose this beautiful dream had been realized, would the advocates of free tolls be here asking for free passage across the Isthmus of Panama on this titanic railroad? The railroad would not have cost as much as the canal, and the request made of the United States would have been just as reasonable. And, furthermore, it would be just as reasonable for the Government to own all the transcontinental railroads and give free passage, and to give free passage on the railroad in Alaska the Senate recently voted $35,000,000 to construct. Oh, when and where will this paternal doctrine find its limit! It will, perhaps, come when there is a higher order of created human intelligences, when the millennial dawn shall break upon the world, peace and good will reign forever, and, under the benign and beneficent influence of good government, the ethereal state of man will come when there is no more work. Considering the way this Government is drifting, that would be the result, if the money should only hold out.

Now, I wish briefly to refer to the transcontinental railroads, which, if we are to believe much that is said about them, if blotted from the map, the country would be better off.

I think, after all, there is some good in them. They may have done wrong, and, as long as they are owned, controlled, and run by men, they will do some wrong in the future. But they are not entirely engines of oppression. They may have extorted from the people when they should have let the people keep something of what they took. We are all too prone to look at the business of others through glasses other than our own.

Now, let us consider what the United States would be without railroads. Along the Pacific and Atlantic Oceans, the Gulf of Mexico, and the navigable streams, lined with green-fringed borders in a high state of cultivation, there would be beautiful and attractive homes and lovely cottages; but back of all these beauties and charms that contribute so much to man's happiness and comfort would be the wilds for the Indians and the deer.

We have an Interstate Commerce Commission, whose duty is to see that all these railroads are run in accordance with the laws made and provided for their control. They were taxed to build the Panama Canal, and naturally they would be unwilling for competitive vessels to be allowed to pass free through the locks. The law is such that they can not own vessels to work in conjunction with their lines and pass through the canal.

Railroads are great developers in a country, and sometimes, I think, they are too much abused. The public is too apt to get the impression that only the wealthy are the stockholders. This is a grievous mistake, and I will illustrate by taking the Pennsylvania Railroad, which on April 1 of this year had 89,602 stockholders; 43,158 of the number were women, and the average holdings of all the stockholders were 111 shares each. This shows conclusively that the stock was pretty well distributed, many people, no doubt, of moderate means holding it purely as an investment. Let them be controlled but not oppressed, and the country will fare better. Do not take from them and give to an already subsidized coastwise shipping monopoly.

It has been pretty well settled in the discussion that, taking the Isthmus before the construction of the canal, vessels landing at either side with freight must discharge the cargo, load it on cars, cross the Isthmus, and load into the waiting vessel. This requires an average of 12 days and costs $3 per ton, and all nations, including the United States, are on terms of entire equality. It is said by the experts the average toll per ton will be 60 cents. Now, the vessel has saved an average of $2.40 per ton and 12 days consumed in this transfer, and will make the trip from New York to San Francisco in less time than freight over the transcontinental lines. They will not be competitive in the way of terminal freights, but, as they must live, the cities not on navigable streams will have higher rates.

It should be well understood that unless the Government in regulating rates permits a margin for profits there will be no more railroad building in this country unless the Government enters the business.

Now, I wish to show we are not dealing with our neighbor, Canada, on terms of entire equality.

Take two vessels, one leaving Seattle and the other a Canadian vessel leaving Vancouver, both bound through the Panama Canal for points on Lake Erie. Our coastwise vessel passes through the canal free and the Canadian vessel pays the tolls. They both pass through the Welland Canal in Canadian territory on terms of entire equality and discharge their cargoes at Buffalo, or some other point on Lake Erie. Thus it would seem to an unbiased mind that the Canadian vessel was discriminated against to the amount of the tolls through the Panama Canal. It is too obvious that Canadian transcontinental railroads are discriminated against for me to pursue the matter further.

I wish to say, further, when the United States decides she must, in order to promote the welfare and upbuilding of this great country, take over all public-utility corporations, she but adds another to the threatened dangers now menacing this Republic.

That was rather a sad view the Senator of New Hampshire [Mr. GALLINGER] took of the situation a few days ago when he had incorporated in the RECORD the declaration of another that in order to maintain the rights of the people of a certain class they would burn, murder, and commit other violence to secure their rights. They seem to forget that the courts of justice in this country are open for the trial of causes where the law has been violated. Yet I wish to say in passing—and I trust I do not take a too pessimistic view of the situation—unless this Government does something to keep from our shores by more rigid immigration laws to exclude the vile, unbridled, and uneducated people, who subsist on from 5 to 10 cents per day, then the pictures now painted in the newspapers of the horrors, desolation, and suffering in the coal mines are mild in comparison with the lurid conditions the future holds in store for us. Let us hope by wise legislation there are better conditions awaiting this country; but we can not properly assimilate such numbers so much unfitted for the laws of our land, and we should hold in mind that unrestricted immigration is the Iliad of many of the woes of this country, and there should be some check by legislation to it.

In conclusion, Mr. President, I desire to say this great Nation should not be characterized by illiberality in arrogating unto itself the right to decide in favor of free tolls for the coastwise vessels of this country against the views of so many of her own eminent statesmen and diplomats, as well as almost every civilized nation of the earth. The high purpose in the life of a great nation, as well as that of an individual, should be to do right; and thus established the United States would still remain in the forefront for international peace and the universal brotherhood of nations. But take the other course, and the furies of the commercial world may be turned against us in our onward and upward march to a still higher destiny, and God grant we may never realize the ominous picture of Story, America's great publicist and expounder of the Constitution, when he says of this great Republic:

> The fabric may fall at last, for the work of man is perishable and must forever possess inherent elements of decay.

She could well afford to adopt what the great Senator, Ben Hill, of Georgia, said on the floor of this Senate:

> Sir, there is but one patriotic course for men to pursue in the high position of this country. Call back, if you can, the people to an honest, renewed recognition of the obligation of contracts and of covenants. Teach the present generation, teach all generations, that implicit fidelity to obligations, fidelity to constitutional obligations, and fidelity to contract obligations, through all trials at any cost, is the purest religion, the wisest statesmanship, and the highest patriotism.

We should on this occasion, when our national reputation for fidelity and obligation to contracts is at stake, ponder fittingly these lofty utterances.

Mr. WARREN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Ashurst	Hughes	O'Gorman	Smoot
Brady	James	Oliver	Stephenson
Brandegee	Johnson	Overman	Sutherland
Bristow	Jones	Page	Swanson
Bryan	Kenyon	Perkins	Thomas
Burton	Kern	Pittman	Thompson
Catron	La Follette	Pomerene	Thornton
Chamberlain	Lane	Ransdell	Tillman
Chilton	Lee, Md.	Robinson	Walsh
Clapp	Lewis	Saulsbury	Warren
Cummins	Lodge	Shafroth	Weeks
Gallinger	McCumber	Sheppard	West
Gore	Martin, Va.	Shively	White
Gronna	Martine, N. J.	Simmons	Williams
Hitchcock	Myers	Smith, Ga.	Works
Hollis	Norris	Smith, S. C.	

Mr. MARTINE of New Jersey. I was requested to announce the absence of the Senator from Arizona [Mr. SMITH] on official business.

Mr. WHITE. I wish to announce the absence of my colleague [Mr. BANKHEAD] and to state that he is paired with the junior Senator from West Virginia [Mr. GOFF]. This announcement will apply to any roll calls throughout the day.

The VICE PRESIDENT. Sixty-three Senators have answered to the roll call. There is a quorum present.

NAVAL APPROPRIATIONS.

Mr. THORNTON. I ask the Senate to proceed to the consideration of House bill 14034, the naval appropriation bill.

There being no objection, the Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 14034) making appropriations for the naval service for the fiscal year ending June 30, 1915, and for other purposes.

Mr. THORNTON. Mr. President, at the time the consideration of the bill was left off yesterday afternoon all the committee amendments reported to the bill itself had been passed on, except two. The first of those, passed over by request of the Senator from New Jersey [Mr. HUGHES], is on line 14, page 26:

> Naval proving ground, Indianhead, Md.: Toward extension of powder factory, $500,000.

I understood that possibly the Senator from New Jersey would move to strike out that amendment on a point of order. I wish to say in advance, before the point of order is made, while I do not know the exact ground on which it is to be made I do not believe there is anything under the Senate rules which would justify the exclusion of the amendment on a point of order, because it is not new legislation, it is not general legislation, and it is not an amendment offered on the floor without having been passed on by the committee or without having been recommended by the department. All those factors have been complied with. It is simply, as stated, an extension of an existing powder factory, which has been in operation since 1898, and from time to time additional appropriations have been made so as to increase its utility.

The department is very urgent in its insistence that this provision should be inserted in the bill, because it considers it to be vitally necessary from the standpoint of economy and from the standpoint of efficiency, and particularly at this time, when there may be occasion for a speedy demand for smokeless powder.

I think for the reasons I have stated the point of order would not lie, if it is made by the Senator from New Jersey.

I now ask that the amendment be taken up.

The VICE PRESIDENT. The question is on agreeing to the amendment proposed by the committee.

Mr. HUGHES. Has the point of order been decided?

The VICE PRESIDENT. None has been made, the Chair understands.

Mr. HUGHES. The point of order was made on the amendment.

The VICE PRESIDENT. What is the point of order?

Mr. HUGHES. The point of order is that it is general legislation.

The VICE PRESIDENT. What general legislation?

Mr. HUGHES. General legislation proposed on an appropriation bill.

The VICE PRESIDENT. But what is general about providing for the extension of a powder factory?

Mr. HUGHES. That is general.

The VICE PRESIDENT. The Chair makes the inquiry.

Mr. HUGHES. That, in my opinion, is general legislation. It is not private, special legislation.

Mr. President, I will say that my object in making the point of order is to elicit information in reference to what is desired to be done in this connection. For a number of years I have been a proponent of the proposition that the Government should enter into competition with private powder manufacturers, so as to protect itself in the matter of fixing prices for powder. I was prominent in the legislation which brought that condition about. At one time there was a monopoly in existence in this country, and the Government had to pay any price the manufacturers chose to exact; but that situation has now changed. The Government has appropriated from time to time $1,300,000, as I remember, for the construction of powder works, so that we are now engaged in making something like 3,000,000 pounds of powder a year. The proposed new construction provided for in this amendment would result in the Government making all the powder it needs.

I was of the opinion, and I am still inclined to the opinion, that it would be nearly as bad for the Government to have a

monopoly of the manufacture of powder and shut off private competing manufacturers from competition with it as it would be for private individuals to have a monopoly of making powder.

I have a peculiar interest in this matter, inasmuch as the powder which is furnished to the Government is manufactured in my home county. Six or seven million dollars' worth of property is located in that county in factories owned by the Du Pont Powder Co., which is used exclusively in manufacturing smokeless powder for the Government.

As I said, despite that fact I have been one of those interested in the movement to have the Government come into competition with the private manufacturers of powder. But this proposal means that we are to extend Government manufacture to the absolute exclusion of private manufacturers. I am firmly convinced that in the manufacture of powder, which is a progressive art or science, it would not be a good thing for the Government alone to be interested in its manufacture. I think the competition of private individuals would be as good for the Government as the competition of the Government would be good for private individuals.

Mr. O'GORMAN. Mr. President——

The VICE PRESIDENT. Does the Senator from New Jersey yield to the Senator from New York?

Mr. HUGHES. Certainly.

Mr. O'GORMAN. I wish to ask the Senator a question. Is it not a fact that it has been claimed and is claimed now that the Government is paying from 33 to 40 per cent more for the powder which it purchases than it would cost the Government to produce it?

Mr. HUGHES. I will say to the Senator that something like that is claimed, and it may be true.

Mr. O'GORMAN. If that be true, is not that the all-sufficient reason why the Government should make its own powder rather than patronize even an American manufacturer who charges the Government from 33 to 40 per cent more than the price at which the Government itself can produce the powder?

Mr. HUGHES. I will say to the Senator, and I might as well say it now as at some time later, because I have no doubt that I will be charged with inconsistency before we get through with this and one or two other bills, that this is my notion as to what should be done in all these matters: I think, and I have thought for years, that the Government should be engaged in the manufacture of armor plate and should make its own armor plate. I have thought for years that the Government should have a foundry for the casting of big guns. The Government does not cast any guns, although it is a matter of record——

Mr. SWANSON. The Senator is mistaken. The Government does cast big guns.

Mr. HUGHES. They have not the proper foundry facilities.

Mr. SWANSON. The Government casts a 14-inch gun at a cost to the Government of $60,000 and private individuals charge the Government $79,000 for such a gun.

Mr. HUGHES. Where is this?

Mr. SWANSON. Here at the navy yard.

Mr. HUGHES. How long has that foundry been in use?

Mr. SWANSON. For some time.

Mr. HUGHES. Not for some time.

Mr. SWANSON. It has cast 10 guns there.

Mr. HUGHES. I will not question the Senator's information, but I will say that for a number of years the Government did not have a foundry, and there are cases in the record from which it can be demonstrated that the Government was habitually charged more for castings than it would have been compelled to pay for the finished guns. In other words, while the Government was maintaining an expensive plant and equipment for the purpose of finishing guns from the rough castings the private concerns that made the rough castings charged them more for those castings than they would have asked for furnishing the finished guns.

My notion about all these things I will state as briefly as I can for the information of the Senate. I think the Government ought, and I have done my best to put the Government in a position where it could, build battleships, not that I desire the Government to build all its own battleships. I would be against that proposition, because the people of this country would not stand for the vast expenditure necessary to equip yards and appropriate money sufficient to handle the new construction called for by the naval program each year. And if it were done, naturally every private concern engaged or interested in the building of battleships would go out of business, and while the Government would be able to build the ships needed in ordinary times, when an emergency arose and it was necessary to prepare for war the Government would find itself with no private yards in which to have them built.

I think that would be a bad situation. I think the Government should have well-equipped yards to enable it to compete. The result of that policy has been that where private parties took seven or eight years to build battleships the Government has demonstrated at its own navy yards that they can be built in three years. The Government also demonstrated, although laboring under the handicap of shorter hours and a leave system, that ships can be built at much less cost in Government yards than private manufacturers were charging, and we checked the extortions of the combined private builders of battleships in this country by this Government competition.

Mr. OLIVER. Mr. President——

The VICE PRESIDENT. Will the Senator from New Jersey yield to the Senator from Pennsylvania?

Mr. HUGHES. Certainly.

Mr. OLIVER. The Senator stated that the Government had demonstrated that it could build battleships cheaper in a navy yard than they could be built in private yards.

Mr. HUGHES. I did not say that.

Mr. OLIVER. Then I misunderstood the Senator.

Mr. HUGHES. I did not say that, but I think it comes very nearly being true. However, that is another question which will probably come up later.

Mr. OLIVER. I thought the Senator said that the Government had demonstrated it could build battleships more cheaply in navy yards than in private yards, and I was just going to ask——

Mr. SWANSON. Mr. President, I should like to give the Senator some information. The Government is now building a 14-inch gun. Admiral Strauss, who has charge of it, says that they are now building a 14-inch gun at the Washington Navy Yard and that they are going to build 20.

Mr. HUGHES. They have done that for years. I am not talking about building guns. I am talking about the rough castings made in a foundry.

Mr. SWANSON. The Government can construct the gun for $60,000 and it buys them for $79,000.

Mr. HUGHES. The Government buys these rough castings from private individuals, and unless the situation has changed recently it paid more for the rough castings than it probably would have had to pay for the finished gun. I have contended that we should have a foundry, and I think I am justified in saying that the Senator from Virginia is mistaken when he says that they have a foundry at the Washington Navy Yard. It does not seem possible that that can be so or I would have known of it.

Mr. SWANSON. I will read what Admiral Strauss says.

Mr. HUGHES. The Senator has read it, and I agree with it, but that has nothing to do with this case.

Mr. SWANSON. It is stated here by Admiral Strauss:

> It costs us to manufacture a 14-inch gun at the Washington Navy Yard $60,145. The last bids from the Bethlehem and Midvale steel companies for the same work were $79,800 for the first-named company and $79,200 for the second, but these bids were not accepted. The cost at the Watervliet Arsenal is $61,000.

Mr. HUGHES. The rough castings the Senator is speaking about were probably purchased from private individuals. I do not say that in every case the charge for the rough castings——

Mr. SWANSON. I am not discussing where they get the materials from, but what I insist——

Mr. HUGHES. That is all I am discussing.

Mr. SWANSON. It costs the Government $60,000 for every gun it manufactures in its own navy yard.

Mr. HUGHES. That is all I am discussing. I am not discussing anything else. I said that there are instances on record where the Government has paid more for rough castings than it would have had to pay for the finished gun. They have taken the rough castings over to the navy yard and put skilled mechanics on that work for months and then they have figured the cost.

Mr. SMITH of Georgia. Will the Senator state what those instances are, so that we can know them, because if the Government has been paying more for rough castings than for finished guns it ought to be stopped. If that is going on now, the statement by Admiral Strauss seems to be very misleading.

Mr. HUGHES. If the Senator will permit me to make my statement and do me the courtesy to address the Chair and ask me to yield, I will be obliged to him.

I will say to the Senator that that statement has been made over and over again. I do not know whether it is true now or not, but there are individual instances that can be cited, and it can beyond question be demonstrated that the Government

has paid more for rough castings than it would be necessary to pay in order to obtain the finished product.

We have now at the Washington Navy Yard, as I said awhile ago, skilled mechanics, working fair hours, getting leave and reasonably fair wages, and we are called upon to stand back in admiration of the cost at which the work is being done. Nobody tells us what the basic raw material has cost us and how much private individuals have overcharged us on the rough castings for a gun which we can not make, and which no attempt is made to make, for the Government itself.

There is no reason on earth why there should not be a foundry over at that yard. There is no reason on earth why there should not be foundries enough to enable the Government to check combinations of private gun manufacturers.

The same thing is true with reference to armor plate. I am not criticizing the committee. Of course, I understand the committee is doing the best it can. I understand that the proposition to establish a plant was looked on with favor in another body, but that it was regarded as inadvisable to go into it at this time. Something like $7,000,000 was needed to start an armor-plate plant, and the reasons for not attempting it now were probably sufficient. I am not quarreling with the committee. I am simply pointing out the situation that exists here. Here we have competition. We have the Government making one-third, at least, of the smokeless powder that it uses, and now this proposition contemplates making it all. At the same time the committee looks with equanimity upon this other situation under which the Government is absolutely held up by gun casters or molders and the armor-plate makers.

I am indifferent as to what the Chair does with reference to the point of order. As I have said, I have a sort of selfish interest in the proposition. Nearly all the smokeless powder that is sold to the United States Government is made in the county of Passaic.

Mr. WILLIAMS. Will the Senator pardon me just a moment for a question for information? What page of the bill is it that the Senator thinks gives the monopoly to the Government?

Mr. HUGHES. It is on page 26, line 12. I have contended always that the Government should engage in certain industrial activities in order to protect itself against combinations and monopolies. It should engage in the construction of battleships, and it has engaged in the construction of battleships. It should engage in the manufacture of armor plate, and I hope it will engage in the manufacture of armor plate. It should institute foundries in order to help the Government escape the exactions of the combinations of men who cast these guns. I have voted every time I had the opportunity to enable the Government to enter into the manufacture of powder, and the Government did engage in the manufacture of powder, and is now making about one-third of the smokeless powder that is consumed.

In addition to that, time after time Congress has limited the price of powder, and the Senate can now, by way of limitation, fix the price that the Government can pay. Not only that, but there is a board of officers of the United States Government who can fix to a penny the price that the Government will pay for this powder.

So I regard the policy of the Government in going into the business of making powder to such an extent as will necessarily drive every private individual out of it as being a policy of doubtful expediency.

As I said, the amendment may not be subject to a point of order. I am inclined to think it is, and I am sure that if it is not I can have a lot of amusement in the future on general appropriation bills.

I merely wanted to state to the Senate how I feel about this general proposition. The Secretary of the Navy says he does not desire to acquire a monopoly of powder making but that he wants to have the whip hand in this controversy. For the life of me, I am unable to see why he has not got the whip hand now, making a third of the powder, knowing precisely what it costs, and, under the law, having the right to fix the price.

Mr. SWANSON. If the Senator will permit me, I will explain it. The bill appropriates for the purchase of 3,811,000 pounds of powder. It is estimated that the Government will make by building its own powder factory 2,500,000 pounds, which would leave about 1,300,000 pounds to be bought of the Du Pont Co.

Now, there is no other buyer for the powder. The Government is compelled to have it, and can not get along without it. Suppose the Government, having no one else to buy it from, is compelled to pay the price of the manufacturers, subject to the limitations fixed by Congress, which is 53 cents a pound?

Mr. HUGHES. The Senator is mistaken about that.

Mr. SWANSON. Who else buys it?

Mr. HUGHES. The board of officers fix the price.

Mr. SWANSON. The board of officers do not fix the price. The statute says that they can not pay in excess of 53 cents a pound.

Mr. HUGHES. Exactly, and as much less as it can be purchased for.

Mr. SWANSON. But one person can furnish the Government the Du Pont powder. This appropriation of $500,000 will enable the Government to equip the Government factory, and when the Government comes to buy the one million and a half or two million pounds of powder, if the private manufacturer charges too much for it we can proceed in the Government factory to make it.

In the testimony before the committee it is stated that with this appropriation of $500,000 we would not then be at the mercy of the Du Pont Co. for the amount of powder needed for the Government.

I should like to say in this connection that the Government makes this powder at 40 cents. That includes overhead charges, and 3 per cent interest on the investment; and it pays 53 cents, which is 13 cents lost to the Government.

Mr. WILLIAMS. Mr. President, with the consent of the Senator from New Jersey, I should like to ask the Senator from Virginia [Mr. SWANSON] a question. If I understood the Senator, he said that the limitation in the bill was 53 cents and that the Government made powder at 40 cents. Then, why do you not change the limitation and provide in this bill that the Government shall not pay over 43 cents?

Mr. SWANSON. The only reason is that you are absolutely at the mercy of the Du Pont Co.

Mr. WILLIAMS. Then you would not be at their mercy.

Mr. SWANSON. They would not sell it; you would be at their mercy. You must have powder to arm your ships, in the first place. As soon as a battleship is constructed it is armed and its munitions are furnished. The law requires it. That is fixed. If you have not some way to get powder, the ship is absolutely useless. So the only way you can compel them to sell for a reasonable price is for the Government to be able to make all the powder that it wants.

Mr. WARREN. Does the Senator from Virginia think, with this proposed addition, that in case of war with a foreign country the powder mills would be able to furnish the amount of powder needed?

Mr. SWANSON. They think so.

Mr. WARREN. Who thinks so?

Mr. SWANSON. The Secretary of the Navy thinks so.

Mr. WARREN. The ordnance officers here think right to the contrary.

Mr. SWANSON. They think that in case of an emergency, a great war for a prolonged time, the Government should have the power to manufacture all the powder it needs; but the Secretary of the Navy states that he does not purpose to do so; he thinks the powder plant of the Du Ponts should continue, and that the Government should be able to manufacture all the powder it needs annually on a peace basis so that it could compel the powder manufacturers to make contracts at a reasonable price.

Mr. WARREN. Mr. President, would the Senator desire to have the Du Ponts and others continue their concerns, so that in case of war we would be able to purchase powder?

Mr. SWANSON. The Secretary of the Navy states that he desires them to continue; that he has no purpose of putting them out of business; that the only contention he has is as to the price paid. It is utterly impossible for the Government to get powder at a reduced price unless the Government is in a position so as to make the powder. In his testimony, as stated by the Senator from New Jersey, the Secretary of the Navy says this is the only way in which we can obtain powder at a reduced price.

Mr. WARREN. I am quite familiar with all that has heretofore passed as to the Du Ponts. In the time of the Spanish-American War we had many contracts with them, and the Government reduced the price 3½ cents a pound without even a requirement of law at all. I hold no brief for the Du Pont people; but I do want to see some portion of this powder made by somebody else besides the Government, so that the machinery may be in existence when we get into a war in order that we may be able to purchase some portion of the powder; for, as the Senator knows, powder is contraband. We could not buy a dollar's worth of powder from another country as soon as we are at war with any foreign power. Whatever may be necessary for a powder plant we may provide, but I think the Senator should not take the ground that the Government is going to undertake to make all of its powder, because, first, it would require a plant costing many millions of dollars to do it, and,

secondly, it would be utterly unable to furnish powder enough in time of war.

Mr. SWANSON. If the Senator will permit me to make this clear, I will say the Government proposes to make an expenditure of $500,000 for the addition to the present plant, which will be equipped so that it can manufacture enough powder to supply what the Government may need each year.

Mr. WARREN. No; it would require $800,000, according to the testimony here, to be able to make more powder.

Mr. SWANSON. That is in time of peace?

Mr. WARREN. Yes.

Mr. SWANSON. Three per cent on the $500,000 is $15,000 a year.

Mr. HUGHES. I should like to continue my statement and get through with it. I did not yield to the Senator to make a speech.

Mr. WARREN. I beg the Senator's pardon. I will wait until he has concluded.

Mr. HUGHES. The Senator had better reserve his argument until the point is made.

Mr. President, with reference to the point made by the Senator from Virginia [Mr. SWANSON], I want to say to the Senator, once and for all, that I do not care what he says, a certain board of officers—the title of which I do not now call to mind—officers of the United States Government absolutely fix the price of this powder; that is all there is to that. The Secretary of the Navy, through his control of that board of officers, or Congress, if it so chooses, can, as it has done time and time again, fix the price at which this powder shall be purchased. The only question to be decided here is whether the Senate thinks it is a proper policy for the Government to engage in the exclusive manufacture of its own smokeless powder under conditions which would render it impossible for private manufacturers to exist. That is all there is to this question.

Mr. LEE of Maryland. Mr. President——

The VICE PRESIDENT. Does the Senator from New Jersey yield to the Senator from Maryland?

Mr. HUGHES. Yes.

Mr. LEE of Maryland. I ask the Senator from New Jersey if he does not know that the position of the Secretary of the Navy is that the Government, with this increase, will be able to make all the powder necessary for the Navy; but it will not necessarily make it all, depending, of course, upon the price that the powder concerns fix for powder? But the Government must have the whip hand. That is the position of the Secretary of the Navy; and I believe the Senator from New Jersey knows it.

Mr. HUGHES. And the Senator from New Jersey knows more than that.

Mr. SWANSON. Will the Senator from New Jersey permit me to make a suggestion?

Mr. HUGHES. Gladly.

Mr. SWANSON. This is the proposition of the Secretary of the Navy, and I do not want him to be misunderstood here: He says that for an expenditure of $500,000 we can develop the capacity of the powder plant we now have. The interest on the investment at 3 per cent is $15,000 a year. Now, if you give him the power to expend that amount of money, with interest at 3 per cent—$15,000—it will be possible to compel the Du Pont Powder Co. to furnish its half of the powder, and to furnish the Government at a reasonable price each year; because, if that company does not do so, the Government may make its own powder. It will have to do so. Until it has that power as to half the powder that the Government purchases, it will be completely at the mercy of the Du Pont Powder Co.

Mr. HUGHES. I decline to yield further to enable the Senator from Virginia to make a statement which absolutely contradicts the statement that I make, and for which I, myself, stand as authority. I will say now that I will leave the disposition of this whole controversy by the Senate upon that naked proposition; and I will leave it to any other member of the committee except the Senator from Virginia, if it be not true that a board of officers has the right to fix the prices at which the Government shall purchase powder?

Mr. SWANSON. The board can fix the price, but——

Mr. HUGHES. I said I would leave it to any other member of the committee except the Senator from Virginia, who has stated over and over again that that is not so, and that the price is to be fixed by the Powder Trust——

Mr. SWANSON. I did not make that statement.

Mr. HUGHES. I understood the Senator to make that statement.

Mr. SWANSON. I said that the price could not exceed the 53 cents; that the board fixed it; but the board has no place to get powder except from the Du Pont Powder Co. If it should offer 48 cents a pound and have the offer accepted, the Government would get the powder.

Mr. HUGHES. Then the Senator does admit that the price is fixed by the board of officers.

Mr. SWANSON. The price is fixed by the board of officers, but the board can not fix the price, because there is but one powder company.

Mr. REED. Mr. President——

The VICE PRESIDENT. Does the Senator from New Jersey yield to the Senator from Missouri?

Mr. HUGHES. Yes.

Mr. REED. The Senator from New Jersey made a statement with reference to the price of powder, and as he makes the statement, broadly, it is that the Government can fix the price. Of course I understand, as we all understand, that the Government can by law stipulate that it will not pay above a certain amount, and through any of these boards that it sees fit to appoint it may declare that it will not go beyond a certain amount. That is the Government's side of the contract. But does the Senator mean to say that, if by law or by the action of a board a price shall be fixed that is unsatisfactory to the private producers of powder, we could in any way compel them to deliver that powder at our price?

Mr. HUGHES. Of course the Senator from New Jersey knows that that would be impossible, and I do not think the Senator from Missouri is justified in taking up my time to ask me a question of that sort.

I can only say that the power and authority of the board of officers to fix the price of powder has no connection with the limitation of 53 cents. A limitation upon the price of powder is occasionally put on by Congress; it has been put on two or three times in my memory; but whether that is done or not, the authority of the board of officers continues; and this board of officers is charged with the duty of saying what price the Government shall pay for this powder; and it has never yet happened that the powder manufacturers have failed to furnish powder at the price fixed.

Mr. SWANSON. If the Senator will permit me there, the Government fixes the price at 53 cents; that is what they do now.

Mr. HUGHES. But Congress put the limitation on the naval appropriation bill.

Mr. SWANSON. If the Senator will allow me, I have just said that Congress fixed the price at 53 cents.

Mr. HUGHES. Well, Mr. President, I should like to be given an opportunity to make my statement.

Mr. SWANSON. That is the price paid.

The VICE PRESIDENT. The Senator from New Jersey refuses to yield further.

Mr. HUGHES. Within my recollection Congress has, by way of limitation on an appropriation bill, provided that no part of the money appropriated therein should be expended for powder in excess of the price of 50 cents a pound, or whatever the price was. The board of officers could under that legislation say that a fair price between the Government and a private manufacturer would be 30 cents a pound. Their authority does not depend upon that appropriation bill. That board was in existence and was doing its work year after year when there was no legislation limiting the price which the Government could finally pay. So we find ourselves in the position that the Government is in active competition with private individuals, is making about one-third of its own powder supply, has the right to fix the price, has always fixed the price, and has brought the price down almost every time it has fixed it, and yet powder has always been furnished. So that so far as we know it can go on indefinitely saying precisely at what price this private concern should furnish powder to the Government.

Now we are asked to engage in new construction involving half a million dollars. In the hearings those who are asking for this appropriation for new construction say that with it they will be able to manufacture all the smokeless powder that the Government can use. I want the Senate to decide the question; I should like to have it submitted to the Senate; I do not want to take any advantage; and if the Senate thinks that it is the proper policy and the proper thing to do I want it to have an opportunity to say so, and therefore, so far as I am concerned, I will not insist upon the point of order. I should prefer to have the question submitted to a vote of this body for them to say whether or not they think it is a wise governmental policy to engage in an industry of this kind to such an extent that it means the exclusion of private individuals.

That is all there is to it. I have been on the other side of this proposition. All my life I have been insisting that the Government should go into various lines of business with the object of furnishing competition against private manufacturers

who enter into combinations and force up prices to the Government, but I have never contemplated such a policy being carried so far as to make the Government the sole manufacturer or the sole entity carrying on any particular line of industry.

Mr. SMITH of Maryland. Mr. President——

The VICE PRESIDENT. Does the Senator from New Jersey yield to the senior Senator from Maryland?

Mr. HUGHES. With pleasure.

Mr. SMITH of Maryland. If the Senator will allow me, I should like to say that prior to the Government entering into the manufacture of powder the price paid by the Government was fixed by the parties who manufactured it, and was only reduced by the fact that the Government did go into the manufacture of powder.

Mr. HUGHES. The Senator is absolutely mistaken. I thought he wanted to ask me a question——

Mr. SMITH of Maryland. I am not mistaken; it is the absolute fact. So far as I am concerned, I do not think that the Government ought to manufacture all the powder which it may require, but there ought also to be private manufacturers, or corporations, if you please. At the same time, however, I do say that it is necessary to have some competition in order to get the powder at a proper price. That is the object of the provision here. The amendment does not provide for a new building, but only for an extension of the present plant in order to increase its capacity.

Mr. HUGHES. I decline to yield further. I thought the Senator wanted to ask me a question, and not to argue the matter in my speech.

Mr. LEE of Maryland. Mr. President——

The VICE PRESIDENT. Does the Senator from New Jersey yield to the junior Senator from Maryland?

Mr. HUGHES. For a question; yes.

Mr. LEE of Maryland. Do I understand the Senator from New Jersey to have withdrawn his point of order and to be arguing upon the merits of the amendment?

The VICE PRESIDENT. The Chair does not understand whether or not the Senator from New Jersey has withdrawn the point of order.

Mr. HUGHES. I will say, Mr. President, as I said a while ago, that I have no desire to have this question decided on a technicality. I think the Senate has a right to pass upon the merits of it; and, for that reason, I withdraw the point of order, in order that the matter may be submitted on its merits to the Senate.

Mr. VARDAMAN. Mr. President——

The VICE PRESIDENT. Does the Senator from New Jersey yield to the Senator from Mississippi?

Mr. HUGHES. I yield to the Senator from Mississippi.

Mr. VARDAMAN. I want to ask the Senator from New Jersey if he has the data by which he could give me the difference in the cost to the Government of manufacturing its powder and buying it from an independent manufacturer?

Mr. HUGHES. I will say, yes. I can give the Senator the figures furnished by the Secretary of the Navy. The Secretary of the Navy says that, wages and materials alone computed, the cost of making powder is 38 cents a pound. I repeat, that is the estimate for wages and materials alone. I confess that I am unable to say to what extent the overhead charges of making powder will add to the cost. My experience—and I live in a powder-making district——

Mr. SWANSON. Mr. President——

Mr. HUGHES. I decline to yield.

Mr. SWANSON. The Senator is making a mistake——

Mr. HUGHES. Well, let me finish my statement. I have not been able to finish a sentence since I started. I will say that I come from a powder-making district, and I know that a great part of the charges in powder-making plants are overhead charges. The cost of occasional explosions does not, as I understand the Secretary of the Navy, figure in the cost at which he arrives for making powder. That you would call insurance, I presume, and it must be an extremely large item. Coming, as I have said, from a powder-making district and knowing the frequency with which explosions occur, it seems to me that the cost of insurance alone must be a tremendous item; but the Secretary of the Navy, as I understand him, says that he makes no allowance for the value of the land, that he makes no allowance for the value of the buildings and for various other charges which private individuals have to pay, those items in the case of the Government being paid for out of other funds. Consequently, it is extremely difficult to arrive at a proper basis of comparison as to the cost of making anything that the Government makes, with reference to a private individual engaged in the same line. It can be done; but no honest effort has ever been made, so far as I know, until a few weeks ago, to find out what should properly be included in the cost. The Secretary of the Navy has made an attempt to learn what should properly be charged against battleship construction as overhead charges——

Mr. VARDAMAN. Mr. President, I desired to ask the Senator—he has partially answered the question—if the Secretary of the Navy, in his investigations, has made any statement as to the saving to the Government by manufacturing powder for itself?

Mr. HUGHES. The figures of the Secretary of the Navy show that he can make powder for 38 cents, but he admits, at least he said to me, that the charges to which I have referred were not included. I asked him the question, because I am as much interested in it as he is, and I have been interested in it a good deal longer than he has; but it sometimes happens that a new convert is more zealous than an old believer, and I fear that perhaps he has been carried beyond the point of safety in his zeal. I said, in answer to the Senator's question, that the Secretary states that powder is made by the Government for 38 cents, figuring only wages and material. Of course, nobody else can make it on that basis; but suppose he comes to the conclusion by the use of the intelligence of men expert along accounting lines that because he makes it at 38 cents, figuring the things that he does figure, a private individual ought to make it at 40 or 45 cents, figuring the things that should be figured in his case. He can fix the price at that point; he can make a reasonable allowance for profit; and he can keep these men in business, which is something I regard as vital.

I feel that way with reference to the construction of battleships; I feel that way with reference to the construction and manufacture of armor plate and all the other things the manufacture of which is in the hands of a few corporations, where it is easy for them to combine and where they make a product which the Government must have.

Nobody seems to be worrying much about the fact that we are mulcted millions of dollars each year on the price paid for armor plate. That is a matter of common knowledge; everybody knows it; hardly anybody can be found who will deny it. I know it myself to be so with reference to gun casting. It was formerly so to a greater extent than it is now with reference to battleships. Nobody is worrying about all these things, but there seems to be a whole lot of solicitude at this time with reference to this one particular item, although the Government is better equipped to protect itself in this case than in any one of the others.

Mr. VARDAMAN. Mr. President, does the Senator think that the addition to this Government plant would drive private enterprise out of the business?

Mr. HUGHES. I do; and that is what I want to lay before the Senate. That is the only object of this discussion. Admiral Strauss said that this money would enable him to build new construction enough to manufacture all the smokeless powder that the Government could use each year; but he admitted that if an emergency arose he could not meet it; and then, he said, he would rely upon private manufacturers. But a private manufacturer who has established a plant for the purpose each year of supplying powder to the Government, if he sees the Government constructing a plant big enough to make all of its own powder is likely to turn his attention in the direction of making some other kind of powder. The logical and natural result of this policy is the extinction of the manufacturer, so far as the making of smokeless powder is concerned.

That is the naked question that is presented to the Senate, whether we should rush heedlessly into a position involving an expenditure of half a million dollars in order to carry a policy beyond the point it was ever dreamed it would be carried—beyond the point of furnishing fair competition, beyond the point of defending the Government against the exactions of combinations of private individuals, and to the point of giving the Government itself a monopoly.

I am not going to contend, of course, that a Government monopoly is as offensive as a privately controlled monopoly. I do not believe it is. I do not see any particular wrong, as a matter of public policy, in a governmental monopoly. But I do believe—and I think the observation of every Member of the Senate will bear me out—that there are certain faults attaching to a private monopoly which will follow in the case of a public monopoly. I believe it will stifle enterprise; that there will be no rivalry, no competition. Government servants who are paid fixed salaries will be in charge of the manufacture of smokeless powder. As I said awhile ago, powder manufacturing is a developing science or process. The price of powder has gone down from eighty-odd cents a few years ago to 53 cents now.

Mr. SMITH of Maryland. Mr. President, I should like to ask the Senator what put the price down? It was the Government going into the business, I believe.

Mr. HUGHES. The Senator has asked me a question and then has very kindly answered it.

Mr. SMITH of Maryland. Is not that the case?

Mr. HUGHES. The Senator has very kindly answered the question; so I will let it stand as it is in the RECORD.

Mr. MARTINE of New Jersey. Mr. President, I should like to ask my colleague if he believes the price would have gone down had it not been for Government competition?

Mr. HUGHES. I do not think it would have gone down nearly as much if it had not been for Government competition.

Mr. MARTINE of New Jersey. It would not have gone down a bit.

Mr. HUGHES. I have never objected to Government competition; I helped to establish Government competition; but I should not like to see the policy carried on until it discredits the men who originated it and defeats its own purpose.

I was a Member of Congress in another body some years ago when an amendment was offered which provided that no part of the money appropriated for the purchase of powder should be used to purchase powder from a trust, and in the same breath it was argued that all the powder was controlled by a trust. I had been doing some "trust busting" of my own and was at that time engaged in that popular pastime; but I saw and pointed out that the result of that limitation upon the appropriation meant that for a year the Secretary of the Navy, if he obeyed the law, could not buy a pound of powder; but that limitation went on the bill, it came over to the Senate, the Senate accepted it, and it became a part of the law.

It was argued then that the Du Pont Powder Co. was a trust. That was the common belief; I believed it; and I think there is not the slightest doubt about it. From watching the operations of that company in my own territory I knew it had gotten into the combination all the little fellows who were engaged in the various branches of the powder-making and explosive industry, such as capmakers, and so forth.

They all came under common control about that time. I knew that, because they were writing me letters protesting against the limitation being placed upon the appropriation bill; and all the letters, although they came from men whom I had known as being connected with separate and competing companies, this time came upon the stationery of the Du Pont de Nemours Co., showing that they had passed under a common control. I exhibited the correspondence very frankly and candidly to gentlemen who were seeking to put this limitation in the law, showed them that there was a trust, and that every concern in the country engaged in the manufacture of powder was in it at that particular time; and that with the limitation the American Government would be absolutely prohibited from purchasing a pound of smokeless powder during the life of that appropriation bill. Notwithstanding that, the provision went on the bill. Somebody had the curiosity the next year to ask the Secretary of the Navy how he got around it, and he said he regarded it as his duty to buy powder, and he bought powder, although he violated the law in so doing.

There were a lot of well-meaning gentlemen who thought it was a good thing to prevent the Government from doing business with a trust. As an abstract proposition I agree with that; but it is carrying it beyond reason, it seems to me, to legislate in such a way as to inflict a slight injury upon the trust and a great injury upon the Government. Suppose the Secretary of the Navy had been a stickler for law and an extremely sensitive and conscientious man and had held that he could not buy powder that year, and some great emergency had arisen, how pleasant it would have been for those gentlemen who had carried their "trust-busting" activities to the extent of preventing the United States Government from purchasing powder!

I am indifferent as to what happens to this proposition, so long as the Senate understands it. The naked question involved is whether or not we ought to go so far in any particular line—in the making of armor plate, the building of battleships, the casting of guns, the making of small arms, or any of the other activities in which the Government engages—whether we should go so far in any one of those lines of human endeavor as to shut out and extinguish private manufacture, particularly when it is admitted that the Government will be helpless in an emergency without the private manufacturer. That is admitted.

The admiral says that with the construction which he can put up with the money appropriated in this bill he can manufacture all the smokeless powder that the Government needs to buy under ordinary circumstances, and then in an emergency he will be compelled to resort to the private manufacturers. Suppose, however, there is no private manufacturer to resort to?

Mr. NORRIS. Mr. President——

The VICE PRESIDENT. Does the Senator from New Jersey yield to the Senator from Nebraska?

Mr. HUGHES. I do.

Mr. NORRIS. Does the Senator think that if this amendment is agreed to the Government will save money by manufacturing all the powder that it will use under ordinary circumstances?

Mr. HUGHES. I think if it continues its present practice it will; yes. For the life of me I can not see why the Secretary of the Navy approves——

Mr. NORRIS. Then, as I understand, the only possible objection the Senator can have to this amendment is that in case of war or some emergency of that kind when we wanted a large amount of powder the Government would not be able to manufacture it, and in the meantime the private parties manufacturing powder would have gone out of business? Is that the idea?

Mr. HUGHES. Not altogether. Perhaps I should qualify my last answer to the Senator and say that I do not believe, and I have never contended that the Government does anything more cheaply than a private corporation. I have often contended, however, that the Government should do certain things, even though it cost a little more to do those particular things, because of the general benefit that will result.

For instance, I have never contended that it costs less money to build a battleship in a navy yard than it costs to get the same battleship from a private shipyard. Manifestly it can not be so, because the conditions under which the Government laborers are now employed are infinitely superior to the conditions under which the men in the private yards work. I want it to be that way, and everybody wants it to be that way, and we will not cavil about the little additional cost that goes to the welfare and the remuneration of Government employees. I know the Senator from Nebraska, at least, will not quarrel with that view. We will get that back, and more, too, in finding out, as we ought to be able to find out, and as any intelligent administration can find out, just what those battleships cost and just what they ought to be built for by private corporations.

Mr. NORRIS. I am trying to get some information from the Senator, because I know he is well posted on the matter, in regard to this particular argument about the powder proposition.

Mr. HUGHES. I do not think they can make powder at Indianhead as cheaply as if it can be made in my own home county.

Mr. NORRIS. That is not exactly the question I wanted the Senator to answer. Let me ask him another one leading up to it. How are these private parties equipped who are now engaged in the manufacture of powder? Are they equipped for an emergency?

Mr. HUGHES. Oh, yes.

Mr. NORRIS. So if we did not do anything of this kind, and an emergency arose, they would be able to supply all that we could possibly use?

Mr. HUGHES. Yes. I am glad the Senator asked me that question. I want to say, though it may not be absolutely responsive to what he asks me, that their plants are scattered all over the country. I have said once or twice in this debate that all this smokeless powder is made in my county. I do not think that statement is strictly accurate. I know that for some time I thought it was, but I understand some of it is made elsewhere. Anyway, they have plants all over the country, and they can shift their orders and change about, and they are watching and ready to make the necessary expansion at any time.

Mr. NORRIS. That being true, as I understand, the purpose of this amendment is to enable the Government to get its powder at a cheaper rate. In other words, it is generally conceded, I think, that we have been paying too much for our powder. Now, if it is profitable—and it seems to me it is—for the Government to manufacture powder for the ordinary run of business in time of peace, if there is any danger of our not being able to supply ourselves in time of emergency, why would not a sufficient answer to that be that the Government should extend its operations so that it will be able to meet its own demands in time of emergency? If we can make the powder in time of peace for a lower price than we are compelled to pay to this so-called trust, why can we not do the same thing in time of war?

Mr. HUGHES. The Senator's question answers itself. If the Government were going into the powder business on a basis

that contemplated supplying itself with powder in emergencies, it would render necessary a plant and an equipment which would be of such a character and such a cost that the Government would not be able to make its powder in time of peace as cheaply as it could purchase it.

Mr. NORRIS. That is the point I want to raise. Are we not paying too much now, in the judgment of the Senator? Have we not been paying too much in the past?

Mr. HUGHES. I can not say as to that. I do not set myself up as an expert. I know that the Congress has fixed a limit of 53 cents, beyond which they can not go; and there is a board of officers which goes into the question thoroughly and which has the Government costs before it. You see, the Government is very happily situated in this controversy. That is the reason I do not see the necessity for all this legislation on this particular matter, when there are so many other things crying for attention.

Mr. NORRIS. I think there are a good many other things crying for attention. I agree with the Senator; but, of course, we are not considering them now.

Mr. HUGHES. They should be in this bill.

Mr. NORRIS. I should like to have them in this bill.

Mr. HUGHES. They are not here, however. They went out on points of order and in various other ways.

Mr. NORRIS. Yes.

Mr. HUGHES. So they are not here; but, at that, I think the committee is doing the best it can. I think the Secretary of the Navy is doing the best he can. I think he is addressing himself to all these questions and getting himself informed on them; but this proposition was tempting to him; it was easy to do; it did not require much money, and that is probably the reason why it was put in.

Mr. NORRIS. It seems to me it is altogether a question of fact whether or not in the past we have been paying an exorbitant price for powder, and whether we can obviate that difficulty by making it in some Government institution. If we can not do that, it would be foolish to go into it. If we can, we ought to do it.

Mr. HUGHES. In my judgment, this is the situation as it confronts us to-day: There is a board of officers which fixes the price of powder, and which can fix the price of powder to be purchased under this bill at 30 cents a pound, if it chooses. There is no limitation upon it. That board of officers has access to the cost figures of the Secretary of the Navy at the Indianhead factory. That board of officers can find out exactly what it costs the Government to make powder, and it can fix that price. The first time a private individual refuses to sell his powder to the Government at the price fixed by that board it might be well for the Congress to take notice of it, and to go into the business of making powder even much more extensively than is proposed here; but it seems to me that this is one branch of governmental and private activity in which the Government has more advantage than it has in any other.

Mr. WILLIAMS. Mr. President, I wish to ask the Senator a question.

The VICE PRESIDENT. Does the Senator from New Jersey yield to the Senator from Mississippi?

Mr. HUGHES. I do.

Mr. WILLIAMS. The Senator has just said that the first time the board fixed a price at which these people refused to sell it would be well to take up this matter. Now, I do not know the fact, and I am asking for information; but I understand that at one time the board fixed 48 cents, and the company refused to sell at that figure, and the Government, being compelled either to buy the powder at 53 cents or to do without it, bought it at 53 cents, notwithstanding the fact that the board had fixed 48 cents as the proper and fair price.

Mr. HUGHES. I do not think that is true, but I will not challenge the statement.

Mr. WILLIAMS. Some member of the committee, perhaps, has the information and can give it later, but I have heard that.

Mr. HUGHES. If that had ever happened, it is very likely that I would have heard of it, because I have been active in this matter.

Mr. GALLINGER. Mr. President——

The VICE PRESIDENT. Does the Senator from New Jersey yield to the Senator from New Hampshire?

Mr. HUGHES. I yield to the Senator.

Mr. GALLINGER. I should like to ask the Senator a question. This is a matter upon which I am not well informed. Suppose the Government builds a very large plant for the manufacture of powder. Is it probable that the demand would keep that plant in operation all the time, or what portion of the time, and would there not necessarily be a loss resulting from the fact that the plant probably would not be run constantly?

Mr. HUGHES. I think the manufacture of powder is a continuous process. I think, however, the Government has relied in the past very, very much upon the private manufacturers, and I do not think the Government is going to have the joyous time it anticipates when the private manufacturers go out of business.

As I say, I think the making of powder is a continuous process, and I think that with the proposed new construction and a steady customer like the Government this plant will be manufacturing powder about as advantageously as any governmental agency engaged in manufcturing.

Mr. GALLINGER. As I suggested to the Senator, I am not well informed on this question. My only thought was that the Government, of course, could not sell its product; it could only manufacture it for itself; and as a consequence it seems to me we would be wise to limit our productive capacity. That was the only thought I had in mind. I do not know whether this proposition goes to that extent or not.

Mr. HUGHES. I do not think so.

Mr. CLARK of Wyoming. Mr. President——

The VICE PRESIDENT. Does the Senator from New Jersey yield to the Senator from Wyoming?

Mr. HUGHES. I yield.

Mr. CLARK of Wyoming. It was suggested in a question by the Senator from Nebraska that possibly it might be well to build a plant sufficient to supply all our needs in time of emergency or in time of war. If the Senator has considered that matter at all, I will ask him whether, if a plant of that sort should be established sufficient to meet all emergencies in time of war, it would not be of such great capacity that the cost of making powder in time of peace would very much exceed that spoken of by the Senator from Virginia?

Mr. HUGHES. It would be absolutely prohibitive. I tried to say that in answer to the Senator from Nebraska, but I did not state it so clearly nor nearly so well as the Senator from Wyoming has stated it.

Mr. NORRIS. I did not understand what the Senator said.

Mr. HUGHES. The Senator from Wyoming had just asked me if the Government went into the business of making smokeless powder so extensively as to be ready to meet any emergency, what the effect on the price would be, and what effect the upkeep of that plant would have upon the making of powder in ordinary times. In my judgment, it would make the cost of making powder under ordinary circumstances absolutely prohibitive.

Mr. NORRIS. I should like to ask the Senator another question. That being true—and I have no doubt, I will say, but that the price of powder in case of emergency would be higher than in the case of the ordinary use of powder from year to year—if it is wise for the Government to go into the manufacture of powder in time of peace to supply our ordinary and current demands because we have been held up and compelled to pay to a Powder Trust an exorbitant price for powder, why would not the same reasoning apply to powder manufactured in case of emergency? Would it not be more expensive for the private party to manufacture powder in time of emergency and get his material and his employees and everything ready to operate, the same as it would for the Government, so that in any event, in case of emergency, the price of powder would be increased?

If the theory of having powder made by the Government in time of peace is good, I can not see why the theory of having powder made by the Government in time of war for the same reason would not be good. Let us suppose that the Government does not engage in the manufacture of powder in time of peace. The people who are manufacturing the powder that the Government is using in ordinary times, and who are not making much more than the Government uses, would have in case of war to increase their output, their machinery, and their number of employees, and the resulting expense would have to be paid just the same.

Mr. HUGHES. The Senator must understand, of course, that the making of powder for the Government is a very small part of the activities of the concern which is furnishing the powder to the Government.

Mr. NORRIS. If that be true, then certainly the making of powder by the Government would not seriously interfere with the private parties who are making powder.

Mr. HUGHES. Oh, yes; it would. One of the plants is devoted exclusively to making smokeless powder for the Government, but in case of emergency they would not have nearly the difficulty that the Government would have in adapting to this purpose other plants which they have, scattered all over the

country. Is the Senator aware that this plant on which it is proposed to leave the Government of the United States absolutely dependent for powder, consisting of 30 or 40 buildings, is situated in one spot, near the coast, and an explosion in any one of the buildings would absolutely destroy the plant?

Mr. NORRIS. I think if the Government was going into the manufacture of powder, and particularly if it was going into it to the extent of manufacturing it for cases of emergency like war, it would be very foolish to have only one plant and in one location. For business reasons, the same as private parties do, it would probably have several powder factories. Even though we were only going to manufacture powder for the ordinary consumption of the Government, I should think there might be good reasons why it might be well to manufacture it in more than one place. Why should we not pursue the same business methods that private parties pursue, if we are going into the business at all?

Mr. HUGHES. Of course, I agree with the Senator, absolutely; but the discussion that is going on between the Senator and myself is academic. This is not a theory that confronts us now; it is a condition. I agree with the Senator that if we do this thing we ought to go further, and that instead of an appropriation of $500,000 for new construction there ought to be an appropriation, perhaps, of $5,000,000 to put up plants in various parts of the country; to put up plants dependent upon each other, perhaps, but located in different localities, and located in the interior; but that is not what is proposed here.

It is proposed to extend the plant that already exists to such an extent that it will at least discourage, and in my opinion absolutely destroy, private competition. I would feel so if I owned that plant. If my best customer was getting ready to make the stuff that I was selling him, and was going to be able to make it in such quantities that he could make all that I was selling him, I would begin to think that my chances of doing business with him were very small.

Mr. MARTINE of New Jersey. Mr. President, will the Senator yield to me?

Mr. HUGHES. In just a minute; as soon as I finish this statement I will.

It is proposed to put this new construction down here at Indianhead, where all the rest of the construction is; and it is not proposed to go on and manufacture enough powder to provide for emergencies. We are still going to rely upon the private manufacturer for emergencies; but nobody can tell—the Secretary of the Navy can not tell, and I do not know how any man in this body can tell—that the private manufacturer will be there when the emergency occurs.

Mr. MARTINE of New Jersey. Mr. President——

Mr. HUGHES. Now I yield to my colleague.

Mr. MARTINE of New Jersey. If the Senator will permit a question, I desire to know if it is not reasonable for us to assume that the Government of the United States, having at hand experienced and expert engineers and powder makers, will be as circumspect as to the location and construction of buildings as will the private powder concerns?

The Senator says it is the purpose to locate this new plant at Indianhead, where, if an explosion takes place, it will annihilate all the buildings.

Mr. HUGHES. I did not say that.

Mr. MARTINE of New Jersey. Did I not understand that from the Senator?

Mr. HUGHES. I do not know what the Senator understood, but I did not say it.

Mr. MARTINE of New Jersey. I thought my ears were not at fault; but I take back that statement, then. I say we are safe with our engineers, experienced and expert in the location of powder plants, as a private individual would be; and I understand from that which I have seen in my State—and my travels around there have been about as extensive as those of my colleague—that these are very inexpensive buildings, as a rule, anyway. You find little huts up through New Jersey, up in Pompton and Hopatcong and up around in that region, very inexpensive ones; a little hut nestled in here and a drying house nestled over yonder; so that the matter of the upkeep of a plant would not be a very great burden anyway.

It seems to me the whole of this controversy is——

Mr. HUGHES. I have not finished, Mr. President.

Mr. MARTINE of New Jersey. I am not going to interfere with the Senator; but just let me say——

Mr. HUGHES. I will be through in a very few minutes.

Mr. MARTINE of New Jersey. I will ask the Senator to let me proceed for just a minute, and say that the whole of this seems to me to be just defending a private monopoly. I believe the Government can manufacture powder a good deal cheaper than these private firms are willing to sell it to us, and in case of an extreme emergency we will be amply capable of taking care of it. These men will come begging us to buy their powder.

Mr. HUGHES. I thank the Senator for a very lucid exposition of the other side of this controversy; but I am compelled to say, in all frankness and candor, that what he says does not relate in any way to the proposition I am discussing. For fear the Senator's flight of oratory has driven it out of the minds of my colleagues, I will spend a minute or two in restating it.

The proposition is to extend this plant at Indianhead. The powder is made there in a chain of buildings, and an explosion in any one of the chain of buildings at Indianhead would stop the operations of the plant. Of course that is not true in the case of a private powder manufactory with plants scattered all over the country.

Mr. LEE of Maryland. Mr. President——

The VICE PRESIDENT. Does the Senator from New Jersey yield to the Senator from Maryland?

Mr. HUGHES. I do.

Mr. LEE of Maryland. I should like to advise the Senator that in conversation this morning over the telephone with Admiral Strauss, who is in charge of this matter, he stated that the drying houses, and so forth, were so situated that an explosion in one would not endanger the others.

Mr. HUGHES. Mr. President, the Senator is advising me of something of which I was thoroughly advised. He has misunderstood what I said. He does not understand what I am trying to say. I am not talking about an explosion in one drying house blowing up all the other drying houses. I say the powder is made in a chain of houses. Different operations and processes are carried on in the different buildings, and the powder is carried from house to house. A process in each house is necessary before the product is finally finished. An explosion in any one of the houses breaks the chain, and it is impossible to complete the process and manufacture powder until that house is restored.

I am not talking about an explosion affecting the other houses. Of course, common sense would dictate to anybody—an officer of the United States Navy or whatever he may be—that in making powder it is necessary to erect the different buildings at such a distance from each other that an explosion in one is not going to blow up the others; but when an explosion occurs in one of that chain of plants, until that damage is repaired, until that building is restored, until arrangements are made to carry on the process that is being carried on there, the making of powder absolutely stops. Therefore an explosion of one of these essential buildings at Indianhead will stop the Government from making powder. If the private individuals have been driven from the business at that time the Government will not get a pound of powder until the destruction created by that explosion has been repaired, until order has been restored, and the process has been installed once more.

Gentlemen, patriotic men, men charged with the responsibility of representing their States and their constituencies ought to be careful that misguided zeal in the chase of trusts and monopolies does not carry them into a position where they will be doing affirmative injury to the Government they are representing

As I said before, I am indifferent as to what the Senate does about this proposition; but I wanted to lay fairly before it the fact that it is now proposed, and it is the object of this amendment, to have the Government make all its own smokeless powder, and make it all in one place; that if we look for the logical consequences of our actions and conduct to follow, there will be nobody making smokeless powder but the United States Government; and then, when an emergency arises, we will have no place to turn. If an explosion occurs in one of that chain of buildings the manufacture of powder ceases until repairs have been made and the building has been reconstructed, and in the meantime the Government gets no powder.

So much for the mechanics of it; so much for the details. The other objection I make is on the broad principle that while I insist upon the Government going into the manufacture of anything that is vitally necessary to it, especially things the manufacture of which is generally confined to a few people who can readily combine, I do not want the Government to go beyond the point of proper competition to protect itself. I do not want the Government to become a monopoly itself, as I said before, not because I believe a Government monopoly is bad, but because a monopoly of any kind tends to produce certain bad results.

Just conceive of the manufacture of powder being in the hands of Government servants who are paid a fixed amount each year, regardless of what they do. Where is the incentive for Government servants to burn the midnight oil for the pur-

pose of discovering new processes in the manufacture of powder? Tremendous progress has been made along those lines in recent years, and it is quite within the bounds of possibility that the powder that will be manufactured under this appropriation will be practically worthless before it is delivered, because of new discoveries having been made. These gentlemen are taking the chance of leaving the Government behind in the progress of this art or science.

Private individuals will reward men who make discoveries. Can anybody conceive of an officer of the United States Government, who in the course of his investigations stumbled upon a process which resulted in a reduction of the cost of smokeless powder by 50 per cent, being rewarded by a sum of money carried in an appropriation bill? Why, points of order would come from every direction; but the fact is that it would not be attempted. Private individuals can do those things, and do do them.

I have never contended that the Government does these things more cheaply than private individuals. It does not. The Government, in the face of private competition, keeps up and often forges ahead; but I should be very loath indeed to see the manufacture of powder placed altogether in the hands of a Government monopoly and have the paid servants of the Government the only ones interested in carrying on its production.

Mr. REED. Before the Senator resumes his seat I want to ask him if it is a fact that the so-called Powder Trust has for many years been engaged in the manufacture of powder and selling it to foreign governments, and if that one item would not probably keep the business alive even if the Government of the United States withdrew its patronage?

Mr. HUGHES. I do not know anything about that, I will say to the Senator, except that I do know this: This knowledge has been forced on me by the fact that I live in Passaic County, where there is made much of the smokeless powder that is manufactured for and sold to the Government. Nearly all this powder is made in this particular plant, if that answers the Senator's question. I do not know anything about the foreign sales.

Mr. REED. I will ask the Senator the further question, if as a matter of fact while the Government purchases of powder do not run above probably 3,000,000 a pounds a year——

Mr. HUGHES. About 4,000,000 pounds.

Mr. REED. While they do not run above 4,000,000 pounds a year, there is a capacity to-day in the private plants controlled by the trust of over 10,000,000 pounds.

Mr. HUGHES. Smokeless powder, does the Senator mean?

Mr. REED. Yes.

Mr. HUGHES. I could not say. I had better not say anything about that, because I do not know.

Mr. REED. I should like to ask the Senator a further question. Is it not a fact that, instead of keeping up with the advance of science when we were absolutely in the hands of this powder combination and had no factory of our own, they failed to manufacture up-to-date smokeless powder, and if we did not go into the Spanish War with that handicap?

Mr. HUGHES. There was not any smokeless powder during the Spanish-American War. The Senator is making an absolutely baseless statement, which has been made a hundred times. There was not such a thing as smokeless powder in existence in this country during the Spanish-American War. It was not in use in either the Army or Navy. They did not know what it was.

Mr. REED. I will ask the Senator if smokeless powder did not exist at that time; and I will add the question if the armies and navies of foreign countries did not have it.

Mr. HUGHES. I do not know. I know that we did not have it, and I do not care anything about what other countries did.

Mr. REED. I asked the question of the Senator in a perfectly courteous way, without the slightest idea of offending him. If asking him a question when he is addressing the Senate upon a subject that he claims to be familiar with is offensive, I apologize for having done so. I was seeking light, and if it offends the Senator to give it to me, I am very sorry that I trespassed on his time.

Mr. HUGHES. The Senator managed not to disclose the fact that he was seeking information; at least I did not discover it. I have never claimed to be familiar with the advance of smokeless powder in the Army or Navy of the United States or in the other nations of the world. I did not say anything about the conduct of this or any other combination of men during the Spanish-American War. That was never mentioned in the controversy by anybody on either side. I pretended to no special knowledge in connection with it.

Mr. HUGHES subsequently said:

Mr. President, I ask permission to insert in my remarks two statements on this subject that appear in the printed hearings before the House committee.

The VICE PRESIDENT. Without objection, that may be done.

The matter referred to is as follows:

[Statement submitted by Mr. Browning.]

REASONS WHY THE PRESENT GOVERNMENT SMOKELESS POWDER SITUATION SHOULD BE LEFT UNDISTURBED.

First. Because with two plants of its own and three commercial plants the Government not only has abundant capacity but the source of supply is so distributed as to protect the Government in any emergency. As the Government prepares the specifications for making the smokeless powder, supervises its manufacture, fixes the price to be paid for the finished product, and is able to keep close track of the cost of manufacture by reason of the operation of its own factories, it has absolute control of the powder situation at the present time.

Second. Because when the Government, after experiments at Newport, decided upon the present type of smokeless power it called in manufacturers and turned the proposition over to them to perfect and make practical. As a result the Du Ponts invested several million dollars in plants, processes, and machinery, having faith and confidence that the business would be a continuing one. The taking over of the manufacture of smokeless powder by the Government would greatly impair this investment. These plants can not be used in the manufacture of other kinds of explosives.

Third. Because, according to the tables submitted by Admiral Twining, Chief of Bureau of Ordnance, Navy Department, and Gen. Crozier, Chief of Ordnance, War Department, at recent hearing held by Subcommittee on Fortifications House of Representatives, it was shown that the cost of the manufacture of smokeless powder to the Du Ponts is approximately 49 cents per pound on a 5,000,000-pound output. The Government buys this powder for 53 cents per pound. This gives a profit of about 8 per cent, certainly not extravagant when the hazard associated with the manufacture of explosives is considered.

Fourth. Because the concentration of the manufacture of smokeless powder for the Navy at one point would be taking an undue hazard. Should the Government plant blow up or be otherwise destroyed in time of war, the country would be helpless. New plants could not be built in a few days. It would require months to build and equip a smokeless-powder plant.

Fifth. Because the taking over of this manufacture by the Government would impair present reserve manufacturing capacity. The Du Ponts could manufacture all the powder they supply to the Government at one plant. In order to meet all possible demands in the event of war, they maintain three plants. Thus the Government has five splendid, up-to-date smokeless-powder plants upon which to rely in the event of war. It is no exaggeration to state that this feature of national defense is the only one that is complete and satisfactory and can be depended upon to meet any demand at any moment.

Sixth. Because approximately $300,000,000 is expended annually on the Army and Navy, and less than 1 per cent, or about $3,000,000, of this vast sum goes for powder. Strange that all this sensational contention is made over the expenditure of this 1 per cent, while no question involving the expenditure of the 99 per cent is ever heard.

Seventh. Because little, if any, of the money appropriated by the Government for the purchase of smokeless powder is expended at the Government plants on experiments looking to the betterment of the quality. This work has been left to the Du Ponts. In their laboratories they expend approximately $500,000 annually, and a great deal of attention is given smokeless powder. This accounts for the fact that the United States leads the world in the general excellence of its powder.

Eighth. Because, taking into consideration the savings wrought by the system for the recovery of alcohol, for the reworking of powder, for the manufacture of small arms, etc., the actual value of the services the Du Ponts have performed for the Government far exceeds the profits they have obtained from the Government.

Ninth. Because the Government looks to outside manufacturers for much else than smokeless powder in the way of explosives used for national defense. In many instances these explosives are perfected after much trouble and expense, and turned over to the Government at actual loss.

Tenth. Because this Government is buying its smokeless powder 25 per cent per pound lower than any nation on earth buys a similar powder. The Du Pont Co. is selling powder in the markets of the world on this basis. It is not one of those companies that "sells abroad cheaper than at home."

Eleventh. Because Government monopoly is never advisable. France monopolizes the manufacture of smokeless powder, matches, and cigars. Admittedly it has the most inferior smokeless powder, matches, and cigars in the world.

Twelfth. Because the Du Pont Powder Co. probably enjoys the unique distinction of being the only concern selling the Government during the Spanish-American War that reduced the price of its commodity in the midst of the conflict.

INDICATING FAIR TREATMENT.

As evidence that the Du Pont Co. has not only been prompted by a spirit of fairness but a sentiment of patriotism in dealing with the Government, your attention to the following specific performances is called:

1. Conduct in war: It is a matter of history that the Spanish-American War was postponed several months because the Government did not have powder with which to fight that war. It might be said that in this emergency the Government was at the mercy of the powder maker. The Du Ponts in this crisis did not advance the price. A contract for 5,000,000 pounds of brown prismatic powder, at 32½ cents per pound, was made with the Du Pont Co., and every force was concentrated to fill the order. Commercial plants were robbed to equip and strengthen the plants hastily constructed to make Government powder.

After many thousand pounds of powder had been delivered on this contract an advantage in the manufacture presented itself by the expiration of a royalty, and the cost of manufacture was reduced 3½ cents per pound, thereby reducing, in the midst of the conflict, the price of powder to 29 cents per pound.

The war came to an end sooner than was anticipated, and but 2,200,000 pounds of powder had been delivered on this 5,000,000-pound contract. The Government communicated with the Du Pont Co., in-

quiring upon what basis it would cancel the remainder of the contract involving 2,800,000 pounds. The Du Pont Co. answered that it would gladly cancel the contract without compensation, as it was anxious to concentrate its forces in supplying the demands of the industrial world.

Other concerns dealing with the Government during that war not only increased the price of the product furnished to the highest limit, but demanded extravagant sums in lieu of the cancellation of contracts. On the basis of other settlements made, the Du Pont Co. could have held the Government up for more than one-quarter of a million dollars on the cancellation of this contract.

2. Dehydration by alcohol: This process for the replacement of water in guncotton by alcohol by use of a hydraulic press was invented and patented by Mr. Francis G. du Pont. It affords not only by far the most efficient and economical method for accomplishing this important step in the manufacture of smokeless powder, but, what is more important, invests the entire operation with an element of safety that is beyond estimate in value. The use of this process was given to the Government without charge and the presses now in use by the Navy were made from our patterns.

3. Recovery of alcohol: For a number of years the Government furnished the Du Pont Co. the alcohol entering into the manufacture of Government powder. Under the original process, once used this alcohol was destroyed or escaped by evaporation. At its expense and risk, solely in the interest of economy to the Government, the Du Pont Co. perfected a process by which the alcohol was recovered and returned to the Government. The Du Pont Co. had the assurance that if it succeeded in perfecting a system for recovering this alcohol, the expense thus incurred would be made good by the Government. The Auditor for the Navy Department declared this agreement not binding, and an itemized statement showing an expenditure of $75,000 was turned down. This process was given for use in both Government plants, notwithstanding, without a cent's compensation, and has already resulted in saving the Government hundreds of thousands of dollars. This saving will continue as long as smokeless powder is manufactured.

4. Reworking powder: Smokeless powder deteriorates with age and in time becomes unsuitable for use, resulting in large loss to the Government. The Du Pont Co. invented a process of reworking powder and handed this process over to the Government for use in both its plants without a cent's compensation. Hundreds of thousands of dollars have been saved to the Government by this process.

5. A stabilizing material: Comparatively recently the Du Pont Co. brought to the attention of the Government the results of its inquiries and investigations with respect to a suitable stabilizing material for smokeless powder. This was adopted by the Government and more than doubles the life of this powder. This has not increased the price of powder to the Government, but has resulted in an enormous saving.

6. Powder for small arms: Several years ago the Du Pont Co. perfected a powder for small arms by the use of which the life of the rifles used by the Government has been extended from 1,500 rounds to 15,000 rounds and the accuracy life of the rifle not yet reached. This powder which was sold to the Government without any increase in price, gave to the 800,000 Government rifles an increased money value of approximately $20,000,000. The Du Ponts also gave the Government the right to manufacture this powder in its plants for a mere nominal royalty.

7. Nitration of cotton: This company has invented new and valuable improvements in the methods of nitration of cotton. Ingenious mechanical devices have reduced greatly the cost of manipulation and improved the quality of the product. These improvements have been offered to the Government for a nominal consideration.

8. Stability: The Du Pont Co. several years ago expended over $400,000 to obtain for the Government a new powder which they and the officials of the Government thought of great value. They might have gone into the markets of the world and sold this powder at an enormous profit, but at the request of the Government the company kept this a secret without the Government bearing any portion of the burden. Gen. Crozier and Admiral Mason are familiar with this matter. By reason of improvements made in our smokeless powder the new powder mentioned is now useless and the investment to the company was a total loss.

9. The Army powder plant: After Congress appropriated money to build a powder plant at Dover, following its policy of giving to the Government the free and unrestricted use of all it has and all it knows bearing upon the manufacture of powder, the Du Pont Co. invited the Government officials to their engineering department and gave them the use of every drawing it had. The company sent its engineers out to assist in laying out the Government plant. It is impossible to place an estimate on the value of the service rendered, the Du Pont Co. having spent hundreds of thousands of dollars in developing plans and economies that were freely given away.

10. The pyro incident: As indicating the disposition of the Du Pont Co. to be fair and honest and "on the square" with the Government, I will relate an incident that occurred a few years ago: One morning the gentleman at the head of our operating department came to me and told me that he was greatly distressed and disturbed over something he had just discovered in our smokeless-powder plant at Haskell. He said that an employee, without intending to defraud the Government, had been detected switching samples of pyro sent to the Government for testing purposes—substituting former samples shown to be perfect. He did this in order that he might make a good showing in comparison with other factories. This man had been with us six years, and during that time there had been manufactured 3,000,000 pounds of powder with which he had come in contact. A meeting of our board of directors was called and the matter was submitted. I explained how, if we were forced to take this powder back, it would cost us well on to $2,000,000. On the other hand, if the Government should use the powder and it should prove defective it might cost the Government ships and the lives of many men. There was no hesitation on the part of the board of directors. They instructed me to take the train at once for Washington and make a complete showing of what had been discovered. I got Admiral Mason and Gen. Crozier together and told them the story. Gen. Crozier said to me at the time that he had known many concerns to attempt to swindle the Government, but that this was the first instance in which he had known the principal to voluntarily confess a shortcoming. I requested that they should send officers to our plant to be present at an investigation. The committee appointed by the Government reported that they believed the powder to be of satisfactory quality, but since the Government had not been furnished with samples of each lot of pyrocellulose used in the manufacture they required the Du Pont Co. to give them a guaranty of six years on life of the powder. No greater percentage of the powder went wrong through these years at this plant than went wrong at the other plants, including the Government plants; but this confession and guaranty cost the Du Pont Co. about $50,000. (Col. Buckner's testimony at House hearing.)

[Statement submitted by Admiral Strauss.]

Referring to the statements contained in the hearings entitled "Reasons why the present Government smokeless-powder situation should be left undisturbed": These reasons are discussed seriatim, under the same headings, as follows:

First. Heretofore no difficulty has been experienced in controlling the price of powder, and possibly such control under the existing arrangement might continue indefinitely. It is possible, however, that a difference of opinion might arise as to the proper price to be paid to the Du Pont Co., in which case the Government would not be in a position to dictate terms. The Government does prepare the specifications, supervise the manufacture, and has, for several years past, fixed the price to be paid for the finished product.

Second. The Du Pont Co. has made large investments with the expectation of getting a large amount of Government business, and but a small portion of its smokeless-powder plants could be used for other purposes. Since the beginning of the manufacture of smokeless powder, however, the Navy has placed orders in excess of $26,000,000 for smokeless powder, and the total profit on this sum would undoubtedly reimburse them for their investment should the plants now become valueless, and besides, yield them a very fair interest on the capital.

Third. The question of the cost to manufacture smokeless powder is discussed at length in this and previous hearings. What constitutes a fair profit is a matter which I do not feel competent to discuss. The hazard in manufacturing smokeless powder is negligible.

Fourth. I do not believe that there would be serious danger of the Government plant being destroyed, even in time of war.

Fifth. The large capacity of the Du Pont plants is a valuable asset for the Government.

Sixth. No discussion.

Seventh. I am not able to state what amount the Du Pont Co. spends for experiments, but they undoubtedly do spend large sums for experimental work and they have given the Government the advantage of it, either free or for a nominal consideration. The excellence of our smokeless powder can hardly be ascribed altogether to the experimental work done by the Du Ponts. The rigid specifications exacted by the Government as based on our own experience have contributed largely to that result.

Eighth. The Du Pont Co. has been very liberal in allowing the Government to use economical methods of manufacturing, such as recovery of solvent, reworking of powder, nitrating, etc., but I can not state whether or not the saving to the Government has "far exceeded the profits they have obtained from the Government."

Ninth. The Government does look to outside manufacturers for explosives other than smokeless powder, but I am not prepared to state that the manufacture in any considerable quantities has been at an "actual loss."

Tenth. I have reason to believe that the Government is buying powder from the Du Pont Co. about 25 cents cheaper than the company is selling it abroad.

Eleventh. I agree with the statement that a Government monopoly is not advisable in respect to the manufacture of powder. I believe that the Government needs competition as well as the private manufacturers need it.

Twelfth. The reason for this is discussed later.

In regard to the statements "indicating fair treatment":

1. Conduct in war: On March 17, 1898, the Bureau of Ordnance made two requisitions for brown prismatic powder. One was for 2,278,000 pounds and was placed with the California Powder Works; the other was for 2,308,000 pounds and was placed with the Du Pont Co. The price was to be $0.32175 per pound. In June, 1898, when the deliveries were not quite one-quarter completed, the price for the rest of the powder was reduced to 29 cents per pound. In the latter part of 1889, the Du Pont Co. entered into an agreement with certain foreign powder makers, by which the company learned certain trade secrets for making brown powder. In consideration of these the Du Pont Co. was to pay a royalty until a certain total amount of royalty had been paid. I can find no written agreement between the Du Pont Co. and the Bureau of Ordnance stating that the price of powder would be reduced by the amount of the royalty as soon as the total royalty had been paid, but references in letters indicate that at least a verbal agreement to this effect existed. Referring to "Extract from hearings" on the "fortifications appropriation bill" before the subcommittee of the Committee on Appropriations, Sixty-second Congress, third session, "Cost of powder," on page 327, there is a letter from the Chief of Bureau of Ordnance dated December 13, 1890, asking the Du Pont Co. for a statement of how much in royalties had been paid. On page 350 a letter from the Du Pont Co. to Mr. B. Peyton, of the California Powder Works, dated July 22, 1898, contains this statement: "We therefore suggested that July 1 should be the date at which the new price took effect, but unfortunately the Government was entitled to have received the 29-cent price sometime previous to July 1." From the above it seems that at least a verbal agreement to reduce the price of powder by the amount of the royalty existed in June, but there is no record to show whether this agreement existed prior to March 17, 1898, when the requisitions were placed, or was volunteered by the company when their payment of royalties ceased.

In addition to the 4,586,000 pounds of powder ordered on March 17, 1898, the bureau later agreed to order another 1,000,000 pounds of powder if the Du Pont Co. would install additional machinery and thus increase their output. Of this total of 5,586,000 pounds the company agreed to cancel the contract for 2,375,000 pounds of this powder, the manufacture of which had not been completed when the war closed. The company made no charge for canceling this contract.

2. Dehydration by alcohol: The Du Pont Co. invented and designed the present hydraulic press for dehydrating pyrocellulose. The Government is using this method with presses of the same design. Prior to that time, in France dehydrating was accomplished by spraying with alcohol. The process invented by the Du Ponts made the manufacture of smokeless powder practically a safe industry.

3. Recovery of alcohol: When the manufacture of smokeless powder was first started for the Government, the Government furnished the alcohol used. The company did at its own expense develop a method for recovering a large percentage of this solvent. A description of this method was furnished the Government without cost, and the system was installed at Indianhead beginning with the manufacture of powder at that place.

4. Reworking powder: The method of reworking powder now in use at Indianhead was designed by the Du Pont Co., but the successful dehydration of this reground powder was first worked out at Indianhead.

5. Stabilizer: The statements in regard to the Du Pont Co.'s bringing to the attention of the Government the results that could be accomplished by using diphenylamine as a stabilizer are correct; the stabilization of the powder has probably doubled its life and resulted in a very great saving to the Government.

6. Powder for small arms: The Navy purchases its small-arms ammunition from the War Department. This powder was invented and developed by the Du Pont Co. and greatly increased the life of the .30 caliber rifle.

7. Nitration of cotton: The statements in regard to the new mechanical nitrators are correct. The Du Pont Co. has recently given the Navy Department the plans, specifications, and the right to use this process for a nominal consideration, and the system is now being installed at Indianhead, where it will result in a material economy.

8. Stabilite: The statements in regard to stabilite are correct, but I have no information in regard to the amount expended by the company in developing this powder.

9. Army powder plant: The statements in regard to the Army powder plant are believed to be correct.

10. The pyro incident: The statements in regard to the pyro incident are correct. The officials of the company reported the fraud to the bureau as soon as they discovered it.

Mr. SWANSON obtained the floor.

Mr. REED. But, if the Senator from Virginia will pardon me one word, the Senator from New Jersey had urged in his argument repeatedly, as I understood him, that it required infinite pains and care and industry to keep abreast of the improvements in the manufacture, and that that could only be done or would only be done in private institutions. It seemed to me therefore a pertinent inquiry as to whether or not the private institutions of this country had kept abreast of the advanced science of other nations, and that was the reason for my interrogatory.

Mr. WARREN. May I answer that question?

The VICE PRESIDENT. Does the Senator from Virginia yield to the Senator from Wyoming?

Mr. WARREN. Just a word on account of the inquiry made by the Senator from Missouri.

Mr. SWANSON. If it is a short statement I will yield, but not for a speech.

Mr. WARREN. If I may have the attention of the Senator from Missouri for a moment, the Spanish War developed that there was increasing use of smokeless powder. The United States Government took the matter up with the powder manufacturers of this country, cooperating with them, and started into the work of perfecting a process for making high-grade smokeless powder.

Soon afterwards, and I speak with some confidence, because I think I was about the first one to propose it, the Army provided for building a small powder-making plant. The Navy followed with its plant afterwards. The Army put its inventors and expert ordnance officers to work not in competition so much as in collaboration, if you please, with the makers to perfect smokeless powder, and ever since with the contracts that have been made between Du Ponts and the Government for Army and Navy there has been competition of mind against mind that has perfected powder to a great extent; and within the last five or six years there has been the greatest improvement of all, and that is in the durability of it.

Mr. REED. The fact then remains that when we were dependent altogether for our supply upon our private manufacturers they had fallen so far behind in the science of manufacturing powder that even Spain or other European nations had smokeless powder before they apparently knew anything about it.

Mr. WARREN. No; perhaps I misstated the case. They were already making smokeless powder, but not of the character that the Government was buying. In fact, they had no orders from the Government to do so.

Mr. REED. They were making smokeless powder for shotguns.

Mr. WARREN. It was new in the country.

Mr. REED. They were making smokeless powder for use in small firearms, a thing which had been done, of course, for many years. I understand further from the Senator now—and I am obliged to him for his statement; it is very enlightening—that the Government began to make powder itself, competition began to spring up, and that we began to get really a first-class powder.

Mr. WARREN. Mr. President——

Mr. SWANSON. I can not yield any further. I am not going to speak over 10 minutes and the Senator from Wyoming can take the floor.

It seems to me that this matter is in a very small, narrow compass. I want to state in a very few minutes what is the purpose of the department. We consume about 4,000,000 pounds of powder a year. That is the yearly use of powder in the Navy. As soon as a battleship is constructed and completed it is furnished with ammunition and arms necessary for an engagement, and that will continue there until it is engaged in war. Powder very frequently requires to be reworked. They found that powder to a certain extent loses its strength. At Indianhead we rework the powder and it saves thousands and thousands of dollars each year. They have now discovered a process by which it does not require to be worked so much.

Half the powder is at present manufactured by the Government. The other half is purchased. There is but one concern that can furnish smokeless powder in the United States and that is the Du Pont Co. For that half we are completely at the mercy of the Du Pont Manufacturing Co. We recently passed a law providing that the Government shall not pay in excess of 53 cents per pound. Before 1903 the price was 80 cents a pound; in 1903 it became 70 cents a pound, and last year we put 53 cents as the ultimate amount that could be paid. That rate was fixed in the appropriation act.

Now, what does the Secretary of the Navy ask Congress to do? An investigation, thorough and complete, has been made by Admiral Strauss, the finest expert I think on this question in the United States, who was for years at Indianhead. They have made an estimate as to what smokeless powder costs the Government. We have never been able to get from the Du Ponts what their smokeless powder costs them. They refuse to furnish the Government any information on that subject.

In estimating this cost the Government divides it into three heads. First, there is the invoice price. In that is included the purchase of the cotton, the purchase of the alcohol, the sodium nitrate, the production labor, handling material, leave and holidays, superintendence and clerical force, repairs, labor and material, power expense, and other material. On that basis it costs the Government 29.9 cents a pound. Yet, to go further and include all the cost, there is another item of expense, and that is overhead charges. At Indianhead plant, where the powder is made, they have made a complete estimate of what all those overhead charges are. Those overhead charges include powder boxes, administration (officers' pay and allowances), pensions (disability pay), and all other items of overhead charges. That amounts to 8 cents a pound. Next they include interest. That is interest on what it costs for the plant and the money invested in it. After adding up all of these the Government estimates the cost at 40.1 cents per pound to make powder. These items are all that could be included. They are accurate, they are full and complete.

The Government paid last year for half the powder—the powder it bought—53 cents a pound, the ultimate limit fixed by law. The plant now produces more powder each year. From the appropriation of 1913 and 1914 the Government purchased four million and a half pounds of powder, paying 53 cents, at a loss to the Government of $585.000 in excess of what it would have cost if it had manufactured the powder in its own plant. Next year, if you pay 53 cents, the half that you purchase from the Du Ponts will cost between two and three hundred thousand dollars more than the half manufactured by the Government.

Now, what is the proposition submitted by the Navy Department? The department says we are completely at the mercy of the trust for one-half our powder. For $500,000 you can take the Indianhead plant and increase the capacity sufficiently to manufacture all the powder needed by the United States Government, so far as its Navy is concerned. For $500,000 in two years, if you manufacture it all, it would save the entire expenses of the plant.

Secretary Daniels says it is not his purpose to destroy the Du Pont factory entirely if they will come down to a reasonable price in selling their powder; but he says the fact that the Government has the power to manufacture all the powder needed will compel that trust to sell the powder to the Government at a reasonable price. He states in his testimony before the committees that if they do not come to a reasonable price and reduce the price from 53 cents, with that leverage he will proceed to make powder in the Navy factory.

Now, that is the issue before Congress. There is talk about the danger of the factory blowing up. The manufacture of cotton smokeless powder is practically a safe enterprise. It is not like black powder. It is comparatively safe, and the accidents do not occur that occur to other explosives.

In addition to that, we occupy this position in reference to our smokeless powder: The Du Pont Co. makes the powder according to the specifications, according to the plans, the investigation, and the direction of the department entirely, and we pay them this profit. We furnish the specifications and everything in reference to it.

Mr. President, it seems to me that the contention of the department is right and that we should be able to manufacture

all the powder needed each year, so as to compel those who furnish us half to sell it at a reasonable price.

Now, the Du Pont Manufacturing Co., I will say, in justice to them, the evidence shows, do not sell powder abroad for more than they furnish it to us. They have dealt with this Government in a very liberal spirit considering that it was a trust, a monopoly. The evidence shows that. But because they have upon certain occasions dealt fairly with the Government there is no reason why the Government should pay two or three hundred thousand dollars a year in excess of what we ought to pay for the powder.

Mr. SMITH of Maryland. May I ask the Senator a question?

Mr. SWANSON. Certainly.

Mr. SMITH of Maryland. I understand it is not the policy of the Government to furnish all the smokeless powder, but it is proposed that part of it shall be manufactured by private corporations. That is my understanding.

Mr. SWANSON. Secretary Daniels stated distinctly in the hearings that he wants this appropriation so as to compel these people, if necessary, to reduce the price on the half the Government now buys from them.

Mr. REED. Mr. President, I desire very briefly to call attention to some statements which have been made during the progress of this argument.

One statement is that we must have competition in order to be protected against extortionate prices and that we acquired that competition when the Government a few years since established a factory of limited capacity. And yet it is admitted that if the Government factory were running at its full capacity it could not supply more than about one-half of the powder we consume.

That leads me to inquire what is competition. If I absolutely must have a thousand barrels of water to-morrow and one individual controls the only water supply, I am at his mercy. There is no competition. If I create a supply for 100 barrels of water there is competition as to 100 barrels, but there is no competition as to the 900 other barrels of water which I must have. If the Government of the United States is obliged to have for its Navy 4,500,000 pounds of powder annually and has established a factory with a capacity of 2,225,000 pounds and the other 2,225,000 pounds can only be purchased from one concern, as to the one-half which the Government is unable to produce there is no competition. To the extent the Government is unable to meet its own demands for powder it is as completely at the mercy of the trust or combination as it was with reference to the whole before it established a plant.

It follows, therefore, as night follows the day, that competition does not exist so that it can be thoroughly potential unless there are two sources from which you can draw your supplies and each is substantially able to furnish the entire supply. Therefore, if we are to have a competition which will relieve the Government from the exactions of a monopoly and make it independent of the monopoly, we must have a source of supply which is independent of the monopoly and which is equivalent to the demands we must meet.

In other words, when the Government of the United States builds a factory large enough to make all its own powder, then, and not until then, will it be in a position to dictate terms to the Powder Trust and be independent of the Powder Trust.

Having once acquired that capacity, the Government may then run its mills to their limit or it may run the mills at one-half capacity and buy the amount of powder which is necessary to supply the deficiency. It then has potential competition as to all the powder it desires to use. It can protect itself and exact fair treatment. Short of that it is at the mercy of the trust.

Mr. President, it is stated here that if the Government were to build a plant with sufficient capacity to supply its own needs, immediately the private manufacturers would go out of business and the Government would be in a hopeless condition in time of war, because its plant would not have a sufficient capacity to meet the increased demands incident to a war.

Let us analyze that statement. Before the Government ever built a factory, what was our position? We were buying our powder from what is here denominated a powder trust. If that company was manufacturing only for the United States, it is fair to believe that it did not build a plant with a surplus capacity sufficient to meet the demands of a great war. The trust is not so inspired by patriotism as to lead it to so vast an expenditure. Therefore we were dependent upon one factory, presumably running fairly near its capacity. It follows that when we built a Government factory we simply safeguarded ourselves by adding another source of supply. We took over to ourselves an additional protection in time of war.

If we now should make our Government factory equal to the entire demands of our Government, would we not be as well off with that factory under governmental control as we were before we built any factory at all and were obliged to rely absolutely upon a privately owned factory? The question answers itself.

If we want to have a real surplus of manufacturing ability sufficient for a war emergency, the thing to do is to build a Government factory capable of making all of our powder used in ordinary times. Then, having created that governmental competitive unit, we will have two sources of supply, each with a surplus capacity, each capable of coming to our rescue in time of war. In time of peace each factory can be given a fair amount of work, the Government being all the time in a position to demand fair prices because it is in a position to make all the powder it needs and is not, therefore, forced to buy on the terms offered by the trust. The argument, therefore, that if the Government dares build an addition to its factory it will be helpless in time of war seems to me to be somewhat weak, if not ridiculous.

I offer another observation. I understand that the total consumption of powder in the United States to-day is about 4,500,000 pounds.

Mr. WARREN. That merely applies to the Navy. It does not cover the Army.

Mr. REED. I am speaking of the Navy; this bill applies to the Navy, and I hope that all my figures will be taken as applying to that case. Of that consumption our own factory produces over half. Therefore the total demands by the Navy upon the Powder Trust are probably in the neighborhood of 2,500,000 pounds.

Mr. O'GORMAN. Mr. President——

The VICE PRESIDENT. Does the Senator from Missouri yield to the Senator from New York?

Mr. REED. I do.

Mr. O'GORMAN. I fear the Senator from Missouri is slightly in error with respect to his last statement. I know he will be glad to have it corrected.

Mr. REED. I shall be glad to have it corrected.

Mr. O'GORMAN. A year ago an order was given to the Du Pont Co., which was the only bidder, for 4,500,000 pounds of smokeless powder. That quantity was furnished by the Du Pont Co. to the Government at an estimated loss to the Government of $585,000, based upon what it would cost the Government to furnish that identical quantity.

Mr. REED. I thank the Senator from New York. The figures I had in mind were derived from the consumption item instead of the item of purchase, which includes the additional item of powder stored for war emergencies. I will accept 4,500,000 pounds as the amount we must buy. The capacity of the mills of the trust, according to the best information I can get, is 10,000,000 pounds. They do not maintain that additional capacity, as I said a few moments ago, out of any patriotic reason. There is some other occasion than that surplus. The reason is found in the fact that this trust, combination, or company, or by whatsoever name you see fit to designate it, is engaged in making smokeless powder and selling it to other nations. That being the fact, it is idle to say that the trust will close its factory, dismantle its works, and go out of business simply because the Government of the United States sees fit to build an addition to its powder mill.

Mr. LA FOLLETTE. Mr. President——

The VICE PRESIDENT. Does the Senator from Missouri yield to the Senator from Wisconsin?

Mr. REED. I yield to the Senator.

Mr. LA FOLLETTE. Is the Senator from Missouri aware of the fact that the smokeless powder manufactured by the Du Pont Powder Co. is manufactured upon the formula furnished by the Government?

Mr. REED. I so understand the fact.

Mr. LA FOLLETTE. That formula the Government guards very carefully from publicity. I ask the Senator from Missouri if he is also aware of the fact that the Du Pont Powder Co. manufactures upon the Government's formula the powder that it sells to the other Governments of the world?

Mr. REED. I would have to answer that, if I were entirely frank, and I wish to be, by saying that I do not know that to be the fact, but I have heard the charge made. If the Senator from Wisconsin does know the facts I should be very glad to have them put into the RECORD now or at such time as suits the Senator's convenience.

Mr. LA FOLLETTE. My attention has been directed to an article recently published in Harper's Weekly, entitled "The Powder Trust." The writer of that article quotes the sworn testimony of an investigation of the Powder Trust, conducted,

I assume, by Congress, though I have not been able to discover just when or by what committee the inquiry was made. In that investigation Gen. Crozier testified as follows:

I would like to state that some parts of these specifications—

Referring to the specifications upon which the powder is manufactured—

Are regarded in a measure as confidential. We are very careful as to whose hands they should fall into.

In that same investigation the vice president of the powder company testified—I can read it without delaying the Senator more than a moment——

Mr. REED. Take your time.

Mr. LA FOLLETTE. He testified that the Powder Trust also sells powder of the same kind and grade as that used by our Government to any foreign Government which cares to purchase it.

Edmund G. Buckner, vice president of the Du Pont Powder Co., made the following statement on the stand:

I can see no reason why the merchants of this country should not be permitted to do a business of that kind. Smokeless powder is not a secret. It is a question of ability to make it, and because we have reached a superior position in the art of manufacturing smokeless powder we are taking nothing, I should say, from the defense of this country by selling in times of peace this article to any other Government that might want it.

He testified, further, on being questioned:

Does your company furnish any other Governments with ordnance powder?

Vice President BUCKNER. Yes, sir.

Is it similar to that furnished the United States?

Vice President BUCKNER. Yes, sir; it is similar.

It is the same kind of powder?

Vice President BUCKNER. Yes, sir.

It is exactly similar?

Vice President BUCKNER. Yes, sir; I would say that it is the same powder.

Has that been the custom of your company at all times?

Vice President BUCKNER. Yes, sir.

Is the character of the powder you furnish the American Government the result of particular requirements of the Army and Navy?

Vice President BUCKNER. Yes, sir; they give us specifications that they want us to fulfill.

And is that same compliance with these specifications had in regard to powder furnished other Governments?

Vice President BUCKNER. We think that is the best powder and we make it that way.

The result of that being that any other Government in making purchases from you obtains the benefit of the furtherance that has been made in the development of that powder by the United States Government?

Vice President BUCKNER. Yes, sir; that is true.

The American Government, then, obtains no advantage in the character of the powder manufactured by you?

Vice President BUCKNER. I should say not.

On the other hand, the information that they (i. e., the Army and Navy) give you in regard to the making of powder of good quality is used by you in making the powder for other Governments?

Vice President BUCKNER. We make powder for them; yes, sir; we have never, however, given the information; we have simply sold the product.

Now, just a word, if I am not overtaxing the patience of the Senator from Missouri. It seems that this Government would do well to make an appropriation large enough to enable it to manufacture all of its powder, so that it would not be compelled to surrender to any private corporation the secret processes which it has developed. The superiority of this powder has been worked out in the Government's own factory and then the formula turned over to the Powder Trust because the Government in its own factory could not manufacture enough of the powder to supply itself. I believe that we would do well and act wisely if we invest enough money to enable the Government to manufacture enough powder to supply all of its needs and to be absolutely independent of the Powder Trust.

Mr. REED. Mr. President, I am obliged to the Senator for his interruption. I had heard of these matters, but I had not seen the article of May 2 in Harper's Weekly. I must assume when a publication of the standing of Harper's Weekly professes to set forth in hæc verba evidence given upon official hearings that the matter is correctly presented. I would not always make the same statement with reference to comments or expressions of opinion, but when a statement is made purporting to be from the records I must accept it as correct.

Mr. WARREN. Mr. President——

Mr. REED. I yield to the Senator from Wyoming.

Mr. WARREN. I think the statement made is correct, so far as it goes; but it will be noticed in Mr. Buckner's reply that he does not admit or claim that the Government has furnished him any secret information. In fact, all of the evidence before the committee heretofore has been that all of the secrets and matters pertaining to the making of powder have come from the Du Ponts to the Government, rather than from the Government to the Du Ponts, except as they have cooperated, and I think they have cooperated all of the time since the Government has gone into the making of powder. It is true, as stated, that the Government has its specifications, but those specifications are largely made up from the information originally obtained from the people who make the powder, and from trying out in the Government's various projectiles the powder thus made.

Mr. SWANSON. Mr. President, if the Senator will permit me right there——

The VICE PRESIDENT. Does the Senator from Missouri yield to the Senator from Virginia?

Mr. REED. I do.

Mr. SWANSON. I understand that the present specifications for smokeless powder made for the Government have been collected after governmental tests, which are very expensive, including shooting at long distance, piercing armor, and so forth, which it is impossible for private enterprises to conduct.

Mr. WARREN. The Senator is right as to that.

Mr. SWANSON. I think this character of powder was selected after tests conducted at Newport; and, as I have stated, it is impossible for private enterprises to conduct such tests. I think nearly all the experiments in connection with this powder as to its efficiency, carrying power, and destructive power must necessarily be conducted by the Government.

Mr. WARREN. That is very true.

Mr. SWANSON. So far as some of the chemical processes are concerned, I know the Du Pont Co. recently discovered a method of preserving the efficiency of powder, or making it last longer, and they gave that to the Government; but as to the specifications of real efficiency, the destructive power of the powder, and so forth, they must come from experiments conducted by the Government, in which private enterprise can not engage.

Mr. WARREN. If the Senator from Missouri will allow me to make an observation, the Senator from Virginia is right. As a matter of fact, the information as to chemical processes, combinations, and so forth, come to the Government largely from the Du Ponts. The Government, on the other hand, has tried out this powder under all circumstances, and, working in harmony with the Du Ponts, the degree of excellence has been attained which the Government demands in the making up of powder. The Du Ponts have charged little or nothing to the Government for their secrets and have retained none. On the other hand, the Government has not denied the privilege, as I understand, to the Du Ponts to manufacture powder for whoever they may choose on any required specifications.

Mr. REED. Mr. President, the scope which this discussion is now assuming ought to have required some careful preparation. I rose here merely to reply to some observations which had been made and which I thought were unsound; but, Mr. President, it is charged in this article under quotation marks that Gen. Crozier, whose standing is not challenged by any man, stated upon this hearing:

I would like to state that some parts of these specifications are regarded in a measure as confidential. We are very careful as to whose hands they should fall into.

The article further states:

So vital did Gen. Crozier regard the mere specifications of the smokeless powder that he objected to certain specifications being shown. And they were not shown.

That is, they were not even shown to the committee.

If it be true—and it must be taken as true, because the representative of the Powder Trust so states—that this powder, the manufacture of which has been worked out in part by Government experts, the tests of which have been made by the Government, and the secrets with reference to which are of great importance—if it be true that all of the benefits of this knowledge have been by the trust turned over to foreign Governments, then I say the time has come to stop the manufacture of Government powder in any private plant.

It is said by this powder merchant that the trust only sells powder to foreign Governments in time of peace. Of course it has so far only sold it in time of peace, because we have had no foreign war since the trust found out how to make smokeless powder for ordnance.

A concern, however, that sells this powder to-day, when we are at peace, sells it with full knowledge that it can now be preserved for many years; that every Government is laying up stores of it; that we are seeking to put aside vast quantities of it ourselves, to keep for emergencies. The trust is therefore putting into the hands of foreign powers the improved powder which has been wrought out in part by the genius of the employees of the Federal Government. The powder may at any time be used to hurl shot and shell against our own ships and fortifications.

Mr. WEEKS and Mr. PAGE addressed the Chair.

The VICE PRESIDENT. Does the Senator from Missouri yield, and to whom?

Mr. REED. I will yield in a moment. The trust is giving to foreign Governments the full benefit of all the knowledge which has been obtained through Government tests and through Government assistance, except that the trust preserves the secrets of the manufacture in order that it may enjoy a monopoly of the sale to foreign Governments.

Mr. WEEKS. Mr. President——

The VICE PRESIDENT. Does the Senator from Missouri yield to the Senator from Massachusetts?

Mr. REED. I do.

Mr. WEEKS. I think the Senator from Missouri has been led into error in the remarks which he has just made about foreign governments buying vast quantities of powder and storing it for future use.

In the first place, powder deteriorates to a considerable degree, so that no nation would keep on hand a very large supply of it. In the second place, foreign governments are in the habit of purchasing only their surplus supply in this country; and it is not true that we manufacture a better powder than do many plants that are located in Europe.

What I rose particularly to call to the attention of the Senator from Missouri, however, was the reflection which he made on the possibility that the Du Pont Powder Co. might sell powder to other governments with which we might be at war. I have seen it stated in the public press in several instances lately that the Du Pont Powder Co. had a contract with one of the contesting parties in Mexico to sell powder to it, and that the company referred the matter either to the Navy Department or to the War Department and asked if it would be inimical to the interests of this country if it carried out the contract, stating that it would cancel the contract if that were the case.

I do not know that that is true, but I think in justice to the company it should be said that it was generally reported in the public press.

Mr. REED. Mr. President, if that be the fact, then the Du Pont Powder Co. should be given due credit. But the Senator to some extent misapprehends my remarks.

In the first place, it is true that powder is now preserved for considerable periods. One of the items contained in the reports filed in connection with this bill is a statement with reference to the capacity of our own Government factory to work over the powder in order that it may be kept in proper condition.

As to foreign countries buying only their surplus supply in this country, if—as the representative of the trust says—this is the best powder in the world, then you may be sure the foreign governments will acquire it whenever they can get it.

Mr. PAGE. Mr. President——

The VICE PRESIDENT. Does the Senator from Missouri yield to the Senator from Vermont?

Mr. REED. In just one moment. The fact that when actual war was impending in Mexico the Powder Trust came to our Government and asked its opinion as to whether or not it ought to furnish somebody powder does not at all meet the proposition that other nations may be accumulating this powder and laying it by before any cloud of war has arisen.

I should hesitate to charge any American citizen, whether he was a violator of our trust laws or not, with so base a thing as the sale of powder to a nation actually at war with us. One reason I would have confidence that he would not do it is because if he did he would be guilty of treason to this country, and would be likely to be executed for making profits in that way. He would be giving aid and comfort to the enemy in time of actual war, and it would be an overt act.

Mr. PAGE. Mr. President——

The VICE PRESIDENT. Does the Senator from Missouri yield to the Senator from Vermont?

Mr. REED. I do; yes.

Mr. PAGE. What I am particularly interested to know is whether the sale of powder to a foreign country is made over the protest of the United States, or whether it is not absolutely true that the United States controls the entire matter, and consents only when it wishes to consent that the powder company shall sell to foreign nations?

If the powder company is doing a dishonorable thing, I should like to know it; but if it is acting entirely in accordance with the wishes of the Federal Government in regard to powder, it seems to me the charge the Senator makes is wrong, and ought not to be made.

Mr. REED. Mr. President, I have not made a charge. I listened to the reading of this evidence by the Senator from Wisconsin. I read a paragraph or two myself, and then I ventured the observation that if it be true that this is the best powder in the world, that it was worked out, in part, through the genius of the Government experts, and if its secrets are by the Government carefully guarded—if all those things are true, and if, being true, a private company is selling this powder to foreign powers, we ought to build our own factories and guard our own secrets. I have charged nothing against any person. I am simply discussing the evidence.

Mr. President, I do not want to indulge in any vituperation; but there is a sentence or two here, in the statement attributed to Mr. Buckner, of the trust, which deserves attention:

> I can see no reason why the merchants of this country should not be permitted to do a business of that kind. Smokeless powder is not a secret. It is a question of ability to make it, and because we have reached a superior position in the art of manufacturing smokeless powder we are taking nothing, I should say, from the defense of this country by selling in times of peace this article to any other Government that might want it.

If we have achieved a superior position by reason of the possession of a superior powder and furnish the same powder to foreign countries, we destroy our advantage. We are no longer superior. We have traded our advantage for dollars. Every man knows that other Governments guard carefully many of their military secrets. The character of certain of their ordnance, the nature of their fortifications, the power of their explosives—all these and many more secrets are guarded as carefully as possible. If, in order to maintain a copartnership with a powder trust, we must expose the secrets of this Nation and have the results of all our efforts nullified by the sale of powder to foreign countries for profit to that trust, then we ought to abolish the partnership. Furthermore, we should enforce the criminal laws of the land and abolish the trust, root and branch.

This concern is, or recently was, a trust. It was held to be a trust or combination in the case of the United States against E. I. Du Pont de Nemours & Co., decided in the Circuit Court of the United States for the District of Delaware, on June 21, 1911. I do not know what it has done to purge itself, but I understand another case is pending. As to the latter statement I do not speak with definiteness. I have sent for the record. I do say to the Senate of the United States, however, that in my humble judgment when we stand here with a law prohibiting trusts and combinations in one hand and a contract with a convicted trust in the other, under which we pay it enormous profits, we are in an absurd and a pitiable condition before the world. We certify to all mankind that our denunciation of trusts and combinations is not in good faith. We furnish to the world evidence that we are pretending an enmity which does not exist. We feed the serpent that we have declared shall be destroyed. We pay it profits at the same moment we assert it to be an outlaw and a criminal. Nay, more, we pay a special tribute upon its monopolistic powers, for, having no other place to purchase, we purchase from it and pay it the profits that monopoly sees fit to extort.

I shall not close what I have to say without referring to one other statement. It has been argued here that the Government can fix the price of powder; that a Government board or Congress by law can fix the price. The inference was left very plain by the Senator from New Jersey [Mr. HUGHES] that as the Government could do this, we could compel the powder company to sell to us at our price. It is true that upon interrogation he repudiated that intent.

Mr. President, it must be plain to everyone that at present the Government can not fix the price of powder. The Government can say that it will pay a certain price and no more, but it can not compel the manufacturer of powder to accept the price offered. It takes two to make a bargain, and until the two agree there is no bargain. If there were 10 or 20 or even 2 independent powder companies in actual rivalry, actually competing in the market, the Government then, by saying "We will pay this much and no more," might find some one of these sources of supply willing to furnish powder to the Government at the Government's price. When, however, the trust is the only place where the Government can buy powder, the trust is as powerful as the Government. The Government, forced on by its necessities, must have powder; and there being but one place from which it can obtain it, the proprietor of that place is in a position as powerful as is the position of the Government. He can say that he will close his mill and not furnish it at that price with as little loss to himself as the Government can say that it will sacrifice its interests by failing to buy at all.

The truth is that there is nothing more intolerable than that a government representing 90,000,000 people is at the mercy of an illegal and criminal combination, an outlaw of the commercial world. It is an intolerable thought that our supplies in time of war can be shut off by the mandate of one board of directors or by the decree of the proprietor of one concern, and

that we may be obliged, in the face of an enemy, to stand without means of defense or to pay the tribute that one man holding a complete monopoly sees fit to exact.

Mr. President, I do not know whether this Republic will ever be engaged in a great war. I do know that although every morning we liberate at Washington a flock of peace doves, yet at the same time the harpies of war are nesting in the capitals of every nation of the earth. I do not know whether the newspaper account of this morning is true, but if true then the very arms we sought to prevent entering the port of Vera Cruz have been landed. But a few days have passed since the attempt to land these same arms was regarded as so serious an emergency that the President without waiting the action of Congress landed marines from our vessels. Then the emergency was regarded as sufficient to warrant the baptism of Mexican soil by the blood of the sons of the United States. Those arms have been now landed in another port of Mexico, while we stood supinely by without potency or protest.

Mr. LODGE. If the Senator will allow me, Admiral Badger's dispatch, which was sent down by the department, states that they were landed.

Mr. REED. I do not know whether it be true that that vessel was convoyed by a German man-of-war, but since the statement from the Senator from Massachusetts I can not doubt the fact that the arms are now in the hands of Mexican soldiers. But, sir, if it be true that while in the interest of humanity we were engaged in negotiations to bring about peace and order in Mexico an armed vessel of a foreign country was sent to convoy into a port a vessel laden with the very arms and munitions which our men died to keep out, then I say, instead of spending our time in dreaming that the sun of the millennium is about to rise, that the lion and the lamb will lie down together, and that peace and tranquillity are here forever to remain, we might as well awaken to the ugly truth that that country will hold its place among the nations of the earth which has the vessels of war and the armaments and the men to defend its rights. Confronted by conditions of this kind we ought not to hesitate as to the wisdom of building powder factories big enough so that we are not at the mercy of a trust that sells the finished product to nations that may be at war with us some day.

I do not believe war is coming; I do not think it will come; but the sight of a German man-of-war following the heels of a vessel laden to the guards with munitions of war about to be turned over to a man who has defied our Government, who has broken the rules of civilized warfare, and who has made himself so much an outcast he can not be recognized by our President, is not a pleasing one for the eyes of my imagination. The fact that the United States Government has not a navy yard big enough to build more than one ship in a year, and that the attempt is being made to starve that yard to death, and the fact that the superior powder wrought out by the genius not only of the Du Pont Co. but by that of our own Army and Navy officers and experts is being shipped to foreign countries does not set well upon my stomach. I believe in peace, I hope we shall always live in peace, but if we are to have peace, then in my opinion we must be prepared to demand and enforce our peace.

Mr. LODGE. Mr. President, when I interrupted the Senator I did not wish to be misunderstood in what I said. I read a dispatch, an official dispatch, from Admiral Badger, saying that the *Ypiranga*, the vessel which had been shut out from Vera Cruz, had landed her cargo of arms at Puerto Mexico, the port at the eastern terminus of the Tehuantepec road. I do not recall that anything was said in that dispatch about the German cruiser, though I heard the story that the German cruiser was there. I do not think the admiral said anything about the ship being convoyed by the German cruiser. There was absolutely no need of a convoy. The port of Puerto Mexico is just as open to the vessels of trade of other countries as the port of New York. We are not at war with Mexico. We are not blockading her ports. Those ports that we do not hold are, of course, open. I do not believe that any German cruiser was needed to get that vessel in. I am very sorry that she got in. The only way to have prevented it would have been to have taken the port.

Mr. BORAH. Mr. President——

Mr. REED. If the Senator will pardon me just one sentence—the statement in regard to the German vessel of war is contained in great detail in the morning papers. I qualified my statement clearly to show that I was basing what I had to say upon the assumed truth of that statement. The Senator from Massachusetts is very correct in limiting the statement with reference to the dispatch from the admiral, as he has stated.

Mr. LODGE. I quoted the official dispatch which I have. We can accept it as correct.

Mr. BORAH. Do I understand the Senator to say that the admiral in his dispatch made mention of a German vessel?

Mr. LODGE. I do not recall whether he did or not. I think it was merely a statement that this vessel had landed her cargo of arms at Puerto Mexico.

Mr. BORAH. I see no reason why she could not land her cargo of arms there if she desired to do so.

Mr. LODGE. None in the world.

Mr. LEE of Maryland. Mr. President, recurring to the amendment which is before the Senate, it reads as follows:

Naval proving ground, Indianhead, Md.: Toward extension of powder factory, $500,000.

There is an old saying in our language that is entitled to great respect and reflects the sentiment of our people: "Trust in God and keep your powder dry." That is a reverent saying, because it recognizes the overruling power of Providence; but at the same time it recognizes the self-protecting necessity under the laws of nature that is upon us mortal men.

One great point which seems to have escaped attention in this debate is the fact that in case of war there would be the utmost need for an expansion of the powder supply of this country far beyond the capacity of the present private manufacturers and of the present Government plant. This alone would justify the amendment, but the experience of the Government with the so-called Powder Trust has been an instructive one. Before the manufacture of powder by the Navy was commenced at Indianhead, on the Potomac, not far from the National Capital, the trust was charging the Government 83 cents a pound for smokeless powder. After that manufacture began and was conducted by the Government the charge was reduced by the trust to the present price of 53 cents a pound. The Secretary of the Navy advised me this morning that the manufacture can be conducted by the Navy of the best possible smokeless powder in the world at 38 cents a pound. The Senator from Virginia [Mr. SWANSON] says that with the overhead charges it is slightly over 41 cents a pound.

Mr. THOMAS. Mr. President——

Mr. LODGE. Would it interrupt the Senator? I have now the official dispatch, and I see there is nothing said about the German cruiser. It is from Admiral Badger, and he reports that the *Tacoma*, now cruising off Puerto Mexico, has reported to him that the *Ypiranga* discharged cargo all yesterday afternoon at the dock at Puerto Mexico. Admiral Badger adds:

No specific information regarding character cargo discharged, but there is every indication that the *Ypiranga* has landed her entire cargo of war material.

The VICE PRESIDENT. Does the Senator from Maryland yield to the Senator from Colorado?

Mr. LEE of Maryland. Certainly.

Mr. THOMAS. My purpose in interrupting the Senator is to inquire what is the capacity of the Government factory at Indianhead?

Mr. LEE of Maryland. I was just going on to state what that would amount to if this appropriation is passed.

Mr. POINDEXTER. Mr. President——

The VICE PRESIDENT. Does the Senator from Maryland yield to the Senator from Washington?

Mr. LEE of Maryland. I yield.

Mr. POINDEXTER. Before the matter is passed by I should like to ask a question of the Senator from Massachusetts who has just read an official dispatch from Admiral Badger.

Mr. LODGE. That is all I had seen.

Mr. POINDEXTER. The Senator has given a great deal of attention to foreign matters generally, and I suppose to this question also. I should like to ask him if there was any occasion for a cruiser on the part of Germany or any other foreign nation to be used in the landing of arms and munitions at Puerto Mexico, in view of the fact, as published at least in the newspapers generally throughout the country, that not only had the administration taken no precaution to prevent the landing of all kinds of merchandise there, but had expressly instructed our military representatives there that trade with Tampico was to be free. A dispatch, or a statement purporting to be a dispatch has been printed verbatim in the newspapers from our administration to our representatives there expressly instructing them that they were not to interfere with the trade of that port.

Mr. LODGE. If the Senator from Maryland will allow me, it will only take a moment. There was no occasion for a cruiser of any foreign nation to be present to help a ship of that nation to land, and there would have been no right to prevent its landing. Puerto Mexico, in contemplation of law, is a peaceful port, open to the trade of all the world. There is no blockade, because a pacific blockade, if declared by us, would apply only to American and Mexican ships. It has been an-

nounced officially that we are not at war with Mexico. Therefore we can have no fleet blockade, which is an act of war. Therefore Puerto Mexico, like many other ports—like Salina Cruz, when ships landed arms the other day—is open to the peaceful commerce of all nations.

Mr. POINDEXTER. What I say is not in criticism of the administration, but I am simply discussing the actual status of affairs there. The Senator's remark that we could not prevent the landing of munitions of war there because we are not at war recalls the fact that we did prevent the landing of munitions of war at Vera Cruz, and we have the same power to do it at any other port.

Mr. LODGE. We could not do it unless we declared a blockade or took the town, as we did Vera Cruz.

Mr. POINDEXTER. Yes. We did not declare the blockade before proceeding.

Mr. LODGE. No; we took Vera Cruz; and if the arms had been landed we should have seized them in the customhouse. That is why it was done. It was to prevent the landing of the arms.

Mr. POINDEXTER. Would the Senator point out the distinction, from the standpoint of the Government interests, between landing 15,000,000 rounds of cartridges at Puerto Mexico and landing them at Vera Cruz, to be used as effectively in the one case as in the other?

Mr. LODGE. Absolutely none.

Mr. POINDEXTER. We have the same right in one case as the other.

Mr. LODGE. Precisely.

Mr. LEE of Maryland. Responding to the inquiry of the Senator from Colorado [Mr. THOMAS], there is about $1,300,000 invested in the powder plant at Indianhead; and the statement of Admiral Strauss, in his testimony, is to the effect that this additional expenditure of $500,000 will more than double the output of that establishment and will make enough powder for the entire purposes of the United States Navy.

It is not the purpose of the Federal Government to make all its powder there. I read a memorandum early in the debate, direct from the Secretary of the Navy, to the effect that the Government, with the increase to this powder plant, will be able to make all the powder necessary for the Navy, but will not necessarily make it all, depending, of course, upon the prices of the powder concerns. The Government must have the whip hand in this matter.

Now, Mr. President, that is a simple statement of the whole story. There is no intention on the part of the Government for an exclusive Government manufacture of smokeless powder. There is no intention to drive out of this business the present men or firms who are engaged in the business, but the intention is to protect the interest and rights of the ultimate consumer—the Government of the United States.

The Senator from New Jersey [Mr. HUGHES] has stated that he was in favor of vast expenditure for the protection of the Government in the manufacture of ironclad battleships, armor plate, guns, and so forth, but that the greatness of the expense prevented the experiment to a large extent. In this case the size of the investment——

Mr. HUGHES. I would not interrupt the Senator except for the fact that he attributes to me a statement I did not make.

Mr. LEE of Maryland. That is what I understood the Senator to say. I will be glad to have the Senator correct what I say if I misrepresent him in any way.

Mr. HUGHES. I said that the Government of the United States could manufacture its armor plate. I was not saying anything about the largeness of the expenditure of money. I said I believed the Government should enter into the construction of battleships. I did not say anything about the largeness of the expenditure.

Mr. LEE of Maryland. The point I bore especially in memory in reference to the remark of the Senator from New Jersey was that he objected to the necessary vastness of any effective expenditure for the protection of the Government by the ownership of defensive plants.

Now, in this case I should like to call the attention of the Senator particularly to that fact—that we have an opportunity without a vast expenditure, namely, with the very small expenditure of $500,000, to protect our Government from the monopoly of the powder concerns, a very small expenditure protecting our Government, developing the power of powder production in this country, and providing for the ultimate expression to the great investment that this country has in its naval forces, that ultimate expression being the powder, the firing force of the fleet.

Mr. President, we can not overestimate the importance of the powder question. We can not disregard in this particular case the comparatively small expenditure that will be necessary for the protection of the public. There is, furthermore, in this amendment an illustration that may excite some interest among those who are concerned about the trusts and monopolies in this country, because after a long governmental suit for an injunction, the suit of the United States *v.* E. I. Du Pont de Nemours Powder Co. (163 Fed. Rep., 127), referred to by the Senator from Missouri [Mr. REED], and a private suit between the companies that were engaged in this business on behalf of one alleged to have been injured by the powder combine, there comes this Government proposition, from one of the departments of the Government, of an enlarged protective experimental plant for the benefit of the Government itself. Now, here is a new economic proposition—a protective manufacturing plant, not necessarily to be used, but to be held in the hand of the Federal Government as a protecting agency for the Government itself as the ultimate consumer. It is, of course, a "horrible example" of power on the part of the Federal Government; no person interested in the "special interests" can tell where this "horrible example" will lead to and what it will ultimately result in, but it is highly significant that the experiment has thus far been successfully made and that it only requires $500,000 to make it apparently complete.

I trust that this honorable body will agree to adopt this amendment as an illustration of its own sentiment and its recognition of the sentiment of the country on this subject.

Mr. MARTINE of New Jersey. Mr. President, I have in my hand a most startling statement regarding this Gunpowder Trust between the Du Ponts and United Rheinisch Westphalian Gun Powder Mills, which, I think, it will be illuminating at this time to present. Amongst other things, I find this:

> The great German powder makers agreed not to "directly or indirectly sell or cause to be sold in any portion of the United States of America or in any other territory now or hereafter belonging to the United States of America any brown powder or nitrate of ammonia powder; and will not sell any brown powder or nitrate of ammonia powder with the intent that the same shall be used by the United States of America or in the United States of America or such territory."

I find, further, here that there is a complete compact between the Du Pont Co., the Powder Trust, which my colleague [Mr. HUGHES] stood here in such glorious form seemingly defending, and the German Government. The Du Ponts, however, had more. They also agreed that any improvements that might be made in formulas or in the manufacture of powder would be immediately imparted to the Germans. The United States working out the problem of smokeless powder at its torpedo stations had turned the information over to the Du Ponts, and the E. I. Du Pont de Nemours Powder Co. had privately agreed to reveal all those improvements to the German powder makers. Here, mind you, is the absolute wording of the contract, be it said to the eternal shame of anyone who would ally himself with any organization which would supply a foreign Government and constitute a menace to our rights and pretend to be an American. I can not understand it. The tenth article of this agreement is:

> Tenth. That any and every improvement upon said processes or either of them made by either of the parties hereto at any time hereafter shall forthwith be imparted to the other of the parties hereto.

The Du Ponts had paid still more for their monopoly. They had agreed to keep their German friends informed at all times of all powder furnished to the United States Government, stating in detail its quality and characteristics.

The thirteenth article declares:

> Thirteenth. That the parties of the second part (the Du Ponts) will, as soon as possible, inform the party of the first part (the Germans) of each and every contract for brown powder or nitrate of ammonia powder received by the parties of the second part from the Government of the United States or any other contracting party or parties, stating in detail quantity, price, time of delivery, and all of the requirements that the powder called for in such contract has to fulfill.

So the German Government are every hour of the day and every day of the year in possession of the quality of powder and the number of pounds of powder which we have in every magazine furnished by this harmless little trust, bowered up in the hilltops of my Commonwealth, be it said to our shame. I want to do all I can to strip it from power, even though there was not an ounce of powder to be used for other purposes. Let the Du Ponts and the trust go out and let the Government prevail. I shall vote for this amendment, and I would like to double the sum. Instead of half a million dollars, I would make it two millions and a half, annihilate them, and drive out this contemptible monopoly, which prospers under our shelter and our laws and the laws of the Commonwealth in which I live.

Mr. THORNTON. Mr. President, if no other Senator desires to discuss the amendment—and I hope that no one does——

Mr. WARREN. Mr. President, the Senator from Louisiana is very modest about it; but, although I shall only take a few moments, I hardly think I should be taken from the floor even by the appeal of the Senator from Louisiana.

Mr. THORNTON. I recognize the right of the Senator from Wyoming and of every other Senator to speak on this subject as long as he pleases.

Mr. WARREN. I only wish to say a few words. The matter has been discussed too long already, I admit.

Mr. President, this is an economic question and one relating directly to the safety of our country in time of war, and it is one, as will be observed from the remarks which have been made, of wide sweep. Some would spend three or four million dollars for erection of powder manufactories; some would spend $500,000; some would spend enough to make all the powder we might need in case of war, which would be not three or four million dollars, but several times that sum.

Allusion has been made to the ships of other countries lately supplying one of the alleged peaceful nations, a nation with which it is claimed we are on a peace basis—Mexico—with powder and arms. Of course, so long as we maintain and insist that we are at peace with Mexico there is no legal reason why a foreign country should refrain from selling guns or powder or any other munitions or necessities of war to the Mexicans, although I may say to the credit of this Du Pont Co., or trust, that on simply the mere hint from the Secretary of the Navy that the department hoped they would not furnish powder to the Mexican Government, they refrained from entering into a large and profitable contract within the last few months.

It has been said here to-day over and over again that the Secretary of the Navy states that it will take only $500,000 to complete this plant, which will enable it to make all the powder required for the Navy. Of course, yielding to questions when asked, they admit that means only in time of peace. The testimony here of Admiral Strauss, who is the head of the Ordnance Bureau, and who speaks for the Navy, is that it will take $785,920 to put in the improvements which they require at this powder plant. It seems to me that this amendment, while probably not subject to a point of order, is an awkward one, because it states:

Naval proving ground, Indianhead, Md.: Toward extension of powder factory, $500,000.

Under that provision the department might contract for $20,000,000, and if they need only $500,000 or $785,920, I suggest to the Senator in charge of the bill, while I am not claiming that the amendment is or is not in order, it is certainly in bad shape when it provides "Toward extension of powder factory, $500,000," without placing any limit as to what that extension shall be. Under the evidence that is before us it will require $785,000. I would suggest to the Senator from Louisiana that before taking a vote on the amendment he amend it in some form so as to bring it within the ordinary terms of appropriations.

Mr. THORNTON. I will ask the Senator to state again the amendment which he would like to have inserted.

Mr. WARREN. The provision on page 26, in lines 14 and 15, reads:

Toward extension of powder factory, $500,000.

Mr. THORNTON. How would the Senator like to have that amended?

Mr. WARREN. It is not for me to say how I should like to have it amended.

Mr. THORNTON. Well, what would the Senator suggest?

Mr. WARREN. That provision is open at both ends, and there might be millions expended under it. It seems to me there should be some statement that it shall not exceed a certain sum.

Mr. THORNTON. Mr. President, there would not be the slightest objection to putting in after the word "factory" the words "not exceeding $500,000."

Mr. WARREN. Mr. President, without stopping there at this time, but going on with the little I have to say, the Government has built two powder factories in the United States, one for the Army and one for the Navy. The Du Ponts have built three institutions for making smokeless powder, in order to furnish powder to the United States. They were furnishing all of it before the Government built its two factories. We therefore now have five different smokeless-powder plants. My idea would be, whether we enlarge the factory at Indianhead, as proposed, or not, to maintain these five different plants, separated sufficiently in location so that if one should be destroyed by explosion we might have the use of the others—this, of course, against the time of need, the time of war.

I was perhaps the first—in fact, I know I was the first in this body—to propose that we build a powder factory for the Army, so that we might be certain as to the quality of the powder furnished the Government and its cost and that we might have trained men in order, if we wanted to improve and enlarge the works, that we might be able to do so. The proposition was put before the Du Pont people, and our Government was furnished by them with all the information it needed, and with their cooperation rather than antagonism the plant was started.

As has been stated on the floor the price of powder has receded from 83 cents to 53 cents per pound. I do not know how much more it may recede. I know that a board, consisting of Gen. Crozier, perhaps Admiral Strauss, and other officers, decided that it cost the Government something over 40 cents a pound, as has been stated, to manufacture powder; but in figuring that, of course, they included nothing for taxes; they included nothing for extra compensation for the scientific work and the extraordinary services furnished by officers of the Army and Navy, nothing for advertisement or selling expenses, and so forth. Under all the circumstances they figured that a reasonable cost price for the Du Ponts would be about 49 cents. There has been a change since. The Du Ponts have brought out an improvement by which the alcohol which is employed as a solvent is made a second use of, and there is a probability that there will be a slight further recession of actual cost.

My idea of what should be done is that there should be a certain amount of powder made for the Army at its factory, a certain amount made for the Navy at the naval factory, and that we should enter into a contract each year sufficiently large to retain the works of the private producers, because, as I have said before, powder is contraband and we could not buy it from any nation on earth if we were at war.

Tremendous quantities of powder are used in war. What we use now in a year is hardly a flyspeck upon the wall compared to what would be used in time of actual war. A charge for a 14-inch gun consists of sacks of powder larger than a grain sack. Of course in time of peace we can buy powder from any nation, but if we should become involved in war no nation would sell us any.

It may be the better policy is, as has been stated here, to build the proposed addition to the factory at Indianhead as a club, and not for use; but if that club results in closing the private plants instead of reducing prices it may not seem so funny. If it is the judgment of the Senate that that is the better course—the "club" threat—I must be content; but even if it is now designed to build this addition to the Indianhead powder factory for "club" use only, and if we are to spend $800,000 on it, I am pretty sure that it will not be kept idle merely to serve the purposes of a club. It will be said, "So long as we have built the factory, we can manufacture powder more cheaply than can private individuals," and it will be used to manufacture powder. If it is used to its highest capacity, and the Army mill is used in the same way, and we will have no patronage to give to private powder manufacturing concerns in our own country, then, of course, we must do one of two things: We must build a factory large enough so that it can carry us through in time of war, or we must calculate to keep out of warlike entanglements and wait for powder, as we had to do in the little miniature war we had with Spain over Cuba.

It is an open story that as time went on, day after day and day after day, and Congress was demanding of the President that we should intervene and throw our arms around and help poor Cuba, we had no powder, and one of the men who is very much before the public now, and who was then in a somewhat minor position, used the authority, or rather the lack of authority but power of his position, to buy $50,000 worth of powder, as it is recorded, without law, appropriation, or order from his superiors. But war was soon on, and he was praised rather than criticized. Finally, after we had bought sufficient powder for a start and were in such a position that we would undertake this engagement, we made a contract with the Du Ponts for 5,000,000 pounds of the old-style powder at thirty-three and a fraction cents. The war did not last very long, and we found we were going to have more powder than we wanted. In the meantime the Du Ponts had, without any request from us, reduced the price 3½ cents, because one of the discoveries made had rendered it possible for them to make the powder much more cheaply. We then asked them what we should do about the two million and odd pounds of powder that we were about to have left. Our contract was binding, but the company said, "Never mind; we will cancel it"; and so they did. So that, with all the blackness you may paint against that company, its relations with the United States in connec-

tion with furnishing powder for the Army and Navy have been, evidently, if to the benefit of the Du Pont Co., certainly to the benefit of the Nation as well.

I believe there is but one way to handle this matter, whatever may be done with the amendment, and that is, if you can secure powder at a reasonable price—it may be at a little higher price than it will cost the Government to manufacture it—in some way to maintain the works that are now erected to make this particular smokeless powder of large grain to be used for the Navy. I take no stock in the plan to spend money enough to erect a plant sufficiently large to make all our own powder, whether in time of peace or in time of war. That may be economy from a narrow, immediate viewpoint, but it is not my idea of safe or final economy. It would be dangerous and foolhardy, and especially so at this particular time.

The VICE PRESIDENT. The question is on agreeing to the amendment.

Mr. THORNTON. Mr. President, if the Senator from Wyoming wishes to know what result is expected to be accomplished by the expenditure of this $500,000, I will say that the information will be found at page 473 of the hearings.

Mr. WARREN. I will say to the Senator that I am perfectly familiar with that; and I will say another thing—I am obliged to the Senator for calling me to my feet—Gen. Crozier, who is at the head of the Ordnance Bureau of the Army, and Admiral Strauss, who is at the head of the Ordnance Bureau of the Navy, have always maintained, and maintain now, that we should not destroy competition by a Government monopoly. The House committee asked Admiral Strauss question after question all through the hearings about this; and while he believes we should enlarge the works, he has made it plain that we ought to buy some of our powder continuously outside of our own works. That is the safety of the matter. It was the plan when these works were started. The Navy works were started after the Army works. The plan under which the scheme was worked out was that with plants of our own we could get more favorable prices; we could maintain the quality of the powder; we could rework powder; but that safety required at all times that we should buy a certain quantity of powder from those who would manufacture it in this country in order to prevent the closing of private works or changing private smokeless-powder works into commercial powder works only.

Mr. THORNTON. Mr. President, I think the discussion of this amendment has demonstrated to all that it is a plain business proposition, and that great public good will come from carrying it into effect. I trust the Senate will readily come to that conclusion and signify it by agreeing to the amendment.

The VICE PRESIDENT. The question is on agreeing to the amendment of the committee.

The amendment was agreed to.

Mr. THORNTON. I ask that the naval appropriation bill be now temporarily laid aside.

The VICE PRESIDENT. In the absence of objection, that will be done.

EXECUTIVE SESSION.

Mr. KERN. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to, and the Senate proceeded to the consideration of executive business. After 12 minutes spent in executive session the doors were reopened, and (at 5 o'clock and 54 minutes p. m.) the Senate adjourned until to-morrow, Friday, May 29, 1914, at 11 o'clock a. m.

NOMINATIONS.

Executive nominations received by the Senate May 28, 1914.

APPOINTMENT IN THE NAVY.

William E. Lawhead, a citizen of Ohio, to be an assistant surgeon in the Medical Reserve Corps of the Navy from the 21st day of May, 1914.

POSTMASTER.

NORTH CAROLINA.

S. W. Smith to be postmaster at Wilson, N. C., in place of Benjamin T. Person. Incumbent's commission expired March 24, 1914.

CONFIRMATIONS.

Executive nominations confirmed by the Senate May 28, 1914.

UNITED STATES MARSHAL.

Harry A. Bishop to be United States marshal, first division of the District of Alaska.

POSTMASTERS.

ILLINOIS.

Herbert I. Baldwin, Tonica.
James J. Dougherty, Ottawa.
Ralph I. Dunlap, Jacksonville.
Howard F. Dyson, Rushville.
Joseph Kramer, West Chicago.
John McCann, Arcola.
Charles G. McClary, Edinburg.
Elby Ozment, Carriers Mills.
Alonzo E. Werts, Abingdon.
Benjamin F. Wineland, Flora.

KANSAS.

A. B. Hoffman, Harper.

KENTUCKY.

R. A. Field, Catlettsburg.

OHIO.

Crayton V. Calvin, Columbiana.
Marshall E. Foucht, Upper Sandusky.
William A. Turnbull, Cedarville.

VIRGINIA.

C. H. Willoughby, Jonesville.

HOUSE OF REPRESENTATIVES.

THURSDAY, *May 28, 1914.*

The House met at 11 o'clock a. m.

The Chaplain, Rev. Henry N. Couden, D. D., offered the following prayer:

Father Almighty, out of whose substance we have our being and through whose providence we may pass from life unto life, toward that perfection for which we long as individuals and as a nation, may peace, joy, and happiness fill our cup to-day, and inspire us with brighter hopes for the morrow under the divine leadership of the world's great Exemplar. Amen.

The Journal of the proceedings of yesterday was read and approved.

ELECTION OF UNITED STATES SENATORS.

Mr. RUCKER. Mr. Speaker, I call up the bill S. 2860, relative to election of United States Senators, and move that the House do further insist upon its amendments and agree to the conference asked by the Senate.

The SPEAKER. The gentleman from Missouri calls up the bill relative to the nomination and election of United States Senators and moves that the House do further insist upon its disagreement to the Senate amendments and agree to the conference asked for by the Senate.

Mr. BARTLETT. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. BARTLETT. Mr. Speaker, as I understand it, the conference report already made by the conferees was agreed to by the House.

The SPEAKER. And the Senate rejected the conference, so it failed.

Mr. BARTLETT. Does not the acceptance of the conference report by the House discharge the conferees?

The SPEAKER. That is true. The Chair is about to appoint the conferees, if the motion is agreed to.

Mr. BARTLETT. What is the action of the Senate? They disagreed to the action of the House and asked for a further conference?

The SPEAKER. That is the status of it.

Mr. BARTLETT. Mr. Speaker, reserving the right to object, I would like to ask the gentleman from Missouri a question.

The SPEAKER. Does the gentleman from Missouri yield?

Mr. RUCKER. I will be glad to yield.

Mr. BARTLETT. As I understand it, the House, by amendment, provided that this bill should be operative only for three years, and both Senate and House conferees agreed to it. The Senate now disagrees to the conference report and asks for a conference. To what part of the conference report did they disagree?

Mr. RUCKER. The reason for the disagreement was on account of amendment No. 3, inserted in the bill by the House, and that amendment limited the life of the entire act to not exceeding three years. The fact of it is that the first section of the act ought to be permanent law; and the purpose of this conference now is to amend the amendment of the House, so as to exclude from that limitation section 1 of the bill.

Mr. BARTLETT. Mr. Speaker, reserving the right to object——

Mr. MANN. But this is a privileged motion.

The SPEAKER. It is privileged; that is true.

Mr. RUCKER. It does not require unanimous consent.

Mr. BARTLETT. I do not know about that. Mr. Speaker, I raise the question of order, that the House having agreed to the conference report that was a disposition of it, so far as the House was concerned, and that all matters that come after that in the House arise de novo, just as though the conference had not been had and as if there had been no conference committee appointed.

Mr. RUCKER. That is my idea, exactly.

Mr. BARTLETT. And therefore that bill is in the same position as if no conference had been had and the bill had not been sent to conference, so that it gains no position of privilege by reason of the fact of having a conference report here, because, so far as the status of the case now is concerned, there has never been any conference on this particular bill, and the bill stands simply as being reported to the House by the Committee on the Election of President, Vice President, and Representatives in Congress, ready for such action as the House sees fit to take.

Mr. MANN. Mr. Speaker, will the gentleman from Georgia yield for a question?

Mr. BARTLETT. Surely. I am not absolutely certain about the ground that I take.

Mr. MANN. I do not think the gentleman is right; but irrespective of that, this is a House Calendar bill with Senate amendments.

Mr. BARTLETT. No; it is a Senate bill.

Mr. MANN. It is a House Calendar bill. It was not a Union Calendar bill.

Mr. BARTLETT. In that sense the gentleman is, of course, correct.

Mr. MANN. When it came over here from the Senate with the disagreement it did not have to go to the Committee on the Election of President and Vice President. It is privileged.

Mr. BARTLETT. No; it was a Senate bill.

Mr. MANN. That is very true.

Mr. BARTLETT. It came over here and went to the Committee on the Election of President, Vice President, and Representatives in Congress and was reported by that committee.

Mr. MANN. That is true.

Mr. BARTLETT. And was reported by that committee and placed on the House Calendar as a Senate bill. A rule was obtained, and the bill was considered under that rule. The House put certain amendments on the bill, and it went to the Senate, and the Senate disagreed to the House amendments and asked for a conference.

Mr. MANN. But as soon as the House put amendments on the bill it came into a privileged status. There is nothing else to do with it except to take it off the Speaker's table. It can not be referred to a committee except by a vote of the House.

The SPEAKER. There is no doubt in the mind of the Chair about its being privileged. The only thing that might militate against its being privileged would be this special rule, and after reading the rule the Chair does not think that interferes with its privilege.

Mr. BARTLETT. Mr. Speaker, I desire to have five minutes, if the gentleman will grant it.

Mr. RUCKER. I have no objection on earth, if other gentlemen are willing to grant the gentleman the time. I yield the gentleman five minutes.

The SPEAKER. The gentleman from Georgia is recognized for five minutes.

Mr. BARTLETT. Mr. Speaker, the gentleman from Missouri [Mr. RUCKER] now states this first section of the bill ought to be permanent law. As I understand it the Committee on Rules when it reported the bill to the House reported it with the understanding that an amendment was to go upon the bill providing it should only continue for three years. Now it is proposed by the gentleman from Missouri in the conference to yield to the Senate in its disagreement to this House amendment, and it is fair to state, Mr. Speaker, that many of those who had serious objections to this bill here did not press them because it was a report from the Committee on Rules giving it privilege with the understanding that this was to be a temporary measure.

Mr. HENRY. Will the gentleman yield?

Mr. BARTLETT. Yes.

Mr. HENRY. I would like to say the gentleman is entirely correct, and I concur in his statement that that was one of the essential things agreed to before the rule was to be reported.

Mr. BARTLETT. That is my understanding.

Mr. MANN. Does my friend from Georgia think a private understanding of the Committee on Rules is binding upon the House of Representatives?

Mr. BARTLETT. No; I do not; but, as I remember, when the rule was reported it was stated upon the floor of the House that certain amendments had been agreed to be put upon this bill before it was agreed to be reported. I do not understand there was any private understanding, and in pursuance of that agreement the House accepted that and the House is bound, or ought to be bound, by its action in the matter of putting this amendment on.

Mr. HENRY. Will the gentleman yield for a moment?

Mr. BARTLETT. Yes.

Mr. HENRY. I want to say the gentleman has stated the agreement just as it was. The understanding was this bill was to be a temporary expedient, and that an amendment was to be written into the bill before the Committee on Rules would report such a rule. It may not have been a written——

Mr. MANN. I will say to the gentleman I never heard of it.

Mr. HENRY. If so, that is the only thing the gentleman has overlooked during this session.

Mr. MANN. I may overlook many private understandings.

Mr. BARTLETT. Now, the action of the House ought to be binding upon the conferees. Here we have now my distinguished friend from Missouri coming to the House before the conferees are appointed saying that the chairman of the conferees believes that he will have to yield to the Senate, and this bill was gotten through the House with the vote of the House—I am not referring to an agreement, but I would be justified in referring to it—with that understanding, and the gentleman from Missouri now proposing to do this regardless of the action of the House. Mr. Speaker, so far as I am concerned, I do not believe that Congress should now enter upon the making of laws for the election of United States Senators in the States. When the resolution to provide for the direct election of Senators was considered, the Democratic caucus refused to in any way take away from the States the right to regulate these elections; and three times the House voted down that proposition which proposed to take away from the States this right. Then the Bristow amendment was had in the Senate; and when it came to a determination of whether or not we should accept that amendment on the resolution for election of Senators by direct vote of the people, whether we should support a proposition which gave to Congress the absolute power to regulate and control the elections in the various States of United States Senators, as Congress had done from 1872 to 1894 the election of Congressmen, I saw my duty was plain, and in obedience to my convictions and duty to my people, I voted not again to restore to Congress the power to regulate elections, as had been done and attempted to be done by the Federal elections laws and the Lodge force bill, which were repealed by the first Democratic administration we had after 1860.

The CHAIRMAN. The time of the gentleman has expired.

Mr. BARTLETT. I would like a little more time.

Mr. RUCKER. Mr. Speaker, I am not privileged to give any more time, because I am now being chastized for violating an agreement I made with my friend the gentleman from North Carolina [Mr. WEBB].

Mr. BARTLETT. Very well.

Mr. RUCKER. I will not give the gentleman any more time to abuse me.

Mr. BARTLETT. Mr. Speaker, I make the point there is no quorum present.

Mr. WEBB. I desire to say to the gentleman I do not control the time. I understand this bill is taken up under a privileged motion. I have no objection, so far as the committee is concerned, to the gentleman having five minutes more.

Mr. FOSTER rose.

Mr. RUCKER. Just a moment; I want to take care of this.

The SPEAKER. For what purpose does the gentleman from Illinois rise?

Mr. FOSTER. I want to ask that the gentleman be given five minutes more.

The SPEAKER. The gentleman from Illinois asks unanimous consent that the gentleman from Georgia be allowed to proceed for five minutes.

Mr. DONOVAN. Mr. Speaker, make it 10 minutes at least; it is a great question.

The SPEAKER. But the gentleman from Illinois only requested five minutes.

Mr. MANN. The time at present is in the control of the gentleman from Missouri.

Mr. RUCKER. It seems like the gentleman from Illinois, the Speaker, and the gentleman from Georgia have taken it away. How much time does the gentleman desire?

Mr. BARTLETT. I would like to have about seven minutes.

Mr. RUCKER. I yield the gentleman seven and a half minutes.

The SPEAKER. The gentleman from Georgia is recognized for seven and a half minutes.

Mr. BARTLETT. Mr. Speaker, it may be that it is old-fashioned democracy not now so much revered and respected to stand up for State rights, especially in a matter of regulation and control of elections. It may be, Mr. Speaker, that we have arrived at that era when the members of a great party which stood for those rights in the various States from 1868 to 1894 and denounced in their State and national platforms control of elections by Federal authority may accept such doctrine. It may sound strange to new ears in this House. There was a day when great Democrats like Samuel J. Tilden, Thomas A. Hendricks, Vest, Voorhees, and a line of great men and Democrats, who will live in history as great statesmen and great Democrats, and who stood for this great right of the people, who will live as illustrious and distinguished statesmen and Democrats when those who now seek to destroy that for which they contended are justly forgotten. Mr. Speaker, I feel deeply about matters of this kind. I do not propose to vote for a bill or a measure that is the entering wedge to confer upon the Congress the right and the power to go into the States and not only regulate the time, places, and manner of holding elections, but finally to regulate the qualifications of voters, registration, and all sorts of things that were embraced in the infamous Lodge election bill of 1894, which was lost in the Senate by the heroism and the patriotic devotion of two or three Republicans like Stewart, of Nevada, Teller, of Colorado, and others.

Mr. WEBB. Will the gentleman yield?

Mr. BARTLETT. Certainly.

Mr. WEBB. I doubt if the Members of the House understand the difference between yourself and the gentleman from Missouri [Mr. RUCKER]. Will you state succinctly what it is, so that we will know how to vote intelligently on the question?

Mr. BARTLETT. Yes; if I have time.

Mr. WEBB. I think that is important.

Mr. BARTLETT. The point of difference is that I am opposed to Federal authority having anything to do with election of Senators and providing how they should be elected, except by the constitutional amendment that has been adopted. And while this is a mere innocent thing apparently, and simply provides for the time when Senators shall be elected, when you concede to Congress the policy of saying how we shall elect Senators, the next step will be to say——

Mr. WEBB. The point is made that it passed the House as a temporary measure, while the Senate has made it permanent.

Mr. BARTLETT. I understand the gentleman. The point is this: When this bill was considered in committee and came out of the Committee on Rules, there was carried out an express agreement that that bill should be considered as privileged, and that an amendment should be offered in this House limiting the existence of the law to three years. I was informed no rule would have been obtained unless the bill was to be amended. The House agreed to it. Now, the Senate disagreed to this report. That is the point upon which they disagreed. They desire to have it permanent, but I desire, if we are to have an invasion of the rights of the States, to have it for only three years, and not forever.

Gentlemen may think that this is a mere bogie man. But you are building, as did those men of old, a monster, calling it something in the interest of present necessity and emergency. When the time comes, and it will come shortly if Democrats forget their duty, that same monster will trample the life out of State sovereignty and State and local self-government, and it will be no time to cry aloud then upon the mountains to hide you, by pretending that you simply intended it to be temporary. It is but the advance step, and when you have taken it others will come in your place who will not consider it temporary. I do not know what the views of others are, but before I consent to do this, even at the dictation of anybody or at the request of anybody, I will surrender back to my constituents my commission and render them an account of the position I have always occupied upon this question without fear of their disapproval. Good faith, Mr. Speaker, good faith to this House requires that the conferees should not in advance go into the conference with the understanding that they are to agree with the Senate in the matter of voting out this most vital amendment put in by the unanimous voice of the House.

Mr. RUCKER. Will the gentleman yield?

Mr. BARTLETT. Yes.

Mr. RUCKER. In what respect is this first section vital to anybody in the world?

Mr. BARTLETT. Well, the gentleman has become so obsessed with the idea of having Congress do something, to take charge of the elections of Congressmen and Senators, that he does not see any harm in anything, though it be something that points directly to the heart of the existence of the State governments themselves.

Mr. MURDOCK. The gentleman is talking to this amendment that this act shall expire by limitation within three years of the date of its approval. Have the House conferees receded from that amendment?

Mr. BARTLETT. No. The House conferees agreed to it, the House adopted that amendment, and when the conference report came up in the Senate the Senate disagreed to it and sent it back. The gentleman from Missouri [Mr. RUCKER] says it ought not to be in there so far as the first section is concerned.

Mr. MURDOCK. And the gentleman from Missouri [Mr. RUCKER], when he reaches conference, will agree to the elimination of that amendment?

Mr. BARTLETT. Not all of it. I will not say that.

Mr. MURDOCK. I have been following the gentleman from Georgia and want to be clear on the point.

Mr. BARTLETT. I do not want to misstate the gentleman from Missouri. Now, Mr. Speaker, I have said all I desire to say now. If I had time I could say a great deal more. I feel deeply on the matter, and I submit that to agree to this thing as it is is but a step in the direction of concentrating all powers in Congress in matters of election, and we will see them fast approaching the point where we will have no States, but will have one great confederated republic here, controlled by Congress, and the States sinking to the plane of mere provinces. For one, I propose to stand where I have always stood, in opposition to measures of the kind. [Applause.]

The SPEAKER. The time of the gentleman from Georgia has expired.

Mr. RUCKER. Mr. Speaker, it seems that I am the most unfortunate of men. I have not been able in years to attempt the discharge of a public duty in response to overwhelming sentiment all over this land, even in the great State of Georgia——

Mr. BARTLETT. The gentleman is mistaken about that.

Mr. RUCKER (continuing). That I did not arouse the gentleman's recollection of the past, cause him to have horrible nightmares and dreams and visions of Federal usurpation. Prudence admonishes me to stop here.

Mr. BARTLETT. Say what you please.

Mr. RUCKER. Oh, Mr. Speaker, I recognize the fact that I can say what I please, here or elsewhere, but I do not please to say anything to which the gentleman can take exception.

Mr. BARTLETT. I did not mean it that way.

Mr. RUCKER. I hope the gentleman will not interrupt me.

Mr. BARTLETT. If I can not address the Chair or the gentleman either——

Mr. RUCKER. I yield.

Mr. BARTLETT. I did not desire you to yield.

Mr. RUCKER. I beg the gentleman's pardon. The gentleman knows how I love him and how highly I regard his patriotic sentiments.

Mr. BARTLETT. I understand that.

Mr. RUCKER. But, Mr. Speaker, it is the most marvelous thing in the world to me that a great statesman, the leading statesman from the South, the one man upon whom the welfare of this whole country devolves, the one man who alone must protect this great country from Federal-controlled elections and all their attendant evils, that this one gentleman should always be on the alert to oppose that which the people of his own State demand, and which I, in the discharge of a public duty, present to this House. It is true that in the Committee on Rules objection was made to the effect that the bill was not clear enough and did not definitely fix a period when this act should expire by limitation of law and no part of it become permanent law. I read the title and I read the bill, and I heard its provisions discussed, and I frankly admit I understood it was intended to be a temporary measure only, and when that question arose I did say I would offer an amendment in definite language, but I was not driven to it; I did it voluntarily. I did say that when the bill came before the House an amendment would be offered fixing a definite limitation of three years, so that at the end of that time the act would become a dead letter. I did that. I kept the faith. I have not deceived the gentleman or anybody else.

Mr. BARTLETT. I did not say the gentleman had.

Mr. RUCKER. But the gentleman speaks about having yielded—depending upon what I said here before the House and what he understood occurred in the committee room.

Mr. BARTLETT. May I interrupt the gentleman?

Mr. RUCKER. Yes; certainly.

Mr. BARTLETT. I did not say the gentleman had yielded. I said the gentleman had not yielded; but the gentleman had stated on the floor of the House——

Mr. RUCKER. Yes; but the gentleman said, as I understood him, that I had agreed to offer an amendment to the bill, putting a limitation to its life, in order to get the rule, and that now I am going back on it.

Mr. BARTLETT. I did not say the gentleman had gone back on it. I said this, if the gentleman will permit——

Mr. RUCKER. I want to say——

Mr. BARTLETT. Will the gentleman permit me to interrupt him?

Mr. RUCKER. Certainly.

Mr. BARTLETT. I said the gentleman had stated a few minutes ago that the first section ought to be permanent law.

Mr. RUCKER. Yes; I said that because, after reflection, that is my best judgment.

Mr. BARTLETT. And presuming from that statement that the gentleman would agree with the conferees of the Senate on that——

Mr. RUCKER. It is my purpose to agree, I will say to the gentleman frankly.

Mr. BARTLETT. That is all I stated.

Mr. RUCKER. But the gentleman stated—I think I caught him correctly, because he always uses choice English, and I can always understand plain English such as he always uses—he did state that the House was induced to permit the first conference report to be agreed to by unanimous vote, relying on the promise I made. Let me say it may be that the gentleman is right and that everybody else is wrong, but within 24 hours of this time a distinguished gentleman elsewhere in this Capitol told me that the gentleman, with some display of feeling and passion, had said that they had slipped one over on him when he was not present and did not know anything about it, and that he did not intend to let them slip anything else over on him.

Mr. BARTLETT. I deny that I said that.

Mr. HOWARD. Mr. Speaker——

The SPEAKER. To whom does the gentleman from Missouri yield?

Mr. RUCKER. I yield to both gentlemen.

Mr. HOWARD. I should just like to ask the gentleman, because I want to understand. I understand we passed this measure as an emergency or temporary measure.

Mr. RUCKER. Yes.

Mr. HOWARD. That at the expiration of three years this law would be of no force or effect.

Mr. RUCKER. I am going to discuss that in a few minutes.

Mr. HOWARD. Now, the Senate has seen proper to strike out that provision. I should like to ask the gentleman why they should make it a permanent act, when we intended to make it a temporary act?

Mr. RUCKER. I will try to make that clear to the gentleman.

Mr. BARTLETT. Will the gentleman from Missouri yield?

Mr. RUCKER. Certainly.

Mr. BARTLETT. I want to deny the statement that I said that they had slipped over anything on me. I never made any such statement as that. That imputes something to the gentleman from Missouri that I never have said, nor have I entertained any such view.

Mr. RUCKER. The gentleman can not impute it to the gentleman from Missouri, because I did not say the gentleman said it to me.

Mr. BARTLETT. I know. I say that would be imputing something to the gentleman from Missouri——

Mr. RUCKER. I accept the gentleman's statement without the least hesitation.

Mr. BARTLETT. That is all I want to say.

Mr. RUCKER. I repeat, I accept the gentleman's statement. I have found him always courageous, but most of the time wrong.

Mr. BARTLETT. I will let the RECORD speak as to that.

Mr. RUCKER. Mr. Speaker, if I am not right the gentleman from Georgia will correct me. My recollection is that the great State of Georgia was the very first State in the Union to ratify the seventeenth amendment.

Mr. BARTLETT. It never ratified it, but refused to consider it.

Mr. RUCKER. Is that so?

Mr. BARTLETT. Yes.

Mr. RUCKER. The State of Georgia was the first State to elect a Senator by the people.

Mr. BARTLETT. Yes.

Mr. RUCKER. The State is doing that?

Mr. BARTLETT. Yes; but the vote of the Legislature of Georgia was never cast for that amendment; never.

Mr. RUCKER. It was the first State to elect a Senator by the people under the recent amendment.

Mr. BARTLETT. I believe so; yes.

Mr. RUCKER. Now, Mr. Speaker, why all this controversy? It is true, as stated by the gentleman from Georgia [Mr. BARTLETT], that when the conferees met we agreed practically to the bill as it passed the House, agreed to this particular section that we are now discussing, which is the limitation section. Senators of the United States, including the learned lawyer who drew the bill, accepted it without quibble or question; but when the Senate was asked to agree to the conference report, which contained section 3 in full just as the House passed it, the question was raised, "What are you going to do about electing United States Senators by the people hereafter?"

If this bill becomes a law as reported by the conference committee, it will make the entire law with reference to the election of Senators by the people a temporary law, and will compel Congress within three years, either now or later, to pass another law exactly like section 1 here; and who objects to it? Why, every time the gentleman from Georgia [Mr. BARTLETT] has been elected and given a seat upon this floor, he has been elected in pursuance of a statute identically like this. The Constitution was held not to be self-enforcing, and in order to give it force and vitality in order to enable the States to elect their Representatives, Congress passed a law that Representatives should be elected every two years in all the States. Now, having adopted an amendment to the Constitution providing for popular election of Senators, it becomes absolutely imperative, unless we are going to abolish that other House of Congress, to enact the first section of this bill in order to put the Constitution which the people have ratified into force and give it effect, and that is all that this does or seeks to do.

The amendment of the House, section 3 of the bill, applied to the entire act; and when Senators discovered that that would put us in the nonsensical position of making this entire act temporary and therefore necessitating a bill hereafter to enact these very provisions into permanent law, they asked that we vacate proceedings under a former conference report and meet the Senate in conference again and modify section 3 so as to confine the limitation as to time to section 2 only. That is the section which authorizes temporarily the nomination and election of Senators, and it will become absolutely nugatory the very minute a State acts, and I believe the State of Georgia has acted, so this act can never become effective there.

No provision of this bill will ever be effective in Georgia except those of section 1, which merely put the constitutional amendment in force and authorizes the people there to elect their Senators. But there are States, many of them, where Senators are to be elected in the near future and where the legislatures will not convene until after the time fixed for election. This law should be passed in order to save the people of those States the great expense of convening their legislatures in extra session.

Mr. HOWARD. Will the gentleman yield?

Mr. RUCKER. Certainly.

Mr. HOWARD. Does this particular act carry with it the effect of giving to Congress the power of fixing the time of holding elections for United States Senators if it should pass in the present form?

Mr. RUCKER. It does fix the time. It says Senators shall be elected at the general election at which Members of Congress are elected next before the senatorial term expires. It fixes the time in that way, and in that way only.

Mr. HOWARD. Was not the purpose of the act to pass some legislation giving power to hold an election and to fill a vacancy that might occur before the legislature could meet and pass a law?

Mr. RUCKER. Mr. Speaker, it seems that I have been unfortunate in my language. It is the judgment of gentlemen that until we pass a law putting the Constitution into effect it will not go into effect.

Mr. BURKE of South Dakota. Did not the State of Georgia elect a Senator under the seventeenth amendment without the statute being enforced?

Mr. BARTLETT. Yes; and so did the State of Maryland. I apologize to the gentleman from Missouri for interrupting him without his permission.

Mr. RUCKER. The gentleman from Georgia can do anything with or without my permission and not offend me. I know his genial nature—always in a happy mood—and anything that he might say I would accept as friendly advice and assistance. His criticisms I know are always friendly, because I know the

gentleman reciprocates the great depth of love that I bear for him; hence I take no offense. [Laughter and applause.]

Mr. Speaker, I have no feeling about this matter at all, but it does seem illogical to have on the statute books a law authorizing the election of Members of this House and oppose having on the statute a law authorizing States to elect Members of the other House. The Constitution should be put in force; and that is all this bill seeks to do. It does not interfere with the sacred rights of any State. I will stand with the gentleman from Georgia or any other man to the limit of my capacity to preserve the States from Federal invasion; but I do not regard compliance with public will as a license for Federal invasion or as permitting such invasion. When the great body of the American people demand a reform, as it has for many years demanded the election of Senators by the people, the will of the people is more sacred to me than the dogma of State rights as advocated by some gentlemen whom I know. [Applause.]

But I believe that both State rights and Federal rights can be preserved. I believe the enjoyment of every right a State has can be secured; and I believe the rights of the great body of American people can be given voice in this country through appropriate legislation without sacrificing the tenets for which the learned gentleman so ably speaks and which has developed in our country the immortal characters he named.

Mr. Speaker, I hope, regardless of the attitude of my friend from Georgia—and I say it with feeling of the greatest kindness—that this House will do the right thing and send this bill back to conference. It is apparent—and everybody knows it—that we are going to pass a law like this. Then why not do so at this opportune time? Some gentleman on this side asked a question which I have not answered, and as I want to make myself clear, if I have not already done so, I will say that the proposition is to put the bill in conference again, so as to agree to an amendment of section 3 of the bill, which was put in by the House, so as to confine the limitations as to time to section 2 and leave section 1 as permanent law. I repeat that, in my judgment, this will not invade any fair theory or doctrine of State rights that can be imagined.

Mr. MURDOCK. Will the gentleman yield?

Mr. RUCKER. Certainly.

Mr. MURDOCK. If the law stands in section 1 as permanent law, will it affect the time or manner of the election of United States Senators in any State?

Mr. RUCKER. The section does fix the time.

M.. MURDOCK. Will that affect the existing custom in any State?

Mr. RUCKER. No; not in the least.

Mr. MURDOCK. In Mississippi and Louisiana Senators are chosen some years previous to their taking their seats.

Mr. RUCKER. This bill will affect those conditions, because section 1 provides that Senators shall be elected at "the regular election held in any State next preceding the expiration of the term for which any Senator was elected." So that hereafter the election of Senators will be held at the general election next preceding the expiration of the senatorial term.

Mr. MURDOCK. As it ought to be.

Mr. MANN. Will the gentleman yield?

Mr. RUCKER. Yes.

Mr. MANN. The cases referred to by the gentleman from Kansas are States where they have quadrennial elections.

Mr. RUCKER. I thank the gentleman. Mr. Speaker, one more word and I am done. I have no feeling in this matter. I have kept faith with the Committee on Rules and with the House. If the House does not want to pass a reasonable measure, let the House take the responsibility and turn it down. I have presented it to the House as best I could, not in passion, but deliberately, believing it ought to become law. If the House agrees with me and will send the bill back to conference, we will bring in a report as soon as possible and help make it law.

Mr. MANN. Will the gentleman yield me three minutes?

Mr. RUCKER. Mr. Speaker, I will yield three minutes to the gentleman from Illinois [Mr. MANN].

Mr. MANN. Mr. Speaker, two years ago, after quite a contest in the House and in the country, the House adopted what was called a reform in the rules, and provided for the selection and afterwards for the election of the Committee on Rules wholly disconnected from the Speaker.

It was said in the old days, though not very truthfully, that in order to get a bill up before the House it was necessary to go hat in hand to the Speaker to obtain recognition; but under this reform system we now have a condition where one not only has to go hat in hand and on his knees to the gentleman from Texas [Mr. HENRY], but one must agree in advance what he will put in his bill. In the old days, after the bill came before the House, it was left for the House to determine what it would enact into legislation; but now you have to prepare your amendments and submit them to the gentleman from Texas [Mr. HENRY] and see whether he will let you have the bill considered in the House under an agreement that you will insist, according to the gentleman from Georgia [Mr. BARTLETT], not only that the House will agree to the amendments but that you will make the Senate agree to them also. [Laughter and applause.] We are having a contest here now between two gentlemen as to whether faith is being kept, the Committee on Rules having held up, just as a highwayman does, the gentleman from Missouri [Mr. RUCKER] and insisted that he should offer and advocate an amendment to the bill before the Committee on Rules would allow him to have it considered in the House, and when the gentleman from Missouri offered the amendment and secured its adoption it is now charged that he is acting in ill faith because he does not hold up the Senate. We have never had such a proposition before the House at any time previously.

Mr. HENRY. Mr. Speaker, will the gentleman yield?

Mr. MANN. Yes.

Mr. HENRY. Does the gentleman not think the fact that the House has always sustained the Committee on Rules proves its patriotism and wisdom?

Mr. MANN. I do not. I never have known the Committee on Rules in my service in the House to be defeated on a vote. The party usually stands behind the Committee on Rules, whether the party agrees with it or disagrees with it, but that is the very reason why the Committee on Rules, when it has presented to it a proposition as to the consideration of a bill in the House, should not undertake to say what shall go in the bill as a condition precedent to letting the bill be considered in the House. The Committee on Rules, under the existing circumstances in the House, now controls what will take place in the House. There is no way of getting a bill up before the House unless it is privileged, except by unanimous consent or by a rule from the Committee on Rules, and the Committee on Rules will not report a rule, apparently, unless one will agree with the committee in advance what the bill shall contain. The House might as well adjourn and go home and leave only the gentleman from Texas here. [Applause.]

Mr. MURDOCK. Mr. Speaker, will the gentleman yield?

Mr. MANN. If I have the time.

Mr. MURDOCK. The gentleman did not say it, but he ought to have said it, that there is no way by which the House can discharge the Committee on Rules.

The SPEAKER. The time of the gentleman from Illinois has expired. The question is on the motion of the gentleman from Missouri, that the House do further insist upon its amendments and agree to the conference asked by the Senate.

The question was taken; and on a division (demanded by Mr. BARTLETT) there were—ayes 81, noes 14.

So the motion was agreed to.

The Chair announced the following conferees: Mr. RUCKER, Mr. BROUSSARD, and Mr. AINEY.

Mr. BARTLETT. Mr. Speaker, I desire to submit the following privileged resolution, which I send to the desk and ask to have read.

The Clerk read as follows:

Resolved, That the conferees on the part of the House be instructed to insist upon the amendments of the House to Senate bill 2860.

Mr. MANN. Mr. Speaker, I make the point of order that the resolution is not in order, the conferees having been appointed.

Mr. BARTLETT. They can be instructed only after they are appointed.

Mr. MANN. Oh, no; they can be instructed only before they are appointed, and after the conference is agreed to.

Mr. BARTLETT. If I am wrong about it, very well.

Mr. MANN. Oh, the gentleman is wrong.

The SPEAKER. What is the statement of the gentleman from Illinois?

Mr. MANN. Instructions to the conferees can only be made after the conference is ordered or agreed to, and before the conferees are appointed.

Mr. BARTLETT. Mr. Speaker, this is exactly what was done in the deficiency bill, in reference to certain amendments that the Senate put upon that bill.

Mr. MANN. Oh, the gentleman is in error. The motion was made to instruct the conferees after the conference was agreed to and before the conferees were appointed. We have agreed to the conference with the Senate, and we have named the conferees, and it has gone beyond the House.

The SPEAKER. The truth about the matter is that the Chair misled the gentleman from Georgia, and informed him the other way.

Mr. MANN. If that is the case, I will withdraw the point of order, for I have no desire to take advantage in any statement made by the Chair.

The SPEAKER. That is the status. The gentleman from Georgia asked the Chair and the Chair informed him that now was the time to make the motion.

Mr. BARTLETT. Of course, Mr. Speaker, I ought to have known what the rule is.

The SPEAKER. The gentleman from Illinois withdraws the point of order. The question is on agreeing to the resolution.

The question was taken; and on a division (demanded by Mr. BARTLETT) there were—ayes 37, noes 81.

Mr. BARTLETT. Mr. Speaker, on that I demand the yeas and nays

The SPEAKER. The gentleman from Georgia demands the yeas and nays. Those in favor of ordering the yeas and nays will rise and stand until counted. [After counting.] Seven Members have risen, not a sufficient number.

Mr. BARTLETT. Mr. Speaker, I make the point of order that there is no quorum present.

The SPEAKER. The gentleman from Georgia makes the point of order that there is no quorum present. Evidently there is no quorum present. The Doorkeeper will lock the doors, the Sergeant at Arms will notify the absentees, and the Clerk will call the roll.

Mr. MANN. Mr. Speaker, before the roll is called, I ask unanimous consent that the resolution be again reported.

The SPEAKER. Without objection, the Clerk will again report the resolution.

There was no objection, and the Clerk again reported the resolution.

The question was taken; and there were—yeas 80, nays 191, answered "present" 11, not voting 151, as follows:

YEAS—80.

Abercrombie	Davenport	Hughes, Ga.	Sabath
Aiken	Dent	Jacoway	Seldomridge
Aswell	Dupré	Keating	Sisson
Bailey	Eagle	Lazaro	Stringer
Barkley	Elder	Lee, Ga.	Sumners
Bartlett	Fergusson	Lever	Taylor, Ark.
Beall, Tex.	Ferris	McAndrews	Taylor, Colo.
Blackmon	FitzHenry	McDermott	Taylor, N. Y.
Brockson	Floyd, Ark.	Maher	Thomas
Brumbaugh	Foster	Montague	Thompson, Okla.
Buchanan, Tex.	Garrett, Tex.	Moon	Tribble
Burgess	Godwin, N. C.	Murray, Okla.	Vaughan
Burnett	Goodwin, Ark.	Neeley, Kans.	Walker
Byrnes, S. C.	Hammond	O'Brien	Watkins
Byrns, Tenn.	Hardy	Oldfield	Watson
Candler, Miss.	Harrison	Park	Weaver
Caraway	Heflin	Pou	Webb
Carlin	Henry	Quin	Wilson, Fla.
Carter	Holland	Ragsdale	Wingo
Collier	Howard	Rayburn	Witherspoon

NAYS—191.

Adair	Dillon	Hayden	Peters, Mass.
Alexander	Dixon	Helgesen	Peters, Me.
Allen	Donohoe	Hinebaugh	Peterson
Anderson	Donovan	Houston	Phelan
Anthony	Doolittle	Howell	Plumley
Ashbrook	Doremus	Hulings	Porter
Avis	Doughton	Humphrey, Wash.	Post
Baker	Drukker	Igoe	Powers
Baltz	Dunn	Johnson, Utah	Prouty
Barnhart	Eagan	Johnson, Wash.	Rainey
Barton	Esch	Kelly, Pa.	Raker
Bathrick	Evans	Kennedy, Iowa	Rauch
Beakes	Falconer	Kennedy, R. I.	Reilly, Conn.
Bell, Cal.	Farr	Kent	Reilly, Wis.
Booher	Fess	Key, Ohio	Roberts, Mass.
Borchers	Fields	Kindel	Roberts, Nev.
Bowdle	Fowler	Kinkaid, Nebr.	Rothermel
Britten	Francis	Kitchin	Rupley
Brodbeck	Frear	Konop	Russell
Brown, N. Y.	French	Korbly	Scott
Browne, Wis.	Gallagher	La Follette	Shackleford
Bryan	Gard	Lee, Pa.	Sharp
Buchanan, Ill.	Gardner	Lesher	Sherwood
Burke, S. Dak.	Garner	Lewis, Md.	Shreve
Burke, Wis.	Gerry	Lieb	Sinnott
Butler	Gillett	Linthicum	Sloan
Campbell	Gilmore	Lloyd	Smith, J. M. C.
Cantor	Gittins	Lobeck	Smith, Md.
Cantrill	Goeke	Lonergan	Smith, Minn.
Cary	Good	McCoy	Smith, N. Y.
Casey	Gordon	MacDonald	Stafford
Chandler, N. Y.	Gorman	Maguire, Nebr.	Stedman
Claypool	Graham, Pa.	Mitchell	Steenerson
Cline	Gray	Mondell	Stephens, Cal.
Connelly, Kans.	Green, Iowa	Moore	Stephens, Tex.
Coury	Greene, Mass.	Morgan, Okla.	Stevens, N. H.
Cox	Greene, Vt.	Moss, Ind.	Stone
Crosser	Gregg	Murdock	Stout
Cullop	Hamlin	Nolan, J. I.	Sutherland
Curry	Harris	Norton	Switzer
Decker	Hart	Page, N. C.	Taggart
Deitrick	Haugen	Patten, N. Y.	Talbott, Md.
Dershem	Hawley	Patton, Pa.	Talcott, N. Y.
Dickinson	Hay	Payne	Tavenner
Temple	Treadway	Walters	Woodruff
Thomson, Ill.	Tuttle	White	Woods
Towner	Underhill	Williams	Young, N. Dak.
Townsend	Volstead	Winslow	

ANSWERED "PRESENT"—11.

Adamson	Guernsey	McKenzie	Rucker
Carew	Hinds	Madden	Sims
Glass	Hobson	Mann	

NOT VOTING—151.

Ainey	Faison	Knowland, J. R.	Paige, Mass.
Ansberry	Finley	Kreider	Palmer
Austin	Fitzgerald	Lafferty	Parker
Barchfeld	Flood, Va.	Langham	Platt
Bartholdt	Fordney	Langley	Reed
Bell, Ga.	Gallivan	L'Engle	Riordan
Borland	Garrett, Tenn.	Lenroot	Rogers
Broussard	George	Levy	Rouse
Brown, W. Va.	Goldfogle	Lewis, Pa.	Rubey
Browning	Goulden	Lindbergh	Saunders
Bruckner	Graham, Ill.	Lindquist	Scully
Bulkley	Griest	Loft	Sells
Burke, Pa.	Griffin	Logue	Sherley
Calder	Gudger	McClellan	Slayden
Callaway	Hamill	McGillicuddy	Slemp
Carr	Hamilton, Mich.	McGuire, Okla.	Small
Church	Hamilton, N. Y.	McKellar	Smith, Idaho
Clancy	Hardwick	McLaughlin	Smith, Saml. W.
Clark, Fla.	Hayes	Mahan	Smith, Tex.
Coady	Helm	Manahan	Sparkman
Connolly, Iowa	Helvering	Mapes	Stanley
Cooper	Hensley	Martin	Stephens, Miss.
Copley	Hill	Merritt	Stephens, Nebr.
Covington	Hoxworth	Metz	Stevens, Minn.
Cramton	Hughes, W. Va.	Miller	Taylor, Ala.
Crisp	Hull	Morgan, La.	Ten Eyck
Dale	Humphreys, Miss.	Morin	Thacher
Danforth	Johnson, Ky.	Morrison	Underwood
Davis	Johnson, S. C.	Moss, W. Va.	Vare
Dies	Jones	Mott	Vollmer
Difenderfer	Kahn	Murray, Mass.	Wallin
Dooling	Keister	Neely, W. Va.	Walsh
Driscoll	Kelley, Mich.	Nelson	Whaley
Dyer	Kennedy, Conn.	Oglesby	Whitacre
Edmonds	Kettner	O'Hair	Willis
Edwards	Kiess, Pa.	O'Leary	Wilson, N. Y.
Estopinal	Kinkead, N. J.	O'Shaunessy	Young, Tex.
Fairchild	Kirkpatrick	Padgett	

So the resolution was rejected.

The Clerk announced the following pairs:

Until further notice:

Mr. JOHNSON of Kentucky with Mr. MADDEN.

Mr. GLASS with Mr. SLEMP.

Mr. CALLAWAY with Mr. MERRITT.

Mr. GUDGER with Mr. GUERNSEY.

Mr. CLANCY with Mr. HAMILTON of New York.

Mr. GARRETT of Tennessee with Mr. FORDNEY.

Mr. SMITH of Texas with Mr. BARCHFELD.

Mr. TAYLOR of Alabama with Mr. HUGHES of West Virginia.

Mr. DALE with Mr. MARTIN.

Mr. SLAYDEN with Mr. BURKE of Pennsylvania.

Mr. SHERLEY with Mr. WILLIS.

Mr. BELL of Georgia with Mr. AINEY.

Mr. BORLAND with Mr. BARTHOLDT.

Mr. DIES with Mr. GRIEST.

Mr. FLOOD of Virginia with Mr. KIESS of Pennsylvania.

Mr. HARDWICK with Mr. MCLAUGHLIN.

Mr. HELVERING with Mr. MANAHAN.

Mr. HULL with Mr. MILLER.

Mr. L'ENGLE with Mr. MOTT.

Mr. YOUNG of Texas with Mr. HAMILTON of Michigan.

Mr. MURRAY of Massachusetts with Mr. ROGERS.

Mr. CAREW with Mr. DANFORTH.

Mr. MCKENZIE with Mr. HELM.

Mr. GRAHAM of Illinois with Mr. SAMUEL W. SMITH.

Mr. CLARK of Florida with Mr. AUSTIN.

Mr. COVINGTON with Mr. CALDER.

Mr. DIFENDERFER with Mr. COOPER.

Mr. DOOLING with Mr. CRAMTON.

Mr. ESTOPINAL with Mr. DAVIS.

Mr. EDWARDS with Mr. DYER.

Mr. FAISON with Mr. EDMONDS.

Mr. FINLEY with Mr. HAYES.

Mr. FITZGERALD with Mr. KAHN.

Mr. GOLDFOGLE with Mr. KEISTER.

Mr. HUMPHREYS of Mississippi with Mr. KELLEY of Michigan.

Mr. JOHNSON of South Carolina with Mr. J. R. KNOWLAND.

Mr. LEVY with Mr. LAFFERTY.

Mr. MCKELLAR with Mr. KREIDER.

Mr. MORRISON with Mr. LANGHAM.

Mr. O'HAIR with Mr. LANGLEY.

Mr. O'SHAUNESSY with Mr. LEWIS of Pennsylvania.

Mr. PADGETT with Mr. LINDQUIST.

Mr. PALMER with Mr. VARE.

Mr. REED with Mr. MCGUIRE of Oklahoma.

Mr. RIORDAN with Mr. MAPES.
Mr. ROUSE with Mr. SMITH of Idaho.
Mr. RUBEY with Mr. SELLS.
Mr. SAUNDERS with Mr. PARKER.
Mr. SMALL with Mr. MORIN.
Mr. SPARKMAN with Mr. Moss of West Virginia.
Mr. STEPHENS of Mississippi with Mr. NELSON.
Mr. STEPHENS of Nebraska with Mr. PAIGE of Massachusetts.
For 10 days:
Mr. HILL with Mr. COPLEY.
For the session:
Mr. ADAMSON with Mr. STEVENS of Minnesota.
Mr. HOBSON with Mr. FAIRCHILD.
Mr. UNDERWOOD with Mr. MANN.
Mr. SCULLY with Mr. BROWNING.
Mr. METZ with Mr. WALLIN.

Mr. CAREW. Mr. Speaker, I am paired with Mr. DANFORTH, and I desire to withdraw my vote of "no" and to answer "present."

The name of Mr. CAREW was called, and he answered "Present."

Mr. GLASS. Mr. Speaker, I desire to ask if my colleague, Mr. SLEMP, of Virginia, has voted?

The SPEAKER. He did not.

Mr. GLASS. Mr. Speaker, I desire to withdraw my vote of "aye" and to answer "present."

The name of Mr. GLASS was called, and he answered "Present."

Mr. MANN. Mr. Speaker, I am paired with the gentleman from Alabama, Mr. UNDERWOOD. I desire to withdraw my vote of "no" and be recorded "present."

The name of Mr. MANN was called, and he answered "Present."

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. HAY). A quorum is present, and the Doorkeeper will open the doors.

AGRICULTURAL APPROPRIATION BILL.

Mr. LEVER. Mr. Speaker, I ask unanimous consent that the House agree to the request of the Senate for a conference on the disagreeing votes of the two Houses on the bill H. R. 13679, a bill making appropriations for the Department of Agriculture for the fiscal year ending June 30, 1915.

The SPEAKER pro tempore. The gentleman from South Carolina asks unanimous consent to take from the Speaker's table the bill H. R. 13679, the Agricultural appropriation bill, and agree to the request of the Senate for a conference. Is there objection?

Mr. MANN. Mr. Speaker, reserving the right to object, did the Speaker state the request was to ask for a conference or to agree to a conference?

The SPEAKER pro tempore. To agree to a conference.

Mr. MANN. It is an unusual thing, and I think a rather improper thing, for the Senate when it passes one of the annual appropriation bills to ask for a conference upon the passage of the bill. Sometimes when there is great urgency of some bills it might be quite proper to ask for a conference on the part of the House which last passes the bill, but it never was in conformity with parliamentary usage, and, so far as I recall, this is the first time where one of the annual appropriation bills having passed the House and then having passed the Senate the Senate has sent the bill back to the House at once insisting upon its amendments and asking for a conference.

Mr. LEVER and Mr. GARNER rose.

The SPEAKER pro tempore. To whom does the gentleman yield?

Mr. MANN. To either fair charmer.

Mr. GARNER. Under the rules governing a conference the House asking for the conference has charge of the papers, and must act on the conference report, or it is usual to act on the conference committee report first. I say, under the rules governing conferences of the two Houses, the House asking for the conference has charge of the papers, as I understand it, and it is usual for them to act first on the report as it is made.

Mr. MANN. The gentleman is mistaken. The House that agrees to the conference acts first on the conference report.

Mr. PAGE of North Carolina. Mr. Speaker——

The SPEAKER pro tempore. Does the gentleman yield?

Mr. MANN. Yes.

Mr. PAGE of North Carolina. The gentleman lets very little escape him——

Mr. MANN. I know this session of Congress they have done this same thing before.

Mr. PAGE of North Carolina. At this session of Congress the District appropriation bill passed the House, and the Senate passed that bill, appointed conferees, and sent the bill to this House.

Mr. MANN. I think they did on one other bill at this session of Congress, but it is not a good custom.

Mr. LEVER. Mr. Speaker, in answer to the observation of the gentleman from Illinois [Mr. MANN], I confess that when I saw the Senate had asked for a conference on this bill I was greatly surprised, although, being no parliamentarian myself, I did not know but that they had the right to do it. But I understand, while it is not the custom, it is not beyond their right to do so, and I agree with the gentleman from Illinois that it is a bad practice. However, they have asked for the conference, and there seemed to be nothing else to do except for us to agree to it.

Mr. MANN. I am not going to object. I think it is beyond their right, but we can not raise that question in this House.

Mr. LEVER. That is very true.

The SPEAKER pro tempore. Is there objection?

Mr. CANDLER of Mississippi. Mr. Speaker, reserving the right to object, may I ask the gentleman from South Carolina what his request is? Is it to disagree to all the amendments of the Senate and agree to the conference asked by the Senate?

Mr. LEVER. No. The request is that the House agree to the conference asked for by the Senate on the Agricultural appropriation bill. The Senate passed the bill, sent it back to the House with its amendments, and asked for a conference. It is now the duty, I presume, of the House to agree to the conference, in order that we may get the bill into conference on the various amendments that have been offered.

Mr. CANDLER of Mississippi. Then, there is no request that we agree or disagree to their amendments?

Mr. LEVER. None whatever. The request is that we agree to the conference in order to have the opportunity to consider in conference all amendments as soon as possible.

Mr. CANDLER of Mississippi. That course will expedite the consideration and the final passage of the bill, and therefore I have no objection. I realize the importance of enacting this great bill into law at the earliest date practicable.

The SPEAKER pro tempore. Is there objection? [After a pause.] The Chair hears none. The question is on agreeing to the conference asked for by the Senate.

The motion was agreed to.

The SPEAKER pro tempore appointed the following conferees: Mr. LEVER, Mr. LEE of Georgia, and Mr. HAUGEN.

ANTITRUST LEGISLATION.

The SPEAKER pro tempore. Under the rule the House resolves itself automatically into the Committee of the Whole House on the state of the Union for the further consideration of the antitrust bill, and the gentleman from Tennessee [Mr. BYRNS] will take the chair.

The CHAIRMAN. The House is in Committee of the Whole House on the state of the Union for the further consideration of the bill H. R. 15657, of which the Clerk will report the title.

The Clerk read as follows:

A bill (H. R. 15657) to supplement existing laws against unlawful restraints and monopolies, and for other purposes.

The CHAIRMAN. When the committee rose on Tuesday the Clerk had read section 1. If there are no amendments——

Mr. MORGAN of Oklahoma. Mr. Chairman, I wish to offer an amendment as a new section following section 1.

The CHAIRMAN. The gentleman from Oklahoma offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amend by adding a new section, to be numbered section 1a, to follow immediately after section 1, page 20, as follows:

"SEC. 1a. That no firm, association, or corporation shall be subject to the provisions of sections 2, 4, and 8 of this act, unless by itself, or with one or more other corporations owned, operated, controlled, or organized in conjunction with it so as to constitute substantially a business unit, has an aggregate capital, including stocks and bonds issued and surplus owned, of not less than $5,000,000."

The CHAIRMAN. The question is on agreeing to the amendment.

Mr. MORGAN of Oklahoma. Mr. Chairman, one of the proper criticisms to sections 2, 4, and 8 is that it includes all small business concerns in its provisions. It is the contention of some of us on this side of the House that we should go to the full length and extent of our control over the large concerns, but should eliminate so far as we can any effort to annoy and burden and restrain the small concerns which possess no monopolistic power, and which, from a national viewpoint, do not affect the general interests of the country.

Now, that very proposition came up before the Committee on the Judiciary and it came up before the Interstate Commerce Committee as to what corporations should be brought under the control and regulation of the interstate trade commission.

I think when the bill was first drawn and introduced by the chairman of the Judiciary Committee, the interstate trade bill, all concerns were brought under the control and regulation of that commission. And I for one, in speaking before the Interstate Commerce Committee, advocated that it should be amended so as not to include all concerns engaged in interstate commerce, and others advocated the same thing. And so when that bill was finally drawn it did not include all concerns or corporations engaged in interstate business. Therefore I have drawn this section, which in language practically corresponds with the language used in the Covington interstate trade bill.

I think it is wise that if we are entering upon a new policy in two directions, with two arms, interstate trade commission, and then the enactment of additional laws to bring these concerns under proper control, that they should go together, that these two sections should correspond in their jurisdiction over concerns exactly with those concerns that are brought under the interstate trade commission.

And so, having this conviction, having this conception, believing that especially at the start we ought to limit our restrictions of the larger concerns that possess monopolistic power, I have in good faith presented this amendment, bringing within these sections only the concerns that shall be brought under the interstate trade commission. I think it is a wise amendment and I hope the committee will adopt it.

The CHAIRMAN. The question is on the adoption of the amendment of the gentleman from Oklahoma [Mr. MORGAN].

Mr. FLOYD of Arkansas. Mr. Chairman, I desire to oppose the amendment offered by the gentleman from Oklahoma, for the reason that we do not think that such amendment ought to be adopted. The fact is that our friend from Oklahoma has gotten the trade-commission idea in his head, and he seeks at every opportunity, and did in the committee, and I presume he will here, to inject some provision relating to the trade commission into this bill.

Now, in the first place, we do not think that there should be any limitation as to capitalization or surplus whatever as to sections 2, 3, or 8. We have provided limitations of this character in another section of the bill pertaining to interlocking directorates. Here he proposes to raise the limitation we have placed in that section and put a limitation of $5,000,000 in these particular sections. We have been endeavoring by these sections referred to to forbid certain wrongs that exist in our system, and we believe that any such amendment as that proposed by the gentleman from Oklahoma would tend largely to defeat the purposes of each of these sections. And therefore we oppose the amendment and hope the committee will vote it down.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Oklahoma [Mr. MORGAN].

The question was taken, and the amendment was rejected.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

SEC. 2. That any person engaged in commerce who shall, either directly or indirectly, discriminate in price between different purchasers of commodities in the same or different sections or communities, which commodities are sold for use, consumption, or resale within the United States or any Territory thereof or the District of Columbia or any insular possession or other place under the jurisdiction of the United States, with the purpose or intent to thereby destroy or wrongfully injure the business of a competitor of either such purchaser or seller shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not exceeding $5,000, or by imprisonment not exceeding one year, or by both, in the discretion of the court: *Provided*, That nothing herein contained shall prevent discrimination in price between purchasers of commodities on account of differences in the grade, quality, or quantity of the commodity sold, or that makes only due allowance for difference in the cost of transportation: *And provided further*, That nothing herein contained shall prevent persons engaged in selling goods, wares, or merchandise in commerce from selecting their own customers, except as provided in section 3 of this act.

Mr. WEBB. Mr. Chairman, I should like to ask my friend from Minnesota [Mr. VOLSTEAD] if we may come to some agreement as to the time to be consumed in discussing this section and amendments thereto.

Mr. VOLSTEAD. I think it would be better to let the debate proceed for a little while.

Mr. MANN. It is a little early yet to shut off debate. There are a number of amendments which gentlemen on this side desire to propose.

Mr. WEBB. There is no desire to shut off amendment.

Mr. MANN. I understand that. There are a number of amendments to be offered to this section. We will try to help the gentleman expedite the bill.

Mr. WEBB. I thank the gentleman. I will make no request at this time, Mr. Chairman, as to limiting debate.

Mr. LEVY. Mr. Chairman, I have an amendment.

Mr. GRAHAM of Pennsylvania. Mr. Chairman, I desire to offer an amendment.

The CHAIRMAN. The Chair recognizes the gentleman from Pennsylvania [Mr. GRAHAM], a member of the committee. The Clerk will report the amendment proposed by the gentleman from Pennsylvania.

The Clerk read as follows:

Page 20, line 20, after the word "shall," insert the words "except in lawfully meeting competition."

Mr. BARTLETT. Mr. Chairman, I ask to have the amendment read again. We could not hear it.

The CHAIRMAN. The committee will be in order. If there be no objection, the Clerk will again report the amendment.

The amendment was again read.

Mr. GRAHAM of Pennsylvania. Mr. Chairman, on day before yesterday the gentlemen upon the other side invited us to present our views toward improving any of the terms or provisions of this bill. It is with that end in view that I offer this amendment, which, if adopted, would largely remove the objections to which this section of the proposed bill is now subject.

The great scope and purpose of our antitrust laws is to put down monopoly and restraint of trade and to foster and protect competition. As is pointed out in the minority report, this section as framed is calculated to limit and destroy competition. There certainly can be no objection, therefore, to writing the words of this amendment into this paragraph, so that no fetter or restraint will be put upon lawful competition.

It has been held in some of the cases that have been tried that wherever prices are cut below cost that is unfair trade practice; but where a man meets another's price in protecting his business in a district with a price it is his lawful right and privilege, and it is the object of competition that he should meet his price. The benefit of competition is supposed to flow to the public. That is the only way in which it can reach the consumer or the public. Now, if this clause is limited in this respect, it obviates many of these objections.

There is another difficulty, however, to which another amendment may be applied, and I will not speak of that at this time.

Mr. WEBB. Mr. Chairman, we hope this amendment will not be adopted, because in our opinion it adds nothing to the section. We think under the provisions of the section any man who honestly meets competition is not thereby "intending to destroy or wrongfully injure any other person." If that is his object, meeting honest competition, this section will not hurt him, and we consider it useless to write into this section the amendment of my friend from Pennsylvania [Mr. GRAHAM]. Therefore I hope it will be voted down.

Mr. GRAHAM of Pennsylvania. Will the gentleman permit an interrogation?

Mr. WEBB. Yes.

Mr. GRAHAM of Pennsylvania. Is not one of our objects to avoid subjecting business men to the possibility of lawsuits and litigation? If you say that making a price to meet lawful competition is not within the prohibition of the bill, then why not write it into the body of the bill?

Mr. WEBB. My friend is a good lawyer, and he would not advise any client he has or ever will have that this section would reach the cases that he wishes to exempt, because any person who honestly meets competition for that purpose is not thereby intending to destroy or wrongfully injure any other person.

Mr. GRAHAM of Pennsylvania. Will the gentleman permit one word further?

Mr. WEBB. Certainly.

Mr. GRAHAM of Pennsylvania. I simply desire to bring out my exact purpose in offering this amendment. There is nothing latent or hidden in it. I am simply endeavoring to improve the language of the bill, so as to carry out its purpose. I would certainly advise any client or business man who consulted me about the present language of the bill that it is fraught with great peril to him if he in a particular district is met by competition and cuts his prices there, and does not cut his prices in every other district wherever he trades. I should advise him that if he fails to do that he is committing an offense under this section.

Now, again, if a man cuts the price to meet a competitor, is he not open to prosecution under this section, because every man is presumed to intend the natural consequences of his acts? That is a legal axiom. Now, the natural consequence of my act in cutting a price to retain my business is either to take business from a competitor or to hold my own business, and under this language the question is left to the jury to say whether it was wrongfully done. Now, why should the business community be subjected to trial upon that issue, whether or not the act is wrongfully done?

Mr. WEBB. The case which my friend cites will never arise under this section. Everybody is given the right of self-defense, and if a man cuts his price to meet competition, and without any intent or purpose to destroy or wrongfully injure a competitor somewhere else, my friend knows there is no tribunal that would undertake to indict him under this section, because he is not acting with a wrongful intent.

Mr. STAFFORD. Will the gentleman yield?

Mr. WEBB. Yes.

Mr. STAFFORD. When a jobber cuts his price, or gives a dating, for instance, or a discount which he does not give to the general public, in order to get business, does he not thereby intend to injure some other jobber, or some other dealer to whom he is not giving that preferential price?

Mr. WEBB. Oh, no; not necessarily.

Mr. STAFFORD. Why, necessarily. He is doing it for the purpose of not giving the same favor to the trade generally.

Mr. WEBB. If he gives that advantage to one jobber and not to another jobber under the same general conditions and thereby discriminates with intent to destroy, and so forth, he is liable to indictment under this act, and ought to be.

Mr. STAFFORD. That is the very purpose with which business is to-day carried on, and your view would make it a criminal offense, and every large wholesaler would be subjected to a criminal prosecution under this present phraseology.

Mr. WEBB. He ought to be indicted if he cuts prices and discriminates therein for the purpose of destroying or wrongfully injuring a competitor.

Mr. STAFFORD. That is not the morale of the business public generally.

Mr. WEBB. It is good business morals to-day, and ought to be enforced by law.

Mr. KENT. Will the gentleman yield?

Mr. WEBB. Certainly.

Mr. KENT. I would like to ask the gentleman if competition itself may not inherently be an injury?

Mr. WEBB. That depends upon the standpoint from which you view the matter. Some argue that it is and some argue to the contrary. Economists have not agreed on that question.

Mr. KENT. You intend to control a man's business, if you can, in order to prevent his injuring you.

Mr. WEBB. No; but this practice has been a favorite bludgeon used by the trusts—to go to a town and say I will sell these goods 20 or 30 per cent lower than our competitor sells them, and in that way put independents out of business in that community. I say if they do that they ought to be indicted.

Mr. BARTON. Will the gentleman yield?

Mr. WEBB. I will.

Mr. BARTON. We had an illustration recently where a big fire insurance company came into the State where local insurance companies have been doing business, not confined to the border of the State, and cut prices in that immediate locality until we had in three States 40 or 50 local companies put out of business, and then the price was put back where it was profitable to the company. Might not this same condition exist where we started a wholesale house in a State where their territory was confined to the State—might it not be a reduction of prices for putting that institution out of business?

Mr. WEBB. If the purpose is to wrongfully injure or destroy a competitor, this section will cover such practice; but insurance companies are not reached, as the Supreme Court has held that their contracts or policies are not interstate commerce.

Mr. BARTON. Is it not right that they should come within the law?

Mr. WEBB. Yes.

Mr. MOORE. Mr. Chairman, I wish to ask the chairman of the committee whether it is intended to reach mail-order houses by this paragraph.

Mr. WEBB. It means to embrace everybody who operates in interstate commerce and discriminates in price for the purpose of destroying or wantonly injuring a competitor.

Mr. MOORE. Suppose a large mail-order house in Chicago was circularizing the country and should enter into competition with the crossroads store in the gentleman's county, would the department store, the mail-order house in Chicago, be liable to prosecution under this act?

Mr. WEBB. If it discriminated in prices for the purpose of destroying or wrongfully injuring such crossroad store, it would be guilty.

Mr. MOORE. And that is the purpose of the act?

Mr. WEBB. Yes.

Mr. MOORE. Suppose one large department store in Washington in the ordinary competition with smaller stores should on certain days of the week advertise that shoes would be sold at a reduced price, a price far below that at which shoes were sold in hundreds of smaller stores, would the passage of this act enable the smaller stores to prosecute the department store?

Mr. WEBB. I think it would be very hard in that case to prosecute the department store under the terms of the law. It would sell the same shoes to everybody at the same price, and it would be difficult to prove that it was being done to put the small competitor out of business.

Mr. MOORE. In the case of the department store advertising that on a certain day it will reduce the price of certain articles which would put several competitors out of business, this act would not apply in the interest of the small business man, would it?

Mr. WEBB. That would be wholly within the State and would not be affected by this act. It would not affect the Philadelphia or the New York department store if they sold within the confines of their State.

Mr. MOORE. The effect of the act, then, would not be to relieve the small dealer, but to permit the large concern, with its great capital and its fine advertising facilities, to invite and attract the public in large numbers, and thus put out of business the small competitor in a perfectly natural way.

Mr. WEBB. The gentleman knows that the evil he is speaking of is within the State control. We can only handle transactions which affect interstate business.

Mr. MOORE. I grant that, if the business is wholly within the State, but you think your act would apply to the mail-order house that is circularizing the country and doing business in other States.

Mr. WEBB. It would.

Mr. MOORE. And houses in other States undertaking to do business in the gentleman's county.

Mr. WEBB. If it intended to destroy or wrongfully injure a competitor, it would.

Mr. MOORE. There would be no relief to the small dealer in the State jurisdiction, but there would be to the crossroads dealer in the gentleman's State, providing there was an interstate business. That is the gentleman's opinion?

Mr. WEBB. Certainly; and you would have to go to the States for relief in the other case.

Mr. GARDNER. Will the gentleman from Pennsylvania allow me to ask a question of the gentleman from North Carolina?

Mr. MOORE. I yield to the gentleman.

Mr. GARDNER. Would the adoption of the amendment offered by the gentleman from Pennsylvania [Mr. GRAHAM] open the door to the practices which you seek to prevent by section 2?

Mr. WEBB. It might be a suggestion to the parties that that could be done.

Mr. GARDNER. Is not the real reason for the gentleman's opposition to the amendment that you do not wish to have one line of the bill changed if you can help it?

Mr. WEBB. No, sir; that is not the case at all. We invite helpful amendments. I oppose this amendment because, as I said, I think the amendment of the gentleman from Pennsylvania is useless and unnecessary.

Mr. MANN. Will the gentleman yield for a suggestion?

Mr. WEBB. Certainly.

Mr. MANN. There are five amendments to be offered on this side, and, so far as I know, that is all that will be offered from this side to that section. Can we reach an agreement about debate?

Mr. WEBB. I hope that we may. I suggest a half an hour.

Mr. MANN. We want 25 minutes on this side.

Mr. MURDOCK. The gentleman had better take some time for himself, for he will need it.

Mr. WEBB. Then, Mr. Chairman, I ask unanimous consent that all debate on this section and amendments thereto be closed in 50 minutes, one half of the time to be controlled by the gentleman from Minnesota [Mr. VOLSTEAD] and the other half by myself.

The CHAIRMAN. The gentleman from North Carolina asks unanimous consent that debate on this section and all amendments thereto close in 50 minutes, one half of the time to be controlled by the gentleman from Minnesota [Mr. VOLSTEAD] and the other half by himself. Is there objection?

There was no objection.

Mr. LEVY. Mr. Chairman, I have an amendment which I desire to offer. Is it proper now?

The CHAIRMAN. There is an amendment pending. The question is on the amendment offered by the gentleman from Pennsylvania [Mr. GRAHAM].

The question was taken, and the amendment was rejected.

Mr. GRAHAM of Pennsylvania. Mr. Speaker, I offer the following amendment which I send to the desk and ask to have read.

Mr. LEVY. But, Mr. Chairman, the Chair said that he would recognize me.

The CHAIRMAN. But the gentleman from Pennsylvania is a member of the committee. The Chair understands the rule to be that members of the committee are entitled to preference. The Chair will recognize the gentleman from New York later. The Clerk will report the amendment of the gentleman from Pennsylvania.

The Clerk read as follows:

Page 21, line 11, after the word "for," insert the words "difference in cost of production in different localities and for."

The CHAIRMAN. The question is on agreeing to the amendment.

Mr. VOLSTEAD. Mr. Chairman, I yield the gentleman from Pennsylvania [Mr. GRAHAM] three minutes.

Mr. GRAHAM of Pennsylvania. Mr. Chairman, I ask the very serious and impartial consideration of this amendment by the committee which has this bill in charge. This amendment covers one of the conditions that perhaps inadvertently has been left out of the bill, and I really think ought to be inserted in it as a matter of fairness and justice. Everyone in this House knows that the cost of production varies in different localities, so that a price based on a single cost of production can not be maintained as a universal price. I have simply asked here that in line 11, after the words "allowance for," the words "difference in cost of production in different localities and for" be inserted. To allow for that difference is just as fair and reasonable as to allow for the difference in transportation, and I have received communications from business men calling attention to this fact and showing how it would work injuriously to them and their business if they were obliged to charge a uniform price. They can not do it; and yet the language of the section compels them to. Unless the committee is wedded, as the gentleman from Massachusetts [Mr. GARDNER] suggested, to putting this bill through the House line for line and word for word, without change, then I appeal to the reason and fairness of gentlemen of the committee to insert this amendment in this section of the bill.

I yield back the remainder of my time.

Mr. WEBB. Mr. Chairman, I yield five minutes to the gentleman from Arkansas [Mr. FLOYD].

Mr. FLOYD of Arkansas. Mr. Chairman, I do not care to take up the five minutes yielded to me on this amendment. I desire to say only a word. The exceptions in this statute are the usual exceptions in the statutes of the several States that have enacted legislation on this question.

Mr. GRAHAM of Pennsylvania. Mr. Chairman, will the gentleman yield?

Mr. FLOYD of Arkansas. Certainly.

Mr. GRAHAM of Pennsylvania. Does the gentleman mean to say to this body that because certain language has been adopted in some State legislatures it is therefore binding upon us when a question of an amendment appeals to our reasoning and sense of justice?

Mr. FLOYD of Arkansas. Why, not at all.

Mr. GRAHAM of Pennsylvania. Then why refer to State legislation?

Mr. FLOYD of Arkansas. And I am surprised at the gentleman asking such a question. I object to the amendment of the gentleman from Pennsylvania because there is no necessity for it and there is no good reason for it. The place of production will be the point from which the cost of transportation would be reckoned.

Mr. GRAHAM of Pennsylvania. Will the gentleman yield for another question?

Mr. FLOYD of Arkansas. Not at this point.

Mr. GRAHAM of Pennsylvania. But it is pertinent to that statement.

Mr. FLOYD of Arkansas. Very well.

Mr. GRAHAM of Pennsylvania. Does not the gentleman know that a great many producers have plants located in different localities and that at each one of those plants, owing to local and other causes, the cost of production is different, and that each of those plants is for the purpose of supplying its own section of the country? Is not that a reason for this amendment?

Mr. FLOYD of Arkansas. I understand that there is a difference in cost of production in different sections of the country, but we do not think that, in striking at the evil we are striking at, that element is serious enough to warrant us in putting in this exception. This provision is striking at a known evil, one of the worst evils that has ever been practiced in this country, to the detriment of manufacturers in different sections of the country, and we think when we have made the exceptions we have made here that we have gone far enough. We are striking at monopoly, at these powerful corporations that make a practice of discriminating in prices and in underselling in particular localities, and thereby absolutely destroying and putting out of business independent manufacturers all over the country. The object is to give opportunity to build up manufacturing industries in every section of the country and to enable men in different sections to build up new enterprises, and thus save communities and States and sections of the country the cost of transporting the same commodities from some central point in the United States to every part of the country.

Mr. GRAHAM of Pennsylvania. Will the gentleman answer me how the adoption of this amendment would prevent the purpose that the gentleman has in mind, that of preventing monopoly? Why has the committee recognized difference in cost of transportation and yet refused to recognize difference in cost of production in different localities?

Mr. FLOYD of Arkansas. I will explain to the gentleman that in drafting this bill we think we have placed in it all of the exceptions that are essential. This is a criminal statute. Certain elements must be proved and established beyond a reasonable doubt before any man can be convicted under its provisions. We are striking at a known stupendous evil, from which the people of every section of this country have suffered, and we do not desire to weaken the bill by placing additional exceptions into the provisions of the bill, and in that connection I desire to answer further suggestions made by the gentleman from Pennsylvania in the outset. There might be a thousand things, a hundred things, or twenty things not mentioned in these exceptions that would be a complete defense to a charge under this section, because in order to convict any man under the provisions of this section you must show two things: You must show that he is selling at discriminating prices in one locality, different from the prices at which he is selling in other localities, and you must show further that he is doing it with a wrongful purpose and intent to destroy or injure a competitor, either of the seller or of the purchaser.

Mr. GRAHAM of Pennsylvania. Will the gentleman yield further?

Mr. FLOYD of Arkansas. And there may be many things not mentioned in these exceptions that would completely exonerate the person charged with unlawful discrimination. In other words, no man could be convicted unless the criminal acts made necessary to constitute a crime in this provision are established.

The CHAIRMAN. The time of the gentleman from Arkansas has expired.

Mr. GRAHAM of Pennsylvania. I would like to say, Mr. Chairman——

Mr. WEBB. I yield one minute more to the gentleman from Arkansas.

Mr. GRAHAM of Pennsylvania (continuing). Simply to bring the matter out clearly——

Mr. FLOYD of Arkansas. I yield to the gentleman from Pennsylvania.

Mr. GRAHAM of Pennsylvania. There is no device in the amendment; it is apparent upon its face that it is perfectly fair. I would ask my learned colleague on the committee if this bill does not require from the producer to maintain a uniform price throughout the whole country wherever he operates? Now, is it fair, in relation to a commodity of such a kind, that it must be produced at different places and sold in the community adjacent thereto, and forming its environment, to put the burden on him of maintaining a uniform price everywhere when the cost of production in different localities varies? Now, you have allowed for the different cost of transportation, why do you not in equity and justice allow for this difference also?

Mr. FLOYD of Arkansas. I do not admit the gentleman's premise. The man might lower the price for any lawful purpose. It might be proper to meet the cost of transportation or any other purpose providing he did not have in his mind an evil purpose and intent of lowering the price to put out of business a competitor. That is my answer to the proposition.

Mr. MOORE. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. The time of the gentleman has expired.

Mr. MOORE. A parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. MOORE. Is there any more time to discuss the amendment on this important matter?

The CHAIRMAN. The Chair states that the time to be devoted to this section and all amendments thereto is under the control of the gentleman from North Carolina and the gentleman from Minnesota by agreement in the committee.

Mr. MOORE. And we are restricted to such time as has been designated?

The CHAIRMAN. Those gentlemen have control of the time.

Mr. MOORE. I shall not consent to any further unanimous consents if there is to be such a limitation of time for debate on questions of this great importance to the people of this country.

Mr. LEVY. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. LEVY. Do I understand that on my amendment which has been read I have no time?

The CHAIRMAN. The Chair will state to the gentleman that the amendment has not been offered and read.

Mr. LEVY. Am I to be precluded from offering it and speaking on it?

The CHAIRMAN. The gentleman will have opportunity to offer his amendment, but with reference to the time for discussion the gentleman will have to obtain that from gentlemen who have control of the time.

Mr. LEVY. But they will not grant it.

Mr. MURDOCK. Mr. Chairman——

The CHAIRMAN. For what purpose does the gentleman rise?

Mr. MURDOCK. I think it ought to be suggested to the gentleman from New York that he ought to get time from one or the other of the men who have the time to yield. The gentleman was on his feet asking recognition, and I point out to the Chair that he was refused recognition because he was not a member of the committee.

The CHAIRMAN. The Chair has made that suggestion to the gentleman. The time is under the control of the gentleman from North Carolina and the gentleman from Minnesota.

Mr. WEBB. The gentleman has not asked for time.

Mr. LEVY. I have.

Mr. WEBB. I beg the gentleman's pardon, he spoke to my colleague. After this amendment is voted on, or before this amendment is voted on, if the gentleman from Minnesota [Mr. VOLSTEAD] wishes to yield to Mr. MOORE time, he can still discuss this amendment, but we have finished with it on our side.

Mr. MANN. The gentleman from Pennsylvania has already had five minutes.

Mr. LEVY. How about my amendment?

The CHAIRMAN. The question is upon the amendment offered by the gentleman from Pennsylvania.

The question was taken, and the Chairman announced the noes seemed to have it.

Mr. GRAHAM of Pennsylvania. Division, Mr. Chairman.

Mr. HULINGS. Mr. Chairman, I rise to a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. HULINGS. I desire to know just what this amendment is, and I ask that it be again reported.

The CHAIRMAN. Without objection, the amendment will be again reported.

The amendment was again reported.

The committee divided; and there were—ayes 29, noes 46.

So the amendment was rejected.

Mr. LEVY. Mr. Chairman, I have two amendments which I desire to offer.

The CHAIRMAN. The Clerk will report the first amendment.

The Clerk read as follows:

On page 20, line 20, between the words "indirectly" and "discriminate," insert the word "unreasonably."

Mr. WEBB. I yield two minutes to the gentleman from New York.

Mr. LEVY. Mr. Chairman, the amendment offered by me is no more than fair and just. It has been decided by the Supreme Court of the United States, and if the Supreme Court of the United States had not put in the word "reasonable" in the Sherman law about one-half of the business of the United States would have been compelled to close up. I say, again, it is no more than fair that the word "unreasonably" should be put in the bill. That is my view of it, as well as the people's. I think it is a great mistake to rush this question to such rapid conclusion. It is a question that ought to be seriously considered, as I conceive it is one of the most important bills that has been before the House of Representatives this session, and will require many years for its construction by the courts.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York.

The question was taken, and the amendment was rejected.

The CHAIRMAN. The Clerk will report the second amendment.

The Clerk read as follows:

On page 21, strike out lines 5 and 6 and the word "court," in line 7, and insert in lieu thereof the following: "by a fine not exceeding $1,000 for the first offense, and for the second and each succeeding offense by imprisonment not exceeding one year, or by both fine and imprisonment, in the discretion of the court."

Mr. WEBB. Mr. Chairman, I yield one minute to the gentleman from New York.

Mr. LEVY. Mr. Chairman, we do not want to declare all our citizens criminals before they are given an opportunity to have the law construed. If it is decided that they have violated the law, they should be punished by a fine for the first offense, and for a second and each succeeding offense it should be imprisonment.

The question was taken, and the amendment was rejected.

Mr. GREEN of Iowa. Mr. Chairman, I offer the following amendment.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Page 21, lines 1, 2, and 3, after the word "thereby," strike out "destroy or wrongfully injure the business of a competitor of either such purchaser or seller" and insert in lieu thereof the following: "create a monopoly, hinder competition, or restrain trade."

Mr. VOLSTEAD. Mr. Chairman, I yield five minutes to the gentleman from Iowa [Mr. GREEN].

Mr. GREEN of Iowa. Mr. Chairman, the gentlemen in charge of the bill have stated in the report that in preparing this section they had simply followed the provisions of laws which had already been enacted in some 19 States. This statement, however, is an error. The laws of the States to which reference is made in this connection in the report, with the exception of two or three, are not drawn upon similar lines to this section. In fact, the only ones that correspond substantially are those of Louisiana and Nebraska. Michigan has a somewhat similar statute with reference to petroleum products. The statutes of the other States are aimed simply at the evil of destroying or preventing competition or restraining trade. The restriction which is made in this section will apply whether there is any attempt at monopoly, whether there is any attempt to restrain trade, or whether there is any attempt to prevent competition. In order to so frame the section that business might not be prevented, framers of the bill have inserted a number of provisos which would not be necessary if the section was in proper form.

Now, let me illustrate how this section will apply in actual business. There is in my own town a small canning factory. I have no interest in it whatever myself. It manufactures probably a couple of million of cans of corn a year. It sells some of the product in my own State, in my own town, but the larger portion of it in States farther west, principally Colorado, Utah, and California. Necessarily it must make a different price in my own State than that which it makes in the States of Utah and California. The bill says it may do this provided this discrimination is based simply and solely on the cost of transportation. But they can not regulate the price in that manner, for the grade of corn they make there is a fairly uniform price in the States of Utah and California, and they must compete there with canners from the State of my friend from Nebraska [Mr. BARTON], who have a less rate of freight than this canning factory in my town would be able to obtain. Then, according to the proviso in the bill, if we change the price at all in Utah and California we would be obliged to fix it strictly in accordance with the rates of freight. If this is done, the canning company could not sell its products at all in those States.

The distinguished gentleman from North Carolina and also the distinguished gentleman from Arkansas, defining the acts to which this section applies, have said it was cases where there was an attempt to drive out a competitor by means of fixing a lower price in some particular locality than was fixed in another State. If that is correct, why not so provide in that section instead of using words to which nobody can give a definition? What do the words "wrongfully injure" mean? One gentleman says one thing, and another says another thing. Nobody has undertaken to define the term beyond this mere statement that has been made by the gentleman from South Carolina [Mr. WEBB] and the gentleman from Arkansas [Mr. FLOYD]. If they use the terms I have provided for in this amendment, "to create a monopoly, to hinder competition, or restrain trade," then they will have words that have been passed upon judicially and which business men are ready to act under, and which will require no provisos which will permit of loopholes and evasions by which the whole act can be rendered nugatory.

Mr. Chairman, I think this amendment ought to be accepted and adopted.

Mr. WEBB. Mr. Chairman, I yield five minutes to the gentleman from Arkansas [Mr. FLOYD].

Mr. FLOYD of Arkansas. Mr. Chairman, in reply to the gentleman from Iowa [Mr. GREEN], I desire to state it is not contended that the verbiage of this section is the same as that included in all of the different State statutes; but our contention

is that the principle, the wrong that we are attempting to correct by the provisions in section 2 of this bill, has become so notorious and so well known that 21 States have passed statutes preventing discrimination, following the same principle. Now, the gentleman proposes to weaken the effect of what we have written here by requiring it to apply only when the effort is made to create a monopoly.

We are dealing with interstate trade and commerce. If the purpose is to create a monopoly, the persons offending are violating the Sherman law; and at the risk of giving the court some trouble in construing the statute, and at the risk of giving a wrongdoer some trouble in construing the statute, we have proposed a statute here which we believe, if enacted into law, will be more effective than all the provisions of the Sherman law have ever been in suppressing one of the grossest and greatest wrongs in the business methods of the great and powerful corporations of this country. For that reason we hope that the House will not weaken this provision by adopting the amendment offered by the gentleman from Iowa, which has the exact wording of the provisions of some of the State statutes.

Mr. GREEN of Iowa. Will the gentleman yield?

Mr. FLOYD of Arkansas. Certainly.

Mr. GREEN of Iowa. Surely the gentleman did not want to misstate my amendment. It covers not merely an attempt to create a monopoly, but anything that had the purpose to injure competition or restrain trade. Now, can the gentleman state anything that will be covered by this section as it is worded now that is not covered by my amendment?

Mr. FLOYD of Arkansas. I think so. I think it is more specific and more definite. Gentlemen complain of the difficulties of the business world on account of these provisions. I believe that in drafting statutes, and especially in drafting a criminal statute, we should make them so plain and specific that any man who reads can understand.

Mr. MURDOCK. Will the gentleman yield on that point?

Mr. FLOYD of Arkansas. Yes.

Mr. MURDOCK. I would like to ask the gentleman, in connection with what he has said, in line 11, page 21, what does the language of the bill mean by "difference in cost of transportation"? Do you mean the published rates, the rates filed with the Interstate Commerce Commission, or not? What do you mean by "transportation" there?

Mr. FLOYD of Arkansas. We mean the actual cost of transportation.

Mr. MURDOCK. Take the Standard Oil Co., and, as the gentleman knows, it owns great tank-line steamers and pipe lines which other people do not have the use of, and all manner of special means of transportation—are those included in this or not; or only the rates filed with the Interstate Commerce Commission, and no other rates, included in this line?

Mr. FLOYD of Arkansas. The rates of transportation, the cost of transportation, whatever it may be or by whatever means it may be incurred.

Mr. MURDOCK. The gentleman said he wanted to be specific in the statute, and I was trying to find out.

Mr. FLOYD of Arkansas. Well, that is the way I understand it. Of course if a company has a pipe line of its own, the situation might be different.

Now, since the gentleman has mentioned the Standard Oil Co., the testimony in the great trial against the Standard Oil Co. has developed the fact that one of the very worst offenders that has ever existed in this country in this evil practice of unfair discrimination is that same Standard Oil Co.

Mr. MURDOCK. Does the gentleman think he has reached them in that phrase?

Mr. FLOYD of Arkansas. We certainly do. We have reached the Standard Oil Co., and we have reached every other concern that comes within the purview of this particular provision.

Mr. HULINGS. Will the gentleman permit a question?

Mr. FLOYD of Arkansas. I will.

Mr. HULINGS. I see, in line 10, page 21, that one of the exceptions is that discrimination can be made when there is a difference in the cost of the commodity. Now, does not that provision specifically provide that the big man will always have that discrimination in his favor, and if you allow that do not you make just an open road for big business to avoid the law?

The CHAIRMAN. The time of the gentleman has expired.

Mr. FLOYD of Arkansas. I am sorry my time has expired; I would like to answer the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Iowa [Mr. GREEN].

The question was taken, and the Chair announced that the noes seemed to have it.

Mr. VOLSTEAD. Division, Mr. Chairman.

The committee divided, and there were—ayes 34, noes 42.

Accordingly the amendment was rejected.

Mr. GARDNER. Mr. Chairman, I desire to offer an amendment.

The CHAIRMAN. The gentleman from Massachusetts offers an amendment, which the Clerk will report.

The Clerk read as follows:

Page 21, line 1, transpose the word "thereby" and the word "to."

The CHAIRMAN. The gentleman from Minnesota [Mr. VOLSTEAD].

Mr. VOLSTEAD. I yield to the gentleman from Massachusetts a quarter of a minute.

The CHAIRMAN. The gentleman from Massachusetts is recognized for 15 seconds.

Mr. GARDNER. Mr. Chairman, this is in order to avoid a split infinitive. The gentleman from Vermont [Mr. GREEN], who is much more of a rhetorician than I am, tells me that we could never be relected in New England if we allowed——

The CHAIRMAN. The time of the gentleman has expired.

Mr. WEBB. The gentleman is from Massachusetts, a State of scholars, and we owe a great deal to its scholars, orators, and statesmen. Therefore, in order to avoid the calamity of a split infinitive, which the gentleman seeks to prevent, we will accept the gentleman's amendment. [Applause and laughter.]

The amendment was agreed to.

Mr. TOWNER. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The gentleman from Iowa offers an amendment, which the Clerk will report.

The Clerk read as follows:

Page 21, line 2, strike out the words "or wrongfully injure the business of a competitor, of either such purchaser or seller" and insert in lieu thereof the word "competition."

Mr. VOLSTEAD. I yield to the gentleman from Iowa [Mr. TOWNER] one minute.

The CHAIRMAN. The gentleman from Iowa is recognized for one minute.

Mr. TOWNER. Mr. Chairman, this is quite similar to the amendment offered by the gentleman from Iowa, my colleague, Mr. GREEN. However, I think it is more clearly evident that this will be an extension of the rule rather than a limitation. Certainly the evident purpose of the section is to prevent the destruction of competition. If this amendment is adopted, the statute will read:

That any person engaged in commerce who shall, either directly or indirectly, discriminate in price * * * with the purpose or intent thereby to destroy competition, shall be deemed guilty of a misdemeanor.

I submit to the gentleman from Arkansas that this language is much more comprehensive than the language in the bill, and very much less liable to meet with adverse construction by the courts.

The amendment was rejected.

Mr. AVIS. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The gentleman from West Virginia offers an amendment, which the Clerk will report.

The Clerk read as follows:

Page 21, lines 13 to 15, inclusive, after the word "customers," in line 14, strike out the comma, and in lines 14 and 15 strike out the words "except as provided in section 3 of this act" and insert in lieu thereof the following: In line 13, after the word "wares," the words "bituminous or semibituminous coal," and insert a period after the word "customers," in line 14.

Mr. VOLSTEAD. I yield to the gentleman from West Virginia [Mr. AVIS] five minutes.

The CHAIRMAN. The gentleman from West Virginia is recognized for five minutes.

Mr. AVIS. Mr. Chairman and gentlemen, I appeal particularly to the gentlemen who come from bituminous and semibituminous coal-producing States to consider carefully the amendment that I have just offered. The committee has stated that it is the purpose of section 2 to prevent one competitor from destroying or injuring another competitor. It has also been stated that its purpose is to control or prevent monopoly. I say to you gentlemen that, in my humble opinion, coming from a coal-producing State and knowing conditions in the bituminous coal fields, if this bill becomes a law as it is to-day, instead of destroying monopoly it will destroy competition and create monopoly.

You will notice that section 2 permits every man to prefer and select his own customers, except as provided in the last four lines:

That nothing herein contained shall prevent persons engaged in selling goods, wares, or merchandise in commerce from selecting their own customers, except as provided in section 3 of this act.

And in section 3 of this act it is provided that no operator or owner of a coal mine can "refuse arbitrarily" to sell, and

so forth, and those words are limited by the words of section 2, which prevent him from selecting his own customers. And I want to say to you gentlemen who come from the great coal-producing States of the Union—I am not referring to anthracite coal, but to bituminous coal—that there is no monopoly of the coal business; that the production now is greater than the demand therefor; and that, notwithstanding the fact that freight rates, labor, and mine supplies have doubled in price, bituminous coal is selling as cheaply to-day, if not more cheaply, than it sold 8 or 10 years ago, and we in West Virginia are putting coal into New England and paying $2.10 a ton freight on it and selling it more cheaply than it is sold at the pit mouth at Cardiff, Wales.

Mr. FLOYD of Arkansas. Will the gentleman yield?

Mr. AVIS. Yes.

Mr. FLOYD of Arkansas. Will the gentleman read the paragraph as it will read if amended?

Mr. AVIS. Will the gentleman give me time for that?

Mr. FLOYD of Arkansas. Yes.

Mr. AVIS. As it is now the language is—

That nothing herein contained shall prevent persons engaged in selling goods, wares, or merchandise in commerce from selecting their own customers, except as provided in section 3 of this act.

As amended it will read:

That nothing herein contained shall prevent persons engaged in selling goods, wares, bituminous or semibituminous coal, or merchandise in commerce from selecting their own customers.

Gentlemen, there is no monopoly of the coal business, not nearly so much as there is of the timber and cotton business. As I say, competition is so great that in my State the mines are not running more than two and one-half days a week.

Mr. FLOYD of Arkansas. What does the gentleman do with the last clause?—

Except as provided in section 3 of this act.

Mr. AVIS. I propose to strike out the words—

Except as provided in section 3 of this act.

In other words, to-day the competition is so great in the bituminous-coal industry——

Mr. FLOYD of Arkansas. Will the gentleman permit a suggestion there?

Mr. AVIS. Yes.

Mr. FLOYD of Arkansas. That relates to section 3. The language the gentleman complains of is in section 3.

Mr. AVIS. Yes; in sections 2 and 3.

Mr. FLOYD of Arkansas. It seems to me that the gentleman's exception ought to be in section 3.

Mr. AVIS. Except for this purpose, if the gentleman will permit me and give me a little further time to answer——

Mr. ALEXANDER. Will the gentleman yield?

Mr. AVIS. I desire to answer the gentleman from Arkansas. The trouble with section 3 is that its purpose is to cover all minerals, even oil and gas. Now, by section 2 you prevent, or rather you limit or define the meaning of the words "refuse arbitrarily," in section 3, by saying, in effect, in section 2, that it is an arbitrary refusal to select one's own customers by a coal operator or a mine owner. Either that exception ought to be in section 2 or the words stricken out of that section that would cause any confusion if a question should be taken before the courts to decide what was intended. I hope that gentlemen who come from the great States of Illinois, Ohio, Pennsylvania, Indiana, Kentucky, West Virginia, Virginia, Alabama, Utah, Washington, and Wyoming and the other States engaged in the bituminous-coal industry will hesitate before they decline to adopt this amendment.

Mr. WEBB. Mr. Chairman, I yield five minutes to the gentleman from Arkansas [Mr. FLOYD].

Mr. FLOYD of Arkansas. Mr. Chairman, aside from whatever merits may be embodied in the amendment offered by the gentleman from West Virginia, I desire to call his attention to the fact that there is nothing in the section he proposes to amend that in any way deals with the subject matter about which he complains. That is in section 3, and the effect of his amendment incorporated in section 2 would completely destroy section 3, and it seems to me that in order to reach the purpose desired by the gentleman this language which he proposes to strike out should remain intact in section 2, and whatever amendment he desires to incorporate in regard to mine products ought to be offered to section 3.

Mr. AVIS. I will say to the gentleman that if I thought that was a fact I would not ask to have it adopted here, or if you put the exception in section 3 it might cover the point, but how do you know that the House is going to do so? If you leave the words "except as provided in section 3 of this act" in section 2, and incorporate the amendment I propose in section 3, you would have two sections apparently conflicting. You would have one section excepting bituminous coal, and then you would have another providing that nothing herein contained shall prevent a person selecting his own customers, except as provided in section 3.

Mr. FLOYD of Arkansas. I think I can make it clear that the gentleman's statement is not correct. It says that nothing herein contained shall prevent persons engaged in selling goods, wares, and merchandise in commerce from selecting their own customers, except as provided in section 3 of this act. Now, if section 3 of the act did not exist, and if reference to that section is stricken out of the language in section 2, there would be nothing to prevent bituminous-coal operators from selecting their customers in section 2. The limitations are in section 3, and I insist in perfect good faith that the gentleman ought to offer his amendment to section 3, which deals with the products of mines and contains the provisions complained of.

Mr. AVIS. I appreciate the courtesy of the gentleman from Arkansas, but what is confusing to me is that if you put my amendment into section 3 it will apparently conflict with this language, that—

nothing herein contained shall prevent persons * * * from selecting their own customers, except as provided in section 3 of this act.

Mr. FLOYD of Arkansas. If the gentleman's amendment is incorporated in section 3, it will relate back to section 2, and modify its provisions accordingly.

Mr. AVIS. The gentleman may be right, but I am afraid the meaning will be obscure. Will the gentleman accept my proposed amendment to section 3?

Mr. FLOYD of Arkansas. No; I could not afford to accept the amendment; but I think if the gentleman offers it in section 3, as I suggest, he will accomplish his purpose without in any way affecting or displacing the purpose of section 3 as to other products of mines. It is unnecessary to make any amendment to section 2, providing you can secure an amendment in section 3 excepting bituminous-coal products from the provisions of that section.

Mr. AVIS. The gentleman may be right—and I am inclined to think that he is—but, at the same time, I think that the language might be obscure and cause confusion.

Mr. FLOYD of Arkansas. Well, Mr. Chairman, we oppose the amendment, because we do not think it has any place in this section.

Mr. VOLSTEAD. Mr. Chairman, I yield three minutes to the gentleman from Ohio [Mr. SWITZER].

Mr. SWITZER. Mr. Chairman, I desire to ask the chairman of the Judiciary Committee a question. Does the word "commodities" in this section include everything that can be shipped, like live stock, live poultry, horses, mules, and so forth?

Mr. WEBB. I think so; why should it not?

Mr. SWITZER. There has been some query about it on this side.

Mr. MADDEN. Does it include coal?

Mr. WEBB. It would include coal except for the provision in section 3.

Mr. SWITZER. Mr. Chairman, I desire in support of the amendment offered by the gentleman from West Virginia [Mr. AVIS] to read a few lines from a coal operator in my district—Mr. Edwin Jones, of Jackson, Ohio—relative to section 3. It is as follows:

I find the bill states that an operator can not arbitrarily refuse to sell such product to persons, firms, or corporations. As you quite well understand, occurrences are common wherein business firms are responsible financially, but oftentimes their business methods are such that you would not be desirous of doing business with them. Oftentimes mine owners have arrangements that have been in force for years, wherein they have given exclusive sale to certain jobbers of coal, and frequently we find cases where a man, firm, or corporation will be justly at that time entitled to credit, but that you had good reason on account of the habits of the man or individual in charge to believe that he could not continue to be successful.

Mr. Chairman, I think the criticism of this bill respecting this industry is well timed and should be considered before voting on section 2.

The CHAIRMAN. The question is on the amendment offered by the gentleman from West Virginia.

The question was taken, and the amendment was rejected.

Mr. MORGAN of Oklahoma. Mr. Chairman, I offer the following amendment.

The Clerk read as follows:

Amend by striking out section 2 on page 20 and inserting in lieu thereof the following:

"SEC. 2. That any person engaged in commerce who shall discriminate in price, terms, or otherwise as between persons, sections, or communities, with intent thereby to destroy or wrongfully injure a competitor or to establish a monopoly or destroy or lessen competition in the production, manufacture, distribution, or sale of any such article, product, or commodity, shall be deemed guilty of a misdemeanor, and

upon conviction thereof shall be punished by a fine not exceeding $5,000 or imprisonment not exceeding one year, or both."

Mr. VOLSTEAD. Mr. Chairman, I yield the balance of my time to the gentleman from Oklahoma.

The CHAIRMAN. The gentleman from Oklahoma is recognized for 10 minutes.

Mr. MORGAN of Oklahoma. Mr. Chairman, I would like the attention of the other side to the provisions of this amendment. I want to call attention to the fact that section 2 prohibits but one thing—it prohibits simply discrimination in price. So far as this section is concerned, a man may be guilty of any other discrimination that would have the same effect in destroying competition, in injuring a competitor, or in injuring the public in any way, but yet it is not made unlawful under this section.

Mr. MURDOCK. Mr. Chairman, will the gentleman yield?

Mr. MORGAN of Oklahoma. For a question.

Mr. MURDOCK. The gentleman knows that one of the great cereal food manufacturers of this country, when he sells a large amount of that cereal to one man, gives a certain number of boxes in addition as a premium. Is that practice reached in this section?

Mr. MORGAN of Oklahoma. Certainly not, and that is one fact I wish to impress on that side of the House. In my first amendment the distinguished gentleman from Arkansas [Mr. FLOYD] complained because I wanted to restrict the application of this section to the large concerns, and now I wonder what answer he will make to this amendment, which I have offered, because here I want to enlarge the language, and enlarge it so that it will comprehend and include practically all unfair discrimination. He will vote one down because it narrows and vote the other down because it broadens. In the end we get the same result. The language which I have inserted is so as to add to the words "discrimination in prices" the words "in terms or otherwise," so that it will include all unfair discrimination. Are you partial to one discrimination?

Mr. WEBB. Mr. Chairman, will the gentleman yield?

Mr. MORGAN of Oklahoma. Yes.

Mr. WEBB. Does not the gentleman think his amendment is covered if this is done directly or indirectly? Does not that cover the very ground that the gentleman seeks to cover now?

Mr. MORGAN of Oklahoma. No; because "directly or indirectly" apply only to discrimination in price. Why should not it be unlawful for one to discriminate in terms? I hold here the report of the Commissioner of Corporations for 1913 upon the International Harvester Co. What does he show there? He shows that one of the most effective methods used in acquiring a monopolistic control in that great industry was by discrimination in terms. Notice what he says on page 35 of that report:

> In this connection there is large complaint that the company grants unusually long terms of credit to purchasers of some of these newer lines. One of the competitors of a company said, "The International Harvester Co. sells terms, not harrows."

One of the most effective methods of the International Harvester Co. was to give better terms than the independent and smaller concern could give, and the report of the Commissioner of Corporations shows that these dealers complain that the International Harvester Co. sold "terms and not harrows," and yet when you are legislating for the purpose of controlling and making unlawful the methods of the great concerns of the country, you say to them, "Go ahead and use all kind of discrimination in terms, use all kinds of unfair practices, use all kinds of disreputable methods in the interest of the big corporations, and so long as you do not discriminate directly or indirectly in price, you shall be free and untrammeled to go and devour the small concern and exact undue profits from the people by your excessive prices." I want to know whether the Members of that side of the House will vote against enlarging this section, so that you shall make other things unlawful.

Take the second proviso. It provides that only discrimination in price "for the purpose or intent of destroying or wrongfully injuring a competitor" shall be unlawful. You can discriminate for all other purposes, so long as you do not discriminate with the purpose of destroying or injuring a competitor.

Mr. GARDNER. Mr. Chairman, will the gentleman yield?

Mr. MORGAN of Oklahoma. Yes.

Mr. GARDNER. I want to ask the gentleman whether his amendment does anything further, substantially, than to strike out the words "in price," because, as I heard it read, it strikes out the last two provisos of that section as well?

Mr. MORGAN of Oklahoma. Yes.

Mr. GARDNER. I am in sympathy with the gentleman striking out the words "in price."

Mr. MORGAN of Oklahoma. I do not strike out "in price," but I add "in terms or otherwise."

Mr. GARDNER. I am in sympathy with that, but what about striking out the two provisos?

Mr. MORGAN of Oklahoma. I had an object in that. I enlarged the section in this, because I make it unlawful not only to discriminate with the purpose of destroying a competitor, but with the purpose of establishing a monopoly or lessening or destroying competition. Why should you not enlarge it? It does not weaken the section if I leave the language which you use and add this other language. It does enlarge it. It may enable you to prosecute some large concern that you could not prosecute under this section as it is.

When I want to narrow one of these sections, you vote it down, because you do not want it narrowed; and when I want to broaden one so as to make it more comprehensive, you vote that down on that account.

I have left out that first proviso and also the second proviso, because when in one part of the section you prohibit the great concerns of this country from discriminating in price and then add a proviso that this shall not apply to any discrimination on account of grade, quality, or quantity, what have you done? You have opened the gates—not the eye of a needle, but the gates of a great highway—into which the trusts can enter. Why? Take the International Harvester Co. They have many brands of machinery, many kinds of harvesters, various classes of farm implements. The great concern may have one brand of goods to sell in Oklahoma and another to sell in Nebraska. They have the capital, they have the organization, and they have the financial backing. They can have all kinds of qualities and grades of goods. The small concern can not.

The CHAIRMAN. The time of the gentleman from Oklahoma has expired. The question is on the amendment offered by the gentleman from Oklahoma.

The question was taken; and on a division (demanded by Mr. MORGAN of Oklahoma) there were—ayes 30, noes 47.

So the amendment was rejected.

Mr. BRYAN. Mr. Chairman, I offer the following amendment which I send to the desk and ask to have read.

The Clerk read as follows:

> Page 21, line 11, after the word "transportation," strike out the remainder of the paragraph.

Mr. BRYAN. Mr. Chairman, can I have a minute on that? Is the time in such state that I can not explain my amendment?

Mr. MURDOCK. Or has all the time been exhausted?

The CHAIRMAN. The Chair will state to the gentleman——

Mr. WEBB. I will yield three minutes to the gentleman.

Mr. BRYAN. I will only take up a minute or so, probably not the entire three minutes. The present law provides, or at least the act——

Mr. MOORE. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it. Does the gentleman from Washington yield?

Mr. MOORE. But I make a parliamentary inquiry.

Mr. BRYAN. Not unless it does not come out of the time yielded to me by the gentleman from North Carolina.

Mr. MOORE. It is a question as to whether the gentleman has any time.

Mr. BRYAN. Mr. Chairman, I refuse to yield to the gentleman if that is the question.

Mr. MOORE. Mr. Chairman, I make the point of order the gentleman has no time under the agreement made some time ago.

The CHAIRMAN. The Chair will state that the gentleman from North Carolina [Mr. WEBB] yielded three minutes.

Mr. MOORE. I make the point of order the gentleman from North Carolina has no time to yield. There was an agreement that all discussion should cease at the end of a certain time.

The CHAIRMAN. But the gentleman from North Carolina has seven minutes at his disposal.

Mr. MOORE. I beg pardon, if that is true.

Mr. MURDOCK. I think the gentleman ought to beg the pardon of the gentleman from Washington.

Mr. MOORE. I do, most profoundly.

Mr. BRYAN. It is granted. Mr. Chairman, the present terms of the Sherman antitrust law are such that the seller of goods making an attempt to select his customers and refusing to sell to all others, if such selection or discrimination be in restraint of trade, it is a violation of the law. But under this provision the seller can select his customer to the exclusion of all others, and it is legal whether it is in restraint of trade or not. I think that the only effect of this proviso in the bill is to give all parties an opportunity to name their customers where they are prohibited from doing so under the present law. For instance, this says—

That nothing herein contained shall prevent persons engaged in selling goods, wares, or merchandise in commerce from selecting their own customers.

What would prevent the paper manufacturers of this country from refusing to sell the Democratic Party publications paper? Suppose they would sell paper only to the Progressive and Republican papers. Suppose the shoe manufacturers of a particular locality would say they would not sell shoes to anybody except a certain set of people, the bakers refuse to sell bread to strikers, the butchers refuse to sell meat to members of the union. Under the present law that is absolutely prohibited if it is a selection or discrimination in restraint of trade, and in this bill such transactions are unconditionally protected.

Mr. FLOYD of Arkansas. Will the gentleman yield?

Mr. BRYAN. I yield.

Mr. FLOYD of Arkansas. Now, as we understand the proposition, under the present law things that the law prohibited are not authorized by any proviso. We leave the present law as it is, and this proviso simply does not undertake to make it an offense or fix a penalty under this particular provision of the statute.

Mr. BRYAN. Is the gentleman quite sure the court, in interpreting this provision as a substitute for the former statute, will not take this proviso——

Mr. FLOYD of Arkansas. Absolutely sure.

Mr. BRYAN (continuing). And say that this proviso governs in that particular matter? That the proviso is a part of the whole section, and where the main provisions of the section apply the proviso must follow?

Mr. FLOYD of Arkansas. The proviso does not authorize anything. When we insert a proviso applying to certain things we leave the law as to those things exactly as it is. If it is a violation of the law now, it will be a violation of the law after the enactment of the provision into law.

Mr. BRYAN. Then, why not agree to my amendment and strike out the proviso and let the law stand as it is if we are going to depend upon the law as it is?

Mr. FLOYD of Arkansas. This provision if made a statute would then make them unlawful, and we would prohibit many things we do not desire to prohibit. We do not desire to disturb customs that are not wrong within themselves. We have said that throughout this debate. We are seeking to correct real wrongs; and where customs and practices appear to be proper and right, we do not propose to disturb them; and the effect of the gentleman's proviso would make the things mentioned in the exception unlawful that are not now unlawful under the Sherman law; and if any one of these things mentioned in the proviso are unlawful under the Sherman law, this does not repeal the Sherman law.

Mr. BRYAN. Yes; but you prohibit certain things provided the seller may select his own customers, and so forth. Now, it seems to me you can not enforce your prohibition except under the stated terms of your proviso.

The CHAIRMAN (Mr. HARRISON). The time of the gentleman has expired. The question is on the amendment offered by the gentleman from Washington.

The question was taken, and the amendment was rejected.

Mr. BRYAN. Mr. Chairman, I offer this amenedment.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Page 21, line 14, after the word "customers," insert "except when such act tends to create monopoly, destroy competition, restrain trade, or."

Mr. BRYAN. Mr. Chairman, I do not care to debate the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Washington.

The question was taken, and the amendment was rejected.

Mr. GOOD. Mr. Chairman, I offer an amendment on page 20, line 20, to strike out the words "in price."

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amend, page 20, in line 20, by striking out the words "in price."

The CHAIRMAN. The question is on the amendment.

The question was taken, and the Chairman announced the noes seemed to have it.

Mr. MURDOCK. Mr. Chairman, let us have a division on that.

The committee divided; and there were—ayes 35, noes 46.

So the amendment was rejected.

The Clerk read as follows:

SEC. 3. That it shall be unlawful for the owner or operator of any mine or for any person controlling the product of any mine engaged in selling its product in commerce to refuse arbitrarily to sell such product to a responsible person, firm, or corporation who applies to purchase such product for use, consumption, or resale within the United States or any Territory thereof or the District of Columbia or any insular possession or other place under the jurisdiction of the United States, and any person violating this section shall be deemed guilty of a misdemeanor and shall be punished as provided in the preceding section.

Mr. WEBB. Mr. Chairman, it was suggested the gentleman from West Virginia [Mr. AVIS] is very much interested in this section, and he desires to leave, and if there is no objection I will ask that this section be passed until to-morrow.

Mr. AVIS. And that it will be taken up the first thing to-morrow, or some time to-morrow.

Mr. WEBB. The request is that we pass it over until to-morrow.

Mr. BATHRICK. Mr. Chairman, I have got to go away to-morrow myself, and I desire very much to present an amendment to this section.

Mr. DECKER. Offer it and let it be pending.

The CHAIRMAN. The gentleman from North Carolina asks unanimous consent to pass over this section until to-morrow. Is there objection?

Mr. BATHRICK. Now, Mr. Chairman, reserving the right to object, what disposition will you make affecting my amendment because of my being obliged to be absent to-morrow?

Mr. WEBB. So far as the committee can say, I will be glad to have you offer it now and have it pending.

Mr. MANN. Let me suggest to the gentleman that the section be read, and then the gentleman from Ohio offer his amendment, and let that be disposed of, and then the section be passed over.

Mr. BATHRICK. That is agreeable to me, Mr. Chairman. I offer the amendment.

Mr. WEBB. Mr. Chairman, I ask that all amendments be offered now.

Mr. MANN. I do not think it is desirable to have a half a dozen amendments offered at once.

The CHAIRMAN. Does the gentleman from North Carolina withdraw his request for unanimous consent?

Mr. WEBB. No, sir; but I postpone the request until the gentleman from Ohio [Mr. BATHRICK] offers his amendment and speaks on it.

The CHAIRMAN. The Clerk will report the amendment offered by the gentleman from Ohio [Mr. BATHRICK].

The Clerk read as follows:

After the word "mine," in lines 17 and 18, page 21, insert the words "or natural mineral deposit."

Mr. BATHRICK. Now, Mr. Chairman, as near as I can gather by any definition which I am able to find, the word "mine" does not cover an oil well. One of the most powerful means which the Standard Oil Co. has to carry on their monopoly is their power to refuse to sell the products of oil wells to independent refiners. Another means which they have to accomplish monopoly is to go into those oil sections where independent oil wells are located and temporarily, by very small sums on different occasions, overbid the price which independent refineries will pay for this oil. The result is that the independent oil companies are often thus encouraged to refuse to sell their oil to independent refineries. In this connection, reverting to section 2, I have thought that a discrimination in the price offered for a raw material could as well carry out an intent to destroy and wrongfully injure the business of a competitor as the discrimination in the price asked of purchasers. But that thought is aside from my amendment.

Now, this section as it is drawn, in my opinion, and with all respect to the committee for their careful and intelligent labors, to the purpose of preventing monopoly, leaves the door wide open for the Standard Oil Co. and others who own oil wells, which are not mines, to be exempt from this provision. And I say to the gentlemen of this House that if you intend to strike at the capsheaf monopoly of this country, the one which has formed the basis for most of the condemnation which has been directed toward monopoly, this section must be amended in some such respect as I have indicated.

As the Clerk has read, I propose to insert the words "or natural mineral deposit" after the word "mine," in lines 17 and 18 of section 3. Oil is a mineral, but an oil well is not a mine; and if we use the words "or natural mineral deposit" in the place that I have indicated I think there is no question whatever that we will cover the subject of oil.

Mr. FERRIS. Will the gentleman yield right there?

The CHAIRMAN. Will the gentleman from Ohio yield to the gentleman from Oklahoma?

Mr. BATHRICK. Yes.

Mr. FERRIS. I am inclined to think that there is something to what the gentleman says, and I am wondering whether it will be better to also insert the word "placer" or "lode." Now, there is a question of whether washing sand on the surface is

not mining. There is also a question as to whether producing oil from an oil well is mining. In either event, it ought to be made clear, and the clause ought to have the word "transporter" in there, as well as the word "owner" and the word "operator."

Mr. BATHRICK. I wish to say further that I offered this amendment as it stands, with the knowledge that what the gentleman from Oklahoma says about placer mines is correct. I will also direct the attention of the committee to the fact that there is a strange sameness of prices asked of consumers of fertilizer. This product relies largely upon phosphate mines, but there is a large supply of phosphate rock dredged from rivers, and I doubt that these deposits would come under the definition of the word "mine," although phosphate, I think, is a derivative of phosphorus, which is an inorganic substance coming from the earth, and would be construed as a "mineral" as well as oil.

These matters I ask the committee to take into consideration. I expect to be absent to-morrow, and I trust some of the gentlemen on the floor of this House will take the matter up and see that that section is taken care of in these respects, if it should happen that I can not be here and no vote under the agreement can be had to-day.

Mr. WEBB. Mr. Chairman, I yield to the gentleman from Missouri [Mr. DECKER] to offer an amendment. I believe that was agreed to.

Mr. MURDOCK. Is not there an amendment pending?

The CHAIRMAN. There is an amendment pending, the Chair understands, offered by the gentleman from Ohio [Mr. BATHRICK].

Mr. GARDNER. I demand the regular order.

The CHAIRMAN. The regular order is to dispose of the amendment pending, offered by the gentleman from Ohio [Mr. BATHRICK].

Mr. FERRIS. Mr. Chairman, if a vote is to be had on the amendment, I want to be heard on it. If this is to be laid aside, to be voted on to-morrow——

Mr. WEBB. I understood the agreement was that the vote thereon should go over until to-morrow.

The CHAIRMAN. The Chair desires to ask the gentleman from North Carolina if that motion was put?

Mr. WEBB. The motion was not put.

Mr. FERRIS. You were asking for unanimous consent to pass that over until to-morrow?

Mr. WEBB. I did ask unanimous consent to withdraw, and I renew it, that amendments may be offered now and spoken to, and then allow the matter to go over until to-morrow.

Mr. MANN. The gentleman from Ohio [Mr. BATHRICK] wants to go away, and so why not dispose of his amendment and then, unless other gentlemen insist, put the section over until to-morrow?

Mr. WEBB. It would be more agreeable to let this section go over until to-morrow.

Mr. MANN. The gentleman has no objection to disposing of this particular amendment now, has he?

Mr. WEBB. There is no debate. We are ready to vote on this amendment now if the gentleman from Ohio desires.

Mr. FERRIS. I am not ready to vote on it.

Mr. MANN. How much more time is wanted on this amendment?

Mr. FERRIS. Mr. Chairman, I hope the gentleman from North Carolina will carry out the thought that he and the gentleman from Illinois had a moment ago, which was to let the gentleman from Ohio [Mr. BATHRICK] offer his amendment and make a speech on it, and then let the whole matter go over until to-morrow.

Mr. MANN. He has offered his amendment and made his speech. Why does not the gentleman from Oklahoma answer the speech and let us vote on this amendment?

Mr. FERRIS. Because I have a lot of other amendments I want to offer to the section.

Mr. WEBB. Mr. Chairman, I ask unanimous consent that all debate on the amendment of the gentleman from Ohio [Mr. BATHRICK] be closed in five minutes.

Mr. MOORE. Mr. Chairman——

The CHAIRMAN. Is that the gentleman's motion? Has the gentleman finished his motion?

Mr. WEBB. Yes, sir.

The CHAIRMAN. The gentleman from North Carolina [Mr. WEBB] asks unanimous consent that the amendment of the gentleman from Ohio [Mr. BATHRICK] be voted on in five minutes and that the section then go over for amendment until to-morrow.

Mr. MOORE. Mr. Chairman——

Mr. MURDOCK. Reserving the right to object, why not put those requests separately?

Mr. GARDNER. Why should not the gentleman move to close debate in five minutes on the amendment?

Mr. WEBB. Mr. Chairman, I ask unanimous consent to close debate in five minutes.

The CHAIRMAN. The gentleman from North Carolina asks unanimous consent that the debate on this amendment offered by the gentleman from Ohio [Mr. BATHRICK] close in five minutes. Is there objection?

Mr. MOORE. Reserving the right to object, the gentleman from Ohio has already spoken and taken up the time. I presume, he desired to take up in support of his amendment. It is evident that a number of gentlemen want to speak on this proposition, as other gentlemen have risen. It is not fair to other gentlemen who desire to speak to close debate in five minutes.

Mr. MANN. I suggest to the gentleman that he move to close debate in five minutes.

The CHAIRMAN. Does the gentleman object?

Mr. WEBB. I hope the gentleman will not object.

Mr. MOORE. I reserved the right to object, in the interest of other gentlemen who might desire time, but if the arrangement is satisfactory to them and the gentleman from Ohio I will not object.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. FERRIS. Mr. Chairman, if I could have my preference, I would willingly let this matter go over until to-morrow; but as that course is not desired, I may as well say what I have to say now. I will offer the amendments I have in mind to-morrow.

This section of the bill should undoubtedly be amended. On page 21, line 16, after the word "owner," there should be inserted a comma and the words "transporter, transportation companies, including pipe lines," so that you will catch the pipe lines. That is, roughly, amendment No. 1.

The second amendment that should be offered is along the line of the amendment offered by the gentleman from Ohio, which I am perfectly willing to support; but I think a better amendment would be, in line 18, page 21, after the word "any," to insert the words "including the products from placer or lode mines," so that you will be sure to take in the sands of the sea or rivers that are washed on the surface, from which mineral is obtained, which may or may not be a mine, under the strict construction of the term. One thing is certain, it is never an effort in vain to make certain that which is at best uncertain.

I am not at all sure that placer mining, under which oil is removed from the surface of the earth, can be considered to be a mine at all. It may be, but it is doubtful. There is a question whether or not under the commodity clause the pipe lines that carry it can be reached. The Commerce Court held the law declaring them carriers void, and the matter is now pending in the Supreme Court; and so far we can not get a decision out of the Supreme Court. We have been expecting it for a long time. This is the most important matter to the great oil industry of this country within my knowledge.

There should be another amendment to this section, which I will offer as soon as I get a chance, after the word "mine," in line 18, page 21, to insert the words "or hydroelectric water power or products produced by such power."

When the chairman of the committee explained this section in his initial speech he said that the well-grounded and competent reason for the adoption of a section similar to this with reference to mines was because the products of mines are a God-given treasure for all of us that should not be monopolized by any of us.

I thought his explanation, interpretation, and definition of it was a full, complete, and magnificent one; but can any living man on earth say that anything is so subject to monopoly as falling water? Can anybody say that one commodity over another is more God-given than falling water, which, dependent upon the topography of the country at a given point, is high and low at another point; and can anyone here or elsewhere justify the omission of water power from this section? No question is more important, few questions are more universal. It affects all of us. Water power lights American homes, streets, and cities. It runs our sewing machines, our automobiles, our vehicles, cooks our food, warms our homes, and every conceivable thing that electricity has been applied to in the last generation. Remember, gentlemen, that electricity is fairly in its infancy. Nobody knows what 50 years will bring to us in hydroelectric development, and no one can safeguard too well the water power of the country and prevent its getting into the hands of selfish monopoly that may torture all mankind as

long as the human race exists. We ought to put in that restriction, and we ought to pass some other bills in relation to water power in this country. Approximately 12 per cent only of the water-power possibilities on the public lands of this country have been utilized so far. This House ought to make it possible to utilize the rest of that water power and put statutes onto the books which will enable us not only to lease water power for a short time but contain sufficient recapture clauses, so that we can bring it back and utilize it by the Government, or utilize it by local municipalities if they elect to take it over. Nothing is needed worse than cheap power and cheap illumination. This bill ought not to omit it. I hope the committee will be glad to accept it.

The committee has accomplished much good here, but this is too important to omit. It is not sufficient to leave out oil and water power. They are the two large questions of this day.

Mr. CAMPBELL. Has the gentleman from Oklahoma any plan whereby the remaining portion of this water power may be utilized?

Mr. FERRIS. I have. We have a bill on the calendar now. It is not reported yet, but it is authorized to be reported. The gentleman from Illinois [Mr. GRAHAM], of the Public Lands Committee, has been designated to write the report. It was introduced by me. It has the support of the conservative people of this country.

Mr. CAMPBELL. I take it some one will have to harness the water before it can be made use of.

Mr. FERRIS. Very true; and we have furnished ample provision for that. I hope the amendment of the gentleman from Ohio will be adopted

Mr. WEBB. I want to say that when we drafted this section we intended that it should apply to oil. As there seems to be some doubt about it, the committee thinks the amendment of the gentleman from Ohio makes it more certain, and I am perfectly willing to accept the amendment, because it is our intention to include oil as one of the products of mines.

The CHAIRMAN. The time of the gentleman has expired. All time has expired. The question is on the adoption of the amendment of the gentleman from Ohio [Mr. BATHRICK].

Mr. BARKLEY. I ask unanimous consent to have the amendment again reported.

The Clerk read the amendment again, as follows:

After the word "mine," in line 17, and in 18, on page 21, insert the words "or natural mineral deposit."

The amendment was agreed to.

Mr. MURDOCK. Now get in your request for unanimous consent.

Mr. WEBB. Mr. Chairman, I renew my request.

The CHAIRMAN. The gentleman from North Carolina asks unanimous consent that this section be passed for amendment to-morrow.

Mr. AVIS. Reserving the right to object, may I ask the gentleman from North Carolina a question?

Mr. FLOYD of Arkansas. Were those words also inserted after the word "mine," in line 18?

The CHAIRMAN. Both amendments were read and adopted.

Mr. DECKER. Mr. Chairman, I should like to have the amendment read which I send to the Clerk's desk.

The CHAIRMAN. The request of the gentleman from North Carolina [Mr. WEBB] for unanimous consent is pending.

Mr. WEBB. I withdraw that request in view of the fact that the gentleman from Missouri [Mr. DECKER] says he can not be here to-morrow and would like to have his amendment offered and to speak five minutes on it.

The CHAIRMAN. The Clerk will report the amendment offered by the gentleman from Missouri [Mr. DECKER].

The Clerk read as follows:

On page 21, in line 19, after the word "arbitrarily," insert the following:

"With the purpose or intent thereby to destroy or wrongfully injure the business of any person."

[Mr. DECKER addressed the committee. See Appendix.]

Mr. WEBB. Mr. Chairman, I think this amendment is useless. What we really aim to punish under this section is the big operator who has millions of tons of coal and who arbitrarily refuses to sell to any but those he favors. Although I may go to him or you may go to him with the money and ask him to sell to us, he arbitrarily, capriciously, without any good reason whatever, refuses to sell his product, and we think he ought to be punished if he so refuses.

Mr. MADDEN. Will the gentleman yield?

Mr. WEBB. Yes.

Mr. MADDEN. Does the gentleman know of a case of that kind in the United States?

Mr. WEBB. I do not recall one at present.

Mr. MADDEN. Neither does anybody else. It is mere nonsense and ought to be stricken out.

Mr. WEBB. If the gentleman from Illinois knew the high authority and the great men who favor this provision he perhaps would not make that statement.

Mr. MANN. Will the gentleman yield?

Mr. WEBB. Yes.

Mr. MANN. What does it mean when it says "refuses arbitrarily to sell"? What does the word "arbitrarily" mean?

Mr. WEBB. It means without reason, without cause, capriciously.

Mr. MANN. The gentleman says "without cause." A man sells to one and he does not sell to another, because he does not like him, perhaps, and that is cause.

Mr. WEBB. That would be arbitrarily, I should say.

Mr. MANN. Does it mean sufficient cause, and if so, what is sufficient cause? Does the gentleman think that the courts would be able in 20 or 30 years to determine what this means?

Mr. WEBB. Yes; if they applied everyday common sense to it they would reach a conclusion very soon.

Mr. MANN. It would require more common sense than I possess or than is possessed by the gentleman from North Carolina, because he is not able to define it. What does "arbitrarily" mean? The definition the gentleman gave was "without cause."

Mr. WEBB. Yes; without reason or cause—capriciously.

Mr. BRYAN. Will the gentleman yield?

Mr. WEBB. Yes.

Mr. BRYAN. The gentleman says that they are after the big operators; but suppose a man comes from Alaska with a big bag of gold dust or nuggets and some one offers to purchase it from him, by what right could he refuse to sell? He has it for sale for no other purpose whatever. This statute would compel him to sell it at the first proposition.

Mr. WEBB. If he got his price for it, he would be glad to be relieved of it, and if he did not get his price he need not sell, though I hardly think this section would apply to the case stated by the gentleman.

Mr. BRYAN. The statute does not say anything about big operators; it says "all operators."

Mr. WEBB. It is intended to apply to the monopolistic operators.

Mr. LEVY. Does this apply to the coal lands in Alaska?

Mr. WEBB. No; they are owned by the Government and are held for all the people. I hope that the amendment offered by the gentleman from Missouri will not be adopted.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Missouri [Mr. DECKER].

The question was taken, and the amendment was rejected.

Mr. WEBB. Mr. Chairman, I ask unanimous consent that all discussion on this section and amendments thereto go over until to-morrow morning.

The CHAIRMAN. The gentleman from North Carolina asks unanimous consent that the remaining discussion on this section and amendments thereto go over until to-morrow morning. Is there objection?

Mr. FERRIS. Is it the arrangement to take this up the first thing in the morning?

Mr. WEBB. We probably will.

Mr. MANN. Unless something is pending.

Mr. FERRIS. The first thing you do on this bill will be to take up this section?

Mr. WEBB. Unless something is pending.

Mr. GARDNER. Mr. Chairman, I would like to ask the gentleman from North Carolina whether this unanimous consent implies that no new amendments will be offered?

Mr. WEBB. Oh, no; it does not.

Mr. GARDNER. I have no objection.

The CHAIRMAN. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

The Clerk read as follows:

SEC. 4. That any person engaged in commerce who shall lease or make a sale of goods, wares, merchandise, machinery, supplies, or other commodities for use, consumption, or resale within the United States, or any Territory thereof or the District of Columbia or any insular possession or other place under the jurisdiction of the United States, or fix a price charged therefor, or discount from, or rebate upon such price, on the condition or understanding that the lessee or purchaser thereof shall not use or deal in the goods, wares, merchandise, machinery, supplies, or other commodities of a competitor or competitors of the lessor or seller shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not exceeding $5,000, or by imprisonment not exceeding one year, or by both, in the discretion of the court.

Mr. McCOY. Mr. Chairman, I offer the following amendment, which I send to the desk and ask to have read.

The Clerk read as follows:

Page 22, line 14, insert, after the word "seller," the following:

"With the intent of obtaining or establishing a monopoly or of destroying the business of a competitor."

Mr. McCOY. Mr. Chairman, I ask unanimous consent to proceed for 10 minutes.

The CHAIRMAN. The gentleman from New Jersey asks unanimous consent to proceed for 10 minutes. Is there objection?

There was no objection.

Mr. McCOY. Mr. Chairman, I notice in the report of the committee on this bill, on page 11, the following:

Section 4 of this bill has apparently been much misunderstood, and great confusion seems to have arisen in regard to its provisions. Whether designedly or from a misunderstanding of its purport we know not, but it has been contended very earnestly that its provisions prevent exclusive or sole agencies.

I do not know in whose mind any confusion has or ought to have existed in regard to the question of exactly what this section does mean. Before proceeding with what I have to say I want to ask the members of the committee, when those who are in opposition to this amendment are heard, not to allow any red herring to be drawn across the scent and not to permit the matter to become mixed with this question of leases, because if they do, then they will have argued before the committee not the amendment which I propose, but they will have to go all over the question of the United Shoe Machinery Co.'s tying leases. I am just as much opposed to those as anybody can be. I do not propose by this amendment to permit that thing to be done, and I ask the committee to keep their minds on just the one proposition.

Nobody has maintained in support of this section that it had for its purpose the prohibition of what is known as an agency; that is, a straightaway agency, where there is simply the question of principal on one side and agent on the other. The committee itself says that it is not intended to do away with that sort of thing, and the absurdity of their position in that respect I hope to be able to demonstrate. In other words, the committee says that anybody, any manufacturer or producer, no matter who he is, can have just as many strict agencies as he wants to have. They can be agents who have roofs over their heads, or they can be commercial travelers, traveling throughout the country—that they do not seek to prevent that in any way, but that what they do seek to prevent is the making of contracts to create what are known as sole selling agencies. I do not know how much explanation is necessary in order to show what a so-called sole selling agency is. It has come to have a sort of technical meaning. Of course the number of contracts which can be executed, and by which sole selling agencies, so called, are created, can be infinite in their variety, but the main gist of a sole selling agency contract—and that is the thing which the committee seeks to hit—is a contract by which the man who has a thing to sell undertakes to give an exclusive territory to an agent, and on the other hand undertakes to bind that agent not to sell in that territory any of the goods of a competitor. I want to call the attention of the committee to this fact. I presume they know this much of it, that the Committee on the Judiciary did have hearings in regard to these trust bills, tentative and otherwise. I do not know how many pages of testimony were taken, but a great many pages. I do not claim to have read all of the testimony. I have not, in fact, read it all, nor have I heard it all, but I have, so far as I have had the time, gone through the hearings, and have had in mind what was said when I was present at the hearings, and I believe, although I may be to some degree mistaken, that no member of the committee can point out any objection made by any man who appeared before our committee to these technical sole selling agencies. So far as I have been able to discover anything in the hearings, it will be found at page 140, and I call attention to the fact that it is the testimony of Mr. J. B. Moorehead, of Lexington, Mo., who was the national secretary of the Retail Merchants' Association of the United States.

It is obvious that if there is any harm to be remedied, if any harm has been done to the retail merchants of the country by permitting these sole selling agencies, the secretary of this association would have pointed it out. Let us take it up from the point of view of these retail merchants. I desire to call attention to the fact that the witness is now testifying about one of these so-called tentative bills, and I read from his testimony:

Mr. CARLIN. Do you not think that section 10 of bill No. 1 would give you some relief?

Mr. MOOREHEAD. I am not prepared to say.

Mr. CARLIN. I will read the language of that section to you:

"That it shall be deemed an attempt to monopolize trade or commerce among the several States or with foreign nations or a part thereof for any persons in interstate or foreign commerce to make a sale of goods, wares, or merchandise, or fix a price charged therefor or discount from or rebate upon such price, on the condition or understanding that the purchaser thereof shall not deal in goods, wares, or merchandise of a competitor or competitors of the seller."

Mr. MOOREHEAD. I am not up on forms of law. I do not know whether that would cover the case or not.

Mr. CARLIN. The intention is to liberate the retailer and give him a right to sell anybody's goods he wants to sell and to prevent a contract which would require him to sell exclusively a particular line of goods.

Mr. MOOREHEAD. That may be the difficulty of some lines of retailing, but that is only incidental to the great problem.

The business that is big enough, the aggregation of capital that is big enough to say to the manufacturer: "You sell us your product at such a price. If you do not do it, we will manufacture that product ourselves." That is the main thing. And what is the result?

Mr. CARLIN. You do not catch the idea of this section. The idea is that the manufacturer shall not say to any one man that he shall sell the particular line of goods of that particular manufacturer exclusively. It liberates the retailer. It liberates the retailer from that situation and allows him to buy goods of anybody he wants to and sell them in his store.

Mr. MOOREHEAD. I think that may be all right, but where that might be relevant to one case, there would be hundreds of cases that would not be on that line.

Mr. CARLIN. I am calling your attention to that one thing now, and ask you whether you do not think that would be helpful?

Mr. MOOREHEAD. I see no objection to it now.

That is not to be compared to the big question. Here is the proposition: As I started to say, the manufacturer may be intimidated to sell his goods to a large distributor by having it said to him, "You must sell us these goods at such a price, or we will make them ourselves." What is the result? The big buyer gets the goods at cost, and that gives him a tremendous advantage over the little fellow.

That is all my colleague on the committee could get out of the retailer. So apparently the retailer is not damaged in any way by the making of these sole selling agency contracts.

Mr. GARDNER. Mr. Chairman, will the gentleman yield for a question?

Mr. McCOY. Certainly.

Mr. GARDNER. In the report Mr. Clayton says in his report that this section "not only does not prohibit or forbid exclusive agencies," and so forth, and the gentleman uses the term "sole selling agencies." Many of us do not understand the difference.

Mr. McCOY. Mr. Chairman, as I stated in the beginning, this bill does not undertake to forbid contracts creating a strict agency, where the agent is a strict agent, and the man on the other side is a strict principal, and I see that I have failed to make the question of a sole selling agency clear.

The CHAIRMAN. The time of the gentleman from New Jersey has expired.

Mr. STAFFORD. Mr. Chairman, I ask unanimous consent that the gentleman may be permitted to proceed for 10 minutes further.

Mr. GARDNER. Mr. Chairman, I hope that he will be granted this time, because there is a great deal that will need elucidation.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. McCOY. Mr. Chairman, the gentleman from Massachusetts, by his suggestion, reminds me that I did not complete the explanation of what a sole selling agency is. It involves not only this creation of an exclusive territory, in which the principal will sell only to one person and in which the so-called agent will deal only in the goods of that person, but the so-called agent buys the goods from the principal. That is what is technically known as a sole selling agency.

Mr. MADDEN. Mr. Chairman, will the gentleman yield?

Mr. McCOY. Yes.

Mr. MADDEN. It would not prevent the sole selling agent from having a sole selling agency for another class of goods that were not in competition?

Mr. McCOY. Not at all; but simply the one particular kind of goods that the principal is making.

Mr. MADDEN. He could have as many sole selling agencies as he could handle without any conflict with the other in competition.

Mr. McCOY. As many as he could possibly handle. It only relates to one thing or perhaps two or three other things that the principal is making.

Mr. GARDNER. Even yet I do not understand. Now, apparently section 4 forbids any person to make a sale of goods on condition that the lessee or purchaser thereof shall not use or deal in the goods of a competitor.

Mr. McCOY. Yes.

Mr. GARDNER. Now, the report says that this provision is not intended to prevent exclusive agencies. The gentleman, I take it, is contending, however, that the provision does, as a matter of fact, prevent sole selling agencies.

Mr. McCOY. Where the so-called agent buys the goods?

Mr. GARDNER. Where the so-called agent buys the goods; and the gentleman's amendment is intended to permit them——

Mr. McCOY. No; my amendment is aimed simply at—I will read the amendment. It is to leave the section as it stands and forbids that kind of thing. It is to amend the section so as to permit that sort of contract to be made where it is not made with the intent to obtain or establish a monopoly or to destroy the business of a competitor.

Mr. GARDNER. That is what I understand. What I was going to say was that the gentleman's amendment is designed to permit sole selling agencies where the agent buys the goods, provided the transaction is not engaged in for the purpose of restraining trade or creating a monopoly. Is that correct?

Mr. McCOY. That is correct.

Mr. GARDNER. May I ask the gentleman how he interprets these words: "or fix a price charged therefor, or discount from, or rebate upon such price"? What is the need of those words if you forbid the sale of goods.

Mr. McCOY. I do not think they add anything; but the committee itself says, at page 11 of the report, that the words "or fix a price charged therefor, or discount therefrom, or rebate upon such price," are merely descriptive of the different methods used by the manufacturers to induce the dealer or local merchant to enter into this exclusive or tying contract.

Mr. GARDNER. That is all very well; but the report goes on and explains that "the first inducement in every case must of necessity relate to price." Now, suppose it was found that one of these exclusive agents or exclusive purchasers had created a restraint of trade by some device other than the fixation of prices or rebates; might not a court hold that the very inclusion of those words, which the committee says are descriptive, had by implication legalized the use of other methods of discrimination?

Mr. McCOY. I would say to the gentleman from Massachusetts I would rather not discuss that proposition now. The gentleman may be right about it, but I would like simply to take up this question of my amendment.

Mr. GARDNER. I want to get it clear in my mind in connection with the other.

Mr. McCOY. I do not know but that the gentleman is right; but I have not considered that end of it. Now, the committee in its report says that the provision of section 4 "is designed merely to prevent this unfair trade practice, now so common throughout the country, and which is generally regarded by everyone who has given the subject any serious consideration as unjust to the local dealer and to the community and as monopolistic in its effect."

Now, I will call the attention of the committee to what are the facts in regard to the community at large, and who fail to say at any rate in regard to these hearings where they had an opportunity to do. Now, then, let us see what this does. For instance, we have a great many manufacturers of machine tools. Those are these big tools we see in the various machine shops in the country, and I do not need to describe them; I do not need to tell you how bulky they are. They look expensive and they are expensive. Now, these manufacturers of machine tools all make these exclusive selling agencies. They do it for this reason: They are not a trust; they are not combined together in any way to stifle competition. Some of them are not big. There is one in my district, a very small concern, comparatively. Now, if it had to carry a stock of these expensive machine tools all over the United States, wherever they naturally would be in the hands of the ordinary agent—that is, the principal retaining the title and simply turning them over to the agent for sale—do not you see, can not anybody see, that unless they have enormous resources they can not afford to do that sort of thing, and that is the very cause leading to these sole selling agents.

Mr. MADDEN. Will the gentleman yield?

Mr. McCOY. Yes.

Mr. MADDEN. The very thing the gentleman complains of would prevent anybody starting any new business.

Mr. McCOY. Surely; and I am coming to that. Now, what is the consideration which moves the so-called agent to go into this matter and put up his money? Why it is, of course, that he would get a better price for the machines than he could get otherwise, and it is perfectly natural, because he puts up the money, and he should have a better price than if the machines were sold outright to somebody who did not want to put up the money to carry these goods but wanted them for actual use. In other words, the manufacturer with a small capital goes substantially into a partnership with the agent who is to handle these goods. The manufacturers say, "I will not sell or allow anybody else to sell in that territory." The agent says, "On account of these prices which you have given to me, I will not sell the goods to anybody else."

Mr. STAFFORD. Will the gentleman yield?

Mr. McCOY. Yes.

Mr. STAFFORD. Can the gentleman inform the committee whether these many business houses who have the exclusive selling contracts are protesting against the character of that form of business dealings?

Mr. McCOY. I have protests from everywhere about it.

Mr. STAFFORD. Are they protesting against the character of the contracts?

Mr. McCOY. You mean the people who make the contracts?

Mr. STAFFORD. The persons who make them and the business houses who are the recipients of the contracts.

Mr. McCOY. Not at all. I understand that all the automobile people carry on their business in that way. Let us suppose, for the sake of——

Mr. STAFFORD. And there is the office-furniture business—the Yawman & Erbe, the Shaw-Walker concerns, and any number of other manufacturers that have exclusive contracts for dispensing their wares.

The CHAIRMAN. The time of the gentleman from New Jersey [Mr. McCOY] has expired.

Mr. STAFFORD. Mr. Chairman, I ask unanimous consent that the gentleman have 10 minutes more.

The CHAIRMAN. Is there objection? [After a pause.] The Chair hears none.

Mr. McCOY. The gentleman asks whether these agents, for whom the committee rather tries to arouse our sympathies, are taking these contracts by having them forced onto them by the manufacturers. I think a little imagination should answer that question. All the automobile concerns, I believe, have these sole selling agency contracts. Now, let us suppose that every one of these agents in the city of Washington should die tomorrow. Do you believe that the automobile manufacturers would have to chase to Washington to get agents? Detroit would be filled with Washingtonians wanting to get these contracts.

The argument made by one of the members of the committee, who principally supports this proposition, is this, that it is unfair that a man should first sell his goods and then exact from the man to whom he has sold them a contract that he will not sell anybody else's goods. Now, the proposition eats itself. One does not first sell the goods and then exact something from that man. He could not do it. If he sold the goods without any form of contract except as to sale and delivery, that would be the end of it. But the contract on the one hand to sell and the contract on the other hand not to sell is a mutual agreement which both of them are perfecly willing to enter into.

Now, the gentleman from Illinois [Mr. MADDEN] has suggested something about somebody going into business. Let us take a couple of young men who have some article for sale which they think is a pretty good article. They think that if it could be properly placed it would have a big sale. They have a small capital. What are they going to do? They can not hire agents, commercial travelers, and send them all over the country. They can not establish agencies all over the country. The only thing they can do, and I believe every lawyer here has known plenty of cases of that kind, is to get somebody who will take one of these sole selling agencies, and who will give his attention to their business and build up a trade for the little man.

Mr. MURDOCK. Now, right there, will the gentleman yield?

Mr. McCOY. Surely.

Mr. MURDOCK. Does not the argument the gentleman is making put upon the new corporation or new company the necessity of establishing a finely articulated retail business all over the United States, which is the very trouble the committee is trying to reach, thereby shutting out the new man from the retail trade by exclusive contracts?

Mr. McCOY. I do not quite understand the gentleman. Do you mean the committee is endeavoring to remedy by this provision the cessation of retail business?

Mr. MURDOCK. No. The committee is trying to give the new man a chance to get his wares out to the public through existing retail agencies. And does not the gentleman's proposition cut the new firm out of that opportunity?

Mr. McCOY. No. It does not cut them out of the opportunity. The bill cuts them out of the opportunity. It provides that the man who has, for instance, a small invention and wants to market it—it prevents a man who wants to get into any kind of business, without a great amount of capital, from being able to do that. Now, here is one thing the committee does claim, and it is along the line of a suggestion of the gentleman from Kansas. They claim that by creating an agency in a small place and making the so-called agent agree not to sell the goods it throws the community over into the hands of the mail-order houses. On the other hand, they argue that people go to the mail-order stores because of this sole selling agency there, and

the result of their going is to destroy this retailer who takes this sole order agency. Again, one argument eats the other.

Mr. MADDEN. How can you stop a mail-order man doing that, except by taking his postal privileges away from him?

Mr. McCOY. You can not. But here is what you can do: If a manufacturer has one of these sole selling agencies, he will not permit the mail-order house to sell in that district in competition with that dealer. As this provision stands, it simply means that concerns like the Standard Oil Co., the Tobacco Trust, and all other big concerns that have enough capital to enable them to establish strict agencies all over the United States, will proceed to do business in that way.

Mr. MADDEN. What the gentleman means by "strict agency" is the man who represents the concern and handles the commodity under contract?

Mr. McCOY. They go there and put in a store, and hire the agent, and have the money to do it. But the little fellow, the man you and I know in our districts, is in all kinds of business. He will not be able to compete with people in his line of business simply because he can not have these agencies. He can not carry the goods in these agencies.

Mr. GARDNER. May I see once more if I get the gentleman's idea correctly. Supposing a small manufacturer of automobiles up in Massachusetts, with limited capital, desires to sell his automobiles throughout the Union. If he desires to sell his wares through the kind of agency which this bill permits to exist, then he is obliged to supply all the capital and own all those automobiles?

Mr. McCOY. Absolutely.

Mr. GARDNER. Whereas if he can go to a smart young man in Washington, for instance, and say, "You have got a little capital; I am ready to sell you my automobiles at a low price, but I want to have somebody to hustle my automobiles on the market in preference to other automobiles." As I understand it, this bill says to that manufacturer who has not the capital to own the business himself, "You can not make any such trade in order to have your automobile boosted instead of the Packard automobile."

Mr. McCOY. Absolutely.

Mr. GARDNER. You say that the manufacturer who has a small capital ought to be able to sell his wares to some smart young man on an exclusive contract, so that he may compete with the manufacturer with large capital, provided that his agreement with the smart young man is not designed to create a monopoly in restraint of trade?

Mr. McCOY. Absolutely.

Mr. GARDNER. If I get the gentleman's idea——

Mr. McCOY. Absolutely. My amendment is in the interest of the small man, and the committee proposition is in the interest of the big man.

Mr. GARDNER. Precisely, if I understand the gentleman correctly.

Mr. McCOY. That is the exact situation.

Mr. STAFFORD. As I understand these contracts in the business world, they are for a limited period, and they do not place any hardship upon the contractee, the one who has the exclusive agency. He can terminate it under certain stipulations or at the termination of the contract, which is usually for one year or two years.

Mr. McCOY. The contract runs for a short period, and if an article is worth selling you can get hundreds of people who will seek these contracts.

Now, I want to say to the members of the committee that I would ask those who oppose my amendment to point out where in the hearings that sort of thing was complained of. And if they can not find it in the hearings then I ask proof from somewhere or other, except from mere statements that these things may happen, to justify this section without my amendment.

I yield the balance of my time.

Mr. MADDEN. Mr. Chairman, if section 4 of the bill is not amended along the line suggested by the gentleman from New Jersey [Mr. McCOY] it will restrict the opportunity of men who have never been in business before from going into any business at all. The bill purports to protect the small business man in his right to do business; but the truth is that it protects the man who needs no protection, and discriminates against the man who ought to be encouraged. A man can not go into business originally, under this provision of the bill, without taking somebody's customer away; and if he takes a man's customer away, under this section of the bill he commits a crime, because he does the man an injury. If we are not to permit men to go into business because they take the business of somebody else away from them, thereby injuring them in their business, and as a result of that commit a crime, we are not opening up competition in business; we are establishing a monopoly by this bill.

The agencies that must, as a matter of course, be permitted to be established in order to develop the growing business of the men engaged in the industrial affairs of America can not be restricted. We must have the right to establish these agencies or we can not expand. We have a convention being held in this city to-day, gathered from every quarter of America, for the purpose of devising means by which we can expand our foreign trade, and the men who are here are men who are versed in the commercial life of the world. You can not restrict the advance of commerce by any law. You can not change the trend of events by any language that you can write into any section of any bill. The development of the world can not be stopped by an attempt to limit monopoly and to extend the right of competition. It becomes apparent at once that the wise men who have tried for more than 2,000 years to regulate trade by law and to surround that trade with protection in every way, and to fix punishments for violations of the law, have not been improved upon much by the gentlemen who sit at the table of the Judiciary Committee of this House, and who have had the honor to prepare this bill. The business of the world will be done because of the activity of the men of the world——

Mr. DONOHOE. Will the gentleman yield?

Mr. MADDEN. In just a moment, please. To say that you can not establish an agency to put on the market the goods of the man who is starting in business for the first time, is to say that you restrict the opportunity for men to engage in business. A man with $10,000 capital, making a specialty, may have sufficient money to manufacture a small quantity of the specialty; but he has not a sufficient amount of money to expand the sale of this commodity throughout the country; and so he must, as a matter of course, engage some man who is willing to take an exclusive agency, and to that man he will sell his goods for delivery and sale within a given territory. The contract between those two men will provide that in consideration of the sale of a certain quantity of this specialty, a certain percentage will be delivered to the agent who has the contract, at a fixed price below the price at the factory. Automobile manufacturers engage agents everywhere to sell their automobiles exclusively, and they allow them 20 per cent, and out of that 20 per cent the agent pays his own expenses, his rent, his salesmen's salaries, and everything connected with the operation of the agency.

The CHAIRMAN. The time of the gentleman has expired.

Mr. MADDEN. I ask for five minutes more.

The CHAIRMAN. The gentleman from Illinois asks unanimous consent to proceed for five minutes. Is there objection?

There was no objection.

Mr. McCOY. Will the gentleman yield?

Mr. MADDEN. Yes.

Mr. McCOY. Is it not frequently a term of these contracts that the continuance of the contract depends upon the agent selling a certain number or a certain quantity of the goods?

Mr. MADDEN. Certainly.

Mr. McCOY. So that he is pushed in the competition.

Mr. MADDEN. I was just coming to that. The terms of the contracts themselves provide that the agency will not be allowed to remain in the man who has the contract unless he produces certain results, unless he is able to pay for a certain quantity of the commodity placed on the market. And so by the establishment of these agencies, by encouraging men of small means to enter business and push their trade into every section of the Nation, you not only encourage competition but you actually create the competition; whereas if you say to a man that he can not establish an agency, you immediately prevent competition and establish a monopoly.

In connection with this legislation I have heard a good deal said to the effect that a man ought not to be allowed to select his own customer, or that he may be permitted under certain circumstances to select his own customer. Anybody would imagine, from the reading of the bill, permitting a man to select his own customers, that the people of the United States are clamoring to buy the goods of the various manufacturers of the country. The fact is there is not a manufacturer anywhere in the United States, unless it be the Standard Oil Co. and the American Tobacco Co., that have not men all over the country ransacking every nook and corner in order to find customers to whom they may sell their goods.

Mr. STEENERSON. Will the gentleman yield?

Mr. MADDEN. Yes.

Mr. STEENERSON. The gentleman stated that the usual commission was 20 per cent on automobiles. Is it not a fact that the system here referred to permits an exorbitant charge to the ultimate consumer, and is not there a larger commission

provided for the middleman than there is on the ordinary articles, like wagons, buggies, and so forth?

Mr. MADDEN. I do not know how much commission ought to be allowed for the sale of automobiles.

Mr. STEENERSON. Is it not a fact that automobiles are unreasonably high?

Mr. MADDEN. I do not know; I do not know what they cost.

Mr. STEENERSON. Do they not allow an exorbitant commission?

Mr. MADDEN. I do not think it is an exorbitant commission to a man who runs an agency, who has to sell exclusive machines, who has rent and taxes to pay, who pays in advance for the machines, invests his money, has to pay for advertising, employs salesmen, bookkeepers, and all those things that enter into the conduct of a business. I maintain that there is no business in the United States conducted by anybody, unless it is a business of a fabulous amount, that can be conducted for less than 15 per cent for the average business done. If that be true, it can not be said that 20 per cent is a high commission to pay, because out of the 20 per cent he must pay 15 per cent for expenses, and if he can retain 5 per cent he is not overpaid.

Mr. STEENERSON. But the cost of production——

Mr. MADDEN. I do not know anything about the cost of production. It may be that the manufacturer can build a machine for $1,000 that he sells for $2,000.

Mr. STEENERSON. Does not this system enable the manufacturer as well as the agent to dispose of his goods for three or four times the price that it costs to produce them?

Mr. MADDEN. Any argument that we might have on the floor would not settle that question. It takes scientific information, scientific organization properly assembled, properly conducted, to run a great business, and if anybody on this floor can tell me how a great business enterprise can be conducted successfully, and tell me what it ought to cost to conduct that enterprise, I would like to get his picture. [Laughter.]

Mr. FLOYD of Arkansas. Mr. Chairman, section 4 of this bill is intended for the benefit of the consumer. I am not going to controvert the contention that the tying or exclusive contract forbidden in this section is for the benefit of the manufacturer. I am not going to controvert that this system may be so used as to be beneficial to the retailer, but our friends who are opposed to this provision never look beyond the manufacturer or local dealer, never look to the interests and the rights of the consumers of this country. I desire to speak for the consumer, and to show you how this provision will be beneficial not only to the consumer but to every independent small manufacturer in this country.

The contention that under this system and by this kind of contract the small dealer can build up a trade is an absurdity. Here is the proposition. One of these big manufacturers carries a line of manufactured goods into your town and makes a contract to the effect that he will place the goods with a local dealer on condition that the merchant will not handle the goods, wares, or merchandise of his competitor in that line. What is the effect of it? They have commodities that are absolutely essential to the business of the merchant or small dealer, and in order that no other manufacturer may sell anything that that merchant uses to that merchant, he makes this exclusive or tying contract. If he is a manufacturer of shoes, he must be supplied with every implement, or otherwise the big manufacturer of shoe machinery would withdraw everything and cut off his supplies. The best illustration you can find of this evil practice is the leasing system of the United Shoe Machinery Co. They lease on condition that the man who takes their goods under the lease shall not deal in the commodities of any competitor.

Mr. McCOY. Will the gentleman yield?

Mr. FLOYD of Arkansas. Yes.

Mr. McCOY. Do they lease on condition that he will not deal in any other goods; is it not on condition that he will not use any other goods?

Mr. FLOYD of Arkansas. Well, will not use, because the shoe-machinery company will not sell, but lease their machines. The manufacturers of shoes do not own the machines, and yet the gentleman from New Jersey stands for that kind of a system in this country.

Mr. McCOY. I know the gentleman wants to be fair. He knows that I do not stand for the system of the United Shoe Machinery Co., does not he?

Mr. FLOYD of Arkansas. I have heard the gentleman from New Jersey repeatedly say that he did not; but he stands for a principle that has made the shoe machinery company a gigantic monopoly in this country, and if he stands for the system he stands for encouraging the building up of other like monopolies. What counts it to the American people for the gentleman to oppose the shoe machinery company if he stands for the principle that enables them to build up and enables them to maintain a great monopoly?

Mr. McCOY. Is not my amendment aimed at monopoly?

Mr. FLOYD of Arkansas. The gentleman's amendment is practically in the language of the Sherman law so far as monopoly is concerned, and yet the circuit court of appeals has held that this particular contract is not within the provisions of the Sherman law, and hence we insist that a change of the language shall be made so that it will be within the law.

What is the effect of it? The gentleman from Minnesota struck at the vital point of this whole controversy. It is the consumer. The gentleman from New Jersey seems not to understand that there is any testimony in the hearings bearing upon this question. If he will read the hearings, he will find an abundance of testimony condemning this system.

The CHAIRMAN. The time of the gentleman from Arkansas has expired.

Mr. FLOYD of Arkansas. Mr. Chairman, I ask to proceed for 10 minutes.

The CHAIRMAN. The gentleman from Arkansas asks unanimous consent to proceed for 10 minutes. Is there objection?

There was no objection.

Mr. FLOYD of Arkansas. One manufacturer of rim glasses was before our committee and he was a great advocate of this system. He made frames for $1.25, sold them to the dealer for $2, and required the dealer to sell them to the consumer for $5. The whole effect of this system and practice is to drive out competition locally and to enable the manufacturer to get higher prices. That is not the only evil of it. It discommodes the American people everywhere. Whenever a manufacturer comes along and makes one of these exclusive or tying contracts and gets the local merchant bound down to the proposition or agreement that he will handle this particular commodity, and will not handle any other commodity of like kind, manufactured or produced by a competitor, and then cuts out all other like commodities, the consumers must take that commodity or nothing, if they deal with that merchant.

Mr. ALLEN. Mr. Chairman, will the gentleman yield?

Mr. FLOYD of Arkansas. Yes.

Mr. ALLEN. Is not the case that the gentleman cited just now, the eyeglass case, one that involves the principle of resale, fixing the resale price, while the one that we have under consideration is one where the manufacturer has simply sold his machine or whatever it may be to the merchant or factor who represents him in the community?

Mr. FLOYD of Arkansas. True, and these same men who were before the committee opposing this provision spent days asking the committee to bring in a provision to annul the effect of the Supreme Court decision, which denies them the right to fix the retail price.

Mr. McCOY. Mr. Chairman, will the gentleman yield?

Mr. FLOYD of Arkansas. Yes.

Mr. McCOY. Do I understand the gentleman to contend that the people who were opposing section 4 were there advocating the right to fix the retail price?

Mr. FLOYD of Arkansas. Not necessarily all of them.

Mr. McCOY. Were any of them?

Mr. FLOYD of Arkansas. I think so.

Mr. McCOY. I disagree with the gentleman. There was not anybody there who was advocating that.

Mr. FLOYD of Arkansas. The gentleman from New Jersey insists that under this system the small man can promote his business. Let us see. The very reverse is true. The big, the powerful manufacturer makes it impossible for the small man to get in; but suppose one does get in and gets an exclusive contract of some kind, then you have two monopolies, and you never get beyond monopoly. If you had three or four, they would all result in restricted monopolies, and in the meantime the American public are denied many conveniences, and denied them by means which are tending all the time to build up monopoly and to create higher prices.

Mr. GARDNER. Mr. Chairman, will the gentleman yield?

Mr. FLOYD of Arkansas. Yes.

Mr. GARDNER. Does not the gentleman think that the fact that all of these automobile companies have been able to build themselves up from small organizations by this very system has resulted in a benefit to the consumer?

Mr. FLOYD of Arkansas. The gentleman takes an illustration in which I am not particularly concerned—the automobile.

Mr. GARDNER. But the gentleman has been using the United Shoe Machinery Co. as an illustration.

Mr. FLOYD of Arkansas. It is the American consumer, the man who buys bread and meat and medicine, the man who

labors in the sweat of his brow and who toils in season and out in order to eke out an existence that I am referring to; and to allow a system that will permit these powerful monopolies to deny them the comforts of life and extort high prices from them under exclusive contracts is what I object to.

Mr. MADDEN. Mr. Chairman, will the gentleman yield?

Mr. FLOYD of Arkansas. Not at this time. I want to deal with the automobile proposition.

Mr. GARDNER. But the gentleman did not let me finish my question.

Mr. DONOVAN. Mr. Chairman, a point of order. The gentleman from Massachusetts has no right to interrupt the gentleman from Arkansas in that way.

The CHAIRMAN. Does the gentleman from Arkansas yield to the gentleman from Massachusetts?

Mr. FLOYD of Arkansas. Not until I answer his question.

Mr. GARDNER. But the gentleman did not allow me to ask the question.

The CHAIRMAN. The gentleman declines to yield.

Mr. FLOYD of Arkansas. The gentleman from Massachusetts has mentioned the automobile business. I am very glad that he did. Under this system, this favored system, this system that is going to build up the small man, it is in testimony before our committee that these contracts, exclusive contracts, have enabled one automobile company, with a capital of $2,000,000, to make a profit of $25,000,000 in one year, and they or their representative gave the testimony before your committee.

Mr. GARDNER. Has the gentleman answered me?

Mr. FLOYD of Arkansas. I do not stand for this kind of a system.

Mr. GARDNER rose.

Mr. FLOYD of Arkansas. Oh, I am not through answering the gentleman's first question yet.

Mr. GARDNER. But the gentleman never gave me a chance to ask it.

The CHAIRMAN. The gentleman declines to yield.

Mr. FLOYD of Arkansas. How did they do it? How did they make it? Do you think that any business man in America with a capital of $2,000,000 can earn a profit of $25,000,000 in one year on that $2,000,000 alone? Not at all.

Mr. GARDNER. Has anybody——

Mr. DONOVAN. Mr. Chairman, a point of order. The gentleman from Massachusetts is a parliamentarian, and he knows that he violates the rules.

Mr. FLOYD of Arkansas. I decline to yield at this time.

Mr. GARDNER. Mr. Chairman, a point of order.

The CHAIRMAN. The gentleman will state it.

Mr. GARDNER. I make the point of order that the gentleman from Connecticut [Mr. DONOVAN], when he asks for recognition, must await it before he makes the point of order.

Mr. FLOYD of Arkansas. I decline to yield at this time. I want to get through with this automobile business. I am not criticizing this automobile company, but I am describing the method they use, which I think is wrong and detrimental to the American public, one that makes automobiles higher than they should be and gives the manufacturers unusual and unjustifiable profits, not on their own investment, but upon the investment of men who deal with them, whose hands are tied and whose money is invested in property bound by an exclusive contract.

Mr. McCOY. Mr. Chairman, will the gentleman yield?

Mr. FLOYD of Arkansas. Not at this time. I am not through with the automobile business.

The CHAIRMAN. The gentleman declines to yield.

Mr. FLOYD of Arkansas. I decline to yield until I get through answering the question of the gentleman from Massachusetts. How did they do it? They made contracts with agents throughout the country—exclusive agents—and they did not turn over their machines to these exclusive agents on their own money, but they made each agent take six machines and pay for them; and after he had taken six machines and paid the full price therefor they called him a sole selling agent and made him enter into a contract that he would not buy or handle or use the automobiles of any competitor.

Mr. McCOY. Mr. Chairman, will the gentleman yield?

Mr. FLOYD of Arkansas. Not at this time. I am not through with the automobile business. They made these local agents, so called, buy their machines and pay for six machines, and then they gave them enormous profits to sell them to the general public, to make them active, and the result was that they sold many of these automobiles at high prices and made enormous profits, and at the end of the year this automobile company in footing up its accounts found that with an investment of $2,000,000 they had earned $25,000,000 profit in one year, speculating on other men's money, and the consumer paid the bills and paid the profits.

The dealer's hands were tied. The man who dealt with that particular dealer had to purchase that particular class of automobiles and could not buy any other.

Mr. McCOY. Will the gentleman permit an interruption?

The CHAIRMAN. Does the gentleman yield?

Mr. FLOYD of Arkansas. I yield to the gentleman from New Jersey.

Mr. McCOY. Is not the net result of the Ford operations that the Ford machines are now cheaper than baby carriages used to be?

Mr. FLOYD of Arkansas. I do not know how high baby carriages used to be [laughter], but the price of the Ford machine, if they are making a profit of $25,000,000 a year on a $2,000,000 investment, is certainly high enough for American customers and purchasers.

The CHAIRMAN. The time of the gentleman has expired.

Mr. McCOY. I ask unanimous consent that the gentleman may have five minutes more.

Mr. GARDNER. Mr. Chairman, reserving the right to object, I would like to ask whether the gentleman proposes to try to silence discussion——

The CHAIRMAN. The gentleman from New Jersey asks unanimous consent that the gentleman from Arkansas may proceed for five minutes. Is there objection?

Mr. FLOYD of Arkansas. I am not attempting to silence discussion.

Mr. GARDNER. I am reserving the right to object——

Mr. FLOYD of Arkansas. If the gentleman means that if I do not see proper to yield to the gentleman or any other Member of the House in the midst of a discussion before I finish my argument, he can object.

The CHAIRMAN. Is there objection?

Mr. GARDNER. Mr. Chairman, I object.

The CHAIRMAN. The gentleman from Massachusetts objects.

Mr. WEBB. Mr. Chairman, I want to see if we can not close debate on this question in, say, 15 minutes.

Mr. McCOY. I ask the gentleman to yield to me then.

Mr. MANN. We have wasted about one hour on one amendment, and there are other amendments to be offered, and I notice the committee has taken up a large share of the time that has been wasted.

Mr. WEBB. That was on requests from the other side.

Mr. McCOY. Mr. Chairman, I ask unanimous consent that the gentleman from Arkansas have leave to proceed for five minutes.

The CHAIRMAN. Is there objection?

Mr. MANN. Mr. Chairman, reserving the right to object, I would like to ask the gentleman from North Carolina how much time has already been taken up in this connection?

Mr. WEBB. I am sorry to say I can not answer, but I think 30 minutes has been taken up——

Mr. MANN. It has been over an hour.

Mr. WEBB. Thirty minutes have been occupied by the gentleman favoring the amendment and 10 or 15 minutes by those who are opposed to it.

Mr. MANN. It has been an hour since the amendment was offered.

Mr. BARNHART. Why not have all the amendments which are prepared read from the desk and then determine which are of the most importance and which will require the longest discussion?

Mr. TOWNER. I suggest to the gentleman that we ought to be allowed to determine that ourselves.

Mr. WEBB. Can the gentleman suggest how much time gentlemen require on that side?

Mr. TOWNER. I have three amendments I desire to offer, and I only ask for five minutes on each one.

Mr. ALLEN. I want five minutes on the amendment.

Mr. STEENERSON. I want five minutes.

Mr. MORGAN of Oklahoma. I would like to have 10 minutes.

Mr. MANN. Forty minutes are required on this side.

Mr. WEBB. We would like to have 30 minutes on this side, so say 70 minutes.

The CHAIRMAN. Does the gentleman from New Jersey withdraw his request for unanimous consent.

Mr. MANN. Have it included in this and yield time. How much time does the gentleman want on that side?

Mr. WEBB. Out of abundance of caution we will take 35 minutes on this side, and the other side can have 45 minutes. I ask unanimous consent that debate on this section and amendments thereto be limited to 75 minutes——

Mr. MANN. The understanding being that the amendments may be disposed of as they come along?

Mr. WEBB. Yes; that can be done. Forty minutes to be controlled by the gentleman from Minnesota and 35 minutes by myself.

The CHAIRMAN. The gentleman from North Carolina asks unanimous consent that all debate upon section 4 and all amendments thereto be closed in 75 minutes, 40 minutes of which time to be controlled by the gentleman from Minnesota and 35 minutes by the gentleman from North Carolina. Is there objection?

Mr. DONOVAN. Mr. Chairman, reserving the right to object, there certainly ought to be some proper way of conducting matters here. Parliamentarians ought not to be allowed to interrupt the gentleman speaking without addressing the Chair. It is a grave breach of the rules for a man to interrupt without first addressing the Chair and obtaining that privilege. Now, that great parliamentarian, as he claims to be, from the State of Massachusetts willfully violated the rule time after time; and this great lawyer from New Jersey, who is not courteous enough——

Mr. GARDNER. Mr. Chairman, I call for the regular order.

Mr. DONOVAN. I withdraw the objection, Mr. Chairman.

Mr. MANN. The gentleman from Massachusetts ought to be glad that the gentleman from Connecticut was awake. When I went to the ball game yesterday he was asleep. [Laughter and applause.]

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from New Jersey.

Mr. WEBB. I yield to the gentleman from Ohio if he is against the amendment——

Mr. ALLEN. I am for the amendment.

Mr. WEBB. Then I can not yield the gentleman time.

Mr. McCOY. A parliamentary inquiry, Mr. Chairman.

The CHAIRMAN. The gentleman will state it.

Mr. McCOY. By the agreement which was entered into, who controls the time with reference to this amendment which I have proposed?

The CHAIRMAN. There was no agreement with reference to the particular amendment offered by the gentleman from New Jersey. The agreement was that the time upon this section and amendments thereto should be limited to 75 minutes—35 minutes of which time to be controlled by the gentleman from North Carolina and 40 minutes by the gentleman from Minnesota.

Mr. McCOY. Now, another parliamentary inquiry, Mr. Chairman.

The CHAIRMAN. The gentleman will state it.

Mr. McCOY. Is there any violation of the rules if one Member carries on a private conversation with another Member?

The CHAIRMAN. As the Chair understands, there is not unless it disturbs the business of the committee.

Mr. McCOY. It remains for the other Member to object if he is being disturbed. I just wanted to know how far one could go.

Mr. DONOVAN. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. DONOVAN. Does the Chair hold a man can take the floor at any time without addressing the Chair?

Mr. MANN. I make the point of order that the gentleman from Connecticut [Mr. DONOVAN] can not do that, although he is doing it.

Mr. DONOVAN. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. DONOVAN. The gentleman from Illinois, the leader of the minority, always violates the rules more than any other Member of this House, and no other Member uses the personal pronoun to equal him, under any circumstances. And I have no further inquiry to make.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. Tulley, one of its clerks, announced that the Senate had passed joint resolutions of the following titles, in which the concurrence of the House of Representatives was requested:

S. J. Res. 152. Joint resolution authorizing the President to accept an invitation to participate in the International Congress on Occupational Diseases;

S. J. Res. 151. Joint resolution authorizing the President to accept an invitation to participate in an International Exposition of Sea Fishery Industries;

S. J. Res. 105. Joint resolution authorizing the President to accept an invitation to participate in the Sixth International Dental Congress; and

S. J. Res. 153. Joint resolution authorizing the President to accept an invitation to participate in an International Congress on Neurology, Psychiatry, and Psychology.

ANTITRUST LEGISLATION.

The committee resumed its session.

Mr. WEBB. Mr. Chairman, I yield five minutes to the gentleman from Ohio [Mr. ALLEN].

Mr. ALLEN. Mr. Chairman, I have read this amendment carefully, and it seems to me that the gentleman in charge of the bill ought not to object to it, because I think it is reasonable, and should be adopted for the same reasons that impelled the committee to incorporate substantially the same language in section 2 of the bill, relating to price discrimination. While it is stated in the report that there is no objection to the establishment of exclusive agencies and no intention to prohibit same, yet, if the language is not amended as proposed by the gentleman from New Jersey [Mr. McCOY], all that a concern that wanted to evade the law would have to do would be to say to its agent, "If, after instructing you in the use of our machine, advertising it, and so forth, you sell the similar goods of some other concern we will decline to renew our contract with you," and thus evade the law. Now, we do not want to write the law in that way. What we want to do is to write a law that will promote competition by enabling the small manufacturer to maintain agencies throughout the country, where otherwise he could not do so. The great corporations are able to maintain their own selling organizations. Therefore this amendment appeals to me as being in the interest of the small manufacturers.

Now, I want to have read in my time a letter from the Business Men's Club of Cincinnati, Ohio, where this matter was thoroughly discussed, and also a letter and resolutions from the Chamber of Commerce of Cincinnati in reference to the same subject.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

THE BUSINESS MEN'S CLUB CO.,
Cincinnati, May 16, 1914.

Hon. ALFRED G. ALLEN,
House of Representatives, Washington, D. C.

MY DEAR MR. ALLEN: At the regular monthly meeting of the board of directors of the Business Men's Club held last night a resolution was passed protesting against the passage of section 4 of H. R. 15657, and directing me to convey to you the protest of the Business Men's Club's directors and to ask you to see that it receives proper attention and is presented as soon as possible to the proper committee considering the bill.

The resolution passed is as follows:

"*Resolved*, That the board of directors of the Business Men's Club Co., of Cincinnati, strongly protests against the passage of section 4 of House bill 15657 because—

"This section as it stands is in the interest of the large combines and monopolies. They do not need the middleman as do their smaller competitors. They can afford to establish their own selling organization in the various market centers—in fact, most of them now have their own selling organizations—and this section, prohibiting exclusive selling agreements, takes away the only means by which the smaller competitors of these big combines are enabled to compete with them in selling. The smaller concerns, as a rule, can not afford to establish their own selling organizations, and therefore must have the aid of the middleman.

"This section would prohibit smaller concerns from selecting an exclusive middleman representative under an exclusive arrangement. They would have to sell to all middlemen, which would mean indifferent and inefficient representation in competition with the bigger concern with its direct selling organization. When all middlemen may handle identical products, then no middleman takes any special interest in it.

"Under the present method of exclusive selling arrangements there is ample competition between the various middlemen for the benefit of the consumer. Each middleman is fighting every other middleman in the interest of his exclusive line. If the exclusive agency arrangement is abolished and the manufacturer must sell all middlemen, who in turn must sell all competing makes of the same article, then economy and efficiency in selling are destroyed and selling expenses greatly increased; for this would mean that the middleman must maintain larger stocks, larger warehouses, greater number of salesmen, etc. These increased expenses must ultimately be paid by the consumer.

"The 'exclusive agency agreement' method of sale is very widely employed to-day in all the various channels of business. Certain makes of shoes, hats, clothes, tobaccos, foods, manufacturing supplies, automobiles, etc., are handled exclusively by certain middlemen. A provision, therefore, which makes this arrangement a misdemeanor under the Sherman Act, if enacted in the law, would bring about a very wide disturbance of existing business methods. All of this seems unnecessary and unwise, inasmuch as the 'exclusive agency' method of sale as practiced to-day does not in any way act in restraint of trade or of full competition for the benefit of the consumer.

"*Be it further resolved*, That a copy of this resolution be sent to Congressmen ALFRED G. ALLEN and STANLEY BOWDLE, with the request that it be presented as soon as possible to the proper committee considering the bill."

Thanking you for the interest you may take in the matter, I am,

Respectfully, yours,

RUTHERFORD H. COX,
Civic Secretary, Business Men's Club.

CINCINNATI CHAMBER OF COMMERCE,
Cincinnati, May 20, 1914.

Hon. ALFRED G. ALLEN,
House of Representatives, Washington, D. C.

MY DEAR MR. ALLEN: Inclosed please find copy of resolution adopted by the board of directors of the Cincinnati Chamber of Commerce at a meeting held May 19, 1914.

If consistent, the chamber of commerce would appreciate your support of this amendment, and believes you will find, upon investigation,

that this feature was included in the bill under a misapprehension of business conditions and that its adoption would tend to stifle rather than promote competition.

Very truly, yours,

W. C. CULKINS, *Executive Secretary.*

Whereas the Clayton bill, No. 15657, now pending in the House of Representatives, forbids the establishment of exclusive selling agreements between the manufacturer and the "middleman" and makes the same a misdemeanor under the Sherman law; and

Whereas the present method of establishing exclusive selling agreements is widespread and a common practice in business; and

Whereas it tends to promote competition by enabling the smaller producer to maintain agencies at many places where he would be unable to provide a selling organization, thereby leaving that territory under the exclusive control of the larger organizations, who maintain their own individual selling force: Therefore be it

Resolved by the board of directors of the chamber of commerce, That we are opposed to the inclusion in the Clayton bill of the provisions prohibiting such selling agreements and urge that they be stricken from the bill; and be it further

Resolved, That copies be sent to the Representatives of this county and to the Senators from Ohio.

The CHAIRMAN. The time of the gentleman has expired. The question is on agreeing to the amendment.

Mr. WEBB. Mr. Chairman, I yield two minutes to the gentleman from Missouri [Mr. IGOE].

Mr. IGOE. Mr. Chairman, I desire to have read in my time a letter, which I send to the Clerk's desk. This letter is from probably the largest shoe manufacturing company in the world and is in favor of section 4 of the bill.

The CHAIRMAN. The Clerk will read the letter.

The Clerk read as follows:

ST. LOUIS, MO., *May 20, 1914.*

Hon. WILLIAM L. IGOE,
House of Representatives, Washington, D. C.

MY DEAR SIR: The Clayton bill (H. R. 15657), introduced in the House on May 2, is of deep interest to shoe manufacturers.

Particularly is this true with regard to section 4 of said bill.

In shoe manufacturing there prevails to-day more keen, active competition than exists in any other great industry, but progress and development in shoe manufacturing is being retarded by the lack of competition in shoe machinery.

The present system of leasing shoe machinery, with stipulations that the machines so leased shall exclude the use of similar machines of another make, has reached a high degree of monopoly in shoe machinery.

It appears to the shoe manufacturer that more time has been spent in developing and perfecting the various and numerous clauses in the leases by the Shoe Machinery Co. than has been given to development and improvement of machines.

Under the lease system when a factory is once equipped with machines which pay a constant and high royalty to the machinery company, there is no incentive to the machinery company to put new and improved machines into such a factory, for by so doing the profit-paying machines then in operation will be made useless by the later models.

This strong incentive to stifle improvement in shoe machinery is one of if not the greatest evil of "exclusive use" at which the Clayton bill is directed.

Respectfully, yours,

INTERNATIONAL SHOE CO.,
By F. C. RAND.

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from New Jersey [Mr. MCCOY].

Mr. VOLSTEAD. Mr. Chairman, I yield five minutes to the gentleman from Minnesota [Mr. STEENERSON].

Mr. STEENERSON. Mr. Chairman, I am opposed to the amendment and I favor the provision as it stands. While the gentleman from Illinois [Mr. MADDEN] was discussing this amendment he referred particularly to the price of automobiles, and he admitted that the result of this system was to maintain the retail price—the price to the consumer of that article—no matter how much competition there might be in the actual supply. And that is the result of the operation of this system, namely, that it destroys competition in price. You might have a billion automobiles for sale, of one hundred thousand different varieties, and yet you would have to pay five or six or ten times more for them than it costs to produce them.

Mr. MCCOY. Now, will the gentleman yield?

The CHAIRMAN. Will the gentleman from Minnesota yield to the gentleman from New Jersey?

Mr. STEENERSON. Not now. I will yield later.

Now, take this system, and it may be said as to certain lines it is all right. Now, I will illustrate it in a matter that affects the actual living expenses. Some years ago my attention was called to the fact that on a line of railroad running out of St. Paul, Minn., we had a number of towns located in a rich farming country where they raised live stock, and one of these farmers asked me why they could not sell a fat steer or even a corn-fed steer to the local butcher, but that the local butcher had to buy his meat from a refrigerator car sent out by the Beef Trust from St. Paul. I went to the butcher shops in several of those towns and was informed that in order to get fresh beef they had to buy it from that trust. If they bought from the farmer, then they could not get these other staple articles that every butcher shop has got to keep or get out of business, for instance, lard, ham, bacon, cheese, salt fish, pickles, and various other of these side lines.

Now, if they could not buy those articles they could not keep shop, and they would not sell them to them because they did not buy their fresh meat from them. If they bought one steer from a farmer, either dressed or killed it themselves, they could not buy these other articles, and the result was, that although a laboring man in one of those towns could have bought his meat for 10 or 15 cents a pound and still give the butcher a reasonable profit, if the butcher had been able to buy from the farmers, as a matter of fact he had to pay 25 to 30 cents a pound, an enormous profit to the Beef Trust.

Now, this proposition contained in this bill is the only proposition I have seen yet coming from the Democratic Party that will actually tend to reduce the cost of living. I have criticized their tariff bill as failing to reduce the cost of living, and I stand by every word I have said, but they have, either intentionally or accidentally, in this section hit upon a way by which the ultimate consumer will in a certain degree receive the benefit and have a little chance to get a lower cost of living. [Applause.]

Mr. MCCOY. Will the gentleman yield?

Mr. STEENERSON. Yes; I will yield.

Mr. MCCOY. Now, I would like to have the gentleman point out how section 4 of this bill meets that particular situation which he has described up in his State.

Mr. STEENERSON. I say that the man could not be supplied with these other articles unless he bought these articles.

Mr. MCCOY. That has nothing to do with this section.

Mr. STEENERSON. Oh, yes; it has.

Mr. MCCOY. Not with my amendment.

Mr. STEENERSON. The practice in some of those places has been destroyed by the State law, but, for instance, there are articles such as was read from the desk, in the letter presented by the gentleman from Ohio [Mr. ALLEN], articles of food, for instance, cereal food, that cost 1 cent a pound to produce, and they sell them for 15 cents a pound, and you exclude the right to sell any other competing article.

Mr. MCCOY. There is no testimony before the committee to that effect.

Mr. STEENERSON. I know there is not, but we have got to go by our experience throughout the country. There is the article of stock food, for instance. It is a matter of common knowledge that one manufacturer of stock food in Minneapolis, who gets his screenings and his bark from the sawmill for only a fraction of a cent a pound, through this tying system excludes all other articles from his exclusive agencies and is enabled to charge an exorbitant price. Of course he spends a very large part of it for fraudulent advertising, such as is described in the report on this bill, and the result is that people pay three or four times as much for the article as it costs. There is the test. It is a system that does not tend to supply the public goods at a reasonable price or that tolerates competition in price. It does not tend to efficiency. The test of efficiency is cheapness to the consumer. Price is ordinarily governed by supply and demand, but this system nullifies that law and enables the manufacturer and middleman to exploit the consumer at will. It is a system that is indefensible from the public point of view.

The CHAIRMAN. The time of the gentleman has expired.

Mr. WEBB. I yield to the gentleman two minutes more.

Mr. STEENERSON. There is the test of the system: Will it produce a more economical distribution of the necessities of life? Will the abolition of this system tend to give to the consumer cheaper clothing, cheaper food, and cheaper vehicles? I asked the gentleman from Illinois about the comparative profit there was in selling other vehicles, like sleighs, wagons, and buggies. Does anybody suppose that the manufacturer of bobsleighs or of lumber wagons or of buggies would expect to give his agent 20 per cent commission, or that he could sell his buggy to his agent for two or three times what it cost to produce it? No. They are articles which enter into ordinary commerce, and the tendency is to produce them as cheaply as possible and to give the benefit of that cheaper production to the man who buys them, whereas no matter if you live in a land of plenty, no matter if the automobile is a vehicle that is as plentiful as the air you breathe, under this system you would have to pay three or four or five times more than it costs to produce them.

I am opposed to this amendment and am in favor of the provision of the bill.

Mr. MURDOCK. Mr. Chairman, I want to speak on this amendment.

The CHAIRMAN. The Chair will state to the gentleman that the time is controlled by the gentleman from Minnesota [Mr. VOLSTEAD].

Mr. VOLSTEAD. I yield five minutes to the gentleman from Kansas.

Mr. MURDOCK. Mr. Chairman, my intention is to go with the committee on this proposition, although I think anyone who has sat here for the last hour and listened to this discussion must in honesty confess that it is completely confusing. It has been proved here that a sales agency is, under certain circumstances, a good thing, and it undoubtedly has been proved here, on the contrary, that a sales agency can be a very bad thing, and both propositions are true. A monopoly, exercising the power which comes through a sales agency, can crush the retail trade down, and has crushed it down; can prey upon the ultimate consumer, and does prey upon him. Yet at the same time the instrument of a sales agency can be used, as in the beginning of a new business, for the benefit of the retail trade and for the benefit of the consumer.

This situation, which is so plainly exemplified in the contradictions of this discussion, is a natural result of trying to write into law statutory prohibitions against business forms by adopting definitions of changing business practices. Take, for instance, the actual practical application of this section 4. We are simply turning the matter over to the courts. For after Congress shall have passed it, made it law, the Attorney General will, with timidity and hesitation, attempt to enforce it. It will finally reach the courts for interpretation, and after the lapse of 8, 10, or 12 years the business world will reach some sort of a definite understanding about the actual meaning of the section. What will happen to business in the meantime? Advantage to the powerful and monopolistic, and harm and disadvantage to smaller business.

The Democratic Party had its chance this year to create an interstate trade commission with real power to differentiate between big business which is monopoly and big business which is not monopoly, between monopoly which is harmful and big business which is not. You did not embrace that opportunity, and you are going to pay your penalty in a good many different ways. You stand before the country to-day timid and hesitating. You have against you the great predatory powers, and they are using your very hesitant course of action here in this trust program to terrorize small business. I want to read to the gentleman from Arkansas [Mr. FLOYD] a letter which I have received. By the way, I am not antagonizing the position of the gentleman from Arkansas on this particular section in so doing. A merchant in my district has received a letter from the president of the Pictorial Review, a fashion publication in the city of New York. This letter, sent to me by William Allen White, of Emporia, Kans., is as follows:

NEW YORK, *May 1, 1914.*

DEAR SIR: We take the privilege of writing you on a subject of vital importance to yourself and the country at large. It is no doubt evident to you that prosperity has been lost somewhere in this country, owing to the mischievous activities of the politicians, as recognized by all men.

We inclose herewith draft of a letter which embraces the views of a majority of the thinking business people of our section of the country and which should be addressed to the President of the United States, the Congress, and members of the Interstate Commerce Commission, respectively. Might we suggest, if you agree with us, that you take the trouble of writing letters of a similar character to the President, the Members of the United States Senate and the House of Representatives from your State? If you prefer to use copies of the inclosed letter we will mail you as many copies as you can conveniently use. Just send us a postal card. It will be more effective, however, if you write them on your own letterheads. The sooner this appeal is made the greater effect it will have on the politicians who have caused the loss of prosperity.

Inclosed find a list of names and addresses to whom the letter should be sent, but we omit the names of the Representatives and Senators from your State, with whom you are no doubt familiar.

Yours, respectfully,

THE PICTORIAL REVIEW CO.
W. P. ALMELT, *President.*

With this letter is a draft of another letter to be addressed to Members of Congress, the President of the United States, the Interstate Commerce Commissioners, the Speaker of the House, and others. This draft of a proposed letter is as follows:

HONORED SIR:

We respectfully appeal to your sense of justice and ask in the name of the suffering American people, in the name of common sense, why wantonly harass business at this juncture when it is struggling for its very existence?

Why throw more thousands of men idle when so many families are already starving?

Why subject business to any experimental legislation now, when it is not prosperous? Postpone it. Drastic action on your part is a peril at this time. What we do need is a little building up—no more tearing down. We have had a sufficiency of experimental legislation for the present.

The granting of the petition of the eastern railroads for a 5 per cent freight increase will do more for the prosperity and development of the country than all legislation against unlawful restraint and monopolies. Such a determination will result in a movement forward, not backward, and any contrary determination by the Interstate Commerce Commission will emphasize the fact that Washington hostility is balking prosperity. The merchants of this country are vitally interested. Business must not be retarded, otherwise commercial failures will increase. The continual senseless attacks by governmental bodies upon merchants, by impending assaults upon railroad, industrial and mercantile corporations, revision of the tariff, and currency reform have resulted in sinking business to such an extent that it has thrown hundreds of thousands out of employment, reduced wages, and decreased values in railroad industries and mercantile corporations to the extent of at least $3,000,000,000.

The most serious situation that confronts the country to-day is the fact that unemployment is growing more acute. We need relief. We ask the Congress of the United States to halt before it is too late. Postpone all antibusiness legislation. Give the country a rest, and last but not least permit Congress to earn a well-deserved early rest.

Yours, respectfully,

_____.

This letter from this New York concern is apparently sent to dry goods men all over the land, asking them to write to all these various officials in Washington to cease what the letter designates antibusiness legislation. It is part, apparently, of the plan of the great powers in New York City to terrorize small business and the effort is not fruitless, for that terror has reached the hearts of the Democratic leaders. You are putting through this body and expect to pass through the Senate halfway patch-work legislation that will not reach the sore spot in this country, but which will add to already deplorable business confusion. When you do that you are playing into the hands of the big interests who want no legislation at all, who want merely further confusion and delay. That is the truth of the matter. You had a chance on the Democratic side this year, and I was hoping that you would take advantage of it, to give to an interstate trade commission power to make the differentiations, which would clarify instead of befogging the business world. You did not take it. You passed the problem up to the courts, and we will wait 8 or 10 or 12 years for them to tell us what section 4 means. The country can not afford to wait. The larger interests are all the time growing larger and more powerful, and little business is growing more desperate. And all the time the monopoly pirates, fattening upon inadequate statutes or delay, are working to induce the smaller men out over the country to write to Congressmen protesting against any legislation at all. The country needs legislation, but it needs legislation that will bring quick remedies to business ills, and not put the matter over into the overcrowded courts, ill adapted for this work, while the honest business of the country is made to wait helplessly and hopelessly on through the years. [Applause.]

Mr. WEBB. Mr. Chairman, there may be some of the 23 sections of this bill that are open to criticism along the line the gentleman has just made, that they are of doubtful meaning, for it is sometimes very hard to make words in the English language express just exactly what you mean; but I believe this section 4 is the least open to that objection of any section in the bill, and I am rather surprised that my friend from Kansas [Mr. MURDOCK] should make that criticism of this particular section. Stripped of some of its verbiage, that section reads as follows:

SEC. 4. That any person * * * who shall lease or make a sale of goods, * * * or fix a price charged therefor, or discount from, or rebate upon such price, on the condition or understanding that the lessee or purchaser thereof shall not use or deal in the goods * * * of a competitor * * * shall be deemed guilty of a misdemeanor.

It means simply this, that if I am a manufacturer or a wholesaler, and go to a small town and pick out the most popular merchant in that town—I have advertised my goods well—and, of course, naturally he is anxious to buy them. I go to this most popular merchant and tell him that I will let him buy my goods, provided he will not sell or carry in stock any of my competitor's goods. Now, I do not know how other gentlemen may look at such a contract, but that contract, in my opinion, is in and of itself a contract in restraint of trade. Enough of those particular restraining contracts combined would make such manufacturer or wholesaler guilty of violating the Sherman antitrust law. One act, one contract, would not come within the meaning of the Sherman antitrust law, but a series of acts, each one of which we condemn in this section, would bring them within the terms of the Sherman antitrust law, and what we are trying to do is to forbid the various individual acts which irresistibly lead to monopoly.

Mr. SELDOMRIDGE. Will the gentleman yield?

Mr. WEBB. I will.

Mr. SELDOMRIDGE. This provision, as I read it, seems to affect the seller of the goods and not the purchaser. Suppose there is a merchant in town who desires to purchase a line of goods handled by another dealer, made by some manufacturing concern, under this bill he could not compel the manufacturer to sell these goods to him.

Mr. WEBB. I do not quite understand the gentleman.

Mr. SELDOMRIDGE. I have in mind a manufacturer of a line of stock food. I am engaged in selling stock food. It is sold by my competitor, and I can not buy it because it is being handled by my competitor. Is there anything in the bill which

would allow me to compel the manufacturer or producer to sell to me? As I read the bill I am prevented from buying it.

Mr. WEBB. Oh, no; not at all. You could not compel him to sell to you. He can choose his customers. All this section forbids is that when I sell goods to a purchaser and get my money for them I can not at the same time contract with him that he shall not sell anybody's goods which compete with mine.

Mr. MOORE. Will the gentleman yield?

Mr. WEBB. Yes.

Mr. MOORE. Suppose I am the manufacturer of a soap and I make a specialty of it. I have advertised it extensively, and I go into the town which the gentleman has referred to and try to make an arrangement with the local merchant that he will sell my soap. I have gone to great expense in advertising, but I do not say to him that I want him not to use the goods of my competitor. Am I violating the law?

Mr. WEBB. Not at all.

Mr. MOORE. If I build up a trade and establish a reputation for my goods, I can go into the gentleman's town and make an arrangement with the local dealer to sell my goods, provided I do not say that he must not sell the goods of my competitor?

Mr. WEBB. Yes; so long as you do not bind him not to sell your competitor's goods.

Mr. MOORE. Suppose I am the inventor and the manufacturer of a phonograph and I have devised certain records that produce sound more clearly than other phonographs, and I go into the gentleman's town and offer the local dealer my business, the exclusive right to sell my particular records, and another and inferior article is offered to that dealer, am I to be punished because by reason of my inventive genius, superior knowledge, and the superiority of my article, I say to the local dealer that I will give him my exclusive trade and that he is not to put on the shelves something that will be advertised as "just as good," thus faking the public?

Mr. WEBB. Yes; you are to be punished if you make a contract with him that will prevent him from selling a competitive article. He should be left free to sell such articles as he chooses to keep in stock.

Mr. MOORE. Suppose I have a proprietary medicine, a cough cure, selling at 25 cents a bottle, and some one has something not so good, but which can be produced a little cheaper, and I make an arrangement with the dealer as against the inferior article. Can I still be punished?

Mr. WEBB. If you make a contract with the merchant that he shall not sell any competing goods but yours, you are to be punished, and you ought to be punished. Let the public find out the inferior quality of the goods, but give the merchant freedom in his business. The public is more interested in preventing monopoly than in the quality of the goods. If we can prevent monopoly, the public will soon discover the fake or inferior goods.

Mr. HELGESEN. Will the gentleman yield?

Mr. WEBB. I will.

Mr. HELGESEN. Take the illustration used by the gentleman from Pennsylvania, where a manufacturer goes into the town and offers business to the dealer, but does not say to him that he must not handle the goods of any competitor, but says, "If you will handle mine I will give you 5 or 10 per cent extra discount," would he be punishable?

Mr. WEBB. Yes; he would be; he would come within the intent and meaning of this section if such agreement is to prevent the sale of competitive goods.

Mr. TOWNER. Will the gentleman yield?

Mr. WEBB. Certainly.

Mr. TOWNER. Does not the gentleman think that this will result in a decrease of competition rather than an increase of competition, which of course we all desire? For instance, three dealers handling phonographs may each handle them all; would not there be more competition if each handled one than if all three dealers handled all of the phonographs? Is not there likely to be a decrease of competition?

Mr. WEBB. In answer to that I will say that it is barely possible, but not probable. Business should be left to take care of itself if not built on immoral or illegal contracts. I do not believe there is a man on either side of the House who will say that it is right or fair business for a manufacturer to make a contract with the merchant to sell only his goods and that he shall not sell goods that compete with his. It ought not to be allowed.

Mr. ALLEN. Will the gentleman yield?

Mr. WEBB. I will.

Mr. ALLEN. This amendment offered by the gentleman from New Jersey does not affect the proposition, for the gentleman has stated "it shall be done with intent to establish a monopoly or destroy the business of a competitor."

Mr. WEBB. Yes; and there you have two things necessary to be proven. The amendment which my friend from New Jersey has offered sends us back to the Sherman law. You have got to prove both the illegal contract and the intent, and so forth. In the section as written you have only to prove the illegal contract. If the manufacturer makes a monopolistic contract, he ought to be punished for it without having to prove also that he intended to hurt some one thereby. He should not be allowed to make such contract, whether he actually intends to injure or not.

Mr. STAFFORD. Will the gentleman yield?

Mr. WEBB. Certainly.

Mr. STAFFORD. Would not the logic of the gentleman's position be that any jobber would not be permitted to select an agent or drummer to sell exclusively his wares?

Mr. WEBB. No; there he is the agent or the drummer, and he does not buy the goods from the manufacturer, but simply represents the jobber as agent.

Mr. STAFFORD. But he might sell them on certain commissions.

Mr. WEBB. He represents the manufacturer, and is the agent.

Mr. HUMPHREY of Washington. Will the gentleman yield?

Mr. WEBB. Yes.

Mr. HUMPHREY of Washington. I want to ask the gentleman this question: Suppose a dealer comes into a city, goes to the manufacturer and says to him, "I will handle your goods if you will not permit anyone else in town to do it," would that be legal?

Mr. WEBB. I think it would come within the spirit of the section if the manufacturer accepted such condition, and I think it ought to.

Mr. HUMPHREY of Washington. I think it ought to also; but it does not seem to me that it would. It seems to me that you cover it only in one way. Suppose the retailer says to the man, "I will handle your goods if you will not make a contract with anyone else to handle them."

Mr. WEBB. That might be done, but we are trying to unfetter the little business man and protect him and his customers from monopolistic contracts imposed by the big dealer.

Mr. HUMPHREY of Washington. If you do not stop that sort of procedure, will not the other be useless?

Mr. WEBB. Not at all.

Mr. HUMPHREY of Washington. Will they not simply change the manner of doing business?

Mr. WEBB. We want the little merchant to be able to buy all kinds of goods, keep a variety, and sell them to his customers, instead of being confined to one particular man's line.

Mr. HUMPHREY of Washington. Under the statement the gentleman has made, would it not still be a monopoly in any particular village, because they would select one particular man?

Mr. WEBB. It would be a monopolistic contract if the buyer and the seller agreed to such condition.

Mr. ADAIR. Mr. Chairman, will the gentleman yield?

Mr. WEBB. Yes.

Mr. ADAIR. There is nothing in this bill, as I understand it, that prevents a manufacturer from establishing an agency for his goods in any town, and giving that agent the exclusive right to sell the goods, provided he does not tie him up with a contract not to sell anybody else's goods?

Mr. WEBB. That is true.

Mr. ADAIR. I would not vote for this bill if it prevented a manufacturer from establishing an agency.

Mr. WEBB. It prevents the manufacturer from going to a little or big merchant and selling goods to him on condition that that merchant shall sell only his goods and not sell the goods of any competitor, and I ask both Republicans and Democrats on the floor of this House to give their support to that proposition, because it is good business morals, and it is a long step toward unfettering the little business man all over the country, and it will make the little country merchant feel that he can furnish supplies of all sorts and varieties to his customers instead of forcing them to go to the big mail-order houses to get what they want because they can not find the goods on the shelves of their local merchant.

Mr. MOORE. Mr. Chairman, is there anything to prevent a competitor from going into a country town and making the same deal that the person sought to be affected by this bill made? Why could not a competitor go into the country town and set up his business in his own way with another dealer?

Mr. ADAIR. He does; and he should.

Mr. MOORE. Is not that his remedy?

Mr. ADAIR. That is his remedy. Will the gentleman yield for one more question?

Mr. WEBB. Yes; just for one question.

Mr. ADAIR. I am engaged in the manufacturing business. We go out into the markets and establish agencies. We sell our line of goods to one man in a county, and to nobody else, but we do not bind him up in a contract to buy the goods of no one else.

Mr. WEBB. Then the gentleman is exempt from this section, and ought to be. If there are a dozen kinds of knives and razors, every merchant who buys them ought to have the right to buy all of them and sell them to anyone he pleases, and no one manufacturer ought to have the right to exclude him from the privilege of buying any razor or knife in competition with the one that he is selling him.

Mr. ADAIR. It is no part of monopoly for a manufacturer to establish an agency.

Mr. WEBB. No. Certainly not under this section. What we are striking at is the monopolistic contract.

Mr. McCOY. Does not the Standard Oil Co. have agencies all over the United States?

Mr. WEBB. Yes, I understand so.

Mr. McCOY. Is not that the biggest monopoly there is?

Mr. WEBB. Yes. But we are not aiming at monopoly per se in this section, but at a contract or contracts which lead to monopoly. Monopoly is covered by the Sherman law, and we are trying to prevent those contracts which build up and lead to such monopoly.

Mr. MANN. Mr. Chairman, will the gentleman yield?

Mr. WEBB. Yes.

Mr. MANN. It being a common practice for people who invent something or who manufacture a specialty to place it in the hands of a local merchant and advertise it at the expense of the manufacturer or the seller, under this provision, if that should be done so as to build up a trade in this specialty in this store, the storekeeper would have a right to take in a competing article and get the benefit of the advertisement, as I understand it.

Mr. WEBB. Yes.

Mr. MANN. That looks moral, also.

Mr. WEBB. He has that right now, and exercises it every day under a decision of the Supreme Court.

Mr. ADAIR. You walk into a drug store down here in the city and ask for a bottle of Hood's sarsaparilla, and the druggist says, "Yes; I can give you that, if you want it, but here is one that is just as good," and he sells it to the customer at a cheaper price.

Mr. MANN. Not to me, not sarsaparilla. [Laughter.]

Mr. ADAIR. Since when did the gentleman quit drinking sarsaparilla?

Mr. MANN. I never quit, for I never commenced.

Mr. ADAIR. Oh, I beg the gentleman's pardon. I believe his beverage is Peruna?

Mr. MANN. Oh, that is the gentleman's specialty, not mine. [Laughter.]

Mr. WEBB. Briefly, Mr. Chairman, this section does not prohibit any manufacturer from establishing agencies, for when he establishes agencies he furnishes the goods to the agents, and the title to the property usually remains in the manufacturer, and the agent acts for him and sells his goods and returns the money when he sells them.

It does not forbid the manufacturer to go into a town and sell to one customer alone, provided he does not add to that sale the condition that that customer shall not sell competitive articles. It does not prevent that kind of sale, provided the illegal condition is not added to it. Now, I want to say this. Unscrupulous big business and the trusts are not in favor of this section, for it destroys one of their favorite weapons. They are trying to put forth the small business fellow to oppose this section, to make it appear that the little fellows are against this provision; but, as a matter of fact, those who are destroying competition in this country are the real opponents of this section.

Mr. McCOY. Will the gentleman yield?

Mr. WEBB. Yes.

Mr. McCOY. Did one of these little fellows who were crowded out come before the committee?

Mr. WEBB. Every independent, as I remember, who spoke before the committee was in favor of section 4.

Mr. McCOY. I would like to have one name.

Mr. WEBB. If the gentleman will give me time to look the matter up in the volumes of hearings, I could find it, and my colleagues will bear out my statement.

Mr. McCOY. Will the gentleman yield again?

Mr. WEBB. No; I can not. My friend had 30 minutes, and I have only 12. This illegal, monopolistic contract system is what has built up the big mail-order houses and practically destroyed the little merchants all over this country, because the little merchant is ordinarily an honest man, and when an agent of a trust walks into his little store and says, "I will sell you these articles that have been splendidly advertised if you agree never to sell any of our competitors' articles." The little merchant agrees, and he feels bound to stand by it. His customers see that they can buy but one line of articles from him and turn to the mail-order house, where a variety of articles is found, and his customer sits down and orders from the mail-order house and soon the little merchant is destroyed, because he is fettered by the trust's exclusive contract. [Applause.]

Mr. MADDEN. Will the gentleman tell the House what gives the mail-order house a monopoly if it is not the Government of the United States by giving it the use of the mails?

Mr. WEBB. I am not talking about the monopoly given by the United States, but I am talking about the small merchant whose business we are trying to unfetter by this bill.

Mr. MADDEN. The gentleman said the mail-order house had a monopoly. What gives it a monopoly if it is not the Government of the United States, which gives it the use of its mails?

Mr. WEBB. I did not say the mail-order house was a monopoly; but that the exclusive contract we forbid has driven farmers to the mail-order house. We can destroy that condition somewhat with the unfettering of the little merchant from these exclusive contracts which compel him not to sell competing goods.

Mr. MADDEN. Can we take away the right of the people to use the mails if they want to send a letter to a mail-order house?

Mr. WEBB. No; but when the small merchant is permitted to handle all the articles he pleases the mail-order house will cease to get the business, because the small man will be permitted to carry all kinds of goods on his shelves and not be confined to one single line of goods.

Mr. DONOHOE. Does this measure propose to interfere with the relation between the manufacturer and his salesman who sells on commission?

Mr. WEBB. Not at all.

Mr. GARDNER. Do the mail-order houses undersell the local merchant?

Mr. WEBB. I do not know. They sometimes do by selling an inferior quality of goods, by attractive advertising, and they gull a good many people; but they find it out sooner or later, and will go back to their honest local merchant if he carries a variety of articles from which they can select what they want.

Mr. KINDEL. Will the gentleman permit one question?

Mr. WEBB. Yes.

Mr. KINDEL. Is it not a fact the parcel-post rates [laughter] have more to do with that than any other thing?

Mr. WEBB. That may have something to do with it. Now, if gentlemen of the House wish to destroy this section 4 they will vote for the amendment of my friend Mr. McCOY. If they want to retain the tooth in it, then vote that amendment down, and we will force the United Shoe Machinery Co., which is one of the completest monopolies in shoe machinery in the world, to abolish their monopolistic contracts and give the shoe manufacturers of this country a chance to live and maintain their existence by buying and using or leasing such machinery as they choose. [Applause.]

Mr. VOLSTEAD. I yield five minutes to the gentleman from Massachusetts [Mr. GARDNER].

Mr. STAFFORD. Mr. Chairman, may we have the amendment again reported?

The CHAIRMAN. The Clerk will again report the amendment.

The amendment was again reported.

Mr. VOLSTEAD. Mr. Chairman, I yield to the gentleman from Massachusetts [Mr. GARDNER] the balance of my time.

The CHAIRMAN. The gentleman from Massachusetts [Mr. GARDNER] is recognized for three minutes.

Mr. GARDNER. Mr. Chairman, the gentleman from Arkansas [Mr. FLOYD] tells us that in the interest of the consumer he is against the amendment offered by the gentleman from New Jersey, and the gentleman from North Carolina [Mr. WEBB] tells us that in the interest of the country merchant he is against the amendment of the gentleman from New Jersey because the country merchant is being put out of business by the mail-order house. Now, if the mail-order house puts out of business the country merchant, the mail-order house

puts him out of business by underselling him, which many people hold to be in the interest of the consumer.

In answer to an inquiry from the gentleman from Indiana [Mr. ADAIR], the gentleman from North Carolina says that section 4, as it stands—and I, for one, believe in section 4, although I favor the amendment of Mr. McCOY—does not prohibit exclusive agencies. It does not prohibit exclusive agencies for the man or corporation who has capital enough; but it does prohibit the kind of exclusive agency which the man with small capital is forced to contract with. For instance, if I were an automobile manufacturer with a small capital, I could not all over the country establish agencies such as would be permitted in section 4 as it is drawn at present. I could not afford to carry the enormous stock of automobiles which would be necessary in order to break into the market. If, however, the amendment offered by Mr. McCOY is adopted, I could pursue the present practice of the automobile trade, a practice by which a small man can avail himself of the capital of other small men. That is the way the automobile business has been built up. A man who has a new make of automobiles comes to some bright young man in Washington and says, "I can not afford to make you my agent, but I will sell this machine to you if you agree to sell my machines and my machines only. If you sell other machines, I can never establish a demand for mine, because of these great automobile concerns which are already competing for the market."

This amendment is distinctly in the interest of the small manufacturer. It is the men who began as small manufacturers who have built up the automobile trade. One of them is the person who made those vast amounts of money which the gentleman from Arkansas [Mr. FLOYD] has been telling us about. He did it by cutting down the cost and the price of an automobile, cutting it down and down. Apparently he can manufacture at half the cost of his competitors. Now, the gentleman from Arkansas says, "Yes; he has made such an enormous amount of money that we will build a wall around him and prevent him from having any competitor." That is what you are doing if you leave section 4 unamended. You are building a wall around these gigantically successful people, so that the next Mr. Ford who comes along will not be able to break into the business, because he will not have at his command enough capital to own automobiles all over the United States.

Neither the gentleman from Arkansas nor the gentleman from North Carolina has answered one word of what the gentleman from New Jersey [Mr. McCOY] has said. They have told you about practices, very reprehensible ones, in restraint of trade. practices which, as a matter of fact, do produce monopolies and which are intended to produce monopolies. They have cited those practices for the purpose of defeating the amendment of the gentleman from New Jersey, just as if his amendment were designed to permit those practices, or would permit them. On the contrary, the gentleman's amendment forbids those practices, inasmuch as it provides that these exclusive agencies shall not be permitted if they are to be used for the purpose of building up monopolies or for the purpose of restraint of trade.

The CHAIRMAN. The time of the gentleman has expired.

Mr. VOLSTEAD. Mr. Chairman, I yield five minutes to the gentleman from Pennsylvania [Mr. GRAHAM].

Mr. GRAHAM of Pennsylvania. Mr. Chairman, there is an old story that illustrates a good deal the present situation. It tells of a man passing along the street and noticing another man working with a crowbar at the side of a cellar wall that projected above the sidewalk. He said, "My friend, what are you trying to do?" "Well," he says, "that cellar is very dark, and I am trying to let some light into it." The first man went about his business for a couple of hours, and coming back he saw the other man still working and the aperture not very much larger than when he first saw it. He said to him, "Well, my friend, how have you succeeded?" The man replied, "I haven't let much light into it, but I have let a power of dark out." [Laughter.]

And it seems to me that in much of the discussion we are indulging in here we are letting a power of dark out about this question. But, all boiled down, it is a simple proposition, as I view it. Now, I may be letting more dark out.

There are two classes of transactions aimed at in this section 4. One is a lease and the other is a sale. It is quite true that there is nothing in this section which forbids the creation of agencies. That is to say, the manufacturer may have an agent who exclusively sells his goods, because employing an agent does not involve either a lease or a sale. Indeed, the manufacturer might go to a retail dealer in some village or city or town and say, "I wish to introduce my goods here; I want to have you as my special agent, and I want you not to handle the goods of any competitor of mine"; and so long as there is not a transaction in the nature of a lease or a purchase there, then that retailer can transact that business and do it lawfully, and there is no prohibition in section 4 against such a piece of conduct as that.

Now, so far as selling is concerned, a system or practice has grown up in the business world where a man has a limited capital, or where for the protection of the manufacturer contracts are made in the nature of an agency contract, but the goods are invoiced to the man that has to do the handling of the goods, and the price is paid to the manufacturer and the transaction amounts, perhaps, to a sale. That is the kind of thing that this section 4 does forbid. I know of nothing immoral in such a transaction as that. A man can not serve two masters. He must be loyal to one or the other when their interests conflict. Wherefore, if you make such an arrangement as that, and to conserve your capital or for your own protection make a conditional sale of the goods and engage this man to handle those goods exclusively for you, there is no element of immorality involved in such a transaction. And yet that is forbidden.

The amendment of the gentleman from New Jersey would cure the evil that is in this proposition created by the language of this section. You would leave business free to make any transaction that it pleases so long as it does not amount to what this amendment would cover, namely, a restriction of trade or the creation of a monopoly.

Now, let me ask in relation to the leasing question, whether it would not also cure that. In the minority report we have said:

> Again, the manufacturer sells no machines at all, but only leases them, and because they are delicate and any injury to them is his own loss, he leases them only to lessees who agree not to use imperfectly adapted parts, supplies, or appliances of other manufacture. Or he leases them at a special rental, upon the understanding that the lessees shall not use imperfectly adapted parts, supplies, or appliances of any other manufacture. Or he agrees to sell to the lessee perfectly adapted parts, supplies, or appliances, upon the understanding that the lessee shall not use imperfectly adapted ones of other manufacture. Each of these transactions—which good morals and honorable business conduct from time immemorial have always sanctioned—is forbidden by the bill.

The amendment of the gentleman from New Jersey [Mr. McCOY] would cure that evil, because unless these practices amount to a restriction of trade or creation of a monopoly, they ought not to be forbidden, and would not be forbidden. Therefore I favor the adoption of the amendment.

Mr. VOLSTEAD. Mr. Chairman, I yield five minutes to the gentleman from Oklahoma [Mr. MORGAN].

Mr. MANN. Mr. Chairman, among the gentlemen who were to have time a while ago was the gentleman from Iowa [Mr. GREEN], who at that time yielded to some one else. Can the gentleman consent to let him have five minutes?

Mr. WEBB. Under unanimous consent; yes.

Mr. MANN. Mr. Chairman, I ask unanimous consent that the gentleman from Iowa have five minutes in addition to the time already allotted.

Mr. WEBB. May I incorporate in that a request for five minutes for the gentleman from Massachusetts [Mr. MITCHELL]?

The CHAIRMAN. The gentleman from North Carolina and the gentleman from Illinois ask unanimous consent that the gentleman from Iowa [Mr. GREEN] and the gentleman from Massachusetts [Mr. MITCHELL] be allowed five minutes apiece, in addition to the time already agreed upon. Is there objection? [After a pause.] The Chair hears none.

Mr. GREEN of Iowa. Mr. Chairman, this section of the bill is like the rest of this proposed statute. It lays burdens upon the small manufacturer and the small dealer, but leaves the whole matter wide open for the large concern. It is perfectly easy for any large institution to evade the provisions of this section. All they have to do in the world to except themselves from its provisions is simply to establish a selling agency of their own, to have their own agent, to hire him in accordance with any terms that they see fit, and exempt themselves entirely from the provisions of this bill. On the other hand, burdens are laid upon the small manufacturer and dealer, as has been shown here.

The amendment offered by the gentleman from New Jersey [Mr. McCOY], instead of taking away anything from the section actually adds to it by depriving the large manufacturer of the power to set up a monopoly through his selling agency in defiance or disregard of this section. It brings us back, really, to the Sherman law, it is true, but what harm is there in any of these trade agreements unless there is a monopoly or a restraint of trade or a hindrance of competition in some way? Who has been injured thereby? What evil is there that needs to be remedied, except something of that nature? Why should we undertake to hamper trade when that which is sought to be

restricted or stopped is injuring no one and doing no damage to the business world?

The gentleman from Arkansas has said that this section was based upon a decision of the United States Circuit Court of Appeals rendered by Judge Sanborn; but that case, in my judgment, is no authority for the position which the gentleman from Arkansas has taken. The suit was one for damages under the Sherman law.

It is true that Judge Sanborn did state in that case that contracts of sale which provided that the lessee or purchaser of the article sold should not use or deal in goods furnished by other parties was not an act inhibited by the Sherman law, for the reason that he considered it was not an act done in hindrance or suppression of competition or in creation of a monopoly. But this has nothing to do with the point upon which the case actually turned and upon which the decision was based. That point was that the plaintiff was not harmed in the least by the transaction which he complained of.

The Department of Justice has never taken the position that contracts of this character, made for the purpose of promoting a monopoly or for the purpose of hindering or restraining trade, was legal, but, on the contrary, has commenced several cases and prosecuted many individuals because of their entering upon just such transactions as this. No Attorney General that I know of under any administration has ever taken the position which is now taken by the majority of the committee as a reason for bringing forward this section. The real fact is that it adds nothing in proper form to the provisions of the Sherman law, but, as I have said, simply gives additional advantages to the large concerns and throws additional restrictions upon the small dealer. [Applause on the Republican side.]

Mr. MITCHELL. Mr. Chairman, I do not think there should be any mistake among the Members of the House with reference to the extreme importance of this section of this bill. There are some important provisions in this bill, but I do not believe that there is a more vital or more important provision in it than section 4. One of the evils that this section seeks to cure is the evil with reference to the "tying contracts," and I want to call attention to one specific condition which exists in this country which has been created by this system of tying contracts. A gentleman appeared before the Judiciary Committee, an independent shoe-machinery manufacturer, who stated that from 95 to 98 per cent of all of the machinery used in the manufacture of shoes in this country was manufactured by one company. He said that they absolutely controlled and dominated the field by this system of tying contracts. They have in the manufacture of shoes some of the best machines, essential machines, machines that it is absolutely necessary for every manufacturer to have in order to do business. Manufacturers who furnish some of the minor machines and who are in the field trying to get a foothold and a market for their machines can not commercialize their business, can not get the machines into these factories because this gigantic monopoly—and there is no monopoly more powerful—has this system of tying contracts with the manufacturers. The manufacturers, in order to get the essential machines, must sign a contract that they will also take these other minor machines where there is some competition. If they do not do that, then, according to the provisions of their contract, the shoe-machinery company is able to remove all the machinery from the factory. As a result of that system, they have practically the field to themselves.

Now, Mr. Chairman, the States of this Union have recognized that evil. In Massachusetts this corporation was organized by the consolidation of a number of independent machine companies in about 1899. The manufacturers began to protest in a feeble kind of way against the continuation of this trust. The shoe journals protested against its organization and its system of doing business. The protest became so strong that in 1907 the Massachusetts Legislature passed a law seeking to remedy this evil and to open the door to the inventive genius of the thousands of men who are engaged in the shoe-machine business and who want to put shoe machines on the market. The legislature passed a law in 1907, but the effect of it has been circumvented. We have had investigations, and the Attorney General is proceeding against the shoe machinery company, believing that it is in violation of the Sherman antitrust law. I do not believe that this Congress ought to speak in any uncertain terms. I think the Members on both sides of the House ought to give this provision of the bill their support. I am not quite as familiar as are some other Members with the exclusive contracts, but I know that they form one of the greatest instruments, one of the greatest means of creating a monopoly in this country, and we have an opportunity in this bill to stop that system and break it up where it is at the present time.

What is the inducement that is offered the small dealer or the small grocery man or small business man or the dealer in any community to take one of these exclusive agencies?

Mr. GREEN of Iowa. Will the gentleman yield?

Mr. MITCHELL. Yes.

Mr. GREEN of Iowa. Was I not correct in saying that these acts were in violation of the Sherman antitrust law?

Mr. WEBB. I will answer that. The Department of Justice has held that one individual act is not, but that a series of acts will bring him within the Sherman antitrust law.

Mr. MITCHELL. We want to make sure of our ground in this act. We want to give everyone a fair field and no favors. We want to give opportunity to the little fellow. We want the shoe workers, shoe manufacturers, machine manufacturers, and the great body of consumers to be freed from the grip and fetters of monopoly and special privilege. [Applause.]

The CHAIRMAN. The time of the gentleman has expired. All time has expired. The question is on the amendment offered by the gentleman from New Jersey [Mr. McCOY].

The question was taken; and on a division (demanded by Mr. McCOY) there were 28 ayes and 71 noes.

So the amendment was rejected.

Mr. MORGAN of Oklahoma. Mr. Chairman, I offer the following amendment.

The Clerk read as follows:

Amend, section 4, page 22, by inserting, in line 4, after the word "of," the words "or appoint an agent to sell," so that the section will read:

"SEC. 4. It shall be unlawful for any person engaged in commerce to lease or make a sale of, or appoint an agent to sell, goods, wares, merchandise, machinery, supplies, or other commodity on condition or with any understanding, agreement, or contract that the lessee or purchaser thereof shall not use or deal in the goods, wares, merchandise, machinery, supplies, or other commodities of a competitor or competitors of the lessor or seller; and any person violating the provision of this section shall be decreed guilty of a misdemeanor, and on conviction thereof shall be fined not to exceed $5,000 or by imprisonment not exceeding one year, or by both.

Mr. WEBB. The effect of that amendment would be that nobody could sell his goods except he sold them in person; he could not establish an agency; he could not send out men to sell goods for him.

Mr. VOLSTEAD. Mr. Chairman, I yield five minutes to the gentleman from Oklahoma [Mr. MORGAN].

Mr. MORGAN of Oklahoma. Mr. Chairman, gentlemen will observe that in discussing the amendments to this section that the section applies only to the leasing and sale of goods. I voted against the amendment offered by the gentleman from New Jersey because I think there is some real merit in this section as it now stands. But, gentlemen, if we really desire to destroy monopoly, if we really desire to protect the people against monopoly, then we ought to broaden this section so that one who sells through agencies can not prohibit the agent from dealing in the goods of a competitor, because a corporation through agents can establish and maintain a monopoly with the same degree of success that it can by the selling or leasing of goods with the understanding that the purchaser will not deal in the goods of a competitor. Now, a large number of my constituents are farmers. They deal largely with the International Harvester Co., an institution or a corporation with $120,000,000 capital.

Unless you accept my amendment, this gigantic corporation not only has a monopoly in the sale, largely, of farm machinery through agents in Oklahoma, but throughout this great Nation—to all of the 6,500,000 farmers. Are you going to leave section 4 so that it will not protect the farmers of this country against this monopoly? It seems that you are. I am in favor of reducing the power of the shoe machinery company to maintain a monopoly by leasing machines, but I am also in favor of extending the section so that it will reach the International Harvester Co., that sells the farmers of this country perhaps two-thirds, if not three-fourths, of all of their harvesting machinery. Yet, again, the majority in this House is going back on the farmers of this Nation. You are still leaving in the hands of that gigantic corporation the power to establish exclusive agencies, with an agreement or contract that they shall not act as the agents of any other firm. How is an independent manufacturer to get his goods on sale throughout the Nation? He is handicapped by the fact that the great harvester company has monopolized the active, able agents throughout this great Nation. In the report of the Corporations Commissioner upon the methods used by the International Harvester Co. he cites that that is one of the methods they use to establish and maintain their monopoly. It has been said here frequently in this debate that the section as it stands, in a measure, controls the small concern

that must sell its goods direct because it has not got the power to establish agencies, but the mammoth concern may establish local and exclusive agencies, and this law will not touch it.

The CHAIRMAN. The time of the gentleman from Oklahoma has expired. The question is on the amendment offered by the gentleman from Oklahoma.

The question was taken, and the amendment was rejected.

Mr TOWNER. Mr. Chairman, I offer the following amendment, which I send to the desk and ask to have read. I will state that the amendments which I shall offer are merely to perfect the text, and I will ask careful attention of the committee to the amendments.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Page 22, line 3, strike out the words "engaged in commerce," and in line 4, after the word "sale," insert the words "in commerce."

Mr. VOLSTEAD. Mr. Chairman, I yield five minutes to the gentleman from Iowa [Mr. TOWNER].

Mr. TOWNER. Mr. Chairman, that amendment, I will say, is more important, perhaps, than will appear at first blush. By the language used in the text you limit the prosecution of any person to persons who are engaged in commerce, which, under the definition of commerce, means those who are engaged in interstate commerce. That is not what you mean, certainly, because you do not mean that it shall be required to prove that any person who violates this act shall be engaged in interstate commerce. The language of all of these bills is that any person who violates or does the thing which the law prohibits shall be punished. The language, for instance, of the Federal anti-trust law is that "every person who shall make any such contract or engage," and so forth. In section 2 of this bill the language is "every person who shall monopolize," and so forth. In section 3 the language is "every person who shall make any illegal contract," and so forth.

This is the difficulty with the language used. It is not as descriptive of the person that the phrase "in commerce" should be applied, but it is as descriptive of the act, and therefore the words "in commerce" should follow the word "sale" in section 4, so that it will read:

That any person—

No matter whom he may be, engaged in commerce or not—

That any person who shall lease or make a sale in commerce of goods, wares, merchandise—

And so forth.

Otherwise this section would be inoperative and perhaps unconstitutional, because it would apply in the form in which it is to sales made in intrastate commerce, which would be absolutely unconstitutional, as the gentleman knows, for Congress has not that power, so that the limitation placed here being upon the person is a limitation that ought not to exist, and the lack of that limitation on the sales would make it apply to all sales, even in intrastate commerce, and, therefore, for both reasons, the section ought to be amended, as I have suggested.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Iowa.

The amendment was rejected.

Mr. TOWNER. Mr. Chairman, I yield back the balance of my time on that amendment and offer another amendment, which I send to the desk and ask to have read.

The CHAIRMAN. The gentleman yields back two minutes and offers an amendment, which the Clerk will report.

The Clerk read as follows:

Page 22, line 9, after the word "states," strike out the word "or" and insert in lieu thereof the words "and shall."

Mr. VOLSTEAD. Mr. Chairman, I yield five minutes to the gentleman from Iowa.

Mr. TOWNER. Mr. Chairman, it would appear that that amendment ought to be adopted without any question whatever. The other amendment ought to have been adopted, but it is a habit that it is the requirement of gentlemen on the other side to vote down all amendments no matter whether the amendment affects the text and makes the bill stronger or not. The word "or" has no business here. It means nothing. What the gentleman means is:

Or any Territory thereof or the District of Columbia or any insular possession or other place under the jurisdiction of the United States, and shall fix a price charged therefor—

And so forth.

The word "or" certainly must have been unintentionally or carelessly used, or else it was used for the purpose of making the provision of the statute inoperative and of no effect.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Iowa.

The question was taken, and the amendment was rejected.

Mr. TOWNER. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The gentleman yields back two minutes.

Mr. TOWNER. Mr. Chairman, I offer a third amendment.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Page 22, line 10, after the word "condition," insert a comma and the word "agreement."

Mr. VOLSTEAD. Mr. Chairman, I yield five minutes to the gentleman.

Mr. TOWNER. Mr. Chairman, it would seem also to the ordinary man——

Mr. WEBB. Does this amendment come after the word "understanding"?

Mr. TOWNER. No; after the word "condition." Of course it is better there——

Mr. WEBB. Mr. Chairman, I think the amendment is good; and, as far as the committee are concerned, we will accept it. [Applause.]

The CHAIRMAN. The question is on the adoption of the amendment.

The question was taken, and the amendment was agreed to.

Mr. TOWNER. I yield back the balance of my time.

Mr. VOLSTEAD. Mr. Chairman, I yield five minutes to the gentleman from Pennsylvania [Mr. MOORE].

The CHAIRMAN. The Chair will state there is no amendment pending.

Mr. MOORE. Mr. Chairman, I move to strike out the last word. A little while ago I asked the gentleman from North Carolina [Mr. WEBB] as to the effect of this section upon those who undertake after advertising to place their wares by a special arrangement with a local dealer, and his answer was that unless the merchant or manufacturer who made the deal with the local dealer insisted that the exclusive right to sell should be granted apart from the question of competition that he would not be punished, but that if he in any way insisted that the competitor's goods should be eliminated, then he would be subject to the fine and imprisonment imposed by the section. And all this new and drastic legislation in the interest of the local dealer or the country merchant.

Now, Mr. Chairman, I have been looking at this matter from the viewpoint of the man who is struggling to build up a business in this local way. Say there are two merchants in the gentleman's town, each striving for business, and the manufacturer of a certain brand of soap or soup, it makes no difference, comes along and says to one of them, the one who is more energetic than the other, perhaps, that he may have the exclusive right to sell the product, a specialty that he has advertised well, and that is so popular that even "the children cry for it," as some advertisements read. The goods are salable, and have been made so by the genius of the inventor or manufacturer and because of the heavy promotion expenditure made upon them.

Mr. TAGGART. Will the gentleman yield?

Mr. MOORE. I can not in five minutes, although I would like to do so. Now, after all this labor and energy and expense of advertising it appears that if the manufacturer or jobber undertakes to say to the local merchant, "I will give you the exclusive privilege and authority of selling my popular soup or soap," he has to go to jail. That is not a very great inducement either to the manufacturer, the inventor, or the local business man. It does not aid the local business and, so far as the question of morals is concerned, it seems to punish the industrious and progressive business man in favor of the faker or the manufacturer of spurious or inferior articles, who may thus derive advantage from the legitimate advertising and the scientific energy of those who created the business and paid dearly to advance it. In other words, Dr. Cook reaps the gate receipts while the real explorer, the real patentee, the real inventor, the real manufacturer, who did the work and filled the house, would suffer the penalty of fine and imprisonment. If this be the effect of the enactment, the man who has not expended any energy, time, or money in promoting or advancing trade could always play a waiting game and then come in and take advantage of all the facilities of the trade established by the man who had the enterprise and courage to spend his money to acquire it. This does not seem fair or moral.

And there is another side to it. I make the statement now, and I challenge anybody to contradict it, that the Government of the United States itself—that is to say, the present administration of the Government—is now encouraging the very kind of business that the gentleman from North Carolina assumes by this measure to stop.

It is advertising for supplies to be used in the Mexican emergency, particularly in the Navy Department, many of which

are specified, so that the manufacturer only who has made his goods popular can sell them to the Government. It is so in the case of soup, it is so in the case of soap, it is so in the case of tobacco, and a good many other articles. Specifications issued by this very administration, which is advancing and insisting upon this so-called antitrust legislation, call for supplies for our Mexican necessities which even specify certain brands of tobacco made by the Tobacco Trust; certain brands of soup, made exclusively by certain manufacturers; certain brands of soap, made exclusively by certain manufacturers of soap. This is what a trust-busting administration demands for itself.

The CHAIRMAN. The time of the gentleman from Pennsylvania has expired.

Mr. MOORE. Mr. Chairman, I shall therefore avail myself of leave to extend, so that I may place in the RECORD several communications which relate to this bill. I believe they should have consideration, because they represent the sober judgment of some of the leading citizens of Philadelphia—citizens who have been deeply concerned over the recent trend of legislation and who know what they are talking about.

I submit letters from representatives of two of the oldest of our banks, presenting the views of experienced and conservative men with respect to section 9 (interlocking directors), and a memorial from the Philadelphia Board of Trade in general opposition to the bill:

THE CENTRAL NATIONAL BANK,
Philadelphia, March 25, 1914.

Hon. J. HAMPTON MOORE,
House of Representatives, Washington, D. C.

DEAR SIR: An act has been introduced into the House with the intent of prohibiting interlocking directorates between certain corporations. This act has been drafted to correct certain abuses which it is alleged have crept into banking and the extension of credit on the part of certain groups of banks, presumably in New York.

In seeking to correct that which is claimed as an evil existing in the metropolis of the country far greater harm in the sum total will be done to the mass of our banking institutions and to the community at large by the enactment of this new law.

We can not recall a single instance here, in Philadelphia in which the interlocking directorate feature has prevented competition or militated unjustifiably in any way against a single individual in the commercial community. In the history of this bank, through its long and honorable record of a half century, we do not know of an instance in which the members of its board of directors have been influenced in the extension of credit in any manner which has unduly favored or has disfavored any portion of the commercial community entitled to credit from this bank.

The bill as lined up will affect probably 10 of our directors, and in the end we may lose half of them—possibly more—men whose influence stands paramount, whose integrity has always stood for the best in this community, and whose influence will not unlikely go to some State trust company here, and thus this bank will thereby be materially weakened in the personnel of its management. These men will be hard to replace, owing to their trained minds, their discriminating and analytical judgment. We cite our own bank as a concrete case; the same conditions obtain among many others here in this city, as well as among a majority of the national banks in the larger towns and cities throughout the country.

It seems to us that Congress should very carefully balance this problem, and in trying to remedy one evil not create a condition which will be even more harmful. You are seeking to build up a great banking system for us, yet this act, if it shall become a law, will weaken many of the integral parts (its leading member banks) and strengthen the State banking systems as against the regional system. Can you afford to do this, particularly when we are trying to help you in every way possible? Do you think it the part of wisdom to force large groups of the most desirable and influential men in cities like Philadelphia out of the national system into State bank or trust company directorates, and thus build up the State system at the expense of the regional system? Is it fair to harass and unjustly punish the clean, straight bankers of this country, who are in the great majority, and who have through all these years transacted a strictly uplifting, legitimate business, in order to correct an alleged abuse in one particular city?

We respectfully submit the foregoing for your consideration, and we feel it our duty in the interest of our stockholders and in the interest of the new regional system which you are seeking to build up to enter our protest against the enactment of a law which we believe will prove not only harmful to the member banks of the regional system, but will weaken the system as a whole.

Very truly, yours,

WM. T. ELLIOTT, *President.*

THE GIRARD NATIONAL BANK,
Philadelphia, May 18, 1914.

Hon. J. HAMPTON MOORE,
House of Representatives, Washington, D. C.

MY DEAR MR. MOORE: You have requested me to write you concerning the interlocking directorate feature of the trust bill now before Congress for consideration.

There is no real demand on the part of intelligent people for the enactment of any such legislation as is contemplated in the bill as it affects the directorships in national banks. Such unwise legislation will be of disastrous consequence to the banks really affected by its provisions, and as the bill is now constituted it grossly discriminates against national banks that are unfortunate enough to be operating in cities of over 100,000 population.

Interlocking directors of national banks in cities or towns of under 100,000 population could be of much more detriment to their respective communities than similar directors in larger cities, as the number and scope of the banks in smaller cities are much more concentrated, and as a consequence the possibility of a director's power greater than in the larger cities where there are a number of strong competing institutions. If so-called interlocking directors are permissible in and helpful to smaller communities, there is no line of logical reasoning that will show they are not of increasing usefulness to the cities of over 100,000 population.

We national banks in the larger cities are now to operate under the Federal reserve act, which will of necessity make a great change in the conduct of our business; in the reserve cities the banks are facing a large shrinkage of deposits on account of the reserve of other banks being transferred to the Federal reserve banks, and it is the banks in the reserve cities that will be vitally affected by the provisions of the new trust bill, and yet before we have had any opportunity to adjust ourselves to the changed conditions along comes more legislation that will deprive our banks of the services of the directors that are really the backbone of our institutions, not only on account of the value of their wide experience and the business they have been able to bring to us, but the feeling of confidence in the institution that is engendered by their association with us. What will be the effect?

The State banks and trust companies that are already getting a lion's share of the really desirable business will corral all the men of affairs and their business and their influence to the great detriment of the national banks, and the national banks will be greatly weakened by their loss, with no possible benefit to the very people the proposed legislation is supposed to benefit.

A bank can not prosper unless it gives its customers as good, if not better, treatment than its immediate competitors, and the bank with the strongest board, comprised of men of affairs interested in numerous enterprises, is usually the most alert, most aggressive, and accommodating and most useful to any community. It is against such a bank with a board that is of real benefit to its customers that this bill will discriminate; and to what good end?

Another thing that must not be overlooked—these very men that are being legislated out of directorships have in the majority of cases been invited to become associated with our financial institutions with which they are identified and have not bought their way in to control its affairs, as is so generally misrepresented, and have been, as a rule, the big factor in the success of the institution under consideration.

Take the banks in Philadelphia, for example—the important trust companies are large holders of the stocks of all the older national banks through the administration of trusts, not as actual owners, and are large depositors with our national banks. What exception can be taken to the fact that the officers of these trust companies are directors in our national banks? It is of importance to the trust companies that they are so represented, important to the trusts they represent, and of great value to the customers of the bank with which they may be identified, and of no possible harm to any interests.

Some of the most useful and conscientious national-bank directors are members of private banking firms. Why should they be eliminated by law from a directorship in a city bank? I can assure you they are of more use to any bank than the bank is to them.

You can go all along the line and take the men interested in million-dollar companies engaged in commerce and eliminate them from the directorships in national banks as provided in the act and you will take away the very men that are of the most importance, directly and indirectly, to the customers, large and small, of our national banks, and I ask who is to be benefited by their forced withdrawal? Absolutely no one, and a great business—that of national banking—disarranged and damaged.

In other words, don't drive out of national banking the very class of men that collectively are of inestimable value to the national banks, and through them to the multitude of bank customers and shareholders, and force these men into a position where they will naturally gravitate toward State banks and trust companies—with them will go their business and their influence. Instead of strengthening the national banking system you will impair its usefulness. The national banks have difficulty enough now holding their own with what are known as State banks and trust companies; the recent enormous increases in the latters' number and resources prove this.

The national banks have welcomed constructive legislation; destructive legislation along the lines contemplated is unwarranted and will be only a detriment to the country's development.

Yours, very truly,

J. WAYNE, Jr.,
Vice President and Cashier.

PHILADELPHIA BOARD OF TRADE,
Philadelphia.

To the honorable the Senate and House of Representatives of the United States in Congress assembled:

Your memorialist, the Philadelphia Board of Trade, respectfully represents:

That there has been introduced into the House of Representatives a bill (H. R. 15657) entitled "A bill to supplement existing laws against unlawful restraints, monopolies, and for other purposes."

Your memorialist submits the following reasons for its opposition to this proposed measure:

PRICE DISCRIMINATION.

In section 2 of the act it is declared to be a crime to discriminate in price between purchasers of commodities with the purpose or intent to injure the business of a competitor.

With the general moral purpose ascertainable in this provision no one would disagree. There is such a thing as an effort to wantonly destroy the business of a competitor by means other than those recognized as fair competition. The act, however, as drawn is, we believe, unsound and likely to do substantial harm.

Discriminations in price are essential to any freedom in trade. The manufacturer or dealer in goods who has a large supply in the West with a small demand must be at liberty to sell in the West at a lower price than he would in the East, if he had there a small supply and an active demand. He must sell at an advancing or declining scale of prices and on such market as may exist in different localities. Discrimination in price per se is a part of the life of trade, and contains no element of immorality.

Moreover, discrimination in price is an essential to competition. Competition means obtaining business formerly done by others, and this is accomplished by price cutting in the market where the competitor is operating. It would be mere hypocrisy to pretend that competition does not injure or destroy the business of the competitor. The avowed purpose of the competition is to take the competitor's business from him, as he is attempting to take your business from you. Competition is the settled policy of the law, and it would be manifest folly to pass an act requiring that the effects of competition must not exist. The direct effect of competition is "to injure or destroy."

It follows therefore that every person in a competitive business who cuts prices in order to obtain the business formerly held by some other

competitor would come within the terms of the proposed act, since the direct effect of his price cutting is to injure the business of his opponent, and he is presumed to know the effect of his acts. The act as drawn should not therefore be passed. It would place everyone doing business in the United States in jeopardy of fine and imprisonment.

If we assume that there is such a thing as a willful and malicious attempt to injure or destroy the business of a competitor outside the scope of legitimate competition, legislation should be directed against such willful and malicious attempt, whether accomplished by price cutting, the spreading of false reports, or any other dishonest means or practices. What is a willful and malicious attempt should be left to the courts. The act ought not to be open to the construction that cutting prices in order to take away the competitor's business is a crime.

The Supreme Court has interpreted the Sherman Act to mean that where ruthless and destructive methods are employed with the "primary" intent to injure or destroy the business of a competitor, such acts bring the offender within the purview of the present law. Under these circumstances we do not believe that additional legislation is needed.

THE RIGHT TO SELL.

Your memorialist respectfully submits that no public necessity justifies the denial to the owners of mines or mining properties the right to sell or to withhold from sale the products of mines developed at their own risk and with their own capital. There can be no freedom unless the inherent rights of the individual are interfered with only when overpowering public necessity demands.

INTERLOCKING DIRECTORATES.

Your memorialist believes that it will be conceded by all that the achievements and prosperity of a nation are dependent upon the productivity of the individual. Unless the man of brains, resource, and energy has scope for the use of these gifts and qualities the whole country is the loser, at home and abroad. The provision against interlocking directorates prohibits the individual with the capacity which is most needed from doing his best service for the country. For such a restriction upon individual liberty and such a handicap placed upon the energy of the Nation it should be shown that there exists a great public necessity, to be met by this means and no other. Your memorialist believes that neither prerequisite for this enactment exists.

The reasons which have been advanced for an interference by Government with existing conditions are three in number:

1. That interlocking directorates, so called, may be used to create a combination in restraint of trade. Granting this possibility, there is nothing in it to justify curtailing the usefulness of the best abilities of the country. If several directors of one corporation are acting on the board of a competing corporation in such a way as to effect a combination in restraint of trade, the arrangement can be set aside by the courts under existing law. It is not the presence of the same individual on two boards of directors that is the evil; why, then, cut down our national effectiveness?

2. That they (interlocking directorates) may sometimes be made use of to effect dishonest schemes for individual profit. Here, again, it is entirely feasible to legislate against making secret or dishonest profits from official position without depriving the business of the country of its most efficient servants.

3. That sometimes a person of large means or abilities is elected to a number of directorates and thus may become too powerful in the world of business or finance.

This ground is untenable. No country can prosper unless the incentives for individual effort are great, unless the prizes for usefulness and success are position and power. To be afraid that position and power may be misused, to take away the incentive for a nation's efforts, because some one will perhaps abuse them, is cowardice and folly.

We respectfully submit, therefore, first, that there is no overpowering public necessity for the proposed act, and, second, that other means are available for meeting any wrongs in existing conditions without emasculating the energy of the people or curtailing the productivity of the genius of the country. Legislate against fraud, conspiracies to do unlawful acts, or abuse of official positions; do not legislate against the proper liberty of the individual.

STOCK OWNERSHIP.

The provisions of the proposed act relating to stock ownership are, in the opinion of your memorialist, unnecessary and unwise. It is hard to believe that anyone familiar with business conditions can honestly assert that competition without limit is for the best good of the people; the destructiveness of competition is too evident. The degree of competition which will work the best result for all can not be determined by legislation—it must be worked out by the slow process of evolution. The great period of consolidation through which the country has passed was due partly to the realization that unrestrained competition was wasteful and uneconomic; partly because the world trade has grown to a point where the countries which would lead must operate through larger and more powerful units of business. The result has been on the whole good. No one familiar with conditions at the beginning of the period of consolidation and expansion would return to them. The law as it stands prohibits consolidations which unduly restrain trade or create monopoly. Assuming that this restriction is necessary, upon what might perhaps otherwise develop into too great a degree of consolidation, it is evident that the growth of the units of business must go on, and if two or more weaker units find it of advantage to unite it would be bad policy to prevent the working out of their salvation in their own way. We have legislated fully against the danger of monopoly, we should not be afraid of the natural working out of economic laws lest we kill our own advancement.

PICKETING.

Your memorialist most earnestly objects to the provision of the bill relating to "picketing." This practice means in plain terms the surrounding of a place of employment by those who desire to stop work in such a way that those who desire to work may be prevented by persuasion if possible, or by force if necessary, from working. The individual who desires to work ought in a free country to be protected in that right. The owner of the factory who desires to run his factory ought to be protected from willful interference. For the Government to give its official sanction to a practice which would not have to be legalized, if it were not immoral and used for purposes of intimidation, would be altogether abhorrent to fair play and stable government.

CONCLUSION.

Your memorialist believes that the consensus of opinion of the business men of this country is against the passage of this or any other so-called antitrust bill, and that to pass such an act as is now proposed would do violence to the judgment of that portion of the community perhaps best able to judge of its effect upon the welfare of the country.

The fact that the act in question is described as an antitrust bill, when in reality it deals with the law of business relations generally, is persuasive proof that the time is not ripe for the passage of additional legislation of this character. It is evidence that the framers of the bill are thinking in terms of an attack upon some more or less mythical embodiment of evil called a trust. It is certain that the country must suffer, unless the laws affecting business are framed with a scientific accuracy to prohibit only the thing that is wrong, without interfering with the convenient machinery of business or limiting the initiative and effective energy of the people.

For which reasons, among others, we respectfully submit that this bill should not receive your favorable consideration.

And your memorialist will ever pray.

True copy.

WM. M. COATES, *President.*

Attest:

WM. R. TUCKER, *Secretary.*

MALCOLM LLOYD, Jr., *Chairman,*
SAMUEL T. KERR,
S. B. VROOMAN,
CHAS. S. WALTON,
S. PEMBERTON HUTCHINSON,
NATHAN HAYWARD,
JOSEPH A. JANNEY, Jr.,
Committee on Legislation.

Mr. WEBB. Mr. Chairman, I yield two minutes to the gentleman from Kansas [Mr. TAGGART].

Mr. TAGGART. Mr. Chairman, I am wholly unable to understand why the distinguished gentleman from Pennsylvania [Mr. MOORE] would seem to favor the first man that comes to town with a thoroughly advertised article and would claim the right to the exclusive market because he was the first one that came along. He grants no rights whatever to a man that might come the next day and who might have an article that he had patented, that he had thoroughly advertised, and that finally might become such a well-accepted article by the American public that even the United States Government would make choice of it for supplies for the Navy or Army. Why do you have a choice? Who is entitled to the American market? The man who simply has advertised? The man who appears first? Do you grant no right whatever to the man who comes in second or third or fourth? Suppose your favorite arrived after the merchants had been tied up with exclusive selling contracts? Would you be satisfied? Now, the first man that you seem to favor would never have gotten a start in the world, he never would have had an article thoroughly advertised and acceptable to the public if exclusive agencies were in complete operation when he began to put it on the market, because under your theory when he would come to town the merchants would all have been tied up by exclusive contracts, and perhaps the very one who is now your favorite would not have any chance at all. The idea is not only to liberate the man who has the right to purchase and sell anything and every lawful thing that he pleases to sell anywhere, but to liberate the second man or the third man or the fourth man who comes to visit the merchant, and who offers his wares to the merchants of the town and places them on the market. Give them all the same even chance. [Applause.]

The CHAIRMAN. The time of the gentleman has expired.

Mr. GARDNER. Mr. Chairman, I should like to ask the gentleman from North Carolina [Mr. WEBB], the chairman of the committee, if it would detract anything from his bill, page 22, lines 9 and 10, if we strike out the words "or fix a price charged therefor, or discount from, or rebate upon, such price"?

Mr. WEBB. Well, I will say to the gentleman I think it would. It would hurt the effect of the bill considerably and might license the doing of those very things to which we object.

Mr. GARDNER. But you have only specified three of the devices which are customary in the case of exclusive-sale contracts. Are you not afraid that a court might hold that you intended to permit the devices which you left out?

Mr. WEBB. To what devices does the gentleman refer?

Mr. GARDNER. Now, I call your attention to your report, in which you use the expression, "the first inducement in every case must of necessity relate to price." Take the case of the United Shoe Machinery Co., which is situated in my district. The United Shoe Machinery Co. obviously might make a contract under which they would say to the shoe manufacturers, "If you will use our machines exclusively, then we will keep all your machines in order." Now, as a matter of fact, one of the reasons why the United Shoe Machinery Co. has so many supporters among the small manufacturers in my district is because of the fact that they keep all their machinery in order. I have not any sympathy with their system of "tying" leases at all, but their system for promptly repairing machinery is remarkable.

Mr. WEBB. I think the words "discount from" or "rebate upon" would cover what the gentleman desires.

Mr. GARDNER. I doubt it.

Mr. WEBB. If there is any doubt, and the gentleman will offer an amendment to cure it, the committee will accept it.

Mr. GARDNER. I should prefer to have the gentleman from North Carolina do that. It is a rather embarrassing thing for me to do, seeing that the United Shoe Machinery Co. is situated in my district. The gentleman from Massachusetts [Mr. PHELAN] can give the gentleman from North Carolina [Mr. WEBB] full information as to the facts.

The CHAIRMAN. The time of the gentleman has expired. Without objection, the pro forma amendment will be withdrawn, and the Clerk will read.

Mr. DICKINSON. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The gentleman from Missouri offers an amendment which the Clerk will report.

The Clerk read as follows:

Page 22, in line 22, after the word "found" strike out the comma and insert the words "doing business and the cause of action may accrue."

Mr. DICKINSON. Mr. Chairman, I have prepared this amendment to be inserted after the word "found" in section 6—the words "doing business and the cause of action may accrue;" and I have also prepared an amendment to be inserted in section 10 after the word "found," using the same language.

Mr. CULLOP. Mr. Chairman——

The CHAIRMAN. Does the gentleman from Missouri yield to the gentleman from Indiana?

Mr. DICKINSON. As I have only five minutes, I prefer to proceed for a few minutes, and then when I have made my statement I will ask for additional time, for the purpose of responding to any questions, if consent is given.

On last Saturday, during the general debate, I made some suggestions with reference to adding some language after the word "found" in section 10, which reads as follows:

SEC. 10. That any suit, action, or proceeding under the antitrust laws against a corporation may be brought not only in the judicial district whereof it is an inhabitant, but also in any district wherein it may be found.

Upon considering the bill, it seemed to me that the same amendment ought to be offered on page 22, in section 5, after the word "found," which says:

That any person who shall be injured in his business or property by reason of anything forbidden in the antitrust laws, may sue therefor in any district court of the United States in the district in which the defendant resides or is found.

You will note that on page 20, at the end of section 1, the following language is used:

The word "person" or "persons" wherever used in this act shall be deemed to include corporations and associations existing under or authorized by the laws of either the United States, the laws of any of the Territories, the laws of any State, or the laws of any foreign country.

I have been told that the language used in these sections is the same language as that used in the Sherman antitrust law. I am informed that the same suggestion I now offer has been made by a distinguished judge who is dealing with this class of legislation and prosecutions under the antitrust law.

Mr. FLOYD of Arkansas. Will the gentleman yield, with regard to the last suggestion?

Mr. DICKINSON. I yield to the gentleman from Arkansas.

Mr. FLOYD of Arkansas. That last suggestion follows the words of the Sherman law, and I never heard any complaint about it:

The word "person" or "persons" wherever used in this act shall be deemed to include corporations and associations existing under or authorized by the laws of either the United States, the laws of any of the Territories, the laws of any State, or the laws of any foreign country.

Mr. DICKINSON. Yes.

Mr. FLOYD of Arkansas. We simply copied the language of the Sherman law.

Mr. DICKINSON. I understand that; but let me proceed further for a moment. I want to call the attention of members of the committee to the fact that this law seeks to provide for an action, suit, proceeding, or trial in the judicial district where the corporation, as mentioned specifically in section 10, is an inhabitant. I want to call attention to the fact that a corporation is an inhabitant of the State where it gets its incorporation, and which it selects as its place of residence. Speaking for a moment with reference to the corporation as distinguished from the person, in section 10, when you use the language—

And also in any district wherein it may be found—

How are you going to find a corporation for the purposes of jurisdiction, not for the purposes of mere service? Of course you can find it by serving certain processes upon its agents, officers, or employees.

Mr. CULLOP. Mr. Chairman, will the gentleman permit an interruption right there?

Mr. DICKINSON. Yes.

Mr. CULLOP. I would suggest that to correct the very matter you are driving at—because this is an attempt to give jurisdiction wherever the cause of action arises—you strike out the words "is found" and insert the words "has an agent." That will give service wherever the cause of action arises. Otherwise, if you leave it in this way, you will have to go to the home of the corporation.

Mr. DICKINSON. Mr. Chairman, I do not agree with the gentleman from Indiana [Mr. CULLOP] in that suggestion. I have before me the amendment suggested by an eminent judge, using somewhat similar language; but I believe that these suits, actions, and proceedings ought to be brought, in the case of a corporation, not only where it is an inhabitant by virtue of its incorporation, and not only against a person who is an inhabitant of a certain State, not only where that corporation or that person may have some agent in a remote district, but it ought to be brought where the corporation or the person is doing business and where the cause of action accrues.

The CHAIRMAN. The time of the gentleman from Missouri has expired.

Mr. DICKINSON. Mr. Chairman, I ask for five minutes more.

The CHAIRMAN. The gentleman from Missouri asks that his time be extended five minutes. Is there objection?

There was no objection.

Mr. DICKINSON. For instance, take a corporation or a person, inhabitant of New Jersey. They may be doing a small business in the State wherein they are incorporated, or where the individual is a citizen, and the principal business may be done in West Virginia or Colorado or in Missouri. Wherever the cause of action accrues, wherever the damage is done, wherever the witnesses are, there is the place where it ought to be at least permitted to be sued and trial to be had.

A New Jersey corporation or a West Virginia corporation may transact business in Missouri or in Colorado or in far-away California. There is where the wrongs may be done, where the violations of the law may be committed, and there is the evidence of these things; and they should not be compelled for the purposes of a trial to have suit brought in some far-away State or district, of which they are the inhabitant by virtue of the incorporation therein or selection of a residence therein. I think, after the word "found," there ought to be additional language such as I have offered in this section. I will ask the Clerk to read the amendment.

The Clerk read as follows:

On page 22, line 22, after the word "found," strike out the comma and insert the words "doing business and the cause of action may accrue."

Mr. DICKINSON. Now, one more suggestion. The same amendment, it seems to me, ought to follow the word "found" in section 5 and in section 10. The same language ought to follow where it provides for the prosecution of a corporation and the prosecution of the person taking into consideration the definition of the word "person." I do not ask to strike out any language of the committee, but simply to add to it, to make clear and definite and certain so that any person and any corporation may be sued not only where it has its residence as a corporation or individual, but that it can be sued wherever it is found doing business and the cause of action may arise.

Mr. STEPHENS of Texas. I desire to ask the gentleman if he will not change the point at which he has offered his amendment. I thoroughly agree with him, but I think it ought to come in after the word "resides," line 22, page 22, so that it will read, "in which the defendant resides, does business, or is found."

Mr. DICKINSON. Mr. Chairman, I much prefer that the amendment finally agreed upon should come from the committee. I have no disposition to inject any amendment of my own or my personality into this bill, but I want such appropriate language as will make it certain and definite.

The CHAIRMAN. The time of the gentleman has again expired.

Mr. DICKINSON. Mr. Chairman, I ask for five minutes more.

The CHAIRMAN. The gentleman from Missouri asks that his time be extended five minutes. Is there objection?

Mr. STAFFORD. Reserving the right to object, I would like to ask the chairman of the committee how long he intends to run to-night. This is a hot day and we have been in session since 11 o'clock, and Members are getting tired.

Mr. WEBB. I hoped that we would get through with sections 5 and 6. I do not think there will be much opposition, and we think we can do it in 15 or 20 minutes.

Mr. STAFFORD. I have no objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Missouri?

There was no objection.

Mr. DICKINSON. Mr. Chairman, I have before me a suggestion of an amendment which came from a distinguished representative of the Government, a distinguished judge, formerly a high official, in which he suggests the following words: It is to insert the words "in the district wherein the defendant may be doing business or have an agent, representative, or director." That does not seem to me to cover the situation entirely. The suit ought to be authorized to be brought against the corporation or person in the district of which he is an inhabitant or where the cause of action accrues and not merely where some agent or representative may be located remote from the point where the damage is done.

Mr. SCOTT. Will the gentleman yield?

Mr. DICKINSON. I will.

Mr. SCOTT. What is the gentleman's understanding of the word "found"; what is its import as used in this section?

Mr. DICKINSON. I understand that there is some decision by some court that I am not very familiar with that may possibly cover the very thought suggested by my proposed amendment. I do not believe that it meets the situation, and if there be any doubt about it, in order that the Government may prosecute successfully and institute suits and actions and have trials the language ought to be clear and definite, and so plain that he who runs may read, so that there can not be two constructions.

Mr. FLOYD of Arkansas. Mr. Chairman, will the gentleman yield?

Mr. DICKINSON. Yes.

Mr. FLOYD of Arkansas. I desire to make an explanation of this provision. It is one of the administrative features of the bill which has the approval of the Attorney General, who has been connected with some of these great trust suits, and this language was used to make this section conform to the existing law and enable him to have greater liberty in bringing these suits. I want to call the gentleman's attention to the fact that that language has the approval of the Attorney General, and while of course that does not bind us, I think if we adopt any amendments to it, it should be after mature consideration.

Mr. DICKINSON. Mr. Chairman, in response to that, I want to say again, as I said before, that I have no disposition to press any amendment suggested by me, and I want to repeat that I prefer that the amendment come from the committee in appropriate language. For that reason I do not care to further press the amendment at this time.

Mr. CULLOP. Mr. Chairman, I desire to offer an amendment to the amendment, in line 22, after the word "or," to strike out the words "is found," and insert the words "has an agency."

The CHAIRMAN. The Clerk will report the amendment to the amendment.

The Clerk read as follows:

Page 22, line 22, strike out the words "is found" and insert in lieu thereof the words "has an agency."

Mr. CULLOP. Mr. Chairman, that will make it read:

In which the defendant resides or has an agency doing business, and the cause of action may accrue.

Mr. FLOYD of Arkansas. Why strike out the words "is found"?

Mr. CULLOP. Because the words "is found" will not avail anything in serving a process or getting jurisdiction of the defendant, except at the place where the corporation resides. The word "found" as used there is vague and indefinite, and means nothing, so far as acquiring jurisdiction is concerned. But I can see that it will do no harm to leave them, and I shall at the proper time ask to modify the amendment in this respect.

Mr. FLOYD of Arkansas. Mr. Chairman, will the gentleman yield for a suggestion?

Mr. CULLOP. Certainly.

Mr. FLOYD of Arkansas. This act applies to persons as well as to corporations?

Mr. CULLOP. Certainly.

Mr. FLOYD of Arkansas. And the words "is found" would certainly give you advantage in dealing with a person.

Mr. CULLOP. It may in such instance. But suppose a person lives in New Jersey, doing business there, how can jurisdiction of him be acquired in any Federal court in Colorado or Nevada? Suppose process is served on him, he will enter his appearance and move to quash the process, and answer that he was called into that jurisdiction by the process of some court. That defendant will never go into Colorado in such a way that he will be subject to a valid service, and if he was called there upon some public business he can quash the service, if it be made upon him, because when a man is compelled to go into a jurisdiction upon public business, you can not serve a process of the court on him and bring him into court and require him to answer a cause of action; but if he has an agency doing business there, then jurisdiction can be obtained over the corporation or the individual in the territory where the cause of action arises. But why insert the language "is found" in this without he has an agent? It may result, and more than likely will result, in a failure to acquire jurisdiction other than at the place where the corporation or individual resides.

Mr. J. M. C. SMITH. Mr. Chairman, will the gentleman yield for a suggestion?

Mr. CULLOP. Certainly.

Mr. J. M. C. SMITH. Is it not true that in all the States foreign corporations are compelled to appoint a person at the capital for the very purpose of receiving service?

Mr. CULLOP. All that I know of. I thank the gentleman for the suggestion that he has made. In nearly every State there is a law, as the gentleman from Michigan suggests, requiring the corporation to appoint an agent for the purpose of serving process upon him, and if the corporation has no agent in my State the auditor of state is made the agent for that purpose; but now, if we undertake to limit the service of process upon the defendant to wherever it is found, we will never in all probability get jurisdiction in these cases except at the place of the home of the individual or the corporation. What objection could there be to inserting the language "or has an agent"? It will clarify the matter and make certain that which is now uncertain. The defendant can then be found to serve the process upon him; but if you do not do that, when and where will we find the defendant? In many instances only certain persons are delegated by the corporate acts or by-laws upon whom the legal service can be had. That person in such a case would never go into the territory where a cause of action arises, but he would send somebody else there, upon whom legal service could not be made.

The CHAIRMAN. The time of the gentleman from Indiana has expired.

Mr. CULLOP. Mr. Chairman, I ask unanimous consent to proceed for two minutes more.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. CULLOP. In such cases the defendant would always avoid sending the person in the territory upon whom process could be served, and get the defendant into court to answer any cause of action which might be brought, and the cause would go out of court on a plea in abatement. I am trying to have this made so jurisdiction can be secured by a service of process upon the agent, and when there is service upon the agent it will compel the corporation or individual to answer in court the cause of action, but by the amendment of the gentleman from Missouri I fear no one will ever get one of them into court to answer a cause of action or respond to one. He will never be found, he will avoid being found, he will be in hiding, and the injured party will never get service upon him. If he does find him, he will be in a position to quash service for some reason known to some statute in that jurisdiction. Hence I ask the gentleman from Missouri to let the amendment that I have offered be inserted, so it will be of some real purpose to the people who may have occasion to bring suit under this statute, and not be, as it is now, that they will have to travel probably from California to New Jersey or New York to bring suit.

Mr. DICKINSON. I would like to make the inquiry would not the same objection the gentleman makes now apply to the statute where the corporation is an inhabitant by virtue of it having been incorporated there?

Mr. CULLOP. No; clearly not. Let us make this so there will be no avenue for escape.

Mr. DICKINSON. I want to say I have no objection to any additional language. I want to add additional words after the word "found," but I care not whether it be the language I have suggested or the additional language suggested by the gentleman from Indiana, but I really prefer that the committee in charge of this bill offer its own amendment complete and perfect it for consideration.

The CHAIRMAN. The time of the gentleman from Indiana has again expired.

Mr. FLOYD of Arkansas. Mr. Chairman, I desire to state that the provision written into the bill has the approval of the Attorney General, who is engaged in prosecuting these suits, and the purpose of it is to broaden the language so as to give the Government the widest latitude in securing service, and the amendments suggested are limitations upon that authority. The very broadest language that can be used in a statute of this kind conferring jurisdiction is to give the jurisdiction where the corporation resides or is found.

Mr. ALEXANDER. Will the gentleman yield?

Mr. DICKINSON. Yes.

Mr. ALEXANDER. This is not new language. I think this is language, in hæc verba, of section 7 of the Sherman antitrust law.

Mr. WEBB. This is absolutely taken from section 7 of the Sherman antitrust law.

Mr. CULLOP. Will the gentleman permit a question right there?

Mr. FLOYD of Arkansas. Let me read the language of section 7. It says "in the district in which the defendant resides or is found," and, this being supplemental, it was intended to make it read and give it the same effect as in the Sherman law.

Mr. CULLOP. But "is found." A corporation does not move around; it is a stationary affair, and its residence is some place fixed in its articles of incorporation. Now, then, it is stationary. It is the agent who moves around, and then either the law or the by-laws of the corporation provide who are the persons upon whom service can be made to bring them into court; but if you fix it "any agent," as I have suggested, then you have it that wherever there is an agency in any State or District in the Union you can get a valid service if they have any such agent, and then you get it by the law, as most of the States have a statute.

Mr. FLOYD of Arkansas. If the gentleman will permit, I desire again to call his attention to the fact that individuals may be guilty of violating this provision the same as corporations, and that individuals do not necessarily have agents, and it is necessary that we retain this provision in the bill as it is written, in order to give service upon individuals, and corporations are found wherever they are engaged in business and wherever they have agents.

Mr. CULLOP. But individuals doing an interstate business.

Mr. FLOYD of Arkansas. We have here a provision in reference to service that is incorporated in the original act which we are proposing to supplement, so why not follow the language of the Sherman Act in that regard, for that is all we do.

Mr. GARNER. Will the gentleman yield for a question?

Mr. FLOYD of Arkansas. Yes.

Mr. GARNER. Has the Supreme Court ever passed on that language of the Sherman Act "is found"?

Mr. FLOYD of Arkansas. I do not think so. It is the language of the statute in my State and I think in many others.

Mr. GARNER. Does the gentleman know in investigating this matter or has he run across any decision of the Supreme Court construing that language in the Sherman antitrust law?

Mr. FLOYD of Arkansas. I never did. I never heard of any complaint in regard to it, and in this bill the provisions with reference to service follow the original Sherman law. It has the approval of the Attorney General's office, and there never has been any difficulty about the interpretation of the Sherman law as to service. And so in passing supplementary legislation we should, I think, content ourselves in that regard with the terms of the Sherman law.

Mr. CULLOP. May I suggest to the gentleman from Arkansas that every suit which has arisen under the Sherman antitrust law has been brought at the home of the corporation itself, or at its principal place of business, and therefore there was no occasion to construe this language, "is found," which is ambiguous and uncertain. If you are to construe "is found," you will have to construe that as the place of the residence of the corporation, because it is not migratory. You can not get service upon some person traveling throughout the country and hold your jurisdiction throughout that territory.

Mr. CARLIN. Why should not the suit be brought in the habitat of the corporation? We have been successful so far in that matter.

Mr. CULLOP. In this case for the very best reason, I think. The gentleman from Virginia [Mr. CARLIN] now has disclosed the purpose of this language, and that is why I am combating it, and for the best of reasons, I think. I do not want to make a resident of California come to Trenton, N. J., to bring a suit for violation of this law, but I want him to sue at home in the jurisdiction where the cause of action arose.

The CHAIRMAN. The time of the gentleman from Arkansas [Mr. FLOYD] has expired.

Mr. FLOYD of Arkansas. Mr. Chairman, other gentlemen have taken my time, and I ask unanimous consent for five minutes more.

The CHAIRMAN. The gentleman from Arkansas asks unanimous consent for five minutes more. Is there objection?

There was no objection.

Mr. DICKINSON. Mr Chairman, merely for the purpose of a question, I want to ask the distinguished gentleman from Arkansas whether some similar amendment has not been suggested by a distinguished representative of the Government now engaged in prosecution under the Sherman antitrust law, extending the language, after the word "found," so as to make it clear and certain?

Mr. FLOYD of Arkansas. There has been such a suggestion made by Mr. Dickinson, who is now engaged in prosecuting the Steel Trust for the Government. But this language is broader than the language you contend for. I contend when you leave the words "is found" in the law you can get service on an individual anywhere within the jurisdiction in which he happens to be found and upon a corporation in any place where it is doing business or has an officer or agent upon whom service may be had; and the words of the proposed amendment are words of limitation.

As this is supplementary legislation to the Sherman law, I would ask some of these distinguished gentlemen to explain to me what reason or what policy would require or justify that we should provide one rule as to service under the original law which we do not repeal nor modify in that regard, and a different rule for bringing suits under this supplementary law. The suggestion was made by the Attorney General, as I understand, so as to harmonize the provisions of the proposed law with those of the existing law and to give the Government the widest possible scope in getting service in these cases, and the provision is right as it is written and ought not to be changed.

Mr. GARNER. Will the gentleman yield for a question?

Mr. FLOYD of Arkansas. Yes.

Mr. GARNER. The gentleman says this gives the broadest scope possible for the bringing of suits against agents and others. Can the gentleman point out under the Sherman antitrust law any suit that has been brought against a corporation outside of the jurisdiction of its home?

Mr. FLOYD of Arkansas. I can not.

Mr. GARNER. If there has been no suit in these 20 years——

Mr. FLOYD of Arkansas. I do not say there has not. I say that I have not investigated that point.

Mr. GARNER. I was going to assume that there were no suits brought against a corporation except in the jurisdiction of its home, and the prosecuting officers must have assumed that was the only place they had jurisdiction or else there would have been some suit somewhere brought outside of the jurisdiction of the home of that corporation.

Mr. FLOYD of Arkansas. I do not deny or affirm that. I have not investigated that question.

Mr. GARNER. The very fact that there have not been any suits brought in these 20 years——

Mr. FLOYD of Arkansas. I do not admit there have not. I do not concede the fact stated.

Mr. GARNER. I was asking the gentleman that question.

Mr. ALEXANDER. If the gentleman will yield, I think that there are two suits pending in New York against foreign shipping lines for violation of the Sherman antitrust law.

Mr. CULLOP. Now, will the gentleman yield to me for a question?

Mr. FLOYD of Arkansas. You see in this——

The CHAIRMAN. The time of the gentleman from Arkansas [Mr. FLOYD] has again expired.

Mr. CULLOP. Mr. Chairman, I ask unanimous consent that he have five minutes more.

The CHAIRMAN. The gentleman from Indiana [Mr. CULLOP] asks unanimous consent that the gentleman from Arkansas have five minutes more. Is there objection?

Mr. DONOVAN. Mr. Chairman, reserving the right to object, we have given the gentleman from Arkansas five minutes once or twice, and what do we find? He did not have five seconds of the time. Now, what a farce it is to give the gentleman from Arkansas five minutes and let some one else use the five minutes. Probably there is not another Member of this House who can explain or illuminate this question as the gentleman from Arkansas [Mr. FLOYD], and Members who know nothing whatever of the subject can not get the benefit of what he has to say.

I withdraw my objection.

The CHAIRMAN. Is there objection? [After a pause.] The Chair hears none.

Mr. CULLOP. Now, Mr. Chairman, I desire to ask this: You say it is provided in this that where the defendant is found——

Mr. FLOYD of Arkansas. Resides or is found.

Mr. CULLOP. Resides or is found?

Mr. FLOYD of Arkansas. Yes.

Mr. CULLOP. Now, under that language you could not get jurisdiction of the defendant by serving process on an agent, unless you have fixed in the law that service upon the agent will give jurisdiction of the corporation. So that you add

nothing whatever to this in any respect, except, as I take it, to fix the place of the residence of the corporation. I ask the gentleman, is it legal to serve process on an agent, and is jurisdiction obtained by such service, unless the law makes him an agent upon whom service of process will confer jurisdiction against the corporation?

Mr. DONOVAN. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. DONOVAN. When does the time of the gentleman from Arkansas [Mr. FLOYD] begin? When did the gentleman take the floor?

The CHAIRMAN. The Chair will state that his time is running now.

Mr. FLOYD of Arkansas. Mr. Chairman, in answer to the gentleman from Indiana, I think it would be a very dangerous practice for us here, in the heat of debate, with differing opinions, to amend a provision relating to service of process, when the very language that is incorporated in this bill has been written in the existing law for 24 years, and there has never been any complaint from any source concerning it, nor any confusion about it; and when the Attorney General of the United States, who was heretofore connected with one of the most notable trust suits that has ever been brought and is now in control of all trust suits now pending, asks us to fix the service in this supplementary legislation in the exact words in which it is found in the existing law.

We followed his judgment. We believe we did right in following it, and we think this House will be wise in following his judgment, because we are not amending the Sherman law. We are merely supplementing it by additional legislation; and there it stands, just as it is written. We are proposing new and supplementary legislation, and in doing so you are proposing by these amendments offered to fix a different rule for service of process in this bill from that provided in the original act. Gentlemen talk about confusion. This would bring confusion. A person in bringing suit under the original Sherman law would obtain service wherever the person or corporation resides or is found, but in bringing suit under the supplementary legislation he would have to follow this new statute and the new rule relating to service injected into it. In the interest of harmony, and especially when there is no objection to the Sherman law in that regard, especially when the highest legal officer in this Government, charged with the enforcement of the law, has recommended it, we feel that we ought to bow to his judgment and reject the amendments proposed. We believe this House would do well to follow recommendations of your committee and leave the provisions relating to service as they are in the bill. The same language used here occurs in other sections further on in the bill. Why have two rules for service in the enforcement of the antitrust laws of this country? Why have one rule in the original Sherman law as it is written and another rule in the supplemental provisions thereto proposed in this bill, which are intended to broaden and extend the provisions of the Sherman Act, without attempting to curtail or cut short in any respect the virtue, power, and efficacy of that law as it is written?

Mr. GARNER. Will the gentleman yield?

Mr. FLOYD of Arkansas. Yes.

Mr. GARNER. Would the gentleman favor a statute which would permit service on an agent?

Mr. FLOYD of Arkansas. I think you can get service on an agent under this provision. I do not know how you can sue a railroad corporation unless you get your service on an agent.

Mr. GARNER. If the gentleman finds, upon further investigation, that this provision would not permit it, then would the gentleman object to an amendment?

Mr. FLOYD of Arkansas. If, on mature investigation, we find that any provision of this bill is defective in any way and will not carry out the purpose for which it is intended, I assure the gentleman that nobody will be more willing to accept such an amendment than your committee; but I appeal to you not to change these provisions hastily, in the heat of debate. I think the provisions relating to service properly drafted as they appear in the bill, and that the proposed amendment and others suggested in the debate would narrow the scope of the provisions as drawn. I hope that the amendment will be rejected and that section 5 will not be amended, as the words objected to are a verbatim copy of language used in section 7 of the Sherman Act, proposed for reenactment here so as to make this supplementary legislation harmonize with the existing law.

Mr. SCOTT. Mr. Chairman, I believe the language both in the Sherman law and in this particular section was advisedly used. I think some of the gentlemen on the other side have forgotten some of the occasions when they found it necessary to look up the decisions on this question. It is not a new or unsettled question. The expression "found" as used in connection with Federal jurisdiction of corporations means where the corporation is doing business. A corporation must submit the jurisdiction of the Federal court either in the home of the corporation, which is the State that creates it, or in some other district or State where it is found doing business. And that does not mean merely where it has an agent or an agency, because many times corporations have an agent or an agency in a State and is not doing business within the jurisdiction clauses of the statutes.

Mr. SUMNERS. Will the gentleman yield?

Mr. SCOTT. Yes.

Mr. SUMNERS. Does it not occur to the gentleman that since this bill contemplates suits may be brought by private individuals, that they be permitted to bring suit where the wrong is done and follow the old rule of procedure?

Mr. SCOTT. You could not adopt any method that would introduce more confusion into the law than that, because the question as to where the cause of action accrued is very often one of great difficulty to decide. It is a matter over which State statutes have no control.

The statute, as suggested by the gentleman from Indiana, of his State could have no effect of conferring jurisdiction on the Federal courts. While I do not think it would harm the section to say "found doing business," because that is what the expression means, it would introduce confusion to use the expression "agent or agency," because that has no limitations in the Federal decisions up to the present time. The expression "found doing business" has become fairly well defined.

The gentleman from Indiana is again mistaken when he says that there have been no suits brought to enforce the Sherman antitrust law except at the home of the corporation. I hope he has not forgotten the great Beef Trust prosecutions—a New Jersey corporation was a defendant—which were tried out in Chicago.

Mr. SUMNERS. Will the gentleman yield?

Mr. SCOTT. Yes.

Mr. SUMNERS. Does the gentleman believe that if a private individual in California, wronged by a corporation that has its domicile in New York, was forced to resort to the courts in New York you would practically deprive that man of an opportunity, if he was an ordinary citizen, of pursuing the remedy which the law provided?

Mr. SCOTT. You do not do that, because he could always bring suit in California if he can find anyone upon whom to serve process. He brings it in the State court, and the corporation at once takes it to the Federal court. That has been the history and procedure.

Mr. DICKINSON. Will the gentleman yield?

Mr. SCOTT. Yes.

Mr. DICKINSON. Take a New Jersey corporation doing business in Texas and doing business in Illinois. It may commit no violation of the law, no wrong, no damage in Texas; and if so, a suit ought not to be brought there. If this same corporation does some one an injury, does do damage in Illinois, ought not the suit to be brought there? I give the widest liberty of bringing suits where the damage is done and where the action arose. My amendment seeks to be fair both to the corporation and to the person and to the plaintiff.

Mr. SCOTT. I could not conceive that anything would deprive the plaintiff of his right to choose the place of trial if he so desired, either in the district where found or where the corporation resides.

Mr. LEVY. Mr. Chairman, this bill is full of ambiguities. The trouble with it is that it will take 20 years to decide what it means, as it did the Sherman antitrust law. The discussion of this bill here has proved conclusively how dangerous it is to interfere with the business relations and rights of citizens all over the country. I claim that these provisions in this bill at the present time are disastrous to the business of the United States. Let me read to you a resolution or petition made by three of the largest manufacturing associations in the world:

> We, the undersigned, representing the National Implement and Vehicle Association, the Ohio Manufacturers' Association, and the Illinois Manufacturers' Association, in which States the manufacturing industry represents 33,164 factories, employing 1,084,000 employees, with an annual pay roll of $782,365,000, desire to cooperate with the Congress in legislation which will eliminate business abuses.
>
> We favor an interstate trade commission properly regulated, but we are opposed to all legislation which is discriminatory, and we ask that all other business legislation be deferred until the business men of the United States can become acquainted with the proposed laws, of which they are now entirely ignorant.

Mr. WEBB. Mr. Chairman, I move that the committee do now rise.

The motion was agreed to.

Accordingly the committee rose; and Mr HAY having taken the chair as Speaker pro tempore, Mr. BYRNS of Tennessee, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill H. R. 15657, relating to unlawful restraints and monopolies, and had come to no resolution thereon.

SENATE JOINT RESOLUTIONS REFERRED.

Under clause 2, Rule XXIV, Senate joint resolutions of the following titles were taken from the Speaker's table and referred to their appropriate committees as indicated below:

S. J. Res. 152. Joint resolution authorizing the President to accept an invitation to participate in the International Congress on Occupational Diseases; to the Committee on Foreign Affairs.

S. J. Res. 151. Joint resolution authorizing the President to accept an invitation to participate in an International Exposition of Sea Fishery Industries; to the Committee on Foreign Affairs.

S. J. Res. 105. Joint resolution authorizing the President to accept an invitation to participate in the Sixth International Dental Congress; to the Committee on Foreign Affairs.

S. J. Res. 153. Joint resolution authorizing the President to accept an invitation to participate in an International Congress on Neurology, Psychiatry, and Psychology; to the Committee on Foreign Affairs.

JOINT RESOLUTION PRESENTED TO THE PRESIDENT FOR HIS APPROVAL.

Mr. ASHBROOK, from the Committee on Enrolled Bills, reported that this day they had presented to the President of the United States, for his approval, the following joint resolution:

H. J. Res. 264. Joint resolution authorizing the President to accept an invitation to participate in the Sixth International Congress of Chambers of Commerce and Commercial and Industrial Associations.

WITHDRAWAL OF PAPERS.

Mr. ANDERSON, by unanimous consent, was given leave to withdraw from the files of the House pension papers in the case of Bridget Thomas, H. R. 7313, no adverse report having been made thereon.

LEAVE OF ABSENCE.

By unanimous consent, leaves of absence were granted as follows:

To Mr. NEELY of West Virginia, for five days, on account of illness.

To Mr. GRAHAM of Illinois, for one week, on account of important business.

To Mr. BELL of Georgia, for two days, on account of illness.

To Mr. ROGERS, further leave, on account of illness in his family.

ADJOURNMENT.

And then, on motion of Mr. WEBB (at 6 o'clock and 6 minutes p. m.) the House, under the special rule, adjourned until tomorrow, Friday, May 29, 1914, at 11 o'clock a. m.

EXECUTIVE COMMUNICATION.

Under clause 2 of Rule XXIV, a letter from the Secretary of the Treasury, submitting an item of appropriation for remodeling, repair, or improvement of the old customhouse and postoffice building at New Orleans, La. (H. Doc. No. 1002); to the Committee on Appropriations and ordered to be printed.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, bills and resolutions were severally reported from committees, delivered to the Clerk, and referred to the several calendars therein named, as follows:

Mr. FERGUSSON, from the Committee on the Public Lands, to which was referred the bill (H. R. 12050) reserving from entry, location, or sale lots 1 and 2, in section 33, township 13 south, range 4 west, New Mexico prime meridian, in Sierra County, N. Mex., and for other purposes, reported the same without amendment, accompanied by a report (No. 721), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. FERRIS, from the Committee on the Public Lands, to which was referred the bill (H. R. 15983) to restore homestead rights in certain cases, reported the same with amendment, accompanied by a report (No. 722), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. CHURCH, from the Committee on the Public Lands, to which was referred the bill (H. R. 92) to extend the general land laws to the former Fort Bridger Military Reservation, in Wyoming, reported the same with amendment, accompanied by a report (No. 723), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. SAUNDERS, from the Committee on the Merchant Marine and Fisheries, to which was referred the bill (H. R. 16269) to regulate the taking or catching of sponges in the waters of the Gulf of Mexico and the Straits of Florida outside of State jurisdiction; the landing, delivering, curing, selling, or possession of the same; providing means of enforcement of the same, and for other purposes, reported the same with amendment, accompanied by a report (No. 724), which said bill and report were referred to the House Calendar.

Mr. PROUTY, from the Committee on the District of Columbia, to which was referred the bill (H. R. 16783) providing for the taxation of and fixing the rate of taxation on inheritances, devises, bequests, legacies, and gifts in the District of Columbia, and providing for the manner of payment as well as the manner of enforcing payment thereof, reported the same without amendment, accompanied by a report (No. 725), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials were introduced and severally referred as follows:

By Mr. ASWELL: A bill (H. R. 16897) to tax the privilege of dealing on exchanges, boards of trade, and similar places in contracts of sale of cotton for future delivery, and for other purposes; to the Committee on Agriculture.

By Mr. ALLEN: A bill (H. R. 16898) authorizing the Secretary of War to donate to the Union Veteran Legion, No. 12, of Cincinnati, Ohio, one mortar or cannon; to the Committee on Military Affairs.

By Mr. FRANCIS: A bill (H. R. 16899) providing an additional appropriation for the Federal building at Bellaire, Ohio; to the Committee on Public Buildings and Grounds.

By Mr. ASWELL: A bill (H. R. 16900) to regulate trading in cotton futures and provide for the standardization of "upland" and "gulf" cottons separately; to the Committee on Agriculture.

By Mr. RAKER: A bill (H. R. 16901) to authorize the Secretary of Agriculture to locate and construct a public highway in the Trinity National Forest, in Trinity County, Cal., and for other purposes; to the Committee on Agriculture.

By Mr. KAHN: A bill (H. R. 16902) for the coinage of certain gold and silver coins in commemoration of the Panama-Pacific International Exposition, and for other purposes; to the Committee on Coinage, Weights, and Measures.

By Mr. BURKE of South Dakota: A bill (H. R. 16903) to increase the limit of cost for the construction of a public building at Aberdeen, S. Dak.; to the Committee on Public Buildings and Grounds.

By Mr. MONTAGUE: A bill (H. R. 16904) to facilitate the use of square No. 673, in the city of Washington, for storage warehouse purposes; to the Committee on the District of Columbia.

By Mr. SHERWOOD: A bill (H. R. 16905) providing for the purchase of a site and the erection thereon of a public building at Port Clinton, in the State of Ohio; to the Committee on Public Buildings and Grounds.

Also (by request), a bill (H. R. 16906) providing for issuance of noninterest-bearing bonds by States, Territories, counties, townships, municipalities, or incorporated towns or villages for public improvement purposes, and issuance of Treasury notes secured by same, and for other purposes; to the Committee on Banking and Currency.

By Mr. MITCHELL: A bill (H. R. 16907) authorizing the Secretary of War to donate to the city of Waltham, Mass., two bronze or brass cannon or fieldpieces with their carriages; to the Committee on Military Affairs.

By Mr. TREADWAY: Resolution (H. Res. 528) directing the Secretary of the Navy to furnish information relative to certain appropriations under the act of March 4, 1911; to the Committee on Naval Affairs.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BURNETT: A bill (H. R. 16908) granting an increase of pension to William P. Gwin; to the Committee on Pensions.

By Mr. BYRNES of South Carolina: A bill (H. R. 16909) granting a pension to Dora Dee Walker; to the Committee on Pensions.

By Mr. CLAYPOOL: A bill (H. R. 16910) granting an increase of pension to Thomas C. Rodgers; to the Committee on Invalid Pensions.

Also, a bill (H. R. 16911) granting an increase of pension to Ferdnand Hermann; to the Committee on Invalid Pensions.

By Mr. DOOLITTLE: A bill (H. R. 16912) granting a pension to Maria C. Haney; to the Committee on Invalid Pensions.

By Mr. KINDEL: A bill (H. R. 16913) granting a pension to Almira Graham; to the Committee on Invalid Pensions.

Also, a bill (H. R. 16914) granting a pension to Lucy J. Lindsey; to the Committee on Pensions.

Also, a bill (H. R. 16915) granting an increase of pension to Jacob S. Fritz; to the Committee on Invalid Pensions.

By Mr. LEWIS of Maryland: A bill (H. R. 16916) granting an increase of pension to Frederick Weber; to the Committee on Invalid Pensions.

By Mr. LOGUE: A bill (H. R. 16917) granting a pension to Sarah C. Daisey; to the Committee on Invalid Pensions.

Also, a bill (H. R. 16918) granting a pension to Margaret Lauber; to the Committee on Invalid Pensions.

Also, a bill (H. R. 16919) granting a pension to Ellwood I. Beatty; to the Committee on Pensions.

Also, a bill (H. R. 16920) for the relief of the legal representatives of Donnelly & Egan, deceased; to the Committee on War Claims.

By Mr. MADDEN: A bill (H. R. 16921) granting an increase of pension to James Cleveland; to the Committee on Invalid Pensions.

By Mr. MOON: A bill (H. R. 16922) for the relief of the legal representatives of John F. Anderson; to the Committee on War Claims.

By Mr. MURDOCK: A bill (H. R. 16923) granting an increase of pension to William L. Chalk; to the Committee on Invalid Pensions.

Also, a bill (H. R. 16924) granting an increase of pension to James Kinzer; to the Committee on Invalid Pensions.

Also, a bill (H. R. 16925) granting an increase of pension to Henry W. Morgan; to the Committee on Invalid Pensions.

Also, a bill (H. R. 16926) granting an increase of pension to Amos Poe; to the Committee on Invalid Pensions.

By Mr. SMITH of New York: A bill (H. R. 16927) granting a pension to Mary A. Keller; to the Committee on Pensions.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

By the SPEAKER (by request): Memorial of the General Society of the Cincinnati, favoring official participation by this Government in celebration of "One hundred years of peace between English-speaking peoples"; to the Committee on Foreign Affairs.

Also (by request), petition of 118 citizens of Eolia, Mo., favoring national prohibition; to the Committee on Rules.

Also (by request), resolutions from certain citizens of St. Charles County, Mo., protesting against the adoption of a national prohibition amendment; to the Committee on Rules.

Also (by request), resolutions of certain citizens of Eboyn, Pa.; Wichita, Kans.; Milan, Minn.; Los Angeles, Cal.; Homer City, Pa.; Broomall, Pa.; and Springfield, Mass., protesting against the practice of polygamy in the United States; to the Committee on the Judiciary.

By Mr. ALLEN: Memorial of the American Association of Title Men, protesting against the registration of land titles; to the Committee on Banking and Currency.

By Mr. ANDERSON: Petition of the Presbytery of Winona, Minn., consisting of 33 churches, 18 pastors, and 2,322 members, favoring national prohibition; to the Committee on Rules.

By Mr. BARCHFELD: Petitions of 235 citizens of Pittsburgh and sundry citizens of Mount Lebanon and Castle Shannon, all in the State of Pennsylvania, against national prohibition; to the Committee on Rules.

Also, petitions of the First Presbyterian Church of Homestead, Pa., and the Woman's Christian Temperance Union of Coraopolis, Pa., favoring national prohibition; to the Committee on Rules.

By Mr. BATHRICK: Petitions of 49 citizens of Garrettsville, Ohio, favoring national prohibition; to the Committee on Rules.

By Mr. BUTLER: Petitions of sundry citizens of Spring City, Coatesville, Ruttledge, Morton, Chester County, Wayne, East Lansdowne, the Woman's Christian Temperance Union of Lansdowne, Clifton, Collingswood, West Chester, Chester, and the Middletown Woman's Christian Temperance Union, all in the State of Pennsylvania, favoring national prohibition; to the Committee on Rules.

Also, petition of the Business Men's Association of Coatesville, Pa., favoring retirement of the aged civil-service employees; to the Committee on Reform in the Civil Service.

Also, petition of sundry citizens of Pennsylvania, favoring the eighteenth amendment to the United States Constitution; to the Committee on the Judiciary.

Also (by request), memorial of the Board of Trade of Chester, Pa., favoring Government ownership of the telephone systems of the United States; to the Committee on the Judiciary.

By Mr. CURRY: Petition of the Methodist Episcopal Church of Calistoga, Cal., in favor of national prohibition; to the Committee on Rules.

Also, petitions of 3 citizens and residents of Sacramento, Cal., protesting against national prohibition; to the Committee on Rules.

Also, petition of Mrs. John Stark and 12 other citizens and residents of Vallejo, Cal., in favor of national prohibition; to the Committee on Rules.

By Mr. DALE: Petition of Mr. E. Kern, of Brooklyn, N. Y., protesting against national prohibition; to the Committee on Rules.

Also, petition of the United States customs inspectors, port of New York, favoring the passage of House bill 15764, relative to salaries of inspectors of customs; to the Committee on Ways and Means.

Also, petition of the Corby Commission Co., of New York, on behalf of the Columbia River Packers' Association, of Astoria, Oreg., protesting against prevention of fishermen using gill nets in the Columbia River; to the Committee on the Merchant Marine and Fisheries.

By Mr. DERSHEM: Petition of various voting citizens of Payne Creek, Pa., favoring national prohibition; to the Committee on Rules.

By Mr. DONOVAN: Petition of various business men of Danbury, Conn., favoring House bill 5308, to tax mail-order houses; to the Committee on Ways and Means.

By Mr. FALCONER: Memorial of the United Daughters of the Confederacy, relative to matter of cotton tax collected from 1862 to 1868; to the Committee on War Claims.

By Mr. FITZGERALD: Petitions of 146 citizens of the seventh congressional district of New York, against national prohibition; to the Committee on Rules.

By Mr. GILLETT: Petition of 52 citizens of the second congressional district of Massachusetts and 30 citizens of Montago, Mass., protesting against national prohibition; to the Committee on Rules.

Also, petition of 161 citizens of the second congressional district of Massachusetts, favoring passage of House bill 5308, relative to taxing mail-order houses; to the Committee on Ways and Means.

By Mr. GRIEST: Petition of the Pennsylvania Retail Jewelers' Association, favoring Owen-Goeke bill to eliminate time guaranty on gold filled watchcases; to the Committee on Interstate and Foreign Commerce.

By Mr. HAMILTON of New York: Petition of sundry citizens of Cattaraugus County, N. Y., and Franklinville, N. Y., favoring national prohibition; to the Committee on Rules.

By Mr. HUMPHREY of Washington: Petitions of sundry citizens of Washington State, against national prohibition; to the Committee on Rules.

By Mr. JOHNSON of Washington: Petitions of sundry citizens of Tacoma, Elma, Raymond, Yacolt, Chehalis town and county, and South Bend, all in the State of Washington, protesting against national prohibition; to the Committee on Rules.

Also, memorial of sundry citizens of Roslyn, Wash., urging settlement of industrial disputes; to the Committee on the Judiciary.

Also, petition of sundry citizens of Ridgefield, Wash., protesting against the passage of the Sunday-observance bill; to the Committee on the District of Columbia.

Also, petition of sundry citizens of Ridgefield, Wash., favoring passage of a bill to amend the postal and civil-service laws; to the Committee on the Post Office and Post Roads.

Also, petition of sundry citizens of Algona, Auburn, and Pacific, all in the State of Washington, favoring national prohibition; to the Committee on Rules.

By Mr. KELLY of Pennsylvania: Petition of 427 citizens of Turtle Creek, 450 citizens of Pittsburgh, and 250 citizens of East Pittsburgh, all in the State of Pennsylvania, favoring national prohibition; to the Committee on Rules.

By Mr. KENNEDY of Rhode Island: Petition of the Chamber of Commerce of Providence, R. I., against enactment of bill to create an interstate trade commission until ample time has been given for consideration of the same; to the Committee on Interstate and Foreign Commerce.

By Mr. KINDEL: Papers to accompany a bill granting pension to Almira Graham; to the Committee on Pensions.

By Mr. LA FOLLETTE: Petitions of sundry citizens of North Yakima, Walla Walla, Grandview, Waverly, Opportunity, and Spokane, all in the State of Washington, favoring national prohibition; to the Committee on Rules.

Also, petitions of sundry citizens of the third congressional district of Washington, against national prohibition; to the Committee on Rules.

By Mr. LANGHAM: Petition of the Pennsylvania Retail Jewelers' Association, favoring Owen-Goeke bill to eliminate time guaranty on gold filled watchcases; to the Committee on Interstate and Foreign Commerce.

Also, petition of the Pennsylvania Manufacturers' Association, favoring House bill 1933, the convict-labor bill; to the Committee on Labor.

By Mr. LESHER: Petitions of 3,532 citizens of Shamokin, Pa., favoring national prohibition; to the Committee on Rules.

By Mr. LEVY: Petitions of sundry citizens of New York, against national prohibition; to the Committee on Rules.

Also, petitions of the Waldorf Astoria Importation Co; the Fritzsche Bros., of New York; and sundry citizens of New York, protesting against national prohibition; to the Committee on Rules.

By Mr. LOBECK: Petitions of the Fort Worth (Tex.) Chamber of Commerce and the East St. Louis (Ill.) Commercial Club, favoring House bill 9292, to classify the employees in the Bureau of Animal Industry, Department of Agriculture; to the Committee on Agriculture.

Also, petition of 43 citizens of Douglas County, Nebr., against national prohibition; to the Committee on Rules.

By Mr. LONERGAN: Petition of Karl Woegerbauer, of Hartford, Conn., protesting against national prohibition; to the Committee on Rules.

By Mr. McCLELLAN: Petition of sundry citizens of Windham, N. Y., favoring national prohibition; to the Committee on Rules.

By Mr. MITCHELL: Petition of various business men of Massachusetts, favoring House bill 5308, to tax mail-order houses; to the Committee on Ways and Means.

Also, petition of 210 citizens of Franklin, Mass., and 88 citizens of Brookline, Mass., favoring national prohibition; to the Committee on Rules.

By Mr. MOON: Papers to accompany bill for the relief of the legal representatives of John V. Anderson; to the Committee on War Claims.

By Mr. J. I. NOLAN: Memorial of the San Francisco (Cal.) Retail Cigar Dealers' Association, favoring passage of House bill 13305; to the Committee on Interstate and Foreign Commerce.

By Mr. O'LEARY: Memorial of Branch No. 16, Glass Bottle Blowers' Association, of Ravenswood, Long Island City, N. Y., protesting against national prohibition; to the Committee on Rules.

By Mr. O'SHAUNESSY: Petition of sundry citizens of Providence, R. I., favoring national prohibition; to the Committee on Rules.

Also, petition of the Chamber of Commerce of Providence, R. I., against present passage of bill creating an interstate trades commission; to the Committee on Interstate and Foreign Commerce.

Also, petition of the American Thread Co., of Westerly, R. I., against Edwards bill, prohibiting importation of Egyptian cotton; to the Committee on Ways and Means.

Also, petitions of the D. & W. Fuse Co. and H. N. Tenner, of Providence, R. I., against House bill 15657, the Clayton anti-trust bill; to the Committee on the Judiciary.

Also, petition of sundry citizens of Providence, R. I., against national prohibition; to the Committee on Rules.

By Mr. PAIGE of Massachusetts: Papers to accompany House bill 16890, for relief of Martha A. Knapp; to the Committee on Pensions.

Also, papers to accompany House bill 16892, to place on the muster-in rolls the name of John O. Kinney; to the Committee on Military Affairs.

Also, papers to accompany House bill 16891, to correct military record of Albion P. Dyer; to the Committee on Military Affairs.

By Mr. SCULLY: Petitions of various business men of Asbury Park, Freehold, South River, and Jamesburg, all in the State of New Jersey, favoring House bill 5308, to tax mail-order houses; to the Committee on Ways and Means.

By Mr. J. M. C. SMITH: Petitions of 65 citizens of Charlotte, Mich., and 30 citizens of Marshall, Mich., favoring national constitutional prohibition; to the Committee on Rules.

By Mr. SMITH of New York: Petition of sundry citizens of Buffalo, N. Y., protesting against national prohibition; to the Committee on Rules.

By Mr. TAYLOR of Colorado: Petition of the Christian Endeavor Society and sundry citizens of Longmont, Colo., and various voters of Durango, Colo., favoring national prohibition; to the Committee on Rules.

By Mr. VOLLMER: Petitions signed by F. B. Lodge and 18 other citizens of Iowa, and petitions signed by William S. Miller and 10 other citizens of Iowa, protesting against House joint resolution 168, Senate joint resolutions 88 and 50, and all prohibition measures introduced in Congress; to the Committee on Rules.

SENATE.

FRIDAY, *May 29, 1914.*

The Senate met at 11 o'clock a. m.

The Chaplain, Rev. Forrest J. Prettyman, D. D., offered the following prayer:

Almighty God, we make mention of Thy name with reverence and godly fear. We would not degrade our own nature and corrupt our own mind by taking Thy name vainly upon our lips. We come to Thee, the author of all our freedom, the sphere in which we have our largest life, the center and source of all our blessing, and at the mention of Thy name we bow our body and mind and heart before Thy throne. We acknowledge the sovereignty of no man over our intellectual life, but our largest freedom is in the surrender of our minds and hearts to God. Grant us this day that perfect liberty which is found in conformity to the will of our Maker and our Father. For Christ's sake. Amen.

The Journal of yesterday's proceedings was read and approved.

SURVEY OF FLORIDA WATERS.

The VICE PRESIDENT laid before the Senate a communication from the Secretary of War, transmitting, in response to a resolution of the 19th instant, certain information and data relating to the survey of Kissimmee and Caloosahatchee Rivers and Lake Okechobee and tributaries, and the improvement of navigation between Caloosahatchee River and Lake Okechobee, Fla., which, with the accompanying papers, was referred to the Committee on Commerce.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by D. K. Hempstead, its enrolling clerk, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 2860) providing a temporary method of conducting the nomination and election of United States Senators.

PETITIONS AND MEMORIALS.

The VICE PRESIDENT presented a cablegram in the nature of a memorial from the Board of Trade of Hilo, Hawaii, which was read and referred to the Committee on Pacific Islands and Porto Rico, as follows:

[Cablegram.]

HILO, HAWAII, *May 26.*

PRESIDENT SENATE AND SPEAKER HOUSE,
Washington:

Board of Trade of Hilo earnestly remonstrate proposed reduction salaries governor and secretary. Present salaries inadequate. Should be increased. Reduction means only rich men can afford hold these offices.

METZGER, *President.*
DEYO, *Secretary.*

The VICE PRESIDENT presented petitions of sundry citizens of Newton, Edgewood, and Cascade, in the State of Iowa; of Wheeling, W. Va.; of Kirkwood, Ill.; of Tonawanda, N. Y.; of Bellevue, Pa.; of Wichita, Kans.; of Fort Morgan, Colo.; and of Fort Sumner, N. Mex., praying for the adoption of an amendment to the Constitution to prohibit polygamy, which were referred to the Committee on the Judiciary.

Mr. NELSON presented memorials of sundry citizens of St. Paul, Minneapolis, Chesholm, and Red Wing, all in the State of Minnesota, remonstrating against national prohibition, which were referred to the Committee on the Judiciary.

He also presented petitions of sundry citizens of Mankato, Farmington, Faribault, Wheaton, Frazee, Glenville, Minneapolis, and St. Paul, all in the State of Minnesota, praying for national prohibition, which were referred to the Committee on the Judiciary.

He also presented a petition of the Woman's Christian Temperance Union, of Alexandria, Minn., praying for the adoption of an amendment to the Constitution granting the right of suffrage to women, which was ordered to lie on the table.

He also presented a petition of the congregation of the Methodist Episcopal Church of Northfield, Minn., praying for

the adoption of an amendment to the Constitution to prohibit polygamy, which was referred to the Committee on the Judiciary.

Mr. THORNTON presented a petition of sundry citizens of Colfax, La., praying for national prohibition, which was referred to the Committee on the Judiciary.

He also presented a memorial of sundry citizens of New Orleans, La., remonstrating against national prohibition, which was referred to the Committee on the Judiciary.

Mr. GALLINGER presented the petition of F. C. Knotts, of Auxvasse, Mo., praying for national prohibition, which was referred to the Committee on the Judiciary.

Mr. McLEAN presented memorials of the Central Labor Union of South Norwalk, and of sundry citizens of Stamford, Waterbury, and Hartford, all in the State of Connecticut, remonstrating against the adoption of an amendment to the Constitution to prohibit the manufacture, sale, and importation of intoxicating beverages, which were referred to the Committee on the Judiciary.

Mr. NORRIS presented a memorial of sundry citizens of Webster County, Nebr., remonstrating against the adoption of an amendment to the Constitution to prohibit the manufacture, sale, and importation of intoxicating beverages, which was referred to the Committee on the Judiciary.

Mr. KERN presented memorials of sundry citizens of Indianapolis, Terre Haute, Fort Wayne, and of the Central Labor Union of Evansville, all in the State of Indiana, remonstrating against national prohibition, which were referred to the Committee on the Judiciary.

He also presented a petition of sundry citizens of Castleton, Ind., praying for national prohibition, which was referred to the Committee on the Judiciary.

Mr. WEEKS presented a memorial of Local Branch, No. 108, National Association of Letter Carriers, of Newburyport, Mass., remonstrating against the repeal of the compensatory time privilege of post-office employees, which was referred to the Committee on Post Offices and Post Roads.

He also presented a petition of the directors of the port of Boston, Mass., favoring the refunding of all tolls paid by American coastwise shipping passing through the Panama Canal in case the coastwise shipping is not exempted from the payment of tolls, which was ordered to lie on the table.

Mr. PAGE presented a petition of the congregation of the Baptist Church of Rutland, Vt., praying for national prohibition, which was referred to the Committee on the Judiciary.

Mr. BRANDEGEE presented a memorial of the Central Labor Union of Norwich, Conn., and a memorial of the Central Labor Union of Norwalk, Conn., remonstrating against national prohibition, which were referred to the Committee on the Judiciary.

He also presented a memorial of the Central Labor Union of Norwalk, Conn., remonstrating against the conduct of the mine owners of Colorado, which was referred to the Committee on Education and Labor.

Mr. BURLEIGH presented petitions of sundry citizens of Belfast and Jefferson, Me., praying for national prohibition, which were referred to the Committee on the Judiciary.

Mr. WARREN presented memorials of John Ramsay, of Rock Springs, and of sundry citizens of the State of Wyoming, remonstrating against national prohibition, which were referred to the Committee on the Judiciary.

Mr. CHAMBERLAIN presented a memorial of sundry citizens of Oak Grove and Multnomah, in the State of Oregon, remonstrating against national prohibition, which was referred to the Committee on the Judiciary.

Mr. POINDEXTER presented a petition of Aewas Lake Grange, Patrons of Husbandry, of Tonasket, Wash., praying for the enactment of legislation providing Government ownership of coal mines in Colorado, which was referred to the Committee on Education and Labor.

Mr. THOMAS presented petitions of sundry citizens of Colorado, praying for the adoption of an amendment to the Constitution to prohibit the manufacture, sale, and importation of intoxicating beverages, which were referred to the Committee on the Judiciary.

STRIKE SITUATION IN COLORADO.

Mr. THOMAS. I have a document entitled "Statement of the Strike Situation in Colorado," being a report of the special committee appointed to invesigate and report to Kensington Council, No. 16, Junior Order United American Mechanics, of Denver, Colo., and I make the request that the same be spread on the columns of the CONGRESSIONAL RECORD. I ask that that be done.

The VICE PRESIDENT. Without objection, it is so ordered.

Mr. THOMAS. I may say that the document just offered is one I neither indorse nor disaffirm. I do not pretend to stand sponsor either for the statements or the conclusions which are therein outlined.

The matter referred to is as follows:

STATEMENT OF THE STRIKE SITUATION IN COLORADO.

[A report of the special committee appointed to investigate and report to Kensington Council, No. 19, Junior Order United American Mechanics, Denver, Colo. Unanimously adopted May 19, 1914.]

DENVER, COLO., *May 19, 1914.*

To the officers and members of Kensington Council, No. 16, Junior Order United American Mechanics:

Your committee, appointed to investigate the strike situation in this State, and to prepare a statement in relation thereto, would respectfully make the following report:

Kensington Council, No. 16, Junior Order United American Mechanics, of Denver, Colo., is a patriotic fraternal society. Its only interest in the present strike controversy is as to its effect upon the public welfare. Its membership is composed of professional men, workingmen, and business men, but, so far as we know, not a single member of the council is interested as employee, attorney, employer, or in any other capacity, either directly or indirectly, with either of the parties to the strike controversy now raging in this State.

We feel, therefore, that we have the opportunity and that it is our right and duty to give to the order and to the world an account of causes and effects, past, present, and future, of this ill-starred controversy, and also to submit some reflections as to the remedy.

COLORADO'S COAL FIELDS.

Colorado is a great coal State. We have more than 11,000,000 acres of coal lands, of which by far the greater part still belongs to the United States Government; 473,000 acres belong to the State of Colorado, as trustee for the school fund and other funds. Of these 473,000 acres belonging to the State less than 14,000 are under lease, and of the 14,000 leased to private parties only 5,500 acres are productive. Less than 3 per cent of the vast coal acreage of Colorado is held in private ownership. Less than 5 per cent of the total tonnage of coal mined in Colorado is from lands belonging to the State. The two greatest fields are popularly called the northern and southern, and they are both nonunion. The unions have, however, looked upon these great fields, employing in normal times about 13,000 men, with avaricious eyes, and have made many attempts to unionize them. In the fall of 1913 emissaries of the union were sent here from Indiana, West Virginia, and other States, and all the power of the United Mine Workers was focused upon the southern fields, and a strike was ordered.

The operators declared that they could get along very well without the union men, and soon, following their usual tactics on such occasions, the union men began to beat up and even to kill nonunion workmen, and on October 28 the National Guard was sent into the district to keep the peace. This they did for six months with the loss of but two lives, one by accident, and the other killed while resisting arrest with arms in his hands, neither being union men.

April 17, 1914, the troops, with the exception of 34 men left at Ludlow, were withdrawn, because the State auditor had thrown every possible obstacle in the path to prevent the payment of the troops or of providing for their support in the field.

Immediately upon their withdrawal pillage, arson, and murder broke out in their most horrible form. April 20 [illegible] the battle of Ludlow.

THE BATTLE OF LUDLOW.

The strikers' tent colony at Ludlow was an armed camp under strict control of the union leaders, and was peopled by a class of persons graphically described in the report of the military commission as "ignorant, lawless, and savage south European peasants." They spoke 20 or more different languages, and most of them could not speak English at all. While they were of many nationalities, the Greeks predominated, especially as a fighting force.

The tent colony was purposely so located as to command an unobstructed view of the railroad depot near at hand, where workingmen were obliged to get on and off the trains. The conduct of the strikers during the winter was such that it was necessary to send a detail of soldiers to meet every train, in order to protect the nonunion men from physical violence.

No man wishing to leave the colony and go to work could do so except under guard of the State troops, and during the winter over a hundred men were in this way taken from the tent colony under military guard at their own request.

April 20 a detail of men was sent in the usual manner to rescue a men who had called for help to get away, and, as usual, the negotiations were had with Louis Tikas. This time, for some reason, the man was not given up, and instead the Greeks took to the hills and appeared to be preparing for action, while the women and children ran to the shelter of a deep gulch north of the colony. There were only 34 soldiers on duty, and they were scattered in small groups, most of them being 2 or 3 miles away. Tikas went back to his Greeks, promising to call them back to the colony, but failed to do so. The soldiers saw the Greeks running to the hills and taking possession of vantage points around them, but their officers would not allow them to fire until the strikers first opened fire on them. This is one of the many instances showing that while the soldiers suffered from all the dangers and liabilities of war they were prevented from taking advantage of its privileges. Had the soldiers been free to fight their enemies, the Greeks would never have reached the hills and the battle would have been much shorter. As it was, when the firing from the Greeks had lasted long enough to show that they really meant business the troops returned it, and then these 34 soldiers fought and held at bay several hundred foreigners from 10 a. m. until 2 p. m., when reinforcements began to arrive, though at the most there were only about 120 soldiers engaged. The number of strikers engaged has been variously estimated at from 400 to 800 men. They were heavily armed with the latest and best models of high-power rifles, although their leaders had solemnly assured the State government that they had surrendered their arms. They used explosive bullets and so-called "poisoned" bullets (both expressly forbidden by the rules of civilized warfare), and some of their ammunition was manufactured in Greece. They were amply supplied with ammunition, over 15,000 rounds having been found in John Lawson's tent after the battle.

When the reinforcements arrived the soldiers began to press forward and steadily drove the Greeks back until they took a range of sand hills where a soldier named Martin was wounded. The fire of the Greeks was concentrated upon this position, and the soldiers were unable to hold the hills. There were but four men in the detachment with

Martin, and they were unable to carry him across the exposed ground, so they placed him in a depression in the hills where he would be safe from the fire from both sides and retreated.

HEROIC RESCUE WORK.

Another detachment fought its way up to the tent colony where they heard the cries of women and children. The tents had caught fire before the soldiers arrived, but when they heard the cries of the women and children they rushed in among the burning tents and rescued between 25 and 30 and carried them away to safety. While engaged in this humane work they were under constant fire from the Greeks. To save these women and children the soldiers, while still under fire from the Greeks, were obliged to tear up tent floors, which had been nailed down over the openings to the pits, and drag the cowering occupants out by main force. Then these soldiers, who had had no pay for three months, took up a collection among themselves and raised $18 that night for the relief of these suffering women and children.

Late in the afternoon the sand hills were retaken by the soldiers, who then found the body of their comrade Martin with his head blown off and his limbs broken. This barbarity shocked and infuriated them, and, of course, it was immediately reported to Lieut. Linderfeldt. A few minutes after this Louis Tikas was captured, after he had been fighting all day with his Greeks. Acting under the frightful stress of that all day's battle, where the strikers numbered almost 20 to 1, without water, food, or rest for nine hours, and with the report of the atrocities committed upon the body of his comrade Martin fresh in his mind, Lieut. Linderfeldt is reported to have committed the unsoldierlike offense of striking a prisoner. Whether this be true or not time will determine, and whether if true the excuse is sufficient can only be known when all the facts and circumstances are developed. But at least the provocation was great.

NO "MASSACRE OF THE INNOCENTS."

There was, however, no firing on women and children, unless it were firing by the Greeks on the little Snyder boy, who was killed by a striker's bullet and who was the only child killed or even struck by a bullet. Both sides agree also that no woman was struck by a bullet from either side. The 13 women and children who were suffocated in the tiny pit under the ground not large enough for 3 of them to remain in for three hours and live, were probably dead long before the tents caught fire. But in any event the soldiers could not possibly have been to blame in the slightest degree. The strikers had rifle pits in front of the colony tents, and were hidden in the arroyo or gulch behind them and were firing on the soldiers from both places. The strikers could easily have retreated from both rifle pits and from the arroya and still have continued the fight on equally as good terms from some other vantage point, but they elected not to do so.

WOMEN AND CHILDREN AS A SHIELD.

The death of these women and children was a most regrettable incident of this unfortunate battle in this inexcusable war, but the Greeks started the war and commenced the battle. They also were in a position to know that the women and children were in the underground pits, while the soldiers were not in a position to even suspect such a thing. Among civilized peoples when the men go out to war they first put women and children in places of safety, instead of leaving them exposed to all the dangers of battle, and in this case, as the soldiers had seen the women and children running to the arroya, where they would be absolutely safe, they naturally supposed and had a right to suppose that they were all out of danger. The Greeks, who must have known that some women and children were left in the colony, could have retreated from the colony or could easily have changed the place of fighting to another point, and either maneuver would have stopped the battle or have changed the line of fire, so that the women and children left in the tents would have been safe. They chose, however, to do neither, but to continue the fight in a place which made it necessary for the firing to endanger the lives of their own women and children.

The fault, then, rests squarely upon the shoulders of the strikers themselves and not upon the members of the National Guard who were stationed there to uphold the constitution and laws of the State, who were attacked by overwhelming numbers, and who were fighting for their lives as well.

It is inconceivable to suppose that 34 men, scattered in three or four groups, would deliberately attack a very much larger force, as well armed and better fortified than they were themselves.

The wonder is that these 34 men should have been able under any circumstances to have defended themselves successfully against their desperate assailants. It is another great tribute to the splendid fighting material composing our National Guard.

MACHINE GUNS.

The troops had two machine guns, one of which they used all day and the other from about 4 p. m. These guns were never turned on the tent colony itself, but were used against the Greeks intrenched in the sand hills and rifle pits and along the railroad tracks.

Admiral Fletcher threatened to destroy Vera Cruz with the great cannon of the American fleet unless snipping from the house tops were stopped.

RETURN OF THE NATIONAL GUARD.

The main body of the National Guard, who had been returned to their homes, were called back to the field on April 22, and although they had had no pay for three months and the families of many of them were suffering from the actual necessities of life they loyally took up their duty again, and if the ill-advised truce had not been made on the 24th peace would have been quickly reestablished by the swift defeat of the strikers. As it was, the strikers took advantage of the so-called truce to burn and destroy half a dozen mines and to murder many citizens of the State, the troops being compelled by the terms of the truce to do nothing to protect either life or property.

Then came the call for the Federal troops, two or three desperate battles between the strikers and the National Guard brought on by the determination of the strikers to destroy the remaining mines in the district, the defeat and surrender of the strikers to the National Guard, the arrival of the Federal troops, and the withdrawal of the State troops from the strike districts. It is perhaps worthy of note that this so-called truce, as well as the final surrender of the miners, was negotiated by a leading lawyer of Denver with as much nonchalance as though he were drawing a stipulation for the continuance of a petty case in a justice court.

FOUNDATION OF THE GOVERNMENT.

This Nation was founded upon the eternal principles of freedom of speech, freedom of the press, freedom to worship God, and freedom of labor. Freedom of labor means that the laborer himself shall be permitted to choose whether he shall work or not, where he shall work, the kind of work he shall engage in, and who his employer shall be. All these matters to be decided by the laborer for himself and not by some one else for him.

Certain ignorant, ill-advised, and vicious people have willfully and maliciously misinterpreted these rights, deeming freedom of speech as license to malign their neighbors, freedom of the press as license to distort the news and to besmirch and befoul this country and its institutions, deeming freedom to worship God as license to persecute, torture, and even to kill those who worship him in a different way, and deeming freedom of labor as being license to forcibly prevent other men from working.

Labor agitators have for many years preached, taught, and practiced, not only in Colorado but in every State in the Union, the doctrine that a labor union can not only work or quit work as it pleases—which is its inalienable right—but that a labor union can also rightfully prevent other men from working, and that in order to prevent other men from working the union men have the right not only to use peaceful persuasion but also to use physical violence upon those other workingmen, to burn and destroy their houses, to kill them by secret assassination or open murder, and that in their warfare against nonunion men the union men have the right to openly fight the duly constituted authorities of both State and Nation and to defy and insult the flag of our country.

AGITATORS, NOT WORKERS.

These labor agitators are not workers themselves, but are mere parasites on workingmen's organizations, and they have for many years taught their deluded followers class distinctions, class hatred and prejudice, and have encouraged class war, and people who ought to know better have blindly encouraged them in their false teachings.

They talk of "industrial war" as glibly and gleefully as though great enterprises were built up by the burning and destruction of property, and as though men would be attracted to enterprises in which they are daily in danger of assassination.

To them the destruction by violence of a factory or plant is but an incident in the carrying on of their "industrial war." These acts of violence indeed are a very important and helpful factor in their campaigns for raising money.

These labor agitators under different names, in Pennsylvania as Molly Maguires, in Idaho and Colorado as the Western Federation of Miners, and now as the United Mine Workers, have openly taught and freely practiced the use of force, even though it lead to murder, as proper means of inciting class hatred and class war.

The confession of the McNamaras as to the blowing up of the Times Building in Los Angeles and other wholesale destruction of properties by dynamiters as the hired agents of the Structural Steel Workers illustrates their method of procedure.

This present trouble in Colorado was deliberately brought about not because of any conditions in the mines but by these same labor agitators who are not workers and who seek to prevent others from working.

That they are mere labor agitators with no intention or desire to work or to plan work for others is shown by the fact that Gov. Ammons last fall offered to the United Mine Workers thousands of acres of unused coal lands belonging to the State at 10 cents per ton royalty, which was the lowest price, but the Mine Workers were not courteous enough even to make any response or to take any interest in the matter.

This business of organizing unions, fomenting strikes, and especially of preparing for the use of violence and of accustoming their members to the idea of killing nonunion men is a profession in itself.

The labor leaders in this trouble are not miners, and very few of them are residents of Colorado. They have been imported into the State, and especially into the strike districts, for the purpose of inciting strikes and of directing hostilities against the authorities.

Louis Tikas never was a miner himself, but was brought from Denver to the strike district and employed by the miners' union as interpreter and leader of the Greeks. These Greeks are reputed to be in large numbers veterans of the late war between Greece and Turkey. If this be true, under our immigration laws they ought to be deported as undesirable citizens. Certainly this suggestion can not be considered intemperate. Men who come to the United States and who take up arms against it and who, before they have learned to speak the English language, murder citizens of the State, are surely undesirable citizens and ought to be sent back to the land from which they came, and the Federal Government which permitted their importation owes it to the State of Colorado to take them away from us.

NOT A COLORADO PROBLEM.

In this connection we can not too strongly impress upon the country that this is not a Colorado matter, but purely an interstate or national affair. The trouble did not originate in Colorado, nor is it officered or financed here. The miners' union headquarters is at Indianapolis, Ind., and from there have come the orders, the leaders, and the money to support this movement, which is not merely a war against Colorado, and which does not simply mean war against the United States, but which in its essence and ultimate aim is war against organized society everywhere. Their purpose is not confined to the destruction of authority here, but their real purpose is to destroy authority everywhere. This is a very strong statement, but the history of the movement bears it out in full.

W. T. Hickey, secretary of the State Federation of Labor, telegraphed Congressman KEATING in commenting on the situation and as a protest, "we take this to mean that they (the coal companies) will have protection of the Federal troops." He says this as though he considered it a crime for the Federal troops to protect the coal companies. His protest against protection for the companies shows that he knows that they have need of protection from some one, and from whom could it be except from him and his lawless companions? We predict that if the coal companies or their workmen are protected by the Federal troops, the strikers will dig up the guns they do not even pretend they have surrendered and commence war upon the United States just as they have been making war upon Colorado.

Many outside papers, taking their cue from the position of our local papers, have called this striker's war, with its deplorable violence and loss of life, "The shame of Colorado." It should more properly be called "The shame of labor unionism" and "The shame of the United States."

We can not too strongly insist that this is not in any sense a Colorado question. We are the focus of all eyes to-day, because to-day the striker's war is here, but to-morrow it may be in West Virginia or Ohio or Pennsylvania or Michigan or any other State.

The shame, the suffering, the disgrace, and the fear that Colorado suffers to-day may to-morrow be borne by any State against which the United Mine Workers of America may turn its attention. The pretext here is one thing, the pretext for the next outbreak may be another;

but always the real cause is the fixed determination that the unions shall control affairs in all industrial pursuits and that the laws of the labor union shall take precedence over the laws of the land.

ABUSE OF THE NATIONAL GUARD.

Nor should too much stress be laid upon abuse of the National Guard by the strikers and their allies. These unions have for many years carefully promulgated a sentiment of hatred for soldiers, whether of the Regular Army or of the National Guard, and have even gone to the extent of declaring in their own constitutions that a man can not belong to both the union and to the Army, even as musicians. They also occupy the same attitude toward the police and sheriffs and their deputies and all other peace officers. Their opposition is not to any particular form of authority, but to authority of any kind.

DEPRAVED LEADERS, BRUTAL FOLLOWERS.

Practically all of the miners involved in this strike are ignorant, depraved, and brutal foreigners, peasants from the lowest and most hopeless class of the peoples of southern Europe, who know little and care less for the principles of free government. By a mistaken national policy men of this type have been permitted to invade this country at the rate of over a million a year, so that now they number in our midst many millions, all herded together in industrial centers and who threaten with their low ideals and base habits of life to destroy our civilization as the Huns and Vandals of old destroyed the civilization of ancient Rome and set the world back a thousand years during which rich and poor alike suffered from the horrors of poverty, superstition, and oppression.

These ignorant, depraved, and brutal foreigners are led by better educated, but as depraved and brutal officers, who are usually of a foreign extraction, as far removed from American ideals of freedom of speech, freedom of worship, freedom of labor, and freedom of government as are these later importations of ignorant herds whom the leaders incite to deeds of violence the leaders themselves are too cowardly to commit. These men, depraved leaders and brutal followers together, number but two or three thousand, and while exercising their own undoubted right to refuse to work, have denied to more than 10,000 of their fellow men the right to work.

The 10,000 workers have as much right to work as the 2,000 idlers have to be idle.

ATROCITIES UNSPEAKABLE.

The strikers here, as everywhere else, endeavor by intimidation, by violence, and by assassination to enforce their unlawful and unjust edict that the workers must quit their work. The lawful authorities of Colorado, acting under their sworn duty, endeavored to protect peaceable workingmen in their right to work and in their right to live. The strikers, denying both rights, defied the Government and made open war against it. This is no exaggeration. They actually issued and published an open and formal declaration of war against Colorado and made a call for troops. They enlisted men to fight against Colorado; they drilled these men into armies; they marched these armies from place to place; these armies fought battles against the State troops; they killed Colorado soldiers, occasionally in open battle, but more often by assassination. They deliberately and treacherously murdered a hospital surgeon while wearing his Red Cross uniform and while performing his duty of ministering to a wounded man. After their leaders had made a solemn treaty and had agreed to a temporary truce these strikers openly marched across the country burning and destroying property and murdering Colorado's citizens. They have driven men, women, and children into mines and have deliberately and intentionally destroyed the shafts and openings with the intention of killing them by fire and suffocation. They have set fire to boarding houses and purposely burned alive unoffending and noncombatant workingmen. They have been guilty of atrocities unspeakable and innumerable.

They are even now standing in flagrant defiance of the authority of the Government of the United States and are treating, negotiating, and haggling with the officers of the Army as to the conditions and terms on which they will agree to surrender their arms.

TREASON.

Our Constitution defines treason as "levying war against the State or in adhering to its enemies, giving them aid or comfort."

Under this definition all these strikers, but especially their officers and leaders, as well as those disloyal State officials who are in league with them, and also those newspapers, women's organizations, and Christian citizenship unions "adhering to them and giving them aid and comfort" are, all of them, guilty of treason against the State, and that in its most heinous form.

The law of organized society has ever been and must ever be that whoever raises his hand against the Government is a traitor and must pay the penalty with his life. In no other way can organized government exist. Whoever complains of wrongs in existing laws must turn his attention to their correction by peaceful means. He who attempts to correct his own wrongs by force is a criminal. He who attempts to correct the wrongs of society by force is a traitor.

We speak of this organization as armies, with no idea of dignifying them or the purpose of their being, but only for the purpose of indicating their size and deliberate purpose. In reality they were frenzied mobs, drunk with the lust for blood, who rushed from mine to mine burning and destroying property, murdering men and mutilating their dead bodies like wild beasts or brutal barbarians, and respecting neither flag of truce, Red Cross, nor any of the rules of civilized warfare.

In all these acts of treason, murder, pillage, and arson the strikers have been aided, abetted, and encouraged by newspapers as venal and truckling as the strikers are depraved and vicious, and by State officials who, by reason of their betrayal of their oaths of office and of their duty as officials, are more guilty of these treasons and assassinations than are the ignorant, misguided strikers whom these officials and newspapers have by their appeals to passion and prejudice influenced to commit the actual deeds of violence.

By reason of the reign of terror established by these strikers, agitators, and newspapers freedom of speech and freedom to work have been in a large measure denied to the people of Colorado.

The strike has more or less completely involved seven different coal-mining districts, some of them 400 miles apart, and in which are over a hundred mines, each of which must have its detail of soldiers to insure protecton. There are also many towns, railroad bridges, and other properties all subject to attack and destruction.

GOOD WORK OF THE NATIONAL GUARD.

The Colorado National Guard has served in these strike districts with less than half the number of men demanded by the Regular Army officers for the same purposes. They were not furnished with sufficient clothing or supplies, they received no pay for over three months by reason of the worse than treasonable actions of our State auditor and other officials, and they were denied that moral support from press and people that a Nation's troops are entitled to in time of war. In spite of all these difficulties our State troops for six months maintained absolute peace, quiet, and safety in the strike districts without loss of life on neither side and without loss of property of any kind to anyone. Under the most trying circumstances, subjected daily to the vilest abuse of the most brutal of men and of women almost as brutal, they conducted themselves with a dignity, decorum, and sense of military duty worthy of the highest commendation and praise.

COMMENDATION AND DENUNCIATION.

In view of all these facts, conditions, and circumstances we call upon the country to revise and to reverse its opinion of the government and troops of the State of Colorado, and to commend them for their efforts to properly solve a question that did not originate here, but has been thrust upon us by the attitude of the country at large upon the questions of labor and immigration. We call upon Congress to immediately pass the Burnett bill, which will, in large measure, prevent the immigration to this country of these illiterate, depraved, and criminal hordes which are now pouring into this land and who threaten its very life. The perpetuity of American institutions, the safety of life and property, and the protection of our own people are of greater importance to us and to the world than is the maintenance of a maudlin sentiment which permits the invasion of our country by ignorant hordes who know nothing of and who would ruthlessly destroy its beneficent institutions.

We most heartily commend Gen. John Chase, commanding, and the officers and men of our National Guard for their patient forbearance and soldierly attitude under the most trying and adverse conditions and circumstances.

We commend Gov. Ammons for his efforts to maintain law and order in the community.

We most severely denounce those disloyal State officials whose weakness and treachery tied the governor's hands and gave aid and comfort to enemies of the State.

We as severely denounce those newspapers which by their inflammable articles and comments, and by their prejudiced and distorted reports, have attempted to place the blame where it does not belong, have defamed and humiliated Colorado and its government, both civil and military, and have excused, justified, and been potent factors in inciting those deeds of violence that have disgraced the past and which now endanger the future of the State.

We as warmly commend those newspapers that have told the truth and have bravely stood for law and order.

We can not find words strong enough to express our horror and detestation of those infamous men and hysterical women who as leaders and advisers of their ignorant followers, or as their defenders and apologists, are the real traitors and murderers in this frightful strikers' war. Their words and their deeds are ineradicable blots on the pages of the history of our State and of our civilization.

PEACE BEFORE PROSPERITY.

There must be peace before there can be prosperity. There must be order in the community and safety for life and limb before we can turn our attention to the correction of existing wrongs. Violence begets violence and must be repressed by the stern hand of organized society.

The Good Book tells us that if a man will not work, neither shall he eat. We contend that if a man will not work, if he prefers that his wife and children shall starve, he at least shall not be permitted to kill and murder other men who do wish to work in order to save their wives and children from starvation.

It is no longer a question as to whether nonunion men shall be allowed to work in Colorado; it is now a question as to whether or not any man shall be allowed to live without permission from the labor union.

WARS FOR FREEDOM.

Fifty years ago we fought a great war in this country to establish the right of a man not to be compelled to work for another unless he wished to do so.

Now we are facing a threatened war which we must fight to establish the right of a man to work for another if he wishes to do so.

That war was fought to free men from slavery to private individuals. This war, if it comes, and it seems as though come it must, will have to be fought to free men from slavery to private organizations.

Both the slaveholding individual before the war and the slaveholding labor union of the present pretend that the slaves are being held for their own good, though against their own will, and both claim that if the slaves will not voluntarily submit to their masters they must be beaten into submission or killed. Both hypocritically claim that this is for the good of humanity.

TRUE THEORY OF EMPLOYMENT.

The true theory is that every employer shall be allowed to employ whom he pleases, and every employee shall be allowed to work for whom he pleases, so that employer and employee are agreed as to the terms and conditions of the employment. Any other principle is a denial of freedom to the individual, and a denial of freedom is the essence of slavery.

FUNDAMENTAL PRINCIPLES OF GOVERNMENT.

We reaffirm in the most positive terms and as the fundamental principles of popular and free government:

First. The right to worship God, every man in his own way.

Second. The right of free speech, with responsibility for the abuse of this right.

Third. The right of labor to be free from any master, religious, personal, corporate, or union.

Fourth. The right of capital to the safety of its investments, and that it be subject to no tyranny of private organization, but only to the majesty of the law.

Fifth. The right of every man to protection by the State of his life, his limbs, and his property.

Sixth. The impartial enforcement of every law, whether it be for the protection of labor or for the protection of property.

Seventh. Swift, sure, and severe punishment for all offenses against the law, and especially of such high crimes as treason and murder.

We call upon all good and patriotic citizens to stand ready to uphold these fundamental rights with every power of voice, pen, and vote, with every ounce of strength and every drop of blood, with every power that organized and civilized society can bring to bear.

In this way, and in this way only, can our fair State, our beautiful country, our boasted civilization, our ancient rights, and even our lives be saved.

SUBMITTED AS A WARNING.

Fraternally submitted to our brothers of the order throughout the country and to the world outside as a warning of the danger that threatens the Republic through the importation into this country of these lawless forces that are breeding treason and making war upon our dearest institutions

Kensington Council, No. 16, Junior Order United American Mechanics, Denver, Colo., by its committee appointed for the purpose of drawing up and of promulgating this statement.

C. W. VARNUM, *Chairman.*
L. A. HASTINGS, *Secretary.*
H. H. EDDY.
O. B. SCOREY.
F. L. VARNEY.

We hereby certify that the above resolution was this day unanimously adopted at a regular meeting of Kensington Council, No. 16, Junior Order United American Mechanics, and the committee was instructed to have 5,000 copies printed in pamphlet form, and to send a copy to all National and State officers and to every council of the order, and that a copy be sent to the American, the official organ of the order, with a request that it be published.

The committee was further instructed to transmit a copy to His Excellency the President of the United States, a copy to each Member of the Congress, and a copy to the governor of every State in the Union.

The committee was also instructed to transmit a copy to our Representatives in Congress, with the request that they present it as a memorial to the House of Representatives, and a copy to our Senators, with a request that they present it as a memorial to the Senate of the United States, and that they be requested to secure the printing of this statement in the CONGRESSIONAL RECORD.

Witness our hands at Denver, Colo., this 19th day of May, A. D. 1914.

[SEAL.]

EDWARD H. WAHL, *Councilor.*
L. T. FROST.
Assistant Recording Secretary.

POLYGAMY.

Mr. OVERMAN. I have been requested to bring forward a petition and to ask that it be read in the open Senate. I desire that to be done.

The VICE PRESIDENT. Without objection, the petition will be read.

The Secretary read as follows:

THE ERWIN COTTON MILLS CO.,
West Durham, N. C., May 11, 1914.

To the Senate and House of Representatives in Congress assembled:

Whereas the Mormon Church teaches the divine sanction of polygamy, and its prophet and many of its priests practice that crime; and

Whereas the political powers of the Mormon Church nullifies the operation of the local laws in these sections of this country where Mormon polygamy exists:

Now, therefore, we, citizens of the United States, in public assemblage convened, do respectfully urge upon Congress the speedy adoption of the pending resolution to amend the Constitution so that it shall forbid the existence of polygamy and polygamous cohabitation anywhere in the United States of America.

Done at Durham, N. C., May 11, 1914.

E. R. LEYBURN, *Chairman.*
W. A. ERWIN, *Secretary.*

Mr. SUTHERLAND. Mr. President, I have observed several times during the present session that communications of this character have been received. I had not intended to pay any attention to them; but they indicate that some sort of a propaganda is at work in the country upon this subject.

I desire to say that the good people who send these communications are misinformed about conditions in Utah. Polygamy is absolutely abandoned there, and has been abandoned for many years. Some remnant of it remains, it is true. Some of the people who entered into these relations many years ago still continue to maintain their households. There are cases where these old men and old women, who were married many years ago, still continue to maintain those relations; but the system of polygamous marriage, so far as the present and the future are concerned, has disappeared.

In that connection I desire to call attention to a recent statement made by Bishop F. S. Spalding, bishop of the Episcopal Church in the State of Utah. Bishop Spalding has lived in that State for many years. He is a very fair man. He has strenuously opposed the theological teachings of the Mormon Church, and of course is very strongly opposed to polygamy.

In the course of a statement made by him in February, 1914, he says, speaking of these attacks:

So vitriolous has the attack on Mormonism been and so much interest has been aroused throughout the whole country that every missionary from Utah is expected to present new evidence of polygamy, treason, and even white slavery. There are societies and individual lecturers busy supplying this demand. The National Reform Association, of which James S. Martin, D. D., is general superintendent, with offices in Pittsburgh, Pa., held a reception to ex-Senator Frank J. Cannon in Philadelphia on February 5 of this year. The invitation sent to leading citizens read as follows:

"Open defiance of law, the teaching of treason, the multiplying of polygamous marriages, the most aggressive proselyting now progressing in the world—these compel attention to the Mormon Church and organized action against it."

A careful man, cognizant of the facts, would have to qualify every one of those statements. The people in Utah are law-abiding; the charge of treason depends on a part of the temple ritual, which may be as much a dead letter as parts of the Anglican Liturgy. The old temple oath to revenge the death of the prohpet is undoubtedly repeated by the majority of Mormons with a mental reservation. Not only are polygamous marriages not multiplying, but polygamy was never practiced by the Mormons to the extent popularly supposed; and if the churches are even half awake they have nothing to fear from the proselyting efforts of 2,000 Mormons scattered over the earth, most of whom are schoolboys, who only know a few little speeches and a few Bible texts, and who look at the call to a mission quite as much as a chance to see the world as to convert it. The point I want to insist on most strongly is that we must be on our guard lest we yield to the temptation actually to regret that the Mormons are improving—to be almost sorry that we have lost our old thunder, because we can no longer honestly repeat the stories of the sensationalists, who are not held back by either truth or charity. It is high time that the same hopeful attitude was taken with reference to Mormonism as has been taken in regard to other religions which we as Christians consider inadequate. The thoughtful student of the great ethnic religions to-day tries to find points of contact and glimmerings of truth. The days in which interest in foreign missions was aroused by dreadful tales of brutality, lust, and ignorance have happily passed away, and the spiritual and ethical value in even the religions of the backward races is being recognized. The attitude toward the Mormon seems to be the sole exception to this more philosophical method of approach. We will surely be wiser and more Christian if we think that because the Latter-day Saints have so much truth they deserve more truth than to persuade ourselves that they have willfully rejected all truth and are steeped in lust and crime and are therefore utterly bad.

And further on he says:

The young Mormon does not want to practice polygamy. He may say that he believes in it as a doctrine, but he doesn't want to practice it himself. In the very nature of the case it is impossible to perpetuate polygamy in the twentieth century in the United States of America in the temperate zone. It is not fair to expect young Mormons to condemn polygamy, because in so doing they would condemn their own fathers and mothers. You ask, Why do they not strike out the polygamy section from "Doctrines and Covenants"? The answer is: For exactly the same reason that we can't get the 39 articles out of the prayer book. Ecclesiastical societies are always most conservative. It is harder to change church law, church ritual, church organization than any other social conventions. The dead letter must be very dead before it is buried. There are still hyper-Calvinists among the Presbyterians in spite of the revision of the Westminster confession; but if an ardent Methodist believer in free will spent time and money discovering as many as he could and then published the list and insisted that the revision of the Westminster confession was a piece of hypocrisy and that the Presbyterian Church really believed all that Jonathan Edwards preached at Stockbridge, his procedure would not be commended as loving and Christian. And yet must it not be admitted that this is just about what has been done in the case of the Mormons and polygamy?

Mr. President, I wish to say for myself that I know something about the conditions in Utah, and statements to the effect that polygamous marriages are still being celebrated there are utterly without foundation. I will venture to say that there are no more bigamous marriages in the State of Utah in proportion to the population—and I might go further and say not so many—as there are in the city of New York or in any of the eastern cities. Of course there are violations of law there, as there are violations of law everywhere; but from my knowledge of the situation and of the opinions and temper of the people I am quite sure that if the question could be presented to the Mormon people to-day whether or not they would return to the system of polygamous marriage and that question could be submitted to a vote of the membership of the church itself, and they could be assured that no interference would be had against them whatever they undertook to do, an overwhelming majority of the people themselves would vote against returning to it.

The VICE PRESIDENT. The petition will be referred to the Committee on the Judiciary.

REPORTS OF COMMITTEE ON INDIAN AFFAIRS.

Mr. MYERS, from the Committee on Indian Affairs, to which was referred the bill (S. 3898) to amend an act entitled "An act to provide for the acquiring of rights of way by railroad companies through Indian reservations, Indian lands, and Indian allotments, and for other purposes," approved March 2, 1899, reported it with an amendment and submitted a report (No. 572) thereon.

He also, from the same committee, to which was referred the bill (S. 3899) to provide for the acquiring of additional lands by railroad companies through Indian reservations, Indian lands, and Indian allotments, and for other purposes, reported it with amendments and submitted a report (No. 573) thereon.

LEASING OF OIL AND GAS LANDS.

Mr. PITTMAN. From the Committee on Public Lands I report back favorably without amendment the bill (S. 5673) to amend an act entitled "An act to protect the locators in good faith of oil and gas lands who shall have effected an actual discovery of oil or gas on the public lands of the United States, and their successors in interest," approved March 2, 1911, and I submit a report (No. 568) thereon. I ask for the present consideration of the bill.

The VICE PRESIDENT. Is there objection to the present consideration of the bill? The Chair hears none, and the Secretary will read the bill.

The Secretary read the bill, as follows:

Be it enacted, etc., That an act entitled "An act to protect the locators in good faith of oil and gas lands who shall have effected an actual discovery of oil or gas on the public lands of the United States, or their successors in interest," approved March 2, 1911, be amended by adding thereto the following section:

"SEC. 2. That where applications for patents have been or may hereafter be offered for any oil or gas land included in an order of withdrawal upon which oil or gas has been discovered, prior to such application for patent, and where there has been no final determination by the Secretary of the Interior upon such applications for patent, said Secretary, in his discretion, may enter into agreements, under such conditions as he may prescribe, with such applicants for patents in possession of such land or any portions thereof relative to the disposition of the oil or gas produced therefrom or the proceeds thereof, pending final determination of the title thereto by the Secretary of the Interior, or such other disposition of the same as may be authorized by law."

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

Mr. PITTMAN. From the Committee on Public Lands I report back favorably, with an amendment in the nature of a substitute, the bill (S. 5434) to provide for the leasing of oil and gas lands withdrawn from entry, and I submit a report (No. 571) thereon. I ask unanimous consent for the present consideration of the bill.

The VICE PRESIDENT. Is there objection?

Mr. SUTHERLAND. Let us first hear the bill read.

The VICE PRESIDENT. The Secretary will first read the bill.

The SECRETARY. The committee reports to strike out all after the enacting clause of the bill and to insert:

That upon relinquishment or surrender to the United States, within six months from the date of this act, by any locator or his successors in interest, of his or their claim to any unpatented oil or gas lands included in an order of withdrawal, upon which oil or gas had been discovered, was being produced, or upon which drilling operations were in actual progress October 3, 1910, or prior thereto, and were prosecuted until oil or gas was discovered, or have continued with reasonable diligence until the date of this act, and the claim to which land was initiated prior to July 3, 1910, the Secretary of the Interior may, in his discretion, grant, on such reasonable terms and conditions as he may prescribe, to such locator or his successors in interest a permit to occupy the said lands so relinquished, and to extract the oil or gas therefrom, not exceeding, however, the maximum area of 2,560 acres to any one person, association, or corporation, said permit to be conditioned upon the payment by the permittee of a royalty of not exceeding one-eighth of the oil or gas extracted or produced from said premises, or of the proceeds thereof, each permit to continue so long as oil or gas can be extracted from said land in paying quantities.

SEC. 2. That the Secretary of the Interior is hereby authorized to perform any and all acts, and make such rules and regulations, as he may deem necessary and proper for the purpose of carrying the provisions of this act into full force and effect, and all permits or assignments thereof shall be subject to such rules and regulations, and the failure of any permittee, or of his successors, to comply with the terms and conditions of the permit shall work a forfeiture of the same, to be declared by a court of competent jurisdiction.

Mr. SUTHERAND. I should like to ask the Senator from Nevada how much land will this bill apply to?

Mr. PITTMAN. How many acres in the United States?

Mr. SUTHERLAND. Yes.

Mr. PITTMAN. I do not know; it is impossible to state. It will apply to probably several hundred claimants.

Mr. SUTHERLAND. Are they in different States?

Mr. PITTMAN. Yes; in different States.

Mr. SUTHERLAND. In what States?

Mr. PITTMAN. It would apply to lands in California, in Wyoming, and probably to some land in Idaho.

Mr. BRISTOW. Is not this a very important piece of legislation?

Mr. PITTMAN. This is not the general leasing bill, I will say to the Senator, but it is——

Mr. BRISTOW. I think it ought to go over and be considered with other bills of that kind. I do not think we ought to pass a bill of this importance through in a minute or two.

Mr. PITTMAN. I wish to state to the Senator from Kansas that this matter has been under consideration by the Committee on Public Lands for a long time. The committee appointed a subcommittee which went into it carefully, and it was taken up before the full Committee on Public Lands on Wednesday, and all the members of the committee who were present were unanimously in favor of it, and I think all members of the committee, even those not present, since reading the report are in favor of it.

The situation is simply this: There is under consideration before the Public Lands Committee a bill providing for a general leasing system of oil and gas lands. That is not this bill. In the State of California a very peculiar condition exists, a condition that requires immediate remedying, so we are told by the Secretary of the Interior and by those who appeared before the Committee on Public Lands to present these various matters.

The condition is this: In the oil fields of California practically half of that land is owned by the Southern Pacific Railroad Co. by virtue of its railroad grants of every other section. A large portion of the land not owned by the Southern Pacific Railroad Co. is owned by the Standard Oil Co. and the Santa Fe Railroad Co. The Government has instituted five suits as test suits. One of those suits involves the title to the Southern Pacific lands. Another one of those suits, as I am informed, involves the validity of certain withdrawals by presidential proclamation. Other cases involve the question of dummy locations; that is, locations originally by several individuals for the benefit of some one person.

While there are only five suits instituted, the questions raised in those five suits challenge the title to all other claimants whose locations are in a similar condition. Those who have been sued in the five suits are in a position where they can ask the court of equity to allow them to put up bonds and to proceed to mine the oil. Those whose titles are challenged, but against whom no suit has been instituted, have no remedy at all.

Now, let us see what the condition is. The great pipe-line companies there, which are owned by the Standard Oil Co. and by the Southern Pacific Railroad Co., will not transport the oil from these lands that are challenged, and the operators on those lands can not get their oil to market except through these pipe lines. The Standard Oil Co. says to these individual operators, "We will not take your oil, because if the Government should eventually prevail against you it may make us pay again for the same oil." The Southern Pacific Co. says the same thing. The result is that these independent operators are unable by reason of such a cloud on their title to dispose of their oil. The Southern Pacific Co. has its own pipe line, and although its title is challenged it pays no attention to the challenge, but takes its own oil through its own line to market. Although the title of the Standard Oil Co. is challenged on the same ground, it has its own pipe line and it takes its own oil to its market.

Now, then, the condition is such that the Southern Pacific Railroad Co., with its vast holdings, and the Standard Oil Co., with its vast holdings, are driving wells right along the line of these private operators and are pumping the oil from under the ground of these independent operators, and at the same time they are refusing to carry their oil out on the ground that their title is challenged. The Secretary of the Interior says that this means an ultimate loss not only to the independent operators but to the Government The bill simply provides that the Government may, in the discretion of the Secretary of the Interior, accept a surrender of all claims to title by these independent operators and in lieu of such surrender grant to them a lease upon the lands that they surrender at a royalty of 12½ per cent.

Mr. SUTHERLAND. Mr. President, if I understand the situation, these oil claims were located prior to the passage of the withdrawal act by Congress.

Mr. PITTMAN. They were.

Mr. SUTHERLAND. The lands were withdrawn or attempted to be withdrawn by the Secretary of the Interior prior to the passage of the act. Is that the fact?

Mr. PITTMAN. Yes, sir; that is true.

Mr. SUTHERLAND. And the locations were made after that attempted withdrawal, but before the act of Congress?

Mr. PITTMAN. Prior to the act of Congress.

Mr. SUTHERLAND. This bill is limited to that class of lands.

Mr. PITTMAN. It is entirely limited to that class of lands.

Mr. SUTHERLAND. I want to say to the Senator that, so for as I am concerned, if the bill is confined to those lands, I have no objection to it.

Mr. PITTMAN. That is all it extends to.

Mr. SUTHERLAND. I am very much opposed to any general leasing proposition. I think the Government of the United States ought not to go into the business of leasing its lands. While, of course, it is within the constitutional power of the Government of the United States to lease its lands, if it pleases, I think it is against the spirit of the principles upon which the Federal Government was instituted.

Mr. WORKS. Mr. President——

Mr. SUTHERLAND. I think those lands ought to be open to settlement by private citizens in such a way that they may be merged into the property of the State as rapidly as possible, and I am utterly opposed to any sort of a general leasing system. I wanted to say that much so that my consent to the passage of the bill might not be misconstrued.

Mr. PITTMAN. The bill only provides for the compromise of lawsuits by virtue of which the Government and the independent operators are both losing. It is to compromise lawsuits, because the subject of litigation will not be in existence when such test suits are determined.

Mr. SUTHERLAND. If I understand the situation, I think the people who located the oil lands ought to be permitted to

perfect their title to the lands rather than to be given the right to lease them.

Mr. WORKS. Mr. President——

Mr. PITTMAN. It is in aid of a compromise.

The VICE PRESIDENT. Does the Senator from Nevada yield to the Senator from California?

Mr. PITTMAN. I do.

Mr. WORKS. These bills do not commit the Government to a general leasing system. If they did, I should sympathize with what has been said by the Senator from Utah [Mr. SUTHERLAND], because I think that is a very serious question which ought to be very carefully considered before we enter upon any system of that kind. This bill affects only certain operators in California, and they are the small operators who are about to be crowded out on account of litigation and their property practically confiscated. It is just simply for their protection; and I hope that Senators will not object to the consideration of the bill.

Mr. SHAFROTH. Mr. President——

The VICE PRESIDENT. Does the Senator from Nevada yield to the Senator from Colorado?

Mr. PITTMAN. I do.

Mr. SHAFROTH. I should like to ask the Senator from Nevada whether he has any objection, inasmuch as it has been asserted both by him and by the Senator from California [Mr. WORKS] that this applies only to claims which have been located in the State of California, to so limit it in the bill?

Mr. PITTMAN. Oh, no; I have not said that it applied only to claims in California.

Mr. SHAFROTH. I understood the Senator to say there were 400 claims affected by it, and that they were all in the State of California.

Mr. PITTMAN. I do not know that to be a fact, though I think nearly *all* of them are; but the bill is limited to claims that were initiated prior to the withdrawals authorized by Congress.

Mr. SHAFROTH. I desire to say, Mr. President, that I am opposed to any leasing system that affects the leasing of lands in my State. I have no objection if the Senator from California wants this to apply to his State; but if it is going to apply to my State, I must say that I should like to examine the bill more closely. We ought to name the States affected and have it apply to those States named. I should have no objection to that; but it does seem to me that if it is known that such claims are limited to certain States, the bill ought to so specify, for I do not want the law to apply in my State.

Mr. PITTMAN. Let me explain it to the Senator. This bill does not provide for the leasing of anything in any State, unless in aid of a compromise of litigation. You can not compel the claimant to accept a lease; the claimant can not compel the Government to give him a lease; it is simply an enabling act to allow the Secretary of the Interior to accept the surrender of a claim to title, and to give a lease if agreeable to both parties. I repeat, it is simply in aid of the settlement of litigation. It does not involve the question of leasing. We have not come down to that at all.

Mr. SHAFROTH. I ask the Senator whether or not this condition of affairs might not arise? Suppose the Interior Department would say, "Well, we have withdrawn certain lands, and we will not permit you to operate those at all, unless you come in and make some kind of a leasing agreement."

Mr. PITTMAN. That is exactly the condition now.

Mr. SHAFROTH. The question is whether that could apply to those lands that are in dispute now and to lands which the Secretary of the Interior or somebody else might put in dispute in the future.

Mr. PITTMAN. That might all be true. The Government can challenge any title to land initiated under the Government; we can not take that right away from the Government, nor do we desire to do so.

Mr. SHAFROTH. That may be so; but you can readily see that there have been wholesale withdrawals on the part of the Government in regard to coal lands, particularly by putting such an enormous price upon them that nobody will enter them; and if we are to sanction a matter of that kind and give the Secretary the power to lease in the event that a dispute arises, we might as well have a general leasing bill.

Mr. PITTMAN. Oh, no; there is nothing to prevent the claimant from going ahead and testing out his claim before the courts.

Mr. SHAFROTH. How many States does the Senator say have claims affected in this way?

Mr. PITTMAN. I do not know. The bill applies wherever we have oil and gas.

Mr. SHAFROTH. In every State?

Mr. PITTMAN. Wherever they have oil and gas.

Mr. SHAFROTH. We have oil and gas in our State to some extent.

Mr. WORKS. Mr. President, I do not understand that at the present time anybody will be affected by the bill, except operators in California. So far as I am concerned, I am perfectly willing that the effect of the bill shall be confined to my State. I think that will be the effect of it, at all events.

Mr. SHAFROTH. Has anybody appeared before the committee with relation to the matter as to whether any other State than California is affected?

Mr. WORKS. I have never heard that anybody is affected outside of California. No one has made any claim of that kind.

Mr. CLARK of Wyoming. Mr. President——

The VICE PRESIDENT. Does the Senator from Nevada yield to the Senator from Wyoming?

Mr. PITTMAN. I think I will yield first to the Senator from Wyoming, if the Senator from California has concluded; if he has not concluded, I will yield to him.

Mr. WORKS. I yield to the Senator from Wyoming, if I am entitled to the floor.

Mr. CLARK of Wyoming. Mr. President, I do not suppose the Senator from Colorado [Mr. SHAFROTH] or any other Member of this body has been or is more opposed to a general leasing system on the part of the Government than I am. I have contended in season and out of season that the Western States should not become Commonwealths of tenants under the dominion of absent landlords. I have, however, examined this bill very carefully, and, so far as I am concerned, I see nothing whatever objectionable in it. It might, I think, affect some lands in the State of Wyoming; whether as a matter of fact it will I do not know; but I have examined the bill with that possibility in view.

One side of the question is just this: Up to 1910 it was questioned by very many whether the Executive had authority to withdraw lands. I was one of those who insistently claimed that he had not. However, up to that time lands had been withdrawn, and up to that time some of these locations had been made, but titles had not passed. The claims were initiated, and after the first withdrawals, which to many of us seemed entirely unauthorized, in 1910 we passed a law authorizing the President for certain purposes to withdraw lands, which he did. The controversy has come up upon those lands which were withdrawn prior to that time, and this bill is limited to those particular lands.

The question is now pending before the Supreme Court of the United States as to the authority and the validity of the former withdrawals. This bill does not settle or attempt to give legislative sanction or dissent as to the authority of the President, but people had gone on and developed those lands prior to the time of withdrawal. The situation now is that the Government having instituted suits against some of the individual holders or applicants for patents, the right to produce oil by all of them is questioned. The pipe lines will not receive their product, because they say, "If we pay the individual operator for his oil and if the Government shall be successful in its contention, we may be called upon to pay the Government also for the oil which we shall have transported from those particular lines."

This bill gives these individual holders the privilege if they choose to do so—it does not compel them to do so—to stand upon their former rights and litigate the matter out; but if they choose to do so, it allows them to enter into an agreement with the Secretary of the Interior at a maximum compensation by which a permit shall be granted them to operate the land. I can see nothing in this bill that infringes upon my former view or present view as to the general leasing operation.

Mr. SUTHERLAND. Mr. President, let me ask the Senator from Wyoming a question. The case which is now on appeal in the Supreme Court of the United States is upon the holding of a Federal judge in the court below, who has decided in favor of these locators, and decided that the withdrawal upon the part of the Secretary of the Interior of those lands prior to the passage of the act of Congress upon that subject was invalid. Am I correct about that?

Mr. CLARK of Wyoming. The situation of the particular suit which, as I understand, will test this whole question of the validity of the withdrawals was that the district court of the United States held against the contention of the Government; in other words, held that the withdrawals prior to authority being given to Congress were invalid. That suit went to the court of appeals, which certified it to the Supreme Court of the United States.

Mr. WHITE. Mr. President——

The VICE PRESIDENT. Does the Senator from Wyoming yield to the Senator from Alabama?

Mr. CLARK of Wyoming. As soon as I have finished the sentence I will be glad to yield. A hearing was had, and thereafter a rehearing was ordered, which was held, I think, the last time the court met to hear arguments; so that it is still an open question.

Mr. SHAFROTH. Mr. President, is the Senator satisfied that the bill will not be a detriment to any of the locators in his State?

Mr. CLARK of Wyoming. I am satisfied of that; yes.

Mr. SHAFROTH. I have no objection to the bill.

Mr. WHITE. I should like to inquire of the Senator if the character of the claims under which this compromise is sought to be made is at all defined in this bill?

Mr. CLARK of Wyoming. I do not know that they are defined in this bill, but the character of the oil-land claims is well defined by the statute.

Mr. PITTMAN. I do not think the Senator from Wyoming understands. I think the Senator from Alabama wants to know whether or not the claims of the claimants against the Government which are to be compromised are set out in the bill.

Mr. WHITE. Whether they are defined.

Mr. PITTMAN. I will say that they are not set out in the bill because the claim of an oil claimant is always based upon a statutory location.

Mr. CLARK of Wyoming. That is exactly what I said.

Mr. PITTMAN. And the Government is challenging the validity of those locations.

Mr. WHITE. The condition is defined, then?

Mr. PITTMAN. The condition is sufficiently defined.

Mr. WHITE. I should like to inquire of the Senator if this applies to mineral lands other than oil lands?

Mr. CLARK of Wyoming. Not at all.

Mr. PITTMAN. It does not.

The VICE PRESIDENT. Is there any objection to the present consideration of the bill?

Mr. BORAH. May I ask, before this matter proceeds, is the proposed substitute reported unanimously from the Public Lands Committee?

Mr. PITTMAN. It is.

Mr. BORAH. It is general in its application and does not apply alone to California?

Mr. PITTMAN. It does not.

Mr. BORAH. Is the Senator from Nevada anxious to have this bill disposed of this morning?

Mr. PITTMAN. I am very anxious, and I will say that the Department of the Interior is also very anxious to have it disposed of. There is a great loss to the Government and to the independent operators right now. Every day the Southern Pacific Railroad Co. and the Standard Oil Co. are taking oil out of this very ground that is in dispute, and the Government wants to compromise and the independent operators want to compromise the matter.

Mr. BORAH. Mr. President, I certainly do not want to stand in the way of legislation which is important and for which an emergency seems to demand immediate consideration; but I do not want, by permitting this bill to pass without objection, to have it understood that I am consenting to a general leasing system with reference to public lands. That is a matter requiring a great deal of careful consideration before any policy which shall become permanent is agreed upon.

Mr. WORKS. Mr. President, I want to say to the Senator from Idaho that this is a matter of the greatest emergency, and it affects interests in my own State. There is nothing in this bill that commits the Government to a leasing system; and it will not be injurious in any way. It is simply for the protection of some of the smaller oil operators in my State, whose property is about to be destroyed by the big operators on account of litigation that has taken place there that binds the hands of these people so that they are not able to dispose of their oil. Not only that, but while their hands are tied in that way, the Southern Pacific Railroad Co. can dispose of its oil; it is putting down wells near the lands of these operators, and it is absolutely taking the oil away from them. The bill is simply for their relief, and it can not result in any such misfortune as the Senator from Idaho apprehends. If I thought it committed the Government to a general leasing system, I should feel like the Senator from Idaho, because I am not committed to the leasing of oil or any other lands, and I want to assure the Senator that the bill has no such effect.

Mr. BORAH. In view of the statement of the Senator from Nevada and that of the Senator from California, who know most about this matter, I shall not interpose any further objection.

The VICE PRESIDENT. Is there objection to the present consideration of the bill?

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill.

The VICE PRESIDENT. The question is on agreeing to the amendment reported by the committee in the nature of a substitute.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended so as to read: "A bill authorizing the Secretary of the Interior to grant permits to the occupants of certain unpatented lands on which oil or gas has been discovered, and authorizing the extraction of oil or gas therefrom."

KING THEOLOGICAL HALL.

Mr. HOLLIS. From the Committee on the District of Columbia I report back favorably, with an amendment in the nature of a substitute, the bill (S. 5168) for the relief of the King Theological Hall, and authorizing the conveyance of real estate to the Howard University, and I submit a report (No. 569) thereon. I ask unanimous consent for the present consideration of the bill.

Mr. SMOOT. May I ask the Senator if the bill comes from the committee with a unanimous report?

Mr. HOLLIS. It does. This is a purely private bill. The King Theological Hall is a charitable organization composed of certain Episcopalian clergymen; and this bill is designed to remedy certain technical defects in the organization and give them the power to convey real estate.

The VICE PRESIDENT. Is there objection to the present consideration of the bill?

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill, which had been reported from the Committee on the District of Columbia with an amendment to strike out all after the enacting clause and to insert:

That the following persons be, and they and their successors, as trustees, are declared to be, the corporation of the King Theological Hall, established by act of Congress approved January 7, 1891, and the legal trustees thereof, namely: Alfred Harding, Randolph H. McKim, Richard P. Williams, George Williamson Smith, and William C. Rives. In such capacity said trustees, or their successors, are hereby authorized to convey all or any part of the real estate of said corporation, whether now owned or hereafter acquired.

Said trustees at any regular meeting may authorize any two of their number to execute a good and sufficient deed of conveyance of such real estate.

The trustees above named, or their successors, may, if they shall deem it necessary, increase their number from time to time and determine by by-law the number required to constitute a quorum: *Provided*, That the whole number of trustees shall not exceed 15.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended so as to read: "A bill for the relief of the King Theological Hall, and authorizing the conveyance of real estate to the Howard University and other grantees."

MANDAN (N. DAK.) TOWN AND COUNTRY CLUB.

Mr. WORKS. On behalf of the chairman of the Committee on Public Lands [Mr. MYERS], I report back favorably from that committee, without amendment, the bill (S. 5254) authorizing the Secretary of the Interior, in his discretion, to sell and convey a certain tract of land to the Mandan Town and Country Club, and I submit a report (No. 570) thereon.

Mr. GRONNA. I ask unanimous consent for the present consideration of the bill.

Mr. GALLINGER. Let the bill first be read, Mr. President.

The Secretary read the bill, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized, in his discretion, to sell and convey to the Mandan Town and Country Club, of Mandan, N. Dak., at a price of not less than $30 per acre, the below-described land: In section 33, in township 139 north of range 81 west of the fifth principal meridian, beginning at a point 1,120 feet due east from the northwest corner of the southeast quarter of said section 33, thence running due south 400 feet, thence running due east 300 feet, thence running due north 400 feet, thence running due west 300 feet to the starting point, containing 2¾ acres, more or less: *Provided*, That if the said Mandan Town and Country club should at any time attempt to use said tract of land for any other purpose than that of recreation or attempt to sell, lease, or convey said tract, the land shall revert to the United States.

The VICE PRESIDENT. Is there any objection to the present consideration of the bill?

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

BILLS INTRODUCED.

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. MARTIN of Virginia:

A bill (S. 5697) to facilitate the use of square No. 673, in the city of Washington, for storage warehouse purposes; to the Committee on the District of Columbia.

By Mr. KERN:

A bill (S. 5698) revising and amending the statutes relative to trade-marks; to the Committee on Patents.

By Mr. THOMAS:

A bill (S. 5699) granting a pension to Blanche L. Kuykendall (with accompanying papers); to the Committee on Pensions.

By Mr. WALSH:

A bill (S. 5700) for the relief of H. Frank Adkins (with accompanying papers); to the Committee on Claims.

By Mr. JONES:

A bill (S. 5701) providing for the disposal of certain lands in block 32, in the city of Port Angeles, State of Washington; to the Committee on Public Lands.

By Mr. SMOOT:

A bill (S. 5702) granting an increase of pension to William H. Rich (with accompanying papers); to the Committee on Pensions.

By Mr. BURLEIGH:

A bill (S. 5703) granting an increase of pension to Gardiner Roberts; and

A bill (S. 5704) granting a pension to Clara E. S. Lunt; to the Committee on Pensions.

By Mr. SAULSBURY:

A bill (S. 5705) authorizing the health officer of the District of Columbia to issue a permit for the removal of the remains of the late Elsie McCaulley from Glenwood Cemetery, District of Columbia, to Philadelphia, Pa.; to the Committee on the District of Columbia.

DONATION OF CANNON.

Mr. WEEKS submitted an amendment intended to be proposed by him to the bill (S. 5495) authorizing the Secretary of War to make certain donations of condemned cannon and cannon balls, which was ordered to lie on the table and be printed.

AMENDMENTS TO APPROPRIATION BILLS.

Mr. SAULSBURY submitted an amendment intended to be proposed by him to the river and harbor appropriation bill, which was referred to the Committee on Commerce and ordered to be printed.

Mr. SHIELDS submitted an amendment proposing to increase the salary of the postmaster of the Senate from $2,250 per annum to $3,600 per annum, intended to be proposed by him to the legislative, executive, and judicial appropriation bill, which was ordered to lie on the table and be printed.

COMMITTEE ON REVOLUTIONARY CLAIMS.

Mr. GALLINGER submitted the following resolution (S. Res. 383), which was read and referred to the Committee to Audit and Control the Contingent Expenses of the Senate:

Resolved, That the Secretary of the Senate be, and he hereby is, authorized and directed to pay, out of the contingent fund of the Senate, to E. W. Lillard 60 days' salary at the rate of $2,220 per annum; to Rella M. Lane 60 days' salary at the rate of $1,440 per annum; and to Ephraim S. Lillard 60 days' salary at the rate of $1,200 per annum, the same being for services as clerk, assistant clerk, and messenger, respectively, to the Committee on Revolutionary Claims, for 60 days from May 27, 1914.

NEW YORK CENTRAL & HUDSON RIVER RAILROAD CO.

The VICE PRESIDENT. The Chair lays before the Senate a resolution coming over from a previous day, which will be read.

The resolution (S. Res. 382), submitted by Mr. NORRIS on the 28th instant, was read, as follows:

Whereas the New York Central & Hudson River Railroad Co., through its ownership of the stock of the Lake Shore & Michigan Southern Railway Co., forms a continuous line of railway from Chicago, through Buffalo, to New York City; and

Whereas said New York Central & Hudson River Railroad Co. controls by lease the West Shore Railroad Co.; and the said Lake Shore & Michigan Southern Railway Co. owns the stock of the New York, Chicago & St. Louis Railroad Co. (Nickel Plate), which, together with the said West Shore Railroad Co., constitutes a railroad running parallel to the Lake Shore & Michigan Southern Railway Co. and the New York Central & Hudson River Railroad Co. from Chicago, through Buffalo, to New York City; and

Whereas the New York Central & Hudson River Railroad Co. owns the stock in the Michigan Central Railway Co., a line of railway extending from Chicago to Buffalo; and

Whereas said New York Central & Hudson River Railroad Co. owns the stock in the Western Transit Co. and the Rutland Transit Co., constituting a water-navigation line engaged in interstate commerce between Buffalo and Chicago and intermediate points; and

Whereas this ownership results in a combination under one control of four competing lines of transportation between Chicago and Buffalo and two competing lines between Buffalo and New York City; and

Whereas the said Lake Shore & Michigan Southern Railway Co., in addition to the ownership of the said New York, Chicago & St. Louis Railroad Co., owns all of the stock of the Toledo & Ohio Central Railway Co.; of the Chicago, Indiana & Southern Railroad Co.; and of the Jamestown, Franklin & Clearfield Railroad Co.; and also owns more than 50 per cent of the stock of the Pittsburgh & Lake Erie Railroad Co.; and

Whereas the said New York Central & Hudson River Railroad Co. controls the Western Maryland Railway Co., which, together with the said Pittsburgh & Lake Erie Railroad Co., constitutes another competing line between territory covered by the Lake Shore & Michigan Southern Railway Co. and the New York, Chicago & St. Louis Railroad Co. with the Atlantic seaboard; and

Whereas the said New York Central & Hudson River Railroad Co. is now taking the necessary steps to more completely consolidate all of the aforesaid railroads, together with others, under one ownership and control: Therefore be it

Resolved, That the Attorney General be, and he is hereby, directed to inform the Senate whether the various combinations of railroads above set forth are in violation of the Sherman antitrust law or any other statute of the United States, and whether the Department of Justice has in contemplation any action for the dissolution of said combination.

Mr. OVERMAN. I move that the resolution be referred to the Committee on Interstate Commerce in order that it may be considered and reported back at an early day. I think the committee can report it back very shortly.

Mr. NORRIS. Mr. President, this resolution, like all similar resolutions that are passed, simply calls upon the Attorney General for information. I think the facts set out in the whereases of the resolution are matters of common knowledge. For instance, it is well known that the Lake Shore road, the Michigan Central road, and the Nickel Plate road form three parallel lines of railway running from Chicago to Buffalo. Two of those roads for a great distance are in plain sight of each other, running to all the principal cities between those two terminals, and between the Lake Shore and the Michigan Central there are two boat lines operating between Buffalo and Chicago and all the intermediate lake cities. From Buffalo east there are the New York Central and the West Shore roads, running parallel clear across the State of New York to Albany within plain sight of each other, running into nearly all the cities in that State, and then from Albany south, running on opposite sides of the Hudson River to the city of New York.

The question asked of the Attorney General is whether the ownership of these railroads under one head—the New York Central Railway—constitutes a violation of the Sherman antitrust act. That is the substance of the resolution. There is another combination of railroads named in the resolution that is also owned by the New York Central, namely, the Western Maryland and the Pittsburgh & Erie, I think. While those roads are not close to the others, they form a railroad line from the same territory covered by these other roads to the seaboard, which they reach at Baltimore.

The only thing the resolution asks is whether these railroads, having been combined under one ownership, violate the Sherman antitrust law.

Mr. WEEKS rose.

Mr. NORRIS. Just a moment, please. Let me say that not very long ago the Supreme Court had before it the question of the combination of the Central Pacific, running from Ogden, Utah, to the Pacific coast, and the Southern Pacific, a thousand miles farther south, but with the same terminal. The court held that the combination of those two roads was contrary to the Sherman Antitrust Act.

It seems to me that no good can come from referring a simple proposition of this kind to a committee. There is no action proposed, so far as the resolution is concerned, except to ask the Attorney General whether that combination is in violation of law. I think the fact that the combination exists is admitted practically by all those who are familiar in a general way with the statements that have appeared from time to time.

Mr. KERN. Mr. President——

Mr. NORRIS. I have promised to yield to the Senator from Massachusetts. Afterwards I will yield to the Senator from Indiana.

Mr. WEEKS. Mr. President, many of the purchases referred to in the resolution were made some 20 years ago. There may be a question about the policy of dissolving corporations in such cases which will come up at the proper time, if the resolution passes, after the Attorney General reports.

I am not going to object to the adoption of the resolution, but I wish to call the Senator's attention to the fact that in casually looking up the matter for a minute or two I noticed that the West Shore Railroad was leased to the New York Central January 1, 1886, which was before the passage of the Sherman Act; and I presume the Senator will want to have eliminated any question that relates to a lease made before the passage of the present law.

Mr. NORRIS. I will say to the Senator that the New York, Chicago & St. Louis Railroad, commonly known as the Nickel Plate, was also purchased by the Lake Shore Road prior to the passage of the Sherman Antitrust Act. Personally I do not think that makes any difference. The fact that the combination was formed before the enactment of the Sherman law will be no defense. Whether it does or not, however, if there is any dispute about it, we ought to get the opinion of the highest legal authority that we have in the Government, so that if that is a defense, if that does not constitute a combination in violation of law, the Attorney General probably will tell us so. There are various other combinations that have existed, all connected with this subject matter, and which are set out in the various whereases of the resolution, where the combination was formed since the passage of the Sherman Antitrust Act, and I think one of them only within the last year or so.

Mr. WEEKS. Of course, if the lease had been made before the passage of the law it would not be affected by the law, and we might be asking the Attorney General a very foolish question. My only point was that if there were other such cases in this resolution they ought to be eliminated before it is agreed to.

Mr. BORAH. Mr. President——

Mr. NORRIS. I will first yield to the Senator from Indiana and then to the Senator from Idaho.

Mr. KERN. Mr. President, the Senator from Nebraska did not mention what seems to me to be the objectionable feature of this resolution, namely, the last clause, in which we call upon the Department of Justice to know its intentions as to bringing an action for the dissolution of the combination. I objected to that kind of a resolution some time ago. I do not think it is proper for Congress to call on the Attorney General to disclose in advance what he proposes to do with reference to suits in the enforcement of the Sherman antitrust law.

I am in entire sympathy with the resolution, except that part. I can remember when the Michigan Southern and the Michigan Central were actively competing lines. The competition was a very wholesome one. I then remember when the so-called Nickel Plate road was built by Mr. Brice and some others from Chicago to Buffalo. It was intended to be a very actively competing line; that is to say, it was presumedly to be an actively competing line, and the presumption was so strong that these other interests bought it out at a very large figure, to the very great profit of Mr. Brice and his associates. I have often wondered why it was that these three great trunk lines, natural competitors for business, were permitted to be consolidated in one great corporation.

If the last clause was stricken out—that clause which calls on the Attorney General to show his hand, to advertise to the country what he intends to do with reference to bringing a lawsuit—I would be very heartily in favor of the resolution without a reference, because there is nothing obscure about the resolution. It simply calls for information as to facts that are well known to some of us and which ought to be well known to all.

Mr. CLARK of Wyoming. Mr. President——

Mr. NORRIS. Let me first reply briefly to the Senator from Indiana. Personally I do not see any objection to the clause the Senator from Indiana objects to. I do not think it is very material to the resolution, I will say, and I would not have any objection to striking it out. I remember that the Senate, in the last Congress—in the last session, I think, of the last administration—passed a joint resolution instructing the Attorney General—even they went further than asking him, but passed a joint resolution instructing him—to take an appeal in a certain case or to take some other action. I know I was on the Judiciary Committee of the House and I tried my best to get a favorable report out of that committee and have the House pass it. However, it died; we did not reach it.

Mr. GALLINGER. Will the Senator permit me just a word?

Mr. NORRIS. I wanted to yield to the Senator from Wyoming, but I will yield to the Senator from New Hampshire first.

Mr. GALLINGER. Mr. President, on a previous occasion when a similar resolution was before the Senate I took occasion to criticize language which was identical with the language employed in this resolution, to which the Senator from Indiana calls attention. I used, perhaps, too strong a word on that occasion when I said I thought it was impertinence to ask the official of the Government to disclose what the Government contemplated doing in any case of this kind. I will not use that word to-day, but I will appeal to the Senator to strike out that language, because I feel sure that it will not weaken the resolution.

Mr. NORRIS. I do not think it will weaken it myself. Now I yield to the Senator from Wyoming.

Mr. CLARK of Wyoming. The question that I wanted to ask the Senator does not have reference to the last paragraph. The fact of the matter is I am not sure but that the last paragraph is better than the first. The first paragraph calls upon the Attorney General for a legal opinion upon a statement of facts set forth in the preamble. I wanted to ask the Senator what he thinks of the propriety of calling upon the Attorney General for a legal opinion? There is no question, of course, of our right and our duty, if he has the facts, to call upon him for the facts which he may have discovered or which can be discovered, but of course his legal opinion would not be binding upon Congress, neither would his legal opinion transmitted to Congress be binding upon any person. I wanted to suggest to the Senator whether he thinks it is really good form for the Congress of the United States or the Senate of the United States upon a known statement of facts to ask the Attorney General for his legal opinion in this manner by a public resolution?

Mr. NORRIS. I believe it is more respectful to the Attorney General to ask his opinion than it would be to get the opinion, for instance, of the Judiciary Committee of the Senate, and then on the strength of that opinion instruct the Attorney General by a joint resolution what he should do. My idea is that there is not anything improper in asking the Attorney General for his opinion. I do not myself think there is anything improper in the last clause. It does not seem to me to be at all objectionable. I do not want anything in the resolution that is objectionable, and I am not undertaking to get anything in it that is so.

Mr. CLARK of Wyoming. The Senator does not understand me. I am not particularly objecting to the last paragraph; but suppose the Attorney General should give his legal opinion to the Senate upon this statement of facts, and suppose his opinion should be that it did form a combination in restraint of trade or against the Sherman Antitrust Act; what then?

Mr. NORRIS. My judgment is—and that is the real object of the resolution—that these various combinations that are set forth in the whereases to the resolution are illegal, contrary to the Sherman Antitrust Act, and that they ought to be dissolved by the Government. If the Attorney General rendered an opinion that they or any one or more of them were unlawful, he would undoubtedly follow it with proper action. I want to call the attention of the Attorney General in an official way to what I believe to be a violation of the law. If there is no violation of the law there, the Attorney General will be able to say so. It will be easy for him to ascertain what these combinations are; and if they are illegal and there is nothing that can be done, perhaps it would be useful to have that information in framing legislation that the Senate or the Congress might desire to enact for the purpose of avoiding the contingency that exists now because of these various combinations.

Mr. CLARK of Wyoming. Of course, neither the Senator from Nebraska, who himself has been an eminent lawyer and upon the bench, nor the Senate itself would care to be bound by any opinion the Attorney General might render upon a known state of fact. In other words, neither the Senator nor the Senate would care to submit to the Attorney General of the United States the decision of the question whether a pending state of fact constituted violations of the law or not. That is the point I wanted to get at.

Mr. OVERMAN. Mr. President——

Mr. NORRIS. Before I yield to the Senator from North Carolina let me say a word in answer to the Senator from Wyoming about the legal phase of it. Some time ago I introduced a resolution calling on the Interstate Commerce Commission to make an investigation in regard to certain securities that the New York Central proposed to issue to be used in the acquisition of some of the combinations that are set out in the whereases to this resolution. The Senate passed that resolution. The Interstate Commerce Commission made an investigation and found that the bonds that I had called attention to in the resolution were legal and proper. There were other questions in the resolution. One of them asked the commission to specifically find whether the bonds, some 4 per cent bonds instead of 3½ per cent bonds, that seemed to me were a great loss to the stockholders of the company, were proper to be issued to carry out this consolidation, and then if the combination was in violation of the law.

The Interstate Commerce Commission, in reporting upon their action to the Senate, saying that they believed it was proper under all the circumstances for them to issue the 4 per cent bonds and take up the 3½ per cent bonds, took up the other question, which was really a legal question, the question that is in reality involved here in this resolution, although

there are more combinations set out here than there were in the other resolution, and they said:

We think this question is one more properly to be passed upon by the Department of Justice, and as to it we therefore express no opinion.

They did not answer that question.

Now, I want to be perfectly frank with the Senate, and I say frankly that the real object of this resolution is to get action by the Department of Justice for the dissolution of these combinations or a sufficient reason why such action should not be begun. There may be such a reason. I do not know of any, and I can not conceive of any, but there may be one, there may be several. It is certainly perfectly proper if we believe, as I think we all do, that these various combinations do exist, and that it does block competition as far as these roads are concerned.

The Senator from Indiana [Mr. KERN] spoke of the lively competition that existed before the Michigan Central was taken over. I lived in Ohio when the Nickel Plate Railroad was built. I remember the first railroad survey ran between the house and barn of the farm on which I lived. Later it was built about a mile on one side. I am familiar with that country. All those towns through there are touched by those two roads. It runs through some of the best country in the world, and the Nickel Plate ought to be a lively competing line to the Lake Shore road; but it was bought by the Lake Shore, and then what followed? I do not believe the Nickel Plate ever built a branch line; they never took the initiative; they did not do anything in developing the country, because it was to the interest of the railroad that owned it that it should not do so. They wanted to kill competition, and they did kill competition; and now, as one of the whereases says, the New York Central is contemplating the perfection of some of these various plans and trying to take over various railroads in the State of Ohio, some of which are not mentioned in the resolution, and some of which I believe could properly be mentioned. I did not know enough about the facts, so I did not want to put them in. It means the breaking down of competition between the coal fields of West Virginia and Pennsylvania and the Lake country. They are now in litigation in the State of Ohio. The officials of the State of Ohio have now under consideration the question as to whether some of these things shall be permitted or not; and it seems to me that the Federal Government ought to take a stand here and say that these things are right or say that they are wrong, and then undertake to make them right.

Now I yield to the Senator from North Carolina.

Mr. OVERMAN. I did not exactly understand what the Senator from Nebraska proposes by this resolution. It says:

That the Attorney General be, and is hereby, directed to inform the Senate whether the various combinations of railroads above set forth are in violation of the Sherman antitrust law.

As the Senator from Wyoming [Mr. CLARK] said, suppose the Attorney General says it is, or suppose he says it is not, what difference does it make to the Senate? I presume the Attorney General is doing his duty, and that if it is a violation of the antitrust law he is bringing a suit for that purpose. He ought to do it, and it is his duty to do it; and I presume he is going about that very thing to-day. Now, why should we have his opinion on this subject? What is the purpose of it? Is it a reflection on the Attorney General? What is the purpose of getting this information?

Mr. NORRIS. Is the Senator through with his questions?

Mr. OVERMAN. I am asking the question.

Mr. NORRIS. I will answer categorically the last question of the Senator. It is not a reflection on the Attorney General. It seems that no resolution can be introduced here calling on the Attorney General for information unless some Senator construes it to be a reflection upon him. I have some correspondence here with the Department of Justice——

Mr. OVERMAN. The Senator has not answered my first question. What is the preference of getting this information?

Mr. NORRIS. I think if the Attorney General says it is an illegal combination the next step will be to begin action to have the combination dissolved. Is there any objection to calling his attention to the fact?

Mr. OVERMAN. If it is illegal?

Mr. NORRIS. What is the objection to calling special attention to the fact? It is not giving him specific instructions, but permits him to rely upon his own judgment and upon his own investigation, and the result of that investigation he would have to make public.

Mr. OVERMAN. If that is so, does not the Senator suppose that the Attorney General is going ahead and prosecuting the case?

Mr. NORRIS. I should think he would.

Mr. OVERMAN. Of course he would. Then what is the purpose of the resolution?

Mr. NORRIS. It is calling his attention to it. He has not done so yet. I am going to read some correspondence——

Mr. OVERMAN. The very fact that the Senator has introduced the resolution calls attention to it.

Mr. NORRIS. If the Senate does not want to interfere in the matter, it can vote down the resolution, and let it do so.

Mr. OVERMAN. Not at all. That is not my purpose.

Mr. NORRIS. That is just what the effect would be.

Mr. OVERMAN. I do not see what the opinion of the Attorney General on this matter has to do with the action of the Senate.

Mr. BORAH. Mr. President——

Mr. NORRIS. I yield to the Senator from Idaho.

Mr. BORAH. Is not the situation really this, eliminating the formality of expression, that the Senator from Nebraska thinks there is a combination in violation of the Sherman antitrust law, and he thinks the Attorney General is not prosecuting it, but he wants to insist that he shall do so?

Mr. OVERMAN. I ask the Senator if that is his purpose, to say that he has failed in his duty?

Mr. NORRIS. I would not say he was not doing his duty. I do not want to go that far. I want the Attorney General either to prosecute or to state what he thinks are the facts and why he does not.

Mr. OVERMAN. I have confidence enough in the Attorney General to say that if he believes they are doing it in violation of law—and I believe it is in violation of the law—I think he will do it, but I do not see why the Senate should pass a resolution simply calling for his opinion.

Mr. NORRIS. Mr. President, I will further answer the suggestion of the Senator. I am going to read some correspondence.

Mr. REED. Will the Senator permit me?

Mr. NORRIS. I will yield to the Senator.

Mr. REED. Has the Senator any reason to believe that the Attorney General has had his attention called to this combination?

Mr. NORRIS. Yes; I have. I was about to read some correspondence to show it.

Mr. REED. Has the Senator any reason to believe that the Attorney General is not willing to go on and perform his duty, and, if there is a combination, to prosecute it?

Mr. NORRIS. I did not hear the last part of the Senator's question.

Mr. REED. Has the Senator any reason to believe that the Attorney General, having had his attention already directed to this combination, will not go on and perform his full duty with reference to a prosecution?

Mr. NORRIS. I am not sure that the Attorney General believes that there is a violation of the law. It may be that the Attorney General knows more about it than we do. It may be that the Attorney General does not believe there is a violation of the law.

Mr. REED. Very well.

Mr. NORRIS. If that be true, he can give a reason for the faith in him, and he will tell us so.

Mr. REED. That hardly answers my question, because if the Attorney General has had his attention directed to this matter, and no one is prepared to charge that he is not willing to perform his duty, it follows that he is now in the discharge of his duty, proceeding as he ought to proceed to investigate and to determine the facts and take such action as the law warrants. If that is the case, then the sole effect of this resolution would be to demand that the Attorney General shall do that which he is already doing.

Mr. BORAH. Mr. President——

Mr. NORRIS. I yield to the Senator from Idaho.

Mr. BORAH. I do not see how the Senator from Nebraska could have framed his resolution in more courteous and polite language for the purpose of simply calling this matter to the attention of the Attorney General. It says:

That the Attorney General be, and he is hereby, directed to inform the Senate whether the various combinations of railroads above set forth are in violation of the Sherman antitrust law or any other statute of the United States, and whether the Department of Justice has in contemplation any action for the dissolution of said combination.

If the Senator from Nebraska simply desired to call the attention of the Attorney General to this condition of affairs, assuming possibly that it had not been called to his attention, he seems to have used quite inoffensive language.

Mr. REED. But how can he assume possibly that they have not been called to his attention when the Senator has already stated he knows they have been called to his attention?

Mr. BORAH. The presumption would be that if there had been a violation of the Sherman antitrust law the Attorney Gen-

eral would have proceeded to prosecute these parties. Now, the Senator from Nebraska asks him as to whether or not there is a violation. If the Attorney General gives reasons why he believes that there is no violation of the Sherman antitrust law, it relieves him from the implication of failing to do his duty.

Mr. REED. But it is a question now of notice we are discussing. No one has yet impugned the motives of the Attorney General.

Mr. BORAH. No; it is only asking for his contemplated action.

Mr. REED. That is a separate question which I shall be glad to discuss. This whole question now avowed by the Senator is notice. That notice, the Senator states, he has already given, and if the notice has already been given it is not necessary to give it again.

The question of asking the Attorney General to state in advance what he contemplates doing with reference to the prosecution of a company which is alleged now or assumed for the time being at least to be engaged in criminal practices is quite a different question, and it involves the propriety of the Senate insisting that the Attorney General shall advise the criminal in advance as to just what he contemplates—a very bad practice, and a practice which might be resorted to by the friends of combinations in order that the Department of Justice should be forced to advise the criminal in advance of the action contemplated, and thus balk the ends of justice.

Let me be plain. I attribute no such motive as that to the Senator from Nebraska. I know he has no such motive. I would not think of intimating that; but if the practice were indulged in it could easily be employed for that purpose.

Mr. BORAH. But suppose that the Attorney General should advise the country that he contemplated bringing a suit against these railroad companies, and the railroad companies, out of dire fear of the contemplation of that suit, should dissolve themselves and reorganize themselves into competitive bodies, no particular harm could be done the public.

Mr. REED. Ah, but that is not the point I am addressing myself to. Suppose the Attorney General were in the pursuit of certain information necessary to make a case and was about to get it, and suppose that the railroads were advised in advance that he was seeking that information, it might be very easy to spirit away the evidence and get a witness out of the country to balk the ends of justice. The Senator from Idaho has practiced law too long not to understand the very great advantage frequently flowing to a defendant to be advised in advance that the State is making an investigation and contemplates a prosecution.

Mr. BORAH. That is true with reference to a particular class of violators of the law, but it is not true with reference to railroads, to any considerable extent, because the physical facts are there; they are the competing lines, running side by side, and ownership is well and easily established. Of course, if the Attorney General is after some secret information, he would undoubtedly advise us to that effect, and we would doubtless allow him to contemplate awhile longer or to postpone matters until he was well prepared.

Mr. REED. The Senator from Idaho evidently overlooks the little circumstance that recently transpired, where the books of a railroad company were burned—at least it was so charged in the public press. He overlooks the fact that witnesses in these trust cases have found it convenient to emigrate to Europe. He overlooks the fact that in various trust prosecutions—at least in those brought by States, one of them, notably, by my own State—it was found necessary, in order to get subpœnas upon witnesses who had been advised in advance and ran away, to delay proceedings for months. I say that if we are to assume two facts—first, that the Attorney General has been notified, and, second, that he is an honest man—then the purpose in passing this resolution is nil, unless it be to intimate that he is not an honest official.

I want to ask the Senator from Nebraska if it is not true now that the Attorney General has already complained, and complained bitterly, because contemplated prosecutions have been interfered with and immunity granted to witnesses, which, he alleges, may seriously interfere with criminal prosecutions?

Mr. NORRIS. No; that is not true.

Mr. REED. And if one of those resolutions was not introduced by the Senator himself?

Mr. NORRIS. That is not true. The Senator from Missouri is referring to the resolution in regard to the New Haven Railroad. The Attorney General did not have in contemplation any criminal action, and nobody has been given immunity in that case. The Attorney General has never said, excepting as the statements have appeared in the newspapers——

Mr. REED. Did he not write a letter in which he said——

Mr. NORRIS. Not only that, but, if the Senator wants to go into that proposition, I have a statement from the Attorney General's office now in my desk to the effect that there never was in contemplation any criminal action; that there was no violation of any Federal statute in all the proceedings that were had in the New Haven affair.

Mr. REED. Is it not——

Mr. NORRIS. I do not want to discuss that now, unless it is desired to go into it, because that has not anything to do with this question.

Mr. REED. I want to ask merely one question with reference to the matter. Is it not a fact that the Attorney General wrote a letter in which he warned the Interstate Commerce Commission or its attorney or the Senator from Nebraska that the proceedings about to be taken where these witnesses were to be put upon the stand might result in immunity and in barring prosecution by the Government? Is not that true?

Mr. NORRIS. The Attorney General wrote some letter; he published a letter.

Mr. REED. Yes.

Mr. NORRIS. It had something to that effect in it.

Mr. REED. I want, with the courtesy of the Senator from Nebraska, to add this, and then I will take my seat: In what I have said I do not want to be misunderstood. I am not criticizing the Interstate Commerce Commission nor its attorney; I am simply taking this position with reference to the matter now under consideration, that if the Attorney General has been notified, if the Senator believes he is not performing his duty; and the Senator as a lawyer and as a former judge having examined into these matters believes there is a combination, the proper way to present the question would be by a square resolution reciting the facts of the combination and calling upon the Attorney General to begin a proper prosecution; but if it is merely a question of notifying the Attorney General, then the fact that the notice has already been given is a complete answer to the proffer of this resolution.

Mr. NORRIS. I should like to suggest to the Senator that he ask a question now. He has asked one three or four times, and I am ready to answer it whenever he gets through, but he keeps repeating it.

Mr. REED. I will be through in a moment. That being the case, it would seem to me that the sole purpose of this resolution is by indirection to reflect upon the Attorney General, because the resolution recites as facts things which, if they be true, constitute all that is necessary to make a combination in violation of the antitrust act. Having recited that, the resolution proceeds then to ask the Attorney General what his opinion is, and then whether he intends to prosecute them.

It seems to me that it would be a much fairer way for the Senator to recite his facts, as he has, and to denounce these people as a trust, and put it up to the Senate whether they want to command the Attorney General to proceed. Then the question would remain to be settled whether it is necessary to put that sort of humiliation upon the Attorney General.

Mr. NORRIS. Mr. President, I am not going to discuss the question involved in the other proposition. I am ready to discuss it if it comes properly before the Senate. I refer to the New Haven matter; but it is not involved in this resolution. The Senator from Missouri [Mr. REED] very adroitly works it in in the way of a criticism upon this resolution and upon my action in the matter, but I am going to pass it because it is not involved here. I am only going to say that, in my judgment, immunity has been given to nobody. The Attorney General did not contemplate any prosecution against anybody who has testified or who is going to testify; at least, in a conference called for the purpose of ascertaining whether it would be proper for that investigation to proceed, at which the Senator from Indiana [Mr. KERN] was present, there was no claim made by the Attorney General that he had any sufficient evidence on which to prosecute anyone, or that he contemplated any such prosecution.

Now, as to the question which the Senator has submitted—and he has repeated it five times at least, always in different form and always clothed in beautiful language—that if the Attorney General has once had notice, is not this resolution, in fact, only another notice and therefore in reality insulting to the Attorney General? I am not to blame if somebody puts a construction on my action that I do not believe is warranted, and that I had no intention of having anyone put upon it, and insists always when a question is asked here of the Attorney General that a reflection is really being cast upon him.

The Senator from Missouri says I ought to set forth these facts in a resolution, as I have, and then demand that the Attorney General take action. Had I taken that course, there is no doubt that I would have been assailed here in the Senate

as doing an injustice to the Attorney General and as in reality insulting him; as claiming that he was not doing his duty. Setting forth a state of facts which the Senator from Missouri says constitute a violation of the Sherman antitrust act and then demanding that the Attorney General institute a prosecution, it seems to me might possibly be construed as a reflection, if we assume that the facts were all set forth.

Mr. POMERENE. Mr. President——

Mr. NORRIS. Let me finish first, and I will yield to the Senator later.

I have said the Attorney General has had notice of this proposition. In a general way the whole country has had notice. Everybody knows, I take it, of the existence of this great combination, at least in some of its details. This matter was brought to the attention of the Department of Justice in the preceding administration; and here is a letter from the Department of Justice, dated May 21, 1909, in which it is stated:

The department is in receipt of your letter of the 20th instant, in regard to your complaint that the New York Central & Hudson River Railroad Co. is violating the Sherman law by reason of the fact that it controls a large majority stock interest in three parallel and competing railroads operating between Buffalo, N. Y., and Chicago, Ill., to wit, the Lake Shore & Michigan Southern Railway Co., the New York, Chicago, & St. Louis Railway Co., and the Michigan Central Railroad Co.

In view of the fact that the case of the United States *v.* Union Pacific Railroad Co. et al.—

That is the case I mentioned a while ago—

now pending in the courts, will determine whether or not it is a violation of the Sherman law for one railroad to own a majority stock interest in several competing railroads, the department has decided that no action be taken in the premises at the present time.

That was signed by Wade H. Ellis, Acting Attorney General.

Mr. REED. Who was the Attorney General at that time?

Mr. NORRIS. Mr. Wickersham. As I said before, this matter was called to the attention of the Department of Justice during the preceding administration. The Senator will not be able, with all his ingenuity, to make out of this that I am undertaking to ask any information of the present Attorney General on account of partisan reasons.

Mr. REED. Oh, Mr. President, the sole purpose of my question—I was reading a document at the time—was to learn who was the Attorney General. I was casting no insinuations or reflections.

Mr. NORRIS. On the 15th day of May, 1913, under the present administration, a letter was directed to Mr. McReynolds, the Attorney General, and his attention at considerable length was called to this particular matter and to the letters on file since May, 1909. The letter from the Department of Justice is not the only one I have here. There was at least one other letter, as well as other correspondence, as to whether or not this was a violation of the law, and so forth, and some quotations from the Supreme Court, set forth in a letter——

Mr. OVERMAN. Is that a letter to the present Attorney General?

Mr. NORRIS. It is a letter to the present Attorney General; yes.

Mr. OVERMAN. Who addressed that letter to the Attorney General?

Mr. NORRIS. This was directed to the Attorney General by C. H. Venner & Co.

Mr. OVERMAN. Does the Senator know whether or not they have had a reply?

Mr. NORRIS. Yes; and I am going to read it. I am going to explain this notice which the Senator from Missouri has been talking about. Venner & Co. call attention to all the other letters that are on file in this same matter. On the 24th day of May, 1913, Venner & Co. received an answer from the Attorney General. That was under the present administration of Mr. McReynolds, and this is the letter:

GENTLEMEN: This department is in receipt of your letter of the 15th instant, in which you allege that the New York Central & Hudson River Railroad Co. controls three parallel and formerly competing lines between the cities of Chicago and Buffalo, and urging the institution of dissolution proceedings under the Sherman Act.

You are informed that the entire subject of railroad combinations is now under consideration by the department, and your action in bringing this instance to its attention is very much appreciated.

Respectfully,

(Signed) J. A. FOWLER,
Assistant to the Attorney General.
(For the Attorney General.)

That was more than a year ago. Can any Senator say that the resolution I have introduced is a reflection on anybody after the prior notice, as the Senator calls it, has remained for more than a year without any action being taken? There may be sufficient reason why no action has been taken; and I repeat that the object of this resolution is to find out that reason. If the resolution is not courteous, if the language is in any way discourteous or reflecting, it ought to be changed, and I would not have any objection to any change that would make it courteous.

Mr. REED. Mr. President, will the Senator yield for a question?

Mr. NORRIS. I want to say, if the Senator will permit me just a moment, that I have no intention of casting a reflection on anybody, and it seems to me that this resolution does not do so; but, Mr. President, if men will insist on being insulted when one is trying to act politely toward them, I am not to blame for it; I have no such intention.

As I have said, the matter was taken up with the former Attorney General, and he gave a reason why he did not proceed. I thought myself that the reason he gave in a general way was good, but even if the opinion of the Supreme Court held that the Union Pacific case, involving also the Central Pacific and the Southern Pacific, held that that combination was not illegal, I did not think it would be a fair precedent in this case, because that combination was formed by railroads which I had a good deal of doubt about as to whether they operated in competitive territory, but in this case I do not believe there could be any such doubt. The Supreme Court, however, held that in the Central and Southern Railroad case the combination was contrary to law, and then it seemed to me that it was proper to take steps looking to the dissolution of the combination of the roads mentioned in the resolution.

Mr. OVERMAN and Mr. REED addressed the Chair.

Mr. NORRIS. I yield first to the Senator from Missouri, and then I will yield to the Senator from North Carolina.

Mr. REED. The Senator has just read a letter from the Attorney General written more than a year ago. At that time the method pursued in communicating was by writing to him. Has the Senator in the intervening year written to the Attorney General?

Mr. NORRIS. I have not.

Mr. REED. Or in any way asked him whether he has arrived at any conclusion?

Mr. NORRIS. I have not, Mr. President.

Mr. REED. Does not the Senator think that that would have been quite the proper thing to do?

Mr. NORRIS. It would have been perfectly proper, I will say, and perhaps I am subject to criticism, because I did not do it, but I did not. I am not going to try to cover up any of the facts.

Mr. REED. Does not the Senator think now that the Attorney General would deal with him in entire frankness, if he asked him?

Mr. NORRIS. Probably. I have not denied that; I have not asserted anything here from which such a conclusion could be drawn. On the other hand, has not the Senate a right, if it wants to do so, to ask this question? Is it any more discourteous for the Senate to ask it than for an individual to do so?

It appeared to me, when that letter was written, that the Attorney General had a scheme on hand by which he was going to take hold of this great question in a broad way. I have had that letter in my possession ever since about the time it was written. I refused to introduce any resolution then, because it seemed to me that that answer was sufficient at least for a delay, and that if the Attorney General had that in contemplation he ought to be given an opportunity, without anybody interfering with it, to carry out the plan that he had. Having waited more than a year, however, and nothing having developed, it seemed to me that it was perfectly proper to introduce this resolution.

Mr. OVERMAN. The only question with the Senator, then, is the time. He has the information from his own letter that the Attorney General is considering or investigating the matter; and because he has not brought the suit within 12 months the Senator does not ask for the opinion of the Attorney General, but he asks that which only a court can decide, and that is whether or not this combination is in violation of the Sherman Antitrust Act.

Mr. NORRIS. The court will never decide it if the Government does not begin an action.

Mr. OVERMAN. But can the Attorney General say whether or not it is so? He can only give an opinion.

Mr. NORRIS. That is all he is asked to give.

Mr. OVERMAN. He is asked whether the combination is in violation of the Sherman Antitrust Act.

Mr. NORRIS. That will be his opinion, I take it.

Mr. OVERMAN. The Senator knows now that he is considering the matter, and if he finds that it is in violation of the antitrust law he is going to bring a suit.

Mr. NORRIS. How long should we wait? Suppose we wait four years, and this Attorney General goes out and another one

comes in, and then he says, "Well, I am considering it," shall we wait four years more?

Some of the men under the Attorney General who had been in the other cases, or were investigating all cases of this kind, were under the former Attorney General and are still under this one. They know all about the situation in a general way. The department knows about it. It seems to me that after we have waited a year it is proper for us to say, "What have you done? What are you going to do, if anything? Is there anything there that ought to bring about action on the part of the Government?"

Mr. OVERMAN. Does the Senator know that the Attorney General has not been investigating this matter?

Mr. NORRIS. No; I assume that he has been investigating it and that he is ready to give his opinion on it. He has had over a year's time in which to do it.

Mr. OVERMAN. Does not the Senator think that the resolution had better go to a committee, and let the committee inquire what is being done?

Mr. NORRIS. No; I do not think so. That is for the Senate to say, of course. If the Senate wants to do that, it will have a chance.

Mr. OVERMAN. Does not the Senator think that would be the better course?

Mr. NORRIS. No; I do not think so.

Mr. OVERMAN. To have the resolution go to the committee, and let the committee communicate with the Attorney General and see what has been done, and whether or not it is proper to pass the resolution?

Mr. NORRIS. I do not think so.

Mr. OVERMAN. I do not want to block the matter at all. As to the merits of the matter, I know not. If the facts stated in the preamble are true, of course the Attorney General, I take it for granted, will bring the suit, and is preparing to do it.

Mr. NORRIS. Mr. President, I think I ought to say a word on that subject of the preamble.

The Senator from Missouri referred to the statements in the preamble. I think they are true.

Mr. OVERMAN. I have no doubt of that.

Mr. NORRIS. I do not suppose I have the same opportunity to investigate that the Attorney General has. I may be mistaken about it. I have no doubt about the truth of every one of the statements. I would not have put them in the resolution if I had not believed them; but I could not go on the witness stand and testfy under oath as to their truth. They may not be true. Some of them may be true and some of them not true. If they are not true, the Attorney General will be able to tell us that they are not true.

Mr. POMERENE. Mr. President——

Mr. NORRIS. I yield now to the Senator from Ohio.

Mr. POMERENE. The Senator has in part answered the question which I intended to ask when I first rose. Each of these preambles has a recital of one or more facts.

Mr. NORRIS. Yes.

Mr. POMERENE. They are specific statements. If this resolution is passed, the Senate will be committing itself to a belief in the correctness of each one of these statements.

If the Senator has personal knowledge of these facts, that is one thing. If he is reciting these matters simply upon information and belief, that is another.

Mr. NORRIS. Let me give the Senator some information.

Mr. POMERENE. I was going to ask the Senator, in the instances in which he has not specific personal knowledge, if he will not give us the information upon which he bases these statements.

Mr. NORRIS. Yes; I shall be glad to do so. Some of them I gathered from Poor's Manual. Some of them I gathered from the statement of the facts by the Interstate Commerce Commission in reporting on the resolution that I referred to in the beginning of my remarks. I gathered some of them from other similar sources.

Let me read a little here from the report of the Interstate Commerce Commission. I take it that is pretty good authority. I take it that they know. I will say to the Senator from Ohio that I do not believe there is any question about the facts, but his question is a very proper one.

Here is a statement that includes some of the whereases, but not all of them:

> The Lake Shore owns all of the stock of the Toledo & Ohio Central Railway Co.; of the Chicago, Indiana & Southern Railway Co.; and of the Jamestown, Franklin & Clearfield Railroad Co., and a trifle more than 50 per cent of the stock of the Pittsburgh & Lake Erie Railroad Co. and of the New York, Chicago & St. Louis Railroad Co.

That is the Nickel Plate; and so on. The document from which I have been reading is the report of the Interstate Commerce Commission, No. 5960, in the matter of the proposed bond issue by the New York Central & Hudson River Railroad Co.

I will say to the Senator that I have assumed that if I got a statement of that kind from the Interstate Commerce Commission, or if I should see it in Poor's Manual or other similar sources, the fact was true.

Mr. REED. Mr. President, of course nobody charges the Senator with bad faith. Of course he must believe these things or he would not have recited them in the resolution. The Senator, however, has told us in express terms that he does not know these things to be true. Now, I ask him if he thinks he ought to ask the Senate to pass a resolution solemnly reciting a long list of matters as of fact when he admits that he does not know whether they are facts or not?

Mr. NORRIS. Mr. President——

Mr. REED. Ought not the resolution——

Mr. NORRIS. Let me answer that question before the Senator asks another one.

Mr. REED. If the Senator will let me finish my question, ought not his resolution to be framed——

Mr. NORRIS. Now, the Senator is putting another question.

Mr. REED. Ought not the resolution to be framed so that it would read, "Whereas it is reported," and so on?

Mr. NORRIS. I have no objection to amending it in that way.

Mr. REED. Very well. That is a different thing.

Mr. NORRIS. I have no objection whatever to that. I take it that if the committee had this question under investigation and nobody denied, to begin with, a certain fact, and you took it from the opinion of the Interstate Commerce Commission in regard to the ownership of a railroad, you would not investigate any further unless somebody denied it. If somebody came in and said, "I deny this proposition"; if the Lake Shore road said, "We do not own the Nickel Plate," then it would be something of which we ought to have proof that is more definite and more admissible as evidence. Nobody has ever disputed it, however. I think it is common knowledge. When we get a statement from the Interstate Commerce Commission that such is the fact I think it is sufficient evidence to act on in the Senate, especially when it is merely asking for information from the Attorney General.

Mr. WEEKS rose.

Mr. NORRIS. I now yield to the Senator from Massachusetts.

Mr. WEEKS. Mr. President, I desire to ask the Senator from Nebraska if he would be willing to broaden his resolution so as to ask for similar information in similar cases of combinations as, for instance, by the purchase of stock, or otherwise, in the case of the Southern Railway; the Seaboard Air Line; the Louisville & Nashville; the Illinois Central; the Atchison, Topeka & Santa Fe; the Great Northern; the Northern Pacific; the Chicago, Milwaukee & St. Paul; and some 20 or 30 other railroads which have combined with railroads in their territory during the time the Sherman Antitrust Act has been in force?

Mr. NORRIS. I have no objection. Why does not the Senator bring in such a resolution, however? It is not any defense to this resolution to say, "Why, there is another combination existing somewhere." In my judgment, the Senator can not cite a single instance in the whole United States where there is a combination of so many railroads for so long a distance that ought to be competing, and that are so nearly parallel, and in the same territory, as in this particular instance of the New York Central.

Mr. WEEKS. Mr. President, I was led to make that inquiry of the Senator somewhat because he read from a letter from a firm of brokers relating to the subject. I have had several printed communications from that firm of brokers which indicated to me that they were interested in the stock of the New York Central Railroad——

Mr. NORRIS. They are; they are stockholders.

Mr. WEEKS. And perhaps they were not "long" of the stock. It seems to me that if we are going to have this kind of an investigation it should be general enough to cover all similar cases in the United States, and not pick out one system of railroad for this kind of an attack, because the Senator knows that the forcing apart of a great system like the New York Central, where the combinations were made some 20 years ago, can not be done without serious damage to the operations of the road and to the security holders.

Mr. NORRIS. I take it, then, that the Senator thinks the Department of Justice was wrong when it undertook to dissolve the Central Pacific and the Southern Pacific, and that the department was wrong when it commenced the action in the Northern Securities case?

Mr. WEEKS. No; I am making no statement of that kind.

Mr. NORRIS. It has to take one case at a time. I have no objection to the Senator making all the investigation he wants to make. I should be glad to support a resolution, if he will bring in one, in some other combination similar to this. I do not think the Senator ought to call on me to do it, however. He ought to do a little of that kind of work himself. I have had so much of it already that I am criticized, often unjustly, and almost always very severely; so I should like to unload some of this work on the Senator from Massachusetts.

Mr. WEEKS. I suggest that if this kind of information is going to be requested it should be made general enough to apply to all similar cases.

Mr. NORRIS. Then, if I did that, I would be met with all kinds of objections. They will say, "Why, here is the worst kind of a slam at the Attorney General. Here is the worst kind of an insult. You have got a dragnet. Give us a bill of specifications. Tell us what you know about this and that, and make it specific." That would be the answer. When I make it specific, then they say, "What evidence have you here to show that the Nickel Plate is owned by the Lake Shore? What evidence have you to show that the West Shore road has been leased to the New York Central? What evidence have you to show that the Michigan Central is owned by the New York Central?" and so forth. If I branched out and took in what the Senator from Massachusetts wanted, I would have such a volume here that we would be in session 40 years without being through it.

Mr. POMERENE. Mr. President——

The VICE PRESIDENT. Does the Senator from Nebraska yield to the Senator from Ohio?

Mr. NORRIS. Yes; I will yield to the Senator from Ohio.

Mr. POMERENE. I was going to suggest, along the line of my former question, that this preamble, as drawn, is substantially a finding of facts; and I doubt whether the Senate ought to place itself upon record as finding these allegations to be facts without some further investigation or some further evidence.

Mr. NORRIS. Let me ask the Senator, then, whether he wishes to say at the beginning, "Whereas it is currently reported" or "generally believed," or something of that sort? If the Senator thinks that would help the resolution any, I am willing to put it in.

Mr. POMERENE. I should very much prefer something of that kind; and for that very reason it seems to me the resolution ought to be referred to a committee, so that they could investigate it and report upon it and modify it in some way that would be in harmony with the information we now have on the subject.

Mr. NORRIS. We have the information, I think. Has the Senator any idea that anybody, either here or elsewhere, is going to deny, for instance, that the New York Central owns a controlling interest in the Michigan Central, or that the Lake Shore owns the stock of the Nickel Plate?

Mr. POMERENE. Mr. President, I have no knowledge whatever on the subject.

Mr. NORRIS. If the Senator is not satisfied with my statement, is he not willing to take the statement of the Interstate Commerce Commission? Does he want to make an issue here of something that will be admitted by these people if they get into court? Are we going to strain at a gnat in order to get up an issue and get into a dispute here about something that everybody admits is true?

Mr. POMERENE. Mr. President, I do not propose to be either technical or captious about this matter; but when I am asked to make a finding of facts I want some evidence on the subject, or else I want to modify the resolution in some way that will be in harmony with the information which we have; that is all.

Mr. NORRIS. I have asked the Senator about the evidence. Does he not think the statement of the Interstate Commerce Commission is good evidence?

Mr. POMERENE. It is information upon which I can form a belief. I do not think it is even evidence.

Mr. NORRIS. I will admit that it would not be evidence in court, probably, the way I have offered it here. I am not disputing that. The Senator must not think, however, that somebody is being tried here, that we are trying a lawsuit, and that we have to be just as careful before we pass a resolution to have it demonstrated and proven in the Senate as we would if we were trying as case before a jury. We have never yet done that in the Senate.

Mr. POMERENE. The Senator has substantially stated my objections. He has embodied in this preamble a finding of facts.

Mr. NORRIS. Yes.

Mr. POMERENE. And he is asking the Attorney General for his conclusion of law based thereon.

Mr. NORRIS. Yes; I admit that.

Mr. LEWIS. Mr. President——

Mr. NORRIS. I yield to the Senator from Illinois.

Mr. LEWIS. Mr. President, I rise to ask the Senator from Nebraska if he could, consistently with his purpose, accept as an amendment, on page 3, under the paragraph of the resolution, line 3, after the word "railroads," the words "if existing as," so as to read:

Resolved, That the Attorney General be, and he is hereby, directed to inform the Senate whether the various combinations of railroads, if existing as above set forth, are in violation—

And so forth.

Mr. NORRIS. I should be very glad to do that. I thank the Senator for the suggestion. I am very glad to have that amendment made.

Mr. LEWIS. If the Senator will allow me to intrude upon him for a moment, I must make perfectly clear my attitude.

I live in Chicago, as is known, and one of these railroads runs into the city where I live. It is of public record that I appeared as the counsel for a minority stockholders' interest in a suit seeking to prevent some of the things recited in the preamble as they were alleged then to be. The Senator from Nebraska and myself have had some conferences touching the form of his resolution.

My solicitude is this: I wish to be very, very plain. I do not feel that any friend of the Attorney General of the United States on this side of the Senate should at this time permit himself by any observation to be put in an attitude that would encourage the charge that is being made in the public press from time to time that the Attorney General sought to circumvent an investigation and examination touching the New York, New Haven & Hartford Railroad. If there shall appear on this side of the Chamber objections that partake of technical form on the part of those who are known to be friends of the administration and the advocates of it, as to this investigation, there will undoubtedly go forth from certain other sources the charge that it is proven that the Attorney General is opposed to these forms of investigation, because the friends of the law department on this side of the Chamber sought to intercept a similar investigation as to the New York Central as that which it is charged the Attorney General himself wanted to frustrate in the New York, New Haven & Hartford case.

Consequently the objection made by the able Senator from North Carolina [Mr. OVERMAN], the Senator from Ohio [Mr. POMERENE], and the Senator from Missouri [Mr. REED] seems to me to turn only and solely on the point that the preamble recites findings of fact without qualification, whereas they wish to have it understood that if those facts exist the Attorney General might or could do certain things. For that purpose the words which I dared interpolate in the Senator's resolution, it seems to me, would make the situation to be that the Attorney General is to offer an opinion if such facts as cited in the preamble do exist. For that reason I took the liberty to ask if the amendment could be accepted in that form.

Mr. NORRIS. Mr. President——

The VICE PRESIDENT. The morning hour having expired, the Chair lays before the Senate the unfinished business, which is House bill 14385.

Mr. NORRIS. I ask unanimous consent that the resolution may go over without prejudice.

Mr. LEWIS. I ask consent that the Senator's request be complied with, if I may be allowed to do so.

The VICE PRESIDENT. Is there objection? The Chair hears none, and the resolution goes over without prejudice.

ELECTION OF SENATORS.

Mr. WALSH. I desire to submit a conference report on Senate bill 2860. I ask the attention of the Senator from Utah [Mr. SUTHERLAND]. I am pleased to say to the Senator that we have succeeded in securing an amendment to the amendment proposed by the House in accordance with what seems to be the desire of the Senator, so that under the amendment as it stands section 1 of the act will be permanent in character and section 2 only to have effect for three years, if it is adopted.

The VICE PRESIDENT. The report will be read.

The Secretary read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 2860) providing a temporary method of conducting the nomination and election of United States Senators, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendments of the House numbered 1 and 2, and agree to the same.

That the House recede from its amendment numbered 3.

That the Senate recede from its disagreement to the amendment of the House numbered 4, and agree to the same with an amendment as follows: Insert, after the word "That," with which the amendment is introduced, the words "section 2," so that the amendment shall read:

"SEC. 3. That section 2 of this act shall expire by limitation at the end of three years from the date of its approval."

And the House agree to the same.

T. J. WALSH,
ATLEE POMERENE,
WM. S. KENYON,
Managers on the part of the Senate.

W. W. RUCKER,
R. F. BROUSSARD,
Managers on the part of the House.

Mr. SUTHERLAND. I think the Senator from Montana succeeded in making a very satisfactory arrangement about the matter. As far as I am concerned, I am entirely willing that the conference report shall be agreed to.

Mr. WALSH. I ask for its adoption.

The VICE PRESIDENT. The question is on agreeing to the conference report.

The report was agreed to.

PANAMA CANAL TOLLS.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 14385) to amend section 5 of an act to provide for the opening, maintenance, protection, and operation of the Panama Canal and the sanitation of the Canal Zone, approved August 24, 1912.

Mr. CATRON. Mr. President, I wish to give notice that on Monday next, immediately after the close of the morning business, I shall address the Senate on the pending bill.

Mr. LANE. Mr. President, so much has been said on the subject of canal tolls that I feel that I do but scant courtesy to this body in presenting my views upon it. There are, however, certain conditions concerning it, and which accompany it, that I feel it a duty to set forth for your consideration before the debate is closed and the measure is finally passed upon.

If it is conceded that we have agreed to admit the passage of all vessels, both foreign and domestic, which are engaged in the foreign or our own coastwise trade through the canal on the same terms, it must be admitted that we have made a bad bargain.

It has been urged by some eminent Members of this body who are Democrats that we did make such an agreement, and by others equally as eminent and who are members of the same party that we did not do so, and still others, who are equally as eminent in its councils, have argued eloquently upon both sides of the question with equal poise and certainty of conviction.

To add to the confusion, upon the other side of the Chamber we find stalwart Republicans, members of the old guard, differing with one another in respect to the terms of the treaty and our obligation under it, and the Progressives are also divided in the same manner.

In addition to this confusing state of affairs, we are confronted by some Democrats and all of the Republicans with one of the planks in the Democratic platform, upon which we stood so proudly before election, which declares in favor of the exemption from tolls for American coastwise shipping.

In an effort to neutralize the effect of this other Senators invite our attention to another plank in the platform which nullifies the one referred to, and denounces subsidies as un-Democratic, and proceed to prove that the first plank is not to be considered, inasmuch as it is an indorsement of a policy which practically subsidizes an interest already protected; all of which serves to call attention to such a diversity of policies and doctrines in the Democratic platform as to leave plenty of room for honest difference of opinion as to its meaning in regard to this subject—in which respect it bears close resemblance to the Hay-Pauncefote treaty.

Viewing the subject "by and large," as sailors say, and after carefully reading some of the speeches which have been made upon the subject and listening to others, I have come to the conclusion that the terms of the Hay-Pauncefote treaty are obscure and subject to so many different interpretations that it ought to be abrogated at once, and for that reason if no other. In respect to the Democratic platform, one will depart from one or the other of the doctrines which it sets forth whichever way he votes.

I find under the terms of the treaty, the meaning of which is not disputed by anyone, that if two vessels of the same tonnage, one owned by citizens of this country and the other by citizens of some foreign country, should sail from the same port in Europe, loaded with the same kind of a cargo, and both pass through the canal, that both of them would have to pay the same amount of tolls for the privilege of doing so, and the idea has suggested itself to me that under such conditions the owners of the foreign bottom would be quite free from all obligations incurred in the construction of the canal and also free from the payment of any interest for the debt which was incurred in its construction, as well as from the cost of maintenance and for patrolling it, both by land and sea, all of which will amount to an enormous sum, while upon the other hand the owners of the American vessel would be held liable to pay their share of these expenditures, that the American owners of ships by these conditions will be placed at a disadvantage with the foreign-owned vessel in competing with it for the business of the world, and that, however small or large the difference may be, to the extent that it exists it is, in fact, an actual discrimination against our own shipping, and is also, in effect, a rebate or subsidy in favor of foreign-owned vessels.

Under the terms of the Hay-Pauncefote treaty, article 3, subdivision 1, there is a statement that—

> The canal shall be free and open to the vessels of commerce and of war of all nations observing these rules on terms of entire equality, so that there shall be no discrimination against any such nation or its citizens or subjects in respect of the conditions or charges of traffic or otherwise. Such conditions and charges of traffic shall be just and equitable.

If it is contrary to the policy of this country to pay subsidies to the shipping interests of its own citizens, it seems to me that it is obnoxious to grant what is practically a subsidy to the citizens of other nations with whom they will be compelled to compete for business.

Nearly all foreign nations whose ships will use the canal will refund to the owners of such vessels the amount which they expend for tolls, while on the other hand our ships will have no such relief granted to them. This condition of affairs will inevitably result in that portion of our shipping engaged in foreign commerce and using the canal being driven off the sea, and I can see no way of its escaping that fate.

It may not be out of place at this time to call attention to the contention made by some that $300,000,000 of American money is invested in ships which fly foreign flags and are engaged in carrying freight and passengers—mostly immigrants—to this country.

These vessels owned in part by American citizens, whose tolls through the canal will be paid by the foreign nation whose flag they fly and under whose laws they are registered, are also said to be subsidized by those nations to keep on hand and readily available a complement of guns and ammunition, and are outfitted in every way to act as auxiliary cruisers and scouts to destroy the shipping of this Nation in the event that war should occur between the two nations. The conduct of such citizens is an act of treachery to this country and should be dealt with as such, instead of being favored at the expense of the rest of the more honorable people of this country. These same vessels whose welfare has been so well guarded by the terms of the Hay-Pauncefote treaty are busily engaged in flooding this country with immigrants from Europe, and thus are at work in harmony with, if not in actual conjunction or partnership with, those other large interests who use this cheap labor in order to keep down its price. By this conduct they establish a condition whereby there ensues keen competition in the labor market, and by the continual repetition of this process and the pitting of newer importations of laborers against those already here they not only dodge the law which forbids them to import it, but also make a profit by the transaction, and in addition have brought about a condition of unrest in the affairs of this country that should cause all right-thinking citizens to pause and take notice. A continuation of the exploitation of the people and resources of this Nation in this manner by those so dishonest as to engage in it will, in my opinion, in the not distant future create a "Villa" in this country, and the scenes now being witnessed in Mexico will be repeated here, and attempts to cure the condition by means of legislation that does not go straight home to the mark are sure to fail.

I am willing to concede that the policy of granting subsidies has nothing to do with the tolls question, yet it must be conceded by all that it will have a practical and direct bearing upon the shipping interest of this country of far-reaching importance in the near future and may prove vital to it.

In respect to our coastwise shipping I have come to the conclusion that, so far as the people of the Pacific coast are concerned, it will make no great difference in the general results

whether the vessels engaged in that trade go through the canal free from tolls or pay them, for in neither case, in my opinion, can they hope to compete successfully with foreign bottoms carrying the same class of freight from the ports of British Columbia to the north of us; and that the construction of the canal will in fact and in many ways benefit the people of that country more than it will us. My reason for making this statement is that under their laws their ships can and do employ crews of Asiatics, the individual members of which work for wages ranging from $6 to $8 per month, while our ships are compelled to pay wages ranging from $20 to $30 per month.

Also the foreigner competing with us for that trade can purchase his vessel abroad for about 30 per cent less than our citizens can procure the same type of vessel in this country. This reduces the interest charges on the investment and the amount which must be marked off for depreciation, which is an item of considerable importance on such property. All of the other expenses which go to make up the cost of the operation of their vessels are less than those of vessels of the same class owned in this country. For these reasons they will be able to and will carry potatoes, apples, hops, salmon, and other articles of commerce from, say, Vancouver, British Columbia, to the Atlantic seaboard after paying the tolls for from $1 to $2 a ton less than our ships can afford to carry the same articles, and in the case of lumber from $3 to $4 less per thousand feet, even though our vessels are exempted from the payment of such tolls. This means that they will force that trade away from our coast cities and into their own ports. Freedom from tolls for such shipping will be a measure of relief, but will not entirely relieve the situation. This is an unfortunate state of affairs, and some remedy will have to be provided for it, else a large portion of our trade will fall into decay.

The remedies which have been suggested are either the throwing open of our ports free to the shipping of the world or the adoption of the La Follette seamen's bill, which will relieve us from the wretched duty which we have heretofore assumed of pursuing, capturing, and returning deserting seamen to foreign vessels. If we refuse to do this unclean work for them, their sailors would desert at every port, and foreign vessels would be compelled to pay the same rate of wages which are paid by our own ships in order to secure crews to continue their voyage. In addition, citizens of this country would have to be allowed to buy their ships where they could secure them cheapest. Any attempt to change our navigation laws so that our vessels would be enabled to employ Asiatic crews will not and should not be tolerated in this country, and that remedy is not to be considered.

In connection with this subject I deem it worth while to state that in many of the ports on the Pacific coast the most valuable water front and dock property is either owned and controlled by the railways or private corporations, and the people are excluded from them except on the payment of charges for their use. In the city of Portland, Oreg., where we have about 10 miles of water front on each side of the river, all of it until recently was in the hands of private persons or railway interests, with the exception of one street 60 feet wide, which was the only means of outlet the people of that city had to the harbor. Within the last few months, however, the people have purchased about 500 feet of water front for a public dock, which will be entirely inadequate to free the city.

It has been stated that if the tolls are rebated to the owners of coastwise vessels, it will prove to be of no benefit to the people for the reason that the shipping interests will pocket the same. Judging from their treatment of the people in the past, there is foundation for the belief that they will do this if they are allowed to do so, but that is another question which is not involved in the interpretation of the treaty or the question of tolls, and it is within the power of the people to stop it at any time when they take sufficient interest in it to do so. Until they do, however, I fear that the rebating of tolls will make but little difference to the producer or to the ultimate consumer, but if Congress would but do its duty by the people of this country in other respects it would help.

It looks to me on the face of the proposition as if this country had expended a large sum of money, amounting to nearly $475,000,000, and in addition had assumed the obligation of paying some $15,000,000 or $20,000,000 a year in addition for the privilege of driving its own citizens out of the shipping business and keeping them out of it afterwards.

We free the competitors of our ships from all liability for cost of construction and all fixed charges, and their tolls are repaid to them by their own nation, while our ships are held for all fixed charges and cost of construction and pay their own tolls in addition.

. A treaty under whose terms a country agrees in advance to do such a thing, and by so doing puts all of its shipping interests, both oversea and coastwise, out of business, is surely unique and speaks volumes for the lack of sagacity of the agents of this Nation who helped to draw it.

So far as I can see there is but one honorable way out of the unfortunate situation, and that is to abrogate the treaty and then enter into an agreement with all maritime nations under which every nation, ourselves included, shall pay for the use of the canal in exact proportion as they make use of it and in addition to set aside a sum sufficient to pay for the cost of its construction within a period to be estimated as its life.

If in addition to this an agreement for an international system of policing it on land and patroling it by sea, thus guaranteeing its neutrality and safety, were entered into, equity would be done to all and we would be spared a heavy expense and a long step would be taken toward international peace and comity as well. This would also tend to relieve the people of the earth from the grievous and unnecessary burden of maintaining rival navies.

If after that was done there could be made a further agreement by and under which all the seagoing war vessels in the world of every description could be gathered into one great flotilla over the deepest known spot in the ocean and all sunk on some specified day, the angels in heaven would smile when they witnessed the spectacle and the canal, now a source of contention and bickering, would prove a blessing to all nations.

I have tried to weigh this question without prejudice and without fear or favor to either side of the contention, and after having done so I have concluded that not only is there room for honest difference of opinion, but also that one man's opinion is about as good as another's concerning it.

I do not and will not question any man's motives, no matter which way he votes upon it, and I shall bespeak for myself the same courtesy and consideration.

If we refuse to make our coastwise ships pay tolls, it is said we will be accused of national knavery. If we compel such shipping to pay tolls while all others escape doing so, we will, no doubt, be accused of being fools. One must make his choice. I fail to find anything in the treaty which seems to me to say or which means definitely either the one thing or the other. At the same time by a series of deductions one can prove to his own satisfaction either side of the contention.

In respect to the question of subsidies, I repeat that I find that when both ships sail from foreign ports the foreign ship is by the treaty granted special and valuable privileges over our own ships, and in addition will no doubt have its tolls paid by its own Government, while we compel our ships to pay their own way in addition to their other burdens. This does not seem to me to be giving a fair deal to our own countrymen, and I am not in sympathy with it. I do not ask that our ships should have the best of the bargain; but I do object to seeing them get the worst of it, as they undoubtedly will in this respect.

As to the coastwise shipping, I have concluded that, owing to our laws, by reason of which the owners of our ships can neither employ labor nor buy ships as cheap as can their competitors, and also owing to the fact that our Government has undertaken to assist foreign ships to retain such cheap labor and at the same time continues to prevent our citizens from buying vessels in a better market, it is already so badly handicapped that it will perhaps be unable to compete for the business. I feel that to add to its burden at the request of a nation which has already in its grasp about all of the benefits which will be derived from the canal, and more than will accrue to this country, without its having expended one day's labor upon it or one sou marqué toward the cost of its construction, is asking a little too much. Not only that, but it so happens that the request that this country compel all its shipping to pay tolls for passing through the canal comes from a nation which will pursue exactly the opposite course itself and pay the tolls on its own shipping. In the old days on the Pacific coast, when a person who conducted business in a like manner made such a request he was promptly urged to hie himself to a warmer climate.

When the contention was first made that this Nation, under the terms of the treaty, was in justice to itself and in honor bound to its neighbors to repeal the bill which granted freedom from tolls to our coastwise shipping, I had given no study to the subject and was much impressed with what seemed to be an evident intention to deal fairly in the matter with all parties to it.

In arriving at a conclusion I have done so contrary to a predilection in favor of the assumption that my duty lay the other way. I have tried, however, to arrive at a just conclusion con-

cerning it, and I am willing to concede that I may be mistaken. I have done so with considerable regret that I am unable to agree with those whom I esteem who take the opposite view. It seems to me, when all is said, that the question is one which merely scratches a surface which is underlaid with problems of far greater importance and significance to the people of this country, and that, so far as the bill is concerned, one can best serve his country by voting against it.

Mr. BRANDEGEE. Mr. President, if I may have the attention of the Senator from Oregon, who has just spoken, I wish to know if it would be agreeable to the Senator to answer a question suggested by one of his statements?

Mr. LANE. I will answer it truthfully, if I can.

Mr. BRANDEGEE. I have no doubt of that, Mr. President. I call the Senator's attention to his statement that he thought it might be necessary to abrogate the Hay-Pauncefote treaty, or some such statement made by him. Assuming that it would be possible to abrogate a treaty which had superseded another treaty, a treaty of the nature of the Hay-Pauncefote treaty, what would the Senator think had been accomplished to meet his views provided article 18 of the treaty with Panama, dated November 18, 1903, remained in operation? That article provides that—

The canal, when constructed, and the entrances thereto shall be neutral in perpetuity, and shall be opened upon the terms provided for by section 1 of article 3 of and in conformity with all the stipulations of the treaty entered into by the Governments of the United States and Great Britain on November 18, 1901.

Mr. LANE. The Senator's inference is that if we abrogate this treaty we will have a contention then and a matter to settle with Panama

Mr. BRANDEGEE. Not exactly; but if I may give my view of it, even if we could abrogate the Hay-Pauncefote treaty with Great Britain, what good would have been accomplished or how would the situation be improved, in the opinion of the Senator, unless we could also abrogate the treaty with Panama to which I have just referred, which is our title to the present Canal Zone?

Mr. BORAH. Mr. President——

Mr. BRANDEGEE. I hear a voice in the rear, but I wanted the Senator from Oregon to answer the question if he could and then I would be glad to yield to the Senator from Idaho if he wants to ask me anything.

Mr. BORAH. I should like to ask the Senator from Connecticut if he takes the position in the question he asks the Senator——

Mr. BRANDEGEE. Mr. President, I must decline to yield to answer a question now while I have one pending. I hope to get an answer from the Senator from Oregon before the Senator from Idaho can interpolate his view of the question. Therefore I have declined to yield to the Senator from Idaho, but if he insists upon speaking out of order against my protest and the Chair will allow him to do so I am helpless.

Mr. BORAH. I shall not insist in doing that, but I shall draw my own conclusion.

Mr. BRANDEGEE. That, of course, the Senator has an inalienable right to do.

Mr. LANE. Mr. President, I would go fairly and justly to Panama and make some arrangement with her, if I could do it peacefully, and I would be willing, if necessary, to arbitrate the question with her. I would be willing, for that matter, to make any arrangement with her which was honorable by which we could get rid of this other bargain, which is a bad one. It might pay to sell the canal and go and build another somewhere else. I think it would pay the country to do that. It would be cheaper in the long run to give it back to Panama and make her a present of a basket of doughnuts to accept the gift and to build another canal at Tehuantepec.

Mr. BRANDEGEE. Without discussing whether the basket contained doughnuts or gold bricks or any legitimate article of commerce, do I understand the Senator to say that he would be willing to arbitrate with Panama the question of our title to the Canal Zone?

Mr. LANE. To what demand she might make upon us for our retention of that location, yes; or any other question in which there was a difference of opinion. I would be willing to pay some little boot under the present conditions to get rid of the obligation that we are said to be under to a country which is of more importance than Panama. I would throw in Huerta and Villa to boot.

Mr. BRANDEGEE. I would agree with the Senator from Oregon about throwing in Villa et alia enormia, but, Mr. President, strong as I may be for peace and order and arbitration, I am not willing, as at present advised, to arbitrate our title to the Canal Zone after we have spent $400,000,000 on it.

Mr. BORAH. Mr. President, before the Senator from Connecticut takes his seat, I should like to ask him if he contends that article 18 of the Panama treaty has anything to do with our title to the canal?

Mr. BRANDEGEE. I claim that article 18 is embedded in the treaty with Panama by which we got the right to construct the canal across the Isthmus; that it is just as much a binding part of the treaty as is any other part of the treaty; and that it is one of the conditions and considerations upon which Panama gave us the right to build and maintain the canal.

Mr. BORAH. Does the Senator claim that article 18 of the treaty was one of the considerations for the title, the violation of which would forfeit the title?

Mr. BRANDEGEE. Of course, I claim that all agreements in the treaty made by both the high contracting parties are what constitute the treaty; and I assume that each side thought that what it put in for its own protection was part of the mutual considerations for the action of both or either.

Mr. BORAH. Mr. President, the treaty with Panama makes plain what the consideration was for the title, and we might violate article 18 of the Panama treaty without affecting the title to the canal in the least, just the same as if I should grant to a person a piece of property by deed, and he should pay me $10,000 for the title. If he should enter into a separate and distinct agreement embodied in the deed, the violation of that agreement would not forfeit his title to the property which he had purchased under the deed. Under the Panama treaty we purchased a certain amount of ground; we paid for it; and we specifically stated in the treaty that we had paid for it with $10,000,000 and $250,000 a year thereafter. We specifically stated further in the treaty that no other terms in the treaty should affect the convention or its operation in any respect whatsoever. I do not understand how it can be argued for a moment that article 18 can affect the question of the title. We are bound by it the same as we would be bound by any other treaty obligation; to violate it would be a moral wrong the same as it would be to violate any other treaty obligation; but if any condition should arise which would justify us in abrogating that treaty, it would not affect the title which we have purchased and paid for. That title is ours; it comes to us by specific grant, for which we paid a valuable consideration, and the fact that the grant is found in a treaty does not change its legal import and conclusiveness.

Mr. BRANDEGEE. Mr. President, instead of having purchased and paid for the title, as I read article 14, it provides, in addition to the $10,000 which we paid—

and also an annual payment during the life of this convention of $250,000 in like gold coin, beginning nine years after the date aforesaid.

Then it proceeds:

The provisions of this article shall be in addition to all other benefits assured to the Republic of Panama under this convention.

One of the other benefits was:

ARTICLE 18.

The canal, when constructed, and the entrances thereto shall be neutral in perpetuity, and shall be opened upon the terms provided for by section 1 of article 3 of, and in conformity with all the stipulations of the treaty entered into by the Governments of the United States and Great Britain on November 18, 1901.

But what I am saying, and what I asked the Senator from Oregon [Mr. LANE] was, even if the Hay-Pauncefote treaty were abrogated, the clause by which the United States agrees to maintain the canal in accordance with the terms of the Hay-Pauncefote treaty would be just as binding upon us.

Mr. BORAH. Certainly it would.

Mr. O'GORMAN. Mr. President, will the Senator pardon an interruption?

The PRESIDING OFFICER (Mr. JONES in the chair). Does the Senator from Idaho yield to the Senator from New York?

Mr. BORAH. I yield.

Mr. O'GORMAN. I want to ask the Senator from Connecticut if he has any doubt that the so-called Panama treaty, to which reference is now made was in fact dictated by the State Department of the United States?

Mr. BRANDEGEE. Why does the Senator from New York call the treaty to which he refers as "the so-called" treaty?

Mr O'GORMAN. I will omit the words "so-called" in speaking of the Panama treaty to which the Senator from Connecticut has just made reference. I mean the Hay-Bunau-Varilla treaty.

Mr. BRANDEGEE. Now, what is the question which the Senator from New York asks me?

Mr. O'GORMAN. Is the Senator not aware that all the provisions of that treaty were in fact dictated by the State Department of the United States, and that Panama, at that time just emerging from a revolution, was in no position to insist upon

any provision that was inserted in that treaty? That being conceded, I make the further suggestion that any provision in that treaty can be taken from it with about the same ease with which it was inserted in the first place.

Mr. BRANDEGEE. Well, Mr. President, there are so many suggestions thrown out inter alia and obiter by the Senator that I should hate to say "yes" or "no" in answer to what he says.

Mr. O'GORMAN. I will probably simplify the question by asking, Does the Senator from Connecticut entertain any doubt that the United States, without any delay or difficulty, could secure the consent of the Republic of Panama to the abrogation of article 18 of the treaty with that Republic?

Mr. BRANDEGEE. Mr. President, the Senator's views about this treaty, I should judge from the question he asks, are somewhat astonishing. This treaty with Panama, whatever the Senator's idea may be about the potency of the Republic of Panama, for all purposes of consideration here is as solemn and as binding an international agreement as was ever drawn between two nations——

Mr. O'GORMAN. That is not disputed.

Mr. BRANDEGEE. And it must be observed accordingly. It is absolutely immaterial at whose suggestion or under whose influence or persuasion the terms of the treaty were agreed upon. The treaty speaks for itself as the highest international contract that two nations can make; and the speculations which Senators may entertain as to whether the influence of the Republic of the United States of America, with all that that implies in the way of pressure, diplomatic and otherwise, would in the end prevail to eradicate from this treaty one of the provisions placed there for the protection of one of the high contracting parties, is a question that the Senator from New York is just as well able to answer as is any other Senator.

Mr. O'GORMAN. I would value the Senator's own opinion, if he cares to volunteer it on the question, as to whether he thinks there would be any difficulty in the United States securing from the Republic of Panama consent to the abrogation of article 18 of the treaty.

Mr. BRANDEGEE. Mr. President, I suppose if this Government went to work with all of its international influence, and with the consequences in view on the part of the little, feeble Republic upon which its influence was brought to bear in the case of refusal, that we might get that provision out of the treaty, and that we might compel Panama to make another treaty; but that treaty is all the title we have on the Isthmus of Panama. Having obtained it, and having accomplished what we wanted to accomplish by the negotiation of the treaty, Panama having acted in good faith, I should hope that the United States would not now seek to compel Panama by pressure of any kind to waive something that was freely granted to her when she gave us this permission.

Mr. O'GORMAN. Mr. President, with the permission of the Senator from Idaho, I should like to put a further question to the Senator from Connecticut.

The PRESIDING OFFICER. Does the Senator from Idaho yield further?

Mr. BORAH. I yield.

Mr. O'GORMAN. Do I understand the Senator from Connecticut to state, as a matter of law, that the disregard or the violation of a covenant in any instrument conveying title works a forfeiture of the title?

Mr. BRANDEGEE. I did not state that, Mr. President. I did state, however, that this was one of the considerations for the making of the treaty. I do not consider a treaty to be a sort of an instrument by which the parties may, by a process of eclectics, obey that portion of the treaty which they think to be in their own interest and violate the other portion. Whether or not we could violate our agreements and stipulations in a treaty with them without hurting ourselves in other respects more than we help ourselves by the violation is a question of casuistics that I would not feel, offhand, qualified to discuss very deeply.

Mr. O'GORMAN. I should like, in order to ascertain the viewpoint of the Senator from Connecticut, to ask whether he disputes this proposition: That in a grant, whether it be by deed or treaty, a violation of a covenant, as distinguished from the violation of a condition, confers upon any party to the instrument a greater right than a claim for damages, if any be sustained, by the disregard of the covenant?

Mr. BRANDEGEE. Mr. President, a treaty is not to be construed by one of the parties alone.

Mr. O'GORMAN. That scarcely answers the question, Mr. President.

Mr. BRANDEGEE. Very likely; but I am obliged to answer questions in my own way.

I do not regard this provision as simply a stipulation or an agreement which may be broken or kept irrespective of the other party to the treaty. I think this is a reservation by Panama. Panama had the sovereignty, and when she granted to us the right to build and operate a canal over her territory and put in the provision that when completed it should be open and operated in every respect according to certain provisions it was not a grant upon the part of either this Government or that other Government, but was a reservation which Panama made, she having the sole authority there.

I never have been one of the Senators who think when we got a right to build and maintain a ditch across the territory of a sovereign power for the purpose of operating a canal and putting our ships through there and paid money for it and agreed to pay rent for it at the rate of $250,000 a year forever under this specification; that for the purposes of the canal we had all the rights that we would have if we were sovereign; that Panama ever gave us any sovereignty there such as independent sovereign nations may maintain. And if the United States should abandon that canal or blow it up or refuse to operate it, I do not think under this treaty the United States would have any right to retain control of the Panama Canal Zone.

Mr. O'GORMAN. Does the Senator state that the omission to pay the annual charge of $250,000 would operate as a forfeiture of the rights of the United States under the treaty?

Mr. BRANDEGEE. I have not stated that in terms, Mr. President, but the series of questions which the Senator is propounding evidently proceeds upon the theory that we can violate every provision in a treaty which imposes a burden upon us, and still hold good our title under the instrument whose provisions we are violating——

Mr. O'GORMAN. Mr. President——

Mr. BRANDEGEE. Holding the other party to the full performance of the contract, while violating such portions of the contract as we have a mind to.

Mr. O'GORMAN. Mr. President, I have been very unfortunate in conveying my views if the Senator from Connecticut believes that I made any such statement as he has just announced. I have been insisting, however, and I make the claim with confidence, that the violation or disregard of a covenant in this instrument would not work a forfeiture of our rights to the canal, even though it might give a right to Panama to make a claim for damages sustained by Panama in consequence of any breach.

With particular reference to the provision regarding the annual payment of $250,000, there is a distinct stipulation in the treaty that any delay or difference with respect to that payment can not affect the rights conferred upon the United States under the treaty; in other words, if there be a delay or a dispute in respect to the annual payment of $250,000, and we should be wrong in our contention, the Republic of Panama could, by appropriate course, make a demand upon us for that amount annually; but our failure to pay it could not, under the express language of the treaty, impair in any degree our right to the zone through which the canal runs.

Mr. BORAH. Mr. President, the question of a conditional title, which has sprung up in the debate in the last few days, was interesting, if not startling, when first presented. The claim is made that although we have purchased this territory and expended upon the Canal Zone some $400,000,000, yet we have only a conditional title, dependent upon one of the most uncertain things in the world, and that is the continuance in force of a treaty which we made with a nation other than the one from which we took title. Such a proposition would convict John Hay of criminal stupidity.

Mr. President, one only needs to review the express terms of this grant to see that no conditional title exists with reference to the territory over which we have built the canal, other than the condition that we occupy it for canal purposes. That is the only possible condition which would in any wise work a forfeiture in any way, shape, or form to any part or parcel of that territory over which the canal is built. I discussed this a few days ago, but as it has come up again I venture to suggest something further on the matter.

Mr. WEST. Mr. President——

The PRESIDING OFFICER. Does the Senator from Idaho yield to the Senator from Georgia?

Mr. BORAH. I yield.

Mr. WEST. Does the Senator think that the zone can be occupied for any purposes other than for a canal by this Government?

Mr. BORAH. I have just said that the only condition that can possibly be inferred is that we occupy the zone for canal purposes; but that the other terms, covenants, conditions, agree-

ments, and so forth, which are embodied in this treaty might be observed or not observed, violated or otherwise, without affecting our title to the canal.

I am going to take just a few moments of the time of the Senator from Massachusetts [Mr. WEEKS] to read a few lines into the RECORD from the grant:

The Republic of Panama grants to the United States in perpetuity the use, occupation, and control of a zone of land and land under water for the construction, maintenance, operation, sanitation, and protection of said canal of the width of 10 miles extending to the distance of 5 miles on each side of the center line of the route of the canal to be constructed.

Then it gives a more particular description of the zone. That is a grant in perpetuity of land for a specific purpose, to be used for a canal, and there is no condition to be inferred and no condition can arise out of the language other than the condition that it be occupied for canal purposes. So long as we occupy it for canal purposes, it is our territory in perpetuity; and there is no other condition in the grant which undertakes to work a forfeiture of it. Then the treaty provides:

ARTICLE 3.

The Republic of Panama grants to the United States all the rights, power, and authority within the zone mentioned and described in article 2 of this agreement, and within the limits of all auxiliary lands and waters mentioned and described in said article 2, which the United States would possess and exercise if it were the sovereign of the territory within which said lands and waters are located, to the entire exclusion of the exercise by the Republic of Panama of any such sovereign rights, power, or authority.

There are no conditions either precedent or subsequent to that grant. But there is another clause which is even more definite and certain and unmistakable in its purport, and that is the clause which fixes the consideration and which says:

As the price or compensation for the rights, powers, and privileges granted in this convention by the Republic of Panama to the United States, the Government of the United States agrees to pay to the Republic of Panama the sum of $10,000,000 in gold coin of the United States on the exchange of the ratification of this convention, and also an annual payment during the life of this convention of $250,000 in like gold coin, beginning nine years after the date aforesaid.

For the "rights, powers, privileges," and authority arising under this grant—which we must treat as a grant, notwithstanding it is in a treaty—we pay Panama the sum of $10,000,000, and when the $10,000,000 was paid the title to that property passed to us in perpetuity, and it is ours just as unconditionally as the territory upon which this Capitol rests so long as we use it as a canal. Our title could never be assailed until we should abandon the canal itself.

Furthermore, the treaty provides:

But no delay or difference of opinion under this article or any other provisions of this treaty shall affect or interrupt the full operation and effect of this convention in all other respects.

Further on there is a provision, which might be likened to a covenant in a deed, that when the canal is opened it shall be opened under the terms of the Hay-Pauncefote treaty, but no condition attaches to the grant in case it is not opened under the terms of the Hay-Pauncefote treaty; there is no provision to the effect that we shall forfeit anything in case we do not do so. We stand in the same position with regard to this title as if there were two separate instruments, one a distinct grant, under which we paid $10,000,000, and another an agreement; one affects the other no more than if they were two separate and distinct agreements.

Mr. President, the Supreme Court of the United States said:

It is hypercritical to contend that the title of the United States is imperfect—

Speaking of the Panama Canal—

and that the territory described does not belong to this Nation.

Certainly it belongs to us. We are under obligations to observe that treaty, just the same as we are to observe the Hay-Pauncefote treaty or any other treaty; but its violation would not affect the title any more than the violation of a covenant of a deed would affect title under the deed, or any more than if I gave you my note for which you gave me a deed and I should fail to pay the note, you could go into a court of equity and cancel my deed because I failed to pay the note.

Mr. O'GORMAN. Mr. President, I merely want to add, with the permission of the Senator from Massachusetts [Mr. WEEKS], one word to what has been said as to what might be the effect upon our title of a violation to observe every provision of the Panama treaty. I said a moment ago that there was an express stipulation in the treaty that our title could not be affected in consequence of any dispute, contention, or delay with respect to the annual payment of $250,000. The language of the treaty goes even further than that, because it is provided in article 14—

But no delay or difference of opinion under this article—

That is the article that speaks of the consideration—

or any other provisions of this treaty shall affect or interrupt the full operation and effect of this convention in all other respects.

That is as strong as language can make it and reserves to the United States the right at any time to assert its views respecting any of the other provisions of the treaty without impairing in any degree its title, which is granted by the second article of the treaty. If those words which I have just read do not give that reservation to the United States, then they serve no purpose whatever. In a word, that provision protects the title of the United States to the zone, leaving any dispute that may arise between the United States and the Republic of Panama under other provisions to adjustment, settlement, and determination without impairing in any manner the title of the United States to the zone.

Mr. BRANDEGEE. Mr. President, Senators may, of course, continue to hold any view they please as to how binding the different provisions of the treaty with Panama are or what effect the breach of any of them will have upon the title of the United States or upon the parties to the treaty. That has nothing whatever to do with the question that I asked the Senator from Oregon, which was, How would we be in any better position if the Hay-Pauncefote treaty were denounced and abrogated, unless we should also get rid of the provisions contained in article 18 of the treaty with Panama? We would be in no better position.

The Senator from New York suggests that, by diplomatic intercourse, we might get rid of the provision contained in the treaty with Panama which compels us to observe the terms of the Hay-Pauncefote treaty made with Great Britain. Perhaps we might and perhaps we might not; it does not make any difference whether we would or not. The fact is that the conditions mentioned in the Hay-Pauncefote treaty are embedded in the treaty we made with Panama, by which treaty we acquired the right to build the canal across the Isthmus. If we want to violate the provisions of the treaty with Panama, I suppose we could, as we could violate any other treaty if we wanted to do so. It is idle now to consider whether we would forfeit our title to our $400,000,000 and to our rights in the Canal Zone if we did violate this provision. The only point of my remarks, and the only point and applicability of this discussion at present, in my opinion, is that there is a covenant with Panama to observe the conditions of the Hay-Pauncefote treaty and to operate the canal under it.

Mr. WEEKS. Mr. President, I have given the pending bill more careful consideration than any similar legislation since I have been a Member of Congress, because there is a distinct impression that a failure to pass it would be a reflection on the honor of our country, and especially on the honor of those responsible for such action. That is a test which can not be neglected in any matter personal or national, and therefore I could not see my way clear to vote either for this bill without studying it from every viewpoint or vote against it without assuring myself that there are ample reasons to justify my so doing. I know that many of those in Massachusetts whom I am trying to represent have gotten the impression from press reports or perhaps from opinions expressed by others, many of whom have given it little consideration, that there is only one side to this question—the side which the President in his message to Congress March 5, 1914, describes in the following language:

In my own judgment, very fully considered and maturely formed, that exemption constitutes a mistaken economic policy from every point of view, and is, moreover, in plain contravention of the treaty with Great Britain concerning the canal concluded on November 18, 1901. But I have not come to urge upon you my personal views. I have come to state to you a fact and a situation. Whatever may be our own differences of opinion concerning this much-debated measure, its meaning is not debated outside the United States. Everywhere else the language of the treaty is given but one interpretation, and that interpretation precludes the exemption I am asking you to repeal. We consented to the treaty; its language we accepted, if we did not originate it; and we are too big, too powerful, too self-respecting a Nation to interpret with a too strained or refined reading the words of our own promises just because we have power enough to give us leave to read them as we please. The large thing to do is the only thing we can afford to do, a voluntary withdrawal from a position everywhere questioned and misunderstood. We ought to reverse our action without raising the question whether we were right or wrong, and so once more deserve our reputation for generosity and for the redemption of every obligation without quibble or hesitation.

I ask this of you in support of the foreign policy of the administration. I shall not know how to deal with other matters of even greater delicacy and nearer consequence if you do not grant it to me in ungrudging measure.

After long consideration I am convinced that the President is in error in his conclusions and that the course for Congress to take is to refuse to pass the pending bill.

In the debate which has taken place during the past month, and it has been most comprehensive and in many respects an

unusually able one, various reasons have been advanced why the bill should be passed or rejected. I shall only refer to most of them briefly, because, in my opinion, there is but one real question at issue, and that is the language of the treaty. It is true that the economic features are very important and may have the most far-reaching effect, but, even if that were so and we were sacrificing large interests, there would be no other proper course for us to follow, if the treaty, which is in effect a contract, between the United States and Great Britain definitely and certainly agrees that we shall charge tolls on our coastwise and other shipping.

I attach no weight to the hysterical statements which have been made in the debate about foreign complications as a result of our not passing this bill. I have searched with some diligence for a warlike word or an angry protest coming from any other country if we decide to maintain our present position. It is possible that there have been received by the State Department protests of some kind against this action which have not been made public, but careful inquiry does not bear out such a supposition, and the press of other countries does not show any public sentiment in favor of such action, so I can not believe that the President and others who have used similar language have been justified in saying that our international standing is now below the usual standard or that our course in this matter is going to affect our relations with other countries. If the President has tangible information justifying his expressed opinion, he should submit it to Congress.

Neither am I inclined to place great reliance in the statement that the transcontinental railroads have been taking an influential part in attempting to influence the action of Congress. It may be that they have communicated with other Senators directly or indirectly; but if this has been done they have overlooked me. I do not recall that I have a single word in any form from any railroad corporation or those representing a railroad corporation relating to this subject. The transcontinental railroads probably have interests which may be affected—quite likely they are interested in the conclusion to which we come; and yet in its final analysis if the rates now being charged by railroads are not fair we have a vigilant Interstate Commerce Commission which is prepared to pass on them and to give the shipper justice in all cases. Furthermore, I am one of those who believe that, generally speaking, railroad rates are now quite as low as the conditions of transportation warrant if a reasonable return is expected on railroad capitalization, and if there are those who think that a payment in any form of canal dues will lower transcontinental rates to any considerable extent they will be, in my opinion, disappointed or, if not disappointed, they must be prepared to see serious troubles come to our railroad corporations.

My course in this matter has been influenced by the economic question which has been raised by those directly interested in coastwise shipping. I have no doubt plans have been made by existing companies to undertake business through the canal when it is constructed with the expectation that there would be no tolls charged, and if a change in this policy is made it may to some degree necessitate changing their plans and require a readjustment of the methods of conducting this business, but in the final analysis I am confident that the shipper in such cases will very largely pay the toll, as he will pay the other costs of transportation, and that the coastwise carrier will obtain substantially the same return on the business he does that he would if no tolls were charged. But the policy we adopt may and quite likely will have a material influence in developing not only our coastwise shipping, but our commerce in general; so that our action should be determined not only by the action which is best at present, but what will be best in the years to come. This canal should benefit our own shippers, our coastwise trade, and our general commerce, as well as be beneficial to the commerce of the rest of the world. Neither is it necessary for me to criticize the action which individual Democratic Senators propose to take in this matter. They are between the necessity of carrying out the recommendation of the President or following by strict construction the declaration of their party platform. None have been louder than they in their protestations to the country that a political platform should be lived up to and that it was political dishonesty to deviate from its provisions. It is for them to decide whether their consciences are sufficiently elastic to enable them to support a bill against which their platform makes a positive declaration.

But this furnishes an opportunity to make comment on the methods followed in making political platforms, to which the American people should give some consideration. Platform committees of national and other conventions meet at a time of great excitement. They appoint a subcommittee and frequently, as in the case of the Baltimore convention, that subcommittee appoints another subcommittee which draws the platform, so that two or three men at a time, when sane and careful action is impossible, prepare a code which is to serve as a political creed for many millions of voters. Any such procedure is supremely ridiculous, and political parties should adopt saner methods; at least, the platform should be prepared long before the convention meets; it should be submitted to the country in some manner and provision made for the adoption of tangible and reasonable suggestions which may be made as a result of this publicity.

A few days ago the senior Senator from Ohio delivered a most carefully prepared and very able argument in favor of the repeal, in which he went into in great detail the history of and principles governing waterway legislation and treaties relating to that subject. No man in public life has a broader knowledge of such questions than he, and I have so much regard for this knowledge that I hesitate to raise a doubt even to the conclusions which he reaches; yet it seems to me that there are radical differences between the Suez Canal and Panama Canal and all others, including those to which he referred. The Welland and most other canals were constructed to overcome obstacles in natural waterways and are supplemental to them. Furthermore, they are used almost entirely for commercial purposes and for no other purposes, and in the case of the Welland Canal, especially, the unfairness in the rates which were originally established was intended to build up local Canadian cities and Canadian business at the expense of the business of other communities, the course followed being similar to that used in the earlier days in granting rebates to our American railroads. That can not in any way be comparable to the policy which is now in force of granting free tolls to our coastwise shipping through the Panama Canal, for that does not in any way injure the commerce of other commercial centers or the shipping interests of other nations.

The construction of the Panama Canal was undoubtedly, to a very large extent, a war measure, combined with a desire to facilitate the commercial intercourse of the world. This was not true perhaps of the original construction of the Suez Canal, but the purchase of the stock of that canal by Great Britain was largely for military reasons. Great Britain had a great dependency in the East; the time to reach it around the Cape was so much greater than through the canal that if the latter were controlled by any other power it would have placed Great Britain, in defending its dependency, at a great disadvantage.

There are those in the United States who make it a business to develop war scares between our country and certain foreign nations. These incendiaries had endeavored to develop a public sentiment in favor of the construction and maintenance of a fleet on the Pacific similar to the present Atlantic Fleet, contending that our enemies might come from either direction and that it was unfair to either coast to leave it unprotected. If such a policy had been undertaken, it would have required the maintenance of two battleship fleets and would have cost, without taking into account extraordinary repairs, not far from $15,000,000 annually in addition to the cost of the construction of 20 battleships, which would have aggregated at least $250,000,000, and to this should be added the depreciation in battleships, which would have brought the total cost up to an enormous figure.

The arguments to which I have just referred, and many similar ones which have been more or less prominent during this discussion, may, in my judgment, be sidetracked, for the question which should really determine our action is the construction which should be placed on the words in rule 1 of article 3 of the Hay-Pauncefote treaty, which reads as follows:

> The canal shall be free and open to the vessels of commerce and of war of all nations observing these rules on terms of entire equality, so that there shall be no discrimination against any such nation or its citizens or subjects in respect of the conditions or charges of traffic or otherwise. Such conditions and charges of traffic shall be just and equitable.

What were the purposes of those who drew the treaty and of the Senate when the treaty was being considered by it? My own impression had been until recently that we were by the terms of the treaty in duty bound to treat all the shipping of the United States on exactly the same terms which apply to the ships of Great Britain and other nations, and in changing this conclusion I am not unmindful that some of those who were active in formulating the treaty have recently testified that the President's view of the controversy is the correct one; but I have failed to find that any consideration was given by the negotiators to the difference between general commerce and coastwise shipping, and the only evidence that it was discussed in the Senate took place during the consideration of an amend-

ment offered by Senator Bard, of California, which especially precluded applying the terms of the treaty to coastwise shipping. It is true that this amendment did not prevail, but so many Senators who voted against it have stated that they did so because they thought it unnecessary and did not want to hamper the treaty with such matter rather than because they were opposed to the principle that it is a reasonable conclusion to draw that the Senate would have accepted this amendment if it had not supposed coastwise shipping did not come within the terms of the treaty.

I am, as briefly as possible, going to point out my reasons for believing that (1) the Hay-Pauncefote treaty does not necessitate our compelling our coastwise shipping to pay tolls; (2) that there is no moral reason for our following such a course; (3) that the custom of all nations has been and is now to exempt coastwise shipping from laws, rules, and regulations applying to other shipping; (4) that equitable conditions would not obtain, whether we charged our coastwise shipping or not, because of subsidies granted to the ships of other countries; and (5) that this contention is undoubtedly advanced for the express purpose of adding another handicap to the development of our merchant marine which would result in an equivalent benefit to our commercial rivals.

When this question was originally considered, in 1850, Great Britain was our equal partner, and while at that time the building of the canal by the Governments was not given consideration, undoubtedly the necessary costs of fortification and maintenance, if there were such, were to be borne equally by the two countries. Under present conditions what has Great Britain done to justify our doing an unjustifiable act; that is, to show generosity to that country by giving up a form of sovereignty over what actually belongs to us as much as does the territory of the District of Columbia? The answer must be, Nothing whatever. On the other hand, she will be the most greatly benefited from a commercial standpoint of any nation by the construction of the canal; in fact, it is probably true that ships flying the British flag will make as much use of the canal as those belonging to all other nations combined. In addition to that, Great Britain will have available the $400,000,000 which we have expended in the canal's construction to develop her various industries, including her shipbuilding and shipping itself, so that in effect we will have used our capital to provide a means to enable our commercial rivals to increase the preponderance of advantage which they now hold over us, and this advantage will be increased from year to year, because still more of our capital will be necessary in order to maintain this great international development, for the cost of maintaining and protecting the canal and a reasonable interest on the investment will be at least twice any amount of money which can be received from tolls in the near future. The only possible harm that can come to Great Britain from our adopting the policy of granting free tolls to our coastwise and other shipping will come to the Tehuantepec Railroad Co.—this is more or less problematical—and the possible harm which may come to the shipping of the Dominion of Canada. But the shipping of the Dominion of Canada, at least all of any considerable moment, is controlled by the subsidized Canadian Pacific, Canadian Northern, and Grand Trunk Railroad Cos.

The total expenditure made by the Canadian Government last year for the encouragement of commerce was $2,703,200, and this stipulated that the lines of steamers receiving this subsidy shall not call at the ports of the United States.

What a travesty on justice and fairness it would be to forbid the use of the canal to ships owned by our own railroads and then make this enormous sacrifice to open the canal to the ships of the subsidized railroads of our commercial rival to the north. It can not do them any harm if we allow our shipping to go through free, because there is a certainty that a handicap exists equal to the tolls charged against American ships owing to the difference in the cost of construction and operation. But even if this were not so, there should not be an American who would be in favor of granting to the ships of a foreign country privileges which we refuse to grant to ships flying the American flag, owned and controlled by American capital. No contention of the kind which has been raised by Sir Edward Grey should have been thought of by that Government; they should have recognized the splendid privileges and opportunities which we were giving their shipping and the shipping of the world, and even if they had believed that they had a technically sound contention in the three points which have been raised by the English Government, reasonable fairness on its part should have led it to waive these objections and permitted us to manage our own canal and our own shipping without question or objection.

Quoting once more from section 1 of article 3 of the Hay-Pauncefote treaty this language:

* * * so that there shall be no discrimination against any such nation or its citizens or subjects in respect of the conditions of charges of traffic or otherwise.

Just what is meant by the expression "or otherwise" I am unable to determine, but it is a fact that our shipping of all kinds is conducted under a serious handicap, due largely to the excessive cost of construction in this country and the excessive cost of operation, so that we are not on equal terms with the shipping of the world, and probably never can be. But in addition to these handicaps all other nations in the world in some form grant assistance to their shipping, so that it may compete successfully with that of other countries.

In this respect we are the trustees of the American people. It is our duty to build up our shipping industry, and especially our duty to see that no action is taken which is going to militate against it in favor of that of other nations; and the very course which we are now asked to take would be another instance of the aggressiveness and industry of another nation in trying to place further handicaps on our shipping. This policy is well illustrated in the action of European Governments in the use of the Suez Canal. It is true that rates through the canal are equitable, but in order that the shipping of the individual country shall not suffer by the payment of such rates it has become the fixed policy of most European nations to pay subsidies, so that to-day if we had any shipping in that part of the world it would not as an industry be receiving just and equitable treatment, because it would have the handicap of these subventions paid by European countries. It seems to me desirable to show just how comprehensively this course has been followed by our commercial rivals, and I submit herewith in detail the subsidies now paid for using the Suez Canal.

SUBSIDIES PAID FOR USING THE SUEZ CANAL.

AUSTRIA-HUNGARY.

For the year 1910 Austria-Hungary paid $472.500. Until 1907 there had been paid for East African service an additional bounty of varying amount, but which did not exceed in any one year $300,000.

FRANCE.

In 1911 France spent $6,670,000 for bounties for construction and navigation and $5,530,000 for mail subventions. Of the mail subvention payment, $2,220,000 was paid to lines using the Suez Canal.

GERMANY.

One million seven hundred and fifty thousand dollars are paid to German East African lines and the North German Lloyd for postal service through the Suez Canal. In addition, the German East African lines receive an indirect bounty in largely reduced rates furnished by all German State railways on goods exported from inland States of Germany to East Africa; and, generally speaking, all German State railways give reduced rates on German goods shipped over German State railways, and they are given a further preference when the shipment is continued on German steamships.

ITALY.

Subsidies for postal service in Italy are paid as follows: To the National Co. of Maritime Service, $1,840,000 annually. This line runs to India and China. To the Venetian Navigation Co., $200,000 annually. This line runs from Venice to Calcutta. In addition, there are navigation bounties amounting to $470,715, very largely paid to the National Co. There are also construction bounties fixed at a maximum of $440,000 per annum; $959,880 are allowed for construction bounties and losses due to customs duties on account of the remission of duties to various lines, a part of which applies to the National Co., using the Suez Canal.

JAPAN.

Japan allowed in the year 1911, $1,617,440 as subsidies to steamers employed in the European service, in addition to which there are various kinds of bounties for construction, repairs, and other forms of payment, a portion of which would apply to steamers using the Suez Canal.

NETHERLANDS.

In the Netherlands $125,000 annually is granted to the Java-Japan Line, in addition to which there are granted postal subsidies for five lines, one of which uses the Suez Canal.

PORTUGAL.

Portugal pays $20,000 for a line plying between Lisbon and Portuguese East Africa.

RUSSIA.

Russia made in 1912 an appropriation of $3,670,000 for the encouragement of its mercantile marine. Of this amount, be-

tween $395,000 and $445,000 is to be paid to Russian vessels using the Suez Canal, this being a sufficient amount to pay the Suez Canal tolls. This is not, however, the entire expenditure made by Russia to ships using the Suez Canal, because they would receive a part of subsidies paid for other purposes.

SPAIN.

A subsidy is granted based upon the speed of vessels, the mileage covered, and the displacement of ships engaged in the Asiatic trade. The total bounty paid for service of this character by Spain in the year 1911 amounted to $580,000. In addition, $148,650 was paid on account of shipbuilding bounties, some portion of which went to vessels engaged in trade through the Suez Canal.

SWEDEN.

Sweden has a large number of forms of encouragement for its shipping trade, including postal subventions, steamship lines, bounties on shipbuilding, and so forth. In addition to these, in 1907 there was an authorized subsidy not to exceed $102,775 per annum to the Swedish East Asia Co. to meet the expenditures incurred by the company in payment of the Suez Canal dues. This has since been reduced to an amount not exceeding $83,330 per annum, which is to cover 60 per cent of the Suez Canal dues.

GREAT BRITAIN.

The Peninsular & Oriental Steamship Line passing through the Suez Canal connects Great Britain with the important ports of the East. This line is receiving at present $1,650,000 annually in bounties, and it has had liberal assistance since 1840.

AIDS TO CENTRAL AND SOUTH AMERICAN COMMERCE.

Undoubtedly the same practice will take place in using the Panama Canal; so that, even if the shipping of other countries pays tolls and ours does not, it will be, in reality, using the canal "on terms of entire equality." If we compel our ships to pay tolls, that will not be the case. It may be said that there is no certainty that this course will be followed by other countries. At least, it can be stated that it is being followed now, to some degree, in conducting trade between European and Central and South American countries. I herewith furnish, as far as I have been able to obtain it, a list of the bounties and subventions which are now paid to shipping engaged in Central and South American trade, in addition to the encouragement of navigation, shipbuilding, ship repairing, and other forms of bounties which, to some degree, inure to the benefit of lines of steamers engaged in this traffic:

AUSTRIA-HUNGARY.

Austria-Hungary pays $165,000 annually as a subsidy to the Brazilian service. In addition to this, the Austrian-Lloyd, which possesses a fleet of 68 vessels engaged in various trades, received a total, including subventions of different character, of $1,750,000 in the year 1910.

BELGIUM.

The Belgian Government remits all pilotage and other dues to vessels of the Cosmos Line engaged in South American trade.

BRAZIL.

The Brazilian Government has a contract, entered into September, 1912, with certain Italian steamship lines, the subsidy for this service being fixed at approximately $20,000 per round trip, two-thirds of which is paid by the Federal Government and one-third by the State government of Sao Paulo.

CHILE.

The Chilean Government pays the Compania Sud-Americana de Vapores $40,000 annually for service along the west coast of South America, and gives the Pacific Steam Navigation Co. (English) valuable facilities for discharging cargo at the Government wharves in Valparaiso.

FRANCE.

France pays for the Brazil and River Plate service $260,000 annually for postal subventions; $995,000 annually for postal subvention to West Indies, in addition to which $80,000 is added for the Mexican postal service. This includes a speed bounty. It pays $2,215,000 annual bounty for the New York and West India service. This is in addition to construction and other bounties which are paid, a portion of which would apply to vessels engaged in the North and South American services.

GERMANY.

The German lines' preference to Central and South American ports is included in preferential railway rates on German State railroads for various classes of goods, the definite amount of which, however, can not be determined.

ITALY.

Italy pays to the Genoa-Central American Line $100,000 annually, in addition to which there are large bounties paid for navigation, construction, and repairs, the total bounties for these purposes paid in the year 1912 aggregating $4,065,000.

JAPAN.

Japan paid in 1911 $2,330,000 direct bounties for North American lines and $372,560 bounties to South American lines, in addition to which large amounts in other forms of subsidies, which included, in 1911, $5,584,610 for the extension of steamship routes, $840,535 for encouragement of navigation, $563,975 for encouragement to shipbuilding, $2,550 for the training of seamen, $10,205 for subsidy to lifeboats—a total of $7,000,000, and this is only a part of the encouragements which are furnished by the Japanese Government for the development of the shipping industry.

MEXICO.

The Mexican Government paid for subsidies to steamship lines in the year 1911 a total of $275,000, which included $100,000 for service between Canadian and Mexican ports on both coasts; $96,155 to the Pacific Navigation Co. (English), and other smaller amounts to different steamship lines for near-by foreign service.

THE NETHERLANDS.

The Netherlands Government pays a direct subsidy to the Royal West Indian Mail Service of $28,375 annually.

PERU.

The Peruvian Government pays $150,000 per annum to the Peruvian Steamship & Dry Dock Co. for various services, including the use of the company's steamers as auxiliaries in time of war. The company's steamers are also exempted from the payment of shipping dues.

SPAIN.

Spain pays two lines of steamers—the North of Spain sailing to Cuba and Mexico and the other sailing from Mediterranean ports to New York, Cuba, and Mexico—a subsidy based on sailings, speed, distance, and displacement of ships, in addition to which it pays shipbuilding bounties in various forms.

GREAT BRITAIN.

To the Royal West India Steamship Co., $400,000 annually; to the Pacific Co. operating to Central and South American ports, $162,500, in addition to which $350,000 has recently been added to cover west-coast service.

That this policy is almost sure to be extended is indicated by a report made by our consul at Nantes, Walter H. Schulz, incorporated in the Daily Consular and Trade Reports of May 7, 1914, as follows:

WESTERN FRANCE AND THE PANAMA CANAL.

[By Consul Walter H. Schulz, Nantes, France, in Daily Consular and Trade Reports, May 7, 1914.]

That the French Government and the chambers of commerce of western France are thoroughly alive to the potentialities of the Panama Canal and the influence that that canal will exercise on the commerce of France in Pacific waters was demonstrated again by recent developments. The public press and the chambers of commerce of Nantes and St. Nazaire after a study of the economic consequences attending the opening of the canal have petitioned the Government to further subsidize the Compagnie Générale Transatlantique, and this with a view of extending to Valparaiso, Chile, the present Havre-Bordeaux and St. Nazaire-Colon service. A postal agreement, similar to the one of 1911, it is thought, would be sufficient for that purpose.

The Compagnie Générale Transatlantique perhaps is the most important of French lines. Since 1884 it has received a subsidy from the French Government, and a regular service by two lines has been maintained between France and Central America in consequence—the Havre service and the St. Nazaire service. It is now proposed to extend its field of operations into the Pacific, and if the Government can be induced to lend its aid, direct steamship communication between France and the west coast of North and South America is assured. The fact that the French Government refunds Suez Canal tolls to another well-known French line is cited as a precedent, and gives rise to the hope that similar action will be taken by the next Parliament with regard to the use of the Panama Canal by the French merchant marine. It is estimated that the canal tolls for a round trip to Valparaiso will be $6,176 to $7,720.

The Nantes Chamber of Commerce also has recommended inquiries with a view of establishing direct steamship communication between Nantes, St. Nazaire, and the north Pacific coast, including the principal ports of California and Canada, but the chamber counsels that no definite action be taken in this matter until the effect of the canal upon commerce generally is better understood.

Five of the six sections of article 3 of the Hay-Pauncefote treaty relate directly to the use of the Panama Canal in time of war. If any one of these rules is to be considered from one standpoint, they must all be considered from that standpoint, and among them will be found the following propositions: That the canal shall never be blockaded, nor shall any right of war be exercised, nor any act of hostility be committed within it; that a belligerent shall not revictual or take any stores in the canal except such as are strictly necessary; that the transit through the canal shall be promptly made; that no vessel shall embark or disembark troops or munitions of war or warlike material in the canal except on account of an accident, and that transit even in such a case shall be resumed at the earliest

possible moment; that these rules shall apply to the waters adjacent to the canal; that vessels of war of a belligerent shall not remain in such waters for longer than 24 hours at any time; and that one belligerent shall not follow another within 24 hours of the departure of the first vessel. Can it be possible that anyone believes that these rules would prevent the United States from maintaining men-of-war in the canal in time of war or doing the other things which they prohibit to the men-of-war of other nations; that it would be necessary for a United States vessel of war to leave the canal in the shortest possible time; and that it could not leave this vantage point within 24 hours of the time of the departure of the enemy with which we were in an actual state of war?

The United States has been under treaty obligations since its first treaty with Granada, adopted in 1846, to protect the Isthmus and to maintain neutrality of the transit across it. It has frequently landed troops to carry out this treaty provision, and the acquisition by the United States of the territory through which the canal has been constructed would seem to be sufficient to modify the Hay-Pauncefote treaty so as to accord belligerent rights to our men-of-war in the canal district.

If that is the case, it is difficult to see how discrimination can be made against vessels of commerce under similar circumstances, as they are covered by the same language in the treaty; so if the vessels of war of the United States have a different status from those of other nations, then undoubtedly vessels of the United States engaged in commercial pursuits, foreign and domestic, must be included in the same category. For instance, would it be claimed that a vessel of the Panama Railroad Co., the stock of which is owned by the United States, engaged in carrying a cargo through the canal is to pay toll, and if so, if such action would be taken in case the vessel were carrying material owned by the United States for construction purposes on United States works?

Suppose, for example, that a bill which is now pending in the Senate Committee on Naval Affairs should be adopted and we established a line of Government steamers to the west coast of South America, would it be claimed that we would have to pay tolls on a Government vessel engaged in commerce for the people of the United States conducted by the United States? And will anyone contend for a moment that if an English or French or German ship under the control of its Government passed through the canal that tolls would not be charged? Of course, if we charged tolls in such a case we would be simply transferring money from one pocket to another; it would be equivalent to the Government paying for departmental mail. I think no contention will be made that in such a case we should be compelled to pay for the passage of our own ships.

It was even proposed in the bill which passed Congress in 1912 that vessels belonging to the United States, including those of the Panama Railroad Co., the stock of which is owned by our Government, were not bound to pay tolls on the same terms as vessels of foreign nations.

We have provided that shippers of freight in the United States shall receive just and equitable treatment from the transportation companies, yet if the construction freight belonging to railroads and the transportation of the railroad employees and officials were paid for at the same rate charged other shippers, it would undoubtedly modify the rates charged to other shippers and to other travelers. It seems to me that this is on all fours with the use of the canal; that it would be absurd to charge tolls on a vessel engaged in carrying material through the canal for the construction of United States works.

In effect, the Government of Great Britain admits the contention that our men-of-war are exempt, for in its note of protest of November 14, 1912, this language is used:

> Now that the United States has become the practical sovereign of the canal, His Majesty's Government do not question its title to exercise belligerent rights for its protection.

Therefore the suggestion that vessels of war of our country should pay tolls or any part of the United States forces should not have absolutely free use of the canal under all conditions seems untenable, and that the limitations placed on the use of the canal for other belligerents should not apply to our own. If this is admitted, how can we divorce five sections of article 3 to which this subject applies from section 1 of article 3, which is the one in controversy?

REASONS FOR CLAYTON-BULWER TREATY.

The basic claim which Great Britain has to a part in the canal construction and control is of a shadowy character, but in order to clearly show this I shall have to refer briefly to the Clayton-Bulwer treaty of 1850, which was replaced by the Hay-Pauncefote treaty. The Clayton-Bulwer treaty was made because of the unusual events which had transpired immediately preceding 1850. Our northern boundary had been extended to the Pacific Ocean on the forty-ninth parallel; we had acquired from Mexico a large area, including the coast of California; the Republic of Texas had become a part of the United States; and, most important of all, the gold discovery of 1849 had diverted a large emigration to California. It was extremely dangerous to cross the plains, and therefore the long and tedious trip around the Horn or the shorter but more or less dangerous trip across the Isthmus was found necessary in order to reach this new El Dorado.

Naturally, these conditions attracted renewed attention to the necessity for a canal, and at that time the Nicaragua route was the one generally considered most feasible. We had acquired valuable concessions from Nicaragua, but by a course of action including the seizure of an island for debt and the assumption of a protectorate over the Mosquito Coast, which, at least, had in it very little equity, Great Britain had acquired control of the Atlantic end of what would be the Nicaragua Canal. Therefore the necessity for a treaty with Great Britain which would cover the proposed development. It will be seen that entering into a treaty of this kind would not have been necessary if we had been able to maintain the Monroe policy, because it not only recognized Great Britain's supposed rights in Central America, but it provided for a joint protectorate of a public development which was to be undertaken on the American Continent.

As soon as the Civil War and the contentions arising out of it had been sufficiently adjusted, attention was directed to this treaty and its lack of applicability to the conditions which had developed since it had been agreed to. The real incentive in making the Clayton-Bulwer treaty, in addition to obtaining a clear title to the Atlantic coast end of the canal, was the hope and expectation that English capital would be interested in its construction. It was for this reason that our Government surrendered the exclusive privileges which it held and expressed this sacrifice in the seventh article of the treaty in this language:

> That no time should be unnecessarily lost in commencing and constructing the said canal.

It was not, at that time, even suggested that the money to build this canal would be furnished by the Governments of the United States or of Great Britain; it was assumed that it would be private capital, and the completed work should be under the joint protectorate of the two countries. Private capital was not available in the United States and there was not sufficient incentive for English private capital to go into such an enterprise.

Time was lost and nothing substantial had been done toward the building of the canal when the conditions developed by the Spanish War, especially in sending the *Oregon* from the Pacific to the Atlantic coast, again attracted attention to its necessity. It was then that our Government approached England with a proposition to arrange a new treaty to replace the Clayton-Bulwer treaty, the purpose being to bring that instrument down to date.

PANAMA AND OTHER TREATIES.

Article 19 of the convention entered into between the United States and the Republic of Panama on November 18, 1903, provided that an exception should be made in favor of vessels of the Republic of Panama in the conditions prescribed for the vessels of other nations, and this is one of the three protests made by Sir Edward Grey after the canal act of 1912 was passed; but it will be noted that, although we had apparently departed from the construction of the Hay-Pauncefote treaty in our later treaty with the Republic of Panama, that no notice was taken of this by Great Britain or any other country until it had become desirable for other reasons to protest against the canal act of 1912.

Secretary Knox, in his reply to Sir Edward Grey, under date of January 17, 1913, covered the objections made in this language:

> The United States has always asserted the principle that the status of the countries immediately concerned by reason of their political relation to the territory in which the canal was to be constructed was different from that of all other countries.

Immediately after the adoption of the Hay-Pauncefote treaty, which was proclaimed in February, 1902—in fact, but three days after its ratification by the Senate—a bill was introduced in the House of Representatives for the construction of the Nicaragua Canal. It was promptly taken up and passed the House January 9, 1902—within three weeks of the time of the ratification of the Hay-Pauncefote treaty. The bill then came to the Senate, where it was considered. Everything in the bill after the enacting clause was stricken out, and what is

now known as the Spooner Act was inserted in its place. Section 6 of that act reads as follows:

That in any agreement with the Republic of Colombia or with the States of Nicaragua and Costa Rica the President is authorized to guarantee to said Republic or to said States the use of said canal and harbors, upon such terms as may be agreed upon, for all vessels owned by said States or by citizens thereof.

This bill passed the Senate June 28, 1902—within six months of the ratification of the Hay-Pauncefote treaty, and it was passed by the same Senate which had ratified that treaty, which presumably knew what it was doing—and as a result of the passage of this bill Secretary Hay negotiated a treaty with the Republic of Colombia, which was signed January 22, 1903, and promptly ratified by the Senate, but failed of ratification by the Republic of Colombia. This was known as the Hay-Herran treaty, in article 16 of which this provision is found:

The canal when constructed and the entrance thereto shall be neutral in perpetuity, and shall be opened upon the terms provided for by section 1 of article 3 of and in conformity with all the stipulations of the Hay-Pauncefote treaty.

And following that, article 17 of the Hay-Herran treaty provides as follows:

The Government of Colombia shall have the right to transport over the canal its vessels, troops, and munitions of war at all times without paying charges of any kind.

This would seem to be in direct contradiction with the position now taken by the British Government, as being in violation of article 3 of the Hay-Pauncefote treaty, and it must be remembered that this entire action was taken within one year of the adoption of the Hay-Pauncefote treaty, and that John Hay was Secretary of State and had to do with the drawing of both treaties.

In the meantime Panama had seceded from Colombia, and had entered into international relations with this country. A treaty was made with Panama, signed November 18, 1903—Mr. Hay still being the Secretary of State—in article 18 of which we find the following:

That the canal shall be subject to all the conditions provided in the Hay-Pauncefote treaty.

And in the following article this reservation is made:

The Government of the Republic of Panama shall have the right to transport over the canal its vessels and its troops and munitions of war in such vessels at all times without paying charges of any kind.

It should be noted that this treaty was also made by Mr. Hay, and no protest was made in either the case of the treaty with Colombia or the treaty with Panama.

Later, in 1909, a treaty was negotiated between the Republic of Colombia and the United States, drawn presumably by Senator ROOT, as he was at that time Secretary of State, which made provisions for the conveyance through the Panama Canal of troops, materials of war, and ships of war of Colombia without paying any toll to the United States. This treaty was ratified by the Senate January 24, 1909, but was not ratified by the Colombian Congress. I quote the language covering the reference which I have made:

ART. 2. The Republic of Colombia shall have the liberty at all times to convey through the ship canal now in course of construction by the United States across the Isthmus of Panama the troops, materials for war, and ships of war of the Republic of Colombia without paying any duty to the United States, even in the case of an international war between Colombia and another country.

Presumably when this treaty was made we were giving a valuable right which we were supposed to have to give, notwithstanding the Hay-Pauncefote treaty, in settlement of any claims which Colombia might have to the territory included in the Canal Zone resulting from the secession of the State of Panama.

President Taft, in his message to Congress in December, 1911, uses this language:

I am confident that the United States has the power to relieve from the payment of tolls any part of our shipping that Congress deems wise. We own the canal. It was our money that built it. We have the right to charge tolls for its use. Those tolls must be the same to everyone; but when we are dealing with our own ships the practice of many Governments of subsidizing their own merchant vessels is so well established in general that a subsidy equal to the tolls, as equivalent remission of tolls, can not be held to be a discrimination in the use of the canal. The practice in the Suez Canal makes this clear.

In the message to Congress of August 19, 1912, President Taft said:

After full examination of the Hay-Pauncefote treaty and of the treaty which preceded it, I feel confident that the exemption of the coastwise vessels of the United States from tolls and the imposition of tolls on vessels of all nations engaged in the foreign trade is not a violation of the Hay-Pauncefote treaty.

I believe it is a generally recognized principle that all contracts should be considered from the standpoint of the conditions and circumstances which existed when they were entered into. A treaty is a contract between two nations, and therefore the conditions which existed at the time of the making of the Hay-Pauncefote treaty should be considered in reaching a conclusion in this case.

When the Hay-Pauncefote treaty was under consideration it was not supposed that the United States was to construct a canal through its own territory or even that the United States was to furnish the money with which to carry on the work, and that therefore it was not necessarily to exercise sovereign power over the territory covered by the waters of the canal. There were many conflicting and confusing conditions in the situation—concessions and treaties and vested rights of various character to be provided for. I believe it is a fair statement that the contracting parties, when this treaty was made, assumed that the United States was to have general superintendence of the conditions under which the construction of the canal was to be undertaken; that the canal was to be under its influence and its protection; but that the thought of the United States acquiring the Panama Canal Zone or building the canal on its own account had not even been given consideration; that those who were insistent on the Nicaraguan route as being the better one of the two in the hearings before the Senate committee not only advocated this route, but stated that all the money necessary to construct a canal by that route would be furnished from private sources without seeking the aid of any Government.

No one will contend that these were the conditions which existed when Congress passed the act of August, 1912. In the meantime the United States had become the owner of the Canal Zone, and therefore was sovereign of that territory. It had used the money of the people of the United States in the construction of the canal, and, in fact, not a single one of the fundamental conditions which existed were similar to those which prevailed 10 years before; so, in taking the position which Congress did in 1912, it was not varying from the traditional policy of this country, for it has always adhered to the policy of protecting its coastwise commerce.

The United States has substantially 30 treaties now in existence with other nations in which the language used is similar to the language used in the section of the rule which we are discussing. Yet in substantially every case our negotiators inserted a provision that the treaty did not apply to coastwise ships. An illustration of this form is found in the treaty between the United States and Denmark of 1826, which uses this language:

Nor shall higher or other charges of any kind be imposed in the ports of one party on vessels of the other than are or shall be payable in the same ports by native vessels.

And in 1887 our country in a treaty with the Republic of Peru used this language:

No higher or other duties or charges on account of tonnage, lighthouses, or harbor dues, pilotage, quarantine, salvage in case of damage or shipwreck, or any other local charges shall be imposed in any ports of Peru on vessels of the United States than those payable in the same ports by Peruvian vessels, nor in any ports of the United States on Peruvian vessels than shall be payable in the same ports by vessels of the United States.

Yet in both of these treaties the paragraphs relating to coastwise shipping provided that it should not be included in the general declaration. It is also true that England has until recently adhered to a similar policy in reference to coastwise vessels.

As far as I am informed, with the variations applying to specific conditions, the whole history of diplomatic relations not only in England and the United States but in the case of all commercial countries the exempting of coastwise trade from treaties and conventions has been made and limitations on duties and charges imposed in other trades have been provided for in the coastwise trade. One of the acts during the brief life of the Republic of Texas was to make a commercial treaty with Great Britain, ratified on November 13, 1840, in which this language was used:

The stipulations of the present treaty shall not be considered as applying to the navigation and carrying trade between one port and another situated in the dominions of one contracting party by the vessels of the other, as far as regards passengers, commodities, and articles of commerce, such navigation and transport being reserved by each contracting party to national vessels.

There is reliable authority for the statement that, including the thirty-odd treaties in which the United States has exempted its coastwise shipping after using phraseology similar to that in the Hay-Pauncefote treaty and the 31 treaties in which Great Britain has made a similar provision, that 47 commercial countries have in one form or another pronounced themselves in favor of holding intact for home use the coastwise trade of their countries, and, practically speaking, that covers every commercial country in the world.

I furnish some examples of the manner in which coastwise trade is limited in cases of colonial and detached coast lines.

Germany, Holland, and Denmark limit the preference to national vessels engaged in such trade to the aid given the German railways and other subsidies. France reserves to herself the trade between her Atlantic and Mediterranean seaports and between France and Algeria. In other cases her carrying trade is open to foreign vessels on equal terms with French vessels. Portugal, except in special cases, reserves the trade with her over-sea possessions. Spain gives a preferential duty on colonial products brought to Spain in Spanish bottoms. Russia, since 1900, treats all trade between Russian ports as coasting trade reserved to her own vessels. This even includes trade between European and Asiatic ports.

As regards the home coasting trade proper, all countries which reserve wholly or partially the trade with distant possessions reserve the home coasting trade, though in several countries the coasting trade is open on conditions of reciprocity.

In the British Empire the trade between the United Kingdom and the British colonies, and also the intercolonial trade, is free from any restriction as to nationality of the vessel. In the case of Canada the coasting trade is only open on the condition of reciprocity, the foreign countries whose vessels are at present allowed to participate in it being Italy, Germany, the Netherlands, Sweden and Norway, Austria-Hungary, Denmark, Belgium, and Argentina.

The amount of trade done by English vessels in coasting trade of Great Britain compared with foreign vessels indicates that substantially all British trade is carried in British vessels. In the year 1902 loaded English vessels in the coasting trade clearing for that year amounted to 62,220,558 tons, while foreign vessels amounted to but 374,977 tons; and in the British colonial trade local vessels amounted to 11,172,000 tons clearing while foreign vessels amounted to 1,118,000 tons, due quite likely to higher entrance and clearance charges for foreign than domestic vessels.

If the instances given are not sufficient to prove the contention, the language used in the treaty which concluded the War of 1812 may be cited as additional evidence, I think, sufficient to illustrate this point.

This treaty provided that the vessels of the United States should have access to British ports, and that no "higher or other duties or charges" should be made upon them than upon British ships, yet during the entire life of that treaty no American ship has entered a British port on the same terms as a British coastwise vessel, and we have never made the contention that the treaty was violated. As an illustration of this difference existing to-day, at the port of Bristol British coastwise vessels pay 19 or 20 cents entrance and clearance, while American vessels pay 56 cents entrance and clearance, and the same general difference obtains at other English ports. The treaty which I am quoting also provided that no "higher or other duties or charges" should be made upon British than upon American vessels in American ports, and yet there never has been a British ship admitted to an American port on the same terms as our American coastwise shipping. There has been, as far as I know, no complaint that the treaty has ever been violated, and in the frequently quoted case of Olson against Smith, Mr. Justice White disposed of the contention that British ships were entitled to the same terms as American coastwise vessels by declaring that there was no merit in the contention; that the treaty to which reference is being made did not in any sense place British ships engaged in a foreign trade on the same footing with the coastwise vessels of this country. (Olson *v.* Smith, 195 U. S., 344.)

Article 3 of the Hay-Pauncefote treaty of 1901 reads as follows:

> The United States adopts as the basis of neutralization of such ship canal the following rules, substantially as embodied in the convention of Constantinople, signed the 28th of October, 1888, for the free navigation of the Suez Canal, that is to say.

In the original Hay-Pauncefote treaty of 1900 the phraseology was very different. It read:

> The high contracting parties—
>
> Meaning Great Britain and the United States—
>
> adopt the following rules.

It seems to me that this change in phraseology is very significant. The Senate refused to approve the language which made Great Britain one of the parties to provide regulations and rules for the government of the canal, evidently claiming that, as we were building the canal and as we had established a tariff of $1.20 a net ton, incomparably cheaper, taking into consideration the cost of the enterprise, than the prevailing rates through the Suez Canal, that the United States should make the rules governing the conduct of the canal and not permit another nation which had no interest in any of the expenditures to join in so doing.

Now, article 3 goes on to say:

> The canal shall be free and open to the vessels of commerce and of war of all nations observing these rules on terms of entire equality, so that there shall be no discrimination against any such nation, or its citizens or subjects, in respect of the conditions or charges of traffic or otherwise. Such conditions and charges of traffic shall be just and equitable

The whole contention in this situation is the words "all nations." If the words "all other nations" had been used there would be no case for us to consider. We might at once forget the interest which the railroads, the coastwise shipping, foreign nations, and all others affected by the building of the canal have, because there would be no question raised as to our right to take such action in this matter as we saw fit. It must be remembered that it is the United States that is making these rules, and I believe that when it says "all nations" it means "all other nations," and does not include itself in that category. We are the owners of the canal; we are opening the canal to the commerce of the world, charging for its use a just, reasonable, and proper rate; we are to charge under this rule the same rate to all nations; we are to keep the canal open under all conditions, not only to commerce but to vessels of war, and we are stating the terms under which commerce can use our property.

It should also be noticed that the language relating to this rule says:

> The vessels of commerce and war of all nations observing these rules—

Does anyone contend that we would make rules to admit our own ships to our own canal and compel them to observe rules applicable to others in time of war? Of course, any such proposition is absolutely untenable if not ridiculous. Neither is it sound to say that ships shall be admitted which agree to observe the rules. That language was rejected by the Senate, and it is now specifically stated that it admits ships which observe the rules rather than those agreeing to do so.

It is said—and I believe correctly stated—that the sentence—

> Such conditions and charges of traffic shall be just and equitable—

was added at the instance of the British negotiators; at least, it was not in the first draft of the treaty; but it is now contended that British ships were to be given the same terms as American ships. If that is true, why should it be desirable to stipulate that they should receive just and equitable treatment? It would seem that the proposer of that sentence believed that the just and equitable treatment applied to ships of all nations other than the United States and that the United States had full power to accord such treatment as seemed best. Certainly it—the United States—would not be likely to accord treatment to its own shipping which was not just and equitable.

Mr. Olney has pointed out in his discussion of this question that a nation can never lose its sovereignty except by express and specific language, and that this principle was enforced by The Hague Court in the North Atlantic Fisheries Arbitration against the United States.

Those who favor the repeal bill have frequently assented to the version of the treaty to the effect that we had a right to let our vessels go through the canal free, but that it is impolitic to do so; that we have certain rights in our relations with our neighbors, but that we do not exercise those rights because they would injure our neighbor by so doing, and the Senator from Mississippi the other day quoted Burke in saying:

> If I am the owner of sheep, I have the right to shear my sheep in winter; but I do not do it merely because I have the right.

I fail to see how that is comparable with this situation. If we exempt our coastwise ships from paying tolls, we are not harming Great Britain by so doing, because the toll which Great Britain is paying is reasonable and is not sufficient to maintain the canal in any case. If we prefer to make up a deficiency in operating the canal in one way rather than another, that is the business of the United States. Neither would we be harming ourselves by so doing necessarily, as in the case of shearing the sheep in winter, because we may decide that the maintenance of shipbuilding industries and of an active coastwise fleet which may be used in time of war for auxiliary purposes is preferable to requiring the payment of tolls.

In his address delivered by the President to Congress March 5, 1914, he uses this language:

> * * * and we are too big, too powerful, too self-respecting a Nation to interpret with a too strained or refined reading the words of our own promises.

Does not this language apply with equal force to Great Britain? We are the two great English-speaking nations; for every reason we should act sympathetically in such matters of international importance. There are many reasons why our people are in keen sympathy with those living under the British flag. There should be no question raised by either which is going to

be seriously detrimental to the interests of the other, unless there is some large principle involved or some great interest jeopardized if such question is not raised.

Now, what are the demands of Great Britain in this instance? They are three in number: First, that no tolls are to be levied upon ships engaged in the coastwise trade of the United States; second, that we have exempted the vessels of the Republic of Panama from paying tolls; third, that a discretion is given the President of the United States to discriminate in fixing tolls in favor of ships belonging to the United States and its citizens. The reason given for making this protest is essentially a selfish one, namely, that if such policy is carried out it may increase the proportional charge which other ships will have to pay in using the canal. Is this a broad and generous ground for Great Britain to take? Is it not true that even including our coastwise shipping the ships of Great Britain will make five times as much use of the canal as the ships of our country? Is there any contention that the rate fixed for tonnage is an unfair or unreasonable one? Is it not true that the maintenance of the canal will under any circumstances cost twice as much as the tolls which will be received? I think there will be no question as to the soundness of these statements. I contend that there is no good, valid, broad reason for Great Britain injecting these technical contentions into this subject.

Looking at this whole question from the broad viewpoint of international comity, we are in far the stronger position, because we have made all the sacrifices in the past and are going to make all the sacrifices in the future which have been made or will be made in connection with the building and operation of this canal. We are not in a position to make a large use of its facilities, and this is entirely limited to our own citizens trading with our own citizens. This does not concern Great Britain or any other country, and therefore it seems to me that the position taken by our former partner is not only extremely technical but is ungenerous and unwise.

Congress is acting as a trustee for the American people, as it does in treating all international subjects. A trustee should invariably deal honorably and justly, but he has no right to be generous, as the President suggests we should be in this case. Even if the question of generosity should enter into this controversy by whom should the generosity be shown—to the United States by Great Britain or to Great Britain by the United States? It was not originally contemplated that our Government would furnish the money to build the canal, which we have done. No one dreamed that we would pay Panama $10,000,000 and make other valuable concessions to purchase the canal strip so that the canal would be constructed through our own instead of through foreign territory. It was not supposed that we would pay the French company $40,000,000 for a quitclaim deed to their rights, and no consideration had been given to the claim which Colombia might have for a large money consideration and other concessions for a relinquishment of the claim of that country to the Panama territory. It is true that this last question has not been settled, but it probably is a fact that a considerable payment will necessarily be made in order to do justice to that country. I doubt even if it was contemplated that the canal would be fortified, and certainly no thought was given to the possibility that this country was to assume the expense of erecting fortifications, manning them, and maintaining them for all time. In addition to these sacrifices which we have made is the necessity to maintain a health standard which will in itself facilitate commerce and furnish the shipping of the world facilities to promptly replenish their supplies, thereby not only making the canal a transit from one ocean to another, but in effect a depot of such general character that every condition met in seafaring life may be readily supplied.

The small point raised that we give the vessels of Panama free transit through the canal can not be now or in the future of any importance, because it is not likely that the vessels of that Republic will cut any figure in the commerce of the world. Neither is there any probability that the President will make use of the privilege which is given him to charge discriminatory duties in favor of our ships engaged in the foreign trade, although he would be amply justified in giving them the equal benefits which the ships of the various nations have or will have in the amount of subsidies which they receive in some form from their own governments. The longer I consider this question the greater grows my amazement that the English Government, dependent as they are to a great degree on the good will and cooperation of our people, should have assumed such a narrow, technical, and unwise position. We do not know what is going to develop in the future. We see a treaty which seems to be applicable to conditions at one time absolutely inapplicable at another. Some day we may be engaged in a great war. We are sure to have many perplexing problems develop from time to time, and I maintain that, in the first place, we are not in honor bound to grant the concessions demanded by Great Britain; that there is nothing in the treaty which compels our doing so, and that there is nothing in the economical situation or the great international question which may develop in the future which warrants our doing so.

The President has said that he does not know how to deal with questions of greater delicacy and greater importance in our foreign relations. I do not know what these questions are. If he refers to the Mexican question, nothing we can do in the Canal Zone will affect the inextricable confusion which exists there to-day. That is beyond redemption. If there are other political complications, I have not heard of them, and they should be submitted to those who are to pass on this question before they are given consideration.

I have no disposition to indulge in that rather harmless but common practice of making the eagle scream. Our strength with other nations will not, in my opinion, depend on making unnecessary concessions harmful to our own interests. We have been continuing for many years a policy relating to our shipbuilding industry and shipping interests generally which is a reflection on our intelligence and foresight as a Nation. It would seem as if we were at the lowest stage possible in this course, and yet there are two other steps which might be taken which would wipe out effectually and finally every vestige of what is left of our merchant marine. The first step would be to pass this bill, certainly preventing any possibility of our developing a foreign commerce under our own flag unless we pay large subsidies for so doing, and the other would be to adopt a provision, which has some if not many supporters, to remove the restrictions which we have allowed our coastwise shipping since the adoption of the Constitution, a course which has been pretty consistently followed, as I have pointed out, by all other nations. Under conditions as they exist to-day the removal of the restriction limiting coastwise shipping to our own ships would in a few years effectually wipe out every vestige of shipping which we have on the high seas. I am not prepared to take that step; I am not prepared to take any of the steps which are proposed in this bill. The longer I consider it the more insistent I feel that it is most inadvisable, and when the American people understand it I feel sure that they will vigorously resent the action which the Senate seems likely to take.

Mr. O'GORMAN. I ask unanimous consent that the Panama Canal tolls bill be temporarily laid aside.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

ADJOURNMENT OVER DECORATION DAY.

Mr. KERN. I move that when the Senate adjourns to-day it adjourn until Monday next at 11 o'clock in the forenoon.

The motion was agreed to.

NAVAL APPROPRIATIONS.

Mr. THORNTON. I ask unanimous consent that the naval appropriation bill be placed before the Senate for consideration.

There being no objection, the Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 14034) making appropriations for the naval service for the fiscal year ending June 30, 1915, and for other purposes.

The PRESIDING OFFICER. The pending amendment will be stated.

The SECRETARY. The pending amendment is the amendment of the committee passed over on page 56 at the instance of Mr. O'GORMAN. The committee proposes, beginning on line 20, page 56, with the word "One," to strike out down to and including line 4, on page 57, as follows:

> One of the battleships hereby authorized shall be built and constructed at a Government navy yard; and the Secretary of the Navy is hereby authorized to equip such navy yard as he may designate in which the battleship herein authorized is to be built with the necessary building slips and equipment; and the sum of $200,000, or such part thereof as may be necessary, is hereby appropriated for the navy yard designated by the Secretary of the Navy in which the battleship is to be constructed.

Mr. THORNTON. Mr. President, the object of the committee was not to absolutely restrict the Navy Department in the matter of the place of building the two battleships provided for in the bill. The object of the amendment intended to be proposed by the Senator from New York [Mr. O'GORMAN] is very clearly to force the department to build one of these ships in a Government navy yard.

I think that we all admit the necessity of maintaining the Government navy yards, and I am sure that the department fully recognizes that necessity. I am morally sure if the committee amendment is allowed to stand and the Secretary of the Navy is unhampered in the matter, that one of those ships will be built in a Government navy yard; but if the amend-

ment prevails it may be, while one of the ships may be built in a Government navy yard, it will be at a very much greater expense to the Government than it would be if the committee amendment is allowed to stand, for then the Government would have absolutely no discretion. The navy yard could bid up to the full amount and the department would be forced to accept the bid.

This is simply in the interest of giving the Government a fair show in the matter, so that it will not be at the mercy of the Government navy yard to exact all that it can on account of the fact of there being no competition whatever between the Government navy yard and a private navy yard.

I repeat, the department wishes to see the Government navy yards maintained; there is no desire at all on the part of the department any more than there is on the part of the Naval Affairs Committee to starve out any of the Government navy yards. On the contrary, we recognize the necessity for maintaining those yards, but at the same time the committee does not think that the navy yard ought to be put in the position of being allowed to exact more than it should have, which it will have the power of doing if this amendment is stricken out, but which it will not have the power of doing if this amendment of the committee is allowed to remain.

Mr. WILLIAMS. Does the Senator from Louisiana not refer to the private shipyards?

Mr. THORNTON. No, sir; I did not mean the private shipyards. I meant exactly what I said. Mr. President, I will repeat the proposition, as the Senator from Mississippi does not seem to have understood me. The proposition is simply that if the committee amendment is allowed to remain the department is not forced to build one of those ships in a Government navy yard; but if the amendment intended to be proposed by the Senator from New York prevails, the Government will be forced to do so. Therefore the Government navy yard could exact a much greater price for the work than it could if there were competition between it and a private navy yard. I have no doubt that one of these ships will be built in a Government navy yard if the committee amendment stands, but I also have no doubt that if the amendment is rejected and if the amendment intended to be proposed by the Senator from New York is adopted, that the ship will be built at a much greater expense to the Government than it otherwise would be.

Mr. O'GORMAN. The distinguished Senator from Louisiana [Mr. THORNTON] did not intend it, but one would get the impression from his remarks that the Government, in relation to its own navy yards, stands in the same position it occupies in relation to the private shipyards of the country. I can not see the force of the suggestion that the Government will be at the mercy of its own shipyards. It is a contradiction in terms. The navy yards are part of the Government.

I shall offer an amendment which will perpetuate in this bill a plan that has been in vogue during some few sessions of Congress, and which has had the approval of the country, and that is, where two battleships are to be built, one of the two shall be built in a Government yard. There are many reasons why that should be so.

Mr. BRISTOW. Mr. President——

The VICE PRESIDENT. Does the Senator from New York yield to the Senator from Kansas?

Mr. O'GORMAN. I do.

Mr. BRISTOW. Does not the bill as it came from the other House make such provision?

Mr. O'GORMAN. Not exactly. I will state what the provision is.

Mr. BRISTOW. I wish to understand the provision.

Mr. O'GORMAN. The bill as it comes from the other House provides:

> One of the battleships hereby authorized shall be built and constructed at a Government navy yard—

If it stopped there, it would be quite satisfactory, but it continues—

> and the Secretary of the Navy is hereby authorized to equip such navy yard as he may designate in which the battleship herein authorized is to be built with the necessary building slips and equipment; and the sum of $200,000, or such part thereof as may be necessary, is hereby appropriated for the navy yard designated by the Secretary of the Navy in which the battleship is to be constructed.

There is but one Government navy yard at the present time equipped to construct a battleship; that is the Brooklyn Navy Yard, which represents an expenditure of public moneys of $40,000,000. There are some other yards. There is one at Norfolk, Va.; there is one in Pennsylvania; there is one on the Pacific coast, where, with an equipment which would cost not $200,000, but probably $600,000, a modern battleship could be constructed. I imagine that the inspiration of this provision as found in the House bill is that Representatives interested in some of these navy yards which are not now equipped to build a battleship, supposed that the Secretary of the Navy might be induced to designate one of these other navy yards—as he might under the House provision—as the navy yard where one of these battleships would be constructed. In that connection there is this proposed appropriation of $200,000; and the best judgment available, the only information that has come to me, is that if one of those yards were selected and the $200,000 placed in the yard for the purpose of equipping it, it would be but a short time before representations would be made to the Navy Department, and then to Congress, asking additional appropriations, aggregating altogether $600,000, before any other Government yard in this country would be equipped to build a battleship.

One reason that may be offered why the provision of the House bill, which reads—

> One of the battleships hereby authorized shall be built and constructed at a Government navy yard—

should not be retained by itself is that at the Brooklyn Navy Yard there is at the present time in course of construction a battleship. The keel of that battleship was laid on the 16th of March last. I was present at the ceremony, and I heard the commandant of the navy yard declare that the construction of that battleship, known as No. 39, would be a record breaker, and that in 10 months it would be turned out of the yard completed. Ten months from the 16th of March would be the 16th of January, 1915.

It will be claimed, I imagine, before this discussion concludes, that if this provision remains as I ask to have it remain, it will involve some delay in the construction of one of the two battleships provided for by this bill; but from information which I have received from officers of the Navy Department, if any delay whatever is involved, it can not exceed three months. The Secretary of the Navy himself said to me that the delay, whatever it is, will not be appreciable; and by the time the plans are completed and the contracts let probably seven or eight months will elapse; so that, in any event, it would involve a delay of but one or two or, at the outside, three months before the construction of the proposed new battleship could be commenced in the Brooklyn Navy Yard.

What are some of the advantages of supporting the one fully equipped navy yard that we possess? As I have said, the Brooklyn Navy Yard represents a governmental expenditure of $40,000,000. The one battleship now being constructed there will be finished probably in January of next year. They have a force of men, aggregating, I think, from three to four thousand, especially qualified, skilled, and equipped for this employment. If there is no other battleship to be constructed, as soon as No. 39, now on the ways, is completed, that force must disband. As was repeated here so often yesterday, and as I have heard the Secretary of the Navy declare, our Government navy yards are part of our national defense. They must be maintained, and they ought to be maintained, at a high standard of efficiency. How can you maintain a high standard of efficiency in the one great navy yard which the Government owns if you will allow legislation on the naval bill to work a discontinuance of the activity in this yard? As I have said, there is a force there now of three or four thousand men, who are as well equipped for this work as men in any part of the known world; and it ought to be the policy, it seems to me, of Congress to arrange to have a new battleship built in that yard just as soon as the one which is now under construction there is completed.

There are interests in this country which look with disfavor upon the building of battleships in our own navy yards. It is sometimes stated that it costs more to build a battleship in our own yards than in private yards. I heard it stated in the Naval Committee but a day or two ago by the distinguished chairman of the committee, in the presence of all the members, that there was a time not many years back when the private shipbuilding interests of the country had sufficient influence with respect to legislation and with respect to the conduct of public departments to make it appear by a fictitious and erroneous system of bookkeeping that a ship built in a Government yard was far more expensive to the Government than a ship built in a private yard. Not many years ago it required from five to six years in a private yard to turn out a battleship, a dreadnaught. The shortest period in which a battleship was ever constructed was the period taken by the Brooklyn Navy Yard in the construction of the battleship *New York*, which was completed in five months' less time than her sister ship, the *Texas*, constructed in the private yard at Newport News, where I am told that four battleships can be constructed at one time.

One great advantage of encouraging our own yards is not only to keep a sufficient equipment of skilled labor ready at any time

to be at the service of the Navy, but it also operates as a regulation on the charges imposed by the private builders of ships. I think, Mr. President, that the best interests of the service and the best interests of the American people will be promoted by incorporating in this bill a provision, substantially similar to the provision which has found a place in like bills during the last six years, that wherever two ships are built, one shall be built in a Government yard.

I submit this amendment to the Senate committee amendment. I may say in this connection that, although a member of the Naval Committee, I was unavoidably detained by the session of the Senate on the day when this particular matter was receiving the attention of the committee and I did not have the opportunity at that time, of which I now avail myself, to present the merits of the suggestion which I now offer to the Senate.

The VICE PRESIDENT. The Secretary will state the amendment offered by the Senator from New York to the amendment reported by the committee.

The SECRETARY. On page 56, beginning at line 20, it is proposed to amend the amendment reported by the committee by retaining the words:

One of the battleships hereby authorized shall be built and constructed at a Government navy yard.

Mr. SWANSON. Mr. President, I will endeavor to state to the Senate in a very succinct manner the issue involved in the amendment presented by the Senator from New York.

This bill provides for the construction of two battleships. The department recommends that it shall have the option that is carried in the bill reported by the Committee on Naval Affairs of the Senate of building these ships either in a private yard or in a Government yard, as it may see proper. The committee of the House, after hearing the matter fully, reported the bill, leaving this option to the Government, as desired. In the House the amendment which the Senate committee, following the action of the Committee on Naval Affairs of the House and the recommendation of the department, left out of the bill, was put on the bill after a very strenuous fight on the part of Members in the House of Representatives.

The amendment of the Senator from New York, if adopted, would compel the Government to build one of the battleships in the Brooklyn Navy Yard. If that amendment prevails, it will be impossible for any other navy yard anywhere in the country to make estimates for or to have the privilege of building one of the battleships provided for. Consequently, the question for the Senate to determine is whether, against the protest—I will not say "protest"—but against the recommendation of the department and against the recommendation of the Naval Committee of the House and against the recommendation of the Naval Committee of the Senate, we shall build one of the battleships proposed to be authorized in the Brooklyn Navy Yard.

I want it distinctly understood that if the bill prevails as reported from the committee it is optional with the Government to build a battleship in a Government yard or not, as it sees fit. If the battleship can be completed in time, and if it can be constructed at a reasonable price, the department will have the authority under the bill as reported by the Senate to construct a battleship in the Government navy yard at Brooklyn or elsewhere, as it thinks the best interests of the Government may require. The amendment proposed by the Senator from New York is simply an effort to force the department, against its judgment, against the judgment of the Naval Committee of the House, and against the judgment of the Naval Committee of the Senate, to build one of the battleships to be authorized in the Brooklyn Navy Yard. That is the issue presented to the Senate.

Mr. WEST. Mr. President, is the Government to be forced to construct one battleship in the Brooklyn Navy Yard regardless of what it will cost the Government?

Mr. SWANSON. Regardless of what it will cost, because in the case of a ship constructed in a Government yard only estimates are made. When you start to build a ship in a Government navy yard, if you appropriate $7,800,000 for the construction of the ship and the cost runs up to eight or nine million dollars, the department is compelled to come back to Congress with a deficit and ask for a further appropriation.

Mr. THOMAS. Mr. President, I should like to inquire of the Senator from Virginia whether, in his opinion, either one of these battleships can or will be constructed anywhere for $7,800,000?

Mr. SWANSON. When battleships are constructed by private yards under bids the yard is required to construct the ship at the price for which the contract is let. The Government makes its specifications, bids are called for, and, when accepted, the cost of the ship can not exceed the amount provided for in the appropriation, because the ship is constructed under a contract calling for a sum not in excess of the amount appropriated.

Mr. TILLMAN. The amount appropriated in the pending bill provides for the hull alone, and not for any armor or armament.

Mr. SWANSON. As the Senator from South Carolina states, the appropriation contemplates the construction of the hull alone, and does not provide for armor or armament.

Mr. O'GORMAN. Mr. President——

The VICE PRESIDENT. Does the Senator from Virginia yield to the Senator from New York?

Mr. SWANSON. I do.

Mr. O'GORMAN. Answering the question of the Senator from Georgia [Mr. WEST], I desire to say that just preceding the paragraph that I desire to have retained in the bill there is a provision that two first-class battleships shall be built, to cost, exclusive of armor and armament, not to exceed $7,800,000 each; so that in no event, whether the ships be constructed at a Government navy yard or by private enterprise, can more than that amount be expended for a ship.

Mr. SWANSON. Mr. President, that is the limit of cost. If the ship is constructed under contract, the contractors will be compelled to build it at the contract price; but if the Government proceeds to build it at a Government navy yard, then it is built on an estimate, and if the price runs up to eight million or nine or ten million dollars the Government will be compelled to appropriate the money to complete the ship. That is because there is no fixed and determined contract price in the case of a ship constructed at a Government yard, but the yard simply makes an estimate, and that estimate may be exceeded.

Mr. MARTIN of Virginia. I will say to the Senator that was so in the case of the battleship *New York*.

Mr. SWANSON. That has been the case with one of the ships built in the Government navy yards. I believe the Government ought to have navy yards capable of building ships in order to compel private shipbuilders to build for the Government at reasonable, fair, and just prices. I think some of the other navy yards in the country should also be equipped to compete with the Brooklyn Navy Yard.

Mr. President, let us see the reason why the Secretary of the Navy and why the Naval Committee of the House and the Naval Committee of the Senate have said it is unwise to enact this compulsory provision here at this time. The Secretary wrote a letter to Mr. PADGETT, chairman of the Naval Committee of the House, as follows:

MAY 5, 1914.

Hon. LEMUEL P. PADGETT,
Chairman Committee on Naval Affairs,
House of Representatives.

MY DEAR MR. PADGETT: As you will see by the inclosed memorandum—

Which I shall read to you later—

the technical bureaus disapprove the building of a battleship either at New York or Mare Island out of the coming appropriation. This simply means that we are not yet prepared to do what I would wish. Next year it would look more propitious. New York will have launched No. 39, and without further expense we could start another battleship; this year is too soon.

* * * * * * *

In any event, I hope you will be able to leave the department to act as may be best, with only the usual legislation defining the placing of all building in navy yards in the event of a combination.

Very sincerely, yours,

JOSEPHUS DANIELS.

That is the request of the Secretary of the Navy that it shall be left optional with him whether this battleship shall be built in a navy yard or by private contract. Here is the memorandum showing that it should not be required that a battleship should be built at the Brooklyn Navy Yard.

The following questions are asked and answered:

What delay would it occasion if one of the new battleships were ordered built at the New York Navy Yard?

That is a question that was asked the department.

Here is the delay in connection with the hull:

Hull: The keel of battleship No. 39 was laid March 16, 1914. The average elapsed time between laying of the keel and launching, in the case of the last six battleships, is about 15 months. Since battleship 39 is considerably larger than either of those ships it will probably require at least 15½ months from the date of laying keel until date of launching; that brings her date of launching about July 1, 1915. If battleship No. 40 or 41 is to be built at New York Navy Yard, this would place the earliest date of laying of her keel about July 15, 1915. The plans and specifications for battleship 40 and battleship 41 will be ready for advertisement about August 1, 1914; opening of bids about October 1, 1914; placing of contract about October 15, 1914. If one of these vessels is to be built at the New York yard, the keel should be laid by March, 1915. It is probable, therefore, that there would be a delay of at least 4 months on this score—in the case of the new battleship. The New York yard is not equipped with draftsmen and other facilities for the rapid designing of details for two battleships of somewhat different design, even though one be at a considerably advanced state of construction.

That is for the hull. Now for the machinery:

It is estimated that a delay of about one year would result so far as the machinery is concerned.

If this ship is required to be built in the Brooklyn Navy Yard, there is no use in making the appropriation for it this year. We will meet here in December. If there is a delay of a year in the machinery and of at least six months in the construction of the hull, it is useless to make an appropriation for this battleship and wait a year in order that the Brooklyn Navy Yard may get this contract.

With that condition and the fact that the navy yard at Brooklyn is now working to its full capacity, and will be so working until the 15th of July, according to the memorandum furnished the committee by the Secretary of the Navy, there is no occasion for holding up this work for the Brooklyn Navy Yard. Congress will meet in December. Another appropriation for a battleship will be made then, and this question of compelling one to be built in a navy yard can be properly brought before the Senate at that time.

Mr. O'GORMAN. Mr. President——

The VICE PRESIDENT. Does the Senator from Virginia yield to the Senator from New York?

Mr. SWANSON. I do.

Mr. O'GORMAN. The Senator states that there is no need of holding up this work at the Brooklyn Navy Yard. I should like to ask whether there is any particular reason why these ships should go to the Newport News Ship Building Co., a private trust?

Mr. SWANSON. I will say that it is not a trust, Mr. President. There are nine shipbuilding yards in this country. The contract is given to the lowest bidder at the lowest cost to the Government. I see no reason why one trust, the Government shipbuilding trust at Brooklyn, should be given all of this work. Whether it is a Government trust or any other trust it does not deserve to be supported more than any other.

There is no reason why work all over this country should be suspended, and the use of the battleship delayed, in order that the one governmental trust in the construction of battleships shall have work a year from now. That is the proposition of the Senator. If he is antagonizing trusts, why does he insist on keeping the Brooklyn yard a shipbuilding trust?

Mr. O'GORMAN. Mr. President—

The VICE PRESIDENT. Does the Senator from Virginia yield to the Senator from New York?

Mr. SWANSON. I do.

Mr. O'GORMAN. Does the Senator consider that the Government of the United States is a shipbuilding trust because one of its navy yards is so equipped that it can build a battleship?

Mr. SWANSON. If it has but one yard that can build a battleship, and can make only one estimate for it, then, so far as Government construction of ships is concerned, the Brooklyn yard is a Government monopoly in shipbuilding.

Mr. WARREN. Mr. President, will the Senator explain the difference between the Government being a trust when it comes to shipbuilding and the Government being a trust when it comes to making powder? I remember the Senator's remarks of yesterday, in which he thought the Government ought to have a monopoly when it came to making powder.

Mr. SWANSON. I will explain that to the Senator if he wishes me to do so. There are certain things for which the Government is the only possible customer. Smokeless powder for the Army and Navy is made for no other customer than the Government. No other people use it except the Government.

Mr. WARREN. What about battleships, then?

Mr. SWANSON. I will come to that. Consequently a plant equipped to make smokeless powder or a plant equipped to make armor is equipped for one purpose only, to make powder or armor for the Government. In the construction of ships, however, with all of their various ramifications, a shipyard can build small ships and large ships; and the yards that are in this business have more outside business than they have for the Government.

An armor plant has no customer except the Government. A smokeless-powder plant has no customer except the Government. In the case of a shipbuilding plant, however, the Government work forms only a small part of the business done by it. The reason why private plants generally have been able to build ships cheaper than the Government shipyards has been because they do other business and keep their forces together, and the expense is distributed over both governmental work and private work, but in the armor plant and the smokeless-powder plant all expenses of every kind and character are charged up to the Government. It is not so in private shipyards. That is one reason why the private shipyards have built ships cheaper than the Government yards.

I have here a statement showing that the *Connecticut* cost $374,000 more than the *Louisiana*, a sister ship built by contract.

The *Florida* cost $2,269,000 more than the *Utah*, a sister ship built by contract.

The *Jupiter* cost $590,000 more than the *Cyclops*, a sister ship built by contract.

The *New York* cost $1,463,000 more than the *Texas*, a sister ship built by contract.

Mr. O'GORMAN. Mr. President——

The VICE PRESIDENT. Does the Senator from Virginia yield to the Senator from New York?

Mr. SWANSON. I will yield in just a moment.

Mr. O'GORMAN. I wish to ask a question with reference to the statement the Senator has just made.

Mr. SWANSON. I will ask to have this statement from the department, contained in a letter written to Representative JONES, included in my remarks. I will not read the names of all the ships that come later.

Mr. REED. What is the date?

Mr. SWANSON. It is in the CONGRESSIONAL RECORD of February 26, 1913.

The VICE PRESIDENT. In the absence of objection, it will be so ordered.

The matter referred to is as follows:

Navy-yard built.	Cost about—	More than—
Connecticut	$374,000	Louisiana, a sister vessel built by contract.
Florida	2,269,000	Utah, a sister vessel built by contract.
Jupiter	590,000	Cyclops, a sister vessel built by contract.
New York	1,463,000	Texas, a sister vessel building by contract.
Cincinnati	770,000	Formal proposals received for their construction.
Raleigh	714,000	
Maine	780,000	Limit of cost inside which it is estimated that vessels could have been contracted for.
Texas	449,000	
Vestal	250,000	The average of informal estimates received from three shipbuilding companies. (See p. 359, Secretary of the Navy's hearing, Jan. 12, 1911.)
Prometheus	140,000	
Total	7,799,000	

Mr. O'GORMAN. Mr. President, with the permission of the Senator from Virginia, I desire to state that the battleships *New York* and *Texas* were built at the same time. They were sister ships. The *New York* was built in a Government yard. The *Texas* was built by the Newport News Shipbuilding Co. Nominally, the *Texas* cost $1,126,000 less than the battleship *New York;* but, according to information which I have received, while the expenditure on the *New York* was nominally $6,956,000, of that amount $1,534,000 represented overhead charges incident to the maintenance of the yard, which should not have been charged against the cost of the construction of that particular ship.

The present bookkeeping system of the Navy Department respecting naval construction is so unfair that the Secretary of the Navy personally requested the committee to give him in this bill authority to revise the system, and so prevent the recurrence of such inaccurate estimates as to the cost of construction of a ship. It will be remembered, however, that the provision went out on a point of order made by the senior Senator from Virginia [Mr. MARTIN] yesterday.

The more costly you make it appear for the Government to construct ships in the navy yards the greater latitude the private shipbuilding interests of the country have in imposing extortionate charges upon the Government.

Mr. SWANSON. Mr. President, in reply to that statement, I will say that the Government now has authority to charge to the construction of a ship what it thinks ought to be charged, in the way of direct and indirect charges. Its bookkeeping determines what ought and what ought not to go to a particular ship. When, however, we make an appropriation for the maintenance of the Brooklyn Navy Yard, if we build a battleship there it costs more to maintain a yard on account of its being there, in clerical hire and in various ways.

What the department wishes is to be able to take money that is appropriated for the construction of battleships and have power to transfer it, if it sees proper, to maintenance and take it off the construction of the ship; that is, to transfer an appropriation that we make for one purpose to another purpose.

This has been the record of the Government in connection with the constructoin of ships in Government yards and in private yards. The fact, though, that the Government can construct battleships, and ought to have the authority to do it, has been potential in making these shipbuilding concerns charge a great deal less for building ships than they otherwise would.

This question is not between a private yard and a Government yard, if the issue is to be precipitated. The question is whether you are going to wait a year and delay the construc-

tion of a battleship a year in order that the Brooklyn Navy Yard may have the privilege of constructing it. That is the only issue here.

If you do not need the battleship; if there is no urgent necessity for it; if there is to be a delay of a year before it shall be available for this country, why appropriate for it this year? The navy yards exist only for the purpose of furnishing ships for the Navy. They have no other purpose in the economy of our Government. Except so far as they may keep ships afloat; except so far as they construct battleships; except so far as they repair battleships; except so far as they can increase the military power of the Government in that respect, they have no use under our system of government. We desire them to answer that purpose. Government navy yards should be created to give cheaper ships and prompter ships. They should not be used as a means to delay the construction of a ship for more than a year.

The Secretary of the Navy asks to have the privilege of constructing the ship either in a navy yard or by private contract, as he sees fit. The Naval Committee of the House concurred in that request. The Naval Committee of the Senate concurred in it. It seems to me there is no reason, either in the saving of money, in the promptness of getting a battleship, or in the necessity for it, why this work should be delayed, as the department says it will be, for a year in the case of the machinery and from four to six months in the case of the hull. I see no reason why the completion of this battleship should be delayed a year in order to permit it to be constructed in the Brooklyn Navy Yard.

So far as work in the Brooklyn Navy Yard is concerned, the Secretary of the Navy says that from the best information he can obtain the ship now under construction there will not be launched before the 15th of July. We always carry at least one battleship in the naval bill. Consequently, when Congress meets in December it will be time to appropriate for another battleship, and then work can be furnished to the Brooklyn Navy Yard. This is what influenced the Secretary of the Navy, the Naval Committee of the House, and the Naval Committee of the Senate.

Mr. O'GORMAN. Mr. President, I suggest the absence of a quorum.

The VICE PRESIDENT. The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Ashurst	Jones	Overman	Thomas
Bryan	Kenyon	Page	Thornton
Burton	Lane	Perkins	Tillman
Catron	Lee, Md.	Poindexter	Vardaman
Chamberlain	Lodge	Pomerene	Walsh
Chilton	Martin, Va.	Reed	Warren
Cummins	Martine, N. J.	Sheppard	Weeks
Gore	Myers	Smith, Ga.	West
Hitchcock	Norris	Smoot	White
James	O'Gorman	Sutherland	Williams
Johnson	Oliver	Swanson	

Mr. WHITE. I wish to announce the absence of my colleague [Mr. BANKHEAD]. He is paired with the junior Senator from West Virginia [Mr. GOFF]. This announcement may continue throughout the day.

The VICE PRESIDENT. Forty-three Senators have answered to the roll call. There is not a quorum present. The Secretary will call the names of absent Senators.

The Secretary called the names of absent Senators, and Mr. BRISTOW, Mr. SHAFROTH, and Mr. SMITH of Maryland answered to their names when called.

Mr. GALLINGER, Mr. LA FOLLETTE, and Mr. HUGHES entered the Chamber and answered to their names.

The VICE PRESIDENT. Forty-nine Senators have answered to the roll call. There is a quorum present. The question is on the amendment proposed by the Senator from New York [Mr. O'GORMAN] to the amendment of the committee.

Mr. O'GORMAN. Mr. President, I desire to say a word in reply to some statements made by the junior Senator from Virginia [Mr. SWANSON].

The Senator states that it will involve a year's delay in the construction of one of these battleships if the bill should require that one of the ships should be built in a navy yard. He is clearly in error in that statement. If this bill were passed immediately, several months would be occupied in drafting drawings and plans. A couple of additional months would be occupied in advertising and receiving bids. It is the judgment of the Secretary of the Navy that moving with the greatest celerity the earliest day upon which the construction of battleships could be commenced would be the 1st of November. As I have stated, the Brooklyn Navy Yard, according to the statement made by the commandant of that yard, will have finished the construction of the battleship now being built there by the 15th of January. So, at the outside, it would involve a delay of about two or two and a half months, and the Secretary of the Navy is himself authority for the statement to me that whatever delay would be involved would be purely negligible, and is entitled to no consideration in passing upon the question before us.

Mr. SWANSON. If the Senator will permit me, I read from the memorandum of the Secretary of the Navy in a letter to the chairman of the House committee.

Mr. O'GORMAN. I am stating now what the Secretary of the Navy stated yesterday morning at the close of a meeting of the Naval Committee in the Capitol.

Mr. SWANSON. In that memorandum he states, if the Senator will permit me, that the delay of the hull will be at least four or possibly six months, and the delay of the machinery will be a year.

Mr. O'GORMAN. I want to say that when the Secretary of the Navy made this statement yesterday he was making it upon the assurance of two experts from his department who were with him.

As I have already stated, the real question involved in this amendment is whether the Newport News Shipbuilding Co., a great shipbuilding trust of the country, is to build these two ships or whether the efficiency of one of our own navy yards is to be maintained at a high standard by having one of the two ships built there. Forty million dollars of the capital of this Government, as I have already stated, is represented in the Brooklyn Navy Yard, and unless there is a direct instruction to the Secretary of the Navy that one of these ships shall be built in a Government navy yard—and there is only one Government navy yard capable of constructing a battleship—you may have that valuable plant idle for months after the completion of battleship 39, which is now in course of construction.

Our navy yards, whether they are equipped to build battleships or other vessels, are a part of our national defense. They have to be maintained at a high standard of efficiency. We should have no legislation which may result in the dismemberment of the plant and the disintegration of the force, because if there should be no battleships to be constructed in the Brooklyn Navy Yard after the present one is completed, the force of three or four thousand of the most skilled mechanics in the world who are there now assembled would be dispersed, and as soon as you weaken the efficiency of your own navy yards you extend every latitude to the private shipbuilders of the country.

In my judgment—and I say it respectfully—the choice which is to be made by the Senate on this amendment is whether you want one of these battleships built in your own navy yard or whether you want both of them to be built by a private company.

One word more before I conclude. It has been already suggested that it costs more to build a ship at a Government navy yard than at a private yard; and that claim can be sustained only by relying upon the concededly erroneous methods of bookkeeping that have prevailed in the Navy Department for many years and that the present Secretary of the Navy is so anxious to change. There is a provision requested by the Secretary which was incorporated in this bill and which went out on a point of order yesterday that would have enabled the Secretary of the Navy to have devised methods and plans by which the actual cost of the construction of a ship could be ascertained without imposing upon the ship the overhead charges which represent the cost of maintenance and which represent the expenses which would be incurred by the Government whether it built a battleship or not.

Mr. OLIVER. Mr. President——

The VICE PRESIDENT. Does the Senator from New York yield to the Senator from Pennsylvania?

Mr. O'GORMAN. I do.

Mr. OLIVER. I would like to ask the Senator from New York whether the overhead charges are not legitimately a part of the cost of the ship. Does the Senator for a moment think that private shipyards get along without any overhead charges, or that they do not include such charges in the cost of their ships when they bid for their construction?

Mr. O'GORMAN. As I understand it, the navy yards, whether they are constructing battleships or not, are a source of expense to the Government. There are certain items of expense which run on whether the yard is occupied or not. That is well illustrated in the supposed cost of the battleship *New York*. It will be remembered that the *New York* and the *Texas* are sister ships. The *Texas* was built by the Newport News Shipbuilding Co.; the *New York* was built in the Brooklyn Navy Yard. According to some figures which have been published, although the *New York* was finished five months

earlier than the *Texas*, yet the cost of the *New York* in the Brooklyn Navy Yard was $1,126,000 in excess of the amount paid for the construction of the *Texas*; but the fact is that the overhead charges in the Brooklyn Navy Yard amounted to $1,534,000 and were charged against the ship, and if those overhead charges were not put upon the ship the actual net cost in the Brooklyn Navy Yard of constructing the battleship *New York* would represent something like $408,000 less than the amount paid the Newport News Shipbuilding Co. for the construction of the *Texas*.

Mr. OLIVER. What I wanted to ascertain from the Senator is this: To properly compare the relative cost of the two ships would you not then have to deduct from the price paid for the *Texas* to the Newport News Shipbuilding Co. the amount of their overhead charges?

Mr. O'GORMAN. No; because the methods pursued are entirely different. The Newport News Co. is a purely commercial enterprise. It is building ships of different kinds at all times and is incurring expense, I presume, only when it has work which justifies the maintenance of the plant——

Mr. OLIVER. Oh, no.

Mr. O'GORMAN. While our navy yards are a part of our national defense and public interest demands that they shall be kept up to the highest state of possible efficiency.

Mr. OLIVER. I understand that very well; but still the private yards have overhead charges just the same as the United States has, and in the same proportion, and if you deduct the overhead charges of one million or so from the cost of the ship built in the Brooklyn Navy Yard you will have to deduct like charges in the cost of the ship built in the Newport News yard. You can not get away from such a conclusion.

Mr. O'GORMAN. May I ask the Senator whether he would give the building of all our battleships to private corporations if in every instance it could be shown that the private shipbuilding company could build them a little cheaper than it would cost the Government to build its own ships?

Mr. OLIVER. No; not necessarily. I do not want to take that stand; but I do say that if the cost is inordinately greater, as has been our experience heretofore, then I would let them by private contract.

When this question was before the Senate two years ago I offered an amendment providing that if the bid of the private yards was a million dollars less than the estimated cost in a navy yard it should be built by private contract. That amendment was voted down. We have been paying entirely too much in our navy yards for the construction of our battleships. In the case of the *Florida* it cost over $2,000,000 more than its sister ship, the *Utah*, and it was by no means as good a job. The United States ship *Florida* went into commission September 15, 1911. The *Utah* went into commission August 31, 1911. The *Utah* was built by private contract at a cost exceeding $2,000,000 less than the *Florida*. The repairs on the *Florida* to date have been $151,175.68. The repairs on the *Utah* have been $95,363.03. Now, it is a simple business proposition, and I would build these ships on business principles; and it is not——

Mr. O'GORMAN. I will say to the Senator that it is purely a business proposition so far as the private building companies are concerned, but with respect to the Government it is more than a business proposition. It is a patriotic proposition. Once dismantle the only shipyard the Government has——

Mr. OLIVER. There is no danger of the Brooklyn yard being dismantled.

Mr. O'GORMAN. I can not yield just now. With the only yard dismantled, with its labor of three or four thousand men dispersed, the Government will have to depend upon the Shipbuilding Trust of this country and accept the prices it will exact for the building of battleships.

Mr. WILLIAMS. Mr. President, it seems to me that both the Senator from New York and the Senate committee are failing to provide for the most vital thing that ought to be provided for, and that is for an additional navy yard in which battleships can be constructed. For us to have in this great country only one navy yard equipped to build a battleship, it seems to me, would be suicidal, almost, in time of war. If we should be so unfortunate as to lose the particular point upon which that one navy yard was situated, it would be almost irreparable during the balance of the war.

I would rather see the provision in the House bill providing that one of the battleships shall be built in a navy yard go out than to see the provision in the House bill which provides for equipping an additional navy yard go out. It seems to me that if we are to build one of the ships in the navy yard we ought at the same time to retain the appropriation for the equipment of an additional navy yard for the construction of battleships, and that if we are not to require the building of one of the battleships in a navy yard, but are to leave it to the discretion of the Secretary of the Navy, we still ought to make provision for an appropriation whereby at least one more navy yard in this country may be equipped to build battleships.

I agree with what the Senator from New York said, to a very large extent. I do not want to dismantle a great Government navy yard which can construct a battleship, and have it when it is required to do more work to go out and gather up the odds and ends of labor that have been discharged and begin to put itself in a situation where it can again work. I do not want that, but I want at least two navy yards in the country equipped for the building of battleships. It would be better if there were still more of which that could be said.

It seems to me the Senator from New York has made a mistake, and if he were going to offer an amendment he should have offered an amendment in the exact language of the House bill. If it be in order, Mr. President, I shall move as a substitute for the amendment offered by the Senator from New York the language of the House bill, which is:

One of the battleships hereby authorized shall be built and constructed at a Government navy yard, and the Secretary of the Navy is hereby authorized to equip an additional navy yard—

I strike out the word "such" and insert the words "an additional" before "navy yard"—

at such place as he may designate, in which the battleship herein authorized is to be built, with the necessary building slips and equipment; and the sum of $200,000, or such part thereof as may be necessary, is hereby appropriated—

And so forth, in the language of the House bill.

Mr. LODGE. Mr. President, I desire to say merely a word on the committee amendment striking out the provision of the House bill. I think that for the welfare of our Navy we need both the private yards and the navy yards. I think it would be a misfortune not to give enough work to our navy yards to insure the maintenance of the organization and reasonably steady employment for the men at those yards. I think it would be a still greater misfortune if by taking the Government work, which is very important, at the navy yards we should cause the private yards to be diminished or go out of business. I think if building ships became a Government monopoly they would probably be as inferior, as the products of a Government monopoly, as the powder that is made in France, which is a Government monopoly, is considered inferior by every other nation. Therefore I think we want to maintain them both.

No. 39 is being built at the Brooklyn yard at this moment. So that yard has already a battleship on the stocks. It happens to be the only yard where we can build a battleship at the present time.

Mr. TILLMAN. The Senator means with present dimensions.

Mr. LODGE. With present dimensions.

Mr. TILLMAN. We could build it at Charleston if the dock were big enough.

Mr. LODGE. We can build ships, of course, of smaller tonnage and less length at other yards, but I mean great battleships, such as are authorized here. If this is to be passed at all, and I hope it will not be, we ought to pass it as the House provided, of course. But I think it is a great mistake in policy to compel the Secretary of the Navy without regard to cost to build a ship in a navy yard. He ought to be in a position to make the Government yards compete for this work with the private yards, and force them to keep their prices down. On page 58 of the bill he is given authority to build every ship authorized in the navy yards if he believes that there is any combination or any disposition to charge too much on the part of the private yards. He is given absolute liberty to build them all in the Government yards, and I do not think we ought to tie his hands and put him in a position where he is to say to the Government yards, "I have got to give this to you. It makes no matter how much you spend, how long a time you take, I have got to put this work there." He ought to be in a position to say to them, "If you can not build a ship with reasonable equality of cost and time with the private yards, you will not get the work." By enforcing competition among the yards he has lowered the price very much on other ships, one of which, a transport, has been sent to Philadelphia and a supply ship to the Boston yard, by making them bid against each other and against private yards. That is the position he ought to be in, a position of real strength. I am not against his building battleships in a navy yard. On the contrary, I think it is a good thing to build a proportion of the battleships in a navy yard; but I think it is a very great mistake in policy to tie his hands and put him at the mercy of the Government yards.

Mr. O'GORMAN. Mr. President——

The VICE PRESIDENT. Does the Senator from Massachusetts yield to the Senator from New York?

Mr. LODGE. I yield.

Mr. O'GORMAN. Is not the Senator aware that a provision similar to the one which is now urged was inserted in the last three or four naval appropriation acts where two battleships were provided for.

Mr. LODGE. I am aware it was inserted, and I think it was a bad provision. I thought so then and I think so still. This House provision is not recommended by the department. It did not come in from the House committee, which is an extremely good committee, with a very able chairman. They did not bring it in. It came in on the floor.

Mr. CUMMINS. May I ask the Senator a question?

The VICE PRESIDENT. Does the Senator from Massachusetts yield to the Senator from Iowa?

Mr. LODGE. I yield.

Mr. CUMMINS. I ask the question purely for information. I was rather led to believe that, in the absence of the language proposed by the House, and which is sought to be stricken out by the Senate committee, the implication would be that the Secretary of the Navy must build the battleships in the navy yards. I ask whether that be not well founded. I call the Senator's attention to the fact that it first provides for the construction of two first-class battleships, and then certain torpedo-boat destroyers, and then certain submarines, and then it proceeds:

Three of the coast-defense submarine torpedo boats herein authorized shall be built on the Pacific coast: *Provided*, That the cost of construction on the Pacific coast does not exceed the cost of construction—

Then it proceeds:

The Secretary of the Navy shall build any of the vessels herein authorized in such navy yards as he may designate, should it—

That is, provided—

should it reasonably appear that the persons, firms, or corporations, or the agents thereof, bidding for the construction of any of said vessels have entered into any combination, agreement, or understanding the effect, object, or purpose of which is to deprive the Government of fair, open, and unrestricted competition in letting contracts for the construction of any of said vessels.

Now, if the Secretary of the Navy should believe that there was no combination among private shipyards that would destroy competition, it seems to me there is here a very clear instruction that he must build these ships in those yards rather than build them in the Government navy yards. I ask the Senator from Massachusetts if that is not a fair implication from the bill as it is now presented?

Mr. LODGE. I had read those provisions that the Senator has read to the Senate. The one he has last read has been in the law for a good while. I think myself, as a matter of practice, that the Secretary of the Navy finds no difficulty under that clause in putting any ship in the navy yard that he wants to; but if it is desired to give him still greater latitude, it is easy enough to modify that so as to give him authority to build in a navy yard in his discretion. I am perfectly willing to do that. What I object to is compelling him to build in a navy yard, so that he has no discretion. I want the Secretary of the Navy to have the discretion that will enable him to get the best ship for the United States for the least money.

Mr. O'GORMAN. Mr. President——

The VICE PRESIDENT. Does the Senator from Massachusetts yield to the Senator from New York?

Mr. LODGE. Certainly.

Mr. O'GORMAN. Will the Senator from Massachusetts state how it is possible for the Government to have its ships constructed at a reasonable rate if the only means of controlling, checking, and regulating prices, namely, a well-equipped navy yard, is dismantled, its force expelled and dispersed?

Mr. LODGE. I am sorry I did not have the attention of the Senator. I began by saying that I was thoroughly in favor of maintaining the navy yards and not of dismantling them, of maintaining their organization, of giving them ships to build. I am entirely in favor of that, as I explicitly stated. I think they ought to have a proportion of the battleships to build. I think their plant and organization ought to be maintained. We are building one battleship at Brooklyn at this moment; we are building a supply ship in Boston; and they are building a transport at Philadelphia. I think that is an excellent thing to do.

What I object to, however, is tying the hands of the Secretary of the Navy so that he has no discretion at all. I want him to have the power to use a private yard in competition and to use the Government navy yard in competition by having the discretion which he exercised in regard to the supply ship. He got competing bids from every navy yard and from every private yard in the country, but the Boston Navy Yard happened to be the one that made the lowest bid. It bid below any of the private yards; it made so low a bid that the department thought at first it was impossible for them to do it; they had the figures all gone over; they made some advance; and then their bid was $100,000 below the lowest private bid. So the department sent the order for the ship to be built there. I think that is good; I think it is good for the yards; I think it keeps up the organization of the yards better than anything else; but they have to feel that they have got to compete and that they have to do their very best. If you have a Government navy yard that is sure to get the work, they, knowing the present situation, that there is only one yard that can do the work, of course they do not have the stimulus for bringing out a vessel as quickly and as cheaply as they would if they felt that they would not get another ship unless they built it at a low price.

I do not want to see the Secretary of the Navy tied up. There is a large body of men employed in each of our navy yards. There is one in my State. I am interested in having those men kept employed; and I think to have steady employment, either of repair or of building, is very important for the navy yards, and ought never to be neglected. We have had too much uncertainty about the employment of navy yards, which has had a tendency to debilitate the organization; but it is also well to remember that there are other large bodies of workingmen, skilled mechanics, who are employed in the other great yards, and I think they are entitled to some consideration. They ought to have an opportunity to get at least some of this work. We have private yards from Maine to Norfolk; some of them very large yards. Those yards have been building ships for years. I think it is a great advantage to the country to have them, and I think they are entitled to some consideration.

Mr. WILLIAMS. Mr. President, I want to ask the Senator from Massachusetts if he does not believe that the bureaucracy or the personnel, or whatever you may call it, in control of one navy yard would really compete with those in control of another navy yard if there were two navy yards that were equipped to build first-class battleships?

Mr. LODGE. There is no question of that, of course.

Mr. WILLIAMS. The esprit du corps in different navy yards would lead them to bring their estimates down to the lowest possible cost, working against one another. Therefore there ought at least to be two navy yards equipped to build these ships.

Mr. LODGE. I entirely agree with the Senator from Mississippi about that. The stimulus which in the last few years has been applied to the navy yards by making them show their construction costs and the time of one navy yard as against another has had a most admirable effect. It was notorious in the old days that the Government yard would take years in building a ship, and that it would cost three or four times as much as it would in a private yard. I refer to the days before the beginning of the construction of the new Navy. They would do what they called "repairing a ship." They would take perhaps one timber of an old ship, retaining its name, perhaps a part of the keel, build a new ship onto it, and call it "repairs." The amount of time and the waste of money when all the work went in that way to the navy yards was deplorable. We have got out of all that; we have got the navy yards competing with each other, and they ought to have their share of the business. I am thoroughly in favor of that. I think it is well to keep up the private yards. What I want is to have the Secretary of the Navy in such position, not that he can not give the construction of ships to the navy yards; I want him to do that; but I do not want to compel him to give the building of ships to the navy yards any more than I want to compel him to give ships for construction to private yards. If it is necessary to modify the clause on the next page so as to give him a larger freedom, I am in favor of doing it.

Mr. O'GORMAN. Mr. President——

The VICE PRESIDENT. Does the Senator from Massachusetts yield to the Senator from New York?

Mr. LODGE. I yield.

Mr. O'GORMAN. Do I understand the Senator from Massachusetts to say in what he describes as "the old days" that any considerable number of ships were then built in Government yards?

Mr. LODGE. Under that system of repairs the first step toward the construction of the new Navy was when Secretary Chandler got through Congress a provision that there should not be more than 20 per cent of the cost of a vessel spent in repairs. That put the old ships out of commission and out of the Navy. The practice had been to take an old, worn-out ship, and, under the head of "repairs," to build a new ship.

Mr. O'GORMAN. My information is that the Government has expended upward of $500,000,000 of public money for ships for the Navy.

Mr. LODGE. Since when?

Mr. O'GORMAN. During its history.

Mr. LODGE. Since the foundation of the Government?

Mr. O'GORMAN. Yes. Of that amount not to exceed $35,000,000 has been expended through the Government navy yards. Therefore, it appears that, with the exception of this comparatively small amount, until within the last couple of years the private shipyards of the country have had a monopoly of the Government's business in the construction of its ships of war.

Mr. LODGE. Mr. President, the case that I have been stating about the old system of repairing and building a new ship under the name of "repairs," I know from personal knowledge existed. I have seen such cases in the Charlestown Navy Yard. I know that to be so, and it was a bad system. That is what sent the work into the private yards when we came to start in on the construction of the new Navy. The reputation of our navy yards for delay and expense, taking years to build a ship, was so bad that the Government turned to private yards as the only way in which the new Navy could be built up. As time has gone on they have developed the navy yards in the right way, and the navy yards are now getting into a position where they can build ships in as quick time as they can be built in private yards and are being brought very close to the same cost. It is for that very reason that I do not want to tie the Secretary to a hard-and-fast rule. I want him to have the opportunity as much as possible to build ships wherever he can get the best ship in the quickest time, and I think if his hands are free he can do that much better than if he is compelled to build a battleship in a particular yard.

Mr. HUGHES. Mr. President, I am in favor of the amendment proposed by the Senator from New York [Mr. O'GORMAN]. This matter presents another angle of the situation that was before the Senate yesterday, when we voted into the bill a proposal to enable, or rather to compel, the Secretary of the Navy, if he expends the money that we intrust to him economically, to have the Government do all of a certain character of work for the United States Navy. For years every naval appropriation bill of which I have any recollection, if passed at a time when it was possible to anticipate the completion of a ship or the launching of a ship from the ways, contained a provision that one battleship of the two provided should be built in a Government yard. This is the first bill in my recollection which has not contained a provision of that sort.

I am in favor, and have been in favor, as I said yesterday, of a certain amount of governmental competition along all these lines.

Mr. LODGE. If the Senator will allow me, the clause of which the Senator speaks is of comparatively recent introduction. If the Senator will look back, he will find that there have been a great many authorizations for naval construction without such a clause.

Mr. HUGHES. I said in recent years; and I am referring to the period covered by my service in the other branch of Congress. I think I can say that for the past 10 or 12 years there has never been a naval appropriation bill passed through the House, when the situation was such that it could be provided that one battleship should be built in a Government yard, which did not contain that language and that direction to the Secretary of the Navy.

We had a lot of trouble with the last Secretary of the Navy in this respect. We had to meet arguments made upon the floor of the House, based upon information furnished by him, which, with all due respect to the gentleman who made the arguments, were absurd. The statement was openly made that each battleship constructed in a Government yard cost between a million and a half and two million dollars more than it would have cost had it been constructed in a private yard. Overhead charges were juggled; and, one instance I remember, when it was boldly asserted that a pump manufactured in a Government yard, which could have been purchased for $200 or $300, cost the Government $1,500. That result was brought about by charging the construction of buildings in various parts of the yard, salaries of officers, and other items of expense that had absolutely nothing to do with the construction of that pump, against that particular piece of work.

A determined effort was made to discredit Government construction of battleships. That effort was met by men just as determined that we should not return to the old system under which private manufacturers held the whip hand over the Government and dictated the prices at which battleships should be constructed and the time of delivery. Whether a ship costs more constructed in a Government yard than in a private yard is a matter of very little consequence to anybody who knows the facts and has an idea of the real difference between the cost of a ship constructed in a private yard and the cost of a ship constructed in a Government yard. The cost does not make very much difference, because it is relatively small; but we do gain in the fact that we compel the private manufacturers to construct our ships for a great deal less comparatively than they constructed them years ago; and we compel them to deliver the ships to us in the same length of time in which they are required to deliver them by other nations for whom they construct battleships. So far as I am concerned, I do not look with favor upon an abandonment of that policy for a single moment.

I want to say to the Senate that my political interests, if they could control me in any way on this question, would cause me to align myself on the other side of it. There is no Government yard in my State; there is no Government yard in which I have any particular interest; there are a few men living in my State who are employed in the Brooklyn Navy Yard, but they are infinitesimal in number and do not make any particular difference to me. On the other hand, one of the biggest private shipyards in the country is located in my State, and they are keen bidders for this class of work and do not think that the Government should go into this business at all. I think it should.

I feel about this proposition very much as I felt about the other. I would not like to see the Government provide sufficient equipment to carry out the entire naval building program each year, thereby discouraging private enterprise, driving private builders engaged in the construction of battleships out of business and leaving the Government dependent entirely upon its own efforts, so that in time of emergency we would not know where to turn. I think the Government should continue and even extend its activities along this particular line. I do not think this bill should be permitted to pass without an instruction to the Secretary of the Navy that one of these ships should be constructed in a Government yard.

The situation in the Brooklyn Navy Yard, which at the present time, in my judgment, is the only navy yard equipped for the construction of battleships of the class provided for in this bill, is such that the Congress can properly and safely direct the Secretary of the Navy to have one of the battleships authorized by the pending measure constructed in some Government yard, and I do not think there is the slightest doubt that it would be constructed in the Brooklyn Navy Yard.

At the time of the laying of the keel of battleship No. 39 the commandant of the yard said that in 10 months she would be off the ways. If that statement is true—and I have no reason to doubt it—there will be a hiatus between the finishing of that ship and the laying down of another, which will cause either one of two things: First, men are not prone to work themselves out of employment; men who see their work coming to an end are likely to "soldier" on the job, as the saying is. That would run up the cost of the maintenance of the yard and the cost of the construction upon which they are already engaged. On the other hand, if the organization of the Brooklyn Navy Yard know that by speeding up their work and by advancing the construction of the ship now building there they will get a chance at a new ship, so that there will be no hiatus between the construction of one and the laying down of another, it will be an incentive to them to give the Government their very best efforts, and it may well be that the fact that this new ship would follow so closely upon the heels of its predecessor would result in an enormous saving to the Government.

Senators constantly say, and have been saying for a great many years, that there is a vast difference between the cost of governmental construction and the cost of private construction. I am glad to know that the Secretary of the Navy is investigating that very question, and when it is investigated and the results of a fair investigation are laid before Congress I am convinced that a great many gentlemen will be surprised by the small difference that will be shown to exist between governmental and private construction. When we arrive at a fair basis of fixing overhead charges, when we have a system that will honestly attempt to place upon each piece of governmental construction the overhead charges which naturally belong on that piece of construction, it will no longer be possible for instances to occur such as the one I referred to a while ago, where it was calmly announced that it had cost the Government $1,500 to build a pump when it could have gone out on the market and purchased the pump at from two to three hundred dollars; it will no longer be possible to construct new buildings at a cost of hundreds of thousands of dollars at the Brooklyn Navy Yard or any other navy yard, and charge the cost of the new construction up against a battleship that has left the ways.

This proposal of the Senator from New York, in my judgment, is simply a continuation of a policy that was forced upon the last Secretary of the Navy and the last administration. I do not remember that any committee on either side has ever voluntarily put in the bill a proposal that a ship should be con-

structed at a Government yard. Not only in this case was it put in upon the floor of the House, but in almost every other case, because the Secretaries of the Navy in the past have been unfriendly to governmental construction, and the friends of governmental construction have been the Members of the House and the Members of the Senate.

I do not like to see this policy abandoned. I do not pretend to say that the present Secretary of the Navy is unfriendly to governmental construction; but in so many different ways has it been attempted to favor private shipyards and to discredit, criticize, and blame governmental construction, that I think Congress should write into this bill, in the language that it has written into practically every other bill that I can remember, whenever two ships were to be constructed and it was possible to lay down one of them in a Government yard, that the Secretary of the Navy should continue the policy that we forced upon them in the past.

Mr. LODGE. Mr. President, I desire to say just a word about the antiquity of this policy.

This clause appears in the act of 1913. In the act of 1912 it is provided that—

> The Secretary of the Navy may build any or all of the vessels authorized in this act in such navy yards as he may designate, and shall build any of the vessels herein authorized in such navy yards as he may designate, should it reasonably appear—

And so forth. He is given full liberty. He is not compelled.

Mr. HUGHES. Mr. President——

Mr. LODGE. Wait a moment.

In the act of 1911 there is no such provision. In the act of 1910 it is left at his option to build.

Mr. HUGHES. Mr. President, that may very well be.

Mr. LODGE. What I mean is that this clause compelling him to build a ship in a navy yard occurs in just one act before.

Mr. HUGHES. No; the Senator must be mistaken about that.

Mr. LODGE. I am not. I have the acts before me.

Mr. HUGHES. The Senator refers to the last two or three acts?

Mr. LODGE. No; it was not in the last two or three acts; it was only in the last act.

Mr. HUGHES. This language never has been put into a bill unless there was a yard which could accommodate a ship; but where Congress has been called upon to pass a bill, and the situation permitted a Government yard taking one of those ships, the language, according to my recollection, has always been put in the bill.

Mr. LODGE. The Senator's recollection is at fault. The language of which the Senator is speaking, and which is in this bill, occurs, so far as I have been informed, in just one bill, and that is the bill of last year.

I will go back further. In 1909 there is nothing. I can carry it back all the way, if desired.

Mr. HUGHES. The Senator does not mean to state, does he, that there was no language in any of these bills providing that the Secretary of the Navy should build certain ships at certain yards?

Mr. LODGE. In just one act is he compelled to do it.

Mr. HUGHES. What act is that?

Mr. LODGE. The act of 1913.

Mr. HUGHES. If the Senator will go back three or four years he will find language authorizing a ship to be built in a navy yard prior to that language. It would be in the bill only one year in three or four.

Mr. LODGE. I have gone back to 1909. My arithmetic is not good, but that is five years, I think.

Mr. HUGHES. The Senator will find, I am sure, although I am depending entirely upon my recollection of what occurred——

Mr. LODGE. I am not speaking from recollection. I am reading the law.

Mr. HUGHES. Very well. I will ask the Senator to go back to an earlier date.

Mr. LODGE. How far back?

Mr. HUGHES. As far back as is necessary to reach a period when a naval bill was passed at a time when it was possible for a ship to be built in a Government yard.

Mr. LODGE. In 1913 we had this compulsory clause, as it is proposed here. In 1912 it was made entirely discretionary; the Secretary "may" build in a navy yard. In 1911 there is no provision at all about it. In the act of 1910 it is provided that the "Secretary may build any or all of the vessels authorized in this act." The language is, "he may." He is given full latitude, and I should like to see it given to him again. In 1909 there is nothing about it. He is not compelled to build in a navy yard.

I do not wish to detain the Senate while I look back in these bills; but this matter of compelling him to build in a navy yard is recent. I am very glad to have it inserted in the large way in which it was put in two of the acts, that he may build in the yards, at his discretion, any or all of the vessels that are designated. I am very glad to have that done.

Mr. WILLIAMS. Under the acts that said he might do it, he did do it, did he not?

Mr. LODGE. Why, certainly he did.

Mr. MARTIN of Virginia. Mr. President, this amendment has been so thoroughly discussed that I do not feel justified in making any extended remarks in relation to it. I shall, therefore, detain the Senate for only a very few minutes.

This seems to be a question between the people of the United States and the State of New York. There is no other Government yard in the United States equipped to build a battleship except the Brooklyn Navy Yard. The Senator from New York is so jealous of that supremacy that he objects to a little appropriation of $200,000 because he is afraid it might equip some other Government yard to compete for this work.

Mr. O'GORMAN. Mr. President——

The VICE PRESIDENT. Does the Senator from Virginia yield to the Senator from New York?

Mr. MARTIN of Virginia. I yield.

Mr. O'GORMAN. I am not aware that I objected to the $200,000 feature. That was struck out by the committee.

Mr. MARTIN of Virginia. I understood the Senator from New York to say that he only wanted to retain the language, which said:

> One of the battleships hereby authorized shall be built and constructed at a Government navy yard.

The Senator from New York desired to have it stop there. He wanted to omit the balance of that amendment, which appropriated $200,000 for the equipment of a navy yard that might be selected by the Secretary of the Navy.

Mr. O'GORMAN. Mr. President——

The VICE PRESIDENT. Does the Senator from Virginia further yield to the Senator from New York?

Mr. MARTIN of Virginia. I yield to the Senator.

Mr. O'GORMAN. There is a misunderstanding. The House bill contains a provision appropriating $200,000 to equip some navy yard, but that entire House provision regarding the appropriation was struck out of the bill by the Senate committee by amendment. I am now merely seeking to amend the amendment of the Senate committee by restoring at least a part of what they proposed striking out.

Mr. MARTIN of Virginia. Mr. President, there is no misunderstanding. I understood the Senator from New York perfectly well, and I think every Senator on the floor of this Chamber understood him, as desiring that only a part of what was struck out by the Senate committee should stay struck out. He wished that the part which appropriated $200,000 to equip another yard which might come in competition with the Brooklyn yard should stay stricken out. The Senator said he had no desire to interfere with the action of the committee in striking out that part of the amendment, but he did object to striking out the part which made it compulsory that the Secretary of the Navy should give one of these battleships not to a Government yard, but to the Brooklyn yard. That is all there is in it, for he knows that when it says "a Government yard" it means the Brooklyn yard, unless we make a further appropriation to equip some other Government yard; and he opposed making an appropriation to equip any other Government yard, but insisted on the provision that compelled the Secretary of the Navy, whether it was in the interest of the Government and the people of the United States or not, to build one of these battleships in the Brooklyn Navy Yard.

So I say it is simply a question between the Senator's pet, the Brooklyn Navy Yard, on the one side and the people of the United States on the other. If the opportunities and the advantages of the Brooklyn Navy Yard are so much greater than those of any other Government yard and so much greater than those of private yards, why not let the able Secretary of the Navy determine where he will build these battleships? No human being has asked that the Brooklyn Navy Yard should be excluded. I would not have the Brooklyn yard excluded. I desire the fullest liberty, the amplest power for the Secretary of the Navy, to do that which is for the best interest of the people of the United States. If it is for the best interest of the United States that all of these battleships shall be built at the Brooklyn Navy Yard. I say let them be built at the Brooklyn Navy Yard.

There happens to be in my State a Government yard at Norfolk, and there happens to be in my State also a private shipyard, about 20 miles from Norfolk, at Newport News. The Newport News shipyard has in its charter a provision that in case of war or any emergency the Government of the United

States can walk in and take possession of the yard, with its entire equipment, use it as it sees fit, and pay little, much, or nothing, as it chooses, for it. It is kept up by private means, but it is always available for the use of the Government. When the Government chooses to walk in and say "I want this yard for Government use" its charter provides that it shall be turned over to the Government. It is a yard large enough to lay down at one time four of the biggest battleships ever constructed. It is equipped and ready now to lay down four of the biggest battleships ever constructed; but, Mr. President, I ask no favors for it. I ask simply fairness. I ask that the work provided for in this bill, about $25,000,000 worth, may be disposed of in the interest of the people of the United States; not in the interest of the Newport News Shipyard; not in the interest of the Norfolk Navy Yard, and certainly not in the interest of this great potentiality—New York—which reaches out and takes in almost everything within reach.

New York was in control of the finances of the United States so long that it brought about a revolution, and we had to have a new banking system to prevent these grasping arms in financial New York from absorbing the utilities of the United States from one end of it to the other. The Democratic Party had enough vitality to protect the country against the too grasping disposition of New York.

I do not wish to speak unkindly or unjustly. New York is a great city, and it has done a great deal; but we know that immense aggregations of wealth always lead to a little too aggressive a spirit and too self-aggrandizing purposes, and we had to protect the financial world from the grasping disposition of this immense potentiality, the city of New York.

I say, therefore, let us not turn over to New York the shipbuilding business. Let us treat the shipyards in New York justly and fairly, but let us not give her a monopoly. If the Government of the United States wants to extend its purpose of constructing ships in Government yards, it is all right, but in making the extension do not let the Senator from New York have his way and prevent every other navy yard from entering into competition with the Brooklyn yard.

I want the Secretary of the Navy to have the largest possible margin of freedom. I want him empowered to protect the people of the United States. I want him to get the best ships, and I will not say necessarily at the lowest price, for conditions may be such, and frequently are such, that I would gladly see him pay more to a Government yard for some of this work than to have the same work done in a private shipyard; but I say let there be a spirit of fairness; let there be a spirit of justice. The people have a right to consideration in this matter—a greater right than New York or Norfolk or Newport News or Philadelphia or Boston. I say let the Secretary of the Navy have the fullest authority, the broadest margin of freedom. Let him be empowered to do that which is best for the people of this country.

You must bear in mind, Mr. President, that there are some considerations besides the mere cheapness of ships. That matter has been discussed by several Senators who have addressed the Senate. It is necessary to keep these Government yards organized; it is necessary to keep them in working order; but how often do we hear it proclaimed from one end of this country to the other that we must do something for our merchant marine? We hear a great deal of talk about helping the merchant marine, but we see very little done. The Senator from Wisconsin [Mr. LA FOLLETTE] can sympathize with that, as he has a bill in which he is trying to do something for the operation of ships when they go to sea; but the first step in looking after a merchant marine is the building of the ships. They cost too much in our home yards, and they always will cost too much unless the yards have enough work to carry on their operations on an economical scale. There is not enough private work done in the American yards to keep them up. It is wise economy on the part of the Government, I say, to give some work to the private yards and some work to the Government yards, so as to keep both of them in operation, so as to keep both classes of yards well organized and well equipped to meet the obligations that rest upon them and to fulfill the demands which the country makes upon them.

The Senator from New York talks about the four or five thousand men that will go out of employment if we do not give the New York yard enough work. I tell him that the ordinary complement of workmen in the Newport News yard is 7,500, and they have recently been compelled to discharge a thousand of them, and propose to discharge two or three thousand more in the next two or three weeks. I say that in order to maintain the shipbuilding industry some liberality is due to the private shipyards of this country. Unless some liberality is shown to them they will go out of business, and then our merchant marine will suffer, and the Government will lose the most powerful agency which it could call on in time of war for the construction of ships of war.

In meeting these different obligations I stand with the committee. The committee has stricken out the amendment that compelled the construction of one of these ships in Brooklyn whether it was for the best interests of the country or not. I say, let it be built at Brooklyn if it is for the best interests of the Government and of the people; and let the Secretary of the Navy, who is as disinterested as anyone can be, and sworn to discharge the obligations of his office, determine whether one or more of them shall be built at Brooklyn and where the others shall be built. I say, leave the matter open as the committee left it.

I say that the amendment reported by the Naval Affairs Committee of the Senate is a just and a fair one. It is just to all the yards, Government yards and private yards, when it authorizes the Secretary of the Navy to award this work where he thinks the interests of the Government and of the people will be best subserved.

Mr. LODGE. Mr. President, I have been running back as well as I could over these acts. In the act of 1899 there is nothing about building in the yards; in the act of 1900 there is nothing; in the act of 1901 there is nothing; in the act of 1902 there is a compulsory provision like the present one. The act of 1903 follows the form which was used for a series of years, and which I think is a very good one:

> The Secretary of the Navy may build any or all the vessels herein authorized in such navy yard as he may designate.

That gives him full authority to build in the navy yards, and I think that excellent phraseology and a much better system. That is the phraseology of the act of 1904; there is nothing compulsory. In the act of 1905 there is nothing compulsory. In the act of 1906 it is not compulsory. The act of 1907 is not compulsory. The act of 1908 is compulsory. The act of 1909 is not; the act of 1910 is not; the act of 1911 is not; the act of 1912 is not; and the act of 1913 is. There have been four compulsory provisions, and in the rest, since we began to make provision about where we should build the ships, it has been generally that the Secretary of the Navy may build any or all in the navy yards, giving him full liberty, just what I desire him to have.

I said, Mr. President, if we were going to pass this clause at all we ought to provide for equipping another yard or yards, but it should be remembered that the equipment will take some time, and unless the ship is to be greatly delayed it will land in the Brooklyn yard just the same.

Mr. THORNTON obtained the floor.

Mr. WILLIAMS. Mr. President——

Mr. THORNTON. I yield to the Senator from Mississippi.

Mr. WILLIAMS. I wish to make a change in the amendment offered by me.

Mr. THORNTON. I rose to make some remarks at what I thought would be the conclusion of the debate.

Mr. WILLIAMS. Before the Senator does that I want to read the amendment, because I have made some modification in it, and the Senator may direct his remarks to it as modified. Then I shall sit down.

Mr. THORNTON. Very well.

Mr. WILLIAMS. I ask that the Secretary may read the amendment, because since saying that I would offer it I have made some slight changes in it, and I want the Senate to hear it just as it now stands.

The PRESIDING OFFICER. The amendment will be read as modified.

The SECRETARY. The committee proposes, on page 56, line 20, beginning with the word "One," to strike out the remainder of the paragraph. To that proposed amendment the Senator from New York [Mr. O'GORMAN] proposes to begin striking out, in line 22, with the word "and." To that amendment the Senator from Mississippi [Mr. WILLIAMS] offers certain changes, so that the paragraph in question will read:

> One of the battleships hereby authorized shall be built and constructed at a Government navy yard, and the Secretary of the Navy is hereby authorized to equip an additional navy yard in which battleships may be built, with the necessary building slips and equipment; and the sum of $400,000, or such part thereof as may be necessary, is hereby appropriated for the navy yard designated by the Secretary of the Navy.

Mr. BRISTOW. Mr. President, a parliamentary inquiry. Is not the amendment of the Senator from Mississippi an amendment in the third degree?

Mr. WILLIAMS. I am offering the House language.

The VICE PRESIDENT. The Chair thinks that, under the last clause of Rule XVIII, "motions to amend the part to be

stricken out shall have precedence," it comes fairly within the rule. The Senator from Mississippi is seeking to amend the part to be stricken out before the motion is put on striking it out.

Mr. BRISTOW. Then the amendment of the Senator from New York will come later.

The VICE PRESIDENT. Yes; and before action on the amendment of the committee.

Mr. THORNTON. Mr. President, I can not say that I am able to speak on this question with a mind full of knowledge, because that would not be the truth, but I can say that I can speak on it with a mind absolutely free from prejudice and uninfluenced by any desire save that of conserving the interests of the Government according to my judgment.

As I said in opening the debate on the amendment, I am most heartily in favor of the maintenance of the Government navy yards. I will say here what I have said to outsiders who have approached me on the subject since the bill was reported to the Senate, in the interest of the legislation suggested by the amendment of the Senator from New York, that I am so anxious to see the Government yards maintained and kept in a proper state of efficiency that I would be willing, if necessary, to have battleships built in them at a greater cost to the Government than if built at private shipyards. But I said that I wished the rule of reason to apply there also. I would not feel justified in wishing to see the Government pay an undue excess to Government yards over what they pay to private yards, unless it was absolutely necessary for the maintenance of those yards. I do believe that the Government will be justified in paying something more to Government yards than to private yards, if necessary for their maintenance, but not more than is necessary.

I have said also that every member of the Committee on Naval Affairs of the Senate is in favor of maintaining the Government navy yards. I am morally sure of that because of their statements that I have heard.

I said also that I am satisfied the Navy Department of the Government is in favor of maintaining these navy yards, and in proof of that I will read the statement of the Secretary of the Navy, which is the conclusion of the letter addressed by him to the chairman of the House committee, a portion of which has already been read to the Senate by the Senator from Virginia. I quote from the end:

CONCLUSION.

From all of the foregoing it must be evident that—

1. The department desires to encourage shipbuilding in the navy yards.

2. Only the New York yard is at present equipped for building a battleship and can build only one at a time.

3. The Mare Island yard is the only other yard sufficiently developed in shipbuilding to be intrusted with a battleship, but it is not equipped for the work.

4. However, the department hopes that the Congress will see its way clear to leave the question an open one, not restricting it to either private or navy-yard building. If it is decided that one or more battleships must be navy-yard built, funds for the necessary yard equipment must be provided.

Mr. President, I do not think the Senate will make any mistake in acceding to the request of the department in this matter in leaving it an open question for them to decide according to the best interests of the Government. Bear in mind the statement that is made here so unequivocally by the Secretary of the Navy that the department desires to encourage shipbuilding in the navy yards. I hope, therefore, that the amendment of the Senator from New York, supplemented as I understand it is by the amendment of the Senator from Mississippi, will not be agreed to.

Mr. BRISTOW. Mr. President, I ask for a division of the amendment offered by the Senator from Mississippi so that each proposition may have a separae vote. One, as I understand it, is that we shall build one of these battleships at a Government navy yard and the other is that we shall equip a Government navy yard in addition to the one we now have. There being two propositions in the amendment, I ask for a vote on each, and I do so because I am in favor of constructing one of these ships in a Government yard, but I am not in favor of equipping two yards to build one ship. I think one navy yard that has an equipment for the construction of battleships is all that is necessary for the people of the United States to invest in at the present time. It would seem to me to be a foolishness and extravagance that could not be justified to equip two yards to construct battleships when we build only one annually, and I think we are building too many, anyway.

The VICE PRESIDENT. The Chair will state for the information of the Senator from Kansas that the amendment of the Senator from Mississippi, although it should prevail, would not prevent a vote upon the amendment proposed by the Senator from New York, and that amendment divides the question.

Mr. BRISTOW. I understand that; but have I not the right to ask for a division of an amendment where there are two distinct propositions in the amendment? Is it not within the parliamentary rule that a division can be called for upon an amendment of that character?

The VICE PRESIDENT. The Chair does not understand what the Senator from Kansas wants to have divided.

Mr. BRISTOW. I want a vote on the provision of the amendment which requires the equipment of an additional navy yard and an appropriation of $400,000 for that purpose, and a vote also upon the proposition that one of these ships shall be constructed in a Government navy yard.

The VICE PRESIDENT. That comes clearly under the questions as they are pending. A vote on the amendment of the Senator from Mississippi is a vote on the equipment of a new navy yard, and a vote on the amendment of the Senator from New York is a vote simply on the Brooklyn Navy Yard, as a matter of fact.

Mr. BRISTOW. Do I understand the Chair to rule, then, that a vote for the amendment offered by the Senator from Mississippi is simply a vote on the question as to whether we shall equip an additional navy yard? If that stands alone, and that is the only question involved in the amendment, I can readily vote my sentiments; but if the two propositions are contained I shall have to vote against one thing that I am in favor of, and that is the reason why I think I have a right to ask for a division. If the Chair will hear me a moment further——

Mr. VARDAMAN. Mr. President——

The VICE PRESIDENT. Will the Senator from Kansas yield to the Senator from Mississippi?

Mr. BRISTOW. Certainly.

Mr. VARDAMAN. I was just going to suggest that the amendment be read, and then the Senator can see just what will be the effect of it. Let it be again read.

The VICE PRESIDENT. The amendment will be again read.

The SECRETARY. The committee reports in favor of striking out, on page 56, line 20, beginning with the word "One," the following words:

One of the battleships hereby authorized shall be built and constructed at a Government navy yard; and the Secretary of the Navy is hereby authorized to equip such navy yard as he may designate in which the battleship herein authorized is to be built with the necessary building slips and equipment; and the sum of $200,000, or such part thereof as may be necessary, is hereby appropriated for the navy yard designated by the Secretary of the Navy in which the battleship is to be constructed.

To that amendment the Senator from New York [Mr. O'GORMAN] proposes to strike out, beginning with the word "and," on line 22, so that it would leave in the text of the bill the words:

One of the battleships hereby authorized shall be built and constructed at a Government navy yard.

The Senator from Mississippi [Mr. WILLIAMS] proposes to so amend the House text, the part proposed to be stricken out, that it will read as follows:

One of the battleships hereby authorized shall be built and constructed at a Government navy yard, and the Secretary of the Navy is hereby authorized to equip an additional navy yard in which battleships may be built, with the necessary building slips and equipment; and the sum of $400,000, or such part thereof as may be necessary, is hereby appropriated for the navy yard designated by the Secretary of the Navy.

Mr. BRISTOW. Mr. President, there are two distinct propositions in the amendment offered by the Senator from Mississippi. One is to construct one of these battleships in a Government navy yard and the other is to equip an additional navy yard, and appropriating $400,000 for that purpose.

Mr. JONES. Let me suggest to the Senator that the amendment of the Senator from Mississippi does not change the first clause in the House text at all. It leaves it exactly as it is here. The only change he proposes is to provide for the equipment of an additional yard. I would suggest that he leave out the first part and then that proposition will be presented to the Senate.

Mr. OLIVER. Mr. President——

The VICE PRESIDENT. Does the Senator from Kansas yield to the Senator from Pennsylvania?

Mr. BRISTOW. I do.

Mr. OLIVER. I will say there is another slight change, increasing the appropriation from $200,000 to $400,000. But little things like that do not count.

Mr. JONES. That is involved in the proposition to equip another navy yard; that is all.

The VICE PRESIDENT. The Chair thinks the Senator from Kansas will be entirely satisfied with the ruling of the Chair when, if the Chair can express itself clearly, the Chair rules in the first instance that the amendment of the Senator from Mississippi [Mr. WILLIAMS] is in order and not divisible, because

it is simply attempting to perfect the text of a portion of the bill to which there is pending a motion of the Senator from New York to strike out a part of the same, and to which there is also pending a motion to strike the entire portion of the bill out by the committee. It is not proper for the Chair to even suggest how to vote; but if we should reach the point when it comes down to a final vote on striking out the clause after it has been amended, if it is amended, then the Senator from Kansas clearly has a right to have the final question divided.

Mr. BRISTOW. I understand the ruling of the Chair, I think, but in voting for the amendment of the Senator from Mississippi a Senator is required to vote in favor of equipping an additional yard. If he votes against it he votes against constructing one of these ships in a Government yard.

The VICE PRESIDENT. Oh, no.

Mr. BRISTOW. If he does not do that, then my way is perfectly clear, because I am not in favor of equipping an additional yard. If voting against the amendment of the Senator from Mississippi simply means a vote against the equipment of another navy yard, and does not affect the remainder of the bill, of course my vote is very clear.

The VICE PRESIDENT. Then the question is left open on subsequent amendments that are pending for the Senator from Kansas to exercise his judgment as to whether there shall be a ship constructed at the Brooklyn Navy Yard or whether there shall not be.

Mr. LODGE. Mr. President, I will say in reply to what the Senator from Kansas [Mr. BRISTOW] was saying—though the Chair has already covered the ground—that the amendment that we start with is the amendment of the committee to strike out certain words. The first thing in order is to amend and perfect the words which it is proposed to strike out. The Senator from Mississippi [Mr. WILLIAMS] proposes to amend by way of a substitute. If that carries, then the question comes on agreeing to the committee amendment. That has not been disposed of or we could divide the motion if we chose to do so. If that fails, then the question recurs on the amendment of the Senator from New York [Mr. O'GORMAN] to restore a part of the clause which the committee propose to strike out. When that is disposed of the question comes on striking out the remainder of the clause.

Mr. REED. Mr. President, I should like to inquire of the Senator from Mississippi whether the Secretary of the Navy has made an estimate as to the amount of money which will be required to equip an additional yard so that that yard can build a first-class battleship?

Mr. WILLIAMS. I will answer that by saying that I do not know. I got the figures "$400,000" by consultation with those whom I presumed did know; and they said that the $200,000 provided by the House bill was not sufficient for the purpose; that it would require $400,000. I therefore inserted those figures. I am not on the Naval Committee, and I do not know what estimate was submitted.

Mr. REED. Can any Senator inform me whether there has ever been an authoritative estimate sent here by the Secretary of the Navy stating that an expenditure of $400,000 will equip another navy yard so that that yard can build a first-class battleship?

Mr. WILLIAMS. I do not know.

Mr. THORNTON. I will answer the Senator by saying no.

Mr. HUGHES. In answer to the question of the Senator from Missouri I will say that my understanding is that we can not equip any yard for $400,000, but that it will cost at least $600,000. I understand that information comes from the Navy Department.

Mr. REED. Mr. President, that disposes of that proposition, so far as I am concerned. I do not propose to blindly vote to appropriate $400,000 or $200,000 or any other amount to equip a navy yard when nobody can tell me whether it will equip a navy yard or whether it will equip two navy yards, and when the best information we have, which comes merely in the form of a suggestion here, is that it will require $600,000. Certainly, we ought not to be entering upon the business of distributing $200,000 and $400,000 in this reckless manner without any estimate, without any knowledge that it will accomplish the work. Surely we ought to wait until at least some naval architect has given us the benefit of an estimate.

Mr. SWANSON. Mr. President——

The VICE PRESIDENT. Does the Senator from Missouri yield to the Senator from Virginia?

Mr. REED. I do.

Mr. SWANSON. I have made inquiry as to what it would cost to equip the Norfolk Navy Yard to build the largest battleship. As to the building of the slips, I do not suppose it would cost $300,000.

Mr. WILLIAMS. Two hundred thousand dollars.

Mr. SWANSON. Two hundred or three hundred thousand dollars; but they estimated that to build additional shops, to make every possible change to absolutely equip the Norfolk Navy Yard so that the largest battleship could be built there, would not take over $500,000. I am satisfied $400,000 would equip it to do the work. This means the moving of shops and everything to make the Norfolk Navy Yard really up to date, as I understood, but I am satisfied that $400,000 will equip that yard.

Mr. REED. Mr. President, in view of the statement that there has been no estimate, and in view of the manifest fact that we are utterly at sea with reference to what it will cost, I make the point of order that the amendment is out of order, because it proposes to appropriate money in the absence of an estimate or recommendation by any department.

Mr. LODGE. Mr. President, the sum of $200,000 was put in the bill by the other House; it is not in the Book of Estimates; but if the Senator from Missouri cares to know about the cost of slips, it is all here in the House hearings, which I now read:

The CHAIRMAN. Building slips, $200,000.

That was what they put in the bill in the other House.

Mr. SWANSON. Will the Senator from Massachusetts permit me to interrupt him?

Mr. LODGE. The Senator will allow me to finish reading this. It continues:

The CHAIRMAN. Building slips, $200,000. Will you explain about that, Admiral?

Admiral STANFORD. This item is for the purpose of constructing building slips or ways to permit of the construction at the yard of the smaller vessels required in the naval service. The slips proposed would have a capacity sufficient for building and launching vessels having a tonnage up to 16,000, and are desired in accordance with the policy of the department.

* * * * * * *

Mr. ROBERTS. Now, what part of the $200,000 goes into the crane and what part into the slips?

Admiral STANFORD. It is estimated that about $173,000 will be required for the supporting construction and foundation work and cranes, of which probably $30,000 to $40,000 will be required for the cranes.

Mr. ROBERTS. Now, let me ask you, Admiral, how much it would cost to put in slips with a suitable crane to build battleships of the largest size?

Admiral STANFORD. Slips sufficient for battleship construction would involved large additional expenditures to provide more conveniently located buildings and equipment which would be required for the heavy construction work.

Mr. ROBERTS. That is, if we are going to build a battleship of the heaviest type, we will have to have some buildings erected near these slips?

Admiral STANFORD. It would probably be found necessary to increase both the building and machine-tool equipment.

Mr. ROBERTS. But that does not just answer my question. What I want to know particularly is how much additional appropriation would be required for slips and a suitable crane and track and power extensions, etc. In other words, what did the building slip in New York cost, with its crane?

Admiral STANFORD. The New York building slip has been extended so many times I do not know offhand just how much it has cost to date. The estimated expenditure on account of the New York slip is between $350,000 and $400,000.

Mr. REED. Mr. President, I insist upon my point of order.

The VICE PRESIDENT. The Chair sustains the point of order.

Mr. SWANSON. I hope the Chair will permit me a minute to read a letter from the department in regard to this matter being estimated for—a letter that has been read. The language is as follows:

If it is decided that one or more battleships must be navy-yard built, funds for the necessary yard equipment must be provided.

That is part of a letter from the department to the effect that if we were going to build one of these battleships in a navy yard the necessary funds must be provided.

Mr. REED. Does the Senator from Virginia think that is an estimate?

Mr. LODGE. That is not an estimate.

The VICE PRESIDENT. The Chair sustains the point of order. The amendment is out of order. The question now is on the amendment proposed by the Senator from New York [Mr. O'GORMAN] to the amendment of the committee.

Mr. O'GORMAN. I ask to have the amendment read, Mr. President.

The VICE PRESIDENT. The Secretary will read the amendment to the amendment.

The SECRETARY. Instead of striking out as proposed by the committee, beginning with the word "one," in line 20, on page 56, it is proposed to begin with the word "and," in line 22, and to strike out the following words:

And the Secretary of the Navy is hereby authorized to equip such navy yard as he may designate in which the battleship herein authorized is to be built with the necessary building slips and equipment; and the sum of $200,000, or such part thereof as may be necessary, is hereby appropriated for the navy yard designated by the Secretary of the Navy in which the battleship is to be constructed.

So that the portion of the amendment proposed to be stricken out by the committee, reading as follows, will stand in the bill:

One of the battleships hereby authorized shall be built and constructed at a Government navy yard.

The VICE PRESIDENT. The question is on the amendment proposed by the Senator from New York to the amendment of the committee.

Mr. THOMAS. Mr. President, I propose to support the amendment offered by the Senator from New York to the committee amendment, without at the present time detaining the Senate by giving my reasons. My purpose in referring to the matter at all is due to the fact that at the appropriate time I desire to offer, and will offer, an amendment to strike out all of the bill beginning on line 13, page 56, and extending from that line down to the last line on page 58. Inasmuch as that motion will include the amendment of the Senator from New York, if that amendment should prevail, I thought it no more than right to call attention to my ultimate purpose.

The VICE PRESIDENT. The question is on the amendment proposed by the Senator from New York to the amendment of the committee. [Putting the question.] The ayes seem to have it.

Mr. SWANSON. I ask for a division.

The VICE PRESIDENT. All in favor of the amendment proposed by the Senator from New York to the amendment of the committee will rise.

Mr. LANE. Mr. President, I do not understand the question.

Mr. O'GORMAN. What is the question?

Mr. LODGE. As I understand, if I may ask a parliamentary question before we vote, if this vote prevails we strike out the latter part of the portion which the committee recommends to be stricken out. Then the question will recur on striking out the rest of it, and those of us who agree in the view of the committee should vote "yea" on both votes.

Mr. SMITH of Georgia. Oh, no.

Mr. LODGE. Certainly; and that strikes out the whole thing. This does not carry the amendment of the Senator from New York. This is a perfection of the text which the committee propose to strike out. The Senator from New York proposes to perfect it by striking out the latter part, and then the vote recurs on whether we will strike out the first part.

Mr. O'GORMAN. Mr. President, the specific amendment which I have offered, and which is submitted to the Senate, will remove any doubt. It consisted of the words:

That so much of the portion struck out by the committee as may be embraced in the words "One of the battleships hereby authorized shall be built and constructed at a Government navy yard" shall be retained.

In other words, that the words just read by me—"One of the battleships hereby authorized shall be built and constructed at a Government navy yard"—shall be retained in the bill.

Mr. SMITH of Georgia. As I understand, the effect of the amendment, therefore, is to affirmatively establish in the bill the first clause which the committee recommends be stricken out.

Mr. O'GORMAN. Yes.

Mr. SMITH of Georgia. And it ends that part of the question.

Mr. LODGE. I ask the Chair to rule whether, if we strike out this portion, the vote does not then recur on the remaining portion which we have not acted upon?

The VICE PRESIDENT. The ruling of the Chair undoubtedly would be that then the question would be put on the amendment as amended.

Mr. LODGE. Exactly.

The VICE PRESIDENT. If the vote were "yea," the Brooklyn Navy Yard would go out, and if it were "nay" the Brooklyn Navy Yard would stay in.

Mr. O'GORMAN. I do not fully understand that, Mr. President. The Senate committee proposes an amendment striking out certain language on page 56, and I propose an amendment to that of the Senate committee providing for the retention of the words I have read.

The VICE PRESIDENT. But there is no such motion known to parliamentary law as the retention of part of a motion to strike out.

Mr. LODGE. The Senator from New York, if he will permit me, moves to perfect the part which the committee recommends be stricken out. He proposes to perfect it by striking out the latter part. If that carries, there still remain those three lines compelling the Secretary to build one ship in a navy yard, after which the question comes whether the amendment proposed by the committee to strike out the rest of it shall prevail.

Mr. O'GORMAN. That is satisfactory.

The VICE PRESIDENT. It has the same effect exactly. Those in favor of the amendment proposed by the Senator from New York to the amendment of the committee will rise. [A pause.] Those opposed will rise. [A pause.] The ayes have it, and the amendment is agreed to. The question now recurs on the amendment of the committee, as amended, to strike out certain language, and, in order that there may be no doubt, the Secretary will state it.

The SECRETARY. On page 56, line 20, beginning with the word "One," strike out the following:

One of the battleships hereby authorized shall be built and constructed at a Government navy yard.

Mr. LODGE. Oh, no; that has gone.

The VICE PRESIDENT. That has gone.

Mr. O'GORMAN. Mr. President, to avoid any misunderstanding, a vote "yea" on this amendment now is to remove from the bill entirely the provision about building one of the battleships in a Government yard. Those who desire a battleship built in a Government yard will vote "nay" on the pending motion.

The VICE PRESIDENT. Undoubtedly.

Mr. SMITH of Georgia. It will leave it in the discretion of the Secretary of the Navy.

Mr. O'GORMAN. No.

Mr. LODGE. He is given discretion later on in the bill.

The VICE PRESIDENT. The question is on the amendment. [Putting the question.] By the sound, the noes have it, and the amendment is rejected.

Mr. WILLIAMS. Mr. President, I ask for a division.

Mr. LODGE. Mr. President, I do not think the question could have been understood. I did not understand it. I understand that a vote "aye" is a vote to strike out the clause compelling the Secretary to build one of the battleships in a Government yard. I ask the Chair to put that question. If not, I will call for the yeas and nays.

Mr. VARDAMAN. Call for the yeas and nays.

Mr. LODGE. Let us have the yeas and nays.

The yeas and nays were ordered.

Mr. BRANDEGEE. Mr. President, is it not in order to ask the Secretary to state what the amendment is before the roll is called?

The VICE PRESIDENT. It is.

Mr. BRANDEGEE. I should like to have it stated for the purpose of the RECORD.

The VICE PRESIDENT. The Secretary will state the amendment.

Mr. HUGHES. A parliamentary inquiry. A vote in the affirmative is a vote to strike out the language directing the Secretary of the Navy to have a battleship built in a Government yard?

The VICE PRESIDENT. Undoubtedly; and the Secretary is about to state the amendment.

Mr. BRANDEGEE. I can tell how to vote if I can hear the amendment stated.

The SECRETARY. The committee proposes to strike out the following words on page 56, line 20, beginning with the word "One":

One of the battleships hereby authorized shall be built and constructed at a Government navy yard.

Mr. WILLIAMS. Mr. President, as I understand, a vote "yea" upon the proposition before the Senate, if it prevails, leaves it discretionary with the Secretary of the Navy to build this battleship where he thinks best, and a vote "nay" compels him to build one of them in the Brooklyn Navy Yard.

The VICE PRESIDENT. The Chair is not going to construe the bill.

Mr. LA FOLLETTE. Mr. President——

SEVERAL SENATORS. Call the roll.

Mr. LA FOLLETTE. I know Senators desire to vote, and I am not going to take more than a minute of time to say that I believe the Secretary of the Navy, if he is given the discretion, would construct one of the two battleships authorized in the Brooklyn Navy Yard, as that is the only Government navy yard where it could be constructed.

Mr. WILLIAMS. Provided, if the Senator will pardon me, that he shall not find that the present construction going on there would delay him too long.

Mr. LA FOLLETTE. Oh, Mr. President, I do not propose, so far as my vote is concerned, to leave it to anybody's discretion. I am in favor of building this battleship, if it is to be built at all, in a Government navy yard. I am certain, if built in a Government yard, it will be better built than if built in any

private navy yard; and I am certain, Mr. President, if the Government navy yard is given an even chance with the private navy yard, it will be built cheaper in the Government navy yard.

We have had one or two, and only one or two, tests, as nearly as I can ascertain. From such inquiry as I could make here on the floor of the Senate we have built but three battleships in the Government navy yards. I may be wrong about that. One of those the Secretary of the Navy was compelled to build there because the language of the appropriation bill required him to do so. There were two battleships, sister ships, turned out in 1905. They were alike. As I understand, they were built on the same plans. One was built in a private yard and the other in a Government yard. The one built in the Government yard cost something like $300,000 more than the other to build. The excess of cost of that vessel was due to the fact that it was to be used as a flagship, and to the further fact that considerable expense was incurred by delay in the delivery of armor plates. Eliminating the additional cost chargeable to these two items, the difference in cost as against the Government-constructed ship was $29,855. But the history of those two battleships for the next three or four years, which I have been able to trace in the few minutes this debate has been on, is very interesting.

During 1906, the first year those two ships, built on exactly the same model, were in use, the cost for repairs on the one built in the Government navy yard, the *Connecticut*, was $236.97. The cost of repairs on the *Louisiana*, the sister ship, built in a private yard, was $5,851.09.

In the second year the cost for the *Connecticut* was $53,557.94. The cost for the *Louisiana* was $99,851.09.

The third year the difference in the upkeep of these two vessels was as follows: On the Government-built vessel it was $111,833 and some cents. On the vessel constructed in the private yard it was $149,167.

I have not been able to run it down any further in the little time I have had, but the difference in the cost of upkeep between the Government-constructed vessel and the vessel constructed in a private yard for those three years was 33 per cent in favor of the Government-constructed vessel.

Mr. WEST. Mr. President——

The VICE PRESIDENT. Does the Senator from Wisconsin yield to the Senator from Georgia?

Mr. LA FOLLETTE. I do.

Mr. WEST. I should like to ask the Senator if there was any difference in the use of these vessels? That might have had a good deal to do with it, especially in reference to the machinery.

Mr. LA FOLLETTE. There may have been something in that; but I take it that where you see this difference in the cost of upkeep running right along, year after year, in favor of the Government-built ship, as far as I have traced the history of them, it indicates that better work is done where the work is performed by the Government, and there is no gouging on the part of any party privately interested.

Mr. SWANSON. Mr. President, if the Senator will permit me——

Mr. LA FOLLETTE. Pardon me for a few minutes.

Whenever a battleship is constructed in a private yard it is necessary for the Government to install watchers—inspectors—to maintain a sort of espionage over the work in all its details in order to insure honest work. It is well known you can not have the sort of supervision which will provide against every element of dishonesty that a contractor who considers only his private gain is impelled to impose upon one for whom he performs a contract. With the Government, under the improved systems and the high efficiency being wrought into all Government work, there is no inclination or reason for anybody defrauding or cheating on the work or using inferior material.

While I have voted ever since I have been in the Senate for one battleship instead of two, I nevertheless favored the amendment of the Senator from Mississippi [Mr. WILLIAMS], and should have voted for it if it had been submitted to the Senate. I believe, if adopted, it would introduce into this Government work the element that is always desirable—that of competition; that of strife between two organizations, each seeking to make the best record—and that would prove a great incentive to still higher efficiency in the Government yards.

In so far as this work of building battleships is to go on, I should like to see it done by the Government. I believe we would have better work, and I believe we would eliminate a strong, powerful influence that makes for international disturbance, and that was referred to so eloquently and so brilliantly by the Senator from Mississippi the other day. I refer to this world-wide organization that is stimulating and fomenting discord in order that it may make profit out of the furnishing of munitions of war of every sort and kind. In so far as this Government is to make preparation against the dire evil of war, I want to see it done solely under Government supervision and at Government expense.

Mr. SWANSON. Now, Mr. President, if the Senator will permit me——

The VICE PRESIDENT. Does the Senator from Wisconsin yield to the Senator from Virginia?

Mr. LA FOLLETTE. I yield the floor.

Mr. SWANSON. I simply wish to make one statement.

The Senator made a mistake about the *Connecticut* and the *Louisiana*. I have here a letter from Admiral Watt, the Chief Constructor of the United States Navy, in response to a letter from Mr. JONES. Admiral Watt's letter is dated April 1, 1914, and in it he gives the expense of each of these two ships from 1906 to the 1st of March, 1914. He states that there has been spent on the *Connecticut* $917,610.06 and that there has been spent on the *Louisiana* $885,915.75. That is up to the 1st of March, 1914.

Mr. LA FOLLETTE. Mr. President, that simply carries the history of these two vessels some four or five years later than the data which I had before me, which were for the first three years. For those years I am very certain that the data were accurate, because they were taken from the report.

Mr. SWANSON. In the year 1907, which was the year immediately afterwards, there was spent on the *Connecticut*, he states, $54,960.20.

Mr. LA FOLLETTE. My figures are $53,557.94.

Mr. SWANSON. On the *Louisiana*, $105,404.49.

Mr. LA FOLLETTE. My figures are $99,851.

Mr. SWANSON. In 1908—this is signed by him—there was spent on the *Connecticut*, the Government-built ship, $140,482.70, and on the *Louisiana* $66,691.43.

Mr. LA FOLLETTE. I am very much surprised at those figures, because I am very certain they are not in agreement with the figures that appear in the previous report, from which the figures I quoted were taken.

Mr. SWANSON. This is a letter from Admiral Watt, the Chief Constructor of the Navy.

Mr. LA FOLLETTE. I do not care if it is a letter from him; I took these figures myself from the report. I did not have the figures for the latter period, and I believe the figures of the report for the three years covered by the report should be accepted as authoritative.

Mr. SWANSON. This is in response to a letter asking the amount spent each year on these ships.

Mr. WHITE. Mr. President, the immediate question before the Senate seems to me to be a parliamentary question as to the effect of a vote. As I understand, a successful affirmative vote means to leave with the Secretary of the Navy the discretion of determining where he will contract to build these ships. A successful negative vote means to require him to build one of these ships in a Government navy yard. Am I correct about that?

The VICE PRESIDENT. The Chair has already stated that the Chair would not pretend to decide what the bill means. The effect of a successful affirmative vote would be to strike out the provision that one ship shall be built at a Government navy yard; but whether or not that leaves it in the discretion of the Secretary of the Navy to build it at a Government navy yard is for the bill itself to say and not for the Chair.

Mr. WHITE. Then, Mr. President, will a successful affirmative vote defeat the amendment of the Senator from New York?

The VICE PRESIDENT. The amendment of the Senator from New York has already been agreed to.

Mr. LODGE. No; this is the yea-and-nay vote on the amendment.

Mr. WHITE. This is the yea-and-nay vote called for on that proposition, as I understand.

Mr. LODGE. A yea-and-nay vote has been ordered, but it has not yet been taken.

The VICE PRESIDENT. It is not on the amendment of the Senator from New York.

Mr. LODGE. It is on the amendment of the committee.

The VICE PRESIDENT. It is on the amendment of the committee as amended.

Mr. LODGE. Certainly.

The VICE PRESIDENT. A successful affirmative vote simply means that the provision that one ship shall be constructed at a navy yard goes out of the bill.

Mr. WHITE. The amendment of the Senator from New York has already been carried, as I understand.

Mr. LODGE. The amendment of the Senator from New York has been carried, and now the question recurs on the amendment

of the committee to strike out the words. If the vote is "yea," the words which the Senator from New York wants retained go out of the bill.

Mr. WHITE. That is all right, if that is the ruling of the Chair. I simply wanted to know about it.

Mr. O'GORMAN. To remove any possible doubt, if I can have the attention of the Chair——

The VICE PRESIDENT. Does the Senator from Massachusetts yield to the Senator from New York?

Mr. LODGE. Certainly.

Mr. O'GORMAN. A "nay" vote on the pending motion will have the effect of retaining in the bill the provision for which I have been contending.

Mr. LODGE. Certainly.

Mr. President, I simply want to put in the RECORD again, in connection with what the Senator from Wisconsin [Mr. LA FOLLETTE] has been saying, the comparative figures to which the Senator from Pennsylvania [Mr. OLIVER] has already called attention.

Mr. LA FOLLETTE. From what is the Senator about to read?

Mr. LODGE. This is from the official report of the Navy Department. It is taken from the Government report. I shall not read the details, but simply the totals.

The total cost of the U. S. S. *Florida*, built by the United States Government, was $6,295,137.05. The cost of the *Utah*, the sister ship, was $4,145,228.34. The *Florida*, the Government-built ship, went into commission September 11, 1911, and the repairs to March 1, 1914, were $151,175.68. The U. S. S. *Utah*, built in a private yard, went into commission August 31, 1911, only 15 days earlier, and the repairs to date on that ship were $95,363.03.

Mr. WEST. Mr. President, what did the Senator from Massachusetts say was the difference in the cost?

Mr. LODGE. I shall have to figure it out. It is $2,150,000.

Mr. WEST. They were sister ships?

Mr. LODGE. Sister ships; yes. That is exclusive of armor and armament.

Mr. WEST. And the Government-constructed vessel exceeded the other in cost by $2,150,000?

Mr. LODGE. Those are the figures from the Navy Department.

Mr. CUMMINS. Mr. President, the Chair very wisely, I think, declined to construe or interpret this bill with regard to the discretion of the Secretary of the Navy. From my point of view, it is as full of doubt in that respect as the Hay-Pauncefote treaty. I do not believe it gives fairly and fully discretion to the Secretary of the Navy to build a ship in a Government navy yard, even though the amendment now pending is adopted, if these words are stricken out. I suggested that to the Senator from Massachusetts when he was on his feet a few moments ago, and he said it could be easily changed so that the true intent would appear; but it has not been so changed.

Mr. LODGE. We can not change it until we reach it.

Mr. CUMMINS. I now desire to call the attention of the Senator to just what the bill does in that respect. The provision on this subject begins:

> That for the purpose of further increasing the Naval Establishment of the United States, the President is hereby authorized to have constructed two first-class battleships carrying as heavy armor and as powerful armament as any vessel of their class, to have the highest practicable speed and greatest desirable radius of action, and to cost, exclusive of armor and armament, not to exceed $7,800,000 each.

There the bill will end, so far as battleships are concerned, if the amendment of the committee as amended is permitted to remain in the bill.

It then proceeds to mention certain other naval craft which are also authorized to be built, and then says:

> Three of the coast-defense submarine torpedo boats herein authorized shall be built on the Pacific coast: *Provided*—

I shall not read the proviso; but it is provided that they shall be built there if they can be built as cheaply as they can upon the Atlantic coast.

Now, mark this language:

> The Secretary of the Navy shall build any of the vessels—

That item includes the two battleships—

> herein authorized in such navy yards as he may designate, should it reasonably appear that the persons, firms, or corporations, or the agents thereof, bidding for the construction of any of said vessels have entered into any combination, agreement, or understanding the effect or purpose of which is to deprive the Government of fair, open, and unrestricted competition in letting contracts for the construction of any of said vessels.

That may be interpreted to mean that the Secretary of the Navy shall build these vessels in the navy yards if he finds that this combination exists, or it may mean that he can only build the vessels in these navy yards if he finds that the combination exists. But that is not the principal difficulty about the bill. On page 60 we find a provision which I will read:

> Of each of the sums appropriated by this act, except such amounts as may be required to meet obligations authorized in previous acts and for which contracts have been made, no part shall be used to procure through purchase or contract any vessels, armament, articles, or materials which the navy yards, gun factories, or other industrial plants operated by the Navy Department are equipped to supply, unless such Government plants are operated approximately at their full capacity for not less than one regular shift each working day, except when contract costs are less than costs in said Government plants, and except when said Government plants are unable to complete the work within the time required, and except in cases of emergency.

That means, and there can be no other fair inference drawn from it, that if the Secretary of the Navy receives a bid for the building of these battleships which is less than the cost which he computes or estimates as the cost of building the ship in the Government navy yard, he must accept such bid and exclude the Government navy yard from the work.

I am one of those who believe that the construction of a battleship in a Government navy yard is more important than any reasonable difference between the cost of constructing it there and the cost of constructing it in a private yard. But, however that may be, we are not prepared to compare the cost of constructing it in the navy yards with the cost of doing it in the private establishment until we change the law with regard to the bookkeeping of the Navy Department. The Secretary of the Navy has so declared to the Committee on Naval Affairs. He has said that in estimating the cost of building a ship in the Government yard he is required by the law to charge to the construction of that ship many items of expenditure which ought not to be charged to the ship, and he says, as I understand it, at least I read that from a very reputable source, that the battleship *New York* was really built for $500,000 less than the battleship *Texas*, although, according to the books of the Navy Department as compared with the books of the private shipbuilder, it apparently cost $1,500,000 more.

I am not willing, therefore, to have it said here that a vote to sustain the committee's amendment as amended is a vote to give to the Secretary of the Navy unqualified, full discretion whether to build his ship in the Government navy yard or not, for I do not think the law as proposed can be so construed. I would not be in favor of giving him that discretion, even though the bill did so specifically provide, for I think the policy of building one of these ships in a Government navy yard is a policy that ought to be declared by Congress, and that the discretion to depart from it ought not to be vested in any governmental officer, however fair and however patriotic and however competent he may be.

Mr. SWANSON. Mr. President——

The VICE PRESIDENT. Does the Senator from Iowa yield to the Senator from Virginia?

Mr. CUMMINS. I yield to the Senator from Virginia.

Mr. SWANSON. The language the Senator has called to the attention of the Senate, saying it would not leave any discretion to the Secretary of the Navy, is precisely the same language that was in the act last year, under which the Secretary of the Navy has given to the navy yard at Philadelphia the building of a transport and the building of a supply ship to the Boston Navy Yard. The language has always been construed as leaving an absolute discretion in the Navy Department. It is the same language used in the appropriation act of last year, under which the discretion has been exercised.

Mr. CUMMINS. That may be. I do not know what the bids upon the ship built in the Philadelphia Navy Yard were; I do not know what the costs were. I do not know the proposed cost by the private builder as compared with the estimated cost by the Government; but I say, no matter what has been done, if the Secretary of the Navy finds a bid for this ship for a less sum than he can construct the ship in a Government navy yard, according to the methods of bookkeeping now prevailing there, he will be obliged as an honest, competent, and faithful official to award the contract to the private shipyard, and not build it in the Government yard.

Mr. SWANSON. I simply want to call the attention of the Senator to the fact that this language has been carried, as I understand it, in repeated naval appropriation acts and it has had the construction of the department. Under that construction it has always been held that it left a discretion with the department to build in private yards or in Government yards. The language, I understand, has not been changed, because it is the language carried from year to year.

Mr. CUMMINS. I do not know, for I have not examined it. I only know when the bids come in, if the bids are lower than

the estimated cost by the Government, the Secretary of the Navy can not feel that he has that full discretion which those who are proposing to adopt the amendment of the committee would like to give him.

Mr. LODGE. Will the Senator allow me?

Mr. CUMMINS. Certainly.

Mr. LODGE. The practice of the department and the interpretation of the law is exactly as the Senator from Virginia [Mr. SWANSON] has described it. But if there is any possible doubt it is very easy, when we reach that point in the bill, to insert, after the words "Secretary of the Navy," in the eighteenth line, the language which has been used in 8 or 10 recent acts:

> The Secretary of the Navy may build any or all the vessels authorized in this act in such navy yards as he may designate.

There can be no question about it if that language is put in.

Mr. WILLIAMS. Mr. President——

Mr. CUMMINS. I yield to the Senator from Mississippi.

Mr. WILLIAMS. I call the attention of the Senator from Massachusetts to the bottom of page 58, where I insert a comma in place of the period and add these words:

> Or if for any other reason the Secretary of the Navy shall deem it in the public interest to construct one or both in a Government navy yard.

That would cure the entire trouble.

Mr. LODGE. It would cure it just as my amendment would cure it. I adopted the language of the old law. Either one would cure it, but we can not cure it until we get to it.

Mr. CUMMINS. Undoubtedly it can be cured; and I am very much obliged to both the Senator from Massachusetts and the Senator from Mississippi for pointing out the way in which it can be cured.

I rose largely for the purpose of indicating that the vote did not mean precisely what it was asserted in some quarters that it meant. So far as I am concerned, it would make no difference with my vote. I am in favor of building one of these ships in a Government navy yard, and I believe that to do otherwise would be to overturn the very highest public policy, not only for the reasons stated by the Senator from Wisconsin [Mr. LA FOLLETTE] but because it is essential that the Government shall retain all the while the capacity to build its own battleships. To allow that great organization in the Brooklyn Navy Yard to disintegrate—that great plant which has been accumulated with such infinite care and great genius, I may say, in order that the ship may be built in some private yard—to me is contrary to the best and highest interests of the United States. I intend to vote in such a way as will retain the Brooklyn Navy Yard in full efficiency, and if it be the only navy yard capable of building a ship of the character here described, that the ship shall be built there and under Government supervision and at Government expense.

Mr. WEST. I should like to ask the Senator from Iowa a question before he takes his seat. Why is it that the Government is unable to adopt some system of bookkeeping whereby it would be able to arrive at the real cost of these battleships, so that there could be some comparison made?

Mr. CUMMINS. I do not understand that myself, but I will read to the Senator from Georgia an extract from the statement of the Secretary of the Navy:

> All the cost figures sent to Congress by myself and other Secretaries of the Navy concerning the cost of navy-yard construction of battleships do not show the truth. At the request of the House Naval Affairs Committee I recently sent Chairman PADGETT figures purporting to show the cost price of the battleship *New York*, built in the Brooklyn Navy Yard. Those figures contained items which should not properly have been charged against the ship. There was nothing else for me to do, however, but to put them in. If the law is changed, then I will be able to use my own discretion as to what overhead charges should be assessed against ships built at our yards.

Continuing, he says:

> Navy yards have a twofold purpose. In time of war they should be used entirely for making repairs to ships.

I am not sure that this is an extract from the Secretary's testimony. It may be the editorial in the Brooklyn Eagle from which I am quoting:

> In time of peace they can very well be employed in constructing battleships. Those improvements made at the yards while a ship is under way that are of a permanent nature should not be assessed against the ship. They should be charged to some other appropriation. Now they are charges to the price of the ship, and it is not right. For instance, a pump at the Brooklyn yard furnishing water for use by the men working on the *New York* broke while the ship was under way. A new one was installed in its place. The cost of this work was charged against the *New York*. This was not right, but we could do nothing else under the present law. If the Senate amendment were part of the law now, this item would not have been included in the final cost price of the ship.

The VICE PRESIDENT. The Secretary will call the roll upon agreeing to the amendment of the committee as amended.

The Secretary proceeded to call the roll, and Mr. ASHURST responded "nay."

Mr. POINDEXTER. Mr. President——

SEVERAL SENATORS. Too late.

Mr. POINDEXTER. I was on my feet before——

SEVERAL SENATORS. The roll call has begun.

Mr. WHITE (when Mr. BANKHEAD's name was called). I desire to announce that my colleague [Mr. BANKHEAD] is paired with the junior Senator from West Virginia [Mr. GOFF].

Mr. BRYAN (when his name was called). I am paired with the junior Senator from Michigan [Mr. TOWNSEND], who is absent, and I withhold my vote.

Mr. CHILTON (when his name was called). I have a general pair with the Senator from New Mexico [Mr. FALL]. I do not know how he would vote, and I withhold my vote for the present.

Mr. JAMES (when his name was called). I have a general pair with the junior Senator from Massachusetts [Mr. WEEKS]. I therefore withhold my vote.

Mr. KENYON (when Mr. JONES's name was called). I wish to announce that the Senator from Washington [Mr. JONES] is paired with the Senator from South Carolina [Mr. SMITH].

Mr. SMITH of Maryland (when his name was called). I am paired with the senior Senator from Vermont [Mr. DILLINGHAM]. I transfer that pair to the Senator from Nevada [Mr. NEWLANDS] and vote "yea."

Mr. THOMAS (when his name was called). I have a general pair with the senior Senator from New York [Mr. ROOT]. I am informed that if the senior Senator from New York were here he would vote upon this amendment as I would vote, and I therefore vote "nay."

Mr. WALSH (when his name was called). I have a general pair with the Senator from Rhode Island [Mr. LIPPITT]. Not knowing how he would vote I withhold my vote.

Mr. WILLIAMS (when his name was called). I wish to transfer the pair I have with the senior Senator from Pennsylvania [Mr. PENROSE] to the senior Senator from Indiana [Mr. SHIVELY]. I vote "yea."

The roll call was concluded.

Mr. REED (after having voted in the negative). I inadvertently voted, but I transfer my pair with the Senator from Michigan [Mr. SMITH] to the Senator from Arizona [Mr. SMITH] and allow my vote to stand.

Mr. O'GORMAN. I have a general pair with the senior Senator from New Hampshire [Mr. GALLINGER] who is temporarily absent from the Chamber. I transfer that pair to the junior Senator from Tennessee [Mr. SHIELDS] and vote "nay."

Mr. POINDEXTER (after having voted in the affirmative). Mr. President, I desire to change my vote from "yea" to "nay," and I wish to state in personal explanation of it my understanding of the parliamentary situation. The question upon which we are now voting is upon the amendment of the committee as it was amended by the amendment of the Senator from New York [Mr. O'GORMAN]. So the question upon which we are voting is an amendment proposed by the committee to strike out of the bill the words after the semicolon, in line 22:

> And the Secretary of the Navy is hereby authorized to equip such navy yard as he may designate in which the battleship herein authorized is to be built with the necessary building slips and equipment; and the sum of $200,000, or such part thereof as may be necessary, is hereby appropriated for the navy yard designated by the Secretary of the Navy in which the battleship is to be constructed.

I am in favor of retaining that in the bill. The amendment proposed is to strike it out. Consequently I voted "nay" upon the amendment. The amendment of the Senator from New York is not involved in this question at all, because that amendment has already been adopted. The amendment of the committee was amended by a vote of the Senate by agreeing to retain that language in the bill.

Mr. HITCHCOCK. I make the point of order that debate is not in order in the midst of a roll call.

Mr. WILLIAMS. A roll call can not be interrupted.

Mr. POINDEXTER. I am making a personal explanation. I have said practically all that I desire to say except——

Mr. HITCHCOCK. I make the point of order, and I should like a ruling by the Chair.

The VICE PRESIDENT. The point of order must be sustained.

Mr. POINDEXTER. I ask leave to print, if the Senator will allow me to do that.

Mr. OLIVER. I object to any leave to print, Mr. President.

Mr. WILLIAMS. The Senator can make his explanation afterwards.

Mr. JAMES. I transfer the pair I have with the junior Senator from Massachusetts [Mr. WEEKS] to the junior Senator from Arkansas [Mr. ROBINSON] and vote. I vote "nay."

Mr. BRISTOW. I desire to state that the junior Senator from Minnesota [Mr. CLAPP] is unavoidably detained. If he were here, he would vote "nay."

Mr. KERN. I desire to announce the unavoidable absence of the following Senators: The Senator from Arkansas [Mr. CLARKE], who is paired with the Senator from Utah [Mr. SUTHERLAND]; the Senator from Texas [Mr. CULBERSON], who is paired with the Senator from Delaware [Mr. DU PONT]; the Senator from Florida [Mr. FLETCHER], who is paired with the Senator from Wyoming [Mr. WARREN]; the Senator from New Hampshire [Mr. HOLLIS], who is paired with the Senator from Maine [Mr. BURLEIGH]; the Senator from Tennessee [Mr. LEA], who is paired with the Senator from South Dakota [Mr. CRAWFORD]; the Senator from Montana [Mr. MYERS], who is paired with the Senator from Connecticut [Mr. MCLEAN]; the Senator from South Carolina [Mr. SMITH], who is paired with the Senator from Washington [Mr. JONES]; and the Senator from Kansas [Mr. THOMPSON], who is paired with the Senator from Illinois [Mr. SHERMAN].

Mr. SIMMONS (after having voted in the affirmative). I have a general pair with the junior Senator from Minnesota [Mr. CLAPP], who is absent. I transfer that pair to the Senator from Oklahoma [Mr. GORE] and will let my vote stand.

Mr. WALSH. I have heretofore announced my pair, but I transfer it to the Senator from Oklahoma [Mr. OWEN] and vote "nay."

The result was announced—yeas 16, nays 30, as follows:

YEAS—16.

Brandegee	Martin, Va.	Smith, Ga.	Tillman
Johnson	Oliver	Smith, Md.	West
Lewis	Overman	Swanson	White
Lodge	Simmons	Thornton	Williams

NAYS—30.

Ashurst	Hughes	Nelson	Shafroth
Borah	James	Norris	Sheppard
Bristow	Kenyon	O'Gorman	Sterling
Catron	Kern	Page	Thomas
Chamberlain	La Follette	Perkins	Vardaman
Cummins	Lane	Pittman	Walsh
Gronna	Lee, Md.	Poindexter	
Hitchcock	Martine, N. J.	Reed	

NOT VOTING—49.

Bankhead	du Pont	Newlands	Smith, S. C.
Brady	Fall	Owen	Smoot
Bryan	Fletcher	Penrose	Stephenson
Burleigh	Gallinger	Pomerene	Stone
Burton	Goff	Ransdell	Sutherland
Chilton	Gore	Robinson	Thompson
Clapp	Hollis	Root	Townsend
Clark, Wyo.	Jones	Saulsbury	Warren
Clarke, Ark.	Lea, Tenn.	Sherman	Weeks
Colt	Lippitt	Shields	Works
Crawford	McCumber	Shively	
Culberson	McLean	Smith, Ariz.	
Dillingham	Myers	Smith, Mich.	

The VICE PRESIDENT. A quorum has not voted.

Mr. HUGHES. I move a call of the absentees.

Mr. SMITH of Georgia. Under the rule, as I understand it, unless a sufficient number of Senators vote, and thereby give the Senate a quorum, it is required that the roll of the entire Senate be called, so as to ascertain whether or not there is a quorum present.

Mr. HUGHES. I ask for a call of the Senate.

The VICE PRESIDENT. The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Ashurst	James	Oliver	Swanson
Brandegee	Kenyon	Overman	Thomas
Bristow	Kern	Page	Thornton
Bryan	La Follette	Perkins	Tillman
Burton	Lane	Pittman	Vardaman
Catron	Lee, Md.	Poindexter	Walsh
Chamberlain	Lewis	Reed	West
Chilton	Lodge	Shafroth	White
Cummins	Martin, Va.	Sheppard	Williams
Gore	Martine, N. J.	Simmons	
Hitchcock	Nelson	Smith, Ga.	
Hughes	O'Gorman	Sterling	

The VICE PRESIDENT. Forty-five Senators have answered to the roll call. There is not a quorum present.

Mr. KERN. I move that the Senate adjourn.

The motion was agreed to; and (at 6 o'clock and 30 minutes p. m.) the Senate adjourned until Monday, June 1, 1914, at 11 o'clock a. m.

HOUSE OF REPRESENTATIVES.

FRIDAY, *May 29, 1914.*

The House met at 11 o'clock a. m., and was called to order by the Speaker pro tempore, Mr. HAY.

The Chaplain, Rev. Henry N. Couden, D. D., offered the following prayer:

We bless Thee, Almighty God, our heavenly Father, for a united country, strong in its material, intellectual, moral, and spiritual resources, and our hearts go out in grateful memory to the true, the noble, brave, patriotic men who sacrificed even unto death, that it might live. Keep us, we beseech Thee, close to Thee, that we enter not into temptation and misuse the precious gifts with which Thou hast so abundantly blessed us, but lead Thou us on to still greater heights of glory, an example to the world of righteousness, truth, and justice, "with malice toward none and charity for all." Peace reigning o'er us, one country, one flag, one God and Father of us all. And Thine be the praise forever. In the spirit of the Lord Jesus Christ. Amen.

APPROVAL OF THE JOURNAL.

The Journal of the proceedings of yesterday was read.

The SPEAKER pro tempore. Without objection, the Journal as read will stand approved.

Mr. MANN. Mr. Speaker, reserving the right to object, I understood the Journal as read to say that the House disagreed to the amendments of the Senate to the Agricultural appropriation bill. As a matter of fact, that was not the motion, although it should have been; and, as a matter of fact, as I am informed, that was not the message which was sent by the House to the Senate. The fact is that the Senate adopted amendments to the Agricultural appropriation bill, and without insisting upon its amendments, asked for a conference, and the House, without disagreeing to the amendments of the Senate, agreed to the conference, so that there was no disagreement between the two Houses, and the point had not been reached where it was proper to have a conference. The Journal does not agree with the message which was sent to the Senate. I call attention to it, because I think Members who present these matters to the House ought to do it in a correct manner, so as not to get everybody tied up.

Mr. BARTLETT. Mr. Speaker, will the gentleman yield?

Mr. MANN. Yes.

Mr. BARTLETT. The gentleman's proposition is that the House ought to have disagreed to the Senate amendments and to have agreed to the conference?

Mr. MANN. Each House before it asks for a conference either disagrees or insists upon its own amendments.

Mr. BARTLETT. That is correct.

Mr. MANN. And in this case the Senate did not insist upon its amendments, and the House did not disagree to the Senate amendments.

Mr. BARTLETT. Mr. Speaker, it was suggested to the gentleman from South Carolina that the motion he put was not a proper motion, and he insisted upon it.

Mr. MANN. I could not hear the gentleman from South Carolina [Mr. LEVER] when he made the motion, or during the conversation which he had with the gentleman from Mississippi [Mr. CANDLER].

Mr. BARTLETT. Does not the gentleman think the Journal ought to show a disagreement to these amendments in some way?

Mr. MANN. Oh, I think the Journal now states a disagreement, but the message which was sent to the Senate yesterday by the House did not state that the House had disagreed to the Senate amendments, because the message was in conformity with the motion made in the House yesterday.

Mr. CANDLER of Mississippi. Mr. Speaker, I will state to the gentleman from Illinois [Mr. MANN] that I asked the gentleman from South Carolina [Mr. LEVER], the chairman of the Committee on Agriculture, whether or not his request was to disagree to the Senate amendments and he said that it was not.

Mr. MANN. I understand, and there is no occasion for a conference until there is a disagreement between the two Houses.

Mr. CANDLER of Mississippi. I thought myself that that ought to have been the request, to disagree to the Senate amendments and to agree to the conference.

Mr. MANN. It should have been.

Mr. BARTLETT. As I recall, the gentleman from Mississippi [Mr. CANDLER] suggested that to the gentleman from South Carolina at the time he made his motion.

The SPEAKER pro tempore. The Chair thinks the statement of the gentleman from Illinois is correct, and, without objection, the Journal will be corrected.

Mr. MANN. Oh, I have no objection to whether it is corrected or not, but I think there ought to be a disagreement.

Mr. CANDLER of Mississippi. Mr. Speaker, I ask that the RECORD be corrected.

The SPEAKER pro tempore. Without objection, the RECORD will be corrected. [After a pause.] The Chair hears no objection.

Mr. GARNER. Mr. Speaker, if the Journal is corrected to show no disagreement was had in the House as to the Senate amendments, and that part of the Journal is vacated, would it not be necessary to now disagree to the Senate amendments and to ask for a conference?

The SPEAKER pro tempore. The Chair thinks that in effect the Senate amendments have been disagreed to.

Mr. MANN. The papers are gone beyond the possession of the House in any event.

The SPEAKER pro tempore. And it is now beyond the power of the House.

The Journal was approved.

THE PAGES.

Mr. CANDLER of Mississippi. Mr. Speaker, by unanimous consent the House has agreed that when it adjourns to-night it will adjourn over to-morrow, which is Decoration Day, until Monday. I understand that, regardless of this fact, the pages on the floor of the House and the telephone pages are required to remain here upon the floor to-morrow from 10 o'clock until 2. There will be nobody here, and I see no necessity for requiring these boys to remain here to-morrow, when there will be nothing for them to do. Therefore I ask unanimous consent that they may not be required to be present to-morrow, in order that they may have the day.

The SPEAKER pro tempore. The gentleman from Mississippi asks unanimous consent that the pages on the floor of the House and the telephone pages may not be required to attend to-morrow from 10 o'clock until 2. Is there objection?

There was no objection, and it was so ordered.

DECORATION DAY.

Mr. J. M. C. SMITH. Mr. Speaker, I ask unanimous consent to address the House for 15 minutes on the subject of Decoration Day.

The SPEAKER pro tempore. The gentleman from Michigan asks unanimous consent to address the House for 15 minutes on the subject of Decoration Day. Is there objection?

Mr. RUCKER. Mr. Speaker, reserving the right to object, will the gentleman permit me to first dispose of a formal matter which is before the House?

Mr. J. M. C. SMITH. Yes; certainly.

Mr. WEBB. Mr. Speaker, I will ask the gentleman if he will not take 10 minutes?

Mr. RUCKER. Without wanting to displace the gentleman, I would like to call up the conference report——

The SPEAKER pro tempore. That would have to be done also by unanimous consent.

Mr. RUCKER. Mr. Speaker, it is privileged, is it not?

The SPEAKER pro tempore. Not under the present rule.

Mr. RUCKER. I think on yesterday the Speaker ruled it was privileged when the present occupant of the chair was not presiding.

Mr. GARNER. The Speaker held that a conference report was in the discretion of the Chair whether he could call it up under this rule.

Mr. MANN. The Speaker held this conference report was in order under the rule.

Mr. GARNER. That this conference report was in order under the rule.

The SPEAKER pro tempore. The Chair will call attention to the rule:

> The order of business provided by this resolution shall be the continuing order of business of the House until concluded, except that it shall not interfere with Calendar Wednesday, nor with the consideration of House bill 16508, the further urgent deficiency bill, nor with the consideration of conference reports on appropriation bills or the sending of appropriation bills to conference.

Now, the Chair understands the bill called up by the gentleman from Missouri is not an appropriation bill.

Mr. GARNER. Mr. Speaker, the gentleman from Illinois [Mr. MANN] at the time that rule was under consideration made an inquiry of the Speaker with reference to conference reports.

Mr. MANN. In reference to matters on the Speaker's table.

Mr. GARNER. In reference to matters on the Speaker's table, and the Speaker then said that in construing that rule that he would hold it was within the discretion to call up matters on the table, so it is entirely with the Chair——

The SPEAKER pro tempore. Of course the present occupant of the Chair was not conversant——

Mr. MANN. But the Speaker on yesterday, when this conference report was called up, or rather when the same bill was called up, held it was in order to be called up.

The SPEAKER pro tempore. Very well.

Mr. RUCKER. I will read what the Speaker said if the Chair desires.

The SPEAKER pro tempore. The gentleman from Michigan asks unanimous consent to address the House for 15 minutes.

Mr. J. M. C. SMITH. For 10 minutes, as I have been asked to limit my time to that.

The SPEAKER pro tempore. Is there objection?

Mr. FITZGERALD. Mr. Speaker, reserving the right to object, does the gentleman intend to indulge in any criticisms of the administration?

Mr. J. M. C. SMITH. I simply desire to speak on the subject of Decoration Day.

Mr. FITZGERALD. Men can talk on a great many things under such a title.

Mr. MANN. Is the gentleman so tender about the administration?

Mr. FITZGERALD. No; I am not tender about it.

Mr. J. M. C. SMITH. It is too broad a field to go into.

Mr. FITZGERALD. But I do not propose to permit indiscriminate criticism.

The SPEAKER pro tempore. Is there objection?

Mr. FITZGERALD. Upon the statement of the gentleman I do not object.

The SPEAKER pro tempore. The gentleman from Michigan [Mr. J. M. C. SMITH] is recognized for 10 minutes.

Mr. J. M. C. SMITH. Mr. Speaker, I am very appreciative of the indulgence of the House at this time. I had intended to speak to-morrow, but in honor of the veteran soldiers of our country the House will adjourn over to-morrow, and I now thank you for giving me the opportunity to speak to-day.

The 30th day of May is set apart to commemorate the great achievements of the Grand Army of the Republic in the War of the Rebellion and all soldiers and sailors in fighting the battles of our country and preserving the Union.

On this day will assemble in every part of our land, from the Atlantic to the Pacific, in the Northland and in the Southland, millions who will pay homage to the Nation's dead, and in loving remembrance place flowers upon the silent tombs of those who fell in battle and of those who offered their lives for their country who have since died and have been given a final resting place in the city of the dead.

In that memorable war, the greatest of all times, were engaged the largest armies known to authentic war history. In this war the conflict was the fiercest; the deeds of daring and bravery the most exemplary; the victories the most brilliant; and the achievements by armies more beneficial to all mankind than in any prior conflict, and time will never efface the splendor and glory of the valor of those brave men.

Time will not permit me to recount the deeds of daring and bravery of those illustrious men who sacrificed their lives in that great conflict, nor of those who offered their lives in defense of their country; that will be told upon the plains and hillsides by millions who will this day recount the stirring scenes of battle and the glories of their achievements; and around the hearthstones of many homes made sad and solemn by the absence of those who went forth at the call to arms and who never returned will be recounted the sacrifices made, and to many will recur the blighting remembrance of the last farewell.

Mr. Speaker, it is not alone to the dead that we owe a debt of gratitude, but also to all those yet living who in the flower of their young manhood offered their lives in the defense of their country. Neither do we neglect the loving wives and mothers who parted with their dearest treasure and who so uncomplainingly have gone through life in hallowed sorrow. To them all this country owes a debt of admiration and respect which no recompense can efface; to them do we, who to-day enjoy the benefits and share in the glory of their victories, acknowledge our gratitude. To them all time will garnish the pages of our national record and gild our history with the luster of their sacrifices. To the living and the dead, to those who fill the known and the unknown graves, to all who took the solemn vow that he would die if need be in freedom's name, we devoutly and reverently acknowledge that their glory ends not with the grave, but all future generations will do them homage.

We love to read of Bunker Hill, Yorktown, Lexington, Valley Forge, and of those times that tried men's souls. We learn how Washington and Lafayette and Greene and Wayne, with a half-paid, half-fed, and half-clothed army won our inde-

pendence. And still we deprecate war. What position would we be in to-day for peaceful arbitration with England concerning our independence and free Government and our individual right to worship according to our own conscience? And where would be our boasted liberty if it had not been for the War of the Revolution? Was it worth the sacrifice? Yes, a thousand times. For out of the requiem of the Battle of Bunker Hill and the melody of the Star-Spangled Banner millions of lives to-day, and untold millions to follow us, enjoy such liberty of thought, action, and pursuit that is the wonder and admiration of the world and makes for equal opportunity.

We deprecate war. But without war we would be to-day a disrupted and a divided nation. Were it not for the War of the Rebellion each State might now claim the right to secede, and instead of us being one nation of 48 States which now constitutes the Union, we might be 48 independent nations. That was severe warfare, and the resources of the Nation in men and treasure were taxed severely to preserve it.

Under Lincoln, Sherman, Sheridan, Farragut, and Grant, and such a splendid galaxy of military chieftains, leading an army of such fighting men as the world never knew, the task of not establishing but restoring the Union was again accomplished. Was it worth it? We say it was.

Then, again, when murder, plunder, and barbarism stalked in Cuba, and our brave boys lost their lives in the *Maine*, it was McKinley and Dewey, the blue and the gray, Rough Riders, Joe Wheeler, and Schley, in answer to the call, who drove Spanish tyranny and power from that fair land. The War with Spain received the plaudits of the world, and Cuba, with its 2,250,000 freemen, tell of the result.

Mr. Speaker, at the close of the Thirty-eighth Congress of the United States, from your desk, Speaker Colfax took occasion to felicitate the House and the country on the achievements of our men in arms, and among other things said:

> But in this hour of gladness I can not forget the obligations, paramount and undying, we owe to our heroic defenders on every battle field upon the land and every wave-rocked monitor and frigate upon the sea. Inspired by the sublimest spirit of self-sacrifice, they have realized a millionfold the historic fable of Curtius as they have offered to close up, with their own bodies if need be, the yawning chasm that imperiled the Republic. For you and me and for their country they have turned their backs on the delights of home and severed the tenderest of ties to brave death in a thousand forms; to confront with unblanched cheek the tempest of shot and shell and flame; to storm frowning batteries and bristling intrenchments; to bleed, to suffer, and to die. As we look from this Capitol Hill over the Nation there are crushed and broken hearts in every hamlet; there are wounded soldiers, mangled with rebel bullets, in every hospital; there are patriot graves in every churchyard; there are bleaching bones on every battle field. It is the lofty and unfaltering heroism of the honored living, and the even more honored dead, that has taken us from every valley of disaster and defeat and placed our feet on the sun-crowned heights of victory. The granite shaft may commemorate their deeds. Our American Valhalla may be crowded with the statues of our heroes, but our debt of gratitude to them can never be paid while time shall last and the history of a rescued Nation shall endure.
>
> If my voice, from this Representative Hall, could be heard throughout the land, I would adjure all who love the Republic to preserve this obligation ever fresh in grateful hearts. The dead, who have fallen in these struggles to prevent an alien flag from waving over the ashes of Washington or over the graves where sleep the great and patriotic rivals of the last generation, the hero of New Orleans and the illustrious commoner of Kentucky, can not return to us. On Shiloh's plain and Carolina's sandy shores, before Richmond, and above the clouds at Lookout Mountain, the patriot martyrs of constitutional liberty sleep in their bloody shrouds till the morning of resurrection. But the living are left behind. And if the sacred record appropriately commends the poor, who are ever with us, to our benefactions and regard, may I not remind you that the widow and the fatherless, the maimed and the wounded, the diseased and the suffering, whose anguish springs from this great contest, have claims on all of us, heightened immeasurably by the sacred cause for which they have given so much? Thus, and thus alone, by pouring the oil of consolation into the wounds that wicked treason has made, can we prove our devotion to our fatherland and our affectionate gratitude toward its defenders.

Half a century has since passed, and of that grand army of 2,772,408, less than 500,000 are still living. On May 1, 1914, there was upon the pension roll but 435,693, and they are diminishing at the rate of 100 each day. The Nation's defenders have enshrined themselves in the hearts of all our citizens, and the pledge of Speaker Colfax has been carefully kept by a grateful Nation. To care for those who fought our battles in war and are now dependent is not a gratuity; it is not a gift; it is not an unwarranted or groundless recompense; it is our Nation's duty in recognition of a just obligation. For four years at the time of life when young men fit themselves for future activities, and for a period of time equal to the full term of a college course, they set aside the hope and opportunity of a successful business career to uphold the flag.

The following statement shows that pensions were granted to colonial soldiers in this country for injuries and losses sustained in war:

1636. Pilgrims of Plymouth, a reasonable maintenance.
1644. Virginia Assembly, for disability and indigent families.
1676. Court of Massachusetts Bay, relief on application.
1691. Charter of Plymouth Colony, from public treasury.
1718. Colony of Rhode Island, to every disabled officer and private.
1776. Continental Congress, half pay to widows and children.
1818, March 18. For service to indigents.
1861, July 22. One hundred dollars and arrearage of pay and allowances.
1862, July 14. Specific rates to injured and disabled.
1866, July 25. Specific rates to minor children.
1886, March 19. Rate increased.
1890, June 27. Rate upon service and to widows.
1907, February 6. Age and service law.
1908, April 19. Increase to widows.
1912, May 11. Present age and service law.

It has been the policy of this country always to pension its deserving soldiers and sailors, and while in the main our pension laws are just and liberal, certain amendments would make them more so.

I would approve of a law providing that a war widow, living with the soldier during and since the war, should, upon the death of the soldier, draw his pension. She offered up many a prayer in her secret chamber for his success in the Army and suffered in hardships and anxieties during his absence. She has shared his vicissitudes in life and like him has done her patriotic duty since the war.

The rigid law of limitation within which a widow can be pensioned should be changed and the time of marriage to the soldier to entitle her to a pension should be shortened. It does not seem right that a widow who married a soldier in May, 1890, should under the law be entitled to a pension while one who married a soldier in July of the same year, 1890, should be denied a pension under the law. If she was the warden of the soldier and assisted the Government in caring for him in his helpless condition she ought to be rewarded.

In the construction of the pension law a soldier should be considered as physically sound when he enlisted, and the burden of proof that he was not so at that time should be placed on the Government.

I would like to see a competency paid to those brave veterans who, from whatever cause, whether from sickness or misfortune, since the war are now unable to work and unable to care for themselves and have the dread of ever becoming dependent removed.

The above or similar amendments would not perceptibly increase the amount now paid for pensions and would be doing added justice to those entitled to such benefits.

I am also in favor of the dollar-a-day Sherwood pension bill, and think the time fast approaching when it will be enacted into law.

The insult to our flag at Tampico stirred the patriotic blood of this great Nation and mobilized our Army and Navy; but what of tearing our flag from the custombouse at Manzanillo and stamping it in the street, as stated in the New York Sun of May 4, 1914:

> Enraged Mexicans made hostile demonstrations against Americans in the streets in the vicinity of the United States consulate, and the American flag was torn down, trampled in the dirt, and burned. Americans outside the city were charged 1,000 pesos each for safe conduct through the city to the steamer, and at least 50 were unable to pay that sum and were left behind.

Can an American citizen carry the red flag of anarchy in this land of the Stars and Stripes? To him should await but martial law, and dire consequences should be meted out to everyone claiming the protection of the American flag who dares to offer it insult. It is our national emblem; it stands for liberty, national sovereignty, noble Christian citizenship, and good will to all men, and it should be respected and protected in this and every other land while we endure as an independent Nation. I am not for war, and I am not for peace at any price. Hundreds of American citizens are fleeing from Mexico City under protection of the British flag. Where is our own flag?

Recently we have witnessed every indignity that can be offered against a nation—insult to our flag; murder of our citizens upon our own territory; slaughter, plunder, and rapine against peaceful American citizens residing in Mexico; our troops fired upon and shot; our consuls imprisoned and court-martialed. The property of our citizens has been looted and destroyed and they made to abandon everything and flee for their ransomed lives. If this calls for mediation only, when might war ensue? The country of Mexico, here on the very threshhold of our Republic, in this enlightened twentieth century, is undergoing a looting and barbarism that has never been eclipsed in any age or clime.

I have many times wondered if we are meeting our full responsibility in Mexico and doing our duty.

If we went to Mexico to appease the insult to our flag, and this was ostensibly the purpose, we ought to appease it and get out. But evidently that was not the sole purpose, and some are

for getting out, while some are for going in, and evidently some are for standing still. As to what we should do, each seems to be left to answer or himself. If anyone feels comfortable standing still and looking on over the borders while innocent men, women, and children are being slaughtered by irresponsible bandits bent on loot, I am not one of that mind.

I am for raising our flag in Mexico until peace is restored and a stable government established, and I am for keeping it up until every citizen and country is indemnified for their losses. No other country but the United States can restore order in Mexico; no other country can secure a stable government there but the United States. And no other country can give the inhabitants of Mexico a better government than the United States. In the end action must be taken by the United States.

Mr. Speaker, I have received many petitions from the veterans of my district protesting against any change in our flag. I have only been able to find one bill introduced in Congress for that purpose, which follows:

House concurrent resolution 6.

Resolved by the House of Representatives (the Senate concurring), That the flag of the United States of America shall hereafter be as described: It shall consist of 13 alternating stripes of red and white, with a field of blue in which shall be stars to the extent of 48, arranged in a circle, to symbolize our Federal Union, which said circle shall be increased 1 star upon the admission of any other State. Within said circle of 48 stars shall be 1 large five-pointed star, constructed of smaller stars, which shall symbolize and represent our unparalleled Nation, the great Republic of the world. In the center of said star so constructed of smaller stars as above described shall be a red circle, which shall represent our colonial and insular possessions.

The change does not appear to be a violent one; but the old soldiers do not want it changed at all, except to add a new star for each new State, and they can not be blamed or criticized for that. It is the symbol of our nationality and representative Government. They want it to remain just as Francis Key saw it flying over Fort McHenry on the 21st day of September, 1814, in the dawn of the morning, from his prison on the British frigate in Chesapeake Bay. They want it just as Ellsworth hoisted it in Alexandria in 1861. They want it just as they fought for it, just as they died for it, and just as it looked to them when going into battle; just as it looked on the rampart and at Fredericksburg, and just as it looked at Appomattox. May its stars bedeck the earth like the stars of the firmament; may its folds kiss the breezes of every clime and its stripes bring that universal love of freedom, liberty, prosperity, and happiness which it bears to every living heart. It is the flag we all love. We can all indorse the beautiful lines of Nesbit:

Your flag and my flag, and how it flies to-day;
In your land and my land and half the world away;
Rose red and blood red its stripes forever gleam;
Snow white and soul white the good forefathers dream;
Sky blue and true blue, with stars that gleam aright;
A gloried guidon of the day; a shelter thro' the night.

Your flag and my flag, and oh how much it holds!
Your land and my land secure within its folds;
Your heart and my heart beat quicker at the sight;
Sun kissed and wind tossed, the red and blue and white;
The one flag, the great flag, the flag for me and you;
Glorified, all else beside, the red and white and blue.

[Applause.]

DIRECT VOTE FOR UNITED STATES SENATORS.

Mr. RUCKER. Mr. Speaker, I call up the conference report on the bill (S. 2860)——

Mr. WEBB. Mr. Speaker, I make the point of order that that motion is not in order under the rule under which we are now operating. The rule specifically provides that nothing shall interfere with the consideration of these trust bills except the further urgent deficiency bill, which has already been passed, conference reports, and appropriation bills, or the sending of bills to conference. Now, with those three exceptions, nothing else can be considered under this rule.

Mr. RUCKER. Will the gentleman yield? I am sure it will not take 15 minutes—possibly not 5.

The SPEAKER pro tempore. The Chair will state, in view of the fact the Speaker of the House has already ruled on this question, the present occupant of the chair does not like and would not undertake to overrule the Speaker of the House.

Mr. WEBB. Very well, Mr. Speaker; if the Chair feels that way about it, I withdraw the point of order.

The SPEAKER pro tempore. The gentleman from Missouri calls up the conference report which the Clerk will read.

Mr. RUCKER. Mr. Speaker, I ask unanimous consent that the statement may be read in lieu of the report.

The SPEAKER pro tempore. The gentleman from Missouri asks unanimous consent that the statement be read in lieu of the report. Is there objection? [After a pause.] The Chair hears none.

The conference report and statement are as follows:

CONFERENCE REPORT (NO. 726).

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill S. 2860 having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendments of the House numbered 1 and 2 and agree to the same.

That the House recede from its amendment numbered 3.

Amendment numbered 4: That the Senate recede from its disagreement to the amendment of the House numbered 4, and agree to the same with an amendment as follows: Insert after the word "That," with which the amendment is introduced, the words "section 2," so that the amendment shall read:

"SEC. 3. That section 2 of this act shall expire by limitation at the end of three years from the date of its approval."

And the House agree to the same.

W. W. RUCKER,
R. F. BROUSSARD,
Managers on the part of the House.

T. J. WALSH,
ATLEE POMERENE,
WM. S. KENYON,
Managers on the part of the Senate.

STATEMENT OF THE MANAGERS ON THE PART OF THE HOUSE.

The Senate receded from its disagreement to the House amendments Nos. 1 and 2, and the House receded from its amendment No. 3.

Amendment No. 4: The Senate receded from its disagreement to amendment No. 4 and agreed to the same with an amendment. As agreed to, amendment No. 4 will read as follows:

SEC. 3. That section 2 of this act shall expire by limitation at the end of three years from the date of its approval.

The effect of this amendment, as finally agreed upon, is to leave section 1 of the act permanent law and limit the life of section 2 to three years.

W. W. RUCKER,
R. F. BROUSSARD,
Managers on the part of the House.

Mr. RUCKER. Mr. Speaker, I move that the House agree to the conference report, and on that I demand the previous question.

Mr. MANN. Will the gentleman yield for a question?

Mr. RUCKER. I yield to the gentleman from Illinois.

Mr. MANN. The language of section 3 as it passed the House, I think, is "that this act shall expire by limitation." The conference report says that the Senate recedes from its disagreement and agrees to the amendment of the House with an amendment, as follows: "Insert after the word 'that' the words 'section 2,' so that it will read: 'That section 2 of this act.'" Now, that is a very small matter, except to the man who is going to enroll the bill. It does not propose an amendment to insert "section 2 of," but to insert "section 2."

Mr. RUCKER. Mr. Speaker, I will suggest to the gentleman that the section itself is set forth in full as amended.

Mr. MANN. The enrolling clerk thus finds in the conference report two contradictory statements—one where the Senate agrees to the amendment of the House with an amendment inserting "section 2."

Ordinarily that is what he takes; but if he takes that in this case he makes a grammatical or rhetorical error, but which, it is true, is corrected. I think the Members of the House who prepare reports where the enrolling clerk must enroll a bill and must follow the report of the committee on conference ought to have it so the enrolling clerk can follow it and know what he is doing.

Mr. RUCKER. I do not think there is any trouble about that.

Mr. MANN. It may be; the gentleman may think there may be no trouble. I consulted with the enrolling clerk of the House, who of course does not enroll this bill, because it is a Senate bill, and he did not know what he would do about it; and I do not know what I would do and I do not think the gentleman from Missouri would know what he would do about it.

The SPEAKER pro tempore. The question is on the motion of the gentleman from Missouri [Mr. RUCKER].

Mr. BARTLETT. Mr. Speaker, the conference report, as I understand it, makes permanent section 1, and the provisions of section 2 are to expire at the end of three years. Is that the result of the conference?

Mr. RUCKER. Yes.

The SPEAKER pro tempore. The question is on ordering the previous question.

The previous question was ordered.

The SPEAKER pro tempore. The question is on agreeing to the conference report.

The question was taken, and the Speaker pro tempore announced that the ayes seemed to have it.

Mr. BARTLETT. Division, Mr. Speaker.

The House divided; and there were—ayes 89, noes 6.

So the conference report was agreed to.

ANTITRUST LEGISLATION.

The SPEAKER pro tempore. Under the rule the House resolves itself automatically into the Committee of the Whole House on the state of the Union for the further consideration of the antitrust bill, and the gentleman from Tennessee [Mr. BYRNS] will take the chair.

The CHAIRMAN. The House is in Committee of the Whole House on the state of the Union for the further consideration of the bill H. R. 15657, the antitrust bill, of which the Clerk will report the title.

The Clerk read as follows:

A bill (H. R. 15657) to supplement existing laws against unlawful restraints and monopolies, and for other purposes.

The CHAIRMAN. When the committee rose on yesterday there was pending an amendment offered by the gentleman from Missouri [Mr. DICKINSON], to which an amendment had been offered by the gentleman from Indiana [Mr. CULLOP]. The question now is on the amendment to the amendment.

Mr. WEBB. Mr. Chairman, the committee has an amendment to this section which we think will satisfy the gentlemen who have offered amendments, and if they will withdraw their amendments we will now offer the committee amendment.

Mr. FLOYD of Arkansas. Mr. Chairman, I desire to suggest and offer as a substitute for the pending amendment the following:

Page 22, line 22, insert after the words "is found" the words "or has an agent."

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Page 22, line 22, after the word "found," insert the words "or has an agent."

Mr. DICKINSON. Mr. Chairman——

Mr. FLOYD of Arkansas. I yield to the gentleman from Missouri [Mr. DICKINSON].

Mr. DICKINSON. Mr. Chairman, I am contented to withdraw the amendment I offered, with the consent of the gentleman from Indiana [Mr. CULLOP] and of the House, so that it may not stand in the way of the substitute proposed by the committee.

Mr. CULLOP. Mr. Chairman——

Mr. DICKINSON. One second. I want to say this, that while I believe the additional words added would be a better amendment than the one proposed in the substitute, as far as I am concerned I will withdraw my amendment. But I want to give notice that when we reach section 10 I purpose to offer an amendment to that, using the words "or has an agent where the cause of action arose."

Mr. CULLOP. Mr. Chairman——

The CHAIRMAN. Will the gentleman from Arkansas yield?

Mr. FLOYD of Arkansas. I yield to the gentleman from Indiana.

Mr. CULLOP. The substitute is perfectly satisfactory, and I think covers the whole question.

Mr. BARTLETT. Mr. Chairman——

Mr. FLOYD of Arkansas. I yield to the gentleman from Georgia.

Mr. BARTLETT. As I understand now, you propose to amend the proposition by inserting after the word "found" the words "or has an agent"?

Mr. FLOYD of Arkansas. Yes, sir.

Mr. BARTLETT. And that would apply equally to individuals as well as to corporations?

Mr. FLOYD of Arkansas. Certainly.

Mr. BARTLETT. So that if you could not find an individual against whom you desired to bring suit, but the agent of the individual, you could serve the agent of the individual. Is that true?

Mr. FLOYD of Arkansas. That is true.

Mr. BARTLETT. Ought not the gentleman to further define the agent as an agent who has to transact the business of the corporation? If the gentleman will permit me just a moment; I do not desire to take his time unnecessarily, but it is an important proposition.

Mr. FLOYD of Arkansas. Certainly.

Mr. BARTLETT. Mr. Chairman, I desire to call the attention of the committee to this state of facts. This is an important proposition, because upon the service thus obtained will rest this suit and all suits. If you inquire into the various statutes of the States providing for service upon corporations and upon their agents you will not find, or I have not found at least, any place where the agent of an individual is permitted to be served by a process and to bind the individual.

Mr. MANN. Will the gentleman yield for a question?

Mr. BARTLETT. One moment. Let me finish this sentence. But you can obtain jurisdiction of the individual in any State where he is found by serving upon the person a copy of the process or writ. Now I yield.

Mr. MANN. The gentleman will notice that this provision only relates to the district in which suit may be brought and has nothing to do with service on the defendant. In other words, if this language were inserted and suit might be brought in the district where one person had an agent in the form of another person, service on the agent would not be sufficient to bring the individual into court.

Mr. BARTLETT. Then if the purpose of the section is to give jurisdiction to the court in that particular locality, that court would serve its process upon those within its jurisdiction.

Mr. MANN. Well, it could not serve process upon an individual who was not within its jurisdiction?

Mr. BARTLETT. It could not. No.

Mr. MANN. So after all this provision apparently only fixes the district in which suit may be brought?

Mr. BARTLETT. Yes.

Mr. MANN. Now, it may be that you can serve the agent of a corporation and thereby get service upon the corporation, but you could not serve the agent of an individual and thereby get service upon the individual?

Mr. BARTLETT. Because there happens to be a provision in the Constitution that requires an individual to be sued in the district where he resides.

Mr. MANN. Oh, no. The gentleman is mistaken about that.

Mr. BARTLETT. I am not. At least I do not think I am.

Mr. MANN. The gentleman has in mind a provision about the criminal prosecution where the offense is committed.

Mr. BARTLETT. No; I have not. Anyhow, I will fortify my statement about that, if necessary. Anyhow, my judgment is this should be amended in order to make it safe. To give jurisdiction to a court in that district or that State or that locality over an individual who may have an agent not to transact this business about which you are suing him for, but to transact entirely some other kind of business, such as running a farm, would, in my judgment, be very fatal to it; and this provision with reference to the agency should be limited to the question of an agent of a corporation, because the statutes of the various States on that subject have been upheld.

The CHAIRMAN. The time of the gentleman has expired.

Mr. FLOYD of Arkansas. Mr. Chairman, may we have a vote?

Mr. STAFFORD. I assume the gentleman will not object to five minutes being consumed on this side?

The CHAIRMAN. The gentleman from Missouri [Mr. DICKINSON] asks unanimous consent to withdraw his amendment, and the gentleman from Indiana [Mr. CULLOP] makes a like request with reference to the amendment to the amendment. Is there objection?

Mr. SCOTT. Reserving the right to object, Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. SCOTT. What would there be before the committee?

The CHAIRMAN. The gentleman from Arkansas [Mr. FLOYD] proposes to offer an amendment. Is there objection to the request made by the gentleman from Missouri and the request of the gentleman from Indiana to withdraw their amendments?

There was no objection.

Mr. FLOYD of Arkansas. Mr. Chairman, I offer the amendment which I have sent to the Clerk's desk, and ask to have the amendment reported again.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amend, page 22, line 22, by inserting, after the word "found," the words "or his agent."

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from Arkansas.

Mr. FLOYD of Arkansas. Mr. Chairman, I understand that some gentlemen desire to speak upon it.

Mr. SCOTT. Mr. Chairman, the amendment to my mind would bring about an anomalous condition. As the section now stands, providing that suit may be brought in any district where the defendant is found, it means that it may be brought in any district—and I refer to corporations—where a corporation may be found transacting business permanently.

Mr. FLOYD of Arkansas. Undoubtedly that is what it means.

Mr. SCOTT. It would not include any agent. The amendment enlarges the present interpretation of the word "found" as applied to the corporate jurisdiction, and permits suit to be brought, with absolute discretion on the part of the plaintiff, in any district in which the defendant may have an agent, without defining the character of that agent.

Now, we all know that there is an almost infinite number of characters of agents. Corporations transacting interstate business have agents, we may say, in practically every State of the Union for some purpose. Surely it can not be possible that the gentleman would attempt to confer jurisdiction and venue upon the Federal court in every district in the United States where any agent can be found, regardless of the question whether the corporation is domiciled in that State or district, or whether it is doing business there.

I believe gentlemen will find themselves in serious difficulty and confusion when it comes to certain other sections of the Federal statutes—those sections pertaining to the removal of causes, for instance, and in many others—because we have a consistent code of procedure at the present time. We have many expressions which through a long series of years of use have crystallized to well-understood meanings and interpretation. If we are to open this venue or jurisdiction to any district in the United States where any agent may be found, we are going to have a great deal of confusion and great injustice is to be done. It is going to open the door wide for annoyances to business, if any man can go anywhere in the United States and institute his action, if he can obtain any colorable service and compel the business institutions of the country to follow him about.

That has been one of the reasons, if not the cardinal reason, why the courts have given the present construction to the word "found," interpreting it to mean the place where the corporation does business, and in giving that interpretation, further, only those suits can be brought there which grow out of the business which the corporation is doing in that State or district. In other words, you can not go into the district of Texas and maintain a suit against a corporation in Texas, with respect to a cause of action which did not pertain to its business in Texas, but which pertained to its business in the State of its domicile. You are going to adopt that line of business if you adopt this amendment, in my opinion.

MESSAGE FROM THE SENATE.

The committee informally rose; and Mr. BOOHER having taken the chair as Speaker pro tempore, a message from the Senate, by Mr. Tulley, one of its clerks, announced that the Senate had passed joint resolution of the following title, in which the concurrence of the House of Representatives was requested:

S. J. Res. 150. Joint resolution providing for the taking for purposes of illustration of 30 specimens of Pribilof Islands fur seal for the collection of the United States National Museum.

The message also announced that the Senate had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 2800) providing a temporary method of conducting the nomination and election of United States Senators.

The message also announced that the President of the United States had approved and signed bills of the following titles:

On May 27, 1914:

S. 4096. An act to amend the act authorizing the National Academy of Sciences to receive and hold trust funds for the promotion of science, and for other purposes.

On May 28, 1914:

S. 4632. An act for the relief of settlers on the Fort Berthold, Cheyenne River, Standing Rock, Rosebud, and Pine Ridge Indian Reservations, in the States of North and South Dakota.

ANTITRUST LEGISLATION.

The committee resumed its session.

Mr. SUMNERS and Mr. SINNOTT rose.

The CHAIRMAN. The gentleman from Texas [Mr. SUMNERS] is recognized.

Mr. SUMNERS. Mr. Chairman, I believe this matter of venue is one of the most important connected with the whole subject of antitrust legislation.

As suggested by the gentleman who has just spoken [Mr. SCOTT], unless the venue be properly placed, on the one hand, you may subject the defendant to blackmail. We used to have a custom down in Texas under which suits would be brought in remote sections of the State and the defendants in humble positions would be compelled to pay the amounts demanded because they could not go to the expense of hiring lawyers, taking depositions, and so forth, to defend the causes of action far removed from their homes. The possibility of this sort of procedure ought to be guarded against. On the other hand, if the venue be not properly placed, the plaintiff in humble position may be deprived of the benefits of this bill. The philosophy of legislation with regard to this subject should give the venue at the place wherein the cause of action arises. The recognition of this right to parties injured runs through the whole system of American procedure. It has come down from the common law of England, in which Government it has stood the test of centuries. Why should you not bring a man before the court at the very place where the injury has been inflicted? Why drive a man who has a cause of action to a foreign jurisdiction in order to get his remedy?

I say to you gentlemen in charge of this bill that it ought to be amended so that a man who suffers in his goods or his business in a given locality may bring the man or the corporation that inflicts the injury before the court in that locality, and there have their differences adjudicated, instead of driving the man injured in Texas, for instance, to California or New York in order to procure a redress of the injury that has been inflicted upon him in Texas. It violates the philosophy of remedial legislation and is contrary to that system of procedure which will insure justice among the people and make this law effective.

Mr. STEPHENS of Texas. Mr. Chairman, will the gentleman yield there?

The CHAIRMAN. Does the gentleman from Texas yield to his colleague?

Mr. SUMNERS. I do.

Mr. STEPHENS of Texas. Is it not a fact that in your city of Dallas, Tex., there are a great many distributing agencies of many manufacturing concerns all over the country, engaged in selling farm implements and farm equipment, and agencies for other purposes, and would it not be a great benefit to the people of our State who purchase machinery from those people to have the right to bring suit in Dallas, for instance, and serve the process upon the agent who has sold this machinery to our citizens? Would not that be a great advantage over the present law?

Mr. SUMNERS. That would be true; but if a corporation or individual, doing business in Texas, with an agent located in Dallas, should go into the Panhandle of Texas and there inflict an injury on a citizen living in the Panhandle of Texas, that citizen ought to have the right to bring the man or the corporation to the court in the Panhandle, and there compel reparation for the injury inflicted.

Mr. BARKLEY. Is it the gentleman's construction of this amendment that if it is adopted an individual residing in Missouri, having a just complaint against a corporation residing in New York, may go down to Dallas, Tex., and bring a suit against that corporation in New York, and obtain service on an agent in Dallas, Tex., and that that service, under this amendment, would be valid?

Mr. SUMNERS. I am not talking about service. This confusion arises from not drawing the distinction between the individual upon whom service may be had and the place where suit may be brought. That is the confusion that arises under this bill. The service upon the agent is merely a technical method of procuring service upon the corporation, and the residence or nonresidence of the agent cuts no figure in the proceeding, save as it gives a means of getting service. It is all right, in so far as service is concerned, to provide in the bill that service may be had upon the agent and that service upon the agent is service upon the corporation. I am not criticizing that provision. What I am complaining of is that the provisions of this bill giving the right of recovery to the citizen injured by some act prohibited by the antitrust laws may become of no value to the humble citizen unable to go to a foreign jurisdiction to prosecute his suit.

The CHAIRMAN. The time of the gentleman from Texas has expired.

Mr. FLOYD of Arkansas. Mr. Chairman, I call for a vote.

The amendment was agreed to.

Mr. FERRIS. Mr. Chairman, can we not revert to section 3?

Mr. CARLIN. I think that was the agreement—that we should revert to section 3 this morning.

The CHAIRMAN. If there be no objection, the committee will revert to section 3.

There was no objection.

Mr. FERRIS. Mr. Chairman, I offer the following amendment.

The CHAIRMAN. The gentleman from Oklahoma offers an amendment, which the Clerk will report.

Mr. CULLOP. A parliamentary inquiry, Mr. Chairman.

The CHAIRMAN. The gentleman will state it.

Mr. CULLOP. Is not the amendment of the gentleman from West Virginia [Mr. AVIS] now pending and to be disposed of first? I understood it was introduced yesterday.

Mr. AVIS. I have not offered my amendment yet.

The CHAIRMAN. The Clerk will report the amendment of the gentleman from Oklahoma [Mr. FERRIS].

The Clerk read as follows:

Page 21, strike out lines 16, 17, and 18, down to and including the word "products," and insert in lieu thereof the following:

"That it shall be unlawful for the owner, operator, or transporter of the product or products of any mine, oil, or gas well, reduction works, refinery, or hydroelectric plant, producing coal, oil, gas, or hydroelectric energy, or for any person controlling the products thereof, engaged in selling such products"—

Mr. BARTLETT. It is unlawful to do what?

Mr. FERRIS. That is stated in the language of the bill to which this is an amendment.

Mr. STAFFORD. In line 18 the word "product" occurs twice. Which one is referred to on this amendment?

Mr. FERRIS. The second one.

Mr. Chairman, on yesterday the chairman of the Judiciary Committee indicated a willingness to accept and the committee adopted an amendment which included minerals in place. I have been fairly active last night and this morning to determine whether or not that amendment was sufficient, and I have become convinced that it is not sufficient to include oil, the products of oil, or give us any relief, and of course it does not include water power or hydroelectric energy at all. So, if the chairman of the Committee on the Judiciary or those gentlemen in charge of the bill will listen to this amendment, it does three things and no more.

It first prescribes the same sort of regulation for oil and water power that they propose in the bill for other minerals.

On yesterday the house adopted an amendment which I am to-day moving to strike out, with other language, and insert in lieu thereof the language just read by the Clerk. I do not know how the House will feel about it, for I know there is a strong disposition not to amend this bill; but when we come in here with an amendment or a section in this new bill which specifically regulates coal and other minerals, I can not for the life of me understand why we can not at the same time regulate the sale and handling of oil, gas, and water power. The oil question and the abuses that have grown up about it are so important, the appeals on every hand for some relief from it makes me feel a word on what the industry is would be of interest to this House. It follows, as developed in the recent hearings of the Oklahoma oil producers, and can be found on page 11 thereof:

PRODUCTION AND VALUE OF PETROLEUM IN THE UNITED STATES.

In the following exhibit will be found the production of petroleum in the United States since the birth of the industry in 1859 to the close of the year 1912, together with the daily average production and daily average value. Also the combined production and combined value through the series of years, from the records of the United States Geological Survey.

Calendar year.	Years.	Production.			Value.		
		Yearly production.	Daily average production.	Total production, series of years.	Yearly value.	Daily average value.	Total values, series of years.
1859	1	2,000	6	2,000	$32,000	$88	$32,000
1860	2	500,000	1,670	502,000	4,800,000	13,151	4,832,000
1861	3	2,113,609	5,791	2,615,609	1,035,668	2,138	5,867,668
1862	4	3,056,690	8,375	5,672,299	3,209,525	8,793	9,077,193
1863	5	2,611,309	6,332	8,283,608	8,225,663	22,536	17,302,856
1864	6	2,116,109	5,797	10,397,717	20,896,576	57,261	38,199,432
1865	7	2,497,700	6,843	12,897,417	16,459,853	45,095	54,659,285
1866	8	3,597,700	9,857	16,495,117	13,455,398	36,864	68,114,683
1867	9	3,347,300	9,170	19,842,417	8,066,993	22,101	76,181,676
1868	10	3,646,117	9,989	23,488,534	13,217,174	36,211	89,398,850
1869	11	4,215,000	11,548	27,703,534	23,730,450	65,015	113,129,300
1870	12	5,260,745	14,413	32,964,229	20,503,754	56,175	133,633,054
1871	13	5,205,234	14,261	38,169,513	22,591,180	61,894	156,224,234
1872	14	6,293,194	17,242	44,462,707	21,440,503	58,541	177,664,737
1873	15	9,893,786	27,106	54,356,493	18,100,464	49,590	195,765,201
1874	16	10,926,945	29,937	65,283,438	12,647,527	34,651	208,412,728
1875	17	8,787,514	24,075	74,070,952	7,368,133	20,187	215,780,861
1876	18	9,132,669	25,021	83,203,621	22,982,822	62,967	238,763,683
1877	19	13,350,363	36,576	96,553,984	31,788,566	87,092	270,552,249
1878	20	15,396,868	42,211	111,950,852	18,044,520	49,420	288,596,769
1879	21	19,914,146	54,560	131,864,998	17,210,708	47,153	305,807,477
1880	22	26,286,123	72,017	158,151,121	24,600,638	65,399	330,408,115
1881	23	27,661,238	75,784	185,812,359	23,512,051	64,417	353,920,166
1882	24	30,349,897	83,151	216,162,256	23,631,165	64,743	377,551,331
1883	25	23,449,633	64,246	239,611,889	25,740,252	79,521	403,291,583
1884	26	24,218,438	66,352	263,830,327	20,476,924	56,101	423,768,507
1885	27	21,858,785	59,887	285,689,112	19,193,694	52,585	442,962,201
1886	28	28,064,841	76,890	313,753,953	20,028,457	54,872	462,990,658
1887	29	28,283,483	77,490	342,037,436	18,856,606	51,662	481,847,264
1888	30	27,612,025	75,649	369,649,461	17,950,353	49,179	499,797,617
1889	31	35,163,513	96,330	404,812,974	26,963,340	73,872	526,760,957
1890	32	45,823,572	125,571	450,636,546	35,365,105	96,891	562,126,062
1891	33	54,292,655	148,747	504,929,201	30,526,553	83,634	579,652,615
1892	34	50,514,657	138,396	555,443,858	25,906,463	70,977	618,559,078
1893	35	48,431,066	132,688	603,874,924	28,932,326	79,267	647,491,404
1894	36	49,344,516	135,190	653,219,440	35,522,095	97,321	683,013,499
1895	37	52,892,276	144,910	706,111,716	57,691,279	158,058	704,704,778
1896	38	60,960,361	167,012	767,072,077	58,518,709	160,321	799,223,487
1897	39	60,475,516	165,686	827,547,593	40,929,611	112,136	840,153,098
1898	40	55,364,233	151,710	882,911,826	44,193,359	121,080	884,346,457
1899	41	57,070,850	156,358	939,982,676	64,603,904	176,997	948,950,361
1900	42	63,620,529	174,303	1,003,603,205	75,752,691	207,542	1,024,703,052
1901	43	69,389,194	190,107	1,072,992,399	66,417,335	181,965	1,091,120,387
1902	44	88,766,916	243,197	1,161,759,315	71,178,910	195,011	1,162,299,297
1903	45	100,461,337	275,236	1,262,220,652	94,694,050	259,436	1,256,993,347
1904	46	117,080,960	320,770	1,379,301,613	101,175,455	277,193	1,358,168,802
1905	47	134,717,580	369,081	1,514,019,192	84,157,399	230,568	1,442,326,201
1906	48	126,493,936	346,556	1,640,513,128	92,444,735	253,273	1,534,770,936
1907	49	166,095,335	455,056	1,806,608,463	120,106,749	329,060	1,654,877,685
1908	50	178,527,355	489,116	1,985,135,818	129,079,184	353,642	1,783,956,869
1909	51	183,170,874	501,838	2,168,306,692	128,328,487	351,585	1,912,285,356
1910	52	209,557,248	574,129	2,377,863,940	127,899,688	350,410	2,040,185,044
1911	53	220,449,391	603,971	2,598,313,331	134,044,752	367,246	2,174,229,796
1912	54	222,538,604	609,695	2,820,851,935	164,087,342	449,554	2,338,317,138
Total		2,820,851,935			2,338,317,138		

(Supplement to the Oil and Gas Journal, Tulsa, Okla., Oct. 2, 1913.)

The shocking growth of this mammoth monopoly, which is now paying 50 cents per barrel for oil in Oklahoma oil fields and selling the same oil at Port Arthur to the Federal Government for $1.39 per barrel, and its profits and dividends are so amazing that it is worth while to pause and observe them. Its dividends, exclusive of other profits, since its organization are as follows:

Standard Oil Co. of New Jersey—Dividends paid since organization.

		Total production, United States, barrels.	Total value.
1882 to 1901, inclusive	$351,833,000	887,180,070	$726,700,123
1902, rate, 45 per cent	43,851,956	88,766,916	71,178,910
1903, rate, 44 per cent	42,877,478	100,461,337	94,694,050
1904, rate, 36 per cent	35,188,266	117,080,960	101,175,455
1905, rate, 40 per cent	39,335,320	134,717,580	84,157,399
1906, rate, 40 per cent	39,335,320	126,493,936	92,444,735
1907, rate, 40 per cent[1]	39,335,320	166,095,335	120,106,749
1908, rate, 40 per cent[1]	39,335,320	178,527,355	129,079,184
1909, rate, 40 per cent[1]	39,335,320	183,170,874	128,328,487
1910, rate, 40 per cent[1]	39,335,320	209,556,048	127,896,328
Total	709,762,620	2,192,050,411	1,675,761,300

[1] Estimated.

Dividends by rates paid from organization to 1901, inclusive, were as follows: 1882, 4½ per cent; 1883 and 1884, 6 per cent; 1885, 10½ per cent; 1886 and 1887, 10 per cent; 1888, 11½ per cent; 1889–1891, 12 per cent; 1892, 12.21 per cent; 1893 and 1894, 12 per cent; 1895, 17 per cent; 1896, 31 per cent; 1897, 33 per cent; 1898, 30 per cent; 1899, 33 per cent; 1900 and 1901, 48 per cent.

At the recent hearings before the Interstate Commerce Committee on this matter Mr. J. J. Maroney, an independent producer of Oklahoma, introduced into the record a comment on those figures that are as true and forceful as they are illuminating and instructive.

His remarks are as follows:

Magnificent though the figures above given are as representing the profits actually taken down by the monopoly during the years of its growth, they really present but the most trivial portion of the wonderful potentialities of the concern to extract profit from the business. There is no possible accounting of the extent of properties bought up by this company itself and by its numerous subsidiaries, side companies, and sometimes professed opponents, and much-advertised "independents." These properties were bought up at prices fixed by the conditions which it was in the power of the monopoly to make, having the power to fix and to manipulate the quoted prices of the crude article. The limitless power of the monopoly, in other words, has been but partially seen and exposed in the record of dividends actually paid. The relentless use of that power is seen in the conditions in the fields where the choicest properties are constantly gravitating to the possession of the interests in which the power vests. That the condition has not changed with the so-called dissolution is as plain as the virility of the exercise of the same power during the halcyon days of the open avowal of the monopoly and its purposes. The thoughtful will see in this plain lesson that unregulated transportation in the article is the thing that is to be dissolved if the prevailing conditions are to be changed, and not the monopoly, which is the inevitable fruition of that power which private control of transportation gives. While the fact continues that the article is transported by agencies which are subservient to private interests and not, as in all other commercial articles, to public interests, the private interests in control will naturally, inevitably, and always continue to soak up the profits in the business. Men are not rascals for doing this. By all rules of business, which has its resemblance to piracy in some of its aspects and always will have, those men are "shrewd"; and shrewdness is a relative term and trait. If all men were equally alert, each one just exactly the peer of every other, there would be none accorded the credit of being "shrewd." It is not innate perversity which guides men to take the limit of advantage which comes to them by the less than equal alertness of their fellows. The "general results" in part indicated by the table above spells more than anything else the lack of shrewdness which prevails in an industry where the burden of "hazard" falls apparently all to one side and the bounty of profit so largely to the other.

Our people have been robbed by pipe lines, by drilling offset wells, by refusing to carry the oil at all, by maltreatment until our patience is gone.

Oil from its character can only be carried through pipe lines, all of which are interstate, so they escape our State law, and it is up to Congress while legislating on trusts to relieve us from the most vicious of them all.

It can not await another session. It has waited too long now. We are on the subject of regulating trusts; our hands are to the plow; let us get some relief from such oppression to the people who produce, to the people who consume.

There is no more fertile field in which to work, and I think the committee should adopt this amendment.

Mr. HUMPHREY of Washington. Will the gentleman yield for a moment?

Mr. FERRIS. The abuses of the Standard Oil Co. in my State are enough to amaze not only the State of Oklahoma but the entire universe. We are second in the United States in the production of oil. The State of California is first in its production. Our State, however, produces 65 per cent of the refinable oil of the United States. This morning I have submitted my amendment to some departmental experts of the Geological Survey. I have submitted it to the Assistant Attorney General for the Interior Department, in whom I have confidence and from whom I have received help before, and they think my amendment will accomplish much good and, in short, do the business. I dislike very much to come in here and offer an amendment to the bill of the Judiciary Committee, but on yesterday the committee said with great frankness that they intended to include oil, and I have no doubt they would be glad to include water power. If the amendment is not what it should be, we can perfect it in the Senate or in conference, or later you can revert to it and perfect it here. This is not the last word on the subject. There is no chance to go wrong when proceeding in the right direction. Undoubtedly this Congress ought not to pretend to legislate on minerals without including oil, gas, and water power. The worst monopoly in the country to-day is the Standard Oil Co. What earthly reason can anyone assign why it should be omitted?

Mr. Chairman and gentlemen of the committee, in my haste I have omitted many of the things I feel duty bound to say with reference to the oil situation in my State and in the country. But for want of time I shall for the moment pass to a question so intricate, so monumental in importance, that I scarcely dare to try to say a word about it in this Hall of Congress. Up to a few months ago I might well and truthfuly say I knew little or nothing about water power or the many ramifications and intricate problems connected with it. I am again within the facts to say that I know now but little of it, its importance, or an intelligent handling of it. I must, however, in frankness say that during the last three months the Committee on the Public Lands have given the most patriotic attention and study to this monumental problem.

There developed in hearing much testimony brought to us by Secretary Franklin K. Lane, and, to my mind, he is the most efficient, the most capable Secretary of the Interior that the country has had in administering its affairs. The country is peculiarly fortunate in having a man at the helm who has first-hand information on these problems. The country is again fortunate to have a man who knows how to do and dares to do the things that should be done. Such a man is Hon. Franklin K. Lane, the present Secretary of the Interior.

His unbounded patriotism and industry made him willing to, and he did, turn over to the Committee on the Public Lands for their use, information, and edification two of his very best men, to wit, Dr. George Otis Smith, the head of the Geological Survey, whose industry, patience, and ability as a geologist and an engineer is worthy of the keenest commendation. Again, he afforded us and kept ever present in the committee during the sessions Mr. E. C. Finney, Assistant Attorney General for the Interior Department, whose efficiency and ability may well be acknowledged.

The Agricultural Department afforded us the services of the chief engineer of the Forest Service, Mr. Merrill, who gave us much valuable information that we needed to have in dealing with this intricate question. The chart which I have brought in before you and which now stands before you on the pedestal was prepared by the departments, pursuant to long, careful, and faithful work. It brings in a word what some would not have time to run down and shows clearly the interlocking situation with reference to water power and its various ramifications.

The hearings quite well disclosed that the control of the water powers of the country is coming more and more into a few hands. This was strikingly shown by the testimony given in the recent hearings before the Public Lands Committee and in the evidence there submitted. Not only is the complexity of interlocking directorates shown by the chart before you, but a statement discussing this control of water-power development in the Western States was incorporated in the hearings of our committee at the suggestion of my colleague on the committee, the gentleman from Illinois [Mr. GRAHAM]. The statement goes into the matter with considerable detail and forms about 60 printed pages, and was prepared by engineers of the United States Geological Survey. The information regarding the water power developed in the 11 Western States is largely taken from original data in the files of the Geological Survey and the Forest Service, while the affiliations of the corporations controlling the great bulk of this power were ascertained by the works of reference dealing with corporation matters, as well as the current files of financial journals.

This statement is valuable as a continuation of the 1912 report of the Commissioner of Corporations on the subject, and it is especially noteworthy that the short period which has elapsed between that report and the preparation of the present statement, although only two years, has witnessed marked changes

in the situation. In the first place, the increase in amount of development in these Western States has been large, while the tendency toward concentration into large financial units has been even more marked, so that the stage is already reached where the entire territory of these 11 Western States is practically divided among the larger companies. Thus 28 operating companies control 90 per cent of the developed power in the West, and 6 of these companies control over 100,000 horsepower each. Even more striking, however, is the increase in the number and importance of public-service securities holding companies during these recent years. While 3 of such companies were active in 1912 and were then noted as "general electric companies," these appear to have been but the forerunners of a horde of such corporations whose titles are characterized as simply "bewildering permutations of a few adjectives and nouns." It is because of the enormous capitalization of these companies and their large holdings of the securities of the operating companies I have just mentioned that the subject attains the utmost importance.

The system of stock holding through these holding companies is elaborate. While the stocks and bonds of the operating companies are offered to the public for investment, the controlling interest is usually retained by a holding company; in many cases the method of control exercised is publicly known, while in still other cases the holding companies confine their public reports of their activities to bare statements of the amount of securities held, concealing the identity of the operating companies over which control may be so exercised.

In the detailed statement submitted to the Public Lands Committee it is noted that while many of the holding companies, so far as public information indicates, have no relations with any particular operating companies, they do possess directors in common with other holding companies whose affiliations are more definitely known. Instances of interlocking directors, which of themselves might not be conclusive evidence that the same general financial interests are concerned, are repeated, however, to such an extent that a practically complete network of holding companies is established, and thus the evidence of community of interest becomes very strong. The compiled list of the important companies operating in the West includes 24 holding companies, and it is to be noted that certain men are very conspicuous. In these 24 holding companies 50 men together hold 135 directors' positions, so that if the 24 companies were considered as together forming one large corporation in which each man had as many votes as he now has in the separate companies, these 50 men would have little short of a majority. Further, 2 of the directors are each connected with 7 holding companies, 3 with 5, and 4 others with 4; all of these gentlemen are connected with the General Electric Co. and its acknowledged subsidiaries. The relations brought out by these lists of directors make it reasonable to assume that the General Electric Co. dominates the water-power situation. In some cases the companies are direct subsidiaries, in others they bear a subsidiary relation to the General Electric Co.; in the third class there is shown a predominant General Electric influence, while in the fourth class the companies are associated with the General Electric Co. through interlocking directors, and in a fifth class there is an apparent association through banking affiliations. The statement before our committee suggests that the harmonious relations between those who control the water-power situation of the West are to an important extent due to affiliation of interests of greater magnitude than may have been analyzed in this connection. It may be regarded as entirely probable that relations similar to those indicated in this statement and on this chart as existing between the operating and holding companies under discussion would be found to extend much further if the relations of the General Electric Co. and the American Telephone & Telegraph Co., the United States Steel Corporation, the Standard Oil Co., the Amalgamated Copper Co., and the large railroad companies to the great financial interests were studied.

The gist of the whole matter is that large and powerful financial interests of the East are strongly intrenched in their control of the water-power situation of the West as well as of the East. Future additions to their monopolistic holdings may be prevented by legislation now proposed by the various committees already mentioned, but that will not suffice. The present strangle hold by these big monopolies must be broken if the communities and industries of the West are to have freedom. Nor should we in our thoughts or in our legislative acts separate the mineral fuels and their monopolistic control from this subject of hydroelectric energy and its control; together the fuels and the water power constitute the great public utilities, which are not only of importance to present-day prosperity, but are coming more and more to be vitally essential to the civic and industrial life of the future. If trust legislation is to free the people, it should not neglect any one of these great natural resources—coal, oil and gas, and hydroelectric energy. The trusts have not neglected them.

We have had before us ex-Secretary of the Interior Walter Fisher. We have had before us Mr. Gifford Pinchot. We have had before us the head of the Geological Survey, Dr. George Otis Smith. We have had before us Secretary of the Interior Lane's most competent men to help us. We have had before us the best talent and the best information we could get on the subject. As a result of that we have reported a bill which the House may or may not reach this session. The parliamentary situation is such we can not, in all probability, reach it this session. In any event, we are at work on control and regulation of the abuses that have grown up in the mining and removal of coal and other minerals, and we should reach the other offenders, who are as bad or worse.

Mr. CAMPBELL. I did not get from the reading of the amendment at the Clerk's desk just what its purpose is. Its purpose is to include oil, gas, and water power, to give the same sort of regulation that the bill proposes to give to coal, minerals, and so forth; and if any live man on either side of this Chamber, inside or out of it, can assign one reason why it should not be done I would like to hear it.

Mr. BRYAN. Will the gentleman yield?

Mr. FERRIS. Yes.

Mr. BRYAN. If your amendment carries, any concern that has water power to sell must sell it and can not arbitrarily refuse to sell it to any responsible person. The city of Seattle has a lot of current to sell, and if your amendment passes and the Stone-Webster people want to buy it, will we have to sell it them?

Mr. FERRIS. If they offer to pay the same price and you have it to sell. Remember this amendment or the original text has no application unless the commodity is being sold "arbitrarily."

Mr. BRYAN. Will not your amendment make every municipality in the country sell out?

Mr. FERRIS. No; you might as well say that every coal mine in the country would have to sell all their coal to a single concern. That was so stated here the other day, but no one could possibly be misled by that. The gentleman's trouble is not a real one, I am sure. It is purely fanciful.

Mr. BRYAN. How can the gentleman say that and say that Seattle must sell?

Mr. MANN. Look at the map.

Mr. BRYAN. I see the map.

Mr. FERRIS. This amendment, if agreed to, does precisely for water power and oil what the bill now does for coal.

Mr. GARNER. If it ought not to apply to coal, it ought not to apply to water power.

Mr. BARTLETT. Will the gentleman yield?

Mr. FERRIS. Yes.

Mr. BARTLETT. The gentleman speaks about water power. He means the current produced by water power?

Mr. FERRIS. Yes; my amendment says the current produced by hydroelectric plants. There is no difficulty about that; it will include them.

The CHAIRMAN. The time of the gentleman from Oklahoma has expired.

Mr. FERRIS. Mr. Chairman, I ask unanimous consent to proceed for five minutes more.

The CHAIRMAN. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

Mr. HARRISON. Will the gentleman yield?

Mr. FERRIS. Certainly.

Mr. HARRISON. The gentleman says operator or transporter. The question I desire is whether or not the word "transporter" carries with it the distribution of this electric current or the transmission of the electric current.

Mr. FERRIS. I think it would, and it would also include pipe lines, which is very much desired. The electricity and oil are only susceptible of one method of transmission; oil goes through the pipe line and the current of electricity is transmitted by wire. They ought to be included as common carriers and be subjected to the same regulation as common carriers. On yesterday the chairman of the Judiciary Committee expressed a willingness to take in oil, and I hope he will now consent to take in water power as well.

Mr. STEPHENS of Texas. Will the gentleman yield?

Mr. FERRIS. Certainly.

Mr. STEPHENS of Texas. Does the gentleman believe that his amendment is sufficiently strong to include pipe lines car-

rying oil to market? I am very much interested in that, because the greatest oil field in the United States is in my district.

Mr. FERRIS. I think it is. Of course, if it is not strong enough, we can adopt this and then amend it. It ought to be drawn tight enough to accomplish it.

Mr. J. I. NOLAN. Will the gentleman yield?

Mr. FERRIS. I will.

Mr. J. I. NOLAN. If I remember aright, the Hetch Hetchy bill contains a provision that prohibits the city of San Francisco from distributing any electric energy from Hetch Hetchy to private corporations for resale. How would this provision affect that?

Mr. FERRIS. If the power they use themselves, this would not have any effect on it. As to the surplus power, it would decree that they should sell to those who applied on equal terms. It would at least prevent any arbitrary sale of it, and it ought to.

Mr. J. I. NOLAN. Would the Great Western Power Co. and the Pacific Electric Co. come in on equal terms with private municipalities?

Mr. FERRIS. Not at all; the city owns its own plant and can use it for its own purposes as it desires. That is a special act on a lot of conditions contained therein, and this does not meddle with that.

Mr. J. I. NOLAN. But I am speaking about cities along the right of way.

Mr. FERRIS. I do not think so; it would not apply any more than it does to the coal provision in the bill. You will recall that none of this section applies unless arbitrary methods are resorted to. There certainly can be no objection to that. The facts stated by the gentleman have no application here.

Mr. J. I. NOLAN. I understand that; but I want to know how this affects the Hetch Hetchy current.

Mr. FERRIS. I do not think it affects it in any way. That is a special grant and it would not affect it.

Mr. DECKER. Will the gentleman yield?

Mr. FERRIS. I will.

Mr. DECKER. I would like to ask the gentleman, in a word, what the meaning of this language will be after he amends it and what it means now? Does this section mean that a man can not sell to one man and withhold selling from another, or refuse to sell to another? Is that what it means, or does it mean that if you have anything of this nature mentioned in the section to sell, you would have to sell it if any responsible person wants to buy it?

Mr. FERRIS. The gentleman reaches to the main fabric of the section which was more fully explained by the chairman of the committee yesterday than I could do in the short time allotted me.

Mr. DECKER. I did not understand that explanation.

Mr. FERRIS. Well, the chairman of the committee can state it more ably than I can. In a word, my amendment does for water power and oil precisely what the Judiciary Committee seeks in this bill to do for coal.

Mr. DECKER. What does the section mean now is what I want to know.

Mr. FERRIS. I refer the gentleman to the chairman of the Judiciary Committee.

Mr. DECKER. And then I want to know what it means after the gentleman has amended it by his language.

Mr. FERRIS. My own view is, and it is not the best or last word on the subject, it is intended as an antimonopoly amendment, and it seeks to keep the party producing from mines coal or other minerals from practicing extortion on one set of citizens to the exclusion of others. Its purpose is certainly a laudable one and I am sure it appeals to the gentleman.

Mr. DECKER. Does the gentleman think that that is what it does?

Mr. FERRIS. I think that is what it accomplishes. I am contending for the same regulation that they apply to coal to be applied to oil and water power.

Mr. FOSTER. Will the gentleman allow me to suggest that the very energy produced by coal provided for in this bill is also produced by water power which you want to include.

Mr. FERRIS. The gentleman is correct about that. I thank him for the suggestion. It is true.

The CHAIRMAN. The time of the gentleman from Oklahoma has again expired.

Mr. BARKLEY. Mr. Chairman, I ask unanimous consent that the gentleman's time be extended for two minutes.

Mr. FERRIS. I do not want an extension of time unless it is for the purpose of answering questions.

The CHAIRMAN. The gentleman from Kentucky asks unanimous consent that the time of the gentleman from Oklahoma be extended two minutes. Is there objection?

There was no objection.

Mr. BARKLEY. Before anybody will understand what this section means the court will have to pass upon it. Now, the definition of the word "arbitrarily" is the crux of the whole matter in this section.

Does the gentleman believe that this section as amended or as it now stands might be construed by the court to mean that any responsible purchaser might come and propose to purchase the entire output or product of any given corporation, and that corporation, notwithstanding the needs of various individuals in that community, could be compelled to sell its entire product to that responsible corporation if it offered the price demanded?

Mr. FERRIS. Mr. Chairman, the gentleman can have his distorted idea of what it means. My idea is not a distorted one, nor is the idea of the Judiciary Committee distorted, but they are seeking to regulate the sale of the God-given treasures of the universe to all mankind alike, and the section, I think, accomplishes that. They might distort and force into it complicated constructions of it and try to make it mean something else, but I do not think so. I am willing to adopt in toto the views of the Committee on the Judiciary on the section and say that it is a good section, but I want to add to it two of the most notorious monopolies in the world and make it a better section.

Mr. BARKLEY. Is the gentleman able to suggest any further amendment that would relieve the section of the possibility of such construction? I am in sympathy with the gentleman's idea.

Mr. FERRIS. I will leave that to the Committee on the Judiciary. If the general tenor of the section is not pleasing to the gentleman or to the Members of the House, they can amend it.

The CHAIRMAN. The time of the gentleman from Oklahoma has again expired.

Mr. FLOYD of Arkansas. Mr. Chairman, the committee is not willing to accept the amendment offered by the gentleman from Oklahoma, and I desire to state very briefly the reasons why we oppose the amendment and why we think the question involved in it should not be incorporated in this measure. The gentleman from Oklahoma is the chairman of the Committee on the Public Lands, and the question involved in his proposition constitutes one of the greatest and one of the most controverted issues in this country to-day, and it is the province of the committee, of which the gentleman is the chairman, to deal with this great question, and we do not think this trust legislation which is intended to deal with certain specific subjects and known evils ought to be loaded down with such issues as this. We think that the particular subject which he intends to embody here is worthy of a great and carefully considered bill, which I hope the gentleman's committee will bring into this House at an early date. He includes in his amendment questions and issues that are not embodied in the provision as it is written. In section 3 we deal with raw material, mineral, and mineral products, and your committee have stated heretofore that the language incorporated in the bill as originally presented was designed and intended to include oil and gas, but on account of doubts expressed as to that fact and as to the scope of the provision as written, we readily consented to the amendment which was adopted on yesterday, which expressly includes oil and gas, and when we have done that we think we have gone far enough. Gentlemen do not seem to realize in proposing this legislation we are not going along lines of easy resistance. Every proposition in this bill is controverted by terrific forces, and every gentleman who succeeds in getting a more drastic and far-reaching provision placed upon the bill is helping the enemies of the bill in addition to helping the proposition for which he stands.

Mr. FERRIS. Mr. Chairman, will the gentleman yield?

Mr. FLOYD of Arkansas. Certainly.

Mr. FERRIS. The gentleman says that the committee of which I am fortunate enough to be the chairman should deal with this.

Mr. FLOYD of Arkansas. Undoubtedly the gentleman's committee has jurisdiction to deal with it.

Mr. FERRIS. Oh, not at all. We have jurisdiction over the disposition of sites only, and have nothing whatever to do with the regulation of these matters. It is purely up to the gentleman's committee, and we have no jurisdiction over it. We have reported a bill with reference to the disposition of sites, but I know the gentleman from Arkansas on a moment's thought will recognize that we have nothing to do with the regulation of sites already existing.

Mr. FLOYD of Arkansas. Then I suggest that the gentleman should have appeared before the Committee on the Judiciary, if his contention is correct, and presented reasons and argu-

ments in support of the amendment now proposed. I suggest the exceeding great danger not only to the ultimate fate of this bill but to its speedy consideration in bringing in propositions of such momentous importance as those suggested by the gentleman from Oklahoma, who asks us on a few moments' discussion to accept them.

Mr. DAVENPORT. Mr. Chairman, will the gentleman yield?

Mr. FLOYD of Arkansas. Certainly.

Mr. DAVENPORT. Mr. Chairman, I would like to ask the gentleman if his objections to the amendment are because of the fact that he fears it may endanger the passage of the pending bill, or because he thinks there is no merit in the amendment?

Mr. FLOYD of Arkansas. Not exactly either and partly both. In regard to the first suggestion, I think that whenever we interject a proposition of that kind, on which there is a division, we do encourage and aid the enemies of the bill, because we bring new recruits to aid in the future those who are against the bill; and in regard to the merits of the proposition, I submit we have had no opportunity to consider them; and the gentleman from Oklahoma has offered the amendment here on the floor of the House and yet never before suggested to the Judiciary Committee, and no one else ever suggested, that that particular phase of the water-power question was a thing to be dealt with in this trust bill; and I insist it is not fair for the gentleman from Oklahoma, who has been giving this question great study, and which is an issue almost as great in itself as the trust question, to bring it in in this way before us and insist upon its adoption at this time.

The CHAIRMAN. The time of the gentleman from Arkansas has expired.

Mr. FERRIS. Mr. Chairman, I ask unanimous consent that the gentleman be permitted to proceed for five minutes longer.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. DAVENPORT. Mr. Chairman, will the gentleman yield?

Mr. FLOYD of Arkansas. Yes.

Mr. DAVENPORT. Mr. Chairman, I wanted to say to the gentleman from Arkansas that I have not very much knowledge with reference to water power. Unfortunately or fortunately, I live in a country where we have very little water power, but I am especially interested in the provision relating to the transportation or sale of the crude oils and their refined products, which are produced to a large extent in my State. Does not the gentleman think we should have some relief?

Mr. FLOYD of Arkansas. That is an intrastate matter, and we have no jurisdiction over that. We can only deal with matters in interstate commerce.

Mr. DAVENPORT. I was asking from the point of view of interstate legislation and not intrastate, and because I took it that the consumption of oil by the entire people of the United States is an interstate question and not an intrastate question.

Mr. FLOYD of Arkansas. We have conceded an amendment as to oil and gas; we have allowed it to go into the bill. Now, there is another objection to putting this legislation in here. This, in so far as antitrust legislation is concerned, is a new provision, a new departure in legislation. Section 3 stands out alone, a new proposition, based upon certain conservation ideas in this country. The section as written limits its application to raw materials, the products of the mines producing iron, copper, coal, and other minerals, including oil and gas, but the gentleman proposes to extend its scope into the domain of manufactured products.

Mr. FERRIS. Will the gentleman yield right at that point?

Mr. FLOYD of Arkansas. And we draw the line in section 3 upon such products. It was insisted by some extremists that we ought to extend the provisions of section 3 so as to make them apply to manufactured products. It was not the purpose or the design of the committee to do anything of the kind, and the gentleman, on a much more difficult question, is seeking to depart from the original purpose of the bill and deal with manufactured products, such as electricity, when we refused to apply this section to any manufactured product of any kind whatsoever.

Mr. FERRIS. Will the gentleman yield right there?

Mr. FLOYD of Arkansas. Yes.

Mr. FERRIS. Does the gentleman think that oil which comes out of the earth or power produced by falling water is a finished product? What could be more God-given than those two things? Why does the manufacture occupy any different status——

Mr. FLOYD of Arkansas. You will never pass any statute in this House or elsewhere that will control falling water that comes from the heavens. You are attempting an absurdity in such talk. You are endeavoring to control a product of manufacture as a result of water power. Electric currents sent by the hand and instrumentality of man by machinery into the current of interstate trade and commerce are manufactured and not natural products.

Mr. FERRIS. I will debate that with the gentleman if he so desires.

Mr. HARRISON. Will the gentleman yield?

Mr. FLOYD of Arkansas. Yes.

Mr. HARRISON. Is the gentleman aware of the fact there is now a bill pending and on the calendar from the Committee on Interstate and Foreign Commerce dealing with the question of water power?

Mr. FLOYD of Arkansas. I am perfectly aware of that, and I think the Interstate Commerce Committee and the Committee on the Public Lands, of which the gentleman from Oklahoma is chairman, are the committees that ought to take up this great question and deal with it in a separate bill, matured and duly considered in all its phases; and for that reason, not saying anything against the merits of the proposition, I oppose the amendment. It may contain merit, but I advise the House never to accept an amendment of such magnitude and of such far-reaching consequences as are involved in this proposal in this way.

Mr. THOMSON of Illinois. Mr. Chairman, the argument of the gentleman from Arkansas to this amendment might apply to any amendment that might be offered on the floor of this House. Certainly he does not propose to say that the membership shall be precluded from offering amendments, important or not important, if they happen not to have appeared before the committee and urged them there.

Mr. FLOYD of Arkansas. Will the gentleman yield?

Mr. THOMSON of Illinois. Yes, sir.

Mr. FLOYD of Arkansas. Not at all; but this amendment was brought in by the gentleman from Oklahoma [Mr. FERRIS], chairman of a committee having jurisdiction of this question, and if he proposes to legislate in this bill concerning one of the greatest questions before the American people, and one of the most controverted, and incorporate provisions in this bill relating to it, I think it is due the Committee on the Judiciary, under those circumstances, that he should have appeared and submitted the matter to the committee.

Mr. THOMSON of Illinois. The very facts that the gentleman recites are additional reasons why this amendment should be considered and adopted. It comes from the chairman of the committee that has jurisdiction over the subject matter with which this amendment has to do, but that committee does not have jurisdiction over the precise thing involved in this amendment. One of the reasons why I rose, Mr. Chairman, was to answer my friend from Washington [Mr. BRYAN], who says that the adoption of this amendment would necessitate——

Mr. BRYAN. Attempt to answer.

Mr. THOMSON of Illinois. I will attempt to answer——

Mr. BRYAN. The gentleman evidently did not expect to get recognition until I made my speech.

Mr. THOMSON of Illinois. Oh, I heard the speech, and sometimes the gentleman is heard without making a speech. [Laughter.] He contends that this amendment, or the adoption of the amendment, will force a municipality to sell out to a trust. I confess I do not like the substantive language of this section. It says it shall be unlawful for an owner or an operator of a mine or any person controlling its products to refuse arbitrarily to sell such product to anybody who applies for it. If somebody who controls a product, heat, let us say, or power, should apply under this section to a municipality for that product and the municipality should refuse to sell certainly no court would hold that that was an arbitrary refusal where the municipality went into court and showed, as they could do under such circumstances, that the applicant for the power was merely trying to get hold of it for the purpose of monopolizing it and using it as a trust. That would not be construed as an arbitrary refusal to sell. The court would not therefore compel the municipality to dispose of the product to the first person coming along providing that was the kind of person it was. This is an important amendment, and it is important that it should be adopted, and the fact that Mr. FERRIS, chairman of the Committee on Public Lands, which committee has jurisdiction of this subject matter, happens not to have appeared before the Committee on the Judiciary and urged the amendment is no reason why it should not be considered, and every reason cited by Mr. FERRIS why it should be adopted is in my opinion sound, and I hope the committee will adopt it.

Mr. WEBB. Mr. Chairman, I ask unanimous consent that all debate on the pending amendment be closed in 15 minutes.

Mr. BRYAN. I would like to have five minutes.

Mr. CARTER. I would like to have five minutes.

Mr. RAKER. I want five minutes.

Mr. KENT. I would like to have some time.

Mr. WEBB. I will make it 20 minutes, and ask that all debate on this particular amendment may be closed in 20 minutes.

The CHAIRMAN. The gentleman from North Carolina asks unanimous consent that all debate on the pending amendment be closed in 20 minutes.

Mr. DAVENPORT. Mr. Chairman, I would like to ask the chairman of the committee to extend that time to about 40 minutes, because I am vitally interested in a portion of this amendment, and I would like an opportunity to be heard.

Mr. WEBB. I would like to inquire of gentlemen on the other side how much time they desire?

Mr. MANN. The gentleman from California, the gentleman from Washington, the gentleman from Wyoming, and several gentlemen here want five minutes apiece——

Mr. WEBB. Then, Mr. Chairman, I ask unanimous consent that all debate on this amendment and section——

Mr. MANN. Oh, no; not on the section.

Mr. WEBB. I would like to get an agreement in regard to the time to be consumed on the entire section.

Mr. MANN. We might make an agreement in regard to the entire section.

Mr. AVIS. I would like to have about eight minutes.

Mr. BARKLEY. I want about five minutes on an amendment which I propose to offer.

Mr. MANN. We would like to have 25 minutes on the coal amendment.

Mr. WEBB. Mr. Chairman, I make this request——

Mr. MANN. Make a request as to time on this amendment, and then request for time on the section after that. I mean altogether.

Mr. WEBB. Mr. Chairman, I ask that all debate on this amendment and the other amendments to the section, and the section itself, be closed in an hour and ten minutes.

Mr. MANN. How much time do you want on this amendment?

Mr. WEBB. I would say 25 minutes on our side.

Mr. CARTER. I think you would want 30 minutes. The gentleman from Georgia [Mr. BARTLETT] wants to be heard.

Mr. MANN. Make it 45 minutes on this amendment. Then, how much time do you want after that?

Mr. WEBB. We want 20 minutes.

Mr. MANN. That would be another 45 minutes. Suppose you make the request to close debate on this amendment in 45 minutes, and then, after the disposition of this amendment, allow 20 minutes for debate on the section and all amendments thereto.

Mr. FERRIS. I hope the gentleman will leave the latter part of the request off. If this amendment is not adopted, there are other amendments I wish to offer.

Mr. WEBB. We are very anxious to close debate some time on this section.

Mr. FERRIS. Mr. Chairman, I would like to submit a unanimous-consent request.

The CHAIRMAN. Does the gentleman from North Carolina [Mr. WEBB] yield to the gentleman from Oklahoma [Mr. FERRIS]?

Mr. WEBB. Yes.

Mr. FERRIS. I ask unanimous consent that I be permitted to withdraw my amendment, on the condition that the Committee on the Judiciary, or the chairman, or any one of them, will in their own time, before this program is through, report back here an amendment that will include oil, gas, and water power.

Mr. WEBB. Mr. Chairman, I object. We can not agree to that. We have so much else to do.

Mr. FERRIS. I do not think you ought to deal with coal and leave the others out.

Mr. WEBB. How about an hour and a half on amendments and the section?

Mr. MANN. That is all right. Forty-five minutes on this side and 45 minutes on yours.

Mr. WEBB. Mr. Chairman, I ask unanimous consent that all debate on this particular amendment and all the other amendments to the section be closed in 1 hour and 30 minutes, one half to be controlled by the gentleman from Minnesota [Mr. VOLSTEAD] and the other half to be controlled by myself.

The CHAIRMAN. The gentleman from North Carolina [Mr. WEBB] asks unanimous consent that all debate on the section and all amendments thereto close in 1 hour and 30 minutes, one half of that time to be controlled by himself and the other half by the gentleman from Minnesota [Mr. VOLSTEAD].

Mr. DAVENPORT. Reserving the right to object, Mr. Chairman, I would like to know if I may have five minutes of that time in which to address the committee upon the question of the amendment relating to oil products?

Mr. WEBB. Yes; we will agree to that.

Mr. FERRIS. Mr. Chairman, reserving the right to object just for a moment, I think the chairman of the committee has ample time, probably more than will be needed; but does not the gentleman think he ought to grant some time to the gentlemen who are in favor of the amendment? The gentlemen over there are against the amendment.

Mr. MANN. The gentleman from Oklahoma can speak for himself but for nobody on this side of the House.

Mr. FERRIS. I am not trying to say that all the gentlemen on that side of the House are against the amendment at all. I merely state that two members of the committee who were supporting the bill will undoubtedly be against it.

Mr. MANN. I am unable to learn that fact.

Mr. RAKER. I would like to submit to the gentleman in charge of the bill whether I might have five minutes in favor of the three amendments suggested by the gentleman?

Mr. WEBB. Mr. Chairman, I do not think there will be a particle of trouble in dividing up the time. We have been liberal enough to give time to those who are opposed to the committee's position. We are not disposed to be captious about it. We have ample time, but I think the debate ought to close in that time.

The CHAIRMAN. Is there objection to the request of the gentleman from North Carolina [Mr. WEBB] that all debate on this section and amendments thereto be closed in 1 hour and 30 minutes, one-half to be controlled by himself and one-half by the gentleman from Minnesota [Mr. VOLSTEAD]?

Mr. CULLOP. Reserving the right to object, I would like to ask if all the amendments should not be presented and reported before the debate begins, especially the one on the coal subject? Unless this time is divided in some way between these two subjects that amendment will not be presented for discussion.

The CHAIRMAN. The Chair will state to the gentleman that that matter is with the committee.

Mr. CULLOP. I would like to have the attention of the chairman on that subject.

Mr. WEBB. In reply to that, Mr. Chairman, I think the proceeding we had yesterday is a good one—to present an amendment, discuss it, and vote on it.

The CHAIRMAN. Is there objection to the request of the gentleman from North Carolina [Mr. WEBB]? [After a pause.] The Chair hears none.

Mr. LEVY. Mr. Chairman, I offer the following amendment.

The CHAIRMAN. An amendment is pending.

Mr. LEVY. They say that all amendments have to be put in now.

Mr. WEBB. Mr. Chairman, I yield five minutes to the gentleman from Georgia [Mr. BARTLETT].

Mr. BARTLETT. Mr. Chairman, I am opposed to this amendment, because, in my judgment, if it is adopted and made a part of this bill and finally becomes a law, we will venture into a sea of confused conditions and ideas with reference to the administration of this law which would be more complicated and confused and crossed and obscure than the diagram of the wires that we see in front of us and to which the gentleman has referred. [Applause.]

Why, Mr. Chairman, the law which we propose to amend and which we have probably wisely proposed to amend, having passed one bill to give relief, known as the "trade-commission bill," is an advance along the lines of regulating and controlling interstate commerce and those who may engage in it. It took 20 years of consideration and adjudication of cases in the Supreme Court of the United States to finally reach a position where the present law is understood and can be enforced. It took 20 years in order to arrive at a point where sane and sound suggestions might be made and to propose sane and sound amendments to that law.

In 1910 this House passed an act putting oil pipe lines and things of that character under the control of the Interstate Commerce Commission, and it has taken the Supreme Court a long time in that case and in its consideration, and it has not yet been able to render a decision of whether Congress has the right to regulate or control the transmission of oil through pipe lines. Now, we propose to venture further upon the sea of law and say that not only pipe lines and gas lines, but lines that transmit power by electricity, because it is produced by the water power of the land, shall be regulated by Congress.

Mr. Chairman, I am ready at all times to advance along lines where we may render relief to the people against monopolies and restraints of trade in interstate commerce. I do not concede the doctrine that Congress has any right to control the water power of the land except in order to provide for navigation.

I do not concede the right of Congress to regulate in any way the prices of water power generated by the use of the streams. And, so far as that is concerned, I have heretofore expressed my views upon the question and filed them in this House. In connection with the very able Members of this House now connected with the Committee on Interstate and Foreign Commerce, I have given my views on that subject; and whatever may be the clamor or the demand that we proceed and destroy all business of every kind and take away from the States the rights that have been conceded to them, I am not ready to yield to that public clamor now, nor do I expect hereafter to yield to it.

Mr. FALCONER. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. Does the gentleman from Georgia yield to the gentleman from Washington?

Mr. BARTLETT. If I have time; yes.

Mr. FALCONER. I wanted to ask the gentleman if he thinks the natural resources in the Western States, for instance, or any other State, ought to be used for the benefit of the people of the whole United States?

Mr. BARTLETT. Oh, I think the States have the right, where it is not public domain or land that belongs to the United States Government, to regulate the water power on that domain and the resources of it through State laws in the States in which those resources are situated, and the States should not be interfered with by Congress, and I believe that Congress has not the right to interfere. I do not say that with regard to the Western States simply because the Western States have asserted that doctrine of late and have maintained it. I have asserted it as my doctrine with reference to the rights of every State, and that is the position that every man who hopes to see the perpetuity of our system of Government ought to take and stand upon.

Mr. Chairman, I repeat that this Committee on the Judiciary, after months of careful inquiry and patient study, dealing with the laws and decisions in the past, has brought into this House a bill covering all the subjects that they have deemed it wise and proper to consider for the purpose of amending the Sherman antitrust law.

The CHAIRMAN. The time of the gentleman from Georgia has expired.

Mr. BARTLETT. My opinion is that in some phases we have gone too far; but this, I venture to say, is a venture upon a sea of uncertainty which you can not fathom and can not sail upon.

The CHAIRMAN. The time of the gentleman has expired.

Mr. VOLSTEAD. Mr. Chairman, I yield five minutes to the gentleman from California [Mr. KENT].

The CHAIRMAN. The gentleman from California [Mr. KENT] is recognized for five minutes.

Mr. KENT. Mr. Chairman and gentlemen, if there is any possible excuse for putting into this bill a clause providing for equitable distribution of coal these other sources of power and energy should without question be placed in equal position.

I do not know whether or not this bill will be of service to the public. I am not sure but that these matters can be equally well handled under the common law or the vague Sherman law, which has been made more or less definite by court decisions. But the bill is here before us, and if we are going to recognize the evils of monopoly in the anthracite coal fields, and possibly some of the other fields by this provision in section 3, we certainly should recognize the necessity of controlling other forms of energy. In a little while we shall clearly realize that the control of the mechanical energy of the Nation, either by the Nation or by the States on one side or by private and oftentimes greedy individuals on the other, means the welfare or the ruin of our prospects for greater equality of economic opportunity.

Gentlemen have talked about bills emanating from other committees. The bill from the Committee on Interstate and Foreign Commerce, referring to power on navigable waterways, is based necessarily upon a request for a concession from the Federal Government. To my mind, it is sadly inadequate. As conditions precedent to such grants there may be demanded, and should be demanded, regulation in the public interest. In the water-power bill, which the Committee on the Public Lands has reported, we have worked on that theory and have fully protected the public. We find that we can control the concession granted by and in the name of the Federal Government for the interest of the consumers. But those sources of supply and those bills do not by any means include sufficient remedies against abuse that are to be attempted by this bill. They are merely incidental to a present partial public ownership. In this bill we are legislating concerning property in private ownership in order to prevent trusts and monopolies, resultant in extortion by the improper use of so-called private property, all of which is only held by the power and the privilege granted by organized society; and if we are to control monopoly of anything and prevent extortion under any cloak, we are here and now forced to control this water-power product in the interest of the public, whether situate on public or private land.

If we are going to demand equality of treatment in the oil and in the coal and gas business and in the other resources that furnish energy, the proper and only place where we can define such control is right here and now in this bill. If this bill means anything looking toward trust and monopoly regulation it certainly must take into account the control of these most important items. [Applause.]

Mr. VOLSTEAD. Mr. Chairman, I yield five minutes to the gentleman from Washington [Mr. BRYAN].

The CHAIRMAN. The gentleman from Washington [Mr. BRYAN] is recognized for five minutes.

Mr. BRYAN. Mr. Chairman, I am as heartily in favor of any law that will restrict the Water Power Trust, the General Electric Co., or whatever you call it, as any man on the floor of this House. I believe in the public ownership of these utilities. I believe in the cities and communities owning and operating them, and I believe in putting this Water Power Trust out of business and taking away its rights entirely.

But under the present conditions these two forces are struggling for supremacy all over this country—the Water Power Trust and the public—in the various municipalities. The cities and larger municipalities come here, like the city of San Francisco, and get a grant from Congress, such as the Hetch Hetchy, and then counties and States are going into that line of activity more or less, and there is a continual fight between those two contesting forces. To-day the trust is trying to absorb every water power that it can and prevent the municipalities from winning or from progressing along those lines. The municipalities have the right and power of eminent domain. They ca demand and take away from the trust, and they can demand and take away from any private owner of these water-power grants their rights, and can appropriate them to the use of the municipalities and sell the current, sell the product of the water power at cost, without any profit whatever.

But now we come to a provision that requires any owner of such a water power—a municipality, for instance, after it does go through the condemnation proceedings and gets possession of it—to sell the product to any concern that comes along and wants to buy. We boast that our cities are able to sell this current cheap, and they are so able. They reduce the price continually. And so when the trust comes along and says, "I will pay you more than you are getting now for the current produced by this water right; I will pay you twice what you are getting"; and the city says, "No; I will not sell it to you." The Water Power Trust says, "By this bill of Congress you are compelled to sell it to me, and you can not refuse to sell it to me." Thus one of the effects of the bill would be to give the General Electric Co. and the Water Power Trust of this country that which is superior to the right of eminent domain against the municipalities of this land. It would be to give those people the right to take away from us, whenever they wanted to, those utilities by buying the entire product of the plant we had acquired.

I am willing to have a law of this kind passed if it provides that no such refusal to sell shall be permitted when in restraint of trade, and let it be determined whether or not each particular case is in restraint of trade. Let each case stand on its merits when the time comes; but I am opposed to putting into the law a provision that gives to any set of men the absolute, unequivocal right to buy in small or in wholesale quantities the rights that the cities of this land have acquired by all the toil and trouble incident to the acquirement of these utilities. These private individuals have the cash in bank. They can draw their checks for $500,000 or $1,000,000 and say, "Here is the money." The cities can not do that. The cities have to float bonds; they are hampered in every way about getting the money, so that the General Electric Co. could go to any city at any time and say, "Here, I want to buy your plant. You are competing, and we want your plant or the product of your plant. We have out there a competing plant. I will give you 25 per cent more than you are making now. Will you refuse?" The city would say, "Yes, indeed, we refuse." Then they will produce this law

which says that it shall be unlawful for the owner or operator of any such utility to refuse.

Mr. SUMNERS. Does the gentleman contend that a private corporation can exercise the right of eminent domain against a municipal corporation?

Mr. BRYAN. Of course I do not. It can not do it; but you put this law on the statute book, and any corporation, firm, individual, company, or concern can go and take the product of a public utility away from a city merely by offering to buy and tendering the cash, and the city can not refuse; it is absolutely prohibited. The trust could go and get a court order compelling the city to deliver, and if they did not deliver, the mayor and council would go to jail. The corporations will not get the right of eminent domain, but they will get a power superior to it. If the cities of this country could go to a private corporation and say, "Here, we want to buy your plant, and here is the money for it, you have got to sell it to us," that would be an easy way of getting it; but they can not do that. They have got to go into the courts and have long procedure, and the delays incident to the exercise of the power of eminent domain before they get it; but here you want to fix it so that the General Electric Co. can come and say, "Here, we want this. Here is the money, and you must sell it to us." The little city of Bremerton has just voted on the proposition of buying the electric lighting plant. I do not know how the election went, but I think they will buy it. But in the meantime, under such a law as this, a private concern could exercise the right of buying up the product of that light plant after the city acquired it, and then they could raise the rates on the people. Let the people alone in this country and in a few years cities and towns will not be pestered by Boston financiers who are attempting to monopolize all the traction companies and other public utilities.

Mr. DAVENPORT. Mr. Chairman and gentlemen of the committee, I confess I am not as much interested in that part of the amendment offered by my colleague from Oklahoma [Mr. FERRIS], which relates to water power, as I am in that part of the amendment which relates to oil and gas. The State which I have the honor to represent in part is one of the largest oil-producing States in the Union, and yet new oil fields in Oklahoma are being brought in every few months. The independent producers and refiners in Oklahoma are without the proper protection from the pipe-line companies, owned or controlled by the Standard Oil Co. or its subsidiaries, one of the greatest monopolies to-day in the United States. The provision of this amendment relating to oil and gas is not broad enough to furnish all the relief necessary to aid the independent producers in the oil fields in Oklahoma, but it will be a start in the right direction, and I am anxious to see the amendment adopted, or a similar amendment, that will require the sellers of oil and its by-products to treat all customers fairly and to sell to all alike. I want to see the law so drafted that the pipe-line companies may be prohibited from engaging in the production of oil. If we can so draft the law as to prevent owners of pipe lines from engaging in the production in competition with the other producers, then we will have accomplished what is necessary to prevent monopoly in the oil fields by the pipe-line owners. Without assigning any reason and with no visible condition to cause a reduction the Standard Oil Co. and its subsidiaries, the Prairie Oil & Gas Co., began to reduce the price of crude oil in the Oklahoma fields and reduce the price from $1.05 per barrel in the Healdton field to 50 cents per barrel, and in the other fields in Oklahoma from $1.05 to 75 cents per barrel. The situation in the Oklahoma field is anomalous and seems to be growing worse daily, and the question is, What remedy is the proper one to enact into law so as to give the people who are producing oil and gas in Oklahoma the protection that they are entitled to?

I do not think the amendment that was incorporated in this section on yesterday is sufficiently broad to control those engaged in the transportation and selling of both crude and refined oil. I am specially interested in the oil proposition, because my State produces one-third of the output of oil to-day in the United States and almost 65 per cent of the refinable oil in the United States, and we are in a very peculiar condition in Oklahoma with reference to the production, transportation, and sale of oil. The independent producers of Oklahoma are absolutely at the mercy of the pipe-line companies as the purchasers of their oil. It was suggested to me awhile ago by the gentleman from Arkansas [Mr. FLOYD] that it was an intrastate question. I say it is not an intrastate question. We can regulate the sale and control of the product as long as we can consign it to points in the State; but we can only handle it to the State line, and then when it comes to a question of getting a market and transporting the oil and selling it beyond the State line it becomes an interstate proposition, and the pipe-line companies are to-day trying and doing everything they can to choke out the independent oil producer in Oklahoma and compel him to sell his product for anything that they choose to give him. Three months ago crude oil was selling in the Oklahoma fields at $1.05 a barrel.

The statement I am including in my remarks will show the production of oil from 1850 down to and including 1912. It may be claimed by some that supply and demand regulate the price of crude oil and that the reason for reducing the oil to the price it had been reduced by the pipe-line companies in Oklahoma is because of the quantity of oil they have on hand and the market for the sale of the same and its products. I do not believe this contention to be correct, nor do I believe the facts surrounding the transactions in the mid-continent oil field will bear out such a theory. It is indisputable that the pipe-line companies and the Standard Oil Co. are not developers of oil fields, but that the oil field is developed by the independent producer, who seeks out a location where he believes oil is to be found and spends his hard-earned money in developing the field. It is true that the moment the independent producer develops oil in a locality the great oil monopoly or one of its branches immediately rush into the field, through its paid employees, and begin to take leases and will, if possible, give a higher bonus for a lease than the independent men can possibly pay. Not only that, it is the history of the oil monopoly, so far as I have been able to observe it, that it will raise the price of oil and encourage development until an oil field is well developed and until the independent producers have invested heavily in production and development, and then it has been the experience of indepedent producers that the oil monopoly will reduce the price of oil for the purpose of forcing out the independent producer and compelling him to sell his product to the controllers of the pipe lines or the oil monopolies operating in the field. Another condition that is very detrimental to the independent producer and the independent refiners of oil is the fact that the pipe-line companies, or those who control the pipe-line companies, as soon as a field is developed, immediately begin to secure leases and become producers in competition with the independent producers and will develop the property belonging to those who control the pipe line in such a way as to force the independent producer to expend great sums of money in development to protect his line; that is, the pipe-line company, or those who own the pipeline stock, will secure a lease adjoining a lease belonging to an independent producer and will immediately develop their property by drilling wells along the line of the lease of the independent producer, and this forces the independent producer to drill his property or to permit the pipe-line company or the parties owning the lease with whom they are operating to drain his land through their wells. Such manipulation of oil leases in the oil field as I have just spoken of is largely responsible for the bankruptcy of many independent producers and works a hardship and disadvantage to all of the independent producers and damages them very materially in their properties.

The relief needed by the independent oil producers and the refiners in the way of legislation is a law that will beyond question make the pipe-line companies common carriers and prohibit a pipe-line company or anyone who is owner of the stock in a pipe-line company from engaging in or being interested in the production of crude oil in a field where the pipeline company that he owns or is interested in enters the field for the purpose of transporting oil from one place in a State to another place in said State or from one State to another. No common carrier should be interested in the production of the product it is carrying to the extent that it should be permitted to discriminate against those who are producing, by carrying its own product and refuse to carry the product of others. I want to see the oil industry prosper and I want to see men who invest their money make a profit, but I do not desire to see one class of men engaged in an industry and manipulate it in a way as to rob another class of men who are in a legitimate business for legitimate profit.

If the wells in the Oklahoma fields were permitted to run their full capacity, it would be 225,000 barrels a day: the reduction of 30 cents per barrel amounts to $67,500 a day that is being taken from the people of Oklahoma; less than what they were receiving three months ago.

PRODUCTION AND VALUE OF PETROLEUM IN THE UNITED STATES.

In the following exhibit will be found the production of petroleum in the United States since the birth of the industry in 1859 to the close of the year 1912, together with the daily average production and daily average value. Also the combined production and combined value through the series of years. Compiled by W. M. Dunham, Tulsa, Okla., from the records of the United States Geological Survey.

Production and value of petroleum in the United States, 1859–1912.

Calendar year.	Years.	Production			Value.		
		Yearly production.	Daily average production.	Total production, series of years.	Yearly value.	Daily average value.	Total values, series of years.
1859	1	2,000	6	2,000	$32,000	$88	$32,000
1860	2	500,000	1,670	502,000	4,800,000	13,151	4,832,000
1861	3	2,113,609	5,791	2,615,609	1,035,668	2,138	5,867,668
1862	4	3,056,690	8,375	5,672,299	3,209,525	8,793	9,077,193
1863	5	2,611,309	6,332	8,283,608	8,225,663	22,536	17,302,856
1864	6	2,116,109	5,797	10,397,717	20,896,576	57,261	38,199,432
1865	7	2,497,700	6,843	12,897,417	16,459,853	45,095	54,659,285
1866	8	3,597,700	9,857	16,495,117	13,455,398	36,864	68,114,683
1867	9	3,347,300	9,170	19,842,417	8,066,993	22,101	76,181,676
1868	10	3,646,117	9,989	23,488,534	13,217,174	36,211	89,398,850
1869	11	4,215,000	11,548	27,703,534	23,730,450	65,015	113,129,300
1870	12	5,260,745	14,413	32,964,229	20,503,754	56,175	133,633,054
1871	13	5,205,234	14,261	38,169,513	22,591,180	61,894	156,224,234
1872	14	6,293,194	17,242	44,462,707	21,440,503	58,541	177,664,737
1873	15	9,893,786	27,106	54,356,493	18,100,464	49,590	195,765,201
1874	16	10,926,945	29,937	65,283,438	12,647,527	34,651	208,412,728
1875	17	8,787,514	24,075	74,070,952	7,368,133	20,187	215,780,861
1876	18	9,132,669	25,021	83,203,621	22,982,822	62,967	238,763,683
1877	19	13,350,363	36,576	96,553,984	31,788,566	87,092	270,552,249
1878	20	15,393,868	42,211	111,950,852	18,044,520	49,420	288,596,769
1879	21	19,914,146	54,560	131,864,998	17,210,708	47,153	305,807,477
1880	22	26,286,123	72,017	158,151,121	24,600,638	65,399	330,408,115
1881	23	27,661,238	75,784	185,812,359	23,512,051	64,417	353,920,166
1882	24	30,349,897	83,151	216,162,256	23,631,165	64,743	377,551,331
1883	25	23,449,633	64,246	239,611,889	25,740,252	79,521	403,291,583
1884	26	24,218,438	66,352	263,830,327	20,476,924	56,101	423,768,507
1885	27	21,858,785	59,887	285,689,112	19,193,694	52,585	442,962,201
1886	28	28,064,841	76,890	313,753,953	20,028,457	54,872	462,990,658
1887	29	28,283,483	77,490	342,037,436	18,856,606	51,662	481,847,264
1888	30	27,612,025	75,649	369,649,461	17,950,353	49,179	499,797,617
1889	31	35,163,513	96,330	404,812,974	26,963,340	73,872	526,760,957
1890	32	45,823,572	125,571	450,636,546	35,365,105	96,891	562,126,062
1891	33	54,292,655	148,747	504,929,201	30,526,553	83,634	579,652,615
1892	34	50,514,657	138,396	555,443,858	25,906,463	70,977	618,559,078
1893	35	48,431,066	132,688	603,874,924	28,932,326	79,267	647,491,404
1894	36	49,344,516	135,190	653,219,440	35,522,095	97,321	683,013,499
1895	37	52,892,276	144,910	706,111,716	57,691,279	158,058	704,704,778
1896	38	60,960,361	167,012	767,072,077	58,518,709	160,321	799,223,487
1897	39	60,475,516	165,686	827,547,593	40,929,611	112,136	840,153,098
1898	40	55,364,233	151,710	882,911,826	44,193,359	121,080	884,346,457
1899	41	57,070,850	156,358	939,982,676	64,603,904	176,997	948,950,361
1900	42	63,620,529	174,303	1,003,603,205	75,752,691	207,542	1,024,703,052
1901	43	69,389,194	190,107	1,072,992,399	66,417,335	181,965	1,091,120,387
1902	44	88,766,916	243,197	1,161,759,315	71,178,910	195,011	1,162,299,297
1903	45	100,461,337	275,236	1,262,220,652	94,694,050	259,436	1,256,993,347
1904	46	117,080,960	320,770	1,379,301,612	101,175,455	277,193	1,358,168,802
1905	47	134,717,580	369,081	1,514,019,192	84,157,399	230,568	1,442,326,201
1906	48	126,493,936	346,556	1,640,513,128	92,444,735	253,273	1,534,770,936
1907	49	166,095,335	455,056	1,806,608,463	120,106,749	329,060	1,654,877,685
1908	50	178,527,355	489,116	1,985,135,818	129,079,184	353,642	1,783,956,869
1909	51	183,170,874	501,838	2,168,306,692	128,328,487	351,585	1,912,285,356
1910	52	209,557,248	574,129	2,377,863,940	127,893,688	350,410	2,040,185,044
1911	53	220,449,391	603,971	2,598,313,331	134,044,752	367,246	2,174,229,796
1912	54	222,538,604	609,695	2,820,851,935	164,087,342	449,554	2,338,317,138
Total		2,820,851,935			2,338,317,138		

The CHAIRMAN. The time of the gentleman has expired.

Mr. WEBB. I yield to the gentleman one minute more, in order to ask him a question. I wish to state to the gentleman from Oklahoma that the gentleman from Ohio [Mr. BATHRICK], who seems to be something of an expert on this oil question, and who is just as insistent that oil be included in this section as the gentleman from Oklahoma is, offered an amendment which the committee accepted, so that the section would read that it shall be unlawful for the owner or operator of any mine or natural mineral deposit to refuse arbitrarily to sell. The gentleman from Ohio [Mr. BATHRICK], with his expert knowledge, assured the committee that "natural mineral deposit" included oil.

Mr. DAVENPORT. I hope the gentleman is correct. I have not run down the definition of "natural mineral deposit" sufficiently to say whether or not that is technically correct. I hope it is. I am in doubt, and I think the Geological Survey is in doubt upon that question.

Mr. WEBB. Mr. Chairman, I yield four minutes to the gentleman from California [Mr. RAKER].

Mr. RAKER. Mr. Chairman and gentlemen of the committee, I am in favor of the Ferris amendment. Having determined that it shall be unlawful for one operator to dispose of the product of his mine to one and refuse it to another, which is intended unquestionably to mean coal, there can be no question why the operator of the oil well should not come under the same category as the mine owner. It is for the same purpose, used in the same way, and if one should be controlled the other should. There is no distinction to be made in regard to gas. The committee has fully and thoroughly gone into this subject and determined that this legislation is necessary in regard to coal mines. Now, it is not a question of going into the natural features as to oil and gas; it is only a question for the determination by the House whether or not they should apply the same rule to oil and gas as they apply to coal; and to the question of hydroelectric power, which is the fourth subject, it is the same as the other three.

The committee has determined that it should regulate the question of coal. The question of the conservation or the nonconservation, whether a man should have the right to build a reservoir on the public domain, what should be the rules of the Government in regard to it, how much he should pay, whether or not navigable or nonnavigable streams should be regulated, whether or not the bill as prepared by the Committee on Interstate and Foreign Commerce should be passed, whether or not the bill of the Public Lands Committee should be passed, has nothing to do with this question. Having once determined the right, having once entered into interstate trade, can there be any reason why you should regulate the man that handles the coal, and should not control the one that deals in oil or gas that covers all the various industries as coal, and the same way in regard to hydroelectric energy that is distributed?

It does not matter what the Government is going to do on navigable streams nor as to the method regulating it, nor does it apply to the nonnavigable streams on the public domain. All those things will be disposed of by proper legislation, and in due time—and that will be at this session of Congress. But the point is that having once determined the right, the man entering into business in distributing hydroelectric energy, in distributing oil and distributing gas, should be placed on the same basis, under the same rules and restrictions, as the man who is dealing in coal. The question suggested by one gentleman opposed to this amendment that a man can go out and buy out these dealers or distributors of gas and electric energy

is all moonshine of the worst kind, because this bill is intended only for the purpose, as I have stated—that when you have a supply of hydroelectric energy, if he is supplying it to any particular locality, then he must supply it to the adjoining city or the adjoining party who desires to have it for mining or milling purposes. You could not buy the whole plant. It is only a question of saying that A and B shall be equally treated; that they shall be permitted to buy at the same price; not that you can go in and say, "Mr. A, I want to buy you out, and you will be compelled to sell or else come under a penalty." I therefore trust that the committee will adopt the amendment offered by the gentleman from Oklahoma.

Mr. WEBB. Mr. Chairman, I yield five minutes to the gentleman from Texas [Mr. BEALL].

Mr. BEALL of Texas. Mr. Chairman, the committee in framing this bill attempted to reach certain evil practices connected with the conduct of business in this country and at the same time sought just as few restrictions as possible consistent with reaching the recognized evils.

In the conduct of business in this country it has always been recognized that a man should have a right to select his own customers, and the committee in this bill specifically prescribe that that right shall remain with the man who is proposing to do business. But the question came up that with respect to certain natural products there had been abuses of such a character that some regulation was demanded. So the committee put into this bill the provision that the man who engaged in commerce who owned mines and handled the product of the mine should not have this right, ordinarily given a man who is engaged in business, to select his own customers, but that he should be compelled to sell that product to anyone who applied to him for purchase; in other words, that he should not have the arbitrary right to refuse to sell.

Mr. RAKER. Will the gentleman yield?

Mr. BEALL of Texas. I will.

Mr. RAKER. A man, on the one hand, operating a coal mine and the other a gas well—can there be any distinction between

Mr. BEALL of Texas. As I understand it, the bill as it stands

Mr. BEALL of Texas. As I understand it, the bill as it stands now has been broadened so that there is no question but that it includes not only the product of the mines, but also the product of the gas and oil wells. Those are great natural products. Now, gentlemen say because you include coal you ought to include gas and oil. Very well; we have done that. Now they say, having included the natural products, you must go a step further and include all the instrumentalities that are used for the distribution and use of the natural products. The gentleman from Oklahoma says you must include the pipe lines. If they are pipe lines operating wholly within the State of Oklahoma, they are within and under the control of the State of Oklahoma. If they are pipe lines operating in interstate business, they are all under the control of the Interstate Commerce Commission, placed there by Congress. Whatever regulation may be necessary for the control of pipe lines Congress has already authorized and empowered the Interstate Commerce Commission to provide.

Now, gentlemen go further and say that you ought to include not only these natural products but those things that are manufactured out of the natural products, the refined oil; you ought to include not only water power but electric energy that is developed from water power. You see that there is a progressive demand and that there is no end to it. If you ought to include electric lines because electricity is developed by water power, then you ought to include steam, because steam comes from coal.

Mr. FERRIS. They are already controlled.

Mr. BEALL of Texas. And you ought to include the manufactured products of the factory, because they are manufactured by a power which is generated by steam that comes from coal, that comes out of one of these mines, and so on and on. This committee, as I said in the beginning, attempted in this bill not to cover the whole universe, not to cover or attempt to correct every conceivable evil that might arise in connection with doing business in this country, but it sought to reach certain recognized, well-defined evils, to bring them under the inhibition of the law, to apply the corrective power of the law to these specific things, and it is my judgment that you will have a much more effective law, a much simpler law, a much better law, if you will limit the provisions of this bill to universally recognized evils, correcting them, and when you have done that I think the country will be willing to approve your efforts.

The CHAIRMAN. The time of the gentleman from Texas has expired.

Mr. WEBB. Mr. Chairman, I yield three minutes to the gentleman from Oklahoma [Mr. CARTER].

Mr. CARTER. Mr. Chairman, I am very glad to know that my friend from Texas [Mr. BEALL] wants to confine the operations of this bill to some specific injustice, for there is no business under heaven's canopy that has been the subject of such oppression and mistreatment as has fallen to the lot of the independent oil producers in Oklahoma. We have in that State five pipe-line companies, all owned or controlled, it is asserted, by the Standard Oil Co. These oil companies, it seems, in order to evade responsibilities as common carriers refuse to ship the oil of the independent producers, but buy it at their own price. They have the independent people completely at their mercy and can purchase oil at their own price, for they make of themselves exclusive purchasers when they refuse transportation of the product of any other person. Having a monopoly of transportation facilities they can and do fix the price of oil as best suits their convenience. This is not the worst. If the pipe-line companies would only take the oil production at their own price, the independent producers might be able to exist; but it is asserted by the independent producers—and I believe it to be a fact—that the pipe-line companies will not give independent producers a fair distribution in transportation.

The oil of the independent producers is flatly refused at any price until the production owned by the pipe-line companies is taken care of. This is the worst monopoly on the face of the earth. It is worse than monopoly; it is larceny, for the pipe-line companies themselves, mind you, are producers of oil and own leases and titles to land right adjacent to that of the independent producers. I say larceny, because when they refuse to take the product of the independent operator they simply draw the oil from his land beneath the surface and produce it from their own wells, so that within a few years the independent producer finds his profitable oil well converted into a "duster."

I want to call your attention to the Healdton field in my home county. This Healdton field was brought in about eight or nine months ago, and arrangements were made with pipe-line companies to take care of the production at $1.05 per barrel, and the pipe-line companies continued to take this product at $1.05 per barrel until 60 or 90 days ago. Then within 30 days different cuts in price were made by pipe lines, who are the only purchasers, and who have a complete monopoly of the field, until oil to-day in this field is only worth 50 cents per barrel. The Healdton producers when they were induced to develop that field were first led to believe that they would have no difficulty in getting pipe lines to take all the oil they could produce. At different times restrictions in the amount transported have been made until now the pipe-line companies refuse to carry over 8,000 barrels per day, and I see by the papers that one of the many wells in this field is now producing 6,000 barrels per day. So that the pipe-line companies really will take only 2,000 barrels more than the production of the largest well. A cut in price within 30 days from $1.05 to 50 cents and a reduction of the amount purchased from perhaps 20,000 to 6,000 is the deplorable condition that the small operators in this field are up against.

Mr. BEALL of Texas. How can we reach that by this law? How can we compel a man to buy?

Mr. CARTER. Oh, Mr. Chairman, the gentleman had five minutes and I wanted to interrupt some of the statements made by him very badly, but I did not do it on account of the short time he had, and I hope he will now let me continue.

This amendment may not reach that specific point, and I believe it can be improved upon, but as has been said by the gentleman from Oklahoma [Mr. FERRIS] most of that can all be trashed out either by the Senate or in conference, so that our people will get some relief.

My friend from Texas [Mr. BEALL] asserted that pipe lines had all been taken care of by Congress. I would like to know when that was done. I also want to call the gentleman's attention to the fact that the decision of the Commerce Court held that pipe lines were not even common carriers, and for this reason our small operators in the past have been unable to get them to take any part of their product at any price, not even at 50 cents per barrel. If the Supreme Court of the United States should reverse the Commerce Court and declare these lines to be common carriers, that would give considerable relief, but what should be done is to divorce production from transportation. Pipe lines ought not to be permitted to own oil deposits, for whenever they do you will place all other operators completely at the mercy of the pipe lines and permit them to rob them of all their own oil, as I have already stated, by drawing it off through the wells of the pipe line company.

You have a bill here to supplement existing laws against unlawful restraints and monopolies and other purposes. You are providing for relief from monopolistic oppression along other lines. On what ground, then, do you refuse to assist the small

independent oil operators in the State of Oklahoma and other oil-producing States?

The CHAIRMAN. The time of the gentleman from Oklahoma has expired.

Mr. VOLSTEAD. Mr. Chairman, I yield 3 minutes to the gentleman from Pennsylvania [Mr. KELLY].

Mr. KELLY of Pennsylvania. Mr. Chairman, the logic of the gentleman from Texas [Mr. BEALL] seems to be that an evil must grow intolerable before it should be dealt with by legislation. That is hardly the end and aim of this legislation, if it is to protect the people against the evils of monopoly. I hope that this amendment of the gentleman from Oklahoma [Mr. FERRIS] will be adopted, because without it this bill will not touch one of the mightiest potential monopolies in this Nation. Charles Steinmetz, consulting engineer of the General Electric Co., made a statement recently in which he pointed out the possibilities of water-power development, and said that in a few years not a running stream of water would be found in the country but that the water would be stored in reservoirs and dams to furnish power to be used for every routine duty of the household, as well as for transportation.

The General Electric Co. at the present time owns 35 per cent of the developed water power of the Nation, and will become one of the main monopolists of the Nation if this monopoly is to be permitted to continue. Without such a provision as this amendment of the gentleman from Oklahoma, it seems to me, this antimonopoly measure would be as bad as the tragedy of Hamlet with Hamlet left out, because the railroad monopoly, the United States Steel Trust, and other monopolies will be as nothing compared to the menacing possibilities of the water-power monopoly of this Nation, unless action be taken in time.

We have heard from the gentleman from Georgia [Mr. BARTLETT] of the sanctity of State rights and that such sacred rights must not be desecrated. I want to say, Mr. Chairman, that the State rights theory has passed its day and we are not solving national problems by piecemeal and by fractions in this year of 1914. Here is a problem, national in scope, that touches the people of the United States, and this amendment should have the support of every Member of the House who believes that the people of the Nation make up an entity and that a State can not be expected to solve a national problem such as the water-power monopoly, which concerns every man and woman and child of the United States.

President Roosevelt in his message in 1908 called attention to the fact that the water monopoly threatened to become one which would interfere with the rights of every American citizen. In his message of February 26 of that year he said:

> Among these monopolies, as the report of the commission points out, there is no other which threatens, or has ever threatened, such intolerable interference with the daily life of the people as the consolidation of companies controlling water power.

Must we wait until this "intolerable interference with the daily life of the people" becomes an accomplished fact before dealing with it? Surely we have seen enough of that kind of let-alone policy, which has resulted in a brood of marauding monopolies, to convince us that an ounce of prevention is worth a pound of cure.

I would call your attention, further, to the recent report of the Inland Waterways Commission, which contains the following statement:

> Wherever water is now or will hereafter become the chief source of power, the monopolization of electricity produced from running streams involves monopoly of power for the transportation of freight and passengers, for manufacturing, and for supplying light, heat, and other domestic, agricultural, and municipal necessities, to such an extent that unless regulated it will entail monopolistic control of the daily life of our people in an unprecedented degree.

The Nation must act if we are to prevent special-privilege control of the sources of power and its production and distribution. Here is an opportunity to do something now, and I hope that this House will show its appreciation of the value of this great asset of the American people. If the section means anything, this amendment will reach the question of water power, the basis of the greatest monopoly possibility in the Nation. That is the demand of to-day—not to wait until intolerable evils have grown up, but to guard against conditions which may become intolerable in the future. [Applause.]

Mr. WEBB. May I inquire of the gentleman from Minnesota how much more time he desires to use on this amendment?

Mr. MONDELL. Mr. Chairman, I desire to offer a substitute for this amendment.

The CHAIRMAN. The Clerk will report the substitute.

The Clerk read as follows:

> Page 21, line 17, strike out all after the word "mine," all of lines 18 and 19 down to and including the word "commerce," and insert in lieu thereof the following: "Oil or gas well or water-power plant, or anyone controlling the products of mines, oil or gas wells, or water-power plants to discriminate in price or otherwise as between persons or places for a like product delivered under similar terms and conditions, or."

Mr. FERRIS. Mr. Chairman, I raise the point of order that an agreement was made in regard to a division of time on this one amendment and that the amendment of the gentleman is not in order until this amendment is disposed of.

The CHAIRMAN. The Chair does not understand there was any agreement in regard to the limit of time on any amendment, but there was an hour and 30 minutes limit put upon the section and all amendments.

Mr. FERRIS. I did not understand it that way.

The CHAIRMAN. That was the agreement as the Chair understood.

Mr. FERRIS. That does not preclude the offering of additional amendments?

The CHAIRMAN. Oh, no.

Mr. MANN. It does not preclude the offering of amendments, but it precludes debate on them, except within the time limit set.

Mr. FERRIS. Suppose the hour and a half is all consumed in debate?

Mr. MANN. It will not be all consumed on this amendment, I will say to the gentleman.

Mr. FERRIS. I want to offer some other amendments.

The CHAIRMAN. The question is on the substitute offered by the gentleman from Wyoming.

Mr. VOLSTEAD. I yield five minutes to the gentleman from Wyoming [Mr. MONDELL].

Mr. MONDELL. Mr. Chairman, the committee, in reporting this bill, intended to compel miner operators, and those controlling mine products, to sell their products to whoever made a reasonable offer for them. That is undoubtedly the intent of the provision. Unfortunately it is not happily stated, and if the paragraph were adopted as it is in the bill it would take the courts the next 20 years to determine what constitutes an arbitrary refusal to sell a product. What we ought to do, if we are going to legislate on this matter of the sale of products at all, is to say that there shall be no discrimination as between persons and places in the sale of products delivered under similar terms and conditions. That sort of a provision will meet the evil we seek to meet, the evil under which the owners of mines, the owners of oil wells and gas wells, the owners of water-power plants sometimes refuse to sell to any except those with whom they have made contracts. It would take the courts a good long time to decide whether such a refusal was an arbitrary one if it were not an outright refusal, but an offer to sell at an impossible price and under conditions of delivery to which a person seeking to purchase could not accommodate himself.

Mr. AUSTIN. May I ask the gentleman a question?

Mr. MONDELL. Yes.

Mr. AUSTIN. Under the gentleman's amendment would a coal operator be compelled to sell 10 tons of coal at the same price as he sold 1,000 tons of coal?

Mr. MONDELL. The gentleman is a good judge of the English language, and he knows that under my amendment he would not be required to do it; he would be required to sell a like product under similar terms and conditions of delivery and in like quantities for the same price. In other words, he would be compelled to sell to Jones, if he had it for sale, the same amount of coal in the same quantity and under the same terms of delivery at the price at which he sold to Brown.

Mr. AUSTIN. How does the gentleman interpret the original provision of section 3 on that point?

Mr. MONDELL. It is impossible for anyone to interpret it. As a matter of fact, the point I am attempting to make is not directly treated in section 3. All that section 3 says is that there shall not be an arbitrary refusal to sell. What is an arbitrary refusal to sell? And is there a gentleman here who can venture, or will venture, a guess as to what the courts might say constituted an arbitrary refusal to sell? I have intended in my amendment to cover the ground covered by the amendment of the gentleman from Oklahoma, and in addition to that I have attempted to define what it is that we seek to prohibit; that is, the refusal to sell the same product under similar terms and conditions of delivery at the same price to all who may seek to buy.

Mr. WEBB. Will the gentleman permit an interruption?

Mr. MONDELL. I will.

Mr. WEBB. We intended to cover that very proposition in section 2 of the bill. Section 3 goes a little further, because we are dealing with products of the mine.

The CHAIRMAN. The time of the gentleman has expired.

Mr. MONDELL. Mr. Chairman, this is the first time I have had an opportunity to address the committee since the trust

bills have been before the House, and I ask that I may have five minutes additional.

The CHAIRMAN. The Chair will state to the gentleman that the committee has limited the time for debate. Does the gentleman ask unanimous consent?

Mr. MONDELL. I do.

The CHAIRMAN. The gentleman from Wyoming asks unanimous consent that he may be allowed five minutes additional, not to be taken out of the time limited by the committee.

Mr. WEBB. Can not the gentleman from Minnesota yield the gentleman more time?

Mr. VOLSTEAD. I am not able to give it.

Mr. WEBB. I am sorry we have not the time. I had to cut a gentleman down to three minutes to whom I had promised five minutes.

Mr. MONDELL. The gentleman is aware of the fact that owing to other duties it has been impossible for me to be on the floor during this discussion, and I have up to this time had no time. Of course, if the gentleman does not care to have me use five minutes, he can object.

The CHAIRMAN. Is there objection to the request of the gentleman from Wyoming? [After a pause.] The Chair hears none.

Mr. MONDELL. Mr. Chairman, my opinion is that there is a real evil that we must meet. There has been a great deal of complaint throughout the country of the high price of bituminous and anthracite coals in many localities. When you come to investigate that question in its relation to bituminous coals you find this to be the fact, that bituminous coals are sold at the pit mouth all over the country under the keenest competition and at low prices—at prices so low that it is difficult, owing to the competition, for the operator to make proper provision for safety in the mines. But before the coal reaches the consumer it has gone through processes of contract under which the consumer is compelled to pay in many instances an outrageous price. If we prohibit the refusal to sell to anyone who seeks to purchase, and do it in an equitable way, as provided by my amendment, we will, I believe, relieve a situation which is acute and intolerable in many parts of the country.

Gentlemen have referred to oil and water power. My motion is that, while the amendment would be useful and valuable with regard to oil and water power, it is of even more importance with regard to bituminous coal. It may be exceedingly important with regard to the sale and distribution of water power. While we are legislating on this subject we should make it very clear and definite what it is that we prohibit. My amendment, reading it with the balance of the section, is that it shall be unlawful for the owner or operator of any mine, oil or gas well, or water-power plant, or anyone controlling the products of these mines or wells or plants, to discriminate in price or otherwise between persons and places for a like product delivered under similar terms and conditions. And then it shall be unlawful for them to arbitrarily refuse to sell. My amendment definitely states what it is we prohibit, and the courts will then have no difficulty in determining what constitutes an arbitrary refusal to sell.

Mr. LEVY. Will my colleague allow me?

Mr. MONDELL. In just a moment. Without a provision of this kind it will be utterly impossible for the courts to determine. An operator may offer to sell at a price far above what he is receiving from others. He may offer to sell under impossible conditions of delivery. He may agree to sell quantities in excess of the needs of the purchaser, and the courts will have no sort of guide without some language such as I suggest as to what constitutes arbitrary refusal to sell. If my amendment is adopted, then we shall have prohibited discrimination as between persons and places for like quantities under similar terms and conditions, and the courts will be able to determine in each individual case whether the law has been violated.

I yield now to the gentleman from New York.

Mr. LEVY. I would like to ask the gentleman if he does not consider the United States acted arbitrarily in Alaska in refusing to sell coal lands or opening them up?

Mr. MONDELL. Oh, yes. But because some officials of the department may have done wrong, there is no reason why in legislating now on this matter we should not do our duty. I do not fear the effect upon legitimate operation of legislation of this character when it is properly drawn and clearly defines its purpose. Such a provision as this was contained in a bill for the leasing of coal lands in Alaska, which I introduced several years ago, and which should have become a law. Such a provision is contained in two bills which I have introduced at this session of Congress for the leasing of coal and oil and gas lands.

The CHAIRMAN. The time of the gentleman has again expired.

Mr. LINTHICUM. Mr. Chairman, I ask that the gentleman's time be extended for half a minute.

The CHAIRMAN. The gentleman from Maryland [Mr. LINTHICUM] asks unanimous consent that the gentleman be allowed half a minute additional. Is there objection?

Mr. MANN. Well, I will have to object to that.

The CHAIRMAN. Objection is heard. The question is on the amendment——

Mr. WEBB. Mr. Chairman, I yield three minutes to the gentleman from Mississippi [Mr. HARRISON].

Mr. HARRISON. Mr. Chairman, this amendment enlarges the present section of the bill by proposing to include in it coal, gas, oil, and hydroelectric energy. The amendment adopted to the section on yesterday, which was offered by the gentleman from Ohio [Mr. BATHRICK], included mineral deposits. It seems to be conceded that coal and oil and gas are included in the words "mine or mineral deposits," and I shall therefore confine my remarks to the question of hydroelectric power. In my opinion, there is no question before the American people that is quite so large and important as the regulation and control of water-power corporations and monopolies throughout the country, and I concede to no Member here a more progressive spirit in that direction than I entertain. I believe it is such a large question that more consideration should be given to it than the few minutes' discussion that we have had here in the House on this section. It is so large and important that three committees of this House have been working on it for many months. This amendment is carelessly drawn. There is even a variance of opinion between those Members of the House who advocate the amendment, not only in the meaning of it but the effect of it. You can not legislate intelligently on so important a matter in an hour and a half's consideration.

There is now on the calendar of this House a bill reported out of the Committee on Interstate and Foreign Commerce that deals with this question intelligently. I believe it will be called up for consideration and passage before the House adjourns. There has also been reported by a subcommittee to the full Committee on Foreign Affairs a bill dealing with the question of hydroelectric energy developed at Niagara Falls. That bill will be reported to the House shortly. There is now on the calendar a bill that deals with the question of hydroelectric energy generated from water power on the public lands of the country, reported out of the committee over which the author of this amendment, the distinguished gentleman from Oklahoma [Mr. FERRIS], presides. These bills deal with this question in all its phases, and will give all the Members of the House an opportunity to express their views, so that we can really get at the very milk in the coconut of this question. And it seems to me, Mr. Chairman, that we ought not now to pass this amendment that deals with it in a loose-shod kind of a way and does not give the relief that is really needed.

The question that actually confronts us is not, so far as respects hydroelectric energy, that water power companies will not sell their hydroelectric energy to other concerns or people, and thereby create a monopoly, but the important question, so far as concerns water power, is that these companies charge too much for their current and they are not answerable, so far as service is concerned, to the Interstate Commerce Commission of the United States or the public service commissions of the various States.

Mr. MONDELL. Will the gentleman yield?

Mr. HARRISON. I can not yield now; I have but three minutes.

That is quite a different proposition from that which would apply to coal and to mines, because the mines and mineral products of the country have been gobbled up and controlled by a few companies to that extent that the owners of them will not sell their products so that the people can be benefited. They are withheld from the market for various reasons. The greatest trouble with the water-power companies is service and rates. Let us wait and pass such water-power legislation as will deal with the question fully, completely, and intelligently. [Applause.]

The CHAIRMAN. The time of the gentleman from Mississippi has expired.

The question is on the amendment offered by the gentleman from Wyoming [Mr. MONDELL] as a substitute to the amendment offered by the gentleman from Oklahoma [Mr. FERRIS].

The question was taken, and the Chair announced that the noes seemed to have it.

Mr. MONDELL. Division, Mr. Chairman.

The committee divided, and there were—ayes 39, noes 45.

So the substitute was rejected.

The CHAIRMAN. The question recurs on the amendment offered by the gentleman from Oklahoma [Mr. FERRIS].

Mr. STEPHENS of Texas. Mr. Chairman, I desire to offer an amendment to the amendment. After the word "production" in the amendment I desire to add the word "transportation." I think the gentleman will accept the amendment.

Mr. FERRIS. I will vote for it. Go ahead and offer it.

The CHAIRMAN. Will the gentleman state the amendment again?

Mr. STEPHENS of Texas. The word "transportation" already comes in after the word "production"—hydroelectric plants, production, transportation, coal, oil, gas, and so forth. It only carries out the idea of placing pipe lines in this amendment. If the gentleman will not accept it, I will withdraw the amendment.

The CHAIRMAN. Without objection, the gentleman will be permitted to withdraw his amendment to the amendment. [After a pause.] The Chair hears none. The question is now on the amendment offered by the gentleman from Oklahoma [Mr. FERRIS].

The question was taken, and the Chairman announced that the ayes seemed to have it.

Mr. FLOYD of Arkansas. Division, Mr. Chairman.

The committee divided; and there were—ayes 58, noes 24.

Mr. WEBB. Mr. Chairman, I ask for tellers.

Tellers were ordered; and the Chairman appointed Mr. WEBB and Mr. FERRIS to act as tellers.

The committee again divided; and the tellers reported—ayes 65, noes 28.

So the amendment was agreed to.

Mr. AVIS. Mr. Chairman, I desire to offer the following amendment.

The CHAIRMAN. The gentleman from West Virginia [Mr. AVIS] offers an amendment, which the Clerk will report.

The Clerk read as follows:

Page 21, line 17, after the word "mine," insert the words "except bituminous and semibituminous coal mines," and on line 18, after the word "mine," insert the words "except as aforesaid."

Mr. VOLSTEAD. Mr. Chairman, I yield to the gentleman eight minutes.

The CHAIRMAN. The gentleman from West Virginia [Mr. AVIS] is recognized for eight minutes.

Mr. AVIS. Mr. Chairman, the purpose of this amendment is to except bituminous and semibituminous coal mines from the provisions of section 3.

I have already at great length discussed this subject, but feeling as I do, and, as I have said before, that if this section becomes a law it will promote and create monopoly rather than destroy it, I want, in the limited time that I have, to repeat some things that I have already said.

In the first place, there is no such thing as a monopoly of the soft-coal industry of the United States. There are at this time over 6,000 of these soft-coal mines throughout the United States, located in the great States of Illinois, Pennsylvania, Ohio, West Virginia, Kentucky, Virginia, Alabama, Washington, Utah, Wyoming, and a number of other States, and these mines are owned by over 3,500 separate and distinct owners.

Now, if this section becomes a law, from the little knowledge that I have of the coal business—and I claim to have some knowledge of it, having lived in a coal-producing section for 25 years—I believe it will absolutely permit the large corporations, the very ones you are aiming this section at, to destroy the small corporations.

There are three classes of concerns engaged in the soft-coal production industry. There are the large corporations that have a tremendous output, that are enabled to place their agencies and storehouses over the United States and supply such demands as may be made upon them. These corporations maintain expensive sales agencies, and they have their own men to represent them. There is a second class of coal producers in this country who sell a portion of their output to certain dealers and employ agents and brokers to sell the balance. The third class—and the great majority of the mine owners in this country belong to that class—consists of those who have an output of about 400 tons a day, or less, who are unable to maintain their own sales agencies and who do not handle the sales end of their business. In order to dispose of their respective productions these concerns are compelled to employ agents and brokers to work up a trade for their coal upon commission, in such territory as may be assigned to them, and these operators compete with the big operators in such territory.

For instance, these small operators, on account of the good quality of their coal and on account of the extreme care they take in preparing it for the market, have customers who have been brought to them through the quality of their coal and the efforts of such agents and brokers in the respective territories that have been assigned to them, such as the lake section, the Northwest, or New England.

Now, what is the result? Under this section such small operators will be compelled to sell their coal to the first responsible firm, person, or corporation who applies to purchase it—not alone for use or consumption but for the purpose of resale.

Now, what is to prevent me, if I am a big operator or big corporation, with whose coal the coal of the small operator is competing in that territory, from going to him, under this section, and saying, "I am a responsible bidder; I will buy your entire output for this year"? I might be buying it for some unfair purpose, and could destroy his trade in that territory, yet this section would require the small operator to sell to the large operator and would thereby enable the large operator to destroy the small operator, who is dependent upon that method of disposing of his product.

Now, if there were a monopoly in this business the situation would be different. I realize that this committee is trying to curb monopolies, and I am in favor of preventing monopoly; but, as I said before in this discussion, there is no such thing as monopoly of the soft-coal business of this country. Competition is so great to-day among the soft-coal mine operators of this country that they have scarcely made a dollar in the last five years, and none of them, with perhaps few exceptions, has made a dollar in the past year, and that is largely due to the fact that there is an overproduction of soft coal throughout this country. The competition is so great, as I said the other day—and the figures will bear me out—that we are selling coal to-day at about the same prices at which we sold it 8 or 10 years ago, notwithstanding the fact that freight rates, wages, and mine supplies have doubled in cost. Therefore, if this section becomes a law you will be playing into the hands of the big fellow.

In the limited time that I have let me also invite your attention to the fact that this is a tremendous industry, and a great many States are engaged in it. In 1909 there were nearly $1,100,000,000 invested in this industry. The value of the soft-coal output of this country at the mine is about $450,000,000 a year. Of that amount over $300,000,000 goes directly to labor, and the number of miners engaged in this industry exceeds 500,000, and many hundred thousands more people are directly dependent upon it.

Now, you should not do anything to cripple or injure an industry of this magnitude, so as to lessen the opportunity of those engaged in it to provide the safeguards that the miners of this country are entitled to, so that the men who daily face the dangers and hazards underground in mining may be better protected in the future. If this bill becomes a law I honestly believe that you will put out of business a great number of the soft-coal producers of the country. I insist that there is no monopoly of the bituminous-coal industry, and that you are aiming this section at something that does not exist. You should not attempt to cripple the soft-coal industry of this country and stop the development of my State—in which State over one-third of the people are dependent upon the soft-coal industry—without great care and consideration.

Mr. RAKER. Mr. Chairman, will the gentleman yield?

Mr. AVIS. I will yield to the gentleman for a short question.

Mr. RAKER. Taking the statement that the gentleman made, that concerning the man who is producing 400 tons a day and has his regular customers and is selling at the regular price, without a monopoly, you contend that the large corporation could come in now and compel this man to set aside his regular customers and sell his coal to the corporation?

Mr. AVIS. Undoubtedly. Listen to the language of section 2. Section 2 provides—and you have adopted that section:

Nothing herein contained shall prevent persons engaged in selling goods, wares, or merchandise in commerce from selecting their own customers, except as provided in section 3 of this act.

Now, while you have provided that no mine owner shall refuse arbitrarily to sell his product to any responsible person, firm, or corporation who applies therefor, yet you have made this limitation by section 2, which qualifies the words "refuse arbitrarily."

The CHAIRMAN. The time of the gentleman has expired.

Mr. MANN. Would the gentleman like more time?

Mr. AVIS. I should like five minutes more.

Mr. VOLSTEAD. I yield to the gentleman five minutes.

Mr. AVIS. I should like to explain a little further, in reply to the gentleman. I imagine the evil that some gentlemen anticipate is that which might exist in a community where a consumer could not purchase coal from some dealer. Now, that is not the fault of the mine owner. The mine owner sells his coal in a certain territory, and if a dealer gets the control of his

output he can put up the price or refuse to sell, as he may please; and that is the very thing that, by this section, you are enabling the dealer to do, because the dealer may not be engaged in interstate commerce. You compel the mine owner, if he is engaged in interstate commerce, to sell not only for use and consumption, but to sell for the purpose of resale. Therefore, if some dealer wants to control the output in a certain section, he can go to the operator directly, if he is a responsible person, firm, or corporation, and buy his entire output, or a great part of it, in that way depriving the operator of his customers, and control that particular coal in his section, and therefore have a monopoly of it.

Mr. GREEN of Iowa. And that particular local transaction could not be reached by this bill, because the transaction between the dealer and the consumer would be entirely intrastate and beyond the reach of any interstate provision.

Mr. AVIS. Yes. That could not be reached at all.

Mr. GREEN of Iowa. And therefore the very evil that they are trying to reach will not be struck at all.

Mr. AVIS. That is absolutely true. Now, when this bill was being considered I knew nothing about the intention to incorporate this section. Had I known of it, I would have appeared before the committee, and I would have had others go also. As soon as I observed this section I communicated with the coal men in my district. As I said a moment ago, in my State we have nearly 900 coal mines. We produce one-sixth of all the bituminous coal produced in this country. The value of the product is over $60,000,000 a year. I communicated with these gentlemen as soon as I learned of this section, and every single one of them has pointed out some of the evils that I have attempted to point out to you—and they realize that they are in great danger. It does seem to me that it is manifestly wrong to attempt to legislate concerning an industry as if it were a monopoly, when it is just the reverse, and when severe competition is now hurting that industry so badly that nobody can make a dollar from it. I ask any gentleman on this floor, representing any bituminous coal producing district, to point out any small miner of soft coal in his section who is earning any money to-day. The big concerns may be earning some money, but not the small ones.

Mr. AUSTIN. I wish to say to the gentleman that the coal operators of my district have been consulted, and they take the same position as that taken by the operators of the gentleman's State.

Mr AVIS. I am glad to hear the gentleman's statement. This provision will affect not only the operators, but also the dealers. Say I am a small operator having a mine in the State of Illinois and want to sell my coal in a certain town. I can not afford to establish a selling agency in that town. In order to get a dealer in that town to circularize and sell my coal there I have to give him that territory on commission, so that he can compete with the large dealers who are also engaged in selling coal in that town. He has procured a number of customers. This section will permit those customers to come to me directly, to come to the mine owner, and compels me, the mine owner, to sell directly to the customers whom the dealer has procured. Thereby it tends to eliminate the coal dealers of this country who have spent money and years of time in working up a trade in their respective sections. Now, is that fair to the mine owner? Is it fair to the dealer? Is it fair to anybody to put an industry in the class of monopolies when there is no monopoly of that industry—not nearly so much of a monopoly as there is of the lumber industry or of the cotton industry or of many other industries in this country?

The CHAIRMAN. The time of the gentleman has expired.

Mr. MURRAY of Oklahoma. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. MURRAY of Oklahoma. I understand that there is a limit to this debate on this section and all amendments thereto.

The CHAIRMAN (Mr. GARNER). That is correct.

Mr. MURRAY of Oklahoma. I want to offer an amendment to this section.

The CHAIRMAN. If the gentleman can get the floor. The gentleman from North Carolina [Mr. WEBB] controls the time.

Mr. MURRAY of Oklahoma. There certainly should not be any question of controlling the time on the introduction of amendments.

The CHAIRMAN. The gentleman will have an opportunity to offer his amendment when the debate is exhausted.

Mr. MURRAY of Oklahoma. Then there will be no more opportunity for debate.

The CHAIRMAN. No.

Mr. MURRAY of Oklahoma. I should like to introduce my amendment while the debate is going on.

Mr. CARLIN. The debate was limited by unanimous consent. We have no objection to the gentleman offering his amendment and letting it come in.

Mr. MURRAY of Oklahoma. That is all I ask.

The CHAIRMAN. The gentleman from Oklahoma may offer his amendment for information. It can only be read at this time for information. The Clerk will report the amendment of the gentleman from Oklahoma.

The Clerk read as follows:

Page 21, line 24, before the word "and," insert the words "or any cooperative association making purchases for distribution among its members."

Mr. CARLIN. Mr. Chairman, I yield five minutes to the gentleman from Indiana [Mr. CULLOP].

Mr. CULLOP. Mr. Chairman, to meet some of the evils at which this section strikes, on February 13, 1914, I introduced a bill which was referred to the Interstate and Foreign Commerce Committee. That bill (H. R. 13354) prohibiting common carriers from owning or leasing coal lands, is as follows:

Be it enacted, etc., That it shall be unlawful for any common carrier subject to the provisions of this act to acquire ownership of any lands underlain by coal or of any coal underlying any lands, except as may be necessary and intended for its use in the conduct of its business as a common carrier.

SEC. 2. That it shall be unlawful for any common carrier subject to the provisions of this act to lease or sell upon a royalty basis to any person or persons, firm or firms, corporation or corporations, any lands underlain by coal, or any coal underlying any lands, whether the ownership of such lands and coal or such land or coal has been heretofore or may be hereafter acquired by said common carrier.

SEC. 3. That from and after January 1, 1916, it shall be unlawful for any common carrier subject to the provisions of this act to transport from any State, Territory, or the District of Columbia, to any other State, Territory, or the District of Columbia, or to any foreign country any coal or products of coal or products from land underlain by coal manufactured, mined, or produced by it or under its authority, or by any person or persons, firm or firms, corporation or corporations, to whom or to which said common carrier may have or hereafter may have leased or sold upon a royalty basis any lands underlain by coal or any coal underlying any lands, except such coal or products of coal or products from land underlain by coal as may be necessary and intended for its use in the conduct of its business as a common carrier.

The committee in charge of the bill now under consideration state the objects of this section, as follows:

This provision is new, but in view of the fact that many railroad corporations, the United States Steel Corporation, and other corporations have acquired and own, either directly or indirectly, through the medium of subsidiary corporations, vast areas of land containing coal, iron, and copper and other minerals in common use, we feel that this legislation is needed and fully justified. By its enactment into law we make it impossible for mere ownership of mines to enable the owners or those disposing of the products thereof to direct the disposal of such products into monopolistic channels of trade. It will liberate from the power of the trust every small manufacturer who is compelled to go into the open market for his raw material and every person who desires to purchase coal for use or for resale to those who desire to purchase for use or consumption, and will afford to every such manufacturer an opportunity to purchase same for cash wherever offered for sale in commerce. The section expressly forbids the mine owner or person controlling the sale of the product of the mine to arbitrarily refuse to sell such product to any responsible purchaser, and thereby prevents the mine owner or operator from giving the preference to another and rival dealer in the disposal of such product.

The independent operators to-day are not in the position which the distinguished gentleman from West Virginia [Mr. AVIS] has supposed, but they are in the hands of a monopoly, and are being crushed by that monopoly; and it was the independent operators of Illinois and Indiana who came before the Interstate and Foreign Commerce Committee and demanded legislation upon this subject which would relieve them from the grasp of that monopoly which was destroying their existence and blighting their opportunities. If in their monopolistic greed they should succeed, then they would control the coal production and the price and reap a golden harvest. Aware of this situation and gravity of the condition, the independent operators appealed to Congress for protection from the injuries with which they were threatened, and to relieve that unfortunate situation I introduced the measure which I have read; and as this section will afford them additional relief, I hope it will stand and the amendment of the gentleman from West Virginia [Mr. AVIS] will not prevail. The facts in those two States justify their alarm, and I call the attention of the committee to them. The conditions existing in two States—Indiana and Illinois—from the statistics are shown to be as follows:

There are approximately 3,000,000 acres of coal lands in Indiana and Illinois, about 1,000,000 of which are presently available for coal operation from a commercial standpoint; the other 2,000,000 acres will not become available until the further passage of time, with improved methods, additional railroad facilities, and higher prices.

Of the 1,000,000 acres of coal available at present, it is estimated that about 160,000 acres are in Indiana and the other 840,000 acres in Illinois. It has come about that of the Indiana available coal lands, 60 per cent have come into the ownership of the railroads operating in Indiana either directly or indi-

rectly through stock ownership in other companies or by bond holding in other companies or by financial backing by any one of various methods.

In Illinois the proportion is a little more than 60 per cent—about 66⅔ per cent. In other words, of the 840,000 acres of available coal lands in Illinois at present, approximately 541,000 acres are in the hands of railroads, besides 75,000 acres in the hands of large holders who are believed to hold the same for the railroads, a total of 616,000 acres.

Here is the way the available coal lands are distributed in Illinois: The C. & E. I. Railroad Co. has 35,000 acres of coal lands; the Illinois Central 25,000 acres; the Rock Island has 5,000; the St. Paul has 25,000; the Missouri Pacific has 10,000; the Wabash has 25,000; the Union Pacific, which does not run in Illinois at all, as I understand, has 45,000 acres in that State. But the Union Pacific, as you will remember, owns the stock control of the Chicago & Alton; and to protect the Chicago & Alton the Union Pacific has 45,000 acres in Illinois.

The Big Four lines have 90,000 acres in Illinois; the United States Steel Corporation has 75,000 acres in Illinois; the Clover Leaf has 15,000 acres; the Litchfield & Madison has 15,000; the St. Louis, Troy & Eastern has 4,000; the St. Louis & O'Fallon has 15,000; and Messrs. Corey and others, the Steel Corporation officials, have 20,000 acres. This makes a total of 541,000 acres of Illinois property out of the 840,000 available for present coal production; in other words, 64 per cent. Adding the 75,000 acres above referred to, and the total becomes 616,000 acres out of 840,000 acres; in other words, 73 per cent.

This is the real condition of the coal situation in these two States, and it warrants substantial treatment.

It is this ownership in these two States, and doubtless in the State of West Virginia the same thing exists, that is putting the independent coal operator out of commission and monopolizing the bituminous coal trade and regulating the price. When they get them once in their clutches they can control not only the output but the price as they please to fix it; and they have and will continue to do so, as all experience has demonstrated.

Mr. AVIS. Mr. Chairman, will the gentleman yield?

Mr. CULLOP. I am sorry I can not yield, but I have not the time. That is the condition of the independent coal operator to-day in the States of Indiana and Illinois; and in the State of Ohio it is, I am informed, practically the same. I have no doubt it exists in the State of West Virginia and in the district from which the distinguished gentleman comes.

If there is no legislation such as is proposed here to control the sale and output of these mines, the railroads will dominate the whole production, the price, and have a complete monopoly; crowd out the independent producer and the people will be made to suffer. Regulation is demanded, and should be speedily had in order that monopoly may not punish and plunder the public.

True, as the gentleman says, the independent operator has been running at a loss not only this year but last year as well, and the cause of this will be found in the fact that the railroads are attempting to drive them out of business, and are about to succeed in doing so, and when once success has crowned their efforts in this respect, then they will remain complete masters of the situation, and the public will pay dearly for fuel. We should handle this question so as to prevent them from carrying their purpose into effect. Public good requires treatment of this matter, and, if need be, heroic, drastic treatment. Railroads buy coal lands in the States I have named, open and equip mines ready for operation, then lease them to some person, sometimes no doubt a dummy, at a royalty of 8 or 9 cents a ton. He produces, the roads haul the product to market; there may be no profit in the sale of the product; the price is beaten down, but the railroads make money out of the freight charges for transportation, and hence can afford this method of reducing prices. They do not suffer because of what they earn in hauling the product to market. But the employment of the method is crushing the independent operator, and the low price thus produced is causing him in order to compete to operate at a loss, and soon he must abandon the business and leave the field to the railroad companies. With the independent operator out of business, competition has vanished, and they have complete control of the situation; can dictate the quantity of the production and the price at which the same shall be sold. They then become the masters of the situation of this great necessity, and can dominate both our domestic and industrial consumption of fuel. This condition, for truly it is a serious condition, requires serious consideration for the adoption of some real remedy that may relieve the people from its disastrous effects, if once attempted to be carried out. This is the solution of the unfortunate condition of the independent coal operators now, and from it they need and require relief.

Once our great fuel supply passes entirely under the control of monopoly, the people will suffer as never before from the exactions of its greed as they fall prey to its insatiable avarice. [Applause.] This provision as it now stands will afford some, if not complete, protection, and I hope it will be permitted to remain as it is in order that the independent operator may have some assistance in his great effort to sustain competition, and that the whole of this great industry may not entirely pass under the control of the great railroads of the country.

The CHAIRMAN. The time of the gentleman from Indiana has expired.

Mr. CARLIN. I yield to the gentleman one minute more.

Mr. CULLOP. Now, this provision of the bill seeks to remedy, in part, at least, this evil, a remedy that the independent coal miners are demanding in at least two of these States, and I understand likewise in the State of Ohio—something that will relieve them of the grip of these monopolies that are grabbing up these coal lands, that now have two-thirds of them in three of the greatest coal-producing States in the Union, enabling them to conduct the operation of the mines and the disposal of the product as they please. The independent coal operator will be put out of business at the behest of these great monopolies, controlling the product as they do, unless we pass this or some other remedial legislation. [Applause.]

Mr. VOLSTEAD. Mr. Chairman, I yield five minutes to the gentleman from Pennsylvania [Mr. HULINGS].

Mr. HULINGS. Mr. Chairman, I would like to ask some member of the committee whether Congress has the right to legislate upon a matter of this nature. The oil producer produces his oil in the State of Oklahoma or Pennsylvania. He sells his product at the well; invariably almost it is purchased by the Standard Oil Co. I want to know whether the committee holds that that transaction, entirely within the State, is covered by this legislation?

Mr. FLOYD of Arkansas. It would not and could not be affected by this legislation. This legislation would only reach those transactions in interstate commerce.

Mr. HULINGS. I wish to say that, so far as I know the oil business, the producer of the oil sells his product at the well and the transaction is completed there.

Mr. FLOYD of Arkansas. In cases where that is true this legislation would not affect it.

Mr. HULINGS. It is almost invariably true of the oil business. When the pipe-line company, the buyer, gets the oil, it may transport it out of the State, and that would make its transaction interstate commerce and be under the jurisdiction of Congress, but the oil producer would not be within the jurisdiction of Congress and only liable to State regulation.

Mr. FLOYD of Arkansas. Undoubtedly; and the second clause of the provision provides for those in control of the product, which would reach the second man referred to provided he was engaged in interstate commerce.

Mr. HULINGS. This section applies to the owner or operator of oil wells, and it is very rare indeed that the operator of an oil well ever engages in interstate commerce.

Mr. FLOYD of Arkansas. Then I want to say to the gentleman that in that case this legislation would in nowise affect him.

Mr. HULINGS. That is what I supposed. Now, Mr. Chairman, it seems to me that the amendment offered by the gentleman from Wyoming [Mr. MONDELL], which would define what an "arbitrary refusal" is, ought to have been adopted. But since that was cast out I propose the following amendment, which I send to the desk that it may be read for information.

The Clerk read as follows:

Page 21, line 24, after the word "States," insert the following: "where the effect of such refusal shall be to restrain trade or to secure to such owner or operator monopolistic control of such products."

Mr. HULINGS. Mr. Chairman, I think there should be something of that sort in this bill. On the question of "arbitrary refusal," suppose it is arbitrary and does not restrain trade or does not give monopolistic control of the products. There is nothing in the refusal itself, unless it does these things, and I want to suggest to the committee that the amendment which I have proposed, I believe, carefully defines and carries out the purpose of the section.

I yield back the remainder of my time. I desire to have my amendment voted on at the proper time.

The CHAIRMAN. The amendment of the gentleman will be voted on at its proper time.

Mr. CARLIN. Mr. Chairman, I yield five minutes to the gentleman from Kentucky [Mr. BARKLEY].

Mr. BARKLEY. Mr. Chairman, I offer the following amendment, which I send to the desk and ask to have read for information.

The CHAIRMAN. The gentleman offers an amendment to be read for information, which the Clerk will report.

The Clerk read as follows:

Page 21, line 19, after the word "products," insert the following: "in reasonable quantities."

Mr. BARKLEY. Mr. Chairman, I offer this amendment because I am somewhat in doubt about the effect of the section as it is written in the bill. In the report of the committee—and I desire to call the attention of the committee to this report—the following language is used referring to setcion 3 of the bill:

This section, like section 2, is limited in its application to the United States and to places under the jurisdiction thereof, and has no reference to persons desiring to purchase such a product for export sale. In that case the seller is permitted to arbitrarily refuse to sell to a responsible bidder, for otherwise a foreign dealer being responsible might purchase the entire output of a mine to the detriment of manufacturers and dealers in the United States and the owner be powerless to prevent it.

If that provision as applied to coal that had been intended for foreign trade would have permitted a foreign dealer to purchase the entire output of a miner, and the latter could not, by reason of this provision in the bill, refuse to sell the whole output, then the same thing would apply to a local purchaser who undertook to purchase the entire output of the mine. The same reason that would apply to the foreign dealer who undertook to purchase the entire output of the American miner would apply to a domestic transaction, because the owner could not prevent it by reason of this section, would apply equally and with the same force to a monopolist in the United States who was a responsible purchaser, and who went to a mine owner and offered to take the entire output of the mine.

Mr. FLOYD of Arkansas. Mr. Chairman, will the gentleman yield?

Mr. BARKLEY. Yes.

Mr. FLOYD of Arkansas. In the first place, as I have already explained a moment ago, this has no reference to the local dealer who is selling his product within his own State. He can sell it in any way he sees proper to any person to whom he desires.

Mr. BARKLEY. I realize that.

Mr. FLOYD of Arkansas. It applies only to persons who are selling such products in commerce, and it only applies to those who arbitrarily refuse to sell to a responsible person applying to purchase. I am unable to conceive how such a provision would result to the detriment of the small dealer. The object and purpose of the section is to prevent those who have obtained a monopoly upon vast areas of lands containing these minerals to arbitrarily refuse to furnish the products to consumers for use and consumption or to manufacturers who are engaged in competitive business with those producing or handling the products who at the same time are using such products themselves, or selling them to other and favored manufacturers engaged in a similar line of business. That is the object of it, and I do not think the small dealer could be detrimentally affected by it.

Mr. BARKLEY. Mr. Chairman, I realize the object of the bill as written is to prevent monopolists from refusing to sell to independent dealers or bona fide purchasers who want to use the article, either for the manufacture of other products or for resale; but the bill as it is written does not limit it to those men, but is universal in its scope, and takes in the little dealer as well as the big dealer. I realize that Congress can not regulate a transaction that occurs wholly within a State; but suppose the Standard Oil Co. of New Jersey should go into a community in another State——

Mr. AVIS. Mr. Chairman, will the gentleman yield?

Mr. BARKLEY. Not at this time. Suppose the Standard Oil Co. or some other corporation which is a monopoly should go to an independent oil well or an independent mine owner in Oklahoma and some other State and see piled up a great quantity of coal or see stored a great quantity of oil and should say, "We will offer you the market price for this whole quantity"; and suppose the mine owner or the well owner should say, "I do not want to sell it to you," and the Standard Oil Co. should reply, "But here is a provision that says you can not arbitrarily refuse to sell it to me, for I am a responsible purchaser." Then the well owner might say, "I want this to use in this community to supply my customers," but the Standard Oil Co. would reply, "You have more oil in your well and you have more coal in your mine and you can get it out; but I want this which is lying here, and you are not using it, and you have no right to refuse to sell it to me." Then the court must pass on whether that is an arbitrary refusal.

Mr. FLOYD of Arkansas. Mr. Chairman, will the gentleman yield?

Mr. BARKLEY. Yes.

Mr. FLOYD of Arkansas. I desire to suggest that in my judgment and opinion, if he had any good reason for refusing, it would not be an arbitrary refusal.

The CHAIRMAN. The time of the gentleman from Kentucky has expired.

Mr. CARLIN. Mr. Chairman, I yield the gentleman three minutes more.

Mr. FLOYD of Arkansas. Mr. Chairman, my suggestion is that if a mine owner has any good reason, such as that he desires to sell to his customers or that he has contracts outstanding to be filled or any other legitimate good reason, no court would ever hold that such act would constitute an arbitrary refusal under the provisions of this section as drawn.

Mr. BARKLEY. I want to say this to the gentleman. I realize the force of his argument and the value of this section, but if this amendment which I propose is adopted, then the question of the power to refuse to sell the entire output can never arise, because then the owner can say, "We will sell you a reasonable amount of this product, but we want the balance of it for the supply of our own customers," and if this amendment were adopted it would be impossible to raise the question in any court as to the power of the local miner to refuse to sell his entire output.

Mr. CARLIN. Would you not in the last analysis have to submit to the court the determination of what is a reasonable quantity?

Mr. BARKLEY. Yes; but it would be no more harmful to have to pass on what would be a reasonable quantity than to have to interpret the meaning of the word "arbitrary."

Mr. CARLIN. The difficulty is twofold.

Mr. BARKLEY. Not at all. It would be easier for the court to pass on the question of whether or not a definite refusal to sell a given quantity of coal or oil was a reasonable quantity or within the discretion of the local well or mine owner than it would to go into all the facts that would make it necessary to give a different interpretation to the word "arbitrary" in every transaction. I now yield to the gentleman from West Virginia.

Mr. AVIS. In connection with what the gentleman has just stated, and in connection with the reply made by the gentleman from Arkansas [Mr. FLOYD], in which he stated, as I understood him, that section 3 would have no effect on sales within a State, where the mine owner operated in such State, under the terms of this bill, would not mine owners, if they were engaged in interstate commerce—and practically all of the mine owners are—be compelled to sell their product outside of the State to the first person who applied therefor, if he were a responsible person, firm, or corporation, to the exclusion of the people within such State?

Mr. BARKLEY. The responsible purchaser applies to the mine owner or operator anywhere in the United States or any Territory under the jurisdiction of the United States; and if the responsible purchaser from one State goes into another State and offers to purchase the entire output of a given mine or oil well, I am afraid of this section as it is written, because it leaves the possibility of prosecution in a court of justice if he refused to sell the entire output of any mine or any well, and I believe the language that I have offered will take away that possibility or that doubt.

The CHAIRMAN. The time of the gentleman has expired.

Mr. CARLIN. I yield two minutes to the gentleman from New York [Mr. LEVY]. [Applause.]

Mr. LEVY. Mr. Chairman, I offer the following amendment.

The CHAIRMAN. The gentleman from New York offers an amendment for information, which the Clerk will report.

Mr. LEVY. In my limited time I can hardly explain it.

The Clerk read as follows:

Page 21, line 16, after the word "owner," insert "the United States Government in Alaska."

Mr. LEVY. Mr. Chairman, my object is to throw open the coal lands of Alaska. This is the greatest monopoly in the United States to-day. The cause of business depression throughout the United States at the present time is due to too much legislation. Every time we legislate to centralize power in the hands of the Federal Government it seems the citizens of the United States have to pay more for their products. When the Hepburn bill was enacted into law coal advanced, and it has never come down in price since; and so it will be with this bill—the people will be obliged to pay increased prices. The question is solely one of supply and demand, and so it is with oil and other products. I regret exceedingly that such propositions as this should come before the Congress, because it will only increase the burdens of the people. [Applause.]

Mr. CARLIN. Mr. Chairman, I yield two minutes to the gentleman from Oklahoma [Mr. MURRAY].

Mr. MURRAY of Oklahoma. Mr. Chairman, the clear intention of this section is to compel the producer of mine products to sell to the dealer. It would hardly be construed that any consumer or any individual citizen could buy whenever he got ready. Now to make a concrete example, my amendment provides that every "cooperative association that makes purchases for distribution among its members" shall also be included in the class which shall have the right to buy under this provision. I remember such an association in western Oklahoma attempted to buy coal and they refused them because they were not a "commercial concern," because they were not selling for profit, and they had to buy coal from West Virginia. This amendment which I offer is to permit "cooperative concerns" or societies to buy as well as dealers, and that is all there is to the amendment. I regret I am allowed no more time to urge its adoption.

Mr. CARLIN. Will the gentleman on the other side use some of his time?

Mr. VOLSTEAD. I yield three minutes to the gentleman from Kentucky [Mr. POWERS].

Mr. POWERS. Mr. Chairman, we have in southeastern Kentucky over 10,000 square miles of bituminous coal territory. The western coal field of Kentucky has over 6,000 square miles, making in all in the State of Kentucky over 16,000 square miles of bituminous coal territory. There are only 14,000 square miles in the entire State of Pennsylvania—I mean of bituminous coal territory—so it can be readily seen that the State of Kentucky is vitally concerned in section 3 of this bill. Under its provisions I see nothing to prevent any of the great moneyed interests of this country from buying up under compulsion the entire coal output of southeastern Kentucky or of any other section of this great country. Section 3 says:

That it shall be unlawful for the owner or operator of any mine or for any person controlling the product of any mine engaged in selling its product in commerce to refuse arbitrarily to sell such product to a responsible person, firm, or corporation who applies to purchase such product for use.

The amendment offered by the gentleman from Kentucky [Mr. BARKLEY] to the effect that the amount of coal to be sold ought to be limited to a reasonable amount, it seems to me, ought to prevail. When we absolutely throw open and give the great moneyed interests of this country the power to buy up, without any power to refuse, the entire coal output, it looks to me that instead of taking it out of the hands of monopolies of this great country that you are putting it into the hands of the monopolies and giving them power to control absolutely the entire coal output of the country.

Mr. AVIS. Mr. Chairman, my attention has been called to the fact that my amendment as drawn would not read connectedly with the present section as adopted a moment ago, and I therefore desire to modify it.

The CHAIRMAN. The gentleman from West Virginia asks unanimous consent to modify his amendment. Is there objection? The gentleman offers his amendment after what?

Mr. AVIS. I have sent it to the Clerk to be reported.

The CHAIRMAN. The Clerk will report the amendment as modified by the gentleman from West Virginia.

The Clerk read as follows:

Page 21, amend the Ferris amendment by inserting after the word "energy" in the amendment the following: "except bituminous and semibituminous coal mines."

The CHAIRMAN. The question is on the amendment offered by the gentleman from West Virginia——

Mr. CARLIN. I would like to know if the gentleman from Minnesota has used his time?

Mr. VOLSTEAD. I desire to yield the balance of my time to the gentleman from Tennessee [Mr. AUSTIN].

Mr. GARDNER. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. GARDNER. The question now is upon the amendment offered by the gentleman from Kentucky [Mr. BARKLEY] to the amendment of the gentleman from West Virginia, is it not?

Mr. BARKLEY. My amendment is not offered as an amendment to his, but as an independent amendment.

The CHAIRMAN. The amendment of the gentleman from Kentucky is an independent amendment. The Chair recognizes the gentleman from Tennessee for seven minutes.

Mr. AUSTIN. Mr. Chairman, early in the consideration of this measure, on the 23d day of the present month, I had read from the Clerk's desk two letters from Mr. John L. Boyd, manager of the Proctor Coal Co., of Knoxville, Tenn., urging the same objections which have been so well stated by the gentleman from West Virginia [Mr. AVIS].

In my opinion, Mr. Boyd voices the sentiment of all of the operators of that eastern coal field of Tennessee. There is no combination in the coal fields of Tennessee among the operators, and I know of no ownership of coal lands by any of the railroad corporations of that State. The coal business has not been a profitable one, as the records will show, and to-day there is a decrease, and has been a constant decrease, in the coal output and the sale of coal in the country and in the Tennessee coal fields since the Underwood tariff bill went into operation.

The State of Tennessee has employed in its mines from 800 to 1,000 convicts digging coal, and for the first time since the State engaged in that industry they have been unable to dispose of the output from the State mines, unable to find a market, and hence have required the closing down of the mines in which the State convicts have been employed. This bill will not aid the coal industry. It will not aid any legitimate industry in this country. It is not offered for that purpose. Those who are in charge of legislation here are not seeking to develop or promote the business interests of this country. They were not elected upon a platform of that kind, and they would be untrue to the traditions of their party if they sought by legislation to promote or advance the business interests of the country. [Applause on the Republican side.]

The Underwood tariff bill did not increase the number of pay envelopes, but it did furnish an army of 2,000,000 unemployed workingmen that had constant employment before the enactment of that bill. We were told in the consideration of that measure that it would promote American industry and extend trade, and when it failed we were then told that a currency reform was needed, and not a tariff for revenue only, to improve the condition of the working people and to promote the business of the country. We were told that same identical thing 20 years ago, when the Wilson bill was tried.

Mr. Bryan and the leaders of the Democratic Party stated that it was not the tariff, but that it was the reform of the currency—16 to 1—that was needed in order to stop depression and promote business. And having failed to carry out the promises made in the platform at Baltimore by the Underwood tariff bill, we were then given a nostrum in the shape of the currency bill. And when that failed, along with the Underwood tariff bill, we are handed the so-called antitrust legislation as a remedy for the closing of mills and for the idle mechanics, all of whom were employed before the Underwood tariff bill became a law.

And so, Mr. Chairman, in the interest of the American people, in the interest of business, and in the name of the idle, honest, deserving workingmen, I protest against this bill, which will not help, but which will depress, retard, and injure, along with the Underwood tariff bill and the currency bill, the business condition of affairs in this fair land of ours. [Applause on the Republican side.]

The CHAIRMAN. The time of the gentleman has expired.

Mr. WEBB. Mr. Chairman, I sincerely trust that the amendment of the gentleman from West Virginia [Mr. AVIS], exempting bituminous-coal operators from the provision of this section, will not be accepted. The complaint which he makes that it will be possible for one operator to buy the product of four or five or more of the independent operators and thus monopolize the output is answered by saying that those who so buy for purposes of monopoly would be guilty of violating the Sherman antitrust law. I do not think it is fair to assume that that would be done, in order to get my friend's operators and constituents exempted from this just law, which would apply to all coal-mine operators alike.

And in addition to that, I doubt very much the right or power of Congress to exempt one set of coal operators from the operation of the law and putting another set of coal-mine operators within the law. I do not think Democrats or Republicans believe in that kind of class legislation, as it is contrary to the very spirit and genius of our institutions.

The CHAIRMAN. The time of the gentleman from North Carolina has expired. All time has expired.

The question is on the amendment offered by the gentleman from West Virginia [Mr. AVIS].

The question was taken, and the Chairman announced that the noes appeared to have it.

Mr. AVIS. Division, Mr. Chairman.

The committee divided; and there were—ayes 32, noes 81.

So the amendment was rejected.

The CHAIRMAN. The Clerk will report the amendment offered by the gentleman from Oklahoma [Mr. MURRAY].

The Clerk read as follows:

Page 21, line 24, before the word "and," insert:
"Or to any cooperative association making purchases for distribution among its members."

The CHAIRMAN. The question is on agreeing to the amendment.

The amendment was rejected.

The CHAIRMAN. The Clerk will report the amendment offered by the gentleman from Pennsylvania [Mr. HULINGS].

The Clerk read as follows:

Page 21, line 24, after the word "States," insert the following: "Shall be where the effect of such refusal shall be to restrain trade or to secure to such owner or operator monopolistic control of such products."

The CHAIRMAN. The question is on agreeing to the amendment.

The question was taken, and the Chairman announced that the noes seemed to have it.

Mr. HULINGS. Division, Mr. Chairman.

The committee divided; and there were—ayes 43, noes 68.

So the amendment was rejected.

The CHAIRMAN. The Clerk will report the amendment offered by the gentleman from Kentucky [Mr. BARKLEY].

The Clerk read as follows:

Page 21, line 19, after the word "product," insert the following: "in reasonable quantities."

The CHAIRMAN. The question is on agreeing to the amendment.

The question was taken, and the amendment was rejected.

The CHAIRMAN. The Clerk will report the amendment offered by the gentleman from New York [Mr. LEVY].

Mr. LEVY. It is to modify the amendment.

The CHAIRMAN. The gentleman from New York [Mr. LEVY] asks unanimous consent to modify his amendment. Is there objection? [After a pause.] The Chair hears none. What is the modification?

Mr. LEVY. The modification is only to apply to the amendment that has been passed—the amendment of the gentleman from Oklahoma [Mr. FERRIS].

Mr. MANN. I object.

Mr. LEVY. Then I offer it as I offered it before.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York [Mr. LEVY].

The question was taken, and the amendment was rejected.

Mr. MORGAN of Oklahoma. Mr. Chairman, I desire to offer an amendment.

The CHAIRMAN. The gentleman from Oklahoma offers an amendment, which the Clerk will report.

Mr. WEBB. A parliamentary inquiry, Mr. Chairman.

The CHAIRMAN. The gentleman will state it.

Mr. WEBB. Has not all time expired?

The CHAIRMAN. All time has expired; but any gentleman can offer an amendment.

Mr. MORGAN of Oklahoma. I offer an amendment to follow section 3.

Mr. CARLIN. Mr. Chairman, I think under the unanimous-consent agreement entered into by the committee it was agreed that all debate and all amendments should be——

The CHAIRMAN. The gentleman from Virginia must be mistaken about that, because since the present occupant took the chair there have been several amendments offered.

Mr. MANN. All debate is closed.

The CHAIRMAN. Debate is closed.

Mr. FLOYD of Arkansas. Mr. Chairman, I desire to make a point of order against the amendment offered by the gentleman from Oklahoma [Mr. MORGAN], on the ground that it is not to section 3.

Mr. MORGAN of Oklahoma. Mr. Chairman, I withdraw the amendment.

The CHAIRMAN. The gentleman from Oklahoma [Mr. MORGAN] withdraws the amendment.

Mr. BRYAN. Mr. Chairman, I move to amend by striking out the section.

The CHAIRMAN. The gentleman from Washington [Mr. BRYAN] offers an amendment, which the Clerk will report.

The Clerk read as follows:

Strike out all of section 3.

The CHAIRMAN. The question is on agreeing to the amendment.

The amendment was rejected.

Mr. MONDELL. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The gentleman from Wyoming [Mr. MONDELL] offers an amendment, which the Clerk will report.

Mr. MONDELL. The amendment I offer comes in at the beginning of line 15.

The CHAIRMAN. The Clerk will report the amendment offered by the gentleman from Wyoming [Mr. MONDELL].

The Clerk read as follows:

Amend, page 21, line 19, after the word "commerce," by inserting the words "to discriminate in price or otherwise as between persons or places for a like product delivered under similar terms and conditions."

The CHAIRMAN. The question is upon agreeing to the amendment.

The question was taken, and the Chairman announced that the noes seemed to have it.

Mr. MONDELL. A division, Mr. Chairman.

The CHAIRMAN. A division is demanded.

The committee divided; and there were—ayes 40, noes 63.

So the amendment was rejected.

The CHAIRMAN. The Clerk will read.

Mr. MORGAN of Oklahoma. Mr. Chairman, I now offer my new section.

The CHAIRMAN. The gentleman from Oklahoma [Mr. MORGAN] offers an amendment, which the Clerk will report.

The Clerk read as follows:

Mr. MORGAN of Oklahoma moves to amend by adding a new section, to be numbered section 3a, to follow section 3, as follows:

"SEC. 3a. That any person or corporation engaged in commerce who shall by the price charged for any article, product, or commodity sold or leased, or by the terms granted or given to the purchaser or lessor of any article, product, or commodity, or by the contract, arrangement, or condition upon which any such article, product, or commodity shall be sold or leased, or by any other means, discriminate as between persons, localities, or communities, so as to give any undue or unreasonable preference or advantage to any particular person, firm, corporation, locality, or community in any respect whatsoever, or so as to subject any particular person, firm, corporation, community, or locality to any undue or unreasonable prejudice or disadvantage in any respect whatsoever, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not exceeding $5,000, or by imprisonment not exceeding one year, or by both."

The CHAIRMAN. The question is on agreeing to the amendment.

Mr. MORGAN of Oklahoma. Mr. Chairman, sections 2, 3, and 4——

Mr. CARLIN. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. CARLIN. My inquiry is in reference to the agreement that we had. I am trying to find out just what was the unanimous-consent agreement about time, and whether this is in order. While this amendment is offered as a new section, it is not in the shape of an amendment, and I would like to inquire whether, under the agreement had, the gentleman is now entitled to debate it?

The CHAIRMAN. The Chair understands that the amendment is offered as a new section to the bill.

Mr. MORGAN of Oklahoma. Yes; as a new section. I would like to explain to the Members of this House the purposes of the section. We have under section 2 prohibited discriminations in price. We have in section 3 prohibited the arbitrary refusal to sell coal, and so forth. We have in section 4 prohibited a man from selling goods, and——

Mr. CARLIN. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. CARLIN. Section 3 has been adopted. All amendments have been defeated, and we have passed to section 6, having already adopted sections 4 and 5. Now, the gentleman offers a new section, and he does not say where or to what part of the bill it belongs. I make the point of order that it is not in order.

Mr. TOWNER. Let me suggest to the gentleman that this is the parliamentary status, as I understand it: Section 5 has been read for amendment, and of course amendments have been offered, but section 5 has not been passed beyond amendment. I have an amendment I want to offer. The gentleman would have the right to offer an amendment.

Mr. CARLIN. Section 5 was adopted, and we reverted then to section 3. We had commenced to read section 6, and then we went back to section 3.

Mr. TOWNER. I beg the gentleman's pardon. When we adjourned last night there was pending an amendment to section 5. There has been no debate on section 5.

Mr. CARLIN. The gentleman is mistaken. We adopted an amendment to section 5 and concluded the section, and then we went back to the consideration of section 3.

Mr. TOWNER. Oh, no. That was on the order to revert to section 3. We have not concluded the debate on section 5 or the right to amend section 5. There has been no action of that kind. I know that, because I desire to offer an amendment of my own to section 5.

Mr. HENRY. We had concluded section 5 and had begun to read section 6, and then we returned to section 3.

Mr. MURDOCK. Mr. Chairman, will the gentleman yield?

Mr. HENRY. Yes.

Mr. MURDOCK. Yesterday an agreement was made that we would go back to section 3 as soon as the matter then pending before the committee was concluded. As soon as the matter of the amendment of the gentleman from Missouri [Mr. DICKINSON] and the amendment thereto offered by the gentleman from Indiana [Mr. CULLOP] was completed this morning we went back to section 3.

Mr. HENRY. We adopted section 6 and went back to section 3. There is no question about that.

Mr. TOWNER. The gentleman is mistaken. We went back from the amendment pending to section 5, and after that was completed we went back to section 3.

The CHAIRMAN (Mr. BYRNS of Tennessee). This discussion of section 3 is not in order at this time. The gentleman's amendment is numbered "section 3A."

Mr. CARLIN. This is the first time I have heard that.

Mr. ALEXANDER. Mr. Chairman, everybody agrees that section 4 has been passed and that we were considering section 5. By unanimous consent section 3 was passed over. It is not in order for the gentleman from Oklahoma to offer an amendment of a new section called "section 3A" which precedes section No. 4. He might offer it as "section 4A," but he can not go back except by unanimous consent.

Mr. MANN. It could not be "section 4A."

Mr. ALEXANDER. "Section 5A," I should say.

Mr. BRYAN. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. BRYAN. If the gentleman wants to offer his new section to follow section 3, at what time in the parliamentary procedure could he have offered it except at this particular moment? Was it ever in order until we had finished section 3?

The CHAIRMAN. The Chair thinks that the gentleman is correct. The amendment is in order at this time. The gentleman from Oklahoma is recognized.

Mr. MORGAN of Oklahoma. Mr. Chairman, this discussion should not be taken out of my time.

The object of the section I have offered is to put in a general section that will include unfair discriminations that are not included in sections 2, 3, and 4. In fact, if sections 2, 3, and 4 were stricken out and this section placed in the bill, it would cover, comprehend, and include all that is included in sections 2, 3, and 4. That is the kind of language we should use; that is, language that will comprehend not simply a single unfair practice, but, if possible, all unfair practices. There is not in this bill any section that includes generally unfair practices.

Mr. WEBB. Mr. Chairman, will the gentleman yield to me for a question?

Mr. MORGAN of Oklahoma. Yes.

Mr. WEBB. Did the gentleman offer this amendment to the trade-commission bill the other day?

Mr. MORGAN of Oklahoma. I think not. I want to read section 3 of the act to regulate commerce, because this section is fashioned after that.

The first paragraph of section 3 of the act to regulate commerce provides—

> That it shall be unlawful for any common carrier subject to the provisions of this act to make or give any undue or unreasonable preference or advantage to any particular person, company, firm, corporation, or locality, or any particular description of traffic, in any respect whatsoever; or to subject any particular person, company, firm, corporation, or locality, or any particular description of traffic, to any undue or unreasonable prejudice or disadvantage in any respect whatsoever.

Now, that section has been construed many times by the Interstate Commerce Commission, many times by the Supreme Court of the United States; and, more than that, it was taken from the English traffic act which was enacted in 1854, and it has been construed by the English courts. Under that section the Interstate Commerce Commission have been able to prevent many unfair discriminations and practices by the common carriers—discriminations and practices that could not have been foreseen and prohibited specifically. So, if you are in earnest in trying to control unfair practices, in trying to prevent unjust discriminations, why not insert in this bill a general provision of law that will prevent discrimination in price, in terms, by contract arrangements or agreements or otherwise, so as to give one person or locality an undue or unreasonable advantage over another, or so as to subject any person or locality to undue or unreasonable prejudice or disadvantage.

With such a section as this in this act, as time shall go on, it will suppress many unfair practices and unjust discriminations which can not now be named. The language has been construed. The provision has been found useful in preventing unfair discriminations by common carriers. It would be useful and effective in controlling the large industrial concerns, which in the monopolistic power they possess rank with our railways. This bill prohibits only a few things. Big concerns may desist from things prohibited herein. But they may resort to other practices just as reprehensible, just as dangerous, and yet just as effective in driving out competition. To my mind it would be exceedingly unwise to pass this bill without one section that is drawn so as to make all business practices which are unjust and unreasonable unlawful. It is useless to close a few of the avenues which lead to monopolistic control of business without an attempt to close all. For as long as there is one way open those seeking undue advantage over others will find it. No legitimate objection can be urged against this section which I have proposed. It makes it unlawful for any person through the price charged or the terms given or the contract entered into to discriminate so as to give any person, locality, or community any undue or unreasonable advantage over any other person or community, or so as to subject any other person or community to any undue prejudice or disadvantage. Can there be any objection to this? Is not this just the sum and substance, the very heart of what you are attempting to do? Is it not the practice or method that gives one an undue advantage over another that you want to prevent? This is my understanding of what you are attempting. If I am correct, then the new section which I have offered should be adopted.

Mr. WEBB. It strikes me that the gentleman's amendment ought not to have been offered as section 3a, but as a substitute for sections 2, 3, and 4.

Mr. MORGAN of Oklahoma. That is the way I intended it, but I could not get it in that way. If this is adopted, I shall move to strike out sections 2, 3, and 4.

Mr. WEBB. The gentleman's amendment is a sort of omnium gatherum in which he undertakes to cover the practices condemned in sections 2, 3, and 4. I believe the House is fairly well satisfied with these three sections as we have adopted them, and that it will prefer them to the amendment of my friend from Oklahoma, and I therefore hope his amendment will be voted down.

The CHAIRMAN. The question is on the amendment of the gentleman from Oklahoma.

The amendment was rejected.

Mr. TOWNER. Mr. Chairman, I offer an amendment to section 5.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

> Page 22, line 19, after the word "forbidden," insert the words "or declared to be unlawful."

Mr. CARLIN. In order to get the matter straightened out, I make the point of order that section 5 has been passed and that therefore the amendment is not in order.

The CHAIRMAN. The Chair will state to the gentleman from Iowa that section 5 was completed yesterday, and that the next section to be considered is section 6. After section 5 had been completed the chairman of the committee requested that we return to section 3. Therefore the Chair thinks that the amendment offered by the gentleman comes too late.

Mr. TOWNER. If the Chair will pardon me just a moment, I think the Chair is entirely right in his statement; but there was an agreement stated by the gentleman from Illinois [Mr. MANN] yesterday that we should return to section 3 after we had disposed of any pending amendments that we had under consideration last evening. This morning we did dispose of the pending amendments to section 5, and then——

Mr. MANN. Under the circumstances I ask unanimous consent that the gentleman have the privilege of offering his amendment. There was a misunderstanding.

The CHAIRMAN. The gentleman from Illinois asks unanimous consent that the gentleman from Iowa be permitted to offer the amendment which has been read from the Clerk's desk. Is there objection?

There was no objection.

Mr. TOWNER. I call the attention of the committee to this amendment. I think they ought to accept it. I move to add the words "or declared to be unlawful" for the reason that in some of the sections of this bill certain things are forbidden and in others they are declared unlawful. If the gentleman will turn, for instance, to section 8, he will find that in that section certain things are forbidden. The language of section 3 is that it shall be unlawful for the owners, and so forth. I offer this amendment for the purpose of perfecting the language of the text, because certain things are forbidden and certain things are declared to be unlawful, and this section ought to be made to apply to both.

Mr. WEBB. Does not the gentleman think anything that is forbidden in law is unlawful?

Mr. TOWNER. I do not know whether the courts would so hold or not.

Mr. WEBB. I do not think there is any doubt about it.

Mr. TOWNER. But that is not the customary language, and it certainly ought not to be left in doubt. Why do you hesitate to accept an amendment which will remove all possibility of doubt? Do you want the doubt to continue?

Mr. WEBB. The committee think that anything which is forbidden is declared to be unlawful.

Mr. TOWNER. I think the committee never thought about it at all.

Mr. WEBB. I am stating it now.

Mr. TOWNER. They have not given it any consideration. There are certain things in this law that are forbidden, and there are certain other things that are declared to be unlawful. You want this section to apply to both. Why do you not say so?

Mr. WEBB. Everything that is declared to be unlawful in this bill or in the antitrust law is forbidden by law.

Mr. TOWNER. Very well, if that is the gentleman's attitude.

The CHAIRMAN. The question is on the amendment of the gentleman from Iowa [Mr. TOWNER].

The amendment was rejected.

The Clerk read as follows:

SEC. 6. That whenever in any suit or proceeding in equity hereafter brought by or on behalf of the United States under any of the antitrust laws there shall have been rendered a final judgment or decree to the effect that a defendant has or has not entered into a contract, combination in the form of trust or otherwise, or conspiracy, in restraint of trade or commerce, or has or has not monopolized, or attempted to monopolize or combined with any person or persons to monopolize, any part of commerce, in violation of any of the antitrust laws, said judgment or decree shall, to the full extent to which such judgment or decree would constitute in any other proceeding an estoppel as between the United States and such defendant, constitute in favor of or against such defendant conclusive evidence of the same facts, and be conclusive as to the same questions of law in favor of or against any other party in any action or proceeding brought under or involving the provisions of any of the antitrust laws.

Whenever any suit or proceeding in equity is hereafter brought by or on behalf of the United States, under any of the antitrust laws, the statute of limitations in respect of each and every private right of action, arising under such antitrust laws, and based, in whole or in part, on any matter complained of in said suit or proceeding in equity, shall be suspended during the pendency of such suit or proceeding in equity.

Mr. WEBB. Mr. Chairman, I will ask the gentleman from Minnesota [Mr. VOLSTEAD] if we may have some agreement as to time on this section, and if he has any idea of what time he would like to have?

Mr. VOLSTEAD. I am not aware just how many gentlemen desire to offer amendments, but I think we had better proceed for a few minutes until we know how many amendments will be offered.

Mr. MANN. If I may have the attention of my friend from North Carolina [Mr. WEBB], I wish to make a suggestion. To-morrow is Decoration Day, and the House does not meet. There are a number of Members who want to leave the House fairly early this afternoon to take trains to go out of town in connection with the exercises of to-morrow. I think every Member wants to be here when section 7 comes up. Can we get some kind of an agreement as to when we will quit to-night?

Mr. MURDOCK. We will not be able to get through with section 7 to-night.

Mr. WEBB. Mr. Chairman, the committee in charge of this bill desires to make as much headway as possible. We have lost two days out of this week on account of the death of Senator Bradley and the fact that Memorial Day is to-morrow. I regret that we can not have a night session to-night, but we have to take into consideration the temper of the Members in this trying weather and the circumstances that require many to go away to-night for Memorial Day. I will agree that when we finish section 6 this afternoon I will ask unanimous consent to adjourn until Monday at 11 o'clock.

Mr. MANN. It does not require unanimous consent; that is covered by the rule.

Mr. WEBB. With the additional notice that we are to have a session Monday night and Tuesday night if we do not finish the bill by that time.

Mr. MURDOCK. The gentleman does not mean to go into the discussion of the bill under the five-minute rule on Monday night?

Mr. WEBB. Yes; I know that the rule under which we are considering this bill only provides that we shall have night sessions during general debate.

Mr. MURDOCK. The gentleman's purpose is that when we finish section 6 we will adjourn?

Mr. WEBB. Yes.

Mr. MURDOCK. And not go into section 7?

Mr. WEBB. That is the understanding.

Mr. STAFFORD. Does not the gentleman think that we would make more headway and better progress if we come in earlier in the day and do away with the night session? Everybody realizes that night service is hard on the Members, and if we could meet at 10 o'clock we could make much better headway than we could in the evening.

Mr. WEBB. I am perfectly willing to meet at 10 o'clock, but the gentleman heard the murmur of noes all over the hall, which shows that they are not willing to accept his suggestion.

Mr. MANN. Mr. Chairman, at this season of the long session, since I have been here, it has been customary on bills of importance to meet at 11 o'clock and very often run without a recess into a night session. I think we have reached that stage at this session where we ought to do it a part of the time.

Mr. HUMPHREY of Washington. But we are to be here all summer, are we not?

Mr. MANN. I do not know, but I do not think we will. I think we will adjourn Congress in July. I may be mistaken; but we will not adjourn in July if we spend a month on one bill.

Mr. MURDOCK. I think, to save his reputation as a prophet, the gentleman had better make it August 1.

Mr. WEBB. Now, Mr. Chairman, I will ask the gentleman from Minnesota if we can not agree upon some limit to the time for discussion of this section 6.

Mr. VOLSTEAD. I think we had better run along a few minutes. Mr. Chairman, I offer the following amendment, which I send to the desk.

The Clerk read as follows:

Page 23, line 5, strike out the words "or has not"; in line 7, same page, strike out the words "or has not"; in line 14, same page, strike out the words "or against"; in line 16, same page, strike out the words "or against."

Mr. VOLSTEAD. Mr. Chairman, this amendment would change the section so that the decree or judgment would only be binding on any combination that may be found to be in restraint of trade and not in its favor. This section in effect provides that in the event a judgment is entered it can be pleaded by the offending party not only against but also in its favor. I think that is entirely unjust, and it seems to me that it is clearly unconstitutional. It does not seem to me that there can be any argument in favor of such a proposition.

Mr. BARTLETT. Will the gentleman yield?

Mr. VOLSTEAD. Yes.

Mr. BARTLETT. What effect does the gentleman's amendment have on the proposition that the judgment shall be conclusive as to the violation of the law as to all parties?

Mr. VOLSTEAD. Under the amendment the decree would still be conclusive against an illegal combination, but it would not be conclusive in its favor. It seems to me that it should not be evidence in an action brought by a private party that has never been in court. To illustrate: The Government brings a suit, and it is prosecuted to judgment. If the judgment is against the Government, it absolutely relieves the corporation from any suit by a private party for damages, though this private suitor may never have known of the action nor have had any opportunity to introduce evidence or be heard.

Mr. BARTLETT. Provided the judgment is in favor of the corporation?

Mr. VOLSTEAD. Yes. It can not possibly be legal to deprive a person of his rights in this way. To illustrate: I was told that in Philadelphia a refinery was wrecked by illegal acts in restraint of trade committed by the Sugar Trust. The Sugar Trust was sued by the Government, but the Government lost the suit. If this section had been in force the refinery which had been wrecked, completely ruined by this trust, would not have been able to recover at all. The refinery brought a suit, which was settled out of court for something like $2,000,000.

Now, it seems to me that there is no sense or justice in the position assumed by the committee in this instance. It is doubtful whether you can make the judgment conclusive against an illegal combination or in favor of a party that has not been in court, but you certainly can not bind parties who have had no opportunity to litigate a question.

Mr. BARTLETT. If I understand the purport and effect of the gentleman's amendment, it is that the judgment in favor of the alleged violator of the law shall not be considered conclusive in a suit between him and some other party; in other words, that it shall not take a man's property without due process of law or denying him equal protection of the law.

Mr. VOLSTEAD. It would confiscate every claim that a private party had in case there was a judgment in favor of the corporation.

Mr. BARTLETT. This is in the interest of the individual and not in the interest of the corporation.

Mr. VOLSTEAD. Exactly.

Mr. GREEN of Iowa. Mr. Chairman, I want to call the attention of the gentleman from Minnesota to a clerical error in his amendment.

The CHAIRMAN. The time of the gentleman from Minnesota has expired.

Mr. MANN. I ask unanimous consent that the gentleman's time be extended five minutes.

The CHAIRMAN. The gentleman from Illinois asks unanimous consent that the time of the gentleman from Minnesota be extended five minutes. Is there objection?

There was no objection.

Mr. GREEN of Iowa. The gentleman wishes a judgment to stand as against the defendant in the case. Now, in line 14, therefore, he does not wish the word "against" stricken out, but, as the Clerk has it, the word "against" is stricken out.

I have examined the copy. In line 14 the words which I am satisfied the gentleman wishes to have stricken out are the words "in favor of or."

Mr. VOLSTEAD. Mr. Chairman, I admit the error, and I ask to be permitted to amend it by changing line 14.

Mr. GREEN of Iowa. Mr. Chairman, I will read it, if the House will permit and the gentleman yields, as it should be:

Line 14, strike out the words "in favor of or."

The CHAIRMAN. The gentleman from Minnesota asks unanimous consent to modify his amendment as indicated. Is there objection?

There was no objection.

Mr. SCOTT. Mr. Chairman, will the gentleman from Minnesota yield for a question?

Mr. VOLSTEAD. Certainly.

Mr. SCOTT. Mr. Chairman, I ask the gentleman whether in the case of a suit brought at law against a corporation for damages under the antitrust law, as it exists to-day, such defendant corporation would have the constitutional right to demand a jury trial in the law action?

Mr. VOLSTEAD. Certainly; it would.

Mr. SCOTT. Then how can we, by legislation, make a decree in equity conclusive evidence against that corporation?

Mr. VOLSTEAD. I do not think we can.

Mr. SCOTT. Does not the gentleman's amendment seek to do that very thing?

Mr. VOLSTEAD. I do not think so. My amendment seeks to avoid making a judgment conclusive against a private party.

Mr. SCOTT. But as against a corporation. Having tried the case before a court in equity, it is deprived of the right to jury trial in the law action for damages which the Constitution guarantees. The gentleman has substituted a court of equity for the constitutional jury.

Mr. VOLSTEAD. Mr. Chairman, personally I will be perfectly willing to have this section stricken out, because I do believe that this section, instead of being an advantage, is going to be a disadvantage in many ways. I believe that rather than make a provision of this kind we ought to permit the evidence introduced in a Government suit to be admissible in any private suit, because then the two suits could proceed at the same time, and they could proceed while the witnesses were living, while there would be some interest in the prosecution, rather than years afterwards, when perhaps many of the parties who might be used as witnesses would be dead.

Mr. MURDOCK. Mr. Chairman, will the gentleman yield?

Mr. VOLSTEAD. Yes.

Mr. MURDOCK. There is some doubt as to what the amendment does. What is it designed to do?

Mr. VOLSTEAD. The design is to change this section so that a judgment in favor of a corporation declared to be an unlawful monopoly shall not bar a private suit by an individual that may be injured by that monopoly.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Minnesota.

Mr. FLOYD of Arkansas. Mr. Chairman, I ask unanimous consent that I may be permitted to proceed for 10 minutes.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. FLOYD of Arkansas. Mr. Chairman, I desire to explain to the House this particular section, as there will probably be other amendments offered to it. The President in his message delivered to the House on January 20, 1914, among other recommendations, had this to say:

> There is another matter in which imperative considerations of justice and fair play suggest thoughtful remedial action. Not only do many of the combinations effected or sought to be effected in the industrial world work an injustice upon the public in general; they also directly and seriously injure the individuals who are put out of business in one unfair way or another by the many dislodging and exterminating forces of combination. I hope that we shall agree in giving private individuals who claim to have been injured by these processes the right to found their suits for redress upon the facts and judgments proved and entered in suits by the Government where the Government has upon its own initiative sued the combinations complained of and won its suit, and that the statute of limitations shall be suffered to run against such litigants only from the date of the conclusion of the Government's action. It is not fair that the private litigant should be obliged to set up and establish again the facts which the Government has proved. He can not afford, he has not the power, to make use of such processes of inquiry as the Government has command of. Thus shall individual justice be done while the processes of business are rectified and squared with the general conscience.

That is the recommendation made by the President. The Committee on the Judiciary in considering this question did not depend alone on the recommendation of the Executive, but we sought information from different sources. We examined bills introduced in Congress pertaining to this subject, and among other bills we found one introduced in the House by the gentleman from Wisconsin [Mr. LENROOT], and one in the Senate by Senator LA FOLLETTE, in which we found this language:

> SEC. 12. That whenever in any suit or proceeding, civil or criminal, brought by or on behalf of the Government under the provisions of this act a final judgment or decree shall have been rendered to the effect that a defendant, in violation of the provisions of this act, has entered into a contract, combination in form of trust or otherwise, or conspiracy in restraint of trade or commerce among the several States or with foreign nations, or has monopolized or attempted to monopolize or combined with any person or persons to monopolize any part of the trade or commerce among the several States or with foreign nations, the existence of such illegal contract, combination, or conspiracy in restraint of trade or of such attempt or conspiracy to monopolize, shall to the full extent to which the facts and issues of fact or law were litigated and to the full extent to which such fact, judgment, or decree would constitute in any other proceeding an estoppel as between the Government and such person, constitute as against such defendant conclusive evidence of the same facts and be conclusive as to the same issues of law in favor of any other party in any other proceeding brought under or involving the provisions of this act.

The amendment incorporated in the bill is that provision modified, but not substantially affected, except in the one particular to which the amendment of the gentleman from Minnesota pertains.

Mr. PROUTY. Mr. Chairman, will the gentleman yield?

Mr. FLOYD of Arkansas. Yes.

Mr. PROUTY. In the bill that the gentleman has just read, and also in the recommendation of the President, it only anticipates that the defendant in that suit would be estopped. Has the gentleman any authority or advice on how that estoppel could be made binding as against a man who was not a party to a suit or privy to it?

Mr. FLOYD of Arkansas. I desire to be heard on that question.

Mr. PROUTY. Has the gentleman any authority on that question?

Mr. FLOYD of Arkansas. I have no direct authorities on the proposition, because this is a new proposition, but I desire to be heard upon it. The purpose was set forth in the President's recommendation. In endeavoring to follow out that recommendation, which your committee deemed a good one, and in searching for information from different sources, we found the ideas embodied in the President's message incorporated in a proposed bill by the gentleman from Wisconsin, Mr. LENROOT, and we did not hesitate to use that provision in our bill. In our tentative bill we used it practically as it was written in the bill introduced by the gentleman from Wisconsin, but we found, after we had placed the bill in the limelight, that the one criticism that was made against that provision was that it was unfair to permit the judgment to be used in favor of one of the parties to the suit and to refuse to permit the judgment to be used as to the same facts and upon the same questions of law in favor of the other party. And in the interest of justice and common fairness, believing that it was a sound proposition of law and justice to do so, we modified it so as to make the decree conclusive as to both parties.

Mr. PROUTY. Mr. Chairman, will the gentleman yield further?

Mr. FLOYD of Arkansas. For a question.

Mr. PROUTY. Do I understand the gentleman to say that the provisions of this bill are the same as those of the gentleman from Wisconsin, Mr. LENROOT?

Mr. FLOYD of Arkansas. I said that the general proposition was the same, and I read the provision of the bill introduced by the gentleman from Wisconsin, showing that the original proposition in our tentative bill was substantially the same, but we modified it when we made it applicable to both the parties.

Mr. PROUTY. Well, in Mr. LENROOT's bill it would only be binding on one party to the suit.

Mr. FLOYD of Arkansas. The President in his message only suggested and recommended that it be made binding upon the corporation and in Mr. LENROOT's bill he provided that it should be only binding upon the corporation, but your committee, after having hearings on the subject, after listening to criticisms of that provision, found that it was subject to criticism if we made the decree applicable in favor of one party and not applicable against him in case the decision was adverse to the Government, and in the interest of what we believe to be justice and fair play

we modified it accordingly, and neither Mr. LENROOT nor the President is responsible for that modification, but your committee is responsible for it.

Mr. PROUTY. What I really desired to ask the gentleman was whether he has any authority that would show under any circumstances——

Mr. FLOYD of Arkansas. If the gentleman will permit me, I will explain, and I expect to submit not a specific authority, for never in the history of legislation, in my knowledge, has this particular proposal been submitted to us. We are dealing with a new question——

Mr. PROUTY. I agree with the gentleman in that.

Mr. FLOYD of Arkansas. My purpose is to justify it not only in morals but in law. Now, what are the facts; what is the situation? You take the case of the Standard Oil Co. and the American Tobacco Co. case. After years of litigation they were terminated, and there were volumes of proof showing that they committed acts which were held by the court to be unlawful, and it was shown in the testimony that by such unlawful means those great combinations had destroyed the business of hundreds of competitors. If the statute of limitation——

The CHAIRMAN. The time of the gentleman has expired.

Mr. MURDOCK. Mr. Chairman, I ask unanimous consent that the gentleman may have five more minutes.

The CHAIRMAN. The gentleman from Kansas asks unanimous consent that the gentleman from Arkansas may have five minutes. Is there objection? [After a pause.] The Chair hears none.

Mr. SCOTT. Will the gentleman yield at this time?

Mr. FLOYD of Arkansas. Not at this time. I desire to make a general statement, and if I have time then I will yield. These combinations were declared to be unlawful and being unlawful were liable in treble damages under section 7 of the Sherman law, and yet private persons injured were absolutely without remedy because their causes of action were barred by the statute of limitation. The second provision of this section saves the statute of limitation to these litigants. Now, upon what principle can this lgeislation be justified? I desire to say that the only principle upon which the antitrust legislation, the Sherman Act, the supplemental acts thereto, and this act can be justified is upon the broad ground of public policy. The only authority, the only reason, that justifies the Government in interfering in the affairs of private citizens or in the affairs of corporations incorporated under laws of the several States is based upon the principle of public policy or for the general good, the general welfare. When one of these suits is brought against a combination alleged to be an unlawful combination the public money is expended in large sums in order to maintain that suit. For what purpose? For the general good, for the good of all the citizens, for the good of the entire people of the United States, based upon the broad principle of public policy. The courts have upheld this character of legislation which has been assailed from every quarter, bitterly contested. The highest court of this land has upheld the Sherman law, and has upheld the statutes of the States adopted to accomplish the same purpose in the States, always upon the ground that the Government has the right to inquire into and to deal with and prohibit and regulate the affairs of individuals and of corporations upon the ground of public policy.

Mr. SCOTT. May I ask the gentleman a question at this point?

Mr. FLOYD of Arkansas. Not at this point; I will yield to the gentleman later. Now, if that be true, then, when one of these suits is instituted, carried on by the Government at the public expense, it is carried on in the interest of the American people and of every citizen. It is true those directly concerned, affected, or injured by the corporation, may have a greater interest than other citizens, but it is in the interest of the people generally, the whole people, the Government representing the people, representing all the citizens; and, so far as that decree as between the Government and the corporation is concerned, I do not believe that anyone can question the justice or the right of making it conclusive. Such decree imports absolute verity, binding upon the Government and the party to the suit, both as to findings of fact and questions of law determined in the suit. Does anybody question that? That is the common rule of law applied to all judgments and decrees of all courts of record. That is an old doctrine of the law. Then what do we propose in this case? The word "conclusive" seems to have created confusion in the minds of a great many persons. What are we seeking to do? We are not giving to that decree any element or quality except such as attaches to every other decree. A decree or judgment of a court of record imports upon its face absolute verity. Such decree is binding upon all parties to the suit, and can not be attacked collaterally. What we are attempting to do in this case is to apply that decree, with its usual effect, with its usual force, in another suit wherein one of the parties was not a party to the original suit.

Mr. ALEXANDER. Will the gentleman yield right at that point?

Mr. FLOYD of Arkansas. I would prefer to finish.

Mr. ALEXANDER. I would like to get an answer right at that point. Does the gentleman mean against that defendant, or against anybody else? The gentleman certainly does not want that decree to estop parties to enter suit where the defendant is not a party, does he?

Mr. FLOYD of Arkansas. I do not know that I understand the gentleman's question.

Mr. ALEXANDER. I can very well understand why if it is a suit against the United States Steel Corporation, where the corporation in a suit by the United States has been decreed to be in a trust in violation of the terms of the antitrust laws should be excluded in another suit by another party against that corporation, but I can not understand where a party can be estopped if they are different parties to the controversy.

Mr. FLOYD of Arkansas. Well, I will try to explain that to the gentleman. I must decline to yield now, because I have not the time. I am endeavoring to state my position. This is a new question, based upon new principles, and I am endeavoring to justify it, and I will be glad to permit interruptions after I have stated the proposition.

Now, is there any objection to using it against a convicted corporation when a private litigant brings a suit against such corporation? Is there any valid objection to making that decree binding upon the defendant corporation although this private individual seeking redress was not a party to the suit brought by the Government against the corporation for violations of the Sherman Act, in which the corporation is adjudged guilty by final decree of the court?

Mr. ALEXANDER. I would say, none whatever. So far, so good.

Mr. VOLSTEAD. Will the gentleman yield for a question?

Mr. FLOYD of Arkansas. I yield to the gentleman from Minnesota.

Mr. VOLSTEAD. I want to call your attention to a provision in the Constitution that provides that in a suit at common law, where the value in controversy shall exceed $20, the right of trial by jury shall be preserved.

Mr. FLOYD of Arkansas. I have that marked, and I shall discuss it later. I hope the gentleman will not insist upon my going into that question now.

Mr. VOLSTEAD. I wanted to call your attention to that in connection with an equity suit.

Mr. FLOYD of Arkansas. Then I assume, in response to my last question, that there is no serious, at least no legal, objection to making that decree binding upon the defendant corporation found guilty of violations of the antitrust laws, although in the new suit a private litigant, who was not a party to the Government suit, is the complainant in an action for damages against the convicted corporation. Now, that is what was recommended by the President, that is what was provided in Mr. LENROOT's bill, that is what was provided by your committee in its tentative bill on the subject, and the amendment of the gentleman from Minnesota [Mr. VOLSTEAD] seeks to restore the bill in that respect to the form in which it was originally drafted. The only serious criticism that we ever had from any source as to this particular section proposed was the criticism that it was made binding in favor of a private litigant against the corporation, but not in favor of the corporation when the facts and law were found to be in favor of the corporation. It was argued that in that case to refuse to make it binding also against the individual was unjust, unjustifiable in law, and grossly unfair.

Mr. CULLOP. Now, Mr. Chairman, will the gentleman yield there?

Mr. FLOYD of Arkansas. Yes.

Mr. CULLOP. My question is this: Supposing a collusive suit was brought and the defendant won on the issue, then is every outsider barred from any further suit? According to this language he is.

Mr. FLOYD of Arkansas. I understand the question, and I will answer it. But I hope the gentleman will not interrupt me until I state my position fully.

The gentleman from Indiana asks as to the effect of this provision if a collusive suit is brought. My answer to that proposition is that if the time ever comes in this Government when any Attorney General will enter into collusive suits with corporations and combinations engaged in unlawful acts, it will be an evil day for our Republic, a day when every statute will become useless and justice will become a mockery. I am not prepared to believe that any such condition will arise or can

exist, or has existed, under any administration in the past, or will exist under any administration in the future. I have too much faith in the integrity of our institutions to be alarmed by any such suggestion as that.

Now, what do we propose, then? We propose, in the first place, in one of the sections of this bill, to give every private suitor who has a cause of action against a combination acting in violation of law triple damages under this bill, as he is given triple damages under section 7 of the Sherman Act against the offending corporation. But the remedy given in section 7 of the Sherman Act has been of little value and practically useless in the past, because the individual, the small man, and the small concern, were utterly helpless in their efforts to confront in the courts these great and powerful corporations, and the result was that the remedy provided in the Sherman Act has been of little efficiency, and the remedy provided in this bill for similar offenses, for violation of its provisions, may be of little efficiency unless we supplement it and lend to private litigants the aid of this great Government, that has the means, the opportunity, and the force, and the machinery to cope with the greatest and most powerful corporations and combinations in the country.

Mr. SUMNERS. Will the gentleman yield for a question?

Mr. FLOYD of Arkansas. Just for a short question.

Mr. SUMNERS. It is not clear to my mind how an individual claiming to be injured by a corporation could profit by the judgment already rendered in favor of the Government.

Mr. FLOYD of Arkansas. I will endeavor to make that clear. Not only do we allow the judgment to be offered in evidence in such suits, but we provide that from the day that the Government institutes its suit until the termination of that suit the statutes of limitations are suspended in favor of the party injured by the wrongful acts of the corporation. After the termination of that suit, if by the judgment of a Federal court the defendant corporation is found to be guilty of an unlawful combination, the party injured, with the proofs furnished by the Government in that suit of wrongful acts—it may be pertaining to this very litigant—can institute a suit, offer the judgment or decree against the corporation in obtaining his judgment, and the court will then assess threefold damages. It is as simple as can be.

The CHAIRMAN. The time of the gentleman has expired.

Mr. SUMNERS. Mr. Chairman, I ask unanimous consent that the time of the gentleman be extended 10 minutes. I want to ask a question.

The CHAIRMAN. The gentleman from Texas asks unanimous consent that the time of the gentleman from Arkansas be extended 10 minutes. Is there objection? [After a pause.] The Chair hears none.

Mr. SUMNERS. Now, section 5 provides that triple damages may be rendered in favor of the person who has been injured by an act, not by a trust, but by an act done in violation of the antitrust law. Now, when he comes to bring his suit, I do not see how he could avail himself of the judgment already rendered declaring the defendant to be a trust, unless the facts in the case in which the defendant was found to be a trust involved the particular individual suing.

Mr. FLOYD of Arkansas. The gentleman from Texas is mistaken, badly mistaken.

Mr. SUMNERS. I am asking for information; that is all.

Mr. FLOYD of Arkansas. If no fact in the Government suit related in any way to the party's case, there would still be this advantage: It is a condemned corporation under the law, and he would not have to prove it was acting unlawfully in restraint of trade. The Government has already established that fact, and it is conclusive against defendant corporation. All that the private litigant is required to do under that section as proposed in the bill is to introduce his decree, which is conclusive against the corporation, showing that that corporation has been condemned as an unlawful combination acting in restraint of trade, and then produce the facts to show that he has been damaged by it and to what extent. What better advantage could you afford a litigant than to enable him to avail himself of the benefit of the Government's decree in that way? Now, this has been criticized, and the amendment offered by the gentleman from Minnesota [Mr. VOLSTEAD] is responsive to that criticism, on the ground that we have no right to make it binding upon the individual or litigant not a party to the Government suit, and also a constitutional question has been raised to the effect that to make the decree binding against the private litigant not a party to such original suit is tantamount to denying him the right of a trial by jury.

Now, I want to answer the arguments on each of those propositions. In the first place, as a matter of practical effect, the legislation is largely against the offending corporation and chiefly in favor of the injured litigant who is complaining of the wrongful acts of the corporation. And even if in some few cases the litigant might be deprived of a portion of his rights or of a portion of his evidence by a decree in favor of a corporation, how few would be the number of cases and what an infinite advantage is given to litigants in general upon the broad proposition that the Government suit was brought by the Government for the benefit of all of its citizens, and that when a decree has been obtained enables all of its citizens to take advantage of the work and of the decree of the Government in private suits. But as a matter of practical effect, assuming as I do that the men in high position in this Government will act honestly, will not go into collusion with any unlawful combination, I can see no great danger to private litigants in providing that the decree shall be conclusive against private litigants in cases wherein corporations have been charged with being unlawful combinations in restraint of trade and have been adjudged not guilty.

What possibility would there be for any individual to maintain a suit when this great Government of ours, the greatest in the world, has exhausted its resources to prove that a combination is unlawful and has failed to do it? Do you think there is much in their argument? What private litigant could undertake it after the Government, with its resources, its money, its detectives, its Secret Service men, its opportunities for gaining information, its bureaus—with all those things at its command had exhausted its resources and failed? What private individual would stand any chance or have any opportunity to accomplish more than the Government did, and in consequence lose anything by this provision?

Mr. GREEN of Iowa. Mr. Chairman, will the gentleman yield there?

Mr. FLOYD of Arkansas. I decline at this moment. I want to answer these legal arguments.

Now, it has been contended that this provision as drawn interferes with due process of law and with the right to trial by jury. I have been asked to give my authority. I can not cite any decisions directly in point, because it is a new proposition; and, besides, I have not had any opportunity to run down decisions on other questions that may have a bearing on this subject. But I have the Constitution here; I have the provisions in the Constitution; and I confidently assert that there is no principle in the Federal Constitution that is violated by this provision.

Now, I want to read you the fifth amendment to the Constitution. It reads:

ARTICLE V.

No person shall be held to answer for a capital or otherwise infamous crime unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces or in the Militia, when in actual service in time of war or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb, nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property without due process of law; nor shall private property be taken for public use without just compensation.

Is that provision in the Constitution violated by what we propose? The corporation is not proceeding against an individual. An individual is proceeding against a corporation. Get that distinction clearly in mind. In what we propose a corporation is not proceeding against an individual for the purpose of depriving him of either life, liberty, or property, but the individual is asserting his legal rights against the corporation; and that principle would be applicable to the corporation sued, but not to the individual that is instituting a suit and asserting a right against the corporation for torts committed by it.

Now, in maintaining or trying suits what is the rule? The legislative body makes the rules of evidence, prescribes what may be evidence, and the things that may be legally admitted in evidence in a trial by the courts; and there is nothing in this amendment violative of the right of trial by jury, and no provision of the Constitution is violated by what we propose in this provision.

The CHAIRMAN. The time of the gentleman from Arkansas has again expired.

Mr. FLOYD of Arkansas. Mr. Chairman, I ask for 10 minutes more.

The CHAIRMAN. The gentleman from Arkansas asks to proceed for 10 minutes more. Is there objection?

Mr. HULINGS. I object, Mr. Chairman. The gentleman has had three or four extensions of time, but has not had the courtesy to allow any interruptions.

The CHAIRMAN. The gentleman from Pennsylvania [Mr. HULINGS] objects.

[Mr. BEALL of Texas addressed the committee. See Appendix.]

Mr. WEBB. Mr. Chairman, we have now spent an hour discussing this amendment and the section, and I want to know

if we can not come to some agreement as to the limit of time that is to be spent upon this section. I shall move to rise when we finish this section.

Mr. MANN. We want 45 minutes on this side if we can have it.

Mr. WEBB. Mr. Chairman, I ask unanimous consent that all debate on this section and amendments thereto may be closed in 1 hour and 10 minutes, 45 minutes to be controlled by the gentleman from Minnesota and the remainder by myself.

The CHAIRMAN. The gentleman from North Carolina asks unanimous consent that all debate on the pending section and amendments thereto close in 1 hour and 10 minutes, 45 minutes to go to the gentleman from Minnesota and the remainder of the time to the gentleman from North Carolina. Is there objection?

There was no objection.

Mr. VOLSTEAD. Mr. Chairman, I yield five minutes to the gentleman from Iowa [Mr. GREEN].

Mr. GREEN of Iowa. Mr. Chairman, the first paragraph of section 6 is so clearly unconstitutional as it stands that there ought to be no discussion or argument about it in a body composed largely of lawyers, as is this House. This section provides that a third party may be estopped by a decree or judgment rendered in a case in which he was not a party and had no opportunity of appearing nor any notice served upon him whatever. If there is any proposition of law that is well settled, it is that no person can be estopped or concluded by a decree or judgment which is rendered in a case to which he is not a party, or where he has not had his day in court, or of which he has not had notice. And yet all of these three propositions are controverted by section 6 as it now stands. It gives the third party no day in court, no opportunity to be heard, and it provides for no notice upon him whatever. It is not strange that the gentleman from Arkansas has said that this is entirely new. It certainly is new to jurisprudence in this country.

Mr. BARTLETT. It is new to assert such a proposition, but the other proposition is old enough that a man can not be deprived of his property without due process of law or giving him a day in court.

Mr. GREEN of Iowa. That proposition is as old as the law in this country. The provision of the Constitution that forbids it is found in the fifth amendment, which provides that no man shall be deprived of his property or rights without due process of law, and yet they seek to provide in this section that he shall be deprived of his property without any due process of law, without even notice of hearing or any day in court. So far as that particular matter is concerned there need be no discussion. When it comes to the question of fairness and justice in the matter I think it is fair that the defendant corporation, who has had its day in court, should be estopped, while the third party, who has had no opportunity to be heard, ought not to be estopped or concluded.

It can be reasonably said that the defendant had introduced all of the evidence he had on the subject; that he has had every opportunity that could be given him in another case; that it would not change the result or the decree if the case were heard over again as to him, but the third party, the private corporation or individual, as it might be, which was not a party to the original case, has never had any opportunity whatever. The gentleman from Arkansas [Mr. FLOYD] said, as I understood him, that there had been no case where the Government had failed, and that no other corporation or private individual has succeeded in a suit on the same facts or a similar case.

Mr. FLOYD of Arkansas. Oh, I think the gentleman misunderstood me.

Mr. GREEN of Iowa. I would be glad to have the gentleman correct me if I have misstated what he said.

Mr. FLOYD of Arkansas. I said the cases were rare.

Mr. GREEN of Iowa. I was about to say that in the well-known Knight case against the Sugar Trust the Government did fail because of incompetence or carelessness on the part of the Government attorney. There was no other reason. The suit ought to have been won. Subsequently another party or corporation, I forget which, did obtain judgment for something like $2,000,000 against the Sugar Trust for violation of the Sherman antitrust law, and it was stated by the gentleman from Texas [Mr. BEALL], who just preceded me and who made as able an argument as could be made for this provision, that the third party would not be estopped unless the facts were similar. Unfortunately we have a provision in this section that makes the estoppel as complete as it would be against the Government, and that provision is:

Said judgment or decree shall, to the full extent to which such judgment or decree would constitute in any other proceeding an estoppel as between the United States and such defendant, constitute in favor of or against such defendant conclusive evidence of the same facts, and be conclusive as to the same questions of law in favor of or against any other party in any action or proceeding brought under or involving the provisions of any of the antitrust laws.

The rules of estoppel apply in the same way if the Government failed to make out its case, because it did not produce sufficient evidence when it had it; then the third party would be estopped as conclusively as the Government, and that is exactly what the section says.

I wish to speak for a moment with reference to the objection raised by my colleague, Mr. SCOTT. I am not entirely clear as to whether this section is constitutional even as against the defendant corporation, but I am inclined to think that the provision might stand in that respect. It is true that the original decree in favor of the Government might have been rendered in an equity suit. The suit commenced by a third party might be a suit for damages commenced in a case at law, in which either party is entitled to a trial by jury. But the trial by jury will still go on as to the extent of the damages, as to the amount of the judgment which might be rendered, and this decree is only rendered conclusive as to the findings of fact, and the conclusions of law with reference to the existence of a trust and the violation of the Sherman law. But I agree with the gentleman from Texas [Mr. BEALL] in saying that even as to that matter the section is of doubtful constitutionality, and I have some doubt as to whether it will be of very much benefit to the private individual in any event. He can always avail himself of the search which the Government has made in order to obtain the evidence. He can use, presumably, and obtain the same evidence which the Government has used, even though the decree be not made conclusive in his favor; but if it is possible, if it can constitutionally be made conclusive in his favor, I would be in favor of having it done. In any event, the amendment of the gentleman from Minnesota [Mr. VOLSTEAD] ought to be agreed to.

Mr. VOLSTEAD. Mr. Chairman, I yield 10 minutes to the gentleman from Iowa [Mr. PROUTY].

Mr. PROUTY. Mr. Chairman, the question here involved is a very simple one, if carefully analyzed. Article V of the amendment to the Constitution which binds the Federal Government expressly provides that no man shall be deprived of life, liberty, or property without due process of law. Every court that has ever passed upon that provision of the Constitution—and there are some 60 or 70 cases in the United States Supreme Court—has held that no one can be deprived of his property unless he has had his day in court. "Due process of law" has been held again and again to mean that he must have his day in court, by notice and otherwise.

The second proposition I presume no one will question—that the rights involved in a suit at law or claim for damages against anyone is property within the meaning of the Constitution. Therefore we can safely say that the Constitution provides that no one shall be deprived of his rights in a lawsuit except by due process of law. Keeping this in mind, just see where this section as it now stands would lead us. Suppose I had a case against the Standard Oil Co., as I did at one time, in which I alleged conspiracy to defraud, conspiracy in restraint of trade, under the Sherman antitrust law. Suppose, now, when I got that case ready to be submitted to the jury, and the Standard Oil Co. should come into court with a case that had been tried down in New Jersey, in an equity proceeding, and should say, "You can not recover anything from us, because that question was adjudicated in an equity proceeding down in New Jersey." I would say, "Why, I never heard of that case; I do not know anything about it; and how can I be estopped, how can I be deprived of my rights against the Standard Oil Co. in a proceeding to which I never was a party and of which I knew nothing?"

If the theory of these gentlemen is correct, a man can be absolutely deprived of his right to property without any knowledge of it whatever. There is the second provision that is just as clear when carefully analyzed, and that is the sixth article of the amendment to the Constitution, which provides, in substance, that a man shall be entitled to trial by jury in all cases in which the amount involved is more than $20. Just take the case I have now named. Suppose I had started suit against the Standard Oil Co. in the city of Des Moines and was asking a trial by jury upon the question of facts, the prime central fact of all those cases, and that is whether there was a conspiracy, whether there is a contract in restraint of trade. Suppose I were ready to try that case before a jury in the city of Des Moines. The Standard Oil Co. would say, "Why, that identical question was determined in an equity case down in New Jersey three years ago." I would reply, "It can not be possible that I am going to be deprived of the right of trial

by jury on a question of fact when I am guaranteed that right by the Constitution of the United States." But the judge on the bench would reply to me and say, "Why, Congress has passed a law saying that the decree in equity shall be conclusive evidence"—not, as the gentleman from Texas said, presumptive evidence, but conclusive evidence, and conclusive evidence of the law as well.

Mr. SISSON. Mr. Chairman, will the gentleman yield?

Mr. PROUTY. Yes.

Mr. SISSON. I notice the last paragraph of section 4, in line 19, provides that in the event the gentleman should bring suit believing he had been injured by some combination in violation of law and thereafter the Federal Government, by the Attorney General, should institute a suit, instantly the gentleman's right of action would be suspended until the Federal court had decided the suit of the Federal Government, would it not?

Mr. PROUTY. Yes; I think so, under the terms of this act.

Mr. SISSON. The only thing reserved to the gentleman would be his right of action, because the statute of limitations would not run against that right in the event the Government recovered.

Mr. PROUTY. That part of the section, I think, is all right and is not subject to criticism.

Mr. SISSON. That part is all right, but does the gentleman believe that his rights in the court should be determined upon the questions raised by the Attorney General of the United States?

Mr. PROUTY. Why, certainly not; the Constitution expressly prohibits it. In other words, the Attorney General could go in and prevent my having a trial before a jury.

Mr. SISSON. That is the point I had in mind.

Mr. PROUTY. By instituting a proceeding in equity and having the case tried.

Mr. SISSON. That is the point I had in mind, that the Attorney General, if he was disposed to do so—we would not charge that of any particular Attorney General—might cook up a case which would directly defeat the rights of every individual if he had been injured.

Mr. PROUTY. While I do not say that, but there was a purpose on the part of the men who adopted this constitutional provision that every man should have the right of a trial by jury. It is well known and everybody knows who has read jurisprudence that there is a tendency in the courts to act along certain lines dangerous to popular rights; and one thing that all countries, not alone the United States, have had to do was to assert their rights in order to protect themselves against the courts by having the right to appeal to a jury of their peers; and we put into the first amendments we adopted to the Constitution a provision that no man could be deprived of the right of a trial by jury; yet, if this law passes, that provision has been made absolutely nugatory. The question of fact and of law both have been determined in a proceeding in equity. Now, is there any doubt about that? Starting with the section—

> That whenever in any suit or proceeding in equity hereafter brought by or on behalf of the United States under any of the antitrust laws there shall have been rendered a final judgment—

And so forth.

Then it ends by saying that it shall be binding both for and against the defendant and be conclusive as to the same questions of law and conclusive as to the same questions of fact. Now, if that does not violate the sixth article of the Constitution, which requires trial by jury, then I do not read correctly. Now, you can not say any more than this. When I stood up here and asked the gentleman—who is an able lawyer, as I know he is—whether he had found any precedents in any decisions of the United States courts that had held that a man could be absolutely barred and stopped by a lawsuit to which he was not a party, he said that he had not found one, and I was not surprised, and I listened to his speech, first for 10 minutes and then for 20 minutes and then an extension, and he has not called our attention to a single decision, and I venture the assertion that he can not find one. Now, the recommendation of the President does not correspond with this bill. He only asked Congress to pass a bill that will bind the defendant in the equity suit. While I have some doubt on that phase, as has been suggested here, yet there is a reason why a defendant corporation might be bound by a determination of a case in which it was a defendant, but there is no court who has ever held that a man was bound by a case to which he was not a party.

The CHAIRMAN. The time of the gentleman has expired.

Mr. LEVY. Mr. Chairman, I desire to offer an amendment.

The CHAIRMAN. There is an amendment already pending offered by the gentleman from Minnesota.

Mr. VOLSTEAD. Mr. Chairman, I yield 10 minutes to the gentleman from Iowa [Mr. SCOTT].

Mr. SCOTT. Mr. Chairman, I endeavored to be permitted to ask the chairman of the committee a question in reference to the report of the committee. I find on page 14 of the report this language:

> And that when such decree or judgment is so offered it shall be conclusive evidence of the same facts and be conclusive as to the same questions of law as between the parties in the original suit or proceeding.

It is therefore quite evident that the gentlemen who prepared the report on this bill had not carefully examined the bill which they were reporting. They have reported that judgments and questions should be conclusive only as between the parties to the original suit, but they have reported a bill so framed as to be conclusive between not only the parties to the original litigation, but conclusive as to the whole world. Now, it is probably unnecessary for me, following the able arguments which have been presented upon this constitutional question, to repeat in any measure what has already been said. I think that nearly everyone here now recognizes that it would be a constitutional impossibility to enact a law which would deprive persons who were not parties to an original suit of their right to their day in court. The chairman of the committee suggested as a reason for this provision that after the United States, with all of its powers and all of its machinery, had litigated the question and failed, that it would be improbable that anyone would be so bold as to institute a suit against the corporation for damages. That was the purport of his question. I suggest that a man might be so bold as to go before a jury of American citizens and ask for justice when the United States had failed before a United States district judge.

It is also suggested by the chairman of the committee that in considering this bill the committee had thought it unfair to so frame it as to be conclusive only as against the corporation defendant in the original suit. It seems to me rather inconsistent to say that it would be unfair to conclude the corporation charged with conspiracy by a decree of a court of equity and then say it would be fair to conclude an individual who brings a suit for damages by a decree of a court, and in a suit to which he was not a party. But apparently the committee have sought to even up this question. They have said that they thought it unfair merely to conclude a party to a suit by a decree in equity, but they believed it would be perfectly fair to conclude the other individual without any day in court at all. I think there is a grave question also as to the constitutionality of the statute, even if changed to conform to the amendment offered by the gentleman from Minnesota. However, I am not clear upon that question. I am satisfied, however, that the matter never will be settled until it reaches the Supreme Court of the United States. When you enact into this statute a provision which deprives a corporation of the right to a hearing before a jury as provided by the Constitution you will find that statute challenged and you will never know what the law is upon the question until the court of last resort speaks the last word. Personally I am inclined to the opinion that the statute so amended would be constitutional. I am inclined to the opinion that if the corporation is brought into a court of equity upon a proper bill and by a proper service, and with subject matter over which the court has jurisdiction, that probably the findings of fact would be conclusive upon the corporation and would be binding, leaving open only the matter of damages to be submitted to the jury.

However, upon no course of reasoning could it be held that this statute in its present form would be constitutional, and, therefore, I believe that the amendment of the gentleman from Minnesota should prevail. But if it is thought best to take the chances of the decision of the Supreme Court as it may come in the future upon the statute as it will be when amended that way, that is a matter for this House to decide.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Minnesota [Mr. VOLSTEAD].

Mr. VAUGHAN. Mr. Chairman, I ask unanimous consent that the amendment be again read.

The CHAIRMAN. Without objection, the amendment will be again read.

The amendment was again reported.

Mr. FLOYD of Arkansas. Did the gentleman from Minnesota [Mr. VOLSTEAD] use all the time he desires? If not, will he yield more of his time now to somebody?

Mr. VOLSTEAD. I yield 10 minutes to the gentleman from Wisconsin [Mr. LENROOT].

Mr. LENROOT. Mr. Chairman, with the general purpose of the committee with reference to this section I am heartily in sympathy. Without this section both the provision of the

Sherman law and section 5 of this bill, relating to damages, are absolutely ineffectual so far as affording any real relief or remedy to a litigant is concerned. Take the case of the Standard Oil Co., as already mentioned. It was absolutely impossible for any private individual, no matter how great his injury may have been, to have instituted a case against the Standard Oil Co. and secure a judgment for damages. But, Mr. Chairman, in the effort of the committee to equalize this question of estoppel I am not in sympathy, and I regret exceedingly that the committee has taken the position it has.

I am aware that in the tentative bill that the committee framed that objection was made to the provision relating to estoppel, claiming that it was one-sided and unfair and unjust, and there was some argument made that for that reason it was unconstitutional. At that time, Mr. Chairman, I had made somewhat careful examination and investigation of the authorities with reference to this question, and I became satisfied that the provision as it stood in the tentative bill was constitutional. But, Mr. Chairman, if there was doubt as to the provision in their tentative bill the doubt has been doubled in the bill now before the committee, for originally the estoppel worked only against the defendant, a defendant who had had his day in court, who had had an opportunity to litigate every question that was involved, but now they create an estoppel against a third party, who has never had a day in court, never an opportunity to be heard, and you say that he shall be estopped in the same manner and to the same degree as the defendant, who has had an opportunity to litigate every question that is involved.

Now, Mr. Chairman, what is the right of a defendant in this case or in any kind of a case? It is the right to an opportunity to be heard and a judicial determination upon the facts involved, before his property can be taken from him, and when he has had that opportunity, whether it be in a case between the Government and the defendant or between other parties, the legislative body has a right to say that once that question has been determined it shall be determined for all time, so far as the party is concerned who has had his day in court.

Mr. FLOYD of Arkansas. Will the gentleman from Wisconsin yield?

Mr. LENROOT. Yes.

Mr. FLOYD of Arkansas. I will ask the gentleman from Wisconsin whether in his judgment the decision, if made applicable only to the defendant who had his day in court, is subject to the criticism that it violates any provision of the Constitution?

Mr. LENROOT. I do not think it is, and I will state my reason.

Mr. FLOYD of Arkansas. I will be glad to hear you.

Mr. LENROOT. Now, the question of right of trial by jury is subject to limitation. For instance, two private individuals, the plaintiff and defendant, in an equity suit, litigate certain questions, and afterwards a case between the same parties at law arises. They are entitled to a trial by jury at law under the Constitution, but they are not entitled to a trial by jury of every fact or every issue that may be set up in that action of law. If any of those questions have been tried and settled in an action in equity between the same parties, their determination becomes conclusive in an action at law, and an estoppel, as well as in an action at equity. There is the distinction. The defendant here is a party in equity. He and the Government are two parties in equity. Now, when it comes to an action at law between the third party and this defendant who has been one of the parties in the equity suit, it is entirely proper, and not open to any constitutional objection, to say that that judgment that has been rendered between those parties, one of them the defendant, shall be an estoppel against the defendant who was a party to the suit in equity. But it is quite a different thing to say that it shall be an estoppel as against the party who never had a day in court, who was never a party to the equity proceeding.

Now, it has been said by the gentleman from Texas [Mr. BEALL] that this right of action given the private individual is only a privilege given by the statute, and therefore we may make such conditions as we choose. That is true, Mr. Chairman, so far as treble damages are concerned, but no further. It does not require any statutory provision to give a private individual the right to sue for simple damages any corporation or any individual for violation of the antitrust law. He has that right the same as he has the right against any individual for damages for violation of law. But as this bill now stands it would cut him off and work an estoppel against him in an action that he has regardless of any statute—a right that he has regardless of any statute. And therefore, Mr. Chairman, if this section shall be of any value, it seems to me that the amendment proposed by the gentleman from Minnesota should be adopted, and, if adopted, I believe that the section will be sustained and affirmed by the Supreme Court of the United States. If the section shall stand as it is, I have very grave doubt whether any portion of it will stand, and I am rather inclined to think that the Supreme Court will hold that by reason of this attempted estoppel of third parties who had never had their day in court the entire section will be held invalid.

The CHAIRMAN. The gentleman yields back one minute.

Mr. VOLSTEAD. Mr. Chairman, I yield five minutes to the gentleman from Indiana [Mr. CULLOP].

Mr. CULLOP. Mr. Chairman, I am opposed to this provision in the bill as it stands, and am in favor of the amendment of the gentleman from Minnesota [Mr. VOLSTEAD]. If this proposition as contained in the bill stands, it would furnish a great advantage to the combinations and trusts of this country, and would enable them to carry on their nefarious business more successfully than heretofore. This provision as it comes from the committee into this House, if adopted, would fortify every combination in restraint of trade, every trust and organization created to suppress competition. Under it they would thrive and flourish as never before. This section if enacted would revolutionize the doctrine of estoppel, as it is a complete innovation in the practice and procedure of now well-established rules. It creates by statute an estoppel which can be invoked against parties who were not connected with litigation, who were strangers to it, who had no knowledge of it, and who had no opportunity to be heard. To my mind it is a most dangerous step, one fraught with evil consequences, and will be productive of much injury in the end. So dangerous do I for one consider it that I can not under any circumstances give it my support. The doctrine of estoppel is a wholesome one, and its employment under existing well-established rules, familiar to all lawyers, serves a valuable purpose in our judicial system. But give it the force and application proposed in this provision and it is made an instrument of danger, to be employed to defeat the ends of justice in meritorious cases. Every illegal combination in restraint of trade, every trust in the country would be gratified with its passage.

Suppose some corporation or individual doing business in New Jersey in violation of this law, in order, under it, to become immune from its provisions, would enter into a collusion with some scoundrel to have a suit brought for the purpose of securing a judgment in its or his favor, in order to plead an estoppel in some other jurisdiction. Application would be made to the district attorney to file the action. He would do so. He would make the charge cover every phase of the law, and then, upon the trial, fail, because of want of a preponderance of the evidence. Testimony would be produced tending to support every material charge necessary to warrant a recovery, but this would be overcome by the defendant either by number of witnesses or intelligence of witnesses or character of witnesses, or for any reason, and judgment on the issues and evidence would be rendered for the defendant. That judgment under this provision would be a complete bar when pleaded in estoppel in any other suit growing out of the same cause of action, it would not matter by whom or where brought. This is a concrete illustration of how injuriously it could be invoked. What a weapon of danger it places in the hands of the law violators, of those who have by their indefensible methods been preying upon the public. Can we adopt such a provision? Others may do as they like—the responsibility is theirs; but, for myself, I should not support it, but do what I can to have it amended so as to escape this pitfall for the engulfment of the people's rights.

I do not care to discuss its constitutionality; others may assail it for that reason. But I do not believe the courts would permit it to stand if it remains as it now is, for the reason it is destructive of the right of the citizen to have his case tried in the courts of the country on its merit and not on the merits of some one else.

Let me take the case that I gave to the gentleman from Texas, involving the same facts. Supposing the Government should bring an action and when it came to trial have only one witness to prove its cause of action, and the defendant came in with three or four witnesses equally as credible and denied the charge. Under the well-settled rules of evidence the defendant would obtain a judgment in the case exonerating it from the charge. This judgment could be pleaded as an estoppel in all subsequent suits involving the same cause of action, it matters not where nor by whom brought. Such a doctrine, in my conception of the administration of justice, is wrong and productive of harm. I can not support such a proposition.

Supposing the same violation of the law should occur in some other State or jurisdiction, and suit was instituted by some other person, and five witnesses were produced to prove the

same facts alleged as a violation of the law, and would come into court and establish the facts by an overwhelming preponderance of the evidence, but the defendant would answer that the same facts were litigated in the former trial in some other court between other parties, where the plaintiff had only one witness and the defendant had five or six witnesses, and judgment was rendered for the defendant in that trial. That judgment would be an estoppel against the complainant in the subsequent action. Does any man on this committee think that provision ought to stand? Every man knows, it matters not how strong the evidence would be of the breach of the law, charging the same facts as in the former cause of action, would be forever barred and could not recover.

Furthermore, this provision seems to suppose that these combinations will always do business and use the same methods as they have been using, and yet we all know they are changing their plans of operation every year. But the violations of the same over the same subject matter would constantly be going on and no remedy to prevent it. Does any man in this committee think that kind of a law would be fair to the citizen? He has surely suffered enough. It matters not how strong the evidence would be. Because there was not sufficient evidence in the first case tried or because of collusion, parties are forever estopped from prosecuting suits successfully. The facts are the same. Does any man believe that legislation of that kind would be right? Would it be in aid of the trusts or would it be in the suppression of their unlawful business? Better have no legislation than permit this provision to remain in the measure. It will sorely vex us if we do.

I read that paragraph of the President's message to which the distinguished gentleman from Arkansas [Mr. FLOYD] alluded. I do not agree with him in his construction of what the President says in that paragraph in reference to this matter.

Mr. FLOYD of Arkansas. Mr. Chairman, will the gentleman yield?

Mr. CULLOP. Certainly.

Mr. FLOYD of Arkansas. If the gentleman had paid particular attention to what I said he would know that I stated expressly that the President only recommended that it should be binding as against the corporation, and that the committee had put in this other provision.

Mr. CULLOP. Yes; I agree with the President in his recommendation in that respect and assert he goes no further on that subject, but I do not agree with the committee in their proposed legislation in this particular matter. I regret the committee insists upon it remaining in the bill. I hope it changes its position in this regard.

The CHAIRMAN. The time of the gentleman from Indiana has expired.

Mr. CULLOP. I would like to have a little more time, if it can be given to me—just two minutes.

Mr. VOLSTEAD. I will yield two minutes to the gentleman, Mr. Chairman.

The CHAIRMAN. The gentleman from Indiana is recognized for two minutes.

Mr. CULLOP. Now, in answer to the statement of the gentleman from Arkansas about litigation in these cases, if we were to leave this open so that every individual could go into court if he desires, the gentleman says it would be too costly upon the litigants. I say to the gentleman that that matter concerns the litigants alone and not the Members of Congress. That is none of their affair. We are not to become the guardians of the individual, to determine how the private individual shall expend his money. That is his business and not ours.

The courthouse doors ought to swing inwardly, and do to every citizen of this country. Yet if we enact this provision as the committee has brought it in here we have closed the doors of the courthouse to the citizens of this country. That is a matter of the highest concern to them. We will have denied to the citizen by the enactment of this provision the right to go into court and recover damages for wrongs inflicted. Why? Forsooth, because a collusive suit has been brought in some place, or had been tried without preparation, or had been tried without sufficient evidence; and yet a stranger, an innocent person, is bound by that decree. He had no say; he took no part in it; and yet by this proposed legislation the door would be shut against him and his cause of action. We are adopting antitrust legislation for relief to a suffering public, furnishing a remedy for wrongs long perpetrated, but I fear if provisions of this kind are incorporated in the measure we will not accomplish our purpose or perform the duty as well as the people desire it should be done. I hope that the amendment of the gentleman from Minnesota will be adopted.

The CHAIRMAN. The time of the gentleman from Indiana has expired.

Mr. VOLSTEAD. Mr. Chairman, how much time have I left?

The CHAIRMAN. The gentleman has six minutes left.

Mr. VOLSTEAD. Mr. Chairman, I offer another amendment which I desire to call to the attention of the committee, and I ask to have it read.

The CHAIRMAN. An amendment is pending.

Mr. VOLSTEAD. I offer another amendment at the end of this section, and ask to have it read at this time for the information of the committee.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

At the end of section 6, page 23, after the word "laws," on line 18, add "and any evidence or a transcript of any evidence taken at or before the trial of any such suit or proceeding to establish any such determinations shall at any time be admissible in evidence in any action or proceeding brought by any other party than the United States.

The CHAIRMAN. The gentleman from Minnesota [Mr. VOLSTEAD] is recognized.

Mr. VOLSTEAD. Mr. Chairman——

Mr. MURDOCK. Will the gentleman yield before he goes into the explanation of this amendment for a question on the other amendment that he has offered?

Mr. VOLSTEAD. This amendment is in line with that.

Mr. MURDOCK. Will the gentleman yield for a question?

Mr. VOLSTEAD. I yield to the gentleman.

Mr. MURDOCK. Suppose that the Associated Press, a news agency, should be attacked by the Government, and the courts should hold that it was not a trust, not a combination in restraint of trade. Under the provisions of this bill as it now stands, would all publishers be estopped from bringing suit against the Associated Press?

Mr. VOLSTEAD. Yes; they would be estopped so far as suing for any damages under the antitrust laws.

Mr. MURDOCK. Either simple damages or damages in treble the amount?

Mr. VOLSTEAD. Yes.

Mr. MURDOCK. Is there any question about that?

Mr. VOLSTEAD. There is not.

Mr. MURDOCK. The gentleman's amendment which he offered previous to the last amendment would remedy a difficulty of that kind?

Mr. VOLSTEAD. Yes; that is the object.

Mr. Chairman, I call attention to the amendment that has just been read. During the hearings our attention was called to the fact that something of this kind ought to be written into the law. A suit may be pending and may drag along in the courts. The Government may not prosecute it. During that time, of course, no advantage can be secured from any proceeding on behalf of the Government. Now, it seems to me that if a suit has been brought by an individual and the evidence necessary to establish that suit has been introduced in an action brought on behalf of the Government that evidence might properly be used in the private suit, as well as in the suit in which it was originally taken.

I do not believe any harm would come. It certainly seems to me that if the decree itself can be used as evidence, no real objection can be urged against using the testimony that has been introduced to secure that decree. A defendant charged with being a trust would have the right to introduce testimony in opposition to this evidence, and would otherwise have the right to dispute it. It would be very much fairer than to introduce the decree itself, and it seems to me that if the committee is willing to go as far as they do in this section—that is, to make the decree binding—they ought to be willing to allow that testimony to be used. It would save a great deal of cost and expense to the private litigant if he could take a transcript of the testimony in a suit brought by the Government and use it in his case; take, for instance, depositions or evidence taken before a master in such a suit.

Mr. SCOTT. Will the gentleman yield?

Mr. FLOYD of Arkansas. Will the gentleman from Minnesota yield?

Mr. VOLSTEAD. I yield to the gentleman from Iowa.

Mr. SCOTT. I was going to ask whether the amendment would permit the use of these depositions and the testimony before the submission of the suit in which such testimony was taken?

Mr. VOLSTEAD. Yes; I tried to draw the amendment so as to permit that.

Mr. SCOTT. Would not that be open to this objection, that until it was received in evidence no ruling would be made upon its competency?

Mr. VOLSTEAD. No; but the ruling would be made when it was offered. If it was not competent testimony, it could not

be introduced in the suit, but if it was competent, it seems to me it would be perfectly proper to admit it.

Mr. SCOTT. I understood that the amendment went so far as to make it admissible.

Mr. VOLSTEAD. It makes it admissible upon the particular issue that is to be determined. That is the object of it. I had a letter a day or two ago from the attorney general of the State of Louisiana, asking for this very thing others asked for before our committee, and it seems to me it would be a proper amendment. It is an amendment to accomplish the purpose sought by this section. If we are honestly striving to help the private litigant, we ought to give him this additional assistance.

Mr. WEBB. May I ask the gentleman a question?

Mr. VOLSTEAD. I yield to the gentleman from North Carolina.

Mr. WEBB. I call the attention of the gentleman to his last amendment, which, it seems to me, does the very thing he is striving not to do in his first amendment. The amendment reads as follows:

And any evidence, or a transcript of any evidence, taken at or before the trial of any such suit or proceeding to establish any such determinations—

I think that ought to be "issues"——

Mr. VOLSTEAD. The word I used was "determinations."

Mr. WEBB. The amendment continues—

shall at any time be admissible in evidence in any action or proceeding brought by any other party than the United States.

That gives both the plaintiff and the defendant the right to use the transcript of evidence.

Mr. VOLSTEAD. It is not conclusive; it is only evidence.

Mr. WEBB. But you permit either the plaintiff or the defendant to use it.

Mr. VOLSTEAD. It would be evidence in favor of the private party.

Mr. WEBB. It would be evidence in favor of either party who cared to use it.

Mr. SCOTT. I would like to ask the gentleman if it would be objectionable to modify his amendment by saying "competent and material evidence."

Mr. VOLSTEAD. No; but I do not think the court would admit anything not competent and material.

Mr. SCOTT. The amendment as framed makes it admissible, and it strikes me that it would be rather a strong word unless you add the words "competent and material."

Mr. VOLSTEAD. It would not be evidence unless it was competent and material. The court would exclude it if it was not competent or material.

Mr. SCOTT. But your amendment uses the word "testimony."

Mr. LEVY. Mr. Chairman, I ask unanimous consent to offer an amendment and have it pending.

The CHAIRMAN. The gentleman from New York offers an amendment.

The Clerk read as follows:

Page 23, after the word "laws," in line 18, insert "That nothing herein contained shall interfere with legitimate business or commercial enterprises, and no citizen shall be deprived of his liberty or happiness while pursuing the same."

Mr. WEBB. Mr. Chairman, I yield five minutes to the gentleman from Arkansas [Mr. FLOYD].

Mr. FLOYD of Arkansas. Mr. Chairman, I am opposed to the last amendment offered by the gentleman from Minnesota. I want to say a few words further in regard to his first amendment. I do not think that the section as drawn is subject to the constitutional objections made to it, or that it denies the right of trial by jury. It relates to evidence, it does not cut off jury trials. I desire to explain again, as I explained in the outset, that the recommendation for this legislation in the President's message was to the effect that the judgment might be used against the corporation adjudged guilty of violations of the Sherman Act in suits by private litigants, and that in the bill introduced by the gentleman from Wisconsin [Mr. LENROOT], from which we took substantially the wording of the provision, the proposition was to make the judgment binding only upon the defendant corporation. I desire to state further that in the tentative bill prepared by the committee and submitted to the House and to the country for consideration we incorporated substantially the language of the provision in the Lenroot bill, providing alone for the introduction of such decree as evidence against the defendant corporation. In the hearings and during the consideration of this section practically all the criticism that was made against it, which provision we regard as one of the most excellent provisions in the bill, was to the effect that to make it apply to only one of the parties litigant was unfair, unjust, and would render the proposition unconstitutional. In view of such criticism we modified it and made it apply equally to both parties.

As I stated, the amendment or modification was made by the Judiciary Committee of the House. Now, speaking for myself and associates on the subcommittee, who had in charge the preparation of the bill, after conference and after this debate, I desire to state that we withdraw our resistance to the first amendment offered by the gentleman from Minnesota, but we still ask the House not to adopt the second amendment offered by the gentleman.

Mr. WEBB. Mr. Chairman, may we have the first amendment reported?

The Clerk read as follows:

Page 23, line 5, strike out the words "or has not." In line 7, strike out the words "or has not." In line 14, strike out the words "in favor of or." In line 16, strike out the words "or against."

The CHAIRMAN. The question is on the amendment.

The question was taken, and the amendment was agreed to.

The CHAIRMAN. The Clerk will read the second amendment.

The Clerk again reported the second amendment offered by Mr. VOLSTEAD.

Mr. VOLSTEAD. Mr. Chairman, I ask unanimous consent to withdraw that amendment. While I believe that there ought to be legislation along that line, it is not in just the form that I think it ought to be, and I ask unanimous consent to withdraw it.

The CHAIRMAN. The gentleman from Minnesota asks unanimous consent to withdraw his amendment. Is there objection?

There was no objection.

The CHAIRMAN. The Clerk will now read the next amendment offered by the gentleman from New York [Mr. LEVY].

The Clerk read as follows:

Page 33, after the word "laws," in line 18, insert "that nothing herein contained shall interfere with legitimate business or commercial enterprises, and no citizen shall be deprived of his liberty or happiness while pursuing the same."

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York.

The question was taken, and the amendment was rejected.

The Clerk read as follows:

SEC. 7. That nothing contained in the antitrust laws shall be construed to forbid the existence and operation of fraternal, labor, consumers, agricultural, or horticultural organizations, orders, or associations instituted for the purposes of mutual help, and not having capital stock or conducted for profit, or to forbid or restrain individual members of such organizations, orders, or associations from carrying out the legitimate objects thereof.

Nothing contained in the antitrust laws shall be construed to forbid associations of traffic, operating, accounting, or other officers of common carriers for the purpose of conferring among themselves or of making any lawful agreement as to any matter which is subject to the regulating or supervisory jurisdiction of the Interstate Commerce Commission, but all such matters shall continue to be subject to such jurisdiction of the commission, and all such agreements shall be entered and kept of record by the carriers, parties thereto, and shall at all times be open to inspection by the commission: *Provided*, That nothing in this act shall be construed as modifying existing laws prohibiting the pooling of earnings or traffic, or existing laws against joint agreements by common carriers to maintain rates.

Mr. WEBB. Mr. Chairman, I give notice that on Monday morning at 11 o'clock the committee will offer an amendment to this section, and I reserve the right now to offer it.

Mr. MADDEN. Mr. Chairman, I desire to offer an amendment. I shall not be here on Monday, and I would like to have my amendment pending.

Mr. WEBB. I have no objection to the gentleman from Illinois offering an amendment.

Mr. MADDEN. Mr. Chairman, I move to strike out the second paragraph of section 7.

The CHAIRMAN. The gentleman from Illinois offers an amendment which the Clerk will report.

The Clerk read as follows:

Page 24: Strike out the second paragraph of section 7, being lines 11 to 24, inclusive.

Mr. MADDEN. Mr. Chairman, I want to say in this connection, if I may be permitted for just a moment to do so, that I believe this second paragraph of section 7 exempts the railroads of the United States from the provisions of the Sherman antitrust law, that it is more drastic in its provisions in that respect than was section 7 in a bill to regulate the railroads passed by the House in 1910. This not only gives traffic associations connected with railroads the opportunity for organizing, but it gives also the operating, accounting, and other officers of common carriers the same privilege. It grants to the officers of one railroad, the traffic officers, the executive officers, and all other officers connected with the railroad, the privilege of entering into a combination with similar officers of any other railroad, permits them to enter into any traffic arrangements they choose, giving to the Interstate Commerce Commission the

right to supervise the matters which are the subjects of traffic agreements, but does not give the Interstate Commerce Commission any right whatever over the agreements themselves. All the Interstate Commerce Commission would have the right to do under this provision would be to accept the contracts entered into by the combination permitted to the railroad companies under this second paragraph of section 7, for filing purposes.

I protest against the passage of this paragraph, and I wish to give notice to the country that the committee in recommending it for adoption have simply recommended the relief of the railroad companies of the country from prosecution under the provisions of the Sherman antitrust law, whereas all the way through the bill they seek to restrict all other branches of business from entering into trade agreements of any kind and provide for the imposition of fines and imprisonment for those who enter into such agreements. It seems strange that in the same bill the committee should recommend the exemption of railroads from the provisions of the Sherman law while imposing greater restrictions on all other business organizations. I see no justification for such action. All should be treated alike; all should be exempt or none should be. This bill creates monopolies on the one hand and destroys legitimate business on the other, gives to those who have and takes away from those who have not.

The wish of the Democratic leaders seems to be to satisfy the railroads, and in the next to fool the labor leaders. No one should close his eyes to the deal with the railroads evidenced in section 7. The railroads would be worse hurt by a real exemption than any other interest, and the second paragraph of section 7 was smuggled in at the last minute. But not one word of objection comes from that source, nor will there be any organized opposition to the compromise amendments, so called. Before taking them up, I call attention to an excerpt from the New York Sun, which is ever on the alert for any menace to capital:

President Wilson, on the other hand, takes the stand that the amendment he has approved will not preclude the prosecution of labor unions for acts in violation of the antitrust laws. His supporters in the House, who had aided in drafting the amendment, have advised him that the language to be added to the Clayton bill will merely clarify that section which deals with labor organizations, and that it will not, in fact, exempt them from prosecution.

It is proposed to add at the end of the first paragraph this sentence:

Nor shall such organizations, orders, or associations, or members thereof, be held or construed to be illegal combinations in restraint of trade under the antitrust laws.

The addition is superfluous and merely senseless repetition in its purport of what precedes.

If the antitrust laws are not to be construed "to forbid," and so forth, or "to forbid or restrain individual members," and so forth, what need to say that they shall not "be held or construed to be illegal combinations or conspiracies in restraint of trade under the antitrust laws"? Laws such as the antitrust act do not apply to any individuals or classes, whether acting together or singly as such, nor has any court ever said that they do. The law applies not to any persons, natural or artificial, as persons or as organizations, but solely to their acts or conduct. If members of an organization should in fact restrain trade, according to the judgment of a court, section 7 neither as it stands nor as it is proposed to amend it would protect them. They would not restrain trade in their organized capacity. They would not if they tried, because not within the legal purposes of the organization. The courts would simply ignore their relation to the labor organization, as they did in the case of Loewe against Lawler. Section 7 is simply abortive. The purpose that labor would accomplish by it should not be attempted in the exercise of congressional power under the interstate-commerce clause, but under the power to create courts and regulate their jurisdiction.

Section 7 therefore, whether considered as it stands or as it is proposed to "amend" it, is merely innocuous and abortive.

But sections 15 and 18 are not mere "gold bricks." They are gold bricks containing dynamite. Democratic Party pledges have been profuse and explicit, but the alleged performance is not merely a mockery. It is a betrayal and death thrust. Those who pretend to represent labor and yet cast their fortunes in with the Democrats on sections 15 and 18, believing that exposure will not be swift and complete, have another guess coming.

Now, what is the revamped "amendment" to section 18? At the end of the second paragraph of section 18 it is proposed to add the words, "Nor shall any of the acts specified in this paragraph be considered or held unlawful." I would like you to take the matter up for yourself and answer for yourself this question. Does that meet any criticism that has been offered to the section?

The amendment directs the courts to take the view as to certain acts which, upon reading the paragraph, they must take anyhow.

None of the acts specified ever were held unlawful per se; and after the care taken to annex to them the qualifying words "peacefully" and "lawfully," or "peaceful" and "lawful," how would it be possible for a court to now hold them unlawful per se? And that is all that the new amendment purports to require of them.

The vice of section 18 is the fact that it gives with one hand and takes away with the other, as is shown in some of the speeches on the floor, and that sections 15 and 18, in combination, confer a new jurisdiction, or, at any rate, confirm a jurisdiction, which, it was claimed, was usurped and heretofore exercised destructively.

No one has attempted to answer this criticism, and no one can answer it; so I need not dwell upon it. I will, however, add just a few words. Some one may say that the section will be given a liberal construction. On the contrary, having the form of an exemption from ordinary course of procedure, it must be construed strictly. And when anyone argues that the words "employer and employees" will be held to mean those previously holding the relation, the courts will refuse to so radically change and extend the meaning.

In conclusion I call attention to this from the New York World:

A decision not to wait for the House to act on the trust legislation was reached to-day by the Senate Interstate Commerce Committee, which has been considering an omnibus trust bill. This measure, it was decided, should be reported out as soon as possible, regardless of what the House might do in the meanwhile.

Let the significance of that be noted. The President has evidently studied Capt. Cuttle, and is "devilish sly." After labor has been betrayed by its friends in the House, their work will be nullified in the Senate. But they will have taken the gag from the Democrats and won popular support for Democracy's candidates, unless their exposure be complete and prompt. The World is the administration's mouthpiece.

Mr. WEBB. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. WEBB. Mr. Chairman, it is understood that if the committee rise at this time other amendments may be in order on next Monday morning when the House reconvenes at 11 o'clock?

The CHAIRMAN. Certainly.

Mr. WEBB. Mr. Chairman, I move that the committee do now rise.

The motion was agreed to.

Accordingly the committee rose; and Mr. HAY having taken the chair as Speaker pro tempore, Mr. BYRNS of Tennessee, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill H. R. 15657 and other bills, and had come to no resolution thereon.

SENATE BILL REFERRED.

Under clause 2 of Rule XXIV, Senate bill of the following title was taken from the Speaker's table and referred to its appropriate committee, as indicated below:

S. 5504. An act to authorize the Secretary of Commerce to provide additional inspection of the fisheries of Alaska, and authorizing the purchase or construction of vessels and boats to be used in connection therewith; to the Committee on the Merchant Marine and Fisheries.

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted as follows:

To Mr. REED, until June 5, on account of important business.

To Mr. YOUNG of North Dakota, for three weeks, on account of important business.

To Mr. SELDOMRIDGE, for three days, on account of important business.

ADJOURNMENT.

Mr. WEBB. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 7 minutes p. m.), in accordance with the order heretofore made, the House adjourned until Monday, June 1, 1914, at 11 o'clock a. m.

EXECUTIVE COMMUNICATION.

Under clause 2 of Rule XXIV, a letter from the Acting Secretary of the Treasury, transmitting copy of a communication from the Secretary of Commerce submitting an estimate of appropriation to enable the Secretary of Commerce to employ such other persons as may be necessary to enforce the laws prohibiting the overcrowding of passenger and excursion vessels (H. Doc. No. 1003), was taken from the Speaker's table, referred to the Committee on Appropriations, and ordered to be printed.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII,

Mr. ALEXANDER, from the Committee on the Merchant Marine and Fisheries, to which was referred the joint resolution (H. J. Res. 270) authorizing the Secretary of Commerce to have taken specimens of the Pribilof Islands fur seal as specimens for the collections of the National Museum, reported the same without amendment, accompanied by a report (No. 727), which said joint resolution and report were referred to the Committee of the Whole House on the state of the Union.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, private bills and resolutions were severally reported from committees, delivered to the Clerk, and referred to the Committee of the Whole House, as follows:

Mr. TAYLOR of Colorado, from the Committee on the Public Lands, to which was referred the bill (S. 4714) to authorize Louis Eder to enter lands under the homestead laws, reported the same with amendment, accompanied by a report (No. 728), which said bill and report were referred to the Private Calendar.

Mr. LENROOT, from the Committee on the Public Lands, to which was referred the bill (H. R. 1062) granting a patent to Joseph Robicheau, reported the same with amendment, accompanied by a report (No. 729), which said bill and report were referred to the Private Calendar.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials were introduced and severally referred as follows:

By Mr. PALMER: A bill (H. R. 16928) to amend section 260 of the Judicial Code; to the Committee on the Judiciary.

By Mr. JOHNSON of Washington: A bill (H. R. 16929) providing for the disposal of certain lands in block 32, in the city of Port Angeles, State of Washington; to the Committee on Public Buildings and Grounds.

By Mr. MOORE: A bill (H. R. 16930) to provide aids to navigation for the new Schooner Ledge Channels, Delaware River, Pa. and Del.; to the Committee on Interstate and Foreign Commerce.

By Mr. FOSTER: A bill (H. R. 16931) to provide for the uniform selection and purchase of fuel to be used by the United States; to the Committee on Mines and Mining.

By Mr. MARTIN: A bill (H, R. 16932) to repeal the desert-land acts in the State of South Dakota, and for other purposes; to the Committee on the Public Lands.

By Mr. NORTON: A bill (H. R. 16933) appropriating the sum of $75.000 for the purpose of drilling and testing wells in counties west of the Missouri River in the State of North Dakota; to the Committee on Irrigation of Arid Lands.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BURKE of Wisconsin: A bill (H. R. 16934) for the relief of Hugh E. Carney; to the Committee on Naval Affairs.

By Mr. CARLIN: A bill (H. R. 16935) granting a pension to Oden Lake; to the Committee on Pensions.

By Mr. DRUKKER: A bill (H. R. 16936) granting an increase of pension to Anna F. Haase; to the Committee on Pensions.

By Mr. GREENE of Massachusetts: A bill (H. R. 16937) to correct the military record of George W. Hodgson; to the Committee on Military Affairs.

Also, a bill (H. R. 16938) to correct the military record of John T. Sellers; to the Committee on Military Affairs.

Also, a bill (H. R. 16939) to correct the military record of Henderson H. Watson; to the Committee on Military Affairs.

By Mr. HOLLAND: A bill (H. R. 16940) to provide for the promotion of Pay Director William W. Galt, United States Navy, to the rank of rear admiral in the Pay Corps of the Navy upon his retirement from the service; to the Committee on Naval Affairs.

By Mr. HOXWORTH: A bill (H. R. 16941) granting a pension to Josephine B. Culver; to the Committee on Invalid Pensions.

By Mr. KENNEDY of Connecticut: A bill (H. R. 16942) granting a pension to Orrilla Hough Henderson; to the Committee on Invalid Pensions.

By Mr. PAYNE: A bill (H. R. 16943) granting an increase of pension to Sylvester B. Van Duser; to the Committee on Invalid Pensions.

By Mr. PHELAN: A bill (H. R. 16944) granting a pension to Lawrence Burke; to the Committee on Invalid Pensions.

By Mr. PLUMLEY: A bill (H. R. 16945) granting a pension to Addie Day Johnson; to the Committee on Invalid Pensions.

By Mr. POU: A bill (H. R. 16946) for the relief of heirs or estate of Wilson W. Whitaker, deceased; to the Committee on War Claims.

By Mr. POWERS: A bill (H. R. 16947) granting an increase of pension to Raney H. Irwin; to the Committee on Invalid Pensions.

By Mr. RAUCH: A bill (H. R. 16948) granting an increase of pension to James C. Nones; to the Committee on Invalid Pensions.

By Mr. SELDOMRIDGE: A bill (H. R. 16949) granting an increase of pension to Loisa V. Dyer; to the Committee on Invalid Pensions.

By Mr. TAGGART: A bill (H. R. 16950) granting a pension to Minnie Mahler; to the Committee on Invalid Pensions.

By Mr. VARE: A bill (H. R. 16951) granting a pension to Elizabeth R. Foster; to the Committee on Invalid Pensions.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

By the SPEAKER (by request): Resolutions of certain citizens of Bellevue, Pa., Fort Sumner, N. Mex., Edgewood, Iowa, Wichita, Kans., Cascade, Iowa, Fort Morgan, Colo., Tonawanda, N. Y., Philadelphia, Pa., Wheeling, W. Va., Newton, Iowa, and Kirkwood, Ill., protesting against the practice of polygamy in the United States; to the Committee on the Judiciary.

Also (by request), resolutions from certain citizens of Franklin County, Mo., protesting against the adoption of a national prohibition amendment to the Constitution of the United States; to the Committee on Rules.

Also (by request), petition of sundry citizens of Millersburg, Mo., favoring national prohibition; to the Committee on Rules.

By Mr. ADAMSON: Petition of sundry citizens of Muscogee and Harrison Counties, Ga., favoring national prohibition; to the Committee on Rules.

By Mr. AIKEN: Petition of sundry citizens of Pelzer, S. C., favoring national prohibition; to the Committee on Rules.

By Mr. AINEY: Petition of sundry citizens of the fourteenth congressional district of Pennsylvania, favoring national constitutional prohibition amendment; to the Committee on Rules.

By Mr. BARCHFELD: Petition of 258 citizens of Pittsburgh, Pa., protesting against national prohibition; to the Committee on Rules.

Also, petition of sundry citizens of Coraopolis, Pa., and the First Methodist Episcopal Church of Carnegie, Pa., favoring national prohibition; to the Committee on Rules.

By Mr. BARTLETT: Memorial of the Macon (Ga.) Central Labor Union, protesting against national prohibition; to the Committee on Rules.

By Mr. BRITTEN: Petitions of sundry citizens of Chicago, Ill., protesting against national prohibition; to the Committee on Rules.

By Mr. BRODBECK: Petitions of the Ministerial Association, the Epworth Methodist Episcopal Church, officers of the quarterly conference of the First Methodist Episcopal Church, and the council of Messiah Lutheran Church, all of York, Pa.,

protesting against section 6 of House bill 12928; to the Committee on the Post Office and Post Roads.

By Mr. BRYAN: Petitions of 272 citizens of Burlington, 16 citizens of Castle Rock, 27 citizens of Duvall, 70 citizens of North Gaskins, 85 citizens of Benton, 35 citizens of West Sound, 40 citizens of Monitor, and 341 citizens of Bellingham, all in the State of Washington, favoring national prohibition; to the Committee on Rules.

By Mr. CANDLER of Mississippi: Petition of a mass meeting of the Woman's Christian Temperance Union of over 200 people, at Starkville, Miss., favoring national prohibition; to the Committee on Rules.

By Mr. CARY (by request): Petition of the Central Council of Social Agencies, of Milwaukee, Wis., favoring House bills 1915 and 5819, relative to the naturalization of immigrants; to the Committee on Immigration and Naturalization.

By Mr. COOPER: Petitions of various residents of Brookfield, Wis., protesting against Nation-wide prohibition; to the Committee on Rules.

Also, petition of W. B. Cushing Post, Grand Army of the Republic, of Waukesha, Wis., favoring legislation to make a park of Bull Run battle field; to the Committee on Military Affairs.

By Mr. CURRY: Petition of C. C. Qurn, of Sacramento, Cal., protesting against national prohibition; to the Committee on Rules.

Also, petition of the Methodist Church, of Stockton, Cal., favoring national prohibition; to the Committee on Rules.

By Mr. DALE: Petitions of Peter Weiss and sundry other citizens, of Brooklyn, N. Y., protesting against national prohibition; to the Committee on Rules.

By Mr. DILLON: Petitions of sundry citizens of South Dakota, protesting against national prohibition; to the Committee on Rules.

By Mr. DONOVAN: Memorial of the Central Labor Union, of South Norwalk, Conn., protesting against national prohibition; to the Committee on Rules.

Also, petition of the Central Labor Union, of South Norwalk, Conn., protesting against conditions in the Colorado mines; to the Committee on the Judiciary.

By Mr. DOOLITTLE: Petition of sundry citizens of the State of Kansas, favoring establishment of a bureau of farm loans (H. R. 11755) in the Treasury Department of the United States; to the Committee on Banking and Currency.

By Mr. DYER: Petition of Messrs. Ray and H. E. Williams, John Hussey, Charles Alblinger, W. F. Fishbeck, Henry William Feeney, B. J. Koenig, Henry J. Gallagher, Fred W. Kiess, W. A. Henry, Fred Diestelhorst, Herman Sauerwein, Harry Bentz, E. J. Timmons, Sam Perkins, James E. Downey, R. H. Irvine, A. J. Hill, Thomas J. O'Meara, James William Hatten, J. Gruber, William C. Brauer, Thomas Walsh, Patrick Broderick, George Melsheimer, Gordon Willis, all of St. Louis, Mo., against national prohibition; to the Committee on Rules.

Also, petition of Mrs. H. E. Canary, M. W. Teasdale, W. F. Hauk, Mrs. H. W. Teasdale, all of Newburg, Mo., favoring national prohibition; to the Committee on Rules.

By Mr. FESS: Petition of Society of Friends, of Selma, Ohio, indorsing President Wilson's efforts to avert war with Mexico; to the Committee on Foreign Affairs.

By Mr. FRENCH: Petitions of sundry citizens of Idaho, against national prohibition; to the Committee on Rules.

By Mr. GORMAN: Petitions of H. H. Witt and 47 other citizens of Cook County, Ill., protesting against national prohibition; to the Committee on Rules.

By Mr. GRAHAM of Illinois: Petition of a joint meeting of the Springfield and Decatur Evangelical Ministerial Associations at Springfield, Ill., favoring censorship for moving pictures; to the Committee on Education.

Also, petitions of sundry citizens of Springfield, Ill., favoring passage of bill to amend the postal and civil-service laws (H. R. 12928); to the Committee on the Post Office and Post Roads.

By Mr. HAWLEY: Petitions of sundry citizens of Oak Grove and Portland, Oreg., protesting against national prohibition; to the Committee on Rules.

Also, petitions of sundry citizens of the State of Oregon, protesting against national prohibition; to the Committee on Rules.

By Mr. IGOE: Petitions of Paul O. Wendell, E. B. Hudson, L. Odell, Earl Thompson, W. S. Carter, jr., N. P. Edwards, J. C. Ledman, Carl Johnson, N. J. Edwards, Henry Limerick, N. E. Le Begue, F. A. Greer, C. J. Le Begue, William Craft, James Farrell, W. J. Lang, Guy F. Smith, G. H. Stott, W. H. Berry, Jesse Lewis, Paul Hartroig, I. C. Thistlwait, W. A. Tillberry, H. Morseman, M. S. Bretches, Carl P. Werner, H. Riley, O. W. Stobb, Ed. Sueewain, A. T. Jackman, W. M. Johnson, H. M. Bell, A. M. Hoffman, Ossil Carpenter, H. T. Fitzgerald, W. F. O. Hain, S. F. Werter, C. A. Masteri, George Pugh, Louis Meints, G. L. Smith, E. F. Holdner, E. L. Metcalf, J. J. Comer, J. W. Crowder, A. W. Cleesen, John Smith, H. H. Wilkinson, A. O. Otten, W. P. Howser, J. Eiseman, Roy Cunningham, H. J. Wells, R. W. Reynolds, H. C. Maness, E. A. Brackmon, W. L. Harriman, A. J. Stevens, William Owens, C. Newcomb, Raymond Owens, O. F. Reid, B. L. Rendleman, J. H. Perkins, S. D. Myers, C. M. Bake, Henry Evans, W. A. Fisher, J. A. Martin, J. P. Norlen, B. F. Cramer, I. W. Miller, H. W. Wooley, E. V. Anderson, Fred Jackson, George Jotter, F. J. Miller, B. H. Paxton, J. T. Hirst, William Sims, J. H. Stanfield, William Dierkes, E. S. Cower, P. J. Grey, N. V. Leyler, J. F. Speck, W. Metcalf, E. J. Sweeney, P. E. Judd, F. J. Whalen, O. C. Burnes, P. B. Herndon, Frank Douglas, Emmett Lanse, Fred Esser, D. W. Jones, Tim Delaney, Joe Carson, Fred Brown, Robert Kramfiekl, D. L. Kelley, S. A. Dickesson, William Paxton, J. W. Amett, F. R. Pard, Dr. W. T. Simund, C. B. Wachild, George Wresch, William Schurer, George C. Williams, C. W. Allcow, C. F. Fischer, E. L. Bowen, D. B. Griffin, W. Wilson, Pat Salley, C. W. Royce, Fred Pirriguey, J. E. Brulton, J. H. Sullivan, Ed J. Gross, N. L. Simpson, H. C. Johnson, Roy Herrick, J. Manion, L. A. Condry, George G. Benton, George H. San Huestaniaon, L. Kahn, John Sherman, G. C. Murray, Mike Zor, Kosta Komoff, O. H. Buhlig, William Hartman, Porter Williams, Cary Roberson, Albert Hunter, George N. Graslittson, G. M. Frier, J. Earl Hushing, John Hilt, H. E. Mult, A. Wagner, Vic Leffler, F. Rains, Frank Gorfes, H. M. Berry, E. J. Smith, Charles Hizler, Charles Fisvats, L. S. Berry, E. Pertor, W. K. Rainey, Thomas Welch, F. G. Bailey, H. A. Gfechis, R. R. Cunningham, W. A. Scanlon, George A. Scott, Jah Bowman, G. V. Meredith, C. F. Phillips, Ernest Kuhn, L. B. Shull, G. L. Perriguey, H. Griggs, J. M. Knans, T. E. Riley, E. M. Dirck, Ed Bill, C. Jeckman, C. Coom, E. F. Strong, H. F. Strang, W. R. Guthrie, E. H. Young, V. H. Cob, A. R. Crafts, Mel Ilgenfutz, E. E. Wilhita, J. H. Marten, H. L. Stewart, C. R. Chapdean, E. R. Murphy, T. H. Ferguson, S. R. Hill, Randall Pugh, Warren G. Stephens, and J. D. Thompson, all of Sedalia; E. H. Miller, H. W. Benjiminn, P. L. Hogan, William Bosch, William Diehl, R. Rumet, George Schmidt, Edward J. Miller, Charles J. Jennings, Charles Ottensmeyer, H. P. Preston, Tony England, Albert Oldendorph, A. L. Mandeville, C. C. Torely, A. J. Perry, J. Ewertowski, William H. Kamp, Sherman Kerrting, John Kratky, Fred C. Falsy, J. S. Reynolds, J. W. Brown, Al Bornemann, William Snedkamp, B. Snedkamp, M. McNulty, A. Sarraziny, Fred Lohmeyer, George O. McNamee, W. G. Haupt, Frank Powlosk, F. Wilder, Edward H. Rencher, Timothy Dineen, E. C. Carpenter, Eugene Burlemann, Willard Kaiser, Oz Randle, John J. Donohue, George F. Neal, George Heilkicy, W. F. Coffey, Andrew A. Monscol, Otto G. Gahal, Charles Kammermeyer, Robert D. Barsaland, William Wahlbrink, Fred. Baer, Michael Cunningham, John W. Poppi, George Rost, Jerry Hoenward, H. Peteis, J. Lyons, Fred. Peck, John A. Bodiman, B. H. Rubbeck, Peter Mitchell, R. C. Flottmann, E. B. Feil, Charles Biehl, William E. Schewe, H. N. Schapor, Louis Roeder, Louis P. Schaeffer, John A. Ballas, Edw. Steingmeier, Henry Kenter, W. J. Waldorf, Oliver F. Hennessey, Joseph Hoffmann, John H. Koenig, J. Gruber, F. Erichbrugge, Charles Alblinger, John Hussey, Sam Perkins, Henry William Feeney, Harry Bentz, Henry J. Gallagher, James E. Hanney, R. H. Irvine, Herman Sauerwein, Fred. W. Kiess, Ray. Williams, Thomas Walsh, A. J. Hill, W. I. Fishbeck, E. J. Timmons, W. H. Henry, J. Williams, B. J. Koenig, and Fred. Diestelhorst, all of St. Louis; and A. A. Starke and R. A. Smith, of Smithton, all in the State of Missouri, protesting against the passage of House resolution 168 (Hobson prohibition amendment) and all similar prohibition legislation; to the Committee on Rules.

By Mr. KAHN: Petition of the civil-service employees of San Francisco, favoring civil-service retirement bill; to the Committee on Reform in the Civil Service.

By Mr. KENNEDY of Connecticut: Petition of the Sunday Noon Club of the Second Congregational Church, of Waterbury, Conn., favoring Federal censorship of motion pictures; to the Committee on Education.

Also, petition of sundry citizens of New Haven, Conn., favoring national prohibition; to the Committee on Rules.

Also, petitions of various business men of New Milford, Canaan, and Torrington, all in the State of Connecticut, favoring House bill 5308, to tax mail-order houses; to the Committee on Ways and Means.

By Mr. KENNEDY of Iowa: Memorial of the Order of Gobblers, of Burlington, Iowa, protesting against national prohibition; to the Committee on Rules.

Also, memorial of the Iowa Retail Jewelers' Association, at Des Moines, Iowa, favoring the passage of the Owen-Goeke bill; to the Committee on Interstate and Foreign Commerce.

By Mr. KENNEDY of Rhode Island: Petitions of Amos B. Chace and Wentelin Messmer, of Oak Lawn, R. I., protesting against national prohibition; to the Committee on Rules.

Also, memorial of the Wholesalers' Credit Association of Erie, Pa., favoring the passage of House bill 15988, relative to false statements in the mails; to the Committee on the Post Office and Post Roads.

By Mr. KETTNER: Petitions of the Concordia Turnverein, of San Diego; of the German-American Alliance of San Diego; of the Anaheim Concordia, and of Lodge 95, Knights of the Royal Arch, of Anaheim; of the German-American Alliance of Southern California; of the Manufacturers' Association of San Diego; and of sundry citizens, all in the State of California, against national prohibition; to the Committee on Rules.

By Mr. LEE of Pennsylvania: Petitions of sundry citizens of eastern Pennsylvania attendant at the Nicholson-Huminger evangelistic services at Tamaqua, Pa., favoring national prohibition; to the Committee on Rules.

By Mr. LESHER: Petition of 18 citizens of Shamokin, Pa., protesting against national prohibition; to the Committee on Rules.

By Mr. LEVY: Petitions of 63 citizens of the fourteenth congressional district of New York, against national prohibition; to the Committee on Rules.

Also, petitions of sundry citizens and business firms of New York and 65 voters of the fourteenth New York congressional district, protesting against national prohibition; to the Committee on Rules.

By Mr. LOBECK: Petition of 175 citizens of Springfield, Nebr., favoring national prohibition; to the Committee on Rules.

Also, petitions of 44 citizens of Omaha, Nebr., and 13 citizens of Douglas County, Nebr., protesting against national prohibition; to the Committee on Rules.

By Mr. LONERGAN: Petition of James Long, of Hartford, Conn., protesting against national prohibition; to the Committee on Rules.

By Mr. McCLELLAN: Petitions of 80 citizens of Piattekill, N. Y., and 400 citizens of Germantown, N. Y., favoring national prohibition; to the Committee on Rules.

By Mr. McGILLICUDDY: Petitions of sundry citizens of Ridlonville, Mexico, and Rumford, and the Woman's Christian Temperance Union of Brownfield, all in the State of Maine, favoring national prohibition; to the Committee on Rules.

By Mr. MAGUIRE of Nebraska: Petition of sundry citizens of Richardson and Otoe Counties, Nebr., protesting against national prohibition; to the Committee on Rules.

By Mr. MANN: Petition of the East St. Louis Commercial Club, favoring House bill 9292, relative to classifying employees of Bureau of Animal Industry; to the Committee on Agriculture.

Also, petition of Branch National Association of Civil Service Employees, of Chicago, Ill., protesting against summary dismissals in the Washington City Post Office; to the Committee on the Post Office and Post Roads.

By Mr. NELSON: Petitions of 15 citizens of Dane County, Wis., protesting against national prohibition; to the Committee on Rules.

By Mr. J. I. NOLAN: Petition of various civil-service employees residing in San Francisco, Cal., for the enactment of legislation providing some sort of retirement for superannuated employees, which petition is approved by the collector of customs, the surveyor of customs, the United States appraiser of the port of San Francisco, also the superintendent of the United States mint at San Francisco, the postmaster, and the naval officer of the port; to the Committee on Reform in the Civil Service.

Also, protest of Edna Hamilton and 26 other women voters of San Francisco, Cal., against the passage of the Hobson Nationwide prohibition resolution; to the Committee on Rules.

Also, protest of the Alameda County Central Labor Council, of Oakland, Cal., against the passage of the Hobson Nationwide prohibition resolution; to the Committee on Rules.

By Mr. O'SHAUNESSY: Petition of the Narragansett Machine Co., of Providence, R. I., relative to the Clayton antitrust bill; to the Committee on the Judiciary.

Also, petitions of Fred Groble and W. B. Reynolds, of Providence, R. I., protesting against national prohibition; to the Committee on Rules.

Also, petition of sundry citizens of Newport, R. I., favoring national prohibition; to the Committee on Rules.

Also, petition of the New England Coal Dealers' Association, favoring elimination of section 11 of House bill 15657; to the Committee on the Judiciary.

By Mr. PAYNE: Petition of 400 voters of the thirty-sixth New York congressional district, protesting against national prohibition; to the Committee on Rules.

By Mr. PHELAN: Petition of sundry citizens of the seventh congressional district of Massachusetts, against national prohibition; to the Committee on Rules.

Also, petition of 50 citizens of Lynn, Mass., favoring national prohibition; to the Committee on Rules.

By Mr. PLUMLEY: Petition of the Vermont Congregationalists, favoring national prohibition; to the Committee on Rules.

Also, petition of P. D. Leavitt and 15 others, citizens of the second district of Vermont, protesting against national prohibition; to the Committee on Rules.

By Mr. RAINEY: Petition of the Summit Grove (Ill.) Presbyterian Church, favoring national prohibition; to the Committee on Rules.

By Mr. RAKER: Letters from Rev. D. M. Marsham, of Tehama, Cal., and Rev. J. M. Fisher, of Chicago, Ill., favoring national prohibition; to the Committee on Rules.

By Mr. REILLY of Connecticut: Petitions of the Young Men's Christian Association of the State of Connecticut and the Christian Endeavor Unions of Guilford and other towns of the State of Connecticut, favoring national prohibition; to the Committee on Rules.

Also, memorial of the Common Council of Stamford, Conn., favoring passage of bill for retirement of aged Government employees; to the Committee on Reform in the Civil Service.

By Mr. ROBERTS of Nevada: Petition of H. F. Holland and numerous other citizens of Yerington, Nev., protesting against House joint resolution 168 and Senate joint resolutions 88 and 50, relative to national prohibition; to the Committee on Rules.

By Mr. SELDOMRIDGE: Petitions of sundry citizens of the State of Colorado, protesting against national prohibition; to the Committee on Rules.

Also, petitions of sundry citizens of Boulder and Denver, Colo., favoring national prohibition; to the Committee on Rules.

Also, petition of the Denver (Colo.) Chamber of Commerce, favoring passage of House bill 13921, relative to reclamation law; to the Committee on the Public Lands.

By Mr. SHARP: Petition signed by numerous residents of Mount Vernon, Ohio, protesting against changing the United States flag; to the Committee on Military Affairs.

Also, resolution adopted by the German Women's Branch of the Socialist Party in Lorain, Ohio, favoring full investigation of the strike situation in Colorado mines and the taking over by the Government of those mines; to the Committee on Mines and Mining.

Also, resolution adopted by Major Woodworth Camp, No. 62, United Spanish War Veterans, of Elyria, Ohio, favoring the passage of House bill 17470, providing pensions for dependent widows and minor children of Spanish War veterans; to the Committee on Pensions.

Also, petitions from numerous organizations and individuals in the fourteenth congressional district of Ohio, protesting against passage of House joint resolution 168 and Senate joint resolution 88, for national prohibition; to the Committee on Rules.

By Mr. SPARKMAN: Petition of the Central Trades and Labor Assembly of Tampa, Fla., protesting against national prohibition; to the Committee on Rules.

Also, petition of sundry citizens of Florida, favoring national prohibition; to the Committee on Rules.

By Mr. STAFFORD: Petition of the Central Council of Social Agencies of Milwaukee, Wis., favoring House bills 1915 and 5819, relative to naturalization of immigrants; to the Committee on Immigration and Naturalization.

By Mr. STEPHENS of California: Petition of Fannie M. Gleason, of Los Angeles, Cal., favoring national prohibition; to the Committee on Rules.

Also, petition of the San Francisco Retail Cigar Dealers' Association, favoring Stevens price bill; to the Committee on Interstate and Foreign Commerce.

Also, petition of the Council of the City of Richmond, Cal., favoring House bill 3677, granting right of way for construction of a bridge across San Francisco Bay; to the Committee on Rivers and Harbors.

By Mr. WALLIN: Petition of sundry citizens of the thirtieth New York congressional district, favoring national prohibition; to the Committee on Rules.

By Mr. YOUNG of North Dakota: Petition of sundry citizens of North Dakota, relative to reorganization of the Army; to the Committee on Military Affairs.

SENATE.

MONDAY, *June 1, 1914.*

The Senate met at 11 o'clock a. m.

Rev. C. Everest Granger, D. D., of the city of Washington, offered the following prayer:

O glorious Lord God, maker, preserver, and giver of all good, we approach Thee this day with all reverence, with deep humility, and in simple faith. Grant us, we pray Thee, the great blessing of Thy divine grace. May Thy wisdom instruct, Thy spirit inspire, and Thy love overshadow all Thy servants this day. Make us deeply sensible of our need of Thee, and give us, we pray Thee, a comfortable assurance of Thy presence at all times and of Thy aid in special hours of need. Help us in our helplessness to lean hard upon Thee, and when we lean hard upon Thee help us. Vouchsafe to us, O God, strength for the duties of life and Thy wisdom, that we may intelligently do Thy will and serve our fellow men. In mercy pardon our sins and eternally save us. Through Jesus Christ our Lord. Amen.

The Journal of the proceedings of Friday last was read and approved.

TRANSPORTATION BETWEEN ATLANTIC AND PACIFIC PORTS.

The VICE PRESIDENT laid before the Senate a communication from the Interstate Commerce Commission, acknowledging receipt of resolution of the Senate of the 16th ultimo, relative to the ownership of and rates charged by vessels between Atlantic and Pacific ports of the United States, which was referred to the Committee on Interstate Commerce.

POST-OFFICE EMPLOYEES.

The VICE PRESIDENT. The Chair lays before the Senate a communication from the Postmaster General, which will be read.

The Secretary read as follows:

POST OFFICE DEPARTMENT,
OFFICE OF THE POSTMASTER GENERAL,
Washington, D. C., June 1, 1914.

The PRESIDENT OF THE SENATE.

MY DEAR MR. PRESIDENT: I am in receipt of Senate resolution 373, reading as follows:

"*Resolved*, That the Postmaster General be directed to transmit to the Senate the following information:

"First. The names, ages, and length of service of those employees in the department in the District of Columbia and in the post office in Washington City who served in any war of the United States and who have been demoted, discharged, or resignations called for since March 4, 1914.

"Second. The rating of efficiency of each of such employees on March 4, 1914, and the rating with which they were credited at the date of demotion, discharge, or when resignation was called for."

In compliance with this resolution I wish to state that none of the employees of this department who served in any war of the United States has resigned or been removed since March 4, 1914. The only such person demoted is George Marshall, who, on March 24, 1914, was reduced from fireman, at $720, to laborer, at $660, on account of the excessive use of intoxicants. Mr. Marshall is 48 years old, has served in the department five years, and is a veteran of the Spanish-American War. He was informed at the time of his reduction that if his record warranted such action he would be restored to his former grade at the expiration of two months, and he was so restored on May 24, 1914.

The names, ages, length of service, and efficiency ratings of the war veterans in the employ of the Washington, D. C., post office who have been demoted, dropped from the rolls, or resigned from the service since March 4, 1914, are as follows:

Name.	Age.	Length of service.	Efficiency rating.	Action taken.
		Years.		
William E. Tew	74	37	78.4	Resigned.
Samuel R. Strattan	74	[1] 7	85	Do.
William A. Hutchins	77	19	84.8	Do.
Joseph Randall	77	47	94.6	Do.
John J. B. Lerch	81	51	59.2	Do.
Augustus Ridgely	78	51	69.1	Do.
G. T. Galliher [2]	68	32	85	Reduced.
O. T. Putnam	71	11	75	Do.
William W. Mills	77	42	88	Dropped.
George Dean	69	41	88	Do.

[1] Months. [2] Confederate Civil War veteran.

The postmaster states that these ratings covered the period from July 1 to December 31, 1913, and were the ratings of these persons on March 4, 1914, and at the time of their demotion, resignation, or separation from the service. There have been no removals or resignations during the present administration of any other persons employed in the Washington post office who served in any war of the United States, and the only such person demoted during that time was Henry L. Johnson, who was reduced in rank and salary on June 7, 1913, on charges preferred by Mr. Fulton R. Gordon, of Washington, D. C., who stated that in doing so he was "simply performing a patriotic duty."

There is inclosed a copy of a letter dated May 28, 1914, from the postmaster of Washington explaining why the action recommended by him was necessary.

Very truly, yours,

A. S. BURLESON,
Postmaster General.

WASHINGTON CITY POST OFFICE,
OFFICE OF THE POSTMASTER.
May 28, 1914.

Honorable POSTMASTER GENERAL,
Washington, D. C.

SIR: In response to a letter from the chief clerk of the department, dated May 27, asking for certain information called for in a resolution adopted by the United States Senate May 26, I transmit herewith the names, ages, length of service, and efficiency ratings of the war veterans in the employ of the Washington post office who have been demoted or dropped from the rolls or have resigned from the service since March 4, 1914. The ratings here given were made on January 1, 1914, and covered the period from July 1, 1913, to December 31, 1913. They were the only ratings with which the men were credited either on March 4, 1914, or at the time of their demotion or separation from the service. The information, as far as I am able to ascertain from the records of the office or from the employees in the office, is as follows:

William E. Tew; salary, $900; age, 74 years; period of service, 37 years; rating, 78.4 per cent; Union Civil War veteran; resigned.

Samuel R. Strattan; salary, $1,200; age, 74 years; period of service, 7 months; rating, 85 per cent; Union Civil War veteran; resigned.

William A. Hutchins; salary, $1,200; age, 77 years; period of service, 19 years; rating, 84.8 per cent; Union Civil War veteran; resigned.

Joseph Randall; salary, $1,200; age, 77 years; period of service, 47 years; rating, 94.6 per cent; Union Civil War veteran; resigned.

John J. B. Lerch; salary, $900; age, 81 years; period of service, 51 years; rating, 59.2 per cent; Union Civil War veteran; resigned.

G. T. Galliher, salary, $1,000; age, 68 years; period of service, 32 years; rating, 85 per cent; Confederate Civil War veteran; reduced to $800.

O. T. Putnam, salary, $1,000; age, 71 years; period of service, 11 years; rating, 75 per cent; Union Civil War veteran; reduced to $800.

Augustus Ridgely, salary, $1,100; age, 78 years; period of service, 51 years; rating 69.1 per cent; Union Civil War veteran; resigned.

William W. Mills, salary, $1,200; age, 77 years; period of service, 42 years; rating, 88 per cent; Union Civil War veteran; dropped.

George Dean, salary, $1,200; age, 69 years; period of service, 41 years; rating, 88 per cent; Union Civil War veteran; dropped.

These separations and demotions were only a small part of the results of the reorganization intended to put the administration of the Washington post office on a business basis. Less than 20 per cent of the employees affected by the reorganization were veterans of wars, which is a small percentage when it is considered that a large number of the older employees in the office are war veterans.

In order that you may be fully informed as to what has been undertaken in the Washington post office, I beg to report to you the results to date of this reorganization which was undertaken to enable the post office to render greater efficiency to the public, to keep the expenditures of the office within the allotment of money available for this city, and to comply with the spirit and intent of the law.

Growing out from this reorganization there have been to date 18 resignations and 30 demotions, while 3 employees have been dropped from the rolls. With three exceptions those who have either resigned or been dropped from the rolls were no longer necessary to the service, and the department has been advised that no appointments will have to be made to fill the vacancies thus caused.

Separations from the service as a result of this reorganization had nothing to do with the nationality, religion, or politics of any employee concerned, but were based only on consideration of the employee's efficiency or his necessity to the service, as is required by the following provision of the act of Congress approved April 1, 1909:

"The establishment of a civil-pension roll or an honorable-service roll, or the exemption of any of the officers, clerks, and persons in the Postal Service from the existing laws respecting employment in such service is hereby prohibited."

I do not know, save from hearsay, the number of former soldiers involved in these separations, but I have been informed that of the 51 employees separated or demoted 9 were Union and 1 were Confederate war veterans. Of the 21 persons separated from the service 1 (a Union war veteran) was totally deaf, and every direction given him had to be in writing; 1, a woman, had never recovered from a stroke of apoplexy, but had been kept on the rolls nearly a year, although unable to do more than the simplest desk work that required the services of another employee in constant supervision; 2 others, also Union war veterans, had afflictions of the mouth, commonly believed and feared by other employees to be malignant cancers and to be a menace to their associates and to the recipients of mail; while several others were in such stages of physical or mental incapacity as to either render their services nil, or require constant supervision. One of the war veterans whose affliction of the mouth is feared to be malignant cancer handled incoming letter mail for the Washington public, while the other, with an apparently like affliction, handled mail for Members of the House of Representatives and United States Senators.

When I assumed charge of the Washington post office on April 1, 1914, I entered upon the work with a mind free from any prejudice as to the personnel of the office or its administrative methods. However, in the councils with my supervisory officials, I speedily became aware of an intolerable situation in the office. I found that the service was top-heavy in the matter of the lighter desk and window work, and that the public interest demanded a strengthening of the distribution service, on which rests the whole intricate and responsible scheme of dispatch and delivery of the mails.

The civil-service system had been in force long enough to fill the office with elderly employees, particularly men too old to memorize the complex and ever-changing schemes of routing and distributing the mail. In addition, there had been unloaded on the Washington post office in a long course of years, through strong political influence or as a convenience to various departments of the Government, a large number of inexperienced employees whose services had not been sought by the post office, and who were not needed in its operation. Notwithstanding the inhibition of the United States statutes against keeping on the Government pay rolls useless, inefficient, or incapacitated employees, a desperate effort had been made to take care of these employees in some manner, with the result that all kinds of needless clerical or window jobs were created for them, either in the main office or outlying stations. Some of these persons were given the baldest pretenses at earning their salaries, ranging from $720 to $1,800 a year—mostly at $1,200 a year.

Although there was employed a sufficient force of unskilled laborers, one aged man was assigned to picking up scraps of paper on the post-

office sidewalk. For eight hours a day of this character of service he was drawing a salary of $720 a year. He was given a rating of 88.5 per cent. Two men were "pensioned" at $900 a year each, watching the messengers in a closed-in room awaiting their turns to take out special-delivery letters. A number of men were employed at the "cutting table" at a salary of $100 per month each. Their duty was to cut open small packages of letters. Others were given employment at the "facing table," at a salary of $100 per month. All they had to do was to arrange the letters on a table with the address sides facing in one direction and separating the long from the short envelopes. Any boy or girl could do the work at either the "facing table" or "cutting table," yet for eight hours a day of this character of work these men were receiving each a salary—substantially a pension—of $1,200 a year. This is the salary paid expert distributors for the most trying work in the postal service, and to earn which these distributors must constantly practice and study their work at home after completing their day's task in the post office. On these tasks at the "cutting" and "facing" tables at $1,200 a year were employed four of the men separated from the service. All four men were Union war veterans. The services of all these men were unnecessary, as the work is easily absorbed by the regular office force in the slack time. In addition, other places were created, equally unnecessary, equally simple, and equally well paid. Every device within the broadest interpretation of the law was resorted to in an effort to keep aged or politically protected employees on the pay roll.

In the meantime there was a constant strain on the distribution service, which needed keeping up to the highest pitch of efficiency, because of the steady growth of the mails and the great strides made by the parcel post. There were 1,097 employees on the pay roll of the Washington post office. Its quota was full. Under the Post Office appropriation act the Post Office Department could not allot to the Washington office the additional men so sorely needed in the handling of the mails. Every unexpected important rush of mail necessitated the employment of extra men or overtime, until this overtime and extra service has reached the sum of $20,000 a year for the Washington office. Yet here were men in the important operating divisions of the office doing practically children's work for salaries of $1,200 a year, who by their retention in the service were preventing the employment of young and active men for the swift and complex work involved in the movement of mail matter.

On the one hand was the public entitled to an exacting and expeditious handling of their mail and on the other was the department requiring that the Washington office keep expenditures within the sum available for its operation. At the same time the supervising heads, who were in no way responsible for this state of affairs in the office, were clamoring for relief from a condition that not only was intolerable, but constantly was growing worse.

With the consent of the department I undertook to give that relief, and am giving it, by the introduction of such simple business methods as it is obvious that this particular situation required. The plan of reorganizing the operating force of the office on a rational basis as is now being carried out consists of eliminating all employees whose services are not necessary or whose work can be more expeditiously and intelligently performed by efficient men. Under the head of unnecessary employees come those whose work can be absorbed with ease by the large force always available in the slack time in the office. This includes those who have resigned or have been dropped because their infirmity or incapacity has permitted them to do but a limited range of the exacting work involved in handling the mails; also men and women assigned to window or desk work, not because they were needed but because places had to be found for them to keep them on the Government pay roll.

It appears to have been a long-standing policy in the Government service generally to be more liberal with the creation of positions than ordinary business experience would justify. For instance, in one station in the 13 hours that the windows are open there were sold last year a daily average of $103 worth of stamps. For presiding at that window 8 hours a day one employee received $1,200 a year. At another window an average of 18 money orders were cashed or issued in the 13-hour period, and for presiding at that window 8 hours a day, cashing or issuing an average of less than 2 money orders an hour, and doing a negligible amount of clerical work on the side, an employee received $1,200 a year. At a third window an average of 12 pieces of registered mail were handled during the 13-hour period, and for 8 hours of this kind of service, together with a small amount of clerical work on the side, a clerk received $1,200 a year. Ordinary business instinct, if not a proper conception of public duty, would suggest consolidating those jobs in the hands of one efficient clerk. That is what I have ordered done. The Washington office being already oversupplied with such help, I was compelled to advise the Post Office Department that the services of two of these clerks are no longer necessary.

In this manner the main office and the stations are being reorganized. Superfluous employees are being eliminated and the slack is being taken up wherever possible by concentrating the work of the service for greater efficiency and closer supervision.

There has also been undertaken a readjustment of salaries commensurate with the character of work performed, and this has resulted in the recommendation of a number of decreases as well as increases of salary.

The system of ratings has been improved, the rating now being broken up into the several elements that enter into an employee's standing. As a result an employee's rating hereafter will reflect his value to the Postal Service as well as his regularity of attendance and proficiency in the particular task on which he is engaged.

By this course of administration we are beginning to live with greater efficiency within the allotments that the Post Office appropriation act makes possible for this office. At the same time we have been able to steadily improve the post-office service to the people. Since April 1 we have added carriers and wagons for the delivery service; we have extended the territory for the five-trip business delivery; we have vastly improved the mail collections and are building up and strengthening the distribution service of the office.

In the conduct of this reorganization, much of which was of a painful nature, I have had the loyal and unselfish support of the supervisory heads of the office.

I will add that in the light of the provision of the law which reads: "The establishment of a civil pension roll or an honorable service roll, or the exemption of any of the officers, clerks, and persons in the Postal Service from the existing laws respecting employment in such service, is hereby prohibited," I could not possibly take into consideration the personal fortunes of those who, unfortunately, had to be separated from the service. To have done so would have made it impossible to carry out this reorganization, which has been undertaken solely for the double purpose of rendering greater efficiency to the public and of bringing the service within the letter and intent of the law.

Very respectfully,

OTTO PRAEGER, *Postmaster.*

The VICE PRESIDENT. The communication will be printed in the RECORD.

Mr. STONE. Mr. President, the report ought to be disposed of in some way. I should prefer to have it lie on the table or to have it taken up to-morrow morning. It is in response to a resolution which has fulfilled its object. It calls for certain information from the Postmaster General, which information is supplied by this communication. If it is merely to go in the RECORD and lie there without anything else being done, it seems to me it will be a useless performance.

The VICE PRESIDENT. The Chair will inquire what can be done with it.

Mr. STONE. I think, on proper consideration, to-morrow morning or some later morning we can have it, at least, referred to a committee or printed as a Senate document.

Mr. JONES. Mr. President, I suggest to the Senator that the communication is in response to a resolution which the Senate has adopted.

Mr. STONE. Yes.

Mr. JONES. It gives us the information called for. Of course I should be very glad to see it published as a document, although I think having it printed in the RECORD probably will give us all the information that is necessary. The communication gives us the information called for. There is no other resolution pending.

Mr. STONE. At all events, I desire to make some observations on it. I shall not do so this morning, for the reason that I do not care to interfere with my friend the Senator from New Mexico [Mr. CATRON], who had risen to proceed with his address; but to-morrow morning, if I can get a few moments' time, I wish to make some observations on the report.

Mr. WARREN. If the Senator will allow me, I think, by unanimous consent, we can have it lie on the table for a day, and then I think it ought to be referred to some committee.

Mr. STONE. That was my idea—to have it printed and lie on the table.

Mr. OVERMAN. Does it not go into the RECORD, anyway, by reading?

Mr. GALLINGER. Of course.

Mr. STONE. Yes; it goes in the RECORD.

Mr. OVERMAN. I submit, then, that it ought to lie on the table.

Mr. STONE. It has been read, so it will appear in the RECORD; but we do not wish to throw it away on the floor. We ought to do something with it. I ask, therefore, that it lie on the table.

Mr. NELSON. Mr. President——

The VICE PRESIDENT. Does the Senator from Missouri yield to the Senator from Minnesota?

Mr. STONE. Yes.

Mr. NELSON. I hope the communication may be printed. It was not read in its entirety, so it would not all go into the RECORD. I hope it may be printed in the RECORD and also as a document.

Mr. STONE. I have no objection to that.

Mr. NELSON. I make the request, with the permission of the Senator from Missouri.

Mr. STONE. But I should like to dispose of it in that way to-morrow morning instead of this morning. I ask that it lie on the table for the present.

The VICE PRESIDENT. The communication has been ordered printed in the RECORD. It will lie on the table until some further disposition has been made of it.

Mr. JONES. I understand it is intended that the letter from the postmaster of the city of Washington accompanying the communication is also to be printed in the RECORD.

The VICE PRESIDENT. The whole document.

Mr. JONES. So that it will all be printed in the RECORD.

The VICE PRESIDENT. It is so ordered.

PETITIONS AND MEMORIALS.

The VICE PRESIDENT presented petitions of sundry citizens of Monterey, Clovis, Los Angeles, Santa Barbara, Colusa, and Oakland, in the State of California; of Clarkston, Wenatchee, Snohomish, Seattle, and Olympia, in the State of Washington; of Havelock and Ware, in the State of Iowa; of Mount Pulaski and Manteno, in the State of Illinois; of Morning Sun and Toledo, in the State of Ohio; of St. Louis, Mo.; of Hampton, Nebr.; of Elwyn, Pa.; and of La Junta, Colo., praying for the adoption of an amendment to the Constitution to prohibit polygamy, which were referred to the Committee on the Judiciary.

He also presented a memorial of the board of aldermen of New York City, N. Y., remonstrating against the proposed appropriation for the renovation of the present post-office building in City Hall Park, New York City, and favoring an appropriation for the construction of a new building on a more suitable site for the post office and Federal courts, which was referred to the Committee on Public Buildings and Grounds.

Mr. JONES presented memorials of sundry citizens of Centralia, Spokane, Dayton, Seattle, South Bend, and Aberdeen, all in the State of Washington, remonstrating against national prohibition, which were referred to the Committee on the Judiciary.

He also presented a petition of sundry citizens of Waverly, Wash., praying for national prohibition, which was referred to the Committee on the Judiciary.

Mr. PERKINS presented petitions of sundry citizens of San Francisco, Winters, and Auburn, all in the State of California, praying for the adoption of an amendment to the Constitution to prohibit the manufacture, sale, and importation of intoxicating beverages, which were referred to the Committee on the Judiciary.

He also presented memorials of sundry citizens of San Diego and Stockton, in the State of California, remonstrating against the adoption of an amendment to the Constitution to prohibit the manufacture, sale, and importation of intoxicating beverages, which were referred to the Committee on the Judiciary.

Mr. PAGE presented a petition of sundry citizens of Barnard, Vt., praying for the adoption of an amendment to the Constitution to prohibit the manufacture, sale, and importation of intoxicating beverages, which was referred to the Committee on the Judiciary.

Mr. CRAWFORD presented petitions of sundry citizens of Oral, Hot Springs, Ardmore, Madison, Hermosa, Cascade Springs, Rapid City, Minnekahta, Lithia, Edgemont, Lead, and Sturgis, all in the State of South Dakota, praying for the adoption of an amendment to the Constitution to prohibit the manufacture, sale, and importation of intoxicating beverages, which were referred to the Committee on the Judiciary.

Mr. GALLINGER presented a petition of the general conference of the Congregational churches of New Hampshire, praying for a peaceful settlement of the difficulties between Mexico and the United States, which was referred to the Committee on Foreign Relations.

Mr. LIPPITT presented petitions of sundry citizens of Rhode Island, praying for the adoption of an amendment to the Constitution to prohibit the manufacture, sale, and importation of intoxicating beverages, which were referred to the Committee on the Judiciary.

He also presented a memorial of sundry citizens of Rhode Island, remonstrating against the adoption of an amendment to the Constitution to prohibit the manufacture, sale, and importation of intoxicating beverages, which was referred to the Committee on the Judiciary.

He also presented a petition from the school committee of Johnston, R. I., praying for the enactment of legislation to provide for Federal censorship of motion pictures, which was referred to the Committee on Education and Labor.

RECLAMATION-EXTENSION BILL.

Mr. PITTMAN. I ask that certain telegrams from the governor of the State of Nevada, from the president of the water users' association, and from the Reno Commercial Club, in support of the passage of the reclamation-extension bill, may be printed in the RECORD.

There being no objection, the telegrams were referred to the Committee on Irrigation and Reclamation of Arid Lands and ordered to be printed in the RECORD, as follows:

[Telegram.]

CARSON, NEV., *May 28, 1914.*

Senator KEY PITTMAN, *Washington, D. C.:*

Passage by Congress at this session of the reclamation-extension bill, providing for 20 years' reclamation payments by entrymen and authorizing Secretary of the Interior to cooperate with irrigation districts, we regard as imperative to the success of the Truckee-Carson reclamation project in this State as well as to the success of reclamation projects throughout the West, and we hereby urge your utmost efforts in support of its passage.

Tasker L. Oddie, Governor; Gilbert C. Ross, Lieutenant Governor; George Brodigan, Secretary of State; J. Eggers, State Controller; George B. Thatcher, Attorney General; Joe Josephs, Clerk Supreme Court; C. L. Deader, Surveyor General; William MacMillan, State Treasurer; John Edwards Brag, Superintendent Public Instruction; G. F. Talnot, Chief Justice; F. H. Norcross, Justice Supreme Court; P. A. McCarran, Justice Supreme Court; Joe Farnsworth, Superintendent State Printing; Ed. Ryan, Insurance of Mines; C. A. Norcross, Commissioner of Agriculture; W. M. Kearney, State Engineer.

[Telegram.]

FALLON, NEV., *May 28, 1914.*

Hon. KEY PITTMAN, *Washington, D. C.:*

Imperative for interests of Truckee-Carson project and entire State of Nevada that this session of Congress pass legislation providing for 20-year reclamation payments, and authorizing Secretary of the Interior to cooperate with irrigation districts. Please use best endeavors to that end; our information that bill has passed Senate and is before the House. Can not something be done to get favorable action? Failure of passage of measure at this session of Congress would be serious disaster to us.

R. L. DOUGLAS,
President of Water Users' Association.

[Telegram.]

RENO, NEV., *May 31, 1914.*

Senator KEY PITTMAN,
United States Senate, Washington, D. C.:

Are advised that reclamation-extension bill is in danger of being sidetracked. Failure of passage of bill at this session will be most serious setback to everyone. We earnestly urge your active support for passage of bill at this session.

RENO COMMERCIAL CLUB.

TERMS OF COURT AT ERIE, PA.

Mr. BRANDEGEE. From the Committee on the Judiciary I report back favorably without amendment the bill (H. R. 15190) to amend section 103 of the act entitled "An act to codify, revise, and amend the laws relating to the judiciary," approved March 3, 1911, as amended by the act of Congress approved March 3, 1913, and I submit a report (No. 574) thereon.

Mr. OLIVER. I ask unanimous consent for the present consideration of the bill. I will state that it is simply a bill changing the time for holding the terms of court in the city of Erie, in the western district of Pennsylvania. It has passed the House, and its enactment is requested by the judges of our district courts and by the members of the bar generally in western Pennsylvania.

The VICE PRESIDENT. Is there objection to the present consideration of the bill?

There being no objection, the Senate, as in Committee of the Whole, proceeded to its consideration.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

Mr. OLIVER. I ask that the report of the House committee, which is a very short one, may be printed in the RECORD.

The VICE PRESIDENT. Without objection, that may be done.

The report is as follows:

[House Report No. 536, Sixty-third Congress, second session.]

TERMS OF COURT AT ERIE, PA.

Mr. GRAHAM of Pennsylvania, from the Committee on the Judiciary, submitted the following report, to accompany H. R. 15190:

The Committee on the Judiciary, having had under consideration the bill (H. R. 15190), report the same back with the recommendation that it do pass.

The changes made in existing law by this bill are as follows:

1. Changes the day for the beginning of the terms of the district court of the western district of Pennsylvania by providing that the sessions of said court held at Erie shall begin on the third Mondays in March and September of each year instead of as now provided on the third Mondays of January and July. This change is desired by the court and bar in that locality for their greater convenience and the facility of business. The time of the meeting of the court at Pittsburgh remains unchanged, the court meeting part of the time at Erie and part of the time at Pittsburgh.

2. Provides that—

"The clerk shall place all cases in which the defendants reside in the counties of said (western) district nearest Erie upon the trial list for trial at Erie, where the same shall be tried, unless the parties thereto stipulate that the same may be tried at Pittsburgh."

This matter is now governed by the discretion of the clerk, and this change substitutes therefor a fixed rule except in those cases governed by a stipulation of the parties.

The effect of this bill is purely local, and meets with the approval of those whom its adoption will affect. It is believed that the changes are wholesome ones and will promote the administration of justice.

TERMS OF COURT IN WEST VIRGINIA.

Mr. CHILTON. From the Committee on the Judiciary I report back favorably without amendment the bill (S. 5574) to amend and reenact section 113 of chapter 5 of the Judicial Code of the United States, and I submit a report (No. 575) thereon. I ask unanimous consent for the immediate consideration of the bill. I will explain that it refers entirely to the holding of court in the State of West Virginia and provides two additional places at which court shall be held, one in the northern district and one in the southern district. It meets with the approbation of both Senators from that State.

The VICE PRESIDENT. Is there objection to the present consideration of the bill?

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill, which was read as follows:

A bill (S. 5574) to amend and reenact section 113 of chapter 5 of the Judicial Code of the United States.

Be it enacted, etc., That section 113 of chapter 5 of the Judicial Code of the United States be amended and reenacted so that the same shall read as follows:

"SEC. 113. The State of West Virginia is divided into two districts, to be known as the northern and southern districts of West Virginia. The northern district shall include the territory embraced on the 1st day of July, 1910, in the counties of Hancock, Brooke, Ohio, Marshall, Tyler, Pleasants, Wood, Wirt, Ritchie, Doddridge, Wetzel, Monongalia, Marion, Harrison, Lewis, Gilmer, Calhoun, Upshur, Barbour, Taylor, Preston, Tucker, Randolph, Pendleton, Hardy, Grant, Mineral, Hampshire, Morgan, Berkeley, and Jefferson, with the waters thereof. Terms of the district court for the northern district shall be held at Martinsburg on the first Tuesday of April and the third Tuesday of September; at Clarksburg on the second Tuesday of April and the first Tuesday of October; at Wheeling on the first Tuesday of May and the third Tuesday of October; at Philippi on the fourth Tuesday of May and the second Tuesday of November; at Elkins on the first Tuesday in July and the first Tuesday in December; and at Parkersburg on the second Tuesday of January and the second Tuesday of June: *Provided*, That a place for holding court at Philippi shall be furnished free of cost to the United States by Barbour County until other provision is made therefor by law. The southern district shall include the territory embraced on the 1st day of July, 1910, in the counties of Jackson, Roane, Clay, Braxton, Webster, Nicholas, Pocahontas, Greenbrier, Fayette, Boone, Kanawha, Putnam, Mason, Cabell, Wayne, Lincoln, Logan, Mingo, Raleigh, Wyoming, McDowell, Mercer, Summers, and Monroe, with the waters thereof. Terms of the district court for the southern district shall be held at Charleston on the first Tuesday of June and the third Tuesday of November; at Huntington on the first Tuesday of April and the first Tuesday after the third Monday of September; at Bluefield on the first Tuesday of May and the third Tuesday of October; at Williamson on the first Tuesday of October; at Webster Springs on the first Tuesday of September; and at Lewisburg on the second Tuesday of July: *Provided*, That a place for holding court at Webster Springs shall be furnished free of cost to the United States: *And provided further*, That no court shall be held at Williamson until a suitable building for the holding of said court shall have been provided."

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

BILLS INTRODUCED.

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. GRONNA:

A bill (S. 5707) for the erection of a public building in the city of Fargo, N. Dak.; to the Committee on Public Buildings and Grounds.

By Mr. MARTINE of New Jersey:

A bill (S. 5708) granting an increase of pension to Amelia Dingler (with accompanying papers); to the Committee on Pensions.

By Mr. LIPPITT:

A bill (S. 5709) granting a pension to Sarah E. Harriman; to the Committee on Pensions.

By Mr. SMITH of Arizona:

A bill (S. 5710) granting an increase of pension to George Washington Cameron; to the Committee on Pensions.

VOCATIONAL EDUCATION.

Mr. SMITH of Georgia. Mr. President, during the present session of Congress a joint resolution was passed providing for the appointment by the President of a commission to consider the question of national aid to vocational education, and to report upon the advisability of such aid, and, if possible, to present also a plan for the aid. The joint resolution required the commission to report by June 1.

The President named the commission, consisting of Senator Page and myself, Congressmen Hughes and Fess, Mr. John A. Lapp, Mr. C. A. Prosser, Mr. Charles H. Winslow, Miss Agnes Nestor, and Miss Florence M. Marshall.

For the last two months the commission has been laboriously at work. The two Senators and the two Congressmen have given to the commission all the time possible, while the five other members have devoted all of their days to the work and have also frequently worked at night. Senator PAGE and myself, together with the two Congressmen, were necessarily compelled to leave the substance of the report largely to the five noncongressional members, who gave all of their time to the work, and while the nine members of the commission signed the report, it is chiefly the product of the five noncongressional members of the commission.

A large amount of testimony was taken upon the subject. Letters of inquiry were written to every State asking for the views of State superintendents and other educators. The commission has directed that the testimony be printed.

The report which I present to-day will also be printed under the supervision of the commission.

After paying for printing the reports we are gratified to state that there will still be about $4,000 left unexpended from the $15,000 appropriated for the use of this commission.

We have jointly perfected a bill which provides for eventually an appropriation of $7,000,000 by the National Government toward training teachers and toward paying the salaries of teachers for vocational educational work.

By direction of the commission 5,000 copies of the report are being printed for the use of the Senate.

I present not only the report, but I offer the bill which is approved by all the members of the commission, and I ask that it be read by title and printed in the RECORD and referred to the Committee on Education and Labor.

The bill (S. 5706) to provide for the promotion of vocational education; to provide for cooperation with the States in the promotion of such education in agriculture and the trades and industries; to provide for cooperation with the States in the preparation of teachers of vocational subjects; and to appropriate money and regulate its expenditure, was read twice by its title, referred to the Committee on Education and Labor, and ordered to be printed in the RECORD, as follows:

A bill (S. 5706) to provide for the promotion of vocational education; to provide for cooperation with the States in the promotion of such education in agriculture and the trades and industries; to provide for cooperation with the States in the preparation of teachers of vocational subjects; and to appropriate money and regulate its expenditure.

Be it enacted, etc., That there is hereby annually appropriated, out of the money in the Treasury not otherwise appropriated, the sums provided in sections 2, 3, and 4 of this act, to be paid to the respective States for the purpose of cooperating with the States in paying the salaries of teachers, supervisors, and directors of agricultural subjects, and of teachers of trade and industrial subjects, and in the preparation of teachers of agricultural, trade, and industrial and home economics subjects; and the sum provided for in section 7 to the Federal board for vocational education for the administration of this act and for the purpose of making studies, investigations, and reports to aid in the organization and conduct of vocational education, which sums shall be expended as hereinafter provided.

SEC. 2. That for the purpose of cooperating with the States in paying the salaries of teachers, supervisors, or directors of agricultural subjects there is hereby appropriated to the States for the fiscal year ending June 30, 1916, the sum of $500,000; for the fiscal year ending June 30, 1917, the sum of $750,000; for the fiscal year ending June 30, 1918, the sum of $1,000,000; for the fiscal year ending June 30, 1919, the sum of $1,250,000; for the fiscal year ending June 30, 1920, the sum of $1,500,000; for the fiscal year ending June 30, 1921, the sum of $1,750,000; for the fiscal year ending June 30, 1922, the sum of $2,000,000; for the fiscal year ending June 30, 1923, the sum of $2,500,000; for the fiscal year ending June 30, 1924, and annually thereafter, the sum of $3,000,000. Said sums shall be allotted to the States in the proportion which their rural population bears to the total rural population in the United States, not including outlying possessions, according to the last preceding United States census: *Provided*, That the allotment of funds to any State shall be not less than a minimum of $5,000 for any fiscal year prior to and including the fiscal year ending June 30, 1922, nor less than $10,000 for any fiscal year thereafter, and there is hereby appropriated the following sums, or so much thereof as may be necessary, for the purpose of providing the minimum allotment to the States provided for in this section: For the fiscal year ending June 30, 1916, the sum of $48,000; for the fiscal year ending June 30, 1917, the sum of $34,000; for the fiscal year ending June 30, 1918, the sum of $24,000; for the fiscal year ending June 30, 1919, the sum of $18,000; for the fiscal year ending June 30, 1920, the sum of $14,000; for the fiscal year ending June 30, 1921, the sum of $11,000; for the fiscal year ending June 30, 1922, the sum of $9,000; for the fiscal year ending June 30, 1923, the sum of $34,000; and annually thereafter the sum of $27,000

SEC. 3 That for the purpose of cooperating with the States in paying the salaries of teachers of trade and industrial subjects there is hereby appropriated to the States, for the fiscal year ending June 30, 1916, the sum of $500,000; for the fiscal year ending June 30, 1917, the sum of $750,000; for the fiscal year ending June 30, 1918, the sum of $1,000,000; for the fiscal year ending June 30, 1919, the sum of $1,250,000; for the fiscal year ending June 30, 1920, the sum of $1,500,000; for the fiscal year ending June 30, 1921; the sum of $1,750,000; for the fiscal year ending June 30, 1922, the sum of $2,000,000; for the fiscal year ending June 30, 1923, the sum of $2,500,000; for the fiscal year ending June 30, 1924, the sum of $3,000,000, and annually thereafter the sum of $3,000,000. Said sums shall be allotted to the States in the proportion which their urban population bears to the total urban population in the United States, not including outlying possessions, according to the last preceding United States census: *Provided*, That the allotment of funds to any State shall be not less than a minimum of $5,000 for any fiscal year prior to and including the fiscal year ending June 30, 1922, nor less than $10,000 for any fiscal year thereafter, and there is hereby appropriated the following sums, or so much thereof as may be needed for the purpose of providing the minimum allotment to the States provided for in this section: For the fiscal year ending June 30, 1916, the sum of $66,000; for the fiscal year ending June 30, 1917, the sum of $46,000; for the fiscal year ending June 30, 1918, the sum of $34,000; for the fiscal year ending June 30, 1919, the sum of $28,000; for the fiscal year ending June 30, 1920, the sum of $25,000; for the fiscal year ending June 30, 1921, the sum of $22,000; for the fiscal year ending June 30, 1922, the sum of $19,000; for the fiscal year ending June 30, 1923, the sum of $56,000; for the fiscal year ending June 30, 1924, and annually thereafter the sum of $50,000.

SEC. 4. That for the purpose of cooperating with the States in preparing teachers, supervisors, and directors of agricultural subjects, and teachers of trade and industrial and home economic subjects there is hereby appropriated to the States, for the fiscal year ending June 30, 1916, the sum of $500,000; for the fiscal year ending June 30, 1917, the sum of $700,000; for the fiscal year ending June 30, 1918, the sum of $900,000; for the fiscal year ending June 30, 1919, and annually

thereafter, the sum of $1,000,000. Said sums shall be allotted to the States in the proportion which their population bears to the total population of the United States, not including outlying possessions, according to the last preceding United States census: *Provided*, That the allotment of funds to any State shall be not less than a minimum of $5,000 for any fiscal year prior to and including the fiscal year ending June 30, 1918, nor less than $10,000 for any fiscal year thereafter. And there is hereby appropriated the following sums, or so much thereof as may be needed, for the purpose of providing the minimum allotment provided for in this section: For the fiscal year ending June 30, 1916, the sum of $46,000; for the fiscal year ending June 30, 1917, the sum of $32,000; for the fiscal year ending June 30, 1918, the sum of $24,000; for the fiscal year ending June 30, 1919, and annually thereafter, the sum of $90,000.

SEC. 5. That in order to secure the benefits of the appropriations provided for in sections 2, 3, and 4 of this act, any State shall, through the legislative authority thereof, accept the provisions of this act and designate or create a State board, consising of not less than three members, and having all necessary power to cooperate, as herein provided, with the Federal board for vocational education in the administration of the provisions of this act. The State board of education, or other board having charge of the administration of public education in the State, or any State board having charge of the administration of any kind of vocational education in the State may, if the State so elect, be designated as the State board for the purposes of this act.

Any State may accept the benefits of any one or more of the respective funds herein appropriated, and it may defer the acceptance of the benefits of any one or more of such funds, and shall be required to meet only the conditions relative to the fund or funds the benefits of which it has accepted: *Provided*, That after June 30, 1917, no State shall receive any appropriation for salaries of teachers, supervisors, or directors of agricultural subjects unless it shall have taken advantage of at least the minimum amount appropriated for the training of teachers, supervisors, or directors of agricultural subjects, as provided for in this act, and that after said date no State shall receive any appropriation for the salaries of teacners of trade and industrial subjects unless it shall have taken advantage of at least the minimum amount appropriated for the training of teachers of trade and industrial subjects, as provided for in this act.

SEC. 6. That a Federal board for vocational education is hereby created to consist of the Postmaster General, the Secretary of the Interior, the Secretary of Agriculture, the Secretary of Commerce, and the Secretary of Labor. The board shall organize and elect one of its members as chairman. The board shall have power to cooperate with State boards in carrying out the provisions of this act. It shall be the duty of the Federal board for vocational education to make or cause to have made studies, investigations, and reports, with particular reference to their use in aiding the States in the establishment of vocational schools and classes and in giving instruction in agriculture, trades and industries, commerce and commercial pursuits, and home economics. Such studies, investigations, and reports shall include agriculture and agricultural processes and requirements upon agricultural workers; trades, industries, and apprenticeships, trade and industrial requirements upon industrial workers, and classification of industrial processes and pursuits; commerce and commercial pursuits and requirements upon commercial workers; home processes and problems and requirements upon home workers; and problems of administration of vocational schools and of courses of study and instruction in vocational subjects.

Such studies, investigations, and reports concerning agriculture, for the purposes of agricultural education, shall, so far as practicable, be made in cooperation with or through the Department of Agriculture; such studies, investigations, and reports concerning trades and industries, for the purposes of trade and industrial education, shall, so far as practicable, be made in cooperation with or through the Department of Labor; such studies, investigations, and reports concerning commerce and commercial pursuits, for the purposes of commercial education, shall, so far as practicable, be made in cooperation with or through the Department of Commerce; such studies, investigations, and reports concerning the administration of vocational schools, courses of study and instruction in vocational subjects, shall, so far as practicable, be made in cooperation with or through the Bureau of Education.

The Commissioner of Education shall be the executive officer of the board. He may make such recommendations to the board relative to the administration of this act as he may from time to time deem advisable. It shall be the duty of the Commissioner of Education to carry out the rules, regulations, and decisions which the board may adopt. The Federal board for vocational education shall have power to employ such assistants as may be necessary to carry out the provisions of this act.

SEC. 7. That there is hereby appropriated to the Federal board for vocational education the sum of $200,000 annually to be available from and after the passage of this act for the purpose of making or cooperating in making the studies, investigations, and reports provided for in section 6 of this act, and for the purpose of paying the salaries of assistants and office and such other expenses as the board may deem necessary to the execution and administration of this act. The Federal board for vocational education may allot any part of said appropriation to any United States department or bureau for the purpose of making any study or investigation, or part thereof, under the provisions of this act.

SEC. 8. That in order to secure the benefits of the appropriations for any purposes specified in this act, the State board shall prepare plans, showing the kinds of vocational education for which it is proposed that the appropriation shall be used; the kinds of schools and equipment; courses of study; methods of instruction; qualifications of teachers and, in the case of agricultural subjects, the qualifications of supervisors or directors; plans for the training of teachers; and, in the case of agricultural subjects, plans for the supervision of agricultural education, as provided for in section 10. Such plans shall be submitted by the State board to the Federal board for vocational education, and if the Federal board finds the same to be in conformity with the provisions and purposes of this act, the same shall be approved. The State board shall make an annual report to the Federal board for vocational education on or before September 1 of each year on the work done in the State, and the receipts and expenditures of money under the provisions of this act.

SEC. 9. That the appropriation for the salaries of teachers, supervisors, or directors of agricultural subjects and of teachers of trade and industrial subjects shall be devoted exclusively to the payment of salaries of such teachers, supervisors, or directors having the minimum qualifications set up for the State by the State board, with the approval of the Federal board for vocational education. The cost of instruction supplementary to the instruction in agricultural and in trade and industrial subjects provided for in this act necessary to build a well-rounded course of training shall be borne by the State and local communities, and no part of the cost thereof shall be borne out of the appropriations herein made. The moneys expended under the provisions of this act in cooperation with the States for the salaries of teachers, supervisors, or directors of agricultural subjects or for the salaries of teachers of trade and industrial subjects shall be conditioned that for each dollar of Federal money expended for such salaries the State or local community, or both, shall expend an equal amount for such salaries; and that appropriations for the training of teachers of vocational subjects as herein provided shall be conditioned that such moneys be expended for maintenance of such training, and that for each dollar of Federal money so expended for maintenance the State or local community, or both, shall expend an equal amount for the maintenance of such training.

SEC. 10. That any State may use the appropriation or any part thereof allotted to it under the provisions of this act for the salaries of teachers, supervisors, or directors of agricultural subjects, either for the salaries of teachers of such subjects in schools or classes or for the salaries of supervisors or directors of such subjects under a plan of supervision for the State to be set up by the State board, with the approval of the Federal board for vocational education. That in order to receive the benefits of such appropriation for the salaries of teachers, supervisors, or directors of agricultural subjects the State board of any State shall provide in its plan for agricultural education that such education shall be that which is supported and controlled by the public; that the controlling purpose of such education shall be to fit for useful employment; that such education shall be of less than college grade and be designed to meet the needs of persons over 14 years of age who have entered upon or who are preparing to enter upon the work of the farm or of the farm home; that the State or local community, or both, shall provide the necessary plant and equipment determined upon by the State board with the approval of the Federal board for vocational education as the minimum requirement for such education in schools and classes in the State; that the amount expended for the maintenance of such education in any school or class receiving the benefit of such appropriation shall be not less annually than the amount fixed by the State board, with the approval of the Federal board, as the minimum for such schools or classes in the State; that such schools shall provide for directed or supervised practice in agriculture either on a farm provided for by the school or other farm for at least six months per year; that the teachers, supervisors, or directors of agricultural subjects shall have at least the minimum qualifications determined for the State by the State board with the approval of the Federal board for vocational education.

SEC. 11. That in order to receive the benefits of the appropriation for the salaries of teachers of trade and industrial subjects the State board of any State shall provide in its plan for trade and industrial education that such education shall be given in schools or classes supported and controlled by the public; that the controlling purpose of such education shall be to fit for useful employment; that such education shall be of less than college grade and shall be designed to meet the needs of persons over 14 years of age who are preparing for a trade or industrial pursuit or who have entered upon the work of a trade or industrial pursuit; that the State or local community, or both, shall provide the necessary plant and equipment determined upon by the State board with the approval of the Federal board for vocational education as the minimum requirement in such State for education for any given trade or industrial pursuit; that the total amount expended for the maintenance of such education in any school or class receiving the benefit of such appropriation shall be not less annually than the amount fixed by the State board, with the approval of the Federal board, as the minimum for such schools or classes in the State; that such schools or classes giving instruction to persons who have not entered upon employment shall require that at least half of the time of such instruction be given to practical work on a useful or productive basis, such instruction to extend over not less than 9 months per year and not less than 30 hours per week; that at least one-third of the sum appropriated to any State for the salaries of teachers of trade and industrial subjects shall, if expended, be applied to part-time schools or classes for young workers over 14 years of age who have entered upon employment, and such subjects in a part-time school or class may mean any subject given to enlarge the civic or vocational intelligence of such workers over 14 and less than 18 years of age; that such part-time schools or classes shall provide for not less than 144 hours of classroom instruction per year; that evening industrial schools shall fix the age of 16 years as a minimum entrance requirement and shall confine instruction to that which is supplemental to the daily employment; that the teachers of any trade or industrial subject in any State shall have at least the minimum qualifications for teachers of such subject determined upon for such State by the State board with the approval of the Federal board for vocational education: *Provided*, That for cities and towns of less than 25,000 population, according to the last preceding United States census, the State board, with the approval of the Federal board for vocational education, may modify the conditions as to the length of course and hours of instruction per week for schools and classes giving instruction to those who have not entered upon employment in order to meet the particular needs of such cities and towns.

SEC. 12. That in order to receive the benefits of the appropriation in this act for the training of teachers, supervisors, or directors of agricultural subjects, or of teachers of trade and industrial or home economics subjects, the State board of any State shall provide in its plan for such training that the same shall be carried out under the supervision of the State board; that such training shall be given in schools or classes supported and controlled by the public; that such training shall be given only to persons who have had adequate vocational experience or contact in the line of work for which they are preparing themselves as teachers, supervisors, or directors, or who are acquiring such experience or contact as a part of their training, and that the State board, with the approval of the Federal board, shall establish minimum requirements for such experience or contact for teachers, supervisors, or directors of agricultural subjects, and for teachers of trade and industrial and home economics subjects; that not more than 60 per cent nor less than 20 per cent of the money appropriated under this act for the training of teachers of vocational subjects to any State for any year shall be expended in the preparation of teachers, supervisors, or directors of agricultural subjects or of teachers of trade and industrial subjects or of teachers of home economics subjects.

SEC. 13. That in order to secure the benefits of the appropriations for the salaries of teachers, supervisors, or directors of agricultural subjects, or for the salaries of teachers of trade and industrial subjects or for the training of teachers as herein provided, any State shall,

through the legislative authority thereof, appoint the State treasurer as custodian for vocational education, who shall receive and provide for the proper custody and disbursement of moneys paid to the State from said appropriations.

SEC. 14. That the Federal board for vocational education shall annually ascertain whether the States are using or are prepared to use the moneys received by them in accordance with the provisions of this act On or before the 1st day of January of each year the Federal board for vocational education shall certify to the Secretary of the Treasury as to each State which has accepted the provisions of this act and complied therewith, certifying the amounts which each State is entitled to receive under the provisions of this act. Upon such certification the Secretary of the Treasury shall pay quarterly to the custodian for vocational education of each State the moneys to which it is entitled under the provisions of this act. The moneys so received by the custodian for vocational education for any State shall be paid out on the requisition of the State board, as reimbursement for expenditures already incurred, to such schools as are approved by said State board and are entitled to receive such moneys under the provisions of this act.

SEC. 15. That whenever any portion of the fund annually allotted to any State has not been expended for the purpose provided for in this act, a sum equal to such portion shall be deducted by the Federal board from the next succeeding annual allotment from such fund to such State.

SEC. 16. That the Federal board for vocational education may withhold the allotment of moneys to any State whenever it shall appear that such moneys are not being expended for the purposes and under the conditions of this act. If any allotment is withheld from any State, the State board of such State may appeal to the Congress of the United States, and if the Congress shall not direct such sum to be paid, it shall be covered into the Treasury.

SEC. 17. That if any portion of the moneys received by the custodian for vocational education of any State under this act, for any given purpose named in this act, shall by any action or contingency be diminished or lost, it shall be replaced by such State, and until so replaced no subsequent appropriation for such education shall be paid to such State. No portion of any moneys appropriated under this act for the benefit of the States shall be applied, directly or indirectly, to the purchase, erection, preservation, or repair of any building or buildings or equipment, or for the purchase or rental of lands.

SEC. 18. That the Federal board for vocational education shall make an annual report to Congress, on or before December 1, on the administration of this act and shall include in such report the reports made by the State boards on the administration of this act by each State and the expenditure of the money allotted to each State.

THE INCOME TAX.

Mr. SMITH of Georgia. I introduce a joint resolution and ask that it be read and referred to the Committee on Finance.

The joint resolution (S. J. Res. 155) to remit under certain conditions and for the year 1914 the penalties provided by the act approved October 3, 1913, for failure to properly return the income tax provided for in said act, in cases where said returns are completed by June 1, 1914, was read the first time by its title and the second time at length and referred to the Committee on Finance, as follows:

To remit under certain conditions and for the year 1914 the penalties provided by the act approved October 3, 1913, for failure to properly return the income tax provided for in said act, in cases where said returns are completed by June 1, 1914.

Whereas the income tax has gone into effect for the first time during the present year; and

Whereas through misapprehension of the law many parties have failed to make their proper returns prior to March 1, 1914: Therefore be it

Resolved, etc., That the penalties provided by the act approved October 3, 1913, for failure to properly return the income tax provided for in said act, be, and the same are hereby, remitted for the present year in all cases where said returns are completed by June 1 of the present year, and where the failure to make said returns was not due to a purpose willfully to refrain from making the same.

STATISTICS ON MARRIAGE AND DIVORCE.

Mr. SHEPPARD. I introduce a joint resolution, which I ask may be read at length.

The joint resolution (S. J. Res. 154) authorizing and directing the Director of the Census to collect and publish statistics of marriage and divorce was read the first time by its title and the second time at length, as follows:

Resolved, etc., That the Director of the Census be, and he is hereby, authorized and directed to collect and publish the statistics of and relating to marriage and divorce in the several States and the District of Columbia for the seven years from January 1, 1907, to December 31, 1913, and for each year thereafter annually: *Provided*, That such statistics as now required by law to be collected be used so far as it is practicable to do so.

Mr. SHEPPARD. There is a petition accompanying the joint resolution which I should like to have read in connection with it. It will explain the measure.

There being no objection, the petition was read, as follows:

INTERNATIONAL COMMITTEE ON MARRIAGE AND DIVORCE,
May 11, 1914.

To the Senate and House of Representatives of the United States:

The undersigned petitioners, all being citizens of the United States, respectfully pray that provisions be made for the collection of statistics of and relating to marriage and divorce for the seven years from 1907 to 1913, inclusive, and annually hereafter.

Your memorialists respectfully point out the reasons given in the petitions for the prior investigations, and beg leave to refer you to Bulletin 96 of the Bureau of the Census and to the two-volume Report on Marriage and Divorce issued by it in 1908 and 1909, presenting a summary of the earlier investigation and the full data for the 20 years from 1887 to 1906.

From these volumes and from the estimates made in the official correspondence of this bureau it appears that over 1,000,000 divorces will be granted in the United States in 10 years ending with 1916.

We also show that in spite of the many changes in the marriage and divorce laws of the several States in the past 65 years the tide of divorces has steadily risen throughout every portion of our Nation at an average rate three times as great as the rate of increase of the population.

And we would show further that the increase of interest evidenced by memorials and resolutions from many most important educational bodies, both religious and secular, requires that exact information be had every year from the Government concerning the more than 100,000 divorces that are now being granted annually in our own continental United States.

Alfred Harding, Bishop of Washington; David H. Greer, Bishop of New York; William T. Manning, Trinty Church, New York; Natalie F. Hammond; Morgan J. O'Brien; Newell De Witt Hillis, Plymouth Church, Brooklyn; W. Bourke Cockran; Cornelius Woelfkin, Fifth Avenue Baptist Church, New York City; Samuel McCune Lindsay; Christian F. Reisner, Pastor Grace Methodist Church, New York City; Felix Adler, Leader of the Society for Social Culture; Wm. Jay Schieffelin.

Mr. GALLINGER. Mr. President, I notice that the joint resolution calls upon the Director of the Census. I will ask the Senator if we have a Director of the Census at the present time?

Mr. SHEPPARD. It is my opinion that we have a very fine one, Mr. President.

Mr. GALLINGER. I thought I read the other day that he was a candidate for the governorship of a great State, and I did not suppose that he would continue to hold his office while seeking the governorship of a State.

Mr. SHEPPARD. I think the matter will be handled satisfactorily to all concerned.

Mr. GALLINGER. That is to say, if he fails to elect himself governor of the State he will continue Director of the Census, I suppose. Is that the idea?

Mr. SHEPPARD. The Senator has had long experience in politics, and he must know that very few people voluntarily resign.

Mr. GALLINGER. Mr. President, I am glad that we have a Director of the Census. I was afraid we had none.

The VICE PRESIDENT. The joint resolution and accompanying petition will be referred to the Committee on the Census.

AMENDMENT TO THE RIVER AND HARBOR BILL.

Mr. LIPPITT submitted an amendment intended to be proposed by him to the river and harbor appropriation bill, which was referred to the Committee on Commerce and ordered to be printed.

LIABILITY OF COMMON CARRIERS.

Mr. CUMMINS submitted the following resolution (S. Res. 384), which was read:

Resolved, That immediately after the final disposition of the bill now the unfinished business the Senate take up for consideration Senate bill 4522, to amend the interstate-commerce act relative to liability of common carriers.

Mr. CUMMINS. Mr. President, I will explain the resolution by saying that it is the bill to which I referred some days ago and for which I asked unanimous consent for consideration at that time I do not believe it will require more than 20 minutes to dispose of the bill. It is a very important one. It is intended to relieve shippers of freight upon railways from the very unjust and burdensome rule which has been placed upon them since the decision of the Supreme Court in the case of Adams Express Co. against Groniger, and to remedy an obvious and acknowledged defect in what is known as the Carmack amendment, adopted in 1906.

I do not want to interfere in any way with procedure that will hasten the final disposition of the tolls bill, but I hope that I may have this bill considered immediately after it. I assure the Senate that there is nothing in the bill that will provoke any considerable debate; at least I believe there is nothing of the kind in it, because it is reported unanimously by the Interstate Commerce Committee, and I think if there had been any grave objection to it it would have been encountered in that committee.

Mr. SHAFROTH. Mr. President, I have had on the calendar a notice for two months that I would call up Senate joint resolution No. 10. While I do not want to interfere with the short discussion of any other measure, it seems to me that the Senator from Iowa could easily call up his bill after 1 o'clock and have consideration of it for a full hour. I would have no objection whatever to that course, but to substitute it for another measure and make it the order of business seems to me would not be the proper course in view of the notices which have been given.

Mr. CUMMINS. I am glad to have that suggestion from the Senator from Colorado, and I comply with it by asking unanimous consent to take up the bill for consideration now.

The VICE PRESIDENT. Is there objection?

Mr. THORNTON. Mr. President——

Mr. WALSH. I feel obliged to say to the Senator from Iowa that I have been very assiduously endeavoring to obtain for the bill S. 4405, popularly known as the radium bill, the parliamentary situation of unfinished business. I reiterate that these valuable lands belonging to the Government of the United States are being absorbed every day by what practically amounts to a monopoly of the production of radium in this country which is unloading its product upon the people at a cost from two to three times its real value, and that the Government hospitals, in order to keep pace with the private hospitals in the country and hospitals abroad managed and conducted by Governments, will be obliged to go out into the open market and purchase what we allow thus to be absorbed at what will eventually amount to something like $3,000,000 to the Government of the United States unless some speedy steps are taken to conserve this valuable resource.

Mr. CUMMINS. I did not hear the concluding suggestion of the Senator from Montana. Does he object?

Mr. WALSH. I shall feel impelled to bring this bill to the attention of the Senate at the very earliest opportunity; and much as I regret being put in that position, I shall be obliged to object to the consideration of any other measure before the radium bill is considered by the Senate.

Mr. CUMMINS. My present request is that the bill to which I have referred be now brought before the Senate. I am temporarily leaving my resolution out of the question. Does the Senator from Montana object to taking up at this time the bill to which I have referred?

Mr. WALSH. How much time does the Senator think the bill will occupy?

Mr. CUMMINS. I do not think there will be any debate at all upon it, and I do not believe that it will require more than 15 minutes; but, of course, that is only an opinion. If, however, the Senate grants me leave to have the bill taken up now, it could not continue very long; but I do not want that done if it will be unsatisfactory to the Senators who are to speak this morning upon the tolls bill. Of course, in no event could the consideration of the bill continue beyond 1 o'clock.

The PRESIDING OFFICER (Mr. BRANDEGEE in the chair). The Senator from Iowa asks unanimous consent for the present consideration of Senate bill 4522. Is there objection?

Mr. NEWLANDS. Mr. President, I have just entered the Chamber. Is the bill to which the Senator refers the one relating to bills of lading?

Mr. CUMMINS. It is a bill intended to restore the law as it was in most of the States prior to 1906, so that common carriers can not limit their liability.

The PRESIDING OFFICER. The Secretary will state the number and title of the bill.

The SECRETARY. It is Order of Business No. 346, being the bill (S. 4522) to amend an act entitled "An act to amend an act entitled 'An act to regulate commerce,' approved February 4, 1887, and all acts amendatory thereof, and to enlarge the powers of the Interstate Commerce Commission," approved June 29, 1906.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

Mr. NEWLANDS. Mr. President, as I entered the Chamber I was informed that the purpose of the Senator from Iowa was to have this bill in some way made the unfinished business.

Mr. CUMMINS. I have asked for unanimous consent to proceed with the consideration of the bill at this time. Of course, that will not make it the unfinished business.

Mr. NEWLANDS. I wish to say that as the trust bill will probably come up immediately after the tolls bill shall have been disposed of I shall be compelled to object to the consideration of any bill which will interfere with the consideration of that bill, but as it is believed this bill will only take a short time—and I share in that belief—I have no objection to the present consideration of the bill.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

Mr. KERN. Mr. President, before any consent of that kind is given we want some assurance that no considerable length of time will be occupied by the consideration of this bill. The Panama tolls bill is before the Senate as the unfinished business. It is highly desirable that that be given the right of way this week. If the bill referred to by the Senator from Iowa [Mr. CUMMINS] could be disposed of in a few moments in a formal way, I would not object; but I can not consent to anything that will take any considerable length of time, which would stand in the way of the Panama tolls bill.

Mr. CUMMINS. I repeat that I have never encountered any objection to the bill except from the representatives of the railroad companies. Whether the objection that was made to the bill by the railroad companies in the committee will appear in the Senate I do not know; but I believe that it will not. If it does not, it will require but a very few minutes to dispose of the bill.

Mr. KERN. With that understanding, I shall not object.

Mr. WILLIAMS. Mr. President——

The VICE PRESIDENT. Does the Senator from Iowa yield to the Senator from Mississippi?

Mr. CUMMINS. I yield to the Senator from Mississippi.

Mr. WILLIAMS. I do not know what bill it is unanimous consent for the consideration of which is asked. Therefore I am making objection to the bill independent of it. I think we ought to get a vote on the tolls bill before we open the Senate to the consideration of anything else. I therefore object.

Mr. CUMMINS. Now, Mr. President, I insist upon my resolution. I am, of course, conscious that a single objection will take it over one day, but I intend to insist upon it.

Mr. GALLINGER. Let the resolution be again read.

The VICE PRESIDENT. The resolution will be read.

The Secretary read the resolution (S. Res. 384), as follows:

Resolved, That immediately after the final disposition of the bill now the unfinished business the Senate take up for consideration Senate bill 4522, to amend the interstate-commerce act relative to liability of common carriers.

Mr. THORNTON. Mr. President, I would ask the Senator from Iowa if by that he expects to displace the naval appropriation bill? If so, I shall certainly oppose the resolution.

Mr. CUMMINS. The consequences of adopting this resolution every Senator knows as well as I. The Senator from Louisiana, however, must be conscious that the naval appropriation bill will in all probability be disposed of long before the tolls bill is voted on. I have no doubt that the appropriation bill will be very speedily voted upon, whereas the tolls bill will probably not be voted on until the latter part of this week, and perhaps not so soon as that. My resolution simply gives this bill a specific place after the disposition of the tolls bill.

Mr. THORNTON. Mr. President, at 1 o'clock automatically the Panama Canal tolls bill comes before the Senate, unless it is placed before it by unanimous consent prior to that time. Just as soon as the discussion of the Panama Canal tolls bill is finished for the day I shall be obliged to insist on bringing up the naval appropriation bill.

Mr. CUMMINS. This resolution does not interfere with that.

Mr. THORNTON. I do not know how long the consideration of the resolution will last.

Mr. CUMMINS. This resolution does not in any way interfere with the naval appropriation bill.

Mr. GALLINGER. Mr. President——

The VICE PRESIDENT. Does the Senator from Iowa yield to the Senator from New Hampshire?

Mr. CUMMINS. I yield to the Senator from New Hampshire.

Mr. GALLINGER. Mr. President, I have never known the unfinished business to be provided for by resolution. I have known a special order to be made which would give a day in court to a particular bill; but if we are to provide that after one unfinished business is disposed of another shall be taken up, we can see exactly what that will lead to. For that reason I must object to the consideration of the resolution for the day at least.

Mr. CUMMINS. Mr. President, my resolution does not make the bill referred to therein the unfinished business, nor does it attempt to do so.

The VICE PRESIDENT. There being objection, the resolution goes over for the day.

TRANSPORTATION OF PARCEL-POST PACKAGES.

The VICE PRESIDENT. The Chair lays before the Senate a resolution coming over from a preceding day, which will be read.

The Secretary read the resolution (S. Res. 363) submitted by Mr. SMITH of Georgia on May 14, 1914, as follows:

Whereas on August 24, 1912, a joint committee on postage on second-class mail matter and compensation for transportation of mails was authorized to investigate and report upon the rates, etc., paid to the railroad companies for the carriage of mail matter; and

Whereas the matter carried by the parcel post is of a character that can be handled in a different class of car and at cheaper rates than ordinary mail matter; and

Whereas it is of great importance that the Post Office Department should have an opportunity to readjust its contracts for mail transportation, with a view of providing economical and suitable accommodations for the transportation of parcel-post packages: Therefore be it

Resolved, That the joint committee on postage on second-class mail matter and compensation for transportation of mails be requested to

report at as early a day as possible the result of their investigations and their findings.

Resolved further, That the joint committee on postage on second-class mail matter and compensation for transportation of mails be requested to advise the Senate of the time at which they will be able to make their report.

Mr. SMITH of Georgia. Mr. President, I ask unanimous consent that the resolution may go over until Thursday next, without losing its position. It is possible that by that time it may be unnecessary to press it.

The VICE PRESIDENT. Without objection, the resolution will go over until Thursday next.

NEW YORK CENTRAL & HUDSON RIVER RAILROAD CO.

The VICE PRESIDENT. The Chair lays before the Senate a resolution coming over from a preceding day, which will be read.

The Secretary read the resolution (S. Res. 382) submitted by Mr. NORRIS on May 28, 1914, as follows:

Whereas the New York Central & Hudson River Railroad Co., through its ownership of the stock of the Lake Shore & Michigan Southern Railway Co., forms a continuous line of railway from Chicago, through Buffalo, to New York City; and

Whereas said New York Central & Hudson River Railroad Co. controls by lease the West Shore Railroad Co.; and the said Lake Shore & Michigan Southern Railway Co. owns the stock of the New York, Chicago & St. Louis Railroad Co. (Nickel Plate), which, together with the said West Shore Railroad Co., constitutes a railroad running parallel to the Lake Shore & Michigan Southern Railway Co. and the New York Central & Hudson River Railroad Co. from Chicago, through Buffalo, to New York City; and

Whereas the New York Central & Hudson River Railroad Co. owns the stock in the Michigan Central Railway Co., a line of railway extending from Chicago to Buffalo; and

Whereas said New York Central & Hudson River Railroad Co. owns the stock in the Western Transit Co. and the Rutland Transit Co., constituting a water-navigation line engaged in interstate commerce between Buffalo and Chicago and intermediate points; and

Whereas this ownership results in a combination under one control of four competing lines of transportation between Chicago and Buffalo and two competing lines between Buffalo and New York City; and

Whereas the said Lake Shore & Michigan Southern Railway Co., in addition to the ownership of the said New York, Chicago & St. Louis Railroad Co., owns all of the stock of the Toledo & Ohio Central Railway Co.; of the Chicago, Indiana & Southern Railroad Co.; and of the Jamestown, Franklin & Clearfield Railroad Co.; and also owns more than 50 per cent of the stock of the Pittsburgh & Lake Erie Railroad Co.; and

Whereas the said New York Central & Hudson River Railroad Co. controls the Western Maryland Railway Co., which, together with the said Pittsburgh & Lake Erie Railroad Co., constitutes another competing line between territory covered by the Lake Shore & Michigan Southern Railway Co. and the New York, Chicago & St. Louis Railroad Co. with the Atlantic seaboard; and

Whereas the said New York Central & Hudson River Railroad Co. is now taking the necessary steps to more completely consolidate all of the aforesaid railroads, together with others, under one ownership and control: Therefore be it

Resolved, That the Attorney General be, and he is hereby, directed to inform the Senate whether the various combinations of railroads above set forth are in violation of the Sherman antitrust law or any other statute of the United States, and whether the Department of Justice has in contemplation any action for the dissolution of said combinations.

The VICE PRESIDENT. The question is on the motion of the Senator from North Carolina [Mr. OVERMAN] to refer the resolution to the Committee on Interstate Commerce.

Mr. NORRIS. Mr. President, does the Senator from North Carolina insist upon his motion?

Mr. OVERMAN. I certainly do, Mr. President. I have examined the record and have noticed that when we were in the minority such resolutions were always referred to a committee, and I think this resolution should be referred to the Committee on Interstate Commerce. I do not care to say anything more about it; the resolution has been debated here at length.

Mr. NORRIS. I have no desire to debate it, and I am not going to do so; but on that motion I ask for the yeas and nays.

The yeas and nays were ordered, and the Secretary proceeded to call the roll.

Mr. CHILTON (when his name was called). I have a general pair with the senior Senator from New Mexico [Mr. FALL]. In his absence, I withhold my vote.

Mr. COLT (when his name was called). I have a pair with the Senator from Delaware [Mr. SAULSBURY] and therefore withhold my vote.

Mr. CRAWFORD (when his name was called). I have a general pair with the senior Senator from Tennessee [Mr. LEA] and withhold my vote in his absence.

Mr. THORNTON (when Mr. O'GORMAN's name was called). I am requested to announce the necessary absence of the junior Senator from New York [Mr. O'GORMAN].

Mr. SUTHERLAND. I have a pair with the Senator from Arkansas [Mr. CLARKE], who is absent. On that account I withhold my vote.

Mr. WILLIAMS (when his name was called). Transferring my pair with the senior Senator from Pennsylvania [Mr. PENROSE] to the senior Senator from Oklahoma [Mr. OWEN], I vote "yea."

The roll call was concluded.

Mr. WHITE. I wish to announce the absence of my colleague [Mr. BANKHEAD] from the city and his pair with the junior Senator from West Virginia [Mr. GOFF]. I ask that this announcement may stand for the day.

Mr. MYERS. I inquire if the Senator from Connecticut [Mr. MCLEAN] has voted?

The VICE PRESIDENT. The Chair is informed that he has not.

Mr. MYERS. I have a pair with that Senator; but I transfer that pair to the Senator from Oklahoma [Mr. GORE] and vote "yea."

Mr. BRYAN (after having voted in the affirmative). I have a pair with the junior Senator from Michigan [Mr. TOWNSEND], which I transfer to the junior Senator from Arkansas [Mr. ROBINSON] and allow my vote to stand.

Mr. CRAWFORD. I will transfer my pair with the senior Senator from Tennessee [Mr. LEA] to the junior Senator from California [Mr. WORKS] and vote "nay."

Mr. JAMES. I transfer the general pair I have with the Senator from Massachusetts [Mr. WEEKS] to the Senator from Maryland [Mr. LEE] and vote "yea."

Mr. GALLINGER. I have a general pair with the junior Senator from New York [Mr. O'GORMAN]. I transfer that pair to the senior Senator from North Dakota [Mr. MCCUMBER] and vote "yea."

I beg to announce that the junior Senator from Maine [Mr. BURLEIGH] is paired with the junior Senator from New Hampshire [Mr. HOLLIS]; that the Senator from Vermont [Mr. DILLINGHAM] is paired with the Senator from Maryland [Mr. SMITH]; that the Senator from Michigan [Mr. SMITH] is paired with the Senator from Missouri [Mr. REED]; that the Senator from Illinois [Mr. SHERMAN] is paired with the Senator from New Jersey [Mr. HUGHES]; and that the Senator from Delaware [Mr. DU PONT] is paired with the Senator from Texas [Mr. CULBERSON].

Mr. TILLMAN. I have a general pair with the Senator from Wisconsin [Mr. STEPHENSON]. I transfer that pair to the Senator from Tennessee [Mr. SHIELDS] and vote "yea."

Mr. GOFF. I have a general pair with the senior Senator from Alabama [Mr. BANKHEAD] and therefore withhold my vote.

Mr. GRONNA. I inquire if the senior Senator from Maine [Mr. JOHNSON] has voted.

The VICE PRESIDENT. The Chair is informed that he has not.

Mr. GRONNA. I have a general pair with that Senator. Not knowing how he would vote if present, I shall have to withhold my vote. Were I permitted to vote, I should vote "nay."

The result was announced—yeas 33, nays 20, as follows:

YEAS—33.

Brandegee	Martin, Va.	Shafroth	Tillman
Bryan	Myers	Shively	Walsh
Burton	Newlands	Simmons	Warren
Catron	Oliver	Smith, Ariz.	West
Clark, Wyo.	Overman	Smith, Ga.	White
Gallinger	Pittman	Stone	Williams
James	Pomerene	Swanson	
Lippitt	Ransdell	Thompson	
Lodge	Root	Thornton	

NAYS—20.

Ashurst	Clapp	Kern	Norris
Borah	Crawford	La Follette	Page
Brady	Cummins	Lane	Perkins
Bristow	Jones	Martine, N. J.	Sheppard
Chamberlain	Kenyon	Nelson	Sterling

NOT VOTING—42.

Bankhead	Gore	O'Gorman	Smith, S. C.
Burleigh	Gronna	Owen	Smoot
Chilton	Hitchcock	Penrose	Stephenson
Clarke, Ark.	Hollis	Poindexter	Sutherland
Colt	Hughes	Reed	Thomas
Culberson	Johnson	Robinson	Townsend
Dillingham	Lea, Tenn.	Saulsbury	Vardaman
du Pont	Lee, Md.	Sherman	Weeks
Fall	Lewis	Shields	Works
Fletcher	McCumber	Smith, Md.	
Goff	McLean	Smith, Mich.	

So the resolution was referred to the Committee on Interstate Commerce.

Mr. JONES subsequently said: Mr. President, it has occurred to me that I have a pair with the junior Senator from South Carolina [Mr. SMITH]. I inadvertently voted on the question of referring to the committee the resolution of the Senator from Nebraska [Mr. NORRIS]; but inasmuch as my vote would not change the result one way or the other, it can stand without any injury. I simply wish to make this statement in justice to myself.

MIGRATORY BIRD LAW.

Mr. BRYAN. Mr. President, I have a copy of a decision rendered by the district judge of the eastern district of Arkansas in the Federal migratory bird law case. I ask that it may be printed in the RECORD.

Mr. SMOOT. I will ask the Senator if this was not printed last week in the RECORD?

Mr. BRYAN. It was not. A brief account, setting forth the facts that the law had been held unconstitutional by this district judge, was printed. This is the text of the opinion.

Mr. SMOOT. It is the full text?

Mr. BRYAN. Yes.

There being no objection, the matter referred to was ordered to be printed in the RECORD, as follows:

United States *v.* Harvey C. Shauver. W. H. Martin, Esq., United States district attorney, and J. H. Acklen, of Nashville, Tenn., for the United States; E. L. Westbrook, of Jonesboro, Ark., for the defendant. Trieber, district judge.

The defendant demurs to the indictment in this cause, which charges him with a violation of that part of the appropriation act for the Department of Agriculture approved March 4, 1913 (37 Stat., 828, 847), known as the migratory birds provision, and the regulations made by the Department of Agriculture in pursuance thereof, and which have been approved by the President. That provision reads:

"All wild geese, wild swans, brant, wild ducks, snipe, plover, woodcock, rail, wild pigeons, and all other migratory game and insectivorous birds which in their northern and southern migrations pass through or do not remain permanently the entire year within the borders of any State or territory, shall hereafter be deemed to be within the custody and protection of the Government of the United States, and shall not be destroyed or taken contrary to regulations hereinafter provided therefor.

"The Department of Agriculture is hereby authorized and directed to adopt suitable regulations to give effect to the previous paragraph by prescribing and fixing closed seasons, having due regard to the zones of temperature, breeding habits, and times and line of migratory flight, thereby enabling the department to select and designate suitable districts for different portions of the country, and it shall be unlawful to shoot or by any device kill or seize and capture migratory birds within the protection of this law during said closed seasons, and any person who shall violate any of the provisions or regulations of this law for the protection of migratory birds shall be guilty of a misdemeanor and shall be fined not more than $100 or imprisoned not more than 90 days, or both, in the discretion of the court.

"The Department of Agriculture, after the preparation of said regulations, shall cause the same to be made public, and shall allow a period of three months in which said regulations may be examined and considered before final adoption, permitting, when deemed proper, public hearings thereon, and after final adoption shall cause the same to be engrossed and submitted to the President of the United States for approval: *Provided, however*, That nothing herein contained shall be deemed to affect or interfere with the local laws of the States and Territories for the protection of nonmigratory game or other birds resident and breeding within their borders, nor to prevent the States and Territories from enacting laws and regulations to promote and render efficient the regulations of the Department of Agriculture provided under this statute."

In pursuance of this authority, the Department of Agriculture has adopted suitable regulations, which have been approved by the President.

GROUND FOR DEMURRER.

That the National Constitution is an enabling instrument, and therefore Congress possesses only such powers as are expressly or by necessary implication granted by that instrument, is not questioned. Unless, therefore, there is some provision in the National Constitution granting to Congress, either expressly or by necessary implication, the power to legislate on this subject the act can not be sustained.

The deference due from the judiciary to the other coordinate departments of the Government has made the courts, when the constitutionality of an act of the legislative department is attacked, to yield rather than encroach on the legislative domain. Only if the question is practically free from real doubt will the courts declare an act of the legislature unconstitutional. The fact that the statute goes to the verge of the constitutional power is not enough; it must appear clearly that it is beyond that power to justify a court to declare it void. These principles are so well settled by an unbroken line of decisions of all the American courts that it is unnecessary to cite authorities to sustain them.

It is equally well settled that as to all internal affairs the States retained their police power, which they as sovereign nations possessed prior to the adoption of the National Constitution, and no such powers were granted to the Nation. (Cooley Const. Lim., 574; Patterson *v.* Kentucky, 97 U. S., 501–503; Covington, etc., Bridge Co. *v.* Kentucky, 154 U. S., 204, 310; United States *v.* Boyer (D. C.), 85 Fed., 425, 434.) But it is now equally well settled that the United States does possess what is analogous to the police power, which every sovereign nation possesses as to its own property (Camfield *v.* United States, 167 U. S. 518, 525), and to carry into effect those powers which the Constitution has conferred upon it. (In re Debs, 158 U. S., 564, 581; Light *v.* United States, 220 U. S., 523, 536; Hoke *v.* United States, 227 U. S., 308, 323.)

It is not claimed by counsel for the Government that the power to enact such legislation exists under the commerce clause of the Constitution, but it is claimed that subsection 2 of section 3, Article IV, of the Constitution, which is as follows, grants the necessary power:

"The Congress shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States; and nothing in this Constitution shall be so construed as to prejudice any claims of the United States or of any particular State."

IMPLIED ATTRIBUTE.

It is also claimed that it is one of those implied attributes of sovereignty in which the National Government has concurrent jurisdiction with the States; that it is a dormant right in the National Government, and where the State is clearly incompetent to save itself the National Government has the right to aid. To sustain the latter proposition stress is laid on the fact that it is impossible for any State to enact laws for the protection of migratory wild game, and only the National Government can do it with any fair degree of success, consequently the power must be national and vested in the Congress of the United States. A similar argument was presented to the court in Kansas *v.* Colorado (206 U. S., 46, 89), but held untenable. Mr. Justice Brewer, speaking for the court, disposed of it by saying:

"But the proposition that there are legislative powers affecting the Nation as a whole which belong to, although not expressed in the grant of powers, is in direct conflict with the doctrine that this is a Government of enumerated powers. That this is such a Government clearly appears from the Constitution, independently of the amendment, for otherwise there would be an instrument granting certain specified things made operative to grant other and distinct things. This is the natural construction of the original body of the Constitution, independently of the amendment, for otherwise there would be an instrument granting certain specified things made operative to grant other and distinct things. This natural construction of the original body of the Constitution is made absolutely certain by the tenth amendment. This amendment, which was seemingly adopted with prescience of just such a contention as the present, disclosed the widespread fear that the National Government might, under the pressure of a supposed general welfare, attempt to exercise powers which had not been granted. With equal determination the framers intended that no such assumption should ever find justification in the organic act, and that if in the future further powers seemed necessary, they should be granted by the people in the manner they had provided for amending that act. Its principal purpose was not the distribution of power between the United States and the States, but a reservation to the people of all powers not granted."

This disposes of that contention.

Are migratory birds, when in a State on their usual migration, the property of the United States or of the State where they are found? If they are the property of the Nation, the States would have no power to regulate, control, or prohibit the hunting or killing of them. But the rule of law, which all the American courts have recognized, is that animals feræ naturæ, denominated as game, are owned by the States, not as proprietors, but in their sovereign capacity as the representatives and for the benefit of all their people in concern. This principle has not only been maintained by all the highest courts of the States in which the question has arisen, but has had the approval of the Supreme Court of the United States in every case which has come before it. (Martin *v.* Waddell, 6 Pet., 367; McCready *v.* Virginia, 94 U. S., 391; Smith *v.* Maryland, 18 How., 71, 74; Manchester *v.* Massachusetts, 139 U. S., 240, 358; Lawton *v.* Steele, 152 U. S., 133; Geer *v.* Connecticut, 161 U. S., 519; The Abby Dodge, 223 U. S., 166.)

DECISIONS CITED.

In McCready *v.* Virginia it was said:

"In like manner the States own the tidewaters themselves and the fish in them, so far as they are capable of ownership while running. For this purpose the State represents its people, and the ownership is that of the people in their united sovereignty."

It is true that this quotation was not absolutely necessary for the determination of the issues in that case, but the question of ownership of the fish in tidewater was indirectly involved, and the learned chief justice who delivered the opinion of the court evidently deemed it necessary to determine it.

In Manchester *v.* Massachusetts a statute of Massachusetts regulating the fishing of menhaden in Buzzards Bay was involved, and it was there held:

"We think it must be regarded as established that as between nations the minimum limit of the territorial jurisdiction of a nation over tidewaters is a marine league from its coast; that bays wholly within its territory not exceeding 2 marine leagues in width at mouth are within this limit; and that included in this territorial jurisdiction is the right of control over fisheries, whether the fish be migratory, free-swimming fish, or free-moving fish, or fish attached to or imbedded in the soil."

In that case the court also quoted with approval from Dunham *v.* Lamphere, 3 Gray, 268:

"That in the distribution of powers between the General and State Governments the right to the fisheries and the power to regulate the fisheries on the coast and in the tidewaters of the State were left by the Constitution of the United States with the States, subject only to such powers as Congress may justly exercise in the regulation of commerce, foreign and domestic."

In Martin *v.* Waddell, after a careful review of the English authorities, it was expressly held that "the public common or piscary belongs to the people in their united sovereignty, and the State holds it in trust for them."

Geer *v.* Connecticut may well be considered the leading case on this subject, as it reviews very learnedly all the law pertaining thereto. Mr. Justice White (now Mr. Chief Justice) reviewed not only the law as it existed under the common law, but under the laws of Solon, the law as it is found in the Institute of Justinian, the Civil and Salic Law, and the Code of Napoleon, and sustained a statute of the State of Connecticut prohibiting the killing of certain game at any time when intended to be conveyed beyond the limits of the State. After reviewing all the authorities, the learned justice summarized the law as follows:

"The foregoing analysis of the principles upon which alone rests the right of an individual to acquire a qualified ownership in game and the power of the State deducible therefrom to control such ownership for the common benefit, clearly demonstrates the validity of the statute of the State of Connecticut here in controversy. The sole consequence of the provision forbidding the transportation of game killed within the State beyond the State is to confine the use of such game to those who own it, the people of that State."

AS TO CONSTITUTIONALITY.

In Sils *v.* Hesterberg (211 U. S., 31) the constitutionality of the New York statute prohibiting the possession of game at certain times was attacked as violative of the National Constitution. That the State was the owner of all the game in the State, whether migratory or not, was not questioned by those attacking the statute, but it was claimed that the State had no power to prohibit the possession of game in the closed season when imported from a foreign country or another State where the killing is not prohibited. The statute was sustained as a proper exercise of the police power to protect the game in the interest of the food supply of the people of that State.

In the Abby Dodge case the principles laid down in the McCready case, that "each State owns the beds of all tidewaters within its jurisdiction unless they have been granted away; also the tidewaters themselves and the fishes in them, so far as they are capable of ownership while running," is reaffirmed.

In Judson on interstate commerce, section 11, the author states the law to be:

"Thus the wild game within a State at common law belongs to the sovereign, and in this country to the people in their collective capacity, and the State therefore has a right to say that it shall not become the subject of commerce."

Even after the game has been reduced to possession there is but a qualified ownership in it, subject to the control of the State. Phelps v. Racey (60 N. Y., 10); Commonwealth v. Savage (155 Mass., 278); Organ v. State (56 Ark., 270); State v. Geer (69 Conn., 144, affirmed in 161 U. S., 519); State v. Northern Pacific Express Co. (58 Minn., 403); State v. Rodman (58 Minn., 393; American Express Co. v. Peoples (133 Ill., 649); ex parte Mayer (103 Cal., 476); People v. Collison (85 Mich., 105); in re Deininger (108 Fed. (C. C.), 623).

The act of Congress of May 25, 1900, chapter 553 (31 Stat., 188), known as the Lacey Act, the constitutionality of which has been sustained—Rupart v. United States (181 Fed., 104; C. C. A., 255)—in effect legalizes the statutes of the States for the control of wild game within their borders whether migratory or not. People v. Hesterberg (184 N. Y., 126).

The claim that the migratory birds are the property of the United States must therefore be held untenable.

It is also argued that Congress has frequently exercised the power to regulate matters which could only have been done under the general police power, and the validity of these acts when attacked as beyond the power of Congress has been upheld. Counsel refers to the lottery acts, the antitrust acts, the national railway legislation, the safety-appliance act, the quarantine laws, the pure food and drugs act, the act regulating mailable articles, and other acts of similar nature. But every one of these acts was upheld under some provision of the Constitution, either that of the Post Office Department, the commerce clause, the taxing power, or some other grant. Whenever Congress or the head of a department went beyond that power, as by including intrastate carriage with interstate, the acts were declared unconstitutional. Trade-mark cases (100 U. S., 92); Illinois Central Railway Co. v. McKendree (203 U. S., 514). The Employees' Liability cases (207 U. S., 463).

It may be, as contended on behalf of the Government, that only by national legislation can migratory wild game and fish be preserved to the people, but that is not a matter for the court. It is the people who alone can amend the Constitution to grant Congress the power to enact such legislation as they deem necessary. All the courts are authorized to do when the constitutionality of legislative acts is questioned is to determine whether Congress, under the Constitution as it is, possesses the power to enact the legislation in controversy; their power does not extend to the matter of expediency. If Congress has not the power, the duty of the court is to declare the act void. The court is unable to find any provision in the Constitution authorizing Congress, either expressly or by necessary implication, to protect or regulate the shooting of migratory wild game when in a State, and is therefore forced to the conclusion that the act is unconstitutional. The demurrer to the indictment will be sustained.

TRIEBER, *Presiding Judge.*

ADDRESS BY SENATOR SMOOT (S. DOC. NO. 487).

Mr. OVERMAN. I ask to have printed as a document the address delivered by the senior Senator from Utah [Mr. SMOOT] at the memorial exercises held on Saturday last at Arlington, Va.

The VICE PRESIDENT. Without objection, that action will be taken.

THE LAW OF PARDON.

Mr. CHAMBERLAIN. I desire to present and ask for the publication as a public document of a little work by Prof. James D. Barnett, professor of political science at the University of Oregon, on the subject of the law of pardon. I ask that it be referred to the Committee on Printing.

The VICE PRESIDENT. It will be referred to the Committee on Printing.

DEMOCRATS MUST PROGRESS.

Mr. NEWLANDS. I ask that an article from the News-Scimitar, of Memphis, Tenn., entitled "Democrats must progress," upon the subject of the importance of taking up constructive legislation with reference to the development of our rivers, may be printed in the RECORD. It is only half a column in length.

Mr. GALLINGER. What did I understand the Senator to say was the title—"Democrats must progress"?

Mr. NEWLANDS. "Democrats must progress." It dwells upon the importance of taking up constructive measures with reference to the development of our rivers.

Mr. GALLINGER. Mr. President, if there is any hope in that direction, the document ought to be printed. [Laughter.]

The VICE PRESIDENT. Is there any objection? The Chair hears none, and the article on progress will be printed.

The matter referred to is as follows:

DEMOCRATS MUST PROGRESS.

Is the future of the national Democratic Party assured? Will the tariff law so reduce the cost of living as to win the plaudits of the masses for the now dominant party? Will the currency law so readjust individual opportunity as to reduce or abate the complained-of evils of concentrated wealth? Or does the great piece of constructive legislation upon which the Democratic Party must rely for continued success at the polls yet remain to be enacted?

These questions more and more are arising in the public mind, and the time for the well-wishers of the party to answer them is now, not after the issue has been drawn and the voters are on their way to the polls.

It is, of course, too early to know with precision what the effect of the tariff law is to be. Democrats generally believe it will do far more good than harm. Republicans generally believe it will do more harm than good. Time alone can settle the issue.

The currency law, by reason of the action of the committee in the placing of the regional reserve banks, has, at the inception of its application, developed much antagonism in various cities.

The President's policy with reference to the Panama Canal tolls question is opposed by many Democrats and Republicans alike.

So it would seem, on the face of the returns thus far, that the future of the party is not yet assured; that the piece of constructive legislation on which the country as a whole can agree is nationally beneficial in a great, big way is yet to be made a law.

The building of the Panama Canal made Roosevelt.

The scientific development of the natural resources of the United States will make Wilson. President Wilson probably appreciates this opportunity, but the Senators and Representatives, as a body, do not as yet seem to have awakened to the fact.

The problems of forestry, soil protection, irrigation, power development, water pollution, and inland navigation are closely linked with the problems of national drainage and flood prevention. The platform pledges of the Democratic Party cover these problems. The public need is urgent. There are vast areas of fertile lands to be protected against overflow; other vast areas need the waters that now go to waste in floods; hydroelectric power development must be depended on more and more as a potential economy of national endeavor.

These problems have been studied scientifically and intelligently by advanced thinkers during many years past, and the thought of such men has been given expression in a splendidly constructive measure known as the Newlands-Broussard river regulation and flood prevention bill. That bill is now awaiting action by Congress.

Its purpose is to give the scientific bureaus of the Federal Government the authority to initiate plans and projects, and the money and power to carry them out, for the control of the drainage of the country, thus relieving drought-menaced and flood-menaced sections, checking soil erosion, correcting the underground water supply, and at the same time developing an enormous continuing national asset of timber, of power, and of inland all-the-year navigable waterways.

Such legislation will live as a perpetual monument to the wisdom of the political party securing it. The toilers of the land will learn to appreciate its benefits more and more. The prosperity of the Nation will increase as a result of it.

The welfare of the country requires such legislation.

So it would seem the part of wisdom for the party in power to enact it with no more delay than is necessary and rest its hope for the future thereon.

THE MISSISSIPPI RIVER (S. DOC. NO. 486).

Mr. NEWLANDS. Mr. President, I ask unanimous consent for the immediate consideration of Senate resolution 358, which has been reported favorably by the Committee on Printing, providing for the publication as a Senate document of an article by Mr. Barnett E. Moses, entitled "The Problem of the Mississippi River." The cost of the printing will be $36.98, and the cost of each additional thousand copies will be $4.00. I ask that the resolution be amended so as to provide for the printing of 5,000 copies.

Mr. BURTON. May I ask the Senator from Nevada whether this document has been already printed, and whether this is an additional edition?

Mr. NEWLANDS. No; it has not been printed. It is a very excellent article.

Mr. BURTON. Who is the author or writer?

Mr. NEWLANDS. Mr. Barnett E. Moses, of the Memphis bar. This is a very able article, relating to "The Problem of the Mississippi River," and I have received numerous requests that it be printed as a public document.

Mr. BURTON. What is it about—the improvement of the river for navigation?

Mr. NEWLANDS. Yes.

Mr. BURTON. Or the matter of protection against floods?

Mr. NEWLANDS. The improvement of the river for navigation and also for the conservation of the adjoining lands.

The VICE PRESIDENT. Is there any objection to the present consideration of the resolution? The Chair hears none.

The Senate, by unanimous consent, proceeded to consider the resolution.

Mr. NEWLANDS. I move to amend the resolution by inserting the words "5,000 copies of."

The VICE PRESIDENT. The amendment will be stated.

The SECRETARY. It is proposed to amend the resolution by inserting, in line 1, after the word "That," the words "5,000 copies of," so as to make the resolution read:

Resolved, That 5,000 copies of the manuscript submitted by Mr. NEWLANDS on March 5, 1914, entitled "The Problem of the Mississippi River," by Mr. Barnett E. Moses, of the Memphis bar, be printed as a Senate document.

The amendment was agreed to.

The resolution as amended was agreed to.

PANAMA CANAL TOLLS.

Mr. THORNTON. I ask unanimous consent that the unfinished business, the Panama Canal tolls bill, may be taken up for consideration.

There being no objection, the Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 14385) to amend section 5 of an act to provide for the opening, maintenance, protection, and operation of the Panama Canal and the sanitation of the Canal Zone, approved August 24, 1912.

Mr. CATRON. Mr. President, by agreement with the junior Senator from Rhode Island [Mr. COLT], I will waive the com-

mencement of my remarks at the present time so that he may deliver an address which he says probably will not exceed 30 minutes; and by an understanding between him and myself and the junior Senator from Nevada [Mr. PITTMAN] we will defer to that Senator in order that he may introduce an amendment to the bill and submit a few remarks thereon. I wish to have it understood, however, that I do not lose my right to proceed at the close of the remarks of the junior Senator from Rhode Island.

Mr. PITTMAN. I offer an amendment which I ask to have read.

The VICE PRESIDENT. The Secretary will read the amendment.

The SECRETARY. Add a new section, as follows:

SEC. 3. The President of the United States may at any time by proclamation reduce the rate of tolls to be paid by vessels engaged in the coastwise trade of the United States passing through the Panama Canal, or may exempt such vessels from the payment of any tolls, when he is satisfied that such act is advisable for the purpose of securing or maintaining entire equality in the use of the canal and of preventing discrimination against such coastwise vessels: *Provided*, That neither the passage of this act nor anything therein contained shall be construed to waive or impair any treaty or other right possessed by the United States.

Mr. PITTMAN. Mr. President, by the courtesy of the Senator from New Mexico [Mr. CATRON] and the Senator from Rhode Island [Mr. COLT] I have been allowed just a few minutes to make a brief statement. It will take me only about two minutes.

I offer this amendment for the purpose of enabling the President at all times and under every condition to protect the subjects of all nations, including the subjects of the United States, in the use of the canal "on terms of entire equality, so that there shall be no discrimination against any such nation, or its citizens or subjects," as stated in the Hay-Pauncefote treaty.

The following is submitted in support of the amendment:

First. The treaty does not prescribe that the ships of all nations shall be charged the same rate of tolls, but, on the contrary, provides that the terms shall be such "that there shall be no discrimination."

Two. It is the duty of both parties to the treaty to prevent discrimination in favor of the citizens of either in the use of the canal.

Third. If the exemption from payment of tolls of coastwise vessels passing through the canal would be a discrimination against vessels of British subjects paying the tolls, then it must follow that if the vessels of both countries were required to pay tolls, and Great Britain repaid the amount of such tolls to its subjects and the United States did not repay the amount of such tolls to its citizens, there would be a discrimination in favor of the vessels of the subjects of Great Britain and against the vessels of the citizens of the United States to the amount of the tolls so charged. It is immaterial by whom such tolls were paid so long as not paid by the subjects owning or operating such vessels or charged with such expense. The fact would remain that the vessels of the subjects of Great Britain would be under less burden in passing through the canal, and to such extent would have an advantage over the citizens of the United States.

Fourth. If the vessels of the subjects and citizens of both countries should pay the same rate of tolls, then "entire equality" could only be preserved and "discrimination" prevented by the same rate of refund or subsidy made or granted by both of such countries to its citizens.

Fifth. Great Britain can bring about this equality and eliminate such discrimination by not subsidizing its vessels passing through the canal. The United States, being opposed to direct subsidies, can only secure such equality by reducing the tolls on the vessels of its citizens by an amount equal to the subsidy received by the subjects of Great Britain, or increasing the rate of tolls to be paid by such subsidized vessels, or by preventing subsidized vessels from passing through the canal.

If Great Britain repaid its subjects in the form of a subsidy the full amount of the tolls paid by them, then the United States to avoid such discrimination would be compelled to exempt its citizens from the payment of any tolls. If the British subsidy should be equal to only one-half of such tolls, then the reduction of tolls to citizens of the United States should be only one-half, so the equality could be maintained.

Sixth. If this construction of the treaty is adopted it is unnecessary to determine at this time the many other vexing and doubtful questions, such as whether or not the United States is included in the description "all nations" or whether or not the word "vessels" used in the treaty includes vessels engaged in the coastwise trade. Without admitting that we have no right to exempt our coastwise vessels, we require such vessels to pay tolls until the President is satisfied that such payment is an unjust burden or permits a discrimination against citizens of the United States.

Seventh. This procedure is fully sustained by legislative precedents. By the Payne-Aldrich tariff law the President was authorized to collect the maximum tariff from any country which unduly discriminated against the United States or the products thereof or paid export bounty or export duty or prohibited exportation of articles to the United States, so as to unduly discriminate against the United States or its products, and in the absence of such discriminations to reduce the maximum tariff 25 per cent.

By the Underwood-Simmons tariff law power of protection against such discrimination was granted in the following language:

That whenever any country, dependency, colony, province, or other political subdivision of government shall pay or bestow, directly or indirectly, any bounty or grant upon the exportation of any article or merchandise from such country, dependency, colony, province, or other political subdivision of government, and such article or merchandise is dutiable under the provisions of this act, then upon the importation of any such article or merchandise into the United States, whether the same shall be imported directly from the country of production or otherwise, and whether such article or merchandise is imported in the same condition as when exported from the country of production or has been changed in condition by remanufacture or otherwise, there shall be levied and paid in all such cases, in addition to the duties otherwise imposed by this act, an additional duty equal to the net amount of such bounty or grant, however the same be paid or bestowed.

Mr. CATRON. I yield for the present to the Senator from Rhode Island [Mr. COLT].

Mr. COLT. I thank the Senator from New Mexico.

Mr. President, I am in favor of the repeal of the free-tolls provision of the Panama Canal act because I believe that law places us in an indefensible position before the nations of the world in regard to our treaty obligations; because I believe that the law violates the meaning and intent of the Hay-Pauncefote treaty; and because I think that, independent of any treaty, the Panama Canal, like the Suez Canal, should be free and open in time of peace to the vessels of all nations on terms of entire equality.

The vital question in dispute under the Hay-Pauncefote treaty is the question of equality of treatment of all vessels passing through the canal, and by this free-tolls provision we have, arbitrarily and without submitting the question to arbitration, made inequality of treatment the law of the land. In a great international controversy, in which the whole world takes the deepest interest, we have entered judgment in our own favor without the consent of the other party and without giving the other party an opportunity to be heard.

We have taken this action notwithstanding the fact that a treaty is a solemn contract between independent nations, that its obligations are equally binding upon each of the high contracting parties, and that the fulfillment of these obligations rests alone upon honor and good faith.

We have taken this action notwithstanding the fact that where a treaty, owing to the inherent imperfection of language, is capable of two interpretations, and honest differences arise between the contracting parties as to which is the proper interpretation. The United States, in the interest of peace and good will among nations, has been the foremost advocate and champion of the principle that these differences should be submitted to arbitration; and that owing largely to our efforts this principle of arbitration has become an established canon of international law.

We have taken this action notwithstanding the fact that conflicting and irreconcilable differences of opinion exist as to the true interpretation of the Hay-Pauncefote treaty; and that under one interpretation this exemption is a violation of the treaty, and that under another interpretation it is not a violation.

We have taken this action notwithstanding the fact that the legal effect of this exemption is to modify or change the treaty according to the interpretation of the other contracting party.

We all know the legal effect of a later statute upon a treaty. Under the Constitution of the United States, statutes and treaties made in pursuance thereof are the supreme law of the land. Statutes are made by the President, the Senate, and the House of Representatives. Treaties are made by the President and the Senate. Statutes are therefore of equal, if not of greater, authority than treaties. It follows that treaties may be modified, changed, or repealed by acts of Congress. When a treaty and a later statute relate to the same subject the statute will control because it is the later expression of the will of Congress, the effect being that the statute then becomes the supreme law of the land, notwithstanding it may violate the terms of a treaty.

Head Money cases (112 U. S., 590, 599), Whitney *v.* Robertson (124 U. S., 190, 194, 195), and United States *v.* Lee Yan Tai (185 U. S., 213, 221).

In Whitney against Robertson the court said:

In Head Money cases it was objected to an act of Congress that it violated provisions contained in treaties with foreign nations, but the court replied that, so far as the provisions of the act were in conflict with any treaty, they must prevail in all the courts of the country; and after a full and elaborate consideration of the subject it held that, "so far as a treaty made by the United States with any foreign nation can be the subject of judicial cognizance in the courts of this country, it is subject to such acts as Congress may pass for its enforcement, modification, or repeal."

It is clear, then, that if the Hay-Pauncefote treaty and this statute should come before the Supreme Court for adjudication, the court must enforce the statute, although it conflicts with the treaty. What we have done, in legal effect, so far as the United States is concerned, is to insert in rule 1 of article 3 of the Hay-Pauncefote treaty the words, "No tolls shall be levied upon vessels engaged in the coastwise trade of the United States," and to make these words controlling; and we have done this without the consent of Great Britain and against her protest.

What we have done has been to settle the vital question in controversy under the Hay-Pauncefote treaty in our own favor by legislation instead of submitting the question to arbitration.

We stand before the world to-day in the case of this great international treaty of refusing to arbitrate and of substituting legislation. I believe this position is indefensible. I believe it is a violation of our treaty obligations toward Great Britain. I believe that it places us in a wrong position before the nations of the world with respect to treaty obligations. I believe this policy is destructive of the whole principle of arbitration, and I believe that the only honorable thing for the United States to do, before taking any other action, is to repeal this law.

Mr. President, the Hay-Pauncefote treaty presents a conflict between the rule of equality and the rule of inequality in the operation of the Panama Canal, and this conflict arises from two different interpretations of the treaty.

Under one interpretation equality is the controlling principle. Under the other interpretation ownership or sovereignty is the controlling principle.

Under one interpretation the canal must be free and open to the vessels of all nations on terms of equality. Under the other interpretation the canal must be free and open to the vessels of all nations on terms of equality, except the United States.

Under one interpretation the United States, being bound by this rule of equality, can not discriminate in favor of her own vessels. Under the other interpretation the United States, not being bound by this rule, can impose any terms she pleases on the passage of her own vessels through the canal. Under one interpretation this is an interoceanic canal open to the vessels of all nations on terms of equality. Under the other interpretation this is an American canal, to be operated for the benefit of the American people.

In seeking for the true interpretation of the Hay-Pauncefote treaty we must ever keep in mind certain facts: The treaty relates to an isthmian canal connecting the Atlantic and Pacific Oceans. The United States and Great Britain had made a former treaty relating to such a canal, known as the Clayton-Bulwer treaty. This was a treaty between Great Britain and the United States as mere users of the canal, under which they entered into an agreement of joint protection, neutralization, and absolute equality of rights. This treaty was made in 1850, and was succeeded by the Hay-Pauncefote treaty in 1901.

The only other interoceanic canal in the world in 1901 was the Suez Canal. In 1888 the owners and the territorial sovereigns of the Suez Canal entered into an agreement as to the rules which should govern the use of this canal. These rules related to equality of treatment of all vessels and to neutralization.

Under the Hay-Pauncefote treaty the United States passed from the position of mere user under a former treaty to a position of owner, and in a provision inserted late in the final draft of the treaty to the possible position of territorial sovereign; and to-day the United States has realized everything which was possibly contemplated by the Hay-Pauncefote treaty. She has become in fact the builder, the owner, and the territorial sovereign of this interoceanic canal.

Bearing in mind these facts the question of the proper interpretation of the Hay-Pauncefote treaty resolves itself into this inquiry: Did the United States in 1901 contract to abide by the rule of equality and substantially the rules of neutralization adopted in the case of the Suez Canal, or did she except herself from these rules and only agree to apply them to other nations?

In determining this question it is necessary that we should look at the conditions which existed at the time since the parties were only dealing with existing conditions.

It is not right, first, to fill our minds with the ideas of ownership, sovereignty, the enormous cost of the canal, transcontinental railroads, subsidies, and party platforms, and then to turn our eyes upon this treaty and see if by some possible construction we can not exclude the United States from the basic rule of equality.

We have before us simply a contract made in 1901, and the only question is what did the parties agree to at that time, and not what would the United States agree to in 1914.

The present controversy turns upon the proper construction of rule 1 of article 3 of the treaty:

ART. 3. The United States adopts, as the basis of the neutralization of such ship canal, the following rules, substantially as embodied in the convention of Constantinople, signed the 28th October, 1888, for the free navigation of the Suez Canal, that is to say:

RULE 1. The canal shall be free and open to the vessels of commerce and of war of all nations observing these rules, on terms of entire equality, so that there shall be no discrimination against any such nation, or its citizens or subjects, in respect of the conditions or charges of traffic, or otherwise. Such conditions and charges of traffic shall be just and equitable.

The battle ground of contention is over the meaning of the words "all nations" in rule 1, and the vital question in dispute is whether "all nations" mean all nations including the United States or all nations excluding the United States.

Now, it is true that "all nations" may be so interpreted as to include or exclude the United States. Let us turn for a moment to these two interpretations.

One interpretation is that in reading rule 1 the natural and common-sense meaning of the rule is that "all nations" means all nations, and not all nations except the United States; and this seems clearly to be the meaning when rule 1 is read in connection with the introductory paragraph of article 3, which immediately precedes, in which the United States "adopts"—that is, takes as its own—the "following rules."

There is, however, another interpretation which may be given to this rule and to the words "all nations." If you start with the idea of ownership by the United States and supplement this with the words "observing these rules," and with the words "such nation" following a little later, it is not difficult to reach the construction that this is the case of a proprietor of a canal agreeing to terms of equality with respect to his customers or the users of the canal, and that this in no way binds the proprietor himself to these terms, and, hence, that "all nations" mean all other nations and do not include the United States.

While this is a possible construction of rule 1, it seems strained, and when you consider that the words "observing these rules" were not in the first draft of the treaty and were put there at the instance of Great Britain for a special reason, not material to this inquiry, the interpretation that "all nations" do not include the United States becomes still more artificial.

Looking at this question from the standpoint of 1901 and not of 1914, and remembering that on the face of the treaty the minds of the contracting parties met on the basis of the Suez convention, I think that the surrounding conditions and circumstances demonstrate beyond a reasonable doubt that it was the intention of the parties to include the United States in the rule of equality, and that "all nations" in rule 1 includes the United States. Let me summarize these facts:

First. The free and equal use of navigable channels and waterways has been the traditional policy of the United States for more than 100 years, as shown in the recent notable speech of the senior Senator from Ohio [Mr. BURTON].

Second. The free and equal use of an isthmian canal connecting the Atlantic and Pacific Oceans by all nations on terms of absolute equality has been the settled and uniform policy of the United States for more than 80 years.

The evidence on this point is overwhelming. It is found in presidential messages, instructions by Secretaries of State, resolutions by both Houses of Congress, and in treaties. We may here cite several of these expressions:

The free and equal right of navigating such canal to all such nations on the payment of such reasonable tolls.

To secure to all nations the free and equal right of passage over the Isthmus.

Construction of a great highway dedicated to the use of all nations on equal terms.

For the benefit of mankind on equal terms for all.

Must be for the world's benefit—a trust for mankind.

We may well close these few citations with a quotation from Secretary Blaine's letter to Mr. Lowell:

Nor does the United States seek any exclusive or narrow commercial advantage. It frankly agrees, and will by public proclamation declare at the proper time, in conjunction with the Republic on whose soil the canal may be located, that the same rights and privileges, the same tolls and obligations for the use of the canal, shall apply with absolute impartiality to the merchant marine of every nation on the globe.

Third. For 50 years, from 1850 to 1901, the United States and Great Britain were bound together by a treaty relating to an Isthmian Canal, the basic principle of which was the rule of

equality in respect to the ships, citizens, and subjects of both countries; and this general principle was carried into the preamble of the Hay-Pauncefote treaty as a guide for its interpretation.

Fourth. The United States—and this is the most vital fact of all—adopted in the Hay-Pauncefote treaty the rule of equality of the Suez Convention, of 1888. This was an agreement between Great Britain and the other European powers who owned the Suez Canal, and Turkey and Egypt, the territorial sovereigns, by which they all bound themselves to the rule of equality as to the vessels of all nations passing through the canal.

Here was the only analogy which the contracting parties had to go by. Here was the only interoceanic canal in the world, and the owners and territorial sovereigns had agreed that all nations should be treated on terms of absolute equality; and we find this basic rule carried into the Hay-Pauncefote treaty as Rule 1. Is it conceivable that Great Britain understood that the United States, the prospective builder, owner, and possible territorial sovereign of another interoceanic canal, excepted herself from this rule of equality in the Hay-Pauncefote treaty? The owners and territorial sovereigns of the only existing interoceanic canal had voluntarily agreed, in the interests of commerce and civilization, to include themselves in this rule of equality, and could the United States do less with respect to its projected interoceanic canal? And is it not incredible that Great Britain, with the Clayton-Bulwer treaty still in force with its basic rule of equality, should have consented to the making of a new treaty in which the United States was to be exempted from the rule? And is it not perfectly natural that the American negotiators, having in mind the settled policy of the United States in regard to an Isthmian Canal, and having before them the Clayton-Bulwer treaty, and having also before them what Europe had done with respect to the Suez Canal, should have agreed to adopt the same rule of equality in respect to our Isthmian Canal?

Fifth. But in addition to all this we have the positive testimony of Mr. Choate and Mr. White, two of the American negotiators, that the United States was included in the rule of equality, that this was the basic principle which Great Britain insisted upon during all of the negotiations, and that this rule "excludes the possibility of exemption of any kind of vessels of the United States."

This chain is complete. There is no weak link in it, and the mind is convinced beyond a reasonable doubt that if we construe the Hay-Pauncefote treaty according to the intent of the contracting parties the United States was included in the words "all nations" and bound herself to observe the basic rule of equality.

There is another, but far less fundamental, contention in regard to the Hay-Pauncefote treaty.

It is claimed that "vessels of commerce," in rule 1, do not include coastwise vessels, and nothing in support of this proposition can be added to the argument of the junior Senator from New York [Mr. O'GORMAN] in his recent speech. This contention, however, rests on the arbitrary rule of international law that the term "vessels of commerce" in treaties is always understood to exclude coastwise vessels. If this is an inflexible rule to which there can be no exception, it is difficult to reconcile it with the fact that the United States and Great Britain, in numerous treaties, have been careful specifically to exclude coastwise vessels.

Furthermore, I do not think this is an absolutely inflexible rule that must be applied to all treaties. I believe the true rule is that each treaty should be considered by itself in order to determine this question.

Now, the Hay-Pauncefote treaty relates to a great interoceanic canal; it relates to oceans and continents, and not to rivers, bays, and coast lines, and I think that the broad rule of equality, which is the foundation stone of this treaty, was intended to embrace every vessel flying any flag which passes through this canal. I believe that in the contemplation of this treaty all vessels are over-seas vessels.

If, then, all vessels passing through this canal are over-seas vessels and are included in this class, it is plain that American coastwise vessels are over-seas vessels within the meaning of this treaty, and hence that the exemption of these coastwise vessels would operate as a discrimination against the vessels of other nations. The rule laid down by the Supreme Court in Olsen *v.* Smith (195 U. S., 332) was based entirely upon the proposition that the exemption in that case did not operate as a discrimination, and that case therefore has no application, in my opinion, to the Hay-Pauncefote treaty.

The Hay-Pauncefote treaty as originally framed was a contract between the United States as the prospective builder and proprietor of an isthmian canal and Great Britain, by which the United States agreed to adopt the basis rule of equality in the operation of the canal. This was the first draft of the treaty, and no changes in the subsequent draft in any way affected this rule of equality.

There was, however, an amendment inserted in the final draft which is of great importance. The first draft was dated in 1900, and in October, 1901, just before the final draft was submitted, this provision was added:

ART. 4. It is agreed that no change of territorial sovereignty or of the international relations of the country or countries traversed by the before-mentioned canal shall affect the general principle of neutralization or the obligation of the high contracting parties under the present treaty.

Under this provision the United States passes from a prospective proprietor of a canal to a prospective sovereign of the territory on which the canal is built, and this covenant binds the United States to the obligations of the treaty in case she should ever become the territorial sovereign.

The United States had already bound herself as builder and owner, and she now binds herself as territorial sovereign, just as Turkey and Egypt bound themselves as territorial sovereigns in the Suez convention of 1888.

But this covenant did not extend any further than the obligations mentioned in the treaty comprising the rules of equality and neutralization. All her other rights of sovereignty were preserved and are now preserved to the United States just as much as the rights of sovereignty are preserved to Turkey and Egypt under articles 10 and 13 of the Suez convention.

Mr. President, when you have found that an interpretation of a contract agrees with the intention of the parties, all its parts will harmonize with that interpretation. And this is true in the Hay-Pauncefote treaty; every part of it, the preamble, the body of the treaty, and the end, are found to harmonize with the basic rule of equality. On the other hand, if an interpretation is at variance with the real intention of the parties, there is often much trouble in ascertaining the meaning of some of the provisions of the contract. And this is true of those who believe that the United States is excepted from the great principle of equality embodied in rule 1 of the Hay-Pauncefote treaty.

Let me illustrate this by two notable addresses, one by a most profound lawyer and eminent statesman, and the other by an accomplished jurist and a distinguished Member of this body.

With respect to the provision in the Hay-Pauncefote treaty providing that no change of territorial sovereignty shall affect the obligations under the present treaty, Richard Olney says:

But the treaty of November 18, 1901, adds a clause * * * no change of territorial sovereignty of the country or countries traversed by the canal shall affect the obligations of the parties to the treaty, thus assenting in advance to the acquisition by the United States of the territory needed for the canal. Hence, since the United States did afterwards acquire the canal zone, the terms of the November Hay-Pauncefote treaty apply to the case of an artificial waterway constructed by a State on its own territory.

With respect to this provision the Senator from New York [Mr. O'GORMAN] says:

The meaning of this provision is that the rights of the parties shall not be affected by a change in the sovereignty which may occur after the canal is constructed. * * * If sovereignty had been acquired by the United States after the construction of the canal, then this provision would be applicable. * * * The canal has been constructed on territory over which the United States exercises the power of sovereignty, while the canal contemplated by the treaty was to be built on alien soil, and therefore the Hay-Pauncefote treaty is wholly inapplicable.

Here are two irreconcilable constructions of this fundamental provision of the Hay-Pauncefote treaty; according to one construction, this provision contemplated that the canal might be built on American territory, and according to the other construction the canal was to be built on alien territory.

Not only do Mr. Olney and the Senator from New York [Mr. O'GORMAN] give a different interpretation of this provision, but each relies upon a different rule of international law.

Mr. Olney relies upon the rule that a nation constructing an artificial waterway within its own territory may prescribe the terms upon which other nations may use it.

Of course, this rule has no application if the nation agrees by treaty to include itself in a rule of equality of treatment for all nations.

The Senator from New York [Mr. O'GORMAN] in support of his interpretation relies on the rule of international law, rebus sic stantibus, that parties contract with respect to the conditions contemplated at the time, and that the obligations cease to be binding as soon as the conditions are essentially altered.

With respect to this rule it may be observed that the language of this provision in the Hay-Pauncefote treaty is general, and, hence, applies to any change in territorial sovereignty; and,

further, it appears from the official correspondence that this provision was inserted in the treaty by Great Britain to meet the very contingency of the United States becoming the territorial sovereign and of her then invoking the very rule now relied upon by the Senator from New York [Mr. O'GORMAN].

Again Mr. Olney gives force and effect to the "'general principle' of neutralization" which was carried from the Clayton-Bulwer treaty into the preamble of the Hay-Pauncefote treaty. On his construction of the Hay-Pauncefote treaty, this "general principle" applied not to the proprietor of the canal, but only to the users of the canal, which was the status of the United States in the Clayton-Bulwer treaty; and he maintains that the United States is giving full effect to this principle when it treats the users of the Panama Canal on terms of equality.

On the other hand, the Senator from New York [Mr. O'GORMAN], as to this preamble, says:

> The reference to the "general principle" of neutralization in the preamble is, in a strict sense, no part of the treaty. It merely indicates the reason or the occasion for making it. A preamble can not of itself confer any power. * * * It can not be permitted to introduce doubt or uncertainty where otherwise none would exist.

It is apparent that the Senator from New York [Mr. O'GORMAN] gives little or no effect to the preamble as affording a guide to the interpretation of the treaty.

Again, Mr. Olney is of the opinion that the case of Olsen *v.* Smith (195 U. S., 332) bears no analogy and has no application to the "vessels of commerce" in rule 1 of the Hay-Pauncefote treaty.

On the other hand, the Senator from New York [Mr. O'GORMAN] relies upon this case as settling the law that coastwise vessels are not included in "vessels of commerce" in rule 1.

My conclusion is that any interpretation of the Hay-Pauncefote treaty which excludes the United States from the rule of equality with respect to all vessels passing through the canal is contrary to the express terms of the treaty and the manifest intention of the high contracting parties.

Mr. President, I look upon the map of the world and I see two narrow strips of land which hold together great continents and divide great oceans.

It has been the dream of mankind for centuries that passageways might be cut through these narrow strips for the world's benefit. And mankind has demanded that if ever these stupendous undertakings were accomplished, if ever these canals were built, they should be dedicated to civilization and to the commerce of all nations, and that the vessels of all nations should have the right of passage through them on terms of absolute equality. Both of these mighty projects have now been accomplished and the dream of mankind has been realized.

I turn to the Suez Canal, the first of these world waterways to be built, and I find that Europe has recognized the demand of civilization and that this canal has been dedicated to mankind and the commerce of the world. I find that the great powers of Europe, the owners and the territorial sovereigns, entered into a solemn compact by which the use of this canal is secured to the vessels of all nations on terms of entire equality.

I now turn to the Panama Canal and to America, and I find that American genius, energy, and skill have accomplished the second of these vast achievements, and I find the nations of the world asking, What will America do? Will she dedicate this canal to civilization and to the commerce of all nations? Will she, as builder, owner, and territorial sovereign, do as Europe has done? Will she, too, recognize her duty to mankind and decree that the use of this canal shall be free and open to all nations on terms of absolute equality?

And then the thought comes to me: Oh, America, you have been carrying on the most remarkable experiment in government in the world's history. You have taught mankind that self-government is not a failure. You have demonstrated the possibility of an enduring democracy extending over a continent. You have made a Constitution which is the marvel of the world, and which holds in its strong and loving arms 48 imperial States. Your example is spreading democracy over the earth with irresistible force. You have grown big and rich and powerful, until your influence dominates this hemisphere; and at the foundation of all this greatness lies the rule of equality upon which your Government is based; and to-day the nations of the world are only asking you to apply this rule to all vessels which seek to pass from ocean to ocean through the Panama Canal.

Mr. CATRON. Mr. President, the proposition under consideration to be acted upon by the United States Senate is, Shall the clause in the act to provide for the opening, maintenance, operation and protection of the Panama Canal and the sanitation and government of the same, approved August 24, 1912, which says: "No tolls shall be levied upon vessels engaged in the coastwise trade of the United States" be repealed? And shall the other language with reference to the tolls be so amended as to absolutely preclude the United States from exempting United States vessels from paying tolls or lowering the tolls which they or any of them shall pay? This, it is claimed should be done on the theory that the language sought to be changed is in violation of the Hay-Pauncefote treaty, as we have been told by the President of the United States in his address made before us on March 5 of this year, in which he says:

> In my own judgment, very fully considered and maturely formed, that exemption constitutes a mistaken economic policy from every point of view, and is, moreover, in plain contravention of the treaty with Great Britain concerning the canal concluded on November 18, 1901.

He also states in that address:

> The large thing to do is the only thing we can afford to do, a voluntary withdrawal from a position everywhere questioned and misunderstood. We ought to reverse our action without raising the question whether we were right or wrong.

And, then, he further states:

> I ask this of you in support of the foreign policy of the administration. I shall not know how to deal with other matters of even greater delicacy and nearer consequence if you do not grant it to me in ungrudging measure.

It seems that many Members of this body and of the other House of Congress who had on the passage of the act which is now sought to be amended voted for the provisions which the President insists now are in "contravention to the treaty" and "constitute a mistaken economic policy from every point of view," like President Wilson are attempting to cover their tracks and throw the people who are following and watching them off the trail. The President in some way not known to those of us who are not in his confidence is able to command obedience and submission to his will of many of those of his party followers, and that against their expressed, avowed, and recorded opinions and judgments. We find many of them undertaking to give reasons for their change, and giving very different and peculiar reasons therefor. The President does not tell us what is the foreign policy of his administration in support of which he desires us to enact this legislation. He states that he will not know how to deal with other matters of even greater delicacy and nearer consequence which, from the language and the connection in which that statement is used, would probably not refer to his foreign policy, but to something else about which he furnishes us no information and is unwilling to enlighten us with reference thereto. What are the matters of "greater delicacy" than his foreign policy with which he would not know how to deal? Also, what are the "matters of nearer consequence" with which he would not know how to deal? Who can answer the question? Who has attempted to answer the question? Yet this language has been used by the President in order to influence our action on this measure. Section 3, article 2, of the Constitution of the United States, in speaking of the powers and duties of the President, says:

> He shall from time to time give to Congress information of the state of the Union and recommend to their consideration such measures as he shall judge necessary and expedient.

That communication in regard to the foreign policy and "other matters of even greater delicacy and nearer consequence" does not give to Congress any information of the state of the Union. It possibly does recommend to our consideration the measure before us as one which he possibly judges to be necessary and expedient. But should not that judgment of his, under the clause of the Constitution which is stated, be accompanied with information on which we should form our judgment or act? Or is it that the President is allowed to form his own judgment as to what is necessary and expedient and tell us without giving any reason for it or without allowing us to use our judgments? Certainly the address contains no information whatever. Nor does the clause in his address which urges us to "reverse our action without raising the question whether we were right or wrong" give us any information. He asks us to take his judgment for it. It is true that in another part of the address he states that in his "judgment, very fully considered and maturely formed, that exemption constitutes a mistaken economic policy from every point of view" and is "in plain contravention of the treaty with Great Britain." If it was intended that Congress should blindly follow the will and recommendations of the President as to this legislation, as he in this address urges us to do, "without raising the question whether we were right or wrong," then it may be said that he has made a recommendation on a measure which he judges necessary and expedient, although he gives us no information as to the facts. Can we be expected, without raising the question, to accept that as a reason for the repeal of this law, especially when we find that the party which nominated and elected him to the office which he now holds distinctly advocated the enactment of the law in its present terms

in the platform of principles which they formulated and laid before him and the country as the reasons why they should be placed in power and their candidate elected President? Must we not consider that the will of the people when expressed, after due consideration of the reasons which induced them to elect the party which is now in power to take over the administration of the affairs of this country, should have great weight with the legislators and Executive of the United States in the conduct of the public business and in the enactment of our laws? And must we not also believe that the understanding of the people when they elected the present Executive and the present Congress, and gave them the power they now have, was that the administration and the majority of Congress elected thereon should carry out those principles as construed and interpreted by the members of their convention and their candidates and representatives at the time they were asking to be intrusted with the Government? There was no apparent misunderstanding about the meaning of the language which is incorporated in the Democratic platform. The present Secretary of State, the intimate adviser of the Chief Executive, was chairman of the committee which drafted that platform. The matter of constructing and operating the Panama Canal in the interest of the people of the United States and for the general welfare of the people of the world had long been discussed and debated. The Hay-Pauncefote treaty was then in full force. The act in question had already passed the House and been extensively discussed therein, and particularly the provision under consideration, and the same had been considered in the committee of the Senate at the time the Democratic convention was held. The attention of the present Chief Executive had been called to it and called to it in a way that he sought to avail himself and his party of the benefits to be derived from his then construction thereof.

The President, as before stated, said to us in his address on this matter that we should voluntarily withdraw from "a position everywhere questioned and misunderstood." Did he mean by that that the action of Congress in exempting coastwise ships from toll was everywhere questioned, and also that it was misunderstood? He stated that that action was in contravention with the treaty with Great Britain. Does he properly mean by that that our action as to being in contravention with the treaty was everywhere questioned but that those who questioned it misunderstood it? Can his language be interpreted in any other way? He must have been reading and been impressed with the short biography of Theodore Roosevelt, written by Alfred Henry Lewis about the time of, or shortly after, the modification made in the Hay-Pauncefote treaty of 1901, in which Alfred Henry Lewis, speaking on the subject of the canal, said:

> The propriety of the canal no one American—save transcontinental railways—was ever heard to deny, but to the last crowned head of them, every European ruler, and even the elected one of France, has been and is opposed—they believe with Sir Walter Raleigh that he who holds the Isthmus of Darien holds the keys to the world, and are solicitous that no such lock opener shall hang at the girdle of America.

At the same time the President gives us to understand in that message that our action was misunderstood. How could it have been misunderstood? It was a simple, plain act, expressed in as few words as possible and as pointed as it could be made, and that was that no tolls should be charged on coastwise ships of the United States passing through the canal. That language could not be misunderstood. The purpose of it could not well be misunderstood. But, as stated by Alfred Henry Lewis, to—

> the propriety of the canal * * * to the last crowned head of them, every European ruler, and even the elected one of France, has been and is opposed.

And that is what the President tells us is not debated; he says, outside of the United States, but that it is misunderstood everywhere, and therefore we should take this step recommended by him, whether we were right or wrong in passing that act, although our act in doing so is misunderstood by all other countries, they being opposed to our position. If their opposition is based upon a misunderstanding, why should we reverse it in order to carry out an improper interpretation or understanding of our acts in passing that law?

President Wilson, about August 16, 1912, delivered a very remarkable speech to 2,500 farmers of the State of New Jersey, his own home State, for the purpose of catching votes for himself in that campaign so as to be elected to the high office he now holds. He told them in that speech, in his peculiarly lucid manner, somewhat like the manner he addressed us on the 5th of March last, that—

> By a very ingenious process, which I would not keep you standing in the hot sun long enough to outline, the legislation of the United States has destroyed the merchant marine of the United States.

Then, after making some other statements to flatter their vanity and attract their consideration to himself, he said:

> One of the great objects in cutting that great ditch across the Isthmus of Panama is to allow farmers who are near the Atlantic to ship to the Pacific by way of the Atlantic ports, to allow all the farmers on which I may, standing here, call this part of the continent to find an outlet at ports of the Gulf or the ports of the Atlantic seaboard, and then have coastwise steamers carry their products down around through the canal and up the Pacific coast or down the coast of South America.

And then he proceeds:

> Now, at present there are no ships to do that, and one of the bills pending—passed, I believe, yesterday by the Senate as it had passed the House—provides for free toll for American ships through that canal and prohibits any ship from passing through which is owned by any American railroad company.

And then he says:

> You see the object of that, don't you? We do not want the railroads to compete with themselves, because we understand that kind of competition.
>
> We want water carriage to compete with land carriage, so as to be perfectly sure that you are going to get better rates around the canal than you would across the continent.

He then, to flatter the farmers further, says:

> The farmers of this country are, in my judgment, just as much concerned in the policy of the United States with regard to that canal as any other class of citizens of the United States. Probably they are more concerned than any other one class; and what I am most desirous to see is the farmers of the country coming forward as partners in the great national undertakings and take a wide national, nay, international, view of these great matters, feeling all the pulses of the world that beat in the great arteries of their own life and prosperity. Everything that is done in the interest of cheap transportation is done directly for the farmer as well as for other men. So that you ought not to grudge the millions poured out for the deepening and opening of old and new waterways.

And then he calls attention to the platform and its objects and purposes by saying:

> Our platform is not molasses to catch flies. It means business. It means what it says. It is the utterance of earnest and honest men, who intend to do business along those lines and who are not waiting to see whether they can catch votes with those promises before they determine whether they are going to act upon them or not. They know the American people are now taking notice in a way in which they never took notice before, and gentlemen who talk one way and vote another are going to be retired to very quiet and private retreat.

According to this last statement I think the President may have been somewhat of a prophet. He certainly has talked one way and proposed to vote another when he signs this bill, if it passes. Will he and those who have changed from advocating that measure to catch votes retire voluntarily into very quiet and private retreat? If they do not, most of them may expect the people will retire them to such retreat against their will. The President seems to have been fully assured that the platform was the utterance of earnest and honest men who intend to do business along those lines and who were not waiting to see whether they could catch votes with those promises before they determine whether they are going to act upon them or not. Surely he did not ask to get the votes before he had determined to act upon the promises. His determination must have been fully made up. He had entered upon that determination with a well-based consideration that he would carry it out and was simply presenting it to them in all of his earnestness and in all of his extreme desire to catch their votes and secure his election.

When we take these utterances, given under such circumstances as they were given there, after the principles about which he was talking had been enunciated by over a thousand chosen delegates in the Baltimore convention, selected from those who were supposed to be the best informed and most progressive men of his party, and after he had accepted them as party principles to which he had pledged his adherence, we must naturally suppose that he had them then "fully considered and maturely formed," his judgment in regard to the matters about which he was communicating with the farmers of New Jersey and on which he was soliciting their votes in his behalf.

If such utterances as he made there were made without a judgment fully considered and maturely formed, namely, if they were made from impulse, a desire, and a wish to gain votes without due consideration and reference to the soundness of the proposition advanced, then surely the last clause of that remarkable speech should be made operative as to him and his party; that is, that "gentlemen who talk one way and vote another are going to be retired to very quiet and private retreat." It would seem from the attitude of the President and his party adherents at the present time that the platform utterances of the Baltimore convention were "molasses to catch flies" and nothing else.

Such being the case, well might the President say to us that we ought to reverse our action without raising the question whether we were right or wrong. After taking the position in which he had placed himself by that speech to the farmers and

by his address to us and by his acceptance of the nomination under the platform of his party containing an advocacy of the law which he now wishes repealed he could give no other reason. For us to comply, right or wrong, would be according to his way of dealing with the voters. He has been setting us an example which he expects us to follow. An example in which, it is said by many, he has coerced his political friends into cooperating with him, regardless of whether it is "right or wrong." Every Democrat in the Senate who voted on the motion of Senator BURTON to strike out that free-toll proposition voted against doing so in favor of free tolls. Twenty-two of them did so, and 20 of that number are still here.

But notwithstanding this turncoat policy of the administration or of the Executive who now constitutes the administration, many of us believe that the action taken by Congress in exempting coastwise ships through the canal from the payment of tolls and providing that as to American ships the President could fix the tolls as he pleased or exempt them entirely is "just and equitable," and that it is not in contravention of the Hay-Pauncefote treaty which the President says it contravenes.

Some of the Senators who voted to retain the provision now sought to be repealed have stated that they will now vote to repeal it because it amounts to a subsidy. Why should we not subsidize our ships in order to build up a substantial merchant marine? If we could build up a merchant marine by subsidizing it, would it not save to this country and to our people large volumes of money which are now paid to foreign subsidized ships for freight and passengers annually? Statistics show that we pay hundreds of millions each year to foreign ships to carry our freight and passengers to and from foreign countries, all of which could be kept at home if we had a merchant marine sufficient to do that carrying. Everything else being equal the patriotism of the American would make him prefer the American vessel to the foreign vessel.

At the present time nine-tenths of the passengers and freight of Americans to and from foreign countries is carried in foreign ships. If we had sufficient ships belonging to our countrymen, nine-tenths would be carried in those ships and nine-tenths of the money which is now paid to foreign shipowners by Americans would be paid to American shipowners and kept at home. The amount of money expended in transporting freight and passengers, which should and would annually go in American ships in one year, if used for the purpose of constructing American ships, would enable us to nearly absorb the ocean traffic of the world. That money if paid to the owners of American ships would be invested in the building of other American ships, which would compete for the traffic of the world. It is true that that money would not go into the United States Treasury, but it would go to our people, like all other moneys which are expended in this country. It would permeate every branch of industry. It would help to build ships and every legitimate enterprise in our land.

Many Members of this Congress who now give as a reason that they will not support this free-toll law because it is a subsidy are certainly committed by their former deliberate acts to a contrary proposition. In addition to the law proposed to be repealed, there is in the tariff law which passed this Congress at the extraordinary session an express provision that 5 per cent of the duties on all merchandise imported into the United States in an American registered ship shall be deducted from the duties imposed by that legislation. This is directly in the face of the treaty of 1815 with Great Britain, from which country the great body of our imports come.

In article 2 of that treaty it is specifically and unequivocally stated—

> That no higher or other duties or charges shall be imposed in any of the ports of the United States on British vessels than those payable in the same ports by a vessel of the United States.

And also—

> The same duties shall be paid on the importation into the United States of any articles the growth, product, or manufacture of His Britannic Majesty's territories in Europe, whether such importation shall be in vessels of the United States or in British vessels.

If the exemption of tolls in favor of our coastwise trade is a subsidy, then is not that reduction upon the amount of duties to be imposed on merchandise brought into the United States in American ships of 5 per cent also a subsidy, and a much clearer and more specific one? That reduction of duties might not only have the character of being a subsidy, but it has the additional character of being, directly, a violation of the treaty of 1815 with Great Britain. Why should the Chief Executive of this Nation and the majority party in this Congress, when they know Great Britain has protested against that reduction as violative of treaties with her, not call for its repeal without considering whether it is right or wrong?

Possibly the party of the majority in Congress have not been quickened into activity in that regard by the spiritual inspiration emanating from a threat to withdraw from them political patronage. The spirit may yet move them.

Is there anything in the treaty which prohibits any nation from reimbursing its subjects for tolls paid through the canal? It is admitted by many here and denied by few, if any, that we have the right to reimburse our ships for the tolls they pay, the same as foreign nations do. Is it not drawing a very technical distinction to say that we can not release the payment of the tolls to the shippers when we have the right to reimburse them for the tolls they pay? The only difference between the two propositions is that the payment by the coastwise ships would go into the general body of the income of the canal, while if they were released from it it would not be added to it.

But where would that make any difference, except as to the United States, when we do not collect enough tolls on the entire shipping going through the canal to pay the total expense of operation, maintenance, sanitation of the canal, interest upon the money invested, and an additional expense of $10,000,000 for the Army and Navy to protect it and keep it neutralized. The deficit in that way will amount to many times as much as the tolls which we will collect from the coastwise ships.

Earl Grey refers to the only plausible point which might be suggested against our exempting tolls to our coastwise ships in his communication to Ambassador Bryce of November 14, 1912, printed in the hearings of the Senate had in reference to this bill, in which he is supposed to have stated the whole objection of Great Britain, on page 1018 of which he says:

> This rule also provides that the tolls should be "just and equitable." The purpose of these words was to limit the tolls to the amount representing the fair value of the services rendered—i. e., to the interest on the capital expended and the cost of the operation and maintenance of the canal. Unless the whole volume of shipping which passes through the canal, and which all benefits equally by its services, is taken into account, there are no means of determining whether the tolls chargeable upon a vessel represent that vessel's fair proportion of the current expenditure properly chargeable against the canal; that is to say, interest on the capital expended in construction and the cost of operation and maintenance.
>
> If any classes of vessels are exempted from tolls in such a way that no receipts from such ships are taken into the account in the income of the canal, there is no guaranty that the vessels upon which tolls are being levied are not being made to bear more than their fair share of the upkeep. Apart altogether therefore, from the provision in rule 1 about equality of treatment for all nations, the stipulation that the tolls shall be just and equitable, when rightly understood, entitles His Majesty's Government to demand, on behalf of British shipping, that all nations passing through the canal, whatever their flag or their character, shall be taken into account in fixing the amount of the tolls.

The point made by him is that by the exemption of any ships from the payment of tolls, the amount which would be required to be charged as tolls on the other ships passing through the canal, in order to pay the current expenditure properly chargeable against the canal, that is, interest on the capital expended in construction and cost of operation and maintenance, would exceed their proper proportion, more than it would be if the tolls were charged upon all ships alike, regardless of their character. That might possibly, in one view of the case, be a fair criticism of the law if it was understood that the tolls should be made sufficiently high to raise the total of all the money necessary to pay the maintenance and operation of the canal and fair interest upon the money invested, and also the costs of the Army and Navy to neutralize the canal, but this law does not require that amount to be imposed. In fact, the law which embraces the clause now sought to be repealed provides that the tolls on no ship shall exceed $1.25 for each registered ton, and shall not be less than 75 cents except on American ships.

With equal propriety the British Government could also object to the limitation in the law that the amount should not be less than 75 cents per registered ton, for the reason that in the course of time the increased shipping passing through the canal may, at the rate of 75 cents per registered ton, raise a higher amount than would be necessary to pay the maintenance and operation of the canal and a reasonable interest. But whatever that rate is, it is not for the British Government or any other Government to say what interest we will impose to reimburse us on our investment or to pay for its use in the canal.

There is no place in the United States where interest to-day is probably less than 4 per cent per annum, and times may come, as it has in the past, when interest will vastly exceed 4 per cent. It may come, also, when the current rate of interest will fall lower than 4 per cent, but it is doubtful that it will ever be much lower. It is true that we have been able to obtain money for 2 and 3 per cent, but that was not because the persons furnishing the money desired it as a simple interest-earning

investment. It was because they could use the bonds for which it was given in the national banks to secure the issue of national-bank currency, and thus obtain the interest upon the money invested in the bonds as well as on the bank stock, giving them much more than 4 or 5 or even 6 per cent interest upon the investment which they made. Take away from the bonds carrying that 2 and 3 per cent the right to use them as a basis for the issuance of national-bank currency and I challenge anyone to show where those bonds will be maintained at par or can be maintained at par. To-day they are below par.

The argument of Earl Grey falls to the ground, because at the lowest rate of interest suggested, which is 3 per cent, the amount which will be raised by the tolls at $1.20 per registered ton will fall far short of the required quantity to pay the entire maintenance and operation of the canal and that interest, not taking into account the cost of the Army and Navy in protecting the canal. The only other question suggested in the argument of Earl Grey on this point is that we would not know how much would be lost by allowing our coastwise shipping to go through the canal free. That is a matter of regulation in the canal. There is no reason why we should not know it. There is no reason why every vessel that passes through the canal should not be inspected and its tonnage ascertained. It would be a mere matter of regulation to require every vessel to be measured and its tonnage ascertained according to the same rules adopted for all foreign vessels and reported to the proper authorities who have to collect the tolls upon other vessels.

It would require no law to do that; we can always know what the exact amount would be that was exempted in favor of such vessels, and whenever that amount reached the point where it would be more than the deficit which our Government would have to make up out of the Public Treasury to pay for the operation and maintenance of the canal and interest and other charges it would then be time enough, if ever, to raise the questions in favor of Great Britain which are now being raised here. It would then be the time when, if she was entitled to it, she could demand an arbitration. But how can Great Britain demand an arbitration until she knows that a discrimination is being made which affects the interests of her shippers or shipowners? How can she demand an arbitration, if at all, until she knows what rate of interest we propose to charge upon the money which we have invested in that canal, as well as all other expenses incidental to its operation and maintenance?

The fact that we have provided for the issuance of bonds to raise money to construct the canal, bearing interest at the rate of 3 per cent, is no reason why that would be an adequate interest to pay the Government for the money invested in that canal. That money was raised at par by our Government simply on account of the condition of banking affairs in the United States.

It may be possible that the management of the banking interest will be radically changed. It is generally asserted by the party in power throughout the land that they have no love for the present national banking system, and they do not believe, as a rule, that bonds should be used to secure the national-bank currency. It was proposed at the commencement of the enactment of the bill to establish regional banks that all bonds should be retired. In that way there would be none of them left upon which to base the issuance of national-bank currency.

If such course should prevail—and who will say that it may not prevail if the party in power continues in power—would it be pretended that this Government could raise money on the issuance of a bond bearing 3 per cent interest, to be held as an ordinary investment, without the right to use it in the manner in which it is now being used, or some equivalent manner? It is difficult to believe that anyone would think so. When we calculate the amounts to be reimbursed to us, we must calculate money at current rates, at the rate it bears, not in the markets of Europe, but in the markets of the United States. The withdrawal of the bonds so that they can not be used for the issuance of national-bank currency, or something equivalent to that, would reduce them below par. Can it be said in estimating the tolls to be imposed to make up these expenses or outlay in the shape of operation and maintenance and interest, as well as other expenses which may be necessary, that we would not have the right to demand interest, even as high as 4, 5, or even 6 per cent if the condition of affairs in this country should require it? And are we not traveling rapidly now in that direction?

By the statements which were incorporated into the RECORD by the Senator from Utah [Mr. SMOOT] a few days since, it appears that the financial policy adopted by the present administration has had the effect to reduce our exports to foreign countries to such an extent, and to increase the imports from foreign countries to such an extent, that the balance of trade during the month of April last was against us, while during the fiscal year last past that balance of trade was about $650,000,000 in our favor. That was $650,000,000 added to the real wealth of our country over and above what will be added to it if conditions continue in the same channel they are now going. How much that balance of trade will hereafter be against us we do not know.

It was about $10,271,872 for the month of April, so that instead of our receiving an addition to our wealth of $650,000,000 annually, we will be paying out and deducting from our wealth about $123,000,000 annually, provided that it does not grow any worse than it was in the month of April; but the facts exhibited show that there is a decided gradual increase in this change of the balance of trade against us, so that we may expect a still greater balance of trade as time goes on under the present laws enacted under the forced conditions imposed by the present administration. If money grows scarce, the rates of interest will increase, and, according to said statistics, money may soon be scarce.

Is the exemption of our coastwise shipping from tolls through the canal a violation of the first clause of article 3 of the Hay-Pauncefote treaty? Does that provision, fairly and legally construed, so hold? It provides:

> The canal shall be free and open to the vessels of commerce and of war of all nations observing these rules on terms of entire equality, so that there shall be no discrimination against any such nation or its citizens or subjects in respect to the conditions or charges of traffic or otherwise. Such conditions and charges of traffic shall be just and equitable.

It will be noted that the last clause of that section defines what conditions and charges of traffic shall be. What was the necessity of inserting those words "such conditions and charges of traffic shall be just and equitable" if the ships as to tolls should go through upon an entire equality? Possibly, one answer to that might be that the charges should not be excessively great so as to impose unreasonable burdens upon those who pay the tolls. That is possibly one thing that was meant; but the language is not limited to that alone. The words "just and equitable" must be considered in connection with all the circumstances and surroundings in connection with the facts that the United States and its people built that canal and own it and must operate and will be responsible for its neutralization and perpetuity as a channel of traffic; that they must repair it should earthquakes or landslides or other extraordinary events happen which might obstruct it; that to defend it they must keep an army and navy there, and even engage in war and go to extraordinary expense to see that it is protected against interruption or seizure or obstruction in any manner by foreign nations.

The words "just and equitable" contained in the last paragraph of clause 1 of article 3 of the existing treaty were not incorporated in the treaty first agreed upon and ratified by the Senate of the United States with an amendment and which was rejected by Great Britain.

The present treaty made radical changes in the provisions of article 3, being article 2 of the treaty which was not accepted by Great Britain. That proposed treaty contained a paragraph, at the end of clause 5, article 2, which was inserted as an amendment by the Senate of the United States, as follows:

> It is agreed, however, that none of the immediately foregoing conditions and stipulations in sections Nos. 1, 2, 3, 4, and 5 of this article shall apply to measures which the United States may find it necessary to take for securing by its own forces the defense of the United States and the maintenance of public order.

Evidently, Great Britain did not wish to give its assent to the provisions of that amendment that she was to be a party to the enforcement of the treaty clauses mentioned in the article 2 of that proposed treaty.

By that article she would have bound herself, jointly with the United States, to the enforcement of all the clauses of the same; whereas in the new treaty, the one now in force, it was provided that the United States alone, and not in conjunction with Great Britain, adopted the rules for the neutralization of the canal; and at the end of clause 1 of article 3 thereof there was inserted the provision "that the conditions and charges of traffic should be just and equitable." Those words were not incorporated in the treaty which was rejected by Great Britain. They must have been inserted by the United States, because the neutralization of the canal was confided entirely to her, and the matter of charges was left entirely to her, she being the sole owner and constructor of the canal and having the entire superintendence and government of it. The purpose of inserting that provision was to be a modification and limitation of the provisions preceding; that is, the terms "entire equality" and "no discrimination against nations."

Would not the words "just and equitable" be considered when the United States should fix the amount of charges which it would impose for the purpose of paying the operation, maintenance, and sanitation of the canal, proper interest on the money invested, including the cost of the Army and Navy in fortifying and protecting it, and even for a sinking fund to pay for the entire amount? Where is the limit imposed upon the United States by those words? We have to decide what is "just and equitable." In article 2 of the Hay-Pauncefote treaty it was provided that the canal might be constructed under the auspices of the United States and that, subject to the treaty, this Government shall have and enjoy all the rights incident to such construction, as well as the exclusive right of providing for the regulation and management of the canal. That confers upon our Government the entire, absolute, and perfect dominion over that canal.

We have the right under those provisions to regulate the tolls, as we have undertaken to do; and in regulating those tolls we are only required to make them so that they are "just and equitable" according to the circumstances and conditions connected with the canal, of which we ourselves are the sole judges.

Has the time arrived when this question can be properly agitated as to whether we are discriminating or not? Dr. Emery Johnson estimates that the total receipts from tolls, including tolls from coastwise ships, if imposed, would reach about $12,600,000. It is estimated by Col. Goethals that the annual charges for the operation and maintenance of the canal, its sanitation, and the annuity to Panama will amount to over $4,250,000. We have invested, or will have invested, in this canal about $400,000,000 when it shall have been completed, including the cost of fortifying it, the interest upon which, at 3 per cent, will amount to $12,000,000 per annum, which should be paid to us out of incomes, commencing from the time we made the expenditures, or, otherwise, adding the interest in the meantime until the canal is thoroughly opened, to arrive at the sum to constitute the full amount on which the interest shall be computed. This, added to the cost of operation, maintenance, sanitation of the canal, and the annuity to Panama, will not be less than $16,250,000 annually, and may be considerably more, to which must be added $10,000,000 annually for the Army and Navy expenses in protecting and fortifying the canal. So that there will be a deficit, even if the tolls on coastwise ships are imposed, of over $3,800,000 annually, without taking into consideration the Army and Navy expenses, which will have to be paid out of the Treasury of the United States, and this amount will be increased by $4,000,000 if we estimate the rate of interest at 4 per cent, which would be entirely reasonable.

Until the stage is reached in which the tolls shall exceed the amount of operation, maintenance, and sanitation of the canal, annuity to Panama, and a fair interest to be allowed upon the amount invested, besides the Army and Navy expenses in protecting it, what country will have the right to complain that we are discriminating against them? The amount of tolls which will be charged for American coastwise ships estimated by Prof. Johnson will be about $1,200,000 annually, which will, if deducted, reduce the annual income from the canal to about $11,400,000.

But it is said they must be so regulated that there will be no discrimination, and the question arises here, What is a discrimination? And in determining that it will only be necessary to consider whether or not the passage of our coastwise ships through the canal without paying toll constitutes a discrimination. Under our laws coastwise ships can not receive or discharge freight or passengers at any port outside of the United States. They may land at foreign ports for the purpose of repairs or to revictual. When one of them undertakes to go into a foreign port to deliver or receive freight or passengers it is compelled to surrender its license as a coastwise ship under the law. A coastwise ship of a foreign country—and all of them have coastwise ships regulated very much as ours are—can not receive freight at a port in the United States to be discharged at another port in the United States. Our coastwise ships are limited to business along our coast.

All ships of foreign nations, as well as our own, doing business between our ports and foreign ports, in doing business along the coasts of the United States, can only deliver their freight and passengers brought from a foreign port to our country, although they may for that purpose enter different harbors or ports, but they can not take on freight from one port to another; for instance, from New York to Baltimore or Charleston or New Orleans. While they may go from New York to New Orleans to deliver the freight which they have brought across the seas, not one pound can they take up on our coast and carry and deliver to another port on our coast.

Our coastwise ships and all our ships are excluded from doing a coastwise business in foreign countries. All foreign ships are excluded from doing a coastwise business in our country, as well as all of our own ships which are not registered or licensed as coastwise ships. So that the business in which the coastwise ships of Great Britain are engaged, while of a similar character or kind as that in which our coastwise ships are engaged, is absolutely a distinct and different business, not in conflict with or by our coastwise ships. There can be no competition in the most remote degree between the coastwise ships of England and those of America. Neither can do any part of the business which the other can do. Then why say there is a discrimination against the foreign shipping by granting to our coastwise ships free tolls through the canal? We do not take away one penny which can or might be gained by the British shipping. We do not diminish their income in anything.

If we do not do injury or wrong or diminish the earnings of their shipping, or take away their traffic, how can it be said that any law of ours discriminates against them? To do so you would have to go still further and say that by virtue of the Hay-Pauncefote treaty, in order that British ships should be put upon an equality with ours, we should repeal our coastwise ship law and admit Great Britain to do business along our coast with our own ships. But no one will contend for that proposition; if they should, they would certainly be judged to be very un-American and unpatriotic. It is claimed by some that we discriminate against the ships of foreign countries which may bring freight, say, from Liverpool to New York and discharge it there and reship it upon an American coastwise ship to San Francisco, and that therefore we would enable that kind of shipping to discriminate against foreign shipping. But such would in no manner be the result.

It is shown that by reshipping at the port of New York, for instance, it would cost at least 25 cents per ton of 2,000 pounds to unload, and to reload it in the same port another amount of at least 25 cents, which, besides breakage, delay, increase of the distance, and other injury, would more than exceed the $1.20 per registered ton, which is not more than 60 cents per ton of 2,000 pounds, which we have imposed upon the foreign shipping and our own transoceanic ships through the canal. This treaty should be interpreted in accordance with its practical results and not upon theoretical ideas which will never be realized. The discrimination which is prohibited by the treaty must be one that so discriminates between the shipping of our own country and that of others that there will be a loss or injury to the other shipping. In all the arguments which I have noticed in this Chamber and read in the RECORD, I have not yet seen one that points out any substantial injury or loss that will result to foreign ships passing through the canal by exempting our coastwise ships, or any of our ships from paying tolls, until the amount collected shall exceed the sum required for operation, maintenance, sanitation of the canal, the annuity to Panama, interest on the investment, and the Army and Navy expenses to be incurred in defending and protecting the canal.

It is insisted by some and denied by others that our vessels of war, both transports and battleships, should pay tolls in going through the canal. If the reasons mentioned by Earl Grey, that our coastwise ships ought to be charged in order to not oblige foreign shipping to pay a higher rate of toll than would be necessary to pay the operation, maintenance, sanitation of the canal, and interest upon the money invested, should be maintained—and that is all the British Government actually claims—why do not the same reasons prevail as to our vessels of war, including transports and battleships? Why should not the amount be paid by the Nation in order to reduce the proportionate amount that British shipping and the shipping of other foreign nations should pay, so that it can be known and easily ascertained how much it would be just and equitable for foreign nations to pay?

Can there be any distinction drawn between the United States being obliged to pay tolls in order to make up the total amount that is necessary to pay the expenses of operating and maintaining the canal and providing for the interest on the money and payment of other charges and that of requiring our coastwise shipping, or any other American shipping of commerce or war, to pay tolls for that purpose? It is generally admitted that we have the right to pay back or reimburse all our ships for what they have paid out; but it is insisted that we ought to pay it in the first instance, whether reimbursed or not, so as to determine the proportion of the cost of operation, maintenance, sanitation of the canal, and of the proper amount of interest we should bear on our part. Such might be true if the amount when paid by shippers would more than cover the total cost of operation, maintenance, sanitation of the canal, the an-

nuity to Panama, and the costs of the Army and Navy in protecting and fortifying it, but otherwise not.

How can we draw a distinction between our coastwise ships and our vessels of war in paying toll in the face of the treaty which uses both of them in the same connection and without any discrimination or difference between the words applying to them? Yet it is admitted by nearly every one, if not by every one, that our warships should not be charged with tolls, but where the authority comes to do that it is difficult to ascertain from the language of the clause in question if the United States are included in the words "all nations." If the language which provides for the neutralization of the canal applies to the ships of commerce and war of foreign nations and to our own coastwise ships through the canal, then it applies to our ships of war as well. There are no words of exception in favor of our ships of war. I do not believe that the neutralization which is referred to in the treaty applies to the ships of the United States and its citizens. If it did, our warships must be treated in the payment of tolls exactly as our merchant ships, or as the merchant ships of any other nation, or the warships of any other nation.

I believe that the neutralization which is referred to is that which is specified in the second, third, fourth, fifth, and sixth clauses of article 3 of that treaty, and that means that we shall keep that canal from being blockaded, from any act of war being exercised or hostility committed therein, but that can not apply to the United States, nor can the clause which provides that vessels of war of a belligerent shall not revictual or take any stores in the canal except strictly necessary, and that they shall pass through with the least possible delay, in accordance with the regulations in force, which we are to prescribe. Nor the provision that no belligerent shall embark or disembark troops or munitions of war or warlike materials on the canal except in case of accidental hindrance, and so forth. Nor the provision that the vessels of war of a belligerent shall not remain longer than 24 hours in the waters, and so forth. Nor that the vessel of war of one belligerent shall not depart within 24 hours of the vessel of war of another belligerent, or that any of the provisions or clauses of article 3 of the treaty, namely, Nos. 2, 3, 4, 5, and 6, are intended to operate upon the vessels of war of the United States as they do upon the vessels of war of other countries.

If clause 1 is to be construed as a part of the neutralization of the canal, and the other clauses are to be considered according to their actual literal reading, without reference to the circumstances and conditions prevailing and without reference to the fact that we are the owners of the canal, that we built it and are managing and controlling it for the benefit of commerce; then if we were at war with Great Britain or any other country and such country at war with us should seek to seize the canal or to blockade it, we would have no right to disembark an additional force in the canal for its protection, nor to keep our ships within it to prevent it from being seized. We would have to act as any other foreign countries being at war. Our soldiers would have to stay away from the canal. Our ships would have to leave it and get more than 3 miles away from the mouth or entrance to it. We would have to leave it open to our enemies for assault. One of these enemies might be some nation which would be in the category of not even having observed the rules which we had prescribed for the government of the canal. We would not be allowed under that provision, with our ships in the canal, to engage in a battle with the ships of a foreign nation who had sailed into the canal and attacked us.

It is true we might use our forces which we then had there and our guns which we had already established there for the defense of the canal to drive them off, or to prevent their occupying the canal; but if they entered into the canal and got into the big lake through which it passes, where they might find vessels of our fleet, we would not have the right to engage in a conflict with them, if the construction which some place upon this treaty holds good. But will anyone upon a fair consideration of the conditions and circumstances and surroundings of the requirements of that clause and the relation of the facts thereto contend that we would not have a right to keep our fleet there; that we would not have a right to land additional troops there; that we would not have a right to do everything which is prohibited by those different sections of the treaty in order to safeguard and protect that canal for neutral nations and for future use? It may be that it is not very probable that such condition would exist, but it may. We may get into a war with foreign nations who would like to own that canal. Treaties are seldom ever kept in perpetuity. They are sometimes abrogated by agreement. Frequently they are ignored. Often they become obsolete and sometimes broken or violated. Now and then a treaty continues, as has the treaty with Great Britain which acknowledged our independence and which will continue as long as we are an independent Nation.

If Great Britain or Germany should not observe the rules prescribed in article 3 of the treaty, but should get control of the canal and hold it against all others, who would be required to enforce the terms of the treaty? On whom would the obligation to keep the canal free and neutral devolve? It will be noticed the United States was the only power which adopted the neutralization clause of the canal.

This was changed from the provisions of article 2 of the Hay-Pauncefote treaty which was ratified by the United States, but rejected by Great Britain, in which both countries provided for the joint neutralization of the canal. Why was this change made? Certainly it was so made after reconsideration of the provisions of the former treaty, and, possibly, after suggestions which had been made by Great Britain in her objections which were to the amendment which was inserted—clause 5, article 2—in that treaty in regard to using force for the defense of the United States and maintenance of public order in the canal, which it is supposed was the substantial objection that Great Britain made to the ratification of that treaty. It was understood, evidently, that that provision should be rejected and the United States should have the sole power of neutralizing the canal, which meant that they alone should use the necessary force required to keep it neutral.

But if the construction which is said to be placed upon that treaty with reference to the coastwise shipping of the United States must prevail, we have placed ourselves in the attitude of compelling our ships of war to be subject to the same conditions as the ships of war of other nations. We are compelling ourselves to abide by the provisions which, while we are defending the canal against a foreign power, will not allow us to occupy it or deal with it so as to protect it for the use of the world.

I make this contention to call the attention of the Senators to the fact that we are not to be treated in connection with that canal in the same light as other foreign nations; that the rules which we established there were to operate differently upon us from what they should operate upon other nations; that when we prescribed rules as we had a right to prescribe and regulations as we had a right to adopt we did it for foreign nations, with the idea that we might observe them or not, as we liked. That we were not bound by the same restrictions in the treaty with which other nations were bound; that we were dealing with our own property and with our own rights and protecting them against the claims and acts of all nations as far as we deemed it just and equitable to do so.

In construing the words "just and equitable" in the treaty, as I have stated, we must construe them in the light of all the facts and surrounding circumstances; in the light of the ownership or nonownership of the canal; in the light of the obligations or the want of obligations of different nations and ours in regard to the canal and the difference between such obligations; in the light of everything which goes to the construction, maintenance, operation, and government of the canal, and not by a strict construction of the letter of the treaty, which would work absurdity in many instances if such construction was to be made to apply to us. If they do not apply to us with the same obligations and restraints that they do to other countries in article 3 thereof, then every provision of it must be modified or limited when it is intended to apply it to us for our guidance and observation, in accordance with the relation we bear to the canal, different from that which any other country bears. Great Britain had no rights at the Isthmus of Panama when that treaty was entered into. She gave away no rights that she had at that place—ceded nothing. She had agreed that we might construct a Nicaraguan canal or some other canal at some other point where she might have had some rights. She can not interpose herself in this manner and say that we are depriving her of some right which we owe to her on account of some concession made by herself at that isthmus, where she had nothing to concede.

I insist that the rules of neutrality prescribed by the treaty only embrace paragraphs 2, 3, 4, 5, and 6, which are to be enforced by the United States, to do which we can not comply with them as a foreign power. There is a difference between money paid by a foreigner for tolls and that paid by a citizen of the United States. So far as we are concerned, the foreigner's money goes into the Treasury of the United States when paid and stays paid. We do not refund it to him. A citizen's money will go into the Treasury of the United States, but we may refund it to him as a matter of public policy. What is the difference between exempting the tolls of an individual and

refunding them to him after they are paid? Why can not we exempt the party from paying tolls to the same extent as if we repaid them? It is said that the citizens of the United States are not the United States. But the citizens of the United States are not citizens of foreign countries, nor do they occupy the same relation to the United States as citizens of foreign countries. They are entitled to help, protection, and the benefit of legislation.

Our citizens pay for this canal. It has been contended by some that they do not favor the exemption of tolls because that would require the United States to tax the people to pay the amount which is exempted, and also because it would be encouraging a monopoly in the shipping business; that the tax would be compelled to be paid by the poor people who are not prepared to stand it. This contention is contradictory in its terms. It is contended that it would protect a monopoly which should not be protected; also, that it would impose a duty upon the rich, including all monopolies, who they say ought not to be protected. The poor people would not be taxed to make up any deficit which would be caused by exempting the tolls. The tax for that purpose would be raised exactly the same as our revenue is raised to-day.

First, from the incomes of persons having more than $3.000 and from corporations having an income. Certainly there ought to be no complaint on the part of the party in power to increasing the tax very slightly on that class of our people. The next source of revenue from which we obtain taxes is from the sale and manufacture of liquor and tobacco, both of which are counted as luxuries and not entitled to any tender consideration. Certainly they are not entitled to any more consideration than the upbuilding of our shipping. The third source from which we obtain tax is from merchandise imported from foreign countries, nearly all of which imports are never used by or reach people who have an income less than $3.000. The poor people of this country do not purchase foreign-made goods. It is the wealthier class who do that. A great many of the articles imported consists of wines and liquors, silks and satins, and articles of luxury. Very few imported articles reach the poor.

Is there any particular reason why an additional tax may not be imposed upon the wealthy who use the articles imported? It is estimated by Prof. Johnson that the amount of the exemption from taxation would be about $1,200,000, and that is only about one-tenth part of the total amount of the estimated income of the canal. The merchandise which would go through the canal on coastwise ships would nearly all be American products. By reducing the freight we would reduce the price of the same, and as the poorer class use the American products almost entirely they would get the benefit of the free tolls. It has been shown in the arguments and by documents introduced that comparatively small portions of the coastwise ships in this country belong to corporations.

But why should not corporations be encouraged to unite their means and build ships of commerce so as to do our freighting and save the great amount that is expended from going into foreign coffers, from which we never receive any benefit? If an individual accumulates wealth in this country, he most always uses it in this country. He does not let it lie idle. He invests it. He may enter into combinations with various other parties having the capacity to carry on large enterprises, and that is necessary. If such had not been permitted, we would have no railroads in the United States; we would have no rolling mills; we would have no cotton nor woolen factories; we would have a very restricted condition of business enterprise. It would be low in its scale, insignificant in its quantity, and not of a character that reaches out, takes hold of, and develops the country or builds up great establishments in which the people can be employed and from which we can supply the wants of the country without going abroad to do it. It would be better if we could encourage capitalists to build more ships and keep the money at home.

If we could make the coastwise trade profitable to them being engaged in that character of business, they would reach out and across the ocean and carry to and from other countries the exports and imports which we now pay foreign shipowners to carry for us. Free tolls is but a small item. It is an item which we would pay. It should not be granted to any foreign shipowner or freighter, especially until the income becomes so great that it exceeds the amount of the operation and maintenance of the canal, sanitation, cost of the Army and Navy in protecting and fortifying it, a proper payment of interest, and a sinking fund be provided for.

Mr. MYERS. Mr. President, I shall not attempt much more than a brief statement of the reasons for the faith within me that prompts support of the bill for the repeal of that provision of our law which provides toll exemption for our coastwise shipping through the Panama Canal. I am strong in that faith and strong in my convictions in behalf thereof. I had intended to prepare and deliver in this body a more extended address in behalf of repeal, but circumstances over which I had no control have prevented; and, furthermore, at this late day, after such prolonged, profound, and illuminating debate as we have had in this body, upon every phase of the subject in question, presenting every argument, pro and con, it would be inappropriate and presumptuous for me now to attempt any extended argument on the subject. I do not feel that anything that I could say would further illumine the subject or add anything to the very able and learned arguments that have preceded. However, I deem it appropriate and opportune at this time that I give to this body, and to such of my constituents as may feel an interest therein, a simple statement of my reasons for the vote I shall cast in favor of repeal and my views thereof. In doing so I realize that this is a question of large proportions, and I respect the sincerity and honesty of those who hold opposite views, granting to them the same honesty of conviction that I claim for myself.

On the 7th of August, 1912, when the act for the government of the Panama Canal was under consideration in this body and when a vote was had upon the amendment offered by the Senator from Ohio [Mr. BURTON] to subject our coastwise shipping to payment of tolls, I did not vote upon that amendment, being paired with the Senator from Connecticut [Mr. MCLEAN]. I do not know, had I voted thereon, how I would have voted, but presume I would probably have voted with my Democratic brethren against the amendment.

On the 9th of August, 1912, after that amendment had been defeated and when the bill for the general regulation of the canal, including the provision for toll exemption for American coastwise ships, was put upon its passage in this body, I voted for the general act in its entirety, including, as it did, the provision for toll exemption for American coastwise ships. To that extent and that extent only I voted for such toll exemption. Almost up to the time of the roll call I was undecided about how I should vote, because at that time I regarded with disfavor the idea of granting toll exemption to American coastwise ships. It impressed me then as a species of special privilege. According to my recollection, the question of whether or not such toll exemption was a violation of the Hay-Pauncefote treaty had not been very extensively debated at that time. I was in doubt about how I should vote, and was inclined to vote against the entire act until a fellow Democratic Senator, who was sitting next to me, drew on me the Democratic national platform and called my attention to the declaration therein in favor of toll exemption for American coastwise ships. If I had known before that there was such a plank in the Democratic national platform, it had escaped me. That shows how much of an impression it had made upon me, and I doubt not there were millions of other voters upon whom it had made no more impression. I certainly did not hear it read in the convention, although present when the platform was read, and if I afterwards read that particular plank it had for the time escaped my memory. Being in doubt on the subject and not having time for extended reflection, I decided to resolve the doubt in favor of the platform and voted for the bill containing the provision for toll exemption. However, I have been sorry of it ever since. Soon thereafter, upon reflection and deliberation, I concluded that I had done wrong in voting for the bill with that provision in it, and that toll exemption for American coastwise ships was, as I now believe it is, an indefensible subsidy and a special privilege to a favored few at the expense of the many and contrary to Democratic doctrine. Long ago, before the President's message in behalf of repeal, in fact, when I first heard it rumored that Representative ADAMSON or some one else would introduce in the House a bill for the repeal of the toll-exemption provision, I determined that if I should ever have a chance to vote to reverse my former vote I would do so.

As to the contention that the exemption from tolls of American coastwise ships is a violation of the Hay-Pauncefote treaty, while I have not had the privilege of hearing, I have had the pleasure of reading a number of the very able arguments, in each the House and the Senate, for or against repeal, and I have tried to follow closely the reasoning of each; and I must say that the reasons and arguments advanced in behalf of the contention that it is a violation of that treaty are the more persuasive to me.

The Clayton-Bulwer treaty of 1850 between the United States and Great Britain, which was the beginning of our negotiations with Great Britain for the construction of an interoceanic

canal, set forth in plain terms that any such canal constructed should be for the "benefit of mankind, on equal terms to all," thus putting the idea of the construction of such canal on a high plane of lofty principle, for the benefit of the world, utterly unselfish and free from narrowmindedness. It further provided for the strict and complete neutralization of any such canal. That treaty was superseded by the present Hay-Pauncefote treaty. The preamble of the latter refers to the Clayton-Bulwer treaty, and recites that the general principle of neutralization of the last-named treaty should not be impaired by the present treaty, thus continuing in force the general principle of neutralization of the Clayton-Bulwer treaty and making it a part of the spirit of the present treaty. The present treaty then provides, among other things, that the present canal "shall be free and open to the vessels of commerce and of war of all nations observing these rules, on terms of entire equality, so that there will be no discrimination against any such nation, or its citizens or subjects, in respect of the conditions or charges of traffic, or otherwise."

It seems to me that the words "all nations" include the United States. The treaty does not say "all nations other than the United States." How easy it would have been to have said so had it been so intended! I take it that the words mean all nations of the earth. They certainly can not mean all nations of Europe; all nations of the Eastern Hemisphere; all nations other than the United States. I think they mean all nations of the earth, and the United States is one of the nations of the earth. Learned arguments have been indulged in about the meaning of these words, but I prefer the construction of that great journal, the New York World, which, some weeks ago, said in effect that the words "all nations" need no construction, but speak for themselves and mean literally what they say. I am like the judge who said that the learned arguments of counsel might be all right, but he would decide the case on common sense. It seems to me that common sense indicates that the words "all nations" mean what they say. I am not disposed to give any technical or restricted meaning to them.

Able arguments have been made by learned statesmen to show that the provisions above quoted from section 1 of article 3 of the Hay-Pauncefote treaty do not forbid toll exemption to American coastwise ships. It has been argued that the Hay-Pauncefote treaty did not contemplate the construction of the canal in its present location, that it is located on different territory from what was then contemplated, that we own the territory on which it is constructed, and may do as we please with it, and that the Hay-Pauncefote treaty is thereby abrogated. Yet article 4 of the Hay-Pauncefote treaty says:

It is agreed that no change of territorial sovereignty or of the international relations of the country or countries traversed by the before-mentioned canal shall affect the general principle of neutralization or the obligation of the high contracting parties under the present treaty.

That alone might not put beyond doubt the control of the Hay-Pauncefote treaty over the canal, but in 1903, before the construction of the canal was begun, the United States entered into a treaty with the Republic of Panama regarding the construction, operation, and control of the canal, and article 18 of that treaty says:

The canal, when constructed, and the entrances thereto shall be neutral in perpetuity, and shall be opened upon the terms provided for by section 1 of article 3 of, and in conformity with all the stipulations of, the treaty entered into by the Governments of the United States and Great Britain on November 18, 1901—

Meaning the Hay-Pauncefote treaty; and section 1 of article 3 thereof is the portion thereof heretofore quoted and providing for equality of treatment of all nations and providing that there shall be no discrimination against any such nation or its citizens or subjects in respect to the conditions or charges of traffic or otherwise. Thus the United States, before beginning the construction of the canal, solemnly pledged its word to the Republic of Panama, from which it obtained the ground on which to construct the canal, that it would be constructed, operated, and conducted in strict conformity with the provisions of our Hay-Pauncefote treaty with Great Britain, thus impressing indelibly upon the canal all provisions of the Hay-Pauncefote treaty, no matter if the canal is constructed in a different place from that once anticipated. Furthermore, our treaty with the Republic of Panama expressly recites that title to the canal strip is vested in the United States, for the purpose of constructing and operating thereon a canal in accordance with the provisions of the Hay-Pauncefote treaty. Thus we hold the strip as trustee for an especial purpose, and should be careful of our trust.

It has been argued ably and with much force that the words "vessels of commerce" have a technical meaning and do not include coastwise ships. Yet our treaty with Great Britain in regard to the Welland Canal uses those words, and they have been held in practice by both nations to include coastwise ships. If they mean coastwise ships for the Welland Canal they mean coastwise ships for the Panama Canal. We have a large number of treaties in regard to shipping with South American republics, and in nearly every instance there is a clause that the provisions of the treaty shall not apply to coastwise ships, showing the intention specifically to exempt them. No such exemption was made nor intention manifested in the Hay-Pauncefote treaty. I do not care to construe the Hay-Pauncefote treaty in a technical way, nor to give technical meanings to its words. I prefer to construe it in a larger and more liberal way, which will be generous to the rights and contentions of others interested.

It has been contended that if we must charge our coastwise ships for passage we must charge our war vessels, but to my mind that contention is not reasonable. Our coastwise ships are owned by individuals or corporations—are privately owned—while our warships are owned by the Government, and there would be no sense in the Government taking money out of its Treasury and paying the same money back into its Treasury as toll for its warships. The law never requires a vain or useless thing to be done.

It has been contended that if we must charge our coastwise ships for passage we have no right to defend the canal in time of war, to victual our ships in it, to embark or disembark troops in it, to load on our warships within its zone munitions of war, or to do in time of war other things forbidden in the Hay-Pauncefote treaty. To my mind that contention is not sound. The right of self-defense is an inherent right. Those provisions of the Hay-Pauncefote treaty refer only to belligerent vessels of war. The United States can not be belligerent to itself. War between any two nations abrogates all treaties of, or as to, those nations. War between the United States and Great Britain would abrogate the Hay-Pauncefote treaty between those two nations. War between the United States and any other nation would abrogate the rights of that nation in or to the use of the canal under the Hay-Pauncefote treaty. The Hay-Pauncefote treaty specifically provides that—

the United States shall be at liberty to maintain such military police along the canal as may be necessary to protect it against lawlessness and disorder.

I am profoundly impressed with the learned argument and sound reasoning of Prof. Emory R. Johnson, of the University of Pennsylvania, as evinced in a contribution by him to the April, 1914, number of the North American Review, in which he contends, and I think clearly proves, that coastwise-toll exemption is trade discrimination, evasion of the law, and violation of the Hay-Pauncefote treaty. To my mind his reasoning is invincible and his logic irresistible. He shows that a cargo loaded in Liverpool but intended for San Francisco and shipped in a trans-Atlantic steamer from Liverpool to New York, and there reloaded on an American coastwise ship and carried on to San Francisco via Panama Canal, would under the present condition of the law evade payment of canal tolls, while a like cargo, shipped from Liverpool direct to San Francisco via Panama Canal, would be required to pay toll.

He further shows that goods shipped from New York directly to the Orient via Panama Canal would have to pay canal tolls, while an American coastwise ship could load a cargo at New York and proceed via Panama Canal to San Francisco, and there have the goods reloaded on an oriental steamship and carried to the Orient, or that the coastwise ship, after arriving at San Francisco, could take out clearance for the Orient without unloading at San Francisco and proceed to the Orient without changing the cargo from one ship to another, and in either of the latter events payment of canal tolls would be evaded. I see nothing incorrect in his statements, nothing false in his premises. If his premises are correct, his conclusions are unavoidable and, in my opinion, can not be refuted. Prof. Johnson argues that the present law to exempt from toll American coastwise vessels when the canal may be put in operation would cause fraud, deceit, subterfuge, evasion of law, violation of the principles of our treaty, violence to integrity, and downright dishonesty. I firmly believe that he is correct.

Mr. BRISTOW. Mr. President——

The PRESIDING OFFICER (Mr. THOMAS in the chair). Does the Senator from Montana yield to the Senator from Kansas?

Mr. MYERS. With great pleasure.

Mr. BRISTOW. Mr. President, I observe that the Senator is quoting from Prof. Johnson in regard to the tolls; and he spoke of transshipment at San Francisco, and said it would be an evasion of the coastwise trade provision, so that, in fact, foreign commerce would go through free. Did the Senator read the hearings of the committee, and does he remember that all of the testimony from practical, experienced men was that the

cost of transshipment at San Francisco, and the delay involved, would exceed the tolls on such cargoes?

Mr. MYERS. No, Mr. President; I did not read all of the testimony before the Senate committee, nor all of that before the House committee. I read most of Prof. Johnson's testimony or statement and that of some others. I now refer to Prof. Johnson's article in the North American Review. I must say that I have not read the phase of the testimony to which the Senator from Kansas refers.

Mr. BRISTOW. If the Senator will examine the hearings, he will find that all of those who appeared before the committee who had experience in shipping and were familiar with the subject from the practical point of view said that it would be impossible to transship in that way without incurring a greater expense than the tolls would amount to.

Mr. MYERS. I gladly take the Senator's statement for that. While the gentlemen who testified to that effect doubtless have had practical experience, which Prof. Johnson has not had, Prof. Johnson is, I believe, professor of the chair of transportation and railroads in the University of Pennsylvania, and has made an exhaustive and lifelong study of the subject, and I think his opinion is entitled to great weight. Of course, I realize that these differences are largely matters of opinion as yet, because they have not been put into practice.

Mr. BRISTOW. I am sorry to impose on the Senator; but if the Senator will examine the matter carefully he will find that Prof. Johnson has expressed opinions on both sides. His books are different from his testimony; so that really, on many of these controverted points, his declarations in his books that were printed a couple of years ago or more and his testimony this year are at variance.

Mr. MYERS. That may be, Mr. President. I take it that Prof. Johnson, in that event, is not the only honest man who has ever changed his mind. I quote from his latest utterance in the North American Review for April, 1914; and I take it that his latest utterance is the one by which he would stand.

I have read with enjoyment quite a number of the learned and able arguments for or against repeal by Members of the House and Members of the Senate. All were illuminating, interesting, and persuasive, and I derived profit as well as pleasure from the reading of all thereof; but, without disparagement to any, I believe that as able, exhaustive, and convincing an argument as I have read in favor of repeal is that made by Hon. FREDERICK C. STEVENS, a Republican Representative from Minnesota. I think his arguments that toll exemption for American coastwise vessels is a violation of the Hay-Pauncefote treaty are convincing and conclusive. Certainly he has no political motive in defending the policies of a Democratic administration or in upholding the hands of a Democratic President. He argues from an independent standpoint, without bias or prejudice, as an American citizen and patriot who has at heart the welfare and honor of his country.

I make no pretensions to being an international lawyer, jurist, or scholar, nor to having any ability along those lines. When eminent, able, and learned international lawyers, jurists, students, and scholars differ upon a great international question, as they do in this case, upon the question of whether or not toll exemption for American coastwise vessels is a violation of the provisions of the Hay-Pauncefote treaty, I set up no ultimatum of my own. I merely say that the arguments of those who contend that it is a violation of the treaty are the more persuasive and convincing to me. However, I believe that upon a question like this, when eminent, able, and conscientious authorities in the persons of distinguished international lawyers, jurists, scholars, and students of our own country differ amongst themselves as to whether or not toll exemption for American coastwise vessels is violative of our treaty with another nation, we should put our national honor above dispute amongst ourselves and resolve any substantial doubt in favor of the larger and more generous construction. The only thing to do is the larger thing; especially, when the President of the United States, himself an able, wise, patriotic, learned man and profound scholar, says that in his opinion toll exemption for American coastwise ships "is in plain contravention of the treaty with Great Britain, concerning the canal, concluded on November 18, 1901"—the Hay-Pauncefote treaty.

Even though toll exemption of American coastwise ships may or may not be violative of the Hay-Pauncefote treaty, be that as it may, I am unalterably opposed to toll exemption for American coastwise ships because I believe it to be an indefensible subsidy, a special privilege to the favored few at the expense of the many, a special privilege to a certain class at the expense of the masses and utterly at variance with the old-time, fundamental Democratic doctrine of equal rights for all and special privileges to none. A subsidy has been defined as "a grant of funds or property from a government to a private person or company to assist in the establishment or support of an enterprise deemed advantageous to the public; any gift of money or property made by one person to another by way of financial aid." President Taft, in one of his messages to Congress about the canal, said that toll exemption for our coastwise ships simply amounted to a subsidy to our coastwise ships and defended it as such. During the debates upon the present bill for repeal a number of Representatives and Senators who have argued against repeal have admitted that toll exemption is a subsidy and treated it as such. It is generally so accepted. I so regard it.

If the United States should donate out of the Public Treasury to the owner of each American coastwise ship a certain sum of money, it would plainly be a subsidy; and who is there who would justify or defend it? What a hue and cry of disapprobation it would raise in this country! The idea of taking by law money out of the pockets of the masses of the people and paying it over perforce to the rich owners of a few coastwise ships would be staggering; yet what is the difference between that and toll exemption? By the present law we are simply exempting from taxation, common to others, a certain class of people—relieving them from taxation at the expense of the people. I can see no practical difference between a subsidy and a discriminatory exemption from taxation; to my mind, it is the same thing in effect, and each is a subsidy. Suppose the great steel-manufacturing plants of this country or the railroads or the banks were by law exempted from payment of taxes and the burden of taxation thereby made the heavier on the rest of the people; would there be any justice in that?

It is estimated that the maintenance and operation of the Panama Canal will cost the people of this country about $17,000,000 per year. It is estimated that the tolls paid by oversea vessels will amount to about $11,000,000 per annum, leaving a deficit of $6,000,000 per annum to be paid by the people of this country. It is estimated that if our coastwise ships should be required to pay toll, they would contribute about $1,000,000 per year to the lessening of the deficit. Manifestly, if they should not be required to pay toll, that $1,000,000 per year, or whatever it may be found to amount to, would have to be paid by the people of this country. Why should the people of this country pay something for the benefit of a few owners of coastwise vessels? The question is, Shall the owners of the vessels pay their toll, or shall the people of this country pay it for them? If the owners of the vessels be not required to pay, the people of the country must pay, and the result is the special privilege of exemption to a favored few at the expense of the masses, and, according to my understanding, that is undemocratic.

It has been estimated that the actual cost to this Government, the actual outlay of cash which the Government will be required to make to put the average American coastwise ship through the canal, will be $2,000. The shipowner will get the benefit of that, and should he be exempted from tolls would not have to pay anything for it, whatever the actual cost might be. He would be getting something for nothing, apparently. I say apparently, because there is no such thing in the economic world as getting something of value for nothing. It may not cost the recipient anything, but it will cost somebody. Somebody has to pay for it. In this case the shipowner would not pay for it, but you and I, everybody, the toiling masses of the country, would pay for it. Would that be right? I believe the worst thing that can be taught a man is that he can get something for nothing. He may try it and succeed so far as cost to him is concerned, but it will cost somebody else something, and if the right man does not bear the cost, somebody else, who should not bear the cost, will have to bear it. It inculcates economic dishonesty.

All the arguments, all the oratory, all the eloquence, all the logic, all the reasoning, all the learning, all the appeals to national pride and patriotism in the world can not get around the solid fact that for a shipowner to have a ship put through the Panama Canal at a cost of $2,000 to the Government of the United States, or of any other sum whatsoever, and at no cost to him, would be giving him something for nothing, but that the people of the United States would have to bear the cost. That is the solid rock in the pathway of those who oppose repeal which can not be evaded nor wiped out of existence. It is a plain, simple fact, of which there can be no denial.

The people of this country have protested for years against a protective tariff. The clamor against it has been loud, long, and strong. The people have decided by their ballots that a law, under the guise of protection to American industries, which legislates money out of the pockets of the masses into the pockets of a few manufacturers, is wrong and they have repu-

diated it as special privilege, contrary to the principles of our Government. For myself I fail to see any difference in principle between protection per se, which levies a tribute upon each of many people and dumps the whole thing into the pockets of a few favored manufacturers, and giving to a few favored coastwise shipowners exemption from tolls at an expense which must be borne by all of the people, a little bit from each one of many for the benefit of a few. I am as much opposed to it as I am opposed to a protective tariff. I consider it as undemocratic as I consider the protective tariff system. Each is protection, favoritism, largess, bounty donation.

It has been said that the people would get the benefit of this toll exemption in the way of reduced freight rates, but there is no assurance of that. I have heard of no offer by American coastwise shipowners, nor any guaranty nor suggestion from them, that they would so lower rates as to give the people the benefit of this exemption. There is no guaranty. In my opinion, no reliance is to be placed upon it. It is giving away substance for shadow. It is giving away something in hand in hopes of getting the same back. Why not keep it while we have it? Why give it away and trust to the generosity of a monopoly to return this largess to the people? Is it not better to keep it in the first instance and know that we will have it, and take no chance on getting it back? Why throw away something in hopes that you will find it and get it back? Do prudent men throw away money and take chances on finding it? To my mind it is unsound and indefensible economy. For many years we have heard the specious claim that in the increased wages paid to American workingmen and the creation of new markets the money taken from the pockets of the masses and bestowed upon a few manufacturers by the protective tariff is returned to the people; but the American people have repudiated that claim. Equally as sophistic and fallacious, in my opinion, is the claim now made that the people would get back the bounty bestowed upon coastwise shipowners by exempting them from payment of tolls. The people are tired of being fooled by monopoly.

The truth of the matter is that American coastwise ships can be charged the regulation toll for passage through the Panama Canal and then they could undercharge by far the transportation charges of transcontinental railroads. The people can get the benefit of an enormous reduction and still charge coastwise ships toll and get what is due for putting such ships through the canal. As to transcontinental railroad rates, it is my understanding that the Interstate Commerce Commission, a body in which the people have great confidence, is clothed with authority to fix interstate freight rates. The transcontinental railroads, great promoters of civilization and prosperity, are entitled to a reasonable rate of interest on their investments, and their rates should not be lowered below that, neither by competition nor by law, and when they charge more than that the Interstate Commerce Commission has all the power needed to reduce their rates.

Expert testimony before investigating committees of the House and Senate shows that the use of the Panama Canal by American coastwise ships in transporting freight between Atlantic and Pacific coast points will save them in cost of transportation from $3 to $3.50 per ton. The toll rate has been fixed at $1.20 per ton for such vessels as are to pay. Thus, it will be seen, coastwise ships could pay the toll of $1.20 per ton and still save in cost of transportation from $1.80 to $2.30 per ton. This alone, if the people should get the benefit of it, would make stanch competition for the transcontinental railroads and result in great saving to the people, at the same time causing no loss to the people by the donation of toll costs to the owners of such ships. Is not that good enough? As a good-sized coastwise ship can carry 5,000 tons of freight at a trip, the saving to the people, if they are really to get the benefit, would be on one trip of such a ship, even though it pay its tolls, an average of $10,250.

It is said that the American and Canadian transcontinental railways are opposed to toll exemption for American coastwise ships. That should scare nobody. If such exemption is wrong, the railroads have a right to oppose it and to voice such opposition, although I have heard none of it, if there be any. That is beside the question. The question should be decided on its merits, on a test of right or wrong, regardless of the attitude of the railroads or anything or anybody else.

American coastwise shipping is already a monopoly. Foreign ships are forbidden by law to engage in the coastwise trade. American ships have a monopoly of it, and now, in addition to that, some would give them a subsidy, largess, bounty, donation, exemption from taxation. Are the American people in favor of giving subsidies to monopolies? If so, there is more than one monopoly that would like to have a subsidy and exemption from taxation. It would doubtless be very pleasing to the American coastwise shipowners to be exempted from payment of tolls. Suppose Congress should enact a law that all professional men, when traveling on business, need pay no railroad fare, on the theory that when they should arrive at their destinations they would charge their clients or patients less than otherwise and the people would get the benefit of the exemption. The professional men would doubtless be pleased, but would the people submit to that? Suppose all bankers, merchants, and business men were by law exempted from payment of interstate railroad fare. Would the people consider that fair? The Government has authorized the building of a railroad in Alaska. Suppose it should enact a law that all bona fide residents of Alaska should be allowed to travel and ship freight on that railroad without cost to them. The people of the United States would have to pay the cost thereof; and would the people of this country uphold that sort of discriminatory legislation at their cost?

It has been urged that the Government has spent millions of dollars in improving its rivers and other internal waterways, and that therefore steamboats operated on them should be charged for that privilege if coastwise ships are to be charged canal tolls. The illustration is not analogous. Our rivers are there by nature—the gifts of God to the people. We have no moral right to charge for the operation of steamboats on our inland waterways. There was no money invested by us in the creation or placing of them. They were put there without cost to us. The mere fact that we choose to appropriate some money to improve them and keep them in order gives us no right to take away from any man the inherent right to operate a steamboat on a great God-given internal waterway, placed there by the Creator for the benefit of all His creatures. We may spend money thereon or not, as we deem best, but any amount of money that we may spend in the improvement thereof is so insignificant as compared with what might be computed in dollars and cents as the equivalent of the original value thereof that it would give us no right to deny any man the right to operate a craft thereon.

To the contrary, we constructed the Panama Canal at the expense of the whole people, at the enormous cost of nearly $400,000,000, and it is our duty to recompense the whole people as much as possible for that tremendous outlay of their money. Col. Goethals, the constructor of the canal, takes the position that those who use it should pay for the privilege, and that it is the duty of the United States to recoup itself as far as possible for the enormous cost of the construction of the canal.

Much has been said about repeal of the toll-exemption law at the dictation of Great Britain. Great Britain protested against it before the enactment thereof, but since its enactment not a word of protest is being heard from Great Britain. Great Britain is not dictating nor demanding the repeal of the toll-exemption law. Nobody is acting at the behest or under the dictation of Great Britain. That assertion will scare nobody. There is nothing to it. President Wilson is not acting at the dictation or behest of Great Britain, and nobody believes he is. Neither are those who are acting with him. President Wilson is looked upon by the overwhelming majority of the people of this country, regardless of politics, as an able, wise, sincere, conscientious, patriotic citizen, who, as man and President, wants to do right and is trying to do right, and trying in a far-seeing, wise, patriotic, unbiased, unprejudiced manner. The people of the country have confidence in his integrity and good intentions.

It has been urged by some with much plausibility and earnestness that the Democratic national platform having declared in favor of toll exemption for American coastwise ships Democrats are bound thereby and should vote against repeal. It matters not how that plank got into the Democratic platform. It rather appears to me that while we were at Baltimore zealously guarding the Democratic national convention against the encroachments of certain big interests and privilege-seeking monopolies, which we feared, a plank was inserted in favor of one monopoly the significance of which failed to catch the attention of the convention.

So far as I am concerned, I am not disturbed about that plank in the Democratic platform. No platform, no party, no power on earth has the right to make me do what I think is wrong. I put right above party platform. I consider that plank un-Democratic and contrary to the fundamental principle of Democracy, which is equal rights to all and special privileges to none. I do not feel bound by any plank in any platform which I deem distinctively un-Democratic and morally wrong. If a Democratic platform contained a declaration in favor of a protective tariff as such, protection per se, I should unhesitatingly renounce it. I would not feel bound by it, because it would be at variance with all the tenets of Democracy. I do not believe, if a Democratic platform should contain a bald declaration in favor of

robbery, I would feel bound by it. I consider protection as nothing but legislative robbery, and I consider toll exemption for American coastwise ships legislative robbery of the people for the benefit of a monopoly. I do not believe in favoring monopolies. Therefore I feel no more bound by this declaration than if it were a declaration of so many words in favor of plain extortion.

I do not believe, anyway, that this declaration in the Democratic national platform had anything to do with the result of the last election—do not believe that the election was influenced by it in the slightest degree. I do not believe that the great majority of the voters knew it was in the Democratic platform nor that one voter out of thousands who may have known it realized its significance. I do not believe it influenced any voters in my State. I have no recollection of having heard it mentioned there. It is charged by some that the President has changed his mind on this question. I do not know that he has. He may possibly feel that conditions have changed. Should he have changed his mind—which I do not know and of which I do not profess to speak—it would not be the first time he had honestly changed his mind when convinced he had been wrong, nor is he the only honest man who has ever changed his mind. In part, the fact that he is President is due to the fact that he is honest and courageous enough to change his mind when convinced that it is right to do so. One of the greatest marks of an honest man is the courage to declare a change of convictions.

While I had decided in my own mind, before the President delivered his message, that toll exemption for coastwise ships was wrong and should be repealed, even had I not so decided, I would be willing to grant the President's request for repeal. He is at the head of our Government. He is the head of the administration. He is more intimately acquainted with foreign affairs than I. In such matters he knows better than I what is best for the country and the people. I have confidence in his wisdom, ability, integrity, patriotism, and devotion to principle. I believe he is fighting an earnest battle for the rights of the people. An army which does not follow its leader will not accomplish anything. I am willing to follow the leader in matters where I have no settled convictions to the contrary or which are not contrary to my conscience. Of course, where I have settled convictions to the contrary or in matters of conscience I am not willing to follow anyone, but otherwise I follow the leader. I have confidence in the President. The people have confidence in him. He is the President of the whole people, regardless of party. I believe he is able, courageous, and honest. When he asks us to repeal the toll-exemption law and says, "I shall not know how to deal with other matters of even greater delicacy and nearer consequence if you do not grant it to me in ungrudging measure," I believe he means what he says and knows what he is talking about, and I am in favor of granting his request. He makes that request not in a party sense nor of us as partisans. He makes it as President of the whole people; makes it of us as Senators, Americans, patriots, regardless of party; and in that sense I here refer to it and favor granting it. In such matters as this he is the leader of all of us—leader in a larger sense than a political sense, in a higher sphere than that of political platforms.

A number of amendments have been offered to the pending bill for repeal. I prefer the bill exactly as it came from the House, without any amendment. I have no particular objection to the amendment suggested by the Senate Committee on Interoceanic Canals, but do not see any need of it. If we have a right to do this thing—repeal the exemption law—it is our privilege to do so outright. If we have no right to do it, we should not do it. I do not believe the amendment offered by the committee adds to or detracts from our rights in the premises. Therefore I would prefer the bill without the amendment, but have no serious objection to it. As to the amendment offered by the Senator from Idaho [Mr. BORAH], to refer the matter to the people at the next election, I know of but one thing to be gained by it, and that is delay.

If the proposed repeal is violative of a treaty, no vote of the people could make it right. If it is not violative, no vote of the people could make it less so. I need no vote of the people to instruct me on the economic phase of the question. It is our business to dispose of this matter, and we should not shirk it by trying to shuffle it off on to the people. As to other amendments offered, I do not believe they better conditions. This is an issue that is before us for settlement. We should meet it directly and without qualification. This Congress is the body which should pass upon the construction of the Hay-Pauncefote treaty. It is a political question. Here and now I consider the place and time to settle this. I believe we should either repeal the exemption or refuse to repeal it, and that it should be settled here and now as to what our policy in that regard will be. I believe we are the people to do it; it is our duty; and I am for outright repeal. I am opposed to the delay arbitration would cause. I am for immediate action.

I believe that the large thing to do is the only thing that we can afford to do. I believe we should act in this matter upon and in accord with the lofty principle of benefit to all mankind in which it was originally conceived; free from all selfishness and suspicion of narrowness. Let us do what we started out to do—erect and perpetuate a lasting monument of great achievement which will show to the world that the American heart throbs with love of all mankind; that the American people are large enough to do a great thing which will redound for all time to the common advancement of the civilization, commerce, prosperity, friendly intercourse, enlightenment, and welfare of all the world, the common good of all mankind—without seeking any paltry, selfish advantage or seeking to give a few dollars to an American monopoly; thus showing that we not only believe in the brotherhood of all mankind, the community of interest of all nations, but that we act in that belief and prove it by our acts. With great respect for the profound learning and honest convictions of those who differ from me, I shall vote for repeal.

I here produce and make a part of my remarks and ask to have incorporated in the RECORD copies of the Hay-Pauncefote treaty and our treaty with the Republic of Panama for the acquisition of the canal strip.

HAY-PAUNCEFOTE TREATY.

The United States of America and His Majesty Edward the Seventh, of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas, King, and Emperor of India, being desirous to facilitate the construction of a ship canal to connect the Atlantic and Pacific Oceans, by whatever route may be considered expedient, and to that end to remove any objection which may arise out of the convention of the 19th April, 1850, commonly called the Clayton-Bulwer treaty, to the construction of such canal under the auspices of the Government of the United States, without impairing the "general principle" of neutralization established in article 8 of that convention, have for that purpose appointed as their plenipotentiaries—

The President of the United States, John Hay, Secretary of State of the United States of America;

And His Majesty, Edward VII, of the United Kingdom of Great Britain and Ireland, and of the British Dominions beyond the Seas, King, and Emperor of India, the Right Hon. Lord Pauncefote, G. C. B., G. C. M. G., His Majesty's ambassador extraordinary and plenipotentiary to the United States, who, having communicated to each other their full powers which were found to be in due and proper form, have agreed upon the following articles:

"ARTICLE 1.

"The high contracting parties agree that the present treaty shall supersede the aforementioned convention of the 19th April, 1850.

"ARTICLE 2.

"It is agreed that the canal may be constructed under the auspices of the Government of the United States, either directly at its own cost, or by gift or loan of money to individuals or corporations, or through subscriptions to or purchase of stock or shares, and that, subject to the provisions of the present treaty, the said Government shall have and enjoy all the rights incident to such construction, as well as the exclusive right of providing for the regulation and management of the canal.

"ARTICLE 3.

"The United States adopts, as the basis of the neutralization of such ship canal, the following rules, substantially as embodied in the convention of Constantinople, signed the 28th October, 1888, for the free navigation of the Suez Canal; that is to say:

"1. The canal shall be free and open to the vessels of commerce and of war of all nations observing these rules on terms of entire equality, so that there shall be no discrimination against any such nation or its citizens or subjects in respect of the conditions or charges of traffic, or otherwise. Such conditions and charges of traffic shall be just and equitable.

"2. The canal shall never be blockaded, nor shall any right of war be exercised nor any act of hostility be committed within it. The United States, however, shall be at liberty to maintain such military police along the canal as may be necessary to protect it against lawlessness and disorder.

"3. Vessels of war of a belligerent shall not revictual nor take any stores in the canal except so far as may be strictly necessary; and the transit of such vessels through the canal shall be effected with the least possible delay in accordance with the regulations in force, and with only such intermission as may result from the necessities of the service.

"Prizes shall be in all respects subject to the same rules as vessels of war of the belligerents.

"4. No belligerent shall embark or disembark troops, munitions of war, or warlike materials in the canal, except in case of accidental hindrance of the transit, and in such case the transit shall be resumed with all possible dispatch.

"5. The provisions of this article shall apply to waters adjacent to the canal within 3 marine miles of either end. Vessels of war of a belligerent shall not remain in such waters longer than 24 hours at any one time, except in case of distress, and in such case shall depart as soon as possible; but a vessel of war of one belligerent shall not depart within 24 hours from the departure of a vessel of war of the other belligerent.

"6. The plant, establishments, buildings, and all works necessary to the construction, maintenance, and operation of the canal shall be deemed to be part thereof for the purposes of this treaty, and in time of war, as in time of peace, shall enjoy complete immunity from attack or injury by belligerents and from acts calculated to impair their usefulness as part of the canal.

"ARTICLE 4.

"It is agreed that no change of territorial sovereignty or of the international relations of the country or countries traversed by the before-mentioned canal shall affect the general principle of neutraliza-

tion or the obligation of the high contracting parties under the present treaty.

"ARTICLE 5.

"The present treaty shall be ratified by the President of the United States, by and with the advice and consent of the Senate thereof, and by His Britannic Majesty; and the ratifications shall be exchanged at Washington or at London at the earliest possible time within six months from the date thereof

"In faith whereof the respective plenipotentiaries have signed this treaty and thereunto affixed their seals.

"Done in duplicate at Washington, the 18th day of November, in the year of our Lord one thousand nine hundred and one.

"JOHN HAY. [SEAL.]
"PAUNCEFOTE. [SEAL.]"

TREATY WITH REPUBLIC OF PANAMA.

The United States of America and the Republic of Panama, being desirous to insure the construction of a ship canal across the Isthmus of Panama to connect the Atlantic and Pacific Oceans, and the Congress of the United States of America having passed an act approved June 28, 1902, in furtherance of that object, by which the President of the United States is authorized to acquire within a reasonable time the control of the necessary territory of the Republic of Colombia, and the sovereignty of such territory being actually vested in the Republic of Panama, the high contracting parties have resolved for that purpose to conclude a convention and have accordingly appointed as their plenipotentiaries—

The President of the United States of America, John Hay, Secretary of State; and

The Government of the Republic of Panama, Philippe Bunau-Varilla, envoy extraordinary and minister plenipotentiary of the Republic of Panama, thereunto specially empowered by said Government, who after communicating with each other their respective full powers, found to be in good and due form, have agreed upon and concluded the following articles:

"ARTICLE 1.

"The United States guarantees and will maintain the independence of the Republic of Panama.

"ARTICLE 2.

"The Republic of Panama grants to the United States in perpetuity the use, occupation, and control of a zone of land and land under water for the construction, maintenance, operation, sanitation, and protection of said canal of the width of 10 miles, extending to the distance of 5 miles on each side of the center line of the route of the canal to be constructed; the said zone beginning in the Caribbean Sea 3 marine miles from mean low-water mark and extending to and across the Isthmus of Panama into the Pacific Ocean to a distance of 3 marine miles from mean low-water mark, with the proviso that the cities of Panama and Colon and the harbors adjacent to said cities, which are included within the boundaries of the zone above described, shall not be included within this grant. The Republic of Panama further grants to the United States in perpetuity the use, occupation, and control of any other lands and waters outside of the zone above described which may be necessary and convenient for the construction, maintenance, operation, sanitation, and protection of the said canal or of any auxiliary canals or other works necessary and convenient for the construction, maintenance, operation, sanitation, and protection of said enterprise.

"The Republic of Panama further grants in like manner to the United States in perpetuity all islands within the limits of the zone above described, and in addition thereto the group of small islands in the Bay of Panama, named Perico, Naos, Culebra, and Flamenco.

"ARTICLE 3.

"The Republic of Panama grants to the United States all the rights, power, and authority within the zone mentioned and described in article 2 of this agreement and within the limits of all auxiliary lands and waters mentioned and described in said article 2 which the United States would possess and exercise, if it were sovereign of the territory within which said lands and waters are located, to the entire exclusion of the exercise by the Republic of Panama of any such sovereign rights, power, or authority.

"ARTICLE 4.

"As rights subsidiary to the above grants the Republic of Panama grants in perpetuity to the United States the right to use the rivers, streams, lakes, and other bodies of water within its limits for navigation, the supply of water, or water power, or other purposes, so far as the use of said rivers, streams, lakes, and bodies of water, and the waters thereof, may be necessary and convenient for the construction, maintenance, operation, sanitation, and protection of the said canal.

"ARTICLE 5.

"The Republic of Panama grants to the United States in perpetuity a monopoly for the construction, maintenance, and operation of any system of communication by means of canal or railroad across its territory between the Caribbean Sea and the Pacific Ocean.

"ARTICLE 6.

"The grants herein contained shall in no manner invalidate the titles or rights of private land holders or owners of private property in the said zone or in or to any of the lands or waters granted to the United States by the provisions of any article of this treaty, nor shall they interfere with the rights of way over the public roads passing through the said zone or over any of the said lands or waters unless said rights of way or private rights shall conflict with rights herein granted to the United States, in which case the rights of the United States shall be superior. All damages caused to the owners of private lands or private property of any kind by reason of the grants contained in this treaty or by reason of the operations of the United States, its agents or employees, or by reason of the construction, maintenance, operation, sanitation, and protection of the said canal or of the works of sanitation and protection herein provided for, shall be appraised and settled by a joint commission appointed by the Governments of the United States and the Republic of Panma, whose decisions as to such damages shall be final and whose awards as to such damages shall be paid solely by the United States. No part of the work on said canal or the Panama Railroad or on any auxiliary works relating thereto and authorized by the terms of this treaty shall be prevented, delayed, or impeded by or pending such proceedings to ascertain such damages. The appraisal of said private lands and private property and the assessment of damages to them shall be based upon their value before the date of this convention.

"ARTICLE 7.

"The Republic of Panama grants to the United States within the limits of the cities of Panama and Colon and their adjacent harbors and within the territory adjacent thereto the right to acquire by purchase or by the exercise of the right of eminent domain, any lands, buildings, water rights, or other properties necessary and convenient for the construction, maintenance, operation, and protection of the canal and of any works of sanitation, such as the collection and disposition of sewage and the distribution of water in the said cities of Panama and Colon, which, in the discretion of the United States may be necessary and convenient for the construction, maintenance, operation, sanitation, and protection of the said canal and railroad. All such works of sanitation, collection and disposition of sewage, and distribution of water in the cities of Panama and Colon shall be made at the expense of the United States, and the Government of the United States, its agents, or nominees shall be authorized to impose and collect water rates and sewage rates which shall be sufficient to provide for the payment of interest and the amortization of the principal of the cost of said works within a period of 50 years, and upon the expiration of said term of 50 years the system of sewers and waterworks shall revert to and become the properties of the cities of Panama and Colon, respectively, and the use of the water shall be free to the inhabitants of Panama and Colon, except to the extent that water rates may be necessary for the operation and maintenance of said system of sewers and water.

"The Republic of Panama agrees that the cities of Panama and Colon shall comply in perpetuity with the sanitary ordinances, whether of a preventive or curative character, prescribed by the United States, and in case the Government of Panama is unable or fails in its duty to enforce this compliance by the cities of Panama and Colon with the sanitary ordinances of the United States the Republic of Panama grants to the United States the right and authority to enforce the same.

"The same right and authority are granted to the United States for the maintenance of public order in the cities of Panama and Colon and the territories and harbors adjacent thereto in case the Republic of Panama should not be, in the judgment of the United States, able to maintain such order.

"ARTICLE 8.

"The Republic of Panama grants to the United States all rights which it now has or hereafter may acquire to the property of the New Panama Canal Co. and the Panama Railroad Co. as a result of the transfer of sovereignty from the Republic of Colombia to the Republic of Panama over the Isthmus of Panama and authorizes the New Panama Canal Co. to sell and transfer to the United States its rights, privileges, properties, and concessions, as well as the Panama Railroad and all the shares or part of the shares of that company; but the public lands situated outside of the zone described in article 2 of this treaty now included in the concessions to both said enterprises and not required in the construction or operation of the canal shall revert to the Republic of Panama, except any property now owned by or in the possession of said companies within Panama or Colon or the ports or terminals thereof.

"ARTICLE 9.

"The United States agrees that the ports at either entrance of the canal and the waters thereof, and the Republic of Panama agrees that the towns of Panama and Colon shall be free for all time, so that there shall not be imposed or collected customhouse tolls, tonnage, anchorage, lighthouse, wharf, pilot, or quarantine dues or any other charges or taxes of any kind upon any vessel using or passing through the canal or belonging to or employed by the United States, directly or indirectly, in connection with the construction, maintenance, operation, sanitation, and protection of the main canal, or auxiliary works, or upon the cargo, officers, crew, or passengers of any such vessels, except such tolls and charges as may be imposed by the United States for the use of the canal and other works, and except tolls and charges imposed by the Republic of Panama upon merchandise destined to be introduced for the consumption of the rest of the Republic of Panama, and upon vessels touching at the ports of Colon and Panama and which do not cross the canal.

"The Government of the Republic of Panama shall have the right to establish in such ports and in the towns of Panama and Colon such houses and guards as it may deem necessary to collect duties on importations destined to other portions of Panama and to prevent contraband trade. The United States shall have the right to make use of the towns and harbors of Panama and Colon as places of anchorage, and for making repairs, for loading, unloading, depositing, or transshipping cargoes either in transit or destined for the service of the canal and for other works pertaining to the canal.

"ARTICLE 10.

"The Republic of Panama agrees that there shall not be imposed any taxes, national, municipal, departmental, or of any other class, upon the canal, the railways and auxiliary works, tugs and other vessels employed in the service of the canal, storehouses, workshops, offices, quarters for laborers, factories of all kinds, warehouses, wharves, machinery, and other works, property, and effects appertaining to the canal or railroad and auxiliary works, or their officers or employees, situated within the cities of Panama and Colon, and that there shall not be imposed contributions or charges of a personal character of any kind upon officers, employees, laborers, and other individuals in the service of the canal and railroad and auxiliary works.

"ARTICLE 11.

"The United States agrees that the official dispatches of the Government of the Republic of Panama shall be transmitted over any telegraph and telephone lines established for canal purposes and used for public and private business at rates not higher than those required from officials in the service of the United States.

"ARTICLE 12.

"The Government of the Republic of Panama shall permit the immigration and free access to the lands and workshops of the canal and its auxiliary works of all employees and workmen of whatever nationality under contract to work upon or seeking employment upon or in any wise connected with the said canal and its auxiliary works, with their respective families, and all such persons shall be free and exempt from the military service of the Republic of Panama.

"ARTICLE 13.

"The United States may import at any time into the said zone and auxiliary lands, free of customs duties, imposts, taxes, or other charges, and without any restrictions, any and all vessels, dredges, engines, cars,

machinery, tools, explosives, materials, supplies, and other articles necessary and convenient in the construction, maintenance, operation, sanitation, and protection of the canal and auxiliary works, and all provisions, medicines, clothing, supplies, and other things necessary and convenient for the officers, employees, workmen, and laborers in the service and employ of the United States and for their families. If any such articles are disposed of for use outside of the zone and auxiliary lands granted to the United States and within the territory of the Republic, they shall be subject to the same import or other duties as like articles imported under the laws of the Republic of Panama.

"ARTICLE 14.

"As the price or compensation for the rights, powers, and privileges granted in this convention by the Republic of Panama to the United States, the Government of the United States agrees to pay to the Republic of Panama the sum of $10,000,000 in gold coin of the United States on the exchange of the ratification of this convention and also an annual payment during the life of this convention of $250,000 in like gold coin, beginning nine years after the date aforesaid.

"The provisions of this article shall be in addition to all other benefits assured to the Republic of Panama under this convention.

"But no delay or difference of opinion under this article or any other provisions of this treaty shall affect or interrupt the full operation and effect of this convention in all other respects.

"ARTICLE 15.

"The joint commission referred to in article 6 shall be established as follows:

"The President of the United States shall nominate two persons and the President of the Republic of Panama shall nominate two persons, and they shall proceed to a decision; but in case of disagreement of

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the commission (by reason of their being equally divided in conclusion) an umpire shall be appointed by the two Governments, who shall render the decision. In the event of the death, absence, or incapacity of a commissioner or umpire, or of his omitting, declining, or ceasing to act, his place shall be filled by the appointment of another person in the manner above indicated. All decisions by a majority of the commission or by the umpire shall be final.

"ARTICLE 16.

"The two Governments shall make adequate provision by future agreement for the pursuit, capture, imprisonment, detention, and delivery within said zone and auxiliary lands to the authorities of the Republic of Panama of persons charged with the commitment of crimes, felonies, or misdemeanors without said zone, and for the pursuit, capture, imprisonment, detention, and delivery without said zone to the authorities of the United States of persons charged with the commitment of crimes, felonies, and misdemeanors within said zone and auxiliary lands.

"ARTICLE 17.

"The Republic of Panama grants to the United States the use of all the ports of the Republic open to commerce as places of refuge for any vessels employed in the canal enterprise and for all vessels passing or bound to pass through the canal which may be in distress and be driven to seek refuge in said ports. Such vessels shall be exempt from anchorage and tonnage dues on the part of the Republic of Panama.

"ARTICLE 18.

"The canal, when constructed, and the entrances thereto shall be neutral in perpetuity, and shall be opened upon the terms provided for by section 1 of article 3 of and in conformity with the stipulations of the treaty entered into by the Governments of the United States and Great Britain on November 18, 1901.

"ARTICLE 19.

"The Government of the Republic of Panama shall have the right to transport over the canal its vessels and its troops and munitions of war in such vessels at all times without paying charges of any kind. The exemption is to be extended to the auxiliary railway for the transportation of persons in the service of the Republic of Panama, or of the police force charged with the preservation of public order outside of said zone, as well as to their baggage, munitions of war, and supplies.

"ARTICLE 20.

"If by virtue of any existing treaty in relation to the territory of the Isthmus of Panama, whereof the obligations shall descend or be assumed by the Republic of Panama, there may be any privilege or concession in favor of the Government or the citizens or subjects of a third power relative to an interoceanic means of communication which in any of its terms may be incompatible with the terms of the present convention, the Republic of Panama agrees to cancel or modify such treaty in due form, for which purpose it shall give to the said third power the requisite notification within the term of four months from the date of the present convention, and in case the existing treaty contains no clause permitting its modifications or annulment, the Republic of Panama agrees to procure its modification or annulment in such form that there shall not exist any conflict with the stipulations of the present convention.

"ARTICLE 21.

"The rights and privileges granted by the Republic of Panama to the United States in the preceding articles are understood to be free of all anterior debts, liens, trusts, or liabilities or concessions or privileges to other Governments, corporations, syndicates, or individuals, and consequently, if there should arise any claims on account of the present concessions and privileges or otherwise, the claimants shall resort to the Government of the Republic of Panama, and not to the United States for any indemnity or compromise which may be required.

"ARTICLE 22.

"The Republic of Panama renounces and grants to the United States the participation to which it might be entitled in the future earnings of the canal under article 15 of the concessionary contract with Lucien N. B. Wyse, now owned by the New Panama Canal Co., and any and all other rights or claims of a pecuniary nature arising under or relating to said concession or arising under or relating to the concessions to the Panama Railroad Co. or any extension or modification thereof; and it likewise renounces, confirms, and grants to the United States, now and hereafter, all the rights and property reserved in the said concessions which otherwise would belong to Panama at or before the expiration of the terms of 99 years of the concessions granted to or held by the above-mentioned party and companies, and all right, title, and interest which it now has or may hereafter have in and to the lands, canal, works, property, and rights held by the said companies under said concessions or otherwise and acquired or to be acquired by the United States from or through the New Panama Canal Co., including any property and rights which might or may in the future, either by lapse of time, forfeiture, or otherwise, revert to the Republic of Panama under any contracts or concessions with said Wyse, the Universal Panama Canal Co., the Panama Railroad Co., and the New Panama Canal Co.

The aforesaid rights and property shall be and are free and released from any present or reversionary interest or claims of Panama, and the title of the United States thereto upon consummation of the contemplated purchase by the United States from the New Panama Canal Co. shall be absolute, so far as concerns the Republic of Panama, excepting always the rights of the Republic specifically secured under this treaty.

"ARTICLE 23.

"If it should become necessary at any time to employ armed forces for the safety or protection of the canal, or of the ships that make use of the same, or the railways and auxiliary works, the United States shall have the right, at all times and in its discretion, to use its police and its land and naval forces or to establish fortifications for these purposes.

"ARTICLE 24.

"No change either in the government or in the laws and treaties of the Republic of Panama shall, without the consent of the United States, affect any right of the United States under the present convention, or under any treaty stipulation between the two countries that now exists or may hereafter exist touching the subject matter of this convention.

"If the Republic of Panama shall hereafter enter as a constituent into any other government, or into any union or confederation of states, so as to merge her sovereignty or independence in such government, union, or confederation, the rights of the United States under this convention shall not be in any respect lessened or impaired.

"ARTICLE 25.

"For the better performance of the engagements of this convention and to the end of the efficient protection of the canal and the preservation of its neutrality, the Government of the Republic of Panama will sell or lease to the United States lands adequate and necessary for naval or coaling stations on the Pacific coast and on the western Caribbean coast of the Republic at certain points to be agreed upon with the President of the United States.

"ARTICLE 26.

"This convention, when signed by the plenipotentiaries of the contracting parties, shall be ratified by the respective Governments and the ratifications shall be exchanged at Washington at the earliest date possible.

"In faith whereof the respective plenipotentiaries have signed the present convention in duplicate and have hereunto affixed their respective seals.

"Done at the city of Washington the 18th day of November, in the year of our Lord 1903.

"JOHN HAY. [SEAL.]
"P. BUNAU-VARILLA. [SEAL.]"

Mr. KERN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Ashurst	Jones	Oliver	Stephenson
Borah	Kenyon	Overman	Swanson
Bristow	Kern	Page	Thomas
Bryan	Lee, Md.	Perkins	Thompson
Burton	Lewis	Pomerene	Thornton
Catron	Lippitt	Root	Tillman
Chamberlain	Lodge	Saulsbury	Vardaman
Chilton	Martin, Va.	Shafroth	Walsh
Clark, Wyo.	Martine, N. J.	Sheppard	Warren
Cummins	Myers	Shively	West
Goff	Nelson	Simmons	White
Gronna	Norris	Smith, Ariz.	
Hughes	O'Gorman	Smoot	

Mr. THORNTON. I was requested to announce the unavoidable absence of the senior Senator from Mississippi [Mr. WILLIAMS].

The PRESIDING OFFICER. Fifty Senators have answered to their names. A quorum is present.

Mr. O'GORMAN. Mr. President, I do not know whether there is any other Senator who desires to discuss the tolls question to-day. If there is no one prepared to go on now, I ask that the bill be temporarily laid aside.

Mr. KERN. If there are no further arguments to be made upon the bill, I do not see why it should be laid aside. If the debate is ended, I think we should proceed to dispose of the bill.

Mr. O'GORMAN. The Senator might well know that the debate is not ended. Notice, I think, has been given by at least one Senator to speak on Wednesday morning. I know of at least two others who expect to speak during the week. While there may be reasons why a vote on the tolls bill should be expedited, I know equally good reasons for the expedition of the vote on the naval appropriation bill, which had the attention of the Senate for most of last Friday. It may be remembered that after a protracted discussion regarding certain features of that bill we were compelled to adjourn at half past 6 in the evening, because of the absence of a quorum which was needed at the time we were taking a vote, and most of us assumed, when we adjourned at half past 6 Friday evening, that at the earliest opportunity to-day we would resume the consideration of the naval appropriation bill and proceed to take a vote upon the

question which was then pending and which had, indeed, the attention of the Senate for three or four hours.

I know of no one who desires to delay a vote on the tolls question. My own judgment is that all who desire to speak will have made their speeches by Thursday or Friday of this week, at which time we can proceed to vote without delaying action on other matters of vital importance.

Mr. SIMMONS. Mr. President——

The PRESIDING OFFICER. Does the Senator from New York yield to the Senator from North Carolina?

Mr. O'GORMAN. Yes.

Mr. SIMMONS. I wish to inquire of the Senator from New York, who represents one side of this controversy, whether we can not now agree upon some time for taking the vote.

Mr. O'GORMAN. Personally I shall have no objection to agreeing upon some hour on Friday. I think by that time every Senator who desires to speak will have spoken.

Mr. SIMMONS. I trust the Senator will ask for unanimous consent that that shall be done; and if he does not, I will make the request.

Mr. O'GORMAN. If there be no objection, I ask that we proceed to vote at 4 o'clock on Friday of this week.

Mr. CUMMINS. Mr. President——

The PRESIDING OFFICER. Does the Senator from New York yield to the Senator from Iowa?

Mr. O'GORMAN. I do.

Mr. CUMMINS. I have no disposition to delay a vote upon the bill, but I am constrained to object to fixing an hour for voting upon it. Whenever the majority feels that we ought to consider the bill to the exclusion of all others until a vote is reached upon it, I at least can see no objection to that course; in fact, I think that is the course which ought to be pursued. I shall object at any time to a unanimous-consent agreement for fixing an hour to vote upon the bill. I have no objection to holding it under consideration until we do reach a vote.

Mr. O'GORMAN. Would the Senator have any objection to an agreement to proceed with the consideration of the pending tolls bill to the exclusion of all other business beginning on Wednesday morning of this week?

Mr. SIMMONS. Mr. President——

Mr. CUMMINS. Personally I have no objection.

Mr. O'GORMAN. The reason why I suggest Wednesday is that one Senator has given notice that he will speak on Wednesday morning.

Mr. CUMMINS. One objection will be unavailing, because the majority has it in its own hands to proceed with the consideration of the bill until we reach a vote. I would have no objection to agreeing to do what the majority has it in its power to do, nor do I see any reason for not so doing. My position is that whatever debate occurs hereafter upon the bill ought to occur under such circumstances as that a vote upon the bill or upon some amendment to it can be taken whenever the debate closes. This measure is peculiar in some respects, and I do not think the Senate ought to agree to vote at a specified time upon it. It ought to vote whenever Senators no longer care to speak upon it.

Mr. SIMMONS. Mr. President, if the Senator from Iowa will permit me, the Senator sees—I think he must see—that if an individual Senator is able to control this matter by simply giving notice that he will make a speech at some future day, the whole Senate may be indefinitely held up from reaching a final vote.

Mr. CUMMINS. I do not think it ought to be indefinitely held up.

Mr. SIMMONS. Neither do I.

Mr. CUMMINS. On the contrary, I believe in that kind of debate which is to be followed by action.

Mr. O'GORMAN. I want to ask the Senator from North Carolina if I understand he objects to the proposal I have submitted to the Senate—that after the morning business on Wednesday of this week we take up the tolls bill and proceed, to the exclusion of all other business, with the consideration of the bill down to a vote?

Mr. SIMMONS. I will ask the Senator if, in the place of "Wednesday," he would not be willing to insert "Tuesday morning"?

Mr. O'GORMAN. No.

Mr. SIMMONS. There will be debate sufficient to carry the matter over until Wednesday. The Senator who has given notice that he will speak on Wednesday will not then lose his opportunity.

Mr. KERN. He will be entirely in order.

Mr. O'GORMAN. If the Senator who has announced that he will speak on Wednesday is here, I will say that it is largely out of deference to his notice that I have made the suggestion. I refer to the junior Senator from Mississippi [Mr. VARDAMAN].

Mr. SIMMONS. The junior Senator from Mississippi is here.

Mr. O'GORMAN. If the junior Senator from Mississippi has no objection to proceeding on Tuesday rather than on Wednesday, I have no objection.

Mr. VARDAMAN. Mr. President——

The PRESIDING OFFICER (Mr. SHAFROTH in the chair). Does the Senator from New York yield to the Senator from Mississippi?

Mr. O'GORMAN. I yield to the Senator from Mississippi.

Mr. VARDAMAN. Mr. President, I was assured that a vote could not possibly be reached before Wednesday afternoon; indeed I thought all of the intervening time would be taken up by the Senate in the discussion of this question. I shall not be prepared to discuss it until that time.

Mr. KERN. The Senator does not object to our taking up the bill to-morrow?

Mr. VARDAMAN. I have no objection to the bill being taken up now or to its being taken up at any time; certainly not. The bill has been up to-day. I had no idea there would be any effort to insist upon a vote earlier than Wednesday. I do not see the necessity for this haste. Senators want to discuss the matter. Its discussion has not interfered with the other business before the Senate. I shall not consume very much of the time of the Senate on Wednesday, and I am willing to vote at any time after that when the Senate may desire to vote on the question.

Mr. O'GORMAN. Mr. President, to indicate to the Senate the attitude of the committee, I now give notice that beginning on Wednesday morning next after the conclusion of morning business the tolls bill will be kept before the Senate to the exclusion of all other business until such time as a vote may be reached in due course. I now ask that the unfinished business be temporarily laid aside.

The VICE PRESIDENT. Without objection, it will be so ordered.

NAVAL APPROPRIATIONS.

Mr. THORNTON. I ask unanimous consent that the Senate proceed to the consideration of the naval appropriation bill.

There being no objection, the Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 14034) making appropriations for the naval service for the fiscal year ending June 30, 1915, and for other purposes.

The VICE PRESIDENT. The question is on the amendment on page 56, on which the yeas and nays have been ordered.

Mr. CLAPP. Let the amendment be stated.

The VICE PRESIDENT. The vote on the yeas and nays disclosed the lack of a quorum on Friday evening, and the Senate adjourned with the question pending.

Mr. CLAPP. May we not have the amendment again stated, Mr. President?

The VICE PRESIDENT. The Secretary will state the pending amendment.

The SECRETARY. Under the heading of "Increase of the Navy," on page 56, beginning with the word "One," in line 20, the committee proposed to strike out the remainder of the paragraph. To that amendment Mr. O'GORMAN offered an amendment to strike out, beginning with the words "and the Secretary of the Navy," in line 22, the remainder of the paragraph. The Senate, as in Committee of the Whole, agreed to that amendment.

Mr. CHILTON. What is the pending amendment?

The SECRETARY. So that the following words remain in the House text:

> One of the battleships hereby authorized shall be built and constructed at a Government navy yard.

And the remainder of the paragraph is stricken out.

Mr. CHILTON. Now, what is the pending question?

The VICE PRESIDENT. The Chair thinks it but fair for the Chair to state before the vote is taken upon the amendment as amended that there is this parliamentary situation confronting the Senate: The Senate committee amendment has already been stated by the Secretary. The amendment of the Senator from New York [Mr. O'GORMAN] to the amendment struck out the latter clause only of the amendment as proposed by the committee. The amendment as amended is now the question upon which the Senate is to vote. The parliamentary situation is that, if the amendment as amended be defeated, then does that simply leave in the bill the following words:

> One of the battleships hereby authorized shall be built and constructed at a Government navy yard—

Or does it leave in the bill the entire paragraph as it came from the other House? The Chair is impressed with the idea that if the amendment as amended fails of adoption by the Senate, the entire paragraph remains in the bill, notwithstanding the vote on the amendment as proposed by the Senator from

New York. The Chair feels inclined to make this statement now before the vote is taken on the amendment as amended to the end that, if the Senate do not agree with the opinion of the Chair, it may be otherwise decided by the Senate; or, if the Senate do agree with the ruling of the Chair and desire to take any step whereby the parliamentary situation may be cleared up and the vote be taken simply upon the question of either leaving in the bill or striking out of the bill the paragraph—

One of the battleships hereby authorized shall be built and constructed at a Government navy yard—

That such step may be now taken.

Mr. HUGHES. Mr. President, a parliamentary inquiry.

The VICE PRESIDENT. The Chair has not quite concluded the opinion of the Chair; when the Chair shall have done so, he will then hear the Senator from New Jersey.

In other words, the Chair is impressed with the view that, as the parliamentary situation is now, whichever way the vote goes, either the paragraph in its entirety will stay in or the first clause of the paragraph will stay in the bill.

Mr. SWANSON. Mr. President——

The VICE PRESIDENT. The Chair stated that he would first recognize the Senator from New Jersey. The Senator from New Jersey.

Mr. HUGHES. Mr. President, I wish to make a parliamentary inquiry. I desire to know if, in the opinion of the Chair, a vote of "nay" strikes out all of the amendment but leaves the paragraph in the bill as it came from the other House, then would it be possible to offer another amendment to carry out the wishes of the Senate immediately thereafter and to carry out the will of the Senate as expressed on the last day when the Senate considered this proposition? My understanding of this amendment, I will say to the Chair, on Friday night was that a vote of "nay" left the language in the bill:

One battleship hereby authorized shall be built and constructed at a Government navy yard.

The VICE PRESIDENT. The Chair is of the opinion that a vote "yea" would leave that language in the bill, because it is the amendment as amended, and that a vote "nay" would leave the entire paragraph in.

Mr. SWANSON. Mr. President, that is the reverse of the way we voted on Friday night. It seems to me the situation is this: The committee offered an amendment striking out the entire clause. Then an amendment was offered by the Senator from New York [Mr. O'GORMAN] striking only a part of it out. That was carried; that is to strike out the Senate committee amendment; and that amendment was amended to that extent. Now, the committee amendment having been amended to that extent, it is impossible for the Senate to again vote to strike it out. So that the only question that comes up is to strike out the portion which has been left in by the amendment of the Senator from New York to the committee amendment. It would seem to me that a vote of "nay" would leave that in the bill and a vote of "yea" would let it go out, as we voted on Friday night last. It seems to me the decision of the Chair on Friday was clearly correct. The question is now, Shall we keep in the bill the part first amended by the committee's amendment as presented by the Senator from New York?

The VICE PRESIDENT. But the Chair feels that, in justice to the Senator from New York, who did not, in the opinion of the Chair, present his amendment in parliamentary language—the Chair having changed the language of the Senator from New York—the Chair feels, in justice to him, that the situation ought to be explained to the Senate.

The amendment as offered in the language of the Senator from New York was on page 56 to amend the committee amendment by retaining in lines 20, 21, and 22, the words "One of the battleships hereby authorized shall be built and constructed at a Government navy yard." That was the real purpose of the amendment offered by the Senator from New York, to leave this language in the bill and to strike out the remainder of the paragraph; so that, taking into consideration the intention of the Senator from New York, the amendment as amended must be carried in order to comply with the real intention of the Senator from New York.

Mr. O'GORMAN. By common consent and acquiescence and construction on Friday the second paragraph of the clause in question was struck out. I apprehend there will be no objection to submitting to the Senate now the amendment as I proposed it in the precise language just read by the presiding officer, so that the Senate may pass upon the definite proposition, as to whether there will be retained in the bill a provision that one of the battleships hereby authorized shall be built and constructed at a Government navy yard, and that there be a vote on that.

Mr. HUGHES. I ask unanimous consent that the proposition be submitted in that way.

Mr. LODGE. If it is possible to go back to the original proposition of the bill, the committee reported to strike out a certain paragraph; that paragraph is obviously divisible; it carries two propositions, and it can be divided on the request of any Senator. If that were done, the first question would be on agreeing to the committee amendment as to the first clause; and the next question would be, Shall the committee amendment be agreed to as to the second clause? Then we would determine which clause shall stay in and which shall go out or whether they shall both remain in or both go out, as the vote may decide.

The VICE PRESIDENT. The Senator from Massachusetts very clearly states what may be done under the laws of the Senate; but the situation the Chair felt ought to be explained before the vote was taken.

Mr. O'GORMAN. I ask unanimous consent, Mr. President, that the question may be submitted to the Senate in the language suggested in my proposed amendment, namely, that the provision covering the suggestion that "one battleship hereby authorized shall be built and constructed at a Government navy yard" shall be retained in the bill.

Mr. LODGE. I think, Mr. President, if the Senator from New York will allow me, that he ought to add to that request the request that the committee amendment be divided.

Mr. O'GORMAN. I have no objection to that.

Mr. LODGE. And that the vote be taken first on his amendment.

The VICE PRESIDENT. Is there any objection to dividing the question so that the two propositions shall be voted upon separately?

Mr. O'GORMAN. There is no objection to that, as I understand, Mr. President.

The VICE PRESIDENT. The Chair hears none, and it is so ordered.

Mr. LODGE. The question will come first on the first clause, and then the question will come on the second clause.

The VICE PRESIDENT. That is correct. The first clause is:

One of the battleships hereby authorized shall be built and constructed at a Government navy yard.

The committee proposes to strike that out. A negative vote would leave it in the bill. The yeas and nays have been ordered on that question, and the Secretary will call the roll.

Mr. BRYAN (when his name was called). I have a pair with the junior Senator from Michigan [Mr. TOWNSEND] which I transfer to the junior Senator from Arkansas [Mr. ROBINSON] and vote "yea."

Mr. CHILTON (when his name was called). I have a general pair with the Senator from New Mexico [Mr. FALL], but I transfer that pair to the Senator from Tennessee [Mr. SHIELDS] and vote "yea."

Mr. GOFF (when his name was called). I have a general pair with the senior Senator from Alabama [Mr. BANKHEAD], and therefore withhold my vote.

Mr. GRONNA (when his name was called). I have a general pair with the Senator from Maine [Mr. JOHNSON]. I transfer that pair to my colleague [Mr. MCCUMBER] and vote "nay."

Mr. JONES (when his name was called). I am paired with the Senator from South Carolina [Mr. SMITH], and therefore will have to withhold my vote. If I were at liberty to vote, I should vote "nay."

Mr. O'GORMAN (when his name was called). I have a general pair with the senior Senator from New Hampshire [Mr. GALLINGER]. I am released from that pair on this vote, and I vote "nay."

Mr. WARREN (when his name was called). I have a general pair with the senior Senator from Florida [Mr. FLETCHER] which I transfer to the Senator from Illinois [Mr. SHERMAN] and vote "nay."

Mr. THORNTON (when the name of Mr. WILLIAMS was called). I am requested to announce the unavoidable absence of the senior Senator from Mississippi [Mr. WILLIAMS], and also that he is paired with the senior Senator from Pennsylvania [Mr. PENROSE].

The roll call was concluded.

Mr. REED. I transfer my pair with the Senator from Michigan [Mr. SMITH] to the Senator from Oklahoma [Mr. OWEN] and vote "nay."

Mr. MYERS. I inquire if the Senator from Connecticut [Mr. MCLEAN] has voted?

The VICE PRESIDENT. He has not.

Mr. MYERS. I have a pair with that Senator, and therefore withhold my vote.

Mr. JAMES. I transfer the pair I have with the junior Senator from Massachusetts [Mr. WEEKS] to the junior Senator from Oregon [Mr. LANE] and vote. I vote "nay."

Mr. HITCHCOCK. I desire to announce that the Senator from Delaware [Mr. SAULSBURY] is absent and paired with the Senator from Rhode Island [Mr. COLT].

Mr. LODGE (after having voted in the affirmative). I have a general pair with the Senator from Georgia [Mr. SMITH], but as he would vote as I have voted on this question I will allow my vote to stand.

Mr. CRAWFORD. I have a general pair with the senior Senator from Tennessee [Mr. LEA]. I transfer that pair to the junior Senator from California [Mr. WORKS] and vote "nay."

Mr. KERN. I desire to announce the unavoidable absence of the following Senators: The Senator from Arkansas [Mr. CLARKE], who is paired with the Senator from Utah [Mr. SUTHERLAND]; the Senator from Texas [Mr. CULBERSON], who is paired with the Senator from Delaware [Mr. DU PONT]; the Senator from New Hampshire [Mr. HOLLIS], who is paired with the Senator from Maine [Mr. BURLEIGH]; and the Senator from Maryland [Mr. SMITH], who is paired with the Senator from Vermont [Mr. DILLINGHAM].

Mr. JONES. I understand I can transfer my pair with the Senator from South Carolina [Mr. SMITH] to the Senator from New Hampshire [Mr. GALLINGER], which I do, and vote "nay."

The result was announced—yeas 15, nays 41, as follows:

YEAS—15.

Bryan	Martin, Va.	Simmons	Tillman
Chilton	Oliver	Stone	West
Lewis	Overman	Swanson	White
Lodge	Shively	Thornton	

NAYS—41.

Ashurst	Gronna	Nelson	Smoot
Borah	Hitchcock	Norris	Stephenson
Brady	Hughes	O'Gorman	Sterling
Bristow	James	Page	Thomas
Burton	Jones	Perkins	Thompson
Catron	Kenyon	Pomerene	Vardaman
Chamberlain	Kern	Reed	Walsh
Clapp	La Follette	Root	Warren
Clark, Wyo.	Lee, Md.	Shafroth	
Crawford	Lippitt	Sheppard	
Cummins	Martine, N. J.	Smith, Ariz.	

NOT VOTING—39.

Bankhead	Gallinger	Newlands	Smith, Ga.
Brandegee	Goff	Owen	Smith, Md.
Burleigh	Gore	Penrose	Smith, Mich.
Clarke, Ark.	Hollis	Pittman	Smith, S. C.
Colt	Johnson	Poindexter	Sutherland
Culberson	Lane	Ransdell	Townsend
Dillingham	Lea, Tenn.	Robinson	Weeks
du Pont	McCumber	Saulsbury	Williams
Fall	McLean	Sherman	Works
Fletcher	Myers	Shields	

The VICE PRESIDENT. The Senate disagrees to the first clause of the Senate committee amendment, to wit, the amendment which proposes to strike out the words "One of the battleships hereby authorized shall be built and constructed at a Government navy yard," and those words remain in the bill.

The question now is upon agreeing to the amendment of the committee proposing to strike out the second clause of the paragraph, reading:

And the Secretary of the Navy is hereby authorized to equip such navy yard as he may designate in which the battleship herein authorized is to be built with the necessary building slips and equipment, and the sum of $200,000, or such part thereof as may be necessary, is hereby appropriated for the navy yard designated by the Secretary of the Navy in which the battleship is to be constructed.

Mr. OLIVER. A parliamentary inquiry, Mr. President.

The VICE PRESIDENT. The Senator from Pennsylvania will state his parliamentary inquiry.

Mr. OLIVER. I ask if those words have not already been stricken out of the bill on a point of order?

The VICE PRESIDENT. No.

Mr. REED. A parliamentary inquiry. I remember distinctly on Friday raising the point of order——

The VICE PRESIDENT. That was on the amendment proposed to the committee amendment by the Senator from Mississippi [Mr. WILLIAMS], which raised the amount from $200,000 to $400,000; and the Chair sustained the point of order.

Mr. REED. I stand corrected. As I understand, a vote "yea" at the present time is a vote to strike out of the bill the provision for the $200,000 appropriation?

The VICE PRESIDENT. A vote "yea" is a vote to strike that out of the bill. The question is on agreeing to the committee amendment striking out the second clause of the paragraph. [Putting the question.] By the sound the ayes seem to have it.

Mr. LODGE. Let us have the yeas and nays.

The yeas and nays were ordered, and the Secretary proceeded to call the roll.

Mr. CHILTON (when his name was called). Announcing my pair as before, and its transfer, I vote "nay."

Mr. GRONNA (when his name was called). I have a general pair with the senior Senator from Maine [Mr. JOHNSON]. I transfer that pair to my colleague [Mr. MCCUMBER] and will vote. I vote "yea."

Mr. JAMES (when his name was called). I transfer my pair with the junior Senator from Massachusetts [Mr. WEEKS] to the senior Senator from Nevada [Mr. NEWLANDS] and will vote. I vote "nay."

Mr. MYERS (when his name was called). In the absence of my pair, the junior Senator from Connecticut [Mr. MCLEAN], I withhold my vote.

Mr. REED (when his name was called). I make the same transfer that I announced on a previous vote and vote "yea."

Mr. WARREN (when his name was called). Under the same transfer of pair as heretofore announced, I vote "yea."

The roll call was concluded.

Mr. CLARK of Wyoming. I ask whether the senior Senator from Missouri [Mr. STONE] has voted?

The VICE PRESIDENT. He has not.

Mr. CLARK of Wyoming. Having a pair with that Senator, I withhold my vote.

Mr. CRAWFORD (after having voted in the affirmative). I failed to announce my pair with the senior Senator from Tennessee [Mr. LEA]. I transfer that pair to the junior Senator from California [Mr. WORKS] and will allow my vote to stand.

Mr. JONES. I desire to announce that I have a pair with the junior Senator from South Carolina [Mr. SMITH], and therefore refrained from voting. I also desire to announce that the junior Senator from Michigan [Mr. TOWNSEND] is necessarily absent from the city.

Mr. GOFF. I transfer my pair with the senior Senator from Alabama [Mr. BANKHEAD] to the senior Senator from Connecticut [Mr. BRANDEGEE] and will vote. I vote "yea."

Mr. MYERS. I transfer my pair with the junior Senator from Connecticut [Mr. MCLEAN] to the junior Senator from Nevada [Mr. PITTMAN] and will vote. I vote "nay."

The result was announced—yeas 44, nays 12, as follows:

YEAS—44.

Ashurst	Gallinger	Nelson	Shively
Borah	Goff	Norris	Simmons
Brady	Gore	O'Gorman	Smoot
Bristow	Gronna	Oliver	Stephenson
Bryan	Hughes	Page	Sterling
Burton	Kenyon	Perkins	Thomas
Catron	Kern	Pomerene	Thompson
Chamberlain	La Follette	Reed	Vardaman
Clapp	Lippitt	Root	Walsh
Crawford	Martin, Va.	Shafroth	Warren
Cummins	Martine, N. J.	Sheppard	White

NAYS—12.

Chilton	Lewis	Overman	Thornton
James	Lodge	Smith, Ariz.	Tillman
Lee, Md.	Myers	Swanson	West

NOT VOTING—39.

Bankhead	Fletcher	Owen	Smith, Md.
Brandegee	Hitchcock	Penrose	Smith, Mich.
Burleigh	Hollis	Pittman	Smith, S. C.
Clark, Wyo.	Johnson	Poindexter	Stone
Clarke, Ark.	Jones	Ransdell	Sutherland
Colt	Lane	Robinson	Townsend
Culberson	Lea, Tenn.	Saulsbury	Weeks
Dillingham	McCumber	Sherman	Williams
du Pont	McLean	Shields	Works
Fall	Newlands	Smith, Ga.	

The VICE PRESIDENT. So that portion of the committee amendment which asks to strike out of the bill the following words:

And the Secretary of the Navy is hereby authorized to equip such navy yard as he may designate in which the battleship herein authorized is to be built, with the necessary building slips and equipment, and the sum of $200,000, or such part thereof as may be necessary, is hereby appropriated for the navy yard designated by the Secretary of the Navy in which the battleship is to be constructed—

Is agreed to, and that language is stricken from the bill.

Mr. LODGE. The committee amendments are not yet concluded.

Mr. THORNTON. Mr. President, while that disposes of the last of the committee amendments that are incorporated in the bill, there are various other amendments which will now be submitted, beginning with the one I now send to the desk and ask to have read.

The VICE PRESIDENT. The amendment will be stated.

The SECRETARY. After line 13, on page 6, the committee proposes to insert the following paragraph:

That officers who now perform engineering duty on shore only shall be eligible for any shore duty compatible with their rank and grade to which the Secretary of the Navy may assign them.

The VICE PRESIDENT. The question is on agreeing to the amendment of the committee.

Mr. BRISTOW. Mr. President, I should like to know the reasons for that change in the law. Do not officers, when they are on shore duty, get additional pay?

Mr. LODGE. No; they get less.

Mr. BRISTOW. They get less, do they?

Mr. THORNTON. They get less.

Mr. BRISTOW. What is the object of the amendment?

Mr. THORNTON. I will read the object, as stated by the department in its letter to the committee:

The reason for asking for it is that a strict interpretation of existing law narrows the field of duty to which officers who are members of the old Engineer Corps may be assigned. Occasions might arise when it would be desirable to order these officers to other shore duty, where their experience and ability might be availed of, and the proposed amendment would give the Secretary of the Navy the authority necessary to so employ them.

The VICE PRESIDENT. The question is on agreeing to the amendment of the committee.

The amendment was agreed to.

Mr. LODGE. Mr. President——

Mr. THORNTON. Mr. President, I will ask the Senator from Massachusetts please to allow me to complete these amendments, because there probably will be more discussion on the one he wishes to offer than there will be on these. It seems to me we had better get through with those on which there will not be a fight before we take up those on which there will be a fight.

I offer, on behalf of the committee, the amendment which I send to the desk.

The VICE PRESIDENT. The amendment will be stated.

The SECRETARY. On page 8, line 9, after the word "agency," the first word in the line, the committee proposes to insert the words "or agencies," so that, if amended, it will read:

Provided, That authority is hereby granted to employ the services of an advertising agency or agencies, etc.

The amendment was agreed to.

Mr. THORNTON. I offer, on behalf of the committee, the amendment which I send to the desk.

The VICE PRESIDENT. The amendment will be stated.

The SECRETARY. On page 8, line 17, after the word "reenlistment," the committee proposes to insert "or who has completed four years in the Revenue-Cutter Service and received therefrom an honorable discharge or an ordinary discharge with recommendation for reenlistment."

The amendment was agreed to.

The SECRETARY. On page 8, line 24, after the word "naval," the first word in the line, the committee proposes to insert "or revenue cutter."

The amendment was agreed to.

The SECRETARY. On page 8, line 25, after the words "Marine Corps," the committee proposes to insert "Revenue-Cutter Service."

The amendment was agreed to.

Mr. THORNTON. I offer on behalf of the committee the amendment which I send to the desk.

The VICE PRESIDENT. The amendment will be stated.

The SECRETARY. On page 21, line 8, after the word "docks," the committee proposes to insert "and Naval Observatory," so that, if amended, it will read:

For general maintenance of yards and docks and Naval Observatory, namely.

The amendment was agreed to.

Mr. THORNTON. I offer on behalf of the committee the amendment which I send to the desk.

The VICE PRESIDENT. The amendment will be stated.

The SECRETARY. On page 22, after the figures "$425,000," in line 2, the committee proposes to insert:

Provided further, That all expenditures appropriated for in this bill, under whatever designation appropriated, which actually constitute a part of yard maintenance, shall be charged to yard maintenance.

Mr. THORNTON. Mr. President, I will state for the information of any Senator who may desire it that that is in the nature of a substitute for an amendment that went out on a point of order last Wednesday. The object of the other amendment was merely in order that books could be kept so as to show the actual cost of building a ship, and not a fictitious cost. Many Senators said they could not understand the amendment the way it was framed before, and it went out on a point of order, but I think this is so very plain that no one can make the objection that it is not intelligible, and the object of it is good.

Mr. MARTIN of Virginia. Mr. President, I make the point of order that this is general legislation on an appropriation bill.

Mr. VARDAMAN. I ask that the amendment may be stated.

The VICE PRESIDENT. The Secretary will state it again.

The SECRETARY. Under the subhead "Bureau of Yards and Docks," on page 22, line 2, after the numerals "$425,000," the committee proposes to insert the following proviso:

Provided further, That all expenditures appropriated for in this bill, under whatever designation appropriated, which actually constitute a part of yard maintenance, shall be charged to yard maintenance.

Mr. O'GORMAN. Mr. President, before a ruling is made on the question of order I desire to suggest that the amendment proposed by the committee as embraced in the printed copy of the bill went out Wednesday on a similar point of order. The matter in question is urgently needed by the Navy Department. The amendment was incorporated at the special request of the Secretary of the Navy. It was designed to give him a little more freedom with respect to the method of applying disbursements and keeping books of accounts, and with the view particularly of enabling him to know with some accuracy the exact cost of constructing a ship.

After the previous amendment went out on the point of order the department suggested that an amendment in the language now before the Senate would answer the purpose. It seems to me that it is not subject to the point of order made. This is an appropriation bill, and the amendment is germane to the appropriation. It contains an instruction to the officer who will disburse the money as to how he shall account for it on his books, and I submit that it is not new legislation.

Mr. LODGE. Mr. President, I think the amendment as originally drawn was subject to the point of order, but in its present form it seems to me it is not. Of course it is germane. In its present form it seems to me simply to direct the head under which expenditures for yards and docks appropriated for in this bill shall be classified.

The VICE PRESIDENT. The Chair would like to make an inquiry of the Senator from Massachusetts.

This proviso reads:

Provided further, That all expenditures appropriated for in this bill, under whatever designation appropriated—

Now, there are expenditures appropriated for under very many designations—

which actually constitute a part of yard maintenance shall be charged to yard maintenance.

It is not a proviso on the part of the Senate of the United States that the Secretary of the Navy may use any of the sums appropriated in this bill for yard maintenance, and shall charge them to that account, but it is an amendment, as the Chair reads it, that whatever is appropriated under this bill, for whatever purpose appropriated, which actually constitutes a part of yard maintenance, shall be charged to the yard-maintenance account, whether used for yard maintenance or not.

Mr. LODGE. Mr. President, if that is the interpretation of this amendment, it is not in order, for it involves, then, a transfer of appropriation. I understood from the wording of the amendment that it simply directed that all sums of money, under whatever head appropriated, which were actually expended for yard maintenance should appear as such in the accounts.

The VICE PRESIDENT. But it does not so read.

Mr. LODGE. The objection to the other amendment, as it seemed to me, was that it did involve a liberty of transferring appropriations; and I thought that was clearly general legislation, because the Secretary has no such power now. If this amendment includes a power to transfer appropriations which are not used for yard maintenance, I am sorry to say that I think the point of order lies.

The VICE PRESIDENT. The Chair has read the proviso once. The Chair will read it again:

Provided further, That all expenditures appropriated for in this bill, under whatever designation appropriated—

That manifestly embraces more than yard maintenance.

Mr. LODGE. It embraces all appropriations.

The VICE PRESIDENT. It embraces all appropriations—

which actually constitute a part of yard maintenance, shall be charged to yard maintenance.

Mr. LODGE. It was that limitation that seemed to me to bring it within the rule. "Actually expended for yard maintenance." Of course, under that language the Secretary could not, for instance, transfer the appropriation for the Marine Corps or for the Philadelphia Home, because they are not used for yard maintenance.

Mr. MARTIN of Virginia. He certainly could.

The VICE PRESIDENT. There is an appropriation in this bill for the maintenance of yards and docks.

Mr. LODGE. Yes.

Mr. TILLMAN. But it is not half enough. The department is compelled, under the necessities of the condition, to charge

to yards and docks money which is appropriated for battleships, making them cost a great deal more than they ought to cost.

Mr. WARREN. Then it is clearly out of order. There is no question about that.

Mr. CUMMINS. Mr. President, the necessity for this amendment is so apparent that I feel like saying just one word about it.

I have no difference with the Chair regarding his construction of the amendment as now written; but I suggest to the chairman of the committee that if he would change the amendment so as to read:

All sums lawfully used for yard maintenance in yards in which ships are built shall be charged to yard maintenance account—

I think then it would not be subject to the point of order.

The VICE PRESIDENT. It is not the business of the Chair to make suggestions, but the Chair, as at present advised, would hold this amendment in order if it read in this way:

That all expenditures appropriated for in this bill, under whatever designation appropriated, which do not actually constitute a part of yard maintenance, shall not be charged to the yard-maintenance fund.

It seems to the Chair that would be in order.

Mr. LODGE. Mr. President, I am inclined to think the language suggested by the Chair would meet the difficulty, but I desire to say to the Senate that the reason for attempting to do this is because we do not appropriate properly. We appropriate a certain sum for yards and docks, and then we take out of "Increase of the Navy" other large sums, and use them for yard maintenance.

The appropriations ought not to be made in that way. The "Increase of the Navy" appropriation ought to be reduced, and a corresponding amount added to the maintenance of yards and docks. That is the proper and direct way of getting at it. Then we should not have this difficulty of false costs.

The VICE PRESIDENT. As the amendment now stands, the Chair will hold that it is general legislation; that it is not a limitation upon the expenditure of money by the Secretary of the Navy; but it is general legislation suffering and permitting him to pay, at his discretion, all the moneys appropriated in this bill——

Mr. TILLMAN. Mr. President, before the Chair finishes his ruling. I wish to ask if he will modify the amendment as he suggested and make it in order, because it will accomplish what we are trying to do—prevent bookkeeping from showing things charged to battleships which do not belong there.

Mr. WARREN. Mr. President, if I am in order, I will suggest to the chairman of the committee that the way to meet that difficulty is to enlarge the direct appropriation for yards and docks.

Mr. LODGE. That is the way to do it, of course.

Mr. WARREN. That is regular. The committee have the power to offer such an amendment, and, of course, it would not be out of order.

Mr. MARTIN of Virginia. Mr. President, I simply desire to suggest that it is a most extraordinary thing that the Chair should prepare an amendment to be submitted to the Senate. I have understood that the prerogatives of the Chair were to preside over the Senate, and not to prepare amendments. I object to such an innovation as that on the proceedings of a legislative body.

The VICE PRESIDENT. The Chair will sustain the point of order to the amendment as presented.

Mr. O'GORMAN rose.

Mr. LODGE. I now offer, on behalf of the committee——

Mr. THORNTON. Mr. President, I wish to say to the Senator from Massachusetts that the committee has not finished offering its amendments. As soon as it has done so I will give way to him.

Mr. LODGE. Very well. I think the Senator had better offer the amendment himself. I will send the amendment to him. I was simply authorized and directed, by a unanimous vote of the committee, to offer it.

Mr. THORNTON. I wish to say to the Senator that I have not the slightest objection to his offering the amendment, but I did ask him to wait until we got through with these others, and then offer it. I am perfectly willing for him to offer it, but I do not want him to put it in that way, as if I were objecting to his offering it. All I asked in the beginning was that he should wait until we got through with these.

Mr. LODGE. I thought the Senator had concluded, because I saw that the Senator from New York [Mr. O'GORMAN] was about to offer an amendment. I think, however, the Senator from Louisiana had better offer this amendment. He is acting as chairman, and I think he had better take charge of it.

Mr. O'GORMAN. I offer as a substitute, on behalf of the committee, an amendment to take the place of the one which was just proposed, and to which the point of order was sustained.

The VICE PRESIDENT. The amendment will be stated.

The SECRETARY. On page 22, after the numerals "$425,000," it is proposed to insert:

Provided further, That all expenditures appropriated for in this bill, under whatever designation appropriated, which are actually expended for yard maintenance, shall be charged to yard maintenance.

Mr. MARTIN of Virginia. I make the same point of order.

The VICE PRESIDENT. The Chair overrules the point of order. The question is on agreeing to the amendment, unless there is an appeal from the ruling of the Chair.

Mr. WARREN. Mr. President, if that is to be the construction hereafter in appropriating for the various subjects in appropriation bills, we might as well appropriate in a lump sum one hundred and odd millions for the Navy, and let it go at that.

Some years ago an attempt was made in the Senate to have the naval bill subdivided as is the Army bill and as are other appropriation bills. As these bills originate in the House, the best that could be done was to incorporate in the bill certain language calling on the department to estimate in future in the manner that estimates are made for other bills. As a matter of fact, either the department has not so estimated or, if it has so estimated, those erecting the appropriation bill have not paid attention to it, except as to the Marine Corps and the Naval Academy.

One who is familiar with appropriation bills, if he looks through this bill, will find that when he comes to the Marine Corps and the Naval Academy more proper subdivisions are made; the amounts are subdivided so that we can tell where the money goes; but as to the balance of the bill, we start in here with the very first paragraph, as follows:

The Secretary of the Navy shall send to Congress at the beginning of its next regular session a complete schedule or list showing the amount of money of all pay and for all allowances for each grade of officers in the Navy, including retired officers, and for all officers included in this act and for all enlisted men so included.

That language has been in every naval appropriation bill for five or six years, and it has been deliberately ignored every year in building up this bill. As a matter of fact, we find slush funds here, over $40,000,000 in one, and various sums running up to several millions in others; and not satisfied with that, there seems to be a proposition in this amendment offered now to take what has been heretofore in a slight degree subdivided and practically put it into one fund and make it apply throughout the bill.

I have no objection to appropriations of the proper sum for navy yards and docks, but it ought to be done in the regular way. If we are going to have any rule or any law or any order or any knowledge or any economy about appropriations, we ought not to hide them under a bushel, as has been done here year after year as to a part of the naval bill. When, now, the broad proposition comes that we put in the bill an amendment that enables the department to take any amount of money anywhere in the bill that it wants for yards and docks, as I have said, we might just as well strip it and say "$150,000,000," or whatever is necessary, "for the Navy," and let it go at that.

Mr. CRAWFORD. May I ask the Senator from Wyoming if the real purpose of this amendment, instead of being to promote correct bookkeeping, is not simply to give authority to these people to use funds for this purpose which have been appropriated for one purpose?

Mr. WARREN. Certainly.

Mr. CRAWFORD. Then why not say so?

Mr. WARREN. That is the direct effect of it.

Mr. CRAWFORD. It seems to me that, instead of seeking to promote correct bookkeeping, it is to secure authority to divert an appropriation from the purpose named and to use it for another purpose.

Mr. WARREN. It is to give authority to the directing power to take the money and use it as they wish instead as we have intended to appropriate it.

Mr. JONES. I should like to ask the Senator from New York whether or not this amendment permits money that has been appropriated for maintenance purposes to be used for maintenance purposes.

Mr. O'GORMAN. It states, in substance, that the money which has been actually expended for yard maintenance shall be charged up to yard maintenance. By an erroneous system which has heretofore prevailed it has appeared that items of expenditure made in connection with yard maintenance have been added to the actual cost of the construction of a ship. There is one instance in the case of the *New York*, built recently in the

Brooklyn Navy Yard. The overhead charge for yard maintenance aggregated more than a million dollars; yet it was charged as a part of the cost of actual construction of the ship, as was stated by the distinguished chairman of the Naval Committee, the Senator from South Carolina [Mr. TILLMAN], a few days ago.

Unhappily, in years past private shipyard interests in this country have had a sufficient influence respecting the methods of keeping the books of the Navy Department to make it appear that the building of ships by the Government was far more expensive than the building of like ships by private enterprise. The time has now come when that system should be changed and the evil should be eradicated, and it is the judgment of the Secretary of the Navy as well as the judgment of most of the members of the Naval Committee, if not of all, that that system will be changed by the adoption of this amendment.

Mr. WARREN. This proposed amendment simply perpetuates it and makes it lawful to do this. It does not prevent such a practice. It is within the power of the Secretary of the Navy now to cease the operation of such a practice.

Mr. JONES. I wish to ask the Senator from New York another question, simply for information.

Mr. BRYAN. I will tell the Senator that the Secretary of the Navy appeared before the committee and stated that under the ruling of the comptroller he was unable to charge to the yard maintenance what actually was spent for that purpose, but he was forced under that ruling to charge expenditures upon yard maintenance to the battleships. It was to get away from that ruling that he asked that this amendment be made.

Mr. JONES. This amendment does not permit the Secretary to take a fund appropriated for some particular purpose and use it for maintenance purposes?

Mr. O'GORMAN. It does not under the language used.

Mr. SWANSON. I will explain it.

Mr. JONES. Is there any law now under which he is authorized to use for the purpose money appropriated for some purpose other than maintenance?

Mr. O'GORMAN. Not that I know.

Mr. JONES. It is the purpose of the amendment, I understand, to provide that a fund used for maintenance shall be charged to maintenance.

Mr. O'GORMAN. That is correct; and that the fund used for construction shall be charged only to construction.

Mr. SWANSON. If the Senator will permit me, here is $7,800,000 appropriated for battleships.

Mr. NELSON. Mr. President——

The VICE PRESIDENT. Does the Senator from Virginia yield to the Senator from Minnesota?

Mr. SWANSON. I do.

Mr. NELSON. The vice of this amendment is that it is more than a matter of bookkeeping. It practically authorizes the Secretary of the Navy to take out of any appropriation made in the bill and apply it to the maintenance of yards and then make the bookkeeping accordingly. It is throwing the door wide open and giving the Secretary of the Navy power to divert any appropriation, for whatever purpose made, to the maintenance of yards. The amendment goes too far. If you want to limit it to bookkeeping simply, change your amendment into a proper form.

Mr. O'GORMAN. Is it possible that the Senator from Minnesota is directing his remarks to the Senate committee amendment as it appears in the printed bill, or is he keeping in mind the amendment I have offered?

Mr. NELSON. It is the amendment which has just been offered by the Senator from New York.

Mr. O'GORMAN. I will ask the Secretary to read that amendment again, and we will see if it is subject to that construction.

The VICE PRESIDENT. The amendment will be again read.

The Secretary read as follows:

Provided further, That all expenditures appropriated for in this bill, under whatever designation appropriated, which are actually expended for yard maintenance shall be charged to yard maintenance.

Mr. NELSON. That is, if it is expended for that purpose it shall be charged to it, but it gives the power to take money out of any appropriation and use it for that purpose. That is the vice of the amendment.

Mr. O'GORMAN. I would not suppose that this language would confer that authority upon the Secretary of the Navy if it is not given to him elsewhere.

Mr. WARREN. There is not any question about it.

Mr. SWANSON. I will explain this particular appropriation. Here is an appropriation made in the bill of $7,800,000 for battleships. The only way by which to draw the pay for that is to draw against that appropriation. If you draw for the maintenance of yards, the comptroller will not honor the warrant. So this will enable the Secretary of the Navy, as the Senator from Minnesota very properly says, to expend a part of the $7,800,000 for maintaining a yard; and if he actually spent it for maintaining the yard, then the warrant will be honored by the comptroller and it will be paid.

The VICE PRESIDENT. Is that the construction?

Mr. SWANSON. That is the construction to be placed upon it.

The VICE PRESIDENT. On this amendment?

Mr. SWANSON. On the amendment. It says, "Any funds that are actually expended for maintenance"; that is, anywhere in the bill. You can not draw it if appropriated for a battleship or appropriated for some other purpose. If he actually spends it in maintaining a yard, then it shall be charged accordingly, and that will be honored. That is the construction I place on it.

The VICE PRESIDENT. The Chair, then, will be compelled to reverse his ruling and sustain the point of order, if that is what the amendment means.

Mr. SWANSON. That is what it means.

Mr. O'GORMAN. Mr. President——

Mr. WARREN. There is not any kind of question about it. The comptroller knows that it means that and nothing else, and it can not mean anything else.

Now, I do not wish to be understood as cramping the Navy or the naval appropriation bill, or embarrassing the Naval Committee; I want to work with them; but for this kind of a practice to creep into our appropriation bill means absolute chaos. It means to leave in the department the entire control. The Secretary can spend $100,000 or $5,000 or $500,000, and charge it up to docks and yards, and we could find out sometime afterwards, perhaps, how much it cost us for docks and yards, but know little of costs or what might be going on meantime. If the Secretary of the Navy has estimated wrongly, or if there is something that has come in since from the comptroller that requires legislation or regulation, and the committee feels that the Secretary is embarrassed, he can send another and later estimate covering the ground, and the committee can put it in proper form by joint resolution or otherwise.

I might say that when we make the appropriation for battleships, and I wish the attention of the Senator from Virginia for a moment, when stating that so many millions shall be appropriated for battleships, we might provide that not exceeding a certain amount or percentage should be used from each such appropriation for yards and docks. But we can not leave things at loose ends all through the bill, so that the entire appropriation can be used as the department may see fit.

Mr. NELSON. Will the Senator from New York yield to me for a moment?

Mr. O'GORMAN. I will.

Mr. NELSON. I wish to make one suggestion. I think a very brief amendment will accomplish what the Senator intends to accomplish. Let it read:

Provided further, That whatever sums are lawful and properly expended by the Secretary of the Navy for yards and docks shall be charged as such.

That covers it.

Mr. O'GORMAN. I will substitute for the word "actually" the word "lawfully," so that it will read:

Provided further, That all expenditures appropriated in this bill, under whatever designation appropriated, which are lawfully expended for yard maintenance shall be charged to yard maintenance.

Is that satisfactory?

Mr. WARREN. That does not cover the point.

Mr. O'GORMAN. Why not?

Mr. WARREN. It does not cover the point because our appropriations are separated under different heads.

Mr. TILLMAN. Will the Senator from Wyoming prepare an amendment that he thinks will cover the point?

Mr. WARREN. I am not a member of the committee. I am not working against you. I am not against the proper appropriation being given.

Mr. TILLMAN. I am just after honest bookkeeping; and the Secretary of the Navy states that under the ruling of the comptroller he can not do it.

Mr. MARTIN of Virginia. Mr. President——

The VICE PRESIDENT. Does the Senator from New York yield to the Senator from Virginia?

Mr. O'GORMAN. Yes.

Mr. MARTIN of Virginia. Possibly I am mistaken, but this whole matter is a most amusing one to me. The Secretary of the Navy can ascertain the cost of a battleship. He need not limit himself to book items as to where the matters are charged. He can keep his books according to law. If an appropriation is made for one purpose, it ought to be used for that purpose. If it is not used for that purpose, he is violating the law. So far as ascertaining the cost of a battleship is

concerned, the Secretary can take the overhead charges, no matter what is appropriated for that purpose, and proportion those overhead charges to different items of work done in the yards, just as the private yards do. Those yards have repair work and they have ships for individuals and ships for the Government. They have dozens of items, and the work is going on, and they divide and apportion the overhead charges and all the different charges among the different items of work so as to ascertain the actual cost of each one.

The Secretary of the Navy is at perfect liberty, without any of this legislation whatever, to make such a statement as will show the actual and truthful cost of a battleship built in a Government yard. We do not need to change the bookkeeping account and provide that the books shall be properly kept. You need not provide for a juggling of the accounts in order to ascertain the cost of a battleship. You may keep the account according to the act of Congress making the appropriation, but when the Secretary comes to report to Congress or to make a memorandum for his own guidance in the department to determine the cost of a battleship or the cost of repairs on them or any other cost, he can apportion all the expenditures as in his judgment and the judgment of the experts in the department will be just and right and consistent with the facts.

There is no trouble whatever about it that I can see. It is incomprehensible to me that the Secretary of the Navy should come here complaining that he can not ascertain the cost of a battleship unless Congress legislates in respect to how he shall keep his accounts. Let him keep his accounts according to the truth and facts and in accordance with law, and when he comes to determine the cost of a battleship he can apportion the expenditures among the different pieces of work done in that yard in order to ascertain the cost of each.

I do not believe that there is the slightest difficulty in ascertaining truthfully the cost of a battleship without all this legislation here, and it is mischievous legislation, in my judgment, when it comes to a provision of law that Congress can appropriate money according to the estimates of the department for a certain purpose and the Secretary may use it for some other purpose. That is general legislation on this bill, and, in my judgment, it ought not to be allowed.

Mr. O'GORMAN. Mr. President, it would seem at first blush as though the matter of keeping accounts might be attended to by the Secretary of the Navy without the aid of legislation; but, as has been said by the Senator from Florida [Mr. BRYAN], owing to a ruling made by the Comptroller of the Treasury, the Secretary of the Navy, in order to accomplish the reform that he has in mind, needs the aid of this legislation.

I have substituted for the word "actually" the word "lawfully" in this amendment, and as amended I can not see any force in any criticism leveled at it, because, in substance, it merely provides that all moneys lawfully expended for yard maintenance shall be charged to yard maintenance. As modified I submit the amendment for the consideration of Senators.

Mr. MARTIN of Virginia. I make the same point of order. I do not see any difference myself.

Mr. WEST. Mr. President——

The VICE PRESIDENT. Does the Senator from New York yield to the Senator from Georgia?

Mr. O'GORMAN. I do.

Mr. WEST. If my idea about the matter is correct, in getting at the cost of a ship, in order to illustrate that with a simple example, there is $30,000,0000 worth of work done in a yard and battleships cost $10,000,000. Then the battleships ought to be charged up with one-third of the $30,000,000 worth of work that is being done in that yard. That would be correct bookkeeping.

Mr. CLAPP. Mr. President——

The VICE PRESIDENT. Does the Senator from New York yield to the junior Senator from Minnesota?

Mr. O'GORMAN. I do.

Mr. CLAPP. It seems to me the controversy has arisen from a misunderstanding of the purpose. There is no question that the senior Senator from Virginia [Mr. MARTIN] is correct in his position. The Secretary of the Navy for his own information, or to secure the basis of advice to Congress as to the desirability of building a battleship in a navy yard, can make such a statement as in his judgment the facts warrant. He can make such a distribution of the cost as he thinks the facts warrant. If that was all that was desired, no amendment would be necessary, because he can do that without any authority whatever from Congress.

But I understand that it goes further than that, and what the Secretary wants is a limited authority for the actual distribution of the funds in the building and repair of battleships. If that is desired, of course some additional authority is necessary.

Mr. MARTIN of Virginia. It is general legislation.

The VICE PRESIDENT. It is probably not appropriate for the Chair to inquire what language means, but he has listened for about two months to a discussion of the real meaning of language, and is not philologist enough to determine what it does mean. There seems to have been a statement that the real purpose of this amendment is to enable the Secretary of the Navy to make expenditures from any sum appropriated here, and, if it is lawfully made for yard maintenance, that he shall charge it to yard maintenance, regardless of whether the sum total thereof shall exceed the sum appropriated by Congress for yard maintenance or not.

Mr. O'GORMAN. Mr. President, if it should exceed the amount appropriated, would it be a lawful expenditure by the Secretary of the Navy?

The VICE PRESIDENT. The Chair is coming to that, because the word "lawfully" simply means that from the fund money may be spent for yard maintenance.

Mr. O'GORMAN. However, the word "lawfully" in that connection places a restraint upon the expenditures of the Navy Department. They must be lawful expenditures.

Mr. WARREN. But you make it lawful by saying that he can take it from any fund.

The VICE PRESIDENT. Under any designation whatever, the Chair's original ruling assumed that the sole purpose was to keep the amount of yard maintenance up to the amount of the appropriation for yard maintenance. Now, it seems to be the purpose to permit the Secretary of the Navy to expend any sum of money he pleases for yard maintenance out of any particular fund herein provided and to charge it up to yard maintenance. The Chair sustains the point of order.

Mr. TILLMAN. Mr. President, before this matter passes from the attention of the Senate, I want to say that the Secretary of the Navy when he entered upon his duties found a system of bookkeeping which he was told had been in long use there under the system in vogue there. He can not find out exactly what a battleship does cost or anything else. Under it battleships are charged with the cost of maintaining the yard and other expenditures which he does not think are just and reasonable. The yards will have to be maintained anyhow, whether the battleships are built in them or not, and it can readily be seen that by such bookkeeping the Government yard is made to appear in a very bad light as compared with private yards in building ships or making repairs or anything else. The committee desired to clarify the bookkeeping in accordance with the Secretary's wishes, and proposed the amendment which went out on the point of order Friday. Our efforts this evening to straighten matters out with that object in view have all failed. I have no fault to find with the rulings of the Chair, for I think he has been right. I have advised the Secretary of the Navy to revise his regulations and give orders for such a system of bookkeeping as he wishes, which will accomplish the purposes he has in view, and if the Comptroller of the Treasury turns him down, to come to Congress and we will try to give him relief.

Mr. THORNTON. I now send up another committee amendment and ask to have it read.

The VICE PRESIDENT. The amendment will be read.

The SECRETARY. On page 22, after line 2, insert the following proviso:

Provided, That the Secretary of the Navy is authorized to make such readjustments as may be necessary to equalize the pay of the clerical, drafting, inspection, and messenger force carried on the rolls of the navy yards and stations with the salaries paid employees of the other Government departments having like duties.

Mr. REED. Mr. President, a parliamentary inquiry. Do I understand that the amendment offered by the Senator from New York has been ruled out of order?

The VICE PRESIDENT. The Chair has ruled it out on the ground that it is general legislation.

Mr. REED. Has any business intervened?

The VICE PRESIDENT. An amendment has been presented just now, but the Chair has not the slightest objection to an appeal being taken from the decision of the Chair, and will grant that right.

Mr. REED. Mr. President, with all respect in the world for the opinion of the Chair, I appeal from the decision. I think, for once, the Chair is mistaken.

Mr. SWANSON. I make the point of order that business has intervened.

The VICE PRESIDENT. But the Chair never proposes to take advantage of that. The Chair will recognize the right of the Senator from Missouri to appeal.

Mr. SWANSON. The Chair might not; but business has intervened.

Mr. REED. I will say to the Senator from Virginia that I was in the Senate; I heard the colloquy; my attention was distracted for an instant by some one speaking to me, and I was utterly surprised when I knew that the point of order had been sustained. I do not think we ought to stand on a technicality of that sort when the Chair is entirely willing to let the Senate pass on the proposition.

Mr. MARTIN of Virginia. Mr. President, it is not a question, as I see it, as to what would be pleasing to the Chair; but it is a question of order on which we, of course, expect——

The VICE PRESIDENT. Of course, business has intervened; and if any Senator objects——

Mr. MARTIN of Virginia. I object. I consider the matter finally disposed of, and I raise the point of order.

Mr. REED. Mr. President——

The VICE PRESIDENT. It is therefore not the fault of the Chair that the Senator from Missouri can not now appeal from the ruling of the Chair.

Mr. JONES. I should like to have the amendment last submitted again stated.

Mr. REED. I beg the Senator's pardon. I heard the Chair rule this particular question in order. I was called from the Chamber a moment, and no appeal was entered to the ruling of the Chair that the amendment was in order. On my return I heard the colloquy. Of course, if the Senator from Virginia insists upon it, I presume the only way to bring the question up will be upon the floor of the Senate when we are sitting as a Senate, and I give notice now that I shall raise the question at that time. I desire to debate it.

Mr. JONES. I should like to have the amendment that was last sent to the desk again read.

The VICE PRESIDENT. The Secretary will read as requested.

The SECRETARY. On page 22, line 2, after the numerals "$425,000," it is proposed to insert the words:

Provided, That the Secretary of the Navy is authorized to make such readjustments as may be necessary to equalize the pay of the clerical, drafting, inspection, and messenger force carried on the rolls of the navy yards and stations, with the salaries paid employees of the other Government departments having like duties.

Mr. THORNTON. I will say to the Senator from Washington that it is simply in accordance with the rule of the Senate, and is the same provision that passed the Senate at the last session.

Mr. JONES. It seems to me, Mr. President, that is giving the Secretary of the Navy a power that Congress ought not to give him. If there should be a readjustment, it should be submitted to Congress and Congress should approve it. On the face of it, without further consideration, I am compelled to make the point of order against the amendment that it is general legislation.

The VICE PRESIDENT. The Chair sustains the point of order.

Mr. THORNTON. On behalf of the committee, I offer the amendment which I send to the desk.

The VICE PRESIDENT. The amendment proposed by the Senator from Louisiana will be stated.

The SECRETARY. On page 24, line 16, it is proposed to strike out "$10,000" and to insert in lieu thereof "$20,000," so that, if amended, it will read:

Navy Yard, Charleston, S. C.: To complete torpedo-boat berths (to cost not exceeding $300,000), $150,000; dredging, to continue, $20,000.

The VICE PRESIDENT. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. THORNTON. On behalf of the committee, I now offer the amendment which I send to the desk.

The VICE PRESIDENT. The amendment proposed by the Senator from Louisiana will be stated.

The SECRETARY. On page 27, line 12, under the head of "Repairs and preservation of navy yards and stations," after the words "navy yards," it is proposed to insert "and Naval Observatory," so that if so amended it will read:

For repairs and preservation at navy yards and Naval Observatory, coaling depots, coaling plants, and stations, $1,100,000.

The amendment was agreed to.

Mr. THORNTON. I now offer the committee amendment which I send to the desk.

The VICE PRESIDENT. The amendment proposed by the Senator from Louisiana will be stated.

The SECRETARY. On page 28, at the end of line 22, after "$142,000," it is proposed to insert the following:

Provided, That the expenditure of $40,000 is hereby authorized from the naval hospital fund for such temporary structures and equipment of the naval hospitals at Mare Island and Puget Sound as may be necessary to make especial preparation for the sick of the Navy and visiting fleets at the time of the Panama-Pacific International Exposition and to relieve the present crowded condition of those institutions.

The amendment was agreed to.

Mr. THORNTON. I now offer the committee amendment, which I send to the desk.

The VICE PRESIDENT. The amendment proposed by the Senator from Louisiana will be stated.

The SECRETARY. On page 31, at the end of line 6, after the words "fiscal year," it is proposed to insert:

Provided further, That hereafter no officer or enlisted man in active service who shall be absent from duty on account of disease resulting from his own intemperate use of drugs or alcoholic liquors or other misconduct shall receive pay for the period of such absence, the time so absent and the cause thereof to be ascertained under such procedure and regulations as may be prescribed by the Secretary of the Navy: *And provided further*, That an enlistment shall not be regarded as complete until the enlisted man shall have made good any time in excess of one day lost by unauthorized absences, or on account of disease resulting from his own intemperate use of drugs or alcoholic liquors or other misconduct, or while in confinement awaiting trial or disposition of his case if the trial results in conviction, or while in confinement under sentence.

Mr. LODGE. Mr. President, I thought I was present at all meetings of the committee, but I never heard that amendment read. It is all new to me.

Mr. HUGHES. Unless the Senator from Massachusetts intends to do so, I desire to make the point of order against the amendment.

Mr. THORNTON. This amendment was adopted at a meeting held on May 14.

Mr. HUGHES. Certainly it is pretty general legislation.

The VICE PRESIDENT. The Chair sustains the point of order.

Mr. LODGE. I repeat, I thought I was at every meeting of the committee, though I may not have been. I was at every called meeting.

Mr. THORNTON. I can remember that on at least one occasion—I will not say that it was on the occasion when this amendment was adopted—the Senator from Massachusetts asked to be excused on account of having to attend another committee meeting after he had been at the meeting of the committee for a short while.

Mr. LODGE. I did not leave the committee room on that occasion, and I never heard the amendment before it was read at the desk. However, the point of order having been made and sustained, the amendment is gone.

Mr. WARREN. Mr. President, I do not desire to delay the Senator in charge of the bill, but I wish to ask a question. In the text of the amendment to which the amendment just ruled out of order was an amendment I notice there is a provision for chaplains, a large additional number of whom are probably necessary. I notice that a certain percentage—10 per cent, I think—are to have the rank of captain in the Navy, which is equal to the rank of colonel in the Army.

Mr. THORNTON. Is the Senator now alluding to the provision as to chaplains?

Mr. WARREN. Yes.

Mr. THORNTON. We are not on that now.

Mr. WARREN. I am asking the question because we are right at that point now. A certain number of chaplains are to have the relative rank of colonel in the Army, a certain number the rank of lieutenant colonel, a certain number the rank of major, and so forth. Of course in the Army, where a chaplain has charge of many more troops than a chaplain in the Navy, so far as their spiritual well-being is concerned, they have the rank of captain, with the exception that a few chaplains, after very long service, have the rank of major. I should like some little explanation of this provision, as I was absent on business of the Senate the day this amendment was acted on.

Mr. THORNTON. Will the Senator please tell me what he wishes explained? I do not know that I can explain it, but I will do the best I can.

Mr. WARREN. On page 32, just following the place where the last amendment was offered, it is provided:

Hereafter the total number of chaplains and acting chaplains in the Navy shall be 1 to each 1,250 of the total personnel of the Navy and Marine Corps, as fixed by law, including midshipmen, apprentice seamen, and naval prisoners—

I believe that will increase the number from about 24, the present number, to about 49 or 50. Then follows this provision:

And of the total number of chaplains and acting chaplains herein authorized 10 per cent thereof shall have the rank of captain in the Navy, 20 per cent the rank of commander, 20 per cent the rank of lieutenant commander, and the remainder to have the rank of lieutenants and lieutenants (junior grade).

I presume this amendment was drawn by some one interested in an association of clergymen; and it is possible that the word "captain" may mean in their estimation the same thing in the Navy that it does in the Army. In the Navy, however, the highest officer on the biggest battleship afloat, unless he is in command of the fleet, is a captain, and it seems to me that with all the authority and responsibility a captain has and all he had to do to attain the grade of captain, he ought not to have at his side with the same rank the parson who leads in religious devotion those who may be on the ship.

Mr. MARTINE of New Jersey. Mr. President, I will say that I was spoken to by a chaplain in the Navy with reference to this particular provision. The number allowed, I think we will all agree, is spread out quite thin enough, 1 chaplain to 1,250 men.

Mr. WARREN. I have no objection to the number of chaplains being increased.

Mr. MARTINE of New Jersey. The argument advanced for higher rank, as he put it to me, was that it would give them a more commanding position in the Navy, and that their influence would correspondingly be made more important and valuable in that way. Whether the higher rank carries with it any additional salary I am not prepared to say.

Mr. LODGE. It does not.

Mr. MARTINE of New Jersey. Mr. President, the Senator from Massachusetts tells me it does not.

Mr. WARREN. I differ from the Senator from Massachusetts as to that; but, allowing that he is right, I do not know of any reason why a chaplain, in order to have greater influence of a spiritual nature over his charge, should have equal rank with the captain of a battleship, the highest rank in the Navy, except that of admiral. This is the trouble, let me say——

Mr. HUGHES. Mr. President, what rank do the chaplains in the Army have?

Mr. WARREN. A chaplain in the Army has the rank of captain, with the exception that a small percentage, after, I think, 30 years' service, have the rank of major. This provision gives chaplains in the Navy the relative rank of colonel, lieutenant colonel, and major in the Army; that is, 10 per cent are to have the relative rank of colonel, 20 per cent are to have the relative rank of lieutenant colonel, and 20 per cent are to have the relative rank of major.

I do not see any reason for this, and I want to say what the result will probably be: In the Navy there has been a rule since long before any of us, perhaps, can remember that whatever advantages the Army had the Navy should also have. That being true—and in most matters it is made so by statute—the Army, on the other hand, naturally demands that it shall have what the Navy has. I see no necessity for having chaplains in the Navy with higher grade than chaplains in the Army. I do not see any reason why we should be called upon almost immediately to raise the rank of chaplains in the Army and Navy. It has been a very satisfactory service heretofore, if we may judge from the number of applicants we have for the position. I know that I have had, during my service in the Senate, hundreds of applications, and, although whatever it may be in the Navy, in the Army the position seems to be in an appointive way a perquisite of the President. I do not know of any President who has asked that the rank should be increased. I do know, however, that in the medical branch, in the dentistry branch, and in the veterinary branch the officers connected therewith are always trying to get higher rank; and it has been the duty of the Committee on Military Affairs, so far as the Army is concerned, and of the Committee on Naval Affairs for the Navy, to hold the ranks level with one another according to the degree of responsibility. I dislike to see a position of this kind taken that is going to result in raising the rank of chaplains of the Navy above the rank held by chaplains in the Army. If it means no increase in salary, certainly there is no reason for it; and if it does mean an increase in salary, there is certainly no reason why chaplains in the Navy should receive greater rank than those in the Army. I understand the amendment was agreed to while I was absent by detail of the Senate, but I sincerely hope that it may be corrected in conference.

Mr. LODGE. Mr. President, in 1842 there were 24 chaplains created for the Navy.

Mr. WARREN. Will the Senator allow me to say that I do not object to increasing the number at all?

Mr. LODGE. In 1842 there were 24 chaplains created for the Navy. There were then 1,554 officers and 12,000 enlisted men. Now the number has grown to 3,600 officers and 61,000 men. The chaplains are absolutely inadequate for the service of the American Navy to-day. All the churches of the country, without exception, have united in asking for this increase in the number of chaplains, and it has been given, I think, in a very moderate way. They are to be added at the rate of only seven a year, and their number is to be increased until a limit of one for every 1,250 men is reached. I do not think the Senate can possibly disagree to the need of more chaplains in the Navy. The work they do is extremely valuable from every point of view.

When the personnel act was passed the chaplains were excepted specifically by name from the longevity pay increase which that act carried. They do not receive as much pay as the doctors and paymasters of similar relative rank, and that remains unchanged by this amendment.

As to the question of rank, doctors in the Navy can have relative rank as high as admiral; so can paymasters; and under this provision 10 chaplains are to have relative rank as high as captain in the Navy. Chaplains with that rank will not be sent to sea; there will be no conflict of rank; they will only have relative rank; but it does give them a certain recognition for long years of service.

If we give relative rank to staff officers, which has been the settled policy of the Navy for many years, I do not see why chaplains should not have at the end of many years' service relative rank as high as captain, which only 10 can receive. We have not raised the pay of chaplains; we have not given them the pay which other officers of the staff with relative rank receive. I have here somewhere the exact differences, which are perhaps worth looking at. They get $550 less when they get to be lieutenant commanders than a doctor or paymaster of the same grade; and that we have not raised. We have not increased their pay. I think we ought to have increased their pay, but we have not done it in this amendment. All we have done is to give, by very slow degrees, the number of chaplains which the Navy ought to have.

It is impossible for 24 chaplains to do the work of the United States Navy to-day. That number was based on a force of 14,000 men, all told. Now there are 61,000 men, and officers in proportion, as I have said—65,000 in round numbers.

Mr. LA FOLLETTE. Not enough to conduct the burial service.

Mr. LODGE. Why, no. There are not enough to put on the battleships that go to sea. There are not enough to be in the hospitals and in the navy yards of this country. It is utterly impossible for them to do it.

I think this is one of the best amendments that has been put into any naval bill. It was put in by the House committee and went out under their rule on a point of order. The point of order will not lie against the amendment here, because it is not general legislation. We have increased the Marine Corps here. We have increased other divisions here. It is a change of existing law, which is the House rule, but that is not our rule. Our rule is general legislation. This is simply increasing the numbers of a particular branch of the service, which has been done here repeatedly.

I think it would be a very great misfortune if this amendment should be lost. It was really agreed to by the House. It went out there only on a point of order. If it goes into conference it will be accepted. We have taken the House provision in our amendment. When you think of the relative rank that is given to doctors, paymasters, and civil engineers, I do not see any reason for refusing it to the chaplains.

Mr. WARREN obtained the floor.

Mr. THORNTON. Mr. President, will the Senator from Wyoming permit me now to answer the question he asked me some time ago?

Mr. WARREN. I shall occupy the floor only for a moment. There is no objection that I know of as to the number of chaplains. I think it is a very just and very worthy measure; but a comparison of the chaplains as to their rank with the officers of the Medical Service and the Engineers fails when you consider that in the medical line, for instance, the medical officers that arrive at the rank which is proposed here do so not only at the end of long and arduous service, but when they have charge of great divisions, when they have hundreds of doctors under them, when they have a great amount of responsibility and property in the way of stores of medicines, and so forth, in their charge. It is the same way with engineers and other officers. In the service of the chaplains, however, there is no routine of office now, and I know of none that can be imposed, where one officer has charge of great properties and the direction of a great number of men under him.

These chaplains, as I understand, are sent on different warships and to the different navy yards, and it seems to me worse to give them the rank and not the pay than it would to give them the pay and less rank. I see no good reason why the highest rank in the Navy should be given to some chaplain

who, as the Senator says, probably will not go to sea. I will admit that it makes a nice, soft place for some man who may have done good service, but I believe he would prefer to have less rank and more pay, to which I certainly should not object.

Mr. MARTINE of New Jersey. Mr. President, there are many of them who do go to sea. I have in my mind now one who has just returned from Vera Cruz. I am simply answering the particular point the Senator made, that they do not go to sea. I know he is mistaken in that particular statement.

Mr. SMITH of Michigan. The Senator knows that they desire to go.

Mr. MARTINE of New Jersey. I know that they desire to go and do go.

Mr. THORNTON. Mr. President, the Senator from Wyoming asked me some time ago if I could give the reasons that actuated the committee in creating the grade of captain for the chaplains. I have not had the opportunity to reply until now. I wish to say to him frankly that I do not know, because I was not present at the time the amendment was carried, being detained by request of the Secretary of Commerce on what was considered an important matter of business. Therefore I do not know of my own knowledge; but other members of the committee who were present will no doubt be able to explain the matter to the Senator's satisfaction; at least, I hope so.

Mr. SWANSON. Mr. President, I understand the Navy now confers the rank of captain on certain chaplains. This does not increase the pro rata number of those that can be captains, as I understand. The chaplains can not get pay exceeding that of junior commander. That is the limit of their pay. They already have the rank of captain in the Army. A chaplain in the Navy can not be higher than a major, as I understand. We do not change the law permitting them to have the rank of captain.

There is great necessity for this increase. There are only 8 battleships that are able to have chaplains now. Of the 24 chaplains that we now have, only 8 could be provided for battleships.

Mr. WARREN. The Senator will understand that there is no objection to the increase of the number.

Mr. SWANSON. There has been no change in the rank given them. We do not change the law in that respect.

Mr. WARREN. Why do you insert it here, then?

Mr. SWANSON. We keep up the same pro rata—10 per cent of them.

Mr. WARREN. Why do you insert it here, if it is already the law?

Mr. SWANSON. The law is that a certain pro rata of them are captains now, as I understand.

Mr. WARREN. I have not seen that law.

Mr. SWANSON. We keep up the same proportionate number. They are entitled to the rank but not to the pay of captain, as I understand, under the present law.

Mr. LODGE. They are not entitled to the pay of captain; but they have now the relative rank of major, I know, and I think some of them have the relative rank of captain. I do not think we give them any more rank or pay than they now have.

Mr. SWANSON. None of them.

Mr. WARREN. I should be glad to have the Senator produce the law, for I may be wrong about it.

Mr. WEEKS. Mr. President, I have here a list of chaplains in the Navy. There are five who have the relative rank of captain.

Mr. LODGE. I felt sure of that.

Mr. WEEKS. There are 7 who have the relative rank of commander. There are 5 who have the relative rank of lieutenant commander. There is 1 who has the relative rank of lieutenant. The remainder of the 24 have the relative rank of lieutenant, junior grade.

Mr. LODGE. Has the Senator the statute there?

Mr. WEEKS. I have not the statute. I have the Navy Register.

Mr. LODGE. The Navy Register certainly would not be contrary to the statute. I know they have the relative rank of major.

Mr. WEEKS. Under the provision which is offered here, the proportional number of chaplains of the relative rank of captain would be less than in the present establishment.

Mr. LODGE. Yes.

Mr. WEEKS. And the proportional number having the relative rank of commander would be less than in the present establishment, so that in reality the average rank of chaplains in the Navy will be lower than it is at present.

Mr. SWANSON. I think the Senator will find the law to be the act of June 29, 1906, found in the Navy Yearbook, at page 515, in which the pay and the increase in grades were fixed. This provision simply carries out, with the increase, the existing law with the present 24 chaplains, as I understand.

Mr. WARREN. Then, as I understand, this is really a limit on the present law? Is that the ground the Senator takes?

Mr. SWANSON. It is not a limit. It does not change the existing law as to the number.

Mr. WARREN. But as to the percentage?

Mr. SWANSON. As to the percentage; that is all.

Mr. WARREN. Of course the Senator will understand that I made no point of order. In fact, I could not do so, because the amendment was agreed to the other day. I did want this explanation, however, and I wanted it in the RECORD, because of what I have stated—the comity between the two branches of our fighting forces, each one jealous of its own. I wanted to meet the statement as to why that provision has been inserted here, what it means, and what it amounts to.

Mr. JONES. Mr. President, I should like to ask the Senator from Virginia [Mr. SWANSON] or the Senator in charge of the bill [Mr. THORNTON] with reference to this provision, as it has been discussed.

I received a telegram to-day very strongly objecting, as I understand, to this provision of the bill. I understand, also, that it was adopted a day or two ago in Committee of the Whole. I wish to ask what change, if any, from the existing law this provision makes in the method of selecting the chaplains?

Mr. LODGE. It makes no difference.

Mr. JONES. The plan of selecting them will be just the same as we have been following and are following now?

Mr. LODGE. They will be appointed in the same way.

Mr. JONES. By the same kind of board and with the same examinations as now?

Mr. LODGE. Precisely. That is all provided for in the amendment—their examinations and everything. The grade of acting chaplain is created.

Mr. JONES. I know that is provided in the amendment; but I wish to know whether the provision in the amendment is the same as we have been following in the past in selecting chaplains?

Mr. LODGE. Except that now chaplains appointed to the Navy from civil life, as they all are appointed now, are not appointed acting chaplains. They are given at once the grade of junior lieutenant.

Mr. JONES. What is the difference between the method provided in this amendment for the selection of chaplains in the Navy and the method pursued heretofore?

Mr. LODGE. None.

Mr. JONES. None at all?

Mr. LODGE. None at all, except the interposition of this grade of acting chaplain, which lasts three years after they first enter. Then they get their regular commission and their rank.

Mr. JONES. So that the only substantial part of this amendment is that it increases the number of chaplains?

Mr. LODGE. That is all.

Mr. JONES. I must confess that I can not see any especial objection to that, or any basis for the telegram I have received.

Mr. THORNTON. I now send up another committee amendment, which I ask to have read.

The VICE PRESIDENT. The amendment will be stated.

The SECRETARY. On page 31, at the end of line 6, it is proposed to insert:

That the act approved August 22, 1912, making appropriations for the naval service for the fiscal year ending June 30, 1913, and for other purposes, in so far as it relates to the payment of six months' pay to the widow of an officer or enlisted man, etc., be amended to read as follows:

"That hereafter, immediately upon official notification of the death, from wounds or disease not the result of his own misconduct, of any officer or enlisted man on the active list of the Navy and Marine Corps, the Paymaster General of the Navy shall cause to be paid to the widow, and, if no widow, to the children, and, if there be no children, to any other dependent relative of such officer or enlisted man previously designated by him, an amount equal to six months' pay at the rate received by such officer or enlisted man at the date of his death, exclusive of any expenses of interment which the Government defrays under existing law."

Mr. WARREN. Mr. President, is it intended by that amendment to have six months' pay added to the funeral expenses?

Mr. THORNTON. Six months' pay exclusive of interment expenses; six months' pay to the widow or children of anyone who dies in the service, unless it was on account of his own misconduct.

Mr. WARREN. Yes; I understand. I wish to say that that is very much like what is already provided in the Army and

Navy, except that in the Army an amount paid by the Government for burial expenses is deducted, and I think this should be the same, so that they will rest alike. In one case the family pays the expenses, and in another the death occurs so far away that the expenses are paid by the Government. I think it should be inclusive of that, instead of exclusive.

Mr. THORNTON. I will say to the Senator that I was not aware exactly what the rule was in the case of enlisted men in the Army. All I know is that this was the recommendation sent down by the Navy Department, requesting that it be offered as an amendment, and I was instructed by the committee to offer it as a committee amendment.

Mr. WARREN. Would the Senator mind letting it lie over while we proceed to other amendments, until I can find the provision of existing law?

Mr. THORNTON. I will ask that the amendment may be temporarily laid aside.

I wish to say that as the Senator from Massachusetts [Mr. LODGE] is compelled to leave the Chamber shortly, I will request him to now offer the amendment he was requested by the committee to offer.

The VICE PRESIDENT. The amendment will be stated.

The SECRETARY. It is proposed to add, at the end of the bill, the following:

The President may, in his discretion, direct the sale, in such manner, at such price, and upon such terms as he shall deem proper, of the battleships *Idaho* and *Mississippi*. All moneys received from the sale of said vessels shall, after payment therefrom of the expenses of such sale, be deposited by the Secretary of the Navy in the Treasury, and shall, until expended, be available for the construction of such other vessel or vessels, at least equal for purposes of offense and defense to the most modern vessels of the same class now projected here or abroad, as the President may in his discretion authorize: *Provided*, That no vessel shall be sold, exchanged, or conveyed under this authorization unless such sale, exchange, or conveyance, or the agreement therefor, shall have been made prior to July 1, 1915: *Provided further*, That any vessel or vessels constructed from the money received from the sale of the *Mississippi* and *Idaho* shall not be included in the annual appropriations for the increase of the Navy.

Mr. THOMAS. Mr. President, I should like to inquire from the chairman or some member of the committee when these vessels were constructed.

Mr. LODGE. I was about to state the facts in that regard. The construction of these vessels was authorized in 1905, and they were completed in 1908. They are first-rate vessels of their type.

Mr. THOMAS. Why should they be sold?

Mr. LODGE. The Senator's question anticipates what I was about to say.

Mr. THOMAS. I beg the Senator's pardon for interrupting him unnecessarily.

Mr. LODGE. The President and the Secretary of the Navy recommend this sale because an offer has been made, or they understand an offer is to be made, for their purchase by a European Government. They think it will be of advantage to sell these two vessels, if they can be sold for cost or more, and build one vessel in their place.

These two vessels are of 13,000 tons each. Those which we are at present building are of 30,000 tons each. The Navy Department thinks it would be a very good arrangement for us to exchange these two vessels for one vessel of the larger type. They expect to realize enough from them to build one vessel like battleship *No. 39* now laid down in the New York yard. They will not sell otherwise.

If the vessels are not sold, there is no loss to the Navy of the United States. They are fine vessels. The only objection is that they are of 13,000 tons apiece, while the most recent types constructed to-day are more than twice as large.

Mr. THOMAS. I quite agree that the opportunity for selling these ships will probably be taken advantage of, but the fact is that these two vessels of 13,000 tons each were completed in 1908, which was probably the extreme dimension of ships at the time their keels were laid, and now they are practically of no value to our Navy.

Mr. LODGE. If the Senator will allow me, that is not correct. They are valuable ships. Capt. Winterhalter, who appeared before the committee with the Secretary of the Navy in regard to it, told me that they were first-rate vessels and that there was no objection at all to our keeping them.

Mr. THOMAS. They are not valuable.

Mr. LODGE. They are very valuable.

Mr. THOMAS. They are not valuable as against vessels of 30,000 tons.

Mr. LODGE. No; one of them is not.

Mr. THOMAS. Neither of them, I presume.

Mr. LODGE. That is not so certain.

Mr. THOMAS. But by 1920 we will be selling our 30,000-ton vessels, for the reason that in this race for naval construction they will be building them at a cost of forty or fifty million dollars each and in all probability having a tonnage of 50,000 or 60,000. It is a good illustration of the progress which the nations are making in their competition in boat building that will inevitably lead all the nations of the earth to bankruptcy.

Mr. LANE. I should like to suggest to the Senator from Colorado that in 1920 we will be buying the ships back, for the reason that they will be smaller targets for the bombs thrown from airships, and smaller ships will be valuable.

Mr. THOMAS. We will not be buying them back unless the Armor Trust and the War Trust in the meantime disappear, and I see no signs of that. We will keep building them as long as those trusts can keep the Nation apprehensive as to the hostile designs of its neighbors.

The VICE PRESIDENT. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. THORNTON. I send to the desk an amendment which I ask to have read.

The VICE PRESIDENT. The amendment will be read.

The SECRETARY. On page 47, after line 17, insert:

Hereafter in addition to the appointments of midshipmen to the United States Naval Academy as now prescribed by law, the Secretary of the Navy is allowed 15 appointments annually from the enlisted men of the Navy who are citizens of the United States and not more than 20 years of age on the date of entrance to the Naval Academy and who shall have served not less than one year as enlisted men on the date of entrance: *Provided*, That such appointments shall be made in the order of merit from candidates who have passed such physical and such competitive mental examinations as the Secretary of the Navy shall prescribe; and candidates so selected shall then be required to pass the physical and mental examinations now required by law for entrance to the Naval Academy.

Mr. THORNTON. Mr. President, I desire to say that this is the same amendment, except a change as to the number to be appointed and the time of service, that was ruled out on a point of order last Wednesday raised by the Senator from Massachusetts [Mr. WEEKS]. The Senator from Massachusetts, however, is perfectly willing that the amendment in its present shape shall be adopted.

Mr. LODGE. A point of order was made by my colleague, the junior Senator. Is the age changed?

Mr. SMOOT. Yes; from 22 to 20.

Mr. THORNTON. I will say to the Senator that it was submitted to his colleague.

Mr. LODGE. I did not hear that part of the Senator's statement.

The VICE PRESIDENT. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. THORNTON. I now send up the following amendment.

The VICE PRESIDENT. The amendment will be read.

The SECRETARY. On page 37, after line 17, after the numerals "$9,788,000," insert the following proviso:

"*Provided*, That the Secretary of the Navy be authorized at his discretion to issue free of cost the national flag, United States national ensign No. 7, used for draping the coffin of any officer or enlisted man of the Navy or Marine Corps whose death occurs while in the service of the United States Navy or Marine Corps, upon request, to the relatives of the deceased officer or enlisted man or, upon request, to a school, patriotic order, or society to which the deceased officer or man belonged.

The VICE PRESIDENT. The question is on agreeing to the amendment.

The amendment was agreed to.

The SECRETARY. Also add the word "*further*," after "*Provided*," in the bill at that point.

The amendment was agreed to.

Mr. THORNTON. I send up the following amendment.

The VICE PRESIDENT. The amendment will be stated.

The SECRETARY. On page 59, line 2, strike out the word "steam" before the word "machinery," so that, if amended, it will read:

Construction and machinery: On account of hulls and outfits of vessels and machinery, etc.

The amendment was agreed to.

Mr. THORNTON. I now send up the following amendment.

The SECRETARY. On page 59, after line 13, insert as a separate paragraph:

A committee is hereby authorized to be appointed, to consist of one member of the Committee on Naval Affairs of the Senate and one member of the Committee on Naval Affairs of the House of Representatives, to be selected by the chairmen of the respective committees, and one naval officer, to be selected by the Secretary of the Navy, to investigate and report at the next regular session of Congress upon the selection of a suitable site for the erection of an armor plant to enable the United States to manufacture its own armor plate and special-treatment steel capable of standing all ballistic and other necessary tests required for use in vessels of the Navy at the lowest possible cost to the Government, taking into consideration all of the elements necessary for the economical and successful operation of such a plant, such as the availability of labor, material, and fuel, and transportation facilities to and from said plant. Said report shall contain the cost of a site sufficient

to accommodate a plant having an annual output capacity of 20,000 tons and a site for an output of 10,000 tons, and also an itemized statement of the cost of the necessary buildings, machinery, and accessories for each, and the annual cost and maintenance of each, and the estimated cost of the finished product.

Said committee is authorized to sit during the recess of Congress, to send for persons and papers, and to administer oaths.

The sum of $5,000 is hereby appropriated, out of any money in the Treasury not otherwise appropriated, to pay the expenses of said committee and to be immediately available.

Mr. GALLINGER. Mr. President, a few days ago, when a somewhat similar amendment was offered, the junior Senator from Pennsylvania [Mr. OLIVER] made a point of order against it. I will ask the Senator who has offered the amendment if that Senator had any information that this amendment would be offered?

Mr. THORNTON. The only information I have on the subject is that the department thought that, drawn in this way, it would cover the objections made by the Senator from Pennsylvania, and that in this shape it would not be subject to the point of order.

Mr. GALLINGER. Mr. President, I would make the point of no quorum, and I hope the Senator from Pennsylvania will come in.

The VICE PRESIDENT. The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Ashurst	Kenyon	Page	Sterling
Bristow	Kern	Perkins	Stone
Bryan	La Follette	Ransdell	Swanson
Catron	Lane	Saulsbury	Thomas
Chamberlain	Lee, Md.	Shafroth	Thornton
Clapp	Lewis	Sheppard	Tillman
Cummins	Martin, Va.	Simmons	Vardaman
Gallinger	Martine, N. J.	Smith, Ariz.	Warren
Gronna	Myers	Smith, Ga.	White
Hughes	Nelson	Smith, Md.	
James	Norris	Smith, Mich.	
Jones	Overman	Smoot	

Mr. MARTIN of Virginia. The senior Senator from West Virginia [Mr. CHILTON] is detained from the Senate on account of sickness in his family. He is paired with the Senator from New Mexico [Mr. FALL].

Mr. SMITH of Michigan. My colleague [Mr. TOWNSEND] is unavoidably absent from the Senate.

Mr. THORNTON. I announce the unavoidable absence of the senior Senator from Mississippi [Mr. WILLIAMS] and will state that he is paired with the senior Senator from Pennsylvania [Mr. PENROSE]. I ask that this announcement may stand for the remainder of the day.

The VICE PRESIDENT. Forty-five Senators have answered to the roll call. There is not a quorum present. The Secretary will call the names of the absentees.

Mr. VARDAMAN. I move that the Senate adjourn.

The motion was agreed to; and (at 5 o'clock and 17 minutes p. m.) the Senate adjourned until to-morrow, Tuesday, June 2, 1914, at 11 o'clock a. m.

HOUSE OF REPRESENTATIVES.

MONDAY, *June 1, 1914.*

The House met at 11 o'clock a. m.

The Chaplain, Rev. Henry N. Couden, D. D., offered the following prayer:

We bless Thee, infinite Spirit, for that law of our being which takes us at times away from the busy whirl and turmoil of life's activities and brings us to Thee in prayer, where forgetting the conventionalities of society, commercial values, party strife, and religious differences we may lift our hearts to Thee in love and gratitude for past favors, confessing our sins, imploring Thy mercy and Thy guidance in all the duties of life.

Open Thou the crystal fountain,
Whence the living waters flow;
Let the fiery cloudy pillar
Lead us all the journey through;
Strong Deliverer!
Be Thou still our strength and shield.

In His name. Amen.

The Journal of the proceedings of Friday, May 29, 1914, was read and approved.

ADDRESSES AT ARLINGTON.

Mr. COX. Mr. Speaker, I ask unanimous consent to insert in the RECORD speeches delivered by the honorable Speaker of this House, the President of the United States, and Senator SMOOT at Arlington Cemetery on Decoration Day, May 30.

The SPEAKER. The gentleman from Indiana asks unanimous consent to have printed in the RECORD speeches made by the President, Senator SMOOT, and the Speaker at Arlington. Is there objection?

Mr. MANN. I would suggest to the gentleman he have printed the introductory speeches, also, of the different speakers.

Mr. COX. I will put them in if I can get them. I think they are in the Post.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none.

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted as follows:

To Mr. GRIEST, until such time as his physician consents to a renewal of active duties.

To Mr. STEPHENS of California, for six days, on account of duties connected with the Board of Visitors, United States Naval Academy, Annapolis, Md.

MIGRATORY BIRD LAW.

Mr. BARTLETT. Mr. Speaker, I ask permission to extend my remarks by inserting in the RECORD a decision of Judge Trieber, of the United States District Court for the Eastern District of Arkansas, rendered on Saturday, upon the constitutionality of the migratory bird law.

Mr. COX. How does he hold?

Mr. BARTLETT. That it is unconstitutional.

The SPEAKER. The gentleman from Georgia asks unanimous consent to print a decision by Judge Trieber in reference to the migratory bird law.

Mr. BARTLETT. In which the law was held to be unconstitutional.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none.

ORDER OF BUSINESS.

Mr. KINDEL. Mr. Speaker, I would like to call the attention of the House to the fact that the notice of the Lindsey meeting last week is incorrect as published in last Friday's RECORD, relating to the meeting held in the matter of the coal strike. Can that be corrected?

Mr. GARNER. The gentleman's statement corrects it.

The SPEAKER. All the gentleman can do is to make a statement in contradiction of it; the gentleman can not correct the text of the article. Neither the gentleman has the right, the House, nor the whole Congress.

Mr. KINDEL. Mr. Speaker, I would say that this meeting which was held was a Socialist meeting, and——

Mr. FOSTER. Mr. Speaker, I ask for the regular order.

The SPEAKER. The gentleman from Illinois demands the regular order, and the regular order is to go into committee.

COMMISSION ON NATIONAL AID TO VOCATIONAL EDUCATION.

Mr. HUGHES of Georgia. Mr. Speaker, I would ask the gentleman to withhold his demand for the regular order for a moment. The Commission on Vocational Education wish to make their report, and the time is limited.

Mr. FOSTER. I have no objection to that, but I do not think we ought to have this coal strike discussed at this time.

The SPEAKER. Does the gentleman withhold his objection?

Mr. FOSTER. I do, in order that the gentleman from Georgia may make his report.

Mr. HUGHES of Georgia. Mr. Speaker, the Commission on National Aid to Vocational Education was created by an act approved January 24, 1914, authorizing the President of the United States to appoint a commission of nine members to consider the subject of national aid to vocational education and report their findings and recommendations not later than June 1. This commission, Mr. Speaker and gentlemen of the House, was composed of four congressional members and five noncongressional members. This general committee has been in session for two months, almost every day. The subcommittee composed of noncongressional members were in session not only all day but frequently at night. Too much credit, Mr. Speaker, can not be given to the noncongressional subcommittee——

Mr. MANN. Does the gentleman intend to prefer a request?

Mr. HUGHES of Georgia. If the gentleman will wait a few minutes, I just wish to make these preliminary remarks.

Mr. MANN. I am not willing to wait unless I know what is coming.

Mr. HUGHES of Georgia. It will be all through in half a second.

Mr. MANN. It will be; that is true.

Mr. HUGHES of Georgia. Does the gentleman object. I hope he will not.

The SPEAKER. Has the gentleman from Georgia any request?

Mr. HUGHES of Georgia. I wanted to say this much: This committee is ready to make their report and submit it. They are not asking for an extension of time nor are they asking for an

increase of appropriation. We are ready to make and do make this report within the time specified, and, Mr. Speaker, it is most pleasing to the commission to state that we propose to turn into the Treasury of the United States several thousand dollars of the $15,000 of the appropriation. [Applause.] Now, Mr. Speaker and gentlemen of the House, I propose to submit on behalf of the commission the report and bill. I do not ask to have it read, because it is too voluminous.

The SPEAKER. The gentleman submits a report from the commission. That report goes through the basket.

Mr. MANN. I am not sure, but I suppose the report should be referred to a committee.

The SPEAKER. The report and bill will be referred to a regular committee.

Mr. MANN. I do not know what committee it goes to.

The SPEAKER. The Chair will refer it properly.

Mr. WEBB. Mr. Speaker, I ask for the regular order.

ANTITRUST LEGISLATION.

The SPEAKER. The regular order is that the House resolve itself automatically into the Committee of the Whole House on the state of the Union for the further consideration of the bill H. R. 15657 and other bills embraced within the special rule. In the absence of Mr. HULL, the gentleman from Tennessee, Mr. BYRNS, will take the chair.

Accordingly the House resolved itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill H. R. 15657 and other bills embraced within the special rule, with Mr. BYRNS of Tennessee in the chair.

The CHAIRMAN. The House is in Committee of the Whole House on the state of the Union for the further consideration of the bill (H. R. 15657) to supplement existing laws against unlawful restraints and monopolies, and for other purposes.

Mr. WEBB. Mr. Chairman, I wish to offer an amendment to section 7.

Mr. GARNER. Mr. Chairman, there is one amendment now pending, offered by the gentleman from Illinois [Mr. MADDEN] immediately before the committee rose on Friday last. Shall we not have to vote first on that amendment?

The CHAIRMAN. The chairman of the Committee on the Judiciary has an amendment in addition to that offered by the gentleman from Illinois.

Mr. MANN. Mr. Chairman, if we have to dispose of the first paragraph before we take up the second paragraph of that section, I suggest that the gentleman from North Carolina ask unanimous consent that the first paragraph of the section be taken up before the second paragraph, and that they be considered separately; that the two paragraphs be considered as entirely separate.

Mr. WEBB. My idea was, Mr. Chairman, to let all amendments to the section be disposed of, as has been the practice in the past.

Mr. MANN. It is immaterial to me. I thought perhaps the gentleman would like to take up the labor proposition first.

Mr. WEBB. Then, Mr. Chairman, I ask unanimous consent that the amendments to the first paragraph of section 7 be disposed of before we take up the second paragraph of that section.

The CHAIRMAN. The gentleman from North Carolina asks unanimous consent that the first paragraph of section 7 be first considered. Is there objection?

Mr. MURDOCK. Mr. Chairman, reserving the right to object, there is one amendment pending. To which paragraph is that intended to apply?

Mr. WEBB. To the second paragraph.

Mr. MURDOCK. And the amendment which the gentleman from North Carolina offered is to the first paragraph?

Mr. WEBB. Yes; to the first paragraph of the section.

The CHAIRMAN. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

The CHAIRMAN. The Clerk will report the amendment offered by the gentleman from North Carolina [Mr. WEBB].

The Clerk read as follows:

On page 24, at the end of line 10, amend by striking out the period and inserting a semicolon and by adding the following: "Nor shall such organizations, orders, or associations, or members thereof, be held or construed to be illegal combinations or conspiracies in restraint of trade under the antitrust laws."

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from North Carolina.

Mr. THOMAS. Mr. Chairman, I wish to offer an amendment to the amendment offered by the gentleman from North Carolina.

The CHAIRMAN. The Clerk will report the amendment offered by the gentleman from Kentucky [Mr. THOMAS] to the amendment of the gentleman from North Carolina [Mr. WEBB].

The Clerk read as follows:

Strike out all of section 7 down to and including the word "thereof," in line 10, and insert the following: "The provisions of the antitrust laws shall not apply to agricultural, labor, consumers, fraternal, or horticultural organizations, orders, or associations."

Mr. WEBB. Mr. Chairman, I desire to make a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. WEBB. That is, to know whether the amendment just presented by the gentleman from Kentucky is in order. From its construction it seems to be an amendment to an amendment to an amendment. I make a point of order on it.

Mr. MANN. I make the point of order, Mr. Chairman, anyhow, just to preserve the record straight and conform to the rules of the House. As a matter of fact, Mr. Chairman, we have treated the existing committee bill, which is an amendment in itself, as though it were an original bill, and all through the discussion and consideration so far we have allowed amendments to amendments to the committee amendment, although I think that was a little irregular; but nobody has said anything about it, because it is usual when you bring in such a thing to treat a committee substitute as though it were an original bill.

Mr. MURDOCK. The committee substitute is the one which was reported under the rule.

The CHAIRMAN. That would be in keeping with the rule in Committee of the Whole, to permit an amendment to an amendment.

Mr. MANN. But this is not an amendment to the amendment offered by the gentleman.

The CHAIRMAN. The Chair thinks it should not be treated as an amendment. Does the gentleman from North Carolina insist on his point of order?

Mr. WEBB. I withdraw it. We are going to have a vote on it anyhow.

Mr. MACDONALD. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The gentleman from Michigan [Mr. MACDONALD] offers an amendment, which the Clerk will report.

Mr. NELSON. Mr. Chairman, as a member of the committee, I think I have the privilege of offering an amendment before the other gentleman.

The CHAIRMAN. The gentleman is correct. The Clerk will report the amendment offered by the gentleman from Wisconsin.

Mr. NELSON. I offer it as a substitute.

The Clerk read as follows:

Insert after the word "profit" and before the words "or to forbid," in line 8, page 24, the following: "Or of cooperative associations formed by farmers for the purpose of buying more cheaply and of marketing their products to better advantage," so as to make the first paragraph of this section read: "That nothing contained in the antitrust laws shall be construed to forbid the existence and operation of fraternal, labor, consumers', agricultural, or horticultural organizations, orders, or associations instituted for the purposes of mutual help, and not having capital stock, or conducted for profit; or of cooperative associations formed by farmers for the purpose of buying more cheaply and marketing their products to better advantage; or to forbid or restrain individual members of such organizations, orders, or associations from carrying out the legitimate objects thereof; nor shall such organizations, orders, or associations, or the members thereof, be held or construed to be illegal combinations or conspiracies in restraint of trade under the antitrust laws."

Mr. MANN. Mr. Chairman, I shall have to make a point of order that that is not a substitute, on the face of it. We shall get all confused and mixed up in this section unless we treat the amendments as separate amendments.

Mr. MURDOCK. Let us have them all offered as amendments.

Mr. MANN. The gentleman from Wisconsin will have the opportunity to offer the amendment that he desires to offer at the proper time, without question.

Mr. NELSON. I have no objection to taking them up in order.

The CHAIRMAN. The Chair will state that there is an amendment and substitute pending now.

Mr. GARNER. Mr. Chairman, my understanding was that the gentleman from North Carolina [Mr. WEBB] offered his amendment for the purpose of allowing all gentlemen to offer amendments thereto at this time for purposes of information and to have them considered as pending.

Mr. MANN. He can not do that. I made the point of order before that the amendment of the gentleman from Kentucky was not an amendment to the amendment of the gentleman from North Carolina. It plainly is not.

The CHAIRMAN. The Chair thinks the point of order raised by the gentleman is well taken.

Mr. FERRIS. Mr. Chairman, let me inquire of the chairman if the gentleman does not think the reading of so many amendments would tend to confuse rather than to help us?

I can not hold in my head five or six different amendments, all relating to different phases of the subject.

Mr. MURDOCK. They will be reported before we come to vote on them.

Mr. GARNER. The gentleman from Oklahoma realizes that we ought to get a limit of debate, if possible, on this paragraph. Now, the object of the chairman of the committee, as I understand it, is to have all amendments offered at this time for information, and as the different amendments are discussed, they will be reported from the desk, and the committee in that way will be able to understand the merits of each one of the amendments.

Mr. FERRIS. The trouble about that is that we do not have the amendments printed, and we will have to go to the desk to see what they are, and it will be confusing.

Mr. MANN. I shall have to make a point of order against the offering of these amendments in this way. Nobody will know where we are in a few minutes.

The CHAIRMAN. The point of order is sustained.

Mr. MANN. Mr. Chairman, a parliamentary inquiry. What is now pending?

The CHAIRMAN. The Chair will state to the gentleman that the amendment offered by the gentleman from North Carolina [Mr. WEBB] and the substitute offered by the gentleman from Kentucky [Mr. THOMAS] are pending.

Mr. MANN. What became of the point of order which I made on the amendment offered by the gentleman from Kentucky that it was not an amendment to the amendment?

The CHAIRMAN. The Chair understands the gentleman from Kentucky offers it as a substitute for the amendment offered by the gentleman from North Carolina.

Mr. MANN. Yes; but I make the point of order that it is not a substitute. It is offered to a different part of the section. They have no relation to each other.

Mr. THOMAS. It is offered to the first part of the section. It is either a substitute or a separate amendment to the first paragraph of the section.

Mr. MANN. That would be in order; but the amendment of the gentleman from North Carolina [Mr. WEBB] comes in at the end of the paragraph, and the amendment proposed by the gentleman from Kentucky comes in at the beginning of the paragraph. They might both be agreed to by the committee. One is not a substitute for the other in any sense.

Mr. GARNER. It makes no difference, just so you get a vote.

The CHAIRMAN. Does the gentleman from Kentucky [Mr. THOMAS] desire to be heard on the point of order?

Mr. THOMAS. I will say this much, may it please the Chair, that the amendment or the substitute, as the case may be, which I have offered, is to the first paragraph of section 7. I understand that the amendment offered by the gentleman from North Carolina [Mr. WEBB] is to the last part of this paragraph. That is what I understood the gentleman from Illinois to claim.

Mr. MANN. If the gentleman will pardon me, the amendment offered by the gentleman from North Carolina is to add something at the end of the paragraph.

Mr. THOMAS. Yes.

Mr. MANN. The amendment proposed by the gentleman from Kentucky is practically to change the language of the paragraph. Now, Mr. Chairman, if it is to be held as an amendment to the amendment, and if the amendment of the gentleman from Kentucky is agreed to, there will be no chance of getting a vote upon the amendment of the gentleman from North Carolina; and although the committee might want to agree to both amendments, it could not possibly do it, if it is held to be an amendment to the amendment, because it would not be in order, I take it, to offer this amendment over again after we had substituted something for it.

Mr. HENRY. I suggest to the gentleman from Kentucky that he offer his amendment later.

Mr. MANN. The amendment of the gentleman from Kentucky will be in order after the amendment of the gentleman from North Carolina is disposed of.

Mr. THOMAS. My amendment is certainly an amendment to the first part of the paragraph.

Mr. MANN. Oh, undoubtedly.

The CHAIRMAN. The Chair thinks that, strictly speaking, the amendment of the gentleman from North Carolina [Mr. WEBB] should be considered as an amendment to perfect the text of the bill. The amendment offered by the gentleman from Kentucky strikes out the paragraph and proposes to insert new matter. For that reason the Chair feels constrained to sustain the point of order. Of course, the gentleman from Kentucky will have an opportunity to offer his amendment later. The question is on the amendment offered by the gentleman from North Carolina.

Mr. THOMAS. When shall I have an opportunity of offering my amendment?

The CHAIRMAN. As soon as this amendment is disposed of and the gentleman is recognized by the Chair.

Mr. THOMAS. Suppose the amendment of the gentleman from North Carolina is adopted.

Mr. GARNER. Then the gentleman from Kentucky can offer his.

The CHAIRMAN. The Chair will state to the gentleman from Kentucky that his amendment will be in order as soon as the amendment of the gentleman from North Carolina is disposed of.

Mr. THOMAS. Does the Chair hold that I may offer it as an amendment or as a substitute?

Mr. GARNER. When the amendment of the gentleman from North Carolina is disposed of the gentleman from Kentucky can offer his proposition as an amendment.

Mr. WEBB. Mr. Chairman, I apprehend there will be some desire to discuss the amendments offered to the first paragraph of section 7, and I want to know from my friend from Minnesota [Mr. VOLSTEAD] if we may get some understanding as to the amount of time to be consumed on amendments to the first part of the section, and to the entire section?

Mr. MANN. How much time does the gentleman from North Carolina want on his amendment?

Mr. WEBB. I should think we can dispose of it in 35 or 40 minutes on our side.

Mr. MANN. Do you want that much time on this amendment?

Mr. HENRY. I should like to have 15 minutes on this particular amendment myself.

Mr. WEBB. I make this request, that we devote two hours to the discussion of the amendments to this entire section, one hour to be controlled by the gentleman from Minnesota [Mr. VOLSTEAD] and the other hour to be controlled by myself.

Mr. MANN. Would it not be better to dispose of these amendments one at a time?

Mr. MURDOCK. And fix a time limit on each separate amendment.

Mr. WEBB. I think that would be more orderly, but I should like to have some understanding as to the time on the entire section.

Mr. MANN. We will try to reach an equitable understanding about that. I will say to the gentleman there is no desire to take up a great deal of time.

Mr. WEBB. How much time is desired on these amendments?

Mr. GARNER. The gentleman means on his amendment. There will be some discussion desired on the Thomas amendment.

Mr. THOMAS. I want some time on my amendment, Mr. Chairman. I am going to offer that amendment to the whole paragraph.

Mr. MURDOCK. I want 10 minutes on the Webb amendment.

Mr. MANN. How much time does the gentleman from North Carolina want on his amendment?

Mr. WEBB. I think we can dispose of it in 45 minutes on our side.

Mr. HENRY. It is understood that I shall have 15 minutes, is it not?

Mr. MANN. Very well; make it 45 minutes on a side. It is possible we may not use all the time on this side on this amendment, but we want time on the other amendments.

Mr. WEBB. Very well. You shall have that. I agree to that.

The CHAIRMAN. What is the request of the gentleman from North Carolina?

Mr. WEBB. I ask unanimous consent that on the amendment proposed by the committee, which I have just sent to the Clerk's desk, the debate be closed in 90 minutes, 45 minutes to be controlled by the gentleman from Minnesota and 45 minutes to be controlled by myself.

The CHAIRMAN. The gentleman from North Carolina asks unanimous consent that all debate on the pending amendment be closed in 1 hour and 30 minutes, one half to be controlled by himself and the other half by the gentleman from Minnesota [Mr. VOLSTEAD]. Is there objection?

Mr. QUIN. Reserving the right to object, Mr. Chairman, I would like to have both amendments reported.

The CHAIRMAN. There is only one amendment pending.

Mr. QUIN. I would like to have that reported.

The CHAIRMAN. Without objection, the Clerk will again report the amendment.

The Clerk again read the amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from North Carolina?

Mr. THOMAS. Reserving the right to object——

Mr. HOWARD. I make the point of order that it is too late to object.

The CHAIRMAN. The Chair thinks not; the gentleman from Kentucky was on his feet.

Mr. THOMAS. I would like unanimous consent for five minutes on this amendment myself.

Mr. WEBB. I will give the gentleman four or five minutes.

Mr. THOMAS. I want five, not "four or five" minutes. [Laughter.]

The CHAIRMAN. Is there objection to the request of the gentleman from North Carolina? [After a pause.] The Chair hears none.

Mr. WEBB. Mr. Chairman, the amendment which is under consideration is, in the opinion of the committee, in keeping with the declaration of the Democratic platform—to the effect that labor organizations and farmers' organizations organized for mutual help shall not be considered or construed to be illegal combinations or conspiracies in restraint of trade under the antitrust laws.

It is needless to say that we have had much diversity of opinion in adopting and agreeing on this particular section, but after all, Mr. Chairman, we have embodied in this amendment what we understand to be the best legal interpretation of the best judges in the United States. Personally I have never had any idea that the existence and operation of labor organizations, of farmers' unions, or fraternal orders were ever intended to come within the provisions of the antitrust law. However, some labor leaders have contended for many years that labor organizations have their existence as a matter of sufferance and at the whim of the Attorney General, and if suit should be brought, if they were not dissolved entirely, much trouble could be given them. We are therefore writing into the statutes of the United States the concensus of opinion of the best judges of the country on this troublesome question. I have not had an opportunity of reading the opinion, but only last Friday the circuit court of appeals of the fourth circuit at Richmond, Va., held that a labor organization was not a conspiracy or combination in restraint of trade. Therefore we say that we have embodied in this section as set forth in the first part of section 7 and as expressed in the latter part of this amendment which I now offer what is generally understood to be the law and should be the law in the United States with reference to labor organizations, as well as fraternal and farmers' organizations. [Applause.]

I now yield 15 minutes to the gentleman from Texas [Mr. HENRY].

Mr. HENRY. Mr. Chairman, there has been so much controversy about what was intended when the original Sherman antitrust law was passed that I think we should make clear just what we intend by this law. Some of us did not believe section 7 as originally written by the Committee on the Judiciary expressed exactly what should be in this bill. Therefore we took exception to the language of the first part of the paragraph in section 7 and insisted there should be additional language. Among those who agreed that the language was not plain enough were the gentleman from North Carolina, Mr. KITCHIN, the gentleman from Illinois, Mr. HINEBAUGH, the gentleman from Illinois, Mr. GRAHAM, the gentleman from Iowa, Mr. TOWNER, the gentleman from Maryland, Mr. LEWIS, and myself. We met to confer, and concluded that we ought to make the language more explicit. In that conference held in the committee room of the Committee on Rules, on the evening of May 21, 1914, we agreed that this language should be added at the end of the first paragraph of section 7, to wit, after the word "thereof":

Nor shall such organizations, orders, or associations or the members thereof be held or construed to be illegal combinations or conspiracies in restraint of trade under the antitrust laws.

This language I have read is exactly the verbiage used by the gentleman from North Carolina [Mr. WEBB] in the amendment offered by him and is the amendment agreed upon by Mr. KITCHIN and our conferees in my office. The Committee on the Judiciary courteously accepted the language as prepared by the gentlemen in the conference, believing, I assume, that we were correct and that the original language used by them was not quite explicit. So we came to a satisfactory agreement with the House Judiciary Committee about this addition to the first part of section 7, and, as far as I am concerned, we are standing squarely with the committee for that paragraph with our added language. We called into the conference with us the heads of the American Federation of Labor, and submitted this amendment to them, and said to them that we believed its adoption as an addition to section 7 would clearly exempt labor organizations and farmers' organizations from the provisions of the antitrust laws.

They agreed with us; they called their counsel into conference with them and with us, and we all concurred that this amendment added to the paragraph of section 7 would give these organizations what they have desired so long, and all they have been struggling for since the original enactment of the Sherman antitrust law.

In my judgment, when Congress was dealing with "combinations in restraint of trade" it never intended that the law should apply to labor organizations or farmers' organizations without capital and not for profit. The courts took a different view of it and construed the act as it was never intended that it should be interpreted. The time has come when we can correct that error and write the language in the law as those gentlemen insist that it should be and should have been.

I am glad of the opportunity of espousing their cause to-day and standing with them in accord and agreement. The Judiciary Committee has acceded to their position to the extent indicated by me, and so has the President. This is entirely a satisfactory solution of the question. [Applause.]

Mr. Chairman, unfortunately there are many men in this country who hesitate to espouse the cause of organized labor or the farmers for fear they will be called "demagogues." That has kept many a man from advocating on the floor of this House what he believed in his heart, because he dreaded adverse criticism. We have come up to the proposition to-day and we propose to meet it and say that these men are entitled to what they have been demanding, and we shall write it in the antitrust laws. Let us review the history of that matter for a little while. When the original Sherman law was proposed in the Senate, Senator George, of Mississippi, not a demagogue, but a great lawyer and a great statesman, offered this amendment:

Provided, That this act shall not be construed to apply to any arrangements, agreements, or combinations between the laborers made with a view of lessening the number of hours of labor or the increasing of their wages; nor to any arrangements, agreements, or combinations among persons engaged in horticulture or agriculture made with a view of enhancing the price of agricultural or horticultural products.

The amendment was agreed to without opposition. A little later in the proceedings the bill with amendments was referred to the Committee on the Judiciary, and when the committee reported it back to the Senate the George amendment was left out, because all agreed that the act as written without that language in it meant exactly what was contained in the George amendment.

Mr. GARNER. Mr. Chairman, will the gentleman yield for a question?

Mr. HENRY. Just for a question.

Mr. GARNER. The gentleman contends that it never was the intention to prohibit farmers' unions, for instance, from organizing to get better prices for their products?

Mr. HENRY. Yes.

Mr. GARNER. Will the gentleman contend that his proposed amendment will permit farmers' organizations to warehouse their cotton and agree among themselves that they will not sell it except at a certain price?

Mr. HENRY. Beyond the peradventure of a doubt it allows that very thing, and if it did not I would not vote for the amendment.

Mr. GARNER. There is where the gentleman differs from me with reference to the effect of his amendment.

Mr. HENRY. If it did not, I would not support it a single instant. It is as broad and strong as the George amendment and ought to be written into this law. Let us trace the history a little further. Later on, in 1900, when the Littlefield antitrust bill was before the House—and I happened to be a Member of that Congress—Mr. Terry, of Arkansas, offered an amendment which was agreed to in the House by a vote of 260 yeas to 8 nays. That amendment was offered on June 2, 1900, and is as follows:

Nothing in this act shall be so construed as to apply to trade-unions or other labor organizations, organized for the purpose of regulating wages, hours of labor, or other conditions under which labor is to be performed.

So it was written into the antitrust bill as it passed this body and went to the Senate. After we put that exemption in the bill Mr. Littlefield lost all interest in it, and it was not heard of again in the Senate of the United States.

Next, on June 21, 1910, Mr. HUGHES, of New Jersey, offered an amendment to the sundry civil appropriation bill to this effect:

Provided further, That no part of this money shall be spent in the prosecution of any organization or individual for entering into any com-

bination or agreement having in view the increasing of wages, shortening of hours, or bettering the condition of labor, or for any act done in furtherance thereof not in itself unlawful.

By a vote of 82 to 52 that amendment was inserted in the sundry civil appropriation bill, and on June 23, 1910, when the bill came back from the Senate, Mr. Tawney, chairman of the Committee on Appropriations, moved to recede and concur—which meant that the House agreed to the Senate amendment—striking the Hughes exemption from the bill. That motion was agreed to by a vote of 138 to 130, and then it was that the disintegration of the standpat Republican Party began. No matter what gentlemen may say or think, when the Republican Party made it manifest that they were not willing to write this exemption in the antitrust laws the great labor organizations lost confidence in them and turned to another party. They came to the Democratic convention at Denver, and we wrote a promise in our platform. And then they came to Baltimore in 1912, and we wrote a pledge in that platform. We are here to redeem our word, just as we made it, and put the promised exemption in the antitrust legislation and send it to the Senate of the United States. [Applause.]

The amendment which has been offered by the Judiciary Committee, and has been prepared by Messrs. KITCHIN, LEWIS of Maryland, TOWNER, GRAHAM of Illinois, HINEBAUGH, and myself, in connection with them, is in the exact language of the Baltimore platform, to this effect:

The expanding organization of industry makes it essential that there should be no abridgment of the right of wage earners and producers to organize for the protection of wages and the improvement of labor conditions *to the end that such labor organizations and their members should not be regarded as illegal combinations in restraint of trade.*

This language construes itself. It is the Baltimore platform in exact words. It is the spirit, the substance, the verbiage, and the promise of the Democratic platform, and Democrats will do no less than carry out their pledges to the people on this question. [Applause on the Democratic side.]

Mr. Chairman, again, on February 26, 1913, when the sundry civil appropriation bill was under consideration, this amendment was offered by Representatives HAMILL and RODDENBERY:

Provided, however, That no part of this money shall be expended in the prosecution of any organization or individual for entering into any combination or agreement having in view the increasing of wages, the shortening of hours, or bettering the conditions of labor, or for any act done in furtherance thereof, not in itself unlawful: *Provided further*, That no part of this appropriation shall be expended for the prosecution of producers of farm products or associations of farmers who cooperate or organize in the effort to obtain and maintain a fair and reasonable price for their products.

The House agreed to that amendment, and on March 4, 1913, President Taft vetoed the bill because it contained that exemption. We passed it over his veto by the overwhelming vote of 264 yeas to 48 nays, and it went to the Senate, where the fight was waged on the question of exemption, and there in the Senate the bill failed.

Then the Democratic administration came into power, and again the Hamill-Roddenbery amendment was inserted in the sundry civil appropriation bill, which was passed through the Sixty-third Congress and signed by Woodrow Wilson. For these identical exemptions I have fought, and continue to fight. Our amendment, offered by Mr. WEBB, chairman of the Judiciary Committee, is as strong, salutary, and far-reaching as the twice-approved Hamill-Roddenbery amendment.

Now, gentlemen, organized labor has never asked that they be permitted under the law to commit crimes or to do unlawful things. They have never come to this Government and pleaded for special privilege. They have never asked for anything to which they are not entitled at our hands. They have said that when we are dealing with *conspiracies in restraint of trade and combinations and trusts* it was never intended that the man who sells his labor—his God-given right—should be classed as conspiring against trade or in unlawful combinations against the antitrust laws. We are now about to correct that error, and make it plain and specific, by clear-cut and direct language, that the antitrust laws against conspiracies in trade shall not be applied to labor organizations and farmers' unions.

When, as chairman of the Committee on Rules, I had the honor to present the resolution bringing up for consideration this bill and the Democratic administration antitrust program, it was my privilege to announce that section 7 of this antitrust bill was not satisfactory to labor, and that I heartily concurred in that view; and that a plain provision clearly exempting them from the antitrust laws would be presented and adopted by the House. We have prepared such provision, and the gentleman from North Carolina [Mr. WEBB] has presented it for us as labor and the farmers wish it. In the beginning of my remarks it is set out as approved by labor, the Committee on the Judiciary, the Democratic President, and skilled legal counsel for the wage earners. It is apparent that in a few brief moments it will be adopted by an overwhelming vote of the House. This executes the meritorious and just contract the Democratic Party has made with labor; and I rejoice that I am here to witness and participate in the triumph of the honorable men who win their bread by the sweat of their brow.

RECOMMENDATIONS OF THE PUJO MONEY TRUST COMMITTEE.

It is gratifying to state that not only has this important bill satisfied the laborer and the farmer, but it contains many other salutary and strong provisions, including some of the best recommendation of the Pujo Money Trust committee, which, as chairman of the Committee on Rules, I had the proud privilege of originating and putting on foot in the House a little over two years ago.

INTERLOCKING DIRECTORATES.

In dealing with banking corporations, interstate railways, and industrial corporations and trusts, the measure contains strong and effective provisions against interlocking directorates and all their attendant evils. It carries out the substantial provisions of the magnificent Money Trust and Steel Trust reports. Adequate penalties are provided. The plighted faith of the Democratic platform at Baltimore is kept and written into law. It makes guilt personal and consigns to prison flagrant violators of the law.

GOVERNMENT BY INJUNCTION ABOLISHED.

In several sections "government by injunction," through the usurpation of petty judicial tyrants, is destroyed and forever discontinued. No longer through the writ of injunction and the equity processes of the court can the unjust and tyrannical judge imprison and outrage honorable citizens without the right of trial by jury. The "midnight injunction" is banished and the citizen must have due and reasonable notice before he is deprived of his liberty and rights. He will have his day in court and not be outraged by secret judicial decree while his back is turned and the temples of justice shut against him. This is a great triumph for labor and justice, written in the very heart of this bill.

THE NEW FREEDOM FOR LABOR.

In section 18 a bill of rights, establishing a "new freedom" for labor, is written into solemn law to endure as a Magna Charta for those who toil and produce for the balance of mankind. I am happy to witness this day and to assist in passing this section that dedicates in our statutes a permanent command to the courts of equity and law to respect the rights of labor and cease outraging their inherent and God-given privileges. It reads:

SEC. 18. That no restraining order or injunction shall be granted by any court of the United States, or a judge or the judges thereof, in any case between an employer and employees, or between employers and employees, or between employees, or between persons employed and persons seeking employment, involving, or growing out of, a dispute concerning terms or conditions of employment, unless necessary to prevent irreparable injury to property, or to a property right, of the party making the application, for which injury there is no adequate remedy at law, and such property or property right must be described with particularity in the application, which must be in writing and sworn to by the applicant or by his agent or attorney.

And no such restraining order or injunction shall prohibit any person or persons from terminating any relation of employment, or from ceasing to perform any work or labor, or from recommending, advising, or persuading others by peaceful means so to do; or from attending at or near a house or place where any person resides or works, or carries on business or happens to be, for the purpose of peacefully obtaining or communicating information, or of peacefully persuading any person to work or to abstain from working; or from ceasing to patronize or to employ any party to such dispute, or from recommending, advising, or persuading others by peaceful means so to do; or from paying or giving to, or withholding from, any person engaged in such dispute, any strike benefits or other moneys or things of value; or from peaceably assembling at any place in a lawful manner, and for lawful purposes; or from doing any act or thing which might lawfully be done in the absence of such dispute by any party thereto.

Then to make sure that no court shall ever attempt to pervert and nullify the law we are going to add at the end of section 18 this broad and explicit language:

Nor shall any of the acts specified in this paragraph be considered or held unlawful.

Is this not indeed a notable and triumphant victory for the laboring forces after their long and severe struggle for justice? My heart swells with pride when I ascribe this act of justice to the master hand of Democracy.

JURY TRIAL IN CASES OF CONSTRUCTIVE CONTEMPT.

Then follows ample provision for jury trials in cases of indirect contempt. Such is our platform promise, and thus by this strong language and act have we redeemed it. It satisfies labor and they have accepted it as a solemn redemption of our tendered pledge. What more could be asked? What more could be accomplished? In this bill labor has secured more rights and just privileges than all the legislation accorded them in a hundred years of Federal enactments! A great achievement for them and a wonderful record for Democracy!

THE STOCK-AND-BOND LAW.

The next bill coming up for consideration under the special rule is the Rayburn stock-and-bond law. This is another important recommendation of the Pujo Money Trust report. It prohibits the fraudulent and fictitious issuance of stocks and bonds by interstate railway corporations. It is patterned after and based upon the Hogg stock-and-bond law of Texas. It places these roads under the strong and dominating hand of the Government, and, wisely administered, will prevent the recurrence of the New Haven frauds and similar corrupt transactions. And so in a series of bills Democracy has come to the rescue of the people and honest men. We are doing those things we have promised the voters we would accomplish.

And having struggled through my public career for many years to bring about these reforms, I crave pardon for exulting with just pride that I have been instrumental as a member of the Rules Committee and Representative in helping to advance all these measures to the point of consummation. Let us hope that never again will special privilege be enthroned in high governmental places and the people plundered, despoiled, and robbed by those ever seeking unwarranted advantage. [Applause.]

Mr. WEBB. Mr. Chairman, will the gentleman from Minnesota consume some of his time?

Mr. VOLSTEAD. Mr. Chairman, I yield 10 minutes to the gentleman from Kansas [Mr. MURDOCK]. [Applause.]

Mr. MURDOCK. Mr. Chairman, if the amendment which the Committee on the Judiciary offered is amended, as proposed by the gentleman from North Carolina, and it will be, and that perfected paragraph satisfies those who have contended for years for the right of organized labor to exemption from the provisions of the Sherman antitrust law, this is the end of one of the most notable battles in the history of our country; but if this amended paragraph does not satisfy them, then the American Congress this morning is enacting a legislative tragedy——

Mr. GARNER. Will the gentleman yield?

Mr. MURDOCK. I would like to get started, if the gentleman will permit me. For over a period of 10 years this particular battle, which many presume is now about to close, has been one of the chief activities here. The men who have headed the American Federation of Labor, Mr. Gompers and those associated with him, have left no stone unturned, they have worked day and night, year in and year out, to accomplish this exemption. They not only have plead with every great national convention for party platform pledges for the enactment of this exemption into law, but they have worked here in Washington in season and out of season to accomplish this. And they have accomplished upon occasion in this body within my experience political revolution. They have upset party regularity and party majority. They have overriden the veto of a President. They stood here face to face for years against the powerful National Association of Manufacturers, which attempted in every way to block the avenues to public service and to keep back this legislation. The old Republican stand-pat leadership for years had as one of its chief activities the defeat of this proposition. They locked and doubled locked this proposition in the pigeonholes of committees; but the leaders of labor who were fighting for it never repined; they never lost heart. They kept on fighting for it. Why? Because they believed in it. When this Government made the first attack upon monopoly, labor had already begun to combine itself into organization. Why? For self-preservation and for self-protection; and when labor combined in this, my friends, it soon awoke to the benefactions and blessings of cooperation.

Now, I am one of those who are sometimes designated as the gentleman from Texas says some men here are designated. For there are those who have persistently called me a demagogue because from the very start of my career I have stood for all amendments which went to the exemption of organized labor from the provisions of the Sherman antitrust law. Why did I vote for them? Because I believe with all my heart and soul that the leaven that is working to the perfection of our Democracy is the aspirations and ideals of labor. [Applause.] I am in favor of giving to labor an exemption from the hindrances to progress that the courts have put upon it. Now, when we first passed the Sherman antitrust law labor believed it was exempted, and it went to the courts and the courts after long litigation told organized labor that under the terms of the Sherman antitrust law it was not exempt. That is, the courts sent organized labor back to Congress. It came here and prayed at the doors of your committees for exemption. It fought the most powerful lobby that has ever flourished in this country. It met rebuff and defeat. But it fought on and, finally, by the help of organized labor, the Democratic Party came into power. That party had given a pledge of exemption in the Baltimore platform which had been in the Democratic platform of 1908, and in response to the platform pledge the Bacon-Bartlett bills were introduced. They were direct and explicit in their terms.

Mr. BARTLETT. Will the gentleman permit me to interrupt him?

Mr. MURDOCK. I wish they had come out of the committee——

Mr. BARTLETT. Permit me to say——

Mr. MURDOCK. The gentleman realizes I have but a few moments——

Mr. BARTLETT. But they did come out of the committee and went on the calendar and an effort was made to get a rule from the Committee on Rules over which the gentleman from Texas presided and it could not be done.

Mr. MURDOCK. Yes; the Bacon-Bartlett bill has been smothered. Now, the Bacon-Bartlett bill was in plain, specific terms. It would have met the situation. But in place of its provisions the Democratic leadership placed upon this bill an amendment which did not exempt labor, which was unsatisfactory to a number of gentlemen on the Democratic side——

Mr. GARNER. Will the gentleman yield?

Mr. MURDOCK. If the gentleman will just let me go on with this narrative—those who protested against the original amendment in this bill as it was reported out of the committee succeeded in making themselves heard, and after a discussion pro and con there was added to the original amendment the phrase which we have offered to the bill to-day in the way of an amendment by the gentleman from North Carolina. Now, what does that amendment mean?

Mr. GARNER. That is what I wanted to ask the gentleman.

Mr. MURDOCK. What does it mean? Some of the friends of labor say that that amendment does exempt organized labor from the provisions of the Sherman antitrust law, but its enemies say that it does not exempt organized labor. Who knows? No man on the floor of this House. Who will determine? The courts.

Now, the tragedy of this transaction, my friends, is this: That after labor went to the courts and after the courts had sent it back to Congress, Congress sends labor back to the courts again. Eight or ten or twelve years hence the courts will decide what the amendment which we are about to adopt means.

Mr. HENRY. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. Does the gentleman from Kansas yield to the gentleman from Texas?

Mr. MURDOCK. No; I will not yield just now. If the gentleman will permit me, I will yield in a minute.

Now, Mr. Chairman, I am going to vote for this amendment. I voted originally for the Hughes amendment—in which I believe; which was explicit. I voted for the Hamill amendment. I have voted every time this matter came up in the House for plain, direct, specific language in favor of exemption. Had I been a Member of Congress 14 years ago I should have voted for the Terry amendment. I want the House to listen again to the language of the Terry amendment. Listen:

> Nothing in this act shall be so construed as to apply to trade-unions or other labor organizations organized for the purpose of regulating wages, hours of labor, or other conditions under which labor is to be performed.

How certain that is, how direct, how sweeping, compared with the amendment which has been offered!

Now, I will yield to the gentleman from Texas [Mr. HENRY].

Mr. HENRY. When the amendment says that these organizations shall not be regarded as conspiracies or illegal combinations in restraint of trade under the antitrust laws, how can you make it plainer?

Mr. MURDOCK. Ah, you could make it a good deal plainer.

Mr. GARNER. Mr. Chairman, will the gentleman yield right there?

Mr. MURDOCK. I want to say to the gentleman from Texas [Mr. HENRY] that the gentleman from Michigan [Mr. MACDONALD] will offer an amendment which is direct, and which will make it plain, and will not be a subject of doubt in the courts, but will give the exemption to which labor is entitled under the law.

The CHAIRMAN. The time of the gentleman from Kansas has expired. The question is on agreeing to the amendment offered by the gentleman from North Carolina [Mr. WEBB].

Mr. CARLIN. Mr. Chairman, I yield five minutes to the gentleman from Georgia [Mr. BARTLETT].

The CHAIRMAN. The gentleman from Georgia [Mr. BARTLETT] is recognized for five minutes.

Mr. BARTLETT. Mr. Chairman, I shall support the Webb amendment, but in the time allotted to me I can not say what I desire to say on this subject, because for years I have

devoted much attention to it and have frequently voted for the principle embodied in it and endeavored to have legislation of this character enacted. I did hope that I might have opportunity to speak more at length on the proposition and not simply confine myself to a synopsis of the history of this matter or to mere statement of my reasons for insisting that labor organizations and farmers' associations should not fall under the antitrust law, but I have but a few minutes. Whatever may be the result of this amendment to the antitrust bill, I claim no special credit for it, but I do insist that I have endeavored, in season and out of season, at all times, to have the injustice of the Sherman Antitrust Act, as construed by the Supreme Court, which held such associations subject to that act, corrected by proper legislation.

In the last Congress I introduced a bill which has become known as the Bartlett-Bacon bill, or the Bacon-Bartlett bill, and which was reported to this House from the Committee on Labor and went on the calendar at an early day of that Congress, and the report of the committee on that bill I hold in my hand, which is as follows:

Be it enacted, etc., That it shall not be unlawful for persons employed or seeking employment to enter into any arrangements, agreements, or combinations with the view of lessening the hours of labor, or of increasing their wages, or of bettering their condition; nor shall any arrangements, agreements, or combinations be unlawful among persons engaged in horticulture or agriculture when made with the view of enhancing the price of agricultural or horticultural products; and no restraining order or injunction shall be granted by any court of the United States, or by any judge thereof, in any case between an employer and employee, or between employers and employees, or between persons employed and persons seeking employment, or involving or growing out of a dispute concerning terms or conditions of employment in any case, or concerning any agreement, arrangement, or combination of persons engaged in horticulture or agriculture with the view of enhancing prices as aforesaid, or any act or acts done in pursuance thereof, unless in either case said injunction be necessary to prevent irreparable injury to property or to a property right of the party making the application for which there is no adequate remedy at law; and such property or property right must be particularly described in the application, which must be sworn to by the applicant or by his agent or attorney.

In construing this act the right to enter into the relation of employer and employee, to change that relation and to assume and creat a new relation of employer and employee, and to perform and carry on business in such relation with any person in any place or do work and labor as an employee shall be held and construed to be a personal and not a property right. In all cases involving the violation of the contract of employment by either the employee or employer where no irreparable damage is about to be committed upon the property or property right of either no injunction shall be granted, but the parties shall be left to their remedy at law.

SEC. 2. That no person or persons who are employed or seeking employment or other labor shall be indicted, prosecuted, or tried in any court of the United States for entering into any arrangements, agreements, or combinations between themselves as such employees or laborers, made with a view of lessening the number of hours of labor or increasing their wages or bettering their condition, or for any act done in pursuance thereof, unless said act is in itself unlawful; nor shall any person or persons who may enter into any arrangements or agreements or combinations among themselves for the purpose of engaging in horticulture or agriculture with a view of enhancing the price of agricultural or horticultural products, be indicted, prosecuted, or tried in any court of the United States on account of making or entering into such arrangements, agreements, or combinations, or any act done in pursuance thereof, unless said act is in itself unlawful.

The purpose of this bill was to make arrangements, agreements, or combinations of wageworkers or farmers lawful, which the courts in interpreting the Sherman antitrust law have held to be illegal combinations in restraint of trade, and to restrict the injunctive power exercised by the courts over personal relations between individuals where no real property right is endangered or involved, and relegating causes in such personal relations to the adjudication of the law courts.

There has been some doubt expressed as to whether or not the Sherman antitrust law was ever intended to apply to organizations of workingmen and farmers when dealing with their own labor or the products of their own labor; but whether or not it was intended to apply to organizations of that character, the fact remains that it has been applied to them. An examination of the debates in the Senate discloses the fact that the author of the law, Senator Sherman, did not intend it to be and did not believe that it would be applied to organizations of workingmen or farmers. In the debate on the bill in the Senate on March 21 and March 24, 1890, Senators Hiscock and Teller called attention to the possibility of the measure applying to organizations of that character. Replying, Senator Sherman said:

The bill as reported contains three or four simple propositions which relate only to contracts, combinations, agreements made with a view and designed to carry out a certain purpose which the laws of all the States and of every civilized community declare to be unlawful. It does not interfere in the slightest degree with voluntary associations made to affect public opinion to advance the interests of a particular trade or occupation. It does not interfere with the Farmers' Alliance at all, because that is an association of farmers to advance their interests and to improve the growth and manner of production of their crops and to secure intelligent growth and to introduce new methods. No organizations in this country can be more beneficial in their character than farmers' alliances and farmers' associations. They are not business combinations. They do not deal with contracts, agreements, etc. They have no connection with them. And so the combinations of workingmen to promote their interests, promote their welfare, and increase their pay if you please, to get their fair share in the division of production are not affected in the slightest degree, nor can they be included in the words or intent of the bill as now reported.

Efforts were made time and time again to have that bill considered. A resolution was introduced by me, which went to the Committee on Rules, over which the gentleman from Texas [Mr. HENRY] presides, asking for a rule making the bill privileged, so it could be considered. This resolution was pressed in a hearing had before that committee, and the committee was urged to give us an opportunity to have the bill considered by the House, because it was known whenever the House could have an opportunity to vote upon this measure it would pass it, having on several occasions supported a like measure in no uncertain terms and by no uncertain majorities. But we could not persuade the Committee on Rules to report the bill. Again, when this Congress met, the first bill I introduced was this same bill, a copy of which I will make a part of my remarks. The principle of my bill is now incorporated into this bill reported by the Committee on the Judiciary and as contained in the amendment offered by the gentleman from North Carolina [Mr. WEBB].

I congratulate the Committee on the Judiciary; I congratulate the country that the hour is now at hand when the shackles placed by a misconstruction of the Sherman antitrust law upon labor and like organizations shall be stricken from them, and when they shall stand before the country free to exercise their right to perform and do those acts as organizations that they are entitled to do and those things which no one should ever construe they were forbidden to do by the Sherman antitrust law. [Applause.]

In pursuance of that, I wish to put into the RECORD as to the right to do them the statement of that great lawyer and learned Senator, Mr. Hoar, who made it on the 27th day of March, 1890, when this original proposition was before the Senate, and when the right of Congress to pass it was challenged by other great lawyers, among them Mr. Edmunds, of Vermont. Senator Hoar then made that statement, clear and forcible, which assured the Members of the Senate that, in his opinion, we had the right to enact such legislation. It was not enacted. It was put upon the bill as an amendment, and it was referred to the Committee on the Judiciary in the Senate, and the bill came back without it; and those same Senators, Senator George and Senator Vest, stated to the Senate that that amendment had not been incorporated because no one could construe that the Sherman antitrust law would in any way affect labor organizations.

I quote from the CONGRESSIONAL RECORD of March 27, 1890:

The PRESIDING OFFICER. The question is upon the amendment last reported.

Mr. EDMUNDS. Let it be read again.

The CHIEF CLERK. On page 4, line 66, section 1, after the word "action," the Senate, as in Committee of the Whole, inserted the following clause:

"*Provided*, That this act shall not be construed to apply to any arrangements, agreements, or combinations between laborers made with a view of lessening the number of hours of their labor or of increasing their wages; nor to any arrangements, agreements, associations, or combinations among persons engaged in horticulture or agriculture made with the view of enhancing the price of their own agricultural or horticultural products."

Mr. HOAR. Mr. President, I wish to state in one single sentence my opinion in regard to this particular provision. If I correctly understood the Senator from Vermont—I did not hear him fully, and very likely, hearing only a part of what he said, I did not apprehend it—he thought that the applying to laborers in this respect a principle which was not applied to persons engaged in the large commercial transactions which are chiefly aimed at by this bill was indefensible in principle. Now, it seems to me there is a very broad distinction which, if bourne in mind, will warrant not only this exception to the general provision of the bill, but a great deal of other legislation which we enact, or attempt to enact, relating to the matter of labor.

When you are speaking of providing to regulate the transactions of men who are making corners in wheat, or in iron, or in woolen or in cotton goods, speculating in them or lawfully dealing in them without speculation, you are aiming at a mere commercial transaction, the beginning and end of which is the making of money for the parties, and nothing else. That is the only relation that transaction has to the State. It is the creation or diffusion or change of ownership of the wealth of the community. But when a laborer is trying to raise his wages or is endeavoring to shorten the hours of his labor, he is dealing with something that touches closely, more closely than anything else, the government and the character of the State itself.

The maintenance of a certain standard of profit in dealing in large transactions on wheat or cotton or wool is a question whether a particular merchant or a particular class of merchants shall make money or not, or shall deal lawfully or not, shall affect the State injuriously or not; but the question whether the standard of the laborer's wages shall be maintained or advanced or whether the leisure for instruction, for improvement, shall be shortened or lengthened is a question which touches the very existence and character of government of the State itself. The laborer who is engaged lawfully and usefully and accomplishing his purpose in whole or in part in endeavoring to raise the standard of wages is engaged in an occupation the success of which makes republican government itself possible and without which the Republic can not in substance, however it may nominally do in form, continue to exist.

I hold, therefore, that as legislators we may constitutionally, properly, and wisely allow laborers to make associations, combinations, contracts, agreements, for the sake of maintaining and advancing their wages in regard to which, as a rule, their contracts are to be made with large corporations who are themselves but an association or combination or aggregation of capital on the other side. When we are permitting and even encouraging that we are permitting and encouraging what is not only lawful, wise, and profitable, but absolutely essential to the existence of the Commonwealth itself.

It is true that in the Danbury Hat case, in Two hundred and eighth United States, the Supreme Court decided that the action of the labor union involved in that case was a violation of the Sherman antitrust law. It is also true that no longer ago than Friday last another circuit court of appeals of the United States decided in a like case that such action of a labor organization was not in violation of the Sherman antitrust law. Therefore, to make the thing clear, in order to do that which Congress has the right to do, to make the statute so clear that "he that runs may read," to make the way so plain that "the wayfaring man, though a fool, can not err therein," we propose to put the proposition in this bill in compliance with the universal demand of the labor organizations, in compliance with the Democratic platforms in 1908 and 1912, and, above all, in compliance with the demands of right and justice and civilization. [Applause.]

The CHAIRMAN. The time of the gentleman from Georgia has expired.

Mr. BARTLETT. Availing myself of the privilege of extending my remarks, the Democratic national convention of 1908 declared in its platform:

The expanding organization of industry makes it essential that there should be no abridgement of the right of wage earners and producers to organize for the protection of wages and the improvement of labor conditions, to the end that such labor organizations and their members should not be regarded as illegal combinations in restraint of trade.

The Democratic national convention of 1912 also declared:

The expanding organization of industry makes it essential that there should be no abridgement of the right of the wage earners and producers to organize for the protection of wages and the improvement of labor conditions, to the end that such labor organizations and their members should not be regarded as illegal combinations in restraint of trade.

At the first session of this Congress I introduced the bill I have just referred to, which reads as follows:

A bill (H. R. 1873) to make lawful certain agreements between employees and laborers, and persons engaged in agriculture or horticulture, and to limit the issuing of injunctions in certain cases, and for other purposes.

Be it enacted, etc., That it shall not be unlawful for persons employed or seeking employment to enter into any arrangements, agreements, or combinations with the view of lessening the hours of labor, or of increasing their wages, or of bettering their condition; nor shall any arrangements, agreements, or combinations be unlawful among persons engaged in horticulture or agriculture when made with the view of enhancing the price of agricultural or horticultural products; and no restraining order or injunction shall be granted by any court of the United States, or by any judge thereof, in any case between an employer and employee, or between employers and employees, or between persons employed and persons seeking employment, or involving or growing out of a dispute concerning terms or conditions of employment in any case, or concerning any agreement, arrangement, or combination of persons engaged in horticulture or agriculture with the view of enhancing prices as aforesaid, or any act or acts done in pursuance thereof, unless in either case said injunction be necessary to prevent irreparable injury to property or to a property right of the party making the application for which there is no adequate remedy at law; and such property or property right must be particularly described in the application, which must be sworn to by the applicant or by his agent or attorney.

In construing this act the right to enter into the relation of employer and employee, to change that relation and to assume and create a new relation of employer and employee and to perform and carry on business in such relation with any person in any place or do work and labor as an employee, shall be held and construed to be a personal and not a property right. In all cases involving the violation of the contract of employment by either the employee or employer where no irreparable damage is about to be committed upon the property or property right of either no injunction shall be granted, but the parties shall be left to their remedy at law.

SEC. 2. That no person or persons who are employed or seeking employment or other labor shall be indicted, prosecuted, or tried in any court of the United States for entering into any arrangements, agreements, or combinations between themselves as such employees or laborers, made with a view of lessening the number of hours of labor or increasing their wages or bettering their condition, or for any act done in pursuance thereof, unless said act is in itself unlawful; nor shall any person or persons who may enter into any arrangements or agreements or combinations among themselves for the purpose of engaging in horticulture or agriculture with a view of enhancing the price of agricultural or horticultural products, be indicted, prosecuted, or tried in any court of the United States on account of making or entering into such arrangements, agreements, or combinations, or any act done in pursuance thereof, unless said act is in itself unlawful.

Mr. CARLIN. I yield five minutes to the gentleman from Kentucky [Mr. THOMAS].

Mr. THOMAS. Mr. Chairman, to say the least of this amendment, it is as ambiguous as the prophecy of a Roman oracle. As a matter of fact it means nothing. It is a mere declaration of that which is now the law. To make the statement that this law shall not be construed so as to hold certain organizations to be illegal is simply to state that those organizations per se shall not be declared illegal by this law. You might insert a paragraph declaring that under this law the Baptist Church or the Masonic Order should not be construed to be an illegal combination in restraint of trade. They are not illegal, even, in the absence of that declaration. Agricultural organizations and labor organizations under this law are not illegal combinations, even without that declaration; and notwithstanding that declaration the very moment that an agricultural association or a laborers' organization violates any provision of this law it is applicable to such association, and they can and will be punished under the law. Any man knows that. For instance, should these associations have in their by-laws or charters articles which allowed them to form conspiracies, to form monopolies in restraint of trade, does any man contend that the very moment they attempted to carry out such declaration of the organization they would not fall under this law? To be sure they would. If you are going to exempt these organizations, exempt them. If you are not going to exempt them, say so. The amendment which I shall offer after this amendment has been voted on simply declares that the provisions of the antitrust laws shall not apply to any of these organizations. There you have a clear-cut exemption. I understood from the gentleman——

Mr. HENRY. Will the gentleman yield?

Mr. THOMAS. I decline to yield to the gentleman from Texas. He twice refused to yield to me. But I will reconsider and yield to him. [Laughter.]

Mr. HENRY. I thank the gentleman. I did not mean any discourtesy to him. I just did not have much time.

Mr. THOMAS. You had more time than I have. Will you have my time extended?

Mr. HENRY. I will yield next time to the gentleman.

Mr. THOMAS. Ask your question.

Mr. HENRY. The question is this: This amendment provides that these organizations shall not be held to be conspiracies or illegal combinations in restraint of trade under the antitrust laws. Now, what else would you allow them to do?

Mr. THOMAS. I would exempt them from the operations of this law. Notwithstanding the amendment which you are supporting, the very moment they violated any of the provisions of this law they would be punishable under the law.

Mr. HENRY. Would the gentleman allow them to commit violence under his amendment?

Mr. THOMAS. No, sir; they would not be allowed to commit violence under my amendment, because there are laws in this country to punish any man who commits violence or who destroys property. There are laws outside of the antitrust laws for the punishment of crime.

The CHAIRMAN. The time of the gentleman has expired.

Mr. THOMAS. I ask unanimous consent for five minutes more.

Mr. HENRY. I ask unanimous consent that the time be extended five minutes on each side, five minutes to be given to that side and five minutes to this.

The CHAIRMAN. The gentleman from Texas asks unanimous consent that the time be extended 10 minutes, 5 minutes to be controlled by the gentleman from North Carolina and five minutes by the gentleman from Minnesota [Mr. VOLSTEAD].

Mr. STAFFORD. Reserving the right to object, do I understand that has the approval of the Committee on the Judiciary?

Mr. CARLIN. I have no objection. We are glad to accommodate our friends.

The CHAIRMAN. Is there objection to the request?

There was no objection.

The CHAIRMAN. Does the gentleman from Virginia yield five minutes to the gentleman from Kentucky?

Mr. CARLIN. Yes; I do.

The CHAIRMAN. The gentleman from Kentucky is recognized for five minutes more.

Mr. THOMAS. Mr. Chairman, the amendment which I shall offer after the committee amendment has been voted on is simply to the effect that the provisions of this law shall not apply to these organizations. Mr. Chairman, there are some Members of this House who want to talk all the time and do not want anybody else to talk.

The CHAIRMAN. The committee will be in order.

Mr. THOMAS. As I had started to state, I believe when we go a-catting we ought to go a-catting; and I believe that if we are going to take these organizations out from under this law we ought to do it in such a way that there can be no mistake about it and no reason for any court decisions upon the question hereafter. [Applause.] My amendment simply says that these antitrust laws shall not apply to these organizations. If any man thinks he can make an amendment plainer than that, I would like to hear from that gentleman, even the gentleman from Texas [Mr. HENRY].

Now, these organizations ought to be exempt. These antitrust laws are intended for the suppression of monopolies and trusts. Who ever heard of an agricultural trust? Who ever heard of a laborers' trust? They are not the men who have the wealth of this country. Yet under these antitrust laws as they have been construed by the courts if a number of farmers pool their tobacco or their wool or any other agricultural product and employ an agent to sell it for them in order to get the best obtainable prices they commit an act for which they are subject to punishment under these antitrust laws, as the tobacco farmers of the State of Kentucky were. You have heard of that case. A number of farmers pooled their tobacco. One of them went out of the pool, took his tobacco to the depot, and got a bill of lading for it to Cincinnati. His neighbors met and sent a committee to him and asked him to stand with them and not ship his tobacco to Cincinnati. He said, "Well, he had had the trouble of hauling it to the depot, and that it was all right if they would haul it back." They hauled it back. For their action they were indicted and fined $3,500. President Taft finally pardoned them of the fine, but he never would do it until the prosecution of the Beef Trust under these antitrust laws failed in Chicago. So I say, gentlemen, that if you are going to take them out of the provisions of these laws, take them out. If you are going to keep them in, why, keep them in, and do not go to beating the devil around the bush about it. Come out plainly and let us keep them in or take them out, one of the two. The gentleman from Texas [Mr. HENRY] tells you that when the Sherman law was passed it was intended to exempt farmers' and laborers' organizations.

The CHAIRMAN. The time of the gentleman has expired.

Mr. VOLSTEAD. I yield five minutes to the gentleman from Michigan [Mr. MACDONALD].

The CHAIRMAN. The gentleman from Michigan [Mr. MACDONALD] is recognized for five minutes.

Mr. MACDONALD. Mr. Chairman, I am very much in favor of the principle of exempting these organizations from the operation of the antitrust laws. I expect to vote for the Webb amendment, if for no other reason, for the moral effect that the adoption of that amendment will have; but I am not given to self-deception, and in voting for that amendment I am not deceiving myself as to the effect of that amendment. That amendment may have some beneficial effect for the organizations mentioned therein, but it will not exempt those organizations from the operation of the antitrust laws. Now, the Supreme Court in the case of Loewe against Lawlor, commonly known as the Danbury Hat case, put this matter up to Congress in no uncertain terms. They say, on page 279 of volume 208 of the United States Reports:

> After the Sherman law was enacted bills were introduced in the Fifty-second Congress—

And then they enumerate all the bills that have been introduced to amend the Sherman antitrust law, making it inapplicable to labor and these other organizations. And then they say:

> Congress therefore has refused to exempt labor unions from the comprehensive provisions of the Sherman law against combinations in restraint of trade, and this refusal is the more significant, as it followed the recognition by the courts that the Sherman antitrust law applied to labor organizations.

Now, the amendment that has been offered by the gentleman from North Carolina makes by implication these organizations subject to the terms of the law. It defines certain acts which are said in general terms to be permissible, and therefore by implication it leaves forbidden other acts which are not permissible, and makes by implication these organizations subject expressly to the terms of the Sherman law if they should violate any of the provisions of the law.

Another point is this: The amendment provides that they shall be liable only within certain limits and those limits are confined to this—where they exercise their powers only for mutual help and not for profit. They are limited absolutely to that field in their operations, and who, forsooth, will decide whether their operations fall within the restrictions of mutual help and not for profit? Why, the courts, of course; and you will have the same old battle for definite construction over and over again. Therefore you have for certain purposes and as to certain acts brought these organizations where the courts may hold them expressly within the operation of the Sherman law.

Now, every gentleman who gives this matter any consideration instinctively realizes that this is true. The gentleman from Texas [Mr. HENRY] realizes it as well as anybody else, because in his speech this morning he said, "Gentlemen, we are going to make this law not to apply to these organizations." He said in this speech "not apply"; why does he not say so in the amendment? There is no way of making it any plainer or simpler or doing what you want to do than to use the language that the gentleman used in his speech, but which is not used in the amendment.

Mr. MURDOCK. Will the gentleman yield?

Mr. MACDONALD. Certainly.

Mr. MURDOCK. And are not the words "shall not apply" the words used in the Terry amendment, in the Hamill amendment, and in the Hughes amendment?

Mr. MACDONALD. Yes; every amendment proposed to this law have used the words, and that was in the amendment that the Supreme Court in the Danbury Hat case said if Congress had done those things there would be no question about the operation of the law. [Applause.]

The CHAIRMAN. The time of the gentleman has expired.

Mr. CARLIN. Mr. Chairman, I yield three minutes to the gentleman from Wisconsin [Mr. KONOP].

Mr. KONOP. Mr. Chairman, I am in favor of the amendment exempting labor, farm, and other like organizations from the operations of antitrust laws. Section 7 of this bill, which provides that the existence and operations of such organizations shall be construed not to be forbidden, means very little and provides no exemption whatever. I am in favor of exempting these organizations because in this bill we are not dealing with associations of men, but associations of dollars for profit. We are aiming at the gigantic trusts and combinations of capital and not at associations of men for the betterment of their condition. We are aiming at the dollars and not at men. We do aim to put an end to association of men's dollars which unlawfully restrain trade, destroy competition, and create monopoly. Let us put the man above the dollar and exempt all associations of men organized for the betterment of their condition. [Applause.]

Mr. Chairman, we are a great country. We have been blessed with wonderful natural resources. We have a great Government. We have great farms and great industries. And what is it that makes our country so great? Not the idler, not the men who sit amidst downy bolsters and costly appliances, but the men who work with hand and brain. These are the men who contribute to our country's greatness. These are the men who produce the wealth of this country. It is true that both capital and labor are essential in our industrial progress, both are entitled to consideration, but the men who labor are entitled to higher consideration, because they are the producers of all wealth and capital. The men who labor in the field and factory are the men who make our country great.

The almighty dollar needs no protector. The idle rich, whose money is invested in great, oppressive trusts and combinations, have always been able to take care of themselves and then yet some. But the laboring man has struggled through the ages for emancipation. The struggle is still on. Slavery, peonage, feudalism, and oppression of every kind has been the lot of the producers of wealth. But a new era has come. Labor is now organized. The farmers are now organized. And because of these organizations much has been done to elevate the toiler to a higher plane. Much is being done toward a complete emancipation of the man who works. Better, sanitary, and safer places and conditions are provided for labor to work. The hours of labor are being shortened and a better living wage is being paid, not because of the philanthropy of capital, but because through organization labor is able to obtain these reforms. Where would parcels post be had it not been for the organized demand of the farmers of the country? What we should do is not to hamper these great organizations of laborers and farmers of the land, but to encourage them in the conservation of the health and welfare of the great masses. [Applause.]

Some say that this amendment is class legislation, and hence unconstitutional. Mr. Chairman, way back in March 25, 1890, nearly a quarter of a century ago, when the Sherman antitrust bill was under consideration in the Senate as in Committee of the Whole, Senator Sherman offered an amendment to the bill, as follows:

> *Provided*, That this act shall not be construed to apply to any arrangements, agreements, or combinations between laborers, made with a view of lessening the number of hours of their labor or of increasing their wages; nor to any arrangements, agreements, associations, or combinations among persons engaged in horticulture or agriculture, made with a view of enhancing the price of their own agricultural or horticultural products.

This amendment was adopted on that day. On March 27, when the bill was before the Senate, some discussion arose as to the constitutionality of the amendment, and Senator Hoar, of Massachusetts, used these words, in which I entirely concur:

> I hold, therefore, that as legislators we may constitutionally, properly, and wisely allow laborers to make associations, combinations, contracts, agreements for the sake of maintaining and advancing their wages, in regard to which, as a rule, their contracts are to be made with large corporations who are themselves but an association or combination or aggregation of capital on the other side. When we are per-

mitting and even encouraging that we are permitting and encouraging what is not only lawful, wise, and profitable, but absolutely essential to the existence of the Commonwealth itself.

When, on the other hand, we are dealing with one of the other classes, the combinations aimed at chiefly by this bill, we are dealing with a transaction the only purpose of which is to extort from the community, monopolize, segregate, and apply to individual use, for the purposes of individual greed, wealth which ought properly and lawfully and for the public interest to be generally diffused over the whole community.

Mr. Chairman, the Sherman antitrust law was passed in 1890. It was aimed at trusts and combinations of capital; and in spite of that law the trusts and combinations have grown. Its author at that time hoped that it would solve the trust problem, but the trusts and combines grew with impunity, and we are to-day hoping that we have a cure for the trust evils. I shall vote for these three trust bills because I believe it is a step in the right direction. My only hope and wish is that the trust evil can be curbed. But in the discussion of the different sections of these bills we hear that we can not go further than interstate commerce goes in curbing these great combinations. I think the trust problem could better be handled if constitutionally we had power to regulate all commerce, and I think the time will come when an amendment to the Constitution of the United States giving Congress power to regulate commerce, intrastate as well as interstate, will be given serious consideration.

Now, Mr. Chairman, in conclusion, I hope that the amendment exempting these organizations will prevail. Let us give encouragement to the toilers and farmers of the land. These men are the very bulwarks of our prosperity and greatness.

Mr. CARLIN. Mr. Chairman, I yield to the gentleman from Mississippi [Mr. QUIN].

Mr. QUIN. Mr. Chairman, I understand they are about to slip a little amendment in here that the courts and the country can easily handle. Now, I want to put something in that has guts in it. This amendment talks about the courts "construing" and "holding." My friend from Texas talks about what Gen. George did. I have the honor to come from the same State that James G. George came from. If Senator George were here, he would be an advocate for this amendment. He was recognized as one of the greatest lawyers in the whole Union, and if he were living to-day he would throw up his hands in holy horror at the forward steps taken by the Federal courts of this country. In his day, gentlemen, the courts did not undertake to legislate away the rights of the people; but now it has come to the point that the people can not get their rights except through Congress, and when we come here some Members want to put a little easy stuff in that the courts can construe against the farmers' unions and the labor unions. Let us put language in here that they can not misconstrue; let us put in language that nothing in this antitrust law shall apply to farmers' unions and labor unions. We know that these organizations and farmers' unions are not any criminal trusts. The great trusts and monopolies of this country that with greedy hands grind profits out of human blood want such measly language as you are proposing to put into this antitrust law. They do not want the strong, virile language, the Anglo-Saxon words that every schoolboy, much less a Supreme Court judge, will understand; and for that reason I hope that the House will adopt the Thomas amendment into this antitrust law. [Applause.]

The great and powerful influence of monopolistic corporations has been growing and overriding the United States Congress and the courts. Many on this floor claim that the Sherman law is good enough. If that law is good enough, I ask in the name of the people why it is that ever since this law has been on the statute books the trusts and monopolies have organized, grown, multiplied, and prospered to such an extent that the people have been robbed and the courts of the country openly defied? If the Sherman antitrust law is good enough, there is something radically wrong with the Federal courts and the Federal district attorneys. I am induced to believe that there is something the matter with both. The Republican Party never did want to enforce the law against big money.

Virtually all of the Federal judges and the United States district attorneys are the appointees of the Republican Presidents. Some of them try to enforce all the law.

Where these district judges and attorneys endeavored to put the big criminals, the head men in these gigantic trusts, behind the bars, these conscientious officials have been handicapped in every possible manner. Many judges have endeavored to enforce the Sherman antitrust law, but have you heard of one of these trust nabobs being sent to the penitentiary? The only effective way that it has been enforced is against the poor people. It has never yet hurt a rich man. The poor men who compose farmers' unions and labor unions have felt the heavy hand of the Sherman antitrust law.

My friend from Texas [Mr. HENRY] says Senator George never thought the law would apply to such beneficent organizations. The whole record shows that the great lawyers of that Congress never dreamed of such an outrage as the Sherman antitrust law being construed by the courts so as to affect the farmers and labor organizations of this country. The only way on earth to keep the eagle eye of the Federal courts off the farmers' unions and the labor unions is to make this antitrust law so plain that they are not included in its scope that any child in the United States can understand it. If there is the slightest ambiguity in the language, you will hear of some Federal judge in "Possum Hollow" announcing a decision that the farmers' union is a trust in restraint of trade and that the individual members are subject to indictment if by concert of action they hold their cotton or other farm products for a higher price. I am going to vote for the Webb amendment, and on top of that I shall support the Thomas amendment. The Webb amendment leaves too much for the courts to construe; but if you will follow it up by adopting the Thomas amendment, we all know the farmers' unions and the labor organizations will be in the "clear" for all time.

The great capitalists of the United States have been busy for many years organizing powerful trusts, and, as an incident to their business, they have oppressed labor, destroyed honest competitors, robbed and plundered the people. Their activities have not been confined to any special lines, but these financial freebooters have operated in every nook and corner of every field of all commerce. Every household necessity is now under the control of some trust. They did not even think enough of the poor to let meat remain free from their greedy, monopolistic hands. Can any man in this House think of an organization of thieves equal to that gigantic aggregation of capitalists who form the Beef Trust? Why is it that none of these men are wearing stripes in the penitentiary? It is either the fault of the law or it is the fault of the Federal judges and district attorneys where they operate. I believe this bill we are passing now will be so plain that no judge can construe it so as to release the trust magnates.

The public-service corporations in many instances have been operated in a high-handed way by trust officials. Right now you have under your observation in the Department of Justice an investigation of one of the biggest railroad "steals" that ever disgraced this country. I refer to the New York, New Haven & Hartford Railroad episode. The ex-president of that system, Mr. Mellen, under oath, admits that Mr. Morgan and other capitalists who held positions as directors openly robbed the stockholders out of many millions of dollars. In 1903 that railroad system had liabilities of $94,000,000, and more than 22,000 people put their savings into it in the form of stock at $240 a share, which paid annual dividends of 8 and 10 per cent every year. These trust magnates began to plunder it, and after raking in fabulous fortunes through methods that ought to lead them direct into the northeast corner of a penitentiary, the railroad system in 1913 had the enormous liability of $415,000,000, and its stock pays no dividend at all; but the once splendid system is now a financial wreck, a sad monument to the rascality of big business. This is just one little case I am calling to mind.

Nearly all of the great railroad systems of this country have been robbed in the same way. It is made possible through the interlocking directorate. If the big bankers who have the handling of other people's money are permitted to own and control the directors of railroads and steamship lines, as well as other public utilities, the people are going to suffer. Many of these big bankers have demonstrated that they will do shady tricks to get a few extra millions of dollars. The men who compose the many trusts seem to think all the people of the United States are mere slaves, to work to add increased millions to the greedy coffers of the avaricious money kings. Right now these railroad corporations are before the Interstate Commerce Commission endeavoring to be allowed to raise their freight rates. The captains of industry have been quite successful under the Sherman antitrust law in robbing these railroads, and they now have the gall to come up to the Capitol and ask that the servants of the people give them legal permission to rob the people through high freight rates. The American people are not going to stand this much longer. They have demanded relief through legislation, and this Congress must give it to them. The men who toil with their hands—the farmers and the artisans and tradesmen—have turned their eyes toward this Capitol and they are going to watch till relief comes or they will place men in these seats who will transmute their sentiments into law. The people know that no man could get to be worth $800,000,000 in 50 years if the laws were not so fixed that the few can prey on the many. They demand that we correct that evil, and unless I am badly fooled I believe this Congress has done much to correct

it. If we pass these antitrust laws properly, I am certain that many millions of our population will see the dawn of a brighter day. If the money power were to continue to dominate this Government as it did before the Democracy came into power, the signs of a revolution would soon be seen on our national horizon, and it would not be a bloodless one, either. The great amalgamation of capital and the greed that seems to animate the powerful men in control of the great wealth of this Republic is a reason for the foundations of our Government to begin to shake. How have these financial kings, many of them common thieves, filling high places, operated for the last few years?

Here is what one of them testified to in Washington City on the 23d day of May, 1914, just one week ago last Saturday: Mr. Charles S. Mellen, ex-president of the New York, New Haven & Hartford Railroad, being on the witness stand, said Prof. Weyman, of Harvard, got $10,000 a year from the New Haven Railroad for "fanning" fires of sentiment in the railroad's favor; his brother $25 a day and his father $50 a day. Lawyer Wardell got $12,000 and Lawyer Innes $15,000. Many other names were mentioned in this connection. Gentlemen, the idea of such a proposition—the officers of that railroad stealing the stockholders' money to hire a college professor and a few lawyers to fool the people. Listen. Mr. Mellen swore that more than 1,000 newspapers received various sums from the railroad. That is not all. One E. D. Robbins, a lawyer of Hartford, got $100,000 "for the purpose of molding public sentiment in Connecticut in 1907 over a charter." Gentlemen, that is the kind of business many of the captains of industry have been engaged in in all branches of big business. Immense fortunes are spent in spreading propaganda to fool the people, and then the people are robbed threefold to pay it back with big profits. These same henchmen of big money have contributed $50,000 and $100,000 to campaign funds with the nonchalance of a drummer buying a cigar. They did not give that money away, but they gave it with the intention of having a "friend at court," and it seems they never failed to have a friend at court till Democracy put a President in the White House. Do you believe that any honest business man in this country would object to this bill if he understood what it means? We are trying to help the honest and legitimate business of this country, and this law will help. I want to put the criminals in business in the penitentiary and free the American people from the shackles they have been forced to wear all these years. The law ought to give the little man in business the same show that it gives the big, strong financial magnate. The law we are fixing to pass will land the big fellow behind the bars if he wrongfully destroys the business of his little competitor. The powerful trusts of this country have not only held up the public and forced them to pay an exorbitant price for all the necessities of life, but they have been able to hold the produce of the farm down to the minimum price. They have forced the farmers to pay big prices for what they buy and compelled them to accept small prices for what they raise on their farms. This greed of organized wealth has held the wages of the poor men, women, and children in factories and mines down to the lowest scale, and the tills of the powerful have been filled with dollars coined out of this poor, human labor.

Gentlemen, can any man who has a heart that throbs with sympathy and justice oppose the amendments to protect the farmers and the laboring people? I am going to stand by them on every vote. [Applause.]

Mr. VOLSTEAD. Mr. Chairman, I yield to the gentleman from Iowa [Mr. TOWNER].

Mr. TOWNER. Mr. Chairman, I was not satisfied with the original language used in the paragraph, neither am I satisfied with the amendment proposed; nevertheless, I will support the amendment. I will do this because it is the best that can be obtained, and I believe will assist, at least in some degree, to make clear the object and purpose of the provision.

That object and purpose is, Mr. Chairman, to definitely state that the provisions of the antitrust laws shall not be so interpreted as to forbid the existence or operation of labor or farmers' organizations instituted for mutual help. With that object and purpose I am in entire sympathy.

I presume there has been no proposition discussed in recent years which has absolutely no valid objection to it that has been more misrepresented and abused. It has been termed a proposal to exempt certain classes from the operation of the law, while others are included; to punish one and release another for the same act; to say that all are not equal before the law. It is none of these things.

Any association of the classes mentioned, or any member who violates the antitrust laws will be liable to their penalties the same as any other association or person. It is merely provided that the organization or legitimate operation of such associations shall not be held to be within the prohibitions of the statute.

NOT WITHIN PURPOSE OF SHERMAN ANTITRUST ACT.

Nothing is better established than the fact that such associations were not intended to be included in the Sherman antitrust law. In February, 1890, Senator Sherman introduced his bill making associations or agreements in restraint of trade or to monopolize trade illegal. A month later, and while his bill was pending, the question was raised as to whether under any circumstances it would apply to labor or farmers' organizations. In order to settle this, Senator Sherman himself proposed the following amendment to his bill:

Provided, That this act shall not be construed to apply to any arrangements, agreements, or combinations between the laborers, made with a view of lessening the number of hours of labor or increasing their wages; nor to any arrangements, agreements, or combinations among persons engaged in horticulture or agriculture made with a view of enhancing the price of agricultural or horticultural products.

This amendment was agreed to by the Senate without a division.

The bill and amendment went to the Senate Judiciary Committee, and was sent back to the Senate without the amendment. When the reason for the omission of the amendment was demanded, Senators George and Vest stated that the amendment had not been included because it was unnecessary; that no one could construe the act so as to include such associations.

Referring to the claim that such organizations might be affected, Senator Sherman said:

It does not interfere in the slightest degree with voluntary associations made to advance the interests of a particular trade or occupation. It does not interfere with the Farmers' Alliance at all, because that is an association of farmers to advance their interests and to improve the growth and manner of production of their crops and to secure intelligent growth and to introduce new methods. No organizations in this country can be more beneficial in their character than farmers' alliances and farmers' associations. And so the combinations of workingmen to promote their interests, promote their welfare, and increase their pay, if you please, to get their fair share in the division of production, are not affected in the slightest degree, nor can they be included in the words or intent of the bill as now reported.

Senator Hoar, who had a large part in the framing of the act, defended the exclusion of labor organizations from the operation of the bill on the broadest grounds. He said:

When you are speaking to regulate the transactions of men who are making corners in wheat or in iron or in woolen and cotton goods, you are aiming at a mere commercial transaction, the beginning and end of which is the making of money for the parties, and nothing else. * * * But when a laborer is trying to raise his wages, or is endeavoring to shorten the hours of his labor, he is dealing with something that touches closely, more closely than anything else, the government and the character of the State itself. * * * I hold therefore that as legislators we may constitutionally, properly, and wisely allow laborers to make associations, combinations, contracts, agreements, for the sake of maintaining and advancing their wages, in regard to which, as a rule, their contracts are to be made with large corporations, who are themselves but an association or combination or aggregation of capital on the other side. When we are permitting or even encouraging that, we are permitting and encouraging what it not only lawful, wise, and profitable, but absolutely essential to the existence of the Commonwealth itself.

The circumstances attending the adoption of the Sherman Antitrust Act are thus referred to that it may be thoroughly understood that the law was not intended to apply to farmers' or labor organizations. The great men who took part in formulating that law did not desire, and did not intend, that under any circumstances any such organizations should be prohibited or punished. The bill could not have had the support of its own sponsors if it had been so interpreted. It could not have passed had it been so understood. There has never been a time since that a law having such interpretation could have passed either House of Congress. What an assumption of superior virtue it is that condemns as unjust and unmoral efforts to make the law in form and substance what was from the first the intention of Congress, and ever has been, and is now, its purpose!

An unfortunate interpretation by the courts has given the act a meaning not intended and not desired. Now we propose to make clear what was intended and what is desired. That is all. To do so is neither novel nor strange. It is being done everywhere in cases where an act is found not to have the intended purpose. If the objects sought to be reached are not secured, the act is enlarged to include the intended objects. If persons or objects not intended to be included or affected are found to be within the terms of the act, it is amended so as to exclude them. And that is what we propose to do here.

It is a strange thing that gentlemen will endeavor to hold included within the prohibition of the statute those things not intended to be included, and thus to compel a submission to penalties on the part of those whom they would not venture even to propose to punish as an independent proposition. Imagine anyone here proposing to make a labor organization

illegal, and to punish the efforts of its members to obtain better wages, shorter hours, or better conditions by fine and imprisonment! Who would dare on the floor of this House to introduce and defend a bill making farmers' cooperative associations, designed to obtain better prices, greater market facilities, or cheaper transportation rates unlawful? And yet certain persons affect to see in an effort to avoid such calamitous result something questionable and unworthy. I never would have supported a proposition to punish the organization or operation of such associations, and I do not hesitate now to support any legislation necessary to prevent such punishment; and I do so without apology, because I believe it is right and justifiable from every possible standpoint.

THE PROVISION AS AMENDED.

It may be well to state the provision as it will stand if this amendment is adopted:

SEC. 7. That nothing contained in the antitrust laws shall be construed to forbid the existence and operation of fraternal, labor, consumers', agricultural, or horticultural organizations, orders, or associations instituted for the purposes of mutual help and not having capital stock or conducted for profit, or to forbid or restrain individual members of such organizations, orders, or associations from carrying out the legitimate objects thereof, nor shall such organizations, orders, or associations, or the members thereof, be held or construed to be illegal combinations or conspiracies in restraint of trade under the antitrust laws.

I am sorry the language used is not clearer. I regret that it contains limitations which may obscure its meaning. The first limitation, that such associations shall be instituted for the purpose of mutual help, is not important, for it would be easy to prove that such was their purpose.

The next limitation, that such associations must not have capital stock, is of more importance, for many strictly cooperative associations issue capital stock to their members as an incident to corporate organization and operation. It is a needless requirement and should have been omitted.

The next requisite, that such associations to be within the benefits of the exclusion must not be conducted for profit, is unnecessary and dangerous. It should have been omitted. Still, I do not give it the broad interpretation given it by some Members. It is true that any association, social, scientific, or literary, may be conducted with profit to its members. But the word "profit" as used in the bill has no such broad meaning It means, and will doubtless be interpreted to mean, conducted for the purpose of obtaining profits as an organization to distribute dividends to its stockholders. Most farmers' cooperative associations would not fall within its terms. Indeed, it is reasonably clear that no cooperative association where the receipts above salaries and operating expenses are returned to the patrons, producers, or consumers of the association would be within the excluded classes. Neither would labor organizations which succeeded in raising wages, although of undoubted "profit" to their members, be within the terms of the statute. "Profit" in a general sense and "profit" in a business transaction are entirely distinct and separate in meaning and application, and it is the latter meaning which is intended in the provision. Still, it would have been better to have omitted language subject to possible misinterpretation. The paragraph should have been entirely recast and its meaning made clear.

But I do not believe Members will be justified in voting against the provision because its language is not all that could be desired. The matter is too important to allow minor imperfections to bring about its defeat. It may secure all we desire. It must better existing conditions. At least it is something gained, a distinct step in advance.

The general purpose is clear. It is to be hoped that in its interpretation the courts will be governed by the larger view. That such is the present trend of decisions is a hopeful sign. As Senator Sherman said in the debate on the great and beneficial act of which he was the author, "It is difficult to define in legal language the precise line between lawful and unlawful combinations."

"Trade" has a broad meaning, and "restraint of trade" is a phrase of wide scope. Many things may result in a restraint of trade entirely innocent and even praiseworthy. Thousands of the agreements of everyday life might be interpreted as a restraint of trade if an absolute meaning is given the term. It is not the purpose of the law to prevent or punish these. The restraint of trade meant in the act is that which is intended to destroy competition, to establish monopoly, to drive out of business an honest competitor. As Senator Sherman said:

It is the unlawful combination, tested by the rules of common law and human experience, that is aimed at by this bill, and not the useful and lawful combination.

It needs no argument to prove that labor organizations to better the conditions of the workingmen and that farmers' organizations to better transport and market the food products of the country ought not to be considered or made by statute unlawful. It is to prevent such result that this provision is inserted in the bill, and for the reasons stated it should receive the support of every just and fair-minded man.

LABOR ORGANIZATIONS.

It is altogether too common to condemn labor unions because of the violence of some frenzied striker. It is quite likely that the outrages of those who represent the employers in labor troubles are at least equal in number and enormity to those chargeable to the strikers. All who really wish for the betterment of conditions and the good order of society hope for a method by which the peaceful settlement of these unfortunate conflicts can be secured. But it is wrong and altogether unjust to condemn all labor organizations because of the violence or crimes of some of their members.

Labor unions have accomplished a great good and are absolutely necessary to protect labor against the exactions and impositions of capital. They have brought about better wages, shorter hours, and better conditions of labor, and such results are not only a blessing to those immediately affected, but they are a blessing to society and the State. It ought to be our desire and effort as legislators to encourage and foster such organizations, and not to discredit and punish them. Manhood and not money is here involved. The welfare and happiness of men, women, and children are here affected, not mere property rights. We are dealing with things vital and sacred, and should not touch them lightly or with selfish or sordid aim.

There are in the United States more than 30,000 local labor associations. Many, perhaps most, of these have agreements with their employers. These agreements relate not only to wages but to many things beneficial alike to employer and employees. If these agreements should be held as restraint of trade, if the organizations should be dissolved and the members sent to jail, the Nation would be shocked and its sense of justice outraged. Yet that is what may occur at any time a Government prosecutor sees fit to institute proceedings. It is to prevent this that the provision under discussion is incorporated in this bill.

It is objected that this legislation is class legislation. If by this is meant that it will not apply to all our population it must be admitted. It does not apply to all of our 100,000,000; it only applies to about 30,000,000. But that is rather a large proportion. It constitutes a considerable interest. Most of our legislation is class legislation if this is class legislation. Nine-tenths of the items of every appropriation are class legislation in this sense. There is no merit in this objection.

The English act of 1875 specifically relieved combinations of wage earners, concerned with questions of wages, working hours, and labor conditions, from the condemnation which the common law applied to combinations in restraint of trade. We are now at this late date only doing what a sense of justice and of sound policy led England to do nearly 40 years ago. It is a reproach, which we should hasten to remove, that our regard for the rights of labor and the welfare of our workingmen is not so great, nor our humanitarian standards so high as that of Great Britain.

FARMERS' ASSOCIATIONS.

The benefits of farmers' organizations designed to induce a larger production, better quality, cheaper transportation rates, better prices, and better market facilities are generally recognized. Trusts among the farmers or monopolies in farm products by the producers are impossible. Local cooperative association is perhaps the most effective means by which conditions in regard to the matters stated can be improved, and such improvement will result in benefit for the consumer as well as the producer. To restrain such associations would be absurd. To declare them unlawful would be the very height of folly. To allow them to remain *subject to* possible prosecution and their members liable to indictment as criminals is indefensible from every possible standpoint.

Discussing the fact that the farmer and producer does not receive a fair proportion of the price paid by the consumer the Secretary of Agriculture, in his last annual report, says:

It is clear that before the problems of marketing the individual farmer standing alone is helpless. Nothing less than concerted action will suffice. Cooperation is essential. * * * All the successful attempts in the marketing of any product anywhere in the world have come through organized effort. * * * The aim should be an economic arrangement which shall facilitate production, lead the producer to standardize and prepare his product for the market and to find the readiest and best market for his product. Such action will result in gain to the producer as well as to the consumer. Furthermore, it is desirable that such concerted action shall proceed from below upward. * * * Experience shows that the best results are secured only when the members of such a cooperative society are those who are bona fide producers.

Already is the wisdom and, indeed, the necessity of such cooperation becoming evident to the farmers. There are now

established and in operation in the United States cooperative associations of creameries, 2,165; of cheese factories, 336; elevators, 2,020; besides many hundreds of fruit, cotton, tobacco, and other associations regarding which accurate statistics are not available. This is but the beginning of a movement which is bound to develop to immense magnitude as its necessity shall be understood and its merits recognized.

The food problem of a nation is ever a vital one. The high price of food products paid by the consumer and the small price received by the producer is becoming understood and is a condition that must be remedied. That one half of the price finally paid by the user of food products is absorbed by transportation and middlemen is a condition everyone must see ought not to exist. It is the concensus of opinion of those who have most carefully and dispassionately studied the question that the remedy lies in associated effort, in cooperative associations of the producers. As the Secretary of Agriculture says:

All successful atttempts in the marketing of any produce anywhere in the world have come through organized effort.

It is to protect such associations from assault by those who will profit by their absence that this provision is inserted in this bill. It is to prevent the possibility that efforts which are so manifestly for the benefit of all the people should be discredited and punished that we are now urging the adoption of the pending legislation.

Mr. VOLSTEAD. Mr. Chairman, I yield five minutes to the gentleman from Washington [Mr. JOHNSON].

Mr. JOHNSON of Washington. Mr. Chairman, I am proud to say that I am and have been for a long time an active member of the International Typographical Union. And for a great many years it has occurred to me that it has been a mistake on the part of those in high places, while admitting that the differences between capital and labor constitute a great problem, to invariably put it up to labor itself to solve that problem—the knottiest one of all. Why should labor—tired with tedious hours and strenuous effort—be always asked to find for itself the solution?

This section 7 of this antitrust bill is a case in point. Not so long ago it was discovered that the Sherman antitrust law does what its framers did not intend it to do—that is, it catches by the throat and would throttle organized labor.

Thereupon organized labor must solve another problem. This section 7 of this new antitrust bill was written. Labor accepted the section. Then the discovery was made that section 7 would not serve the purpose—that it is like the hollow log lying under the wire fence through which the pig undertook to go from one field to another. The pig went through the hollow log all right, but the log was curved, and the pig landed right back in the same field. That is your section 7. Labor figured it out, and asked for the amendment which is now offered by Chairman WEBB, and which I support. My regret is that section 7 and the amendment are made a part of an antitrust bill which I fear can not stand up when it comes under the close criticism of another lawmaking body.

It is not a partisan question, as some have tried to make it appear here to-day. The flaw in section 7 was, I understand, pointed out by one of the Nation's leading Republicans. I am glad that organized labor accepted that tip.

Does anyone contend that the Sherman antitrust law ever was meant to prevent the organization of labor? Few—very few—make that declaration. Some men who unfortunately can not see that those who pay wages to labor need the upgrading, contract-making, legitimate American labor organizations, manned by leaders who would mean well to all labor—be it union or otherwise—would hang on to these decisions, and would gladly see skilled labor deprived of its right to organize.

Some who deal with labor consider the whole proposition with alarm. But they need not. On the one hand is labor, organized under competent leaders, willing to give a fair day's work for a fair day's pay; willing to make contracts and live up to them; willing to have peace—in fact, urging peace.

On the other hand, if you strike down organized labor, choke it to death, you will add to the ranks of those so-called revolutionists, who will not have peace, who are in the hands of agitators, who go from one strike into another, and who do not and can not help those who toil.

Let those who pay wages choose with whom they prefer to deal. I have heard the prediction made by the gentleman from Iowa [Mr. TOWNER]. I will go a step further and predict that the time will come—let us hope that it is far distant—when the people of the United States will thank God they have organized and ready the American Federation of Labor, which lays the flag of the United States on its altar, which respects the rights of property, and which is eternally opposed to revolution; firmly opposed to direct action; an organization which helps workingmen instead of destroying them, and which stands against those aggregations which make contracts only to break them; against those organizations which teach "No God, no master"; against those un-American agitators who pledge men to disregard their oaths and urge them to perjure themselves whenever necessary, who advocate the destruction of property secretly, and who do all in their power to stop the wheels of progress. Oh, if these be dilemmas, which will you have? One is American, the other is not. One leads on to peace, the other leads to strife. Which will you have? [Applause.]

Mr. VOLSTEAD. Mr. Chairman, I yield five minutes to the gentleman from Pennsylvania [Mr. GRAHAM].

Mr. GRAHAM of Pennsylvania. Mr. Chairman, I do not agree with the suggestion of the gentleman from Washington [Mr. JOHNSON] with reference to the language incorporated in this bill by the Committee on the Judiciary. I think their intention by that language was to accomplish precisely what is being accomplished by the insertion of this amendment. Evidently it satisfied everybody for a while, with the exception of a few, and as a result of the objection raised by them this new amendment is proposed.

I must take exception to the remark of the gentleman from Texas [Mr. HENRY] when he said this amendment was submitted to the Judiciary Committee and comes before the House approved by that committee. It was not submitted to the Committee on the Judiciary in any form that I ever heard or knew of, but is presented here as an amendment on the floor of the House.

Mr. THOMAS. Mr. Chairman, will the gentleman yield?

Mr. GRAHAM of Pennsylvania. Certainly.

Mr. THOMAS. I would suggest to the gentleman from Pennsylvania that probably there is a new Judiciary Committee, and that the gentleman from Texas [Mr. HENRY] is the chairman of it. [Laughter.]

Mr. GRAHAM of Pennsylvania. Mr. Chairman, I accept the suggestion of the gentleman from Kentucky. It may be true. I regret exceedingly that this bill comes before this House involving three separate subjects of legislation. One is the regulation of business, another is the regulation of judicial procedure, and another is the regulation of labor and other organizations. If these matters were prepared and presented to us in separate bills, then they could receive their distinct support or opposition as men might feel toward them.

So far as the Webb amendment now proposed is concerned, it seems to me that it effectuates what the committee proposed in the original section 7, only in broader and clearer language. It provides that a certain class of organizations and their members shall not be held liable as conspiracies in restraint of trade or monopolies under the language of the antitrust law. As I understand it, it does not exempt them if they are guilty of aggressive, malicious, and criminal acts. If these are committed, then they are as much liable as any other class or set of citizens, and that is as it should be, for in matters of crime there ought to be no classification of the citizens of our country.

Mr. GARNER. Mr. Chairman, will the gentleman yield?

Mr. GRAHAM of Pennsylvania. Certainly.

Mr. GARNER. Mr. Chairman, I proposed an inquiry to my colleague, Mr. HENRY, of Texas, when he was discussing this amendment, and I desire to now propound the same inquiry to the gentleman from Pennsylvania, because I have a great deal of respect for his opinion concerning the legal constructions of this amendment. That is this: If cotton raisers should warehouse their cotton, a number of them, we will say 10,000 farmers, representing, say, a million bales of cotton, and determine that they would not sell until they got a certain price, would not that be a violation of this law?

Mr. GRAHAM of Pennsylvania. Mr. Chairman, I will answer that directly, first, by saying that in my judgment it would, for the simple reason that that would be creating a corner in cotton, and a conspiracy to raise or depress the price of any commodity has been a crime in all the history of the Anglo-Saxon people. I will answer it in another way. The Webb amendment provides that certain organizations shall not be held to be conspiracies or organizations in restraint of trade, and that refers us back to the language of section 7 to ascertain what class of associations are covered by this exemption. When we refer to section 7 we read:

Associations instituted for the purpose of mutual help and not having capital stock or conducted for profit.

The CHAIRMAN. The time of the gentleman from Pennsylvania has expired.

Mr. GARNER. Can not the gentleman have more time?

Mr. VOLSTEAD. I yield two minutes more for the gentleman from Pennsylvania.

The CHAIRMAN. The gentleman from Pennsylvania is recognized for two minutes.

Mr. GRAHAM of Pennsylvania. These are the organizations that are intended to be exempt as organizations from the operations of these antitrust laws. I was very much impressed with the argument of my young friend, the Progressive in Pennsylvania, Mr. William Draper Lewis, the dean of our law school, when he said before the Judiciary Committee that the same law ought not to operate and regulate wares and merchandise and things that operated to regulate labor; and these bills ought to be divorced; the three portions ought to be divorced and separated from each other. For I am in this embarrassing position: I am going to vote to sustain the Webb amendment to this bill and incorporate it in the bill, and upon other grounds in which the bill is damaging and injurious to the business interests of this country I must vote against it as a whole. The Webb amendment will be adopted and the bill will be triumphantly passed in this House by the Democratic majority, so the absence of my vote on its final approval will not be missed, whereas I shall have expressed my willingness to exempt from the operations and effect of this statute the existence of these corporations but not any unlawful acts. [Applause.]

Mr. CARLIN. How much time has the gentleman from Minnesota consumed?

The CHAIRMAN. The gentleman has 21 minutes remaining, and the gentleman from Virginia 12 minutes.

Mr. VOLSTEAD. I yield 5 minutes to the gentleman from Wisconsin [Mr. LENROOT].

Mr. LENROOT. Mr. Chairman, I shall vote for this Webb amendment, because it does accomplish a purpose that there ought not to be any difference of opinion about. Whether it goes as far as it ought to is a question that we need not discuss now; and I wish just for a moment, Mr. Chairman, to give my opinion of what will be accomplished by the adoption of this amendment. In the first place, I must disagree with the gentleman from Pennsylvania [Mr. GRAHAM] that the original section 7 accomplished the same purpose.

Mr. GRAHAM of Pennsylvania. Will the gentleman permit an interruption?

Mr. LENROOT. I will.

Mr. GRAHAM of Pennsylvania. I meant to say—and if I did not I did not express myself fully—that it was intended by the gentlemen of the committee to accomplish the same purpose. That was my understanding; that is all.

Mr. LENROOT. With that statement I have nothing further to say, but it is entirely clear to me that the original section accomplished absolutely nothing so far as the exemption of these organizations are concerned from prosecution under the antitrust laws; but with this amendment it does just this—that whatever opinion may be entertained as to the acts of individual members of these organizations, with this amendment adopted the organization itself can not be dissolved, the organization itself can not be pursued as having violated the law, and therefore it is a step forward regardless of the question of whether it goes far enough or not. But now, Mr. Chairman, I want to direct myself for just a moment to another proposition, a legal proposition, that runs all through section 7, and that is the use of the words "shall be construed," and so forth. It is most unfortunate, Mr. Chairman, that the committee has used this language.

It is of course within the province of this Congress to construe any act of its own; but, Mr. Chairman, it is not within the province of this Congress to attempt to construe any act of a previous Congress. But by this language it is attempted to construe all of the antitrust laws. Now, it is entirely clear to every lawyer that it is the province of the legislature to make the law and it is a judicial function to construe it. This Congress has no power to say to the court how it shall construe a law heretofore made; and the effect of all of it is, if the courts specifically uphold it, as I believe they will, they will entirely throw out of consideration the words "shall be construed" and say that it was the intention of Congress to change the law, as unquestionably it is. Now, this language has been criticized time after time by the courts. For instance, in a case in the Supreme Court of the United States, speaking of identical language, it said:

> But for the unfortunate and unnecessary use of the word "construed" in this sentence we apprehend that none of the resistance to this class of taxes now under consideration would have been thought of.

And all the way through the cases the courts have struggled to uphold the acts of Congress and legislatures, but only by saying that, while the legislature used the words "shall be construed," the real purpose was not to construe the law but to change it.

The CHAIRMAN. The time of the gentleman has expired.

Mr. VOLSTEAD. I yield the gentleman one additional minute.

Mr. LENROOT. Now, Mr. Chairman, I am satisfied the courts will in interpreting this law say that the words "shall be construed" shall be thrown aside, and that it was the intention of this Congress to modify the existing antitrust laws; but this Congress has no power to modify the existing antitrust laws as to acts committed under them prior to the passage of this act; and if there is any idea that by using this language we are changing the law with respect to existing cases, we have no power to do it, and we have utterly failed.

Mr. VOLSTEAD. I yield five minutes to the gentleman from Pennsylvania [Mr. HULINGS].

Mr. HULINGS. Mr. Chairman, I have always believed that the organization of labor is the only defense the workingman has against the inevitable tendency under the competitive system to reduce wages to the lowest point of subsistence. I therefore am in favor of legalizing and recognizing to the fullest extent these organizations; but it seems to me that the committee in proposing this legislation did not accomplish anything in that direction. If you will permit me to paraphrase this seventh section, it will read something like this:

> That nothing contained in the antitrust laws shall be construed to forbid the existence and operation of a railroad company or a steamboat company or to forbid or restrain individual members of such organizations from carrying out the legitimate objects thereof.

And adding the Webb amendment:

> Nor shall such organizations or members thereof be held to be unlawful combinations or conspiracies in restraint of trade.

Of course a railroad company is not an unlawful combination, and of course a labor organization is not an illegal organization, and if that be true what does the section mean? It seems to me that there is a concealed purpose here to throw to the laboring men of the country something that means nothing; in fact, something that gives them nothing that they do not now have. Of course these organizations are not now illegal and in restraint of trade and conspiracies, and they never were. Take out of the section "labor organizations" and put in instead "railroad organizations," and nobody will pretend that under the antitrust laws the section would exempt the railroad organization from dissolution by the courts for violation of the antitrust law. How, then, can it be maintained that if the language of the section so paraphrased would make a railroad organization liable to dissolution that the section as it stands would not make a labor organization liable to dissolution?

But what you ought to do—and I suppose this is the real meat in the coconut—is to do something which will meet the real question. If members of such an organization commit an illegal act, that will be sufficient under the antitrust laws to warrant the dissolution of that organization.

Now, that, as I understand, is the real thing. Nobody, I suppose, wants to exempt people in this country from the consequences of illegal acts. Nobody asks Congress to do that. A railroad, a trust organization, if it commits illegal acts, may be dissolved by the courts; the whole institution may be dissolved. The purpose of the laboring man, as I understand it here, is that if they commit illegal acts, the court may go after the individual members responsible for the illegal acts; but the labor organization of which the lawbreakers may be members itself can not be dissolved. But the section under consideration does not do this at all, and I fear it does not give labor and farm organizations any real exemption.

Mr. MURDOCK. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. Does the gentleman from Pennsylvania yield to the gentleman from Kansas?

Mr. HULINGS. Yes.

Mr. MURDOCK. It is a question as to what is illegal. The gentleman has read the bill. Does he believe, under this bill, that in case of a strike, where the strikers assemble peaceably, remote from the place of the strike, an injunction would lie against them for peacefully assembling?

Mr. HULINGS. I do not think it ought to; and I think the power of injunction has been greatly abused by the courts, especially in labor disputes.

Mr. MURDOCK. It looks to me, under this bill, as if it will.

Mr. HULINGS. That would be a matter for the court when the act should be brought before it for adjudication. I fear the act itself is not clear.

The CHAIRMAN. The time of the gentleman from Pennsylvania has expired.

Mr. WEBB. Mr. Chairman, does the gentleman from Minnesota [Mr. VOLSTEAD] desire to use the remainder of his time now?

Mr. VOLSTEAD. I would rather not. I have some little time left.

Mr. WEBB. Mr. Chairman, I yield to the gentleman from Missouri [Mr. DICKINSON].

The CHAIRMAN. The gentleman from Missouri [Mr. DICKINSON] is recognized.

[Mr. DICKINSON addressed the committee. See Appendix.]

Mr. WEBB. Mr. Chairman, I yield to the gentleman from Missouri [Mr. HENSLEY].

The CHAIRMAN. The gentleman from Missouri [Mr. HENSLEY] is recognized.

Mr. HENSLEY. Mr. Chairman, I am in hearty accord with the purpose sought to be obtained by the amendment offered by the gentleman from North Carolina [Mr. WEBB], chairman of the Committee on the Judiciary. I am in favor of exempting labor organizations, farm organizations, and fraternal organizations from the operations of the antitrust laws. I have never been able to understand the process of reasoning on the part of the courts of our country which has brought these organizations within the purview of the Sherman antitrust law. One has but to review the speeches made by Senator Sherman, author of the antitrust act; Senator Vest, of Missouri—than whom there were no greater—and many other noted lawyers and statesmen then serving in the Senate of the United States to see and to understand to a certainty that Congress had no thought of including these organizations within the operation of the law; but nevertheless, in some instances, the courts have construed the law to apply to these organizations, which has resulted in great harassment to the laboring people everywhere.

The laboring people, through their representatives, for many years have put up a gallant fight, insisting upon this law being construed as the lawmakers intended it to be and as common humanity and even-handed justice demand. The representatives of labor on the part of the farmers of this Nation and those representing the men who toil in the factories and toil in the mines, the men who produce the wealth of the Nation and who fight the battles of our country, have pressed upon Congress to write an exemption into the law which would indicate the intention of Congress to not bring these people within the operations of the antitrust act; but the party heretofore in power has at all times turned a deaf ear to these appeals and have failed and refused to do that which, it seems to me, to have been their plain duty to this great body of toilers. So finally the Democratic Party, in convention assembled at Baltimore in 1912, declared in favor of this exemption, and so it remains for this Congress, this Democratic Congress, to write into this antitrust legislation an exemption which will be so clearly and unmistakably put that none can be deceived by the language employed, that none of the organizations heretofore mentioned shall be affected by this antitrust legislation or the Sherman antitrust law. It is written in this amendment just as the people most affected by it asked that it be written. So that, Mr. Chairman, to-day by this piece of legislation we are crowning the efforts of the laboring people, covering many years, with the success that is only their just deserts; and I rejoice in this triumph, because it is not only for the good of these organizations mentioned in the amendment, but for the common good of all mankind.

Mr. WEBB. Mr. Chairman, I yield to the gentleman from California [Mr. RAKER].

The CHAIRMAN. The gentleman from California [Mr. RAKER] is recognized.

Mr. RAKER. Mr. Chairman, I shall support the amendment to section 7, proposed and presented by the gentleman from North Carolina [Mr. WEBB], the chairman of the committee. I believe that it will add to the efficiency of the section and will carry out the desires of labor.

I understand that those organizations, those interested, have gone over the proposed amendment, and are satisfied with the amendment as it is now proposed by the committee instead of the proposed amendment that was presented by them and sent to each Congressman some days ago, where they proposed to amend section 7 by striking out certain language and using the words "shall not apply."

Gentlemen have discussed here the language "shall construe." You will find here that there is an additional word—"the court shall not hold" or will not be permitted to hold that these organizations are acting in restraint of trade.

Section 7, with the addition of the Webb amendment, will then read as follows:

SEC. 7. That nothing contained in the antitrust laws shall be construed to forbid the existence and operation of fraternal, labor, consumers, agricultural, or horticultural organizations, orders, or associations instituted for the purposes of mutual help, and not having capital stock or conducted for profit, or to forbid or restrain individual members of such organizations, orders, or associations from carrying out the legitimate objects thereof; nor shall such organizations, orders, or associations, or the members thereof, be held or construed to be illegal combinations or conspiracies in restraint of trade under the antitrust laws.

The section as thus amended has been agreed upon and is satisfactory to the American Federation of Labor, the Farmers' National Organization, and the Brotherhood of Locomotive Engineers and Firemen of the United States. This will bring about the legislation that labor has been working for for over 25 years, and it now becomes the privilege of a Democratic Congress and a Democratic President to see that such legislation is enacted. The executive council of the American Federation of Labor has been actively and earnestly engaged in bringing about this legislation. In the American Federation of Labor Weekly News Letter, published at Washington, D. C., on Saturday, May 23, 1914, they have given a history of the legislation that is now being considered as contained in section 7 of this bill, which is as follows:

AMERICAN FEDERATION OF LABOR EXECUTIVE COUNCIL ACTS ON TRADE-UNION EXEMPTION CLAUSE.

WASHINGTON, *May 23.*

The American Federation of Labor executive council takes exception to the trade-union exemption clause of the Clayton antitrust bill which, it is claimed, is intended to cover those demands of organized labor embodied in the Bartlett-Bacon bills. At the council's session last week the following resolutions were adopted:

Whereas the American Congress, in its wisdom, enacted a law on July 2, 1890, known as the Sherman antitrust law, which was intended by them to apply exclusively to large combinations of wealth—so-called trusts of property—for the avowed and specific purpose of preventing monopoly and exploitation of special privileges.

It was undoubtedly the intention of Congress to enact a law that would be effective in the prevention of huge combinations of wealth from crushing their competitors in the business world; it was also the avowed and openly expressed opinion of the statesmen who wrote that law that it should not apply to farmers' or laborers' organizations established for the betterment of producers of wealth.

The United States Senate, in Committee of the Whole, on March 26, 1890, while considering the Sherman bill, almost unanimously agreed to a provision exempting the organizations of working people from the proposed act.

On June 2, 1900, in the Fifty-sixth Congress, the House of Representatives, by a vote of 260 to 8, adopted a similar declaration in a supplementary amendment to the Sherman Act.

On June 2 and June 21, 1910, the House of Representatives again declared that the Sherman Act should not apply to the voluntary association of working people.

On February 20, 1913, in the Sixty-second Congress, the House of Representatives again made a similar declaration.

On February 28, 1913, the Senate accepted those provisions.

On March 4, 1913, after President Taft had vetoed the declaration, the House of Representatives, by a vote of 364 to 48, passed the bill over the veto of President Taft with the declarations intact.

On April 14, 1913, in the Sixty-third Congress, the House of Representatives, by a vote of 198 to 47, again declared itself in favor of the above-stated declarations.

On May 7, 1913, the United States Senate, by a vote of 41 to 32, agreed to the House declaration, and on June 23, 1913, President Woodrow Wilson signed the sundry civil appropriation bill, approving the Hamill-Roddenbery provisos exempting labor and farmers' organizations from the antitrust appropriation section of that act.

At the Denver convention of the Democratic Party in 1908, and at the Baltimore convention of the Democratic Party in 1912, emphatic declarations were unanimously adopted by those conventions pledging the Democratic Party, if elected to power, to enact legislation so that the organizations of labor and producers "should not be regarded as illegal combinations in restraint of trade."

Hon. Woodrow Wilson, the candidate for the Presidency, in his speech of acceptance, emphatically pledged himself to support that specific plank in the platform of his party.

The above historical facts can neither be disputed nor denied; and

Whereas the antitrust bill, H. R. 15657, now being considered by the House of Representatives, is the administration measure and is intended to cover supplementary trust legislation, with the avowed purpose to meet the Democratic platform declarations in reference to its labor planks.

I here insert an article from Organized Labor in its issue of May 23, 1914. Speaking upon this question, the following pertinent and applicable language is used:

[From Organized Labor, Saturday, May 23, 1914.]

LABOR'S POSITION ON THE ANTITRUST LAW.

President Wilson is said to be in favor of subjecting trades-unions to the provisions of the Sherman law against combination in restraint of trade. It is proposed that the unions shall not be subject to injunction for such action as may restrain trade. A strike or a boycott may be punished just as the organization of a trust in business. This proposal is supported by the contention that the law should bear upon all people alike, upon the labor striker as upon the engrosser and forestaller of commodities or the railroad combiner. To exempt the unions would be, it is said, to grant them a special privilege. All of which sounds and looks good; but is it?

A labor union has no special privilege bestowed by the State. It hasn't even a charter. Corporations have advantages as such. They are creatures of the State and subject to regulation. Labor unions are not formed to make profits. They are formed to prevent the lowering of wages even more than to further the raising of wages. That the unions seek a labor monopoly in retraint of trade is not true. Their end is not a monopoly of work, but proper pay for the work the workers perform. And it must not be forgotten that back of the labor union is the laboring man. That man has a right to himself. He has a right to work or not work, as he pleases, and if he withholds his work he is not restraining anybody's trade or commerce. If he prevents another man from working, that is something more than an offense against the Sherman Act, if it is anything. He can be punished for it as a crime or misdemeanor under other laws, but he should not be punished

by penalties for ignoring injunctions ex parte. The contention of union-labor leaders that unions should be exempt from the operation of the injunction provisions of the Sherman Act is a sound one, says Reedy's Mirror. It is a contention based upon the workingman's right to his own labor. The inclusion of labor unions under the new act is not necessary. If they violate that law, they usually lay themselves open to prosecution for more serious violations of law.

Clearly the Sherman antitrust law was not meant to apply to combinations of labor. That law was and is directed against combinations of corporations. There is no question of equality under that law as between privileged corporations and united workers. Surely no sane person wants the Sherman Act used to force a man to work for some one he doesn't want to work for. That's what the application of the Sherman Act to union labor would amount to. Union labor hasn't anything belonging to all the people entitling the Government to regulate it beyond compelling it to keep the peace. But the big corporations have governmental privileges, special favors, and Government rightly regulates them. A labor organization that might be subject to action under the proposed law would be subject to more drastic action for grosser offenses first. And this consideration alone makes it plain that the Sherman Act was never intended to apply to union labor. The exemption of organized labor would be no privilege at all. What labor organization aims at and what combinations and trusts aim at are entirely different things. The one seeks only to see that the laborer gets his proper hire. The other seeks to gough labor of its share of what it produces. The President should favor the labor exemption, because if he does not the Sherman Act will be made the means to prevent the workingman from bettering his pay or the conditions under which he shall earn that pay.

In speaking upon this same subject the following appears in the American Federation of Labor, published at Washington, D. C., in its issue of Saturday, May 30, 1914:

VICTORY IS IN SIGHT—LABOR TO BE FREED FROM ANTITRUST LAWS, INJUNCTION ABUSE, AND UNJUST CONTEMPTS.

WASHINGTON, *May 28.*

The parliamentary situation of the Clayton antitrust bill in Congress, in which labor is vitally affected, has reached a satisfactory stage. For years the American Federation of Labor contended that the Sherman antitrust law was never intended to apply and should not have been applied to the voluntary organizations of the working people. By reason of the decision of the Supreme Court in the Hatters' case, and of several courts in other cases, that law was made to apply to organizations of workers. It is unnecessary at this time to recount the various phases and developments of the efforts to secure remedial legislation which the working people of the country have so long and so justly demanded. There was an apparent disposition on the part of those in control of legislation to enact a bill adequate to meet the needs of the working people. But upon close study and scrutiny the representatives of the American Federation of Labor soon learned that the labor sections of the tentative drafts of the Clayton antitrust bill were ineffective, and insisted upon changes to conform to declarations of the Democratic and the Progressive Parties. For a time it appeared that divergent opinions would result in a permanent cleavage. Representatives of the American Federation of Labor insisted upon good faith being observed. After many changes the representatives of all parties and the American Federation of Labor reached a general agreement. The American Federation of Labor has had the hearty cooperation of the labor group in Congress and the representatives of the railroad brotherhoods and of the farmers' organizations.

In the Clayton bill dealing with supplementary legislation on the Sherman antitrust law is incorporated the following agreed-upon section:

"SEC. 7. That nothing contained in the antitrust laws shall be construed to forbid the existence and operation of fraternal, labor, consumers, agricultural, or horticultural organizations, orders, or associations instituted for the purposes of mutual help and not having capital stock or conducted for profit, or to forbid or restrain individual members of such organizations, orders, or associations from carrying out the legitimate objects thereof, nor shall such organizations, orders, or associations, or the members thereof, be held or construed to be illegal combinations or conspiracies in restraint of trade under the antitrust laws."

There are other sections of the Clayton bill which deal with the regulation and limitation of the issuance of injunctions. There are sections dealing with the subject of the regulation of contempt proceedings and providing for jury trials in alleged indirect contempts. The section dealing with injunctions, in which labor is primarily interested, is as follows:

"SEC. 18. That no restraining order or injunction shall be granted by any court of the United States, or a judge or the judges thereof, in any case between an employer and employee, or between employers and employees, or between employees, or between persons employed and persons seeking employment, involving or growing out of a dispute concerning terms or conditions of employment, unless necessary to prevent irreparable injury to property, or to a property right, of the party making the application, for which injury there is no adequate remedy at law, and such property or property right must be described with particularity in the application, which must be in writing and sworn to by the applicant or by his agent or attorney.

"And no such restraining order or injunction shall prohibit any person or persons from terminating any relation of employment, or from ceasing to perform any work or labor, or from recommending, advising, or persuading others by peaceful means so to do; or from attending at or near a house or place where any person resides or works or carries on business or happens to be for the purpose of peacefully obtaining or communicating information, or of peacefully persuading any person to work or to abstain from working, or from ceasing to patronize or to employ any party to such dispute, or from recommending, advising, or persuading others by peaceful means so to do; or from paying or giving to or withholding from any person engaged in such dispute any strike benefits or other moneys or things of value; or from peacefully assembling at any place in a lawful manner and for lawful purposes, or from doing any act or thing which might lawfully be done in absence of such dispute by any party thereto, nor shall any of the acts specified in this paragraph be considered or held unlawful."

The sections dealing with the contempt proceedings and jury trials are as follows:

"SEC. 19. That any person who shall willfully disobey any lawful writ, process, order, rule, decree, or command of any district court of the United States or any court of the District of Columbia by doing any act or thing therein, or thereby forbidden to be done by him, if the act or thing so done by him be of such character as to constitute also a criminal offense under any statute of the United States or at common law shall be proceeded against for his said contempt as hereinafter provided.

"SEC. 20. That whenever it shall be made to appear to any district court or judge thereof, or to any judge therein sitting, by the return of a proper officer on lawful process, or upon the affidavit of some credible person, or by information filed by any district attorney that there is reasonable ground to believe that any person has been guilty of such contempt, the court or judge thereof, or any judge therein sitting, may issue a rule requiring the said person so charged to show cause upon a day certain why he should not be punished therefor, which rule, together with a copy of the affidavit or information, shall be served upon the person charged with sufficient promptness to enable him to prepare for and make return to the order at the time fixed therein. If upon or by such return, in the judgment of the court, the alleged contempt be not sufficiently purged, a trial shall be directed at a time and placed fixed by the court: *Provided, however*, That if the accused, being a natural person, fail or refuse to make return to the rule to show cause, an attachment may issue against his person to compel an answer, and in case of his continued failure or refusal, or if for any reason it be impracticable to dispose of the matter on the return day, he may be required to give reasonable bail for his attendance at the trial and his submission to the final judgment of the court. Where the accused person is a body corporate, an attachment for the sequestration of its property may be issued upon like refusal or failure to answer.

"In all cases within the purview of this act such trial may be by the court or, upon demand of the accused, by a jury, in which latter event the court may impanel a jury from the jurors then in attendance or the court or the judge thereof in chambers may cause a sufficient number of jurors to be selected and summoned, as provided by law, to attend at the time and place of trial, at which time a jury shall be selected and impaneled as upon a trial for misdemeanor, and such trial shall conform as near as may be to the practice in criminal cases prosecuted by indictment or upon information.

"If the accused be found guilty, judgment shall be entered accordingly, prescribing the punishment either by fine or imprisonment, or both, in the discretion of the court. Such fine shall be paid to the United States or to the complainant or other party injured by the act constituting the contempt or may, where more than one is so damaged, be divided or apportioned among them as the court may direct, but in no case shall the fine to be paid to the United States exceed, in case the accused is a natural person, the sum of $1,000, nor shall such imprisonment exceed the term of six months.

"SEC. 21. That the evidence taken upon the trial of any person so accused may be preserved by bill of exceptions, and any judgment of conviction may be reviewed upon writ of error in all respects as now provided by law in criminal cases, and may be affirmed, reversed, or modified as justice may require. Upon the granting of such writ of error execution of judgment shall be stayed and the accused, if thereby sentenced to imprisonment, shall be admitted to bail in such reasonable sum as may be required by the court or by any justice or any judge of any district court of the United States or any court of the District of Columbia.

"SEC. 22. That nothing herein contained shall be construed to relate to contempts committed in the presence of the court, or so near thereto, as to obstruct the administration of justice, nor to contempts committed in disobedience of any lawful writ, process, order, rule, decree, or command entered in any suit or action brought or prosecuted in the name of or on behalf of the United States, but the same and all other cases of contempt not specifically embraced within section 19 of this act may be punished in conformity to the usages at law and in equity now prevailing.

"SEC. 23. That no proceeding for contempt shall be instituted against any person unless begun within one year from the date of the act complained of; nor shall any such proceeding be a bar to any criminal prosecution for the same act or acts; but nothing herein contained shall affect any proceedings in contempt pending at the time of the passage of this act."

It is confidently predicted, justified by the parliamentary situation, that the bill, with the above sections, will be passed by the House within the next few days.

The CHAIRMAN. The time of the gentleman from California has expired.

Mr. BARKLEY. Mr. Chairman, for a number of years there has been much discussion and agitation in this country on the subject of trusts and monopolies. In 1890 Congress passed what is known as the Sherman antitrust law in an effort to curb, prevent, or restrain unlawful combinations in restraint of trade and insure lawful and wholesome competition in the commerce of the United States. Notwithstanding that law has been in force for 24 years, combinations, trusts, and monopolies have increased at a marvelous rate and have grown so enormous in size as almost to stagger with bewilderment and confusion the mind that undertakes to contemplate or unravel them. So successful have these great combinations of wealth been in the past, not only in their organization but also in their operation, that we are now compelled to buy much that we buy from a trust, and to sell to a trust much that we have to sell. This condition in the past has enabled the trust and monopoly to fix the price of the thing it bought from us and the thing it sold to us, the result being that the real producer and the real consumer have both been at the mercy of these great aggregations of wealth.

It would be interesting, if time permitted, to go somewhat into detail in undertaking to show the methods these corporations have adopted and practiced in stifling competition and controlling the markets of trade. But this is a familiar story. We have seen them force out of the market independent concerns by the most destructive and unfair methods and practices. We have seen them, by threats and by intimidation,

force a competitor to sell out to them or be financially ruined. We have seen them go into communities and in order to drive out a legitimate competitor reduce the price of their own article below the cost of production, and then, after the competitor had gone to the wall or sold out his business, the trust would raise the price of its own article far above the cost of production and a reasonable profit. Why could it do this? Because, after driving its competitor out of business, it had control of the field. Who paid in the end for this method of transacting business? The consumer, who was compelled to buy from them, because there was no one else left from whom to purchase.

This method of big business has been very largely practiced in the manufacturing industry. It was this method which enabled great corporations like the Standard Oil Co., the American Tobacco Co., the International Harvester Co., and many others of like size and purpose to obtain absolute control of the manufacture and sale of the commodities which they manufactured and sold.

This condition has been recognized by all parties in the United States for the past 15 or 20 years. Real competition in trade has been gradually growing less and less as monopoly has increased. Notwithstanding there has been an insistent and persistent demand from the people of every class and creed for relief from these burdensome conditions, no administration and no party has made any honest effort to correct these manifest evils until the Democratic Party came into power on March 4, 1913. It is true the Republican administration "prosecuted" a few corporations, and possibly "fined" the "corporation"; and it is true that they "dissolved" the Standard Oil Co. and the American Tobacco Co. But the small fines assessed against the corporation as such resulted in no real benefit to the people, and the dissolution of the Standard Oil Co. and the American Tobacco Co. was soon followed by a rise in the value of their shares of stock, which greatly enriched their owners without corresponding benefit to the people. No officer of either company was ever prosecuted.

In the campaign of 1912 the Democratic Party, at its convention at Baltimore, adopted the following plank in its platform, upon which it went before the people and asked their votes:

A private monopoly is indefensible and intolerable. We therefore favor the vigorous enforcement of the criminal as well as the civil law against trusts and trust officials, and demand the enactment of such additional legislation as may be necessary to make it impossible for a private monopoly to exist in the United States.

We favor the declaration by law of the conditions upon which corporations shall be permitted to engage in interstate trade, including among others the prevention of holding companies, of interlocking directors, of stock watering, of discrimination in price, and the control by any one corporation of so large a proportion of any industry as to make it a menace to competitive conditions.

We condemn the action of the Republican administration in compromising with the Standard Oil Co. and the Tobacco Trust and its failure to invoke the criminal provisions of the antitrust law against the officers of those corporations after the court had declared that from the undisputed facts in the record they had violated the criminal provisions of the law.

We regret that the Sherman antitrust law has received a judicial construction depriving it of much of its efficacy, and we favor the enactment of legislation which will restore to the statute the strength of which it has been deprived by such interpretation.

There is, Mr. Speaker, no evasion or equivocation about the language of that platform. There is nothing in it that the simplest mind can not understand. It demands the enforcement of the criminal laws against those who have violated the antitrust laws, and it demands the enactment of further laws prescribing the conditions upon which corporations may engage in trade between the States, among them being the prevention of holding companies, interlocking directors, unfair discrimination in price, and the control by any one corporation of so large a proportion of any given industry as practically to wipe out competition.

We, the Democratic Party and the Democratic administration, are now engaged in undertaking to enact a law in compliance with the pledges of that platform. We are seeking at this time to do what no other party has attempted to do, either for lack of courage or intelligence, namely, to write into the statute laws of the United States provisions designed to protect legitimate business against the unfair methods of monopoly and to protect the people themselves against the encroachments of those who in the past have sought to hinder and obstruct the freedom of competition in everything necessary to the prosperity and happiness of the people.

The provisions of the bill now under consideration are intended to prevent unfair discrimination, in so far as that end may be accomplished by legislation. Section 2 of the bill is designed to correct a widespread and common unfair trade practice whereby certain great corporations have heretofore endeavored to destroy competition and render unprofitable the business of competitors by selling their goods and merchandise at a lower price in the community of their rivals than at other places throughout the country, hoping that after the rival in business had been driven from the field the corporation would then enhance the price sufficiently to regain the loss made necessary in driving out the competitor. This section expressly forbids such practices when intended to injure or destroy the business of a competitor. This bill is not designed nor intended to prevent the lowering of prices in a legitimate way, for we are all interested in seeing that the cost of those things which are necessary to human progress and happiness shall not be above their reasonable value. But our experience in the past has demonstrated the fact that when a great corporation which has or is seeking a monopoly of the products of human labor goes into the field and by its unfair methods drives out a competitor in business, the people have usually been compelled to pay increased prices for the article controlled by such corporation after it has obtained a monopoly and driven out competition. It is an old axiom that competition is the life of trade, and the measure now before the House is designed to restore as far as possible healthy competition, so that the people may receive the benefit of the natural flow of trade in every legitimate channel.

The necessity for such legislation is shown by the fact that within the last few years 19 States of this Union have enacted laws forbidding such unfair discrimination and unfair practices, and it is important that Congress should supplement these State laws with similar legislation, as Congress alone has the power to regulate interstate commerce and the conditions upon which it may be engaged in.

In like manner, section 3 of the bill is intended to prevent owners or operators of mines, oil or gas wells, or other mineral products to refuse arbitrarily to sell his product, or any part of it, to a responsible purchaser. It is now recognized that the great mineral deposits which God has placed in the earth were placed there for the benefit of mankind. The coal, the oil, the gas, the copper, the gold and silver, the iron and steel, and other forms of mineral wealth are absolutely indispensable to human development and comfort in these modern days. In the past it has frequently happened that legitimate enterprises have been made to suffer because the coal barons and the oil kings refused to sell to them the necessary coal or the necessary oil with which to carry on their business. Such refusal has sometimes resulted in the closing of manufacturing plants and the throwing out of employment of men, simply because the owner of the coal or of the oil or other product of the mine practiced favoritism and discrimination as between purchasers, with the intention of building up one concern and destroying the other. Recognizing that these great natural sources of mineral wealth belong in truth to all the people and were created for all the people, it is sought in this measure to prevent their monopolization for the benefit of a few and to the injury of the great masses of those who depend upon them for the comforts and necessities of life.

Section 4 of the bill is designed to prevent what is known as "tying contracts." A great manufacturing company will go into a community and make a contract to let one certain person, firm, or corporation handle its products, provided such person, firm, or corporation will agree not to handle the goods of any other manufacturer who is a competitor. The very essence of such a transaction is monopoly. The local concern is not always nor usually to blame, because it desires to handle the particular articles in question, and perhaps it would like to handle similar articles manufactured by other concerns. But he frequently can not obtain the articles made by one manufacturer without agreeing not to handle the competitive articles made by another manufacturer, and so a monopoly of the given articles is created and an unlawful and unwholesome restraint of trade is the result, and the people are frequently unable to obtain the benefits of competition because the manufacturer ties the local merchant with a contract not to sell the products of a like or similar character made by a competing manufacturer. This bill will not prevent a manufacturer from selecting his customer or from making one person, firm, or corporation in any community his sole agent for the distribution of his products, because such a provision would be impracticable and perhaps work injury to legitimate business. But while it is true that he can designate a given concern to whom he will sell the products of his factory, he can not compel that concern to agree not to handle also the products of other manufacturers if he wants to do it. The merchant is not required to handle the products of others, unless he wants to do it. But this bill is intended to give the local merchant the right to handle as many competitive articles of the same kind as he may wish to handle, without tying his hands to one and only one concern under penalty of being refused or denied the right to handle such concern's products. The object and intention of this section of the bill is

to create and sustain competition in trade and give the people the right of choice as to what articles of merchandise they will use.

Suppose, for instance, a manufacturer of plows should go to a local merchant in some agricultural community and propose to allow the merchant to handle his particular brand of plows Or suppose the merchant himself should seek the handling of those plows in that community. The manufacturer might say, "I will let you handle my plows, provided you agree not to handle the plows made by any other concern." But the merchant would say in reply, "Many people in my community use other brands of plows, and I would like to handle other plows, so that I can furnish them to those who may desire them." The manufacturer, under the present law, would have the right to say, "You can not handle my plows unless you agree not to handle any other plow on the market." The result would be that the merchant would have to agree to that or be denied the right to handle the plows in question. In that event the merchant suffers because he is in the power of the trust or monopoly of a given brand of plows, and the community suffers because of a lack of competition and because of a frequent inability to secure the article they desire. All such conditions operate to restrain the freedom of trade and to build up monopoly at the expense of the people. It is hoped that this provision of the pending bill will go far to relieve trade of such handicaps and to restore and maintain the proper sort of competition.

Other sections of the bill forbid one corporation from acquiring the stock or shares of another corporation where the effect of such acquisition and control would be to eliminate or substantially lessen competition. This provision is intended to prevent what is commonly known as "holding companies." A "holding company" is a company that holds the stock of another company or companies, and one whose primary object is to "hold" the stock of other companies, which is a common and favorite method of promoting monopoly.

Under this method one corporation may buy up all the stock of several competing corporations engaged in commerce, or enough of their stock to give the "holding company" control of them all, and thereafter all the different corporations whose stock has been thus bought up are under the same control and are operated as though it were one concern. As thus defined, a "holding company" is created for the sole purpose of fostering monopoly and stifling competition, and is simply an incorporated likeness of the old-fashioned trust. For instance, a great corporation located in the city of New York or Chicago, under that system, might purchase the stock of 25 or 50 different smaller corporations in different States engaged in manufacturing similar and competitive products. These smaller corporations would remain separate corporations as organized under the laws of the different States, but their stock would be owned and they would be controlled by the corporation in New York or Chicago which owned their stock; and whereas previously they had all been competitors in the markets of the world, they would now, for all practical purposes, operate as parts of one great "holding" corporation, and competition would be at an end. This measure is designed to prevent that, where the primary purpose or the necessary consequence is to destroy or substantially lessen competition in trade.

Another great evil in the conduct of business, which is denounced by the Democratic platform, is what is commonly called "interlocking directors." By this term we mean the condition where the same men are directors and officers of many different corporations, some of them supposedly competitors, but all of them actuated by a community of interest which in many instances in the past has resulted in disaster. Recently one man in New York resigned from the board of directors of 50 different corporations. His published reason for so doing was that he recognized the changed condition of public sentiment regarding this manifest evil, and desired to adjust himself to the new ideals now permeating the business world. Whether this action was brought about by the dictates of conscience or the exercise of a prudent foresight we need not now stop to inquire.

The same conditions exist with reference to many others who have not yet adjusted themselves to the new conditions and demands of modern business thought, but who are as intricately "interlocked" in the boards of directors of naturally competing corporations as was he to whom I have just referred. There can be no real competition between companies engaged in commerce where the same persons control the policy of the different companies. It would be contrary to the weakness of human nature if they did not manipulate all of such companies for their selfish ends regardless of the interests of the public. Many examples could be called to mind where the directors of railroads, banks, coal companies, steamship companies, and various manufacturing concerns have been and are now so linked and "interlocked" that there is no competition in management and therefore none in operation. The whole design of the bill now under discussion in so far as it affects business is to secure and maintain fair and free competition among concerns and products naturally competitive, and therefore, in accordance with the declaration of our platform, it is provided in this measure that such conditions are to be remedied in so far as legislation may make this possible and practicable.

I desire, Mr. Chairman, to discuss briefly at this point the provisions of this bill which affect the rights of labor and of those who labor.

In searching the sacred pages of the Holy Scriptures for inspiration and guidance through this earthly journey we call life we find nowhere a command that we shall form a monopoly or that we shall become vastly rich or that we shall oppress our fellowman. Nowhere within the covers of that wonderful book are we admonished to "toil not, nor spin." But we are commanded to labor. Out of the voiceless silence of the ages past comes the command that "in the sweat of our faces" shall we eat bread. Thus in this, as in many other passages of the Bible, labor is not only sanctioned, but is sanctified; and we read each time with renewed consolation the invitation of the Son of man to "Come unto me, all ye that labor and are heavy laden, and I will give you rest."

Mr. Speaker, there is nothing more ennobling than honest toil, and none more noble than the honest toiler. In every age, in every clime, in every condition of human progress, he has borne more than his share of the burdens of the fight. In every battle for human liberty he has been in the forefront, willing to give his life, if necessary, that others might have life and have it more abundantly. When home and country have been in need of defense, he has harkened to the voice of duty and gone forth from those he loved to return no more. In religion, in patriotism, in service to humanity, in the drudging hardships of camp and quarry, of field and factory, the man who works and the woman who works have contributed more to the welfare of the world than all the hosts combined whose claim to our remembrance is bolstered chiefly through the "boasts of heraldry or the pomp of power." And some day, somewhere, I hope to see erected to those who toil and have toiled, or shall ever toil, a monument more beautiful, more imposing, and more lasting than any that has been erected in the name of cruel war or selfish greed. [Applause.]

Imbued deeply with the sentiments I have sought feebly to express, it is not strange that I place myself upon the side of those who favor the amendment to this bill, which exempts labor organizations and farmers' organizations from the operation of the antitrust law.

In support of that amendment, I submit that it was never the intention of Congress to apply the antitrust laws to such organizations, and if they had intended it such intention would have been wrong. The object in view in passing the antitrust laws was to strike at and destroy an evil, to curb monopoly, and punish combinations and conspiracies in restraint of trade. No one will contend, in the light of history, that labor unions or farmers' organizations are an evil; but, on the contrary, they have been greatly beneficial to those who labor in factory, field, or shop, and the blessings flowing therefrom have been shared by many indirectly who were not members of such organizations.

The offense denounced by the Sherman antitrust law is that of combining or conspiring in restraint of trade. Can it be said that an organization of men who work with their hands, who have organized for mutual help, for improving the conditions of labor, or advancing the wages which they receive is a combination or conspiracy in restraint of trade? Manifestly such an interpretation of the law would be an injustice to labor. Can it be said that an organization of farmers, who have organized for mutual protection and in order to insure an adequate price for the products which they have dug from the soil, is an illegal combination in restraint of trade? Such a construction of the law would be unjust and unwarranted. The great trusts and monopolies are offensive organizations. They are organized for profit and exploitation. Laboring men and farmers have been compelled to organize in self-defense in order to protect themselves against the rapacity of those whose acts are denounced by the Sherman antitrust law.

So that we may in truth say that this amendment exempting such organizations from the operation of the antitrust law gives to labor and to agriculture what it asks and is entitled to. It recognizes the difference between the man whose only asset is his power to work and the man who seeks to use labor and the products of labor for monopolistic purposes. It recognizes the self-evident truth that all real wealth in the final analysis is produced by those who toil, and that therefore the man who

toils and eats his bread in the sweat of his brow has a moral and legal right to cooperate with others of his fellow men in the same condition for the purpose of mutual help, protection, and improvement not only of the conditions of labor, but for the advancement of the compensation which he receives therefor.

This principle was recognized in the Democratic platforms of 1908 and 1912, when a plank was incorporated therein advocating the thing we are now about to write into this law. It is gratifying to be able at this time, when the Democratic Party is engaged in writing into the statutes new laws for the reestablishment of legitimate conditions of business, to place in the law a provision giving to labor a legal status. And as business under the provisions of this bill will be eventually liberated from the unwholesome conditions which have crippled and shackled it in the past, so will the man who with his hands makes business and prosperity possible receive that share of legal recognition to which he is entitled. And I hope and believe that the provision under discussion will be overwhelmingly adopted. [Applause.]

In conclusion, Mr. Speaker, I desire to call attention briefly to the great work which has been accomplished by the present Democratic administration in carrying out the platform pledges and enacting laws for the benefit of the whole people of the United States.

On the 4th day of March, 1913, the Democrats obtained control of every branch of the National Government. President Woodrow Wilson came into office as the first Democratic President in 16 years, having behind him the loyal support of a Democratic Senate and House of Representatives. He called Congress into extraordinary session on April 7, 1913, and since that date it has been in continuous session. During that length of time it has revised the tariff downward, in accordance with the mandate of the people and the doctrines of the Democratic Party. Our party has always advanced and fought for the principle that the taxing power of the Government should not be used except for the collection of public revenue sufficient to carry on the Government economically administered, and that it ought not to be exercised to enrich a few at the expense of the masses. The Democratic tariff of 1913 recognized that principle in every detail.

During the period since the Democratic Party came into power it has placed upon the statutes an income tax, which has been demanded by the American people for nearly a generation. Under this law the swollen wealth of the country will contribute its just proportion toward the expenses of Government, whereas heretofore it has enjoyed the benefits of this Government without contributing to its support in proportion to the benefits received and the ability to pay. The Democratic Party has for many years, in and out of season, without ceasing, and without shadow of turning, advocated the passage of an income-tax law, and we are now able to see the result of its efforts crystallized into a law which all men now recognize as just and equitable.

During that period the Democratic administration has passed a law reforming and reorganizing the banking and currency laws of the United States, a task which had been ignored by the Republican Party for 50 years. The passage of that law meant the death knell of the Money Trust; the impossibility of Nation-wide financial panics; makes it impossible for a few high financiers to concentrate the money of this country in Wall Street; extends a strong, helping hand to the farmer, while fully protecting the interests of the business man and the banker; provides for the establishment of foreign branches to take care of our foreign commerce; provides for the issuance of elastic currency, which will meet the demands of trade in every season and in every part of the United States; and takes from the hands of a few money manipulators the power to control the financial policy of this Government and places it with the people through their constituted authorities, where it ought to be. When this new system has been fully organized and put in operation it is the belief of all classes of our people that it will prove itself to be one of the greatest pieces of constructive legislation ever enacted by Congress.

In addition to these things, the administration of President Wilson has been instrumental in eliminating from Washington a lobby which in former times has exercised a baneful influence upon legislation. It has secured the repeal of that provision of the Panama Canal act which gave to a shipping monopoly a subsidy of nearly $2,000,000 per annum out of the pockets of the people. It has caused to be signed treaties with more than half the nations of the world providing for the arbitration of international disputes, thus hastening the day when peace may dwell among the peoples of the world and the staggering expenditures for war and its horrors may be greatly reduced.

It has passed the industrial employees' arbitration act, providing for mediation, conciliation, and arbitration in controversies between employers and employees.

It has developed and extended the Parcel Post System to a high degree of perfection, resulting in a reduction of rates and an increase in the size of packages, making home life for the city man and for the farmer easier and cheaper.

It has inaugurated in the Department of Agriculture a system of markets whereby scientific and modern business methods will be applied toward the elimination of waste in transporting and distributing farm products.

It has passed the Lever bill providing for farm-extension work, which is designed to increase greatly the productiveness of American farms and thereby add to the general wealth of the Nation. It is intended to carry directly to the farm all the scientific discoveries of the Department of Agriculture and the State agricultural colleges. When it is remembered that during last year the farmers of the United States created nine billions of wealth, the importance of the passage of such a bill can be easily understood.

It has passed through the House of Representatives and hopes to pass through the Senate a bill granting Government aid to the different States and their subdivisions for the construction and maintenance of good roads, thus making more easy the transportation of farm products and adding to the prosperity and happiness of the people.

Many other important matters of legislation and administration for the benefit of the people have been inaugurated, to which I can not call attention for lack of time. And now Congress is engaged in the passage of these bills to supplement the antitrust laws, to prevent overcapitalization of railroads engaged in interstate commerce, to curb and restrain and, as far as possible, destroy monopoly and restore honest and practical competition in trade. And in addition to this it has under course of preparation bills for the establishment of a practical and effective system of rural credits, which will afford to those engaged in farming facilities for obtaining credit on long time and at lower rates of interest than are at present available, which we hope to enact into law in the near future, and which we hope will result in permanent good to those who need credit, that they may establish homes and finance their agricultural enterprises with greater chances of success than is possible under conditions as they exist at present. [Applause.]

Such a record, Mr. Speaker, is sufficient to cause any party or any administration to feel that its labors have not been in vain. Such a record is sufficient to demonstrate to the country that the Democratic Party knows how to serve the people, and that it has the courage and the intelligence to go forward instead of backward; that it has the patience to tire not in well-doing; and that it has the foresight to strive for the accomplishment of those things which shall in the end make for industrial peace at home and international peace abroad, and set a new mark in the advancement of the ages which shall reflect honor upon our efforts and glory upon our flag. [Applause.]

Mr. WEBB. Mr. Chairman, I yield to the gentleman from Ohio [Mr. CROSSER].

The CHAIRMAN. The gentleman from Ohio [Mr. CROSSER] is recognized.

Mr. CROSSER. Mr. Chairman, there is no economic problem which engages the attention of the people so much as the trust or monopoly evil. The iron hand of monopoly is felt by every person in the United States, and indeed by the people throughout the world. It is well that the public mind is aroused, because failure to check the growth of monopolies and failure to prevent the ravages of those already in existence will result in industrial slavery.

What is a monopoly and what is its source of power to oppress? It is created by welding together all of the industries which produce any article and placing this combination under one control. There is then no one to offer at a lower price articles similar to those produced by the monopoly. In other words there is no competition. The monopolist can then demand and receive all the public can and will pay rather than be without the article in question. The monopoly being the only employer of the kind of labor required in the production of the article which it alone produces, can and does say what such labor will be paid as wages. The customer must pay what the monopoly or trust demands for its product, or do without, as no other can offer the same for sale. The workman skilled only in making the thing sold by the monopoly must accept the wages it offers or do without and try to learn some other business.

It does not require much thought to enable any man to understand the danger to free men from the tryannical power which monopolies can wield. Every earnest man who thinks for a moment of others agrees that something should be done to limit

the power if not destroy monopolies. As a remedy we have now before this House a measure called "A bill to supplement existing laws against unlawful restraints and monopolies." I intend to vote for this bill, for while I do not believe that we shall get complete relief from it, I am ready and anxious to support any measure which will do something toward breaking the power of monopoly. But will this proposed law accomplish the desired result? I am anxious that it should strip monopoly of its power, and yet I can only feel that it will do much better in the way of regulation than the present law.

I believe that this bill is the most perfect development thus far of the plan to solve the problem of monopoly by control and regulation. But the job of controlling and regulating a monopoly is much the same as if you were to give a man your farm and then try to order when he should plow, where he should sow, at what price he should sell his crops, and to say that he should not talk to his neighboring farmer across the fence about the price of what they have to sell. You lost the right and power to control effectively when you gave away the farm, and so the people of the country are unable to control and regulate monopolies because they have given them the natural resources of the country. It makes little difference whether the grant was originally made to one person or to a number of persons. The true remedy and, in fact, the only real cure for the evils of monopoly is to restore to the public as far as possible these natural resources. If a tax sufficient to absorb economic rent were levied upon the real value of oil land, coal land, ore land, and other sources of raw material, we would find the strangle hold of monopoly soon loosened. No man or men could then afford to withhold from use the natural resources which they have gotten into their possession. In order to pay such a tax they would be compelled to make use of the land or resources under their control; and if they should do this, they would turn out their products in such quantities as to make it necessary to sell at a reasonable price in order to dispose of their output. The customers would then be able to buy the products more freely. Labor would receive higher wages, because of the increased demand for labor resulting from the using of resources heretofore held out of use by monopoly. Of course increased demand for anything, including labor, means that more must be paid to get it. Why have we not applied this simple remedy? Why do we give the earth to a few and then try to regulate them?

The explanation, it seems to me, is that men's minds usually accept, as an explanation for any difficulty, the cause which is most apparent and nearest to the trouble. So when we see a few men getting immense fortunes in a very short time, we begin to blame the men and try to regulate their actions. Restore to the people their rights in the natural resources of the country and the trust question will solve itself. This, as I have already suggested, can be done by taxation. But, answer some, this would not be fair to those who have paid for these privileges in the natural resources. Let me call your attention to the fact that the taxing of such resources at a rate about equal to its natural rent would simply prevent the monopoly from playing the dog-in-the-manger game of withholding the natural resources from use, but would still leave them the title and possession and a reasonable profit if they will but use them. The profit which has come to monopoly merely from the privilege of controlling the natural resources would of course be much reduced under the plan which I have suggested, but you who support the pending bill can not offer that as an objection to the plan. The very purpose of the bill before this House is to prevent the trusts or monopolies from getting an unfair profit. The plan of the bill reported by the committee is to leave the trusts in possession of their special privileges in the natural resources, but to tell them how to sell their product and to whom they must sell it, so that they will be fairer to the people. But if by taxation we compel the holders of the natural resources to use them or to let others use them, the natural law of supply and demand will reduce prices and raise wages, and this would mean prosperity for all.

There has been a great deal said during the debate on this bill about the proposal that labor unions shall not be subject to the terms of the antitrust law. We have observed the tearful anxiety of those who shudder at the very thought of class legislation when it appears to favor the cause of labor. Keeping in mind the purpose of this bill, does the so-called exception in favor of labor constitute class legislation? I claim that it does not.

The evil that the bill is intended to correct is the monopoly of the natural resources—to prevent a few persons from getting control of such portions of the earth as contain the raw material or means of production of the necessities and comforts of life. We have a natural and moral right to prevent a monopoly of the earth, the storehouse provided by God for the human family. We have a right and duty to destroy special privilege in the earth which was provided by the Creator, not for one or a few but for all His people. To permit anything else, to permit one or a few to own and absolutely control the earth, is to put the rest of mankind at the mercy of these few, because they can only live and labor on the terms made by the few.

But no man has any natural or moral right of ownership in another man's body or his power to labor, and therefore no man has any right to say that another shall or shall not work or to say that he shall not consult with his fellows about working or refusing to work or in regard to the terms of employment so long as the conference is free from violence. The same right as to his labor, whether manual or mental, must be conceded to the individual employer or if a corporation be the employer, then the officials of such corporation have the right to consult with one another or with like officials of some or all other corporations in regard to the terms upon which they will do their work. This, however, is an entirely different thing from permitting a monopoly of the resources of the earth.

It is the old, old story of the struggle of the millions of human beings for the fruits of their toil, on the one hand, and by the holders of special privileges for the fruits of other men's toil on the other hand. And yet, all this is permitted in the name of justice. Millions of men and women toil wearily from day to day and drag out only a miserable existence. Countless children are without food enough to fully nourish them, and know not how to laugh. Mr. Chairman, we can not much longer tolerate such conditions. We must soon stop trying the time-worn plan of permitting a few men to monopolize the earth, and then trying to compel them by law to be kind enough to give others their just share of its fruits. We must go to the root of the evil. We must remove the cause by abolishing special privilege itself.

Mr. WEBB. Mr. Chairman, I yield to the gentleman from Missouri [Mr. HAMLIN].

The CHAIRMAN. The gentleman from Missouri [Mr. HAMLIN] is recognized.

Mr. HAMLIN. Mr. Chairman, I can not hope to say much within the time allotted me. I will say, however, that I am heartily in favor of the amendment offered by the chairman of the committee to section 7 of the bill. I do not believe that it would be right to place labor organizations, farmers' organizations, and fraternal organizations in the same category with organizations formed for the express and sole purpose of making money. One organizes for the purpose of uplifting humanity, the other for the purpose of exploiting humanity.

The present method of business is to put the brawn and muscles of human beings in one end of the scale and dollars in the other end and weigh it out, just as the grocer weighs out his sugar to a customer. This is revolting to any man who loves his fellow man. Involved on one side of the balance are the cold, unsympathetic dollars; on the other side are the lives, the happiness, and existence of human beings.

Surely the law ought to make a distinction between the two. Human happiness and human welfare ought not to be put on the auction block and knocked off to the highest bidder as a chattel may be. The only reason why trusts and combinations are declared illegal is because they are organized and operated for the express purpose of the more effectively exploiting the people by taking advantage of their necessities and controlling the price of these necessities to the consumers, as well as the purchase price which they have to pay for the raw material. They do this by consolidating or controlling all business in their line and thereby shutting out competition. Combinations of capital seek to control both the selling and purchasing price of all articles of necessity.

Labor seeks only to protect the selling price of one article, to wit, his brawn and muscle. This amendment protects the labor organizations, farmers' organizations, and fraternal organizations from the operation of the Sherman antitrust law, and in that the Democratic Party fulfills another pledge made in its platform.

I am truly glad to see our Republican friends lining up for this amendment; true some of us remember that for 16 long years of Republican rule they never found it convenient to protect the laborers of this country from the effects of the Sherman antitrust law, still we welcome them over to our standard and say we will gladly accept your votes even though you had to be forced to do it by a Democratic Congress.

I think that every Member here recognizes that one of the big questions before us it to deal fairly and right with labor and capital. For a long time I have felt that capital is largely responsible for the struggle that is on between the employer and the employee. Capital has been too domineering and selfish. I once heard the president of a large operating coal company,

in dealing with the demand of their employees for better wages, say, "What right have these d—n fellows to make demands on us and attempt to tell us how we shall run our business? We have thousands invested and they haven't a penny." I said to him, "That is where you are radically wrong. These laborers have infinitely more invested in the business than you have. You have only a portion of your money invested and these laborers have their very existence and the existence of their wives and children invested, and who can measure the love of a parent for his child, or who will attempt to do so in cold dollars and cents?" Mr. Chairman, let us not deal with the comfort and happiness of human beings as we deal with steel rails, oil, and other commodities.

I repeat what I said in the beginning, that labor organizations and farmers' organizations ought not to be placed in the same category with organizations formed for the express purpose of making money. I hope this amendment will be adopted.

Mr. WEBB. Mr. Chairman, I yield to the gentleman from Pennsylvania [Mr. CASEY].

The CHAIRMAN. The gentleman from Pennsylvania [Mr. CASEY] is recognized.

Mr. CASEY. Mr. Chairman, it was with considerable interest I took up the study of this very important measure. The more I delved into it the more and more I became impressed with the absolute need of an amendment such as has been offered by the gentleman from North Carolina [Mr. WEBB]. I realize and appreciate the importance of this bill, because I believe it is one of the most important that has or will come before this House for consideration.

ORIGINAL CLAUSE UNSATISFACTORY.

When it was reported by the Judiciary Committee I, as well as a number of my colleagues, went over it with careful deliberation, section by section, and when we reached section 7 it was apparent that it did not and could not meet expectations.

We asked the committee to change the phraseology so as to give labor organizations and farmers' organizations and beneficial societies the recognition promised in the Democratic platform. After some consideration the committee agreed to do so.

I desire to say to the Members who are hesitating about voting for the amendment that it is my sincere belief that the Webb amendment gives labor, gives the farmers, and gives the beneficial organizations the relief they are seeking. And I want to add that by following the recommendations of the Judiciary Committee we are doing that which the members of the great American Federation of Labor, what the members of the great Brotherhoods of Railroad Trainmen, the Railroad Conductors, the Railroad Firemen, the Railroad Engineers, and the farmers' organizations, that are directly and vitally interested in this legislation, desire we should do.

DISTINCT LINE DRAWN.

In consideration of their wishes, in consideration of the great moral issue involved, and in consideration of the world desire to draw the line between labor and its product, and in consideration of the desire to give the farmer as well as the laborer a greater scope, so that they may develop, so that they may live with a greater degree of comfort, so that they may prosper; and when these great forces are content the leaven of a greater and better mankind will dominate in this country; and I ask you, in consideration of all these things, to adopt the amendment offered by the gentleman from North Carolina [Mr. WEBB], chairman of the Judiciary Committee.

Mr. Chairman, wherever the working people have made progress some form of organization has been the agency that has transformed individual impotency into collective strength—fraternities, lodges, merchant guilds, craft guilds have been helpful; but the labor unions—trades-unions—have been the most potent factors in the forward movement.

HIGHER STANDARD OF LIFE.

The demand for higher wages represents the conviction that a constantly greater share of increased social wealth should go to those who create it. The progress of humanity results from the elimination of poverty. Poverty means degrading environment and influence that result in intellectual and moral degeneration. Permanent amelioration of the human lot must have as its basis material resources. The next step is to distribute these products so that the greatest number may fairly benefit thereby. As an element in the forces determining distribution, the trade-union has been most potent. A comparison of conditions prevailing among the unorganized with those that have employed collective bargaining reveals unmistakable proofs of the beneficent results due to trade-unionism. Higher wages mean better homes, better clothing, better food, better bodies and minds, recreation, a higher standard of life.

The aim for a higher standard of life is the incentive for the demand for a shorter workday. The verdicts of modern scientists are confirming the fundamental importance of this demand which the trade-union has so long been pressing. These scientists are warning us against the danger to the race from the continuous industrial strain and concentration of energy in modern industry. Commerce and industry can be allowed to exploit the leisure of the workers only at the expense of national well-being. The shorter workday means increased efficiency of the worker in the shop, better, longer, and happier living, and development of the higher emotions and feelings. It increases the productive period of the worker, lengthens his life, and enables him longer to provide for those dependent upon him, that the children may have an opportunity to taste of the pleasures of child life before assuming the burdens of the human "struggle for existence."

CONSERVE HUMAN RESOURCES.

This more efficient, more human worker demands better working conditions, the aim being to conserve human resources. Much has been done to let pure air and sunshine into working places, to exclude conditions breeding organisms injurious to life, but ever-increasing knowledge and the widening of our conception forbid us to stop or stay in the crusade for human welfare. Among all the organizations on the American continent working upon the various phases of this great problem, in my opinion, the great American Federation of Labor is the leader, and has often been the pioneer blazing the way.

These three demands of organized labor are comprehended in this larger and ultimate ideal—to enrich, enlarge, and magnify humanity. The influence and the potency of the American labor movement are so well appreciated by the thinkers and leaders in our Nation's affairs that almost every considerable movement for humanitarian, economic, or political reform has endeavored to enlist their approval and support. Men of labor play an honorable and important part in the affairs of this great Nation. They are daily helping to determine its destiny.

For years the laboring people have contended that the Sherman antitrust law was never intended to apply and should not have been applied to the voluntary organizations of the working people. By reason of the decision of the Supreme Court in the Hatters' case, and of several courts in other cases, that law was made to apply to organizations of workers. It is unnecessary at this time to recount the various phases and the developments of the efforts to secure remedial legislation which the working people of the country have so long and so justly demanded.

THE SEVENTH SECTION.

In this bill, dealing with supplementary legislation on the Sherman antitrust law, is incorporated the following section as amended:

"Section 7. That nothing contained in the antitrust laws shall be construed to forbid the existence and operation of fraternal, labor, consumers', agricultural, or horticultural organizations, orders or associations instituted for the purpose of mutual help and not having capital stock or conducted for profit, or to forbid or restrain individual members of such organizations, orders, or associations from carrying out the legitimate objects thereof, nor shall such organizations, orders, or associations, or the members thereof be held or construed to be illegal combinations or conspiracies in restraint of trade under the antitrust laws."

There are other sections of this bill which deal with the regulation and limitation of the issuance of injunctions. There are sections dealing with the subject of the regulation of contempt proceedings and providing for jury trials in alleged indirect contempts. The section dealing with injunctions as amended, in which labor is primarily interested, is as follows:

"SEC. 18. That no restraining order or injunction shall be granted by any court of the United States, or a judge or the judges thereof, in any case between an employer and employee, or between employers and employees, or between employees, or between persons employed and persons seeking employment, involving or growing out of a dispute concerning terms or conditions of employment, unless necessary to prevent irreparable injury to property, or to a property right, of the party making the application, for which injury there is no adequate remedy at law, and such property or property right must be described with particularity in the application, which must be in writing and sworn to by the applicant or by his agent or attorney.

THE RESTRAINING HAND.

"And no such restraining order or injunction shall prohibit any person or persons from terminating any relation of employment or from ceasing to perform any work or labor, or from recommending, advising, or persuading others by peaceful means so to do, or from attending at or near a house or place where any

person resides or works or carries on business or happens to be, for the purpose of peacefully obtaining or communicating information, or of peacefully persuading any person to work or to abstain from working; or from ceasing to patronize or to employ any party to such dispute, or from recommending, advising, or persuading others by peaceful means so to do; or from paying or giving to or withholding from any person engaged in such dispute, any strike benefits or other moneys or things of value; or from peacefully assembling at any place in a lawful manner, and for lawful purposes; or from doing any act or thing which might lawfully be done in absence of such dispute by any party thereto, nor shall any of the acts specified in this paragraph be considered or held unlawful.

CONTEMPT CASES; JURY TRIALS.

"SEC. 19. That any person who shall willfully disobey any lawful writ, process, order, rule, decree, or command of any district court of the United States or any court of the District of Columbia by doing any act or thing therein, or thereby forbidden to be done by him, if the act or thing so done by him be of such character as to constitute also a criminal offense under any statute of the United States or at common law shall be proceeded against for his said contempt as hereinafter provided.

"SEC. 20. That whenever it shall be made to appear to any district court or judge thereof or to any judge therein sitting, by the return of a proper officer on lawful process, or upon the affidavit of some credible person, or by information filed by any district attorney, that there is reasonable ground to believe that any person has been guilty of such contempt, the court or judge thereof, or any judge therein sitting, may issue a rule requiring the said person so charged to show cause upon a day certain why he should not be punished therefor; which rule, together with a copy of the affidavit or information, shall be served upon the person charged with sufficient promptness to enable him to prepare for and make return to the order at the time fixed therein. If upon or by such return, in the judgment of the court the alleged contempt be not sufficiently purged, a trial shall be directed at a time and place fixed by the court: *Provided, however*, That if the accused, being a natural person, fail or refuse to make return to the rule to show cause, an attachment may issue against his person to compel an answer, and in case of his continued failure or refusal, or if for any reason it be impracticable to dispose of the matter on the return day, he may be required to give reasonable bail for his attendance at the trial and his submission to the final judgment of the court. Where the accused person is a body corporate, an attachment for the sequestration of its property may be issued upon like refusal or failure to answer.

"In all cases within the purview of this act such trial may be by the court or, upon demand of the accused, by a jury, in which latter event the court may impanel a jury from the jurors then in attendance, or the court or the judge thereof in chambers may cause a sufficient number of jurors to be selected and summoned, as provided by law, to attend at the time and place of trial, at which time a jury shall be selected and impaneled as upon a trial for misdemeanor; and such trial shall conform, as near as may be, to the practice in criminal cases prosecuted by indictment or upon information.

THE PUNISHMENT PRESCRIBED.

"SEC. 21. That the evidence taken upon the trial of any person so accused may be preserved by bill of exceptions, and any judgment of conviction may be reviewed upon writ of error in all respects as now provided by law in criminal cases, and may be affirmed, reversed, or modified, as justice may require. Upon the granting of such writ of error, execution of judgment shall be stayed and the accused, if thereby sentenced to imprisonment, shall be admitted to bail in such reasonable sum as may be required by the court, or by any justice, or any judge of any district court of the United States or any court of the District of Columbia.

"SEC. 22. That nothing herein contained shall be construed to relate to contempts committed in the presence of the court, or so near thereto as to obstruct the administration of justice, nor to contempts committed in disobedience of any lawful writ, process, order, rule, decree, or command entered in any suit or action brought or prosecuted in the name of or on behalf of the United States, but the same and all other cases of contempt not specifically embraced within section 19 of this act may be punished in conformity to the usages at law and in equity now prevailing.

"SEC. 23. That no proceeding for contempt shall be instituted against any person unless begun within one year from the date of the act complained of; nor shall any such proceeding be a bar to any criminal prosecution for the same act or acts; but nothing herein contained shall affect any proceedings in contempt pending at the time of the passage of this act."

SOCIETY AND JUSTICE.

The foregoing paragraphs, as amended by the Judiciary Committee, indicate plainly that justice is the purpose toward which society is groping slowly—uncertainly yet ultimately. The ideal may change and shift, but justice ever remains the goal. The law of the land embodies concepts of rights that must be granted individuals to secure them freedom of self-development and action. Justice exists when these rights are accorded to all individuals.

To the courts of our country belongs the duty of making justice a forceful reality in the lives of men. The courts are the guardians of the rights and ideals of the Nation. They are the agencies by which justice is brought into the lives of people. If they do justice, they create respect for governmental authority. If they deny justice, they create contempt for law and rebellion against governmental authority.

American courts have an unusually grave responsibility, for their power has become practically unlimited. Their power to interpret law and to pass upon its constitutionality makes them superior to the legislatures. Judges are the least responsible of all our govenmental agents.

An independent judiciary is necessary for purity of justice. Yet this very independence constitutes a menace, for judges are human, and may allow practices and concepts to become established which pervert justice. Such perversions of justice have been the reason for all the great legal reforms. Such perversions of equity courts now demand reform.

POWER OF EQUITY COURTS.

Equity courts were established in England to infuse into legalism a morality which was precluded by the strict letter of the law. Practically all equity law has resulted from judicial legislation. The judge makes the law, determines whether or not his law is violated, and determines the penalty for any violations of his law. Therefore equity proceedings reflect the personal attitude of mind, convictions, and animus of the individual judge.

The power built up by equity courts in the United States is unlimited. Like all arbitrary power, it has been abused. The particular class of abuses that has caused the greatest injustice and has aroused most bitter discontent is the use of the injunctive process in industrial disputes to regulate personal relations and to assume the functions of the law courts.

The writ of injunction was intended to protect property against injury from which the law afforded no protection. Under the influences of judges who had no personal knowledge of industrial affairs, no sympathy with workers in industry, and no understanding of the difference between property rights and personal rights, injunctions have been issued for the purposes which transform the agencies of justice into engines of injustice and oppression.

BURDENS OF INDUSTRY.

Those who bear the burdens of industry and the brunt of whatever injustice prevails have for years, in protest, called attention to grievous wrongs that have been inflicted upon them by the courts.

The effort to secure decent working conditions, a fair wage, and reasonable hours of work has involved the workers in a struggle with all the forces of greed and intrenched power, whose aim is to deny the growing economic and social demands of the workers.

The struggle has not infrequently degenerated into a conscienceless war to hold the workers in subordination and in the domination of every political agent to accomplish this purpose. Judges have been induced to serve this purpose—some consciously and some unconsciously. Injunctions have been issued that deny workers rights guaranteed them by constitutional and statutory laws; that deny workers freedom of speech, press, and normal action.

Judges have sentenced workers for doing that which they have a lawful right to do; have sentenced them for violations of the injunctions when the injunctions themselves were issued in direct contravention of specific inhibitions of law. Let us present the basic principles which determine the jurisdiction of equity courts and limit their powers.

INJUNCTIONS AND THEIR IMPORT.

The writ of injunction should be exercised exclusively for the protection of property and property rights.

To secure the aid of equity courts by the injunction process the petitioner must have no other remedy at law.

He who seeks equity must come into court with clean hands.

The injunction writ must never be used to regulate personal relations or to curtail personal rights.

Equity power—injunctions—must never be used in an effort to punish crime. This is the function of the law courts.

The equity courts must not be used as a means to set aside trial by jury.

In all America there is not a man learned in the law who will dispute that the principles just stated are the fundamental bases for equity procedure in the issuance of injunctions.

DEMANDS FOR JUSTICE.

Mr. Chairman, though courts have jailed workers, they have not silenced indignant protest or stifled or jailed love and demand for justice. Though they have jailed workers for contempt of unwarranted judicial orders, they have not been able to jail their contempt for arbitrary abuse and usurpation of authority. With defiant challenge of wrong, the workers demand that the courts of justice be restored to their rightful purposes; that they be made the courts of all the people, and not the courts of a privileged class—the employing class. There are those who believe that American workers exaggerate the need for legislation to prevent abuses of the injunctive process. There are others who wish to create that impression in order to retain the special privileges and advantages these abuses afford them. All the forces of prejudice and greed are lined up to prevent legislation which shall free the workers from restrictions upon normal efforts to protect and further their own material interests.

GOVERNMENT BY INJUNCTION.

What is "government by injunction" or, in other words, the misuse of the equity power? It is the modern use of the writ of injunction, especially in labor disputes, which is revolutionary and destructive of popular government.

Our Government was designed to be a government by law, said law to be enacted by the legislative branch, construed by the judiciary, and administered by the executive.

An injunction is "an extraordinary writ issued out of equity enjoining a threatened injury to property or property rights where there is not a plain, adequate, and complete remedy at law."

The definition of equity is: "The application of right and justice to the legal adjustment of differences where the law, by reason of its universality is deficient" or "that system of jurisprudence which comprehends every matter of law for which the common law provides no remedy * * * springing originally from the royal prerogative, moderating the harshness of the common law according to good conscience." In other words, it is the exercise of power according to the judgment and conscience of one man.

PROPERTY RIGHTS.

It was for this reason that in Great Britain, whence the United States derives its system of equity, as well as of law, the equity power was limited to the protection of property or property rights, and in such cases only where there was no remedy at law; the words adequate and complete have been added here.

When the courts of equity take jurisdiction over and issue injunctions in labor disputes they do so to protect business, which, under late rulings by several courts, is held to be property. These rulings are disputed and condemned by other courts, which hold that relations between employers and employees—between buyer and seller—are personal relations, and as such, if regulated at all, are regulated by statute or common law only. If the latter contention be right, and of this we believe there can be no question, the ruling that makes business property or the right to carry on or continue in business a property right is revolutionary and must lead to a complete change, not only in our industrial, but in our political life. If the court of equity be permitted to regulate personal relations, it will gradually draw to itself all legislative power. If it be permitted to set aside or to enforce law, it will ultimately arrogate to itself jurisdiction now held by the law courts and abolish trial by jury.

LAW AND EQUITY.

The Constitution confers equity power upon the courts by stating that they shall have jurisdiction in law and in equity in the same way that it makes it their duty to issue the writ of habeas corpus and in substantially the same way as it provides for trial by jury. Equity power came to us as it existed in England at the time of the adoption of our Constitution, and it was so limited and defined by English authorities that our courts could not obtain jurisdiction in labor disputes except by the adoption of a ruling that business is property.

If business be property in the case of a strike or boycott, and can therefore be protected by the equity court against diminution of its usual income, caused by a strike or boycott conducted by the working people, then it necessarily must be property at other times and therefore entitled to be protected against loss of income caused by competition from other manufacturers or business men. Business and the income from business would become territorial and would be in the same position as land and the income from land. The result would be to make all competition in trade unlawful; it would prevent anyone from engaging in trade or manufacture unless he comply with the whims and fancies of those who have their trade or means of production already established.

No one could enter into business except through inheritance, bequest, or sale.

DEFINITION OF PROPERTY.

In order to show the fallacy of this new definition of property we here state the accepted legal definitions of property, business, and labor.

Definition of property: Property means the dominion of indefinite right of user and disposition which one lawfully exercises over particular things or subjects and generally to the exclusion of all others. Property is ownership, the exclusive right of any person freely to use, enjoy, and dispose of any determinate object, whether real or personal. (English and American Encyclopedia of Law.)

Property is the exclusive right of possessing, enjoying, and disposing of a thing. (Century Dictionary.)

A right imparting to the owner a power of indefinite user, capable of being transmitted to universal successors by way of descent, and imparting to the owner the power of disposition from himself and his successors. (Austin, Jurisprudence.)

SOLE DESPOTIC DOMINION.

The sole and despotic dominion which one claims and exercises over the external things of the world in total exclusion of the right of any other individual in the world. (Blackstone.)

It will be seen that property is the products of nature or of labor, and the essential element is that it may be disposed of by sale, be given away, or in any other way transferred to another.

There is no distinction in law between property and property rights.

From these definitions it is plain that labor power or patronage can not be property, but aside from this we have the thirteenth amendment to the Constitution prohibiting slavery and involuntary servitude.

LABOR AND PROPERTY.

Labor power can not be property, because it can not be separated from the laborer. It is personal. It grows with health, diminishes in sickness, and ceases at death. It is an attribute of life.

The ruling of certain courts makes of the laborer a serf, of patronage an evidence of servitude, by assuming that one may have a property right in the labor or patronage of another.

Definition of business: That which occupies the time, attention, and labor of men for the purpose of livelihood or profit; that which occupies the time, attention, and labor of man for the purpose of profit and improvement. (American and English Encycl. of Law.)

That which busies or that which occupies the time, attention, or labor of one as his principal concern, whether for a longer or shorter time. (Webster's Dictionary.)

Definition of labor: Physical or mental effort, particularly for some useful or desired end. Exertion of the powers for some end other than recreation or sport. (Century Dictionary.)

It will be seen from the definitions that while there is a fundamental difference between property and business there is none at all between business and labor, so that if business be property, so is labor, and if the earning power of business can be protected by equity power through injunction, so can the earning power of labor; in other words, the laborer may obtain an injunction against a reduction of his wages or against a discharge, which would stop the wages entirely.

If this new definition of property, by including therein business and labor, be accepted, then the judge sitting in equity becomes the irresponsible master of all men who do business or who labor.

DISCRETIONARY GOVERNMENT.

We contend that equity power and jurisdiction—discretionary government by the judiciary—for well-defined purposes and within specific limitations granted to the courts by the Constitution, has been so extended that it is invading the field of government by law and endangering constitutional liberty; that is, the personal liberty of the individual citizen.

As government by equity—personal government—advances, republican government—government by law—recedes.

We have escaped from the despotic government of the king. We realized that, after all, he was but a man. Are we going to permit the growing up of a despotic government by the judges? Are not they also men?

PRESERVATION OF LIBERTY.

The despotism of one can, in this sense, be no better than the despotism of another. If we are to preserve "government of the people, by the people, and for the people," any usurpation by the judiciary must be as sternly resisted as usurpation by the executive.

What labor is now seeking is the assistance of all liberty-loving men in restoring the common-law definitions of property, and in restricting the jurisdiction of the equity courts in that connection to what it was at the time of the adoption of the Constitution.

To those who ask proof of the justice of labor's demands for correction of abuses of the injunctive process there is no better proof than can be found in the injunctions of Judge Dayton, of the Federal District Court for the Northern District of West Virginia. No injunctions have been more persistent, arbitrary, flagrant abuses of judicial power than those issued by that court.

CONDITIONS IN WEST VIRGINIA.

Conditions in that district are conducive to such abuses—West Virginia is a corporation-ridden State. The coal companies own vast tracts of territory over which they exercise practically absolute control. Their great industrial power has created the false impression that profits for the companies are tantamount to prosperity for the State. The companies have been allowed to interpret what constitutes prosperity and how it shall be maintained. Company managers are held responsible for profits. Naturally they condemn anything that decreases profits or "interferes" with business. That human rights may conflict with property rights is to them of no consequence, for they think property rights only concern profits. As what could not be accomplished in "other ways" was done through injunctions—the coal fields of West Virginia have been an injunction-governed district.

WORKERS DENIED CERTAIN RIGHTS.

The injunction rule that Judge Jackson inaugurated Judge Dayton has maintained with great "efficiency." The purpose of that rule is to deny free workers the right to organize in order to better their working conditions. Every agent of Government and force has been used to maintain the mines nonunion—to maintain the same "freedom" that the Colorado Fuel & Iron Co. is trying to force upon the miners of Colorado. The serious injustice that has resulted is most conclusively demonstrated by the injunctions issued by Judge Dayton against the coal miners during the strike of 1912–13.

The West Virginia-Pittsburgh Coal Co., incorporated under the laws of West Virginia, and operating large coal mines in the northern Panhandle district of West Virginia, petitioned for and obtained from Judge Dayton, on September 29, 1913, a temporary restraining order. The restraining order forbade the officers of the United Mine Workers, "their committees, agents, servants, confederates, and associates, and all persons who now are, or hereafter may be, members of said United Mine Workers of America, and all persons combining and conspiring with the said designated persons, and all other persons whomsoever, and each and every one of them" from organizing the company's mines, from "conspiring" to inaugurate a strike against the company, or from doing anything to aid in any strike against the company. The restraining order with slight modifications was made a preliminary injunction December 2, 1913.

OUTRAGE AGAINST RIGHTS.

Mr. Chairman, the injunction is so preposterous, such an outrage against the rights of the workers, such an arrogant usurpation of power, that the specific inhibitions are given in full. In reading the injunction and considering the things which the miners are forbidden to do, the extensive land holdings of the company should be held in mind. The miners lived in the company's houses, built upon the company's property. It was impossible for them to move outside their own dwellings without "trespassing" upon the company's land.

The wording of the injunction is also significant. The words are so chosen as to convey the idea that normal, lawful activities are "conspiracies." The injunction assumes the lawful right of the company to whatever relations with its employees will produce greatest profits, and to regard those relations as part of the right to do business. The "right to continue service" from employees is the basis for several prohibitions. Judge Dayton assumed that a strike is unlawful, that labor organizations and their purposes are illegal.

SPECIFIC PROHIBITIONS IN JUDGE DAYTON'S INJUNCTION.

The officers and the present and future members of the United Mine Workers, their associates, and all other persons are enjoined and restrained:

"1. From interfering and from combining, conspiring, or attempting to interfere with employees of the plaintiff for the purpose of unionizing plaintiff's mine, without plaintiff's permission and consent, and in aid of such purpose knowingly and willfully bringing about in any manner the breaking by plaintiff's employees of contracts of service known to them at the time to exist which plaintiff now has with his employees, and from knowingly and willfully bringing about in any manner the breaking by plaintiff's employees of contracts of service which may hereafter be entered into by persons with plaintiff and be known to them, while the relationship of the employer and employee as to such employee so brought to break his contract exists, and especially from knowingly and willfully enticing plaintiff's employees, present or future, knowing such relationship, while the relationship of the employer and employee, as to such employee enticed, exists, to leave plaintiff's service, giving or assigning directly or indirectly as a reason for any such act so brought about, or enticing and leaving the plaintiff's service, that plaintiff does not recognize the United Mine Workers of America, or that plaintiff runs a nonunion mine, or that the interests of the United Mine Workers of America require that plaintiff shall not be permitted to run a nonunion mine, or that the interests of the union will be best promoted thereby.

"2. From interfering and combining, conspiring, or attempting to interfere with the employees of plaintiff so as knowingly and willfully to bring about in any manner the breaking by the plaintiff's employees of contracts of service known to them at the time to exist, which plaintiff has with its employees, and from knowingly and willfully bringing about in any manner the breaking by plaintiff's employees of contracts of service which may hereafter be entered into by persons with plaintiff, and be known to them, while the relationship of employer and employee, as to such employee so brought to break his contract exists, and especially from knowingly and willfully enticing plaintiff's employees, present or future, knowing such relationship of employer and employee as to such employee so enticed exists, to leave plaintiff's service without plaintiff's consent, against plaintiff's will, and to plaintiff's injury.

SOME STARTLING SPECIFICATIONS.

"3. From interfering with, hindering, or obstructing the business of plaintiff, or its agents, servants, or employees, in the discharge of their duties as such, at and about plaintiff's mines or elsewhere, by trespassing on or entering upon the grounds and premises of the plaintiff, or within its mines for the purpose of interfering therewith, or hindering or obstructing its business in any manner whatsoever, or with the purpose of compelling or inducing, by threats, or force, intimidation, violence, violent or abusive language, or persuasion, any of the employees of plaintiff to refuse or fail to perform their duties as such employees.

"4. From compelling or inducing, or attempting to compel or induce, by threats, intimidation, force, or violence, or abusive or violent language, any of the employees of plaintiff to leave its service or fail or refuse to perform their duties as such employees, or to compel or attempt to compel by threats, intimidation, force, violent or abusive language, any person desiring to seek employment in or about the plaintiff's mine and works from so accepting employment therein.

"5. From entering upon or establishing a picket or pickets of men on or patrolling railroads or highways, public or private, passing through or adjacent to the plaintiff's property for the purpose of inducing or compelling by threats, intimidation, violence, violent or abusive language, or persuasion, any employee of plaintiff to fail or refuse to perform his duties as such, or for the purpose of interviewing or talking to any person or persons on said railroad or highways coming to plaintiff's mines to accept employment with plaintiff, for the purpose and with the intention of inducing and compelling them, by threats, violence, intimidation, violent or abusive language, persuasion, or in any other manner whatsoever, to refuse or fail to accept service with plaintiff.

REGULATING THE EMPLOYEE.

"6. From compelling or inducing or attempting to compel or induce by threats, force, intimidation, or violent or abusive language any employee of said plaintiff to refuse or fail to perform his duties as such employee; and from compelling or attempting to compel, induce by threats, intimidation, force, or violence, or abusive or violent language, any such employee to leave the service of plaintiff; and by like methods to prevent or attempt to prevent any person desiring to accept employment with plaintiff in or about its mines or works or elsewhere from doing so by threats, violence, intimidation, or violent or abusive language.

"7. From interfering in any manner whatsoever, either by threats, violence, intimidation, persuasion, or entreaty with any person in the employment of plaintiff who has contracted with

and is in the actual service of plaintiff, to entice or induce him to quit the service of plaintiff or fail or refuse to perform his duties under this contract of employment, and from ordering, aiding, directing, assisting, or abetting in any manner whatsoever any person or persons to commit any or either of the acts aforesaid.

"8. From congregating at or near the premises of plaintiff, and from picketing or patrolling said premises for the purpose of intimidating plaintiff's employees or coercing them by threats, intimidation, violence, abusive or violent language, or preventing them, in the manner aforesaid, from rendering their service to the plaintiff; and in like manner from inducing or coercing them to leave the employment of plaintiff; and from in any manner so interfering with the plaintiff in carrying on its business in its usual and ordinary way; and from interfering by threats, intimidation, violence, violent or abusive language, with any person or persons who may be employed or seek employment by plaintiff in the operation of the plaintiff's mines or works.

RIGHTS OF LABOR QUESTIONED.

"9. From either singly or in combination with others collecting in and about the approaches to plaintiff's mines and works for the purpose of picketing or patrolling or guarding the highway and approaches to the property of the plaintiff for the purpose of intimidating, threatening, or coercing any of plaintiff's employees from working in its said mines or works, or any person seeking employment therein, from entering into such employment, and from interfering with said employees in going to and from their daily work in and about the mines and works of plaintiff.

"10. And from either singly or collectively going to the homes and boarding homes of plaintiff's employees, or any of them, for the purpose of intimidating or coercing any or all of them to leave plaintiff's employment."

The injunction then enjoins the miners from "conspiring" to strike, from even using "persuasion" to "induce" employees to strike, from "trespassing," that is, going outside their homes for the purpose of "enticing" employees to leave the company's service. Can these workers be free if they do not have the right to stop work? If they have that right, how can they be restrained from "conspiring" to exercise it?

WHAT FREEDOM MEANS.

Mr. Chairman, have free workers a right to organize to promote their own welfare and happiness? How can they be restrained from conspiring to achieve that purpose, even without the permission of the company? In organization workers exercise personal rights. Note the skillful twist of this injunction specialist in the phrase "unionizing plaintiff's mine," which is intended to give the impression that property rights were endangered.

Note in section 3 another touch of the expert—"elsewhere"—limitless, boundless "elsewhere." And again "in any manner whatsoever." Can any judge be justified in forbidding the United Mine Workers from obstructing the business of the West Virginia-Pittsburgh Coal Co. "in any manner whatsoever"? Think of the manifold activities, perfectly legal, normal activities, covered by the phrase "in any manner whatsoever."

DESPOTIC LEGISLATION.

How can justice exist when a judge is permitted to issue injunctions which amount to despotic legislation? If even one judge may under existing conditions deprive even one worker of rights necessary to his freedom, then those existing conditions must be changed without delay. One human being is more valuable than a mine. But Judge Dayton ruthlessly trampled upon the rights of many workers, and by precedent all workers.

In section 5 the miners are forbidden to use railroads, private or public highways "passing through or adjacent to the plaintiff's property" for the purpose of "interviewing" or "talking to any person" or "in any manner whatsoever" to explain working conditions in the mines to enlist support for the cause of the strikers. Think of it—freedom of speech denied by an injunction in order to help the mine operators to keep their employees or "prospective employees" ignorant of their opposition to organized labor, higher wages, and better conditions of work.

The prohibitions of section 6 are not for the purpose of protecting mine property, but are for the very obvious purpose of helping the operators to fasten their grip upon their unorganized, impoverished employees. What property right has the West Virginia-Pittsburgh Coal Co. in the labor power of its employees? It has no property or property right in the labor of the mines. Then by what authority can any judge command workers not to induce fellow workers to refuse or fail to perform personal service—labor? If any of those conducting the strike should become too vehement in the manner of their inducement there is recourse at law for disturbance of the peace, and so forth. Assuming that the purpose of a judge in issuing an injunction may be good, yet by usurping authority, by establishing a precedent that constitutes a menace to free institutions, the issuance of that injunction is a greater and more far-reaching wrong than any act of violence by a worker overwrought from a sense of injustice.

ENTICE OR INDUCE ILLEGAL.

In section 7 members of organized labor and "all other persons whomsoever" are enjoined from interfering "in any manner" to "induce" the employees of the company to strike, or from ordering, aiding, directing, assisting, or abetting a strike "in any manner whatsoever." A strike is legal, yet this judge presumes to forbid free man to "entice or induce" free workers to "commit" legal acts.

What is the value of law if irresponsible judges may ignore it and substitute their own orders? How long can a constitutional government be maintained under judicial anarchy? How long can such a judiciary retain the respect of just, law-abiding citizens? Under section 7 of the injunction payment of strike benefits are prohibited; distribution of food and clothing to strikers and their families; every charitable impulse and every sympathetic desire to help those fighting for industrial justice are forbidden.

The prohibitions of section 8 are based upon the assumption that the right of the company to "carry on its business in its usual and ordinary way" is so sacred that the judicial authority of the United States may be exerted to protect that right and to prevent striking miners from securing higher wages and better working conditions.

Sections 9 and 10 prohibit the miners' officials and all persons whomsoever from singly or collectively using their influence with the company's employees or any seeking employment with the company to join the strikers' cause.

WRITTEN CONTRACTS BINDING.

The injunction contains several references to contracts of workers, implying that the company entered into written contracts with its employees equally binding upon both. Miners testified that they were hired from day to day under no formal contract; in fact, the only way the coal company could have had a contract with its employees was through the method it had rejected—collective bargaining with the representatives of its employees. Even had such a contract existed, it would give the employers no right to enforce performance of specific services.

The thirteenth amendment to the Constitution of the United States is a specific denial of such a right. It reads:

Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States or any place subject to their jurisdiction.

Those who know the industrial world know the powerful, heartless force of greed which opposes betterment of working conditions in order to maintain high profits; they know the long, unending struggle of the workers from slavery up to greater freedom; they know that in law, philosophy, and even in common phrases of speech are incorporated principles or fragments of principles based upon the concept that workers are slaves. All these constitute barriers to the freedom and progress of the workers. Many eminent conscientious judges do not understand this struggle of labor in effort to establish distinctions between human rights and property rights and to secure legal recognition of human rights for those who labor.

TRADITION MOLDS SYMPATHIES.

This injunction issued by Judge Dayton is typical of the injustice done by those whose habit of thought and sympathies are molded by traditions of the sacredness of property. Government was first established to protect property, but its functions have been constantly widened until now they extend to the protection of individuals and their rights as human beings. Some judges have not yet sensed this development; such a one is Judge Dayton, another is Judge Taft, one of those who inaugurated the practice of using injunctions to help employers against their employees in industrial conflicts.

Perhaps some qualm of an unsuspected conscience moved Judge Dayton to add the following paragraph to the temporary injunction:

The plaintiff's employees who have signed and entered into contracts introduced in evidence in this suit have the right at any time to terminate the contract and to go to work elsewhere, and when they have done so they have a perfect right to join the union of the United Mine Workers of America or any other labor union, and nothing in this order shall be construed as in any manner limiting their said rights.

A vague suspicion seems to be stirring in the judge's intellect, causing him to think that even labor unions may be legal in some localities. Perhaps he may have yet another idea, and

wonder how, if labor unions be lawful, men may be legally restrained from joining them.

JUDGE DAYTON'S CONTEMPT DECISIONS.

On November 11, 1913, the West Virginia-Pittsburg Coal Co. filed a petition and several affidavits asking that Van Bittner, president of the Pittsburgh district of the United Mine Workers, several employees of the coal company, and Meyer Schwartz, a local storekeeper who had leased to the United Mine Workers land upon which to hold meetings, be attached for contempt of alleged violation of the restraining order.

The injunctions and the suit brought, as we have already shown, were for the purpose of enabling the coal company to invoke the assistance of a Federal court in its controversy with its employees concerning wages and hours of employment. Is not this occasion sufficiently serious to cause thoughtful citizens to ponder upon the effect that such interference will have upon the attitude of the workers toward governmental authority and their respect for law and the judiciary? Injustice ever begets discontent and demands for reform. A wise and generous nation will give heed to these demands, however crude their expression. Sea captains might as well scuttle their ship as to ignore signs of approaching storms. The workers will not always patiently endure both burdens and injustice.

In March, 1914, some thirteen or fourteen of the employees of the company and three or four organizers of the United Mine Workers were tried at Philippi, W. Va., a town situated at a distance of about 150 miles from the company's mines, although the original chancery suit had been docketed at Wheeling, only a few miles from the mines.

JUDGE DAYTON'S METHODS.

Judge Dayton tried the cases, of course, without a jury. Particularly significant of his judicial attitude is the fact that he permitted hearsay and all kinds of evidence to be introduced before him, declaring that he would later determine for himself what part of the evidence was legally admissible and what part should be excluded.

The court rested its decision upon the supposition that the United Mine Workers is an illegal conspiracy and took "judicial notice" that in the chancery cause of the Hitchman Coal & Coke Co. *v.* John Mitchell et al., an entirely separate and distinct case now pending in the United States Circuit Court of Appeals for the Fourth Circuit, the court had found and determined the United Mine Workers of America to be an unlawful organization, "an unlawful and criminal conspiracy both under common law and the Federal Sherman Trust Act."

It follows that if a Federal judge can "take judicial notice" that the United Mine Workers of America has been determined an illegal conspiracy in another case, now pending before the court, any finding of a court may be regarded as established for any other case, and any Federal judge may "take judicial notice" that any other voluntary association of working people is "at common law and under the Federal Sherman Act" likewise an illegal conspiracy. If this precedent be established, any injustice may thus be perpetuated to the lasting injury of the working people, and, regardless of evidence in particular cases before a court, that court will be able to act upon "judicial notice" of what has happened in other cases.

ARGUMENT FOR REVISION.

These new abuses introduced by Judge Dayton constitute one more pressing argument for revision of the law and the practice regulating injunctions as well as the Sherman antitrust law. The application of the Sherman antitrust law to organizations of workers and the issuance of injunctions to regulate personal relations are based upon the same fundamental principle—that labor power is property. The workers demand that they be recognized as freemen, that the rights be restored to them which were theirs before the courts applied law and legal principles in a manner that robs them of personal rights of freemen.

In announcing his findings in the case, Judge Dayton called attention to a number of acts "committed" by the defendants as evidence of violations of the restraining order. Among them are these:

A few days after, on Sunday, Van Bittner and Oates appeared at the mine at Collier with a brass band of about 35 men, followed by a procession of some 125 organization men and sympathizers, from Steubenville, Ohio, largely, who marched across the company's property and held a meeting on the public road, which meeting was addressed by Bittner.

Shortly afterwards Oates rented from Myer Schwarz a small angle of unoccupied ground, possibly an eighth of an acre, surrounded on two or three sides by the company's property and an old road, about 1,000 feet from the company's pit mouth, and erected two tents there over which was placed a large sign, "Headquarters of the United Mine Workers of America." For the rental of this ground for six months Oates paid Schwarz $200, as he admitted, out of the organization funds, although the true rental value did not exceed for this six months $10 or $12 at most.

STRUGGLING TO ESTABLISH.

All acts of the miners struggling to establish better conditions of life and work in West Virginia should be considered in their relation to the power of the mine operators. That power was made practically supreme by ownership of the property and land upon which the miners must live and move. It was maintained by supervision of post offices, by control over stores and supplies, by ownership and control over schools and churches, by the company's mine guards, agents of detection and compulsion. These miners did not have one square foot of ground on which to exercise their guaranteed rights to life, liberty, and the pursuit of happiness; not one square foot for freedom of speech and the promotion of their own welfare and interest. Yet under the vague all-inclusive terms of a judicial order, a Federal agent of justice assumes the power to punish free men for renting a strip of ground upon which to live, to organize a union, and to carry out the normal and lawful purposes of that union. Under that restraining order the officials of the Mine Workers' Union are forbidden to give that organization friendly advice as to how to promote their interests or to aid them in efforts in any manner whatsoever. The purpose of this restraining order was to prevent organization among the workers, to prevent all methods by which the miners could make their protests effective, and to use the Federal courts as a strike-breaking agency in order to assist the mine operators to "control" their men to conduct their business in any manner that assured the highest dividends.

CONSPICUOUS ILLUSTRATION.

A funeral of a miner killed by the company's hired thugs was made conspicuous as an illustration of the company's method of dealing with men who retain a spark of independence. This the judge particularly notices in his findings.

Judge Dayton points out that funds of the United Mine Workers were used to retain lawyers to defend the men before the courts; to pay the fines of men arrested, and to furnish bail bonds. Could any judicial situation be more intolerable? What manner of justice does injunctive rule establish when it becomes unlawful to pay moneys demanded by the law?

In considering the defendants individually and in sentencing them Judge Dayton said:

Now the eighth paragraph of this finding will be to the effect that, while I do not deem it necessary in law to show further the connection of these men than that they joined this organization and were part and parcel of it, yet it will be in effect the setting forth of the individual acts of these defendants, and I propose to find these facts.

VERY QUEER VERDICT.

Frank Ledvinka was called before the court and declared guilty of the following:

This court will find that you are an organizer of the United Mine Workers, and have been for the last seven years a national organizer; that you come from Ohio for the purpose of organizing and carrying on this strike after the decision in the Hitchman Coal Co. case was decided and determined; that the United Mine Workers was a conspiracy and an unlawful organization; that you divided with James Oates the authority and leadership in directing and controlling the activities of the strikers, made speeches in which you urged the inauguration and the prosecution of the strike; sent Harry Youshack to the home of one of the company's employees to threaten him, aided in defending strikers who were arrested for assaulting nonunion men; broke the promise you made to this court on December 2; advised the strikers that they must fight, must stop the company's employees from working, must beat and assault them for the purpose of preventing them from working; that you were authorized, as stated, by Frank M. Hayes, international vice president of the United Mine Workers of America, to make this attempt to unionize the mines of the Panhandle section of West Virginia, and did what was done in this strike in pursuance of that authority.

EARNEST GIRL REPRIMANDED.

Fannie Sellins, a faithful, earnest girl, struggling to aid and improve the toilers' working conditions, was called before the bar and was thus addressed:

This court finds from this evidence that you are a paid organizer of the United Mine Workers; that you have made the false pretense of being engaged in religious and charity work; that you frequented the camp at Collier, which was not a fit place for any decent woman; spent most of your time with James Oates and Secundo Colliffe, aiding and assisting them in directing the activities of the strikers in preventing the company's employees from working; made inflammatory speeches intended to incite the strikers to acts of violance; incited and attempted assaults on the company's employees at the railroad bridge; aiding in providing supplies for the camp at Collier, using funds of the United Mine Workers; aided in the defense of the strikers arrested for assaulting the company's employees; participated in the attempt to make the Moore funeral a means of inciting the strikers to acts of violence; that you advised the strikers to beat up the nonunion men; that you advised the strikers to go to No. 3 mine and beat and assault nonunion men; that you led a mob of from 150 to 200 men to intercept the company's employees north of Wellsburg, paid their fares on the cars to the place where they divided into three several troops for the purpose of intercepting the company's men, whom you expected to come from work by one of the roads; that you advised the strikers to knock the heads off the nonunion men, whom you designated as "scabs"; preached to the strikers your defiance of the orders of this court and urged them to defy and disobey the court and its injunction; that you broke your promise made to this court on December 2, and, after promising to obey the injunction, made a speech in which your proclaimed your defiance and your intention to continue to disobey the injunction.

This being the evidence, the sentence of this court is that you be imprisoned in the Marion County jail for a period of six months.

EVIDENCE DECLARED FALSE.

Miss Sellins asked, "May I say one word?"

Judge Dayton replied, "Not one word."

Then Miss Sellins said, "That evidence is all false."

To Tom Smith Judge Dayton said:

This court finds from this evidence that you participated in the Moore funeral procession and assisted in the attempt to incite the strikers to violence by carrying banners with inflammatory inscriptions; that you aided in organizing and carrying on the strike at Collier and in many of the acts done there in violation of the injunctions; that you were a part of the time in charge and control of the camp at Collier and directed the picketing and other means of preventing nonunion men from going to work; that you did picket duty yourself for the purpose of preventing nonunion men from going to work; that you trespassed on the company's property after being warned not to do so.

This court sentences you to five months in the Wetzel County jail. Bond, $2,500.

The West Virginia mine operators have made efforts to induce immigrants to go to the State. Workers from countries where the standards of work and life are lower than in the United States, workers unacquainted with the American spirit of independence and self-protection, constitute, for a time at least, docile employees. For this reason the mine operators have sent agents abroad and to the port of New York to direct immigration toward their mines. Some of these miners acquired American views and joined the strike for greater freedom, and because of that are now said to be in danger of deportation as "undesirables." One of these "undesirable foreigners" tainted by American ideals, Ernest Ewald, was found guilty, as follows:

IMMIGRANTS INDUCED.

This court ascertains that you were an occupant of the tents at Collier from the time the camp was established and stayed there for the purpose of picketing the approach to the mine and preventing nonunion men from going to work there and of intimidating those who were working; that you did picket duty for the purpose of preventing nonunion men from going to work there; that you trespassed on the company's property and were fined by the local authorities for so doing; that you stopped men on their way to work at Collier and caused them to turn back and go away; that you patrolled as a picket at the camp at night armed with a gun. You are a foreigner. I have no doubt but what you were misled into this, but, nevertheless, it is clear that you came to this country, where you can make twice as much for a day's wage as you can at your home; yet you preferred to follow this unlawful organization instead of earning your living honestly in legitimate labor and the sweat of your brow. You preferred to take their hired pay of a few dollars a week and work against law and order and peace and sobriety and the rights of men and the rights of property; you preferred to do that. You will be sentenced to three months in the Monongalia County jail. Bond, $1,500.

Another foreigner was given this judicial interpretation of American liberty and justice:

This court finds from the evidence that you frequented the camp at Collier; that you did picket duty for the purpose of preventing the nonunion men from going to work, and trespassed on the company's property at the mouth of the mine frequently.

You are a foreigner, and came to this country for the purpose of improving your condition. You were making more money, twice over, than you could get in your own country, yet you preferred to join this unlawful organization and engage in these unlawful practices rather than to work and make the higher wages, honestly and upright and under the law. You still remained there after you quit work instead of going away and leaving this company to exercise its rights over its own property. I will sentence you to 30 days in the Hancock County jail. Bond, $500.

MENTAL BIAS AND PREJUDICE.

The language of Judge Dayton reflects mental bias and prejudice against the workers. He permitted to be laid before the court as evidence hearsay and other improper testimony. Witnesses for the prosecution were permitted to testify as to facts and occurrences not within their personal knowledge. Witnesses were permitted to testify in such a way that it was not possible to tell what statements were based on personal knowledge and what on information gained from others. Testimony of a prejudicial nature, not pertinent to the charges, was admitted in evidence. The court so ordered, saying that he would determine what should be accepted and what rejected. Yet, in announcing his findings, Judge Dayton said:

Now, gentlemen, touching the questions of these motions that have been made, I want to say I do not regard it as incumbent upon myself as a judge to go to the labor of setting forth in detail what part of this testimony is irrelevant, improper, and immaterial. There are 759 pages of it. I do regard it as my duty to file in these cases a finding of fact from the material and relevant testimony, rejecting the consideration of that which is immaterial and irrelevant.

Judge Dayton's methods destroy the definiteness of rights of law and undermine the foundations of justice.

An appeal was taken to the United States Circuit Court of Appeals, where the cases were argued during the first of May.

APPALLING PROOFS.

No more distressing, appalling proofs of need of reform of law relating to the injunctive process can be found than the injunctions issued by Judge Dayton. It is the abuses of judicial authority, jurisdiction, and power that beget bitter, burning indignation against the methods and agents of justice. If we would prevent our courts from being brought into contempt, we must see to it that they are really agents of justice. No court should be prostituted to the service of the private purpose of individuals. No court should be used as a strike-breaking agency.

The restraining order, the temporary injunction, the contempt proceedings in Judge Dayton's court show that the purpose for which the usurpatory power was invoked was not to prevent irreparable injury to property, but to rivet the fetters on the workers to defeat an industrial movement to secure better wages and conditions of work and to prevent any weakening of the autocratic rule and domination of the mine owners.

JUSTICE, TRUTH, AND EQUALITY.

Such "judicial proceedings" will solidify the great labor movement in West Virginia, and with the solidification will come the public awakening, now dormant, to the realization that an autocratic court can only temporarily trample upon the rights of its citizens, but in the end justice, truth, and equality must stand before the American courts as truth, justice, and equality stand before God.

While the period of transition is in progress, while certain courts are cleaning themselves of their present unwholesome associations; throwing off the cloak of selfish and sinister influence, labor will have to fight its battle, make the sacrifice, be punished, reprimanded, and made unhappy; yet so surely as the silver lining follows the cloud, so surely will it emerge from its present unfortunate condition in West Virginia, redeemed and triumphant. And with the redemption will come a clean court, with honor, justice, and equality actuating its every movement; and with the same redemption the court will see about it a happy people, honoring and respecting it because of its strict adhesion to the American principles of justice.

THE RESTRAINING ORDER.

I desire to say a word on the "restraining order" and "temporary injunctions." These legal instruments forbid acts which may cause injury to property, and broadly prohibit any acts which would enable the workers individually or collectively to work in furtherance of their particular interests.

In violation of these intended sacred principles of equity the evident purpose of the West Virginia mine operators was, and in certain sections of the same State now is, to perpetuate anti-union policies for their own greed and aggrandizement, and forcing upon their employees working conditions little better than slavery.

I believe, and it is my sincere conviction, that the principle of justice is of incalculable importance to these miners of West Virginia and to the workers elsewhere in these cases.

I believe in the right of dissatisfied workmen and their sympathizers to organize; to conduct a strike for the purpose of securing better terms and conditions of employment; the right to furnish and receive strike benefits.

I do not believe in the practice of employers, under the guise of "sacredness" of contracts for personal services, preventing anyone from approaching their employees to ask them to quit work and to join with fellow workers for the protection and the promotion of the interests of all; I do not believe in the practice of a judge issuing orders restraining persons from doing that which they have a lawful right to do and the practice of a judge punishing them for violating such unlawful orders.

BETTERMENT OF HUMAN LIFE.

The House is now considering a bill for the reform of abuses of the injunctive process. Those abuses American workers have felt more keenly than all other citizens. In the name of justice they demand the speedy enactment of law adequate to prevent future perversions of justice. They demand not only that organizations of workers be deemed lawful, but that they be accorded the legal right to such normal and necessary activities as will make organizations real forces for the betterment of human life.

Associated effort for self-help is the only protection upon which the workers can rely. It has done more than any other force for the uplift of the masses of our country. It will do more as the way is opened to greater opportunities. The workers demand these opportunities in the name of justice and humanity. They demand legislation that shall exempt them from the provisions of the Sherman Antitrust Act and protect them from abuses of the injunctive process. [Applause.]

Mr. CARLIN. Mr. Chairman, how much time has the gentleman from Minnesota [Mr. VOLSTEAD] remaining?

The CHAIRMAN. The gentleman has 10 minutes remaining.

Mr. CARLIN. I ask that the gentleman use some of his time.

Mr. VOLSTEAD. Mr. Chairman, I yield to the gentleman from Oklahoma [Mr. MORGAN].

The CHAIRMAN. The gentleman from Oklahoma [Mr. MORGAN] is recognized.

Mr. MORGAN of Oklahoma. Mr. Chairman, evidently no argument is necessary before this House to secure the passage of this amendment. I wish, however, expressing my own personal views, to declare myself in favor of this amendment, not that I believe that this amendment contains all that should be added to this section, but because I understand the proposed amendment has the approval of the labor organizations of this country, and I assume the leaders of such organizations have carefully examined the amendment and are satisfied with its provisions.

Mr. Chairman, if there be a conflict between capital and labor—and, in a broad sense, there should not be—but if there be or is such a conflict, so far as I am concerned, after the most careful and deliberate consideration on my part, I propose to place *myself on the* side of labor. [Applause.]

Because, gentleman, I believe that on that side lie the interests of my country and of humanity. The great bulk of the citizens of this country are wage earners. The great bulk of the wealth produced in this country is distributed through the payment of wages. Labor organizations have their imperfections, no doubt. But, on the whole, I believe such organizations are beneficial to the country and helpful to all wage earners. Such organizations may be at times subject justly to criticism. But what organization of human beings is not subject to criticism? But with all their defects I believe it would be a calamity for this Nation if such organizations should cease to exist. In my judgment it would be a misfortune to the country if through our national laws our labor organizations should be hampered and hindered in all their legitimate work. So far as we can aid them by national legislation in their great purpose of shortening the hours of labor, increasing wages, and improving conditions under which labor is performed we should do so, and by so doing I believe we are rendering a patriotic service to our country. There are many who think legislation favorable to labor organizations means hostility to the great business interests of the country. This is not true. The intelligent wage earners of the United States know that, after all, their own welfare depends upon the prosperity of business. They know that business must prosper or labor will suffer. Employees know that any serious loss to employers will react unfavorably upon employees. So that, after all, I believe the business interests of this country are really safe in the hands of labor. We have in the United States the most intelligent workingmen in the world. They know that their share of wealth must come through wages paid; that good wages can not be paid by business concerns that are unprofitable. So that I can not think that our labor organizations are hostile to business or are dangerous to industrial peace. More than that, the very strength of this Nation, the perpetuity of this Republic, depend largely upon the attitude of the wage earners of this country toward our institutions and our flag. I believe the National Government should by its legislation indicate its friendliness toward the labor of this country, so that the great labor organizations of this country and the rank and file of the army of wage earners of this Nation who are not in organized labor will have a friendly attitude to our institutions, to our country, and to our flag; so that in time of war, in time of stress, in time of danger, the great body of wage earners, constituting the masses of this Nation, will remain true and loyal to the flag of our country. [Applause.]

The CHAIRMAN. The time of the gentleman has expired.

Mr. VOLSTEAD. Mr. Chairman, I desire to occupy only a minute or two in speaking on this amendment.

I desire to call attention to a peculiar situation. This morning I read in one of the newspapers that labor claims for this proposed amendment one meaning while the administration claims an entirely different meaning. It seems to me that we ought to write the amendment so that it will not be open to dispute as to its meaning. If this amendment is intended to legalize the secondary boycott, this House ought to know it. If it is intended, as I believe it is claimed by those who present it on this floor, simply to legalize the existence of these organizations, I do not believe there is anyone here who would be opposed to it. It is very unfortunate that an amendment should be proposed to this bill which must of necessity go into the courts after it becomes a law before anybody will know definitely just what it means. It looks as though it has been drawn to deceive somebody. It is perfectly plain that if those who drew it intended to write a clear exemption of labor into this statute, they could easily have found the language. It is unfortunate, and it seems to me that before we close the discussion on this paragraph some proposition ought to be submitted that no one can dispute. We ought to know what we are voting for. [Applause.]

I yield to the gentleman from Iowa [Mr. GREEN] the balance of my time.

The CHAIRMAN. The gentleman from Iowa [Mr. GREEN] is recognized.

Mr. GREEN of Iowa. Mr. Chairman, while I agree with the gentleman from North Carolina that this amendment only expresses the consensus of the best opinion as to what the law now is, I am still of the opinion that it is well to put in the statute an affirmative declaration which can not be misunderstood. Under the Sherman law as it now stands a labor organization is perfectly legal, and a peaceable strike or peaceable picketing is perfectly legal, under the decisions of a majority of the courts.

Mr. Chairman, I had occasion not long ago to advise a committee of a labor organization who waited upon me. They were engaged in a strike against the Harriman and Illinois Central lines. They represented a body of machinists. They told me they were threatened by the attorneys of those railroads with a prosecution under the Sherman law. I advised them that the Sherman law had no application to the situation as it existed under their strike, for their strike was a perfectly peaceable one. They had committed no violence. They had threatened no one with violence, but had simply expressed by their action their right as organized members of a fraternity to stop work peaceably. I told the men not to be alarmed; that no prosecution would be begun, and to tell the railroad attorneys to go ahead if they desired, but in the end they would meet an action for damages for malicious prosecution. But the men were not prosecuted. There was no action begun against them, nor was anything done under the Sherman law. Yet there is, as I think, some necessity for this provision, for the reason that there have been isolated decisions by the lower Federal courts holding that the mere organization of a body of laborers for the purpose of maintaining or raising wages is contrary to law. There have been some indictments under the Sherman law, and one is now pending, as I understand it, in Colorado. It is true that the reason has been given that in the particular instances to which the law has been so applied that violence had been committed or attempted. But there should be some definite standard, and the section as amended fixes one, and labor organizations which confine themselves to legitimate purposes need not fear the law.

Mr. WEBB. I yield to the gentleman from Missouri [Mr. DECKER].

Mr. DECKER. Mr. Chairman, I shall support this amendment. It distinguishes between the man and the dollar, between the ore and the man who digs the ore, between the throttle and the man at the throttle. It distinguishes between labor and the products of labor. It is a just distinction, which was written before the formation of government upon the tablet of nature by Almighty God. [Applause.]

The CHAIRMAN. The time of the gentleman has expired.

Mr. WEBB. Mr. Chairman, I yield to the gentleman from Connecticut [Mr. REILLY].

Mr. REILLY of Connecticut. Mr. Chairman, I am in favor of the plainest statement of the intention of the committee in regard to the amendment under consideration. If the committee intended to exempt labor and farmers' organizations from the operation of the Sherman antitrust law, why does it not say so?

I am not a lawyer; just a common layman, without ability to give a judicial opinion, but I do know what is meant when it is stated that the Sherman antitrust law shall not apply to certain organizations.

Let us state the case as plainly as possible, so there will be no doubt in the mind of anyone as to what it is intended to do. If these organizations are to be exempted, let us say so; if they are not, let us say that. Do not let us quibble nor leave it to courts to upset the intention of Congress in this matter.

Mr. CARLIN. I yield to the gentleman from Ohio [Mr. BRUMBAUGH].

Mr. BRUMBAUGH. Mr. Chairman, I desire to state that personally I favor the plainest and most explicit declaration possible in behalf of the rights of labor. I think this is best for both sides concerned and interested in this matter. I shall vote for this amendment, because I understand it meets with the approval of labor organizations that have carefully examined it, and at the same time it is considered fair by those who employ labor. In fact, I am informed that the amendment is the result of mutual understanding between both labor leaders and employers of labor, and I have been advised and assured personally by labor leaders in whom I place every confidence that the

amendment is satisfactory to labor organizations and friends of labor everywhere.

Mr. Chairman, it is gratifying, indeed, to those of us who have been the friends and champions of labor and labor laws for years, both here and elsewhere, and who at the same time have wanted this great advance made in justice not only to labor but to honest employers of labor as well, to see this great question settled in this sensible, reasonable, amicable manner, in this spirit of fairness to all concerned, and thus see this tardy justice done to the great cause of labor, upon which the prosperity and happiness of the people as a whole and the growth and grandeur of our great Nation must ever rest. No nation can be or ought to be strong and great and secure that does not respect and honor its laboring men and women. The most honorable and dignified thing in all this world for any man or woman is honest labor, whether of hand or heart or brain; for did not the Nazarene Carpenter, the Christ Himself, give to honest labor a halo of honor and dignity that no rank of birth or wealth can equal or enjoy?

Extremely gratifying to me, indeed, is it to see this great Democratic Congress keep and redeem our promises made to labor and labor organizations; to see this Democratic Congress place the man above the dollar and to be able to hear the heartbeats of humanity above the clinking of the coin of commercialized wealth. [Applause.]

No other Congress in 50 years has done so much by law to assist and relieve labor. By our tariff law we take the hand of trust monopoly on the high prices of the necessaries of life out of the pockets of the laboring man. By our currency bill we protect his little saving in the banks from the panicky gambling heretofore pastime operations of the money power. By this amendment we take the hands of those who would oppress and tyrannize off of the throat of labor and let it breathe free.

Mr. Chairman, personally I want to say that I am proud to have come from the ranks of laboring people myself. I know by years of personal experience their life of toil, and I can sympathize with their struggles and needs. Laboring men seldom ask for aught but their just deserts, and the Good Book says that the laborer is worthy of his hire and condemns those who would oppress the laborer in his way.

I propose now, as I always have in the past, to stand for all just demands in labor's interests.

I congratulate my friends and fellows, the laborers, on this advance, which is the promise, I trust, of the dawning of a better day wherein labor shall receive its just recompense of reward, wherein life shall be sweeter, labor lighter, and the world for all a better place to live upon. [Applause.]

The CHAIRMAN. The time of the gentleman has expired.

Mr. CARLIN. Mr. Chairman, how much time is there remaining?

The CHAIRMAN. The gentleman has six minutes.

Mr. CARLIN. I yield to the gentleman from Maryland [Mr. LEWIS].

Mr. LEWIS of Maryland. Mr. Chairman, I want to extend my sincere congratulations to the committee that has reported this bill and that has now proffered the amendment which will perfect section 7. It is not too much to say that by this single measure, with its complementary sections on injunctions and contempts, by one single stroke of the legislative hand more is being done in our country to rectify the judicial status of the great toiling masses than has ever been accomplished in our history before. [Applause.] Nor does this mean violent or radical treatment of the relations of labor and capital.

This section 7, taken with its complementary sections, places the American workman where the British workman was placed by Parliament in 1906. Their experience shows that property will be as safe, the rights of employers will be as secure, if this measure is enacted into a law, which I predict will become known as the great magna charta of American workmen. [Applause.]

Everybody understands that section 7 would have been written into the Sherman Act in 1890 had there been any thought of the application since made of that great act. Everybody knows that Congress at that time had no thought of legislating with regard to the relations of employers and employees. I challenge contradiction for that statement. If Congress had ever intended to legislate upon these relations and saw fit to do what the States may well do and are doing, for it is their subject matter and not a Federal subject matter—prescribing penalties for individual wrongs when committed—I challenge the gentlemen of this House to say that Congress would have ever said to the toiler: "If you overstep the line and commit a tort, you shall be subject to threefold damages." That was the natural sentence to have pronounced on the trust, an outlaw organization that sought to suck up all the commercial profit and power of the Republic. That is a sentence—the sentence of outlawry—that never can be pronounced, now or in the future, on a peaceful organization of workingmen. [Applause.]

I know there is some misapprehension. Some honest people are inclined to think that this section may mean a species of class legislation. They commit the error of considering labor as a commodity, a natural error inspired by the circumstances under which the price of labor, unfortunately, is sometimes determined by the iron laws of the market. But there is this distinction between labor and a barrel of oil, a commodity: Labor is never in truth a commodity; labor can never under our institutions be property, either before the court or before the legislature. Under our Constitution, property in human beings has forever ceased. While a barrel of oil is not only a commodity in the market, it is a commodity before the courts; it is a commodity before the legislature. The legal attribute of a commodity is property; but the legal attribute of the workingman is citizenship. A different principle of sociology and justice apply to these two subject matters when they are before Congress or before the courts. The rules that are rationally applicable to property can seldom be justly applied to the man. I thank you, gentlemen, for your attention. [Applause.]

Mr. WEBB. Mr. Chairman, I yield the remainder of my time to the gentleman from Virginia [Mr. CARLIN].

Mr. CARLIN. Mr. Chairman, I want to read into the RECORD two editorials, one from the Globe and Commercial Advertiser, of New York, of Thursday, May 28, and another from the Springfield Daily Republican, of Thursday, May 28.

They are as follows:

THE SO-CALLED LABOR EXEMPTION.

The Globe is pleased to note a subsidence of the determination to misrepresent and to appeal to prejudice against an explicit recognition by Congress of the right of labor organizations to exist. A year and two years ago, when the issue was up, the public was confused by untrue statements, oracularly made, that the labor unions were browbeating Congress into exempting them from prosecution under the Sherman law. A reading of the proposed amendment to the Sherman law revealed the misrepresentation, but few could be induced to read it. It became almost a truism in certain quarters that the wicked labor unions were asking the special privilege of committing crimes at pleasure.

But last night the Evening Post, which has been one of the worst offenders in the past, published in its Washington correspondence a fair summary of the proposed amendment. And this morning the Times, which has formerly raged against the black horror of authorizing the commission of crimes, acknowledges in its editorial that the law gives to the unions no greater rights than are already theirs under a reasonable reading of Chief Justice White's "rule of reason." Only the Sun remains to cry out in the old, lusty way against the alleged tyranny of Gompers and his associates.

If labor organizations now have the right to exist and to carry out the legitimate objects of the association, then the amendment is merely declaratory of the present law, and in the nature of surplusage. But in the Danbury hat case the Supreme Court used language that suggested that perhaps labor unions are per se illegal under the Sherman law—that it is an illegal restraint of trade for men to agree to work for similar wages or to quit work in a concerted way. Several Federal district attorneys have threatened and one or two have actually begun proceedings for the dissolution of labor unions as involving restraint of trade. Their right to exist being thus called in question, it is not strange that the labor organizations ask for an affirmative recognition.

There is no license to commit crime. Talk along this line is bosh. If a labor organization violates the Sherman law, it will be open to prosecution under the Sherman law. But its members may not be sent to jail for merely belonging. This may be the law now; but doubt has been thrown on the right of men to combine together for the joint selling of their labor, and it is worth while to have the doubt removed.

THE LABOR AMENDMENT.

Organized labor by no means gets what it demanded in the labor amendments to the Federal antitrust law now under consideration by the lower branch of Congress. But it has secured something from the majority party. Complete and unqualified exemption from the operation of the Sherman Act was asked for on the lines indicated by the bill introduced and championed by the late Senator Bacon, of Georgia, a conservative of the older school, it is interesting to note. Senator Bacon always stoutly maintained that no intention whatever existed on the part of the Congress that passed the Sherman Act in 1890 to bring labor organizations within its prohibitions, but the courts did what Congress did not do by interpretations of the law. Such is the strong belief of many of the students of that legislation. Yet none of the leading political parties has ventured to indorse fully the exemption demand. The Democrats in 1908 and 1912 inserted in their national platform:

"The expanding organization of industry makes it essential that there should be no abridgment of the right of wage earners and producers to organize for the protection of wages and the improvement of labor conditions to the end that such labor organizations and their members should not be regarded as illegal combinations in restraint of trade."

That idea, so far as it goes, if carried into effect, would insure exemption for labor organizations from the antitrust law, but it has to do only with the "restraint-of-trade" prohibition contained in the act. The exemption should surely go that far, if no further, and the Republican is glad to see that the amendment said to be agreed to by the House leaders and the radical labor representatives in that body reads as follows:

"That nothing contained in the antitrust laws shall be construed to forbid the existence and operation of fraternal, labor, consumers', agricultural, or horticultural organizations, orders, or associations instituted for the purpose of mutual help and not having capital stock or conducted for profit, or to forbid or restrain individual members of such organiza-

tions, orders, or associations from carrying out the legitimate objects thereof; and such organizations, orders, or associations, or the members thereof, shall not be construed or held to be illegal combinations in restraint of trade under the antitrust laws."

The reason why the amendment of the antitrust act, to that length at least, is desirable and even necessary is that section 1 of the act is so comprehensive in its scope that the courts are at liberty to regard anything in the form of a combination that has the effect of "restraining trade" as a criminal conspiracy. Logically speaking, there is no reason whatever why the Federal courts should not outlaw strikes of wage earners as conspiracies whenever those strikes, as they often do, have the effect of restraining trade or commerce among the States. It is well known that down until recent times the lawful right to strike, to quit work in concert, was not recognized. The right to withdraw labor power, not individually but collectively, is the very foundation of the modern labor movement. It corresponds to the churchman's constitutional right to the free exercise of his religion. The Sherman antitrust law menaces the right to strike, and therefore the demand for the amendment of the law is justified.

That labor's fears are well founded concerning the gradual extension of the scope of the law of 1890 to prohibits acts whose lawfulness had been recognized in England and America, after generations of struggle, as a necessary concession to labor's moral right to improve its economic condition under the wage system appears convincingly in the several suits brought under the statute in recent years against labor organizations. Suits of that character are now pending in the courts. One Federal judge in Louisiana ruled that a strike to force employers to enter into a joint agreement with union labor was in restraint of trade under the antitrust act. Union labor in the West Virginia coal fields has been lately haled into the Federal courts accused of conspiracy under the same law. A clearer legal definition, a more specific legal understanding of labor's rights under Federal law in initiating and maintaining strikes and other acts of industrial warfare—so long as that sort of warfare is permitted and even legalized under our system—becomes most desirable. The extreme comprehensiveness of the Sherman Act, so much admired by those who imagine that it is the last word in legislation affecting monopoly, may become a danger the moment the law is permitted to run beyond those "unlawful restraints and monopolies" in interstate commerce which it was chiefly designed to curb.

Violent protests against these labor amendments to the antitrust law emanate from several quarters. It is urged most vehemently that they grossly violate the principle of equality of all people before the law. But the truth is that when wage earners won the right to quit work in concert they were necessarily conceded an exceptional status under the old conspiracy laws. "Inherent differences that exist" should be "recognized by the laws and the courts as well as by reason," says Samuel Gompers, and Samuel Gompers, for once at least, tells the truth with much clearness and force. There are inherent differences between combinations of wage earners and combinations of corporations seeking to monopolize industries. So, too, there are inherent differences between industrial corporations and railroad corporations, which should be recognized by the laws. The Federal antitrust law is unsatisfactory; it will never be wholly successful in its working until it is confined to its proper field. Railroads should be exempt from it; so should labor. But that is not saying that railroads and labor should be exempt from all law. There will be law enough to go around, everyone should believe.

Mr. Chairman, I want to say just a word in concluding the debate on this great subject. The Democratic Party is now about to fulfill its promise made to the great labor organizations and the farmers' organizations of this country. [Applause.] We have decided that flesh and bone shall no longer be considered a commodity in the sense of manufactured products. We have decided that human beings shall be placed above things. We have decided that men with consciences and minds shall be recognized before the law as such, and that those that labor with their hands and hearts for wages shall be separated from the things which they produce. [Applause.]

We have gone as far as we can consistently and rightfully go under our Constitution. A step further, in my judgment, toward the amendment offered by the gentleman from Kentucky [Mr. THOMAS] and the gentleman representing the Progressives on this floor would be in the very teeth of the Constitution itself, and while they cry out that they want to do more for labor they know or ought to know that what they can do for labor organizations must be done under our Constitution and not in violation thereof. [Applause.]

The CHAIRMAN. The question is on the amendment offered by the gentleman from North Carolina.

The question was taken; and on a division (demanded by Mr. MURDOCK and Mr. THOMAS) there were 207 ayes and no noes.

So the amendment was agreed to.

The CHAIRMAN. The Clerk will read the amendment offered by the gentleman from Kentucky [Mr. THOMAS].

The Clerk reads as follows:

Strike out all of section 7 down to and including the word "thereof" in line 10 and insert the following:

"The provisions of the antitrust law shall not apply to agricultural, labor, consumers, fraternal, or horticultural orders or associations."

Mr. BARTLETT. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. BARTLETT. If that amendment is adopted, it leaves the amendment by the gentleman from North Carolina that we have just adopted in the bill, does it not?

The CHAIRMAN. The amendment of the gentleman from Kentucky seems to strike out the paragraph as amended.

Mr. BARTLETT. It strikes it out down to and including the word "thereof," so it would not strike out the amendment just adopted.

Mr. THOMAS. Mr. Chairman, I move to strike out the first paragraph of section 7 as amended.

The CHAIRMAN. The gentleman from Kentucky asks unanimous consent to modify his amendment. Is there objection? [After a pause.] The Chair hears none.

Mr. BARTLETT. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. BARTLETT. Mr. Chairman, as I understand it, this amendment of the gentleman from Kentucky [Mr. THOMAS], if adopted, does not affect the amendment that we have just adopted?

The CHAIRMAN. The Chair thinks that it strikes out the whole of the first paragraph of section 7 as amended.

Mr. BARTLETT. Then this amendment of the gentleman from Kentucky, if adopted, would take the place of the paragraph as it has been amended?

The CHAIRMAN. That is the opinion of the Chair. The Clerk will report the amendment as modified.

The Clerk read as follows:

Strike out the first paragraph of section 7 as amended and insert in lieu thereof the following:

"The provisions of the antitrust laws shall not apply to agricultural, labor, consumers', fraternal, or horticultural organizations, orders, or associations."

Mr. THOMAS. Mr. Chairman, it is well enough, as a distinguished gentleman from Georgia at one time said on the floor of this House, to stop and see just where we are at. Courts in construing laws always construe the law as a whole. Let us read and construe this section as amended, and see just where we are at. Section 7 provides that nothing contained in the antitrust laws shall be construed to forbid the existence and operation of fraternal, labor, consumers', agricultural, or horticultural organizations or associations instituted for the purpose of mutual help and not having capital stock or conducted for profit. As amended it will read:

Labor, fraternal, agricultural, or consumers' organizations shall not be held or construed to be illegal combinations in restraint of trade under the antitrust law.

What labor organization? What agricultural organization? Construing this law as a whole, only those organizations which do not have capital stock or are not conducted for profit. Those are the only two classes that this bill as amended applies to. If a labor organization is conducted for profit, this amendment does not apply to that organization; if a labor organization has capital stock, this amendment does not apply to such an organization, because, reading and construing the law as amended, in its entirety, only organizations which have no capital stock and which are not conducted for profit are exempt under this amendment.

What is the object, the very primary object of a labor organization? It is profit. Profit how? To advance and increase the wages of its members. That is a profit to them, and consequently that amendment can not apply to such organizations, because you have got to construe this law in its entirety, and no court will construe it piecemeal. What is the object of the farmers' organization? It is to obtain better prices for their products, and that is a profit to the farmer, and if that is a profit to the farmer then your amendment does not apply, because your amendment can apply only to those organizations which are named in the body of this bill. This bill limits it to those organizations which do not have capital stock and are not conducted for profit.

I voted for this amendment. I do not think there is anything in it. I do not believe that it changes in one iota the original text of the bill. Gentlemen have said that they desire above all things to exempt these organizations from the operations of the antitrust laws. If you do, why do you not do it? My amendment is plain. It is concise; it will not take any court to construe it, because it provides that these antitrust laws shall not apply to these associations, and that is what the farmers and the laborers of this country want; and if you want a clear, clean-cut exemption, vote for this amendment of mine and you will get it; otherwise you will not.

The CHAIRMAN. The time of the gentleman from Kentucky has expired.

Mr. MACDONALD. Mr. Chairman, I wish to offer an amendment, which I send to the desk, as an amendment to the amendment offered by the gentleman from Kentucky.

The CHAIRMAN. The Clerk will report the amendment to the amendment, offered by the gentleman from Michigan.

The Clerk read as follows:

Amend section 7 by striking out all of the first paragraph before the Webb amendment after the word "shall," in line 4, page 24, and insert the following in lieu thereof: "apply to trade-unions or other labor organizations organized for the purpose of regulating wages, hours of labor, or other conditions under which labor is to be performed, nor to any arrangements, agreements, or combinations among persons en-

gaged in horticulture or agriculture, made with a view of enhancing the price of their own agricultural or horticultural products; nor to fraternal or consumers' organizations, orders, or associations, instituted for the purposes of mutual help and not having capital stock or conducted for profit."

Mr. MACDONALD. Mr. Chairman, this amendment will accomplish the purpose designed by the amendment of the gentleman from Kentucky [Mr. THOMAS], but it will also leave in the Webb amendment, so that those who are really interested in getting an exemption of these organizations in this law will have the benefit of both of those ideas. There are many gentlemen on this floor who are not in favor of this idea, and there are many gentlemen who are in favor of the idea of really exempting these organizations; and I say again that if you are in favor of exempting these organizations specifically from the operation of these laws, vote for this amendment. If you are not, do not vote for this amendment, because this makes it plain and unmistakable in its meaning.

Mr. WEBB. Mr. Chairman, I take it that the Committee of the Whole has perfected section 7 to its satisfaction when it adopted the amendment which was just adopted by a vote of 207 to nothing. These amendments offered in addition thereto have been discussed, and I understand that the sentiment of the House is that section 7 should be amended as it was amended a moment ago, and no further.

Mr. MURDOCK. Mr. Chairman, will the gentleman yield?

Mr. WEBB. Certainly.

Mr. MURDOCK. The gentleman has heard the amendment of the gentleman from Kentucky and that offered by the gentleman from Michigan, and we have just had a vote which shows a remarkable state of affairs, that every Member present is in favor of the exemption of organized labor from the provisions of the Sherman antitrust law. This is a matter which has been in controversy for 24 years, and what I want to ask the gentleman is this: In view of this remarkable unanimity, does not the amendment offered by the gentleman from Kentucky and that offered by the gentleman from Michigan go much further than the gentleman's amendment?

Mr. WEBB. I could not say it goes much further; but why should the gentleman from Kansas [Mr. MURDOCK] want a division on the floor of the House when there is no division as between labor and capital and the farmers. All of us are united on this.

Mr. MURDOCK. From the debate I will say to the gentleman that there is a great difference of opinion as to just what his amendment does. I do not think, and I do not think the gentleman thinks, that it goes as far as that amendment offered by the gentleman from Kentucky [Mr. THOMAS] and that amendment offered by the gentleman from Michigan [Mr. MACDONALD], and I would like to ask the gentleman from North Carolina this, and then I will take my seat: Did the Committee on the Judiciary intend the Webb amendment to exempt organized labor from the provisions of the Sherman antitrust law?

Mr. WEBB. It certainly does exempt their existence and operation if organized for mutual help and without profit.

Mr. MURDOCK. Does it say anything——

Mr. WEBB. We wanted to make it plain that no labor organization or farmers' organization organized for mutual help without profit should be construed to be a combination in restraint of trade or a conspiracy under the antitrust laws. Now, I will say frankly to my friend that we never intended to make any organizations, regardless of what they might do, exempt in every respect from the law. I would not vote for any amendment that does do that. [Applause.]

Mr. MURDOCK. If the labor organization goes beyond the province of mutual help, then is it subject to the Sherman antitrust laws?

Mr. WEBB. If it violates the law, it is. Of course it is an organization subject to the law, and I ask if my friend from Kansas would vote to exempt it from all laws?

Mr. MURDOCK. I would vote to exempt it from being confined under the antitrust laws to mere inactive existence.

Mr. WEBB. But the gentleman would not vote to exempt it and nobody else from all laws?

Mr. MURDOCK. I understand that, but I would give strikers the right to peaceful assemblage.

Mr. WEBB. We give them that right in this bill.

Mr. MURDOCK. I doubt it very much.

Mr. CARLIN. The gentleman can not doubt it if he will read section 18.

Mr. MURDOCK. Section 18 of this bill confines its jurisdiction to employers and employees. Strikers are not employees. The relation of employer and employee ceases when employees strike.

Mr. WEBB. I do not know how my friend——

Mr. MURDOCK. That is the way I read section 18.

Mr. WEBB. The gentleman should read it like the lawyers of the labor unions of the country read it, and I believe they understand it. We expressly provide in section 18 that labor organizations can strike, that they can persuade others to strike, that they can pay strike benefits, that they can have peaceful assemblages, and a great many other things. That is their bill of rights and they are satisfied with it, and what is it that dissatisfies my friend from Kansas if the labor people of this country, if the farmers of the country, and the capitalists of the country are satisfied with it? [Applause.]

Mr. MURDOCK. I will tell the gentleman why I am not satisfied. The gentleman from North Carolina and the Judiciary Committee have left out the same words, "shall not apply to," which have been carried in all amendments for the last 24 years and put into the amendment language that must be construed by the courts and construed how heaven only knows and the gentleman from North Carolina does not know.

Mr. WEBB. That is what was said about "restraint of trade," "reasonable doubt," and a thousand expressions you can not exactly define, but you have got to leave something to the courts. This is what labor wants, and I think my friend from Kansas ought to be satisfied.

Mr. KEATING. Will the gentleman yield?

Mr. WEBB. Yes.

Mr. KEATING. I want to ask the gentleman from North Carolina if it was not the fact that the representatives of the organizations of labor in this city who represent the great national organizations and the representatives of the great national farmers' organizations had not gone over this amendment and if they did not state this is exactly what they wanted?

Mr. WEBB. That is my understanding, and of course everybody so understands it.

Mr. KEATING. And if the representatives of labor and the representatives of the great farmers' organizations have not some kick coming to them, what does the gentleman want us to do now? [Applause.]

Mr. MANN. That is my understanding.

Mr. NELSON. Mr. Chairman, the gentleman does not know——

The CHAIRMAN. The time of the gentleman has expired.

Mr. SCOTT. Mr. Chairman, I move to strike out the last word.

Mr. NELSON. Mr. Chairman, I move to strike out the last word, just to ask a question of the gentleman, because if these amendments are voted down, as possibly they may be, I wish to offer an amendment which I have carefully prepared on the question of farmers' organizations. The gentleman said that the representatives of the farmers' associations have agreed to this amendment. I ask him to name one representative of any farmers' association that agreed to this amendment. I have received telegrams from farmers' associations protesting most vehemently against them. Now, will the gentleman name one representative from these farmers' associations——

Mr. WEBB. I will say to my friend that I have never heard of a single farmer objecting to the provisions of this bill.

Mr. NELSON. Has the gentleman seen a single representative of the farmers' associations in reference to this amendment?

Mr. HENRY. If the gentleman will permit, I will try to answer that question.

Mr. MANN. The gentleman is not chairman of that committee.

Mr. WEBB. What is the question the gentleman wants to ask?

Mr. NELSON. Name a single representative of any farmers' association who agreed to this amendment.

Mr. WEBB. I can not name a single representative of farmers' associations who is against it.

Mr. HENRY. I submitted this proposed language to the Farmers' Union of Texas and asked if it would satisfy the farmers, and they wrote back it was entirely satisfactory.

Mr. NELSON. Did the gentleman point out the effect of the language, "and not conducted for profit"——

Mr. HENRY. Yes; and I pointed that out and asked for suggestions, and they said they had no suggestions to make, because it was as plain as the English language could make it.

Mr. NELSON. Did the gentleman point out that it exempted no organization except those who came together for mutual discussion of methods, and that farmers' organizations that were conducted for the purpose of marketing their product should not be exempted?

Mr. MANN. Will the gentleman permit? Do I understand that Congress has abdicated its province and right of legisla-

tion and has gone into a searching committee to find out what certain organizations want, without any regard to the merits of the proposition?

Mr. NELSON. I was speaking of the statement of the chairman that farmers' organizations were not opposed to it, whereas I have received a number of telegrams from farmers' organizations protesting against it.

As soon as this amendment is disposed of, I wish to offer an amendment that, I think, will meet the approval of farmers' organizations.

Mr. WEBB. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. Does the gentleman from Wisconsin yield to the gentleman from North Carolina?

Mr. NELSON. Yes.

Mr. WEBB. I have no protests filed with the committee. The committee received no protests against the provisions of this section which was put in the bill as section 7. I am reliably informed by gentlemen on the floor that the general counsel of the Farmers' Union very heartily indorses this amendment which the gentleman has just voted for and which seems to be acceptable to labor as well.

Mr. GARDNER Mr. Chairman, if the gentleman from Wisconsin has concluded——

Mr. NELSON. Mr. Chairman, has my time expired?

The CHAIRMAN. No; it has not.

Mr. NELSON. I want to say to the gentleman that in the committee I filed protests from organizations of farmers against the language that was then proposed to be inserted in the law and this new section, in effect, does the very same thing against which they protested at that time.

Mr. Chairman, I yield now, and shall offer an amendment and speak in my own time later on.

Mr. GARDNER. Mr. Chairman, I take the negative of the motion to strike out the last word for the purpose of asking a question of the gentleman from Kansas [Mr. MURDOCK].

Do I understand the gentleman from Kansas to portray the position of the Progressive Party in saying that he advocates the exemption of cotton planters' associations and woolgrowers' associations and associations gotten together for the purpose of enhancing the prices of the staples of life from the operation of the antitrust laws?

Mr. MURDOCK. I have made no statement about the growers of cotton or the growers of wool, and I have not spoken for anybody but myself this morning. But I will say to the gentleman from Massachusetts that I am in favor of a law here which will directly, in terms, exempt farmers' organizations and labor unions from the provisions of the Sherman antitrust law.

I do so because I believe, in the first instance, that labor is not a commodity, and because, in the second instance, I believe that agriculture is so highly individualized that it is in no sense a menace to society; and I believe that the Sherman antitrust law was passed not to reach the farmers' organizations, and not to reach the labor unions, but to reach monopoly, which thrives, by the way, more in the gentleman's district than it does in mine. [Laughter and applause.]

Mr. GARDNER. Possibly it is a fact that it does; but if you exempt cotton planters' associations and if you exempt woolgrowers' associations, and if you exempt these associations gotten together for the purpose of enhancing the cost of the necessaries of life, as is proposed by the Progressive Party in the proposition which has been brought forward by the gentleman from Michigan [Mr. MACDONALD], you will find that in the gentleman's district—have I the attention of the gentleman from Kansas?

Mr. MURDOCK. Yes.

Mr. GARDNER. You will find that in the gentleman's district in Kansas there will be more injury done to the people of the United States than in my district.

Mr GREGG rose.

The CHAIRMAN. The gentleman from Texas [Mr. GREGG] is recognized.

Mr. MANN. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. MANN. Is not debate exhausted on this amendment?

The CHAIRMAN. The Chair will state that it is. This debate is proceeding by unanimous consent.

Mr MANN. I ask for a vote, Mr. Chairman.

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from Michigan [Mr. MACDONALD].

Mr. GREGG. Mr. Chairman, I move to strike out the last word.

Mr. MANN. Mr. Chairman, I make the point of order that that amendment is not in order. We have already that amendment in the third degree.

Mr. GREGG. I move, then, Mr. Chairman, to strike out the last two words.

Mr. MANN. That is an amendment in the fourth degree.

The CHAIRMAN. The debate is exhausted on the pending amendment.

Mr. GREGG. Mr. Chairman, I ask unanimous consent to talk for three minutes.

The CHAIRMAN. The gentleman from Texas [Mr. GREGG] asks unanimous consent to proceed for three minutes. Is there objection?

Mr. MANN. I shall not object to this request, but I shall to other requests. The gentleman will get a chance later on to speak on these amendments.

Mr. GREGG. I wish to speak right on this point.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas [Mr. GREGG]?

There was no objection.

Mr. GREGG. Mr. Chairman, this provision, section 7 of the bill, even after the adoption of the Webb amendment, which was intended to improve the section, exempts from the operation of the antitrust laws only such labor, agricultural, and horticultural organizations, orders, or associations as have no capital stock or are not conducted for profit.

Now, if we are going to grant this exemption to the labor and agricultural orders and organizations, and everybody here seems willing to grant it, we should do it in such broad and unequivocal language as to give them the full benefit, which I am afraid this provision as written does not do.

Labor orders are organized not only to improve the hours and conditions of labor but also to increase their wages to the highest reasonable rate and to maintain them at that standard. This is right, and what I want them to have. I fear that under this section the courts will construe that the organization to increase and maintain their wages is for profit, and therefore that they are not exempt from the antitrust laws. Should the courts so hold, the labor organizations will not have received any benefit from this provision. I want to make it so plain that there can be no mistake that they are exempt.

Again, suppose that in the future it should become necessary for labor organizations in the conduct of their business to issue capital stock to raise money needed in their business; in that event they would at once become subject to the antitrust laws. We are not legislating only for the present and present conditions, but for the future and future conditions. We should not so hem them in that in the future they may not adopt such methods of conducting their business as may seem best to them.

What is the object of farmers' organizations? One of the main objects is by cooperation to secure the best market and price for their products. Should they agree not to sell their cotton, wheat, corn, or other products at less than a given price, I fear the courts would hold that they were an organization for profit, and under this provision as now worded they would not be exempt from prosecution and punishment under the antitrust laws. Thus would be destroyed one of their main objects for organization. I am not willing to subject them to any such danger.

Again, suppose an agricultural or horticultural organization in my county or anywhere else should, in addition to their other purposes, wish to organize for the purpose of erecting a warehouse and issue stock for that purpose, a thing which they have done in some cases, in order to have some place in which to store their products, while they are holding them for more favorable conditions in the market. Most of them are people of small means and not able by voluntary contributions to build warehouses, and if they should issue capital stock to build one, they at once, under the provisions of this section as worded, would become subject to the operations of the antitrust laws. Thus you force them either to expose their products to the weather or to rent warehouses possibly at exorbitant rent. For one I am not willing to do this, but want them to have the right by issuing stock or otherwise to build and own their own warehouses. If we are going to do anything for them, let us do it ungrudgingly.

The amendment offered by the gentleman from Kentucky [Mr. THOMAS] meets and obviates all the objections which I have pointed out, and I shall therefore vote for it.

Mr. THOMAS. Mr. Chairman——

The CHAIRMAN. All debate has expired.

Mr. THOMAS. Mr. Chairman, I ask unanimous consent to ask the gentleman from Colorado [Mr. KEATING], if he will yield to me, a question, in view of the statement he made a while ago. [Cries of "Vote!" "Vote!"]

The CHAIRMAN. The gentleman from Kentucky [Mr. THOMAS] asks unanimous consent to proceed for two minutes. Is there objection?

Mr. MURDOCK. The gentleman from Colorado [Mr. KEATING] is not here. What are you going to ask him?

Mr. THOMAS. Wait, and you will find out. He is here.

Mr. Chairman, the gentleman from Colorado [Mr. KEATING] a few moments ago, in interrogating the gentleman from North Carolina [Mr. WEBB], stated that this amendment is just what organized labor wanted. Is it not a fact that organized labor wanted to exempt organized labor entirely from the operation of the antitrust law, such as is not here offered, and was not this Webb amendment simply the result of a compromise?

Mr. KEATING. If I had the time, Mr. Chairman, I would be very glad to answer that question.

Mr. THOMAS. That could be answered by yes or no.

Mr. KEATING. The amendment proposed by the gentleman from Kentucky [Mr. THOMAS]——

Mr. THOMAS. Mr. Chairman, I object to the gentleman's making a speech in my time. I simply asked him a question.

Mr. KEATING. I have to answer the question clearly. The amendment offered by the gentleman from Kentucky [Mr. THOMAS] was considered by the representatives of organized labor, and they decided that the proposition submitted by Mr. WEBB, of North Carolina, was a stronger proposition and more beneficial to labor organizations than the proposition submitted by the gentleman from Kentucky. [Applause.]

Mr. THOMAS. Is it not a fact that the Webb amendment was accepted by organized labor only after they came to the conclusion that they could not get the amendment that I submitted?

Mr. KEATING. The statement which I made—and I made it very deliberately, because it was repeated to me since this House met, by a leader of organized labor, who is qualified and authorized to speak for organized labor—was that the amendment as submitted by the gentleman from North Carolina [Mr. WEBB] was better, from the viewpoint of organized labor, than the Thomas amendment, which had been previously considered by the labor leaders. [Applause.]

The CHAIRMAN. The question is on the amendment offered by the gentleman from Michigan [Mr. MACDONALD].

The question was taken, and the Chairman announced that the noes appeared to have it.

Mr. MURDOCK. Division, Mr. Chairman!

The committee divided; and there were—ayes 51, noes 98.

Accordingly the amendment was rejected.

The CHAIRMAN. The question now recurs on the amendment offered by the gentleman from Kentucky [Mr. THOMAS].

Mr. THOMAS. Mr. Chairman, I ask to have that amendment read for information.

The CHAIRMAN. If there be no objection, the amendment will be again reported.

The Clerk read as follows:

Strike out the first paragraph of section 7 as amended and insert in lieu thereof the following:

"The provisions of the antitrust laws shall not apply to agricultural, labor, consumers', fraternal, or horticultural organizations, orders, or associations."

The question being taken, the Chariman announced that the noes appeared to have it.

Mr. THOMAS. Let us have a division.

The committee divided; and there were—ayes 70, noes 79.

Mr. THOMAS. Mr. Chairman, I ask for tellers.

Tellers were ordered, and the Chairman appointed Mr. THOMAS and Mr. WEBB.

The committee again divided; and the tellers reported—ayes 69, noes 105.

Accordingly the amendment was rejected.

Mr. BRYAN. Mr. Chairman, I offer an amendment.

Mr. NELSON rose.

The CHAIRMAN. Will the gentleman from Washington withhold his amendment. The gentleman from Wisconsin [Mr. NELSON], a member of the committee, will first be recognized.

Mr. NELSON. I desire to offer an amendment.

The CHAIRMAN. The gentleman from Wisconsin offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amend the paragraph as amended by inserting after the word "profit" and before the words "or to forbid," in line 8, page 24, the following "or of cooperative agricultural associations formed for the purpose of buying more cheaply, and of marketing their products to better advantage," so as to make the first paragraph of this section read:

"That nothing contained in the antitrust laws shall be construed to forbid the existence and operation of fraternal, labor, consumers', agricultural or horticultural organizations, orders or associations, instituted for the purpose of mutual help, and not having capital stock or conducted for profit, or of cooperative agricultural associations formed for the purpose of buying more cheaply and marketing their products to better advantage, or to forbid or restrain individual members of such organizations, orders, or associations from carrying out the legitimate objects thereof; nor shall such organizations, orders, or associations, or the members thereof, be held or construed to be illegal combinations or conspiracies in restraint of trade under the antitrust laws."

Mr. NELSON. Mr. Chairman, I ask permission to proceed for 10 minutes.

The CHAIRMAN. The gentleman from Wisconsin asks unanimous consent to proceed for 10 minutes. Is there objection?

There was no objection.

Mr. NELSON. Mr. Chairman, this House has now done justice to labor organizations, and I am very glad of it. As a member of the committee I earnestly did all I could to secure this result in our report from the committee. I am not going into any argument on this feature of it. I discussed it fully in the report made from the committee and in the speech I made to the House.

I now want to appeal to the House to do justice to the farmers' associations of our country. I want to say to you that this section does nothing for the farmers except to permit them to come together to discuss better methods of farming. Of course, such organizations never were under the Sherman antitrust law; but the language of this section is carefully selected, and in defining the associations that are exempt it says that if they have capital stock or are conducted for profit, then it will not take them from under the ban of the law. This does not legalize organizations of farmers cooperatively buying supplies or selling their products, but may have the effect of clearly rendering them illegal.

Now, gentlemen, I want to impress upon you the importance of business cooperation on the part of farmers in this country and in foreign countries, and at the risk of tiring you a little I wish to call your attention to this voluminous report——

Mr. LEWIS of Maryland. Will the gentleman from Wisconsin yield?

Mr. NELSON. Yes.

Mr. LEWIS of Maryland. Would not the effect of the permission to organize cooperative associations be to repeal the word "profit" and the words "capital stock" in the clause as perfected up to this time?

Mr. NELSON. Let me say to the gentleman that as I drew this amendment first, to get at this difficulty I struck out the words "not having capital stock and not conducted for profit"; but those words may be necessary with reference to other organizations that might pretend that they were fraternal, or horticultural, or something of that kind. So I have amended this and made a separate classification, specifically exempting agricultural associations that are cooperative, but leaving in the limitation "not having capital stock and not conducted for profit" as to these other organizations.

Mr. LEWIS of Maryland. I will ask the gentleman whether the qualification he desires to make would not open the gate to commercial organizations that the antitrust laws were originally designed to prevent?

Mr. NELSON. I think not. They would have to be shown to be bona fide agricultural associations, and, of course, any sham would be exposed in court.

Now, I wish to call attention to this volume, Senate Document No. 214, Agricultural Cooperation and Rural Credit in Europe. It contains nearly 1,000 pages of testimony taken by a double commission, an American commission consisting of delegates from various States and from Canada, and a United States commission. On the American commission were men appointed from nearly all the States and from the Provinces of Canada, and there was a United States commission consisting of Members of this House and the Senate. Both commissions have made extensive reports which have been printed as public documents. I wish briefly to read a few extracts from the very excellent report of the American commission, which will show you what this movement is.

The person who goes among European farmers for the first time will be impressed with the fact that cooperation is the most important thing about European agriculture. It is, of course, not true that all the farmers band themselves together, and yet that is a very common way of doing farm business. Farmers buy together, sell together, borrow and lend together, insure together, own machinery together, and in some cases actually carry on a farm together. There are 25,000 cooperative societies of various kinds in Germany alone. It is really astonishing to see the extent to which the farmers, particularly the small farmers, have accomplished results which would have been impossible if each farmer had depended upon himself.

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The last sentence is the key to much of the success of the European farmer. He found that alone he could do nothing; together with his fellows he could do a great deal. He proved that one and one are more than two; at least, that two people who work together can accomplish a great deal more than two people who work separately. Hence was formed a habit of doing collectively what farmers had been doing singly and alone, and it was found that as the farmers became accustomed to doing business in this way it proved to be the better way. So gradually at first the method spread. It is important to know that there has been a greater development of cooperation in practically all the Eu-

ropean countries in the last 10 years than in any previous period in the history of the movement.

As to the extent of cooperation in Europe, the commission said:

The commission visited a dozen countries, and in every one they found active agricultural cooperation. They were not able to visit some countries, as, for example, Bulgaria. But so far as could be learned, with the possible exception of Turkey, there is not a single country in Europe that has not developed a more or less complete system of agricultural cooperation.

There are many more interesting and striking paragraphs to which I would call your attention, showing the enthusiasm which farmers in Europe are showing for cooperative movement. Time will not permit me to read them.

Speaking of cooperation in the United States, it said:

There is in the United States as a whole considerable successful business cooperation in agriculture. The fruit growers of the West through their selling societies, the grain growers of the Central West in their cooperative elevators, the dairymen of the Northwest in their cooperative creameries, the vegetable growers of the eastern coast in their selling societies, the many mutual insurance societies, and the great numbers of cooperative country stores are doing a successful business and are increasing rapidly.

Again, under the head of "Cooperation and its application to the United States and Canada":

Nevertheless the American farmer should gradually, even if slowly, give up the individual method of doing his business and take up the collective method. Otherwise he can not hold his own except in the comparatively few cases of the very large and well-to-do farmers. The great masses of farmers will soon be perfectly helpless in their business relationships unless they can, by collective effort, place themselves on a par with other business men.

Under the head of "Cooperation and the consumers," the report of the commission says:

The immediate purpose of cooperation is a more effective and less expensive means of distributing the products which the farmer grows to the individuals who finally consume them. At present the farmer gets too little of what the consumer pays and probably the consumer pays more than he ought to. Cooperation between producers and cooperation between consumers ought to increase the price to producers and decrease the cost to consumers.

Now, I wish to call your attention to what some gentlemen said to the committee on this subject, and I am surprised to see that the committee has deliberately ignored their recommendation.

Mr. FARR. May I ask the gentleman a question?

Mr. NELSON. Certainly.

Mr. FARR. Will the Webb amendment prevent the cooperation which the gentleman desires?

Mr. NELSON. Unquestionably; it permits nothing except that the farmers can come together and discuss better methods. The moment that they cooperate they must have shares of stock, and it will be considered that they are conducting the organization for profit, and therefore this section does not apply to them.

Mr. GARDNER. Will the gentleman yield?

Mr. NELSON. Yes.

Mr. GARDNER. Would not it be possible to amend the gentleman's amendment in such a way as to permit a farmers' organization with capital stock, if it so desires, to purchase more cheaply, without opening the door to such an organization to market its products at a price indicative of a combination in restraint of trade?

Mr. NELSON. I think not. But answering that question, the gentleman is fearful of something of which there is no danger of at all to the country. The farmers handle perishable products, and they only hold it over so that it will not be sold when the market is glutted. In the fall they assist each other in reaching a better period of the year. Moreover, the farmers are all hard up, they must have money, they can not hold it over very long. Cooperative marketing merely enables them to find a better market. There is no danger that the farmers of the country could go to such an extent that they would practically monopolize any product.

Mr. GARDNER. Will the gentleman yield?

Mr. NELSON. Certainly.

Mr. GARDNER. Did I understand the gentleman to say that cotton and wool are perishable products?

Mr. NELSON. I did not say so.

Mr. GARDNER. Or potatoes?

Mr. NELSON. Are not potatoes perishable products?

Mr. GARDNER. Not particularly.

Mr. MANN. What does the gentleman from Massachusetts know about potatoes?

Mr. NELSON. It shows what he knows about farming. Now, Mr. Chairman, I want to show you what you are doing. President Van Hise says——

The CHAIRMAN. The time of the gentleman from Wisconsin has expired.

Mr. NELSON. Mr. Chairman, I ask for five minutes more.

The CHAIRMAN. The gentleman from Wisconsin asks for five minutes more. Is there objection?

Mr. CARLIN. Reserving the right to object, I want to say that we have been discussing this provision for an hour and a half. How much longer does the gentleman want?

Mr. MANN. We would like at least a half an hour on this side.

Mr. CARLIN. Can we agree upon an hour on this paragraph and all amendments thereto?

Mr. MANN. Are there any other amendments to this paragraph on this side?

Mr. BRYAN. I have an amendment, and I want five minutes on it.

Mr. CARLIN. Can we agree that all debate on this paragraph and all amendments thereto shall be concluded in one hour?

Mr. MANN. We want a half an hour on this amendment, and then the gentleman from Washington wants five minutes on his amendment. That is, on this paragraph and all amendments thereto.

Mr. FERRIS. That does not mean the whole section?

Mr. MANN. No.

Mr. CARLIN. Mr. Chairman, I ask unanimous consent that all debate on the first paragraph of this section and all amendments thereto shall be included in 70 minutes—35 minutes to be controlled by the gentleman from Minnesota [Mr. VOLSTEAD] and 35 minutes by the gentleman from North Carolina [Mr. WEBB].

The CHAIRMAN (Mr. WILSON of Florida). The gentleman from Virginia asks unanimous consent that all debate on the first paragraph and amendments thereto close in 70 minutes—35 minutes to be controlled by the gentleman from Minnesota [Mr. VOLSTEAD] and 35 minutes by the gentleman from North Carolina [Mr. WEBB]. Is there objection?

There was no objection.

Mr. CARLIN. In that agreement is the 10 minutes which the gentleman from Wisconsin has already used included?

Mr. NELSON. No; that is in addition to what I have used. I was interrupted. I had no chance to read but a small part of what I wished to.

Mr. CARLIN. Then that will give that side 45 minutes and our side 35 minutes.

Mr. VOLSTEAD. Mr. Chairman, I yield 10 minutes to the gentleman from Wisconsin [Mr. NELSON].

Mr. NELSON. Mr. Chairman, President Van Hise, of the University of Wisconsin, in speaking about the Sherman law and other things before the Committee on the Judiciary, used this language:

The law that stands in the way of beneficent cooperation of this kind should be modified so as to permit that useful and beneficial cooperation. Now, this rising tide, this pressure, has come upon us so that we have increased our force in the department of economics very materially, and there are always farmers in 15 or 20 communities that want instruction along this line; and in this way the cooperation among farmers is increasing in Wisconsin, Nebraska, California, and in many of the States of the South, and in a few years it will sweep over the entire country and we shall have cooperation among the farmers along all lines in the handling of their products. They have now, in the handling of eggs, an association similar to that for the handling of cranberries in Wisconsin and the citrous-fruit growers of southern California, and under the circumstances it is questionable whether it will be quite so popular a political position to attack cooperation among the farmers.

And I may add that in Wisconsin not only do the cranberry growers cooperate in marketing their products, but the cheese producers, the tobacco raisers, and the potato growers as well.

President Seth Low, of the Civic Federation, an educator, came before the Committee on the Judiciary and, speaking of this very law, which was a ban upon the farmers, he said:

For the last seven years or more I have been carrying on a farm at Bedford Hills in New York. In doing that I very soon became aware of what, I think, is the fundamental problem of the farmer. I am speaking now of the small farmer; it does not affect me at all or other men with capital. But the fundamental problem of the farmer, certainly in the eastern part of the country, and, I suspect, more or less all over the Union, is this: That he buys at retail and sells at wholesale. He has to pay retail prices for everything he gets and then has to take wholesale prices for what he sells. I submit to the committee that there is not another business in the country that can do that. Imagine what would happen to any manufacturer, or any railroad, if they had to pay retail prices for coal and everything that they purchased, and then had to sell their product at the wholesale price of the day. That is the problem with which the farmer is confronted. That was the problem that confronted Denmark and all the European countries. In Europe, where the pressure has been greater, they have solved it through cooperation. They form cooperative societies which have two objects. In the first place, they want to buy together so as to get things at wholesale rates instead of at retail rates; then they want to sell together, so that they can get the benefit of businesslike care in the handling of their products.

Mr. CARLIN. How has that affected the consumer?

Mr. LOW. The consumer does the same thing; he combines to buy direct and at wholesale. As I was going to say to you, however, these cooperative associations on the part of consumers would be absolutely

forbidden under this proposed law. The details of cooperation are a little different in almost every country. England is especially notable for these cooperative associations of consumers.

Further on he said:

I do not believe that the farmer ought to have rights that other Americans have not; but I do think they are entitled to form cooperative societies and to agree to give to them all their business for the purpose of purchasing more cheaply together and for the purpose of selling what they produce to better advantage.

* * * * * * *

I think you will recognize the propriety of cooperative associations of consumers as well as of producers; because they certainly have the right, or ought to have the right, to buy together for the purpose of getting things more cheaply, just as producers should have the right to combine together for the purpose of getting better prices for their products. It is very vital, of course, as far as the farmers are concerned and in its effect upon agriculture. You take these gentlemen in Kentucky who raise tobacco; they can not afford to raise tobacco unless they can get an adequate price; and it is the same way with every other producer. You must encourage generous production by enabling the producer to get all that his goods are worth. I come right back to what I said at the beginning, that the trouble with the farmer is that he has to buy at retail and sell at wholesale. That is not reasonable; and cooperative societies are formed to change that, so that under cooperation the small farmer can get his plow as cheaply as the man who has a bigger business. That must be encouraged. When cooperation is thoroughly well developed, a man who produces a small amount of tobacco can get as good a price as the man who raises a great deal of tobacco.

In answer to the argument that the legalization of cooperative organizations among farmers amounts to class legislation Seth Low said:

Now, what I want to point out is that those people do not combine, either the consumers or the farmers, for the purpose of monopoly. Not a single cooperative association aims at monopoly; it aims at something very different. What it wants to do is to enable the small farmer to buy his plow, to buy his fertilizer, and buy his seed at prices that a man with capital has to pay and at no higher prices.

Mr. Low offered the following suggestions to the committee, as to how the bill ought to be amended so as to legalize cooperative buying and selling by organizations of farmers:

I am not a lawyer; and, with all respect to the lawyers who have suggested this language, I think it would be better to change that phraseology so as to permit in terms the formation of such cooperative associations of producers and of consumers, because I think they have, and ought to have, the right to combine in order to buy more cheaply—to buy at wholesale and distribute economically what they produce.

* * * * * * *

Yes; that would be my suggestion; and I think in that way you would avoid a sort of criticism which I have seen aimed at this bill—that it is class legislation. It is not class legislation if you word it right. I do not think anybody can say it is class legislation to say that laboring men can have the same right to combine for collective bargaining as stockholders have. That is good sense; it is not class legislation. Neither is it class legislation to say that farmers and consumers can combine for the sake of buying more cheaply or selling to greater advantage. That is not class legislation; everybody ought to have that right.

Mr. Chairman, I use the language suggested by Seth Low in this amendment, specifically relieving these cooperative associations from the Sherman law; and that is the only effect the amendment will have.

I have nothing further to add but to repeat that there is a difference between organizations of farmers and monopolies. They are not only different, but are radically opposite. The farm organization is in existence to protect itself from the other. The farm organization is the only way possible for the farmer to protect himself against the oppressions of monopolies and trusts. The farmer deals with his own labor, the product of his life—it is inseparable from him—while the monopolist deals with the capital and credit of others. Monopoly is oppressive, and exacts tributes; but there is not a single case on record where a farm organization has ever practiced oppression upon the consumers, and it is impossible, as I have pointed out. We who have been brought up with farmers, and know what these associations are doing, know that they can not keep their goods; they can not organize so that they can practice oppression.

Mr. WEBB. Mr. Chairman, will the gentleman yield?

Mr. NELSON. Yes.

Mr. WEBB. Does the gentleman think it would be right to allow the cotton farmers of the South or the corn raisers of the West to form corporations whereby they could hold, corner, or monopolize the entire cotton crop or corn crop of the season and compel the world to pay them 25 or 30 or 40 cents a pound for it, or $2 a bushel for corn, and clean up two or three hundred millions of dollars? Does the gentleman think that would be right? I want to get his opinion.

Mr. NELSON. Mr. Chairman, I want to say to the gentleman that I have had that query propounded to me by the gentleman before, and this is my candid judgment. The gentleman is conjuring up an imaginary evil.

Mr. WEBB. Oh, no.

Mr. NELSON. Wait one moment, until I answer the question. If these cotton growers are like the farmers of the Northwest, and I do not believe they are any more thrifty, they can not afford to hold their crops to any such extent. They must dispose of them within a reasonable time to meet the payments of interest and principal on mortgages, and their tenants oftentimes have the results of their toil to live on during the year. The gentleman takes one specific crop. He can make an exception, but the vast quantity of products of the farm are perishable, and there is not a particle of danger; and I will ask the gentleman if his question does not imply that he is not exempting the farmers from the operation of the Sherman law if they have shares of stock or are conducted for profit?

Mr. WEBB. I do. I do not think they ought to be exempted if they form great corporations for profit.

Mr. NELSON. And the gentleman has not exempted them.

Mr. WEBB. No; and I want to say further that when the farmers or any other class of men form a corporation for profit, to pay dividends, and undertake to monopolize any product in this country they ought to come within the Sherman antitrust law, and I would hate to live in a country where that sort of thing did not prevail, and the farmers in my district view this matter just as I do. They do not want to violate law or good morals. They want a fair deal and yield the same to others.

Mr. NELSON. If you have not taken them out, what sort of farm organizations have you taken out of the ban of the law?

Mr. WEBB. Mutual organizations, such as generally exist to-day among them.

Mr. NELSON. That have no capital?

Mr. WEBB. Certainly.

Mr. NELSON. But get together to discuss better methods?

Mr. WEBB. Yes. Has the gentleman any metaphysical scissors that will tell us the difference between the man who forms corporations for monopolistic purposes and the man who spins in the factory or the man who raises sheep?

Mr. NELSON. Can the gentleman name a single instance where any cooperative farm organization has practiced oppression upon the country?

Mr. WEBB. That is not the question.

Mr. NELSON. You have denied this right because you have conjured up an imaginary case with the cotton growers.

Mr. WEBB. Mr. Chairman, I want to say this: I have never had a farmer, whether he raises corn or wheat or oats, ask me to give him a right that he would not have given to every other man in the country. They are an honest set, and ask for no special privileges.

Mr. NELSON. That is what I am insisting upon—not special privilege, but equal rights. You permit capital in any quantity to avail itself of this cooperative principle. They can put their money together, and the money is represented by capital stock, but you deny the farmers of this land the right to do the same.

Mr. WEBB. Oh, we do not at all.

Mr. NELSON. The gentleman says that they can do it, but he knows that they can not very well. The farmer wants to keep his individual farm. He does not want to hold it under a corporation. He wants to be independent, but he wants to cooperate with other independent farmers in buying supplies and in marketing his products without being under the ban of the law—without being a criminal. This you do not permit him to do.

The CHAIRMAN. The time of the gentleman from Wisconsin has expired.

Mr. MORGAN of Oklahoma. Mr. Chairman, I yield to the gentleman from Wisconsin [Mr. BROWNE].

Mr. BROWNE of Wisconsin. Mr. Chairman, I am in favor of the amendment offered by my colleague, Mr. NELSON, of Wisconsin, which provides that all cooperative agricultural associations formed for the purpose of buying more cheaply and marketing their products to better advantage shall not be construed to be illegal combinations in restraint of trade under the antitrust laws.

Section 7 of this bill, as it now stands, does not exempt any agricultural, horticultural, or cooperative association that is organized for profit or has capital stock.

A great many, I believe, that voted for the Webb amendment did so with the understanding that it exempted from the operation of the law the bulk of the farm organizations, but the gentleman from North Carolina, who drew the amendment, now admits that it was not so intended and does not exempt any farm organization which has capital stock or which is organized for profit.

So the issue at this time is well defined, and it means that if this law is passed without the Nelson amendment that all farmer organizations and cooperative associations that are organized for profit or have capital stock will be prevented from doing business.

At least 75 per cent of the farmer organizations in the United States are organized for profit and have capital stock.

WISCONSIN FARMERS HIT BY THE PROPOSED LAW.

In Wisconsin all our creameries are organized by farmers and our farmers' cooperative organizations are organized for profit, and have capital stock, and would be prohibited from doing business under this proposed law.

The Sherman antitrust law was never intended to apply to farm organizations, and it was not applied to them until it had been in operation many years.

In the famous Kentucky Tobacco case, where the farmers attempted to pool their tobacco so that they could get a fair price for it, a complaint was made, and they were indicted and fined $3,500. The complaint was instigated by a combination that desired to distract the attention of the country from the Beef Trust and other prosecutions and make the Sherman law unpopular so it would be repealed.

PURPOSE OF ANTITRUST LAWS.

The antitrust laws were enacted for the protection of the people from monopoly; that is, to prevent speculators from cornering a product and exacting a profit from the consumer many times larger than the amount of labor they placed upon it.

Whoever heard of the farmers of the country getting a monopoly on wheat, potatoes, corn, oats, or dairy products? We all know that there is no danger of the producers scattered all over the United States getting a corner on farm products and selling them at exorbitant prices. We know that the farmer has not the capital; that he is not brought in close enough contact with his neighbor a thousand miles away to corner the market; and that the corn grower in Illinois and the corn grower in Iowa, the potato grower in Maine and the potato grower in Wisconsin could not cooperate so as to control the market.

Cooperation among farmers, with the greatest encouragement the different States and the United States can give, can never possibly be more than local cooperation extending over a few townships or counties.

The antitrust laws are enacted to prevent vast aggregates of capital handled by men in the great centers of population *cornering the market*, controlling the necessities of life, taking advantage of the producers' necessities and buying at a low figure, sometimes below the cost of production, and without changing the product simply by transporting it and storing it, exacting an outrageous profit from the consumer, a profit out of all proportion to the amount of labor expended, and in many instances amounting to more than the total amount received by the real producer.

The Meat Trust is a conspicuous example of the monopoly the antitrust laws are aimed at.

COOPERATION OF FARMERS IN WISCONSIN.

The dairy farmer, through cooperation, is receiving no more than he ought to for his product, but is getting what the consumer is paying less the fair cost of making the butter and cheese and the handling and selling of it. With all other farm products from 35 to 45 per cent of what the consumer pays goes for transporting, handling, and distributing the article.

The cooperative cheese factories in Sheboygan County, one of the great cheese counties in Wisconsin, have an organization for the sale of their cheese, and they are receiving 3 or 4 cents per pound more than the cheese producers in the State of New York, and yet the consumer gets his product cheaper than he does in that State, showing that cooperation of the farmer not only helps him as a producer but also helps the consumer.

The Agricultural Department is expending large sums of money to very good advantage in showing the farmer how he can raise more bushels of grain per acre. In addition to this, it should assist him in marketing his farm products, encouraging him to cooperate, so that he can get a fair profit for the crops that he raises.

There should be no doubt about the law as to it allowing the farmer to cooperate to the fullest extent. It should be so plain that no one would question it, and the adoption of the Nelson amendment will make it so.

The legislative committee from the Society of Equity, of Wisconsin, representing 12,000 farmers, are not satisfied with the proposed law as it now is.

I offer a letter written by Charles A. Lyman, J. Wes. Tubbs, and D. O. Mahoney, legislative committee of the Society of Equity, regarding section 7 of this bill, a similar letter having been sent to the Hon. JOHN M. NELSON:

AMERICAN SOCIETY OF EQUITY,
Madison, Wis., May 23, 1914.

Hon. EDWARD E. BROWNE,
House of Representatives, Washington, D. C.

DEAR SIR: Our society, 12,000 strong, is counting on you at this time to champion the cause of agriculture in Wisconsin, which has already suffered from tariff legislation, by leading in enacting laws favorable to cooperation.

Be sure to provide in impending antitrust legislation for free and unhampered cooperative action in assembling, grading, standardizing, packing, storing, and marketing farm products.

Agriculture must be permitted to do its business cooperatively and business can not be done without capital.

Would not a general provision permitting all cooperative business activities where all profits above operating expenses are returned to the patrons—producers and consumers—solve the problem? Anyway it must be solved to save our greatest and most important industry, to effect economies in distribution, and to protect consumers from unlimited exploitation.

CHARLES A. LYMAN,
M. WES. TUBBS,
D. O. MAHONEY,
Legislative Committee.

DEMOCRATIC PARTY CAN NOT AFFORD TO BE UNJUST TO THE FARMERS.

This Congress and the Democratic Party can not afford to strike a blow at the great agricultural interests of this country like the passage of this law will.

The Democratic Party in the solid South may be able to roll up its customary majority regardless of its attitude toward the farmers, but the citizenship of the great northern and western agricultural States do not inherit their political faith. They are not voting a party ticket because their fathers and grandfathers did, but are holding the party in power to a strict accountability.

THE DEMOCRATIC PARTY HAS NOT DEALT FAIRLY WITH THE FARMERS.

I charge the Democratic Party with not dealing fairly with the farmers of the North and West.

I ask, What have you done for the farmers who, during the last crop year, produced nearly $10,000,000 worth of wealth?

You have appropriated $141,000,000 for battleships. You have appropriated $100,000,000 for the Army, although you spent almost two weeks' time making speeches on the Winston Churchill peace resolution. You have appropriated $44,000,000 for rivers and harbors.

You have done all this after talking economy and accusing the former Republican administration of being extravagant.

The 12,000,000 farmers of this country have received very little consideration at your hands.

NOTHING FOR GOOD ROADS.

The $25,000,000 appropriation for wagon roads that passed this House in February is sleeping the peaceful sleep of death in one of the committees of the Senate.

RURAL CREDITS SHELVED.

The farmers of the country demanded and were promised by this administration a law that would enable them to borrow money at a lower rate of interest and on easier terms. This would help the farmer in moving his crops and enable the tenant farmer and the young man with small capital to become the owner of a farm with a fair chance of paying for it.

Many wanted rural-credit legislation to be written into the banking and currency law, where it could have been appropriately placed, but "the powers that be" said no, and it looks as though rural-credit legislation had been relegated with the other broken promises of the Democratic Party.

UNDERWOOD TARIFF DISCRIMINATES AGAINST THE FARMERS.

By taking off the tariff on farm products you have opened wide the doors of the great home market of the United States to the farmers of the world and invited them to dump their surplus.

Argentina, since the tariff bill went into effect, has sent millions of dollars' worth of butter, beef, and corn into the United States.

Canada, which has more acres of agricultural land than the United States, is already in competition with us.

Prof. Charles McCarthy, reference librarian at Madison, Wis., an authority upon the subject, says:

A year ago when I made the statement that the farmers would be in a bad way unless they organized to meet the low tariff some laughed at the statement. Verification of what I said then now comes from other sources.

The president of the Chamber of Commerce of Manchester, England, says:

In three short months all the surplus cattle of Canada have been sold to American buyers. Imports of chilled meats in New York quickly became an established trade. Canadian cream and milk has been sold to such a large extent that there is practically no Canadian butter for export and the quantity of cheese for this market will rapidly diminish. New Zealand butter is also finding an outlet to America.

Dr. McCarthy says:

My statement is borne out by these facts. The farmers should begin to organize for better marketing and production as their only hope to meet the increased competition. We now have what are practically summer prices for butter. I believe this also demonstrates that organization is necessary or our farm industries will eventually go to the wall.

OVERPRODUCTION.

Every farmer knows that we have a surplus crop of some farm product almost every year, which brings down the price of that product below the cost of production.

Overproduction will be a frequent occurrence with no tariff on farm products.

We sometimes think that the United States is the only agricultural country.

Germany raises on an average of from six to seven times the amount of potatoes raised by the whole United States.

Last year the United States raised 331,525,000 bushels of potatoes against Germany's 1,988,591,308 bushels of potatoes. Ireland raised 139,602,358 bushels of potatoes, Canada 78,544,000 bushels, and many other countries raised a large quantity of this product.

It should be remembered that potatoes can be shipped from these countries to our sea ports on the Atlantic sea coast and to our southern ports for from 6 to 8 cents a bushel, about as much as it costs the average farmer to haul his potatoes to the nearest railroad station.

In the year 1913 Russia raised 700,000,000 bushels of wheat; France, 350,000,000 bushels; British India, 280,000,000 bushels; Germany, 138,000,000 bushels; Canada, 170,000,000 bushels; and Argentina, 135,000,000 bushels.

They are shipping eggs to this country from far-away China. In the month of December, 1913, 1,514,296 dozen of eggs, valued at $334,315, were shipped to this country. Under the 5-cent duty on eggs no importations were made.

The importation of corn has increased from 25,819 bushels to 1,632,643 bushels in November, and from 638 bushels to 2,343,444 bushels in December, and in the case of fresh meats of various kinds the importations have advanced from nothing under the old tariff to a total of 16,029,189 pounds under the new.

This shows a surrender of our market to foreign importers.

THE CONSUMER HAS RECEIVED NO BENEFIT.

If anyone will send for Government Bulletin No. 138, issued by the United States Bureau of Labor Statistics, they can get the retail prices of the principal articles of food in each of the 40 important cities throughout the United States.

This bulletin shows that the retail price of the 15 staple articles of food were increased over the same months the year before the tariff went into effect.

I herewith attach statement from this Government bulletin:

Comparing retail prices on October 15, 1913, with prices on the same date 1912, 13 of the 15 articles for which quotations are given advanced and 2 declined in price. Potatoes advanced 42.3 per cent, eggs advanced 14.2 per cent, round steak advanced 12.9 per cent, ham advanced 10.6 per cent, rib roast advanced 8.8 per cent, sirloin steak advanced 8.3 per cent, bacon advanced 8.2 per cent, hens advanced 7.5 per cent, pork chops advanced 6.3 per cent, butter advanced 3.7 per cent, milk advanced 2.7 per cent, corn meal advanced 1.7 per cent, and lard advanced 1 per cent. Sugar declined 8.8 per cent, and flour declined 2.6 per cent.

When the price of each of the articles of food is weighted, according to average consumption in workingmen's families, retail prices were at a higher level on October 15, 1913, than at any other time during the last 23 years and 10 months. Retail prices of food on October 15, 1913, were 70.9 per cent above the average price for the 10-year period, 1890 to 1899; 7.9 per cent above the price on October 15, 1912, and 16.9 per cent above the price on October 15, 1911.

The cities for which actual prices are shown are Atlanta, Ga.; Baltimore, Md.; Birmingham, Ala.; Boston, Mass.; Buffalo, N. Y.; Charleston, S. C.; Chicago, Ill.; Cincinnati, Ohio; Cleveland, Ohio; Dallas, Tex.; Denver, Colo.; Detroit, Mich.; Fall River, Mass.; Indianapolis, Ind.; Jacksonville, Fla.; Kansas City, Mo.; Little Rock, Ark.; Los Angeles, Cal.; Louisville, Ky.; Manchester, N. H.; Memphis, Tenn.; Milwaukee, Wis.; Minneapolis, Minn.; Newark, N. J.; New Haven, Conn.; New Orleans, La.; New York, N. Y.; Omaha, Nebr.; Philadelphia, Pa.; Pittsburgh, Pa.; Portland, Oreg.; Providence, R. I.; Richmond, Va.; St. Louis, Mo.; St. Paul, Minn.; Salt Lake City, Utah; San Francisco, Cal.; Scranton, Pa.; Seattle, Wash.; and Washington, D. C.

STAGNATION IN BUSINESS.

President Wilson, when interviewed May 28, 1914, on the business depression throughout the United States, said:

That while he was aware of the present depression of business, there was abundant evidence that it was merely psychological; that there is no material condition or substantial reason why the business of the country should not be in a most prosperous and expanding condition.

The most conservative authorities upon the unemployed say that there are from one and one-half to two million men out of employment in the United States. These conditions seem due to something more than a state of mind, as indicated by the President.

When our laboring people are out of employment they cease to become consumers, and this injures the markets of the farmer.

Every man, woman, and child in the United States consumes 4.7 bushels of wheat a year, which is equivalent to a barrel of flour a year, while in Russia the consumption of wheat is 2.6 bushels, and in India seven-tenths of a bushel of wheat is consumed by the average inhabitant.

The American people are better clothed and better fed than any class of people in the world, and therefore the 100,000,000 inhabitants of America afford the best home market for the farmers of any country in the world.

FOREIGN CONVICT LABOR COMPETITION.

A recent investigation establishes the fact that there are 2,441,000 convicts in foreign prisons competing with our American workmen. This convict labor is being sold by the countries where the prisons are located at from 5 cents to 25 cents per day. The foreign manufacturer who buys this labor has no rent, storage, light, heat, or power to pay for in the majority of cases. These convicts are manufacturing practically every kind of article that is being manufactured abroad, and these convict-made goods are coming to the United States under the Underwood tariff law in unrestricted competition with goods manufactured by our American labor.

It is conservatively estimated that the annual output of foreign convict labor amounts to $560,000,000 per year.

No wonder our imports are steadily increasing and our exports are falling off.

EXPORTS FALLING OFF.

Official figures from the Department of Commerce show that under the heading of "Manufactures for the further use in manufacturing" our exports have fallen off $5,100,000 in the single month of April, 1914, compared with the corresponding month of the previous year.

I voted against the passage of the Underwood tariff bill, and in doing so I said, in a speech I made against it, that the passage of that bill would be a reversal of a great industrial policy of the United States, an industrial policy which has brought us great prosperity.

If this prosperity continues under the new industrial policy of "tariff for revenue only," it will be the first time in our country's history.

The Underwood tariff bill has been in force less than nine months, but in that brief space of time it has proven such a failure that there is an overwhelming sentiment against it.

I can not vote for the so-called "Clayton antitrust bill" in its present form, with a discrimination against farmer organizations. I am disappointed in the bill in this and other particulars, and hope it may be amended by the adoption of the Nelson and other amendments.

The CHAIRMAN. The time of the gentleman has expired.

Mr. HULINGS. Mr. Chairman, if I am in order I desire to offer an amendment to the second paragraph——

The CHAIRMAN. The time has been fixed.

Mr. HULINGS. A parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. HULINGS. What is before the committee?

The CHAIRMAN. The committee is considering the first paragraph and debate has been fixed at 70 minutes. The gentleman can offer his amendment later.

Mr. MORGAN of Oklahoma. Mr. Chairman, I yield five minutes to the gentleman from Washington [Mr. LA FOLLETTE].

Mr. LA FOLLETTE. Mr. Chairman, I do not know as I desire to use five minutes on this question, but I do want to say that, in my opinion, the framers of the Sherman antitrust law never dreamed that at any time it would be used as an instrument to oppress either organized labor or farmers' associations. It would seem, at first thought, when you come down to the legal or ethical point, that farmers' organizations, if incorporated, should be controlled as any other corporation; but when we take into consideration the slight chance of controlling commodities of universal production it would seem to be impossible for the farmers as a class to organize and get their product in such shape they could so control it as to become a monopoly. They can cooperate to such an extent they can keep from becoming the prey of commission and unprincipled middle men. That has been the main object of farmers' societies and farmers' cooperative associations. It has been to try to get at least a fair share of the profit of their toil and a fair share of the money that the consumer pays. I have seen before the days of farmers' cooperative associations when they have had a hard time to make a living, and after they had established the cooperation that they had bettered their condition.

It seems to me that no one should desire to see them put at the mercy of either the commission men or the middle men who prey on them, and that is the reason I think that the farmer, who is the largest in number of any one class in our country, should have the benefit of some fair laws and some fair consideration. I do not think that the farmers as a class want any special legislation or any marked favor. Neither do they de-

sire to be put in a class where, without any chance to form a monopoly, they can be accused of attempting to monopolize trade and be harassed, as they can be, if we leave this bill in its present form. That should not be done. They should not be harassed and forced out of business or forced back into the old ruts that they had to follow before they commenced to cooperate, and I think if you put this measure on the statute books in its present form that so far as the American farmer, the principal class in numbers in this country is concerned, you are taking a step backward and injuring him instead of benefiting him. [Applause.] I yield back the balance of my time.

The CHAIRMAN. The gentleman yields back one minute.

Mr. NELSON. Mr. Chairman, I yield seven minutes to the gentleman from Nebraska [Mr. SLOAN].

Mr. SLOAN. Mr. Chairman, I desire to say in this behalf that I have consulted three Members of the Committee on the Judiciary and was informed that no representative of the farmers came before that committee and demanded this legislation or any part of it. The facts are that the farmers' part in this bill is simply to be used as a stalking horse to obtain other features of this legislation. Well was it said—I noticed the gentleman from Pennsylvania [Mr. CASEY] in his maiden speech said it—that that side of the House was redeeming its pledges, in that ancient and stately joke perpetrated and promulgated at Baltimore, to the farmers and laborers. I desire to speak about it, especially relating to the trust feature, and in support of the Nelson amendment, which seeks to give at least a measure of the favor professed in this bill but in fact withheld.

So far as the farmers are concerned, this is the second installment of the so-called favorable trust legislation. The first installment was presented in the Underwood tariff bill, the sponsors of which claimed it to be a fulfillment of the tariff plank of the Baltimore convention. That plank stated the general Democratic policy for tariff revision downward as follows:

> We favor the immediate downward revision of the existing high and, in many cases, prohibitive tariff duties, insisting that material reductions be speedily made upon the necessaries of life.

You will note that it stood for a reduction of duties rather than a removal of duties. The bill was said to be one for revenue only. In a subsequent clause it provided that certain articles should have the tariff removed absolutely and placed upon the free list, the following being the language used:

> Articles entering into competition with trust-controlled products and articles which are sold abroad more cheaply than at home should be put upon the free list.

This is the only authority for expansion of the free list found in the Baltimore platform. In the Underwood bill there was a large expansion of the free list. Eighty per cent of the value of all the American products placed upon the free list and which were not on the free list under the Payne law were products of the farm, so that the majority of this House considered farm products as being in competition with trust-controlled products or were sold abroad more cheaply than at home.

Every farmer in the United States knows that neither one of those statements are true, so that in the name of antitrust legislation a most gigantic imposition was perpetrated upon the farmers of this country.

Two statements are surprising to the country. First, that the farmers' products are trust produced or in competition with trust-produced articles; second, that farmers' products are sold abroad cheaper than at home, and yet these two statements are the only basis for the free listing of nearly all the products of the Northwest.

And now they come in with their second installment of trust legislation for the farmers, and while the first installment was an imposition this one is a fraud. They first include the farmer organization with the laboring men in section 7. Here they pretend to preserve for the farmers, laboring men, and horticultural associations special privileges. But they are preserved only while in a state of repose so far as the farmers are concerned. When they come into action for the purpose of carrying out only those things that can be of value to them, they are prohibited, except where a further provision is provided in the act itself. Now, then, in section 7 the farmers and the labor organizations were placed upon a parity; but in section 18 we find the labor organizations are specially provided for. So that each and every act by which they can accomplish the legitimate purposes of their organization is permitted by the law. We find no corresponding section to section 18 to protect the farmers. Section 18 is as follows:

> SEC. 18. That no restraining order or injunction shall be granted by any court of the United States, or a judge or the judges thereof, in any case between an employer and employees, or between employers and employees, or between employees, or between persons employed and persons seeking employment, involving, or growing out of, a dispute concerning terms or conditions of employment, unless necessary to prevent irreparable injury to property, or to a property right, of the party making the application, for which injury there is no adequate remedy at law, and such property or property right must be described with particularity in the application, which must be in writing and sworn to by the applicant or by his agent or attorney.
>
> And no such restraining order or injunction shall prohibit any person or persons from terminating any relation of employment, or from ceasing to perform any work or labor, or from recommending, advising, or persuading others by peaceful means so to do; or from attending at or near a house or place where any person resides or works, or carries on business or happens to be, for the purpose of peacefully obtaining or communicating information, or of peacefully persuading any person to work or to abstain from working; or from ceasing to patronize or to employ any party to such dispute, or from recommending, advising, or persuading others by peaceful means so to do; or from paying or giving to, or withholding from, any persons engaged in such dispute, any strike benefits or other moneys or things of value; or from peaceably assembling at any place in a lawful manner, and for lawful purposes; or from doing any act or thing which might lawfully be done in the absence of such dispute by any party thereto. Nor shall any of the acts specified in this paragraph be construed or held unlawful.

This matter, Mr. Chairman, as I say, was not asked for by the farmers of the United States. The farmers of the United States are in favor of equality before the law with the manufacturers, miners, laborers, and all others of this country. But when there is presented, as this bill presents, a motley mass of discriminations and favors to various industries denied to others, then in the general skirmish and scrimmage the farmers are entitled to have their share of that discrimination. For that reason the farmers of the United States do not want this meaningless sop thrown to them in this bill, which has no more substance or satisfaction in it than a Dead Sea apple, which would crumble to ashes upon touch; because there is no provision throughout the whole bill in any place that would protect them in carrying out any special course of action whereby they might forward their industry for the purpose of increasing the prices of their products or perhaps reducing the prices of those which they bought.

Perhaps the most exasperating feature of this legislation is the cheap estimate placed upon the farmers' intelligence and vigilance. The farmers of this country will see through this cheap attempt to placate them for the wrongs which have been inflicted upon them by this Congress and will resent the attempt to make them a stalking horse for other classes interested in legislation. This bill discriminates against the small dealer certainly; whether there is a discrimination against the large dealer is a problem. It has nets to catch small fishes, but none apparently strong enough to catch large ones. The discriminations in section 3 must operate in favor of the large mine owner and against the small.

Section 7 to the farmer must appear a fraud upon its face.

Section 8 grants to the railroads of the United States means of combination and agreement hitherto denied by Congress and until this committee acted which neither House of Congress ever dared to favor.

The Nelson amendment we are now discussing is a discrimination. But if you are in the discriminating business, it is important that you give 30,000,000 people of the United States interested in agriculture their share of the discrimination. But this you deny.

I can understand why this bill was drafted by three Members of the majority party in conjunction with the White House with the minority excluded, as was stated in the opening of this debate. It was so with the tariff bill, which discriminates against the farmer. It was drafted by the majority Members with the same aid, because it is a better means of keeping the real purpose of legislators in the dark. A great many people in the United States thought when the tariff bill was being drafted that trust articles and trust-controlled products, and those that were in competition with trust-controlled products, should be placed upon the free list; that that was intended for the manufacturing interests of the United States, and especially those of the East. But when it was unveiled it was found to strike to the extent of 80 per cent the products of the soil, and to the extent of only 20 per cent other products. [Applause on the Republican side.]

The CHAIRMAN (Mr. WILSON of Florida). The time of the gentleman has expired.

Mr. NELSON. Mr. Chairman, will that side consume some of its time?

Mr. WEBB. Mr. Chairman, I yield 10 minutes to the gentleman from Pennsylvania [Mr. CARR].

The CHAIRMAN. The gentleman from Pennsylvania [Mr. CARR] is recognized for 10 minutes.

Mr. CARR. Mr. Chairman, history and chronicle are full of the achievements of heroes, kings, and statesmen in war and politics, but slight insight is given us into the commercial customs or methods of business of ancient or even medieval times. And yet we know that mighty wars were fought whose obscure

objects were really the extension of trade, the acquisition of land, the increase of wealth. Since the day when Joseph forced the people to pay him for his corn, first their money, then their flocks, their cattle, and their asses, and lastly their land and their freedom, the spirit of monopoly has pervaded trade. From the primitive practices of royal monopolists of brick and papyrus in Egypt, of mines and banking in Greece, of salt in Rome, and of many less extensive but more significant methods of trade control among merchants, factors, and shipowners, this genius of monopoly has grown through the years in strength and influence until recently one of the leading bankers of America, Mr. George F. Baker, was constrained to admit before the Pujo committee that the conditions prevailing in the United States had brought about a situation not entirely comfortable for a great country to be in. This grave situation is not a result of the natural growth of industry. On the contrary, it has been brought about through unfair trade practices, through the artificial elimination of competition, through the control of credit achieved by a small group of men over our banks and industries. This result has been attained by three principal methods: First, through the consolidation of banks and trust companies, the reservoirs of money, and their control and the control of the large funds of life insurance companies, through stock holdings, voting trusts, and interlocking directorates; second, through large combinations and consolidations of public-service corporations and the formation of huge industrial trusts, intertwined in interest through common directors, voting trusts, and stock holdings; and, third, through banker management. The very immensity of these trusts and combinations made necessary their financing through bankers who had acquired the power to control the resources of the depositories of the people's money, and thereby enabled a few large banking houses to demand representation upon the directorates and to dictate the business policy of these large commercial units, the issue of stocks and bonds beyond the reasonable needs of business, the purchase of supplies from favored concerns at prices wholly arbitrary, and for the benefit of corporations in which the same group of men were largely interested.

In other words, through the power acquired by the bankers to grant or withhold credit they were not only able to decree the combination and consolidation of industrial units, thereby making necessary large issues of securities and stocks, determined in amount almost absolutely by the will of the bankers, but they were enabled to charge for their services as underwriters all that the traffic would bear. These huge commissions were only made possible through large consolidations, and therefore it became the interests of the bankers to control industrial organizations and to effect these combinations. With the consequent elimination of competition and the ability to fix prices and control markets they were enabled to earn their interest charges and to pay dividends upon fictitious valuations.

An interesting example of the "vicious circle of control through which our financial oligarchy now operates" is stated by Mr. Louis D. Brandeis in his book, Other People's Money, and How the Bankers Use It:

J. P. Morgan (or a partner), a director of the New York, New Haven & Hartford Railroad, causes that company to sell to J. P. Morgan & Co. an issue of bonds. J. P. Morgan & Co. borrow the money with which to pay for the bonds from the Guaranty Trust Co., of which Mr. Morgan (or a partner) is a director. J. P. Morgan & Co. sell the bonds to the Penn Mutual Life Insurance Co., of which Mr. Morgan (or a partner) is a director. The New Haven spends the proceeds of the bonds in purchasing steel rails from the United States Steel Corporation, of which Mr. Morgan (or a partner) is a director. The United States Steel Corporation spends the proceeds of the rails in purchasing electrical supplies from the General Electric Co., of which Mr. Morgan (or a partner) is a director. The General Electric sells supplies to the Western Union Telegraph Co., a subsidiary of the American Telephone & Telegraph Co., and in both Mr. Morgan (or a partner) is a director. The telegraph company has an exclusive wire contract with the Reading, of which Mr. Morgan (or a partner) is a director. The Reading buys its passenger cars from the Pullman Co., of which Mr. Morgan (or a partner) is a director. The Pullman Co. buys (for local use) locomotives from the Baldwin Locomotive Co., of which Mr. Morgan (or a partner) is a director. The Reading, the General Electric, the Steel Corporation, and the New Haven, like the Pullman, buy locomotives from the Baldwin Co. The Steel Corporation, the Telephone Co., the New Haven, the Reading, the Pullman, and the Baldwin Cos., like the Western Union, buy electrical supplies from the General Electric. The Baldwin, the Pullman, the Reading, the Telephone, the Telegraph, and the General Electric Cos., like the New Haven, buy steel products from the Steel Corporation. Each and every one of the companies last named markets its securities through J. P. Morgan & Co., each deposits its funds with J. P. Morgan & Co., and with these funds of each the firm enters upon further operations.

This specific illustration is in part supposititious, but it represents truthfully the operation of interlocking directorates. Only it must be multiplied many times, and with many permutations, to represent fully the extent to which the interests of a few men are intertwined. Instead of taking the New Haven as the railroad starting point in our example, the New York Central, the Santa Fe, the Southern, the Lehigh Valley, the Chicago & Great Western, the Erie, or the Pere Marquette might have been selected; instead of the Guaranty Trust Co. as the banking reservoir, any one of a dozen other important banks or trust companies; instead of the Penn Mutual as purchaser of the bonds, other insurance companies; instead of the General Electric, its qualified competitor, the Westinghouse Electric & Manufacturing Co. The chain is, indeed, endless, for each controlled corporation is entwined with many others.

Mr. Chairman, the Democratic Party is pledged not to the regulation of monopoly but to its absolute destruction by the enactment of specific legislation. The Baltimore platform declares:

A private monopoly is indefensible and intolerable. We, therefore, favor the rigorous enforcement of the criminal as well as the civil law against trusts and trust officials, and demand the enactment of such additional legislation as may be necessary to make it impossible for a private monopoly to exist in the United States. We favor the declaration by law of the conditions upon which corporations shall be permitted to engage in interstate trade, including, among others, the prevention of holding companies, of interlocking directorates, of stock watering, of discrimination in price, and the control by any one corporation of so large a proportion of any industry as to make it a menace to competitive conditions.

The series of trust bills presented to this Congress are designed to fulfill that pledge to the American people. The present bill embraces six important provisions exclusive of procedural rules, as follows:

First. It attempts to prevent unfair discrimination in price whereby great corporations, by selling their goods at a less price in the particular communities where their rivals are engaged in business than in other places throughout the country, endeavor to destroy competition and render unprofitable the business of competitors. The prohibition is comprehensive and permits of exception only on account of differences in grade, quality, and quantity of the commodity sold, and on account of differences in the cost of transportation. Although 19 or 20 States have, within the last few years, enacted such laws to correct such discriminatory practices within their borders it is very necessary that there should be national legislation on the subject, as it is now possible for a great corporation to lower the prices of its commodities throughout the borders of one State without violation of State laws, and thereby destroy the business of competitors within that State.

Second. It is made unlawful for the owner or operator of a mine or the selling agent thereof in commerce to refuse to sell such product to a responsible person who applies to purchase the same. Thereby it is made impossible that the bounty of the earth shall be monopolized.

Third. It is made unlawful for a manufacturer to contract with a dealer not to use or deal in the commodities of a competing manufacturer. Such practice results in driving out competitive articles from a community and tends to establish a monopoly in the trade of the commodity handled under the exclusive contract and generally results in sales at a higher profit. Very often, however, the merchant finds his shelves filled with articles he is unable to sell. It is unfair to the dealer, but it is more grievously unfair to the millions of American consumers who are compelled to purchase the necessaries of life through the ordinary channels of trade in their respective communities.

Fourth. It is made unlawful for a corporation engaged in commerce to acquire the whole or any part of the stock of another corporation engaged in commerce where the effect of such acquisition is to eliminate or substantially lessen competition between the corporation whose stock is so acquired and the corporation making the acquisition or create a monopoly of any line of trade in any section or community. The evil to be avoided by this prohibition is obvious. It goes much further than the Sherman antitrust law and defines with practical precision in what an undue restraint of trade consists.

Fifth. It is made unlawful after two years (a) for an individual, a member of a partnership, or a director or other officer of a corporation engaged in the business of producing or selling equipment, materials, or supplies to railroads or common carriers to act as a director, officer, or employee of another corporation or common carrier purchasing from such person or the partnership of which he is a member or the corporation of which he is a director or other officer; (b) for any banker, director, or other officer of a bank to be a director, officer, or employee of any common carrier for which such person or bank or trust company acts as underwriter or from which such person, banker, or trust company purchases securities; (c) for any person to be at the same time a director, officer, or employee of more than one bank, banking association, or trust company whose deposits, capital, surplus, and undivided profits aggregate more than $2,500,000; (d) for any person to be at the same time a director in any two or more commercial corporations either of which has capital, surplus, and undivided profits aggregating more than $1,000,000, except common carriers subject to the control of the Interstate Commerce Commission.

Sixth. It is provided that nothing contained in the antitrust law shall be construed to forbid the existence and operation of fraternal, labor, consumers', agricultural, or horticultural or-

ganizations or to restrain individual members of such organizations from carrying out the legitimate objects thereof.

The provisions of sections 9 against interlocking directorates is one of the most important and far-reaching legal restraints in the whole history of corporate reform. It is one which, as the President has said, opinion deliberately sanctions and for which business waits. In his message of January 20, 1914, the President said:

> It [business] awaits with acquiescence, in the first place, for laws which will effectually prohibit and prevent such interlockings of the personnel of the directorates of great corporations, banks, and railroads, industrial, commercial, and public-service bodies, as in effect result in making those who borrow and those who lend practically one and the same, those who sell and those who buy but the same persons trading with one another under different names and in different combinations, and those who affect to compete; in fact, partners and masters of some whole field of business.

It was developed by the Pujo committee that Mr. George F. Baker, chairman of the board of directors of the First National Bank of New York, is a director in 22 corporations having aggregate resources of $2,272,000,000, and that the directors of that bank are directors in not less than 27 other corporations whose aggregate resources are $4,270,000,000. Mr. James Stillman, chairman of the board of directors of the National City Bank, is a director in 7 corporations, with aggregate resources of $2,476,000,000, and that the directors of that bank are directors in no less than 41 other corporations which have aggregate resources of $10,564,000,000; that the members of the firm of J. P. Morgan & Co. are directors in 47 of the largest corporations in the country; and that these three groups, Messrs. J. P. Morgan & Co., the directors of the First National Bank, and the National City Bank, hold 118 directorships in 34 banks and trust companies having total resources of $2,679,000,000 and total deposits of $1,983,000,000; 30 directorships in 10 insurance companies having total assets of $2,293,000,000; 105 directorships in 32 transportation systems having a total capitalization of $11,784,000,000 and a total mileage of 150,200 miles; 63 directorships in 24 producing and trading corporations having a total capitalization of $3,339,000,000; 25 directorships in 12 public-utility corporations having a total capitalization of $2,150,000,000; in all, 341 directorships in 112 corporations having aggregate resources or capitalization of $22,245,000,000.

Such a condition is contrary to public policy, is violative of the spirit of business fairness, and is destructive of that freedom and democracy of individual opportunity which ought to characterize the institutions of a republic. It is offensive to that scriptural injunction that—

> No man can serve two masters, for either he will hate the one and love the other, or else he will hold to the one and despise the other.

It is in moral opposition to that relationship of trust which legally exists between a corporation and a director. It is a clear rule of law that directors of a corporation are trustees for the stockholders and that the corporate property is a trust fund to be administered by them in the utmost good faith. No contract in which a director is interested can be sustained against attack where the interested director is a necessary part of the quorum. In England they have a rule that whenever it appears that a director of a corporation is interested in corporate matters under consideration by the board of directors, such director is thereby removed from office. In an Ohio case it was said:

> A director whose personal interests are adverse to those of the corporation has no right to be or act as a director. As soon as he finds that he has personal interests which will conflict with those of the company he ought to resign

Each corporation is interested in obtaining an advantageous bargain and each ought to have a sole claim upon the best endeavors of its agents. As the New York court said:

> The law permits no one to act in such inconsistent relations. It does not stop to inquire whether the contract or transaction was fair or unfair. It stops the inquiry when the relation is disclosed, and sets aside the transaction or refuses to enforce it, at the instance of the party whom the fiduciary undertook to represent, without undertaking to deal with the question of abstract justice in the particular case.

As long ago as 1880 Mr. Justice Field said:

> It is among the rudiments of the law that the same person can not act for himself and at the same time, with respect to the same matter, as the agent of another whose interests are conflicting. The two positions impose different obligations, and their union would at once raise a conflict between interest and duty; and, constituted as humanity is, in the majority of cases duty would be overborne in the struggle.

And yet this salutary rule has been made wholly ineffective to prevent unfair contracts between corporations through the agency of a common director by judicial decision that such contracts are valid when the vote of the interested director was not necessary to carry the resolution or his presence to constitute a quorum, and that even where his vote and presence were so necessary, the contract is voidable only in a proper proceeding taken for that purpose by the corporation, its shareholders, or its creditors, and is not absolutely null and void.

And yet everyone knows that it is the common practice in such cases for a director actively to interest himself in the discussions of such contracts and then have himself recorded as "not voting." Where the interested director is a representative of the fiscal agent of such corporation, it is unnecessary for him even to be present at meetings where such contracts are voted, for since he controls the supply of capital his will can not be disregarded.

This ruling of the courts has rendered actions to set aside such contracts so infrequent as to be almost negligible. Manifestly stockholders have but slight knowledge of the transactions of large corporations which are managed exclusively by a board of directors. Nor would knowledge alone suffice since they are under the necessity of producing evidence often carefully concealed and difficult of exposure. Even with the necessary evidence at hand, a suit against a large corporation or one of its directors is usually an expensive and protracted proceeding, and one which stockholders of moderate means will not often undertake. Even large stockholders may very well fear the power of the interlocked interests of such a director and his associates and conclude rather to bear the ills he has than fly to others that he knows not of.

Mr. Chairman, I would go still further than this bill, for whereas it has been provided that no person shall be a director in two or more commercial corporations either of which has capital of more than $1,000,000, I would extend the prohibition to prevent any person who is a stockholder to the extent of 10 per cent or more of the share capital of any corporation capitalized at $1,000,000 or more from being at the same time a director in any corporation capitalized at more than $1,000,000, except the corporations in which he is a stockholder. I can see no difference in principle in the one case than in the other. The evils to be avoided are identical, the conflict of interest is the same, the divided allegiance is equally evident.

The time has come, Mr. Chairman, to deal effectively with these abuses. The paternal control of a few self-constituted masters can not longer be suffered to obstruct the industrial activity which is the spirit of liberty and the very lure of life. In this bill we lay the ax to the root of the tree of monopolistic control. We seek to destroy the processes which make monopoly possible. And further fulfilling our pledges we make guilt personal. We declare then the offending individual shall himself answer for his offending. We seek to protect the commerce of the Nation and to allow it to flow in the natural channels of free and fair competition, to permit the individualistic spirit of America to find expression and our human resources to be utilized in the freedom of our industrial life. [Applause.]

The CHAIRMAN. The gentleman yields back eight minutes.

Mr. WEBB. Mr. Chairman, I yield five minutes to the gentleman from Maryland [Mr. LEWIS].

Mr. LEWIS of Maryland. Mr. Chairman, I should not undertake to discuss this provision further were it not for the deep respect I feel for the high-minded patriotism of the author of the amendment, Mr. NELSON, a compliment I wish to pay him in this public way. I think, however, he, with some others, is proceeding on an assumption with reference to these amendments which is not sustained by the actual conditions of the discussion. That assumption is that in some sort of a way Congress is giving to the farming organizations and to other mutual organizations the rights which they are to enjoy in the future. That is an error. Their right to exist and their conditions of existence will continue to spring from the legislation of the respective States; and the farming organizations in which my friend from Wisconsin [Mr. NELSON] is justly so much concerned can look with confidence to the legislature of his own State for their charters of privileges and their bills of rights.

Mr. NELSON. Mr. Chairman, I should like to ask the gentleman——

Mr. LEWIS of Maryland. Let me first complete this thought. It is only under conditions whereby any commercial organization may become a trust or monopoly that the jurisdiction of national legislation will attach to that organization at all. It is very misapprehensive of the situation to suggest any fear for the farming organizations which exist in this country, because in evidence of that we have the actual situation itself to dispel such fear. There is the well-known California Citrus Fruit Association, of the Pacific coast, which has reached very, very large proportions, and the operations of which are a matter of national notice. Yet, large and important as it is, there has been no effort to apply even the unamended Sherman antitrust law to its operations. There is, therefore, no ground to express the fear that the National Government is about to or may at

any time proceed against the farming organizations of the country. Their rights will continue to be the rights which are granted them by the respective States. Now I will yield to the gentleman from Wisconsin for his question.

Mr. NELSON. If the States can properly grant them the rights the gentleman mentions, why can not the Congress grant them also the right to be protected interstate?

Mr. LEWIS of Maryland. The Congress does grant that right under the present antitrust laws, especially as qualified and amended by this clause, section 7.

Mr. NELSON. One further question. The gentleman is a very able representative of labor, and as such he asked relief for labor organizations because they were always under the threat of being prosecuted under the Sherman law. Why does he not ask, in all fairness, that farmers be treated as he has insisted that labor should be treated?

Mr. LEWIS of Maryland. We do give them the same rights in the same clause and in the same language of section 7.

Mr. NELSON. Oh, but the gentleman——

Mr. LEWIS of Maryland. There was this difference: The labor organizations had been attacked, and successfully attacked, in the courts.

Mr. NELSON. But the farmers have also been attacked in Kentucky, as the gentleman knows.

Mr. LEWIS of Maryland. Both of them are relieved from that attack in the same provision.

The CHAIRMAN. The time of the gentleman has expired.

Mr. WEBB. I yield to the gentleman from Maryland three minutes more.

Mr. NELSON. The gentleman from Maryland is very fair, and I want to say to him that I am very sorry to see that labor has deserted its old-time ally, the farmer. Labor is specifically excluded, because of the two qualifications, "capital stock" and "conducted for profit." But what has the farmer, if he organizes a cooperative business association for profit?

Mr. LEWIS of Maryland. That introduces what I would wish to add to my remarks. What is it that the farmer of the United States wants? I do not believe he wants to raise prices, as a trust or a monopoly is instinctively designed to do. What he wants is to get for his own products the prices that he knows the consumers of this country are paying for them. If we could give the farmer a method by which he could secure for his product what the consumers actually pay, I am sure he would be delighted; farming prosperity would be greatly augmented and the Nation itself blessed by such prosperity.

Now, there is nothing in this provision that is not designed to give him the fullest opportunities to organize with reference to the marketing of that product through mutual cooperation. But I am sure the gentleman recognizes that in dealing with the trusts the statutes must draw lines of distinction, and the statute in this particular case draws its line of distinction between the organization of men and the monopolizers of commodities. That distinction is sustained by the instincts of justice in the human race. The ordinary workman in the factory can combine his manhood, his intelligence, and his organizing instincts for mutual advantage. The farmer is explicitly mentioned as having the right to do the same thing. Now, to do otherwise would be to open the gates for, possibly, that citrus fruit association, if it ever should overgrow and overleap the bounds where national welfare becomes involved. I think that in all fairness to the gentleman from Wisconsin it can be claimed for this section 7, as it is now amended, that it is equally just to all forms of human labor, on the farm as well as in the factory. [Applause.]

The CHAIRMAN. The time of the gentleman has expired.

Mr. WEBB. Mr. Chairman, we do not care to discuss this any further on this side. I suppose gentlemen on the other side have completed what they wished to say.

Mr. VOLSTEAD. I yield to the gentleman from Washington [Mr. FALCONER].

Mr. FALCONER. Mr. Chairman, I speak in favor of the amendment offered by the gentleman from Wisconsin [Mr. NELSON]. I believe there was something also in the statement of the gentleman from Pennsylvania [Mr. GRAHAM] a few minutes ago when he said that this bill seems to treat of several distinct lines of legislation. It is characteristic of this Congress to do an omnibus legislative business. I believe it would have been wiser for the Congress to have treated the question of labor and farm cooperative associations entirely separately from monopolies and trusts.

This bill—and I do not rely on my own judgment alone, but from general discussion of eminent gentlemen—is very much complicated; but there should be no misunderstanding regarding the rights of farm cooperative associations in an endeavor to obtain just consideration when organizing among themselves for the purpose of profitably marketing their own produce.

Mr. VOLSTEAD. I yield five minutes to the gentleman from Oklahoma [Mr. MORGAN].

Mr. MORGAN of Oklahoma. Mr. Chairman, I should not impose further remarks on the House if I did not really believe that there is great merit in the amendment proposed by the gentleman from Minnesota. The first paragraph of section 7 of the bill as reported by the committee and as amended by the amendment offered by the gentleman from North Carolina is as follows:

SEC. 7. That nothing contained in the antitrust laws shall be construed to forbid the existence and operation of fraternal, labor, consumers', agricultural, or horticultural organizations, orders, or associations instituted for the purposes of mutual help, and not having capital stock or conducted for profit, or to forbid or restrain individual members of such organizations, orders, or associations from carrying out the legitimate objects thereof, nor shall such organizations or orders or associations, nor the members thereof, be held or construed to be illegal combinations or conspiracies in restraint of trade under the antitrust laws.

Now, I have prepared what I think would be a proper substitute for the first paragraph of section 7, as quoted above. It is as follows:

SEC. 7. That nothing contained in the antitrust laws shall be construed to prevent the existence or operation of labor organizations; or to forbid such labor organizations or persons belonging thereto from entering into any contract, agreement, or arrangement with a view to lessening the hours of labor; or of increasing their wages; or of bettering their conditions; or to forbid the existence and operation of consumers' organizations; or to forbid such organizations or members thereof from entering into any contract, agreement, or arrangement with a view to lessening the cost to them of goods, wares, and merchandise, or of any agricultural or horticultural product; or to forbid the existence or operation of any farmers' organization or any agricultural or horticultural organization; or to forbid such organizations or the members thereof from entering into any contract, agreement, or arrangement with a view to reducing the cost to them of tools, implements, machinery, fertilizers, or of any other supplies needed by persons engaged in agriculture or horticulture; or with a view to collective bargaining in the sale of their products or to obtain better credit or lower interest; nor shall such organizations or orders or associations, nor the members thereof, be held or construed to be illegal combinations or conspiracies in restraint of trade under the antitrust laws.

My objection to section 7 as it has been amended is that under it only farmers' organizations without capital stock and not conducted for profit would be legal under this section. In other words, it exempts from antitrust laws only farmers' organizations organized for mutual help along social, literary, and educational lines. There has been no attempt to dissolve such farmers' organizations, so that the provisions of section 7 really give to farmers nothing. While we are considering this question we should in plain language give the farmers the right to organize, even with capital stock or for profit, so long as their organizations are along legitimate lines to aid them in marketing their products as cheaply as possible and in purchasing their supplies as cheaply as possible.

Now, the amendment offered by the gentleman of Minnesota [Mr. NELSON] is broad enough to give the farmers what they need and should have. I think it was Sir Horace Plunkett, who made a thorough study of American agriculture, and who has devoted his life largely in an effort to improve agricultural conditions in Ireland, who said that improvement in agriculture must come through better farming, better business, and better living, and that the first of these was better business in farming. Improvement in farming—the making of the farm what it should be in this country—must come through better transportation facilities, better educational advantages, and better organization among our farmers.

As a member of the Judiciary Committee I filed a minority report to this bill, in which I said:

The law not only should not prohibit but should encourage farmers to organize with a view to purchasing implements, machinery, and other farm supplies at less cost and with the view to collective bargaining in the sale of their products and in the purchase of supplies. In France, Germany, and other European countries farmers' organizations are authorized by law. The line along which these organizations can act is definitely defined. Governmental aid, direction, and assistance is given. Such organizations are encouraged to engage in a wide field of purely business transactions. These organizations have contributed immensely to the expansion of the agricultural interests of these countries. It would be exceedingly unfortunate at this time, when we are about to enter upon the important task of providing our farmers with better credit facilities, to enact a law which may be construed to make all farmers' organizations unlawful except such as are organized for the mutual benefit of members along literary, insurance, and social lines.

Practically every other business is highly organized but the business of farming. There are about 6,500,000 farmers. Something like 12,000,000 persons over 10 years of age toil on the farm. The farmers are at a great disadvantage. Labor is organized. Business is organized. Concentration, combination, cooperation everywhere except among the farmers. With the most intelligent farmers of the world, in business cooperation our farmers are far behind the less intelligent farmers of other countries. To aid our farmers in the line of greater cooperation has now become a national duty, and it would be hardly short of a public calamity to enact a statute which on its face restricts and limits to a narrow sphere the purposes for which agricultural associations may be formed.

I know the gentlemen constituting the leadership on this committee have no desire to neglect the farmer. I know the gentleman from Maryland [Mr. LEWIS], who is the champion in the interest of labor, has no desire to do an injustice to the farmer, and yet, as I have studied this question, I believe that the National Government ought not only to permit farmers to organize, but that the National Government should make appropriation to encourage the farmers to organize.

The United States is doing more and has done more along the line of education for the farming interests than any nation on earth, but along the lines of teaching our farmers to organize for better business we are a quarter of a century behind the great European Governments. There is no question about that.

Mr. WEBB. Will the gentleman yield?

Mr. MORGAN of Oklahoma. Certainly.

Mr. WEBB. Wherein do the farmers get more in the Nelson amendment than we have given them in the amendment just adopted?

Mr. MORGAN of Oklahoma. I think there is some question of whether there can be a farmers' organization to aid the farmers in marketing the crops more cheaply, or in purchasing their supplies at a less price under the committee amendment which has been adopted. To carry on this kind of an organization it may be necessary to have capital stock, and it may be necessary that these organizations shall be for the purpose of profit. As long as we do not permit the farmer to organize trusts to elevate prices of cotton, wheat, or some other staple product, we are doing the country no injury.

We passed the tariff act, but we all know that under that act the farmer is largely placed in competition with the farmers of the world, however ignorant they may be, or however cheap the labor they may employ, or however cheaply they may be able to produce farm products. We passed the currency act, but you postponed the bill to give our farmers cheaper interest. What have you done for the farmer? Now, when you are passing a third great bill, you are about to place therein a section which, in my judgment, does not do the farmers of this country justice. I believe that it is in the interest not only of the farmer but in the interest of the great consuming masses of the country that we should encourage the farmers to organize to market their crops and in buying supplies.

Gentlemen who pose here as champions for labor are indirectly pleading against labor when they oppose the organization of farmers. We want the farmers to organize so that the products of the farm can come more directly to consumers with less cost and with a fewer number of middlemen. [Applause.]

The CHAIRMAN. The time of the gentleman from Oklahoma has expired.

Mr. WEBB. Mr. Chairman, I yield five minutes to the gentleman from Arkansas, a member of the committee.

Mr. FLOYD of Arkansas. Mr. Chairman, I desire to oppose the amendment offered by the gentleman from Minnesota. In the exception made in section 7 as it is written we use the same language in reference to farmers' organizations that we do in reference to labor and other organizations mentioned. We believe to that extent they should be differentiated from industrial and other corporations organized for profit. Gentlemen, I represent a farming district, and I also represent one of the greatest horticultural districts in the United States, but I am opposed to incorporating a provision in this bill that will allow the farmers and the horticulturists of this country to enter into combinations to increase the price of their products, which are industrial commodities, when in the existing law we forbid manufacturers and other classes of citizens from entering into such combinations.

I come from the South, and the South produces three-fourths of the cotton in the world, and perhaps more. I am opposed to any law that would allow the cotton farmers of the South to enter into combinations to control the price of cotton which at the same time would make it a crime for the manufacturers who purchase that cotton and manufacture it into cloth to enter into like combinations to raise the price of the manufactured product. For these reasons we think the amendment should be rejected. I represent the majority of the committee in opposing the amendment offered by the gentleman from Wisconsin, and I hope the House will vote it down. [Applause.]

Mr. WEBB. Mr. Chairman, just one word before we vote. The Illinois antitrust act, as my friend from Illinois knows, undertook to exempt agricultural products and live stock while in the hands of the producer and raiser. It was in these words:

> The provisions of this act shall not apply to agricultural products and live stock while in the hands of the producer and raiser.

That was in the antitrust act.

A man by the name of Connolly was the defendant when this particular act came to the notice of the Supreme Court. When the Supreme Court came to pass upon it they said that that act was void because it undertook to exempt agricultural products and live stock.

Mr. MANN. Will the gentleman yield?

Mr. WEBB. Certainly.

Mr. MANN. That was under a constitutional limitation on the power of the Legislature of Illinois, and that is not in the United States Constitution.

Mr. WEBB. I understand that perfectly. The fourteenth amendment forbids any State to deny every citizen the equal protection of the law. That is the ground on which the Supreme Court in this case puts its opinion in declaring the statute unconstitutional. But I want to call attention to this one sentence in the opinion of that great and good judge, Judge Harlan:

> We conclude this part of the discussion by saying that to declare that some of the class engaged in domestic trade or commerce shall be deemed criminals if they violate the regulations prescribed by the State for the purpose of protecting the public against illegal combinations formed to destroy competition and to control prices, and that others of the same class shall not be bound to regard those regulations, but may combine their capital, skill, or acts to destroy competition and to control prices for their special benefit, is so manifestly a denial of the equal protection of the laws that further or extended argument to establish that position would seem to be unnecessary.

The proposition of my friend from Minnesota [Mr. NELSON] is to allow a certain class of people to form corporations with the avowed purpose of monopolizing certain products for the purpose of enhancing the prices of those products. If that be his amendment, I do not believe that any man ought to vote for it, because I do not see why one man should have the right to enhance the price of a certain class of products by monopoly whereas another man is denied that same right and is put in jail if he does it.

Mr. NELSON. Mr. Chairman, will the gentleman yield?

Mr. WEBB. Yes.

Mr. NELSON. Therefore the gentleman feels that farm organizations should be properly under the Sherman antitrust law?

Mr. WEBB. No; I do not believe that they should, if they are organizations for mutual help, without profit, just like labor organizations, and this bill expressly legalizes their existence.

Mr. NELSON. Will the gentleman explain how any farm organization not organized for profit could possibly be in violation of the terms of the law?

Mr. WEBB. If a farmer or a doctor or a merchant or a manufacturer, or a combination of them, violates the law of the land, they ought to be punished for it.

Mr. MANN. Mr. Chairman, will the gentleman yield?

Mr. WEBB. Yes.

Mr. MANN. Under the Webb amendment which we have just agreed to, would it not be lawful for 10,000 or 100,000 farmers to join an organization not for profit?

Mr. WEBB. Absolutely.

Mr. MANN. To raise the price of wheat or the price of cotton or to refuse to sell it at a less price than a certain fixed price higher than the then market price?

Mr. WEBB. I do not know whether it would go that far or not. As long as the product is their own cotton or corn they can hold it as long as they please.

Mr. MANN. I asked the question, and the gentleman said a while ago that he did not believe in that; but is not that the effect of the amendment that we agreed to, as long as the organization is not for profit, that it shall not be considered as an organization in restraint of trade?

Mr. WEBB. That is what the amendment says; yes.

Mr. MANN. So that if a million farmers, if they could get them to agree, could agree not to sell cotton below a fixed price or corn or wheat or any other product below a fixed price, and that agreement would be lawful?

Mr. WEBB. So long as the farm products are in the hands of those who produce them.

Mr. MANN. It might not be in hand, but it might be in a warehouse.

Mr. WEBB. That is still in the producer's possession.

Mr. CARR. Would it not be for profit if it raised the price, and therefore illegal?

Mr. MANN. But it would not be an organization for profit.

Mr. CARR. That is what the gentleman says—organized for profit.

Mr. WEBB. I do not believe we ought to permit corporations organized for profit to monopolize any product and to depress or raise the price of any product, for such would be offensive to every principle of law against monopoly and restraint of trade.

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from Wisconsin.

The question was taken; and on a division (demanded by Mr. NELSON) there were—ayes 23, noes 59.

So the amendment was rejected.

Mr. BRYAN. Mr. Chairman, I offer the following amendment, which I send to the desk and ask to have read.

The Clerk read as follows:

Page 24, after the word "laws," at the end of the Webb amendment, add the following:

"There shall be no abridgment of the right of wage earners and producers to organize for the protection of wages and improvement of labor conditions."

Mr. BRYAN. Mr. Chairman, I claim no pride of authorship in this amendment. A very much greater Bryan than I is the man who wrote this amendment. I have copied it verbatim from the Democratic platform enunciated at Baltimore by the Democratic Party, and it is declared to be the last word of that party on this particular subject.

The CHAIRMAN. The Chair will state that according to his understanding the gentleman from Minnesota [Mr. VOLSTEAD] controls the time for debate.

Mr. VOLSTEAD. Mr. Chairman, I yield the gentleman five minutes.

Mr. BRYAN. Mr. Chairman, this is a part of the Democratic platform, and it gives me a great deal of pleasure to dish up to the Democrats here an amendment which ordinarily I know they would not adopt, but which, under the peculiar conditions existing, it being a part of their own platform, they will surely adopt.

It goes a good deal further than the amendment that has been adopted, for it provides that there shall be no abridgment of the right of labor to organize to promote higher wages and protect their own product, and it is true it might, under interpretation, grant labor a great deal more rights than labor has demanded. But it is a part of the Democratic platform.

Mr. HENRY and Mr. SLOAN rose

The CHAIRMAN. To whom does the gentleman yield?

Mr. BRYAN. I yield first to the gentleman from Texas.

Mr. HENRY. Does the gentleman wish to adopt all of the Democratic platform?

Mr. BRYAN. I will say to the gentleman that I could hardly ask to put all of the Democratic platform in this bill, for if we were to do so we would save the Panama Canal.

Mr. HENRY. The gentleman knows that all of his amendment is in section 7 as amended?

Mr. BRYAN. If it is already in the bill, then it will not be out of place to call the matter to the attention of Congress and permit Congress to vote upon it. The Democratic platform has some good things in it, but I have noticed that it has not always been approved. I have noticed that on two or three occasions it has been denied recognition on the floor of this House, and I am anxious to see whether in this particular case the very words of the Democratic platform will prove to be obnoxious to the members of the Democratic Party on this floor. I ask that the amendment be adopted; it comes from such an eminent authority.

I now yield to the gentleman from Nebraska [Mr. SLOAN].

Mr. SLOAN. Speaking about the plank in the Baltimore platform, I want to ask the gentleman if he has read the latest bulletin to discover whether or not it is a slight interference and like a good many others it has been repudiated?

Mr. BRYAN. Well, I have not discussed the latest bulletin, but I recognize the fact that when we are on the Democratic platform, according to some precedents, we have to learn what the latest authority is about it, but I do not think in a case of this kind, in a matter involving the Democratic Party's interpretation of its duty to labor, that anybody would have to be consulted, and I think the fact that this amendment is a plank from the Democratic platform ought to be enough not to require any debate whatever, and I hope it will be adopted.

Mr. CARLIN. I yield one minute to the gentleman from California [Mr. RAKER].

Mr. RAKER. Mr. Chairman, I desire to have incorporated in the RECORD in my time a letter from the four religious organizations of Tuolumne County, Cal., against polygamy and in favor of a constitutional amendment prohibiting it.

Mr. BRYAN. I would like to ask the gentleman what the subject of polygamy has got to do with the Democratic Party going off after strange gods? I want the Democratic Party to stick loyally to its one platform till death, and I do not know how polygamy has anything to do with that.

Mr. BARNHART. Will the gentleman yield?

Mr. RAKER. Yes; to anybody interested on this subject, of course. I always yield.

Mr. BARNHART. Why should not the gentleman from California introduce that through the basket in the regular way?

Mr. RAKER. It is not in the basket clause.

Mr. BARNHART. I am serious about it.

Mr. RAKER. I am serious about it.

Mr. BARNHART. Why does not the gentleman introduce it in the regular way?

Mr. RAKER. I want to get it in in this way, to show that the people of California are anxious to recognize and are in favor of this constitutional amendment proposed to the people prohibiting polygamy, so that they might vote upon it. They are interested in it.

The CHAIRMAN. The gentleman from California asks unanimous consent to insert a letter as a part of his remarks. Is there objection?

Mr. MANN. What is the letter?

The CHAIRMAN. In reference to polygamy.

Mr. MANN. We have a rule that nothing shall come in this debate except that relating to the bill, although I think it might come in on this bill which they say has plural wives.

Mr. BARNHART. I object.

The CHAIRMAN. The question is upon the amendment offered by the gentleman from Washington.

The question was taken, and the amendment was rejected.

Mr. HULINGS. Mr. Chairman, I offer an amendment, which I send to the Clerk's desk. I do not know it is in order at this time, because it is an amendment to the second paragraph.

The CHAIRMAN. It is not in order at present, the Chair will state to the gentleman. The Clerk will report the amendment offered by the gentleman from Illinois to the paragraph which is pending.

The Clerk read as follows:

Page 24, strike out lines 11 to 24, both included.

Mr. MANN. Mr. Chairman, this amendment——

Mr. CARLIN. Will the gentleman suspend? I want to inquire, if possible—we have had four or five hours debate on this section, and I would like to see if we could not arrive at some time for concluding debate on the second paragraph.

Mr. MANN. We would like about 45 minutes.

Mr. HULINGS. I understand the gentleman's amendment is to strike out the paragraph.

The CHAIRMAN. So the Chairman understands.

Mr. HULINGS. My amendment is to insert.

The CHAIRMAN. The gentleman from Illinois [Mr. MANN] has the floor at the present time.

Mr. HULINGS. The gentleman's amendment is to strike out, while the amendment I present is to perfect the section, and I assume it has precedence.

The CHAIRMAN. Such an amendment as the gentleman indicates would be a preferential amendment.

Mr. WEBB. Mr. Chairman, I ask unanimous consent that all debate on the second paragraph and all amendments thereto be closed in 80 minutes, 40 minutes to be controlled by the gentleman from Minnesota and 40 minutes by myself.

The CHAIRMAN. The gentleman from North Carolina asks unanimous consent that all debate upon the second section and all amendments thereto be closed in 80 minutes, 40 minutes to be controlled by himself and 40 by the gentleman from Minnesota. Is there objection?

Mr. FERRIS. Mr. Chairman, reserving the right to object, I have an amendment I think is fairly important; it may not appear so to the rest of the committee; but I would like to make it certain that I may have 5 or 10 minutes.

Mr. WEBB. I can not agree to the gentleman having 10 minutes. There are a great many gentlemen who would want to have 10 minutes. We have given 80 minutes to a discussion of this section, and I think that is plenty of time.

Mr. MANN. I think we occupied three or four hours on it one day two or three years ago, when I had charge of the bill.

Mr. WEBB. I am very glad we are making such excellent progress now. I am sure that 80 minutes is time enough to discuss this.

Mr. FERRIS. I will not object; but if there are eight amendments, that would give eight Members 10 minutes apiece.

Mr. WEBB. I could not agree to give the gentleman 10 minutes, but he will have some time to discuss his amendment.

Mr. CARLIN. And the gentleman is only entitled to five minutes under the rule.

The CHAIRMAN. Is there objection to the request of the gentleman from North Carolina?

Mr. BEALL of Texas. Mr. Chairman, reserving the right to object, I would like to say to the chairman of the committee my colleague has an amendment he proposes to offer to the same paragraph. Would that come in under the unanimous-consent agreement?

Mr. WEBB. It would be if it were offered. The gentleman will have time to present his amendment. I will be glad to have the Chairman put the request.

The CHAIRMAN. The gentleman from North Carolina [Mr. WEBB] asks unanimous consent that all debate on the pending paragraph and all amendments thereto be closed in 80 minutes, one half of that time to be controlled by himself and the other half by the gentleman from Minnesota [Mr. VOLSTEAD]. Is there objection?

Mr. FERRIS. Mr. Chairman, reserving the right to object for a moment, I want to ask the chairman of the Committee on the Judiciary a question. I hope it is not arranged so that all the time shall be taken up on one amendment and requiring that the other amendments be voted down in rotation. Now the gentleman from Illinois [Mr. MANN] comes along with an amendment to strike out the whole paragraph.

Mr. MANN. That is not my amendment, to begin with. But other amendments take precedence over it, among them that of my colleague from Illinois [Mr. MADDEN].

The CHAIRMAN. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

Mr. CARLIN. Mr. Chairman, I want to make a suggestion to the gentleman while he is on his feet. I want to suggest to gentlemen who have amendments already prepared that they send them to the desk and there have them read, so that they can be included in the debate.

Mr. MANN. I hope this will not be taken out of my time. I suggest to the gentleman in charge of the time to yield to gentlemen to offer amendments. I am perfectly willing to delay, so far as I am concerned, until those amendments are disposed of.

Mr. WEBB. Mr. Chairman, I yield to the gentleman from Oklahoma half a minute and to the gentleman from Texas [Mr. VAUGHAN] half a minute in which to offer amendments.

The CHAIRMAN. The gentleman from Oklahoma [Mr. FERRIS] is recognized.

Mr. FERRIS. Mr. Chairman, I offer an amendment, which I send to the Clerk's desk.

The CHAIRMAN. It is to be considered as pending?

Mr. FERRIS. Yes.

Mr. MANN. He offers the amendment, if it is in order, to perfect the text.

Mr. FERRIS. I thought the gentleman from Illinois wanted to go ahead.

Mr. TOWNER. Mr. Chairman, would it not be better if these amendments were offered in connection with the remarks of the gentleman from Oklahoma and other gentlemen?

Mr. WEBB. If the gentleman from Illinois will yield, I will recognize each one of these gentlemen to offer amendments.

Mr. MANN. I will yield.

Mr. FERRIS. Mr. Chairman, let my amendment be reported.

The CHAIRMAN. The Clerk will report the amendment offered by the gentleman from Oklahoma [Mr. FERRIS].

Mr. WEBB. Mr. Chairman, I yield to the gentleman from Oklahoma five minutes.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amendment by Mr. FERRIS:

"Page 24, line 24, after the word 'rates,' insert the following proviso: '*Provided*, That from and after the passage of this act it shall be unlawful for any corporation or any person or persons to transport the products of any mine or mines, including coal, oil, gas, or hydroelectric energy, either by rail, water, pipe line, transmission line, or otherwise from one State, Territory, or District of the United States to another State, Territory, or District of the United States, or to any foreign country, who shall not become a common carrier within the meaning and purposes of and subject to the act entitled "An act to regulate commerce," approved February 4, 1887.'"

Mr. WEBB. Mr. Chairman, I make the point of order that that is not germane. It does not sound germane from the reading of it.

Mr. FERRIS. I want to be heard on that, Mr. Chairman.

Mr. HULINGS. Mr. Chairman, I believe I have sent to the desk an amendment already.

Mr. FERRIS. The gentleman from North Carolina [Mr. WEBB] has made a point of order on my amendment. I want to be heard on the point of order.

The CHAIRMAN. The Chair will state that the gentleman from Pennsylvania [Mr. HULINGS] did not have the floor.

Mr. HULINGS. I had the floor to offer an amendment and was recognized by the Chair.

The CHAIRMAN. The Chair will state to the gentleman that an agreement was made by the committee to limit debate on this section.

Mr. HULINGS. I did not want to be run over; that is all.

Mr. FERRIS. Mr. Chairman, I hope argument on the point of order will not be taken out of my time. I want to be heard on the point of order.

This bill is to supplement existing laws against unlawful restraints and monopolies and combinations for unlawful purposes. This particular paragraph deals with common carriers and interlocking directorates and traffic arrangements.

Mr. MANN. Oh, there is nothing about interlocking directorates and traffic arrangements in this paragraph.

Mr. FERRIS. Listen a moment and let us determine who is right. This section provides:

Nothing contained in the antitrust laws shall be construed to forbid associations of traffic, operating, accounting, or other officers of common carriers for the purpose of conferring among themselves or of making any lawful agreement as to any matter which is subject to the regulating or supervisory jurisdiction of the Interstate Commerce Commission, but all such matters shall continue to be subject to such jurisdiction of the commission, and all such agreements shall be entered and kept of record by the carriers, parties thereto, and shall at all times be open to inspection by the commission: *Provided*, That nothing in this act shall be construed as modifying existing laws prohibiting the pooling of earnings or traffic, or existing laws against joint agreements by common carriers to maintain rates.

The amendment I have offered, Mr. Chairman, is to amend and supplement the antitrust laws of the United States, and has to do with the particular paragraph under consideration, and has to do with the particular bill now pending before the House. Nothing can be more germane, nothing could be more in order, dealing precisely with the proposition of carrying in interstate business, and with the proposition laid down in this section and even in the title of the bill.

Mr. WEBB. Mr. Chairman, may I ask the gentleman a question?

The CHAIRMAN. Does the gentleman from Oklahoma yield to the gentleman from North Carolina?

Mr. FERRIS. Yes; with pleasure.

Mr. WEBB. Is not that very question now pending in the Supreme Court of the United States on appeal from the State of Oklahoma, and is not the decision of that court expected on the 8th of this month?

Mr. FERRIS. It is. But this is to strengthen the law the Commerce Court sought to destroy. The Interstate Commerce Commission has for a long time been trying to bring pipe lines under their own jurisdiction, and they instituted a series of proceedings on their own motion to bring that about. The Prairie Oil & Gas Co., with others, went in and enjoined the commission, and I hold in my hand the decision in the Prairie Oil & Gas case, which was decided by the Commerce Court, and I think the dissenting opinion by Judge Mack is the correct law and ought to be the law; but I fear that the Supreme Court will not uphold the decision of the Commerce Court, and I want to write this amendment into the law so we will be sure to get relief. This amendment was submitted to Secretary Lane, who probably knows more about this matter than most of us here, and he is heartily in favor of the adoption of such a principle. This is too important to pass by lightly.

Mr. WEBB. Mr. Chairman, our view is that while this amendment may be germane to some portion of the bill, it certainly is not germane to this particular paragraph of this section, which exempts certain traffic arrangements from the operation of the antitrust law.

In addition to that, the gentlemen from Oklahoma ought not to undertake to take two bites at the same cherry. They have submitted their controversy to the highest court in the land, and they ought to wait until the 8th day of this month, when the proceeding will probably be terminated, before they ask to put something new into this bill, and particularly in this paragraph of this section.

Mr. CARTER. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. Does the gentleman from North Carolina yield to the gentleman from Oklahoma?

Mr. WEBB. Yes.

Mr. CARTER. You expect to pass this bill before the 8th of this month, do you not?

Mr. WEBB. Yes; and you expect this decision by the 8th.

Mr. CARTER. Suppose you do not get the decision by the 8th of this month, and then this bill is passed?

Mr. WEBB. There is another branch of this lawmaking body where the gentleman may have his amendment offered.

Mr. CARTER. We should be very glad to offer it there, but we have not the privileges over there which we have in this House.

The CHAIRMAN. The paragraph under consideration provides that nothing contained in the antitrust laws shall be construed to forbid associations of traffic, operating, accounting, or other officers of common carriers for the purpose of conferring among themselves or of making lawful agreements, and so forth. The amendment offered by the gentleman from Oklahoma [Mr.

FERRIS] provides that it shall be unlawful for any corporation or person or persons to transport the products of any mine or mines, including coal, and so forth, unless they become common carriers under the act of 1887. The Chair fails to see how the amendment offered by the gentleman from Oklahoma can be germane to this particular paragraph. It may be entirely germane to other sections of the bill which have not yet been reached, but upon that the Chair is not now called upon to rule.

Mr. FERRIS. If the Chair has any doubt about it, I confess that the section has two independent propositions in it. The first is purely a labor proposition, and the second is a carrier proposition. I will offer it as a separate section, section 7½, and will strike out the word "provided."

The CHAIRMAN. The Chair will state that it is not in order to offer it as a separate section now, because we are considering section 7.

Mr. FERRIS. The chairman of the committee a moment ago, in answer to a question asked of him, said he was of the opinion that an amendment offered as a separate section would constitute an amendment to this paragraph and would come within the rule. If the Chair thinks otherwise, I will offer it as soon as the paragraph is disposed of.

The CHAIRMAN. The Chair will state that as long as there are any amendments to be offered to this particular paragraph it will be out of order to offer the amendment which the gentleman from Oklahoma proposes. The point of order is sustained.

Mr. FERRIS. I will withdraw the amendment at this time and will ask the Clerk to have it returned to me.

Mr. WEBB. I yield to the gentleman from Texas [Mr. VAUGHAN].

Mr. VAUGHAN. Mr. Chairman, I desire to offer an amendment.

The CHAIRMAN. The gentleman from Texas offers an amendment, which the Clerk will report.

The Clerk read as follows:

Add at the close of section 7 the following paragraph:
"Nothing in the antitrust laws shall be construed to forbid persons operating local telephone exchanges engaged in commerce from selling their local exchanges to competitors for local business or from acquiring local exchanges from competitors for local business when such sale or acquisition is not forbidden by any law of the State or locality where the exchange is situated and competition in the transmission of interstate toll messages is not interrupted nor interfered with."

Mr. FLOYD of Arkansas. Mr. Chairman, I desire to make a point of order against that amendment at this point. I do not think it is germane to this section or paragraph.

Mr. VAUGHAN. I think it is germane, and I should like to be heard on the point of order, but I would not like to have it taken out of my five minutes.

Mr. FLOYD of Arkansas. Will the gentleman from Texas yield to me?

Mr. VAUGHAN. Yes.

The CHAIRMAN. Does the gentleman propose this as a separate paragraph or section?

Mr. VAUGHAN. I offer it as a separate paragraph to this section.

Mr. FLOYD of Arkansas. I make the point of order that it is not germane to this section.

The CHAIRMAN. The Chair does not think the amendment of the gentleman from Texas is in order at this time. It is not germane to the paragraph which is now under consideration.

Mr. VAUGHAN. Mr. Chairman, I should like to be heard on that for a moment, and to suggest that this paragraph proposes to exempt certain transactions from the operation of the antitrust laws.

Mr. FLOYD of Arkansas. Will the gentleman from Texas yield to me for a moment?

Mr. VAUGHAN. Yes.

Mr. FLOYD of Arkansas. I will state to the gentleman that it seems to me if it is germane anywhere, it is germane to the section relating to holding companies, which is section 8. I will state to the gentleman that there are a number of exceptions in that section, and it seems to me that section 8 is the one that will make unlawful the transactions that the gentleman desires to exempt, if anything in this bill does make them unlawful, so that there would be the proper place to offer it, provided, of course, it should be held to be germane at that point.

Mr. VAUGHAN. That being the case I ask unanimous consent to withdraw the amendment now and offer it to section 8.

The CHAIRMAN. If there be no objection, permission will be granted to withdraw the amendment.

There was no objection.

Mr. VOLSTEAD. I yield five minutes to the gentleman from Pennsylvania [Mr. HULINGS].

Mr. HULINGS. Mr. Chairman, I desire to offer an amendment.

The CHAIRMAN. The gentleman from Pennsylvania offers an amendment, which the Clerk will report.

The Clerk read as follows:

Page 24, line 21, strike out the colon after the word "commission" and insert a comma and the following:
"But no such agreement shall go into effect or become operative until the same shall have first been submitted to and approved of by the Interstate Commerce Commission."

Mr. CARLIN. Mr. Chairman, I want to understand whether we are now operating under the agreement that this debate is a part of the 40 minutes.

The CHAIRMAN. The gentleman is correct.

Mr. HULINGS. Mr. Chairman, it seems to me in reading this paragraph that as it stands it would give authority to these traffic associations to make pooling arrangements or lawful agreements as to any matter which is subject to the regulating or supervisory jurisdiction of the Interstate Commerce Commission, but it does not distinctly give the Interstate Commerce Commission authority over the rule or the agreement that is made.

Mr. WEBB. I should like to make a statement. It was the idea of the committee that these agreements could not go into operation until they were O. K'd by the Interstate Commerce Commission.

Mr. HULINGS. I presume so.

Mr. WEBB. We think that is a reasonable conclusion to draw from the section or paragraph.

Mr. HULINGS. I doubt whether the language is clear.

Mr. WEBB. That was our intention.

Mr. HULINGS. The amendment makes that thoroughly clear, and I ask that the amendment be again reported.

The CHAIRMAN. If there be no objection, the amendment will be again reported.

The amendment was again read.

Mr. WEBB. I call the attention of my friend to the fact that this agreement is subject to the regulation or supervision of the Interstate Commerce Commission.

Mr. HULINGS. No. There is just where I think the failure is. The agreement is not subject. The matter about which the agreement may be made is subject to the regulation of the Interstate Commerce Commission.

Mr. WEBB. Of course the association is under the control of the Interstate Commerce Commission.

Mr. HULINGS. In my judgment it requires the amendment to make it clear.

Mr. MANN. Will the gentleman yield?

Mr. HULINGS. Certainly.

Mr. MANN. Is not this the distinction between the provision in the bill and the gentleman's amendment: That under the gentleman's amendment the agreement to fix rates before it goes into effect must be approved by the commission, and under the bill the rates go into effect and after that the commission may revise the rates?

Mr. HULINGS. That is precisely the point.

Mr. WEBB. Mr. Chairman, the committee wants to be perfectly frank with the House on both sides. If there is any doubt about the intent and scope of the provisions in the bill we want to accept the amendment so as to make it perfectly clear.

Mr. FLOYD of Arkansas. Mr. Chairman, I would like to have the amendment again reported.

The CHAIRMAN. Without objection, the Clerk will again report the amendment.

The Clerk again read the amendment.

Mr. WEBB. Mr. Chairman, we will gladly accept that amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania [Mr. HULINGS].

The question was taken, and the amendment was agreed to.

Mr. VOLSTEAD. Mr. Chairman, I yield five minutes to the gentleman from Iowa [Mr. TOWNER].

Mr. TOWNER. Mr. Chairman, I shall not occupy all the time yielded to me for the reason that I desired to submit an amendment to the same effect as that offered by the gentleman from Pennsylvania [Mr. HULINGS]. I congratulate the gentleman from Pennsylvania [Mr. HULINGS] for presenting an amendment that is acceptable to the committee and the committee for accepting the amendment. There is no question whatever but what it was absolutely necessary that such an amendment should be adopted in order to protect the people and to carry out the purpose and intent of the section. I yield back the balance of my time.

Mr. VOLSTEAD. I yield five minutes to the gentleman from Wisconsin [Mr. LENROOT].

Mr. LENROOT. Mr. Chairman, like the gentleman from Iowa, I was about to offer the same amendment, and like him I wish to congratulate the members of the committee on accept-

ing the amendment offered by the gentleman from Pennsylvania [Mr. HULINGS]. But, Mr. Chairman, I would like to ask the members of the committee one or two questions with reference to the paragraph as it stands. It reads:

Nothing contained in the antitrust laws shall be construed to forbid associations of traffic, operating, accounting, or other officers of common carriers for the purpose of conferring among themselves or of making any lawful agreement.

Now, I would like information wherein the antitrust laws now can possibly prohibit the conferring together and making of any lawful agreement.

Mr. WEBB. I want to say to the gentleman that we think the trust laws would not apply to that condition of affairs, but the Interstate Commerce Commission thought we ought to make the thing perfectly clear, and therefore the section.

Mr. CARLIN The mere meeting is thought by many to come within the law and might be construed to be a combination, and they want to make it clear, and that is the object of the provision.

Mr. MANN. If the gentleman will yield, they may have in mind the fact that when the law regulating railroad rates was passed four years ago, as gentlemen will recall, a lot of railroad officials met, and it was proposed to raise the rates in advance of the passage of the law. The bill under consideration provided that the Interstate Commerce Commission might suspend the proposed rates. President Taft threatened to have proceedings begun under the Sherman antitrust law and indict these people, whereupon the rates went glimmering. I suppose this is designed to allow them to do the thing that they tried to do then.

Mr. LENROOT. I remember the circumstances very well, and it was the Sherman law alone that prevented the increase of rates at that time until the amended law went into effect so as to permit suspension. Now, then, Mr. Chairman, this is in the disjunctive. The antitrust laws do not prohibit the making of any lawful agreement. They do not do that now; of course not. But the gentleman says that the conferring among themselves may be a violation of the Sherman law, and they wish to permit such conferences.

Mr. Chairman, if the conferences lead to something that means a violation of law, they ought to be subject to the antitrust laws.

Mr. FLOYD of Arkansas. Will the gentleman yield?

Mr. LENROOT. Certainly.

Mr. FLOYD of Arkansas. I will state that in the opinion of the committee these meetings of the traffic managers and officers of railroads are absolutely essential in order that officers and managers of different railroads may carry on business without friction and without complication and without annoyance to the traveling public. They must understand each other, and since the laws regulating interstate commerce have been on the statute books they have been compelled by the necessities and the nature of their business to have these meetings, conferences, and enter into arrangements; and yet they have felt that possibly under the strict interpretation of the Sherman law, if they were ever charged in the courts with a violation of the law, they might be held guilty of a violation of the Sherman Act. This is intended to lift them from under the ban of the existing law and to allow them to meet, confer, and understand each other, and to make any lawful agreements; but the exceptions in the provision expressly provide that their agreements shall still be subject to the regulation and power of the Interstate Commerce Commission. The amendment which we have just adopted, offered by the gentleman from Pennsylvania, makes that clear.

The CHAIRMAN. The time of the gentleman from Wisconsin has expired.

Mr. VOLSTEAD. Mr. Chairman, I yield to the gentleman from Wisconsin five minutes more.

Mr. LENROOT. Mr. Chairman, now, to recall a little of the history in connection with this same question, this identical proposition was up four years ago, in 1910. I then took quite an active part in securing an amendment almost identical with the one which has now been adopted. Another amendment which was also adopted prohibited any agreement of any character between railroads which were directly competing with each other. These amendments, with the assistance of the solid Democratic side of the House, were incorporated as a part of the Mann bill.

After we had improved the bill in that respect, improved it more and to a greater extent than this section now stands, a motion was then made to strike the entire section out of the bill, and that motion prevailed, and every Democrat, I believe, voted "aye," so that the provision went out of the Mann bill; and I am, I confess, a little surprised to find that it again creeps into this bill, brought in by the Democratic Party, who were then unanimously opposed to it. I am frank to say that, with the amendment just adopted, I have such confidence in the Interstate Commerce Commission that I do not know that the public interests will be injured if this remains in the bill, but certainly it was a most dangerous proposition before the adoption or the acceptance of the amendment offered by the gentleman from Pennsylvania [Mr. HULINGS]. I voted to strike it all out in 1910, and I shall vote to strike it out to-day, because, I may add, I can see no possible good to come from it in the way in which it is framed. So far as lawful agreements are concerned, they are permitted now. You have accomplished nothing there. So far as conferences are concerned, they are not under the ban of the law now unless there is something injurious to the public interest going on in those conferences, and if there is, I know of no reason why they should not be under the ban of the law.

I yield back the balance of my time.

Mr. VOLSTEAD. Mr. Chairman, I yield three minutes to the gentleman from Wisconsin [Mr. ESCH].

Mr. ESCH. Mr. Chairman, many of the practices of interstate carriers, if the Sherman antitrust law were strictly construed, would be held subject to the penalties of the act. Those violations have been blinked at, however, to a certain extent. The necessity for some conference agreements has long been recognized, provided such conference agreements were subjected to the supervisory control of the Interstate Commerce Commission, and in this very provision in this bill the committee is practically seeking to carry out a recommendation contained in the Republican platform of 1908, which reads as follows:

We believe, however, that the interstate-commerce law should be further amended so as to give railroads the right to make public traffic agreements, subject to the approval of the commission, but maintaining always the principle of competition between naturally competing lines and avoiding the common control of such lines by any means whatsoever.

The amendment offered by the gentleman from Pennsylvania, just adopted, carries out that further suggestion—that such conference agreements should be subject to the regulatory power of the Interstate Commerce Commission. President Taft, in his special message to Congress on January 7, 1910, wherein he recommended to Congress amendments to the interstate-commerce act, stated, among other things, as follows:

The subject of agreements between carriers with respect to rates has been often discussed in Congress. Pooling arrangements and agreements were condemned by the general sentiment of the people, and, under the Sherman antitrust law, any agreement between carriers operating in restraint of interstate or international trade or commerce would be unlawful. The Republican platform of 1908 expressed the belief that the interstate-commerce law should be further amended so as to give the railroads the right to make and publish traffic agreements subject to the approval of the commission, but maintaining always the principle of competition between naturally competing lines and avoiding the common control of such lines by any means whatsoever. In view of the complete control ever rate making and other practices of interstate carriers established by the acts of Congress and as recommended in this communication, I see no reason why agreements between carriers subject to the act, specifying the classifications of freight and the rates, fares, and charges for transportation of passengers and freight which they may agree to establish, should not be permitted, provided copies of such agreements be promptly filed with the commission, but subject to all the provisions of the interstate-commerce act, and subject to the right of any parties to such agreement to cancel it as to all or any of the agreed rates, fares, charges, or classifications by 30 days' notice in writing to the other parties and to the commission.

The CHAIRMAN. The time of the gentleman from Wisconsin has expired.

Mr. VOLSTEAD. Mr. Chairman, I yield the remainder of my time to the gentleman from Illinois [Mr. MANN].

The CHAIRMAN. The gentleman from Illinois is recognized for 25 minutes.

Mr. MANN. Mr. Chairman, this proposition now before us revives old times to me. I reported into the House four years ago a bill which became the amendment to the interstate-commerce act of 1910, containing a provision somewhat similar but better guarded than the one that is in this bill. The Committee on Interstate and Foreign Commerce had jurisdiction of the subject matter, and knew something about it. The present proposition comes in a bill reported from the Committee on the Judiciary, which has never made any investigation of railroad matters, and I assume does not pretend to know very much about the subject. It was not in the bill as originally drafted. There were a great many committee prints of this bill, and this never appeared in one of the committee prints. Mr. Clayton introduced a bill in the House on April 14, 1914, of which the present bill is the issue, and this provision was not in that Clayton bill introduced on April 14. It had never been suggested to the Committee on the Judiciary, so far as I can learn, that any proposition of this kind should be put into the antitrust bill until just before the bill was reported. The committee, having decided to incorporate in the bill a provision ex-

empting labor organizations and farmers' organizations from the operation of the antitrust law, concluded that it would even up the situation by a provision exempting railroads from the operation of the antitrust law.

What are the facts? The railroads everywhere do have some kind of an understanding as to rates between competitive points. I suppose it would be impossible between two points, where each of two railroads ran, for one to have one rate and the other to have a different rate. They have always in some way gotten together. Four years ago I proposed in the administration bill to insert a provision practically taken from the Republican platform authorizing railroads to make these agreements, the rates when made to be subject to the operation of law. This provision goes a little further than that in behalf of the railroads. This provision authorizes the officers of common carriers to confer among themselves without any restriction and without any limitation. There is a restriction now inserted in the bill that the rates they make must be approved by the Interstate Commerce Commission, but the right to confer is made absolute. You do not need anything more. They never need to make a rate by agreement when they can confer. The heads of a dozen railroads get together and stick their legs under the mahogany and say the rate from New York to Chicago shall be raised so much on a certain class of freight. There is no agreement necessary. All they need is the power to confer. There is no limitation in this section on the power to confer.

If they make an agreement and write it out, why, they have to submit that to the Interstate Commerce Commission, but after they confer each one goes out and has a rate sheet filed raising the rate. There is no agreement, only a conference, and the rate goes into effect.

Mr. BARTLETT. That is just as it was with the Steel Trust, which had its banquets and conferences.

Mr. MANN. Yes. Now, these conferences to-day are under the ban of the antitrust law. When the act of four years ago was to be passed and put upon the statute books, an act which gave the power to the commission to suspend a proposed rate, the railroads met, or their officials did, and after a conference each one said to himself or to somebody else, we will raise the rate. It was announced in the papers the rates were to be raised, but President Taft directed the Attorney General to file an injunction proceeding at St. Louis to restrain the railroads from putting into effect the proposed rates, and there was in addition a prosecution under the criminal provisions of the law, and the railroads quit. But they would have that power under this. Now, do not misunderstand me. I reported the provision of four years ago, not so strongly in favor of railroads in that bill as in this bill, and thereupon the Committee of the Whole House on the state of the Union made various amendments to the section, one of them very similar to the amendment just agreed to, called the Hulings amendment. We inserted in that section this provision:

Provided, That the proposed agreement before being made, and the rates, fares, charges, and classifications specified therein, shall be presented to and approved by the Interstate Commerce Commission.

That amendment was agreed to. The distinguished Chairman of the present Committee on Interstate and Foreign Commerce, which committee has jurisdiction of these matters, then the ranking Democratic member of my committee, made these few remarks on the subject of this legislation, among others:

Now, what is the object of this thing? The object of it is plainly not to benefit the people; it is not intended to apply to rates at any points except competitive points. The way stations by thousands along single lines of road, with no competition, will never be benefited. They may appeal and pray for help, but they will never get it under this section or any other of that sort. The whole object of it is to enable carriers to agree upon a stable basis of rates that they will all work under and not begin to compete one with the other. That is all there is to it.

The present chairman of the committee, the gentleman from Georgia [Mr. ADAMSON], is one of the best-posted men in this country on the subject of railroad legislation. He has been on the committee studying it now for nearly 18 years. That was the Democratic view which he expressed at that time. And, again, he said:

I was proceeding to say that the desire of these carriers is to escape competition and underbidding at competitive points only. They can only do that by agreeing upon an ironclad system of rates that they will all stick to. Of course that would be in violation of the antitrust law, because it prevents carriers from bidding against each other; but would it benefit even the competitive points—

And so forth.

And there is another very distinguished Member of this House who has been for some time a member of the Committee on Interstate and Foreign Commerce, who was then and is now a Democratic Member from Tennessee [Mr. SIMS], and he had this to say about this proposition which the Democratic committee has now reported:

It was boldly admitted by the gentleman from Illinois—

That was myself—

that this section does repeal and render nugatory so much of the Sherman antitrust law as applies to these agreements. Does any gentleman in this House want to go out and ask for a renomination or a reelection to this House admitting that he would willfully and with full knowledge vote to repeal pro tanto the antitrust law in any respect?

And the committee after inserting what was then called the Martin amendment, along the same lines as the Hulings amendment here, had another amendment proposed. Mr. Kendall, of Iowa, offered this amendment:

Provided, That in considering agreements contemplated by this section due regard shall be had in the maintenance of the principle of competition between natural competitive carriers, and no such agreement shall be approved between the carriers directly and substantially competitive with each other.

That is not in the pending proposition, and that was inserted in the Committee of the Whole House on the state of the Union, and after that came the amendment of my colleague [Mr. MADDEN], who has a similar motion pending here, to strike out the section which was No. 7, as this is No. 7, and we had a vote upon that. The committee divided, and there were ayes 102, noes 102. The amendment was not agreed to at that point. Tellers were asked for, and on tellers there were ayes 110, noes 91, and every Democrat in this House voted "aye," and every insurgent Republican—that is what they were called then—voted "aye."

Mr. BURKE of South Dakota. To strike out?

Mr. MANN. To strike out; and that was one of those times, which were not very numerous on propositions of that kind, when the gentleman from Illinois, in charge of the bill, got very badly licked. Just before this provision was stricken out in this bill in the House under these circumstances, a provision which then had been made much more beneficial to the people than this, the Senate considered a similar Senate bill and had stricken out the same section in the Senate. Of course, I can not comment upon how the individual Senators voted over there, but if I were not in a legislative body here I could say that every Democratic Senator voted to strike out. [Laughter and applause on the Republican side.]

Now, we have a provision brought in here by the committee which did not have jurisdiction of it, without consideration by the committee, to reverse the unanimous action of the Democratic side of this House four years ago, and the question with me is whether you have learned more and know more or whether you have forgotten what you did in the past. My distinguished friend from North Carolina might suggest that a committee with little knowledge on the subject found it easier to handle it than did a committee that had a great deal of knowledge on the subject.

The railroads have been trying to get this provision into the law ever since I have been a Member of this House. The Pennsylvania Railroad Co. and its counsel in every bill which has been suggested to be brought before this House on the subject of railroad legislation have asked that this provision be put into it. It has been suggested time and time again. The Interstate Commerce Commission has suggested it and urged it. President Taft urged it. President Roosevelt urged it. The railroads have all been for it. I do not say that it is a bad provision, because I supported a very similar one four years ago, although that one was better than this; but Congress, in close touch with the people and the shippers, has never been swerved from its opinion on this subject by the attitude of the men here who had been argued with by the big railroad officials.

The provision does destroy every semblance of competition between the railroads. It is true that the Interstate Commerce Commission has control over the railroad rates, but when this provision goes into the law there is no longer any competition. Now, competition is not merely over rates. Competition is largely over business, and while we never have proposed a pooling permit under the law, under this provision authorizing the railroad officials to confer lawfully they can make any sort of a conference or understanding they please in regard to rates or in regard to quantities of freight. But, of course, they will not be able to make a lawful agreement where they can find one railroad that does not live up to the agreement. Under the old system where railroads entered into these agreements there was a penalty imposed when a railroad broke the agreement. They can not make such an agreement as that unless it be approved by the Interstate Commerce Commission, but they can make their conferences and agreements in honor among themselves as they please.

And, after all, gentlemen, if you vote this in, do not ever chide me again. There never was a provision more bitterly opposed in this House than was this provision when I reported it four years ago. It takes you gentlemen on that side some time to catch up. I do not know that I am personally proud of being the leader of the Democratic side of the House four years in advance. Although I have pride in the Democratic membership, it takes four years for that membership to catch up. If you keep on you may catch up with the other good things I have proposed, but which you have voted down. [Laughter and applause.]

Mr. STAFFORD. Mr. Chairman, will the gentleman yield there?

The CHAIRMAN. Does the gentleman from Illinois yield to the gentleman from Wisconsin?

Mr. MANN. Yes.

Mr. STAFFORD. I would like to have the gentleman's opinion whether under this phraseology railroads could enter into agreements as to rates and other matters for 50 years, and if it had the approval of the Interstate Commerce Commission it would be binding upon the railroads for that time or a longer time?

Mr. MANN. Well, you will notice they have left out of this provision a provision which was in the bill which I reported to the House, which was in effect that they could not enforce these agreements; that is, that an agreement entered into might be withdrawn at any time without penalty on the part of any railroad. But there is no limitation in this, as I recall it. Here is an agreement which, if the Interstate Commerce Commission approves, is binding, although it may place a penalty of a million dollars upon the railroad company which fails to live up to the agreement.

Mr. GREEN of Iowa. Mr. Chairman, will the gentleman again yield?

The CHAIRMAN. Does the gentleman from Illinois yield to the gentleman from Iowa?

Mr. MANN. Yes.

Mr. GREEN of Iowa. If this section is enacted in its present form, is there any object in enacting the next section, which is intended to prevent the acquirement by holding companies of competing railroads?

Mr. MANN. Well, I will not undertake to say about that.

Mr. GARNER. I want to ascertain whether the gentleman is in favor of this second paragraph in section 7.

Mr. MANN. Well, if the gentleman is here—as he seldom is [laughter]—when we vote, the gentleman will find out.

Mr. GARNER. The gentleman is making an argument now which consumes considerable time, instructing the House and its Members how they shall follow him, and I want to find out whether he is in favor of this, so that I can follow him. [Laughter.]

Mr. MANN. It contains considerable instruction, too.

Mr. GARNER. It has nothing to do with the merits of this law.

Mr. MANN. How is the distinguished gentleman from Texas going to vote?

Mr. GARNER. I am waiting for the gentleman from Illinois to indicate how he will vote. [Laughter.]

Mr. MANN. Oh, no. You usually vote four years after I do.

Mr. HULINGS. Mr. Chairman, will the gentleman yield to a question?

The CHAIRMAN. Does the gentleman from Illinois yield to the gentleman from Pennsylvania?

Mr. MANN. Yes.

Mr. HULINGS. Under the present arrangement there is nothing to prevent any of these railroads or their officers from conferring if they do not do anything, is there, under the present law?

Mr. MANN. If they confer for the purpose of raising rates, they are guilty under the law, or for the purpose of doing anything else that is in restraint of trade.

Mr. HULINGS. Can the railroads raise rates without the consent of the Interstate Commerce Commission?

Mr. MANN. They can not raise the rates if the commission suspends the rates, but ordinarily the rates are not suspended. The railway company files a rate sheet that goes into effect 30 days after it is filed unless the commission issues an order extending the time in which it shall go into effect. Then it may be extended for 10 months.

Mr. GARDNER. Mr. Chairman, will the gentleman yield?

Mr. MANN. Yes; I yield to the gentleman.

Mr. GARDNER. I ask this question for my own information and enlightenment. The evidence adduced at the time of the investigation of the United States Steel Corporation shows that the Interstate Commerce Commission is aware of the fact that railroad traffic agreements exist, and that it utilizes those agreements and that no one objects. Now, does this wording which is proposed here, this proposed change in the law, permit more than that which already exists as a matter of practice?

Mr. MANN. Oh, yes; it goes further than what now exists, although what now exists is contrary to law.

Mr. GARDNER. Does it go substantially further?

Mr. MANN. It goes substantially further.

The CHAIRMAN. The question is on the amendment.

Mr. CARLIN. I yield to the gentleman from Arkansas [Mr. FLOYD] so much time as he may need.

Mr. FLOYD of Arkansas. Mr. Chairman, I have listened with great interest to the gentleman from Illinois [Mr. MANN]. I hardly know how to answer his position, because I have been unable to discover what it is; but I want to say to the gentleman that assuming everything he has said about the record vote on the proposition four years ago to be correct—and I do not question his statement, although I have not looked it up—we who voted against it four years ago will be no more inconsistent in voting for it now than he who proposed it four years ago is inconsistent in offering a motion to strike it out.

Mr. MANN. I did not offer a motion to strike it out.

Mr. FLOYD of Arkansas. Then I beg the gentleman's pardon.

Mr. MANN. My colleague, Mr. MADDEN, offered the motion this time and four years ago.

Mr. FLOYD of Arkansas. I beg the gentleman's pardon. I misunderstood the parliamentary situation.

Now, I desire to make this explanation: We have not considered this bill in the light of what we may have done in the past upon these questions, but the committee in charge of this bill have endeavored to bring in legislation that would be of value, and if there are any defects in the present law we have endeavored to remove those defects by appropriate legislation.

Now, the gentleman says that the Committee on the Judiciary has not jurisdiction of this proposition. I desire to take issue with the gentleman on that proposition. If such conferences or agreements are unlawful, they are unlawful by virtue of the provisions of the Sherman antitrust law, and under the rules of this House the Committee on the Judiciary has jurisdiction over that question. This matter was brought to the attention of the Subcommittee on the Judiciary having the bill in charge, and it was thoroughly investigated.

The matter was brought to our attention by representatives of the railroads, who explained that in the very nature of things they were compelled to meet, compelled to have these conferences, compelled to make arrangements, in order to carry on and conduct the traffic business of the railroads in the interest of the general public and to prevent conflicts and frictions in their dealings with the public; that it was necessary to have these conferences and meetings, and that since the enactment of laws upon the subject of interstate commerce they had been having these meetings; and yet, with their knowledge of the Sherman law and of the interpretations placed upon that law by the courts, they had always felt that if the Government should proceed against them under the terms of the Sherman law they might be adjudged guilty of a crime and punished for doing what the very nature of their business and the interest of the public require them to do.

But we did not depend upon the representations of the railroad people. We then took the matter up with the Interstate Commerce Commission, which has jurisdiction over this matter. While we did not go to the Interstate Commerce Committee of the House for information on that subject, we went to the great body of men, the Interstate Commerce Commission, who for years have been administering the affairs of interstate railroads, to the great advantage and to the general satisfaction of the public, and obtained their views upon the subject; and I desire to say that the provision reported in this bill was drawn by the Interstate Commerce Commission, and will be found in a letter of James S. Harlan, chairman of the commission, which letter I will put into the RECORD at the conclusion of my remarks. I will read the provision which was so drawn by the Interstate Commerce Commission:

Nor shall anything contained herein or in said antitrust law be construed to forbid associations of traffic, operating, accounting, or other officers of common carriers for the purpose of conferring among themselves or of making any lawful agreement as to any matter which is subject to the regulating or supervisory jurisdiction of the Interstate Commerce Commission, but all such matters shall continue to be subject to such jurisdiction of the commission and all such agreements shall be entered and kept of record by the carriers parties thereto, and shall at all times be open to inspection by the commission: *Provided*, That nothing in this act shall be construed as modifying existing laws prohibiting the pooling of earnings or traffic, or existing laws against joint agreements by common carriers to maintain rates.

After this matter was brought to our attention, after we brought it to the attention of the Interstate Commerce Com-

mission, and they had approved the proviso in the language which I have read to you, we incorporated that provision into the bill, instead of the provision that was incorporated in the bill originally, and the provision that we bring before you has the approval of the Interstate Commerce Commission.

I have no apology to offer for the position of the committee upon this question. We have been endeavoring to bring in this legislation in such form that it will be beneficial to the business interests of this country and beneficial to the American people. If the Sherman law has been so interpreted as to work harm, or to prevent legitimate or necessary things, your committee believes it ought to be amended. We believe that it has been so interpreted in regard to fraternal, labor, farmers', and other associations. We brought in a provision to relieve those associations; and we believed also, when this matter was brought to our attention, when we understood the facts, that the railroads were entitled to relief in this respect; and we compliment the gentleman from Illinois [Mr. MANN] on being in advance of us, if he thinks this provision is right. In the preparation of this bill we did not hesitate to seek and obtain information from any source, and I disclaim that in any provision of this bill we acted from any narrow point of view, or that we hesitated to do a thing in the interest of capital or business, when we were convinced that the demands of justice required it.

Now, I desire to submit at this point two letters from the chairman of the Interstate Commerce Commission, James S. Harlan, and ask that they be printed in the RECORD.

The letters are as follows:

INTERSTATE COMMERCE COMMISSION,
Washington, April 22, 1914.

Hon. H. D. CLAYTON,
Chairman Committee on the Judiciary,
House of Representatives, Washington, D. C.

DEAR SIR: I have the honor to acknowledge the receipt of your letter of this date inclosing confidential committee print of a bill offered by you to supplement existing trust laws. Immediately upon its receipt I called a conference of my colleagues, but in view of the absence of Commissioners Clements and Clark from the city we were not able to reach a conclusion this afternoon. I hope to convey to you the views of the commission early to-morrow afternoon.

Permit me to call your attention to the clause beginning in line 4 on page 6. It reads:

"But any agreement in the premises shall likewise continue," etc.

It occurs to me that the meaning would be made more clear by substituting:

"But any such matter that shall be made the subject of agreement by any such association shall likewise," etc. In other words, as I assume, it is the subject matter of the agreement and not the agreement itself that ought to continue under our regulating or supervisory jurisdiction.

Very truly, yours,

JAMES S. HARLAN, *Chairman.*

INTERSTATE COMMERCE COMMISSION,
Washington, April 24, 1914.

Hon. HENRY D. CLAYTON,
Chairman Committee on the Judiciary,
House of Representatives, Washington, D. C.

DEAR SIR: Further acknowledging your letter of the 22d, inclosing a copy of the confidential committee print of a bill to supplement existing trust laws, and calling our attention to certain language in it commencing at the foot of page 5 and continuing through line 6 on page 6, I beg to say that the bill has had consideration by the commission.

We do not understand that the provision in any degree modifies existing laws forbidding the consolidation or merger of railroad corporations operating competing lines, but that it is intended to go no further than to legalize associations of officials of common carriers organized for the purpose of agreeing upon rates, classifications, operating rules, accounting, and other similar matters now subject to the jurisdiction of this commission.

Such associations have been in active existence for many years. They have stated and special meetings at which matters within our jurisdiction are the subject of discussion and conference and not infrequently of actual agreement; and often when no positive and affirmative agreement is reached such conferences are nevertheless followed by a concert of action among the participating carriers. These facts have been shown in contested cases before us, the testimony being offered by the complainants on the general theory that such agreements are unlawful. The commission, however, has never based any order on the hypothesis of unlawfulness in the action taken by the carriers as the result of any such conference or agreement, except in so far as any such agreement or concert of action might have some bearing upon the reasonableness or general lawfulness of the rate or practice in dispute before us.

The increasing stability in rates now observable in our transportation service results to no small extent from the conferences of the traffic associations of carriers. As a practical matter, therefore, we see no objection to what is sought by the provision in question. We do not understand that it is intended to modify the provisions of law forbidding carriers to enter into any contract or combination for the pooling of traffic or earnings, or to modify the prohibitions of law against agreements by which one carrier undertakes not to change a rate or rates except upon the consent of one or more other carriers. But to avoid any confusion on these points the following paragraph is suggested as a substitute for the paragraph of the bill commencing with line 24 on page 5:

"Nor shall anything contained herein or in said antitrust laws be construed to forbid associations of traffic, operating, accounting, or other officers of common carriers for the purpose of conferring among themselves or of making any lawful agreement as to any matter which is subject to the regulating or supervisory jurisdiction of the Interstate Commerce Commission, but all such matters shall continue to be subject to such jurisdiction of the commission, and all such agreements shall be entered and kept of record by the carriers parties thereto and shall at all times be open to inspection by the commission: *Provided*, That nothing in this act shall be construed as modifying existing laws prohibiting the pooling of earnings or traffic or existing laws against joint agreements by common carriers to maintain rates."

You will observe that the substitute above proposed embodies a clause requiring carriers to make a record of the agreements and understandings of their associations and to keep them open to inspection.

Very truly, yours,

JAMES S. HARLAN, *Chairman.*

MESSAGE FROM THE SENATE.

The committee informally rose; and Mr. GARNER having taken the chair as Speaker pro tempore, a message from the Senate, by Mr. Tulley, one of its clerks, announced that the Senate had passed bills of the following titles, in which the concurrence of the House of Representatives was requested:

S. 5168. An act for the relief of the King Theological Hall and authorizing the conveyance of real estate to the Howard University and other grantees;

S. 5254. An act authorizing the Secretary of the Interior in his discretion to sell and convey a certain tract of land to the Mandan Town and Country Club; and

S. 5673. An act to amend an act entitled "An act to protect the locators in good faith of oil and gas lands who shall have effected an actual discovery of oil or gas on the public lands of the United States or their successors in interest," approved March 2, 1911.

SENATE BILLS REFERRED.

Under clause 2 of Rule XXIV, Senate bills of the following titles were taken from the Speaker's table and referred to their appropriate committees, as indicated below:

S. 5168. An act for the relief of the King Theological Hall, and authorizing the conveyance of real estate to the Howard University and other grantees; to the Committee on the District of Columbia.

S. 5254. An act authorizing the Secretary of the Interior in his discretion to sell and convey a certain tract of land to the Mandan Town and Country Club; to the Committee on the Public Lands.

S. 5673. An act to amend an act entitled "An act to protect the locators in good faith of oil and gas lands who shall have effected an actual discovery of oil or gas on the public lands of the United States or their successors in interest," approved March 2, 1911; to the Committee on the Public Lands.

ANTITRUST LEGISLATION.

The committee resumed its session.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois [Mr. MADDEN].

The question was taken; and on a division there were—ayes 21, noes 36.

So the amendment was rejected.

Mr. GREEN of Iowa. Mr. Chairman, I offer the following amendment.

Mr. CARLIN. Mr. Chairman, I make the point of order that it is too late to offer an amendment under the agreement.

The CHAIRMAN. The Chair understands that the gentleman from Oklahoma is to offer a new section, but withholds that until the gentleman from Iowa can offer an amendment.

The Clerk read as follows:

At the end of the section strike out the period and insert a comma and add the following:

"Or authorize competing lines to make agreements with reference to the rates which shall be charged or the services rendered."

Mr. CARLIN. I understand, Mr. Chairman, that all time on this paragraph has expired.

Mr. MANN. Mr. Chairman, did I have any time left?

The CHAIRMAN. The gentleman had one minute.

Mr. MANN. I yield that one minute to the gentleman from Iowa.

Mr. GREEN of Iowa. That is all I want. I only desire to say a word with reference to this amendment. It is claimed here that the purpose of this bill is to further competition and not to restrain it. If this section is adopted as it stands, it will absolutely nullify the following section, which provides that holding companies may not hold or control competing lines. If gentlemen wish, in fact, to still preserve the competition feature of the present law, this amendment should be adopted.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Iowa.

The question was taken, and the amendment was rejected.

Mr. FOWLER. Mr. Chairman, I desire to offer an amendment. On page 24, line 21, after the word "Commission," insert these words: "and any Member of Congress."

The CHAIRMAN. The Chair will state to the gentleman from Illinois that an amendment has been offered at that particular place and adopted by the committee.

Mr. FOWLER. I do not understand that the amendment as I have offered it has ever been offered to this part of the bill.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Page 24, line 21, after the word "Commission," add the following: "and any Member of Congress."

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois.

The question was taken; and on a division (demanded by Mr. FOWLER) there were—ayes 8, noes 16.

So the amendment was rejected.

Mr. PLATT. Mr. Chairman, I offer the following amendment.

The Clerk read as follows:

Section 24, line 24, after the word "rates," add the following:
"*Provided further*, That nothing in this act shall be construed as applying to associations of manufacturers conducted purely for profit and not for their health or for pleasure.

[Laughter.]

The CHAIRMAN. The question is on the amendment.

The question was taken, and the amendment was rejected.

Mr. TOWNER. Mr. Chairman, I offer the following as a new section.

The CHAIRMAN. Are there any further amendments to this paragraph. If not, the Chair recognizes the gentleman from Oklahoma.

Mr. FERRIS. Mr. Chairman, I have hesitated to offer an amendment to this section, because the Committee on the Judiciary have done so well, and I commend them for their good work and I am in sympathy with many of the provisions of the bill. But I wish to offer the following amendment.

The Clerk read as follows:

Page 24, line 24, after the word "rates," insert the following as a new section:
"SEC 7a. That from and after the passage of this act it shall be unlawful for any corporation or any person or persons to transport the products of any mine or mines, including coal, oil, gas, or hydroelectric energy, either by rail, water, pipe line, transmission line, or otherwise, from one State, Territory, or District of the United States to any other State, Territory, or District of the United States, or to any foreign country, who shall not become a common carrier within the meaning and purposes of and subject to the act entitled 'An act to regulate commerce,' approved February 4, 1887."

Mr. FLOYD of Arkansas. Mr. Chairman, I make the point of order on that. I do not think it is germane.

Mr. FERRIS. Mr. Chairman, the point of order comes too late. The amendment has been debated.

Mr. BARTLETT. Oh, it has just been reported.

Mr. FERRIS. Oh, but it has been reported heretofore, and the point of order comes too late.

Mr. BARTLETT. Mr. Chairman, it seems to me that the point of order was raised and sustained when the same thing was offered as an amendment to the second paragraph of section 7. It was then withdrawn with a view of offering it as a new section, and the gentleman now offers it as a new section.

The CHAIRMAN. The Chair will state to the gentleman that the point of order was sustained when it was offered as an amendment to section 7. The gentleman now offers it as a new section.

Mr. FERRIS. And I proceeded to debate it, and did debate it, and after that some one asked that it be reported.

Mr. STAFFORD. But it was not reported.

Mr. FERRIS. It had been reported before, as I think the Chair will remember.

Mr. HARRISON. It had been offered as an amendment to the other paragraph.

Mr. BARTLETT. But it is offered now as a new section. It was withheld while these other amendments were offered.

Mr. HARRISON. It could not have been offered as a new section until now.

The CHAIRMAN. The RECORD shows that the amendment had not been reported. It was reported when it was offered as an amendment to the paragraph.

Mr. FERRIS. The Chair is not holding that it had not been read? It was read when I first offered it.

Mr. CARLIN. It was read out of place and out of time.

The CHAIRMAN. It was offered at that time as an amendment to the second section of paragraph 7, and it went out on a point of order. The gentleman now offers it again, and the Clerk has just reported it. What is the point of order made by the gentleman from Arkansas?

Mr. FLOYD of Arkansas. Mr. Chairman, I make the point of order that the amendment is not germane to the bill; that we have not undertaken in this bill, or in any paragraph of it, to regulate or define common carriers, but have been dealing with a criminal statute. What the gentleman seeks to amend is within the jurisdiction of another committee. This legislation is supplementary to the Sherman antitrust act regulating trusts and monopolies in restraint of trade. There is not a paragraph in it in which we undertake to assume jurisdiction over common carriers or to regulate in any way common carriers or define who shall be deemed common carriers or who shall not be deemed common carriers. The second paragraph of section 7, while it mentions common carriers, relates to certain agreements, conferences, or arrangements by common carriers, and is inserted for the specific purpose of relieving them from the operation of the Sherman antitrust law as a criminal statute in regard to such, and for no other purpose, and we submit that the amendment is not germane to any portion of this bill. That is a matter under the jurisdiction of the Interstate Commerce Committee. That is the committee that ought to deal with the matter embodied in this amendment.

Mr. HARRISON. Mr. Chairman, will the gentleman yield?

Mr. FLOYD of Arkansas. Yes.

Mr. HARRISON. The amendment offered by the gentleman from Oklahoma proposes to amend the act of February 4, 1887, which is the Interstate Commerce Commission act, and this bill does not propose to amend that.

Mr. FLOYD of Arkansas. There is not a paragraph in the bill that undertakes to amend the provisions of law relating to common carriers or the Interstate Commerce Commission act. We are dealing simply with the Sherman Act.

Mr. FERRIS. Mr. Chairman, the very first section of the bill, on page 19, which begins with line 15, specifically amends three different statutes wholly foreign to this bill. Section 7, the very paragraph that we have just concluded, in the second paragraph of it, specifically deals with common carriers. The gentleman in charge of the bill on the Judiciary Committee says that they did not assume jurisdiction in one breath and in the next breath he asserts that that section relieves common carriers from the laws that we now impose upon them by the Sherman Antitrust Act. I submit to the Chair, if the committee has jurisdiction to relieve common carriers from certain obligations imposed upon them by law, I can not fathom why we have not the same jurisdiction and the same power to impose additional conditions upon them, and if the rule works one way I can not understand how the gentleman could contend that offering this as a new section the committee is without jurisdiction to consider it.

Mr. BARTLETT. Mr. Chairman, it seems to me this is clearly violative of the rule of germaneness. In order that an amendment be germane it must be not only germane to the paragraph and the section, but germane to the bill and the purposes which the bill has in view. The very face of the amendment itself discloses that it proposes to do something which it is contemplated will put these companies described in this amendment not under the act of 1890, known as the Sherman antitrust law, but under the act of 1887, known as the interstate-commerce law, to regulate common carriers.

Mr. FERRIS. Does not the exemption afforded them on page 24 from lines 11 to 24 to that extent mention the Sherman antitrust law, and on page 19 does not the language from lines 15 to 24 and on over to the next page specifically amend three statutes foreign to this bill; and if not, why not?

It is amazing that the whole bill can be made up of amendments of the various statutes in another section that comes from the existing law in this identical section, and that an amendment trying to do the same thing in another paragraph should be held out of order.

Mr. BARTLETT. It is amazing that a gentleman of the intelligence of the gentleman from Oklahoma should get on a hobby here and ride it eternally in the House as he has done this proposition.

Mr. FERRIS. It is a pretty good hobby when you are trying to ride the Standard Oil and the water-power trusts.

Mr. BARTLETT. Now, Mr. Chairman, on the point of order I say this bill has reference solely to the creation of an addition to the Sherman antitrust law. The Committee on the Judiciary has no jurisdiction to consider propositions relating to interstate commerce except as to the effect of the law relating to interstate commerce. Now they propose to say—what? That no corporation or person shall not do—what? Shall not transport the products which they produce between the States; who shall not become a common carrier under the act of 1887.

Mr. Chairman, this bill which we are considering does not propose to deal with common carriers at all. There is nothing in it, except this provision; and the second paragraph of section 7, relating to common carriers, has reference to agreements which violate the Sherman antitrust law as was known in what we call the Trans-Missouri Transportation cases and the Traffic Association cases, which happened to be the first consideration of the Sherman law adjudicated by the Supreme Court; so this is an amendment not to the antitrust law, but an amendment to the interstate-commerce law. Upon its very face it declares that they shall not transport their products

unless they shall come within the meaning and purpose of the act of 1887, which has no reference to the control or regulating of trusts, but the sole purpose of the amendment is made to the act of 1887 and as amended in 1906 and 1910, and has reference solely to transportation and not to violations of the antitrust law. So that, upon its very face, it indicates that it is subject to a point of order, because it proposes to deal and does deal with an entirely different subject foreign to the one dealt with in this bill.

Mr. CAMPBELL. Mr. Chairman, if the gentleman from Oklahoma should introduce a bill embodying the subject matter of his amendment, then there is no question but the subject matter would direct that the bill be referred to the Committee on Interstate and Foreign Commerce rather than the Committee on the Judiciary. There is no question in my mind but this amendment covers the subject matter over which the committee reporting this bill now under consideration has no jurisdiction. The subject matter of the amendment is so important and so different from the subject matters that are referred to the Committee on the Judiciary that the Committee on Interstate and Foreign Commerce has sole jurisdiction, so that in my opinion the point of order is well taken.

Mr. FERRIS. Mr. Chairman, I do not desire to consume too much of the time of the committee, but I want to call the attention of the Chair and the committee just for a moment to this proposition. The Congress of the United States has begun on a trust program made up of three bills, the first of which is the trade-commission bill, which they said has nothing to do with pipe lines, common carriers, Standard Oil rates, and the water-power trust. That bill has been laid aside with a favorable recommendation. We are now considering a bill from the Committee on the Judiciary, dealing with all sorts of monopoly in every conceivable form and fashion and every conceivable way, and I want to ask the Chairman and the House if it is going to be the ruling of the Chair and if it is going to be the decision of the committee that a complete trust program shall be put through, ought we not to put through a measure dealing with the Standard Oil Trust or the water-power trust? We do not want to shoot wide of the mark; they are notorious monopolies in this country, and these are propositions with which we ought to deal. It is not enough to push them aside when we are dealing with trust legislation.

The section 3 that we amended Friday by including oil, gas, water power, and so forth, certainly is dealing with the subject, and, if for no other reason, that ought to render additional legislation on the same subject in order.

Again, this bill is wide in its scope. It deals with labor legislation in the first part of paragraph 7. It deals with stocks, bonds, and banking legislation in other sections. Why is it we can not deal with the most monumental of all trusts?

It is not sufficient for the House to say, it is not sufficient for the Chairman to say, every time a question is raised on a bill dealing with monopoly, that it is out of order, or it is germane, or not germane, when the identical section dealing with that particular proposition relates to carriers. It is remarkable in the extreme that the Committee on the Judiciary should in an amendment say they have the power to exempt carriers from certain obligatory duties, and in the next breath should say they have no right, and that it would be not germane to put upon a bill a provision putting duties upon them.

I do not know what the decision of the Chair may be, and I do not know what the disposition of the committee may be, but surely this House is in favor of declaring the pipe-lines and water-power trusts carriers to be common carriers and subject to the Interstate Commerce Commission. I can not fathom a proposition of running away from a question so important, so necessary, and so patent and so universally agreed to by everybody.

For years the Interstate Commerce Commission themselves upon their own motion have been trying to bring pipe lines under the jurisdiction of that commission. What happens? In comes the Standard Oil Co. and brings an injunction proceeding and enjoins them from coming under the protection of that law.

This is the first time, and it is the only time during this administration and this Congress, under the resolution adopted by the Democratic caucus, when we have any chance to get relief on this proposition. I believe a bill on trusts and monopolies might properly go to any extent and all its provisions would still be germane as parts of a bill that proposes to curb monopolies. What are the pipe lines? The worst monopoly in the country. What is the Standard Oil Co.? The worst monopoly in the country. What is the Water Power Trust? One of the worst monopolies in the country. Is there any reason why, in dealing with monopoly, we should not deal with the transportation question, which is the vital cord in the whole trust question.

It has been said, and well said, that he who controls the transportation controls the country, and it is very true. The men who control the pipe lines control the production of oil and the price of oil, both in the region of production and at the consumer's end; and even so with the power trust. I believe that a bill so comprehensive as to carry out the legislative antitrust program for an entire administration and for an entire Congress should include this transportation question. The Chair may be ready to hold that this section shall be considered at this time, or——

Mr. CULLOP. Mr. Chairman, will the gentleman yield at that point?

The CHAIRMAN. Does the gentleman from Oklahoma yield to the gentleman from Indiana?

Mr. FERRIS. I do.

Mr. CULLOP. Is not the purpose of this amendment to control the transportation of these products now, or regulate them where they are not controlled or regulated under the interstate-commerce law?

Mr. FERRIS. Precisely; and not alone that, Mr. Chairman, but the oil-transportation companies are all in the oil-production business themselves. The only market for crude oil that the independent producer has is the pipe-line company, which is a transporter, which transports it or refuses to transport it, as it elects to do. It then has it in its full control and sells it at what it will at its destination point.

Mr. CULLOP. Is not the further purpose of this amendment also to control a situation which now, because of the peculiar conditions of operating the pipe lines, can not be controlled by the Interstate Commerce Commission?

Mr. FERRIS. Absolutely; and the Commerce Court, under the Hepburn amendment, sought to do this very thing that I am trying to do; only I drew the amendment here a little more comprehensively, so as to be sure and include it. Then came along the Prairie Oil and Gas case, which I have before me, and knocked out this proposition of holding pipe lines as carriers. Judge Mack dissented in an able opinion, and the matter is now pending in the Supreme Court. This amendment does what the court indicated a former Congress could have done when we enacted that law. We can do it now. We ought to do it now. There is no use to postpone it. The American people deserve it. The trust question is being dealt with; we ought to do it now.

Mr. CULLOP. Mr. Chairman, as I read this amendment, it is not an attempt to amend the interstate-commerce law at all, but it is to put into this law a remedy for a condition which the Interstate Commerce Commission can not control for the want of legislation. There is no law upon that subject, and the language of the amendment very clearly shows that it does not attempt to amend the interstate-commerce law. It is an amendment to this bill on a matter that is not now regulated or under the supervision in any way of the Interstate Commerce Commission.

I want to call the attention of the Chair to the language:

> That from and after the passage of this act it shall be unlawful for any corporation or any person or persons to transport the products of any mine or mines, including coal, oil, gas, or hydroelectric energy, either by rail, water, pipe line, transmission line, or otherwise, from one State, Territory, or district of the United States to any other State, Territory, or district of the United States, or any foreign country—

Now, listen to the language—

> who shall not become a common carrier within the meaning and purpose of and subject to an act entitled "An act to regulate commerce," approved February 4, 1887.

Now, by the very language of the amendment it clearly shows that the subject matter embraced in this amendment is not a subject under any provision of the interstate-commerce law, but it is a matter entirely outside of it and a matter that it can not handle, and for that reason it has a proper place here, and it is proposed to place it under the supervision of the different sections of this bill.

Section 3 was amended so as to include oil and gas and water-power production, so as to make the language of that section clearly cover those articles of commerce. Now, as those articles of gas and oil are transported in some of the States, and especially in the State of the gentleman from Oklahoma [Mr. FERRIS], it does not come under the provisions or regulations of the interstate-commerce law; but the pipe lines are so regulated and conducted that the commission can not obtain jurisdiction of the subject matter at all because of the manner in which the oil is transported. The very language of this section shows that it is not an amendment to the interstate-commerce law, but clearly belongs to and is a part of the subject matter

to be regulated in the legislation now proposed to be adopted by this measure.

If the Chair will turn to section 3 he will observe that that section was amended by the adoption of an amendment offered by the gentleman from Oklahoma so as to cover these two articles of commerce. It was then contended that as this bill was drawn it did not cover the subject of oil and gas and hydroelectric energy, and the bill was so amended. And it is now contended that the transportation of both oil and gas in some sections of the United States is so manipulated and controlled that they avoid coming under the Interstate Commerce Commission, or the act to regulate commerce passed in 1887 or any amendment thereto.

If that be true—and I assume no one here will attempt to deny that condition in relation to this matter—then where does it belong if it does not belong in this bill, and when is the time to adopt the amendment or some provision to regulate that important matter, if not now in the handling of this trust legislation?

These two things—oil and hydroelectric energy—constitute two of the greatest articles of commerce, and are absolutely controlled to-day by the trusts of this country; and while we are adopting this antitrust legislation bearing directly on this subject and kindred subjects, is not this the time when something controlling these articles of commerce should be incorporated into this measure? I call the attention of the Chair to the language of the amendment, showing that it is not an amendment to the interstate-commerce law of 1887, because it distinctly provides that it is not any part of that law, but these are articles entirely outside of the purview of that legislation and all of the amendments that have been made of it. I submit that it is in order here, and I hope we will incorporate in this measure provisions which will control these twin giants of monopoly and which have been remorseless in their exploitation of the people of the entire country. We should see to it that these two great combinations are not permitted to escape all legislation which will make them amenable to strict regulation.

The CHAIRMAN. Will the gentleman from Indiana permit the Chair to ask him a question?

Mr. CULLOP. Certainly.

The CHAIRMAN. If the gentleman from Oklahoma [Mr. FERRIS] were to offer a bill containing in effect the provisions offered by him in this amendment, to what committee of this House would it go? In other words, what committee would have jurisdiction of it? Would it be the Committee on the Judiciary or the committee to which the gentleman belongs, the Committee on Interstate and Foreign Commerce?

Mr. CULLOP. I shall be glad to answer the Chair as I understand that matter. While I do not think that question is important here, or I do not think it could have any bearing in the consideration of this legislation, I do say that the jurisdiction of the subject matter of this bill was properly in the Interstate Commerce Committee and not the Judiciary Committee, and I agree with the distinguished gentleman from Illinois [Mr. MANN] upon that subject. Nearly every question dealt with in this legislation is a proper subject for the Committee on Interstate Commerce, and does not belong to the Judiciary Committee at all. But I submit the test in deciding this question is not to what committee a bill embracing this question should be referred, but does the amendment contain subject matter directly connected with the objects covered by this proposed legislation? Measured by that test it is clearly germane here and in order.

If that question had been raised at the inception of this legislation, the Speaker of this House doubtless would have referred the bill to the Committee on Interstate and Foreign Commerce instead of the Judiciary Committee, because the subjects embraced in it are proper subjects of legislation for the Committee on Interstate and Foreign Commerce and not the Judiciary Committee. But the question the Chair is now asking, I take it, is not the proper test and does not settle this question. The subject matter covered by this amendment is germane to the legislation here proposed and to the legislation that has been adopted all along in the sections of the bill we are now considering.

Mr. FERRIS. Will the gentleman yield?

Mr. CULLOP. I will.

Mr. FERRIS. Mr. Chairman, my only thought was to supplement what the gentleman is saying by calling attention to the fact that on the second paragraph of section 7 that we have just disposed of and on which a long debate ensued the gentleman from Illinois debated what occurred two years ago. The bill from beginning to end is made up of matters that belong partly to this committee and to other committees, if caught at the inception, but they have gone to the committee, have received consideration, been reported here, and this House has jurisdiction of it, and we ought to go along with it.

Mr. CULLOP. Mr. Chairman, one thought further and I am through. Let me call the attention of the Chair to this proposition: That whenever any subject has been referred for regulation or supervision in any provision in this bill it has been referred to the Interstate Commerce Commission and not to the courts of this country. Running through every provision from the first word in it to the close of the provision the jurisdiction and settlement of questions in a primary sense are committed to the Interstate Commerce Commission and not to the courts in this country. The last amendment adopted here was a matter that did not put the regulation of it under any court in this country, but it put it under the regulation of the Interstate Commerce Commission. If that view of it be true, then this subject is germane here. If the standard of what committee it would be referred to is to be taken as a measure of the jurisdiction of this question, the last amendment was not germane, and a number of amendments that have been adopted during the course of the consideration of this bill are not germane, because the question was referred for arbitrament to the Interstate Commerce Commission and not to the courts of the land.

Mr. MORGAN of Oklahoma. Mr. Chairman, may I call attention of the Chair to a few points? In section 9, which provides—

> That from and after two years from the date of the approval of this act no person who is engaged as an individual, or who is a member of a partnership, or is a director or other officer of a corporation that is engaged in the business, in whole or in part, of producing or selling equipment, materials, or supplies to, or in the construction or maintenance of, railroads or other common carriers engaged in commerce, shall act as a director or other officer or employee of any other corporation or common carrier engaged in commerce—

And so forth.

Now, Mr. Chairman, if the committee had jurisdiction to control who shall be the directors of common carriers, why would not an amendment such as the gentleman from Oklahoma offers be germane? If it is appropriate to say who shall be directors of a common carrier in this bill, then it is appropriate to legislate on any subject that applies to common carriers; and if this amendment goes out on a point of order, will not we be compelled to take out of this bill section 9?

Mr. LENROOT. Mr. Chairman, with reference to the Chair's question to the gentleman from Indiana as to whether, if this amendment was introduced as an original bill it would go to the Interstate Commerce Committee, I submit to the Chair that that can not decide the germaneness of the amendment, for the reason that the sole standard is whether or not there is anything in this bill as it now appears before the committee to which this amendment is germane. If there is, it must be admitted, although in the first instance it might have gone to the Interstate Commerce Committee. If the Chair will recall, a little later on in the bill the subject of directors of banks is dealt with. If that had been introduced as an original bill it would have gone not to the Judiciary Committee but to the Committee on Banking and Currency.

Now, with reference to the germaneness of this amendment, I wish to submit an observation that has not been mentioned to the Chair, and that is that this is clearly germane under section 3 of the bill. In other words, section 3 of the bill has dealt with this very subject, and having done so this proposed amendment becomes germane. Section 3 deals, as amended, with interstate commerce in the product of the mine. It is provided that the owner or person controlling the product, or the transporter engaged in selling, is prohibited from arbitrarily refusing to sell that product.

Let me read to the Chair the amendment as it now stands:

> That is shall be unlawful for any corporation or any person or persons to transport the products of any mine or mines, including coal, oil, gas—

And so forth.

Now, then, we have dealt with the transporter of these very products in section 3, and this proposed amendment only does one thing. The section as it stands relates to arbitrarily refusing to sell, and all this does is to provide that they shall not engage in that transportation unless they shall become a common carrier. It has nothing whatever to do with any amendment of the interstate-commerce law in the slightest degree. It simply places a condition precedent on the transportation of this product of the mine which this committee has dealt with in section 3.

It seems to me clear that if this amendment had been proposed to section 3 after the adoption of the gentleman's amendment no one would have thought of raising the point of order upon it, and if that be true, it is certainly in order to offer it as a separate section.

Mr. FERRIS. Mr. Chairman, will the gentleman yield?

Mr. LENROOT. Yes.

Mr. FERRIS. Supplementary to what the gentleman has said, on page 24, the first paragraph of section 7 deals with labor conditions, and if the Chair is going to say as a test that the committee had no jurisdiction, that portion should have been referred to the Committee on Labor.

Mr. LENROOT. Yes.

The CHAIRMAN. But the Chair did not mean to intimate that that would be the test. The gentleman from Indiana simply suggested it to the Chair, and that is the reason the Chair propounded the interrogatory.

Mr. WEBB. Mr. Chairman, just a word or two. We are dealing here not with the creation of interstate common carriers, but with the acts of interstate carriers already established and the acts of individuals. We are dealing with combinations, contracts in restraint of trade, and immoral business practices. We are not undertaking to create common carriers, and that is all there is to my friend's amendment. He wants the committee considering an antitrust bill to force certain corporations to become common carriers, because they transport their own product from one State to another. It is not necessary to discuss that phase of it, but I doubt very much whether Congress can say that because a man transports his corn from one State to another on his own shoulders or in his own wagon that he can be compelled to be a common carrier. This very identical question is now pending before the Supreme Court of the United States. It comes from the Interstate Commerce Commission on an appeal, showing it is an interstate-commerce question, and I submit that this House in preparing an antitrust bill should not be put in the attitude of creating common carriers, and that therefore the amendment is not germane to this section or to the bill.

[Mr. DECKER addressed the committee. See Appendix.]

The CHAIRMAN. The Chair is ready to rule. The gentleman from Oklahoma [Mr. FERRIS] has offered an amendment as a new section which relates to the transportation of the products of any mine and provides that it shall be unlawful for any corporation to transport such product unless it becomes a common carrier within the intent and purpose of the special act entitled "An act to regulate commerce," approved February 4, 1887. In ruling upon the point of order it is not the province of the Chair to pass upon the desirability of such legislation or the importance of the particular amendment. If the Chair were to express his personal opinion he might be in sympathy with a good deal of what the gentleman from Oklahoma has said. But the Chair must pass upon the point of order under the rules and procedure governing such matters. This amendment does not on its face refer to any monopoly or restraint of trade or seek to prevent a monopoly in restraint of trade. The bill under consideration is a bill to supplement existing laws against unlawful restraints and monopolies. Reference has been made to the second paragraph of section 7, but as the Chair construes that paragraph it is simply intended to relieve certain officers of common carriers from the operation of the Sherman antitrust law under certain conditions set forth in the paragraph. The Chair is unable to understand how the amendment proposed by the gentleman from Oklahoma can be germane to a bill framed for the purpose of supplementing existing laws against unlawful restraints and monopolies. The Chair does not say it will not be in order at some future time in the consideration of this bill, but it certainly seems to the Chair, so far as this particular portion of the bill is concerned, that it is not germane, and for that reason the Chair sustains the point of order. The Chair would like to state, in addition, reference having been made by the gentleman from Wisconsin to section 3 and the amendment adopted by the committee a day or so ago, as a reason why this amendment is germane, that if the gentleman will read that amendment he will see that it simply provides that those in control, either as owners or transporters of the products of any mine, etc., shall not have the right to withhold such products from any responsible purchaser or, in other words, to use them for the purpose of crushing out competition. Quite a different proposition from that which is presented in the amendment now proposed. The Chair thinks that the amendment is not in order to this particular paragraph or section of the bill and therefore sustains the point of order.

Mr. TOWNER. Mr. Chairman, I desire to offer a new section.

The CHAIRMAN. The gentleman from Iowa offers a new section, which the Clerk will report.

The Clerk read as follows:

Page 24, after line 24, insert as a new section:

"That in any city, town, or county of the United States wherein a cooperative association is established for the purpose of producing or marketing a food product or products any person who shall directly or indirectly for the purpose of destroying competition, discriminate in price in the purchase of such food products or the materials thereof within such city, town, or county, or use other means the effect of which is to destroy competition or secure a monopoly in commerce, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not exceeding $5,000 or by imprisonment not exceeding one year, or by both such fine and imprisonment, in the discretion of the court."

Mr. TOWNER. Mr. Chairman, this attempts to reach, and I think reaches, a very great evil which exists to such an extent that many of the States of the Union have already legislated to overcome it. Wherever a cooperative association is formed among the producers of food products large dealers in the same line of business at once try to drive the cooperative association out of business, and for that purpose will send into that territory their agents to purchase the products from the producers and endeavor by paying higher prices to drive out the cooperative association. The payment of higher prices for a time is for the purpose of destroying the competition of the cooperative association, put it out of business, and thus control the prices themselves. There is no law now in existence that exactly meets that condition with regard to interstate trade. For instance, to give a concrete example of the way this matter works, a cooperative creamery is established in some small town. If control is sought of the market by some large company or great combination of that character in an adjoining State they will send their agents to the town where the cooperative association is located and establish a receiving station—centralizers, as they are called.

Mr. WEBB. Mr. Chairman, may I ask the gentleman a question?

The CHAIRMAN. Does the gentleman from Iowa yield to the gentleman from North Carolina?

Mr. TOWNER. Yes; I will yield.

Mr. WEBB. I thought that section 2 absolutely destroyed that practice.

Mr. TOWNER. I can not agree with the gentleman in regard to that. I can not even take the time to argue it. If that is the opinion of the committee, of course they will then be opposed to this amendment. But I think this amendment will make it so certain that there will be no question about it.

It is a very great evil. It injuriously affects more producers in this country than any other one thing to-day. In the State of Iowa there are many cooperative creameries established, and they are being put out of business by these "centralizers" from other States, who go into their markets and buy the products from the farmers at a higher price for a certain time, but whose sole object is to destroy the established creamery and control the market in their own interest.

Mr. FLOYD of Arkansas. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. Does the gentleman from Iowa yield to the gentleman from Arkansas?

Mr. TOWNER. Yes.

Mr. FLOYD of Arkansas. I did not catch the full purport of the gentleman's amendment. Can the gentleman briefly state it?

Mr. TOWNER. I can not state the purport more succinctly than to state its terms. My amendment reads:

That in any city, town, or county in the United States wherein a cooperative association is established for the purpose of producing or marketing a food product or products, any person who shall directly or indirectly for the purpose of destroying competition discriminate in price in the purchase of such food products or the materials thereof within such city, town, or county, or use other means the effect of which is to destroy competition or secure a monopoly in commerce, shall be deemed guilty of a misdemeanor—

And so forth.

Mr. WEBB. Mr. Chairman, I want to make this suggestion to the gentleman: We have absolutely no authority to pass that sort of an amendment. The gentleman is asking Congress to go into a city or a little town or village and regulate the affairs of business there. That does not relate to interstate commerce at all.

Mr. TOWNER. Oh, the gentleman is mistaken. This amendment would be effective only with regard to those engaged in commerce, and your bill says "commerce" is interstate commerce. The gentleman should not think that I do not know this bill operates only in interstate commerce. That is the great difficulty now. Very many States have legislated and do control this matter in the States, but that is not the most serious trouble. The serious trouble comes from those large combinations outside of the States and which the States can not control. This bill is limited in its terms and applies only to operations in interstate commerce.

Mr. GARNER. But the gentleman's amendment does not say anything about interstate commerce.

Mr. TOWNER. Oh, I beg the gentleman's pardon. It does. It says "commerce," which you define by this bill to be interstate commerce. It is limited strictly to that.

The CHAIRMAN. The time of the gentleman from Iowa has expired.

Mr. TOWNER. Mr. Chairman, I would like to have five minutes more.

The CHAIRMAN. The gentleman from Iowa [Mr. TOWNER] asks unanimous consent to proceed for five minutes more. Is there objection?

There was no objection.

Mr. TOWNER. Now, Mr. Chairman, allow me to make a further statement in regard to this amendment. Certainly it meets a real evil, and if gentlemen desire to make this bill of benefit to the people of the United States they ought not to object to this amendment to it.

The products of the Iowa creameries last year sold in the Chicago market at the average price of 33 cents a pound, and yet the average price received by the farmers for their butter fat was only 25 cents a pound. The "centralizers," those controlling their market, made 36 per cent on the butter and had a margin of 20 per cent in addition on the overrun, for a pound of butter fat will produce 1.20 pounds of butter. Two of the cooperative concerns paid the farmers 34¼ cents a pound, or more than the Chicago prices.

Now, if you allow the destruction of these cooperative associations, not only of creamery and dairy products, but all other associations of that character—voluntary associations of the farmers who put directly their product on the market—if you destroy them and drive them out of business, you put into the hands of these "centralizers," who control the markets, the power to destroy competition and enable them to pay the farmers just what they choose for their product.

Mr. METZ. Will the gentleman yield for a question?

Mr. TOWNER. Yes.

Mr. METZ. In New York City we have no dairies and no cows, and we have got to get milk from outside. Now, suppose that across the line in New Jersey there is a town which has a cooperative concern like the one the gentleman speaks of. The milk dealer in New York City is shy in milk and must get a supply. He goes to New Jersey and buys milk from the farmers at a higher price than the cooperative concern is paying, for the purpose of getting milk to take it to New York. Would that be permissible under your amendment, or must the city of New York go without milk?

Mr. TOWNER. I will say to the gentleman that this bill could not apply in any case unless the object and purpose was to destroy competition or establish a monopoly or drive out a producer.

Mr. METZ. The purpose is to get the milk, and if they take it away that town has got no milk.

Mr. TOWNER. This amendment is limited strictly to cooperative associations. It meets directly a real need; it meets directly an evil that is growing throughout the United States and needs immediate relief.

Mr. METZ. You prohibit anybody buying from the dealer or producer at a higher price the thing which is purchased by the cooperative concern.

Mr. TOWNER. I will say to the gentleman that there can be nothing that will so bring down the price of food products to the ultimate consumer like the destruction of these combinations that control them. The middlemen are the people who raise the prices. Butter is sold in the Chicago market at an average price of 33.92 cents for a whole year, and yet the farmers receive less than 25 cents for their product. The farmers will receive a higher price and the consumers will pay a lower price if you will encourage cooperation in the production of food products. I sincerely hope this amendment may be adopted.

Mr. GREEN of Iowa. Mr. Chairman, if there is any necessity for section 2, there is also special necessity for the converse, which is found in the amendment of my colleague. Section 2 provides that any person who shall discriminate in price with intent to injure a competitor between different purchasers of commodities shall be subject to the penalties of the act. This amendment provides, in effect, that anyone who shall discriminate between sellers—that is, persons who are bringing various products to him to be sold—shall also be subject to the penalty where the object and purpose is to destroy competition or to obtain a monopoly. As my colleague has suggested, it strikes at an evil that has been maintained and been growing for a long time in the section of country which we represent. A very large creamery is maintained in the neighboring State of Nebraska, and that creamery makes a practice of overbidding and outbidding any concern that may start up in competition with it in the neighboring State. The only way this evil can be reached is by some such provision. I am very much inclined to think it ought to have been included in section 2.

I know it is said that these acts are already reached and covered by the Sherman Act. It is true they are, if there is any restraint of trade or if monopoly is intended to be acquired, as I think; but the gentlemen upon the other side have all along been contending that similar acts were not covered and not reached by the Sherman Act. If so, then this provision which has been introduced by my colleague [Mr. TOWNER] is absolutely necessary in order to reach actions of this character.

Mr. FITZHENRY. Mr. Chairman, I rise to oppose this amendment. It seems to me it should be defeated, if for no other reason than the manner in which it is drawn. It provides that in any city, town, or county in the United States where a cooperative association is established for the purpose of producing or marketing a product any person who shall, directly or indirectly, for the purpose of destroying competition, discriminate in price in the purchase of such food products or other material within such city, town, or county shall be subject to the penalties provided. It provides, first, for the location of the cooperative institution in a certain city, town, or county, and limits its operation to the city, town, or county, and clearly covers intrastate and not interstate commerce. It is true that in the following phrase these words are used:

> Or use other means the effect of which is to destroy competition or to secure a monopoly in commerce.

That is such a vague provision that it ought not to be written into the law at this place.

Any merit that there might be in this proposition is all covered by the Sherman antitrust law, and the adoption of this amendment at this time will simply limit the remedies of the people against the institution which it is aimed against.

Mr. GREEN of Iowa. Will the gentleman yield?

Mr. FITZHENRY. Yes.

Mr. GREEN of Iowa. Is the gentleman aware that you have much the same provision in section 2 with reference to the discrimination in price of commodities, which uses similar language? It refers to "purchasers of commodities in the same section."

Mr. FITZHENRY. Section 2 is to promote competition and not to limit it as is the idea here, and then section 2 is aimed against monopoly, a concern being engaged in interstate commerce coming into a particular locality and lowering the price, destroying the competitor, and then raising the price again. It covers a train of events.

Mr. WEBB. If the evil practices detailed by the gentleman from Iowa are interstate in their operation and effect, he defines very clearly a case which would come within the provisions of section 2 of the Sherman antitrust law, which is plain and specific, and which would break up the practice which he inveighs against and which ought to be broken up. It reads:

> Every person who shall monopolize or attempt to monopolize or combine or conspire with any other person to monopolize any part of trade among the several States—

And so forth.

The acts which he complains of are covered by the Sherman antitrust law if they are interstate. If they are intrastate, he can not complain to Congress, because we have no power to remedy it. He must go to the State legislature and get them broken up by an act of that body, as we have done in North Carolina. Two or three months ago this same practice was tried on the people of the city of Wilmington, N. C., and the grand jury indicted them under the antitrust laws of our State and put them out of business and broke it up—the practice—by imposing fines on the parties to the practice.

Mr. GREEN of Iowa. Does the gentleman say that the acts attempted to be reached by section 2 are not done in restraint of trade?

Mr. WEBB. There it is the individual act, and the discriminating act itself is condemned.

Mr. GREEN of Iowa. That is what this is.

Mr. WEBB. Here you have a perfect monopoly described by the gentleman from Iowa [Mr. TOWNER] describing every detail, which makes it a monopoly or an attempt to monopolize, and comes within section 2 of the Sherman antitrust law.

Mr. GREEN of Iowa. It comes in the same way under the provision you have in section 2.

Mr. WEBB. This is not the place to offer the amendment. It would mutilate section 7 and has nothing to do with the preceding parts of the same section. The law is ample to cover the condition described, and I trust the House will not adopt the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Iowa.

The question was taken, and the amendment was rejected.

The Clerk, proceeding with the reading of the bill, read as follows:

SEC. 8. That no corporation engaged in commerce shall acquire, directly or indirectly, the whole or any part of the stock or other share capital of another corporation engaged also in commerce, where the effect of such acquisition is to eliminate or substantially lessen competition between the corporation whose stock is so acquired and the corporation making the acquisition, or to create a monopoly of any line of trade in any section or community.

No corporation shall acquire, directly or indirectly, the whole or any part of the stock or other share capital of two or more corporations engaged in commerce where the effect of such acquisition, or the use of such stock by the voting or granting of proxies or otherwise, is to eliminate or substantially lessen competition between such corporations, or any of them, whose stock or other share capital is so acquired, or to create a monopoly of any line of trade in any section or community.

This section shall not apply to corporations purchasing such stock solely for investment and not using the same by voting or otherwise to bring about, or in attempting to bring about, the substantial lessening of competition. Nor shall anything contained in this section prevent a corporation engaged in commerce from causing the formation of subsidiary corporations for the actual carrying on of their immediate lawful business, or the natural and legitimate branches or extensions thereof, or from owning and holding all or a part of the stock of such subsidiary corporations, when the effect of such formation is not to eliminate or substantially lessen competition.

Nothing contained in this section shall be held to affect or impair any right heretofore legally acquired: *Provided*, That nothing in this paragraph shall make stockholding relations between corporations legal when such relations constitute violations of the antitrust laws.

Nor shall anything herein contained be construed to prohibit any railroad corporation from aiding in the construction of branch or short-line railroads, so located as to become feeders to the main line of the company so aiding in such construction, or from acquiring or owning all or any part of the stock of such branch line, nor to prevent any railroad corporation from acquiring and owning all or any part of the stock of a branch or short-line railroad constructed by an independent company where there is no substantial competition between the company owning the branch line so constructed and the company owning the main line acquiring the property, or an interest therein, nor to prevent any railroad company from extending any of its lines, through the medium of the acquisition of stock or otherwise of any other railroad company, where there is no substantial competition between the company extending its lines and the company whose stock, property, or an interest therein, is so acquired.

A violation of any of the provisions of this section shall be deemed a misdemeanor, and shall be punishable by a fine not exceeding $5,000, or by imprisonment not exceeding one year, or by both, in the discretion of the court.

Mr. VOLSTEAD. Mr. Chairman, I offer the following amendment.

The Clerk read as follows:

Strike out all of section 8 and substitute the following:

"SEC. 8. (a) That it shall be unlawful to own, hold, or otherwise use any share of any capital stock of any corporation so as to aid in carrying into effect, creating, or maintaining any contract combination in the form of trust or otherwise, or conspiracy in restraint of commerce or to own, hold, or otherwise use any such share so as to aid in effecting or attempting to effect a monopoly or any combination or conspiracy to monopolize any part of commerce. In addition to any punishments prescribed by existing law, it is provided that as a penalty for a violation of this provision all earnings that may accrue upon any share of capital stock while so unlawfully owned, held, or used shall be forfeited and belong to the stockholders of the corporations having issued the same whose shares are not then unlawfully owned, held, or used. And none of the shares of such stock while so unlawfully owned, held, or used shall entitle anyone to vote or otherwise participate in the election of any director, trustee, officer, or employee of the corporation having issued such share or to otherwise participate in the management or control thereof.

"(b) No corporation shall issue any share of capital stock or borrow any money to acquire any part of the capital stock of any corporation engaged in commerce, and the acquisition of any such stock by any such means is prohibited. Nor shall any share of capital stock of any corporation engaged in commerce be acquired by or on behalf of any other corporation by exchanging therefore directly or indirectly any share of the capital stock of another corporation. As a penalty it is provided that all earnings that may accrue upon any share of stock hereafter acquired in violation of this paragraph shall, while retained directly or indirectly by the corporation acquiring the same, be forfeited and belong to the other shareholders of the corporation having issued the same. And none of the shares of stock acquired in violation of this paragraph shall, while so retained, entitle anyone to vote for any director, trustee, officer, or employee of the corporation having so issued such stock, or to otherwise participate in the management or control thereof. This paragraph shall not prevent any bank, banking association, or trust company engaged as a business in receiving deposits from using such deposits to acquire, either by purchase or as security, any share of capital stock of a corporation engaged in commerce.

"(c) Unless otherwise authorized by the Commissioner of Corporations, no stock or any bond or obligation due more than two years from the date of issue shall be issued by any corporation engaged in commerce for less than par or until the fair market value thereof shall have been paid in cash into the treasury of the corporation. Said commissioner may, however, on application, permit any issue for less than par and for property in place of cash if it shall appear to him that it is reasonably necessary and that a fair consideration is actually received for such issue. Stocks, bonds, and obligations issued in violation of this paragraph shall be void.

"(d) That no corporation engaged in commerce shall declare any dividend except from the net profits arising from its business; nor shall it divide, withdraw, or in any way pay to the stockholders, or any of them, any part of the capital stock of such corporation, or any of the proceeds of the issue or sale of any such stock, unless it shall first be made to appear to the Commissioner of Corporations that it is reasonably necessary for the purpose of maintaining the credit of the corporation or to carry on its legitimate business. Any person who shall violate or participate in violating any provision of this paragraph or suffer or permit any violation thereof shall be individually liable for all the debts of the corporation and all shares of stock issued in violation of this paragraph shall be void.

"(e) That paragraphs (c) and (d) of this section shall not apply to any corporation whose capital stock, including bonds due more than one year from their date of issue, shall be less than $2,000,000 par value, unless the Commissioner of Corporations shall find and certify as to any corporation that it is a part of some combination that is so conducted as to make it substantially a business unit with more than $2,000,000 in capital including such bonds; or unless said commissioner shall find and certify as to any corporation that it controls more than one-half of all commerce in its line of commerce in any section that includes two or more States. Upon making such certificate, a copy thereof shall be delivered to the corporation affected, and from the date of such delivery this section shall apply to such corporation, and no part of this section shall apply to any corporation subject to regulation as a common carrier under the act entitled 'An act to regulate commerce,' approved February 4, 1887, and amendments thereto. Nor shall this section be construed to repeal any provision of the antitrust laws."

Mr. VOLSTEAD. Mr. Chairman, I assume that it is useless at this time to try to make this law any stronger by offering any amendments. We have to-day exempted labor organizations from the Sherman Antitrust Act; we have also exempted railway companies so as to permit them to stifle competition, and now section 8 is submitted to authorize the formation of trusts. I called attention to this section some days ago. I have listened patiently for any explanation of this section that would show that my criticism is not justified, but so far I have heard no such explanation.

I again call attention to the third paragraph of this section 8, and again repeat that it clearly permits corporations to consolidate into trusts. Clearly permits the creation of a community of interests that will eliminate anything like competition. I am not going to explain this feature any further than I did a day or two ago. Anyone who will read it carefully will come to the same conclusion that I have come to. I want to explain briefly the nature of my amendment. The first paragraph of the amendment attempts to compel corporations to unscramble their own eggs. It attempts to make it unprofitable for corporations or individuals to hold stock in violation of the Sherman Antitrust Act, and as such to induce them voluntarily to separate and organize along legal lines. If we depend on the courts to set aside these combinations, we know from past experience that it is ineffectual.

Mr. BARTLETT. Mr. Chairman, will the gentleman yield?

Mr. VOLSTEAD. I yield for a question.

Mr. BARTLETT. I could not get the purport of the gentleman's amendment. Does his amendment, like the section, deal solely with holding companies?

Mr. VOLSTEAD. It deals with all combinations through stock ownership.

Mr. BARTLETT. I understand this section 8 deals with holding companies only.

Mr. VOLSTEAD. No; it deals with all combinations through stock ownership. Paragraph 3 of the section deals solely with holding companies, but paragraphs 1 and 2 deal generally with stock consolidation of corporations, whether holding companies or not. Paragraph 2 of the amendment which I have offered was suggested in the hearings on this bill. Almost the only method adopted by corporations in forming these consolidations is by the issue of their own stock in exchange for the stock of the corporation that they seek to acquire. Corporations do not invest surplus money which they may have in the corporate stock of another corporation. On the other hand, they create an additional amount of stock and take that stock and use it for the purpose of trading for the stock of the corporation they seek to acquire. I have drawn the second paragraph so as to prohibit that practice. If that practice was prohibited, I do not believe we should have very much trouble about the formation in the future of other consolidations of corporations by reason of stock ownership. The third and fourth paragraphs of my amendment present nothing particularly new; like provisions can be found in almost any statute that seeks to regulate corporations.

The CHAIRMAN. The time of the gentleman from Minnesota has expired.

Mr. VOLSTEAD. Mr. Chairman, I ask unanimous consent to proceed for five minutes more.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. VOLSTEAD. Mr. Chairman, I have sought not to apply paragraphs 3 or 4 to the small corporations that only incidentally do an interstate business. I have limited those two provisions to corporations with a capital stock of $2,000,000, but in defining capital stock I include the bonds. You can find provisions like those two in the Massachusetts statute or in the New Jersey statute. It seems to me that when these cor-

porations go into interstate commerce we have a right to say to them, "You must comply with provisions of this class, provisions that are recognized generally as reasonable." I simply submitted them as such. I realize it is useless for me to attempt to convince this committee, but I want to impress upon it that it is not safe to go before this country with a provision such as you have in section 8. Here is a provision that clearly wipes out for all practical purposes the Sherman Antitrust Act so far as it prohibits combinations in restraint of trade. The Democrats and the Republicans stand pledged to the maintenance of the Sherman Antitrust Act. Do you believe that you can deceive the people into the belief that you are passing an effective statute? In some way this statute may soon reach the courts. When it does the court will give it the construction that its plain language clearly warrants, and when they do you will have a reckoning. No doubt you expect this bill to be rewritten in the Senate. I do not believe you expect this bill to become a law or you would try to correct it in this House. It certainly does not add to the standing or dignity of the House by passing such a political makeshift as this.

Mr. THOMPSON of Oklahoma. Mr. Chairman, I regret the action taken by the Banking and Currency Committee when it met the other day and agreed not to consider rural-credits legislation immediately, but to postpone action until the antitrust program is out of the House. This means that there will be no legislation on the subject of rural credits at this session of Congress. Mr. Chairman, I conducted a filibuster in this House on the 14th of last month, in the interest of legislation for the farmers and laborers of this country, which is more important, in my opinion, to the American people than the tariff, a commercial system of banking, or the antitrust acts. We were assured by the leaders of this House, if the Banking and Currency Committee would report a bill, it would be considered at this session. I desire to call attention that nearly a month has passed, and the Banking and Currency Committee has not held a meeting to consider the question. I am informed that some, if not all, of the Democratic members of that committee met informally the other day and, by a majority vote, decided not to consider this question until after the antitrust bills had been disposed of in the House. No one is so simple as not to be able to understand what this means. We all know that this legislation has been put in cold storage and will be strangled, so far as this session of Congress is concerned. Had the Banking and Currency Committee met immediately after the 14th of May and begun the consideration of this question, on the report of the subcommittee, which had been holding sessions since last November, it might possibly, with the assistance of H. Parker Willis, of the Wall Street Journal of Commerce, who prepared the banking and currency bill we passed last year, and who received $3,500 for that work, have reported to Congress, before the antitrust program is out of the way, a bill on this subject. This Congress, if this had been done, could have passed a bill on this subject at this session.

Mr. Chairman, if this legislation is not passed at this session of Congress the people will know where to place the blame. It will rest on the Banking and Currency Committee. The action of that committee in postponing the consideration of this subject until the antitrust program is completed means that it will take a month after that date before a bill can be reported. That will be some time in July, and insures death to this legislation at this session. Mr. Chairman, the widespread demand for this legislation among the American farmers has been demonstrated to me by letters from all parts of the country. I have just received a letter inclosing one addressed to Mr. Bryan. It is so simply worded, so earnest in purpose, and so appealing in tone that I desire to read it into my remarks to impress upon the Congress that a great mistake is being made by postponing action which means so much to the American farmer. He has suffered long and patiently; he has seen the earnings of his family taken to build battleships, to construct the Panama Canal, to dig out rivers and harbors, to build cities and foster and encourage manufacturing industries, to wage costly wars that people of islands beyond the seas might be free—all this he has seen and borne without complaint; but I warn you if this piece of legislation so vital to the welfare of himself and family is put to death in the House of Representatives he will demand an accounting; he will visit his wrath on the heads of those who prove faithless in this hour which is fraught with so much promise to him. Mr. Chairman, the letters I refer to read:

ABERDEEN, S. DAK., *May 28, 1914.*

Hon. J. B. THOMPSON,
Washington, D. C.

MY DEAR SIR: I inclose a letter which I had intended to send direct to Mr. Bryan, but upon reading your remarks in the CONGRESSIONAL RECORD of May 22 I concluded to inclose it with one to you upon the matter of the rural credits bill, for which you have been so nobly contending. The farmers of the great Northwest will be in a sad plight this fall if they are not able to borrow money to protect the abundant crop which at this time bids fair to excel any other year. As a consequence of several bad years, these crops will have to go on the market at thrashing time, and that means a price below the cost of production. The farmers of the Northwest are living in hopes that this bill may become a law and in effect before the crop is disposed of.

God bless you and give you success in your efforts.

Very respectfully, yours,

C. H. CREED, Sr.

And the letter addressed to Mr. Bryan reads as follows:

ABERDEEN, S. DAK., *May 28, 1914.*

Hon. W. J. BRYAN,
Secretary of State, Washington, D. C.

MY DEAR SIR: By way of introduction I will say that I am the founder of the Dacoma Industrial Chautauqua, near Aberdeen, which platform you have graced several times, which doubtless you remember distinctly, although you may have forgotten the manager. I wish to send greetings in behalf of the agricultural interests of this section for the great work you have done since entering upon the great office which you have so ably filled and for the efficient work in behalf of the interests of the farmers of the whole country. One thing more ought to be done before Congress adjourns, and that is the passage of a rural credits bill. The present outlook is good for an immense yield of small grain, and under the present system of commerce the great bulk of this crop will have to be marketed at a very low figure—below the actual cost of production—if the farmers can not borrow money at reasonable rates against their stock of grain and get a reasonable price, based upon the law of supply and demand. We are in hopes that President Wilson—God bless him—and you can see the great need of the enactment of this measure at the present session of Congress, and for this purpose we are writing this original request that you might be the means of giving us the relief which we so much desire.

God bless and give you abundant success in your work.

Most sincerely, yours,

C. H. CREED, Sr.

Mr. Chairman, if this legislation is not reported at an early date, I shall avail myself of all the power the rules of the House permit to force some action. I will not sit idly here and permit this legislation to be slaughtered in the House by its supposed friends. We were told the other day when I was making a fight for the consideration of this rural credits bill that the banking and currency bill passed last year extended credit of $369,000,000 to the farmers of this country. I congratulate myself that I was partly responsible for this credit extended to the farmer; but I desire to call attention in this connection to the fact that the regulations under which these loans may be made are as follows:

First. Real estate security must be farm land.

Second. It must be improved.

Third. There must be no prior lien.

Fourth. The property must be located in the same Federal reserve district as the bank making the loan.

Fifth. The amount of the loan must not exceed 50 per cent of the actual value of the property upon which it is secured.

These loans must not be for a period longer than five years, and the total of such loans by any bank must not exceed one-third of its time deposits and must not in any case exceed the capital and surplus of the bank. The time deposits in the district which I represent, according to the last report made to the Comptroller of the Treasury by the national banks, are:

Murray County, $22,350, and the amount loaned on real estate under this law could only be $7,450.

Garvin County, $129,293.19, and the amount of loans would be restricted to $43,097.73.

McClain County, $26,174.92, and the amount of loans would be restricted to $8,724.97.

Cleveland County, $2,246.12, and the loans would be restricted to $768.70.

Oklahoma County, $543,221.75, and the amount of loans would be restricted to $181,073.92

In Logan County there are no time certificates of deposit, and there would be no loans on farm lands.

In Payne County the time deposits are $80,589.34, and the amount of loans would be restricted to $26,263.10.

Mr. Chairman, I desire to say in conclusion that Mr. WINGO, of Arkansas, Mr. RAGSDALE, of South Carolina, and Mr. NEELEY of Kansas, all of whom have ever been steadfast friends of the farmer, I am informed, voted for the immediate consideration of this legislation. I hope we may build a fire on the backs of those who voted against the interests of the farmers and laborers of the country, which will cause them to wake up and legislate in the interest of this great industry, which comprises 40 per cent of the population of our country.

Mr. Chairman, I voted for the Thomas amendment this afternoon to the antitrust act, and I want to call attention to a report that is carried this afternoon in the Evening Star of an interview with the President which confirms me in the view that I took at that time when I voted for the Thomas amendment. I did not believe that the Webb amendment was broad enough to exempt labor and farmers' organizations from the terms of

the antitrust act. The Star carries this report, in talking about the interview with the President:

He was asked numerous questions as to pending legislation, and especially as to the amendments to the Clayton bill touching upon the exemption of labor unions from the operation of the Sherman antitrust law. He does not believe that the amendments agreed upon by the administration and Congress give the exemptions mentioned.

That is in exact accordance with the view that I had when I voted for the Thomas amendment. The article continues:

On the contrary, he thinks there is no more immunity for labor and farm organizations, as far as violations of the law are concerned, than any corporation or other organization.

Mr. Chairman, I did not believe when I voted this afternoon that the amendment offered by the gentleman from North Carolina [Mr. WEBB] took care of labor and farmers' organizations, especially of farmers' organizations. I have not very many labor organizations in my own State, but we have a great many farmers' organizations, and I want to say this, that while that amendment might exempt the organization as such, it did not exempt the actions of the organization officials. Suppose the president of the farmers' union were to send down word to the organizations, or to the members of the union, to hold their cotton in the warehouse and not to sell it, to await a better price, is there any member of the Committee on the Judiciary who would say that that would not subject the member of the organization who sent down that word to prosecution under the Sherman antitrust law? If there is any Member, I would like for him to rise in his place and say so. The question was propounded here by Mr. GARNER this afternoon to the gentleman from Texas [Mr. HENRY], who is a genuine friend of the farmer, and Mr. HENRY did not answer the question. It was also submitted to the gentleman from Pennsylvania [Mr. GRAHAM], and he candidly admitted that it would subject these members of the farmers' union, the grange, and so forth, to criminal prosecutions under the Sherman antitrust law. Now, Mr. Chairman, I want to say this: These gentlemen come before us and say this amendment offered by Mr. WEBB is supposed to take care of the farmers' and labor organizations. If this amendment takes care of them, why are not you willing to go further and put in it that they shall not be subject to prosecution; that these organizations shall not be subject to the terms of the antitrust act?

If we want to do the thing, if you want to exempt these organizations why not put language in the bill that absolutely and plainly takes care of them, and not put language in there that would be subject to judicial construction. Now, I do not know what experience you gentlemen have had with Federal judges. I know, Mr. Chairman, that out in our State we have not very much regard for the opinion of a Federal judge on any question. Why, they have tied up our 2-cent fare rate, they have enjoined our taxation, they have attempted, Mr. Chairman, to enjoin statehood in Oklahoma in the face of an act of Congress.

Mr. HENRY. Will the gentleman yield for a moment?

Mr. THOMPSON of Oklahoma. Yes.

Mr. HENRY. The gentleman referred to my colleague asking me a question, and said that I did not reply to it. I did make a reply to it, and I want to add here that even if this exemption were not written into the law which we have written in the shape of the Webb amendment that the farmers of Oklahoma or of Texas could meet and agree to hold their cotton or their grain, and put it in a warehouse, and hold it there until they got ready to sell, and that would not be a violation of the terms of the Sherman antitrust law.

The CHAIRMAN. The time of the gentleman has expired.

Mr. HENRY. I ask unanimous consent that the gentleman have five minutes longer.

Mr. CARLIN. Mr. Chairman, reserving the right to object, the gentleman now is discussing matters that have been disposed of in the committee before, and we are trying to get along with this bill. We have 23 sections to dispose of, and we have just reached section 8, and, while the discussion is extremely interesting, if it is going to take very much longer——

Mr. HENRY. It is not going to take more than two minutes longer.

Mr. CARLIN. I have no objection to the gentleman having two minutes.

The CHAIRMAN. Is there objection to the gentleman from Oklahoma proceeding for two minutes?

Mr. THOMPSON of Oklahoma. If I do not get some time, I will raise the point of no quorum if the gentleman wants to make objection.

Mr. CARLIN. That is the gentleman's privilege.

Mr. THOMPSON of Oklahoma. And I will exercise my privilege.

The CHAIRMAN. Is there objection? [After a pause.] The Chair hears none.

Mr. HENRY. I say, without this exemption the farmers of Texas could have met and agreed to put their cotton in the warehouse and keep it there until they got ready to sell, and it would not be a violation of the Sherman antitrust law. Now, this exemption makes assurance doubly sure, and they are exempted from the provisions of the antitrust law, both in State and interstate commerce, if they see proper to invoke the protection of it.

Mr. THOMPSON of Oklahoma. Does the gentleman mean to say to this House that if the farmers of Oklahoma were to put their cotton in a warehouse and hold it for a certain price they would not be guilty under this act?

Mr. HENRY. Even if this law were not passed now they could not be touched under the terms of the Sherman antitrust law.

Mr. THOMPSON of Oklahoma. Suppose the men who manufacture the cotton should put their manufactured goods in the warehouse to hold the manufactured goods for a certain price, would they be guilty under this act?

Mr. HENRY. If it entered into interstate commerce and becomes a part of interstate commerce, that is another proposition; but here is a purely local proposition, and it is not in violation of that statute. You can put every bale of cotton raised in Oklahoma or every bushel of corn or grain and hold it there until you get ready to sell, and that is not a violation of the Sherman antitrust law.

Mr. BARKLEY. I will say further this is exactly what was done in Kentucky with the tobacco raisers who pooled their tobacco——

Mr. THOMPSON of Oklahoma. And there was a fine imposed of $3,500——

Mr. BARKLEY. That is where they were charged with interfering with interstate tobacco by crossing the Ohio River.

The CHAIRMAN. The time of the gentleman has expired.

Mr. THOMPSON of Oklahoma. I had five minutes, I thought.

The CHAIRMAN. The gentleman had two minutes.

Mr. THOMPSON of Oklahoma. I thought it was five.

Mr. CARLIN. I have no objection to the gentleman having three minutes more.

Mr. THOMPSON of Oklahoma. I want to extend my remarks by publishing in the RECORD a letter I have here on the subject of rural credits.

The CHAIRMAN. Is there objection to the gentleman's request?

Mr. THOMPSON of Oklahoma. Mr. Chairman, I have a letter here on that subject, and a letter addressed to the Hon. William Jennings Bryan, Secretary of State, on that subject, and I want to put both of those letters in the RECORD. And I want to say at this time, Mr. Chairman, that unless we have rural credit legislation we have got to maintain a quorum pretty soon, and I shall make some points of no quorum.

The CHAIRMAN. The gentleman from Oklahoma [Mr. THOMPSON] asks unanimous consent to extend his remarks in the RECORD by the insertion of certain letters. Is there objection?

There was no objection.

Mr. BARTLETT. Mr. Chairman, this provision, section No. 8 and the subsequent section of this bill, stretch the power of Congress over interstate commerce very far. In fact, Mr. Chairman, I have very serious doubts myself whether they do not go beyond the limit of the power of Congress to regulate interstate commerce by undertaking to regulate the internal management of corporations created by the States.

So far as I am concerned, Mr. Chairman, on another occasion I saw fit to give expression to my views on this subject in a minority report which I signed, emanating from the Committee on Interstate and Foreign Commerce of the House in 1910, and also to say what I thought about that subject on the floor during the discussion of that bill. I think there is more power in Congress and more reason for exercising it in regulating the matter of directors or the matter of transportation companies than it has to exercise it in this bill. I realize, Mr. Chairman, that the Democratic Party in its Baltimore convention adopted this in its platform:

We favor the declaration by law of the conditions upon which corporations shall be permitted to engage in interstate trade, including, among others the prevention of holding companies, of interlocking directors, of stock watering, of discrimination in price, and the control by any one corporation of so large a proportion of any industry as to make it a menace to competitive conditions.

I am a pretty loyal Democrat, Mr. Chairman. I believe in following the declarations of party platforms, confiding in the wisdom of those who represent the party in the convention; and but for that declaration in the party platform I do not see how

I could bring myself to vote for the provisions of these sections 8 and 9, all of them. Nor, Mr. Chairman, have I yet brought myself to the conclusion that I can vote for them. I know, Mr. Chairman, it is not very fashionable to suggest that the Constitution stands in the way of legislation of any sort by Congress. But it would not be out of place, Mr. Chairman, to call attention of some—not many—of the adjudicated cases upon this subject, cases adjudicated by the Supreme Court of the United States.

I maintain, and the Supreme Court has decided, that the charters of the corporations granted by the States are their guide as to what they shall do in the internal management of those corporations. I do not believe it is a proper exercise of legislative authority by Congress under the commerce clause of the Constitution to say who shall or who shall not be directors of a corporation organized by a State. If we examine the law writers and the decisions of the courts that have passed upon those subjects we shall find that the regulation of the internal affairs of a corporation, what business it shall do, what the directors shall do, who they shall be, of whom the board of directors shall be composed, is an exercise of the police power of the States solely, and not a power authorized to be controlled by Congress.

Let us take the opposite view of it, Mr. Chairman, for a moment. Suppose Congress should undertake to say, in spite of State legislation, that there should be interlocking directorates; that there should be combinations of interstate railroads running from one State to another in spite of constitutional prohibitions.

The CHAIRMAN. The time of the gentleman from Georgia has expired.

Mr. BARTLETT. Mr. Chairman, I ask unanimous consent to proceed for five minutes more.

The CHAIRMAN. Is there objection to the request of the gentleman from Georgia?

There was no objection.

Mr. BARTLETT. Suppose, Mr. Chairman, that Congress should declare that railroads that were engaged in interstate commerce might have interlocking directorates, and the States should forbid it. Is it to be presumed that Congress could authorize a thing of that sort? Yet, if Congress can forbid it, Congress can grant it.

Now, let us see what the Supreme Court of the United States says upon that subject.

Mr. GREEN of Iowa. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. Does the gentleman from Georgia yield to the gentleman from Iowa?

Mr. BARTLETT. I do.

Mr. GREEN of Iowa. Is the gentleman speaking now of the provisions of section 9 instead of section 8?

Mr. BARTLETT. I said at the beginning that I was speaking of the provisions of sections 8 and 9. I am fully aware that the Supreme Court has decided in the Northern Securities case that holding companies, such as the Northern Securities Co., when they undertake to combine, and thereby interfere with commerce and have a monopoly, come within the purview of the act of 1890 by a divided court of 5 to 4. But I will read from the case of the Louisville & Nashville Railroad Co. *v.* Kentucky (161 U. S., 702).

Mr. Chairman, I ask unanimous consent that I may have 10 minutes instead of 5. I want to put this in the RECORD.

Mr. CARLIN. Mr. Chairman, I shall not object to my friend.

Mr. BARTLETT. The chairman of the Committee on the Judiciary when he left told me I might have additional time.

The CHAIRMAN. The gentleman from Georgia [Mr. BARTLETT] asks unanimous consent to proceed for 10 minutes. Is there objection?

There was no objection.

Mr. BARTLETT. This was a case where the Louisville & Nashville Railroad undertook to combine with another railroad and to purchase some of its stock and own it in contravention of the constitution of Kentucky, which said it should not be done. When attacked in the courts for doing it they set up that the statute of Kentucky was unconstitutional because it interfered with interstate commerce, both railroad companies being interstate railroads. In that case the court said:

> It was said in Sherlock *v.* Alling (93 U. S., 99, 103, 104) and quoted with approbation in Plumley *v.* Massachusetts (155 U. S., 461) that "in conferring upon Congress the regulation of commerce it was never intended to cut the States off from legislating on all subjects relating to the health, life, and safety of their citizens, though the legislation might indirectly affect the commerce of the country. Legislation, in a great variety of ways, may affect commerce and persons engaged in it without constituting a regulation of it within the meaning of the Constitution. * * * and it may be said, generally, that the legislation of a State not directed against commerce or any of its regulations, but relating to the rights, duties, and liabilities of citizens, and only indirectly and remotely affecting the operations of commerce, is of obligatory force upon citizens within its territorial jurisdiction, whether on land or water, or engaged in commerce, foreign or interstate, or in any other pursuit."
>
> It has never been supposed that the dominant power of Congress over interstate commerce took from the States the power of legislation with respect to the instruments of such commerce so far as the legislation was within its ordinary police powers. Nearly all the railways in the country have been constructed under State authority, and it can not be supposed that they intended to abandon their power over them as soon as they were finished. The power to construct them involves necessarily the power to impose such regulation upon their operation as a sound regard for the interests of the public may seem to render desirable. In the division of authority with respect to interstate railways Congress reserves to itself the superior right to control their commerce and forbid interference therewith, while to the States remains the power to create and to regulate the instruments of such commerce so far as necessary to the conservation of the public interests.
>
> If it be assumed that the States have no right to forbid the consolidation of competing lines, because the whole subject is within the control of Congress, it would necessarily follow that Congress would have the power to authorize such consolidation in defiance of State legislation—a proposition which only needs to be stated to demonstrate its unsoundness. As we have already said, the power of one railway corporation to purchase the stock and franchises of another must be conferred by express language to that effect in the charter, and hence, if the charter of the Louisville & Nashville Co. had been silent upon that point it will be conceded that it would have no power to make the proposed purchase in this case. As the power to purchase, then, is derivable from the State, the State may accompany it with such limitations as it may choose to impose. Its results, then, from the argument of the appellant that, if there be any interference with interstate commerce it is in imposing limitations upon the exercise of a right which did not previously exist, and hence if the State permits such purchase or consolidation it is bound to extend the authority to every possible case or expose itself to the charge of interfering with commerce. This proposition is obviously untenable.

So that if the Congress has the right to exercise this power of prohibiting interlocking directorates in corporations simply because they engage in interstate commerce, then Congress has the power to permit interlocking directorates; and if the power is in Congress, the power is exclusive in Congress, and the whole power to regulate can be taken away from the States. In my opinion that can not be done.

I have another case here to which I desire to call the attention of the House, in volume 204, United States, page 152. That was a case where the State of New York levied a tax upon the transfer of shares of stock sold in New York. The tax was resisted upon the ground that the stock was sold to some one outside of the State, and that the tax was an interference with interstate commerce. The court held:

> The protection of the commerce clause of the Federal Constitution is not available to defeat a State stamp-tax law on transactions wholly within a State, because they affect property without that State, or because one or both of the parties previously came from other States.

Those are two decisions which I have cited, and to which I desire to call the attention of the committee. If they are the law, if it be true that the State and only the State has the right to regulate who shall be directors and who shall not, and what a railroad or a corporation shall do in reference to purchasing or owning the property of its competitor, then the Congress has no power such as this bill undertakes to exercise. I do not think it has the power. I may be mistaken. I know that the steps have been long and the strides have been far in the direction of controlling everything under the commerce clause of the Constitution.

I recall a letter written by Mr. Jefferson to Judge Sloan in 1816, as I recall the year, when, criticizing and condemning the effort to concentrate all power in the Federal Government here at Washington, Mr. Jefferson said that under the commerce clause of the Constitution they would undertake not only to regulate what was real interstate commerce, but to bring under the control of Congress all manufacture and agriculture. If he could now revisit these scenes of his labors and see what has been done and what we are daily attempting to do he would see that the prophecy he made in 1816 had almost come to a dread realization.

So, Mr. Chairman, I find myself in this position of having very serious doubt as to the constitutionality of these sections and as to the power of Congress to enact them. I can not get away from that. It is no hobby. I have undertaken to study the question. I have given much thought to it on other occasions, as I have also upon this occasion, and I can not escape the conviction that Congress does not have the power, in regulating the instrumentalities of Congress, like railroads that pass from one State to another, to say how the internal affairs of such a corporation shall be managed.

To repeat what was said in the Kentucky case, would anyone presume for a moment that Congress would have the power to say that if the State law forbade it, that one competing railroad could absorb another, yet, in spite of said State law, should authorize such consolidation? Yet if Congress has the supreme and sole power and jurisdiction over the subject, it would have the right to permit it—as it does in this bill—permit traffic arrangements and permit railroad officers to confer together for

the purpose of making agreements. If the State law forbids corporations within its domain from making these arrangements, Congress having the power to direct and saying that they can make these arrangements, and that one railroad could absorb another, you can not escape the conclusion and conviction that if Congress has the exclusive power to forbid these things it has the power to permit them.

So, Mr. Chairman, I come back to the proposition that these provisions of this bill give me serious concern and serious doubt as to what my duty in the matter is. I realize that I am liable to err as to how the law will be construed. When I read some recent decisions of the Supreme Court of the United States it looks, Mr. Chairman, as if they were ready to go even further than Congress wants them to go. The Supreme Court may decide this to be constitutional. As far as I am concerned I think they endanger the good provisions of the bill, and that in the platform, as it was written in Baltimore, the demands placed on the Democratic Members were made without considering whether they could be sustained in the courts or not. [Applause.]

Mr. GREEN of Iowa. Mr. Chairman, orders have been issued from the White House that the trust problem should be taken up at this session and some new law passed. These instructions have been issued in accordance with a theory, of which the President seems to be the chief exponent, that to cure any evil that exists it is only necessary to put a new law upon the statute books, and it matters little in what form the law is enacted. One part of this theory is that legislation upon any subject, no matter how complicated, can easily be drafted, and when once formulated should be accepted by Congress without any changes or amendments. At this particular time I doubt whether the country at large is as ready to accept this theory as it has been. It is getting some experience with half-baked legislation, and now in the bill before us we have some measures as to which the cookery has not even gone that far. We had already on our statute books undoubtedly the best law on the subject of trusts and combinations in restraint of trade possessed by any nation. It is a model of brevity, clearness, and of comprehensiveness. It has been tried again and again and never found wanting except when its failure was caused by incompetency, neglect, or something worse. It will not, of course, reach acts done in intrastate business. These can only be reached by the States themselves, although the framers of this bill seem to have overlooked this obvious rule.

Mr. Chairman, the bill is drawn on wrong lines. It undertakes to deal with specific acts, regardless of whether they are done in restraint of trade or for the purpose of creating a monopoly. In framing the bill it seems to have been forgotten that an act may be perfectly innocent and an aid to competition when done by a small dealer for the purpose of extending his trade, while the same act may be highly injurious when done by a large concern as a part of a far-reaching scheme for the purpose of creating a monopoly. It has been said by a member of the committee introducing the bill that the Sherman law merely reached acts done in restraint of trade, while this bill was intended to promote competition. Such a statement shows an utter misconception of the Sherman law. If restraint of trade be forbidden—and everyone concedes it is forbidden by the Sherman law—competition is free. We can not compel different concerns to compete, but we can compel them to give a free and fair field to competition with each other and forbid their combining with each other in restraint of trade and thus preventing competition. This is just what the Sherman law does. Restraint of trade, Mr. Chairman, is the exact converse of competition. Forbid restraint of trade and the door is thrown wide open for competition. The Sherman law provides for competition and at the same time it does not fetter business, because sales and contracts alike are left undisturbed where no restraint of trade is imposed.

Another great defect in the bill is that it undertakes to be specific, but finding that the attempt resulted in expressions either too broad or too narrow, it has been sought to remedy the difficulty by the use of indefinite terms. Who can even guess at the meaning of certain expressions used in the bill? For example, "wrongfully injure a competitor"; "arbitrarily refuse to sell"; "substantially lessen competition"; "legitimate purposes," and so forth. The committee itself seemed to be so uncertain of the effect of the bill that it not only inserted numerous provisos, but it was found necessary to follow these provisos with other provisos to the effect that no part of the bill should be construed to modify existing laws.

The result, if the bill becomes a law, will be to create doubt and uncertainty. The business man embarking upon a voyage of trade will not know which way to steer his vessel. The construction of the act will necessarily be involved in a fog of doubt, and until its uncertainties are settled the most honest may be in fear and the active will hesitate.

The bill will neither do the harm many expect nor the good which its authors anticipate. It is so crudely drawn that many of its provisions are meaningless, and it is so far from having any "teeth" that a corporation lawyer who could not drive a six-horse team and band wagon through nearly all of its provisions ought to be discharged at once. In some respects it actually weakens the Sherman law by providing a method of evading it.

Section 2 of the bill is a good example of the method which has been used in preparing the bill. This section forbids discrimination in prices in different localities, except such as is caused by making due allowance for transportation charges, and so forth. Yet the only way for a small concern to get a foothold in a new locality is to sell at first at a reduced price; otherwise it will be unable to get the business. In so doing competition is stimulated and a monopoly on the part of those who have been in control of that market can be prevented. But this section seems to place such transactions under the ban of the law. The large industries can easily establish branch houses in any desired locality, and thus evade the law entirely, although its purpose in lowering prices may be part of a plan to build up a monopoly and drive its competitors out of that locality. Thus the small concern may be punished, although its acts are not only innocent but in reality beneficial, while the big monopoly goes free. The effect of this section, if it has any effect, will not be to promote competition, but to destroy it, and its provisos legalize acts which are forbidden under the Sherman law when done as a part of a scheme to restrain trade.

Section 3 is so indefinite that no one can tell what it means. It is intended to compel those operating coal mines to sell to the public. It will have no such effect. No two persons have agreed as to what is the meaning of the word "arbitrarily," as used therein. If it means what the authors of the bill state, namely, "without any reason whatever," then the section has not the slightest effect. If it means what some others claim, it will embarrass the small dealer without in any way reaching the large dealer who has branch selling houses in each State. In any event, its meaning is so uncertain as to make its enforcement impracticable and its enactment useless, if not dangerous.

Section 4 strikes at the small dealer, who can not maintain an agency of his own in another State while the large dealer can maintain an agency therein, and by making his sales through such agency cause all such sales to be intrastate business and entirely escape the provisions of the section. Like the two preceeding sections it holds a club over the head of the small dealer and leaves open a wide door through which the big interests may escape.

Section 5 is included in the Sherman law as it now stands.

The first paragraph of section 7 does not include cooperative agricultural associations, and all amendments for that purpose were rejected. In its original form it contained nothing not already provided by law.

The second paragraph of section 7 is one of the most dangerous in the whole bill. It gives the railroads the privilege of making agreements with reference to rates and services which they shall perform regardless of whether they are competing lines or not. The railways have been trying for years to obtain this privilege, and heretofore Congress has always denied it. It is true that the bill excepts agreements to maintain rates, but this can easily be evaded as it does not forbid agreements to establish or fix rates. The provision that such agreements shall be approved by the Interstate Commerce Commission does not help the situation. Inevitably competition is destroyed when such agreements are made, rates will be raised, and service heretofore rendered will be denied. The railways can agree upon slow trains, upon onerous conditions for shippers, and to refuse privileges heretofore granted. Whether intended or not this paragraph conceals a "joker" of the most dangerous kind.

Section 8 is a sham, pure and simple. It pretends to be that which it is not and which it can not be. It pretends to forbid the consolidation of competing railroad companies by means of holding companies. As an actual fact it facilitates such consolidation. It pretends to strengthen the Sherman law while it actually weakens it. It pretends to forbid the use of holding companies for the purposes of consolidating companies engaged in commerce. It actually provides that such holding companies may be organized instead of commanding their dissolution.

Mr. Chairman, it was held in the Northern Securities Co. case—and since that time no lawyer has pretended to doubt

the principle—that competing lines of railways could not be joined by holding companies; that holding companies could not be organized that had even the potential power of preventing competition without violating the Sherman law. But under the provisions of this section, in order to establish a violation of the antitrust law we must go further and show that the competition has actually been lessened and prevented or a monopoly obtained. Nothing of that kind was required prior to the enactment of this section if it should become a law.

Mr. VOLSTEAD. Will the gentleman permit me to call his attention to the third paragraph of this section, that does not even condemn a monopoly?

Mr. GREEN of Iowa. I was about to allude to that. In the third paragraph of the section is found a series of exemptions which runs through the section until almost everything imaginable has been exempted. I read from one of the provisos:

> The section shall not apply to corporations purchasing stock for investment, or using the same by voting or otherwise to bring about a lessening of competition, nor shall it prevent a corporation engaged in commerce from causing the formation of subsidiary corporations, or from owning or holding all of part of the stock of such subsidiary corporations.

Under this provision, no matter how complete the monopoly, unless some action was taken by voting it would not fall under the ban of the law, while under the present law it is so well settled that a combination of competing lines is illegal that it is not necessary for the Department of Justice to bring a suit against railway companies which have been consolidated through a holding company or by the purchase of stock, whether one or the other. The simple statement of the Department of Justice that action will be brought to dissolve the combination has been sufficient to cause the railway companies attempting consolidation to yield immediately and consent to a dissolution.

Under this section (8) holding companies may be organized which can obtain the control of two competing lines, and then under the preceding section they may enter into any agreement that they choose to fix rates, to determine the service which they shall perform, and, in short, to absolutely eliminate competition.

This is what the committee has brought forward as something that will bring relief to the people. Why, Mr. Chairman, it is just what those in control of the railways have been seeking for. They now can say:

> This is the way I long have sought,
> And mourned because I found it not.

[Laughter.]

The majority of the Judiciary Committee have brought in what the railroads have been hounding the Interstate Commerce Commission for and demanding of Congress for lo these many years, and it has been refused them until this time. Now they have all the powers of consolidation they ever really wished and asked for in the two sections, and may consolidate under one section and agree on rates under the other. [Applause.]

Mr. Chairman, this section should be stricken out. It serves no purpose. There never was any demand or reason for it, nor have gentlemen undertaken to give any reason why it should be adopted. The relief afforded by the Sherman law was ample. As the gentleman from Minnesota [Mr. VOLSTEAD] has stated, this section is likely to furnish the means of evading the most valuable portion of the Sherman law which we now have on our statute books.

Complaints against this and the preceding section are answered by gentlemen on the other side by calling attention to provisions to the effect that these sections shall not be construed to permit acts illegal under the present law. But if these provisos are relied upon, why keep these sections in the bill? Why should we enact a law which we so much fear partially repeals the Sherman Act, that we are obliged to follow it by a proviso that it shall not be so construed? Could anything be more useless or confusing?

Section 12 is the so-called "personal-guilt section." It is claimed by the authors that it will attribute the guilt of the corporation to its officers. As a matter of fact, it will do nothing of the kind. As originally drawn, while I do not think that its authors intended that it should conceal a "joker," it was in fact a joke. In order to convict any individual of a violation of the antitrust laws it required a conviction first of the corporation and then of the individual—in other words, two convictions to show one crime. As amended, it is questionable whether it is any better. It may not now require two trials, but it certainly will require more evidence than was necessary under the Sherman law, and unless further amended this section will weaken this important statute instead of strengthening it.

There are some of the provisions of the bill that meet with my approval. The section extending the statute of limitations while a suit is pending against a trust is an excellent one and ought to have been enacted long ago. The proviso authorizing an individual as well as the Government to commence an equity action to restrain a threatened injury by some monopoly is also a good one, although I doubt whether as much good will be received therefrom as was expected. Section 6, as amended in the Committee of the Whole House, is excellent in its purpose, although there may be some doubt about its constitutionality, and I have no fault to find with its provisions with reference to labor organizations, which, in my opinion, merely state the law according to the best authorities.

The bill, taken as a whole, is a political measure, framed for purposes which are political, rather than those which would be for the benefit of the country at large. It is evidently intended to hold it up before the country as an example of legislative activity on the part of the Democratic administration, which is determined to do something, "right or wrong." It demonstrates the inability of a Democratic Congress to frame constructive laws under which business can thrive; the laborer receive his just reward; competition be free; and predatory interests restrained. No great constructive measure has ever yet been made a law through that party which did not in a few months after enactment become so unpopular that the people could not repeal it soon enough. The form of this bill does not indicate any improvement in the capacity of that party for government.

The antitrust provisions of the bill are simply buncombe, designed to give the country the impression that the Democratic Party was redeeming its party pledges, and by the inclusion of some good provisions, to place the Republican Members of this House in a false light. If I should vote against the bill, I realize that it would be claimed that I was voting against measures which would tend to suppress the trusts and also against policies in regard to labor organizations which I have always favored. I do not propose to be put in such a position. For years I have worked to make the laws against trusts more efficient, and I have always been in favor of giving labor its just dues, although I have not been willing to select any particular class and grant it a special privilege. I am not in any way responsible for any of the defective provisions in this bill. I have repeatedly spoken in opposition to them on the floor of this House. I have offered amendments myself and have supported those offered by others which would have eliminated its evil features and made it more efficient in controlling trusts without in any way interfering with legitimate business. But amendment after amendment has been voted down regardless of their merit. It has become so plain, Mr. Chairman, that the Democratic majority is not intending to prevent acts which restrain trade or create monopolies that it is useless to offer amendments further. Their whole purpose is to make a showing regardless of whether anything is accomplished in the way of curbing monopoly. If there was any prospect that this bill would become a law in its present form, I would not give it my vote; but no one expects anything of the kind. The bill is introduced for appearance, well knowing that it never will become a law as it now stands, and in the expectation that it will not even be considered by the Senate before the congressional elections.

The hope is that its high-sounding phrases, which can be understood by no one, will deceive the people and ensnare their opponents. I will not walk into such a trap. As I have stated, I have long been working among the ranks of those who are opposed to trusts and monopolies. Years ago I was selected by the governor of Iowa as a delegate to and attended the convention held at Chicago to consider measures against trusts—the first ever held in this country for that purpose—and I have always been in favor of giving the laboring man the right to organize. On prior occasions when measures giving the workingmen their rights have been before the House I have supported them by my voice and by my vote. I decline now to be put in the attitude of opposing the principles which I have before advocated by reason of my vote upon a bill the antitrust provisions of which are a mere pretense and a sham.

The attempt which has been made in this bill is entirely in the wrong direction. The Sherman law, as I believe, is amply sufficient to reach all restraint of trade and monopoly exercised or attempted in interstate commerce. It is true that evils now exist, but they exist partly through lack of enforcement of the Sherman law and partly because the wrongful acts are committed in intrastate commerce—that is, wholly within the boundaries of a single State—and are not within the jurisdiction of Congress. Many, if not most, of the evils at which this bill

is aimed can only be reached through State laws. I regret to say that the laws of my own State are not what they should be on this subject, and we need therein a broad and comprehensive measure like the Sherman Act. We need, especially on the part of our national authorities, a fearless and thorough enforcement of the Federal law which, it is unnecessary to say, we are not receiving. We need also a Federal law requiring all concerns doing an interstate business to come under its jurisdiction, and a provision that as a penalty for a failure to observe such antitrust laws the privilege of transacting such business will be withdrawn. Then, and then only, in my judgment, will the great combinations which now are a menace to our national existence be properly curbed and restrained, and to this end I shall direct my best efforts.

Mr. MANN. Mr. Chairman, I would like to get the attention of the gentleman in charge of the bill if I might. On page 25 this language is inserted, this being the section in regard to holding of stock by one corporation in another corporation:

This section shall not apply to corporations purchasing such stock solely for investment and not using the same by voting or otherwise to bring about, or in attempting to bring about, the substantial lessening of competition.

The first provision is:

This section shall not apply to corporations purchasing such stock solely for investment.

Of course, that includes any stock that is purchased for investment, and all stock is purchased for investment when it is purchased at all. Then there is the exception—

And not using the same by voting or otherwise to bring about, or in attempting to bring about, the substantial lessening of competition.

That would not apply to voting for the election of officers, would it?

Mr. CARLIN. Mr. Chairman, I do not understand. Is the gentleman consuming five minutes under the rule, or is he trying to provoke debate?

Mr. MANN. I am trying to get some information which seems difficult to obtain.

Mr. CARLIN. Is the gentleman speaking in his own time?

Mr. MANN. I am speaking in my own time, I believe, under the five-minute rule.

Mr. CARLIN. That is what I wanted to get at. What is the question?

Mr. MANN. What does this exception mean? Here is a provision which says that this section shall not apply to corporations purchasing stock solely for investment, with an exception, and the exception is—

And not using the same by voting or otherwise to bring about, or in attempting to bring about, the substantial lessening of competition.

That would not prevent voting the stock they purchase.

Mr. CARLIN. I think not, unless they were voting it with that object in view.

Mr. MANN. How would it be possible to show that they were voting the stock for the purpose of bringing about the lessening of competition? They vote stock for officers, and they may vote stock as to the issuance of other stock or bonds, but they do not vote stock as to the policy of the corporation.

Mr. CARLIN. If they voted that stock for sale to a holding company, the object of which would be combination with a competing company, that would be one way in which they would bring themselves within the provisions of this statute.

Mr. MANN. But there is another provision in reference to holding companies.

Mr. CARLIN. Yes; but this is the holding company provision that we are discussing now. The gentleman is discussing the holding company provision of the bill.

Mr. MANN. Oh, no; I am discussing the question of where one company buys the stock of another. You say it shall not apply where they buy stock for investment, unless they vote it to lessen competition.

Mr. CARLIN. That is right.

Mr. MANN. They do not vote to lessen competition in any case.

Mr. CARLIN. They could vote stock in violation of section 9, which follows, in the election of interlocking directorates, and by reason of that fact competition might be lessened—any number of various specific acts which go to bring about the lessening of competition might be done through stock voting or otherwise.

Mr. MANN. Under this section one corporation can buy and own the stock of another, and it can vote that stock unless it be proven that it voted for the purpose of substantially lessening competition.

Mr. CARLIN. That is correct.

Mr. MANN. I do not think it means anything.

[Mr. FARR addressed the committee. See Appendix.]

Mr. CARLIN. Mr. Chairman, as all time has expired, I ask for a vote.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Minnesota.

Mr. VOLSTEAD. Mr. Chairman, I would like to add a few words.

Mr. CARLIN. How much time does the gentleman expect to use?

Mr. VOLSTEAD. Five minutes.

Mr. CARLIN. Very well.

Mr. VOLSTEAD. Mr. Chairman, in connection with the colloquy that has just taken place between the gentleman from Illinois and the gentleman from Virginia, I desire to call to the attention of this House the Northern Securities Co. case. That case originated in my country, and I think I know a little about it. That company was formed for the purpose of holding stock purely as an investment. Upon the trial of that action the company showed that it had never given any direction whatever to the officers of the Northern Pacific or the Great Northern Railroad, the two railroad companies combined in the Northern Securities Co.

The company itself had no power whatever to run a railroad. Here was a case on all fours with the one you provide for in paragraph 3 of this section, but did the court take the view that this consolidation did not restrain trade? Not at all. As I said before, the court saw just as clearly as any man in his senses could see that such an organization necessarily destroyed competition, because when the Northern Securities Co. became the owner of the two railroads competition would necessarily cease. It would not be necessary to do anything to direct the officers of the two railroads not to compete. They knew that every dollar expended for the purpose of competition as between those two was money taken away from the Northern Securities Co., and as a consequence taken from the company for which they were working. Now, this bill clearly legalizes just that sort of an arrangement, and you know that practically every combination in restraint of trade that has been formed in this country in the last 15 or 20 years has been formed in this same fashion, and still you legalize that sort of a combination. It seems to me so clear that I must confess I can not understand how this committee expects to defend it. It can not be defended. I think you owe to the country a frank statement as to the purpose of this section. If it is for the purpose of wiping out the Sherman antitrust law, let us know it, and we will go before the country on that issue. If, on the other hand, you pretend that it does not, it seems to me we are entitled to an explanation before you write it into the statute.

Mr. CARLIN. Mr. Chairman, I ask for a vote.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Minnesota.

The question was taken, and the amendment was rejected.

Mr. VAUGHAN. Mr. Chairman, I offer the following amendment.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Add, after the period in line 2, page 27, the following paragraph:

"Nor shall anything in the antitrust laws be construed to forbid persons operating local telephone exchanges engaged in commerce from selling their local exchanges to competitors for local business, or from acquiring local exchanges from competitors for local business, when such sale or acquisition is not forbidden by any law of the State or locality where the exchange is situated and competition in the transmission of interstate toll messages is not interrupted nor interfered with: *Provided*, That where such sale or purchase will affect commerce it shall not be permitted until the terms thereof have been submitted to and approved by the Interstate Commerce Commission."

Mr. CARLIN. Mr. Chairman, I wish to reach an agreement as to how long we shall have debate on this and all other amendments. Are there any other amendments desired to be offered to this section?

Mr. BROWN of New York. I have an amendment to offer.

Mr. CARLIN. Mr. Chairman, I ask unanimous consent that all debate upon this section and all amendments thereto be concluded in 20 minutes, 10 minutes to be controlled by myself and 10 minutes by the gentleman from Texas.

Mr. MANN. There are three gentlemen who want five minutes apiece.

The CHAIRMAN. The gentleman from Virginia asks unanimous consent that all debate upon the pending section and all amendments thereto be closed in 20 minutes. Is there objection? [After a pause.] The Chair hears none.

Mr. VAUGHAN. Mr. Chairman, the whole theory of all antitrust legislation is that competition for patronage is beneficial to the public, but there is at least one business in which it is not beneficial but is injurious to the public. The existence of two good, well-patronized telephone systems in any community makes it necessary for every business man in the community to

patronize both systems. I believe that every local telephone exchange should be owned by the municipality in which it is located or by the Government, and that all long-distance systems should be owned and operated by the Government. But whether or not we agree about that we certainly should not disagree upon the proposition that wherever there is real competition between any two local telephone exchanges it is a burden and not a benefit to the public in that locality.

The amendment I propose will simply authorize the owners of one exchange to purchase the exchange of another when not forbidden by the law of the State or locality, and when competition in the transmission of interstate-toll messages is not interfered with nor interrupted.

I happen to live in a town where we have two systems, one exchange is located in Texas and the other in Arkansas, and I wish to make it certain that my people will not always be compelled to patronize and maintain two telephone systems. I dare say there are other towns in the United States that are similarly located, and that feel the same burden that my town does.

Mr. WEBB. Mr. Chairman, will the gentleman yield to me for a question?

The CHAIRMAN. Does the gentleman from Texas yield to the gentleman from North Carolina?

Mr. VAUGHAN. I yield.

Mr. WEBB. Will the coalition of these two exchanges substantially lessen competition?

Mr. VAUGHAN. It will lessen competition for the patronage of the people. The people in the town will not be compelled to patronize two telephone systems.

Mr. WEBB. How about the interstate rates?

Mr. VAUGHAN. The amendment I propose provides that the purchase or acquisition shall be permitted only when competition for the transmission of interstate toll messages is not interfered with, and whenever commerce would be affected thereby, it is not permitted until it has been submitted to and approved by the Interstate Commerce Commission.

Mr. WEBB. Why do you say "where messages are not interfered with or interrupted"? Why not say "competition in the transmission of interstate toll messages is not substantially lessened"? That is the language that is used in other provisions.

Mr. VAUGHAN. If the committee will accept my amendment, I will agree to that change in the language.

Mr. WEBB. If it does not substantially lessen competition, it does not apply to the interstate telephone exchanges at all. That is already in the bill.

Mr. VAUGHAN. Why not make it plain that a transaction which could not injuriously affect but would benefit is not forbidden by this bill, which may be construed to forbid what the committee must admit can not be any violation of the spirit or the purpose of antitrust legislation?

The CHAIRMAN. The time of the gentleman from Texas has expired.

Mr. ADAMSON. Mr. Chairman, I ask unanimous consent to extend my remarks in the RECORD by printing the report on the next bill for consideration under the rule.

The CHAIRMAN. The gentleman from Georgia [Mr. ADAMSON] asks unanimous consent to extend his remarks in the RECORD by printing the report on the next bill to be considered under the rule. Is there objection?

There was no objection.

Following is the report referred to:

[House Report No. 681, Sixty-third Congress, second session.]

PROPOSED AMENDMENTS TO SECTION 20 OF THE ACT TO REGULATE COMMERCE.

Mr. ADAMSON, from the Committee on Interstate and Foreign Commerce, submitted the following report to accompany H. R. 16586:

The Committee on Interstate and Foreign Commerce, to whom was referred the bill (H. R. 16586) to amend section 20 of an act to regulate commerce, having considered the same, report thereon with a recommendation that it pass.

Since reporting H. R. 16133 to the House your committee agreed upon some additional amendments and concluded to incorporate them, as well as the committee amendments already agreed upon and reported together with the original text in a new bill, which was accordingly introduced by the author of H. R. 16133 and, by subsequent order of the committee, is hereby reported to the House with a recommendation that it be considered by the House in lieu of H. R. 16133.

The bill herewith reported proposes certain amendments to section 20 of the act to regulate commerce, which has for many years authorized the Interstate Commerce Commission to acquire all necessary information touching the condition of carriers as to physical property, their stocks and bonds, all of their accounts, reports, and details and methods of doing business. The commission found the act in some respects defective as to the authority conferred, and the amendments proposed in this bill in the first 11 pages are designed to supply the needed authority. The authority conferred by the terms of section 20 was not broad enough to cover the subjects, knowledge of which it was necessary to acquire, inasmuch as it did not authorize the examination of books, papers, contracts, and correspondence of construction companies and other persons, natural and artificial, with which the carriers might have dealings of a character injurious to the transaction of interstate commerce. Neither did this provision confer authority to compel the production and furnishing of all information, books, accounts, correspondence, documents, and other papers. Neither did the terms of the section provide for the public and the stock and bond holders themselves the necessary publicity deemed so essential to the proper conduct of all public and quasi public business. It is thought by the commission and by your committee that the amendments proposed to the text, all of which amendments are indicated by being included in brackets and appear on the first 11 pages of the bill, are not only all necessary, but also will go far to supply defects in existing law.

The amendments offered in the first 11 pages are in pursuance of the recommendations of the celebrated stock and bond commission headed by Dr. Hadley, which thoroughly studied the entire question and made recommendations in line with the amendments hereinbefore referred to. Many witnesses before your committee thought that these amendments if made would constitute the only legislation necessary in the way of regulating the issuance of stocks and bonds. Some members of your committee concurred in that opinion, and all conceded that such amendments were necessary whether additional legislation were enacted on the subject of stocks and bonds or not. However, on mature deliberation and full hearing your committee concluded that there was a very general belief throughout the country that something should be done by the Federal Government in the nature of constituting a veto power in the interest of stability and efficiency of the carriers themselves to prevent them from impairing their financial strength and consequently injuring or destroying their capacity to perform their function to the public as common carriers. There is no doubt of the power of Congress to authorize the exercise of such a veto power if necessary to protect the carriers against the cupidity or incompetency of their own directorates or the avarice and exploitation of speculators who would use their power to wreck the carriers in order to realize sudden and large gains. There is a popular belief that for that very purpose of protecting the carriers in their stability and financial ability to discharge their duties to the public it is necessary to authorize the Interstate Commerce Commission to prevent the assumption by the carriers of obligations of any character which would weaken their capacity as common carriers or tend in any way to impair their ability to afford proper facilities and service to the public.

As section 20 of the act to regulate commerce had already authorized the commission to secure information of stocks and bonds and financial condition of the carriers, it was thought proper to perfect this provision to carry out the purposes intended, and it appeared peculiarly appropriate to incorporate by amendment in the same section the veto power upon the overissue of stocks and bonds because the two provisions are entirely cognate and germane one to the other. With the provisions beginning at the bottom of page 11 and occupying page 12, authorizing the commission to pass upon every proposed issue of stock and bonds, section 20, as amended in the preceding 11 pages, becomes more valuable than ever, because it will enable the commission through its regulatory instrumentalities to keep itself constantly supplied with information as to the actual condition of all carriers, and thus be enabled to meet and checkmate any improper effort that may be made to secure approval of an issue of stock or bonds. So that if the provisions conferring authority for such investigation and veto power are adopted, it will be only the more valuable by reason of the context in the preceding 11 pages, and if those provisions following the first 11 pages should not be adopted, then section 20 as amended in the first 11 pages of the bill would be sufficient to afford great relief in themselves. It will be noted that your committee has provided against any possible friction or conflict of jurisdiction between the Federal commission and the State authorities by requiring that notice of every application for approval of stock and bond issues shall be given to the regulatory authority of the State concerned, so that such authority may appear and be heard on the proposition. There is no doubt in our mind that that provision will rapidly lead up to a satisfactory working of the law and to absolute harmony and agreement between the two authorities.

The provision prohibiting the overissuance of stocks and bonds may be enforced by either one of two provisions offered in the bill. One is by injunction against acts declared to be unlawful and the other is by criminal prosecution for their violation.

Your committee has seen proper to provide and report another provision in the bill prohibiting common or interlocking directorates and management. When we learned that the Judiciary Committee was not undertaking to deal with the directorates of railroad companies we then heeded what appears to be a public and almost universal demand to prohibit interlocking directorates of carriers. Whether the necessity for this provision is so great as represented or not, and whether the anticipated benefits are exaggerated or not, there is a general impression that most of the wreck and ruin of railroads and consequent damage to public service and the public interest has been due to the machinations of men who managed different corporations, and by the policies adopted for the different corporations constituting a system or about to be consolidated into a system wrought ruin to some or all of the carriers involved. It has been represented to us that that practice has ceased, that railroad men are now no longer dishonest or incompetent, and that it is a matter of convenience for the same men to handle different enterprises without having to consult so many different people; but our observation is that there are good men enough in the world to fill every responsible position and then not have enough positions to go around, and we observe, in answer to the suggestion, that if the practice has ceased the provision in the law will not hurt anybody, for no man will be punished unless he is guilty. If any rash man should decide in the future to break out and imitate some of the disastrous escapades of the past, the law would be here to give him justice for his misdeeds. It has further been urged that in the case of large systems, formed by the consolidation of many smaller corporations, it is not necessary to have different directors for all the minor corporations. We answer that it is not necessary to have these consolidations; and the most vicious thing about all combinations in transportation and all other kinds of business is that, while they multiply the benefits of the few men retained, they dispense with the services of so many men both competent to fill the position and entitled to the fair emoluments thereof. We have thought it liberal enough to provide for relief in extreme cases through the approval of the Interstate Commerce Commission.

The date is postponed two years, and if any case exists where it is necessary to the interests of the public or the preservation of the property and the maintanence of facilities of transportation that any man should be a director or officer in more than one corporation, your committee believes that the public and the carriers can trust the Interstate Commerce Commission to pass on the question. This provision is germane and cognate to the preceding provisions of the bill, for the reason that the officers and directors of a carrier initiate all actions

issuing stock and bonds, which form the subject of previous provisions of the bill.

The further complaint that the penalties prescribed are drastic is, in our opinion, not well taken. Punishments which fine a corporation are nugatory. The fines are paid out of the treasury of the corporation; no man suffers in the flesh, as he feels no punishment as a violator of the law; and the capacity of the corporation is weakened to the amount of money taken out of its treasury. That is a vicious system, as it is liable to make the public suffer through the infliction of inferior service and allows the culprits to go free instead of punishing them in person and takes much-needed money from the corporate treasury. There is but one way to make malefactors fear the law, and that is to inflict personal punishment, and the severity of that punishment should be proportionate to the crime committed. The man who will unblushingly take advantage of his power afforded by his position in the financial world to wreck the facilities and ability of a carrier to discharge its duties to the public besides buncoing innocent investors out of hundreds of millions of dollars and embarrassing other innocent investors by unloading upon them worthless stocks and bonds is worth of the most severe human punishment, and for that reason your committee has left the punishment of such violators to the discretion of the court.

Mr. CARLIN. Mr. Chairman, I yield two minutes to the gentleman from New Hampshire [Mr. STEVENS].

The CHAIRMAN. The gentleman from New Hampshire [Mr. STEVENS] is recognized for two minutes.

[Mr. STEVENS of New Hampshire addressed the committee. See Appendix.]

Mr. CARLIN. I yield three minutes to the gentleman from New York [Mr. BROWN].

Mr. BROWN of New York. Mr. Chairman, I offer the following amendment:

The CHAIRMAN. There is an amendment pending.

Mr. VAUGHAN. I yield five minutes to the gentleman from Texas [Mr. HENRY].

Mr. CARLIN. How much time did the gentleman from Texas use?

Mr. VAUGHAN. Five minutes.

[Mr. HENRY addressed the committee. See Appendix.]

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas [Mr. VAUGHAN].

Mr. CARLIN. I thought I would allow the gentleman from New York [Mr. BROWN] to offer his amendment.

The CHAIRMAN. The amendment of the gentleman from New York [Mr. BROWN] will not be in order until this amendment is disposed of.

Mr. CARLIN. Then I will use a part of my time now and use a part of it later.

Mr. Chairman, this amendment is the most remarkable one that has been offered during the consideration of this bill. While it was stated that it is a simple little amendment seemingly, allowing States to regulate their own telephone exchanges, the fact is that this amendment exempts the American Bell Telephone Co. from a decree of the court rendered within the last few months in a dissolution proceeding on behalf of the United States Government.

That company combined, as they admitted, in State after State, telephone company after telephone company until they had monopolized the telephone business of the United States, and when suit was threatened for dissolution they consented to the decree, and now we have an amendment which will eliminate that decree.

Mr. FLOYD of Arkansas. They bought out all the telephone exchanges in my part of the country, and as soon as they had done that the first thing they did was to raise the price.

Mr. BARTLETT. That is the usual course.

Mr. CARLIN. This amendment says:

Nor shall anything in the antitrust laws be construed to forbid persons operating local telephone exchanges engaged in commerce from selling their local exchanges to competitors for local business, or from acquiring local exchanges from competitors for local business, when such sale or acquisition is not forbidden by any law of the State or locality where the exchange is situated.

And by the system of purchase and sale they have been able to form a great combination which the Government has just dissolved. It seems to me it needs but to mention it to show that the committee can not consent to accept this amendment, and that it has no place in this bill.

Mr. WINGO. Will the gentleman allow a question?

Mr. CARLIN. Certainly.

Mr. WINGO. Let us use a concrete illustration. Suppose in the town of Horatio, Ark., the Southwestern Telephone Co. own not only the long-distance line but the local exchange. Suppose in the town of De Queen, Ark., 9 miles north, there is a company that owns both the local and the long-distance lines. The long-distance line runs into Oklahoma, the State line being only 8 miles away. The line also runs out over three or four counties having a rural system. Suppose that the Southwestern Telephone Co., at Horatio, should sell its local exchange to the man who owned the De Queen exchange and the country exchanges. Do you mean to say that that would be inimical to the public good? Do not you think that that ought to be permitted?

Mr. CARLIN. I am not sure that I understand the gentleman's question, but what I mean is that the combination of a number of competing telephone exchanges engaged in interstate business so that it is controlled by one corporation is a combination in restraint of trade.

Mr. WINGO. I agree with the gentleman.

Mr. CARLIN. And this is what this amendment permits.

Mr. WINGO. Oh, no. If I thought that, I would not advocate it. Does not the amendment say that one competitor may sell its local exchange to another competitor so long as it does not violate the State law and does not restrain interstate commerce?

Mr. HENRY. Yes.

Mr. CARLIN. Oh, the gentleman from Texas is mistaken. The amendment reads:

Nor shall anything in the antitrust laws be construed to forbid persons operating local telephone exchanges engaged in commerce from selling their local exchanges to competitors for local business or from acquiring local exchanges from competitors for local business when such sale or acquisition is not forbidden by any law of the State or locality where the exchange is situated and competition in the transmission of interstate toll messages is not interrupted or interfered with.

Mr. WINGO. Is not that what I said?

Mr. CARLIN. If the exchanges are within the State, we have no control over it.

Mr. WINGO. I call attention to this: Unfortunately for the situation, the gentleman from Texas—from Texarkana—has a concrete proposition. In my district there is a railroad that wiggles in and out across the State line. I have given you a concrete illustration of a sale which took place less than a week ago, and I know it is for the public good and does not create a monopoly, but tends to the betterment in the service.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas.

The question was taken; and on a division (demanded by Mr. VAUGHAN) there were—ayes 11, noes 22.

So the amendment was lost.

Mr. BROWN of New York. Mr. Chairman, I offer the follow-amendment.

The Clerk read as follows:

Page 25, line 19, after the word "investment," add the words "or for investment and operation."

Mr. BROWN of New York. Mr. Chairman, I offer this amendment for the purpose of clarification only, because I do not know what the result of this paragraph is going to be. At the present time there is $5,500,000,000 invested in the securities of holding companies who operate public-utility companies subject to State regulation by the public-utility commissions in the various States. If these holding companies under State regulation do not bring about, or attempt to bring about, as the language of the bill reads, a substantial lessening of competition, I assume that this committee has no desire to interfere with the extension of their lawful business. But in the way the bill is drawn, Mr. Chairman, all future operations by holding companies may be unlawful for three reasons.

In the first place, in the district of Michigan two Federal judges recently held that for a corporation to sell its securities in more than one State constituted interstate commerce. Again in the State of Texas it is held that ownership of a gas-producing company and an electric-light company in the same location, no matter how much they may be regulated as to price of output and quality of service, is ownership of technically competing companies. Again it might be well held that the distribution of supplies from the parent holding company to the various plants in the various States would be interstate commerce. Therefore, in order to clarify these matters, I trust that the committee will consent to the adoption of this amendment in order that public-utility holding companies may continue their lawful business under the operation not only of the present law, but also under the provisions of this very able bill.

Mr. FLOYD of Arkansas. Mr. Chairman, we oppose the amendment offered by the gentleman from New York. We think that we have made all exceptions in this provision of the bill that ought to be made. We have made so many exceptions that some of our friends on the opposite side claim that the provisions of this section amount to nothing. We think we have already placed and incorporated in the section proper limitations; and this amendment is as objectionable as the one voted down a few moments ago, and more so, for the reason that it is general, while that undertook to exempt a specific thing. This excepts broadly these investment companies, and we object to it.

Mr. WEBB. Mr. Chairman, I want to say that so far as the $5,000,000,000 are invested in public utility corporations, if they are legal now, they will continue to be legal notwithstanding this act, because we specifically exempt those which are not illegal at present. If they are not legal under the present law, we certainly would not want to be put in the attitude of legalizing them in this act, and therefore I think it would be a very dangerous provision to put in the bill at this time. I trust the committee will vote it down.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York.

The amendment was rejected.

The Clerk read as follows:

SEC. 9. That from and after two years from the date of the approval of this act no person who is engaged as an individual, or who is a member of a partnership, or is a director or other officer of a corporation that is engaged in the business, in whole or in part, of producing or selling equipment, materials, or supplies to, or in the construction or maintenance of, railroads or other common carriers engaged in commerce, shall act as a director or other officer or employee of any other corporation or common carrier engaged in commerce to which he, or such patnership or corporation, sells or leases, directly or indirectly, equipment, mateials, or supplies, or for which he or such partnership or corporation, directly or indirectly, engages in the work of construction or maintenance; and after the expiration of said period no person who is engaged as an individual or who is a member of a partnership or is a director or other officer of a corporation which is engaged in the conduct of a bank or trust company shall act as a director or other officer or employee of any such common carrier for which he or such partnership or bank or trust company acts, either separately or in connection with others, as agent for or underwriter of the sale or disposal by such common carrier of issues or parts of issues of its securities, or from which he or such partnership or bank or trust company purchases, either separately or in connection with others, issues or parts of issues of securities of such common carrier.

That from and after two years from the date of the approval of this act no person shall at the same time be a director or other officer or employee of more than one bank, banking association, or trust company organized or operating under the laws of the United States either of which has deposits, capital, surplus, and undivided profits aggregating more than $2,500,000; and no private banker or person who is a director in any bank or trust company, organized and operating under the laws of a State, having deposits, capital, surplus, and undivided profits aggregating more than $2,500,000, shall be eligible to be a director in any bank or banking association organized or operating under the laws of the United States. The eligibility of a director under the foregoing provisions shall be determined by the average amount of deposits, capital, surplus, and undivided profits as shown in the official statements of such bank, banking association, or trust company filed as provided by law during the fiscal year next preceding the date set for the annual election of directors, and when a director has been elected in accordance with the provisions of this act it shall be lawful for him to continue as such for one year thereafter under said election.

No bank, banking association, or trust company organized or operating under the laws of the United States in any city or incorporated town or village of more than 100,000 inhabitants, as shown by the last preceding decennial census of the United States, shall have as a director or other officer or employee any private banker or any director or other officer or employee of any other bank, banking association, or trust company located in the same place: *Provided*, That nothing in this section shall apply to mutual savings banks not having a capital stock represented by shares: *Provided further*, That a director or other officer or employee of such bank, banking association, or trust company may be a director or other officer or employee of not more than one other bank or trust company organized under the laws of the United States or any State where the entire capital stock of one is owned by stockholders in the other: *And provided further*, That nothing contained in this section shall forbid a director of class A of a Federal reserve bank, as defined in the Federal reserve act, from being an officer or director or both an officer and director in one member bank.

That from and after two years from the date of the approval of this act no person at the same time shall be a director in any two or more corporations, either of which has capital, surplus, and undivided profits aggregating more than $1,000,000, engaged in whole or in part in commerce, other than common carriers subject to the act to regulate commerce, approved February 4, 1887, if such corporations are or shall have been theretofore, by virtue of their business and location of operation, competitors, so that an elimination of competition by agreement between them would constitute a violation of any of the provisions of any of the antitrust laws. The eligibility of a director under the foregoing provision shall be determined by the aggregate amount of the capital, surplus, and undivided profits, exclusive of dividends declared but not paid to stockholders, at the end of the fiscal year of said corporation next preceding the election of directors, and when a director has been elected in accordance with the provisions of this act it shall be lawful for him to continue as such for one year thereafter.

That any person who shall violate any of the provisions of this section shall be guilty of a misdemeanor and shall be punished by a fine of $100 a day for each day of the continuance of such violation, or by imprisonment for such period as the court may designate, not exceeding one year, or by both, in the discretion of the court.

Mr. CLINE. Mr. Chairman, I offer the following amendment on page 29, line 18, to strike out the word "entire" at the end of the line and insert the words "not less than three-fourths of the," so that the provision shall read:

Provided, That nothing in this section shall apply to mutual savings banks not having a capital stock represented by shares: *Provided further*, That a director or other officer or employee of such bank, banking association, or trust company may be a director or other officer or employee of not more than one other bank or trust company organized under the laws of the United States or any State where the entire capital stock of one is owned by stockholders in the other.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Page 29, line 18, strike out the word "entire," at the end of the line, and insert in lieu thereof the words "not less than three-fourths of the."

Mr. CLINE. Mr. Chairman, it is well known to every man in the House who has had any connection with the banking business, and especially with national banks, that in the last five or six years there has been organized, in conjunction with national banks, trust companies. The stock of the trust company has almost universally been owned by the bank of which the trust company was an auxiliary, but where a former stockholder happened to die and the stock has been distributed, it is sometimes impossible for the banking company to own the entire stock. I have one or two instances in mind where it would work a hardship to the bank that sought to control all the stock of the trust company which was organized for the purpose of carrying long-time loans or building loans for the benefit of the bank's customers.

It would be impossible after the distribution of the stock of a deceased stockholder in some instances to get all of the stock. Of course, I understand it is the purpose of the law to make the bank and the auxiliary institution one banking institution, but I do not understand why they can not be protected just as easily with a control of three-fourths of the stock or more as with a control of the entire stock. It still would constitute one banking institution. Take the instance I have in mind. It is impossible for the bank to secure $200 of outstanding stock, and that under the bill would compel the bank that has the trust company in connection with it to close out the trust company business, to close out the long-time or building loans that it is accommodating its customers with, and I am at a loss to see what advantage it would be to compel the bank to have the entire stock when three-fourths of the stock is as effectual to prevent evil effects arising from interlocking directorates as all of it would be. It seems to me that the full purpose is accomplished by compelling the bank to have three-fourths of the stock and not to require the banks that fall under these conditions to close out their trust-company business.

Mr. FLOYD of Arkansas. Mr. Chairman, we desire to oppose the amendment offered by the gentleman from Indiana. We do not think that there is anything in this interlocking-directorate provision in this bill that will cause anybody to close out their business. We have not undertaken in this bill to deal with the stocks or to prevent common ownership of stocks, but we are attempting to prevent a well-known evil in the business world, an evil not only to the general public, but an evil to every stockholder in this Nation. The corporate business, honestly and properly managed, is the most desirable system of business ever devised by man. While that is true, it furnishes the greatest opportunity for dishonesty of any form of business. Whenever you permit the directors of banks and of different concerns to control these different concerns, you may rest assured that those directors are going to control the business of the several concerns in such a way that they will get the greatest profit and advantage out of it to themselves or to the particular concern in which they are most deeply interested. To give you an illustration, before the Judiciary Committee, in an investigation of another matter, we had before the committee a director of two coal companies who was also a director of a railroad company. He negotiated a deal between the two coal companies. He was a director in both, and then approved it as the director of the railroad company, and he was asked by a member of the committee if he could see any possible way whereby his personal interests could suffer in such a transaction, and he frankly admitted that he could not.

Mr. CULLOP. Mr. Chairman, will the gentleman yield?

Mr. FLOYD of Arkansas. Not at this point. I will in a moment. The object of this whole provision is in the interest of honesty, not only in the interest of the general public, but in the interest of the stockholders of the corporations themselves. The objection to the amendment offered by the gentleman from Indiana is this: We have a provision in the bill that where the stockholders of one company own all the stock of the other, there may be interlocking directors.

Mr. CULLOP. But that bank would have to be located in a city or village of not less than 100,000 inhabitants.

Mr. FLOYD of Arkansas. Of more.

Mr. CULLOP. The provision in the bill is:

No bank, banking association, or trust company organized or operating under the laws of the United States in any city or incorporated town or village of more than 100,000 inhabitants.

It would not apply to banks in a city of 50,000.

Mr. FLOYD of Arkansas. That proviso would.

Mr. CULLOP. I do not think so.

Mr. FLOYD of Arkansas. The proviso would apply anywhere in any kind of a city where the stockholders of one own the entire stock of another.

Mr. CULLOP. Well——

Mr. FLOYD of Arkansas. Now, the object of this legislation is to prevent the concentration of capital under one control. In the Pujo investigation it developed that four or five concerns in New York, through a system of interlocking directorates, controlled practically the finances of this country, and then it finally centered in one great concern in New York.

Mr. CLINE. Will the gentleman yield?

Mr. FLOYD of Arkansas. I do.

Mr. CLINE. But you provide in this bill that a national bank may have an auxiliary in the shape of a trust company.

Mr. CARLIN. May have one.

Mr. CLINE. Providing they own the entire stock. Now, what advantage does the law get in securing any of the stock above 75 per cent of the stock where they only seek to hold joint relationship with another company?

Mr. FLOYD of Arkansas. Well, the point is this: Where they own the entire stock the tendency would not be to concentrate, but would be rather to divide up, divide their capital; it is one ownership practically, and could at will draw the entire amount back into one concern, but if we except banks owning not less than 75 per cent of the stock of the other, it seems that we will leave a loophole that will permit the control and concentration of money that we are endeavoring to prohibit.

The CHAIRMAN. The time of the gentleman has expired.

Mr. FLOYD of Arkansas. Mr. Chairman, I will ask for five minutes more.

The CHAIRMAN. The gentleman from Arkansas asks unanimous consent to proceed for five minutes. Is there objection? [After a pause.] The Chair hears none.

Mr. FLOYD of Arkansas. Let me explain how this works. Your committee gave great consideration to this whole question, and especially to the question of the exemption of one trust company. Let me submit that since the adoption of the currency law the necessity that caused the creation of trust companies in connection with national banks does not exist to the same extent that it did previous to the adoption of that law, because under the old law a national bank could not lend money on real estate, and hence a trust company became an adjunct and handmaid of the national-banking system in order that they might do certain things which the banks were prohibited from doing under the law.

Mr. McKENZIE. Will the gentleman yield?

Mr. FLOYD of Arkansas. Not at this point. I want to make my point clear. Now, we gave very careful consideration to this provision and to every phase of the question, and you will bear in mind we have no jurisdiction over the State banks. We excluded the private banker, the State bank director, and the trust company director from a directorship on national banks upon the theory and question of qualification. We are allowed to prescribe the qualifications of the directors of national banks, and in prescribing and fixing the qualifications of the directors of national banks we provide in this bill that the private banker, the State bank director, and the director in the trust company shall not be eligible to be directors in national banks. Now, if you permit common directors in two banks on a percentage system, then you provide a condition where through the trust company or the State bank these great national banking institutions can have an affiliated trust company, and if you permit that affiliated trust company the national bank can maintain these interlocking connections with State banks and trust companies, and you thus permit the evil of interlocking directorates which in a somewhat different way heretofore obtained, as we believe, to the detriment of the public and especially to the detriment of the stockholders of the banks.

Mr. PHELAN. Will the gentleman yield just for a question?

Mr. FLOYD of Arkansas. Yes.

Mr. PHELAN. I do not wish to take issue with the committee, but can not you do it under this bill as it is framed where you allow the directors to be on a national bank and on a State bank at the same time, providing the stock is in the same ownership? It seems to me you allow the very thing you do not want to do.

Mr. FLOYD of Arkansas. That would be an extreme case.

Mr. PHELAN. But you are not limiting it to one of these cases.

Mr. FLOYD of Arkansas. It will be only one, and such a case would be rare indeed, and it would be of short duration where they own the entire stock, because the very moment a common ownership ceased and a part of the stock went into other hands there would be the inhibition of the law.

Mr. MANN. Mr. Chairman, will the gentleman yield to me?

Mr. FLOYD of Arkansas. I yield to the gentleman.

Mr. MANN. The gentleman is talking about a provision that covers cases in my town which I am somewhat familiar with. Take, for example, the case of the First National Bank of Chicago. There is the First National Savings & Deposit Co.——

Mr. FITZHENRY. The First Trust & Savings Co.

Mr. MANN. Yes. It is fixed so that you can not sell the stock of the one without selling the stock of the other.

Mr. PHELAN. Yes. That is done in the case of a bank that I know of.

Mr. MANN. They do a trust business. In this case that I speak of there is no chance for the stock to become scattered. You can not buy the stock of the First Trust without buying at the same time the stock of the First National, and you can not buy the First National stock without buying the First Trust stock. There is some arrangement by which that is held in that condition. Now, of course, if that were not the case no one could tell whether they owned all the stock, or three-quarters of the stock, or half the stock. A man to-day might be a legal director and to-morrow he might be a criminal.

Mr. FLOYD of Arkansas. We provide against that.

Mr. MANN. I understand that.

Mr. CULLOP. I wanted to ask the gentleman from Illinois a question.

The CHAIRMAN. The time of the gentleman from Arkansas has expired.

Mr. MANN. Mr. Chairman, I ask unanimous consent that the gentleman from Arkansas [Mr. FLOYD] may have five minutes more.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. CULLOP. In the case that the gentleman from Illinois speaks of as an illustration, that institution also deals with real estate, renting, mortgages, and so forth; guardianships; acts as administrator of estates, receiverships, and things that a national bank could not do.

Mr. MANN. It is a trust company.

Mr. CULLOP. It has outside earnings and outside profits and does business which national banks under the laws can not engage in, can they?

Mr. MANN. I do not say whether a national bank could or not. I think they do it sometimes.

Mr. CULLOP. A national bank could not collect rents from real estate and perform the duties incident to receiverships, guardianships, and things like that.

Now, I would like to ask the gentleman from Arkansas about a case that has been presented to me, where there is a national bank with deposits, profits, and capital stock of more than $2,500,000. Is there anything in this measure to prevent any director or stockholder or officer of that bank from being a director or other officer of a State or private bank that may be organized in the same county?

Mr. FLOYD of Arkansas. In the same place?

Mr. CULLOP. In the same county.

Mr. FLOYD of Arkansas. Certainly.

Mr. CULLOP. For instance, the stockholders of a national bank in a county seat will have, out in some little town, a State bank or a private bank, which becomes a feeder to the national bank at the county seat.

Mr. FLOYD of Arkansas. Did the gentleman say less than $2,500,000?

Mr. CULLOP. No; I said more than $2,500,000.

Mr. FLOYD of Arkansas. It is prohibited.

Mr. CULLOP. What is there in this measure to prohibit a director in a bank of that kind being a director in a State bank in the same county, in the same State, that will have perhaps $100,000 of capital stock and undivided profits, deposits, and so forth?

Mr. FLOYD of Arkansas. The wording of the bill prevents it.

Mr. CULLOP. I deny there is, and if there is I would like to have the gentleman point it out.

Mr. FLOYD of Arkansas. On page 29, on line 4, there is this provision:

> No bank, banking association, or trust company organized or operating under the laws of the United States in any city or incorporated town or village of more than 100,000 inhabitants, as shown by the last preceding decennial census of the United States, shall have as a director or other officer or employee any private banker or any director or other officer or employee of any other bank, banking association, or trust company located in the same place.

No; that is not the provision I had in mind.

Mr. CULLOP. Does not the gentleman mean to refer to page 28, beginning line 8

Mr. FLOYD of Arkansas. Yes. The other was not the right provision. This provision reads:

That from and after two years from the date of the approval of this act no person shall at the same time be a director or other officer or employee of more than one bank, banking association, or trust company organized or operating under the laws of the United States either of which has deposits, capital, surplus, and undivided profits aggregating more than $2,500,000——

Mr. CULLOP. That applies to national banks only, and does not refer to State or private banks.

Mr. FLOYD of Arkansas. Wait until I get through. I read further:

And no private banker or person who is a director in any bank or trust company, organized and operating under the laws of a State, having deposits, capital, surplus, and undivided profits aggregating more than $2,500,000, shall be eligible to be a director in any bank or banking association organized or operating under the laws of the United States.

Mr. CULLOP. Now, if the gentleman will permit right there, in order to make that prohibition it would have to be a private bank with a capital and surplus and profits and deposits amounting to $2,500,000. It does not apply to State and private banks with a smaller sum.

If it was a bank of $100,000, then a director or officer in the national bank that had more than $2,500,000 could be a director in that State bank, and there is nothing here to prohibit it.

Mr. FLOYD of Arkansas. I think I can make the gentleman understand that it is absolutely prohibitive.

Mr. CULLOP. If there is anything, I shall be glad to have the gentleman do so. I am asking the question for information.

Mr. FLOYD of Arkansas. I will try to make it plain. I think it is prohibitive. It says:

That from and after two years from the date of the approval of this act—

Mr. CULLOP. Where is the gentleman reading?

Mr. FLOYD of Arkansas. I am reading from line 8, page 28—

No person shall at the same time be a director or other officer or employee of more than one bank, banking association, or trust company organized or operating under the laws of the United States either of which has deposits, capital, surplus, and undivided profits aggregating more than $2,500,000.

The words "either of which" would cover it.

The CHAIRMAN. The time of the gentleman has expired.

Mr. CULLOP. I ask unanimous consent that the gentleman's time be extended five minutes, because I consider this a profitable discussion.

The CHAIRMAN. The gentleman from Indiana asks unanimous consent that the time of the gentleman from Arkansas be extended five minutes. Is there objection?

There was no objection.

Mr. FLOYD of Arkansas. As I stated at the outset we deal with the eligibility of the bank directors, and if either of these banks specified has the capital, surplus, and so forth, then the person can not be at the same time a director in the two. That provision would exclude him. That is, if he was a director in the little bank, he would be ineligible to be a director in the large bank, for the reason that the provision relates to his eligibility, and he could not be in both of them. One might be a very small bank.

Mr. CULLOP. But if the gentleman will begin at the semicolon and read the next subdivision of the paragraph, and then construe that with the previous provision that he has read. I think he will find that if one of those banks is a private bank or a State bank there is nothing in this provision that will prohibit one of the directors in the national bank with a capital, deposits, and profits amounting to more than $2,500,000 from being a director in the private or State bank, provided it has not a capital, deposits, and surplus of more than $2,500,000. Now, I have asked that question because I have had bankers writing me about that subject from my district. A number of them are interested in small banks in different localities. I have examined the bill carefully, and I can find nothing to prohibit the same.

Mr. McCOY. Will the gentleman allow me——

Mr. FLOYD of Arkansas. I will answer the gentleman's question.

There is nothing in this bill to prevent that.

Mr. McCOY. I should like to call the gentleman's attention to line 14, page 28—

And no private banker—

Now go down to line 18—

shall be eligible to be a director in any bank or banking association organized or operating under the laws of the United States.

Does not that absolutely exclude private bankers?

Mr. CULLOP. Oh, no.

Mr. SABATH. Oh, no.

Mr. CULLOP. He can not be in two banks organized under the laws of the United States, but there is not a word excluding him from the State bank or private bank. If there is, I would be glad to have it pointed out.

Mr. FLOYD of Arkansas. I desire to say, further——

Mr. CARLIN. It was not intended to do that.

Mr. PHELAN. If the gentleman means two State banks, we can not prohibit his being a director of both. We have nothing to do with that, or at any rate we have not yet assumed jurisdiction if we have it.

Mr. FLOYD of Arkansas. When this bill was originally drafted by the committee we made its provisions broad and covered in scope every kind of bank, but in the hearings——

Mr. CULLOP. But the gentleman from Virginia [Mr. CARLIN] said it was never intended to cover such a case as I am putting to the gentleman from Arkansas, and if there is, I want to know it.

Mr. FLOYD of Arkansas. As finally prepared, it was not intended to cover that. If the gentleman will read the first bills he will see that they contain a sweeping prohibition of interlocking directorates, but in the hearings we found that there were so many conditions that existed throughout the country that were perfectly harmless that we made many exceptions. We put in a limitation prohibiting common directors where either of the national banks has a capital, surplus, and undivided profits of $2,500,000. In that case they are prohibited from having common directors, although one may be the smallest kind of a national bank.

But when it comes to the question of a State bank, the limitation is $2,500,000. That disqualifies the private banker or State bank director from being a director of a national bank or national banking association outside of cities of 100,000 inhabitants.

Mr. CULLOP. Let me put this proposition: As I understand it, a director of a national bank, with its deposits and capital stock and undivided profits of $2,500,000, can be director in a State or private bank organized in the same locality, provided its capital stock, profits, and undivided deposits amount to less than $2,500,000?

Mr. FLOYD of Arkansas. If he is not within a city exceeding 100,000 inhabitants.

Mr. CULLOP. I want to call the gentleman's attention to provision on page 29:

No banking association or trust company—

No bank, banking association, or trust company organized or operating under the laws of the United States in any city or incorporated town or village of more than 100,000 inhabitants, as shown by the last preceding decennial census of the United States, shall have as a director or other officer or employee any private banker or any director or other officer or employee of any other bank, banking association, or trust company located in the same place.

Now, if the gentleman will observe, the rest of that section down to the word "bank," in line 23, is one continuous sentence, so that this provision as to $2,500,000 and the director in one bank being a director in another is applied only in cases where the bank with its $2,500,000 is located in a city of more than 100,000 inhabitants.

The CHAIRMAN. The time of the gentleman from Arkansas has again expired.

Mr. CULLOP. I ask that the gentleman have five minutes more.

Mr. STAFFORD. Reserving the right to object, I would like to know if there is any limitation on debate?

Mr. FLOYD of Arkansas. I do not understand the gentleman's position to be correct.

Mr. CULLOP. It must be in a city of more than 100,000 inhabitants.

The CHAIRMAN. The gentleman from Indiana asks unanimous consent that the gentleman from Arkansas proceed for five minutes more. Is there objection?

Mr. CARLIN. I would suggest to the gentleman that we dispose of the pending amendment and then take this question up and discuss it.

Mr. CULLOP. That is what this amendment is.

Mr. SABATH. The amendment applies to this very provision.

Mr. FLOYD of Arkansas. If the gentleman from Indiana will permit me, I will explain the two provisions. If the two banks are in a city exceeding 100,000 inhabitants, then I understand that there can be no common directors, regardless of capital. The limitation of $2,500,000 does not apply in a city. It simply prohibits in cities exceeding 100,000 inhabitants there being common directors in national banks or banks operating under the laws of the United States, like those State banks which took advantage of the late act, without regard to capitalization or

without regard to the amount of capital, surplus, and undivided profits. In all other cases the rule is that $2,500,000 capital, surplus, and undivided profits applies throughout the country.

Mr. SABATH. You do make exception in this provision, and you mean that it shall apply to only cities having a population over 100,000.

Mr. FLOYD of Arkansas. No; that is not it. That inhibition is that there shall not be common directors at all, without regard to the limitation, in cities of 100,000 population.

Mr. FARR. What was the theory of the committee in discriminating against cities of that size?

Mr. FLOYD of Arkansas. On the theory that the banking interest is generally centered in cities. We had complaints before our committee, especially in the larger cities, that men who offered perfectly good security were, on account of the chain of banks having common directors, say, in a dozen different banks—a man perfectly responsible, with good security, would make application for a loan, and be refused by one bank, and then would be refused in turn by every other bank in the city, through the influence of that common director.

Mr. PHELAN. Mr. Chairman, I would like to ask the chairman of the committee a question. I am not quite clear as to lines 14 to 19, on page 29. Where it says the entire capital stock, that does not mean necessarily joint ownership of all the stocks in both banks? For instance, if you have two banks, one a State and one a national, with a million dollars capital, and one has 20 stockholders and one 10 stockholders, if five of the latter own all the stock of the former, that is enough to get the two banks within these provisions, is it not?

Mr. FLOYD of Arkansas. Yes.

Mr. PHELAN. Suppose, under these conditions, 10 men in a national bank own all the stock of a trust company, and there are common officers and directors in both banks. Suppose 1 of the 10 men sells his stock, does it follow that immediately the directors have to resign their positions and the officers have to get out? Is there any provision in the bill to prevent such a hasty change?

Mr. FLOYD of Arkansas. I am glad that the gentleman from Massachusetts has asked that question. We realize the importance of so wording the statute that a director might not be put in the attitude of being eligible one day and a criminal the next. So we provide that where the disqualification is based on capitalization, surplus, and undivided profit, you shall take the average for the preceding year, and that when he is eligible at the time of his election, his eligibility continues throughout the year.

Mr. PHELAN. Yes; but this is not in the capitalization, surplus, and undivided profit section. This is in a different paragraph. It is the stock and not the amount of the capitalization that applies on page 29.

Mr. FLOYD of Arkansas. I will say to the gentleman from Massachusetts that if that is not covered in the exceptions it ought to be.

Mr. PHELAN. I just mentioned it because I do not see it, and I thought possibly I might have missed it.

Mr. FLOYD of Arkansas. The gentleman will realize the difficulty in providing a definite rule making it a criminal offense for a man to act as a director under the conditions described here. We fix it so that if he is eligible at the time of his election his eligibility continues for a year, although the condition of his bank might change or the capitalization be increased so that he would be ineligible under the terms of the provision and also in regard to the other provision, as to population, we make similar exceptions and provide that if eligible when elected his eligibility continues for a year; but if the particular point raised by the gentleman from Massachusetts is not covered it certainly ought to be, and we ought to make it clear.

Mr. PHELAN. My impression is that it is not covered in this particular place.

Mr. FLOYD of Arkansas. I am glad the gentleman has called our attention to that, because the theory upon which we are proceeding is to provide that if the director is eligible under this law at the time of his election, no matter what happened in the meantime, he shall be eligible for a year, the usual period for which bank directors are elected.

Mr. CLINE. Mr. Chairman, will the gentleman yield?

Mr. FLOYD of Arkansas. Yes. I am inclined to think that we overlooked that particular provision, and I desire to say frankly to the gentleman from Massachusetts that if we have it is important that an amendment should be offered to cure that defect.

Mr. PHELAN. I can offer that amendment later, can I not?

Mr. FLOYD of Arkansas. Yes.

The CHAIRMAN. The time of the gentleman from Massachusetts has expired.

Mr. CLINE. Mr. Chairman, I ask unanimous consent that he be permitted to continue for five minutes more.

The CHAIRMAN. The gentleman from Indiana asks unanimous consent that the gentleman from Massachusetts be permitted to continue for five minutes. Is there objection?

Mr. BOOHER. Mr. Chairman, I object.

Mr. WINGO. Mr. Chairman, I want to ask for some information from either the gentleman from Virginia [Mr. CARLIN] or the gentleman from North Carolina [Mr. WEBB]. Is there anything in this section that reaches this proposition? Let us say there is a national banking association in Kansas City that owns and controls 45 banks in the States of Oklahoma and Arkansas, and there is one man who is a common director in them all. Is there anything in this that will prohibit that?

Mr. CARLIN. Oh, yes; if the capital of any one of them exceeds two and a half million dollars or if the bank be situated in a city of 100,000 inhabitants or more. If the capital is smaller or the population smaller it does not prohibit it.

Mr. WINGO. Suppose there is a private banker in Missouri who owns a controlling interest and is a common director in a great many small banks scattered through those different States. Does it reach that condition?

Mr. CARLIN. It does not reach any number of small banks unless the capital of some one of them, surplus and deposits, should amount to two and one-half millions of dollars, or unless the bank should be situated in a city of 100,000 inhabitants.

Mr. WINGO. Suppose it is a national banking association that has a capital of two and a half million dollars. In other words, take a banking association that comes within the prohibited class in Kansas City. Is there anything to prohibit it from owning and controlling through a joint director 45 State banks in Oklahoma and Arkansas?

Mr. CARLIN. The bank itself?

Mr. WINGO. Yes.

Mr. CARLIN. No. This bill does not deal with combinations relating to bank stocks.

Mr. WINGO. I say controlled through a common director.

Mr. CARLIN. They can not have a common director if at any time the capital, surplus, and deposits reach the sum of two and a half millions. He could not be a director in any other bank.

Mr. WINGO. That is a director in banks organized under the laws of the United States.

Mr. CARLIN. Yes; or those that are not. Of course, we can only reach State banks as they are related to national banks.

Mr. WINGO. It is provided on page 28 of the bill that no person shall be at the same time a director in more than one bank organized under the laws of the United States which shall have a capital of more than two and a half millions. There is nothing to prohibit that person from being a director in a national banking association having two and a half million dollars and at the same time being a director in 45 State banks in other States, is there? He can still be a director in a national bank of two and a half millions, and you do not prohibit——

Mr. CARLIN. If he is a director in a bank of two and a half millions surplus capital and undivided profits, he is prohibited from being a director in any other bank.

Mr. WINGO. Not in any other bank, but in any other United States bank.

Mr. CARLIN. In any national bank.

Mr. WINGO. But does it prohibit him from being a director in 45 State banks?

Mr. CARLIN. I think it does; yes.

Mr. WINGO. If they are State banks they are not organized under the laws of the United States.

Mr. CARLIN. We have authorized him to be a director in one State bank and under only one condition, and that is where a common stock ownership exists in the same party.

Mr. WINGO. I would like for the gentleman to point out in this section where you prohibit a man from being a director in a national bank of two and a half million capital and at the same time a director in a private or a State bank, however great their number may be.

Mr. CARLIN. We had that question up a moment ago.

Mr. CULLOP. And we settled it just against what the gentleman decided now.

Mr. CARLIN. No; we did not.

Mr. CULLOP. Exactly.

Mr. PETERSON. If the gentleman will see the beginning of section 9, it says:

> That from and after two years from the date of approval of this act no person at the same time shall be a director or other officer or employee in more than one bank.

Mr. WINGO. What kind of a bank? A bank organized and operated under the laws of the United States.

Mr. PETERSON. Any kind of a bank.

Mr. WINGO. But more than one bank or association or trust company can operate under the laws of the United States. In other words, that inhibition goes to the national bank directors.

The CHAIRMAN. The time of the gentleman has expired.

Mr. CARLIN. That is as far as we can carry it.

Mr. CULLOP. Mr. Chairman, I would like to have the attention of the gentleman from Arkansas. I think I understand this proposition just as the gentleman does, and that is if he means one director, a man may be a director in a bank of $2,500,000. capital, surplus, and deposits combined, organized under the laws of the United States, but he can not be a director in any other bank organized under the laws of the United States, but there is nothing to prohibit him from being a director in a State or private bank in this bill.

Mr. WINGO. There is nothing to prohibit, but I want to get the opinion of the gentleman from Indiana on this. As I understand, there is nothing to prohibit a Missouri preacher who happens to be a director in a Kansas City national bank also from being a director and having dominating control in 45 banks in Oklahoma and Arkansas.

Mr. CULLOP. Nothing, unless he has not the capital to own the stock.

Mr. FLOYD of Arkansas. That is only true where banks have less than $2,500,000 capital.

Mr. CULLOP. Yes.

Mr. CARLIN. That is the limit placed on it.

Mr. CULLOP. But a man can be a director in a national bank with a stock of $2,500,000 capital, deposits, and surplus and there is nothing to prohibit him from being a director in a State bank or private bank or in numerous banking concerns providing their capital does not run above $2,500,000.

Mr FLOYD of Arkansas. That is what I explained to the gentleman from Indiana before.

Mr. CULLOP. But the gentleman from Virginia [Mr. CARLIN] was combating that proposition just a moment ago, and hence I raised the question again.

Mr. CARLIN. It was a misunderstanding, if that is the case. I tried to make it plain that the capital had to be $2,500,000.

Mr. CULLOP. But the gentleman did not state that, and that is why I called attention to the fact again.

Mr. FLOYD of Arkansas. Will the gentleman from Indiana permit me to answer further the gentleman from Massachusetts in regard to that exception?

Mr. CULLOP. I will be glad to yield to the gentleman.

Mr. FLOYD of Arkansas. I think that the case referred to by the gentleman from Massachusetts is covered in lines 15, 16, and 17.

Mr. CULLOP. What page?

Mr. FLOYD of Arkansas. Page 30.

The eligibility of a director under the foregoing provision shall be determined by the aggregate amount of the capital, surplus, and undivided profits, exclusive of dividends declared but not paid to stockholders, at the end of the fiscal year of said corporation next preceeding the election of directors, and when a director has been elected in accordance with the provisions of this act it shall be lawful for him to continue as such for one year thereafter.

Mr. PHELAN. Mr. Chairman, will the gentleman yield for just a minute?

Mr. FLOYD of Arkansas. Yes.

Mr. PHELAN. I am not certain whether that covers it or not.

Mr. FLOYD of Arkansas. It refers to that act.

Mr. PHELAN. Whether or not it does with reference to the director, it does as to an officer or employee; but those are the words used on line 16 on page 29—"director or other officer or employee."

Mr CULLOP. That refers to some other corporation than a bank. That does not apply to a bank. If the gentleman from Massachusetts [Mr. PHELAN] and the gentleman from Arkansas [Mr. FLOYD] will observe, commencing on line 24 of page 29, the language is—

That from and after two years from the date of the approval of this act no person at the same time shall be a director in any two or more corporations, either of which has capital, surplus, and undivided profits aggregating more than $1,000,000, engaged in whole or in part in commerce.

This has no reference to the banking business, but to other affairs.

Mr. CARLIN. That relates to industrial commerce.

Mr. CULLOP. Yes. That does not relate to banking. That relates to industrial and commercial corporations, or institutions of that kind, but has no reference whatever to the banking business.

Mr. FLOYD of Arkansas. I will state to the gentleman from Indiana that on page 29, in reference to the banking section, the same language is repeated again on line 1 of page 29:

And when a director has been elected in accordance with the provisions of this act it shall be lawful for him to continue as such for one year thereafter under said election.

Mr. CULLOP. Yes; but that refers back to the qualification on page 28 of the $2,500,000 capital, deposits, and surplus.

Mr. FLOYD of Arkansas. I think not. It says "in accordance with the provisions of this act." I think that is broad enough to cover it. He is eligible when he is elected. That is on lines 1, 2, and 3 of page 29.

The CHAIRMAN. The time of the gentleman from Indiana [Mr. CULLOP] has expired.

Mr. FLOYD of Arkansas. Mr. Chairman, I desire to repeat that if this provision is not clear in this respect we would be glad to have an amendment offered to clarify it.

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from Indiana [Mr. CLINE].

Mr. STAFFORD. Mr. Chairman, let us have this reported again. It has been some time since it was reported.

The CHAIRMAN. Without objection, the Clerk will report the amendment again.

The Clerk read as follows:

Amendment offered by Mr. CLINE:

Page 29, line 18, strike out the words "the entire," at the end of the line, and insert the words "not less than three-fourths of the," so that the lines as amended will read: "more than one other bank or trust company organized under the laws of the United States or any State where not less than three-fourths of the capital stock of one is owned by stockholders in the other," etc.

The CHAIRMAN. The question is on agreeing to the amendment.

The question was taken, and the amendment was rejected.

Mr. McCOY. Mr. Chairman, I offer the following amendment.

The CHAIRMAN. The gentleman from New Jersey [Mr. McCOY] offers an amendment which the Clerk will report.

The Clerk read as follows.

Strike out, on page 28, lines 8 to 25, inclusive, and on page 29, lines 1 to 23, inclusive, and insert in place thereof the following:

"Whenever an officer or director of a bank or trust company, member of a Federal reserve bank, shall be also a private banker, or an officer or director of any other bank or trust company, and it shall appear to the Federal Reserve Board upon proof, after due notice of hearing and an opportunity to be heard, that such officer or director is taking advantage of his position so as substantially to lessen competition between such banks or trust companies or any of them, or between himself and any such bank or trust company, or that he is exercising improper influence over any such bank or trust company in the granting or refusing of credit, the Federal Reserve Board shall remove such officer or director from one or all of said banks organized under the laws of the United States and may require the removal of such officer or director from such State bank or trust company, or in the alternative the retirement of such State bank or trust company from membership in said Federal reserve bank."

Mr. WEBB. Mr. Chairman, I ask unanimous consent that all debate on this amendment be closed in 10 minutes.

Mr. MANN. Why not limit debate on the section?

Mr. WEBB. I would be very glad to do that.

Mr. MANN. Let us see who has an amendment on the section.

Mr. GARDNER. Mr. Chairman, reserving the right to object, if the amendment of the gentleman from New Jersey [Mr. McCOY] is not adopted, I have an amendment that I should like to offer for myself.

Mr. WEBB. Would the gentleman like to have five minutes to discuss it?

Mr. GARDNER. It is on the same line as that of the gentleman from New Jersey.

Mr. WEBB. I ask, Mr. Chairman, that all debate on this section and amendments thereto be closed in 20 minutes.

Mr. MANN. Well, we want a little more time than that.

Mr. WEBB. I will give the gentleman all he wants.

Mr. MANN. We will take 15 minutes on this side.

Mr. WEBB. Thirty minutes, then, Mr. Chairman.

Mr. BARTLETT. Mr. Chairman, I want to say that I shall not object, but I desire to offer an amendment on page 30, line 21, to put in the words "not exceeding" just before the words "$100 a day." I do not care to discuss it. That is all.

The CHAIRMAN. The gentleman from North Carolina asks unanimous consent that all debate on this section and all amendments thereto close in 30 minutes, one half of the time to be controlled by himself, and the other half to be controlled by the gentleman from Minnesota [Mr. VOLSTEAD]. Is there objection?

There was no objection.

Mr. McCOY. Mr. Chairman, the amendment which I have offered strikes out of the section in regard to interlocking bank directorates that part which controls and limits them by the amount of $2,500,000 in the one instance and by the population of the town in which the banks are situated in the other

instance, and proposes to substitute for that a provision establishing two principles which it is believed should be followed in banking; and then it provides that if either of those principles be violated, on complaint of the violation being made to the Federal Reserve Board, the Federal Reserve Board, after a hearing, shall act.

Now, I introduced as drastic an interlocking directorate bill affecting banks as could possibly be imagined. That was before we had the hearings. But after the hearings I was satisfied that in order to remedy some admitted evils, of which I complained as much as anybody, and which exist principally in some of the large cities, we might easily go too far and hit a great many people who are directors in banks and who are entirely innocent of any attempt to do the sort of thing complained of. The complaints when boiled down were in substance that on the one hand banks suppress competition and on the other hand that they unfairly discriminate in making loans. Now, this amendment provides, in substance, that there must be competition, and that there must be no unfair discrimination in making loans. Then it provides, as I said before, that on complaint of the violation of either of those two general principles, the Federal Reserve Board shall remove the officer or director complained of from one or all of said banks organized under the laws of the United States; that is as far as we have power to go directly in the way of removal, and the proposed amendment provides that they may require the removal of such officer or director from such State bank or trust company, or the withdrawal of the bank or trust company from the Federal reserve bank. In other words they might say, "You must get out of the State bank or trust company," and failing that, in the alternative, might require the retirement of a State bank or trust company from membership in the Federal reserve bank.

Now, why does not that entirely take care of this whole situation? If the abuse exists, here is the power to remedy the abuse; but by making these artificial limitations—because they are purely artificial limitations—of $2,500,000 of capital, surplus, deposits, and undivided profits in the one instance, and of 100,000 population in the other, while we may remedy some of the evils, we are pretty certain to injure unnecessarily a great many people of the kind of whom no complaint has been made.

Mr. BARTON. Will the gentleman yield?

Mr. McCOY. Certainly.

Mr. BARTON. Under your amendment who makes the complaint?

Mr. McCOY. Anybody can make the complaint. It does not limit it to any particular person. Presumably it will be the person who has been injured.

As I say, from all over the country we have encountered, or have been informed in the testimony, of situations such as exist in and about Chicago, New York, St. Louis, San Francisco, and other places, and, moreover, in other parts of the country where they have no very large cities.

The CHAIRMAN. The time of the gentleman has expired.

Mr VOLSTEAD. I yield 15 minutes to the gentleman from California [Mr. KENT].

Mr. KENT. Mr. Chairman, it seems to me that this is a sane and sensible proposition. This amendment seeks to cure an evil and not to stop the ordinary course of business. It seems to me it is a remedy for the trust evils of which we complain. The alternative is that those men who invest in bank stocks and who under this bill would be ineligible for directors would naturally put in dummies to act as directors for them. It is very much better that capable and able business men, who have a knowledge of credit, who have a knowledge of business, should act as directors of banks than that they, having invested in bank stocks, should put in dummies to represent them. No one could be more opposed than I am to the limitation of credit and the unfair practices that have debauched the commercial world; but I, of my own knowledge, know that men of capital who invest in bank stocks are naturally anxious to watch those investments and would not take the responsibility of banking shown in the double liability of national-bank stock unless they knew what was going on in the banks in which they were interested.

If at any time these directors, by collusion, by unfair practices, by blacklisting, refusal of credit, or combination, should do things that are contrary to the public welfare, under this amendment they can be disassociated from protection or control of their investments. But as things are to-day, to provide that men must be limited in their directorship in corporations in which they are interested, not on the ground of evil they may do by combinations contrary to law and to public policy, but merely on account of the fact of their caring for their investments, it seems to me that such a course must lead necessarily to the incompetence born of dummy directors and consequent chaos in business organization. [Applause.]

Mr. WEBB. Mr. Chairman, I yield four minutes to the gentleman from Arkansas [Mr. FLOYD].

Mr. FLOYD of Arkansas. Mr. Chairman, I desire to oppose the amendment offered by the gentleman from New Jersey [Mr. McCOY] on the ground that he proposes to change the whole theory of this bill and to interject into the provisions of it a new and untried experiment, and to legislate the power to deal with bank directors to the Federal Reserve Board, which, perhaps, in the course of a very short time, will need regulating as badly as do the directors of banks now. That is his proposition.

Now, I believe in dealing with corporations as you would deal with individuals. This is a criminal statute and I believe in a criminal statute we should say to corporations and to persons acting as agents of corporations what they can do, and give them the widest latitude to do things not prohibited in the law; we should put them on notice of what is prohibited by statute, but when you adopt a system of creating boards and letting the board exercise favoritism on the one hand and their prejudices on the other, then indeed we will enter on an era of dissatisfaction, strife, and discontent in this country that will disturb the business interests of the entire country.

We believe in regulating and controlling, but not in disturbing, legitimate business. We believe that great evils have grown out of interlocking directorates, and everybody recognizes that condition who has given the subject any consideration.

The gentleman from California [Mr. KENT] says that it will only create dummy directors. What have we now? We have one great and powerful director, say, of a railroad company, director of the holding company, director of all the affiliated corporations owned by the railroad company and by the holding company, and who are the other directors? They select some employee of that company and of the affiliated companies, give him one share of stock, make him sign up a transfer to them in blank, and then appoint him a director. Is he not a dummy director, pure and simple? We desire to prevent this evil; we desire to do it in an intelligent and sensible way. We desire to put all men upon notice, so that they will know when they are violating the law and when they are not.

It has been argued that certain men are alone capable of carrying on the business of a great concern. What an absurdity. There is one phase of this legislation that has been overlooked largely. It was mentioned by the President, and that is the opportunities that will be offered by this legislation to thousands of young men now shut off from business opportunity and who are now mere hirelings. They are not getting a fair chance in the business world. It will open up a thousand avenues for them. Where we now have 1 man a director of 50 corporations we will have 50 capable men occuping places of importance in the business world, places of responsibility, and the result will be good to the business interests of this country.

The CHAIRMAN. The time of the gentleman from Arkansas has expired.

Mr. VOLSTEAD. I will yield five minutes, Mr. Chairman, to the gentleman from Massachusetts [Mr. GARDNER].

Mr. GARDNER. Mr. Chairman, the trouble with the majority is that they do not wish to injure any legitimate business, but nevertheless they do injure legitimate business. I have in mind an instance in my own district, and I have no doubt that similar instances could be found in every other district which is suburban to Boston. In the city of Salem in the Merchants Bank we have a director who is also a director in the Liberty Trust Co. in Boston, a large concern. He remains a director in the Merchants Bank of Salem out of local pride, greatly to the benefit of the community. There is no connection on earth between the Liberty Trust Co. in Boston and the Merchants Bank in Salem, and yet because the Liberty Trust Co. has over two and a half millions in assets and deposits, this bill says that we must deprive Salem of this director's services. I have no doubt the same situation exists in the district represented by the gentleman from Massachusetts [Mr. MITCHELL]. I have no doubt that the same situation exists in every district suburban to Boston. We are depriving the national banks in those suburban districts of the services of men who are actuated solely by public spirit. I prefer the amendment offered by the gentleman from New Jersey [Mr. McCOY] to the amendment which I shall offer myself if his amendment is rejected. The McCoy amendment bears no relation to what the gentleman from Arkansas [Mr. FLOYD] has been saying. The gentleman has been talking about individuals who serve on 50 directorates.

Certain men may perhaps serve on a great number of miscellaneous directorates, but there is no man on earth who

serves on the boards of 50 national banks or trust companies. The amendment of the gentleman from New Jersey says this: Let us permit a man to serve on two or more national banks or trust companies, no matter what their size may be; but if he does wrong when so serving, then the Federal Reserve Board is to have him removed from his position and he will not be permitted to serve any longer. I consider that the gentleman from New Jersey has proposed a very liberal and proper amendment. My amendment, which I shall offer if his is defeated, is not so liberal. My amendment provides that the Federal Reserve Board may issue a revocable permit allowing a man to serve on the board of directors of two banking institutions, no matter what their size.

The amendment of the gentleman from New Jersey is just. If, however, you gentlemen are unwilling to agree that a man shall be permitted to serve in two large banking institutions until removed for misconduct, perhaps you will consent to my amendment. The gentleman from New Jersey proposes to allow service on two large boards, unless forbidden by the Federal Reserve Board. I propose to allow service on two large boards if specially permitted by the Federal Reserve Board. You gentlemen who come from country districts ought not to deprive us who live near large cities of the best banking talent we can find—so far, of course, as is consistent with the public welfare.

The CHAIRMAN. The time of the gentleman from Massachusetts has expired.

Mr. VOLSTEAD. Mr. Chairman, I yield four minutes to the gentleman from Tennessee [Mr. AUSTIN].

ACTION OF TENESSEE BANKERS' ASSOCIATION.

Mr. AUSTIN. Mr. Chairman, I desire to have read from the Clerk's desk resolutions unanimously adopted by the Bankers' Association of Tennessee at their annual meeting held at Chattanooga on the 29th day of May. This association is composed of the National, State, and private bankers of that State, and its membership I should think politically is at least two-thirds Democratic.

The CHAIRMAN. Without objection, the Clerk will read:

There was no objection, and the Clerk read as follows:

Whereas Congress has now been in session almost continuously for more than a year; and

Whereas during that time a great amount of legislation has been passed, the entire tariff revised, the entire currency system of the United States has undergone a complete and fundamental change; and

Whereas it will take much time for the banking interests to adjust themselves to these new laws; and

Whereas there are now pending before Congress numerous bills which, if passed, will undertake the regulation of all business institutions with which banks are constantly doing business, and not only will banks be undergoing, as they are undergoing, a complete change of methods, but the business with which they are constantly in contact will themselves be undergoing a complete change: Be it

Resolved, That we believe that the country is sorely in need of a period of legislative rest while the business of the country is readjusting itself to the new currency and banking bill, and that we consider the passage of any great amount of new legislation by Congress at this time to be unhelpful to the general welfare of the country, and we believe the passage of such legislation will rather tend to further stagnate business than to stimulate it: Be it further

Resolved, That the secretary be hereby directed to forward to our Congressmen and our Senators a copy of this resolution.

DANIEL WEBSTER'S VIEWS.

Mr. AUSTIN. Mr. Chairman, in connection with the discussion we have had to-night, participated in by the gentleman from Massachusetts [Mr. GARDNER], I wish to read an extract from a speech made by Daniel Webster 81 years ago in the Senate of the United States in reference to banks, corporations, and monopoly. This is taken from a speech by Mr. Webster in the Senate in 1833 and has a bearing on the pending measure:

There are persons who constantly clamor. They complain of oppression, speculation, and pernicious influence of accumulated wealth. They cry out loudly against all banks and corporations and all means by which small capitalists become united in order to produce important and beneficial results. They carry on mad hostility against all established institutions. They would choke the fountain of industry and dry all streams. In a country of unbounded liberty they clamor against oppression. In a country of perfect equality they would move heaven and earth against privilege and monopoly. In a country where property is more evenly divided than anywhere else they rend the air shouting against agrarian doctrines. In a country where wages of labor are high beyond parallel they would teach the laborer that he is but an oppressed slave.

MESSAGE FROM THE SENATE.

The committee informally rose; and Mr. HOUSTON having taken the chair as Speaker pro tempore, a message from the Senate, by Mr. Tulley, one of its clerks, announced that the Senate had passed without amendment bill of the following title:

H. R. 15190. An act to amend section 103 of the act entitled "An act to codify, revise, and amend the laws relating to the judiciary," approved March 3, 1911, as amended by the act of Congress approved March 3, 1913.

ANTITRUST LEGISLATION.

The committee resumed its session.

Mr. WEBB. Mr. Chairman, I hope the committee will not adopt the amendment of the gentleman from New Jersey. We feel that it would make this important provision in the bill practically useless. It is well known that the influences of interlocking directorates are such that you can not place your hand upon the sore spot, you can not place your hand upon the source where the damage to a business man is done. If you transfer the right to the Federal Reserve Board to discover where the wrong is done, you might as well throw it away, for in my opinion the reserve board would not find it. These influences are so subtle that a ferret could not find where a man was hurt. Complaint has been made about a string of banks in Boston before our committee. There are three or four different banks there in which directors were common in them all. A business man or two would apply to one of these banks for a loan. Nothing doing. He would then apply to another bank for a loan, and another bank, and finally he is shut out entirely. Now, the reserve board could not tell who did that, where the information came from, so the committee thought it better to make a hard and fast rule in order that no man could serve on these boards as an interlocking director, rather than transfer it to the board, which might never, or certainly would hardly ever, find the source of injury or wrong, and we think therefore it is better to adhere to the rule laid down in the bill, and I hope the committee will do so.

Mr. BARNHART. Will the gentleman yield?

Mr. WEBB. Simply for a question.

Mr. BARNHART. The gentleman from Massachusetts [Mr. GARDNER] repeatedly said that under the pending amendment the reserve board would have the right to remove directors caught in wrongdoing, or words to that effect. Is there anything in the present law that would prevent the removal of directors under such conditions?

Mr. CARLIN. Nothing; any director caught in wrongdoing can be removed now. A clause in the banking and currency bill provides it.

Mr. GARDNER. Will the gentleman yield to me; can I have the attention of the gentleman from Virginia?

Mr. CARLIN. Certainly; excuse me; the gentleman behind was calling my attention to something.

Mr. GARDNER. Can any director be removed to-day for any action which will lessen the competition between two banks in both of which he is a director?

Mr. CARLIN. Not for lessening competition; of course not.

Mr. GARDNER. That is the point of the amendment of the gentleman from New Jersey about which the gentleman from Indiana asked.

Mr. CARLIN. The difficulty with the gentleman from Boston is this——

Mr. GARDNER. I am not from Boston.

Mr. CARLIN. With the gentleman from Massachusetts is this: We are endeavoring to drive at a system, whereas this amendment undertakes to deal with individuals and specific cases.

Mr. GARDNER. The gentleman is driving at a system with which the gentleman has no experience in that part of the country from which the gentleman comes.

Mr. CARLIN. The gentleman is very much mistaken. I expect I have had as much experience if not more than the gentleman.

Mr. GARDNER. Well, perhaps.

Mr. WEBB. Mr. Chairman, I ask for a vote, if discussion is ended.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New Jersey.

The question was taken, and the amendment was rejected.

Mr. BARTLETT. Mr. Chairman, I offer the following amendment.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Page 30, line 21, after the word "of" when it occurs the first time in the line, insert the words "not exceeding."

Mr. BARTLETT. Mr. Chairman, has all debate been exhausted.

The CHAIRMAN. The gentleman from North Carolina has three minutes remaining.

Mr. WEBB. I yield one minute to the gentleman from Georgia.

Mr. BARTLETT. Mr. Chairman, the bill as it is now presented makes a flat fine of $100 a day, irrespective, and gives the court no discretion in the matter. The amendment I offer is simply to make it not exceeding $100 a day. There may be

cases where the court would like not to impose the largest penalty, and this amendment simply gives the court some discretion in the matter so as to adjust the penalty to the case.

Mr. WEBB. Mr. Chairman, the committee sees no objection to the amendment. We think it is a fair one.

The question was taken, and the amendment was agreed to.

Mr. GARDNER. Mr. Chairman, I offer the following amendment.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

"Page 29, line 3, after the word 'election,' insert '*Provided*, That the Federal Reserve Board may grant to any person a revocable permission to serve at the same time as a director or other officer or employee of an additional bank, banking association, or trust company, notwithstanding anything contained in this paragraph, whenever it is satisfied that such permission may be granted without detriment to the public welfare and without the creation of monopoly or restraint of trade: *Provided further*, That in his annual report the Secretary of the Treasury shall specify each permission granted in accordance with the preceding proviso together with the reasons therefor.'"

Mr. WEBB. Mr. Chairman, of course the committee is opposed to that amendment because it changes the whole principle of the interlocking-directorates section of this bill.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Massachusetts.

The question was taken, and the amendment was rejected.

Mr. REILLY of Connecticut. Mr. Chairman, I desire to offer an amendment, which I would like the Clerk to report.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

On page 29, lines 6 and 7, strike out the words "one hundred thousand" and insert in lieu thereof the words "two hundred thousand."

Mr. REILLY of Connecticut. Mr. Chairman, I do not desire to discuss this amendment further than to say——

Mr. MANN. Mr. Chairman, has the gentleman time?

The CHAIRMAN. The time has been fixed.

Mr. REILLY of Connecticut. I had an arrangement made with the chairman to offer an amendment.

Mr. WEBB. If my time is not exhausted, I will be glad to yield to the gentleman.

The CHAIRMAN. The gentleman from North Carolina has two and one-half minutes remaining.

Mr. WEBB. I yield to the gentleman one minute, Mr. Chairman.

Mr. REILLY of Connecticut. All I desire to say or can say in the minute allowed me is that the frenzied financiering and unfair control by interlocking directorates that this bill seeks to rectify do not apply to cities of 100,000 or 200,000 inhabitants. In the banking business of New Haven, Bridgeport, Worcester, Fall River, and other New England cities there is no interlocking directors' evil and no need of this legislation. It looks as if the other cities of the country were being punished for the offenses of one or two great money centers and a few money kings. The limit should be raised to cities of at least 200,000, and might safely go beyond that figure.

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from Connecticut [Mr. REILLY].

The question was taken, and the amendment was rejected.

Mr. MANN. Mr. Chairman, I move to strike out the last word.

Mr. VOLSTEAD. I yield to the gentleman three minutes, Mr. Chairman.

The CHAIRMAN. The gentleman from Illinois [Mr. MANN] is recognized for three minutes.

Mr. MANN. Mr. Chairman, I am not in sympathy with the section, and, having said that much about the section, I would like to ask a question in reference to what it means. Section 9 provides—

That from and after two years from the date of the approval of this act no person who is engaged as an individual—

Now what? Then it proceeds:

Or who is a member of a partnership.

Now, if the gentleman can find anything that follows that that it relates to, I will be willing to give him a new suit of clothes. [Laughter.]

Mr. BARNHART. It would not relate to it if it would follow it.

Mr. MANN. I yield, Mr. Chairman, to know what that refers to, if anybody can tell me. All the language that follows it relates to a corporation. I suppose that the mere fact that an individual is "engaged" is not intended to prevent him from being an officer or director or employee of a corporation.

Mr. CARLIN. That section is intended to apply to the individual.

Mr. MANN. I know. I am not asking what the section applies to, but what this language applies to:

No person who is engaged as an individual.

What?

Mr. CARLIN. An individual engaged in producing or selling equipment.

Mr. MANN. That is not what the bill says. The bill says:

No person who is engaged as an individual, or who is a member of a partnership, or is a director or other officer of a corporation that is engaged in the business, in whole or in part, of producing or selling equipment—

And so forth.

All the language about equipment is related to and a part of the definition of "a corporation," and there is no language in the paragraph that relates to an individual or a partnership except that under the language a man that is "engaged," or a man who is a member of a partnership, can not become a director or other officer or employee of a corporation. Of course I do not expect the gentleman to correct it now, but, as a matter of credit to even the Democratic side of the House. I hope the gentleman will study grammar enough and rhetoric enough to make that language mean sense. [Laughter.]

Mr. CARLIN. I think the gentleman needs to become a student, and not the gentlemen on this side.

Mr. MANN. Oh, the gentleman can say that, but the gentleman can not answer the question.

Mr. CARLIN. I think the language is perfectly correct. That answers the question.

Mr. MANN. If you should leave that in the bill, and any school teacher looked at it, you would be forever discredited. [Laughter.]

Mr. CARLIN. I think the gentleman is mistaken about that.

The CHAIRMAN. The pro forma amendment will be considered withdrawn, and the Clerk will read.

The Clerk read as follows:

SEC. 10. That any suit, action, or proceeding under the antitrust laws against a corporation may be brought not only in the judicial district whereof it is an inhabitant, but also in any district wherein it may be found.

Mr. CULLOP. Mr. Chairman, I move to strike out the last word for the purpose of asking the chairman a question. This is a section that should be amended to conform to the previous amendment about jurisdiction and service. I suppose the committee wants to offer an amendment, does it not?

Mr. WEBB. I believe the amendment we agreed to before, Mr. Chairman, was that after the word "found" we would insert the words "or has an agent."

Mr. CULLOP. I would like, Mr. Chairman, to suggest that there be incorporated in the amendment further the language "and wherever the cause of action accrues." That applies to bringing a suit; that any suit or action against a corporation may be brought not only in the judicial district whereof it is an inhabitant, but also in any district wherein it may be found or has an agent, and it ought to go further, and I think that was the agreement, and provide "or where the cause of action arises."

Mr. CARLIN. How will you get service there?

Mr. CULLOP. There is where it has an agency.

Mr. CARLIN. If you sue them where they have an agency, it does not make any difference where the cause of action arises. You would not help the bill any by adding what you suggest. I think if you include the words "or has an agent" you have got the whole thing.

Mr. CULLOP. If the committee are satisfied with that, I will not press the suggestion.

The CHAIRMAN. Does the gentleman from North Carolina offer an amendment?

Mr. WEBB. The amendment which I suggested, after the word "found," in line 4, on page 31, to add the words "or has an agent."

The CHAIRMAN. The gentleman from North Carolina offers an amendment, which the Clerk will report.

The Clerk read as follows:

Page 31, line 4, after the word "found," insert the words "or has an agent."

Mr. WEBB. And strike out the period, and insert a comma after the word "found."

The CHAIRMAN. The question is on the amendment offered by the gentleman from North Carolina.

The amendment was agreed to.

Mr. SUMNERS. Mr. Chairman, I move to strike out the last word, for the purpose of making a suggestion to the committee, and if necessary, of offering an amendment.

It seems to me very clear that when the bill comes to provide for the venue, it ought to add the words "where the cause of action or any part thereof arises."

That fixes the venue, and does not make the plaintiff depend upon the place where he may be able to find an agent.

Mr. Chairman, I withdraw the pro forma amendment if I may, and offer this amendment.

The CHAIRMAN. If there be no objection, the pro forma amendment will be withdrawn; and the gentleman from Texas offers an amendment which the Clerk will report.

The Clerk read as follows:

Page 31, line 4, strike out the period at the end of the paragraph, insert a comma, and add the following: "or where the cause of action or any part thereof arises."

Mr. MANN. I suggest that the gentleman offer it to come in after the amendment just agreed to.

Mr. SUMNERS. I meant to ask unanimous consent that it come in after the amendment just adopted.

The CHAIRMAN. If there be no objection, the amendment will be modified in the way indicated by the gentleman from Texas.

Mr. SUMNERS. Mr. Chairman and gentlemen of the committee. I am certain that this amendment ought to be adopted. There is no reason on earth why it should not be adopted. This amendment provides that suit may be instituted where the cause of action or any part thereof accrues. Now, why should it not be adopted? If a man suffers an injury in a given locality, why not bring the suit there?

Mr. WEBB. The bill provides that you can sue the corporation wherever it may be found, or wherever it has an agent, or wherever it resides. Now, how could you get service on a corporation unless it be found in a locality or unless it has an agent there?

Mr. SUMNERS. May I ask the gentleman a question before answering his? Has the gentleman any objection to permitting a man to bring suit at the place where he suffers the injury?

Mr. WEBB. You may not be able to find anyone to serve process upon.

Mr. SUMNERS. We can provide for the service of process later. The service of process is governed entirely by the laws which Congress may enact; and if it is necessary to have subsequent legislation in order to regulate the matter of service of process that is no reason why the suit should not be brought at the place where the cause of action arises.

Mr. WEBB. You might authorize suit against the property of the corporation, but you could not get personal service on the corporation unless it had an agent there, or was found there, or resided there.

Mr. SUMNERS. Unless Congress authorized service beyond the district, and we can do that.

Mr. WEBB. How can you get service of process?

Mr. SUMNERS. By sending your process to an officer of the Federal Government at the place where the corporation has its residence or an agency.

Mr. CARLIN. The gentleman's amendment does not provide for that.

Mr. SUMNERS. I know it does not; but there is no reason why that amendment could not be added. I will offer that amendment if it ought to be there. If you adopt this amendment, that does not interfere with the right of service of process, just the same as you have it under this bill. Suppose a corporation or individual goes into a certain locality and there inflicts an injury, and then withdraws its agent from that territory. Do you mean to tell me that this committee is in favor of driving the man who suffered the injury to a foreign jurisdiction to get his remedy? There is nothing fair or just about it, and I am sure that the committee do not intend to do that. I merely want to call your attention to it, and I hope the committee will agree to it. It does not weaken your bill by just adding that much more to it, and it gives the poor man who has suffered the injury that much additional opportunity to bring suit at or near his home. It can not hurt your bill.

Mr. WEBB. We have already broadened the provisions of the Sherman Act with reference to the bringing of suit and the service of process at any place where the corporation is an inhabitant, or wherever it is found, or wherever it has an agent. I can hardly conceive of a suit being brought otherwise than under these conditions, and it makes service by process easy, and therefore we oppose the amendment.

Mr. FOWLER. Mr. Chairman, I want to ask the gentleman in charge of the bill a question. The language of the bill is as amended "wherever it may be found," and the amendment is "or has an agent." What do you mean by the language "wherever it may be found"?

Mr. WEBB. Wherever it has an agent. The circuit court of appeals has so decided.

Mr. FOWLER. The antecedent of "it" is "corporation." Where may a corporation be found?

Mr. WEBB. Wherever it has an agent, and practically every State in the Union requires, before a corporation is allowed to do business within the borders of the State, that it must have an agent upon whom process can be served.

Mr. FOWLER. That is true, and that is the reason of my asking the question. This is a Federal proceeding and ought not you to enumerate the officers on whom service may be had? Ought you not to say the president, the vice president, any director, or any agent of the corporation, so that it would mean something? "It" stands for corporation in the language you have used.

Mr. WEBB. I am not sure, but I think there is a provision in the Federal law which allows you to serve the president, vice president, director, or agent of a corporation.

Mr FOWLER. The gentleman means that the plaintiff is permitted to get service on the corporation by serving the president, vice president, director, or an agent?

Mr. WEBB. Yes.

Mr. FOWLER. I am not sure, and I want information on that.

Mr. KONOP. Will the gentleman yield?

Mr. FOWLER. I will yield to the gentleman.

Mr. KONOP. I would like to ask a question. You say wherever it may be found or has an agent. Suppose a violator of the antitrust law is an individual? Would you refer to him as "it"?

Mr. WEBB. This refers to corporations who commit actions in restraint of trade.

Mr. CARLIN. This is in relation to suits against corporations.

Mr. FOWLER. The antecedent of "it" is "corporation." The only point I wanted to raise is as to the person on whom service would be had. My opinion is that the persons ought to be enumerated if they are not definitely enumerated in some Federal statute.

Mr. FLOYD of Arkansas. Will the gentleman yield?

Mr. FOWLER. Yes.

Mr. FLOYD of Arkansas. I desire to call the gentleman's attention to the fact that the language he is discussing is found in section 7 of the Sherman antitrust law, where it says "in which the defendant resides or is found." There has never been any difficulty about service in regard to those words, and the gentleman from Illinois desires to put a limitation upon that language which would lessen it and narrow it. When you mention specific officers, agents, or individuals upon whom service may be had, like the president, vice president, and director, and so forth, you narrow the scope of the provision. The corporation is found wherever it is transacting business and has any kind of an agent.

Mr. FOWLER. Well, you must have some person definite on whom to get service before you can get a corporation into court. The gentleman from Arkansas is too good a lawyer not to know all that.

Mr. FLOYD of Arkansas. But when you say agent it includes every kind of an agent.

Mr. FOWLER. There is a difference between an officer of a corporation and the agent of a corporation.

Mr. DAVENPORT. If the gentleman from Illinois will yield——

Mr. FOWLER. I will yield.

Mr. DAVENPORT. I have had occasion within the last few weeks to look up the Federal statutes in regard to the service of corporations. There is a statute that provides in substance that a suit against a corporation may be served on the president, vice president, or agent, or any officer of the corporation.

Mr. FOWLER. That is exactly the point I am raising. If there is a Federal statute providing that service shall be made upon representatives of a corporation in order to get it into court, I presume that this language is sufficient.

Mr. DAVENPORT. That is a fact, because I looked it up within two weeks.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas.

The question was taken, and the amendment was rejected.

The Clerk read as follows:

SEC. 12. That whenever a corporation shall be guilty of the violation of any of the provisions of the antitrust laws the offense shall be deemed to be also that of the individual directors, officers, or agents of such corporation; and upon the conviction of the corporation any director, officer, or agent who shall have authorized, ordered, or done any of such prohibited acts shall be deemed guilty of a misdemeanor, and upon conviction therefor shall be punished by a fine not exceeding $5,000 or by imprisonment not exceeding one year, or by both, in the discretion of the court.

Mr. LENROOT. Mr. Chairman, I move to strike out the last word for the purpose of asking information of the chairman of the committee. Section 12 as it appears before us now is radically different from the section in the original bill. I would like to ask the chairman of the committee what the thought of the committee was in lines 12 and 13. The language is "the offense shall be deemed to be also that of the individual director, officers, or agents of such corporation." Was it the thought of the committee that each director of a corporation guilty of this offense should also be deemed personally guilty?

Mr. WEBB. As far as we are concerned, it would be read, in connection with line 13, after the semicolon, "and upon the conviction of the corporation any director, officer, or agent who shall have authorized, ordered, or done any such prohibited acts shall be deemed guilty of a misdemeanor," and so forth. I think it should be connected up with that provision.

I do not think that the officer of the corporation could be convicted unless you picked out the officer who had done the prohibited thing, and that is explained in lines 13 to 15, inclusive.

Mr. LENROOT. It ought to be so, but it certainly does not read so on its face. It would be open to construction and the construction seems to me to be uncertain.

Mr. FLOYD of Arkansas. What suggestion has the gentleman to make?

Mr. LENROOT. The original section read in this way:

Shall be deemed to be also that of the individual directors, officers, and agents of such corporation authorizing, ordering, or doing any of such prohibition acts.

It limited the guilt to those actually responsible for the acts violative of the law. I am not offering an amendment, because I also want to raise another question.

Mr. FLOYD of Arkansas. While the gentleman is on that point, if he will notice the draft of the original provision he will find that it is connected with the preceding clause; but the committee, in order to make it clear that the conviction of the corporation did not of itself constitute the director's guilt, changed it so as to read:

And upon the conviction of the corporation any director, officer, or agent who shall have authorized, ordered, or done any of such prohibited acts shall be deemed guilty of a misdemeanor—

And so forth.

Mr. LENROOT. I want to ask the gentleman if in seeking to avoid one difficulty he has not gotten into another?

Mr. FLOYD of Arkansas. If we did, we would be very glad to have any suggestion from the gentleman.

Mr. LENROOT. I am not entirely clear myself. I am asking for information.

Mr. FLOYD of Arkansas. The purpose we had was to make it clear that, when a corporation had been guilty, those officers, agents, and directors of the corporation that either authorized, ordered, or did the thing prohibited should be guilty. Under the existing law, and without that provision of the statute, the person who did the things would undoubtedly be guilty; but in the enforcement of the criminal provisions of the Sherman law, experience has demonstrated that both juries and courts are slow to convict men who have simply done acts authorized or ordered by some officers of the concern higher up, and the words "authorized" and "ordered" were introduced to reach the real offenders, the men who caused the things to be done; and if the language is susceptible of any ambiguity and is not clear, we desire to make it clear. I will state to the gentleman that we intended to give agents and officers a trial, and we do not mean that the guilt of the corporation shall attach to them without trial; but in order to obtain a conviction, it will be necessary for the Government to charge them specifically with authorizing, ordering, or doing of the thing prohibited, and, on proof, convict them.

The CHAIRMAN. The time of the gentleman from Wisconsin has expired.

Mr. LENROOT. Mr. Chairman, I ask unanimous consent to proceed for five minutes more.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. MANN. Mr. Chairman, before the gentleman proceeds, will he yield in order that I may ask a question?

Mr. LENROOT. Yes.

Mr. MANN. Under this language—

and upon the conviction of the corporation, any director, officer, or agent who shall have authorized, ordered, or done any of such prohibited acts shall be deemed guilty of a misdemeanor—

would the corporation have to be convicted before any proceeding, information or otherwise, indictment, could be brought against the officers of the corporation for the offense?

Mr. FLOYD of Arkansas. I do not think so. It was not so intended.

Mr. MANN. Is not that what it says? The first part says:

That whenever a corporation shall be guilty of the violation of any of the provisions of the antitrust laws the offense shall also be deemed to be that of the individual directors—

And so forth.

How can you tell when the corporation is guilty until you have tried the corporation?

Mr. FLOYD of Arkansas. I think the officers, directors, and agents might be guilty independently of the guilt of the corporation.

Mr. MANN. In the first part you have to find the corporation guilty before any of them can be convicted, and then you go on and say that upon conviction the others may be convicted.

Mr. LENROOT. Mr. Chairman, I appreciate the difficulty that the committee was in with reference to the original section to make it clear that merely upon conviction of the corporation the officers should not be convicted of the offense without trial, but in attempting to remedy that it seems to me the committee has gotten into another and even more serious difficulty. As suggested by the gentleman from Illinois [Mr. MANN], the first section now reads that the corporation itself must first be convicted before they can proceed against the officers; but that is not the most serious thing, for I am afraid, as the section reads, it will be construed in this way: That when the corporation is convicted the question of violation of law becomes a settled fact, and the only issue that the officers are entitled to be heard upon in the action against them is the simple one as to whether or not they ordered or authorized the act to be done, and denying them the opportunity to be heard as to whether the act itself was in fact prohibited by the law; but they certainly must have the right to have that question determined as well as the fact as to whether or not the particular act was ordered or authorized by them.

Mr. FLOYD of Arkansas. In other words, the gentleman from Wisconsin suggests that the language used might be interpreted to mean that the officers of the corporation would never be convicted unless the corporation was first convicted.

Mr. LENROOT. That is the way it reads.

Mr. FLOYD of Arkansas. I desire to say it was not the intention of the committee to give it any such construction and to repeat that if an amendment can be suggested that will cure the apparent defect the committee will be glad to accept it. We intended to provide that when the corporation was convicted that the offense should be deemed also the offense of the officers and agents authorizing, ordering, or doing the prohibited thing, and then to provide that these individuals should not be convicted except upon indictment and trial as to the facts charged.

The CHAIRMAN. The time of the gentleman has again expired.

Mr. VOLSTEAD. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Strike out section 12 and substitute:

"Any person who shall do, or cause to be done, or shall willingly suffer and permit to be done any act, matter, or thing prohibited or declared to be unlawful in the antitrust laws or shall aid or abet therein, shall be deemed guilty of such prohibited and unlawful acts, matters, and things and shall be subject to the punishments prescribed therefor in the trust laws."

Mr. FLOYD of Arkansas. Mr. Chairman, we desire to oppose the amendment offered by the gentleman from Minnesota.

The CHAIRMAN. The gentleman from Minnesota has the floor.

Mr. VOLSTEAD. Section 12, as it reads, I think clearly requires that there must be first a conviction of the corporation before there is any guilt on the part of the officers, because it provides that upon conviction the officers doing certain things shall be guilty of a misdemeanor; consequently it is necessary to establish first the guilt of the corporation. I assume that the committee did not intend any such result as that, because instead of making the guilt personal it would make it——

Mr. METZ. If the gentleman will permit me there, we are trying in all of these sections to deal with the corporation, with the corporate form of doing business. The individual is not touched in any shape or manner. The moment he incorporates under the State law he becomes a corporation. Now, a great majority of the corporations of this country are not corporations in the sense that their stock is for sale, but it is a one-man concern and is under the control of one man with dummy directors, and if he——

Mr. VOLSTEAD. I did not yield for a speech, but simply for a question.

Mr. METZ. My question is, How are you going to reach the one-man corporation?

Mr. VOLSTEAD. The amendment I have offered is practically a copy of a similar act that is applied to the railway corporations by the interstate-commerce act. It has this additional advantage over the one contained in the bill. It does not increase the punishment beyond the limit fixed in the various acts. Take, for instance, section 9. The punishment there is only $100, while the punishment provided in section 12 is $5,000.

Mr. WEBB. It is $100 a day in section 9.

Mr. VOLSTEAD. But you do not intend to change that item, you intend that the punishment shall be the same; that is, that the punishment of the individual shall be the same as the punishment of the corporation. Now, the amendment that I have offered——

Mr. WEBB. Will the gentleman permit an interruption?

Mr. VOLSTEAD. Yes.

Mr. WEBB. I take it that we all agree that this section ought to be amended, and I ask unanimous consent to let this section go over until to-morrow and see if we can not draw up an amendment that will be acceptable to both sides.

Mr. TOWNER. I hope that will be granted.

The CHAIRMAN. Does the gentleman yield to that request?

Mr. VOLSTEAD. Yes.

Mr. TOWNER. Before leaving it, I would like to inquire of the chairman of the committee if this section might not be omitted altogether. I would like this question to be considered. The reason for that is this: Returning to page 20, you have defined there the word "person" to include also corporations. But that does not by any means mean that the word "person" always means a corporation. It means in the bill just as much as it ever did. It means a person, and if any person commits any of the acts that are prohibited by this act—that is, if his personal connection can be shown with any of those acts—will he not be deemed as a violator of the terms of this act?

Mr. VOLSTEAD. May I suggest to the gentleman that I think it is very essential that some prohibition of this kind should be made, because section 8, which deals with the question of stock consolidations, does not mention persons at all. It is simply a prohibition against corporations, and in order to prevent individuals from carrying out the consolidations prohibited in section 8 you will need that; otherwise you would have nothing at all.

The CHAIRMAN. The gentleman from North Carolina [Mr. WEBB] asks unanimous consent that section 12 be passed over. Is there objection?

There was no objection.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

SEC. 15. That no preliminary injunction shall be issued without notice to the opposite party.

No temporary restraining order shall be granted without notice to the opposite party unless it shall clearly appear from specific facts shown by affidavit or by the verified bill that immediate and irreparable injury, loss, or damage will result to property or a property right of the applicant before notice could be served or hearing had thereon. Every such temporary restraining order shall be indorsed with the date and hour of issuance, shall be forthwith filed in the clerk's office and entered of record, shall define the injury and state why it is irreparable and why the order was granted without notice, and shall by its terms expire within such time after entry, not to exceed 10 days, as the court or judge may fix. In case a temporary restraining order shall be granted without notice in the contingency specified, the matter of the issuance of a preliminary injunction shall be set down for a hearing at the earliest possible time and shall take precedence of all matters except older matters of the same character; and when the same comes up for hearing the party obtaining the temporary restraining order shall proceed with his application for a preliminary injunction, and if he does not do so the court shall dissolve his temporary restraining order. Upon two days' notice to the party obtaining such temporary restraining order the opposite party may appear and move the dissolution or modification of the order, and in that event the court or judge shall proceed to hear and determine the motion as expeditiously as the ends of justice may require.

Section 263 of an act entitled "An act to codify, revise, and amend the laws relating to the judiciary," approved March 3, 1911, is hereby repealed.

Nothing in this section contained shall be deemed to alter, repeal, or amend section 266 of an act entitled "An act to codify, revise, and amend the laws relating to the judiciary," approved March 3, 1911.

Mr. MacDONALD. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The gentleman from Michigan [Mr. MacDONALD] offers an amendment, which the Clerk will report.

Mr. MacDONALD. Mr. Chairman, beginning with the second paragraph on page 33, line 13, I move to strike out the remainder of the section and insert the language that I have sent to the desk.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Page 33, line 13, strike out the remainder of the section down to and including line 24, on page 34, and insert in lieu thereof the following:

"In construing this act the right to enter into the relation of employer and employee, to change that relation and to assume and create a new relation of employer and employee, and to perform and carry on business in such relation with any person in any place or do work and labor as an employee shall be held and construed to be a personal and not a property right. In all cases involving the violation of the contract of employment by either the employee or employer where no irreparable damage is about to be committed upon the property or property right of either no injunction shall be granted, but the parties shall be left to their remedy at law."

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from Michigan [Mr. MacDONALD].

Mr. MacDONALD. Mr. Chairman, the second paragraph of section 15, as I read it, does nothing to change existing law in regard to injunctions or the issuance of injunctions, except one thing, and that one thing is that the language of the section, by implication, creates a new and distinct class of cases in which injunctions can issue with notice. The paragraph provides—

That no temporary restraining order shall be granted without notice to the opposite party—

And so forth; and in continuation states no further jurisdiction in such cases than now exists under the present practice, thereby, by implication, creating another class of injunctions that can be granted with notice; and I am constrained to believe that a court could hold, and probably would hold, that that might authorize courts to issue injunctions in cases of invasion of personal rights where they are not so authorized to do now. That has been a long-mooted question in some aspects of this controversy—whether the right of issuing injunctions where property and property rights are threatened with irreparable injury and no adequate remedy exists at law, is not gradually being extended so as to take in, partially at least, personal rights. And I think that if this section of the law is passed as it now stands you leave room for argument, at least, that there is an express authorization of the statute which by implication permits the issuance of injunctions in that class of cases.

The language that I have offered as a substitute for this section is, as is well known, a part of the Bartlett bill, and is unobjectionable, and plainly states the object for which it is intended. I think that it is very important that this change should be made, so that there can be left upon the statute no question as to whether the right to extend the issuance of injunction to this field has been granted.

Mr. FLOYD of Arkansas. Mr. Chairman, I desire to oppose the amendment offered by the gentleman from Michigan [Mr. MacDONALD] and to explain this provision.

The language that the gentleman objects to is substantially the language of rule 73 of rules of practice for the courts of equity adopted by the Supreme Court of the United States.

The Clayton anti-injunction bill that was passed at the last session of Congress contained a similar provision, which was modified in this bill so as to make it conform to rule 73 adopted by the Supreme Court of the United States in equity cases. We did not desire to disturb that rule; but the fact that they have adopted it as a court rule is no reason why we should not incorporate it into the statute, especially when we are dealing with the general subject of injunctions.

Mr. MacDONALD. Is it true that there is nothing in this section but what is the practice now under the law and the rules?

Mr. FLOYD of Arkansas. I am not sure of that; but the point I make is that the first part of the language that the gentleman moves to strike out follows the language of rule 73 of the Supreme Court of the United States in equity cases, formulated and adopted by the Supreme Court since the passage of the Clayton bill in the Sixty-second Congress. I will incorporate that rule in my remarks:

Rule 73.

PRELIMINARY INJUNCTIONS AND TEMPORARY RESTRAINING ORDERS.

No preliminary injunction shall be granted without notice to the opposite party. Nor shall any temporary restraining order be granted without notice to the opposite party, unless it shall clearly appear from specific facts, shown by affidavit or by the verified bill, that immediate and irreparable loss or damage will result to the applicant before the matter can be heard on notice. In case a temporary restraining order shall be granted without notice, in the contingency specified, the matter shall be made returnable at the earliest possible time, and in no event later than 10 days from the date of the order, and shall take precedence of all matters, except older matters of the same character. When the matter comes up for hearing the party who obtained the temporary restraining order shall proceed with his application for a preliminary injunction, and if he does not do so the court shall dissolve his temporary restraining order. Upon two days' notice to the party obtaining such temporary restraining order, the opposite party may appear and move the dissolution or modification of the order, and in that event the court or judge shall proceed to hear and determine the motion as expeditiously as the ends of justice may require. Every temporary restraining order shall be forthwith filed in the clerk's office.

The other provisions of the section have been very carefully considered. No material change has been made in the other

provisions of the Clayton injunction bill, which was thoroughly considered and passed at the last session of the Congress.

While in the past some courts have followed the general principles laid down in those provisions of this bill that relate to injunctions, I desire to call the attention of the gentleman from Michigan [Mr. MACDONALD] to the fact that we have many Federal courts in this country, and that a great many of the judges have adopted rules contrary to the principles laid down here and have enforced them in their respective courts; and the Committee on the Judiciary in preparing this injunction bill made an effort to follow the better line of decisions of the Federal courts and to put in the statute an inhibition that would prevent courts that had been abusing the writ of injunction by issuing it in cases in which we do not feel that the issuance of an injunction was justified from doing so in the future.

Mr. MACDONALD. Does the gentleman refer to cases of injunctions where it is doubtful whether the injunction is based upon threatened injury of personal rights rather than property or property rights?

Mr. FLOYD of Arkansas. We preserve that distinction in the bill.

Mr. MACDONALD. Not in terms.

Mr. FLOYD of Arkansas. I think so.

Mr. MURDOCK. Mr. Chairman, before the gentleman takes his seat——

Mr. FLOYD of Arkansas. I yield to the gentleman.

Mr. MURDOCK. I should like to have the gentleman explain about this section. What is the time of the notice given in case of a restraining order where irreparable injury is claimed? How much of a notice is provided for in this bill?

Mr. FLOYD of Arkansas. It may be issued without notice, but unless the parties proceed within 10 days the suit abates and must be dismissed. The rule of the Supreme Court is more liberal than the provision of the bill passed at the last session, which provided for 7 days and a renewal of 7 days, which would make 11 days; but the rule of the Supreme Court which is incorporated here requires the parties to proceed within 10 days or the suit will abate and must be dismissed.

Mr. MURDOCK. The language of the bill is that no preliminary injunction shall be issued without notice to the opposite party. There must in every case be some notice.

Mr. BARTLETT. Unless——

Mr. MURDOCK. Unless irreparable injury to property is claimed.

Mr. FLOYD of Arkansas. Yes.

Mr. MURDOCK. The provisions of the second paragraph are precisely in keeping with the better practice now. Is that right?

Mr. FLOYD of Arkansas. Yes; that is what we understand.

Mr. MURDOCK. But you are writing into statutory law a rule of the Supreme Court. Is that right?

Mr. FLOYD of Arkansas. Yes; absolutely. In the consideration of this question we examined the decisions. One court would hold that a certain practice was lawful and would refuse to issue an injunction. Another court would proceed to issue an injunction, and it was this wrongful issuance of injunctions in cases where courts were not justified under the facts in issuing them that has given rise to this criticism of the Federal courts.

We propose to write the better practice of the Federal courts into the statute as a rule to govern all the courts, and not leave it to their discretion to issue injunctions on whatever state of fact may suit the fancy of the judge.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Michigan.

The question was taken, and the amendment was rejected.

The Clerk read as follows:

SEC. 17. That every order of injunction or restraining order shall set forth the reasons for the issuance of the same, shall be specific in terms, and shall describe in reasonable detail, and not by reference to the bill of complaint or other document, the act or acts sought to be restrained, and shall be binding only upon the parties to the suit, their agents, servants, employees, and attorneys, or those in active concert with them and who shall, by personal service or otherwise, have received actual notice of the same.

Mr. MURDOCK. Mr. Chairman, I move to strike out the last word. I wish the gentleman from North Carolina would explain section 17.

Mr. WEBB. The main purpose of the section is to bind nobody to the statute except the agent and those in active service; the parties enjoined are those who have actual interests.

Mr. MURDOCK. Is this as in the case of section 15 merely writing into the statutory law the practice of the court?

Mr. WEBB. Yes; I think the case of In re Lennon is practically embodied in this section. It has not always been the practice in the Federal courts, but we are making or trying to make a uniform practice for all the courts.

Mr. FLOYD of Arkansas. We prohibit what is known as the blanket injunction. Courts have issued injunctions against parties without naming them and so a man might be in California and violate an order of the court in New York and not know it, and be brought into court for contempt in violating the order. The main purpose of this section is to prevent what is commonly known as the blanket injunction.

Mr. MURDOCK. This makes it specific?

Mr. WEBB. Yes; it does away with what as the gentleman from Arkansas says is a blanket injunction and protects every man who may come within the injunction law.

Mr. MANN. Mr. Chairman, I move to strike out the last word. I think there is to be some contest in regard to section 18, is there not?

Mr. WEBB. Yes. I thought the Clerk might read section 18 and then we would leave that open for amendment to-morrow.

The CHAIRMAN. Without objection, the pro forma amendments are withdrawn and the Clerk will read.

The Clerk read as follows:

SEC. 18. That no restraining order or injunction shall be granted by any court of the United States, or a judge or the judges thereof, in any case between an employer and employees, or between employers and employees, or between employees, or between persons employed and persons seeking employment, involving, or growing out of, a dispute concerning terms or conditions of employment, unless necessary to prevent irreparable injury to property, or to a property right, of the party making the application, for which injury there is no adequate remedy at law, and such property or property right must be described with particularity in the application, which must be in writing and sworn to by the applicant or by his agent or attorney.

And no such restraining order or injunction shall prohibit any person or persons from terminating any relation of employment, or from ceasing to perform any work or labor, or from recommending, advising, or persuading others by peaceful means so to do; or from attending at or near a house or place where any person resides or works, or carries on business or happens to be, for the purpose of peacefully obtaining or communicating information, or of peacefully persuading any person to work or to abstain from working; or from ceasing to patronize or to employ any party to such dispute, or from recommending, advising, or persuading others by peaceful means so to do; or from paying or giving to, or withholding from, any person engaged in such dispute, any strike benefits or other moneys or things of value; or from peaceably assembling at any place in a lawful manner, and for lawful purposes; or from doing any act or thing which might lawfully be done in the absence of such dispute by any party thereto.

Mr. WEBB. Mr. Chairman, the House has been in continuous session since 11 o'clock this morning, 10 hours and a half. It has been a very strenuous day, and on behalf of the committee I want to thank the Members who have stayed here and assisted us. Mr. Chairman, I move that the committee do now rise.

The motion was agreed to; accordingly, the committee rose, and Mr. FITZGERALD, having taken the chair as Speaker pro tempore, Mr. BYRNS of Tennessee, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill (H. R. 15657) to supplement existing laws against unlawful restraints and monopolies, and for other purposes, and had come to no resolution thereon.

VOCATIONAL EDUCATION (H. DOC. NO. 1004.)

The SPEAKER pro tempore laid before the House the report of the Commission on National Aid to Vocational Education, which was ordered printed and referred to the Committee on Education.

EXTENSION OF REMARKS.

Mr. CURRY. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD

Mr. MURDOCK. Upon what subject?

Mr. CURRY. I want to print in the RECORD a speech delivered by my colleague, Hon. JULIUS KAHN, at the memorial service held by the Grant Circle of the Ladies of the Grand Army of the Republic.

Mr. WEBB. Is there any criticism of the Executive in that speech?

Mr. CURRY. Not that I know of; I have not read it. [Laughter.]

Mr. WEBB. I regret very much to object, Mr. Chairman.

Mr. MANN. Is there any reason why a Member of Congress should not criticize the Executive?

Mr. WEBB. No; except that the Member might come here and do it instead of having another Member put it in the RECORD.

Mr. MANN. If there are to be no speeches placed in the RECORD which criticizes the Executive, there will be no speeches extended in the RECORD praising him.

Mr. WEBB. We do not know what is in the speech, and the gentleman from California himself does not know.

Mr. MANN. If it is not a proper speech, it will be stricken out of the RECORD. We authorized three speeches this morning

to be printed in the RECORD, and the gentleman from North Carolina did not know what was in either one of them, and one was a speech by the President.

Mr. WEBB. If the gentleman from Illinois wants to publish a speech that has not been read, and the gentleman does not know what is in it, very well.

Mr. CURRY. This can not be an objectionable speech; it was delivered before the U. S. Grant Circle of the Ladies of the Grand Army of the Republic.

Mr. WEBB. I have no objection.

The SPEAKER pro tempore. Is there objection?

There was no objection.

THE SPEAKER.

Mr. AUSTIN. Mr. Speaker, I ask unanimous consent to print in the RECORD an article published in the Washington Herald of Sunday, written by former Representative John Q. Tilson, of Connecticut, with reference to Speaker CLARK.

The SPEAKER pro tempore. Is there objection?

There was no objection.

ADJOURNMENT.

Mr. WEBB. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; and accordingly (at 9 o'clock and 37 minutes p. m.) the House adjourned until to-morrow, Tuesday, June 2, 1914, at 11 o'clock a. m.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII,

Mr. STOUT, from the Committee on Irrigation of Arid Lands, to which was referred the bill (H. R. 12249) to extend the provisions of the act of June 25, 1910, authorizing assignment of reclamation homestead entries, and of the act of August 9, 1912, authorizing the issuance of patents on reclamation of homestead entries to lands in Flathead project, Montana, reported the same with amendment, accompanied by a report (No. 730), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, private bills and resolutions were severally reported from committees, delivered to the Clerk, and referred to the Committee of the Whole House, as follows:

Mr. STOUT, from the Committee on the Public Lands, to which was referred the bill (H. R. 1516) for the relief of Thomas F. Howell, reported the same with amendment, accompanied by a report (No. 731), which said bill and report were referred to the Private Calendar.

Mr. SCOTT, from the Committee on Claims, to which was referred the bill (H. R. 6879) for the relief of Frank Payne Selby, reported the same with amendment, accompanied by a report (No. 732), which said bill and report were referred to the Private Calendar.

Mr. METZ, from the Committee on Claims, to which was referred the bill (H. R. 12484) to pay the Cleveland Press, of Cleveland, Ohio, $200 for a horse shot because of injuries sustained on a defective platform scale in the post office at Cleveland, Ohio, reported the same without amendment, accompanied by a report (No. 733), which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill (H. R. 4952) to refund to John B. Keating customs tax erroneously and illegally collected at Portland, Me., on cargo of coal March 11, 1903, reported the same without amendment, accompanied by a report (No. 734), which said bill and report were referred to the Private Calendar.

Mr. PETERS of Maine, from the Committee on Claims, to which was referred the bill (H. R. 16795) to reimburse the owners of the schoonor *Thomas W. H. White*, reported the same without amendment, accompanied by a report (No. 735), which said bill and report were referred to the Private Calendar.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials were introduced and severally referred as follows:

By Mr. HUGHES of Georgia: A bill (H. R. 16952) to provide for the promotion of vocational education; to provide for cooperation with the States in the promotion of such education in agriculture and the trades and industries; to provide for cooperation with the States in the preparation of teachers of vocational subjects; and to appropriate money and regulate its expenditure; to the Committee on Education.

By Mr. CARY: A bill (H. R. 16953) prohibiting the sale or keeping for sale, in the District of Columbia, of undrawn cold-storage poultry; to the Committee on the District of Columbia.

By Mr. CARTER (by request): A bill (H. R. 16954) to regulate insurance companies and others in the use of the United States mails; to the Committee on the Post Office and Post Roads.

By Mr. CARR: A bill (H. R. 16955) to provide for an increase in the facilities of the Frankford Arsenal for the manufacture of artillery ammunition authorized by recent appropriation acts; to the Committee on Appropriations.

By Mr. GOODWIN of Arkansas: A bill (H. R. 16956) providing for the extension of the post office at Camden, Ark.; to the Committee on Public Buildings and Grounds.

By Mr. BRITTEN: A bill (H. R. 16957) to amend an act entitled "An act to reorganize and increase the efficiency of the personnel of the Navy and Marine Corps of the United States," approved March 3, 1899, as amended by the act approved August 22, 1912, entitled "An act making appropriations for the naval service for the fiscal year ending June 30, 1913, and for other purposes"; to the Committee on Naval Affairs.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. ALLEN: A bill (H. R. 16958) granting an increase of pension to Mary Decker; to the Committee on Invalid Pensions.

Also, a bill (H. R. 16959) granting an increase of pension to Ann Gardner; to the Committee on Invalid Pensions.

By Mr. BAILEY: A bill (H. R. 16960) granting an increase of pension to John Gore; to the Committee on Invalid Pensions.

By Mr. BOWDLE: A bill (H. R. 16961) granting an increase of pension to John H. H. Babcock; to the Committee on Invalid Pensions.

Also, a bill (H. R. 16962) granting an increase of pension to Mary A. Muir; to the Committee on Invalid Pensions.

By Mr. BURNETT: A bill (H. R. 16963) for the relief of heirs of estate of Calvin Blevins, deceased; to the Committee on War Claims.

By Mr. GITTINS: A bill (H. R. 16964) granting an increase of pension to George Oatman; to the Committee on Invalid Pensions.

By Mr. GREEN of Iowa: A bill (H. R. 16965) granting a pension to Anna M. Dayton; to the Committee on Invalid Pensions.

By Mr. GREENE of Vermont: A bill (H. R. 16966) granting a pension to Joseph E. La Rocque; to the Committee on Invalid Pensions.

By Mr. HAMILTON of Michigan: A bill (H. R. 16967) granting a pension to Henry F. Baldwin; to the Committee on Invalid Pensions.

Also, a bill (H. R. 16968) granting a pension to Rebecca McCullough; to the Committee on Invalid Pensions.

By Mr. HOUSTON: A bill (H. R. 16969) granting an increase of pension to Mrs. James L. Adams; to the Committee on Pensions.

By Mr. KONOP: A bill (H. R. 16970) granting an increase of pension to Porter H. Campbell; to the Committee on Invalid Pensions.

By Mr. LINTHICUM: A bill (H. R. 16971) granting a pension to Thomas D. Parks; to the Committee on Pensions.

By Mr. LONERGAN: A bill (H. R. 16972) granting a pension to Sheldon S. S. Campbell; to the Committee on Pensions.

Also, a bill (H. R. 16973) granting a pension to Margaret A. Cooper; to the Committee on Invalid Pensions.

Also, a bill (H. R. 16974) granting an increase of pension to Charlotte Easton; to the Committee on Invalid Pensions.

Also, a bill (H. R. 16975) granting an increase of pension to Charles Francis Fisher; to the Committee on Invalid Pensions.

Also, a bill (H. R. 16976) granting an increase of pension to Isaac L. Griswold; to the Committee on Invalid Pensions.

Also, a bill (H. R. 16977) granting an increase of pension to Emma L. Packard; to the Committee on Invalid Pensions.

Also, a bill (H. R. 16978) granting an increase of pension to Jennie Recor; to the Committee on Invalid Pensions.

By Mr. MORGAN of Louisiana: A bill (H. R. 16979) granting a pension to Elizabeth Walsh; to the Committee on Invalid Pensions.

Also, a bill (H. R. 16980) for the relief of Odalie Pedesclaux; to the Committee on War Claims.

By Mr. PETERS of Maine: A bill (H. R. 16981) granting a pension to Jennie C. True; to the Committee on Invalid Pensions.

By Mr. SMITH of Maryland: A bill (H. R. 16982) for the relief of Horace Freeman; to the Committee on Claims.

Also, a bill (H. R. 16983) for the relief of J. Paul Jones; to the Committee on Claims.

By Mr. J. M. C. SMITH: A bill (H. R. 16984) granting a pension to Lois Finney; to the Committee on Invalid Pensions.

By Mr. STEPHENS of California: A bill (H. R. 16985) granting an increase of pension to Charles E. Chase; to the Committee on Invalid Pensions.

By Mr. SUTHERLAND: A bill (H. R. 16986) granting a pension to Joseph Harman; to the Committee on Invalid Pensions.

By Mr. UNDERHILL: A bill (H. R. 16987) granting a pension to Sarah E. Ellison; to the Committee on Invalid Pensions.

By Mr. FOWLER: A bill (H. R. 16988) granting a pension to Charles F. Rich; to the Committee on Invalid Pensions.

By Mr. HENSLEY: A bill (H. R. 16989) granting an increase of pension to Joel K. P. Wood; to the Committee on Invalid Pensions.

Also, a bill (H. R. 16990) granting an increase of pension to Jacob M. Lincoln; to the Committee on Invalid Pensions.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

By the SPEAKER (by request): Resolutions from certain citizens of Seattle, Wash.; Mount Pulaski, Ill.; St. Louis, Mo.; Arkansas City, Kans.; Ware, Iowa; Havelock, Iowa; Olympia, Wash.; Monterey, Cal.; Monteno, Ill.; Santa Barbara, Cal.; Clovis, Cal.; Los Angeles, Cal.; Toledo, Ohio; Wenatchee, Wash.; Snohomish, Wash.; Morning Sun, Ohio; La Junta, Colo.; and Hampton, Nebr., protesting against the practice of polygamy in the United States; to the Committee on the Judiciary.

Also (by request), resolutions of protest from the Boston Central Labor Union concerning the deplorable conditions existing in the Colorado mine strike; to the Committee on Mines and Mining.

Also (by request), resolutions of protest against the adoption of a national prohibition amendment, from certain citizens of Franklin County, Mo.; to the Committee on Rules.

By Mr. BELL of California: Memorial of the Ministerial Union of Los Angeles, Cal., favoring national prohibition; to the Committee on Rules.

Also, memorial of the Southern California Child Labor Committee, favoring the child-labor law; to the Committee on Labor.

Also, memorial of the Los Angeles (Cal.) Chamber of Commerce, relative to control of the Colorado River; to the Committee on Rivers and Harbors.

By Mr. BORCHERS: Petitions of 64 citizens of Champaign, 150 citizens of Oreana, 22 citizens of Philo, and 200 citizens of Dewitt County, all in the State of Illinois, favoring national prohibition; to the Committee on Rules.

By Mr. BRITTEN: Petition of Branch No. 1, National Association of Civil-Service Employees, of Chicago, Ill., protesting against the removal of civil-service employees from the Government service at Washington, D. C., on the ground of alleged superannuation; to the Committee on Reform in the Civil Service.

By Mr. BROWNING: Petition of 9 citizens of Wenonah, N. J., favoring national prohibition; to the Committee on Rules.

By Mr. BURKE of Wisconsin: Petition signed by 40 residents of the city of Port Washington, Wis., protesting against the passage of House joint resolution 168. Senate joint resolutions 50 and 88, and against all similar prohibition measures; to the Committee on Rules.

By Mr. CARY: Petition of various members of W. B. Cushing Post, Department of Wisconsin, Grand Army of the Republic, relative to appropriation for controlling by the Government the battle field of Bull Run; to the Committee on Military Affairs.

By Mr. CHURCH: Petition of Sunday School of Methodist Church of Dunbar, Cal., relative to censorship by the Government of motion pictures; to the Committee on Education.

By Mr. CURRY: Petitions of Sunday School of the Christian Church of Winters, Methodist Episcopal Sunday School of Lacy, and Union Sunday School of Peters, all in the State of California, favoring censorship of motion pictures by the Federal Government; to the Committee on Education.

Also, petition of the Vallejo Drug Co., of Vallejo, Cal., and the Palmer Drug Co., in favor of House bill 13305, the Stevens price bill; to the Committee on Interstate and Foreign Commerce.

Also, petition of the Methodist Episcopal Church of Lockeford, Cal., in favor of national prohibition; to the Committee on Rules.

Also, petition of the Methodist Episcopal Church of Brentwood, Cal., in favor of national prohibition; to the Committee on Rules.

Also, petition of 262 citizens and residents of Stockton, Cal., protesting against national prohibition; to the Committee on Rules.

Also, petition of the First Methodist Episcopal Church of Sacramento, Cal., in favor of national prohibition; to the Committee on Rules.

Also, petition of the First Baptist Church of Sacramento, Cal., in favor of national prohibition; to the Committee on Rules.

Also, petition of T. E. Williamson, president of the Loyal Sons Class of the First Christian Church of Stockton, Cal., in favor of national prohibition; to the Committee on Rules.

Also, petition of the Sacramento Federated Trades Council, of Sacramento, Cal., protesting against national prohibition; to the Committee on Rules.

Also, petitions of 75 citizens and residents of the third California district, protesting against national prohibition; to the Committee on Rules.

Also, petition of 42 citizens and residents of the third California congressional district, protesting against national prohibition; to the Committee on Rules.

By Mr. DALE: Petitions of sundry citizens of New York, against national prohibition; to the Committee on Rules.

Also, petition of the American Association for Labor Legislation, favoring House bill 15222, the workmen's compensation bill; to the Committee on the Judiciary.

Also, petition of the China & Japan Trading Co. of New York, relative to House joint resolution 173, concerning loss in the Boxer outbreak in China in 1900; to the Committee on Foreign Affairs.

By Mr. DONOVAN: Petitions of sundry citizens of Connecticut, against national prohibition; to the Committee on Rules.

Also, petition of the Bridgeport (Conn.) Pastors' Association, favoring national prohibition; to the Committee on Rules.

By Mr. ESCH: Petition of various members of W. B. Cushing Post, Department of Wisconsin Grand Army of the Republic, relative to appropriation for acquiring tract on which is the Battle of Bull Run ground; to the Committee on Military Affairs.

By Mr. GARDNER: Petition of sundry citizens of Salem, Mass., favoring Federal censorship of motion pictures; to the Committee on Education.

Also, petition of the Newburyport (Mass.) Branch, National Association of Civil Service Employees, favoring House bill 5139, the Hamill civil-service retirement bill; to the Committee on Reform in the Civil Service.

By Mr. GILMORE: Petition of the Massachusetts State Board of Trade, favoring House bill 6435, to provide for ocean mail service between the United States and foreign ports; to the Committee on the Post Office and Post Roads.

Also, petition of Court John Ericsson, No. 155, Foresters of America, Quincy, Mass., favoring erection of a memorial to John Ericsson; to the Committee on the Library.

By Mr. GRIEST: Petition of Harry N. Beyer, of Nottingham, and Ellis Brown, of Little Brittain, and other citizens of Lancaster County, all in the State of Pennsylvania, favoring national prohibition; to the Committee on Rules.

By Mr. HAWLEY: Petition of sundry citizens of the State of Oregon, protesting against the passage of the Sunday-observance bill; to the Committee on the District of Columbia.

Also, petition of the Woman's Christian Temperance Union of Oregon, comprising 3,000 voters, favoring Federal censorship of motion pictures; to the Committee on Education.

Also, petitions of Edward M. Marcham and other citizens of the State of Oregon, protesting against national prohibition; to the Committee on Rules.

By Mr. HUMPHREY of Washington: Petitions of sundry citizens of the State of Washington, protesting against national prohibition; to the Committee on Rules.

By Mr. IGOE: Petitions of Earnest Holger, Hardie Dillinger, Charles Flowers, Tonie Wilbers, W. E. Tafft, George Oaks, Ed. Moore, Will Lansam, M. Nacy, O. Wornell, D. G. Simpsins, W. H. Showers, W. W. Meesene, Tom Nelson, Charles Byron, Ralph Smith, E. S. Elliott, Eugene Carroll, C. C. White, E. F. C. Harding, W. Sauvain, Till Mans, John Bunn, Ben Hayns, Milton Smith, Albert Young, J. W. Adams, Yancy Bolton, Chester Hogue, M. C. Screvner, A. L. Hayter, C. P. Sanderson, J. H. Hemmingway, B. P. Price, W. R. White, T. H. Abbott, L. E. Smith, L. C. Gayle, Forrest Moore, Jack Renn, Arthur Markham, H. O. Dele, T. Hootzneer, Thomas Groeber, John McDonell,

James Dyrssen, Dock Print, Frank Heizer, Tom Park, Harry Meier, L. Findlay, L. H. Doty, C. H. Greemiary, J. A. Kingsley, T. J. Huegel, E. L. Byrd, William Wheat, L. Wheat, Fred Denchle, E. Diggs, J. L. Hart, J. E. Pous, August Baker, Gus Kramer, Will Robison, H. Hollenberg, John Witten, E. Westhis, August Luctewitte, A. Coffee, I. L. Patte, L. Gordon, Eustus Cander, E. Baysinger, D. T. Hatcher, F. E. Daugherty, Oscar Lewis, C. Lewis, J. M. Kelsay, G. Henry Barckers, Joseph Barckers, John Campbell, Roy Harris, W. Werkvain, W. M. Luadzers, Charles Christian, H. Schmidt, T. H. Wilkerson, Ed. Reed, Sam Wiggins, Frank Ebert, Oliver T. Patter, S. H. Freshour, Frank Miller, Thomas Brown, George Stewart, J. Henderson, Anderson Ramy, S. Brown, D. Brown, A. L. Thomas, J. H. Billows, B. N. Scrivner, Charley Chaney, Orul Clary, W. Warenfack, H. S. Beck, Walter Smallwood, William Wilton, John Wickers, M. B. Campbell, Tom Phillipps, Herman Miller, James Richter, Boyd McDanee, Oscar Milton, Henry Chapel, S. R. Carter, E. Slater, Charles Parsons, James Harris, W. H. Campbell, J. P. Cooper, E. E. Scaggs, John Hughes, Sam Hopkins, James Morrow, J. Mannus, Fred Swanke, F. Opel, B. Menges, M. W. Scott, George Monarch, C. Marrow, Dell Campbell, Charles Stewart, Clem Meyers, Thom West, Charles Mulville, James Mulville, W. M. Mulville, B. S. Marrow, Henry Young, I. N. Stone, Oden Balance, Jerome Smith, Ed. Roberts, Oscar Coffy, Mik Kastner, A. Kingers, C. Scaggs, Rhodes Barbarick, and I. M. King, all of Jefferson City; Clyde Tanis, Aubrey Tanis, and Pete S. Bergen, Eugene; L. Kehret, Edward F. Norton, Phillip Fehl, G. W. Burlew, John Schmidt, William A. Rouner, August Mantey, L. P. Stahl, Bernard Thole, John F. Thole, Will Kornfeld, August F. Mantey, Edward E. Engelland, William A. Sennewald, Morris Garder, William G. Ryan, Julius Engelland, Morris Lander, Fred L. Mueller, Henry Schmitt, all of St. Louis; F. C. Henderson and J. M. Murphy, of Marion; T. M. Swerain-gin and John Welch, of Centertown; Harry Wilson, John Warren, Derby Thomas, D. L. Duden, Fred L. Fleagel, and N. W. Blochberger, all of Lohman; Ira Triffelt, Ben Lutz, and G. Scott, all of Millbrook; W. H. Wetzel and Nath. Roark, of Enon; C. K. Scott, Floyd Amos, D. Roark, J. Scrivner, W. D. Roark, A. Scrivner, B. F. Roark, N. W. Marrow, N. A. Doahla, and F. Wittenmeyer, all of Russellville; Martin West, of Decatur; and Dan Kauffman, of Elston, all in the State of Missouri, protesting against House joint resolution 168 and Senate joint resolutions 50 and 88 and all similar prohibition legislation; to the Committee on Rules.

By Mr. JOHNSON of Washington: Petitions of various citizens of Tacoma, Wash., opposing national prohibition; to the Committee on Rules.

Also, petitions of various citizens of Raymond, Wash., opposing national prohibition; to the Committee on Rules.

Also, petition of various citizens of Vancouver, Wash., opposing national prohibition; to the Committee on Rules.

By Mr. KAHN: Memorial of the Los Angeles (Cal.) Chamber of Commerce, relative to the control of the waters of the Colorado River; to the Committee on Rivers and Harbors.

Also, memorial of the Church Diocese of Los Angeles, Cal., favoring the child-labor bill; to the Committee on Labor.

Also, memorial of the Musicians' Mutual Protective Union, of San Francisco, Cal., protesting against national prohibition, to the Committee on Rules.

Also, memorial of the Red Bluff (Cal.) Chamber of Commerce, favoring the Newlands river regulation bill; to the Committee on Rivers and Harbors.

By Mr. KENNEDY of Iowa: Petition of F. A. McDowell and others, of Washington, Iowa, favoring national prohibition; to the Committee on Rules.

By Mr. KENNEDY of Rhode Island: Petition of Wadhamds & Co., of Portland, Oreg., favoring House bill 15986, relative to false statements in the mails; to the Committee on the Post Office and Post Roads.

Also, petition of the Klauber Wangenheim Co., of San Diego, Cal., favoring passage of House bill 15986, relative to false statements in the mails; to the Committee on the Post Office and Post Roads.

By Mr. LEE of Pennsylvania: Petition of the mine workers of Panther Creek Valley, Pa., relative to Colorado strike conditions; to the Committee on Mines and Mining.

By Mr. MERRITT: Petition of sundry citizens of the State of New York, protesting against national prohibition; to the Committee on Rules.

By Mr. MURRAY of Oklahoma: Petition of the Chamber of Commerce of Enid, Okla., against present consideration of trust legislation; to the Committee on the Judiciary.

By Mr. NELSON: Petition of 15 citizens of Sun Prairie, Wis., protesting against national prohibition; to the Committee on Rules.

Also, petition of 18 citizens of Dane County, Wis., protesting against national prohibition; to the Committee on Rules.

By Mr. J. I. NOLAN: Protest of Bryce B. Kerr and 28 other citizens, F. L. Hunt and 53 other citizens, Edward Halloran and 52 other citizens, and Edwin Winter and 84 other citizens, all of San Francisco, Cal., against the passage of the Hobson Nationwide prohibition resolution; to the Committee on Rules.

By Mr. PETERS of Massachusetts: Petitions of sundry citizens and voters of the eleventh Massachusetts congressional district, and sundry citizens of the State of Massachusetts, protesting against national prohibition; to the Committee on Rules.

By Mr. RAKER: Resolutions of the Chamber of Commerce, of Los Angeles, Cal., favoring the acquiring by the United States of sufficient land in Mexico to place the Colorado River entirely within the borders of the United States; to the Committee on the Public Lands.

Also, resolutions of the Christian Men's League, of Red Bluff, Cal., favoring the Gillett bill, designed to check polygamy; to the Committee on the Judiciary.

Also, resolutions of the southern California child labor committee of the Episcopal Church convention at Covina, Cal., favoring the Palmer child-labor bill (H. R. 12292); to the Committee on Labor.

By Mr. REILLY of Connecticut: Memorial of the Wholesalers' Credit Association of Erie, Pa., favoring the passage of House bill 15988, relative to false statements through the mails; to the Committee on the Post Office and Post Roads.

Also, memorial of Silver City Lodge, No. 819, International Association of Mechanics, of Meriden, Conn., favoring passage of Senate bill for Federal inspection of locomotive boilers; to the Committee on Interstate and Foreign Commerce.

By Mr. J. M. C. SMITH: Petition of Street and Electric Railway Employees' Union, No. 343, of Kalamazoo, Mich., against national prohibition; to the Committee on Rules.

By Mr. SMITH of New York: Petition of sundry citizens of Erie County, N. Y., protesting against national prohibition; to the Committee on Rules.

Also, petition of the Knights of Columbus, relative to barring from the mails the Menace; to the Committee on the Post Office and Post Roads.

By Mr. STONE: Petitions of sundry citizens of the sixteenth congressional district of Illinois, against national prohibition; to the Committee on Rules.

By Mr. SUTHERLAND: Papers to accompany the bill (H. R. 16986) granting a pension to Joseph Harman; to the Committee on Invalid Pensions.

Also, petition of Wesley Methodist Church of Wheeling, W. Va., favoring national prohibition; to the Committee on Rules.

Also, memorial of the Fairmont Chamber of Commerce, favoring 1-cent letter postage; to the Committee on the Post Office and Post Roads.

By Mr. TAYLOR of Arkansas (by request): Petitions of 8 citizens of Hot Springs, Ark., and 44 citizens of Pine Bluff, Ark., protesting against national prohibition; to the Committee on Rules.

By Mr. THACHER: Petitions of sundry citizens of Massachusetts relative to national prohibition constitutional amendment; to the Committee on Rules.

Also, petition of sundry citizens of Provincetown, Middleboro, and Carver, all in the State of Massachusetts, favoring national prohibition; to the Committee on Rules.

Also, petition of various members of the General Court of Massachusetts, favoring Gettysburg peace memorial commission; to the Committee on the Library.

By Mr. TREADWAY: Petition of the Granville (Mass.) Grange, Patrons of Husbandry, favoring Government ownership of the telegraph and telephone lines; to the Committee on Interstate and Foreign Commerce.

Also, memorial of the Massachusetts State Board of Trade, favoring the passage of House bill 6435, providing for ocean mail service, etc.; to the Committee on the Post Office and Post Roads.

By Mr. WILSON of New York: Petitions of 175 citizens of the third New York congressional district, protesting against national prohibition; to the Committee on Rules.

By Mr. WINSLOW: Petitions of various business men of Millbury, Spencer, Milford, and Uxbridge, all in the State of Massachusetts, favoring the passage of House bill 5308, relative to taxing mail-order houses; to the Committee on Ways and Means.

Also, petitions of citizens of Worcester, Mass., protesting against the passage of national prohibition resolutions; to the Committee on Rules.

SENATE.

TUESDAY, *June 2, 1914.*

The Senate met at 11 o'clock a. m.

The Chaplain, Rev. Forrest J. Prettyman, D. D., offered the following prayer:

Almighty God, by Thy own grace Thou hast bestowed upon us the measureless gifts of life. Thou hast never tired in expressing Thy care for Thy creatures. Day by day Thou dost shower upon us the unmerited blessings of Thy grace. We pray that in order that we may enjoy and use the blessings that come from the Divine hand we may gain possession of our own powers, will, conscience, and thought, and that these being brought into the realms of freedom by being brought into accord with Thy will may be the means of our enjoyment and of the using of Thy gifts. Lead us this day in all the service that we can perform for our Government, and may Thy blessing abide with Thy servants in the Senate. For Christ's sake. Amen.

The Journal of yesterday's proceedings was read and approved.

PETITIONS AND MEMORIALS.

The VICE PRESIDENT presented petitions from sundry citizens of Slatington, Eagleville, Mount Chestnut, Beaver Falls, Prospect, and Claysville, in the State of Pennsylvania; of Elgin, Oreg.; of Stafford, Kans.; of Baltimore, Md.; and of Oakland, Cal., praying for the adoption of an amendment to the Constitution to prohibit polygamy, which were referred to the Committee on the Judiciary.

Mr. GRONNA presented petitions of sundry citizens of Walcott, Dwight, and Galchutt, all in the State of North Dakota, praying for the adoption of an amendment to the Constitution to prohibit the manufacture, sale, and importation of intoxicating beverages, which were referred to the Committee on the Judiciary.

Mr. STERLING presented memorials of sundry citizens of South Dakota, remonstrating against national prohibition, which were referred to the Committee on the Judiciary.

He also presented a petition of sundry citizens of Bratsberg, Ludlow, Ralph, and Haley, all in the State of South Dakota, praying for the enactment of legislation to allow homesteaders to file on 640 acres for stock-raising purposes, which was referred to the Committee on Public Lands.

Mr. PERKINS presented a memorial of sundry citizens of Oakland, Cal., remonstrating against the adoption of an amendment to the Constitution to prohibit the manufacture, sale, and importation of intoxicating beverages, which was referred to the Committee on the Judiciary.

He also presented a petition of the Ministerial Union of Los Angeles, Cal., and a petition of sundry citizens of San Bernardino, Cal., praying for the adoption of an amendment to the Constitution to prohibit the manufacture, sale, and importation of intoxicating beverages, which were referred to the Committee on the Judiciary.

He also presented a petition of the congregation of the Protestant Episcopal Church of Los Angeles, Cal., praying for the enactment of legislation to regulate interstate commerce in the products of child labor, which was referred to the Committee on Education and Labor.

He also presented a petition of the Chamber of Commerce of Los Angeles, Cal., praying for the acquisition by the Government of certain land in Mexico for the protection of the Colorado River, which was referred to the Committee on Public Lands.

He also presented a petition of the Chamber of Commerce of Red Bluff, Cal., praying for the enactment of legislation to provide for the regulation and control of floods, which was referred to the Committee on Commerce.

He also presented petitions of sundry citizens of California, praying for the enactment of legislation to provide for Federal censorship of motion pictures, which were referred to the Committee on Education and Labor.

Mr. HUGHES presented memorials of sundry citizens of New Jersey, remonstrating against national prohibition, which were referred to the Committee on the Judiciary.

He also presented petitions of sundry citizens of New Jersey, praying for national prohibition, which were referred to the Committee on the Judiciary.

He also presented a memorial of sundry citizens of Plainfield and Rahway, in the State of New Jersey, remonstrating against the enactment of legislation to prohibit the distribution and dispensing of narcotic drugs by physicians, dentists, and veterinarians, which was ordered to lie on the table.

He also presented a petition of the Twelfth Ward Democratic Club of Jersey City, N. J., praying for the repeal of the exemption clause of the Panama Canal act, which was ordered to lie on the table.

Mr. KERN presented memorials of sundry citizens of Marion, Fort Wayne, and Indianapolis, all in the State of Indiana, remonstrating against national prohibition, which were referred to the Committee on the Judiciary.

Mr. BRANDEGEE presented a petition of the Pastors' Association, of Bridgeport, Conn., and a petition of sundry citizens of Waterbury and Northfield, Conn., praying for the adoption of an amendment to the Constitution to prohibit the manufacture, sale, and importation of intoxicating beverages, which were referred to the Committee on the Judiciary.

He also presented a petition of Local Division No. 500, Order of Railway Conductors, of New London, Conn., praying for the enactment of legislation to further restrict immigration, which was ordered to lie on the table.

He also presented a petition of the Business Men's Association of Middletown, Conn., praying for the enactment of legislation to provide for the retirement of superannuated civil-service employees, which was referred to the Committee on Civil Service and Retrenchment.

Mr. GALLINGER presented a petition of the Warner Valley Neighborhood Conference, of Newport, N. H., praying for the adoption of an amendment to the Constitution to prohibit the manufacture, sale, and importation of intoxicating beverages, which was referred to the Committee on the Judiciary.

He also presented memorials of sundry citizens of Portsmouth, N. H., remonstrating against the adoption of an amendment to the Constitution to prohibit the manufacture, sale, and importation of intoxicating beverages, which were referred to the Committee on the Judiciary.

Mr. SHEPPARD. I present resolutions adopted at the One hundred and twenty-sixth General Assembly of the Presbyterian Church in the United States of America on the subject of national prohibition. I ask that the resolutions may be read.

There being no objection, the resolutions were read, as follows:

CHICAGO, *May 26.*

Members of the One hundred and twenty-sixth General Assembly of the Presbyterian Church in the United States of America to-day went on record as favoring national prohibition, indorsing the national administration, the State Department, and the Navy Department for their action in support of the temperance movement, urged ministers and church members to withdraw from clubs and social organizations which dispensed alcoholic beverages, and condemned cigarette smoking.

Mr. SHEPPARD presented a memorial of sundry citizens of Dallas, Tex., and a memorial of Cigarmakers' Local Union, No. 404, of Austin, Tex., remonstrating against national prohibition, which were referred to the Committee on the Judiciary.

He also presented a petition of the Local Union of Christian Endeavor of Houston, Tex., and a petition of the congregation of the Westminster Presbyterian Church, of Houston, Tex., praying for the adoption of an amendment to the Constitution to prohibit polygamy, which were referred to the Committee on the Judiciary.

He also presented a memorial of the Booster Club of Henrietta, Tex., remonstrating against the enactment of any anti-trust legislation at this time, which was referred to the Committee on Interstate Commerce.

He also presented petitions of sundry citizens of Morganton, N. C., and of the Western Oklahoma Ministerial Association of the Pentecostal Church of the Nazarene, of Bethany, Okla., praying for national prohibition, which were referred to the Committee on the Judiciary.

Mr. NORRIS presented petitions of sundry citizens of Nebraska, praying for the adoption of an amendment to the Constitution to prohibit the manufacture, sale, and importation of intoxicating beverages, which were referred to the Committee on the Judiciary.

Mr. SHIVELY presented a petition of Henry W. Lawton Camp, No. 35, Department of Indiana, United Spanish War Veterans, at Fort Wayne, Ind., praying for the enactment of legislation to provide for the retirement of superannuated civil-service employees, which was referred to the Committee on Civil Service and Retrenchment.

He also presented a petition of the Congregational Sunday School, of Orland, Ind., praying for the adoption of an amendment to the Constitution to prohibit the manufacture, sale, and importation of intoxicating beverages, which was referred to the Committee on the Judiciary.

He also presented a memorial of Cigar Makers' Local Union No. 54, of Evansville, Ind., remonstrating against the adoption of an amendment to the Constitution to prohibit the manufacture, sale, and importation of intoxicating beverages, which was referred to the Committee on the Judiciary.

Mr. BURTON presented a petition of sundry citizens of Ohio, praying for the enactment of legislation to provide compensatory time for Sunday services performed by employees of the Post Office Department, which was referred to the Committee on Post Offices and Post Roads.

He also presented a petition of sundry citizens of Ohio, praying for the postponement of all antitrust legislation until the next session of Congress, which was referred to the Committee on Interstate Commerce.

He also presented a petition of sundry citizens of Ohio, praying for the enactment of legislation to provide for the retirement of superannuated civil-service employees, which was referred to the Committee on Civil Service and Retrenchment.

He also presented a petition of sundry citizens of Ohio, praying for the repeal of the toll-exemption clause in the Panama Canal act, which was ordered to lie on the table.

He also presented a petition of sundry citizens of Ohio, praying for an appropriation to provide for the erection of a monument to the memory of Capt. John Ericsson, which was referred to the Committee on the Library.

He also presented resolutions adopted by the Chamber of Commerce of Youngstown, Ohio, favoring the granting of full public hearings on the proposed antitrust legislation, which were referred to the Committee on Interstate Commerce.

Mr. SMITH of Michigan presented memorials of the International Union of Steam Engineers; of the Newspaper Web Pressmen's Union; of the Journeymen Barbers' Union; and of the International Wood Carvers' Association of America, Detroit Branch, all of Detroit; of Local Union No. 284, Brick, Tile, and Terra Cotta Workers' Alliance, of Spring Wells, of the Street and Electric Railway Employees Local Union, No. 343, of Kalamazoo; of Bartenders' Local Union No. 411, of Muskegon; and of sundry citizens of Detroit, Bay City, Isabella, Gladstone, and Escanaba, all in the State of Michigan, remonstrating against the adoption of an amendment to the Constitution to prohibit the manufacture, sale, and importation of intoxicating beverages, which were referred to the Committee on the Judiciary.

He also presented petitions of the Grand River Evangelical Brotherhood, of Detroit; of the Sunday School Association of Allegan County; of the congregations of the Congregational and Baptist Churches of South Haven; and of sundry citizens of Swartz Creek and Wolverine, all in the State of Michigan, praying for the adoption of an amendment to the Constitution to prohibit the manufacture, sale, and importation of intoxicating beverages, which were referred to the Committee on the Judiciary.

Mr. WEEKS presented a petition of the Men's Union of the First Methodist Church of South Framingham, Mass., praying for the enactment of legislation to provide for Federal censorship of motion pictures, which was referred to the Committee on Education and Labor.

He also presented a resolution adopted by Mount Hermon Commandery, No. 261, Knights of Malta, of Whitman, Mass., favoring the enactment of legislation to further restrict immigration, which was ordered to lie on the table.

He also presented petitions of sundry citizens of Mansfield, Williamsburg, Fitchburg, and Gardner, all in the State of Massachusetts, praying for the adoption of an amendment to the Constitution to prohibit the manufacture, sale, and importation of intoxicating beverages, which were referred to the Committee on the Judiciary.

Mr. CRAWFORD presented memorials of sundry citizens of Harding County, of Sioux Falls, and Lemmon, in the State of South Dakota, remonstrating against national prohibition, which were referred to the Committee on the Judiciary.

Mr. WORKS presented memorials of sundry citizens of San Diego and Stockton, in the State of California, remonstrating against national prohibition, which were referred to the Committee on the Judiciary.

Mr. HITCHCOCK presented petitions of sundry citizens of O'Neill, Fairbury, Central City, and Raymond, all in the State of Nebraska, praying for national prohibition, which were referred to the Committee on the Judiciary.

He also presented a petition of Local Union No. 246, Order of Railway Conductors, of Wymore, Nebr., praying for the enactment of legislation to further restrict immigration, which was ordered to lie on the table.

Mr. PAGE presented a petition of sundry citizens of Burlington, Vt., praying for national prohibition, which was referred to the Committee on the Judiciary.

CALLING OF THE ROLL.

Mr. KERN. Mr. President, I suggest the absence of a quorum.

The VICE PRESIDENT. The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Ashurst	Jones	Page	Sutherland
Brady	Kenyon	Perkins	Thomas
Brandegee	Kern	Pittman	Thompson
Bristow	La Follette	Pomerene	Thornton
Bryan	Lane	Saulsbury	Tillman
Burton	Lea, Tenn.	Shafroth	Vardaman
Catron	Lodge	Sheppard	Walsh
Chamberlain	Martin, Va.	Sherman	Warren
Colt	Martine, N. J.	Simmons	Weeks
Crawford	Myers	Smith, Ariz.	West
Cummins	Newlands	Smith, Md.	White
Gallinger	Norris	Smith, Mich.	Works
Gronna	O'Gorman	Smoot	
Hitchcock	Oliver	Sterling	
Hughes	Overman	Stone	

Mr. SMITH of Michigan. My colleague [Mr. TOWNSEND] is unavoidably absent from the Senate to-day. He is paired with the junior Senator from Florida [Mr. BRYAN].

Mr. WHITE. I wish to announce the unavoidable absence of my colleague [Mr. BANKHEAD] and to state that he is paired with the Senator from West Virginia [Mr. GOFF]. This announcement will continue during the day.

Mr. KERN. I desire to announce the unavoidable absence of the senior Senator from Arkansas [Mr. CLARKE], the senior Senator from Texas [Mr. CULBERSON], the junior Senator from New Hampshire [Mr. HOLLIS], and the junior Senator from Arkansas [Mr. ROBINSON], all of whom are paired. This announcement may stand for the day.

The VICE PRESIDENT. Fifty-seven Senators have answered to the roll call. There is a quorum present.

REPORTS OF COMMITTEES.

Mr. CHAMBERLAIN, from the Committee on Military Affairs, to which was referred the bill (H. R. 5304) to increase the efficiency of the aviation service of the Army, and for other purposes, reported it with an amendment and submitted a report (No. 576) thereon.

Mr. MYERS, from the Committee on Public Lands, to which was referred the bill (S. 5433) to amend an act entitled "An act to establish the Glacier National Park in the Rocky Mountains south of the international boundary line, in the State of Montana, and for other purposes," approved May 11, 1910, reported it without amendment and submitted a report (No. 577) thereon.

Mr. MARTINE of New Jersey, from the Committee on Industrial Expositions, to which was referred the amendment submitted by Mr. JONES on the 15th ultimo, proposing to appropriate $200,000 for the purpose of collecting and maintaining an adequate Alaskan exhibit at the Panama-Pacific Exposition, etc., intended to be proposed to the sundry civil appropriation bill, reported favorably thereon and moved that it be referred to the Committee on Appropriations and printed, which was agreed to.

BILLS INTRODUCED.

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. SMITH of Maryland:

A bill (S. 5711) providing for the appropriation of a sum of money for the erection at Fort McHenry, Baltimore, Md., of a monument to Francis Scott Key and the soldiers and sailors who participated in the Battle of North Point and the defense of Fort McHenry in the War of 1812; to the Committee on the Library.

By Mr. MYERS:

A bill (S. 5712) for the relief of the Jefferson Lime Co.; to the Committee on Claims.

By Mr. GRONNA:

A bill (S. 5713) to amend the act entitled "An act for the relief of certain settlers on the public lands, and to provide for the payment of certain fees, purchase money, and commissions paid on void entries of public lands," approved June 16, 1880; to the Committee on Public Lands.

By Mr. WEEKS:

A bill (S. 5714) providing for the promotion of certain officers of the Navy or Marine Corps, on retirement, to the next higher grade; to the Committee on Naval Affairs.

By Mr. LANE:

A bill (S. 5715) granting an increase of pension to Jen Rody Chauncey (with accompanying papers); to the Committee on Pensions.

By Mr. SHIVELY:

A bill (S. 5716) granting an increase of pension to Frank Snurpus (with accompanying papers); to the Committee on Pensions.

By Mr. CHAMBERLAIN:

A bill (S. 5717) granting an increase of pension to Max Pracht, alias Maxwell Pratt (with accompanying papers); and

A bill (S. 5718) granting a pension to John Sidney Montgomery (with accompanying papers); to the Committee on Pensions.

By Mr. JONES:

A bill (S. 5719) granting an increase of pension to Cary Otis (with accompanying papers); to the Committee on Pensions.

By Mr. LEWIS:

A bill (S. 5720) providing for the classification of salaries of veterinary inspectors, meat inspectors, inspectors' assistants, stock examiners, skilled laborers, and clerks employed in the Bureau of Animal Industry, Department of Agriculture; to the Committee on Agriculture and Forestry.

AMENDMENTS TO APPROPRIATION BILLS.

Mr. HITCHCOCK submitted an amendment proposing to appropriate $9,125 for the paving, curbing, and constructing sewers in connection with the improvement of that portion of north Thirtieth Street between Fort Street and Laurel Avenue, adjacent to the Fort Omaha Military Reservation, Omaha, Nebr., etc., intended to be proposed by him to the sundry civil appropriation bill, which was referred to the Committee on Appropriations and ordered to be printed.

Mr. O'GORMAN submitted an amendment proposing to increase the salary of the chief clerk, Senate post office, from $1,800 to $2,250 per annum, intended to be proposed by him to the legislative, etc., appropriation bill, which was ordered to lie on the table and be printed.

OMNIBUS CLAIMS BILL.

Mr. SHEPPARD submitted an amendment intended to be proposed by him to the omnibus claims bill, which was ordered to lie on the table and be printed.

PANAMA CANAL TOLLS.

Mr. PITTMAN. I submit an amendment to the Panama Canal tolls bill which I ask may be read.

There being no objection, the amendment was read, ordered to lie on the table, and to be printed as follows:

SEC. 3. The President of the United States may at any time by proclamation reduce the rate of tolls to be paid by vessels of the United States passing through the Panama Canal, or may exempt such vessels from the payment of any tolls or make and publish general rules prohibiting any vessel of any nation, including the United States, its citizens or subjects, from passing through the canal that has been granted any form of subsidy, bonus, or rebate or that possesses any privilege which would constitute a discrimination in favor of such vessel against the vessels of any other nation, including the United States, or charge such vessel such additional tolls as will equalize such conditions or make and publish such other general rules and regulations as, in his opinion, may be necessary for the purpose of securing or maintaining entire equality in the use of the canal and of preventing discrimination against the vessels of any nation, including the United States, its citizens or subjects: *Provided*, That neither the passage of this act nor anything therein contained shall be construed to waive, abandon, or impair any treaty or other right possessed by the United States.

Mr. RANSDELL submitted an amendment intended to be proposed by him to the bill (H. R. 14385) to amend section 5 of an act to provide for the opening, maintenance, protection, and operation of the Panama Canal and the sanitation of the Canal Zone, approved August 24, 1912, which was ordered to lie on the table and be printed.

WOMAN SUFFRAGE IN CALIFORNIA (S. DOC. NO. 488).

Mr. WORKS. I have here an address in the form of a report by a committee of women of southern California upon the practical working and operation of woman suffrage in the State of California containing valuable and interesting data upon live issues now before Congress and the people. I ask that it be printed as a public document.

The VICE PRESIDENT. Is there objection? The Chair hears none, and it is so ordered.

IRRIGATION DEVELOPMENT IN AUSTRALIA.

Mr. JONES. I have here an address delivered by Elwood Mead, engineer department of the state rivers and water supply commission, Victoria, Australia. Mr. Mead was formerly connected with the Agricultural Department of our Government. The address deals with conditions under irrigation projects and gives a statement as to how the farmers there have been aided and the results of such aid. I ask that it may be printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

SYSTEMATIC AID TO SETTLERS THE FIRST NEED IN IRRIGATION DEVELOPMENT.

[Address delivered at the Irrigation Conference, Denver, Colo., on Apr. 9, 1914, by Elwood Mead, C. E., chairman state rivers and water supply commission, Victoria, Australia.]

For the past seven years I have had the privilege of working for a government that has shown great wisdom and sagacity in its social and industrial legislation. Nowhere has this been more conspicuous than in its land and water laws and the policy followed in irrigation development. In this it has blazed trails which this country can follow to advantage. Recently I explained to Gov. Johnson, of California, the methods by which Victoria, one of the Australian States, is securing settlers on its irrigated lands and aiding them to rapidly become self-supporting and prosperous. He was greatly interested, and asked me to come to this convention as a delegate from California and explain what I had told him. Believing that a national policy of aid to settlers on irrigated lands will prove of immense value in developing this country and stop the drift of American farmers to other lands, I availed myself of the governor's suggestion, and did this the more readily because of the opportunity of meeting many whom I had formerly known.

The absence of adequate financial help for settlers during the first five years is the main cause for the stagnation in irrigation development in this country and for the calling of this conference. One only needs to put himself in the place of the settler to realize what a costly and serious venture it is to attempt to transform unimproved land into an irrigated farm and how much danger there is to the man of small capital that the attempt will prove a disaster. Before the settler can have any return from his land he must do many things not required in an unirrigated country. A house must be built, ditches dug, land cleared and graded, seed sown, and the somewhat difficult art of irrigation mastered under untried conditions before he can have any return. While this is being done there is no income. His scanty capital is being swallowed up in living expenses. Often there is much hardship for himself and his family. Many a poor settler's wife has aged 10 years in 10 months. If money has to be borrowed, interest rates are excessive, and all combine to discourage those to whom these conditions are strange and new.

To these have been added in recent years great increases in charges for land and water. Costly dams and permanent works mean much higher water charges than were paid by the earlier generation of irrigators, until the marvel is not that many fail, but than any endure. With water rights costing from $40 to $60 per acre and with the present western interest rates, the chances are all against the success of the settler who has less than $5,000 or $6,000 capital. The question which now needs to be decided is whether opportunities under national or private works are to be restricted to men with this or larger capital, or poorer men encouraged by helping them to improve their farms.

PROBLEMS OF SETTLEMENT HAVE BEEN NEGLECTED.

Thus far in America we have almost entirely ignored the requirements of colonization and settlement. We have looked upon the building or irrigation works and the marketing of irrigation securities as the main problems of irrigation development. We have not given enough thought to the obstacles which confront the farmer in completing the work of reclamation, and the risks and hardships imposed on himself and his family when they undertake the development of raw land, and the payment of high charges now imposed. Another mistake has been to regard irrigation enterprises as something which could be paid for quickly. We have taken it for granted that if the works were built the farmer would come forward and foot the bills. The actual facts are entirely different. Irrigation works do not create irrigated agriculture. The money spent on dams and canals must be followed by an equal or greater expenditure for houses, farm buildings, fences, grading, and ditching fields before the water can be used and irrigation works have either revenue or productive value.

Owing to settlers not being able to obtain financial aid many have not been able to complete the preparation of their land for irrigation in a reasonable time, and, as a result, have failed, when through timely assistance they would have succeeded. These failures have deterred others from attempting settlement, hence a large part of the irrigable land is unoccupied. Until this is changed the reclamation of irrigated land will continue to involve regrettable hardship and loss to many deserving settlers. Development will be slow and irrigation securities will have uncertain value. Irrigation works will not fulfill their greatest purpose, which is to create opportunities for poor men, and American farmers will continue to emigrate to the ready-made irrigated farms of Australia and Canada.

STATE AID IS FEASIBLE.

Adequate financial aid for settlers during the first five years is the greatest question before this conference. It is also the one about which there is likely to the greatest difference of opinion. No one, I think, doubts its need or value if wisely and honestly managed, but many do not regard it as feasible simply because it has not been attempted.

With respect to the latter, I have had during the past five years a most convincing and instructive experience. As chairmen of the State water commission of Victoria I have assisted in carrying out one of the most complete schemes of State aid to irrigated settlement ever attempted. Its success will, I hope, encourage this country to adopt a similar policy.

Seven years ago the situation under the irrigation schemes of Victoria was not unlike that under the Reclamation and Carey Acts projects to-day. Canals were built, water was available, but settlers were not there to use it, and hence the works were unprofitable. The State government determined to change this by creating conditions which would enable anyone who had industry and thrift to secure an irrigated farm, even if he had little or no money, and which would warrant its inviting settlement from distant countries. It has succeeded in its purpose by requiring only small initial payments and giving adequate aid and direction. No charge is made for water rights, and the annual payments for water are only intended to cover 4 per cent interest on the cost of works and the expenses of operation and maintenance. The cash payment on land is only 3 per cent of its cost and 31½ years is given in which to complete payments with interest at 4½ per cent. Houses are built for settlers on a cash payment of about one-fourth the cost, payments of the remainder may extend over 20 years with 5 per cent interest. The State, when desired, grades and seeds a portion, up to one-fourth, of each farm, on the payment of one-fifth the estimated cost, and allows the payments of the remainder to extend over 10 years. It employs disinterested expert advisers to help the settler select his farm, buy his horses and cows, and do what is needed to get established on his farm. The saving in money and time which this system effects can only be appreciated by those who have seen it in operation. Many settlers select their farm and arrange for the erection of their house before leaving Europe; are able to go directly from the ship to their new home, and have a living income from a dairy herd within a month from their arrival.

The State follows up this initial assistance by loaning the settler 60 per cent of the value of any improvements he makes. This enables men with small capital to complete without delay the grading, seeding,

and improvement of their farms. The settler does not need to halt when he exhausts his own capital. When he has one field graded he can borrow money on that to grade another.

This generous aid and the thoughtful consideration for his welfare is a great encouragement and incentive to the ambitious and earnest beginners. I have never seen elsewhere men work as hard or achieve as much in the first two years as on those Victorian settlements. But all who come are not industrious or capable. Such a scheme is especially attractive to the visionary and incompetent. Some of the settlers seem to regard the house, the farm, and the graded fields as an endowment, and to believe that the State which has done so much to help them succeed will do the remainder. To help the inexperienced and guard against being imposed upon by the idler or indifferent, the State employs in each district a tactful, practical farmer who is the friend, counsellor, and adviser of the working settler and a stimulator to others. When his efforts and influence fail the fact is reported to the head office. The settler knows of this and also knows that such report will have a controlling influence in determining whether or not he is to obtain loans or be given sympathetic treatment when payments are delayed. The law is so framed that the commission administering it has discretion to defer payments where settlers are unfortunate, but it also has authority to eliminate promptly any settler who fails to show earnestness, industry, and thrift.

This scheme of comprehensive aid has now been in operation for six years. The settlements that are three years old are practically established and self-supporting. It is the unanimous opinion of all those familiar with development that nowhere else have they seen such rapid progress in the cultivation of land or such large returns in the earlier years of settlement. One of the inspectors was formerly a successful farmer in the Imperial Valley, Cal. It is his belief that as much progress is made in these settlements in Victoria during 18 months as was made on an average in the Imperial Valley in 5 years.

One can not help being inspired by the hope, the gratitude, and the tremendous industry that is everywhere manifest. The government that inaugurated these measures is nearer a real democracy than a government that leaves the settler to struggle unaided. While Australia and New Zealand have led in the movement to aid settlers, their example is now being followed in other developing countries. South Africa has adopted it, and the newspapers report that British Columbia intends to adopt it. The Canadian Pacific Railway is loaning each settler on its irrigated tracts in aid of these initial improvements, and the Argentine is beginning to consider making such aid a feature of its colonization policy.

SHOULD THE POLICY OF THE UNITED STATES BE CHANGED?

The adoption of a similar policy in the United States would relieve settlers of much anxiety and hardships without imposing any burden on the taxpayer. By using the public credit long terms for repayment could be obtained at low rate of interest, and with settlers fitted for their work and given practical advice by the Government, repayment of loans would be assured, and development would then continue under opportunities as favorable as those provided in other countries. Every condition that has secured the success of State aid in Australia exists here in equal or greater measure. The tenant farmers of the Middle West furnish a large body of the very best class of settlers. The country does not have to look for them on the other side of the world. The lands are here, the works have been built. All that is needed is the inauguration of some businesslike scheme which will provide the funds and exercise the necessary direction and oversight over the settlers.

The greatest need in this country is the complete use of the works already built. From Colorado to California are private and public works, with less than half the land under cultivation, and with inadequate revenues are struggling to maintain their financial credit. Suitable settlers would completely change the situation. Under some of these schemes the conditions for extending this aid are altogether satisfactory, while under others settlement under present conditions should be prevented. Either the water supply is inadequate, the land is unfit, or the charges for land and water are too high. To extend public aid in the settlement of such enterprises means inevitable disaster to all concerned, and the first step in all such cases should be an investigation by some competent public authority to weed out the sound from the unsound schemes. Starting with sound enterprises there should, in each case, be an organization to meet and take charge of the settlers, and there must be some way by which large sums of money can be provided to give them the necessary aid.

In the State of Victoria this money is provided in a large measure by the State Savings Bank, which has deposits of $110,000,000, on which 3 and 3½ per cent interest is paid. This money is loaned directly to the farmers at 4½ and 5 per cent. A remote country, with small accumulations, thus gives the farmers money at about half the interest rates prevailing in the western part of the United States. It would seem that the Victorian policy might wisely be followed in the United States, and the funds deposited in the postal savings bank of the Nation loaned to farmers developing irrigated lands rather than to the banks, as at present. The experience of all of the Australian States shows that not only is this a safe use for these funds, but it can be made a great agency for national development. Safety could be further insured by an arrangement under which the States would guarantee the returns of all funds loaned to settlers within their boundaries. In any event, the cost of improving land is as great as the expense of providing water for it, and if we are to have a humane and rounded out scheme of development the settler's side must receive more consideration.

INTERSTATE TRADE COMMISSION.

Mr. OLIVER. I have here a memorial of the Philadelphia Board of Trade protesting against the passage of the interstate trade commission bill. It is not a long article, and I ask leave to have it printed in the RECORD and referred to the Committee on Interstate Commerce.

There being no objection, the memorial was referred to the Committee on Interstate Commerce and ordered to be printed in the RECORD, as follows:

PROTEST AGAINST PASSAGE OF BILL PROVIDING FOR THE CREATION OF AN INTERSTATE TRADE COMMISSION.

To the Honorable the Senate and House of Representatives of the United States in Congress assembled:

Your memorialist, the Philadelphia Board of Trade, respectfully represents:

That there has been introduced in the House of Representatives a bill entitled H. R. 14361, providing for the creation of an interstate trade commission.

Your memorialist is opposed to the proposed legislation for the following reasons:

PURPOSE OF THE COMMISSION.

Under the title of a trade commission the bill provides for the creation of a committee or body of three members, which shall have power to investigate the business of any corporation or class of corporations, with certain exceptions. It may require statements by any corporation within its jurisdiction of its financial condition, its trade relations, its business methods, etc., and may enforce the production of its business and other records and the attendance of its officers, employees, or other witnesses. In general purpose and effect it is intended to subject all of the business of the country (not already under commission supervision) to governmental supervision.

It should be noted that this body is not a court or judicial tribunal properly constituted to try and determine alleged infractions of any law or laws, but a body expressly authorized to impose upon the business of the country, or such classes of business as may be designated by it, the duty and burden of reporting annually to it the full record and account of its transactions.

PRINCIPLES OF FREE GOVERNMENT.

The only proper basis we believe, on which Government can in general interfere in either individual or business life is in laying down certain general rules or principles of conduct, applicable to all, and providing the necessary machinery for their enforcement. A proper tribunal, whether called a court or commission, whose duty it is to hear and determine charges of infractions of the law properly brought before it, is an essential part of the machinery for the enforcement of the law. A commission whose duty it is to "smell out" offenders or to require reports and generally oversee the details of business life has no place in the machinery of a free government.

Supervision of business merely as supervision is no more necessary to the public welfare, no more desirable, and no more possible than the supervision of the details of individual life. In either case it is indefensible on principle and is justly to be characterized as an objectionable form or characteristic of paternalism.

STATESMANSHIP V. POLITICS.

Accompanying the vast business expansion of the past 25 years there have been discernible certain practices which the sound moral judgment of the community disapproved. They comprised rebates given by public-service corporations (whose semipublic character should require them to treat all alike), willful and malicious attempts to injure competitors (outside the realm of the injury incident to fair competition), and attempts to acquire absolute control of particular industries. In the reaction against these things the public judgment should not be warped, sound principles of government should not be forgotten, and meretricious expedients should not be adopted.

The fact which we seek to emphasize is that every one of these admitted evils has been fully legislated against; the country has adequate courts to enforce the law and officers charged with the duty of prosecution where the offenses are charged. During the last five or six years public opinion has called for the rigid enforcement of the law. The law has been enforced, rebates have stopped, malicious injuries to competition have been punished, and great industries dissolved into small competitive fragments. Whether all of this will inure to the public welfare or not, whether in some respects the existing law may not be too stringent, we leave for time to determine. What we confidently assert, however, is that no one who has followed the history of these things can doubt the sweeping and effective character of the existing law to prohibit existing evils or the efficiency of the existing machinery for enforcing the law when that machinery is once set in motion.

Under the circumstances additional legislation will tend to confuse rather than clarify and is open to the just suspicion of political expediency.

GOVERNMENT BY COMMISSION.

In the reaction which has followed our great period of expansion the States have very generally attempted the experiment of commission rule for all public-service corporations. The Federal Government has adopted the same expedient with respect to the railroads. It would be unfair to so characterize these measures without giving the reasons for our belief that in their present form, at least, these commissions are experimental and have not yet demonstrated their right to a permanent place in our institutions.

1. THE FUNDAMENTAL DIFFICULTY.

In the first place, then, these commissions (so far as they are empowered to regulate prices) are all founded upon the anomalous principle that persons, without any direct responsibility for the consequences, without personal and first-hand knowledge of the requirements, and subject to influences of political expediency, are delegated to determine what this or that public-service corporation needs and shall earn. When it is considered that a large part of the savings of the country are invested in these companies, the outcome seems fraught with uncertainty and danger.

2. THE COST.

The commissions, Federal and State, have entailed a heavy burden of expense upon the community, directly upon business and indirectly upon the people as a whole. This expense is partly due to the cost of maintenance of the commissions themselves, but in much larger part to the requirements imposed by the commissions on the individuals or corporations coming within their jurisdiction. The data collected and furnished by one public-utility company at the request of one commission cost upward of $100,000, irrespective of the services of the officers and employees. If this were a fair average per State for each corporation (as to which we have not sufficient data for judgment), it would mean that the aggregate expense of the experiment of commission supervision of the public utilities alone will come to an enormous total.

An independent public-utility company doing a small but steady business was forced by the additional expense imposed by the commission requirements of its State to cease doing business, and its only method of saving the value of its assets was by sale to a competitor of sufficient size to bear without breaking the additional burden.

Probably most of the public-service corporations are to-day confronted with the concrete fact that if new money is needed to develop the service which they render to the community it must be raised by bond issues and heavy premiums paid to those who take the risk of disposing of the bonds. This condition is less sound from the economic standpoint than one in which the necessary funds can be raised on sales of stock, and the reason for the condition is very simple—if the commissions limit the amounts which the companies may earn, the public

have no sufficient inducement to invest in stocks; if the commissions impose on the companies heavy additional expense, the security for the bonds is depreciated. This condition must result unfavorably to the public in the end: it means less efficient service at higher prices.

If the final result of commission supervision over public-service corporations is to make the transaction of the public-service business unduly expensive (the community eventually paying the expense), is to prevent competition by tending to eliminate all but the larger and more powerful units, and is finally to so limit the credit of these companies and curtail the inducements they can offer to investors, that they are unable to finance themselves except at exorbitant rates, the systems of supervision by commissions is bad for the community and must eventually be modified or abandoned.

3. INDIRECT EFFECTS.

The indirect effects of governmental interference through commissions in business are not to be lightly ignored. While the general depressed condition of business and great shrinkage in values will doubtless be attributed by different persons to different causes—to foreign complications, to tariff charges, to world-wide movements of uncertain character, or other causes—one of the conditions powerfully affecting this country is undoubtedly this: The savings of the people of this country are invested chiefly in the business of the country. The vast sums invested in the railroads are confronted with the restrictive control of railroad earnings by the Interstate Commerce Commission, as well as by a mass of legislation in the several States exacting new forms of taxation, requirements of extravagant service, limitations of charges, etc. The almost equally large volume of savings invested in the public utilities is confronted with the same general problems through the operations of the commissions appointed in the various States.

The results of this restrictive legislation is apparent to all in the present difficulty experienced by the railroads and other public utilities in obtaining necessary capital, in the consequent stoppage of normal growth, and in the shrinkage of the value of their securities. However much other causes may intervene to assist in the general depression, the curtailment of the purchasing power of this large portion of the business agents of the country must and does play a large part in the unfavorable conditions which to-day exist.

CONCLUSION.

Under these circumstances we respectfully submit that wisdom and sound judgment require that the effect upon the country of commission supervision of the public-service corporations be carefully noted over a series of years before any attempt should be made to extend that system in any degree beyond its present limits.

If after a full and complete test commission control over railroads and public utilities is modified or developed into a system beneficial to the country, it will be ample time to consider in what form, if at all, Government should intervene to regulate the initiative and activities of individuals or corporations not engaged in public service but in private enterprise. In the meantime both public and private rights are amply guarded by existing law.

For the above reasons, among others, your memorialist respectfully submits that the interstate trade commission bill should not receive your favorable consideration.

And your memorialist will ever pray.

On motion, the report was accepted and the following resolutions adopted:

"1. *Resolved*, That the memorial issued by the officers and committee in charge, under the direction of this board, opposing the so-called omnibus antitrust bill is hereby approved.

"2. *Resolved*, That the officers be instructed to enter a negative vote to the referendum submitted by the Chamber of Commerce of the United States to its members in relation to the creation of an interstate trade commission.

"3. *Resolved*, That the officers be instructed to issue the memorial submitted to this council by the committee on legislation in opposition to the proposed interstate trade commission."

NOTE.—A copy of the memorial opposing the passage of the omnibus antitrust bill (H. R. 15657), as formulated by the committee on "legislation" under the authority of a resolution adopted at the meetng of the board held April 20, 1914, accompanies this summary.

WM. M. COATES, *President.*

Attest:

W. R. TUCKER, *Secretary.*

PERSONAL EXPLANATION—REPUBLIC COAL CO.

Mr. MYERS. Mr. President, I desire to make a personal statement.

On the 23d of March last, when Senate joint resolution No. 41, providing for the sale of certain coal lands to the Republic Coal Co., of Montana, was before the Senate and under discussion, I had the floor, and after having made a statement that the Republic Coal Co. was a subsidiary company of the Chicago, Milwaukee & Puget Sound Railway Co. and that so far as that resolution was concerned it was practically identical with that railway company, I used this language:

> The Northern Pacific owns each alternate section of coal lands there and will not sell any coal to a competing line. It absolutely refuses to treat with it or deal with it or negotiate with it at all.

At the time I used that language I believed it to be entirely and literally true. I had so understood. Shortly thereafter I received a letter from Mr. J. M. Hannaford, president of the Northern Pacific Railway Co., in which he called my attention to that language and informed me that it was not correct, and stated that he had had some correspondence with the manager of the Republic Coal Co. looking to the leasing of some of the coal lands of the Northern Pacific Railway Co.; that he had made the manager of the Republic Coal Co. a figure on leasing some of the coal lands of the Northern Pacific Railway Co., and that the manager of the Republic Coal Co. claimed that he could not pay the price and had declined to enter into a lease at the price quoted.

Mr. Hannaford asked me for the source of my information on the subject, and I gave him as my informant the manager of the Republic Coal Co. That gentleman was in the city at the time, and I called to his attention the letter of Mr. Hannaford and he verified Mr. Hannaford's statement. He said that the Northern Pacific Railway Co. had made to him a price on the leasing of some coal land, but he claimed that the price was prohibitive and was beyond his reach, and that he could not afford to pay it, and therefore no lease had been entered into.

I had been under the impression that the Northern Pacific Railway Co. had absolutely refused to negotiate with or deal with the manager of the Republic Coal Co. at all and so stated, but upon having my attention called to the statement I learned the facts to be, as acknowledged by both sides, that a price had been quoted, and that the manager of the Republic Coal Co. claimed that the quoted price was prohibitive, and that therefore he could not afford to enter into a lease at the price named. I suppose that is a matter of opinion between him and the president of the Northern Pacific Railway Co.

I now make this statement, in order to correct and set right my former statement, made under a misapprehension, which I believed to be correct at the time. It appears that the reason why no lease has been entered into has been because of a difference of opinion between the management of the two institutions as to what the Republic Coal Co. could afford to pay the Northern Pacific Railway Co. for coal in the vicinity of the operations of the former company. The misstatement that I made was entirely unintentional on my part and I was entirely innocent in making it.

While believing that it is right that the Republic Coal Co. should have coal for the operation of its trains on the Milwaukee Railroad, believing that it is an absolute necessity, and believing still, as I do, that Senate joint resolution No. 41 is a just and meritorious measure and that the Republic Coal Co. should be allowed to buy coal from the Government at a reasonable price, at the same time I do not wish to do any injustice to the management of the Northern Pacific Railway Co. I stated that the Northern Pacific Railway Co. refused to negotiate with the Republic Coal Co. for the leasing or sale of any coal lands. I know that the manager of the Republic Coal Co. never intended to mislead me and would not do so. Doubtless he told me that he had "been unable to negotiate" a sale or lease with the Northern Pacific, meaning that they had been unable to come to terms, while I gained therefrom the idea that the Northern Pacific had refused to negotiate. I now know there was no refusal to negotiate but an inability of the parties to effect a negotiation, on account of differences of opinion. It was an innocent misapprehension on my part. I know that the manager of the Republic Coal Co. never intended to mislead or misinform me. It was my own misunderstanding.

I realize that the Northern Pacific Railway Co. and the Chicago, Milwaukee & Puget Sound Railway Co. are both great institutions, each of which has done a grand work for the State of Montana, the great northwest, and the entire country. Each is entitled to just and fair consideration, and I want each to have equal rights and just and fair treatment; nothing more and nothing less. I would not knowingly reflect on either. I highly esteem both.

I would not wish any statement of mine which would do injustice to either one to go uncorrected. Therefore I take great pleasure in making the correction I have just made.

I do not believe that the innocent misstatement which I made was material to the merits of the subject under discussion. I still believe Senate joint resolution 41 meritorious, and that it should speedily pass the Senate and House. The correction I have made is immaterial to its merits and is in nowise prejudicial to it and does not affect its rights. However, I do not wish any statement of mine, whether material to justice or not, to misrepresent anyone.

LIABILITY OF COMMON CARRIERS.

The VICE PRESIDENT. The Chair lays before the Senate a resolution coming over from a previous day, which will be read.

The Secretary read the resolution (S. Res. 384) submitted yesterday by Mr. CUMMINS, as follows:

> *Resolved*, That immediately after the final disposition of the bill now the unfinished business the Senate take up for consideration S. 4522, to amend the interstate-commerce act relating to liability of common carriers.

Mr. CUMMINS. Mr. President, I believe time can be saved by the suggestion which I am about to make. I expect to debate this resolution long enough to show why the bill to which it refers should receive consideration very soon, but I believe we can dispose of the bill in less time than it will require me

to debate the resolution. I therefore again ask unanimous consent for the present consideration of Senate bill 4522.

The VICE PRESIDENT. Is there objection?

Mr. NEWLANDS. Mr. President, I observe that there are certain amendments to the bill which will be offered by the Senator from Texas [Mr. SHEPPARD], and I can not assume that the bill will not take time for debate. The report on the bill was made by the Senator from Arkansas [Mr. ROBINSON], who is the chairman of the subcommittee which considered the bill. The Senator from Arkansas is absent from the city and will be absent for a week or 10 days. I should much prefer that the Senator from Iowa would permit this matter to lie over until the Senator from Arkansas returns.

Mr. CUMMINS. I can not hear the Senator from Nevada.

Mr. NEWLANDS. Mr. President, I stated that the chairman of the subcommittee which had the bill under consideration was the Senator from Arkansas [Mr. ROBINSON]; that he reported the bill; that he is now absent in Arkansas and will not be back for 10 days at least; and I suggested that the Senator from Iowa should let the matter lie over until the Senator from Arkansas returns.

Mr. CUMMINS. Mr. President, the Senator from Arkansas is earnestly in favor of this bill. He and myself were members of the subcommittee that had hearings upon the bill, and one of the last things that he said to me before he went home was to lose no opportunity to bring the bill before the Senate, and to do it at the earliest possible moment. I am sure that the Senator from Nevada is not speaking for the Senator from Arkansas when he asks delay.

Mr. NEWLANDS. Mr. President, I have had no communication with the Senator from Arkansas regarding this bill, and I take it for granted, of course, that he expressed himself regarding it as the Senator from Iowa has indicated; but still there are amendments offered to this bill, and it seems to me entirely proper that the Senator from Arkansas should be here, as he is more familiar with the bill than anyone else. Therefore I suggest to the Senator from Iowa that the matter should go over until his return.

Mr. CUMMINS. Of course, it is in the power of the Senator from Nevada to object——

Mr. NEWLANDS. Yes; I object.

Mr. CUMMINS. But I do not intend to postpone it because the Senator from Arkansas is absent, in view of the fact that he especially asked me not to postpone it, but to bring it on just as soon as I could. He realizes the importance of the bill quite as fully as I do, and he reported on behalf of the committee the amendments which are now printed in the bill.

The VICE PRESIDENT. Is there objection to the present consideration of the bill?

Mr. THORNTON. Mr. President, in the absence of the chairman of the Committee on Interoceanic Canals, I wish to say to the Senator from Iowa that I can not consent to his bill interfering with the consideration of what is called the Panama Canal tolls bill when the time comes for it to be taken up; and I can not consent to its consuming the time that properly should be devoted to the consideration of the naval appropriation bill, which is now under consideration, and which, I think, will be finished this afternoon. I have no objection to considering the bill in which the Senator from Iowa is interested, provided the discussion can be closed on it by half past 12 or 1 o'clock; otherwise, I shall have to object.

The VICE PRESIDENT. The Chair will state, as a matter of parliamentary law, that an objection may be interposed at any time before 1 o'clock to the further consideration of the bill. Is there any objection to the present consideration of the bill?

Mr. NEWLANDS. I do not understand what the Chair said with reference to the bill. Do I understand that objection can be made to its further consideration at any time before 1 o'clock?

The VICE PRESIDENT. Yes; objection can be made to its further consideration at any time before 1 o'clock.

Mr. NEWLANDS. The bill will not, then, take its place as the unfinished business?

The VICE PRESIDENT. Certainly not; it will go back to the calendar undisposed of at that time.

Mr. BRANDEGEE. Mr. President, does not the objection, which can be interposed at any time, relate to a bill which has been taken up under Rule VIII? After the Senate gives unanimous consent for the consideration of this bill, I do not think that a Senator——

The VICE PRESIDENT. It relates, in the opinion of the Chair, to a bill taken up in the morning hour not on motion.

Mr. BRANDEGEE. Such a bill may be objected to at any time?

The VICE PRESIDENT. Such a bill may be objected to at any time during the morning hour. That is the understanding of the Chair with reference to the rule. The opinion of the Chair has been that as to a bill taken up without exception during the morning hour the Senate might discover that it was leading to too great an expenditure of time and stop it and send it back to the calendar. That has been the view of the Chair. Is there objection to the present consideration of the bill? The Chair hears none.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill (S. 4522) to amend an act entitled "An act to amend an act entitled 'An act to regulate commerce,' approved February 4, 1887, and all acts amendatory thereof, and to enlarge the powers of the Interstate Commerce Commission," approved June 29, 1906, which had been reported from the Committee on Interstate Commerce with amendments.

The Secretary proceeded to read the bill and read to the word "transportation," in line 19, on page 2.

Mr. SHEPPARD. Mr. President, is it proper to offer an amendment at this point? I understand this is merely the first reading of the bill.

Mr. GALLINGER. Mr. President, the bill evidently should be read in its original form.

The VICE PRESIDENT. The Chair thinks the bill should be read first, and then amendments may be offered.

Mr. SHEPPARD. I wish to offer an amendment to this line of the bill.

The VICE PRESIDENT. The Chair thinks the bill should be first read for the information of the Senate, and then amendments may be offered.

The Secretary resumed and concluded the reading of the bill.

The first amendment reported by the Committee on Interstate Commerce was, on page 3, line 6, after the word "State," to insert "Territory, or the District of Columbia"; and in line 7, after the word "State," to insert "or Territory, or from a point in a State or Territory to a point in the District of Columbia, or for transportation wholly within a Territory," so as to read:

That any common carrier, railroad, or transportation company receiving property for transportation from a point in one State to a point in another State shall issue a receipt or bill of lading therefor, and shall be liable to the lawful holder thereof for any loss, damage, or injury to such property caused by it or by any common carrier, railroad, or transportation company to which such property may be delivered or over whose line or lines such property may pass, and no contract, receipt, rule, or regulation shall exempt such common carrier, railroad, or transportation company from the liability hereby imposed; and any such common carrier, railroad, or transportation company so receiving property for transportation from a point in one State, Territory, or the District of Columbia to a point in another State or Territory, or from a point in a State or Territory to a point in the District of Columbia, or for transportation wholly within a Territory, shall be liable to the lawful holder of said receipt or bill of lading.

The amendment was agreed to.

The next amendment was, on page 3, line 11, after the word "full," to strike out "actual value of such property" and insert "actual loss, damage, or injury to such property caused by it or by any common carrier, railroad, or transportation company to which such property may be delivered or over whose line or lines such property may pass"; so as to read:

For the full actual loss, damage, or injury to such property caused by it or by any common carrier, railroad, or transportation company to which such property may be delivered or over whose line or lines such property may pass, notwithstanding any limitation of liability or limitation of the amount of recovery or representation or agreement as to value in any such receipt or bill of lading, or in any contract, rule, regulation, or in any tariff filed with the Interstate Commerce Commission; and any such limitation, without respect to the manner or form in which it is sought to be made, is hereby declared to be unlawful and void.

Mr. GALLINGER. Mr. President, I ask the Senator from Iowa precisely what difference in meaning there is between the language of the bill and the amendment?

Mr. SMITH of Georgia. We can not hear the Senator from New Hampshire.

Mr. GALLINGER. I inquired of the Senator from Iowa as to the exact difference in meaning between the language of the bill in its original form and the amendment, which, in lieu of the words "actual value of such property," proposes to insert "actual loss, damage, or injury to such property caused by it or by any common carrier, railroad, or transportation company to which such property may be delivered or over whose line or lines such property may pass."

Mr. CUMMINS. The language of the bill is not very happily chosen in this respect, but the difference is that if the property was damaged, not wholly destroyed, the words of the original

bill would seem to have implied that the entire value of the property could be recovered, whereas it is the intent that only the actual loss or damage shall be recovered.

The VICE PRESIDENT. The question is on agreeing to the amendment.

The amendment was agreed to.

The SECRETARY. Also, on page 3, line 22, after the words "*Provided, however,*" the committee proposes to strike out "That, if the property so offered and received for transportation," and in lieu thereof to insert "That, except as to ordinary live stock, if such property so offered and received for transportation."

The amendment was agreed to.

The SECRETARY. On page 3, line 25, after the word "or," the committee proposes to strike out the word "otherwise," and insert: "by other means, or if express authorization has been heretofore granted or shall be hereafter granted by the Interstate Commerce Commission for the establishment and maintenance of rates for the transportation thereof dependent upon the value of the property shipped, as stated in writing by the consignor and reference given in the rate schedule to such authorization, then."

The amendment was agreed to.

Mr. SMITH of Georgia. I will ask the Senator from Iowa to give us a word of explanation of this amendment before it is agreed to.

Mr. CUMMINS. I think it might be well to state at this point just what the difficulty is with the law as now construed by the Supreme Court.

Prior to 1906 it was the law in most of the States of the Union, either by statute or by the declaration of the courts of the State, that any agreement, rule, or regulation that sought to limit the liability of railway companies to less than the actual value of the property injured, or the actual loss or damage sustained by an individual, if a person was injured, was void as against public policy. I think it is well, possibly, at this point, to show that.

In our State, for instance—and I choose now one decision of the Supreme Court construing a statute of the State and one decision construing or applying the common law of the State as declared by its highest tribunal—in the case of the Chicago, Milwaukee & St. Paul Railway Co. against Solan, reported in One hundred and sixty-ninth United States, at page 133, the Supreme Court had before it for review the judgment of the Supreme Court of Iowa in a suit brought by a shipper of stock for injuries which he had sustained while upon an interstate journey accompanying the stock which he owned. The section of our code which relates to the subject is as follows:

> No contract, receipt, rule, or regulation shall exempt any corporation engaged in transporting persons or property by railway from liability of a common carrier or carrier of passengers which would exist had no contract, receipt, rule, or regulation been made or entered into.

This particular plaintiff had entered into an agreement with the Chicago, Milwaukee & St. Paul road that in the event of injury to him the recovery should be limited to $500. He was injured, he sued, and the supreme court of the State held that under this section of the code the agreement which had been entered into was void, and that, notwithstanding the agreement, he had a right to recover his full damage. In the Supreme Court of the United States, to which the judgment was taken, it was urged that inasmuch as this was an interstate transaction, an interstate journey, and inasmuch as Congress had exclusive jurisdiction over interstate commerce, the statute of Iowa was invalid and could not apply to such an instance. The Supreme Court, however, in very decided and positive terms held that until Congress acted upon the particular subject the legislation of the State was effective and valid, and it affirmed the judgment of the Supreme Court of Iowa.

A little later there came before the Supreme Court the case of the Pennsylvania Railroad Co. against Hughes, reported in One hundred and ninety-first United States, at page 477. There a horse had been shipped from New York to Pennsylvania, and the owner or shipper had agreed with the railroad company that in case of loss or in case of killing the animal the recovery should be not to exceed $100; I think that was the limitation. There was a trial, and the Supreme Court of Pennsylvania held that the agreement was contrary to the policy of that State—that is to say, it was contrary to the common law of Pennsylvania—and entered a judgment for the full value of the horse. The judgment was taken for review to the Supreme Court of the United States; and then again the Supreme Court held that the law of the State, as declared by its highest judicial tribunal, was the law that must be applied to the instance, and that the plaintiff was entitled to recover the full value of the animal, notwithstanding the fact that it was injured in an interstate carriage, and that Pennsylvania, either through her legislature or through her courts, had a perfect right to determine the respective rights and liabilities of the persons interested until Congress acted.

Such was the law in nearly all of the States of the Union when in 1906 we came to revise the interstate-commerce law. There was, as you will remember, quite an extensive revision of the law in 1906, and as a part of that revision there was adopted what has become well known as the Carmack amendment. It is shown in the first paragraph of this bill. It reads:

> That any common carrier, railroad, or transportation company receiving property for transportation from a point in one State to a point in another State shall issue a receipt or a bill of lading therefor, and shall be liable to the lawful holder thereof for any loss, damage, or injury to such property caused by it or by any common carrier, railroad, or transportation company to which such property may be delivered, or over whose line or lines such property may pass, and no contract, receipt, rule, or regulation shall exempt such common carrier, railroad, or transportation company from the liability hereby imposed: *Provided*, That nothing in this section shall deprive any holder of such receipt or bill of lading of any remedy or right of action which he has under existing law.

It will be observed that the purpose of this amendment was to make the initial carrier liable for any loss or damage that might occur to property or persons during the entire carriage. I am sure it was not in the mind of Congress, and certainly not in the mind of the Senator who offered the amendment, to make any change whatsoever in the law to which I have referred governing the extent of recovery.

A year or two after that time, however, an express company lost a ring which had been committed to its care, and which was shipped under a contract for limited liability—$50, I believe, or $25. When that case reached the Supreme Court of the United States the court reviewed the entire field, and said that while before the Carmack amendment was adopted these State statutes and State laws through judicial interpretation were valid, yet inasmuch as Congress had acted upon the subject of bills of lading, and had not specifically provided against the exemption or immunity from liability to which I have referred, therefore all the State statutes and all the State judicial declarations upon the subject were abrogated, and that a common carrier could validly agree with a shipper that if a horse or an animal of any kind were shipped upon the rate that had been customary, if the animal were lost the recovery should be no more, we will say, than $25 or $30 or $40, as the railroad company might desire.

I shall not read the opinion of the court; it goes into the subject very carefully; and the conclusion I have stated will not be disputed by anyone who is familiar with it. It has been followed by three other decisions of the Supreme Court construing this amendment, all in harmony with the first one, the effect of which is to destroy what has been, I was about to say, from time immemorial the law of the country controlling this subject, and to make it valid for railroad companies to limit their liability to a certain sum which may be named in the bill of lading.

Mr. SMITH of Georgia. Mr. President, I wish to suggest to the Senator that he read the title of the case and the volume, so that it may be in the RECORD.

Mr. CUMMINS. The title of the case is Adams Express Co. against Croniger. It is reported in volume 226 of the United States Supreme Court Reports, at page 491. I do not refer to the others, for they are of the same general tenor.

In this bill we have tried to restore to the shippers of this country not all, but a measure, of the rights which they possessed and which they exercised prior to the passage of the Carmack amendment, which inadvertently destroyed those rights. Therefore we provided that the railroad company should be liable to the lawful holder of the receipt or any other person for the full actual loss, damage, or injury caused by it—

> notwithstanding any limitation of liability or limitation of the amount of recovery or representation or agreement as to value in any such receipt or bill of lading, or in any contract, rule, regulation, or in any tariff filed with the Interstate Commerce Commission; and any such limitation, without respect to the manner or form in which it is sought to be made, is hereby declared to be unlawful and void.

We understood perfectly well, however, that there were instances in which certain common carriers ought to have a right to limit their liability, especially in cases in which the goods shipped were concealed by boxing or wrapping; cases in which the common carriers could not have any knowledge with regard to the character or value of the goods.

Mr. POMERENE. Mr. President——

The VICE PRESIDENT. Does the Senator from Iowa yield to the Senator from Ohio?

Mr. CUMMINS. I do.

Mr. POMERENE. If I may call the Senator's attention to the language just read, the thought has occurred to me that perhaps it was not broad enough to grant the relief which is desired in this respect.

Reading from line 11, the amendment is:

For the full actual loss, damage, or injury to such property caused by it or by any common carrier.

Of course if the injury was due directly to some act or omission on the part of the railroad company, then the holder of the bill of lading could recover the loss. Suppose, however, the property which was being transported was stolen or was injured by the act of some third party, would the company be liable for such injury under the terms of this amendment?

Mr. CUMMINS. I think the carrier would be liable if the damage came hrough any failure on its part to exercise that degree of care or that caution which the law imposes upon the common carrier. It was not the purpose, of course, in this amendment to either enlarge or diminish the care which the common carrier must bestow upon goods committed to its possession, or, in other words, to change its liability as an insurer.

Mr. POMERENE. I am quite sure it was not the intention of the draftsman to limit that rule, but I was fearful that the language employed was not broad enough to cover it.

Mr. CUMMINS. If the Senator has an amendment that will cover it I will be glad to have him present it.

I was about to say, in cases where goods so offered to a common carrier are hidden or boxed it is impossible for the carrier to know what it is receiving. So we all thought, and I am sure you will all think, that it would be fair and reasonable for the carrier to stipulate a limitation upon its liability.

Mr. WARREN. Mr. President——

Mr. CUMMINS. In just a moment. The other contingency is if express authorization has been heretofore granted or shall be hereafter granted by the Interstate Commerce Commission then this prohibition against limitation of recovery does not apply. That exception, however, does not apply to ordinary live stock.

Mr. WARREN. Right there—the provision in line 22 on page 3 is a little blind to me. After the exception as to ordinary live stock, it goes on and speaks of property hidden from view by wrapping, boxing, and so forth. Is that exception intended to be made to cover ordinary live stock only and differentiate it from all other shipments of every nature? And does it prevent the practice prevalent heretofore in the shipment of live stock?

Mr. REED. Mr. President, it is impossible to hear the Senator from Wyoming.

Mr. CUMMINS. That is just what it is made to cover. That is the object of the bill. It will cover other things; but the real necessity for the bill arises from the impositions that are now being practiced by the common carriers upon the shippers and owners of live stock in this country.

Mr. WARREN. What I want to get at is this: When the bill passes, in what relation are the shippers of live stock and the railroads? Do they then operate under an agreed value of the live stock, and does that value cover any damage or loss?

Mr. CUMMINS. They do not. The very purpose of the bill is to prohibit the agreement with regard to a release of value to a certain point. That is to say, taking our State, our ordinary cattle, we will say, are worth $100 or $120 a head. They are now released, under the practice of the railroad company, to thirty or forty or fifty dollars a head, and when anything happens to them the shipper must accept his indemnity or his damages based upon this released value, or diminished value. The purpose is to put an end to that practice. It began since 1906, and it ought not to continue.

Mr. WARREN. In this proposed amendment of the law the language reads as follows:

Provided, however, That, except as to ordinary live stock, if such property so offered and received for transportation is hidden from view by wrapping, boxing, or by other means, or if express authorization has been heretofore granted or shall be hereafter granted by the Interstate Commerce Commission—

And so forth.

I do not quite see how that exception is grouped with the property hidden from view by wrapping, boxing, and so forth.

Mr. CUMMINS. Suppose I bring to an express company a watch, and it is in a box. So the express company does not know——

Mr. WARREN. That part I understand perfectly, but not the regulation as to live stock where it says "except as to ordinary live stock."

Mr. CUMMINS. Of course, the latter part of that clause contains two things: First, if the goods shall be hidden from view by wrapping or boxing. That, of course, does not touch live stock.

Or if express authorization has been heretofore granted, or shall be hereafter granted, by the Interstate Commerce Commission for the establishment and maintenance of rates for the transportation thereof dependent upon the value of the property shipped.

Mr. WARREN. Why make an exception as to live stock? The Interstate Commerce Commission will still have the power to permit higher rates on live-stock transportation if insurance and higher risk rates or values are insisted upon.

Mr. CUMMINS. It does not permit the Interstate Commerce Commission to make a rate upon live stock dependent upon value; that is, ordinary live stock I am speaking of.

Mr. WARREN. Then that exception is to retain and reserve from the Interstate Commerce Commission power to make rules or directions as to the shipment of live stock only, while allowing it to cover every other commodity or shipment of every nature. I see no good reason for that.

Mr. CUMMINS. That is the purpose.

Mr. NELSON. Will the Senator from Iowa yield to me?

Mr. CUMMINS. I yield.

Mr. NELSON. It seems to me that great danger lurks in the words in italics at the top of page 4:

Or if express authorization has been heretofore granted, or shall be hereafter granted, by the Interstate Commerce Commission for the establishment and maintenance of rates for the transportation thereof dependent upon the value of the property shipped, as stated in writing by the consignor, and reference given in the rate schedule to such authorization.

If you will study this language carefully, you will find it authorizes the Interstate Commerce Commission practically to establish, in the case of each commodity, two special rates, one flat rate where there is an unconditional liability for loss or damage, and another rate by which the company can limit its liability. This is broad enough to cover everything but live stock; so that the Interstate Commerce Commission may, in respect to any commodity, establish two rates, and say that for such a rate there is unlimited liability, and for such a lower rate you can limit your liability by the bill of lading.

It seems to me that this is extending the right of the Interstate Commerce Commission to an unlimited extent. We know how it works in actual practice. A man comes to the railroad company to ship a certain commodity. He is handed a bill of lading, and he signs it, oftentimes without reading it. It may be a limited-liability bill; and the man wakes up when the loss or damage occurs to find out that he can only collect a limited amount of the damage sustained.

I think it is a most dangerous power to confer upon the Interstate Commerce Commission, and that there ought not to be in any case any right to relieve themselves from liability.

Mr. CUMMINS. What the Senator from Minnesota has said is unquestionably true. The thing he overlooks is that the Interstate Commerce Commission not only now has the power to which he refers but it has exercised the power in many instances. The Interstate Commerce Commission has made a complete schedule of rates for the express companies of the country, and those rates are based upon value. The Interstate Commerce Commission has formulated and published the receipts or bills of lading or contracts which these companies make with their shippers, and in all of them, as I am informed, there is this limitation.

It is perfectly right, Mr. President, that there should be the limitation in such cases, simply because, first, the property may be entirely hidden, and, second, because in the great markets of the country there are many large shippers of certain kinds of articles who would rather bear the risk themselves and receive from the express companies a rate correspondingly less than the rate which would be imposed if the express company became the insurer against the higher value.

Mr. REED. Mr. President——

The VICE PRESIDENT. Does the Senator from Iowa yield to the Senator from Missouri?

Mr. CUMMINS. I do.

Mr. REED. I take it that the Senator from Iowa in this bill only intends to protect a railroad company or a common carrier from being mulcted in heavy damages through the loss of some package the contents of which they did not have the opportunity to know. He does not mean to exempt them simply because the goods happen to be in a box?

Mr. CUMMINS. Oh, not at all.

Mr. REED. I think this bill does that identical thing. I want to call the Senator's attention to it. My examination has been somewhat hasty, and I may be in error. Beginning at line 23, on page 3, it reads:

That, except as to ordinary live stock, if such property so offered and received for transportation is hidden from view by wrapping, boxing, or by other means.

The language of the bill preceding that is that there shall be a liability. Then comes the proviso which excepts certain things out of the operation of the bill. It reads:

Provided, however, That, except as to ordinary live stock, if such property so offered and received for transportation is hidden from view by wrapping, boxing, or by other means—

Now, omitting the other language—

Then the rule of the common law shall apply.

In other words, if it is in a box hidden from view the rule of the common law absolutely applies. But the rule of the common law also applies if the Interstate Commerce Commission shall make certain rules and regulations. So, if a man brings to a railroad a box the contents of which are not visible the rule of the common law applies and there can be no recovery in that instance if there has been a contract limiting the liability imposed upon the shipper.

Mr. CUMMINS. There——

Mr. REED. The Senator will pardon me that I may make my point plain by a further word. Now, conceding the railroad ought to be given the right to limit its liability in the event it does not know and has not the means of knowing the contents of a package, still the test ought not to be the exemption; it ought not to exist simply because a thing is in a box and hidden from view. It might be reasonable to require a disclosure by the shipper, and if the shipper failed to make known the contents or falsely stated the contents then to deny him the right of recovery, but to make the fact that the article is inclosed in a box the test seems to me not to be in accordance with what I know the Senator from Iowa honestly desires to accomplish.

Mr. CUMMINS. Mr. President, in answer to the Senator from Missouri, in these two events, namely, if the property is hidden from view or if it is expressly authorized by the Interstate Commerce Commission, the contract or rule or regulation of the common carrier is judged by the common law instead of by the statute which is here imposed. I agree that in some instances that will work injustice, but the hearings before the committee convinced us that in cities like New York, Philadelphia, Boston, and Chicago, where the express companies gather up tens of thousands, hundreds of thousands, of packages in the course of an afternoon, it would be impossible to have the express company make an inquiry of the shipper with regard to the contents of each of those packages. Indeed we had great difficulty in the committee in preserving in the bill the words "in writing." It was contended by a great many that oral representations on the part of the shipper ought to be sufficient, and I hope that because we have not gone as far as we might go the Senator from Missouri will not regard that as an obstacle to the passage of the bill, because the things that are excepted from the prohibition found here are now subject to the common law. We are in no worse case because we have not attempted to cover them all in the bill.

Mr. REED. Would the Senator from Iowa really want to present a bill in this form: The rule of the common law shall apply to everything which is inclosed in a package whether the contents of the package are known to the common carrier or not? Now, that is what this bill means, if I interpret it aright.

Mr. CUMMINS. That is what it means.

Mr. REED. In other words, the minute you put a thing in a box the railroad company can limit its liability.

Mr. KERN. You limit it.

Mr. REED. You limit it by boxing it, although it may be a thing that has to be boxed. The Senator from Indiana [Mr. KERN] says no; you limit it. That is to say, when you present it you are required to sign a contract which, as the Senator from Minnesota [Mr. NELSON] has very wisely said, is signed in ninety-nine cases out of a hundred without reading, and thereby you find that a loss has occurred through the negligence of the shipper, and because you put it in a box you have been exempted from the beneficient operations of this law.

Mr. CUMMINS. No; the Senator from Missouri is hardly fair about that. Possibly he has not observed the latter part of the amendment. It must be hidden from view.

Mr. REED. Very well.

Mr. CUMMINS. The value must be stated in writing by the consignor, and the rate must be based upon that lesser value. Those three things must concur in order to bring this exception within the rule of the common law.

Mr. REED. If it does not interrupt the Senator—I do not want to impose upon his good nature—it seems to me that the true test ought to be this: Did the common carrier know the contents of the package; not was it boxed and hidden from view, but did he know or have fair means of ascertaining the contents of the package? Now, suppose a man were to bring a package to an express company and suppose there was an invoice of the contents of that package printed right on it, so that the company had before it as complete knowledge as it could possibly obtain if the goods had been unwrapped, surely in that case the company has not been imposed upon; and if it is just to set aside the provisions of the common law when the goods are exposed actually to view, then the provisions of the common law should not be held to obtain when full knowledge as to the contents of the package is furnished an express company. I think that the language ought to be modified.

The Senator will pardon me for making a further suggestion. It will be noticed that the language of the exception is in the alternative. The goods are excepted from the beneficent provisions of the statute if they happen to be boxed, also any goods of any character except live stock, whether boxed or unboxed, hidden from view or disclosed to view, can be excepted by the action of the Interstate Commerce Commission. I very much doubt the wisdom of that, and, frankly, I have but little patience with any limitation upon the liability of a common carrier, except such a limitation as will protect it from fraud on the part of the shipper.

Now, mark you, there can be no liability on the part of a common carrier unless the common carrier has in some way been negligent. Of course, he is practically the insurer of the goods, but he does not insure against the act of God or of the public enemy, the unprecedented storm, or anything of that kind. You bring him the goods; they are put into his care; it is his duty to deliver them; and in State after State laws have existed for many years, which have been held to be valid, which absolutely provided that there could be no limitation in a contract which would exempt the company from full liability. Recently the Supreme Court of the United States has annulled all of those statutes by the decision to which the Senator refers.

I think it would be very much wiser to provide that no company could limit its liability, except where the shipper had falsely stated the value and contents of a package. In that event it would not be fair to hold a common carrier for full value, because if a man saw fit to ship a package of diamonds worth a large sum of money and upon being interrogated by the agent of the common carrier should say that the package contained some article of trifling value, that would be, in effect, a fraud upon the company; but where the contents are known, either through the fact that they can be seen by the agent of the common carrier or where the contents are made known at the time of the shipment, it seems to me there ought to be no limit of liability.

It might be entirely proper to permit a rising scale of prices for transportation, fixed upon the value; but that scale ought to be regulated by the Interstate Commerce Commission, and not be left to the common carrier, and for this reason: A good illustration, although it is not exactly pat here, is the custom of the telegraph companies. For many years they had contracts—indeed, they have them yet, although they are not any longer enforced—saying that "This message is an unrepeated message; if you want it repeated, it will cost one-half more; and because it is an unrepeated message we are liable only for the price paid for transmitting the message." That contract was declared void by many of the courts of the States; but it illustrates the fact that when you give the common carrier the opportunity to make a rule by which he fixes his liability he will make the advanced charge so great, so onerous, so burdensome, that the shipper will not pay it; and if you are going to permit the common carrier to limit his liability in a contract, then the conditions upon which he can limit it ought to be very carefully fixed; otherwise we should find that the common carrier would impose every sort of injustice upon the shipper.

Mr. NELSON. Mr. President, will the Senator from Missouri yield to me?

Mr. REED. I yield gladly to the Senator from Minnesota.

Mr. NELSON. Would it not be a wiser provision to compel the shipper in every case to declare the value of the property that he ships, and then to provide that there should be no limitation beyond the declared value; in other words, require the shipper to state the value of the shipment and prohibit the common carrier from limiting his liability below that declared value?

Mr. REED. That was really the thought——

Mr. CUMMINS. That is just what is now being done.

Mr. WEST. Mr. President——

Mr. CUMMINS. If I may be permitted to make a suggestion, that is precisely the evil which we are trying to correct. A man drives his carload of steers to town to send them to Chicago from my State, and there is put before him by the railroad company a bill of lading or a contract, which contains a declaration as to the value of those steers. The shipper signs that

declaration. Of course, the declaration is well known by everybody to be false; I mean as to value. The shipper says the steers are worth $25 or $50 apiece; and the liability of the railroad company is limited to that amount. The shipper has no more chance to enter into an agreement with the railroad company upon even terms than a child would have in a wrestling match with a prize fighter.

Mr. WEEKS. Mr. President——

The VICE PRESIDENT. Does the Senator from Iowa yield to the Senator from Massachusetts?

Mr. CUMMINS. I yield to the Senator.

Mr. REED. I have the floor, Mr. President.

Mr. CUMMINS. I want to reply, however, to the Senator from Missouri. The subcommittee has given this matter a great deal of thought; we had long hearings upon the subject. The very thing that the Senator from Missouri thinks might be done, or ought to be done, I think is provided for here. The Interstate Commerce Commission is given authority to take certain things out of the prohibition of the statute if it grants express authority to make a rate based on value declared in writing. That is just what is done.

Let me suggest why that is necessary. Take a Kentucky race horse worth $25,000 which is delivered to the railroad company for shipment. The railroad company will not take the horse for anything like a reasonable or payable rate unless there is an agreement with regard to the amount of recovery. If the railroad company is held to be the insurer of that animal to the extent of $25,000, the rate becomes so high that shipment becomes impossible, and we must allow in such cases, if the Interstate Commerce Commission authorizes it, a recovery based upon declared value in order to secure a transportation rate that the shipper can pay and still accomplish his purpose.

I think if the Senator from Missouri will look further into the particular part of the amendment he is considering he will find that the very thing that he wants to accomplish is accomplished by the amendment.

Mr. REED. Mr. President——

Mr. WEEKS. Now, Mr. President——

Mr. CUMMINS. I yield to the Senator from Massachusetts.

Mr. REED. I have the floor and have not yielded it. I am willing, however, that it shall be divided up in any amicable sort of way.

Mr. WEEKS. I was on my feet to ask a question 15 minutes before the Senator from Missouri got the floor. I want to ask the Senator from Iowa, if the Senator from Missouri will permit me——

Mr. REED. Certainly.

Mr. WEEKS. To extend somewhat the example which he has just given us. What I wanted to ask was, whether there are classifications of live stock so that the shipper will pay a rate dependent upon the classification? For instance, would he pay twice as high a rate on registered stock from Iowa to Chicago as he would on other stock worth one-half the price of the registered stock?

Mr. CUMMINS. I can not quite answer the question of the Senator from Massachusetts, because the registered stock might be of high value or it might be of low value.

Mr. WEEKS. I mean assuming that it is twice the value of ordinary stock.

Mr. CUMMINS. All the railroads at this time have rates dependent on value in the shipment of live stock. The value is determined by the declaration of the shipper under the circumstances which I have just stated. If the shipper wants full value, and the value is not beyond the ordinary or common value of registered or pure-bred stock, he must pay 10 per cent or 15 per cent or 25 per cent more than the rate upon an ordinary live-stock shipment. That rate as applied to the ordinary case is prohibitive; the shipper can not pay it and do business, for, of course, the amount of it is absurdly high. It is based only on the idea that the higher rate is necessary to compensate the railway company for the increased risk; but it is greatly more than that in all the cases that I have examined. I object to it, however, as a matter of policy in ordinary shipments. The railroad companies only apply it to 10 or 12 subjects; they apply it to copper ore and iron ore, because they can not know what the value of ore is; they apply it to household goods; and they apply it to live stock. The live-stock shipments that are made under the rule established by the railroad companies, and which we seek to overturn here, I suppose, constitute 90 per cent of all the shipments that would be affected by this rule.

Mr. WEEKS. Mr. President, let me take the Senator's own example of a Kentucky horse worth $25,000. Would an insurance company insure that horse for transportation any cheaper than would the railroad? Could it afford to do so?

Mr. CUMMINS. I have never instituted that comparison; I do not know.

Mr. REED. Mr. President, I think the difficulty here does not lie in the fact that a rising rate charge is imposed, but it lies in the fact that the railroad company being given the power to fix a rising rate uses that power in such a way as to practically force a limitation on the liability they incur; in other words, let us say the ordinary shipping rate is $50 a car and that that is a fair rate. They hand the shipper a contract limiting the liability to one-tenth of the real value; he has the option to sign that contract or to pay $100 a car; and by that device they force him to take the risk which the law seeks to impose upon them. That being the case, it seems to me what we ought to require is a fair disclosure of the value to the carrier. A man ought not to be barred from that disclosure by the mere fact that he has put his goods in a box; and, having required a fair disclosure, then one thing further is necessary; it should be provided in the law that the carrier in making an advanced charge on account of the value must make only a reasonable charge, a charge that will reasonably compensate him for the risk incurred above the value of the ordinary article carried; and that power to regulate the advanced charges ought to be exercised either by Congress through law or by conferring the power upon the Interstate Commerce Commission. If the Interstate Commerce Commission regulates it, then manifestly the condition the Senator from Ohio [Mr. POMERENE] speaks of would not be permitted to obtain; the carrier would not be allowed to say, "The ordinary rate for hauling cattle worth $10 a head is $50 a car; we will hand you a contract at $10 a head value; but if you want to have a contract that will allow $75 a head, the real value, then you will have to pay seven or eight times the fair rate charged." That would not do; and that being the device, the species of trickery, if you please, resorted to by these companies, it seems to me we ought to write into this bill a provision permitting the Interstate Commerce Commission to regulate the charges which shall be imposed above the value of the ordinary article shipped, and then provide that there shall be no limitation of value below that by the railroad companies.

Mr. WEST. Mr. President——

The VICE PRESIDENT. Does the Senator from Missouri yield to the Senator from Georgia?

Mr. REED. Certainly.

Mr. WEST. I should like to get from the Senator from Missouri the information that I sought some time ago from the Senator from Iowa. It is this: Nine hundred and ninety-nine bills of lading out of a thousand are signed by the shipper without ever reading the bill of lading. There is a contract in them. Before 1906, I know, the shipper was in no way bound by the contract; but here is the great trouble about shipping on a bill of lading: A shipper, knowing the value of what he is shipping, as the Senator says, ought to declare it. Very often, however, a shipper carries something to the depot, turns it over to the agent, and does not know the real value. He may let the agent of the company know what the article is; yet the shipper does not know the real value, and he ought not to be bound by the bill of lading which he signs in order to make the shipment.

The Senator from Iowa referred to a Pennsylvania case where a horse was shipped, and the stipulation was that the owner should not recover more than $100. What I wanted to ascertain was whether that was a specific bill of lading or a general bill of lading that was signed in shipping the horse?

Mr. REED. I have not examined the decision, but judging from what I know of the decisions, I have no doubt that it does not make any difference whether it is what the Senator terms a specific bill of lading or a general bill of lading. The case certainly goes to the extent of holding that when a man signs a contract of shipment, that will constitute the specific contract for that particular case, though it might be a form which is handed out over the counter to every man and to which he signs his name without reading, just like a telegraph blank; when you write your message on it there is a contract printed on the back of it or at the top of it or at the bottom of it which you never read.

Mr. WEST. And which does not bind the sender of a telegram.

Mr. REED. It has been held in some States that it does bind him, but the great majority of modern decisions are the other way.

Mr. SMITH of Georgia. Mr. President——

The VICE PRESIDENT. Does the Senator from Missouri yield to the Senator from Georgia?

Mr. REED. I yield the floor to the Senator.

Mr. SMITH of Georgia. Mr. President, I wish to call the attention of the Senator from Iowa a little further to the com-

mittee amendment on page 3, in which provision is made for liability for "actual loss, damage, or injury to such property caused by it or by any common carrier."

I am just a little afraid that this language might change the standard of liability by the common carrier of freight. The liability is that of an insurer, with certain exceptions. A liability might exist for the common carrier although the damage was not caused by the common carrier at all, the common carrier's liability being that of an insurer, subject, as I recall, to five exceptions, the exceptions being when the injury to the freight is caused by the act of God, public enemies, acts of the public authorities, acts of the shipper, and the inherent nature of the goods.

I desire to ask the Senator if perhaps it would not be better, instead of using the term "caused by it," to use the term "transported by it," so that the standard of liability might remain that of an insurer. I do not know that "transported by it" would do. That might broaden it too greatly.

Mr. CUMMINS. I am strongly inclined to think the Senator is right, and I have no objection to that kind of an amendment; but I may be permitted to say that I am using there the precise language of the Carmack amendment. This is a revision or rewriting of that amendment. If the Senator will turn to page 2, where the present law is quoted, he will discover that this is the test:

> And shall be liable to the lawful holder thereof for any loss, damage, or injury to such property caused by it or by the common carrier, railroad, or transportation company to which such property may be delivered.

I have not sought to change the law more than was necessary to reach my point.

Mr. SMITH of Georgia. Has that language received a construction by the courts holding that it continues the same degree of liability?

Mr. CUMMINS. I do not remember any case in which it has been construed.

Mr. SMITH of Georgia. I ask the question because unquestionably at common law the carrier of freight is liable for damage to freight while in its possession not caused by the carrier at all.

Mr. CUMMINS. I understand that, but I have not attempted to rewrite the whole law relating to the liability of a common carrier. I have taken the law as it is and have attempted to reach just one point. If others desire to change the law in other respects, I shall not oppose the change.

Mr. SMITH of Georgia. I should like to suggest to the Senator the change of the word "caused" to "transported," so that instead of reading "to such property caused by it" it will read "to such property transported by it."

Mr. CUMMINS. I am perfectly willing that that amendment shall be made. I think it would help the law.

Mr. WEST. Mr. President——

Mr. SMITH of Georgia. I am in full sympathy with all the Senator is seeking to do, and in perfect accord with his effort to pass this measure. I have felt for some time that it ought to be passed.

Mr. CUMMINS. In so far as I can I shall be glad to accept the amendment suggested by the Senator from Georgia.

Mr. SMITH of Georgia. I realize its importance, and I hope we will all help to see that the Senator gets a vote upon it at this session of Congress and at as early a date as possible.

The VICE PRESIDENT. The question is on reconsidering the vote whereby the amendment commencing on line 11, page 3, was agreed to.

The motion to reconsider was agreed to.

The VICE PRESIDENT. The Senator from Georgia proposes an amendment to the amendment which will be stated.

The SECRETARY. On line 12, page 3, it is proposed to strike out the word "caused" and to insert in lieu thereof the word "transported."

Mr. SUTHERLAND. Mr. President, I think the Senator from Georgia has accurately stated the rule of the common law, that the common carrier was liable as an insurer. Of course there were exceptions to that.

Mr. SMITH of Georgia. I stated the exceptions.

Mr. SUTHERLAND. I did not recall whether the Senator did or not; but at all events there are exceptions.

Mr. SMITH of Georgia. I mentioned the five exceptions.

Mr. SUTHERLAND. I did not observe the Senator.

Mr. SMITH of Georgia. The Senator simply did not hear me I added the five exceptions in my statement.

Mr. SUTHERLAND. If the Senator's amendment should be adopted, would not the effect of it be to broaden the liability of the carrier beyond the common-law liability, and to make it liable even though the loss might be occasioned by the public enemy or by the act of God?

Mr. CUMMINS. Mr. President, may I answer that question? I do not think it would, because the purpose of this bill is to leave the liability of the carrier untouched and unaffected by any agreement for limitation growing out of a representation or agreement as to value. I do not think it will broaden the rule to which the Senator from Utah has referred. That is to say, it will not make the common carrier liable for the act of God or the public enemy.

Mr. SUTHERLAND. I had already suggested to the Senator from Iowa that I feared the language of the Carmack amendment, as well as the language of this bill, which limits the cases where the carrier shall be liable to those where the damage is caused by it, is too narrow; but I am afraid the language which the Senator from Georgia desires to write into the bill, if adopted, would be too broad. I think what we want to do here is to assert the common-law liability of the carrier. That is the purpose of the bill, as I understand.

Mr. CUMMINS. No; that is not the purpose of the bill.

Mr. SUTHERLAND. Does the Senator desire to make the railroad company more than an insurer of the goods?

Mr. CUMMINS. No.

Mr. SUTHERLAND. That is what I thought.

Mr. CUMMINS. But under the common law, as declared by the Supreme Court of the United States, there can be a limitation upon the amount of recovery upon a statement of value. I want to get rid of that part of the common law, but not the part of the common law to which the Senator from Utah has just referred, namely, that the common carrier shall not be liable in the event of injuries caused by the act of Providence or the public enemy. I do not care to increase the liability of the carrier so far as that part of the law is concerned.

Mr. SUTHERLAND. That was my understanding. I think the common carrier ought to be made liable as an insurer of the goods precisely as it was liable at common law. I do not think there ought to be any limitation upon that liability. The only question in my mind is——

Mr. O'GORMAN. Mr. President——

Mr. SUTHERLAND. Let me finish, if the Senator will pardon me. The only question in my mind is whether the introduction of the amendment suggested by the Senator from Georgia will not do more than that.

I wish to make another suggestion, also. The Senator from Georgia suggests that we write in place of the words "caused by it" the words "transported by it." If that is done, the section will then read:

> That any common carrier * * * shall be liable to the lawful holder of such receipt or bill of lading for the full actual loss, damage, or injury to such property transported by it or by any common carrier, railroad, or transportation company to which such property may be delivered or over whose line or lines such property may pass.

That makes the initial company not only responsible for the loss that may be occasioned, as I view it, by the acts of God or the public enemy while the property is in the hands of the initial carrier, but also liable for the same sort of loss while the goods are in the hands of some connecting company. I think if we should write into the law, instead of "caused by it," the words "suffered by it," or some such language as that it probably would cover what all of us desire.

Mr. CUMMINS. "Suffered?"

Mr. SUTHERLAND. Instead of "caused by it."

Mr. SMITH of Georgia. Mr. President, we shall not be able to act on this bill before 1 o'clock. That is perfectly evident. I suggest, therefore, that the amendment I have proposed be passed over until to-morrow without action.

My desire is to do just what the Senator from Utah indicated that he thought it was my desire to do. I do not wish to carry it any further on one side than I was afraid the language of the bill might carry it on the other side. I believe if we think it over we can put in language about which there will be no possible doubt.

I understand that the Senator from Iowa used just the language of the Carmack amendment; but now that we have the subject up, I think it would be well to put in language about which there could be no possible question. The Senator from Iowa has given us all a clear insight into the bill and just what are its purposes. We are in a position to look at it more critically to-night, and we can come back to-morrow or within a day or two, and if we have any suggestions that we think would help him perfect it, offer them. I believe there probably will be no opposition. I know of none. I do not think there ought to be any opposition.

Mr. CUMMINS. I think the Senator from Georgia is right. There is no difference between the Senator from Utah and myself. I do not desire to make the railroad companies liable

under circumstances under which they are not now liable; but, being liable, I want to make them pay the full value of the articles for which they may be responsible.

I do not, however, agree with the Senator from Utah that the word "transported" would enlarge the liability of a common carrier, inasmuch as this bill does not purport or pretend to prescribe their liability in that respect, but only their liability with regard to contracts of limitation.

Mr. President, I feel very much obliged to the Senate for its courtesy this morning; and I intend to ask to-morrow morning if it can be done without undue interruption of the tolls bill, for a continuation of its consideration. Meanwhile I ask that my resolution may be passed over without prejudice.

Mr. SMITH of Georgia. Whenever that resolution comes up I think it can be clearly shown that it is out of order and in violation of the rules.

Mr. CUMMINS. Very well.

Mr. SMITH of Georgia. I hope the Senator will not take any time in pressing it.

Mr. CUMMINS. I shall not take a moment so long as I can get time for the consideration of the bill.

Mr. SMITH of Georgia. I believe we all want to help the Senator to get a vote on his bill.

PANAMA CANAL TOLLS.

Mr. O'GORMAN. Mr. President, if there is nothing else occupying the attention of the Senate, I ask that the Panama Canal tolls bill may be laid before the Senate, in order that the Senator from California [Mr. PERKINS] may address himself to that question.

There being no objection, the Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 14385) to amend section 5 of an act to provide for the opening, maintenance, protection, and operation of the Panama Canal and the sanitation of the Canal Zone, approved August 24, 1912.

Mr. PERKINS. Mr. President, as a member of the Interoceanic Canals Committee it seems proper that I should state the reasons as to why I can not consistently favor the passage of the pending bill for the repeal of the tolls on coastwise vessels passing through the Panama Canal.

I supported the bill which is now a law on the statute book providing for free tolls for ships of American register engaged in coastwise trade.

I also voted for the Hay-Pauncefote treaty, believing then as now that it could not in any way interfere with our domestic commerce or barter away any rights which have been imposed for more than a hundred years.

I have attended the hearings of this committee and patiently listened to the arguments of those advocating the repeal of a law which I believe is in the interest of American shipbuilding and American seamen, and up to the present time I fail to be convinced that the action of Congress in prohibiting the granting of free tolls to vessels engaged in domestic trade would be a good economic policy, and I know of no reason yet advanced which shows that we are morally or legally called upon to repeal a law which was duly enacted after a free discussion by Congress.

It seems that we have forgotten a well-known maxim to which we have paid reverence for a long time, "be sure you are right and then go ahead" and have adopted a new creed, "go ahead, no matter whether you are right or wrong."

From a nautical standpoint this would mean a very disastrous result to navigators, and the majority of ships now engaged in coastwise trade would be lying upon the rocks of the lee shore.

No prudent navigator would think of adopting such a new regulation, for it is an elementary law that the cautious mariner keeps well in mind the three L's—that is, a sharp lookout, attention to the log showing the distance run, and the lead line showing the depth of the water under the vessel's keel.

I know of no reason why our country should depart from such a prudent course and enter upon an uncharted sea, in which are sunken rocks, thereby escaping the Scylla only to fall prey to Charybdis.

COMMERCE OF THE CANAL.

The trade in the Panama Canal will fall into three grand divisions, each sharply defined by its nature and by principles of regulation which are well understood and of general application among maritime nations.

It seems to me that an examination of these three divisions of trade will contribute to a clearer understanding of the duty of the Senate in the situation which is presented by the pending bill.

1. With the completion of the canal a new and better trade route will be opened between the nations of Europe and the nations of the west coast of North and South America; between the nations of Europe and Japan and part of the coasts of China, at least as far south as Shanghai; and particularly for Great Britain with the west coast of British North America, with New Zealand, and with British possessions scattered throughout the Pacific Ocean.

2. We confidently expect as a result of the canal a large increase in the trade between the Atlantic ports of the United States with ports of the west coast of Central and South America, of Asia, and with the islands of the Pacific, and also increased trade between our ports on the Pacific and all the countries of the Old World, with possibilities of commerce between these ports and the eastern coast of South America.

3. We are assured that the interchange of commodities between our own Pacific Coast States, our Gulf States, and the States of the Atlantic, and of the States which do not lie directly on the seaboard, will receive a great impetus from the reduction in rates of transportation made possible by the substitution of water routes for all-rail routes and the greater economies of water transportation.

COMMERCIAL ADVANTAGES TO FOREIGN NATIONS.

With the benefits to commerce which will accrue from the increased facilities for transportation between foreign nations we have no direct commercial concern.

We can contemplate with satisfaction the growth of trade between Chile and Peru, on the one side, and, on the other, England, Germany, and France, and the States of the Mediterranean, without envy and with the complacency with which all right-thinking men view the welfare and prosperity of others, in whatever part of the world it may be.

We certainly are not troubled by the fact that while nations are striving, each by all the means in its power, to develop its own foreign trade at the possible expense of other nations, we on our part have contributed to the growth of an international commerce in which we not only have no share ourselves but which possibly might have been diverted to our own shores had we been less generous and listened to the promptings of self-interest.

ESTIMATED TONNAGE.

The tonnage passing through the canal during the first or second year of its full operation has been roughly estimated at 10,000,000 net tons of shipping, and of this total it is estimated that practically 60 per cent will be of vessels going to and from foreign ports and never during the course of the voyage approaching nearer to the United States than the gateways of the canal.

I do not wish to be vainglorious or boasting, but I recall no instance in history where a nation has been so generous in its treatment of commercial rivals as has the United States in its prosecution of the work of the Panama Canal and in its plans for the future operation of the canal.

We have spent, or shall before long have spent, in the construction and early years of operation of the canal the sum of about $400,000,000.

There can be no question of doubt that the canal would not have been built—certainly in our time—had not the Government of the United States assumed the burden.

The task has been colossal, and could have been carried to success only by a great power; and this fact is appreciated nowhere else, I venture to say, more thoroughly than at the great maritime centers of the Old World.

THE CANAL NOT A MONEY MAKER.

The canal, too, from its very nature, can not be a money-making enterprise, and in this respect it must be sharply distinguished from the other similar great trade route, the Suez Canal.

The acquisition of the majority of shares of the Suez Canal by the British Government was rightly considered one of the great triumphs of Lord Beaconsfield's diplomacy—not merely for the political interests which it gave England in the canal and in the future of Egypt, but also because it was a good investment. A sure return of about 20 per cent per annum with a necessary trade route between Europe and Asia as security, the neutrality of which is guaranteed by the great powers of Europe, I need scarcely say is a particularly sagacious investment.

All the conditions of our investment in the Panama Canal make it perfectly clear that long before we shall be able to meet running expenses and set apart even a modest 1 or 2 per cent as a sinking fund to liquidate the first cost of the canal, we shall be compelled to incur still further expenditures in lowering the level at the time we increase the length and width of the locks. The rate of tolls which has already been fixed is necessarily a competitive rate determined by the rate which obtains at the Suez Canal, and even the most sanguine

do not anticipate that the receipts will soon meet the necessary expenses, including those of sanitation, the military garrison, and charges entailed by the free transit of our own warships. We have voluntarily placed ourselves in a position where we propose to tax our own people annually for years to come to promote the trade between the nations of Europe on the one hand and the west coast of South America, Asia, and the islands of the Pacific on the other. If there be another such instance of commercial altruism in history I do not recall it, and if in this instance there be any discrimination, surely our discrimination has not been in our favor. Bear in mind, too, that the division of trade of which I am now speaking—the trade through the canal strictly between foreign countries in which the United States is to have no share itself—comprises more than half of the anticipated canal traffic.

WHICH OF THE NATIONS PROTEST?

With these indisputable facts before them, which of the nations of the world protests that we have been unfair and are seeking for ourselves selfish gain from a project which from its very inception in the time of Henry Clay we have all proclaimed should be for the benefit of mankind? Certainly not the ally of our earlier years as a nation struggling for independence, our old-time friend, France. The work which she undertook on the Isthmus and failed to carry through we have assumed and brought to the verge of successful completion.

Where Ferdinand de Lesseps—disheartened by lack of funds, by want of popular confidence, by the ravages of disease, and by stupendous engineering obstacles—was forced to surrender, there the work was taken up, backed by the unlimited resources of the Government of the United States, protected by sanitary conditions the best which modern medical science could devise, and directed by as fine a body of engineers as was ever assembled, and carried to completion by Col. George W. Goethals.

It seems to me that the French Republic should hesitate before protesting against our action, and if there be any such protest it certainly has not come to my knowledge, whatever may be the knowledge in the possession of other Members of the Senate.

Can it be possible that a protest has come from Germany, keen to push her commerce to all parts of the world and already a formidable competitor with England for the commercial mastery of the seas?

German maritime enterprise has already established its steamship lines all around the two Americas and the canal. To these German lines, by economy of time and coal and all the factors of expense dependent thereon, the canal offers the opportunity for a large expansion of trade that will add to the prestige of the German merchant flag. If there has been any protest from the German Government or from the German steamship lines against our legislation, it has not, so far as I am aware, come to the notice of the Senate.

GREAT BRITAIN PROTESTS.

The only protest from foreign Governments of which the Senate has knowledge is the protest of the British Government, and British ships do more than half of the world's ocean carrying trade.

It has been intimated during the discussions on the pending bill that the British protest and this measure had their origin in the notion that in some way or other our good neighbor to the north, the Dominion of Canada, and particularly the great Provinces of British Columbia and Alberta, and Saskatchewan, of the Pacific hinterland, would be adversely affected by free tolls for American ships in the coastwise trade.

ADVANTAGES OF THE CANAL TO CANADA.

Senators may be surprised at the statement that for last year the gain to the farmers of Alberta alone in diminished freight rates, had the Panama Canal been open to trade, would have amounted to $20,000,000, and that in the not remote future, for which harbor and dock facilities are already being completed by our northern friends, the canal will be a free gift to the Provinces of Alberta and Saskatchewan estimated at $200,000,000 a year. These estimates are not mine, nor do I envy the Dominion the great period of development which awaits her to the north of my home on the Pacific.

I mention these facts as a reason for my reluctance to believe that the people of Canada put forth any claim that in the construction of the Panama Canal and the legislation to provide for its administration the Congress of the United States has not acted fairly and with a liberality of which it is hard to find any parallel.

The figures I have given are from an address delivered in London less than a month ago before the members of the Royal Colonial Institute, in the formation of which the late Cecil Rhodes and other British Empire builders participated in order to create an agency for the promotion of imperial policies.

"In urging upon the institute the important work being carried out by the Vancouver Dock Extension Co., with its proposed 25 miles of docks and 14 square miles of area, connecting with every great railroad coming into Vancouver and every steamship sailing from that port, Mr. F. B. Vrooman, a well-known authority on the commercial and industrial development of Canada, said that so profound was the change to be wrought in Canada that the Panama Canal was already throwing up across the Dominion a new economical divide. This meant that soon the movements on the new Pacific would draw two-thirds of the surplus resources of the Dominion toward it.

"Two-thirds of the future products of Canada were destined to be tributary to the western sea. The all-rail transcontinental haul for the products of western Canada would soon be a thing of the past. Were the capacity of the railroads equal to Canada's growing needs, the single element of cost would be enough to drive so much of Canada's traffic from eastward to westward that it would change the economic equilibrium of Canada itself.

"It must be remembered that the actual cash value of the Panama Canal to the prairie farmer of Canada accrues not only to the export grain—indeed, not to grain alone—but to every commodity, export or import, of mine, factory, forest, and farm, whose cost of freight into or out of or within the country would be reduced by the Panama highway.

WEST CANADIAN GRAIN RATES LOWERED.

"Grain rates from Vancouver to Liverpool via Panama would be less than half the rate from Albertan points to Vancouver.

"What did this mean? It meant that the Panama Canal would put an Alberta farmer in the summer about 7 cents a bushel nearer Liverpool, and in the winter 15 cents a bushel nearer Liverpool. Average this, and state it in round numbers, and it meant that the Panama Canal henceforth would add 10 cents a bushel to the value of every bushel of grain to be grown in Alberta. They could approximate the saving for the western half of Saskatchewan at 4 cents, and that for Alberta at 10 cents the year round. They had in all of Alberta and half of Saskatchewan something like 300,000,000 bushels of grain. Bring one train an hour into Vancouver and it would take two years to bring the grain crop of 1912 from all of Alberta and half of Saskatchewan to the docks of Vancouver.

"It was needless to say that it would take very different dock and harbor facilities in Vancouver from what they have there now to handle even 5 per cent of the grain traffic, to say nothing of the other export products and the volume of trade due from the new Pacific to the Canadian continent.

"Let them look ahead to the time when 60 per cent instead of 6 per cent of Alberta and Saskatchewan was under crop. That time was not far distant. That time must be provided for by railway facilities through the continent and by dock and harbor facilities at the port of transshipment. If Alberta and Saskatchewan produced, at a round estimate, 130,000,000 bushels of wheat alone in 1913, all of which would lie well on the Pacific economic slope, such a time as he referred to would easily see 1,300,000,000 bushels of wheat per annum. They would have 60,000 trainloads of wheat to get into the elevators of Vancouver and to transport again on Pacific ships. Bringing in a train every 30 minutes, it would take four years to get one year's crop into Vancouver and unload it, and they would have waiting around somewhere on the side tracks something like 800 trains more for the next year. In other words, to handle such a crop it would require railway and terminal facilities for a trainload of wheat about every 7 minutes in the elevators and docks of Vancouver.

"It meant that had the canal been finished and had there been proper dock and harbor facilities at Vancouver to handle it this canal would have given a clear gain to the farmers of Alberta alone of about £4,000,000 on the crop of 1912. It was easy to see not far hence for the farmers of Alberta and Saskatchewan a free gift from this canal of something in the neighborhood of £50,000,000 a year in freight rates saved."

ANTICIPATED TRAFFIC OF THE CANAL.

In stating that more than half of the anticipated traffic of the Panama Canal would be trade strictly between foreign countries in which the United States is to have no share, I had in mind especially the exchange of imports and exports between nations by which nations parties to the exchange thrive; by which their lines of productive activity give employment to their labor and capital, increase and prosperity to their inhabitants, with all the gain in moral, mental, and physical well-being which comes to a nation whose people are steadily and happily employed—I had these things in mind at the moment rather than the carrying trade—the ships by which this exchange is

effected and the national colors which those ships will display. To my regret, in the carrying trade to be opened by the Panama Canal between the west coast of South America, for example, and the Continent of Europe, the United States will also have no part. The lion's share of that carrying trade, under existing conditions, will be conducted by British ships.

I do not intend to burden the Senate with any statistics, nor is it my purpose to quote from the voluminous correspondence relating to the Panama Canal. In the many able speeches which have been made in both branches of Congress, and from all points of view during the discussion of the last few years, such information has already been fully set forth, and I could merely add one more interpretation or construction of official correspondence to the many already before the Senate. I would, however, ask your attention to one very simple computation. The first cost of the canal with its accessories and of operation during its first year will be in the neighborhood of $400,000,000.

Over one-half of the anticipated trade through the canal will be, as I have stated, trade strictly between foreign countries, in which the United States is to have no share. So, over $200,000,000 of our investment we may set down to pure philanthropy from the strictly commercial point of view. Of this trade between foreign nations one-half, at least, and probably more, will be carried on in British ships, so that of our outlay of $400,000,000, the immediate and undisputable beneficiary, at least to the extent of $100,000,000, will be ships under the red ensign.

I wish here and now distinctly to disclaim any hostility against England or any desire to bring into this discussion any considerations which in any way would violate the warning of Washington, in his Farewell Address, against "permanent inveterate antipathies against particular nations and passionate attachments for others."

In all our differences and discussions with England which have come under my notice—the Alaska boundary controversy, also fisheries *limitation* treaties and other treaties covering disputed questions, and as a Member of the Senate, and especially as a member of the committees which have had to deal with these differences and disputes—I have found the representatives of the British Government fair men, moderate in the presentation of the views of their Government and animated by the desire to secure an amicable and just settlement of differences which necessarily from time to time arise in the relations of neighboring nations.

IMMEDIATE GAIN TO GREAT BRITAIN OF $100,000,000.

The immediate beneficiary of $100,000,000 of our investment will be British ships engaged through the canal in trade between countries foreign to us.

In 1875 Great Britain paid £4,000,000, say $20,000,000, for its immense block of shares in the Suez Canal, which up to that time had cost much less than $100,000,000. It does not seem to me, therefore, quite in accord with the fitness of things that the British Government should allege undue discrimination on the part of the United States in its own favor in the legislation which we have enacted.

I have, of course, read the notes in which the British Government has expressed its views, and I find in them none of the vehement denunciation, none of the imputations of bad faith and national dishonor, no trace of the passionate insistence that one side in this controversy is altogether right and the other side is altogether wrong which have characterized the discussion on the subject at times in Congress, and even more the discussions in the public press. I find in these notes a candid, straightforward recognition of the fact that there is a difference of opinion as to the construction in actual administration to be put upon certain phrases in the Hay-Pauncefote treaty.

We have all along been aware of such differences, and it seems to me that we should be very cautious before we put ourselves irretrievably in the attitude of affirming that we are altogether right or altogether wrong.

In the general division of the Panama Canal trade which we have thus far considered—namely, the exchange of imports and exports exclusively between foreign nations, carried exclusively in foreign ships, and constituting, as estimated, over one-half of the business of the canal—we have more than met all the obligations of the broadest humanity.

THE UNITED STATES HAS PUT $400,000,000 IN THE CANAL.

We have invested over $400,000,000 for that purpose, and we have fixed a rate of tolls so low as to fall short of the estimated expenses of operating the canal and all its appurtenances, the maintenance of the necessary armed force, and proper sanitation, without any provision for a sinking fund to meet the original obligation.

This is a splendid gift to mankind.

COMMERCIAL ADVANTAGES.

The second great division of trade through the canal will be the trade between the Atlantic and Gulf ports of the United States and foreign ports in the Pacific Ocean, and trade between the ports of our Pacific States, Alaska, and Hawaii and foreign ports on the Atlantic.

This trade has been roughly computed at about 35 per cent of the anticipated trade through the canal, measured by the tonnage of ships passing through the locks.

In all the benefits that accrue from the exchange of imports and exports between nations the United States will share so far as this branch of trade is concerned. And how has the canal legislation treated it? On terms of absolute equality with no discrimination as between other nations or as between other nations and ourselves. Congress, in enacting the canal legislation, has treated this branch of trade precisely in accord with the principle of maritime reciprocity which has been the guiding principle of our commercial and maritime policy for a hundred years and is identical with the maritime policy of the world.

THE TARIFF IN RELATION TO THE CANAL.

This is not the time to enter into a discussion of the merits or demerits of the policy of discriminating duties, imposts, or other charges, but I can not refrain from suggesting that the paragraph in the recent tariff act proposing a discriminating reduction in the duties on cargoes brought in American ships furnished much better ground for protest than does the Panama Canal act of 1912, and that a rare opportunity to affirm the sanctity of treaty obligations was lost when the House of Representatives passed unhindered a section so plainly in violation of treaty obligations that the Senate with little discussion speedily sought to correct it.

Subsection 7 of paragraph J of section 4 of the Underwood-Simmons tariff provides:

> J. Subsection 7. That a discount of 5 per cent on all duties imposed by this act shall be allowed on such goods, wares, and merchandise as shall be imported in vessels admitted to registration under the laws of the United States: *Provided*, That nothing in this subsection shall be construed as to abrogate or in any manner impair or affect the provisions of any treaty concluded between the United States and any foreign nation.

Unlike the Panama Canal legislation which is under review in the present discussion, this section of the tariff law owes its existence entirely to the responsible political majority in both branches of Congress and to the national administration which was consulted in the preparation of the Underwood tariff. I presume that the subsection was intended to be a fulfillment of the following plank in the Democratic national platform:

> Merchant marine: We believe in fostering by constitutional regulation of commerce the growth of a merchant marine, which shall develop and strengthen the commercial ties which bind us to our sister Republics to the south, but without imposing additional burdens upon the people and without bounties or subsidies from the Public Treasury.

Whether this plank is a "little plank" or a big plank, whether its meaning was understood at the time or was not understood by those who voted for it, and whether it will be necessary to take another poll of the delegates to the Baltimore convention to find out whether this plank should be lived up to or abandoned, I am not in a position to state. This much, however, is a matter of public knowledge. The Attorney General has held that the subsection consists of mere words—of sound and nothing further. In brief his ruling is:

> The 5 per cent discount to American vessels only, which was the primary object of the subsection, can not be given without impairing the stipulation of existing treaties between the United States and various other powers, and consequently the subsection, by the express terms of the proviso, is inoperative.

The Secretary of the Treasury, accordingly, has declined to enforce this part of the act.

The Board of United States General Appraisers, which is equally with the Secretary of the Treasury and the Attorney General a part of the responsible administration and is charged, I believe, specifically with the administrative decision of matters relating to the tariff, over a month ago decided as follows:

> We conclude that subsection 7 of paragraph J of section 4, tariff act of 1913, should be enforced according to its letter.
>
> That dutiable goods imported in vessels admitted to registration under the laws of the United States should be conceded a 5 per cent discount from the duties provided for in the other parts of the statute.
>
> That the most-favored-nation clauses in treaties with foreign countries are not applicable to the questions at issue here, as subsection 7 does not extend any special favor to any particular country, but is an offer or promise by the United States to importers, wherever residing, for the benefit of American shipping, with incidental benefits to the importer; that it is not gratuitously given in any sense of the word, but is in consideration of the necessary trouble and expense incumbent upon the shipper who selects American vessels, and the enforcement of the law does not abrogate or in any manner impair or affect the provisions of any treaty.
>
> That the more specific commercial treaties here in question are not self-executing; they are executory; and the question of their application is a political one and not within the jurisdiction of the courts.

There can be no doubt whatever that should this ruling of the Board of General Appraisers be enforced by the Treasury Department protests of discrimination would be filed by all the great maritime nations with which we are in treaty relations.

OUR FOREIGN RELATIONS.

The subject covered by this paragraph of the tariff has to do exclusively with foreign trade and foreign relations. I am at a loss to understand, therefore, why those who are keen for our scrupulous regard for our international promises—and in that regard I yield to no one—should have begun with a matter involving solely our coastwise trade, which to the minds of many of us appears to be a purely domestic concern. Before them is a larger matter of foreign trade involving indisputably our commercial relations with foreign powers which have been regulated for nearly a hundred years by treaty in accord with a uniform policy of maritime reciprocity. This issue is squarely before the national administration and the responsible majority in Congress. Has Congress been asked to repeal this section? Has a choice been made between the attitude of one part of the administration that the section is an empty and meaningless jumble of words put forth in the hope that it would delude men into the belief that the Baltimore convention platform had been fulfilled, and the attitude of another part of the administration that we are at entire liberty in the face of 30 treaties to discriminate in favor of American ships "in consideration of the necessary trouble and expense incumbent upon the shipper who selects American vessels"?

THE BALTIMORE PLATFORM.

I have profound respect for the President of the United States and for the Senators who are ably supporting his views and reaffirming their own views on the subject of the Panama Canal toll legislation, enacted with the approval of the last national administration, but I must confess that they seem to me to be "straining at a gnat and swallowing a camel" so long as the discriminating duty provision in subsection 7 of paragraph J of section 4 of the Underwood tariff remains on the statute books. If that section is a jumble of words, let it be repealed and take its place with the other discarded lumber of the Baltimore platform. If, on the other hand, the section is real, vital law, "fostering by constitutional regulation of commerce the growth of a merchant marine," then let it be enforced. If it is not enforced because the administration believes that its enforcement would violate 20 treaties or more, and with real reason give offense to those nations with whom we wish to maintain friendly intercourse, then let us have a frank avowal of the fact, and a prompt repeal of the subsection would follow without admonition from the President. At all events, it strikes me that it would be more seemly before we remove the "mote" in the Panama Canal act of 1912 to extract the "beam" from the Underwood-Simmons tariff measure.

THE DISAPPEARING AMERICAN MERCHANT MARINE.

Sixty-one years ago, in the summer of 1853, I was a sailor boy at $7 a month on board the square-rigged American ship *Golden Eagle*, loaded with cotton from New Orleans, in the harbor of Havre, France.

The *Golden Eagle* was built at Kennebunkport, in my native State of Maine, and I can assure you she was a sailing ship of which the American of that day or of this might well have been proud. I recall that at that time there lay in that great French harbor docks 12 full-rigged American ships, loaded not only with the products of our own country, but some of them with the products of the remote parts of the world. There were but two British ships in the harbor at that time, and it is pleasant for me to recall that a favorite air of the military bands of this great French seaport was the Star-Spangled Banner, played in honor of the kind of ships and the sort of men with which the United States was conducting its commerce with our sister Republic. Before I was 18 years old I had made six voyages to Europe and one to California around Cape Horn on merchant ships flying the American flag. During my lifetime I have been closely identified with the American merchant marine in every capacity from that of a cabin boy and seaman on the sailing ships of years ago to a part owner in a considerable fleet of American steamships on the Pacific coast.

Lest some one outside the walls of the Senate Chamber may think that in my words and vote on this bill I am moved by personal interests, I take the liberty of stating that before I came to Congress, 21 years ago, I divorced myself from all business interests which could in any way be affected by congressional legislation, excepting that general legislation which relates to the whole country. My interest in the subject of the merchant marine, however, is unabated. In my own experience I have come to realize the value of a merchant marine in the promotion of foreign trade, and more particularly its inestimable value to the Nation as an element of the national defense in time of war.

THE LOYALTY OF THE AMERICAN MERCHANT MARINE.

In every war in which the United States has participated during my lifetime the American merchant marine, ships and sailors, have filled an honorable and necessary part, and it is with profound regret and sorrow that from time to time during the discussion of the pending bill I have heard shipowners denounced in terms which in my young manhood would not have been applied to the most hardened lawbreaker.

I have heard men denounced as parasites and leeches on the Public Treasury whom we all know risk their capital and devote their best energies of mind and body to the prosecution of ventures on the sea which have helped to give us the commerce that renders profitable all form of industrial enterprise and labor at home. To these very men in time of emergency the Nation has always turned first for help and met with prompt and generous response.

I have seen the time when the United States was a close second to Great Britain—so close that the race was neck and neck between us for the title of "Mistress of the Seas."

I shall not enter into an examination at this time of the causes which for the past few decades have made us a laggard in the race and have transferred easily to our rival the title for which we once fairly competed. It was my national pride and glory then to see the American flag flying in foreign ports; but now, to my profound sorrow, our flag is now hardly found or seen in any foreign port.

I have seen it gradually disappear, first from the remote ports, then from those nearer at home, until to-day, as Senators are well aware, our flag is seldom seen abroad, and American ships are engaged almost exclusively in the coastwise trade.

COASTWISE TRADE RESERVED TO THE UNITED STATES UNDER OUR NAVIGATION LAWS.

The coastwise trade of the United States for a century has been reserved to American vessels. This fundamental principle of our economic system has been known to other maritime nations for generations. In fact, I doubt if we have any other rule of conduct which is so generally known abroad as is this rule. It is as well understood in London and Hamburg as in Washington that the carrying trade of the United States from the Atlantic to the Pacific coast can be conducted only in vessels of the United States, whether the route be around Cape Horn, through the Straits of Magellan, or through the Panama Canal.

The principle of the reservation of the coasting trade was established by the fathers of the Republic, Jefferson and Madison, as well as Franklin and Hamilton, and up to the present time the wisdom of that policy has not been disputed.

I now, however, note with regret that the author of the pending Panama Canal toll bill in the other branch of Congress has introduced a measure to open our coasting trade to foreign vessels, and it may perhaps be that the bill before us is the first step in a policy subversive of all our maritime traditions. The pending bill is certainly in conflict with one of our most firmly established commercial principles. I had always believed until the last few months that the unrestricted commerce between the States was a cardinal principle of our economic faith.

If I have read history correctly, the removal of charges upon and impediments to the navigation of the Potomac between the Colonies of Maryland and Virginia was one of the prime causes for the meeting of the Annapolis convention which was the first step toward the union of the Colonies, the Declaration of Independence, and the establishment of the United States of America.

Certainly for 30 years Congress has made it perfectly clear that—

no tolls or operating charges whatever shall be levied upon or collected from any vessel, dredge, or other water craft for passing through any lock, canal, canalized river, or other work for the use and benefit of navigation, now belonging to the United States or that may hereafter be acquired or constructed.

There are none left in Congress of those who voted for this measure in 1884, but I venture the suggestion that the late John G. Carlisle, who presided over the House of Representatives which passed this measure, and the late Allen G. Thurman, who was a member of the Senate which concurred in enacting it—to call to the minds of our latter-day exponents of Democracy the names of only two leaders who really understood and lived up to the traditional principles of their party—it would be a surprise to these men, I say, could they be told, as we are being told, that freedom of navigation between the States is another name for wholesale subsidy to shipping and is inconsistent with the principles of the Democratic Party.

The great State of New York a generation ago abolished the tolls on the Erie Canal, and a few years ago voted upwards of a hundred million dollars for the improvement of that waterway. Would anything be more fantastic—to use no stronger

word—than to assert seriously that by these two great acts of her people and her legislature the State of New York aimed to give subsidies to the owners and captains of her canal boats and to raid the State treasury and rob the people for the benefit of the few who chanced to have put their money in these humble craft?

FREE TOLLS NOT A SUBSIDY.

The passage of American ships in commerce between the States from New York to San Francisco through the Panama Canal free of tolls is no more a subsidy, to my way of thinking, than the passage of less pretentious vessels from New York to Cleveland or Chicago free of tolls through the Erie Canal.

The fundamental rule in each case is the same, that the commerce between the States by right ought to be free from Federal taxation or charges, save only when the necessities of war require Congress to push the taxing power to its furthermost limits

This well-established principle of freedom of intercourse between the States has been challenged during the discussion of the pending measure, and I am not certain that the responsible majority in its desire to do things differently from the way in which they always have been done will not use the pending bill as the first step in the policy of erecting national tollgates on all navigable rivers and canals which have received the favorable attention of Congress.

The charge of subsidy to shipping business seems to me without force or effect for the reason that there is no single track between any of the ports of the United States bordering on the ocean, and anyone can build and operate a vessel without restriction, engage in the coastwise and ocean trade, and go where he pleases.

If it is called a subsidy by the shipping interests, then it seems to me equally fallacious as vessels that are built in American shipyards, by American mechanics who are citizens of this country or capable of becoming, give the profits to the American people rather than to foreign people; also money expended in this country for labor and raw material used in the construction of American ships help to build up the industries of this country rather than foreign industrial activity.

These ships in this country also pay a city, county, and State tax, and assessments in some form are levied by most States on this kind of property, New York being the exception by exempting American vessels engaged in domestic and foreign trade from direct taxation as property.

Wages paid to sailors and officers on ships flying the American flag are nearly double those paid on foreign ships. For the same reason, because of higher wages paid to American mechanics, the cost of building a ship in this country is approximately one-third more than anywhere else in the world.

Of course, ships flying under foreign colors pay nothing to this country in the way of taxes, and come from foreign ports to the ports of the United States, and in no way help to decrease the burden of taxation of this country.

The charge that this subsidy is a huge monopoly and trust in vessels engaged in the coastwise trade by those advocating the repeal of free tolls shows that they have given but little consideration to this measure, for the reason that railroads which have a monopoly have paid by far a better rate of interest on investments than companies who have shipping interests and who have paid but a fair rate on the capital invested, the hazard of loss being very great.

I have endeavored to show how meaningless is the use of the word "subsidy" in the discussion of the bill before us, but that word has no terrors for me or for the people of the State of California, whose future lies on the sea.

The policy of subsidies is consistently followed by the maritime nations of the world mainly for military and postal services, and I have no doubt in time that the United States will give up its rule of isolation and singularity in this respect, just as it changed its policy about 30 years ago and started to become a first-class naval power.

As an American, and especially interested in navigation and anything pertaining to industrial pursuits, I think that anyone giving this question the necessary attenton and study will agree with me that the coastwise trade should be kept open and unrestricted to the people of our country.

I am sure the Senators who are supporting the pending bill will give respectful consideration to the recent report of the British Board of Trade to the British Parliament, showing the following subventions paid to merchant ships:

Austria (1910).

Mileage bounty, Austria Lloyd	$1,030,000
State subsidies to A. Lloyd	250,000
Dalmatian service	190,000
Development of navigation	40,000
Steam navigation on Danube River	250,000
Postal subsidies	$310,000
Reimbursement Suez Canal dues	480,000
Working and voyage subsidies to nonsubsidized navigation	1,450,000
	4,000,000

Hungary (1910).

Contract lines	545,000
Noncontract lines	75,000
	620,000

France (1910).

Construction bounties	1,800,000
Navigation bounties	5,200,000
Postal subventions	5,500,000
	12,500,000

Germany (1910).

Postal subsidies to North German Lloyd and German East Africa Line	1,750,000

Also:
German East Africa and German Levant Line get indirect bounties in form of largely reduced transportation rate on all German State railways to goods exported on through bills of lading from inland places by either line.

Italy (1910).

Commercial, maritime, and postal services	2,400,000
Navigation and construction bounties	1,600,000
	4,000,000

Japan (1911).

Extending steamship routes	5,600,000
Encouraging navigation	838,000
Encouraging shipbuilding	550,000
Training seamen	2,500
Subsidy to lifeboats	10,000
	7,000,500

Russia (1912).

Encouragement of mercantile marine	3,675,000
Subsidies to river steamship companies	235,000
Encouragement of shipbuilding	55,000
	3,965,000

Great Britain and Colonies.

Subventions and mail pay (1908)	3,320,000
Admiralty subsidy to Cunard Line (1909)	730,000
Royal naval reserves (1909)	1,785,000
Canadian subsidies and mail pay (1910)	1,580,000
Canadian fisheries bounty (1909)	160,000
Australia and New Zealand subsidies and mails (1909)	1,265,000
Cape Colony subsidy (1909)	655,000
Jamaica subsidy (1909)	195,000
	9,690,000

United States (1912—Act of 1891).

Mail pay (includes encouragement of commercial and naval facilities)	980,000

EXEMPTING COASTWISE VESSELS NO DISCRIMINATION AGAINST ANY NATION.

I have endeavored to show that the opponents of this bill occupy a position fortified at every point by recognized principles of American policy, including the policy of extreme liberality in the commercial treatment of other maritime nations, while the advocates of the bill, starting with the rejection of the most recent declarations of the three national parties and their national leaders during the last presidential election, are already driven to advocate measures and theories subversive of those which have been consistently followed from the beginning of our Government.

There is no question in my mind that the Panama Canal act of 1912, by exempting our coastwise vessels from Panama Canal tolls, involved no discrimination of any kind against Great Britain or any other nation.

I well recall that during the discussion of the Hay-Pauncefote treaty in executive session the late William P. Frye, Senator from the State of Maine, than whom the Senate has never seen a more just and impartial counsellor in our foreign relations and a more devoted advocate of the merchant marine—I recall, I say, that Senator Frye in executive session distinctly took the view that the proposed amendment of my colleague, Senator Bard, of California, to the Hay-Pauncefote treaty by specifically exempting our coastwise trade in terms in the treaty was entirely unnecessary, though perhaps harmless, because foreign ships could not engage in the coasting trade from the Atlantic to the Pacific either through the Straits of Magellan or through the transisthmian canal when opened; that the question of discrimination accordingly could never arise, because this rule of our maritime conduct was as well understood abroad as at home.

THE MEANING OF THE BRITISH PROTEST.

The British protest, as I read it, takes no other or different view. It merely expresses the fear that the principle of coastwise exemption may be so administered as to lead to discrimination against British vessels in contravention of the treaty. This fear does not involve national honor; it is not a charge of perfidy against the Congress which passed and the President who signed the Panama Canal act of 1912; it does not intimate that the national platforms and the national candidates of 1912 were lost to all sense of propriety and all understanding of the solemnity of international obligations.

This expression was merely a reasonable admonition that in the administration of the canal act officers responsible for government shall see to it that all the rights we have conceded to other nations shall be scrupulously observed and shall not be lost sight of by those charged with the control of the canal.

I must confess that the fear expressed by Sir Edward Grey and Mr. Mitchell Innes, of the British embassy, would have seemed to me more reasonable if it had been uttered after instead of before the action of the officers of the administration with reference to the discriminating-duty section of the Underwood Tariff Act.

Be that as it may, if I have read with understanding the British notes, the remedy for the situation lies in careful instructions by the President, the Secretary of the Treasury, the Secretary of War, and the Secretary of Commerce, in their respective spheres, to subordinate officers in their several departments who have to do with Panama Canal affairs and the duties of collectors of customs.

Until this remedy has been tried; until some reasonable proposition for arbitration or mediation, if there be any question to arbitrate or mediate, has been tried and has failed, the Senate should hesitate long before taking a step the ultimate consequences of which may be fraught with serious perils to the Republic.

Mr. BORAH. Mr. President, I understand that there is no Senator who desires to discuss the tolls question at this time. If there is, I will give way; but if there is not, I desire, under the protection of this measure while it is before the Senate, to perform the modest task of making a few suggestions to the President of the United States and to the Democratic Party.

It appears by the public press that we are to have no legislation at this session upon western questions, and I feel that I may properly appeal to those in charge of legislation to consider seriously the question whether such legislation should be put aside. We have been in session now for nearly two years. Some measures covering western legislation vital to the interests of the West have already been put into shape and form and passed by this body, which could be passed by the other body and become the law of the land after a few hours' consideration.

A short time, Mr. President, after the incumbent of the White House was elected he delivered an address at Chicago upon the subject of conservation, an address which met with the approval of the entire West. In the first place, it was a clear and definite statement as to the necessity of some practical legislation, and, in the second place, it seemed to suggest that legislation along practical, sane, and safe lines. As I have said, it met with the approval of all those who live in what is known as the arid-land or public-land States, or those States which are yet in the course of development where there are large areas of public lands and where the natural resources are yet to be developed. I took occasion to write the President after he delivered that address, expressing, as an humble member of the western delegation, my approval of the principles which he announced and the purposes which he foreshadowed as to his administration.

The President followed up the address, as an evidence of his good faith, by appointing as Secretary of the Interior, Franklin K. Lane, than whom no better man could have been found for the position, a western man, but thoroughly alive to the necessity of protecting the natural resources of the West against the inroads of monopoly, a man who understands the necessity of development and the pressing need of legislation in order to promote development; in other words, a man who believes that the tying up of natural resources is not conservation. There are only a few people in this country at large who still believe in that proposition.

Mr. Lane made his report on June 30, 1913, in which he outlined the purposes and policies of the administration. This report met with the entire approval of the people of the West, and it was supposed that legislation would follow within a reasonable time and that relief would be granted from a condition which can not be too thoroughly discussed or too well understood.

As I have said, so far as actual legislation is concerned, nothing up to this time has been done and the situation in some respects is deplorable. I do not believe that the President understands the situation in the West or the conditions which prevail there at this time. Neither do I believe that he understands the situation here with reference to legislation upon that subject; or, otherwise, there would be an insistence upon his part that some legislation be enacted at this session.

I understand, Mr. President, that there are some kinds of legislation, or, rather, some bills covering some subjects of conservation, which would require a vast amount of time; and perhaps, in view of other matters which are pending and which are deemed to be more important—though I do not think so—we can not expect that legislation be had upon those subjects. For instance, we might concede that, so far as legislation dealing with the grazing lands in the West is concerned, that it could hardly be framed, put into shape, and passed at this session. We might concede that, so far as the power question is concerned, it would require more time than we could possibly give to it at this session; but I do want to say, Mr. President, that there is no subject before Congress of more concern and consequence, not only to the people of the West but to the entire country, than the question of the proper solution of the power problem.

There is now in process of organization and creation in this country the most gigantic combination designed to control the power possibilities of this country that we have had any knowledge of in the entire history of combinations. Men representing $300,000,000 are behind the movement to take control; and the attitude which the Government has assumed for the last few years enables them to do so with greater prospect of success. I would not say that a law dealing with that question could be passed at this session, requiring the consideration and study that it will, but I do say that we could well afford to spend time upon the subject and, in my judgment, some other matters which will be dealt with in a superficial way could be put aside for the purpose of dealing with this matter in a substantial way.

I do not, however, rise to urge those two particular propositions. There are some measures here which we can enact after a few hours' consideration. They are measures which have been discussed. They have been hammered into shape. Committees from the House of Representatives and from the Senate, in connection with the Secretary of the Interior, have gone over them and worked them out. Some of them have passed this body, and it would only require a few hours to make them statutes; and the result would be of incalculable benefit to the people of the West, who are trying to settle up the arid lands and make homes there. Those people have disclosed great courage, a great love for homes, in taking hold of these desert lands, and we owe a duty to them, and that is to act promptly and to act efficiently.

Mr. CHAMBERLAIN. Mr. President, may I interrupt the Senator for just a moment?

The PRESIDING OFFICER (Mr. RANSDELL in the chair). Does the Senator from Idaho yield to the Senator from Oregon?

Mr. BORAH. I yield.

Mr. CHAMBERLAIN. The Senator referred to the conduct of the administration as having placed it in the power of these water-power monopolies to get control; and I think the Senator limited this administrative policy to the last two years, or possibly three years.

Mr. BORAH. Oh, no; I did not limit it to that.

Mr. CHAMBERLAIN. I think the Senator did not intend to convey that idea. It really dates back six or eight years.

Mr. BORAH. I did not limit it to the last two years. I said "the last few years."

Mr. CHAMBERLAIN. I did not think the Senator intended to do so.

Mr. BORAH. I did not rise to-day to assail the administration or to criticize it. I am calling attention to a condition. Wherever the chips fall they will have to fall, whether on preceding administrations or on this administration.

Mr. CHAMBERLAIN. I did not think the Senator intended to convey that idea, but from what the Senator said I rather drew the inference that he confined it to the last two or three years. I think the policy of which he speaks really dates back about eight years.

Mr. BORAH. I did not intend to confine it to this administration. I said "the last few years."

I was about to say that there are some measures here which need not take any considerable length of time. We passed

through this body some time ago an act providing for the extension of the period of time for payment upon reclamation projects. That was a measure which was earnestly recommended by the Secretary of the Interior in his exceptionally able report, to which I have already called attention heretofore in a former debate; but I want to read, if I may, a single paragraph from it. It says:

But there is one matter of great moment to these people which should be corrected by law as soon as possible.

Of course, as we do business here, and as the Government moves upon a century plan, it might be said that a year or two years or five years is "as soon as possible"; but for the man who is out upon the homestead, whose credit has been exhausted, whose title is likely to be impeached, and whose financial condition is up to the limit, "as soon as possible" does not mean a year or two. It means within a few months, or it means the forfeiture of his title and the loss of his earnings for the last five or six years. Yet, Mr. President, what the Secretary of the Interior says should be taken care of as soon as possible has been lying here in the tomb of legislation for months and months, and during all that time men have been sacrificing what has really constituted their earnings for the last several years.

I know that since the Congress of the United States has ceased to be at all active upon this question more than one homesteader in my State upon these reclamation projects has given up his all, and has undertaken to find employment at day labor or something to take care of his family.

Mr. THOMAS. Mr. President——

The PRESIDING OFFICER. Does the Senator from Idaho yield to the Senator from Colorado?

Mr. BORAH. I yield.

Mr. THOMAS. I wish to inquire of the Senator if he does not think the Senate is in part to blame for this condition? Do we not waste more than half our time here in idle and useless discussion which might easily be obviated, and the time devoted to giving attention to the public business?

Mr. KENYON. Did the Senator say half of our time?

Mr. THOMAS. I wanted to be as moderate as possible. [Laughter.]

Mr. KENYON. I thought the Senator's statement was rather moderate.

Mr. BORAH. I will agree to that, if the Senator did not mean a personal reflection upon the present speaker. [Laughter.]

Mr. THOMAS. On the contrary, I am quite as guilty as my colleagues of using up a good deal of time that might perhaps be devoted to useful purposes.

Mr. BORAH. Mr. President, I think these bills could be passed without any further discussion at all, in all likelihood, and that if they were brought to the attention of the Congress they would be passed without any considerable further discussion, because they have been worked out to a great extent. They have been before committees; the Secretary of the Interior and his very able assistant have had to do with them, and there is very little left to discuss. I think they are agreeable to all parties interested, but for some inconceivable reason there is no movement behind them.

I will read another line or two from the report of the Secretary of the Interior.

Mr. JONES. Mr. President——

The PRESIDING OFFICER. Does the Senator from Idaho yield to the Senator from Washington?

Mr. BORAH. I yield.

Mr. JONES. I simply wish to suggest in that connection that there certainly was not any unnecessary delay in the Senate in the passage of the bill to which the Senator has referred, and no particular discussion in regard to it. It was passed hurriedly, in one day.

Mr. BORAH. The Secretary says

We mistook the ability of the farmer to pay for his water rights. Ten years was the time given. His optimism and our own was too great. That time should be doubled. This should be done not alone because of the inability of many to meet their obligations to the Government, but because it will prove wise policy to give a free period within which the farmers may more fully use their farms. They can put their lands to a more profitable use, both to themselves and to the country, by being allowed to cumulate their earnings in the early years, and be thus enabled to make investments in stock and machinery which will make for larger profits later.

I feel the keenest sympathy with those upon these projects who are entering into this work of putting the desert into public service. They are genuine pioneers in a new field of work, on the success of which depends greatly the rescuing of a vast territory. The enemy of the Government and of the farmer is the land speculator. He is of two kinds. Sometimes he is a farmer who does not expect to farm, but to sell out at a higher price and go elsewhere. Generally, however, he is the holder of a large tract of private land within the project, who creates false values and burdens those who buy and attempt to farm with a load of debt which handicaps them in their efforts. Both of these are hostile to the welfare of the enterprise, and tend to destroy the value of the service which the Government is attempting. But such matters may, I trust, be overcome by new methods of administration.

So several months ago, after a visit to the West, the Secretary of the Interior urged it; and he has not drawn the picture to its full color. So far as he has gone he is entirely accurate, but he has been modest in his statement as to the conditions which prevail there.

I say to the Congress of the United States now, and I weigh my words, that if this session ends without the passing of that bill it will be a most wrongful and unjust thing to thousands of settlers who have been invited by the Government to go upon those lands. It will work an irreparable injury to them. They never can be compensated. They will have given up all they have, and their sacrifices upon those desert places will have been made in vain.

I appeal to the Congress and to the administration in power to consider the welfare of these people, though they be but few as compared with the 90,000,000 people of the United States, and to pass this measure before this session ends. It will be not only an act of justice, but an act of humanity, and it will be an act of injustice and inhumanity if we fail to do it.

I do not know whether we shall leave here before the 1st of September or not; but no Senator sits here who could not afford to stay 30 days to relieve those men of the situation in which they find themselves.

I ask leave to insert in connection with my remarks the bill which has passed the Senate, which has had the approval of the Secretary of the Interior, which has had the approval of the Representatives of the House who met with the Secretary of the Interior, and which, so far as I know, is without objection as to its details.

The PRESIDING OFFICER (Mr. SHEPPARD in the chair). Without objection, it will be so ordered.

The bill referred to is as follows:

[As reported in House of Representatives, showing committee amendments.]

(Omit the part in brackets and insert the part printed in italic.)

Be it enacted; etc., That any person whose lands hereafter become subject to the terms and conditions of the act approved June 17, 1902, entitled "An act appropriating the receipts from the sale and disposal of public lands in certain States and Territories to the construction of irrigation works for the reclamation of arid lands," and acts amendatory thereof or supplementary thereto, hereafter to be referred to as the reclamation law, and any person who hereafter makes entry thereunder shall at the time of making water-right application or entry, as the case may be, pay into the reclamation fund [2] 5 per cent of the construction charge fixed for his land as an initial installment, and shall pay the balance of said charge in 15 annual installments, the first 5 of which shall *each* be 5 per cent of the construction charge and the remainder *shall each be* 7 per cent until the whole amount shall have been paid. The first of the annual installments shall become due and payable on December 1 of the fifth calendar year after the initial installment: *Provided*, That any water-right applicant or entryman may, if he so elects, pay the whole or any part of the construction charges owing by him within any shorter period: *Provided further*, That entry may be made whenever water is available, *as announced by the Secretary of the Interior*, and the initial payment be made when the charge per acre is established.

ACT SHALL APPLY TO EXISTING PROJECTS.

SEC. 2. That any person whose land or entry has heretofore become subject to the terms and conditions of the reclamation law shall pay the construction charge, or the portion of the construction charge remaining unpaid, in 20 annual installments, the first of which shall become due and payable on December 1 of the year in which the public notice affecting his land is issued under this act, and subsequent installments on December 1 of each year thereafter. The first 4 of such installments shall each be 2 per cent, the next 2 installments shall each be 4 per cent, and the next 14 each 6 per cent of the total construction charge *or the portion of the construction charge unpaid at the beginning of such installments.*

PENALTIES.

SEC. 3. That if any water-right applicant or entryman shall fail to pay any installment of his construction charges when due there shall be added to the amount unpaid a penalty of 1 per cent thereof, and there shall be added a like penalty of 1 per cent of the amount unpaid on the first day of each month thereafter so long as such default shall continue. If any such applicant or entryman shall be one year in default in the payment of any installment of the construction charges and penalties, or any part thereof, his water-right application, and if he be a homestead entryman his entry also, shall be subject to cancellation, and all payments made by him forfeited to the reclamation fund, but no homestead entry shall be subject to contest because of such default: *Provided*, That if the Secretary of the Interior shall so elect, he may cause suit or action to be brought for the recovery of the amount in default and penalties; but if suit or action be brought the right to declare a cancellation and forfeiture shall be suspended pending such suit or action.

INCREASE OF CHARGES.

SEC. 4. That no increase in the construction charges shall hereafter be made, after the same have been fixed by public notice, except by agreement between the Secretary of the Interior and a majority of the water-right applicants and entrymen to be affected by such increase, whereupon all water-right applicants and entrymen in the area proposed to be affected by the increased charge shall become subject thereto. Such increased charge shall be added to the construction charge and payment thereof distributed over the remaining unpaid installments of construction charges: *Provided*, That the Secretary of the Interior, in his discretion, may agree that such increased construction charge shall be paid in additional annual installments, each of

which shall be at least equal to the amount of the largest installment as fixed for the project by the public notice theretofore issued. And such additional installments of the increased construction charge, as so agreed upon, shall become due and payable on December 1 of each year subsequent to the year when the final installment of the construction charge under such public notice is due and payable: *Provided further*, That all such increased construction charges shall be subject to the same conditions, penalties, and suit or action as provided in section 3 of this act.

OPERATION AND MAINTENANCE.

SEC. 5. That in addition to the construction charge, every water-right applicant, entryman, or landowner under or upon a reclamation project shall also pay, whenever water service is available for the irrigation of his land, an operation and maintenance charge based upon the total cost of operation and maintenance of the project, or each separate unit thereof, and such charge shall be made for each acre-foot of water delivered; but each acre of irrigable land, whether irrigated or not, shall be charged with a minimum [maintenance] *operation* and [operation] *maintenance* charge based upon the charge for delivery of not less than 1 acre-foot of water: *Provided*, That, whenever any legally organized water users' association or irrigation district shall so request, the Secretary of the Interior is hereby authorized, in his discretion, to transfer to such water users' association or irrigation district the care, operation, and maintenance of all or any part of the project works, subject to such rules and regulations as he may prescribe. If the total amount of operation and maintenance charges and penalties collected for any one irrigation season on any project shall exceed the cost of operation and maintenance of the project during that irrigation season, the balance shall be applied to a reduction of the charge on the project for the next irrigation season, and any deficit incurred may likewise be added to the charge for the next irrigation season.

PENALTIES.

SEC. 6. That all operation and maintenance charges shall become due and payable on the date fixed for each project by the Secretary of the Interior, and if such charge is paid on or before the date when due there shall be a discount of 5 per cent of such charge; but if such charge is unpaid on the first day of the third calendar month thereafter, a penalty of 1 per cent of the amount unpaid shall be added thereto, and thereafter an additional penalty of 1 per cent of the amount unpaid shall be added on the first day of each calendar month if such charge and penalties shall remain unpaid, and no water shall be delivered to the lands of any water-right applicant or entryman who shall be in arrears for more than one calendar year for the payment of any charge for operation and maintenance, or any annual construction charge and penalties. If any water-right applicant or entryman shall be one year in [default] *arrears* in the payment of any charge for operation and maintenance and penalties, or any part thereof, his water-right application, and if he be a homestead entryman his entry also, shall be subject to cancellation, and all payments made by him forfeited to the reclamation fund. In the discretion of the Secretary of the Interior suit or action may be brought for the amounts in default and penalties in like manner as provided in section 3 of this act.

FISCAL AGENT.

SEC. 7. That the Secretary of the Interior is hereby authorized, in his discretion, to designate and appoint, under such rules and regulations as he may prescribe, the legally organized water users' association or irrigation district, under any reclamation project, as the fiscal agent of the United States to collect the annual payments on the construction charge of the project and the annual charges for operation and maintenance and all penalties: *Provided*, That no water-right applicant or entryman shall be entitled to credit for any payment thus made until the same shall have been paid over to an officer designated by the Secretary of the Interior to receive the same.

RECLAMATION REQUIREMENTS.

SEC. 8. That the Secretary of the Interior is hereby authorized to make *general* rules and regulations governing the *use of water in the* irrigation of the lands within any project, and may require the reclamation for agricultural purposes and the cultivation of [one-fourth] *one-half* the irrigable area under each water-right application or entry within three full irrigation seasons after the filing of water-right application or entry, and the reclamation for agricultural purposes and the cultivation of [one-half] *three-fourths* the irrigable area within five full irrigation seasons after the filing of the water-right application or entry, and shall provide for continued compliance with such requirements. Failure on the part of any water-right applicant or entryman to comply with such requirements shall render his application or entry subject to cancellation.

LANDS NOT SUBJECT TO RECLAMATION ACT.

SEC. 9. That in all cases where application for water right for lands in private ownership or lands held under entries not subject to the reclamation law shall not be made within one year after the passage of this act, or within one year after notice issued in pursuance of section 4 of the reclamation act, in cases where such notice has not heretofore been issued, the construction charges for such land shall be increased 5 per cent each year until such application is made and an initial installment is paid.

WITHDRAWN LANDS SUBJECT TO ENTRY.

SEC. 10. That the act of Congress approved February 18, 1911, entitled "An act to amend section 5 of the act of Congress of June 25, 1910, entitled 'An act to authorize advances to the reclamation fund and for the issuance and disposal of certificates of indebtedness in reimbursement therefor, and for other purposes,'" be, and the same hereby is, amended so as to read as follows:

"SEC. 5. That no entry shall be hereafter made and no entryman shall be permitted to go upon lands reserved for irrigation purposes until the Secretary of the Interior shall have established the unit of acreage per entry, and water is ready to be delivered for the land in such unit or some part thereof and such fact has been announced by the Secretary of the Interior: *Provided*, That where entries made prior to June 25, 1910, have been or may be relinquished, in whole or in part, the lands so relinquished shall be subject to settlement and entry under the reclamation law."

WATER SERVICE.

SEC. 11. That whenever water is available and it is impracticable to apportion operation and maintenance charges as provided in section 5 of this act, the Secretary of the Interior may, prior to giving public notice of the construction charge per acre upon land under any project, furnish water to any entryman or private landowner thereunder until such notice is given, making a reasonable charge therefor, and such charges shall be subject to the same penalties and to the provisions for cancellation and collection as herein provided for other operation and maintenance charges.

ADMISSION OF PRIVATE LANDOWNERS TO NEW PROJECTS.

SEC. 12. That before any contract is let or work begun for the construction of any reclamation project hereafter adopted the Secretary of the Interior shall require the owners of private lands thereunder to agree to dispose of all lands in excess of the area which he shall deem sufficient for the support of a family upon the land in question, upon such terms and at not to exceed such price as the Secretary of the Interior may designate, and if any landowner shall refuse to agree to the requirements fixed by the Secretary of the Interior, his land shall not be included within the project if adopted for construction.

DISPOSITION OF EXCESS FARM UNITS.

SEC. 13. That all entries under reclamation projects containing more than one farm unit shall be reduced in area and conformed to a single farm unit within two years after making proof of residence, improvement, and cultivation, or within two years after the issuance of a farm-unit plat for the project, if the same issues subsequent to the making of such proof: *Provided*, That such proof is made within four years from the date as announced by the Secretary of the Interior that water is available for delivery [to] *for* the land. Any entryman failing within the period herein provided to dispose of the excess of his entry above one farm unit, in the manner provided by law, and to conform his entry to a single farm unit, shall render his entry subject to cancellation as to the excess above one farm unit: *Provided*, That upon compliance with the provisions of law such entryman shall be entitled to receive a patent for that part of his entry which conforms to one farm unit as established for the project: *Provided further*, That no person shall hold by assignment more than one farm unit prior to final payment of all charges for all the land held by him subject to the reclamation law, except operation and maintenance charges not then due.

ACCEPTANCE OF THIS ACT.

SEC. 14. That any person whose land or entry has heretofore become subject to the reclamation law who desires to secure the benefits of the extension of the period of payments provided by this act shall, within six months after the issuance of the first public notice hereunder affecting his land or entry, notify the Secretary of the Interior, in the manner to be prescribed by said Secretary, or his acceptance of all of the terms and conditions of this act, and thereafter his lands or entry shall be subject to all of the provisions of this act.

SEC. 15. That the Secretary of the Interior is hereby authorized to perform any and all acts and to make such rules and regulations as may be necessary and proper for the purpose of carrying the provisions of this act into full force and effect.

[SEC. 16. That the district court of the United States for the district where the lands, or some portion of the lands, included within any reclamation project are situated shall have jurisdiction of all suits brought by the United States or the Secretary of the Interior for the enforcement of the provisions of this act, and jurisdiction of all suits now pending or which may be hereafter instituted by any legally organized water users' association or irrigation district in behalf of the water users and settlers thereon for the enforcement of the provisions of this act and of the provisions of the reclamation law as referred to and defined in section 1 of this act.]

Mr. JONES. Mr. President——

The PRESIDING OFFICER. Does the Senator from Idaho yield to the Senator from Washington?

Mr. BORAH. I yield.

Mr. JONES. I fully agree with the suggestions made by the Senator as to the importance of passing this measure. I thought I would ask the Senator whether he does not feel that we would be justified, if necessary, in taking advantage of some of the opportunities we have to delay the passage of some measures that may be urged until that legislation is passed in another body?

Mr. BORAH. Mr. President, I have offered one amendment to the rivers and harbors bill covering a western subject. I am going to offer the bill which I have just asked to have printed in the RECORD as an amendment to the rivers and harbors bill, and I am going to offer another one covering the homestead question. I am going to test the sense of the Senate as to whether it thinks more of that kind of legislation which has come to be designated the country over as the "pork barrel" or of the interest of those who are trying to make homes in the western country. I am going to know before the session closes whether we will appropriate out of the Treasury of the United States millions of dollars, 40 or 50 per cent of which will likely be wasted before it ever gets to the place where it ought to be expended, and put aside legislation which does not cost the Government one cent in the end, but which enables the wandering settler of the West to locate himself and his family and to become an estimable citizen of this Republic.

If the Senate should come to the conclusion that it thinks more of the rivers and harbors bill than it does of that situation, I shall test the Senate upon another question, and that is whether or not it will pass the rivers and harbors bill at all.

Mr. KENYON. Mr. President, will the Senator yield to me for a question?

Mr. BORAH. I yield.

Mr. KENYON. I wish to ask the Senator whether the amendments he proposed to the rivers and harbors bill would raise the question to which he has been speaking this afternoon. As I understand, the Senator's propositions are not "pork-barrel" propositions.

Mr. BORAH. No.

Mr. KENYON. How, then, can the Senator attach them to the rivers and harbors bill? [Laughter.]

Mr. BORAH. I do not know, but I will undertake to demonstrate it when we get there.

Mr. MYERS. Mr. President——

The PRESIDING OFFICER. Does the Senator from Idaho yield to the Senator from Montana?

Mr. BORAH. I yield.

Mr. MYERS. I wish to say that I am in hearty accord with the Senator from Idaho about the urgent necessity and justice of some legislation for the extension of time for settlers to make payments on their lands under the Government reclamation projects; but the Senator speaks of testing the Senate as between that proposition and the rivers and harbors bill. I merely desire to suggest to the Senator that the bill to which he refers, granting an extension of time for payments on land under the reclamation projects, has passed the Senate and is now in the House. The Senate has nothing to do with it. It has no choice between that and the rivers and harbors bill.

Mr. BORAH. Oh, yes; the Senate will have a vast amount to do with it before the rivers and harbors bill gets through here. It will have a vast amount to do with it.

Mr. MYERS. If the Senator means that if one bill is defeated the other must be defeated, I can see what the Senate has to do with it; but it has no choice now as to passing the law granting 20 years in which to make these payments.

Mr. BORAH. Oh, I understand that perfectly; but there is such a powerful momentum behind certain forms of legislation in the Congress of the United States that every man knows that if he wants to ride through the Congress he had better get on that particular wagon.

Mr. THORNTON. Mr. President——

The VICE PRESIDENT. Does the Senator from Idaho yield to the Senator from Louisiana?

Mr. BORAH. I yield.

Mr. THORNTON. With the permission of the Senator from Idaho, I should like to ask him how long this discussion is to continue. When he rose to speak, the moment the speech of the Senator from California [Mr. PERKINS] was concluded, I supposed that, of course, he was going to address the Senate on the subject of the Panama Canal tolls bill. Otherwise I certainly should have moved that the naval appropriation bill, the pending bill, should be taken up.

I am very anxious to proceed with that bill. If we do not get through with it to-night we will not get through with it for a week. I never would have consented to the Senator taking up this time if I had not supposed he was going to speak on the subject of the Panama Canal tolls.

Mr. BORAH. Mr. President, with all due respect to my friend from Louisiana—for whom, as he knows, I have a very kindly regard—the Senator from Louisiana has nothing to do with consenting to my occupying the floor.

Mr. THORNTON. Mr. President, to that I will say that while the Senator is on the floor I can not interfere with him, but I could have objected to his speaking on any other subject except the Panama Canal tolls bill; and I should have called up that measure, which is a preference bill, if I had known the Senator was going to speak on any other subject. I am not trying to take him off his feet now, but I asked that he would give me an idea as to how much longer this discussion would continue. Before he began I spoke to him, having understood from the chairman of the Interoceanic Canals Committee that he wanted to speak on the subject of tolls. He told me he desired to speak about 20 minutes. He rose the very moment the Senator from California had concluded, and, of course, I supposed he was going to talk on the subject of tolls. It is well known that the naval bill comes up every day immediately after the discussion of the tolls bill.

Mr. BORAH. Mr. President, I would not inconvenience the Senator from Louisiana in passing an appropriation bill. I know how important it is to get through appropriation bills; but I wish to say to the Senator from Louisiana in all candor that if he knew the situation in the West, and the necessity of this legislation, he would not become irritated with the Senator from Idaho because he undertakes to present in a very few minutes what the Senator from Idaho deems the very unfortunate situation of the portion of the country which he has the honor in part to represent.

Mr. THORNTON. Mr. President, the situation is simply this: The naval appropriation bill is a preference bill, and had the right of way the moment the tolls bill was laid aside. I had the right to call it up, or ask that it be called up, and I think the Senate would have granted the request that it should be called up, as it has done every day heretofore.

Mr. BORAH. Mr. President, the Senator could not have kept me off the floor, although had he requested me to remain off the floor I would have done so until another hour; but had the Senator called up this bill, I should have simply addressed myself to this subject under the subject of appropriations. I wanted to discuss this matter; everything seemed quiet and calm and practically nobody was here. There were only three Senators in the Senate Chamber when I began to speak. I did not see any wild rush to discharge public business or any great agitation of mind over getting these bills through, and I thought it was a good opportunity to add a little respectability to the rivers and harbors bill by informing the Senate that I was going to offer some amendments to it.

Mr. THORNTON. Mr. President, I can only repeat what I said before. The Senator would never have spoken with my consent, and I do not believe the Senate would have agreed to allowing him to do so, if I had known that he was not going to speak on the subject of Panama Canal tolls, because he knows as well as everybody else here knows that the naval bill had the right of way the moment the Panama Canal tolls bill was out of the way.

Mr. GALLINGER. It had no right of way.

Mr. TILLMAN. Mr. President, I want to appeal to my friend from Idaho please to let us go on with the naval bill. He is so eloquent that we all like to hear him; I particularly like to hear him; but I appeal to him now to let us go on with the naval bill.

Mr. BORAH. If the Senator from South Carolina is making this a personal matter, I shall certainly yield.

Mr. TILLMAN. I do make it a personal matter. I ask the Senator to yield, as a friend of mine.

Mr. BORAH. I know the Senator from South Carolina is not in good health.

Mr. TILLMAN. I sympathize with the Senator in his desire to help his constituents out there, and perhaps I will vote with him.

Mr. BORAH. I should like to have the Senator make it a little stronger than "perhaps." [Laughter.]

Mr. President, I am going to yield on this proposition to-day, with the suggestion that when I can get on the floor without inconveniencing my colleagues I am going to continue the discussion. I want to discuss particularly an amendment to the homestead bill and for increased loan for the reclamation fund. These are the three measures which we can pass and which we should pass. I shall present the matter later. I now yield at the request of my friend from South Carolina.

Mr. O'GORMAN. I ask that the Panama Canal tolls bill may be temporarily laid aside.

Mr. THORNTON. The Senator might have said that it was laid aside practically half an hour ago, when the Senator from Idaho began to talk on conservation.

The VICE PRESIDENT. Without objection, it will be temporarily laid aside.

NAVAL APPROPRIATIONS.

Mr. THORNTON. I ask that the Senate resume the consideration of the naval appropriation bill.

There being no objection, the Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 14034) making appropriations for the naval service for the fiscal year ending June 30, 1915, and for other purposes.

The SECRETARY. The pending amendment is the amendment of the committee, on page 59, after line 13, where it is proposed to insert:

A committee is hereby authorized to be appointed to consist of one member of the Committee on Naval Affairs of the Senate and one member of the Committee on Naval Affairs of the House of Representatives, to be selected by the chairmen of the respective committees, and one naval officer, to be selected by the Secretary of the Navy, to investigate and report at the next regular session of Congress upon the selection of a suitable site for the erection of an armor plant to enable the United States to manufacture its own armor plate and special-treatment steel capable of standing all ballistic and other necessary tests required for use in vessels of the Navy at the lowest possible cost to the Government, taking into consideration all of the elements necessary for the economical and successful operation of such a plant, such as the availability of labor, material, and fuel, and transportation facilities to and from said plant. Said report shall contain the cost of a site sufficient to accommodate a plant having an annual output capacity of 20,000 tons and a site for an output of 10,000 tons, and also an itemized statement of the cost of the necessary buildings, machinery, and accessories for each, and the annual cost and maintenance of each, and the estimated cost of the finished product.

Said committee is authorized to sit during the recess of Congress, to send for persons and papers, and to administer oaths.

The sum of $5,000 is hereby appropriated, out of any money in the Treasury not otherwise appropriated, to pay the expenses of said committee and to be immediately available.

Mr. OLIVER. Mr. President, I make the point of order against this amendment that it is general legislation on an appropriation bill.

The VICE PRESIDENT. The Chair does not believe it is general legislation. It has been some time since the Chair tried to practice law, but it is his recollection that general legislation is any legislation which applies generally to the people of the United States or which applies generally to any class of citizens of the United States who may come within the purview of the legislation, or any legislation which attempts to limit, alter, or change that which has been heretofore fixed by the statutes of the United States as applying generally to departments or officers.

The Chair does not believe this amendment comes within any of those rules; but it is special in character, and applies to one particular subject.

The Chair therefore overrules the point of order.

Mr. OLIVER. Mr. President, I am not sufficiently familiar with what is known as parliamentary law or parliamentary usages to argue this proposition. Not being able to argue it, I shall not appeal from the decision of the Chair, although from what little light I have upon the subject I can not concur in the views expressed by the Vice President.

On the merits of this proposition, however, I am opposed to it, because I am opposed to extending the operations of the General Government into the domain which ought to be left to private enterprise.

As a part of my remarks I wish to send to the desk and ask to have read a letter which I received some time ago upon this very subject from one of the most eminent lawyers in the State of Pennsylvania. He is a lifelong Democrat. I might style him the nestor of the Philadelphia bar. He expresses his views upon the subject in such strong language and in such apt terms that I think what he says will express my views much better than anything I could say.

I ask that the Secretary may read the letter.

The VICE PRESIDENT. The Secretary will read as requested.

The Secretary read as follows:

(Personal.)

LAW OFFICES,
DICKSON, BEITLER & MCCOUCH,
750 Bullitt Building, Philadelphia, May 27, 1913.

Hon. GEORGE T. OLIVER,
United States Senate, Washington, D. C.

DEAR MR. OLIVER: You ought to be better qualified than anyone else in Washington to expose the absurdity of the proposal of the Secretary of the Navy to build an armor plant, and you would be doing a great public service if you would make a brief statement of the facts.

It is hard to understand what notion he would have of building an armor plant without undertaking to produce the steel to be used in making the plates, and the cost of a complete plant would probably prove to be nearer $10,000,000 than $5,000,000.

Assuming that the Navy Department was in possession of such a plant, no matter how well designed and equipped, how could it possibly run it with a shifting force of employees? To insure armor of the quality required by the department it would probably cost in the Government plant two or three times as much as if made by the three concerns which are now making it. You could easily get information as to the misfits which must be counted on and the incidental losses, which can, however, be put to use in the other departments of such plants. * * * [Clause read subsequently omitted from the RECORD.]

I have no other interest in the matter than as a citizen and as a Democrat who is disgusted with the incompetency and disregard of Democratic doctrine by the people who are now usurping the name of the party which in former years deserved the respect of those who believed in its principles. The men who are now masquerading as Democrats have no more notion of the true function of the State than the Czar of Russia, and the only definite purpose which they seem to have in view is to multiply its officeholders and to intermeddle with the business of the citizen.

Truly, yours,
SAMUEL DICKSON.

Mr. KENYON. I should like to ask the Senator from Pennsylvania, Is the writer of this letter a manufacturer of armor plate or connected with the manufacture of armor?

Mr. OLIVER. Not at all. He is a lawyer, and all his life has spent his time in his law office.

Mr. KENYON. Is he employed by a manufacturer of armor plate?

Mr. OLIVER. Not to my knowledge. He wrote to me simply as a citizen of Pennsylvania writing to his representative in the Senate.

Mr. THOMAS. Mr. President, I should like to inquire of the Senator from Pennsylvania if he thinks it is proper to insert in the RECORD a letter which makes such a reference as this letter does to the Secretary of the Navy and also to his supporters in the Senate. It seems to me that on sober second thought the Senator will withdraw at least that part of the letter from the RECORD which refers to the Secretary of the Navy.

Mr. OLIVER. I should like to know to what part the Senator refers.

Mr. THOMAS. That part which refers to the Secretary of the Navy and his supporters in the Senate. It may be in accordance with the notions of a distinguished Philadelphia Democrat, but he should not make such reflections upon a portion of this body and upon the Secretary of the Navy. I certainly do not believe the Senator from Pennsylvania would approve of it.

Mr. OLIVER. I have nothing further to say, Mr. President.

The VICE PRESIDENT. The question is on agreeing to the amendment.

Mr. SMOOT. Mr. President, I do not rise to appeal from the decision in relation to the point of order raised against the amendment, but I wish to say that in my opinion it is legislation upon an appropriation bill, and I can not help but believe that the point of order should be sustained. I am not going to appeal from the decision of the Chair. I am not particularly interested in the item, and therefore I do not raise the question at this time.

The VICE PRESIDENT. The rule says "general legislation," not "legislation."

Mr. SMOOT. I am aware of that, but the practice of the Senate has been in the past that items of this kind, which are purely legislation and can not be classed as special legislation, have always fallen under the head of general legislation. That is as I understand it.

Mr. CHAMBERLAIN. Mr. President, I move to strike from the RECORD the letter which was read at the request of the Senator from Pennsylvania. I think with the Senator from Colorado [Mr. THOMAS] that it is an unjust reflection not only upon officers of the Cabinet but upon Members of the Senate as well. Further than that, I think the Senator from Pennsylvania adopted the language as his own when he said that it expressed his views better and more clearly than it would be possible for him to do himself. I do not think the letter ought to be placed in the RECORD at all.

Mr. THOMAS. The part of the letter to which I object, and which I think should go out—not the entire letter upon the motion of the Senator from Oregon—is the part which I have included in parentheses on page 2.

The VICE PRESIDENT. The question is on the motion of the Senator from Oregon [Mr. CHAMBERLAIN] to strike the letter from the RECORD.

Mr. LEWIS. May I not offer as a substitute motion that the Senator from Pennsylvania tendering the letter be permitted to withdraw from the letter the portion which has been designated as obnoxious, and on his own motion, he having had it called to his attention?

The VICE PRESIDENT. The question is on the motion of the Senator from Oregon to strike out the letter from the RECORD.

Mr. MARTINE of New Jersey. Mr. President, I would be quite as much a stickler for the dignity and respect of the Senate of the United States as anyone in this Chamber, but, after all, I think this is a good deal of a tempest in a teapot and it is perfectly harmless. The protest by this distinguished gentleman from Pennsylvania is entirely in harmony with that element that think everything the Democratic Party does is wrong. It is in harmony with the protest which was made when we started the parcel-post legislation. There came up what seemed to be a universal protest stating how the Government was running wild, that we were running into business, and all that sort of thing. When we started the proposition of appropriating $500,000 for a powder plant in order to make a little powder the same sort of protest was made. It has been made in years past and it will continue to be made as long as time lasts. It is utterly harmless.

I do not believe that Secretary Daniels will feel one whit smaller after having seen this letter spread upon the CONGRESSIONAL RECORD than before he read it. I believe it is just spending our time for naught. I would be perfectly willing to let the protest go on. It does not hurt us, and I do not believe it dignifies and advances the distinguished man who wrote the letter or the distinguished Senator who presents it.

Mr. LEWIS. But, Mr. President, upon the motion made to strike out this document from the RECORD I have this observation to make: I regard the general tendency a very dangerous one that has lately arisen and apparently seems now to grow in this body, that because a document may contain some observation not agreeable to the tastes or the sense of refinement of any Member the document must be stricken from consideration.

In this particular case there are statements which good taste would not have permitted and which offend against that form which has prevailed in discussion in this body; but what interests me is this: The Senator from Pennsylvania, unless I misunderstood him, and I now invite his attention to what I am saying, said that he offered this letter as a part of his remarks

and adopted it as his views. If he did such, then it was the speech of the Senator and his remarks entering into his speech, and for myself I can not vote to establish the precedent that a Senator can have his remarks either stricken from the RECORD or be prevented from making them because they partake of censure or criticism or condemnation of a public official when in the exercise of conduct known as public conduct.

It was because of that that I asked the Senator from Pennsylvania if he would give attention to the part of the letter which is regarded as obnoxious to the rule of the Senate and thus eliminate it upon his own volition. That he, for reasons satisfactory to himself, declines to do.

Mr. OLIVER rose.

Mr. LEWIS. Does the Senator from Pennsylvania wish to interrupt me?

Mr. OLIVER. I was waiting until the Senator from Illinois would conclude.

Mr. LEWIS. I yield to the Senator now.

Mr. OLIVER. Then I intended to say just what I really propose to do.

Mr. LEWIS. I would rather yield now to the Senator.

Mr. OLIVER. I think when my remarks are read it will be seen that what I said alluded to the arguments presented in the letter of Mr. Dickson as stating the case better than I could state it; that is, on the armor-plant proposition. I wish to say that I did not intend to adopt his language as a whole, but I discover that there is in the letter a reflection upon the Secretary of the Navy which certainly does not reflect my views, and which if I had examined more carefully I certainly would not have included, because for the Secretary of the Navy personally I have a very high regard, and I am unwilling that anything should go into the RECORD, at least at my instance, that would make a statement such as is made in this letter. I do not want the language to go into the RECORD, and I would ask, therefore, Mr. President, that the last sentence of the next to the last paragraph be omitted from the letter of Mr. Dickson.

Mr. THOMAS. I will ask the Senator if that covers all the expression which I included in parentheses.

Mr. OLIVER. I have not looked at it, but I presume it does. I will have the Secretary look at it and see.

Mr. THOMAS. I think the Senator will discover that the portion which is included in parenthetical lines is all that need be omitted. The previous part of the sentence is entirely unobjectionable.

Mr. OLIVER. I will omit it.

Mr. THOMAS. I personally want to thank the Senator for his courtesy in the matter.

The VICE PRESIDENT. Does the Senator from Oregon still insist on his motion?

Mr. CHAMBERLAIN. I withdraw it, in view of the statement of the Senator from Pennsylvania.

The VICE PRESIDENT. The motion of the Senator from Oregon is withdrawn. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. TILLMAN. Mr. President, with the permission of the Senator from Louisiana in charge of the bill, I ask the Senate to recur to pages 18 and following. I wish to offer an amendment there. I will explain the amendment later on. The Secretary can read it.

The VICE PRESIDENT. The Secretary will read the amendment proposed by the Senator from South Carolina.

The SECRETARY. Page 18, line 2, after the word "all," strike out "$5,800,000" and insert in lieu thereof "$5,400,000."

Page 21, line 22, after the word "leave," strike out "$1,600,000" and insert in lieu thereof "$3,600,000."

Page 37, line 17, after the word "vessels," strike out "$9,788,000" and insert in lieu thereof "$9,288,000."

Page 41, line 19, after the word "engineering," strike out "$8,080,000" and insert in lieu thereof "$7,780,000."

Page 59, line 4, after the word "expended," strike out "$17,647,716" and insert in lieu thereof "$17,047,617."

Page 59, line 13, after the word "expended," strike out "$14,877,500" and insert in lieu thereof "$14,677,500."

Mr. TILLMAN. Mr. President, with the permission of the Senate, I will explain just what I am seeking to accomplish.

Much has been said in both House and Senate as to what it costs to build a battleship. Figures have been quoted to show that navy-yard work is more expensive than outside work; and two separate amendments submitted by the Secretary of the Navy have been ruled out on points of order, although they sought to give the responsible head of a great executive department an opportunity to properly carry on the duties of his office and intelligently economize in the expenditure of Government funds.

These amendments were unfortunately worded, perhaps, and not as clear as they should have been; but I am certain there was no purpose to deceive Congress or to use money unwisely or wastefully.

Last evening I held a conference with the Secretary of the Navy, and talked this whole matter over with him. I pointed out the necessity for changing the sums to be appropriated in the bill. He suggested the amendment which I will send to the Clerk's desk, stating at the same time that the bureau chiefs, for want of time, could only make guesses of the approximate amounts permissible or that could be spared from the other appropriations to make up the $2,000,000 necessary for "maintenance, yards and docks." He has promised that the next naval estimates sent to Congress shall comply strictly with section 3666 of the Revised Statutes—the law in regard to estimates. So far as I can promise, as chairman of the Committee on Naval Affairs of the Senate, I will see to it that the law is carried out to the letter. The House, of course, is primarily responsible for all appropriation bills, and they have sent us the best one they could under the circumstances. That it is not at all accurate or satisfactory is the fault of the system of bookkeeping in the Navy Department. Under the system which the Secretary will inaugurate on his own motion, I am sure there will be no cause for complaint hereafter.

The present system of cost accounting for work done at navy yards was inaugurated July 1, 1910, by order of Secretary of the Navy Meyer, this system having been devised by Marwick, Mitchell & Co., certified public accountants. The system had for its stated object the standardization of Navy accounts in such manner as to more accurately distribute charges among the various naval appropriations, and purported to absorb into the cost of work all expenditures of every kind in any way connected with or incident to the doing of the work. This system failed to take into account the fact that navy yards must and will be maintained in a condition of military preparedness, without regard to the volume of output work; and in attempting to graft a commercial system onto an establishment largely military the authors ignored section 3678, Revised Statutes, or did not know of its existence. And the Secretary of the Navy did the same thing or he would not have issued the orders to institute this system of bookkeeping at all. While his intentions were no doubt good, the results have been the deplorable confusion which now exists. Secretary Daniels, when he took charge of the Navy Department, found this system of bookkeeping already in force there, and as he could not get any accurate information concerning costs he set about investigating the bookkeeping. He was unwilling to overturn his predecessor's work without good reason. He has had two accomplished naval officers, Pay Inspector McGowan and Col. Radford, of the Marine Corps, at work for months trying to find out just what was the matter. This system of bookkeeping was authorized under the act of June 24, 1910, and Congress appropriated $30,000 to pay the experts who devised it. Instead of clarifying and simplifying matters, as was claimed, it has wrought confusion worse confounded, and Secretary Meyer can not be congratulated upon the success of his experiment.

It all comes to this: The amount of money carried by the appropriation, "Maintenance, yards and docks," is $2,000,000 less than is required for the various purposes named in the said appropriation, and the present accounting rules offer an ingeniously devised system of augmenting one appropriation for another—the result being excessive costs on some items, but no apparent deficiency. The amendment now offered is to increase the appropriation, "Maintenance, yards and docks," by $2,000,000 deducted here and there from various other appropriations made too large by erroneous estimates which have grown up under the iniquitous system against which the Secretary of the Navy most earnestly set himself from the moment he found it out.

Mr. GALLINGER. Mr. President, I confess to not understanding the composite amendment of the Senator from South Carolina as offered, but I will venture to ask the Senator if the figures that he has given in his amendment correspond with the estimates of the department.

Mr. TILLMAN. They do.

Mr. GALLINGER. On all points?

Mr. TILLMAN. The amounts are the same. We do not add an additional dollar, but change the items and deduct from some and make up $2,000,000 for yards and docks.

Mr. GALLINGER. They do not correspond with the estimates for the various items sent to Congress, I assume.

Mr. TILLMAN. I do not think they do, because the estimates were based on the erroneous system of bookkeeping that the Secretary of the Navy is trying to get rid of.

Mr. GALLINGER. Does the Senator think we have even the right to increase and decrease amounts so that they do not agree with the estimates that were sent to Congress from the department?

Mr. TILLMAN. I think the Senate ought to be able to do it.

Mr. GALLINGER. Does not the Senator think it would be very dangerous legislation for us to go into that kind of a thing, because if we can do it on this appropriation bill we can do it on all appropriation bills, and we can carry out our own notions in reference to the different appropriations without any regard to the opinions of the head of the department.

Mr. TILLMAN. The head of the department himself has asked that this change be made, and he has given an explanation of the reason why he asks it. He has a system of bookkeeping there which, as I said, is confusion worse confounded, and the more he tried to unravel it and to find out what he ought to estimate the more befuddled he became.

Mr. GALLINGER. Then he did not know at the time he made his estimate what he has since learned?

Mr. TILLMAN. Of course he did not know or he would not have sent it down here.

Mr. GALLINGER. I confess, Mr. President, this is extraordinary legislation; but if the majority side of the Chamber feel that it is safe legislation I have nothing more to say.

Mr. TILLMAN. I am sure it is safe on this one bill.

Mr. GALLINGER. I have never known legislation of this kind to be indulged in in the Senate before.

Mr. MARTIN of Virginia. Mr. President, I not only consider it unsafe, but most extraordinary. It is re-forming the naval appropriation bill in the teeth of estimates sent to Congress officially by the Secretary of the Treasury, who has been advised by the Secretary of the Navy. This is in violation of the rules of the Senate. This increase of $2,000,000 has not been estimated for.

Mr. TILLMAN. It is no increase whatever; it is just a change.

Mr. MARTIN of Virginia. Then I am unable to understand the English language. There is a distinct statement that it is an increase of $2,000,000 for yards and docks. It is true it is not an increase in the aggregate, but these appropriations must be treated separately, and they will have to be voted upon separately, if the amendment ever comes to a vote. It is impossible to offer 15 or 20 amendments, scattered through the bill, and expect that they shall be voted upon as one proposition.

But I do not think it will ever come to a vote. It is a most extraordinary proposition that the Secretary of the Navy, discharging the obligations of his office, should make estimates and furnish them to Congress and afterwards, when the bill is in the final stage of its passage, the same Secretary should come here and in defiance of his previous estimate ask that the bill be changed to the extent of $2,000,000. While there may be no increase in the aggregate there is an increase to the amount of $2,000,000 in some places and there is a diminution in other places.

I make the point of order that there is an increase and that it is not estimated for. It is plainly out of order. There is no estimate for any increase of the estimates as given in the bill and reported to the Senate by a committee of the Senate. The Senate has a right to expect from the Secretary of the Navy a careful estimate of each item of expenditure required by his department. He has made that estimate with the aid of his bureau chiefs and has sent it to Congress. The committee of the Senate has acted on it and has reported to the Senate in accordance with those estimates.

Now, here comes an informal statement, privately made by the Secretary of the Navy. He gives a private memorandum to a member of the committee. The committee itself has had no opportunity to consider this radical change, amounting in the aggregate to $2,000,000. Wherever there is an increase to any clause or clauses by this amendment it is an increase without an estimate, and is plainly out of order.

Mr. TILLMAN. There has been enough decrease to make up the $2,000,000 item. It is merely transferring from some items and putting them in this yard-and-dock item.

Mr. MARTIN of Virginia. On that principle the entire bill might be changed.

The VICE PRESIDENT. The point of order is sustained. The amendment is not in order.

Mr. THORNTON. I now ask that the amendment on page 31, after line 6, heretofore submitted, which was temporarily passed over at the suggestion of the Senator from Wyoming, be taken up.

The VICE PRESIDENT. The amendment will be stated.

The SECRETARY. On page 31, after line 6, insert:

That the act approved August 22, 1912, making appropriations for the naval service for the fiscal year ending June 30, 1913, and for other purposes, in so far as it relates to the payment of six months' pay to the widow of an officer or enlisted man, etc., be amended to read as follows:

"That hereafter immediately upon official notification of the death, from wounds or disease not the result of his own misconduct, of any officer or enlisted man on the active list of the Navy and Marine Corps the Paymaster General of the Navy shall cause to be paid to the widow and, if no widow, to the children, and, if there be no children, to any other dependent relative of such officer or enlisted man previously designated by him, an amount equal to six months' pay at the rate received by such officer or enlisted man at the date of his death, exclusive of any expenses of interment which the Government defrays under existing law."

Mr. WARREN. Mr. President, the matter is legislation of a general character. It seeks to amend a statute that is already in the general statutes of the country, and I make the point of order against it.

The VICE PRESIDENT. The point of order is sustained.

Mr. GALLINGER. Mr. President——

Mr. THORNTON. The committee has not finished offering amendments.

Mr. GALLINGER. Very well.

Mr. THORNTON. I send up the following committee amendment and ask to have it read to the Senate.

The SECRETARY. On page 61, after line 17, add at the end of the bill a new section, as follows:

SEC. 2. That all appropriations contained in this act shall be immediately available from the date of the passage thereof.

The amendment was agreed to.

Mr. THORNTON. That completes the committee amendments.

Mr. GALLINGER. Mr. President, I was not privileged to be in the Chamber much of the time during the consideration of this bill, having been occupied as a member of a conference committee.

In looking over the RECORD I notice that a new dry dock, at a cost of $3,000,000, has been provided for the Norfolk yard. I believe it was estimated for, and it was properly before the Senate. If I read the RECORD correctly, I believe the junior Senator from Virginia [Mr. SWANSON] admitted that there are now three dry docks at Norfolk—I ask the junior Senator from Virginia if that is correct—and that this will be the fourth dry dock at that station.

Mr. SWANSON. There is an old one. I think there is only one in very much use for large ships. One of them is very old.

Mr. GALLINGER. Mr. President, I am not finding fault with that legislation, because I apprehend that the dock is needed at that important yard to care for the large ships of the Navy. But I want to call attention to the fact that there are other yards, and I speak particularly of one yard that ought to be provided with an additional dock, and that is at Portsmouth, N. H. The climatic conditions, Mr. President, where that dock is located are of the best, and it is the only harbor north of Hatteras that does not freeze in the wintertime. It is always open; it is open the year around, and it will probably continue open for all time to come.

There is very deep water in the harbor of Portsmouth. I think deeper than in any other harbor in the country; at any rate, it is more than sufficient to accommodate the largest ships that have ever been built or that ever will be built. We have in that community an abundance of skilled labor of the highest quality, and the work done there is beyond criticism. We have one dock in Portsmouth, I believe 750 feet in length, constructed a few years ago to take the place of an old wooden dock that was out of commission, and the new dock is of a most excellent quality, being constructed of granite, and is answering its purposes, so far as its capacity allows; but we really need another dock in that navy yard, and it ought to be of modern construction and practically of the same size as the one already ordered for Norfolk. For that reason I am going to offer an amendment providing for a new dock for the Portsmouth yard. In entire frankness, I will say that it has not been estimated for, and that the amendment on that point is subject to a point of order. I hope, however, that no point of order will be made against it, but that it will be allowed to go to conference, where the friends of the appropriation will be permitted to present reasons that can not now be presented for its retention in the bill. Had I been in the Senate Chamber when the Norfolk dock was discussed I would have presented reasons why a new dock should be constructed at the Portsmouth yard, but the Senator in charge of the bill is anxious to get a vote, and I will not detain the Senate long.

I will simply repeat, Mr. President, the suggestion that I hope the point of order will not be made against the amendment, but that the matter will be allowed to go to conference. Whatever happens to it there will not be questioned by me. I hope that the point of order will not be made against it. If, on the other hand, the amendment should finally go out in conference, I shall be satisfied with the action of the committee of conference. I offer the amendment which I send to the desk.

The VICE PRESIDENT. The amendment offered by the Senator from New Hampshire will be stated.

The SECRETARY. After line 15, on page 26, it is proposed to insert the following:

NAVY YARD, PORTSMOUTH, N. H.

New dry dock at the Portsmouth Navy Yard, N. H., of sufficient size to accommodate the largest battleship, and to be at least 1,000 feet in length, designs and specifications to be determined by the Secretary of the Navy (to cost $2,500,000), $200,000.

Mr. THORNTON. Mr. President, I make the point of order against that amendment. I regret to do so on account of my personal feelings for the Senator from New Hampshire, inasmuch as he earnestly requested that it be not done, but I feel that it is my duty to do so.

Mr. GALLINGER. Mr. President, I appreciate the courtesy of the Senator from Louisiana. He is always kind, and I regret that he can not see his way clear to let this amendment go on the bill and go to conference; but, as I said before, the amendment is undoubtedly subject to a point of order, and the Senator from Louisiana is acting entirely within his rights in making that point against it. When the next naval appropriation bill comes before the Senate I will have something more to say on the subject, believing that the Portsmouth yard is entitled to an additional dock.

The VICE PRESIDENT. The point of order is sustained.

Mr. VARDAMAN. Mr. President, I wish to offer an amendment, in line 16, on page 56, after the word "constructed," to strike out "two" and insert "one," so as to provide for the construction of but one battleship.

Mr. President, I am not going to take the time of the Senate to discuss this question at any great length, but I want to say that I think the American people are going wild on the subject of making ready for war. We are talking about war and about getting ready for war. Whenever one of these bills is up for consideration it is not infrequent that mysterious information is sent to the committee, and the newspapers talk about the probability of an assault being made on us from the west. I think if we would talk more about peace, think more about peace, and do more for the promotion of peace, it would not be necessary to make such expensive provision for war.

The United States Government is in a position where it can set an example, where it can lead the world in the matter of forming sentiment; and, after all, Mr. President, Governments, like individuals, are controlled and influenced by sentiment. Laws are but the crystallization of public sentiment. I think that in these expensive preparations for war the influence of the men who are interested in the manufacture of armament in writing these bills is greater than any other influence that enters into the consideration. And I think those men who, for their own interest, insist upon a great Navy and large Army and in that way increase the burdens of taxation upon the people are a greater menace to our country and enemies more to be dreaded than the enemy who lives across the seas. This phase of the question calls for the most careful scrutiny by the Congress.

I, for one, am tired and sick of this policy of depauperating and burdening the toiling millions of this Republic with the enormous expense of maintaining armies and navies. I am advised that probably 70 per cent of the appropriations made by Congress go to pay the expenses of the wars of the past and to get ready for another war. I repeat, if we would talk more about peace, if we would make preparations for peace, there would be less necessity for this tremendous outlay of money and therefore less likelihood of war. I think nations, like individuals, when they are ready to fight, when they are conscious of their strength and preparedness, are very much more inclined to "pick a fuss," if I may use that old expression, or a difficulty with another nation than they would be if they were not so well prepared. I have never known a man who carried a gun or went armed all the time looking for somebody to insult him that did not find some excuse for a row.

Mr. President, if we could write more of the spirit of the Golden Rule into our laws and less of the damnable spirit of the rule of gold, if we could discard the old barbarous theory in government of "the survival of the fittest," and so conduct ourselves in our relations to other Governments as that all Governments might be helped to become fit to survive, this terrific burden would be taken from the shoulders of the toilers of this country.

War is barbarous and out of harmony with the spirit of the times, and the burden which Congress puts upon the shoulders of the producers of this country in making preparations for war is, to my mind, highly immoral; it is an unwarranted misuse of the fruits of human effort.

Mr. WORKS. Mr. President, I would like to ask the Senator from Mississippi if he does not think this Government ought to prepare for war when it invades a weak and crippled foreign nation and commences the taking of human life for no better reason than that a usurper in that country has failed to salute the flag of this Nation?

Mr. VARDAMAN. Well, I do not think, Mr. President, that one possible mistake would justify the committing of another. As to the motives which induced the present administration to go to Mexico, of the facts behind that movement I am not advised. I will say, since the Senator propounded the question, that I personally have about come to the conclusion that it would be infinitely better for the American people if we would attend to our business and let the other nations of the earth attend to theirs; it would be much better for us. I am tired of the United States Government playing the rôle of policeman for the Western Hemisphere. It is rather a costly policy, and I fail to see what we will get out of it except the hatred and deep-seated animosity of the people whom we regulate.

Mr. LANE. Mr. President——

The VICE PRESIDENT. Does the Senator from Mississippi yield to the Senator from Oregon?

Mr. VARDAMAN. I do.

Mr. LANE. I should like to ask the chairman of the committee, or the Senator who represents the committee, if this bill carries any deficit; and, if so, to what amount? Are all of these live appropriations to be expended during the next fiscal year, or are some of them for deficits as they come in here?

Mr. THORNTON. The bill carries no deficit.

Mr. THOMAS. Mr. President, the only criticism which I feel justified in making of the amendment just offered by the Senator from Mississippi [Mr. VARDAMAN] is that it does not go far enough. The purpose of that amendment is to reduce the number of battleships to be provided by this bill from two to one. I shall at the proper time, but without any expectation that it will be carried, offer another amendment, which will go much further than that portion of the bill relating to two battleships. I do not presume that what I shall say—and I shall be as brief as possible—will have any particular effect upon the fate of this measure; but I do indulge the hope that it may attract some attention outside of this Chamber and thus aid in strengthening a public opinion already asserting itself against this policy.

I voted for the amendment offered by the Senator from New York [Mr. O'GORMAN] providing for the construction of one of these vessels in a navy yard belonging to the Government, and I should, with equal pleasure, have voted for an amendment providing that all of this construction should be so carried on, because just in proportion as the Government assumes responsibility of building its own vessels, just in that proportion will the real inducement that operates to cause these enormous appropriations disappear. When the Government builds its own vessels and manufactures its own armor plate and its own powder and its own munitions of war, the period of retrenchment in naval construction will have arrived. So long as these vessels are constructed by private enterprise, so long as armor plate and all the munitions of war are manufactured by private enterprise, just so long will the Congress of the United States continue to emulate the bad example of other nations and make appropriation after appropriation for the building of these huge monsters of destruction that become practically obsolete before they are complete.

Mr. President, I sometimes wonder how long this "endless chain" of battleship building is going to continue. We all know how it began and why it persists. Great Britain builds four battleships every year, we will say, because Germany builds two; and Germany builds two because England builds four and France builds two; and France builds two because Germany constructs two and England four; and Japan builds two because France builds two and Germany builds two and Great Britain builds four; and the United States builds two because Japan builds two and France builds two and Great Britain builds four and Germany constructs two. There used to be a saying in Georgia when I was a boy that "we raise cotton to get money to buy niggers to raise cotton to get money to buy niggers to raise cotton to get money to buy niggers." So, the great powers of the world are building battleships because each of them is engaged in the game, and because the motive

power to all of it is furnished by the greatest, the most conscienceless and infamous trust that ever disgraced civilization, a combination, Mr. President, whose chief asset is the creation of discord among nations, which manufactures war and rumors of war, which plays upon the apprehensions of mankind, which warns each nation against the devilish machinations of all its neighbors, and assures them that absolute preparedness is essential to national safety and the preservation of public peace.

This trust finds expression in many ways, Mr. President, and avails itself of all of them. The press, the Army, the Navy, the pulpit, the Navy League, and various other agencies are constantly engaged in warning all people of the necessity of preparedness for war and calling attention to the superiority of foreign armaments as compared with domestic ones; to the plans of foreign governments as to increased armament; to menaces against the Monroe doctrine; and to that terrible shop-worn specter of an invading army from Japan appearing suddenly upon our Pacific coast and spreading destruction and desolation among our defenseless people.

Mr. President, it seems to me—and I believe that every nation should have a fair navy, an adequate navy—that we have already more ships than we know what to do with. Our battleships number 39; and this bill provides for the sale of two of them. Why? Because we do not need them or because they are obsolete, or both? If they are good vessels and we need them, why should we sell them to any foreign nation, which may afterwards, if the war trust shall be credited, turn their guns against us? If they are obsolete, if they are deficient, so that they can not stand against the great battleships of the present day, is it not fair to assume that in 10 years from now the battleships of to-day will be equally unreliable, and must consequently be sold or go to the scrap heap?

Mr. President, this sort of competition in the manufacture of great modern weapons for the destruction of human life has been going on some 35 or 40 years, and the progressive increase of armament carries progressive increase of cost, which has been advancing by leaps and bounds, so that the national debts of the world to-day, according to the last estimates, aggregate $42,000,000,000, which, added to State, railway, municipal, and public utilities debts, it is fair to say, makes the public and semipublic indebtedness of the civilized nations $100,000,000,000, drawing annual interest at not less than an average of 4 per cent, or $4,000,000,000, an amount representing perhaps 50 per cent of the productive energy of the civilized world; in other words, Mr. President, the people of the world who produce, who bear the burdens of life, before any of their earnings can be utilized for ordinary affairs, must pay $4,000,000,000 as interest to those who hold their securities, and of this stupendous national debt fully two-thirds has been contracted in offensive and defensive wars, in the expenses consequent upon the waging of war, and in preparation for wars that are to come.

On December 4 last the New York World, under the title "A sign of sanity," published this editorial:

The fall of the Barthou ministry in France was occasioned by a proposal to make the new bond issue tax free. The real cause was growing irritation with the militarist program; with a $260,000,000 addition to a national debt now more than $800 for each family; with the withdrawal of the youth of the land from industry for a three-year service; with war costs, besides the loss of these young men's time, which tax the average family more than $70 a year in a land of low wages and general economy. It is significant that M. Caillaux, who opposes the three-year enlistment, is the man of the hour.

This situation in France is a sign of sanity. Is it not time for a similar revolt here? Is not the world ready for it?

The French Government spends 60 per cent of its ordinary revenues on war purposes. Our proportion has not greatly changed since Representative Tawney figured that 71 per cent of the yearly appropriations went that wasteful way.

The increase is most startling in naval expenditures:

1883	$14,903,559
1893	23,543,267
1894	22,104,061
1898	33,003,234
1899	56,098,783
1900	48,099,969
1903	78,856,363
1908	98,958,507
1909	122,662,485
1910	136,935,199
1911	131,410,568
1912	126,405,509
1913	123,151,538
1914	140,718,434

I may digress here for a moment, Mr. President, to refer to the fact that, so far as naval construction in this country has gone, we have paid our way, but the fact nevertheless remains that the money which we have used to pay our way has been raised by taxation and is as much a part of the public burden as though we had borrowed money and were paying interest upon it.

In 20 years the population of the country has grown 47 per cent; naval expenditure more than 500 per cent. Twenty years ago the Army, properly regarded as Indian police and as a skeleton organization in war, cost more than the Navy, though both combined ran to but $26,329,701 in 1884. The Navy, the big-stick branch of the service, has now surpassed even the enlarged Army in cost. If Representative HOBSON'S idea had been followed of an Atlantic and a Pacific fleet, each equal to any other in the world, we should have to-day for the Navy alone a budget of $600,000,000, 272,000 men withdrawn from production for sea service, and very likely a doubled national debt. And what should we have gained by it, except harder times, more destitution, and the hatred of our menaced neighbors?

The fall of the Barthou ministry, the bitter memory in Germany of the failure to float new war bonds last spring at low prices, and the ascendancy of the pacific Liberal party in Great Britain are conditions favorable to the "naval holiday" proposed by Winston Churchill and again by Secretary Daniels in his report. Why can not the great nations agree to stop this bankrupting race for one year? If for one year, why not for five years? Why not altogether? And why should not the great Republic lead the way?

About the same time, Mr. President, the Saturday Evening Post contained an editorial, the title of which is "The Largest Scrapheap," which I will also read:

Various foreign governments, according to reports that have been received in Wall Street of late, are arranging or contemplating bond issues that aggregate one billion and a half dollars. The list begins with Russia, which wants half a billion, and ends with Argentina, which can get along with sixteen millions. Pretty nearly two-thirds of the total is for military purposes.

A bulletin recently published by the Department of Commerce recites that the aggregate indebtedness of all nations for which data can be had was two and a half billion dollars in 1800, eight and a half billions in 1850, thirty-one and a quarter billions in 1900, and forty-two billions in 1912. The present total, therefore, is equal to about one-third of the total wealth of the United States, which is the richest country in the world.

By far the greater part of this tidy sum represents sheer economic waste.

And that, Mr. President, is the great indictment of such expenditures—

the dreadnaughts of a dozen years ago that are now mere junk, or those of last year that will be mere junk by 1920; powder and shell shot away; the cost of transporting a great army from England to South Africa, where it tilted at a Dutch windmill and then came home, leaving the windmill practically intact, and so on.

A few persons have profited, namely, statesmen, Army and Navy officers, and manufacturers of arms and munitions. For their sakes and in support of a tradition that has no rational relationship to modern conditions the game goes on at a constantly accelerating pace. It is interesting to consider how high the scrapheap will grow in the next 20 years.

A few persons have profited, Mr. President, largely; a great many persons have profited by the construction of battleships and other naval armament very considerably. The sensation which greeted the world last year when Liebknecht called attention to the fact that the War Trust had reached out and embraced within its tentacles officers of the German Army, men high in the councils of that great Empire, had scarcely died away before a similar sensation occurred on the other side of the world. Japan found herself face to face with the humiliating and disgraceful fact that the War Trust had its representatives touching the throne; that officers high in the navy and others in authority were receiving contributions and compensations from this aggregation, which by playing on the fears of mankind supplies the nations of the earth with engines for their own destruction; that its corrupting influences were securing imperial patronage through the corruption of public servants.

Members of the ministry were compelled to resign, and the world knows to-day that the corruption and grafting of the war trust has permeated the inner circles of the great Kingdom of Japan.

Fortunately, as far as we are concerned, we have thus far escaped the contagion of scandal; but if this mad race for naval supremacy continues, how long will it be before the United States will be compelled to hang its head in shame over disclosures that may involve some of our public men with its methods and its policies?

More important than all, however, is the question whether this competition is to continue until the nations are face to face, as they must be, with inevitable bankruptcy. How long must the people of the world continue to pay interest on billions upon billions of public debt, the principal of which never will be and never can be paid, and which is continuing to swell yearly in its huge and ponderous aggregate? How long can the industry of the world stand the burden of the ever-increasing annual interest charge?

No man is visionary enough to imagine for a moment that the national debts of the world ever will be paid. They constitute a constant burden, permanently resting upon the shoulders of mankind, increasing in its weight and in the awful tax that it wrings from production. It must end either in policies which will end the constant increase of the amount or in repudiation. Indeed, we hear now from some sources the threat of repudiation. It comes from those who pay the toll, from those whose earnings are diverted from their normal purposes and their own comfort to the chests of the money changer, and who reaps all

the benefit which comes from national indebtedness, and which makes it the greater national calamity.

Mr. President, some time ago, I think during the past year, Mr. Churchill, of the British ministry, proposed a naval holiday, to the end that all the nations might find temporary surcease from this huge outlay of needless expenditure. In some countries his proposition was greeted with derision; in others it inspired epithets and abuse; but in America it found an appropriate and generous response in the action of the House of Representatives and in the suggestions of the Secretary of the Navy. The nations have virtually rejected that suggestion; at any rate, they have paid no attention to it, and the budgets for naval construction in nearly all of the countries of the world are far greater than they ever have been before.

Mr. President, why can not this great country, dedicated in principle and theory to peace among the nations, isolated from all contact with any power sufficiently great to menace its institutions—why can not this mighty Republic, in the good year 1914, set an example to all the kingdoms and principalities of the world by declining to go into naval construction at all this year, followed or accompanied by an announcement that its policy will be continued if the other nations will cooperate, to the end that the burdens which the people carry in this mad effort to see which can obtain the biggest and most expensive battleships shall be brought to a happy termination?

Mr. President, before I take my seat—and I shall not detain the Senate much longer—I wish to refer to one of the apprehensions, one of the so-called menaces, one of those dread, but nameless, menaces which are annually concentrated upon Congresses and chancelleries to the end that their purse strings may be opened in the interest of those who profit by battleship building. I refer to the charge that Japan is our natural enemy, which will at some time contend with us for the mastery of the Pacific, and which is looking with longing eyes upon our western slope; that that nation, ambitious, unscrupulous, and powerful, only waits the opportunity to invade the shores of the United States for the purpose of waging an offensive and destructive war of conquest; and that unless we have at hand a hugh army and a huge navy, which should be provided for now, at whatever cost, we shall, when it is too late, realize the fact that the destruction of the Republic is near at hand and that we could, if we would, have preserved it.

Mr. WEST. Mr. President——

The VICE PRESIDENT. Does the Senator from Colorado yield to the Senator from Georgia?

Mr. THOMAS. I do

Mr. WEST. I should like to ask the Senator from Colorado a question right there. It is not so much the fear of invasion of our western coast, is it, as it is the fear that the Japanese will obtain the Philippines? I will ask the Senator further if he does not think that is the thing that has given the great impetus to the increase in our armament for the last 10 or 12 years?

Mr. THOMAS. O, Mr. President, the only benefit to anybody that our accession of the Philippines has thus far conferred has been to give the war trust one more point to press home upon the apprehensions of the American people and enable them to get bigger appropriations for war and naval purposes. The greatest mistake that was ever made in the history of this country, or one of the greatest, was when Dewey, after destroying the Spanish fleet, failed to sail away from the harbor of Manila and leave that country to its own destinies. I say no, Mr. President; that is merely one of the pretenses for this enormous armament.

Why, Japan is the most terribly debt-burdened country that exists. Its indebtedness—and I can not give the exact amount—is greater than that of any other nation. The taxes, if my information is correct, amount to 25 per cent of valuation and of production. Tell me that a country so handicapped, however warlike, can possibly wage an offensive war against a great nation like ours; that a country so conditioned can be formidable to any distant land, whatever its feeling of hostility against that land may be!

It is true that in the event of hostilities the Philippines might fall an easy prey to a Japanese fleet, but that would be only the beginning of the end. The most remarkable part of this Japanese scare is involved in the notion that "an invading army of 150,000 men may be landed upon our shores overnight."

Has anybody ever calculated what that means—an army of 150,000 men transported 6,000 miles across the sea for the purpose of waging an offensive warfare against more than 90,000,000 people? How many vessels would it require to bring such an army of men over with their officers, their engineers, their medical and hospital and quartermasters' departments, their stands of small arms, their rounds of ammunition, their machine guns, their provisions, their field and siege artillery, the ammunition for them, their horses, their horse feed, medical supplies, tents and camp equipment, supply wagons, fuel for men-of-war and transports, aeroplanes, miners' and sappers' equipments, and so forth? Why, Mr. President, I am unable to say, but I believe that the amount of tonnage that would be required for the transportation of such an expedition passes comprehension.

Von Moltke once said that he had devised three satisfactory schemes for landing an army from Germany in England, to be transported less than 150 miles, but he was never able to devise a scheme for getting them out of there after they were once landed. Men are generally thoughtless. We are governed by our apprehensions, our fears, our prejudices, and not by our reason. Say "Japan" to any half a dozen men in the United States and it will come pretty near stampeding them; a fact well known to the War Trust at whose suggestion we rush into our committees here and vote millions in order to protect ourselves against this imaginary foe.

Why, Mr. President, such a thing as perfect preparedness for war is an impossibility. Thank God for it! The nation that comes nearest to being prepared for war in order that it may escape war is precisely the nation which in all probability will first be involved in war. The nations which are least prepared are more immune to-day from trouble than any others.

Was it the great armaments of France and Germany which kept those two nations from each other's throat over the Morocco incident? No, Mr. President; it was the common man of France and Germany meeting en masse and refusing to fight who served notice upon their respective Governments that war should not be. As far as people can be made to perceive—and, thank God, they are learning it—that it is they who fight the battles and pay the cost; that it is their children whose blood flows freely in case of armed conflict; and their children's children who pay interest upon the debts which war creates—these, Mr. President, are the surest modern safeguards against wars between the nations.

What is the real feeling of Japan toward this country? We are told that it is one of hostility. Everywhere is spread the contagious notion that the people of that nation are only waiting an opportunity to strike, and strike hard, because of the race question, so called, and for other causes of dissatisfaction which need only a spark to be fanned into a flame of war and of rapine.

Mr. President, I desire to read into the RECORD a part of the report made by Mr. Hamilton W. Mabie in 1913 to the trustees of the Carnegie Endowment for International Peace. I am aware of the fact that this institution is regarded with much disfavor by some of the Members of this body, who believe that it has been unduly interesting itself in the matter of canal tolls. Whether that be true or not, I shall not attempt to say; but I do wish to emphasize the fact that between a Carnegie endowment for peace and a war trust that is putting its slimy fingers in the pockets of every taxpayer in the world, I will cast my lot with the peace endowment.

This is what Mr. Mabie said concerning the attitude of the Japanese people toward ourselves:

> I desire to emphasize this quality because it is a national characteristic, and because the courtesy shown us was a courtesy to the American people whose representatives, in an informal way, we happened to be. It was an expression of a friendship for this country based on the consistent helpfulness of our National Government toward Japan and an expression of the feeling, widely prevalent, that there is a closer intellectual affinity between us and them than between any other eastern and western countries. The fairness of spirit and consideration for Japanese honor and interests shown by Commodore Perry, who secured access to the country 60 years ago, and by Mr. Townsend Harris, who a little later negotiated the first treaty between Japan and a foreign country, produced a deep and lasting impression on the Japanese people and laid the foundation of a genuine friendship for this country. It is my conviction that the Japanese are the only foreign people who have liked us as a Nation. Other people have liked individual Americans, but the Japanese have liked the United States. They hold the names of Perry and Harris in great honor, and a statue of Perry stands near the place where he landed.
>
> The attitude of the Japanese when the so-called anti-Japanese land legislation was before the California Legislature was highly significant. The stories of mobs in the streets of Tokyo "clamoring for war," which appeared in many newspapers in this country, were without foundation; the feeling was not belligerent; it was rather a feeling of keen disappointment that an old and tried friend had turned against Japan and had deliberately treated her as an inferior; an offense which this country would instantly have resented if the conditions had been reversed. The friendship of Japan has an importance in our future relations with the Far East which ignorance alone can ignore or undervalue.

We know, Mr. President, what the attitude of the Japanese people toward us was represented to be only a few short months ago, and we now know how false that representation was. What malign influence so misrepresented them, and for what purpose? If I continue to accuse my neighbor of unworthy motives; if I continue to suspect and to express my suspicion

of his relations toward myself; if I constantly insinuate that he only wants an opportunity to take my life or destroy my property the time inevitably comes when a rupture occurs between that neighbor and myself; and my own conduct is largely, if not wholly, responsible for the unfortunate consequences. So it is with nations. If these interests so largely involved in the construction of battleships and furnishing munitions of war are to continue to plant the seeds of discord and distrust and enmity between the nations, they will do more toward kindling a state of war than all the other influences that can be resorted to and persisted in.

One more word, Mr. President, and I am done. I contend that the Navy which this Nation now possesses is more than ample for all of its present needs and the needs of its immediate future. We have more vessels to-day than we can man and officer. Mr. WITHERSPOON, one of the ablest men in public life, a gentleman who understands the naval situation not only of the United States but of all countries better, I believe, than any other man in Congress, has declared, if I remember his figures correctly, that the present Navy of the United States is short of equipment 3,000 officers and 6,000 men.

If we were obliged to mobilize every vessel we have to-morrow, we would not be able to do so because of the lack of officers and men. The two vessels provided by this bill will cost not less than $32,000,000, and will be completed, perhaps, about 1917 or 1918. Long before then Great Britain will have laid the keels for larger ones, and Germany and France; and so we, in order to keep up with the procession, will be required to do the same. When 1925 shall have arrived the most of us will have disappeared from the scene of active and possibly of actual life; but I should not be at all surprised but that a part of the naval appropriation bill would then provide for the sale of the vessels for which we are now providing because no longer available for our protection.

Mr. President, when is this mad expenditure of the public moneys going to cease? When will a condition of sanity overtake the American public mind? When will we awake to the fact that we are simply contributing millions of dollars to a world-wide combination dealing in everything that makes for human disaster, corrupting public officials and private individuals of influence all over the country and all over the world, and intent only upon increasing the vast accumulation of the millions which in the past 35 years it has garnered to itself? I am not only in favor of the amendment offered by the Senator from Mississippi [Mr. VARDAMAN], but I shall also offer one going to the entire proposition as soon as a vote can be taken upon it.

The VICE PRESIDENT. The question is on agreeing to the amendment offered by the Senator from Mississippi [Mr. VARDAMAN].

Mr. VARDAMAN. On that I call for the yeas and nays.

The yeas and nays were ordered.

Mr. NORRIS. I ask that the amendment may be stated.

The VICE PRESIDENT. The Secretary will state the amendment.

The SECRETARY. Under "Increase of the Navy," it is proposed to strike out "two first-class battleships" and in lieu thereof to insert "one first-class battleship."

The VICE PRESIDENT. The Secretary will call the roll.

The Secretary proceeded to call the roll.

Mr. GRONNA (when his name was called). I have a general pair with the senior Senator from Maine [Mr. JOHNSON]. Not knowing how he would vote, I will withhold my vote. If I were permitted to vote, I should vote "yea."

Mr. JONES (when his name was called). I am paired with the Senator from South Carolina [Mr. SMITH] and therefore withhold my vote. If I were at liberty to vote, I would vote "nay."

Mr. SUTHERLAND (when his name was called). I have a general pair with the Senator from Arkansas [Mr. CLARKE]. I transfer that pair to the Senator from Connecticut [Mr. BRANDEGEE] and vote "nay."

Mr. THOMAS (when his name was called). I have a general pair with the senior Senator from New York [Mr. ROOT] and therefore withhold my vote. If I were at liberty to vote, I would vote "yea."

Mr. WARREN (when his name was called). I announce my pair with the Senator from Florida [Mr. FLETCHER] and withhold my vote.

Mr. WILLIAMS (when his name was called). Transferring my pair with the senior Senator from Pennsylvania [Mr. PENROSE] to the Senator from Louisiana [Mr. RANSDELL], I vote "yea."

The roll call was concluded.

Mr. CHILTON. I have a general pair with the Senator from New Mexico [Mr. FALL], but I understand if he were present he would vote as I would upon this amendment, and I will therefore vote. I vote "nay."

Mr. BRYAN (after having voted in the negative). I have a pair with the junior Senator from Michigan [Mr. TOWNSEND] which I transfer to the junior Senator from Arkansas [Mr. ROBINSON] and allow my vote to stand.

Mr. MYERS. I transfer my pair with the junior Senator from Connecticut [Mr. MCLEAN] to the junior Senator from Nevada [Mr. PITTMAN] and vote "yea."

Mr. CLARK of Wyoming. I ask if the senior Senator from Missouri [Mr. STONE] has voted?

The VICE PRESIDENT. He has not.

Mr. CLARK of Wyoming. I have a general pair with that Senator and I withhold my vote. If at liberty to vote, I would vote "nay."

Mr. SUTHERLAND (after having voted in the negative). Since I transferred my pair to the Senator from Connecticut [Mr. BRANDEGEE] I observe that he has entered the Chamber. I therefore withdraw my vote.

Mr. SIMMONS. I transfer my pair with the junior Senator from Minnesota [Mr. CLAPP] to the Senator from Tennessee [Mr. SHIELDS] and vote "nay."

Mr. MARTIN of Virginia. I desire to announce that the senior Senator from Maryland [Mr. SMITH] is unavoidably absent and that he is paired with the Senator from Vermont [Mr. DILLINGHAM].

Mr. GALLINGER. I was requested to announce a pair between the junior Senator from Maine [Mr. BURLEIGH] and the junior Senator from New Hampshire [Mr. HOLLIS].

The result was announced—yeas 16, nays 42, as follows:

YEAS—16.

Ashurst	Kenyon	Norris	Thompson
Bristow	La Follette	Shafroth	Vardaman
Burton	Lane	Sheppard	West
Cummins	Myers	Sterling	Williams

NAYS—42.

Borah	Hughes	Oliver	Smith, Ga.
Brady	Lea, Tenn.	Overman	Smith, Mich.
Brandegee	Lee, Md.	Page	Smoot
Bryan	Lewis	Perkins	Swanson
Catron	Lippitt	Pomerene	Thornton
Chamberlain	Lodge	Reed	Tillman
Chilton	McCumber	Saulsbury	Walsh
Colt	Martin, Va.	Sherman	White
Crawford	Martine, N. J.	Shively	Works
Gallinger	Nelson	Simmons	
Hitchcock	O'Gorman	Smith, Ariz.	

NOT VOTING—37.

Bankhead	Goff	Owen	Stephenson
Burleigh	Gore	Penrose	Stone
Clapp	Gronna	Pittman	Sutherland
Clark, Wyo.	Hollis	Poindexter	Thomas
Clarke, Ark.	James	Ransdell	Townsend
Culberson	Johnson	Robinson	Warren
Dillingham	Jones	Root	Weeks
du Pont	Kern	Shields	
Fall	McLean	Smith, Md.	
Fletcher	Newlands	Smith, S. C.	

So Mr. VARDAMAN'S amendment was rejected.

Mr. THOMAS. I desire to offer an amendment.

The VICE PRESIDENT. The amendment will be stated.

The SECRETARY. On page 56, beginning with line 13, strike out all the remainder of page 56, together with all of pages 57 and 58.

The VICE PRESIDENT. The question is on the amendment proposed by the Senator from Colorado [Mr. THOMAS].

The amendment was rejected.

Mr. BRANDEGEE. On page 56, line 16, before the words "first-class battleships," I move to strike out "two" and insert "three."

The VICE PRESIDENT. The question is on the amendment proposed by the Senator from Connecticut [Mr. BRANDEGEE].

The amendment was rejected.

Mr. BRYAN. Mr. President, in February of this year, during the present session of Congress, Senate bill 4247 was passed, which provides for six vice admirals. The bill has been reported to the House with amendments, but on account of the congested condition of the calendar there it is feared that the bill may not be reached speedily. Inasmuch as the cause which called forth the bill in the first place is more apparent now than it was then, I offer as an amendment to this appropriation bill the bill already passed by the Senate, to come in at page 33, line 3.

The VICE PRESIDENT. The amendment will be read.

The SECRETARY. On page 33, after line 3, insert:

That the active list of the line of the Navy shall include the grade of vice admiral, which grade shall consist of six officers, four of whom shall be appointed within one year from the passage of this act, and the remainder shall be appointed as soon thereafter as practicable. Appointments to the grade of vice admiral shall be made by selection by the President, by and with the advice and consent of the Senate, from

among officers on the active list of the line of the Navy who have served with credit in the grade of rear admiral in command of a fleet, squadron, division, or other command afloat: *Provided*, That no officer shall be appointed a vice admiral until his physical fitness to perform all the duties of that grade has been established to the satisfaction of a board of medical officers appointed by the Secretary of the Navy: *Provided further*, That any officer now or hereafter carried in the grade of rear admiral as an extra number shall cease to be an extra number if appointed a vice admiral: *Provided further*, That the total number of vice admirals and rear admirals shall not exceed the number of rear admirals of both grades now provided by law.

That the annual pay of vice admirals when on sea duty, or on shore duty beyond the continental limits of the United States, shall be $11,000; when not on such duty they shall be entitled to the pay and allowances of a rear admiral of the upper nine.

That vice admirals shall be placed on the retired list at the age of 65 years: *Provided*, That vice admirals on the retired list shall receive the pay allowed retired rear admirals of the upper nine.

That vice admirals shall be ordered to duty as commanders in chief of the United States Atlantic, Pacific, and Asiatic Fleets, or to such other duty as the Secretary of the Navy may direct.

The VICE PRESIDENT. The question is on agreeing to the amendment proposed by the Senator from Florida [Mr. BRYAN].

Mr. WARREN. Mr. President, I think that ought to take its regular course. I am opposed to yielding to the House and allowing them to neglect all our legislation unless we force it through on an appropriation bill. I make the point of order that the amendment is general legislation.

The VICE PRESIDENT. The point of order is sustained.

Mr. JONES. I desire to offer an amendment.

The VICE PRESIDENT. The amendment will be stated.

The SECRETARY. On page 25, line 26, after the numerals "$155,000," insert:

building slip and equipment, $200,000.

Mr. THORNTON. I make the point of order against the amendment.

The VICE PRESIDENT. Will the Senator from Louisiana state his point of order? Upon what ground is it made?

Mr. THORNTON. The point of order is that there is no estimate for the amendment, and it is increasing the appropriation.

Mr. WILLIAMS. Mr. President——

The VICE PRESIDENT. The point of order is sustained. The Senator from Mississippi.

Mr. WILLIAMS. I was about to say that the point of order should not be sustained, and I was about to submit a few remarks to the Chair upon it. It is in extension and in continuance of existing work, and it is a continuing appropriation.

Mr. LODGE. I desire to offer an amendment to the bill. On page 29, line 23, I move to add $200 to the pay of the dental surgeon at Annapolis, because that officer becomes entitled to that increase on the 15th of November, owing to longevity.

The VICE PRESIDENT. The amendment will be stated.

The SECRETARY. On page 29, line 23, add, after "$2,400," the words, "with longevity increase of $200, based on 15 years' service from November 9, 1914."

The VICE PRESIDENT. The question is on agreeing to the amendment proposed by the Senator from Massachusetts.

The amendment was agreed to.

Mr. LODGE. I offer an amendment, to come in on page 22, line 2.

The VICE PRESIDENT. The amendment will be read.

The SECRETARY. On page 22, line 2, after the numerals "$425,000," insert the following proviso:

Provided, That the laws relating to annual leave contained in section 7 of the legislative act approved March 15, 1898, and the deficiency act approved July 7, 1898, shall hereafter apply to classified civil-service per diem employees of the clerical, drafting, inspection, messenger, and watch forces at navy yards, naval stations, and other offices or stations under the Navy Department.

Mr. THORNTON. The department has advised the committee that that is utterly impracticable of accomplishment unless there should be an appropriation of about $15C,000 added to the bill. The amendment is not in order.

Mr. WARREN. Did I understand the Senator from Louisiana to make a point of order against the amendment?

Mr. THORNTON. I did not make a point of order. I dislike to make a point of order against a member of the committee who offers an amendment. I think it ought to come from some one else.

Mr. GALLINGER. In this connection, I want to express regret that I retired from the committee some time ago.

Mr. WARREN. I make the point of order, then, as I am not a member of the committee, that it is legislation.

Mr. JONES. I ask the Senator in charge of the bill why it is that a member of the committee should have more consideration as to a point of order than any other Member of the Senate?

Mr. THORNTON. For myself I can give no other reason for it except simply as a matter of courtesy to a brother committeeman; that is all.

The VICE PRESIDENT. The point of order is sustained.

Mr. LODGE. I do not contest the point of order or the decision of the Chair. I ask that a statement in regard to the amendment which I send to the desk may be printed without reading. It simply shows why I have asked for the adoption of the amendment.

There being no objection, the matter referred to was ordered to be printed in the RECORD, as follows:

MEMORANDUM CONCERNING LEAVE OF EMPLOYEES OF THE CLERICAL, DRAFTING, INSPECTION, MESSENGER, AND WATCH FORCES.

The leave of employees in the Navy Department is governed by the legislative act approved March 15, 1898, and the deficiency appropriation act of July 7, 1898. These acts give the head of a department authority to grant such employees 30 days' annual leave with pay and, under certain conditions, 30 days' sick leave in addition. (See departmental order No. 21, revised, attached hereto.) In the absence of restrictive legislation in regard to per annum employees at navy yards, etc., the above-mentioned laws are construed as governing their pay.

Section 1545 of the Revised Statutes restricts these laws from applying to per diem employees in navy yards.

The leave of per diem employees of the clerical, drafting, etc., forces at navy yards and stations is governed by the act of March 3, 1909. (See navy-yard order 198, fourth revision, p. 3, attached hereto.) This authorizes the Secretary of the Navy to grant all employees 15 days' leave with pay after they have served 12 consecutive months, and, in case of personal illness, 15 days more sick leave with pay may be given to meritorious cases.

The amendment proposed would give the per diem employees 15 days additional leave with pay, and, in certain cases, 15 days additional leave with pay in case of sickness.

The amount of the appropriation would probably not be increased by this amendment, as leave would either be given when work was slack or the other employees would have to work that much harder in turn.

Mr. LODGE. I have one other amendment which, personally and not as a committee amendment, I desire to offer.

The VICE PRESIDENT. The amendment will be stated.

The SECRETARY. On page 3, line 17, insert the following additional proviso:

And provided further, That the pay of electrical-expert aids and electrical experts in the classified service of the Navy be as follows: First class, $3,600 per annum; second class, $3,000 per annum; third class, $2,400 per annum; fourth class, $1,800 per annum.

Mr. WARREN. I should like to ask if that is estimated for.

The VICE PRESIDENT. The Chair has no means of knowing.

Mr. LODGE. Does the Senator put that question to me?

Mr. WARREN. I will put it to the Senator.

Mr. LODGE. I regret to state that I think it is not estimated for.

Mr. WARREN. The amendment is clearly out of order, and I make the point of order against it.

The VICE PRESIDENT. The point of order is sustained.

Mr. CUMMINS. I offer an amendment to be inserted after line 13, page 59.

The VICE PRESIDENT. The amendment will be stated.

The SECRETARY. On page 59, after line 13, insert:

That there be appropriated, out of any money in the Treasury of the United States not otherwise appropriated, the sum of $8,600 for the correction of the acoustics of the United States Naval Academy chapel and auditorium, $6,000 for the chapel and $2,600 for the auditorium; the same to be immediately available and paid out upon the order of the Secretary of the Navy. A satisfactory bond shall be given by the contractors for the system in an amount to be fixed by the Secretary of the Navy conditioned upon the successful and satisfactory accomplishment of the improvement to the acoustics of the two buildings above mentioned. When the work is done and approved by a board composed of the chairmen of the two Naval Committees of Congress, the Secretary of the Navy, the Assistant Secretary of the Navy, the Chief of the Bureau of Navigation, and a like number familiar with the problems involved to be named by the Secretary of the Navy, the final money shall be paid: *Provided, however*, That after the installation of the new system should the acoustics of the chapel and the auditorium be not satisfactory to the above-mentioned board the said contractor shall be required to restore the chapel and the auditorium to the condition in which they were before the alterations were undertaken, without any expense to the Government.

Mr. CUMMINS. Mr. President, one word in explanation of this amendment. It is a bill introduced by the Senator from South Carolina [Mr. TILLMAN], which was referred to the Committee on Naval Affairs, and was reported favorably and passed by the Senate. We have already acted upon it. I feel no doubt about its merit, and there seems to be uncertainty with respect to its passage through the House as an independent measure. I have therefore offered it as an amendment, and I think it is a very proper one, to the naval appropriation bill.

Mr. LODGE. I desire to say, Mr. President, that this amendment, I think, is clearly in order, because it is a bill that has passed the Senate, which relieves it from the point of order that it was not estimated for, and it is not general legislation. It is an appropriation for immediate purposes of the Navy.

Mr. CUMMINS. There has been no point of order made against it.

The VICE PRESIDENT. The question is on the amendment proposed by the Senator from Iowa.

The amendment was agreed to.

Mr. LEE of Maryland. I offer the following amendment.

The VICE PRESIDENT. The Senator from Maryland offers an amendment, which will be stated.

The SECRETARY. On page 58, after line 17, insert:

Any and all items which are appropriated for under the terms of this act shall be expended and accounted for in accordance with law. But the Secretary of the Navy, in estimating the actual cost of a ship built by the Government, may deduct from the cost of such ship as built under the appropriation therefor any sums which he deems not just to be charged thereto. This right to so estimate the cost of a ship shall, however, not be construed to affect any change in the purposes of the expenditures herein authorized.

Mr. MARTIN of Virginia. I make the point of order against the amendment. It has been discussed over and over here to-day. I simply make the point of order.

Mr. LEE of Maryland. Mr. President, I presume that the point of order is on the ground of general legislation. In discussing amendments proposed here yesterday to accomplish the same object the objection of general legislation was advanced, and the phraseology of those amendments seemed to lay them open to that objection. In this case the amendment provides nothing whatever save that which applies to an item of appropriation in this act. It is a temporary amendment because it is not general or permanent in its effect.

The Senator from Wyoming [Mr. WARREN] yesterday objected to one of the amendments offered on the ground that the terms of that amendment would enable the Secretary of the Navy actually to change the applicability of the money appropriated under a given item of appropriation, and the Senator from Wyoming was absolutely correct, in my humble judgment, in making that objection. But the proposition here advanced is one to establish and solidify the operation of the action of the appropriating clauses of this bill and to make them so strong that even though the Secretary of the Navy does exercise his lawful right to make an estimate which may differ from these appropriations, yet he does not in any way affect these appropriations; this estimate may be made without getting him in trouble with the accounting officers of the Treasury Department. Therefore this amendment is absolutely germane to the items of this appropriation bill and is not general legislation.

Mr. WARREN. Mr. President, I think the point of order is good, but I did not hear the first part of the amendment read.

The VICE PRESIDENT. It all comes back to the construction of language, and, after all, one man's constructions is not another's. It reads:

Any and all items which are appropriated for under the terms of this act shall be expended and accounted for in accordance with law.

That is the first clause. The Chair assumes that if anything becomes a part of this act, it is a law.

Mr. LEE of Maryland. After the words "in accordance," I desire to modify the amendment so as to read, "shall be expended and accounted for in accordance therewith," and omit the words "in accordance with law."

Mr. GALLINGER. Mr. President, if I understand the proposed amendment correctly, it gives the Secretary of the Navy authority to deduct items of cost on a ship constructed in the navy yards if, in his judgment, they ought to be deducted. Is that correct?

Mr. LEE of Maryland. And without affecting the items of this appropriation act; without affecting his accounting status before the Treasury Department.

Mr. GALLINGER. Ought there not, to make the matter equitable, be some person designated to do the same thing for a ship constructed in a private yard?

Mr. LEE of Maryland. Mr. President, it is perfectly obvious that the ship-constructing concerns will do that for themselves, and get it here.

Mr. GALLINGER. Yes; but it would not have the force and effect that it would have if it came from the Secretary of the Navy. Perhaps he had better do it in both cases.

Mr. LEE of Maryland. It has had a good deal of force and effect up to date, and it is only fair to suggest that some one person—the Secretary of the Navy—had better take care of the public interest involved in such estimates, as the other side seems amply able to take care of itself.

Mr. GALLINGER. I was interested the other day in listening to a debate in which two Senators, both well informed, differed very widely as to the cost of the construction of a ship in the navy yards. The Senator from Wisconsin [Mr. LA FOLLETTE] gave some statistics which seemed to be convincing as they were read, and some other Senator—I have forgotten which. Senator it was—gave another list of expenditures, which differed very widely from those given by the Senator from Wisconsin. They both, I think, claimed that they were reasonably authoritative. Now, it occurs to me that if we lodge in the hands of the Secretary of the Navy the power—and I do not speak of the present Secretary of the Navy, for if we do it once we will probably do it again—to deduct from the cost of a ship in the navy yards any charges that in his opinion seem fair and just to be deducted, it is rather a dangerous power, because it is reasonably well known that there are those in official life, both here and in the Navy Department, who are partisans for the building of ships in the navy yards, and while they probably would not do an unfair thing if they were aware of it, yet their prejudices run in that direction and they would try to make the cost of building a ship in a navy yard as low as possible. Is it not safe enough to leave it, I will ask the Senator, as it now is, to let the laws and principles governing transactions of that kind apply and to let each Senator or each Member of the other body determine for himself whether or not the charges are fair and just?

Mr. LEE of Maryland. The Senator from Virginia [Mr. MARTIN] made a suggestion here yesterday pretty much along the line of the one which the Senator from New Hampshire now makes, that the Secretary of the Navy ought to go right ahead, and when he is going to repair a dock or a navy yard that he ought to so state and apply the money.

Mr. MARTIN of Virginia. The Senator from Maryland is very much mistaken. I never suggested at any time in my life that the Secretary of the Navy should vary the application of the money from the application provided for by Congress. I never entertained such a thought or expressed such an idea. It is obligatory upon the Secretary of the Navy to expend the money in accordance with the purposes for which the money was appropriated.

Mr. LEE of Maryland. That was what interested me so much in the remarks of the Senator from Virginia, because I did not see how the Secretary of the Navy could go ahead and make an application that was not authorized by law or was not under the accounting system of the Treasury Department considered as being authorized by law.

Now, it is perfectly obvious that this expression "appropriated for the building of a ship" has from time immemorial in the Navy been construed to cover all of the incidents that went with the building of that ship. In olden times they had ship houses where they worked in the winter in the building of ships in a northern climate; perhaps they had cradles and all the essentials that went to holding together the structure, and the repair of those facilities which now are dockyards and parts of docks and yards. Such items were charged and probably will continue to be charged to the building of the ship; and yet the United States must have yards and docks, places in which to build and repair ships, looking forward to the inevitable possibilities of war, when it must repair its ships, and repair them efficiently and speedily. Under those circumstances the United States must have these places; it must have its navy yards; it must have its docks. It is not fair, therefore, to charge the maintenance of the yards and the docks which the Government must have to the construction of ships, even though under the terms of this law and of previous laws such expenditures are made out of the money appropriated for the building of a ship. That is where the whole difficulty arises; that is where the whole confusion exists. So it is impossible for the public to get any definite conception or for the Secretary of the Navy to make any statement in behalf of the Navy, or for any competition to be started between two navy yards that will actually show what the ships built by the Government actually cost the Government to construct. That is the object of the amendment, to state cost of shipbuilding without regard to other items; and the amendment is so drawn that it clearly does not come under the objection of being general legislation. It simply permits the Secretary of the Navy to do this thing, and prevents his so doing from interfering with the terms of this appropriation bill.

Mr. GALLINGER. Mr. President, it occurs to me that it practically delegates legislative power to the Secretary of the Navy; but, however that may be, I will say that with some hesitation I voted on yesterday to build one of the proposed battleships in a Government navy yard. In doing so, however, I voted the conviction, at least, that the navy yard would be given no advantage over a private concern in the matter of cost. If it shall develop, and can be satisfactorily shown, that it costs any considerable amount more to build ships in navy yards my inclination would be to vote against building ships in the navy yards, although I am a friend of the yards; I am a friend of the workingmen there employed, and I should like to keep them occupied; but, after all, we must take a broader view than that. I will simply content myself by saying that I think this is rather a dangerous power to put in the hands of the Secretary of the Navy; and, while it might not be abused to any great extent, yet there is an apprehension, in my mind

at least, that we might regret having indorsed legislation such as has been suggested.

The VICE PRESIDENT. The Chair would like to ask the Senator from Maryland whether this clause—

This right to so estimate the cost of a ship shall, however, not be construed to effect any change in the purposes of the expenditures herein authorized—

is meant to authorize, or is understood as authorizing, the Secretary of the Navy in the construction of a ship to charge to some other appropriation under this bill anything that may either go into the ship or may necessarily be erected or utilized for the purpose of constructing the ship?

Mr. LEE of Maryland. Mr. President, I should say not. It simply authorizes the Secretary of the Navy, as it were, to cancel that latter type of expenditure with reference to the computation of the actual cost of the ship. It does not in any sense affect what he must do under the terms of this act, but, quite the contrary, it is intended to preserve the terms of this act, even should the Secretary exercise the right, which he probably could exercise to-day, of deducting certain items from the cost of the construction of a ship in making an estimate of strict construction costs. Suppose he did make such a deduction, Mr. President, what would be the effect of it? It would complicate the $7,800,000 appropriated for the battleship; that is all; and without authorization for such estimated reduction he might have to ask for a deficiency appropriation or something of that kind.

Mr. CLARK of Wyoming. Mr. President——

Mr. LEE of Maryland. If the Senator will excuse me for one moment, I wish to add that for this reason this amendment tends to strengthen and protect the provisions of this act.

Mr. CLARK of Wyoming. Mr. President, I want to ask the Senator from Maryland a question. I am not familiar at all with the operations of our navy yards or with the construction of ships, and I want to ask the Senator from Maryland, in view of this amendment, whether or not it has been the custom in our navy yards to reckon or charge up against the cost of the construction of a ship any items of expense that do not properly there belong?

Mr. LEE of Maryland. I infer from the general drift of this debate that that has been the fact.

Mr. TILLMAN. I say, unhesitatingly, yes.

Mr. CLARK of Wyoming. That being the case, I should like to know what those items of construction may be that have been improperly charged to the account of the ship? That is the purpose of my inquiry.

Mr. LEE of Maryland. Mr. President, I think the Senator's question is entirely too comprehensive to be answered without consultation with the responsible authorities of the Navy; but it is perfectly obvious that there have been substantial items included in the cost of these ships that tend to create a fictitious appearance of expenditure that somebody wants to keep as a cloud over the situation.

Mr. CLARK of Wyoming. Then, it seems to me, Mr. President, that some action ought to be taken in regard to the officers of our Department of the Navy who make charges against the construction of a ship that do not properly there belong. It does not seem to me that it is a difficulty which we can guard against by law, but it is something for which the officers responsible should be "jacked up."

Mr. HUGHES. Mr. President, I do not think it is possible for anybody to answer the question propounded by the Senator from Wyoming, at least within the limits of ordinary debate; but there is no doubt that costs have been juggled in various yards, and not necessarily with any improper motive. In fact, I do not know of anything more difficult right now than to perfect a correct system of cost keeping in connection with Government construction. I am certain that I myself would not attempt to install a method of fixing costs, and I do not know of anybody who could do so.

Mr. CLARK of Wyoming. No; but if the Senator himself were running a shipyard and building a ship, I have an idea that he would know exactly what that ship cost to turn out.

Mr. HUGHES. I would.

Mr. CLARK of Wyoming. And I do not see how there is any great difficulty, when the Government itself constructs a ship, of ascertaining, as a matter of fact, exactly what the cost of that ship is.

Mr. HUGHES. There are greater difficulties, I will say to Senators in connection with Government construction than in connection with private construction. If I went into the shipbuilding business to-morrow, the first thing I would have to do would be to buy real estate, and on that real estate I would have to construct buildings. Then I would have to install machinery. My bills would show me what that cost was; but the Government is in a different position, and when an attempt is made to discover the overhead costs that should be charged to the Government, experts will differ as to what should properly be included. As I said on another occasion, I remember one instance where overhead charges were juggled to such an extent that a $300 pump was made, apparently, to cost the Government $1,500.

Mr. CLARK of Wyoming. Well, that comes right back to the statement that I made before, that it is altogether the fault and crime of the officer who makes the computation, and we can not by legislation of this sort correct that.

Mr. HUGHES. I would not say that it was a fault or a crime.

Mr. CLARK of Wyoming. I think it is a fault or a crime for any public official to juggle figures in the discharge of his duty. I use the same term the Senator used.

Mr. HUGHES. I would not say that it was a fault or a crime; it may have been a mistake; it may have been a mistake in judgment and it may have been for a perfectly proper purpose at the time; but it would not matter very much what the cost was if we were familiar with the method of obtaining the cost figures. What we need is some standard system of accounting.

Mr. WEST. Mr. President——

The VICE PRESIDENT. Does the Senator from New Jersey yield to the Senator from Georgia?

Mr. HUGHES. I do.

Mr. WEST. In the overhead charges in connection with the construction of a battleship ought not part of the upkeep and deterioration of the plant be included?

Mr. HUGHES. Of course; but I was not speaking of a battleship in particular. There is an infinite variety of articles that are made at navy yards, with reference to which it is much more difficult to fix overhead charges and costs than it would be in the case of a battleship.

Mr. SMOOT. Mr. President, I have heard a number of Senators discuss the same question heretofore, but it does not seem to me that it should be difficult for the Government in running a factory, in constructing battleships or anything else, to ascertain the overhead charges, any more than it would be for a private concern to do so. The only difference would be that the Government has not the real estate to purchase, perhaps, and therefore its overhead charges would not include the interest upon the real-estate investment; but all business men know what are the overhead charges of any business. They are charges that are to be paid by the business, but which do not of themselves create a portion of the product of the plant, such as taxes, such as secretaries, bookkeepers, foremen, managers, and everything that has to be paid for by the institution which does not enter into the direct making of the article itself.

The Government can ascertain such charges just as well as can a private concern. It does seem to me that if there has been any juggling of figures in the past that it is wrong; and there is no necessity for it. It has not been done for any good purpose, nor to arrive at any real information as to the cost of producing any article.

Mr. HUGHES. I agree in the main with the Senator. It should be easy enough for the Government to arrive at what the overhead charges really are.

Mr. PAGE. May I interrupt the Senator?

Mr. HUGHES. Certainly.

Mr. PAGE. The Senator from Utah [Mr. SMOOT] says, very properly perhaps, that it is perfectly easy to tell what are and what are not overhead charges. I think he is mistaken on that point.

Mr. SMOOT. I never found any trouble in doing so.

Mr. PAGE. For instance, in building a large battleship you may be compelled to put in a lot of new machinery for building that particular ship. The question then arises in the mind of the manufacturer, is that machinery something that he will be likely to use in making another ship hereafter, or will the use for that added machinery terminate when he builds the one ship? It is a matter which every manufacturer has to consider with a great deal of care.

Mr. HUGHES. That is true.

Mr. PAGE. It has been said that a man can invoice himself rich or poor in his income each year according as he is willing to be conservative or otherwise with regard to his overhead charges.

Mr. HUGHES. Undoubtedly that is true, and that is one of the difficulties; but that difficulty confronts the private manufacturer just as it confronts the Government. The comptroller's decision was made on that very question.

The Senator has cited an instance which is of rather common occurrence, I imagine. I remember that at one time Congress

appropriated a large sum of money for the purchase of a crane for the Brooklyn Navy Yard, and the particular type of ship which they were about to build could not be constructed unless they had this crane. The manufacture and installation of the crane cost a tremendous sum of money. It is quite within the bounds of possibility that the navy yard could have been employed immediately after the construction of the ship for which the crane was purchased in the construction of smaller craft for which the crane would have been absolutely useless. The question, then, at once confronted the man who was making up the overhead cost on the smaller type of craft which did not need the crane, whether that tremendously expensive equipment should be charged partly against them or whether it should all have been charged against the battleship.

Whatever the ship may be, however, there ought to be a system; and whatever it is, we ought to know what it is, and we ought to know what it is in detail, because without any question of crime or fault, but perhaps only through a mistake of judgment, an officer of the Navy might charge all of the overhead expense either against the big ship or against the smaller ships and do injustice, as far as the particular piece of construction is concerned, to one or the other.

Mr. SMOOT. The trouble about that is that the crane should not have been charged to either ship. It was machinery, and it should have been charged to that account, and not to overhead expenses.

Mr. HUGHES. That is the Senator's judgment. That perhaps might be my judgment, but that might not have been the judgment of the officer who assigned the particular charge. Whatever is done, we ought to know how it is done, and there ought to be some way for us to settle this long-mooted question with reference to the cost of the construction of battleships by the Government.

Mr. WARREN. Mr. President, will the Senator permit an interruption?

Mr. HUGHES. Certainly.

Mr. WARREN. It seems to me we are getting far afield. The question is not as to cranes; the question is whether this is proper legislation in an appropriation bill.

Mr. HUGHES. I am anxious to have the Government put in a position to install some method whereby Congress can tell something about these overhead charges. I am not altogether familiar with the amount of law we have on the subject at the present time.

Mr. WARREN. Mr. President, the very argument the Senator is using——

Mr. SHEPPARD. Mr. President, a point of order.

The VICE PRESIDENT. The Senator from Texas will state his point of order.

Mr. SHEPPARD. Has this amendment been submitted to the Senate by the Chair?

The VICE PRESIDENT. It has not.

Mr. SHEPPARD. I make the point of order that the debate is out of order.

Mr. REED. Mr. President, I hope the Chair will permit me to say a word on the question of order.

Mr. SHEPPARD. I insist on the point of order.

Mr. WARREN. I thought I had the floor to address myself for a moment to the point of order. I have no objection to yielding, of course.

Mr. REED. I did not know the Senator intended to address himself to it. I simply did not want to——

The VICE PRESIDENT. The Senator from Texas makes a point of order, and asks whether this discussion is going on under a submission of the question to the Senate. The Chair has no intention of submitting it to the Senate. The Chair intends to rule on this question.

Mr. SHEPPARD. I insist on the point of order, that the debate is out of order.

Mr. REED. Mr. President, a parliamentary inquiry. Has the point of order yet been made against the proposed amendment?

The VICE PRESIDENT. It has been.

Mr. SHEPPARD. I insist on the point of order.

The VICE PRESIDENT. As there probably will be an appeal from the ruling, the Chair will rule, and then there will be an opportunity——

Mr. GALLINGER. If I may be permitted a word, Mr. President, it is competent for the Chair to hear argument, if the Chair sees fit to do so, on the point of order. Now, is it competent for a Senator, while the Chair is permitting that privilege, to make a point of order against the debate? The Chair can terminate it at any moment.

Mr. HUGHES. Mr. President, so far as I am concerned, I was discussing the merits of the proposition.

The VICE PRESIDENT. Yes; the point of order was not being discussed.

Mr. HUGHES. I was speaking without any strict right to do so, and I therefore have no objection to the interpo tion of the point of order.

The VICE PRESIDENT. The Chair thinks the Senator from Texas was not objecting to the Chair's hearing Senators upon the point of order, but was objecting to the general discussion of the amendment.

Mr. SHEPPARD. I insist on the point of order, that the debate is out of order.

The VICE PRESIDENT. While the Chair is ready to rule, the Chair will hear what the Senator from Wyoming has to say.

Mr. WARREN. I have only a word to say on the point of order. Of course, the matter is very much the same as the one that came up yesterday. It is simply an effort to get under the fence instead of going through it. In this particular amendment we are delegating legislative power to the Secretary of the Navy, which would be, of course, against our rules. This is not estimated for. Besides that, it is general legislation, and it strikes at the very fundamental rule of appropriation bills in that it seeks to give the Secretary of the Navy authority to use money appropriated for one purpose to expend it on another.

The VICE PRESIDENT. The Chair will hear from the Senator from Missouri, who desires to be heard on the point of order.

Mr. REED. Mr. President, may the amendment be stated from the desk?

The VICE PRESIDENT. The Secretary will again state the amendment.

The SECRETARY. On page 58, after line 17, it is proposed to insert:

Any and all items which are appropriated for under the terms of this act shall be expended and accounted for in accordance therewith and in accordance with law; but the Secretary of the Navy, in estimating the actual cost of a ship built by the Government, may deduct from the cost of such ship as built under the appropriation therefor any sums which he deems not just to be charged thereto. This right to so estimate the cost of a ship shall, however, not be construed to effect any change in the purposes of the expenditures herein authorized.

Mr. REED. Mr. President, the point of order that this is general legislation, if it is sustained, I think goes further than we ought to go.

I understand the distinction between general legislation and legislation with reference to the particular appropriation before the Congress to be that you can not, under the guise of an appropriation, attach to it some legislation of a general character—that is, of a character which goes beyond the general purpose of the appropriation—but that you can change the direction of the appropriation, you can add conditions to the appropriation, you can raise the appropriation, or you can lower it.

If I am sound in that, then the point of order, I think, is not well taken.

Let me illustrate. We bring in an appropriation for $50,000 for a certain item. Nobody questions the fact that you can increase that appropriation or you can lower that appropriation here in the Senate, and you are not out of order when you do so.

Mr. WARREN. Mr. President, the Senator certainly does not mean that we can exceed the estimates—that anyone on the floor of the Senate can move an amendment to exceed the estimates for any or all objects of expenditure and still be in order?

Mr. REED. I am discussing the other question.

Mr. WARREN. The rule in regard to points of order is specific, to the effect that we can not exceed the estimates for the several items of appropriation in an appropriation bill, unless the item sought to be increased has gone to a committee and has been properly recommended by the committee.

Mr. REED. Mr. President, if I may be permitted to proceed on the question whether this is general legislation or not, I will come to the other question later. I can not discuss both of them at once.

You can raise an appropriation without being guilty of violating the rule against general legislation; you can lower it; you can provide for the expenditure of the appropriation in a particular way as long as the particular way in which it is to be expended comes within the general purview and object of the appropriation itself. If you could not do that, then the Senate never could amend an appropriation bill, and the House could not amend certain bills which we might pass.

The distinction between general legislation and legislation which affects the particular item is a very plain one in most instances. You can not take an appropriation bill and put in legislation which affects other matters than the appropriation, because that is general legislation; but when you simply affect the appropriations that are provided for it is not general legislation; it is legislation that is confined to the subject matter of the bill, and to the very item you are considering.

Who is there who will dispute that if we were appropriating money for the purpose of building a battleship we could say

that in the building of that ship certain plans and specifications should be followed? It is part of the appropriation. It is part of the very purpose of the appropriation. We are simply directing how the appropriation shall be expended. It would be quite a different thing, however, to add to an appropriation for a battleship a provision relating to agriculture, because that is legislation of a general character.

I maintain that as long as the qualification which we add by way of an amendment bears direct relation to the expenditure of the particular money that is appropriated and comes within the general objects of that appropriation, it is not general legislation at all.

Mr. WARREN. But, Mr. President, the appropriations already made in the bill are for specific objects, each one having its own amount of money and its use. This amendment proposes, in one of the sections, to assemble all of those and make them accessible to draw on for entirely different purposes from those for which we have made the appropriations.

Mr. REED. Accordingly, I claim that when the Senate is called upon to vote six or seven million dollars for a battleship it can lay down the rule by which that money is to be expended without being guilty of general legislation. It is not general; it is special. It is a special direction and qualification applied to that particular item of appropriation. It is a mere limitation upon the appropriation.

I wish first to try to make that point plain, if I am correct in it. I may be in error, but I feel very confident of it. Then I wish to proceed to the other questions that have been raised by the Senator.

In the Precedents of the Senate, at page 54, is this item:

No subject is more widely discussed in the Senate during the consideration of appropriation bills and amendments thereto than the question, "What is general legislation on a general appropriation bill?"

The Century Dictionary says:

"General legislation, that legislation which is applicable throughout the State generally, as distinguished from special legislation, which affects only particular persons or localities."

"Or a particular subject matter" might have been added.

"Local legislation, local statute, such legislation or statute as is in terms applicable, not to the State at large, but only to some district or locality and to the people therein."

Bouvier (vol. 1, p. 877): "General law (legislation), laws which apply to and operate uniformly upon all members of any class of persons, places, or things, requiring legislation peculiar to themselves in the matters covered by the laws." "Statutes which relate to persons and things as a class. Laws that are framed in general terms, restricted to no locality, and operating equally upon all of a group of objects which, having regard to the purpose of the legislation, are distinguished by characteristics sufficiently marked and important to make them a class by themselves."

Now, a little further:

"'General,' with reference to the subject matter of the statute, is synonymous with 'public' and opposed to 'private,' but with reference to the extent of territory over which it is to operate, is opposed to 'local' * * * and means that the statute to which it applies operates throughout the whole of the territory subject to the legislative jurisdiction." * * * "Further, when used in antithesis to 'special,' it means relating to all of a class instead of to men only of that class." * * * "In deciding whether or not a given law is general, the purpose of the act and the objects on which it operates must be looked to * * *."

I take it that applying that language—which, of course, was written by law writers with reference to statutory law rather than to a point of order—it means that the philosophy of it is this: Whenever an amendment is offered which is not confined to the purposes of the appropriation bill and does not undertake to regulate and control the appropriation bill, but goes outside of that and undertakes to regulate other subjects, it becomes general legislation. But as long as it is confined to the subject which is embraced within the appropriation bill, and directs how the particular appropriation shall be expended, how the books shall be kept, how the accounting shall be had, it is a part of the appropriation bill. It is not general in its character; it is special in its nature; and therefore it is not subject to the point which has been raised.

Now, there are a number of decisions under the different subheads in which this question is discussed. On the Agricultural appropriation bill, in the Fifty-first Congress, on a reported amendment to the Agricultural bill, which reads:

That any manufacturer of sugar from sorghum may remove from distillery warehouses to factories used solely for the manufacture of such sugar from sorghum distilled spirits in bond free of tax—

And so forth. The Senate by a vote of 29 to 23 decided that it was not general legislation on an appropriation bill.

Mr. GALLINGER. But, Mr. President, does the Senator lay great stress upon the decision of the Senate upon a point of order?

Mr. REED. I hope we will be able to lay greater stress as the years go on.

Mr. GALLINGER. Yes.

Mr. REED. I am citing it for just what it is worth. I have no lamp by which my feet are guided except the lamp of precedent.

Mr. GALLINGER. But has not the Senator observed that the Senate frequently decides a point of order without very much reference to the rules?

Mr. REED. I think too often.

Mr. GALLINGER. I think so.

Mr. REED. I admit the value of the Senator's criticism, and therefore I am appealing to the Senate that it now decide this question upon its real merit, not to decide it upon the question whether they want the amendment to pass or not to pass.

Manifestly the citation I have given, if it be good parliamentary law, would admit this amendment, because you will observe that that was an amendment which did not either raise or lower the appropriation, but it added to the bill itself a direction as to the handling of the subject matter with reference to which the appropriation was made.

In the Sixtieth Congress I find this note:

On the question to agree to the reported amendment on page 55, after line 23, viz: "Commission on Country Life: For all necessary expenses to enable the Secretary of Agriculture to digest, compile, and publish the material already gathered by the Commission on Country Life, including the employment of the necessary clerical assistance in the city of Washington and elsewhere, $25,000."

Mr. Kean raised a question of order, viz, that the amendment as amended proposed general legislation to a general appropriation bill, and was therefore not in order.

You will observe that while this amendment had relation to the subject matter for which money was being appropriated and appropriated an additional sum of money, it went further and created a commission, and yet it was held by a vote of the Senate that that could be done. It added a new proposition.

If you can raise the amount or lower the amount, then you ought to be allowed to do those things necessary to the proper raising or the proper lowering or the proper expenditure of that amount. It is not general legislation because it applies to the particular subject matter included within the appropriation bill.

Is it possible that if the House of Representatives sends us a bill appropriating money for six battleships the Senate could not add an amendment requiring one or more of those vessels to be built according to certain plans and specifications or to be built in a Government yard or to carry an armament of a certain size? That is not general legislation. It is legislation which has to do solely and alone with the question how the money is to be expended which we are then and there appropriating. It is not necessary to go as far as was gone in this precedent in order to add these qualifications to the expenditure of the money which we may desire to add.

Under appropriations for the Army in the Fifty-sixth Congress the amendment which was offered was as follows:

All military, civil, and judicial powers necessary to govern the Philippine Islands acquired from Spain by the treaties concluded at Paris on the 10th day of December, 1898, and at Washington on the 7th day of November, 1900, shall, until otherwise provided by Congress, be vested in such person and persons and shall be exercised in such manner as the President of the United States shall direct for the establishment of civil government and for maintaining and protecting the inhabitants of said islands in the free enjoyment of their liberty, property, and religion: *Provided*, That all franchises granted under the authority hereof shall contain a reservation of the right to alter, amend, or repeal the same.

Mr. Pettus raised a point of order, namely, that the amendment proposed general legislation to a general appropriation bill, and was therefore not in order, under the third clause of Rule XVI.

The President pro tempore submitted the question to the Senate, and the Senate decided the amendment to be in order by a vote of 39 to 23.

I am frank to say, without having examined the bill itself, but assuming it to be a mere appropriation bill, it seems to me that this particular decision went too far. It seems to me that the subject with reference to which Congress was then legislating probably was enlarged by this particular amendment; but it goes to show that the hard and fast rule that the Senate can do nothing to an appropriation bill except to pass it is not the correct rule.

Mr. President, I do not know that I have succeeded at all in making the point that I have in mind clear to the Senate. It seems to me to be clear. I maintain that the term "general legislation" means that class of legislation which does not have relation to the appropriation, which does not provide for the method of its expenditure, which does not provide for the character of accounting, but proposes to go outside of the subject matter and engage in the enactment of some general law which is not confined to the appropriation; but as long as you are confining the question to the appropriation, and determining how the appropriation shall be expended, it is not general legislation.

Accordingly, I hold that if the House of Representatives were to send us a bill containing an appropriation for the purpose of building a fortification at one end of the canal, and the Senate should add a provision that no part of the money shall be expended until a treaty of a certain kind shall have been negotiated, it would not be general legislation, because it affects that particular appropriation. We could provide that no part of the money should be expended for a given time, and it would not be general legislation, because is affected that particular appropriation. But if the bill said nothing whatever in regard to an appropriation for the canal, and was dealing with an entirely different subject, and then we sought to provide that no money should be expended to put in fortifications at the canal until certain treaties had been negotiated, it would be of a general character, and might be subject to a point of order.

Mr. President, so far as that is concerned, I think that is clear. There is another question which has been raised here in regard to the estimates not having been made. There is not a dollar that will be affected by this amendment that has not been estimated for and is not covered by the present estimates.

The VICE PRESIDENT. There is more general legislation than is embraced in the definition of general legislation in Bouvier's Law Dictionary, and some of the things that are defined as general legislation in that dictionary have been held by the courts not to be general legislation.

The Chair is quite satisfied that the ruling of the Chair yesterday upon the amendments as presented then were correct. There is a statute of the United States of America which is applicable to all the officers of the Government, and consequently a general statute, because it applies to a class of people, declaring that they shall not make any expenditure of public money except in accordance with an appropriation made by the Congress of the United States and after an estimate therefor. That is not the exact language, but that is the substance of the statute.

The amendments presented yesterday simply struck out every appropriation in this naval bill and made a lump sum of it and turned it over to the Secretary of the Navy to expend as he pleased, using his own judgment as to what should be done with this fund, that fund, and the other fund, if any charge was to be made at all. But the amendment presented to-day is of a different character. The Chair has very carefully read this amendment, and takes into consideration in ruling upon it the statement of the Senator from Maryland that it is not his intention in the amendment to suffer or permit the Secretary of the Navy to add a dollar for any single purpose except as the same has been appropriated in this bill, and that the sole purpose of the amendment is to permit the Secretary of the Navy hereafter, if he chooses to do so, to make an estimate as to the actual cost of a ship; in other words, to permit him, according to his opinion, to deduct from the $7,800,000 appropriated for one of these ships any sums of money which he thinks ought not to have been legitimately charged up to that ship. But the amendment does not permit him to shift the different appropriations in the bill or to extend it otherwise than the bill itself provides.

The amendment does not, therefore, seem to the Chair to be general legislation. It appears to be simply a special permission in the bill given to the Secretary of the Navy, if he chooses to avail himself of it, to estimate what, in his opinion, one of these battleships did actually cost.

It is not for the Chair to say what value such an estimate as that may have in the future. That is no business of the Chair. The Chair believes that the amendment simply authorizes the Secretary of the Navy at any time when he wants to say what one of these ships cost to deduct from the items that he has paid out in the construction of the ship such items as he thinks ought not to have been legitimately charged against the building of the ship. The Chair overrules the point of order.

Mr. WARREN. Mr. President, the construction that the Presiding Officer gives the amendment is different from what I understood from the portion that I heard read, and as we all ought to know what it is the Chair decided I ask that the Secretary may read the amendment.

The VICE PRESIDENT. The Secretary will read it again. If the Chair believed that the amendment would authorize the Secretary of the Navy to expend any one of the items estimated for and contained in the bill otherwise than as the appropriation is made in the bill, the Chair would sustain the point of order.

Mr. GALLINGER. I should like to hear the amendment read.

The VICE PRESIDENT. The Secretary will read the amendment. There was a modification made by the Senator from Maryland.

Mr. WARREN. I wish it read as it is now before the Senate. I understand from what the Chair has stated that it merely gives to the Secretary the power to estimate what was its cost.

The VICE PRESIDENT. That, in the opinion of the Chair, is what the amendment really means. The Secretary will read it.

The Secretary read as follows:

Any and all items which are appropriated for under the terms of this act shall be expended for and accounted for in accordance therewith. But the Secretary of the Navy, in estimating the actual cost of a ship built by the Government, may deduct from the cost of such ship as built under the appropriation therefor any sums which he deems not just to be charged thereto. This right to so estimate the cost of a ship shall, however, not be construed to affect any change in the purposes of the expenditures herein authorized.

Mr. WARREN. It seems to me that the Senator who offers the amendment should qualify it a little further and say that the Secretary may deduct from the estimated cost. That can be easily effected by adding a word. It reads:

But the Secretary of the Navy in estimating the actual cost of a ship built by the Government may deduct from the cost.

I think it should read that he "may deduct from the estimated cost."

The VICE PRESIDENT. Is there any objection to that modification?

Mr. LEE of Maryland. I object to it for the reason that the cost is the legal cost, and the estimated cost is what we are trying to get at. The cost is provided by this appropriation bill, and to use any other expression would be antagonistic to the appropriation. That is particularly what I am trying to avoid.

Mr. WARREN. The language is a little ambiguous if you do not expect to spend any money and only estimate it. That is the suggestion I have to offer.

The VICE PRESIDENT. The question is on the amendment to the amendment.

The amendment to the amendment was agreed to.

The amendment as amended was agreed to.

Mr. KENYON. I offer an amendment as a separate paragraph, to come in on page 61, between lines 7 and 8.

The VICE PRESIDENT. The amendment will be read.

The SECRETARY. On page 61, after line 7, insert:

That for the purpose of obviating the growing expenditures by the powers of the world to maintain the military forces of such powers, and to reduce such expenditures, and to secure an agreement by all the formidable nations of the world for the immediate suspension of the present naval-construction program, the President be, and is hereby, empowered to invite delegates from the countries of the world to meet in Washington, in the District of Columbia, in the United States, during the autumn months of the year 1914, to deliberate upon and to take action to secure the approval of such agreement; and to provide for the reception of said delegates and to carry out on the part of the United States the terms and conditions of such agreement a sum sufficient in amount therefor, not exceeding $5,000, be, and the same is hereby, appropriated, out of any money in the Treasury not otherwise appropriated, and the Secretary of the Treasury is hereby authorized to pay said sum to the Secretary of State for the disbursement of the same for said purposes.

Mr. THORNTON. I make the point of order against that amendment.

Mr. KENYON. What is the point of order?

The VICE PRESIDENT. The Chair is not advised as to what is the point of order.

Mr. LODGE. It is general legislation, and it is an unestimated item proposed on an appropriation bill.

The VICE PRESIDENT. The point of order is sustained.

Mr. GORE. Mr. President, I offer an amendment, which I send to the desk.

The VICE PRESIDENT. The amendment proposed by the Senator from Oklahoma will be stated.

The SECRETARY. On page 26, line 24, after the numerals "$100,000," it is proposed to insert:

For fuel-oil storage, at some point accessible to the oil fields of Texas and Oklahoma, to be determined by the Secretary of the Navy, $150,000.

The VICE PRESIDENT. The question is on the amendment proposed by the Senator from Oklahoma.

Mr. LODGE. Mr. President, I make the point of order against that amendment, that it is not estimated for, and that bill contains a provision for storage tanks. This is proposing to vote unobligated balances for a purpose not estimated for.

Mr. GORE. The Senator misapprehends the amendment. I ask that it be again stated, and I hope the Senator will not interpose a point of order against it.

The VICE PRESIDENT. The Secretary will again read the amendment.

The Secretary again read the amendment proposed by Mr. GORE.

Mr. LODGE. I did not misapprehend the amendment. It proposes an item which is certainly not estimated for. Fuel-

oil storage is provided for in the bill; every item that was estimated for is there; and this item is not estimated for. The committee knew nothing about it.

Mr. GORE. Mr. President, the reason I made the suggestion that the Senator from Massachusetts misapprehended the amendment was the fact that I had offered another amendment which used language which the Senator began to quote. I will say to the Senator that the bill does make provision for the storage of oil at some point in Rhode Island and at Norfolk, in Virginia; I think at the latter place making an appropriation of $150,000 and at the former $20,000. The bill also makes an appropriation for the storage of oil on Puget Sound, carrying $105,000; an appropriation of $100,000 for the storage of oil at San Francisco; and $50,000, I believe, for the storage of oil at San Diego, Cal. There is, however, no provision made for the storage of oil at any point on the Gulf of Mexico. There is at least a remote possibility that there may be some occasion for the use of oil in that vicinity; and as the point referred to in the amendment is in the vicinity of one of the largest oil fields in the United States, it had seemed to me that it would be wise and expedient to provide for the storage of oil in that locality. I hope the Senator from Massachusetts will not insist on his point of order.

Mr. LODGE. Well, Mr. President, I have no objection to having one oil storage tank put on the Gulf, if it is thought to be necessary. It is not estimated for, but I am perfectly willing to withdraw the point of order.

The VICE PRESIDENT. The point of order is withdrawn, and the question is on agreeing to the amendment.

Mr. GALLINGER. I renew the point of order, Mr. President.

The VICE PRESIDENT. The Chair sustains the point of order.

Mr. O'GORMAN. Mr. President, I propose to offer an amendment, which I shall send to the desk. Before the amendment is read, however, I desire to call the attention of Senators to a change that I think should be made in the bill. On page 60 there is a provision, beginning at line 9, which reads as follows:

Of each of the sums appropriated by this act, except such amounts as may be required to meet obligations authorized in previous acts and for which contracts have been made, no part shall be used to procure through purchase or contract any vessels, armament, articles, or materials which the navy yards, gun factories, or other industrial plants operated by the Navy Department are equipped to supply.

The provision is that no such purchases shall be made if the navy yards are equipped to supply them. Then follow several exceptions, and among them are the following:

Unless such Government plants are operated approximately at their full capacity for not less than one regular shift each working day, except when contract costs are less than costs in said Government plants, and except when said Government plants are unable to complete the work within the time required, and except in cases of emergency.

The purpose of the amendment which I shall have read is that no such purchases shall be made elsewhere, provided the Navy Department can supply them, except when the Government plants are unable to complete the work within the time required, and in cases of emergency. I think those two exceptions are sufficient, and that they should not be extended by the other exceptions, by which, taking them as the words apparently mean, the power is conferred upon the head of the Navy Department in any case to go outside and make his purchases if this language is to be retained.

Mr. LODGE. I should like to hear the amendment. I confess I do not understand it.

The VICE PRESIDENT. The Secretary will state the amendment proposed by the Senator from New York.

The SECRETARY. On page 60, beginning in line 16, after the words "Government plants," it is proposed to strike out the following words:

Are operated approximately at their full capacity for not less than one regular shift each working day, except when contract costs are less than costs in said Government plants, and except when said Government plants—

So that, if so amended, the paragraph will read:

Of each of the sums appropriated by this act, except such amounts as may be required to meet obligations authorized in previous acts and for which contracts have been made, no part shall be used to procure through purchase or contract any vessels, armament, articles, or materials which the navy yards, gun factories, or other industrial plants operated by the Navy Department are equipped to supply, unless such Government plants are unable to complete the work within the time required, and except in cases of emergency.

Mr. WARREN. Mr. President, I do not oppose the amendment, but I should like to call the attention of the Senator proposing it to page 18, line 18, and the language following, which reads:

Purchase and manufacture of smokeless powder, $1,150,000: *Provided*, That no part of any money appropriated by this act shall be expended for the purchase of powder other than small-arms powder at a price in excess of 53 cents a pound:

But the crux of the case is in the following language:

Provided further, That in expenditures of this appropriation, or any part thereof, for powder, no powder shall at any time be purchased unless the powder factory at Indianhead, Md., shall be operated on a basis of not less than its full maximum capacity.

I only suggest that the same attention which the Senator is giving to the paragraph which he proposes to correct should be given, I think, to that.

Mr. O'GORMAN. I see no inconsistency between those two provisions. They can be read together and are quite in harmony.

The VICE PRESIDENT. The question is on agreeing to the amendment submitted by the Senator from New York.

Mr. SWANSON. I make the point of order against the amendment that it is general legislation.

Mr. O'GORMAN. I do not know——

Mr. LODGE. The amendment proposes to strike out the text of the bill.

Mr. SWANSON. The provision proposed to be stricken out is a statute and has been carried in the law for a long time. It is simply, as I understand, a reiteration of the existing law, and is carried in the appropriation bill every year.

Mr. O'GORMAN. Does the Senator offer that as a reason in support of his point of order?

Mr. SWANSON. The provision affects the conditions under which the Government can do its own work. We have appropriated $500,000 for a powder plant; and it seems to me the Government ought to operate it to its fullest extent, except when powder can be purchased elsewhere. I do not know the purpose of the amendment or the effect of it.

The VICE PRESIDENT. The Chair does not know either; but the Chair thinks that a motion to strike out from the bill is always in order.

Mr. SWANSON. Not if it is a general statute which is proposed to be stricken out and the amendment changes existing law.

The VICE PRESIDENT. The language could be stricken out of the bill without being stricken out of the statute.

Mr. LODGE. Mr. President, if I may be heard for one moment on the point of order, the provision which the Senator from New York seeks to strike out is a part of the House bill and is open, of course, to amendment in any form, to strike out, to change, or to in any way modify.

Mr. SWANSON. The point I make is this: As I understand, this provision is a general law governing certain purchases made by the Government; it is a general statute, and is simply carried in the appropriation bill. The amendment of the Senator from New York would change existing law in connection with Government purchases and Government work.

Mr. LODGE. It is a provision carried in the Naval appropriation bill from year to year.

The VICE PRESIDENT. The point of order is not well taken. The question is on agreeing to the amendment submitted by the Senator from New York.

The amendment was agreed to.

Mr. O'GORMAN. I offer another amendment, to which the attention of the Senate was called a day or so ago by the Senator from Iowa. On page 58, beginning at line 18, there is this provision:

The Secretary of the Navy shall build any of the vessels herein authorized in such navy yards as he may designate, should it reasonably appear that the persons, firms, or corporations, or the agents thereof, bidding for the construction of any of said vessels have entered into any combination, agreement, or understanding the effect, object, or purpose of which is to deprive the Government of fair, open, and unrestricted competition in letting contracts for the construction of any of said vessels.

I seek to amend that by providing that "except where otherwise directed" the Secretary of the Navy may do so and so. If the language remains as it is on page 58, he might have a power which would nullify an express provision on a preceding page instructing him with respect to the construction of the two battleships.

The VICE PRESIDENT. The question is on agreeing to the amendment.

Mr. O'GORMAN. I ask that the amendment be read.

The VICE PRESIDENT. The Secretary will state the amendment.

The SECRETARY. On page 58, line 18, before the words "Secretary of the Navy," it is proposed to insert "except where otherwise directed," so as to read:

Except where otherwise directed the Secretary of the Navy shall build—

And so forth.

The VICE PRESIDENT. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. LA FOLLETTE. Mr. President, whatever difference of opinion may exist as to the advisability of the Government establishing an armor-plate plant or of adopting the recommendation of the Secretary of the Navy that we should provide for the Government furnishing and refining its own oil for the use of battleships, I am sure that there can not be any difference of opinion among Senators as to the value of any proposition that will protect the integrity of the work done under contract for the Government.

Abundant evidence has been developed in the investigations made from time to time by Congress that the Government has been defrauded on work performed for it by private parties, and I am going to offer an amendment that I think will aid in protecting the Government from being imposed upon in the carrying out of its contracts with private parties for the furnishing of armor plate and other munitions of war. It may possibly be subject to a point of order as general legislation, but I am sure no Senator here will feel it to be his duty to invoke the rule against an amendment that will aid in securing honest work from Navy contractors. I offer the amendment which I send to the desk.

The VICE PRESIDENT. The amendment will be stated.

The SECRETARY. On page 56, line 20, after the word "each," it is proposed to insert the following:

Any person who shall first inform of the cause, matter, or thing whereby any fine, penalty, or forfeiture shall be recovered from any person, firm, or corporation engaged in a combination or conspiracy to defraud the Government of the United States in the construction, or in the quality of any of the materials used, armor or armament of said battleships, or in any war material purchased by the Government of the United States, shall receive from any moneys in the Treasury of the United States not otherwise appropriated a sum equal to 10 per cent of the amount of such fine, penalty, or forfeiture collected. The informer entitled to receive such payment shall be ascertained by the court which shall have imposed or decreed any such fine, penalty, or forfeiture.

Mr. GALLINGER. Mr. President, I do not rise to make a point of order against the amendment. I think the purpose of it is laudable; but I had supposed that the principle of moieties had been pretty well abandoned in this country. I will ask the Senator if that is not a fact?

Mr. LA FOLLETTE. I have drawn this amendment, Mr. President, upon several existing statutes. It is modeled after laws that are now on the statute books.

Mr. GALLINGER. I know that not long ago it was customary in our customs service to grant moieties for discovering smuggling, for instance; but the Government, I think, has entirely abandoned that policy, and I have an impression that of late years the practice has been not to encourage that sort of thing.

Mr. LA FOLLETTE. I have simply adapted the statute which is a part of the internal revenue law to this bill.

The VICE PRESIDENT. The question is on agreeing to the amendment.

Mr. SMITH of Georgia. I should like to hear it stated once more, with special reference to the informer feature. Of course, the amendment is open to objection. It goes out if anybody objects to it. I should like to catch the informer feature a little better.

The VICE PRESIDENT. The Secretary will again state the amendment.

The SECRETARY. On page 56, at the end of line 20, it is proposed to insert:

Any person who shall first inform of the cause, matter, or thing whereby any fine, penalty, or forfeiture shall be recovered from any person, firm, or corporation engaged in a combination or conspiracy to defraud the Government of the United States, in the construction, or in the quality of any of the materials used, armor or armament of said battleships, or in any war material purchased by the Government of the United States, shall receive from any moneys in the Treasury of the United States not otherwise appropriated, a sum equal to 10 per cent of the amount of such fine, penalty, or forfeiture collected. The informer entitled to receive such payment shall be ascertained by the court which shall have imposed or decreed any such fine, penalty, or forfeiture.

Mr. SMITH of Georgia. Is that the whole of it?

Mr. LA FOLLETTE. That is the whole of it.

Mr. WHITE. Mr. President, it occurs to me that that would be a very good amendment if the amount should be deducted from the fine or penalty; but the Government might be called on under this amendment to pay the amount whether the penalty was ever recovered or not.

Mr LA FOLLETTE. The Senator is mistaken about that. It provides that it shall be deducted from the amount collected.

Mr. WHITE. I do not think so. I will ask for the reading of that part of the amendment.

The Secretary read as follows:

Shall receive from any moneys in the Treasury of the United States not otherwise appropriated, a sum equal to 10 per cent of the amount of such fine, penalty, or forfeiture collected.

Mr. LA FOLLETTE. The Senator will observe that it uses the word "collected."

Mr. WHITE. I did not catch the word "collected."

The VICE PRESIDENT. The question is on agreeing to the amendment. All in favor of the amendment will say "aye."

Mr. SMITH of Georgia. I make the point of order on the amendment that it is legislation on an appropriation bill.

Mr. LA FOLLETTE. I think the point of order comes too late.

The VICE PRESIDENT. A point of order, in the opinion of the Chair, can never come too late. The Chair will be compelled to sustain it.

Mr. GORE. Mr. President——

Mr. GALLINGER. Mr. President, if the Senator from Oklahoma will permit me, some time ago I made a point of order against an amendment offered by the Senator from Oklahoma. I desire now to withdraw the point of order and have the amendment again submitted.

Mr. GORE. I wish to express my appreciation to the Senator from New Hampshire. I ask that the amendment may be stated from the desk.

The VICE PRESIDENT. The Secretary will again state the amendment.

The SECRETARY. On page 26, line 24, after the semicolon and the numerals "$100,000," it is proposed to insert:

For fuel-oil storage, at some point accessible to the oil fields of Texas and Oklahoma, to be determined by the Secretary of the Navy, $150,000.

Mr. SMITH of Arizona. Mr. President, the amendment proposed by the Senator from Oklahoma stipulates that this point shall be accessible to the oil fields. How accessible does he propose to have it to the sea?

Mr. GORE. I will state that the location of the storage tanks or facilities is left discretionary with the Secretary of the Navy. They may be placed at Port Arthur, Tex., or Galveston, Tex., or Aransas Pass, or any of those points, or wherever, in the judgment of the Secretary, they would be most desirable.

The VICE PRESIDENT. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. LANE. I offer an amendment, which I send to the desk.

The VICE PRESIDENT. The amendment will be stated.

The SECRETARY. On page 18, line 24, it is proposed to strike out all after the word "purchased"——

The VICE PRESIDENT. Does the Chair understand that the rest of the bill is to be stricken out?

Mr. LANE. No; all on that page.

The SECRETARY. It is proposed to strike out all on that page after the word "purchased" and to insert "except in case of emergency."

Mr. LANE. I think it would be a good idea if we struck out the rest of the bill, but I do not intend to have that done.

Mr. GALLINGER. How would it read if amended?

The SECRETARY. It is proposed to strike out the following words:

Unless the powder factory at Indianhead, Md., shall be operated on a basis of not less than its full maximum capacity.

And to insert:

Except in case of emergency.

The VICE PRESIDENT. The question is on agreeing to the amendment.

Mr. LEE of Maryland. Mr. President, I should like to suggest that this amendment is distinctly in contravention of the theory upon which the increase of $500,000 for Indianhead was requested the other day, as suggested by the Secretary of the Navy. It was distinctly stated on this floor that the Secretary did not necessarily intend to use the plant to hammer private manufacturers unjustly; that it was in the interest of the Navy and of the war efficiency of the United States Government that the private factories should be encouraged to exist upon a reasonable basis; and that the addition to the Government plant was largely for the purpose of obtaining a fair price and of increasing the manufacture of powder in this country when an emergency should so demand.

The amendment just submitted is distinctly contrary to the whole theory of the other amendment and the arguments that were laid before the Senate in its favor.

Mr. WARREN. Mr. President, I do not know whether I understand the remarks of the Senator from Maryland, but the argument on the floor the other day, when this matter was under consideration, was that they wished $500,000 to enlarge the powder factory so that they might have the power not to exclude the business of the Government from private enterprises entirely—they were disposed to patronize them—but they wanted this $500,000 addition to the powder plant to use as a club to enforce low prices. I use the word "club" as it was

then used. The way this paragraph reads, there can be no club about it until after this factory is worked to its full capacity and more powder is then needed.

We will suppose, for instance, that you are building a factory for a club, and that you propose to allow certain contracts to be let to private parties. Let us see how this reads:

That in expenditures of this appropriation, or any part thereof, for powder, no powder shall at any time be purchased unless the powder factory at Indianhead, Md., shall be operated on a basis of not less than its full maximum capacity.

Mr. SWANSON. Mr. President, if the Senator will permit me, this is applicable alone to this appropriation. It can apply only to the appropriation in this bill.

Mr. WARREN. Very true; but this appropriation is for the next 12 months, and we are likely to need to buy powder within those 12 months.

Mr. SWANSON. The $500,000 that is appropriated can not produce an increase in the capacity of the factory under 12 months.

Mr. WARREN. We do not know about that.

Mr. SWANSON. So this provision can not affect the powder that could be made by the increased appropriation of $500,000. It would simply require the factory to be operated to its full capacity now, getting powder at 40 cents instead of paying 53 cents for it.

Mr. WARREN. Mr. President, I am so much a man of peace that if the Senate wants to tie its hands and the House wants to tie its hands and tie the hands of the Government so that it is impossible to buy any arms, any powder or ball or cannon until such time as you may have an immediate necessity for it and have no reserve and then find no one to buy from, because the foreign countries can not sell it to us because it is contraband, and our private works here that you have discontinued using at all or giving contracts to are turned over to the making of commercial powder exclusively, then I must, of course, be satisfied; but that is the direction in which you are legislating, and I think it a dangerous direction.

Mr. KENYON. Mr. President, I should like to ask the Senator from Wyoming whether this is a private factory or a Government factory?

Mr. WARREN. This is a Government factory.

Mr. KENYON. I was not clear as to that.

Mr. WARREN. It seems to me the Government, or those who are in command, say, the Secretary of the Navy and certainly the President of the United States, ought to have the privilege, in case of impending trouble, of buying powder beforehand and storing it and having it on hand when necessary. That would be impossible under this amendment.

Mr. SWANSON. Not at all. Under the provisions of this bill we can not buy powder except in excess of what we can make ourselves.

Mr. WARREN. Yes.

Mr. SWANSON. If we need more powder than we can make ourselves, we buy it. This provision is simply to compel the Government to operate the factory at Indianhead to its full capacity, and we can not use this money to buy powder except such as it can not manufacture.

Mr. WARREN. Yes; but the Senator is laboring under the impression that the buying of arms and powder could be calculated beforehand upon the regular consumption of various departments, we will say; whereas, as a matter of fact, we are at all times in some liability of war, and it would seem as if we are to be more so just now and during the coming year than usual; and this provision absolutely forbids any surplus. If it should seem necessary, there can be nothing bought.

Mr. SWANSON. Oh, if the Senator will permit me, this bill provides for the purchase of 4,000,000 pounds of powder, roughly 3,810,000 pounds. Under the present operation of the Indianhead factory about half of it is made by the Government and half of it is purchased from the Du Pont Powder Co. This provision, which has been carried in the bill, requires the Government to run its Indianhead factory to the full capacity, making the 2,000,000 pounds. It makes it at 40 cents a pound, and for the powder we buy we have to pay 53 cents. It saves 13 cents on every pound of powder. Instead of leaving it to the discretion of the people in the department to run it or not to run it, and to pay 13 cents a pound more than is necessary for powder, Congress has seen fit to say that we shall use this money to make all the powder we can there, which at present is 2,000,000 pounds a year. We do not leave it discretionary with anyone to determine whether we shall buy powder at 53 cents when we can make it at 40 cents.

Mr. WARREN. There is no objection to that. The point I make is that under this legislation and what it implies you can only buy powder after you have an immediate necessity for use over and above what this provides for. In other words, you can make no storage, and in war immense quantities are required and on short notice, and great quantities can not be procured on short notice, but must be provided for long beforehand or the battle is lost.

Mr. SWANSON. This provision simply says that if you want to buy some powder to-morrow you can not buy any more than you need, less what the factory at Indianhead can make to-morrow.

Mr. OLIVER. Mr. President, I should like to have the paragraph read as it will read if the amendment of the Senator from Oregon is agreed to.

The VICE PRESIDENT. The Secretary will read as requested.

The Secretary read as follows:

Purchase and manufacture of smokeless powder, $1,150,000: *Provided*, That no part of any money appropriated by this act shall be expended for the purchase of powder other than small-arms powder at a price in excess of 53 cents a pound: *Provided further*, That in expenditures of this appropriation, or any part thereof, for powder no powder shall at any time be purchased except in case of emergency.

Mr. OLIVER. Mr. President, it seems to me that would absolutely shut out the department from the purchase of any powder at all until an emergency arose under which it would be required. I think it is a very unwise amendment and that the paragraph had better remain as it came from the House.

Mr. SWANSON. I fully agree with the Senator from Pennsylvania. If the amendment offered by the Senator from Oregon prevails, it will make it impossible for us to buy next year about 2,000,000 pounds of powder until the new factory has been completed. It will make it impossible even to furnish ammunition for the battleships that we commission next year. It seems to me the provision we have at present in the bill is a sufficient protection to the Government.

Mr. WARREN. I think it is more than sufficient.

Mr. SWANSON. It is ample. The difficulty with the amendment offered by the Senator from Oregon is that if that prevails, next year, when we commission a battleship and desire to equip it with ammunition, we will not be able to do so, because no emergency will exist.

Mr. LANE. Mr. President, I think that is arguing on the assumption that everybody connected with the Government has lost his wits. If the Government officials are building a battleship, and have enough intelligence to construct it, they ought to be wise enough to provide powder for it when it is completed. If they have not, then an emergency will exist, and they can go and buy it. That is ample to cover it.

Mr. SWANSON. Mr. President, if the Senator will permit me, the maximum capacity of the factory at Indianhead is 2,000,000 pounds a year. It might run to two millions and a half. We use about four millions; and this amendment would really prohibit the Government from getting enough powder to equip a battleship.

Mr. LANE. It does not limit it in any way. It allows the Government to go on and produce all the powder it can, and compels it to do so, instead of buying it at private sale. That is my test. Then, if an emergency exists, the Government can go and buy powder, but only in case of emergency. It is designed to put the Government factories to work.

Mr. SMITH of Georgia. Mr. President, I think we all know that the policy of the present Secretary of the Navy is, as far as possible, to construct what is needed for the Navy in Government yards. I am sure of that.

I wish to say here that in voting a day or two ago against the provision which requires one battleship to be built in our own navy yards I did so solely because I was sure the Secretary of the Navy would build both of them in our navy yards if he could. If I had had any doubt about his doing so, I would have voted to require him to build one of them there. I am not sure that I did not make a mistake in not voting that way, because we might have a Secretary of the Navy later on who would not be disposed to build in our own yards, and I think he ought to do so. I hope we shall build both of our battleships in the near future in our own yards. I think they ought to be built in that way, and I think we ought to make all of our powder that we can.

Mr. LANE. I am willing to concede that the present Secretary of the Navy is an able man, a good man, and also the handsomest Secretary of the Navy we have ever had, but he might die, and I want to fix this law so that in case any accident happened to him we could go on with the work.

Mr. SWANSON. The provision now in the bill directs that the powder factory at Indianhead shall be run to its full capacity. They have there now three shifts of hands, each working eight hours a day all the time, making every ounce of powder they can. If the amendment of the Senator from

Oregon prevails, we can not buy 2,000,000 pounds of powder a year out of this appropriation unless an emergency should arise.

Now, how do we determine what is an emergency? An emergency does not mean lack of powder to equip some battleships. It means war, or something of the kind. These battleships are armed as soon as they are commissioned. The ammunition is put in them, and we do not wait until they are engaged in a conflict or something of the kind. This would simply preclude equipping a battleship when it went into commission.

The bill at present provides that we can not buy any powder unless the Government powder factory is run to its full capacity, which means three shifts a day, which are being run now. The effect of it would be simply to cause a delay in commissioning these ships until the completion of the enlarged powder mill at Indianhead, which I favored, and voted to appropriate $500,000 to construct.

The VICE PRESIDENT. The question is on the amendment proposed by the Senator from Oregon [Mr. LANE].

The amendment was rejected.

The bill was reported to the Senate as amended and the amendments were concurred in.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

The VICE PRESIDENT. The question is, Shall the bill pass?

Mr. GALLINGER. Mr. President, in former bills there has, as a rule, been an equitable distribution of the appropriations for the several navy yards of the country. I will take but a moment in calling attention to what I think is an inequitable distribution in this bill.

When the bill came from the House there was an appropriation for the Boston yard of $22,000 and a provision to appropriate an unobligated balance of $148,000, making $170,000.

The navy yard at New York was allowed $122,000. This was increased by an amendment to $143,500, with an additional authorization of $85,000.

For the navy yard at Philadelphia, as the bill came from the House, there was $65,000 appropriated, which by an amendment has been increased to $265,000.

The navy yard at Washington, D. C., had no appropriation and by an amendment it is granted $100,000.

The navy yard at Norfolk, Va., had $450,000, which has been increased $200,000, with an added authorization of $2,800,000.

The navy yard at Charleston, S. C., was granted $170,000, which, to my surprise, has not been increased.

The navy yard at Mare Island, Cal., was granted by the House $207,000, which was increased to $257,000, with an added authorization of $50,000.

The navy yard at Puget Sound, Wash., had $155,000 as it came from the House.

The naval station at Key West, Fla., had no appropriation in the bill as it passed the House, but it gets $100,000, with an authorization of $500,000 more.

Mr. President, for some reason or other the navy yard at Portsmouth, N. H., got lost in the consideration of both the Secretary of the Navy and the Committee on Naval Affairs. Turning to page 39, I do find that the amount of $10,000 is given to that yard for repairs and improvement of machinery and implements.

Mr. President, I am not going to find any particular fault with this matter. It is settled. The bill will pass. I shall not obstruct it. But I can not help expressing regret that in a moment of mental aberration and for the purpose of doing a pleasant thing I voluntarily retired from the Committee on Naval Affairs, and as a result I fear that the appropriations for the navy yard in my State have suffered.

I simply desire now to suggest that before another naval appropriation bill appears in the Senate I shall try to cultivate the acquaintance of the Secretary of the Navy and to get on the blind side of the Committee on Naval Affairs of the Senate, in the hope that the Portsmouth Navy Yard may not be entirely forgotten in the future.

Mr. WARREN. Mr. President, I have one suggestion to make. I am rather pleased to see that in the bill $100,000 and over has been provided for the entertainment of visiting naval officers and forces.

We have tried repeatedly heretofore to obtain some relief in Army bills. We have been modest enough to ask sometimes for only $5,000 or $10,000, so that the military representatives from foreign countries could receive some attention or entertainment when visiting this country, and that we should not have to choose between the two extremities of either utterly ignoring such visitors when every other country in Christendom provides for their receiving attention or else we must exact from the general officers and others who happen to be at the post where they may visit that such officers must raise money enough of their own in some way from their salaries or from loans—and they oftentimes run in debt quite largely to obtain the funds with which to entertain—to do for the visiting brethren what other Governments do and what the United States now proposes to do for its naval visitors.

I hope we may hear from the Secretary of War, if he has not already made some estimate, so that in some bill which follows this there may be an appropriation subject to the Secretary of War the same as this is subject to the Secretary of the Navy to enable us to entertain the few foreign army officials who may come to this country under the orders of foreign Governments.

The VICE PRESIDENT. The question is, Shall the bill pass?

The bill was passed.

Mr. THORNTON. I move that the Senate request a conference with the House of Representatives on the bill and amendments, and that the Chair appoint the conferees on the part of the Senate.

Mr. WARREN. Mr. President, I have no personal objection to the motion of the Senator from Louisiana [Mr. THORNTON], but I call his attention to the fact that it is unusual, and we ought to send the bill to the other House and have it ask for a conference. Then in the usual course it gives the papers to the Senate, and they can report the results of conference first.

I notice in the debate in the House a few days since a great deal of fault was found with the Senate Committee on Agriculture because we sent the Agricultural appropriation bill over with a request for a conference without giving the House the opportunity of first agreeing or disagreeing, and, if disagreeing, for the House to ask for conference.

My objection to the motion is that it is unusual, and I think it puts the Senate at a disadvantage. The bill with the amendments of the Senate ought to first go to the House, as has been the rule and practice since time immemorial with only very few exceptions, and those of late. Sometimes the House concurs in all the amendments to a bill and then no conference becomes necessary. The House will hardly do it now, perhaps, but we ought not to change the rule and practice.

Mr. THORNTON. My object is to get through with this business as quickly as possible, and therefore I insist on my motion.

The motion was not agreed to.

EXECUTIVE SESSION.

Mr. KERN. I move that the Senate proceed to consideration of executive business.

The motion was agreed to, and the Senate proceeded to the consideration of executive business. After five minutes spent in executive session the doors were reopened, and (at 6 o'clock and 12 minutes p. m.) the Senate adjourned until to-morrow, June 3, 1914, at 11 o'clock a. m.

NOMINATIONS.

Executive nominations received by the Senate June 2, 1914.

ENVOY EXTRAORDINARY AND MINISTER PLENIPOTENTIARY.

Boaz W. Long, of New Mexico, now Chief of the Division of Latin-American Affairs, Department of State, to be envoy extraordinary and minister plenipotentiary of the United States of America to Salvador, vice William Heimke, appointed Chief of the Division of Latin-American Affairs, Department of State.

PROMOTIONS IN THE ARMY.

COAST ARTILLERY CORPS.

Capt. Laurence C. Brown, Coast Artillery Corps, to be major from May 27, 1914, vice Maj. Edward J. Timberlake, detailed in the Quartermaster Corps on that date.

First Lieut. Walter Singles, Coast Artillery Corps, to be captain from May 27, 1914, vice Capt. Laurence C. Brown, promoted.

Second Lieut. Edward L. Dyer, Coast Artillery Corps, to be first lieutenant from May 27, 1914, vice First Lieut. Walter Singles, promoted.

APPOINTMENTS IN THE ARMY.

MEDICAL RESERVE CORPS.

To be first lieutenants with rank from May 29, 1914.

George Schuyler Bangert, of New Jersey.
Arthur William Charles Bergfeld, of Texas.
Joseph Bidleman Bissell, of New York.
Swithin Chandler, of Pennsylvania.
Leo Eloesser, of California.
Erle Franklin Fisher, of Illinois.

Leonard Davis Frescoln, of Pennsylvania.
Oscar Amadeus Hansen, of Illinois.
John Everett Hewitt, of Kansas.
Allen Jones Jervey, of South Carolina.
Homer Hill Lewis, of Pennsylvania.
William Hay McLain, of West Virginia.
Robert Daniel Maddox, of Ohio.
Irwin Beede March, of California.
Harry Stoll Mustard, of South Carolina.
John Henry Wallace Rhein, of Pennsylvania.
Michael Joseph Sheahan, of Connecticut.
William Atmar Smith, of South Carolina.
James Evans Stowers, of Maryland.
Julius Frederick Zenneck, of New Jersey.

POSTMASTERS.

IDAHO.

Joseph F. Whelan to be postmaster at Wallace, Idaho, in place of John Joseph Presley.

INDIANA.

William W. Drake to be postmaster at Greenwood, Ind., in place of John H. Van Dyke. Incumbent's commission expires June 10, 1914.

Charles A. Steele to be postmaster at Rising Sun, Ind., in place of Hugh S. Espey.

ILLINOIS.

George Taylor to be postmaster at Evanston, Ill., in place of John A. Childs. Incumbent's commission expired April 15, 1914.

KANSAS.

Uriah C. Herr to be postmaster at Medicine Lodge, Kans., in place of Luther M. Axline. Incumbent's commission expired May 31, 1914.

John B. Kay to be postmaster at St. John, Kans., in place of Herbert J. Cornwell. Incumbent's commission expired May 31, 1914.

George E. H. Six to be postmaster at Lyons, Kans., in place of William M. Jones. Incumbent's commission expires June 14, 1914.

KENTUCKY.

John J. Berry to be postmaster at Paducah, Ky., in place of Frank M. Fisher. Incumbent's commission expired May 18, 1914.

MARYLAND.

Edward A. Rodey to be postmaster at Ellicott City, Md., in place of Clarence H. Oldfield.

NEW JERSEY.

Emery Benoit to be postmaster at Edgewater, N. J., in place of John J. McGarry. Incumbent's commission expired May 31, 1914.

CONFIRMATIONS.

Executive nominations confirmed by the Senate June 2, 1914.

PROMOTIONS AND APPOINTMENTS IN THE NAVY.

The following-named assistant surgeons in the Navy to be passed assistant surgeons:

James G. Omelvena.
Jasper V. Howard.
Lester L. Pratt.
Clarence C. Kress.

Eueidas K. Scott to be an assistant surgeon in the Medical Reserve Corps.

Richard C. Reed to be an assistant paymaster.

Asst. Naval Constructor Paul H. Fretz to be a naval constructor.

John J. Brady to be a chaplain.

POSTMASTERS.

NORTH CAROLINA.

S. W. Smith, Wilson.

PENNSYLVANIA.

Cornelius P. Reing, Mahanoy City.

WITHDRAWAL.

Executive nomination withdrawn June 2, 1914.

Harry O. De Vries to be postmaster at Ellicott City, in the State of Maryland.

HOUSE OF REPRESENTATIVES.

TUESDAY, *June 2, 1914.*

The House met at 11 o'clock a. m.

The Chaplain, Rev. Henry N. Couden, D. D., offered the following prayer:

Eternal and ever living God, our heavenly Father, we thank Thee that the way is always open for larger life and greater usefulness for those who will enter in and avail themselves of the opportunities which wait on the faithful. May it be ours to do of Thy good pleasure, following ever in the wake of Him who "increased in wisdom and stature and in favor with God and man," till we all come unto the measure of the stature of the fullness of Christ, passing from glory unto glory, and Thine be the praise forever. Amen.

The Journal of the proceedings of yesterday was read and approved.

ANTITRUST LEGISLATION.

The SPEAKER. The House automatically resolves itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill H. R. 15657 and other bills embraced within the special order, and the gentleman from Tennessee [Mr. HULL] will take the chair.

Accordingly the House resolved itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill H. R. 15657 and other bills embraced within the special rule, with Mr. HULL in the chair.

The CHAIRMAN. The House is in Committee of the Whole House on the state of the Union for the further consideration of the bill H. R. 15657 and other bills embraced in the special order of the House. The Clerk will report the bill by title.

The Clerk read as follows:

A bill (H. R. 15657) to supplement existing laws against unlawful restraints and monopolies, and for other purposes.

Mr. WEBB. Mr. Chairman, when we adjourned on yesterday evening we had finished reading section 18, and it is now open to amendment, as I understand, and I desire to send forward the following amendment, which is a committee amendment.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

At the end of section 18, line 23, on page 36, strike out the period and insert a semicolon and add "nor shall any of the acts specified in this paragraph be considered or held unlawful."

Mr. MANN. Will the gentleman explain this?

Mr. WEBB. Yes, sir. If you will notice section 18, it says that in labor disputes no injunction shall be issued restraining a person from ceasing to work, commonly known as striking; no injunction shall be issued against a person for advising or persuading others to quit work—that is, to strike; no injunction shall be issued against a person or persons prohibiting them from assembling peacefully together at a place they may select; no injunction may issue against a person forbidding him to cease to patronize a party to the dispute; no injunction shall be issued against a person or persons or labor organizations forbidding them to pay strike benefits or withhold strike benefits.

Mr. VOLSTEAD. Would not this also legalize the secondary boycott? I want to call the gentleman's attention to lines 16 and 17, on page 36.

Mr. WEBB. Mr. Chairman, I do not think it legalizes a secondary boycott.

Mr. VOLSTEAD. Let me read the lines, if the gentleman will permit. And no such restraining order or injunction shall prohibit anyone—

From ceasing to patronize those who employ any party to such dispute, or from recommending, advising, or persuading others by peaceful means so to do.

Now, does not the word "others" in that instance refer to others than parties to the dispute?

Mr. WEBB. No; because it says in line 15:

From ceasing to patronize or employ any parties to such dispute.

Mr. VOLSTEAD. Can the gentleman suggest as to what the word "others" refers to if it does not refer to others and parties to the dispute? Can there be any doubt this is intended or does, in fact, legalize the secondary boycott?

Mr. WEBB. I will say frankly to my friend when this section was drawn it was drawn with the careful purpose not to legalize the secondary boycott, and we do not think it does. There may be a difference of opinion about it, but it is the opinion of the committee that it does not legalize the secondary boycott and is not intended to do so. It does legalize the primary boycott; it does legalize the strike; it does legalize persuading others to strike, to quit work, and the other acts mentioned in

section 18, but we did not intend, I will say frankly, to legalize the secondary boycott.

Mr. TOWNER. Is it not true, I will ask the gentleman, if these statements, every one of them contained in this paragraph of this section, have been time and time again declared by the supreme courts of the United States not to be illegal or unlawful acts?

Mr. WEBB. Not time and time again by the Supreme Court of the United States, but time and time again by various inferior Federal courts and the Supreme Court.

Mr. TOWNER. By the supreme courts, I said.

Mr. WEBB. Mr. Chairman, we are frank to say in our opinion everything set forth in section 18 is the law to-day.

Mr. VOLSTEAD. But would the gentleman be willing to accept an amendment which would expressly exclude the secondary boycott?

Mr. WEBB. Well, with our present view and understanding of the section we feel it is not necessary to accept such amendment.

Mr. VOLSTEAD. So there can be no doubt as to what it is, and it seems to me that we ought to know just what is intended to write into this law.

Mr. WEBB. The word "others" is confined to the parties to the dispute.

Mr. VOLSTEAD. Others than parties to the suit.

Mr. WEBB. It does not say "others than."

Mr. VOLSTEAD. Read lines 15, 16, and 17, on page 36. It seems to me the word "others" can refer to nobody else but others outside of the parties to the dispute.

Mr. WEBB. There may not be any others and probably will not be, and if there are others they must be parties to the dispute where the strike takes place.

Mr. VOLSTEAD. If the gentleman will accept an amendment, I will offer one.

Mr. WEBB. I will say this section was drawn two years or more ago and was drawn carefully, and those who drew this section drew it with the idea of excluding the secondary boycott. It passed the House, I think, by about 243 to 16, and the question of the secondary boycott was not raised then, because we understood so clearly it did not refer to or authorize the secondary boycott.

The CHAIRMAN. The time of the gentleman has expired.

Mr. HENRY. Mr. Chairman, this is a very important amendment that has been offered, and I think the House ought to thoroughly understand it.

Mr. MURDOCK. Mr. Chairman, will the gentleman yield there?

The CHAIRMAN. Does the gentleman from Texas yield to the gentleman from Kansas?

Mr. HENRY. Yes.

Mr. MURDOCK. Will the gentleman have the amendment read again, so that we can get it clearly in mind?

Mr. HENRY. Yes. I have no objection.

The CHAIRMAN. Without objection, the Clerk will again report the amendment.

The Clerk read as follows:

At the end of section 18, line 23, page 36, strike out the period and insert a comma, and add "nor shall any of the acts specified in this paragraph be considered or held unlawful."

Mr. WEBB. Mr. Chairman, if the gentleman from Texas [Mr. HENRY] will yield, I would like to have about five minutes more, because most of my former five minutes was taken up by yielding to questions.

Mr. HENRY. Very well. I will resume the floor later.

The CHAIRMAN. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

Mr. WEBB. Now, I will say to the gentlemen of the committee, having recognized and legalized the acts set forth in section 18, so far as the conscience side of the court is concerned, the committee feels that no harm can come from making those acts legal on the law side of the court, for anything that is permitted to be done in conscience ought not to be made a crime or forbidden in law.

That is the view we take of it, and that is the reason why we offer this amendment, which provides that the acts and things set forth in section 18 shall not be construed to be unlawful. That is as clear, Mr. Chairman, as I can make it, and I think it covers the section and is easily understood.

Mr. HENRY. Mr. Chairman, I regard this as a very important amendment. Section 18 may be truly regarded as a bill of rights for the labor organizations. This bill was passed through the House before. This section as a separate bill was held up in the Senate. I am glad that we are now about to make it a part of the antitrust program.

Some of us, after reading this section in connection with the other provisions of the general bill, did not believe that it was quite explicit, and that there ought to be some addition to section 18. So, on the evening of May 21 of this year, Mr. KITCHIN, of North Carolina; Mr. TOWNER; Mr. HINEBAUGH, of Illinois; Mr. GRAHAM, of Illinois; Mr. LEWIS, of Maryland; and myself met in the rooms of the Committee on Rules for the purpose of examining this section and certain other sections of the bill, and we came to the conclusion that this amendment which has been offered by Mr. WEBB and accepted by the Committee on the Judiciary should be made a part of the bill.

On that evening we formulated this amendment exactly as it has been tendered, and on Sunday morning submitted it to the American Federation of Labor, because we did not want any misunderstanding about this question. We believed that we ought to make history clear; that there ought not hereafter to be any cloudy or foggy history as there was after the Sherman antitrust law was passed. So in connection with the amendment, which was agreed to as a part of section 7, this amendment was agreed to, and we asked the officers of the American Federation of Labor to submit this amendment to their counsel in order that we might clearly understand it and cooperate with them.

They did so, and they have agreed that this amendment is appropriate and indeed necessary; and we concur with them, and the President and the Committee on the Judiciary has concurred with them, and for a very good reason. Section 18, as originally drawn in connection with the other parts of this bill, should be amended in this respect.

Section 18, in connection with other parts of the bill, only referred to the equity powers of the courts, and we thought that it ought to go further, and that there should be an amendment saying that the things mentioned in section 18, if they were done, should not be illegal, not only as far as the equity courts were concerned but that no court should be able to lay its hands upon the members of the organizations touching the rights guaranteed in section 18.

Now I will yield to the gentleman.

Mr. GRAHAM of Pennsylvania. I understand the gentleman to say that this has been submitted to the Committee on the Judiciary and approved by it. If so, I would like to know when and under what circumstances?

Mr. HENRY. I presume it was. It was submitted to the subcommittee. I have not been in attendance on the meetings of the committee, but suppose it was submitted to the members of the general committee. But this amendment is satisfactory to the American Federation of Labor; it is satisfactory to the President of the United States; and was and is satisfactory to the chairman of the Committee on the Judiciary and the members thereof with whom I have talked; and it ought to be added at the end of section 18 so as to preserve, protect, and perpetuate the rights that are given to labor organizations in section 18, and not only prohibit courts of equity from violating those rights, but also restrain the courts of law from undoing any of those things that we have guaranteed in this section.

Mr. MANN. Mr. Chairman, will the gentleman yield for a question?

The CHAIRMAN. Does the gentleman from Texas yield to the gentleman from Illinois?

Mr. HENRY. I will.

Mr. MANN. The gentleman has stated that conferences with certain Members of the House agreed upon this amendment and submitted it to the officers of the American Federation of Labor.

Mr. HENRY. Yes.

Mr. MANN. Is it not a fact that the officers of the American Federation of Labor submitted practically this amendment to the gentleman and other gentlemen of the House before this conference met at all?

Mr. HENRY. Yes; that is true, substantially.

Mr. MANN. So that this amendment did not originate, as the gentleman would have us believe—I will not say "as the gentleman would have us believe"—but as we might believe from the gentleman's statement as to this little conference, that this amendment originated with the officers of the American Federation of Labor?

Mr. HENRY. I think those gentlemen desired this kind of an amendment. And we did agree on certain language in two amendments.

Mr. MANN. This is the amendment which the American Federation of Labor submitted to the gentleman, is it not?

Mr. HENRY. Yes.

Mr. MANN. I read:

Nor shall any of the acts specified in this paragraph be considered or held unlawful—

By the courts of the United States?

Mr. HENRY. Yes; substantially. The amendment was submitted to us, and we agreed that it was correct, and that we must organize to make a fight for it, because the affable gentleman from Illinois had said, when the rule was debated, that he proposed to vote so as to make all the mischief possible for the Democratic Party, and we did not want to be taken unawares. So we were organizing to put this amendment through.

Mr. MANN. But the amendment did not originate with the gentleman.

Mr. HENRY. Oh, well, I have no pride of personal authorship. All I say is that I stand with these men for their amendment, and they ought to be exempted from the provisions of the antitrust laws, and this right ought to be written into all these statutes.

This amendment was submitted, considered, and agreed to in the conference held in the Committee on Rules, and the gentlemen there assembled obligated themselves to support and press it.

Mr. WEBB. Will the gentleman yield?

Mr. HENRY. I yield to the gentleman from North Carolina.

The CHAIRMAN. The time of the gentleman has expired.

Mr. WEBB. I ask for an extension of one minute.

Mr. AUSTIN. I ask unanimous consent that it be two minutes. I want to ask a question.

The CHAIRMAN. The gentleman from Tennessee asks unanimous consent that the time be extended two minutes. Is there objection?

There was no objection.

Mr. WEBB. As far as the committee are concerned, the first time we ever heard of this amendment was when it was presented to the subcommittee by Mr. DAVID J. LEWIS, of Maryland, a Member of the House.

Mr. HENRY. That is the first time you ever heard of it?

Mr. WEBB. Yes.

Mr. HENRY. I am not taking any issue with the Judiciary Committee.

Mr. WEBB. Certainly not.

Mr. HENRY. I am not going into any controversy with them; but the fact remains that the Judiciary Committee had drawn their sections, 7 and 18, and they were not satisfactory, and we were trying to get together with the Judiciary Committee and shape up this matter so as to prove our friendship for the labor forces of this country and carry out our platform demands. Now, I have no pride of authorship about anything I may have suggested and do not claim anything, but do say we do not want any vague or doubtful history hereafter, and these things ought to be stated here and written down as they occur. Now I yield to the gentleman from Tennessee.

Mr. AUSTIN. In view of a statement in the editorial columns of a Philadelphia paper this morning that the President of the United States has changed his position on this legislation, I wish to know what the gentleman knows in reference to that statement?

Mr. HENRY. Changed his position when and on what?

Mr. AUSTIN. On this labor proposition.

Mr. HENRY. I do not think the President has ever changed his position. I think the President has always been in favor of complying with the Baltimore platform and giving labor everything to which it is entitled. I do not think he has changed his position. You surprise me.

Mr. WEBB. The President has not changed his position with reference to any of these amendments that have been adopted here.

Mr. AUSTIN. What contemplated provision was it that the President threatened to veto?

Mr. HENRY. I never knew of any threats to veto. I think the gentleman must be mistaken about that. The gentleman has got his information from some wild rumor printed in a newspaper.

Mr. AUSTIN. Printed in the local press here.

Mr. HENRY. Sometimes the local press do not always state things exactly as they occur, because they do not get the correct information. They print what they believe, but sometimes they make mistakes.

Mr. AUSTIN. But the statement was also carried in the Associated Press.

Mr. HENRY. Sometimes the Associated Press is misinformed and has to correct things, and it will have to correct this, because the President is not going to veto this bill.

Mr. MURDOCK. Mr. Chairman, I move to strike out the last word.

I think the amendment just offered by the gentleman from North Carolina [Mr. WEBB] undoubtedly strengthens this section; but there are some things about the section that I should like to discover, and I am going to address myself to the gentleman from North Carolina [Mr. WEBB].

The section has two paragraphs, and the first paragraph, which I am going to read in order to get it into the RECORD, is the paragraph fixing jurisdiction in granting exemptions. It reads as follows:

SEC. 18. That no restraining order or injunction shall be granted by any court of the United States, or a judge or the judges thereof, in any case between an employer and employees, or between employers and employees, or between employees, or between persons employed and persons seeking employment, involving, or growing out of, a dispute concerning terms or conditions of employment, unless necessary to prevent irreparable injury to property, or to a property right, of the party making the application, for which injury there is no adequate remedy at law, and such property or property right must be described with particularity in the application, which must be in writing and sworn to by the applicant or by his agent or attorney.

Now, Mr. Chairman, I have compared this paragraph with former proposals, and in the Pearre bill and in the Wilson bill as amended——

Mr. MACDONALD. And also in the Bartlett bill.

Mr. MURDOCK. The gentleman from Michigan correctly says "also in the Bartlett bill"; but not in the Clayton bill. There was included, before the word "involving," as is now found, in line 23, on page 35, the word "or," which seemed to extend the area of this provision of exemption. The exemption proposed under the terms of this bill is to extend to any case—

Between an employer and employees, or between employers and employees, or between employees, or between persons employed and persons seeking employment, involving, or growing out of, a dispute concerning terms or conditions of employment.

Now, the inclusion of the word "or" before the word "involving" would, I think, undoubtedly increase the area of the exemption granted to labor. I will not ask the gentleman to answer me just now, but I will ask him to answer me a little later on, when I have also called his attention to the fact that the second paragraph of the section is tied to the first paragraph by the inclusion of the word "such" before the word "restraining" in line 6, page 36, for the second paragraph begins as follows:

And no such restraining order or injunction shall prohibit any person or persons from terminating any relation of employment, or from ceasing to perform any work or labor, or from recommending, advising, or persuading others by peaceful means so to do; or from attending at or near a house or place where any person resides or works, or carries on business or happens to be—

And so forth.

Now, that second paragraph, while granting certain rights, is so tied to the first paragraph that there is a probability, to my mind, that you have narrowed the exemption you intended to offer, because the abuse of the injunctive process occurred, as the gentleman knows, in a majority of cases in connection with strikes; and it seems to me the relation of employer and employee ceases when there is a strike, and strikers are not included here. The strikers are no longer employees, and the exclusion of the word "or," it seems to me, takes out of the purview of the first paragraph of exemptions the right of the striker.

Mr. WEBB. No; I think the gentleman is mistaken.

Mr. MURDOCK. I hope the gentleman has followed me. I think the point has merit.

Mr. WEBB. Mr. Chairman, I am sorry that this argument appears to me to be extremely technical. I can not understand the difference.

Mr. MURDOCK. I know; but that is a general statement. I suppose the gentleman believes that he has done that in this case. In the former bills, in the amended Wilson bill and in the Pearre bill and latterly in the Bartlett bill, the word "or" was inserted before the word "involving," and that seemed to extend the exemption granted to a case of strikers, who are no longer employees. I will ask the gentleman if he believes that strikers having struck are still in the relation of employees to a former employer? They may have been discharged.

Mr. WEBB. Exactly. Then what further does the gentleman want?

Mr. MURDOCK. It does not seem to me the definitions the gentleman has given there in the first paragraph—

In any case between an employer and employees, or between employers and employees, or between employees, or between persons employed and persons seeking employment—

and so forth, includes the case of a striker. I do not believe you can find it in those classifications.

Mr. WEBB. How would the gentleman include his suggestion?

Mr. MURDOCK. By including the word "or," and making it read:

In any case between an employer and employees, etc., or involving or growing out of a dispute—

And so forth.

Mr. WEBB. We have the word "involving" in the section now.

Mr. MURDOCK. Yes; but without the word "or" preceding it you do not include strikers.

The CHAIRMAN. The time of the gentleman from Kansas has expired.

Mr. BORLAND. Mr. Chairman, I ask unanimous consent that the gentleman have two minutes more.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. BORLAND. Is it not sufficient where it says "or growing out of a dispute"?

Mr. MURDOCK. If the word "or" were inserted, it certainly would be, but without the word "or" I do not believe it is. I am going to ask the gentleman if he will accept that amendment?

Mr. WEBB. Mr. Chairman, I could not agree to that. I think the phrase "involving or growing out of" is sufficient. I think that would include a strike, and that is what we intend it to include.

Mr. MURDOCK. Why not be certain about it by including the word "or"?

Mr. WEBB. I think the use of that word might make it uncertain.

Mr. MURDOCK. I would like to have the gentleman explain to me in what way it would make it uncertain.

Mr. WEBB. I will say to the gentleman that we have gone over this very carefully and drawn the section, having in view the decisions on the matter, and we passed it through this Congress two years ago just as it is written, although the gentleman was not here to vote for it, I believe, by a vote of 243 to 18, and I should feel loath to change the wording of it now.

Mr. MURDOCK. Will the gentleman take time to explain to me, and I will be obliged to him if he will, how strikers are included in this definition as given at the bottom of page 35 without the inclusion of the word "or," before the word "involving"? I would like to know if an employee who has severed his connection with an employer is still an employee; and if he is, how can you include him in this paragraph?

Mr. WEBB. After he has ceased work he cares nothing more about the relation, provided he can not be compelled to go back to work, and we do not permit that in the bill. He could not be punished for persuading others to do likewise, and how would the word "or" help the situation?

Mr. MURDOCK. But these prohibitions against the use of the injunctive process are confined to the classes of cases set forth in the first paragraph of section 18, and that does not include strikers.

Mr. WEBB. It covers the entire field of strikes, primary boycott, and everything incident to a strike.

The CHAIRMAN. The time of the gentleman from Kansas has again expired.

Mr. BUCHANAN of Illinois. Mr. Chairman, I ask unanimous consent that the gentleman's time be extended for another two minutes.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. MURDOCK. I yield to the gentleman from Illinois.

Mr. BUCHANAN of Illinois. Mr. Chairman, my understanding is that strikers are employees who are seeking work under different conditions than they were working under when they struck. Strikers are really seeking work, but they are seeking their positions back under conditions which they desire.

Mr. MURDOCK. I do not think the gentleman can read that into the proposition.

Mr. BUCHANAN of Illinois. I do not think that as long as judges are going to construe laws in the narrowest possible way against labor that we will ever get anything right.

Mr. MURDOCK. That is what I am trying to guard against. I would like to ask the gentleman from Illinois if he can read into those various definitions of classes of cases where the position of a striker is included, and if the gentleman from Illinois realizes that the second paragraph of section 18 by the use of the word "such" in line 6 may narrow the very privileges that the gentleman is trying to expand?

Mr. BUCHANAN of Illinois. I would construe or define a striker as one seeking work under different conditions. As long as he is on strike he is certainly desirous of going back to work again on different terms. He is an employee until his place is filled, and as far as my understanding of it goes, while I do not believe we ought to leave any opening at all in regard to this, because our experience is that the judge has always put a narrow construction upon it——

The CHAIRMAN. The time of the gentleman from Kansas has again expired.

Mr. GARDNER. Mr. Chairman, I ask unanimous consent that the gentleman may have five minutes more.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. GARDNER. Mr. Chairman, where does the gentleman from Kansas suggest the insertion of the word "or"?

Mr. MURDOCK. Before the word "involving," in line 23, page 35, and I want to say to the gentleman from Massachusetts that my point was this: I may not have made it plain. The various definitions of classes of cases immediately preceding that line in the bill do not, to my mind, include strikers, and the abuse of the injunctive process which we are seeking here to cure has in the great majority of cases arisen from strikes.

Mr. GRAHAM of Pennsylvania. Mr. Chairman, will the gentleman allow me to ask him a question?

Mr. MURDOCK. Yes.

Mr. GRAHAM of Pennsylvania. Would not the insertion of the word "or" before the word "involving" destroy the symmetrical construction and the real meaning of the sentence, because you must go back in reading this section to the beginning and, skipping over what I shall omit, read it in this way:

That no restraining order or injunction shall be granted by any court of the United States, or a judge or the judges thereof, in any case involving or growing out of a dispute concerning the terms or conditions of employment.

That is what it means.

Mr. MURDOCK. Now, if the gentleman will follow me, what I am attempting to do is to read that paragraph in this way:

SEC. 18. That no restraining order or injunction shall be granted by any court of the United States, or a judge or the judges thereof, in any case between an employer and employees, or between employers and employees, or between employees, or between persons employed and persons seeking employment, or in any case involving or growing out of a dispute—

And so forth.

In other words, we want to add another class of cases to those already in the bill.

Mr. GRAHAM of Pennsylvania. I suggest to the gentleman that he has all of that in the language of the section as it now stands, because it reads, beginning at the beginning and proceeding on to line 20—

In any case between an employer and an employee, or between employers and employees, or between employees, or between persons employed and persons seeking employment involving or growing out of—

And so forth.

Mr. FLOYD of Arkansas. Will the gentleman yield?

Mr. MURDOCK. Certainly.

Mr. FLOYD of Arkansas. I desire to state that the insertion of the word "or" before "involving" would not improve the section, but, to my mind, would complicate it. "Involving" relates back to "case," and if you insert the word "or" I do not know what it would relate to.

Mr. MURDOCK. I grant that "involving" does refer back to "case," but by the inclusion of the word "or" you would make a new class of cases and include strikers. The gentleman from Arkansas knows that under this paragraph there are several kinds of classes to which are granted exemption; that is, cases between employer and employees, between employers and employees, and between two sets of employees, and between persons employed and persons seeking employment; but none of these classes of cases, to my mind, include strikers. And it was the strike which caused this proposition to be offered.

Mr. FLOYD of Arkansas. There is where I take issue with the gentleman.

Mr. MURDOCK. Will the gentleman explain how strikers are included?

Mr. FLOYD of Arkansas. I will give the gentleman my construction of it.

Mr. MURDOCK. I would like to hear it.

Mr. FLOYD of Arkansas. The provision reads:

SEC. 18. That no restraining order or injunction shall be granted by any court of the United States, or a judge or the judges thereof, in any case between an employer and employees, or between employers and employees, or between persons employed and persons seeking employment, involving, or growing out of, a dispute concerning terms or conditions of employment—

And so forth.

I think in every case of a strike where the purpose of the strike relates to the terms and conditions of employment it is included in the language of the bill. I can not agree with the gentleman from Kansas that when strikers temporarily quit work, demanding better terms and conditions before they resume, that the relation of employer and employee has ceased. It may have ceased temporarily, but this broad language used in the provision would undoubtedly include them.

Mr. MURDOCK. I hope the gentleman is right.

The CHAIRMAN. The time of the gentleman from Kansas has again expired.

Mr. GARDNER. I ask unanimous consent that the gentleman may proceed for five minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Massachusetts? [After a pause.] The Chair hears none.

Mr. GARDNER. Now, will the gentleman from Kansas listen to me? He wishes to insert the word "or" before the word "involving," and that would make the clause read as follows:

SEC. 18. That no restraining order or injunction shall be granted * * * in any case * * * between employees * * * or involving or growing out of a dispute—

And so forth.

In other words, if an employee had a case against another employee, no matter what the cause, whether a labor dispute or anything else, under the gentleman's amendment no restraining order could issue. I believe the gentleman from Kansas is correct when he says that strikers are not employees; but I suggest an amendment which I think may fix it properly. In line 21, after the word "employees," insert the words "or persons seeking employment," so as to read:

That no restraining order shall issue in any case between employer and employees or persons seeking employment.

If the men were on strike, they would be seeking employment. Would not that amendment remove the difficulty?

Mr. MURDOCK. I suppose it would if you define persons seeking employment as referring to strikers. Yes; I think it would.

Mr. GARDNER. The same amendment must also be inserted in line 21, after the word "employees." I think if the gentlemen on the Judiciary Committee will turn their minds to the matter they will see that there is something in the contention of the gentleman from Kansas.

Mr. GORMAN. Will the gentleman yield?

Mr. MURDOCK. Yes.

Mr. GORMAN. I have listened to the discussion with a great deal of interest, and have given some study and thought to the question. I have discussed it also with some Members. I had in mind, when the committee amendment was disposed of, to suggest an amendment which I hope the committee will adopt. I think the gentleman from Kansas has suggested a weakness that ought to be corrected. The amendment I had in mind to propose is, on page 35, line 21, after the word "employee," insert "or persons between whom the relation of employer and employee is temporarily suspended because of a strike or lockout."

As I view it, a man on a strike has not necessarily terminated his employment, but the employment is temporarily suspended. But it might be construed that it was a complete cessation.

Mr. WEBB. He is seeking employment.

Mr. GORMAN. It might be construed differently.

Mr. MURDOCK. I think the gentleman's amendment would include my suggestion.

Mr. DICKINSON. Mr. Chairman, if the gentleman will yield, I want to call attention to the language that strikes me may cover the situation. On page 35, line 23, suppose you were to add the words "or desiring" between the word "seeking" and the word "employment," in line 23. Would not that help the situation?

Mr. MURDOCK. I did not catch the language.

Mr. DICKINSON. In line 23, before the word "employment," insert "or desiring," so it shall read "seeking or desiring employment." I do not think that parties who are not either seeking employment or desiring employment, but who are simply creating trouble without wanting employment, ought to have any protection under this law, but those seeking or desiring employment should be protected.

Mr. MURDOCK. That would introduce a new element, and I am not prepared to say whether I would like it or not.

Mr. DICKINSON. If you put in the word "desiring" or "wanting employment," that would broaden it and cover that class of men who would strike and want employment, but leaves out that class of men who are trying to interfere between the employer and employee and do not want to work at all, and I suggest the addition of the words "or desiring employment."

Mr. DECKER. Mr. Chairman, I would like to ask the gentleman from Kansas if he would not make that plainer and entirely clear it up, and I would like to have the attention of the gentleman from Massachusetts [Mr. GARDNER] in connection with the point he raised. Would it not be better to insert, before "involving," the following words: "or in any case," so that the section would then read:

That no restraining order or injunction shall issue in any case between the employer and employees or between employers and employees or between employees, or between persons employed and persons seeking employment, or in any case involving or growing out of a dispute—

And so forth. Now, the reason for that is this: As I understand this section, the word "involving" modifies the words "in any case."

The CHAIRMAN. The time of the gentleman from Kansas has again expired.

Mr. MURDOCK. The gentleman can take the floor in his own right.

Mr. DECKER. I will move to strike out the last word. Mr. Chairman, the trouble with the section, and the only trouble, is the word "involving" modifies the words "in any case," but being at the end of the paragraph and so far from the words "in any case," it might, at first reading, be thought to modify the word "employment," which it follows, and so I think the amendment should be "or in any case," inserted before the word "involving."

Mr. GARDNER. Mr. Chairman, I move to strike out the last word.

The CHAIRMAN. The Chair will state that debate is exhausted on a similar amendment.

Mr. GARDNER. But I move to strike out the last word.

The CHAIRMAN. The Chair has stated that an amendment is already pending to that effect.

Mr. GARDNER. Mr. Chairman, I ask unanimous consent that the amendment to strike out the last word be withdrawn.

The CHAIRMAN. Without objection, the pro forma amendment will be withdrawn.

There was no objection.

Mr. GARDNER. Now, Mr. Chairman, I move to strike out the last two words. The amendment suggested by the gentleman from Missouri is the same amendment suggested by the gentleman from Kansas, only in a different form. It has the effect of which I complained in the case of the amendment offered by the gentleman from Kansas. The effect of inserting the language which the gentleman suggests would be that no restraining order could be granted by any court of the United States in any case between employees, whether the dispute referred to a labor difficulty or to some other kind of difficulty.

The result of the gentleman's wording is the same as the result of the wording suggested by the gentleman from Kansas. It would forbid the issuing of a restraining order in any case between employees, no matter what the cause was. The dispute might perhaps refer to the blocking of a water course. I suggest to the gentleman from Missouri that perhaps the words "or persons seeking employment" would not cover strikers inasmuch as strikers would not necessarily be seeking employment. Not being a lawyer, I feel a good deal of doubt as to my wisdom in making suggestions of this sort, but I suggest, in order to clear up this section and to leave the wording beyond peradventure of a doubt, that the members of the Judiciary Committee ought to insert some words in this section which would embrace strikers engaged in a contest with their employers under the significance of the word "employees."

Mr. HULINGS. Will the gentleman yield?

Mr. GARDNER. Certainly.

Mr. HULINGS. What is the gentleman's idea of the effect if you simply strike out all in line 20 after the word "case" down to and including the word "employment," in line 23, so that it would read:

That no restraining order or injunction shall be granted by any court of the United States, or a judge or the judges thereof, in any case involving or growing out of a dispute concerning terms or conditions of employment.

Mr. GARDNER. Now, I am not at all sure but what that is a solution of the whole question.

Mr. PHELAN. Will the gentleman yield?

Mr. GARDNER. Yes.

Mr. PHELAN. Let me ask the gentleman if this will not take care of the whole thing? By changing the order of this clause what it really means is this:

That in any case involving or growing out of a dispute concerning terms or conditions of employment between employer and employee—

And so forth.

Now, that covers the case of strikers, because the case originally grows out of a dispute between the employer and employee. I think that is just what it means, but the order of the words should be changed for clearness. It says in any case between employer, and so forth, whereas it means a dispute arising between employer and employee concerning terms or conditions of employment.

Mr. GARDNER. I see the gentleman's point, and it strikes me as being very ingenious. The dispute, of course, must have originated when the strikers were still employees.

Mr. PHELAN. The case where a dispute arises is in the case of a strike. If the word "employee" does not include a striker, it does not mean anything in this case, but it would simply mean there shall not be a restraining order between an employee and the man at present employed.

Now, if you change the order of that wording I believe the whole thing will be taken care of and there will be no misunderstanding.

Mr. GARDNER. The gentleman is right in the idea that when the dispute arose it was between the employer and employees, but it has been suggested by one of the gentlemen near me that many times people are engaged in a strike who never were employees of the employer with whom the dispute arose. At the same time, so long as the whole matter arises out of a dispute between employers and employees, it seems to me that that is where the suggestion of the gentleman from Massachusetts is pertinent, and that is what we are trying to arrive at.

Mr. PHELAN. The section does not say you shall not have a restraining order against employees. It says you shall not have a restraining order where a dispute arose between employers and employees, and it does not classify those against whom the order is to be made.

Mr. GARDNER. I think the gentleman's idea is a good one.

Mr. WEBB. Mr. Chairman, I will ask the gentlemen of the committee if we can not come to a limitation of time to the convenience of all. We have spent a good deal of time, and I am afraid we are splitting hairs.

Mr. MURDOCK. The gentleman from Pennsylvania [Mr. HULINGS] will speak for 5 minutes and the gentleman from Michigan [Mr. MACDONALD] will offer an amendment.

Mr. MANN. We want half an hour on this side.

Mr. WEBB. Is not that too long?

Mr. MANN. It may be; but still we want it.

Mr. STAFFORD. It is not all on the word "or."

Mr. MURDOCK. No; it is not on the word "or" entirely.

Mr. WEBB. Mr. Chairman, I ask unanimous consent that the debate on the pending section and amendments thereto close in 50 minutes; 30 minutes to be controlled by the gentleman from Minnesota [Mr. VOLSTEAD] and 20 minutes by myself.

The CHAIRMAN. The gentleman from North Carolina [Mr. WEBB] asks unanimous consent that all debate on the pending section and amendments thereto close in 50 minutes; 30 minutes to be controlled by the gentleman from Minnesota [Mr. VOLSTEAD] and 20 minutes by the gentleman from North Carolina [Mr. WEBB]. Is there objection?

There was no objection.

The CHAIRMAN. If there is no further discussion——

Mr. VOLSTEAD. Mr. Chairman, I yield 5 minutes to the gentleman from Illinois [Mr. MANN].

The CHAIRMAN. The gentleman from Illinois [Mr. MANN] is recognized for 5 minutes.

Mr. MANN. Mr. Chairman, we were told by the distinguished gentleman from Texas [Mr. HENRY] that this amendment had been submitted to the President, and met his approval. We have not yet been told by the distinguished gentleman from Kansas [Mr. MURDOCK] that this amendment has been submitted to Col. Roosevelt [laughter], although a few days ago the papers all carried the statements, repeated day after day, that the gentleman from Kansas and the members of the Progressive Party were going over to New York to find out what their attitude was on these labor amendments. [Laughter.]

We know that the Democratic side of the House does not know what its attitude is until the matter has been submitted to the President, and we were told that the Progressive Members of the House did not know what their attitude was until they had had a chance to consult Col. Roosevelt. Evidently, when the gentleman from Kansas went over and saw "the colonel" he did not derive very much comfort and did not get the information which he sought on this labor amendment, for yesterday, when the gentleman from Michigan [Mr. MACDONALD] offered an amendment to exempt all labor organizations and farmers' organizations from the operation of the antitrust laws, his colleague from Michigan [Mr. WOODRUFF], the other Progressive Member from that State, did not vote with him, and the chairman of the Congressional committee of the Progressive Party, a very distinguished gentleman of this House, for whom I have a high regard, my colleague [Mr. HINEBAUGH], did not vote with the gentleman from Michigan on his amendment. So I take it that when my friend from Kansas [Mr. MURDOCK] went to New York and asked "the colonel" what the gentleman from Kansas thought [laughter] on the subject of these labor amendments the colonel was not able to tell the gentleman from Kansas, and hence the Progressive Party yesterday was split up the back. [Laughter and applause.]

Mr. MURDOCK. Mr. Chairman, will the gentleman yield?

Mr. MANN. Certainly; even for an explanation. [Laughter.]

Mr. MURDOCK. I know the gentleman from Illinois is a very busy man. I will ask him if he has ever read the Progressive platform on this proposition?

Mr. MANN. Oh, that would not make any difference, whether I had or not.

Mr. MURDOCK. The platform is very specific, and I want to say to the gentleman from Illinois, if he will let me answer all his question, that "the colonel" stands on the Progressive platform, and the Progressive platform is all right.

Mr. MANN. How was it, then, that yesterday, when the gentleman from Michigan [Mr. MACDONALD] offered an amendment and voted one way, the other gentleman from Michigan [Mr. WOODRUFF], his compatriot Progressive, voted the other way, and that the gentleman from Kansas [Mr. MURDOCK], the leader of his party on the floor, voted one way and the gentleman from Illinois [Mr. HINEBAUGH], the chairman of the congressional committee of the Progressive Party, voted the other way? [Laughter.] Evidently they did not know how to read the Progressive platform [laughter], or else in that respect, as in many others, no one can tell, after reading it, what it means. [Renewed laughter.]

Mr. MURDOCK. Will the gentleman let me answer that question? He has asked the question why there was a division.

Mr. MANN. I have not asked any question. I have commented upon a fact, though if the gentleman denies the fact I will yield to him.

The CHAIRMAN. Does the gentleman from Illinois yield to the gentleman from Kansas?

Mr. MANN. Yes.

Mr. MURDOCK. I will answer the gentleman's question by saying that the members of the Progressive Party, unlike those of the Republican Party and the Democratic Party, are not hog tied in this House. They vote their own sentiments. That is the genius of our party.

Mr. MANN. Exactly. [Laughter.]

Mr. MURDOCK. We leave the individual free.

Mr. MANN. Yes.

Mr. MURDOCK. But I would make this exception, that the gentleman from Illinois—if the gentleman will permit me——

Mr. MANN. I would like to have a little of my own time. The gentleman from Kansas says that the Progressives vote their sentiments. That is true; but they do not know what their sentiments are until after the gentleman from Kansas goes over to New York and asks "the colonel" what the gentleman from Kansas thinks. [Laughter.]

The CHAIRMAN. The time of the gentleman from Illinois has expired.

Mr. VOLSTEAD. Mr. Chairman, I yield five minutes to the gentleman from Iowa [Mr. TOWNER].

The CHAIRMAN. The gentleman from Iowa [Mr. TOWNER] is recognized for five minutes.

Mr. TOWNER. Mr. Chairman, referring again to the matter in controversy, I want to call the attention of the committee to this fact: I think the gentleman from Kansas [Mr. MURDOCK] was undoubtedly right in his contention; but I think he is wrong, and others are wrong, in saying that the phrase and others following it "involving or growing out of" refers back to "any case." If that were true, then there would be no necessity for the disjunctive "or."

But I call the gentleman's attention to this fact, that this is a prohibition against any restraining order being granted in cases, first, of a dispute between an employer and employee; second, between employers and employees; third, between employees; fourth, or between persons employed and persons seeking employment.

Now, if you desire another class, you will have to use another disjunctive "or," else the words following it are only qualifying or limiting words to the phrase:

Or between persons employed and persons seeking employment.

There is no question whatever about the grammatical effect of the words—

Involving or growing out of a dispute concerning terms or conditions of employment.

As it now is, it limits the statement immediately preceding "or between persons employed or persons seeking employment," because the words "or between persons employed and persons seeking employment" are one clause, and you should have following that the words "or in cases involving or growing out of a dispute concerning terms or conditions of employment" if you wish the section really to mean what you intend it to mean. I call the attention of the committee also to this fact, that however this may be interpreted, you certainly ought not to allow the comma to follow "of" in line 23, page 35. If you leave it there, it will further cloud the meaning of the section and

give rise to further controversy that may be disastrous. There is no reason for the insertion of the comma. As it is, it breaks the clause and makes its application uncertain.

Mr. FLOYD of Arkansas. Will the gentleman from Iowa yield?

Mr. TOWNER. Certainly.

Mr. FLOYD of Arkansas. I desire to transpose the language so as to give the meaning as I understand it, without changing the wording, except transposing the words:

SEC. 18. That no restraining order or injunction shall be granted by any court of the United States, or a judge or the judges thereof, in any case involving or growing out of a dispute concerning terms or conditions of employment between an employer and employees, or between employers and employees, or between employees, or between persons employed and persons seeking employment, unless necessary to prevent irreparable injury to property—

And so forth. That is exactly what it means as it is written; but by transposing the words you get the meaning more clearly.

Mr. TOWNER. I think if the gentleman will transpose those words it might have the effect that he desires, although——

Mr. FLOYD of Arkansas. That is what it means now. The word "involving" modifies the word "case" and nothing else.

Mr. TOWNER. No; the gentleman is mistaken about that. You can not take a lot of instances which are marked off from one another by the word "or" and then have these words "involving or growing out of a dispute" follow one of those disjunctive instances, without limiting its application to that disjunctive instance That is very clear. It will serve the purpose the gentleman desires if he places it where he has just read it, because then it would not follow or modify or limit one of those clauses.

Mr. FLOYD of Arkansas. The purpose was to make the phrase "involving or growing out of a dispute" modify the word "case." We understand that is what it means now, and we are perfectly willing to transpose the words as indicated.

Mr. TOWNER. It might serve the purpose intended by transposition, but certainly it does not do so now.

Mr. FLOYD of Arkansas. The committee is convinced that that is what it means.

Mr. VOLSTEAD. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The gentleman from Minnesota offers an amendment, which the Clerk will report. Without objection, the amendment will be considered as pending.

The Clerk read as follows:

Page 36, at the end of the amendment offered by Mr. WEBB, add the words "but nothing in this act shall be construed to permit a secondary boycott."

Mr. VOLSTEAD. Mr. Chairman, I desire to call attention to this language, so that members of this committee may know just what they are voting for. I will read it, omitting matters not pertinent, so as to call to the attention of the committee the point I have in mind. The second paragraph of this section reads:

No injunction shall prohibit any person from ceasing to patronize or to employ any party to such dispute, or from recommending, advising, or persuading others by peaceful means so to do.

That is the plain reading of the provision. In the light of decisions that we have had on the subject of a secondary boycott, can it be questioned that the amendment offered by the gentleman from North Carolina [Mr. WEBB] will legalize the secondary boycott? I want this House to know just what is proposed, so there can be no dispute in the future as to the attitude that we are assuming. While I have always strongly sympathized with labor, may not friends of labor hesitate? With this amendment we shall erase from the statute books practically every Federal law that can reach organized labor or any kind of labor. Is that what we desire? If it is, let us be frank enough to say so. There are two sides to this proposition.

If there is to be no law to protect property or the man who seeks to labor, if the courts are to be deprived of their power to protect property and personal rights, the only thing left is civil war. How long do you suppose the public is going to submit to such a program. A strike does not only injure the parties engaged in it. The community in which it occurs suffers severely. I recall very vividly the effect of the coal strike that occurred some ten or twelve years ago. The suffering which the country endured was very great. Should another strike of that kind occur, in what condition would we be in the absence of any law to protect persons or property and in the absence of the restraining influence of the courts? Would not public indignation write upon the statute books far more drastic laws than anything now complained of. It is true that State laws will apply to and condemn many acts, but such laws can not protect the free flow of interstate commerce, and without such commerce the country must suffer severely. Those who refuse to protect the people now may not then find it easy to explain their course.

Do we want to place ourselves in the attitude of exempting any class of our citizens from the operation of the law that applies to other citizens? It seems to me that this is the real question that is before this House, and one that you can not avoid or dodge. It seems to me that we ought to face it as it is, and not pretend that this section means something different from its plain reading. I have asked you to write an amendment into this act so as to make it plain that it means what you say it means. I do not believe the President will sign this bill with a provision in it which legalizes the secondary boycott. I do not believe any such law can be constitutional. A person not a party to the dispute may be absolutely ruined by such a boycott. Is he to have no remedy under the laws of this land?

Mr. MAHER. Will the gentleman state what his opinion is of a secondary boycott?

Mr. VOLSTEAD. I can not go into that; it has been discussed in the courts, and it has always been condemned. I do not know that there ever was a decision in its favor.

Mr. MAHER. Some people do not know just what it means. I would like to have the gentleman's idea of a secondary boycott.

Mr. VOLSTEAD. A secondary boycott affects and injures a party not concerned in the dispute.

Mr. MAHER. In case of a dispute between railroad employees on a trolley road and their employers, where an employer locks them out, as it were, issues an order that on and after a certain day they will not be employed on account of their connection with a labor organization, and the merchant on the outside doing business down town takes the part of the employer and patronizes the employer, is he not taking the part of a secondary boycott?

Mr. VOLSTEAD. I am not going into a discussion of the different phases of a secondary boycott. The question of what is a secondary boycott is pretty well understood.

Mr. MAHER. It is from one side.

Mr. VOLSTEAD. I have not the time to go into it more fully.

Mr. MOORE. Will the gentleman yield?

Mr. VOLSTEAD. Yes.

Mr. MOORE. The gentleman has been dealing with the secondary boycott in which property rights may be invaded, and where the injured party may not be concerned in the dispute between capital and labor. Will the gentleman explain what is meant by this language, on page 36, line 10:

And no such restraining order or injunction—

And so forth—

shall prohibit any person or persons from attending at or near a house or place where any person resides or works or carries on business or happens to be—

And so forth.

Does that mean any person or persons, organized or unorganized, may assemble in or at the house of a workingman?

Mr. VOLSTEAD. Yes; and in as large numbers as they choose.

Mr. MOORE. And interfere with his peace and right of employment. Is not that an invasion of personal liberty, to say nothing of the invasion of the rights of property? Does not this tend to restrict the liberty and labor of the person owning or occupying that house?

Mr. VOLSTEAD. I think it does. Mr. Chairman, I ask the other side to consume some of its time.

Mr. MOORE. I understood the gentleman to say that it does restrict personal liberty?

Mr. VOLSTEAD. Yes; it may. The fear inspired by large numbers may and often is as effective as the actual force, though no actual force is used.

Mr. WEBB. Mr. Chairman, I should vote for the amendment offered by the gentleman from Minnesota if I were not perfectly satisfied that it is taken care of in this section. The language the gentleman reads does not authorize the secondary boycott, and he could not torture it into any such meaning. While it does authorize persons to cease to patronize the party to the dispute and to recommend to others to cease to patronize that same party to the dispute, that is not a secondary boycott, and you can not possibly make it mean a secondary boycott. Therefore this section does not authorize the secondary boycott.

I say again—and I speak for, I believe, practically every member of the Judiciary Committee—that if this section did legalize the secondary boycott there would not be a man vote for it. It is not the purpose of the committee to authorize it, and I do not think any person in this House wants to do it. We confine the boycotting to the parties to the dispute, allowing parties to cease to patronize that party and to ask others to cease to patronize the party to the dispute.

Mr. MOORE. I call the gentleman's attention to line 10, page 36, where one of the privileges against which restraining orders may not issue is "attending at or near a house or place where any person resides or works or carries on business or happens to be." Does not that mean an invasion of the constitutional right of the citizen, and that men, organized or unorganized, embittered against one of their number or prejudiced in the extreme, may sit on the doorstep in your house and discuss with your wife while she is preparing the evening meal your right to work?

Mr. WEBB. Oh, my friend does not mean to put that language in, because it is ridiculous.

Mr. MOORE. That is what it seems to say.

Mr. WEBB. I will not say ridiculous, but it is an absurd conclusion to draw from this language.

Mr. MOORE. You gentlemen, as lawyers, know that you have to take the text, and you propose to put this language into law. Now, I will not say the Federation of Labor, because I believe that to be a law-abiding body, but the Industrial Workers of the World. Under this paragraph they may go to your house or attend "at or near your house"——

Mr. WEBB. It does not say that they may go into a man's castle.

Mr. MOORE. You may have a little garden around your house, and they can go into that garden, and that is "at" your house.

Mr. WEBB. It does not say that you can go onto the premises that you are forbidden to enter. That is a man's castle and sacred all over the world where the Anglo-Saxon tongue is spoken. We do not authorize anything like taking charge of a man's home. A man can do these things to-day, if he does it in a peaceful way.

Mr. MOORE. We have recently heard of "gun men" going to a man's premises, revolvers in their pockets, "peacefully" to persuade a man not to go to work until some understanding has been had with him; and that in cities, where the people are packed together, not out in the country. I do not lay this to legitimate labor unions.

Mr. WEBB. What did the gentleman's city authorities do under those circumstances?

Mr. MOORE. Oh, the police authorities, if they can reach such men, do it.

Mr. WEBB. Do what?

Mr. MOORE. Seize the gun men.

Mr. WEBB. They can do the same thing under this act.

Mr. MOORE. I question whether they could in certain interstate relations.

Mr. WEBB. Mr. Chairman, I decline to yield further. My friend refuses to read the further portion of this same sentence.

Mr. MOORE. I know this pertains to a Federal injunction.

Mr. WEBB. It says for the purpose of peacefully obtaining or communicating information or of peacefully persuading any person to work or to abstain from work. The idea of peacefully assembling runs all the way through this entire section, and unless it is done peacefully it is in violation of the law.

Mr. MOORE. I understand the peaceful part of it thoroughly; but suppose we take the instance of Tarrytown, N. Y., and substitute a workman who is earning two or three dollars a day for John D. Rockefeller, jr. I presume he would be entitled to some protection. I presume the cause of the trouble did not originate in Tarrytown, N. Y., but out in Colorado.

Mr. WEBB. And does the gentleman want to deny to the laboring man——

Mr. MOORE. And I presume in that case your Federal injunction——

Mr. WEBB. Mr. Chairman, I decline to yield further, unless the gentleman will permit me to ask him a question or to answer one of his.

Mr. MOORE. This is a very important question, and the gentleman has limited the time for debate.

Mr. WEBB. Would the gentleman deny to a laborer or to any other person in the United States the right to peacefully assemble and discuss his grievance?

Mr. MOORE. I certainly would not.

Mr. WEBB. Then the gentleman should vote for this section.

Mr. MOORE. But I would vote to sustain the humblest individual in his right to have his home protected.

Mr. WEBB. This section does that, because it does not include the criminal law of the land.

Mr. MOORE. I think the gentleman can not have had very much experience with "peaceful persuasion."

Mr. WEBB. Whether it be a laboring man or a lawyer or a merchant or a banker who violates the law, the law will consider him.

Mr. MOORE. And when you permit the Industrial Workers of the World, who have a pretty broad field—and it is said that they also operate in Europe, where we can not reach them—to camp on the gentleman's doorstep in North Carolina, or on that of some laboring man who may not agree with them, it might be that he would like to have some court to go to when he found he was unable to protect himself. He ought to have some place to go.

Mr. WEBB. I want to tell the gentleman that we have courts to go to to protect ourselves under those circumstances, and if the gentleman has not in Pennsylvania, I invite him to come down to North Carolina.

Mr. MOORE. I am going to say something about the industrial conditions in the gentleman's State in a day or two, but I am referring now to the Industrial Workers of the World and others who may or may not respect the law.

Mr. WEBB. Does the gentleman mean the "I won't work" people?

Mr. MOORE. I believe the gentleman to be the friend of labor, as I believe all of us want to be, but I think most men in a great House like this, a deliberative assembly of the people's representatives, ought to be fair to all labor. We ought to deal with all of the workers of the land without specializing a few. It is a question whether under the badge of organization we are bound to pass laws here covering 30,000,000 wage earners in this country, most of whom are unorganized and not represented here at all. I question whether the hundred millions of people of this country do not look to this Congress to deal fairly with every man who has a right to protection under the Constitution of the United States.

Mr. WEBB. Mr. Chairman, while I like to hear my friend talk——

Mr. MOORE. Oh, I know, and thank the gentleman, but I have gotten in a little of something that ought to be said.

Mr. WEBB. After that beautiful piece of eloquence, I will ask the gentleman if he did not vote for the amendment which I offered yesterday?

Mr. MOORE. Which amendment?

Mr. WEBB. The amendment providing for the exemption of labor organizations and farmers' organizations.

Mr. MOORE. I was not here yesterday when that vote was taken. There are certain legal phases of that question which are open to dispute, but if I believed his amendment was in favor of a legal classification of labor against other classes of labor, I would have voted against it.

Mr. MURDOCK. Mr. Chairman, will the gentleman yield?

Mr. WEBB. Yes.

Mr. MURDOCK. Mr. Chairman, I do not think the gentleman completed that colloquy. The gentleman from Pennsylvania [Mr. MOORE] indicates that he might have done differently from the other 207 of us.

Mr. MOORE. I think the 207 ran away like a flock of sheep yesterday. They were terrorized, too much terrorized to do the business of this country for a hundred million people, rather than for the few gentlemen who seem to hold this House in the hollow of their hands.

Mr. MURDOCK. The gentleman, then, would have voted against this proposition?

Mr. MOORE. I think I would have voted against almost anything the gentleman from Kansas brought in, because he does not know legislation or the rights of the people.

Mr. WEBB. Mr. Chairman, I yield the floor. How much time have I used?

The CHAIRMAN. Five minutes.

Mr. VOLSTEAD. Mr. Chairman, I yield four minutes to the gentleman from Michigan [Mr. MACDONALD].

Mr. MACDONALD. Mr. Chairman, just a word in regard to what the gentleman from Illinois had to say, facetiously, I presume, as to the position of the Progressive Party upon the amendment yesterday. In view of the fact of the condition of the Republican Party upon this trust legislation, as is shown by the varying minority reports that are filed by the Republican members of the Judiciary Committee, it seems to me that it ill becomes the gentleman from Illinois to comment upon any diversity of opinion upon any branch of this subject.

Mr. Chairman, the amendment that has been suggested here by a number of gentlemen, involving the use of the word "or" in line 23, unmistakably makes a new class of cases that will be included if the word "or" or language substantially accomplishing the same purpose is inserted. And I want to call attention again to the fact that has been mentioned by my colleague from Kansas, and that is that this becomes doubly important in view of the use of the word "such" in line 6 of the

next paragraph, because by the use of the word "such" in line 6, the next paragraph——

Mr. CLINE. Will the gentleman yield?

Mr. MACDONALD. I just want to finish this. The equity power conferred in this part of the law is limited absolutely to four classes laid down in paragraph 1, and if you leave out the word "or," or its equivalent, you limit these cases to four classes only, and you leave out cases where strikes exist; but if you put the word "or," or its equivalent, in you make it five classes and include these cases.

Mr. WEBB. Will the gentleman yield for a question?

Mr. MACDONALD. Yes.

Mr. WEBB. What other case can the gentleman imagine could be included in this? Any case involved or growing out of a suit concerning terms or condition of employment. Does not that cover the whole range of strikes, employment, wages, hours of labor, and so forth?

Mr. MACDONALD It says in any case growing out of a dispute between persons employed and persons seeking employment. Now, it has been argued, and I think it is true, that a person on strike or after he has struck or has been discharged is not a person seeking employment.

Mr. WEBB. He is seeking employment—that is why he strikes.

Mr. MACDONALD. But the language says, "or between persons employed and persons seeking employment," and the previous language is "in any case between an employer and employees or between employers and employees or between employees." Now, the use of the disjunctive makes a new class named herein, and clearly includes all involved in disputes of the character described in the language that follows.

Mr. WEBB. That is where the gentleman and I differ. It covers every case involving or covering every phase of employment.

Mr. MACDONALD. I desire to offer, and I shall offer, an amendment, page 35, line 23, after the word "employment," to insert the following: "In the case where a strike or lockout exists or is threatened, or in any other case"; and also, when we reach it, I wish to offer an amendment to strike out the word "such," in line 6, page 36.

The CHAIRMAN. The time of the gentleman has expired.

Mr. VOLSTEAD. Mr. Chairman, I yield the gentleman from Pennsylvania [Mr. HULINGS] four minutes.

The CHAIRMAN. Without objection, the amendment offered by the gentleman from Michigan will be reported for information.

The Clerk read as follows:

Page 35, line 23, after the word "employment," insert the following: "In the case where a strike or lockout exists or is threatened, or in any other case."

The Clerk reported a second amendment of Mr. MACDONALD, as follows:

Page 36, line 6, strike out the word "such."

Mr. HULINGS. Mr. Chairman, the facetiæ of the gentleman from Illinois indicates that the Democratic Party has all its inspirations from the gentleman at the White House. It seems to me he seems to indicate, in his opinion, that the gentleman from Kansas [Mr. MURDOCK] trails after Col. Roosevelt, and he gets his inspiration there and he spreads that among the members of the Progressive Party. Well, if this were true, it must be conceded that the Democrats have a good man to go to [applause on the Democratic side], and the Progressives have a good man to go to, but where in the world do the Republicans themselves have to go? [Laughter and applause.] It seems to me they have to go to the classic shades of Yale to get inspiration from a dead one. [Laughter and applause.] He charges the Progressives have no consistency, and for heaven sake if there ever was any inconsistency is not it demonstrated in the Republican ranks on this side, where a great many of them have been elected as Progressives, indorsing that platform and agreeing to stand by that platform, and coming down here and going in with the same old gang.

Mr. GREEN of Iowa. And a good many Progressives have been elected as Republicans who did not stand by that party.

Mr. MURDOCK. This is Exhibit A.

Mr. HULINGS. This is Exhibit A and that is Exhibit B. [Laughter.] Mr. Chairman, aside from jesting, and I want you to understand there is a whole lot of truth in that jest, but aside from that, referring to the thing right in point, it seems to me that all of this controversy can be set aside by striking out, in line 20, after the word "case" on page 35, down to and including the word "employment" in line 23, so that the language will read:

That no restraining order or injunction shall be granted by any court of the United States, etc., in any case involving, or growing out of, a dispute concerning terms or conditions of employment—

And so forth.

Now, without any question, there may be cases in which injunctions will be applied for as against or involving persons who are not employees, because when a labor organization orders a strike and men cease to work and march out they are in no sense employees. They may be joined by men who never were the employees of the party seeking the injunction, who are the very ones doing the things complained of. But the suggestion I make here would leave out all difficulty of that kind. You would include every person in any case involving or growing out of a dispute concerning terms or conditions of employment. I wish to bring that to the attention of the committee, and especially the gentleman from North Carolina, because I believe it will commend itself to him as a reasonable, rational, and very clear exposition of what is intended in this section. I yield back the balance of my time.

The CHAIRMAN. The time of the gentleman has expired.

Mr. HULINGS. Mr. Chairman, I desire to send this amendment to the desk and ask to have it read for information.

The CHAIRMAN. Without objection, the Clerk will report the amendment for information.

The Clerk read as follows:

Amendment by Mr. HULINGS:
Page 35, line 20, after the word "case," strike out all down to and including the word "employment," in line 23.

Mr. WEBB. Mr. Chairman, I yield three minutes to the gentleman from Kansas [Mr. MURDOCK].

Mr. MURDOCK. Mr. Chairman, I hope some one will send for the gentleman from Pennsylvania [Mr. MOORE]. Can not the gentleman yield to me later when he gets back?

Mr. HULINGS. I suggest the gentleman from Kansas go after him.

Mr. MURDOCK. No; I will let him come back.

Mr. WEBB. Does the gentleman from Minnesota desire to use any more of his time?

Mr. VOLSTEAD. Not at this moment.

Mr. WEBB. Mr. Chairman, just one word. It is quite evident that Members of the House have a wide difference of opinion as to this particular section, and I want to say the committee has worked over it again and again and again, we have gone over it for two years, and that this particular language in this particular section has been indorsed probably by every labor union in the United States. It is an excerpt from what is known as the Bacon-Bartlett bill, and it covers in a proper way, we think, every possible angle of the strike situation. We think any sensible man will agree that a striker is a person who seeks employment, otherwise he would not strike, and those are the ones we ought to take care of, at least the labor organizations of America think so, and I trust that the committee will leave the section as it is. If you begin changing the section I do not know where it will land us.

Mr. HULINGS. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. Does the gentleman from North Carolina yield to the gentleman from Pennsylvania?

Mr. WEBB. Yes.

Mr. HULINGS. What would you think, then, of the application of the section in a case of this kind. You are an employer of labor; your men cease work; I am in sympathy with them; I never was in your employment, and I do not seek any employment, but I go in and make common cause with them against you, and you take me into court. What would you do in that case?

Mr. WEBB. You would have no business hanging around there. You would have no business "butting in," if you are not a party in the dispute. That is labor's own cause, and if the employer and the employee grip on the proposition, we will take care of that.

Mr. HULINGS. In a section later you justify me in going in and making common cause against them.

Mr. ALEXANDER. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. Does the gentleman from North Carolina yield to the gentleman from Missouri?

Mr. WEBB. Certainly.

Mr. ALEXANDER. In the case mentioned by the gentleman from Pennsylvania this writ of injunction would not apply at all. This injunction would go against other people?

Mr. WEBB. Certainly. We want to confine the language to the parties to the dispute, and no others.

Mr. GARDNER. Mr. Chairman, will the gentleman yield?

Mr. WEBB. Yes; I yield to the gentleman from Massachusetts.

Mr. GARDNER. The gentleman says that he thinks the language "persons seeking employment" covers persons on strike?

Mr. WEBB. Yes, sir. That is the opinion of the committee.

Mr. GARDNER. But section 18 does not mention disputes between "employers and persons seeking employment."

Mr. WEBB. Oh, yes. I think that is covered.

Mr. GARDNER. Oh, no. The wording relates to cases "between persons employed and persons seeking employment."

Mr. WEBB. I think that is covered.

Mr. GARDNER. Oh, no. A dispute between "persons employed and persons seeking employment" is a very different proposition from a dispute between employers and people seeking employment. There might be something in the gentleman's contention if the clause referred to cases "between employers and persons seeking employment." I call the gentleman's attention to line 22, which refers to cases "between persons employed and persons seeking employment." I think that that clause refers to disputes between persons known as "scabs" and the usual force of employees in any establishment.

Mr. WEBB. I do not know what you mean by "scabs," but it says "between persons employed and persons seeking employment."

Mr. GARDNER. It is all qualified by what goes before it. What is your objection to extending the definition of the word "employees" by a proviso at the end of the section. I suggest something like this: "The term 'employees' in this section shall be held to include persons whose status as employees has been suspended by a strike or lockout." What is your objection to that?

Mr. WEBB. You might weaken the section by doing it. Now I yield three minutes to the gentleman from Kansas [Mr. MURDOCK].

The CHAIRMAN. The gentleman from Kansas [Mr. MURDOCK] is recognized for three minutes.

Mr. MURDOCK. Mr. Chairman, the gentleman from Pennsylvania [Mr. MOORE] this morning took occasion to drive up to my front door and leave a bouquet. [Laughter.] I want to make acknowledgment of the fact.

Mr. MOORE. There were some thorns among the roses. [Laughter.]

Mr. MURDOCK. If the gentleman will permit me to go on, I will yield to him later. The gentleman from Pennsylvania makes a general charge of cowardice against the membership of Congress. When asked the simple question how he would have voted yesterday had he been here, he followed the characteristic Republican attitude, and dodged. How would the gentleman from Pennsylvania have voted in the House yesterday? Will the gentleman answer the question and stop dodging?

Mr. MOORE. If I had thought that a vote "aye" would have meant to specialize a certain class of the 30,000,000 of workers in this country, I would not have voted "aye," nor would I have played the game of buncombe which has been played since this agitation began.

Mr. MURDOCK. The gentleman from Pennsylvania typifies the political situation that prevails in the country. "Truth is mighty and will prevail." There is talk in New York and in Washington, with the aid of the press, in San Francisco and St. Louis, of amalgamation between the Progressive Party and the Republican Party. Do you think there is any chance of amalgamation between a set of men who want to go forward and a set of men, typified by the gentleman from Pennsylvania, who evade, dodge, and sidestep on everything? [Laughter and applause.]

Mr. MOORE. Mr. Chairman——

Mr. MURDOCK. The gentleman from Illinois [Mr. MANN] also demonstrates this morning, I think, the situation of the country, and proves that there is no prospect of harmony between the Progressive and Republican Parties. The gentleman from Illinois typifies by his charge against me—facetious enough in its way—precisely what has been the matter with him in the last six or seven years with respect to the political situation. He did not consult Col. Roosevelt enough. By having consulted Col. Roosevelt a little more he and his party would be—well, somewhere else than on the road to destruction and decay, as it is. [Laughter.] Col. Roosevelt can not be justly accused of dodging or evading any public question.

The CHAIRMAN. The time of the gentleman from Kansas has expired.

Mr. MURDOCK. I would like just two minutes more.

Mr. WEBB. I will give the gentleman two minutes more.

Mr. MURDOCK. The three parties are shown precisely as they stand before the Nation in the attitude of the gentleman from Pennsylvania [Mr. MOORE], that of the gentleman from Illinois [Mr. MANN], and that of the gentleman from North Carolina [Mr. WEBB] and the Progressives on this floor. For a matter of four or five years, to my knowledge, under the leadership of Mr. Taft, backed up by the gentleman from Illinois [Mr. MANN], the reactionaries here and at the other end of this building absolutely locked away in committee every bit of remedial legislation that labor wanted. Every man within the sound of my voice knows that that is true.

In those days every time we succeeded in getting an amendment in favor of the exemption of organized labor we had to do it by revolution, over the protest and veto of the Republican leader in this country, Mr. Taft, and I think sometimes over a rather serious protest from the gentleman from Illinois [Mr. MANN], although I am not certain about that.

The Democrats came into power with a plain pledge in their platform to exempt labor, after a record of amendments in the House and Senate which gave in terms exemption. And what did the Democrats do? Why, they have followed their usual plan of action and have brought into the House for the indorsement of the Members an amendment that is ambiguous. If you put the Progressives in power, Mr. Chairman, we will not dodge as the Republicans have dodged, we will not be ambiguous as the Democrats have been ambiguous; we will bring in an exemption clause that will mean business.

The CHAIRMAN. The time of the gentleman has expired.

Mr. VOLSTEAD. I yield three minutes to the gentleman from Pennsylvania [Mr. MOORE].

Mr. MOORE. Mr. Chairman, I have not dodged any issue, and I have not waited for a nod from the galleries to determine how I shall vote, as the gentleman from Kansas has persistently done throughout this debate.

Mr. MURDOCK. Will the gentleman yield?

Mr. MOORE. No; I will not. I have not even changed the RECORD, as the gentleman from Kansas [Mr. MURDOCK] has done this morning. After pleasing our labor friends in the galleries by frequent glances up that way, and by smiles and nods, and after referring to the National Association of Manufacturers, possibly forgetting that the late Progressive candidate for governor in Massachusetts, Mr. Bird, was not only a Progressive but a leading member of the Manufacturers' Association which he denounced, and for which denunciation he received applause, the gentleman from Kansas changed the RECORD this morning so that instead of calling that association the "corrupt" National Association of Manufacturers he has, with Col. Bird, the Progressive, in mind, changed it to the "powerful" National Association of Manufacturers. I do not have to correct the RECORD in that way, because I am not constantly watching what Mr. Gompers and Mr. Morrison and that able band of labor leaders up there in the gallery are doing or thinking as to my vote. I should feel myself despicable indeed if I stood here as a representative of the people and voted to exempt Mr. Samuel Gompers or Mr. Frank Morrison or others up there in the gallery from the operation of the criminal laws of this country and made a special class of them or any hundred of them. I would not exempt John D. Rockefeller from the operation of the criminal laws of this country, nor would I exempt Andrew Carnegie from the operation of those laws; but before and within the law I would hold each man responsible for his own acts, the man who employed and the man who was employed alike. I would not make fish of one and fowl of the other. And if it be a crime in the presence of the labor representatives who have been in the galleries dictating this legislation for the last 10 days to make this declaration in favor of the rights of the workingmen of this country regardless of union or nonunion, then I stand convicted before them; but before the people and before my conscience I am grateful for the opportunity to say that I would not vote for special legislation exempting crime nor for the amendment offered by the gentleman from Kansas, who is playing politics and has been playing to the galleries from one end of this debate to the other.

Mr. MURDOCK. Will the gentleman yield?

The CHAIRMAN. The time of the gentleman has expired.

Mr. VOLSTEAD. I yield the remainder of my time to the gentleman from Illinois [Mr. MANN].

The CHAIRMAN. The gentleman from Illinois [Mr. MANN] is recognized for two minutes.

Mr. MANN. Mr. Chairman, the gentleman from Kansas [Mr. MURDOCK], who was elected as a Republican——

Mr. CAMPBELL. And he could not have been elected if he had not been.

Mr. MANN (continuing). Like a number of other gentlemen in the House who were elected as Republicans—some of whom now have the courage to call themselves Progressives and abuse the Republican Party all the time, although they never were elected upon any ticket except the Republican ticket—will have the opportunity next November of running as Progressives. There has been talk of amalgamation, as the gentleman from Kansas [Mr. MURDOCK] says, but the so-called Progressives throughout the country, the men who voted for Col. Roosevelt the last time, are coming back to the Republican Party. It is

not an amalgamation, and whatever the outcome may be, the gentleman from Kansas will be left out in the cold. He was elected as a Republican. He repudiated the party which he followed until he had been elected, and when the Progressives come back to the Republican Party, as the voters will, these little so-called leaders in the House, who can not think for themselves, who have no position upon any question until they have asked the colonel, and now can not find out from the colonel—they can still continue to be Progressives, but enough of the people will come back into the Republican fold until this House will be Republican the next time. [Applause on the Republican side.]

Mr. HULINGS. Will the gentleman yield?

The CHAIRMAN. The time of the gentleman has expired. The question is on agreeing to the amendment offered by the gentleman from Minnesota [Mr. VOLSTEAD] to the amendment offered by the gentleman from North Carolina [Mr. WEBB].

Mr. GRAHAM of Pennsylvania. May we not have the amendment reported again? After this desultory debate we have lost sight of the amendment.

The CHAIRMAN. The Clerk will report the amendment and the amendment to the amendment.

The Clerk read as follows:

Amendment offered by Mr. WEBB:
At the end of section 18, line 23, on page 36, strike out the period and insert a semicolon and add.
"Nor shall any of the acts specified in this paragraph be considered or held unlawful."
Amendment to the amendment offered by Mr. VOLSTEAD:
Page 36, at the end of the amendment offered by Mr. WEBB, add:
"But nothing in this act shall be construed to permit a secondary boycott."

The CHAIRMAN. The question is on the amendment to the amendment.

The question was taken, and the amendment to the amendment was rejected.

The CHAIRMAN. The question now is on the amendment offered by the gentleman from North Carolina.

The question was taken, and the amendment was agreed to.

Mr. WEBB. A division, Mr. Chairman.

Mr. FOWLER. Mr. Chairman, I ask for a division.

The CHAIRMAN. The Chair thinks the gentleman is too late.

Mr. GARNER. Mr. Chairman, the Chair did not state that the ayes seemed to have it, and therefore the gentleman from North Carolina was in time, because the Chair announced that the ayes had it and hardly gave the gentleman from North Carolina an opportunity for division.

The CHAIRMAN. The Chair only heard one vote in the negative, and for that reason announced the result. The Chair is of the opinion that the request for division comes too late unless some gentleman was on his feet.

Mr. HENRY. The gentleman from North Carolina was on his feet as quickly as possible asking for a division.

The CHAIRMAN. The Chair thinks the request comes too late. The Clerk will report the amendments in the order in which they were offered.

The Clerk read as follows:

Amendment offered by Mr. MACDONALD:
Page 35, line 23, after the word "employment," insert the following: "In a case where a strike or lockout exists, or is threatened, or in any other case."

The CHAIRMAN. The question is on agreeing to the amendment.

The question was taken; and on a division (demanded by Mr. MACDONALD) there were 15 ayes and 80 noes.

So the amendment was rejected.

The CHAIRMAN. The Clerk will read the next amendment.

The Clerk read as follows:

Second amendment by Mr. MACDONALD:
Page 36, line 6, strike out the word "such."

The CHAIRMAN. The question is on agreeing to the amendment.

The question was taken, and the amendment was rejected.

The CHAIRMAN. The Clerk will report the next amendment.

The Clerk read as follows:

Amendment offered by Mr. HULINGS:
Page 35, line 20, after the word "case," strike out all down to and including the word "employment," in line 23.

The CHAIRMAN. The question is on the amendment.

The question was taken, and the amendment was rejected.

Mr. CULLOP. Mr. Chairman, I offer the following amendment which I send to the desk as a new section.

Mr. FOWLER. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. FOWLER. If an amendment is offered as a new section, will that deprive a Member of the right to offer an amendment to section 18?

The CHAIRMAN. The Chair will state to the gentleman that the committee has disposed of section 18. The gentleman from Indiana offers an amendment as a new section, but the Chair is unable to determine its application until the amendment is read.

Mr. BARTLETT. But we have not passed section 18. The gentleman from Illinois has an amendment to section 18, and he is entitled to offer it now.

Mr. CULLOP. Mr. Chairman, we had passed section 18 and the Chairman had instructed the Clerk to read, and I offered my amendment as an additional section.

The CHAIRMAN. The Chair has so stated to the committee.

Mr. FOWLER. Mr. Chairman, I do not desire to interfere with the gentleman from Indiana at all, except that I do not want to pass section 18 without the right of offering a very slight amendment.

The CHAIRMAN. The Chair will be obliged to hold that the gentleman must have unanimous consent to return to section 18.

Mr. FOWLER. Then, Mr. Chairman, I ask unanimous consent to return to section 18.

The CHAIRMAN. The gentleman from Illinois asks unanimous consent to return to section 18.

Mr. MANN. Reserving the right to object, Mr. Chairman, my colleague from Illinois arose and offered to submit a preferential amendment to section 18. We had not passed section 18, except to close debate, and the gentleman from Indiana proposed to offer an amendment as a new section. My colleague could not tell whether the gentleman from Indiana proposed to offer a new section or to amend section 18 until the gentleman from Indiana stated his purpose. When he did my colleague said that he desired to offer an amendment to section 18. Certainly that was in order as a preferential motion, not debatable, of course, because debate has been closed.

The CHAIRMAN. In any event the Chair hears no objection to the request of the gentleman from Illinois.

Mr. FOWLER. On page 35, line 20, I move to insert after the word "case" a comma.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Page 35, line 20, after the word "case" insert a comma.

Mr. FOWLER. Mr. Chairman, I have but one word to say.

Mr. MANN. Mr. Chairman, debate is closed.

The CHAIRMAN. Under the order of the committee the gentleman from Illinois can not be recognized to discuss his motion. The question is on the amendment offered by the gentleman from Illinois.

The question was taken; and on a division (demanded by Mr. FOWLER) there were—ayes 3, noes 27.

So the amendment was rejected.

The CHAIRMAN. The gentleman will now report the amendment offered by the gentleman from Indiana [Mr. CULLOP].

The Clerk read as follows:

Amend, page 36, by adding a new section to be known as section 18a:
"The jurisdiction of the courts of the United States under this act shall be concurrent with that of the courts of the several States, and no case arising under this act and brought in any State court of competent jurisdiction shall be removed to a court of the United States."

Mr. WEBB. Mr. Chairman, I reserve a point of order against that amendment, to its germaneness and to its insertion in this place in the bill.

Mr. MANN. Oh, let us have the point of order disposed of. I demand the regular order.

The CHAIRMAN. The regular order is called for.

Mr. CULLOP. Mr. Chairman, I would like to be heard on the point of order.

The CHAIRMAN. The Chair will hear the gentleman briefly.

Mr. GARDNER. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. GARDNER. Has the point of order been made?

The CHAIRMAN. The Chair will hear the gentleman briefly on the point of order. The regular order has been called for. The Chair understood the gentleman from North Carolina to make the point of order.

Mr. WEBB. I make the point of order.

Mr. CULLOP. Mr. Chairman, this being an independent section, it can be introduced at any place in the bill. It is not dependent on any other section; it is not an attempt to amend any other section or to qualify other than extend the process of the courts or the jurisdiction of cases to be tried under the provisions of the act, so that it is not material whether it be introduced after section 18, after section 14 or 15, or any other section. It might come at the end of the bill, and would be

applicable there, so that not being an amendment to any particular section of the bill it is germane in any place in the bill at which it may be introduced, because it is a new section and a section that gives jurisdiction to State courts as well as the Federal courts in actions arising under the provisions of this act.

Mr. BARTLETT. Mr. Chairman, will the gentleman yield?

Mr. CULLOP. Certainly.

Mr. BARTLETT. This amendment does not simply confine the right to sue in the State courts to the matter of granting injunctions, but it is general in its jurisdiction. Is that true?

Mr. CULLOP. That is true.

Mr. BARTLETT. In other words, that any proceeding under this bill to enforce the law provided for in the bill can be brought in a State court as well as in the Federal court?

Mr. CULLOP. Yes.

Mr. BARTLETT. In other words, it confers concurrent jurisdiction on the State courts with the Federal courts to enforce any part of this bill, either civil or criminal?

Mr. CULLOP. That is the object of it; but, of course, it would apply to civil cases. Mr. Chairman, if it was simply applying to any particular section of the bill in reference to the bringing of suits and the trying of cases, then its germaneness might be attacked, as it is now, because it should be made a part of the section to which it would be applicable under the circumstances; but being applicable to every provision of the bill, giving jurisdiction to State courts to try any violation defined under any provision of the bill, it is germane at any point in the bill, as an independent section.

The CHAIRMAN. The Chair thinks the amendment is in order.

The question is on agreeing to the amendment.

Mr. CULLOP. Mr. Chairman, I desire to be heard on the merits of the proposition. This amendment is offered for the purpose of bringing convenience to the people who may have litigation under any provision in this act which we are now considering. The language of this section is precisely the same as that enacted by Congress in 1910 in the employers' liability act, which reads:

> The jurisdiction of the courts of the United States under this act shall be concurrent with that of the courts of the several States, and no case arising under this act and brought in any State court of competent jurisdiction shall be removed to any court of the United States.

The language of this amendment is taken directly from the language of the amendment which was offered to the employers' liability act of 1910. Let me call the attention of the committee to this situation. Some of these Federal judicial districts are very large. Many people reside a long distance from the place where the courts are held. A gentleman from California the other day said that some of the people there were living 400 and 500 miles from the place where the courts were held. In such circumstances where there were violations of this act the suits could be brought in the State courts, tried and determined at home, and it would be a matter of convenience as well as economy to the litigants who might have to resort to the courts for redress of grievances under the act.

Mr. GORDON. Mr. Chairman, will the gentleman yield?

Mr. CULLOP. Yes.

Mr. GORDON. Where does the gentleman find authority in the Constitution of the United States giving this Congress the right to confer any jurisdiction, civil or criminal, on a State court?

Mr. CULLOP. Oh, that is too well settled to take up any time in the discussion of it here.

Mr. GORDON. Will the gentleman give me an authority for it?

Mr. CULLOP. Why, we have an act of Congress to which I have referred; that is the best of authority for it. Why not? This Congress has conferred jurisdiction of this character on the State courts. It is simply giving a cause of action under a statute, and Congress has a right to confer jurisdiction in the State courts.

Mr. SINNOTT. Mr. Chairman, will the gentleman yield?

Mr. CULLOP. Certainly.

Mr. SINNOTT. For the benefit of the gentleman from Ohio who asked the question, I will state that that matter has been decided in the Two hundred and twenty-third United States.

Mr. GORDON. In a criminal case?

Mr. SINNOTT. No.

Mr. GORDON. Does the gentleman think we would have authority to confer jurisdiction in a criminal case?

Mr. SINNOTT. This is conferring jurisdiction in a civil case.

Mr. GORDON. And in a criminal case, also.

Mr. CULLOP. We are conferring the jurisdiction here in a civil case.

Mr. SINNOTT. I think it should be confined to a civil case.

Mr. CULLOP. The same is true under the national banking act. The benefit of this would be that people who have to resort to the courts for a redress of grievances under this statute would have the convenience of being able to do so in their own home courts, which would be an economy, and the matter could be tried and determined just as well as in any Federal court; and I hope the amendment will be adopted for that reason.

Mr. FLOYD of Arkansas. Mr. Chairman, I desire to speak in opposition to the amendment. This legislation is supplementary to the Sherman Act. Jurisdiction under the Sherman Act is confined to the Federal courts, and I think properly so. There are a number of reasons why this proposed amendment of the gentleman from Indiana should not be incorporated into this bill. In the first place, it would be a burden to the State courts to have jurisdiction over these cases conferred upon them. This Federal Government has exclusive jurisdiction of this class and character of legislation and should retain full jurisdiction in the trial of such cases. Dissolution suits are under the control of the Attorney General of the United States. We have district courts throughout the country, with district attorneys employed by the United States to look after the Federal business, and I think that the proposition of the gentleman from Indiana to confer jurisdiction over these cases upon the State courts would be an injustice to the people of the States and to the courts of the States; and I oppose it for that reason. In the second place, this is a very broad and far-reaching statute in its provisions.

It deals with the business interests of people of all classes—railroads, manufacturers, industrial concerns, combinations, and conspiracies in restraint of trade—and we think it would likewise be an injustice to parties litigant to take them away from the jurisdiction of the Federal courts and confer jurisdiction upon State courts to try this character of cases. It broadens the scope of the law. It is one of those things which if attached to this legislation will make it all the more difficult to pass the legislation, and we do an injustice to the cause and principle which we seek to establish by this legislation if we broaden the measure with far-reaching and momentous questions such as the gentleman from Indiana offers as an amendment. Any friend of this legislation, as I am sure the gentleman from Indiana is, ought not to aid those who are fighting this legislation—the trusts and the combines of this country—by loading it down with questionable amendments that will tend to defeat it and destroy it in the end. For these reasons the committee opposes the amendment and hopes that it will be rejected.

Mr. CULLOP. Mr. Chairman——

The CHAIRMAN. Debate on this question is exhausted.

Mr. CULLOP. Mr. Chairman, I move to strike out the last word. Mr. Chairman, the doctrine just advocated by the distinguished gentleman from Arkansas [Mr. FLOYD] is a very dangerous doctrine, indeed. In its last analysis it means to many a denial of justice, and a failure to enforce the law in all its phases. Who are the parties that have been always running to the Federal courts? Has it been the individual or has it been the trusts and the big corporations? The answer is easy and is within the knowledge of all. It is the experience, I am confident, of every man on this floor that the men who seek cover under the ample folds of the Federal courts of this country are the owners of the trusts and big corporations of the country, and by so doing they are constantly forcing the poor man out of the benefits of such legislation as this by seeking that forum for the adjudication of their cases. Aye, gentlemen, if it is desired to protect the trusts, to protect the big corporations of this country, under this act, then confine its jurisdiction to the Federal courts and it will well nigh destroy the advantages of the legislation we are attempting to adopt here to-day for the relief of the people. Who is it that has been running to the Federal courts for the last quarter of a century? Who is it that has taken refuge in the Federal courts of this country? Has it been the poor individual or has it been the trusts and the big corporations which seek to be relieved from penalties and from punishment provided for in the law of the land? Go read the petitions for removals from the State to the Federal courts of this country, and it will be found that in every instance they are filed by the corporations or rich and powerful individuals for the purpose of escaping the penalties of the law. It has been their refuge for escape from deserved punishment. Cases are removed frequently for the purpose of getting away

from the scene where the injury has been inflicted and where the poor man will be unable to follow it up, take his witnesses to court, and conduct his litigation as it ought to be conducted. Why impose hardships on litigants? And yet the gentleman from Arkansas says that a measure that seeks to bring these cases at home and let the poor man try his case in the court where he resides, where the injury was inflicted, and where the witnesses reside, that such a measure is in the interest of the trusts and of the big corporations of this country. The gentleman will not stand by that declaration for a moment, because it is not only ridiculous, but it is contradicted by the facts, as the experience of every individual will verify. The reverse is true, and every man knows or ought to know it.

Mr. FLOYD of Arkansas. Will the gentleman yield at that point?

Mr. CULLOP. Certainly.

Mr. FLOYD of Arkansas. I did not make the statement attributed to me by the gentleman from Indiana.

Mr. CULLOP. Then I misunderstood the gentleman from Arkansas, and I am glad to know he did not desire to be so understood.

Mr. FLOYD of Arkansas. The statement I made was this: That if we load this measure down with amendments of far-reaching import like this, it would tend to defeat the legislation, and that would result in the interests of the trusts.

Mr. CULLOP. I beg to disagree with the gentleman. How does this load it down? Are not the judges of the State courts as capable, as learned, as honest, and conscientious as the judges of the Federal courts to try and determine the questions involved in this legislation? Upon what meat does the Federal judge feed that makes him so much greater than a judge of a State court? [Applause.] Who are these judges of the Federal courts? They are the men who have been taken off the benches of the State courts from the bars over the country. What has made them more able to construe a statute than a State judge? Where and how is this measure loaded down with any such amendments? What complication does this amendment involve? I defy the gentleman or any other gentleman to point out how any harm may come from the adoption of this amendment. It simply gives the right of trial in the locality where the cause of action arises and at home where the witnesses are. It gives opportunity for a full and fair hearing of a cause. It assures economy in the administration of justice. It assures a speedy trial in a competent tribunal. Does anybody have objection to this? If so, let him state it. Can anyone who desires fair play in our courts take exceptions to it? If so, I would be pleased to have him do it. We are now legislating on a subject of much interest to the American people. Relief has been promised them from the extortions of remorseless organizations, in which greed and avarice have been the dominating features in their operations. They have stifled competition, bankrupted their weak and unfortunate competitors, and out of the ruins of the unfortunate created monopoly, through which the people have been unmercifully plundered. Let us furnish the best and easiest method for a redress of grievances, in order that the people may take advantage of its provisions and secure relief. With that end in view I offered this amendment, and no one will here deny but what it will afford great benefit in the administration of this law.

The people expect us to afford them a complete remedy and a convenient method for its administration. Their eyes are upon us; they are patiently scanning every move made, because they know how they have suffered for the want of appropriate and adequate legislation on this subject, how often it has been promised, and how often they have been deceived in this matter. They must not be deceived now, but we must afford them a full and complete means of relief and a convenient and economic method for the enforcement of the same. This amendment means much for the success of this legislation, and the poor man, the man who needs this legislation most, will hail its adoption with satisfaction and delight. The committee in charge of this bill and this House should be interested in its success. If it will assist in destroying monopoly, in dissolving combinations operating as a restraint in trade, in restoring competition, it will be hailed with delight by millions of people all over our country and will redound to the glory of all who helped enact it. The amendment under consideration will assist in carrying out the good purposes it proposes and will make it available to many who otherwise could never invoke its provisions or take advantage of the protection it affords. I hope it will be adopted, so that its provisions may become available to the poor as well as the rich, to the weak as well as the strong. [Applause.]

Every line and every word will be closely scrutinized by thousands of patriotic people who have suffered for the want of such legislation and who hope to secure relief through its provisions. They are watching every move made here, every vote cast, in order to know how each man stands, whether friendly to them or friendly to the special interests which have thrived at their expense. They have been promised means for relief; they demand every obligation contained in that promise be scrupulously kept and the fullest measure of relief afforded within the power of this lawmaking body. We will comply fully with the obligation if we adopt this amendment. [Applause.]

The CHAIRMAN (Mr. MURRAY of Oklahoma). The time of the gentleman has expired. The question recurs on the amendment offered by the gentleman from Indiana as a new paragraph to the section.

The question was taken, and the Chair announced he was in doubt.

The committee divided; and there were—ayes 35, noes 30.

Mr. WEBB. Mr. Chairman, I ask for tellers.

Tellers were ordered.

The committee again divided; and the tellers (Mr. CULLOP and Mr. WEBB) reported that there were—ayes 32, noes 34.

So the amendment was rejected.

The Clerk read as follows:

SEC. 20. That whenever it shall be made to appear to any district court or judge thereof, or to any judge therein sitting, by the return of a proper officer on lawful process, or upon the affidavit of some credible person, or by information filed by any district attorney, that there is reasonable ground to believe that any person has been guilty of such contempt, the court or judge thereof, or any judge therein sitting, may issue a rule requiring the said person so charged to show cause upon a day certain why he should not be punished therefor, which rule, together with a copy of the affidavit or information, shall be served upon the person charged with sufficient promptness to enable him to prepare for and make return to the order at the time fixed therein. If upon or by such return, in the judgment of the court, the alleged contempt be not sufficiently purged, a trial shall be directed at a time and place fixed by the court: *Provided*, however, That if the accused, being a natural person, fail or refuse to make return to the rule to show cause, an attachment may issue against his person to compel an answer, and in case of his continued failure or refusal, or if for any reason it be impracticable to dispose of the matter on the return day, he may be required to give reasonable bail for his attendance at the trial and his submission to the final judgment of the court. Where the accused person is a body corporate, an attachment for the sequestration of its property may be issued upon like refusal or failure to answer.

In all cases within the purview of this act such trial may be by the court, or, upon demand of the accused, by a jury: in which latter event the court may impanel a jury from the jurors then in attendance, or the court or the judge thereof in chambers may cause a sufficient number of jurors to be selected and summoned, as provided by law, to attend at the time and place of trial, at which time a jury shall be selected and impaneled as upon a trial for misdemeanor; and such trial shall conform, as near as may be, to the practice in criminal cases prosecuted by indictment or upon information.

If the accused be found guilty, judgment shall be entered accordingly, prescribing the punishment, either by fine or imprisonment, or both, in the discretion of the court. Such fine shall be paid to the United States or to the complainant or other party injured by the act constituting the contempt, or may, where more than one is so damaged, be divided or apportioned among them as the court may direct, but in no case shall the fine to be paid to the United States exceed, in case the accused is a natural person, the sum of $1,000, nor shall such imprisonment exceed the term of six months.

Mr. BARTLETT. Mr. Chairman, I move to strike out the last word, unless the gentleman from North Carolina has an amendment to offer.

Mr. WEBB. No; I have no amendment to offer.

Mr. BARTLETT. Mr. Chairman, this provision in this bill and subsequent provisions of it, especially that provision that requires that a party charged with indirect contempt of court must be accused, tried, or convicted of contempt by a jury as in criminal cases, is a step in the direction of proper trials in court in such cases. We boast, Mr. Chairman, those of us who live under the English system of laws, that the system of jury trials as handed down to us from English jurisprudence is the greatest palladium of the liberties of the English-speaking people, yet in a case which involves imprisonment and fine, forfeitures and punishment by both imprisonment and fine, we have been struggling in Congress for 20 years or more in order to have enacted into a statute of the United States the right of the American citizen to be tried by a jury of his peers in this class of cases when his liberty and property are at stake. We are about to realize a successful completion of the efforts of the men who have struggled long and patiently to obtain that end. The first bill I had the honor to introduce as a Member of Congress, when I became a Member of it in 1895, was a bill to permit and require, when demanded by a man who might be charged with indirect contempt of the court, that the trial should be by jury.

I have at each succeeding Congress introduced a bill to that effect. It was never considered favorably by a Republican committee or House, but a bill of like character was favorably reported at the last Congress and passed by this House.

The Senate of the United States in 1896, at the instance of Senator Hill, of New York, did pass a bill, introduced by him, providing for jury trials in indirect contempt cases. It came to this House, and went to the Committee on the Judiciary of the House, where it slept the death that knew no waking. The Democratic platform in 1896 embodied a demand for the passage of that bill, and from 1896 down to 1912, again and again, it has been reiterated in every Democratic national platform that trials of indirect contempt cases in the courts shall be by jury when that demand is made by the accused.

Mr. Chairman, this bill gives to the American citizen, charged with the violation of an order or an injunction of the court in these cases that we know to be indirect contempts, the right that he ought to have had from the foundation of the Government—the right to have his case, when he is charged with a criminal offense or a quasi-criminal offense, tried by a jury of his peers. This bill further contains a provision giving a right which has not heretofore been enjoyed by those who undergo these trials, namely, the right of appeal. We know the history of these trials, and——

The CHAIRMAN. The time of the gentleman from Georgia has expired.

Mr. BARTLETT. I ask for three minutes more.

The CHAIRMAN. The gentleman from North Carolina [Mr. WEBB] has no more time.

Mr. BARTLETT. I ask the Chairman.

The CHAIRMAN. The gentleman asks unanimous consent?

Mr. BARTLETT. I asked unanimous consent, and I addressed myself to the Chair.

Mr. CARLIN. Mr. Chairman, I ask unanimous consent that the gentleman may proceed for five minutes more.

The CHAIRMAN. The gentleman from Virginia [Mr. CARLIN] asks unanimous consent that the gentleman from Georgia [Mr. BARTLETT] proceed for five minutes. Is there objection?

There was no objection.

The CHAIRMAN. The gentleman will proceed.

Mr. MANN. Make it 10 minutes.

Mr. BARTLETT. I want only 5 minutes. We who have investigated the matter and have kept pace with it know the history of these cases. It is shocking to my sense of justice; it has always been a matter that offended my sense of what the right of American citizens was, that when charged with crime the judge should be grand jury, prosecutor, and jury to find a verdict and then as judge to pronounce a sentence. Therefore, during all these years, at least since I have been a Member of this House—which on the 4th day of March next will be 20 years—the struggle has gone on, and during those years I have devoted whatever energy and ability I possess to the accomplishment of what this bill accomplishes; that is, to have the right of trial by jury enjoyed by the accused in these contempt cases.

I have been in a United States court, Mr. Chairman, and seen cases of constructive or indirect contempt tried by the judge when those cases were instigated, inaugurated, prosecuted, heard, and tried and judgment rendered and sentence pronounced by the judge who instigated and had the prosecutions started, and when the men thus accused, thus tried, thus convicted, and thus punished, undertook to find relief from what those who had investigated the case or heard it thought and believed to be an outrage upon the rights of a citizen, an illegal and unjust punishment, by appeal to a higher court, they would find that it was embodied as a principle in our jurisprudence that no appeal lay from any such judgment in any such case.

And so, when the American people had wakened up to the idea that there were cases where men could be criminally punished, could be criminally accused, could be tried and convicted as in a criminal case, could be imprisoned and placed in jail and within prison walls, and have their money and property taken from them and be incarcerated in prison; that there was not the right accorded to them which every American citizen and every man who lives under the Anglo-Saxon system of jurisprudence ought to have; when they realized this fact the campaign proceeded and has gone on and on, and the doctrine which was asserted, that the courts have in themselves the inherent power to punish for contempt, and that no one should decide that question except the judge, has been dissipated. These sections in this bill, and those that permit—or require, rather—criminal information and the facts to be set out in the trial of a man accused before a jury, give him a right that he never had before to appeal that case to a higher court and have it considered on its merits.

These are the things which the Democratic Party's platform has demanded, and these are the things which the Democratic Congress intends by this bill to place upon the statute books. It breaks the chains that bound the people to the unjust and tyrannous decisions of unjust judges. [Applause.]

The CHAIRMAN. The time of the gentleman from Georgia has expired.

Mr. QUIN. Mr. Chairman, I move to strike out the last word.

Mr. BARTLETT. Mr. Chairman, I withdraw the pro forma amendment.

Mr. QUIN. Mr. Chairman, I move to strike out the last two words.

The CHAIRMAN. The gentleman from Mississippi [Mr. QUIN] moves to strike out the last two words.

Mr. QUIN. Mr. Chairman, at least to my conception of law, justice, and right, this section, which gives a trial by jury in contempt cases, is writing into the statute laws of this land enlightened thought. It shows the spirit of the age—that we are moving away from the old archaic idea that all wisdom and all justice is within the cranium and heart of one man, that of a judge appointed for a term lasting until he is dead.

Gentlemen, that has been one of the prerogatives that the courts of this country have possessed since the Constitution was first adopted. It has been more abused than any other right that the courts have had, and I am proud to have the opportunity to vote for a bill that takes that right away from the courts. Not that the judge himself is not honest, but some judges get so far removed from the people that they can not feel for the man who is down in life. [Applause.]

I know from personal experience something of contempt cases, where a Federal court issued a sweeping injunction in a strike that covered every man in the community that was indirectly or remotely involved; and, regardless of what he did, he was amenable to that court under contempt proceedings, and no jury could he have.

I believe that this bill will give the people of the country more confidence in the courts. It will give them more respect for the courts, and it will give the courts to understand that the people have rights, and that those rights can be passed upon by their peers.

Mr. GARDNER. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. Does the gentleman from Mississippi yield to the gentleman from Massachusetts?

Mr. QUIN. I do.

Mr. GARDNER. Is it not the gentleman's opinion that one of the great causes of attacks upon the courts of this country is the fact that they have had imposed on them, or have assumed, the duty of trying persons without a jury for the violation of restraining orders issued in labor cases?

Mr. QUIN. I think the gentleman from Massachusetts is correct. However, I believe myself that some of the courts of the country have brought themselves into the contempt of the people because of that right being frequently abused by autocratic judges.

Mr. GARDNER. The gentleman ought not to understand——

Mr. QUIN. The American people ought to love the courts, but instead of doing that the usurped and assumed power by the courts has made them, in a measure, the object of contempt.

Mr. GARDNER. I hope the gentleman will not imbibe from my remarks the idea that I am blaming the courts. I am blaming the law or the practice which imposes on the courts the duty of trying without a jury those cases of contempt of court in the matter of labor injunctions. I do not blame the courts, however, for doing what they believed to be their duty. Fortunately it will no longer be their duty after this law shall have been passed.

Mr. QUIN. The gentleman is correct. But the long following of that rule leads the judge to entertain the idea that he is all-powerful, and sometimes he gets to be a tyrant. That is what the people of America complain of.

If the judge knew he would be on the bench only for a few years, and that his reappointment depended on his method of trying cases, it is very likely that he would always try to be in harmony with the people and the law. A judge can make mistakes as well as any other person.

And the judicial tyranny of this country is to-day written through the decisions. If you will read those decisions, you can see tyranny there that is equaled nowhere on earth except by the Czar of Russia or, perhaps, the ruling of some military court; and there is not a man in the United States who could ever have any respect for the ruling of a court-martial. I say that the courts of this country have had a power that they ought not to have had under the constitution of a republic. Some of them have used it properly, but others have used it improperly. It has been a method of oppression, a tool with which to oppress the people. [Applause.]

It has been too easy for the great and powerful corporations to be either directly or indirectly instrumental in naming the

Federal judges of this country. In many instances the judge has spent his life as the retained attorney of the special interests, and it matters not how honest he may be, he sees the law from a different viewpoint as distinguished from the ordinary citizen. The great corporate interests believe in the Federal courts, and the sweeping injunction is the weapon which they can always use in an unfair and unjust manner.

Every intelligent citizen knows that many judges have abused the right to adjudge a citizen to be in contempt of the court, and the same judge try and sentence him. In late years the freedom of the press has been abridged by some autocratic judges.

The United States is a Government of the people, and the original framers of our Constitution never intended that the courts should usurp any authority or infringe upon the liberties of the people. The privilege of a Federal judge to deny the right of trial by juries in contempt cases has grown to be one of the greatest abuses in our scheme of government. I do not believe any judge ought to hold his position for life, as there is too much danger of him growing to be an autocrat and intolerant of the views and the rights of others. This section in the antitrust bill which allows the persons charged with contempt to be tried by a jury is one good step in the right direction. Yet there is nothing in the bill to prevent the judge from charging the jury orally and from his seat of power tell the jury that he thinks the individual accused is guilty. He may not do it in so many words, but he will give the jury to understand that he thinks the fellow ought to be convicted. Gentlemen, that is the next evil Congress will be called on to correct. These Federal judges ought not to hold office over a certain term of years. The Constitution should be amended making the term of office of Federal judges for a period of four years, and if any judge holds longer it would be necessary for him to be reselected. I regard life tenure in any functionary position of the Government as indefensible. What good reason can there be assigned for making any man a judge on the bench for life? I am happy to vote to force the courts to grant the jury in contempt cases, and I will be still happier in voting to bar life appointments of judges. The people of this country can never rule in reality as long as the judges hold for life. The laws we are passing this week constitute a real bill of rights, a veritable Magna Charta in which the American citizenship can see hope for the future.

Mr. BRYAN. Mr. Chairman, I wish to offer an amendment.

The CHAIRMAN. The gentleman from Washington offers an amendment, which the Clerk will report.

The Clerk read as follows:

Page 39, line 4, after the word "months," add the following:

"In all trials for contempt in such cases the judge whose order has been disobeyed shall not be eligible to sit as presiding judge where any defendant files a motion for change of judge on the ground that he believes such judge to be prejudiced or that a fair and impartial trial can not be had before such judge."

Mr. BRYAN. Mr. Chairman and gentlemen, I think that amendment ought to receive the careful consideration of this House and be adopted. The gentleman from Massachusetts [Mr. GARDNER] just suggested that the burden imposed upon the courts in these matters is one of the reasons for the lack of confidence on the part of the people in the courts in a great many cases.

Mr. MURRAY of Massachusetts. Will the gentleman suggest the origin of this duty of the court; how it came about that the courts have such authority?

Mr. BRYAN. The courts have held that in contempt cases they have inherent rights to try and punish. State judges have held that their rights are superior to the legislatures of the several States, and that their right to fine for contempt does not depend upon legislative enactment; and especially was that illustrated in the Idaho case, where an editor, whose name, I think, was Broxon, published a criticism by Theodore Roosevelt on the action of the court out there in shutting out Progressive electors, and the judges of that court said they were proceeding by inherent right and not under authority conferred by the legislature. But that is aside from the question.

Mr. BARTLETT. How does the gentleman's amendment remedy that defect?

Mr. BRYAN. The gentleman from Massachusetts [Mr. MURRAY] led me off on that line. He probably did not intend to; but my amendment proposes that where a defendant is brought before a judge for violating an order of that judge, the judge who has issued the order is not to try the case if the defendant requests a change of judge. There is no reason why a judge who has been angered by the violation of one of his orders should sit and try the case. That has been spoken of here by the gentleman from Georgia [Mr. BARTLETT]. That is sought to be remedied in this act by calling a jury of 12 men; but the judge who rules on the admission of testimony and who charges the jury and interprets the law can many times force a conviction from the jury, and it is not a fair and impartial tribunal where a man is haled before the court to be tried on a summons issued by direction of the court for violating an order that the judge of that court himself has issued. If you want to make this fair, if you want to make it so that a defendant before the court will have a chance of a fair trial, give him an opportunity to be freed from standing before the judge who has ordered him arrested.

The legislatures of a number of the States have provided that in any case where a man comes before the court and files his application for a change of judge and enters an affidavit stating that he believes the judge sitting on the bench is prejudiced against him and that he can not have a fair trial before that judge, then the judge sitting in that court must call in another judge to try that case. There are many Federal judges in this country, and these judges have their prejudices. I do not believe that a defendant ought to be compelled to go to trial before a judge under those conditions. It is true that you can not make this absolute. You can not get perfection. It may be that the second judge will feel the same way, and this amendment only provides for one change, one substitution; but there is at least a better chance at obtaining an impartial judge. It is very easy for the judge to call some one else to try the case. The same statute is on the books of the State of Washington. The same statute is on the books of the State of Ohio. There is nothing new or wrong or abhorrent about it. There is no reason why it ought not to be adopted, especially in a contempt case.

THE CASE AGAINST GOMPERS, MORRISON, AND MITCHELL.

The decision of the Supreme Court of the District of Columbia in American Federation of Labor *v.* Buck Stove & Range Co. (33 App. Cases, D. C., 83) is one that attracted tremendous attention. As an outcome of a violation of the "inherent right" of the court to punish for contempt, the head of the American Federation of Labor till a few days ago stood condemned to serve a term in a Federal prison. I shall not attempt to discuss this case except to cite it as one of unusual significance. Mr. J. W. Van Cleave was the principal owner of the Buck Stove & Range Co., of St. Louis. He was also the president of the National Manufacturers' Association, with its manipulations as a corruptionist and insidious lobbyist, with its Mulhall and its millions. The Buck Stove & Range Co. employed union and nonunion men. Thirty-five union men in one branch of the company's service got into a dispute with their employer over matters pertaining to hours of work. The difficulty was not satisfactorily adjusted and a strike ensued. The American Federation of Labor indorsed the action of the men, ordered a boycott of the products of the company, and placed its name upon the federation's "We don't patronize" list. The company applied to the Supreme Court of the District of Columbia for an injunction to restrain such boycott. On December 18, 1907, the court granted an injunction, pendente lite, restraining the defendants as prayed for in the bill.

The injunction granted pendente lite in this case was in violation of the Constitution, and the appellate court so decided. It was an absurd autocratic order that trampled upon individual freedom, the freedom of the press, and was entirely unjustified. This is established by the majority opinion of the appellate court, by which the absurd injunction was materially modified, but, in my judgment, the dissenting opinion of Chief Justice Shepherd should have been the conclusion of the majority. The injunction both as originally granted and as modified by the majority opinion of the court prohibited the publication of the "We don't patronize" list in the American Federationist, the journal of the labor organizations.

The people of this country are not going to permanently stand for such power as permits a life-tenure judge to order an editor in advance of a trial on an ex parte hearing not to publish this or to publish that. Surely if the judge can say what the editor can not publish, by the same token he can tell him what he must publish. The term "freedom of the press" becomes a silly and meaningless phrase under such conditions. The learned judge in his dissenting opinion cited Chancellor Kent, as follows:

It has become a constitutional principle in this country that every citizen may freely speak, write, and publish his sentiments on all subjects, being responsible for the abuse of that right, and that no law can rightfully be passed to restrain or abridge the freedom of speech or the press.

Chief Justice Shepherd continues:

The true ground for the denial of jurisdiction to restrain the publication of a libel destructive of property is that the exercise of such jurisdiction would amount to an abridgement of the freedom of the press by establishing a censorship over the press so enjoined. The

soundness of this view is demonstrated in an able opinion by Fenner, J., speaking for the Supreme Court of Louisiana, in such a case. (State, ex rel. Liversey, *v.* Civil District Judge, 34 La. Ann., 741, 745.) He says: "There would be no safe course except to take the opinion of the judge beforehand or to abstain entirely from alluding to the plaintiff. What more complete censorship could be established? Under the operation of such a law, with a subservient or corrupt judiciary, the press might be completely muzzled and its just influence upon public opinion entirely paralyzed. Such powers do not exist in courts, and they have been constantly disclaimed by the highest tribunals of England and America. It has passed into a settled rule of jurisprudence that 'courts of equity will not lend their aid to enjoin the publication of libels or works of a libelous nature, even though the libelous publication is calculated to injure the credit, business, or character of the person against whom it is directed.'"

In view, then, of the provision of the first amendment, I can come to no other conclusion than that the only remedy for libelous or otherwise malicious, wrongful, and injurious publications is by civil action for damages and criminal prosecution. There is no power to restrain the publication.

For the reasons given I can not agree to the terms of the decree as modified. In my opinion it should be modified so as to restrain the acts, only, by which other persons have been or may be coerced into ceasing from business relations with the Buck's Stove & Range Co., but so as not to restrain the publication of the name of that company in the "we don't patronize" columns of the American Federationist, no matter what the object of such publication may be suspected or believed to be.

Chief Justice Shepherd believes the attempt to enjoin Gompers, Morrison, and Mitchell from publishing this list in the American Federationist and from talking about the Van Cleave outfit as unfair was an infringement of the Constitution of the United States, and that Gompers, Morrison, and Mitchell had the right to print and talk about the matter and that no court could take that right from them. Is it surprising that Gompers, Morrison, and Mitchell believed the same thing?

THE COURT'S ORDER MUST BE OBEYED, THOUGH UNCONSTITUTIONAL.

The labor leaders at once appealed from the order to the higher court. They put up their bond on appeal, just like the Mulhall employers had put up their bond on obtaining the order. Notwithstanding the appeal, the order remained of full force till reversed. The fact that the appellate court would modify the order and deliver an opinion that it was an outrage on the Constitution could not abate in the slightest its "inherent"—from God descended—power. "What if it does violate the Constitution, this court's order must be obeyed." This is the uniform position taken by all courts as to their injunctions. It does not lie in the mouth of any puny man or labor leader to question a court's order—if it violates the Constitution, reverse it if you can by the regular, tedious, and expensive course of the law's delays, and by the order of a brother judge, but in the meantime, obey is the word.

It is worthy of note that obedience does not need be granted to a statute of Congress which violates the Constitution. Not for a moment. If Congress violates the Constitution in the enactment of a statute, no attention need be paid to it. Such a statute is void ab initio. Anyone is at liberty to violate it with impunity; the quicker it is violated and wiped off the statute books the better for all concerned. If Congress were to enact into law the principles of the iniquitous injunction issued for Mulhall's overlords by the court, prohibiting certain publications and ordering people not to talk about the Mulhall crowd being unfair, no newspaper publisher would for a moment attempt to obey the statute. They would fall back on the Constitution and their rights, as they have done hundreds of times, and then the court would say, as it has said hundreds of times: "You did right; you did not need to obey Congress; the law was unconstitutional." And by its later doctrine the court has found that an "unreasonable" statute is absolutely void and need not be obeyed.

Not only are unconstitutional legislative orders void and entirely unworthy of notice or obedience, although solemnly passed by the House and the Senate and duly signed by the President, but Executive orders, presidential proclamations, treaties with foreign countries, and all forms of Executive demands are void and not worth the paper on which they are written if not in accord with the Constitution. All such may be held in contempt or may be totally ignored.

AN EX PARTE INJUNCTION IS PRIVILEGED ABOVE A STATUTE.

Not so when a judge at the behest of the Mulhall crowd orders men at the head of a great movement for the bettering of labor conditions to suspend exercising their constitutional rights. What if the order does violate the Constitution, it is the voice of the court. It is not the puny legislative or executive department that now speaks; it is the department of the judiciary, which rules like the Kings of England once ruled—by "inherent" right.

Gompers, Morrison, and Mitchell knew this, and they did their very best to obey the order. They took the Mulhall concern off the unfair list and tried to edit their paper to the liking of the court. While the order was on appeal, however, these three men were, on motion of an attorney who was a fellow employee of Mulhall, brought before court and ordered to pay heavy fines and to go to Federal prison, there to do hard labor for 12, 9, and 6 months, respectively, for "contempt" alleged to have been committed in the violation of the injunction. No trial by jury; of course not! Jury trials are designed for the other branches of the Government—the legislative and executive. This is the judiciary enforcing its decree. It makes no difference that the order was made ex parte, before trial, and is yet to be set aside by the United States Supreme Court. In this case the court is acting under powers superior to statute and the Constitution. It is acting under "inherent" rights derived from God Himself under procedure set in motion by Mulhall's associate, as an humble agent in the hands of God to work out His immutable decrees!

FACTS INVOLVING CONTEMPT VERY INDEFINITE.

Gompers had written and published editorials, had appealed for funds, and had advised the members of the federation as to their duty and their rights, and had made references to this suit and to labor's constitutional rights in campaign speeches. Morrison was in contempt because he had allowed old copies of the American Federationist to be circulated that had this "We don't patronize" list in them. They had obeyed the order and allowed the judge to edit their magazine to the extent of eliminating the "We don't patronize" list from all editions after the order was signed. Malefactor Morrison had also sent out printed copies of the printed official proceedings of a prior convention of the American Federation of Labor which contained a record of officers and committee reports of the convention relative to this very controversy. He had also sent out copies of the Federationist. Mitchell had violated the order of the judge against talking or printing by presiding at a convention of the United Mine Workers of America where a resolution was introduced calling upon the members of the union not to patronize this outfit of lobbyists and stove makers.

There is nothing in the record of this case to show that this National Manufacturers' Association was, through one of its representatives, just about this time attempting to bribe Gompers to throw down his work for organized labor and pass into a life of ease, in which case, of course, the case would have been dismissed and the contempt of court duly purged, so far as the court and the complaining lobbyists are concerned.

Of course, it is now well known that this contempt case has been settled by the order of the Supreme Court dismissing it.

I have in mind other contempt cases not involving labor difficulties where the same rule should prevail. The Idaho case which I have already referred to, where C. O. Broxon, editor of the Boise Capital News, offended the feelings of some judges that ought to have been impeached by criticizing their decision by which Roosevelt electors were denied the right to have their names published on the official ballot. These judges ordered Broxon and R. S. Sheridan and A. R. Curzen imprisoned; and they actually served their term of 10 days because of the publication of the Roosevelt criticism. It was an outrage against the spirit of our institutions that these judges could do this without a verdict of guilty from a jury to precede the sentence. Yet the judges said they were acting by inherent authority, and that the legislature had no right either to limit or regulate their authority in contempt matters.

Then, take the case of Col. Nelson, of the Kansas City Star. I do not remember all the details of that attempted judicial outrage, but it stands out to-day as an illustration of the absolute necessity of ordering the courts of this country to give up their self-assumed rights to imprison editors and others where they feel aggrieved. Except for the resourcefulness of Col. Nelson and the order of an appellate court he would have gone to jail.

In my own experience I was the editor and proprietor of a weekly paper published at Bremerton, Wash. I still own the paper, though it is now published in the adjoining town of Charleston, Wash. I was in a fight with a corporation-owned judge in that county, and I used to go to court to try my cases with an appeal bond in my pocket already signed in blank, so that I would be ready to perfect an appeal quick and save temporary incarceration for some unavoidable display of the contempt I felt for that judge.

I had urgent need of that bond, too, one day, and later I needed more than a contempt-of-court bond. But I will say that that particular judge is not in the State of Washington now; he is not away on a visit, either.

Mr. WEBB. Mr. Chairman, the committee will have to oppose this amendment, not because it is not meritorious, but because it is already provided for in the statutes of the United States.

Mr. BRYAN. Oh!

Mr. WEBB. Oh, yes; it is. The gentleman says "Oh," but I will read it to him. Section 23 of the Judicial Code says:

Whenever a party to any action or proceeding, civil or criminal, shall make and file an affidavit that the judge before whom the action or proceeding is to be tried or heard has a personal bias or prejudice either against him or in favor of any opposite party to the suit, such judge shall proceed no further therein, but another judge shall be designated in the manner prescribed in the section last preceding, or chosen in the manner prescribed in section 23, to hear such matter. Every such affidavit shall state the facts and the reasons for the belief that such bias or prejudice exists.

That is all my friend asks.

Mr. BRYAN. Does it not leave it discretionary with the court?

Mr. WEBB. Oh, no; not at all.

Mr. BARTLETT. And the circuit court of appeals for the fifth circuit have decided that it is not discretionary; that the judge has to get off the case.

Mr. BRYAN. I thought it left it discretionary with the judge.

Mr. WEBB. I think it is already covered by the statute. I hope the gentleman will withdraw it.

Mr. BRYAN. Then I will withdraw it.

The CHAIRMAN. The gentleman from Washington asks unanimous consent to withdraw his amendment? Is there objection?

There was no objection.

Mr. GARDNER. Mr. Chairman, I move to strike out the last two words. When I interrupted the gentleman from Mississippi [Mr. QUIN] I was trying, very imperfectly, owing to my lack of legal training, to explain a thought which I have had for a long time, to wit, that the attack on the courts of the United States, so strikingly prominent in recent years, arose substantially from two causes: First, our Constitutions, State and National, impose on our courts the duty of passing on the constitutionality of legislative acts. That is an unpopular function for our courts to perform, but I believe it to be a function which our courts ought to perform. Second, upon our judges has been imposed, either by judicial decision in times past or by statute, the duty of trying without a jury persons charged with the violation of injunctions issued in connection with labor disputes.

Mr. MURRAY of Massachusetts. Will the gentleman yield?

Mr. GARDNER. Certainly.

Mr. MURRAY of Massachusetts. May I ask my colleague whether there is any alternative to this position? Is it not a fact that there is not any statute imposing these duties except such statutes as may be declaratory of the common law? The difficulty in this regard is because of the crystallized abuse in which, in the first instance, the judges usurped this matter of issuing injunctions in labor cases.

Mr. GARDNER. The first instance, I have been told, occurred in Massachusetts.

Mr. MURRAY of Massachusetts. The first instance arose in England.

Mr. GARDNER. The fact is, I think, that some one or other made up his mind that a jury would not convict strikers. Yet a trial by jury under the terms of the Constitution is guaranteed to every man accused of crime. Some court somewhere—and I was under the impression that it was in my own State—devised the ingenious plan of converting a crime into a contempt of court by the simple process of ordering persons to refrain from acts which the statute had already declared to be crimes. Hence a practice arose under which a judge would step in and say, "Not only does the State declare in the law that this act which you are perhaps going to commit is a crime, but, what is more to the point, I, the judge, also say that it is a crime." Now, what was the object of that performance? Why, sometimes, doubtless, it was this: If the person enjoined went ahead and committed the forbidden act, the question of the court's dignity became involved and the accused got punished, not for a crime but for contempt of court. I have very little patience with any device to deprive a striker or anyone else of his constitutional right to a jury trial by the issuance of an injunction designed to convert a crime into a contempt of court. For this and other reasons I give my approval to the anti-injunction and trial-by-jury features of this bill.

Great Britain has been going through pretty much the same sort of evolution which we are going through. Yet during this period of change and attack on old institutions the courts of Great Britain have not been assailed. The reason, in my opinion, is that the British courts have not been faced with the necessity of declaring laws to be unconstitutional, nor has the writ of injunction in Great Britain been used in such a way as to negative the right of jury trial which ought to be assured to every man accused of wrongdoing.

Mr. BRYAN. Mr. Chairman, I rise to oppose the pro forma amendment. Mr. Chairman, the section of the statute that the gentleman from North Carolina read is a new section put into the statutes since I had the matter under consideration in the State of Washington, when I introduced the same measure in the senate of that State. A number of lawyers and the attorney general declared that it was the most outrageous and ridiculous proposition they ever heard of. It was the hardest effort of my legislative life to keep the governor from vetoing the statute at the request and advice of the attorney general. I am glad to see that the same principle has been put into the Federal statutes. It is right, and the lawyers and litigants, as well as the judges, of the State of Washington know now that it is right, and it would be impossible to repeal it.

Mr. MANN. Mr. Chairman, I move to strike out the last two words. I do not propose to discuss the matter under consideration in the House, largely for physical reasons. I notice with great regret that it seems to be a very popular thing in this body to denounce the courts. During this debate I think I have heard no one on this floor say a word sustaining the integrity of the courts, but I have heard considerable denunciation.

Courts do not always decide cases the way I would like to have them decide them, or at least they did not when I was an active practitioner at the bar. I do not always agree with the decisions of the courts in their construction of legislative acts, nor do I agree with gentlemen on this floor when they say that the courts have lost the confidence of the people. I think the courts have the confidence of the people to a far greater degree than has this House. As far as I am concerned, I have faith in the integrity of the courts as courts, in the integrity of the judges who fill those positions in the courts, and I believe that when the time comes, if it ever does come, which God forbid, that the people really believe, as certain gentlemen have stated on the floor of this House to-day that they do believe that the courts have lost the confidence of the people of this country, that what we will receive is first anarchy and then absolutism. I do not think that time will ever come. I think the courts and the judges of the courts can probably afford to smile good-naturedly at the wild and foolish denunciations which are leveled at them, go ahead, following their duty as best they can, and that in the end they will find that the people sustain them and sustain the doctrine that the last resort in this country in a case of controversy is to judicial determination. [Applause.]

The Clerk read as follows:

SEC. 21. That the evidence taken upon the trial of any person so accused may be preserved by bill of exceptions, and any judgment of conviction may be reviewed upon writ of error in all respects as now provided by law in criminal cases, and may be affirmed, reversed, or modified, as justice may require. Upon the granting of such writ of error, execution of judgment shall be stayed, and the accused, if thereby sentenced to imprisonment, shall be admitted to bail in such reasonable sum as may be required by the court or by any justice or any judge of any district court of the United States or any court of the District of Columbia.

Mr. MURRAY of Oklahoma. Mr. Chairman, I offer the following amendment.

The Clerk read as follows:

After the word "Columbia," in section 21, line 15, strike out the period and insert a colon and add the following: "*Provided*, That the procedure for writ of error or appeal as in this act provided shall not be construed by any court to supersede the writ of habeas corpus, but the right of such writ shall never be denied to liberate any citizen from false imprisonment in charges of contempt."

Mr. MURRAY of Oklahoma. Mr. Chairman, it may be a bit difficult to explain the purpose of this amendment, but nevertheless I feel it ought to be suggested to the House. Section 20 provides a remedy for the trial of contempt cases. Section 21 provides the method of appeal. The contempt has been stated to be inherent in every court of record under common law. It is not a crime; it is inherent because of the necessity of some power for the self-preservation of the court. It will be a very sad day when the court will not exercise or have that power. However, we have found that there should be limitations upon that power, like there have been upon other powers.

In section 20, as I stated, we have provided for a jury trial. In section 21 we place the contempt along in the category of crimes, and we provide that it shall be under the law governing criminal cases.

Of course gentlemen may reply that the Constitution prohibits the suspension of the writ of habeas corpus, but it does not take away the power to supersede it with additional or other writs. Suppose in a certain jurisdiction it was not a violation to sell liquor and some one was imprisoned for selling it. In such a case there would be no remedy in criminal procedure, and the only relief would be the writ of habeas corpus. But suppose it was made a crime to sell liquor, then he could not be liberated under the writ, because the law making it a

crime would provide a procedure, so that the writ of habeas corpus in that case would be superseded. In this bill you have a writ of error, and it provides for a bond. The fellow who can not make the bond you have subjected to burdens, which could not be permitted under a writ of habeas corpus. If he can not make his bond, he will have to lie in jail, while the writ of habeas corpus, the highest writ of liberty, gives him a speedy relief, and I offer this amendment in view of those changes in the matter of procedure, and I think it essential to protect those men who happen to be fined for contempt, who would be unable to make bonds. I think it was an error to place contempt cases side by side with criminal trials.

Mr. WEBB. Mr. Chairman, this is a criminal matter. It has been generally known as criminal contempt we are dealing with. If that were not so, we would not be interposing a jury between the judge's sentence——

Mr. MURRAY of Oklahoma. Oh, no; that is a question only of limitation—the interposition of a jury, just as we have limited their powers in other branches, and it is not a question of crime.

Mr. WEBB. Wherever a judge can put a man in jail we regard that as a sort of criminal or quasi criminal action, and therefore we have no apologies to make for preserving the defendant's rights in this bill as rights should be preserved in all criminal cases.

Mr. WILSON of Florida. Mr. Chairman, will the gentleman yield?

Mr. WEBB. Yes.

Mr. WILSON of Florida. There is nothing to keep the defendant in a contempt case from suing out a writ of habeas corpus.

Mr. WEBB. Nothing.

Mr. MURRAY of Oklahoma. There are some classes that could not under this procedure.

Mr. WEBB. If he is indicted for murder or robbery, he always, of course, has the right of suing out a writ of habeas corpus.

Mr. MURRAY of Oklahoma. The gentleman does not undertake to say that in an indictment for murder a man could be liberated under the writ of habeas corpus except where he alleges that he was denied bail when he had the right to bail?

Mr. WEBB. He ought not to be allowed to do that in any case unless he alleges something entitling him to the writ.

Mr. MURRAY of Oklahoma. He can do it if he alleges that he is denied bail when he has the right to bail, but he can not relieve himself from the charge of murder by a writ of habeas corpus.

Mr. WEBB. Of course not.

Mr. MURRAY of Oklahoma. You place contempt as a crime. It is merely a disrespect of the court under a power given to the court for self-preservation only.

Mr. WEBB. Mr. Chairman, contempts are divided into criminal and civil contempts, and we are dealing with the criminal contempt in this bill, and we preserve the right to appeal and the right to sue out a writ of habeas corpus if the defendant can show that the court has no jurisdiction or that he has been subjected to an unusual or cruel punishment or excessive bail, and so forth, has been required. In those circumstances he can then go to court and sue out a writ of habeas corpus as in all other criminal cases, and we have preserved the defendant's rights absolutely in this section, which seems to be satisfactory to our labor friends and all others, so far as I know, and I do not see the necessity of accepting this amendment, because the rights of every defendant under this bill are preserved. So far as the writ of habeas corpus is concerned, that is a constitutional right, and a defendant can always exercise it whenever he has a proper case.

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from Oklahoma.

The amendment was rejected.

The Clerk read as follows:

SEC. 22. That nothing herein contained shall be construed to relate to contempts committed in the presence of the court, or so near thereto as to obstruct the administration of justice, nor to contempts committed in disobedience of any lawful writ, process, order, rule, decree, or command entered in any suit or action brought or prosecuted in the name of, or on behalf of, the United States, but the same, and all other cases of contempt not specifically embraced within section 19 of this act, may be punished in conformity to the usages at law and in equity now prevailing.

Mr. MURRAY of Oklahoma. Mr. Chairman, I offer the following amendment, which I send to the desk and ask to have read.

The Clerk read as follows:

Amend, on page 39, line 25, after the word "prevailing," strike out the period and insert a colon and add the following: "*Provided*, That in no case shall a penalty or punishment be imposed for contempt until a trial is had and an opportunity to be heard is given the accused."

Mr. MURRAY of Oklahoma. Mr. Chairman, the unfortunate part of this paragraph is the closing words:

And all other cases of contempt not specifically embraced within section 19 of this act may be punished in conformity to the usages at law and in equity now prevailing.

What are these "usages"? In some jurisdictions the "usage" has been for the court to say, "Mr. Marshal, place the man in jail." I remember in the old Indian Territory, under the Federal jurisdiction, as a practitioner at the bar, I was fined $25 by the court without a word. That was the usage there. I remember on a subsequent occasion I said to the court that he had no power to charge the jury, because his court was less than a court of record under the common law. He ordered me to jail for three days, and on a writ of habeas corpus I was liberated. That is the usage in many jurisdictions.

Gentlemen seem to enjoy the fact that the court sent me to jail. He ordered me to jail, but I did not go. I have been fined for contempt many times, but I never have suffered the penalty.

Mr. MANN. The gentleman did not go to jail, and instead they sent him to Congress. [Laughter.]

Mr. MURRAY of Oklahoma. Yes; later.

Mr. CARTER. But not for the same offense. [Laughter.]

Mr. MURRAY of Oklahoma. No.

Mr. MOORE. Mr. Chairman, will the gentleman yield?

Mr. MURRAY of Oklahoma. No; I desire to get back to my subject.

Mr. MOORE. This is right in point. If they did not send the gentleman to jail, did they not send him to Congress?

Mr. MURRAY of Oklahoma. Those fellows did not send me to jail, but the people who limited their powers sent me to Congress. So in this provision in this law the only difference between it and the Oklahoma constitution is that wherever the United States is a party there is no jury trial. I think it is correct to provide in the law that the judges shall fine as for contempt where the contempt is in the presence of the court or is liable to obstruct the due process of justice. I think that is necessary and that the court should have the right without a trial by jury. But no man should be imprisoned without a hearing. The first element of contempt is the intent, just as is the "intent" coupled with an act which makes a crime. And so we placed in the Oklahoma constitution, and I think it is proper here, a provision that no man should be punished for contempt without a trial, without a hearing. You have provided over here a trial by the court or a trial by the jury, if the one committing the offense demands a trial by jury; but in this case, where the contempt is committed in the presence of the court, there is no trial, or in the case of the disobedience of a writ, where a suit is brought on behalf of the United States, which may be outside of the court, the defendant is not guaranteed a trial by court or by jury. I am not urging in this kind of cases that there ought to be a trial by jury, but I believe, as Judge Hurt, of Texas, said when Jerome Kirby cursed Judge Flint in the open court and the judge sent him to jail without writing the charge on the docket, that no man should be sent to prison without putting upon the docket why he was sent to prison. To do so would jeopardize the liberty of the citizen.

So, in this class of cases, let the trial be before the court; let him have a trial and let him have an opportunity to be heard and let him state whether it was intended or show such extenuating circumstances that might tend to liberate him so that the record might be made.

Mr. MURRAY of Massachusetts. Will the gentleman yield?

Mr. MURRAY of Oklahoma. Yes.

Mr. MURRAY of Massachusetts. Would you have that trial take place before the same judge?

Mr. MURRAY of Oklahoma. Certainly I would; and then we have a record——

Mr. MURRAY of Massachusetts. And would the gentleman have it take place at the immediate time when the contempt was alleged to have been committed, or subsequent, or when?

Mr. MURRAY of Oklahoma. I would let the judge fine him for contempt, but no punishment to be had until the accused was heard and had a trial.

Mr. MURRAY of Massachusetts. Heard before whom?

Mr. MURRAY of Oklahoma. Before that same judge.

Mr. MURRAY of Massachusetts. When?

Mr. MURRAY of Oklahoma. At any time when it suited the judge, but he can not "punish" him, understand.

Mr. MURRAY of Massachusetts. Is not that a proceeding where the very fact there is any proceeding at all shows the judge who is going to do the trying says in advance there has been a contempt?

Mr. MURRAY of Oklahoma. Yes; but it does this: It gives opportunity to have a record made, and when the record is made he, when he is punished or attempted to be punished, may appeal to the higher court and in that case invoke the right of habeas corpus to liberate him upon the record that shows he ought to be liberated.

The CHAIRMAN. The time of the gentleman has expired.

Mr. MURRAY of Massachusetts. Mr. Chairman, I ask unanimous consent that the gentleman's time may be extended for five minutes.

The CHAIRMAN. The gentleman from Massachusetts asks unanimous consent that the time of the gentleman from Oklahoma may be extended for five minutes. Is there objection? [After a pause.] The Chair hears none.

Mr. MURRAY of Massachusetts. There might be a record of certain facts, but is there any record of impartial testimony or an impartial finding on impartial testimony?

Mr. MURRAY of Oklahoma. There is a record on both sides in the hearing in the one case, just as the judge makes a finding *upon knowledge* in his own mind. Under the proceeding I offer, you have the statement of the accused, you have both sides of the question, and you have a higher court to pass upon it.

Mr. MURRAY of Massachusetts. But in the first instance, before the higher court passes upon it at all, there is a decision of the judge that there has been contempt committed in his presence, and the judge in whose presence the contempt was committed would send this man to jail or——

Mr. MURRAY of Oklahoma. It does not follow in that case in his presence alone, if he violates any writ——

Mr. MURRAY of Massachusetts. Well, let us take first the direct contempt, committed in the presence of a judge. The gentleman's plan, as I understand it, is he would have the judge against whom the contempt was directed immediately suspend a trial that might be going on for the purpose of hearing the testimony in reference to the alleged contempt.

Mr. MURRAY of Oklahoma. No, sir; it is true the judge in the exercise of discretion left him under the law will wait until he is through with the case until an opportune moment, and then try, but he would not punish until he had that trial.

Mr. MURRAY of Massachusetts. Well, I know, but my objection is not as to the time nor the manner in which the trial for contempt is had. I do not like the idea of the same judge who says the man has been in contempt, trying the man who he says had committed the contempt.

Mr. MURRAY of Oklahoma. I do not agree to the idea every time some man wants to swear a judge off the bench it ought to be permitted. I believe, in the first place, in giving the court enough power to preserve the dignity and strength of the court, and I believe in that doctrine thoroughly; but I do not believe in the case of contempt against the judge that some other judge ought to be summoned, but I do believe in giving the accused an opportunity to get in his evidence, and——

Mr. MURRAY of Massachusetts. Is not there as much opportunity of maintaining and preserving the dignity of the court by a proceeding before a jury or before a separate justice? Is it not a far better plan to preserve the dignity and security of the court to have the proceeding before a jury of impartial men than to have a finding by a man who says he was aggrieved when the man committed the contempt?

Mr. MURRAY of Oklahoma. Not in the case of a direct contempt.

Mr. MANN. Will the gentleman yield?

Mr. MURRAY of Oklahoma. Yes, sir.

Mr. MANN. I could not hear what the gentleman said in reference to the provision in the Oklahoma constitution about not permitting people to be locked up until they had been tried; but I understood the gentleman to say that if a policeman arrested a drunk or disorderly or arrested a man committing a crime he could not lock him up until after he has been tried.

Mr. MURRAY of Oklahoma. Could not punish.

Mr. MANN. "Could not lock him up," the gentleman said a while ago.

Mr. MURRAY of Oklahoma. "Punish" is the word used in this amendment. He may hold him in custody.

Mr. MANN. Does not the gentleman make a distinction between locking up and punishing?

Mr. MURRAY of Oklahoma. Punishing and imprisoning.

Mr. MANN. Locking up is imprisonment; punishment may not be, but locking up is.

Mr. WEBB. Mr. Chairman, we can not agree to go so far as my friend from Oklahoma desires us to go in his amendment. This section provides that a judge may punish for contempt summarily those contempts committed in his presence.

Now, something has been said about the integrity of the courts, and I want to make this observation: If you take that power away from the courts, then you do destroy the very basis of the court's integrity and its power to protect itself. In other words, it ceases to be a court.

Another is where the contempt is committed not in the actual presence of the judge but so near thereto as to disturb the proceedings of the court; that is the business of the people.

The third is where a person violates an order in a suit brought by the United States. That provision was put in there, gentlemen, as most of you know, for the purpose of giving the court the power to enforce its orders in antitrust suits.

Mr. MURRAY of Oklahoma. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. Does the gentleman from North Carolina yield to the gentleman from Oklahoma?

Mr. WEBB. Yes.

Mr. MURRAY of Oklahoma. Does the gentleman understand that this amendment changes that a particle?

Mr. WEBB. Yes. You provide for a trial, and it would be a farce for a judge sitting on a bench to hear a man, say, break out in some cursing language or abusive language, or some violent outburst of temper, and then say, "I will try you to see if you did that," when he was sitting there himself and heard it. A farce like that ought not to be required in a courthouse.

Mr. MURRAY of Oklahoma. How does that trial lessen the dignity of the court when the judge of the court himself finally tries and passes upon the evidence and the law and fines the defendant? How does it check his ability to conduct the court?

Mr. WEBB. There are some things that ought not to be allowed in a court, and when a man infringes on the privileges of the court the judge ought to have the right to stop him right there, without going through the formality of a trial.

Mr. MANN. Mr. Chairman, will the gentleman yield there?

Mr. WEBB. Yes.

Mr. MANN. Suppose a man on trial went into a court room with a dozen rotten apples in his pocket, and he fired one at the judge, and the gentleman from Oklahoma, acting as a judge, should postpone consideration of that until the man had fired another rotten apple, and still another, and so on until he had fired a dozen? [Laughter.]

Mr. WEBB. Do you say rotten apples?

Mr. MANN. Yes; or it might be rotten eggs, for that matter.

Mr. MURRAY of Oklahoma. Mr. Chairman, will the gentleman yield again?

Mr. WEBB. Yes.

Mr. MURRAY of Oklahoma. Do you object to the provision of this amendment that says he shall have a hearing? Would you be willing to strike out the word "trial" and say he shall not be punished until the accused has an opportunity to be heard?

Mr. WEBB. Mr. Chairman, in reply to that, there may be a few judges in this country who are so arbitrary as not to give a man a chance to purge himself of contempt; but I know very few of them, and rather than cast suspicion and reflection on every judge by passing this sort of an amendment I would prefer to take the chances of impeaching the judge who violates that rule in his practice.

The CHAIRMAN. The time of the gentleman from North Carolina has expired.

Mr. MURRAY of Oklahoma. Mr. Chairman, I ask unanimous consent for just five minutes.

The CHAIRMAN. The gentleman from Oklahoma asks unanimous consent to proceed for five minutes. Is there objection?

Mr. CARLIN. Reserving the right to object, Mr. Speaker, how many minutes does the gentleman desire?

Mr. MURRAY of Oklahoma. Say three minutes.

Mr. CARLIN. I have no objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

Mr. MURRAY of Oklahoma. Mr. Chairman, the gentleman from North Carolina [Mr. WEBB] urges that this is a reflection upon the courts. How much more a reflection is it to take away from the court entirely the trial of the case and put it before a jury? There is your first reflection upon the court.

Mr. WEBB. Let me answer the gentleman there.

Mr. MURRAY of Oklahoma. Let me finish, and then I will yield to the gentleman.

Mr. WEBB. When a crime is committed, say, 10 miles from the presence of the court, and it does not involve the organization and integrity of the court——

Mr. MURRAY of Oklahoma. Yes; and you except every writ and order and every decree and every command wherever a suit is brought on the part of the United States and in its behalf.

Mr. WEBB. That is to protect the big trusts of the country.

Mr. MURRAY of Oklahoma. And when that is brought, a man may be a thousand miles away, and under this provision he has not a jury trial. I am not urging that he has not even an opportunity to be heard in a case like that. Now why, if one is a reflection on the court, is not the other also a reflection on the court? I would be the last man in the world to reflect upon the courts as such. I believe in preserving to the courts power enough to protect the dignity of the courts.

Mr. WEBB. Did you ever hear of a case where a court did not give a man a right to purge himself of contempt?

Mr. MURRAY of Oklahoma. The usage in this bill is the old usage. It was the usage in the old Territory of Oklahoma. I have been fined myself more than once in that way. [Laughter.]

Mr. CAMPBELL. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. Does the gentleman from Oklahoma yield to the gentleman from Kansas?

Mr. MURRAY of Oklahoma. Yes.

Mr. CAMPBELL. Has it never occurred to the gentleman from Oklahoma that we are legislating here for other States than Oklahoma? [Laughter.]

Mr. MURRAY of Oklahoma. They do not do that now in Oklahoma, because this is in the constitution, and we have no difficulty in preserving the dignity of the court.

Mr. CAMPBELL. There is no such practice in other courts. Even if a man has been convicted, the court allows the defendant to say something before sentence is pronounced.

Mr. MURRAY of Oklahoma. That has been the practice in the inferior Federal courts. That is the usage, not the law.

Mr. CAMPBELL. That does not obtain in Kansas in any court, not even in a justice's court.

The CHAIRMAN. The time of the gentleman from Oklahoma has expired. The question is on agreeing to the amendment offered by the gentleman from Oklahoma.

The question was taken, and the Chairman announced that the noes seemed to have it.

Mr. MURRAY of Oklahoma. A division, Mr. Chairman!

The CHAIRMAN. A division is demanded.

The committee divided; and there were—ayes 31, noes 47.

So the amendment was rejected.

Mr. THOMSON of Illinois. Mr. Chairman, I move to strike out the last word.

The CHAIRMAN. The gentleman from Illinois [Mr. THOMSON] moves to strike out the last word.

Mr. THOMSON of Illinois. Mr. Chairman, the statements made this morning by one of the Washington papers as to my attitude on the Webb amendment to section 7 of the bill now pending so completely misrepresented my position in the matter that I wish to state on the floor here as clearly as I can just what my position was and is on the matters involved in that amendment. I did not vote for it. In my judgment, the contentions of Mr. MURDOCK and Mr. MACDONALD to the effect that the amendment is ambiguous and uncertain, and probably will prove ineffectual so far as the purposes sought to be accomplished by the labor organizations are concerned, are correct.

But assuming that it does go as far as its proponents say it does, it then exempts "fraternal, labor, consumers', agricultural, or horticultural organizations, orders, or associations"—to quote the language of the bill—from the operation of the antitrust laws.

The real friends of this amendment contend that in effect it excludes these organizations from the operation of the antitrust laws just as clearly as the amendment offered by Mr. MACDONALD, of Michigan, proposed to do in very plain terms. I am opposed to any such wholesale exemption of these or any other organizations from the operation of the antitrust laws.

I do not believe that the acts of combinations of labor should be regarded by the law precisely as the acts of combinations of capital are. Their legitimate objects are different, and the proper means employed to reach their ends are likewise different, and therefore their operations should be regulated differently by the law, but nevertheless the acts of both should be regulated. Laws should be enacted regulating the activities of each kind of organization—the one founded on capital and the one founded on labor.

I will admit that the so-called antitrust laws are designed primarily to regulate combinations involving capital. But they prohibit the doing of certain specified things and the making of certain kinds of contracts by anybody. These laws now are held by the courts to operate to prevent organizations of labor from doing certain things that I believe they ought to have the right to do under the law. A strict interpretation of the law might, as their leaders contend, threaten the very existence of the organizations. In these respects the laws should be changed. Organizations of the kind mentioned in this amendment have a right to exist. They have rendered a great service to civilization. They have a field of activity which is proper, is needed, and in the exercise of which the law should protect them.

But also the antitrust laws operate to prevent these organizations from doing certain other things that I believe they ought not to have the right to do under the law. The Webb amendment does not distinguish between these two classes of activities which such organizations indulge in, but with one stroke exempts such organizations from the law entirely, thus making it possible for them to engage not only in proper acts, but improper ones. For instance, under this amendment a labor organization could not only engage in a strike, entirely justified under conditions existing, which might operate to restrain interstate commerce, but it could establish a boycott or a secondary boycott.

It seems to me that a proper amendment would be one seeking to take out from the operation of the law not certain kinds of organizations, but the doing of certain acts. It is the act itself that should be the criterion. Certain acts should be prohibited and others permitted, and the law should apply to everybody and to all kinds of combinations. But to me it becomes unwarranted class legislation when we prohibit the doing of certain things and then provide that certain persons or combinations of persons shall not be bound by the law. That is what this amendment does, and therefore I could not support it.

The Sherman law declares that every "contract, combination in the form of trust or otherwise, or conspiracy in restraint of trade or commerce among the several States or with foreign nations is hereby declared to be illegal." That law also says that every person who shall make any such contract or engage in any such combination or conspiracy shall be deemed guilty of a misdemeanor and shall be punished as provided in the law. Further, the law says that every person who shall monopolize, or attempt to monopolize, or combine or conspire with any other person or persons to monopolize any part of the trade or commerce among the several States or with foreign nations shall be deemed guilty of a misdemeanor and on conviction thereof shall be punished as provided.

The Webb amendment will, if this bill passes, write into the law of this country a paragraph providing that fraternal, labor, consumers', agricultural or horticultural organizations, orders, or associations instituted for the purpose of mutual help, and not having capital stock or conducted for profit, and the members of such organizations "shall not be construed or held to be illegal combinations or conspiracies in restraint of trade under the antitrust laws."

I am as good a friend of labor as my Progressive colleague from Michigan [Mr. MACDONALD] or my Progressive colleague from California [Mr. NOLAN] or my colleague from Illinois [Mr. BUCHANAN] or any other Member of this House. I am against every form of oppression and unfair and unreasonable treatment that the laboring man has had to endure, and in some cases is still enduring. And I shall do all I can for the early enactment of every reasonable and proper law that seeks to put an end to such things. I will vote for all measures included in the program of social justice, but I could not support such an amendment as this. Labor organizations have long been seeking equality of treatment with organizations representing the other end of the economic structure. I think they should have that treatment, and am willing to do all I can to give it to them. But why they should have more than that I fail to see. I am just as much opposed to creating a privileged class out of the organizations specified in this amendment as I have always been to creating a privileged class out of organizations of capital. One practice is just as vicious as the other.

The Webb amendment goes to the length of saying that a monopoly or a restraint of trade shall not be indulged in by any kind of organization except those specified in the amendment. In determining what organizations or what kinds of organizations come or should come within the antitrust laws, the true test to apply is not what is the organization, one involving capital or one involving labor, but the true test is what does the organization do. Does it restrain commerce or not; is it a monopoly or is it not.

If a contract, combination in the form of trust or otherwise, or conspiracy, in restraint of trade or commerce among the several States or with foreign nations, is undesirable and is illegal, as it is declared to be by the Sherman law, it is so no matter who the person or what the organization may be that is involved. Can it be that a restraint of trade or a monopoly or conspiracy to that effect is bad where a corporation for profit is the actor involved but is perfectly harmless and quite proper where a labor union or a farmers' organization is the one involved? If monopolies or conspiracies in restraint of trade are a bad thing, they are a bad thing, no matter by whom,

no matter by what kind of an organization they are fostered. To prohibit them by legislation except where they are perpetrated by labor or fraternal organizations or farmers' associations or the members thereof is as clear an example of unwarranted class legislation as can be furnished.

It is mere folly to contend that simply because labor is a human attribute and capital is a mere inanimate thing that combinations of those who deal solely in the former ought not to be hampered in such acts as operate to restrain trade while those who deal in the latter commodity ought to be prohibited from doing any acts having such a tendency.

Again I say, if restraint of trade and monopoly and conspiracy to that end are wrong, what matters it whether that restraint is brought about by the manipulation of that which is a human attribute or that which is an inanimate thing? The antitrust laws relate to combinations of persons, not of capital nor of labor as such, and to certain acts by those persons. Capital in itself can do nothing, nor can labor. It is with the owners and the manipulators of these things and the way in which those owners use these things as distinguished from the things themselves that the laws should have to do.

But this amendment says that these laws shall not apply to these persons so long as the thing that they use and manipulate to restrain trade is a human attribute—labor—and that all such persons shall be exempt from the operation of the law.

If the Webb amendment had specified certain proper acts and kinds of acts usually engaged in by such organizations as are named in the amendment, and which are now prohibited by a strict construction of the antitrust laws, and had provided that they might be legally done notwithstanding the antitrust laws, I would have supported the amendment.

It is the acts proper in themselves that should have been excepted from the operation of the antitrust laws, and the laws, with the exceptions adopted, should apply to everybody and every kind of organization. But in excepting certain organizations and classes of individuals from the operation of the law not only acts proper in themselves, such as a peaceful strike, are legalized, but acts not proper in themselves, such as a secondary boycott, are legalized.

I am opposed to any exemption which has such an effect or which might be so construed, and therefore I did not support the Webb amendment, and I also voted against the MacDonald and Thomas amendments.

Mr. BRYAN. Mr. Chairman, section 22 includes among the exceptions any case in the name of or on behalf of the United States. Does not that exception include receivership cases, where railroads, for instance, would be in the hands of the court and the court would enter orders concerning them? Are not all those cases conducted in the name of the United States?

Mr. WEBB. No; this is where the United States is a party to the suit.

Mr. BRYAN. But it does not say that. It says—

In the name of, or on behalf of, the United States.

My present impression is that these orders in receivership cases are issued in the name of the United States in the Federal courts.

Mr. WEBB. I think this does not cover those cases.

Mr. BRYAN. I will not offer any amendment, but I think you will discover an indefiniteness here.

The Clerk read as follows:

SEC. 23. That no proceeding for contempt shall be instituted against any person unless begun within one year from the date of the act complained of; nor shall any such proceeding be a bar to any criminal prosecution for the same act or acts; but nothing herein contained shall affect any proceedings in contempt pending at the time of the passage of this act.

Mr. MORGAN of Oklahoma. Mr. Chairman, I desire to offer an amendment to come in as a new section.

The CHAIRMAN. Are there any amendments to perfect the text of section 23?

Mr. BUCHANAN of Illinois. Mr. Chairman, I move to strike out the last word.

The CHAIRMAN. The gentleman from Illinois is recognized for five minutes.

Mr. BUCHANAN of Illinois. Mr. Chairman, I have not taken up any of the time of this committee during this debate. Those who desire the freedom of action of the labor people of the country expected that we were going to have the practically unanimous support of the House to those amendments that we believed would exempt the labor people of the country—organized labor—in their liberty of action that the Constitution of the United States is supposed to guarantee.

It was stated on the floor, in the discussion of section 7, that the amendments adopted were a compromise on the part of the representatives of labor. While I do not assume to speak for organized labor, and while I am not wholly familiar with their thoughts in regard to the matter, I believe it is safe to say that they consider the question of exemption from the operation of such laws as the Sherman antitrust law, and laws created for the purpose of preventing the monopoly of commodities, as being entirely separate and apart from the questions involved in the activities of organized labor. They consider it so important to have human beings in their normal activities freed from the operations of the Sherman antitrust law that there is absolutely no chance for them to agree to any sort of a compromise, so far as that is concerned. While it is true that those of us who considered this question of such great and vital importance to the wageworkers of the country at first desired an amendment providing that the antitrust laws shall not apply, we believed that the amendment finally agreed upon was fully as strong as the amendment that we had first proposed.

I wish to say we did not accept that amendment as any sort of a compromise. We believed that the Democratic Party, the Progressive Party, and even the Republicans, the great majority of the Members of this House, had seen the light in regard to this question. We believed that they had plainly seen the difference between commodities and living human beings; in other words, that they had come to the conclusion that humanity was in a different class from a ton of coal, a bolt of cloth, or a pile of bricks, and therefore did not consider this to be class legislation of any sort, or any special privilege. In other words, labor organizations do not desire to be permitted to buy up and monopolize any commodity for the purpose of profit, but they do want to be placed in the same status—in other words, to be restored to the same status—in which they were before the Sherman antitrust law was twisted to apply to their activities. On this question there could be no compromise. If it was simply a question of language that meant the same thing, then we were not so much concerned. While personally I believed in making the language short and clean-cut, so that there could be no doubt in regard to the matter, and while so far as I was concerned I was willing to make the issue a clean-cut one. I claim that it is high time that the people of this country know how their public servants stand on this question, whether or not they really mean to give to the labor people of this country, who bear the burdens of industry, that freedom of activity guaranteed them by the Constitution. They believe the time has now come when judges shall not be permitted to strangle justice and liberty by construing and applying laws contrary to the intention of the creators of the law.

The CHAIRMAN. The time of the gentleman has expired.

Mr. BUCHANAN of Illinois. Mr. Chairman, I ask unanimous consent to proceed for five minutes.

The CHAIRMAN. The gentleman from Illinois asks unanimous consent to proceed for five minutes. Is there objection?

Mr. KINDEL. I object.

The CHAIRMAN. The gentleman from Colorado objects.

Mr. MORGAN of Oklahoma. Now, Mr. Chairman, may I offer my amendment?

The CHAIRMAN. The gentleman from Oklahoma offers an amendment, which the Clerk will report.

The Clerk read as follows:

Mr. MORGAN of Oklahoma moves to amend, on page 40, by adding a new section, to follow section 23, and to be numbered section 24, as follows:

"SEC. 24. That whenever any United States attorney shall have reliable information that any corporation engaged in commerce in the manufacture, sale, or distribution of any necessity of life, or of any article, product, or commodity in common use is a virtual monopoly, or by reason of the nature, character, or extent of its business the absence of effective competition or for any other cause possesses the power to arbitrarily control the price or prices of any necessity of life, or of any article, product, or commodity in common use, or controls the price or prices paid to the producers of any article, commodity, or product in common use, or controls the price or prices paid for the product of any mine, or of any oil or gas well, it shall be the duty of said United States attorney, under the direction of the Attorney General, to file a petition in the United States court against said corporation alleging the aforesaid facts, and praying that the said corporation shall be adjudged a quasi-public corporation and made subject to the control of the Commissioner of Corporations or subject to the control of any commission that, at the passage of this act or thereafter, may be the successor of the Commissioner of Corporations, in all its practices, prices, and charges in like manner and to the same extent that common carriers are now subject to the control of the Interstate Commerce Commission; and if the court shall find that the material facts alleged in the petition are true it shall render a decree adjudging the said corporation to be a quasi-public corporation, and adjudging the said corporation to be subject in all its practices, prices, and charges to the control of the Commissioner of Corporations or the commission, as the case may be, as prayed for in the petition: *Provided*, That thereafter the practices of said corporation in conducting its business and the prices at which it shall sell its products and the price or prices it shall pay the producer of any of the articles, commodities, or products mentioned in this section shall be just and reasonable."

Mr. MORGAN of Oklahoma. Mr. Chairman——

Mr. CARLIN. I desire to make the point of order that the amendment is not germane to this bill.

Mr. MORGAN of Oklahoma. I should like to be heard on that point of order. I did not quite get the ground of the point of order, and I wish the gentleman would state it again.

Mr. CARLIN. That it is not germane. As I understand, the amendment relates to the duties of the trade commission.

Mr. MORGAN of Oklahoma. No; it provides for a proceeding whereby we may control a virtual monopoly.

Mr. CARLIN. I withdraw the point of order. Let the gentleman discuss the merits.

The CHAIRMAN. The gentleman from Virginia withdraws the point of order.

Mr. MORGAN of Oklahoma. Mr. Chairman, I do not present this amendment as expressing my conception of what should be done as a broad, comprehensive, effective measure to control the industrial corporations of this country, commonly known as trusts.

In the bill No. 18711, which I introduced in the Sixty-second Congress and which I reintroduced in this Congress, I have presented my idea of the administrative machinery that is needed in the form of a Federal trade commission, the power that should be conferred upon this commission, and the laws that should be enacted to enable the Federal Government to exercise the proper and necessary control over our large industrial corporations in both their practices and prices. But we have completed the consideration of the bill to create an interstate trade commission without conferring any adequate power upon the commission to exercise the control over our large industrial corporations which is demanded for the proper protection of the people of this country.

We have had this bill—House bill 15657—under consideration for a number of days. The last section has been read, and I propose a new section to follow the last section, which I believe would add materially toward securing substantial and beneficial results under the bill.

While the amendment does not express my idea of what should be done, I am certain it is a step in the right direction, and if it were adopted splendid results would follow therefrom. Then, having ascertained that the majority in this House will not go as far as I think we should go, I present this proposition, hoping the majority will go a part of the way in the right direction, for a half of a loaf is better than none.

Mr. Chairman, I want the Members of the House to get clearly in mind that this provision only applies to corporations which arbitrarily control the price or prices of some necessity of life or of some article in common use among the people.

It does not apply to all industrial corporations, however much their capital or wealth may be, but it narrows it down to providing a procedure against a corporation that possesses the arbitrary power to control the prices of a product in common use or of some necessity of life. And before that power shall be exercised, under this section that I propose, the United States attorney is required to file a suit in court, citing and bringing the corporation into court, giving that corporation the right to defend, and if after a full hearing the court shall find on the single issue that the corporation does control the price of a product in common use or of some necessity of life, then the court is given authority to adjudge that corporation a quasi public corporation and subject to the control of the Commissioner of Corporations or the commissioner that may be made his successor in the same manner that common carriers are subject to the control of the Interstate Commerce Commission.

In proceeding under the Sherman antitrust law we have two remedies. We may dissolve the corporation or fine it. The amendment which I have offered provides a new remedy. And a new remedy is needed. Under the Sherman law the American Tobacco Co. and the Standard Oil Co. were dissolved. But it is generally believed that some of these companies still possess the power to control prices of their products, yet there is no remedy, no procedure, for relief. In my own State the Standard Oil Co., or one of the branches into which it was divided by the court, absolutely controls the price of petroleum and its products in that State. The same company controls the price of products throughout other States of the Union. Under the law as it now exists our people are powerless. There is no procedure by which they can free themselves from the monopolistic power of this gigantic corporation.

Now, when you undertake to dissolve a corporation under the Sherman antitrust law you must prove the conspiracy and you must prove many things before you get a decree against it. In this procedure there would be one single proposition to prove, one single issue—Does the corporation control the price of any necessity of life or of any product in common use among the people? If, after a hearing in court, this question shall be answered in the affirmative, say, that the corporation ought not to be brought under the control of the Federal Government, who will say such corporation should be permitted to continue with this power to levy tribute upon the people? Such corporation has ceased to be a mere private business concern, making reasonable profits under competitive conditions. It is not profits it makes, but it is levying tribute; for a great corporation, controlling the production and the prices of an article in common use, really possesses the taxing power.

Now, I appeal to you to let this section go into this law. Give the people an additional remedy. Give the people a procedure whereby they may go into court and determine what power a big corporation has to arbitrarily control prices of articles in daily use among the people.

We hardly realize, I think, to what extent the prices of products in common use in this country are within the arbitrary control of great corporations. The farmer goes to town, and perhaps he wants to buy coal. He visits the coal yards, and they have all the same price. He wants to buy lumber, and he visits the lumber yards, and they all make the same price. He goes into a dry goods store to buy clothing for his family, and he finds that they all sell at the same price. He wants to borrow some money, and he goes to the banks, one after another, and they all charge the same rate of interest. Now, the local merchants are not to blame; they must have a reasonable profit; but they buy of big corporations which practically fix the prices at which local dealers must sell. But the farmer comes to town to sell his corn, wheat, or cattle, or hogs. He finds the prices at which he must sell his products are largely fixed by big corporations doing business in the great cities, the centers of trade and commerce. This is what the people are complaining about. This is the thing from which they ask relief. Do you propose to pass this trust bill without giving the people a single additional remedy? Do you think the people will think you have done your duty when you have prohibited a few things? The things which you have prohibited in this bill will not materially change present conditions. All the provisions in this bill are not sufficient to destroy a single trust or to take away from a single corporation the power to control the prices of articles in common use. [Applause.]

In our antitrust legislation we should keep clearly in mind what we want to accomplish, the evil to be eradicated, the result to be attained. We should have a definite program in mind. As I see it, this is what we want to do: Destroy monopoly, maintain competition, prohibit unfair practices, prevent unjust discrimination, secure equality of opportunity, insure reasonable prices, give protection to the people, encourage enterprise, reward industry, and promote prosperity. The one thing that is dangerous in a large corporation is its power to arbitrarily control prices—the prices not only of what people buy, but the prices of what farmers and other producers have to sell. Now, this is a power that no private corporation should have or can have with safety to the people. Now, then, I have suggested a procedure and the judicial and administrative machinery by which any corporation suspected of possessing this power may be brought into court and the question determined. If the corporation is found to possess this power, then I provide that its practices and the prices of its products shall be subject to the control of a Federal commission so long as that power exists. We control the rates and charges of our transportation companies and of our public utility companies solely on the ground that their charges are not controlled by competition. I submit that we have the same moral and legal right, and that there is the same public necessity to control the prices of the products of our great industrial corporations when they possess a like power to control the prices of articles in common use. More than this, it will have a great moral effect upon the great business concerns of this country when the Government may, by a judicial proceeding, determine what degree of monopolistic power they possess; and, in addition to this, when you have demonstrated to the people that either through effective competition or governmental control they shall be fully protected from monopolistic prices and charges, you will have taken a long step toward social and industrial peace. You will have contributed to the material progress of our country. You will have laid the foundation for the highest possible expansion of our trade and commerce. You will have strengthened the fabric of the Republic and added to the prosperity, contentment, and happiness of the American people.

Mr. BUCHANAN of Illinois. Mr. Chairman, labor's representatives do not consider that they have compromised in regard to the amendments to this bill. I do not consider that the President has made any compromise nor undergone any change. To bear out my position I want to read what the President said about this legislation in his speech accepting the nomination of the Democratic Party.

Mr. KINDEL. Mr. Chairman, I make the point of order that the gentleman is not talking to the matter before the House.

The CHAIRMAN. The gentleman from Colorado makes the point of order——

Mr. DAVENPORT. Mr. Chairman, I did not understand that the gentleman from Colorado made a point of order.

Mr. MURDOCK. The gentleman from Colorado has made the point of order, but the gentleman from Illinois is entitled to proceed.

The CHAIRMAN. The Chair understood the gentleman from Colorado to make a point of order that the gentleman from Illinois was not confining his remarks to the subject. The gentleman from Illinois will proceed.

Mr. BUCHANAN of Illinois. I want to say now that the gentleman from Colorado made an erroneous statement a short time ago when he said that I objected to his remarks. I did object to his inserting some matter in the RECORD in regard to the Colorado strike, but I never objected to the gentleman making a statement on the floor.

Mr. KINDEL rose.

The CHAIRMAN. For what purpose does the gentleman from Colorado rise?

Mr. KINDEL. I want to correct the gentleman from Illinois.

The CHAIRMAN. Does the gentleman from Illinois yield?

Mr. BUCHANAN of Illinois. No; I do not yield. As I was saying, the President stated in his speech accepting the Democratic nomination:

> The working people of America—if they must be distinguished from the minority that constitutes the rest of it—are, of course, the backbone of the Nation. No law that safeguards their life, that improves the physical and moral conditions under which they live, that makes their (the working people of America) hours of labor rational and tolerable, that gives them freedom to act in their own interests, and that protects them where they can not protect themselves, can properly be regarded as class legislation or as anything but a measure taken in the interest of the whole people, whose partnership in right action we are trying to establish and make real and practical. It is in this spirit that we shall act if we are genuine spokesmen of the whole country.

Therefore, I say, Mr. Chairman, that when the President lends his support to legislation such as the amendment labor desires to secure in this bill, he has not undergone a change. I want to say, in addition to what I have said, that those who can not distinguish the difference between human physical and mental activity and commodities, in my opinion, are mentally unfit to pass upon matters that concern humankind. Before they are capable of coming to the right conclusions in regard to the matter they must understand that labor is not in the same class with commodities, that a human being can not be placed in that class In regard to the injunction, to me it is a reflection upon the republican form of government in this country where our forefathers spent their blood and lives for freedom and liberty that it becomes necessary to pass an act to give the citizens of our Republic that equality and liberty which the Constitution guarantees; and when we are passing measures to curb injunction judges, or, in other words, when judges enjoin citizens from exercising their legal and constitutional rights, they are usurping power and therefore committing a crime. I hear much said about the dignity of the judges, and I agree that the position of judge is a dignified position, but when those who are holding that position do not conduct themselves in accordance with the dignity of the position it is all the more reason why they should be criticized for the wrongs they commit.

The usurpation of power by the judges of our country has created public mistrust and contempt for our judiciary. When our judges are guided by the justice and patriotism of our forefathers, who freed us from the tyranny of monarchy, public respect and confidence will be restored; but when their decisions and constructions of the laws are influenced by the vicious combinations of the criminal rich they will continue to lose the confidence and respect of the great masses of the people.

Section 18 of this bill is a prohibition of restraining orders and injunctions by the courts of the United States. It does not legalize any act that is not already legal and constitutional, and therefore it is for the purpose of preventing judges from usurping power by issuing injunctions to prevent citizens from exercising their legal and constitutional rights.

I am unalterably opposed to government by injunction. I do not think that judges have any right to issue injunctions restraining citizens from violating the laws of the country, because in every State, county, city, District, and Territory of the United States the Government has its officials to enforce the laws, and in my judgment justice will be better served if the laws against violence and other necessary prohibitions are enforced in the regular way by giving a hearing and trial by jury, as provided in the Constitution and laws of the country. If wage workers violate the law they should be prosecuted the same as anyone else, no matter whether there is industrial strife or industrial peace; in fact, all they ask is to be on equal terms before the law with every other citizen.

The justice which affects men and women is not some impersonal, universal thing, but a force which accords them their rights in the relations with other men and women. Justice must be made effective in all the interests and phases of life. Since justice can only result through the conductivity of a human will, the human agent is the most important factor in securing it. Theoretically absolute justice is, of course, never realized in the actual, but we must at least approximate it. To be an agent of justice is a most serious function, requiring the highest qualities of heart and mind.

To do justice one must understand the past and the future. Whatever the judge knows of the past is part of his own mental background. Whatever he knows of the future is his prophetic instinct born of his knowledge of the human heart.

Knowledge is the mass of usable impressions and facts that have accumulated from environment, thought, and life. This knowledge is the means of interpreting the present. Whatever experience is not a part of one's knowledge can not influence the mind in deciding present problems. A judge whose mental capacity has never been keyed to the whir of modern industry and does not contain real experiences that enable him to step into the shoes of the man who works for an employer for wages can never get the viewpoint of those who view life from the machines of industry. If he can not get the viewpoint, he can never enter into that life to a sufficient degree to enable him to know justice for the affairs of that life, for he could never understand what it was all about. A man who does not take for granted the great things in human nature can not be an agent of justice, for he has no sense of the future into which the whole world is swinging. A judge who does not believe in the masses can apply only the letter of the law without understanding the spirit of justice.

Perhaps no more conspicuous example of the absence of the true judicial temperament can be found than Alston G. Dayton, Federal judge for the northern district of West Virginia. His official acts prove either that he is unable to understand the life of the masses of the people or that he has deliberately allied himself with a particular class interest against the welfare of the masses. Whichever is true, he is incapable of unprejudiced decisions and unable to perform duties in a manner requisite to justice.

In the article by Samuel Gompers, president of the American Federation of Labor, appearing in the current issue of the American Federationist some of Judge Dayton's official acts were discussed which have aroused condemnation of him as a judge and have brought criticism upon that which he represents. The miners in West Virginia endeavored to bring the judicial abuses of this judge before those authorized to remove him from office. Another effort to secure his removal is a resolution for impeachment proceedings against him introduced in this House by Congressman NEELY of West Virginia.

In the passage of the legislation embodied in this bill the Democratic Party is fulfilling its promises to the American wageworkers by enacting a law to protect them against judicial usurpation of authority and to secure to them full enjoyment of their rights, and it will secure for this administration and the Congress the confidence and support of the great masses of the American voters.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Oklahoma.

The amendment was rejected.

Mr. WEBB. Mr. Chairman, I ask unanimous consent to return to section 9 to make a correction.

The CHAIRMAN. The gentleman from North Carolina asks unanimous consent to return to section 9. Is there objection?

There was no objection.

Mr. FLOYD of Arkansas. Mr. Chairman, I desire to offer the following amendment which I send to the desk and ask to have read.

The Clerk read as follows:

> On page 28 amend as follows:
> "In line 20, after the word 'director,' amend by inserting the words 'officer or employee'. On page 29, in line 1, amend by inserting after 'director' the words 'officer or employee.' And in the same line, after the word 'elected' insert the words 'or selected'; and in line 3, on the same page, amend by inserting after the word 'election' the words 'or employment.'"

The CHAIRMAN. The question is on agreeing to the amendments.

The amendments were agreed to.

Mr. FLOYD of Arkansas. Mr. Chairman, I offer the following further amendment, which I send to the desk and ask to have read.

The Clerk read as follows:

On page 30, after line 18, amend by inserting as a new paragraph the following:

"When any person elected or chosen as a director or officer or selected as an employee of any bank, or other corporation, subject to the provisions of this act, is eligible at the time of his election or selection to act for such bank or other corporation in such capacity, his eligibility to act in such capacity shall not be affected, and he shall not become or be deemed amenable to any of the provisions hereof by reason of any change in the affairs of such bank or other corporation, from whatsoever cause, whether specifically excepted by any of the provisions hereof or not, until the expiration of one year from the date of his election or employment."

The CHAIRMAN. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. MURRAY of Oklahoma. Mr. Chairman, I offer the following amendment, which I send to the desk and ask to have read.

The Clerk read as follows:

On page 28, line 14, strike out "$2,500,000," and insert "$1,000,000."

Mr. WEBB. Mr. Chairman, a parliamentary inquiry. Is that amendment in order unless the gentleman has unanimous consent to offer it?

Mr. MURRAY of Oklahoma. The gentleman returns to the section by unanimous consent, and he did not specify any particular amendment, and that opened section 9 for any other amendment.

The CHAIRMAN. The Chair is inclined to the opinion that under the terms on which this section was returned to the amendment would be in order.

Mr. WEBB. Mr. Chairman, this section 9 was not passed by unanimous consent. Section 12 was the only one that was passed by unanimous consent. I asked unanimous consent to return to section 9 to make some corrections.

Mr. MANN. It was for the purpose of offering amendments.

Mr. WEBB. That is true.

The CHAIRMAN. The gentleman from Oklahoma is entitled to offer his amendment, the Chair thinks, and the gentleman is recognized for five minutes.

Mr. MURRAY of Oklahoma. Mr. Chairman, I drafted this amendment while the gentleman was talking, and the amendment ought to apply not only to line 14 but also to line 18. The purpose of my amendment is this: The bill provides that only those corporations having a capital stock and surplus of $2,500,000 can come within this act, prohibiting interlocking directors. Without this lowering of the amount to $1,000,000 many large banks, trust companies, and other concerns will escape the prohibition against interlocking directors. I really believe that $1,000,000 stock banks is too high to reach the evil, but certainly $2,500,000 banks will let too many out to reach the evil. I therefore trust the committee will let this amendment go in.

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from Oklahoma.

The amendment was rejected.

Mr. MANN. Mr. Chairman, I ask unanimous consent to return to section 11, for the purpose of offering an amendment.

Mr. WEBB. But one amendment?

Mr. MANN. Yes.

Mr. CARLIN. I suggest that the gentleman make it specific.

Mr. MANN. Mr. Chairman, I ask unanimous consent that we return to section 11, in order that the gentleman from Pennsylvania [Mr. GRAHAM], a member of the committee, may offer an amendment.

The CHAIRMAN. The gentleman from Illinois asks unanimous consent that the committee return to section 11 for the purpose stated. Is there objection?

Mr. FOWLER. Mr. Chairman, reserving the right to object, I would be glad if the gentleman would indicate what amendment he desires to offer.

Mr. WEBB. Mr. Chairman, I hope the gentleman from Illinois will not object. The committee is advised of what the amendment is.

The CHAIRMAN. Is there objection? [After a pause.] The Chair hears none, and it is so ordered. The Clerk will report the amendment.

The Clerk read as follows:

Page 31, line 9, after the word "district," insert:

"*Provided*, That no writ of subpœna shall be issued to run for more than 100 miles from the trial court without the permission of the court being first had, upon proper application, and cause shown."

Mr. GRAHAM of Pennsylvania. Mr. Chairman, section 11, as I understand it, has been introduced for the purpose of enlarging the scope of the service of a subpœna. By its terms as the section stands the subpœna will run now throughout the whole of the United States without any limit or hindrance; and when one remembers that a subpœna is a writ of right and that upon paying the fee a subpœna may issue one can readily see how this bill puts it in the power of a person to summon an individual from California to come to New Jersey and vice versa, or from one end of the country to the other. Now, that is an extraordinary power that would expose all of our citizens to a severe hardship. It might lead to the ruin and destruction of a man's business, besides the severe inconveniences to which it would subject him.

Mr. CARLIN. Will the gentleman yield for an interruption?

Mr. GRAHAM of Pennsylvania. Yes.

Mr. CARLIN. I think if the gentleman would change the amendment so as to read the writ should run to the judicial district the committee might accept it.

Mr. GRAHAM of Pennsylvania. I want to say in answer I am perfectly willing, although the existing law permits service of a subpœna upon citizens living outside the district for not over 100 miles from the court.

Mr. FLOYD of Arkansas. I understand the existing law permits the running of a subpœna 100 miles outside of the State. If it was limited to 100 miles within the State, there are plenty of judicial districts in the United States——

Mr. GRAHAM of Pennsylvania. I beg leave to say that I am correct in my statement about the service.

Mr. FLOYD of Arkansas. Anywhere in the judicial district?

Mr. GRAHAM of Pennsylvania. And 100 miles from the courthouse for citizens living outside of the district. That is the law as it stands to-day. It may be necessary in some cases, there may be isolated exceptional cases, in which the power given in this bill ought to be exercised; but while we grant this power we should put a certain limitation upon it, that it must be made upon proper application and cause shown. It seems to me to be in the interest of all our citizens that this amendment should be allowed.

Mr. WILSON of Florida. Does the gentleman's amendment apply to criminal cases as well as civil?

Mr. GRAHAM of Pennsylvania. No.

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from Pennsylvania.

The question was taken, and the Chairman announced the noes seemed to have it.

Upon a division (demanded by Mr. GRAHAM of Pennsylvania) there were—ayes 59, noes 15.

So the amendment was agreed to.

Mr. TOWNER. Mr. Chairman, I have an amendment to offer to section 12.

The CHAIRMAN. That will not be in order without unanimous consent to return to section 12.

Mr. TOWNER. I am not asking for unanimous consent.

Mr. GARNER. Mr. Chairman, is this amendment to be offered by unanimous consent or by right of a Member?

Mr. MANN. We passed over section 12 yesterday.

The CHAIRMAN. The Chair stated that it will not be in order except by unanimous consent.

Mr. MANN. We passed over section 12, and I think the committee is entitled to recognition.

The CHAIRMAN. The Chair will recognize the gentleman from North Carolina [Mr. WEBB].

Mr. WEBB. Mr. Chairman, I ask to return to section 12, which was passed over yesterday, and I ask the Chair to recognize the gentleman from Arkansas [Mr. FLOYD], who has a substitute for section 12, and no other amendment.

The CHAIRMAN. The gentleman from Arkansas offers a substitute, which the Clerk will report.

Mr. FLOYD of Arkansas. Mr. Chairman, I send to the Clerk's desk a substitute for section 12, which I offer.

Mr. STAFFORD. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. STAFFORD. Did the chairman of the committee ask unanimous consent to return to this section for the purpose of offering an amendment?

Mr. WEBB. It was passed over last night, and we have a right to return to it. That is the order of business now.

The CHAIRMAN. The Clerk will report the substitute.

The Clerk read as follows:

Page 31, amend by inserting in lieu of section 12 the following:

Mr. VOLSTEAD. Mr. Chairman, I make the point of order that there is already a substitute pending. I offered a substitute for this same section yesterday.

The CHAIRMAN. The present occupant of the chair was not present on that occasion.

Mr. STAFFORD. It is shown in the RECORD.

Mr. FLOYD of Arkansas. Mr. Chairman, I was not aware the gentleman from Minnesota had a substitute pending.

Mr. WEBB. Mr. Chairman, there is no doubt about the gentleman from Minnesota having offered a substitute, and I asked to pass over the section until to-day, hoping to get together on an amendment.

Mr. GARNER. I suggest the gentleman from Arkansas withdraw his substitute.

Mr. FLOYD of Arkansas. I withdraw my amendment for the present.

The CHAIRMAN. Without objection, the gentleman from Arkansas will be permitted to withdraw his substitute for the present. The Clerk will report the substitute offered by the gentleman from Minnesota on yesterday.

The Clerk read as follows:

Strike out section 12 and substitute:
"Any person who shall do, or cause to be done, or shall willingly suffer and permit to be done any act, matter, or thing prohibited or declared to be unlawful in the antitrust laws or shall aid or abet therein, shall be deemed guilty of such prohibited and unlawful acts, matters, and things and shall be subject to the punishments prescribed therefor in the trust laws."

Mr. VOLSTEAD. Mr. Chairman, I ask unanimous consent to change the word "and" in the second line to the word "or," and also by inserting in the last line the word "anti" before the word "trust," so as to make it read, "antitrust laws."

The CHAIRMAN. The Clerk will report the proposed modification.

The Clerk read as follows:

Modify the amendment by striking out the word "and" in line 2 of the amendment and substitute the word "or"; and in the last line place the word "anti" before the word "trust."

The CHAIRMAN. Is there objection? [After a pause.] The Chair hears none.

Mr. VOLSTEAD. Mr. Chairman, I would like to call attention to this and to some extent compare it with the amendment which was offered by the gentleman from Arkansas. I think this would meet the situation better than the one he has offered. In the first place, this does not undertake to change the extent of the punishments. This simply says that as to any act that is criminal under existing law, if any person does anything to aid or assist in doing that act, he shall be guilty just the same as the corporation. Now, that seems to me better, because you do not have to consider whether the punishment of $5.000 is the proper one, the sum mentioned by the amendment proposed by the gentleman from Arkansas. Different sections of this act provide for different punishments, some greater than others.

This amendment is drafted in line with a similar provision contained in the interstate-commerce law and seeks to accomplish the purpose of that provision in substantially the same language. It uses languages quite generally used in criminal statutes. I do not see why we should not go as far as this does. The amendment proposed by the gentleman from Arkansas [Mr. FLOYD] does not go nearly as far as this, because it only provides punishments in case the individual authorizes or orders an unlawful act.

Now, why should not a person who willingly suffers or permits a thing to be done or who aids or abets in doing a thing denounced as a crime be guilty under this statute, just as he is under almost any other criminal statute? It seems to me there is no reason why we should be so extremely lenient to these violators of the law. Why should we not apply to them a statute like the statutes we apply to other offenders?

I do not think that there is anything further that I care to add. It is a simple proposition. If you desire to draw this statute so as to make the crime personal and carry out the promises made in your stump speeches let us put it in language so that it means something.

Mr. FLOYD of Arkansas. Mr. Chairman, I desire to oppose the amendment offered by the gentleman from Minnesota [Mr. VOLSTEAD]. He has very correctly stated that his proposed amendment goes very much further than the amendment proposed in section 12 as it is now written, and further than the amendment I propose to offer as a substitute for section 12, in case this is voted down. I have several objections to the wording of this provision. I think it is indefinite. I think it is too drastic and goes too far. It not only proposes to make unlawful the act of any person that aids and encourages, but also makes unlawful the acts of those who assist in any way those who violate the antitrust laws.

Now, in the operations, these great corporations with which we are dealing, under the broad terms of this language, every man that aids in any way in carrying out any unlawful purpose of the corporation would come within the scope of this provision.

Mr. MANN rose.

Mr. FLOYD of Arkansas. Mr. Chairman, I yield to the gentleman.

Mr. MANN. Mr. Chairman, as I understand the purpose of this section, it is to make the act of the individual punishable, although he is an officer of the corporation, and to make the corporation itself punishable.

Mr. FLOYD of Arkansas. Yes; the corporation itself.

Mr. MANN. Why does not this language, inserted in a number of laws, cover the case identically—

When construing and enforcing the provisions of this act, the act, omission, or failure of any officer, agent, or other person acting for or employed by any corporation, company, society, or association, within the scope of his employment or office, shall in every case be also deemed to be the act, omission, or failure of such corporation, company, society, or association as well as that of the person.

Mr. FLOYD of Arkansas. Well, I think that is entirely different. That makes the act of the individual the act of the corporation and holds the corporation responsible for the act of the individual, and the purpose of that provision is entirely different from and the reverse of the purpose of this section.

Mr. MANN. It makes the act of the individual punishable as to the individual, and also punishable as to the corporation. I understood that was the purpose of this section.

Mr. FLOYD of Arkansas. Certainly; it makes the act of the individual punishable within itself, and also attributes to the corporation guilt on account of the act of the individual.

Mr. MANN. Yes. Here is an officer of a corporation who performs an act.

Mr. FLOYD of Arkansas. Our proposition is the reverse of that, in a sense.

Mr. MANN. The corporation must act through individuals. There is no other way for it to act. Now, you propose in a section, as I understand, that where an act is committed by a corporation, which, of course, must be committed through individuals, the individuals may be punished if they are officers or employees of the corporation. That is identically what is accomplished by this provision which I read, which I think, in the exact form it is in, was carried in the pure-food law, but it has also been carried in a number of acts passed since then. But it has met the construction that where an individual who is a member or an officer of a corporation fails to perform an act or commits an act the corporation can be punished for that and so can the individual.

Mr. FLOYD of Arkansas. That is correct; but I like the provision that we present much better than that provision. Under the existing law the corporation may be convicted. True, as the gentleman from Illinois states, the corporation can only violate the law through the acts of its agents, officers, or employees; but we are proposing and seeking by this provision to visit guilt upon the real offenders.

Now, under the existing law, the man who does the act which constitutes a violation of the law can be punished as an individual, just as the corporation can be punished on account of the unlawful act of its agents or officers. But we propose by this provision to hold as responsible under the criminal statutes the man who authorizes or orders wrongful things to be done. In other words, we are seeking to reach the directors and the high officers of these corporations who authorize or direct their employees to do acts which constitute violations of the antitrust laws, and we much prefer the language we have used to that proposed by the gentleman from Minnesota [Mr. VOLSTEAD] or that suggested by the gentleman from Illinois [Mr. MANN].

The CHAIRMAN. The time of the gentleman from Arkansas has expired.

Mr. VOLSTEAD. Mr. Chairman, I ask unanimous consent that the gentleman from Arkansas may proceed for five minutes more.

The CHAIRMAN. Is there objection to the gentleman's request?

There was no objection.

Mr. VOLSTEAD. I want to ask the gentleman from Arkansas this question: Are you quite sure that this does not make it necessary, first, to convict the corporation before you can indict the individual? I want to call your attention to the first part of this amendment. It says that "whenever a corporation shall be guilty, such offense shall be deemed also that of the individual directors." Now, are you quite sure that a court would not hold that you must first prove that the corporation is guilty?

Mr. FLOYD of Arkansas. In answer to the gentleman's question, I will state that if it said "whenever a corporation is convicted" it would mean what he suggests.

Mr. VOLSTEAD. It says "when they are guilty." They are not guilty in law until they are convicted.

Mr. FLOYD of Arkansas. I do not think the language here used would admit of that interpretation.

Mr. VOLSTEAD. It seems to me that this is open to the same objection as the original section. While it is true that the original section requires a conviction, this section requires first a showing that the corporation is guilty, because until there is proof of guilt the court could not say that the corporation is guilty. Nearly all our antitrust suits are brought as equity suits, because it is of very little use to bring a criminal suit against a corporation. Consequently this will practically shield the persons participating in the guilty act by making their conviction depend upon the conviction of the corporation, which is not likely to take place.

Mr. FLOYD of Arkansas. I will say to the gentleman from Minnesota that we do not make the conviction of an individual conditional upon the guilt of the corporation. We provide that where the corporation is guilty it shall be deemed the offense of the officers, directors, or agents authorizing, ordering, or doing the thing prohibited, but they may be guilty independently of that, and if guilty may be tried and convicted without reference to the guilt of the corporation.

Mr. VOLSTEAD. I know; but if you make the guilt of the officers dependent upon the guilt of the corporation, you can not convict the officers until you convict the corporation. There is only one way known to the law under which you can prove the guilt of the corporation, and that is by a conviction; you do not want that, because you are wasting your time and energy in proving the corporation guilty. What you want to do with the corporation is to bring your suit against it in equity. And you want to be at liberty to bring your criminal suit against the officers at the same time for any violation of the antitrust law.

Mr. FLOYD of Arkansas. I hope the House will vote down the amendment of the gentleman from Minnesota.

Mr. BEALL of Texas. I should like to ask the gentleman from Arkansas a question.

Mr. FLOYD of Arkansas. I yield to the gentleman from Texas.

Mr. BEALL of Texas. In the amendment which you have offered do you still include this phrase—

That whenever a corporation shall be guilty of the violation of any of the provisions of the antitrust laws——

Mr. FLOYD of Arkansas. Yes

Mr. BEALL of Texas. Mr. Chairman, I think there is something in the suggestion made by the gentleman from Minnesota [Mr. VOLSTEAD]. I do not believe, if that phrase remains in the section, any officer of a corporation can be convicted of a violation of the antitrust laws until after the corporation of which he is an officer has been convicted of it.

Mr. BRYAN. Criminally guilty, too.

Mr. BEALL of Texas. Criminally guilty. Now let us look at it:

That whenever a corporation shall be guilty of the violation of any of the provisions of the antitrust laws, the offense shall be deemed to be also that of the individual directors, officers, or agents of such corporation, and upon the conviction of the corporation any director, officer, or agent who shall have authorized, ordered, or done any of such prohibited acts shall be deemed guilty of a misdemeanor, and upon conviction therefor shall be punished by a fine not exceeding $5,000, or by imprisonment not exceeding one year, or by both, in the discretion of the court.

Now, as a condition precedent to the convicting of any one of these officers or agents you have first to establish the fact that the corporation has been guilty of a violation of the antitrust law through a judicial conviction.

Mr. BRYAN. And you have got to put it in your indictment.

Mr. BEALL of Texas. It is true that the corporation acts only through officers and agents, but it seems to me it would be much more direct language, and a much plainer provision, if you should say that any person acting or purporting to act as the agent or as an officer of an offending corporation, who does any of the things forbidden by the antitrust laws shall be guilty of a misdemeanor, and shall be punished so and so, and eliminate this requirement which, if it remains, must be given some meaning. You are seeking to convict a man of some criminal offense, and one of the conditions which the prosecution will be required to meet will be to prove the fact that the corporation has been guilty of a violation of the provisions of the antitrust laws. I think the amendment of the gentleman from Minnesota [Mr. VOLSTEAD] is preferable.

Mr. McCOY. Will the gentleman yield?

Mr. BEALL of Texas. With pleasure.

Mr. McCOY. Is it not perfectly possible also that an officer of a corporation might commit an ultra vires act and the corporation not be liable, whereas all the while he might be doing something in violation of the law?

Mr. BEALL of Texas. That is true. A man who does something in violation of the provisions of the antitrust law may be doing something that is entirely beyond his authority as an officer or agent of the corporation, but yet the effect of his act is to bring about a violation and a transgression of the law as laid down in the antitrust statutes. It is my opinion that the amendment of the gentleman from Minnesota [Mr. VOLSTEAD] is in better form and reaches the evil which you are seeking to reach more directly and certainly and perhaps more efficiently than the amendment suggested by my colleague on the committee, the gentleman from Arkansas [Mr. FLOYD].

Mr. LENROOT. I should like to ask the gentleman whether it is not true that there are a great many acts which, standing alone by themselves, are not wrongful, are not within the condemnation of the antitrust law, but which become wrongful only when committed or performed in furtherance of an unlawful combination, and therefore you must have the unlawful combination in connection with the performance of the act in order to reach what we ought to reach by this amendment?

Mr. CARLIN. In other words, you must have the offense by the corporation.

Mr. BEALL of Texas. That may be true in some instances, but it is also true that there are certain things forbidden by this bill that we are now passing—certain specific acts that if a man commits he violates the antitrust law. He need not be in conspiracy with anybody. It is not required that he shall be cooperating with anybody. If he commits any one of these acts, he violates the antitrust law. Now, why not say that the man who does one of these forbidden things, acting as an officer or agent of a corporation, shall be guilty of a violation of the antitrust law, and in that way make his guilt personal?

Mr. GREEN of Iowa. Mr. Chairman——

The CHAIRMAN. Debate on this amendment is exhausted.

Mr. GREEN of Iowa. A parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. GREEN of Iowa. I did not understand that there was any agreement limiting debate.

The CHAIRMAN. The gentleman may move to amend the amendment.

Mr. GREEN of Iowa. I move to strike out the last word.

The CHAIRMAN. The gentleman from Iowa moves to strike out the last word and is recognized for five minutes.

Mr. GREEN of Iowa. Mr. Chairman, I agree with the gentleman from Arkansas [Mr. FLOYD] that the language read by the gentleman from Illinois was intended to operate just the converse of what is intended by this section, namely, to make the corporation liable for the act of the individual; but I agree also with the gentleman from Texas [Mr. BEALL] who states substantially that the amendment of the gentleman from Arkansas [Mr. FLOYD] does not obviate the objections to the section as it now stands.

The section as it now stands undoubtedly requires two convictions before the guilt of the individual can be established and he be punished. As the gentleman from Texas has properly said, under the amendment proposed by the gentleman from Arkansas the conviction of the corporation will still be required as a condition precedent. The gentleman from Arkansas said he thought the amendment proposed by the gentleman from Minnesota was too drastic, but it only embodies a general principle of the criminal law that whoever aids, abets, assists, assents to, or consents in an affirmative way to any criminal act is liable to all the consequence of it and may be punished.

Mr. MANN. Will the gentleman yield?

Mr. GREEN of Iowa. Yes.

Mr. MANN. The gentleman made a distinction between corporations being held responsible for the acts of the officer or agent and the agent and officer being held responsible for the acts of the corporation. Does the gentleman believe that if you convict the Standard Oil Co. of a criminal act, that that authorizes the conviction of every agent of the Standard Oil Co. throughout the United States in a criminal prosecution?

Mr. GREEN of Iowa. Oh, the gentleman either misunderstood me or I made a statement which I did not intend. As a matter of fact, I do not think this provision is needed at all.

Mr. MANN. As a matter of fact, can you convict a man of an offense of which he knew nothing and in which he did not participate?

Mr. GREEN of Iowa. No; and the amendment of the gentleman from Minnesota proposes nothing of the kind.

Mr. MANN. I am not talking about the amendment of the gentleman from Minnesota. The gentleman from Iowa undertook to distinguish between a corporation being held responsible for the acts of the officers and the agents, and the agent or officer being held responsible for the act of the corporation. That distinction I can not get through my cranium.

Mr. GREEN of Iowa. That distinction was made by the gentlemen who drew the bill, and not by me.

Mr. MANN. The gentleman from Iowa was supporting it.

Mr. GREEN of Iowa. No; the gentleman misinterpreted me.

Mr. MANN. If the gentleman does not change his remarks in the RECORD he will find that I am right.

Mr. GREEN of Iowa. Mr. Chairman, as I stated a moment ago, the amendment of the gentleman from Minnesota puts in force a principle of the criminal law that whoever assists a criminal to do a criminal act shall himself be liable. It is not a strange provision; it is one that has been applied in the Sherman law as it now stands. The amendment of the gentleman from Minnesota does not weaken the Sherman law, and I am inclined to think it strengthens it. Therefore I am in favor of the amendment of the gentleman from Minnesota. We ought to have in this bill at least one provision that does not detract from the present law, and here is an opportunity to get it. I hope the amendment of the gentleman from Minnesota will prevail.

Mr. HULINGS. Mr. Chairman, I move to strike out the last word. I believe that much of the failure of the antitrust law is because, in most cases, the courts simply fine the corporation. I believe all these restrictive punitive statutes on this subject fail greatly for that very reason. I can not quite understand, although I know the courts have so held, how a corporation, the creature of the law, having no existence save for authorized purposes, can do an illegal act. Every unlawful act of a corporation is ultra vires, and the corporation is, in strict logic, incapable of doing anything except that which is in the proper sphere of its creation. Anything wrong or unlawful that is done is the authorized act of an individual, a director, officer, or agent of that corporation. I believe if you make these punitive statutes apply strictly to the officers of corporations who willfully do these ultra vires acts that you will eradicate much of the evils of corporate management. We have seen that fines amount to nothing. The officers of the corporation, and in the name of the corporation, go on and repeat the acts in spite of the repeated fines, but if you punish the men who use the powers of the corporation outside of the proper sphere of their duty, you will stop these repeated violations of the law. If you take hold of these men and punish them by imprisonment, much of the present disregard of law will cease. That is the way to stop this sort of thing. The fining of corporations means nothing; they simply go on with the acts of monopoly and collect those fines again from the people. [Applause.]

For these reasons, Mr. Chairman, I believe it to be much more important that this section of the bill should clearly provide for the prosecution of the responsible officers and agents of corporations violating the antitrust laws, independently of any prosecution of the corporation, chiefly for the reason that such personal liability is the practical way to stop the abuse of corporate power and for the additional reason that, logically and ethically, a corporation, having no power except for lawful purposes, can not conceive the intent to commit a crime, although I know the courts have held that a corporation may be indicted for a crime.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Minnesota.

The question was taken; and on a division (demanded by Mr. FLOYD of Arkansas) there were 39 ayes and 24 noes.

Mr. FLOYD of Arkansas. Mr. Chairman, I demand tellers.

Tellers were ordered, and the Chair appointed as tellers Mr. VOLSTEAD and Mr. WEBB.

The committee again divided, and the tellers reported that there were 40 ayes and 50 noes.

So the amendment was rejected.

The CHAIRMAN. The Clerk will report the amendment offered by the gentleman from Arkansas.

The Clerk read, as follows:

On page 31 amend by inserting in lieu of section 12 the following:

"SEC. 12. That whenever a corporation shall be guilty of the violation of any of the provisions of the antitrust laws the offense shall be deemed to be a misdemeanor, and such offense shall be deemed to be also that of the individual directors, officers, or agents of such corporation who shall have authorized, ordered, or done any of such prohibited acts, and any corporation violating any of the provisions of the antitrust laws or any director, officer, or agent thereof who shall have authorized, ordered, or done any such prohibited acts, upon conviction therefor shall be punished, if a corporation, by a fine of not exceeding $5,000; if a director, officer, or agent of a corporation, by a fine of not exceeding $5,000 or by imprisonment for not exceeding one year, or by both such fine and imprisonment in the discretion of the court."

Mr. WEBB. Mr. Chairman, I will ask if we can not have some agreement as to the time on this section?

Mr. VOLSTEAD. This is a very important amendment, and I think we ought to have some time on it.

Mr. WEBB. I ask unanimous consent that all amendments and discussion of this section be closed in 10 minutes.

Mr. VOLSTEAD. Oh, we want 15 minutes on this side.

Mr. WEBB. Very well; then I will ask that the discussion on this section and all amendments thereto be closed in 30 minutes.

The CHAIRMAN. The gentleman from North Carolina asks unanimous consent that all debate upon the paragraph and amendments thereto close in 30 minutes.

Mr. VOLSTEAD. Mr. Chairman, I shall move to strike out section 12 entirely, and I may want a little time on that.

Mr. WEBB. And, Mr. Chairman, I ask that 15 minutes of the time be controlled by the gentleman from Minnesota and 15 minutes by myself.

The CHAIRMAN. And the gentleman further asks that one-half of the time be controlled by the gentleman from Minnesota and the other half by himself.

Mr. GREEN of Iowa. A parliamentary inquiry, Mr. Chairman. Does this request apply to this amendment or to the section?

The CHAIRMAN. It applies to this section and all amendments thereto. Is there objection? [After a pause.] The Chair hears none.

Mr. WEBB. Mr. Chairman, I yield five minutes to the gentleman from Arkansas [Mr. FLOYD].

Mr. FLOYD of Arkansas. Mr. Chairman, I regard this as a very important proposition, and I hope that gentlemen will hear me in defense of it.

Mr. GARNER. Mr. Chairman, will the gentleman yield for a question?

Mr. FLOYD of Arkansas. Yes.

Mr. GARNER. Does the gentleman's proposed amendment require the corporation to be convicted before a director or agent can be convicted?

Mr. FLOYD of Arkansas. I do not so understand it.

Mr. GARNER. I just read the amendment a moment ago, and I think it specifically states that when a corporation is convicted that then the acts of its agents and directors shall be considered——

Mr. FLOYD of Arkansas. Oh, I beg the gentleman's pardon, but it says guilty.

Mr. THOMSON of Illinois. Mr. Chairman, will the gentleman yield?

Mr. FLOYD of Arkansas. Yes.

Mr. THOMSON of Illinois. Who is to determine whether the corporation is guilty?

Mr. FLOYD of Arkansas. This is a question to be established by proof, as a matter of course.

Mr. THOMSON of Illinois. Then it would have to be established in court.

Mr. FLOYD of Arkansas. I desire to be perfectly frank. I desire to state that our idea was to so write the law that when one of those corporations had been found guilty that the parties who were responsible for that violation of law could be punished for the acts that constituted that violation of law as individuals.

If they commit acts held to be unlawful they can be punished now, as I suggest, but we can not reach the men who are really responsible, the men who authorize and direct the acts to be done. They shelter themselves under technical provisions of the law, and some subordinate or minor employee of the corporation, some man who is paid $5 a day for his services, as in the sugar case, is convicted and sent to the penitentiary, while the rich director or officer who sits back in his room and directs the employee to do the things prohibited and gives him $5 a week extra to violate the law is never touched and never convicted. Our purpose is certainly good, and if the House can help us in perfecting the amendment we will welcome their assistance. But we regard this section as important. If the individual now violates the Sherman law he can be convicted independently of the conviction of the corporation, but we seek to impute to the individual in this provision the guilt of the corporation, and subject him to punishment, but in all fairness we do not make him guilty without further trial. We provide he shall be indicted, tried, and proceeded against in the usual way. That is the purpose of this section.

Mr. TOWNER. Mr. Chairman, will the gentleman yield for a question?

Mr. FLOYD of Arkansas. Yes.

Mr. TOWNER. Would it not be absolutely necessary in any prosecution against any individual to allege in the indictment that the corporation had been convicted, and would not the indictment be subject to demurrer unless that allegation was made in the indictment?

Mr. FLOYD of Arkansas. Under this particular section I will state to the gentleman that that might be true, but still that very fact would enable us to reach a class of cases that we can not now reach under existing law. But if the individual independently had violated the Sherman law and was guilty of violation of it in any way as an individual, he could be convicted without ever convicting the corporation, while if the guilt of the corporation is imputed to his acts as an individual, and those acts as an individual would not constitute a violation of the Sherman law, then under this provision, if written into the law, such acts would become unlawful and the adoption of this provision would bring these forbidden acts within the purview of the law and make the director, officer, or agent guilty, the guilt of the corporation being imputed to him.

Mr. TOWNER. But the injurious effect would be that you never could convict any individual without previously convicting the corporation.

Mr. FLOYD of Arkansas. The purpose of this section is to enable the Government, when it has convicted the corporation, to reach those responsible officers who have been proven in the trial to be guilty of a violation of law by presentment of an indictment and trial. It authorizes their conviction not only for acts done but for acts authorized or ordered to be done, and gentlemen who think this would be any protection to the corporation or its directors, officers, or agents and would give them any leniency entirely misconceive the purpose of this provision.

Mr. VOLSTEAD. Mr. Chairman, will the gentleman yield?

Mr. FLOYD of Arkansas. Yes.

Mr. VOLSTEAD. Is not this true, that the Government very seldom indicts a corporation? It brings a suit in equity, while this compels a double action if you seek to hold the individual criminally. It compels first a criminal action against the corporation and then perhaps a suit in equity, while under the law as it now stands you can indict and convict the individual without paying any attention to the corporation, so far as any criminal procedure is concerned, and you can at the same time pursue your remedy in equity.

Mr. FLOYD of Arkansas. In answer to the gentleman's question I will say this: That this in no way affects the procedure under existing law, either criminal or civil. If an individual is guilty of violating the Sherman law, he can be indicted independently of this provision; but the series of acts which constitute a violation of the Sherman law are not crimes within themselves under existing law. If we adopt this provision, whenever a corporation is convicted of violation of the Sherman law and the guilt of the corporation is imputed to the individual officers or agents of the corporation, then acts done in furtherance of an unlawful combination become within this provision specifically indictable offenses that are not indictable now; and the result would be that you could indict and convict the officers and agents that were responsible for that violation on a state of facts on which they will go free now, no matter how often you indict them, because those isolated acts are not sufficient in themselves to constitute a violation of the Sherman law.

The CHAIRMAN. The time of the gentleman from Arkansas has expired.

Mr. WEBB. I yield five minutes more to the gentleman.

Mr. RAKER. Mr. Chairman, will the gentleman yield for a question?

Mr. FLOYD of Arkansas. Yes.

Mr. RAKER. Under this provision you would have to indict and convict the corporation, and then in the indictment against the individual you would have to allege the fact that the corporation had been indicted and convicted before you could convict the individual personally.

Mr. FLOYD of Arkansas. I do not so interpret it, but I do admit that you would have to show by proof in that trial that the corporation had been guilty of violating the Sherman law, or else prove that it had been indicted and convicted. But I do not admit that you would necessarily have to convict the corporation before you could proceed against the individual; the first burden of proof would be upon the Government, to show that they had violated that law, before the guilt of the corporation could be imputed to the acts of its officers or agents.

Mr. THOMSON of Illinois. Will the gentleman yield?

Mr. FLOYD of Arkansas. Not at this time. I desire to make this point clear. Now, we think this provision very important. We all understand that under the Sherman law, as it is written, there have been no criminal prosecutions of any consequence. Take the extreme position which seems to be entertained by those who oppose this amendment. They would have you believe that before proceeding against individuals you would have to convict first the corporation. What has been lost by the Government in criminal prosecutions if their construction is correct? How many convictions have been had in criminal cases in the 24 years of the existence of that law? The criminal provisions of the Sherman antitrust law have proven a failure in the past, and we are seeking by this provision and by this legislation to strengthen it and reach the men who are really responsible for its violations, and if we can succeed in doing that we will have fewer violations of law, because the men connected with these great corporations do not desire to go to jail and do not desire to be convicted of crimes.

Mr. VOLSTEAD. Will the gentleman yield for a question?

Mr. FLOYD of Arkansas. For one question.

Mr. VOLSTEAD. Does the gentleman contend that a person is not guilty under the present law if he authorizes or directs a violation of the law? Is there any question on that proposition?

Mr. FLOYD of Arkansas. I do not know how you can convict him if he has merely authorized and directed it.

Mr. McCOY. Will the gentleman yield?

Mr. FLOYD of Arkansas. Yes.

Mr. McCOY. Would the committee accept this as an amendment:

> Any person who, while acting or purporting to act as a director, officer, or agent of a corporation, shall authorize, order, or do any of the acts prohibited by the antitrust laws shall be deemed guilty of a misdemeanor—

And so forth?

Mr. FLOYD of Arkansas. Mr. Chairman, I reserve the balance of my time.

Mr. VOLSTEAD. I yield five minutes to the gentleman from Iowa [Mr. TOWNER].

Mr. TOWNER. Mr. Chairman, I would like to have the attention of the committee. The chairman of the committee is certainly right in saying that this is a very important matter. Nowhere else in the criminal law, either in State or Nation, is it necessary to convict two entities before one of them can be punished. By the provisions of this section it will be absolutely necessary to convict a corporation of which the individual is a member before you can ever convict any individual. In fact, it will be necessary that the indictment itself shall allege, in order to charge an indictable offense against the individual, that a conviction against the corporation of which the man is a member has been secured before the individual can be even placed on trial. I desire to call the attention of the committee further to this fact, that if you place any corporation on trial and it should be found that the act was not the act of the corporation, but was the act of an individual, ultra vires, without authority, then you would fail in the indictment against the individual, because you could not convict the corporation. The corporation would be acquitted, and you could secure no penalty against the corporation, and then you never could proceed against the individual, because, as a prerequisite to every indictment against an individual, if you adopt the form of amendment which the committee presents, it will be absolutely necessary to convict the corporation. I want to call the attention of the committee, if I can have it for a moment, to a substitute which I would like to have them consider, and this will be the only way, perhaps, to have it considered. It is to strike out all of the section and insert this:

> That in any case where a corporation has been convicted of a violation of any of the acts, matters, or things prohibited or declared to be unlawful in the antitrust laws the said conviction shall not be plead, offered, or received as defensive evidence or held as a prior conviction in a prosecution against any officer, director, agent, or member of such corporation.

I suggest to the committee that it will be necessary that you have some such provision if you intend to prosecute both the corporation and the individual, as I hope you do so intend. The section should contain a provision that the conviction of the corporation should not be held to be a prior conviction of an individual member of it. And then should follow this clause:

> And any officer, director, agent, or member of such corporation, who has authorized, ordered, or knowingly aided and abetted any act, matter, or thing prohibited or declared unlawful in the antitrust laws shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished as provided in such antitrust laws.

It is in substance the same as the substitute offered by the gentleman from Minnesota and that suggested just now by the gentleman from New Jersey. I think it is in better form than either of them, and in addition to what they contain is the provision that the conviction of the corporation can not be plead as a prior conviction of any individual member of the corporation. I submit it for the consideration of the committee without much hope of its being adopted, but at least we will have discharged our duty if we try to make the bill what it ought to be.

Mr. BRYAN. Mr. Chairman, I offer this amendment, which I send to the Clerk's desk. I do not ask for time to debate it.

Mr. STAFFORD. Mr. Chairman, a question of order. Is this amendment being offered for information? The gentleman can not get recognition, as the time is in the control of the gentleman from Minnesota and the gentleman from North Carolina.

Mr. BRYAN. I do not want any time.

Mr. STAFFORD. But the gentleman can not offer an amendment unless he gets time.

Mr. BRYAN. Mr. Chairman, the time to offer an amendment is not included in the time that is divided up for debate. I have offered the amendment, and I have already been recognized for that purpose.

Mr. STAFFORD. But I raise the question of order that the gentleman is not entitled to recognition.

Mr. BRYAN. The gentleman is too late.

Mr. MANN. There was an amendment pending.

The CHAIRMAN (Mr. SIMS). The Chair understands there is a substitute amendment pending.

Mr. LENROOT. This amendment is not in order. The amendment is a substitute.

Mr. BRYAN. Well, Mr. Chairman, my amendment had been offered after I was recognized, and I certainly expect it to be reported by the Clerk.

Mr. VOLSTEAD. Mr. Chairman, I want to offer this amendment, to strike out the section and insert——

Mr. BRYAN. Mr. Chairman, I want to make a point of order against any amendment being offered while mine is pending.

Mr. MANN. He moved to strike out the section. That is in order.

Mr. BRYAN. My amendment is a motion to strike out section 12 and substitute therefor what I sent to the desk. That is the proposition.

Mr. MANN. It will not be voted upon until later.

Mr. BRYAN. If it is out of order to read my amendment, it will be out of order to read the gentleman's amendment.

Mr. MANN. The gentleman will have time to offer his amendment.

The CHAIRMAN. The Chair will state that there will be 30 minutes' debate on this section, to be equally divided. The Chair understand that the gentleman from Minnesota [Mr. VOLSTEAD] yields himself time to offer his amendment.

Mr. BRYAN. I simply want my amendment read, Mr. Chairman, and of course I will accomplish that.

The CHAIRMAN. The gentleman from Minnesota [Mr. VOLSTEAD] and the gentleman from North Carolina [Mr. WEBB] control the time.

Mr. VOLSTEAD. Mr. Chairman, I want to oppose this proposition. It is evident there is a disposition on the part of the majority to weaken instead of strengthen the Sherman antitrust law. It would be infinitely better to leave the law as it stands and depend upon the general principles of criminal jurisprudence to apply its provisions to acts of individuals than to add a section such as that which is proposed.

There can be no question but that, under the proposed amendment, it would be necessary first to establish the guilt of a corporation before you could convict an officer; and, besides, there is nothing in this proposed amendment that broadens or in any way strengthens the criminal statute as it stands to-day.

Gentlemen complain that we have not succeeded in convicting men in the years past. That is not true. In a great many instances men have been convicted and punished under the Sherman Antitrust Act. In some instances they have been sent to prison, although as a rule they have not been sent there for any great length of time. Under the law as it stands they can be convicted, and are constantly being indicted and convicted.

Why should we take away the power we have to-day to protect commerce against unlawful restraints and monopolies? That is what you are trying to do. You are trying to place between the Government and these offenders an additional obstacle to conviction of the individual by first requiring the conviction of the corporation. You are asking the Government to prosecute a suit that is absolutely needless and useless in most cases. You can not put a corporation in jail—corporations must be reached under the equity powers of a court. But you are going to insist that before the individual can be punished the Government must waste its money on a criminal conviction of the corporation. This simply means that you are going to let go free the men who restrain commerce and create monopolies—the men who, in my judgment, are doing as much as anybody to increase the cost of living. [Applause.]

The CHAIRMAN. The gentleman from Minnesota [Mr. VOLSTEAD] consumed two minutes.

Mr. WEBB. Mr. Chairman, I yield one minute to the gentleman from New Jersey [Mr. McCOY].

The CHAIRMAN. The gentleman from New Jersey [Mr. McCOY] is recognized for one minute.

Mr. McCOY. Mr. Chairman, I offer the following as a substitute for the committee amendment.

Mr. BRYAN. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. BRYAN. Is an amendment in order now, at this time?

Mr. McCOY. I offer my amendment as a substitute.

The CHAIRMAN. The gentleman from North Carolina [Mr. WEBB] yields to the gentleman from New Jersey [Mr. McCOY] one minute. The Clerk will report the amendment.

The Clerk read as follows:

SEC. 12. Any person who while acting or purporting to act as director, officer, or agent of a corporation shall authorize, order, or do any of the acts prohibited by the antitrust laws shall be deemed guilty of a misdemeanor, and upon conviction therefor shall be punished by a fine not exceeding $5,000 or by imprisonment not exceeding one year, or by both in the discretion of the court.

Mr. STAFFORD. Mr. Chairman, a parliamentary inquiry. Do I understand this amendment is being read for information?

The CHAIRMAN. Yes. The gentleman has been yielded time.

Mr. McCOY. Mr. Chairman, this amendment relieves the section from the criticism as it now stands or as the substitute proposes to do—that you must first convict the corporation before you can find any of these officers guilty. It simply provides that when any person acts or purports to act—and that would cover an ultra vires act—does the thing prohibited, he may be convicted. It makes guilt as personal as it can be.

The CHAIRMAN. The time of the gentleman from New Jersey has expired.

Mr. VOLSTEAD. Mr. Chairman, I yield to the gentleman from Washington [Mr. BRYAN] half a minute.

Mr. BRYAN. Mr. Chairman, I ask that my amendment be read.

The CHAIRMAN. The gentleman from Washington [Mr. BRYAN] is recognized for one minute.

Mr. BRYAN. Mr. Chairman, I ask that the amendment be read.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Page 31, strike out all of section 12 and substitute the following: "That any person or corporation that violates any of the provisions of the antitrust laws, or any director, officer, or agent of any corporation that authorizes, orders, or permits to be done any act done by any corporation in violation of the antitrust laws, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not exceeding $5,000 or be imprisoned not exceeding one year, or both, in the discretion of the court."

Mr. BRYAN. I think that is almost identical with the amendment offered by the gentleman from New Jersey [Mr. McCOY], but it provides that in order to make the individual guilty he must have advised, permitted, or authorized something to be done that was actually accomplished by the corporation in violation of the law.

Mr. VOLSTEAD. I yield three minutes to the gentleman from Wisconsin [Mr. LENROOT].

The CHAIRMAN. The gentleman from Wisconsin [Mr. LENROOT] is recognized for three minutes.

Mr. LENROOT. Mr. Chairman, I believe the committee amendment has been improved upon, but is still open to criticism. I think the amendment of the gentleman from New Jersey [Mr. McCOY] is subject to criticism in this, that the whole thought and purpose has been that where there was guilt upon the part of the corporation any officer, agent, or director responsible in any degree for contributing to that guilt should also be personally guilty. The amendment of the gentleman from New Jersey simply provides that where the officers, agents, or directors shall be guilty of any prohibited act they shall be punished, as I understand it.

Mr. McCOY. Will the gentleman yield?

Mr. LENROOT. I yield to the gentleman from New Jersey.

Mr. McCOY. It provides that any officer, agent, or director who authorizes or commits——

Mr. LENROOT. Any prohibited act.

Mr. McCOY. Any prohibited act.

Mr. LENROOT. That is just the trouble, because the act itself may not be prohibited by the antitrust law, and it takes the illegal combination and the act done in furtherance of it before it becomes a prohibitive act. Therefore we must have guilt on the part of the corporation, because in other cases your antitrust law without this section reaches the individual in every case.

Mr. WEBB. I thought the gentleman was one of those who did not want the necessity of proving guilt on the part of the corporation before we could reach the directors or officers.

Mr. LENROOT. I do not want to be compelled to convict the corporation before you can proceed against the officer, but I do

insist that you must show in your action against the officers that the corporation is guilty, and then that the man you are proceeding against has performed some act that has contributed to the violation by the corporation; and when he has, he ought to be punished.

Mr. WEBB. You can only prove guilt by a conviction.

Mr. LENROOT. Yes, certainly; but you can prove the guilt of the corporation in your proceeding against the individual, or for this purpose you might first prove the guilt of the corporation in an equity action, if your amendment was properly framed to cover that, though, of course, that would not bind the defendant in the criminal action. I shall offer an amendment which, I think, covers the case.

Mr. BARKLEY. Is not the real object of the section that there shall be unlimited power of prosecution, both of individuals and corporations, but the additional power that when the corporation itself is convicted the officers and directors shall also be guilty of the thing which is denounced by the law.

Mr. LENROOT. Not denounced by the law, but where they have contributed in any degree to the violation, although their act, standing alone, might not be a violation.

Mr. BARKLEY. The amendment covers this ground specifically.

Mr. LENROOT. My amendment is to strike out the balance of the section and insert, so that it will provide that whenever the corporation shall violate any of the provisions of the antitrust laws—not leaving it to be determined in a criminal action; it may be determined in an action in equity—such violation shall be deemed to be also that of the individual directors, officers, or agents of such corporation who shall have authorized or ordered or done any of the acts constituting in whole or in part any such violations. Those acts standing alone might be absolutely innocent, but if they have contributed in whole or in part to the violation by the corporation, then they make the party guilty. Then it goes on——

Mr. WEBB. I understand what the gentleman proposes. May I ask the gentleman from Minnesota [Mr. VOLSTEAD] if he agrees to the amendment of the gentleman from Wisconsin?

Mr. CARLIN. I think that is all right.

Mr. VOLSTEAD. Which amendment?

Mr. WEBB. The Lenroot amendment.

Mr. VOLSTEAD. I do not understand the provisions of it.

Mr. LENROOT. I ask that it be reported.

The CHAIRMAN. Without objection, the Clerk will report the amendment.

The Clerk read as follows:

Amend the committee's substitute by striking out all after the word "corporation" and inserting the following:

"That whenever a corporation shall violate any of the provisions of the antitrust laws, such violation shall be deemed to be also that of the individual directors, officers, or agents of such corporation who shall have authorized, ordered, or done any of the acts constituting in whole or in part such violation, and shall be deemed a misdemeanor; and upon conviction therefor of any such director, officer, or agent he shall be punished by a fine of not exceeding $5,000 or by imprisonment for not exceeding one year, or by both, in the discretion of the court."

Mr. WEBB. I will ask the gentleman from Minnesota [Mr. VOLSTEAD] if he is satisfied with this amendment?

Mr. VOLSTEAD. I am not able to discover where the difference comes in.

Mr. WEBB. I will ask that the amendment be again read, to see if we can not come to some agreement about it.

The CHAIRMAN. The time of the gentleman from Wisconsin [Mr. LENROOT] has expired.

Mr. LENROOT. I shall be glad to explain the difference if I can get the time.

Mr. WEBB. I understand the difference, and I think the House does. Mr. Chairman, I think the amendment offered by the gentleman from Wisconsin [Mr. LENROOT] expresses the judgment of the House on both sides; that is, that we wish to make guilt personal; that whenever a corporation violates any of the provisions of the antitrust laws the agents or directors, or those who are responsible for those violations, shall be deemed guilty of a misdemeanor, and fined or imprisoned. Now, I think that is exactly what my friend from Minnesota [Mr. VOLSTEAD] wants done, and we are perfectly willing to accept the amendment offered by the gentleman from Wisconsin [Mr. LENROOT].

The CHAIRMAN. Does the gentleman from North Carolina withdraw the committee amendment?

Mr. FLOYD of Arkansas. This is an amendment to the committee amendment. I offered the committee amendment, and I accept the amendment of the gentleman from Wisconsin.

Mr. MCKENZIE. Mr. Chairman, I ask unanimous consent that the committee amendment may be read, and then the amendment offered by the gentleman from Wisconsin read in connection therewith, so that we may have an understanding of the whole matter.

Mr. FLOYD of Arkansas. If the gentleman from Illinois will permit, I will state that the amendment offered by the gentleman from Wisconsin [Mr. LENROOT] supersedes the entire amendment that I offered except the first word.

Mr. MANN. I ask for the regular order.

The CHAIRMAN. Without objection, the Clerk will again report the amendment of the gentleman from Wisconsin.

The Clerk again read the amendment.

The CHAIRMAN. The gentleman from Minnesota has five minutes remaining.

Mr. VOLSTEAD. I will yield two minutes to the gentleman from Wisconsin, in order that he may answer some questions. Does this include all of the gentleman's amendment?

Mr. LENROOT. It does. It is in the form of a substitute.

Mr. VOLSTEAD. What part of the original amendment does the gentleman retain?

Mr. LENROOT. The words "whenever a corporation shall"; that is all that is retained of the original amendment. Then it strikes out all of the balance of the amendment, so that it will read "whenever a corporation shall violate," and so forth.

Mr. WEBB. I hope the gentleman from Minnesota will accept the amendment.

Mr. VOLSTEAD. No, Mr. Chairman; I shall not accept the amendment. This amendment is still open to the same objection that I made to other amendments—that it does not take into consideration the fact that for some offenses under existing law the fine is one sum and for other offenses it is a different sum. This makes a uniform punishment of a fine of $5,000 for every offense. We have some provisions in this bill that provide for a fine of $100 a day. Now, will this mean $5,000 a day? And this amendment does not add a particle to the existing law.

I believe that under the existing law we can reach every offense that could possibly be reached under this provision and a number of others.

In years past we have been able to prosecute and convict people under the antitrust laws. The trouble has not been that we did not have law enough; the trouble has been that jurors did not want to convict and officers did not always want to prosecute. They have had some sympathy for the men who have had the genius to build up these great combinations and their industries. It was not the fault of the law. It was the fault of the men who sat in judgment on the men who committed the offenses.

I am not going to consent to weaken the law. I can not see how you add a single thing to the law; on the other hand, you limit it by expressly providing that an individual is only liable if he authorizes or directs an act to be done. It is a familiar principle of the criminal law that anyone who knowingly aids or assists in doing an illegal act is guilty. You do not have to authorize or direct. Anyone that participates in doing a criminal act is guilty. You require that the offense shall be done in a particular way, and thereby exclude other methods of committing the crime. This is not going to add a single thing to the law; on the other hand, I can see clearly that it is going to weaken it very much. The effect of this amendment is to shield the individual and make the law less drastic than it is to-day. [Applause.]

Mr. MCCOY. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN (Mr. SIMS). The gentleman will state it.

Mr. MCCOY. I understand the amendment of the gentleman from Wisconsin as a substitute for the committee amendment has been accepted.

The CHAIRMAN. The Chair understands it is offered as an amendment to the committee amendment.

Mr. MCCOY. And the committee has accepted it.

Mr. LENROOT. It can not be accepted. It has to be voted upon.

Mr. MCCOY. What is the status of the substitute which I offered for the committee amendment?

The CHAIRMAN. The present occupant of the chair understands the gentleman's amendment was simply read in his time for information.

Mr. MCCOY. I got the time in order to offer it as a substitute, and the Clerk so read it.

The CHAIRMAN. The Chair understood that it was offered for information of the committee, to be offered in the regular order at the proper time.

Mr. MCCOY. Assuming that is so, when is the time to offer it?

The CHAIRMAN. The agreement was made before the present occupant took the chair.

Mr. CARLIN. Under the unanimous-consent agreement all the amendments had to be offered. The amendment of the gen-

tleman from New Jersey took its place as a substitute for the amendment which is pending. We have accepted the amendment of the gentleman from Wisconsin.

The CHAIRMAN. That arrangement was made before the present occupant took the chair.

Mr. MANN. There was no agreement about amendments. The agreement was as to debate.

Mr. CARLIN. The agreement was to close debate on the paragraph and all amendments.

Mr. MANN. Yes; but that does not close or shut off amendment. The committee offered an amendment, and the gentleman from Wisconsin offered an amendment to that amendment, and the gentleman from New Jersey offered a substitute to the amendment.

The CHAIRMAN. The Chair understands that the vote will come first on the amendment offered by the gentleman from Wisconsin to the amendment offered by the gentleman from Arkansas. Then the substitute will be voted upon.

Mr. MANN. The vote would come first on the amendment offered by the gentleman from Wisconsin to the committee amendment and then upon the substitute offered by the gentleman from New Jersey and finally upon the amendment as amended, if it should be amended.

The CHAIRMAN. The Chair so understands. The question is on the amendment offered by the gentleman from Wisconsin to the amendment offered by the gentleman from Arkansas.

The question was taken, and the amendment to the amendment was agreed to.

The CHAIRMAN. The question now is on the substitute offered by the gentleman from New Jersey [Mr. MCCOY] for the amendment offered by the gentleman from Arkansas.

The question was taken, and the substitute was rejected.

The CHAIRMAN. The Chair understands the gentleman from Washington offered a substitute. The question is on the amendment offered by the gentleman from Washington [Mr. BRYAN] in the nature of a substitute.

The question was taken, and the amendment in the nature of a substitute was rejected.

The CHAIRMAN. The question now is on the amendment offered by the gentleman from Arkansas [Mr. FLOYD], a member of the committee, as amended by the gentleman from Wisconsin [Mr. LENROOT].

The question was taken, and the amendment as amended was agreed to.

Mr. RAKER. Mr. Chairman, I ask unanimous consent that the proposed amendment which I send to the desk, to section 10 of the bill, may be read; and after it is read, then it is my purpose to prefer a request for unanimous consent to return to section 10 in order that it may be offered.

The CHAIRMAN (Mr. HULL). The gentleman from California asks unanimous consent to return to section 10 in order to offer an amendment. Is there objection?

Mr. MANN. Mr. Chairman, I object. As the Chair states the request, it is to return to section 10.

Mr. RAKER. Mr. Chairman, my proposition is that this proposed amendment be first read, and then, after it is read, it is my purpose to ask unanimous consent to return to the section. I wish the gentleman from Illinois would let me have the amendment read.

Mr. MANN. What is it about? Is it about anything in the section?

Mr. RAKER. Yes; it covers the provisions of the section, and I will ask the gentleman to let me have it read.

The CHAIRMAN. The gentleman from California asks unanimous consent that the amendment be reported for information. Is there objection?

There was no objection.

The Clerk read as follows:

On line 3, page 31, after the word "inhabitant," amend by adding the following words: "or where the principal place of business of such corporation is situated"; and on line 4, page 31, after the word "district,' insert the following words: "where the contract is made or is to be performed or where the obligation or liability arises or the breach occurs or," so that as amended it will read as follows:

"SEC. 10. That any suit, action, or proceeding under the antitrust laws against a corporation may be brought not only in the judicial district whereof it is an inhabitant or where the principal place of business of such corporation is situated, but also in any district where the contract is made or is to be performed or where the obligation or liability arises or the breach occurs, or wherein it may be found or has an agent."

Mr. RAKER. Mr. Chairman, I now ask unanimous consent that the committee return to section 10 for the purpose of considering the amendment

The CHAIRMAN. The gentleman from California asks unanimous consent that the committee return to section 10 in order to consider the amendment just read for information. Is there objection?

Mr. WEBB. Mr. Chairman, I object. I now move that the bill as amended be laid aside under the rule with a favorable recommendation.

The CHAIRMAN. The question is on the motion of the gentleman from North Carolina that the bill as amended be laid aside with a favorable recommendation.

Mr. GRAHAM of Pennsylvania. Mr. Chairman, before that motion is put I desire to call the attention of the chairman of the committee to the fact that there should be a verbal correction made in one of the amendments which was presented and adopted.

Mr. WEBB. Mr. Chairman, that is right; and I ask unanimous consent that the gentleman may be permitted to offer his proposed amendment as amended.

The CHAIRMAN. To which section does the amendment apply?

Mr. WEBB. And I ask unanimous consent that we return to that section for that purpose alone. It is to section 11.

The CHAIRMAN. The gentleman from North Carolina asks unanimous consent to return to section 11 to permit the correction of an amendment. Is there objection?

Mr. RAKER. Mr. Chairman, reserving the right to object, let the amendment be reported first.

Mr. GRAHAM of Pennsylvania. Mr. Chairman, I will explain to the gentleman that the amendment offered has already been adopted by the committee, but that it was drawn hastily, and there are some verbal corrections necessary.

The CHAIRMAN. Without objection, the Clerk will report the proposed amendment for information.

The Clerk read as follows:

Amendment by Mr. GRAHAM of Pennsylvania:
Page 31, line 9, after the word "district," insert the following:
"*Provided*, That in civil cases no writ of subpœna shall issue for witnesses living out of the district in which the court is held at a greater distance than 100 miles from the place of holding the same, without the permission of the trial court being first had, upon proper application, and cause shown."

The CHAIRMAN. Is there objection?

Mr. RAKER. Does that limit the distance?

Mr. MANN. The gentleman offered his amendment a while ago, but as adopted it applies to criminal cases.

Mr. RAKER. That may be true; but if it is possible to keep out the question of distance, it ought to be kept out. In my State men have to travel four and five hundred miles in one district.

Mr. GRAHAM of Pennsylvania. Mr. Chairman, if the gentleman will permit, I will explain. It was the thought of districts like the gentleman's that suggested the importance of making this change. I know there are districts in which the extent from one end to the other would be four or five hundred miles, and therefore the limitation of 100 miles which applies with us in the eastern districts would not apply to them, because this amendment now leaves it so that the writ of subpœna runs all through the district, and the limitation is in the language of the old law, that where the witness resides outside of the district he can not be compelled to attend more than 100 miles.

Mr. RAKER. Outside the district?

Mr. GRAHAM of Pennsylvania. Yes; in conformity with the old statute. It is merely a verbal correction to make it conform to the law.

Mr. RAKER. With the amendment proposed by the gentleman, irrespective of what distance might be in the district—200, 300, or 500 miles—the subpœna will run to the outermost limits of that district?

Mr. GRAHAM of Pennsylvania. That is exactly the purpose of that amendment, and it does that.

The CHAIRMAN. Is there objection? [After a pause.] The Chair hears none. The question is on agreeing to the amendment offered by the gentleman from Pennsylvania.

Mr. MANN. That is to strike out the amendment that was inserted and insert this amendment in lieu thereof; practically it has to be done by unanimous consent.

Mr. WEBB. This is to be adopted in lieu of the amendment the gentleman offered an hour or so ago?

Mr. MANN. The gentleman asks unanimous consent to modify his amendment and adopt it as read.

The CHAIRMAN. The gentleman from Pennsylvania asks unanimous consent to modify his amendment previously adopted by the committee by inserting the amendment just read. Is there objection? [After a pause.] The Chair hears none, and it is so ordered.

Mr. WEBB. Mr. Chairman, I move that the bill as amended be laid aside with a favorable recommendation that it do pass.

The question was taken, and the motion was agreed to.

[Applause.]

ORDER OF BUSINESS.

Mr. ADAMSON. Mr. Chairman, I ask that the Clerk report the next bill to be considered under the rule—H. R. 16586.

The CHAIRMAN. Under the rule, the first reading of the bill H. R. 16586 is dispensed with, and the Clerk will report the bill by title.

The Clerk read as follows:

A bill (H. R. 16586) to amend section 20 of an act to regulate commerce.

Mr. ADAMSON. Mr. Chairman, I desire to ask the gentleman from Minnesota [Mr. STEVENS] as to his idea of proceeding with debate at this time.

Mr. STEVENS of Minnesota. Mr. Chairman, I have yielded all of my time, but none of them are ready to proceed right now.

Mr. MANN. It will be the other side of the House to proceed first.

Mr. ADAMSON. The reason I asked the gentleman the question, I will state to the gentleman from Illinois, is unless I look a little further than the end of my nose we might get tangled up to-night. If there is no speaker to proceed, we would just as well give direction to the session at this time and have an understanding.

Mr. MANN. I will ask the gentleman if it would not have the same effect if we would hold a night session and if no speakers are ready to proceed, we will use up three hours of debate in that way?

Mr. ADAMSON. Well, if the gentleman from Minnesota is willing to cancel out that much of his time I will put in an hour to-night.

Mr. MANN. I am not referring to the speakers of the gentleman from Minnesota; they would give us real meat.

Mr. ADAMSON. Mr. Chairman, it is well that gentlemen should compliment themselves, otherwise they might go without compliments. It is better to wait until the feast is served before discussing the quality of the viands. I will state, Mr. Chairman, if it is the pleasure of the committee to rise at this time I have one speaker who can consume an hour to-night; and if the other side will use an hour, that will enable us to finish general debate on Thursday.

Mr. STEVENS of Minnesota. I may be able to find some one this evening; but this is a very important section, and the speakers who will address the House from this side of the House deserve a quorum, because they will discuss the merits of the proposition.

Mr. ADAMSON. If the gentleman is going to get lonesome and require the presence of a quorum, he might just as well say so.

Mr. STEVENS of Minnesota. I think under the circumstances this evening we shall insist on a quorum.

Mr. ADAMSON. I call attention to the fact that if we consume the entire 10 hours allowed for debate we could not finish general debate on Thursday, unless we consume some time this evening, and I shall move that the committee rise; but I can use an hour to-night, and I hope the gentleman can use enough time so that we can finish the general debate on Thursday.

Mr. MURDOCK. Rise until when?

Mr. ADAMSON. I do not suppose that the gentleman from Minnesota apprehends that he will be lonesome in the daytime; it is at night that he fears he will be lonesome.

Mr. STEVENS of Minnesota. Mr. Chairman, the rule covers the mode of procedure, and we are willing to abide by the rule. But if the speakers on this side of the House to whom I have yielded time should not be present, I wish to give notice that I shall want to protect those to whom I have yielded time.

Mr. ADAMSON. If gentlemen will return to-night for a short service and tell all the folks that they will hear one good speech, I shall have an hour occupied [laughter]; and I move that the committee do now rise.

The CHAIRMAN. The gentleman from Georgia moves that the committee do now rise. The question is on agreeing to that motion.

The motion was agreed to.

Accordingly the committee rose; and the Speaker having resumed the chair, Mr. HULL, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill (H. R. 16586) to amend section 20 of the act to regulate commerce and other bills under the special order of the House and had come to no resolution thereon.

REPRINT OF THE CLAYTON ANTITRUST ACT.

Mr. MANN. Mr. Speaker, I ask unanimous consent, or suggest to the gentleman from North Carolina [Mr. WEBB] that he ask unanimous consent, to have the antitrust bill that was just laid aside and favorably reported reprinted as it has been amended by the committee.

Mr. WEBB. I make that request, Mr. Speaker. I think it is a good suggestion.

The SPEAKER. The gentleman from North Carolina [Mr. WEBB] asks unanimous consent to have a reprint made of the antitrust bill as agreed to in committee. Is there objection? Were any amendments adopted to it?

Mr. MANN. Yes; a number of them; but the reprint should not show that they are amendments. I think the whole thing, being a committee amendment, should be printed as agreed to in the committee.

The SPEAKER. Is there objection to the request? [After a pause.] The Chair hears none, and it is so ordered.

ENROLLED BILL SIGNED.

The SPEAKER announced his signature to enrolled bill of the following title:

S. 2860. An act providing a temporary method of conducting the nomination and election of United States Senators.

LEAVE OF ABSENCE.

The SPEAKER. The Chair lays before the House the following personal request.

The Clerk read as follows:

WASHINGTON, D. C., *June 2, 1914.*

To the Speaker and Members of the House of Representatives:

I respectfully ask leave of absence from attendance at the House of Representatives for an indefinite period on account of the meeting of the Japanese-American group of the Interparliamentary Union at Tokyo and the Interparliamentary Union at Stockholm, both of which I desire to attend as a delegate of the American group.

Respectfully,

W. D. B. AINEY.

The SPEAKER. Is there objection to the gentleman's request?

There was no objection.

CHANGE OF REFERENCE.

Mr. GREENE of Vermont. I ask unanimous consent that the Committee on Invalid Pensions be discharged from the consideration of the bill (H. R. 16966) granting a pension to Joseph E. La Rocque, and that the bill be referred to the Committee on Pensions.

The SPEAKER. Is there objection to the request of the gentleman from Vermont? [After a pause.] The Chair hears none, and the change of reference will be made.

SPEAKER PRO TEMPORE FOR NIGHT SESSION.

The SPEAKER. The Chair designates Mr. RAKER, of California, to act as Speaker pro tempore to-night.

PENSIONS.

Mr. KEY of Ohio. Mr. Speaker, I desire to call up a couple of conference reports on Senate bills.

The SPEAKER. The Clerk will read the first conference report.

The Clerk read the conference report, as follows:

CONFERENCE REPORT (NO. 711).

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill S. 4168, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House numbered 2.

That the House recede from its amendments numbered 1 and 3, and agree to the same.

Amendment numbered 4:

That the Senate recede from its disagreement to the amendment of the House numbered 4, and agree to the same with an amendment as follows: In lieu of the sum proposed insert "$20"; and the House agree to the same.

J. A. M. ADAIR,
JOE J. RUSSELL,
Managers on the part of the House.

BENJ. F. SHIVELY,
CHARLES F. JOHNSON,
REED SMOOT,
Managers on the part of the Senate.

Mr. MANN. Mr. Speaker, that is no conference report. It says—

That the House recede from its amendments numbered 1 and 3, and agree to the same.

Mr. KEY of Ohio. The Clerk of the Senate committee prepared the report. It is not from our committee, anyway. It is the wrong report.

Mr. MANN. I think the gentleman had better not try to pass that to-night.

The SPEAKER. You can not amend a conference report in the House. The only thing to do is to withdraw it.

Mr. KEY of Ohio. I will ask to withdraw the conference report, and will have it sent back to the Senate to be fixed up.

RECESS.

Mr. ADAMSON. Mr. Speaker, I move that the House take a recess until 8 o'clock this evening.

The SPEAKER. The gentleman from Georgia moves that the House take a recess until 8 o'clock to-night.

The motion was agreed to.

Accordingly (at 4 o'clock and 52 minutes p. m.) the House took a recess until 8 o'clock p. m.

EVENING SESSION.

The recess having expired, the House was called to order by Mr. RAKER as Speaker pro tempore.

REGULATION OF RAILWAY STOCKS AND BONDS.

The SPEAKER pro tempore. The House will automatically under the rule resolve itself into Committee of the Whole House on the state of the Union, with the gentleman from Tennessee [Mr. HULL] in the chair.

The CHAIRMAN. The House is in Committee of the Whole House on the state of the Union for the further consideration of the bill (H. R. 16586) to amend section 20 of an act to regulate commerce.

Mr. ADAMSON. Mr. Chairman——

Mr. GARNER. Mr. Chairman, will the gentleman from Georgia yield? I would like to suggest the absence of a quorum in order that the bells might be rung to notify Members that the committee is in session for the discussion of a very important measure to-night.

Mr. ADAMSON. I am surprised that my genial friend from Texas suggests ringing the bell instead of ordering the sheriff to call in the people from the public square as he does at home when he wants them to hear him speak. [Laughter.]

Mr. GARNER. Mr. Chairman, I suggest the absence of a quorum.

The CHAIRMAN. The gentleman from Texas makes the point of no quorum, and the Chair will count.

Mr. GARNER. Mr. Chairman, I withdraw the point of no quorum.

Mr. ADAMSON. Mr. Chairman, I take pleasure in yielding to the distinguished gentleman from Texas the author of the bill [Mr. RAYBURN], who although a young Member is old in wisdom and accomplishment. I yield him such part of the five hours allotted to me as he may see proper to use.

Mr. RAYBURN. Mr. Chairman, much has been said in recent years about the proposition of securities of railway corporations. Much has been printed, much has been said in Congress and out of Congress upon this question, and it has reached the stage when national parties have taken cognizance of it and have placed some provisions in their platforms on this question.

Your Committee on Interstate and Foreign Commerce considered it of enough importance to report the bill that is now under consideration. We had before that committee many distinguished witnesses, men of broad experience in affairs of this kind—the attorneys of railway corporations and the members of the Interstate Commerce Commission, and men of that character and that type.

I do not believe that there was a man who appeared before the committee who did not recommend in some way that Congress take some steps for the control and the regulation of the issue of stocks and bonds by railway corporations. It is true that some went much further than others; some believed that publicity alone, carried through the proper channels by the Interstate Commerce Commission, would be all that was needed to cure these evils. Others as distinguished and as well known in the country believed that we should not only enact further and greater publicity provisions into law, but that the Congress should go far enough to lodge in somebody—and, of course, it was the general consensus of opinion that it should be lodged in the Interstate Commerce Commission—the power of veto. In other words, that we may have the right to say whether or not under a given state of facts the railroad corporation should have the right to issue stocks and bonds. Along this line we have worked in this bill, both along the publicity line and along the line of giving the Interstate Commerce Commission the veto power over the application for the issue of stocks and bonds by railroads engaged in interstate commerce.

This bill contains three provisions which we deem necessary at this time, or a majority of the committee deem necessary at this time, for the protection of the public in the proposition of railway regulation:

First. Greater publicity in financial transactions of railway corporations.

Second. Making it unlawful for railway corporations to issue stocks and bonds or other evidence of indebtedness except for certain specified purposes, and that they shall not be issued for those specified purposes until previous approval by the Interstate Commerce Commission shall have been had.

Third. That two years after the passage of this act it shall be unlawful for any person to hold the position of director or officer in more than one railroad which is engaged in interstate commerce and subject to the act to regulate commerce, and provides, further, that it shall be unlawful for any president, vice president, chairman of board of directors, director, or directorates of any such carrier to appropriate, pay, or receive as salary or dividends any money resulting from the sale of stocks and bonds.

Mr. Chairman, some people are going to criticize the form and not the substance of this bill, while others are going to criticize the substance and not the form. Some will say that it is not proper legislation to incorporate in section 20 of the act to regulate commerce. It shall be my purpose in taking up this bill to discuss it under the three subheads enumerated to show that these provisions are proper matter into which to expand section 20. Section 20 of the act to regulate commerce deals almost wholly with the subject of publicity of the actions of common carriers with respect to their dealings with the public. The Hadley Commission, appointed under act of Congress in 1910, and composed of a body of men of high character and established reputation along this line, went into an investigation of railroad securities with the purpose of recommending to Congress some legislation along this line. The report of the Hadley Commission deals wholly with the subject of publicity of securities of common carriers. This I believe brings the bill absolutely as a proper amendment to section 20 of the act to regulate commerce. Section 20 of the act to regulate commerce, which provides that railroad corporations shall make annual reports and such special reports as the Interstate Commerce Commission may direct, and says that the commission shall have at all times access to all accounts, records, and memoranda kept by such carrier, is reenacted. In fact, the whole of section 20 as it now stands is reenacted with the additions in this bill. But this bill goes further and uses the following language, following up that just stated: "Correspondence and other documents and papers, regardless of the dates thereof." In the past much has been covered up in the correspondence and papers of the carriers which could not be made accessible under the old law. Believing that this was a defect, and a vital one, we have added that as part of the existing law. You will also note that the bill provides that this correspondence and these documents and papers shall be accessible to the commission, regardless of the dates thereof. The reason of this language may be made clear by quoting from the statement of Commissioner Clark before the Committee on Interstate and Foreign Commerce, as follows:

> A situation has grown up since our annual report was submitted to Congress and under which the railroads take the position that the provisions of section 20 have no application to any books, records, memoranda, etc., which are older than the effective date of the so-called Hepburn Act. In other words, that under section 20 we can go back through all of these records—except that they have challenged our right to go into the correspondence—to August 28, 1910, but beyond that is a sealed book. If this was so, if the law is permanently so considered, it means that a great deal of the vitality shall have been sapped.

This was in the celebrated Louisville & Nashville case, in which the Interstate Commerce Commission was acting in response to a resolution of the Senate. The case is now held up for final adjudication in the courts, and the commission can do no more until the court has passed on the question, and then can do nothing if the court should hold that it is beyond the power of the commission to look into this matter.

From this statement from a member of the Interstate Commerce Commission you can readily see the absolute necessity for the bill's provision making these papers, documents, correspondence available regardless of their date. In our determination to get full information in regard to the business transactions of the carriers, we did not stop with this, but went much further, as will be seen from the following language used in connection with the power of the commission to employ special agents or examiners who shall have authority, under orders of the commission, to inspect and examine into all such records, documents, accounts, and memoranda, and then we add, "and also the books, papers, correspondence of carriers, construction or other companies, or of firms or individuals, with which a carrier shall have had financial transactions."

We believe this is a proper authority to give the commission, and further believe that it is absolutely a necessary power to give it in order that it may surround itself with all of the facts regarding financial transactions of these railroads in order that they may be able at all times from this great fund of information at hand to deal with all applications of railroads in the matter of rates and regulation otherwise.

I believe, Mr. Chairman, that the transportation business of the country should be divorced as nearly as possible from all entangling alliances with other business. The Congress in the past has taken some steps along this line, and I believe that the time is ripe when other and further steps should be taken, and I believe that before long you will find coming from your Committee on Interstate and Foreign Commerce bills to carry out this thought.

Mr. Chairman, much has been said about the power and sufficiency of publicity. Some have spoken of it in a very derogatory manner; others seem to think that in publicity alone may be found the panacea for all of the evils that afflict us. I do not join in the sentiment of the first class at all, nor do I agree in toto with the latter. But I do believe that when the white light of publicity is thrown upon the business transactions and associations of men it will be one of the great factors in causing men to cease doing many of the reprehensible and unwise things that they are now doing. I do not join in the great chorus going up from the pessimists of this country in which they seek to convey the idea that the world is getting worse instead of better, and that men are less amenable to publicity to-day than they were in former times. There is no decent man but that desires to be respected by his fellow man, and when he is engaging in practices that he knows will be condemned by all right-thinking and right-acting people if it were known, I believe that that man will be deterred to a great extent from engaging in these practices. We go further than these provisions just suggested and we say that the Interstate Commerce Commission may in its discretion call upon the railroad companies to make public to their shareholders such information as the commission desires and in such form as the commission may direct. A great wrong has been practiced along this line by those higher up in authority in these carrier corporations by keeping the men who hold the shares of stock, and who are vitally interested in the business of the companies, absolutely in the dark as to the financial transactions in which they have an interest. I believe that when that part of this bill becomes a law it will be a great boon to the small investor in railways in this country. In other words, Mr. Chairman, I believe that it takes this, added to the other provisions requiring publicity in this bill, to round it out and make it what it should be along the lines of publicity. Remembering what was said in the beginning, that section 20 deals with the power of the Interstate Commerce Commission to call for facts concerning the financial transactions of railroads, and taking into consideration the amendments to the existing law that I have discussed, I say that I believe this is a proper amendment to section 20 of the act to regulate commerce. And to further justify the position that we have taken upon this publicity proposition in this bill, I quote from section 6 of the recommendation of the Hadley Commission as follows:

> Upon the whole, your commission believes the accurate knowledge of the facts concerning the issues of securities and the expenditures of their proceeds is a matter of utmost importance. It is the one thing on which the Federal Government can effectively insist to-day; it is the fundamental thing which must serve as a basis for whatever additional regulation may be desirable in the future.

I believe in toto in that statement, and I believe that when we have built up this great line of publicity as suggested in this bill, if it alone were put into this bill, it would be a great boon to the country, and its beneficent results would be felt throughout the country, especially among the people who are dealing with the railroads and who are engaged or in any way connected with the securities of railroad corporations.

APPROVAL BEFORE ISSUE.

I now come to the second part of the amendment to section 20, that of the control of the issues of stocks and bonds and other securities of railroads and the approval of the Interstate Commerce Commission before any issues of stocks and bonds or other evidences of indebtedness may be made. Much has been said of late years concerning, and much proper criticism has come from the public in regard to, the overissue of stocks and bonds and overcapitalization of railroads, and many abuses along this line have brought us to believe that legislation along this line is absolutely necessary at this time. Commissioner Clements in his testimony before the Committee on Interstate and Foreign Commerce substantially says:

> I have believed for a good many years that there ought to be some regulation, at least to the extent of restricting and limiting the power of corporations engaged in interstate commerce to issue stocks and bonds. This condition has been a matter of growth in my own mind and judgment. I have always been rather inclined to the general theory of as little regulation as was necessary as being better than to have any that is superfluous.

Mr. KINDEL. Will the gentleman yield?

The CHAIRMAN. Does the gentleman yield?

Mr. RAYBURN. Yes.

Mr. KINDEL. The gentleman having invited us to ask him any questions, I would like to ask if, in the gentleman's opinion, these stocks and bonds have anything to do with the classification of freight rates, express rates, and parcel-post rates?

Mr. RAYBURN. It certainly does, and I am going to come to that; capitalization certainly is a great factor in the determination of freight rates.

Mr. KINDEL. Exactly; I wanted to know how the gentleman bases that as having anything to do with the question of rates.

Mr. RAYBURN. I am coming to that, and I think I can demonstrate easily to every one to whom it is possible to demonstrate anything that the proposition of the capitalization of a railroad is not the all-determining factor in making rates and promulgating tariffs, but it is one of the great determining features in it.

Mr. KINDEL. The same authorities the gentleman just quoted—Clark and Clements—are the ones who have established the express rates, and these same authorities are responsible for the parcel-post rates, which are 200 per cent higher than the express rates in our section of the country——

Mr. RAYBURN. If the Interstate Commerce Commission has made a mistake——

Mr. KINDEL. A mistake?

Mr. RAYBURN (continuing). I am not standing for them; I am not an apologist for them along any line.

Mr. KINDEL. I want to arrive at the benefit we are going to receive from this.

Mr. GARNER. The gentleman will come to that in a moment.

Mr. RAYBURN. I desire to say I will endeavor to answer any pertinent question, but the proposition of the parcel-post rates is not a pertinent question to this proposition.

Mr. ADAMSON. If the gentleman will permit a suggestion from his colleague——

Mr. RAYBURN. Yes; certainly.

Mr. ADAMSON. I would ask if it is not a pertinent place to remind all anxious inquirers that the control of the overissne of stocks and bonds might prevent speculators and wreckers from rendering the carriers unable to discharge their duties at all? [Applause.]

Mr. RAYBURN. That is exactly what we are driving at in this bill; that is, to have a house cleaning among the railroads of this country that they may not overload themselves with unnecessary and spurious securities that will incapacitate them from performing their functions as public carriers in this country. [Applause.]

Mr. KINDEL. Will the gentleman permit another question?

Mr. RAYBURN. Yes.

Mr. KINDEL. If it is true that we ought to have a house cleaning, get rid of things, had we not better start at the Post Office Department?

Mr. RAYBURN. My dear sir, there are lots of things down at the Post Office Department that I would like to clean out, but I am not going to put them in this bill. [Laughter.]

Mr. KINDEL. I want to see whether the Interstate Commerce Commission in the same breath will make a rate 200 per cent higher than for the express.

Mr. ADAMSON. Mr. Chairman, will my colleague yield?

The CHAIRMAN. Does the gentleman from Texas yield to the gentleman from Georgia?

Mr. RAYBURN. Yes. I always yield cheerfully to the chairman.

Mr. ADAMSON. I suggest to the gentleman that, in view of the laborious character of the work of our committee, it is wise to postpone, until after we dispose of pressing affairs, the Post Office affairs, the study of astronomy, and the jurisdiction of all other committees. [Laughter.]

Mr. RAYBURN. That has been the purpose of our committee. That is the reason why we work so harmoniously among ourselves, and that is the reason why we work so harmoniously in the House. We seek to attend to the matters that properly come before that committee, and do not invade the jurisdiction of other committees of this House.

Now, continuing, Commissioner Clements said:

> But experience and observation have convinced me that there should be some regulation at the base as well as at the top of this matter of common-carrier organization and operation.

You will see from this statement—and I believe that it is concurred in by a majority of the Interstate Commerce Com-

mission—that they believe some steps along the line of Federal control of the issues of securities engaged in interstate commerce is absolutely necessary and imperative; and being in harmony with this law, your committee has added another paragraph to section 20 to regulate commerce, which says that it shall be unlawful for any common carrier subject to the act to regulate commerce to issue any capital stock or certificate of stock of any bond or other evidence of indebtedness or assume any other obligation or become the lessor of any other railroad——

Mr. ANDERSON. Mr. Chairman, may I ask the gentleman a question?

The CHAIRMAN. Does the gentleman yield to the gentleman from Minnesota?

Mr. RAYBURN. Yes; but let me get to a period always.

Mr. ANDERSON. Finish the sentence.

Mr. RAYBURN. It is several lines long.

Mr. ANDERSON. I merely wanted to ask the gentleman whether that section referred to new stock issues or would permit the refunding of outstanding obligations?

Mr. RAYBURN. I am just coming to that—what we consider as necessary purposes. It shall be unlawful for any common carrier to become the lessor of any other railroad, or the guarantor or surety for the securities of any other person, natural or artificial, even though permitted by the authority creating the carrier corporation, except for some purpose necessary to the proper performance of its service for the public and not tending to impair the financial ability of the carrier to discharge its duty to the public, and goes on to say that extensions and improvements of its railroads and terminals in connection therewith, increasing and improving the equipment, refunding and retiring existing bonds, and similar and kindred purposes, shall be held to be necessary purposes in the meaning of this law.

Does that answer the gentleman's question?

Mr. ANDERSON. I think it does.

Mr. RAYBURN. Then we say that it shall be unlawful for any railroad corporation to issue any such stocks and bonds hereinbefore mentioned or for any purpose connected with or relating to that part of the business of the carrier covered by the act to regulate commerce unless and until the Interstate Commerce Commission shall have approved the purposes of the issue and the proceeds thereof. Then we add another provision, which we believe is wise under all of the circumstances, which says that the provisions of this paragraph shall not apply to notes issued by a carrier maturing not more than two years from the dates thereof.

Mr. BARTON. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. Does the gentleman from Texas yield to the gentleman from Nebraska?

Mr. RAYBURN. Yes.

Mr. BARTON. Are we to understand from that statement that if a company wanted to issue stocks or bonds they would have to lay that proposition before the commission before they could fix upon the number of bonds?

Mr. RAYBURN. No. As I understand railroad operations, those in charge meet and authorize an issue of stock and bonds. Of course they go upon the market when that is done, and they sell them. Under this provision, when they meet and approve an issue of stock or bonds, before they can finally issue them they must come before the Interstate Commerce Commission and show the reason for the issue, and also lay before the Interstate Commerce Commission all the facts as to what they intend to do with the proceeds thereof, and so forth.

Mr. BARTON. They are required to make a showing as to what they will do with the proceeds?

Mr. RAYBURN. Yes. They must show the Interstate Commerce Commission that it is for a necessary purpose, and the necessary purpose is contained in one of the enumerated provisions that I have just read.

By the unbridled and unregulated system in the past of the railroads of the country loading themselves down with unnecessary and inappropriate issues of stocks and bonds I believe that the railroad companies have placed themselves in a position where they have not been able to perform their duties to the public. I do not say that capitalization is the all-controlling factor in the making of rates, but I do say that it is one of the great determining factors in making and promulgating railroad tariffs. When a railroad company is allowed to unnecessarily load itself down with spurious securities of one kind and another every thoughtful man will agree that the ability of the carrier to perform its functions is impaired. The present deplorable condition of the railroads of this country is but an echo of bad management upon the part of the railway officials.

Mr. SUMNERS. Mr. Chairman, will my colleague yield?

The CHAIRMAN. Does the gentleman yield to his colleague?

Mr. RAYBURN. Yes; I yield.

Mr. SUMNERS. On what ground does your committee exempt the issuance of two-year notes?

Mr. RAYBURN. The first provision in this bill, until it was finally thrashed out by the committee, when I first drew it, provided that they might issue stock and securities running for one year without having the previous permission of the Interstate Commerce Commission. The committee took it up, and after much consideration we decided that two years would probably be better. We thought that for little running expenses and matters like that it was not necessary for a railroad company, in order to do right by the public, to come before the Interstate Commerce Commission and wait for their approval of a bond issue, or an issue of any kind of securities running a short time, in order that they could better carry on their business.

Mr. ADAMSON. Right there, will the gentleman explain under that provision——

The CHAIRMAN. Does the gentleman yield?

Mr. RAYBURN. Yes.

Mr. ADAMSON. That these current notes ought to be limited to a small proportion of the outstanding liabilities?

Mr. RAYBURN. Yes; and these notes and securities for the issuance of which they do not have to have the approval of the Interstate Commerce Commission before they are issued can never at any time exceed 5 per cent of the existing stock and bonds of the railroad company.

Mr. GREEN of Iowa. Mr. Chairman, will the gentleman yield there?

The CHAIRMAN. Does the gentleman from Texas yield to the gentleman from Iowa?

Mr. RAYBURN. Yes.

Mr. GREEN of Iowa. Under the provisions of your bill would it be permissible for one railroad to buy the stock of a connecting line so as to get control thereof? For instance, could a railroad running east of Kansas City buy stocks from a railroad running beyond Kansas City in order to get control of it?

Mr. RAYBURN. I do not think it would be prohibited by the bill.

As I just said a moment ago, they can issue stocks and bonds for that purpose, and, of course, it is presumed that they could buy and extend their lines, because that is construed in this bill as one of the necessary purposes for the extension and improvement of the line.

Mr. GREEN of Iowa. I did not mean the buying of the line itself, but control of the stock.

Mr. SIMS. There would be no difference between getting it in one way or the other.

Mr. RAYBURN. I think it would be permissible. They are before the Interstate Commerce Commission at this very hour clamoring for a 5 per cent increase in freight rates all over the country, and they are very able, considering their spurious securities, to make such a showing that under the present rates allowed by the Interstate Commerce Commission it amounts to almost confiscation. I do not presume to speak for the Interstate Commerce Commission, nor do I know what they are going to do with the pending application of the railroads for this increase, but I do venture this assertion, that if the Interstate Commerce Commission, after a full, fair hearing and complete investigation, finds that it is their duty to grant this increase in the rates it will be almost wholly on account of the railroads in the past being able to do an almost unbridled wildcat business in overloading themselves with spurious and unnecessary obligations. I believe that this is a vicious habit, and has already been condemned by every thoughtful and patriotic man, and one that ought to be stopped, and stopped now. Nobody will deny that in many instances the railroad companies of the country are in a bad shape financially, and that their ability to perform their functions and to fulfill their obligations to the public are impaired to the fullest and most ridiculous extent. I believe that this bill when enacted it to a law will have the effect of a house cleaning among railroad corporations of the country and, under the administration of this beneficent provision, that the railroads of the country will not again be found in the condition in which they are to-day.

In this bill we provide against any railroad becoming the lessor of another railroad or the guarantor or surety for the security of any other corporation.

Mr. QUIN. Will the provisions of this bill prevent the railroad corporations from being looted and plundered, like the New York, New Haven & Hartford?

Mr. RAYBURN. That is exactly one of the things we are driving at. If there had been absolute publicity in all the transactions of the railroad in new issues of stocks and bonds and other securities; if they had been compelled to come before the Interstate Commerce Commission and lay down before them the reasons upon which they made their application, and if these issues had been required to be approved before it would have been possible for the railroad company to have made the issue, we do not believe it could have been done.

Mr. BAILEY. Assuming that the Interstate Commerce Commission shall grant this 5 per cent increase in rates, is it not reasonably certain that the railroad companies will capitalize on that increased earning power? That is what they have done heretofore.

Mr. RAYBURN. We are having a revaluation of the railroads now.

Mr. BAILEY. Is there anything in this bill to prevent their recapitalizing on that increased earning power?

Mr. RAYBURN. I can not conceive that they will capitalize that increase.

Mr. BAILEY. They have always done it.

Mr. RAYBURN. I do not think they will do that under the provisions of this bill.

Mr. CANTOR. That can not be done except with the consent of the Interstate Commerce Commission, anyhow.

Mr. RAYBURN. No; and I do not think it will be done under this bill.

Mr. CULLOP. Will the gentleman yield?

Mr. RAYBURN. Yes.

Mr. CULLOP. I will say to the gentleman from Pennsylvania [Mr. BAILEY] that they could not increase their loans or bonds to any extent without first filing a petition with the Interstate Commerce Commission, specifying for what the expenditure shall be made; and if the petition is granted by the Interstate Commerce Commission and the bonds and stocks are sold, they must report to the commission the disposition of the proceeds of the sale, so that the commission will know that the purpose for which the loan was made has been accomplished. That is the purpose of this bill.

Mr. BAILEY. Will this bill prevent an increase of capitalization?

Mr. CULLOP. The Interstate Commerce Commission must first grant the permission, and it has the right to refuse it.

Mr. BAILEY. They will have increased earning power.

Mr. ADAMSON. I will ask the gentleman from Texas [Mr. RAYBURN], the author of this bill, if this bill will not, in his opinion, if enacted into law, prevent all future issues of stocks and bonds to be paid for in water or wind?

Mr. RAYBURN. That is one of the purposes of the bill, and that is our intention in presenting the bill.

Mr. McKENZIE. I would like to ask the gentleman from Texas this question: In case a railroad company should make a good showing to the Interstate Commerce Commission, would the Interstate Commerce Commission under this bill have the arbitrary right to absolutely refuse to permit them to issue bonds?

Mr. RAYBURN. I think that would be a question that they could take into the courts if it was for an absolutely necessary purpose. I do not think the Interstate Commerce Commission could arbitrarily put up their decision as final. It would be like the question of rates. The railroad companies have the right to appeal to the courts, and I think they would have a right to appeal from this decision of the Interstate Commerce Commission.

Mr. McKENZIE. Is it not one of the main purposes of this bill to give stability and value to railroad stocks and bonds for the protection of the men and women who invest their money in these stocks and bonds in good faith, so that the rate to be charged by the railroads is not the only material fact in the bill?

Mr. RAYBURN. It is not; but the gentleman's question answers itself and answers it much better than I can, and I thank him for it.

I believe, Mr. Chairman, that this is one of the most salient provisions in this bill. Many times railroad companies themselves do a great business, the proceeds of which would be sufficient to make the property a paying investment, but by becoming the lessor of unprofitable railroads, or by becoming the guarantor or surety of some other corporation, are themselves milked of all of the proceeds of this paying corporation, and it redounds to the great detriment of the small stockholder in the parent company. To my mind this is one of the vicious practices, and one that long ago should have been prohibited by law. Under this law when a railroad company comes before the Interstate Commerce Commission asking the right to make an issue of stocks and bonds they must prove absolutely to that commission, first, that this issue is for a necessary purpose; and, second, they are compelled by the commission to make known the purposes for which the proceeds of this issue are to be applied, following up the first amendment to section 20 on publicity.

Many people doubt the power of Congress along this line. I for one do not. I believe that Congress has the power under the Constitution to enter this field, for under the commerce clause of the Constitution the Federal Government has the power of the regulation of interstate commerce, and following that we are brought to the necessity of concluding that Congress has the power over all matters that affect the carrier in trying to carry out its contracts with the public to do an interstate business. There is no proposition better settled in law than that when the Federal Government has the right to enter a field of legislation, and does enter that field, it then occupies it exclusively.

Many people have spoken to me and said that the celebrated case of the Louisville & Nashville Railroad against Kentucky was a case in point to prove that the Interstate Commerce Commission did not have the power and authority to enter this field. Now, I want to quote from that case the most salient provision and the one bearing upon this point which these gentlemen pin their faith to—that this will be an unconstitutional bill on account of the Interstate Commerce Commission not having this power which it is sought to be conferred by Congress:

> It is plain that the provision in question does not in terms embrace the case of interstate traffic. It is restricted in its regulation to those who own or operate a railroad within the State, and the long and short distances mentioned are evidently distances upon the railroad line within the State. The particular case before us is one involving only the transportation of coal from one point in the State of Kentucky to another by a corporation of that State. It may be that the enforcement of the State regulation forbidding discrimination in rates in the case of articles of a like kind carried for different distances over the same line may somewhat affect commerce generally; but we have frequently held that such a result is too remote and indirect to be regarded as an interference with interstate commerce; that the interference with the commercial power of the General Government to be unlawful must be direct, and not the merely incidental effect of enforcing the police powers of a State. (183 U. S., pp. 518, 519.)

That is the provision upon which several gentlemen hinge their faith that Congress does not have the power to enter this field. That proposition does not touch the one concerning the power of Congress to regulate interstate-commerce transactions or interstate-commerce business. It simply says that when products or commodities are shipped from one part of the State to another it does not come within the commerce clause of the Constitution of the United States, and that it does not affect its ability to do interstate commerce; and if it does affect it in any way, it is too remote for the court to take cognizance of it as an interstate transaction.

Now, I want to read a brief extract from another opinion, an opinion by Chief Justice Marshall in the case of McCollough against Maryland, as follows:

> While our Government must be acknowledged by all to be one of enumerated powers, the Constitution does not attempt to set forth all means by which such powers may be carried into execution. It leaves Congress large discretion as to the means that may be employed in executing a given power. The sound construction of the Constitution, this court has said, "must allow to the National Legislature that discretion with respect to the means by which the powers it confers are to be carried into execution, which will enable that body to perform the high duties assigned to it in the manner most beneficial to the people. Let the end be legitimate, let it be within the scope of the Constitution, and all means which are appropriate, which are plainly adapted to that end, which are not prohibited, but consist with the letter and spirit of the Constitution, are constitutional."

That same thought, in slightly different phrase, has been repeated by the Supreme Court of the United States as late as Two hundred and nineteenth United States. I read a brief extract from its opinion in the case of the Atlantic Coast Line Railroad *v.* Riverside Mills (219 U. S., 203), as follows:

> Having the express power to make rules for the conduct of commerce among the States, the range of congressional discretion as to the regulation best adapted to remedy a practice found inefficient or hurtful is a wide one. If the regulating act be one directly applicable to such commerce, not obnoxious to any other provision of the Constitution, and reasonably adapted to the purpose and the rule provided, the question of power is foreclosed.

I believe that under that ruling of Chief Justice Marshall, not dissented from, and brought down through an unbroken line of decisions in our Federal courts, it is absolutely certain that Congress has the power to enter this field of legislation, and the question of the constitutionality of this act is foreclosed.

We all know that capitalization, as said before, is one of the determining factors in the making of rates, and is also brought in evidence in the rate hearings; and I believe that the Government has the right to say whether or not this evidence shall be fictitious. Knowing that the Interstate Commerce Commission ought to have full information regarding any carrier making application to it for approval of any issue of stocks and bonds,

I believe that this provision with reference to stocks and bonds is a proper amendment to section 20 to regulate commerce, for in the sixth and last recommendation of the Hadley Commission it is said substantially that the commission shall have full and accurate knowledge concerning the securities of railroad companies as a basis for further legislation on the question; and this is further legislation on the question. It, therefore, would seem silly to me for a man to say that this is not a proper amendment to section 20 of the act to regulate commerce.

Mr. ANDERSON. Mr. Chairman, will the gentleman yield?

Mr. RAYBURN. Yes.

Mr. ANDERSON. The gentleman has stated that stock and bond issues have much to do with the fixing of the rates. In the last Congress we passed a bill authorizing and directing the Interstate Commerce Commission to make a physical valuation of the property of the railroads. I understood at that time, and many of us believed, that the physical valuation should be the basis of rate making. This bill authorizes the commission to O. K. a stock and bond issue. The question in my mind is this: If the commission O. K's a stock and bond issue, as a practical proposition, will it not be obliged to permit the railroad company to earn a reasonable dividend on those stocks and bonds and thus practically nullify the value of the physical valuation?

Mr. RAYBURN. Mr. Chairman, I do not think so, because I believe that we are finally coming to the proposition in this country that rates will be almost wholly fixed upon value, but I believe that at the present time—and I believe it will run on—the capitalization proposition will be taken to a great extent as value, and will be brought as it is now by attorneys of railway corporations into hearings on this question.

Mr. SIMS. Mr. Chairman, will the gentleman yield?

Mr. RAYBURN. Yes.

Mr. SIMS. The bill itself provides that the Government shall not be bound by this approval of stock and bond issues.

Mr. ANDERSON. I understand the bill provides the Government shall not guarantee the revenue or dividend on any stocks or bonds which the commission may O. K., but as a practical proposition, when the commission has said to the railway companies, "You may issue bonds and stocks to a certain amount," it practically finds that there is a value somewhere which warrants the issue of those stocks and bonds, but in substance it says to the investor that the Government will permit the railway company to make a reasonable dividend on the stocks and bonds which it authorizes to be issued. I do not see any escape from that proposition.

Mr. McKENZIE. Mr. Chairman, will the gentleman yield?

Mr. RAYBURN. Yes.

Mr. McKENZIE. Is it not a fact that the proposition suggested by the gentleman from Minnesota [Mr. ANDERSON] would only apply in case of a noncompeting line? For example, there are three main lines extending from Chicago to St. Louis—the Illinois Central, the Chicago & Alton, and the Wabash. One of those might be capitalized for twice as much as the other and yet the rates would of necessity be the same. Therefore the physical valuation would cut no figure, in my judgment.

INTERLOCKING DIRECTORATES.

Mr. RAYBURN. The third and last of the former enumerated provisions of this bill provides, substantially, that two years from the passage of this act no person shall be an officer or director in more than one corporation subject to the act to regulate commerce, unless it has the approval of the Interstate Commerce Commission.

Mr. Chairman, I believe that the interlocking of directorates of great corporations of this country has been one of the greatest of the evil tendencies of the times. [Applause.] We have instances on record where one man will be president of many corporations. In some of them he will have a small amount of stock; others in which he will have, in many instances, a controlling interest in the corporation. These corporations buy from and sell to each other. It is as natural for a man who controls these corporations to work for the interest of the one in which he has the greatest pecuniary interest as it is for water to flow downhill.

Coming to the question directly under consideration, do you believe that it is safe to the country and its institutions for one man to be president or to sit upon the board of many railway corporations? The same doctrine just announced in regard to other corporations in general will apply in equal force with regard to railroads. It may be said by some that it is sufficient to say that the interlocking of directorates of competing corporations shall be stopped. But do you know that one of the hardest problems to solve with reference to any business is whether or not railroads are really competing lines?

Mr. HARRISON. Mr. Chairman, will the gentleman yield?

Mr. RAYBURN. Yes.

Mr. HARRISON. In that section I notice an exception is made that after two years they can not hold a directorship in two or more railroads unless previous approval of the Interstate Commerce Commission shall have been secured. Why is that exception put in there?

Mr. RAYBURN. We thought that in many instances of small railroads an injustice might be done, not only to the directors and stockholders themselves but that a great injustice might be done to the public, for the simple reason that in some of these smaller institutions, not alone railroads but other corporations, we find in some communities it is absolutely necessary for one set of men to practically control all of the small corporations in that town. Take a small town and let a few men there organize a bank. Perhaps there will be half a dozen men in the town who are able to organize the bank. After a while they will want to build a flouring mill, or they will want, in the South, to build a cotton mill, or they will want to build a cotton press, or they will want to build a cottonseed-oil mill, and if you prevent the interlocking directorates in those things absolutely and totally and leave no discretion in anybody, in many instances, we think, you are likely to do a serious injustice not only to the men who own stock in the corporation but you do an injustice to the public in impairing the ability of the corporation to perform its functions and duty to the public.

Mr. STEVENS of Minnesota. Mr. Chairman, will the gentleman yield?

Mr. RAYBURN. Yes.

Mr. STEVENS of Minnesota. Does not the gentleman recall that he himself raised the point before the committee, which, I think, answers the gentleman from Mississippi [Mr. HARRISON], that most of these railroads, especially the larger systems, are made up of subsidiaries and of several smaller lines, and some of the larger ones, especially in the West and the Southwest, are composed of railroad lines which are compelled to be incorporated anew in each State through which the carrier runs, and for that reason it was necessary, in those cases, that the officers of the parent line should also be the officers of the subsidiary line?

Mr. RAYBURN. That is exactly it—made absolutely necessary, I think.

Mr. ADAMSON. The gentleman from Minnesota [Mr. STEVENS] struck the thought I had in mind. I was going to suggest a concrete instance to the gentleman in answer to the gentleman from Mississippi that there are many systems of railroads which have grown up by putting together roads which are practically extensions of one another. There are several lines running from this city and Norfolk to the Mississippi River, each made up of roads originally chartered within certain States. All of those lines are now operated by one company, forming one continuous line, and they have maintained the old autonomy, and each old company still has its board of directors. We thought on representation in cases like that the Interstate Commerce Commission might properly, without injury to the public or any private interest, permit the same directors to operate the entire line and all its parts.

Mr. RAKER. Will the gentleman permit a question?

Mr. RAYBURN. Yes; I yield.

Mr. RAKER. Is there any State in the Union that would prohibit a railroad being built into and through the State? If it should organize its corporation, for instance, in Indiana and start west across the various States, are there any of those States that would prohibit these corporations from continuing the main line on through that State without organizing a new railroad company in each State for the purpose of connecting at the State line? Is there any case of that kind?

Mr. STEVENS of Minnesota. I will answer yes.

Mr. RAKER. Where?

Mr. STEVENS of Minnesota. The Chicago, Milwaukee & St. Paul Railroad Co. was compelled by State laws to incorporate in five different States. After having incorporated in one State with the right specifically in the articles of incorporation where they were going to build on through various States, the States they built in prohibited them from doing it without reincorporating in that State.

Mr. RAKER. I doubted that, but I am not going to doubt the gentleman, because he has had experience in the matter and I have not especially looked it up, but my observation of these matters is that most of these new corporations are formed and organized in the States for the purpose of getting bonuses from the citizen—the counties—where they go, whereas the main line is continued on through and they could not get it, and therefore they have a new incorporation and get these large

bonuses, and then the company gets the road built and turns it over to the main corporation.

Mr. RAYBURN. That is possible. Of course there are not many States that will refuse, and it usually ends in the railroad company getting the line through.

Mr. ADAMSON. If my friend will kindly yield again.

Mr. RAYBURN. Certainly.

Mr. ADAMSON. In proposing this legislation in the nature of a new departure, was not the prime purpose in making this exception to provide for existing conditions rather than to encourage future consolidation?

Mr. RAYBURN. Oh, yes.

Railroads are not compelled to be parallel in order to be competing lines. Of course, you may say that this is lodging great power and discretion in the Interstate Commerce Commission. That I admit; but we feared that to say unconditionally that under no circumstances could one person be a director in two railroads a serious injustice might result. There may be conditions and circumstances under which it would not be to the detriment of the public, and in which it may be to the interest of the public in inconsequential instances for a man to sit as a director in two railroad corporations. Admitting that this is a great power and discretion to lodge in the Interstate Commerce Commission, we must remember that the Interstate Commerce Commission is a great body, made up of high-class, honorable men who represent the Government, and when representing the Government they represent the people, and I will say for the Interstate Commerce Commission, although they need no defender, there has been as little criticism of the personnel or the acts of that great body as of any department of this Government. Believing that there has been another great abuse, and that great crimes were committed by officers of railroad companies, we have provided another thing in this bill, and that is that it shall hereinafter be unlawful for any president, vice president, chairman of board of directors, director, or directory of any carrier subject to the act to regulate commerce, to appropriate, pay, or receive as salaries or dividends any money resulting from the sale of stocks and bonds. I believe that the proceeds of these stocks and bonds should be applied and used for the purposes set out in the application to the commission, and that is to go for some necessary purpose that will help the carrier and increase its ability to perform its obligations to the public.

Thus I have gone over in a meager way the provisions of this bill. I do not expect that it shall escape critcism, nor do I claim that it does not contain defects and imperfections. No human instrumentality is capable of escaping this penalty. Some have said that the penalties prescribed in this bill are too drastic. Some have criticized one thing about this bill; some another.

Mr. Chairman, I believe that guilt is personal. The single remedy of fining a corporation and allowing the individual malefactors to go free has not come up to the expectations of its most enthusiastic advocates. When you assess a great fine against a corporation, one of two things must necessarily result. It must increase the price of its products or its service, or else its ability to perform its rightful functions must be impaired by this drain on its treasury, and dividends must be cut down. The innocent shareholder of these great corporations must then suffer as much as the criminal shareholder.

I believe, Mr. Chairman, that this is no adequate way for punishment, merely. I believe that guilt is personal, and I believe that punishment should be personal; hence the provisions of this bill, which says that a violation of the express provisions of this bill by the individual responsible for the violation should be held absolutely responsible; hence we have provided that those who violate the provisions of this law shall be fined or imprisoned for a term of not less than one nor more than three years, or both such fine and imprisonment. [Applause.] I believe that when a man makes a contract he should with scrupulous fidelity live up to it. [Applause.] I believe further that when an individual or a corporation or the individuals of a corporation make a contract with the Government for the performance of a specific duty those men should be forced with the same scrupulous fidelity to live up to that contract with the Government.

Mr. Chairman, this legislation carries out the ideas in the way of national legislation adopted in the State of Texas years ago under the leadership of that great commoner, James Stephen Hogg, and advocated in State and Nation by Texas's grand old man, John H. Reagan. I believe that the provisions of this bill are salient and will redound to a great good and benefit to the people if it is enacted into a law. I believe that when the trust program of this administration becomes the law of the land and when business has had time to adjust itself to the changed conditions—when the law is made definite and understandable—we may with fond anticipation look to a brighter day in this country and to a season of prosperity the land over. [Applause.]

Mr. Chairman, the Democratic Party is not the enemy of capital or of big business. We know that there must be large aggregations of capital to carry on the great and growing business of the country; hence we would be more than foolish to do anything that would hinder or retard the growth of the country. [Applause.] We intend to do simple justice to business, and, on the other hand, we are determined that business shall deal justly with the people. No honest man will ask more, and no man, be he honest or otherwise, may expect less. [Loud applause.]

Mr. STEVENS of Minnesota. Mr. Chairman, how much time has the gentleman from Georgia used?

The CHAIRMAN. One hour and ten minutts.

Mr. STEVENS of Minnesota. I yield 15 minutes to the gentleman from Wisconsin [Mr. FREAR].

Mr. FREAR. Mr. Chairman, I realize full well that it would be well worth our while to listen for a much longer time to the gentleman who has just spoken [Mr. RAYBURN], and in expressing my own appreciation of what he has said I wish to call the attention of those present to what just occurs to me. The State which he represents is the one which gave to all States right direction in railroad legislation when the railroad commission of the State of Texas was headed by a gentleman who once sat in this body, Mr. Reagan, who did so much for this country in railroad legislation. [Applause.]

And it was eminently fitting that the gentleman who just spoke should be the one to direct the way for us at this time. I desire to speak more particularly on another branch of the subject relating to transportation after complying with the rule by offering a few remarks on the bill before us; but the chairman of the committee [Mr. ADAMSON] has served notice on us that we were not to discuss "post-office affairs or astronomy or the business of other committees," if I quote him correctly; and for that reason——

Mr. ADAMSON. If the gentleman will permit, he misunderstood me. I was calling attention to the etiquette observed by our committee; that we framed bills according to our jurisdiction, without soaring to the stars or trenching upon the jurisdiction of other committees. [Applause.]

Mr. FREAR. The gentleman has very properly done so in the light of our experience in the past, as we can all testify, and I shall only speak briefly in accordance with a suggestion that came to me when I was asked if I cared to discuss the particulars of the bill itself. What I shall say does not relate directly to the particulars of the bill, but the pending bill is one, I think, of great value, and I do not think there will be any disposition to criticize it very severely on either side, by either party in the House. A thought has come to me to-night, after reading the bill and listening to the splendid analysis of it by the gentleman who has just spoken, that only 10 years ago it would have been looked upon as socialistic and impossible—the passage of a bill of this character.

Less than a dozen years ago organized attempts were made by pioneer States in railway legislation toward securing laws to regulate these common carriers. New Haven scandals, Alton bubbles, and a long list of speculative railway kiting ventures existed on every hand. The only difference between conditions then and now lay in the fact that graft and high financiering by "captains" of the railway world, as we called them, were kept secret then, through the time-honored custom of addition, division and silence, a custom that might be abolished with profit to the country in all fields of interstate business. To-day we train the searchlight of publicity upon big business, including railways, and experience has demonstrated it is easy to direct the rays of the machine.

THE POWERFUL LOBBYIST HAS DISAPPEARED.

Mr. Chairman, when restrictive legislation was proposed throughout the country, the State capitols were besieged by lobbyists, railway presidents, attorneys, stockholders, and other protestants, even down to conductors' and brakemen's organizations. The same master mind directed the fight against the laws and the same hand pulled all the strings. Hundreds of shippers thronged the corridors of the capitol of my own State, mingling with the railway lobbyists, cheering the public utterances of opponents to railway legislation, yet whispering words of encouragement to us in secret. That is the history of every fight for railway control waged in other States, and it is the history of the fight for Federal control. Only a few years ago

the corridors of this Capitol were thronged throughout every session with the opponents of important railway legislation, and the railway power extended beyond the corridors to the floors of Congress.

The bill before us is most "paternalistic" in character, to use an old, familiar term, more drastic in its provisions and more far-reaching than the wildest dreams of railway magnates of a decade ago. It determines the justification for the issuance of stocks, bonds, and other evidences of railway indebtedness, the amount that shall be authorized, the purposes of issuance, while one provision of section 20 authorizes the commission to inquire into every business transaction of any railway company and to give full publicity to its discoveries. Personal guilt of officers and directors for refusal to furnish correct information, supported by fines or imprisonment, assure the law's observance.

All these features are covered by the bill, and yet not one *lobbyist* nor railway official nor shipper is in evidence in the corridors to-day, nor is any pronounced protest urged against this legislation, because in the short space of 10 years we have learned that the business of the common carrier is the people's business, and that those who pay the freight shall have a voice in determining the business methods of their authorized agents. Certainly the world moves and Congress has compelled honest and open business dealings on the part of others, a policy that recommends itself to a wide field of public service.

THE REAL SUFFERERS FROM RAILWAY MISMANAGEMENT.

I speak of that in order to show the progress we have made in legislation and to show how far we have gone, and yet practically we have not realized it. One important phase of this bill which impresses me is that indicated by the suggestion of the gentleman from Colorado [Mr. KINDEL], a point that is pertinent here, I believe, and that is as to parties in interest who are dealing with the railroad companies. It is important to know that stocks shall have a fixed value. Less than a week ago a widow came to me and spoke of stock that she had in the New York, New Haven & Hartford Railroad Co., which when given to her was worth 250 per cent, but which is to-day worth, as she said, 68 per cent; and she added, "What am I to do?" That was practically all that she had for her support. It was not the railroad officials who suffered, nor the directors; but a poor widow. And I know the situation is just as I have pictured it, and just as she told me. But you avoid a repetition of that by this bill, not only through the provision which requires the board or commission itself to pass upon these securities, but from the light of publicity that is brought to bear.

There is another thing that occurs to me in connection with this bill and similar legislation, although it does not directly refer to what is contained in the bill. One of the most important suggestions that come from the New Haven investigation and similar investigations which we have had throughout the country is, in my judgment, that the officials who have been examined state it as their desire that the Government itself should take over these great corporations which are now doing business in the country. And why? That would have been impossible for consideration 10 years ago. But the spirit of speculation is being taken out of these propositions by reason of this very legislation that we have been having in recent years. It is bringing the railways up to strict business standards, and that is the reason why many men feel there is nothing to be gained by this system of speculating as evidenced in the New Haven Railway, when some one must bear the punishment eventually.

I notice one or two smiles, but let me say this: Ten years ago we never expected legislation of the kind we have to-day. Ten years from now it may not be thought possible to have railroads controlled or owned by the Government. But 50 years from now—and governments live for centuries—50 years from now it may be possible, and it may be the disposition of this Government at that time; and if so, legislation of this character, which seeks to determine that honest business methods shall be observed by the different companies, will be of extreme value in aiding the Government to a determination of what shall be paid for the roads.

I have a hobby, as many Members have. Mine is not like that of the gentleman from Colorado [Mr. KINDEL], and I see him looking at me with interest. We all recognize his. Mine has been born of recent experience, but in the pursuit of that hobby it seems to me that a barrel has been found of wasted money. I am impressed with the fact that the 1914 appropriation embodied in the bill that passed for rivers and harbors—that is, money appropriated and money pledged for expenditure in the future—would have been sufficient to build a transcontinental railway from New York to San Francisco. The money that has been expended for the Panama Canal would build 15,000 miles of railway. That depends, of course, upon the valuation per mile, but that is at over $25,000 per mile. So it is entirely within the range of possibility that within a few years we shall be enabled to undertake as a business proposition an investment in these roads, and we will be aided by this legislation.

Mr. STEVENS of Minnesota. Before the gentleman leaves the question of the cost of construction of railroads, has this ever come to his attention—I think it came before our committee at one time—that the cost of constructing a line from Chicago to New York would not equal the amount that it would cost to construct a line from the Harlem River down to the Grand Central Station, in New York City.

Mr. FREAR. I presume that has been found true, Mr. Chairman, and I realize that in England, if that is to be considered, railways cost hundreds of thousands of dollars per mile, but in my own State a road which was constructed at $16,000 a mile is now capitalized at something like $60,000 a mile, and very little actual money has gone into the business since its construction.

But of course it is a question here of fictitious value, as was so well explained by the gentleman who last addressed us [Mr. RAYBURN], and that is what this bill seeks—to drive the water out of business and put it upon an honest and sound basis, as he said; and that seems to me to be one of the important things in which the Government as well as the individual is interested. [Applause.]

I now desire to present a few observations that have not a direct bearing upon the bill, but which are of vital interest to the people of the country.

THE INSIDE OF THE PORK BARREL.

Mr. Chairman, in the CONGRESSIONAL RECORD of May 28 appears an extended article on the 1914 "pork-barrel" bill, so denominated by the author of the article, the gentleman from Mississippi [Mr. HUMPHREYS]. This article, originally appearing in the Saturday Evening Post, is courteously placed in the RECORD by Senator RANSDELL of Louisiana. By anyone familiar with the subject it will be found to be a clever presentation by an able lawyer of a bad and indefensible cause enveloped in glittering generalities. Written to forestall public opinion, which is becoming aroused over the most vicious pork barrel ever foisted on the country, it is ushered into notice at the right moment through one of the greatest publishing agencies in the world—the Saturday Evening Post. A casual reading discloses the article has also been written for the purpose of placating a leading Senator, whose powerful influence against the bill is feared by its supporters, and significantly also the Post article appears while the bill is before the Senate committee. It apparently seeks to counteract injurious reports from the other end of the Capitol that the 1914 bill is to be loaded down with many additional objectionable and indefensible items, and it attempts to forestall well-merited criticism by light airy generalities and ridicule.

A careful perusal of the Post article, copied in last Thursday's RECORD, is urged upon every Member in order that the pitiable weakness of argument put forth by the pork barrel's foremost champion in the House may be digested. My own ineffective opposition to the bill is entirely impersonal and taken because of the many vicious projects contained in it. For unimpeachable testimony on this score I quote from the RECORD of March 26, also found on page 7079 of the RECORD of April 10, the following:

> During the past several days the gentleman from Wisconsin [Mr. FREAR] has moved to strike out numerous items contained in the bill. I do not say now and have not heretofore said and shall not hereafter say anything in criticism of him for that. I am perfectly satisfied that he did it because he believed by so doing he was serving his country well. It is just a difference of opinion.

ELOQUENT FIGURES CONCERNING THE PORK BARREL.

This kindly sentiment came from the distinguished gentleman from Mississippi, the author of the Saturday Evening Post article, a gentleman for whose abilities and estimable personal qualities I have profound respect. In the RECORD of April 10 I collated facts presented to the House by myself during the five days' discussion under the five-minute rule. In that statement I showed river and harbor appropriations had grown from about $187,000,000 for the 20 years from 1875 to 1894, when river commerce was at its height, to $184,424,918 for the 10-year period from 1895 to 1904, or 100 per cent average increase per annum. Also that the notorious pork barrel now reaches $184,345,034 for the four years from 1911 to 1914, inclusive, although the last figures may amount to $200,000,000 before the present bill returns from the Senate. Further, that in addition to a 500 per cent increase in the size of the pork barrel within the period mentioned, the Government is obligated to an amount of

$205,000,000 additional for continuing projects proposed in recent years; yet, notwithstanding all this enormous expenditure of over a half billion dollars and an additional debt of $300,000,000, our river commerce on the Mississippi, Missouri, and practically every other river, with one exception, has decreased over 80 per cent, and it has materially decreased on all rivers. This statement there made was supported by official Government statistics as to the appropriations and traffic. It is not denied in the Post article. It can not be successfully denied.

During that discussion, I gave official statements from Army engineers showing that the 1914 pork barrel contained river projects some of which were dry for eight months in the year, others for scarcely less periods. One of these had a depth of 1 inch at the head of navigation after an expenditure of $32,000. Others were improvements for the exclusive use of private factories for private purposes. Others were real-estate projects, reaching in one case to three-quarters of a million dollars. Others were for projects that are now costing the Government $100 for every ton of freight shipped by water. Others, like the Coosa River project, referred to in the Post article, are to cost millions of dollars and will be valueless. To be more specific, the Coosa has been "improved" for 24 years. Its cost is estimated by Army engineers at $6,059,913. At the present rate of improvement it will take over 100 years to finish, and after many years of wasted time and money the engineer reports: "As yet—after 19 years—no benefit has been derived from this improvement, and its value is entirely dependent on the completion of the entire system." The Coosa River project is a grim joke on the people, and yet it is the one project especially mentioned with approval in the Post article. Where is the unnavigable Coosa River for which $6,059,913 is to be appropriated? How many Members of the House or taxpayers of the country know the whereabouts of this undiscovered stream?

THE SHAMEFUL BILL IS EXCUSED, NOT DEFENDED.

Mr. Chairman, I do not intend to repeat arguments urged upon the House, but I do say that the 1914 pork barrel is filled with many wasteful, vicious projects, only a few of which I attempted to point out. That notwithstanding the 1914 bill is the worst bill ever foisted on the American people, according to the opinion of experts whose opinions are of value, not one item could be stricken out in the House for fear of its supporters that the barrel would fall to pieces if a stave were pulled off. Not one of the facts supported by engineer's reports have been denied or explained in the Post article. Legislation which brings the blush of shame to men who are honest but helpless because of powerful influences behind the barrel, is palliated and excused, but not defended in the Post article. The bill can not be defended. Its only salvation lies in silence as to vicious provisions and it makes an unparalleled plea for more Federal money with which to improve a lost river traffic for boats which no longer run the river.

These facts have been presented to the House together with unimpeachable statistical testimony that the bad outweighs the good in the 1914 pork-barrel bill. At the same time the facts were laid before the editors of the Saturday Evening Post with the hope that a great magazine might be induced to raise its voice in the people's cause. On the contrary, it has become the vehicle for an attempt to justify the worst pork barrel ever presented to the American people. I did not feel permitted to question the Post's position or the article before its insertion in the RECORD, but to remain silent now, when a misleading message is sent approvingly by Government agency throughout the country, is to stultify one's self. The people will some day know about the pork barrel. All the golden gags distributed throughout the land can not much longer keep the barrel afloat. It is loaded down with so many wasteful, dead-weight projects that it is about due to sink.

The Post article justifies the intracoastal canal folly, glosses over appropriations poured into scores of unknown creeks and rivulets to satisfy hungry constituencies with small slices of local graft; it approves the purchase of bankrupt, worthless canals; it declares the Trinity, Brazos, and other engineering failures, as evidenced by Government reports, are worthy ventures; it ignores the millions of dollars carried along in dribbling appropriations that make the whole river-improvement scheme a farce and absurdity; it ignores the startling statement of Chairman SPARKMAN that waterway ventures demanding billions of dollars are knocking at the doors of Congress, backed by men of "national repute"; and it seeks to avoid a discussion of the real facts surrounding the pork barrel by airily boosting the Coosa River project, one of the worst in the bill, and praising other projects that are supposed to bring senatorial influence dependent upon their incorporation in the 1914 bill.

Mr. Chairman, I will not take up the Trinity, Brazos, and other visionary projects which are wicked and wasteful items beyond belief, but are wittily glossed over by the buoyant article in the Post. Many of these projects were riddled on the floor of the House during discussion under the five-minute rule, and some of them are exposed by engineers' reports in the argument of March 26, which appears in the RECORD of April 10. I do not desire to repeat, but will add a few suggestions which are invited by the Post article appearing in the RECORD.

THE HUMPHREYS-RANSDELL $60,000,000 BILL.

It may be fair comment to suggest that the writer of that article is possibly biased in his views, because of generous appropriations shoveled into the Mississippi and Louisiana creeks and bayous, together with the rich $7,000,000 plum in the 1914 bill for the lower Mississippi, where traffic has decreased 93 per cent, according to Government statistics. Or it may be that he is unconsciously influenced by the Humphreys-Ransdell bill to appropriate $60,000,000—a bill which overshadows all other waterways projects to-day. By a surprising coincidence, Mr. HUMPHREYS, who wrote the Post article, and the Senator who secured its insertion in the RECORD are joint collaborators, partners, and proprietors in and of the hyphenated Humphreys-Ransdell $60,000,000 Mississippi River bill, which makes some claim to our attention at this time.

Mr. Chairman, on page 7078 of the RECORD for April 10 I made a brief observation of the Mississippi River reclamation scheme, a statement based on the deliberate and disinterested opinion of different river men familiar with river conditions for 50 years and more, which gives their unbiased judgment much weight. Summed up in a few words, it is, as I then stated, as follows:

RECLAMATION PROJECTS.

We are informed that the disguise is now to be thrown off. A new theory to justify wasteful expenditures has been devised. Navigation has almost vanished. It is no longer a word to conjure by, and so the country is hearing a new call to arms, with its slogan "Reclamation."

Far be it from me to measure individual judgment with technical Army engineers or interested parties who paint highly colored pictures for Presidents and lesser officials on junketing trips.

The reclamation of the Mississippi is to be embarked upon by these same willing Army engineers, who estimate it will cost $275,000,000 to harness both banks of the Mississippi River for a distance of 1,000 miles, to the mouth of the river. Experienced rivermen with whom I have talked, and who know every foot of the river, laugh at this new evidence of stupendous engineering folly, which proposes to spend $275,000 per mile. Who is right? I will not trespass on the time of the committee further than to make a brief criticism, based on common sense, an unknown factor with Government engineers when embarking on the Oklawaha, Coosa, Kissimmee, Trinity, and other valueless engineering schemes.

Sane men, with knowledge of the tremendous visionary plan approved for the Mississippi River, declare that no reclamation can ever be moderately successful, and that $275,000,000 will not make any more lasting impression on the Mississippi River as a whole than the $100,000,000 already thrown into the river. A few favored localities may be temporarily benefited, but no State in the Mississippi Valley could be prevailed upon to contribute one-half of the expense proposed to be incurred along its own borders, because the proposition is chimerical and the slight proportionate benefits are local and largely for private interests. Army engineers do not frighten the paymaster by estimating the expense of a temporary Mississippi levee construction at a billion dollars, but this is no extravagant figure, according to rivermen familiar with the Mississippi River and its varying moods.

Presidents and public officials are accustomed to view the river when it slumbers. As well judge danger from a raging drunken outlaw armed to the teeth, by viewing him asleep and bereft of arms. The Mississippi River varies 70 feet in height at Vicksburg. It stretches out for miles in width along its turbulent course. At flood time it is a mighty rushing wall of water 70 feet in depth and reaching miles in width. The reclamation project proposes to cope with the Creator by harnessing this irresistible flood, made up by three of the greatest flood rivers in the world, the upper Mississippi, the Missouri, and the Ohio. Scores of other flood streams empty into the great rushing Father of Waters that has irresistibly swept down to the sea for thousands of centuries, and will continue to do so, unharnessed and unimpeded, for all time to come. All the temporary obstructions that can be raised by puny hands of man will be swept away, in his own time, by this raging drunken outlaw. Addle-pated engineers may waste millions of dollars of Government money in seeking to change its course. They may undermine the cities of Memphis, Vicksburg, and other cities with a criminal disregard for the consequences of their acts and the rights of citizens along its borders. To guide the Mississippi may be possible in places, although often disastrous in its consequences; to attempt to harness it from the Ohio to the Gulf, with a thousand miles and more on either side subject to flood action, is to invite the pity of an overruling Providence. Engineers may dig the Panama Canal, a wonderful feat of engineering; they may be able to canalize the Rocky Mountains, using glacier and artesian waters with which to moisten the locks, in an effort to force Jim Hill to reduce Great Northern Railway rates by visionary water competition; they may institute any number of nonsensical canalization schemes until Uncle Sam's strong box reaches the same low-water level they are seeking to obviate elsewhere; but they will never harness the Mississippi.

IMPROVEMENTS THAT WASH AWAY CITIES.

The most pathetic picture witnessed by this House during the present session and which aroused the righteous indignation and sympathy of the Members generally was offered when the eloquent gentleman from Tennessee, Mr. MCKELLAR, pleaded

with us to right a great wrong and change back to its original course the Mississippi River, which, at a prodigious expense, has been deflected by Government engineers until it now undermines the river front of the city of Memphis. With genuine anguish and convincing argument, he declared:

Our city will be washed away. We have been flooded twice since we asked for the survey. We have got to act now, for the flood comes annually since the levees have been built, and Memphis has bonded itself for a million and a half dollars.

The Government, through its Army engineers, is shown to have inflicted irreparable loss in Memphis, and, as we are informed, this is also the case with Vicksburg and other communities. Like a foolish boy with an unloaded gun, some one is sure to get hurt while trying to see what an unloaded gun will do. Memphis and Vicksburg have reason to know, because they have been shot, and their indictment of the incompetence of Army engineers is based on a knowledge of the present status of the reclamation folly.

To the piteous appeal from Memphis, the committee chairman made a response that sounds like the voice of a Spartan mother who sacrifices her first born on the altar of battle. However, this is not a cry from the home State of the committee chairman, where Kissimmee Creek and Oklawaha Creek "ha-ha" together over the $800,000 of Government money about to be poured into those creeks, apparently to aid two Florida real estate propositions, according to engineers' reports. Florida seemed ready to sacrifice Tennessee to the ravages of flood caused by our Government engineers, when the chairman replied:

The Mississippi River Commission can take care of the banks of the river at any point where there is any danger. We appropriate money enough for them. Why should we be called upon, after furnishing the large sums of money we are appropriating in this bill—$9,500,000—to furnish specific sums for any particular part of the river?

Will the Tennessee Senators be satisfied with any such cold-blooded proposition, or will they kick in the head of the pork barrel and demand that the Government of the United States right the wrong it has done and is doing by this reckless reclamation experiment? Memphis, flooded by a Mississippi River Commission's reclamation mistakes, is turned over to that commission for relief. It is as sensible a proceeding as to refer a resolution of investigation of the pernicious pork barrel over to the River and Harbor Committee, which stands sponsor for the barrel. And that has actually been done, as I propose to show in a few moments. What does Memphis say of the Ransdell-Humphreys $60,000,000 Mississippi pork-barrel bill? Quoting from the Memphis Scimitar of January 12, 1914, we find this opinion:

It is claimed by those high in authority that the Ransdell-Humphreys bill should be entitled "A bill to destroy the navigability of the Mississippi River and to eventually make it impossible to protect the valley from devastation by floods."

A BILL TO DESTROY NAVIGABILITY.

We should remember that this is the bill prepared and championed by the gentleman from Mississippi, who so entertainingly explains in the Saturday Evening Post about the inside of the 1914 pork barrel. Some interesting features of this particular piece of pork he forgot to mention, as I shall endeavor to point out later. Before doing so, however, I quote further from a letter written by George H. Maxwell, on December 6, 1913. He is a man who has made a study of the reclamation project, which is fathered and mothered by the gentlemen from Mississippi and Louisiana, respectively, both of whom contribute generously, each in his own way, to the circulation of the Saturday Evening Post article. Mr. Maxwell writes:

The Ransdell-Humphreys bill, instead of providing a remedy for this inevitable destruction of our greatest natural waterway, provides a system that will expedite the destruction. That is a fact which can not be controverted, no authority in support of the statement being necessary except a reference to the reports of the Army engineers of the War Department of the United States.

Nothing that a new Member can offer to a patient public which foots the bills will approach in severity this castigation of the $60,000,000 Humphreys-Ransdell bill, included, but not mentioned, in the Post article.

SEVERAL RAILROADS THAT FOOT THE BILLS.

Mr. Chairman, whence comes the powerful influence behind the Humphreys-Ransdell bill, and, incidentally, in favor of the 1914 pork barrel? I have before me what purports to be a photographic copy of a typewritten statement made by John A. Fox, secretary and manager of the Mississippi Levee Association, wherein he states as follows in regard to the bill:

It has been estimated that a minimum fund of $30,000 per annum is necessary for this organization to do its work in a complete and thorough manner, and already a considerable portion of this sum has been pledged annually for five years (of $150,000 in all). The subscriptions are as follows:

Southern Railway Co	$1,000
Mobile & Ohio R. R	1,000
Frisco R. R	1,000
Missouri Pacific R. R	1,000
Chi. R. I. & Pac. R. R	1,000
St. Louis and So. Wes. R	1,000
Illinois Central	1,000
Y. & M. V	1,000
Chi. Mill. & Lumber Co	1,000
Caldwell & Smith, Memphis	1,000
International Harvester Co	1,000

Assurance has been given of other substantial amounts.

Mr. Chairman, the full purport of this statement should not be overlooked. We have no means of knowing how this $150,000 was spent or is to be spent in a "complete and thorough manner" while promoting the gospel of the Humphreys-Ransdell bill before Congress or while incidentally advancing the pork barrel, which is destined to carry $12,000,000 for the Mississippi River next year. The Post article, in its scintillating shafts of wit poked at new Members, makes no mention of this fund.

Until a rigid investigation is held to ascertain the influence of money and of lobbyists from this and other quarters in promoting publicity and the fortunes of the "pork barrel" no one can speak positively of the extent or use of funds contributed to push along the barrel; but it is significant that a number of railway companies now doubtlessly pounding at the doors of the Interstate Commerce Commission for a 5 per cent raise in freight rates are among the substantial contributors of stockholders' money to the Humphreys-Ransdell bill. How many other pork barrels, public and private, are being aided by these public-service corporations is a matter of speculation only to be revealed upon a proper investigation such as I have proposed by resolution.

CONGRESS SHOULD HAVE THE FACTS.

When railways subscribe to a fund which is to be used in urging upon Congress the passage of the Humphreys-Ransdell bill it is well to inquire what other agencies are being employed. By what right do railways take stockholders' money for the purpose of advancing this river scheme or any other scheme? By what legal right have eight railways obligated themselves to contribute annually to this corrupt fund? Corrupt in character because hidden from public gaze, to be used secretly, as far as the general public is concerned. One hundred and fifty thousand dollars for the promotion of what and by what methods? The Post article is silent on this interesting point. Members of Congress have a right to know who got this money. Has it all been spent, or what is the status of the fund? What other funds have been raised for influencing Congressmen in favor of the Humphreys-Ransdell bill? Only an investigation by a disinterested body will give us the facts to which we are entitled.

As if to further prove the fallacious, untrue, and ridiculous claims of waterway advocates that the railways fear water competition—which has disappeared from our rivers—we here find eight great railways contributing annually to a fund for the purpose of pushing a waterway proposition on the greatest river in the country. A statement of the facts is sufficient without argument, unless the purpose of the Humphreys-Ransdell bill is to completely destroy possibilities of navigation, as is stated by the authorities I have quoted.

THE HUMPHREYS-RANSDELL BILL'S BIG STICK.

In addition to its $150,000 promotion fund, the Humphreys-Ransdell bill, or, more correctly speaking, its supporters, are charged with swinging a big stick on other organizations to force the measure through Congress. This charge does not come from irresponsible sources, but from an association presided over by one of the ablest Members upon this floor and one of the most vigorous champions of the intracoastal system, Hon. J. HAMPTON MOORE, of Philadelphia. The association supports a monthly journal devoted to waterways. In a recent number, published in February, 1914, the following vigorous protest speaks volumes for the effective work now being secretly carried on for the $60,000,000 Humphreys-Ransdell bill. It reads as follows:

Business men in the Eastern States may not realize the systematic campaign which is being waged from points in the Mississippi Valley to dragoon everyone into the ranks for an unprecedentedly large and continuing appropriation for the Mississippi River. Some of these letters amount practically to threats of transfer of business unless eastern houses fall in line and go on record with their Congressmen in favor of the project. Without present discussion of the merits of the bill, and for obvious reasons omitting names, the following letter sent us by an eastern correspondent is herewith reproduced as a matter of information:

"GENTLEMEN: Will not your firm kindly aid in the matter of securing national legislation such as will prevent a recurrence of the disastrous floods of 1912 and 1913 on the lower Mississippi River?

"A measure known as the Ransdell-Humphreys bill, providing for the expenditure of $60,000,000 by the National Government to complete the levee system during the next five years and thereby prevent these disastrous floods, is now before Congress.

"This measure was framed in accordance with the plans and recommendations of the Army engineers and provides the only practicable and feasible means of solving the problem.

"The people of the region affected have already contributed $70,000,000, and it is considered but right that the Nation contribute its share toward controlling the flood waters from so great a part of the country on a stream of such national magnitude.

"Letters from your firm asking the delegation from your State to support the measure in Congress will help us very greatly, and as our loss is your loss and our prosperity your prosperity, we hope that you will feel a personal interest in the matter."

CONGRESSMEN MUST FAIRLY DIVIDE "PORK."

"For ways that are dark" this threatening campaign is original. "Our loss is your loss and our prosperity is your prosperity." Was this a reference to mutual claims upon the pork barrel, or did it mean that southern business houses were about to secede from northern connections unless the Pennsylvania Congressmen came across with their support?

The waterways journal, from the City of Brotherly Love, understands it to be the demand of a legislative highwayman organization, and it protests against this unprofessional campaign carried on by the Ransdell-Humphreys bill. With the ethical standards of either organization we are not concerned, but what other interesting leads might be developed by an investigation of the $150,000 promotion fund or the wielding of a big stick whereby hesitating Congressmen are forced to join in an irresistable political push on the pork barrel. A careful perusal of the Post article fails to discover any of these interesting facts. The article does devote a large share of its space to a leading Senator whose opposition to the bill is frankly admitted and feared by both parties to the gentlemen's agreement known as the Humphreys-Ransdell bill; but why was a column and more of valuable space in the Post accorded a curiously mixed challenge and appeal to the Senator, when a great reading public would have been more deeply interested in the methods pursued by those who keep the barrel rolling? What interesting facts might have been disclosed in the Post regarding the use of the railway corruption fund which was expected to reach $150,000. What novel campaign methods might have been disclosed of big-stick methods in connection with the pork barrel. All these topics of intense interest in connection with the $60,000,000 Humphreys-Ransdell bill were missing from the entertaining Post article written by the distinguished Member from Mississippi and placed in the RECORD by his no less distinguished coadjutor, the Senator from Louisiana.

A MUTUAL BRIBERY ASSOCIATION.

The public would like to know the power behind the pork barrel. It would like to know what methods are pursued by the various waterways associations. I am not attributing improper methods to any organization, but urge that enough has been developed to justify a thoroughgoing investigation. In this connection I offer an extract from the report of a subcommittee of the New York Board of Trade and Transportation made to the board and adopted by it. The report covers several pages, but I shall offer only a few extracts of an extremely illuminating report. It says of a prominent waterways association that is organized to push the pork barrel:

Its object, as stated in its circulars, is to arouse public interest to such an extent that a united demand coming from all sections of the country for regular and adequate rivers and harbors appropriations will induce Congress to provide an annual rivers and harbors bill of $50,000,000.

Continuing, the report says of the association:

A general indorsement is given of all projects heretofore approved by the United States Engineers, the completion of which would require from $320,000,000 to $350,000,000, but no effort is made to ascertain or verify the necessity or value of such projects and plans. The organization, while advocating and demanding enormous and unprecedented appropriations from the Public Treasury, thus cleverly attempts to avoid all the responsibilities for its proper and honest expenditure. Another advantage to them of this policy is that they avoid all dissensions among themselves over questions of merit as to projects proposed. They welcome to the support of their cause everybody who wants an appropriation from the Treasury, and none is repulsed. The wonder is that their numbers are not larger.

Again, the report says of the association:

There will be more money to go around, but if the Rivers and Harbors Congress should succeed in their plan "to arouse public interest (they should have said cupidity) to such an extent that a united demand coming from all sections of the country" would develop new schemes of improvement before unheard of, the demands for appropriations for unworthy projects would be increased far out of proportion to the worthy ones, and so the difficulties would be aggravated. It would foster beyond all previous experience the most pernicious of all methods of procuring legislation, known as "log rolling," a species of mutual bribery among those actively interested already too much in evidence for the health of the public morals and the interest of the tax-paying public.

RIVER IMPROVEMENT A "HUMBUG AND STEAL."

This report is sent out by one of the greatest business organizations of the country. It calls a spade a spade. It calls "logrolling" a species of "mutual bribery" among those "too much in evidence for the health of public morals and the interest of the tax-paying public." What organization did the New York Board of Trade have reference to and what has been its activities in past years? What interesting reading this report would be to the million readers of the Post, who pay taxes and confidently believe, after reading "The Inside of the Pork Barrel," that solid chunks of wisdom, scintillating with witticisms, furnished by the Post's high congressional authority, justify the existence of the 1914 pork barrel—the worst in the history of the country.

What a suggestive definition comes from the New York Board of Trade when it says "log rolling is a species of mutual bribery." Almost as comprehensive as the utterance of a distinguished Senator a dozen years ago, when he said, "The Mississippi has quit having any steamboats on it almost, and the whole scheme of river improvement is a humbug and a steal." And yet the author of a bill to appropriate $60,000,000 for the Mississippi says, in his Post article, "criticism of those who speak without knowledge and the censure of those who scold without reason may well be disregarded."

A certain wise old ancestor of ours said, many centuries ago, "Dissembling profiteth nothing; a feigned countenance and slightly forged external deceiveth but very few." Speaking impersonally, Old Seneca must then have had in mind some of the pork-barrel projects that are damned by faint praise by their promoters when he gave to the world his words of wisdom.

SOME THINGS NOT EXPLAINED.

Mr. Chairman, with full knowledge that the rivers and harbors bill of 1914 is what the distinguished Senator declared it to be, "a humbug and a steal"; with full knowledge that scores of wasteful projects aggregating millions of dollars are to be abstracted from the Government Treasury for such faked improvements; with knowledge that Army engineers have attempted to withstand the political influence back of certain real estate projects to be financed by the Government, as shown by the reports; with full knowledge that the whole scheme of dribbling appropriations for river improvements is unbusinesslike, wasteful, and responsible for pork-barrel methods; with full knowledge that the 1914 river and harbor bill as it passed the House was worse than any of its predecessors which have come to my attention; with full knowledge that the 1914 bill, which comes back to the House, will be notoriously worse than when it passed the House and worse than any of its predecessors; with full knowledge that many of the projects are for private interests and not urged for the public interest; with full knowledge that there prevails throughout the country a clear, well-defined opinion that there is something rotten nearer home than Denmark, when river and harbor legislation is being slipped through Congress; with full knowledge that the stultifying measure is repellant to a great majority of the Members of Congress who are caught under the barrel by the unjust and improper demands of their constituents; with full knowledge that eight railways and various other concerns have been improperly using moneys belonging to stockholders of such concerns to secretly force Congress to pass a pork-barrel measure; with full knowledge that an association in 1914 has been swinging a big stick among the customers of its members in order to unfairly compel Congressmen to fall in line for this same pork barrel; with full knowledge that the New York Board of Trade refused to become a supporter of a nation-wide association which was proposing to put through an annual pork barrel of $50,000,000, based on the principle of "mutual bribery"; with full knowledge of all these facts based on evidence which seemed to me to be conclusive and which I am ready and willing to submit to any investigating body prepared to learn the truth, I introduced the following concurrent resolution in the House on May 4:

WHY AN INVESTIGATION IS ASKED.

Whereas many millions of dollars of public moneys are annually wasted on our rivers and an absence of businesslike methods is being pursued by the Government in carrying on river and harbor improvements, the following facts are submitted as a preamble in support of this resolution:

That on March 17, 1914, the chairman of the Rivers and Harbors Committee stated to the House as follows: "Why, there are propositions advanced, some of them now before Congress, advocated and supported by men of national repute, the adoption and carrying out of which, it is said by competent engineers, would cost billions of dollars";

That river and harbor appropriations have increased approximately 500 per cent, whereas navigation on rivers has decreased 80 per cent, as shown by the following Government data;

Appropriations for rivers and harbors: Eighteen hundred and seventy-five to eighteen hundred and ninety-four—20 years—$187,099,000; 1894 to 1904—10 years—$184,425,000; 1911 to 1914—4 years—$184,345,000.

The following river traffic is reported from the city of St. Louis: Missouri River, 1890, 31,385 tons; 1906, 6,050 tons; loss, 80 per cent. Lower Mississippi, 1890, 765,880 tons; 1906, 141,575 tons; loss, 81 per cent.

That commerce on practically all inland waterways, excepting the Great Lakes, has greatly decreased and often been driven from the rivers by railway competition;

That the Interstate Commerce Commission and railway commissions of the several States have general powers to reduce railway freight rates wherever conditions warrant and to prevent increase wherever reduction has once been made;

That the river and harbor bill for 1914 as passed by the House appropriates or authorizes an expenditure of $43,289,004, in addition to $32,895,871 in new projects begun and to be maintained by continuing appropriations from future Congresses, in all calling for a proposed expenditure of $76,184,875. To this vast amount, judging from past experience, will be added from $4,000,000 to $5,000,000 before the bill is returned from the Senate;

That the adopted projects which we are obligated to complete, including those embraced in the 1914 bill, involve a future expenditure of $305,500,000;

That in addition thereto the Army engineers have recommended 93 new projects, which will require a further expenditure of $92,500,000 whenever Congress can be prevailed upon to make such appropriations;

That 120 additional surveys are authorized by the 1914 bill as it passed the House, which will require an indefinite amount for such projects, possibly reaching $100,000,000, judging from the average last noted;

That to these extravagant expenditures will eventually be added billions of dollars, according to the opinion of the chairman of the Rivers and Harbors Committee of the House, whenever men of national repute now advocating and supporting other projects can secure their adoption;

RIVER NAVIGATION HAS DECREASED OVER 80 PER CENT.

That the 1914 bill as it passed the House appropriated $9,500,000 for the Mississippi River, 84 per cent of which is to be expended on the lower river, notwithstanding its commerce decreased over 80 per cent during the past 20 years;

That the Mississippi River Commission on April 14, 1914, at St. Louis, recommended to Congress a further appropriation of $12,000,000 for the Mississippi River for next year;

That the 1914 bill as it passed the House appropriates $2,000,000 for the lower Missouri River, between Kansas City and the Mississippi, which appropriation is part of a $20,000,000 project for that portion of the river, notwithstanding traffic is negligible and actual commerce is alleged to have cost the Government approximately $100 per ton for 1912;

That the 1914 bill as it passed the House appropriates $5,000,000 for canalizing, near the Ohio River, a $64,000,000 project, comprehending 63 locks, but no part of the open-river service. Canal freight for 1912 is alleged to have cost the Government over $35 per ton, after allowing full railway freight rates for coal traffic;

That after spending many millions of dollars on the Coosa, Trinity, Brazos, and Red Rivers, these projects are now alleged to be of no practicable benefit to navigation;

That the intracoastal waterways project, present and postponed, as reported by Government engineers, involves a past, present, and proposed expenditure, with many connecting links not included, of $96,931,006;

That this system includes the construction of new canals of doubtful value, the purchase, through the 1914 bill, of a bankrupt canal proposition the stock of which is shown to be worthless; of projects that propose to especially benefit certain communities to the injury of others, and projects which it is alleged will drive legitimate private waterway ventures into bankruptcy;

That the 1914 bill as passed by the House contains appropriations for projects where the expenditure, according to engineers' reports, is exclusively for local private business interests and not for use by the general public;

That the 1914 bill as passed by the House contains appropriations for creeks which, according to the accompanying engineers' reports, are dry for eight months in the year;

That the 1914 bill as passed by the House contains appropriations for creeks involving in a single instance an appropriation of $750,000, wherein it is alleged the engineers' report was reversed after real estate speculators had brought political pressure to bear in such case;

That the 1914 bill does not carry appropriations for the full amount required to complete projects as asked for by engineers in many cases, thereby preventing the Government from entering into proper or profitable contracts until full appropriations are made;

That the 1914 bill is open to all the objections urged by President Taft against the 1910 bill for the last-mentioned reasons and contains wasteful appropriations amounting to many millions of dollars: Therefore for the foregoing reasons it is

Resolved by the House of Representatives (the Senate concurring), That the Interstate Commerce Commission be, and hereby is, authorized and directed to immediately investigate and as soon as practicable report to Congress the following information:

1. The character and amount of proposed expenditures by the Government now being advocated and supported "by men of national repute," as stated on the floor of the House, the adoption and carrying out of which will cost billions of dollars.

2. The character and value to the general public of projects to which the Government is now committed aggregating $305,000,000.

3. The character and value to the general public of 93 new projects recommended by Army engineers but not yet adopted by Congress which will require a further expenditure of $92,500,000.

4. The character and value to the general public of 120 new surveys authorized by the 1914 bill as it passed the House, which will require an indefinite amount reaching to over $100,000,000, based on average last noted, providing such projects are recommended by the Army Engineers.

5. To report all river or harbor projects begun and afterwards abandoned by the Government within the past 40 years, together with all expenditures so wasted and reasons for such abandonment.

6. To report as to the truth or falsity of the statement made upon the floor of the Senate that "the whole scheme of river improvement is a humbug and a steal," and to report further as to the truth or falsity of statements made during debate in the House that the river and harbor bill for 1914 as it passed the House is a fraud upon the people, a pork-barrel raid upon the Federal Treasury, approximating in its scope an expenditure of over $76,000,000, and more vicious in character than any of its predecessors.

CONGRESS SHOULD KNOW THE FACTS.

7. To investigate and report all active influences urging the adoption of the Mississippi River reclamation, the Ohio River canalization, the Delaware & Chesapeake Canal, and other projects contained in the 1914 bill as it passed the House, together with the names of all organizations, companies, individuals, or hired lobbyists now actively engaged in urging such projects.

8. To report fully as to the Mississippi River reclamation project, its probable cost, local benefits to be conferred and value of any lands to be reclaimed; the ownership of such lands; the contributions equitably required from adjoining States, municipalities, or individual interests, if any; the injuries to Memphis, Vicksburg, and other communities alleged on the floor of the House to have been caused by ill-advised engineering projects, and further to report as to the permanence of the reclamation project and probable value compared with Government expenditures required.

9. To investigate and report as to the desirability of having the Government take over the Chesapeake & Delaware Canal at double its actual value fixed by the House committee; to report whether the canal company stock is worthless and its bonds valued at only 50 cents on the dollar, as stated on the floor of the House; to report whether this canal project can be completed for $10,514,290, as estimated by Army engineers; to report whether such amount includes the Government contribution of $450,000, made about 90 years ago, and accumulated interest and dividends wrongfully withheld during that period; and to report further whether or not the project is to be taken over for the especial benefit of canal bondholders and shipping interests of Baltimore and Philadelphia. In making such investigation the commission is directed to not limit its hearings to stock and bond holders of the canal company, or to local political influences or interested shipping interests of Baltimore or Philadelphia.

10. To report further what river and harbor projects now under consideration are for the benefit of strictly private business interests without corresponding benefits to the general public, and the influences that secured such projects for such interests.

11. To report what proportionate benefits should occasion contributions, and to what extent, from local communities, particularly where improvements are of strictly local value and of no material aid to navigation.

12. To report the financial policy or absence of policy pursued by the Government as to rivers and harbors during the past 40 years; benefits that have accrued to the public through improved river navigation and increased river traffic, if any, resulting from such improvements, together with all further available information on the subject that may be had, together with such recommendations based thereon as may be found proper to make in the premises, having particular reference to the following information:

13. To report the practicability of taking away from the Chief of Army Engineers the exclusive right and power of determining the commercial necessity of river and harbor projects and leaving with the Army Engineers' Bureau the single question of technical engineering work.

14. To report the practicability of turning over to the Interstate Commerce Commission or to the Department of Commerce all river and harbor improvements, with full power to exercise all the duties now imposed upon the Army Engineering Bureau, excepting such duties as strictly pertain to civil engineering.

SMOTHERING A RESOLUTION.

Mr. Chairman, I have recited the facts on which the resolution is based and the authority for each separate provision of the resolution which to me seems possessed of merit and has a vital relation to public morals, legislative practices, and "the interests of the tax-paying public." The resolution was introduced in all seriousness, and in some form is sure to eventually receive the attention it deserves, although the irony of fate never played a better hand against its present consideration than when the resolution was referred to the Rivers and Harbors Committee.

I offer no invidious criticism against the Rivers and Harbors Committee individually or collectively, but ask any Member not utterly devoid of a sense of humor to picture to himself the possibility of securing a genuine investigation or a favorable report on such a resolution at the hands of that committee. It is sufficient to say that the resolution has been in the hands of the committee for about a month. Nothing has been heard of it. Nothing will be heard of it. Smothered in the interests of expediency and harmony, the resolution is sure to die a peaceful death.

The Mulhall investigation would never have occupied the attention of Congress but for the publicity forced through the columns of the press. I believe that some publicity will be directed at the notorious pork barrel and the legislative atmosphere surrounding it within the near future. The smug complacency with which the Post article reviews the situation and brushes aside specific charges of fraud shown to exist in the bill is not a discouraging sign of moral inertia, but rather evidences the legree to which public conscience has been dulled by what the New York Board of Trade terms "log rolling" by a system of "mutual bribery." Members of the House and Senate frankly admit the truth of this statement and denounce the system, repudiating the whole dishonest pork-barrel scheme. Constituents who demand local improvements, whether warranted or wasteful, are primarily to blame. They force Members to stand for some local improvement, and this one improvement becomes but a single stave in the great pork barrel which stands or falls through a union of purposes, good and bad, in a raid on the Federal Treasury.

The Saturday Evening Post article is placed in the RECORD as the best defense the pork barrel can make, although, as stated before, its primary purpose is to forestall public opinion if the iniquitous 1914 bill becomes a law—which the Lord forbid. I could have wished that, with all the splendid influence the Post possesses of a million circulation, the heavy guns of its able corps of editorial writers had been trained against the bill. This was much to expect; and yet I believe it must eventually come to that, however great may be the present home pressure exerted by powerful interests in favor of this bill.

PAPERS THAT REFLECT PUBLIC SENTIMENT.

Mr. Chairman, I could present to the House many columns of strong commendatory editorials from scores of leading papers all over the country that declare the fight is just begun and that the pork barrel must go. An extract from an editorial published by one of the greatest papers in the country, both in circulation and in aggressive efforts for the moral uplift of the country, says:

The Tribune is in sympathy with Congressman FREAR'S disgust with the gigantic evil of the pork barrel, the gigantic waste of public funds on public works which are not public improvements, but merely local grafts.

The foregoing sentiment is respectfully referred to the distinguished author of the Post article for thoughtful consideration. A column editorial from another great daily, possessed of one of the most forceful editorial writers in the country, says, after a careful analysis of the question:

The professed river expenditures are a reproach to every Congress that passes one of these budgets.

Another paper, in a strong, comprehensive editorial, says:

The most notorious of the so-called pork-barrel measures which regularly are adopted by Congress is concededly the river and harbor bill—a system based on politics and so unjust, unfair, unreasonable, and absolutely wasteful that it loudly calls for drastic reform.

The able writer of the Post article to the contrary notwithstanding. Still another daily, in a long editorial, concludes with the uncontrovertible statement that—

the river appropriations constitute the greatest pork barrel that was ever devised.

I could quote from many other strong editorials which have come to my hands all, without exeception, in the same general vein. While the unpleasant task had brought many kind words which are highly prized, it is a disagreeable duty to perform, this taking off of the lid. Disagreeable because I would gladly prefer to serve fellow Members to the extent of my ability, nor would I willingly even inferentially question the motives of any individual Member; but, although I regret having to attack a bill that contains some desirable and meritorious projects, I consider it my duty in a humble way, however futile in effect, to continue to point out indefensible items in and methods of this indefensible pork barrel.

WHY THE PRESIDENT SHOULD VETO THE BILL.

Mr. Chairman, I know the power of the opposition and realize that to expect defeat for the 1914 bill is probably an idle dream. I do hope that its viciousness will be exposed by able men at the other end of the Capitol so as to gain the attention of the public to pork-barrel projects. A conscientious, strong public official as I believe the President to be, will not, in my judgment, remain blind or deaf to the facts concerning this vicious bill, and to him we have a right of appeal. Such appeals have not fallen on deaf ears in the past. I refuse to believe they will fail with an administration which was placed in power because of its promises of public honesty and economy.

Mr. Chairman, the 1914 bill as it passed the House appropriated $43,289,004 in cash and over $76,000,000 in present and future obligations assumed this year. Pending amendments at the other end of the Capitol are reported to increase the cash appropriated to nearly $50,000,000 and present and future obligations to $88,000,000. While considering these enormous figures presented to a waiting public by a Congress pledged to economy, I came across a presidential veto message, promulgated in 1896, that furnishes a model form for ready letter writing when the enormous 1914 pork barrel takes its place upon the witness stand before President Wilson.

In his veto message (54th Cong., H. Doc. 393) President Cleveland denounced the $14,000,000 "humbug and steal" and the practice of running up continuing obligations, of which $310,000,000 confront us to-day. His message reads in part:

To the House of Representatives:

I return herewith without approval House bill No. 7977, entitled "An act making appropriations for the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes."

There are 417 items of appropriation contained in this bill, and every part of the country is represented in the distribution of its favors.

It directly appropriates or provides for the immediate expenditure of nearly $14,000,000 for river and harbor work. This sum is in addition to appropriations contained in another bill for similar purposes amounting to a little over $3,000,000, which have already been favorably considered at the present session of Congress.

The result is that the contemplated immediate expenditures for the objects mentioned amount to about $17,000,000.

A more startling feature of this bill is its authorization of contracts for river and harbor work amounting to more than $62,000,000. Though the payments of these contracts are in most cases so distributed that they are to be met by future appropriations, more than $3,000,000 on their account are included in the direct appropriations above mentioned. Of the remainder, nearly $20,000,000 will fall due during the fiscal year ending June 30, 1898, and amounts somewhat less in the years immediately succeeding. A few contracts of a like character, authorized under previous statutes, are still outstanding, and to meet payments on these more than $4,000,000 must be appropriated in the immediate future.

If, therefore, this bill becomes a law the obligations imposed on the Government, together with the appropriations made for immediate expenditure on account of rivers and harbors, will amount to about $80,000,000. Nor is this all. The bill directs numerous surveys and examinations which contemplate new work and further contracts, and which portend largely increased expenditures and obligations.

There is no ground to hope that in the face of persistent and growing demands the aggregate of appropriations for the smaller schemes not covered by contracts will be reduced or even remain stationary. For the fiscal year ending June 30, 1898, such appropriations, together with the installments of contracts which will fall due in that year, can hardly be less than $30,000,000; and it may reasonably be apprehended that the prevalent tendency toward increased expenditures of this sort and the concealment which postponed payments afford for extravagance will increase the burdens chargeable to this account in succeeding years.

In view of the obligations imposed upon me by the Constitution, it seems to me quite clear that I only discharge a duty to our people when I interpose my disapproval of the legislation proposed. Many of the objects for which it appropriates public money are not related to the public welfare, and many of them are palpably for the benefit of limited localities or in the aid of public interests.

"UNWISE EXPENDITURE OF MILLIONS."

On the face of the bill it appears that not a few of these alleged improvements have been so improvidently planned and prosecuted that after an unwise expenditure of millions of dollars new experiments for their accomplishment have been entered upon.

* * * * * * *

Individual economy and careful expenditure are sterling virtues which lead to thrift and comfort. Economy and the exaction of clear justification for the appropriations of public moneys by the servants of the people are not only virtues, but solemn obligations.

To the extent that the appropriations carried in this bill are instigated by private interests and promote local or individual projects, their allowance can not fail to stimulate a vicious paternalism and encourage a sentiment among our people, already too prevalent, that their attachment to our Government may properly rest upon the hope and expectation of direct and especial favors, and that the extent to which they are realized may furnish an estimate of the value of governmental care.

I believe no greater danger confronts us as a Nation than the unhappy decadence among our people of genuine and trustworthy love and affection for our Government as the embodiment of the highest and best aspirations of humanity, and not as the giver of gifts, and because its mission is the enforcement of exact justice and equality and not the allowance of unfair favoritism.

I hope I may be permitted to suggest, at a time when the issue of Government bonds to maintain the credit and financial standing of the country is a subject of criticism, that the contracts provided for in this bill would create obligations of the United States, amounting to $62,000,000, no less binding than its bonds for that sum.

GROVER CLEVELAND.

EXECUTIVE MANSION, *May 29, 1896.*

"WE CALL ATTENTION TO RECORD OF ECONOMY."

Practically every argument urged by President Cleveland against the small 1896 bill applies with far greater force to the 1914 measure, judging from the reports of engineers and the enormous raid about to be made upon the Federal Treasury.

What would President Cleveland have said had he been confronted with the present $88,000 000 pork barrel, a $310,000,000 obligation for future projects, and a river traffic which has decreased over 80 per cent since his day and age? What would Democracy's President of 1896 say, when officially advised that measures costing billions of dollars are now being advocated and supported "by men of national repute"? What would the man of 1896, greater than his party, say upon reading in the Baltimore platform declaration—

We call the attention of the patriotic citizens of our country to the record of economy and constructive legislation of the Democratic House of Representatives.

Or that other sounding declaration—

We denounce the profligate waste of money wrung from the people by oppressive taxation through the lavish appropriations of recent Republican Congresses. * * * We demand a return to that simplicity and economy which befits a democratic Government.

When he viewed the monumental hypocrite that is waiting with $88,000,000 in its barrel, knocking at the White House door, he would have said things that ought not to be uttered—even by Presidents. What would Cleveland do to-day if in the White House? What will President Wilson do with this unprecedented "humbug and steal" that is lauded by the Post article?

Mr. Chairman, I have concluded to offer these observations with some reluctance, but I am firmly convinced that the Saturday Evening Post article which has now been incorporated into the CONGRESSIONAL RECORD should not go to the country unchallenged. Believing the article to be misleading in character and shrewdly timed for the purpose of influencing public sentiment and legislation on the 1914 bill, I have expressed my dissent from the views contained in the Post article.

A JOURNAL'S MORAL RESPONSIBILITY.

Every man on this floor familiar with the facts knows that the "inside of the pork barrel" was not presented to public view by that article. I say this with profound regret, because of the far-reaching influence of that great journal. To say that its management has been imposed upon is, I believe, to express the judgment of Congress, whatever may be the verdict on the pork barrel. The moral responsibility to the country of any journal is as great as that of any Member of Congress, while the influence of the Post for good or bad is greater than that of any Member of either branch of Congress, because it speaks to a million people every week. In my humble judgment, its influence cast against the 1914 river and harbor bill would have insured the bill's defeat, because the pork barrel is built in the dark, and it will quickly fall to pieces when exposed to searching publicity.

The author of that article, the gentleman from Mississippi, has given public testimony that my action is based upon the belief that by seeking the defeat of the pork barrel I am serving my country well. I am content to offer no excuse in seeking to have the truth regarding that measure placed before the country. The Post article, sent through the CONGRESSIONAL RECORD, purports to give a view of the "inside of the pork barrel," but its attractive picture, made up of glittering generalities, bears no more resemblance to the Janus-faced, vicious measure of 1914 than a fragrant bouquet bears to the garbage barrel. Surely it is a marked coincidence that the ill-smelling garbage barrel is attractive only to those animals that find their last resting place in another famous barrel dedicated to their kind.

THE BURDEN TO EVERY HOUSEHOLDER.

In my remarks of March 26, following a five days' discussion of the bill in the House, an effort was made to fairly show the true inwardness of the pork barrel, and that analysis was supported by the best obtainable testimony, including reports of examining Government engineers, together with Government statistics, that have not been controverted. The wasteful measure now approximating $88,000,000, as it comes out of the Senate committee, in actual obligations, places an average burden on the head of every family in the country approximating $5. Future obligations which are to be met for this same wasteful purpose increases the average burden to each family head to $15, and for every $1,000,000,000 of pork-barrel projects which are now impending, backed by men of national repute, according to Chairman SPARKMAN'S official statement, the burden will be increased to $50 for the head of every family in the country on the general average. In my remarks of March 26 I sought to present the vast waste of taxpayers' money when viewed from the inside of the pork barrel.

Mr. Chairman, in these remarks here hurriedly presented I have tried to disclose the hidden springs which lurk inside the barrel and which determine its character and its course. Contributions by railroads to influence Congressmen have been shown, as revealed by the statement of the secretary of the Humphreys-Ransdell organization. Masked guns aimed by business interests have been trained upon Congressmen, according to a responsible waterways publication. A $50,000,000 annual logrolling association built around "mutual bribery" is disclosed by one of the greatest commercial bodies in the country. Incidentally it has been shown that the pork barrel has been destroying the river frontage and undermining adjacent property in great cities, wasting millions of dollars annually on a stream in which over $75,000,000 has already been poured, and ruining the 7 per cent remainder of navigation now existing after a 93 per cent loss in 20 years. None of these conditions, which are upheld by testimony from high authority, has been mentioned in the Post article.

WHERE PRESIDENTS CONDEMN, THE POST APPROVES.

Opposed to the judgment of the gentlemen from Mississippi and Louisiana, who give the "inside of the pork barrel" their approval by its incorporation in the RECORD and by the secret campaign waged in favor of the Humphreys-Ransdell $60,000,000 bill, I offer the disapproval of public men who have believed they were serving their country well by public condemnation of the barrel. President Cleveland, among other severe criticisms, wrote that many of its objects are not related to the public welfare but are for the aid of private interests. That is notoriously the case in the 1914 pork barrel. President Taft declared:

I once reached the conclusion that it was my duty to interpose a veto in order, if possible, to secure a change in the method of framing these bills.

He was dissuaded only because no bill had been passed for three years. The 1914 bill is open to every objection urged by President Cleveland and by President Taft. A distinguished Senator declared the whole system is a "humbug and a steal," and no one in the Senate questioned the utterance. Another Member of the upper House once declared, "The people will not forever stand silently by and see this reckless, this wasteful expenditure of their money." Can we question that statement?

These opinions, judging from editorial utterances I have received from leading papers in many different States, are shared by the country at large. So far as my knowledge goes not one reputable newspaper in the country has said any good words for the 1914 notorious pork barrel. It is shunned by leading journals as a class, and few people have the hardihood to defend the hypocritical measure in aid of navigation. I append editorials from two of the greatest newspapers of the country, whose fearless utterances on public shams have rendered great service to their country. They reflect the general sentiment expressed in a score of others and in many letters that have come to me on the same subject.

[From the Chicago Tribune of Monday, June 1, 1914.]

THE GIANT GRAFT OF THE PORK BARREL.

Readers of Tribune editorials not infrequently encounter the word "pork," and doubtless think they comprehend what is meant. We have no doubt our readers do know what we mean by "pork," but of the importance of the word and of the cost of "pork" to the Nation we are afraid a very small proportion are informed.

"Pork" is money taken from the public till ostensibly for public improvements, but actually to build a Congressman's fences. "Pork" is an appropriation made by Congress from the United States Treasury ostensibly for the construction of some public work of benefit to the public, but actually to benefit Congressmen, either by pleasing local pride or profiting some private interest of influence upon the Congressmen's fortunes.

"Pork" does not mean money spent on necessary and beneficial public improvements, the construction of which legitimately belongs to the Nation. "Pork" is money of the public spent for private benefit, money of the Nation spent for local profit. "Pork," in short, is graft and a graft so tremendous that compared to it all the direct peculations and profits of which dishonest officials have been guilty in the history of the Nation are as a molehill to a mountain.

One of the chief forms of "pork" is harbor and river improvements. The aggregate of money which is wasted under guise of river and harbor improvement would stagger the Nation if it were ascertained. For years this waste has been going on, not merely in the form of projects which had a reasonable excuse for being and which only experience could prove unwise, but in the form of numberless projects which had no excuse from the beginning, which were plain steals made possible only under the system of logrolling.

Year after year some Congressman, usually a new hand, has fought this "pork" graft to find that his most unchallengeable objections, his most eloquent protests, were remorselessly ignored. The latest of these forlorn hopes was led by Representative JAMES A. FREAR, of Wisconsin, whose work in committee and whose speech in the House March 26 against the pending river and harbor bill brought out the evils of "pork barrel" legislation and unscrupulous logrolling with commendable courage.

It is difficult to select from the examples offered in Representative FREAR'S speech because there are so many that illustrate the inexcusable waste in this field of public expenditure. To many readers the case of the Kissimmee will appeal. This river is in Florida and is dry several months in the year—in 1907, 8 months; in 1908, 5 months. But it has been under "improvement" since 1903 and has had $30,400 spent on it. There is a politician and ex-Congressman interested in selling a tract along this river to settlers from the North.

Then there is the Coosa River project, planned in 1890 and modified in 1892, providing for 23 locks and dams at an estimated cost of $5,106,422. By June, 1909, $401,372 had been expended in completing 4 per cent of this enterprise, and the engineers reported in that year that "on account of the numerous rapids this part of the river has never been navigable," that "as yet—after 19 years—no benefit has been derived from this improvement, and its value is entirely dependent on the completion of the entire system." In 1913 the engineers reported that "a small commerce in the rafting of logs and square timber can only be carried on when the river is about 12 feet above low water, and no reliable estimate of its value can be ascertained."

The amount required for the completion of this great public enterprise is $6,059,913.

The harbor and river bill appropriates $43,289,004. New projects started in 1914 will, if carried on, involve a further expenditure of $33,000,000, so that the "pork" to be paid or promised in this bill comes to the tidy sum of $76,000,000.

If Representative FREAR exaggerates when he declares that nine-tenths of this great sum will be wasted, he will be excused by anyone who reads the long list of cases he cites. Certainly public opinion should be aroused to this gigantic graft. The President would do a public service by vetoing the present bill, not only to prevent the waste directly involved but to call nation-wide attention to the whole evil of pork.

The Tribune will return to this subject.

[From the Washington Times, Thursday, May 7, 1914.]

THE FREAR RESOLUTION.

Congressman FREAR, of Wisconsin, on March 26, delivered a remarkable speech in the House. The river and harbor bill was his subject, and he made a telling analysis of the measure. Taking up project after project, he quoted from the engineering reports to show conditions surrounding them and the pitifully small volume of traffic that could possibly be benefited by enterprises for which hundreds of thousands of dollars were asked, demonstrating that the measure as a whole plainly aimed to distribute a lot of Federal money as equitably as might be, rather than to devote it to work that would be of substantial value.

Mr. FREAR'S speech demonstrated that he had made a great study of the subject. He followed it on May 4 by introducing a concurrent resolution which probably will be duly smothered for the present, but which contains an idea that is certain before many years to be adopted.

This Frear resolution sets forth that, while these appropriations have increased 500 per cent per annum, navigation on the rivers has fallen off 80 per cent. Projects now adopted, or contained in the pending bill which is expected to pass, involve a future expenditure of $305,000,000; surveys are authorized for projects costing another $100,000,-

000; and other huge projects are now being insistently advocated which would involve billions. Mr. FREAR declares that many millions have been spent in the past on rivers to benefit navigation, and that these projects have since been abandoned as of no value and represent a dead loss.

In short, Mr. FREAR presents a startling indictment of the whole river-improvement program, insists that most of the money spent on it—several hundreds of millions—in the past has been wasted, and that unless there is a change of policy billions more will go the same way, and he winds up his resolution with a direction that the Interstate Commerce Commission shall investigate and report on the whole subject. Among other things, he would have the commission find out how much value there is in the $305,000,000 worth of projects to which the Government is now committed, what virtue there is in the billions of dollars' worth of additional projects that are insistently demanded, and what are the organizations, interests, etc., boosting them. He wants to know about paid lobbyists in this connection, and requires detailed information as to all river and harbor improvements begun and afterwards abandoned, and how much this waste has aggregated. He asks the commission to learn whether it is true that certain privately owned canals, whose stock is practically worthless, are being unloaded on the Government for huge figures, and why. He yearns for light, too, as to the extent of the property values that would be benefited by certain great river improvements that are urged; and he wants to be informed why States and cities along the Mississippi, for instance, should not pay a big slice of the expense for flood protection and the like of which they would be the beneficiaries.

In short, Mr. FREAR has cut out for the Interstate Commerce Commission a job which it couldn't possibly handle and for which it has no possible indictment, but, none the less, a job that very decidedly ought to be attended to. It should be given, not to the Interstate Commerce Commission, but to some other body. Perhaps the Department of Commerce is the right authority. Anyhow, the broad investigation that Mr. FREAR wants is demanded by the enlightened sentiment of the whole country.

We have spent hundreds of millions on our waterways; several times as much, for instance, as Germany has spent on hers. Yet at the end what do we see? Germany has restored a vast and fast-increasing traffic to her rivers; we have let the traffic be driven from our rivers. Germany has got immense returns from its river investments; we have wasted ours, for the greater part, and are going right ahead to waste more.

Some organization, coordination, and practical judgment in the selection of projects would make the river expenditures worth while. They are not worth while now. They are a reproach to every Congress that passes one of these budgets. The Frear crusade will accomplish some good and useful results if Mr. FREAR will stick by his guns and keep right on fighting till he gets a hearing.

Mr. STEVENS of Minnesota. I yield 15 minutes to the gentleman from Ohio [Mr. FESS]. [Applause.]

Mr. FESS. Mr. Chairman, I am in sympathy with the purpose of the program that has been announced on the trust legislation by the authors of the bills. [Applause.] You are applauding too soon. The purpose of the legislation, as it is expressed in every speech made upon this floor in support of the various measures can not, I think, be objected to. Part of these bills I favor. I shall give my support to the interstate trade commission, and do it heartily, because I believe it supplements the Sherman law, that in a sense has been effective, but not entirely so. However, this ineffectiveness is due not to the law so much as to the administration of it.

I am not satisfied with this measure now before us and can not now give my approval of it. If it is amended along the lines suggested by Mr. STEVENS of Minnesota, I will support it. I hope it will be so modified. The measure that was laid aside to-day, the Clayton antitrust bill, is a measure seeking to do a thing that I have desired to see done for years. As a student for some time of the subject of concentration and control, as set forth by the investigations of Dr. Van Hise, Bruce Wyman, and a great number of experts, such as Dr. Ripley, Prof. Jenks, and Prof. Ely, I have well-defined convictions. This bill is designed by its proponents to regulate big business, without destroying the small man, but I can not see that this bill is reaching the thing that you men think it will reach. My belief is not the result of prejudice, not a desire to avoid responsibility. I have tried to be absolutely honest in my own mind. I have come to this proposition in this spirit of an open mind. If it were introduced in a Republican Congress and I could see my way to support it as a Republican measure, I would support it in this Democratic Congress, introduced by a Democrat. I have come with that open mind, rather to be fair to myself as a legislator. But if I am not mistaken, you are not striking the monopoly as you think you are, and you are striking the small business man as you think you are not. In other words, you are not hurting the enemy of business, but you are distressing the friend of it. When you deny the exclusive contract to the large business corporation, in order, as you profess, to insure competition for the small man, your limitation will not in this law interfere with monopoly, because you allow the big business concern to supersede the small dealer to whom it sells its goods by putting in his place its legal representative, a man who becomes its agent, and upon a contract where the title does not pass from the corporation to the seller, but where the seller is simply a distributor of the goods of the corporation. In such a law you are not harming the corporation, you are not lessening the danger from the big man, but you are interfering with the little man, whom you are superseding by the agent of the big man.

By this act, if it becomes a law as it now stands, the great anthracite-coal corporations will cease to make exclusive contracts with the various retail dealers in the country, but it will not interfere with the corporation sending its agents as distributors to the various localities. No one will seriously contend that such displacement of the retailer will hinder the corporation in its monopolistic tendencies, but most people must see its effect upon the retailer. What is true of anthracite coal will be true of every big concern which approaches monopolistic dimensions. It will assist the tendency of concentration without providing the necessary control we all seek, and at the same time to the distress of the small dealer.

I tried to put these questions to the men who are the proponents of the bill. They say that my fears are unfounded; but I am confident that when the Standard Oil Co. does not sell to an individual under an exclusive contract, because of the limitation in this law, that will not interfere with the Standard Oil Co. putting a distributor of its goods into every little town. To-day the exclusive contract can be reached under the Sherman law if it can be shown that it either produces monopoly or is in restraint of trade. To-day this remedy can be reached without affecting the small business man. Under this law as proposed you invite the Standard Oil Co. to distribute its products through agents instead of through the middle man. You do not reach the company, but you do affect the thousands of middle men.

Mr. GORDON. Will the gentleman yield?

Mr. FESS. I yield for a question.

Mr. GORDON. Has not the Standard Oil Co. got a distributing agent in every town now?

Mr. FESS. Yes; it may have, but that does not change this provision any, and I am referring to that simply as an example. What it has done you invite every big concern to do under this bill, and I take it that is the thing you do not want to do. This injury to the small man is not confined to the exclusive contract in the bill. You do it in the price discriminating provision, if I can read the matter right, and I have tried to be honest in this matter with myself.

You forbid the sale of goods except upon quality and quantity at different prices. I know your purpose, which is good. But your purpose will not be realized. This feature will not hurt the monopoly, but it will hurt the small dealer.

I have no great dealers of monopoly proportions in my district, so far as I know. But I have a most highly intelligent group of small dealers. Note how this bill operates upon them. Take, for example, the shoe industry. My constituent can not enter the market in competition with the Douglas shoe concern. The latter has its organization represented by the hundreds of representatives. It does not need to discriminate in price to secure trade, to develop a new field. The campaign of advertising, the personal persuasion of its representatives are the means to do that. This law does not harm that firm. But take the small shoe manufactory in my district, limited in its output because of its inability of developing new trade. This concern, without its agents and its campaign for new business, is denied under this law to reduce the price upon the initiation of the contract, as an inducement to take consignment, unless the same reduction is made in places where trade is already established, upon penalty of a $5,000 fine, a year imprisonment, or both.

How will the small man compete in the market with the big man? How will he develop any new trade? Wherein do we see the harm to the big man? Wherein do we see the good to the small man? I can not see it in the bill.

This is not the only feature I fear. The denial of an operator of a mine to choose his own customer is serious. In a year I have an occasion, as the president of a college, to order about 300 tons of coal. Suppose I choose not to purchase from a coal dealer in my town. I order directly from the mine. This law, in section 3, compels the operator to sell to me if I am responsible. Who is to say whether I am responsible. If he refuses arbitrarily, whatever that means—and of course that will require the courts to say—he will be subject to a fine of $5,000 and a year's imprisonment or both.

That is not all; he must not sell to me higher than to another in my town. In other words, the only way the coal dealer can buy at less price is in the question of quantity. In that case the dealer must know how much I ordered to know what he can pay. What effect will such a provision have upon the hundreds of small operators of mines? What effect will it have upon the retail dealer in the country over? Again, you do not disturb so much the few great operators, but think of the confusion of the small operator and the retailer.

I voted for the amendment which declared that labor and farmer organizations as such shall not be considered as con-

spiracies under the Sherman law. I would not vote for any measure that would deny either labor or farmers the right to organize for mutual helpfulness. Upon the other hand, I would not vote for any law that would exempt either from punishment for the violation of law. This amendment which I supported allows organization of these various interests, but it subjects them to punishment under the law if they do unlawful acts. I have no doubt myself upon this provision; however, there seems to be some dispute among the Members. This feature should have been clearly stated so that the courts would not have been necessary to decide it. When the direct question was put to the chairman in charge whether the bill permitted a secondary boycott, he replied it did not, and he would not vote for a measure that did. Then an amendment was offered specifying that it did not authorize it. This the committee refused to accept. It should have accepted the amendment. The bill is at fault in the sense that it lacks clearness. It will take the courts to define its meaning. This is another reason for my withholding my support.

That being the case, for these reasons, as well as others, I will have to withhold my support of this measure. I believe it catches business going and it catches it coming. Business is already in the air, and it will be more so than ever before if this act becomes a law as it goes out of this House, especially if not modified materially.

Mr. Chairman, I do not believe that the country is as much interested in this particular line of legislation as you gentlemen think it is. It would like to have Congress adjourn. The people demand it. The press demands it. Business wants a rest. I do not think this Congress is interested in this line of legislation as much as you gentlemen think it is. I do not want to be cruel. It is my nature to approve. No man in this Chamber has heard me say anything ugly purely for partisan advantage, for it is not my nature to do so. But I want to prove to you that the Democrats in this House are not interested in this legislation. Some of us have been in constant attendance in this Chamber for the past 14 months. What does the small attendance upon the sessions signify? I have kept the roll of the Democratic side of the House for the last 10 days, making an actual record every 30 minutes, and I have it in my pocket, and I would like to read it to you to show that this Democratic Congress is not interested in this legislation. The only Democrats interested seem to be the President and the members of the Judiciary Committee. And even they, I am persuaded to think, would like to be relieved in response to the demands of the country. You are not here to take part in the discussion, and a quorum is not here now, and I can easily show you that even presidential persuasion is not sufficient to compel interest in these measures.

Mr. ADAMSON. Will the gentleman yield?

Mr. FESS. I am always delighted to yield to the gentleman from Georgia.

Mr. ADAMSON. I thank the gentleman; he is always fair and courteous. I understand the gentleman's remarks just made apply to the bill which was laid aside to-day from the Judiciary Committee.

Mr. FESS. Yes; I refer to the last 10 days.

Mr. ADAMSON. And not to the stock and bonds bill?

Mr. FESS. No. I am not suggesting a lack of interest in your measure.

Mr. HEFLIN. Will the gentleman yield?

Mr. FESS. Yes; with pleasure.

Mr. HEFLIN. The gentleman suggests that he has been keeping a record of the attendance of Members on this side of the House. I would like to ask him if he has kept a record of the presence of Members on the other side of the House.

Mr. FESS. I knew that you or some one else would ask that question.

Mr. HEFLIN. I will ask the gentleman to look on that side of the Chamber now and compare it with the attendance on this side.

Mr. FESS. I repeat that I knew that you or some one else would ask the question. I did not count the Members on the Republican side of the House, except to satisfy my own curiosity now and then, because the country will not hold the Republican side of the House responsible for legislation in this Congress, with 145 Democratic majority.

Mr. TAYLOR of Arkansas. Which side is "this side"?

Mr. FESS. "This side" of the House is responsible for legislation. "This side" is the Democratic side and that side is the other side. [Laughter.]

Mr. GORDON. Will the gentleman yield?

Mr. FESS. Yes; certainly I will yield to my colleague.

Mr. GORDON. Upon what theory does the gentleman claim immunity for the Republicans? You draw the same salary on that side that we do on this.

Mr. FESS. A great many people in this world think there is nothing except drawing salaries. I am not so much concerned about that.

Mr. RAKER. Before the gentleman reads the roll, will my delightful and learned friend yield for a question?

Mr. FESS. I could not help it now. [Laughter.]

Mr. RAKER. Would the gentleman's record of the attendance compare favorably with the House as it is now? There are present in the House and in the lobbies 14 Republican Members and about 50 or 60 Democrats.

Mr. FESS. Such inquiries are not a satisfactory excuse for the majority party to fail to maintain a working quorum.

Mr. MONDELL. It will be noticed that the gentleman said "in the lobby."

Mr. FESS. I want to say to my friend from California that he can not draw me away from the point at issue. This is a Democratic Congress, not a Republican, and the responsibility for legislation is with you. I want to impress this fact, that while the President, for whom I have the highest regard, as everybody knows, insists upon our enacting this legislation the country would like to have us adjourn and go home. Mr. UNDERWOOD said in this Chamber recently that the country needs a rest, and under ordinary circumstances you would agree with him; but under the new tutelage of the Democracy the Congress lingers with empty seats. I do not believe that the facts here prove the statement of the President that it is wise to finish the operation.

To prove it I am going to read the record. May 21, roll call to secure quorum at 12.30; at 2 o'clock, with the appropriation bill, carrying nearly $7,000,000, before the House, Democrats in the House, 15. At 2.30, VICTOR MURDOCK on the floor discussing the interstate trade commission, Democrats in the House, 16; 2.43 o'clock, 11 Democrats in the House; 3 p. m., 16 Democrats in the House; 3.15, 18 Democrats in the House. At this time Gov. MONTAGUE, the distinguished Member from Virginia, was speaking most learnedly and effectively upon the interstate trade bill and there were but 18 Members of your party here by actual count. At 5 o'clock a roll call was ordered to secure a quorum.

Friday, May 22, 11 a. m., Journal read, 10 Democrats present; 11.15, point of no quorum was made; 2.30 p. m., 30 Democrats present; 3 p. m., 25 Democrats present; 3.30 p. m., 22 Democrats present; 4 o'clock, with the Clayton bill, the antitrust legislation under discussion, and Mr. WEBB on the floor, 28 Democrats present; at 8.20 in the evening, 26 Democrats present.

Saturday, May 23, antitrust bill in discussion; 11.15 a. m., 14 Democrats present; at 11.30 a point of no quorum was made; at 3 o'clock p. m. 22 Democrats were present; at 3.30 o'clock p. m. 14 Democrats were present; at 4 o'clock p. m. 16 Democrats were present; at 4.30 p. m. 14 Democrats were present; at 5 o'clock 16 were present. At this time the President's message was received. We then adjourned with 15 Democrats in the House. Just before adjournment a unanimous-consent request was made by the gentleman from North Carolina [Mr. WEBB] to modify the rule which provided for evening session so as not to have a meeting that night, but to have the House adjourn over until Monday. Pending the request, it was stated the reason to be that no one was ready to speak, when everybody knew that a quorum was impossible.

Mr. TAYLOR of Arkansas. Is it not true, according to the gentleman's report, that the gentleman was the only Republican present at all of these times?

Mr. FESS. Oh, I am not doing this in jest. I am informing the country of the lack of interest, especially among the Democratic Members, in the subject before us.

Mr. RAINEY. Mr. Chairman, will the gentleman yield?

Mr. FESS. Certainly.

Mr. RAINEY. Is it possible that the gentleman from North Carolina made the statement that there was no one present who wanted to speak and the gentleman himself was here? [Laughter.]

Mr. FESS. Oh, I would not expect to have time yielded to me by the gentleman from North Carolina [Mr. WEBB], whose measure I am not supporting. The gentleman's sarcasm is accepted.

Mr. HEFLIN. Mr. Chairman, will the gentleman yield?

Mr. FESS. Oh, I think I can read to the gentleman more interesting matter than he can give to me.

Mr. HEFLIN. Just one interruption.

Mr. FESS. Very well.

Mr. HEFLIN. The gentleman has cited instances where there were only 12 and 14 and 16 Democrats present. How can he account for the fact that the Republicans were unable to get in any amendments, when they have one hundred and thirty-odd Members in the House? Where were they?

Mr. FESS. It is not a matter of Republican legislation in a Democratic Congress. If it were, the country would know the difference. It is a matter of your people being here. On Monday, at 11 o'clock a. m., there were 12 Democrats present. I have the names of them here. At 11.30 there were 28 present in the House, and Mr. TAGGART had the floor, producing argument worthy of the House. At 12 o'clock there were 37 Democrats on the floor, and at 12.25 the House adjourned on account of the death of Senator Bradley. On Tuesday, May 26, the Journal was read at 11 o'clock, and at 11.10 o'clock a. m. there were 19 Democrats present, and the antitrust question was under consideration. Keep in mind that all speeches made, even in general debate, were confined to the issue. At 11.30 a. m. there were 28 present, at 1 o'clock there were 19 present, at 2 o'clock there were 9, and at 2.30 there were 18 and at 3 o'clock there were 24. At 3 o'clock and 2 minutes the point of no quorum was made, and when the point of no quorum was made the Chair announced that there were 62 Members present altogether, Democrats and Republicans.

Mr. HARRISON. Mr. Chairman, will the gentleman yield?

Mr. FESS. Certainly.

Mr. HARRISON. Was that the afternoon when I saw the gentleman and the leader of the Republican Party, Mr. MANN, at the ball game?

Mr. FESS. No; indeed, it was not. At 4 o'clock there were 56 Democrats present, with Mr. CARLIN speaking. At 4.55 there were 28 present, when we took an adjournment.

Mr. DECKER. Mr. Chairman, will the gentleman yield?

Mr. FESS. Certainly.

Mr. DECKER. Would the gentleman undertake to say that there were only 56 present when Mr. CARLIN made his speech?

Mr. FESS. There were 56 Members present at 4 o'clock, with Mr. CARLIN speaking. I would not make a record that was false. There could be nothing gained by that.

Mr. DECKER. He spoke about three hours. How many were present when he started?

Mr. FESS. He used 1 hour and 13 minutes of the 2 hours and 18 minutes yielded him. The point of no quorum was made to secure an audience for him. I suggested to him myself that I would make the point if some one else did not. My friend from Connecticut [Mr. DONOVAN] came to the rescue.

Mr. BRYAN. I submit that is a delicate question.

Mr. FESS. I should like to state to my genial friend that I have kept this account in this way: At 2.30, at 3, at 3.30, and at 4. At 3.02 the point of no quorum was made.

Mr. DECKER. How many were present after the point of no quorum was made?

Mr. FESS. The gentleman can consult the RECORD.

Mr. DECKER. I understand; but how many were here during the speaking?

Mr. FESS. I kept the count. I have no other record except at 4 o'clock.

The CHAIRMAN. The time of the gentleman from Ohio has expired.

Mr. STEVENS of Minnesota. I yield the gentleman five minutes more.

Mr. FESS. We will now take the next day—Wednesday. At 12 o'clock the point of no quorum was made. At 1 p. m. there were 20 Democrats present, at 1.45 p. m. there were 11 present, and at 2 o'clock there were 8 present. At 2.30 there were 7 present, at 3 there were 12 present, and at 3.30 there were 13 present. On page 9338 of the CONGRESSIONAL RECORD we find that there was a division called for, and the record vote was ayes 6, noes 10. On page 9340 of the CONGRESSIONAL RECORD we find another division was called for, and the vote was ayes 4, noes 6.

Mr. GARNER. Was not that on Wednesday when they were discussing the codification bill?

Mr. FESS. That is on May 27, Wednesday. That does not change fact any. The Democrats were not here.

Mr. ADAMSON. Mr. Chairman, I will yield the gentleman one more minute if he will allow me one more question.

Mr. FESS. Certainly.

Mr. ADAMSON. In the gentleman's opinion, would it not afford some relief from this deplorable situation and give these lusty orators a better attendance on hot days, if you gentlemen who have an interlocking interest in both the baseball game and the proceedings of the House could adjust an allotment and division of the time, so that you could attend one in the afternoon and one in the forenoon, and have a quorum at both places. [Laughter.]

Mr. FESS. I hope the gentleman does not include me in the interlocking arrangement, because I am not a baseball fan.

Mr. ADAMSON. The gentleman did not deny being at the baseball game when the gentleman from Mississippi [Mr. HARRISON] asked the question.

Mr. FESS. Well, I was at the baseball game once. [Laughter.] You remember my record shows we adjourned one day at 12.25.

Mr. BARKLEY. Will the gentleman yield?

Mr. FESS. I yield to the gentleman.

Mr. BARKLEY. Was the House in session at the time the gentleman from Ohio was at the ball game?

Mr. FESS. I presume it was, unofficially, probably over at the ball park. I am not sure as to that. And so the record runs. I will admit that the last two days we have had a better attendance and it shows up fairly well. The interest in the labor items of the bill seems to be attractive to absent Democrats. I have the record here, and this is what I have in mind, not to twit anybody and not to put anything that is hurtful to anybody in the RECORD. I have the names and could give them, but I have no desire to do that, for it would not add to my purpose to show that this Democratic Congress is absent. I repeat that the average membership here is wanting to give the country a rest. While we are in session formally, we are exemplifying "watchful waiting" beautifully. I do not believe that the country demands this sort of legislation designed to unsettle all business. Here is the greatest institution on earth. We are dealing with the country's business, that amounts to a hundred and thirty billion dollars of wealth. It is the greatest business on earth, and yet when we have proposed acts that look to the very life of business we do not have a quorum here, and that at a moment when the President insists we must stay here and do this specific thing. I am not ugly nor facetious when I call attention to the fact that our presence in th's Chamber and our participation in the discussion do not indicate that we believe the business is important as we seem to believe. I am going to state another thing, which appears to me important at this stage.

Mr. BARKLEY. Will the gentleman yield?

Mr. FESS. I can not yield, because my time is going so rapidly. I want to say another thing. On the 17th day of last September I called attention to an incident that created laughter on this side of the House. I said, discussing that provision of the currency question where it provides the receipt of Federal notes in the payment of duties which heretofore were required to be paid in gold—I said at that time that you are providing a method by which you reduced the sum of gold in the Treasury. I desire to quote here what I then said, as taken from the RECORD of September 13, last year:

> Now, if you mean to maintain the gold standard and make it the redemption money in this bill, just observe what you are doing. Look at the burden which is put upon gold. First we have $346,681,000 in greenbacks, with $100,000,000 in reserve to keep them at par. This reserve fund, under law, must not be intrenched upon, even at the cost of issuing bonds. We have over $2,000,000 of Sherman notes out of the $156,000,000 of original issue, and we keep $50,000,000 of gold in the Treasury to maintain them at par. Then we have over $1,000,000,000 of gold certificates out in the country, and the gold funds must be kept without infringement to maintain the redemption of these certificates if the holders should call for them.
>
> Then listen. We have in silver certificates and silver dollars nearly $700,000,000, all of which since 1900 must be redeemed in gold. At least the Government is compelled to keep them at a parity. Add to the greenbacks, to the Treasury notes, to the gold certificates, to the silver certificates, to the silver dollars, an unlimited amount of United States notes—Federal notes—provided in this bill, and where will you get the gold to redeem all of that? That is the question. What provision are you making for the gold?
>
> Listen, men. Instead of your providing for an increase of gold, you are keeping the gold supply out of this country by a provision in this bill. You say the Treasury note shall be receivable for customs, and customs have always been paid from the beginning in gold in order to supply our gold needed for redemption. Where on earth will you get the gold? You can not pick it off the trees; it can not be found that way. We collect it through the revenue officers in the customhouses of the country; but here, instead of doing with these notes what you did with the greenbacks, what you have done with the national-bank notes, what you really do with the certificates, both gold and silver, you make them acceptable for the payment of customs, whereby every note that you receive in payment of customs will deplete the gold to that degree. While you are providing for an increased demand for gold, if you mean to preserve it as a standard, you are cutting off the real source of its supply.
>
> Mr. BARTLETT. Will the gentleman yield?
>
> Mr. FESS. I will yield to the gentleman from Georgia.
>
> Mr. BARTLETT. It is true that the national-bank note and the silver certificates can be received now for customs.
>
> Mr. FESS. The national-bank note can not. I would not say as to the silver certificate, but am inclined to think not.
>
> Mr. BARTLETT. They pay customs duties now in checks by a recent law.
>
> Mr. FESS. The checks are redeemable in money which ultimately is gold.
>
> Now, here is another question that I want to ask the Democratic Members. They will not agree with me in this, but I think it is worth while to think about it. Your tariff measure is professing to collect from imports into the country a large sum of money, and by your competitive system you promise a large increase of importations. If through the Underwood bill you increase the importations to this country to the point, which you might reach, of turning the trade balances against us instead of for us, so that we will be buying more goods from Europe than we are selling, then the balance will have to be settled in gold, the money of international exchange. If you reach that point, th's country will be drained of its gold. Between the two bills, the tariff measure, which provides for an increased importation, and the currency bill, which provides for receiving notes instead of gold for customs duties, between these two plans you are increasing the demand for gold and reducing the supply at both ends.

Mr. Chairman, less than nine months ago I called the attention of this House to a danger growing out of the two Democratic measures—the tariff and currency. I warned you against turning a marvelous balance of trade against us. This balance of trade must be paid in gold. You provided for a greater demand on gold and at the same time you reduced the ability to supply it by a provision in the currency bill. In addition your tariff measure, you were told, might necessitate gold being sent out of the country, and you laughed at my statement when I made it. Now look at the figures. One year ago last April we exported from this country goods worth $54,000,000 more than we imported. In other words, we sold $54,000,000 worth of goods more than we bought. That was under a protective tariff. This April, six months after the Underwood bill took effect, we imported into this country how much? Study these figures. We imported thirty-seven and a half million dollars more than in April a year ago. In April of 1913 the balance of trade was in our favor to the amount of $54,000,000. We imported this April thirty-seven and a half million dollars more than we did a year ago. We exported this year $27,000,000 less in April than we did a year ago. Note the result: The balance of trade in our favor in April, 1913, under the Payne law, was $54,000,000. In April, 1914, it was $10,000,000 against us. That is not all. The flow of gold has reversed and is now toward Europe. Since January 1, 1914, over $31,000,000 in gold have gone out of this country to Europe. For the first time in 20 years we are buying from the foreign producer, employing foreign labor, more than we are selling of American production, employing American labor.

Note the current of business. Our imports are piling up at a dangerous figure. When these imports are analyzed the surprising fact is that imports of raw materials have decreased. The vast increase is in the finished product. That means the raw material once imported to be worked into the finished product by our own labor is now retained in Europe to be worked there into the finished product. That means the labor once employed here to work up the raw material is now shifted from the American workman to the foreign workman. We do not buy the raw material, but we do buy it after it is worked into the finished product. Our exports have greatly fallen off, which means the finished product, once made here by our workmen and sold in the foreign market, is now being increasingly made in the foreign market. There can be but one result. The American producer, employing our own labor, must see his product displaced by the foreign product. If he does not wish to retire from business he has but one alternative, namely, place the wages of this country where he can compete with the wages producing the foreign competitive article. Mr. METZ well said on the floor of this House that hundreds of businesses were today running at a loss to keep their labor employed and their organization intact. This statement from this Democrat of the Empire State is at once true and patriotic, as well as courageous. Last Sunday I was in Youngstown, Ohio. I asked an attorney friend, a Democrat, about the business of his city. He replied, "It is bad. About 50 per cent of our labor is employed."

The business situation can well be discerned by news items taken at random from various quarters of the country. Note a few:

On May 23, there was a deficiency in the general fund of the United States Treasury of $40,007,771, against a surplus of $3,113,815 last year—a difference "to the bad" of $43,121,586.

April imports were $172,640,724, against $146,194,461 in April, 1913. Domestic exports in April were $158,996,394, a decrease of $37,237,312 as compared with April, 1913. The excess of the imports over exports in April was $10,271,872.

Gross earnings of United States railroads making weekly returns to Dun's Review continue in moderate volume, the total so far for the first two weeks of May amounting to $12,616,493, a decrease of 7.4 per cent, as compared with the earnings of the same roads for the corresponding period a year ago.

The New York Sun gives a succinct statement of the situation in the following words:

Six months experiment with President Wilson's recipe for "sharpening the wits of American manufacturers" by opening our doors to the manufacturers of other parts of the world has given four very definite results:

First. An increase in importations of manufactures.
Second. A slowing down of our own factories.
Third. A falling off of the exports of manufactures.
Fourth. A falling off in revenues.

The official record for the first half year of the tariff law's operation is now available, the Department of Commerce's statement of imports and exports for the month of March completing the following figures for the six months.

INCREASED IMPORTS OF MANUFACTURES.

Imports of manufactures have materially increased, the quantity of manufacturers' material drawn from abroad has been greatly reduced, exports of the products of American manufacturers have fallen off, and the receipts from customs are far below the normal.

The value of finished manufactures imported in the six months' operation of the law, October 1 to April 1, is $228,000,000 against $215,000,000 in the same period of last year; the value of manufacturers' material imported is $469,000,000 against $517,000,000 in the corresponding months of last year; the value of manufactures exported is $541,000,000 against $582,000,000 in the like period of last year, and the receipts from customs are but $140,000,000 against $165,000,000 in the same months of last year.

A MOUNTING DEFICIT.

Meantime the deficit in the Treasury accounts continues to mount, yesterday's official statement showing the "excess of ordinary disbursements" for the fiscal year $37,097,955, against an excess of revenue receipts of $7,395,700 for the same period of last year, when the much berated Payne tariff was in operation, or, to put it in ordinary terms, a deficit of $37,000,000 this fiscal year against a surplus of $7,333,000 at this time last year. Of course, the administration is depending on the income tax to pull it out of the hole.

In every month of the period in which the new law has been industriously "sharpening the wits of American manufacturers" by bringing in foreign manufactures at reducted rates of duty the customs receipts have fallen below those of the corresponding period of last year.

MORE FINISHED IMPORTS, LESS MATERIALS.

In five of the six months the imports of finished manufactures have exceeded those of the same months of the preceding year; and in four of the six months the imports of manufacturers' materials and the exports of manufactures have fallen short of the record of the corresponding months of last year.

True, the first month of the new law did show on its face a lower valuation of manufactures imported than in the same month of the preceding year, but this was due to the fact that much of this class of merchandise had been imported and placed in warehouse in the preceding month, thus appearing in the import records of September, while the goods in fact entered in October under the new law. In every other month of the period the imports of finished manufactures is greater than in the same months of last year.

A PROGRESIVE INCREASE.

This increase in the imports of finished manufactures has been progressive. The closing month of the period showed also larger total imports than any other, $183,000,000, against $133,000,000 in its first month. On the other hand, the exports of domestic products have steadily fallen, the figures for October, 1913, having been $269,000,000 and in March, 1914, only $184,000,000. This seems to illustrate the fallacy of the Democratic theory that "if you don't buy, you can't sell."

The imports in the six months increased more than 37 per cent, while the exports decreased more than 31 per cent in the same period.

It is in the persistent fall in the importation of manufacturers' materials, however, that there is the gravest concern. No part of the machinery of the Government gives such excellent opportunity to measure the activities of the manufacturers of the country as does the record of the imports of their requirements for manufacturing and of the manufactures which come in competition with them.

NOT DUE TO LOWER PRICES.

It can not be said that the fall in value of manufacturers' materials imported is due to lower prices An examination of the detailed records of the period shows in many cases much smaller quantities of the various materials brought in.

The total quantity of raw cotton imported in the six months under the new law is only 51,000,000 pounds, against 79,000,000 pounds in the same period of last year; pig tin for use in the tin-plate factories, 37,000,000 pounds, against 46,000,000; hides and skins, 280,000,000 pounds, against 295,000,000; rubber, 62,000,000 pounds, against 63,000,000, and in many other articles of this class there is a like falling off in quantity imported.

In those articles of manufacture in which the duty was reduced in order to "sharpen the wits" of their producers at home, there has been a striking increase in importation and in most cases a corresponding decrease in exportation, due, apparently, to a slowing down in production by our manufacturers.

In tin plate, for example, in which the duty was decreased about one-third, the imports of the six months under the new tariff were more than 33,000,000 pounds, against less than 3,000,000 in the six months of last year, an increase of 1,000 per cent, while the exports fell from 74,000,000 pounds in the six months of last year to 43,000,000 pounds in the six months under the new law.

LEATHER AND COTTON.

In leather and its manufactures, in which the duties were either removed or largely reduced, the imports increased more than 40 per cent, while the exports declined about 15 per cent.

In cotton manufactures, on which there was a reduction of duties, the imports show an increase of nearly $5,000,000, while the exports show a falling off in total value, despite the fact that the Department of Commerce is industriously tooting its horn about the wonderful work it is doing in finding markets for our cotton goods.

Duties on iron and steel manufactures were reduced and the exports of iron and steel manufactures have fallen $30,000,000 in the six months' period.

Meantime the talk about increased supplies of food and reduced prices through removal of duties on foodstuffs is making manifest its real qualities. The records of the six months show an importation of 83,000,000 pounds of fresh beef in that period, or about 2 ounces a month for each individual in the United States.

The official records of the Department of Commerce show that prices at which the importation occurred were more than 30 per cent higher in March under the new law than in September, the last month of the old law, while on many other of the articles on which duties were reduced the prices abroad were promptly advanced.

This is not confined to the manufacturer. It is bound to reach the American farmer in an increasingly hurtful result. Note the items of interest to the farmer.

Last week Argentine corn was offered in Chicago for June and July shipments.

The New York Times noted a sharp decline of exports from the United States to the South American countries in the early part of the year, but unprecedented importations of corn, fresh beef, cattle, hides, and wool.

Does it take a prophet to foretell what the American farmer will say at his earliest opportunity what his opinion is of such a policy or a party supporting such a policy?

He does not relish such news items as this:

One day last week a steamer from Liverpool, England, brought to Philadelphia 103,000 pounds of Argentine beef and 360,000 frozen eggs which had come all the way from China.

The situation of the Treasury is not encouraging with a deficit of $40,000,000 in the revenues in the last six months of the fiscal year. No one can yet tell what the income tax will bring forth. We now hear some mutterings that the tariff is to be restored upon sugar, an industry that is destined to probable total destruction unless some relief is forthcoming. I take this from a Washington dispatch to the Cincinnati Enquirer:

WASHINGTON, *May 31.*

The administration, facing a Treasury deficit and fearing destruction of both cane and beet sugar industry through free sugar, is about to reverse its free-sugar policy by amending the Underwood tariff law to retain a duty of 1 cent a pound on sugar.

It is estimated such a duty will yield to the Federal Treasury annually about $37,000,000. The Treasury is now running short on revenues about $500,000 a day while awaiting collections from the income tax and other sources. It is the opinion of both sugar-cane growers in Louisiana and sugar-beet growers in Colorado that the 1 cent a pound duty will permit those industries to survive. It is contended still that they will not be profitable except under the most favorable economic conditions.

Acting for the Democratic administration, Secretary Redfield, of the Department of Commerce, has had experts make a study in Louisiana of the actual cost of raising sugar cane and of its reduction into raw sugar. The Louisiana sugar planters insisted that free sugar would make it impossible for them to compete with Cuban-grown sugar cane. Many of them went out of the sugar-cane growing business, and sugar plantations are now on the market selling for nominal prices.

Even Untermyer, whose utterances are the final word for this administration, has admitted that business is bad. When the Representatives of my State and that of Illinois, representing at least 30,000 employers employing 1,000,000 men and an industry amounting to three-quarters of a billion dollars, asked the President to suspend further legislation that business might get on its feet, the President's reply was that the business situation is psychologic. It was a state of mind. The Philadelphia Ledger then put the pertinent query:

Can an extra dose of psychology give back to 2,000,000 railroad owners that $98,000,000 which their properties have lost in eight months this fiscal year, compared with the year before the Wilson régime started?

Is it only a dream or a concrete fact that 1,000,000 workmen are now out of a job?

Can a mental state account for the amazing reversal in America's international trade figures, where a monthly excess of exports ranging up to $50,000,000 has turned into a balance against us of $10,000,000 for April?

Does mere sentiment reduce our steel mill output to 60 per cent of its capacity? Was it hysteria that blew out 15,000 Pennsylvania coke ovens?

No; it was not a "merely psychological" notion that unloaded American-made traffic from 230,000 freight cars and put them out of commission. Baldwin's didn't discharge more than half their employees out of pique.

Building operations in the United States have not fallen greatly simply to create political sentiment. Our bankers are not sending shiploads of gold to Europe to spite somebody.

When securities have been liquidated in 18 months to a level $2,000,000,000 below their former value the country is not suffering psychologically, but concretely.

It is an outrageous mockery for those whose excessive legislative meddling is largely responsible for our present trade ills to pretend that the people who have suffered the loss and who are out of work are themselves to blame.

The President says there is "nothing more dangerous for business than uncertainty." But his party has left business in no uncertainty whatever, except as to the extent of the calamity which it may inflict.

One of the best business barometers is the idle car surplus. The following comparison of the first six months of 1913, when still under a protective system, with the first six months under the Underwood bill will be enlightening.

AMERICAN RAILWAY ASSOCIATION REPORTS A NET SURPLUS OF 238,642 CARS ON MAY 15.

Following is a table showing the surpluses and shortages in the last year at various recent dates:

1914.	Surplus.
May 15	239,406
May 1	230,533
April 15	213,324
April 1	141,525
March 15	132,010
March 1	159,480
February 14	199,385
February 1	211,960
January 15	217,274
January 1	190,521
1913.	
May 31	60,291
May 15	61,269
May 1	53,977
April 15	70,715
April 1	68,792
March 15	57,998
March 1	58,529
February 15	52,700
February 1	62,045
January 15	53,230

Mr. Chairman, this situation of the country in the first six months of the Underwood tariff will not be greatly relieved by the promise of the most bountiful harvest of crops ever known. This feature will assist but it will not relieve the situation.

Democrats may call us calamity howlers; they may ridicule the recital of facts; but whistling to keep up courage is not a substitute for confidence. The President may declare it a mere state of mind, but even Christian Science, whatever spiritual efficacy it may possess, does not claim to dominate the laws of trade.

Cabinet members may indict us as "little thinkers," but innuendo or epithet will not restore the prosperous condition of our people of 1912.

Statesmen may declare the depression is world-wide; but that does not answer the query, Why is it coincident in this country with Democratic administration?

No. Mr. Chairman, it would be wise for the Congress to adjourn and give the country a rest.

I now repeat what I said on April 25, 1913, when I declared that the Underwood bill ought to be entitled "An act in the interest of foreign countries as against the United States." I then declared that if the bill passed history would repeat itself; that the only way the Democrats would reduce the cost of living would be to destroy the purchasing power of the consumer.

I leave it to any fair-minded citizen whether history is not repeating itself; whether the cost of living will be reduced by this administration except by disruption of business.

While the leaders of this administration attempt to make believe that it is only a mental state, I now warn them that by the time the ides of November appear a new awakening will come. Ere that time the people of the country will have spoken. I am perfectly willing to leave it with them; and I am sure I but repeat the real situation when again I say the most anxious moment of the people of this Nation is that glad time when they can issue the order of dismissal to the majority party now oppressing the industrial life of the Nation. I have no doubt of the issue.

Mr. ADAMSON. I yield five minutes to the gentleman from Alabama [Mr. HEFLIN].

Mr. HEFLIN. Mr. Chairman and gentlemen of the committee, we have Members here, it seems, for all purposes. [Laughter.]

Mr. ASHBROOK. General purposes?

Mr. HEFLIN. A gentleman from Ohio [Mr. FESS] has been occupying a seat on that side, who came here recently for the sole purpose, it appears, of keeping tab on the membership of this side——

Mr. ADAMSON. A timekeeper.

Mr. HEFLIN. Yes; he has constituted himself the official timekeeper, or political record writer, of the remnant of Republicans now left in the House. [Laughter.] I would like to know of the gentleman how he kept up with the attendance of the House on the day that he was at the ball game. [Laughter.] I would like to know if the gentleman would insert in his speech the situation that we see here now, with 80 Democrats——

A MEMBER. Eighty-five——

Mr. HEFLIN. Eighty-five Democrats and 18 Republicans and Progressives altogether. [Laughter and applause.]

A MEMBER. Thirteen——

Mr. HEFLIN. Thirteen. Worse and worse. [Laughter.]

Let me remind the gentleman from Ohio that he will have trouble in explaining back home just how 14 Democrats could outvote the entire Republican membership of this House. Somebody will ask where were the Republican Members. [Laughter and applause.]

"Why was it that you did not get certain provisions in the bill?" they will ask you. "If you Republicans were there, you could watch your opportunity and when you caught the Democrats napping you could put your amendments over." But where were the Republicans——

A MEMBER. At the ball game. [Laughter.]

Mr. HEFLIN. On the two or three occasions mentioned by the gentleman there were more Democrats here than Republicans? The gentleman knows that when these bills are introduced, Members see them, and when the committees act upon these bills and report them, and when the reports are printed, the Members read them, and they know just what is in the bill; and often during general debate on the measure they do not all of them remain in the Hall to hear the speeches; but the gentleman knows that whenever they are needed to pass the bill they are right here to vote.

It is true that this side is responsible for legislation, and I want to say to the gentleman from Ohio that when we finally leave this Hall at the end of this session, with an income tax upon the statute books, with a tariff for revenue only upon the

statute books, with a banking and currency law upon the statute books, and with the trusts of this country regulated in the interest of justice and fair dealing, the gentleman may look for an overwhelming Democratic majority in the fall election. [Applause on the Democratic side.] And the man who sits at yonder end of the Avenue in the White House, the people of the country will say to him and to us, "Well done, thou good and faithful servants." [Applause on the Democratic side.]

Mr. ADAMSON. Does the gentleman from Minnesota desire to proceed further now?

Mr. STEVENS of Minnesota. Mr. Chairman, I yield to the gentleman from Pennsylvania [Mr. HULINGS] 20 minutes.

The CHAIRMAN. The gentleman from Pennsylvania [Mr. HULINGS] is recognized for 20 minutes.

Mr. HULINGS. Mr. Chairman and gentlemen, I do not know how far afield this discussion will be permitted to go. I think it has already gone to some distance remote from the bill itself which *is now* under consideration. But I am reminded of the fact that the Democratic Party accounts itself responsible for what is done here, and properly so, though it is generally regarded as simply an agent "ungrudgingly" doing what is directed to be done from the other end of the Avenue.

We were reminded to-day by the gentleman from Illinois [Mr. MANN] of the differences between the Republican Party and the Democratic Party and the Progressive Party, of which he said I was a little leader [laughter], thereby doing me altogether too much credit, and it seems to me that this is a good time to consider—at least, I am desirous of the opportunity to place before this House—what I regard as the fundamental differences between these parties.

Mr. Chairman, I find at page 4382 of the CONGRESSIONAL RECORD a speech purporting to have been delivered in this House by the gentleman from Ohio [Mr. FESS] when the appropriation for the Department of Agriculture was under consideration. It is labeled, "The Future of the Progressive Party."

It is greatly to be regretted that the distinguished author, who always delights the House with the graces of his utterances, embalmed his "prophecies" in the pages of the CONGRESSIONAL RECORD, although there they will doubtless serve as a campaign document equally well as though they had been actually delivered in the House.

The speech is evidently designed as a coat of whitewash for the present leaders of the Republican Party, who control its methods and policies, and would serve admirably as a bid for the Republican nomination for governor of Ohio if the gentleman has ambitions in that way. [Laughter and applause.]

But Republican leadership needs disinfectants, not whitewash. [Laughter.]

The gullibility of the average college president when he takes a hand in politics is generally recognized by the astute leaders of the boss system, and they are constantly "setting springes to catch woodcock." [Laughter.]

The boss system feels most nowadays the need of "respectability," and in the learned professions, especially those most remote from practical experiences and activities, they secure "respectability" by inducing men of the character of Chancellor Day of the Syracuse University, President Butler of Columbia University, President Fess of Antioch College, and gentlemen of like high personal character and political credulity, to become their advocates, apologists, and adherents. [Laughter and applause.]

Mr. FESS. Will the gentleman yield?

Mr. HULINGS. No; my time is very short; I hope the gentleman will excuse me. The speech abounds in much learning, in specious argument, and false logic. The gentleman's prophecies will surely cause his "clients" to smile at his ardor in their defense and gratefully to acknowledge the cloak of respectability with which he drapes the pirates who have seized the organization of the Republican Party. [Applause and laughter.]

Mr. BRYAN. Good! That is right.

Mr. HULINGS. The learning displayed is interesting and abundant, but the reader of the speech will be at a loss to reconcile some of its statements.

In one paragraph the gentleman says "the Republican Party owes its rise and growth to no single issue." In the next paragraph he says "the rise of the Republican Party was wholly due to the attitude of the leading parties upon the all-embracing issue before the people," the "inherent wrong of the traffic in human beings."

The speech is designed to show that third-party movements never succeed, or, more specifically, that the Progressive movement can not succeed.

And then he gives his reasons. He says third-party movements contain these prominent elements:

1. Young men who know their ability and truly discern the motives of the leaders, and, discerning, abandon faithless leaders(?).
2. Reformers.
3. The clergy and the scholar in politics.
4. Discredited leaders.
5. Soreheads.
6. A class whose chief motive is to punish its party; those whose unsettled minds are a fertile field for the cheap magazine, with its penny-a-line articles of protest.
7. Citizens who feed their "distrust upon the food of popular magazines" and "mutterings of suspicion."

These, according to the honorable gentleman, furnish a large portion of all third-party movements—of course referring particularly to the Progressive Party—and the conclusion, of course, is that it can not succeed.

But the Republican Party was a third party. It contained "preeminently" these elements, and logically, therefore, could not succeed. But as a matter of fact it did succeed, and it succeeded because the gentleman's philosophy and fine "writin'" is not true. It succeeded precisely for the same reason that the Progressive Party will succeed, and that is because it rose from the hearts of the people when the old party leaders no longer responded to the public will. [Applause.]

In all these movements, whatever number of the people leave an old party, taking with them the jealousies, disappointments, selfishness, suspicion, and "unsettled minds" that the gentleman insists compose third-party movements, they naturally take back with them when they return to the old party. If the gentleman is correct, would not the old party be better without them? Why, then, this anxiety that they should return? If the old party has gotten rid of the cranks and the soreheads, why do they want them back? [Laughter.]

According to his view the people who remain in the old party monopolize the wisdom and patriotism and "settled minds." But how is it when the boot is on the other foot?

Suppose party leaders, usurping the tremendous power of a great national party organization, build up a system, with its ramifications in every State, county, and township, buttressed and supported by enormous official patronage and by a great party newspaper press, financed by the trusts, the railroad, the banking, and other great business organizations whose interests it serves; suppose, in short, that the iniquitous "boss system," as it is known of all men "slates" all candidates from President down to poundmaster and uses the tremendous power of the "machine" to elect them, making the "system" autocratic in the party and intolerant of public demands; and suppose in such case the bulk of the party, the youth, the thinkers, the readers, the scholars, the reformers, the dissatisfied, rise in mass and leave the party, as 4,200,000 of them left the Republican Party in 1912, proving beyond all doubt by this unprecedented movement, country wide in extent, that the party had failed to satisfy the people or to respond to the public will, what do *they* gain by a return to the party, under the same discredited leadership, that continues to flout these demands, regarding them as the "frenzy of the mob"?

The gentleman makes a brilliant defense of the protective tariff, which has been overturned by the Democratic Party, but he fails to say that this overthrow was the result of the long-continued practice of the boss system to use the protective tariff to deal out special privileges to big business, and by the failure to keep promises made to the people to reduce the tariff to proper protective schedules. If the Republican bosses had kept faith with the people there would have been no division in the party, no Democratic victory, and no assault upon the protective tariff.

It is impossible to enact a proper tariff law, involving thousands of kinds of goods, when the legislator must vote yea or nay in gross for all in a single bill, always with scant information. The only rational way is to consider each schedule alone, after full information has been laid before Congress by a nonpartisan scientific expert commission.

This is the ground taken by the Progressive Party which for this very reason makes it a better protective-tariff party than the Republican Party. The Progressive Party is thoroughly committed to the protective-tariff policy, while in the present Congress both the Republican and Democratic Parties voted against the nonpartisan commission proposed by the Progressive Party, and among the opponents of this rational common-sense measure the distinguished gentleman from Ohio was found.

The gentleman's tributes to Lincoln and the Republican Party are quite aside from the mark.

It is quite unthinkable that Lincoln, if living, would be found in the company of PENROSE, Barnes, SMOOT, Guggenheim, Crane, ROOT, and men like them who, in the broad light of day, overthrew the plain will of the people at Chicago in 1912 and for years had been secretly doing the same thing. [Applause.]

The off-hand dictum of the gentleman that "the leaders invariably reflect the conviction of the people," like most of his conclusions, simply is not true. [Laughter and applause.] If it was true third-party movements never would occur, and

neither the Republican nor Progressive Parties would ever have been organized. There would have been no excuse for a revolt.

The Sherman antitrust law was never intended by the bosses of either party to become operative. For many years it was a dead letter, until Theodore Roosevelt gave it vitality in spite of the wild clamor of the special interests and their subsidized press that he was "disturbing business." The exposures in insurance and banking circles and the Beef, Sugar, Tobacco, Oil, and Railroad Trusts, and the revelations of the "working arrangements" between big politicians and big business created a frightful stench. It was called muckraking, as a term of reproach by those who had no reprobation for the corruption exposed. It did disturb business. Prosecutions have been ineffective. The antitrust laws need amendment; but again the cry is heard from stand-pat leaders and the press of both parties, "You are disturbing business," "Persecution," "Give business a rest." And so the proposed amendments by the Democratic administration would treat the predatory trusts very gingerly and "very nicely."

But it was precisely because Roosevelt did not treat the "interests" nicely that he was opposed by them. He had the whole country behind him, but he was confronted by the opposition of the "leaders" of the Republican Party and their bipartisan allies. He was turned down by them at Chicago and hated by them ever since, not because he was not a good tariff man, not because he was not a good Republican, but because he attacked the citadel of special interests, which was "garrisoned" and defended by the leaders.

For more than a generation the people protested against the iniquity of rebates and discriminations in railroad freights; valiantly did the railroads and the "leaders" oppose legal regulation. After a law was enacted, efforts to render it nugatory were never relinquished, and no sooner was Mr. Taft elected than he signalized his surrender to big business and the "leaders" by proposing an administration bill which, if passed, would have been a substantial repeal of the laws regulating railroads, and the "leaders" would have succeeded in enacting the law except for the opposition of some of the "unsettled minds" and "insurgents," who were read out of the party by the "leaders" and put on the patronage black list by President Taft for their opposition. [Applause.]

The gentleman holds a possible gubernatorial nomination and the good will of the "leaders" too close to his eye to get a true view of the situation. His belittling of the Progressive Party and his defense of the corrupt leadership that split the Republican Party in twain is a performance that an artist would call a "pot boiler." It is not the best work he can do, but it is the kind of work that will best serve the present plight of Republican leadership.

Beyond all question, if the people had not been robbed at Chicago of their right to name the candidate of their choice, the platform of the Republican Party would have been substantially the platform on which the Progressive Party now stands.

The people favor the things for which that party stands. No other proof of this is needed than the fact that large elements in the old parties call themselves Progressive Democrats and Progressive Republicans; and even the standpatters, the stipendiaries of privilege, the "kept" editors, and the very high priests of the boss system are now finding the erstwhile despised Progressive doctrines so popular that they are lustily claiming that they themselves are the only Simon-pure Progressives.

Every man cherishing the Republicanism of Abraham Lincoln can join the Progressive Party without the surrender of a single tenet of his beliefs. He abandons nothing except a leadership that wrecked his party and disgraced its name. [Applause.]

The Progressive recognizes that the chief function of government is the mutual protection and helpfulness of all. His face is set against the boss system, which plunders the many that a few may flourish.

The difference between the Progressive Party and the Republican leaders is fundamental. The Progressive Party believes that the people are of right the source of all power in government. The right of the people to rule is the bedrock of American liberties and the foundation of the Progressive movement in America.

The Republican leaders believe that this is a Government by a "representative class" that knows better than the people what the people ought to have.

Now, the beliefs of the boss system, if it can be said to have any moral perceptions [laughter], never stand in the way of anything necessary to achieve its purposes, but it pretends to believe that the people are really incapable of self-government and must be muzzled lest they bite themselves. [Laughter.]

The fact is that "government by a representative class," called more properly by the shorter name "the boss system," is utterly unrepublican. It is actually "class" government, that always has and always will use the powers of government for the advantage of the "class." And that is precisely what all the trouble is about. [Applause.]

This, as I conceive it, is the vital reason why Progressives should not return to the Republican Party while it is dominated and controlled by leaders who do not, as the gentleman fondly believes, "invariably reflect the conviction of the people," but who do not even believe the people have intelligent convictions. [Applause.]

The basis of my hope for the success of the Progressive Party is that the rank and file of all parties need no argument to convince them of the crying need of political reforms, will come to realize the futility of the hope of securing these reforms by voting the old party ticket for candidates "slated" by the boss system and sooner or later will see in the destruction of that hateful system their chief public duty and, as practical men, will join the Progressive Party.

The CHAIRMAN. The time of the gentleman has expired.

Mr. STEVENS of Minnesota. How much more time does the gentleman desire?

Mr. HULINGS. I would like about five or six minutes more.

Mr. STEVENS of Minnesota. I yield to the gentleman five minutes.

Mr. HULINGS. A world-wide social movement is stirring every civilized country to the depths. You find it in England, you find it in Germany, you find it in Australia, and all over the world. It is the awakening of an enlightened democracy; it is the quest of humanity for betterments; it is the groping, searching, yearning of mankind for an enlarged social justice; it is the recognition by the plain people of their rights and their might; that class legislation is social injustice, robbing the masses of a fair share of the products of labor and depriving the people who do the real work of the world of an equitable division of the advantages and ameliorations of civilization.

It is a great evolutionary development of man's equality and brotherhood. The fundamental purpose of all society, all government, is mutual protection and helpfulness. This is the heart and soul of the progressive movement in all lands. The "classes" for centuries have muzzled the masses. This movement proposes to muzzle the wolves of society.

This great movement is confusing and disrupting party lines in all foreign countries. The same effect is seen in our own country. Disorganization and realignment is going on in both the old parties. Irreconcilable elements are found in both.

Men call themselves Democrats who have nothing in common. The fact that they distinguish themselves as Bryan Democrats and Murphy Democrats, as progressive Democrats and standpat Democrats proves the process of realignment.

In the Republican Party standpat Republicans and progressive Republicans have nothing in common. PENROSE and CUMMINS both call themselves Republicans, but they are as far apart as Wilson and Murphy, who both call themselves Democrats.

The rank and file of the old parties by a vast majority believe in the progressive doctrines, but it is idle to expect them to be adopted by a party that is half standpat and half progressive.

The Progressive Party is the only party that is unitedly and consistently progressive.

It sets out a great program of social reforms that are dear to the hearts of the people, and it alone offers the hope that they will be realized.

Gentlemen need not deceive themselves. This great, swift-moving evolution can not be sidetracked. As surely as the "rivers run to the seas" there will be a realignment of parties. On the one side will be a liberal progressive successful party, that will move with the present, that will grasp from the future by the hand of faith and endeavor better things in life and government than we now dream of, and on the other side will be a standpat reactionary party, that may be useful as the necessary brake.

What the name of this great successful party shall be matters little to the people. The substance of these reforms and not party names concern them.

But whatever name it is known by, it must be a party that is all progressive, and at present there is only one such party. The Progressive Party is already blazing the way, which the leaders of both the old parties, though at heart despising the Progressive Party and its doctrines, are haltingly and grudgingly following step by step.

Party organization is essential in republican forms of government. Without it the necessary concert of action can not be secured. With it naturally goes leadership. But long continued in power, the leaders are prone to become arrogant, self-sufficient, maintaining themselves in power, long after they have

ceased "to reflect the convictions of the people" by an unscrupulous use of money and machine politics, and government not by the people, but by the "boss system," is the result.

This is the trouble with the Republican leadership. It has not kept step with public sentiment. It has chosen instead the road to political death. [Applause.]

The CHAIRMAN. The time of the gentleman has expired.

Mr. STEVENS of Minnesota. I yield to the gentleman two minutes more.

Mr. HULINGS. The Democratic Party, now in power through a division of the opposition, burdened now by the responsibilities of a dominant party, is pursuing precisely the same methods that divided the Republican Party, and which will inevitably divide it.

Upon the great questions—the tariff, civil service, trust control, railroad regulation, monopolies, social justice, the right of the people to rule—the old parties are torn and divided in factions; only in pernicious use of the caucus, the gag, secret committees, and the boss system do they agree.

No man can choose either of them and be sure of what he is getting. The powerful indictment of the Democratic Party by the gentleman from Kansas [Mr. MURDOCK] for the arrogant use of the "gag rule" and the "secret caucus" saw the Democrats sit speechless. The Congress has ceased to be a really deliberative body. It goes through the motions of debate and consumes time in sham discussions of measures that are predetermined by a single mind. Instead of "pitiless publicity" we have had the most secretive administration known to American politics. Democratic Members of important committees never knew what bills they would report until the party boss issued his orders.

When the party boss gave his orders that we should have no more rights in the Panama Canal than any other nation, except the right to pay the bills, he gave no reasons. When he demanded that our markets be thrown open to foreign manufacturers, on the plea that it would reduce the cost of living, it was a grave mistake.

To provide places for Democratic officeholders the Democratic Party violated the civil-service reform in three distinct assaults. Our Diplomatic Service has fallen—I do not like to say into disgrace—into doubt.

Mr. ALLEN. The River of Doubt. [Laughter.]

Mr. HULINGS. The American flag is no longer a protection to American citizens in foreign lands. The spectacle of an American fleet of warships sailing from Tampico and leaving nearly 2,000 American men, women, and children to seek and get protection from a British warship should cause every American cheek to blush with shame.

The Progressive Party alone is united, keeping step with enlightened, progressive public sentiment.

The bulk of all parties is just as desirous of good government, just as honest and sincere as the Progressives can be. They continue to vote their old party ticket, conscious that things are wrong, but earnestly hoping for reforms within the party, failing to see that by following leaders that do not believe in "government by the people" they are losing the substance of reforms by supporting the "machine" that makes reforms impossible.

The Democratic "machine" cries "Stick to your party or the Republicans may win." The Republican "machine" cries "Come back into the party or the Democrats will win again." This is the strongest plea the Republican leaders can make, for the general public is sick of the Democratic tariff and wants a protective tariff, but the general public is not likely to forget that these same leaders so abused the tariff when they controlled it that the general public put a majority of Democrats in this House before there was a Progressive Party.

The Progressive Party makes a better plea. It believes in a protective tariff, but it wants an honest tariff, and no logrolling and special privileges. It stands for what the people have demanded for years. It is at war with the entire boss system. It believes in government by the people; it believes that through governmental agencies a larger measure of social justice can be secured; it believes that it is the business of the Government to see that the powerful do not oppress the weak; that the weak and the average man are protected from the strong.

It believes in newer and better things; it believes in endeavor and progress; it believes in itself and the great American people and their capacity to maintain a cleaner and a wiser Government. And for these things the true Progressive will stand firm. [Applause.]

Mr. ADAMSON. I yield to the gentleman from Illinois [Mr. RAINEY].

Mr. RAINEY. Mr. Chairman, we have listened this evening, as this House is frequently called upon to listen, to a one-sided, unfair presentation from a partisan standpoint of matters transpiring here and in the Nation by the gentleman from Ohio [Mr. FESS]. This evening he carefully read statistics as to the attendance on this side of the House during these long speeches, when very few feel like attending, and carefully refrained from reading any statistics as to the much smaller attendance on that side of the House. I have noticed that during the progress of legislation in this House when the vital time comes to overcome those tendencies and influences that have dominated this country for 16 years under the Republican Party he finds, and the country finds, every Democrat here in his seat, on guard back of the banners of Democracy, seeing that real Democratic principles prevail and win in the battles on this floor. [Applause on the Democratic side.]

He quoted carefully the statistics as to imports and exports during the month of April of this year. He did not discover these statistics; he did not dig them out. They were figures quoted in the Senate a few days ago by Senator SMOOT. The gentleman from Ohio [Mr. FESS] quoted them again on this floor without paying the slightest attention to the complete reply made to Senator SMOOT by the Secretary of Commerce. Here is what Secretary Redfield had to say about Senator SMOOT's figures, which Senator SMOOT presented a little while ago in the Senate, and which the gentleman from Ohio presented here this evening as discoveries of his own.

Secretary Redfield, in reply to Senator SMOOT, said:

> Looking back to the last time when imports exceeded exports, we discover that it was while the Payne-Aldrich law was in effect that this event took place.
>
> The trade balance in our favor during the 10 months ending with April, 1910, was $170,931,416, or over $300,000,000 less than during the 10 months ending with the present April. Not only so, but during the first year of the Payne-Aldrich tariff law five months showed the imports in excess of the exports, and one of these months—March, 1910—showed an excess of imports of $19,341,578.
>
> Any statement as to the effects of a tariff based upon figures for six or eight months is necessarily illusive; but if the present tariff is to be judged that way and condemned because of the excess of imports in one month since its passage, what shall be said of the Payne law when in a like period after it came into effect there were three months in which the imports exceeded exports? And in one of these that excess was nearly double that about which so much is now said.

It is true of tariff making in this country that it frequently happens that there are some months soon after the new bill goes into effect when the imports exceed the exports. For some months there is a balance of trade against us. That is probably due to the fact that importers bring here foreign goods and manufacturers of foreign goods are seeking under new tariff conditions to establish in this country, where tariff rates have been changed, a new trade for themselves. We have tried to place on the statute books a tariff for revenue only in accordance with the principles of the Democratic Party.

The CHAIRMAN. The time of the gentleman has expired.

Mr. ADAMSON. I will yield to the gentleman five minutes more.

Mr. RAINEY. As I said, Mr. Chairman, we have tried to place on the statute books a tariff for revenue only and we have succeeded. We have not tried, as the Republican Party has in their tariff laws, to protect the profits of the manufacturers in this country, and we have not done so. We have not injured them in any way. They are manufacturing just as much as they ever manufactured. We are consuming more and more every day in this country than we ever consumed before. We have succeeded in our attempts. At the close of business to-day we had collected within $100,000 of as much money as we expected to collect at our ports of entry during this entire fiscal year. [Applause.] In other words, at the going down of the sun to-morrow night, if we did not collect another dollar at our ports of entry from that time until the last day of this month, we would have collected as much money as we expected to collect under the estimates furnished by the Ways and Means Committee on the last day of this month. [Applause on the Democratic side.]

The Underwood bill is what we tried to make it—a tariff for revenue only. We have wiped out every vestige of the old war tariff, and we will find on the last day of this month that we have collected at our ports of entry $20,000,000 more than we expected we would have collected on that day. [Applause on the Democratic side.] Customs receipts for the present fiscal year under the new tariff law will exceed the committee estimates by $20,000,000. For every one of the 25 working days during the month of May we collected over $832,000.

Mr. FESS. Will the gentleman yield?

Mr. RAINEY. Yes.

Mr. FESS. What is the reason for the depression in business to-day?

Mr. ADAMSON. It is in the minds of the Republicans.

Mr. RAINEY. The reason for the depression in business is that it is world-wide. There is a readjustment of conditions the world over, and there is in certain lines of industry a depression in business. It is more imaginary than real, due to

just such speeches as the gentleman from Ohio is capable of making. [Laughter and applause on the Democratic side.]

Mr. FESS. Will the gentleman yield?

Mr. RAINEY. No; I can not yield longer, for I have not the time.

Mr. FESS. Why is it in Democratic times?

Mr. RAINEY. The depression in business is general all over the world. It is felt less here than in other parts of the world. It would not be noticed here at all if it were not for the efforts of Republican politicians to convince the country that there is a business depression.

Mr. FESS. Will the gentleman yield?

Mr. RAINEY. I have not the time. If I can get more time, I will be glad to yield later to the gentleman. Just a few months ago we heard of a great army of unemployed gathering in various parts of this country ready to march in overwhelming numbers upon this Capital, demanding work for the starving laborers of this country. The general in command of the army lived in the gentleman's own State, and he started from there.

Mr. FESS. And he is a Democrat.

Mr. RAINEY. He is a prophet of calamity, as is also the gentleman from Ohio. He attempted to gather together his hosts from all over the country, and once in a while we heard that straggling bands of recruits were coming to join his army. A few days ago they arrived here in the city, and I, with some others upon this side of the House, went out to interview this tremendous army of unemployed. We found that it consisted of seven men, one woman, and a mule. [Laughter and applause on the Democratic side.] All the rest of them had yielded to the seductive opportunities for employment on the route and were at work. Finally this magnificent army marched up the center steps of the Capitol and this distinguished general from the gentleman's own State, the twin prophet of calamity with the gentleman who just interrupted me, made his speech out there on the steps in front of the Capitol.

Talk about the tariff law not being successful, talk about approaching hard times! I will tell the gentleman what is approaching now. Down in Oklahoma and for a thousand miles across parallels of latitude the northward march of the self-binder is commencing; and I advise the gentleman to tell his friends who are out of employment to go down to Oklahoma and to Nebraska and to Missouri and to Illinois, and we will give them all work in our wheat fields at $2.50 and $3 a day. [Applause.]

On 46,000,000 acres the wheat is ripening under the summer sun. We are producing this year not an ordinary crop of wheat, but a bumper crop of wheat. Soon our granaries will be filled to bursting with the garnered grain. In the great wheat fields of the West there is work enough for all at from $2.50 to $3 per day during all of the summer months and almost until the frost comes. I am aware that this is not good news for Gen. Coxey and the gentleman from Ohio and all those others who delight in prophesying hard times under a Democratic administration. We all recall the events which occurred during the recent Republican panic of 1907. On every hand was heard the crash of failing banks. Can the gentlemen on the other side of this House call attention to failing banks at the present time?

Our exports have held their own in spite of the fact that we have almost ceased to be an exporter of corn, our greatest agricultural product. Last year there was a shortage of nearly 700,000,000 bushels, and the exportation of that product has almost ceased.

No man can criticize this Democratic Congress upon the theory that it has failed in its duty to the country. We are able to call attention to the following remedial legislation, all of which has passed the lower House of Congress, and the greater part of which is written into law. We have enacted in the short period we have been in control more legislation in the interest of labor than the Republican Party ever accomplished or even attempted to accomplish during the entire period of its supremacy, the lowest tariff law written since the war, an income-tax system demanded by the people for a quarter of a century, one of the most effective parcel post systems in the world which has already compelled important reductions in express rates, the opening up of Alaska, Government aid for roads, election of Senators by direct vote of the people, effective campaign publicity measures, the reforming of our currency legislation. We submit that this is a record of performance, of promises kept, not equaled by the Republican Party during its entire existence as a party, and we have but just entered upon the period of Democratic control.

Our income tax did not become effective until March 1 of this year. It was not expected that payments would be made until after the first day of the present month, and yet men subject to the payment of an income tax commenced to pay long before the first day of this month. Up to the end of May we had collected on our corporation and income taxes $10,557,221.31. We are collecting more corporation taxes than have been collected before. Our miscellaneous receipts are about the same as they always have been. Our internal revenue, exclusive of corporation and income tax, at the end of the present fiscal year will about reach the average figure, from two hundred and ninety to three hundred million dollars. When we placed on the statute books the Underwood tariff law we estimated that the receipts for the fiscal year, which ends with the last day in the present month, would be slightly over $270,000,000. When the sun goes down to-morrow night we will have collected at our ports over $270,000,000, and there will remain yet 23 working days in the present fiscal year, on each one of which the revenues collected at our ports ought to be nearly a million dollars. I might also call attention to the fact that since our Post Office Department has been under Democratic control the postal deficiency has been reduced from $463,874.31 to $686.34. The country will be satisfied at the end of this fiscal year with our stewardship. We have kept the faith. From the strongholds of trusts and law-defying corporations, accustomed to profit at the expense of the people by legislation passed by this body, come the only murmurs of discontent and disapproval.

Carrying out the traditions and the history of the Republican Party in recent years, its leaders upon this floor are giving voice to the disapproval coming from these sources. We have not tried to obtain the approval of that class of business in this country which asks special favors from this body at the expense of the great mass of the consumers of the country. We have been true to the principles of the Democratic Party and the teachings of its great leaders. As a unit both Houses of the Congress have stood back of the Democratic administration and have made it possible to enact into law these great measures. We propose to continue true to Democratic theories, keeping our pledges to the last, proceeding in the course we have laid out. We have confidence in the man at the wheel. We know how to avoid the rocks. We do not fear the storms. In the sky the sun is shining. A new day is here.

The CHAIRMAN. The time of the gentleman from Illinois has expired.

Mr. STEVENS of Minnesota. Mr. Chairman, I yield 10 minutes to the gentleman from Illinois [Mr. McKENZIE].

Mr. McKENZIE. Mr. Chairman, laws are necessary in order to restrain those who would take an undue advantage of their fellows.

He who would reap where he has not sown by extorting from his fellow man by means of monopoly or combination in restraint of trade violates a principle of justice for which he should pay a penalty and be enjoined from a repetition of such practices. In modern commercial and industrial life, with all its complexities, intricate and far-reaching ramifications, it is possible for an ingenious and evil-minded business man to so cover his tracks that the ordinary individual may not be able to discover wherein the rights of the masses are being encroached upon. From the dawn of civilization to the present time the evil inclinations in the breasts of some men have ever prompted them to take undue advantage of others, and this will continue to be true until man's nature has undergone a change and he accepts and practices the teaching of "doing unto others as he would be done by."

Many efforts have been put forth to prevent in one way or another by law the unjust practices in commerce and industry. At each stage of development through the genius of the human mind it has been found possible to evade the law, due in a large measure to the fact that the laws have been made in too definite or specific terms. It is well known that while certain individuals are endeavoring to construct burglar-proof safes, at the same time other individuals are planning to blow them, and usually succeed. So it is with a law applying to monopoly and unlawful combinations in restraint of trade. When an attempt is made to include in a law in definite terms what shall constitute an offense, all else is, under all rules of construction, excluded, and immediately the designing individual, together with his legal experts, begins to formulate plans to evade the specific provision of the law.

Any monopoly or unlawful combination which purposely restrains trade for gain at the expense of the masses is wrong, no matter under what guise or in what manner the result is attained. Therefore, I have always felt that the general terms of the Sherman antitrust law were wise, and I feel now that any attempt to specifically define illegal combinations would be a mistake. There are but two things to be considered, in my judgment, in the enactment of a law of this character to correct such abuses.

First. Outlaw all persons and corporations operating purposely in the undue restraint of trade to the detriment of the people, and having in mind the destruction of competition to the end that harvests may be reaped where not sown.

Second. Provide the machinery to obtain the facts, and then, with an honest administration, results will be achieved.

I stand ready now to support any proposition that will compel fair and honest competition between American business men, giving each in his sphere a fair opportunity to pit his genius and ability against that of every other man. I am not opposed nor ever have been to honest "big business," where the "big business" has been established by honest efforts and the efficiency of the men in control of the "big business," for I realize that in "big business" there is economy, and when honestly operated the masses of the people are benefited in the lower price of the product produced through the greater efficiency and economy of a large organization.

However, I am unalterably opposed to the forcing out of the man doing the smaller business by any other than the natural laws of trade and business efficiency. He should have his opportunity, and then it is up to him to make good. I wish to say, further, that while I am in favor of laws regulating the conduct of our American business men among themselves I am also in favor of giving them a square deal. It is not unjust to require honesty and fair dealing on the part of American business men, but it is absolutely unfair and unjust to hedge them about with laws and regulations for the protection of the masses of the American people, and at the same time enact a tariff law that will permit the unfair competition of the business man across the sea, over whom we have no jurisdiction and who, with his cheaply paid labor, including women and children, becomes at once an unfair competitor, and who sooner or later will destroy American business. I would regulate the conduct of our own business men and at the same time I would, by our revenue laws, say to the foreign business competitor, we have certain regulations in this country governing the conduct of business; we prevent the employment of children; we require proper sanitary regulations; we pay our workmen a living wage; our business men are taxed heavily to support our Government, and before you can come in and rob him of his market and the workman of his opportunity, you must lay down in form of a license a sufficient revenue to at least put you on an equality with him, before you are permitted to dump your cheap labor-made goods into our channels of trade.

To my mind, gentlemen of the committee, this is not only just but it is wise. I want to say also in relation to the amendments proposed to the section of this bill dealing with labor that I have never felt that the only way to benefit the workingman was to place him in a class by himself and exempt him from some of the laws of the land in which he lives, but I would protect him further, as I endeavored to do a short time ago by my vote on the immigration bill, by saying to him who would come from a foreign land, you shall not come into this country of ours and take from the American laboring man his place in the industrial world at a lower wage. In this way I would protect him against unjust and unfair competition, and this is the character of protection the American workingman desires and should have.

In connection with the proposed amendments relating to the farmer I have but a word. It was my good fortune to be born and reared on an Illinois farm. And I am sure if the law is made effective on those who would take undue advantage of the farmer no complaint would be heard from him. It is not the desire of farmers to establish monopolies or combinations for the purpose of extorting unreasonable prices for their products from the consumer, but all they ask is a fair opportunity and protection from illegal combinations with whom they may be compelled to deal, and the further privilege of enjoying the home market, which, I am sorry to say, is now thrown open to all the world, and sooner or later, unless the law is changed, the American farmer will suffer serious injury from the competition of foreign agricultural products in our market. [Applause.]

Mr. ADAMSON. Mr. Chairman, touching the reference the gentleman made to partisanship, I wish to assure him that on our committee we treat Republicans just like they were as good as we are, and that or some other cause has made them powerful good men. If all Republicans were as good as they, they would not receive so much abuse from the third party and from the Democratic Party or from the people. [Laughter.]

But I tell you that if old man FRED. STEVENS and the other Republicans on our committee were fit types of the Republican Party it would stand much higher in the estimation of the people than it does. [Applause.] That is all I want to say in behalf of our committee.

Mr. STEVENS of Minnesota. Mr. Chairman, I hope that will not be charged to the time controlled by the gentleman from Georgia. [Applause.]

Mr. ADAMSON. Mr. Chairman, I yield 15 minutes to the gentleman from Iowa [Mr. VOLLMER].

The CHAIRMAN. The gentleman from Iowa [Mr. VOLLMER] is recognized for 15 minutes.

Mr. VOLLMER. Mr. Chairman, the countless generations who have enjoyed the verse of the blind bard of ancient Greece have found therein no more delightful story than that of Ulysses and his wanderings after the fall of Troy and the many trials imposed upon him by the wrath of the Olympian gods. In that story there is no more thrilling chapter than the account of how he had to steer his little bark through a narrow strait between two terrible monsters, one called Scylla and the other Charybdis.

That exploit, however, was no more difficult to perform than is the task forced on the statesmen of this country to-day by the conditions produced by the stupendous and abnormal development—industrial, financial, and commercial—of recent years. For the question which is now propounded "by the Sphynx of fate to our advancing civilization and which not to answer means to be destroyed" is this: How can you guide our ship of state safely between plutocracy on the one hand and state socialism on the other? For the optimist who believes, or wishes to believe, that it can be done successfully, no more reassuring thought can come at the present moment than that there is now at the helm of that precious craft, freighted as she is with all the hopes of humanity, a man who more nearly than almost any Chief Executive this country has ever had, in subtle, profound, and all-encompassing intellectuality, resembles the mythological hero of ancient Ithaca as Homer paints him. [Applause.]

I know that in some quarters latterly it has become the fashion to sneer at Woodrow Wilson. His great heart has been sorely wounded by it, though in the nature of the case he has not been as directly and personally and continuously exposed to it as we on this floor who believe in him and who almost every day for months of the session have had to take the gaff of carping and unjust criticism, of malevolent innuendo, and of vitriolic vituperation directed at him, his administration, and our party. And when you consider it rightly and think of the source of these vicious and unceasing attacks and see them poured out on that devoted head in increasing volume in connection with the very subject now under discussion, one hardly knows whether to weep or to laugh, or to be consumed in sheer amazement at the unblushing audacity, the marvelous nerve, the sheer effrontery, the triple-plated, brazen cheek frequently displayed in the proceeding. For who are they that are making these assaults? Are they not the sole surviving representatives of the party whose policies have produced the exceedingly grave condition in which the country now finds itself? Are they not the people who for many years entered into unholy compact with the great special interests and in return for campaign contributions and political support conveyed special privileges to the favored classes at the expense of the toiling masses of the land? Are they not the ones who converted the home market into the closed preserves of domestic monopoly, and by a false economic system, a sophistical hothouse-forcing process, a tariff of abominations, developed these industrial Frankensteins, the trusts of to-day, in whose gigantic shadow the tender plant of individual enterprise, unable to find the life-giving light of the sun of opportunity, must inevitably sicken and die? We now see certain old political owls come flapping out of the ruins and sit blinking in the bright light of the morning of a progressive era, and think that with their discordant hoots and screechings they can bring back the reactionary night which has gone forever. [Applause.]

It seems to me that it ill becomes gentlemen representing that party on this floor to stand here and sneer, in season and out of season, at honest and sincere efforts at reform of bad conditions on our part, no matter how much they may differ from us as to the wisdom of the policies involved.

Mr. ADAMSON. Mr. Chairman, will the gentleman yield?

Mr. VOLLMER. I do.

Mr. ADAMSON. I wanted to suggest to the gentleman from Ohio [Mr. FESS] that it would be a good time now to count the heads on the other side of the House. I see two over there, and as he has held up his fingers he has evidently recorded them. [Laughter.]

Mr. BRYAN. Mr. Chairman, I hope the gentleman will not neglect to notice the fact that the Progressives are represented here.

Mr. ADAMSON. One more. That is one of our particular friends, the Bull Moosers. [Laughter.]

Mr. BRYAN. We are as punctual in our attendance as anybody else in the House. [Applause.]

A MEMBER. Order!

Mr. VOLLMER. My Republican friends, for 24 years it has been attempted to correct abuses patent to all by means of a law for which you claim the credit, though it is not solely yours, and during all this time the trusts have multiplied and grown more powerful day by day. The country has looked on hopelessly at your unavailing efforts, and when the Government's sporadic and well-advertised successes in the courts in such notable cases as the Northern Securities, the Standard Oil, and the American Tobacco Co. cases were followed by a practical continuance of the same old monopolistic system and an actual increase in prices and in stock values, as shown by listings on change, of the concerns involved, then it was that the country rose up against you and howled you from long-held power, and you were able to retain in the Electoral College only ossified old Vermont in the East and the Mormon State in the far West and the impotent Lilliputian minority on this floor.

Your hopes are reviving now, because you think that the old dodge is going to work again this fall; that the people have not sufficient intelligence and capacity for self-government to insist on a fair test for the reforms which we have inaugurated and are about to inaugurate, but will allow themselves again to be misled by those who have the power to produce depression in trade and industry in order to discredit the party which dares to honestly attempt genuine reform in the people's interests.

If the voters are always going to fall for that old bunco game, we might as well give up the Republic and frankly adopt in its stead the benevolent (or otherwise) feudalism of trust domination, which means collosal fortunes in the hands of the few, wrung from the producing millions, and an economic absolutism, tempered perhaps with occasional gifts of libraries and universities, even as the old Cæsars were accustomed to placate the mob of Rome with gifts of corn and circus. Yours is the old Hamiltonian doctrine that the Government should take care of the rich and let the rich take care of the poor.

Your proposition now is to do nothing, but continue blindly and vacuously with your old Sherman law, whose inutility to produce substantial change for the better in business conditions ought to be visible to a blind man to-day.

If the people should demonstrate their political incompetency by depriving of power the party which, under the guidance and leadership of Woodrow Wilson, is attempting to do something substantial for them before the attempt is fairly tested as to its efficacy, the day is not far distant when a few colossi of modern finance will absolutely dominate this fair land of ours and the rest of us expropriated and disinherited Americans, robbed of our God-given and inherent right to equal opportunity, "can peep about under their huge legs to find ourselves dishonorable graves." And this will, indeed, be a fine finish for the dream of Washington, the ideal of Jefferson, and the experiment of Abraham Lincoln. Steer the ship of state in that direction and perhaps it will seem to drift more easily for a while, but not far away I can see the yawning whirlpool of popular revolution and anarchy, and as history, with sublime irony, has so often recorded the same old story, out of the night of chaos will come riding the man on horseback, bringing with him law and order, but as its price military despotism.

On the other hand and at the other extreme, we have with us again the pied piper, whose strenuous fluting possesses such hypnotic power over mice and men in the Hamelin of American politics. Fresh from the jungles of South America, he wants to lead the American people into the jungles of Bull Moose philosophy on this question.

Let us keep clearly before us that their policies of recognition, legalization, and attempted regulation of the trusts can have but one finish, and that is State socialism, which Herbert Spencer calls "the coming slavery."

If the country is to escape both of these actually imminent dangers—plutocracy, the most sordid and degraded form of government, with its denial of all our Democratic and Republican ideals, on the one hand, and socialism, with its chimerical program unsquared to human nature as it is, doomed to failure and certain to eventuate only in a policy of confiscation and plunder, which will mean destruction to civilization, on the other hand; if our Government is to be preserved on the basis of economic individualism, under the forms of constitutional representative government, the people must now rally to the support of the great, quiet, gentle, self-contained man who stands at the helm of our ship of state. They should strengthen the spirit and hold up the arm of this modern Ulysses, so that he may take the vessel safely through, according to the time-tried chart of Jeffersonian Democracy, into the haven of the new freedom, where there shall be some liberty, some equality, and some fraternity for all of us.

Leaving the domain of generalities, what in sober detail do we now propose? A trade commission, which will supplement the juristic work of the courts with the expert, administrative aid of business experts, both in the discovery of wrongs done, the prevention of others, and the effective rectification and restoration of business conditions.

Then in terms of express and exact statute law, definitions which can not be misunderstood, which he who runs can read, and which shall illumine with the light of day the celebrated twilight zone of the Sherman law. Then some plain provisions, calculated to prevent or adequately punish certain favorite methods by which monopoly has been built up in this country, such as unfair competition, arbitrary price discrimination, tying contracts, interlocking directorates, monopolistic exploitation, and denial of access to those things that are the gifts of nature, its forces and its products, which no man has created and without which men can not live, and which constitute the basic essentials of effective and complete monopoly. Also, what all political parties have promised, but up to date none has performed—a bill of rights for labor against government by injunction with all its evil implications; against prosecution of labor in its union and of the tiller of the soil in his grange under the rigidly construed letter of the Sherman law; and then arresting the statutes of limitations and by the estoppal provision giving to private litigants the benefit of years of effort in their behalf by officers of the Government in successful trust prosecutions.

And finally now we have before us the last of the three legislative brothers, a bill which shall prevent the extension of the blanket mortgage of stocks and bonds put on the country by the financial manipulation of the railroads in the wholesale issue of securities on which they claim the right to earn dividends and interest, a measure designed to insure a dollar of real value behind every dollar of such paper floated on the markets for the protection of the investing as well as the shipping and consuming public of the United States.

Gentlemen, we have people who can not see the woods on account of the trees, as the old German proverb says. We have had much analytical discussion of the various clauses of these bills. I thought it was time that somebody made a little synthesis of the essential natures of these three bills, since they constitute another and an important chapter of the program of constructive and progressive legislation that will go down in history linked with the name of Woodrow Wilson.

I have attempted to do this hastily in this cursory résumé. I am glad to have had some part, even though a very inconspicuous and humble one, in this great work. On behalf of my colleagues on this side of the Chamber, I believe I can say that we can confidently appeal to an intelligent and unbiased posterity, as to the rectitude of our intentions and the essential wisdom of our policies. [Applause.]

Mr. ADAMSON. Mr. Chairman, I move that the committee do now rise.

The motion was agreed to.

Accordingly the committee rose; and Mr. RAKER, as Speaker pro tempore, having resumed the chair, Mr. HULL, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill (H. R. 16586) to amend section 20 of the act to regulate commerce, and other bills embraced under the special rule, and had come to no resolution thereon.

COLORADO MINING STRIKE.

Mr. KINDEL rose.

The SPEAKER pro tempore. For what purpose does the gentleman rise?

Mr. KINDEL. I wish to ask the privilege of inserting in the RECORD a resolution by the chamber of commerce and the Masons of Denver on the mining-strike situation as it is now developed since the military is in control of the Colorado coal fields.

The SPEAKER pro tempore. The gentleman from Colorado asks unanimous consent to insert in the RECORD a resolution from the chamber of commerce——

Mr. KINDEL. Together with the report of the mining inspectors thereon.

Mr. BUCHANAN of Illinois. Mr. Speaker, I object.

The SPEAKER pro tempore. The gentleman from Illinois [Mr. BUCHANAN] objects.

ADJOURNMENT.

Mr. ADAMSON. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 11 o'clock p. m.) the House adjourned until to-morrow, Wednesday, June 3, 1914, at 12 o'clock noon.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, bills and resolutions were severally reported from committees, delivered to the Clerk, and referred to the several calendars therein named, as follows:

Mr. RAKER, from the Committee on the Public Lands, to which was referred the bill (H. R. 16476) authorizing the Secretary of the Interior to issue patent to the city of Susanville, in Lassen County, Cal., for certain lands, and for other purposes, reported the same with amendment, accompanied by a report (No. 740), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

My HAY, from the Committee on Military Affairs, to which was referred the bill (H. R. 13923) authorizing and directing the Secretary of War to appoint a commission to designate, define, and survey the battle field of the Crater, at Petersburg, Va., and to collect certain data concerning the same and make report thereupon, reported the same with amendment, accompanied by a report (No. 744), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. ASHBROOK, from the Committee on Public Buildings and Grounds, to which was referred the bill (S. 4182) to authorize the installation of mail chutes in the public building at Cleveland, Ohio, and to appropriate money therefor, reported the same with amendment, accompanied by a report (No. 745), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. STEVENS of Minnesota, from the Committee on Interstate and Foreign Commerce, to which was referred the bill (H. R. 16579) to authorize the construction of a bridge across St. John River at Fort Kent, Me., reported the same with amendment, accompanied by a report (No. 756), which said bill and report were referred to the House Calendar.

Mr. RAYBURN, from the Committee on Interstate and Foreign Commerce, to which was referred the bill (H. R. 16350) to authorize the construction of a bridge across the Sabine River, in the States of Louisiana and Texas, about 2 miles west of Hunter, La., reported the same with amendment, accompanied by a report (No. 757), which said bill and report were referred to the House Calendar.

He also, from the same committee, to which was referred the bill (H. R. 16172) to give the consent of Congress to the construction of a bridge across the Mississippi River at or near New Orleans, La., reported the same with amendment, accompanied by a report (No. 758), which said bill and report were referred to the House Calendar.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, private bills and resolutions were severally reported from committees, delivered to the Clerk, and referred to the Committee of the Whole House, as follows:

Mr. McKELLAR, from the Committee on Military Affairs, to which was referred the bill (H. R. 13123) for the relief of Charles H. Rayfield, alias Charles H. Czarnowsky, reported the same without amendment, accompanied by a report (No. 741), which said bill and report were referred to the Private Calendar.

Mr. TAYLOR of Arkansas, from the Committee on the Public Lands, to which was referred the bill of the House (H. R. 16431) to validate the homestead entry of William H. Miller, reported the same without amendment, accompanied by a report (No. 742), which said bill and report were referred to the Private Calendar.

Mr. RAKER, from the Committee on the Public Lands, to which was referred the bill (H. R. 16296) to provide for issuing patents for public lands claimed under the homestead laws by deserted wives, reported the same with amendment, accompanied by a report (No. 743), which said bill and report were referred to the Private Calendar.

Mr. EDMONDS, from the Committee on Claims, to which was referred the bill (H. R. 6196) for the relief of Rittenhouse Moore, reported the same with amendment, accompanied by a report (No. 746), which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill (H. R. 16033) for the relief of the United States Drainage & Irrigation Co., reported the same with amendment, accompanied by a report (No. 747), which said bill and report were referred to the Private Calendar.

Mr. STEPHENS of Mississippi, from the Committee on Claims, to which was referred the bill (H. R. 13167) for the relief of the legal representatives of the estate of Robert B. Pearce, reported the same without amendment, accompanied by a report (No. 748), which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill (H. R. 13965) to refund to the Sparrow Gravely Tobacco Co. the sum of $173.52, with penalty and interest, the same having been erroneously paid by them to the Government of the United States, reported the same with amendment, accompanied by a report (No. 749), which said bill and report were referred to the Private Calendar.

Mr. EDMONDS, from the Committee on Claims, to which was referred the bill (H. R. 2703) for the relief of Drenzy A. Jones and John G. Hopper, joint contractors, for surveying Yosemite Park boundary, reported the same with amendment, accompanied by a report (No. 750), which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill (H. R. 16163) for the relief of Theodore Bagge, reported the same with amendment, accompanied by a report (No. 751), which said bill and report were referred to the Private Calendar.

Mr. STEPHENS of Mississippi, from the Committee on Claims, to which was referred the bill (H. R. 13108) for the relief of George H. Hammond, reported the same with amendment, accompanied by a report (No. 752), which said bill and report were referred to the Private Calendar.

Mr. EDMONDS, from the Committee on Claims, to which was referred the bill (H. R. 13569) providing for the refund to the Colonial Realty Co. certain corporation tax paid in excess, reported the same without amendment, accompanied by a report (No. 753), which said bill and report were referred to the Private Calendar.

Mr. STEPHENS of Mississippi, from the Committee on Claims, to which was referred the bill (H. R. 2978) for the relief of the estate of Thomas F. Swafford, deceased, late of the State of Louisiana, for carrying United States mail on route No. 8263, in the State of Louisiana, during the period from January 1, 1861, to May 31, 1861, reported the same without amendment, accompanied by a report (No. 754), which said bill and report were referred to the Private Calendar.

Mr. McKELLAR, from the Committee on Military Affairs, to which was referred the bill (H. R. 3586) granting an honorable discharge to Francis Tomlinson, reported the same with amendment, accompanied by a report (No. 755), which said bill and report were referred to the Private Calendar.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials were introduced and severally referred as follows:

By Mr. McCLELLAN: A bill (H. R. 16991) to amend the act of March 3, 1885, entitled "An act to provide for the settlement of the claims of officers and enlisted men of the Army for loss of private property destroyed in the military service of the United States"; to the Committee on Claims.

By Mr. STOUT: A bill (H. R. 16992) for the purchase of a site and the erection thereon of a public building at Glendive, Mont.; to the Committee on Public Buildings and Grounds.

By Mr. LANGLEY: A bill (H. R. 17005) authorizing the fiscal court of Pike County, Ky., to construct a bridge across Tug Fork of the Big Sandy River, at or near Williamson, W. Va.; to the Committee on Interstate and Foreign Commerce.

By Mr. STEPHENS of Texas: Joint resolution (H. J. Res. 272) authorizing direct review by the Supreme Court of judgments and decrees of the district court for the eastern district of Oklahoma in certain cases involving title to Indian allotments; to the Committee on Indian Affairs.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. ALLEN: A bill (H. R. 16993) granting a pension to Gertrude Schwoerer; to the Committee on Invalid Pensions.

Also, a bill (H. R. 16994) granting an increase of pension to Rosanna Myers; to the Committee on Invalid Pensions.

By Mr. BLACKMON: A bill (H. R. 16995) granting an increase of pension to Sallie F. Sheffield; to the Committee on Pensions.

By Mr. DAVENPORT: A bill (H. R. 16996) granting an increase of pension to George Lewis; to the Committee on Invalid Pensions.

By Mr. DYER: A bill (H. R. 16997) granting a pension to Theodore A. Melter; to the Committee on Pensions.

By Mr. GRAY: A bill (H. R. 16998) granting an increase of pension to Electa Henderson; to the Committee on Invalid Pensions.

Also, a bill (H. R. 16999) granting an increase of pension to Sarah E. Parish; to the Committee on Invalid Pensions.

By Mr. HINEBAUGH: A bill (H. R. 17000) granting a pension to Frank Trs; to the Committee on Pensions.

By Mr. LOBECK: A bill (H. R. 17001) granting an increase of pension to Albert Kneller; to the Committee on Invalid Pensions.

By Mr. TEMPLE: A bill (H. R. 17002) granting an increase of pension to Marshall Cox; to the Committee on Invalid Pensions.

Also, a bill (H. R. 17003) granting an increase of pension to Delilah Kirker; to the Committee on Invalid Pensions.

By Mr. VOLLMER: A bill (H. R. 17004) for the relief of S. L. Burgard; to the Committee on Claims.

By Mr. FARR: A bill (H. R. 17006) granting a pension to William Bowen; to the Committee on Pensions.

Also, a bill (H. R. 17007) granting a pension to Harry A. Caskey; to the Committee on Pensions.

Also, a bill (H. R. 17008) granting a pension to Henry Graf; to the Committee on Pensions.

Also, a bill (H. R. 17009) granting an increase of pension to George Hudson; to the Committee on Invalid Pensions.

Also, a bill (H. R. 17010) granting an increase of pension to Eliza A. Scull; to the Committee on Invalid Pensions.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

By the SPEAKER (by request): Petitions of the Woman's Christian Temperance Union, 1,000 members, and the Wesley Chapel, Methodist Episcopal Church, 300 members, of Washington, D. C., favoring national prohibition; to the Committee on Rules.

Also (by request), resolutions of certain citizens of Oakland, Cal.; Mount Chestnut, Pa.; Pleasant Hill, Ill.; Beaver Falls, Pa.; Prospect, Pa.; Claysville, Pa.; Elgin, Oreg.; Slatington, Pa.; Baltimore, Md.; Eagleville, Pa.; and Stafford, Kans., protesting against the practice of polygamy in the United States; to the Committee on the Judiciary.

By Mr. BARTHOLDT: Petitions of 5 citizens of Franklin County, Mo., and 59 citizens of St. Louis County, Mo., against national prohibition; to the Committee on Rules.

Also, petitions of the Wayne Manufacturing Co., the Charles Schultes Brass Works, the Bowman-Blackman Machine Tool Co., the N. O. Nelson Manufacturing Co., the John B. Schmidt Sign Co., the Scullin-Gallagher Iron & Steel Co., the Robert Jacob Engine & Machine Co., the Randolph Press Printing Co., the F. E. Schoenberg Manufacturing Co., the American Mineral Water Co., the Central Telephone & Electric Co., the National Ammonia Co., the West St. Louis Machine & Tool Co., the Lambert-Deacon-Hull Printing Co., and Cigar Makers' Union No. 44, all of St. Louis, Mo., against national prohibition; to the Committee on Rules.

Also, petitions of the Teamsters' Joint Council of St. Louis and Vicinity, No. 13; the St. Louis Stewards' Club; the Mercantile Trust Co.; St. Louis Brewery Engineers, No. 246; the Missouri Paint & Varnish Co.; the Hunkins-Willis Lime & Cement Co.; the A. Gilbert & Sons Brass Foundry Co.; the Modern Typewriter Supply Co.; the Coopers' International Union; and the Westinghouse Air Brake Co., all of St. Louis, Mo., against national prohibition; to the Committee on Rules.

Also, petitions of the Skinski-Arbeiter Printing Co., the Krenning-Westermann China Co., the Day Rubber Co., the Hammer Dry Plate Co., the Charles E. Goltermann Printing Co., the Abel & Gerhard Plumbing Co., the Oscar R. Witte Insurance Co., and the Schurk Iron Works, all of St. Louis, Mo., and the Milwaukee Malting Co., of Milwaukee, Wis., against national prohibition; to the Committee on Rules.

Also, petitions of the Continental Portland Cement Co., the Hesse Envelope & Lithographing Co., the St. Louis Lumber Co., the Harmonie Saengerbund, the Skinski-Arbeiter Printing Co., the West Disinfecting Co., the Peter Hauptmann Tobacco Co., the Western Valve Co., the Alvis Aufrichtig Copper & Sheet Iron Works, and the Steimvender-Stoffregen Coffee Co., all of St. Louis, Mo., and the Crown Cork & Seal Co., of Baltimore, Md., against national prohibition; to the Committee on Rules.

By Mr. BEAKES: Telegrams of 93 citizens of the second district of Michigan, protesting against national prohibition; to the Committee on Rules.

Also, petitions of the Seventh-day Adventist Church of Detroit; the Sabbath School of the Methodist Episcopal Church of Petersburg; a union meeting of 400 people held at Monroe; and 50 citizens of Detroit, all of the State of Michigan, in favor of national prohibition; to the Committee on Rules.

By Mr. BAILEY (by request): Petition of 645 citizens of Tyrone, Pa., favoring national prohibition; to the Committee on Rules.

By Mr. CALDER: Petition of sundry citizens of New York, favoring national prohibition; to the Committee on Rules.

By Mr. DALE: Petition of Edward G. Hauck, of Brooklyn, N. Y., protesting against national prohibition; to the Committee on Rules.

Mr. DANFORTH: Petitions of Miss Ethie E. Croach and 35 others, of Medina, and of Rev. R. C. Grames and 9 others, of Springwater and vicinity, all in the State of New York, favoring national prohibition; to the Committee on Rules.

Also, petition of John C. Holmes and 123 others, of Batavia, N. Y., favoring the passage of House bill 14895, to create a new division of the Bureau of Education to be known as the Federal motion picture commission, and defining its powers and duties; to the Committee on Education.

By Mr. DAVIS: Petition of the Methodist Episcopal Church of Northfield, Minn., protesting against the practice of polygamy in the United States; to the Committee on the Judiciary.

By Mr. DYER: Petition of Peter Jones, C. B. Smith, Joseph P. Egan, David McNulty, H. Sweeney, Thomas Kelly, Joe Geimer, Louis Powers, J. A. Buhl, J. H. Braun, Joseph Krebs, Arthur Schaefer, and Henry L. Hunter, against national prohibition; to the Committee on Rules.

Also, petitions of the St. Louis Gallaudet Union, and of the Missouri Association of the Deaf, favoring the passage of House bill 15317, to create a bureau for deaf and dumb in the Department of Labor; to the Committee on Public Buildings and Grounds.

By Mr. FERGUSSON: Petition of the National Woman's Christian Temperance Union, signed by Mrs. Eloisa Luna Bergere, Mrs. M. H. Byrd, and Miss Katherine Patterson, praying for the passage of the Hobson prohibition amendment; to the Committee on Rules.

Also, petition of John A. Logan Circle, No. 1, Ladies of the Grand Army of the Republic, of Albuquerque, N. Mex., protesting against any change in the American flag; to the Committee on the Judiciary.

Also, petition of the Ministerial Alliance of Las Cruces, N. Mex., by C. K. Campbell, Thomas A. Mitchell, and H. F. Vermillion, favoring national prohibition; to the Committee on Rules.

By Mr. FITZGERALD: Petitions of John Connolly, John Kellerman, John F. Appleby, Walter F. Smith, Edward Coamy, Harry M. Snyder, John M. James, William F. Powers, Peter Loom, John Mulligan, all of Brooklyn, N. Y., protesting against national prohibition; to the Committee on Rules.

By Mr. GARNER: Petitions of 5,132 citizens of Beeville district, Bee County; 189 citizens of Corpus Christi; and sundry citizens of Normanna, all in the State of Texas, favoring national prohibition; to the Committee on Rules.

By Mr. GRAY: Papers to accompany House bill 16564, for relief of Maria A. Endsley; to the Committee on Invalid Pensions.

Also, papers to accompany a bill for relief of Electa Henderson; to the Committee on Invalid Pensions.

By Mr. GREENE of Massachusetts: Petitions of the Liquor Dealers' Association, the Bartenders' Association, and sundry citizens of Fall River; the Hathaway Advertising Co., the Washington Social and Musical Club, the Workingmen's Improvement Society, Smith Bros., Theophile Lebeau, and sundry citizens of New Bedford, all in the State of Massachusetts, against national prohibition; to the Committee on Rules.

Also, petitions of 25 members of the Pacific Union Church and 30 members of the Sunday school and 36 members of Friend Church, all of Westport; 57 members of the Methodist Episcopal Church and Sunday school of Westport Point; 40 members of the Christian Endeavor Society of South Westport and 684 members of Sunday school; 1,075 members of the churches of Fall River; 100 members of the Methodist Episcopal Church of Hebronville; 8 members of Maurich Farms, of Lakeville; 40 members of Guild Memorial Church, of North Attleboro; 24 members of the First Evangelical Church of Westport Factory; 200 members of the Woman's Christian Temperance Union and Frederick W. Lincoln and Wesley R. Canfield, of Attleboro;

50 members of the First Congregational Church of Dighton; 90 members of the First Universalist Church, 162 members of Central Methodist Episcopal Church, 156 members of the Woman's Christian Temperance Union, and 51 members of Winslow Publishing Co., all of Taunton, all in the State of Massachusetts, favoring national prohibition; to the Committee on Rules.

Also, petition of Albert Reed and 1,992 others of Fall River, and Joseph Taylor and 263 others of Taunton, all in the State of Massachusetts, protesting against national prohibition; to the Committee on Rules.

By Mr. HAY: Petition of 200 citizens of Bridgewater, Va., favoring national prohibition; to the Committee on Rules.

By Mr. HOWELL: Petition of Kahn Bros. Co., W. S Henderson Wholesale Co., Symns Utah Grocer Co., Anderson-Taylor Co., and other firms of Salt Lake City, Utah, favoring the passage of House bill 13305, the Stevens bill; to the Committee on Interstate and Foreign Commerce.

Also, petitions from certain citizens of Price and Eureka, Utah, protesting against national prohibition; to the Committee on Rules.

By Mr. KENNEDY of Rhode Island: Petition of Rhode Island State Federation of Women's Clubs, against further acquisition by the United States of foreign territory; to the Committee on Foreign Affairs.

Also, petition of Warfield-Pratt-Howell Co., of Sioux City, Iowa, favoring passage of House bill 15988, relative to false statements in the mails; to the Committee on the Post Office and Post Roads.

By Mr. KIESS of Pennsylvania: Petition from sundry citizens of the fifteenth congressional district of Pennsylvania, favoring the Hobson prohibition amendment; to the Committee on Rules.

By Mr. LOBECK: Petition of 25 citizens of Omaha, Nebr., favoring national prohibition; to the Committee on Rules.

Also, petition of 27 citizens of Douglas County, Nebr., against national prohibition; to the Committee on Rules.

By Mr. LONERGAN: Petition of Fred Goetz, of Hartford, Conn., protesting against national prohibition; to the Committee on Rules.

By Mr. MAGUIRE of Nebraska: Petition of citizens of College View and Lincoln, Nebr., favoring national prohibition; to the Committee on Rules.

By Mr. MERRITT: Petition of 150 citizens of Plattsburg, N. Y., and 135 citizens of Keeseville, N. Y., favoring national prohibition; to the Committee on Rules.

Also, petition of the Musicians' Mutual Protective Union, Local No. 6, San Francisco, Cal., against national prohibition; to the Committee on Rules.

By Mr. J. I. NOLAN: Protests of Gail Harrington and 7 other women voters; Joseph T. Sager and 49 other citizens; William B. Travers and 36 other citizens; John Hughes and 49 other citizens; G. C. Gunther and 56 other citizens; and John J. Brogan and 41 other citizens, all of San Francisco, Cal., against the passage of the Hobson nation-wide prohibition resolution; to the Committee on Rules.

By Mr. PAIGE of Massachusetts: Petitions of sundry citizens of Fitchburg and Gardner, Mass., favoring national prohibition; to the Committee on Rules.

Also, petitions of various business men of Fitchburg, Clinton, Webster, Oxford, North Brookfield, Brookfield, Warren, West Warren, and Thorndike, all in the State of Massachusetts, favoring the passage of House bill 5308, relative to taxing mail-order houses; to the Committee on Ways and Means.

Also, petition of Allison C. Hinds, of Orange, Mass., protesting against national prohibition; to the Committee on Rules.

By Mr. RAINEY: Memorial of the Methodist Episcopal Church of Griggsville, Ill., protesting against polygamy in the United States; to the Committee on the Judiciary.

Also, petition of W. M. Potts and 17 other citizens of White Hall, Ill., favoring national prohibition; to the Committee on Rules.

Also, petition of 23 citizens of Boardstown, Ill., protesting against national prohibition; to the Committee on Rules.

By Mr. J. M. C. SMITH: Petition of 295 citizens of Battle Creek, Mich., favoring national prohibition; to the Committee on Rules.

Also, petition representing 18,000 club women of Michigan, against acquiring land in Mexico by conquest; to the Committee on Foreign Affairs.

By Mr. STEVENS of Minnesota: Petition of 75 citizens of Bald Eagle Lake, Minn., and 31 citizens of St. Paul, Minn., favoring national prohibition; to the Committee on Rules.

By Mr. TAVENNER: Petition of E. Siever, of Keithsburg, Ill., favoring Stevens price bill; to the Committee on Interstate and Foreign Commerce.

By Mr. TEMPLE: Petition of John H. Nelson and 12 others, of New Castle; R. Frank McGowan and 21 others, of Beaver Falls; and sundry citizens of New Castle, all in the State of Pennsylvania, favoring national prohibition; to the Committee on Rules.

By Mr. THACHER: Petition of sundry citizens of Massachusetts, relative to national prohibition constitutional amendment; to the Committee on Rules.

By Mr. VOLLMER: Petitions signed by P. W. Knapp and 54 others, protesting against House joint resolution 168 and Senate joint resolutions 88 and 50 and all other prohibition measures introduced in Congress; to the Committee on Rules.

By Mr. WINGO: Petition of sundry citizens of Magazine, Ark., favoring Federal censorship of motion pictures; to the Committee on Education.

SENATE.

WEDNESDAY, *June 3, 1914.*

The Senate met at 11 o'clock a. m.

The Chaplain, Rev. Forrest J. Prettyman, D. D., offered the following prayer:

Almighty God, we seek Thee, we trust, with true hearts, that our inward life may be brought into conformity with Thy will. By Thy grace may we be enabled to understand the things that we see. By Thy guidance may our wills be brought into harmony with Thy will, our consciences with Thy law, and our hearts with Thy love, so that our lives may be God-centered and may be expressive of God's will in the world. For Christ's sake. Amen.

The Secretary proceeded to read the Journal of yesterday's proceedings, when, on request of Mr. BRANDEGEE and by unanimous consent, the further reading was dispensed with and the Journal was approved.

DISPOSITION OF USELESS PAPERS.

The VICE PRESIDENT. The Chair lays before the Senate a communication from the Secretary of the Treasury, transmitting schedules of useless papers in the office of the Auditor for the Navy Department, the offices of collectors of internal revenue, and in the office of the collector of customs, Duluth, Minn., which are not needed in the transaction of the public business and have no historical value. The communication and accompanying papers will be referred to the Joint Select Committee on the Disposition of Useless Papers in the Executive Departments, and the Chair appoints the Senator from Vermont [Mr. PAGE] and the Senator from Oregon [Mr. LANE] members of the committee on the part of the Senate. The Secretary will notify the House of Representatives of the appointment thereof.

IMPORTATION OF CONVICT-MADE GOODS.

The VICE PRESIDENT. The Chair lays before the Senate a communication from the Secretary of the Treasury, which will be read.

The Secretary read as follows:

TREASURY DEPARTMENT,
Washington, June 2, 1914.

The PRESIDENT OF THE SENATE.

SIR: I have the honor to acknowledge the receipt of a resolution of the Senate of May 23, 1914, directing me to furnish to the Senate a detailed statement indicating all commodities the importation of which would be affected by H. R. 14330, now pending in the Senate.

This department is not now in possession of sufficient information as to prison labor to furnish the Senate with the information desired. I shall at once take steps to secure the information and will furnish it to the Senate at as early a date as practicable.

Respectfully,

C. S. HAMLIN, *Acting Secretary.*

The VICE PRESIDENT. The communication will lie on the table for the present.

RETURN OF CASES TO COURT OF CLAIMS.

The VICE PRESIDENT laid before the Senate a communication from the assistant clerk of the Court of Claims, requesting, by order of the court, the return of the case of William A. Watkins, deceased, against the United States, which case was certified to the Senate December 19, 1913, as being dismissed for nonprosecution, which was referred to the Committee on Claims and ordered to be printed.

He also laid before the Senate a communication from the assistant clerk of the Court of Claims, requesting, by order of the court, the return of the case of John R. McGinniss against the United States and of the case of Minor Knowlton, deceased,

against the United States, which cases were recently certified to the Senate for nonprosecution, which were referred to the Committee on Claims and ordered to be printed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives by J. C. South, its Chief Clerk, announced that the Speaker of the House had signed the enrolled bill (S. 2860) providing a temporary method of conducting the nomination and election of United States Senators, and it was thereupon signed by the Vice President.

PETITIONS AND MEMORIALS.

The VICE PRESIDENT presented petitions of sundry citizens of Fosterburg, Brighton, and Indianola, in the State of Illinois; of Rochester, Carmichaels, Juniata, and Callery, in the State of Pennsylvania; of Dayton, Ohio; of Hightstown, N. J.; of Truxton, Mo.; of Wheeling, W. Va.; and of Milo, Iowa, praying for the adoption of an amendment to the Constitution to prohibit polygamy, which were referred to the Committee on the Judiciary.

Mr. NELSON presented memorials of sundry citizens of St. Paul, Minneapolis, Owatonna, and Duluth, all in the State of Minnesota, remonstrating against national prohibition, which were referred to the Committee on the Judiciary.

He also presented petitions of sundry citizens of Minneapolis, Motley, Owatonna, Pine Island, and Beardsley, all in the State of Minnesota, praying for national prohibition, which were referred to the Committee on the Judiciary.

He also presented petitions of the Woman's Christian Temperance Union of Evansville, of the Minnesota Woman Suffrage Association, and of sundry citizens of St. Paul and Duluth, all in the State of Minnesota, praying for the adoption of an amendment to the Constitution granting the right of suffrage to women, which were ordered to lie on the table.

Mr. BRANDEGEE presented resolutions adopted by the Young People's Society of Christian Endeavor and of the Woman's Christian Temperance Union of Goshen, Conn., favoring the adoption of an amendment to the Constitution to prohibit the manufacture, sale, and importation of intoxicating beverages, which were referred to the Committee on the Judiciary.

Mr. BRADY presented memorials of I. P. Bailey and 27 other citizens of Bonner County, Idaho, remonstrating against national prohibition, which were referred to the Committee on the Judiciary.

Mr. KENYON presented petitions of sundry citizens of Page County and Davis County, in the State of Iowa, praying for national prohibition, which were referred to the Committee on the Judiciary.

He also presented petitions of the Congregational Conference of Iowa and of the Oskaloosa Friends Meeting, of Iowa, praying for the employment of peace methods to the very limit of their effectiveness in the Mexican situation, which were referred to the Committee on Foreign Relations.

Mr. THORNTON presented a memorial of Local Union No. 215, Woman's International Union Label League, and Trades Union Auxiliary, of Shreveport, La., remonstrating against the adoption of an amendment to the Constitution to prohibit the manufacture, sale, and importation of intoxicating beverages, which was referred to the Committee on the Judiciary.

Mr. SHIVELY presented petitions of Lee Burkman, I. E. Elliott, W. J. Schuit, and A. Huesuth, of Elkhart, Ind., praying for national prohibition, which were referred to the Committee on the Judiciary.

He also presented memorials of Harry F. Peats, Leslie Wright, Harry Jones, Luigi Gili, John Cinotto, Joe Hervath, and 94 other citizens of Indianapolis, Fort Wayne, Terre Haute, Vincennes, Clinton, and Marion, all in the State of Indiana, remonstrating against national prohibition, which were referred to the Committee on the Judiciary.

He also presented a petition of the Common Council of Michigan City, Ind., praying for the enactment of legislation to grant pensions to certain civil-service employees, which was referred to the Committee on Civil Service and Retrenchment.

Mr. BRISTOW presented a petition of sundry citizens of Burlington, Kans., praying for national prohibition, which was referred to the Committee on the Judiciary.

Mr. MYERS presented a memorial of Federal Labor Union, No. 12648, of Helena, Mont., remonstrating against national prohibition, which was referred to the Committee on the Judiciary.

Mr. ROOT presented petitions of sundry citizens of Brooklyn, New York City, Buffalo, Syracuse, and Albany, all in the State of New York, praying for national prohibition, which were referred to the Committee on the Judiciary.

He also presented memorials of sundry citizens of New York City, Yonkers, Brooklyn, Auburn, Buffalo, Newburgh, and Prospect, all in the State of New York, remonstrating against national prohibition, which were referred to the Committee on the Judiciary.

He also presented petitions of the presidents of sundry trust companies of Brooklyn, N. Y., praying for the enactment of legislation permitting the deposit of postal savings funds in qualified banks, whether or not they are members of the Federal reserve system, which were referred to the Committee on Banking and Currency.

He also presented a petition of sundry citizens of New York, praying for the adoption of an amendment to the Constitution to prohibit polygamy, which was referred to the Committee on the Judiciary.

He also presented a petition of sundry citizens of Troy, N. Y., praying for the enactment of legislation to provide for the purchase of the Chesapeake & Delaware Canal by the Federal Government, which was referred to the Committee on Commerce.

He also presented a petition of Local Union No. 2, Woman's Christian Temperance Union, of Syracuse, N. Y., praying for the enactment of legislation to provide for Federal censorship of motion pictures, which was referred to the Committee on Education and Labor.

Mr. WEEKS presented a memorial of the New England Shoe & Leather Association, remonstrating against the passage of the so-called interstate trade commission bill, which was referred to the Committee on Interstate Commerce.

Mr. CHAMBERLAIN presented a petition of sundry citizens of Oregon, praying for the enactment of legislation to provide for Federal censorship of motion pictures, which was referred to the Committee on Education and Labor.

He also presented a petition of sundry citizens of Oregon, praying for the adoption of an amendment to the Constitution to prohibit the manufacture, sale, and importation of intoxicating beverages, which was referred to the Committee on the Judiciary.

He also presented a memorial of sundry citizens of Oregon, remonstrating against the adoption of an amendment to the Constitution to prohibit the manufacture, sale, and importation of intoxicating beverages, which was referred to the Committee on the Judiciary.

Mr. McLEAN presented petitions of the Woman's Home Missionary Society of New Haven; of the First Methodist Church of New Haven; of the Bridgeport Pastors' Association, of Bridgeport; and of sundry citizens of Rockville and Waterbury, all in the State of Connecticut, praying for the adoption of an amendment to the Constitution to prohibit the manufacture, sale, and importation of intoxicating beverages, which were referred to the Committee on the Judiciary.

He also presented a petition of the Business Men's Association of Middletown, Conn., praying for the enactment of legislation to provide for the retirement of superannuated civil-service employees, which was referred to the Committee on Civil Service and Retrenchment.

Mr. DU PONT presented memorials of sundry citizens of Wilmington, Del., remonstrating against national prohibition, which were referred to the Committee on the Judiciary.

He also presented petitions of sundry citizens of Dover, Del., praying for national prohibition, which were referred to the Committee on the Judiciary.

Mr. BURLEIGH presented petitions of sundry citizens of South Paris, Howland, Woolwich, and Byron, all in the State of Maine, praying for national prohibition, which were referred to the Committee on the Judiciary.

Mr. TOWNSEND presented petitions of sundry citizens of Cass County, Petoskey, Lapeer, Spring Arbor, South Haven, Detroit, Allegan, Wolverine, Calumet, and Battle Creek, all in the State of Michigan, praying for national prohibition, which were referred to the Committee on the Judiciary.

He also presented memorials of sundry citizens of Isabella, Sault Ste. Marie, Detroit, Escanaba, Rapid River, Grand Haven, Watson, Cornell, Gladstone, Ann Arbor, East Saginaw, and Kalamazoo, all in the State of Michigan, remonstrating against national prohibition, which were referred to the Committee on the Judiciary.

He also presented a petition of Limecreek Grange, Patrons of Husbandry of Michigan, praying for the Government ownership of telephone and telegraph lines, which was referred to the Committee on Post Offices and Post Roads.

He also presented a petition of Central City Lodge, No. 95, International Association of Machinists, of Jackson, Mich., praying for the enactment of legislation to provide a more thor-

ough inspection of locomotive boilers and appurtenances thereto, which was referred to the Committee on Interstate Commerce.

REPORTS OF COMMITTEES.

Mr. MYERS, from the Committee on Public Lands, to which was referred the bill (S. 4180) to validate title to certain town sites in the State of Montana, reported it without amendment and submitted a report (No. 579) thereon.

Mr. SMOOT, from the Committee on Public Lands, to which was referred the bill (H. R. 3334) authorizing the quitclaiming of the interest of the United States in certain land situated in Hampden County, Mass., reported it without amendment and submitted a report (No. 580) thereon.

INTERNATIONAL TRIBUNAL OF ARBITRATION.

Mr. SUTHERLAND, from the Committee on Foreign Relations, to which was referred Senate resolution 376, requesting the President to open diplomatic negotiations for the settlement of the Panama Canal tolls question by international arbitration, reported it with amendments and submitted a report (No. 581) thereon.

CENTENNIAL CELEBRATION OF STAR-SPANGLED BANNER.

Mr. O'GORMAN. From the Committee on Foreign Relations I report back favorably, without amendment, the joint resolution (S. J. Res. 148) authorizing the President to extend invitations to foreign Governments to participate, through their accredited diplomatic agents to the United States, in the National Star-Spangled Banner Centennial Celebration, and I submit a report (No. 578) thereon. I ask unanimous consent for the present consideration of the joint resolution.

The VICE PRESIDENT. Is there objection to the present consideration of the joint resolution?

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the joint resolution, which was read, as follows:

Resolved, etc., That the President be, and he is hereby, authorized to extend invitations to foreign Governments to be represented by their accredited diplomatic agents to the United States at the National Star-Spangled Banner Centennial Celebration to be held at the city of Baltimore, Md., in September, 1914: *Provided*, That no appropriation shall be granted by the United States for expenses of delegates or for other expenses incurred in connection with said invitation.

The joint resolution was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

FLATHEAD INDIAN RESERVATION.

Mr. ASHURST. I ask that the bill (S. 647) to amend an act entitled "An act for the survey and allotment of lands now embraced within the limits of the Flathead Indian Reservation, in the State of Montana, and the sale and disposal of all surplus lands after allotment," approved April 23, 1904 (33 Stat. L., p. 302), as amended by the act of March 3, 1909 (35 Stat. L., p. 796), being Order of Business 492 on the calendar, be recommitted to the Committee on Indian Affairs.

The VICE PRESIDENT. Without objection, the bill will be recommitted to the Committee on Indian Affairs.

BILLS INTRODUCED.

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. BRADY:

A bill (S. 5721) granting an increase of pension to Thomas Mullen (with accompanying papers); to the Committee on Pensions.

By Mr. SHAFROTH:

A bill (S. 5722) granting an increase of pension to Isaiah Mitchell; and

A bill (S. 5723) granting an increase of pension to Frederick D. Bailey; to the Committee on Pensions.

By Mr. McCUMBER:

A bill (S. 5724) granting an increase of pension to Ray W. Burkdoll; to the Committee on Pensions.

By Mr. BRISTOW:

A bill (S. 5725) granting an increase of pension to Anna M. Foster (with accompanying papers);

A bill (S. 5726) granting an increase of pension to May O. Jones (with accompanying papers); and

A bill (S. 5727) granting an increase of pension to Arthur E. Strimple; to the Committee on Pensions.

By Mr. WORKS:

A bill (S. 5728) granting an increase of pension to Joseph S. Pray (with accompanying papers); to the Committee on Pensions.

By Mr. SHIVELY:

A bill (S. 5729) granting a pension to William Gehlback (with accompanying papers); to the Committee on Pensions.

By Mr. HUGHES:

A bill (S. 5730) granting a pension to Julia E. Robinson; and

A bill (S. 5731) for the relief of William Cronly; to the Committee on Pensions.

DONATION OF CANNON.

Mr. BRANDEGEE submitted an amendment intended to be proposed by him to the bill (S. 5495) authorizing the Secretary of War to make certain donations of condemned cannon and cannon balls, which was ordered to lie on the table and be printed.

THE COMMITTEE ON INTEROCEANIC CANALS.

Mr. O'GORMAN submitted the following resolution (S. Res. 385), which was referred to the Committee to Audit and Control the Contingent Expenses of the Senate:

Resolved, That the provisions of resolution of April 6, 1914, authorizing the Committee on Interoceanic Canals to employ temporarily a stenographer, be extended for 30 days from the adoption of this resolution.

LIABILITY OF COMMON CARRIERS.

The VICE PRESIDENT. The Chair lays before the Senate a resolution coming over from a preceding day.

The SECRETARY. Senate resolution 384, by Mr. CUMMINS——

Mr. CUMMINS. I ask unanimous consent that we take up Senate bill 4522, it being the bill which was under consideration for a short while yesterday.

There being no objection, the Senate, as in Committee of the Whole, resumed the consideration of the bill (S. 4522) to amend an act entitled "An act to amend an act entitled 'An act to regulate commerce,' approved February 4, 1887, and all acts amendatory thereof, and to enlarge the powers of the Interstate Commerce Commission," approved June 29, 1906.

Mr. SMOOT. Mr. President, I suggest the absence of a quorum.

The VICE PRESIDENT. The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Ashurst	Hitchcock	Perkins	Stephenson
Brady	Jones	Pittman	Sterling
Brandegee	Kenyon	Pomerene	Thomas
Bristow	Kern	Ransdell	Thompson
Bryan	La Follette	Reed	Thornton
Burton	Lane	Saulsbury	Tillman
Catron	Lea, Tenn.	Shafroth	Walsh
Chamberlain	McCumber	Sheppard	West
Clark, Wyo.	Martine, N. J.	Sherman	White
Crawford	Myers	Simmons	Williams
Cummins	Nelson	Smith, Ariz.	Works
Gallinger	Norris	Smith, Ga.	
Goff	O'Gorman	Smith, Mich.	
Gronna	Page	Smoot	

Mr. WHITE. I wish to announce that my colleague [Mr. BANKHEAD] is unavoidably absent, and that he is paired with the Senator from West Virginia [Mr. GOFF]. This announcement may stand for the day.

The VICE PRESIDENT. Fifty-three Senators have answered to the roll call. There is a quorum present. The pending amendment is the amendment offered by the Senator from Georgia [Mr. SMITH].

Mr. CUMMINS. I am informed that the Senator from Missouri [Mr. REED] has an amendment which he desires to present and he wishes a little further time to prepare it. Therefore I am willing that the bill shall be laid aside, and I give notice that to-morrow morning at the close of the routine business I shall again ask for unanimous consent to consider it.

Mr. SMITH of Georgia. I hope the Senator from Missouri [Mr. REED] and I can agree with the Senator from Iowa [Mr. CUMMINS] as to whether certain amendments which each of us has suggested are necessary. I am disposed now to believe that the one I suggested is not necessary. I should like to look at the authorities called to my attention by the Senator from Iowa, and I believe we can speed the measure. I think that my amendment will probably be out of the way to-morrow. I will confer with the Senator from Missouri and I hope he will confer with the Senator from Iowa, and possibly we may eliminate any further discussion and be able to take up the bill to-morrow and vote upon it to-morrow——

Mr. CUMMINS. I hope so.

Mr. SMITH of Georgia. Because we are both just as warmly in favor of the measure as is the Senator from Iowa.

Mr. CUMMINS. I have no other desire save to secure speedy action on the bill, and I suggest that course. I do not know just what motion I ought to make or what consent I ought to ask in order to accomplish it.

Mr. SHEPPARD. Mr. President——

The VICE PRESIDENT. Does the Senator from Iowa yield to the Senator from Texas?

Mr. CUMMINS. I yield.

Mr. SHEPPARD. I have a few amendments which I desire to offer to this bill, but I can offer them to-morrow as well as to-day.

Mr. CUMMINS. Mr. President, in order to get what I want before the Senate, I ask unanimous consent that to-morrow morning immediately after the conclusion of the routine morning business the bill be taken up for consideration.

Mr. SMITH of Georgia. That would require a roll call under the rules before we could vote on it. I do not believe the unanimous consent would be now given, but I believe it will be given to-morrow morning. If we can work it out so that the bill can be disposed of in an hour, I am sure that there will be no one on this side who will not join with the Senator from Iowa.

Mr. CUMMINS. I am quite willing to accept the suggestion of the Senator from Georgia; and, with that understanding, the unanimous consent I asked for a moment ago may be vacated, if that can be done.

The VICE PRESIDENT. By unanimous consent the bill will go back to the calendar.

Mr. CUMMINS. Very well.

Mr. POMERENE. I desire to give notice of an amendment intended to be proposed by me to the bill (S. 4522) to amend an act entitled "An act to amend an act entitled 'An act to regulate commerce,' approved February 4, 1887, and all acts amendatory thereof, and to enlarge the powers of the Interstate Commerce Commission," approved June 29, 1906, which I ask may lie on the table and be printed in the RECORD.

There being no objection, the amendment was ordered to lie on the table and to be printed in the RECORD, as follows:

On line 12, page 3, strike out the words "to such property caused by it or by" and insert in lieu thereof the words "occurring to such property while in its possession, or under its care, or while in the possession or under the care of."

PANAMA CANAL TOLLS.

Mr. O'GORMAN. Mr. President, I ask unanimous consent that the Panama Canal tolls bill be laid before the Senate, so that the Senator from North Carolina [Mr. SIMMONS] may address himself to it.

There being no objection, the Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 14385) to amend section 5 of an act to provide for the opening, maintenance, protection, and operation of the Panama Canal and the sanitation of the Canal Zone, approved August 24, 1912.

Mr. SHAFROTH. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. HITCHCOCK in the chair). The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Ashurst	Hughes	Oliver	Stephenson
Borah	James	Page	Sutherland
Brady	Kern	Perkins	Swanson
Brandegee	La Follette	Ransdell	Thomas
Bristow	Lane	Reed	Thompson
Catron	Lea, Tenn.	Root	Thornton
Chamberlain	Lee, Md.	Shafroth	Vardaman
Chilton	Lippitt	Sheppard	Walsh
Colt	McCumber	Shively	Weeks
Crawford	McLean	Simmons	West
Cummins	Martin, Va.	Smith, Ariz.	White
Gallinger	Martine, N. J.	Smith, Ga.	Williams
Goff	Nelson	Smith, Md.	Works
Gore	Newlands	Smith, Mich.	
Gronna	Norris	Smith, S. C.	
Hitchcock	O'Gorman	Smoot	

Mr. KERN. I desire to announce the unavoidable absence, on official business, of the Senator from Delaware [Mr. SAULSBURY] and the junior Senator from Ohio [Mr. POMERENE].

I also desire to announce the unavoidable absence of the senior Senator from Arkansas [Mr. CLARKE], the junior Senator from Arkansas [Mr. ROBINSON], the junior Senator from New Hampshire [Mr. HOLLIS], the senior Senator from Texas [Mr. CULBERSON], the senior Senator from Florida [Mr. FLETCHER], the senior Senator from North Carolina [Mr. OVERMAN], and the senior Senator from Maine [Mr. JOHNSON], all of whom are paired. This announcement may stand for the day.

Mr. CHILTON. I wish to announce the unavoidable absence of the Senator from New Mexico [Mr. FALL]. He is paired with me.

Mr. SMITH of Michigan. My colleague [Mr. TOWNSEND] is unavoidably absent from the Senate. I understand that he is paired to-day with the junior Senator from Florida [Mr. BRYAN]. I make this announcement to stand for the day.

The PRESIDING OFFICER. Sixty Senators have answered to their names. A quorum is present. The Senator from North Carolina will proceed.

Mr. SIMMONS. Mr. President, I dislike very much to interfere with the notice given by the Senator from Mississippi [Mr. VARDAMAN]. That Senator, however, is not here, and we have given notice that we would desire, beginning with to-day, that the bill be constantly kept before the Senate. Inasmuch as no other Senator is ready to proceed, I shall do so myself.

Mr. President, following the example set by the distinguished Senator from New York [Mr. O'GORMAN], who opened this debate against repeal, and of other Senators who have reduced their remarks to writing and read them to the Senate, I ask my colleagues to refrain from interruption while I am proceeding with my statement.

Mr. President, the opponents of repeal rely upon the decision of the Supreme Court of the United States in the case of Olsen against Smith as an authority for their contention that the exemption of our coastwise trade through the canal from tolls does not entitle other nations to claim like exemption for their vessels. I deny that there is any analogy between that case and the one now under discussion.

If the question presented in the Olsen case had been the question here presented, the jurisdiction of the Supreme Court would have been, to say the least, questionable; and a decision without jurisdiction is mere dictum. If a case of this sort was justiciable by the Supreme Court, we would not have the proposal of both ex-President Taft and the learned Senator from Montana—himself a great lawyer—to confer by congressional action jurisdiction upon that court to hear and decide the controversy here involved. But if the question here involved were justiciable by that court, and if that court had decided it in an analogous case in favor of the contention now made, Great Britain would not be any more bound by that decision than we would be bound by a decision to the contrary by the court of last resort of Great Britain.

But, putting aside this technical objection, the two cases upon their merits are in no important particular alike. The clause of the treaty referred to in the Olsen case, and so often quoted in this discussion, applies to ships and not to traffic, as does the provision in the Hay-Pauncefote treaty now under discussion. That this clause in the treaty of 1815 applies only to vessels and not to traffic, appears not only from the language of the clause itself, but from the circumstance that the terms and condition of traffic between the two countries are prescribed in an altogether different clause from the one relating to vessels.

But, independently of these facts, it is obvious that only oversea vessels were intended to be embraced, or could, in the nature of things, be embraced, in the clause quoted in the Olsen case, because, by the plain language of that treaty, the reciprocal commerce in which these vessels were to be engaged is confined to "commerce between the territories of the United States of America and all the territories of Great Britain in Europe." As trade between territories separated by an ocean must of necessity be carried in over-sea vessels, it is clear that only oversea traffic was contemplated.

That coastwise vessels were not included in that clause is further evidenced by the fact that at the close of the article containing the clause with respect to vessels there is a separate clause which deals with commerce between the United States and the West Indies and Canada—dependencies of Great Britain—which expressly provides that with respect to such intercourse "each party to the contract should remain in the complete possession of its rights."

In further corroboration of this construction, there is also a provision in a subsequent article of that treaty with respect to commercial intercourse between the United States and the territories of Great Britain in the East Indies which expressly excludes the vessels of the one country from engaging in the coastwise traffic of the territories and possessions of the other.

Comparing the provisions of the treaty of 1815, upon which the Olsen case was decided, with the provisions of the Hay-Pauncefote treaty, involved in this controversy, it is impossible to escape the conclusion reached with respect to this matter by ex-Secretary of State Richard Olney, one of America's greatest lawyers, when he expressed the positive opinion that "there was no analogy or resemblance between the two cases."

"VESSELS OF COMMERCE."

It has been contended by some Senators that the phrase "vessels of commerce," used in this treaty, is a purely technical phrase, and in legal intendment means not vessels engaged in general commerce, but only vessels engaged in foreign trade. The junior Senator from New York, who raised this contention, based it upon the authority of a few lines from an English law dictionary and a clipping from an English newspaper.

Mr. President, the phrase "vessels of commerce" was incorporated in our statutory law over 60 years ago and has been

given judicial construction which has never to this day been questioned.

The Circuit Court of the United States in the case of the United States *v.* Cutler (1 Curtis, U. S. Circuit Rept., at pp. 503 to 515) decided this very question in 1853 and decided it directly contrary to the interpretation now sought to be given it by the Senator from New York and other Senators who have followed his lead. The decision in that case turned upon the meaning of the term "vessels of commerce" in the act of 1850. The act referred to will be found in the Ninth Statute at Large, page 515, and contains the following proviso:

Provided, That flogging in the Navy and on board of vessels of commerce be, and the same hereby is, abolished from and after the passage of this act.

The question involved in that case was whether a whaling vessel was included in the meaning of the words "vessels of commerce" as used in this act, and it was held—that distinguished jurist, Judge Curtis, then a justice of the United States Supreme Court, delivering the opinion—that the term "vessels of commerce" used in that act meant all vessels which are a subject of jurisdiction within the constitutional power of Congress, within its power to regulate commerce with foreign nations and among the several States. "In the strictest sense, therefore," says the court, "such vessels (meaning whaling vessels) are engaged in commerce, and may be called, though it is in legislation a new phrase, 'vessels of commerce.' In this sense," says the judge delivering the opinion, "I shall construe that Congress used the words, intending to embrace all vessels within the commercial power of Congress."

It will be seen that by this decision the court held that the term "vessels of commerce" includes all vessels over which Congress has jurisdiction, both vessels engaged in foreign commerce and vessels engaged in commerce between the States.

THE JURISDICTION OF THE TREATY-MAKING POWER.

The Senator from Louisiana [Mr. RANSDELL], in an elaborate argument, contends that while the Constitution confers upon the treaty-making power certain jurisdiction in the matter of *regulating* foreign commerce, under the Constitution Congress alone can regulate commerce between the States, and he strenuously contended that the controverted provision of the Hay-Pauncefote treaty is null and void because, he argued, it attempts to regulate interstate commerce, over which Congress, by the Constitution, is given exclusive jurisdiction. If the soundness of the argument of the Senator, with respect to the treaty provisions or stipulations which are alleged to affect interstate commerce, was admitted—and it is not admitted—his argument in this behalf is completely answered by the fact that the Hay-Pauncefote treaty does not in any way attempt to regulate domestic commerce. It does not attempt to fix the rates of tolls charged against vessels of the United States, but it leaves the settlement of that question entirely to the United States. Congress can impose such tolls as it sees fit upon our domestic or over-sea vessels, or it can exempt them altogether if it sees proper. The treaty in no way attempts to interfere with the right of Congress to do as it pleases in this matter. It merely provides that if Congress, in the exercise of its right to regulate these charges, shall decide to impose tolls upon our vessels, it shall impose no greater rate of tolls upon foreign vessels, and if it shall decide to exempt our vessels it shall also exempt foreign vessels from such payment.

The provisions of the Hay-Pauncefote treaty are in this respect the same as those contained in practically all of our treaties of commerce and navigation with respect to the duties and charges of vessels embraced in the terms of those treaties.

Clearly, I submit, the argument of the Senator from Louisiana is without force in its application to the facts in the case under discussion.

OUR COASTWISE TRADE AND NAVIGATION LAWS.

Mr. President, the argument most relied upon by the opponents of repeal is their contention that our coastwise trade is not included in the terms and stipulations of the Hay-Pauncefote treaty, not because it is expressly or impliedly excluded, but because under our navigation laws only domestic vessels are permitted to engage in this trade.

In the consideration of this argument it is important that there should be a clear understanding of the function of the canal in connection with general commerce and of the conditions against which it was sought by that treaty to safeguard such commerce as might seek passage through it.

In the interest of clarity in the presentation I shall make, let me state my understanding of that situation.

The United States was getting ready to undertake the construction of a canal at some point across the Isthmus connecting the two oceans. It was to become a great international interoceanic highway for commerce of all kinds and of all nations. It was, of course, foreseen by all that the United States would impose a charge for the use of the canal which would in the course of time pay the cost of its operation and amortize the capital expended in its construction.

In these conditions two things became of paramount importance to the prospective customers of this waterway represented in this treaty by Great Britain:

First, it was of the utmost importance that all commerce through the canal, without regard to the kind or the character of vessels in which it was carried, or from whence it came or where it was going, should contribute its equitable and pro rata part to this general fund.

Second, it was of still greater importance that there should be no discrimination against citizens of different countries in the conditions and charges imposed for the use of the canal which would abridge or disturb the equal opportunity of competition and intercourse in the markets of the world to which, of right, they were equally entitled; in other words, that the canal should not be made the instrument of revolutionizing and upsetting the established equilibrium of world commerce.

The provisions of the treaty for equality of treatment of vessels and against traffic discrimination must be interpreted in the light of the purposes embraced in these two general propositions—propositions in which the United States as builder, as well as the other nations as customers, were interested.

From this standpoint I propose to consider the argument that the exemption in the act of 1912 of our coastwise trade does not contravene the treaty, because only domestic vessels can engage in that trade under our navigation laws.

The Hay-Pauncefote treaty does not, as does the treaty of 1815—referred to in the Olsen case—differentiate between vessels engaged in different kinds of trade. It refers to vessels only as vehicles of trade. It is directed mainly to traffic. It seeks to put traffic—the commerce—of all countries upon an equal footing with respect to canal charges, and to this end it stipulates that the canal shall be open to vessels of all nations upon terms of entire equality, so that there may be no discrimination in the use of the canal between the citizens of one nation in favor of those of another nation in the conditions or charges of traffic or otherwise.

Therefore the paramount object sought is the protection of those interested in this merchandise, whether as seller or buyer, against discrimination, and any regulation with reference to the vehicles in which this merchandise is conveyed which has the effect of placing a burden upon the merchandise of the citizens of one country from which the citizens of another country are exempt necessarily violates the treaty guaranty of equal treatment.

It is true that no foreign vessel can engage in our coastwise trade. But it is equally true that vessels of practically all countries enjoy unrestricted freedom of trade in any and all ports upon our two coasts. Foreign vessels are just as free to sell their incoming cargoes and to buy their return cargoes of merchandise in the cities of New York or San Francisco as an American coasting vessel. They can not engage in coastal or intercoastal trade, but at every port in the United States the trade in which they are permitted to engage comes in direct competition with the trade in which the American coastwise vessels engage.

Is it not clear under these circumstances, when they both use the canal in reaching their destination, the law which this bill repeals will inevitably work a discrimination against the merchandise in the foreign vessel and in favor of the merchandise in the domestic vessel?

CONCRETE ILLUSTRATION OF DISCRIMINATORY EFFECT OF EXEMPTION.

Let me illustrate with a concrete example which will be of everyday occurrence and which will show the result I have indicated:

When the canal is opened the Pacific coast will buy its coal, let us say, either from Wales or from some Atlantic coast port of the United States. If from Wales, it will have to be transported in a foreign vessel or in an American over-sea vessel which, like a foreign vessel, will be required to pay tolls. If shipped from our Atlantic coast, say Baltimore or Norfolk, it will have to be transported in an American coastwise vessel. Both of these vessels will have to pass through the canal—the one from Wales will pay tolls and the one from Baltimore or Norfolk will pay no tolls. Their cargoes of coal will be sold in San Francisco or some other Pacific port of the United States—the one burdened and the other not burdened with a charge for passing through the canal, at the rate of $1.20 per net registered ton.

This illustration makes it clear that the fact that foreign vessels can not engage in our coastwise trade is immaterial in so far as competition at the place of sale upon the other coast of this country is concerned, and therefore that exemption of our coastwise vessels from tolls will be just as much a discrimi-

nation against foreign vessels trading in these ports in coal as would be a similar exemption of our over-sea vessels trading in coal at the same ports.

This is exactly what the statement of the British chargé d'affaires, Mr. A. Mitchell Innes, meant in his letter of July 18, 1912—a detached excerpt of which has been quoted by Senators so as to give it a meaning the very reverse of which the full text imports—when he said: "It appears to my Government that it would be impossible to frame," that is, for the Government of the United States to frame, "regulations which would prevent the exemption" of United States coastwise vessels "from resulting, in fact, in preference to United States shipping and consequently in an infraction of the treaty."

It is exactly what Sir Edward Grey, of the British foreign office, meant in his letter to Mr. Knox, our former Secretary of State, when he said that "coastwise," meaning American coastwise, "trade can not be circumscribed so completely that the benefits conferred upon it will not affect vessels engaged in the foreign trade, and thereby constitute a discrimination in plain contravention of the provisions of the treaty."

But let me give another illustration of the practical workings of this exemption of our coastwise vessels in its discriminatory effect upon vessels in the over-sea trade which not only establishes the point I am now making, but which will at the same time establish one or more other controverted propositions which have been asserted in this discussion.

STATEMENTS OF FACTS WHICH SUPPORT SEVERAL CONTROVERTED CONTENTIONS.

In the hearings before the Interoceanic Canal Committee there appeared some gentlemen from the Pacific coast—from the Oregon and Washington country—who developed strong opposition to the pending bill. They said, among other things, that lumber was a great industry of the section from which they came. This section, they declared, manufactured large quantities of fir pine, much of which was of a low grade, and for which there was no adequate market on the Pacific coast. They wanted to ship this low-grade lumber to the Atlantic coast of the United States, to be sold in competition with like lumber, the product of the Atlantic Coast States, and wished exemption from tolls in part to better enable them to meet this competition. But they said that the manufacture of the same kind and grade of lumber was also one of the chief industries of British Columbia—located just across the border from the State of Washington—with which lumber they would also have to compete in their prospective trade with our Atlantic coast. This Oregon and Washington lumber, they said, would have to be shipped in American coastwise vessels, while the lumber of British Columbia would be shipped in foreign vessels, and they contended that by reason of the lesser cost of construction and operation of these foreign vessels they would be put at a disadvantage in this competition, and they therefore argued if our coastwise vessels were exempt from tolls, while foreign vessels were required to pay tolls, it would tend to equalize this difference in the cost of transportation and, to that extent, the conditions of competition between their lumber and that of British Columbia at our Atlantic ports would be measurably equalized. This character of argument ran through much of the testimony that was presented to the committee.

Is it not apparent that this argument admits several things?

First, it admits that the benefit of the remission of tolls to our coastwise vessels would be appropriated by the owners of these vessels to overcome the lesser operating expenses of their foreign competitors.

Second, it admits that the exemption would be a discrimination against the citizens of British Columbia competing with citizens of our Pacific coast for the lumber trade of the Atlantic ports of the United States.

Third, it admits that a cargo of British Columbia lumber passing through the canal in a foreign vessel and a cargo of Oregon and Washington State lumber passing through the canal in a coastwise vessel would eventually meet upon common ground and be sold in competition, the one with the other, say, in Baltimore, Philadelphia, or New York, to the identical extent that the respective cargoes of two coastwise vessels loaded with lumber, the product of the State of Washington or Oregon, would eventually meet upon common ground and be sold in competition, the one with the other, at these ports of our Atlantic coast.

Could the case of discrimination of the very kind denounced in the treaty be more conclusively established than by the grounds upon which exemption from tolls in this case was advocated and demanded?

SERIOUS SITUATION WITH REFERENCE TO OUR CONTINENTAL NEIGHBORS.

In order to press home the seriousness of the situation with respect to our trade relations, especially with our continental neighbors to the north and to the south, which will inevitably result from the proposed discriminatory canal rates, it is only necessary to contrast the present conditions of transit from coast to coast of this continent with the conditions which will exist when the canal is opened, unless the bill under consideration is passed. Under present conditions the Pacific coast trade of the United States, of Canada, and of South and Central America is upon a basis of absolute equality so far as transit across the continent is concerned, whether that transit be by the Tehuantepec route or by the Panama Railroad or around the Horn. This is true not only with respect to European traffic but it is equally true with respect to the traffic of these Pacific coast countries with the Atlantic ports of the United States.

Under present conditions the Atlantic coast traffic of the United States, of Canada, and of South and Central America with the Orient and the Pacific ports of the United States is likewise upon terms of absolute equality so far as transit across the continent is concerned by either of the three presently available routes.

When the canal is opened, whether that event occurs this year, next year, or later, this situation would be changed and the present conditions of equality will cease.

Does anyone believe that our neighbors to the north and to the south will view with complacency the discriminatory conditions following the opening of the canal which I have described? Does anyone doubt that this discrimination, not only against their commerce but against their vessels, will arouse antagonism? Does anyone doubt it will not only prejudicially affect our present friendly relations with them but will tend to defeat one of the main objects we had in view in the construction of this canal, namely, to further cement our political relations and to extend our trade and commerce with the countries of this hemisphere?

In view of the consequences certain to result from these discriminatory rates, is it not apparent, even if we were under no treaty guaranty of equality, if we were absolutely free and untrammeled to do what we pleased with respect to charges and conditions of traffic through the canal, that a sound and wise public policy, in the interest of peace and amity and of commerce, would dictate that we should not for a small and, to say the least, doubtful, advantage deliberately pursue a course which will inevitably lead to such disastrous consequences to our political and trade relations with our neighbors and friends upon this continent, to say nothing about similar though less acute complications in our commercial and political relations with the other nations of the world?

TAFT'S CONTEMPORANEOUS ACTS AND SUBSEQUENT DECLARATIONS ANALYZED.

Ex-President Taft is cited as a great lawyer who believes we have the right under the treaty to discriminate in favor of our coastwise trade, and his declaration to that effect when he signed the act which it is sought to repeal is referred to as the statement of a great lawyer acting under the heavy responsibility of public duty. Mr. President, I submit that the grounds upon which ex-President Taft based that opinion, as shown both in his contemporaneous act and in his subsequent declarations upon the subject, disclose the fact that he entertained grave doubts as to the soundness of the views he expressed then and is tantamount to an admission of the principle for which those who advocate repeal of that act now contend. If the ex-President had no misgivings as to the correctness of the opinion then expressed, why, then, did he supplement his approval of the canal act of 1912 with a memorandum suggesting the passage of an act by Congress submitting the question of our right to make this discrimination to the Supreme Court of the United States for its advice and decision?

If ex-President Taft had no misgivings as to our rights in the premises, why his emphatic declaration made in his speech at the International Peace Forum in New York January 18, 1913, of his willingness—yes, even his eagerness—to submit this question to the arbitration and settlement of an impartial tribunal?

But infinitely stronger than this recommendation and this speech of the ex-President as showing not only his misgivings but the state of his mind with reference to this question is the basis upon which he fixed the rate of tolls for passage through the canal, namely, assuming the payment of tolls by our coastwise vessels, and the statement made in his Ottawa speech, delivered in January of this year, in support of his contention that with the adjustment of the tolls as fixed in his proclamation the exemption did not contravene the treaty.

In that speech Mr. Taft, speaking to a Canadian audience, said:

> Tolls have been fixed on the canal for all the world on the assumption that coastwise traffic is to pay tolls. Our giving it immunity from tolls does not, in our judgment, affect the traffic of other countries in any other way than it would affect it if we voted a subsidy equal to the tolls remitted to our ships.

That is to say, paid the tolls for them. And then he adds:

If Canada is affected that way, she, too, can subsidize her trade from Quebec to Vancouver.

In other words, according to the views expressed in this speech, the ex-President based the validity of the act of 1912 upon a subsequent act of the Executive and his assumption that the remission of tolls was equivalent to their payment by the Government of the United States.

Verily, the ex-President in this exposition comes dangerously near admitting, if indeed he does not in fact admit, the principle contended for by those who favor repeal.

NEGOTIATORS ACT UPON SENATE RECORD AND NOT UNDISCLOSED MOTIVES OF SENATORS.

Again, Mr. President, those who contend that our coastwise vessels and trade are not included in the terms of the treaty find themselves upon the very threshold of this controversy confronted by the adverse vote upon the amendment offered in the Senate to the first Hay-Pauncefote treaty by ex-Senator Bard, of California, expressly exempting our coastwise trade from the operation of the treaty. To avoid the effect of this adverse vote, which would otherwise have to be admitted as a controlling fact in this controversy, it is suggested that some Senators voted against the amendment not on its merits but because they thought it unnecessary. That is a way of disposing of a deliberate act of a legislative body which, I take it, will not appeal very strongly to the public. However that may be, after everything by way of explaining away this vote is said that can be said, the fact remains that the motives which actuate Senators in casting their votes, even when the debates upon questions are taken down and preserved, very frequently remain locked in their breasts; but where the vote is in executive session, where the discussions are not taken down and preserved, as in this case, the outside public, at least, has nothing but the concrete action of that body to guide it in reaching a conclusion as to the basis of its action. Looking to the record, which is supposed to import verity as the certain expression of the thought and purpose of the Senate with respect to this amendment and upon which the public, especially foreign Governments, had the right to rely, what is disclosed?

It discloses two concrete record facts, each of tremendous import in this controversy, namely, the report to the Senate of the majority members of the Committee on Foreign Relations and the vote of the Senate on the Bard amendment.

The Committee on Foreign Relations had maturely considered the treaty; it had reached a conclusion. The treaty was favorably reported, and accompanying it was a majority report, drawn by the chairman, ex-Senator Cushman Davis, admittedly a great lawyer and as profoundly familiar with the subject and its history as any public man of that day. This report declared in terms it was impossible to misunderstand that in entering into this treaty the United States had no purpose of reserving to itself any exclusive benefit in the use of the canal; that it was to be constructed for the equal use of mankind; that it would be unworthy of the United States, in view of its professions with respect to this project, stretching over a half century, to seek any selfish advantage or preferential rights over other nations in the use of this waterway.

The action of the Senate upon the Bard amendment, taken by itself and speaking for itself, was a clear, emphatic declaration that the Senate disapproved of so amending the treaty as to reserve to the United States the right to exempt from tolls its coastwise vessels through the canal without exempting those of other nations.

NO EVIDENCE OF MOTIVES OF SENATORS DISCLOSED TO NEGOTIATORS.

While the motives of Senators with respect to their votes upon this amendment were of course known to themselves, they were not known to the public; there is no evidence that they were made known to Mr. Hay or to our Secretary of State; there is no evidence that they were made known to our ambassador to Great Britain, Mr. Choate, or to Mr. White, our chargé d'affaires. There is no evidence that they were made known to Lord Pauncefote or Lord Lansdowne, the British negotiators; or that they were made known to the members of the British cabinet, which approved the second treaty, or to the members of the British Parliament. But while these men, representing the high contracting parties in negotiating and making the second treaty, had no knowledge of the motives of Senators in the votes cast by them in secret executive session in the consideration of the first treaty, they did have knowledge, Mr. President—because it was a matter of public record—of the report of the majority members of the Committee on Foreign Relations, prepared by its chairman, Senator Davis; and they did have knowledge of the adverse vote of the Senate on the Bard amendment, and they had the right to consider these record facts as correctly reflecting the sentiments of the Senate, and there is no reason to suppose they did not so consider them.

I submit it would be unreasonable to suppose, so far as these negotiators were concerned, especially the British negotiators—and so far as the British cabinet, which approved the treaty, and the Parliament of Great Britain, which adopted it, are concerned—that in making the second treaty they acted without a thorough knowledge of these solemn, official declarations and acts as expressing the thought and purpose of this Government in regard to the rule of equality "in conditions or charges or otherwise" which was to obtain with respect to the use of the canal by the nations of the world, including Great Britain and the United States.

IS "ALL NATIONS" INCLUSIVE OR EXCLUSIVE OF THE UNITED STATES?

The other contention upon which the opponents of repeal most rely is that the phrase "all nations," as used in the guaranty of equality, means all "other" nations and does not include the United States.

It has been intimated that ex-Secretary of State Hay, who negotiated the treaty, and in whose knowledge, sincerity, and patriotism all repose implicit confidence, did not think the United States were included in the term "all nations," and his great name has been invoked in support of that contention.

I have read the correspondence between Mr. Hay and our ambassador, Mr. Choate, and Lord Pauncefote and Lord Lansdowne. There is not a line in this correspondence to sustain this contention. On the contrary, it is incredible to me that anyone who has carefully read that correspondence can doubt what Mr. Hay's intentions were—can conclude that he intended that the treaty as agreed to should reserve to the United States any preferential right or exclusive benefit in the use of the canal. Mr. Choate's letters since Mr. Hay's death, as well as their correspondence when the treaty was under negotiation, would seem to make this clear.

"ALL MEANS ALL"—MR. HAY'S VIEWS AND STATEMENT TO MR. W. FLETCHER JOHNSON.

In the Clayton-Bulwer treaty equality between the United States and Great Britain was in express terms provided for, and all other nations were to come in on like terms. Those provisions seem to have been always present in the minds of Mr. Hay, Mr. Choate, and Mr. White, and there was never any expression used by either of them in this correspondence of a different import.

That was the basic idea pervading the entire negotiations, and, although it at times found expression in the general term of "all nations," yet on several occasions there was particular mention made of equality as between the United States and Great Britain, and as between the United States and all other nations.

In his letter to Secretary of State Hay, dated August 20, 1901, Mr. Choate, in suggesting a modification of the proposed article 4, which was intended to extend the general principle of this treaty to future canals, asked the question, "Assuming that some such article must be retained, how would this do?" And then he outlined in the following terms his opinion of what the proposition should be, namely:

In view of the permanent character of this treaty whereby the general principle established by article 8 of the Clayton-Bulwer treaty is reaffirmed, the United States hereby declares (and agrees) that it will impose no other charges or conditions of traffic upon any other canal that may be built across the Isthmus (or between the Atlantic and Pacific Oceans) than such as are just and equitable, and that such canals shall be open to the subjects and citizens of the United States and of all other nations on equal terms.

This question shows beyond peradventure Mr. Choate's idea as to what it was intended the treaty should provide with respect to equality of terms of treatment of commerce through the canal.

Well knowing Mr. Choate's mind, Col. Hay, on September 2, 1901, replying to Mr. Choate's letter of the 20th of August, and referring to the views expressed by him in that letter, used this language:

Your views are so clear and definite and so entirely in accord with my own that I find it unnecessary to give you any extended instructions as to this very important matter.

These two letters not only show that Mr. Hay and Mr. Choate were in entire accord, but it discloses what, in their opinion, should be the scope and purport of the agreement between the two countries with respect to equality of treatment.

But if the record we have of Mr. Hay's connection with this transaction does not make his attitude clear beyond peradventure, we have the positive testimony of a reputable and distinguished journalist of a conversation with Mr. Hay upon this identical subject and point which leaves no room for doubt as to what Mr. Hay understood and intended and as to what he thought the treaty as drawn accomplished in this regard. I

refer to the statement of Mr. William Fletcher Johnson, published in the May, 1914, issue of the North American Review, who claims to recall distinctly a conversation he had with Mr. Hay upon this subject in 1904. I quote Mr. Johnson's words. He says:

I asked Col. Hay plumply if the treaty meant what it appeared to mean on its face, and whether the phrase "vessels of all nations" was intended to include our own shipping or was it to be interpreted as meaning "all other nations." The Secretary smiled, half indulgently, half quizzically, as he replied:

"'All' means all. The treaty was not so long that we could not have made room for the word 'other' if we had understood that it belonged there. 'All nations' means all nations, and the United States certainly is a nation."

"That was the understanding between yourself and Lord Pauncefote when you and he made the treaty?" I pursued.

"It certainly was," he replied. "It was the understanding of both Governments, and I have no doubt that the Senate realized that in ratifying the second treaty without such an amendment it was committing us to the principle of giving all friendly nations equal privileges in the canal with ourselves. This is our golden rule."

WHY ANTI-REPEALERS WOULD ELIMINATE OUR TRADITIONAL POLICY.

Mr. President, I do not wonder at the eagerness of the opponents of repeal to have us leave the history of these canal treaties and our traditional policy of equality of treatment of all vessels of all nations out of this discussion and have us decide the debated questions with regard to the correct interpretation on the cold reading of the treaty, because, as I see and understand it, every line of that policy and of that history condemns their contention.

The United States to-day has treaties of commerce and navigation with nearly every nation of importance in the world. These treaties provide for the reciprocal and equal treatment of the vessels of the contracting parties in the matter of duties and charges. By similar arrangement nearly all the leading nations of the world to-day are under contract to grant to foreign vessels equal treatment with the vessels of their own country. This equality of treatment has become a fixed and settled principle of international maritime intercourse. The benefits that have accrued from it have been mutual and incalculable alike in the promotion of amity, peace, civilization, and commerce. What nation, I ask, Mr. President, was the pioneer in the inauguration and bringing about these happy international relations? I answer with pride, Mr. President, it was the United States of America!

In 1815, after a third of a century of fruitless effort, we concluded our present subsisting treaty of navigation and commerce with Great Britain, by which each of the contracting parties put the vessels of the other upon an equal footing with their own with respect to duties and charges. It was a radical innovation from the customary policy pursued by nations up to that time. It was a forerunner of the abolition of the old restriction and discrimination practiced toward each other by nearly all the maritime nations of the world. It was a great advance in international friendship and amity.

It is now insisted, because we have built a canal at a heavy cost, we shall, for a doubtful advantage, repudiate this great principle of reciprocal equality which we ourselves inaugurated and established as the great corner stone in the regulation of commercial relations between modern nations, and become the leader among the nations of the world in a reactionary movement to reestablish the old principle of selfishness and isolation which it supplanted.

But there is more of this history. For nearly one-half a century before the adoption of the Hay-Pauncefote treaty we had periodically sought a modification of the Clayton-Bulwer treaty. We wanted to be released from the copartnership and arrangement of that treaty. We wanted the right to build and own the canal in severalty. We wanted the right to fortify and defend it. Repeatedly during these years we appealed through our State Department and otherwise to Great Britain for a modification of the treaty in these respects, and in these respects alone.

Let me impress upon you, Senators, the fact that in all of these communications, from that of Mr. Reeves to Lord Palmerston, 1853; that of Mr. Cass, in 1857; that of Mr. Blaine, then Secretary of State, in 1881; and those of Mr. Hay and others, while various other modifications were sought, there was never so much as a suggestion that this Government wanted or sought relief or release from the obligations of the provisions of the Clayton-Bulwer treaty with reference to the free and equal passage of the ships of the world through the canal on equal terms with our own.

STATEMENT OF EX SECRETARY OF STATE JAMES G. BLAINE.

I wish, with the consent of the Senate, to have printed as an appendix to my remarks extracts from these official statements with regard to our purpose and position in this matter, as well as extracts from the diplomatic correspondence bearing upon the same subjects. I will not take the time of the Senate to read these extracts except the one from ex-Secretary James G. Blaine. I wish to read this statement of Mr. Blaine's because for 30 years he was a bright, particular star in our political firmament and because his brilliant and masterful account of the political and economic occurrence of that period in his work entitled "Thirty Years in Congress" establishes his right to speak with authority upon this subject. For these reasons I would especially invoke the authority of his great name in behalf of a fair and liberal interpretation of our written promises in this matter and an ungrudging performance of them in spirit as well as in letter.

Now, let me read to you, Senators, Mr. Blaine's significant and emphatic statement:

Nor does the United States seek any exclusive or narrow commercial advantage. It frankly agrees, and will by public proclamation declare, at the proper time, in conjunction with the Republic on whose soil the canal may be located, that the same rights and privileges, the same tolls and obligations for the use of the canal shall apply with absolute impartiality to the merchant marine of every nation on the globe; and equally in time of peace the harmless use of the canal shall be freely granted to the war vessels of other nations.

Mr. President, in all these years the first suggestion that we have any selfish motive on our part in this matter—that we wanted any preferential treatment for our own ships—that we did not accept in the fullest measure the rule of equality prescribed in article 8 of the Clayton-Bulwer treaty, was in 1912, when the canal was nearing completion, and then for the first time the voice of the new "dollar diplomacy," which came into being during the administration of President Taft and Secretary of State Knox, was heard pleading for preferential consideration for our ships—especially our coastwise ships—already enjoying special favors and exceptional privileges under our navigation laws.

Mr. President, it is now proposed to reverse this well-established policy, to repudiate all these assurances with respect to our purposes toward the commerce of other nations should we build the canal—and by a technical, not to say shrewd, ex parte interpretation of the letter of the contract establish our right to pursue a course of unrestricted discrimination in favor of our own ships engaged in coastwise or foreign trade.

CHANGE GUARANTORS DOES NOT AFFECT OR IMPAIR GENERAL PRINCIPLE.

To accomplish this purpose without properly repudiating the treaty, it becomes necessary to construe the eighth article of the Clayton-Bulwer treaty and the general principles of neutrality as defined in it out of the Hay-Pauncefote treaty. The argument relied upon to support this construction is based upon two propositions.

First. The contention that the general principle of equality guaranteed in the eighth article of the Clayton-Bulwer treaty is conditioned upon the stipulated guaranty of the joint protection of the canal wherever it should be decided to construct it, and that therefore the agreement for equality ceased to be effective when Great Britain was released from the obligation of protection.

Second. The contention that no part of article 8 of the old treaty is efficaciously incorporated in the new treaty.

Mr. President, article 8 embraces two propositions—one is the establishment of the general principle that the vessels of all nations, including those of the contracting parties, Great Britain and the United States, shall have the right of passage through the canal on terms of entire equality. This is the so-called principle of neutralization.

The other proposition is a stipulation for the joint protection of the canal, by whatever route constructed, by the United States, Great Britain, and other nations using it. These two propositions, though coupled as interdependent stipulations, are in fact separate and distinct things. The general principle of neutralization provided in this article is one thing and the guaranty of protection is quite another and different thing, and I submit that a change made in the personnel of the guarantors of protection by the mutual agreement of the contracting parties can in no way affect the validity of the general principle, especially when the agreement for a change of the guarantors is accompanied with an agreement for the retention of that principle.

The Hay-Pauncefote treaty relieves Great Britain and all other foreign nations using the canal from the duty and obligation growing out of the stipulated guaranty of protection in article 8, and devolves that duty exclusively upon the United States; but it is stipulated that this change in guarantors shall not in any way impair or abridge the general principle of equality therein enunciated. On the contrary, the general principle is to remain intact, indeed, is reaffirmed, not only in the preamble but in article 4, and it is reiterated in the treaty with Panama by which we secured our title to the territory upon

which the canal is built. In every way known to diplomacy it is asserted and buttressed.

MISCONSTRUCTION OF TREATY.

The opponents of repeal do not stop with the misconstruction of this article of the old treaty, and the effect of its modified incorporation in the new treaty, but to make assurance doubly secure they go further and seek by construction to eliminate it from the new treaty altogether. The ground upon which they seek to throw it out is the contention that the preamble in which it is first affirmed is not a part of the treaty except in so far as it may throw light upon the interpretation of any doubtful provisions; and that its reaffirmation in the fourth article does not make it a part of the treaty so far as the canal we have constructed is concerned, and that the treaty should therefore be construed as if it did not mention the general principle of neutralization or article 8 of the Clayton-Bulwer treaty at all. This is an amazing contention in view of the undisputed facts in connection with the negotiation of this treaty and its ratification by Great Britain. Speaking generally, there can be no question about the fact that while Great Britain yielded to our demands for the modification of the old treaty; to our demands for the right of exclusive construction, ownership, and management; to our demands in regard to the right of fortification, at every stage of the procedure, throughout all the conferences, she demanded that the general principle of neutrality embodied in article 8 of the Clayton-Bulwer treaty should be retained in all of its vitality and vigor, and there was no dissent on the part of our negotiators or our Government. She made it plain through her representatives that unless that was retained and written in the treaty in such a way as to leave no doubt that it was retained that neither the cabinet, the Parliament, nor the people of Great Britain would consent to the modification which we sought of the original treaty.

In the light of these facts we are asked to accept the proposition implied, in the arguments advanced here, that the treaty was so unskillfully, so inartificially, so incompetently drafted as to leave out of it the only principle which Great Britain was specially anxious to put in it, and which, with the free hand in this behalf our representatives willingly accorded her, she tried in every known way to securely write into it and ingraft upon it.

"ALL NATIONS OBSERVING THESE RULES."

It will be interesting and helpful to examine for a moment the argument the opponents of repeal rely upon as conclusively proving their construction that the term "all nations" does not include the United States. This so-called conclusive argument is based upon the phrase "all nations observing these rules," used in the first clause of the third article. The use of these words, they contend, makes it clear and certain that the United States is not included in the words "all nations," because, they confidently assert, the maker of rules of action is under no obligation to observe them himself.

I do not wish to argue either the logic or morals of that proposition further than to express my dissent. But, Mr. President, these words which they claim excludes the United States from the all-nations provisions of the second Hay-Pauncefote treaty, it will be noted, do not appear in the corresponding clause or elsewhere in the first Hay-Pauncefote treaty. The language of that clause of the first treaty, is "The canal shall be free and open in times of war as in times of peace to vessels of commerce and of war of all nations, upon terms of entire equality," and so on, and that clause of the treaty was adopted by an almost unanimous vote of the Senate when that treaty was ratified by that body.

If the insertion of the words "observing these rules" in the clause of the second treaty under discussion proves that the United States is not included in its "all nations" clause, their omission in the corresponding clause of the first treaty would seem to logically prove that the United States was included in the "all nations" clause of that treaty, and that its inclusion at that time was acceptable to the Senate.

WHO ASKED FOR THE INSERTION OF THESE WORDS?

It is important, in view of these facts, to inquire at whose instance the words "observing these rules," which did not appear in the first treaty, were inserted in the second treaty? Did Mr. Hay ask it? Did Mr. Choate ask it? The Senate certainly did not ask it. While many amendments were offered and several adopted to the first treaty, none to this effect were either offered or adopted. Who, then, asked it? The diplomatic correspondence answers: It was Lord Lansdowne who asked their insertion. He did not originally suggest the exact language used in the final draft. His original suggestion was "all nations agreeing to these rules." Neither Mr. Choate nor Mr. Hay desired the emendation. Mr. Choate strongly objected to the word "agreeing." He thought it might be construed to imply an invitation to foreign nations, which he did not wish his Government to make, and he suggested the word "observing" in place of the word "agreeing"; and that change of verbiage was accepted by Lord Lansdowne and the phrase was so worded.

So that we have the astonishing proposition that the British foreign office being offered a treaty which included the United States in the term "all nations," deliberately refused to accept it, and demanded an amendment the effect of which, it is contended, excludes the United States from the term "all nations," and produced the result the British negotiators had been so strenuously endeavoring to forestall and prevent.

The true purpose of the British Government in asking for inclusion of these words in this clause of the treaty is made clear by the diplomatic correspondence.

Lord Lansdowne evidently thought that the makers of these rules would be bound by them. He did not agree with Senators who now claim that the maker of these rules is not bound by them. Lord Lansdowne knew that his Government, being a party to the contract in which these rules were made, in legal intendment assented to the rules, and although it did not assume the obligation of enforcing them it was, by virtue of its assent and being a party to the contract in which they were promulgated, logically bound by them, and very naturally he insisted that other countries should not enjoy the benefit of the canal without being also bound to comply with them.

UNITED STATES DID NOT WANT GREAT BRITAIN'S HELP IN MAKING OR GUARANTEEING RULES.

The argument that, if the United States is included in the "all nations" provision of the first treaty, it is because in that treaty Great Britain and the United States jointly adopted rules of neutrality and jointly guaranteed those rules, and that the United States is not included in the "all nations" provision of the second treaty because under that treaty the United States alone adopted rules and guaranteed their observance is an argument which can not be sustained in the light of the facts of the case.

The United States did not want Great Britain to help in making these rules, or in guaranteeing them. On the other hand, the United States was almost, if not quite, as anxious to be relieved from the copartnership with Great Britain in making these rules and in protecting them as she was to be relieved from the copartnership with Great Britain provided in the Clayton-Bulwer treaty in the construction of the canal. Great Britain was well aware of this feeling, and she knew she did not have to surrender anything, especially the only thing she had demanded for herself in connection with this whole business in order to secure release from the obligation of protection involved in the joint making of the rules of neutrality.

It is not reasonable to suppose that Great Britain consented to a change in the second treaty, which denied her ships equal treatment with those of the United States, in order to get release from an obligation from which she knew the United States was anxious to relieve her.

RIGHTS OF BELLIGERENCY.

Much stress is laid by those opposed to this bill upon the contention that if the five last rules of the Hay-Pauncefote treaty relating to belligerency do not apply to the United States equally with other nations, that likewise the first rule thereof relating to equal charges against vessels and merchandise passing through the canal do not apply to the United States.

The argument is plausible if you look only to the letter of the treaty, but in the light of the radical changes in the determinative facts respecting belligerency between the time of the making of that treaty and the building of the canal the argument is, I think, clearly unsound. The Hay-Pauncefote treaty antedated the Panama treaty by two years. When therefore these rules were prescribed we had not acquired sovereignty over the canal territory; nor indeed had it been settled where the canal would be located or whether the United States would build it or secure its construction by private capital under its auspices and protection. When, in 1903, the United States acquired sovereignty over the canal territory through the treaty with Panama that fact, coupled with the right to fortify it and the duty of policing it, settled our right to exercise belligerent rights for our own protection, and the right has never since been questioned by Great Britain or anyone else.

The common sense of mankind could not refuse to recognize the controlling effect of these changes in conditions upon the stipulations in the rules pertaining to belligerency. But with respect to rule 1, relating to equality in charges of the commerce passing through the canal, it is a question not of changed conditions, but it is a question of original construction.

Great Britain was promised that her commerce should be put upon an equal footing with the commerce of the United States

in the matter of charges and conditions of transit through the canal. The fact that the United States as a result of subsequent acquisition built the canal through its own land instead of through the leased land of some one else does not in the least change the status or the interest of the two contracting parties in the matter of equal terms of transit.

The effect of discrimination against the commerce of Great Britain would be the same in the one case as in the other, and the effect upon the United States of equality of treatment would be the same in the one case as in the other.

In addition to this, Mr. President, it seems to me that the sovereignty argument is effectually disposed of by the provision in the fourth article to the effect that no change of territorial sovereignty of the country or countries traversed by the canal should affect the general principles of neutralization, which means the principle of equality of treatment prescribed in the eighth article of the Clayton-Bulwer treaty.

WELLAND CANAL.

It is said by the opponents of repeal that the Welland Canal case has no analogy to the case under consideration. This conclusion seems to be based upon the theory that Canada and Great Britain, after having refused to yield to our contention that they were proceeding in violation of our treaty rights, were ultimately persuaded by the retaliatory measures adopted by us to yield as a matter of policy, though not admitting our contention. I am not particularly concerned about Canada's attitude in that matter, or why she receded from her position. I do not think, so far as this controversy is concerned, it makes any difference whether she receded because of our retaliatory legislation, or because she finally become convinced that she did not have the right to disregard our construction of the contract with her, and to act upon her own construction. What I am concerned about in connection with this historical incident is what we ourselves did—the position that we took and maintained in that controversy—and whether, if we were right then, we are not wrong now. As I see it, our contention then was substantially the same as Great Britain's contention is now. We contended then that Canada, by virtue of its agreement through Great Britain with us, had promised equality of treatment to our commerce passing through her canal, and that by her order in council she had discriminated against our commerce in favor of her own commerce passing through the canal, and we asked that she desist from this discrimination. When she refused to desist, we resorted to retaliation. Great Britain has not gone that far, and we did not go that far for a long time. Whether Great Britain will eventually go that far is for the future to determine.

EFFECT OF CANADA'S ACTION ON HER RELATIONS WITH THE WORLD.

It is said that Canada has not suffered in her relation with the balance of the world by reason of her refusal to consider our protest and rescind her arbitrary order in council except under the pressure of retaliation. I am not so sure about that. There is in this Senate to-day an anti-British feeling—an anti-Canadian feeling. The same sentiment obtains with many throughout the country. Who will say what part this little episode in our history has played in keeping alive that feeling of irritation and hostility which has existed to a greater or less extent throughout our whole history against the one great nation of the world who is "bone of our bone and flesh of our flesh"? Who can say that but for this little incident there might not have been a different sentiment, if not a different relationship, between this country and our neighbor at the north from that which now exists and has obtained for years?

Suppose all the balance of the world had been interested in opposition to the action of Canada in this matter to the same extent as all the balance of the world is interested in opposition to our attitude with reference to the exemption from canal tolls of our coastwise vessels. Who in that case would undertake to measure the possible effect the action of Canada in the Welland Canal matter might have had upon the sentiments of amity and friendship of the balance of the world toward her and the extent to which her political and commercial fortunes might have been affected.

WE ARE SOVEREIGNS OF THE CANAL ZONE, BUT UPON WHAT ASSURANCES WAS IT ACQUIRED?

Elaborate arguments have been made to show that we own the Canal Zone—that our title and sovereignty over it is as complete as that over the ground upon which this Capitol is built. O Mr. President, I suppose we own this Canal Zone.

Let us dismiss all question about the legality of our title and sovereignty over the Canal Zone. Still the question remains, How did we get that title and acquire that sovereignty? I have no reference now to the secession of Panama from Colombia and her recognition by us and the balance of the world as an independent Republic. I refer solely to our acquisition of this 10-mile-wide strip of land from ocean line to ocean line through the very heart of her territory.

The $10,000,000 we paid for this strip of land and its appurtenances of inestimable value is a mere bagatelle compared with its actual value. The payment of this money was not the real consideration for this extraordinary territorial and political concession. The real consideration was the assurance and promise, ungrudgingly given by us and implicitly relied upon by Panama, that we would construct a canal through the center of this strip sufficient to accommodate the largest seagoing vessels and maintain and operate it in perpetuity, on terms of entire equality to the interoceanic commerce of the world, thus bringing this great world traffic through the eastern and western gateway and past the very doors of the little infant Republic.

GREAT BRITAIN NOT ALONE CONCERNED, BUT ALL THE WORLD.

This question has been discussed as if nobody was concerned in the guaranty of equality except Great Britain. Even Panama's rights have been ignored in order to more effectually twist the lion's tail. That is wide of the mark. Great Britain and Panama alone have contractual rights in this behalf, it is true, but all the world, under the terms of the treaty, are joint beneficiaries of the promises and guaranties made to these two countries.

If we should repudiate these guaranties, neither Great Britain nor Panama would go to war with us about it—neither would the other beneficiaries. But not only Great Britain and Panama, but all the balance of the world, would be disappointed in their just expectations. They would be aggrieved. They would be resentful. Their antipathy would be aroused and their distrust excited. And while we would not be confronted with a world in arms, we would be confronted with what would be equally as serious a matter to us in our political and commercial relations with mankind, namely, a world-wide public sentiment of chagrin, distrust, disapproval, and resentment.

What would be the effect of this situation upon our commercial and political relations with the balance of the world, especially with our neighbors of the American Continent, no man can foretell.

WHO WILL GET BENEFITS OF EXEMPTION.

Let me devote a few minutes to the question as to who will get the benefit of the remission of these tolls and its effect upon transcontinental railroad rates. Of course it is clear that exemption from tolls of coastwise vessels will take that much money out of the Treasury which the people will have to make good, but will the people in some other way get this money back? Will the shipowners appropriate it all to themselves or will they give it all to the shipper or to the consumer, or will they divide it up between themselves and the shipper and the consumer? Will it tend to the reduction of transcontinental railroad rates, as was suggested at the time the canal act was passed, or will it result simply in the transcontinental railroads hopelessly losing this trade to the new water route and recouping their losses by such increases as the Interstate Commerce Commission may allow under the circumstances upon rates to interior points?

From our experience with special privileges we may fairly assume that in this case, as in other cases, the consumer will get nothing except what the owners of the boats are absolutely compelled to allow him, and as whatever the consumer gets will first have to filter through the hands of the boat owner, the strong probability is that he will get about the same share of this subsidy as the consumers of tariff-taxed articles get from a prohibitive tariff.

SHIPPING TRUST AND CONFERENCE-MADE RATES.

Opponents of repeal ridicule the idea of a shipping trust in connection with the canal. According to them there is to be unrestricted competition for the benefit of the consumer. I do not know whether there is a shipping trust or not in our coastwise trade, but the evidence before the committee showed that these boats were now making enormous profits, paying big dividends, and, in some instances, annually carrying to surplus two or three times as much as the amount paid in dividends.

Experts assured the committee that if the combinations now alleged to exist between those boats were broken up, or if they were put under the control of the Interstate Commerce Commission, rates would hereafter be fixed, as are railroad rates and prices in other lines of competitive business, by conference agreements, and that the rates charged by all would likely be practically the same; and that these rates would be fixed just low enough to get the business, and that within that limitation they would be as much as the business would bear.

The exemption from tolls of our coastwise shipping, we are told, will reduce transcontinental railroad rates. That argument was greatly stressed two years ago. Since the hearings before the Committee on Interoceanic Canals it has not been so much relied upon, because these hearings practically exploded it. Still much is sought to be made out of the opposition of these railroads to the canal, both before and since its construction.

It is true, Mr. President, that the railroads opposed the construction of the canal, and it is true that now that it is about to be opened for traffic they regard it as a menace to their prosperity.

I have no doubt many of them would rejoice if an earthquake should come and blow it up. Why did the railroads oppose the canal, and why do they still fear it? For the simple reason they know, as everybody knows, that, tolls or no tolls, the canal is going to cut enormously into their present business.

EFFECT OF WATER COMPETITION ON TRANSCONTINENTAL RAILROAD RATES.

Mr. Dunn, one of the star witnesses against repeal before the committee, calculated that of the 3,000,000 tons through traffic now carried by the transcontinental railroads, when the canal is opened, 2,000,000—or two-thirds of the amount—would be lost by the railroads to boats. This will result from the fact that the difference between the cost of transportation by water and rail would be so great that there could be no competition in such heavy and bulky articles as usually seek waterway transportation, and, competition being impossible, the railroads will simply let the business go. He estimated that by using petroleum instead of coal, lumber could be carried by water from the Pacific coast to New York for $4 per thousand, and other heavy and bulky things in like proportion. Manifestly, the railroads could not meet such competition, even though the toll charges were several times greater than is proposed. Would forcing the transcontinental railroads out of these lines of business result in a reduction of their freight rates upon the business which they would retain?

The boats can only carry the traffic from port to port. Relatively, only a small part of the coastwise trade passing through the canal will be consumed by the seaport cities. It will have to be distributed by the railroads. It is assumed that the back haul of this traffic will not extend much more than 500 miles from the coast. That will leave a strip outside of this back-haul zone—infinitely greater than the zone itself—stretching 2,000 miles across the continent and 1,500 miles up and down the continent, which will have to be supplied with coast products exclusively by the railroads, as at present. Will they be allowed to recoup the loss of revenue resulting from losing two-thirds of their through haul by an increase in the rates both upon the back haul and into the broad zone beyond the back haul? Doubtless they will increase these rates, and so recoup themselves if the Interstate Commerce Commission shall find it expedient to allow them to do so, in order that they may realize a reasonable profit and continue as going concerns.

Undoubtedly the canal will greatly stimulate traffic between our two coasts. It will be of inestimable benefit to this country, as well as to the world. It will operate, undoubtedly, to some extent in regulating rail rates. But its benefits will be greatest to our seaports and the country adjacent and commercially tributary to those ports. Indirectly all parts of the country will be benefited, but that there will be any appreciable reduction in transcontinental rail rates is exceedingly problematical, to say the least.

EXEMPTION HANDICAPS COMPETITION BETWEEN DOMESTIC AND FOREIGN WATER CARRIERS.

But let us look at this matter from another standpoint. You say you wish to reduce rail rates across the continent by establishing intercoastal water competition. Well, the canal will effectually do that without the remission of tolls. After securely establishing competition between these intercoastal carriers and the railroads by the construction of the interoceanic canal, do you want to protect these intercoastal vessels against competition with foreign vessels when both use the canal to reach the same ports of the United States? I would think not. Is it not clear that in exempting one and charging the other tolls on the basis of cargo tonnage you will not only embarrass but handicap competition between those competing water carriers, but you will also protect the domestic merchandise carried in intercoastal vessels against competition of foreign merchandise carried in foreign vessels through the canal and sold in United States ports just as effectively as if you imposed a protective tariff duty of $1.20 per ton on the merchandise imported in the latter in addition to the duty, if any, otherwise imposed by law?

NO SURRENDER OR ABRIDGMENT OF OUR RIGHTS INVOLVED.

It is said that the protest of Great Britain against our action in this tolls matter is a denial of our right to exempt our vessels from toll, and is therefore an impeachment of our right as the sovereign of the territory and owner of the canal to do as we please with respect to it. There is no foundation for these suggestions.

Great Britain does not deny our right to exempt our vessels from tolls; her position is exactly the reverse. She admits that right. She admits not only our right to pass our coastwise vessels but our over-sea vessels without the payment of tolls. She simply says, if we shall see fit to exercise that right, and exempt our vessels, that we have entered into a binding agreement with her to exempt hers also. Is that an impeachment of our sovereignty? If we should yield to her suggestion, would it be a surrender of our sovereignty? If so, then we have, in identically the same way and to the same extent, surrendered our sovereignty at least half a hundred times in the last 100 years to various and sundry nations of the earth. We have to-day, I think, 30, probably more, treaties of commerce and navigation with various and sundry nations of the world, by the terms of which we agree that we will accord to their vessels the identical treatment in our ports which we accord to our own vessels. If we should refuse to comply with the terms of these agreements, and they should protest, and we finally acquiesced in their contention, would anybody contend that that was a surrender of our sovereignty? Would anyone contend that they were officiously interfering with our affairs? That very thing has recently been done, and there was no clamor or outcry of base surrender.

It has been said that the present tariff law carries a differential of 5 per cent in favor of merchandise carried in American bottoms. That is true. There is such a provision in the present tariff law. But when it was made clear that it would be a discrimination against foreign vessels, in violation of our treaties of commerce, by which we agreed to accord equal treatment in our ports and harbors, we added a proviso to the effect that the differential should not apply to the vessels of any nation with which we had a treaty of this import. Was that a surrender of our sovereignty? Was the protest of certain nations, with which we had these treaties, an officious interference with our domestic affairs—an assault upon our sovereignty?

We could not do as we please in this matter because we had solemnly agreed to do otherwise; just as we can not do as we would please with reference to canal tolls, because we have solemnly agreed otherwise.

I will dismiss from consideration this talk about our surrender to Great Britain—this talk about Great Britain's attack upon our sovereignty—by quoting the language of ex-President Taft, when he said in his Ottawa speech—

> Now, we shall doubtless have to arbitrate the matter, unless Congress reverses itself. There are some hot-heads that talk in absurd tones about the right of the United States to manage her own canal and her own property as she likes, no matter what she has agreed to; but that is all froth. Those are the explosivistas.

PREFERENTIAL CANAL EXEMPTION NOT ANALOGOUS TO FREEDOM OF OUR DOMESTIC WATERS.

It is said that if canal exemption is a subsidy, so is the free use of our rivers and harbors, upon which we have spent millions upon millions, a subsidy. There is a clear differentiation between the two cases. We have spent enormously—probably twice as much in the course of our history in the development of our internal waterways as we have spent in the construction of the canal. From time immemorial these waterways have been free not only to our own people but to the world. We have discriminated against nobody. The money has been distributed as equally as is possible between all sections of the country. We have looked for compensation for the investment in the development and expansion of our trade and the accommodation of our commerce. We have adopted freedom in the use of these waterways as a matter of public policy, and it is, I think, a wise public policy. We have charged nobody for their use. If this is a subsidy, who, I ask, has been the recipient of the special favor which the idea of subsidy involves and presupposes?

If we proposed to pursue the same policy upon the canal, there would be no question of subsidy. We would look to the accommodation and enlargement of both our domestic and international trade for compensation. But the policy we have adopted is one of recoupment. The question is, Shall we apply the principle of equal treatment or of unequal treatment? Shall we require all vessels using the canal to pay their proportionate part of the burden, or shall we require a part to bear the whole cost and exempt a part from any contribution whatever? If we exempt a part, as is proposed by the opponents of repeal, then a special privilege will be accorded to that part, and a special privilege is what the public understand to be implied in the word "subsidy," although that may not be its technical meaning.

WE BUILT CANAL FOR THE WORLD, AND NOW WOULD FORCE THE BALANCE OF THE WORLD TO PAY FOR IT.

Much stress is laid upon the fact that we built the canal at a cost of $400,000,000 and must maintain it at an annual cost, exclusive of military operations, of some $17,000,000, and that we generously propose to let the world use it. Our magnanimity in this respect is much exploited. And yet if the policy which is insisted upon shall be pursued, if we shall exempt our shipping, coastwise and over-sea, from tolls while taxing that of the balance of the world, what will be the result? For a few years, of course, we would not realize enough to pay the cost of operation. In the beginning the Suez Canal did not pay. In less than 10 years, however, the Suez Canal was more than paying expenses; and it was not long before it was paying large dividends. To-day it is one of the greatest profit-earning properties in the world.

It will be likewise with the Panama Canal. What is the proposition with which we are now confronted? It is to exempt our vessels—not only our coastwise, but it is suggested by some that we have the right and should exempt our over-sea vessels as well—and throw the whole burden of maintaining the canal and amortizing the capital invested in its construction upon the balance of the world.

If this course is pursued, is it not manifest that in a comparatively short time, as time is counted in the life of a nation—if the history of the Suez Canal is paralleled with respect to the development of traffic, and it undoubtedly will be—that all the operating expenses of the canal, the $400,000,000 invested, together with interest, will have been returned to us, and this great property, with its world-wide clientele of paying customers, will be ours without having cost us a cent. This most wonderful accomplishment of the ages, which we boasted that we would build for the benefit of mankind and without any thought of self-gain, will in fact have been built by us not for the benefit of mankind, but, thanks to our shrewd construction of the treaty, will have been built by the rest of mankind for us and its vast unincumbered income turned over to us and our children in perpetuity.

DECENT RESPECT TO RIGHTS AND OPINIONS OF OTHERS.

Mr. President, Great Britain and the other commercial nations of Europe—Canada to the north of us and the countries of South and Central America to the south of us—believe that the act of 1912 reserving special treatment to our coastwise vessels through the canal discriminates against their vessels trading in competition with them in the various ports of our two coasts and therefore contravenes the treaty.

The President of the United States, responsible under the Constitution for the conduct of our foreign relations, has declared in a solemn message to Congress his maturely formed opinion that the discriminations in this act violate our treaty promises. The Secretary of State—equal to any of his predecessors in that great office—who acts for the President in all matters pertaining to our foreign relations, is understood to agree with him in the opinion expressed in his message. The exact per cent of the division no one knows, but all will admit that a large portion of our own people also believe that this act violates our treaty obligations.

If we had the undisputed right to construe the treaty as our own interests may suggest, without regard to the construction of others interested in it, either contractually or otherwise, in the light of this division of opinion among our own people—to say nothing about the adverse attitude of the world—can we afford to pursue a course which the President, who has been chosen by the people to represent our Government in its foreign relations, in an official utterance declares is in contravention of a contract we have made with a friendly nation, and in the performance of which all maritime nations of the world are interested? Is it not, in these conditions, the course of wisdom, while expressly reserving all our rights under the treaty, to restore the original status quo, leaving the disputed question unembarrassed by the ex parte action of either party, to be settled in such way and manner as such differences between friendly nations should be settled, and can only be satisfactorily settled?

Mr. O'GORMAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. THOMAS in the chair). The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Ashurst	Chamberlain	Goff	Kern
Borah	Chilton	Gronna	La Follette
Brady	Clark, Wyo.	Hitchcock	Lane
Bristow	Crawford	Hughes	Lewis
Bryan	Cummins	James	McLean
Burton	du Pont	Jones	Martin, Va.
Catron	Gallinger	Kenyon	Martine, N. J.
Nelson	Root	Smith, S. C.	Vardaman
Norris	Shafroth	Smoot	Walsh
O'Gorman	Sheppard	Stephenson	West
Owen	Shively	Sterling	White
Page	Simmons	Swanson	Williams
Perkins	Smith, Ariz.	Thomas	
Ransdell	Smith, Ga.	Thompson	
Reed	Smith, Md.	Thornton	

Mr. CHILTON. I wish to announce again the necessary absence of the Senator from New Mexico [Mr. FALL]. He is paired with me.

Mr. JONES. I wish to announce that the junior Senator from Michigan [Mr. TOWNSEND] is necessarily absent from the city.

The PRESIDING OFFICER. Fifty-seven Senators having answered to their names, a quorum is present.

Mr. NORRIS. I desire to offer an amendment to the pending bill. I ask that it be read, printed, and lie on the table.

The PRESIDING OFFICER. Is there objection? There being none, the Secretary will read the amendment.

The SECRETARY. It is proposed to add a new section at the end of the bill as follows:

SEC. 3. If any nation shall provide by law or regulation for the payment of any part of the tolls of the vessels of its citizens passing through the canal, or if the vessels of any nation or its citizens shall be granted any other form of subsidy bonus or rebate on account of such vessels passing through the canal, the President of the United States shall by proclamation increase the tolls of such vessels above the amount provided for in this act by an amount equal to the sum so received or to be received by such vessels by virtue of such law or regulation or on account of such subsidy bonus or rebate.

The PRESIDING OFFICER. The amendment will lie on the table and be printed.

Mr. JONES. Mr. President, I have here a very carefully prepared article on the coastwise traffic and its relation to the Hay-Pauncefote treaty from the New York Sun of May 23, 1914. I ask that it may be printed in the RECORD.

There being no objection, the article referred to was ordered to be printed in the RECORD as follows:

COASTWISE SHIPPING—PART OF DOMESTIC COMMERCE AND NOT SUBJECT TO THE HAY-PAUNCEFOTE TREATY.

To the EDITOR OF THE SUN.

SIR: I have read with great interest much that has appeared in the Sun and in other publications regarding the canal-tolls matter now in dispute between the United States and the whole world.

It appears certain that we entered into very solemn agreement with Great Britain by treaty regarding our administration of the canal, and for us to break the conditions of such a treaty would leave us beyond the pale of civilized nations. For this treaty, being a fundamental condition to the construction of the canal across the Isthmus of Panama, can not after the canal is built be changed or abrogated excepting by the consent of both parties to it. This Hay-Pauncefote treaty, in that it was a preliminary condition necessary to the construction of a permanent waterway, and since that waterway was built, as it has been built, because of the consummation of this contract, is not analogous with ordinary treaties governing commercial and diplomatic relations that have no permanent form and no physical existence. Therefore the Hay-Pauncefote treaty must be considered as a permanent fact of international law rather than a temporary engagement established by virtue of such international law.

The only possible ground for debate must be in the interpretation of this treaty and in definition of those subjects which may properly be the subject of a treaty between two powers where no specific mention is made of them.

It may be supposed generally that those things never subject to treaty are not subject to this Hay-Pauncefote treaty unless specifically mentioned therein, while those things which have always been acknowledged to be subject to treaties and that have been the actual subjects of treaty, specifically and by inference, many times are logically included by implication, even if not specifically mentioned.

Now, among the many things that are seldom, if ever, subject to any treaties whatever is domestic commerce or internal commerce of a sovereign power. In its entirety and separated into its component parts internal commerce has scarcely ever been by specific mention or by implication the subject of treaties among the great powers or between one of these powers and one of the smallest of the weaker and lesser States. So that it is only reasonable to premise that American domestic commerce is not included, either as a whole or in part, by implication or supposition, as it surely is not by specific mention, in the Hay-Pauncefote treaty. And this must apply whether this domestic commerce uses as a channel the Panama Canal or goes around the Horn, or uses the rivers and lakes and railroads of the country. So long as the internal or domestic commerce of the United States has never been the subject of a treaty, or even so long as it has not been commonly the subject of a treaty, the weight of reasonable supposition is that it was not a subject of the Hay-Pauncefote treaty, rather than that it was such.

That our coastwise commerce is part of our domestic or internal commerce seems to be almost beyond dispute, for only as such could it be reserved to American ships in the strict manner that it is reserved by our laws to the complete disadvantage and exclusion of all foreign ships. Nor is this reservation of coastwise commerce as a part of the domestic commerce unique with the United States. Every other nation in the world reserves its coastwise commerce for special control and regulation as being exclusively the nation's personal affair and not at all a matter of international or alien interest. And no nation has relinquished this control by treaty or otherwise, so far as I know.

On the other hand, if this coastwise commerce is not domestic commerce, therefore excluded from all modification by treaty with a foreign power, the passage of vessels plying in the coastwise trade through the canal is a more flagrant breach of the Hay-Pauncefote treaty than the tolls-exemption measure contemplated, since the exemption from tolls is a far smaller discrimination in favor of American shipping than is the drastic coastwise-shipping act under which our coasting vessels now sail from port to port.

Coastwise shipping must be either domestic commerce, and therefore not subject to any foreign treaty obligations, unless specifically mentioned, or else it must be external, or foreign commerce, and therefore subject to all the provisions of all the treaties with foreign powers covering navigation in general. Where so much is left to inference and "interpretation," as in this controversy arising out of the Hay-Pauncefote treaty, the first duty of everyone is to arrive at clear definitions of all the elements of the debate. And the most important matter to define first of all is the status of our coastwise commerce, either as part of our internal or domestic commerce or as no such thing, for it can not be treated as half one and half the other.

To many of us it seems that there is no ground for debate as to what our coastwise commerce is. And until the construction of the canal there was no one to raise the question. Nor is it now raised directly. Yet the whole controversy of the tolls seems to rest upon just this alone, whether the coastwise commerce of the country is foreign or domestic deep sea, and so a world question, or internal, and so only a national one.

The canal was built by the United States primarily to serve as a means of communication between the extreme East and the extreme West of our country, if the purpose of its construction has any place in the interpretation of the Hay-Pauncefote treaty. Its service to all the world for all the world's commerce was for us a secondary consideration. Should it be determined that our coastwise commerce is really deep sea and not domestic commerce, as is implied by those who attempt to place it under the provisions of the Hay-Pauncefote treaty, then the only way in which our coastwise commerce could use the canal and preserve the conditions of the treaty would be for us to throw open our coastwise commerce to the ships of all nations equally with those of the United States, for otherwise there would be discrimination of the most flagrant kind between ships using the canal. Our only other recourse would be for our coastwise ships, plying between two American ports on the Atlantic and Pacific coasts, to go around the Horn or through the Straits of Magellan, never using the canal at all. There can be no logical middle ground in this matter of fixing the status of our coastwise commerce, which we are doing really in the guise of defining the scope of the Hay-Pauncefote treaty; it comes under the provisions of that treaty either fully or not at all.

Another question comes up here as well, bearing upon the status of our coastwise commerce—that is, the provision restricting the use of the canal by the ships owned by railroad corporations. How else but on the premise that our coastwise shipping is part of our domestic commerce can such a provision be enacted or enforced? Premise that this coastwise commerce is anything but domestic commerce and this enactment directed against railroad-owned ships is impossible. It is a proof of the real attitude we hold toward this part of our shipping. Yet we can employ this position to damage American use of the canal, while we refuse to employ it in greater justice to give advantages to American use of it. This is the illogicality of the position taken by the supporters of equal tolls for all shipping using the canal applied in practice. If this Hay-Pauncefote treaty applies at all to our coastwise shipping, then it must apply to our control of that shipping itself, in discrimination against a portion of it.

We have no other honorable course than to fulfill all the provisions of the treaty which forms a fundamental condition of the existence of the canal and to fulfill these provisions for all time to come. But we must construe these conditions and provisions with common sense and logic, according to the accepted laws among nations. And the first step in so doing must be to determine whether our coastwise commerce is or is not part of our domestic commerce. For if it is part of our domestic commerce, then it can not be subject to the Hay-Pauncefote treaty, since our domestic commerce is in no way mentioned or referred to in that treaty; while if it is not part of our domestic commerce, then it is wholly subject to that treaty, and therefore can not rightly use the canal at all under the present laws governing it, without any reference to tolls whatever.

ARTHUR MOORE.

VILLA BOSCOBELLO, *Florence, Italy, May 5.*

Mr. VARDAMAN obtained the floor.

Mr. CHAMBERLAIN. I ask the Senator from Mississippi to yield to me for a moment.

Mr. VARDAMAN. I yield to the Senator from Oregon.

WOOL PRICES.

Mr. CHAMBERLAIN. Mr. President, at the time the recent tariff bill was under discussion ruin was predicted for the woolgrowers of the country. I ask to have inserted in the RECORD statements as to the wool market from the woolgrowing section of my State. These consist of a clipping from the Portland Oregonian of March 28, 1914, and one of the 22d of May, 1914, and one from the East Oregonian of the same date, published at Pendleton, showing conditions and prices both before and after the shearing season.

The first two clippings are from the leading Republican paper of the State and the last from a leading Democratic paper in the heart of the woolgrowing section of eastern Oregon.

There being no objection, the matter referred to was ordered to be printed in the RECORD, as follows:

[From the Portland Oregonian, March 28, 1914.]

WOOL SALES LARGE—ACTIVE MARKET FOR NEW CLIP IN WASHINGTON—KOSHLAND HEAVY BUYER—TRANSFERS TO DATE AMOUNT TO ABOUT 1,250,000 POUNDS—PRICES RANGE FROM 12 TO 18 CENTS—NO OREGON CONTRACTING.

The most active wool market in the Northwest is in Washington, particularly in the Yakima section, where growers have been selling freely during the past week. In eastern Oregon trading is at a standstill. Buyers are anxious to contract wool, but growers are firm and holding out. Shearing in the eastern counties will not begin before the middle of April, and it is not likely there will be much doing in the way of buying before that time.

Isidore Koshland, who has just returned to this city from Yakima, where he was a heavy buyer, said:

"The only shearing in the Northwest has been in the Yakima Valley. The wool is selling as fast as shorn, and buyers are even making contracts for wool on the sheep's back where the clip is known to be good. Sales have been made at North Yakima, Kiona, Toppenish, Kennewick, Prosser, Mabton, Sunnyside, and other points.

"Altogether about 1,250,000 pounds of Washington wools have been sold to date. The prices, which ranged from 12 to 18 cents, were about the same as last year, in some instances a little more and in others a little less. The growers are well satisfied with the prices they received. The clip is by far the best for several years in point of quality, condition, and length of staple.

"There has also been some shearing along the Columbia River, but on the S. P. & S. shearing will not be general until the middle of April. One of the largest deals in Washington wool was the sale of the Hartley clip of about 125,000 pounds at Kahlotus."

Mr. Koshland, who is going back to Washington in a few days to make further purchases, has secured the following clips:

	Pounds.
H. Stanley Coffin, Kennewick	6,000
S. O. Stewart, Kiona	2,500
George Prior & Son, Kiona	9,000
George Chambers, Kiona	2,500
Hubbard & Co., Kiona	2,500
Ellis Regan, Kiona	2,500
P. Ager, Kiona	8,000
R. Rennie, Kiona	3,500
Kays Bros., Mabton	2,500
Kersey, Mabton	2,500
Coleman, Mabton	2,500
Yakima Sheep Co., Prosser	10,000
U. F. Dightman, Monte	10,000
Olney Bros., Wapato	10,000
J. Prohl, Toppenish	4,000
McGee & McGuffy, Toppenish	4,000
H. L. Jensen, Toppenish	3,500
Toppenish Live Stock Co., Toppenish	3,500
T. H. Smith, North Yakima	2,500
Mrs. Besse, North Yakima	4,500
P. Yakabe, North Yakima	3,500
Coffin Bros., North Yakima	1,500
W. M. Wilson, North Yakima	3,500
E. Butler, Sunnyside	6,000
P. Oliver, Sunnyside	2,500
Anderson & Rothrock, Sunnyside	5,000
Mercer & Roberts, Prosser	2,500

WOOL HIGHER THAN FOR MANY YEARS—IN SOME INSTANCES PRICES HAVE NOT BEEN EXCEEDED SINCE 1897.

The high prices being paid by wool contractors in parts of the West are said to be the top level since 1897, on the average. Appreciation of this may be had, according to a mail report from Boston yesterday, when it is considered that former prices were under a duty of 11 cents per pound on foreign wool. Without this protection, growers are said recently to have secured the highest prices for 17 years. In fact, the case is cited of a clip being sold this year at 17 cents upon which an offer of 14½ cents was withdrawn in 1913 at shearing time. Other bids of that year for this clip were around 12½ cents, and it ultimately was consigned to the market for selling by a dealer. An eastern wool writer says: "All this brings us back to the fact that nothing but continued firmness abroad can justify the situation. Dealers will not be able to turn over these later-bought wools except by advancing prices even beyond the recent local increases, which would bring them up against a snag in the event of any weakening in foreign wools. As it is, manufacturers are in danger of foreign competition, and must practice economy in some direction, so they will naturally hang back as far as possible from paying more for their raw material."

WOOL PRICES ARE HIGH—FIGURES EQUALED ONLY TWICE BEFORE IN 25 YEARS—TOTAL OF 500,000 POUNDS OF UMATILLA COUNTY'S CLIPS CHANGES HANDS—EVERY CLIP OFFERED IS SOLD.

PENDLETON, OREG., *May 21.*

Only twice before in 25 years has Umatilla County wool sold for prices equal to those secured by Pilot Rock growers at the public sale held in that place to-day.

This was the first public sealed-bid sale held in Oregon this year. More than 500,000 pounds changed hands. Every clip offered was sold.

The prices received ranged as much as 5¼ cents in advance of the prices paid for the same clips last year.

An unusual feature of the sale was the fact that the "fine wool" clip of the J. E. Smith Co. topped the market at 19⅝ cents. As a rule the "coarse" wool brings the higher price.

The following is the list of the growers, with the amounts sold and prices received:

Cunningham Co., 110,000 pounds, at 18 cents; Pat Doherty, 40,000 pounds (coarse), at 19 cents; Pat Doherty, 10,000 pounds (fine), at 17⅝; S. G. Jones, 18,000 pounds, at 16¾; A. P. Warner, 9,000 pounds at 17½; C. W. Matthews, 15,000 pounds, at 18½; Rugg Bros., 9,000 pounds, at 19½; K. G. Warner, 60,000 pounds, at 18⅝; A. A. Cole, 49,000 pounds, at 18⅝; Andy Rust, 28,000 pounds, at 18¾; Morgan Edwards, 12,000 pounds, at 18; Joe Pedro, 40,000 pounds, at 18½; Charles Johnson, 36,000 pounds, at 18½; J. E. Smith Co., 65,000 pounds, at 19⅝ (this is 5¼ cents higher than the price bid for this clip last year).

The Cunningham clip, the largest sold, brought 4 cents more than last year.

IMPOVERISHING THE SHEEPMEN.

At the Pilot Rock wool sale yesterday the J. E. Smith Livestock Co. sold their fine wool at 19⅝ cents per pound. The price was 5¼ cents more than the price offered for the same wool a year ago, when the high tariff law was still in effect. The price was 2½ cents higher than the price paid for the same wool in May, 1912, before the presidential election had occurred and before anyone knew the tariff would be revised.

The Cunningham Sheep & Land Co., of which company Senator J. N. Burgess is manager, sold its fine wool yesterday at 18 cents per pound. That price was 4 cents more than the price paid for the same wool a year ago and 1½ cents more than the price paid in May, 1912.

There could not be a more striking refutation of the old campaign chestnut that to remove the tariff on wool would bring ruin and poverty upon the sheepmen. Last September the tariff was absolutely removed, and the country now has free trade in wool. Yet, instead of ruin, our sheepmen get the highest prices they have had in years. The Smith Co. gets 5¼ cents more for wool than a year ago, when the tariff was in force, and the Cunningham Co. sold its fine wool at 4 cents more than the 1913 price. The wool buyers have been more

feverish to get wool this spring than for many seasons past. The sheep market is likewise stronger than in several years. In other words, the sheepmen of eastern Oregon are actually in clover, when they were led to believe they would be facing the poorhouse.

Where now are the calamity howlers? Where are the newspapers that prophesied ruin and bankruptcy for the sheepmen when Schedule K was amputated. Now is the time for them to come to the front and explain wherein our sheepmen are being impoverished by being paid 4 and 5 cents a pound more for their wool than they received when the high tariff was in force.

What has become of the earthquake?

Mr. SMOOT. Mr. President, in this connection I desire to say to the Senator from Oregon that the world price of wool to-day is about three times what it was in 1894. There is a shortage of about 240,000,000 pounds of wool in the world's production for the last year, and on account of that shortage there is a great demand for it all over the world and the prices are exceedingly high.

I simply make this statement to have it understood that if the conditions were the same in the world's wool market to-day that they were in 1894 there would be no such articles presented to the Senate. If there was a duty on wool, the woolgrower would be getting higher prices than he is getting to-day.

Mr. VARDAMAN. Mr. President——

Mr. CHAMBERLAIN. Will the Senator from Mississippi yield to me for a moment?

Mr. VARDAMAN. I will yield to the Senator for a moment.

Mr. CHAMBERLAIN. I will merely say that those conditions were not particularly called to the attention of the Senate when the tariff bill was passed, but ruin was predicted no matter what the world's condition might be, and the woolgrowers, according to the prophets of disaster, were going to be put entirely out of business throughout the West. Notwithstanding these predictions, the prices of wool in my State are higher than they have been in 25 years with the exception of 2 years in all that time.

Mr. SMOOT. Mr. President——

The PRESIDING OFFICER. Does the Senator from Mississippi yield to the Senator from Utah?

Mr. VARDAMAN. I would very much prefer that this discussion should take place after I shall have concluded.

Mr. SMOOT. I do not ask the Senator to yield.

Mr. VARDAMAN. If the Senator has anything he wants to say, I shall yield to him.

Mr. SMOOT. I do not ask the Senator to yield.

PANAMA CANAL TOLLS.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 14385) to amend section 5 of an act to provide for the opening, maintenance, protection, and operation of the Panama Canal and the sanitation of the Canal Zone, approved August 24, 1912.

Mr. VARDAMAN. Mr. President, when the Democrats met in national convention at Baltimore on the 25th day of June, 1912, every thoughtful member of that organization recognized the fact that a crisis confronted the party. The long and uninterrupted tenure of the Republican Party, with its special privileges and favoritism, had so offended the public conscience and outraged the public judgment, that a change was inevitable. But just where the dissatified voter would go, the work of this Democratic convention would largely determine. There was a feeling of unrest among the voters of the country. New leaders were springing up. Discord prevailed in the ranks of the Republican Party, and a new hive was about to be formed. The political atmosphere in the city of Baltimore was charged with the electric current of change, as it were. The delegates wore an expression of anxiety, and the gravity and importance of the situation was perceptible to the most casual observer.

In the organization of the Democratic convention a few inharmonious elements served to disturb the serenity of its proceedings, but finally the common sense of most prevailed, order came out of chaos, and turmoil gave way to proper procedure. A platform of principles was adopted which, to my mind, was the most Democratic of all documents of its character that had been proclaimed by a political party since the days of Thomas Jefferson.

At the suggestion of the former leader of the party, Hon. W. J. Bryan, the platform was not reported to the convention by the committee on resolutions until the candidate for President was selected. This unusual course was followed for the reason, as expressed by Mr. Bryan, that we did not want an issue to arise during the campaign which was to follow between the platform and the candidate nominated for President. Finally, however, the candidate for President was nominated, the platform completed—it having received the unanimous indorsement of the convention—the candidate for Vice President chosen, the convention adjourned, and the delegates returned to their respective homes full of hope, in high spirits, and the determination to win the election the following November.

We had nominated a man for President who, although of short political career and with limited experience in practical politics, enjoyed the prestige of a brilliant record as governor of his State, a scholar of rare finish, a historian of profound and accurate learning, and an orator of great force and charm, whose genius for expression fitted him for the great campaign which he was now called upon to make.

Mr. President, it seemed to me that from the moment the campaign opened victory for the Democracy was assured. Triumphantly elected, Woodrow Wilson entered the White House with the almost unanimous approval of the American people. Such unanimity of approving sentiment has rarely happened to encourage a man in the performance of the great work which President Wilson was undertaking. Then the Congress met, fresh from the people—the source of all political power in this Republic. *Do not forget that.* It was an auspicious and also an inspiring spectacle. The President's inaugural address was well worthy of the patriotism and scholarship of its author. It breathed a spirit of love of country, of lofty purpose, and indicated a comprehensive grasp of the great questions which were to engage the attention of the Congress. In pursuance of platform promises, the tariff was the first, the paramount, problem to be solved. After long and patient effort on the part of the Congress, stimulated and encouraged, sustained and assisted, by the approval and wise counsel of the Executive, that epoch-making bill in the course of time became the law. Then close upon the heels of the tariff bill followed the currency bill. This latter measure, though unique in character, with no precedent in American annals to guide the legislative body in its deliberations, a magnificent monumental measure, was constructed and put upon the statute books. It is a measure which, if wisely enforced and faithfully construed, will prove to be an almost infinite benefaction to the American people. It is a safe and sure check upon the commercial pirate and the financial bandit that haunt the great money centers of this Republic.

Up to this time the Democratic Party had fulfilled its promises. A grateful and appreciative constituency freely gave it the meed of unstinted praise and approval, and the banner of Democracy floated triumphantly upon the breeze. It had done well. Hope filled the hearts of the adherents of that party throughout the Nation, and the prospect for the future grew brighter and brighter with each succeeding day. We had kept the faith. We had shown our capacity for government. We had put to shame our traducers and slanderers who were wont to say that the Democratic Party could always be "relied upon to do the wrong thing at the right time"; that it was "deficient in constructive statesmanship," and for that reason its supremacy must necessarily be ephemeral. A part of the program had been carried out with consummate skill and fidelity. But, Mr. President, in the midst of this inspiring situation, with not a cloud as large as a man's hand upon the political horizon, when the sun of hope was at meridian height, with every Democrat in the Nation in fighting mood and the enemy disappointed, rent in warring factions and on the run, like a fire bell whose disturbing tones rend the somnolent air of night, the word went out that, in defiance of the pledges made in the Baltimore platform, in defiance of the notable speech made by the candidate on the Democratic ticket during the campaign, in spite of our boasted protestations of undeviating and unfailing loyalty to campaign promises, the President had resolved upon an entirely new policy of his own, formed without consultation with his party, and proclaimed without the consent of the people who had elected him, so far as the Panama Canal tolls question is concerned—a policy that involved a direct and complete repudiation of that part of the platform which exempts from the payment of tolls American ships engaged in coastwise trade.

Mr. President, when I first heard it suggested that the President might take this unfortunate step, I did not give it serious consideration. I could not believe it. But when I heard it from his own lips I was amazed. I was dumbfounded; I doubted the veracity of my own ears; I could not think it possible that one who had given such hearty approval to the plank in the platform which he now asked the Congress to repudiate—I could not believe that one who had spoken such scorching words of condemnation of those who failed to keep their platform promises—I could not, Mr. President, understand how the President could now ask others to do the very thing which he had so unsparingly condemned. The President gave no valid reasons for the change of front which he demanded that Congress should make. He advanced no arguments. No facts were submitted. He did not even admit his own error of judgment or give a reason for his change of heart. But with an assurance unbecoming—I use the term with great respect—of one

so learned and clothed with such rare accomplishments, he asks the Congress, a coordinate branch of the Government, to repudiate its promises, which would involve a betrayal of the voters of the country, subordinate their own judgments, and yield to his wishes on this important question, without even inquiring as to whether the things they were doing were right or wrong.

Mr. President, fidelity to platform promises has through all the years of our national life been the foundation of our party system, and the cornerstone of American political morality has been the faith which the people placed in the integrity of those who pledged, in exchange for their votes, the assurance that the promises of the party platform would be faithfully carried out. The idea of any one human being, however great in his own conceit or wise in the estimation of others, imagining that he has the power to absolve himself from such a pledge in order to substitute some theory of his own in place of it is a heresy in political religion in the United States which is now being preached and practiced by the leaders of the Democratic Party for the first time. It may be treason to the crown, but I can not approve it. I will not subscribe to such a doctrine. I regard a platform promise as a political confession of faith, and just as binding upon the servants of the people as the oath which a Senator takes when he enters this Chamber and assumes the duties of his great office. It is conceivable that contingencies may arise which would justify a violation of platform promises, but such contingencies have not arisen in this case and are not likely to arise out of the question at issue. I can not believe that any power in the world short of the people themselves has a right to absolve one from a solemn promise given to the people in exchange for their votes, cast on the strength of a definite pledge. To take any other view of this matter would render nugatory and vain all platform utterances and immunize men elected to office upon such platforms from the shame and disgrace of the crime of treachery, for which they should be punished.

Mr. President, since there is no power short of the people themselves that can absolve a President, a Representative, or a Senator from a solemn pledge given in writing or by word of mouth upon the hustings directly to them in consideration for their suffrage, I must decline to be a party to this repudiation of the Baltimore platform until I have an opportunity to consult the people, to whom I owe first allegiance, on the subject, and permit them, if they see fit, to absolve me from my promise to them.

Having been a member of the Baltimore convention and a member of the committee on platform, I think it would not be out of place for me to give my recollection of the adoption of this plank, which reads as follows:

> We favor the exemption from tolls of American ships engaged in coastwise trade passing through the Panama Canal. We also favor legislation forbidding the use of the Panama Canal by ships owned or controlled by railroad carriers engaged in transportation competitive with the canal.

As to who proposed the plank, I can not now recall. I am advised, however, that probably the distinguished Senator from New York [Mr. O'GORMAN] suggested it. In its original form railroad-owned ships were not prohibited from using the canal, as I remember, but in the discussion generally the advantages to the people which would result from prohibiting railroad-owned ships from passing through the canal and thereby destroying the healthy competition with the transcontinental railroad lines, which the free-tolls plank was intended to bring about, Mr. Bryan, who was always watchful and solicitous of the interests of the toiling masses, suggested an amendment which prohibited railroad-owned ships from passing through the canal. It was an admirable suggestion; and, like almost every other suggestion made by the distinguished citizen from Nebraska, it was promptly accepted by the committee. The purpose of this plank was manifest. Free tolls to ships engaged in coastwise trade was to lower freight rates and thereby promote the interests of the consumer. Nobody then questioned the purpose of the free-tolls plank. Nobody regarded it as a subsidy in the interest of the Shipping Trust.

Let us stop for a moment and ponder the well-selected words and clearly expressed ideas of candidate Wilson on this subject. We find this great scholar, statesman, and patriot on the 16th day of August, 1912, at Washington, N. J., pleading with an audience of farmers in behalf of the Democratic Party and in the interest of beneficent government. Mr. Wilson stood squarely on the Baltimore platform, and the most persuasive, the most meritorious plank that he could plant himself upon was the free-tolls plank in the platform: He said:

> One of the great objects in cutting that great ditch across the Isthmus of Panama is to allow farmers who are near the Atlantic to ship to the Pacific by way of the Atlantic ports; to allow all the farmers on what I may, standing here, call this part of the continent, to find an outlet at ports of the Gulf or the ports of the Atlantic seaboard, and then have coastwise steamers carry their products down around through the canal and up the Pacific coast or down the coast or down the coast of South America.
>
> Now, at present there are no ships to do that, and one of the bills pending—passed, I believe, yesterday by the Senate, as it had passed the House—provides for free tolls for American ships through that canal and prohibits any ship from passing through which is owned by any American railroad company. You see the object of that, don't you?

And then the crowd applauded. They saw it. It struck a responsive chord in the minds of the honest, patient, patriotic tillers of the soil. The earnest, patriotic candidate was telling the unvarnished truth, and the silent, long-suffering, patient multitude applauded. But that was not all that candidate Wilson said. Continuing, he gave them the reason why railroad-owned ships should not go through the canal. Listen:

> We don t want the railroads to compete with themselves, because we understand that kind of competition. We want water carriage to compete with land carriage, so as to be perfectly sure that you are going to get better rates around the canal than you would across the continent. * * *

The argument was a clincher. It was unanswerable. The speech delivered that day was seed sown upon fertile soil, and the harvest was many trustful votes. Mr. Wilson told the farmers more than that. He said further:

> Our platform is not molasses to catch flies. It means business. It means what it says. It is the utterance of earnest and honest men, who intend to do business along those lines and who are not willing to see whether they can catch votes with those promises before they determine whether they are going to act upon them or not. They know the American people are taking notice in a way which they never took notice before—
>
> Mark that—
>
> and gentlemen who talk one way and vote another are going to be retired to a very quiet and private retreat.

Weigh those words. You may have an opportunity to refer to them in the very near future.

Was anything said about subsidy to ships? Does anybody believe that candidate Wilson thought of subsidy then or cares for subsidy now? There was no intimation in that confidential heart-to-heart conversation with the farmers about this plank being put into the platform in the interest of the Shipping Trust. Mr. President, I am afraid that Senators who prate so much about subsidy are not as ingenuous as they should be. Does anybody believe that there is a Democrat in Congress who would have raised the question of subsidy if the honorable senior Senator from New York [Mr. ROOT] had not suggested repeal and the President followed suit? No; they do not. To believe that candidate Wilson thought it was a subsidy and in the interests of the Shipping Trust and gave it his indorsement in words so carefully selected and sentences so maturely formed is a reflection upon his morality and intellectual honesty, which I am sure his bitterest enemy does not approve. You can not conceive of this great scholar, this writer of books, and good books, this man familiar with the story of the rise and fall of nations and the growth and decay of civilization and empires, learned in the science of government, master of political economy, and gifted with such rare genius for expression—does anyone believe for a moment that these words were uttered without being carefully weighed and accurately measured? No; you do not. He understood what he was saying, and there was truth in what he said then, and there is as much truth in it now as there was then. It is a singular thing, I am advised, that every Democratic Senator who spoke upon this question, both in the Senate in 1912 and on the stump during the campaign, interpreted the platform just as the candidate for President had interpreted it. They approved the measure in all of its phases, "economic, ethical, and political." I voted for the free-toils plank in the platform, because I wanted to reduce the cost of living. I wanted to make it cheaper for the American people to get their goods to market. I voted for it for the reason that I am going to vote in the Senate for the rivers and harbors bill, which carries an enormous appropriation to be used in improving the navigation of the rivers, dredging the harbors, deepening the canals, and buying more canals, because I believe the Government is justified in making this great outlay, this great expenditure of money, that commerce between the States may be facilitated and transportation cheapened.

It might be proper, Mr. President, for me to state, in this connection, that as an original proposition, after consultation with my constituents, I think I should be in favor of having our ships pay the actual cost of transporting them through the canal, I am opposed to special privileges or governmental favoritism of any kind. But that is not the question involved in this controversy. A larger and more important question is involved than the mere matter of dollars and cents. The President has made the issue, and sovereignty over the canal is the question we are called upon now to determine. But I shall come to that later.

Mr. Bryan did not regard the free-tolls plank in the platform as a declaration in favor of subsidy when he moved to amend the proposition so as to prohibit railroad-owned ships from passing through the canal. He did not see then the economic heresy that now disturbs his patriotic heart. He thought that he was rendering a distinct service to the wealth-producing masses of the American people, whose devoted friend Mr. Bryan had always been.

Mr. President, as a matter of fact to pass ships engaged in coastwise trade through the canal free of tolls is not a subsidy in the sense in which that term is usually employed. It is no more a subsidy than that which the ships which ply the rivers of the United States enjoy; it is no more a subsidy than the free use of our canals and harbors, which are dug and dredged and kept in order at the expense of the United States Government. I can not help but think that the subsidy argument is an afterthought, rather an unfortunate expedient resorted to in order to justify the betrayal of a pledge. It is not complimentary to the candor, ingenuousness, and straightforward course which usually characterizes the discussion of a great question in this body.

Mr. President, the canal has cost an enormous amount of money. Before it is completed I have no doubt that quite half a billion dollars will be expended upon it. It was a stupendous undertaking. It is a marvelous achievement; the greatest piece of civil engineering the world has ever known. Somebody has very happily said that "it is the greatest liberty that man has ever taken with nature." An interoceanic canal has been the dream of the wise men for more than a hundred years. The great German poet Goethe discussed it away back in the early morning of the last century. It will not be out of place to quote his observations. He said:

> Humboldt has with a great knowledge of his subject given other points where, by making use of some streams which flow into the Gulf of Mexico, the end may be, perhaps, better attained than at Panama. All this is reserved for the future and for an enterprising spirit. So much, however, is certain, that if they succeed in cutting such a canal that ships of any burden and size can be navigated through it from the Mexican Gulf to the Pacific Ocean innumerable benefits would result to the whole human race, civilized and uncivilized. But I should wonder if the United States were to let an opportunity escape of getting such work into their own hands. It may be foreseen that this young State, with its decided predilection to the West, will, in 30 or 40 years, have occupied and peopled the large tract of land beyond the Rocky Mountains. It may furthermore be foreseen that along the whole coast of the Pacific Ocean, where nature has already formed the most capacious and secure harbors, important commercial towns will gradually arise for the furtherance of a great intercourse between China and the East Indies and the United States. In such a case it would not only be desirable but almost necessary that a more rapid communication should be maintained between the eastern and western shores of North America, both by merchant ships and men-of-war, than has hitherto been possible with the tedious, disagreeable, and expensive voyage around Cape Horn. I therefore repeat that it is absolutely indispensable for the United States to effect a passage from the Mexican Gulf to the Pacific Ocean, and I am certain that they will do it.

It will be noticed that this farsighted seer, who dipped into the future far as human eye could see, saw the vision of the world and the canal just as it would be in 1914, and he dwelt upon the importance of the canal being an American enterprise, the property of the United States. Well, it is the property of the United States. The United States expended their money for it; they furnished the genius to direct its construction; the necessary sacrifice of blood and treasure was made in order that the world might enjoy this great highway of commerce. It is practically finished; and since the work has been accomplished, as it has been accomplished, the question is now raised, Shall the builders and owners control it?

I am not going to enter upon an extended discussion of the treaty. That has been so thoroughly and completely covered by men more able than myself that any effort on my part to further illuminate the subject would be vain and unavailing. To my mind, after most careful and deliberate consideration, I have no doubt that the United States are well within their rights when they propose to exempt their ships engaged in coastwise trade from the payment of tolls. Indeed, I believe that they have the right to exempt all their ships from the payment of tolls. I agree most thoroughly with the conclusions reached by Dr. Hannis Taylor, an eminent authority on international law, a man of great learning, wide observation, and large experience. Mr. Richard Olney, the foremost lawyer of the New England bar, a diplomat of consumate skill and ability, believes that we have the right, under the treaty, to exempt our ships engaged in coastwise trade from the payment of tolls. Mr. LODGE, the senior Senator from Massachusetts, a man of ripe scholarship and erudition, of large legislative experience, and a diplomat of learning, believes that we have the right under the treaty to exempt American ships engaged in coastwise trade from the payment of tolls. Ex-President Taft, an accomplished lawyer, whose connection with this controversy gave him a coign of vantage from which he might view it in such a way as to discover the truth, believes that we have the right, under the treaty, to exempt our coastwise ships from the payment of tolls. Mr. Knox, the Secretary of State under President Taft, who directed some of the negotiations, is also a lawyer of great ability; a diplomat of training, of skill, and sound judgment; and he agrees with the distinguished gentlemen whom I have just mentioned. I could go on, Mr. President, and name a number of others of equal merit, equal learning, equal patriotism, equally altruistic in the spirit of their utterances bearing upon this question. But, notwithstanding the consentient sentiment entertained by the learned men to whom I have referred, there are men equally learned, equally patriotic, who hold different opinions, and in that way an issue has arisen. England has mildly protested that the exemption of our ships from the payment of tolls is a violation of our treaty obligations.

Mr. President, nations, like individuals, should respect the rights and opinions and pay proper attention to the demands of others. I am one of those who believe that the same code of morals should control nations in their intercourse with each other that men demand their fellows to observe in their dealings with each other. We can not ignore the opinion of our fellows, if honestly and justly entertained. A contingency has arisen which must be met, and met in the proper way. It is the duty of the President and of the Congress of the United States to protect the interest of the American people in this controversy. But in protecting the interest of the American people and upholding the rights of the American Government we should not forget that we protect ourselves best when we recognize and respect the rights of others.

The British Government evidently believes that some of the terms of the Hay-Pauncefote treaty have been violated. There are three questions involved in this controversy—the sovereignty of the United States Government over the canal, the rights of the British Government in the canal, and the binding obligation of party platform promises. The President and the Congress are to settle these questions. Can it be done to the satisfaction of all parties to the controversy? I believe it can.

We can not afford to be unjust to England. We can not afford to surrender any rights that belong to our own Government; and above and beyond all, as high as the heavens hang above the earth, we can not afford to betray the trust reposed in us by our constituents.

Mr. President, there is a psychological side to this question which must not be ignored. I know of nothing more disastrous in its consequences, more to be regretted, than for the people to lose faith in the honesty and veracity of their public servants. Now, what is the way out of the difficulty?

We are committed by treaty to the policy of settling differences of this character by diplomatic consideration, and I think we ought to exhaust every diplomatic resource, we should try every expedient within the range of diplomatic negotiations, before we consent to a settlement of the matter as has been suggested by the Chief Executive and proposed in the bill under consideration. We can not ignore the fact that there is intense and profound feeling on this question on the part of a large majority of the American people. Settlement of the matter by the passage of this bill would leave bitterness in the hearts of our people and create prejudice toward the English people, which once existed, but which the cordial relations existing between the two nations for nearly a century had well-nigh extinguished. Our first obligation is to the American people.

The party in power, as stated heretofore, must not overlook or disregard the binding force of its platform promises. We have condemned our opponents for violating party pledges. We distinctly stated in the Baltimore platform that every plank in our platform was made to be kept. The President significantly stated it was "not molasses to catch flies." I trust it will not be out of place for me to suggest that it becomes the duty of the President to see that the interests of the American people are not flies to be caught in somebody else's molasses.

I believe there is a vital principle in the maintenance of party organization. I believe the highest order of patriotism is involved in the observance of campaign promises. I know that no great question of political economy or governmental scheme was ever crystallized into law but that it had behind it a well-organized and properly disciplined political faction. I am sure that reform is impossible; I am convinced that the maintenance of our system of government is practicable only through the instrumentality of party organization.

The Democrats can not afford to be unfaithful. We can not afford to betray those who have trusted us. We must be true to every political obligation or the result will be disastrous to the party and more disastrous still to the country, because I believe that upon the success of the Democratic Party depends

the future welfare of the Nation. It is the trusted, capable guard of the Ark of the Covenant of American institutions. I have introduced an amendment which I believe furnishes the remedy, and if adopted will lead us out of this wilderness of doubt and difficulty and land us safely in the Promised land of peace with the world, with all of our platform promises redeemed and our obligations to our country and duty to England absolved.

I ask to have that amendment be inserted in my remarks. I presume the Senate is familiar with its provisions, so I will not have it read.

The VICE PRESIDENT. Without objection, that may be done.

The amendment referred to is as follows:

Amendment intended to be proposed by Mr. VARDAMAN to the bill (H. R. 14385) to amend section 5 of an act to provide for the opening, maintenance, protection, and operation of the Panama Canal and the sanitation of the Canal Zone, approved August 24, 1912, viz: Strike out all after the enacting clause and insert in lieu thereof:

"That the second sentence in section 5 of the act entitled 'An act to provide for the opening, maintenance, protection, and operation of the Panama Canal and the sanitation of the Canal Zone,' approved August 24, 1912, which reads as follows: 'No tolls shall be levied upon vessels engaged in the coastwise trade of the United States,' shall be suspended and shall not take effect as a statute of the United States until July 1, 1915, on which date it shall have full force and effect as a statute law of the United States. It is further provided that the proper authorities operating said Panama Canal, who shall, prior to said date, collect tolls levied upon vessels engaged in the coastwise trade of the United States, are hereby directed to set apart all such tolls so collected and retain the same in a separate fund until July 1, 1915. On that date, or as soon thereafter as possible, such tolls so collected shall be returned to the parties from whom they were collected, provided no contrary disposition has been made by law prior to that time.

"That so soon as practicable after the passage of this act the President of the United States is hereby authorized and directed to appoint a commission, consisting of not less than three nor more than five persons to be selected by him, for the purpose of meeting a like commission to be appointed by His Majesty the King of the United Kingdom of Great Britain and Ireland and of the British dominions beyond the seas, in a diplomatic conference, to be held at such time and place as His Britannic Majesty and the President of the United States may agree upon. The purpose of such diplomatic conference shall be to take into consideration the controversy now pending between Great Britain and the United States as to the proper construction of the Hay-Pauncefote treaty, so far as the provisions of the same involve the right of the latter to regulate by its own legislation the levying of tolls upon vessels engaged in its coastwise trade and passing through said Panama Canal. It shall be the duty of such diplomatic conference, acting in the light of the discussions that have already taken place, to seek, in an equitable and friendly spirit, some practical solution of the entire question now at issue, which will worthily round out a hundred years of peace and friendship by respecting and conserving the interests and honor of both nations. The conclusions reached by such diplomatic conference shall be reported at its close to the Governments of Great Britain and the United States by their respective commissioners; but such conclusions shall not be binding upon either Government until accepted by both, and duly ratified upon the part of the United States by the necessary and appropriate legislation.

"That the expenses and compensation of the said commissioners to be appointed to attend said diplomatic conference upon the part of the United States shall be paid out of the contingent fund of the Department of State according to law."

Mr. VARDAMAN. If my amendment shall be adopted, it will lift the controversy out of the domain of partisan politics, certainly for the present, and give us until July, 1915, to adjust matters. During that interval the people can be consulted upon the entire subject. We can ascertain whether or not the pledges given to them in the Baltimore platform and reaffirmed by the President on the hustings may be overthrown or approved, and in that way the gravest menace to the Democratic Party that has threatened it for many years can be averted by an appeal to the people themselves.

Now, what is the essence of my amendment? Let us analyze it and see just what it proposes to do.

It proposes a diplomatic conference between Great Britain and the United States. Its provisions are in perfect harmony with the cordial relationship existing between the two nations and in perfect accord with the terms of the treaty which we have entered into with Great Britain for the settlement of disputes of this character. It is happily appropriate in this centennial year of international peace.

What is a diplomatic conference? International law knows two kinds of assemblies of representatives of nations which meet in order to discuss and then dispose of pending controversies settled by treaties or less formal agreements. The assemblies to which I refer are congresses and conferences. Discussing the difference between a diplomatic congress and a diplomatic conference, Lord Beaconsfield said:

I really can not explain the difference between a congress and a conference, because I do not recognize any difference between them. There is a common idea that a congress consists of sovereigns, and a conference of plenipotentiaries; but there is no foundation for this distinction.

It may, however, be said that the term "diplomatic congress" may be applied to gatherings in which the governments' affairs are dissected and settled, while "diplomatic conference" is generally applied to gatherings in which less grave and more informal matters are discussed and disposed of.

The most important diplomatic conferences of recent years are as follows:

I quote here from the work of Dr. Hannis Taylor on International Law, and I ask permission to insert it in my remarks.

The VICE PRESIDENT. Without objection, that may be done.

The matter referred to is as follows:

The conference of St. Petersburg in 1825, which paved the way for the independence of Greece; the conference of London in 1831, which arranged the separation of the Kingdom of Belgium from Holland; the conference of Geneva in 1864, which gave direction to the first European effort to introduce greater humanity into the rules and practices of war; the conference of St. Petersburg in 1868, which resulted in a declaration prohibiting the use, on land or sea, of projectiles below a certain weight; the conference of London in 1871, which modified the treaty of Paris of 1856; the conference of Brussels of 1874, which met to discuss the laws of warfare on land; the conference of Constantinople in 1877, which vainly endeavored to obtain from the Porte guaranties for the better government of its Christian subjects; the west African conference of Berlin in 1884–85, which met to regulate the affairs of that region, including the boundaries and independence of the Kongo Free State; the marine conference of Washington in 1889, which is said to have been the first world conference ever held for purposes of quasi legislation; the conference of Brussels in 1890, which resulted in a final act for the suppression of the African slave trade; and the conference of peace at The Hague in 1899, which embodied the results of its labors in three treaties. * * *

Mr. VARDAMAN. A diplomatic conference must not be confused with a board of arbitration, because the primary purpose of the conference is to render arbitration unnecessary. The great hope which I entertain is that a body of prudent, peace-loving citizens of Great Britain and the United States may meet together now, and, after the whole subject has been thrashed out, they may find a way in which these subjects may be disposed of to the satisfaction of both Governments. If such a conference ever meets, its first effort will be to bring the negotiations back to the point it had reached in the summer of 1912, after the note of Mr. Innes, dated July 8, 1912, the British chargé d'affaires, who said that Great Britain would be satisfied if a guaranty could be given her that only bona fide coastwise trade of the United States should be exempted from the payment of tolls.

The Senate will recall the language employed by Mr. Knox in his letter of January 17, 1913. He said on this point:

No question has yet arisen within the rule of the existing arbitration treaty between the United States and Great Britain which may not have been possible to settle by diplomacy, and until then any suggestion of arbitration may be well regarded as premature.

It was Mr. Knox's contention that the entire subject was still within the domain of diplomatic negotiation, and the proposition to submit the matter to arbitration was regarded by him as premature. Until such a negotiation has exhausted all of its resources, Great Britain has no right to request a call for arbitration.

Mr. President, I think I am well within the limits of conservative truth when I say that this question never would have been brought up, it would not now be threatening the overthrow of the Democratic Party, it would not now be disturbing the country, but for the speech made by the distinguished senior Senator from New York [Mr. ROOT] on January 21, 1913. It strikes me that the Democratic Party has fallen upon evil lines, its poverty of leadership has become pathetic when it has to rely upon the distinguished senior Senator from New York [Mr. ROOT], that astute, resourceful, untiring lawyer whose professional career is distinguished by his successful defense of predatory interests and "the malefactors of great wealth," this erudite, radical exponent of the Hamiltonian theory of government. For this man to become the defender of the Democratic faith, the leader and chief counsel of the Democratic administration, and the keeper of the conscience of the Democratic organization in the matter of the tolls controversy, I repeat, Mr. President, it is unfortunate, indeed, for the Democracy that this man, remarkable, distinguished, and great in certain lines as he is, should become the leader and be followed by the adherents of the party of Jefferson and of Jackson—that party which has held sacred the rights of the people, which stands for the preservation of the Constitution, the dignity of labor, the equality of Anglo-Saxon manhood, and the sanctity of the platform promise.

Lord, God of hosts, be with us yet,
Lest we forget, lest we forget.

Think of Bryan and ROOT pulling together shoulder to shoulder for the moral, mental, and material uplift of the American people and the preservation of our national honor!

Does any Senator imagine that the repudiation of platform promises will be overlooked and forgotten by the people because the distinguished Senator from New York tells us it is the right thing for us to do? Will his eloquence and logic be soothing and

strong enough, oily and persuasive enough, convincing and overwhelming enough to justify our repudiation of our platform promise and convince our masters that in doing so we have done right? Will the cogency of the appeal of the distinguished Senator from New York so hypnotize the public mind that they will forget the excoriations which Secretary of State Bryan gave to the violators of platform promises in his remarkable address to the Pennsylvania Legislature on May 13, 1913?

An extract from that address is pertinent.

I want you to ruminate it—chew it mentally. I want you to teach it to your children until it becomes an instinct of the race. I want you to remember it, and—

> Forget it not till the crowns are crumbled
> And the swords of the kings are rent with rust;
> Forget it not till the hills lie humbled
> And the springs of the sea run dust.

Listen:

> The fact that we not only have platforms, but that the platform is becoming more specified year after year, is conclusive proof that the people believe in the Democratic theory, and they write their platforms because they believe, and those who run upon them lead the voters to believe, that they believe a platform is binding upon those who stand upon it.
>
> As a believer in the Democratic theory of representative government, I desire to announce it as a settled principle not to be questioned in this country, that a platform is binding upon every honest man who runs upon that platform. I have heard it said by men after an election that they could not conscientiously support something in their platform; and it raises a very important question whether a man should violate his conscience as a public servant, and I frankly tell you that I believe that no man should violate his conscience, either as an individual or as a public servant. Far be it from me to say that any man elected to office should as an official do a thing that his conscience condemns. But does that mean that he should violate his platform? No; it seems that his conscience should commence to work before the election and not hibernate until after the election.
>
> I lay it down as a proposition, and I am prepared to defend it anywhere, that the representative who secures office upon a platform and then holds the office and betrays the people who elected him is a criminal worse than the man who embezzles money intrusted to him.

Mr. Bryan has had something else to say about the duties of the President which it is not out of place to refer to here. In an article published in The Commoner on "The conception of the Presidency," July 18, 1908, he said:

> A President must have counselors—

I do not see how he could get along without them. If he had more counselors and advisers and fewer flatterers—O, Mr. President, I sometimes think it would be a godsend if we could print in golden letters upon the door of the White House the immortal words from Thomas à Kempis:

> Grant me prudence to avoid him that flattereth me,
> And to endure with patience him that contradicteth me.

Mr. Bryan said:

> A President must have counselors, and to make wise use of counselors he must be open to conviction. The President is committed by his platform to certain policies, and the platform is binding. * * * There ought to be cordial relations also between the President and those who occupy positions of influence in the coordinate branches of the Government, for our Government is not a one-man Government—

I expect he would take that back now. [Laughter.]

> But a government in which the chosen representatives of the people labor together to give expression to the will of the voters.

These are wise words and worthy of most careful consideration.

If a diplomatic conference shall be assembled, it can take into consideration, first, whether or not the plan of settlement contained in the note of Mr. Innes to Mr. Knox in the summer of 1912 can be worked and made practicable; second, it can take into consideration the plan of settlement suggested by the Senator from Montana [Mr. WALSH], who proposes to refer the matter to the judgment of the Supreme Court of the United States; third, it can take into consideration the plan of settlement suggested by the Senator from Iowa [Mr. CUMMINS], whereby an adjustment may be made through a proportional contribution to the expenses of the canal by the foreign countries using it. They will not be limited to the consideration of any fixed number of rules, methods, schemes, or plans. The widest latitude should be given to the discussion of all the questions bearing upon the controversy. And if all these expedients fail the conferees or commissioners can consider the plan of the Senator from Utah [Mr. SUTHERLAND] for arbitration. If that fails, then the conference may find some plan of arbitration of its own acceptable to both parties.

Mr. President, I have no doubt that if this commission, chosen by the United States and Great Britain, shall come together in the spirit in which I am sure they will come together for the settlement of this dispute in such a way as to protect to its fullest extent the right of both parties to the controversy, and at the same time allay any feeling of bitterness that may follow an adjustment, I repeat, I have no doubt in the world about the success of their undertaking.

The people of the United States do not want anything except that which is justly and unquestionably their own. I am very sure that I voice the sentiment of nine-tenths of the American people when I say that in the settlement of this controversy they would have the President and the Congress so act as to win the cordial approval of the right-thinking world. They would not have us be otherwise than generous in dealing with our opponents.

We must fulfill to the fullest measure the terms of every promise that we have made directly or impliedly as a nation. Our constituents would not have us do less, and under the terms of the commissions which we hold as the representatives of the people, executing and performing a great trust, we can not do more.

Mr. President, I do not in any way share the feeling of hostility toward the English people or the British Government which some of my fellow countrymen have manifested in this discussion. I realize that the future development and the moral and material uplift of the world would be greatly promoted by that moral alliance between the two great branches of the English-speaking peoples which has been growing and strengthening for the last hundred years. We must not do anything ourselves or permit anything to be done by others which would in any way disturb the harmony and cordial cooperation of the two countries in working out and solving the great world problems. The most scrupulous regard for the rights and prerogatives of each other must be observed. For the mere appearance of trying to drive a hard bargain or take undue advantage by either nation to this controversy will necessarily minimize the impelling influence for good.

There should be no conflict between England and America. There should be no competition between the British subject and the American citizen, except that healthy spirit of rivalry which only serves to stimulate the patriotism, quicken the energies, and sharpen the intellect in the great world's service of solving the problems, industrial and otherwise, which confront the civilization of the century.

"There is a destiny that makes us brothers;" there is a superiority which distinguishes this great branch of the human family, which makes it the "heir of all the ages in the foremost files of times." Its brain, its prowess, its all-including qualifications are but the expressions of an Infinite purpose, the infallible proof that God has selected this race to lead the nations of the world to the highest point of excellency. Through this instrumentality I confidently hope for the realization of Tennyson's dream:

> When the common sense of most shall hold a fretful realm in awe,
> And the kindly earth shall slumber, lapt in universal law.

If the pending bill, whose ultimate purpose is to acknowledge equal copartnership with Great Britain in the management and control of the Panama Canal, shall pass, I believe it will result in creating a bitterness of feeling in this country against Great Britain such as has not existed since the settlement of the *Alabama* claims.

Let those who imagine that they are friends of Great Britain pause and meditate before they take the final step. Where Great Britain has an ounce of common interest in the benefits to be derived from the pending repeal bill she has a pound of interest in preserving that great moral alliance which now unites the two great divisions of the English-speaking peoples.

I will venture to make two predictions, and I do not want to be regarded as a prophet of evil or as threatening the members of my own party. I am sure that those who differ from me are just as patriotic and as desirous of promoting the interests of the party as I am, but I think they are wrong in their judgment.

I believe, if this bill is driven through the Senate in its present form, the day the President signs it, if he does not sign the death warrant of the party it will be the warrant which will remove the party from power, I fear, for many years to come. As a consequence we will be swept from power in the House of Representatives at the November election, and then will end the power of the present administration to complete the program of reform to which we are pledged by the Baltimore convention, some parts of which we have so splendidly redeemed. Second, if this repeal bill is driven through the Senate, the day the President signs it he will sign the death warrant of that moral alliance which has so happily united the two divisions of the English-speaking peoples for many years. So soon as the American people realize that they have been deprived by the unfaithfulness of their own representatives of their right to control their own property in their own way, at the demand of a foreign power, they will turn in anger upon that power and renew a warfare which I hoped had ended forever.

Mr. President, it is a sad thing to think that misguided men should thus convert this centennial year, marking so long an epoch of peace, into the beginning of an era of unfortunate warfare, which can never end until the great wrong, now threatened, has been righted.

In this matter I stand firmly. First, as the advocate of my party, pleading with its members not to wreck its power in the hour of triumph; not to end the usefulness of an administration which has made such a brilliant beginning. The truest friends of the President are those of us who are striving to save him from a fatal mistake, which I fear will go far toward wrecking his political future. And his future welfare is so intimately linked with the future welfare of the whole country that you can not separate the two. His mistakes are the mistakes of the Nation, and whatever misfortunes may overtake him the Nation will suffer also.

I am not so much interested that certain men should hold certain offices, but I believe in the policies and principles underlying the Democratic Party. I believe its creed is the Ark of the Covenant of American institutions. I hold that fidelity to the policies and principles of the Democratic Party will give new life and vigor to the original principles and policies enunciated by the founders of the Government. As the head of the party, the President should be careful; he owes it to the country to move slowly.

In the second place, I stand here as a steadfast friend to the all-important moral alliance between the two great divisions of the English-speaking people upon which the future of civilization so largely depends. Why imperil anything so vital and important to us and the whole world without at least an effort to preserve it? Is such an effort not worth a trial? Is it not worth while for us to try the experiment of a diplomatic conference in the hope that some escape may be found without even the necessity for arbitration? If the effort fails, time for deliberation will be given, without the possible impairment of prestige, sacrifice of honor, or the loss of a single dollar.

Mr. President, I feel very deeply about this question. I feel that this moment, this occasion, is big with far-reaching consequences. I want to protect the rights of the American people. I believe the canal belongs to them; that there is no shadow upon their title to it and no limit upon their authority, so far as fixing tolls for ships flying the American flag is concerned. I want to respect the feelings and concede to England all of her rights. I want to maintain that cordial relation with the executive branch of our own Government. The President of the United States has not within this body a more devoted well-wisher than I am; but, Mr. President, I shall follow no man or body of men who carry the red flag of party infidelity, who will sanction the violation of a solemn platform promise. If there shall be doubt as to the meaning of the treaty, the only safe course that I can pursue will be to resolve that doubt in favor of the expressed will of the voters of this Republic. In the absence of instructions from the people I shall follow the torch of my own reason, stimulated, encouraged, and sustained by the one consuming desire of my soul, and that is to serve my country and my countrymen as they deserve.

To paraphrase the language of another, I am going to be true to myself and to my promise. I am going to let all my ends and aims be my country's good, and if I shall err it will be an error committed in the service of what I believe to be the truth.

Mr. President, in the final arrangement of things the sovereignty of the United States over the Panama Canal may be surrendered, the fruits of the enormous sacrifice of blood and treasure made by our people may be yielded up as the price we shall pay for sympathy and help in our international complications, and the canal dedicated to the unselfish service of the world, to be maintained and defended by the United States Government and the men and their children who gave their money and their lives to build it. But it shall not be done with my consent until I shall know the reasons why and be directed by my masters, the people, to make the servile surrender.

> The paths of Truth in every age have led men to
> Gethsemane—to mocking and a cross.
> Its sacred light hath rent the veil behind
> Which error long has been concealed; and, though
> The priests of wrong have raged and sought to bind
> With thongs the souls of men, right on the tides
> Of truth have swept; nor mobs, nor hate, nor yet
> The Cross can stay the morning of its triumph.

Mr. BRANDEGEE. Mr. President, I think there are some of us who will endeavor to bear up, if the prophecy of the Senator from Mississippi [Mr. VARDAMAN] comes true, that coincidently with the passage of this bill the Democratic Party will pass out of power. But I did not intend to devote any time to felicitating the country upon that prophecy.

The Senator from Mississippi has made the statement that this question would not have arisen had it not been for a speech made by the senior Senator from New York [Mr. ROOT] in December, 1913, as he stated. I simply desire at this time to put into the RECORD a bill introduced by Mr. SIMS, a Democratic Representative from the State of Tennessee, on the 24th day of August, 1912, which was the same day that the Panama Canal tolls bill containing this exemption was approved. The bill provided—

> That so much of the act approved August 24, 1912, which reads as follows: "No tolls shall be levied upon vessels engaged in the coastwise trade of the United States," be, and the same is hereby, repealed.

On March 9, 1914, the same Mr. SIMS introduced House bill 14385 in the House of Representatives, and it is that bill which was passed by the House and is now before the Senate.

So it seems that a distinguished Democrat in the House had something to do with the attempt to repeal the coastwise exemption.

Mr. WILLIAMS. Mr. President——

Mr. BRANDEGEE. I yield.

Mr. WILLIAMS. If the Senator will pardon an interruption, during the discussion of the tariff bill in the House the exemption was denounced over and over again as a subsidy, and a majority of the Democrats in the House voted against it.

Mr. BRANDEGEE. Ninety-one Democrats in the House voted against the exemption of coastwise vessels.

Mr. WILLIAMS. That was before there was either a Republican or a Democratic platform formed or a speech made by the Senator from New York.

Mr. BRANDEGEE. And only 71 Democrats voted in favor of the exemption.

Mr. BORAH. Mr. President, there has been a very interesting discussion of the tolls question to-day. Two able speeches have been made on opposite sides of the question, and my friend the Senator from Connecticut [Mr. BRANDEGEE] finds vast consolation in the fact that he is following the majority of the Democratic Party in the House.

I was impressed this morning with the views expressed by the Senator from North Carolina [Mr. SIMMONS]. I followed his argument with much interest, for the reason, among others, that he is supposed to speak in large measure in this matter at this time for his party, and for the further reason that he is recognized as the leader of his party in charge of this important bill.

I was particularly impressed with some of the more controlling points which he made in support of his present position. I could not repress within me the spirit of contrast, and memory insisted on getting busy with another debate and a former occasion. He referred to the fact that the ex-President, Mr. Taft, had given it as his legal opinion that we have the right under the treaty to exempt vessels engaged in the coastwise trade, but he found sufficient evidence in the views of the ex-President to warrant him in the belief that the ex-President entertained some doubts nevertheless as to that view. As I understood the argument, listening from across the Chamber, of the distinguished Senator it was to the effect that the ex-President should have resolved those doubts in favor of a charge of tolls that we might sustain and maintain national integrity and honor. I so understood the drift of his argument. In any event he made much of the discovery that the ex-President, an able lawyer, entertained a doubt.

It is very possible that the ex-President, in resolving that doubt in favor of the American Government, found some consolation in the fact that the distinguished Senator from North Carolina had with great earnestness and precision announced the same principle in the debate upon this question two years ago. Possibly he was actually following an illustrious precedent. I call attention, as prefacing my remarks, to that principle so earnestly and ably announced. It was that if there was a doubt as to whether we had the right, a reasonable and substantial doubt, that doubt should be resolved in favor of the American Government and American interests. That seems to me to be an entirely creditable position and an entirely honorable position and quite a natural position.

It is only of late months, Mr. President, that we have come to the conclusion that it is a part of national honor to resolve all doubts against our interests. That has never been a principle as between Governments heretofore. No Government in the world has ever adopted the theory or the principle, in dealing with another nation, that all doubts should be resolved against itself. No stronger advocate of the opposite principle has ever been known than the English Government itself.

Mr. President, such matters have always been presented from one standpoint by every nation; and that is, where there is a reasonable doubt, the doubt shall be resolved in favor of the

nation which is making the particular contention for the retaining of a questioned right or interest. As was said by Mr. Olney in his famous address, so often referred to, there is one principle of international law too well established to admit of discussion, and that is that where sovereign rights are involved or vital interests such as these, unless the language is so plain and unmistakable that it can not be misread or misunderstood, the doubt is resolved in favor of the sovereignty of the Government and of the challenged Government retaining its rights and interests.

But not only have we the authority of international law writers and the authority of such men as the ex-President, Mr. Taft, and the ex-Secretary of State, Mr. Olney, but we have the explicit and direct statement of the distinguished Senator himself upon this question. It will be found, under the date of August 6, 1912, that the following colloquy took place between the Senator from North Carolina [Mr. SIMMONS] and the Senator from Massachusetts [Mr. LODGE]:

Mr. SIMMONS. I understood the Senator from Massachusetts to say that in his mind there was but little doubt that the other maritime nations would pay the toll of their ships through the canal.

Mr. LODGE. Other foreign nations.

Mr. SIMMONS. That is what I mean—other foreign nations; and it would put American shipping on a great disadvantage if our vessels have to pay toll.

Mr. LODGE. Yes; unless we pay their tolls or let them go through free.

Mr. SIMMONS. In that condition of things, bringing about this discrimination against American shipping in favor of foreign shipping passing through the canal, if it were not for our treaty obligations the Senator would think that we ought to allow our vessels to go through free?

Mr. LODGE. Certainly.

Mr. SIMMONS. The Senator's second proposition, as I understood him, was that the treaty is subject to more than one construction. Under one construction we would not have the right to relieve our vessels of tolls and under another construction we would have the right to relieve our vessels of tolls.

Mr. LODGE. That is correct.

Mr. SIMMONS. Now, the proper and legitimate legal construction is a matter of doubt.

Mr. LODGE. Yes.

Mr. SIMMONS. Shall we solve that question of doubt in the interest of American commerce to relieve it of this discrimination or shall we solve it against American commerce and impose this discrimination?

Mr. LODGE. The doubt certainly ought to be solved in favor of American commerce, but the moment you solve that doubt in favor of American commerce you are obliged to go to The Hague, as is required under our treaties of arbitration.

Mr. SIMMONS. That is the question.

Mr. LODGE. In other words, we can not solve the doubt. It has to be solved elsewhere.

Mr. SIMMONS. But if there is a doubt we have to solve it here against ourselves or we have to solve it for ourselves and take the chances of The Hague tribunal.

Mr. LODGE. Certainly.

Mr. SIMMONS. The question I ask is, Does the Senator hold that we should solve that doubt as to the proper construction of the treaty against American shipping interests, or should we solve that doubt in favor of American shipping interests?

Mr. LODGE. Mr. President, I do not think that I favor making a test case, because, as I said, there is a possibility of getting but one decision from a tribunal where the judges will be furnished from nations whose interest it is to pay tolls on their own ships and force us to collect tolls from ours. There is no use in going to a tribunal constructed in that way, but, unfortunately, we are supposed to go to it under another treaty for the promotion of peace and good feeling, and if we are forced to go there we shall find ourselves in the position of having to exact tolls from our own vessels, and there will also be the imputation that we have not acted in good faith. To that I do not care to expose the country.

Mr. SIMMONS. Then the Senator would solve the doubt about this matter against American shipping?

Mr. LODGE. No; I should not.

Mr. SIMMONS. How are you going to get to The Hague?

Mr. LODGE. I should simply do as other nations. I should take the tolls and pay them or remit them as they go through, taking the tolls of the vessels at one end and handing it back at the other end, or whatever way you choose. It is what every other nation on earth will do for its vessels except ours.

Mr. SIMMONS. That solves the doubt against us, I think.

Mr. LODGE. How? It would not cost the Government a cent any more than a free vessel, but of course I understand how profound the terror is that in some way the Government of this country may help what remains of American shipping. I have not been here all these years without learning that.

Mr. SIMMONS. The Senator certainly does not understand me as desiring to do anything against American shipping. I want to solve it by letting these vessels go through free, and if that makes a case for The Hague tribunal I can not help it, so far as my vote is concerned.

Now, Mr. President, more of that material may be found in that very able presentation of the matter by the Senator two years ago, but it certainly established with his authority, backed up by the authority of the most distinguished writers upon this question, that if there is a doubt, not only then but now, that doubt should be resolved in favor of American interests and of the American Government.

Upon what theory was it essential to national honor and national integrity that the doubt was resolved in our favor two years ago and that that doubt to-day shall be resolved against us? I can imagine changes in economic conditions and in industrial conditions and the rising up of new economic principles which would justify a change of vote. I challenge no man's integrity and impeach no man's purpose by reason of his change of vote; but by what logic and upon what theory do we resolve a doubt in favor of the Government at one time and at another time against our Government?

No, Mr. President, the true rule was announced by the distinguished Senator two years ago. It is a rule which will be found embedded in common sense and in the common practice of the nations of the earth in international law and by all writers upon this subject. It is a rule reasonable, just, and honorable, founded in courage and not in cowardice. Where a valuable right or great interest of the nation is involved and the language is doubtful, the doubt is always resolved against the nation which seeks to take that right or that interest away from another nation. In this instance Great Britain is contending for a most valuable interest, a powerful advantage, upon what is at most doubtful language—language which has been construed in different ways by great writers and publicists many different times—and, as Mr. Olney says, that question alone ought to settle this proposition. Where the doubt arises, the doubt must be resolved in favor of the sovereignty of this Government. And certainly those who advocate repeal can not contend that the language is other than doubtful under this rule when the greatest minds of the age are arrayed on either side, and especially when some of the greatest minds of the age have been on both sides.

Another proposition which interested me, Mr. President, in the speech this afternoon of the Senator from North Carolina was that of the high moral impulse and purpose back of this repeal; that those who were advocating repeal were advocating it out of a sense of national honor, implying more or less disregard for national honor on the part of those who are opposed to repeal; that involved in this controversy is the question of national integrity.

Mr. President, I do not doubt that that sentiment actuates those who are advocating repeal to some extent. Some of them, perhaps, are entirely controlled by that proposition. Others see different propositions with reference to the domestic interests, and so forth; but I make no question of their good faith. But again I call attention to the fact that some of us who believe that there were selfish private interests back of this repeal have no more able advocate of that proposition than the Senator from North Carolina. Some of us who believe that this matter would have been permitted to die, to rest where it was, practically settled forever by diplomacy, had it not been for powerful private interests, have no more thorough presentation of that issue and of that proposition to console and encourage them than was presented by the Senator from North Carolina on a former occasion.

Mr. President, those conditions have not changed. Those interests are still active. They did not sleep; they did not rest; and whether the Senator is conscious of the fact or not, the picture which he drew two years ago has its application in conditions which prevail at this time.

In his speech on August 9, 1912, in discussing this particular question, the Senator said:

During the last quarter of a century the greatest problem connected with our industrial situation has been the question of preserving commercial competition, protecting the people from the monopolization of production, protecting the people from the monopolization of the distribution of the products of industry. That is the great problem with which we have struggled. It has grown, as the years have passed, more and more acute; and to-day, if I understand anything about the signs of the times, the most vital question before the American people, outside of the tariff—and the tariff naturally affiliates itself with this question—the most vital question outside of the tariff before the American people, and the one that is going to exercise the most potential and determining influence in the presidential contest in which we are now engaged, is the question, How are we to preserve the essential principle of competition in our business life?

There is the genesis of the Democratic platform at Baltimore. You were going before the electorate for the vote and for support. You were advising the people that the most vital question in American industrial life was the preservation of competition, and that you were struggling against the great transcontinental railway combine which was throttling competition, and you advised the American electorate that vital and indispensable to the settlement of that question was to open the canal free of tolls.

I take a vast amount of pride in the courageous statement just made by the Senator from Mississippi [Mr. VARDAMAN], which will live long as a declaration upon the floor of this body for its courage, its incisiveness, and its true and devoted loyalty to the first principles of democratic government. You may cast aside and taunt those who claim that we should obey party platforms in this hour, but when you get back to the American electorate they will ask you to explain, and your explanation will be, whatever your words may be, as was said by the Sen-

ator from Mississippi, that your conscience did not begin to work until after the election.

But the Senator from North Carolina says further:

Mr. President, when it was proposed to construct this canal connecting the two oceans I have no doubt the desire that we should bring the two oceans together for military purposes and for purposes of general use had much to do with it; but I think if the people had not believed that it would furnish a means by which they could escape from the grip and the oppression of the transcontinental railroads, the Isthmian Canal would never have been constructed.

Have the transcontinental railroads been destroyed? Are they out of business? Is the incentive which moves to gain and to destroy competition any less than it was two years ago? Has the economic or the industrial situation changed? If not, what can we say as to our anxious solicitude for the people that they be protected prior to the great election and our contentment that they may shift for themselves thereafter?

Who was here opposing that canal? Who for more than a score of years delayed the beginning of this great work? Was it not the same railroads that are now saying they are anxious to utilize it as a means of transportation in the interest of the people? Why were they trying to defeat it then? Was it not because they knew it would interfere with their monopoly? Why are they seeking now to get control of it? Is it not because they want to continue their monopoly?

Oh, Mr. President, the idea of a subsidy; the idea of a monopoly for coastwise shipping; a monopoly in which every single individual under the American flag may engage and have an interest; a monopoly in which every citizen may invest his money, into which he may go as a business, was not the monopoly which you presented to the electorate of this country in 1912. The monopoly and the subsidy which you said would be granted to that monopoly was the monopoly of the transcontinental railroads, combined and controlled by interlocking directorates and in absolute control of the transportation interests from the Atlantic to the Pacific. It was to revive and keep alive competition between these two powerful transportation interests that you advocated with zeal and effect free tolls two years ago—what has changed the economic situation since then?

It was to get from under the grip of that combine which some of the great journalists of the country now say is mere demagogy to call to the attention of the people; it was to get from under the control of that powerful interest that we went as a party—and the Democratic and the third party went—before the people and pledged them that this canal, which had been built at the expense of the American Treasury, should be dedicated to free competition.

Vast and uncontrollable and immeasureable must be the influence of the powers and other nations of the earth to cause not only Presidents and Cabinets and Representatives and Congress, but the whole American people, to change their position on the preservation of competition so essential to our future industrial triumphs and the common welfare of all our people.

We have built that canal at a cost of $400,000,000, a sum that staggers the imagination—the greatest engineering feat of all the ages. It is the property of the people. The question is, Shall we so safeguard and protect that property as to make it an instrument in the accomplishment of the will and purpose of the people in its construction or shall we, by indifference and carelessness, fail to do that and permit the men who fought it, the men who for so many years delayed it, to get control of it and measurably defeat one of the main purposes of its construction? Shall we do that? I hope not.

If we want to secure to the people the full measure of benefit which they have a right to expect from the construction of this great enterprise, there are two ways in which we can do it. One is to make it a free canal for American ships. The other is to exclude from it all vessels owned by competing rail lines.

It was a simple proposition, it was accomplished, it was written into the law, it was practically settled. The American people had passed upon it. Every political party had indorsed it. It was said to the American electorate that we have done a vast thing; we have driven monopoly from the canal; the railroads shall not enter with their ships; and then we have dedicated that canal to free ships. We have kept out the monopoly and we have injected a new period and a lease of life in competition. These two great interests must bid against one another for the carrying of your grain, your live stock, and your merchandise.

The railroads are behind this demand for tolls. They favor tolls, whether they are allowed to use the canal or not. The higher these tolls are made the better the railroads will like it.

Suppose you impose a toll of $2 a ton on American commerce passing through the canal. What would be the effect? Would not the transcontinental railroads make the people pay the same amount of tolls in the shape of increased rates upon every pound of freight that they haul across the continent on their rail lines? The amount of domestic tonnage through the canal will be small compared with the transcontinental tonnage, and in that proportion the tolls in the form of high rates paid these railroads will exceed those paid through the canal.

Take these tolls by the water route off, and the rail routes, unless they own the water route also, will have to that extent to come down on the rail rates. With tolls retained, and railroad-owned vessels allowed, the Treasury of the United States would take in a few dollars, but the people would have to pay on the great commerce that crosses the continent five times as much in higher rates to the railroads.

Mr. SUTHERLAND. Who is saying that?

Mr. BORAH. The Senator from North Carolina [Mr. SIMMONS].

The Government would save a few dollars and the people who make up the Government and supply it with all its funds would lose many dollars.

Mr. CHAMBERLAIN. I should like to ask the Senator from whom he has just been reading. I do not know.

Mr. BORAH. I am quoting from the distinguished Senator from North Carolina [Mr. SIMMONS].

I think, Mr. President, as was said by the Senator from Mississippi [Mr. VARDAMAN], that this is no ordinary and passing question. I am not so old that I expect to pass away before there is an opportunity for its fulfillment, so I am going to take the hazard of making a prophecy—I see my friend the Senator from Georgia shakes his head, and he doubtless remembers the statement that it is always dangerous for a public man to prophesy—that this vote here in this Congress on the repeal of this law will not settle the question. You will have to meet it before the great American electorate; you will have to meet it upon the stump; you will have to meet it before those to whom you made your pledge. It will never be settled until it is settled right and in favor of the clear rights of the American people. It will not be settled until that tribunal from whose judgment there is no appeal passes upon it; it will not be forgotten in 60 days, but on the 4th of November next it will be as fresh as it is to-day. Why? First, my friends, for the reason that whether you are right or wrong, whether you are correct in your position or not, your solemn pledge and your able speeches have all been to the contrary, and the American people will not be satisfied until this question is re-presented to them. When it is re-presented who will answer the able speech of the Senator from North Carolina [Mr. SIMMONS]? Where is the man upon that or this side of the Chamber who will confute his irrefutable argument made two years ago? Does anybody doubt that the transcontinental railroads fought the construction of the Panama Canal for 25 years; that they opposed its building, and that they were interested in the question of tolls? Did not their representatives appear here day after day? Can anyone confute the able argument of the Senator from North Carolina, or will anyone confute his other equally important statement, that where there is a doubt as to a probable right, and that doubt under that treaty right involves a matter of grave concern to the Government, every nation will decide the doubts in favor of its own interests.

Mr. SMITH of Georgia. Will the Senator allow me to ask him a question?

Mr. BORAH. Yes.

Mr. SMITH of Georgia. Does the Senator say that the representatives of these railroads appeared here from day to day demanding that freedom from tolls be repealed or that the free passage of vessels be not allowed, or was the Senator referring to their resistance years ago to the construction of the Panama Canal itself?

Mr. BORAH. I was referring to both.

Mr. SMITH of Georgia. I should like to ask the Senator to state the names of their representatives who appeared here in connection with this tolls proposition. I never heard of any of them.

Mr. BORAH. Well, Mr. President, I could, if I desired to do so, give the names of the parties to the Senator; but that they were here neither the Senator from North Carolina nor myself can doubt, and he has stated, when it was fresh in his mind, that they were here. I conversed with them. The records and hearings show their position. They have made no concealment. Did not the New Haven investigation show money expended in and about the tolls bill?

Mr. SIMMONS. Mr. President, when the Senator from Idaho has concluded, I shall make some observations; but when the Senator makes the statement that I had said that those representatives were here, he is referring to my statement made two years ago——

Mr. BORAH. Yes, sir.

Mr. SIMMONS. And not to my statement made as to their appearance before the Committee on Interoceanic Canals this year.

Mr. BORAH. Mr. President, I do not contend that the representatives of the railroads have been here this time. There was no necessity for them to come this time. The matter was being cared for through the foreign office of Great Britain.

There is, however, no doubt there is no Senator who was here at that time who does not know that the railroads opposed this proposition. They have been opposed to it from the begin-

ning, and they are opposed to it now. The situation has not changed. I do not quite understand the argument presented by the Senator from North Carolina, which ignores the conditions that he pointed out so plainly two years ago. No one in this body respects his ability more than do I, but I have found no one who undertakes to answer those particular propositions, and the Senator from North Carolina did not seek to do so this morning.

Mr. SIMMONS. Mr. President, the Senator from Idaho [Mr. BORAH] began his remarks by a reference to statements made by me in my observations submitted to the Senate this morning in respect to the attitude of ex-President Taft. The Senator entirely misconstrued what I said with reference to ex-President Taft; and putting up his misconstruction as a man of straw, he proceeded to knock him down.

In speaking of acts of ex-President Taft contemporaneous with his approval of the canal act, I referred, first, to the fact that he accompanied his approval of the act of 1912 with the suggestion that the controversy between the two Governments be submitted to arbitration, and, secondly, to the fact that in fixing by Executive proclamation the basis upon which tolls were to be paid, which was upon the basis and assumption that the coastwise trade was also to be taken as having paid tolls as indicating that President Taft had grave doubt as to our right under the treaty to pass the act of 1912. I also referred to President Taft's subsequent declaration, namely, his speech in New York in 1913, in which he declared his willingness and his eagerness, if the matter came to a point during his administration, to submit the question to arbitration. I also referred to his Ottawa speech, in which he said that exemption upon the basis of tolls payment fixed in his proclamation was tantamount to the payment of the tolls upon our coastwise vessels by the Government; and I contended that those two contemporaneous acts of the ex-President, taken together with these subsequent declarations, indicated the state of his mind with reference to the question of our right under the treaty with respect to exemption of our vessels from tolls.

I did not say that President Taft had taken the position that in construing the treaty we ought to resolve all doubts in favor of this country. On the contrary, President Taft took the position that we were complying with the treaty, because, under his Executive order and proclamation, we were actually, through Government subsidy, paying tolls upon our coastwise vessels. So, so far as the Senator's argument, based upon the theory that I had represented President Taft as contending that all doubts should be resolved in favor of the United States, the Senator from Idaho was simply putting up a man of straw and knocking him down.

Mr. President, I did say two years ago, and I have said probably many times in my life, because it is a well-established principle of legal construction and of human action, if there is a doubt about your right to do an act which you regard as being in your interest, you have a right to resolve that doubt in your own behalf. That is not only a rule of construction but it is a rule of human action. And, Mr. President, when the canal act was passed, not only myself but a great many other Senators and Members of the House of Representatives, who have since changed their position on the tolls question, entertained very grave doubt about what were our rights with respect to this question under the Hay-Pauncefote treaty, and we did feel we might resolve those doubts in behalf of the United States.

I want to say that in 1912 the committee gave comparatively little consideration to this question, and though I was a member of the committee then, as I am now, I was not present at any time during those hearings, except during the statements of two members of the Interstate Commerce Commission, because I was engaged with another matter a part of the time and was ill another part. There were extended hearings on the bill before committee, but the testimony was directed to railroad-owned ships and divorcing railroads from water transportation. The Senator from Louisiana [Mr. THORNTON], in his speech, stated a few days ago—and stated correctly—that when this question came up to a vote in committee he and I refused to vote upon it, because, as we then stated, we had not made sufficient investigation to satisfy our minds in the matter. I did entertain doubts about what was the proper course of action at that time. When that matter came before the conference committee, of which I was a member, I was still in a state of doubt about tolls exemption, but that was not the only question before the conference; there was another matter connected with this question before the conference committee, in which I was deeply interested, and about which I had no doubt. That matter was the question of separating railroads from water transportation. For years since I have been in the Senate I have tried to promote legislation to accomplish this result. That was my chief concern in connection with the action of that committee and the legislation involved. The other matter was a matter which I had not thoroughly investigated, and upon which I had no maturely formed opinion, as many other Members of Congress, who then voted for the bill and conference report and have since changed their position upon the matter, had not thoroughly investigated it.

Since that time, Mr. President, a flood of light has been shed upon this question, both with respect to the treaty and the economic aspects of it; since that time the American people have been studying it; since that time the Members of the Senate and the Members of the House, as is shown by the debates which have taken place upon this question both in the House and the Senate, as compared with the debates which took place two years ago, have been carefully studying the question.

This time we have had the most thorough investigation before the Interoceanic Canals Committee. It extended over nearly three weeks, sitting from 10 o'clock a. m. to 5 or 6 o'clock p. m. The Senator and myself are both members of that committee. I attended the hearings of the committee for nearly three weeks; I was present practically the whole time, and, in the light of the testimony that was presented to that committee, in the light of earnest personal study and the investigation I have made of this question, there is no longer in my mind a question of doubt; but to my mind it is clear that the United States has not the right to exempt its coastwise trade from the payment of tolls while exacting tolls from the vessels of other nations.

The Senator says that two years ago I discussed the question of railroad connection with this matter. Two years ago the railroads were here, as the Senator has stated, in full force. They were here chiefly, however, Mr. President, in connection with the proposition to exclude railroad-owned ships from passage through the canal and in connection with the proposition to divorce railroads from water carriers. They did incidentally, however, discuss the question of tolls, and I think the Senator was right in saying that they were opposed to the exemption of coastwise vessels from tolls, although I do not now recall the testimony of any railroad witness with respect to that question.

It is true, as the Senator says, and as I said two years ago, that the railroads have always opposed the construction of an isthmian canal, and for many years they delayed and defeated its construction. The railroads, now that it is constructed and about to be opened, regard it as a great menace to their prosperity and interests. Mr. President, it was natural that the railroads should oppose the construction of the Panama Canal. Tolls or no tolls, it is perfectly apparent to any man that the construction of the canal is going to cut enormously into the business of the railroads, but the effect of the payment of tolls upon that competition, in the light of the testimony in the hearings, will be negligible.

It did not appear to me two years ago that it would be negligble; it appeared to me two years ago that the question of tolls or no tolls might be an important factor in that competition. But, Mr. President, not only the testimony of those who appeared before the Committee on Interoceanic Canals for repeal, but the testimony of those who appeared before that committee against repeal, is replete with unanswerable evidence that the question of tolls will cut but small figure in the matter of transcontinental railroad rates and competition; that the difference between water rates by the canal and the rail rates across the continent when the canal is opened will be so tremendous that railroad competition, tolls or no tolls, will be absolutely impossible, and one of the chief witnesses against repeal before the committee was Mr. Dunn, who gave voluminous testimony containing facts and figures. The deduction from his whole testimony was that the opening of the canal, whether tolls were imposed or were not imposed, would result inevitably in diverting two-thirds—that is, two millions of their three millions of through traffic—of the transcontinental traffic now carried by the railroads to the water carriers, and that that would follow from the fact that the rate by water would be so far below that at which it was possible for the railroads to carry the freight, so infinitely below the actual cost of railroad transportation, that the railroads would simply have to go out of that business and surrender it to the ships.

Mr. BRISTOW. Mr. President——

The PRESIDING OFFICER (Mr. SUTHERLAND in the chair). Does the Senator from North Carolina yield to the Senator from Kansas?

Mr. SIMMONS. Certainly.

Mr. BRISTOW. Let me inquire of the Senator if Mr. Dunn did not testify that he was connected with certain interests

which, if tolls were not imposed, would make very large investments on the Pacific coast in the vicinity of San Francisco, amounting to something more than $50,000,000, in developing latent resources in that part of the country for the purpose of shipping the products of those resources to the eastern part of the United States, and that if tolls were imposed that investment would not be made, because the requirement of tolls would prohibit the traffic?

Mr. SIMMONS. Mr. President, I do not remember the exact statement made by Mr. Dunn with reference to the concrete proposition suggested by the Senator from Kansas, but I do recall that he stated with reference to lumber that, after the canal was opened, lumber could be carried through the canal from the Pacific coast—from Oregon, Washington, and San Francisco—to New York, using petroleum instead of coal for fuel, for $4 a ton, and that it would be absolutely impossible for the railroads to meet that rate. I remember, also, that he said that other large, bulky, and heavy articles, which would naturally seek transportation by water, would be carried by boat at a like rate, and that it would be impossible for the railroads to meet that competition. He did say, also, that, as a result of the fact that the railroads could not meet this competition, they would only retain a fraction of their transcontinental business, and that that would be made up of such character of merchandise as boats do not ordinarily carry. For that reason, he made it clear that the exemption from tolls would not operate to affect water transportation in the lines of traffic which would naturally seek water transportation, because the rates by water would be so far below—one, two, or more times less than transcontinental rates by rail—that the small amount of 60 cents or a dollar a ton, measured by weight, on the average imposed on traffic through the canal in case coastwise ships were not exempted would not affect water competition by the canal at all.

When the railroads lose to the steamboats the major part of their through traffic, of course the question arises, Will they be permitted to recoup their losses? That is a question for the Interstate Commerce Commission. That they would have an opportunity to recoup their losses is, if so permitted by that commission, beyond all dispute, because if boats carry these products, they will carry them from a coast city to a coast city, and only a small part of the merchandise so carried will be consumed in these coast cities, so that the greater part of it will have to be retransported to the interior by rail. Five hundred miles is about the average back-haul zone, and when you get beyond that back-haul zone, Mr. President, that 500 miles stretching around the coast of our country, you are confronted with a zone vastly larger, a zone stretching 2,000 miles across the continent and 1,500 miles up and down the continent, to which the coast products must be carried by rail. The question is, If the result of this loss of business by the railroads because of their inability to compete with the water carriers shall reduce the revenues of the railroads, will the railroads be permitted to recoup themselves by increased rates to the interior? Should that become necessary, that may continue as giving concerns upon the basis of reasonable profits. And that, as I have stated, is a question for the Interstate Commerce Commission to deal with.

Mr. President, in the last investigation every angle of this question was considered. That had never been done before. The investigation was as thorough and complete as it could be made. Two years ago representatives of the railroads came here, as did representatives of the shipping interests. The railroad people were then opposing, as I have said, not primarily but incidentally, the exemption of coastwise ships from the payment of tolls. This year when we had our investigations I undertake to say that neither the Senator from Idaho nor the Senator from Kansas can mention the name of a single man interested in railroads, directly or indirectly, so far as the testimony before the committee showed, who came before the committee and asked the privilege of making a statement.

Why, Mr. President, did they come two years ago and oppose tolls exemptions, and why did they fail to come this year and ask for tolls? I take it, Mr. President, it was because of the fact that the railroads in the meantime had reached the conclusion which I, and I think other members of the committee, have reached, that the difference between the cost of transportation by vessels through the canal would be so great that railroad competition in any of the subjects of traffic which ordinarily would seek transportation by water was impossible.

Mr. President, I am not troubled because of the fact that I made a speech two years ago in support of exemption from tolls for coastwise vessels, as many other Senators did who have since changed their opinion and as many Representatives did who have changed their opinion. I am not disturbed by that fact. I change my opinion whenever conditions and situations are such as to make that change reasonable and proper. I change my position upon any question whenever a more thorough investigation and study of the subject changes my real opinion about the question.

If the Senator from Idaho has any trouble in his mind about my attitude in this matter, I have made my speech to-day; I have discussed the very questions that I discussed two years ago; I have discussed them with additional light—I had little light then, I have a flood of light now—and I am perfectly willing that the speech I have made to-day upon each of these questions to which he has referred in my speech two years ago shall be taken as my answer to that speech.

Mr. CUMMINS obtained the floor.

Mr. BORAH. Mr. President, will the Senator from Iowa yield to me for just a few moments?

The PRESIDING OFFICER. Does the Senator from Iowa yield to the Senator from Idaho?

Mr. CUMMINS. I yield to the Senator from Idaho.

Mr. BORAH. I wish to say only a word. I do not wish to leave with the Senate the impression that my mind is at all troubled about the attitude of the Senator from North Carolina, nor that the Senator from North Carolina has fallen in my esteem by reason of the fact that he has changed his position. Neither did I rise for the purpose of discussing that particular feature of the situation. I rose for the purpose of calling to the attention of the country a most able presentation of this matter as we now view it by the Senator from North Carolina, which neither the Senator from North Carolina nor anyone else has undertaken to answer. The Senator's speech to-day does not answer his speech of two years ago. It does not cover the subjects that the Senator from North Carolina covered two years ago. I listened to the speech with a great deal of interest.

Mr. SIMMONS. Mr. President——

The PRESIDING OFFICER. Does the Senator from Idaho yield to the Senator from North Carolina?

Mr. BORAH. I yield.

Mr. SIMMONS. I did not read every portion of my speech, as was stated at the time. If the Senator will permit me, I will now read the part of the speech which I omitted to read, which covers the very matter to which the Senator refers.

Mr. BORAH. Mr. President, of course I could speak only of the part of the Senator's speech which I heard. I do not challenge the word of the Senator. If it is in his speech and will be printed to-morrow, I will read it; and if I conceive that his former speech has been properly answered, I shall be glad indeed to read it and reread it.

Mr. SIMMONS. I commend it to the Senator from Idaho, and I hope he may read it. In the interest of saving time I did not read it. It embraces a number of pages, however, and I passed it over, stating at the time I did so that I was both weary and somewhat indisposed, and had taken up more time than I intended to take, and I supposed the Senate would not object to my inserting it without reading. I will read it now, however, if the Senator would like to hear it.

Mr. BORAH. No; I think I shall not take up the time of the Senator to have him read it now. I assure the Senator that I shall read his speech. I either listen to his speeches or read them at all times.

Mr. President, the Senator has suggested in his reply some things which apply not to the Senator personally but generally to this discussion that I am going to ask the indulgence of the Senator from Iowa for a few moments while I make a suggestion or two. I refer to this "flood of light" which has come in these later days; this revelation, as it were. It has had its effect in some quarters. It has not reached other quarters. The prayer of sincere men is that it will permeate all parts of the earth, and after a while we all shall be able to judge of our position with the aid of that "flood of light."

What is this "flood of light," Mr. President? First, let us take the treaty. We had the treaty two years ago, and had had it since 1901. It is the same old treaty now. The language is precisely the same. The "flood of light," Mr. President, of which the Senator speaks, is not a thing which it is legitimate for the Senate to consider at all.

What has a letter of an agent of a government to do with the language of a treaty which we are called upon to ratify and which we are called upon to construe? Mr. President, you could not go into court and introduce this kind of evidence, which they say here should control, instead of the language of the treaty itself, to modify the most ordinary contract.

We did not ratify Mr. Hay's interview with some newspaper man. We did not ratify Mr. Choate's letter nor his view of the treaty. We ratified the treaty. It was our treaty. We made

it. Mr. Choate's letter or Mr. Hay's interview with this enterprising newspaper man were not before the Senate. The treaty-making power made this treaty just as it reads, and by its language we stand and within its four corners we must find all rights and all obligations.

Mr. SIMMONS. Mr. President——

The PRESIDING OFFICER. Does the Senator from Idaho yield to the Senator from North Carolina?

Mr. BORAH. I do.

Mr. SIMMONS. Does the Senator seriously contend that in the construction of a treaty we can not consider and ought not to consider the diplomatic correspondence which preceded the making of that treaty? Does the Senator seriously contend that that is not competent to aid in the correct interpretation of the treaty?

Mr. BORAH. What is the date of this interview with the newspaper man?

Mr. SIMMONS. I am not speaking about the interview with the newspaper man.

Mr. BORAH. But that is one of the things to which the Senator referred.

Mr. SIMMONS. The Senator said——

Mr. BORAH. I will get to that in a moment. What is the date of it and what possible thing has the interview of Mr. Hay with the newspaper man to do with this treaty?

Mr SIMMONS. The Senator knows perfectly well that I offered that statement of Mr. Hay to Mr. Fletcher Johnson for the purpose of meeting the argument that had been made to the effect that Mr. Hay thought the term "all nations" excluded the United States.

Mr. BORAH. Let me put a question to the Senator.

Mr. SIMMONS. That is a different proposition altogether. It is purely and simply in answer to a contention here as to what Mr. Hay thought about this matter—not expressed in the diplomatic correspondence, not contemporaneous with the execution of the treaty, but subsequent to the treaty. I understood the Senator to be asserting the proposition that the contemporary correspondence between Mr. Hay and Mr. Choate, our ambassador who participated in the negotiation of this treaty on behalf of this country, and between Mr. Choate and Mr. Hay and Lord Lansdowne and Lord Pauncefote, who participated in its negotiation on the part of Great Britain, was not competent in any court as affording any light which the Senate would care to receive and have in reaching a just and correct interpretation as to the meaning of the treaty. Do I understand the Senator as taking that view?

Mr. BORAH. Yes; I take that position. I claim that we are bound by the language of the treaty, and that some man's view of what he thought it meant is not and should not be in any sense controlling.

Mr. SIMMONS. Then, Mr. President, I do not agree with the Senator. I think it is the custom of nations to preserve carefully, as a memorial, all the diplomatic correspondence leading up to these international agreements, and to preserve it so that in case a dispute should afterwards arise as to the meaning of a treaty it may be there for the purpose of throwing light upon the meaning of the treaty and its proper interpretation.

Mr. BORAH. Mr. President, if there is such custom prevailing among the nations of the earth, I am unfamiliar with it. On the other hand, the very opposite, in my judgment, is true. When we fell back upon letters and negotiations in regard to treaty interpretations England notified us more than once that it was hardly necessary to remind our Government that a treaty was to be construed according to the language found in the treaty and not according to letters passing between the parties who negotiated the treaty. True, she has taken an opposite position, but never conceded it when against her, and I do not know of any nation that ever did.

Mr. President, that treaty was negotiated by those agents, and it was sent here to the Senate. Certain amendments were suggested, and they were finally adopted, and it was signed by these parties. That treaty was made here. Those vital and important amendments were suggested here. These agents were selected simply for the purpose of exchanging and signing the treaty, as it were; but the language which we have to construe and the language which binds us, and which alone binds us, is found in the Hay-Pauncefote treaty. This "flood of light" with reference to the interpretation of the treaty is the kind of evidence which would not be admitted in a court of justice to change the terms of a contract of any kind. But upon this outside evidence and outside views, not before the Senate or considered by it, we are now asked to yield up most vital and substantial interests of our Government and our people.

Mr. SIMMONS. Then, Mr. President, conceding, for the sake of the argument, the legal proposition of the Senator that of course in the last analysis the treaty must speak for itself, does the Senator contend that where the language of the treaty is obscure, ambiguous, or uncertain we can not look to the diplomatic negotiations in its making, with a view to resolving that doubtful and ambiguous meaning?

Mr. BORAH. I do contend that we can not do so. When the language is ambiguous, then there is occasion to open up diplomatic relations to adjust our differences; but where it is on a plain question of yielding rights, it should never be done on letters or views outside the treaty.

Mr. SIMMONS. Then the Senator and myself can not agree upon a legal proposition.

Mr. BORAH. How would the view, for instance, of Lord Pauncefote in any sense express the view of the treaty-making power of Great Britain; and how could it be said that the individual view of Mr. Hay was the view of the 96 or 90 Senators who assembled here and passed upon the treaty? The Supreme Court itself has passed upon that question, so far as concerns going back into the debates of Congress to determine the meaning of a statute, and has settled the proposition. While the language of Mr. Hay may give some consolation to those who desire to take that view, if there was any tribunal controlled by the rules of legal evidence which was to pass upon this proposition I venture to say that his language would not be accepted by that tribunal to determine the meaning of the final contract.

Mr. President, I wish to call attention now to another matter.

Mr. SIMMONS. Mr. President, I do not contend that it would be accepted in a court of justice, to use the illustration of the Senator a little while ago; but I have entirely misunderstood the principle of international law with reference to construing ambiguous phrases in a contract between nations if an international tribunal, authorized to construe and interpret it, has not the right; and it is not the habit under recognized international custom and procedure to look to things outside the treaty but which pertain to the negotiation of the treaty, especially the correspondence and notes between the representatives of the respective Governments in negotiating the treaty in dispute.

Mr. BORAH. Mr. President, suppose we take the rule the Senator has suggested, and undertake to follow it out to its legitimate and logical conclusion. Mr. Hay, we will say, has one view of what happened. The ex-President, Col. Roosevelt, has another view. David Jayne Hill has another view. It seems that this party and that party entertain different views as to what the language meant and what the treaty meant, what we were to do under the treaty, and what we had a right to do under the treaty. All these parties were interested in the negotiation. They represented the Government which was making the treaty. Having different views, would the Senator select the particular party who signed the treaty as being the sole custodian of the intent and purpose of the treaty; or would he associate with him the other parties who represented his Government, but who, under the mere forms of government, were not required to sign the treaty?

Mr. SIMMONS. Mr. President, I have stated to the Senator that it is my understanding that it is the custom of nations, in negotiating these treaties, to commit carefully to writing their negotiations. The fact is, in connection with this very treaty, when it was completed, that there is something in the correspondence which shows that the British ambassador asked that our ambassador or the Secretary of State, I do not recall which, should make a concrete statement of his understanding with reference to the meaning and intent of the treaty; and I take it that the British Government has in its files a like statement. These negotiations reduced to writing, these final statements of the negotiators filed with the State Departments of their respective Governments, are filed there for the purpose of remaining as a memorial of the facts and circumstances connected with the negotiation of the treaty, for the purpose of their use in case any future controversy should arise as to the meaning of any doubtful clause in the treaty.

If that was not so, why were we passing resolutions here in the Senate, when this matter was under consideration before the Committee on Interoceanic Canals, requiring the State Department to transmit to the Senate, for the use of this committee in the hearings before it and for the use of the Senate, all of this correspondence and all of these negotiations and every fact connected with them that was reduced to writing and on file in the department, in order that we might have them for the purpose of enabling us the better to determine the meaning of these doubtful phrases?

Mr. BORAH. As I said a moment ago, there is doubtless a vast amount of balm and consolation for one who is seeking a certain interpretation in finding some one who has written a letter, or given a supposed interview, as to what he considered

the meaning of the treaty. Let me, however, call the Senator's attention to a precedent which he will recollect. He is very familiar with the Clayton-Bulwer treaty, and, as I understand, he places much reliance upon that treaty as supporting his position.

When we executed the Clayton-Bulwer treaty, at the very time it was executed and exchanged, Mr. Bulwer handed to Mr. Clayton a note stating what he understood to be the meaning of the words "Central America," and that the words "Central America" did not include the Belize Islands or British Honduras. That note was passed to Mr. Clayton at the time the treaties were exchanged. Mr. Clayton made no reply to it immediately, but did so a few hours or days afterwards. That note, handed to Mr. Clayton, has been consistently repudiated by American diplomatists as having nothing to do with the language of the Clayton-Bulwer treaty. It was under that duplicitous and somewhat shrewd practice upon the part of Mr. Bulwer that England justified her violation of the Clayton-Bulwer treaty when she erected British Honduras into a colony in 1862; but Mr. Blaine and the American diplomatists never for a moment recognized the binding effect of Mr. Bulwer's note.

Mr. SIMMONS. The Senator certainly has not understood me to mean that we had to accept, as importing absolute verity, every statement made by the negotiators. I hope the Senator has understood me to mean that these notes and this correspondence should have no application except in case of a doubtful construction, and then they could be used only for the purpose of making clearer that uncertain construction.

Mr. BORAH. I understood the Senator exactly, and I understand him now.

Mr. SIMMONS. If the Senator will permit me to finish, however——

Mr. BORAH. Yes.

Mr. SIMMONS. I wish to say that with reference to these disputed questions concerning the second Hay-Pauncefote treaty I do not now recall that there is the slightest conflict between the American and the British negotiators at any point upon any question relating to the first clause of the third article.

Mr. BORAH. I do not think I misunderstood the Senator's contention with reference to the purpose for which the notes on the side could be used. It was to throw light upon the meaning in case there was doubt. That was precisely the situation with reference to the Clayton-Bulwer treaty. When the Clayton-Bulwer treaty was executed, or when the exchange took place, you will remember that the words "Central America" were used in the inhibition against England or the United States obtaining further possessions or territory in Central America. England claimed that Central America at that time consisted of five States, and did not include British Honduras and the Belize Islands. When the treaty was executed, or when an exchange was had, England placed her construction upon that treaty by handing us a note as to the meaning of the words "Central America," but the United States never has recognized for a moment that contention.

Again, in the Welland Canal controversy, you will recall that the English Government notified the United States that it was hardly necessary to remind the United States that the terms of the treaty, whatever they were, controlled, and that, exterior or dehors, the record evidence could have nothing to do with it.

Mr. SMITH of Georgia. Mr. President, I wish to ask the Senator if he does not think there is a substantial difference between the effect of a note written ex parte by Mr. Bulwer at the conclusion of the negotiations, giving his view of the meaning of the treaty, and answered by us, giving a different view of the treaty, and the cotemporaneous letters written pending the negotiations, as to the effect the two should have in helping us find out the real meaning of the treaty?

Mr. BORAH. Mr. President, the Senator from Georgia is a very able lawyer——

Mr. SMITH of Georgia. I am very much obliged to the Senator.

Mr. BORAH. And he has had a vast amount of experience in the practice of law. I will ask him a question. Suppose he were in court to recover upon a contract, and that contract had been the result or brought about through correspondence, through letters exchanged by the parties, but finally, after the letters had been exchanged, they signed a contract, would not the Senator contend that the contract alone controlled and that the letters were merged in the contract, and that that and that alone was the thing upon which their minds met? Now, the treaty-making power of the United States and the treaty-making power of Great Britain made a treaty, and they did not ratify any individual's views. If the treaty-making power had one view and the mere scribes and signers another, I apprehend the former should control.

Mr. SMITH of Georgia. I would, but I would make this qualification: If there was language in the contract the meaning of which was doubtful, and the letters between the parties clearly indicated not different views but concurring views as to what the language of the contract was to mean, those letters could be used to help determine an uncertain term in the contract.

The language of the contract, of course, would be conclusive; it would be the language of the contract which would control; but if the meaning of an expression in the contract was doubtful, letters passing between the parties prior to that time expressing their purpose as to what the contract was to mean and showing an agreement between them could be used to help determine the actual meaning of the contract, not, however, to vary it at all as it was finally made.

Mr. BORAH. Let me call the Senator's attention to what a dangerous precedent he would be establishing in matters of international law and the conclusion of treaties.

The Senator says that when the language of a treaty is doubtful he would go back to the letters for the purpose of ascertaining the meaning of the treaty. Then you fall back not upon your treaty for your final rights, but you really rest your rights, be they important as they may, involving national sovereignty or anything else, upon the letters which led up to the treaty.

No such rule as that has ever been established, to my knowledge, among the nations of the earth. In the first place, it would lead to too much trickery and deception, as diplomacy is carried on. In the second place, it would be too dangerous a proposition, because the Senate of the United States, for instance, is the final arbiter and judge upon the treaty; and as it interprets the language and as it ratifies the treaty we are to be bound, and not by what some discharged agent—I say "discharged" because the negotiations had ended and the service was at an end—has said in regard to it. It is the view and the understanding of the treaty-making power as the treaty is finally ratified and passed upon by the treaty-making power. We will regret the day if we establish in this controversy the precedent that upon such language as is used in this treaty we are willing to go back to letters to determine what it means and what our rights are.

Mr. THOMAS. Mr. President——

The PRESIDING OFFICER. Does the Senator from Idaho yield to the Senator from Colorado?

Mr. BORAH. I do.

Mr. THOMAS. I am very much interested in the Senator's argument, as I am in all discussions upon the floor of the Senate. I think, however, that his reference to the note which accompanied the exchange or attempted exchange of the Clayton-Bulwer treaty is not entirely analogous to the situation here.

After the Clayton-Bulwer treaty had been signed by the negotiators it was submitted to the Senate of the United States, where it was ratified by a vote of 42 to 11. That disposed of the treaty so far as the action of the Senate was concerned. It was then sent to Great Britain and was ratified by that Government. Notice was then given, under date of May 28, that the Queen's ratification would be prepared without delay. Afterwards, on June 8—and I am referring to the history of the Clayton-Bulwer treaty by Mr. Travis—Lord Palmerston directed Bulwer to make the following declaration on the exchange of ratifications:

> Her Majesty's Government do not understand the engagements of the convention as applying to Her Majesty's settlement at Honduras or its dependencies.

So it would appear that after the Senate had ratified the treaty, and after the British Government had ratified the treaty, this note, which attempted to limit its application to the part of Central America which was exclusive of Honduras, was delivered by Lord Bulwer to Mr. Clayton. It therefore would seem to be a declaration subsequent to the ratification of the treaty, and could not affect the understanding of the meaning or terms of the treaty, either at the time it was prepared or at the time it was ratified.

In that instance Mr. Clayton first concluded to make no exchange whatever of the treaty. He afterwards concluded that he had better do so, but took care to limit his acceptance of the note of Lord Bulwer by replying that the treaty was not understood "to include the British settlement in Honduras, commonly called British Honduras, as distinguished from the State of Honduras, nor the small islands in the neighborhood of that settlement which might be known as its dependencies." As a matter of course this transaction which followed the negotiation and the ratification of the treaty could not under any circumstances be permitted to either limit

or otherwise affect its application to the two contracting powers for the purposes which they sought to subserve by virtue of it. Indeed Mr. Clayton informed the British minister that no alteration in the treaty could be made without the assent of the Senate.

Mr. BORAH. Has the Senator the exact date of the Clayton-Bulwer treaty?

Mr. THOMAS. I can perhaps find it for the Senator in a moment. I am not able to turn to it immediately; but ratification preceded the exchange of the notes to which the Senator refers.

Mr. BORAH. The ratification preceded?

Mr. THOMAS. Yes.

Mr. BORAH. When did the ratification take place?

Mr. THOMAS. The ratification by the Senate?

Mr. BORAH. By the Senate and by the English authorities.

Mr. THOMAS. The English Government ratified the treaty prior to May 28, that being the date upon which notice was given that the Queen's ratification would be prepared without delay. The Senate ratified the treaty prior to that time and before it was sent to Great Britain for ratification.

Mr. BORAH. Before the final exchange took place and before the treaty was ratified by both the Governments these notes, I understand, were exchanged.

Mr. THOMAS. I think the Senator is mistaken about that.

Mr. BORAH. I feel very certain that I am not mistaken.

Mr. THOMAS. I am very sure if these notes had been exchanged prior to ratification the Senate of the United States would not have approved the treaty.

Mr. BORAH. That is precisely what one of the Senators said, that if they had known of this interpretation—President Buchanan, I think it was, said it would not have been ratified.

Mr. THOMAS. One of the Senators so stated, and that was the general temper of the American public upon the subject.

Mr. BORAH. In order that we may have the benefit of this for what it is worth, let me recall now that on the 29th of June, 1850, Sir Henry Lytton Bulwer, the British minister at Washington, handed to Mr. Clayton, the American minister, the following declaration, in writing:

> In proceeding to the exchange of ratifications of the convention signed at Washington on the 19th April, 1850, between Her Britannic Majesty and the United States of America relative to the establishment of a communication by ship canal between the Atlantic and Pacific Oceans the undersigned, Her Britannic Majesty's plenipotentiary, has received Her Majesty's instructions to declare that Her Majesty does not understand the engagements of that convention to apply to Her Majesty's settlement at Honduras or to its dependencies. Her Majesty's ratifications of the said convention is exchanged under the explicit declaration above mentioned.

The exchange took place upon the part of Great Britain under the explicit declaration that it did not apply to British Honduras. This was the English Government speaking at the time that the exchange took place.

Mr. THOMAS. But after the ratification of the treaty by both Governments.

Mr. BORAH. That might be true, but nevertheless at the time the contract is delivered by one of the parties the exchange takes place. You have this interpretation or construction put upon it.

I should like to ask the Senator from Colorado if he thinks that kind of evidence could carry with it less verity than a letter written by a minister of the United States after the exchange had taken place or by an interview a newspaper man is supposed to have had with Mr. Hay several months after?

Mr. THOMAS. No, I do not; but I do believe it carries less verity and importance than the statements which were made by those who negotiated the treaty as to what the understanding of the treaty was between the parties during negotiation and at the time of ratification.

In making this statement I am not asserting the proposition that the treaty, if otherwise framed, can be affected by the understanding between the parties at the time of its acceptance, but I do think there is a very material difference between a declaration of one of the signatory powers to a treaty as to its interpretation of that treaty made at the time of the exchange and subsequent to ratification, and statements which embody the understanding between the parties and were made during the negotiations.

Mr. BORAH. There may be a difference in what you might call the strength of the evidence as a probative fact. This same author, in discussing this proposition, referring to the note which I have just read, said:

> The ratifications were not, as this action and document implies, exchanged at this time. Their exchange took place several days later.

Then we find here this note delivered——

Mr. THOMAS. The exchange took place July 4, 1850.

Mr. BORAH. Yes. We find several days before the exchange of treaties took place the note handed by one of the negotiators to one of the other negotiators, and we find in the statement this:

> Her Majesty's ratification of the said convention is exchanged under the explicit declaration above mentioned.

That Honduras was not included in Central America.

Mr. SMITH of Georgia. Mr. President——

Mr. BORAH. I will yield in just a moment. Mr. President, there we have certainly about as strong a piece of that kind of evidence as could be had. It is certainly infinitely more conclusive, if that kind of evidence is to be binding at all, than a vast mass of evidence which has been called into existence as to the declarations of Mr. Hay and the declarations of Mr. Choate, and of this party and that party afterwards. It only shows that when we wander off into that interminable wilderness of correspondence and negotiations outside of a treaty we are at sea in a ship without a compass.

Mr. THOMAS. Mr. President——

The VICE PRESIDENT. Does the Senator from Idaho yield to the Senator from Colorado?

Mr. BORAH. I yield.

Mr. THOMAS. I merely wish to add, as bearing upon this branch of the discussion, that Mr. Bulwer consented to receive Mr. Clayton's counter declaration after considerable discussion. It was asserted by Reverdy Johnson, whose authority, of course, no one can dispute, and who conferred freely with both the negotiators, that it was distinctly understood by both Clayton and Bulwer that the declarations were of no validity in law and could not affect the treaty. I do not think there can be any question about that.

Mr. BORAH. I suppose so.

Mr. THOMAS. What does the Senator say?

Mr. BORAH. If I understand the statement of the Senator, I do not disagree with him.

Mr. THOMAS. In view of the fact that the declaration was made and these notes exchanged under circumstances verified by so high an authority as Reverdy Johnson, and in view of the additional fact that these notes were exchanged subsequent to the actual ratification of the treaty by the two Governments, but prior to the exchange of the treaty between the two officials, it certainly seems to me that it occupies a very different place from that line of testimony which goes to show the understanding of the signatory powers during the time of negotiation and acceptance of the proposed treaty.

Mr. SMITH of Georgia. I wish to ask the Senator from Idaho a question, if he will yield for a moment. Have you the date of the answer to the Bulwer letter by Mr. Clayton?

Mr. BORAH. It was July 5, 1850.

Mr. THOMAS. The exchanges were made on the 4th of July.

Mr. BORAH. Here is the memorandum.

MEMORANDUM.

DEPARTMENT OF STATE,
Washington, July 5, 1850.

That is the memorandum which Mr. Clayton made.

> The within declaration of Sir H. L. Bulwer was received by me on the 29th day of June, 1850. In reply, I wrote to him my note of the 4th July, acknowledging that I understood British Honduras was not embraced in the treaty of the 19th April last.

So his letter would seem to be dated the 4th of July. The memorandum which was made was dated on the 5th of July.

Mr. SMITH of Georgia. Was not Mr. Clayton's letter, dissenting from the view of Mr. Bulwer, delivered prior to the exchange of the treaties? I am not sure that I am accurate, but it has always been my impression that the two notes passed taking a different view of the treaty, and yet the treaties were exchanged.

Mr. BORAH. Exactly. We have now a line of this kind of evidence. The parties who represented the two nations each placed a construction upon the treaty. I understand the logical position of the Senator from Georgia and the Senator from North Carolina is that this evidence dehors the record is not good unless all the parties to the negotiation agreed exactly as to what it meant; and it is not a question of the kind of evidence, but it is a question whether or not you find a condition of affairs in which all the parties agreed as to the meaning of the treaty.

Mr. SIMMONS. Mr. President, I have not said that, but I did say that in this particular case, with reference to this particular question, there was entire accord between the negotiators, as disclosed in the correspondence.

Mr. BORAH. Suppose they had not been in accord. Suppose Mr. Hay had taken one view and Mr. Pauncefote the other. What, then, would the Senator have done with this evidence outside the record?

Mr. SIMMONS. It would not be so valuable.

Mr. SMITH of Georgia. I would suggest to the Senator if they had taken entirely opposite views as to what the language should mean before the treaty was agreed on originally, the natural consequence would have been to have stopped and written another treaty, or else each would have been so certain of his own meaning that it would have been left entirely to the treaty to determine what it meant. But neither one of the two letters would have helped at all in the construction of the treaty.

Mr. SUTHERLAND. Mr. President, I do not understand that Mr. Bulwer and Mr. Clayton differed as to the construction of the treaty. I understood that they agreed, but that Mr. Clayton said that he would neither affirm nor deny the British claims; and while saying that, speaking for himself, he understood the treaty as Mr. Bulwer did. That is my recollection of the position.

Mr. BORAH. The fact is that Mr. Clayton simply refused to put a construction upon that note. He neither affirmed nor denied what Mr. Bulwer claimed.

Mr. SUTHERLAND. But he did say, speaking for himself, that he understood it in the same way. That is as I recall it.

Mr. BORAH. Here is another incident of that transaction.

Mr. SMITH of Georgia. Has the Senator the Clayton letter?

Mr. BORAH. I have the Clayton letter, and I have another Clayton letter that I want to read. Mr. Clayton to Senator King, July 4, 1850, says:

> I am this morning writing to Sir H. L. Bulwer, and while about to decline entering the treaty at the time of exchanging ratifications, I wish to leave no room for a charge of duplicity against our Government, such as that we now pretend that Central America in the treaty includes British Honduras. I shall therefore say to him in effect that such construction was not in the contemplation of the negotiators or the Senate at the time of the confirmation.

Then Senator King writes to Mr. Clayton on the same day:

> The Senate perfectly understood that the treaty did not include British Honduras. Frankness becomes our Government, but you should be careful not to use any expression which would seem to recognize the right of England to any portion of Honduras.

Now, Mr. President, at the time this negotiation was going on and before the final exchange took place and before the final delivery was had this correspondence took place, and one of the Members of the Senate declared as to what the Senate understood, and yet no American diplomatist or Secretaries of State to whose attention this was called ever recognized that as the proper construction of the Clayton-Bulwer treaty. They always contended that the Clayton-Bulwer treaty by its language using the words "Central America" included British Honduras, and that as Stephen A. Douglas and President Buchanan and a number of them declared it was a plain violation of the Clayton-Bulwer treaty, notwithstanding this exchange of notes, when they undertook to erect British Honduras into an English colony.

Here is an instructive lesson upon this question of going out and hunting up evidence outside of the record for the purpose of determining what the plain words of a treaty mean. It does not make any difference——

Mr. SMITH of Georgia. Mr. President——

The VICE PRESIDENT. Does the Senator from Idaho yield to the Senator from Georgia?

Mr. BORAH. I yield.

Mr. SMITH of Georgia. Does the Senator mean that the Democratic representatives at that time agreed with Mr. Bulwer? They disagreed with him, did they not?

Mr. BORAH. Stephen A. Douglas disagreed with him. He belonged at that time to the men who were opposed to making the Clayton-Bulwer treaty at all. He thought it was conceding a right to the English Government which ought not to be conceded. He said it would give us a vast amount of trouble, and President Buchanan said it would in all probability involve this country in war with Great Britain. They were opposed to the treaty entirely, but nevertheless Mr. King, as I remember chairman of the Foreign Relations Committee, writes this letter:

> The Senate perfectly understood that the treaty did not include British Honduras. Frankness becomes our Government, but you should be careful not to use any expression which would seem to recognize the right of England to any portion of Honduras.

That construction placed upon this treaty by Mr. King and that note of Mr. Bulwer were discarded entirely when the question arose afterwards as to whether or not Central America did include British Honduras, and the position which the United States took was contrary to the position which is stated here, that treaty did not include British Honduras. In other words, our statesmen and diplomats repudiated the interpretation which Mr. King put upon it. They rejected the interpretation which Mr. Bulwer put upon it.

Mr. SMITH of Georgia. But did not Mr. King say that he should be careful to use no language which would include it?

Mr. BORAH. Certainly; but he says, "The Senate perfectly understood that the treaty did not include British Honduras," but he warned the Secretary of State not to furnish an affirmative evidence of title in Great Britain by admitting it.

In other words, the position was that they did not know to whom British Honduras belonged. It might be a separate independent Government down there. He simply warned him not to admit that England owned it, but he said at the same time that it was not included in this treaty. It might have been owned by Spain; it might have been an independent government. What he desired Mr. Clayton to do was not to admit the title of Great Britain; but afterwards, you remember, Great Britain contended that Central America did not include the British Honduras and we contended it did. Notwithstanding Mr. King had said, "The Senate understood at the time that it did not." Why? Because we relied upon the language of the treaty and rejected all these letters and exchange of notes and interpretations made at the time of the exchange. No, Mr. President; I repeat, as I said a while ago, this is a new doctrine, and it is the most dangerous doctrine that this country could possibly lay down with reference to the interpretation of treaties.

How shall we ever know when a treaty is ratified what our rights are if lying back in the undeveloped somewhere are letters and negotiations, and so forth, which may give it a meaning the treaty-making power did not entertain.

Does the Senate ever call before it the letters and the negotiators and put them upon the witness stand to find out what their understanding and intent were? Certainly not. We bring a treaty before us, pass upon its language, and ratify it, and doing so act upon the language which we find in the treaty; and it does not concern us at the time to know what interpretation somebody outside ourselves may put upon it.

That contention is a twin brother to the other proposition that we have lately invoked with reference to international affairs; and that is, that wherever there is a doubt we shall resolve it against ourselves; wherever we have an important right, give it up; let us have no controversy at all. If England should break away from her usual modesty and should claim something that really does not belong to her, if she should make a contention under the treaty which might be hard to sustain, let us have no controversy; let us give it up; it does not involve anything except our right over our domestic commerce; it involves a small affair like controlling our own territory; it only involves the control over a very vital strategic portion of our Government. These are small and inconsiderable and inconsequential affairs, and as England, in behalf of international brotherhood and the peace of mankind, is seeking to secure that advantage to herself and that disadvantage upon us, the new doctrine is, the new sense of national honor and national integrity is, yield our contention; it is dishonorable to stand up and argue for American rights, whether we be right or wrong—yield to the opposing Government.

Why, Mr. President, if that rule had been invoked when we made the treaty in 1783 with Great Britain, when Great Britain delayed giving up the Northwest Territory and the posts which she had established there, if the American Government had said, "Very well, you are our mother country; we will yield upon this point," a vast amount of that great territory, which is now the pride of the United States, might not now be ours.

We have been in a contention with that great Government from the hour of our birth over important treaty rights; and for the first time, in the morning of the twentieth century, we have announced the doctrine that when in her sense of right she demands a thing, we shall yield it.

Another thing, Mr. President, passing from that, the Senator from North Carolina was of the opinion that this matter was not very fully considered at the time that we had it up in 1912.

Mr. George C. Butte, a distinguished writer upon this subject, calls particular attention to that phase of the matter. He says:

> Seldom has any proposed legislation been the subject of such a thorough and general discussion in the Congress of the United States as this—

That is, the act of 1912.

> Aside from the reams in the CONGRESSIONAL RECORD of the debates upon various aspects of the proposed canal act, above all with reference to the tolls questions, several volumes covering hearings before congressional committees, reports of military, scientific, legal, and commercial experts, etc., were ordered printed and distributed among the Members. The hearings before the House committee alone cover 1,127 pages, and before the Senate committee nearly a thousand pages. During the consideration of this act the Clayton-Bulwer treaty and the Hay-Pauncefote treaty were printed in their entirety and laid upon the desks of the Members of Congress, in one document or another, nine different times. During the discussion of the tolls question, and a month before the enactment of any law, the Congress enjoyed the very exceptional benefit of having communicated to it officially

the views of the British Government as to some of the legal aspects of granting American ships free passage through the canal.

Mr. President, before we had concluded our work we were notified by Great Britain of the importance of this step and that the conditions were not satisfactory to her. The act of 1912 was passed under all sense of responsibility as to the controversy which might arise, and the campaign of 1912 was made with full knowledge of the contention of the English Government. The Baltimore convention met at the very time that this contention was being urged by the British Government. There is not, so far as the great fundamental propositions are concerned, a single new proposition or a single new situation in this controversy. We had the treaty; we had the correspondence; we had the hearings; we had the protest of Great Britain; we had everything available which we have to-day, except the opinions of a few more experts.

Mr. President, I do not challenge, of course, the reasons which actuate men in their change of position and view; it is not my purpose in this debate to do that. But I can not refrain, as a just and legitimate argument, to note that our friends who now oppose us were once with us, and, with their great abilities, argued the cause of our Government with great power and conclusiveness.

Mr. SMITH of Georgia and Mr. CUMMINS addressed the Chair.

The VICE PRESIDENT. The Senator from Georgia.

Mr. CUMMINS. A parliamentary inquiry, Mr. President. I supposed that I had the floor, and I yielded to the Senator from Idaho [Mr. BORAH] to continue a colloquy with the Senator from North Carolina [Mr. SIMMONS]. I am not anxious about the matter, of course, but I should like to know my parliamentary status.

The VICE PRESIDENT. The Chair has been here, he thinks, an hour and a half, during which time the Senator from Idaho [Mr. BORAH] has been occupying the floor. The Chair hardly thinks the Senator from Iowa can yield the floor for an hour and a half.

Mr. CUMMINS. I did not intend to do so, Mr. President, but I have no quarrel with the ruling of the Chair. I suppose that at some time I shall be able to secure recognition.

Mr. SMITH of Georgia. Mr. President, I do not desire to interfere with the wishes of the Senator from Iowa if he desires the floor at this time. I only wish, if it will not interfere with him, to make a very brief answer to the Senator from Idaho.

Mr. CUMMINS. I would vastly rather hear the voice of the Senator from Georgia than my own.

Mr. SMITH of Georgia. Mr. President, I am not surprised that the Senator from Idaho should wish to remove this treaty, when we consider its meaning, entirely away from the correspondence of our diplomatic representatives who negotiated it, from the letter of the Secretary of State to the chairman of the Committee on Foreign Relations, and from the report to the Senate upon it by the former chairman of the Committee on Foreign Relations, Mr. Davis.

I do not contend that the contemporaneous history or that the various correspondence can in any sense change the meaning of the treaty, but I do believe that it is a splendid magnifying glass to help us see the real meaning of the treaty and the real purpose of the parties to the treaty.

With reference to the correspondence of Mr. Bulwer and Mr. Clayton, to which the Senator has called attention, that occupies an entirely different position from the correspondence and the history brought to bear upon this treaty. In that case the treaty had been signed and ratified by the Senate of the United States and by the Parliament of Great Britain. The parties with the power to make the agreement had agreed. England sought, through the letter of Mr. Bulwer, to place a limited meaning upon the treaty which had already been ratified. It was not pretended that, pending the negotiations, any such meaning was suggested by either of the parties. On our side we did not agree to the view presented by Mr. Bulwer. I do not think that that letter from Mr. Bulwer, under the circumstances, would have any effect in helping to determine the meaning of the treaty.

But what is the present case? The United States for years had insisted upon the policy of equality of treatment of the vessels of subjects of Great Britain and of citizens of the United States in the waters of each of the countries. That had been our policy, and that was the demand of the United States in its dealings with foreign Governments.

When the Clayton-Bulwer treaty was made it announced fully and clearly the doctrine of equality to be extended in the waters of any canal built across Central America or the Isthmus to the subjects of Great Britain and the citizens of the United States whose vessels of commerce passed through the canal. Not only so, but across any railroad that might be built from the Atlantic to the Pacific the same equality of treatment was required. The Clayton-Bulwer treaty all the way through demanded for the citizens of each country equality of treatment in the waters of any canal or over any railroad that might be constructed connecting the Atlantic and Pacific Oceans across Central America or the Isthmus of Panama.

Here was an established policy; here was a treaty unmistakably declaring for that policy. But under the Clayton-Bulwer treaty the canal was to be constructed only under the joint promotion of the two countries.

The United States concluded that it desired to be relieved of so much of the Clayton-Bulwer treaty as gave to Great Britain a partnership in the proposed canal.

In the opening of the negotiations it was not suggested by the Secretary of State to our representative that we wished to get rid of the recognized policy of the United States to demand and concede equality of treatment to the owners of vessels and the commerce of the citizens of each of the countries in any canal that might be built across Central America or across the Isthmus.

When Mr. White first opened the negotiations in 1898 he reported to the Secretary of State that he believed Great Britain would yield us the complete direction of any canal and the status of sole promoter of the canal, and that she would only insist that we retain, in connection with such canal, the equality of treatment to the owners of vessels and to the commerce of the citizens of the two countries which was so fully required by the Clayton-Bulwer treaty.

Mr. Blaine, in his letter, declared that of course the United States stood for equality of treatment for the citizens of both countries as to their vessels and as to their commerce.

Mr. Choate later took up the negotiations, and all through the correspondence between Mr. Choate and Lord Pauncefote is the conceded proposition that equality of treatment to the citizens of the two countries as to their commerce and as to their vessels passing through the canal to be constructed was to be continued.

For the United States, in connection with this treaty, to have demanded a different status as to the canal would have been utterly contrary to its past policy, to a policy which it had advocated and for which it had pleaded for nearly a hundred years. Every letter that was exchanged indicated the purpose to continue that policy and to make the canal a public-service waterway, open alike and on equal terms to the citizens of both countries as to their commerce and as to their ships.

Mr. President, when the matter came to the Senate Mr. Davis, then chairman of the Committee on Foreign Relations, in his report to the Senate clearly disclosed the purpose on the part of the United States to make a treaty which was to maintain this established policy of the United States and to continue equality of treatment to the subjects of Great Britain and to the citizens of the United States, both as to their vessels passing through the canal and as to their commerce.

You can not read the letter from Secretary Hay to the chairman of the Committee on Foreign Relations, the late lamented Senator from Illinois, Mr. Cullom, without finding in it the clearest declaration that as to equality of treatment of the business of the citizens of the two countries, the United States maintain in the new treaty the same rule which was declared by the Clayton-Bulwer treaty; and in the short letter of the Secretary of State to the President, handing him the last treaty, although it covers only a few lines, he dwells upon the fact that we retained in this treaty the principle of neutralization contained in the eighth article of the Clayton-Bulwer treaty; and President Roosevelt, in sending the treaty to the Senate, although the letter of transmission was short, took space to declare that we retained in the treaty the principle of neutralization contained in the eighth article of the Clayton-Bulwer treaty.

What was that principle of neutralization which both the Secretary of State—although he wrote only about half a dozen lines about the treaty—deemed it important to mention, and the President, although he only wrote about half a dozen lines, deemed it important to remention? The eighth article of the Clayton-Bulwer treaty has nothing about war; the principle of neutralization to which it applies is impartiality of treatment of the subjects of Great Britain and the citizens of the United States in the use of the canal. We declare in the very opening of the treaty, in the preamble, that the principle of neutralization contained in the eighth article of the Clayton-Bulwer treaty is to remain in force under the new treaty.

Mr. WEST. And did not the late Senator Bacon try to have that provision stricken out, and did he not fail by a vote of 18 to 60?

Mr. SMITH of Georgia. I believe that is the case; but I do not intend to carry my discussion to the action of individual Senators upon the floor of the Senate. I wish simply to bring this history down to the treaty itself and to the preamble of the treaty. I do not think any outside evidence is necessary to find out what the treaty means; but if there were any doubt, unquestionably its history, in connection with the preamble, carries the broad principle of neutrality of the eighth article of the Clayton-Bulwer treaty into the Hay-Pauncefote treaty.

Mr. HITCHCOCK. Mr. President, will the Senator submit to a question?

Mr. SMITH of Georgia. Yes.

Mr. HITCHCOCK. Was it not stated in the eighth article of the Clayton-Bulwer treaty that the reason for giving equal rights to the citizens and subjects of Great Britain and those of the United States was because of the fact that those two countries were to protect the canal?

Mr. SMITH of Georgia. No; I do not think that language is used as the Senator uses it.

Mr. HITCHCOCK. I call the attention of the Senator to the last six or eight lines of the article, and ask him whether it can be properly claimed under that article that the citizens or subjects of any country were to be entitled to the same treatment as the citizens of the United States, except those of a country giving protection to the canal?

Mr. SMITH of Georgia. I think the latter suggestion of the Senator is correct—that the eighth article provided that the equality of treatment was to be extended—

on like terms to the citizens and subjects of every other State which is willing to grant thereto such protection as the United States and Great Britain engage to afford.

Mr. SIMMONS. Mr. President, if the Senator please——

Mr. SMITH of Georgia. I would rather not be interrupted just now. I wish to answer the Senator from Nebraska.

The principle of neutralization contained in that treaty, however, was equality of treatment to the citizens and subjects of Great Britain and the United States in the use of the canal. The reason for it in article 8, the Senator may contend, certainly, so far as other countries were concerned, was the extension to the canal of the same protection by the other countries. Now, it is true that under the Clayton-Bulwer treaty both the United States and Great Britain were to extend protection to the canal; but the equality of treatment which is the principle of neutralization was equality of treatment to the citizens of Great Britain and the citizens of the United States using the canal, both as to their commerce and as to their vessels.

Mr. HITCHCOCK. Now, will the Senator answer this question: Suppose that partnership had been carried out, and Great Britain and the United States had jointly constructed the canal, and the citizens and subjects of the two countries had been given the use of the canal upon equal terms, would not the two countries have been perfectly at liberty to charge to the citizens and subjects of other countries higher tolls?

Mr. SMITH of Georgia. Yes.

Mr. HITCHCOCK. Then, if Great Britain withdrew from that partnership and ceased to give her protection to the canal, would she not be in the same position as the other countries?

Mr. SMITH of Georgia. Not under the terms of this treaty that we have made, because under its terms she agreed to withdraw and leave the sole protection to the United States, provided we would retain the principle of neutralization; and that principle of neutralization was equality of treatment to her citizens and to our citizens.

Mr. HITCHCOCK. The Clayton-Bulwer treaty provided for neutralization, and the condition of neutralization would have existed even though the citizens and subjects of the United States and those of Great Britain had lower tolls than the citizens and subjects of other countries.

Mr. SMITH of Georgia. That is true.

Mr. HITCHCOCK. There would have been neutralization just the same.

Mr. SMITH of Georgia. No; the only neutralization contained in article 8 is equality of treatment of the subjects of Great Britain and of the United States in the use of the canal. Under the Clayton-Bulwer treaty it is true that both were to extend their protection to the canal. Now, Great Britain agreed at the instance of the United States that she would retire from her right to exercise protection, but she said: "Although I retire at your request, I do so upon condition that you will retain the principle of neutralization contained in article 8, which is equality of treatment of the vessels of citizens of Great Britain and of the citizens of the United States in the use of the canal."

That is all that is left in article 8. We made an agreement with Great Britain at our instance by which the part of article 8 which required Great Britain to exercise part of the protection should cease. We asked Great Britain to abandon that right, that voice in the control of the canal. We requested that all the feature to which the Senator refers should be removed. Great Britain conceded to our request upon condition that the principle of neutralization should not cease; and that principle of neutralization is equality of treatment of the citizens of the two countries in using the canal as to their vessels and as to their commerce.

So, Mr. President, at the very outset of this treaty we refer back to our past history and we begin with the declaration that there shall be equality of treatment to the citizens of the two countries in the use of the canal.

The next proposition in the treaty is the declaration that "the basis of the neutralization of such ship canal" shall be according to "the following rules, substantially as embodied in the convention of Constantinople" as to the Suez Canal.

Nobody disputes the proposition that as to the Suez Canal the commerce of the citizens of all countries goes through on the basis of equality.

I do not desire to continue this discussion further. I only wish to go far enough to show that if we invoke the cotemporaneous history and invoke the correspondence we find it is all in perfect harmony with the construction which we put upon the treaty, namely, that it does declare for equality of treatment to the owners of the vessels and of the commerce of the citizens and subjects of the two countries passing through the canal.

I do not desire to refer to the part of the argument of the Senator from Idaho [Mr. BORAH] which has reference to the construction that should be put upon a treaty where there is doubt, namely, as some contend, that we should resolve that doubt against ourselves, or, as others contend, that we should resolve it in favor of ourselves. I think the sound rule is that we should honestly seek to find out just what we did agree to do, and then live up to it.

In case of doubt, if I thought it was important to my Government, and I really seriously doubted what agreement it had made, I might favor, not legislative action seeking to resolve that doubt, but some reference of the question to an impartial arbitration by which it could be resolved. I do not agree to the view that in every instance we ought to resolve a question of doubt against our own Government. I should not be willing to do it myself. If we had made an agreement—and I did not think the agreement required us to do something that another country insisted we were required to do, and I thought doing that thing would injure our own country—I should be disposed, if I fairly reached the conclusion that we had a right that was being denied, to stand up for it and fight over it.

My own view as to this treaty is that in it we have simply agreed to what we have always stood for; in it we have simply agreed to what we stand for if we had no treaty and to what we ought to stand for if we had no treaty. If we had no treaty, I believe the traditional policy of the United States would be to charge the same rates to all commerce that passed through the canal, and I believe that policy wise and right.

If there were not any treaty, I should be in favor of making these vessels pay their part of the expense. If we reach a point where we determine that it is the wise policy of the United States to contribute something to our merchant marine, in some way to help it, I am in favor of doing it openly and above board, and plainly declaring we are doing it. If we believe we ought to give something to vessels that fly the American flag, I think the way to do it is by direct legislation and not by indirection.

Mr. BRANDEGEE. Mr. President——

The VICE PRESIDENT. Does the Senator from Georgia yield to the Senator from Connecticut?

Mr. SMITH of Georgia. I do.

Mr. BRANDEGEE. If the Senator were going to confer any favor upon vessels that fly the American flag in the coastwise trade he would confer it upon the whole trade, would he not?

Mr. SMITH of Georgia. I would rather confer it upon the vessels engaged in foreign trade than upon the coastwise vessels.

Mr. BRANDEGEE. But if the Senator were going to confer it upon the coastwise trade he would not limit it to the part which went on a certain course, would he?

Mr. SMITH of Georgia. Not at all; and with reference to the suggestion that has been made several times, that other countries could give their vessels the tolls they pay, and that the construction we take would preclude the United States from doing so, I do not think that view is sound. Under my construction of the treaty we could not give back exactly the tolls, and I do not believe any other country could give its vessels just the amount of the tolls because they went through the canal.

I do not believe Great Britain could do so without violating the terms of the treaty. Great Britain, however, may have a general policy of helping the vessels that fly the British flag and contributing toward them whether they pass through the Panama Canal or whether they pass through the Suez Canal or whether they sail without passing through any canal.

I think the United States is in no sense prevented by this treaty from giving a subsidy in any way it sees fit toward vessels that fly the American flag, provided the effort is not made simply to give it to vessels passing through the Panama Canal for the purpose of returning the tolls which they pay.

If there were no treaty, I should be thoroughly against such a plan. I think the vessels that go through the canal have already received a substantial contribution to their business through the fact that the canal has been built. I think they already will save something like two to three dollars per cargo ton by reason of the canal, even though they pay the tolls.

If we are to embark on the policy of subsidy to American vessels, at present I suppose I would be precluded from voting for a subsidy to any kind of vessel; but if we are to do it—and I am not sure that the time may not come when we will—the vessels that, above all others, I should wish to see fostered are those that are not engaged in the coastwise trade, because the coastwise vessels already have so much help through our laws which exclude the vessels of foreign countries from competing with them.

I admit a great desire to see the Stars and Stripes float all around South America. I wish to see our vessels floating in the waters of all countries. I wish to see them sail from New York to every harbor down on the eastern coast of South America, without reference to the canal. I wish to see them sail from San Francisco to all parts of the western coast of South America, and also to other foreign waters. When the time comes, if it does come, that Congress determines to do something, I think it ought to do it directly and squarely, and where the help is most needed, and in a way most beneficial to the entire country——

Mr. BORAH. Mr. President, I do not know whether the Senator from Indiana desires to continue this discussion or not. I thought he indicated that he might move for an adjournment.

Mr. KERN. I desire to take a vote on this bill.

Mr. SMITH of Michigan. To-night?

Mr. SMITH of Georgia. Just as soon as possible.

Mr. BORAH. Mr. President, I wish to say just a few words before the vote. [Laughter.]

I was surprised to hear the Senator from Georgia say that we do not need any outside evidence whatever to determine the meaning of this treaty.

Mr. SMITH of Georgia. That was not exactly my language. I said that I had no doubt as to its meaning without the outside evidence. Was not that what I said?

Mr. BORAH. I took it down, but I may have been in error. I understood the Senator to say what I have just stated. I do not think, however, there is very much difference between the two propositions. As I understood the Senator's statement it was that he had no trouble in arriving at the meaning of this treaty upon the face of the treaty itself and that outside evidence was not necessary for him to satisfy himself as to its true meaning. I think that is a fair statement of what the Senator said.

Mr. SMITH of Georgia. That is substantially what I said.

Mr. BORAH. I understood the Senator also to say that if we had no treaty he would be in favor of doing precisely what we are going to do under the treaty.

Those two propositions, to my mind, rather shut off the "flood of light" which is supposed to have come to us since the last session. We had the treaty before us at the former session, and certainly we had before us the policy as to whether or not we should under any circumstances, regardless of treaty, give our coastwise vessels passageway through the canal without cost. Those propositions were just as clearly before us at the former session as they are now.

The Senator also called attention to the fact that Mr. Davis's report as chairman of the Committee on Foreign Relations very clearly disclosed the purpose, the intent, and understanding of those who made the treaty, and it was to the effect that our treaty excluded us from freedom in the canal unless we extended the same freedom to all other nations; in other words, his contention being that Mr. Davis's report clearly established that all nations included the United States as well as the other nations of the earth.

The Senator also referred to the letter of Secretary Hay to the chairman of the Foreign Relations Committee transmitting the treaty the last time to the Foreign Relations Committee, in which he stated what he understood to be the meaning of the treaty, and the Senator was of the opinion that that letter was very clear in indicating the purport and meaning of the treaty.

The Senator also called attention to the letter of Secretary Hay to the President, in which he called attention to the terms and purport of the last treaty, and he called attention to President Roosevelt's letter of transmittal of the treaty to the Senate.

Now, Mr. President, all those documents were before us in 1912. We had the treaty——

Mr. BRANDEGEE. Was the letter from the Secretary of State, Mr. Hay, to Mr. Cullom before us?

Mr. BORAH. If it was not actually in print before us it was available.

Mr. BRANDEGEE. There has been a communication from the Department of State to us saying that it had just been taken out of the private locker of the estate of the late Secretary, and it was furnished by his wife.

Mr. BORAH. That shows how important it is to have it before us now, and remarkable is this rule which we have come to accept that we will be guided in our interpretation or construction of a treaty by a letter which was not before us when we ratified the treaty.

Mr. BRANDEGEE. I agree with the Senator.

Mr. BORAH. That kind of testimony, which was locked up and unknown to the ratifiers of the treaty, is to be taken into evidence when we come to construe the treaty.

Mr. BRANDEGEE. No; it was sent to the chairman of the committee that reported the treaty. It was a letterpress copy. It was directed to Senator Cullom, the chairman of the Committee on Foreign Relations.

Mr. BORAH. Was it before us two years ago?

Mr. BRANDEGEE. I think not. As I said, it was just sent in by the Secretary of State in answer to a Senate resolution, with a statement, which I put into the RECORD, describing how he came by it.

Mr. BORAH. Did the Senate have before it the letter to which the Senator is referring at the time it ratified the treaty?

Mr. BRANDEGEE. The Committee on Foreign Relations had it. It was addressed to its chairman, Senator Cullom.

Mr. BORAH. Then do I understand it has been available to the Senate at all times since?

Mr. BRANDEGEE. I do not think so. I inquired of the committee, and it was not on file with the committee. Whether Senator Cullom read it to the Senate in executive session or not, of course I have no means of knowing. Nothing is preserved of the proceedings of the executive session.

Mr. BORAH. Then I understand that a letter which was not before us at the time the treaty was ratified is now before us, and that it is one of the pieces of evidence which has to do with the interpretation of the treaty at this time.

Mr. BRANDEGEE. It is one of the pieces of evidence the Senator mentions as having been before the Senate in 1912. I simply wanted to show what my understanding of the situation was.

Mr. BORAH. I do not understand that the Senator from Connecticut lays any stress upon that letter as to the interpretation of the treaty.

Mr. BRANDEGEE. I lay considerable stress upon it; so much so that I put it into the RECORD, because it is a statement from the man who authorized the negotiation of the treaty, and the same man who afterwards negotiated and signed the treaty with Panama in which the Hay-Pauncefote treaty is referred to.

Mr. BORAH. And in which he exercised the right to grant exemption from tolls to Panama.

Mr. BRANDEGEE. In which he said that the canal should be open and operated in all respects under the terms provided in section 1 of article 3 of the Hay-Pauncefote treaty, which he had also drawn.

Mr. BORAH. Then I get the position of the Senator from Connecticut that, as a lawyer, he thinks in the interpretation of a treaty we must take into consideration at this time a letter interpreting it which the treaty-making power, the ratifying power, had no knowledge of at the time the treaty was ratified; that is, the Senate as a whole as distinguished from its committee.

Mr. BRANDEGEE. The Senator will allow me to state my own position. I take into consideration, and I think it is proper to take into consideration for what it is worth, the view of the gentleman who drew the treaty, as I think it is evidential of what he thought about it. Whether the letter was brought to the attention of the Senate which ratified the treaty of which the Senator is speaking, I have no means of knowing.

Mr. BORAH. Does not the Senator from Connecticut think that his conception of what the language found in the treaty means is quite as good as that of the man who wrote the letter,

in view of the fact that the Senator was one who had to pass upon the treaty and ratify or reject it?

Mr. BRANDEGEE. The intention of the gentleman who drew the treaty and conducted the very able correspondence, which is also published, with the party who signed the treaty in behalf of the other high contracting party is of some weight with me in deciding what the Government officials of this country thought they were doing at the time, and what they intended to do.

Mr. BORAH. I understand, then, the Senator from Connecticut, long prior to the time this valuable piece of evidence came into existence, had made up his mind as to what the treaty meant.

Mr. BRANDEGEE. Great minds move in the same channel, Mr. President. The Senator is quite correct. I had also made up my mind upon that question, though not so firmly as it exists at present, because I regard nearly every argument made on both sides of this question as having fortified me in my original opinion. But I also think it is a grossly inexcusable economic policy to grant this privilege to a specially permitted class of vessels, and I have always thought so. On that reason alone I would vote to repeal the exemption, if no question of the treaty was involved.

Mr. BORAH. I understand the Senator, then, is not controlled alone by the treaty, but he is opposed to this exemption as an economic proposition?

Mr. BRANDEGEE. Absolutely and ab initio.

Mr. SMITH of Michigan. Right or wrong?

Mr. BRANDEGEE. I will not say right or wrong, but always right.

Mr. GALLINGER. Mr. President, the Senator says that his opinion has been strengthened by speeches on both sides. I hope I did not strengthen the Senator's opinion in the discussion I indulged in on that point.

Mr. BRANDEGEE. I exempt the Senator, because I did not have the pleasure of listening to all of his very able discussion of the question.

Mr. GALLINGER. I will supply the Senator with a copy of my speech if he will promise to read it.

Mr. BRANDEGEE. As between Senators I do not wish to make any invidious distinction.

Mr. BORAH. Mr. President, I rose to call attention to the fact that it was evident the Senator from Georgia made his interpretation of this treaty upon facts which were available two years ago and that there has been nothing new to the Senator from Georgia; that his interpretation was founded at first upon the face of the treaty, and, secondly, upon the testimony with the available outside facts which were then in our possession?

Mr. SMITH of Georgia. Is the Senator asking me a question?

Mr. BORAH. No; I was simply speaking with an interrogation point at the end of my remarks.

Mr. SMITH of Georgia. Then I will not interrupt the Senator, but when he finishes I will show him that there have been a number of matters brought to my attention since two years ago that have helped me to form my present opinion of the treaty.

Mr. BORAH. Mr. President, how could anything help the Senator to arrive at a conclusion as to the meaning of the treaty when the Senator says that the treaty itself is plain enough upon its face as to what it means, so far as he is concerned?

Mr. SMITH of Georgia. Does the Senator ask that as a question?

Mr. BORAH. Yes; I ask that as a question.

Mr. SMITH of Georgia. I will answer that, so far as the general terms of the treaty are concerned, I think the language is perfectly clear, and the view I now have I formed two years ago. At that time I was inclined to the opinion that we could let our coastwise vessels go through free, but that it would probably also require us to let the vessels of the Dominion of Canada go through free, and I so stated on the floor of the Senate. At that time also I had not observed the fact that the treaty went beyond the owners of vessels and equality of treatment to be extended to the owners of vessels and went to the commerce of the two countries. I have read with a great deal of interest the message of President Cleveland and the message of President Harrison and the debate in the House upon the Welland Canal treaty, the act passed by Congress authorizing President Harrison to retaliate in the Welland Canal matter; and my attention has been called to the fact that the treaty extends to the commerce of the citizens of the two countries as well as to the owners of the vessels of the two countries. That had not occurred to me when the subject was up for discussion two years ago.

It is upon that line especially that I have obtained additional information within the past two years, and in one sense I have modified my construction of the treaty as presented at that time. At that time I was disposed to believe that it only applied to the owners of vessels of the two countries, and I thought that would extend to the owners of vessels of the Dominion of Canada, and I so stated. But now I believe that it extends to the commerce of the citizens of the two countries, accepting the view taken by President Cleveland and President Harrison and by Congress with reference to the Welland Canal.

Mr. BORAH. Mr. President, the Senator referred to the debates two years ago, and I therefore call attention——

Mr. SMITH of Georgia. Yes; Mr. President, it is perfectly evident the Senator was preparing to call attention to them, and as he asked the question I answered him in advance, instead of waiting until he finished and answering him when he closed.

Mr. BORAH. I am very glad to have the Senator explain his views before I call attention to them, and I call attention to them with no desire other than to arrive at what really controlled the Senator in making up his mind upon this question.

I think we may justly insist—

Says the Senator—

I doubt whether it would be successfully controverted—that, so far as our coastwise vessels are concerned, this treaty does not apply to them.

The Senator at that time, as I understand him, had made up his mind by reason of the facts which were before him, to wit, the treaty and the correspondence which he referred to in his last remarks to-day, all of which were in existence at that time, to the effect that the coastwise vessels were not included under the treaty.

Indeed, in the communication from the Attorney General embodying the views brought to our attention by Great Britain, it is stated that upon that subject, with proper regulations, it is probable that no question by Great Britain would be made.

I think that is true. I think that Great Britain has really never made any serious contention as to the coastwise trade. I think when you construe the letter of Mr. Innes together with the letter of Earl Grey, you will find that, taken together, there can not be evolved from them a distinct objection to the coastwise trade; at least, they were not willing to put it beyond the power of diplomacy to settle. I think this question of exempting the coastwise trade is a thing which we have urged and accentuated here at home far more than it has been urged abroad. It is an evidence of our generosity.

Now, fortifying that view, one that we can logically deduce from article 3, section 1, and the attitude of Great Britain upon it, with the decision of the Supreme Court of the United States in the Galveston case, in which they held, in effect, that language of this kind was not applicable to coastwise vessels; that it was no discrimination under language practically similar to the language found in this treaty to extend privileges to coastwise vessels that were not extended to foreign vessels, we can sustain the provision freeing coastwise vessels from tolls.

That decision squarely sustains the positon that the treaty does not apply to coastwise vessels.

I call attention to that, Mr. President, to demonstrate the fact that it was not necessary to have this which the Senator from North Carolina has referred to—the new evidence, the flood of light—to enable Senators to arrive at a definite conclusion as to our coastwise vessels. That proposition was easily sustainable, as I understand from the language of the Senator, by reason of the facts which were then before him, and that no new facts have been added, so far as that particular feature of the controversy is concerned.

If that be true, a vast amount of this discussion would seem to be wholly irrelevant, so far as the particular matter that we have under consideration is concerned, because we are only dealing with coastwise vessels, not vessels engaged in coastwise trade, and not only vessels of the United States, but vessels which belong to the nationals.

I do not care to go further into the matter this evening.

Mr. BRANDEGEE. Mr. President, in reference to what the Senator from Idaho [Mr. BORAH] has said about the fact that the terms coastwise vessels or coastwise ships or coastwise trade do not appear in the treaty I have simply to say that if the rules prescribed in the treaty bind us at all, if section 1 of article 3 binds us to equality of treatment to the ships of the subjects or citizens of the countries, it is equality that we contracted for. It is not equality as to ships in the coastwise trade or in the river trade or in the foreign trade. In the language of the treaty they are on terms of entire equality, so that there shall be no discrimination as to ships, subjects, citizens, or countries as to the conditions or rate of tolls through the canal. That is what we contracted for—equality. If it is equal treatment to say that we will pass all our ships in the coastwise trade through free and we will charge the ships of every other nation in their coastwise trade, so be it. But that does not seem to me to be equality. If an owner of a Canadian ship has to pay $5,000 or $10,000 to get through that canal and to

his competitor, the owner of an American ship in the coastwise trade, the guard takes off his hat and says, "No charge, sir; pass through free," I would not consider that as being treated on terms of equality, so that there is no distinction or discrimination between me as a citizen or a subject or between the country that I belong to or the flag that I support and the vessel or citizen with whom I was competing.

It is that which is contracted for, and I am unable to understand how anybody who admits that we are bound to equality of treatment can claim that it is not a discrimination to charge all Canadian vessels engaged in exactly the same trade from the east or Atlantic coast of their country to the west or Pacific coast of their country, as they will be engaged in it, through that canal, their trade only originating and terminating a few degrees of latitude to the north of us. I can not conceive how that absolute inequality of treatment can be considered to be equality of treatment.

This is not simply a question involving Canadian ships as compared with our coastwise ships. While the ships of Mexico or any other nation that is willing to observe the rules as they are laid down here have no contractual right, which was especially avoided by the negotiators of the treaty, as the high contracting parties had when they signed the contract, any nation that is willing to observe the rules has all the rights to equality of treatment that either high contracting party has.

Mr. BORAH. Mr. President——

The VICE PRESIDENT. Does the Senator from Connecticut yield to the Senator from Idaho?

Mr. BRANDEGEE. I yield the floor.

Mr. BORAH. I understood the Senator to assume in his argument that he believed the treaty bound us to equality of treatment, and coastwise vessels did not come within that term.

Mr. BRANDEGEE. Oh, no. I understand the position of the Senator from Idaho is that we are not bound to equality of treatment under the treaty.

Mr. BORAH. Neither with reference to coastwise vessels nor over-sea vessels.

Mr. BRANDEGEE. But the men who drew the treaty, Mr. President, stated that we were bound by these rules. I will be very brief, because I consider that the subject is worn almost threadbare. Mr. Hay, in his letter to Senator Cullom, distinctly stated that we were bound by these rules. In his opinion——

Mr. SMITH of Michigan. An American canal.

Mr. BRANDEGEE. He did say that, and it is an American canal.

Mr. SMITH of Michigan. And it is owned by the American Government.

Mr. BRANDEGEE. And it is owned by the American Govment.

Mr. SMITH of Michigan. But we seem to have a partnership with England in its management, according to the Senator from Connecticut.

Mr. BRANDEGEE. We have all the rights in the canal as an owner and operator and maker of regulations. We can do anything we want in the canal as our own, provided we live up to the agreements that we have made.

Senators might just as well claim that when we made a contract with the Republic of Panama, from whom we got our right to build the canal, we are not bound to give them the conditions of use of the canal which we stated in the treaty.

Now, John Hay says:

> No foreign powers in the 50 years that had elapsed had effectively intimated a desire to participate in or contribute to the construction of the canal—

That was under the Clayton-Bulwer treaty—

> that no other power had now any right in the premises, or anything to give up or part with as the consideration for acquiring such a contract right; that they must rely—

That is, the other powers—

> upon the good faith of the United States in its declaration to Great Britain in the treaty that it adopts the rules and principles of neutralization therein set forth, and that it was not quite correct to speak of the nations other than the United States as being bound by the rules of neutralization set forth in the treaty; that it was the United States which bound itself by them as a consideration for getting rid of the Clayton-Bulwer treaty, and that the only way in which they were bound by them was that they must comply with them if they would use the canal.

That is what the man who drew the treaty and sent it to Senator Cullom thought about it.

Mr. BORAH. What has that to do with tolls?

Mr. BRANDEGEE. It has to do with equality of treatment, and as to whether we are bound by the rules which provide for equality of treatment.

Mr. BORAH. Yes, exactly; but that is arguing in a circle. The question is, What do the rules require us to do?

Mr. BRANDEGEE. The question which the Senator asks and the foundation of his whole argument rests upon the fact that we are not bound by the rules, but that only other nations are bound by the rules; and I am saying that the man who drew the treaty says we are bound by the rules and that the other nations are bound only by the rules if they want to use the canal, and the only penalty for their violation of the rules is that they must cease to use the canal if they are not bound by them; we are not only bound by the rules but we are bound to enforce the rules. Senators who claim that America has the sole jurisdiction over the canal must admit that if we are not to enforce the rules, of course they will not be enforced at all.

Mr. SMITH of Michigan. Who would enforce them?

Mr. BRANDEGEE. The canal would be thrown loose to the wide, wide world, to be wrangled over by everybody, if we did not enforce the rules over our own canal.

Mr. BORAH. Will the Senator from Connecticut permit me to continue reading Mr. Hay's communication?

Mr. BRANDEGEE. Certainly.

Mr. SMITH of Georgia. As soon as the Senator from Idaho finishes there are a few words which I wish to say.

Mr. BORAH. Mr. Hay continues:

> But the President was apprehensive that such a provision would give to the other nations the footing of parties to the contract and give them a contract right to the use of the canal. And in view of the action of the Senate on the former treaty, striking out article 3, which provided for bringing the treaty, when ratified, to the notice of other powers and inviting them to adhere to it, which seemed to mean practically the same thing, he believed that the proposed provision would meet the same fate. This was represented to His Majesty's Government, and it was also insisted on the part of the United States that there was a strong national feeling among the peoples of the United States against giving to foreign powers a contract right to intervene in an affair so peculiarly American as this canal when constructed would be; that, notwithstanding the similar provision in the Clayton Bulwer treaty, no foreign powers in the 50 years that had elapsed had effectively intimated a desire to participate in or contribute to the construction of the canal; that no other power had now any right in the premises or anything to give up or part with as the consideration for acquiring such a contract right; that they must rely upon the good faith of the United States in its declaration to Great Britain in the treaty that it adopts the rules and principles of neutralization therein set forth.

Does the Senator from Connecticut contend that "neutralization" means equality of tolls?

Mr. BRANDEGEE. That is my understanding of it; yes.

Mr. SMITH of Georgia. Exactly.

Mr. BRANDEGEE. And I think that was John Hay's understanding of it. He says it was.

Mr. BORAH. Well, Mr. President, I do not understand Mr. Hay to make any such statement. Mr. Hay was too familiar with the word "neutralization" to contend that "neutralization" meant equality of tolls. For instance, that canal could be neutralized in the sense in which we use the word "neutralization" and yet charge a different toll to every nation in the world whose vessels passed through it. I have never heard until in connection with this particular treaty that "neutralization" meant equality of tolls. It does not mean that in the Suez Canal. I do not believe it was used in that sense in the Hay-Pauncefote treaty or can fairly receive such an application.

Mr. STERLING. Will the Senator from Idaho permit me to interrupt him?

Mr. BORAH. Yes.

Mr. STERLING. Was it not the contention of Sir Edward Grey that that was what was meant by the words "equality of tolls" in the case of the Suez Canal?

Mr. BORAH. That was the contention which he made after this controversy arose, but it was not the contention which was made prior to that time, so far as I know. It was certainly not the doctrine of English authors on international law and treaties.

Mr. STERLING. It seemed to be the understanding of our ambassador, Mr. Choate, was it not, in his interview or conversation with Lord Lansdowne?

Mr. BORAH. I do not so interpret Mr. Choate's letter. The word "neutralization" necessarily implies a controversy between two parties, and a third party who is neutral as between them—a condition of war and a neutral territory; and the United States might be absolutely neutral and agree to devote the canal to neutrality and yet have an entirely different proposition as to charging tolls on the vessels of various countries.

Mr. HITCHCOCK. Mr. President——

The VICE PRESIDENT. Does the Senator from Idaho yield to the Senator from Nebraska?

Mr. BORAH. I yield to the Senator from Nabraska.

Mr. HITCHCOCK. I suggest, however, to the Senator from Idaho that he is, to some extent, bound by what the treaty itself says on the subject.

Mr. BORAH. Exactly.

Mr. HITCHCOCK. And in article 3 the opening paragraph rather settles what is meant by "neutralization."

Mr. BORAH. I do not think so, if it be meant that it settles it favorable to equality of tolls.

Mr. HITCHCOCK. I et me read it to the Senator.

Mr. BORAH. I shall be very glad to have the Senator reread that portion of the treaty.

Mr. HITCHCOCK. Of course I think the equality of tolls is only a very small part of the neutralization; but here is what the treaty says in article 3:

ARTICLE 3.

The United States adopts as the basis of the neutralization of such ship canal the following rules, substantially as embodied in the convention of Constantinople, signed the 28th October, 1888, for the free navigation of the Suez Canal, that is to say:

"1. The canal shall be free and open to the vessels of commerce and of war of all nations observing these rules on terms of entire equality, so that there shall be no discrimination against any such nation or its citizens or subjects in respect of the conditions or charges of traffic or otherwise. Such conditions and charges of traffic shall be just and equitable."

Then follow paragraphs 2, 3, 4, 5, and 6, which relate largely to war——

Mr. BORAH. Exactly.

Mr. HITCHCOCK. And the condition of neutrality of the canal during war.

Mr. BORAH. Well, Mr. President, if the Senator will yield to me for just a moment, article 3, rule 1, does not say that this canal shall be free and open to all nations or to any nation, but it says:

The canal shall be free and open to the vessels of commerce and of war of all nations observing these rules.

The five rules which follow are just as much an obligation of observation in order to get in on the floor of equality as is any other part of the treaty.

I do not think the Senator from Nebraska will contend that the United States is bound by rules 2, 3, 4, 5, and 6 to observe them, the same as are the other nations of the earth, and yet no nation can secure the freedom of this canal on terms of equality unless it observes rules 2, 3, 4, 5, and 6.

Mr. HITCHCOCK. I agree with the Senator fully, and I also agree with him upon the interpretation of rule 1. I think that the word "nations" there means customer nations, not the proprietor Nation; but I think that the neutralization does include, among a large number of other things, equality of tolls among customer nations.

Mr. STERLING. Mr. President——

The VICE PRESIDENT. Does the Senator from Idaho yield to the Senator from South Dakota?

Mr. BORAH. I yield.

Mr. STERLING. I call the attention of the Senator from Idaho to another authority; it is not the authority of Sir Edward Grey nor of Mr. Choate, but an authority which spoke before this treaty was negotiated. I refer to Mr. John Bassett Moore himself, who, writing in the New York Times of March 4, 1900, says:

Equality of tolls has also been treated as a feature, or, perhaps, rather as a condition, of neutralization.

Mr. BORAH. Yes; I am familiar with that statement of Mr. Moore, but I have never found anywhere that Mr. Moore himself accepted that doctrine. That was true with reference to one particular instance which Mr. Moore cites in his works, but Mr. Moore—and I think I am justified in saying this—judging from his books, has never indorsed that doctrine of neutralization; and I will say to the Senator, who I know has given some attention to it, that I would be glad if the Senator would bring into the Senate any leading author of international law who gives the construction of the word "neutralization" which is sought to be given to it in this treaty in order to sustain the proposition of equality of tolls. That doctrine may exist somewhere, but I have gone through the authorities and collected them in a brief, which I have at my office, and which, if the Senate wants to hear later, I may use, and I have been unable to find a single leading author upon this subject who treats the doctrine of neutralization in this sense. I do not assert such may not be found, but I have not found them.

Mr. BRANDEGEE. Mr. President——

The VICE PRESIDENT. Does the Senator from Idaho yield to the Senator from Connecticut?

Mr. BORAH. I yield.

Mr. BRANDEGEE. Whether or not the Senator has been able to find any writer upon diplomatic subjects or upon international law who states that equality is necessarily a part of neutralization, I do not know and I do not care; and I do not see why anybody else should care. We are construing this treaty, and this treaty says that the United States adopts as the basis of neutralization certain rules, the first of which provides for entire equality of treatment. That puts entire equality of treatment at the very basis and foundation of the whole thing.

Mr. BORAH. What the treaty says is:

The United States adopts, as a basis of the neutralization of such ship canal, the following rules, substantially as embodied in the convention of Constantinople.

Now, I wish the Senator from Connecticut would draw upon his memory and tell me what article in the Constantinople convention provides for equality of tolls?

Mr. BRANDEGEE. I do not have the book in my hand, and my memory is like the old pump—it would suck if I attempted to draw upon it; but the Hay-Pauncefote treaty does provide for entire equality. Whether the Suez Canal convention does or does not, I do not know; I assume it does. I think, after reading the report of the great chairman of the Senate Committee on Foreign Relations, Cushman Davis, in which he exulted that that great principle had been firmly established and extolled the virtues and magnanimity of all the nations of the Old World because they had thrown the Suez Canal open on terms of entire equality to the commerce of all the world, that it is a late day to question the fact that there is equal treatment in the Suez Canal.

Mr. STERLING. Mr. President——

The VICE PRESIDENT. Does the Senator from Idaho yield to the Senator from South Dakota?

Mr. BORAH. I yield.

Mr. STERLING. I have here, I will say to the Senator from Idaho, article 12 of the Suez Canal convention, which I think is a counterpart practically of rule 1 of the Hay-Pauncefote treaty, and which reads as follows:

The high contracting parties, by application of the principle of equality as regards the free use of the canal, a principle which forms one of the bases of the present treaty, agree that none of them shall endeavor to obtain with respect to the canal territorial or commercial advantages or privileges in any international arrangements which may be concluded.

Mr. BORAH. I do not understand that that covers the question of tolls at all.

Mr. STERLING. I think it does by fair implication and intendment cover the question of tolls.

Mr. BORAH. You might argue by implication that it covered it, but certainly there is no specific designation of it; neither have I been able to find it in the Suez convention at all. You can have the free use of a canal; you can admit all the ships of all countries to a canal and inhibit yourself from preventing any ship of any nation from going through the canal without disposing of the question of equality of tolls. That is one of the vices of the argument which has been based upon Mr. Blaine's contention. Mr. Blaine did not contend that we should have exclusive control of the canal. Nobody has ever contended that we should have exclusive control of the canal; but to say that we shall not have exclusive use of the canal is a different thing from saying that we shall not have the advantage which arises by reason of the incident of ownership.

Mr. STERLING. Mr. President, I can not construe "equality of treatment" in any other way than involving equality of treatment as to the tolls paid for passing through the canal, and I think that is surely what is meant by article 12 of the Suez convention. The word "free" is used several times throughout the Suez Canal convention, but it is only in article 12 that reference is made to equality of treatment in that canal, and that no advantage shall be taken in any agreement that may be made between the different nations in regard to the use of the canal.

Mr. BORAH. Well, rule 12 of the Suez convention is not in the Hay-Pauncefote treaty, in any event.

Mr. STERLING. I say that rule 12 is not, but that rule 12 in the Suez Canal convention is the foundation for rule 1 of the Hay-Pauncefote convention; that it is the counterpart of rule 1.

Mr. BORAH. Mr. President, reading further from this letter, it says:

That they must rely upon the good faith of the United States in its declaration to Great Britain in the treaty that it adopts the rules and principles of neutralization therein set forth and that it was not quite correct to speak of the nations other than the United States as being bound by the rules of neutralization set forth in the treaty; that it was the United States which bound itself by them as a consideration for getting rid of the Clayton-Bulwer treaty, and that the only way in which they were bound by them was that they must comply with them if they would use the canal.

Mr. President, the only thing that Mr. Hay is discussing there is the question of neutralization; and if neutralization involves the proposition of equality of tolls, of course Senators are correct who claim that Mr. Hay placed that construction upon the treaty; but you have got to give the word "neutralization" an interpretation which has never, in my opinion, been given to it

before upon a contested matter, whenever you say that "neutralization" involves the question of equality of tolls.

Mr. BRANDEGEE. Mr. Hay says in his letter that we are bound by the rules; and rule 1 provides for equality.

Mr. BORAH. Does the Senator claim that the United States is bound by rules from 2 to 6 the same as the other nations of the earth?

Mr. BRANDEGEE. I do not wish to interfere with the Senator from Georgia [Mr. SMITH], who, I understand, desires to take the floor; but, with his permission, I will say that my judgment about that is that these rules are substantially as embodied in the convention of Constantinople, that they were made with reference to the alternative proposition of whether the canal would be built by the United States Government as an owner or by a canal company; and I think that so much of the rules as are applicable to us in the situation in which we are placed will bind us, and that the portion that is inappropriate from the fact that we have become the owner will not bind us. I think that the rules bind us furthermore for this reason, among others. Rule 2 provides:

2. The canal shall never be blockaded, nor shall any right of war be exercised nor any act of hostility be committed within it.

Now, the Senator says we are not bound by that rule. If we are not, why did they go on and say—

the United States, however, shall be at liberty to maintain such military police along the canal as may be necessary to protect it against lawlessness and disorder?

If they did not think that rule bound the United States, why did they want to exempt the United States to that extent?

Mr. BORAH. Do I understand, then, that the Senator takes the position that, if the United States were at war with any nation on earth, and should violate the rule which provides that—

the canal shall never be blockaded, nor shall any right of war be exercised nor any act of hostility be committed within it—

it would forfeit its right to the use of the canal?

Mr. BRANDEGEE. I do not think that the right of the United States will be forfeited by doing its duty under the treaty. I think if the United States were at war, if it were a belligerent, of course, these rules would not apply to it at all. If we should become involved in war, we would manage that canal to protect this country, and not to make it of service to our enemies. That is admitted in the correspondence by the foreign office of Great Britain.

Mr. BORAH. Oh, yes; Great Britain conceded that to us after a time, on the theory that we had extended our sovereignty; but that was a concession which Great Britain made to us. What I want to know is, what would be the contention upon our part as to what our rights are in case Great Britain should not see fit to concede them?

Mr. BRANDEGEE. If the Senator is in the business of receiving concessions from Great Britain, he can stay in that line of business. I am not.

Mr. BORAH. I misunderstood the Senator. I thought that was his precise attitude.

Mr. BRANDEGEE. No; Great Britain admits it, I say. She admits that. She makes no claim to the contrary.

Mr. BORAH. But suppose she did not admit it?

Mr. BRANDEGEE. If she did not admit it, she would have to fight. She would have to fight to take the canal away from us or to manage it.

Mr. SMITH of Arizona. War does away with the treaty.

Mr. BRANDEGEE. If we are at war, the provisions of the treaty which may interfere in any way with our military operations, or which may in any way imperil the successful defense or offense that this country wants to make, will be set aside and not observed. Nobody expects a belligerent to do otherwise. Furthermore, the frequent queries as to whether we are obliged, because we have guaranteed equality of treatment, to transport through the canal the vessels of war of some foreign power with whom we are at war, so that they can get into a better position to assault us, is, of course, absurd. Of course we would not do it. We are not bound to do it when we are a belligerent, and even if I have no fear of any foreign Government I have enough respect for their intelligence to think that they would not be hasty to put their sole weapons of offense in our custody to be transported from one ocean to the other.

Mr. BORAH. In other words, here is a treaty containing five rules which were made to cover a condition of war; they relate to a condition of war; and yet the Senator evades the proposition of whether or not they apply to us by saying that if we should be engaged in war of course the treaty would be suspended.

Mr. BRANDEGEE. Why, absolutely.

Mr. BORAH. Yet the very purpose of making those rules was to control a condition of war.

Mr. BRANDEGEE. Why, the purpose is to neutralize the canal from warlike operations and destruction of the canal, and also, unless we are one of the belligerents, to compel us to treat all belligerents on terms of equality and not to play favorites or play one against the other.

If two other nations are at war with each other, we shall have to administer the canal absolutely impartially between them. The rules specify how their vessels shall enter and leave, that the vessel of one belligerent shall not leave until 24 hours after the vessel of the other belligerent, and so on. We must enforce all those rules. I think myself that the proposition is sown with dragon's teeth, and I think we shall get into all manner of trouble in the future by attempting to hold the scales evenly between foreign contending parties; but that is neither here nor there with relation to this question. As to these rules applying to us as sovereign owner of the canal, to be used against us by a belligerent in arms against us, it never occurred to me, in my wildest flights of imagination—and I have seen some strange visions on some occasions—to think that anybody would claim that.

Mr. BORAH. I hope I have not unduly aggravated the Senator.

Mr. BRANDEGEE. Not in the least. I will shake hands with the Senator very gladly.

Mr. BORAH. If the Senator has lit from his flight of imagination, let me call him back to a proposition:

The canal shall be free and open to the vessels of commerce and of war of all nations observing these rules.

We have to observe the rules; but the Senator contends that we are relieved from observing them because they are suspended at the very time we should observe them.

Mr. BRANDEGEE. No; I claim that in time of war we are not bound to observe them.

Mr. BORAH. They were made for time of war.

Mr. BRANDEGEE. They were made with reference to the conditions I have suggested, in order that the use of the canal might not be granted to some belligerents and denied to others.

Mr. BORAH. The same argument would apply to the vessels of commerce, because vessels of commerce and of war are in the same phrase.

Mr. BRANDEGEE. I think they are in the same phrase; but what is the argument that applies to both of them?

Mr. BORAH. Why, our sovereignty has been extended over the canal, which was intended to be built in the first instance by a private corporation, and therefore certain conditions and certain rules were to obtain. If by reason of the fact that it was built by the Government itself those rules have been suspended, why would not that apply to vessels of commerce as well as to vessels of war?

Mr. BRANDEGEE. Mr. President, I do not believe there is an international authority on the face of the globe who would deny that when we are belligerents, when we are at war with a foreign power, the provisions of this treaty, under the rules that operate against us as a belligerent, would be absolutely set aside under the law of nations. That is a well-known international principle.

Mr. WEST. Mr. President, I should like to interrupt the Senator from Connecticut for a moment.

Mr. BORAH. I think I have the floor.

Mr. BRANDEGEE. I do not think I have the floor, Mr. President.

Mr. WEST. Was not that precisely the case when the War between the States came on? The Constitution recognized slavery, but it was in time of war. Lincoln made his proclamation of emancipation while the Constitution recognized slavery; but that was in time of war.

Mr. BORAH. Mr. President, I do not exactly see the application of the Senator's suggestion, but it may come to me later.

In order to relieve myself from the perilous position in which I have been placed by advancing this doctrine, in the mind of the Senator from Connecticut, whose esteem I covet at all times, I wish to read from Mr. Olney, a fair authority upon the subject, I think—certainly a great lawyer, and, to my mind, a great Secretary of State. He had a vast amount of Americanism in him, which is a very valuable thing in that office, I think, at all times.

Upon page 86 of the proceedings of the American Society of International Law for the year 1913 he says:

It seems difficult to successfully contend that the United States is included.

(a) The treaty is a contract by which the proprietor of a canal fixes the terms upon which it grants the use of the canal to its customers.

* * * * * * *

It can not reasonably be argued that, in fixing terms for the use of its canal by customers, the United States looked upon itself as one of the customers.

(c) The words under construction are in substance the first of a set of six rules adopted by the United States as the basis of the neutralization of the canal.

But the other five certainly apply only to parties other than the United States, so that there is the strongest reason for holding that the first of them is to be given a like application.

It was the view of Mr. Olney that these five rules did not apply to the United States, and therefore the provision in rule 1, "all nations observing these rules," could not include the United States, because the United States could not observe those rules.

Mr. BRANDEGEE. Mr. President, the United States, in exempting or in taxing its coastwise trade, is not regarding itself as one of its customers. The United States does not own the vessels upon which it proposes to bestow this favor. They are owned by citizens of the United States. The United States, of course, is not its own customer. As Mr. Olney says, nobody contends that it is. If, however, the Senator from Idaho still has such a high opinion of the authority he has quoted as he appears to have when he makes that statement, I should advise him to follow his lead and vote for this repeal, because Mr. Olney advocates doing so.

Mr. BORAH. Yes; but he advocates it for a reason that does not apply to me. He put it on the ground of party loyalty.

Mr. BRANDEGEE. But if he is such a high authority, the Senator ought to follow him in all he recommends.

Mr. BORAH. He gives as a reason that we should follow the President. If I were a member of the Democratic Party and was following anybody, I do not know of any man I would rather follow than the President; but I do not feel any obligation to change my vote until I change my mind, in view of the fact that I am not a member of that party. I do not understand that Mr. Olney has changed his view of the treaty.

Mr. SMITH of Georgia. Mr. President, when the Senator from Idaho, in one of his speeches some time ago, did me the honor of referring to some remarks I made two years ago when the canal-tolls bill was before the Senate, I hoped at the conclusion of that speech to obtain the floor and to make a brief reply, but I did not obtain recognition. Since then, in one of his later statements, he has referred to the meaning of the word "neutralization." Before I undertake to reply to his reference to my speech of two years ago I wish to call attention to the fact that, as the Senator from South Dakota [Mr. STERLING] has mentioned, not only does Mr. Moore, in his digest of international law, refer to the term "neutralization" as having the meaning of impartial treatment with reference to commerce, as distinguished from what was formerly considered its meaning, impartiality of treatment with reference to war, but Mr. Choate, in his correspondence with the Secretary of State, refers to the term "principle of neutralization" in this treaty as meaning equality of treatment between the citizens of the United States and the citizens of Great Britain in their commerce. That will be found in a letter of Mr. Choate's dated August 20, 1901, in which he says:

And that said "canals or railways" being open to the subjects and citizens of Great Britain and the United States on equal terms shall also be open on like terms to the subjects and citizens of other States, which I believe to be the real general principle of neutralization (if you choose to call it so) intended to be asserted by this eighth article of the Clayton-Bulwer treaty.

Mr. BORAH. Yes; "if you choose to so call it."

Mr. SMITH of Georgia. Ah, but it is so called. He regards the term as rather a novel use.

Mr. BORAH. Yes; with Mr. Choate's knowledge, I should think he would.

Mr. SMITH of Georgia. I do not desire to debate the matter with the Senator from Idaho just now, as I have waited so long to get the floor. I desire to finish what I have to say now rather than be interrupted. I did not interrupt the Senator, hoping to get the floor myself later on.

Mr. BORAH. I shall not interrupt the Senator.

Mr. SMITH of Georgia. He does concede that it is a novel use, but he says that that is its meaning as we use the term in this treaty, according to the eighth article of the Clayton-Bulwer treaty. The fact that we give the words its modern use was declared by Mr. Choate while the treaty was being negotiated by him.

Mr. McCUMBER rose.

Mr. SMITH of Georgia. I yield to the Senator from North Dakota.

Mr. McCUMBER. I simply wish to say to the Senator that that is just exactly what Mr. Hay said in January of 1901, in his correspondence with the British ambassador. If the Senator will allow me, I will read just what he said in answer to the proposition contained in article 3–A, proposed by Lord Lansdowne. On this point his answer is:

The preamble of the draft treaty retained the declaration that the general principle of neutralization established in article 8 of the Clayton-Bulwer treaty is not impaired.

Now, there is no neutralization in article 8 unless the neutralization pertains to equality, because article 8 deals only with the matter of equality.

Mr. BORAH rose.

Mr. SMITH of Georgia. Mr. President, I ask the Senator from Idaho not to interrupt me until I finish the few remarks I wish to make. It is late and I desire my reply to a part of his speech made at once.

As the Senator from North Dakota has said, there is nothing left in article 8 of the Clayton-Bulwer treaty which we continue in existence except the equality of treatment of the commerce of citizens of the United States and citizens of Great Britain. The other provisions of the treaty were provisions providing joint protection by Great Britain, the United States, and other countries. We wiped that out by the Hay-Pauncefote treaty, and the only thing we continued we declared to be the principle of neutralization. That is equality of treatment of the citizens of the two countries in the use of the canal; and Mr. Choate expressly declares in his letter to Mr. Hay that that is what we meant by the term.

The Senator called attention to some extracts from remarks I made two years ago. If he had read a little further from what I then said, he would have seen that I expressed the opinion that the effect of letting our coastwise vessels go through the canal free would in all probability be that we must also permit the vessels of the Dominion of Canada to go through free as well as our own.

At that time, so far as I know, the debate upon the floor of the Senate treated the question of equality provided for in the Hay-Pauncefote treaty as one affecting the owners of the vessels. The broader meaning applying it to the commerce of the countries did not attract my attention, and I think it attracted little the attention of any of the Senators. Since then there has been brought to our attention the action of Mr. Cleveland and of Mr. Harrison.

The Welland Canal treaty undertook to secure "to the citizens of the United States the use of the Welland, St. Lawrence, and other canals in the Dominion of Canada on terms of equality with the inhabitants of the Dominion." This language Mr. Cleveland and Mr. Harrison and the Congress of the United States declared extended not alone to the owners of vessels but to the commerce of the citizens of the two countries. We made an issue with Great Britain and enforced our view and enforced recognition of the fact that under that language in the Welland Canal treaty equality of treatment of the commerce of the two nations must be given. We enforced the proposition that Canada could not be permitted to give to vessels landing at Montreal a rebate of tolls charged at the Welland Canal which was not also given to vessels landing in New York State.

Upon the same principle there could not be given to a vessel sailing from New York and landing at Seattle a rebate of tolls charged at the Panama Canal which was not also given to a vessel landing at Vancouver. There could not be given to a vessel sailing from New York to San Francisco a rebate that was not also given to a vessel sailing from Halifax to San Francisco.

How does the language of the present treaty vary from the language of the Welland Canal treaty?

The language of the present treaty is:

The canal shall be free and open * * * on terms of entire equality, so that there shall be no discrimination against any such nation or its citizens or subjects in respect of the conditions or charges of traffic or otherwise.

It is not limited to the owners of the vessels; it extends to the commerce of the citizens; so that the United States is squarely committed to the proposition on a similar treaty that we can not avoid its effect by showing that we have not discriminated against the owners of vessels. The United States is committed to the proposition that there must be no discrimination as to the commerce of the citizens of the two countries; and if we were right in our contention with reference to the Welland Canal, we are wrong now if we undertake to give free passage to our coastwise vessels and not extend the same free passage to the commerce of the citizens of the Dominion of Canada. We are committed to that proposition.

But the Senator from Idaho, when I called attention to the Welland Canal treaty about two weeks ago, said that while Canada yielded and repealed the rebate she never conceded

that our construction of the treaty was right. I found from the press that he had discovered something which simply wiped out my argument by the discovery. I found that out the next morning in a city paper. Unfortunately, I was called away when he made those remarks, and I did not have an opportunity at the time to answer them.

Mr. President, of course Canada never yielded her construction of the treaty, but she yielded to our contention. She never admitted that our construction was right, but she revoked her rebates and gave us what we demanded.

It is not a question as to what Canada insisted upon then, but a question as to what we insist upon. Are we now to insist upon something that we then repudiated? We then insisted that the treaty extended to the commerce of the citizens. We have never withdrawn from that contention. We went so far as to put a penalty on Canada. We passed the retaliatory statute. Two Presidents of the United States and the Congress of the United States strongly declared that the treaty extended to the commerce of the citizens, and an act of Congress was passed and the President issued a proclamation of retaliation against Canada. Canada then thought she was right, but she yielded.

What do we do now? We are proposing to reverse the position that we then took as to another treaty without reversing our position as to that treaty. We stand as to the Welland Canal treaty on the act of Congress, which has never been repealed. Under that act to-day, if Canada should again give a rebate, the President would be required to stop it by retaliatory procedure.

What matters it whether Canada thought we were right or wrong? She yielded and we stand committed to such a construction of the treaty. Are we now on the other treaty to take an entirely different view? Are we to say that we stand on the act of Congress requiring the President to place a retaliatory duty upon Canadian commerce if she undertakes to give a rebate in Canada to goods discharged at Montreal, and yet as to this treaty shall we take exactly the opposite view, though the language is just as broad as the language in the Canadian treaty? The act of Congress commits us to prevent Canada from discriminating against the commerce of citizens of the United States in favor of the commerce of citizens of Canada. Shall we force our construction on Canada to help our citizens in the one case and disregard that construction to the injury of citizens of Canada in the other case?

Mr. CLARK of Wyoming. Will the Senator permit just one question?

Mr. SMITH of Georgia. Yes.

Mr. CLARK of Wyoming. Is not the Senator's argnment as to the similarity of the two treaties based upon the contention that the term "all nations" in the Hay-Pauncefote treaty includes the United States?

Mr. SMITH of Georgia. Oh, yes.

Mr. CLARK of Wyoming. Of course, the Senator's argument, then, would not be addressed to those who do not so believe.

Mr. SMITH of Georgia. I have already presented that part of the discussion. I am now replying to the effort to discrimi nate the coastwise trade from the vessels of the United States engaged in foreign trade. I am meeting the contention that the coastwise trade can be discriminated from the vessels engaged in foreign trade, and I am undertaking to show that for us to undertake now to make that discrimination is to fly in the teeth of an existing act of Congress.

Mr. O'GORMAN. Mr. President——

The VICE PRESIDENT. Does the Senator from Georgia yield to the Senator from New York?

Mr. SMITH of Georgia. Certainly.

Mr. O'GORMAN. Do I understand the Senator from Georgia to be arguing that there is no distinction to be drawn under the treaty between the coastwise trade and overseas trade?

Mr. SMITH of Georgia. No; I do not argue that.

Mr. O'GORMAN. I gathered that from the Senator's statement.

Mr. SMITH of Georgia. The position I am taking is that under the language of the Welland Canal treaty it was insisted that the equality of treatment extended to the commerce of the citizens, not simply to the owners of the vessels. That there is a distinction between coastwise trade and vessels engaged in foreign trade is undoubtedly true; but under the Welland Canal treaty we insisted that mere equality of the treatment of the owners of the vessels did not meet the requirement of the treaty; that the treaty——

Mr. O'GORMAN. Mr. President, with the Senator's permission, what our Government insisted upon in the Welland Canal controversy was that the equality provided for in that treaty was evaded by a system introduced by the Canadian Government which operated as a positive discrimination against the American commerce carried by American ships engaged in our lake and canal trade.

Mr. SMITH of Georgia. I am very familiar with what our contention was. Canada insisted that the treaty only extended to equality of treatment with the owners of vessels—Canada gave the same rates through the canal to vessels owned by citizens of the United States that were charged vessels owned by British subjects. We insisted that the treaty required equality of treatment of commerce of citizens of the two countries, and both President Cleveland and President Harrison repudiated the suggestion or the claim of Canada that the treaty stopped with equality of treatment of the owners of vessels. Canada extended equality of treatment to the owners of the vessels of the two countries. She charged the same tolls for vessels owned by citizens of Canada that she charged for vessels owned by citizens of the United States. But when the vessels of Canada discharged their commerce at Montreal she gave them a rebate of 90 per cent of the tolls. Our contention was that that was a failure to give equality of treatment to the commerce of the citizens of the two countries; that merchants of New York buying on the New York side, when the vessels delivered cargoes there, were entitled as to their commerce to the same charges when going through the canal that merchants of Montreal were entitled to as to a charge on their commerce.

What I say is that if our contention was sound about that, then the merchants of Halifax are entitled to the same rates at the canal on their commerce coming from San Francisco that the merchants of New York are entitled to on their commerce coming from San Francisco, and that the commerce of the citizens of Halifax can not be burdened with toll charges from San Francisco through the canal when the commerce of the citizens of New York is charged with no such tolls. All along the entire coast the same principle will follow. As the treaty extends to the commerce of the citizens, it makes it equally as impossible for us to permit the coastwise vessels to go through free as it would be impossible for us to admit vessels engaged in foreign trade to go through free.

Of course, if we have the right to let all of them go through free, there is no use for this argument. I am only undertaking to meet, by the use of the Welland Canal treaty, and the attitude of the United States upon it, the suggestion of the Senator from Idaho that we can permit the coastwise vessels to go through free even if vessels engaged in foreign trade can not go through free.

I am also calling attention to this treaty, as the Senator wished to know if any information had come to me since the discussion of two years ago. I am calling his attention to my present information about this treaty and about the attitude of the United States with reference to it, which I did not have at that time and which was not considered, so far as I can recall, in the discussion two years ago. At any rate, I had not grasped it.

I believe, Mr. President, that the construction we placed upon the Welland Canal treaty was sound. I believe the language of this treaty is so broad that it extends to the commerce of the respective countries, and that we can no more exempt our coastwise vessels than we can exempt the vessels engaged in foreign trade.

Some little time ago, during the afternoon, I presented briefly an argument, which satisfied me, to show that under the terms of the treaty, under the language of the preamble, and under the reference to the Suez Canal, we were entirely committed to the proposition that the Panama Canal should be a common carrier for commercial vessels which would transport the vessels of citizens of Great Britain and of the United States upon terms of entire equality.

EXECUTIVE SESSION.

Mr. SHIVELY. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to, and the Senate proceeded to the consideration of executive business. After 10 minutes spent in executive session the doors were reopened, and (at 6 o'clock and 20 minutes p. m.) the Senate adjourned until to-morrow, Thursday, June 4, 1914, at 11 o'clock a. m.

NOMINATIONS.

Executive nominations received by the Senate June 3, 1914.

UNITED STATES MARSHALS.

Vincent Y. Dallman, of Springfield, Ill., to be United States marshal for the southern district of Illinois, vice William H. Behrens, whose term has expired.

McDuffie Cain, of Montgomery, Ala., to be United States marshal for the middle district of Alabama, vice Benjamin E. Walker, resigned.

PROMOTIONS IN THE ARMY.

CAVALRY ARM.

First Lieut. Otto W. Rethorst, Ninth Cavalry, to be captain from April 26, 1914, vice Capt. Edward D. Anderson, Sixth Cavalry, promoted.

First Lieut. Robert Sterrett, Thirteenth Cavalry, to be captain from April 30, 1914, vice Capt. George P. Wh e, Ninth Cavalry, promoted.

Second Lieut. Frederick S. Snyder, Second Cavalry, to be first lieutenant from April 26, 1914, vice First Lieut. Otto W. Rethorst, Ninth Cavalry, promoted.

Second Lieut. William C. Christy, Fifth Cavalry, to be first lieutenant from April 27, 1914, vice First Lieut. Nathaniel M. Cartmell, Third Cavalry, retired from active service April 26, 1914.

Second Lieut. Sloan Doak, Fifth Cavalry, to be first lieutenant from April 30, 1914, vice First Lieut. Robert Sterrett, Thirteenth Cavalry, promoted.

Second Lieut. Leland Wadsworth, jr., Fifteenth Cavalry, to be first lieutenant from April 30 1914, vice First Lieut. Anton H. Schroeter, First Cavalry, who died April 29, 1914.

INFANTRY ARM.

Lieut. Col. Charles H. Barth, Infantry, unassigned, to be colonel from May 30, 1914, vice Col. Robert H. R. Loughborough, Twentieth Infantry, retired from active service May 29, 1914.

Lieut. Col. Walter H. Chatfield, Twenty-seventh Infantry, to be colonel from May 30, 1914.

CONFIRMATIONS.

Executive nominations confirmed by the Senate June 3, 1914.

SECRETARY OF EMBASSY.

Post Wheeler to be secretary of the embassy at Tokyo, Japan.

POSTMASTERS.

CALIFORNIA.

C. W. Corey, Escondido.

IDAHO.

R. S. Story, Burley.
Joseph F. Whelan, Wallace.

KENTUCKY.

John J. Berry, Paducah.

MARYLAND.

Edward A. Rodey, Ellicott City.

OHIO.

Elijah T. Dando, Wellston.
Frank H. Davet, Madison.
Franzo D. Miller, Alliance.

SOUTH DAKOTA.

C. W. Marley, Colome.
William S. Small, Gettysburg.

UTAH.

James Gowans, Tooele.
W. J. Munford, Milford.

WASHINGTON.

J. F. Payne, Auburn.

WISCONSIN.

Olaf R. Skaar, La Crosse.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, *June 3, 1914.*

The House met at 12 o'clock noon.

The Chaplain, Rev. Henry N. Couden, D. D., offered the following prayer:

O Lord God, our heavenly Father, be graciously near to us as we enter upon the new congressional day, that we may be quick to conceive, strong to do the right as it is given us to see the right, for of Thee and through Thee are all things; hence we realize that if our work is not in consonance with the laws Thou hast ordained it will come to naught. For Thine is the kingdom and the power and the glory forever. Amen.

The Journal of the proceedings of yesterday was read and approved.

HOMESTEAD PATENTS FOR DESERTED WIVES.

Mr. RAKER. Mr. Speaker, the Committee on the Public Lands reported a bill to provide for issuing of patents for public lands claimed under the homestead laws by deserted wives. The bill was filed yesterday, and it has been placed on the Private Calendar, No. 255. It is clearly a bill that ought to go to the Union Calendar. I ask that the transfer of the bill be made accordingly.

The SPEAKER. What is the bill about?

Mr. RAKER. The bill is about the issuing of patents for homesteads to deserted wives. It is a general bill, and relates to no particular person or individual. It is a disposition of public lands, and it is clearly a mistake that it went to the Private Calendar.

Mr. MANN. What is the bill?

The SPEAKER. The number of the bill is House bill 16296, to provide for issuing of patents for public lands claimed under the homestead laws by deserted wives.

Mr. RAKER. I have a copy of the bill here as amended by the committee. The bill as amended is as follows:

Be it enacted, etc., That in any case in which persons have regularly initiated claims to public lands as settlers thereon under the provisions of the homestead laws and the wife of such homestead settler or entryman, while residing upon the homestead claim and prior to submission of final proof of residence, cultivation, and improvement as prescribed by law, has been abandoned and deserted by her husband for a period of more than one year, the deserted wife shall, upon establishing the fact of such abandonment or desertion to the satisfaction of the Secretary of the Interior, be entitled to submit proof upon such claim and obtain patent therefor in her name in the form, manner, and subject to the conditions prescribed in section 2291 of the Revised Statutes of the United States and acts supplemental thereto and amendatory thereof: *Provided*, That in such cases the wife shall be required to show residence upon, cultivation, and improvement of the homestead by herself for such time as when, added to the time during which her husband prior to desertion had complied with the law, would aggregate the full amount of residence, improvement, and cultivation required by law: *And provided further*, That the published and posted notices of intention to submit final proof in such cases shall recite the fact that the proof is to be offered and patent sought by applicant as a deserted wife, and, prior to its submission, notice thereof shall be served upon the husband of the applicant in such a manner and under such rules and regulations as the Secretary of the Interior shall prescribe.

The SPEAKER. It was evidently an accidental clerical error, because House bill 16476, also introduced by the gentleman from California [Mr. RAKER], is evidently a private bill, and that is on the Union Calendar.

Mr. RAKER. No, Mr. Speaker; I understand that the Speaker ruled two years ago that when a bill provides anything for a municipality it is not a private bill. The bill the Speaker refers to grants 40 acres of land to the city of Susanville. Therefore that bill should go upon the Union Calendar.

Mr. MANN. That is correct. The bill is properly referred.

The SPEAKER. If there be no objection, the bill H. R. 16296, Private Calendar, No. 255, will be transferred from the Private Calendar to the Union Calendar.

There was no objection.

LEAVE TO EXTEND REMARKS.

Mr. GORDON. Mr. Speaker, I desire leave to extend my remarks by publishing an address delivered by Mr. Samuel Untermyer at Pittsburgh on the 22d of May last.

The SPEAKER. About what?

Mr. GORDON. Upon the reasons and remedies for our business troubles. It discusses at length these bills that are now pending.

The SPEAKER. The gentleman from Ohio [Mr. GORDON] asks unanimous consent to extend his remarks by printing in the RECORD a speech made by Mr. Samuel Untermyer at Pittsburgh in May.

Mr. BARNHART. Reserving the right to object, I should like to inquire what it is about.

Mr. GORDON. It discusses at length these three bills that are now being considered in Committee of the Whole.

Mr. BARNHART. The trust bills?

Mr. GORDON. The bills now pending.

Mr. MANN. Oh, no; not pending. Two of them have been disposed of.

Mr. GORDON. None of them have been disposed of.

Mr. MANN. They have been disposed of in Committee of the Whole.

Mr. GORDON. None of them have been voted on.

Mr. MANN. Oh, yes; they have, in Committee of the Whole.

Mr. BARNHART. I do not see that this speech should be printed in the RECORD now, and I will object for the present.

Mr. GORDON. Mr. Speaker, I ask unanimous consent to address the House for 15 minutes.

The SPEAKER. The gentleman from Ohio asks unanimous consent to address the House for 15 minutes. Is there objection?

Mr. MANN. Reserving the right to object, upon what subject?

Mr. GORDON. I want to read this speech into the RECORD.

Mr. MANN. I do not think it is necessary to hear from Mr. Untermyer this morning, and therefore I object.

ORDER OF BUSINESS.

The SPEAKER. This is Calendar Wednesday. The unfinished business is the bill (H. R. 15578) to codify, revise, and amend the laws relating to the judiciary.

Mr. WINGO. Mr. Speaker, I move to dispense with the proceedings under Calendar Wednesday for to-day and to resume considerations of the trust bills under the continuing order of the House.

The SPEAKER. The gentleman from Arkansas moves to dispense with Calendar Wednesday business for to-day and to proceed with the trust bills.

Mr. WINGO. Mr. Speaker, I want to be heard on that motion, and under the rules I am entitled to five minutes.

The SPEAKER. The gentleman will proceed.

Mr. WINGO. If my motion carries, the result will be to put in an additional day in the consideration of the trust bills. That will mean that we will get through with those bills this week. It will mean that we will get through with them a day earlier, that we will get through with this session of Congress a day earlier, and get home a day earlier.

I made the same motion on last Wednesday, and some 13 of us who had a desire to hasten the public business voted for the motion. Most of those 13 stayed here. One or two and possibly three of those who voted against it stayed here. The other gentlemen, I know, were engaged in public business—evidently they were, although some of them attended the ball game, some went to the golf links, and some attended an afternoon tea and sipped tea with the ladies. There is no ball game this afternoon at the ball park, there is no afternoon tea, and the golf links are not in very good condition. Therefore, I trust that gentlemen will vote for my motion and stay here and continue the consideration of the trust bills. I am perfectly willing to stay here until hog-killing time, so far as I am concerned, to pass the bills constituting the party program; but if we can expedite business and get through a little bit earlier I think we should do so. I have heard one or two suggestions from the gentleman from Ohio [Mr. FESS] that the country wants a rest, and he quoted a good Democratic authority last night, saying that the country wants a rest. But however that may be, this is a practical proposition that I have offered, and I do not think it will destroy the sanctity of Calendar Wednesday, as some have complained that we want to do.

I think it would be treating Calendar Wednesday with more respect than to continue the performances that have been going on for four or five Calendar Wednesdays.

Mr. UNDERWOOD admitted my charge that this is an unjustifiable filibuster. Does any man dare to stand up and defend this proceeding? You know good and well that you do not expect to pass this bill at this Congress. You know that it is perfectly impossible. Then why play buncombe as you are doing?

Mr. MANN. Mr. Speaker, I am not in favor of the motion of the gentleman from Arkansas. When the codification bill came before the House the first time on Calendar Wednesday, I raised the question of consideration. We had a roll call in the House on the question of consideration. This side of the House voted almost if not quite unanimously against the consideration of the bill, simply because of the time that would be consumed. The gentleman from Arkansas [Mr. WINGO] voted in favor of the consideration of the bill, although he knew that if it was continued it would occupy Calendar Wednesday for a number of days. That side of the House quite generously voted against consideration, although my colleague from Illinois [Mr. FOSTER], who just interrupted the gentleman from Arkansas, voted against the consideration.

The gentleman from Missouri [Mr. LLOYD] has taken a very active part in the actual consideration of this bill and has been here, I think, continuously. Last Wednesday I voted against the motion of the gentleman from Arkansas [Mr. WINGO], and later in the day went to a ball game. If there was a good ball game to-day, I do not know but that I would follow suit; and I am sure that my absence from the House last Wednesday after 3 o'clock did not in any way whatever delay the consideration or the expedition of this bill. [Laughter.]

If the House does not wish to consider the codification bill, it is a matter very easily arrived at. The House can refuse to consider it at any time; but this is an effort to break down Calendar Wednesday. Now, I appreciate the desire of my friend from Arkansas to expedite the public business in words, while in votes he is the one that is largely responsible for what he calls the pussy-footed filibuster. When we took the vote the Democratic side of the House voted for the consideration of this bill, in order to prevent other questions being reached for consideration of the House. We have got a situation now where Calendar Wednesday is occupied. We have had a bill made the continuing order which has not been taken up for consideration so that nothing else can come in except that bill if we happen on any day to run out of meat. We are now in the situation under the reform rules of the House where no nonprivileged matter can be reached or considered except by unanimous consent, or by the grace of the great mogul from Texas, chairman of the Committee on Rules, Mr. HENRY. [Laughter and applause.]

Mr. HENRY. Mr. Speaker——

Mr. MANN. I thought I would get a rise from the gentleman.

Mr. HENRY. Does not the gentleman agree that the House is being fed enough grist to grind?

Mr. MANN. The Committee on Rules has now usurped the proper functions of the House. Where the House heretofore always had the power of determining for itself what it would consider, under the present rules, under the control of the Committee on Rules, we can not consider any matter unless it meets the approval of the Committee on Rules and, as I now understand, unless what is going into the bill meets with the approval of the Committee on Rules.

Mr. HENRY. The gentleman from Illinois and others frequently vote against the rule which the committee brings into the House.

Mr. MANN. Oh, yes; we do that frequently, the presumption in my mind being adverse to any bill brought in by the Committee on Rules.

Mr. HENRY. Mr. Speaker, I wish to say to the gentleman if he continues that way, the crowd will grow smaller each day on that side of the House.

Mr. MANN. Very likely the gentleman has high hopes which he enunciates, though he does not have them in the bottom of his heart, for he knows, as everybody else in the House knows, that if an election were held to-day that side of the House could be put in two tiers of seats. [Applause on the Republican side.]

Mr. BARNHART rose.

The SPEAKER. The time is exhausted.

Mr. BARNHART. Mr. Speaker, I ask unanimous consent to proceed for five minutes.

Mr. FOSTER. Mr. Speaker, I think we ought to enforce the rule on this proposition.

Mr. BARNHART. Does the gentleman from Illinois object?

Mr. FOSTER. I think I will have to call for the regular order.

Mr. BARNHART. Very well. I will ask the gentleman not to forget that.

The SPEAKER. The question is on the motion of the gentleman from Arkansas [Mr. WINGO], to dispense with Calendar Wednesday for to-day.

The question was taken; and on a division (demanded by Mr. WINGO) there were—ayes 12, noes 60.

Mr. WINGO. Mr. Speaker, I make the point that there is no quorum present.

The SPEAKER. Evidently there is not a quorum present. The Doorkeeper will close the doors, the Sergeant at Arms will notify absentees, and the Clerk will call the roll.

The Clerk called the roll; and there were—yeas, 21, nays 229, answered "present" 9, not voting 174, as follows:

YEAS—21.

Austin	Burke, Wis.	Hulings	Thomas
Baltz	Finley	Kindel	White
Barnhart	Goeke	Macdonald	Wingo
Booher	Gordon	Rainey	
Borchers	Griffin	Rouse	
Borland	Hart	Sherwood	

NAYS—229.

Abercrombie	Buchanan, Ill.	Davenport	FitzHenry
Adair	Buchanan, Tex.	Decker	Foster
Adamson	Bulkley	Dent	Fowler
Aiken	Burgess	Dickinson	French
Alexander	Burke, S. Dak.	Difenderfer	Gallagher
Allen	Byrnes, S. C.	Dillon	Gallivan
Anderson	Byrns, Tenn.	Dixon	Garner
Anthony	Candler, Miss.	Donohoe	Garrett, Tex.
Ashbrook	Caraway	Donovan	Gilmore
Aswell	Carr	Doolittle	Glass
Avis	Cary	Drukker	Godwin, N. C.
Bailey	Casey	Dunn	Good
Baker	Chandler, N. Y.	Dupré	Goodwin, Ark.
Barkley	Church	Elder	Gorman
Beakes	Cline	Esch	Graham, Pa.
Beall, Tex.	Coady	Evans	Gray
Bell, Ga.	Collier	Fairchild	Green, Iowa
Blackmon	Connelly, Kans.	Falconer	Greene, Vt.
Bowdle	Cox	Farr	Gregg
Britten	Cramton	Fergusson	Hamlin
Brockson	Crosser	Ferris	Hammond
Brown, N. Y.	Cullop	Fess	Harris
Brumbaugh	Curry	Fields	Harrison
Bryan	Danforth	Fitzgerald	Haugen

Hawley	Lenroot	Payne	Stephens, Tex.
Hay	Lewis, Md.	Peters, Mass.	Stevens, Minn.
Hayden	Lieb	Peterson	Stone
Hayes	Lindbergh	Phelan	Stringer
Heflin	Logue	Platt	Sutherland
Helgesen	Lonergan	Post	Taggart
Henry	McAndrews	Powers	Tavenner
Hensley	McDermott	Prouty	Taylor, Ark.
Hinds	McGillicuddy	Quin	Taylor, Colo.
Hinebaugh	McKellar	Raker	Taylor, N. Y.
Holland	McLaughlin	Rauch	Temple
Houston	Mahan	Rayburn	Thacher
Howell	Metz	Roberts, Mass.	Thomson, Ill.
Hughes, Ga.	Mitchell	Roberts, Nev.	Towner
Hull	Montague	Rothermel	Tribble
Igoe	Moon	Rupley	Underhill
Jacoway	Moore	Russell	Vaughan
Johnson, S. C.	Morgan, La.	Sabath	Vollmer
Johnson, Utah.	Morrison	Scott	Volstead
Kahn	Moss, Ind.	Sells	Walker
Keating	Moss, W. Va.	Shackleford	Walters
Keister	Murdock	Sharp	Watkins
Kelly, Pa.	Murray, Mass.	Sims	Weaver
Kennedy, Iowa	Murray, Okla.	Sinnott	Whaley
Kennedy, R. I.	Neeley, Kans.	Sisson	Whitacre
Kent	Nolan, J. I.	Slemp	Williams
Key, Ohio	O'Brien	Sloan	Willis
Kiess, Pa.	Oglesby	Small	Wilson, Fla.
Konop	O'Hair	Smith, J. M. C.	Winslow
Kreider	Oldfield	Smith, Md.	Witherspoon
La Follette	Page, N. C.	Smith, N. Y.	Woods
Langley	Paige, Mass.	Stafford	
Lazaro	Park	Steenerson	
Lee, Pa.	Patten, N. Y.	Stephens, Miss.	

ANSWERED "PRESENT"—9.

Bartlett	Gillett	Johnson, Wash.	McKenzie
Cantor	Johnson, Ky.	Lloyd	Mann
Fordney			

NOT VOTING—174.

Ainey	Edmonds	Korbly	Reilly, Wis.
Ansberry	Edwards	Lafferty	Riordan
Barchfeld	Estopinal	Langham	Rogers
Bartholdt	Faison	Lee, Ga.	Rubey
Barton	Flood, Va.	L'Engle	Rucker
Bathrick	Floyd, Ark.	Lesher	Saunders
Bell, Cal.	Francis	Lever	Scully
Brodbeck	Frear	Levy	Seldomridge
Broussard	Gard	Lewis, Pa.	Sherley
Brown, W. Va.	Gardner	Lindquist	Shreve
Browne, Wis.	Garrett, Tenn.	Linthicum	Slayden
Browning	George	Lobeck	Smith, Idaho
Bruckner	Gerry	Loft	Smith, Minn.
Burke, Pa.	Gittins	McClellan	Smith, Saml. W.
Burnett	Goldfogle	McCoy	Smith, Tex.
Butler	Goulden	McGuire, Okla.	Sparkman
Calder	Graham, Ill.	Madden	Stanley
Callaway	Greene, Mass	Maguire, Nebr.	Stedman
Campbell	Griest	Maher	Stephens, Cal.
Cantrill	Gudger	Manahan	Stephens, Nebr.
Carew	Guernsey	Mapes	Stevens, N. H.
Carlin	Hamill	Martin	Stout
Carter	Hamilton, Mich.	Merritt	Sumners
Clancy	Hamilton, N. Y.	Miller	Switzer
Clark, Fla.	Hardwick	Mondell	Talbott, Md.
Claypool	Hardy	Morgan, Okla.	Talcott, N. Y.
Connolly, Iowa	Helm	Morin	Taylor, Ala.
Conry	Helvering	Mott	Ten Eyck
Cooper	Hill	Neely, W. Va.	Thompson, Okla.
Copley	Hobson	Nelson	Townsend
Covington	Howard	Norton	Treadway
Crisp	Hoxworth	O'Leary	Tuttle
Dale	Hughes, W. Va.	O'Shaunessy	Underwood
Davis	Humphrey, Wash.	Padgett	Vare
Deitrick	Humphreys, Miss.	Palmer	Wallin
Dershem	Jones	Parker	Walsh
Dies	Kelley, Mich.	Patton, Pa.	Watson
Dooling	Kennedy, Conn.	Peters, Me.	Webb
Doremus	Kettner	Plumley	Wilson, N. Y.
Doughton	Kinkaid, Nebr.	Porter	Woodruff
Driscoll	Kinkead, N. J.	Pou	Young, N. Dak.
Dyer	Kirkpatrick	Ragsdale	Young, Tex.
Eagan	Kitchin	Reed	
Eagle	Knowland, J. R.	Reilly, Conn.	

So, two-thirds not having voted in favor thereof, the motion was rejected.

The Clerk announced the following pairs:

For the session:

Mr. SCULLY with Mr. BROWNING.

Mr. UNDERWOOD with Mr. MANN.

Mr. BARTLETT with Mr. BUTLER.

Until further notice:

Mr. BATHRICK with Mr. AINEY.

Mr. BRODBECK with Mr. BARTHOLDT.

Mr. BURNETT with Mr. BARTON.

Mr. CANTRILL with Mr. BELL of California.

Mr. CARLIN with Mr. CALDER.

Mr. CARTER with Mr. BROWNE of Wisconsin.

Mr. CLARK of Florida with Mr. CAMPBELL.

Mr. CLAYPOOL with Mr. COOPER.

Mr. CONRY with Mr. DYER.

Mr. COVINGTON with Mr. EDMONDS.

Mr. DEITRICK with Mr. FREAR.

Mr. DOREMUS with Mr. GREENE of Massachusetts.

Mr. DOUGHTON with Mr. HUMPHREY of Washington.

Mr. EDWARDS with Mr. KELLEY of Michigan.

Mr. ESTOPINAL with Mr. J. R. KNOWLAND.

Mr. FAISON with Mr. LAFFERTY.

Mr. FLOOD of Virginia with Mr. KINKAID of Nebraska.

Mr. FRANCIS with Mr. LANGHAM.

Mr. GOLDFOGLE with Mr. LINDQUIST.

Mr. GEORGE with Mr. MCGUIRE of Oklahoma.

Mr. HARDWICK with Mr. MONDELL.

Mr. HARDY with Mr. MANAHAN.

Mr. HELVERING with Mr. MILLER.

Mr. HOWARD with Mr. MORIN.

Mr. HUMPHREYS of Mississippi with Mr. NORTON.

Mr. KITCHIN with Mr. PORTER.

Mr. LEVER with Mr. TREADWAY.

Mr. LEVY with Mr. WALLIN.

Mr. LINTHICUM with Mr. VARE.

Mr. MCCLELLAN with Mr. PARKER.

Mr. MCCOY with Mr. NELSON.

Mr. PADGETT with Mr. PLUMLEY.

Mr. PALMER with Mr. PATTON of Pennsylvania.

Mr. POU with Mr. ROBERTS of Nevada.

Mr. REED with Mr. ROGERS.

Mr. REILLY of Connecticut with Mr. SHREVE.

Mr. RIORDAN with Mr. SMITH of Idaho.

Mr. RUCKER with Mr. SMITH of Minnesota.

Mr. SAUNDERS with Mr. STEPHENS of California.

Mr. SHERLEY with Mr. GRIEST.

Mr. TALBOTT of Maryland with Mr. SWITZER.

Mr. WATSON with Mr. WOODRUFF.

Mr. WEBB with Mr. YOUNG of North Dakota.

Mr. SPARKMAN with Mr. DAVIS.

Mr. LEE of Georgia with Mr. JOHNSON of Washington.

Mr. GRAHAM of Illinois with Mr. SAMUEL W. SMITH.

Mr. YOUNG of Texas with Mr. HAMILTON of Michigan.

Mr. SLAYDEN with Mr. BURKE of Pennsylvania.

Mr. DALE with Mr. MARTIN.

Mr. TAYLOR of Alabama with Mr. HUGHES of West Virginia.

Until further notice:

Mr. CLANCY with Mr. HAMILTON of New York.

Mr. GUDGER with Mr. GUERNSEY.

Mr. CALLAWAY with Mr. MERRITT.

Mr. JOHNSON of Kentucky with Mr. MADDEN.

Mr. RUBEY with Mr. LEWIS of Pennsylvania.

Mr. TOWNSEND with Mr. GILLETT (commencing May 28, ending June 4).

Mr. GARRETT of Tennessee with Mr. FORDNEY.

Mr. STEDMAN with Mr. PETERS of Maine.

Mr. HELM with Mr. MCKENZIE.

Mr. SMITH of Texas with Mr. BARCHFELD.

Mr. HILL with Mr. COPLEY (commencing May 22, ending 10 days).

Mr. MANN. Mr. Speaker, I am paired with the gentleman from Alabama, Mr. UNDERWOOD, and I desire to withdraw my vote of "no" and be recorded "present."

The name of Mr. MANN was called, and he answered "Present."

The result of the vote was announced as above recorded.

The SPEAKER. The Doorkeeper will open the doors. Two-thirds not having voted in favor of dispensing with Calendar Wednesday, the motion is lost.

LEAVE OF ABSENCE.

By unanimous consent, Mr. BROWNING was granted leave of absence indefinitely, on account of a broken arm.

REVISION OF THE LAWS—JUDICIARY TITLE.

The SPEAKER. The House automatically resolves itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill H. R. 15578, and the gentleman from Missouri [Mr. RUSSELL] will take the chair.

Accordingly the House resolved itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill H. R. 15578, with Mr. RUSSELL in the chair.

The CHAIRMAN. The House is in the Committee of the Whole House on the state of the Union for the further consideration of the bill H. R. 15578, the title of which the Clerk will report.

The Clerk read as follows:

A bill (H. R. 15578) to codify, revise, and amend the laws relating to the judiciary.

Mr. WATKINS. Mr. Chairman, I offer a committee amendment.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Page 75, line 1, after the word "States," strike out the words "are parties or have" and insert "is a party or has."

Mr. WINGO. Mr. Chairman, owing to the confusion I could not hear the amendment read.

Mr. WATKINS. Mr. Chairman, it is simply to correct a grammatical error. It says "the United States are" and it should be "the Government is."

Mr. WINGO. I could not hear the amendment read.

The question was taken, and the amendment was agreed to.

Mr. WATKINS. Mr. Chairman, I desire to offer another committee amendment.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Page 15, line 2, after the word "the," strike out "court or the commissioner" and insert in lieu thereof the word "officer."

The question was taken, and the amendment was agreed to.

Mr. WATKINS. Mr. Chairman, I desire to offer another committee amendment.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Page 75, line 3, after the word "such," strike out "court or commissioner" and insert in lieu thereof the word "officer."

The question was taken, and the amendment was agreed to.

The Clerk read as follows:

SEC. 130. Whenever any person indicted in a court of the United States makes affidavit, setting forth that there are witnesses whose evidence is material to his defense; that he can not safely go to trial without them; what he expects to prove by each of them; that they are within the district in which the court is held, or within 100 miles of the place of trial; and that he is not possessed of sufficient means, and is actually unable to pay the fees of such witnesses, the court in term, or any judge thereof in vacation, may order that such witnesses be subpœnaed if found within the limits aforesaid. In such case the costs incurred by the process and the fees of the witnesses shall be paid in the same manner that similar costs and fees are paid in case of witnesses subpœnaed in behalf of the United States.

Mr. WATKINS. Mr. Chairman, I desire to offer a committee amendment.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Page 77, line 2, strike out "such witnesses" and insert in lieu thereof "all such witnesses as may be material and necessary."

The question was taken, and the amendment was agreed to.

The Clerk read as follows:

SEC. 132. Any judge of the United States, on the application of a district attorney, and on being satisfied by proof that the testimony of any person is competent and will be necessary on the trial of any criminal proceeding in which the United States are parties or are interested, may compel such person to give recognizance, with or without sureties, at his discretion, to appear to testify therein; and for that purpose may issue a warrant against such person, under his hand, with or without seal, directed to the marshal or other officer authorized to execute process in behalf of the United States, to arrest and bring before him such person. If the person so arrested neglects or refuses to give recognizance in the manner required, the judge may issue a warrant of commitment against him, and the officer shall convey him to the prison mentioned therein. The said person shall remain in confinement until he is removed to the court for the purpose of giving his testimony, or until he gives the recognizance required by said judge.

Mr. WATKINS. Mr. Chairman, I desire to offer a committee amendment.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Page 77, line 25, after the word "States," strike out the words "are parties or are" and insert in lieu thereof "is a party or is."

The question was taken, and the amendment was agreed to.

Mr. STAFFORD. Mr. Chairman, I move to strike out the last word. I wish to inquire of the chairman whether in his opinion he does not believe it is advisable to extend this same authority to proceedings and actions under the antitrust laws? The present section merely extends it to proceedings in criminal actions. I can conceive how it would be highly advisable to detain witnesses in proceedings under the antitrust laws. We know when proceedings are about to be instituted for a violation of the antitrust laws of the United States that sometimes witnesses find it convenient to make a hasty exit from this country. If we are going to make such a provision, this would be the proper place. I have prepared an amendment, somewhat hastily it is true, but as this bill will be submitted to the Senate for their consideration, I think perhaps it might be well to place it in this section, if the gentleman approves it, and when the bill goes over to the other body they may pass upon it and put it into complete and final form. I suggest to the gentleman that after the word "proceeding," in line 24, page 77, to insert these words, "in any proceeding, suit, or action under the antitrust laws of the United States."

Mr. WATKINS. I do not see any objection to that. It is true in this codification we deal with only one subject at a time, as near as we can, but the general rule of criminal law is applicable to that section which we are now considering. I do not see, however, that it will harm anything by putting it in.

Mr. STAFFORD. The gentleman realizes here is one provision of the law which gives authority to the United States to detain necessary witnesses in criminal prosecutions.

Mr. WATKINS. I shall interpose no objection.

Mr. STAFFORD. Mr. Chairman, I offer the following amendment, to be inserted after the word "proceeding," in line 24, page 77.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Page 77, line 24, after the word "proceeding," insert the words "or in any proceeding, suit, or action under the antitrust laws of the United States."

Mr. BRYAN. This is an amendment to the amendment.

Mr. STAFFORD. No; the amendment was adopted, and I withdraw the pro forma amendment and offer this.

Mr. BRYAN. Mr. Chairman, in this provision it is arranged that in criminal proceedings witnesses can be compelled to give recognizance, and if they do not, they go to jail, of course, or are detained in some way by the authorities. Now, that is all right in criminal proceedings, and all criminal proceedings under the antitrust laws would come within the provision as it is now worded, and if the amendment is adopted all civil proceedings under the antitrust laws would be subject to the same provision; and is it not subject to some question whether we should extend the right to detain witnesses and compel them to give recognizances, and, if they do not, for them to go to jail, in civil suits? I think that goes too far, and I hardly believe that the amendment ought to be adopted and the power extended to civil suits in any case. It is an entirely new departure, and the statute itself is broad enough to cover any criminal proceeding under the antitrust laws, so why make it cover civil proceedings?

Mr. STAFFORD. If the gentleman will yield. The gentleman is quite well aware in the suits instituted for violations of the antitrust laws there are suits in equity. In these proceedings it is very necessary to have witnesses available when they would be needed to testify to prove the Government's case. They may be very wealthy persons, who can conveniently absent themselves when they have a fear that they are going to be compelled to testify in these trust proceedings.

I know the gentleman can see the efficacy and need of such a provision as this.

Mr. BRYAN. I can see what the gentleman from Wisconsin is driving at, but the very rich men to which he referred are held by the bond of public opinion, and the matter of a small money bond amounts to nothing to them. If the power of the court to punish for contempt of court would not detain them if they wanted to go and subject themselves to the contempt of court, as they do when a subpœna is served upon them and they disobey it, then a thousand-dollar bond would be nothing—absolutely nothing. In a trust case, where the Government sues a certain railroad, and the railroad determines to get a large number of laboring men, for instance, or employees, to attend the trial, they can cause all of those men to be put into jail if they can not give a bond to attend the trial, under this provision. Now, I think that is going entirely too far. I think that kind of a right ought not to be allowed in civil cases.

Mr. STAFFORD. The gentleman recognizes they can not be put in jail, even in the extreme case the gentleman imagines, unless it has the approval of the judge of the United States court. Can the gentleman even, with his very easy imagination, conceive of a case where the judge of the United States court would imprison witnesses, as he refers to?

Mr. BRYAN. If the defendant corporation comes in and says, "Here are a lot of witnesses that are essential to establish the fact that we are not a trust, and we want them detained, and the law authorizes us to detain them," then the judge is going to say, "All right; detain them." And he would be expected to do so, and he would not be expected to use his discretion in such a way as take from this corporation the evidence. I do not think we ought to put on the books any authority in a civil case to any judge to require a body of citizens who have committed no offense to be tied up in this way. It is bad enough in criminal cases. A lot of times it is abused, and many times it works a great injustice, and I would not want to extend any such provision as that to a civil case.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Wisconsin [Mr. STAFFORD].

The question was taken, and the Chair announced that the ayes seemed to have it.

Mr. BRYAN. Division, Mr. Chairman.

The committee divided; and there were—ayes 17, noes 8.

So the amendment was agreed to.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

SEC. 133. Copies of any books, records, papers, or documents in any of the executive departments, or other Government establishments, authenticated under the seals of such departments or establishments, respectively, shall be admitted in evidence equally with the originals thereof.

Mr. STAFFORD. Mr. Chairman, I move to strike out the last word. I wish to direct the attention of the committee, and particularly that of the chairman of the committee, to the following section and inquire as to the need of having section 134, and also other sections which cover this same authority, only in different language. I would like to inquire of the chairman whether this general authority now found in the pending section is not broad enough to cover the specific authority granted in the following section, which has identical language, and vests with the Solicitor of the Treasury the right to certify the documents, records, and papers in his office?

Mr. WATKINS. I will state to the gentleman that it is, in effect; that in several of the sections various officials of the various departments are authorized to give these certificates of record, and they are enumerated, and that grows out of the fact that at various times statutes have been enacted giving authority to one, then to another, as the departments were created. These authorities were given at various times, and we incorporated the language as found in the statute, except as shown in italics. We could have said generally all of the departments of the Government, but we did not think it was necessary to do it.

Mr. STAFFORD. In the present section you are extending the scope so as to include other Government establishments.

Now, if the gentleman will look up the history of the next section he will find that it is section 2 of the act of February 22, 1849. The first section of that act conferred some authority that was not provided for generally, but even at that time this same authority was vested in the head of the executive department. In going over this bill I thought that this was somewhat out of the ordinary, and I called up the Solicitor of the Treasury this morning and pointed out to him the obvious duplication, and I was informed by his assistant that they are rarely called upon to furnish certification of records in their office; and it was his opinion that the general authority as found in section 133 was adequate. Now, if we are codifying and not merely just combining the laws—if we are really codifying the laws—I submit in all seriousness to the gentleman, what is the need of carrying in the statute a superfluous section in which similar authority is conferred in another existing section?

Mr. MANN. Where is the other section?

Mr. STAFFORD. Section 134—the one that follows. I contend it is merely superfluous, and that the authority contained in section 133 is fully adequate to confer the authority specially given in section 134. I did not wish to take it upon myself to strike out section 134 without making some inquiry; so this morning I called up the Solicitor of the Treasury and his assistant informed me that they have really little occasion to furnish certification of records in their office; and even if they would have, the authority found in section 133 would permit it.

Mr. MANN. If the gentleman will permit, I think the two sections are somewhat mixed anyhow. Section 133 authorizes transcript of papers under the seal of the department. Section 134 authorizes transcript under the seal of the Solicitor of the Treasury. Now, there are a number of departments which have bureaus in them which have seals distinct from the seal of the department. That is the case, I think, with the Patent Office. We created a bureau here recently, giving it a seal.

Mr. STAFFORD. Will the gentleman yield? The gentleman recognizes that if there was not existing this authority as found in section 134, if the certified copy of any documents had the seal of the department it would be considered as good evidence under the provisions of section 133.

Mr. MANN. If it had the seal of the department, it would be; but the Solicitor of the Treasury has a seal of his own.

Mr. STAFFORD. But the Solicitor of the Treasury informs me they have very little call for certified copies of documents in their office.

Mr. MANN. None of the departments have much call for it, except the Patent Office.

Mr. STAFFORD. The Indian Office——

Mr. MANN. And it is not a question of how much call you have. I think what is now in section 134 was originally put into the statutes because that office was given a seal of its own. But I remember that a number of the bureaus now have seals of their own, and really section 133 ought to be changed so that it would permit transcripts under the seal of the departments or a bureau in a department. Then section 134 would not be necessary.

Mr. STAFFORD. If that would be changed accordingly, then we would obviate the need of section 135 and two or three of these following sections, which confer authority upon bureau chiefs for certification of documents in their respective bureaus.

The CHAIRMAN. The time of the gentleman has expired. The pro forma amendment will be considered withdrawn.

Mr. BORLAND. Mr. Chairman, I want to make some remarks on this bill, but I shall ask unanimous consent to extend them in the RECORD.

The CHAIRMAN. The gentleman from Missouri [Mr. BORLAND] asks unanimous consent to extend in the RECORD his remarks on this bill. Is there objection?

There was no objection.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

SEC. 134. Copies of any documents, records, books, or papers in the office of the Solicitor of the Treasury, certified by him under the seal of his office, or, when his office is vacant, by the officer acting as solicitor for the time, shall be evidence equally with the originals.

Mr. STAFFORD. Mr. Chairman, I move to strike out the paragraph.

The CHAIRMAN. The gentleman from Wisconsin moves to strike out the paragraph.

Mr. STAFFORD. The reason for striking out that paragraph has been stated by me in discussing the prior section. If I had not made inquiry of the Assistant Solicitor of the Treasury and ascertained that there is no need of this, and that there is an incongruity in these two provisions, I would not presume here to offer to strike it out; but I find upon inquiry that there is no need of it, that the language in the section preceding, general in form, will be ample to carry out all cases referred to in this section. I think the chairman should accept the amendment.

Mr. BARTLETT. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. Does the gentleman from Wisconsin yield to the gentleman from Georgia?

Mr. STAFFORD. I will be very glad to yield.

Mr. BARTLETT. Has the gentleman ever had any experience with the Solicitor of the Treasury? The Solicitor of the Treasury, as I understand it, has the records of suits pending in court. I have had occasion myself in one or two cases to procure copies of those records from the Department of Justice, in cases of forfeiture of bonds and appearances of parties in internal-revenue cases, and various things of that kind. The records of proceedings are kept in the office of the Solicitor of the Treasury. As I understand it, copies of records of what has been done and of the advice that is given are kept, and the records of the proceedings in the case; and it may become necessary, as I know it has been in two cases that came up from my district in Georgia, to consult the Solicitor of the Treasury and get copies of the records.

Mr. STAFFORD. I grant all that, because that is the function of this bureau. But I ask the gentleman—I recognize his erudition in law—whether the——

Mr. BARTLETT. That has been my experience; that is all.

Mr. STAFFORD. Whether the general authority conferred in section 133 would not be all-sufficient to meet every case for a certified copy of any record in the office of the Solicitor of the Treasury. I was informed by the Assistant Solicitor of the Treasury this morning that this is mere surplusage.

Mr. BARTLETT. I doubt it, because this says "any of the executive departments or other Government establishments." I do not know what is meant by that.

Mr. STAFFORD. The Solicitor of the Treasury is certainly a part of the executive department.

Mr. BARTLETT. The solicitor's office is not a department.

Mr. STAFFORD. It is a part of the executive department. It is a bureau in an executive department.

Mr. BARTLETT. It is the solicitor's office. It is not a bureau or a department. I do not know whether it is a separate establishment, but it has officials of its own in the Department of the Treasury.

Mr. STAFFORD. Does not the smaller include the greater?

Mr. BARTLETT. I think so. I think if you wanted a record in the office of the solicitor, and got a copy thereof certified to by the Secretary of the Treasury, or some one authorized to so certify and attach the seal of the department to it, that would be permissible. That is my judgment about it as a lawyer. I apprehend that this provision was put in the statute for the convenience of the department and for the convenience of those who might require the certified copies of the papers or the records in that office, and not require you to go to the Secretary of the Treasury and have him investigate it, but go directly to the solicitor's office.

Mr. STAFFORD. The gentleman knows that there are many other bureaus in the Treasury Department where cases develop

for need of copies of their records, and they are all certified to by the Secretary of the Treasury. Now, I am told by the Assistant Solicitor of the Treasury that he is rarely called upon for certification of documents in his office, and I can not see any need for this separate provision.

Mr. WILLIS. Mr. Chairman, will the gentleman yield?

Mr. STAFFORD. I will be very glad to.

Mr. WILLIS. The gentleman is calling attention to the fact that there is a repetition in sections 135, 136, and 137.

Mr. STAFFORD. Particularly as to sections 133 and 134.

Mr. WILLIS. Yes. Does not the gentleman think that if we would amend section 133, in line 15, by inserting the word "bureaus" after the word "departments," so that it would read "copies of any books, records, papers, or documents in any of the executive departments, bureaus, or other Government establishments, authenticated under the seals of such departments," and again, in line 17, after the word "departments," insert the word "bureaus," so that it would read "under the seals of such departments, bureaus, or establishments, respectively," that would cover all the cases the gentleman has in mind, and that would make it possible to strike out that part?

Mr. STAFFORD. That would be truly a codification of the statutes. As I understand it, we are codifying and getting rid of the unnecessary sections in the existing laws.

The CHAIRMAN. The time of the gentleman has expired.

Mr. WILLIS. Mr. Chairman, I ask unanimous consent that the gentleman's time may be extended for five minutes. I want to pursue this inquiry.

The CHAIRMAN. Is there objection to the gentleman's request?

There was no objection.

Mr. WILLIS. I wanted to call the gentleman's attention to what would be the situation if we passed this as it stands. It would lead to confusion, because, as the gentleman from Illinois [Mr. MANN] pointed out, there are a number of bureaus not mentioned in this bill which have seals. Now, if we should amend section 133 by inserting the word "bureaus," it would cover all of these cases.

Mr. STAFFORD. I certainly approve the suggestion of the gentleman from Ohio. It would not only tend to relieve this bill of unnecessary sections, but it would be scientific in its administration, in throwing the work upon the respective bureaus. This is not a very delicate subject. If a document is lodged in any bureau, the seal of the bureau, if there is a seal, should be sufficient to carry an exemplification of it.

Mr. WILLIS. I think so. Mr. Chairman, I ask unanimous consent to return to section 133 for the purpose of offering an amendment. Before the gentleman objects——

Mr. WATKINS. Reserving the right to object, there is no necessity at all for that. We propose to antagonize any effort to cut out section 134, and to give our reasons in due time.

Mr. WILLIS. Does the gentleman mean to say, then, that he intends to object?

Mr. WATKINS. I intend to object, but reserve my objection so that the gentleman can make his statement.

Mr. WILLIS. I thank the gentleman for his courtesy. I was asking unanimous consent to return to section 133, so as to insert the word "bureaus" after the word "departments" in line 15, and also after the word "departments" in line 17. By so doing we will have a complete and definite statement of the method by which exemplified copies can be obtained. It seems to me, if we let it stand as it is, there will be confusion, because there are many bureaus that have seals that are not enumerated here in the bill; and if we are going to enumerate some of the bureaus that have seals, we ought to enumerate all of them, but they are not all enumerated in this bill. Therefore it seems to me it would be better to make a general provision, such as I have suggested, by amending section 133; and I ask unanimous consent to return to section 133 for the purpose of offering that amendment.

The CHAIRMAN. The gentleman from Ohio asks unanimous consent to return to section 133 for the purpose of offering an amendment. Is there objection?

Mr. WATKINS. I object, Mr. Chairman.

The CHAIRMAN. The gentleman from Louisiana objects.

Mr. WATKINS. Now, Mr. Chairman, I wish to be recognized on the pending amendment offered by the gentleman from Wisconsin [Mr. STAFFORD]. The gentleman who offers to strike out section 134 gives as his reason for so doing that section 133 covers the law which is intended to be enacted and which is now enforced in section 134. The gentleman is mistaken about that. It is true that in section 133 the Committee of the Whole, having passed over that, have left the statement in the section that other Government establishments besides the executive departments do have the right to give these certifications, and that they are to be recognized, but section 134 is confined to the Solicitor of the Treasury. The Solicitor of the Treasury is not a department of the Government, nor is he one of the establishments of the Government. He has been provided with a seal. There was no doubt a reason at the time the law was enacted providing him with a seal why it should be done, and up to the present time I have heard no reason assigned except that it is not a frequent occurrence when he is called upon to use that seal in these certifications. I know of a number of cases now which in all probability in a short time will require his certification and his seal. There is a bill now pendng in the Senate which I am sure, if it is enacted into law, will require a number of instances in which this seal will have to be used, and it will be a great convenience to the department to have the solicitor himself use the seal, instead of always going to the Secretary, the head of the department, and having him or his secretary stamp his seal on the documents which are certified to by the solicitor.

If that is not done, if he does not go to the head of the department each time to have his seal stamped on the document that is certified, he will have himself to be furnished with the seal of the head of the department. It is not advisable that the various solicitors in the several departments be authorized freely and at their will to use the seal of the head of the department, and it is much better, more practicable, easier, and more satisfactory for the man who is provided with the seal to use his own individual seal, and let the impression of that seal carry its authority along with it. For that reason I oppose the amendment to strike out section 134.

Mr. WILLIS. Will the gentleman yield for a question?

Mr. WATKINS. Certainly.

Mr. WILLIS. I understand the gentleman to be contending that the office of the solicitor would not be an executive department or a Government establishment, and I quite agree with him in that contention.

Mr. WATKINS. Yes.

Mr. WILLIS. According to the language of section 133, as I proposed to amend it, would it not be regarded as a bureau, and would not these others mentioned in sections 135, 136, and 137 come under the language already suggested as an amendment? Would they not be bureaus? What is the gentleman's objection to that amendment?

Mr. WATKINS. The objection is that it would be too general. It would give too many parties the right to use the seal, and when those parties were using a seal they would be expected to use the seal of the head of the department, or else the seal would have to be placed in the possession of these subordinates and let them use the seal of the head of the department.

Mr. WILLIS. The gentleman does not contend that the amendment as I have suggested it would permit any bureau to use a seal if it were not already given a seal by law. It could not lead to any confusion in that respect.

Mr. WATKINS. I did not understand the gentleman's suggestion to go that far.

Mr. WILLIS. My suggestion was simply this, to insert the word "bureaus" after the word "departments," in line 15 and in line 17, so that any bureau which now has by law a seal could give exemplified copies. It would not extend the right to any bureau that does not now have a seal by law. I would not favor such a proposition as that for a moment.

Mr. WATKINS. In what part of section 133 does the gentleman propose to insert that language?

Mr. WILLIS. I shall be glad to call the attention of the gentleman to that. My proposition was to amend section 133 so that it would read as follows:

SEC. 133. Copies of any books, records, papers, or documents in any of the executive departments, bureaus, or other Government establishments, authenticated under the seals of such departments, bureaus, or establishments, respectively, shall be admitted in evidence equally with the originals thereof.

Mr. WATKINS. Does not the gentleman realize that if he should use that language, that would require these various bureaus to use the seal of the head of the department?

Mr. WILLIS. No; I do not so understand it. It would require the heads of bureaus that now have seals by law to furnish exemplifications under their seals; but a bureau that does not have any seal would not have any different authority from what it now has.

Mr. WATKINS. The gentleman does not state that those who do not have seals shall not have that authority.

Mr. WILLIS. That would not be necessary, because, of course, those who do not have seals would have no authority and no occasion to give the exemplifications.

Mr. WATKINS. They could use the seal of the head of the department.

Mr. WILLIS. I do not think it would admit of such an interpretation as that, because obviously a bureau that does not have a seal by law could not use a seal, and in those bureaus that do not have seals, of course all the exemplifications would have to be given by the head of the department. But in those bureaus that do have seals they could give exemplified copies without any confusion. That is precisely the point I was trying to make; and if we should amend that section in that way, then it would do away with the necessary confusion that will result if we do not do something of that kind. There are bureaus that have seals that are not mentioned in this bill, and if we pass it as it stands, that must inevitably lead to confusion.

Mr. WATKINS. These bureaus that have seals and are not authorized to use them by this bill would have to get the seal under the head of the department. I think it would make it too general, and I do not think it would be a safe proposition.

The CHAIRMAN. The question is on the amendment of the gentleman from Wisconsin to strike out section 134.

Mr. MANN. Mr. Chairman, I can not agree with my friend from Wisconsin [Mr. STAFFORD] in regard to this matter, nor do I agree with the gentleman from Ohio [Mr. WILLIS]. Section 133 is a general section authorizing transcripts of evidence, and so forth, under the seal of the department; or, in the case of the Interstate Commerce Commission, under the seal of the commission as an establishment other than a department. But there are certain officers in the various departments who have control of certain things that do not go through the head of the department. The Solicitor of the Treasury is an officer that has certain powers that are not subject to the control of the Secretary of the Treasury. The Comptroller of the Treasury is another officer with similar powers, and under the law, under the provisions of this bill, these officers have seals to certify copies of papers in their control, and those are to be taken as evidence, and they are not required to go to the head of the department. If the word "bureau" was inserted in section 133, as suggested by the gentleman from Ohio, I am not sure whether it would be sufficient to include them. They are not covered under the term "bureau" ordinarily. They are covered under the term "office." There are many other bureaus of the Government, using the term generically, which come in close contact with the people in their official relations, and they now furnish evidence under the seal of that particular office. It is undoubtedly true that it would be possible to frame a general provision authorizing any bureau which had a seal to certify under the seal of that bureau the transcript of testimony, but it is not entirely certain that that would be desirable. Most of the bureaus which are under the actual control of the head of the department probably ought to submit papers to the head of the department, and obtain the seal in that manner from the head of the department.

Mr. BARTLETT. Will the gentleman yield?

Mr. MANN. Yes.

Mr. BARTLETT. Does the gentleman understand the word "establishment" to cover the Interstate Commerce Commission?

Mr. MANN. Undoubtedly.

Mr. BARTLETT. And the Commissioner of Insular Affairs?

Mr. MANN. No. I think it would not cover any establishment inside of an executive department, and the Insular Bureau is in the War Department.

Mr. BARTLETT. I intended to say the Isthmian Canal Commission.

Mr. MANN. Oh, yes.

Mr. BARTLETT. The Solicitor of the Treasury would not come under the head of "establishment."

Mr. WILLIS. It would be a bureau.

Mr. MANN. In using language in the past in reference to this matter we have used the words "bureau," "office," and two or three other terms, so as to be sure to include everything of the kind.

The CHAIRMAN. The time of the gentleman from Illinois has expired.

Mr. WILLIS. I ask unanimous consent that the gentleman's time be extended five minutes.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. WILLIS. Now, I want to ask the gentleman, suppose the Children's Bureau has a seal——

Mr. MANN. I have just looked that up, and it has not one.

Mr. WILLIS. Then take a bureau that does have a seal.

Mr. BRYAN. The Auditor of the Post Office Department has a seal.

Mr. WILLIS. Take a bureau that does have a seal; how would the gentleman proceed to get an exemplified copy, if you found that bureau was not authorized to issue exemplified copies?

Mr. MANN. I would apply to the head of the bureau for an exemplification, and it would be prepared and furnished under the seal of the department.

Mr. WILLIS. Notwithstanding the bureau had a seal, it could not use it?

Mr. MANN. It could not use it in that case, undoubtedly. As a matter of fact, I do not think a bureau ought to have a seal unless there is a special reason for it.

Mr. BARTLETT. I was going to say that I think the wisdom of the policy is not to give a seal to the bureau where there is not too much inconvenience to require the seal of the head of the department.

Mr. SLOAN. Mr. Chairman, I have looked around on the vast unoccupied public domain in this House, and not desiring to raise the question of no quorum, I desire to submit a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. SLOAN. Would it be proper now to make a filing for a homestead on this great unoccupied American domain? [Laughter.]

The CHAIRMAN. That is not a parliamentary inquiry. The question is on the amendment offered by the gentleman from Wisconsin.

The question was taken; and on a division (demanded by Mr. WATKINS) there were 4 ayes and 10 noes.

So the amendment was rejected.

The Clerk read as follows:

SEC. 136. Every certificate, assignment, and conveyance executed by the Comptroller of the Currency in pursuance of law, and sealed with his seal of office, shall be received in evidence in all places and courts; and all copies of papers in his office, certified by him and authenticated by the said seal, shall in all cases be evidence equally with the originals. An impression of such seal directly on the paper shall be as valid as if made on wax or wafer.

Mr. STAFFORD. Mr. Chairman, I move to strike out the last word. Do I understand the purport of the present section that certified copies of the certificates, assignments, and conveyances executed by the Comptroller of the Currency would be received as evidence in all the courts and places outside of the jurisdiction of the United States? Was not the provision originally a part of the law that limits its effects to United States courts?

Mr. WATKINS. These laws of evidence apply to United States courts as a rule. It is enacted for the purpose of being used in United States courts.

Mr. MANN. Oh, no; they are good anywhere.

Mr. WATKINS. They are for the courts in the United States.

Mr. STAFFORD. Of course, there is no limitation in this particular section. It struck me that there ought to be a clause limiting it to the jurisdiction of the United States.

Mr. WATKINS. We could not enact laws for other countries.

Mr. STAFFORD. I am quite well aware of that; but I think it would be made clear by the addition of the words "within the jurisdiction of the United States."

The CHAIRMAN. Without objection, the pro forma amendment will be withdrawn, and the Clerk will read.

The Clerk read as follows:

SEC. 137. Copies of the organization certificate of any national banking association, duly certified by the Comptroller of the Currency, and authenticated by his seal of office, shall be evidence in all courts and places within the jurisdiction of the United States of the existence of the association, and of every matter which could be proved by the production of the original certificate.

Mr. MANN. Mr. Chairman, I move to strike out the last word, and suggest to the gentleman that he prepare and probably later put into this part of the bill a provision in reference to the organization of the Federal reserve boards, and so forth.

Mr. WATKINS. Mr. Chairman, I will state to the gentleman that my understanding is that the same official now signs those certifications who signed them under the late law; at least, he is continuing to do that up to the present time.

Mr. MANN. The same official may sign them, but this language is:

Organization certificate of any national banking association.

Mr. WATKINS. Yes; he is signing them right now.

Mr. MANN. I know; but the Federal Reserve Board is not a national banking association. In the codification that may as well be included, so as to have it all in this law. Of course it is covered by existing law, but that was passed by act of Congress since this matter was arranged, probably.

Mr. CULLOP. Mr. Chairman, will the gentleman yield?

Mr. MANN. Certainly.

Mr. CULLOP. Why not add to this section, where it properly belongs, an amendment containing this phrase?

Mr. MANN. I did not undertake to say what language would be sufficient, but I call the attention of the chairman of the Committee on Revision of the Laws to it, so that he might have an amendment prepared and return to it and insert it, if he desires.

Mr. CULLOP. I was going to make that suggestion to the gentleman. Why not have this section passed until the gentleman can see what language the amendment should be in that should be made to this section for the purpose of having it cover that matter?

Mr. WATKINS. Mr. Chairman, in answer to the gentleman's question, I will state that the Comptroller of the Currency is still signing these certificates and using the seal, and, I suppose, will continue to do it. I do not know of any reason why there should be any change.

Mr. MANN. But the gentleman will notice that section 137 provides:

Copies of the organization certificate of any national banking association duly certified by the Comptroller of the Currency, etc.

A "national banking association" is the title of a national bank under the law.

Mr. WATKINS. Would there not be time when we get to section 137 to consider that?

Mr. MANN. That is what we are considering now.

Mr. WATKINS. I thought we were on 136. My attention was called off, and we passed 136 without my knowing it. I beg the gentleman's pardon. I stand corrected.

Mr. CULLOP. Mr. Chairman, will the gentleman ask to have the section passed until a proper amendment can be prepared?

Mr. WATKINS. Mr. Chairman, I have no objection to that.

Mr. BARTLETT. Does not the gentleman think we ought to still leave it here? There may be cases arise in which they would require a certified copy from the comptroller's office.

Mr. MANN. I am not objecting to that at all; but I suggested, as long as we are codifying, that we add to that what is carried as to the Federal Reserve Board.

Mr. BARTLETT. I think that is true; but we ought not to strike this out.

Mr. MANN. Oh, no. Nobody has suggested that.

Mr. WATKINS. Mr. Chairman, I see no objection to passing this over and considering it at our next session.

The CHAIRMAN. The gentleman from Louisiana asks unanimous consent to pass over temporarily section 137. Is there objection?

There was no objection.

The Clerk read as follows:

SEC. 141. Copies of the quarterly returns of postmasters and of any papers pertaining to the accounts in the office of the Auditor of the Treasury for the Post Office Department, and transcripts from the money-order account books of the Post Office Department, when certified by the said auditor under the seal of his office, shall be admitted as evidence in the courts of the United States in civil suits and criminal prosecutions; and in any civil suit, in case of delinquency of any postmaster or contractor, a statement of the account, certified as aforesaid, shall be admitted in evidence, and the court shall be authorized thereupon to give judgment and award execution, subject to the provisions of law as to proceedings in such civil suits.

Mr. BRYAN. Mr. Chairman, I move to strike out the last word. I have very serious doubt that so much importance ought to be paid to these accounts in the office of the Auditor of the Post Office Department as is provided for in this section. There may be basis of criminal prosecutions by this section, but according to the best information I can gather things are in such shape down there that those accounts and claims that are filed against the post offices over the country are not receiving any great indorsement from the postmasters, and the auditor down there generally has to back up when the postmasters come back against him and attempt to show him his inaccuracy. Of course the Auditor of the Post Office Department is a man who was advanced by the request of Senator PENROSE and Senator OLIVER of Pennsylvania, and he is very well versed in Republican systems, and all that sort of thing, and has, no doubt, rendered great and efficient service to the Republican Party in precinct, county, State, and Nation, and it is a $5,000 job, and I have no doubt somebody thinks that he is the only man in the United States who can do that work or else he would not keep the job. But I am sure the auditor has the wool pulled over the eyes of those who have charge of things. The auditor's office is about a year behind now. A short time ago they threw six months' work entirely away, never having audited it. He has special clerks there now auditing on stuff that involves the year 1912.

A short time ago he ordered a woman suspended. It is claimed that he ordered her suspended because he thought she had given out some information revealing his faulty methods, but he alleged as a reason—the principal reason—that she was a trouble maker, and that eight years ago, 1906, she had closed a transom that allowed a draft between her room and an adjoining room. That was the only point against her definitely, so she protested earnestly and vigorously to the Secretary of the Treasury and asked that she be reinstated, or be removed from the cruel jurisdiction of this man, and went after him hot and heavy. I published her answer in the RECORD. Others brought the matter to the attention of the Assistant Secretary of the Treasury, Mr. Hamlin, and the woman was reinstated and transferred to another department, showing that the auditor himself was to blame; he was not vindicated; and I am quite sure that the administration that is so obsessed with the idea that this PENROSE politician is the only man in the world that is able to do that work and that there is nobody else who could do it, if it would make an investigation would find that it is entirely off on that matter, and would learn of the accusations made of the way he treats his employees, trying to cut them out of their leave, and terrorizes them with every form of petty restriction.

I understand he is attempting to relieve this key-punching arrangement now by declaring a 5-minute recess every hour, and when 55 minutes comes they ring a bell and the clerks running these punching machines get a 5-minute recess, and they must take it. Of course, that merely indicates the proposition I have already advanced that they are not operated under right conditions. He has not yet consented for the Bureau of Health to investigate, and, although complaints have been filed with the Bureau of Health and that bureau has tried to investigate him, he has refused to permit the investigation, and so I think that the provisions that are included here in this section pay entirely too much attention to the auditor's findings and give entirely too much consideration to his certifications under seal.

If the gentleman from Indiana [Mr. Cox] would publish the letters and complaints he has received against Mr. Kram and his methods, he would reveal a condition that would demand an investigation. In a former statement Mr. Cox mentioned the fact that very violent complaints had been lodged with him against the auditor, but Mr. Cox declared that upon investigation he had discovered that there was no merit to the complaints. The way Mr. Kram puts it over on these newly empowered Democrats is really amusing. Take a man who knows nothing about shoe machinery through a big shoe factory and praise all the machinery and tell him how it all works; he will agree with the expert when he is through the factory; but let a real expert go through and a different report may be made. Mr. Kram takes Mr. Congressman up to those men, piece-rate workers, who hold down the bonanza jobs, many of them colored men, who formerly received lower pay than they now receive, and they simply fill the Congressman full, stuff him; yes, Kram him, and he goes away and peddles the dressing.

They do not know anything about the system; they do not hear complaints, because a complaining clerk knows what will happen if Mr. Kram hears any complaints.

There is not one of these defenders of the wonderful Mr. Kram on this floor that could explain his system to any inquirer. I went through and heard him tell how it was all done, and it all seemed plausible. But when I asked him to let me talk with the bookkeepers who receive the postmasters' kicks against his audit he balked. There are barrels of letters there from postmasters who will not pay up on his demands, and generally when the postmaster writes as though he knows what he is talking about, the auditor writes back, "All right, sir; we will just drop the matter."

Mr. George B. Furman, a clerk who received Mr. Kram's commendation for his efficiency, wrote the Secretary of the Treasury on March 27, 1913, that Kram's audit was a farce. Furman is in another department now. He told the Secretary to interrogate certain men in Kram's department if he wanted the facts. Does anybody suppose that Secretary McAdoo knows anything himself about this? I am sure he would not claim such knowledge. I do not want to repeat the figures I put in the RECORD on May 11, 1914, but I refer Mr. Cox and the defenders of this system to page 8767 of the CONGRESSIONAL RECORD for figures which have been given to me as accurate, which show that the system is wasting money at a lavish rate. I do not claim to know that these figures are accurate, but they are declared to be by parties who ought to know, and I challenge the defenders of the auditor to show wherein the figures are wrong. The auditor is not fair in his claims. In a recent statement he said:

It was recognized at the time the electrical tabulation system was installed that there were a number of employees in the office not adapted or not qualified to perform the work under the new system.

There is just enough truth in that statement to make it false. No one has ever claimed that anybody employed on the electrical tabulating machines is not qualified or that these machines are

injurious. The electrical machines afford bonanza jobs comparatively speaking. Some of them tabulate, others assort. The operators of these machines are, as a rule, very well pleased. Most of them are men.

The machines complained of have no more connection with electricity than the North Pole has with the Equator. This controversy arises over the card-punching machines, and they are not electrified. It is wrong for Auditor Kram to talk about electricty when discussing these machines.

The auditor says a number of employees are not adapted to these machines and adds:

There are persons who are not adapted to the work of typewriting, but typewriting would not be condemned for that reason. The operation of a key-punching machine is similar to the operation of a typewriting machine, and experience has shown that there are a few employees not adapted by temperament or training to the operation of this device. They are a small minority, and their dissatisfaction or inefficiency in *this respect* should not be seized upon as an opportunity to condemn a system which has demonstrated its superiority over the method of audit formerly in use.

CLAIM MANY ARE AFFECTED.

Auditor Kram has used a typewriter, and he should realize the comparison is not justified. He told me himself that men are not qualified for these punching machines. Not a man is employed. He said he himself could not operate them. Are the men in his office a "small minority"? No; they are a large majority.

All the men and very many women are disqualified for these piece-rate punching machines. He demands young women. They are mostly District women and girls who have no Congressmen or Senators to look after their interests. Those who are in line for promotion belong elsewhere, for piece-rate workers have no promotion ahead.

The operation of a typewriter and one of these punching machines are no more subject to comparison than joy riding and sewer digging. It is an outrage for an intelligent man to attempt such a comparison. Why are men disqualified? Simply because men are accustomed to voting and will not stand subjection and abuse. Put 10 men in one of those rooms with 10 of those machines to be operated piece rate and subject to error slips, and in a week they would all quit or fight; if they did not, they would go crazy.

Why does Mrs. Archibald Hopkins complain to the Health Bureau? Why do the operators go to the doctors? Why does Auditor Kram slam the door shut in the face of the Government Health Bureau? The women and girls are eager to make something for their support, and he holds out better wages by piece rate, and by a series of bulletins and classifications the fastest ones make their mark while they last. When they come to themselves, and he begins to suspect that they will tell facts about his system, he has them dismissed, as he did Miss Nellie M. Corrigan the other day, because she closed a transom that some one else had opened eight years ago.

AVERAGES CRITICIZED.

Kram's figures are misleading. When he talks about averages, he does not consider the key punchers alone, but includes a lot of other employees. The claims of the auditor about saving money to the Government are mostly electrified figures, according to the very best information I can gather.

The auditor says:

When we question a postmaster's statement of money-order accounts, we virtually charge him with embezzlement.

Yet there are barrels of letters in the office now from postmasters who refuse to accept the audit of these machines. A southern postmaster wrote the auditor a "sassy" letter recently, in substance as follows:

I keep accurate records; your audit is crazy. I have advanced some money out of my own pocket to satisfy some of those holes punched by your tired piece-rate workers, but I'll do that no more.

Another one out West wrote him that he had allowed him a credit for a certain substantial amount to which he was not entitled, and the western postmaster expressed surprise that Uncle Samuel had such a silly auditing system.

BALANCE SHEETS SAID TO BE OFF.

They are supposed to strike a trial balance with the offices of the several States. I am reliably informed that most of the State balance sheets are hopelessly off.

The office is a crazy house. In the course of the audit, cards are found for which there is no possible accounting. They are called stray cards, and there is a "mating room," where girls attempt to make them match. It looks more like a game of solitaire. Each ill-mate is an error on some postmaster, who, the auditor says, gets charged with embezzlement.

But for all this the auditor has applied a new remedy. His recent "mum-and-gag" rule is the most preposterous and absurd order ever issued in a Government department.

There is an order in the Treasury Department which reads as follows:

Clerks and employees will not be permitted to visit each other or to receive visits during office hours except on official business, and then only with the knowledge and concurrence of their immediate superiors. Frequenting or loitering in the corridors of buildings will not be permitted.

Pretending to recite and post this order, but omitting the words "during office hours," the following has been issued by Auditor Kram:

The Treasury Department rule which forbids clerks and employees to visit each other or to receive visits except on official business, and then only with the knowledge and concurrence of their official superiors, must be strictly observed.

Visiting by employees on one floor with those on another floor, or between those in different divisions, is positively forbidden.

MUST NOT VISIT.

Card-punch operatives must not visit or receive visits from adding-machine operators or examiners on either the paid or issued side.

These directions are effective during office hours, luncheon half hour, and any period of attendance, before or after office hours.

By direction of the auditor.

It will be seen that Kram's order prohibits the employees from talking from one department to another at noon or before office hours, in time which is their own and is designed for recreation. The rule says "visit," which means, of course, that they are not permitted to confer one with another about any subject on earth. This rule is not in force in any department or private manufacturing plant in the country, and is so absurd as to brand his system as absolutely impossible.

I received the following letter recently:

MAY 5, 1914.

Hon. Mr. BRYAN.

SIR: I can not refrain from a few remarks regarding the wonderful Mr. Kram, Auditor for the Post Office Department. "He is such an efficient man." Was there ever an efficient man before Mr. Kram? It seems not, as most of them have retired and had their places ably filled. Now, who has proven Mr. Kram's efficiency? No one save Mr. Kram, for, as you are aware, he will not dare let the office be investigated. If his office is beyond reproach, I should think that he would welcome an investigation and be vindicated of the charges made against him. No; he would not dare let the eyes of an honest man see into the black corners. In penalizing he has not done so to the men; he has discriminated against one class of women, and even now, instead of fighting openly, he is dodging behind a few women in the office to try to carry on his sweatshop system.

Sincerely,

_____.

I have dozens of letters and have had dozens of interviews on this subject. I shall publish here a letter received from a Central State. If I give the name of the city, I fear Auditor Kram could locate the woman referred to and probably fire her because she opened a transom eight years ago.

Hon. Mr. BRYAN, *Washington, D. C.*

MY DEAR MR. BRYAN: I take the liberty to write you a few lines regarding a matter which I know you will be interested in greatly.

As you are one out of many Congressmen who has the courage of your convictions and man enough to come to the defense of the poor and helpless girls employed by the Auditor of the Post Office Department of the Treasury, Mr. Kram, who seems to enjoy putting the bulk of burden upon the girls who have little influence or none to work in their interest and who work in his health-wrecking and degrading office because they have to work for a living, I wish to enter my protest and objection against the method of treatment and manner carried on in the office of the auditor. My sister * * * accepted a position under Auditor Kram about two years ago temporarily on some clerical work which lasted three or four months. When my sister went home Auditor Kram was as nice as pie, saying that he would have her name restored on the eligible list; but she learned afterward that he did not report her name eligible for appointment until six or more months after she was dismissed, and her name should have been on the list. I can not go into detail, but Kram tried his very best to prevent her reinstatement, and in spite of Mr. GRAHAM'S efforts he delayed her reinstatement to the very last minute, and when my sister reached Washington he said that "We had an awful time getting you back."

Well, she was placed upon those nerve and health wrecking punching machines, although she is rather nervous disposition. As the weeks and months passed there was still no promotion offered. It has been seven months now since she started. Girls who came in two or three months later than sister have been promoted to positions of good pay and pleasant work. There was another department a king for my sister at two different times to fill a position, but Kram stood in her way, saying that my sister was satisfied and doing nice work. And Mr. Kram refused to let her go, saying that he was satisfied with the work she was doing and had refused both times to let her go into the other department, but pushed some of his favorites into the position who had worked only a short time. Kram did not even ask my sister if she would accept the position offered or tell her that she had been called upon. I want you to call my sister for an interview immediately, and I believe that my sister and scores of other girls under him can give you some heart-rending stories of solid fact regarding the auditor's office if they have courage to testify against him. I know that practically every operater of those machines are afraid to say anything against the auditor for fear of losing their jobs or gaining his ill will, in which case one has no alternative except quitting or working to death, Kram caring very little which is chosen.

My sister is literally a nervous wreck and eyesight so greatly affected by close work that both nerves and eyes may be permanently injured, and if something is not done immediately in the way of betterment for the employees I believe that the department head should be held responsible for such conditions, and I believe that such conditions as now exist are a disgrace to a civilized nation and are indefensible.

Mr. Kram's machines may save money in one way, but I do not believe in holding the dollar so close to the eye that the condition of the employees can not and are not to be seen.

I am writing this in behalf of all of those employed on those awful machines, and ask that in the name of justice, in the name of humanity, that you and Congress abolish such machines, as well as such auditors. I am,

Yours, very respectfully, ——— ———.

I withhold the name of this party for obvious reasons.

Mr. MANN. Mr. Chairman, it is one of the blessed privileges of being elected a Member of this House that you have the right to abuse anybody you want to, and especially if it is some other Government official, you can abuse him as often as you can get the floor. I take it that if at any time during the night, when the gentleman from Washington was sound asleep, somebody should whisper the words "Auditor for the Post Office Department," he would instantly, either awake or asleep, be making a speech abusing that auditor. It is an obsession with the gentleman from Washington. Everyone else, or nearly everyone else, believes Mr. Kram to be one of the best officials in the Government service. That is testified to by the high standing that he has under a Democratic administration. If, as suggested by the gentleman from Washington—and I am not posted on the matter—he was originally placed in office through the influence of Senator PENROSE, no one accuses him of having any political influence with the Democratic administration or with the Progressive Party. Now, the gentleman again repeats the statement that the Auditor for the Post Office Department, who is under the control of the Secretary of the Treasury, refused to permit the Public Health Service, which is also under the control of the Secretary of the Treasury, to investigate the auditor's office. I take it that that is an impossibility. This investigation would be by order of the Secretary of the Treasury; and if the Secretary of the Treasury, who has control of the Public Health Service, should direct an investigation of the auditor's office, also under his control, there would be no way of escaping it.

Mr. BRYAN. Will the gentleman yield?

Mr. MANN. Certainly.

Mr. BRYAN. The gentleman remembers that I stated here recently that Dr. Rucker, of the Health Bureau, told me that he was sent there to investigate these objections, and that Mr. Kram objected to the investigation and plead jurisdiction, and that the only way the bureau could investigate was to ride over him, roughshod, or words to that effect.

Mr. MANN. Why, if the Public Health Service should send a doctor to my office to investigate it, I would throw him out.

Mr. BRYAN. The gentleman is like Mr. Kram on that.

Mr. MANN. Yes; absolutely. There is a method, a proper method, by which the Public Health Service has authority. It has no right to make these investigations except by proper order of the Secretary of the Treasury; he is the one to give the order to make the investigation; and if he gives such an order, it will be obeyed. Without such an order, the Public Health Service has no business to stick its nose in the matter.

Mr. COX. Mr. Chairman, I move to strike out the last word, and ask the indulgence of the committee a few moments. The other day, when the legislative, executive, and judicial bill was under discussion, several Members of the House, including the gentleman from the State of Washington [Mr. BRYAN], took occasion to severely criticize Auditor Kram of the Post Office Department. I did not believe that the criticism was just and merited for anything that Mr. Kram had done, and in defense of him I said a few words in his behalf. Since that time I have received several letters from employees working in his office, every one of them commending him in every way, not only for his humaneness but commending the system he had inaugurated, and each one of them denying the charges made against him by Members on the floor of this House that he was an autocrat or a tyrant.

Mr. WILLIS. Will the gentleman yield?

Mr. COX. For a question.

Mr. WILLIS. I understood the gentleman to say that the correspondents were condemning the methods of Auditor Kram.

Mr. COX. Oh, no; commending. If I said condemn, I will correct it in my remarks.

Mr. WILLIS. The gentleman said some eight letters commended him.

Mr. COX. I have received five or six letters commending him, and am going to ask the privilege of inserting those letters and making them a part of my remarks.

WASHINGTON, D. C., *April 17, 1914.*

Hon. WILLIAM E. COX,
House of Representatives, Washington, D. C.

DEAR SIR: I am employed in the office of the Auditor for the Post Office Department as a piece-rate operative.

I wish to state that I have worked on an average of five and one-half hours each day, and received amounts varying from $100 to $120 per month.

I have always been treated very fairly by the officials in this office, and hope that the present piece-rate system will continue.

Thanking you very kindly, and with best wishes for your success, I am,

Respectfully, yours, ——— ———.

WASHINGTON, D. C., *May 7, 1914.*

Hon. W. E. COX,
House of Representatives, Washington, D. C.

SIR: Having recently read of the many abuses and hardships that the piecework system in the Office of the Auditor for the Post Office Department has worked against the employees of that office, and being employed there myself, and desiring to be fair and equitable to all concerned, I would like to add a word of praise from an unprejudiced standpoint.

I firmly believe that the placing of employees on a basis wherein they are paid for actual work turned out is, in my judgment, the only fair way to compensate, for this gives each and every individual an opportunity to demonstrate their fitness, and, as a consequence, does away with the possibility of favoritism being shown.

In the second place, I believe that there are very few instances where those who have been taken off the regular roll and placed on the basis of pay for what you do have suffered very much of a reduction, as far as actual cash is concerned.

Before this system was installed, when an employee was promoted it was not uncommon to hear comments about the favoritism that was being shown in the matter of promoting people; now this is all done away with, so far as I can hear.

Of course, it is hardly possible to find any two people who will turn out the same amount of work; but, then, this ought to be no excuse to condemn the method of payment, for how often do we find men and women drawing from two to six hundred dollars per year more than the employee sitting next to them, and who turn out less work than this employee; and yet were an effort made to give their salary to the person doing more work than they, there would be a great big hallo made about it.

I have seen many instances where employees have been transferred from one work to another when they demonstrated that they were unable to perform that work; and this is more consideration than is given in some places, for it would be possible to dismiss an employee if it were found that he was unable to perform work assigned, and the employee would have no recourse; but the auditor has, I firmly believe, tried to take care in some way or other of all of the employees whom he has learned were unable to perform duties assigned, if not in his office, in other branches of the service.

Now, as to the complaints about the driving propensities of the auditor, these I am unacquainted with, for personally he has always been very considerate whenever I have had an occasion to converse with him.

While it is true that the leave periods were somewhat disturbed during the last year, this, to my judgment, was not done from a standpoint of unfriendliness toward the employees, but due to the fact that the new system of accounting being in its embryonic stage necessitated a full force being present as near all the time as was practicable in order that the work might go on unhampered.

In conclusion permit me to say I for one am not so biased or prejudiced that I can not see some good in the system of pay for what you actually do.

Respectfully, yours, ——— ———.

P. S.—I do not know whether you care to use this letter or not in any public way, but prefer that you not use my name unless it be actually necessary, for I would not care to win the displeasure of any Member of Congress who might be opposed to the system now in vogue in the Office of the Auditor for the Post Office Department.

OFFICE AUDITOR POST OFFICE DEPARTMENT,
April 19, 1914.

Hon. WILLIAM COX, M. C.,
House of Representatives.

DEAR SIR: I have been reading with interest your defense of the Auditor for the Post Office Department, Charles Kram. Prior to this system now in vogue I received a salary of $660 per annum; worked side by side with clerks who received $720, $780, $840, and $900 per annum for the same work performed. It was more of a sweat shop in those days than to-day, and a veritable hell in seven volumes.

There are several, nay, a goodly number of clerks who are not afraid to speak up, and all we do want is piece, with peace—simple peace—thrown in. The ones who disfavor piece rate desire the old method restored, which means favoritism, and the auditor's office under former auditors headed the list for large pay for little work, small pay for efficient workers.

The auditor, Charles Kram, came as a godsend to overworked women, who were discriminated against year after year and who are now making a decent, honest living. The work requires the mind's attention and a quick eye, and there are some people that can only look after their neighbors' business from morn to night. My sentiments are piece rate and God bless our auditor.

BETHESDA, MD., *April 13, 1914.*

Hon. WILLIAM E. COX,
Washington, D. C.

DEAR SIR: I wish to commend you for so loyally defending our auditor, Mr. Kram, during the discussion of last week, in which not only this new system was attacked, but Mr. Kram himself.

It was all so unfair and so unjust that I wonder what motive could prompt one person to make such a remark about another as did Mr. NOLAN about Mr. Kram. I am operating an electrical tabulating machine in this office, and I can knowingly say that many things said about this system and the manner of operating it are false. The trouble is this: So many clerks have been on a so-called pension plan for so long that the giving of a full day's work for a full day's pay is very foreign to their policies. Mr. Kram does not drive us, neither does he measure out the amount of work to be done in a day; the clerks determine that themselves—those who are not afraid to work.

There are a few agitators in this office who spend a portion of each day in the "rest room" criticizing the new system, Mr. Kram, and the clerks who are trying to assist him.

I am going to ask you to treat this letter as a private matter, but if there are any questions you want to ask me, I am ready to answer anything you want answered. I am,

Respectfully, yours, ——— ———.

WASHINGTON, D. C., *April 18, 1914.*

DEAR SIR: The statements and attack being made against Mr. Kram are wholly without foundation.

Mr. Kram has a character that is unblemished when it comes to honesty, and it is only because he is "doing things," making his clerks work, is the sole reason for this attack.

I have been in his office for almost 10 years, and I am on piece rate, making more than I ever made, and I don't hear the "key punchers" voicing their dissatisfaction, if any. There are some few—what we speak of as trouble brewers—who have tried to cause discontentment, and I think it is their failure to accomplish their end that has made them forget and throw aside any truthfulness that they might have had before making their attack; and I am surprised that men of any intelligence would go ahead and attack a man that they really had no cause—just cause—to attack, without looking into matters.

AN EMPLOYEE.

Mr. BRYAN. I would like to couple with that request that I may be permitted to insert quite a number of letters, particularly one which I received this morning.

Mr. COX. The gentleman can make that request in his own time.

Mr. Chairman, I do not believe the criticism imposed upon Mr. Kram is just. I do not believe there is any merit or any basis for the criticism at all. During the progress of these debates I have been referred to particularly by the gentleman from the State of Washington because I stated during the debates, while the legislative, executive, and judicial appropriation bill was under consideration, that some of the employees of the auditor's office tried to get me to investigate it. It is true they did come to my office and endeavor to get me to inaugurate an investigation of Mr. Kram's office, including the system of work that was then being tried out by him. I went in person to the auditor's office in response to the request made to me by the employees and investigated it, and I gave it then as my judgment that the employees who were objecting to it were making an unjust and erroneous criticism not only upon Mr. Kram personally, but the method of his work. Mr. Chairman, what has been the result of the system of work employed by Mr. Kram? So far as the system inaugurated by Mr. Kram is concerned it has certainly inured to the financial benefit of a large number of the employees in his office. Of the employees who earned $720 per year prior to the inauguration of the system many of them are now earning from $800 to $1,100 per year, and at the same time many of these employees are able to do and conclude their day's work in from four to five or six hours per day; and I am informed by Mr. Kram and many of the employees under him that if he would not fix a maximum amount for a day's work many of these employees would earn from $1,200 to $1,400 per year who prior to the inauguration of this system earned only $720 per year, and yet Mr. Kram must be sat upon, personally abused, and attacked by Members upon the floor of this House for having brought about a betterment of the condition of his employees by increasing their wages and shortening their hours of employment, as testified to by the employees whose letters are printed herein.

The system he has inaugurated to a very large extent develops the individuality of the person and appeals to the employee to make good, and to advance himself according to his own ability to make advancement, and does away with the system heretofore largely accused of being in force—that of having a political pull—and places each employee upon his or her own merit, and enables them to go to the top by their own ability unaided and unassisted by any inside or outside political help.

If inaugurating a system whereby employees can increase their salaries from 20 to 33⅓ per cent and at the same time reduce the number of hours of labor per day works to an injury of such employees, then perhaps some of the criticism waged against Mr. Kram and the system he has inaugurated might be just. If, on the other hand, these things work to the benefit of the employee, from the viewpoint of any ambitious man or woman desiring to better their condition, instead of him being censured and criticized he ought to be commended and upheld. The system inaugurated by him in this department, the largest auditing department in the Government, being the biggest department of the Government except the Treasury, has enabled the Postmaster General to decrease the number of employees in the department between 70 and 80. The postal business increases each year between 7½ to 10 per cent in volume of business. This carries with it a corresponding increase in the number of employees to do and transact the business of the department, but no increase in employees has been added to the force of Mr. Kram. Notwithstanding the increase of business he has been able to decrease the number of employees. Certainly for this he ought to be commended instead of condemned. It looks to me very much like that when a man does his duty as a public official, brings efficiency to bear upon his work, and also economy to the taxpayers of this country, instead of being commended on all sides we hear him condemned. This is not much encouragement to a man honestly endeavoring to serve his country, but I am glad to know that the views of the gentleman from the State of Washington are not shared in by very many Members of this House. But no condemnation heaped upon Mr. Kram either personally or upon his system will detract from his ability and efficiency as a public official. It will stand out in bold relief and defy all criticism, no matter if it comes from employees in his department or falls upon deaf ears on the floor of this House.

Recently the Federal Reserve Board asked the Postmaster General that Mr. Kram be detailed to go to the city of New York to enable the members of the board to put in force the same system now in force in the Post Office Department in the great regional reserve bank to be established in the city of New York.

Mr. BRYAN. Will the gentleman yield?

Mr. COX. Does that show success or does it show failure?

Mr. BRYAN. Will the gentleman yield?

Mr. COX. For a question only.

Mr. BRYAN. Did they put the system in or was it rejected?

Mr. COX. I do not know whether it was put in or not, but I imagine they are going to put it in. The reserve board sent for Mr. Kram and selected him above all others to go to New York, the great financial center of the Nation, for the purpose of teaching men of experience, men in high finance, and men who have studied every system from an economical viewpoint, and they sought him out to tell them how to inaugurate a perfect system in their new and proposed regional bank, so as to enable it to reduce expenses to a minimum.

Mr. Chairman, I can not believe that Mr. Kram is inhuman, tyrannical, or autocratic. On the contrary, I believe that he is fully possessed of every principle of wide, broad, and comprehensive humanity. I think the fault lies with a large number of the clerks in his department. To quote from one of these letters:

So many clerks have been on the so-called pension plan for so long that the giving of a full day's work for a full day's pay is very foreign to their policies.

It should be the object and aim of every clerk—and, in fact, everyone connected with Government service, be the position high or low—to feel the solemn duty of rendering to their employer, the Government, a full day's work; they should not feel simply because they are working for the Government that they are not under the same obligation to do a full day's work that they would be under if working for a private individual.

Full freedom is granted to each clerk in this line of work and a maximum placed upon the amount of work each clerk can do, and beyond that maximum no clerk is permitted to go, and that maximum is so arranged that any clerk with ordinary ability can easily do his or her day's work if they be but willing so to do.

If it is found that a clerk is unfitted for this kind of work, they are transferred to some other department. In other words, no clerk is required to work here against his or her will. If they find they are unable to do this kind of work, all they have to do is to ask for a transfer, and it will be quickly granted. It is peculiar, when other departments of the Government are constantly taking on employees, at a tremendous cost and expense to the people, and though the business of Mr. Kram's office is increasing each year by leaps and bounds, yet he has not only been able to do this work with the employees that he had when he begun the system, but he has not taken on any additional employees, and has brought about such a condition and improvement as to enable the Postmaster General to dispense with from 70 to 80 employees in the department; but for all this he is to be condemned, and condemned in a place where his voice is not to be heard. I have no interest on earth in Mr. Kram personally, except the interest that I have in my fellow man, in seeing that full, fair justice be meted out to each and all as merit is due each and all.

I hope this controversy will cease and, as some of these writers in these letters say, that they will have peace down there; and let those who are not willing to do piecework seek employment elsewhere, and if they are not satisfied with it, and can not get employment elsewhere, let them quit the service entirely and seek employment in private life. It is wrong, unjust, and unfair to criticize a man for having done nothing but his solemn duty, and for one I refuse to remain idly by and fail to raise my voice in defense of a man who I believe has done nothing but his duty.

The CHAIRMAN. Does the gentleman from Washington [Mr. BRYAN] wish to extend his remarks?

Mr. BRYAN. Yes; by inserting these letters.

The CHAIRMAN. The gentleman from Washington asks unanimous consent to extend his remarks by inserting the letters referred to. Is there objection? [After a pause.] The Chair hears none.

Mr. BRYAN. I wish also to incorporate figures to show that this pretense about this remarkable saving is all bosh; that he has not made any saving, and has not raised the salary of employees.

The CHAIRMAN. The gentleman from Washington [Mr. BRYAN] asks unanimous consent to extend his remarks in the RECORD. Is there objection? [After a pause.] The Chair hears none. Without objection, the pro forma amendment will be withdrawn, and the Clerk will read.

The Clerk read as follows:

SEC. 149. The transcripts into new books made by the clerks of the district courts in the several districts of Texas, Florida, Wisconsin, Minnesota, Iowa, and Kansas, in pursuance of the act of June 27, 1864, chapter 165, from the records and journals transferred by them, respectively, under the said act, to the clerks of the circuit courts in said districts, when certified by the clerks, respectively, making the same to be full and true copies from the original books, shall have the same force and effect as records as the originals. The certificates of the clerks of the circuit or district courts, respectively, of transcripts of any of the books or papers so transferred to them shall be received in evidence with the like effect as if made by the clerk of the court in which the proceedings were had.

Mr. WATKINS. Mr. Chairman, I wish to offer an amendment.

The CHAIRMAN. The gentleman from Louisiana [Mr. WATKINS] offers an amendment, which the Clerk will report.

The Clerk read as follows:

Page 84, line 7, strike out all of section 149 and insert in lieu thereof the following:

"SEC. 149. That in any proceeding before a court or judicial officer of the United States, where the genuineness of the handwriting of any person may be involved, any admitted or proved handwriting of such person shall be competent evidence as a basis for comparison by witnesses, or by the jury, court, or officer conducting such proceeding, to prove or disprove such genuineness.

Mr. MANN. I reserve a point of order on the amendment.

Mr. WATKINS. Mr. Chairman——

Mr. MANN. May I ask the gentleman if section 149 is entirely obsolete now?

Mr. WATKINS. My amendment is to strike out that section and insert the other in place of it.

Mr. MANN. Is section 149 now entirely obsolete?

Mr. WATKINS. So far as I can find from investigation I have made, it appears to be. I can not find any use to which it can be put at this time at all. The circuit court being abolished, I think it invalidates that section. That operated so long as the circuit court was in force.

Mr. MANN. This relates to the district court. I will take the gentleman's statement in reference to that.

Mr. WATKINS. If the gentleman will look at line 13, he will understand what I mean.

Mr. MANN. I see.

Mr. WATKINS. Now, Mr. Chairman, it may be necessary to make a short statement in reference to that.

Mr. MANN. Mr. Chairman, I ask to have the amendment reported again.

The CHAIRMAN. The Clerk will again report the amendment.

The amendment was again reported.

Mr. WATKINS. Mr. Chairman, the point of order has been reserved, and the objection has been stated that it is not germane. It is the striking out of what I consider to be an obsolete statute.

Mr. MANN. Will the gentleman yield?

Mr. WATKINS. Yes, sir.

Mr. MANN. Of course, I take it the gentleman is perfectly willing to let section 149 go out as obsolete.

Mr. WATKINS. I am.

Mr. MANN. And then was proposing to make use of the opportunity to put a section in there.

Mr. WATKINS. Just preserving the number, as we are on the subject of evidence.

Mr. MANN. After all, it is not germane to this part of the bill.

Mr. WATKINS. I do not claim that.

Mr. MANN. Why do you not put this section in where it belongs?

Mr. WATKINS. It will fit in there about as well as anywhere else. That is a recent law passed by Congress.

Mr. MANN. It is right in the middle of the law with reference to transcript of testimony, and so forth. It has nothing to do with this subject matter. What harm would it do to put that section in where it belongs, and then these numbers along here can be easily changed.

Mr. LLOYD. Put it in at the end of chapter 3.

Mr. STAFFORD. Would it not be better at the end of section No. 111 or 112?

Mr. WATKINS. I was trying to utilize that section by using the number, and when the bill goes to the Senate we can rearrange the numbers.

Mr. MANN. Well, I do not care. I withdraw the point of order.

The CHAIRMAN. The gentleman from Illinois [Mr. MANN] withdraws the point of order. The question is on the amendment striking out the section and inserting a new section.

The amendment was agreed to.

The CHAIRMAN. The Clerk will read.

MESSAGE FROM THE SENATE.

The committee informally rose; and Mr. LLOYD having taken the chair as Speaker pro tempore, a message from the Senate, by Mr. Tulley, one of its clerks, announced that the Senate had passed bill of the following title, in which the concurrence of the House of Representatives was requested:

S. 5574. An act to amend and reenact section 113 of chapter 5 of the Judicial Code of the United States.

The message also announced that the Vice President had appointed Mr. PAGE and Mr. LANE members of the joint select committee on the part of the Senate, as provided for in the act of February 16, 1889, as amended by the act of March 2, 1895, entitled "An act to authorize and provide for the disposition of useless papers in the executive departments," for the disposition of useless papers in the Treasury Department.

REVISION OF THE LAWS—JUDICIARY TITLE.

The committee resumed its session.

The Clerk read as follows:

SEC. 151. The transcripts into new books made by the clerks of the circuit courts of appeals and district courts in pursuance of any law or order of the court, when certified by the clerks, respectively, making the same to be full and true copies from the original books, shall have the same force and effect as record as the originals. The certificates of the clerks of said courts, respectively, of transcripts of any of said transcribed records shall also be evidence with the like effect as if made by the proper clerk from the originals from which such records were transcribed.

Mr. WATKINS. Mr. Chairman, there are two clerical errors in that section which I wish to correct. I send up an amendment. At the end of line 10, under section 151—if I can get the attention of the Clerk before my amendment is offered, Mr. Chairman—the final "e" is left out. I move that the "e" be inserted.

Mr. STAFFORD. In the copy of the bill that I have the "e" is there.

Mr. MANN. It is the same way in the copy I have.

Mr. WATKINS. Then that does not make any difference. Let the Clerk read the amendment.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

Page 85, line 15, after the word "as," where it first occurs, strike out the word "record" and insert the word "records."

The CHAIRMAN. The question is on agreeing to the amendment.

The amendment was agreed to.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

SEC. 157. Whenever any of the records or files in which the United States are interested, of any court of the United States, have been or may be lost or destroyed, it shall be the duty of the attorney of the United States for the district or court to which such files and records belong, so far as the judges of such courts, respectively, shall deem it essential to the interests of the United States that such records and files be restored or supplied, to take such steps, under the direction of said judges, as may be necessary to effect such restoration or substitution, including such dockets, indices, and other books and papers as said judges shall think proper. Said judges may direct the performance, by the clerks of said courts, respectively, and by the United States attorneys, of any duties incident thereto; and said clerks and attorneys shall be allowed such compensation for services in the matter and for lawful disbursements as may be approved by the Attorney General of the United States, upon a certificate by the judges of said courts stating that such claim for services and disbursements is just and reasonable; and the sum so allowed shall be paid out of the judiciary fund.

Mr. WATKINS. Mr. Chairman, I offer an amendment to correct a clerical error.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Page 88, line 18, after the word "States," strike out the word "are" and insert in lieu thereof the word "is."

The CHAIRMAN. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. STAFFORD. Mr. Chairman, I move to strike out the last word. I would like to inquire whether this provision would not authorize the clerk to receive the fees for this service. You will notice that the very last clause of the paragraph is

that "the sum so allowed shall be paid out of the judiciary fund." In this bill we are making provision for a definite salary for clerks. The thought came to me that perhaps this authorization might warrant the clerk in receiving these fees in addition to his salary.

Mr. WATKINS. I think not. I think we have sufficiently safeguarded that in the language of the amendment which was prepared, in which it is stated that each clerk should receive a salary in lieu of all other compensation, except the $3,000 in naturalization cases, to compensate his assistants in naturalization cases.

Mr. STAFFORD. Mr. Chairman, I withdraw the pro forma amendment.

The CHAIRMAN. The pro forma amendment is withdrawn. The Clerk will read.

The Clerk read as follows:

SEC. 158. The acts of the legislature of any State or Territory or of any country subject to the jurisdiction of the United States shall be authenticated by having the seals of such State, Territory, or country affixed thereto. The records and judicial proceedings of the courts of any State or Territory or of any such country shall be proved or admitted in any other court within the United States by the attestation of the clerk, and the seal of the court annexed, if there be a seal, together with a certificate of the judge, chief justice, or presiding magistrate, that the said attestation is in due form; and the said records and judicial proceedings, so authenticated, shall have such faith and credit given to them in every court within the United States as they have by law or usage in the courts of the State from which they are taken.

Mr. STAFFORD. Mr. Chairman, I move to strike out the last word.

The CHAIRMAN. The gentleman from Wisconsin [Mr. STAFFORD] moves to strike out the last word.

Mr. STAFFORD. This provision is the enactment which has been on the statute books for more than a hundred years. I direct the attention of the chairman and the members of the committee to the phraseology in the second line of the section, "or of any countries subject to the jurisdiction of the United States." I wish to suggest to the chairman and the committee whether it would not be preferable to have the clause inserted, "or any of its possessions." We have no countries subject to the jurisdiction of the United States other than our insular possessions, and I ask whether that would not be more acceptable language under the status of our insular possessions than this, which appears in the same form as it was when this was first enacted?

Mr. WATKINS. I have no preference as to which language is used. The word "jurisdiction" there is more generally used as a law phrase than the other expression.

Mr. STAFFORD. I direct attention to the last clause of the section, and wish to inquire of the chairman whether our insular possessions would be comprised in the general phrase "within the United States"? These authenticated copies, you will notice, are to have full faith and credit given to them in every court within the United States. It is of doubtful construction whether the insular possessions can be consistently construed to be within the United States, and I would suggest, in order to remove all doubt, the addition of the words "or any of its possessions." Certainly it is intended to have these authenticated copies of judicial proceedings acceptable for full faith and credit in our insular possessions as well as in the States and Territories.

Mr. WATKINS. Are you speaking of the word "possessions" to be used in line 24?

Mr. STAFFORD. I will direct the attention of the chairman to the exact phraseology in line 24, page 89.

Mr. WATKINS. There is where you propose to substitute the words "and its possessions"?

Mr. STAFFORD. The words "or any of its possessions."

Mr. WATKINS. I have no objection to that.

Mr. STAFFORD. Does not the gentleman believe that it would clarify the intendment of the statute?

Mr. WATKINS. I think so.

Mr. STAFFORD. Mr. Chairman, I offer an amendment to insert, after the words "United States," in line 24, page 89, the words "or any of its possessions."

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Page 89, line 24, after the word "States," insert the words "or any of its possessions."

The CHAIRMAN. The question is on agreeing to the amendment.

The amendment was agreed to.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

SEC. 161. The edition of the laws and treaties of the United States published by Little & Brown shall be competent evidence of the several public and private acts of Congress, and of the several treaties therein contained, in all the courts of law and equity and of maritime jurisdiction, and in all the tribunals and public offices of the United States, and of the several States, without any further proof or authentication thereof. The pamphlet copies of the statutes and the bound copies of the acts of each Congress published in pursuance of Title XLV, and all acts amendatory thereof and supplementary thereto, shall be legal evidence of the laws and treaties therein contained in all the courts of the United States and of the several States therein.

Mr. WATKINS. Mr. Chairman, I have a committee amendment to offer.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Page 92, line 8, after "XLV," strike out the comma and insert "of the Revised Statutes."

The CHAIRMAN. The question is on agreeing to the amendment.

The amendment was agreed to.

The CHAIRMAN. The Clerk will read.

Mr. STAFFORD. Mr. Chairman, I move to strike out the last word.

The CHAIRMAN. The gentleman from Wisconsin moves to strike out the last word.

Mr. STAFFORD. My purpose, Mr. Chairman, is to inquire of the chairman of the Committee on the Revision of the Laws whether there is any need of the first sentence of this section? It makes evidence the publication of the laws and treaties published by Little & Brown. We all know that the firm of Little & Brown is now out of existence, although it has been succeeded by the firm of Little, Brown & Co., or by a corporation. But the original firm of this name is no longer in existence.

Furthermore, I would like to inquire whether the committee has taken into consideration the question of making in evidence the laws published by private publishers, such as the West Publishing Co.?

Mr. WATKINS. I will state to the gentleman that we incorporated this section as we found it in the statutes. At that time the compilation of Little & Brown was the most exhaustive treatise on the subject. It was thought proper at that time, in order to give it authenticity, to place it in such form as could be used in the courts as authentic, and it could be authentic only through or by virtue of an act of Congress. It was carried in the statutes and given authenticity in that way, and the law is still the same as it was then, although the firm has gone out of existence and has been superseded by other members. But still the work on treaties is extant.

Mr. STAFFORD. But the gentleman knows, as the footnote shows, that this was passed in 1846, when it was not the practice of the Federal Government to publish its own laws or treaties, but to have private publishing houses do that work.

Mr. WATKINS. If we strike out that now it will prevent it from being authentic, whereas if we leave it there it will still be authentic.

Mr. STAFFORD. Of course, the gentleman knows that the compilation of treaties published by Little, Brown & Co. half a century ago is rarely used at the present time? The compilation of treaties that is now used in the courts and the like is the volume prepared by the State Department.

Mr. WATKINS. I will state, from the use which I have had occasion to make of that compilation, that it is occasionally used in the courts yet, and it is serviceable. There may be later compilations which are more thorough, and may be more accurate and up to date.

Mr. STAFFORD. Has the gentleman's committee considered the advisability of extending the authenticity of the statutes to the compilations of other private concerns?

Mr. WATKINS. Yes; we have considered present-day customs, and have thought that at this time it would hardly meet with public approval for us to designate any particular companies that are issuing publications. We have thought that to give the sanction of the House of Representatives or of Congress to any particular publication would be an advertisement that we would not be authorized to make of those publications.

Mr. STAFFORD. Then, as I understand, the position of the gentleman is that the only real purpose in continuing this paragraph is to provide for those rare cases where this old tome of treaties published by Little & Brown might be used in evidence?

Mr. WATKINS. Yes; that is correct.

Mr. STAFFORD. The occasions would be very rare. I do not believe anyone of us will ever live to see that volume used.

Mr. WATKINS. We are not contending that that section shall remain in. We simply say we think it will not do any harm, although it will very seldom do any good.

Mr. STAFFORD. I withdraw the pro forma amendment.

Mr. MANN. Mr. Chairman, I notice this section provides that the pamphlet copies of the statutes and the bound copies of the acts of each Congress, published in pursuance of title 45 of the

Revised Statutes, and so forth, shall be legal evidence. I do not recall just what are the provisions of title 45 of the Revised Statutes, because since that time we have passed a printing act which entirely changes those provisions. We publish now, first, a separate copy of a law; then after that we publish a pamphlet copy of the acts of a session of Congress; then after that we publish the acts of the Congress in a bound volume as a portion of the Statutes at Large. Apparently this would not include all of those copies. I do not recall what the provision is as to pamphlet copies, but I should suppose that perhaps it referred to the session laws. Certainly the separate copy of the law as published ought to be made evidence. And, by the way, I should like to suggest to Members of the House that we frequently see copies of acts published, Public, No. so-and-so, although it may relate to years ago. In each Congress as acts are published in leaflet or separate form, each is given a number, public, so-and-so, or private, so-and-so. Until recently there was nothing to indicate what Congress passed an act, except the date. Some time last summer I suggested to the State Department that that be changed so that if the act was public, No. 1, it be "Public, No. 1, Sixty-third Congress," and that new style was adopted with the beginning of this session of Congress. So that hereafter people who get a copy of the separate form of an act of Congress can refer to it by number in connection with the Congress and it can be identified. Has the gentleman from Louisiana a copy of the statute there which is referred to in this section?

Mr. WATKINS. Yes. Does the gentleman desire me to read it?

Mr. MANN. I do not care whether the gentleman reads it, if he can state it. I think that has been entirely changed by the printing law.

Mr. WATKINS. Yes; it refers to public printing, advertisements and public documents. The whole chapter refers to the public documents that are printed.

Mr. MANN. There has been an entirely new printing act passed since that was passed.

Mr. WATKINS. The section as we have presented it provides for that.

Mr. MANN. Yes; this would cover acts amendatory thereof and supplementary thereto.

Mr. WATKINS. It would cover all of them.

Mr. MANN. But I am under the impression that this language in the bill antedated the Revised Statutes and was in conformity with the printing act then in force, and that since that time we had begun to print an extra form of the acts, which, as a matter of fact, is now received in evidence, and I am sure the gentleman would not want to change that.

Mr. WATKINS. No.

Mr. MANN. In other words, the separate copy of the act. When the bill goes to the President and is signed, and then goes to the Secretary of State, he immediately causes a certified copy of it to be made, which is sent to the Printing Office, and that is printed as a separate copy of the law; and that is the only copy that we have until the session laws are printed. All of these ought to be admissible in evidence, and I think they all are now. I call it to the attention of the gentleman, hoping that he will investigate the matter.

Mr. WATKINS. I will state to the gentleman that it would be too loose a way of doing business to give official authenticity to any leaflet put out in that way unless there was some verification of it. If it is incorporated in a bound volume, and the whole volume is properly certified to, then it is authentic; but if you just allow anybody to take a pamphlet and put the word "approved" at the bottom of it, without having any signature to it, if it is not certified to at all, that would be a very loose way of proceeding.

Mr. MANN. None of these are certified to. They are all just printed. The Revised Statutes are not certified to.

Mr. WATKINS. The Revised Statutes, however, are provided for by law to be in a certain form.

Mr. MANN. Yes.

Mr. WATKINS. And the law itself verifies them.

Mr. MANN. They are made admissible in evidence. Copies of the laws published everywhere, by the States and the United States, are made admissible in evidence.

Mr. WATKINS. That is correct.

Mr. MANN. And these copies of the acts that we print here are, I think, now admissible in evidence. We pass a law to-day, it is approved by the President, and is printed in separate form by the State Department. Certainly we ought not, then, to be compelled to go to the Secretary of State and have a certified copy made before we can introduce that in evidence.

Mr. WATKINS. I think so.

Mr. MANN. I think not.

Mr. WATKINS. I think so, unless it is authenticated in some way.

Mr. MANN. I think that copy is now admissible in evidence, and ought to be.

The CHAIRMAN. The time of the gentleman from Illinois has expired.

The Clerk read as follows:

SEC. 169. The trial of issues of fact in the district courts shall be by jury, except in causes of equity and admiralty and maritime jurisdiction, and except as otherwise provided in proceedings in bankruptcy and by the next section. In causes of admiralty and maritime jurisdiction the court may, in its discretion, summon a jury for the purpose of assisting it in the assessment of damages.

Mr. CULLOP. Mr. Chairman, I offer an amendment, to follow this section as two new sections.

Mr. BRYAN. Mr. Chairman, I desire to offer an amendment to the pending section, which I think precedes any new sections.

Mr. CULLOP. My amendment is to follow section 169, two new sections, to be numbered 169a and 169b.

The CHAIRMAN. The gentleman from Washington offers an amendment to perfect the text, which will be in order first.

The Clerk read as follows:

Amendment by Mr. BRYAN:
Page 95, lines 21 and 22, strike out the words "and admiralty and maritime jurisdiction."
Also strike out the word "in" where it last occurs in line 23, and strike out all of lines 24, 25, and 26.

Mr. BRYAN. This amendment simply proposes to strike out the words "and admiralty and maritime jurisdiction" from the exceptions to jury trials. In other words, its purpose is to provide for jury trials in an admiralty tort the same as any other kind of tort or injury or damage.

Under the present law if a man is injured on a railroad train or in a coal mine, or in any way on the land, he has a right to a trial by 12 jurors and the jury assesses the damages. This is a right we all prize very highly. It is protected by the Constitution and ought to be protected. Now, why it is that when a man on a steamboat gets scalded half to death or gets one of his limbs disabled or sustains any bodily injury that man can not have the benefit of a jury trial is something I can not understand.

The *Titanic* went down a little over a year ago and several cases were brought in England and were tried by juries and damages assessed and allowed, and the plaintiffs have got their money and spent it I suppose. But here in this country there were several cases filed against the company—one in Chicago, one in Minnesota, and one in New York—and they have no right to a jury trial whatever. It is not right, there is no reason for it, and no justification in any sense that appeals to me. To cut a man off from a jury trial because he was pushe off from a boat instead of being injured on a railroad train is without reason.

Mr. GARNER. What has been the law heretofore in admiralty cases?

Mr. BRYAN. This section as submitted by the committee does not change the law in principle nor in matter of detail. The old idea was that the master of the ship was the lord of everything and he had supreme power, and the present law grew out of it; but under the existing condition of things where the man's case is to be tried in the same court, by the same judge, under identically the same rules of evidence, I do not believe that he ought to be subjected to that distinction, but that we should give the seaman and the sailor—the man who works on the sea, who works aboard boats and steamers—the same advantages in our courts as you do to the railroad-train brakeman or the worker in the coal mine. There is no reason in the world that could be suggested against this amendment, and I think the committee ought to agree to it. The report shows that in England the right of jury trial is granted absolutely under the Lord Campbell act, which pertains to land and sea the same. We certainly ought to have that provision here, and we ought not to require a man to go before a Federal judge without reason except some old tradition that has no meaning or sense to it. We are behind English practice in this. We are guilty of favoritism. We tend to degrade the service on the sea, and we limit the legal remedy of passengers as well as of seamen.

Mr. WATKINS. Mr. Chairman, I was about to state what the Department of Justice said about this matter, but it seems to me that it is totally unnecessary, and I will not take up the time in argument.

Mr. STAFFORD. I think we ought to have the reasons presented.

Mr. WATKINS. Very well; I will ask the Clerk to read the letter from the Department of Justice.

The Clerk read as follows:

OFFICE OF THE SOLICITOR GENERAL,
Washington, D. C., May 13, 1914.

MEMORANDUM FOR THE ATTORNEY GENERAL.

(In re H. R. 15578, sec. 169.)

I see no objection to this section as it appears in the proposed bill, nor do any necessary additions occur to me.

The present law, Revised Statutes, 566, provides for a trial by jury in cases of admiralty and maritime jurisdiction relating to any matter of contract or tort with reference to certain vessels on the Great Lakes. As pointed out in the report of the committee, page 13, this provision is a remnant of the act of February 26, 1845—an act to establish admiralty jurisdiction of the United States over vessels on the Great Lakes. Later it was decided by the Supreme Court that such jurisdiction existed independently of legislation. (Genesee Chief *v.* Fitzhugh, 12 How., 443; In re The Eagle, 8 Wall., 25.) The act mentioned was therefore omitted from the Revised Statutes, except that portion relating to trials by jury in these cases. I agree with the committee that this provision is anomalous and serves no useful purpose.

Mr. WATKINS does not indicate what new provisions will be suggested on Wednesday, the 13th, and it is therefore manifestly impossible to discuss them.

I recommend that he be advised that the department has no criticism to offer of the section as proposed.

Respectfully,

JNO. W. DAVIS,
Solicitor General.

Mr. BRYAN. Mr. Chairman, I do not see that there is any reason offered in the letter from the Department of Justice why my amendment should not be agreed to.

Mr. WATKINS. There is no reason except the Solicitor General thinks that the provision is sufficient to cover all the contingencies necessary.

The CHAIRMAN (Mr. FOSTER). The question is on the amendment offered by the gentleman from Washington [Mr. BRYAN].

The question was taken, and the amendment was rejected.

The CHAIRMAN. The Clerk will now report the amendment offered by the gentleman from Indiana [Mr. CULLOP].

The Clerk read as follows:

Page 95, at the end of section 169, add the following additional sections:

"169a. In all cases where the questions of fact are submitted to a jury for trial the court shall instruct the jury only on the law applicable to the issues joined under the pleadings in the case.

"169b. In all cases where issues of fact are submitted to a jury for trial the court can not take said case from the jury except by agreement of parties only on motion of the defendant at the close of the plaintiff's testimony in chief, and for the reason that the plaintiff has not produced any testimony in support of some material allegation essential to a recovery, and in no case where a reasonable dispute may arise as to what the facts testified to establish."

Mr. WATKINS. Mr. Chairman, I ask unanimous consent that the discussion on this section and amendments thereto close in 30 minutes.

Mr. BARTLETT. I have no objection, except that I want to offer an amendment and have it pending.

Mr. STAFFORD. I suggest to the gentleman to let the debate run along a little.

Mr. CULLOP. Mr. Chairman, I reserve the right to object, and I suggest to the chairman that we let the debate run some little time. This is a very important matter in the formation of this code, and I think the matter can be adjusted in less time than it would if we fix the time.

Mr. WATKINS. I will withdraw my request, Mr. Chairman.

Mr. CULLOP. Mr. Chairman, section 169a, offered as an amendment to this provision of the code, is that in all cases of fact in any case submitted to a jury for trial, the court shall only instruct the jury as to the law under the pleadings upon the issue joined and not upon the facts.

Every citizen in this country is entitled to a jury trial in cases both of criminal and civil nature except in equity cases.

Mr. BRYAN. And if he is a seaman or works on a boat.

Mr. CULLOP. And with that exception. Now, it is the experience of almost every lawyer in the Federal courts—the practice now prevails that the court instructs the jury as to what the facts prove, and sometimes singles out witnesses and comments to the jury on their testimony and the consideration it should receive. That is a denial of every man's constitutional right of trial by jury when he is entitled to submit his case to a jury for trial. In the Supreme Court of the United States, the highest court of the land, in a decision rendered, the court said that experience had taught the people that a jury was the safest and best tribunal there was to determine a question of fact; that 12 men called from all the different walks of life were better prepared, were better qualified from experience and knowledge in their association with men to determine questions of fact and give the result of their consideration than a single man, it mattered not what his experience in life had been. There is good reason for that doctrine. How frequently do we find in the reports of cases in the Federal court where the judge arbitrarily has said to the jury that this or that man's testimony is not worthy of belief. It is at that system that this provision is striking. In nearly all of the State courts if a judge instructing the jury attempts to tell the jury what the evidence of any witness establishes it constitutes reversible error, because it is taking from the jury the prerogative of the jury to determine the question of fact involved in the issues. One word of reflection against the testimony of a witness by a judge to a jury trying a case has great weight with the jury, because of the position of the judge. The judge ought to be required to tell the jury only what was competent testimony under the rules of the law. That he does in the progress of the trial when the evidence is being delivered, and not when he comes to instruct the jury before they retire to consider of their verdict in the case. This practice has been abused. It has been abused in nearly every judicial circuit in the Federal courts in the United States. This amendment is offered for the purpose of correcting that abuse; for the purpose of preventing a recurrence of that abuse. Judges sometimes do not give the same attention to the testimony that the jurors do. Their attention may be attracted to something else. They may not be in a position to weigh the testimony as carefully as the jurors whose duty it is to pass upon the questions of fact and to determine what facts are established and what facts are not established in the trial of a case; and yet in the Federal courts, the only courts in the country, the judge may sit upon the bench and say that this man's testimony or that man's testimony is not worthy of belief. He has a right to do it under the present practice, and does it.

The CHAIRMAN. The time of the gentleman from Indiana has expired.

Mr. CULLOP. Mr. Chairman, I ask unanimous consent to proceed for five minutes more.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. CULLOP. This amendment is directed at that abuse, at this denial of the constitutional right of the litigant to have the facts determined by a jury. It is the law now in nearly every State in the Union that the judge can not instruct the jury upon the facts, as to what the facts prove or do not prove, or as to what this or that witness's evidence establishes or what weight should be given it.

Mr. BARTLETT. Mr. Chairman, will the gentleman yield for a question?

Mr. CULLOP. Certainly.

Mr. BARTLETT. Does not the gentleman think his amendment better be phrased so as to forbid the judge to express an opinion upon the facts, rather than that he should not instruct the jury on the facts? My suggestion is made because I agree with the gentleman in what he has said as to the evils that exist under such practices; but the statute of my State, and I think of every other State, provides that the judge, in charging the jury, shall not express an opinion as to what has or has not been proven. The gentleman's amendment narrows that down to where the judge shall not instruct the jury upon the facts. It becomes necessary for the judge very often, without expressing an opinion as to what the facts establish, to instruct the jury as to the facts, to call their attention to the evidence in the case, and that might be construed to be an instruction on the facts, whereas I apprehend the evil the gentleman seeks to correct is not the instruction as to the facts but the instructions which carry with them an opinion as to what the facts do or do not establish.

Mr. CULLOP. Mr. Chairman, I realize the position of the gentleman from Georgia, and I knew that he was too good a lawyer not to agree with me on this question that the abuse now existing ought to be corrected by a statute; and I was sure that I would have the assistance of the gentleman from Georgia, whom I regard as one of the ablest lawyers in this House, and his support in correcting this evil and injustice. His experience doubtless has enabled him to witness frequently the abuses perpetrated on the litigants and the constitutional rights of the citizens in the Federal courts in his own State.

Mr. BARTLETT. Mr. Chairman, I will state to the gentleman that it is a positive requirement by our statute that a new trial shall be granted by the Supreme Court in any case where the judge expresses an opinion on the facts.

Mr. CULLOP. It is in all the States, practically. In my State the law prohibits the judge from expressing an opinion to the jury upon the facts. The expression of an opinion by the court is cause for a new trial. If we simply limited it to the expression of an opinion of the court alone, that might prevent the court from giving his reasons for ruling upon the admission of evidence during the course of the trial. I want to see this abuse corrected, and I have no doubt the great member-

ship of the lawyers of this House recognize the abuse and recognize that the evil ought to be wiped out.

The second section that I have offered, in substance, is this: It prohibits the court from taking the case from the jury where there is room for reasonable men to dispute about what the testimony proves. It is frequently true in the trial of a case that upon motion of the defendant at the close of the testimony in the case, or at the close of the testimony of the plaintiff in chief, the rules differing in different States, that the court takes the case from the jury, not because there is no evidence tending to support every material averment in the complaint, declaration, or petition necessary to recover, but sometimes because the court says he does not believe the witnesses. Whenever a court takes the case from the jury for such reason he is invading the constitutional right of the party, and that is the right to have a trial by jury.

The CHAIRMAN. The time of the gentleman from Indiana has again expired.

Mr. CULLOP. Mr. Chairman, as a portion of my time was taken up in the colloquy with the gentleman from Georgia [Mr. BARTLETT], I would like to proceed for five minutes more.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. CULLOP. Mr. Chairman, almost every lawyer has had that experience in the courts at some time. The very reason that the court in many instances has expressed for taking the case from the jury was the question of fact to be settled by the jury and not by the court. The rule a on this question in all of the States is that the court can not upon motion of the defendant take a case from the jury at the close of the plaintiff's testimony or at the close of the whole testimony, if there is any evidence tending to support the material allegations of the plaintiff's case necessary for a recovery, or if the facts produced are such as reasonable men might dispute about what they tend to establish. That is the rule as near as I can state it, and, as I believe, the correct rule. This is the rule violated about which we complain.

Mr. STEENERSON. Mr. Chairman, will the gentleman yield?

Mr. CULLOP. Yes.

Mr. STEENERSON. Is it not the rule now that the Federal courts in the trial of civil actions follow the practice of the State where the trial is held as to the method of charging the jury, and so forth?

Mr. CULLOP. Emphatically no; it is not the rule. Not very long ago my colleague from Indiana [Mr. Cox] raised that identical question in a Federal court, and the rule and practice is just as I have stated it, not as it was in the State courts. In that observation the gentleman from Indiana [Mr. Cox] will clearly bear me out. I have known the question to arise in Federal courts in different jurisdictions.

The rules of pleading are the same in the Federal courts as in the courts of the State where situated, but when you come to instructing a jury, then they seem to differ, and the Federal rule is as I have stated it in all Federal jurisdictions with which I am acquainted. But if it is as in the States, then this amendment is appropriate, and will serve a good purpose. It will not trouble the situation in the State of the gentleman from Wisconsin or in any other man's State. Now, this provision, or rather the want of it, has been the means of working a positive denial of justice in many instances, where the court and jury would have disagreed doubtless as to what the facts established in the case. Courts and juries frequently disagree. The judge may sometimes say that the testimony of some witness is not reasonable to him, and he does not believe it, but 12 jurors that are acquainted with the everyday affairs of life, from their knowledge and association with men in the communities where they reside, would say it was reasonable, and are better qualified, therefore, to pass upon it, as the Supreme Court of the United States has distinctly said in passing upon this question. Now, I submit that these two amendments, if adopted, rectify an evil now existing in the practice in Federal courts, that will be of great value to the people, the litigants who may be compelled to go into court for the trial and disposition of their causes, and I submit that their adoption will bring about a better and a fairer administration of justice than exists now in the trial of causes in the Federal courts. But some one may say, "Oh, the plaintiff can appeal if he is dissatisfied." Maybe he can, and maybe he can not. We have all seen cases put out of court, the right of trial denied for the want of just such statutes as these, where the plaintiff could not appeal because he could not get the means to prosecute the appeal from the lower to the higher court on this proposition. The want of such a provision works a hardship on poor litigants.

The CHAIRMAN. The time of the gentleman has again expired.

Mr. BARTLETT. Mr. Chairman, this is a very important proposition and one that ought to be given very careful consideration, because it concerns a matter which will revolutionize the present practice in the United States courts that has prevailed since their organization and at the same time involves all those who may be called into a United States court, either as a party plaintiff or a party defendant, or to answer charges by way of indictment or accusation. My State early in its history passed a statute, now nearly 100 years old, which forbids a judge in the trial of any case in charging a jury or instructing a jury to express an opinion as to what the fact did or did not establish, recognizing that well-accepted fact, recognized and accepted as a fact by all those who have lived under the Anglo-Saxon system of jury trial, that no other means has ever been devised by man so admirably suited for the trial and settlement of disputed facts as 12 men in a jury box. The Supreme Court of the United States itself in numerous cases has given utterance to the statement that no other tribunal or means has been devised so well adapted to the settlement of questions of disputed facts, and yet we all know that in the trial of cases in the Federal court where jury trials are had, both in civil and criminal cases, the opinion of the judge as to the facts not only often but with rare exception does settle the matter and control the jury. And I might recall instances of a trial in a district in the United States where the jurors sometimes thought it proper to exercise their power of differing with the judge where they have received the censure of the judge. I do not rise, however, to criticize the judiciary of my country, because the bad judges, in my opinion, under our system are not in the majority, but in the minority; but whether bad or good, the question of the disputed facts ought to be settled by the tribunal that the law provides for the settlement, and it ought not to be so minimized and so intrenched upon as absolutely to destroy that right. Now, it is true that the Supreme Court of the United States in numbers of cases have said that it is the duty of a jury and their sole province to determine questions of fact, even though they may differ with the judge, and although a learned and experienced judge, one of great ability, who knows how to express an opinion of the facts, may put them to the jury—you know how prone juries are to shift responsibility from their shoulders and to follow the suggestion of a judge and his opinion as to the facts.

The CHAIRMAN. The time of the gentleman has expired.

Mr. BARTLETT. Mr. Chairman, I ask for five minutes more.

The CHAIRMAN. The gentleman from Georgia asks unanimous consent to proceed for five minutes, Is there objection? [After a pause.] The Chair hears none.

Mr. BARTLETT. Jurors are prone to follow that course except in case where men of firm minds and stubborn wills sometimes act upon the theory that they will assert their own opinions. We know how futile it is in many, many cases not to expect the jury to follow the judge upon his opinion of the facts. I could recall quite a number of cases in my experience, Mr. Chairman, cases that involved life and liberty and property of vast amount, where the question of disputed facts was absolutely determined by the opinion that the judge entertained in reference to them. Without referring to the place where it occurred, I might call attention to the fact that I recall a time in a United States court where a judge absolutely threatened to punish an attorney who asserted the right of the jury to find the facts as they might determine, though they differed with the judge. I might recall a case where the attorney in the case, where a life was at stake, was compelled to fortify his position as to the right to argue to the jury its duty to differ with the judge as to the facts involved before he was permitted to take that position.

I do not, as I say, propose to criticize the judiciary of my country, but I do, if I can offer this amendment, propose to do that which the advanced thought of the lawmaking power and the lawyers and the people of the various States have done—say that the jury and not the judge shall decide questions of fact. And it is but giving to the people and the courts a stone when they ask for bread, and a serpent when they ask for fish, when you say that the juries are to be judges of the fact and then permit the judge with all his power and environment, of learning and ability, to take one side of the case and represent the plaintiff and defendant in his charge, for that is what it means; so that, sometimes as you walk into a court where a case is being tried you would naturally ask, as a stranger did when he walked into a court when they were trying a case, and after hearing the judge instruct the jury, inquired who represented the plaintiff besides the judge. So I think the spirit of it, the intention of the proposed amendment, is right. But I suggest to him that it would answer the purpose, and it is not from any desire to correct him in any particular beyond the

desire to accomplish something. Now, the gentleman says that in instructing the jury as to the facts the judge shall not express an opinion. I will get the amendment and quote it exactly. I suggested to him that this would answer all he desires and would not go to the extent that he does:

In all cases where any trial is had by a jury the judge in instructing the jury shall not express an opinion as to what has or has not been proven by the evidence.

It seems to me that that is not only in the language of my own statute but is in the language of the various statutes of the other States with which I am familiar.

Mr. STEENERSON. I think the statutes of the State of Minnesota say that he shall not express an opinion on the question of fact.

Mr. BARTLETT. In instructing the jury?

Mr. STEENERSON. Yes.

Mr. BARTLETT. I will put it that way. I think "opinion as to what has or has not been proven——"

Mr. STEENERSON. They are not synonymous.

Mr. BARTLETT. They are not synonymous; but if he can not express an opinion as to what has or has not been proven, it would answer the same purpose.

Mr. STAFFORD. Mr. Chairman, I ask unanimous consent that these two propositions be considered separately. They are virtually two amendments, and we ought to have them considered separately.

Mr. CULLOP. I think we ought to have them voted on separately myself.

Mr. SCOTT. Mr. Chairman, I am in sympathy with the idea of the gentleman from Indiana, but I fear his section is unhappily worded. As I understand the law governing trials at common law in Federal courts the court has the authority to say to the jury that any essential and controlling fact is not supported by any evidence, because that is the pronouncement of a proposition of law. Unlike the practice in the State courts, under a decision of the Supreme Court of the United States the Federal trial judge may with impunity express an opinion to the jury upon the weight of the evidence as directed to some essential fact. In other words, he can express his opinion to the jury as to what the evidence in fact proves, that opinion not, however, being binding upon the jury. I believe that that doctrine, which has prevailed from the beginning in the Federal court, is wrong. It is not in accord with the general fundamental principles of our judicial system. I do not think it would be safe to say, however, that the court shall not instruct the jury upon any question of fact, because that would invade the right of the court to pronounce upon matters of fact concerning which there was no evidence, and thereby invade the constitutional right of the court to proceed in accordance with the common law. I think that as far as Congress can go in this matter is to prohibit the court from expressing opinions to the jury either upon the weight of the evidence or upon the facts which the evidence in his opinion proves. It seems to me that the amendment as suggested by the gentleman from Georgia [Mr. BARTLETT] would meet the situation fully; at least, if it is made so as to prohibit the court from expressing such an opinion while giving the charge to the jury.

Mr. COX. Mr. Chairman, I do not want to consume the time of the committee but a very few minutes. I think this is the most important amendment that has been offered to this bill, and I hope the chairman in charge of the bill will see his way clear, when the amendment is framed up to meet the evil that now certainly exists, to accept it.

Mr. WATKINS. I wish to state to the gentleman that this amendment, not having been submitted to the Committee on the Revision of the Laws during its consideration of this bill, I would not feel authorized personally to comply with his request. Therefore I will not have anything to say one way or another.

Mr. STAFFORD. Will the gentleman yield right there?

Mr. WATKINS. I will.

Mr. STAFFORD. I would like to have the attention of the committee. Everyone recognizes the very great importance of this provision, as it changes the entire procedure of the trial of cases in the Federal court, and I would ask the chairman whether he does not think it of sufficient importance to have these provisions passed over and have them considered in the interim between now and the next meeting day?

Mr. WATKINS. It seems almost impossible during the consideration in the committee to keep a quorum here.

Mr. STAFFORD. I am not insisting on a quorum, but it seems hardly fair to the membership of the House to have this matter considered at the present time.

Mr. WATKINS. The Members ought to be here.

Mr. STAFFORD. The Members ought to be here, and if this matter could go over until the next session the chairman of the committee would have ample time to give thought to it, and other Members would have ample time. The second amendment that has been proposed is in such an awkward phraseology that we would have to vote it down even if we agreed with the principle of it.

Mr. WATKINS. There will be a substitute offered which I think may remedy that trouble.

Mr. BRYAN. If we are going to stay here and work until we come to something important and then pass it over, we had better quit altogether. I think we had better go on with the work.

Mr. STAFFORD. The gentleman does not believe in deliberation.

Mr. BRYAN. I do not believe in stopping the work.

Mr. COX. Mr. Chairman, I believe I have the floor. I am glad to have the chairman of the committee express an opinion so far as he does. Like the gentleman from Georgia [Mr. BARTLETT], I am not going to offer any criticism upon any court of the Nation, Federal or State. But it is an indisputable fact, Mr. Chairman, that criticisms most severe have been directed against the judiciary of the Nation for the last 15 or 20 years. Now I shall not stop in this short time to go into the reason for this criticism or what has brought it about. But there is an idea, at least as to some of the Federal courts, that they are all-wise and all-powerful, and arrogate to themselves modes of procedure. And I am not going to criticize them for that, because in all likelihood the real criticism should be directed against the Congress of the United States because of the failure heretofore to outline a clear, clean-cut mode of procedure to govern the judiciary in these things.

But to sit by, Mr. Chairman, in a Federal court or a State court and have a judge absolutely withdraw a case from the jury and refuse to submit the questions of fact to the jury, in my judgment, is a subversion of the right of trial by jury. [Applause.]

I have seen instances in Federal courts, and no doubt other lawyers have time and again seen them, in connection with questions of negligence, where that question is a disputed question both by the plaintiff and the defendant, pro and con, such as ordinarily the question of the right or the law of self-defense is disputed between the State on one side and the defendant on the other, where that court, with an array of facts before it all on one side, without any contradictory evidence having been introduced at all by the defendant, of his own motion, his own will, his own accord, not asked for by the defendant, has withdrawn the case from the jury strictly and solely on a question of negligence, with possibly the doctrine of the assumption of risk to a certain extent entering into it.

Mr. STEENERSON. Mr. Chairman, will the gentleman yield there?

The CHAIRMAN. Does the gentleman from Indiana yield to the gentleman from Minnesota?

Mr. COX. Yes.

Mr. STEENERSON. Is not that exactly the kind of a case that ought to be determined by the court or the judge?

Mr. COX. No, sir. Never in this world will I surrender my rights as an American citizen, or the rights of an American constituency on this earth to take from the jury the finding of a question of fact.

Mr. STEENERSON. Does not the gentleman admit that when facts are undisputed they raise a question of law, and when they are disputed they raise a question of fact?

Mr. COX. There is where your false premises are when you undertake to fortify the judgment of the court by assuming that the court is right, when he says that the plaintiff, although he has introduced a tremendous amount of evidence, has not yet made out his case.

Mr. STEENERSON. Yet the gentleman's own statement of the case was where there was no dispute as to facts at all.

Mr. COX. Oh, no. The gentleman did not make that statement at all. The gentleman misunderstood me entirely.

Mr. STEENERSON. Read the RECORD and see.

Mr. COX. To recapitulate, Mr. Chairman: It is an absolute mockery—that is all it is—to let a judge, after hearing all the evidence introduced by the plaintiff, say, "I will concede everything you have testified to here, Mr. Plaintiff, and everything your witnesses have said, and still in law you have not got a case." Why, the very purpose of a jury trial, taking men from all walks of life—some of them farmers, some of them mechanics, some of them bankers, men following this occupation and that occupation, likely drawing different conclusions—is to secure their judgment; and who, after all, is going to say that a Federal judge is a better judge of what a given state of facts proves or tends to prove than the average man?

The CHAIRMAN. The time of the gentleman from Indiana has expired.

Mr. COX. So I hope, Mr. Chairman, that the amendment may be whipped into shape in some way or manner so that it can become a part of this law.

Mr. VAUGHAN. Mr. Chairman, I offer a substitute.

The CHAIRMAN. The gentleman from Texas [Mr. VAUGHAN] offers a substitute.

Mr. WINGO. Mr. Chairman, I understand this is a very important question. It looks as though we ought to have more Members present. We have now but nine Democrats and four Republicans, and the official score keeper, the gentleman from Ohio [Mr. FESS], is absent [laughter], as I see. I shall not make the point of quorum now, but if gentlemen can not stay here to transact business of this importance I shall have to insist upon a quorum.

Mr. STAFFORD. If the gentleman is going to insist upon the point of no quorum I suggest that he do so before this matter is considered, so that a sufficient number of Members may be here to act on it intelligently.

Mr. VAUGHAN. Mr. Chairman, I offer a substitute for the amendment of the gentleman from Indiana [Mr. CULLOP].

The CHAIRMAN. The Clerk will report it.

The Clerk read as follows:

Substitute for the Cullop amendment to section 169:
"SEC. 169a. In jury trials the judge shall not express to the jury any opinion on the facts or make any comment on the weight of the evidence.
"SEC. 169b."——

Mr. STAFFORD. Mr. Chairman, I understand we are considering these amendments separately.

Mr. VAUGHAN. Yes; I am offering that as a substitute. We are offering them together, but they are to be voted on separately.

The CHAIRMAN. They will be reported upon separately, but will be discussed together.

Mr. VAUGHAN. Yes; discussed together.

Mr. STAFFORD. Mr. Chairman, a few moments ago I asked unanimous consent that two amendments, virtually different propositions, should be considered separately, and it was agreed to.

Mr. VAUGHAN. Mine embraces both of these matters, and I am desirous of having the amendment read.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

SEC. 169b. No judge shall take from the jury in any case the determination of the issues of fact arising under the evidence.

Mr. VAUGHAN. Mr. Chairman, these two substitutes, if adopted, will accomplish the purpose intended by the gentleman from Indiana [Mr. CULLOP]. Perhaps his language would do so, but I think the language I have used is shorter, simpler, and more easily understood, and makes it clear that the judge shall not comment upon the weight of the evidence. Judges of the Federal courts may now do so.

Of course, it will be necessary to except to such conduct if it is indulged by the court after these substitutes become law. But every issue of fact raised by the evidence will be for the determination of the jury alone.

I think the adoption of section 169a would accomplish what is designed, but we ought to be certain about it. The proposed section 169b would preclude the court from instructing the jury to return a verdict for or against any party in any case where there are any issues of fact raised by the evidence. I do not suppose anyone would insist that a case should be submitted to the jury when there are no issues raised by the evidence, the determination of which by the jury would determine in whose favor a verdict should be rendered.

Mr. SCOTT. Will the gentleman yield?

Mr. VAUGHAN. For a question.

Mr. SCOTT. Does the gentleman understand that his substitute, if enacted, could deprive the court of the power to take a case from the jury where some essential fact was without the support of evidence?

Mr. VAUGHAN. No; it would not.

Mr. SCOTT. I think the gentleman's amendment goes that far.

Mr. VAUGHAN. I think not.

Mr. SCOTT. Will the Clerk report the amendment again? It is very brief.

The CHAIRMAN. If there be no objection, the Clerk will again report the amendment.

The Clerk read as follows:

SEC. 169b. No judge shall take from the jury in any case the determination of the issues of fact arising under the evidence.

Mr. VAUGHAN. The determination of the issues of fact arising under the evidence is for the jury. Of course, if there is no issue of fact arising under the evidence——

Mr. SCOTT. The issue would have to arise under the pleadings.

Mr. VAUGHAN. It would have to arise under the evidence also, or there would be nothing to submit to the jury. I know that the pleadings make the issues upon which evidence is admitted pro and con; but the issues submitted to juries for their decision are issues of fact raised by the evidence introduced at the trial, and it does not matter how many issues are raised by the pleadings, unless there is an issue of fact raised by the evidence there is nothing to submit to the jury.

Mr. SCOTT. The question is whether the court could determine whether any one issue or fact pleaded is without the support of evidence.

Mr. VAUGHAN. Under the substitute I offer, if there is a single fact which a party must prove in order to entitle him to a verdict, and he fails to introduce any evidence to prove it, the court may direct a verdict for the opposing party; and it is a question of law, whether or not there is any evidence to prove that fact; and if there is no evidence to prove it, the court may say so and direct a verdict; but if there is any evidence to prove it, then it is a question for the jury to determine whether or not the fact is proved.

Mr. SCOTT. Will the gentleman yield?

Mr. VAUGHAN. I yield for a question.

Mr. SCOTT. On the gentleman's construction of the second section of the substitute, is not that identically the present law?

Mr. VAUGHAN. No; I think not.

Mr. SCOTT. Do you understand that the court may take from the jury an issue of fact where there is substantial evidence on both sides, or substantial evidence upon one side, to support it?

Mr. VAUGHAN. I did not use the word "substantial," if the gentleman will notice.

The CHAIRMAN. The time of the gentleman has expired.

Mr. VAUGHAN. I ask unanimous consent to proceed for five minutes more.

The CHAIRMAN. The gentleman asks unanimous consent to proceed for five minutes. Is there objection?

There was no objection.

Mr. VAUGHAN. The weight to be given to the testimony in any case, be it much or little, is for the jury. It is not for the court to say whether or not he believes it. It is for the jury. That is the peculiar province of the jury, and the jury may believe one man against a hundred. No court should have the right to tell the jury that they must believe or disbelieve any witness or any number of witnesses or what weight they should give to any fact or circumstance in evidence. The judges of the Federal courts have that right now. They exercise that power now.

Mr. BARTLETT. If the jury find a verdict that is contrary to the weight of the evidence, or without evidence to support it, the judge can grant a new trial.

Mr. VAUGHAN. He has the power to set aside the verdict now. I do not think, Mr. Chairman, that any man is good enough or safe enough or wise enough or fair enough to be trusted with the right to determine the issues of fact in cases constantly arising. It is too great a power to put in the hands of any one man, to trust him with the decision of the questions of fact instead of the jury, or to give him the power to give his opinion upon the facts. The Federal judges now have that power. It ought to be taken away from them. They ought not to have the power to comment upon the weight of testimony or to express opinions upon it. It is almost giving them the power to decide the case to permit them to comment upon the weight to be given to the testimony. I think these two substitutes I offer will make it absolutely certain that every issue of fact in a jury trial is for the jury to determine.

Mr. BRYAN. Mr. Chairman, I am in favor of the proposition, but I think the amendment the gentleman has just offered carries the matter in too general terms. But I am in favor of the proposition, and however it may be finally offered I am going to support it.

But I am not going to lose the opportunity to cinch the argument that I made a few minutes ago. We are all here trying to apply the right of jury trial in more liberal terms to the cases that come under our immediate views, those that affect us more directly. But a while ago I suggested that we grant the fundamental proposition of a jury trial to a man on a boat, and that amendment was refused by this committee. In other words, it is the purpose and determination of this body to lay down a different rule for a man on the water, whether as a passenger or

as a workman, than for a man who is on the land. I want to drive that thought home. That kind of a distinction is going to be put out of business, and those of us who are so enthusiastic for jury trials are sooner or later going to get driven into our noodles the idea that a jury trial that is so essential for a man on land is just as essential for a man on the water.

Mr. VAUGHAN. Does not the gentleman think that in enacting a Federal statute on this question it is very safe to follow the language of a statute that has received a well-defined construction?

Mr. BRYAN. Why do you not follow the interpretation of a statute instead of introducing the amendment you have introduced here? The whole purpose is to change the statute, to make the terms providing for jury trial for a man on the land stronger. I asked a while ago to open the door a little bit to a man on the water. You refused that; and then you tell me, "Why not follow old statutes? Why change existing law?"

Mr. VAUGHAN. The gentleman does not understand my question. I asked him if he did not think that in conserving the right of trial by jury we should follow those State statutes on the question that undertake to preserve it.

Mr. BRYAN. Follow nothing that is not just. You are so particular to safeguard jury trial for a man with a claim in court concerning a land dispute, but I say you ought to give the right of trial by jury in a civil case to a seaman or to a man on a boat, a man who suffers injury on the ocean or in a river or on a bay. You ought to give him the same right of trial by jury as you give to a man who is hurt on a railroad train or anywhere else.

Mr. BARTLETT. I think so, too.

Mr. BRYAN. Yet my amendment has been voted down by a small company of men here on this floor who are unanimous in their insistence on jury trial as one of the most precious rights of our Constitution. All you need is to look at this matter from the standpoint of common sense. Where do you get the idea that a human being on the water is any less entitled to his constitutional rights than on the land?

Mr. STAFFORD. A parliamentary inquiry, Mr. Chairman.

The CHAIRMAN. The gentleman will state it.

Mr. STAFFORD. After this amendment is voted upon, will there be opportunity for discussion on the second amendment?

The CHAIRMAN. The original amendment was offered as one amendment, but an arrangement was made by which a division of the question was permitted. It is really only one amendment, but the sections will be voted on separately.

Mr. STAFFORD. The notes of the reporter will show that I asked unanimous consent that it be considered as two amendments, as the subject embodied two separate propositions.

The CHAIRMAN. I presume there could be no objection to that.

Mr. STAFFORD. Then, Mr. Chairman, I ask for recognition. I may be in the minority on this proposition now being considered by the committee, but I am not one of those who view with alarm any encroachment upon the privileges of litigants by the Federal judiciary. I know that it is popular in many branches to attack the Federal courts. There may be instances, and there are always exceptions in any branch of the Government, or in any branch of human endeavor, where criticism may be had, but it is my opinion that the great body of the Federal judiciary is above criticism. I may not have had as large an experience as some Members who have discussed this question, but in my limited experience and practice in my State I have never found the judges encroaching on the rights of the jury. In the State of Wisconsin we never had any limitation on the rights of the judges to instruct the jury upon the questions at issue. For one, I believe that juries should receive some instruction in regard to the facts. Many times they come for their first initiation in the trial of a case, and with this amendment you are going to hamstring them for the purpose of following a bugaboo.

Every litigant has his right of appeal in case there is any abuse; but if you pass this character of amendment you are going to add to the number of errors that would creep into the trial of causes. It is no longer the fashion of the latter-day saints to regard with favor our judiciary, but from the time of the establishment of the Government our fathers and those great statesmen who have succeeded them have believed that the present procedure and practice was not criticizable, but worked for the ends of justice.

Now, are you going to limit the judges so that they can not express any opinion on the facts to the jury? What is the judge in the trial of a case? He is an experienced man. Although trial by jury is a great institution, I am not certain that it works justice in all cases. Under the pending amendment you are taking away the right of the judge to take the case from the jury in case there is no legal evidence to support the case.

Mr. WINGO. Will the gentleman yield?

Mr. STAFFORD. Yes.

Mr. WINGO. The gentleman does not mean to say that this amendment would take away from the judge the right to take a case from the jury when there was no evidence to support it?

Mr. STAFFORD. No real evidence to support the issues of the case; there may be testimony, but whether there be evidence or not, the second amendment would take that privilege away from the judge.

Mr. GARNER. Will the gentleman yield?

Mr. STAFFORD. Yes.

Mr. GARNER. Suppose it did take it away from the jury, could not the judge set aside the verdict?

Mr. STAFFORD. Then what is to be gained? There is nothing to be gained; it is a subterfuge. The judge should have the right in the first instance, if there is no real evidence to support the issue involved, to take the case away from the jury.

Mr. WINGO. If I understand the gentleman, he thinks the judge should be given the sole right to determine the weight and credibility of the testimony.

Mr. STAFFORD. He should be given the right to determine whether there is any evidence to support any of the issues. If there is any evidence to support the issue, then the case should go to the jury, but the judge should determine in the first instance whether there is any evidence to support the issue in question.

Mr. WINGO. Let me give the gentleman a concrete illustration. Suppose a witness on the stand, without any effort to impeach him, swears positively to a state of facts, which, if they be true, would unquestionably make out the innocence of the defendant or the plaintiff's case or the defendant's case. Does the gentleman think the judge should have the right to say "I do not believe that witness's testimony" and take the case from the jury?

Mr. STAFFORD. No; and that has not been established in any court of the Federal judiciary.

Mr. WINGO. Does the gentleman think that no Federal judge has gone that far?

Mr. STAFFORD. No; not to pass on the credibility of the witness, but simply to say whether there has been any evidence or not to support the issue.

Mr. WINGO. And that he never told a jury that their witness was not entitled to any credence?

Mr. STAFFORD. I answered the gentleman's question.

Mr. WINGO. Is not the correct rule, the better rule, this, as it is in most of the States: That the jury is the sole judge of the evidence, while the court gives them the law, and is not that the experience in those States that have prohibited the judge from singling out a particular fact and commenting on it to the jury?

Mr. STAFFORD. In my State there is no such limitation. I do not think these amendments should be passed haphazardly. They involve a change in procedure that has been established since the organization of our Government, and I do not think we ought on the spur of the moment to pass this character of an amendment.

Mr. CULLOP. Mr. Chairman, I think the gentleman from Wisconsin [Mr. STAFFORD] is clearly in error when he says that the court has more experience and is better able to pass upon a question of fact than 12 jurors. The Supreme Court of the United States, I will say to the gentleman, have said just the reverse. They have passed upon that question, and as the gentleman from Wisconsin does not want to come in conflict with the court, as it might feel distressed in the failure to have his approbation, I am, however, sure the decision the Supreme Court has rendered on this question will have his hearty support, and to be in accord with it he will give his support to these amendments. Now, let me read what the Supreme Court said on this subject:

It is in relation to these intermediate cases that the opposite rule prevails. Upon the facts proven in such cases it is a matter of judgment and discretion, of sound inference, what is the deduction to be drawn from the undisputed facts. Certain facts we may suppose to be clearly established from which one sensible, impartial man would infer that proper care had not been used, and that negligence exfsted; another man equally sensible and equally impartial would infer that proper care had been used and that there was no negligence. It is this class of cases and those akin to it that the law commits to the decision of a jury. Twelve men of the average of the community, comprising men of education and men of little education, men of learning, and men whose learning consists only in what they have themselves seen and heard—the merchant, the mechanic, the farmer, the laborer—these sit together, consult, apply their separate experience of the affairs of life to the facts proven, and draw a unanimous conclusion. This average judgment thus given it is the great effort of the law to obtain. It is assumed that 12 men know more of the common affairs of life

than does one man; that they can draw wiser and safer conclusions from admitted facts thus occurring than can a single judge.

That is what the highest court of the land has said on this subject, and yet if the argument of the gentleman from Wisconsin [Mr. STAFFORD] were to prevail in his idea that right would not obtain to any litigant in the court, because he says a single judge is better qualified to decide a question of fact than 12 jurors.

Mr. Chairman, I know it is the favorite argument of gentlemen who want to protect these antiquated rules and arbitrary methods which work hardships and wrongs upon the litigants in court to assail every man who will ask for a remedy of these wrongs, for a rectification of these abuses, by standing up in the halls of Congress and charging that he is criticizing the Federal judges. If the gentleman only would be willing to admit it, he knows that many of them need criticism; that sometimes the Supreme Court administers to them in the rendition of its opinions in reversing their judgment severe criticisms, and it is only of recent occurrence that within a stone's throw of this Chamber the highest court in the world—the Supreme Court of the United States—rendered an opinion blistering a Federal judge for an erroneous opinion that he had made in the District of Columbia and for which in part there are impeachment proceedings now being heard. And yet the gentleman says that if we undertake to legislate to correct these evils we are criticizing the Federal judiciary. The highest court in the land is constantly criticizing the Federal judiciary. There is nothing wrong, if they have done wrong, in trying to pass laws that will compel them to do right, to conduct the trials berore them in the proper way and let the citizen who goes into the courts have his constitutional right of submitting questions of fact to a jury of his peers. Constantly the practice as it now prevails is denying these constitutional rights to the citizens of this country.

Under the Constitution there is a provision that the jury shall be the sole judge of the facts in civil cases and the sole judge of the law and the facts in criminal cases, and yet under the practice as it has grown up and has been perpetuated for years this constitutional right is denied the citizen, and his case is taken from the jury and the jury given no right or opportunity to pass upon it and say who testified to the truth and who did not. The highest court of the land has said that the best place to settle a question of fact and to settle it right is in the jury box—that 12 men, called from all walks of life, are better qualified to solve the question of fact than a single judge in the trial of a cause—and yet, because we want to correct this abuse, because we want to right this wrong, because we want to prevent this imposition upon litigants, they say we are attacking the Federal courts. We are not attacking the Federal courts. We are trying to protect them from criticism. We have a right to make the law which the Federal judge must obey as well as the citizen of this country, the law that he is called upon to administer, and we have the right to define the manner in which he shall administer it. It is the duty of Congress to pass such laws upon any subject its wisdom may direct, and that is all we are attempting to do here. We want to correct this abuse and remove this evil.

If this works a wrong on the defendant, we will be as liberal with the gentleman from Wisconsin [Mr. STAFFORD] as he is with us, and say to him the injured party can appeal to the higher court and have the wrong corrected. We never allow anyone to be more generous than we. The gentleman says that the plaintiff may appeal, and I say to him that we will be equally as liberal and let the defendant appeal, and let the plaintiff answer in the higher court to his appeal. Mr. Chairman, I hope the amendments will be adopted for the reason it will remove the cause which now exists for criticism, sometimes just and sometimes unjust. I can conceive of no more important topic for legislation than the adoption of any measure which will raise the courts above criticism. Furnish them every possible available means to elevate them above reproach, so that every citizen will repose confidence in every act they perform. The administration of justice is a sacred thing. Confidence in the courts once destroyed, and the basis of law and order has been dealt a deadly blow, and the security of our institutions shaken from turret to foundation. The courts should have every security possible thrown around them to shield them from criticism, and if we enact the law which affords such protection and any court fails to avail itself of its provisions, then criticism will be deserved and upon it should with severity fall.

Mr. WATKINS. Mr. Chairman, as I before stated, when the question was asked by the gentleman from Indiana, neither this amendment now being considered nor the substitute to the amendment was ever submitted to the committee for examination, and for that reason I am not authorized by the committee as its chairman to make any concessions whatever. I wish to say, however, that if any of these amendments are to be adopted, my individual preference would be for the substitutes, because, first, they are shorter and more concise, and being terse in form, and being clear of expression. I prefer the substitute to be adopted to the original amendment offered. So far as my own position on the question is concerned, without reference to what may be the desire of the committee of which I have the honor to be the chairman, I will state that I propose from an individual standpoint to cast my vote in favor of the substitute which has been offered, and I shall do so largely because of the fact that in my own State the law is similar, and it has met the general approval of the people throughout the State of Louisiana.

Mr. SCOTT. Mr. Chairman, will the gentleman yield?

Mr. WATKINS. Certainly.

Mr. SCOTT. May I ask the gentleman whether he includes in his expression "substitute" both of the sections that are offered?

Mr. WATKINS. Of course I prefer both of them, but the last can be considered separately from the first.

Mr. STAFFORD. The second will be considered later.

Mr. SCOTT. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. SCOTT. Are we to have debate on the second proposition after the first is disposed of?

The CHAIRMAN. The Chair understands they are entirely separate.

Mr. SAUNDERS. Mr. Chairman, I would like to have reported the substitute on which we are to vote.

Mr. STAFFORD. Mr. Chairman, there are a good many Members who have come into the Chamber since the matter was first presented, and I ask unanimous consent that the original amendment and substitute be reported.

The CHAIRMAN. The gentleman from Wisconsin desires the original amendment reported?

Mr. STAFFORD. The original and the substitute, for the benefit of those Members who have come into the Chamber since this matter was presented.

The CHAIRMAN. Without objection, the original amendment and substitute will be reported.

The Clerk again reported the Cullop amendment 169a and the Vaughan substitute for 169a.

The CHAIRMAN. The question is upon the substitute.

Mr. CULLOP. Mr. Chairman, I desire to say that I am perfectly willing to accept the substitute for the original amendment.

The question was taken, and the substitute was agreed to.

The CHAIRMAN. The question now is upon the amendment as amended by the substitute.

The question was taken, and the amendment as amended was agreed to.

The CHAIRMAN. There is another amendment, 169b, and substitute for it, and, without objection, the Clerk will report them to the House.

The Clerk again reported the Cullop amendment, 169b, and the Vaughan substitute for 169b.

The CHAIRMAN. The question is upon the substitute.

Mr. SCOTT. Mr. Chairman, it seems to me that the substitute indicates merely an expression of the existing law, although I think it is extremely likely that it may receive an interpretation that goes much beyond that and would be very detrimental to orderly procedure of trials in common-law cases. It seems to me that the language is not well chosen. The issues are framed by the pleadings, not determined by the evidence. Wherever there is a lack or a failure of evidence to support any essential issue as furnished by the pleadings, the court, as a matter of law, should have the right to withdraw the case from the jury. Wherever there is evidence to support all of the issues as framed by the pleadings essential to a recovery, then under existing law the court does not have the right or the power to withdraw the case from the jury. This substitute, if enacted into law, can do nothing more than to confuse the existing statutes of procedure. It seems to me that it ought not to be adopted——

Mr. CULLOP. Will the gentleman yield for a question there?

Mr. SCOTT. Yes.

Mr. CULLOP. I presume the gentleman is speaking in reference to the practice in the gentleman's State?

Mr. SCOTT. I am speaking with reference to the practice in the Federal courts.

Mr. CULLOP. Of the gentleman's State?

Mr. SCOTT. No; in all the States.

Mr. CULLOP. Well, I beg to disagree with the gentleman upon that, for it is just the reverse in my State, absolutely. I have heard the judge in numerous trials tell the jury that such and such a witness testifying to so and so should not be regarded.

Mr. SCOTT. I am not speaking upon that proposition; that falls within the gentleman's amendment.

Mr. CULLOP. On the other proposition of taking a case from the jury, I have likewise, and I think it is the experience of many lawyers, others I know of, have heard the court say, upon the motion to instruct the jury for the defendant at the close of the plaintiff's evidence, "You have the evidence; I do not believe the witness."

Mr. SCOTT. That deals with the gentleman's amendment and the substitute we adopted a moment ago.

Mr. CULLOP. Now, this amendment prevents the court from doing that, and gives that plaintiff in court his constitutional right to have the facts submitted to the jury and decided, and not the court, and comes just within the very spirit and language of the decision I read of the Supreme Court of the United States upon that identical question. Now, if the gentleman's theory should prevail, courts can continue to do as they have been doing—make up their minds that they do not believe the testimony of a witness, and say to the jury that the jury shall not consider those things and thereby deprive the plaintiff of his rights by taking the case from the jury and directing it to return a verdict for the defendant without leaving the box.

Mr. SCOTT. Does the gentleman contend that in the State of Indiana in any trial in a Federal court where there is evidence offered and introduced tending to support every essential issue presented by the pleadings that the Federal court can take that case from the jury under the law?

Mr. CULLOP. Oh, the gentleman says "can not." Doubtless if an appeal was had the Supreme Court would do as it has been doing in the past, and because it could not do it. The gentleman's question reminds me a good deal of the fellow who sent for a lawyer to advise him in regard to being locked up in jail——

Mr. SCOTT. I can not yield——

Mr. CULLOP (continuing). And when the lawyer said, "They can not put you in jail on that charge," the fellow said, "Look here, Jim, they have already done it; what's the use of your talking that way?" They have done it, and we want to pass a law that prohibits them from repeating and doing any such things as that. That is the object of this amendment.

Mr. SCOTT. That story is just as interesting as it was the first time I ever heard it. [Laughter.] The fact remains that the gentleman's argument concedes that the law is now just as he would have it. What can you gain by repeating what already exists if it is now the law and the plaintiff on appeal can obtain his remedy and reverse the court? What advantage would you gain by repeating the same law in other words?

Mr. CULLOP. If the gentleman will permit me, I will answer. There is no statute now. It is simply the law as held by the court. You have got to go to the old laws with reference to getting a remedy. Now we propose to write the law into the statute so that the court must be bound by the statute in the first instance.

Mr. SCOTT. The gentleman is entirely mistaken. It is not only in the statute at the present time, but it is guaranteed in the Constitution at the present time—a common-law trial according to the rules of common law.

Mr. ALLEN. Will the gentleman yield for a moment?

Mr. SCOTT. I will.

Mr. ALLEN. Has not the court of appeals held in similar cases that if the judge came to the conclusion that it was a matter which would warrant him in giving a new trial in case of motions intervening there would be no error if he instructed a verdict?

Mr. SCOTT. That is the test. If there is a lack of evidence to support an essential fact the court in such a case would take the case from the jury, but if he inadvertently permitted it to go to the jury and then discovered the error he might grant a new trial. It is the one question. Unless this section 169 is read out of the statute after you adopt it, unless it is construed to be absolutely nothing, then it will deprive the court of the right to withdraw the case from the jury when an essential fact is without support in the evidence.

The CHAIRMAN. The question is on agreeing to the substitute.

The substitute was agreed to.

The CHAIRMAN. The question now is on agreeing to the amendment as amended.

The amendment as amended was agreed to.

Mr. BARTLETT. Mr. Chairman, I have an amendment, which I have sent to the Clerk's desk.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

At the end of line 26, page 95, insert the following:

"In all cases of indirect contempt wherein the defendant is charged with contempt of court not committed in the presence of the court, or so near thereto as to interfere with the administration of justice, upon the demand of the defendant, the trial shall be by jury, as in criminal cases.

Mr. WATKINS. Mr. Chairman, I reserve a point of order on that. We have already passed that section.

Mr. BARTLETT. No; we have not.

Mr. WATKINS. We have already read section 169, and passed over that, and have incorporated two other sections.

Mr. BARTLETT. That amendment was sent up at the same time—I was recognized by the Chair, and sent the amendment up at the same time the gentleman from Indiana sent up his amendment.

Mr. WATKINS. Whether that is true or not, the gentleman did not insist on it. The amendments have already been considered, and two new sections have been put in the bill.

The CHAIRMAN. Has this amendment been offered before?

Mr. BARTLETT. Yes; and has been at the Clerk's desk all this time.

Mr. STAFFORD. It has never been reported before. I do not think the gentleman from Georgia [Mr. BARTLETT] will question that.

Mr. BARTLETT. No; it has not been reported before.

The CHAIRMAN. The Chair understands——

Mr. LLOYD. Mr. Chairman, in order to settle the matter, I ask unanimous consent that we may recur to section 169, and then the gentleman can offer it.

The CHAIRMAN. Is there objection?

Mr. WATKINS. Mr. Chairman, this will create a very lengthy discussion. We saw from the argument in the House yesterday how much interest is taken in this matter, and I do not think it is necessary to load down the bill with matters of this kind. For that reason I object to going back to section 169.

The CHAIRMAN. Does the gentleman insist on his point of order?

Mr. WATKINS. Certainly.

The CHAIRMAN. The Chair understands that section 169 has been passed and two additional sections have since been added. The Chair is willing to hear the gentleman from Georgia [Mr. BARTLETT] on the point of order, but the Chair is of the opinion that we have already passed section 169 and adopted two other sections.

Mr. BARTLETT. Very well. All right, sir. I will not be caught again by my modesty.

The CHAIRMAN. The Chair thinks the point of order is well taken. The Clerk will read.

The Clerk read as follows:

SEC. 170. Issues of fact in civil cases in any district court may be tried and determined by the court, without the intervention of a jury, whenever the parties or their attorneys of record file with the clerk a stipulation in writing waiving a jury. Upon the request of either of the parties the court shall submit in writing its findings of fact and conclusions of law therefrom, and the finding of the court upon the facts, whether general or special, shall have the same effect as the verdict of a jury.

Mr. BARTLETT. Mr. Chairman, I move to amend this section by inserting, after the word "jury," in line 5, page 96, section 170, the amendment which is at the Clerk's desk.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amend, on page 96, by inserting, after the word "jury," in line 5, the following:

In all cases of indirect contempt wherein the defendant is charged with contempt of court not committed in the presence of the court or so near thereto as to interfere with the administration of justice, upon the demand of the defendant the trial shall be by jury as in criminal cases.

Mr. BRYAN. That is a good amendment.

Mr. BARTLETT. Just a word. I do not propose to have any discussion on it. We had a discussion yesterday and the day before on the antitrust bill as to this, and as we are revising the law, and if that bill ever becomes the law, that provision will be in it, I apprehend, and we might as well anticipate what will be the law and put it in the revision of the law. But whether it becomes the law or not, the fact remains that a man charged with criminal contempt ought, upon his demand, to have the right of trial by jury.

The CHAIRMAN. The question is on agreeing to the amendment.

The question was taken, and the amendment was agreed to.

Mr. WATKINS. Mr. Chairman, in section 169, line 23, the word "next" is used, and as two sections have been added since then it is necessary now to strike out that word "next"

and insert "170," so that, after the word "section," strike out "next," and insert, after the word 'section," "170," so as to make it intelligible. I ask unanimous consent that that be done.

The CHAIRMAN. The gentleman asks unanimous consent that the amendment be made as suggested.

Mr. WATKINS. That the word "next," on line 23, page 95, be stricken out, and that, after the word "section," "170" be inserted.

The CHAIRMAN. The Clerk will report the amendment. Will it not be necessary to strike out the word "the" also?

Mr. WATKINS. Yes; both words.

The Clerk read as follows:

Amend, page 95, by striking out, in line 23, the words "the next" and inserting, after the word "section," the words "one hundred and seventy."

The CHAIRMAN. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. SCOTT. Mr. Chairman, I offer an amendment, which I send to the Clerk's desk.

The CHAIRMAN. The Clerk will report the amendment offered by the gentleman from Iowa.

The Clerk read as follows:

Page 96, line 6, after the word "its," insert the word "special."

Mr. SCOTT. Mr. Chairman, the italicized words in this section, I presume, were intended to change some rule of law that now exists and possibly to do away with some defect.

The statute as it exists under the present interpretation, in cases where juries waived, permits the trial court, in his discretion, to return findings of fact, either general or special. The parties may file requests for a special finding of fact under existing law, but the court exercises its discretion as to whether or not it will return a special finding of facts.

Now, in case the court returns a special finding of fact on appeal, two matters of review may be brought up: First, on a special finding of fact, the court may review the question as to whether that special finding supports judgment; second, the court may review any ruling of the progress of the trial. If the finding is general, the appellate court, whether it is the Circuit Court of Appeals or the Supreme Court, is confined in its review to the rulings of the court in the progress of the trial.

Now, this amendment italicized in section 170 provides that upon request of either of the parties the court shall submit in writing its findings of fact and conclusions of law therefrom; and the findings of the court upon the facts, whether general or special, shall have the same effect as the verdict of the jury.

Now, the question occurs when the request provided for in this amendment is filed and presented: May not the court exercise its discretion as to whether the findings that are to be made shall be special or general findings? If the court may exercise its discretion in that respect, then no change has been wrought into existing law. If the word "special" be inserted before the word "finding" then the evil or the defect that now exists is cured. The court may be required to return special findings, which gives the party presenting the request the opportunity to have reviewed not only the rulings during the progress of the trial but the question of law as to whether the special findings made by the court support the judgment.

I would like to ask the chairman of the committee, for the information of myself and the House, whether, in his opinion, the purpose of this italicized amendment was to permit the party presenting it to have the opportunity of review in the upper court upon the question of law as to whether the findings support the judgment? I would like to have the attention of the chairman of the committee.

The CHAIRMAN. The gentleman from Louisiana [Mr. WATKINS] is being interrogated.

Mr. SCOTT. I have asked the courtesy of an opinion.

Mr. WATKINS. I will be glad to give it, if I can.

Mr. SCOTT. I will repeat what I said. I asked the gentleman whether it is the understanding of the gentleman's committee that this italicized amendment of existing law gives to either party the right to have reviewed the question of whether the findings made support the judgment of the court?

Mr. WATKINS. I think the expression "findings" there would cover special findings as well as general findings.

Mr. SCOTT. Yes; but what is to prevent the court from exercising its discretion in returning either a special finding or a general finding?

Mr. WATKINS. I would think the greater clause there, the greater privilege, the greater right, would include the lesser, and the expression there would be broader and would cover a special finding. I do not see any trouble about it all.

Mr. SCOTT. Perhaps the gentleman does not. But if the court has discretion to determine whether the findings shall be special or general, then you have not changed the law. You can have reviewed only one question, the rulings in the progress of the trial, if the finding is general, whereas if the court is compelled to return a special finding you have both classes of questions reviewed.

Mr. WATKINS. I have no objection to that.

The CHAIRMAN. The time of the gentleman from Iowa has expired.

Mr. SCOTT. Mr. Chairman, I ask unanimous consent to proceed for 5 minutes more.

The CHAIRMAN. Is there objection to the gentleman's request?

Mr. WATKINS. Reserving the right to object, Mr. Chairman, if the gentleman wants that 5 minutes' time for the purpose of convincing anybody of the propriety of the word "special" in there, I do not think he need take it. I do not think anybody objects to it at all; and for the sake of economy of time, to get a vote, if there is no objection to the word "special" being used, I will consent to a vote. I think it is a useless consumption of time to discuss it further. I do not desire to unnecessarily occupy the time of the House, but I do want the amendment agreed to.

The CHAIRMAN. Does the gentleman from Iowa [Mr. SCOTT] desire the floor?

Mr. SCOTT. I have no desire to occupy the time of the committee uselessly.

The CHAIRMAN. The question is on the amendment.

The amendment was agreed to.

Mr. STEPHENS of Texas. Mr. Chairman, I desire to offer an amendment.

The CHAIRMAN. The gentleman from Texas offers an amendment, which the Clerk will report.

The Clerk read as follows:

Page 96, at the end of line 9, insert the following proviso:
"*Provided*, That in all cases, civil or criminal, the jury shall be the exclusive judges of the weight of the evidence and the credibility of the witnesses, but they must look to the charge of the court for the law of the case."

Mr. STAFFORD. I make the point that that is not germane. We have already considered that very proposition for an hour and a half. Perhaps the gentleman from Texas was not here at the time, but that has been gone over very thoroughly this afternoon, and has been virtually adopted.

Mr. STEPHENS of Texas. Then I withdraw the amendment.

The CHAIRMAN. If there be no objection, the amendment will be withdrawn, and the Clerk will read.

The Clerk read as follows:

SEC. 171. The practice, pleadings, and forms and modes of proceeding in civil causes, other than equity and admiralty causes, in the district courts, shall conform, as near as may be, to the practice, pleadings, and forms and modes of proceeding existing at the time in like causes in the courts of record of the State within which such district courts are held, any rule of court to the contrary notwithstanding.

Mr. WINGO. Mr. Chairman, it seems to me I ought to suggest the absence of a quorum, in view of the fact that there are only three Republicans and two Progressives present, and the official record keeper of the Republican Party, the gentleman from Ohio [Mr. FESS] is not here.

Mr. MOORE. I call the attention of the gentleman to the fact that there is one more Republican here.

Mr. STAFFORD. Mr. Chairman, I think comparisons are odious, unless the gentleman states the number of Democrats present.

Mr. MURDOCK. There are nine Democrats here.

Mr. FOSTER. More than that.

Mr. MURDOCK. Count them.

Mr. FOSTER. You count them.

Mr. STAFFORD If these small numbers present are going to be talked about here, I shall make the point of no quorum myself.

The CHAIRMAN. Does the gentleman make the point?

Mr. STAFFORD. I am not responsible for the gentleman making the statement he has just made.

Mr. WINGO. I do not want so heavy a responsibility, and I will not make the point now, but I will later.

The CHAIRMAN. The gentleman withdraws the point, and the Clerk will read.

The Clerk read as follows:

SEC. 175. In suits commenced under the act of March 3, 1887, an act to provide for the bringing of suits against the Government of the United States, the jurisdiction of the district courts of the United States, including the right of exception and appeal, shall be governed by the law as to other cases, in so far as the same is applicable and not inconsistent with the provisions hereinafter contained; and the course of procedure shall be in accordance with the established rules

of said court and of such additions and modifications thereof as said courts may adopt.

Mr. WATKINS. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The gentleman from Louisiana offers an amendment, which the Clerk will report.

The Clerk read as follows:

Page 98, line 1, strike out the section and insert in lieu thereof the following:

"In suits commenced under the twentieth paragraph of section 24 of the Judicial Code, and under section 145 of the Judicial Code, the jurisdiction of the district courts and of the Court of Claims of the United States, including the right of exception and appeal, shall be governed by the law as to other cases, in so far as the same is applicable and not inconsistent with the provisions hereinafter contained; and the course of procedure shall be in accordance with the established rules of said courts and of such additions and modifications thereof as said courts may adopt."

Mr. STAFFORD. I should like to inquire of the gentleman from Louisiana whether there is any material change in the amendment proposed by him from what is carried in the bill?

Mr. WATKINS. No. It includes the Court of Claims, together with the other courts.

Mr. STAFFORD. I thought perhaps that might be the object of it.

The amendment was agreed to.

The Clerk read as follows:

SEC. 176. The plaintiff in any suit mentioned in the preceding section shall file a petition, duly verified, with the clerk of the district court in the district where the plaintiff resides. Such petition shall set forth the full name and residence of the plaintiff, the nature of his claim, and a succinct statement of the facts upon which the claim is based, the money or any other thing claimed, or the damages sought to be recovered, and praying the court for a judgment or decree upon the facts and law.

Mr. WATKINS. Mr. Chairman, I have another amendment.

The CHAIRMAN. The gentleman from Louisiana offers an amendment, which the Clerk will report.

The Clerk read as follows:

Page 98, in line 13, after the word "clerk," insert the words "of the Court of Claims or."

Mr. WATKINS. Mr. Chairman, that simply makes that section conform to the other section, and includes the Court of Claims.

The amendment was agreed to.

The Clerk read as follows:

SEC. 177. The plaintiff shall cause a copy of his petition filed under the preceding section to be served upon the district attorney of the United States in the district wherein suit is brought, and shall mail a copy of the same, by registered letter, to the Attorney General of the United States, and shall thereupon cause to be filed with the clerk of the court wherein suit is instituted an affidavit of such service and the mailing of such letter. It shall be the duty of the district attorney upon whom service of petition is made as aforesaid to appear and defend the interests of the Government in the suit, and within 60 days after the service of petition upon him, unless the time should be extended by order of the court made in the case, to file a plea, answer, or demurrer on the part of the Government, and to file a notice of any counterclaim, set-off, claim for damages, or other demand or defense whatsoever of the Government in the premises: *Provided*, That should the district attorney neglect or refuse to file the plea, answer, demurrer, or defense, as required, the plaintiff may proceed with the case under such rules as the court may adopt in the premises; but the plaintiff shall not have judgment or decree for his claim, or any part thereof, unless he shall establish the same by proof satisfactory to the court.

Mr. CULLOP. Mr. Chairman, I offer the following amendment: In line 6, before the word "petition," insert the article "the." As it is now, it does not read right.

Mr. WATKINS. That is correct.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amend, page 99, by inserting before the word "petition," in line 6, the word "the."

The amendment was agreed to.

The Clerk read as follows:

SEC. 178. In every suit mentioned in the last preceding section it shall be the duty of the court to cause a written opinion to be filed in the cause, setting forth the specific findings by the court of the facts therein and the conclusions of the court upon all questions of law involved in the case, and to render judgment thereon. If the suit be in equity or admiralty, the court shall proceed with the same according to the rules of such courts.

Mr. WATKINS. Mr. Chairman, I offer the following amendment.

The Clerk read as follows:

On page 99, line 18, after the word "in," strike out the words "the last preceding section" and insert the following: "Section 175."

Mr. WINGO. Mr. Chairman, I would like to ask the gentleman what the purpose of the amendment is.

Mr. WATKINS. To make it conform to section 175.

Mr. STAFFORD. Ought not written opinions to be filed in other cases than those mentioned in section 175?

Mr. WATKINS. Perhaps so; but if the gentleman makes any suggestions of any other cases, it might be considered.

Mr. STAFFORD. Before the amendment was offered the law requires the court to file opinions in writing in all cases. The purpose of this amendment seems to be to limit it to these suits in which the Government is a party.

Mr. WATKINS. If the gentleman desires it, I will have section 175 read. That will cover the point.

Mr. STAFFORD. If the gentleman is sure that it does not restrict it, that it carries out the intendment of the present law, I have no further question about it.

Mr. WATKINS. I think it does; I am satisfied with it.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Louisiana.

The amendment was agreed to.

The Clerk read as follows:

SEC. 179. When the findings of fact and the law applicable thereto have been filed in any case as provided in the preceding section, and the judgment or decree is adverse to the Government, it shall be the duty of the district attorney to transmit to the Attorney General of the United States certified copies of all the papers filed in the cause, with a transcript of the testimony taken, the written findings of the court, and his written opinion as to the same; whereupon the Attorney General shall determine and direct whether an appeal or writ of error shall be taken or not; and when so directed the district attorney shall cause an appeal or writ of error to be perfected in accordance with the terms of the statutes and rules of practice governing the same: *Provided*, That no appeal or writ of error shall be allowed after six months from the judgment or decree in such suit. From the date of such final judgment or decree interest shall be computed thereon at the rate of 4 per cent per annum until the time when an appropriation is made for the payment of the judgment or decree.

Mr. CULLOP. Mr. Chairman, I move to strike out the last word in order to ask the chairman a question. Commencing with the proviso, it says that no appeal or writ of error shall be allowed after 6 months from the judgment or decree in such suit. Does not the gentleman think that that ought to be 12 months instead of 6?

Mr. WATKINS. No; I think 6 months is too long a time. I think 3 months or 60 days would be plenty of time.

Mr. CULLOP. In most of the States in which I have practiced they have given 12 months to perfect an appeal. It seems to me that 6 months is a very short time. Mr. Chairman, I move to strike out the word "six," in line 14, and insert the word "twelve."

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Page 100, in line 14, strike out the word "six" and insert the word "twelve."

The CHAIRMAN. The question is on the amendment.

The question was taken, and the amendment was rejected.

Mr. MOORE. Mr. Chairman, I move to strike out the last word. Will the chairman kindly explain whether, beginning on line 13, we have any new law in reference to the interest paragraph?

Mr. WATKINS. No; it is the same old law.

Mr. MOORE. Four per cent interest on judgments is the interest now allowed by law.

Mr. BARTLETT. This deals with judgments against the Government.

Mr. MOORE. In certain cases interest is not allowed against the Government.

Mr. BARTLETT. Not until after judgment, and after judgment is had against the Government the interest runs at 4 per cent.

Mr. MOORE. That is existing law?

Mr. BARTLETT. It is.

The Clerk read as follows:

SEC. 182. The Supreme Court shall have power to prescribe, from time to time, and in any manner not inconsistent with any law of the United States, the forms of writs and other process, the modes of framing and filing proceedings and pleadings, of taking and obtaining evidence, of obtaining discovery, of proceeding to obtain relief, of drawing up, entering, and enrolling decrees, and of proceeding before trustees appointed by the court, and generally to regulate the whole practice, to be used, in suits in equity or admiralty, by the district courts.

Mr. WATKINS. Mr. Chairman, at the end of line 25 is a period. I move to strike out the period and insert a comma after the word "admiralty."

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Page 100, line 25, after the word "admiralty" strike out the period and insert a comma.

The amendment was agreed to.

The Clerk read as follows:

SEC. 180. When any vessel, goods, wares, or merchandise are seized by any officer of the customs, and prosecuted for forfeiture by virtue of any law respecting the revenue, or the registering and recording, or the enrolling and licensing of vessels, the court shall cause 14 days' notice to be given of such seizure and libel, by causing the substance of such libel, with the order of the court thereon setting forth the time and place appointed for trial, to be inserted in some newspaper published near the place of seizure, and by posting up the same in the most public manner for the space of 14 days at or near the place of trial;

and proclamation shall be made in such manner as the court shall direct. If no person appears and claims such vessel, goods, wares, or merchandise, and gives bond to defend the prosecution thereof and to respond the cost in case he shall not support his claim, the court shall proceed to hear and determine the cause according to law.

Mr. MOORE. Mr. Chairman, I move to strike out in lines 22 and 23 the words "some newspaper" and insert in lieu thereof the words "two daily newspapers."

The CHAIRMAN. The gentleman from Pennsylvania offers an amendment which the Clerk will report.

The Clerk read as follows:

Page 104, lines 22 and 23, strike out the words "some newspaper" and insert in lieu thereof the words "two daily newspapers."

Mr. MOORE. Mr. Chairman, I presume when this law was enacted providing for publication in "some newspaper" daily newspapers did not have the influence they have to-day nor the circulation. "Some newspaper" is indefinite, and would indicate a monthly, a weekly—a newspaper which might not give sufficient notice to the parties in interest. We are proceeding to-day in all modern communities with daily newspapers which are the common avenues of communication between the people; and it seems to me that a daily newspaper ought to be specified, because if there is one thing that can be done by litigants or by skillful attorneys sometimes to avoid notice being given to parties in interest it is to seek out some monthly or weekly newspaper and put the advertisement therein. I think frequently in certain cases it is found convenient in order that proceedings may go along unhampered to find a paper of small circulation or a periodical, not a daily newspaper, in which to bury the legal notice. For that reason I suggest that the words "two daily newspapers" be inserted in lieu of the indefinite "some newspaper." I do not object to having it in one newspaper, though it would be fairer to all parties to have two.

Mr. CULLOP. Mr. Chairman, will the gentleman yield?

Mr. MOORE. Certainly.

Mr. CULLOP. Suppose there was no daily newspaper there in which to insert it. This provides that it shall be inserted at the place where the libel took place. Suppose there was no daily newspaper there, or only one daily newspaper, or one weekly, would the litigant have to establish a daily newspaper there in order to make publications?

Mr. MOORE. Mr. Chairman, I question whether in these times an action would be brought anywhere where a district court is established where there is not a daily newspaper.

Mr. CULLOP. But this is not where the court is established; it is where the seizure is made.

Mr. MURDOCK. Near the place.

Mr. CULLOP. The gentleman is wanting an amendment put here that would make notice impossible, according to the terms of this statute, and it may occur under the terms of this statute as it is in some instances.

Mr. MOORE. The amendment could be framed slightly differently. It could be made to appear in the daily newspaper, if a daily newspaper were published there.

Mr. CULLOP. And then he would have notice given where nobody interested would see it or know what it was about.

Mr. MOORE. I want to avoid that very thing. I think it is fair to the defendant that he should have notice, and if it is put in "some newspaper" in that indefinite form that "some newspaper" may be a paper of no circulation at all or it may be a monthly or a weekly, which would never be seen by the parties interested.

Mr. WATKINS. Mr. Chairman, this law has been in existence for over a hundred years and has operated satisfactorily. I do not know of any criticism ever having been made of the law before, and it is a fact that in some places there might not be a daily newspaper, as suggested by the gentleman from Indiana [Mr. CULLOP], or ever a weekly newspaper. I do not think there is any danger at this late day of the law being used to the disadvantage of the defendant.

Mr. STAFFORD. Mr. Chairman, I desire to make inquiry of the chairman of the committee in respect to another matter. It is now after 5 o'clock. There are only a handful of Members here, and I would like to inquire of the chairman of the committee how late he plans to run?

Mr. WATKINS. Mr. Chairman, I had hoped to be able to go until 6 o'clock, but it seems we are not making quite the headway I had hoped, and I will say I will move to rise about half past 5.

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from Pennsylvania.

The amendment was rejected.

The Clerk read as follows:

SEC. 190. In all cases where debts are due from defaulting or delinquent postmasters, contractors, or other officers, agents, or employees of the Post Office Department, a warrant of attachment may issue against all real and personal property and legal and equitable rights belonging to such officer, agent, or employee, and his sureties, or either of them, in the following cases:

First. When such officer, agent, or employee, and his sureties, or either of them, is a nonresident of the district where such officer, agent, or employee was appointed, or has departed from such district for the purpose of permanently residing out of the same, or of defrauding the United States, or of avoiding the service of civil process.

Second. When such officer, agent, or employee, and his sureties, or either of them, has conveyed away or is about to convey away his property, or any part thereof, or has removed or is about to remove the same, or any part thereof, from the district wherein it is situate, with intent to defraud the United States.

When any such property has been removed certified copies of the warrant may be sent to the marshal of the district into which the same has been removed, under which certified copies he may seize said property and convey it to some convenient point within the jurisdiction of the court from which the warrant originally issued. Alias warrants may be issued in such cases upon due application, and the validity of the warrant first issued shall continue until the return day thereof.

Mr. SCOTT. Mr. Chairman, I desire to offer an amendment.

Mr. STAFFORD. Mr. Chairman, I presume we are considering this bill by sections and not by paragraphs.

The CHAIRMAN. The Clerk will finish reading the section.

The Clerk concluded the reading of the above.

Mr. SCOTT. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

On page 105, in line 14, after the word "employee," strike out "and" and insert "or."

Mr. SCOTT. Mr. Chairman, the purport of this amendment is to make it necessary before an attachment may issue against some surety that such surety fall within the provisions of the paragraph. In other words, that attachments shall not issue against the property of the surety and his property be tied up merely because of the nonresidence of the principal. In a suit brought in a district against an officer or an employee and his sureties a ground may exist for an attachment against the principal, but I think it is a hardship and without reason when the surety resides in the bailiwick and is present and his property there and he is solvent, that his property should be attached merely because another party to the suit is absent or has done some act that would justify the attachment of his property.

Mr. STAFFORD. Will the gentleman yield?

Mr. WATKINS. I want to be heard on this.

Mr. SCOTT. I will.

Mr. STAFFORD. As I understand, the Government is not to have the right to seize the property of sureties of a defaulting officer, agent, or employee unless there is no property of the principal in the district available for attachment.

Mr. SCOTT. No; that is not the point. An attachment is a writ that issues before judgment and usually for some cause that imperils the plaintiff's right to recovery.

Mr. STAFFORD. But in this case we are by statute giving the Government the right to attach in these cases of a defaulting postmaster, contractor, or other officer, agent, or employee of the Post Office Department.

Mr. SCOTT. Yes.

Mr. STAFFORD. Now, when they are nonresidents of the district, according to this first paragraph, then the Government will have the right to levy either upon the property, as I understand it, of these defaulting officials or contractors or upon that of the sureties.

Mr. SCOTT. Yes. Now, in the case of an attachment, I see no reason why, when the surety is present in the district, his property in sight, who is solvent and substantial, his property should be tied up by a writ of attachment because of a default of the principal, he not having done any act that imperils the right of the Government to recover. This section, as it stands, is contrary and at variance with the whole system of legislation with respect to attachments. There is no statute that permits an attachment against property because of an act done by some other man. He must have been guilty of the act which imperils the right to recovery.

Mr. MOORE. Does the gentleman want to relieve the surety of responsibility?

Mr. SCOTT. No; it does not relieve him at all; his property may be levied upon when judgment is obtained, but this giving the right of attachment previous to judgment might cause great damage and inconvenience to business men who are perfectly solvent.

Mr. STAFFORD. The gentleman will realize this writ is only to apply when either of these delinquent and defaulting officers of the Government or contractors are removing their property, or when the sureties are removing their property, or attempting to take that status which will not insure protection to the Government. Why should not we give the Government the right to proceed against the surety of a defaulting official

where the surety himself is attempting to move out of the district or attempting to move some of his property from the district?

Mr. SCOTT. Oh, there will be authority in case my amendment is adopted.

Mr. STAFFORD. I am doubtful, perhaps without cause.

Mr. SCOTT. The only difference would be the writ of attachment would not run against the property of the surety merely because some other party has violated the provisions and conditions.

The CHAIRMAN. The question is on agreeing to the amendment.

Mr. WATKINS. Mr. Chairman, if I am not mistaken in the verbiage of the amendment, it will have exactly the opposite effect to that which the gentleman contemplates. I ask that the Clerk will report the amendment again.

The CHAIRMAN The Clerk will report the amendment.

The amendment was again reported.

Mr. WATKINS. Mr. Chairman, the argument of the gentleman is that the word "or" would be a safeguard, whereas the word "and" requires that both the principal and the surety, or either of them, should be a nonresident.

Mr. SCOTT. The word following before the word "employee."

Mr. WATKINS. That is the "or," is it?

Mr. SCOTT. I was going to suggest to the gentleman that inasmuch as the word "or" precedes the word "employee" it prevents the construction which the gentleman is giving.

Mr. WATKINS. No; you are mistaken about that. The words "officer, agent, or employee" refer to the same class of people, and the word "and" joins together the words "sureties" and "or either of them."

Mr. SCOTT. The language is "when such officer, agent, or employee." That is, the defaulting officer or his sureties, or either of them, is a nonresident. Now, if any of them are in his district or in the territory or jurisdiction of the court, then the law is satisfied; but if all of them are absent, then the provision comes in.

Mr. WATKINS. Well, as it stands now, if either of them is a nonresident, the writ may run against any of them.

But the comma after the word "employee," the words "officer, agent, or employee," referring to the debtors to the Government, or "defaulters," as the case may be, are one class of persons and the comma after the word "employee" disconnected from the "and" makes it clear that the gentleman's interpretation is wrong, and I ask that the amendment be voted down.

The CHAIRMAN. The question is on agreeing to the amendment.

Mr. WINGO. Mr. Chairman, I move to strike out the last word. This is a very important amendment, as I understand it.

The CHAIRMAN. There is an amendment pending now, the Chair understands.

Mr. WINGO. I move to strike out the last word.

Mr. WATKINS. Talk on the amendment.

Mr. WINGO. Then I will talk on the amendment. I feel constrained to take part in the debate on account of the attractiveness of it and the importance of the subject. As I understand, the amendment is to strike out the word "or" and substitute the word "and," or strike out the word "and" and substitute "or," as the case may be. The amendment is important, but I have noticed that it is not important enough to lure back to his labors the distinguished timekeeper of the Republican Party, the gentleman from Ohio [Mr. FESS], although it has attracted several distinguished Members from the other end of the Capitol.

Mr. MOORE. So long as the gentleman is good enough to call attention to this, will he also note the absence of the official timekeeper on the other side, the gentleman from Connecticut [Mr. DONOVAN]? By doing so he will retain the equilibrium.

Mr. WINGO. I am anxious to retain the equilibrium, and will make the notation suggested by the gentleman from Pennsylvania. Now, I hope we will not be delayed longer by this important amendment. I understand it has been suggested that we adjourn at half past 5 o'clock. I hope when we get back into the House we will take a recess until 8 o'clock and work from 8 until 11 o'clock, so that we can get through. I think we can get unanimous consent, because the workers are here and the drones are not, provided we can avoid the rule which prevents recess on Calendar Wednesdays.

Mr. MURDOCK. That is a pretty serious reflection on the Congress, when he says that the drones are not here and the workers are, because there are so few men present.

Mr. MOORE. Will the gentleman take cognizance of the fact that there is no baseball game, and therefore there must be some other reason for the absence of the gentlemen from the other side.

Mr. MURDOCK. There is a concert outside.

Mr. WINGO. I suppose the few Democrats who are absent have joined the many Republicans who are out at the concert. Of course, there are something less than 200 on the Democratic side, it is true, but the ones here include the faithful workers—the gentleman from Missouri [Mr. LLOYD] and the gentleman from Louisiana [Mr. WATKINS] and other faithful ones.

Now to get back to my proposition, and it is this: These Members do not have to do this work. And why not? If we go back into the House, take a recess until 8 o'clock, and then work until 11, and thereby expedite the public business, this would not interfere with those gentlemen who voted against my motion this morning and immediately left. They will not be here.

Mr. STAFFORD. Why not make the suggestion that we rise now and then have the House move to take a recess?

Mr. WINGO. We want to get as far as we can, as there is grave doubt whether the Speaker can entertain a motion to recess on Calendar Wednesday.

Mr. MOORE. Will not the gentleman kindly note, before he takes his seat, the presence and activity of the distinguished Speaker of the House?

Mr. WINGO. He is always present. [Applause.]

Mr. MOORE. Will not the gentleman also kindly note the presence of Mr. STAFFORD, of Wisconsin?

Mr. WINGO. I object to going further in an enumeration——

Mr. MURDOCK. It is impossible to omit Mr. STAFFORD [laughter]——

Mr. WINGO. The gentleman awhile ago stated that comparisons are odious, and I feel that individual designations under the circumstances might be equally odious. [Laughter.]

Mr. BARTON. Mr. Chairman, will the gentleman yield?

Mr. WINGO. Yes.

Mr. BARTON. You ought to have mentioned the other 8. [Laughter.]

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from Iowa [Mr. SCOTT].

The question was taken, and the amendment was rejected.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

SEC. 193. At any time within 20 days before the return day of such warrant the party whose property is attached may, on giving notice to the district attorney of his intention, file a plea in abatement, traversing the allegations of the affidavit, or denying the ownership of the property attached to be in the defendants or either of them. In such case the court may, upon application of either party, order an immediate trial by jury of the issues raised by the affidavit and plea; but the parties may by consent waive a trial by jury, in which case the court shall decide the issues raised. Any party claiming ownership of the property attached and a specific return thereof shall be confined to the remedy herein afforded, but his right to an action of trespass, or other action for damages, shall not be impaired hereby.

Mr. STEPHENS of Texas. Mr. Chairman, I want to call the attention of the gentleman from Louisiana [Mr. WATKINS] to the word "hereby," in line 16, page 107. It ought to be "thereby." That is in section 193. I think it should read "shall not be impaired thereby."

Mr. WATKINS. Mr. Chairman, I see that the original law has it "hereby." I presume it is right, although I do not think it is good grammar. I shall not make any motion with respect to it.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

SEC. 194. When the property attached is sold on any interlocutory order of the court or is producing any revenue, the money arising from such sale or revenue shall be invested in securities of the United States, under the order of the court, and all accretions shall be held subject to the orders of the same.

Mr. STAFFORD. Mr. Chairman, I move to strike out the last word.

The CHAIRMAN. The gentleman from Wisconsin [Mr. STAFFORD] moves to strike out the last word.

Mr. STAFFORD. Do I understand the chairman of the committee to disagree to the suggestion of the gentleman from Texas [Mr. STEPHENS]?

Mr. WATKINS. Yes; it refers to the provisions of section 193, and "hereby" is the proper word there.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

SEC. 195. Immediately upon the execution of any such warrant of attachment the marshal shall cause due publication thereof to be made in the case of absconding debtors for two months and of nonresidents for four months. The publication shall be made in some newspaper published in the district where the property is situate, and the details thereof shall be regulated by the order under which the warrant is issued.

Mr. STAFFORD. Would not this be a good place to rise?

The CHAIRMAN. The Chair calls the attention of the gentleman from Louisiana to the fact that "marshal" is spelled with a double "l" on page 107, line 24.

Mr. WATKINS. I move, Mr. Chairman, that the final "l" be stricken out.

The CHAIRMAN. The question is on agreeing to the amendment.

The amendment was agreed to.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

SEC. 196. After the first publication of such notice of attachment as required by law, every person indebted to, or having possession of any property belonging to, the said defendants, or either of them, and having knowledge of such notice, shall account and answer for the amount of such debt and the value of such property; and any disposal or attempt to dispose of any such property, to the injury of the United States, shall be illegal and void. When the person indebted to, or having possession of the property of, such defendants, or either of them, is known to the district attorney or marshal, such officer shall see that personal notice of the attachment is served upon such person; but the want of such notice shall not invalidate the attachment.

Mr. WATKINS. Mr. Chairman, I move that the committee do now rise.

Mr. BRYAN. Mr. Chairman, I hope the gentleman will withhold that motion for a moment, and let a brief telegram that I have sent to the desk be read. It is only about 40 words.

The CHAIRMAN. Does the gentleman from Louisiana [Mr. WATKINS] withhold his motion to rise?

Mr. WATKINS. If it is anything that sheds light on the subject under discussion I will.

The CHAIRMAN. The question is on agreeing to the motion to rise.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. RUSSELL, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill (H. R. 15578) to codify, revise, and amend the laws relating to the judiciary, and had come to no resolution thereon.

ENROLLED BILL SIGNED.

Mr. ASHBROOK, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bill of the following title, when the Speaker signed the same:

H. R. 15190. An act to amend section 103 of the act entitled "An act to codify, revise, and amend the laws relating to the judiciary," approved March 3, 1911, as amended by the act of Congress approved March 3, 1913.

IRRIGATION-EXTENSION BILL.

Mr. BRYAN. Mr. Speaker, I ask unanimous consent that the brief telegraphic message that I send to the Clerk's desk be read.

The SPEAKER. The gentleman from Washington [Mr. BRYAN] asks unanimous consent to have read a brief message. Is there objection?

Mr. KINDEL. Reserving the right to object, Mr. Speaker, I would like to know what that telegram is about.

The SPEAKER. The only way to find out is to read it.

Mr. BRYAN. If the gentleman will let me state what it is about, I think he will not object. It is a very urgent message from the Commercial Club of Prosser, Wash., urging the passage of Senate bill 4638, the irrigation bill, that has been passed over. The farmers of the Yakima Valley urgently desire its passage.

Mr. Speaker, I ask that it be extended in the RECORD without being read.

The SPEAKER. The gentleman from Washington asks unanimous consent to extend his remarks in the RECORD by having the telegram inserted. Is there objection?

There was no objection.

Following is the telegram referred to:

PROSSER, WASH., *June 3, 1914.*

Hon. J. W. BRYAN,
Representative, Washington, D. C.:

Prosser Commercial Club urges the passage at this session of Congress of the irrigation-extension bill (S. 4628), in the interests of the Reclamation Service and the small farmers, 80 to 90 per cent of whom, in the Yakima Valley, can not possibly meet payments required by present law.

PROSSER COMMERCIAL CLUB,
By L. L. LYNN.

PENSIONS.

Mr. KEY of Ohio. Mr. Speaker, I call up the conference report on the bill S. 4167, an act granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy, and of wars other than the Civil War, and to certain widows and dependent relatives of such soldiers and sailors.

The conference report was read, as follows:

CONFERENCE REPORT (NO. 736).

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill S. 4167, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its amendments numbered 1, 2, 3, 4, and 5.

JOHN A. KEY,
WM. H. MURRAY,
Managers on the part of the House.

BENJ. F. SHIVELY,
CHARLES F. JOHNSON,
REED SMOOT,
Managers on the part of the Senate.

The conference report was agreed to.

Mr. KEY of Ohio. Mr. Speaker, I call up conference report on the bill S. 4260, an act granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy, and of wars other than the Civil War, and to certain widows and dependent relatives of such soldiers and sailors.

The conference report was read, as follows:

CONFERENCE REPORT (NO. 738).

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill S. 4260, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House numbered 2, and agree to the same.

That the House recede from its amendment numbered 1.

JOHN A. KEY,
WM. H. MURRAY,
Managers on the part of the House.

BENJ. F. SHIVELY,
CHARLES F. JOHNSON,
REED SMOOT,
Managers on the part of the Senate.

The conference report was agreed to.

Mr. KEY of Ohio. Mr. Speaker, I call up the conference report on the bill S. 4353, an act granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy and of wars other than the Civil War, and to certain widows and dependent relatives of such soldiers and sailors.

The conference report was read, as follows:

CONFERENCE REPORT (NO. 737).

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill S. 4353, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its amendment numbered 1.

JOHN A. KEY,
WM. H. MURRAY,
Managers on the part of the House.

BENJ. F. SHIVELY,
CHARLES F. JOHNSON,
REED SMOOT,
Managers on the part of the Senate.

The conference report was agreed to.

Mr. KEY of Ohio. Mr. Speaker, I call up the conference report on the bill S. 4657, an act granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy and of wars other than the Civil War, and to certain widows and dependent relatives of such soldiers and sailors.

The conference report was read, as follows:

CONFERENCE REPORT (NO. 739).

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill S. 4657, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendments of the House numbered 1 and 4, and agree to the same.

That the House recede from its amendments numbered 2, 3, 5, 7, and 8.

Amendment numbered 6: That the Senate recede from its disagreement to the amendment of the House numbered 6, and

agree to the same with an amendment as follows: In lieu of the sum proposed by said amendment insert the sum "$24"; and the House agree to the same.

JOHN A. KEY,
WM. H. MURRAY,
Managers on the part of the House.
BENJ. F. SHIVELY,
CHARLES F. JOHNSON,
REED SMOOT,
Managers on the part of the Senate.

The conference report was agreed to.

DISPOSITION OF USELESS PAPERS.

The SPEAKER laid before the House the following communication:

IN THE SENATE OF THE UNITED STATES,
June 3, 1914.

The Vice President appointed Mr. PAGE and Mr. LANE members of the joint select committee on the part of the Senate, as provided for in the act of February 16, 1889, as amended by the act of March 2, 1895, entitled "An act to authorize and provide for the disposition of useless papers in the executive departments," for the disposition of useless papers in the Treasury Department.

Attest:

JAMES M. BAKER, *Secretary.*

INVALID PENSIONS.

Mr. RUSSELL. Mr. Speaker, I call up the conference report on the bill (S. 4552) granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent relatives of such soldiers and sailors.

Mr. STAFFORD. May I inquire whether the conference report has been printed under the rule?

Mr. RUSSELL. It has been printed under the rule.

The SPEAKER. The Clerk will read the conference report.

The Clerk read the conference report, as follows:

CONFERENCE REPORT (NO. 713).

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill S. 4552, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendments of the House numbered 1 and 7, and agree to the same.

That the House recede from its amendments numbered 2, 3, 4, 6, and 8.

Amendment numbered 5:

That the Senate recede from its disagreement to the amendment of the House numbered 5, and agree to the same with an amendment as follows: In lieu of the sum proposed insert "$30"; and the House agree to the same.

J. A. M. ADAIR,
JOE J. RUSSELL,
Managers on the part of the House.
BENJ. F. SHIVELY,
CHARLES F. JOHNSON,
REED SMOOT,
Managers on the part of the Senate.

The conference report was agreed to.

Mr. RUSSELL. Mr. Speaker, I call up the conference report on the bill (S. 4352) granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent relatives of such soldiers and sailors.

The SPEAKER. The Clerk will read the conference report.

The Clerk read the conference report, as follows:

CONFERENCE REPORT (NO. 712).

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill S. 4352, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its amendments numbered 1, 2, and 3.

J. A. M. ADAIR,
JOE J. RUSSELL,
Managers on the part of the House.
BENJ. F. SHIVELY,
CHARLES F. JOHNSON,
REED SMOOT,
Managers on the part of the Senate.

Mr. BARTON. Mr. Speaker, may I ask what that bill is?

The SPEAKER. It is a private pension bill.

Mr. RUSSELL. It is an omnibus pension bill.

The conference report was agreed to.

Mr. RUSSELL. Mr. Speaker, I call up the conference report on the bill (S. 4168) granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent relatives of such soldiers and sailors.

The SPEAKER. The Clerk will read the conference report.

The Clerk read the conference report as follows:

CONFERENCE REPORT (NO. 711).

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill S. 4168, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House numbered 2, and agree to the same.

That the House recede from its amendments numbered 1 and 3.

Amendment numbered 4:

That the Senate recede from its disagreement to the amendment of the House numbered 4, and agree to the same with an amendment as follows: In lieu of the sum proposed insert "$20"; and the House agree to the same.

J. A. M. ADAIR,
JOE J. RUSSELL,
Managers on the part of the House.
BENJ. F. SHIVELY,
CHARLES F. JOHNSON,
REED SMOOT,
Managers on the part of the Senate.

The conference report was agreed to.

ADJOURNMENT.

Mr. WATKINS. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 40 minutes p. m.) the House adjourned until Thursday, June 4, 1914, at 11 o'clock a. m.

EXECUTIVE COMMUNICATIONS.

Under clause 2 of Rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1. A letter from the Secretary of War, transmitting reports of the several bureaus and divisions of the War Department, giving a list of papers of their respective offices not needed or useful in the transaction of current business and which have no permanent value or historical interest (H. Doc. No. 1005); to the Joint Select Committee on Disposition of Useless Papers and ordered to be printed.

2. A letter from the Acting Secretary of the Treasury, transmitting schedules and lists of papers and documents on the files of the Office of the Auditor for the Navy Department, the offices of collectors of internal revenue, and in the office of the collector of customs, Duluth, Minn. (H. Doc. No. 1006); to the Joint Select Committee on Disposition of Useless Papers and ordered to be printed.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, bills and resolutions were severally reported from committees, delivered to the Clerk, and referred to the several calendars therein named, as follows:

Mr. HAYDEN, from the Committee on the Public Lands, to which was referred the bill (H. R. 15907) authorizing the survey and sale of certain lands in Coconino County, Ariz., to the occupants thereof, reported the same with amendment, accompanied by a report (No. 759), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

He also, from the same committee, to which was referred the bill (H. R. 11318) authorizing the sale of lands in Lyman County, S. Dak., reported the same with amendment, accompanied by a report (No. 760), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials were introduced and severally referred as follows:

By Mr. JOHNSON of Washington: A bill (H. R. 17011) providing for the establishment on an island of the insular or territorial possessions of the United States a home for lepers; to the Committee on Interstate and Foreign Commerce.

By Mr. DUPRÉ: A bill (H. R. 17012) to amend and reenact section 861 of the Revised Statutes of the United States, relative to the mode of proof in common-law actions; to the Committee on the Judiciary.

By Mr. HAYES: A bill (H. R. 17013) to provide for the erection of a monument at the summit of Fremonts Peak, Cal., to commemorate the unfurling of the flag of the United States upon that spot by Gen. Fremont at the outbreak of the Mexican War; to the Committee on the Library.

Also, a bill (H. R. 17014) for the erection and maintenance of a steam fog whistle on Point Pinos, Cal.; to the Committee on Interstate and Foreign Commerce.

Also, a bill (H. R. 17015) to establish a lighthouse of the first order on Point Pinos, Cal.; to the Committee on Interstate and Foreign Commerce.

By Mr. HAYDEN: A bill (H. R. 17016) authorizing the construction of the San Carlos irrigation project, and for other purposes; to the Committee on Indian Affairs.

By Mr. MACDONALD: A bill (H. R. 17017) to provide for the establishment of a national employment bureau under the direction and supervision of the Secretary of Labor; to the Committee on Labor.

By Mr. BRITTEN: A bill (H. R. 17018) to provide for the erection of a national leprosarium; to the Committee on Appropriations.

By Mr. ROBERTS of Massachusetts: A bill (H. R. 17019) donating land in the city of Malden, Mass., for park purposes; to the Committee on Naval Affairs.

By Mr. BUCHANAN of Illinois: A bill (H. R. 17020) to amend an act entitled "An act relating to the liability of common carriers by railroad to their employees in certain cases," approved April 22, 1908, and amended April 5, 1910; to the Committee on Interstate and Foreign Commerce.

By Mr. SHARP: Joint resolution (H. J. Res. 273) requesting the President of the United States to invite foreign Governments to participate in the International Congress on Education; to the Committee on Foreign Affairs.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. ALLEN: A bill (H. R. 17021) granting an increase of pension to Mary Johnson; to the Committee on Invalid Pensions.

By Mr. ASHBROOK: A bill (H. R. 17022) granting a pension to Diantha Staley; to the Committee on Invalid Pensions.

By Mr. BAKER: A bill (H. R. 17023) for the relief of Joseph Eckert; to the Committee on Military Affairs.

By Mr. BEALL of Texas: A bill (H. R. 17024) granting a pension to Lucy E. Howard; to the Committee on Pensions.

By Mr. BORLAND: A bill (H. R. 17025) granting an increase of pension to Mary Hawks; to the Committee on Invalid Pensions.

Also, a bill (H. R. 17026) granting an increase of pension to Elizabeth McKeever; to the Committee on Invalid Pensions.

Also, a bill (H. R. 17027) granting an increase of pension to Jennie M. Carroll; to the Committee on Invalid Pensions.

By Mr. EVANS: A bill (H. R. 17028) for the relief of W. W. Taylor; to the Committee on Claims.

By Mr. FESS: A bill (H. R. 17029) granting an increase of pension to Lizzie Q. Taylor; to the Committee on Invalid Pensions.

By Mr. FRENCH: A bill (H. R. 17030) granting the right to select certain lands to Oliver P. Pring; to the Committee on the Public Lands.

By Mr. HAMLIN: A bill (H. R. 17031) for the relief of James M. Lineback; to the Committee on Military Affairs.

By Mr. LANGHAM: A bill (H. R. 17032) granting an increase of pension to Cyrus Gere; to the Committee on Invalid Pensions.

By Mr. NEELEY of Kansas: A bill (H. R. 17033) authorizing the issuance of a patent to the northwest quarter, section 20, township 26 south, range 37 west, Dodge City (Kans.) land district, to Jesse Mitchell; to the Committee on the Public Lands.

Also, a bill (H. R. 17034) granting an increase of pension to William Brackney; to the Committee on Invalid Pensions.

By Mr. PETERS of Maine: A bill (H. R. 17035) for the relief of Georgia Somes Smith; to the Committee on Claims.

By Mr. ROBERTS of Massachusetts: A bill (H. R. 17036) granting an increase of pension to Erskin Hawley; to the Committee on Invalid Pensions.

By Mr. UNDERHILL: A bill (H. R. 17037) granting a pension to Sarah E. Benjamin; to the Committee on Invalid Pensions.

By Mr. YOUNG of North Dakota: A bill (H. R. 17038) granting an increase of pension to Luther A. Barnard; to the Committee on Invalid Pensions.

Also, a bill (H. R. 17039) for the relief of A. K. Boyd; to the Committee on War Claims.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

By the SPEAKER (by request): Resolutions from certain citizens of Jewett, Ohio; Wheeling, W. Va.; Milo, Iowa; Callery, Pa.; Carmichaels, Pa.; Rochester, Pa.; Maryville, Tenn.; Truxton, Mo.; Fosterburg, Ill.; Brighton, Ill.; and Hightstown, N. J., protesting against the practice of polygamy in the United States; to the Committee on the Judiciary.

Also (by request), memorial of the Italian Chamber of Commerce of New York City, protesting against national prohibition; to the Committee on Rules.

By Mr. BROWNING: Petition of 16 citizens of Camden, N. J., favoring national prohibition; to the Committee on Rules.

By Mr. CANDLER of Mississippi: Petition of sundry citizens of Columbus, Miss., favoring national prohibition; to the Committee on Rules.

By Mr. CANTOR: Petition of sundry citizens of New York, protesting against national prohibition; to the Committee on Rules.

By Mr. DALE: Petitions of the Italian Chamber of Commerce of New York, and Piel Bros. and sundry citizens of Brooklyn, N. Y., protesting against national prohibition; to the Committee on Rules.

By Mr. DANFORTH: Petitions of John W. Carson, of Scottsville, N. Y., and the Italian Chamber of Commerce of New York City, protesting against national prohibition; to the Committee on Rules.

Also, petitions of Miss Catherine Randall and 33 others, of Knowlesville, N. Y., and the Woman's Prohibition League of Shreveport, La., favoring national prohibition; to the Committee on Rules.

Also, petition of Local No. 98, International Association of Machinists, of Rochester, N. Y., favoring extension of the Federal locomotive-boiler inspection law; to the Committee on Interstate and Foreign Commerce.

By Mr. ESCH: Memorial of the directors of the Wisconsin Audubon Society, relative to conservation of bird life in the United States; to the Committee on Agriculture.

Also, petition of the Italian Chamber of Commerce of New York City, protesting against national prohibition; to the Committee on Rules.

By Mr. FESS: Petition of 23 citizens of Moscow, Ohio, protesting against national prohibition; to the Committee on Rules.

Also, petitions of various business men of the State of Ohio, favoring passage of House bill 5308, relative to taxing mail-order houses; to the Committee on Ways and Means.

By Mr. GILLETT: Petition of various Protestant ministers of Palmer, Mass., favoring national prohibition; to the Committee on Rules.

By Mr. GILMORE: Petition of the Norwood (Mass.) Merchants' Club, favoring passage of House bill 13305, the standard-price bill; to the Committee on Interstate and Foreign Commerce.

Also, petition of Mount Hermon Commandery, No. 261, Ancient and Illustrious Order Knights of Malta, of Whitman, Mass., favoring passage of the immigration bill (H. R. 6060); to the Committee on Immigration and Naturalization.

Also, petitions of the Italian Chamber of Commerce of New York and Rockland (Mass.) Central Labor Union, protesting against national prohibition; to the Committee on Rules.

Also, petition of Lodge No. 391, International Association of Machinists, favoring passage of Senate bill 5303, relative to safety in railroad travel; to the Committee on Interstate and Foreign Commerce.

By Mr. GOEKE: Petition of David Mikesell and others, of Darke County, Ohio, favoring national prohibition; to the Committee on Rules.

By Mr. GRIEST: Petition of 277 citizens of Lancaster, Pa., favoring national prohibition; to the Committee on Rules.

By Mr. HAMILTON of Michigan: Petitions of sundry citizens of South Haven, Sturgis, Lawton, Dowagiac, Cassopolis, Paw Paw, Niles, Wayland, Plainwell, and of the Woman's Christian Temperance Union of Penn Township, all in the State of Michigan, favoring national prohibition; to the Committee on Rules.

By Mr. HINDS: Petition of Welcome Lodge, International Order of Good Templars, of Biddeford, Me., favoring national prohibition; to the Committee on Rules.

By Mr. HULINGS: Petition of 22 members of the Clintonville (Pa.) United Presbyterian congregation, favoring national prohibition; to the Committee on Rules.

By Mr. HUMPHREY of Washington: Petitions of sundry citizens of Washington State, against national prohibition; to the Committee on Rules.

Also, petitions of 27 citizens of Edison, Wash., and of 90 citizens of Anacortes, Wash., favoring national prohibition; to the Committee on Rules.

By Mr. IGOE: Petitions of F. J. Johnson, George Lay, Jesse Lay, Albert Booker, Joe Gray, Samuel Sewell, George Page, Pleas Rathman, Pete Anderson, John W. Bayant, J. H. Gauman, Leon Sewell, William Silvester, Frank Carlyel, William Goar, D. F. Walter, Charley George, Dud Sewell, Tomie Walton, J. Newhouse, Martin Gates, Fritz Darrlen, Fred Kogge, S. Gates, Herman Totten, E. J. Ritter, Julius Dulliny, Otto Koch, William Tuepker, Jacob Crutsinger, Edward H. Schabery, Samuel Page, O. L. Seitz, A. F. Lay, William E. Grote, C. G. Grumke, David John, Frank Hugemueller, J. A. Murry, John H. Werterhold, C. A. Murry, Frank James, Frank Twente, Otto Hindersmann, Fred C. Schwarz, Charlie Price, Ray Studdard, Floyd M. Lale, R. E. Davis, A. Braedale, Thomas Price, W. H. Brener, T. J. Schaberg, E. R. Sellmeyer, Charles E. Seitz, Elmer Goan, Edgar Hanna, George Talbert, Walter Lancee, J. H. Slade, H. W. Canter, Elic Page, Tom Sewell, George Ahring, John O'Donnell, H. B. Mullharyt, Simon Jelisir, Oliver Grass, Francis Coguard, Victor Laurent, jr., Victor Laurent, sr., Alfred Dumas, Hugo Riesmeier, Dennis O'Leary, Harry Kendrick, George Kruel, Willie Reader, G. L. Cook, P. Short, Nelson Walker, George Osthoff, Joseph Engling, J. S. Slade, Earl Anderson, Wiley J. Reed, W. H. Bates, James Hannah, Watkins Larkin, Henry Hergemueller, John Baumer, Charles E. Lanck, Will Sebastian, I. I. Ritter, Claude Gan, Nels Olson, John Toebloz, William Duncan, William Meganigall, T. L. Rhuday, P. Finck, William Rutsinger, Gust Kruel, Pete Rukavim, A. H. Kuhlman, E. Hessenflown, C. L. Thompson, Julius Hundler, W. H. Bird, Elmer Brok, W. A. Johnson, Ernest Kohlstaedt, Henry Rawie, Charles Paulsueyer, F. W. Wahle, N. A. Waller, Pat McNally, O. B. Garner, J. E. Welforn, Lewis Roedel, William Carpenter, Marion Lay, W. M. Hicklin, Elmer Dikir, John W. Curtner, Frank Mautino, J. Holtherdsen, E. H. Boese, W. S. McLaddin, Toni Feniglio, Joe Gerir, Theodore Wantellet, Robert Johnson, John Gerir, Leon Dumas, John Mauntinn, Louis Schoppenhorst, Dan Lyons, E. L. Avinbruster, G. Lyons, W. E. Bryant, J. H. Bruismeyer, John Campbell, W. Brown, R. E. Lale, L. R. Lander, Fred Peterson, W. F. Multhaupt, Harry H. Limberg, J. J. Wheeldon, R. Heins, all of Wellington, Mo.; also, A. E. Stinsmeyer, N. Clemens, M. J. Clark, R. A. Keller, Louis Dugnay, Lee Grivet, Joseph Janechek, F. A. Ray, Theodore Reindguest, H. C. Pavitt, William Willer, Fred Johnson, John M. Dennison, H. Springmeyer, Harry Bliss, W. Drebes, W. A. Miller, A. Landy, John Casey, Jack Hoert, F. O. Conner, R. A. Pond, George Werges, Frank Vogt, Mike Gregor, Henry B. Ess, William Pletka, G. Zivyben, William T. Ballak, D. Wuderman, Carl Rohrbach, Frank Ott, R. C. Dickhaus, Clem E. Thrush, Joseph Vogel, M. McAuliffe, S. J. Lapin, Thomas Prior, R. M. Cullen, Ed McCarthy, R. C. Pulley, Theodore Bode, Edwin Pabst, D. B. Hunt, W. D. Rutherford, Gus Zogg, Roy Davis, William P. Doyle, John Lester, Robert Bullock, Fred D. Brown, F. W. Carrington, Henry C. Moore, Gus H. Palfrath, Joseph Green, Joseph Cavir, John W. Finney, all of St. Louis, Mo., protesting against the passage of House resolution 168 and Senate resolutions 50 and 88, and all similar prohibition legislation; to the Committee on Rules.

Also, petition of the St. Louis Stereotypers' Union, favoring the passage of the Bartlett-Bacon bill (H. R. 1873); to the Committee on the Judiciary.

Also, petition of the wine and liquor committee of the Italian Chamber of Commerce of New York, protesting against national prohibition; to the Committee on Rules.

By Mr. JOHNSON of Washington: Petitions of sundry citizens of Thurston, Pierce, and Lewis Counties, and citizens of Raymond, all in the State of Washington, protesting against national prohibition; to the Committee on Rules.

Also, petition of sundry citizens of Olympia, Wash., favoring national prohibition; to the Committee on Rules.

By Mr. KENNEDY of Iowa: Petition of the Friends' Meeting at Salem, Iowa, favoring national prohibition; to the Committee on Rules.

Also, petition of the Friends' Meeting at Salem, Iowa, against House bill 11312; to the Committe on Military Affairs.

By Mr. KENNEDY of Rhode Island: Memorial of the Italian Chamber of Commerce of New York City, protesting against national prohibition; to the Committee on Rules.

Also, memorial of the New England Shoe and Leather Association, of Boston, Mass., protesting against passage of the interstate trade commission bill; to the Committee on Interstate and Foreign Commerce.

By Mr. LAZARO: Petition of the Central Trades and Labor Council of Lake Charles, La., relative to strike conditions in Colorado; to the Committee on Mines and Mining.

By Mr. LOBECK: Petitions of Michael Brunski and the Hotel Men's Association, of Omaha, Nebr., against national prohibition; to the Committee on Rules.

Also, petition of C. F. McGrew, of South Omaha, Nebr., favoring H. R. 16710, the Federal reserve act; to the Committee on Banking and Currency.

Also, petition of the Omaha Bar Association, favoring McCoy bill, providing for appointment of shorthand reporters for the district courts of the United States; to the Committee on the Judiciary.

By Mr. LONERGAN: Petition of August Haertl, of Hartford, Conn., protesting against national prohibition; to the Committee on Rules.

By Mr. McKENZIE: Petitions of sundry citizens of Dixon, Ill., favoring national prohibition; to the Committee on Rules.

By Mr. METZ: Petitions of various voters of the tenth congressional district and the Italian Chamber of Commerce of New York, protesting against national prohibition; to the Committee on Rules.

By Mr. MOON: Papers to accompany House bill 10117, for the relief of Frank F. Griffith; to the Committee on Pensions.

By Mr. MOORE: Memorial of the Italian Chamber of Commerce of New York City, protesting against national prohibition; to the Committee on Rules.

By Mr. NELSON: Petition of 7 citizens of Dane County, Wis., protesting against national prohibition; to the Committee on Rules.

By Mr. O'LEARY: Petitions of sundry citizens of New York and Piel Bros., of Brooklyn, N. Y., protesting against national prohibition; to the Committee on Rules.

Also, petition of the Union Evangelical Church of Corona, N. Y., favoring national prohibition; to the Committee on Rules.

By Mr. PATTEN of New York: Petitions of sundry citizens and the Italian Chamber of Commerce of New York, protesting against national prohibitoin; to the Committee on Rules.

By Mr. PETERS of Maine: Petitions of Monmouth Grange, No. 39, sundry citizens of Madison and Jefferson, and the First Baptist Church of Jefferson, all in the State of Maine, favoring national prohibition; to the Committee on Rules.

Also, petition of M. McCauley, of Bar Harbor, Me., protesting against national prohibition; to the Committee on Rules.

By Mr. PORTER: Petitions of various churches and organizations of Pittsburgh, Aspinwall, Bellevue, Avalon, Hoboken, Perrysville, Braddock, and McKees Rocks, all in the State of Pennsylvania, favoring national prohibition; to the Committee on Rules.

Also, petitions of various organizations, societies, and citizens of the twenty-ninth congressional district of Pennsylvania, against national prohibition; to the Committee on Rules.

By Mr. SCULLY: Petition of sundry citizens of Long Branch, N. J., protesting against section 6 of House bill 12923, relative to Sunday work of postal employees; to the Committee on the Post Office and Post Roads.

Also, petition of 60 citizens of South River, N. J., and various members of the First Methodist Protestant Church of Elizabeth, N. J., favoring national prohibition; to the Committee on Rules.

By Mr. SHARP: Petitions of various organizations and individuals in the fourteenth congressional district of Ohio, favoring the passage of House joint resolution 168 and Senate bill 86, for national prohibition; to the Committee on Rules.

By Mr. SPARKMAN: Petitions of 253 citizens of Fort Myers, 72 citizens of Dunnellon, 109 citizens of Weirsdale, and 46 citizens of Clearwater, all in the State of Florida, favoring national prohibition; to the Committee on Rules.

By Mr. TEMPLE: Petition of various members of Jefferson Grange, No. 314, of Washington County, Pa., in favor of Government ownership of telegraph and telephone systems; to the Committee on the Post Office and Post Roads.

By Mr. UNDERHILL: Petition of the wine and liquor committee of the Italian Chamber of Commerce of New York, and sundry citizens of Elmira, N. Y., protesting against national prohibition; to the Committee on Rules.

By Mr. WILLIS: Petition of Alice Bishop and 36 other citizens of Ashley, Ohio, in favor of House joint resolution 168, relative to national prohibition; to the Committee on Rules.

By Mr. WOODRUFF: Petition of sundry citizens of the State of Michigan, protesting against national prohibition; to the Committee on Rules.

Also, petition of sundry citizens of the tenth congressional district of Michigan, favoring passage of House bill 5308, relative to taxing mail-order houses; to the Committee on Rules.

Also, petition of sundry citizens of Cheboygan, Mich., for a free press and free speech; to the Committee on the Post Office and Post Roads.

Also, petition of sundry citizens of Wolverine, Mich., favoring passage of national prohibition; to the Committee on Rules.

SENATE.

THURSDAY, *June 4, 1914.*

The Senate met at 11 o'clock a. m.

The Chaplain, Rev. Forrest J. Prettyman, D. D., offered the following prayer:

Almighty God, we lift our hearts to Thee. As we open our eyes to the light of every new day, with its blessed ministry, with its far-reaching invitations to service, so we open to Thee our hearts at this morning hour. We pray Thee to look upon us with fatherly pity, compassion, and mercy. Minister to us with the riches of Thy grace. Sanctify to us the experiences that we gain day by day, and give to us knowledge out of the history of the past, that we may not only know but comprehend the needs of men and minister the trust Thou hast committed to us in the interest of all. For Christ's sake. Amen.

The Secretary proceeded to read the Journal of yesterday's proceedings, when, on request of Mr. JAMES and by unanimous consent, the further reading was dispensed with and the Journal was approved.

Mr. JAMES. Mr. President, I suggest the absence of a quorum.

The VICE PRESIDENT. The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Ashurst	Gallinger	O'Gorman	Sterling
Brady	Goff	Page	Stone
Brandegee	Hughes	Perkins	Sutherland
Bryan	James	Pomerene	Thomas
Burton	Jones	Reed	Thompson
Catron	Kenyon	Shafroth	Thornton
Chamberlain	Kern	Sheppard	Tillman
Chilton	Lane	Sherman	Townsend
Clapp	Lippitt	Simmons	Vardaman
Clark, Wyo.	Myers	Smith, Ga.	West
Colt	Nelson	Smith, Mich.	White
Crawford	Newlands	Smith, S. C.	Works
Cummins	Norris	Smoot	

Mr. CHILTON. I wish to announce that the Senator from New Mexico [Mr. FALL] is necessarily absent and that he is paired with me.

Mr. WHITE. I wish to announce that my colleague [Mr. BANKHEAD] is unavoidably absent and that he is paired with the Senator from West Virginia [Mr. GOFF]. This announcement I make to continue during the day.

Mr. KERN. I wish to announce the unavoidable absence of the senior Senator from Arkansas [Mr. CLARKE], the junior Senator from Arkansas [Mr. ROBINSON], the Senator from Maine [Mr. JOHNSON], and the Senator from Alabama [Mr. BANKHEAD], all of whom are paired. This announcement may stand for the day.

The VICE PRESIDENT. Fifty-one Senators have answered to their names. A quorum is present.

POST-OFFICE EMPLOYEES.

Mr. STONE. Mr. President, on Monday last the Postmaster General made a reply to Senate resolution 373. The report of the Postmaster General is lying upon the Vice President's table. I ask that it be now taken up, and I wish to move——

The VICE PRESIDENT. Is there objection?

Mr. SMITH of Michigan. We can not hear.

Mr. CUMMINS. We have not been able to hear what the request is.

Mr. STONE. I call up the report of the Postmaster General made on Monday last in response to Senate resolution 373, which is lying on the Vice President's table. I wish to move that it be printed as a Senate document, and upon that motion I desire to submit a brief statement.

The VICE PRESIDENT. Is there objection? The Chair hears none.

Mr. STONE. I do this for the reason that so much has been said about the subject matter of the resolution it ought not to be passed by by merely printing the reply of the Postmaster General in the RECORD.

Mr. SIMMONS. Mr. President——

The VICE PRESIDENT. Does the Senator from Missouri yield to the Senator from North Carolina?

Mr. STONE. I do.

Mr. SIMMONS. I desire to inquire of the Senator from Missouri if, in case the matter leads to any general discussion, he will ask consent that it be laid aside?

Mr. STONE. Oh, I——

Mr. SIMMONS. I am not at all objecting to the Senator making his statement, but I apprehend that possibly it might precipitate a general discussion which would last for quite a time. I will make a parliamentary inquiry of the Chair. At any time may I interpose an objection and demand the regular order if it leads to a long debate?

The VICE PRESIDENT. There is not any doubt that during the morning business it is the right of a Senator to demand the regular order.

Mr. SMOOT. Then, Mr. President, if that is to be the policy of the Senator from North Carolina, as I understand from his statement he intends to take a Senator off his feet, I think the best course to pursue is to have it understood right now and to object to proceeding with this matter any further.

Mr. SIMMONS. The Senator from Missouri had stated that he wanted to make a brief statement. I did not desire to interfere with his making a brief statement, but if it is going to lead to debate, then I would want to interpose an objection.

Mr. SMOOT. I will say to the Senator now that there will be some debate upon the question, and I would not like the Senator to have a misunderstanding about it.

Mr. STONE. What is it that the Senator from North Carolina is specially interested in at this moment?

Mr. SIMMONS. My desire is that the Senate shall proceed with the consideration of the canal-tolls bill as soon as possible, and I did not wish that to be displaced by a lengthy debate upon the report of the Postmaster General.

Mr. STONE. Mr. President, if I can not proceed at this time, then I will proceed to make the statement I have to make when the first opportunity occurs to-day; so no time will be saved.

Mr. SIMMONS. I am not going to object to the Senator making a statement, but I am going to object if it leads to prolonged debate.

Mr. SMOOT. If that is the case, then, Mr. President, I think the best——

Mr. REED. Mr. President, I should like to ask for some kind of order.

The VICE PRESIDENT. The Chair would be very glad if the Senate would be in such a condition of order that the Chair could hear what a Senator is saying.

Mr. SMOOT. I desire to state that if the position taken by the Senator from North Carolina means that there is to be a statement upon one side and not a statement upon the other, I, too, would prefer that the Senator from Missouri should make his statement when the canal-tolls bill is under consideration, and then we can also, upon that measure, make whatever statements we have to make. Therefore, Mr. President, I object, if that is to be the policy of the Senator from North Carolina.

Mr. BRANDEGEE. I ask for the regular order.

DISPOSITION OF USELESS PAPERS.

The VICE PRESIDENT. The regular order having been called for, the Chair lays before the Senate a communication from the Secretary of War, transmitting reports of the chiefs of the several bureaus and divisions of the War Department giving a list of papers in their respective offices not needed or useful in the transaction of current business and which have no permanent value or historical interest. The communication and accompanying papers will be referred to the Joint Select Committee on the Disposition of Useless Papers in the Executive Departments, and the Chair appoints the Senator from Vermont [Mr. PAGE] and the Senator from Oregon [Mr. LANE] the committee on the part of the Senate. The Secretary will notify the House of Representatives of the appointment thereof.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by J. C. South, its Chief Clerk, announced that the House agrees to the reports of the committees of conference on the disagreeing votes of the two Houses on the amendments of the Houses to the following bills:

S. 4167. An act granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy, and of wars other than the Civil War, and to certain widows and dependent relatives of such soldiers and sailors;

S. 4168. An act granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent relatives of such soldiers and sailors;

S. 4260. An act granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy, and of wars other than the Civil War, and to certain widows and dependent relatives of such soldiers and sailors;

S. 4352. An act granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent relatives of such soldiers and sailors;

S. 4353. An act granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy, and

of wars other than the Civil War, and to certain widows and dependent relatives of such soldiers and sailors;

S. 4552. An act granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent relatives of such soldiers and sailors; and

S. 4657. An act granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy, and of wars other than the Civil War, and to certain widows and dependent relatives of such soldiers and sailors.

ENROLLED BILL SIGNED.

The message also announced that the Speaker of the House had signed the enrolled bill (H. R. 15190) to amend section 103 of the act entitled "An act to codify, revise, and amend the laws relating to the judiciary," approved March 3, 1911, as amended by the act of Congress approved March 3, 1913.

PETITIONS AND MEMORIALS.

The VICE PRESIDENT presented petitions of sundry citizens of Malvern and West Sunbury, in the State of Pennsylvania; of Fair Haven and Jewett, in the State of Ohio; of Owatonna, Minn.; of Long Branch, N. J.; of Denton, Tex.; of Birmingham, Iowa; of Caledonia, N. Y.; and of Hobart, Okla., praying for the adoption of an amendment to the Constitution to prohibit polygamy, which were referred to the Committee on the Judiciary.

Mr. CLAPP presented petitions of sundry citizens of Minnesota, praying for the adoption of an amendment to the Constitution to prohibit the manufacture, sale, and importation of intoxicating beverages, which were referred to the Committee on the Judiciary.

He also presented memorials of sundry citizens of Minnesota, remonstrating against the adoption of an amendment to the Constitution to prohibit the manufacture, sale, and importation of intoxicating beverages, which were referred to the Committee on the Judiciary.

Mr. NELSON presented petitions of sundry citizens of Minnesota, praying for the adoption of an amendment to the Constitution to prohibit the manufacture, sale, and importation of intoxicating beverages, which were referred to the Committee on the Judiciary.

He also presented memorials of sundry citizens of Minnesota, remonstrating against the adoption of an amendment to the Constitution to prohibit the manufacture, sale, and importation of intoxicating beverages, which were referred to the Committee on the Judiciary.

Mr. CATRON presented memorials of sundry citizens of New Mexico, remonstrating against the adoption of an amendment to the Constitution to prohibit the manufacture, sale, and importation of intoxicating beverages, which were referred to the Committee on the Judiciary.

Mr. TILLMAN presented a petition of sundry citizens of Congaree, S. C., praying for national prohibition, which was referred to the Committee on the Judiciary.

Mr. COLT. I present resolutions adopted by the Legislature of Rhode Island, which I ask may be printed in the RECORD and referred to the Committee on Commerce.

There being no objection, the resolutions were referred to the Committee on Commerce and ordered to be printed in the RECORD, as follows:

IN THE GENERAL ASSEMBLY OF THE STATE OF RHODE ISLAND.

Joint resolution favoring bill S. 2337, Sixty-third Congress, second session, "To create the coast guard by combining therein the existing Life-Saving Service and Revenue-Cutter Service."

Whereas the maintenance of the highest standard of efficiency in the saving of life and property from shipwreck is of great importance to the commercial and shipping interests of the State of Rhode Island; and

Whereas the United States Senate has passed and there is now pending in the House of Representatives a bill (S. 2337) to create the coast guard by combining therein the existing Life-Saving Service and Revenue-Cutter Service, which will assure greater efficiency by bringing together for more concerted effort in the saving of life and property from shipwreck two important branches of the Government service charged with that duty, one operating from the shore and the other on the seas and the Great Lakes; and

Whereas the existing provisions of law for retirement, longevity pay, and allowances for the officers and men of the Revenue-Cutter Service are by the bill referred to justly extended to the superintendents, keepers, and surfmen in the Life-Saving Service: Therefore be it

Resolved by the General Assembly of the State of Rhode Island, That the Representatives of the State of Rhode Island in the Congress of the United States be, and hereby are, earnestly requested to give their ardent support to bill S. 2337 and to use their efforts to secure its early passage by the House of Representatives of the United States; and be it further

Resolved, That a copy of these resolutions be sent to each Representative in Congress from the State of Rhode Island and to the chairman of the Committee on Interstate and Foreign Commerce of the House of Representatives, and to the General Superintendent United States Life-Saving Service.

STATE OF RHODE ISLAND,
OFFICE OF THE SECRETARY OF STATE,
Providence, May 6, 1914.

I hereby certify the foregoing to be a true copy of the original resolution approved by his excellency the governor on the 6th day of May, A. D. 1914.

In testimony whereof I have hereunto set my hand and affixed the seal of the State aforesaid the date first above written.

[SEAL.] J. FRED PARKER,
Secretary of State.

Mr. COLT presented petitions of sundry citizens of Coventry, Providence, and Newport, all in the State of Rhode Island, praying for national prohibition, which were referred to the Committee on the Judiciary.

Mr. BRANDEGEE presented resolutions adopted by Local Union No. 137, United Brotherhood of Carpenters and Joiners of America, of Norwich, Conn., favoring the enactment of legislation to make lawful certain agreements between employees and laborers and persons engaged in agriculture or horticulture and to limit the issuing of injunctions in certain cases, which were referred to the Committee on the Judiciary.

Mr. PAGE presented the memorial of Dexter M. Jones, of Orange County, Vt., remonstrating against the adoption of an amendment to the Constitution to prohibit the manufacture, sale, and importation of intoxicating beverages, which was referred to the Committee on the Judiciary.

Mr. NORRIS presented a petition of sundry citizens of Arnold, Nebr., praying for the adoption of an amendment to the Constitution to prohibit the manufacture, sale, and importation of intoxicating beverages, which was referred to the Committee on the Judiciary.

He also presented memorials of sundry citizens of Shelby, Nebr., remonstrating against the adoption of an amendment to the Constitution to prohibit the manufacture, sale, and importation of intoxicating beverages, which were referred to the Committee on the Judiciary.

Mr. SHIVELY presented a petition of the congregation of the Trinity Methodist Episcopal Church, of Elkhart, Ind., praying for the adoption of an amendment to the Constitution to prohibit polygamy, which was referred to the Committee on the Judiciary.

He also presented a memorial of Captain Kiser Circle, No. 31, Ladies of the Grand Army of the Republic, of West Point, Ind., remonstrating against any change in the American flag, which was referred to the Committee on the Judiciary.

He also presented a petition of the congregation of the Trinity Methodist Episcopal Church, of Elkhart, Ind., praying for the enactment of legislation to provide Federal censorship of motion pictures, which was referred to the Committee on Education and Labor.

Mr. SMITH of Maryland presented petitions of sundry citizens of Baltimore, Md., praying for national prohibition, which were referred to the Committee on the Judiciary.

Mr. LODGE presented a petition of Bunker Hill Camp, No. 38, United Spanish War Veterans, of Charlestown, Mass., and a petition of the Board of Selectmen of Adams, Mass., praying for the enactment of legislation to provide pensions for civil-service employees, which were referred to the Committee on Civil Service and Retrenchment.

He also presented a petition of Mount Hermon Commandery, No. 261, Ancient and Illustrious Knights of Malta, of Whitman, Mass., praying for the enactment of legislation to further restrict immigration, which was ordered to lie on the table.

Mr. KERN presented a memorial of the Central Labor Union of Elkhart, Ind., and a memorial of Local Branch, Glass Bottle Blowers' Association, of Terre Haute, Ind., remonstrating against national prohibition, which were referred to the Committee on the Judiciary.

He also presented a memorial of Captain Kiser Circle, No. 31, Ladies of the Grand Army of the Republic, of West Point, Ind., remonstrating against any change in the American flag, which was referred to the Committee on the Judiciary.

Mr. JOHNSON presented a memorial of W. S. Heath Circle, No. 13, Ladies of the Grand Army of the Republic, of Waterville, Me., remonstrating against any change being made in the American flag, which was referred to the Committee on the Judiciary.

He also presented a petition of Welcome Lodge, Independent Order of Good Templars, of Biddeford, Me., and a petition of sundry citizens of South Paris, Me., praying for national prohibition, which were referred to the Committee on the Judiciary.

Mr. TOWNSEND presented a memorial of the Grand Rapids Association of Commerce, of Michigan, remonstrating against the enactment of legislation to create an interstate trade commission, which was referred to the Committee on Interstate Commerce.

Mr. TOWNSEND. I send to the desk to have read a letter in the form of a petition from the president of the Cadillac Motor Car Co. on the legislation enacted and proposed by this Congress.

The VICE PRESIDENT. Is there objection? The Chair hears none, and the Secretary will read.

Mr. REED. I move that the communication be referred to the appropriate committee.

Mr. TOWNSEND. I did not understand the motion of the Senator from Missouri.

The VICE PRESIDENT. Is there objection to the reading of the communication?

Mr. REED. I am objecting, and asking that the communication may be referred to the appropriate committee. It has come to this, Mr. President, that a Senator is not allowed to take the floor and utter an observation upon a pertinent matter. If that is to be the rule of the Senate, we had better quit having read desultory communications that are sent in by everybody who is inspired with a notion of taking his pen in hand. If we are going to be so strict, let us apply it all along the line.

Mr. TOWNSEND. I desire to state to the Senator that this is a memorial in the form of a petition directed to me as United States Senator in reference to proposed legislation and with especial attention to industrial measures now pending. I can, of course, read the communication in my own time on an occasion when it will be in order. It is a two-page letter, and I think it is entirely pertinent.

Mr. REED. If the letter is of that character, if it is not one of the kind of letters that have been so frequently read lately criticizing people, and if it is simply a petition to Congress, or a petition to Congress addressed to a Senator, I shall not object to it.

Mr. TOWNSEND. It is no attack upon anybody, but a criticism of the general legislation of this Congress, both Democratic and Republican, in reference to legislation affecting business men.

Mr. REED. I withdraw the objection.

The VICE PRESIDENT. The Secretary will read the communication.

The Secretary read as follows:

CADILLAC MOTOR CAR CO.,
Detroit, Mich., June 1, 1914.

Hon. CHARLES E. TOWNSEND,
United States Senate, Washington, D. C.

DEAR SIR: I am loyal to my country and during a long and busy life have conscientiously done what I could to promote its welfare. Because of that interest I urge you to exert all your influence to bring the present Congress to a speedy close.

Members of Congress and administrative officers are evidently shut-eyed to the conditions which have developed within the country, and are therefore sublimely unconscious of the fact——

Mr. REED. Mr. President, this is not at all the character of communication I was given to understand it was, and I object to the further reading of it.

The VICE PRESIDENT. There is objection to the further reading of the letter.

Mr. TOWNSEND. I will withdraw the letter and present it at the proper time.

WILLIAM CRONLY.

Mr. HUGHES, from the Committee on Pensions, to which was referred the bill (S. 5731) for the relief of William Cronly, asked to be discharged from its further consideration and that it be referred to the Committee on Military Affairs, which was agreed to.

RETURN OF CASES TO COURT OF CLAIMS.

Mr. BRYAN, from the Committee on Claims, reported the following resolution (S. Res. 386), which was considered by unanimous consent and agreed to:

Resolved, That in compliance with the request of the assistant clerk of the Court of Claims, pursuant to an order of the court, under date of June 2, 1914, the Secretary of the Senate be, and he is hereby, instructed to return to the Court of Claims the order of dismissal in the following cases, namely, estate of William A. Watkins, deceased, against the United States, No. 14117; John R. McGinniss against the United States, No. 14105; and the estate of Minor Knowlton, deceased, against the United States, No. 15002, subnumbered 9, and the said court is hereby authorized to proceed in said case as if no return therein had been made to the Senate.

BILLS INTRODUCED.

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. JONES:

A bill (S. 5732) repealing a certain section contained in the urgent deficiency act approved December 22, 1911; to the Committee on Claims.

By Mr. CLAPP:

A bill (S. 5733) granting an increase of pension to Thomas W. Eckert; to the Committee on Pensions.

By Mr. THOMPSON:

A bill (S. 5734) to extend the provisions of an act entitled "An act to provide for an enlarged homestead," approved February 19, 1909, to the State of Kansas; to the Committee on Public Lands.

By Mr. WEST (by request):

A bill (S. 5735) for the relief of Annie F. Neil; to the Committee on Claims.

By Mr. SAULSBURY:

A bill (S. 5736) for the relief of the Delaware Transportation Co., of Wilmington, Del.; to the Committee on Claims.

By Mr. SHIVELY:

A bill (S. 5737) granting an increase of pension to Samuel A. Leazer (with accompanying papers); to the Committee on Pensions.

By Mr. KERN:

A bill (S. 5738) for the relief of Simon Bollinger (with accompanying papers); to the Committee on Claims.

AMENDMENT TO SUNDRY CIVIL APPROPRIATION BILL.

Mr. SMOOT submitted an amendment proposing to appropriate $75,000 for making additional tests of the coals in different parts of the Bering River coal field, Alaska, intended to be proposed by him to the sundry civil appropriation bill, which was referred to the Committee on Appropriations and ordered to be printed.

REMEDIES FOR HOG CHOLERA (S. DOC. NO. 489).

Mr. NORRIS. Mr. President, I rise for the purpose of asking unanimous consent to have printed as a Senate document an address delivered by the junior Senator from Iowa [Mr. KENYON] on the 26th day of January, 1914, on the subject of the prevention of and providing remedies for hog cholera. In this address the Senator from Iowa incorporated a vast amount of valuable information. There are a great many requests for it, even from the Agricultural Department, but more particularly from the West and the Middle West.

The VICE PRESIDENT. Is there objection to the request of the Senator from Nebraska? The Chair hears none, and it is so ordered.

TRANSPORTATION OF PARCEL-POST PACKAGES.

The VICE PRESIDENT. The Chair lays before the Senate a resolution coming over from a preceding day, which will be stated.

The SECRETARY. Senate resolution 363, providing that the Joint Committee on Postage on Second-Class Mail Matter, and so forth, be requested to advise the Senate when they will be able to report.

Mr. SMITH of Georgia. I desire that the resolution go over until Saturday next, Mr. President. A report on the subject will probably be presented to-day or to-morrow.

The VICE PRESIDENT. Without objection, the resolution will go over until Saturday.

LIABILITY OF COMMON CARRIERS.

The VICE PRESIDENT. The Chair lays before the Senate a resolution coming over from a preceding day, which will be read.

The Secretary read the resolution (S. Res. 384) submitted by Mr. CUMMINS on the 1st instant, as follows:

Resolved, That immediately after the final disposition of the bill now the unfinished business the Senate take up for consideration S. 4522, to amend the interstate-commerce act relating to liability of common carriers.

Mr. CUMMINS. Mr. President, in accordance with the understanding of yesterday morning, I ask unanimous consent to take up at this time Senate bill 4522, being the bill referred to in the resolution just read.

The VICE PRESIDENT. Is there objection?

Mr. KERN. Mr. President, I think we should proceed with the consideration of the Panama Canal tolls bill. I therefore object, and I shall continue to object, to any other business intervening until the Panama Canal tolls bill is disposed of.

Mr. CUMMINS. Mr. President, I have already said on more than one occasion that I do not desire to delay the disposition

of the Panama Canal tolls bill, but it comes on regularly, according to the rules of the Senate, at 1 o'clock. I supposed it was understood yesterday morning that I might have this bill taken up this morning; but the objection being made, I move that the Senate proceed to the consideration of Senate bill 4522, notwithstanding the objection.

Mr. KERN. Mr. President, I do not quite understand to what the Senator from Iowa refers in speaking of the understanding of yesterday. There may have been an understanding had in my absence, but——

Mr. CUMMINS. I refer to the statement made by the Senator from Georgia [Mr. SMITH], to which, as I remember, there was no dissent. There was no other understanding than that on yesterday morning he stated, I am sure in the utmost good faith, that if the bill to which I refer went over until this morning there would probably be no objection to its consideration after the disposition of morning business.

Mr. SMITH of Georgia. And, Mr. President, I added that I hoped we could agree on the amendments and pass the bill at once. If the Senator from Missouri [Mr. REED] has been able to agree with the Senator from Iowa [Mr. CUMMINS] upon the amendment to the portion of the bill which they had under consideration, I believe we can consider the bill and dispose of it in 15 minutes.

Mr. CUMMINS. I have had some conversation with the Senator from Missouri. I think that we desire to reach the same end, but I have had no conference with him with regard to the form of any proposed amendment which he may desire to offer.

Mr. SHAFROTH. I hope there will be no objection to the consideration of the measure at the present time. I feel that if this measure should become the unfinished business it would supersede notices which have been given, and that, it seems to me, would not be fair. The Senator from Iowa says he thinks he can end the matter in a short time—probably in half an hour. If that is the case, it seems to me we had better let him proceed.

Mr. KERN. Mr. President, of course the Senator from Iowa understands that I am in entire sympathy with the bill——

Mr. CUMMINS. I have no doubt of that.

Mr. KERN. And after reading from the RECORD what occurred yesterday morning, I withdraw the objection I have made.

The VICE PRESIDENT. Is there objection to the present consideration of the bill?

There being no objection, the Senate, as in Committee of the Whole, resumed the consideration of the bill (S. 4522) to amend an act entitled "An act to amend an act entitled 'An act to regulate commerce,' approved February 4, 1887, and all acts amendatory thereof, and to enlarge the powers of the Interstate Commerce Commission," approved June 29, 1906.

The VICE PRESIDENT. The question is on the amendment offered by the Senator from Georgia [Mr. SMITH] to the amendment of the committee, which the Secretary will state.

The SECRETARY. On page 3, line 12, it is proposed to amend the committee amendment by striking out the word "caused" and inserting the word "transported."

Mr. SMITH of Georgia. Mr. President, I desire to ask the Senator from Utah [Mr. SUTHERLAND], who had on yesterday the authorities with him, to call the attention of the Senate to the decision of the Court of Appeals of Georgia, construing the language of the Carmack amendment.

Mr. SUTHERLAND. Mr. President, the amendment offered by the Senator from Georgia, as I suggested when it was offered, would probably have the effect of broadening the liability of the common carrier beyond that imposed by the common law. I have since taken occasion to look at some of the cases on the subject, construing the provisions of the Carmack amendment. There is a case recently decided by the Supreme Court of Georgia, reported in Sixty-fifth Southeastern Reporter, page 308, the case of Louisville & Nashville Railroad Co. against Warfield & Lee, a decision rendered by Judge Powell, who, the Senator from Georgia tells me, is a most excellent lawyer and judge. In commenting upon the language of the Carmack amendment that court says:

> This view does not commend itself to our judgment. As we endeavored to point out in the Crenshaw case, supra, we think that Congress intended to adopt, as against the initial carrier in interstate shipments, the ordinary common-law liability, and to forbid the common-law right to contract for special exemptions therefrom. It is true the statute speaks of losses and damages "caused" by the carrier; but it must be kept in mind that the law was dealing with carriers, a class upon which already rested, by general law, an affirmative duty to receive goods, to transport them safely, and to protect them from outside interference. When used of a person or other subject charged with an affirmative duty of care and diligence, or of good conduct, so to speak, the word "caused" implies not only active misconduct and deeds of commission, but also passive neglect, deeds of omission, and failures to exercise duties faithfully. (Carroll v. Allen, 20 R. I., 144, 37 Atl., 704; Comitez v. Parkerson (C. C.), 50 Fed., 170, 171.) Any injury that a common carrier permits to befall the property while in its custody, otherwise than through the act of God or the public enemy, is in a juridic sense caused by it.

That case seems to be very plainly in point, and it emphatically holds that the provisions of the Carmack amendment simply enforce the common-law liability of the common carrier; that is, that the words "caused by it," used in the act, do not have the effect of in any way limiting the liability of the carrier. I find the same conclusion was arrived at by the Interstate Commerce Commission in a case reported in Thirteenth Interstate Commerce Commission Reports, at page 552. That was a case where the question was precisely presented to the Interstate Commerce Commission. I read from that case:

> In the absence of express stipulation the liability of a common carrier is not limited to loss occasioned by its negligence or other misconduct. The law has cast upon it an extraordinary responsibility; it is to a large extent an insurer of the goods intrusted to it for carriage. The rule, roughly stated, is that a common carrier is liable for all losses not occasioned by the act of God or the public enemy.

I may pause at that point to say that that was the rule of the old common law—the only exceptions were those two, namely, the act of God or the act of the public enemy; but those exceptions have been extended by later decisions, and by a majority of the cases in the United States the law now recognizes three other exceptions in addition to those two. They were all accurately stated by the Senator from Georgia the other day.

> But the carrier's right to relieve itself to some extent from this complete responsibility by special agreement or notice has long been recognized. It may strip itself of its insurer's liability and remain responsible only for its negligence and other misconduct. (York Manufacturing Co. v. I. C. R. R. Co., 3 Wall., 107; N. Y. C. R. R. Co. v. Lockwood, 17 Wall., 357.)
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> The law on this point is well settled, and a careful study of the provisions of the Hepburn Act will show that the carrier's right in this respect has not been abrogated. The law reads that the carrier shall be liable "for any loss, damage, or injury to such property caused by it * * * and no contract, receipt, rule, or regulation shall exempt such common carrier, railroad, or transportation company from the liability hereby imposed." The scope of this prohibition must turn largely upon the construction to be placed upon the word "caused." The word "caused" is not susceptible of a narrow interpretation—it is broad enough to comprehend all losses due to the carrier's misconduct, whether positive or negative in character. But it can not possibly be extended to cover losses due to causes beyond the carrier's control. We are necessarily driven to the conclusion, therefore, that the law places no restriction upon the carrier's efforts to exempt itself from liability for losses which occur without fault on its part. We are of opinion, in short, that in the absence of agreement or notice the carrier's liability is governed by the ordinary common-law rule; but that a stipulation for exemption from liability for losses due to causes beyond the carrier's control is open to no legal objection.

The Supreme Court of the United States has had frequent occasion to pass upon the statute; but I shall only stop to call the attention of the Senate to two of those decisions, and that very briefly. In Two hundred and twenty-sixth United States, at page 506, the Supreme Court said:

> What is the liability imposed upon the carrier? It is a liability to any holder of the bill of lading which the primary carrier is required to issue "for any loss, damage, or injury to such property caused by it," or by any connecting carrier to whom the goods are delivered. The suggestion that an absolute liability exists for every loss, damage, or injury, from any and every cause, would be to make such a carrier an absolute insurer and liable for unavoidable loss or damage, though due to uncontrollable forces. That this was the intent of Congress is not conceivable. To give such emphasis to the words "any loss or damage" would be to ignore the qualifying words "caused by it." The liability thus imposed is limited to "any loss, injury, or damage caused by it or a succeeding carrier to whom the property may be delivered."

And the court adds:

> And plainly implies a liability for some default in its common-law duty as a common carrier.

Under that decision the court holds that the words "caused by it" have a useful place in the statute. If they were not there, the plain implication of the decision is that the liability of the carrier would be extended beyond the rule of the common law, and that the effect of those words in the statute is to limit the liability of the carrier to that of the common law.

The danger which would arise from the adoption of the amendment proposed by the Senator from Georgia or that which is now proposed by the Senator from Ohio [Mr. POMERENE] would be that we would leave out of the statute these limiting words, which simply declare the common-law liability of the carrier, and extend the liability of the carrier to the cases which were excepted by the common law; that is, the carrier under that sort of an amendment would be liable for an injury or loss of goods due to the act of God or the act of the public enemy, the seizure of the goods upon process of a court, inherent defects of the goods, and those things which are recognized by the common law as constituting exceptions to its liability.

The only remaining case that I call attention to is a case reported in Two hundred and twenty-seventh United States, at

page 672, where the court in a single sentence very tersely determines the meaning of the statute. The court says:

The liability imposed by the statute is the liability imposed by the common law upon a common carrier, and may be limited or qualified by special contract with the shipper, provided the limitation or qualification be just and reasonable and does not exempt from loss or responsibility due to negligence.

The effect of the bill which is now proposed by the Senator from Iowa is to continue the provision of law respecting the common-law liability of the carrier, but to remove the condition which now exists in the statute under which the common carrier is permitted to exempt itself from liability by special agreement.

Mr. SMITH of Georgia. Mr. President, I still think the language in the original Carmack Act, using the term "caused by it," was perhaps a little unfortunate; that language might have been used which would have prevented any possible doubt that the act intended to continue the common-law liability of the carrier, which is that of insurer, subject to the five limitations that have been stated, beginning with the act of God and the public enemy, which are two of them.

It seems, however, that the language has been construed, and that the courts have declined to narrow the liability on account of this language. With the view that the language is not intended to carry any narrowing effect as to the liability of the common carrier, but that the liability is to remain that of insurer subject to the recognized exceptions—beginning, as I have before stated, with the act of God and the public enemy—I shall not insist upon the amendment.

The amendment I proposed might, in view of the construction of this language, itself give rise to a doubt as to what was intended by the act, and I think probably it is best to leave it just where it is.

The VICE PRESIDENT. As the Chair understands, then, the Senator withdraws his amendment, and the question is upon agreeing to the committee amendment.

Mr. TOWNSEND. Mr. President, what I shall have to submit does not apply particularly to this bill, although it perhaps may be construed as in the general list of measures mentioned by my correspondent. I endeavored to place it before the Senate before the Senator from Iowa called up the pending bill, but objection was made and I am taking advantage of my first opportunity.

I have here a letter which I received this morning from the president of the Cadillac Motor Car Co., of Detroit, which is as follows:

CADILLAC MOTOR CAR CO.,
Detroit, Mich., June 1, 1914.

Hon. CHARLES E. TOWNSEND,
United States Senate, Washington, D. C.

DEAR SIR: I am loyal to my country, and during a long and busy life have conscientiously done what I could to promote its welfare. Because of that interest I urge you to exert all your influence to bring the present Congress to a speedy close.

Members of Congress and administrative officers are evidently shut-eyed to the conditions which have developed within the country, and are therefore sublimely unconscious of the fact that market values are shrinking, wheels of industry are either slowing down or are silent, millions of loyal and willing employees are out of work, and a sense of instability has palsied all effort, while Congress courts the ranters, the theorists, the agitators, and outrages the tariff, the currency, the interstate commerce, and every established principle upon which the Nation's prosperity has been built.

There is nothing in our country to warrant the present distress but a nation-wide distrust of Washington, and it is time that Congress looked into a mirror to find out who threw the wrench into the machinery. The present erratic smash-and-bust policy has already bred a work poverty which administrative apologists can not conceal and which, if allowed to continue, will remain in history as the outstanding event of this period of American life. If Congress has any more damage to do, let it be done speedily, for not until after this Congress has ceased to exist can a merchant, manufacturer, or employer venture to gather together the things which remain, that upon them he may reconstruct his business.

I do not charge the administration or Congress with being insincere or dishonest, but it is now patent to thinking men that both are terribly mistaken.

Its theories in regard to the questions of tariff, antitrust regulation, capital and labor, and the so-called big business are such that business and our industries are rapidly approaching "closed-shop" conditions, not as advocated by the American Federation of Labor but rather a "closed shop" in the sense of drawing the fires and locking the doors.

Congress has been in continuous session now for more than one and a half years. If Congress continues this orgy of hallucination with its "Pandora box," its unlimited bills for "regulating" business, and its other vicious and iconoclastic legislation, then the "big business" and the "capital and labor" problems will be solved indeed, for there will be no "big business," no available capital.

The shrinkage in railroad, industrial, and real estate securities and values during the past few years shows a greater destruction of all real values than this country suffered at the hands of our destructive Civil War. It is time Washington awoke to the fact that the present Congress and administration are making rapid progress toward classifying themselves in history as the greatest and most potent destructive and ruinous force our country has yet produced.

All the elements of prosperity are with the country except the administration. We should now be on the high wave of prosperity, as we have the glad promise of abundant crops and plenty of money to use in business enterprises. Instead, the baleful influence of Washington like a black pall hangs over the Nation, and capital, always sensitive and conservative, upon which the country depends for initiating business, hides in the cyclone cellar and waits till the breaking of the storm. Having a prospect of a let up in this senseless campaign of destruction, good judgment would prompt the great wheels of commerce and constructive business to go ahead at full speed, instead of having factories running short time, closing down, or failing entirely, as at present. There is something in the situation that certainly calls to memory Nero and his fiddle.

The Nation has had enough of this legislation. It now needs industrial peace and prosperity. Believing that confidence can not be restored until after this Congress has passed into history, I ask you, as one of my Representatives in the National Legislature, to do your utmost to bring about this speedy adjournment, and urging this, I add that I do not think that anything in Washington is of more importance to the country.

Very truly, yours,

HENRY M. LELAND.

I present this letter, Mr. President, because I know from having talked with many business men in the country, without any regard at all to partisan politics, that they feel that Congress is not contributing to the welfare and prosperity of the people at the present time. This Congress has been in session now, as is stated by Mr. Leland, for a year and a half continuously. It has been in forced session. It has been legislating many times against the will of a majority of the Senators themselves.

I concur in the sentiment uttered in this letter to the effect that we should get through with our business and go home. Democrats and the Republicans are alike interested in the return of prosperity. It can not and will not return so long as we are injecting uncertainties into the business conditions of the country. Speculative and illy considered legislation is dangerous to progress and prosperity.

Mr. STONE and Mr. LODGE addressed the Chair.

The VICE PRESIDENT. The Senator from Missouri.

Mr. CUMMINS. Mr. President, will the Senator from Missouri yield to me for just a moment?

Mr. STONE. I will.

Mr. CUMMINS. I regret more than I can express that the Senator from Michigan has chosen this opportunity to read the letter which has just been read. If by the reading of the letter he defeats the bill which is now before the Senate, which is intended mainly for the benefit of the farmers of this country in the shipment of their live stock, I believe he will also regret it.

I appeal to Senators who may desire to reply to the Senator from Michigan to take some other opportunity to do so, and allow the Senate to have sufficient time to consider and pass this bill. There will be abundance of time to discuss that matter; but when the hands of the clock reach 1 o'clock, if I have not then succeeded in securing a vote upon this bill I may never succeed in doing so.

Mr. STONE. Mr. President, I think what I rose to lay before the Senate would be very pertinent at this juncture, following the letter read by the Senator from Michigan and the remarks which he made. I fully appreciate, however, the force of what the Senator from Iowa has said, and I shall yield to his suggestion and lay before the Senate at a later hour what I have in my hand.

The VICE PRESIDENT. Are there further amendments to the committee amendment?

Mr. SHEPPARD. Mr. President, I understand the amendment of the Senator from Georgia is not now pending.

The VICE PRESIDENT. It has been withdrawn.

Mr. SHEPPARD. I have a few amendments which I wish to offer to the bill.

The VICE PRESIDENT. Are they amendments to the committee amendment?

Mr. SHEPPARD. They are not.

The VICE PRESIDENT. Then the question is on agreeing to the amendment of the committee.

Mr. REED. Mr. President, I send to the desk an amendment which I ask to have read.

The VICE PRESIDENT. The Chair will first put the question on the committee amendment under consideration.

Mr. REED. But, Mr. President, this directly strikes at the committee amendment.

The VICE PRESIDENT. Yes; but it is the rule of the Senate that the committee has the right to perfect the text before there is a motion to strike out.

Mr. NELSON. Mr. President, will the Senator from Missouri yield to me?

The VICE PRESIDENT. Does the Senator from Missouri yield to the Senator from Minnesota?

Mr. REED. I do.

Mr. NELSON. I take it that the proposition the Chair is submitting is in respect to the amendment commencing on line 11, page 3?

The VICE PRESIDENT. Line 11, page 3. That is before the amendment offered by the Senator from Missouri.

Mr. REED. Oh, I misunderstood——

Mr. NELSON. And the question is on the adoption of that particular amendment? Am I correct?

The VICE PRESIDENT. That is the question—the amendment on page 3, beginning on line 11.

Mr. REED. I understood the Chair to submit the question whether there were any further amendments to any of the committee amendments.

The VICE PRESIDENT. To this particular committee amendment.

Mr. REED. I was in error.

The VICE PRESIDENT. The question is on agreeing to the committee amendment.

The amendment was agreed to.

The VICE PRESIDENT. The Senator from Missouri now presents an amendment to the committee amendment, which will be stated.

The SECRETARY. It is proposed to amend by striking out all after the enacting clause down to and including the word "void," on page 3, line 22.

Mr. CUMMINS. Mr. President, does the Senator from Missouri desire to strike out all after the enacting clause down to and including line 22, on page 3? That strikes out the entire bill.

Mr. REED. No; it does not. It strikes out all of section 1, after the word "void," in line 22, on page 3.

The VICE PRESIDENT. The Secretary will again state the amendment.

The SECRETARY. It is proposed to strike out all of section 1, after the word "void," in line 22, on page 3.

Mr. REED. Mr. President, just one word in regard to this proposition.

At the common law a carrier was liable for the loss of goods; but it appears that at common law it might, by a reasonable contract entered into for a sufficient reason, limit its liability. It could not entirely escape liability, but it might limit its liability, provided the limitation was reasonable.

Following along after that doctrine was fully settled in this country, the legislatures of various States passed statutes declaring void all contracts limiting liability, and declaring that the shipper should be liable for the actual value of the goods. When the Carmack amendment was offered, undoubtedly the purpose of the author was to preserve intact those statutory regulations of the States; but the courts have decided in a long line of decisions—that is, the United States Supreme Court—that the effect of the Carmack amendment and the effect of the legislation to which it was amendatory has been for Congress to take over the whole subject of regulating contracts for interstate shipment, and that the old common law is preserved, and that the railroads may limit their liability. Accordingly, the railroads and all transportation companies have adopted once more the plan of absolutely limiting their liability.

The evil of such a system is perfectly manifest. The shipper has no real option when he brings his goods and a contract or a bill of lading is handed to him with an arbitrary value stated in it, and if he protests against the value he must pay an excessively high rate.

Accordingly I think that this legislation ought to stop at the point I have indicated in the bill, for up to that point there is an absolute prohibition against limiting liability. I think we ought to adopt the rule which was in vogue in many of our States for many years and which was nullified by this national legislation, namely, that a carrier must be liable if he loses the goods, and liable not according to an arbitrary value he has set forth in a printed bill of lading or otherwise put into a contract; for instance, in the printed conditions of a railroad ticket limiting liability upon baggage. I think we ought simply to adopt here the rule which was in vogue for many years in many of the States, which absolutely prohibited any limitation and let the carrier when goods are consigned to him take care of them, and if he does not take care of them pay for them.

So the effect of this amendment is to strike out all qualifications and to leave the carrier liable for the damage that he may occasion.

Mr. CUMMINS. Mr. President, with the general view stated by the Senator from Missouri I concur, but there are instances in which I think it would be right to allow a limitation upon recovery—not a limitation upon liability, but a limitation upon the amount of recovery. The Interstate Commerce Commission possibly has the power to deal with it now. The evil results very largely from the effort upon the part of the railway companies to exact a rate for the full value in cases in which the full value is recoverable; that is unreasonable for the additional risk.

We had this bill before the Interstate Commerce Commission. Two members of the commission appeared before the committee and testified or gave their opinions with a great deal of fullness. If before the railroad company could limit the recovery upon any property carried by it the rate for the increased risk incident to full value had been submitted to the Interstate Commerce Commission and that commission had definitely and affirmatively passed upon the question and decided what rate was fair and reasonable for the recovery of full value, this trouble probably never would have arisen.

It is said by members of the commission, and said by others who appeared before us, that many merchants desire to bring their goods to a common carrier and take a low rate that is based upon the transportation of goods of a low value. That is to say, they would rather take the risk themselves than to pay the higher rate. It was on account of these considerations that the Interstate Commerce Commission urged our committee to except from the prohibition those instances in which the commission had or might thereafter affirmatively, after an investigation, fix a rate based upon the value of the property transported. The truth is that the Interstate Commerce Commission or some member of it wrote the exception which is found in the bill, and we incorporated it because it seemed to be the view of these men, who have had long experience and training in the matter, that there should be that exception.

Now, with regard to the other exception, namely, where the goods are hidden from view simply, I think the Senator from Missouri is entirely right, and so far as I can do so I am willing to accept the amendment which he proposed the other day and which will be found in a memorandum that I handed to the Senator from Minnesota, namely, to eliminate the exception covering goods that are simply hidden from view, leaving the prohibition with just one exception, namely, the instance in which the Interstate Commerce Commission has affirmatively fixed a rate based upon value.

I fear if the amendment now proposed by the Senator from Missouri were to prevail the relief I hope may be afforded to those who are not wholly but most largely interested would not be secured.

Mr. NORRIS. I wish to ask the Senator a question.

Mr. CUMMINS. I yield to the Senator from Nebraska.

Mr. NORRIS. Bearing out the Senator's suggestion, I wish to ask him for his opinion in regard to an amendment that it seems to me would go a long way toward bringing about the settlement of the dispute along the lines suggested. On page 4, in line 1, if the word "or" were stricken out and the word "and" inserted in lieu of it, would not that reach the difficulty?

Mr. CUMMINS. No; not entirely. That would limit the power of the Interstate Commerce Commission to make a rate dependent on value unless the rate is upon an article hidden from view.

Mr. NORRIS. Why should it not be so limited?

Mr. CUMMINS. For the reason I tried to state yesterday. As an illustration—and this illustration was given to us during the hearing—a man desires to ship a very valuable horse, one that is worth $25,000. The rate that would be put upon that horse by the railroad company if the railroad company were to assume the full risk and be liable for full value would be prohibitive. But I think it is entirely fair that the Interstate Commerce Commission shall in such an instance be permitted to say what the rate shall be upon various values which may be agreed upon between the shipper and the railroad company.

Mr. NORRIS. Does the Senator think that if the change was made as suggested by me the Interstate Commerce Commission would be prohibited from fixing a different rate?

Mr. CUMMINS. What I propose, and I thought it was just what the Senator from Missouri originally suggested, is to change the exception so that it would read in this way:

Provided, however, That, except as to ordinary live stock, if with respect to such property so offered and received for transportation, express authorization has been heretofore granted or shall be hereafter granted by the Interstate Commerce Commission for the establishment and maintenance of rates for the transportation thereof, dependent upon the value of the property shipped, and so forth.

Then we have just one exception, namely, the intervention of the affirmative power of the Interstate Commerce Commission affixing what it would believe to be a reasonable rate for a certain value, and from that power is excepted ordinary live stock.

I hope, therefore, just for the sake of safety and the success of the bill, that the amendment proposed by the Senator from Missouri will not be adopted.

Mr. REED. The Senator said he thought the amendment I offered would imperil the bill. I take it he does not mean to say that the amendment I offered would not carry out the ideas he has, but he means to say it would imperil the passage of the bill.

Mr. CUMMINS. That is all.

Mr. REED. If it is passed in the form I propose and the bill should become a law, it would constitute an absolute protection to the shippers.

Mr. CUMMINS. Undoubtedly. I do not mean to say that it would render the bill ineffective, but I fear that with the view many people entertain with regard to the subject, and especially in consideration of the position taken by the Interstate Commerce Commission, it would be almost impossible to secure the passage of the bill in the House.

Mr. REED. Mr. President, of course I do not want to criticize the Interstate Commerce Commission, because that commission has been wearing a halo so long that it would be an act of violence to in any manner disturb it; but I am unwilling to concede to the Interstate Commerce Commission the right to control legislation in the Congress of the United States. I am unwilling to concede to it a veto power upon the action which the Senate may take or which the House of Representatives may see fit to take. If there is any objection to the amendment which I have offered which goes to its merits, if it be not sound, and if those considerations are offered here in the Senate, I am very sure that they will control the action of the Senate. They will control my action, at least, if I am capable of understanding their import.

But I believe two propositions are indisputable. One is that it is the business of the Interstate Commerce Commission to enforce the laws of Congress coming within the purview of its authority, and the other is that the Congress of the United States ought to enact legislation to the best of its ability, regardless of departmental interference or control, and I am getting to the opinion that we might extend that declaration of independence beyond mere departments.

I think this amendment will cut out the possibility of the legalizing in part of a wrong which has for many years existed. Do not understand me as criticizing the Senator from Iowa, because the Senator from Iowa is endeavoring to give us a partial remedy. In so far as the bill goes as presented it is an advantage. I think, however, we are in a position to get a complete remedy and at the same time to be just to the shippers.

The difficulty when we come to consider a question of this kind is that we are likely to overlook the hardships of conditions. It is true if a man wanted to consign to the care of another man his goods and if the price he charged for caring for the goods was dependent upon the value of the goods it might be entirely reasonable for these two parties to contract with reference to the value and to agree upon what the value should be, to stipulate, if you please, for liquidated damages; and that is the reason which is constantly advanced by these transportation companies. But while that rule is perfectly fair between individuals it can become the instrumentality of great oppression and wrong when it is employed by the great transportation companies of the country.

To illustrate, these contracts are printed somewhere upon a bill of lading or upon a telegraph blank. A man goes to an office and wants to send a telegram and he writes the telegram. There is not one out of a thousand people who ever read the conditions printed upon the telegraph blank, but there printed, practically hidden away from view, are conditions which cut off or attempt to cut off the right of recovery or to limit it to the mere value paid for transporting the message. The sender of the message has no option. He must send his message; he must send it in haste; he has no time to stop and make special contracts and agreements or arrangements. The result is he is practically forced to accept the blank that is tendered him and to take it with the conditions.

That serves to illustrate a similar condition in shipments. A man takes his goods to a depot. They are exposed to view. The agent sees them. The agent hands him a blank in which there is printed "These goods are valued at $50 unless it is expressly stipulated otherwise." That is made out in the form of a bill of lading and handed to him. It is not read by the shipper, but when he seeks to recover he finds that the railroad company by virtue of having handed him that blank which somewhere or other he signed, not intending to sign the contract or the blank or the printed matter but simply to sign his name as a shipper of goods, that because of the construction given the Carmack Act the contract of the railroad company has been vitalized and every State statute limiting this power of corporations has been stricken down.

I repeat that until the Supreme Court annulled the statutes of these States by declaring that the Carmack amendment had cut the life out of the statutes, in State after State statutes existed just as this statute will read if we here enact it. In other words, when a railroad company takes your goods or mine, it must respond for their value or it must deliver the goods. It can not put a limit upon the amount you can recover. I have sent for the decision, which I have not yet read, a decision i. which, I understand, the Supreme Court has held that a limitation of $100 upon recovery for a package lost will be enforced, although the solitary contract, if you can call it a contract, was some printed matter upon the passenger's ticket which he never read and was never called upon in the exercise of ordinary diligence and care to read. I have not read that opinion, and I therefore do not want to be understood as stating absolutely that that is its import; but my information is to that effect.

Mr. President, I do not care whether the Interstate Commerce Commission likes it or dislikes it; I do not care whether the Interstate Commerce Commission are opposed to or in favor of a remedial statute such as this will be if the amendment I offer prevails. I am not fearful, if the Senate passes this bill, that the Interstate Commerce Commission can go into the other branch of Congress and there defeat it. If the Interstate Commerce Commission is engaged in any such business as that, I want to know it; and when I become convinced that it is engaged in such business as that, I shall be ready to vote for its dissolution.

Mr. CUMMINS. Mr. President, I shall not prolong the debate a moment, for I am very anxious to get through with the consideration of this bill by 1 o'clock; but I desire to suggest to the Senator from Missouri that he has overlooked the fact that the last proviso in section 1 of the bill is a part of the present law, and a very essential part of the present law. I am sure that he does not desire to strike that out.

Mr. REED. Well, Mr. President, if that last proviso was not written anywhere, it would exist as a matter of law. It is not necessary to specify that you are reserving your legal rights. The proviso referred to by the Senator from Iowa reads:

Provided further, That nothing in this section shall deprive any holder of such receipt or bill of lading of any remedy or right of action which he has under the existing law.

There is nothing in the section that purports to deprive him of that, and it is not necessary to recite a right which he has, and which has not been taken away, unless there is something calculated to give that impression.

Mr. CUMMINS. But, Mr. President, it is in the present law; and if we strike it out the courts might give some significance to our action in so doing. It is perfectly easy to limit the amendment.

Mr. REED. Well, Mr. President, out of consideration for the views of the Senator from Iowa—and I think when he has a doubt I ought also to have one in regard to a matter of this kind—I will, with the permission of the Senate, modify my amendment.

The VICE PRESIDENT. The Chair has uniformly held that the committee reporting a bill have the right to perfect it before a motion to strike out is made; and the Chair is impressed with the view that before putting the question on the amendment proposed by the Senator from Missouri [Mr. REED], the amendment proposed by the committee at the top of page 4 should first be put to the Senate.

Mr. REED. Well, Mr. President, nobody has raised that point.

The VICE PRESIDENT. The Chair was about to put the question on the committee amendment, so that the amendment of the Senator from Missouri would then be in order.

Mr. REED. If this amendment is defeated, I then wish to offer an amendment perfecting and changing the language of the committee amendment; that is the difficulty. I trust, as the time is short and we desire to get to a vote, that that may be permitted. Since this matter has been discussed and a vote taken upon it, I have modified my amendment so as to leave in the bill the last proviso just referred to.

The VICE PRESIDENT. The amendment as proposed to be modified by the Senator from Missouri will be stated.

The SECRETARY. In section 1, page 3, line 22, after the word "void," it is proposed to strike out the words down to and including the word "stated," on page 4, line 12.

Mr. CRAWFORD. Mr. President, I merely wish to say that, while I shall not vote for the amendment offered by the Senator from Missouri [Mr. REED] because the Senator from Iowa [Mr.

CUMMINS] feels that it makes such a change in the bill that it might endanger its passage, if it were not for that fact I would support the amendment, because it seems to me we are giving too much power to the Interstate Commerce Commission in regulating traffic.

The VICE PRESIDENT. The Chair will put the question on the amendment of the Senator from Missouri. [Putting the question.] The noes seem to have it.

Mr. REED. I ask for a roll call on the amendment.

The yeas and nays were ordered, and the Secretary proceeded to call the roll.

Mr. GOFF (when his name was called). I have a general pair with the senior Senator from Alabama [Mr. BANKHEAD], and therefore withhold my vote.

Mr. PERKINS (when his name was called). I have a general pair with the junior Senator from North Carolina [Mr. OVERMAN]. In his absence from the Chamber I withhold my vote.

Mr. SIMMONS (when his name was called). I wish to inquire if the junior Senator from Minnesota [Mr. CLAPP] has voted?

The VICE PRESIDENT. The Chair is informed that he has not.

Mr. SIMMONS. I am paired with that Senator; but I transfer that pair to the Senator from Tennessee [Mr. SHIELDS] and vote "nay."

Mr. SUTHERLAND (when his name was called). I have a general pair with the Senator from Arkansas [Mr. CLARKE], who is absent, and on that account I withhold my vote.

Mr. THOMAS (when his name was called). I have a general pair with the senior Senator from New York [Mr. ROOT], and therefore withhold my vote.

Mr. WARREN (when his name was called). I have a pair with the Senator from Florida [Mr. FLETCHER], and therefore withhold my vote.

Mr. SMITH of Arizona (when the name of Mr. WILLIAMS was called). The Senator from Mississippi [Mr. WILLIAMS] is necessarily absent. He is paired with the Senator from Pennsylvania [Mr. PENROSE].

The roll call was concluded.

Mr. JAMES. I transfer the pair I have with the junior Senator from Massachusetts [Mr. WEEKS] to the junior Senator from Arkansas [Mr. ROBINSON] and vote. I vote "yea."

Mr. THOMAS. I transfer my pair with the senior Senator from New York [Mr. ROOT] to the senior Senator from Indiana [Mr. SHIVELY] and vote "yea."

Mr. CHILTON. I have a pair with the Senator from New Mexico [Mr. FALL], which I transfer to the Senator from Ohio [Mr. POMERENE] and vote. I vote "yea."

Mr. GALLINGER. I desire to announce the pair between the junior Senator from Maine [Mr. BURLEIGH] and the junior Senator from New Hampshire [Mr. HOLLIS].

I also desire to announce the pair between the Senator from Washington [Mr. JONES] and the Senator from New Jersey [Mr. MARTINE].

Mr. SUTHERLAND. I transfer my pair with the Senator from Arkansas [Mr. CLARKE] to the Senator from Illinois [Mr. SHERMAN] and vote "nay."

Mr. SWANSON. I desire to announce the pair of the Senator from Maryland [Mr. SMITH] with the Senator from Vermont [Mr. DILLINGHAM]. Both Senators are unavoidably detained from the Senate.

The result was announced—yeas 26, nays 38, as follows:

YEAS—26.

Ashurst	Lewis	Sheppard	Tillman
Borah	Martin, Va.	Smith, Ga.	Vardaman
Chilton	Norris	Smith, S. C.	Walsh
Gore	O'Gorman	Stone	West
James	Owen	Swanson	White
Lane	Reed	Thomas	
Lea, Tenn.	Shafroth	Thompson	

NAYS—38.

Brady	Gallinger	McLean	Smith, Ariz.
Brandegee	Gronna	Myers	Smith, Mich.
Bryan	Hughes	Nelson	Smoot
Burton	Johnson	Newlands	Stephenson
Catron	Kenyon	Oliver	Sterling
Chamberlain	Kern	Page	Sutherland
Clark, Wyo.	Lee, Md.	Poindexter	Townsend
Colt	Lippitt	Ransdell	Works
Crawford	Lodge	Saulsbury	
Cummins	McCumber	Simmons	

NOT VOTING—31.

Bankhead	Fall	Overman	Shields
Bristow	Fletcher	Penrose	Shively
Burleigh	Goff	Perkins	Smith, Md.
Clapp	Hitchcock	Pittman	Thornton
Clarke, Ark.	Hollis	Pomerene	Warren
Culberson	Jones	Robinson	Weeks
Dillingham	La Follette	Root	Williams
du Pont	Martine, N. J.	Sherman	

So Mr. REED's amendment to the amendment of the committee was rejected.

The VICE PRESIDENT. The question recurs on agreeing to the amendment proposed by the committee.

Mr. REED. Mr. President, it may be of interest to Senators who have voted on this amendment to know this fact: The Senator from Iowa stated that the amendment was entirely satisfactory to him and that it would meet the objects he had in view, but that he would vote against it because he feared the bill could not become a law if the amendment were adopted. That, of course, must have meant opposition in the other branch of Congress.

Now, it may throw some light upon the future amendments to know that in the other body where the opposition was deemed possible the committee has already reported the proposition favorably just as it would have stood if my amendment had been adopted a few minutes ago instead of being turned down; so I do not think there is any danger of defeat there. At least, the surface indications do not point in that direction.

Mr. President, I sought to have adopted an amendment which would make the carriers of this country absolutely liable for goods they lost and would take away from them the right of arbitrarily limiting the value of goods. That amendment has failed. I now send to the desk an amendment which I ask to have read.

Mr. KENYON. Mr. President, may I ask the Senator a question?

Mr. REED. Certainly.

Mr. KENYON. I should like to ask the Senator if he had this information as to the action of the House committee before the vote was taken?

Mr. REED. I did not. A copy of the bill was handed to me on the floor of the Senate since the vote was taken.

Mr. KENYON. My vote was cast on the statement that had been made. I favored the amendment of the Senator from Missouri, but I felt that it might imperil the bill.

Mr. REED. Perhaps the Senator would feel like moving to reconsider the vote. I should thank him if he would. I can not move it myself.

Mr. CUMMINS. Mr. President, I think we first ought to inquire into the accuracy of the statement. I do not so understand the bill, if we may be permitted to refer to it, which has been reported in the House.

Mr. REED. Mr. President, I was handed this bill by a Senator, with the statement that the bill had been reported favorably. I have not the report, but I am relying entirely upon the statement of one of our Senators, who I know spoke in the best of faith.

Mr. CUMMINS. May I ask the Senator from Missouri whether it is the same bill, and whether he has examined it in order to discover whether what he stated a few moments ago is accurate, namely, that the very thing that we have refused to do has been done or reported favorably in the House? I think, I am sure, that no such bill has been reported in the House. A bill has been reported there, but, in my opinion, it does not afford anything like the remedy that this bill will afford if it is passed as reported by the committee.

Mr. REED. Mr. President, the bill which was handed to me, and which my informant stated had been favorably reported, contains the language I am about to read, and which will be found on page 15. If the Senators will follow the language of the bill we are now considering, which was offered by the Senator from Iowa, I think they will find the language identical:

That any common carrier, railroad, or transportation company receiving property for transportation from a point in one State to a point in another State shall issue a receipt or bill of lading therefor, and shall be liable to the lawful holder thereof for any loss, damage, or injury to such property caused by it or by any common carrier, railroad, or transportation company to which such property may be delivered, or over whose line or lines such property may pass, and no contract, receipt, rule, or regulation shall exempt such common carrier, railroad, or transportation company from the liability hereby imposed: *Provided*, That nothing in this section shall deprive any holder of such receipt or bill of lading of any remedy or right of action which he has under existing law.

That the common carrier, railroad, or transportation company issuing such receipt or bill of lading shall be entitled to recover from the common carrier, railroad, or transportation company on whose line the loss, damage, or injury shall have been sustained the amount of such loss, damage, or injury as it may be required to pay to the owners of such property, as may be evidenced by any receipt, judgment, or transcript thereof.

The bill which I hold in my hand was referred on May 15 to the Committee on Interstate and Foreign Commerce and ordered to be printed. On May 16 it was committed to the Committee of the Whole House on the state of the Union and ordered to be printed. I know nothing about whether it has been favorably reported except the statement of the Senator to which I have referred, and which I know was made in good faith.

Mr. SUTHERLAND. Mr. President, a point of order.

The VICE PRESIDENT. The Senator will state his point of order.

Mr. SUTHERLAND. It seems to me this entire discussion with reference to what has occurred in the other House is entirely out of order. The general rule is stated in Jefferson's Manual, page 96:

It is a breach of order in debate to notice what has been said on the same subject in the other House, or the particular votes or majorities on it there, because the opinion of each House should be left to its own independency, not to be influenced by the proceedings of the other; and the quoting them might beget reflections leading to a misunderstanding between the two Houses.

I had always understood it to be a general parliamentary rule, universally observed in this body, that the proceedings of the other House were not to be referred to in the way they have been referred to here in an attempt to influence the action of the Senate, because the action of the Senate and the action of the House are to be entirely independent of one another. I think, under that point of order, this discussion is out of order.

The VICE PRESIDENT. The Chair is of the opinion that it is the unwritten law of the Senate that any reference to what has been done in the House of Representatives for the purpose of controlling the action of the Senate is out of order; but the Chair remembers that the statements made this morning were called out entirely by the statement that it was clear that the other House would not concur in the action of the Senate. The Chair does not believe the statements were made with the intention of influencing the conduct of the Senate.

The question is on agreeing to the amendment proposed by the Senator from Missouri, which the Secretary will state.

The SECRETARY. On page 3, beginning on line 22, after the word "void," it is proposed to strike out all down to and including the word "stated," on page 4, line 12, and in lieu thereof to insert:

Provided, however, That if the goods are hidden from view by wrapping, boxing, or other means, and the carrier is not notified as to the character of the goods, the carrier may require the shipper to specifically state in writing the value of the goods, and the carrier shall not be liable beyond the amount so specifically stated, in which case the Interstate Commerce Commission may establish and maintain rates for transportation dependent upon the value of the property shipped as specifically stated in writing by the shipper. Such rates shall be published as are other rate schedules.

The VICE PRESIDENT. The question is on agreeing to the amendment offered by the Senator from Missouri.

Mr. CUMMINS. Mr. President, I do not believe the amendment is as good as the bill reported by the committee, changed as we have several times suggested, but I am so desirous of having a vote on the bill before 1 o'clock that I do not intend to oppose the amendment.

The VICE PRESIDENT. The question is on agreeing to the amendment.

The amendment was agreed to.

The VICE PRESIDENT. The question is on agreeing to the committee amendment, known as section 2, which will be stated.

The SECRETARY. It is proposed to add at the end of the bill a new section, as follows:

SEC. 2. That this act shall take effect and be in force from 90 days after its passage.

The amendment was agreed to.

Mr. SHEPPARD. Mr. President, I will state that the amendments I send to the desk are acceptable to the Senator from Iowa.

The VICE PRESIDENT. The amendments proposed by the Senator from Texas will be stated.

The SECRETARY. On page 2, line 20, after the word "State," where it first appears in the line, it is proposed to insert the words "or Territory or the District of Columbia."

The amendment was agreed to.

The SECRETARY. After the word "State," where it occurs the second time in line 20, it is proposed to insert a comma and the words "Territory, District of Columbia, or a foreign country."

The amendment was agreed to.

The SECRETARY. One page 3, line 1, it is proposed to strike out the word "or" and insert, after the word "regulation," the words "or other limitation of any character whatsoever."

Mr. CUMMINS. The committee has no objection to that.

The amendment was agreed to.

The SECRETARY. On page 3, line 8——

The VICE PRESIDENT. The next amendment is in a committee amendment which has been already agreed to. Is there any objection to reconsidering the committee amendment? The Chair hears none, and the vote whereby the committee amendment was adopted is reconsidered.

The SECRETARY. On page 3, line 8, in the committee amendment, after the words "District of Columbia," it is proposed to insert the words "or to a foreign country."

The amendment to the amendment was agreed to.

The amendment as amended was agreed to.

The SECRETARY. On page 3, line 10, after the words "bill of lading," it is proposed to insert the words "or to any party entitled to recover thereon, whether such receipt or bill of lading has been issued or not."

The amendment was agreed to.

The VICE PRESIDENT. The Chair will say to the Senator from Texas that the next amendment would come within the amendment of the Senator from Missouri [Mr. REED], which has been agreed to, and that part of the bill has been stricken out.

Mr. LODGE. It is not in order at this time.

Mr. CUMMINS. The amendment just suggested becomes unnecessary, and indeed impossible, in view of the action of the Senate in adopting the amendment of the Senator from Missouri.

Mr. SHEPPARD. I then withdraw the amendment.

The SECRETARY. On page 4, at the end of line 15, it is proposed to insert the following words:

Provided further, That it shall be unlawful for any common carrier to provide by rule, contract, regulation, or otherwise a shorter period for giving notice of claims than 90 days, and for the filing of claims for a shorter period than four months, and for the institution of suits than two years: *Provided, however,* That if the loss, damage, or injury complained of was due to delay or damage while being loaded or unloaded, or damaged in transit by carelessness or negligence, then no notice of claim nor filing of claim shall be required as a condition precedent to recovery.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. CUMMINS. I desire to withdraw the resolution submitted by me on this subject.

The VICE PRESIDENT. Without objection, the resolution is withdrawn. Morning business is closed, and the calendar under Rule VIII is in order.

THE CALENDAR.

The first business on the calendar was the bill (S. 1240) to establish the legislative reference bureau of the Library of Congress.

Mr. LODGE. I ask that the bill may be passed over.

The VICE PRESIDENT. The bill will be passed over.

Mr. O'GORMAN obtained the floor.

THE INCOME TAX.

Mr. SMITH of Georgia. Mr. President, the Senator from New York has consented to yield to me for a moment.

A few days ago I introduced a joint resolution relieving persons subject to the income tax from the penalties incident to failure to make their returns before the 1st of March. I suppose every Senator has heard from many of his constituents, who, on account of the fact that it was a new law and they did not understand it, have made a mistake and failed to get in their returns. The statute is absolutely compulsory. The department would relieve them from the penalty in most of the instances, but it has not the authority to do so.

I have introduced a joint resolution, which was referred to the Finance Committee, simply relieving from the penalty those who made their returns by the 1st of June and who did not designedly disregard the law. Every member of the Committee on Finance who has considered the joint resolution has agreed to it and approved it; and I think we might well pass it and send it right over to the House.

Mr. GALLINGER. Does it specify the length of time they may have?

Mr. SMITH of Georgia. Up to the 1st of June. They must have made their returns by the 1st day of this month.

Mr. GALLINGER. But how much longer does it give them?

Mr. SMITH of Georgia. It gives them no longer time. Nearly all of them have made their returns, but they did not get them in by the 1st of March. I learned from the department that there were hundreds of returns that came in a few days after the 1st of March, by one little accident or another, and I have simply named the 1st of June.

Mr. GALLINGER. That is all right.

Mr. TOWNSEND. Mr. President, may I ask the Senator if this would allow the Commissioner of Internal Revenue or the Government to refund the fines that have been paid? I am informed that a number of them have been paid.

Mr. SMITH of Georgia. Fines that have already been paid?

Mr. TOWNSEND. That have already been paid. It ought to cover those cases.

Mr. SMITH of Georgia. I think so, too.

Mr. TOWNSEND. I should like to have it surely cover all those cases. I think the joint resolution ought to pass at once, but——

Mr. SMITH of Georgia. I think that amendment can be put on it very easily. It never occurred to me that any of them had been already paid, because they had until the last of June to make the payment.

Mr. O'GORMAN. Mr. President, I think the joint resolution referred to by the Senator from Georgia will encounter no obstruction or opposition; but, in my judgment, it ought to be amended in the manner indicated by the Senator from Michigan [Mr. TOWNSEND]. If such an amendment is put on, the joint resolution can be taken up at any time during the afternoon, and it will take only a moment to put it through. Meanwhile I ask that the tolls bill may be laid before the Senate.

Mr. SMITH of Georgia. I will withdraw the joint resolution for the present and prepare a short amendment to that effect, and ask unanimous consent a little later on to take it up and pass it this afternoon.

LAND IN HAMPDEN COUNTY, MASS.

Mr. LODGE. Mr. President, I will ask the Senator from New York to withhold his motion for just a moment. I am very anxious to have passed a bill that was reported yesterday from the Committee on Public Lands, simply to grant a quitclaim deed to some land that was deeded to the Government in 1825.

Mr. O'GORMAN. I withhold my motion temporarily.

The VICE PRESIDENT. Is there any objection to the consideration of the bill referred to by the Senator from Massachusetts? The Chair hears none.

The Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. 3334) authorizing the quitclaiming of the interest of the United States in certain land situated in Hampden County, Mass., which was read as follows:

Be it enacted, etc., That the Secretary of War is hereby authorized and directed, by quitclaim deed for and on behalf of the United States, to convey to John D. McKnight and William H. McKnight, or their heirs and assigns forever, all right, title, and interest it may have in and to all of that plat or parcel of ground described as containing 40 rods of land, together with a right of way "situated in Springfield in Hatch's pasture, so called, near Garden Brook," Hampden County, Mass., and acquired by the United States through the deed of Solomon Hatch, dated September 14, 1825, recorded September 15, 1825, in book 75, at page 186, of the records of Hampden County.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

PANAMA CANAL TOLLS.

The VICE PRESIDENT. The hour of 1 o'clock having arrived, the Chair lays before the Senate the unfinished business, which is House bill 14385.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 14385) to amend section 5 of an act to provide for the opening, maintenance, protection, and operation of the Panama Canal and the sanitation of the Canal Zone, approved August 24, 1912.

The VICE PRESIDENT. The question is on the amendment offered by the committee.

Mr. NORRIS. To that amendment I offer the following substitute.

The VICE PRESIDENT. It will be read.

The SECRETARY. As a substitute for the amendment of the committee, at the end of the bill, insert the following proviso:

Provided, That the passage of this act shall not be construed as a surrender of the right claimed by the United States Government to regulate the traffic passing through the Panama Canal by giving to vessels engaged in the coastwise trade of the United States and other vessels of the United States and its citizens either partial or total exemption from the payment of tolls when passing through said canal.

Mr. NORRIS. Mr. President, I have no desire to discuss this particular question now. I understand that the Senator from Iowa [Mr. CUMMINS] wants to proceed.

Mr. CUMMINS. I had it in my mind to make some observations upon this subject, but I want to submit them in connection with the amendment which I have offered to the bill. However, I am rather inclined to prefer to say what I have to say, at least upon one phase of the subject, before a vote is taken upon the substitute offered by the Senator from Nebraska.

Mr. NORRIS. I anticipated, I will say, that there are probably several other Senators who will want to debate this amendment. I have no desire, of course, to crowd it to a vote now, although I am ready to discuss it. Before we vote upon it I expect to discuss it at sufficient length to make its meaning and application plain.

Mr. CUMMINS. Mr. President, although I shall defer the consideration of the treaty generally until the amendment I have proposed is before the Senate, there is a preliminary matter upon which I desire to say a few words.

I was impressed yesterday with a statement in the argument of the Senator from Idaho [Mr. BORAH], and it is his address which leads me to the suggestions I am about to make. He said that there are Senators here who, contrary to the general rule which prevails everywhere, and which has prevailed from time immemorial, intend to solve any doubt with regard to the interpretation of the treaty against their own country. I do not intend to reiterate what he said so eloquently and so forcibly, but I do desire to say that his statement comprised but half the truth.

It seems that there are Senators and there are persons in the United States who are determined to give the treaty an interpretation vastly more unfavorable to the United States than has ever been suggested directly or indirectly by Great Britain. It is an amazing, extraordinary spectacle now presented not only to the American people, but to the people of the whole world. We are about to give to Great Britain rights that she does not claim under this treaty. We are about to surrender to her privileges upon which she has never insisted. We are about to abandon a portion of the sovereignty of the United States that has never been challenged by any nation in so far as I know.

This is an extraordinary, unusual, unprecedented position upon the part of some of our own people, and I am not a partisan about this, because these people, in so far as they are Senators, sit on this side of the Chamber as well as upon that side, and in so far as they are not within these walls are indiscriminately Republicans and Democrats.

I must not be understood as trying to awaken any party feeling. The consideration of this subject ought to be lifted high and far above any partisan rancor or partisan differences of opinion. In view of the fact that the debate is practically ended and everything that can be said upon either side has been said, I am about to inquire with a little care and somewhat analytically just what Great Britain has demanded of the United States. I am about to inquire into her construction of the treaty and the reasons that she gives for the conclusions to which she has come.

I am not one of the Senators or persons to whom the distinguished Senator from New York [Mr. ROOT] referred the other day when he implied that there were men who believed that the attitude of Great Britain was insolent or unfriendly. I rather admire the attitude of Great Britain. Great Britain is a strong, resolute nation. She is now and she always has been. She takes all that she can and she keeps all she takes. Her attitude here in insisting upon her rights as she views them arouses nothing in my mind but admiration and respect.

The only regret I have is that the people of this country are not as resolute in defending their privileges and their rights and their interests as Great Britain is determined in asserting and defending that construction of the treaty which she believes to be essential to the welfare of the British commerce.

Great Britain deliberately and designedly created the situation out of which grew the Clayton-Bulwer treaty. Finding the United States in a position of weakness she so manipulated the affairs of Central America, or her relation to the affairs of Central America, that it became apparently wise to enter into the obligations of this treaty.

I do not in the least think that Great Britain ever intended to cooperate in the building of a canal through Central America or over the territory of Panama. I do not believe that she intended more than to put the United States in such a position that when a canal should be built we must ask her consent to carry on the enterprise. It was one of the farsighted acts of the great British statesmen, and although they probably did not see and could not have seen the conditions of 1901, the foresight of Great Britain did result in precisely the thing which it was hoped would come about.

Not more than five or six years after Great Britain had thus surrounded the United States with this mesh of obligation she took her position toward the Suez Canal. What was it? It was an attitude of inflexible opposition, and for 10 years the influence of Great Britain prevented even the beginning of that mighty work.

Why did Great Britain interpose every obstacle that the wit of man could conceive and her vast influence with the nations of Europe could create in opposition to the building of the Suez Canal? Because she wanted no waterway between Europe and the British possessions in the East Indies. But finally her opposition was overcome, and what then resulted? Before the canal was fairly opened she began that series of maneuvers which resulted in not only the ownership of the majority or a controlling interest in the stock of the maritime canal built in

Egypt, but resulted in such a domination and control of Egypt herself that the canal became practically an English canal, as it is to this day.

I shall not attempt to weigh the moral quality of all that England has done in order to strengthen her position in the world and to promote the welfare of her commerce, but I will not be heard to criticize her for the energetic and persistent efforts she has always made to lift up and build up what she believes to be the interests of her own people.

It seems to me, Mr. President, that dealing with such a nation, keenly alive to its own welfare, keenly intelligent in perceiving every right or every shadow of right she has, Americans might well be content in confining their gratuities and their magnanimity within the limits of her demands. And yet what we are asked to do passes far beyond the English demand. We have voiced in this country an interpretation of the treaty that never came from English lips, and we are, I fear, about to surrender to her a most vital portion of our sovereignty that she has never impeached.

It is worth while, in view of that startling situation, to inquire with some particularity after this long debate just what England does ask of the United States. Even if we are to yield to her—that is, if we are to comply with that decent regard for the opinions of mankind which has been so often mentioned in the debate—if in order to hold our place in the family of nations and hold the respect of people of honor the world over we are to do what seems to be necessary in order to fully satisfy the whole demand of the remainder of the world, it is worth while to know and to have clearly in mind what that demand is.

I do not pretend to have discovered any new interpretation of this history or any new chapter in this history, but I think the attitude of England has been somewhat obscured in this long debate, and therefore I intend to call the attention of the Senate to it.

In 1912 the canal act was under consideration. It had been somewhat debated and the views of various Members of Congress had been stated with some fullness and clearness. So on the 8th day of July, 1912, Mr. Innes, then the representative of the British Government in Washington, communicated the views of his Government to our Secretary of State. I desire to read briefly from this communication, having in view what I have just stated, my desire to ascertain just what England wants the United States to do, or, rather, just what she insists the United States should do:

The proposals—

That is, the proposals of the bill that was then pending in Congress—

may be summed up as follows:
(1) To exempt all American shipping from the tolls.
(2) To refund to all American ships the tolls which they may have paid.

Neither of these proposals was contained in the bill as it finally passed.

(3) To exempt American ships engaged in the coastwise trade; (4) to repay the tolls to American ships engaged in the coastwise trade.

Of these proposals the bill finally adopted but one, namely, the exemption of American ships engaged in the coastwise trade. Mr. Innes says:

The proposal to exempt all American shipping from the payment of the tolls would, in the opinion of His Majesty's Government, involve an infraction of the treaty; nor is there, in their opinion, any difference in principle between charging tolls only to refund them and remitting tolls altogether.

There seems to have been some change in the English view with regard to that matter, and especially is there an emphatic insistence in this Chamber that while it would be dishonorable and a plain, palpable violation of our obligation to exempt coastwise shipping from tolls, it would be entirely consistent with the highest standards of honor and be entirely in harmony with the provisions of the treaty to impose a charge upon coastwise shipping as it entered the harbor of Colon and to repay to that shipping the charges so imposed as the vessel emerged from the harbor at Balboa. That is a matter for future consideration.

The result is the same in either case, and the adoption of the alternative method of refunding the tolls in preference to that of remitting them, while perhaps complying with the letter of the treaty, would still contravene its spirit.

We have not done that as yet.

It has been argued that a refund of the tolls would merely be equivalent to a subsidy and that there is nothing in the Hay-Pauncefote treaty which limits the right of the United States to subsidize its shipping. It is true that there is nothing in that treaty to prevent the United States from subsidizing its shipping, and if it granted a subsidy His Majesty's Government could not be in a position to complain. But there is a great distinction between a general subsidy, either to shipping at large or to shipping engaged in any given trade, and a subsidy calculated particularly with reference to the amount of user of the canal by the subsidized lines or vessels. If such a subsidy were granted it would not, in the opinion of His Majesty's Government, be in accordance with the obligations of the treaty.

We provided for no subsidy, save by way of exemption, and therefore to the point I have now gone there is nothing in the protest presented by Mr. Innes that is in conflict with the bill as we actually passed it. He now proceeds:

As to the proposal that exemption shall be given to vessels engaged in the coastwise trade, a more difficult question arises. If the trade should be so regulated as to make it certain that only bona fide coastwise traffic which is reserved for United States vessels would be benefited by this exemption, it may be that no objection could be taken. But it appears to my Government—

Mark now the real protest, the real objection—

But it appears to my Government that it would be impossible to frame regulations which would prevent the exemption from resulting, in fact, in a preference to United States shipping, and consequently in an infraction of the treaty.

I have now read all that part of the protest which relates to the subject.

Mr. President, I should like some Senator more potential, more eloquent, more powerful than I am to tell the people of the United States just what England objects to in this letter; that is, just what we have done that is in conflict with this letter. We have not given any ship a subsidy or a refund of tolls. We have exempted certain ships from tolls, and Mr. Innes says substantially that we have a right to exempt them from tolls, provided the regulations under which the commerce is conducted are so drawn and so enforced that the exemption applies only to coastwise commerce.

We have not as yet adopted the regulations concerning coastwise traffic through the Panama Canal. The time has not come for the promulgation of regulations concerning this commerce. We have not attempted to frame those provisions, those restrictions which would confine our exemption to coastwise commerce.

Then tell me what is it that we have done in conflict with the first protest of Great Britain against the United States with reference to this treaty. It is utterly impossible to do it. There is no Senator with wit enough, there is no Senator with intellect so keen that he can point out a single phrase of the canal act as finally passed that is in conflict with the letter written by Mr. Innes in July, 1912, and which was intended to warn the American President and the American Congress of the real position of Great Britain.

It is full of observations regarding things that we did not do, and it may be that the legislation was very materially affected by this communication. But I repeat, we did nothing in the passage of the act which can by any possibility be construed into a repudiation or into a refusal to observe the protests made by Great Britain in 1912. I now come, however, to another phase of it, and probably a more interesting one.

The bill was passed on the 24th of August, 1912. What did the bill provide? It provided, first, that the President of the United States could, if he desired to do it, discriminate between ships of the United States engaged in foreign commerce and foreign ships engaged in similar commerce. That subject was not even suggested in the letter filed by Mr. Innes in July. The bill provided, second, that coastwise ships should be exempt from all tolls. That is precisely what Mr. Innes said in July that we had a right to do, although he said he believed it would be found difficult, if not impossible, to frame regulations that would confine that exemption within its true and proper limits; but we have never reached the question of regulation; we have never attempted to make regulations having for their object the restriction of ships doing coastwise commerce to that commerce and to no other. It will be time enough to listen to Great Britain with regard to that subject when these regulations are promulgated and it is discovered that they are not efficient in protecting foreign commerce from the effects of the discrimination in favor of domestic commerce.

But we did one thing more. We exempted the ships of the Republic of Panama. Mr. Innes did not protest against that, although Lord Grey subsequently does protest against it. I have not heard a word from any Senator, and my friend from New York [Mr. ROOT] has never suggested, that we ought to be of so sensitive honor as to yield to the anticipatory demand of Great Britain with regard to the ships of Panama. Why is it that if we are to yield to Great Britain at her suggestion and adopt her construction of the treaty with regard to other things we should not yield to her construction with regard to the ships of Panama?

The bill did two further things. It forbade ships owned and controlled by railways doing business in the canal. England has protested against that with much more emphasis and much more certainty than she has protested against the exemption of our coastwise commerce, as I shall presently show.

But we did one thing more. We said that ships controlled by a trust, ships controlled by a combination in violation of law,

should not pass through the canal. England has protested against that in an anticipatory way, just as she has protested against the regulation concerning coastwise commerce. Why does not the President of the United States ask us to repeal that part of the law? Why does he not ask us to repeal the part of the law relating to the ships of Panama? Why does he not ask us to repeal the part which forbids the use of this canal by ships controlled by railway companies competing for the traffic of the country? I confess that I am utterly unable to understand that patriotism which selects just one thing that England would like to have removed from the law. I say she would like to have it removed from the law; I have no doubt of that; but she has not demanded that it be removed from the law; she has not said that our treaty requires that it shall be removed from the law. I have no doubt, however, that she would like to have it removed from the law. If we are courting the favor of the world, if it is necessary in order to stand well with the world that we pay this extreme deference to the opinions of men of other nations, why shall we not repeal that part which allows Panama's ships to go through free? Why shall we not repeal that part of it which forbids railroad-owned ships and forbids ships controlled by a trust in violation of law to pass through at all?

Mr. BORAH. Mr. President——

The PRESIDING OFFICER (Mr. SMITH of Michigan in the chair). Does the Senator from Iowa yield to the Senator from Idaho?

Mr. CUMMINS. I do.

Mr. BORAH. Perhaps the plan is to take it in broken doses. We have no right to assume that if the precedent shall be established with reference to the first, that later there will not be a demand with reference to the others.

Mr. CUMMINS. I never thought of that. Possibly those who are so insistent about the repeal of this exemption and so insistent about winning the good will of the world by the surrender of our rights, will eventually demand that we also modify the law in those respects. I can only treat of it, however, as we have it before us now.

I have now referred to the bill as it passed Congress. After it passed Congress, and about contemporaneously with the proclamation issued by President Taft fixing the tolls, a letter from Lord Grey was communicated to the United States, in which the English position is somewhat shifted, at least it is very much elaborated. I ask your attention now to the final protest or demand made by Great Britain with regard to this subject. If, after I have done that, it has not been conclusively shown that the Senators who are standing here day after day insisting that to exempt coastwise vessels of commerce from the payment of tolls is a plain violation of the treaty are insisting upon something that never entered the mind of a British statesman, I have lost the power of understanding my mother tongue. I can not understand why we want to do something for Great Britain in order to maintain our honor, which Great Britain does not seem to think we need to do in order to comply with this treaty. I am speaking now, of course, mainly to those whose votes will be influenced by the suggestion or the argument that we must heed the views of the world with regard to this matter, and especially that we must construe this agreement, the Hay-Pauncefote treaty, in the way that our adversaries construe it; that to make Great Britain feel that we are willing to fulfill every obligation into which we have entered we must adopt her construction of the treaty.

Now, mark you, I read again from the same volume, the one that has been printed by order of the Senate, a letter which was written on the 9th of December, 1912, and which will be found at page 85 of the Diplomatic History of the Panama Canal. After reciting the history of the relations between Great Britain and the United States growing out of the Clayton-Bulwer treaty—a subject on which I may have something to say later—I come to that part of the letter which points out the objection which Great Britain has to the law which we passed, and to repeal a part of which this bill is now before us.

It remains to consider—

Says Lord Grey on page 90:

> It remains to consider whether the Panama Canal act, in its present form, conflicts with the treaty rights to which His Majesty's Government maintain they are entitled.
>
> Under section 5 of the act the President is given, within certain defined limits, the right to fix the tolls, but no tolls are to be levied upon ships engaged in the coastwise trade of the United States, and the tolls, when based upon net registered tonnage for ships of commerce, are not to exceed $1.25 per net registered ton, nor be less, other than for vessels of the United States and its citizens, than the estimated proportionate cost of the actual maintenance and operation of the canal. There is also an exception for the exemptions granted by article 19 of the convention with Panama of 1903.

England couples in the same sentence and under the same objection the authority given by the act to the President to establish a different rate of toll upon our foreign commerce from that which is attached to the ships of other countries and the exemption in favor of the vessels of war belonging to the Republic of Panama. They are put together; they stand together in the opinion of Great Britain.

I have no doubt that giving to the President of the United States the power to attach a different charge for our ships engaged in foreign commerce than is attached to foreign ships engaged in the same kind of commerce is a violation of this treaty, provided we are bound by the rules concerning which so much has been said, and it is very plain that England protested against the power thus given to the President of the United States, and, under her view of the treaty, she had a right to protest; but bear in mind that in the very breath in which she protested against that, she protested against the exemption of the ships belonging to the Republic of Panama.

Now, I proceed with this category of objections:

> The effect of these provisions is that vessels engaged in the coastwise trade will contribute nothing to the upkeep of the canal. Similarly vessels belonging to the Government of the Republic of Panama will, in pursuance of the treaty of 1903, contribute nothing to the upkeep of the canal. Again, in the cases where tolls are levied, the tolls in the case of ships belonging to the United States and its citizens may be fixed at a lower rate than in the case of foreign ships and may be less than the estimated proportionate cost of the actual maintenance and operation of the canal.

This reasoning was upon an entirely erroneous basis. In the proclamation issued by the President and upon the information then possessed by the President, all the ships that were expected to pass through the canal were taken into consideration in determining the tolls that should be charged to foreign ships, and foreign ships were not required to pay any part of the cost of maintenance or operation or interest upon the investment that could be justly attributed to the passage of either the ships of Panama or our coastwise vessels. That, of course, has been made perfectly clear since that time; and the protest or objection of Great Britain in this respect is entirely without foundation.

Now, mark this:

> In the second place, the exemption will, in the opinion of His Majesty's Government, be a violation of the equal treatment secured by the treaty, as it will put the "coastwise trade" in a preferential position as regards other shipping.

Here is a reference to the exemption in the law of coastwise trade. Is there any objection to it as coastwise trade? No. England never has in any way even suggested that we had not a right to exempt our real coastwise trade from the payment of tolls; but Lord Grey proceeds:

> Coastwise trade can not be circumscribed so completely that benefits conferred upon it will not affect vessels engaged in the foreign trade.

That is the objection that England has to the exemption of coastwise vessels—not that we have not a right to deal with them as we like; but we must so deal with them that their exemption will not affect vessels engaged in the foreign trade; that is to say, so that it will not affect their foreign commerce.

> To take an example, if cargo intended for a United States port beyond the canal, either from east or west, and shipped on board a foreign ship could be sent to its destination more cheaply, through the operation of the proposed exemption, by being landed at a United States port before reaching the canal, and then sent on as coastwise trade, shippers would benefit by adopting this course in preference to sending the goods direct to their destination through the canal on board the foreign ship.

If our exemption results in that, if our regulations do not prevent that evasion, or, rather, that abuse, of the coastwise privilege, then, of course, a coastwise ship would stand, in the estimation of Great Britain, upon exactly the same basis as a ship engaged in foreign commerce; but if we can by regulation prevent that result, this record is free and clear of any protest or any objection on the part of Great Britain, and it has never been claimed by her most enthusiastic and ardent supporters or her most patriotic and loyal statesmen that, as to coastwise trade itself, we have not a right to deal with it as we like and that it is within the provisions of this treaty.

I see that the Senator from Georgia [Mr. SMITH] is now in his seat, and I have this to say with regard to his argument yesterday as to the difference between ships or the owners of ships and commerce. In all the correspondence with Great Britain in the two protests or arguments which have been made by Great Britain, there is never the suggestion of the distinction relied upon by the Senator from Georgia. Great Britain does not claim that there is any discrimination against the people of Canada because our coastwise vessels carrying trade between ports of the United States pass through the Panama Canal free. It is impossible to extort or to wring any such interpretation out of the communications between the two countries.

Mr. SMITH of Georgia. Mr. President——

The PRESIDING OFFICER. Does the Senator from Iowa yield to the Senator from Georgia?

Mr. CUMMINS. In just a moment. I am not entering just at this moment into an argument upon the merits of that difference, if there be one; I am only calling the attention of the Senator from Georgia to the fact that Great Britain, in informing us why we should not insist upon this law, has not made the distinction; and, in my opinion, she has not done so, because there is no room for that distinction in the Hay-Pauncefote treaty. I now gladly yield to the Senator from Georgia.

Mr. SMITH of Georgia. Mr. President, I do not desire to inject into the Senator's speech any discussion of that subject. I only want to say this: I do not understand, even when we forced our construction of the Welland Canal treaty, that Canada and Great Britain conceded that we were right; they yielded to our contention. My insistence was simply that the construction that we had placed upon that treaty would be entirely applicable to this one. That was the line of thought which I presented.

Mr. CUMMINS. Mr. President, I understood the general trend of the argument of the Senator from Georgia, but I could not help thinking when he made it that just before his speech came the very eloquent oration of the Senator from North Carolina [Mr. SIMMONS], in which he based his change of opinion upon the "flood of light" which had poured in upon this subject since 1912. I suppose that the same flood of light may illuminate the American mind and the American conscience with respect to our contention in regard to the Welland Canal; and if Senators upon the other side of the Chamber especially, can change their minds in two years with regard to the meaning of words and the interpretation of a treaty; if they can change their minds with regard to our rights under the treaty and what we should insist upon, can we not do the same thing when we are sought to be held up to the standard of the insistence with regard to the Welland Canal?

I will not enter into the argument as to the Welland Canal. I think that there can be a very clear distinction made, and it has been made in part; but even if we did do it in regard to the Welland Canal and were wrong, why should we not be right now? Why should we be bound by that precedent any more than the Senator from Georgia is bound by his precedent in 1912, and especially any more than the Senator from North Carolina should be bound by his declarations in the great debate of that year?

I have no criticism upon a man or a nation that changes his or its mind. I am assuming that many of the Senators on the other side of this Chamber have reconsidered their judgment and have changed their convictions either because of additional reflection or because of additional evidence—of facts brought to light which were not known then. It does them the very highest credit to frankly confess their error in 1912 and to take up the path which their best judgment requires them now to follow; but you can not say in the same breath that Blaine or Harrison or Cleveland insisted upon the right thing in the Welland Canal simply because they did insist upon it, and adopt that as a guide in the construction of this treaty, any more than you can hold your own record inviolate against change at this time. You have changed, nearly all of you, and, as I have said, far be it from me to disparage or discourage the tendency to be illuminated by new floods of light. I am glad that you are able occasionally to see the sunshine in all its clearness; and I am glad when any man is courageous enough to stand up here and say that he did not know in 1912 that we were granting a subsidy to coastwise ships, but subsequent reflection has convinced him that we were. That is the courageous thing to do, though I do not think that anybody ever doubted that this favor to coastwise ships is a subsidy. It was stated in 1901 that it was a subsidy. John Hay understood that it was a subsidy, if there was any favor granted. Secretary Knox understood that it was a subsidy when he exchanged letters with Lord Grey in 1912; and that it is a subsidy, in the broad sense of that word, no intelligent man can deny; and that it was just as plainly a subsidy in 1912 as it is in 1914 no intelligent man will deny; and I find it hard to discover the "flood of light" which makes the meaning of that word any clearer now than it was then.

I proceed, however. I have now given one of the reasons which the British Government set forth in objection to exemption from tolls upon coastwise traffic. The second one is:

> Again, although certain privileges are granted to vessels engaged in an exclusively coastwise trade, His Majesty's Government are given to understand that there is nothing in the laws of the United States which prevents any United States ship from combining foreign commerce with coastwise trade, and consequently from entering into direct competition with foreign vessels while remaining "prima facie" entitled to the privilege of free passage through the canal. Moreover, any restriction which may be deemed to be now applicable might at any time be removed by legislation, or even, perhaps, by mere changes in the regulations.

There is the second reason given by the British Government for what I call the anticipatory protest against coastwise exemption. It is that there is nothing in our law that will prevent a coastwise ship from entering a foreign port and doing business between that port and an American port.

I assume that there is nothing in our law that will prevent a ship from so carrying on commerce; but that does not touch the question. The regulations which are provided for in the canal act are the vital things regarding coastwise trade. While I do not at all agree with the construction of the treaty that is insisted upon here—namely, that we can not deal with our ships, either foreign or domestic, as we please—yet, assuming that we can not discriminate in favor of our foreign trade, why can we not discriminate in favor of our domestic trade?

England grants that we can; England concedes it, and she simply insists that when we do exempt the coastwise trade we must so exempt it that the trade of foreign countries can not be discriminated against under the pretext that the ship is engaged in coastwise trade. If, however, we provide in the regulations against the first contingency, which I mentioned a few moments ago, and if we provide against the second contingency—namely, that a ship enjoying the exemption which we have here provided shall not enter a foreign port and do business upon the voyage during which she receives the exemption, between a foreign port and a domestic port—we have answered the objection of Great Britain, because her protest is not against the exemption of coastwise trade; it is against the abuse to which that exemption may lead. She simply asks the United States to "see to it that these ships of yours which are passed through the canal without charge shall not engage in foreign trade, and that the cargo which they bear shall not be so manipulated that it will be really a cargo destined from a foreign country to our country, or destined from our country to a foreign country." This is all that Great Britain has asked.

I have now considered all that the British Government has said with regard to our coastwise trade, and I again challenge contradiction of my interpretation of these communications. You will search in vain for any objection on the part of Great Britain to the exemption from tolls of our coastwise trade. You will find, however, in these communications the claim that this law which does exempt coastwise trade can not be administered so that it will not really exempt foreign trade as well as coastwise trade.

If we are able to frame regulations that will hold this trade within its limits, then, if we refuse to exempt our coastwise vessels, we shall have done something that our adversary—and I am speaking of Great Britain as our adversary in a purely contractual way—has not asked us to do and we shall have put upon this treaty a construction against the United States which never has been demanded by the other high party to the obligation.

I can not understand why, in the consideration of a treaty right, Americans can bring the approval of their consciences to insist upon an interpretation of the treaty that destroys an interest in the United States which our friends across the sea admit is not required by the terms of the treaty. I have yet to hear any explanation of that situation and that view taken by any Senator.

The senior Senator from Georgia [Mr. SMITH] says that he has no doubt that neither the coastwise trade nor the foreign trade can be exempted under this treaty, and the senior Senator from New York [Mr. ROOT] says the same thing. I know they are sincere about that. Now, England agrees with you with regard to the foreign trade. She has objected to the power that we have given to the President to discriminate in charges between our foreign trade and her foreign trade; but England, looking upon this treaty with an eye single to her own interests, at least unprejudiced so far as her own people are concerned, does not say, as the Senator from Georgia declares or as the Senator from New York declares, that we can not exempt our coastwise trade, and that is an excess of sensitiveness that I confess I do not appreciate.

Knowing Great Britain as we do, understanding her history as we understand it, valuing her friendship as we value it, appreciating the intellectuality of her statesmen as we have reason to appreciate it, it seems to me that it might be well for us at least to go no farther in the construction of this treaty against ourselves than is required by the insistence of that great country, and she has admitted diplomatically, as clearly as the English language can admit anything, that we may exempt our coastwise trade from tolls.

Now, mark you, I am not saying here nor at any time that I believe that any ship engaged in business for profit ought to pass through the canal free. I shall show hereafter, at least to my own satisfaction, that no ship ought to pass through the canal free. That, however, is a domestic question. That means simply a consideration of the rights of our own people. What we are now doing is to consider what the treaty means. This debate has pointed our action toward an interpretation of the treaty, as was seen by the message of the President which brought about the consideration of the bill.

Mr. WORKS. Mr. President——

The PRESIDING OFFICER. Does the Senator from Iowa yield to the Senator from California?

Mr. CUMMINS. I do.

Mr. WORKS. Before the Senator passes to that subject I should like to ask him whether, in his judgment, the ships passing through other canals owned or constructed by the Government should pass free of tolls? In other words, why should there be any discrimination in that respect as between other canals and the Panama Canal?

Mr. CUMMINS. Mr. President, I intend to answer that question fully later on, but I answer it now by saying that every subsidy must be considered in and of itself. No subsidy is warranted unless it results in the general good. It is a violation of the fundamental principles of government to take from the Public Treasury any sum of money and expend it save for the public good.

We are subsidizing people and things all the time. The last Agricultural appropriation bill, amounting to $20,000,000, contained at least $10,000,000 of pure subsidies. We thought those subsidies were warranted because we believed that, although intended for and although resulting in the profit of a particular class of our citizens, yet in the end they promote the general, common good. If I believed that to exempt coastwise ships from any toll whatsoever in passing through the Panama Canal would result in the general good, I should not hesitate to grant them the subsidies that would be involved in that transaction.

When it comes to the consideration of vessels passing through tht Sault Ste. Marie Canal, or passing over our rivers, or into our harbors, if we allow them to use these facilities without payment, which is the equivalent of a subsidy, and that free use does not promote the common good—if the benefit which arises out of the use is not so generally diffused among all the people as to give them practically and substantially an even share in the advantage or benefit—we ought not to do it.

I am not prepared to say, Mr. President, that we ought to allow ships to pass through the Sault Ste. Marie Canal without tolls. I do not know. I have not investigated the subject sufficiently to have a definite or final opinion with regard to the matter. I have, however, examined this particular subject of the Panama Canal sufficiently to believe that the American commerce that passes through it should bear its fair proportion of the expense of the service that the United States renders to it. At another time I shall attempt to show what proportion of the expense of the service, or what proportion of the investment and the cost of maintenance and operation, ought to be charged upon our commerce and what proportion ought to be charged to the people generally, because the canal was built, the money was spent in its construction, and will be spent in its maintenance and operation, largely for the national defense. Therefore that part of it which has been or shall be spent for the national defense ought not to be charged upon commerce; and it is just as unfair to charge American ships the same toll that is charged to foreign ships as it is to allow American ships to pass through without any charge whatsoever.

Mr. WORKS. Mr. President——

The PRESIDING OFFICER. Does the Senator from Iowa yield to the Senator from California?

Mr. CUMMINS. I yield to the Senator.

Mr. WORKS. The Senator has not answered my question.

Mr. CUMMINS. Nor can I.

Mr. WORKS. I hope the Senator may be able to do so at some future time. If, however, the Senator insists that ships passing through the Panama Canal should be required to pay tolls, and has not investigated the question whether other ships passing through other canals should do the same thing, I think it is about time that he should investigate those figures, because it is certainly an injustice to exact tolls from ships passing through the Panama Canal and relieve our ships passing through other canals from that charge, as a matter of principle.

Mr. CUMMINS. That may very well be, Mr. President, and I express no opinion upon it; but it is not a question of principle anywhere at any time. It is simply a question whether the service that we are rendering the ships at the Sault Ste. Marie Canal is for the general good. I do not know whether it is or not. I do not know whether it is so promotive of the general good as to warrant the free passage of those ships. I have not entered into the subject. It may be that the Senator from California is entirely right about it; but you can not announce as a general principle that all expenditures of the public money are for the general good. Each case must stand upon its own foundation.

Mr. KERN. Mr. President——

The PRESIDING OFFICER (Mr. SMITH of Michigan in the chair). Does the Senator from Iowa yield to the Senator from Indiana?

Mr. CUMMINS. I do.

Mr. KERN. A number of Members on both sides of the Chamber have expressed a desire that there should be an adjournment had at this time in order that they may attend the exercises at Arlington this afternoon, which are to be participated in by the ex-soldiers of the late war on both sides, it being the first occasion, I think, where the soldiers of the two contending armies of long ago have had a reunion in the National Capital. In deference to that desire, I move that the Senate adjourn until 11 o'clock to-morrow morning.

Mr. O'GORMAN. I ask that the canal-tolls bill may be temporarily laid aside.

The PRESIDING OFFICER. Is there objection? The Chair hears none.

Mr. SMITH of Georgia. Mr. President, before that is done——

Mr. KERN. I withhold the motion for the present.

THE INCOME TAX.

Mr. SMITH of Georgia. I ask permission to report Senate joint resolution 155, to which I referred earlier in the day, and which relieves those subject to the income tax of its penalties for not making a return before the 1st of March. There is not a Senator who has not an interest in it, and we would have put it through this morning, but it was suggested that an addition should be made. I have prepared this addition:

And penalties which have been paid are hereby remitted and directed to be returned.

I ask unanimous consent for the present consideration of the joint resolution.

The PRESIDING OFFICER. Is there objection to the present consideration of the joint resolution?

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the joint resolution (S. J. Res. 155) to remit under certain conditions and for the year 1914 the penalties provided by the act approved October 3, 1913, for failure to properly return the income tax provided for in said act in cases where said returns are completed by June 1, 1914.

Mr. SMITH of Georgia. I send to the desk an amendment, which I ask to have read.

The PRESIDING OFFICER. The amendment will be stated.

The SECRETARY. It is proposed to add at the end of the joint resolution the following:

And penalties which have been paid are hereby remitted and directed to be returned.

So as to make the joint resolution read:

Whereas the income tax has gone into effect for the first time during the present year; and

Whereas through misapprehension of the law many parties have failed to make their proper returns prior to March 1, 1914: Therefore be it

Resolved, etc., That the penalties provided by the act approved October 3, 1913, for failure to properly return the income tax provided for in said act, be, and the same are hereby, remitted for the present year in all cases where said returns are completed by June 1 of the present year, and where the failure to make said returns was not due to a purpose willfully to refrain from making the same; and penalties which have been paid are hereby remitted and directed to be returned.

The amendment was agreed to.

The joint resolution was reported to the Senate as amended, and the amendment was concurred in.

The joint resolution was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. KERN. I renew my motion, with the understanding that it may be necessary to have a session to-morrow night, in order to make up for the time lost this afternoon.

Mr. BORAH. Mr. President——

The PRESIDING OFFICER. A motion to adjourn is not debatable.

Mr. CUMMINS. There is no agreement about it.

The PRESIDING OFFICER. The motion is not debatable. The Chair will put the motion.

The motion was agreed to; and (at 2 o'clock and 25 minutes p. m.) the Senate adjourned until to-morrow, Friday, June 5, 1914, at 11 o'clock a. m.

HOUSE OF REPRESENTATIVES.

THURSDAY, *June 4, 1914.*

The House met at 11 o'clock a. m.

The Chaplain, Rev. Henry N. Couden, D. D., offered the following prayer:

We lift up our hearts in gratitude to Thee, our Father in heaven, that we are living in the opening years of the twentieth century; that we are citizens of the United States of America; that the religion which fills our breasts inspires to nobler life and holier living; that pessimism invites defeat, while optimism insures victory; that love, the crown of all humanity, will outlast the stars and live on forever in immortal youth. So may we trust, so may we hope, so may we aspire. In the spirit of the Lord Jesus Christ. Amen.

The Journal of the proceedings of yesterday was read and approved.

PRINTING OF PETITIONS.

Mr. WILLIS. Mr. Speaker, I desire to submit a parliamentary inquiry, or, rather, to propound a question to the Speaker.

The SPEAKER. The gentleman will state it.

Mr. WILLIS. Mr. Speaker, I notice, in examining the RECORD, that differences seem to obtain in the practice of different Members in the way in which they present petitions and have them printed in the RECORD. All Members, of course, receive petitions signed by a large number of people, and I notice that some Members present them in a particular form, simply giving the name of the person who heads the list of the petitioners and giving the subject about which the petition is presented, and stating generally the number of other people who sign the petition, while other Members have printed in the RECORD the names of all of the signers of the petition. I desire to inquire of the Speaker what the proper practice is in that particular?

The SPEAKER. The practice is to put the petitions in the basket, with any kind of indorsement thereon which the Member may desire.

Mr. MURDOCK. Mr. Speaker, will the Chair permit me to interrupt him?

The SPEAKER. Certainly.

Mr. MURDOCK. Mr. Speaker, I desire to say that I went through this agony a short time ago, and I found that one can get from the office of the Clerk little slips, and whatever the Member writes on that slip which accompanies the petition is printed in the RECORD.

Mr. WILLIS. Mr. Speaker, will the gentleman from Kansas yield?

Mr. MURDOCK. Certainly.

Mr. WILLIS. I understand about that. There is no difficulty about that whatever. I have written whatever I desired on the jacket which I always have prepared with the petition, and that is always printed, but I am trying to ascertain what the proper practice is.

Mr. MURDOCK. I have found that that is not the case, that I could not get into the RECORD what I wrote on the jacket.

Mr. WILLIS. I suggest that the gentleman probably wrote something that he ought not to have written.

The SPEAKER. The Chair will give his own experience about the matter. He started in at first to make an individual indorsement on each one of these petitions, but there were so many that it imposed on the clerks too much work, so he fastened them together and wrote on the back, "Petition from John Jones and several others."

Mr. MANN. Mr. Speaker, I noticed in the RECORD the other day, and I do not know how often that may have occurred, where some gentleman presented a petition from certain persons, giving the list of names a column long. I think that is a gross abuse of the use of the RECORD. It is an impossibility to maintain the RECORD and have the name of every person attached to a petition printed in the RECORD, as a part of the index, practically, of the petition.

Mr. BARNHART. Mr. Speaker, will the gentleman yield?

Mr. MANN. Certainly.

Mr. BARNHART. That probably occurred because some Member on the floor rose and asked unanimous consent to have it done.

Mr. MANN. No; that is not the case at all. This was a petition presented through the basket, and I think the Committee on Printing ought to stop it.

Mr. BARNHART. I do not understand how the Committee on Printing has any authority to do that.

Mr. MANN. The Committee on Printing has control over the printing of these matters in the RECORD.

Mr. BARNHART. Yes; but they are presented and printed before the Printing Committee knows anything about it, and so long as there is no rule established against it there is no way of preventing a man from printing, as you say occurs in the RECORD, a long list of names of petitioners and also a speech some 10 pages long consisting mostly of what somebody said about somebody somewhere.

Mr. WILLIS. Mr. Speaker, will the gentleman yield?

Mr. BARNHART. Certainly.

Mr. WILLIS. What we are talking about here is not what is put into the RECORD under leave to print by unanimous consent, but the printing of a large number of names of signers to petitions, and if the gentleman will look in the RECORD he will discover in a recent copy that there was a full column of names printed.

Mr. BARNHART. I saw it.

Mr. WILLIS. If every other Member of the House did the same thing and printed the names of all of his constituents, as he might like to do, there would not be anything in the RECORD except names. For example, in the last Congress I presented a petition with nearly 2,000 names on it; this, if printed in full, would have filled many pages of the RECORD. However, in that instance I followed my usual practice in presenting petitions and gave only the name of the person heading the petition, the number of signers, and the substance of the petition. What is the opinion of the gentleman as to the proper practice?

Mr. BARNHART. The proper practice when a petition is introduced is to write out on a slip and attach it to the petition something to the effect that these are petitions for or against so-and-so from citizens of so-and-so.

Mr. WILLIS. In the "so-and-so" does the gentleman mean to state the names of all of the signers or to simply give the number?

Mr. BARNHART. Of course, he should not print the names of the signers; but there is no means by which a Member of Congress can be regulated in his disposition to abuse the privilege of the RECORD. That is up to the individual.

Mr. WILLIS. The gentleman does consider the printing of a column of names an abuse of the privilege?

Mr. BARNHART. Certainly; and so does every other Member, including the gentleman from Ohio.

Mr. WILLIS. I quite agree with the gentleman.

Mr. MANN. Mr. Speaker, that is not the privilege of a Member at all. A Member does not decide the caption under which these are printed, except as a matter of common consent on the part of the printing clerk. There are in this morning's RECORD petitions with names nearly a column long. I had not noticed that until a moment ago, but a few days ago the same Member inserted petitions with names a column long. I have a petition in my office that would cover several pages of names in the RECORD. Does the gentleman from Indiana mean to say that every Member has the right to have all of these names printed in the RECORD?

Mr. BARNHART. The gentleman from Indiana is not prepared to say, for he is not advised of any rule of the House which prevents it. Along the lines of the same general abuse of the RECORD I recall that a few weeks ago one Member of this House utilized 26 pages of the RECORD to print in full every bill that he has introduced since the beginning of this session.

Mr. MANN. Well, the gentleman is talking about leave to print, and that is not what we are talking about. These petitions are indexed; they are under title; the printing clerk determines that and determines it, or should determine it, under the direction of the Committee on Printing or the Speaker.

The SPEAKER. Those of us who have been here any considerable length of time remember on one occasion—I have forgotten what it was about—there were petitions brought in here on one subject that took six or eight men to carry them in, and if all those names had been printed it would have taken five or six hundred pages in the CONGRESSIONAL RECORD.

Mr. FESS. Will the gentleman from Indiana yield?

Mr. BARNHART. I yield.

Mr. FESS. I have received from some parts of my district a resolution printed on postal cards, with a blank left to put in the name, and I think I have received as many as 150 of those in one mail, all sent out at once, the gentleman understands. My practice is to put these together, bind them together, and put on the slip for the direction of the clerk, "Petition on so-and-so, signed by so-and-so and others."

Mr. BARNHART. Well, my idea of that is it is a better way, when a petition is introduced, to say on a memorandum slip attached petition in favor of whatever the subject matter may be, from citizens of Kokomo, Keokuk, Kalamazoo, and so on. That is the shortest method of listing and labeling.

Mr. FESS. Suppose the resolutions are on postal cards and you have got a thousand of them?

Mr. BARNHART. They are from a certain post office or certain post offices, and this plan would cover all succinctly.

The SPEAKER. Put on the back "John Smith et al."

Mr. MURDOCK. Mr. Speaker, while this matter is up I want to propound an inquiry to the Speaker for my own information, and I think it will inform the House. We have a temporary CONGRESSIONAL RECORD and a permanent CONGRESSIONAL RECORD. How long after the temporary RECORD is the permanent RECORD made up? I ask the question because in the RECORD this morning——

The SPEAKER. It used to be four days.

Mr. MANN. It is about 10 days.

The SPEAKER. But they have stretched it now gradually until it is about a week or more, but it is a good deal safer to get it in in the four days.

Mr. MURDOCK. In this morning's RECORD is a speech made by the gentleman from Virginia [Mr. GLASS] on the currency conference report on December 22, 1913. How can that get into the permanent RECORD?

Mr. MANN. It can get in the appendix.

The SPEAKER. It goes automatically into the permanent RECORD.

Mr. MURDOCK. But the permanent RECORD in this case has been printed months ago.

Mr. MANN. It goes in the appendix.

The SPEAKER. It goes in the appendix.

Mr. MURDOCK. The Speaker says that you do get it into some sort of a permanent RECORD in spite of the rule about the four days.

Mr. MANN. There is no rule about it.

Mr. MURDOCK. Well, the practice.

The SPEAKER. The four days' limit, or whatever it is now—it has been stretched, as I said before—was intended to give a chance for revision, straightening out the grammar, spelling, and so on.

Mr. MURDOCK. And if you do not get it in within the time limit, it goes into the appendix.

The SPEAKER. If you do get in the revised remarks within the limit, it goes in first as in the temporary RECORD, and if you leave it out past the time they make up the permanent RECORD, it goes in the appendix. That is the only place it could go. I know that I undertook to hunt up one of the greatest speeches that was ever made in the Senate, one by the Hon. James S. Green, of Missouri, a speech on the Le Compton constitution, and I hunted it up for a week before I could find it, and I had to go way back in an appendix somewhere to find it.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. Tulley, one of its clerks, announced that the Senate had passed, with amendments, bill of the following title, in which the concurrence of the House of Representatives was requested:

H. R. 14034. An act making appropriations for the Naval Service for the fiscal year ending June 30, 1915, and for other purposes.

The message also announced that the Senate had passed joint resolution of the following title, in which the concurrence of the House of Representatives was requested:

S. J. Res. 148. Joint resolution authorizing the President to extend invitations to foreign Governments to participate, through their accredited diplomatic agents to the United States, in the National Star-Spangled Banner Centennial Celebration.

SENATE BILL REFERRED.

Under clause 2 of Rule XXIV, Senate bill of the following title was taken from the Speaker's table and referred to its appropriate committee, as indicated below:

S. 4741. An act for the protection of the water supply of the city of Salt Lake City, Utah; to the Committee on the Public Lands.

SPEECH OF HON. JAMES M. MONROE.

Mr. LINTHICUM. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD by inserting a speech of Hon. James M. Monroe, of Annapolis, delivered at the Maryland Agricultural College on the 30th of May, 1914, wherein he depicts the organization and establishment of the first agricultural college in this country.

Mr. BARNHART. Mr. Speaker, I object.

REGULATION OF RAILWAY STOCKS AND BONDS.

The SPEAKER. The House automatically resolves itself——

Mr. ADAMSON. Before doing that, Mr. Speaker, I would like to ask the House to make an agreement in reference to the session. General debate will not quite be ended at 5.30, but it will be soon after the committee resumes its session after the recess, and I ask unanimous consent that we may proceed with the reading under the five-minute rule until not later than 11 o'clock to-night.

The SPEAKER. The gentleman from Georgia asks unanimous consent to modify the rule under which we are operating to the extent that when the committee resumes its session at 8 o'clock when general debate is finished the committee may proceed with the five-minute debate until not later than 11 o'clock.

Mr. STEVENS of Minnesota. Mr. Speaker, reserving the right to object, I would ask the gentleman how he calculates the time when general debate will be exhausted?

Mr. ADAMSON. My understanding is there are about seven hours remaining on the two sides, and that will carry us beyond 6 o'clock.

Mr. STEVENS of Minnesota. Mr. Speaker, I do not believe the House would care to take up this bill under the five-minute rule in the evening; it is too important.

Mr. ADAMSON. There is a general desire to complete this bill this week, and I heartily concur in that desire myself.

Mr. STEVENS of Minnesota. Mr. Speaker, the bill has only one section, and the five-minute debate can not be very extensive if the committee does not desire it to be so.

Mr. ADAMSON. I do not wish to ask the House to burden itself with any inconvenience at all, but I would be glad to get along with the bill. You do not know how long the five-minute reading is going to last.

Mr. MANN. Mr. Speaker, I would like to get through with this bill as soon as possible, and hoped that we might get a vote to-morrow, but I do not believe it is desirable to have the bill considered under the five-minute rule to-night. I think the gentleman would do a favor to the House if he would ask unanimous consent that there be no evening session, whether he finishes his general debate to-night or not.

Mr. ADAMSON. Mr. Speaker, inasmuch as my first request does not seem to meet with favor, I am going to withdraw it, and in lieu thereof make the request that general debate be concluded before we adjourn, and then we will have no recess.

Mr. MURDOCK. Then not take up the bill under the five-minute rule to-day?

Mr. ADAMSON. No evening session.

Mr. MURDOCK. What the gentleman wants to do is to dispense with that part of the rule of the House adjourning at 5.30 until 8 o'clock p. m.?

Mr. ADAMSON. To dispense with the recess.

Mr. BARNHART. Mr. Speaker, this is probably one of the most important bills in behalf of human welfare on which I have ever voted or ever shall vote, and I beg the indulgence of Members while I briefly speak of a personal matter. There is a very attractive event ahead of me for Saturday evening at 8 o'clock, in Indiana, one of the most important of the pleasant ones of my life, and which takes me home. It is to meet a manly son and a splendid girl at a bridal altar and welcome her to my family circle; and much as I want to have the honor of voting for this antitrust legislation I am going to witness the start in life of these two young people and wish them God's blessing, vote or no vote, as the bill is going to pass by an overwhelming majority, anyhow. And so, Mr. Speaker, if there is any criticism of the request of the gentleman from Georgia in charge of the bill, let me hear it. If the proposed hastening of the passage of these bills would be in any way detrimental to wholesome results, I would not have suggested it. Instead, I believe a little more hurry up by Congress would be applauded by the country.

That, however, is neither here nor there. I asked the chairman of the committee if he thought it possible to hold an evening session, so that we could reach a vote to-morrow. He graciously said that he would be glad to do anything to that end that he could. I have been here a number of years, you have all been kind to me, and this is an important bill to me, but I do not wish to urge any special favor. However, if we could commence this evening under the five-minute rule, so that we might have a vote to-morrow, I would like very much to do so. But if this is not in harmony with the judgment of those interested in making this legislation the best possible, I cheerfully abide your pleasure.

Mr. MANN. Mr. Speaker, I worked very hard the other day to hurry through the Clayton bill in order to accommodate the gentleman from Indiana as to his event, for which I got soundly scolded on this side of the House. I do not see how it is possible to dispose of this bill at an evening session to-night. Surely some one would make the point of no quorum, and there would not be a quorum here.

Mr. ADAMSON. We might authorize the gentleman to vote by proxy, and let him go on and celebrate his glad event.

The SPEAKER. The gentleman from Georgia [Mr. ADAMSON] asks unanimous consent to modify the rule under which we are operating, to the extent that we take a recess at not later than half past 5, be done away with, that there be no night session, and that we continue the debate on this bill until general debate is finished before adjournment.

Mr. MANN. I suggest that the gentleman do not ask the last. The gentleman has it in his power to continue general debate if the other is set aside, but there might be some emergency.

The SPEAKER. The gentleman asks unanimous consent, then, to modify the rule so as to do away with taking a recess at not later than half past 5.

Mr. ADAMSON. All I desire is to complete general debate before we adjourn to-day.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none, and it is so ordered.

The House resolves itself automatically into the Committee of the Whole House on the state of the Union for the further consideration of the bill H. R. 16586, and the gentleman from Tennessee [Mr. HULL] will take the chair.

The CHAIRMAN. The House is in Committee of the Whole House on the state of the Union for the further consideration of the bill H. R. 16586 and other bills embraced in the special order of the House. The Clerk will report the bill.

The Clerk read as follows:

A bill (H. R. 16586) to amend section 20 of an act to regulate commerce.

Mr. ADAMSON. Mr. Chairman, will you kindly announce how the time stands?

The CHAIRMAN. The gentleman from Georgia [Mr. ADAMSON] has consumed an hour and 41 minutes and the gentleman from Minnesota [Mr. STEVENS] 1 hour and 8 minutes.

Mr. ADAMSON. Mr. Chairman, I hope the gentleman from Minnesota [Mr. STEVENS] will consume some time now. However, the gentleman from Ohio [Mr. GORDON] desires me to yield to him one-half minute.

Mr. GORDON. Mr. Chairman, I avail myself of the privilege under the rules to extend my remarks in the RECORD.

Mr. ADAMSON. Mr. Chairman, I hope the gentleman from Minnesota will proceed.

Mr. STEVENS of Minnesota. Mr. Chairman, I yield one hour to the gentleman from Wisconsin [Mr. ESCH].

Mr. ESCH. Mr. Chairman, the question of Federal control over capitalization of interstate carriers is not a new one. It has been in the public mind for many years, but agitation has thus far failed to crystallize into legal enactment. It was a question which had grown to sufficient importance to challenge the attention of the committee appointed by the Senate in 1885, presided over by Senator Cullom. Even at that early date it was complained "that the capitalization and bonded indebtedness of the railroads largely exceeded the actual cost of their construction or present value, and that unreasonable rates are charged in the effort to pay dividends on watered stock and interest on bonds improperly issued." This committee, whose labors resulted in the original interstate-commerce act, approved February 4, 1887, declared as follows:

This pernicious practice (fictitious capitalization, popularly known as stock watering) has unquestionably done more to create and keep alive a popular feeling of hostility against the railroads of the United States than any other one cause. It has imposed a serious and continuous illegitimate burden upon commerce. Excessive capitalization operates as a mortgage upon the industry of the country.

Notwithstanding these findings of the Cullom committee, the original interstate-commerce act contained no remedial legislation looking to the control of capitalization, nor was consideration given to the subject in the Hepburn Act of 1906. The Committee on Interstate and Foreign Commerce, in reporting to the House the Mann-Elkins Act of 1910, amending the original interstate-commerce act, recommended provisions giving to the Interstate Commerce Commission large powers over combinations, mergers, and consolidations of interstate carriers and control over the issuance of their securities. These provisions were adopted by the House, but were stricken out by the Senate, and in their place was substituted a provision authorizing the President to appoint a commission "to investigate questions pertaining to the issuance of stocks and bonds by railroad corporations, subject to the provisions of the act to regulate commerce, and the power of Congress to regulate or affect the same, and to report thereon." The result of this provision was the Railroad Securities Commission, of which President Hadley, of Yale, was the chairman. In its report, rendered in November, 1911, the commission closed with the following recommendation:

Upon the whole, your commission believes that accurate knowledge of the facts concerning the issue of securities and the expenditure of their profits is a matter of most importance. It is the one thing on which the Federal Government can effectively insist to-day; it is the fundamental thing which must serve as a basis for whatever additional regulation may be desirable in the future.

But the commission went no further than to recommend completest publicity as to the financial transactions on the part of the carriers.

During the last 10 years many bills have been introduced in Senate and House seeking to give to the Interstate Commerce Commission control over capitalization, and during the same period many of the States have created railroad or public utilities commissions and given them control over the issue of stocks and bonds of common carriers, subject to their jurisdiction. The action of the several States in this particular has disclosed the inadequacy of their powers in handling a subject broad as the country itself. It has also disclosed the possibilities of conflict of jurisdiction. Unless the jurisdiction given to the Interstate Commerce Commission under legislation looking to the control of capitalization of interstate carriers is exclusive, conflict of jurisdiction can not be avoided, and instead of having one tribunal with one set of standards we would have as many tribunals administering as many different standards as there are States.

The necessity of this legislation, referred to by the Cullom committee over a quarter of a century ago, has been pointed out repeatedly by Presidents in their messages, by the Interstate Commerce Commission, and by parties in their platforms. In his annual message of December, 1904, President Roosevelt uttered these significant words:

The Government must in increasing degree supervise and regulate the workings of the railways engaged in interstate commerce, and such increased supervision is the only alternative to an increase of the present evils on the one hand or a still more radical policy on the other.

The Republican platform of 1908 contained this declaration:

We favor such national legislation and supervision as will prevent the overissue of stocks and bonds in the future by interstate carriers.

A declaration almost similar in verbiage occurs in the Democratic platform of 1912. The Progressive platform of 1912, while making no specific declaration on this subject, favors such legislation in spirit at least. In consonance with his party's platform declaration of 1908, President Taft, in his special message dated January 7, 1911, declared as follows:

I recommend that the law be amended so as to provide that from and after the date of its passage no railroad company subject to the interstate-commerce act shall, directly or indirectly, acquire any interests of any kind in capital stock, or purchase or lease any railroad of any other corporation which competes with it respecting business to which the interstate-commerce act applies.

He further recommended the enactment of a law—

providing that no railroad corporation subject to the interstate-commerce act shall hereafter for any purpose connected with or relating to any part of its business governed by said act issue any capital stock without previous or simultaneous payment to it of not less than the par value of such stock, or any bonds or other obligations (except notes maturing not more than one year from the date of their issue), without the previous or simultaneous payment to such corporation of not less than the par value of such bonds or other obligations, or, if issued at less than their par value, then not without such payment of the reasonable market value of such bonds or obligations as ascertained by the Interstate Commerce Commission; and that no property, services, or other thing than money shall be taken in payment to such carrier corporation of the par or other required price of such stock, bond, or other obligation, except at the fair value of such property, services, or other thing as ascertained by the commission; and that such act shall also contain provisions to prevent the abuse by the improvident or improper issue of notes maturing at a period not exceeding 12 months from date, in such manner as to commit the commission to the approval of a larger amount of stock or bonds in order to retire such notes than should legitimately have been required. Such act should also provide for the approval by the Interstate Commerce Commission of the amount of stock and bonds to be issued by any railroad company subject to this act upon any reorganization, pursuant to judicial sale or other legal proceedings, in order to prevent the issue of stock and bonds to an amount in excess of the fair value of the property which is the subject of such reorganization.

While the Hepburn Act of 1906, supplemented by the Mann-Elkins Act of 1910, strengthened the control of the Government over the interstate carriers so as to declare "the just and reasonable rate to be charged," these acts do not contain the standards by means of which such rate can be invariably fixed. In other words, they did not supply the yardstick of measurement. The courts can always be appealed to to set aside the confiscatory rate. There remains, therefore, a field of legislation as yet unoccupied, namely, such grants of power to the commission as would aid it and guide it in reaching just conclusions as to the reasonableness of rates. The physical valuation of all railroad property and control of stock and bond issues of interstate carriers will furnish such aid and guidance. Physical valuation, as a result of legislation enacted in the last Congress, is now in progress. It is not my purpose to discuss the merits of physical valuation of railroad property, as one of

the conditions precedent to the just and wise determination of a contested rate or charge. Suffice it to say that in all other transactions the cost of the plant bears a close relationship to the price of its output.

These two factors, physical valuation and stock and bond control, will supply data upon which the reasonableness of a rate can be more accurately determined. In justification of such legislation, I cite the opinion of Justice Harlan in the leading case of Smyth v. Ames (169 U. S., 546), commonly known as the Nebraska case:

> The basis of all calculations as to the reasonableness of rates to be charged by a corporation maintaining a highway under legislative sanction must be the fair value of the property being used by it for the convenience of the public. And in order to ascertain that value, the orginal cost of construction, the amount expended in permanent improvements, the amount and market value of its bonds and stock, the present as compared with the original cost of construction, the probable earning capacity of the property under the particular rates prescribed by statute, and the sum required to meet operating expenses, are all matters for consideration and are to be given such weight as may be just and right in each case. We do not say that there may not be other matters to be regarded in estimating the value of the property. What the company is entitled to ask is a fair return upon the value of that which it employs for the public convenience. On the other hand, what the public is entitled to demand is that no more be exacted from it for the use of a public highway than the services rendered by it are reasonably worth.

If, then, according to the Supreme Court, the market value of stocks and bonds of a carrier are to be considered in determining the reasonableness of a rate, legislation which will give to some Federal authority, like the Interstate Commerce Commission, the right to demand full publicity as to the issue of stocks and bonds and full publicity as to the method in which the proceeds derived from the sale of such stocks and bonds shall be expended is absolutely necessary, as is also legislation regulating the control of such issues.

STOCK WATERING.

The declarations in the party platforms and the recommendations of the President and the tardy consideration by Congress are the direct results of the rapid and enormous increase in the capitalization, especially during the last decade, of the telegraph, telephone, cable, express, sleeping-car and railroad companies of the country. President Roosevelt, with an insight as remarkable as it was accurate, in his message in 1905, used these trenchant words:

> Of these abuses perhaps the chief, although by no means the only one, is overcapitalization—generally itself the result of dishonest promotion—because of the myriad evils it brings in its train; for such capitalization often means an inflation that invites business panic; it always conceals the true relation of the profit earned to the capital actually invested, and it creates a burden of interest payments which is a fertile cause of improper reduction in or limitation of wages; it damages the small investor discourages thrift, and encourages gambling and speculation; while, perhaps, worst of all is the trickiness and dishonesty which it implies—for harm to morals is worse than any possible harm to material interests, and the debauchery of politics and business by great dishonest corporations is far worse than any actual material evil they do the public.

According to the Statistics of Railroads, a Government publication, the cost per mile of road, based on the total issue of stocks and bonds and miscellaneous obligations, for the period prior to 1890, was $60,340; for the period from 1890 to 1900, $86,909; and for the year 1910 it was $93,400. According to this publication, the actual cost of building and equipment of railroads in the United States in 1900 did not exceed $30,000 per mile. This figure, low as it seems in comparison with the cost as based on the total issue of stocks and bonds and miscellaneous obligations, is too high, according to the latest valuations made by commissions in the States of Michigan, Texas, and Wisconsin.

Stock watering, as defined by the Industrial Commission in its final report published in 1902, "is the issuing of securities that do not represent money invested in the property; water includes all that is put into the property except actual money." Such hydraulics have characterized the financing of common carriers more than any other of our corporate interests, although some of our largest industrial and manufacturing stocks show like dropsical tendencies.

Stock watering is resorted to for several reasons:

First. To encourage investment by appealing to the gambling spirit in investors, who secure stocks at great discounts and often free as a bonus with bonds.

Second. To secure an initial profit by sale of new stock.

Third. To conceal regular profits by keeping down the rate of dividend by issuing additional bonds.

The practice is indefensible on business as well as moral grounds. Better pay high dividends than water stock, for dividends can be reduced during lean years, but lower dividends on excessive capitalization can not then be still further lowered without discontent. Excessive capitalization gives excuse to maintain high rates and fares, and labor's demands for a higher wage go unheard.

The ways of stock and bond inflation have been devious and many. In the early seventies, in the palmy days of Drew, Gould, and Fisk, the stock of the Erie was increased from $17,000,000 to $78,000,000 for no other purpose than to manipulate the stock market.

Another device was the organizing of dummy companies. Members of a strong company organize a dummy corporation to build a new road. The latter authorizes a bond issue sufficient to build the road, and a stock issue of equal amount. The stronger parent company then issues its own securities to an amount necessary to build the road, and with the proceeds takes over the bonds of the dummy company and receives the stock as a bonus. Here, although there are issues of securities, the proceeds of the bonds of the dummy company alone bring the new road into being, but the people pay interest on all three. This device was used by Huntington in the construction days of the Southern Pacific, and has not been unknown in very recent Pacific railroad history, as the career of the Western Pacific Railway Co. fully attests.

Again, directors of a railroad company would purchase other railroad properties, and sell them to their own at exorbitant prices, or they would authorize the gift of stock as a bonus for bonds they desired to float.

The latest methods of stock watering make the earlier methods seem coarse. Now, we have stock dividends and melon cutting—like the Wells-Fargo Express Co. some time ago declaring a 300 per cent cash dividend overnight out of accumulated surplus.

Consolidation of properties, with consequent issues of new stock; substitution of stock issues for funded debt, as when 8 per cent stock is substituted for 4 per cent bonds, whereby the absorption of increased earnings in the future is facilitated; the funding of contingent liabilities by issues of interest-bearing scrip, instead of meeting them out of earnings—all have been employed to justify or extenuate increases of corporate liabilities.

Concrete examples of this evil practice are found in the recent reorganization of the Chicago & Alton Railway Co. Prior to 1898 this road, under conservative management and with average dividends of over 8 per cent, had total liabilities amounting to about $34,000,000. In that year a syndicate, consisting of Messrs. Harriman, Schiff, Gould, and Stillman, bought the stock, paying $200 a share for the preferred and $175 for the common, or a total of about $40,000,000. Within seven years the capital indebtedness was expanded to over $114,000,000, or an increase of about $80,000,000, with $18,000,000 paid out for actual improvements and additions, leaving an increase of its stock and liabilities, without one dollar of consideration, of about $62,660,000, or $66,190 per mile of the 946 miles of road owned by the company June 30, 1906.

On June 30, 1905, the bonds and stocks outstanding of the Southern Pacific Railroad Co. were $252,473,460, or an average of $76,880 per mile. Just one year later, in 1906, the capitalization had been increased to $284,153,500, or an average of $86,342 per mile. In other words, although but 8 miles of road were added, the debt had increased $31,680,040. No great improvements were made or contemplated, for but 11 miles of road were added during the year 1907. The truth is that not a dollar of this added debt of over $31,000,000 went into the treasury of the Southern Pacific Railroad Co. It was just a stock dividend, mere water, for which nobody paid a dollar, and was distributed among its stockholders, and these constituted the Southern Pacific Co., which owned every share of the Southern Pacific Railroad Co., according to Poor's Manual for 1907. Thus are fortunes amassed by printer's ink and a resolution.

But we can find abundant illustrations in more recent years. The evils complained of are not those incident only to the construction period of new railroads, but are to be found in the financial history of roads long established. The evils of which the Cullom committee complained were those chargeable to the construction era and against the great builders. The evils now complained against are those of consolidation and reorganization, under the manipulation of great bankers and banking syndicates. Bankers now control railroads and railroad systems and not their builders, and under this new control, through interlocking directorates and the desire for commissions, the holdings of thousands of stockholders are as mere pawns on the chessboard of high finance. The evil, therefore, exists to-day as it did a quarter of a century ago, differing only in character and degree.

At this very hour the Department of Justice and the Interstate Commerce Commission and various State public-utilities commissions are engaged in seeking the truth with reference to

certain reckless, illegal, and unconscionable operations of high finance which have brought some of the leading railroads of the country either into the hands of receivers or to the verge of bankruptcy. Within the last year the country has been aroused and innocent investors have been alarmed over the disclosures of the looting, by men high in the financial world, of such promising roads as the Frisco, the Rock Island, Pere Marquette, Boston & Maine, and the New Haven. The testimony of ex-President Mellen, of the New Haven road, just given before the Interstate Commerce Commission, shows the officers and directors of that road to have been mere puppets in the hands of a powerful banking syndicate in New York.

In this particular instance—

Says Mr. Samuel Untermeyer in an address delivered at Pittsburgh a few days ago—

the investigation thus far has barely scratched the surface. It relates mainly to a single phase of the New Haven road and involves the diversion of only about $11,000,000 out of a total of over $200,000,000 that will have to be accounted for some day, provided the comatose shareholders will ever awaken and have the sense or can summon the courage to assert their rights. If the investigation of the Interstate Commerce Commission is extended into the other transactions so as to include the vast purchases of comparatively worthless competing properties at fabulous prices for the purpose of destroying competition, the dimensions of the offenses committed against the stockholders of that company will be of a character to render the exposures incident to the French Panama Canal scandal as a moonlight silhouette compared to a volcanic eruption.

In 1902 the Rock Island was one of the best equipped and most prosperous of the trans-Mississippi roads. It supplied a fertile region and connected great and growing terminals. In that year a syndicate secured control, and according to the gentleman from Iowa, Mr. GREEN, who appeared before our committee, began an era of expansion and exploitation by raising the capital stock from $60,000,000 to $75,000,000 and the bonded indebtedness from $71,000,000 to $258,000,000, an increase of the bonded indebtedness of $187,000,000. Three thousand miles of road, much of it nonproductive, were added to the system. Little of the proceeds of this vast increase of indebtedness went to the improvement of the way and of the service. To-day service is inadequate, roadway and equipment in poor condition, and the bonded indebtedness, on which the public is charged, has been raised from $18,230 to over $38,000 per mile.

The Pere Marquette road, which covers the State of Michigan, connects large cities, passes through thickly settled sections, having 1,800 miles of track, is to-day in the hands of a receiver. According to the gentleman from Michigan, Mr. CRAMTON, who also appeared before our committee, the funded debt of this road increased from $25,000,000 in 1900 to over $78,000,000 in June of last year. The total earnings increased by almost $4,000,000 in 1913 over those of 1906, yet notwithstanding such increase there has been no material increase in equipment; in fact, the road to-day is in a worse condition physically and financially than it was in 1906. This road has been the victim of financial exploitation and of hurtful domination by its rival, the Michigan Central, a domination which in a large degree continues in its present receivership.

As a result of the investigation of the purchase of the Chicago & Eastern Illinois Railroad by the St. Louis & San Francisco Railroad, made by the Interstate Commerce Commission, pursuant to a resolution of the Senate of June 10, 1913, one of the most significant facts disclosed was the enormous discounts on bonds and notes and other short-term notes issued by the Frisco and lines which it controls, amounting to over $30,000,000, in 12 years. The payment of such ruinous discounts, according to the report of the commission, was due either to the fact that the credit of the Frisco was very poor or "that bankers obtained the securities at prices which may or may not have been as high as could have been obtained from those not directly interested in the finances of the road." Four per cent on these $30,000,000 of net discounts and commissions represents an annual expenditure of over $1,200,000 for interest on money which the road never received and represents a fixed charge which the public is called upon to pay and forms a basis for a demand for an increase of rates.

With publicity of all issues of stocks and bonds and publicity as to the purposes for which their proceeds are to be expended, required by the pending bill, no such financial jugglery would be possible. Another significant fact disclosed in this investigation of the Frisco and which is pertinent in this discussion is the comparison of its interest-bearing liability with its stock liability. In May, 1913, its total capital amounted to $295,000,000 in round numbers, of which only $51,000,000 was capital stock and $244,000,000 was funded debt, including equipment trust notes. The capital stock was only 17.37 per cent of the total capital liability, while the funded debt amounted to 82.63 per cent. In the Rock Island, the ratio of funded debt to capital liability is 75 per cent. No other roads in territory west of the Mississippi have anything like such a ratio. In explanation of this unhealthy condition, the commission states:

That the excessive issue by the Frisco of interest-bearing securities, instead of capital stock, may be due in part to the requirement of the State of Missouri that capital stock of railroads may not be sold at less than par, while no such restriction is placed upon the sale of bonds. It is also customary in issuing additional capital stock to deal with the stockholders for a portion at least of the new issue, while the disposition of bonds is usually a transaction with banks or bankers to whom profits accrue.

When a single State can thus in the charter it grants fix the limitations on stock issues and can thereby increase the burden upon not only its own shippers but the shippers of all other States through which the road operates, by compelling the road to increase its interest-bearing liabilities or fixed charges, which must be paid out of income derived from traffic or go into a receivership, instead of allowing it to increase its stock liability on which dividends need only be paid when earned, the situation and its burdensome consequences is a strong argument in favor of exclusive Federal control.

As justification for such financing railroad officials declare that a common carrier has the right to capitalize its earning power, and this without regard to the original cost or cost of reproduction of the plant. While it is entitled to some increase because of increase of value which a growing population gives to right of way, franchises, and terminal facilities, it ought not to absorb all of the "unearned increment," but should share it with the public by reducing its rates and charges and improving its facilities.

Capitalization based on earning power, according to the report of the Industrial Commission, "obscures the relation between rates, wages, and profits. It is impossible to discover, without a careful appraisal of the property, whether an overcapitalized road is earning more than a fair return upon the investment. The principle is generally accepted at the present time that capital is not entitled to more than a certain fair rate of profits. The issuance of additional securities on the basis of increasing earning power makes it possible for a company covertly to secure exorbitant returns on the actual investment. This objection seems conclusive against the policy of full capitalization up to the limit of the earning power."

It is also true, as claimed by railroad statisticians, that the capitalization of our American roads is less than those of the leading countries of Europe, being but one-fourth that of Great Britain and one-half that of France. British railroads, however, "make a practice of charging expenditures for improvements to capital rather than to revenue." More double and quadruple track mileage in proportion to the total mileage further accounts for the difference.

Mr. MOORE. Mr. Chairman, will the gentleman yield before he proceeds to that?

Mr. ESCH. Yes; for just a question.

Mr. MOORE. The gentleman has dealt very largely with what might be termed the mismanagement of certain roads. I ask him whether there is not sufficient law already to meet such mismanagement, or does he insist there must be Federal control over and above such State legislation as exists?

Mr. ESCH. The existence of the evils I have thus recounted is pretty clear evidence that there is not at present sufficient law.

Mr. MOORE. Then, taking the bill we have before us and referring to the new paragraph on page 12, which proposes to make it unlawful for any common carrier to issue stocks, bonds, and so forth, or other evidence of indebtedness, "even though permitted by the authority creating the carrier corporation," are we to understand that that last line, "even though permitted by the authority creating the carrier corporation," would supersede the charters of all existing railroads?

Mr. ESCH. When Congress under its constitutional powers occupies the field it does it to the exclusion of the States, and I am one who believes that it is wise, if we are to take up this legislation at all, to make it exclusive, and thus give one Federal control, with uniformity of management and uniformity of decision and uniformity of operation.

Mr. MOORE. All existing railroads, then, wheresoever chartered, would begin anew under Federal direction, and the authority creating them would be abrogated? Is that the understanding?

Mr. ESCH. The congressional power granted by this bill or the bill which will be offered by the gentleman from Minnesota [Mr. STEVENS] will give to the commission the power of regulation of stock and bond issues of interstate carriers. It would not affect the stock and bond issues of a road that was purely intrastate.

Mr. MOORE. Within the State?

Mr. ESCH. Yes, sir.

Mr. MOORE. But it may be expected if this paragraph passes that the existing charter rights of companies would be affected so that there would be a Federal rather than a local or State jurisdiction?

Mr. ESCH. I think that would be the tendency.

Mr. FESS. Will the gentleman yield there?

The CHAIRMAN. Will the gentleman yield further?

Mr. ESCH. Yes.

Mr. FESS. Would not the railroads be better satisfied, in your judgment, if they were under one regulation by the Government rather than under many?

Mr. ESCH. That was the burden of the testimony presented to the committee.

Mr. GORDON. Mr. Chairman, will the gentleman yield there?

The CHAIRMAN. Does the gentleman from Wisconsin yield to the gentleman from Ohio?

Mr. ESCH. Yes.

Mr. GORDON. If that is true, then why is it that this strong recommendation made by President Roosevelt in 1905 to do this very thing has never been consented to by the railroads? If they have been so anxious all these years, why is it that this legislation has not been passed?

Mr. ESCH. I think it is due to the fact that since that recommendation was made many of the States have given the power of stock and bond control to State commissions, and hence there are 20 States in the Union that now have similar control; and it is because so many separate units have separate control that these complexities and diversities have been brought about in the matter of stock and bond issues.

Mr. GORDON. Then it is the enactment of State legislation that has finally driven the railroads to come to Congress?

Mr. ESCH. Yes. They prefer to have one control instead of 48.

Mr. SIMS. If the gentleman will permit me, is it not a matter of fact that none of these bills has been introduced at the instance of any railroad?

Mr. ESCH. That is correct. In fact, many protests have been lodged against this legislation with our committee.

BASIS OF CAPITALIZATION.

What constitutes a proper basis of capitalization? Not the original cost of construction, the actual investment of capital being the money paid in for stocks and bonds, for this in some cases would give us too high and in others too low a capitalization; not earning capacity, for reasons already mentioned; not cost of reproduction, as declared in 1896 by the Supreme Court of Minnesota in the case of the Great Northern Railway Co.; but the rule as laid down by the Supreme Court of the United States in the Texas Railroad Commission case and the case of Smyth against Ames, already cited, namely, that—

A fair basis is to be found only by taking into consideration both cost of reproduction and earning capacity.

The constitutional warrant for Federal control of stock and bond issues of interstate carriers arises out of the connection which such issues may have with rates, and not because of any protection to investors which may result from such control. It is, therefore, pertinent to consider the relation between capitalization and rates. Chairman Knapp, of the Interstate Commerce Commission, in a hearing before our Committee on Interstate and Foreign Commerce in February, 1911, declared that under existing conditions he had not been able to trace any material relation between capitalization and rates, although before the Industrial Commission some years ago he admitted that when the reasonableness of a particular rate was called into question capitalization had to be considered in determining what the road in question ought to charge. Leading experts in railroad financing at the same hearing testified that the relation of cause and effect did not obtain between capitalization and rates, and that, therefore, no legislation was necessary. The Interstate Commerce Commission in two or three of its recent reports recommended legislation to regulate the issue of railroad securities, meeting the contention that capitalization has no influence upon rates, as follows:

It has frequently been urged that capitalization exercises no influence upon rates, but such an assertion is at best a partial truth. When one holds in mind how persistently the courts oppose the enforced approach of railway tariffs to the line of confiscation; when one comes to realize how eager the carriers are to restore to their property accounts the value of the improvements of past years paid out of revenues; when one clearly understands that so long as railways which operate on different levels of cost continue to compete for the same traffic there must result a permanent differential profit to the more fortunate road; and, finally, when one reflects upon the fact that securities once issued are ordinarily beyond recall and beyond control, it is difficult to see how one can assert that the kind and amount of securities issued by a public-service industry have no bearing on the problem of railway tariffs, as that problem must be regarded by the commission and by the courts. It is, in fact, the setting in which the problem is most frequently submitted for judicial consideration.

Judge Clements, a member of the commission, in an address delivered before the Atlanta Freight Bureau in January, 1909, argued in favor of Federal control of capitalization on the following grounds:

That the public may be better protected from unjust rates exacted to make good dividends and interest on stocks and bonds not necessary to be issued for legitimate purposes in the conduct and conservation of the property; that bona fide investors, trustees, and others may be reasonably protected from deceit, and that the proceeds of securities issued shall be devoted to the benefit of the property and not lugged off by manipulators and speculators as booty in the pockets of bandits. Transactions of this kind should be scheduled by the law with fraud and cheating, where in ethics and good morals they belong, and be dealt with accordingly. * * * Public conscience will be satisfied with nothing short of rules of action not inconsistent with the spirit of the more humane and apt expression, "Live and let live."

In testifying before the commission in regard to the Alton deal a few years ago Mr. Harriman justified the enormous increase of stocks and bonds on the ground that as the new liabilities drew only 3½ per cent, whereas the old drew 7 or 8 per cent, the fixed charges were not increased, and hence the rates would not be, as though it would never become necessary to pay the principal. Under this philosophy uncontrolled capitalization would lead inevitably to repudiation and disaster. It is common knowledge that stock issues increase and bonds are never paid, but refunded.

It is claimed that the Alton road, after the Harriman reorganization, could not recoup itself by increasing its rates because of the competing of six other roads traversing the same territory. This is true, and where there is genuine and active competition capitalization will have little effect on rates; but this emphasizes the need of control over roads like the Southern Pacific, which for years was master of a mighty empire and exacted tribute from thousands in the way of exorbitant charges. If the financial athlete can work the pump in the case of the Alton, is it not high time that through legislation he be forbidden from working the pump in the case of the Alton's rivals?

I desire to state both sides of my thesis. I shall not follow the precedent of the Irish justice of the peace, who refused to hear the arguments on both sides because it would confuse him in reaching a decision. Opponents to Government control over capitalization contend with much force that it would destroy initiative, paralyze effort, and check construction. If this be true, then enterprises of great pith and moment must depend upon the gambling spirit, upon bonuses and free gifts of stock, though the stock be given dividend capacity by the development of the country. For risk run in the launching of a new enterprise there should be proper and even generous reward; but in these days the preliminary survey is so thorough, the calculations of present and future traffic so accurate, that the risk is minimized. As new lines or extensions are generally intrastate they have come under State control. Many States—Texas since 1892, Massachusetts since 1893, New York and Wisconsin since 1907, and others—have laws controlling the issue of stocks and bonds of State railroads. So far as I have knowledge these laws have not had the effect to retard construction. In fact, the increased confidence which such laws have created in such stocks and bonds has encouraged investors, stabilized values, and promoted improvements. Bankers, promoters, and underwriters of securities find opportunity for gain in heavy capitalization, but such capitalization is injurious to the interests of investors and the public generally.

Officials of common carriers insisting that excessive capitalization can have no effect on rates stultify themselves when, as witnesses before courts, the Interstate Commerce Commission, or committees of Congress, in opposing suits or legislation looking to a reduction of rates, they at once and systematically claim the existing or higher rates to be absolutely necessary to pay the interest on bonds and dividends on stock of their respective roads. When, six years ago, our committee was considering the Sherman bill providing for a 2-cent passenger rate, the passenger and traffic experts of the leading roads of the country protested that if such rate were fixed by law it would be impossible to meet fixed charges. During the hearings before the commission in the Spokane case the carriers interested followed a like plan of defense.

Federal control might further be justified in giving publicity to and regulating the modern practice of the officials of one carrier buying up the capital of another to justify new stock and bond issues to increase monopoly and destroy competition. As bonds have no voting power and bondholders no share in the management, only the stock, whether common or preferred, which has the voting power, is purchased. The result is that

it requires but a comparatively small amount of stock to secure control. An actual investment of only $5,000,000 in the Atlantic Coast Line Co., some years ago, gave control of over 11,000 miles of road.

We have thus far gone on the assumption that Congress had the right under the Constitution to regulate the stock and bond issues of interstate carriers. If it has such right, it must be found in the commerce clause which gives Congress the power "to regulate commerce with foreign nations and among the several States"; the idea of the framers being that commerce between the States should be forever free and untrammeled and subject only to regulation by Congress, and as to such commerce its powers were to be plenary.

Under the provisions of the Constitution it must be shown that stock and bond control is a regulation of commerce. The delegation by Congress to a commission of the power to declare what is a just and reasonable rate is no longer questioned, but is conceded to be a regulation of interstate commerce, the freedom or restraint of which commerce being dependent upon the amount of the rate. If, therefore, the rate is subject to control by Congress, then that which affects the rate, such as capitalization, should be subject to like control.

The Nebraska case already cited held that in arriving at the reasonableness of rates "the amount and market value of the bonds and stock" of the carrier are to be considered. As the whole embraces a part, authority to regulate rates implies the power to regulate those constituents which go to make up the rates.

In many cases before State commissions and the Interstate Commerce Commission and before the courts the amounts of stocks and bonds and their market value are put in evidence to effect the determination of the rate. In the Spokane case the defendant companies, the Northern Pacific and the Great Northern, at great expense and after much labor presented elaborate statements to show the cost of reproducing their physical properties, and claimed that the rates proposed by the commission would seriously impair their ability to meet their fixed charges. An authoritative valuation and stock and bond control through Federal enactment would simplify and expedite every rate controversy.

At the very threshold of this constitutional inquiry we are met by the objection that the National Government can not determine the amount of stock and bonds which a railroad corporation chartered by a State can issue, even when it engaged in interstate business.

This objection raises the question as to the extent of control by Congress over interstate commerce. In the absence of authorities directly in point we may get some light from an examination of the leading cases wherein the jurisdiction of State and Federal authorities as to interstate commerce was involved.

In the noted case of Gibbons *v.* Ogden (9 Wheat.), Chief Justice Marshall decided that—

> Congress may control State laws, so far as it may be necessary to control them, for the regulation of commerce.

Again:

> The power to regulate commerce * * * amounts to nothing more than a power to limit and restrain at pleasure * * *. The grant of the power carries with it the whole subject, leaving nothing for the State to act upon.

And again:

> The power of Congress over commerce is not a power incidental to that of regulating commerce, but is the thing itself.

This decision clearly announces the supremacy of Federal over State laws in matters relating to commerce between the States, for under the Constitution all laws passed by Congress pursuant to the powers therein delegated to it are the supreme law of the land; and this is true, even though the State laws be enacted in the exercise of powers not controverted.

In the case of County of Mobile *v.* Kimball (102 U. S., 691), arising out of improving the harbor of Mobile, lying wholly within the State of Alabama, the Supreme Court held:

> The power conferred upon Congress by the commerce clause of the Constitution is exclusive so far as it relates to matters within its purview which are national in their character and admit or require uniformity of regulation affecting all the States. * * * For the regulation of commerce there can be only one system of rules applicable to the whole country, and the authority which can act for the whole country can alone adopt such a system. Acting upon it by separate States is not, therefore, permissible.

In view of the fact that over three-fourths of the commerce of the railroads of the country is interstate, and that there are few doing such an intrastate business as to be without question subject only to State control, would State regulation as to capitalization of roads within its borders under this decision be supplanted by the enactment of a Federal law of similar import? I should say yes. In the words of Judge Story:

> The full power to regulate a particular subject implies the whole power, and leaves no residuum. A grant of the whole is incompatible with the existence of a right in another to any part of it. A grant of a power to regulate necessarily excludes the action of all others who would perform the same operation on the same thing.

The answer to this question depends on the rule laid down in Cooley *v.* Board of Wardens of Philadelphia (12 How., 299), viz:

> The power of Congress is exclusive wherever the matter is national in its character or admits of one uniform system or plan of regulation.

In the Minnesota rate cases recently decided by the Supreme Court of the United States, in speaking of the completely internal commerce of a State, which is reserved for the State itself, the court held:

> This reservation to the States manifestly is only of that authority which is consistent with and not opposed to the grant to Congress. There is no room in our scheme of government for the assertion of State power in hostility to the authorized exercise of Federal power. The authority of Congress extends to every part of interstate commerce and to every instrumentality or agency by which it is carried on; and the full control by Congress of the subjects committed to its regulation is not to be denied or thwarted by the commingling of interstate and intrastate operations. That is not to say that the Nation may deal with the internal affairs of the State as such, but that the execution by Congress of its constitutional power to regulate interstate commerce is not limited by the fact that intrastate transactions have become so interwoven therewith that effective government of the former incidentally controls the latter. This conclusion necessarily results from the supremacy of the national power within its appointed sphere.

The organization of over 240,000 miles of railroad in the United States under six or seven great systems, some of them transcontinental in extent, controlled by two powerful banking syndicates, has resulted in increased capitalization under single charters. Should the laws of New Jersey or West Virginia control in Minnesota? Should the capitalization of a Minnesota railroad corporation result in restraint of trade, in inadequate facilities, in Idaho or Washington? Would not the uniformity resulting from Federal control of capitalization compensate the States in some measure for the loss of jurisdiction?

If a common carrier engaged in interstate commerce, chartered by a State, either with or without authority from such State, waters its stock to such extent as to materially affect its rates or create liabilities with no return to its treasury, but for speculative purposes, there ought to be some authority to afford relief to the public, which ultimately must carry the load. Under these conditions, as Justice Harlan decided in Smyth *v.* Ames, the carrier "may not impose upon the public the burden of such increased rates as may be required for the purpose of realizing profits upon such excessive valuation or fictitious capitalization."

Such authority could well be lodged with the Interstate Commerce Commission. The means of carrying into execution the powers delegated to the Government are left to the discretion of Congress.

From these authorities and the Addyston Pipe and the Northern Securities Co. cases, and others, it is clear that Congress has full power to legislate over all matters that pertain to interstate commerce or the regulation thereof, and that, while at times Congress has allowed the States to exercise certain control over commerce which affected interstate relations, as soon as Congress occupied the field its control became exclusive.

A railroad corporation, as the creature of the State, is subject to such restrictions as to capitalization which the State may prescribe as a condition precedent to doing business within its borders, and Congress could not dictate to the State the limitations as to capitalization which it should require of such railroad before it granted it its charter; but as soon as such railroad operates without the limits of a State it at once subjects itself to Federal control, and Congress has the power to prescribe what it must do before it can carry on an interstate business. Congress could therefore require it to take out a Federal license or could set limits upon its capitalization, and there is no constitutional prohibition against it being compelled to come under the Federal law.

Conceding that, if capitalization has no direct effect upon rates, our argument in support of this proposed legislation must fall, we can ground it irrefutably upon this proposition, that as it is the duty of every common carrier engaged in interstate commerce to provide "proper equipments and appliances to carry on its business in a safe, expeditious, and efficient manner," Congress to this end by suitable legislation can prevent such carrier from impairing its financial ability by assuming unwarranted pecuniary burdens by the improvident issue and sale of securities without adequate consideration.

A railroad being in the very nature of things a monopoly created for a public purpose, even though by private capital,

must at all times keep itself prepared to serve all alike and on equal terms. The General Government is interested in seeing to it that this constant readiness to serve is not impaired. If overcapitalization destroys credit, increases the burden of fixed charges, so that little or nothing is left for maintenance, repairs, and improvements, and traffic is thereby delayed and jeopardized, Congress can and should supply the remedy against such obstructions of the highways of commerce.

Jeremiah Black, in a speech before a committee of the Pennsylvania senate in 1883, clearly defined the functions of railroads, as follows:

> The functions of railroad corporations are as clearly defined and ought to be as universally understood as those of any servant which the State or General Government employs. Without proprietary rights in the highways, they are appointed to superintend them for the owners. They are charged with the duty of seeing that every needed facility for the use of these thoroughfares shall be furnished to all citizens, like the justice in Magna Charta, without sale, denial, or delay. Such services, if faithfully performed, are important and valuable, and the compensation ought to be a full equivalent; accordingly they are authorized to pay themselves by levying upon all who use the road a tax or toll or freight sufficient for that purpose. But this tax must be reasonable, fixed, certain, and uniform, otherwise it is a fraud upon the people which no department of the State government, nor all of them combined, has power to legalize.

TERMS OF PROPOSED LEGISLATION.

Having given some details as to the nature and extent of the evils of present and past overcapitalization of common carriers engaged in interstate commerce, and discussed hastily and perhaps inconclusively the constitutional difficulties which beset any legislative remedy through Congress, it seems proper to suggest some of the salient provisions which any such remedy should contain.

First. That there should be the fullest publicity of the security issues in accordance with the recommendations of the securities commission.

Second. That no common carrier shall issue stock, bonds, or notes payable more than one year from date of issue except for and when necessary for the following purposes: (a) The acquisition of property, (b) the extension or improvement of its line and facilities, (c) the improvement or maintenance of its service, or (d) the discharge or refunding of its lawful obligations.

Third. That the right to make such issues should be based upon application to and investigation by the Interstate Commerce Commission to determine their necessity and appropriateness for the purposes stated.

Fourth. It should be unlawful to issue either a scrip dividend or stock dividend or pay any dividend except in cash derived from earnings.

Fifth. That the consent of the Interstate Commerce Commission should be first secured as to all proceedings looking to the consolidation, reorganization, or merger of carriers subject to its jurisdiction, including the amount and valuation of stocks, bonds, or other evidences of indebtedness connected therewith.

Sixth. The Interstate Commerce Commission should be granted visitatorial powers in all matters connected with capitalization.

Seventh. That all provisions of this proposed legislation, so far as applicable, should be extended to all carriers subject to the interstate-commerce act as amended, including telegraph, telephone, sleeping-car, cable, pipe-line, and express companies, and also holding companies.

Eighth. That provision should be made for suitable penalties, including imprisonment.

BENEFITS OF SUCH LEGISLATION.

While the effects of Federal control, as thus imperfectly outlined, can only be conjectured, we have reason to hope that they will be as beneficent to both people and the carriers as they have been in regard to the regulation of rates through the Interstate Commerce Commission. Wise legislation does not seek to benefit one class or industry at the expense of another, but aims to promote the general good. When the evil is coextensive with the country, the separate laws of the States, differing in standards and degrees of enforcement, can not afford the proper relief. While such able and efficient railroad or public-utility commissions as those of Massachusetts, New York, Texas, Wisconsin, and Minnesota have accomplished much and brought about wise reforms within their respective jurisdictions, they all recognize, when interstate commerce and its regulation is involved, their limitations.

The CHAIRMAN. The time of the gentleman from Wisconsin has expired.

Mr. ESCH. Mr. Chairman, I would like to have two minutes more.

Mr. STEVENS of Minnesota. Mr. Chairman, I yield to the gentleman such additional time as he may desire.

Mr. ESCH. I need only two minutes.

The CHAIRMAN. The gentleman will proceed.

Mr. CLINE. Inasmuch as you have all the time you need, will you allow me to ask you one question?

Mr. ESCH. Yes, sir.

Mr. CLINE. The detailed explanation you have given us of a plan for the regulation and the future control and management of railroads is a good one, but the evil is now in connection with railroads that have issued, according to the gentleman's statement, a large amount of fraudulent stocks and put them on the market. Now, in adjusting future rates, is it the idea of the gentleman that these fraudulent stocks should be eliminated as a factor in fixing the rates?

Mr. ESCH. I suppose that the Interstate Commerce Commission would give to such stock issues as you refer to such weight as in their best judgment was wise and proper. Of course we can not invade the inviolability of contracts, under the Constitution, and this legislation could only affect future issues and would not relate back to those already on the market or in the hands of innocent purchasers.

Mr. CLINE. Is not that the purpose of having a physical valuation of railroads—to fix those rates?

Mr. ESCH. Yes; to aid the commission in the determination of the justice of the rates.

Mr. CLINE. Would not that necessarily eliminate a fraudulent issue of stock that had been made by a railroad company?

Mr. ESCH. Yes. So far as the commission is concerned, they might not be required to take that fraudulent issue into consideration in determining the reasonableness of the rate, and I doubt, if the evidence was clear that it was fraudulent, that they would take it into consideration.

Mr. TOWNER. Mr. Chairman, will the gentleman yield there?

The CHAIRMAN. Does the gentleman from Wisconsin yield to the gentleman from Iowa?

Mr. ESCH. Certainly.

Mr. TOWNER. They would have the right, legally, to ignore every such issue, would they not?

Mr. ESCH. Yes.

Mr. TOWNER. But if a showing was made that perhaps the value of the property at the time was equal to the fullest extent of the issuance of the stock and bonds, they might for that equitable reason give them consideration. Is not that true under the law?

Mr. ESCH. Yes; under the law.

Mr. TOWNER. Of course you are just speaking now of the legal phase of the case.

Mr. CLINE. There is another side to the equitable proposition, and that is that this fraudulent stock had drifted into the hands of innocent purchasers.

Mr. ESCH. Yes; and it makes a very grave situation. I realize the gravity of it.

Mr. BAILEY. Mr. Chairman, if the gentleman will pardon me——

Mr. ESCH. Yes——

Mr. BAILEY. I would like to recur to the earlier part of the gentleman's very interesting speech and ask him the question, whether I understood rightly that the unearned increment could properly be in part appropriated by the railroads—the value of their franchises?

Mr. ESCH. I think that was the fact in the Minnesota case.

Mr. BAILEY. That was decided by the court that it could properly be appropriated?

Mr. ESCH. Yes; in part, as I understand.

Mr. MOORE. While we have such an able exponent of railroad affairs on the floor, I crave the privilege of asking one more question, and that is this: Eliminating all present bad management of railroads, and assuming that we want to build a new road, with entirely new managers, who are presumed to be honest and not guilty of the tricks of the trade that the gentleman has described, would it be possible for them, without having money in hand, to begin the construction of a railroad under this legislation? That is to say, would there be any way by which they could raise money from the public or from investors, under this legislation, to begin that new enterprise?

Mr. ESCH. They would probably have to make a thorough preliminary survey.

Mr. MOORE. Which would cost money, of course.

Mr. ESCH. Yes; which would cost money.

Mr. ADAMSON. Mr. Chairman, will the gentleman permit a suggestion right there?

Mr. ESCH. Yes.

Mr. ADAMSON. How can an incipient enterprise be hampered or controlled by this act until it has got into operation and begun to engage in interstate commerce?

Mr. ESCH. Most of these new projects, I will state to the gentleman from Pennsylvania [Mr. MOORE], would be projects

confined to a State, and they would therefore be very largely under the control of State commissions. They would not be the large extensions and the building of transcontinental lines such as characterize the railroad building era of the seventies and early eighties.

Mr. MOORE. Would the Interstate Commerce Commission under this new provision have the right to authorize the new board of directors of that proposed new company to issue stocks and bonds to obtain capital with which to proceed with the work?

Mr. ESCH. I do not believe the commission would have anything to say about the board of directors. That is left to the initiative of each company or carrier.

Mr. MOORE. They would have to have money to proceed?

Mr. ESCH. Certainly.

Mr. MOORE. And they would have to have authority to raise money, would they not?

Mr. ESCH. If the preliminary survey disclosed it to be such that it would promote commerce and trade in a certain region, it would be like any other industrial project, in that it would need capital to float it.

Mr. MOORE. Could they proceed without the approval of the commission to engage in interstate commerce?

Mr. ESCH. If they became interstate carriers, then this act would become operative as to them.

Mr. CRAMTON. Mr. Chairman, will the gentleman yield further?

Mr. ESCH. Yes.

Mr. CRAMTON. As a matter of information, would you state whether, in the practical operation of this proposed statute, it would not have the effect of validating past stock issues in the case of a company which was already grossly overcapitalized in the event that they should then come in and ask for an authorization for a new issue, which was to be used for legitimate purposes? Such an issue being authorized, should there thereafter come up a question of rates, would not the authorization of this last issue for legitimate purposes in a way tend to compel them to validate former improper issues, the later issue being an issue which would naturally be subordinate to the former one?

Mr. ESCH. I do not think it would validate a former fictitious issue. Of course, that raises a question, which was quite a prominent one in the hearings, as to whether, if the commission gives a certificate allowing the issuance of stocks or bonds, there does not follow a certain degree of moral responsibility.

Mr. CRAMTON. I do not want to impose on the gentleman's time, but I would like to suggest that if any of these improper issues are to be retired, it must be by the squeezing out of the water by a reduction of rates which will make it impossible for them to pay charges on those improper issues.

Mr. ESCH. That might result in a reorganization.

Mr. CRAMTON. Then if in the meantime an issue for legitimate purposes has been authorized, that issue would be the first one to be affected by a reduction.

Mr. ESCH. I wish to close now and not impose further on the time of the committee.

With Federal control along the lines suggested we may expect the following benefits:

First. The right to reduced fares and freight made possible because of the absence hereafter of an inflated and speculative capitalization upon which dividends and interest have to be paid.

Second. Absolute and complete publicity as to all corporate transactions relating to stock, bonds, and obligations of common carriers.

Third. Increased confidence on the part of investors in the value of their securities and the stabilizing effect of such increased confidence upon our financial markets.

Fourth. The prevention of manipulating the stock market by directors and leaders of systems and syndicates in the reckless and unconscionable manner that has heretofore characterized them.

Fifth. Protection of innocent investors and popularizing our railroad securities as a form of investment among the people here as well as abroad.

Sixth. By force of law insisting upon such safe and sane capitalization as will permit and require the carrier at all times and under all conditions to perform its duty to the public.

Commissioner Prouty, in a recent address, declared that—

The Government can not rightfully grant an increase in railroad rates until it knows that the money so raised shall be prudently and properly expended. That will be when railroads can not expend money except for railroad purposes, when they can not buy the securities of other railroads, when they can not issue securities of their own without the consent of the Federal Government, and when they can not put securities to any use except those specified.

When legislation along the line suggested shall have been put upon the statute books, much of the prejudice which now exists against railroads will be removed, and it is to be hoped that a spirit of fairness will prevail.

Were it not for human greed and fondness for speculation on the part of many of our great organizers of corporations there would be no reason why a corporation, like an individual, "should not be well born, well bred, and throughout its life be well behaved."

Mr. STEVENS of Minnesota. Mr. Chairman, how much time was used by the gentleman from Wisconsin [Mr. ESCH]?

The CHAIRMAN. One hour and 10 minutes.

Mr. ADAMSON. I yield to the gentleman from Tennessee [Mr. SIMS] 30 minutes.

Mr. SIMS. Mr. Chairman, I hope these good Republican friends who have stayed here and given this subject so much attention and have received so much benefit by staying will put off their lunches just a little while longer, and by remaining receive still further benefit. [Laughter and applause.]

The gentleman from Wisconsin [Mr. ESCH], who has just taken his seat, has so completely covered the provisions of this legislation as to fundamentals and even as to details that, as far as I am concerned, I am ready to vote now. I do not mean that we should not read the bill in Committee of the Whole, but I am ready to vote as far as the general scope of the bill is concerned. I am relieved of labor by the gentleman from Wisconsin which I might otherwise have to perform.

Mr. Chairman, railroads are absolutely necessary to our civilization. The progress of this country will be checked, if not destroyed, if our transportation systems are throttled and ruined. The man who is an enemy to railroads as such is an enemy to the best interests of his country. But if we want the railroads to serve the public, for which they exist, that is no reason why we who so believe should be called enemies, and it is no reason why we should not attempt to further legislate, if necessary, to accomplish such a purpose.

The gentleman from Wisconsin [Mr. ESCH] read platform declarations from all existing political parties, if I understood him correctly, which, in so far as platforms can, have committed all parties to legislation along the line proposed. I want to say that I believe the bill that will pass this House will be a better bill than any individual bill that has been introduced, although I introduced one myself. I am ready to lay aside any pride I have in my own bill if by doing so we can pass a better bill. The product of all the minds of the Committee of the Whole is going to be better than the product of the mind of any one member of the Committee on Interstate and Foreign Commerce or any one member of this Committee of the Whole.

This bill is open to unlimited amendment by way of substitute or otherwise, as it ought to be. I think we ought to look upon this subject as so serious as to call for our very best consideration and best thought. I do not care whether a bill has my name on it, in it, or about it, just so we get what the country wants, needs, and ought to have.

Mr. Chairman, it is estimated and admitted without controversy that at least 85 per cent of all the business of all the railroads is interstate; that not over 15 per cent is wholly within the separate States, or wholly intrastate. That measures the importance to the railroads and to the country of legislation by the States or legislation by Congress. If Congress legislates, it is with reference to 85 per cent of the commerce of the country transported by railroads, about which the States do not legislate at all. Is not the legislation pertaining to interstate commerce far more important and necessary to the general welfare and prosperity of the whole country than is legislation confined and limited to the 15 per cent of commerce that is wholly intrastate? Therefore I think the very fact that 85 per cent of the business done by the carriers of the country is interstate makes it the duty of the only legislative body that can act on interstate commerce to act. We will not legislate with reference to local benefits, while the States do and must so act.

As the gentleman from Wisconsin [Mr. ESCH] said, 25 States of this Union have already passed laws with reference to the issuance of securities by corporations doing business in those States, or chartered by same. We all know who study this question that there are fields of legislation which under our Constitution can properly be occupied by Congress, which if not so occupied may be occupied by the States, and may be beneficially occupied in the absence of action by Congress. So the possibilities are, if we do not have national legislation along these lines, every State in the Union will occupy this field, and we will then have 48 controlling sovereignties in this field, with as many different shades of opinion as there are States.

It was testified before our committee that in some of the States where interstate railway companies whose lines went through those States, as well as other States, made application for the issuance of stocks and bonds in which States such applications and permission is required. Before the State authorities would authorize the issuance of those stocks and bonds it was necessary for the railroad companies to guarantee that a certain per cent of the proceeds of the issue should be expended within each State granting the permission. Such a requirement might be very wise and beneficial as to a particular State; but the fact that a certain per cent of the authorized issue of a railroad operating through a number of States must be expended in a particular State might reduce the amount that ought to be expended upon the lines of that railroad in other States, and result in a corresponding injury to interstate commerce, so far as that particular line was concerned.

As I said before, I am no enemy to railroads. We must have them, and we will have them. They must and will be a success. If private ownership and private enterprise do not make a success out of interstate railroads, they are so important and so absolutely necessary to the very existence of our commerce that the Government will have to step in and take charge of them and operate them, even if at loss to the Government. So we are right up to the parting of the ways. We must either by legislation make private ownership of interstate carriers a success to the Nation as a whole, or else the Government by the very necessities of the situation will have to take charge. We are not now confronted with the question of whether or not we shall have Government ownership of railroads. We are confronted with this question: What can we do to prevent Government ownership?

In a private enterprise, not a public utility, it makes no difference to the public what are the earnings on the investment.

A bank, although a quasi-public institution, if it makes 100 per cent on its capital and loans its money in competition with others at a low rate of interest, the country is not interested as to the gross amount of money the bank should make on its capital stock. The result is that some banks have shares of capital stock that in market value exceed many times their par value. Yet you find no public complaint or agitation growing out of such a condition. The public is just. The people do not care how much money you make out of your own property as long as you do not oppress others in doing so or deprive anyone else of any rights he is entitled to. So in private business it is permissible to get the greatest amount of earnings on capital investment and to get the greatest amount of return for the smallest amount of service rendered.

But when we come to public-utility facilities we must take another view of the question. It is then no longer a question of how great shall be the earnings, net or gross, on the amount of money invested, nor how great shall be the earnings in proportion to the amount of service rendered; but it becomes a question of how much service can be rendered for the least amount of investment, how much service can the public get out of public utilities for the least amount of burden or tax?

If private enterprises assume government functions as common carriers, they must not conduct their business as though they were individual owners of that business in which the public has no interest. They have some of the benefits of private ownership; indeed, they have much of it, they control their property, they elect their officers, they pay such salaries or compensation as suits them; but they must render such a service as the public is entitled to have rendered, and for such compensation as is just and reasonable and as will promote the public service and not hinder or impair it. [Applause.]

Mr. Chairman, it is useless to go over the great number of instances of bad financial management of railroad property. The gentleman from Wisconsin [Mr. ESCH] detailed a number of them, but neither he nor I have the time within the limits of this debate to detail but very few of them.

There is a misconception in the public mind as to what railroad stocks really are, and it comes about by use of the dollar mark as a measure of ownership. The trouble is, stocks, which are nothing but certificates of ownership, or evidence of title to a proportionate part of the property of the corporation, are determined by the use of the dollar mark, instead of a suitable unit for the measure of ownership by quantity instead of value.

When you speak of land you speak of acres of land, or square feet, or front foot. You do not say so many hundred dollars' worth of land. You measure land by the proper unit of measurement applicable to it, and your deed is the title to the land. When a farmer puts an improvement on his land that is necessary to its preservation, when he builds a new fence in order to protect his crops, when he digs a ditch to drain it, he is not entitled to an increase of rent in order to recoup himself, unless he has increased the yield of the land per acre, but he gets his recoupment by the added value to his farm.

Now, what do we mean by an overissue of stocks and bonds? That is what is prohibited in the Democratic platform and seems to be the same in all the others. You must remember that stocks are not a monetary obligation. Stocks are not evidence of indebtedness any more than a deed to a piece of land is a monetary obligation. A bond is a monetary obligation, a lien not only on the revenues of the road but upon all of its property—a mortgage. What is an overissue of bonds? That is just as simple as overmortgaging your own property. One of the evils is that when a railroad is overmortgaged—in other words, overbonded—which bonds being a lien on the property and earnings, those earnings which must go to payment of interest must be secured in some way or the railroad goes into the hands of a receiver. The desire to prevent receiverships and to boost credit often induces the payment of interest on bonds when the earnings do not justify such payment by resorting to short-time loans.

Dividends on stock for the market effect on the stocks are often paid when the net earnings do not justify it. But there are some glaring instances of overissue of stocks whereby the ability of the carrier to perform its duty to the public is materially impaired.

Having erroneously gotten into the habit of treating stocks as indebtedness of the corporation, it is difficult to get the public to think of them as mere evidence of title to a certain ownership interest in the property of the corporation, and therefore incurring no obligation on the public to pay a freight rate that will enable dividends to be paid on these stocks, or to claim any moral right to charge such a rate as will enable them to pay such dividends, as being in the nature of fixed charges.

One gentleman appeared before our committee and said:

> We have a bridge on a road, and the engines are made heavier, and it is therefore necessary to strengthen that bridge. We have to add $200,000 or $500,000 to our indebtedness in order to build a new bridge over which our own engines can pass with safety.

Is there any economy to the road in the big engines? Of course there is. It is a saving to the road to have the large engines. It is a benefit to the road to have the bridge, and the payment for that bridge ought to come out of the surplus earnings of the road before one dollar is paid as dividends on stock, and why? Because when you put $500,000 in the bridge, the road, as a whole, is worth $500,000 more than it was before the bridge was built, and the stockholder gets his dividends in the increased value of his own property.

Mr. MOORE. Mr. Chairman, will the gentleman yield?

Mr. SIMS. Certainly.

Mr. MOORE. The gentleman recalls the question I asked the gentleman from Wisconsin [Mr. ESCH] with regard to starting a new enterprise?

Mr. SIMS. Yes.

Mr. MOORE. Suppose the argument of the gentleman now with reference to taking the funds needed for improvements out of the earnings should be applied to some such enterprise as the Panama Canal, if it should be operated by a private corporation, how would you begin the work and where would you get the money?

Mr. SIMS. The gentleman means to start a new railroad?

Mr. MOORE. Yes; how would you do it?

Mr. SIMS. Just as you would start any other enterprise—get your charter, tell the public and the financiers what you have, and let individuals take stock in it, just like anything else; and if they want to issue the stock all they need to do is to go before the Interstate Commerce Commission, and if the Interstate Commerce Commission does not veto it you can issue the stock. In other words, the purpose of these stock and bond issues is to build or improve the railroad for which the issue is sought.

Mr. ADAMSON. Mr. Chairman, will the gentleman permit me to reply to the gentleman from Pennsylvania?

Mr. SIMS. Certainly.

Mr. ADAMSON. I do not see how the gentleman can figure that an incipient enterprise could come within the purview of this bill. It can not engage in interstate commerce until it is organized and goes to work.

Mr. SIMS. I understand what the gentleman means, but an incipient enterprise could be a proposition to build a railroad from here to the Pacific coast; such an incipient enterprise could be an enterprise to build a new railroad entirely through many States, if you mean by "incipient" a new proposition. In other words, if you want to build a railroad from Chicago to the Gulf it is a new proposition, and to that extent is incipient.

Mr. ADAMSON. The act to regulate commerce deals with carriers engaged in interstate commerce, not things that are trying to be born and organize and grow until they can operate in interstate commerce.

Mr. MOORE. If the gentleman from Tennessee [Mr. SIMS] accepts the statement of the chairman of the committee, the gentleman from Georgia [Mr. ADAMSON], that answers so far as the committee is concerned; but I caution the gentleman that this proposed revision of the act to regulate commerce will prevent many worthy men who desire to engage in legitimate enterprise from starting railroads from one State to another, which would be interstate railroads. They would not have the means with which to proceed; they would not have the money with which to pay wages or to provide the surveys or to do those other things necessary to start an enterprise of that kind.

Mr. SIMS. I do not think the gentleman is correct in that statement; it is therefore not necessary to discuss it.

Mr. MOORE. If the gentleman does not think it is necessary to discuss it, very well.

Mr. SIMS. I do not think it is necessary to discuss it with reference to whether it is necessary to make the passage of this bill to depend on it. The truth of the matter is that there are no longer any independent roads constructed that are not intended to operate in connection with some other roads doing an interstate business.

Mr. MOORE. It might be that we would want to get into the gentleman's State on an entirely new line.

Mr. SIMS. The gentleman puts a lot of hypothetical propositions to me when I want to discuss things which are not hypothetical.

Mr. MOORE. I think it is an extremely practical matter.

Mr. SIMS. The gentleman might think so, but he will have to let some of us differ with him.

Mr. GORDON. The question of the gentleman is, How is anybody who has no money going to build a railroad? That is what he wants to know.

Mr. SIMS. I do not know.

Mr. MOORE. Suppose gentlemen in the gentleman's State engaged in industrial enterprises want to get a railroad built into the gentleman's State, an entirely new line, how will the bona fide business men who want to start that railroad raise the money on stocks and bonds?

Mr. SIMS. Just like any other railroad.

Mr. MOORE. Why, they are forbidden.

Mr. CARY. He better not start it unless he has the money.

Mr. MOORE. That, of course, is a brilliant idea, but I would like to see the gentleman start a railroad enterprise involving millions of dollars, with all the money in hand at the start.

Mr. ADAMSON. If the gentleman will permit me, I think I can answer the question.

Mr. MOORE. The gentleman has undertaken to do it once or twice, very cleverly, and I am obliged to him, as his is one intelligent answer I have had on the subject.

Mr. ADAMSON. If I desired to build a new railroad in my State, and thought that I could get the money in any way, I would get a charter from my State, and then I would try to get the money. Then I would try to build the road, and when I got ready to operate it, if I wanted to put it into interstate commerce, I would get it into interstate commerce, and then it would be subject to this law.

Mr. MOORE. But if the road runs from the gentleman's State to another State, what then?

Mr. PAYNE. Perhaps the gentleman could use "psychology" to arrive at it.

Mr. ADAMSON. If the gentleman from New York is an authority on psychology——

Mr. SIMS. Mr. Chairman——

Mr. MOORE. Will the gentleman answer? If I may have the indulgence of the gentleman from Tennessee for one moment, I will ask the gentleman from Georgia if he will not consider the railroad that is to be organized under a charter granted by the State of Georgia as running into another State, and then answer that question——

Mr. ADAMSON. I do not think you would have any trouble. When you get it built and are going to operate in interstate commerce——

Mr. MOORE. But you have to have money to start it.

Mr. ADAMSON. That is a big trouble with all of us; if we had the money we could do a whole lot of things.

Mr. SIMS. Now, Mr. Chairman, what are some of the patent instances of the overissue of stocks? Bonds are easy, and many railroads have issued beyond what they ought to have issued, and in case of such an overissue, and the company fails to pay the interest, you can sell it out, foreclose the mortgage, and reorganize, but no railroad company can be put in the hands of a receiver because it does not pay dividends on its stock, because these dividends are not an operating charge or a lien obligation, but in a way they do affect rates, which the gentleman from Wisconsin described awhile ago. But in the public mind they have a good deal to do with it, whether strictly accurate, or legally or technically accurate, or not. It is practically the universal rule that when a railroad company decides to issue new stock, the outstanding stock of which is above par in the market, that in authorizing such issues it provides that the stockholders of record, at a date in the future fixed in its authorization, shall be permitted to subscribe for this stock at par. There is no use referring to the numbers of instances of that sort, as they are numerous. Now, take a road the market value of whose stock is, for instance, $150 a share.

Mr. PLATT. Will the gentleman yield?

Mr. SIMS. Yes.

Mr. PLATT. I do not think that is true—that they always authorize the subscription at par. Take, for instance, the Pennsylvania Railroad. They have made a number of issues of stock authorizing the stockholders to subscribe at considerably above par.

Mr. SIMS. But they authorize the subscription below the market price.

Mr. PLATT. Below the market price, but above par, and the stock immediately went down below that market price or near to it.

Mr. SIMS. That is all right, but I am going to give the reason——

Mr. PLATT. Will the gentleman permit another question?

Mr. SIMS. Let me give the reason and let me answer one thing at a time until I get through. Suppose a good road, a going concern, a well-established property, and the stock is selling upon the stock exchange, privately or otherwise, at not less than $150 a share. Now, suppose that good, solvent, going railroad concern desires to issue some additional stock. Say it wants to raise $10,000,000 and it wants to issue stock sufficient to procure this $10,000,000 to be used on its railroad for betterments, or for any purpose—reorganization or what not. The duty to the public of that railroad is to sell no more of its stock than will be necessary to realize the $10,000,000. Is not that correct? But how do they do it? I am only making this statement to illustrate. Whenever that railroad company through its board of directors authorizes the sale of that stock, not at the market price, not to the highest bidder at public sale, it permits the stockholders of record at a day specified in the future to have the privilege of subscribing to that stock at less than its market value, so that you have got to sell more stock to get the same amount of money to put on the road. What is the result of such a sale? I would like for the gentleman from New York to give his attention, and I will try to answer him. Suppose your stock is selling at $150 a share and you want $10,000,000.

If you sell to the public, to the highest bidder, it will not take $10,000,000 of stock at par value to realize the desired $10,000,000. It would not take $8,000,000 to bring you $10,000,000 in money, and money is all you want; and you only need $10,000,000 in money to be used for railroad purposes. Whenever you sell stock at the market value and put the entire proceeds derived from the sale in the treasury of your company you have not reduced the value of a single share in it. While you have issued more additional certificates of ownership, you have got more property owned by your railroad. Such stock issues have operated to reduce the value of the stock, the market value of it, by allowing the then stockholders to buy this stock for less than it is worth and pocket the difference in the value of what it was worth and what they got for it, which was private gain and never was applied to the improvement of the railroad or any portion of it; nor did it go in aid of any service to be performed by the railroad in behalf of the public.

Mr. PLATT. Will the gentleman yield again right there?

Mr. SIMS. Yes.

Mr. PLATT. Does the gentleman mean to contend that a railroad that has $100,000,000 capital and wants to get $50,000,000 more can issue that extra stock at the market value without having the market value go down, and will not the additional amount of stock, the greater quantity, force the market price down, anyway, and are not the stockholders entitled to protection in that regard?

Mr. SIMS. Now, let me answer——

The CHAIRMAN. The time of the gentleman has expired.

Mr. DOREMUS. Mr. Chairman, I am authorized by the chairman of the committee to yield the gentleman five minutes additional.

Mr. SIMS. Five minutes only will hardly be of advantage to me.

Mr. STEVENS of Minnesota. I yield the gentleman five minutes more.

The CHAIRMAN. The gentleman is recognized for 10 minutes.

Mr. DECKER. Mr. Chairman, I would like to ask the gentleman from Tennessee [Mr. SIMS] to yield to me just a minute to make a request, and I think the gentleman knows me well enough to appreciate that I would not interrupt him with any ulterior motive.

Mr. SIMS. Go ahead.

Mr. DECKER. I would like to ask unanimous consent that at 2 o'clock the committee rise, so that the Members of this House, from all parts of the United States, may have the opportunity to attend the ceremonies at Arlington Cemetery and to participate in and witness the unveiling of the monument to the Confederate veterans who sleep there and in other cemeteries of this country. I make this request as a son of a Union soldier, who taught me that one way to honor the men who wore the blue was to pay respect to those brave men who wore the gray, who fought for what they thought was right with the courage and grim determination that could have been resisted by no men on earth save by the men who wore the blue. And I ask unanimous consent that at 2 o'clock this committee rise, in order to give the Members an opportunity to participate in those ceremonies. [Applause.]

The CHAIRMAN. The gentleman from Missouri [Mr. DECKER] asks unanimous consent that at 2 o'clock the committee rise for the purpose of permitting all Members to attend the ceremonies at Arlington. Is there objection?

Mr. RAYBURN. Mr. Chairman, for the present I object.

Mr. RAGSDALE. Then, Mr. Chairman, I make the point of no quorum.

The CHAIRMAN. The gentleman from South Carolina makes the point that there is no quorum present. The Chair will count.

Mr. GARDNER. I hope the gentleman will withdraw that point.

Mr. RAGSDALE. No, sir, I will not.

Mr. GARDNER. The gentleman will not improve the chances of the committee rising later by insisting on his point of no quorum.

The CHAIRMAN. Does the gentleman insist on his point of order?

Mr. RAGSDALE. I insist on my point of order.

The CHAIRMAN. The Chair will count. [After counting.] No quorum is present.

Mr. RAYBURN. One minute, Mr. Chairman.

Mr. STAFFORD. Regular order, Mr. Chairman.

The CHAIRMAN. The regular order is called for, and the Clerk will call the roll.

The Clerk proceeded to call the roll, and the name of Mr. ABERCROMBIE was called.

Mr. RAGSDALE. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The regular order is called for.

Mr. RAGSDALE. Did the Chairman announce that a quorum was present?

The CHAIRMAN. There is no quorum present.

Mr. RAGSDALE. Then I move that the roll be called.

The CHAIRMAN. The Clerk will continue the calling of the roll.

The roll was called, and the following Members failed to answer to their names:

Ainey	Dale	Griffin	Kitchin
Ansberry	Davis	Gudger	Knowland, J. R.
Avis	Deitrick	Guernsey	Korbly
Barchfeld	Dies	Hamilton, Mich.	Kreider
Bartholdt	Difenderfer	Hamlin	Lafferty
Bathrick	Dooling	Harris	Langley
Bell, Cal.	Doughton	Hay	Lee, Ga.
Brown, W. Va.	Dyer	Hayden	L'Engle
Browne, Wis.	Eagan	Helm	Lever
Browning	Estopinal	Helvering	Levy
Bruckner	Faison	Hill	Lewis, Pa.
Burke, Pa.	Fields	Hobson	Lindbergh
Burnett	Flood, Va.	Houston	Lindquist
Calder	Floyd, Ark.	Howard	Lloyd
Callaway	Fowler	Hoxworth	Loft
Cantrill	Francis	Hughes, W. Va.	Logue
Carew	Gard	Hulings	McAndrews
Carlin	Garrett, Tenn.	Humphreys, Miss.	McClellan
Clancy	George	Johnson, Utah	McDermott
Clark, Fla.	Gittins	Johnson, Wash.	McGuire, Okla.
Coady	Goldfogle	Jones	Maher
Collier	Gorman	Keating	Manahan
Connolly, Iowa	Goulden	Keister	Mann
Conry	Graham, Ill.	Kennedy, Conn.	Martin
Cooper	Gray	Kennedy, R. I.	Merritt
Covington	Greene, Mass.	Kinkead, N. J.	Metz
Crisp	Griest	Kirkpatrick	Miller
Montague	Porter	Smith, Md.	Temple
Morin	Pou	Smith, Saml. W.	Ten Eyck
Moss, Ind.	Prouty	Smith, Minn.	Thompson, Okla.
Mott	Reed	Smith, Tex.	Townsend
Nelson	Rogers	Sparkman	Tuttle
Norton	Rubey	Stanley	Underhill
O'Shaunessy	Rupley	Stedman	Wallin
Padgett	Scully	Stephens, Cal.	Walsh
Page, N. C.	Sharp	Stephens, Nebr.	Watson
Parker	Sherley	Stephens, Tex.	Webb
Patten, N. Y.	Sherwood	Sutherland	Whitacre
Patton, Pa.	Sisson	Switzer	Wilson, N. Y.
Peters, Me.	Slayden	Taggart	Woodruff
Peters, Mass.	Small	Talbott, Md.	Young, N. Dak.
Plumley	Smith, Idaho	Taylor, Ala.	Young, Tex

Thereupon the committee rose; and the Speaker having resumed the chair, Mr. HULL, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee having under consideration the bill (H. R. 16586) to amend section 20 of an act to regulate commerce, and other bills embraced within the special order of the House, and finding itself without a quorum, he had caused the roll to be called, when 266 Members responded, and he presented therewith a list of the absentees.

The SPEAKER. Two hundred and sixty-six Members are present—a quorum—and the names of the absentees will be published in the RECORD.

SUNDRY CIVIL APPROPRIATION BILL.

Mr. FITZGERALD. Mr. Speaker, I ask unanimous consent to be permitted to submit a privileged report (H. Rept. 763), so that the bill may be printed.

The SPEAKER. The gentleman from New York [Mr. FITZGERALD] asks unanimous consent to be permitted to make a privileged report. Is there objection?

There was no objection.

Mr. FITZGERALD. By direction of the Committee on Appropriations I report the sundry civil appropriation bill.

The SPEAKER. The Clerk will report it by title.

The Clerk read as follows:

A bill (H. R. 17041) making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1915, and for other purposes.

The SPEAKER. The bill is ordered printed and referred to the Committee of the Whole House on the state of the Union.

Mr. GILLETT. Mr. Speaker, I reserve all points of order on the bill.

The SPEAKER. The gentleman from Massachusetts [Mr. GILLETT] reserves all points of order on the bill. The committee will resume its sitting.

REGULATION OF RAILWAY STOCKS AND BONDS.

Thereupon the committee resumed its sitting, with Mr. HULL in the chair.

Mr. SIMS. Mr. Chairman, I have 10 minutes remaining, 5 yielded by the gentleman from Michigan [Mr. DOREMUS] and 5 by the gentleman from Minnesota [Mr. STEVENS].

The CHAIRMAN. The Chair understood that the gentleman's time had been exhausted.

Mr. SIMS. No; I had not got started on my extension of time.

The CHAIRMAN. The gentleman will proceed.

Mr. SIMS. Now, suppose your $100,000,000 road proposes to add to its trackage, terminal facilities, and other permanent improvements, equal in value to $50,000,000, upon the theory that when it is added the road will be worth $50,000,000 more than it is; that it can render 50 per cent more service and earn 50 per cent more money; and if they sell $50,000,000 worth of stock and put all the money into the road, they do not necessarily impair the price of that stock one dollar either old or new, because after the stock is sold the railroad company has $50,000,000 it did not have before.

Mr. PLATT. But the gentleman disregards the element of risk. They are taking $50,000,000 and investing it in a risk.

Mr. SIMS. In an exceedingly well-equipped road, on which it is desirable to have a risk.

Mr. PLATT. Everything is a risk that is new.

Mr. SIMS. Mr. Chairman, there are only two more questions that I wanted to discuss, but I shall not have time in which to do it. One of those questions is, it is alleged and claimed by some who oppose this legislation that the Interstate Commerce Commission will not be able to attend to the duties imposed on it by this measure.

I do not think that that great body would have asked so often for just such authority if they were not capacitated for exercising it and will not have the time to properly discharge the duties they will be called upon to perform. Besides, if it were necessary in the public interest that those duties shall be performed, shall Congress cease to legislate and refuse to serve the public because an existing commission is already charged with duties

to the extent of its capacity to perform them? There is no question but that by additional legislation, if it should be found necessary—suggested by the commission itself—we can supplement its help, and it can be reorganized in such a way as to enable it to perform the functions that we here impose upon it, to the benefit and satisfaction of the country.

There is another point that I want to call attention to, and that is that the bad system of financing employed by so many railroads has discredited all railroad securities, both at home and abroad. It is to the interest of the public, it is to the interest of the railroads and the owners of railroad securities, that their credit should be restored and increased.

The fact that hereafter, before they do issue stocks and bonds, they must give notice of the amount of the issue and what it is for, and that it must be submitted to the Interstate Commerce Commission, that great expert body, and that body to approve of the issue must find that the issue which the railroad proposes to make is made in compliance with the law, gives assurance that will at once advance the market price of such securities all over the world. No underwriting syndicate, no house of Morgan & Co., can give tone and credit and value to these railroad securities equal to that of such a Government body representing the whole Nation, authorized by Congress to pass upon the necessity for the issue and to require reports as to its application. Therefore we shall benefit the roads by increasing and enlarging their markets for the securities. It will require fewer bonds and stocks to be issued, and in that way it will require less earnings to be made by the passenger and freight traffic of the roads, and will no doubt result in a benefit to the roads and to the public to be served by them. If Congress does not take some such action as this bill provides, it will practically furnish good cause for every State in the Union to further legislate and thus further complicate the issuance of stocks and bonds until such securities will practically have no market value at home or abroad.

How many of you gentlemen now, in view of existing conditions, would put a dollar in railroad stocks? How many of you would invest in such stocks when 48 States have power to affect their earnings, as also the National Government? Legislation of this character is in the interest of the public that patronizes the roads. It is in the interest of the security holders of the road, and those who are to become security holders.

I will put in my speech a letter written by Mr. Yoakum to the chairman of this committee, in which he says that the saving in interest alone, if the securities of the roads were guaranteed by the Government, would amount to $180,000,000 per annum. Whenever you increase the confidence in the solvency of stocks and bonds you increase their price. Therefore it will not require so large a volume of these issues to be placed upon the market in order to get the money necessary to perform the services required of the roads to the public.

I am glad that this is no party measure; that it is no Republican, no Democratic, no Progressive Party bill. This legislation, if this bill is passed, will be the people's legislation. It will be in the interest of the public, in the interest of the railroads, in the interest of the holders of present securities and of the investors in future issues of such securities; but because it will be thus it will not for one moment preclude any defense that may be made equitable or otherwise against any issue thus made and put out by the carriers before this law was in operation.

That idea that the Government is morally bound for and is morally indorsing all previous issues and will morally estop in the future the Interstate Commerce Commission from imposing a reasonable rate, providing that that rate will not give a reasonable earning upon all stocks and bonds that have been previously issued, has no force to me.

The Interstate Commerce Commission is not directing anything; but we, the Congress of the United States, say, "You shall not put on the market any bonds or stocks except under certain conditions." The company authorizes the issue and issues the bonds or other securities, but before it can sell them without committing a crime we require that the company shall submit its application to the Interstate Commerce Commission for the judgment of that commission as to whether the company has complied with the law which we are enacting. The commission is not authorized to exercise an arbitrary power. It can not substitute its judgment for that of the issuing company as to whether the profits in the future will be this, that, or the other figure, but simply that the commission shall see to it that the issuing company is complying with the requirements of the laws of Congress. We do not authorize it, we do not direct it. We simply approve it whenever it is done in accordance with the law of Congress which we are now passing. [Applause.]

NEW YORK, *March 14, 1914.*

CHAIRMAN COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE,
House of Representatives, Washington, D. C.

MY DEAR SIR: In response to your suggestion, I beg to present my views upon the subject of a law requiring the approval of the Interstate Commerce Commission of securities issued by the railroads.

As long as 14 years ago I filed a document with the Interstate Commerce Commission suggesting a plan for cooperation between the Government and the railroads. I am still of the same opinion, and believe the time is opportune for the establishment of closer working relations.

There is no doubt as to the advisability of railroad securities being subject to the approval of some one established authority, either the Federal Government or the different States, some of which now have laws supervising their issuance. The approval of the Government would be preferable as to interstate railroads, and would simplify the work both for the Government and the railroads. It would obviate the multitude of divergent views that might arise as to the necessity of issuing securities to carry on the work of development, additions, and betterments asked for by interstate carriers.

This subject is such a broad one that it should be viewed from a more comprehensive standpoint than merely whether the National Government or State authorities should control. Together with Federal approval of securities there should also be a way found to establish effective cooperation between the Government and the railroads. Among other things this would lead to cheaper money for the railroads for the improvement of their property and facilities, and would enable them to more economically handle their freight and passenger business. The price of money to the railroads is just as much a factor in the cost of transportation as the price of coal and other things that they must buy in conducting their business. To illustrate: If the coal consumed by the railroads in 1913 could have been purchased for 20 cents per ton less than was actually paid, it would have meant a saving in the cost of transportation in one year of approximately $47,000,000. (These statistics are based on the compilation of Slason Thompson.) Again, a reduction of 1½ per cent per annum in interest on the $11,000,000,000 funded debt of the railroads (Interstate Commerce Commission statistics as of June 30, 1912) would effect an annual saving in the cost of transportation of $165,000,000, which now constitutes mere economic waste. In other words, each one-half of 1 per cent reduction in interest rates would mean a saving of $55,000,000 per annum, or $5,000,000 more than the Government paid to the railroads of this country for carrying the mails last year.

In considering the problems of transportation for the future it is interesting to look back a few years. Thirty years ago, which is a short period in the life of a nation, there were 125,000 miles of railroad in the United States, and the mileage has doubled in the last 30 years. If our population increases in the same ratio in the next 30 years as in the last, or 77 per cent, there will be in 1944 about 175,000,000 people. If our railroad mileage increases in proportion to our population, which will be necessary for the country's development, it will require the construction of about 193,000 miles of new railroad during the next 30 years; therefore it is important to consider the transportation question not only for what we now need but for the country's requirements in the near future.

The average cost of money for construction, additions, and betterments is estimated at about 5½ per cent per annum, including discount. If new railroad mileage in this country, including construction, ballasting, equipment, and adequate terminal facilities, costs, say, $60,000 per mile, the next 30 years' requirements of 193,000 miles would call for about $12,000,000,000. The difference between 4 and 5½ per cent in the rate of interest on this amount is $180,000,000 per annum, which colossal sum would be saved in the cost of transportation.

If the Government should approve a railroad security, it would in effect, morally speaking, indorse it, and this high approval of the issue should make such a bond sell at the lowest rate of interest current for gilt-edge securities, thereby reducing the cost of transportation.

A quasi copartnership, without risk or cost to the Government, might be established through a Federal license or charter involving a profit-sharing plan for such interstate railroads as prefer to operate under a Federal charter. A national charter need not interfere with the authority of State railroad or public-utility commissions in supervision of intrastate business or State regulation, except as to the issue of interstate securities. These would come under Federal supervision only, and the Government would participate in the profits of the road under an equitable profit-sharing plan. The profits thus accruing to the Government could be distributed for the benefit of the various communities served by such railroad, as, for example, the upkeep of improved public highways.

The system of profit sharing of corporations and the public is proving successful and having a good effect upon all interests. I have one illustration particularly in mind. Prior to 1907 there was constant friction between the surface lines in Chicago and the city authorities as to extensions, facilities, service, and fares. All the surface lines on the North and West Sides were consolidated into one company, and all the lines on the South Side were owned by another company. Under a mutual understanding the city adopted a contract ordinance February 11, 1907, under which the city receives 55 per cent of the net revenue of the surface companies after deducting interest, taxes, discount on bonds, and a stipulated amount for depreciation and other contingencies.

Within the last few months the two companies have been permitted to unite in a plan of joint operation, under which unification all facilities are used for the general interest, and the companies are able to handle traffic in congested districts where much trouble and expense had theretofore existed. The city's portion of the net revenue, I am informed, at the present time has aggregated about $12,000,000, which, under the terms of the ordinance, must be expended for the improvement and extension of transportation facilities in the interest of the Chicago public. The success of this cooperative arrangement is further demonstrated by the fact that a passenger can ride farther for 5 cents in Chicago than in any other city. If this can be done with one of the largest city and interurban systems of the country is there any reason why the same principle can not be applied and as successfully carried out with a railroad engaged in interstate business? Evolution of public sentiment and consequent legislation is unmistakably tending this way. I believe that nothing short of a concrete experiment along profit-sharing lines will satisfactorily determine the question.

There are reasons why a working plan of this character with the Government is better for the people than Government ownership. Such a plan would tend to increase investments in railroad properties, and

what is of more importance, would continue and encourage that strong individual initiative force which has been the most potent factor in the building up of this country.

Yours, very truly,

B. F. YOAKUM.

Mr. ADAMSON. Mr. Chairman, will the gentleman from Minnesota [Mr. STEVENS] use some of his time now?

Mr. STEVENS of Minnesota. Mr. Chairman, will you notify me at the end of 30 minutes?

As one of the minority, I desire to express our entire sympathy with the general purpose of this legislation and our sympathy also with the spirit and sentiment of the debate thus far; but I also desire to notify the committee that when the bill was reported from the Committee on Interstate and Foreign Commerce I then reserved the right to criticize and oppose the bill, if necessary, because I believed it was, and as it now stands is, inadequate for the purposes which we desire to make effective.

So this afternoon I will not indulge in discussion of the general subject, as the others have done, but I shall address myself particularly to the details of the bill before the committee and point out what seem to me radical defects in it, which must be corrected if effective legislation is to be written upon the statute books.

REPUBLICAN LEGISLATION.

Mr. Chairman, you must recall that this bill follows the line of legislation on the same subject heretofore proposed on the Republican side of this Chamber. As the gentleman from Wisconsin [Mr. ESCH] so strongly pointed out in his very able speech, a similar measure was made a part of the Mann-Elkins bill as it passed this House in 1910. When the bill providing for the physical valuation of railroads was before the House, the gentleman from Illinois [Mr. MANN]—and I, in my humble way, sought to assist him—wanted to have inserted as a part of that bill, as I think should have been done, the same measure providing for the regulation by the Interstate Commerce Commission of stocks and bonds issued by common carriers. It is a necessary corollary to that legislation for the valuation of such carriers. You gentlemen on the Democratic side of the House objected on both occasions to such legislation as this. Instead of the Mann-Elkins provision as passed by the House, the Hadley Commission was appointed under the act of 1910, and I desire to call attention particularly to their report. It was not altogether in accord with the statement of my friend from Wisconsin [Mr. ESCH], because the Hadley Commission, as one of the strongest reasons in its recommendation for publicity of the proceedings of all carriers in issuing their securities, stated that it would seem at that time to be impossible that Congress would grant exclusive powers to the Interstate Commerce Commission to regulate this subject and exclude such regulatory powers from the State.

HADLEY COMMISSION.

The Hadley Commission stated, on page 12 of its very able report, that—

> If we were ready to substitute exclusive Federal control for the jurisdiction of the several States over their railroad corporations, much could be said in behalf of the establishment of a national authority to supervise both the issuance of stocks and bonds and the actual expenditure of their proceeds. But apart from the constitutional difficulties which might stand in the way of such a procedure, your commission is of the opinion that as a mere matter of expediency the time is not ripe for any such immediate or forcible transfer of jurisdiction.

Now, the world has moved in four years. You gentlemen on the other side of the House—and I congratulate you upon it—apparently have changed your opinions, so that now you are ready to vote solidly for a bill which does not allow the regulatory power of the State to be exercised on this subject but does confer such exclusive power to regulate the issuance of these securities upon the Interstate Commerce Commission. So that the very basis of the Hadley report has changed, and the time has now come when the results which the Hadley Commission stated as desirable to be accomplished can be had by the bill under consideration.

STATE COMMISSIONS.

Another wonderful thing has happened along similar lines during the last four years. Last October, the twenty-fifth annual convention of the railroad commissioners of the various States was held in Washington, and by a unanimous vote they adopted a resolution advocating exactly this kind of legislation, and expressing the desire that the power to regulate the issuance of stocks and bonds of interstate common carriers be delegated to the Interstate Commerce Commission. Of course all lawyers understand that unless otherwise expressed such power would be exclusive and supersede the States in such work. So the States have joined with you gentlemen in advising that this be done. The business associations all over the United States and very many of the managers of railroads appearing before our committee and in other places have advised that this sort of legislation be passed, granting exclusively such power to the Interstate Commerce Commission.

CONDITIONS OF POWER.

But, gentlemen, all of these various authorities—the Hadley Commission, the Association of State Railroad Commissioners, the managers of railroads, and the managers of large business institutions—all based their opinions and advice upon three preliminary conditions before this legislation should be effective. Those conditions were as follows:

First. That the power in the Interstate Commerce Commission must be exclusive and supersede the authority of the States. Practically the States themselves advocated such legislation as to interstate carriers.

Second. That the legislation should be practical and not prohibitive as to such issuances.

Third. That there should be proper administrative authority in the Federal Government to make this power effective. This bill fulfills the first requirement. It does make the power exclusive in the Interstate Commerce Commission. It does not fulfill the other two requirements. It is not practical. It is prohibitive, and there is not proper administrative authority provided for transacting the tremendously important business which must be done under the provisions of this bill. For these reasons, as the bill now stands, unamended, I am opposed to the measure.

Mr. RAGSDALE. Mr. Chairman——

The CHAIRMAN. For what purpose does the gentleman rise?

Mr. RAGSDALE. I make the point of no quorum.

The CHAIRMAN. The Chair will count. [After counting.] One hundred and two Members present, a quorum.

REQUIREMENTS OF COUNTRY.

Mr. STEVENS of Minnesota. Mr. Chairman, if the committee will consider the situation which now confronts the country, you will realize the necessity for those conditions. There have been issued and in the hands of investors outside of railroad holdings, up to and including the year 1913, approximately $15,294,625,146 worth of securities by the various railroad companies of the United States, covering 242,177 miles of railroad. There are about 10,000 miles more not included in these amounts of these securities. A little more than one-third of this amount is invested in stocks and a little less than two-thirds of such outstanding securities are bonds. The business prosperity and the material development of this country can not improve, we can not secure the degree of prosperity which we all desire, unless the carriers shall and can furnish adequate facilities for the transportation of the products and merchandise of this country. It will be of no avail for the farmers to produce their grain and fruit and meats if they can not speedily and cheaply reach the consumer. The miner can pile up his stores and the lumberman his timber or finished products; the manufacturer can work his mill in vain; unless these can all be transported where they should be to the best advantage of both the producer and ultimate consumer, so that the results of this measure in either assisting the proper financing of the common carrier for the welfare of the people or in increasing barriers and throwing burdens upon them, will go far toward the prosperity or injury to the country and its industries.

Mr. ADAMSON. Will the gentleman yield for a moment?

Mr. STEVENS of Minnesota. Certainly.

Mr. ADAMSON. It appears not to be generally understood that the House this morning by unanimous consent passed an order that when the House adjourns to-day general debate shall end. So, all who are scheduled for speeches must speak to-day, or they will not get to speak at all. Therefore, I want to request all Members to be present for a while, because every time the point of no quorum is made, if a quorum is not found to be present, we shall be delayed 40 minutes, and it may be 10 or 11 o'clock to-night before we can finish general debate. If we can keep a quorum here we will not be delayed.

Mr. STEVENS of Minnesota. Mr. Chairman, as I before stated, unless these facilities shall be furnished by the common carriers business can not be carried on properly or profitably. Our country can not develop; our communities and their industries will be dwarfed. So that it is of the utmost importance that these proper facilities be afforded, and that can not be done unless a proper system of financing be encouraged for the common carriers of the United States.

NEEDS FOR FUTURE.

It has been estimated by various authorities, and has been shown to our committee, that in the next few years there will be needed between $5,000,000,000 and $10,000,000,000 for the railroads to do this work properly, and it is the issue of this

vast mass of securities which must be regulated by a measure of this kind, and it is the importance of the results to be attained by such issuances which must be constantly had in mind in the consideration of this measure. These carriers and their public work, these securities which they may issue, are only the means for our people utilizing themselves and their resources and their localities to the best advantage. It is of the greatest necessity for our people that we provide such resources and not prohibit their issuance or use by unwise or too restrictive provisions. We must be practical and meet world-wide conditions as we find them. We can not make them over as we would. The difficulty is not with the general principle of this bill. Nearly everybody agrees with that. The real difficulty is with its details as to whether they really provide the protection we desire to extend over the issuance of securities, at the same time not burdening or unduly restricting such issuance and consequent development.

DIFFICULTIES IN SUBJECT.

So, Mr. Chairman, there are serious difficulties in arranging the details of a measure of this kind. It is an easy thing to state, as some of the gentlemen have assumed, that we can pass a bill granting the Interstate Commerce Commission the exclusive authority to regulate railroad securities without realizing the practical difficulties which are embraced within that problem. Remember that at the present time there is no market at all for railroad securities. As you have read the newspapers for the last few weeks you will notice that practically no railroad stocks and bonds can be sold. Only short-time notes can be disposed of, which is an extremely dangerous sort of financing for the great railroad corporations, because no one can foretell what may be the situation at their maturity.

If they can not be met at maturity, the carriers must go into a receivership, and that means injury and possibly disaster to the general business of the country. Such an occurrence may paralyze the credit of even the strongest institution. We note, too, that many more bonds than stocks are issued and sold by railroads. This is a menace also, because these fixed charges must be met under all conditions or a receivership occurs. It should be for the real interest, then, of the people for our legislation to encourage financing as much as possible by legitimate stock issues, then of bonds, and lastly by means of notes.

At the very outset, if we pass legislation giving the Interstate Commerce Commission the right to regulate the issuance of securities, we will be met by two constitutional propositions which must be settled before any such law can be made effective, and securities sold under it.

No prudent investor will buy a share of stock or a bond with a lawsuit attached to it. He must know beyond question that such security is entirely legal and valid and can not and will not be attacked.

So before any of these securities under this act can be made available or can be sold in the markets of the world, these constitutional questions must be settled by the Supreme Court of the United States. These questions are as follows:

CONSTITUTIONAL QUESTIONS.

First. Can Congress, under the commerce clause of the Constitution, grant the exclusive power to the Interstate Commerce Commission to regulate the financial affairs, including issuance of its securities, of State corporations engaged in interstate or foreign commerce? Second. Is the language of the act in question sufficiently definite to so do, and at the same time to establish proper basis and standards and scope of action for the commission to carry out the legislative will in these respects? Remember that the State is the creator of these corporations. It regulates how they shall exist, how their securities shall be issued, in what manner and how they shall be sold; and I think ten or a dozen States have provided in their constitutions minimum prices for them.

You note how important it is to have that matter settled speedily and certainly. Has Congress the right to delegate to the Interstate Commerce Commission the power to override or supersede these requirements of the constitutions of possibly 48 States?

Mr. TOWNER. Will the gentleman yield right there?

Mr. STEVENS of Minnesota. Certainly.

Mr. TOWNER. In any given case where a corporation issues its stock or its bonds and the matter is submitted to the Interstate Commerce Commission for their approval and the commission makes that approval, how in any event can the question be raised as to the validity of the issuance of the stock and bonds?

Mr. STEVENS of Minnesota. The question of right of the commission to act at all and its right to supersede contradictory State action, of course, can arise, and I presume could be tested in several ways. If the approval be granted by the commission, then the question of such approval can be tested by a proceeding as to whether or not it is valid as an authorized act under the Constitution, also as against some conflicting requirement of the State constitution or of the statutes under it.

Mr. TOWNER. The gentleman will recognize that the only question he stated was as to the validity of the issuance, and that has been determined.

Mr. STEVENS of Minnesota. I should have said the validity of the issuance and the approval.

Mr. TOWNER. I think the gentleman is correct in stating it in that form. If it be approved by the Interstate Commerce Commission, the issue goes upon the market, and how can that question be tested? The corporation will not test it for it is anxious to put them on the market. No person who purchases the bonds could object to the approval by the Interstate Commerce Commission because that adds to the validity of the security.

Mr. STEVENS of Minnesota. Any State authority or stockholder or creditor of the railroad could test it.

Mr. TOWNER. How could the question be raised?

Mr. STEVENS of Minnesota. By an injunction against the financial officers as to the right to issue the bonds, because they had not complied with some requirement of the State laws.

Mr. TOWNER. Yes; but that would be before they were placed on the market.

Mr. STEVENS of Minnesota. There would be no market for such securities if these two questions that I speak of remain unsettled. There can be no market until these things are cleared beyond question.

Mr. MADDEN. Will the gentleman yield?

Mr. STEVENS of Minnesota. Certainly.

Mr. MADDEN. Would a railroad proposing to issue securities first submit their right to do so to the State which created the corporation?

Mr. STEVENS of Minnesota. No; that depends on the scope and terms of this bill, as I have stated. But the carrier coming before the Interstate Commerce Commission would have to show its organization, necessarily. This would be done under the State law. Then upon that basis the securities would be issued upon which the approval of the Interstate Commerce Commission must be obtained.

Mr. MADDEN. Does this bill propose to take the power away from the States?

Mr. STEVENS of Minnesota. Practically. The bill provides that the State commission shall be summoned or notified, so that it may make any sort of a showing before the Interstate Commerce Commission it sees fit.

Mr. MADDEN. If the State commission protested and the Interstate Commerce Commission overruled the protest, then the protest would be of no avail?

Mr. STEVENS of Minnesota. That is correct; it would not.

Mr. TOWNER. In cases where the States require corporations which have been granted franchise in their domain that before they can issue stocks and bonds they must secure the approval of the State commission, would not it be requisite that they should first secure the approval of the State commission, and then afterwards that of the Interstate Commerce Commission?

Mr. STEVENS of Minnesota. Not at all; it is within the power of the Interstate Commerce Commission to do as it pleases. If it does not care to consider the requirements or protests of the States, it need not do so; that is, if the Federal statute be broad enough to cover the similar legislation of the States. In such cases the Interstate Commerce Commission would be supreme and the States must acquiesce.

Mr. CANTOR. Would it not be subject to review by the courts?

Mr. STEVENS of Minnesota. Not as to the merits of the application, if the Federal act be clear and comprehensive. That is one of the questions I am raising, a question that will have to be settled before the securities can be marketed.

Mr. TOWNER. This is the point I had in mind: Would it not be necessary, if the law is passed, to secure the approval of the State commission and the Interstate Commerce Commission?

Mr. STEVENS of Minnesota. No. That is, if the Federal law be broad enough to cover the general subject, as I think this may.

Mr. TOWNER. Does this bill take away the necessity where such State authority exists for securing the approval of the State commission?

Mr. STEVENS of Minnesota. Yes; entirely within its scope. That is, I think that the State authority is not necessary so far as this legislation extends.

Mr. TOWNER. I am very glad to have the gentleman's idea.

Mr. GARNER. Mr. Chairman, will the gentleman yield?

Mr. STEVENS of Minnesota. Yes.

Mr. GARNER. We have a law in Texas that prohibits a railroad company doing business in that State and issuing stocks or bonds without the permission of the railway commission. We also have a law saying that a railroad can not do business in that State unless it is domiciled there, unless it has officials there. Does this bill take away from the State of Texas the right to limit the issuance of stocks and bonds on railroads that do business in the State of Texas?

Mr. STEVENS of Minnesota. No; it does this: A Texas corporation desiring to do interstate business, which most of them must do, and issuing its securities must go to the Interstate Commerce Commission and get its authority, and it makes no difference in such a case what the authorities of the State of Texas decide or do.

Mr. GARNER. But our State constitution provides that every railroad in Texas, regardless of whether it is part of an interstate line, must have its domicile in Texas and be a Texas corporation, and wherever it reaches the line it ceases to be a Texas corporation, although it is doing interstate business, but not interstate business in so far as the Texas line is concerned.

Mr. STEVENS of Minnesota. A great many States so provide. The gentleman has stated what a dozen States provide. My understanding of this bill is that the railroad in Texas, if it desires to do an interstate business and issue stocks or bonds, must come to the Interstate Commerce Commission and get its approval of its securities; and it makes no difference what the State commission of Texas may or may not do, or what the constitution or laws of the State of Texas may prescribe as to the conditions covered by the Federal law. Suppose the State of Texas should provide that these bonds must be sold at par—as I think the State has some such requirement—the Interstate Commerce Commission may make an order that it makes no difference what may be the price at which the stock is sold; and if the Texas commission makes any order to the contrary, the authority of the Texas commission is void as against the order of the Interstate Commerce Commission when it has authority to act on that point. I want to show gentlemen the extent of this legislation. When it is comprehensive, as it should and must be to be practical, it completely obliterates the power of the States in so far as that power conflicts with the power granted in this bill. This bill is not and should not be supplementary to the authority of the States, as suggested by the gentleman from Iowa, Judge TOWNER; it is not supplementary to the authority of the State, as suggested by the gentleman from Texas, Mr. GARNER. It is exclusive. It wipes them all out, so far as the issuance of the securities of any railroad entering into interstate commerce is concerned; and my own opinion is that it may cover all commerce, because the two can not well be separated; and the only public authority needed for the issuance is that provided in this bill, from the Interstate Commerce Commission.

Mr. GARNER. I would like to know whether the Interstate Commerce Commission would have the power to determine the price at which securities should be sold? That is left to the States?

Mr. STEVENS of Minnesota. No. Practically, it might, but it is for the Federal authority to decide the policy. There is nothing in this bill that makes any such regulation. We carefully omitted that. We thought it was not wise under the circumstances to go into that field, and I doubt if the States under this would have any regulative authority which would conflict with this provision; that is, if the regulatory direction of the States burdened the issuance so it would directly interfere with interstate commerce it would be void.

Mr. GARNER. Let me put a concrete case: For instance, we have in the State of Texas doing business the Missouri, Kansas & Texas of Texas. Then there is the Missouri, Kansas & Texas, which leaves St. Louis and has a terminal at Galveston. The Missouri, Kansas & Texas, as known throughout the country, is a part of the same line, but that portion in Texas is the Missouri, Kansas & Texas of Texas. If the railroad commission of Texas should refuse to permit them to issue stocks and bonds on the Missouri, Kansas & Texas of Texas, could they come to the Interstate Commerce Commission here and get permission to issue stocks and bonds on the entire line, including that portion in Texas?

Mr. STEVENS of Minnesota. Oh, yes; the railroad company could come to the Interstate Commerce Commission under this act and get its approval for the issuance of stocks and bonds on the Texas portion alone or on the whole railroad covering the Texas portion. That is what this bill is for. The Texas commission would be summoned and object, but that would not be fatal to the order of the Federal commission.

Mr. ADAMSON. Mr. Chairman, if the gentleman will permit, he is at this time on a question incident to the discussion of this matter every time it has ever come up, and he will pardon me for calling attention to the fact that while he announces his interpretation of this law there are a number of us who entertain a quite different interpretation of the effect of it. If we could unanimously agree on what it should be, we could not agree on a bill at all, for we would go to one extreme or the other, and we never could have reported a bill. We have agreed to let each side put its own interpretation upon this feature of the bill, and then let the court decide in the end what it is. Having said that much, I desire to ask the gentleman touching a matter that he passed a moment ago, and that was the character of the order of the commission as to approving or disallowing bonds. I say it is a veto power and the gentleman says it is an initiatory power. If the commission should arbitrarily, contrary to the evidence presented, the weight and truth of the matter, refuse to approve an issue, does not the gentleman think the corporation making the application would have its right to redress in the courts?

Mr. STEVENS of Minnesota. Yes; if such a case be presented; and yet there is a discretion left to that commission within certain limits, and the courts have no jurisdiction to tell the commission how that discretion shall be exercised. If the courts attempt to direct that commission how it shall exercise its discretion, then the courts are legislating. But if the commission exercises its discretion without any regard to the facts, then the courts have the right to compel the commission to regard the facts; or if the commission shall act without any material facts as a basis for its action, then the courts may interfere. Such cases are the main jurisdiction of the courts against the commission.

Mr. ADAMSON. If the corporation files its application and proves the facts to be within the terms laid down in this bill which we are about to enact into law, then has the commission any discretion to refuse to sanction it if the application and the evidence come up to the terms prescribed as conditions on which it shall be approved, and can not mandamus be sued out against the commission if it refuses?

Mr. STEVENS of Minnesota. Mr. Chairman, if that be true, then this bill is of no value to anybody. If that be true, then this commission is nothing but a rubber stamp, and, as the State commissioners unanimously voted, would do more harm than good to the railroads of this country and to the business affairs of this country. Unless you give this commission some discretion, especially on this point, then this bill or any similar bill is worthless. Such power is necessary to the proper performance of its service to the public. Who is to decide the pivotal question as to whether there should be such issuance from the public standpoint and for the public welfare? The commissioners are to decide that, not the court. That is the very substance of their discretion and the reason for their action. They know the facts, have the experience, and this bill gives them the power. Look at its provisions, "tending to impair the financial ability to carry out and discharge its duties." Who is to determine that point as to whether such issue would impair the ability of the carrier? Who should have protected the public in the Alton case and in the Pere Marquette case? It would be discretion not of the court but of the commission. If the commission renders a decision that its approval is based on the facts, and it must have the facts before it, the decision of the commission is final and not subject to review. The court can not act as an appellate tribunal in such case. It can only ascertain whether the commission complied with and kept within the law. Unless that power does exist, unless we give them that authority with such safeguards, then this bill will not be worth the paper it is written on and we better abandon the whole subject.

Mr. TOWNER. Will the gentleman yield?

Mr. STEVENS of Minnesota. I will.

Mr. TOWNER. I have a very high opinion of the gentleman's legal knowledge and especially with reference to these questions, and I know it to be much more extensive than my own. Let me state this particular question to the gentleman and then I will ask what he thinks about it. Suppose the Illinois Central Railroad is an Illinois corporation. Suppose the Illinois law is that before any corporation can issue stocks and bonds it must secure the approval of the Illinois State Railway Commission. Now, suppose the Illinois Central Railroad should make their application to the commission for the issuance of stocks and bonds and it is refused. Then they make application to the Interstate Commerce Commission and it is granted. Did I understand the gentleman to say that this would empower the corporation to issue the stocks and bonds?

Mr. STEVENS of Minnesota. Certainly. Unless Congress will give the Interstate Commerce Commission this power, as I said, the bill is not good for anything, and the business interests and people of this country will correspondingly be injured by this supplementary unwise restriction.

Mr. TOWNER. That is the reason I was making the inquiry. Let me ask the gentleman this: Could not the Illinois State commission bring an action in the State court by injunction against a corporation which has its existence in the State of Illinois against the issuance of stocks and bonds contrary to the provisions of their law?

Mr. STEVENS of Minnesota. Clearly they would have the right to do it, and just such an action probably will test the provisions of this measure, both as to the right of Congress to grant such power and as to whether the powers granted be sufficient to accomplish these results.

Mr. TOWNER. In that case what would be supreme?

Mr. STEVENS of Minnesota. Then it is for the United States Supreme Court to determine, and that is exactly the proposition I address to this committee. My own judgment is that unless in a case exactly like that the authority of the Interstate Commerce Commission is supreme, and the Illinois commission has no authority in conflict with it, then this bill is not worth anything, and Congress has no power at all to legislate as to the issuance of securities. That is the point which is fundamental and must be settled first of all. Let us view a case which is extreme, more extreme than that of the gentleman from Iowa, if you will allow me.

The CHAIRMAN. The gentleman has consumed 30 minutes.

Mr. STEVENS of Minnesota. I yield myself 15 minutes more. If you will allow me to follow a case still more extreme, which, I think, appears in the testimony before the committee. The Southern Railroad is a corporation of the State of Virginia, and the law of Virginia provides for a limit on the amount of stock; for example, as an illustration, say, $20,000 a mile and bonds of, say, $20,000 a mile, which can be issued upon that railway, and that limit has been reached in the issues. Now, the States of Alabama, Georgia, North Carolina, and South Carolina have commissions which require, or, rather, have jurisdiction to compel, or have commissions which have charge of the physical service and the operation of railroads, and so forth, and such commissions make orders compelling the Southern Railroad to install grade crossings and to construct certain bridges and make certain permanent improvements, which require more capital. The Interstate Commerce Commission is given authority to do similar things in the interest of interstate commerce. All of these commissions make these orders and serve them on the Southern Railroad Co. to compel such work in the interest of commerce. That railroad company answers, "We have not any authority in our charter from the State of Virginia to issue more stock or more bonds, and the State of Virginia will not grant us any such authority; but we will do the best we can." So the company provides for an issue and appears before the Interstate Commerce Commission. Remember that its authority under the law of Virginia is exhausted. It comes to the Interstate Commerce Commission and asks authority to issue $5,000 more of stock or bonds per mile over and above what the law of Virginia authorizes it to issue. Unless Congress has authority to grant that request in some way to the Southern Railroad for the purpose of protecting and helping interstate commerce, then our power is worthless and we might as well quit trying to regulate carriers and their securities. There is no pretense such power is given in the present bill, but it must come some day. I desire to call attention to these cold facts about the railroads and their probable financing in the future.

I think it is also my duty to direct attention to the great political and economic change which must follow the enactment of such a measure, and all authorities and all commissions of this country have got to face it by the passage of this measure. My contention and that of those who believe in the exclusive power of the Federal Government is that unless the Interstate Commerce Commission be granted authority by appropriate legislation to grant the Southern Railroad the right to issue that additional $5,000 a mile, notwithstanding it has exceeded the authority of the State of Virginia, then this law can not be made worth the paper upon which it is written. Remember that the Federal Government has a complete right of visitation over the interstate business of this State corporation. It also has the perfect right to create a Federal corporation to do the same work. These are sovereign powers of the Federal Government for which there is no limitation in the Constitution. It seems to me these can be combined or used separately or applied to a State corporation to accomplish a public purpose provided by the Federal Constitution. Unless Congress can do these things it is not sovereign as to interstate commerce.

Now I will yield to the gentleman from Iowa [Mr. SCOTT].

Mr. SCOTT. Mr. Chairman, my colleague from Iowa [Mr. TOWNER] indicated a case where application had been made to the State commission and that commission had refused the application, and then they had made it to the Interstate Commerce Commission, and that commission sought to act, and the State commission then challenged the right of the Interstate Commerce Commission in the court, and I understood the gentleman from Minnesota to say then it would be a question for the United States Supreme Court. Now this question occurs to me, What question would be for the United States Supreme Court? Would it not be a question of power of this Interstate Commerce Commission rather than the question of exercising that power, and if the Supreme Court of the United States held that the Interstate Commerce Commission, under this bill, had the power, would it not stop there and rest the discretion in the commission?

Mr. STEVENS of Minnesota. That is it, exactly; the gentleman has caught and stated the point. If the Supreme Court once determines that Congress has the power to vest such authority in the commission, then it must ascertain the extent we have done so. After that has been clearly laid down, then within such limits the commission would be supreme as far as exercising its discretion upon the facts presented.

Mr. SCOTT. Then, what would be the determination of the fact if the power of the State commission was wiped out?

Mr. STEVENS of Minnesota. The determination as to interstate commerce must rest with the Federal authority. It is exclusive where there is a conflict. The gentleman has stated it clearly and precisely and, I think, accurately.

Mr. GARNER. You have undertaken to give in this bill the Interstate Commerce Commission that power indicated by the gentleman from Iowa [Mr. SCOTT].

Mr. STEVENS of Minnesota. I think so, clearly, notifying the State commissions that they must come before the Interstate Commerce Commission and make their showing, and the Federal commission may determine the proper course after all the interests are before it.

Mr. CLINE. I want to ask whether this whole proposition is predicated on the case of Gibbon versus Ogden, Ninth Wheaton, where Chief Justice Marshall said the Federal Government under the interstate-commerce clause of the Constitution should not divide its empire with the States when it once took jurisdiction of the subject matter under the interstate-commerce clause?

Mr. STEVENS of Minnesota. I think the gentleman is correct, and unless he is right I think we need spend no further time on this bill. Not only that, but where State regulations as to intrastate matters directly burden or interfere with interstate commerce—in such cases also the State authority must yield to the national.

Mr. ADAMSON. Has the gentleman from Minnesota completed his argument on the bill? There are one or two other things to which I wish to call his attention after he has finished his line of argument.

Mr. STEVENS of Minnesota. These various interrogations illustrate what I stated to the committee, that before a decision be made with respect to the securities which can be marketed under this bill these various matters must be determined by the Supreme Court, so that it is important that this bill first be framed so that these fundamental propositions will be litigated in the best possible, clearest, and most expeditious way; and, secondly, while they are being litigated the power of the Interstate Commerce Commission as to publicity of such matters shall not be impaired.

DEFECTS OF BILL.

Under the pending bill there are two difficulties: First, it is composed, as you will notice, of only one section. If for any reason—and I think there are three reasons why this section is unconstitutional—if for any reason this section be declared unconstitutional, it eliminates the whole bill, which contains much new and excellent legislation. So for that reason the measure ought to be redrafted so that it can present concisely the propositions we have been discussing. In the meantime there should accompany it adequate provisions along the line of publicity, something as outlined in the report of the Hadley Commission. This is essential, because the Supreme Court has held, and very clearly, that publicity of affairs and the supervision of accounts and reports does not depend upon the interstate-commerce clause.

The commission has a plenary authority of the sovereign power of the United States to ascertain the necessary facts so that public affairs can be properly acted upon. So it is not

limited by the commerce clause, and we can place such provisions in one section and secure the publicity advised by the Hadley Commission and outlined so ably by the gentleman from Wisconsin [Mr. ESCH]. This section need not be tested in the courts, because there is no question about its validity. Then we can put in another provision covering the questions as to regulation and draft it carefully, making it broad and practical and comprehensive, so that it shall be tested as to those propositions as it ought to be, as shown by our debate.

Mr. TOWNER. Will the gentleman yield?

Mr. STEVENS of Minnesota. I will.

Mr. TOWNER. I called the attention of the chairman of the committee to that matter, and he told me that the committee had, at least, under contemplation, a redraft of the bill according to the gentleman's idea.

Mr. ADAMSON. That is the matter about which I wish to interrogate the gentleman when he completes his argument. I did not want to interrupt his argument.

Mr. STEVENS of Minnesota. I yield to the gentleman from Georgia.

Mr. ADAMSON. If you have finished the argument.

Mr. STEVENS of Minnesota. I have finished that part of it.

Mr. ADAMSON. I have noticed the able presentation of the case by the gentleman from Minnesota—and he never makes any other kind—and I observe with pleasure that he is in accord with us on most of the propositions. He appears to be perfectly satisfied with his theory as to that part of the bill which authorizes action by the Interstate Commerce Commission. If he is satisfied with it, I am. I have noted the gentleman's objections, both here and on the committee, and I have, in conjunction with other members of the committee, looked over the bill, and I think a committee substitute would be offered if it were acceptable to the gentleman from Minnesota [Mr. STEVENS]. So I ask the gentleman if he has had time to examine the tentative substitute which I tendered to him, in which the suggestion he has just made as to the division of the bill into two sections has been provided for?

Mr. STEVENS of Minnesota. Is that the question of the gentleman?

Mr. ADAMSON. I ask him if he has had time to examine it, and if it would not largely modify his objections to the bill if that substitute were adopted?

Mr. STEVENS of Minnesota. I think this committee is entitled to know the interesting experiences we have had. I did inform the Committee on Interstate and Foreign Commerce of my objections to the pending measure much as I have stated them here, and in cooperation with our distinguished chairman and with the distinguished leader, Mr. MANN, and with the gentleman from Wisconsin [Mr. ESCH] I prepared a substitute to cover these objections, which substitute I hold in my hand and which is printed and I planned to offer to the bill under consideration. This morning I was served by the gentleman from Georgia [Mr. ADAMSON] with a substitute which he has prepared, and I will have to admit that many of the objections I make to the measure are removed and met by his substitute. They were included in my substitute, much the same as he has included in his. He has stolen my thunder again. [Laughter.]

Yes, Mr. Chairman, he has segregated the propositions which we have just been discussing. I still contend that there are two or three other important propositions which he has not met and I do not believe can be successfully met. Three constitutional ghosts which I have discerned lingering about the old bill are allayed, so far as they can be, by the substitute. The main and important question which we have discussed is presented in his substitute in a concrete section, No. 20a, and so it leaves the publicity features in section 20, to which there is no practical or constitutional objection, so that they must remain in force even if section 20a be declared unconstitutional.

Mr. FESS. That is an interesting statement. Is it possible to pronounce a section of a law unconstitutional without the whole law failing, under the Constitution?

Mr. STEVENS of Minnesota. Yes, sir. I think the subject matter is so separated that the courts would recognize such a situation—that one subject did not at all depend upon the enactment of the other subject; that there are two entirely different constitutional cases for the two sections—one is to render the general sovereign power to ascertain the facts necessary for proper public action; the other is the enforcement of the commerce clause. In such cases that is done. When we come to discuss the substitute presented by the gentleman under the five-minute rule there will be some very interesting debate, I think, on some objections which I shall make as to that. It does not meet quite the situation which I think ought to be met. But the general propositions which we on this side have advocated and the general purposes to be covered by such legislation and the general results to be secured are met and covered very well by the proposed substitute of the gentleman from Georgia.

The original bill as it stands on the calendar does not include adequately many things which are necessary for the welfare of the country. The gentleman from Pennsylvania [Mr. MOORE] raised the point about organization and reorganization of railroads. I do not think either of these can be accomplished under the bill as it stands on the calendar, and I have some question whether the substitute of the gentleman from Georgia [Mr. ADAMSON] meets that proposition. I have some doubt whether the railroads now in the hands of receivers, like the Wabash and the Frisco and the Pere Marquette and others, can be reorganized and issue securities for that very desirable purpose under the provisions of the substitute of the gentleman from Georgia, and I commend that to his consideration before he finally offers his substitute. I have very much doubt whether he has confined the business to be done under this bill to the commerce clause of the Constitution as required by the employers' liability cases. I commend that to his attention, because if we have any regulative power at all it must be under the commerce clause of the Constitution; and that has been construed to be dealing with interstate commerce and a commerce that is incidental to it, and I doubt if he has met that proposition in his substitute.

Mr. ADAMSON. I will state to the gentleman, Mr. Chairman, that those words were left out of this committee print by inadvertence, and I shall confer with the gentleman about restoring them.

Mr. STEVENS of Minnesota. That is the difficulty. Hole after hole is plugged up on which I expected to make a great speech.

Mr. ADAMSON. The reason I live and move and study is to try to learn something, and I have as much right to profit by the wisdom of the gentleman from Minnesota as from any other source of knowledge of which I know. And while I am interrupting the gentleman I wish to state that I have some copies of that tentative substitute, if any gentleman wants them. Of course, it is not perfected yet.

Mr. STEVENS of Minnesota. Now, Mr. Chairman, those of you who shall study that substitute should understand that an interstate carrier—and remember, by the word "carrier," as the gentleman from Wisconsin [Mr. ESCH] has defined it, under the interstate-commerce acts, are included pipe lines, and sleeping-car companies, and express companies, and telegraph companies, and telephone companies, and cable companies—that all of them must have the right to issue securities under such a measure as this in the right kind of a way. So I ask the members of this committee to consider the substitute with that situation in mind and reflect as to whether such a measure grants to those companies the right to ask an approval by the commission for an issue of securities in order to adequately conduct their business. The original bill did not allow carriers to issue securities to improve their water lines or facilities as to navigation. It did not allow any improvement of their hotels on parks or real estate not used directly for railroad purposes. This would prevent the Flagler line improving Florida, the Santa Fe its hotels, the New York Central its valuable properties over its New York terminals, and the Great Northern, Northern Pacific, and Union Pacific the facilities in Yellowstone and Glacier Parks. It would mean a very great deprivation to our people.

The CHAIRMAN. The gentleman from Minnesota has consumed 45 minutes.

Mr. STEVENS of Minnesota. I shall proceed for 10 minutes more, Mr. Chairman.

You realize, gentlemen of the committee, that the State commissioners, when they passed that resolution concerning interstate commerce, demanded that there should be three requisites—first, exclusiveness; second, practicability; and third, proper administration—knew what they were about. They knew that all of those conditions were absolutely necessary for the success of such a measure; otherwise such an act might be a disaster instead of a benefit to the country. You realize, too, from our discussion that the bill as originally recommended by the committee was impractical and would so restrict operations as to be of much injury to our people. It did not meet the situation required by the State commissions.

I will now address myself briefly to the second and last point raised by the State commissions and ascertain whether that situation has been met by the existing legislation. I will read from the report of the last convention of the State commissions, which met in Washington in October last. Mr. Maltbie, of New

York, made this statement, and I think probably a dozen State commissioners made similar statements. Mr. Maltbie said:

There are two or three things about this subject that have struck me rather forcibly. I start with the major premise that ineffective, incomplete, inefficient control of securities by governmental authority is worse than no control whatever.

PROPER CONTROL NECESSARY.

Mr. Chairman, you realize that it is incumbent upon us to provide proper administration in this legislation for the issuance of securities. There is not a word in this bill or in this substitute giving the Interstate Commerce Commission any additional facilities or assistance to supervise this most important legislation. I believe every one of you who has served on the Committee on Interstate and Foreign Commerce and who knows the tremendous labors and responsibilities of the Interstate Commerce Commission is proud of that commission, of the work that has been done and the results which have been obtained by it. We are jealous of its reputation. We know that the welfare and the contentment of this country are in very large part dependent on the wise and patriotic exercise of the tremendous power of that commission, and we should not do anything which would impair its powers or its beneficent influence throughout the country. We must uphold its hands, because it is that commission and the tremendous authority which is vested in it which keeps the different sections of the country in accord with the other. Our country is so diverse and tremendous, our business interests are so intricate and complicated, that we must have just such a commission as this to compose the differences of opinion and of interests which necessarily arise between different sections and parts of our country; and for that reason we must be extremely jealous to know that that commission shall be maintained in all its powers and opportunities and prestige.

IMPAIRS COMMISSION.

I am afraid that this measure as it stands will tend to diminish these, for this reason: The Interstate Commerce Commission has a great diversity of business, and it has a splendid organization to do its work. I think those of us who have some acquaintance with it are very proud of that organization and very proud of the results that have been obtained by it. But you all realize that a very considerable part, and practically all of the details, as is proper, of its work, is done by subordinates, and only the ultimate results come before the commissioners themselves.

Most of the work is necessarily done by examiners, who go into the field or wherever it may be necessary. They have authority under the law to take such testimony. They practically write up the cases, and very many of the opinions of the commission are practically outlined by these examiners. That is causing some complaint among those who have business with the commission throughout the country, because they think they do not get sufficient personal attention from the commission. I have myself heard from many shippers and shippers' organizations in different sections of the country who complain that they can not get quite the satisfactory sort of hearing to which they think they are entitled. One examiner takes the testimony; a commissioner hears the argument and finally determines the matter from rather a superficial consideration of it. The matter is so vast, the amount of business is so great, that there is but slight opportunity for a rehearing if the commission happens to make a mistake. But, fortunately, the orders of the commission under the law are limited as to time. They extend not to exceed two years, and then, after that, a rehearing can be had as a matter of right upon proper application, so that the subject of these complaints is only a temporary situation, though it may very seriously affect large sections of our country, large business, industrial, and economic interests, and may seriously affect the welfare and contentment of millions of people. But with the issues of securities the situation is entirely different. The issuance of railroad securities is a permanent matter. It has become so at the present time all over the world that when a public carrier, a railroad carrier, issues its securities they remain a permanent and perpetual charge against that property which probably never will be finally discharged. The result is that this very important work of supervising and approving such issues can not be done by boys; it can not be done by examiners. It must be done by the commissioners themselves. If it is not done by the commissioners, then the authority is practically worthless. The public, the investors, the carriers, have a right to look to this approval as carrying some weight. Unless it so does it is of no use. So this proceeding must not be perfunctory, and must be personal in the highest degree. It must be the result of their most mature wisdom, experience, and character, based upon the facts presented. This must necessarily be the personal act of the commissioners.

What this bill contemplates, what the States contemplate in yielding their authority, what these great business interests contemplate in coming before the commission, is that the vast wisdom, the experience, the ability, the high character of that commission shall be put into its certificate of approval. Unless that is done that certificate of approval is worthless. The result is that this matter can not be delegated. Remember, most of the work nowadays is delegated—necessarily delegated. This work can not be delegated, because the country has the right to demand that these vast powers shall be exercised by men who are responsible and by those in whom the country has confidence. Unless that is done the authority and the prestige of the commission will begin to be diminished.

NO EXISTING MACHINERY.

Now, if we do not grant better machinery I fear that the commissioners can not do that work. They can not delegate it, and we serve notice right now that this work must not be delegated to subordinates in the way in which the ordinary work of the commission is done. It must be performed by the commissioners themselves in order to get any results out of this bill. If it be performed by the commissioners themselves, I very much fear that the other business of the commission will not be adequately cared for. I very much fear that the welfare of your localities, that transportation interests all over the United States, business interests all over the United States, will be sacrificed to that extent in order to care for the burdens of this bill. If that is brought about and the transportation and business interests shall be sacrificed to that extent, that means that a prejudice will gradually arise against the commission and its work; that its prestige will be diminished; that its influence will be impaired. No one must underrate what that will mean in this vast country of ours. Our communities and localities are intensely energetic and seeking to advance and successfully compete with their rivals. Transportation is the lifeblood of these tremendous activities, and its facilities, safety, and fairness must be the basis of all progress and contentment everywhere. Bitter contentions must arise between these conflicting and competing interests, which must be composed and settled by this commission. So long as they all feel that they have a suitable and adequate forum for their disputes, can have a fair chance and a fair hearing, the vanquished will not much complain. But if the notion becomes prevalent, as it is being started, that inexperienced, irresponsible subordinates are doing this work and the real men necessarily can not do it, because of the multifarious burdens upon them, then you will have a real grievance and a real trouble to compose which will tax your best energies. So that it is of importance first of all to know that this work will be properly done, and at the same time that the other work of the commission will be properly performed.

Mr. BURKE of South Dakota. I should like to ask the gentleman to tell us how he would compel and require the members of the commission to do this work personally.

Mr. STEVENS of Minnesota. My substitute contains such a provision, which is not contained in the substitute of the gentleman from Georgia.

Mr. BURKE of South Dakota. Would the substitute, if adopted, prevent their delegating the work as they do to-day, as the gentleman has stated? These examiners in fact do much of the work of the commission, but in the final outcome it is the work of the commission, and the country so understands it, does it not?

Mr. STEVENS of Minnesota. Yes.

Mr. BURKE of South Dakota. Would it not be the same with this other work?

Mr. STEVENS of Minnesota. I think not. I think the commission must understand that this work necessarily must be personal. This work is so important, so tremendous, so intricate, that it must be personal and can not be delegated to examiners as other work must be, and for that reason I call attention to it.

Now, if this work is not adequately done, then remember that the statements made by the State commissions will have tremendous force throughout the country, and this legislation will be an injury rather than a benefit. Such action will mislead people, will mislead investors, will mislead shippers, and the benefits which the people have the right to expect of a bill like this will not be realized. The substitute proposed by the gentleman from Georgia and my substitute set forth the basis of what the people have a right to expect. They want to know that the issuance of securities approved by the commission shall

be for the purposes of the public work of the carrier and not for the personal advantage of the officials. They have the right to know that such issuance will be of real and proportional benefit to the carrier and not tend to impair its ability to perform its public functions. Minor officials can not judge these important conclusions; only officials of broad views, experience, and wisdom can do so. Unless you can have such judgment, the public, the investors, and the carriers will be disappointed and deceived.

Mr. GOODWIN of Arkansas. Will the gentleman yield for a question?

Mr. STEVENS of Minnesota. Yes.

Mr. GOODWIN of Arkansas. In your opinion would the Interstate Commerce Commission have power and authority to pass upon the securities of an intrastate road unless the road or its traffic had relation to interstate commerce?

Mr. STEVENS of Minnesota. No.

Mr. GOODWIN of Arkansas. It would not under the decision of the Minnesota rate case?

Mr. STEVENS of Minnesota. No; unless it entered into or directly affected interstate commerce in some way.

The CHAIRMAN. The time of the gentleman has again expired.

Mr. STEVENS of Minnesota. Five minutes more, Mr. Chairman.

The CHAIRMAN. The gentleman from Minnesota is recognized for five minutes.

Mr. TOWNER. Will the gentleman yield?

Mr. STEVENS of Minnesota. Yes.

Mr. TOWNER. This matter is of very great importance. Will the gentleman who has called attention to it take time to tell us how he obviates that difficulty in his substitute?

Mr. STEVENS of Minnesota. Yes. I provide for two additional commissioners, making nine Interstate Commerce Commissioners in all. Then I provide that the commission may delegate this authority provided in this bill to a decision of three commissioners. In other words, these two which may be additional and one of the present commission shall have the power to exercise this authority. This is not a permanent arrangement, but temporary, under the orders of the commission until a better method shall be devised. As it is now, practically one commissioner exercises such authority. This provision of mine would give the personal views and authority of three. I think that is a temporary way to work it out until something better can be found.

Mr. TOWNER. I will say to the gentleman that everybody realizes the fact that the Interstate Commerce Commission is now overworked, and everybody must realize that this would entail a very large additional burden upon them; and I think the gentleman is right in saying that something must be done in order to meet that condition.

Mr. GARRETT of Texas. Will the gentleman from Minnesota yield?

Mr. STEVENS of Minnesota. Yes.

Mr. GARRETT of Texas. I understood the gentleman to say a few moments ago that the committee had avoided the question of leaving to the commission the power to fix the price at which these securities should sell. Now, does not the gentleman think it would at least be wise for Congress to enact a law providing whether these securities shall be sold at par, or to fix a figure below par below which they shall not be sold? Would we not protect the investors of the country in that way, instead of lodging that discretion entirely with the commission? The gentleman knows that many of the States have fixed the price at which the securities shall be sold. Would it not be well for us at least to put some limit on this discretion?

Mr. STEVENS of Minnesota. No, Mr. Chairman, at the present time I think not, for two reasons: In the first place, the interests of this country are so diversified and so vast that no one rule can be adopted safely. A price that might be fair for securities in New England would not be fair for securities in Texas; and I do not believe we could place any provision in the bill that would be at all satisfactory as a minimum that would work out well. Now, if we attempt to place a price that will be at all high, no securities at all can be sold. That would mean practically a stoppage of all development in the country, and of course nobody wants that. If we place the minimum too low, it would not be of any help to anybody. Therefore we thought it best to leave the whole subject to the commission. If we find in the light of subsequent experience that something else is necessary to be done, of course we can do it; but at the present time, when we know that the market for securities is such that practically none could be sold under such a limitation, we have not deemed it wise to put it in the bill. We want the securities to be sold. The substitute provides that they must be for the specific purpose stated in it. The commission itself can regulate that and then check them up to ascertain whether good faith has been exercised. The substitute gives ample authority to see that the proceeds are not diverted. We have not sought to lay down rigid statutory rules for all of these different requirements, as many of the States have done. One State can safely do that, because its field is limited and its diversity not so great. Even in such cases, too rigid rules have operated harshly and worked badly for the people. We were impressed by this fact, that there were broad general regulations which should be prescribed, with the administrative details to be worked out under the discretion of a wise and able commission. But if we attempted to place such details in legislation, it would work badly more often than it would work well. This would result not only in an injury to the carriers affected by it, but it would injure the people more, because their needed facilities might not be furnished at all if too many expensive burdens be laid. Or if such be furnished they might be delayed or be made more expensive, and this must be ultimately met by the people who are to be served. We believed the only safe rule was to leave this initiative and the policy and details to be worked out by the railroad management, with a veto power and an accounting power to the commission. That is as far as we should go. That is all sought to be accomplished by this measure, and I am confident will operate to the best advantage of all to be affected by it.

Mr. SABATH. But there is nothing in the bill that would safeguard the purchase of the securities.

Mr. STEVENS of Minnesota. Oh, we could not do that. I do not think we have any authority to do that unless we guarantee the securities, and we expressly refused to do that.

Mr. SABATH. There is nothing in the bill that would restrict the issuance and sale of such stock for double the amount of the real and actual value of it, is there?

Mr. STEVENS of Minnesota. Oh, the commission could regulate that. The application is very carefully guarded. It provides a lot of details, as the gentleman will see if he will read it, and that practically stops that sort of thing. I do not think the gentleman need have any apprehension. Then after that there is a general requirement of what shall be done and what shall not be done. The commission then will have the authority to check the matter up and see that the proceeds are not diverted. The commission must consider whether the issue would impair the ability of the carrier in its future work. That requirement is sufficient to protect, as the gentleman desires. That is put there for that purpose.

Mr. SABATH. In that way the public would be safeguarded.

Mr. STEVENS of Minnesota. Oh, yes; the public is amply protected.

Mr. BURKE of South Dakota. I think the gentleman has stated already, but I wish he would state again what amount of securities will probably have to be issued, say in the next 10 years, in order to carry out the business that will be absolutely necessary for the railway companies to handle the commerce of the country.

Mr. STEVENS of Minnesota. I stated that the best authorities that have come to us indicate that the amount is between $5,000,000,000 and $10,000,000,000, an enormous amount, and we should realize that this vast sum, or any considerable part of it, can not be obtained unless, first, the investors know they will be safe from lawsuits and the validity of their holdings can not be assailed, and, second, they must know and we must realize that no man will invest a dollar unless he feels sure he will get it back again with a reasonable and fair interest rate on his investment. He will not take chances, because he does not have to.

There are too many places in the world where money can be invested safely and profitably. The American railroads must compete with this world-wide demand for investments, and this bill must not unduly handicap them in such competition. Every sensible and fair person believes in proper and strict and appropriate regulation by one governmental authority, but it must be fair, it must be practical, and it must be efficient, or you burden the carriers and investors, so they can not use it. If that occurs, you realize that the people of this country will suffer most of all.

Now, Mr. Chairman, I have used much more time than I intended. One thing more. I think a mistake is made in including in the substitute of the gentleman from Georgia a prohibition of interlocking directorates. My own judgment is that that should be handled in another bill, after more consideration. Remember this, that quite a number of States, including the State of Texas, require State incorporation.

Mr. ADAMSON. If the gentleman will yield just in that connection——

Mr. STEVENS of Minnesota. Yes.

Mr. ADAMSON. Some gentlemen here seem to think that some other things ought to have been included in the bill. I wish the gentleman from Minnesota would advise them that we have made a special order in our committee from now on—the work of considering all propositions to amend the act to regulate commerce—and we intend to consider every proposition on the subject.

Mr. STEVENS of Minnesota. Yes; the gentleman from Georgia is correct, as he generally is, as we all realize. Your committee has under way a plan for hearings and consideration of quite a number of amendments to the interstate-commerce law. Some of them are of much importance, but they could not well be included in this measure for want of time and adequate consideration, and they did not pertain to this particular subject, as I think the prohibition of interlocking directors does not. Just remember this, gentlemen, that quite a number of States require State incorporation of railroad companies. The clerk of the committee, who is always courteous and capable, will prepare for my printed remarks a statement, which is contained in one of the books of our library, showing the number of States that require each railroad company to have a local domicile and a local incorporation in the State. That means that each one of these States requires local directors, and that means that each one of these States must have a separate corporation, with directors who probably also act in the parent corporation in order to handle it to advantage.

You will remember that the trunk lines are composed of subsidiary and branch lines, and these ought not to be handled by dummies. Dummies lead to fraud and opportunities for corruption. The way to handle these matters is by straightforward responsibility by capable men of high character and standing. You ought to have nothing in the bill which would prohibit that kind of men serving on the boards of directors, especially when the State makes it necessary under these circumstances. I think that paragraph ought to be taken from the bill.

The way to meet this situation as to interlocking directorates, the way to meet the troublesome question of holding companies, the way that some of us have long advocated, is the system that you gentlemen will have to take some day. Four years ago you would not have passed this kind of a bill giving the Interstate Commerce Commission this authority. We ought to, and will in the future, pass a bill providing for Federal incorporation of railroads. If we do, we can settle this whole question of interlocking directors, we can settle the whole question of holding companies, we can settle all of these questions about regulating the price at which securities can be issued, we can settle the question of about how they shall be issued. Most of these matters now troubling Congress and the various States can be settled under the plan of Federal incorporation of railroads. I am in favor of it and I think a number on our side and I believe on your side are in favor of it, and I shall congratulate you gentlemen when you take the next step in the way of incorporating railroad companies under a Federal charter. [Applause.]

Mr. FESS. Will the gentleman yield?

Mr. STEVENS of Minnesota. Yes.

Mr. FESS. When the Interstate Commerce Commission approves the issue of these securities the Government is assuming no obligation?

Mr. STEVENS of Minnesota. No; the bill provides for that distinctly.

Mr. FESS. In any case where the stock is issued and taken and it proves to be bad, what effect would that have, generally, on the Government?

Mr. STEVENS of Minnesota. It would have this effect: Of course the United States assumes no responsibility, but undoubtedly if the commission made a mistake the holders of the securities would come before the commission and say, "Here, you ought to provide by your system of regulation of rates that this carrier should have the right to earn money enough to pay the interest on these securities which you have approved." That was pointed out by the State commission in this volume, and the Hadley Commission's report discussed that subject. Many witnesses have attested to it and raised the very serious query as to the effect of the approval by the Interstate Commerce Commission when the investment did not prove to be a profitable one. We were shown that some of the worst of the Frisco securities had been approved by the Texas commission, some of the New Haven by the Massachusetts commission, so that public investigation and approval did not avail to save the public or the investor. It could be infinitely more serious to have such an occurrence on the part of the Interstate Commerce Commission, so that makes it doubly important that the Interstate Commerce Commission itself by its own members should regulate the issuance of these securities.

Mr. PLATT. Will the gentleman yield?

Mr. STEVENS of Minnesota. Yes.

Mr. PLATT. Does the gentleman think that it is possible to fix the railroad rates in accordance with the capitalization?

Mr. STEVENS of Minnesota. No; I do not. I think that is only a matter of evidence and of not much importance at that. If we depended on that basis for our action, I do not believe anything would be done. We must rest on a broader and better basis for this legislation than using it for the fixing of rates. To me that is about the last consideration. I think this legislation should be considered as assuring more adequate and just regulation in the interest of the public, insuring better and more adequate service and safety. It will protect the credit of the carriers and in that way care for its facilities, safety, and ability in the future. It is an act of sovereignty to adequately care for the corporate acts and necessities of its public corporations and those caring for its public functions, even though created by a State. If the people think they will have rates based upon the approval under this act, they are apt to be disappointed. We are doing more important work than that—looking after their safety, their facilities, growth, and development, for the future, the prosperity, and opportunities for our people and their industries, the basis for working out their ambition and their hopes and their life's endeavor in the fast onward march of our country. These great thoughts are the basis for this legislation. We are performing such an act in this measure.

Mr. ADAMSON. Mr. Chairman, I yield to the gentleman from Louisiana [Mr. ASWELL].

Mr. ASWELL. Mr. Chairman, the importance of passing this antitrust legislation speedily is being greatly emphasized, not only by the friends of the bill but by the expressed solicitous concern of the enemies of the Democratic Party. The enemies of the party seem much disturbed over the fact that the Democratic Party will actually fulfill its pledges and place this legislation on the statute books at this session of Congress. They have almost lost hope of their original plan to produce a panic and demoralize business before the Democratic Party could correct the evils and oppression under which the great plain people have suffered for 16 years—evils of special interests, trusts, and monopolies, saddled upon the small business man, the farmer, and the industrial wage earner by Republican rule, a rule of monopoly and special privilege which was dictated for 7 years by one man in person and 4 years by him by proxy. This great traveler, explorer, and discoverer of doubtful rivers, admired for his personal courage, vigor, and audacity, strikes a note of despair in a mad effort to produce a panic as he sails on another voyage. The panic of 1907 proved him a master panic producer, but he forgets that a new day has come, with men of another stamp in control, who take their instructions not from the favored few nor from him, but from the toiling masses. They are men in whom the people confide and from whom the people know they will get permanent relief from the monopolies of the country.

The Sunday papers quote him as follows:

> It must be remembered that I have been out of the country for nearly 8 months and have been home only 10 days, and therefore have not been able to acquire the necessary information that will enable me to respond intelligently to many of the inquiries made of me.

He admits by this statement that he knows nothing of conditions to justify his charges against the Democratic Party with reference to trust legislation, but seems to be on his job, which is to make noise, disturb business conditions, array one class against another, and set up his usual scarecrow of pending calamity, caused, he evidently believes, by his being down and out, for which those who love our country should be thankful.

He speaks of widespread apprehension and says:

> We can not ignore the conditions which have brought this state of things.

He should have added "conditions which I created." He continues:

> Not the slightest progress has been made in solving the trust question.

He should have said: "It took me seven years to saddle these monster trusts upon the people, and the Democratic Party is about to control them in one year, and I must make a big noise, to turn attention away from my record of seven years of faithful obedience to special interest and monopoly. I want the people to forget my connection with the Steel Trust and the Harvester Trust."

Again, he says:

Our (Progressive) policies would have secured the passing around of prosperity.

In 1907, after six years of his own "progressive" rule, he did succeed in passing prosperity around, but he passed it around the farmer and the laborer and passed it over to the great monopolies of this country.

When the people passed him out of power he grew very solicitous about the "common people," and began running over the country shouting that he had quit the old Republican Party and stood for its destruction. He succeeded well in destroying it permanently, but do you know when he quit that party? He quit at Chicago when he failed to get the nomination. Everybody recalls the report that he went to Chicago with two speeches ready—one in case he got the nomination, the other in case he did not. They kicked him out, and he then declared that he had quit the old boss-ridden Republican Party.

When the great traveler returns from this voyage and awakes from his dream of selfish ambition to enjoy again the intoxicating thrill of political position and power he will find that the work the people demand for their liberation from the grasp of monopoly will have been done by the leaders of the Democratic Party, and it will have been done so well that he may continue to travel over the earth, making wild explorations and wilder reports of same, as he enjoys the liberty guaranteed to him at Chicago and delivered to him by the people of the country at the last November elections.

He will find that these men in control—Wilson, Clark, Burleson, Underwood, and the rest—do not claim to be heroes or demigods. They need not be, though a divinity is encompassing their acts. Human weakness is present in them, yet the divine inspiration of duty so lifts them out of self that the hardships they are so willing to suffer here is not the blind obedience to special privilege, expediency, or selfish greed, but it is for the vindication of a truth, a cause, a principle; it is the losing of self, the exaltation of the finest and best in man, the eager willingness to give themselves in the service of their country. Such is the spirit that characterizes the work that will have been done by the Democratic Party and the independent men on the other side of this Chamber before the traveler awakes from his dream of power to realize that the people have discovered that in his years of control he failed utterly to do one of the things he now says he would do to give the country relief. Were his gyrations not so dramatic, in the face of his record his preachments would be funny. [Applause.]

Mr. ADAMSON. Mr. Chairman, I yield to the gentleman from Texas [Mr. EAGLE] 40 minutes.

Mr. EAGLE. Mr. Chairman, I think that every serious-minded man must feel a sense of solemnity when he comes to participate in the deliberations of Congress and realizes that the thing he does, whether appearing to himself to be important or unimportant, directly affects many people and indirectly affects all of the people of the Nation. In the matter of this body of antitrust legislation, our action will directly affect all of the larger business enterprises throughout the country, and upon their prosperity and continued good fortune depends directly the good fortune of their owners and of their millions of employees; while our action, to greater or less degree, will have its influence upon every man, woman, and child in the United States.

The Democratic Party, in the year 1912, took a solemn and binding contract with the people of the United States to do certain specific things. That contract consisted of the platform and candidates of the Democratic Party tendered to the voters, upon the one part, and of the votes cast in acceptance of that platform and those candidates by the voters of the Nation, upon the other part. The American people entered into that contract with the Democratic Party in perfect good faith and with definite knowledge and understanding. While there are many different provisions embodied in that contract, I believe that each Member present will agree with me in the statement that perhaps three, and only three, provisions in that contract—or planks in our platform—made up the points upon which the masses of the American people were influenced in declining to retain in power the Republican Party, in declining to intrust with power the Progressive Party, and in determining to intrust with power the Democratic Party. Those three provisions were with reference to the tariff, with reference to the currency, and with reference to the trusts.

The Congress has been in continuous session during the past 15 months, laboring with zeal, and upon the Democratic side, practically with unanimity, devising ways and means to keep that contract with the people.

We have faithfully attended to the matter of the tariff by reducing the duties on imports from an average of 43 per cent, as it existed under the Republican law called the Payne-Aldrich bill, down to a general average of 26 per cent, and have done it without disturbing the legitimate business enterprises of the country to any appreciable extent. And, while we have thus reduced the tariff taxes from the general average of 43 per cent down to 26 per cent, there has been, up to June 1 of this year, within $100,000 of as much revenue derived from the Democratic Underwood-Simmons tariff bill during the time it has been in operation as during a similar period under the former protective tariff bill enacted by the Republican Party, and there has been as much revenue derived from the Democratic tariff law as was anticipated up to the 1st of June of this year; while the Treasury experts estimate that, by June 30, $20,000,000 more will have been derived than it was either supposed or estimated, by the experts on the Ways and Means Committee of this House or by the Treasury Department, would be needed. And yet we have accomplished this gratifying result by reducing the tariff upon those articles which are a common necessity to the average man throughout the Nation in his daily life, and at the same time have given sufficient revenues to operate the Government.

The Democratic Party has faithfully kept with the people another promise—which the Republican Party has also been making to the country for the past 40 years, but has never had either the wisdom, coherence, or courage to perform—that is, it has enacted a banking and currency law by which the 25,000 banking institutions of the country are assessed upon their capital stock and surplus to make up a fund sufficient to conduct 12 regional reserve banks, in which the member banks may rediscount their paper to the full extent of the business requirements and the increasing necessity of extending credit facilities to the various sorts of business throughout the Nation—the Government retaining control of the issue of the new currency and the control of the governing boards, and by which the reserves required to be held by the banking institutions have been so decreased as to release for the purpose of extending credit facilities a vast sum of money, and rendering panic and the consequent wrecking of banks impossible in the future, and so making the banking and currency system of the Nation so sound and stable that in the future the fabric of the people's business prosperity can never again be wrecked or seriously disturbed. By this currency law the Democratic Party has met a pressing need a half century old, and has written a bill so wise, just, and conservative that all classes of our people will share equally in the sublime opportunity it affords for stable business conditions in the future.

And yet, in my deliberate judgment, it would not afford the complete relief to which the people of this Nation are entitled and to which the Democratic Party is pledged, merely to have enacted this just tariff law and this comprehensive banking and currency system. We must take the third and remaining step in order to make this edifice complete—we must enact this body of antitrust laws in order to take the fingers of monopoly off of the throat of American industry. We must not leave the trusts and combinations in restraint of trade, that form of monopoly in practically all of the lines of enterprise, still free to fix arbitrarily the price of the necessities of life of the producing and consuming masses—of their food supplies, their clothing, and all their other daily necessities. Of what avail is it to have reduced the tariff tax upon any article so that its price to the consumer would be decreased under the ordinary laws of competition, and of what avail is it to have enacted the currency law making for the stability of business conditions throughout the country, if we shall now adjourn leaving absolute monopoly in control of the people's welfare as heretofore, to stifle competition and arbitrarily to fix the price at which the consumer may purchase his supplies in the market? Practically every class of supplies necessary to the daily life of the American people is already monopolized by combinations and trusts, so that the price to the consumer is arbitrarily fixed; and in all those classes of supplies monopoly has practically stifled competition so that the laws of supply and demand no longer control the price. The American people understand this as a fact; and it is the noblest mission yet remaining to the Democratic Party to fulfill, to open the door of industrial opportunity to all men, and to restore again competitive conditions.

I am aware that there is great diversity of opinion, both in Congress and throughout the country, as to the wisdom of legislation upon this subject at this time. Never before since I have served in Congress has there been such tremendous pressure to postpone or to defeat legislation upon any subject as now exists to postpone or defeat consideration and passage of any legislation at this time affecting these matters. For one, my conviction and voice are for proceeding as resolutely to the fulfillment of this mission, by the Democratic Party at this time,

as heretofore for the carrying out of our platform pledges with reference to the tariff or with reference to the currency. When the tariff bill was under discussion, Congress and the country were told, by the Republican press and statesmen and by the selfish business interests of the country, that to disturb the protective-tariff law meant to wreck the fabric of the people's business prosperity; and yet we resolutely pressed forward and fulfilled our promise faithfully, and earned the gratitude of the Nation. When the currency legislation was under consideration last year, we were told, by the Republican press and statesmen and by the selfish business interests, that if we proceeded resolutely to complete that program the wheels of industry must stop because we were revolutionizing the existing system of American business; and yet we resolutely pressed forward in good faith and performed a service for the people that has already come to meet the universal appreciation and commendation of practically the entire body of the people and of all business interests as well. And now, when we come to consider this antitrust legislation, and resolutely undertake to enact it, we are met with such a deluge of protest and opposition that the strongest heart feels the pressure and must summon all its courage to the performance of a plain duty. It is argued that the Democratic Congress having passed such a vast body of constructive legislation, the business men and institutions of the country require a period of legislative rest in order to adjust their affairs to the new laws. But my conviction is that the threat of impending change is more disastrous to business than a speedy enactment of law will be when that law is sane and sensible; and therefore the sooner this body of antitrust legislation is enacted, the sooner will American business adjust itself to the new business status thus created, and the sooner will the wheels of industry move smoothly along. Besides, the sooner we remove the fingers of monopoly from the throat of the public, the sooner will American citizens be free from the oppression and dominance of the trusts, the sooner will competitive conditions be restored, the sooner will the prices of the articles daily purchased by the people fall in price to a legitimate value based on the law of supply and demand, and the sooner will heart and hope enter into the masses of the people who have so long been burdened with the exactions of oppressive trusts and combinations.

My own conviction is that certain selfish big business interests have deliberately determined to clog the wheels of industry, to create a condition of nation-wide depression, and to create a false sentiment against this just legislation, in the hope of breaking the courage and success of the President and the Democratic Party, so that Congress will adjourn without enacting these laws which will break their grip of monopoly; and, therefore, we should remain resolutely at our post of duty until this remaining key is placed in the arch of our triumph as faithful representatives of the highest interests of the masses of the people.

The people have come to new and novel industrial and financial conditions—different from those ever heretofore confronting any other people in the history of the world. As a people, our inventive genius has exceeded that of all other peoples. We have more nearly mastered the forces of nature, and the laws of mechanics, than any other people have ever done. We have practically developed a continent in only a few generations. We have piled up wealth beyond even the dreams of avarice. And we have learned perfectly how to employ these forces and this vast wealth, both for the general good and also for selfish ends. Our great masters of finance, of industry, of transportation, of manufacture, of commerce, are at one and the same time the admiration and the hatred of the whole civilized world; and, in our own country, we often lose our admiration for their genius in our hatred for their greed and selfishness, and quite as often forget our dislike and distrust of their selfishness in our pride and satisfaction in their genius and achievements. We have, in the past quarter century, very largely revolutionized industry and our former industrial system. Individualism lies prostrate under the foot of industrial combination. The great wealth, great ability, great courage, and great achievement of our business men and the strength of our business enterprises would be an unmixed blessing, if only they had stopped before entirely changing our industrial system, before stifling competition, before destroying individual enterprise. But the facts may as well be faced—that, in this marvelous age, aggregation of wealth and of men is the established order, the old order has very largely passed, industrial individualism is dying, competition is being stifled; and, unless Congress can arrest such tendencies and restore competition, the door of equal industrial opportunity will be closed in the face of future generations. That statement is not a theory—it is the statement of a plain fact.

Of course the Republican Party can not be trusted by the masses of the people to correct any of these evil present conditions or tendencies. During its long reign of power at the head of every department of the Government, it was sponsor for combinations and trusts. Those which most oppress the people were organized under its administration and very largely with its approval. Its whole teaching and the trend of its administration and legislation conclusively prove that it is in league with industrial combinations and trusts and that it cares little for the welfare of the producing and consuming masses if only it can faithfully serve the trusts which its administration protected and which in turn were the largest contributors to its campaign fund.

The Progressive Party can not be trusted to correct these present-day evil industrial conditions—because its founder and leader, Col. Roosevelt, while President of the United States, connived at the formation of the trusts, and did not prevent or suppress them; and in the most notable instance—that of the absorption by the United States Steel Corporation of its only substantial rival, the Tennessee Iron & Coal Co.—had full knowledge in advance and gave his full consent and assistance; while the leader of the Progressive Party on this floor, Mr. MURDOCK, has actually introduced a bill (H. R. 9300) to prevent competition; and its national chairman, Mr. Perkins, is the organizer and guiding head of the Harvester Trust.

The time has come when, not alone the competitive system, which is the pride and industrial principle of our civilization, not alone the preservaton of the rights of the masses from the oppression of the trusts and combinations, but our very civilization itself, is at stake. Upon the one extreme the Republican Party stands as the sponsor and protector of corrupt big business with its coteries of unpunished managers and directors who have not only oppressed the masses but have also pillaged and plundered the properties committed to their charge; and upon the other extreme stands the Progressive Party with its indefinite and vague program for legalizing and regulating monopoly, and to which the yearning eyes of all of the discontented elements of our national society have turned—the socialistic, the discontented, the destructive element of society in general, the impractical and visionary—all those elements of our society which have little or no respect for the Constitution and Bill of Rights, but accept with eagerness any promise of radicalism held out to them either by the platform or leadership of the Progressive Party. Between these two extremes stands the Democratic Party—where it has stood for 100 years—understanding and upholding the Constitution, preserving the noble fabric of our political institutions, holding with veneration to the sanctity of judicial decrees, of property rights, and of the rights of private contract, and standing for the personal freedom and general happiness of the people, and holding to its ancient doctrines with the faith of a marytr and the zeal of a crusader.

The Democratic Party believes now, as it has believed through all the century of its existence since Thomas Jefferson set it upon its path, that the individual citizen is sovereign and that he possesses all powers not yielded up to make our Government; that individual liberty and local self-government are the foundation stones upon which the Nation rests; that the Nation possesses no powers except those delegated to it in the Constitution by the people and the States; that the States possess all power not yielded up to the Federal Government or prohibited to them by the Federal Constitution; that equal justice to all men and special privileges to none, is the fundamental principle of a free republic of equal citizenship; that absolute acquiescence by the minority in the will of the majority, when constitutionally expressed, is the highest evidence of civilization even as it is the surest guaranty of the perpetuity of our free institutions; that, in matters of legislation, the greatest good to the greatest number is a sound fundamental teaching; and that the only object of a just government is the preservation of the rights of freedom, of property, of justice, and of happiness of the masses.

The principles of the Democratic Party are so plain and simple that the humblest intellect comprehends them, and so true and noble that the greatest intellect venerates them.

By those principles we have enacted a tariff law which equalizes taxation, and a currency law which preserves the fabric of the people's business prosperity; and by those principles we will enact this body of antitrust laws which will open the door of industrial opportunity alike to each man beneath the American flag.

By these principles this Democratic Congress and administration, in the brief 15 months, has accomplished noble results in the interests of the masses, without doing in any instance injustice to any good man or to any legitimate business interests in the country.

First. It has passed the tariff bill, which has unfettered industry and commerce. No selfish interest dictated it; but it was based upon the Democratic principle that no taxes, under the Constitution, should be laid except for revenue only.

Second. It has enacted the banking and currency law, which will prevent any selfish banking interests from precipitating panic for selfish ends, and will allow those who produce the national wealth to reap its benefits.

Third. It has perfected and put in operation the amendment to the Constitution imposing an income tax, under whose provisions a hundred million dollars will be paid each year by the wealth of the Nation for the support of the Government.

Fourth. It has passed the industrial arbitration act, by which the great industrial and transportation companies, and their millions of employees, may adjust their differences in a civilized manner, without injuring either themselves or their best interests or the interests of the Nation.

Fifth. It has perfected and put into operation the amendment of the Constitution providing for the election of United States Senators by direct vote of the people.

Sixth. It has put the lobby out of business as an institution around the Halls of Congress.

Seventh. It has further extended the blessings of liberty to the Filipino people and aided them in the development of self-government.

Eighth. The Democratic Secretary of the Treasury at a critical time placed $50,000,000 of funds in the banks of the country to aid, during the year 1913, in the movement of the crops, thus allaying apprehension and preventing business depression and avoiding complete reliance by the country upon the Wall Street bankers in a time of national peril.

Ninth. The Democratic President has cooperated with the business men and the business interests of the Nation, helping them to eliminate unlawful practices and to establish right practices, without wrecking their institutions by litigation.

Tenth. The Democratic Postmaster General has, for the first time in the history of the Government, so managed the Post Office Department that, instead of a deficit of nearly $2,000,000, he has produced a profit in that department of more than $4,500,000; and he has extended the Parcel Post System and the Rural Free Delivery System so as to cheapen rates and increase that facility to the masses of the people.

Eleventh. Many prosecutions have been entered upon and successfully ended for the enforcement of the existing antitrust laws.

Twelfth. It has enacted the Alaska railway bill, providing $35,000,000 for the building of 1,000 miles of railroad in that rich country, and so opening that vast storehouse of wealth for the common good of the American people instead of permitting it to be monopolized by a few private interests.

Thirteenth. It has enacted laws for farm-extension work, which are destined to increase the effectiveness and the productive capacity of the American farms.

Fourteenth. The foreign policy of the administration has been a revelation of wise statesmanship and applied Christianity. It has withdrawn its support from the policy inaugurated by the Republican Party, to stand sponsor and guarantor for American capital in securing subsidy and concession from foreign weaker nations, which ultimately would have involved this Nation in wars and would have violated the historic and traditional policy of this Nation to form no entangling alliances and not to interfere with the internal affairs of foreign nations. And, in each instance of the many delicate situations confronting our State Department, its wisdom and patience, resolution and diplomacy, have preserved our peaceful relations with all other countries and increased our prestige throughout the civilized world.

Fifteenth. And the administration of the departments of this Government, when fully understood by the masses of the people, will win their grateful appreciation, notably (a) the action of the Treasury Department, as indicated; (b) of the Post Office Department, as indicated; (c) of the Department of Justice, as indicated; (d) the action of the Navy Department, with reference to vocational and technical instruction of the enlisted men aboard ship; (e) the new public-land policy by the Interior Department; (f) the splendid work of the Commissioner of Indian Affairs for the Indian people; (g) the work of the Agricultural Department in broadening the work of that department to the home life of the farmer, increasing his knowledge of farm domestic conditions; (h) the action of the Navy Department in requiring competitive bids for armor plate entering into the construction of ships, with enormous saving resulting; (i) the system of markets inaugurated by the Department of Agriculture; (j) the extension of the pure-food act to meat inspection; (k) the policy of the Department of Commerce in making efficient for the first time the Consular Service; (l) the action of the Department of Labor in establishing close relations as intermediary between the laboring men of the Nation and their employers—in every department, work which makes for the enlarged prosperity, better understanding, and increasing happiness of the people.

While the Democratic Party is not committed by its platform or otherwise to the following policies, still it is evident to my mind as one of the tendencies of the time which will come to full fruition in due course, that the American people, while preserving entirely their Constitution and their institutions and their individuality and industrial system with free competition as its foundation principle, will so regulate their business and concerns, through congressional enactment, as to provide (a) for the supervising and regulating of issues of corporate securities; (b) for representation in corporations of minority stockholders; (c) for the preventing of dummy directors; (d) for prohibiting interlocking control of competitive business; (e) for prohibiting holding companies that restrain competition; (f) for preventing, under the guise of competition, the sale of articles in one community for less than in another, considering transportation charges, in order to strangle business rivals and thereby create monopoly; (g) for providing a greater relief to those unlawfully injured by the methods of unlawful combinations; (h) for providing more adequate means for the enforcement of all antitrust laws; (i) for preventing interlocking directorates in either industrial or manufacturing or financial institutions, so as to restore competition; and (j) for other legislation which will make all men, who are theoretically free under our Constitution and system, absolutely free in practice from molestation by unfair business methods at the hands of the strong and powerful, so that heart may be put into the individual man in this marvelous country to undertake in business the enterprises his genius conceives and his ambition cherishes, without fear that industrial rivals will crucify him by unfair methods.

Certain conditions exist in our beloved country at this time, which every one of us definitely knows are not good and satisfactory conditions. It is not my purpose at this time as a partisan to blame preceding administrations for those conditions, nor to defend the present administration for those conditions, especially as it is not responsible for such conditions, but briefly to trace some of the reasons for such conditions. We all know, and the entire country knows, that ever since the climax of big business run mad, in 1907, not only in this country but throughout the civilized world, business and business men have been in a state of apprehension, and the normal condition of business in its larger aspects has for several years been supplanted by business unrest and apprehension. Men everywhere, regardless of party, deplore it, and partisans magnify it and attribute it to what cause pleases their several fancies. But the fact remains that throughout the civilized world, since 1907, when the Republican Party was in power even as it remained in power during the five years following, that condition obtained, and to greater or less degree it obtains at this hour. The conditions are world-wide. In the great financial center, New York City, at this time money has piled up in the banking institutions to an unparalleled extent. Money is an absolute drug upon the market, and yet it can not be had except for short-time loans upon stock-exchange securities. If the reason be not that those who control it desire to clog the wheels of industry until this Congress shall adjourn, leaving corrupt and selfish men in control of the industrial destiny of the people of this Nation, then the only other reason is an international dread and fear partly growing out of conditions in different nations and very largely growing out of dealings which such men in this Nation have had with multitudes in other nations. As the gentleman from Minnesota [Mr. STEVENS] has just remarked, there is absolutely no market for railroad securities. In that remark he uttered the plain fact; and he might also, with equal accuracy, have said that there is little market in a larger way for any other American securities. The fact is, as I think, that so-called big business has dealt, on the whole, fairly with the American people. We should do nothing here which injures big business in its legitimate career. We are a Nation of big people with big aspirations and with big powers. As a people we have created, and we own, and we need vast wealth, and our only concern should be that vast wealth thus aggregated is used for the blessing of the people instead of for their oppression.

The Democratic Party is not an enemy of big business, but it is determined that selfish men who have controlled and now control big business, in many lines of enterprise, shall cease to use their trusteeship not only to pillage and plunder the properties they control, and to injure and wreck their minority stockholders,

and to settle vast burdens upon the people of the United States that they themselves may reap untold dishonest rewards, but also to pervert the principles of competition and to destroy the hope of the masses for industrial freedom. Mention has been made in these debates of the recent scandal of the great New Haven Railroad system, which traverses the heart of New England; and it is true that the revelation of how a director, by secret orders, pillaged $11,000,000 from the treasury of that great corporation, has horrified the country. But it is equally true that those same trustees and directors declared and paid $60,000,000 of dividends upon the statement that they were paid out of net cash earnings, when the disclosure now is that not one dollar was thus earned, but upon the strength of those representations $200,000,000 of securities were sold at several times their par value, and which have found their way to foreign lands. Now when such revelations of mismanagement and official misconduct horrify the people of this country and also the investors in American securities in all other nations, when it becomes evident that the trustees of the largest business interests of this Nation have so used their trust as to make it a private enterprise of corrupt profit for themselves, wholly disregarding the interests of the people and the interest of fair dealing, then and thereupon investors from foreign lands throw back their securities upon the American market at one-fourth the price paid for them—glad to be rid of their investments in American securities at any figure. No wonder that no present market exists for American railroad or other securities. And there is no higher duty of statesmanship in this generation than by this legislation—the interstate trade commission bill, the antitrust bill, and the amendment to section 20 of the commerce bill—to provide for all time to come for publicity of issues of stocks and bonds through the Interstate Commerce Commission, so that the whole world may know of the validity of future issues and so that our industrial fabric can not in future be shattered by the dishonesty of managing trustees and directors of our noble American enterprises. And it is entirely evident that permanent business prosperity can not be had until this legislation is enacted and in force, and therefore until all American business men are able to adjust their business to the new and enlightened standard of publicity and honest dealing—which the vast majority of them have already done and would do even independently of legal requirement. And it is equally evident that the time has come when, if the Congress, in the interest of the whole people, does not enact this legislation, industrial freedom is absolutely to die in this country, competition is absolutely to pass as the rule of business conduct, and a few enormous interests are to dominate every line of business and shut the door of equality of opportunity in the face of every man in this Nation who is not upon the inside of those few combinations and trusts.

The Democratic Party will have kept faith with the American people by the enactment of the three bills making up its antitrust program, to wit: (a) The interstate trade commission bill, (b) the bill amending the Sherman antitrust law, and (c) the bill now under consideration amending section 20 of the interstate-commerce act of February 4, 1887, as heretofore amended; and it believes that thereby it will have made business and business conditions stable and secure throughout the country, rendered it possible to dissolve the trusts and combinations in restraint of trade and prevented further and other forms of monopoly, and prevented the managers of interstate common carriers from loading such quasi-public properties with useless issues of stocks and bonds to burden the present and future generations. There was practically no opposition here in the House to the trade commission bill, and it has been laid aside with favorable recommendation. Likewise, we have considered the antitrust bill, and have laid it aside with favorable recommendation. And now we have come to consider the bill amending section 20 of the interstate-commerce act. This bill has to do with four ideas, in substance: First, to confer greater power and authority on the Interstate Commerce Commission to ascertain more completely the facts, figures, and dealings of these interstate common carriers subject to regulation by the Interstate Commerce Commission, in order to give greater publicity and understanding of their acts and doings, and so as to allow the stockholders themselves a remedy against the evil practices of dishonest trustees and managing directors who have their utmost confidence and who have too often violated it, and so as to allow the body of the American people, who pay the freight charges, to know upon what basis securities of stocks and bonds and other form of indebtedness are issued and the valuations upon which they are being ordered and allowed—the Interstate Commerce Commission being the intermediary by whose approval such securities are to be issued, and to act alike as protector of the security holders, of the common carriers, and of the public upon whom the burden is laid of freight charges; second, to amend the present law as amended, so as to make it unlawful for any common carrier subject to the provisions of the interstate-commerce act to issue any capital stock or bonds without giving notice to the Commission of its intention so to do, stating in such notice precisely what securities it proposes to issue and showing the purposes to which the proceeds are to be applied, and unless such proposed issue be for some purpose within its corporate powers and in the public interest and necessary or appropriate to the proper performance of its corporate service to the public and not tending to impair its financial ability to discharge all of its duties to the public as a common carrier: Otherwise the commission may deny such application, or the minority stockholders, as well as State officials through whose territory the common carrier runs, may enjoin the issuance of such securities until it can be judicially ascertained whether such securities tend better to strengthen the common carrier in the discharge of its duty as such common carrier, under penalty of imprisonment for those officials violating this provision; third, to prohibit, after two years, interlocking directorates in common carriers except in those instances approved by the Interstate Commerce Commission; and, fourth, to give to the shippers the right to collect from the common carrier to whom they consign their goods, if such goods are lost in transit, the value thereof, allowing such common carrier to reimburse itself therefor from its connecting common carrier.

The public have a very present and actual interest in the amount of securities outstanding against such interstate common carrier. Such common carrier is a quasi-public institution. It derives its revenues exclusively from the public. It receives its grant of charter rights by authority of the public. Its right of eminent domain is a concession from the public. In almost every instance in which application is made to a State authority or to a national authority by State common carriers or by interstate common carriers, respectively, for an increase in freight rates, the matter of the net earnings upon the outstanding stocks and bonds is one of the principal considerations urged for such increase. It is true that such is not in law the proper basis for fixing freight charges, but rather a fair return for a proper service rendered; and yet, in each application and hearing and argument, the volume and amount of the outstanding securities is pressed with vigor as a basis on which charges are urged to be predicated. At the present time the great systems of eastern railroads—those east of the Mississippi River and north of the Ohio River—have before the Interstate Commerce Commission, and have had for many months, an application for a 5 per cent increase of freight rates. The President of the United States has been importuned, both in Congress and out of Congress, to use his supposed influence to procure such increase, and the matter has been continuously argued and presented to the commission, and much of the daily press of the country has carried a vast burden of argument in favor of such freight-rate increase; and while neither Congress nor the President has either authority or voice in the matter, the effort has been made to influence by the weight of public sentiment the commission to grant such increase, and the chief argument has been that the great volume of outstanding railroad securities, without such increase, will receive no sufficient dividends. And therefore it is evident that, while it should not be so, still it is a fact that, in each instance of application for an increase in freight rates, the volume of outstanding securities of the common carriers is one of the few controlling factors urged upon which to predicate increase in freight rates, and is one of the very few determining factors influencing the final result.

As the public pays the freight charges, it follows that the public, through the Congress, have a very great and proper interest in the matter of the securities outstanding against the common carriers. Neither I nor any other Member of Congress should assume to express an opinion whether the great eastern transportation companies are entitled to such increase in freight rates. Of course we know that they employ over 2,000,000 men and have outstanding over $14,000,000,000 of securities, and that they are the chief purchasers of iron and steel and lumber and other products of American industries which employ millions of American workingmen, and that their prosperity contributes mightily to the common prosperity and that their adversity would affect vitally every line of industry in our country; and yet whether they are entitled to such increase should depend—not upon the opinion and will of Congress or of the President, and not upon a reasonable dividend or return on their outstanding volume of securities—but solely upon a fair price for a proper service rendered. But it still remains true that one of the controlling reasons they have assigned, in their documents and briefs, is that the increase is

required in order to enable them to earn, above expenses, a fair return upon their investment, which they allege to be their volume of outstanding securities. Whether the securities were fairly issued in the first instance and represent money or property acquired or service performed is not known, or whether, in greater or less degree, they are stocks and bonds representing fictitious values is not known; but certain it is that, for all time to come, increases of stocks and bonds and other forms of permanent indebtedness against the common carriers, or new forms of securities for common carriers yet to be constructed, should be subject to scrutiny and to approval by the disinterested commission before issuance, in order that the commerce of the future be not unjustly burdened with excessive freight charges. The principle of this bill is that the commission shall ascertain whether such securities proposed to be issued tend to strengthen the common carrier in the discharge of its duty as such common carrier. It is indispensably necessary thus to establish a veto power in the commission against the issuance by the common carriers of fictitious stocks and bonds, in the interest of the stability and efficiency of the carriers themselves, to prevent them from impairing their financial strength and as a consequence incapacitating themselves from performing their functions to the public as common carriers; and it will furthermore protect the stockholders against the cupidity of managing trustees and directors and other officials, who have too often wrecked the common carriers for their individual private profit.

Considering the observations of the distinguished gentleman from Minnesota [Mr. STEVENS], it is proper to say that it is not intended by this bill, nor would it be competent, for Congress to prescribe the terms or conditions under which any State may authorize corporations either to organize or do business; because the granting clause, either by statute or by State constitution in any State in the Union, is not to be set aside by act of Congress, and it would be unconstitutional for Congress to set the same aside. Nothing which the Congress might do could compel any State in the Union to abridge its absolute power and authority to prescribe the terms and conditions under which a foreign corporation may enter such State for the purpose of doing business. Furthermore, it is evident that it would not be competent for Congress, nor does this bill propose, to make any limitation upon what the laws of any State shall be with reference to the issuing of securities by any corporation within that State, whether it originates and ends in such State or ends in another State. But the underlying reason for this bill is that interstate commerce is indispensable to our people, and the Constitution confers upon Congress its regulation; and the Congress definitely knows that, whether rightfully so or not, freight rates, when they come to be made, are largely influenced by the condition and amount of the securities outstanding against such common carrier engaged in interstate commerce; and, therefore, it is proposed by this law to provide that no common carrier doing an interstate business shall issue securities in such volumes as to burden commerce and cripple the railroads. The bill proposes to secure enforcement of the law by inflicting criminal penalties upon the responsible heads of the railroad companies. It is my deliberate judgment that when the president, vice president, secretary, treasurer, or the executive head of any common carrier understands definitely that a fine of $1,000 to $5,000, or a prison sentence of a year, must be the result of violating this statute, there will be no violations of it.

This bill goes far to purify one of the most prolific sources of industrial, financial, and transportation evils of the times, in prohibiting interlocking directorates after two years from its enactment, in any common carriers except in those instances where upon full showing the commission may approve. It is greatly to be doubted if any single cause has contributed more to business corruption than the modern corporate business procedure of interlocking directorates. It is shown by a recent congressional report that in a given instance one man in a great city of our country was a director at one time in 67 great companies, at least one-half of them being railroad companies and one of them being the greatest industrial enterprise in the Nation, which sold its products to those same railroads, and at the same time he was fiscal agent for the railroad companies—thus he was fiscal agent, buyer, and seller at one and the same time. Of course, efficiency in enterprise can not be secured by such methods. But this bill does not deny absolutely the right of one man to serve as director in more than one railroad company, and it is wise in that provision, because there are instances in which it is entirely just to the railroad in the discharge of its duty to the public, and just to the public also, that one man may serve as director of more than one common carrier. I have in mind at the moment two railway systems entering and running through my own great State of Texas—the Missouri, Kansas & Texas Railway and the Southern Pacific Railway. The first-named runs through the States of Missouri, Kansas, Oklahoma, and Texas, and yet it is required by the laws of those several States to have a charter for the portion thereof within such States. In that case manifestly it is only proper for the Interstate Commerce Commission, upon a full showing, to permit the same persons to act as directors of each of those corporations making up the entire line. And so with the Southern Pacific, which traverses the State of Louisiana under one charter name, and the State of Texas under another. But it is manifestly against the interest of the public, as well as of the stockholders and the common carriers, to permit one man to be a stockholder in two competing common carriers; and it is the object of this bill to prevent such procedure.

This law is not intended to cripple and impair, but rather to safeguard and serve, the interests of the common carriers themselves, as well as to protect the public against the effects of their improper management. Furthermore, when this bill shall be in full and successful operation, it will make American railway securities absolutely stable in value and desirable as permanent investments throughout this country and the balance of the world. And while it is not the object of this law to create or to maintain commercial values for such securities, it will be wise, constructive legislation if it have such indirect effect, because it will enable the common carriers of the present time and those to be constructed in future to summon from all quarters a vast amount of funds for investment in such securities; and so this bill will make for the security and the permanent prosperity of the common carriers and the welfare and happiness of the American people.

It is truly a noble privilege to serve here while this mighty work is being done. As a people we have passed through the formative period of our Nation's growth and development. Our forefathers established wisely and well the foundation of our national institutions by a constitution of political principles that is the admiration of the world and has been the guaranty of the people's freedom and prosperity. Under it we have lived and grown, in a little more than a century, from 3,000,000 people to 100,000,000 people. Our aggregate wealth as a Nation is about $140,000,000,000. We have developed the most amazing civilization and industrial greatness of all the ages. Conditions of life are better in the United States than in any other country. There is no cloud remaining upon the national horizon except the selfish aggressions of great aggregations of wealth upon the industrial freedom of the people; and that cloud will disappear in the light of the morning of the new day of equality of industrial opportunity before the law of all the people by the enactment of this legislation. The Democratic Party invites all patriotic members of all parties to join it in this mighty work; and we know that the hopes and prayers of a great majority of the people urge us to finish this work and thus earn their gratitude and the blessing of all the generations to follow. It is a grand thing to do a plain duty, and a severe test of character to perform that duty resolutely when the weighty pressure of mighty forces is operating against us as it is at present. But to my mind nothing is so noble as a sincere heart and enlightened mind, a clear conscience, a lofty patriotism, and a resolution unbending to do right. No permanent good can come to any State or nation, even as no permanent good can come to any individual, except upon the secure basis of absolute justice; but just as with individuals, so also with States and nations, prosperity and good-fellowship follow in the wake of wisdom and of plain duty resolutely performed. Let us preserve, as we are doing, that which is best and noblest in our Constitution and laws, our institutions and civilization, our business fabric and national customs, as a heritage for our children; but let us also, under the providence of God, by an enlightened statesmanship in the enactment of these wholesome laws, assure and secure to posterity the priceless legacy of industrial freedom and economic independence.

Mr. ADAMSON. Mr. Chairman, will the gentleman from Minnesota [Mr. STEVENS] use some time?

Mr. STEVENS of Minnesota. Yes; I will yield to the gentleman from Iowa [Mr. TOWNER] such time as he may desire. I know that he will be reasonable.

The CHAIRMAN. The gentleman from Iowa [Mr. TOWNER] is recognized.

Mr. TOWNER. Mr. Chairman, I am in sympathy with the purpose of this legislation, and shall support this bill. I do so with some reservations, realizing its imperfections, and I would regret to see it pass in its present form. These defects, both of form and substance, are such as can be corrected when we consider the bill for amendment. I sincerely hope we may so

perfect it that it will not only satisfy ourselves, but meet with the approval of the people.

I congratulate the gentleman in charge of the bill, the distinguished chairman of the Interstate and Foreign Commerce Committee [Mr. ADAMSON], not alone for presenting a bill which in its object is so necessary, and in its general features is so admirable, but I also congratulate him upon the high and generous spirit which he exhibits with regard to this proposition. He declares himself willing to accept suggestions, to welcome from any source help in perfecting the text, and to accept gladly amendments which may tend in any way to strengthen the legislation.

This particular bill is the third of the antitrust series, and has for its object the regulation of the issuance of stocks and bonds by transportation corporations. There is no question of the necessity of this legislation to prevent the continuance of the evil practices which, especially in the last few years, have become so prevalent. The people are demanding and are entitled to receive immediate relief. And, important and necessary as it is that these evils should be eliminated in the interest of the general public, it is equally important and necessary in the interest of the corporations themselves. Indeed, it is hardly too much to say that the primary and principal benefit of such legislation will accrue to them.

Mr. ADAMSON. Mr. Chairman, will the gentleman allow me to interject an observation right there?

Mr. TOWNER. I shall be glad to do so.

Mr. ADAMSON. One of the controlling inspirations moving me to the extent of supporting this bill is that the developments of the last five years have demonstrated that it is necessary to protect the corporations themselves.

Mr. TOWNER. Yes; it is necessary to protect them from themselves. Much as the people generally have suffered from the shameless manipulations of corporate securities and the overissue of watered stock, the stockholders have suffered still more. The holders of small amounts of these securities, often widows and children and old people desiring to have a little assured income to keep them while they lived, have seen their holdings rendered worthless and their little income destroyed by the reckless gambling operations of conscienceless schemers.

If this legislation is secured, the iniquitous operations which have brought the good name of our country into disgrace in the eyes of the world will not be repeated in the years to come. Hereafter the interests of the minority stockholders must be and will be considered. Hereafter the managers of these corporations can not sacrifice the real interests of the corporation to serve their own individual and selfish purposes.

And so I rejoice that this legislation is coming. It will bring a better day, both for the companies and the people. It is true that the corporations, or rather the managers of them, protest that such legislation will injure and cripple them in their operations. In so far as that protest is an appeal to continue nefarious practices, it may be absolutely disregarded. In so far as it is an honest apprehension of injury to the legitimate development of their work, I am sure the corporations are mistaken.

Take the requirements of this bill that the issuance of stocks and bonds must be approved by the Interstate Commerce Commission. That proposition is regarded by some honest corporation managers as a harmful limitation on their liberty of action and as likely to seriously hamper and injure them in their work. I am sure that is a mistaken idea. I am sure it will help rather than harm them.

To secure the approval of the Interstate Commerce Commission of an issue of stocks or bonds will constitute an official indorsement which will add to their desirability and enhance their value on the market. An intending purchaser will want to know whether the offered security has such approval, and will become, if such indorsement is shown, a more ready purchaser. Desirability determines whether a stock or bond is marketable and its price. There is no other element that makes a security desirable in the esteem of a purchaser equal to an assurance of its safety. The indorsement of the commission will almost amount to that. An official indorsement of this character will add to the value of such securities, aid in their sale, and thus benefit rather than injure the corporation. I will go further, and say that if in addition to this requirement is added the requirement of the approval of a State commission, this double approval will add to the value and aid in the sale of the stocks and bonds thus issued.

I have no doubt that if this legislation is secured there will be less fluctuation on the stock market. This may result in less business and profit for the stock brokers. I am inclined to think, however, that the people of the country will view such result without great grief. Stocks and bonds will sell for more nearly their real value than ever before. The market will be more stable and flurries and panics less frequent.

So, gentlemen, I am glad we are going to have—for I believe we will have—this legislation. I hope to secure some changes in the bill which I think ought to be made. They will make it better, I am sure, if adopted. I hope the same open mind promised by the chairman will pervade the House. Let us with open mind work together in securing this greatly needed legislation for the people. This will be infinitely better and more to our credit than to try to direct our action in an endeavor merely to secure some poor, petty political advantage.

If we desire, as surely we must, to remove some of the reproach which is cast upon the American Congress for playing politics, let us be large enough, generous enough, intelligent enough to write our legislation on this great subject so that the people may say: "That measure, at least, has received the intelligent consideration of Congress, on its merits, uninfluenced by party or political reasons."

I am pleased to note the change in sentiment which has come about in the last few years with regard to this legislation. This has been already referred to by the gentleman from Minnesota [Mr. STEVENS] and the gentleman from Wisconsin [Mr. ESCH]. As early as 1887 Senator Cullom, from the committee which reported the original interstate-commerce act, declared that overcapitalization had "unquestionably done more to create and keep alive a popular feeling of hostility against the railroads of the United States than any other one cause." Various efforts since then have been made to devise legislation to cure the evil. As in so many other ways, the States have led the Nation. They have passed laws which, in many instances, have been effective in regulating purely intrastate business. In Massachusetts, New York, and other States public-service commissions were created to regulate the issue of stocks and bonds and with such beneficial results that even the corporations approve. The benefit to them has been so apparent, and the benefit to the people so manifest, that no proposition to return to unregulated conditions would be considered.

I am sure our Democratic friends will pardon me for referring to the fact that this legislation is entirely Republican in origin. The movement was begun in Republican States, bills were drawn and the legislation pressed by Republican leaders, and the desired laws were first passed by Republican legislatures. It is true that many Democratic leaders have actively aided in securing such results, and that some Democratic States have followed the many Republican States in placing the laws on their statute books, but both in the States and the Nation Republicans have led.

President Roosevelt recommended such legislation. In 1908 the Republican platform declared:

> We further such national legislation as will prevent the overissue of stocks and bonds in the future by interstate commerce.

In 1911 President Taft in a special message strongly recommended it. The Mann act of 1910 contained such a provision and was passed by the Republican House.

Now the present Democratic majority have wisely adopted this Republican measure and are making it part of their party program. They have done well and certainly are entitled to Republican support in both the perfecting and the passage of the bill. I am glad that now the friends of this legislation are not confined to one party. It is a healthy sign that in this instance the real interests of the people are considered supreme over partisan considerations.

Mr. Chairman, we have made great progress in the control of railway corporations in the last few years. They have been brought under the control of the law, both State and National. Pooling has been stopped, rebating prevented, special favors eliminated. Rates and fares have been reduced and made more nearly equitable and uniform. The prevention of competition has been in a great measure stopped. There remain several minor matters which need remedying, and one large and important item. That is the prevention of overcapitalization, the issuance of watered stock and its accompanying features. The wrecking of roads, the manipulation of stocks and bonds for speculative purposes, the consolidation of companies, not for the betterment of extension of business but for the flotation of stocks and bonds for individual profit—these are some of the evils incident to the unregulated issue of stocks and bonds. This bill is intended to prevent the continuance of these wrongs.

It may be well to consider briefly some elementary principles. What are stocks? They are merely the evidences of part ownership. One thousand men may own a railroad. They may each own one one-thousandth part, or they may own it in unequal parts. The stock is the evidence of ownership of the proportionate share the holder has in the property. The total

amount of the stock issued should represent the exact value of the property. An overissue of stock means an issue of stock beyond the value of the property. There can be no legitimate benefit in this. To pretend that the value is greater than it is does not in fact increase its value. The act is in itself a fraud. It is done with intent to deceive. It injures both the stockholders of the corporation and the public. It benefits only the manipulators.

What is a bond? A bond is simply a mortgage issued in parts on the property of the corporation. An overissue of bonds means simply an overmortgaging of property, creating liens on it beyond its value. Bad as is the overmortgaging of farms, still worse is the overmortgaging of railroad corporations. It injures those who issue and those who buy.

It would take too much time to enumerate the various ways these bad practices work harm. President Roosevelt in his message to Congress in 1905 well summarized the evils of stock watering with its attendant abuses:

Of these abuses perhaps the chief, although by no means the only one, is overcapitalization, generally itself the result of dishonest promotion, because of the myriad evils it brings in its train, for such capitalization often means an inflation that invites business panic; it always conceals the true relation of the profit earned to the capital actually invested, and it creates a burden of interest payments which is a fertile cause of improper reduction in or limitation of wages; it damages the small investor, discourages thrift, and encourages gambling and speculation; while, perhaps, worst of all is the trickiness and dishonesty which it implies, for harm to morals is worse than any possible harm to material interests, and the debauchery of politics and business by great dishonest corporations is far worse than any actual material evil they do to the public.

To even mention the notable instances where enormous injury and positive wickedness have accompanied these practices would be impossible in the time at my command. They have already been well and ably depicted by gentlemen on the floor of the House. The gentleman from Wisconsin [Mr. ESCH], the gentleman from Michigan [Mr. CRAMTON], and the gentleman from Iowa [Mr. GREEN] have presented to the House cases of such enormity as almost to stagger belief. The Chicago & Alton case, where an increase of stock and liabilities of over $62,000,000 was made without one dollar of consideration; the increase of over $31,000,000 of the Southern Pacific, not a dollar of which went into its treasury; the Frisco, the Pere Marquette, the Boston & Maine, the New Haven, are cases sufficiently recent to be remembered. As is well known, the great Rock Island system has been ruined by this process of watering and rewatering. It is a significant fact that in the reorganization made necessary by these practices, the plan submitted cuts out the enormous sum of $357,000,000 of watered securities.

It is interesting to note the progress of public opinion with regard to the necessity for this legislation. Present conditions, which assure its success, are the result of a process of education, of experimentation, of experience. One of the principal reasons why national legislation on this subject was not earlier secured was the apprehension of the States of what they believed was an invasion of their rights. They feared to grant the General Government power to control in any way corporations operating under State charters, in the belief that it might lead to Government control of all State corporations. How far we have advanced from this may be shown by the action last year of the State railway commissions in their annual meeting by a unanimous vote adopting resolutions recommending national legislation such as is now proposed. It is apparent that, because State power is limited to State lines, the scope of State operations is necessarily limited.

Now we are to give the regulatory power to the Interstate Commerce Commission, whose jurisdiction extends to fully 85 per cent of the transportation companies of the country. With the power of control given this national body over interstate commerce and the power exercised by the commissions of the various States over intrastate commerce, there will be no "twilight zone" within whose precincts abuses can exist.

Mr. Chairman, I believe this bill will pass both the House and Senate and become a law. Not in its present form, but in substance it will become an act of the Sixty-third Congress. As such it will reflect credit upon us, for it will prove of such great and lasting benefit as to commend itself to the approval of all who desire to secure and preserve the welfare of the Nation

Mr. STEVENS of Minnesota. Mr. Chairman, how much time did the gentleman use?

The CHAIRMAN. The gentleman consumed 8 minutes.

Mr. ADAMSON. Mr. Chairman, I yield 30 minutes to the gentleman from New Hampshire [Mr. STEVENS].

[Mr. STEVENS of New Hampshire addressed the committee. See Appendix.]

[Mr. REILLY of Wisconsin addressed the committee. See Appendix.]

Mr. STEVENS of Minnesota. Mr. Chairman, I yield 30 minutes to the gentleman from West Virginia [Mr. Moss].

Mr. MOSS of West Virginia. Mr. Chairman, it is my purpose to support this particular bill, which has in view the regulation of the issue of stocks and bonds of the railroads—one of the antitrust bills. I do so because, while I believe the bill is imperfect, while I believe it has many imperfections, yet there is more good in it than bad. It is a progressive measure, and I have tried to support truly progressive measures which have come before Congress during my term.

Again, I think it better to push through these bills, instead of retarding them, in order that the business of this country may have a rest from the uncertain agitation that has hung over it since Democracy came again into power. It is pertinent in this connection to inquire what strange reason permitted the intelligent voters of this country, after a lapse of 16 years and in apparent disregard of the sad experience of the past, to again bestow such power upon the Democratic Party, and lastly, to inquire how that party has used that power.

THE CAUSE.

The American people are impatient of delay. So remarkable has been the advance of this Nation from the time of its birth that it is no wonder that at times we become dissatisfied and demand a change. And so it is, though practically every great national reform has been accomplished under a Republican administration, yet, because of the misdeeds or failings of its individual members, the Republican Party is occasionally ostracized by the people. In addition to this, unfortunately, a bitter controversy between two personal friends, leaders of the Republican Party, contributed to a crushing defeat in the year 1912.

Mr. GOODWIN of Arkansas. Will the gentleman yield right there?

Mr. MOSS of West Virginia. I have not time just now.

This controversy culminated at Chicago, where an attack was made upon the ancient rules of the party governing national conventions, which permitted too much control to rest in the hands of southern delegates, who represented but a very small Republican constituency. These rules were wrong and should have been changed long since. West Virginia has now already voted to change them, and a large majority of the States will so vote, so that never again will this particular bone of contention menace our success. Again, certain political leaders—or bosses, if you please—became too prominent and too autocratic, and the people, naturally, perhaps, confounded the party with these few individuals. These men do not now and never have constituted the Republican Party. No party has ever existed that did not have connected with it some undesirable characters. A party should not be held responsible for such men. The rank and file of a party is the bone and sinew of that party, and it is up to the rank and file, and they have the power, to tell these self-constituted bosses to step to the rear and let somebody else do the leading. And that is exactly what the Republican Party is doing to-day. We are cleaning house from the inside—a process much quicker, much more desirable, much more patriotic, than that of pulling down the house from the outside and thus destroying it. There is no excuse for destroying the party of Abraham Lincoln.

Mr. BARKLEY. Mr. Chairman——

The CHAIRMAN (Mr. BALTZ). Will the gentleman from West Virginia yield to the gentleman from Kentucky?

Mr. MOSS of West Virginia. I have not the time. I am very sorry.

Its mission to-day is as vital to American welfare as it was upon its first birthday, and you and I will be dead and gone, and some of us will perhaps be forgotten, long before the Republican Party shall meet its doom. This is not merely my prediction, but it is the sure and certain pronouncement which the people all over this Nation are making to-day by their ballots, which prove conclusively, wherever registration has been had or an election held, that this grand old party is coming back into its own, and that those who left that party for a while, in order to voice a temporary but an earnest protest against the application of a worm-eaten rule, or against the defeat of their candidate for President by what they conceived to be unjust and fraudulent methods, have come back home, and are uniting in a determined effort to rescue this country from the bonds of Democracy. This does not mean the abandonment of progressive principles. It does mean that sensible men realize they can more rapidly advance these principles by preserving a united party.

Mr. BARKLEY. Mr. Chairman, I am not asking the gentleman to yield. I rise to a question of order. Under the rule which was adopted for the consideration of this bill there is a provision that those who speak during general debate shall confine themselves to the bill under consideration. Now, I am

not intending to object to the gentleman's continuation of his speech, but I do want to make the statement that, under the rule, the gentleman is out of order, and while I do not intend to raise the point, I think it might be well for the gentleman's constituents, who will in due time receive this speech, to know that he is proceeding against the rule we have adopted here.

Mr. ADAMSON. I hope the gentleman from Kentucky will not insist on his point of order.

Mr. BARKLEY. I do not object to the gentleman proceeding, but I want that to go into the RECORD.

Mr. STEVENS of Minnesota. The committee has been liberal, so far, with both sides of the House, and I hope the gentleman from Kentucky will be liberal. It will expedite matters to do that.

Mr. FESS. I want to say that when the gentleman from Texas [Mr. EAGLE] was making a speech, which we all enjoyed, although it was political, nobody objected.

Mr. MOSS of West Virginia. The gentleman, I understand, merely wants to get what he has to say in the RECORD.

Mr. BARKLEY. I want the gentleman's constituents to see that.

Mr. ADAMSON. We are getting along harmoniously here, and I hope these interruptions will not be taken out of the gentleman's time.

The CHAIRMAN. They will not.

Mr. ADAMSON. When a gentleman makes a digression into other subjects I regard it as merely forfeiting that much time. I wish that he could be yielded time enough to make up for the interruptions.

Mr. MOSS of West Virginia. Mr. Chairman, I think the gentleman will find out—the gentleman who said he desired to get his remarks in the RECORD so that my constituents could see them—that what I have to say on this subject will be very pertinent.

DEMOCRACY'S RECORD.

This is no time for theories. We will talk facts. There is no teacher like experience. The experience of a year and a quarter of Democratic administration is a sufficient argument in this year of our Lord 1914. The campaign is again upon us. The day of reckoning has come to the Democratic Party, and it is up to the people of this country to decide whether they want to indorse that Democratic record or whether they have had enough.

THE TARIFF.

A year and a quarter is a short time, but I want to compare here to-day the situation under Republican administrations with the situation under the present Democratic administration, and ask, "Choose ye whom ye will serve." I said in a speech delivered upon the floor of this House on the 25th day of April, 1913, before the Underwood tariff bill became a law:

> It does seem superfluous after a century of tariff experience to argue that free trade or any approach to free trade is disastrous to this country. Every time it has been tried we have had desolation and distress. Every time a truly protective tariff law has been enacted it has been followed by unexampled prosperity, and yet our friends on the other side, in order again to test the theories which they profess to love so well, are ready to turn their backs upon the light of experience and again grope in the dark night of experiment. And the American people must pay the penalty.

And again, I said:

> I predict, my friends, that the great moving cause that will unify that great Republican Party and make these men forget their feuds and factions when confronted by the call of their country's good, will be the dire result of the passage of the Underwood bill, which will follow as surely as the darkness of night follows the splendor of day.

My friends, prophecy is a dangerous thing, but I took the chance. Let us see whether my prophecy came true. Prior to the election of 1912 this Nation enjoyed prosperity. The factories and mills and shops were busy turning out American products made by American workingmen, receiving good wages and living like freemen. Not only did we supply our own markets but our exports to foreign countries increased year by year, and far surpassed our imports. We became a creditor Nation. We became an important factor in the world's supply. We competed in the world's markets. We preferred to and did give work to the American and, if needs be, let the foreigner across the sea stand idle rather than reverse the position and let the American stand idle while the foreigner worked. In the field of agriculture our success was equally momentous. The farmer received the highest prices for his products, and the American people largely lived upon the necessities of life produced at home.

Now let us look at the other side of the picture. Let us contemplate the scene after a Democratic tariff bill has started its deadly work. Let us look conditions in their face, not seeking to exaggerate nor, again, seeking to minimize, but rather seeking to obtain the exact truth. There are some exceptional communities, like my home city of Parkersburg, where, owing to an abundance of public improvements or the inherent advantages it has enjoyed even in time of panic elsewhere, still retains its prosperity, but throughout the Nation, speaking generally, there is a business depression. Capital has become frightened. Factories and shops have either closed their doors or are running at half speed. Hundreds of thousands of laboring men are idle, trying to eke out an existence and support their families until relief comes. They no longer are supplying the American people. Their places have been filled—not here, 'tis true, but across the water—by the pauper labor of Europe, which as the months go on is furnishing an increased supply of products for consumption in America Every month of Democratic administration is now showing an increase in imports from foreign countries, and therefore showing a decrease in American production. The latest statistics of the Department of Commerce show that April imports aggregated $172,640,724, against $146,194,461 in April of last year, an increase of imports for one month of 26,446,263 good, hard dollars of American money which, instead of being paid to and used among our own people, has been paid to the foreigner. Abraham Lincoln once said:

> I don't know much about the tariff, but I do know that when we buy the goods abroad we get the goods but the foreigner gets the money, but when we buy our goods at home we get both the goods and the money.

Europe is having a picnic with us, but what becomes of the American? We were told, however, that this new tariff law would increase our exports; that American business would be freed from its shackles, and, while losing its grasp upon the rich American market, would easily make up the difference by capturing a large share of foreign markets. What has been the result? Comparing April of this year with April of last year, the Department of Commerce reports that there has been a falling off in foreign sales amounting to $37,000,000. Taking the imports and exports together, they show a total loss to our commerce of sixty-three and one-half million dollars in one month, or at the rate of over $700,000,000 annually.

The farmer has not escaped the plague of this Democratic tariff. Canada puts a duty on our wheat, but we, in the goodness of our hearts, practically let Canada's wheat in free, and hundreds of thousands of bushels of it are being brought into this country to depress the price of our own product. Even Irish potatoes are coming in by the shipload from abroad. Cargo after cargo of Argentine grain, stock, and other products is landed in our ports, and from every side the American producer is menaced by destructive foreign competition and the American citizen is retreating further and further from his position of industrial supremacy.

But we were promised by the Democratic Party that all this hostile legislation would, at least, bring about one great result—it would, at least, help the consumer; the cost of living would be reduced, and thus the great mass of people would be benefited. They seem to forget that the great mass of the people belong to the producing class, and when they are deprived of the power to produce, when they are deprived of the opportunity to work, no reduction in the cost of their necessities would be of avail, because they would not have the money with which to purchase them. But the point that I want to sink deep into the minds of every hearer is that not only has this Underwood law sacrificed American industry and American labor, not only has it turned the channels of trade away from this country and brought to us the menace of pauper-labor competition, but it has also failed to bring to the American consumer the relief that was so solemnly promised. But hold! It is claimed that though this tariff bill has closed down and destroyed practically all beet-sugar factories, and although it has already ruined the sugar plantations of this country, there has been a reduction to the consumer of one-seventh of a cent per pound. Think of it! For every 2,500 cups of coffee you drink you save 5 cents; and this is your compensation for ruining a great American industry and throwing out of employment thousands of American workmen. My friends, the American people are not fools. They do forget about once in 16 or 20 years, and they do sometimes get mad, as they did in 1912; but I can not help believing that at last they have learned their lesson well and that they will seize the first opportunity to escape from the thralldom of a Democratic tariff policy which has already wrought such havoc to the industry of this country.

Mr. CULLOP. Mr. Chairman, will the gentleman yield there to supplement what he has to say about the unemployed of the country?

The CHAIRMAN. The gentleman from West Virginia declines to yield.

THE PANAMA CANAL.

Mr. MOSS of West Virginia. Candidate Woodrow Wilson said, in a public speech, that a platform was not molasses with

which to catch flies, but it was a solemn pledge to the people which must be observed. The contemplation of Democratic performances must therefore bring sadness to the heart of President Wilson. Not only has this party violated its promise to reduce the cost of living, but, at the insistence of this same Woodrow Wilson, it has unblushingly repudiated a solemn plank of the platform upon which the people elected a Democratic administration. That platform expressly declared:

We favor the exemption from tolls of American ships engaged in coastwise trade passing through the Panama Canal. We also favor legislation forbidding the use of the Panama Canal by ships owned or controlled by railroad carriers engaged in transportation competitive with the canal.

The people believed that this was not "molasses to catch flies"; but, alas, the people are sometimes forgetful of past Democratic promises. Hardly was the administration settled into power before it began an agitation to break its pledge to the people and to call for the repeal of the law of 1912 which exempted our coastwise ships from the payment of tolls through the Panama Canal. Whether you are for or against the repeal of that law as a concrete proposition, you can not defend the action of any party in breaking faith with the people. It is but adding insult to injury to offer the silly and paltry excuse that another part of the platform declares against subsidies. That only goes to show that the Democratic Party in convention assembled did not regard as a subsidy the exemption of American coastwise ships from tolls. That declaration against subsidy was as sounding brass and tinkling cymbals, for in the very first administration bill that was introduced in Congress—the Underwood tariff bill—they indorsed a subsidy by allowing a reduction in duty of 5 per cent on all goods imported in American bottoms. This is a clear and direct subsidy; and so the American people will not listen to the hypocritical excuse that they did not mean to declare for free tolls, because that would be an indirect subsidy. No; if there ever was a broken promise by a political party in the history of this Nation this is one, and I do not believe that the American people will reinstate in power any party that willfully and deliberately violates its platform pledges.

But what is this tolls question? First, there would be no tolls question were it not for the fact that the administration insisted upon raising it. England was at one time apparently satisfied, because her minister of foreign affairs informed this Government that if the United States would, in good faith, exempt only its coastwise ships from tolls, he did not believe England could complain. Of course she could not complain. Did she not construe the treaty of 1815, which provided for equal treatment as to port charges on vessels of commerce of both nations entering English and American ports, as not being intended to cover her coastwise ships, and has she not for a century exempted her coastwise ships from the payment of such charges? Does she not know, and does not every well-informed person know, that we have had for many years a law which prohibited any foreign vessel from engaging in our coastwise trade? And therefore is it not clear that, as only American vessels are engaged in American coastwise trade, no discrimination is made against foreign vessels by exempting from the payment of tolls these American coastwise vessels? Does England not know, and does not every well-informed person know, that the tolls upon her vessels of commerce passing through the Panama Canal have been fixed by our Government at a rate exceptionally low and reasonable, and that therefore she has no reason to complain on economic grounds of generous treatment to our own vessels engaged purely in domestic commerce? Is it not common knowledge that England and other European nations pay direct subsidies to their vessels and thereby give them an advantage in their competition with our ships? On what consistent ground could England then complain even if we exempted from canal tolls not merely our coastwise but also our across-seas ships of commerce? It is admitted by the partisans of repeal that the only ground upon which they can stand is the claim that the United States is included in the term "all nations" in the clause of the Hay-Pauncefote treaty which says:

The canal shall be free and open to the vessels of war and commerce of all nations observing these rules on terms of entire equality.

Who lays down these rules? The treaty expressly provides that the United States shall do so. Who ever heard before of a person who gave permission to other persons to use his roadway or his waterway, paid for by his money, and who, in order to insure equal treatment to all such licensees, laid down rules for their government—who ever heard of such person being bound down by those rules himself? And likewise who ever heard of a nation which has spent $400,000,000 and sacrificed hundreds of lives to build a great waterway connecting two mighty oceans, and who has generously given permission to other nations to use that waterway and has laid down certain rules for their government—who ever heard of such a nation being bound by the very rules that it lays down for the government of those nations upon which it has bestowed such generosity?

The construction that these advocates of repeal put upon this treaty is unreasonable, if not ridiculous, and international law lays down the principle that—

If, for example it would appear that it would have been unreasonable, if not inconceivable, for a contracting State to agree to any but a particular signification of any particular terms employed, the necessary inference that any such State had acted reasonably, if not wisely, will prevail, although such a signification may be at variance with the literal sense of the words of the compact. (3 Am. Journal International Law, p. 55.)

Again, if it is claimed that the United States was intended to be included among the "all nations observing these rules," then look at what these rules say, and again answer whether it would not be ridiculous for the Nation that built this canal to intend to bind itself to be governed by such rules. Here are some of the rules:

The canal shall never be blockaded, nor shall any right of war nor any act of hostility be committed within it.

Vessels of war of a belligerent shall not revictual nor take in stores in the canal, except so far as may be strictly necessary.

* * * * * * *

No belligerent shall embark or disembark troops, munitions of war, or warlike materials in the canal. The provisions of this article shall apply to waters adjacent to the canal within 3 marine miles of either end.

Vessels of war of a belligerent shall not remain in any such waters longer than 24 hours at any one time, except in case of distress, and in such case shall depart as soon as possible.

Now, mark you, that vessels of war and vessels of commerce are placed upon exactly the same footing in this treaty. If we are bound by the rules, and can not exempt our vessels of commerce, then we are also bound by the rules when it comes to our vessels of war *in time of war*, and we, as a belligerent nation, in time of war would thus be prevented by the rules that I have quoted from using our canal for our purposes, from giving aid and relief to our soldiers and sailors passing through the canal, from leaving our ships in the canal and within 3 marine miles from either end longer than 24 hours; and, in fact, if this be the construction of the treaty, we will have built, at the cost of hundreds of millions of dollars, one of the greatest engineering structures of the centuries, with the result that it will endanger our very national existence by furnishing a convenient passageway to an enemy's ships, after attacking one of our coasts, to go to the other coast within 12 hours in order to devastate that other coast, when, without that canal, it would have taken them weeks to have reached that other coast by going around the continent. And so you see this is a vital question. It is not merely a question of whether or not you are going to let the transcontinental railroads of this country deprive American citizens of cheap transportation through their canal in order that the railroads may be able to charge a higher rate—although this is important enough—but it is a question that involves perhaps the very salvation of this Nation in time of war.

Now, if we admit by unconditional repeal of this solemn law of Congress, which granted exemption to coastwise ships, that we were wrong in passing that law, and that the treaty would not permit such law, we are thereby also admitting that our ships of war are also governed by those "rules" and that our rights in that canal are but fleeting shadows—the right to build it, the right to pay for it and keep it up, the responsibility of conducting it, without one cent of compensating advantage to us, either in time of peace or in time of war. No wonder that all over this Nation to-day a storm of protest is beating upon the doors of the Capitol and the White House—a protest of red-blooded American citizens, who deny the right of any President or any Congress, at the mere command of a foreign power, to sacrifice and voluntarily surrender, without even an attempt at diplomatic negotiation, the property and the privileges for which we have paid so dearly. And this protest comes, not as a partisan cry, but it comes from patriotic American citizens of every class, party, and creed, who believe in the great and immortal doctrine of American preservation and American supremacy.

THE COLOMBIAN TREATY.

But the tolls question does not exhibit the only striking illustration of the willingness of this administration to agree to unreasonable foreign demands. A few weeks ago the country was shocked to hear that our Department of State had negotiated a treaty with Colombia by which we were to pay that country a cool $25,000,000, and, in addition to that, render to that country an apology for refusing at the time we acquired the Panama Canal Zone to submit to its attempt at blackmail. Anyone familiar with the negotiations between Colombia and the United

States from the beginning to the end knows that the former country, starting with small demands and gradually increasing them until they became extortionate and outrageous demands, has been attempting to hold up this country because of its acquisition of a narrow strip of land from the Republic of Panama, to be used in the canal enterprise. One might think, from the size of the demand, that we had taken the whole Colombian nation. The administration is lavish indeed in its promises and payments to other nations, and many there be who wish that such generosity could be transferred to the people of America, to the extent, at least, of adopting such policies as would give them work and prosperity.

THE MEXICAN POLICY.

At this present time it would seem that after Villa has finished his campaign of cold-blooded murder and rapine, the administration may be able to make terms of peace with him, and thus insure for a time the cessation of hostilities in Mexico. There are no hostilities now being carried on between the United States and Mexico, and so it is eminently proper that we should consider briefly the history of the administration's attitude and activities toward that benighted nation. First, we submit, as declared by the platform of the Republican Party of West Virginia, adopted in convention on May 20, 1914, that—

either it was our duty to keep hands off in Mexico and recognize the existing Government, or else it was our duty to acknowledge our responsibility for the welfare of our sister Republic, and to take prompt and sufficient steps to prevent a continuation of the deplorable conditions which have existed in that ill-fated land. As the latter policy was adopted by the administration, we believe it should have been determined and vigorous, and worthy of the traditions of our great Nation. The policy of "watchful waiting," which, while denying recognition to the existing form of government, has, by listless inactivity, permitted the continuance of unspeakable atrocities, not only upon the citizens of Mexico, but upon American citizens—men, women, and children—is to be greatly deplored.

I recognize the fact that when an American citizen goes to or resides in a country where a state of war exists he must take his chances, if he gets in the way, of injury to his person or his property. But we do protest that this country should never have permitted, as it has done, American citizens to be especially picked out by Mexicans for insult, imprisonment, and slaughter, and we believe that had the administration taken a firm stand upon the killing there, under such circumstances, of the first American citizen, instead of waiting until after the killing of a British subject, the lives of many American citizens, men, women, and children, would have been spared.

THE RESERVE-BANK CITIES.

Many of us Republicans voted for the currency bill advanced by the administration because we believed that it was a step in the right direction and that its operation would serve to relieve the money stringency which would surely follow the passage and operation of the Underwood tariff law. After the passage of this currency bill the Secretaries of the Treasury and the Department of Agriculture took a vote of the national banks, calling for their desire as to location of from 8 to 12 reserve banks called for by that law. In addition to this, these enterprising Cabinet officers made a long and luxurious trip all over the country, presumably for the purpose of ascertaining the desires of the people in this regard. We had a right to expect that the result of this apparent anxiety to reach a right conclusion would bring beneficial results; but, on the contrary, it would seem that more accurate and more beneficial results would have followed from a blindfold drawing or from the toss of a coin. Time will not permit a discussion of this whole subject at this time, but as an illustration of the abject failure to carry out the spirit of this law, let me refer to the fate of my own State of West Virginia. First, it was split in two, in uneven and unequal parts; a part of it was fastened to the distant city of Cleveland, when the trend of business from that part was distinctly toward the city of Pittsburgh; and the other part of it was fastened to the city of Richmond, when the trend of business of that part was distinctly elsewhere. The result is that there will now be an artificial attempt to change the trend of business—a thing that will cause confusion worse confounded—and the time is now gone by when West Virginia can hope to derive much benefit from the new currency law. It has been suggested that the reason why Richmond was selected as the reserve city where most of the West Virginia national banks must do their business and must make their deposits was because if the Supreme Court of the United States should render a decision against West Virginia in her controversy with Virginia over the Virginia debt, Virginia could compel payment because she would have within her own borders an amount of money sufficient to pay that judgment. I can not bring myself, however, to believe that this motive entered into the selection of Richmond as a reserve city, nor that the Hon. John Skelton Williams, of Virginia, now Comptroller of the Currency, could or would have exercised such an influence.

THE VIRGINIA DEBT.

The people of West Virginia are vitally interested in that debt suit. I take the same position to-day that I took from the first—that West Virginia does not owe one single cent of debt to Virginia—and I will not admit such debt until and unless the Supreme Court of the United States, by a regular judgment, adjudicates that debt against my State. Who raised this debt question? Would it ever have been raised had not Virginia, by its voluntary act, seceded from the Union of States and thereby altered the implied contract which existed between her eastern and her western portions to remain a part of the Union. She chose to secede. Western Virginia refused to secede, as she had a right to do. If Virginia had not seceded there would be no Virginia debt question to settle. I therefore hold that she, having raised that question by her secession, must settle it herself, and she can not now call upon the loyal State of West Virginia to assume a responsibility which Virginia herself created. This is only one of many strong reasons against inflicting this huge debt upon the people of West Virginia.

A great deal of foolishness has been exhibited by a small portion of the Democratic press of my district in reference to the action of my predecessor, Hon. John M. Hamilton, in regard to this debt. While the case was pending in the Supreme Court, where it still pends, and before that court had rendered any judgment against West Virginia, which it has not yet done, Mr. Hamilton introduced a resolution in Congress which showed on its face that the owing of such a debt was recognized. This resolution was to the effect that it was the sense of Congress that the debt owing from West Virginia to Virginia should be paid by the United States Government. The introduction of this resolution at that time was a decided mistake for the following reasons:

First. When a case is pending before a court in which the defendant denies it owes any debt it surely does not help the defendant any in the minds of the court for the defendant to say, in effect, that what debt he does owe ought to be paid by somebody else.

Second. Even though the resolution had been passed by Congress, which it was not, it would have done absolutely no good, because it merely expressed the sense of Congress and did not appropriate one cent for the payment of any debt.

Third. Introduced as it was prior to the campaign of 1912, and prior, as stated before, to the rendering of any judgment against West Virginia, it created the impression in the minds of many people that it was merely a political move, and thereby the question which has no business there was injected into the maelstrom of politics.

Mr. Hamilton made an argument for the resolution, not before Congress, as I understand, but before a committee or subcommittee, and this argument has been heralded abroad by some of the Democratic press as if it were an argument made before Congress itself upon some vital matter pending before Congress. As a matter of fact, the resolution never was acted upon by Congress and did absolutely no good. And even the Democratic members of the committee to whom Mr. Hamilton's resolution was referred reported to Congress that the resolution was premature.

Now, there has been a whole lot of claptrap about this resolution in an effort to make the people of the fourth district of West Virginia believe that this was, indeed, their salvation and that its author was their savior in the Virginia debt matter. I said in a public speech last campaign that if West Virginia had to pay the debt, I also would be in favor of asking the United States to pay it and would agree with the principle of Mr. Hamilton's contention; and because I said that, I was misrepresented by that same small portion of the Democratic press, which tried to make it appear that I had given full indorsement to the action of my predecessor from beginning to end on this resolution. I repeatedly stated in subsequent speeches that if the debt was finally adjudicated against the State of West Virginia, I would introduce a bill in Congress—and not a mere empty resolution—for the appropriation of money out of the Treasury of the United States to pay the amount of the judgment against the State of West Virginia. And I still intend to do so should the Supreme Court render such judgment. Now, that is all there is to the political side of the Virginia debt question in my district, and I do not believe that falsification and misrepresentation on the part of a small portion of the Democratic press of that district will in the future even fool as many people as it did prior to the last election.

GOOD ROADS.

All of the Republican Representatives from West Virginia, I believe, voted at this session for the passage of the good-roads law. The particular law does not entirely meet with my approval. It does not, among other things, appropriate as much money as I think should be appropriated for national aid to good roads, and the working plan of the bill is not as I would have it. True to the promise I made to the people in the last campaign, I introduced in this Congress a good-roads bill, which was referred to the Committee on Roads, before whom I made an argument in its favor. I also made a speech on the floor of the House in support of my bill, but the committee, in its wisdom, recommended the passage of the bill introduced by its chairman, and rather than see all good-roads legislation fail, and believing that that bill, in part at least, covered the ground, I gave it my support. I hope that this will only be an entering wedge and that by congressional legislation we can in future years give a new impetus to that important national project of giving aid to the building, construction, and preservation of good solid highways for the use of the people.

THE TRUE FRIEND OF THE OLD SOLDIER.

It has been my pleasure, serving as a Member of this House, to support consistently and uniformly all reasonable measures that have come before the House for the relief of the old soldier. During the last campaign it was claimed by the Democrats of my district and elsewhere that the Democratic Party and its congressional candidates had become real friends of the old soldiers, but in a speech which I made in this House several months ago I showed by the RECORD that upon the passage of the original Sherwood bill almost every Member voting against that bill was a Democrat, and that upon the passage of the conference bill which finally became a law every single Member of the House voting against that bill was also a Democrat. In a debate in which I participated on the floor of the House some weeks ago my opponent, who is a Democrat from the State of Texas, admitted that the fact was that the Democrats had espoused the cause of the old soldier as a political bid for their support. The true friend of the old soldier is the Republican Party. It has been tried and tested on this question for almost 50 years, and the old soldiers, knowing their best interest, will not be led astray from that party by any claim made by the Democratic Party of new-formed friendship.

Mr. Speaker, ofttimes in the stilly night you can hear a faint and murmuring sound which amid the busy hours of day could not be heard. And so to-day amid the depressing quiet of industrial stagnation you can hear the approaching footsteps of the Republican host which, on the 3d day of November next, will reach the polls, and will there render a solemn verdict against the continued domination of that party that now, as in the past, has ever brought industrial depression and disaster to our beloved country. [Applause on the Republican side.]

And so, Mr. Chairman, I thus briefly go over the Democratic record on these measures, not, as some of my friends on the other side think, for the purpose of engaging in partisan controversy, but for the purpose here and now of calling attention to what has happened heretofore when some on this side of the Chamber have united in supporting some of the policies that have been advocated on that side, and to express the hope that while a great many Republicans and Progressives will support this measure—to express the hope, I say, that the administration of the same will not be attended by the results that have been witnessed with reference to the tariff and the currency bills. [Applause.]

Mr. GORDON. Will the gentleman yield to me for a question?

The CHAIRMAN. Will the gentleman from West Virginia [Mr. Moss] yield to the gentleman from Ohio?

Mr. MOSS of West Virginia. Yes.

Mr. GORDON. Has the price of farm products dropped in West Virginia?

Mr. MOSS of West Virginia. They are beginning to drop; yes, sir.

Mr. GORDON. What is the price of wool down there?

Mr. MOSS of West Virginia. What is the price of wool?

Mr. GORDON. Yes; compared with a year ago.

Mr. MOSS of West Virginia. I thought you wished to ask me a pertinent question.

Mr. GORDON. I did.

Mr. MOSS of West Virginia. Then ask me a sensible question.

Mr. GORDON. You were complaining, if I understood your remarks, that the farmers were terribly injured by this tariff bill.

Mr. MOSS of West Virginia. I am speaking of statistics.

Mr. GORDON. I am speaking of facts. I am not speaking of statistics. I want to know what the facts are. You live there.

Mr. MOSS of West Virginia. Yes; I certainly do. And I can tell you that the facts are that for the first time since we had the last Democratic administration we are feeling a business depression in West Virginia.

Mr. GORDON. Now, I want to interrogate you about that depression. Is it among the farmers?

Mr. MOSS of West Virginia. It is partly among the farmers.

Mr. GORDON. What farm products have you in West Virginia?

Mr. MOSS of West Virginia. You can not injure any set of people without injuring your neighbors.

Mr. GORDON. What farm products have suffered injury in West Virginia?

Mr. MOSS of West Virginia. When you injure a business man or a laboring man you injure the farmer.

Mr. GORDON. Name one farm product in West Virginia that has been injured.

Mr. MOSS of West Virginia. The gentleman keeps on talking, and gives me no opportunity to answer. The gentleman does not want an answer, evidently.

Mr. GORDON. I am asking the gentleman questions.

Mr. MOSS of West Virginia. It would, indeed, be inconsiderate of me did I not attempt at least to satisfy the thirst for knowledge of my good Democratic friend from Ohio [Mr. GORDON], who insists upon my stating to him the prices of various farm products. By his interruption he sought to convey the impression that I was wrong in my statement that the price of farm products to the farmer had suffered because of the operation of the Underwood tariff law. The bad effect of that law upon the farmers, as I stated, has begun to be felt, but it will be felt more and more as these farm products from foreign nations continue to be imported in increasing quantities. The fact is that just as soon as the country saw that a Democratic administration was inevitable, owing to a split in the Republican Party, and that therefore a free-trade tariff law was inevitable, the anticipation of these events caused a depreciation in some of the products of the farm. I now give to the House, for the benefit of my friend from Ohio, and also my inquiring friend from Indiana [Mr. CULLOP], statistics comparing the months of April and May, 1914, with the same months of 1912, showing the prices of corn, wheat, and wool, specially prepared by the Department of Agriculture:

Date.	In the United States.			In West Virginia.		
	Wheat per bushel.	Corn per bushel.	Wool, unwashed, per pound.	Wheat per bushel.	Corn per bushel.	Wool, unwashed, per pound.
April:	*Cents.*	*Cents.*	*Cents.*	*Cents.*	*Cents.*	*Cents.*
1914	84.2	70.7	16.8	101	85	20
1912	92.5	71.1	17.3	105	89	21
May:						
1914	83.9	72.1	17.2	100	87	21
1912	99.7	79.4	17.8	110	92	22

I trust that these conclusive figures will satisfy these gentlemen, as actual experience has already satisfied the farmers of this country, that the Underwood tariff law has reduced prices paid to the farmers, and thus injured them, as well as other classes of people in this country.

Mr. ADAMSON. Mr. Chairman, I yield 5 minutes to the gentleman from Indiana [Mr. CULLOP].

The CHAIRMAN. The gentleman from Indiana [Mr. CULLOP] is recognized for 5 minutes.

Mr. CULLOP. Mr. Chairman, I am quite sure that the gentleman from West Virginia [Mr. Moss] would not want to make a great mistake in his speech, and I would therefore call his attention to the Underwood Tariff Act, page 57, paragraph 644. I will read it to the gentleman, to show that wheat is not on the free list, and the gentleman ought to correct his speech in that regard, as I am sure he desires, or ought to desire, to state the facts on this subject.

Mr. STEENERSON. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. Does the gentleman from Indiana yield to the gentleman from Minnesota?

Mr. CULLOP. Yes.

Mr. STEENERSON. Is not the gentleman reading from the free list?

Mr. CULLOP. Sir, if the gentleman will listen, he will find out the Underwood bill does not put wheat or flour on the free list, but, on the contrary, both are on the dutiable list.

Mr. STEENERSON. The gentleman is reading from the free list now.

Mr. CULLOP. Oh, if the gentleman from Minnesota will be patient for a moment, I will satisfy even him that wheat, under the Underwood bill, is not on the free list. I read:

644. Wheat, wheat flour, semolina, and other wheat products not specially provided for in this section: *Provided*, That wheat shall be subject to a duty of 10 cents per bushel, that wheat flour shall be subject to a duty of 45 cents per barrel of 196 pounds, and semolina and other products of wheat not specially provided for in this section, 10 per cent ad valorem, when imported directly or indirectly from a country, dependency, or other subdivision of government which imposes a duty on wheat or wheat flour or semolina imported from the United States.

Mr. STEENERSON. Now, if the gentleman will yield——

Mr. CULLOP. I decline to yield to the gentleman from Minnesota now. He can have his own time. I know he is impatient, but he must possess himself in peace. This refutes the charge, as the tariff act shows there is a duty of 10 cents a bushel on wheat. Wheat now is a better price under Democratic times than it was in 1912 under Republican rule. [Applause.]

Now, I desire to call the attention of the gentleman from West Virginia [Mr. Moss] to labor conditions, in order that he may correct his speech on this question, as I have no doubt he desires to give conditions as they really are and not as he and some of the calamity howlers would have them. Labor is in demand, as I shall show. I read from the St. Louis Post-Dispatch, an independent paper:

EIGHTY-TWO THOUSAND HARVEST HANDS NEEDED TO REAP WHEAT.

WASHINGTON, *June 2.*

Kansas, Missouri, and Oklahoma raisers of wheat need at least 82,000 more men to help in harvesting their crops, and the commissioners of labor of those States have asked Secretary of Labor Wilson to have his department cooperate with them in obtaining the necessary workers.

The men will be wanted by June 15, and the pay, it is stated, will range from $2 to $3.50 a day. The period of employment will be from three to five or six months.

Mr. FESS. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. Does the gentleman from Indiana yield to the gentleman from Ohio?

Mr. CULLOP. Let me get through reading this article. If the gentleman from Ohio will not be so impatient, he will have an opportunity to be heard. I know this is very unsatisfactory to him and a few of his associates.

Mr. FESS. I beg the gentleman's pardon.

Mr. CULLOP. I read further:

Various local organizations in the three States will arrange for distributing the men among the wheat farmers.

Now, Mr. Chairman, if the gentleman from West Virginia will look up his vast army of idle workmen about which he speaks, he can find remunerative employment for them; but he will look in vain. This idle army only exists in his fertile imagination; but I fear that the gentleman's prophecy about idle men in West Virginia is about as near correct as it was a year ago, when he made the prophecy that putting wool on the free list would drive the sheep husbandry out of the State of West Virginia. And yet at this time, this year, when wool is on the free list, it is selling at from 3 to 6 cents a pound higher than it sold at the same time last year, when there was high duty upon it. The sheep and wool industry is thriving better free of duty than it did a year ago under the high duties of the Payne-Aldrich law.

Mr. MOSS of West Virginia. Mr. Chairman, will the gentleman yield?

Mr. FESS. Now will the gentleman yield?

The CHAIRMAN. Does the gentleman yield, and to whom?

Mr. CULLOP. Let me get through. I do hope the gentleman will possess his patience. I know these facts make him impatient.

The CHAIRMAN. The gentleman declines to yield.

Mr. CULLOP. I am sure the gentleman is not willing to have those idle workmen—if any are to be found there—leave his State and go to places where they can get remunerative wages, if they are not doing so now; but he will want them to remain in the State for the fall elections, with the hope that they will stand by the Republican Party, but I prophesy that in this he hopes in vain, as they will indorse the Democratic Party and its wholesome legislation and return an overwhelming majority against the Republican Party in the State of West Virginia. I know our Republican friends are frantic in their desperation, hoping that labor is idle, that wages are low, that business is stagnant, and that industry will shut down in order that they can howl calamity as the result of Democratic policies; but in spite of their frantic efforts business continues good, labor employed, and the people satisfied. [Applause on the Democratic side.]

Mr. FESS. Mr. Chairman, will the gentleman yield now?

Mr. CULLOP. Certainly.

The CHAIRMAN. The time of the gentleman from Indiana has expired.

Mr. FESS. Mr. Chairman, I ask unanimous consent that the gentleman may have one minute more.

Mr. DONOVAN. Regular order, Mr. Chairman.

The CHAIRMAN. The regular order is demanded.

Mr. MOSS of West Virginia. Mr. Chairman, my time has not entirely expired. I wish to answer the gentleman.

The CHAIRMAN. The gentleman's time has expired.

Mr. ADAMSON. Mr. Chairman, I yield to the gentleman from Colorado [Mr. SELDOMRIDGE] five minutes.

The CHAIRMAN. The gentleman from Colorado [Mr. SELDOMRIDGE] is recognized for five minutes.

Mr. SELDOMRIDGE. Mr. Chairman, I am heartily in favor of the legislation proposed by the bill now pending before the committee.

I believe that the revelations which have recently been given to the country in connection with the management of some of our great railroad systems demonstrate beyond any question the need for legislation of this character. The Interstate Commerce Commission has been given authority over the income of the railroad companies through its control and regulation of rates, but no control has been given to the commission to regulate the issuance of stocks and bonds, to fix the amount of capitalization which should form the true basis of rate determination. A study of the financial management of the New York, New Haven & Hartford Railroad Co., the Chicago, Rock Island & Pacific Railroad Co., the Baltimore & Ohio Railroad Co., and other companies demonstrates conclusively to my mind that there is an urgent and pressing demand for this legislation. The truth of the matter is, Mr. Chairman, that those who have controlled the policy and management of our great railroad systems have not been altogether animated by the desire to develop those systems along just and honest lines. Railroads have fallen into the control of individuals and of interests that have exploited them for their own benefit and welfare, and the consequence has been that a toll has been levied upon the consumers of the country in the matter of transportation charges and in the shrinkage of investment values which, to my mind, has proven to be one of the most powerful factors in what we term the increased cost of living.

If this Congress has performed no other service of value to the country than this, it will receive the thanks and applause of the American people. In my opinion, it will not only be of benefit to the people but it will also firmly establish in public confidence the worth of the securities of railroad corporations. It will give to the investing public an assurance of stability and of fair dealing in the matter of railroad management, which has been so lamentably lacking. We are making history in the line of public welfare by the passage of this bill.

I am glad that the bill has come before the House so generously indorsed by members of the committee representing all shades of political opinion. It is a matter for congratulation that the committee and the membership of this House can consider a measure of such far-reaching importance divested of any political bearing, and I predict, Mr. Chairman, that there will be recognition given by the people of the country to the membership of this House for the service which is being rendered to the country by the passage of this bill. The time has come when the Government must step in and exercise its power in the interest of the great masses of the people. And I want to say that, as a member of the majority party, I will join forces with the gentleman from Minnesota [Mr. STEVENS] in support of a measure providing for the Federal incorporation of railroads. I believe we have passed the point where we can deal with these great organizations of capital, reaching out and controlling the destinies of commerce in so many States, through the medium of the State governments. They require the oversight and the control of Federal authority, and the time will come in the near future, I believe, when the Government will, through legislation, seek to put all of these great corporations under the operation of some general directing law. Until that time comes we will find ourselves constantly beset by the necessity for piecemeal legislation, which, in my judgment, will be more or less ineffective. The time must arrive when we will face this problem from a national standpoint and when we will see the interests of the country demand that these corporations shall all be treated alike, and that there shall be some general law which will control them in all departments of their operation and that will not leave them to the conflicting acts of the various State legislatures. [Applause.]

Mr. ADAMSON. Will the gentleman from Minnesota [Mr. STEVENS] yield some time?

Mr. STEVENS of Minnesota. I yield to the gentleman from Washington [Mr. JOHNSON].

The CHAIRMAN (Mr. BALTZ). The gentleman from Washington is recognized.

Mr. JOHNSON of Washington. Mr. Chairman, I wish to occupy a few moments of the time of the committee on the question of the transportation of lepers in interstate traffic, concerning which strict regulations exist.

A most distressing situation has arisen with regard to an unfortunate citizen of the United States, a veteran of the Spanish-American War, the leper John Early, who first turned up some four years ago in the city of Washington. He was most generously cared for by the people here, I am told, but was finally persuaded to leave the city of Washington to go where he pleased on condition that he would not return to this city. In the course of time he arrived near Tacoma, Wash., with a wife and several children.

Mr. RAKER. Is there any evidence that the authorities of the city of Washington knew that this man had leprosy and then turned him loose upon this country on condition that he would not return to the city of Washington, but go elsewhere?

Mr. JOHNSON of Washington. I can not say as to all the steps taken at that time by the authorities of the District.

Mr. RAKER. Such a condition of affairs would be worse than turning loose a band of murderers.

Mr. JOHNSON of Washington. Let me say, however, that a dispute arose as to the disease from which the man suffered. Both the medical authorities of the United States Public Health Service and of the District of Columbia insisted that he had leprosy, and their diagnosis has since been confirmed beyond all question. However, a doctor came here from New York and insisted that Early did not have leprosy; and while the controversy was raging he was given money and urged to disappear. The District of Columbia, although it gave him a house and gave his wife another, disclaimed him as a citizen. They disclaimed him then; they disclaim him now; and they are starting the steps which they think will result in sending him back to the State of Washington.

Mr. Chairman, John Early is not a citizen of the State of Washington, but simply because he turned up there, because he was well treated there, and finally placed in the United States quarantine station at Diamond Head, in the congressional district which I have the honor to represent, it seems that all hands desire now to send him back there.

The point is this: Diamond Head is no more a leper colony than is Fishers Island, in Chesapeake Bay, between Cape May and Cape Henry. Diamond Head is a Government quarantine station, and until Early appeared there we never had any lepers there. Once Early was placed in that quarantine station the people of western Washington were good enough to raise no protest. They did not want the man persecuted. They did not, however, accept him as a citizen. They made no protest whatever until the Government commenced to send other lepers, one by one, to that quarantine station.

This kept on until there were at one time six lepers at Diamond Head.

Now, Early has escaped. He is back in the District of Columbia. A hue and cry is raised, and it is proclaimed that the unfortunate man must be sent back to my State almost by the first train. I have just received the following telegram from the governor of the State of Washington:

OLYMPIA, WASH., *June 4, 1914.*

Hon. A. JOHNSON,
Congressman, Washington:

Understanding that the District of Columbia Commissioners are urging the Secretary of the Treasury to return Leper Early to Diamond Head, in this State, on the ground that that point is an official leper colony, I beg to protest as chief executive of this State against his return. I also protest against having Diamond Head officially designated as a leper colony for the United States. Hope you will be able to convince the Secretary of the Treasury that such action would be unfair to this State and to the residents in the vicinity of Diamond Head.

ERNEST LISTER, *Governor.*

Mr. GARNER. Is this a Government station?

Mr. JOHNSON of Washington. It is a quarantine station, just as is the station off the coast of Maine, the one at Golden Gate, or the one at Fishermans Point, and others elsewhere on both coasts.

Mr. GARNER. It is maintained at the cost of the Government?

Mr. JOHNSON of Washington. Yes.

Mr. GARNER. Then would not the officials have a right to place a leper there?

Mr. JOHNSON of Washington. Yes; but it is not officially a leper colony. Would the gentleman like some Government station or reservation in his district gradually worked over into a leper colony?

Mr. GARNER. No; but the gentleman was challenging the authority of the Government to send him there, or your governor was.

Mr. JOHNSON of Washington. No; the governor resents the sending of lepers across the United States to that station one after another, and his protest is based on the assumption that in the course of time that point will, through nonresistance, become an official colony for lepers.

Mr. RAKER. Will my learned and distinguished friend from Washington yield?

Mr. JOHNSON of Washington. The gentleman flatters me; but I will yield.

Mr. RAKER. How did Early get out of the station at Diamond Head?

Mr. JOHNSON of Washington. I have not the exact details, but it may be assumed that these unfortunate men are allowed in the main to care for themselves.

Mr. RAKER. The authorities let them come and go as they please?

Mr. JOHNSON of Washington. Oh, no. But of necessity they let them care for themselves, and five of them have escaped—all except one.

Mr. RAKER. Are not the Government officials supposed to control them, or did they turn them loose?

Mr. JOHNSON of Washington. They did not turn them loose, but the lepers have no nurse constantly by them, and no attendant wants to lay hands on or come in close contact with these men. If this man Early should be taken back across the United States, 3,300 miles, to Diamond Head, permission would have to be secured from every State through which he passed. He would be placed in a car alone, with no attendant in the car, keeping in the Molokai colony, in Hawaii, any citizen of the train at Chillicothe, Ohio, or Chicago or St. Paul or any other place.

Now, Mr. Chairman, I had no intention of going into details concerning this one case. There are other cases—not many, but enough to warrant the United States, as a matter of humanity and for the conservation of the health of its people, in taking a decisive step and taking that step now. I am addressing the committee for the purpose of calling attention to a bill which has been introduced to-day by myself after consultation with many interested persons. It is a bill proposing that the United States shall pay to the Territorial government of Hawaii for keeping in the Molokai colony, in Hawaii, any citizen of the United States who is so unfortunate as to be afflicted with leprosy.

Mr. ADAMSON. Mr. Chairman, I will yield the gentleman whatever time I may consume of his if he will yield.

Mr. JOHNSON of Washington. I will yield gladly.

Mr. ADAMSON. If the gentleman will kindly designate some place where afflicted people would be acceptable to the community, he would very greatly aid our committee. There are bills before the committee for a leprosarium and tubercularium, but we do not know where to put them. One time we brought in a bill locating one of these sanitariums in Arizona or New Mexico, and the gentlemen from that part of God's globe got up and got on our necks, and they beat us horse, foot, and dragoon, and I doubt if the bill received half the votes of the members of the committee when up in the House. No one wants them. If the gentleman can help us at all on that particular question we will know how to deal with these bills asking that these people be segregated and that a location be fixed for their entertainment and treatment.

Mr. JOHNSON of Washington. I am grateful to the gentleman from Georgia, and I make this suggestion: It seems to be impracticable to find any place in continental United States that will receive without protest these unfortunate people. I thought yesterday that one of the many islands comprising the Aleutian group in Alaska could be used as a leper colony; that they could be put to gardening and homesteading. The climate there is good; perhaps a little damp in winter. But the Delegate from Alaska protested almost immediately; and who can blame him?

I thought, too, that the United States might secure an island in Hawaii and there construct and maintain a leprosarium. But why go to such expense, when Hawaii already has a well-conducted colony at Molokai, and where we can care for our lepers better and at less expense than at Diamond Head or another point in the United States proper?

All of these plans for the purchase of islands contemplate the expenditure of a large sum—from $150,000 to $500,000. The smaller sum will pay for the care of the lepers we are likely to send to Hawaii in 20 years. There are but few in the United States. The most—about 200, I am told—are in a State colony in Louisiana. There are a few in Connecticut, a few in Minne-

sota, a dozen or so in New York City—and, by the way, these are allowed considerable freedom—and one remaining at Diamond Head, in my State. The disease is not so contagious or infectious as is believed. Since the days of Esther, described in the Old Testament, a leper has been an outcast, shunned and driven away with the cry "Unclean! unclean!" ringing in his ears.

In the Molokai colony, where lepers intermarry, I am told that 9 per cent of their progeny become afflicted. It is unfortunate, but a leper nowadays is pursued as he was long before Christ. He has no chance. He must go away. Mr. Chairman, I sincerely hope this Congress may provide a way to pay the Territorial government of Hawaii for the care of all American lepers who are willing to go to the colony at Molokai.

Mr. MURDOCK. Will the gentleman yield?

Mr. JOHNSON of Washington. Yes; certainly.

Mr. MURDOCK. I would like to ask the gentleman where Early came from this last time?

Mr. JOHNSON of Washington. Originally he was a citizen of North Carolina, enlisted in the Army, fought in the Philippines, and there contracted this disease. Then he returned to North Carolina. It was a matter of dispute for some time as to whether he had the disease, and he came to Washington for the purpose of consulting the leading surgeons here. Then he left and bobbed up near Tacoma, in my State.

Mr. MURDOCK. He has been gone a number of years. Where did he come from this last time?

Mr. JOHNSON of Washington. May 17 he escaped from the Diamond Head Quarantine Station in Washington, crossed the Straits of Fuca into Victoria, British Columbia, stayed there at the leading hotels, took one of the finest trains on the Canadian Pacific Railroad, and traveled east with some of the most prominent citizens of that country, among others former Attorney General Grey. He stopped in New York. He came here to this city and spent four or five days in one of the leading hotels here, went up to another and hobnobbed with officials of the United States, and finally called out to the Government, "I am Early, the leper, the unclean, helpless, dependent on you."

Mr. MURDOCK. He was probably at some time in the gallery of the House.

Mr. JOHNSON of Washington. I have no doubt that he was here, and if he could have addressed this House he would have said what he has said in an interview, as follows:

The John Early that was is dead to the world. I have put the world behind me. From now on I am willing to be isolated, to have the warning bell of the "unclean" rung as I approach, to feel that men shrink from me with the world-old fear of the terrible disease that has been laid upon me, but I want my appeal to be heard.

This unfortunate man also said to a reporter:

To demonstrate how easy it is for a leper to mingle in cities, I planned my present trip six months ago. I knew that it is only when a great truth is sent home to the hearts of the people that attention is paid to it. I knew that if I mingled among the well-to-do and the rich and exposed them to contagion that they would arise out of self-protection and further my plan of a national home. That is why I chose the Pullman car, why I slept at the best hotels, ate in the best restaurants. No one cares what happens to the poor. If I had kept to the slums in my travels, the agitation would have been little. I had no desire to hurt anyone. I do not believe that the present stage of my disease is contagious. I had the money to travel as I did. I saved my wages and my pension for months to do so, and I hope the lesson has struck home.

Mr. Chairman, this man is willing to go to Molokai. My bill provides for the sending of only those who are willing to go. It provides for the payment to each American leper who goes there a small gratuity—$20 a month. This is humane; it is right.

In an afternoon paper a charge is made that the city of Washington and the State of Washington have been unfair and ungenerous in the treatment of Early. This is not quite correct. Both city and State have done only what is so graphically depicted in Gen. Lew Wallace's great novel, Ben Hur. The city of Washington was generous to Early, and the city of Tacoma, in my State, was more than generous. Its people bought him a farm. They gave him a large purse. They provided well for his family. His acts have not repaid them, but he is forgiven.

The Nation has done what it could for him. It has given him a liberal pension. It has put him on the Government pay roll as a nurse to himself, but it has not given him a home. He is still an outcast.

Let me append an editorial appearing in this afternoon's Washington Times:

THE CASE OF EARLY.

The case of John Early, leper, has been an amazing series of demonstrations that American civilization is yet afflicted with a good deal of the barbarism of the Middle Ages.

Early has been handled in the District of Columbia, in the State of Washington, and elsewhere throughout the country, in a way that shows how liable the public is to fall into panic over that which it does not understand. Leprosy is a disease almost unknown in this country. It is said that there are perhaps 300 cases of it in continental United States.

Nowhere has provision been made for humane treatment of these unfortunates. They are a terror of society, largely because of its incapacity to determine how it shall deal with them; and the menace which they represent is of course vastly increased by reason of the hesitancy and uncertainty of the community in dealing with them.

Early crossed the continent without difficulty after getting away from his asylum in Washington State, traveled on the best trains, and returned to this city, the scene of his most pitiful experiences, immediately after he was authoritatively decided to be a leper. After he got here he went to a hotel, and not until he himself notified the authorities of his presence was it suspected.

Now, there is a renewal of the old quarrel as to what jurisdiction is responsible for him. Nobody wants him, and nobody, in the face of the strange, medieval terror inspired by his disease, seems concerned whether he shall be given civilized treatment; to get him as far away as possible and to insure that he will not return is the uttermost ambition of everybody and every community that he might possibly impose himself upon. It is a pitiful reflection of the inefficiency of provision for such cases.

I will add the regulations of the Government concerning the transportation of lepers:

TRANSPORTATION OF LEPERS IN INTERSTATE TRAFFIC.

Paragraph 9. Common carriers shall not, under authority of paragraph 8, accept for transportation nor transport in interstate traffic any person suffering from or afflicted with leprosy unless there has been obtained from the Surgeon General of the Public Health and Marine-Hospital Service or his accredited representative a permit stating that said person may be received under such restrictions as will prevent the spread of the disease, and said restrictions shall be specified in each instance: *Provided*, That, in addition to the above, permits shall also be obtained from the health authorities of the States, Territories, or districts to and from which the patient intends to travel.

Paragraph 10. No person knowing or having reason to believe that he is a leper shall accept transportation nor engage in travel in interstate traffic unless permits have been obtained, as set forth in the preceding section, and unless said person shall have agreed in writing to comply with the restrictions as specified in the permits mentioned above.

Paragraph 11. Any person who presents symptoms of leprosy and who is traveling or who has left the State where he resides, in violation of the above regulations, shall be detained, and if proven to be a leper shall be returned to such State or removed to such Federal quarantine station as the Secretary of the Treasury may designate and the proper health authorities notified.

Paragraph 12. Compartments or places in cars, vessels, or conveyances operated in interstate traffic and that have been occupied by persons afflicted with leprosy shall be immediately closed after being vacated by the patient and so kept until after proper disinfection.

And, in conclusion, Mr. Chairman, I appeal to the Congress f the United States to settle the matter along the lines which have been suggested, as generously, as liberally, and as quickly as possible.

I thank the Members for their attention.

Mr. STEVENS of Minnesota. Mr. Chairman, I yield to the gentleman from Minnesota [Mr. VOLSTEAD] such time as he may desire.

Mr. VOLSTEAD. Mr. Chairman, some years ago I became interested in the question of whether Congress has the power to regulate the issue of the stocks and bonds of a railway corporation created by a State but engaged in interstate commerce.

I concluded that Congress has the power, but I find that the reasons that appeal to me in support of my faith differ from that usually assigned. It is generally urged that capitalization may be considered in fixing rates, and that therefore the power to control capitalization is a necessary power in fixing rates. I can not agree to this proposition. The market value of the capitalization may be considered in determining the physical value of the railway, but rates can not be fixed with reference to the par value of the stocks and bonds that a road may have outstanding.

I would rest the right to regulate the issue of stock and bonds upon different grounds. First, any corporation that engages in interstate commerce assumes the duty of making suitable provisions for and taking care of that commerce. This doctrine is emphatically laid down in the case of the Atlantic Coast Line *v.* North Carolina Corporation Commission (206 U. S., 1). It is a familiar doctrine. Much of our legislation in regard to common carriers rests upon it. It is a proper doctrine, as railways are necessarily monopolistic in character. They occupy the public highways, and if they do not discharge their duties to the public they obstruct traffic. As such it is necessary to make reasonable provisions for maintaining and increasing their facilities as traffic may require. To enforce this obligation Congress must have the power to prevent railway corporations from squandering their resources and impairing their credit.

To the extent that railway companies sell their stock or bonds below their value they deprive themselves of funds that could be used for maintaining and improving the service, and to that extent needlessly encumber their properties and deprive themselves of credit. It is self-evident that an overcapitalized corporation can not pay interest and dividends necessary to sus-

tain its credit and at the same time make proper provisions for maintaining the service without charging excessive rates. While capitalization thus affects rates I am not willing to concede that rates can properly be based upon capitalization, and I think it is unfortunate to contend that the power to fix rates argues a right to regulate the issue of stock and bonds. The National Government is not only authorized to fix rates and charges, but its duty is just as imperative to see to it that the public highways are kept open for traffic and in a condition for service. It may be suggested that this is a good reason for controlling the issue of bonds, but not for the issue of stock. It is said that stock simply represents a share of the property of the corporation, and that it is immaterial whether a person has one or two certificates for the same share. Upon reflection this fallacy is easily exploded. To illustrate, take a corporation that has a hundred million dollars in stock that is worth 100 per cent, or a hundred million dollars. If a hundred million more shares of stock are issued, they could ordinarily be sold for the same as the old shares, or $100,000,000, but if sold at 50 per cent there would be a loss to the corporation of $50,000,000, a loss that might greatly impair its usefulness. The sale of stock is almost as valuable to a solvent corporation as a means for raising money as the issue of bonds. For many purposes stock may be considered an encumbrance. It seems perfectly apparent to me that Congress must have power to prohibit a corporation from doing anything that will so directly tend to impair its efficiency and value as a common carrier.

In addition to the foregoing consideration, I would urge as a further reason that Congress has this power under the well-known doctrine that all matters that affect interstate commerce, not local but national in character, may be governed by national laws.

Nearly all railways were at first mere local roads, beginning and ending in the same State, and were then only incidentally engaged in interstate commerce. They have outgrown that condition and have become national highways and national post roads, chiefly engaged in interstate commerce. State commerce in many States and upon many roads is incidental and almost negligible in quantity. These corporations have long since outgrown State lines. Their traffic extends from sea to sea and reaches even beyond that to distant continents. Take as an illustration the Great Northern, incorporated under the laws of my State. Its lines of rail cross five States and extend into a number of others. The prosperity of these States depends in a large measure upon the wise management of this road.

If Minnesota unwisely controls it, that State is not alone affected, but every State that the road serves. If Minnesota permits this corporation to waste its resources so that it can not perform its duties to the public, it may be more of an injury to other States than to Minnesota. If Minnesota has the power to control the management of this corporation in matters that affect service to the public, it follows that it may by its laws directly affect industries in other States and materially lessen or enhance their prosperity; in other words, legislate for other States. Shall these States for all time to come be compelled to depend upon the Legislature of the State of Minnesota for laws to control this corporation in matters of vital concern to their people?

If the National Government can not regulate the issue of stock and bonds of the Great Northern, it is evident that the State of Minnesota is the only power that can. None of the States can exclude it from doing an interstate business or regulate the issue of its stock and bonds. Should it be necessary to enlarge terminal facilities, better the tracks, or provide cars to do interstate business in the State of Washington, the Great Northern might apply to the State of Minnesota for leave to issue stock or bonds to secure the necessary funds therefor. Should the State deny this request, what remedy would there be? Practically none, unless the power which the United States has over interstate commerce is sufficient to afford the relief.

I have no doubt our Supreme Court would very promptly set aside such refusal as interfering with interstate commerce. The doctrine laid down in the St. Louis Southwestern Railway *v.* Arkansas (217 U. S., 136) not only makes that evident but is well-nigh conclusive.

The Supreme Court has repeatedly held that any matter that affects interstate commerce, which is not local but national in character, and that admits of and requires a uniform rule for its control, is exclusively for the will of Congress. It is said in Brown *v.* Houston (114 U. S., 622)—

That pilots, harbors, wharves, roads, bridges, tolls, and freights were for many years subject to State control.

State quarantine laws applied to interstate commerce until Congress passed a quarantine law. Safety appliances upon trains were matters of State regulation, but Congress superseded such regulations by the national safety-appliance act. The effect of overcapitalization of interstate carriers is not in any sense local, but national in character. It is much more so than most of the objects to which this rule has been applied. It is a matter that admits of and that public interest requires should be governed by some national law of uniform application that will protect the interests of all the people. It may be argued that Congress may restrict the capitalization of State corporations, but can not confer upon them the power to issue stock and bonds in violation of their charters. Is this distinction sound? I think not.

It may be said in support of the distinction that States possess only the power to exclude the foreign corporation or to prescribe conditions upon which it may do an intrastate business, but it does not follow that Congress is without other remedies. A State can not repeal or modify the laws of another State, but Congress can if such laws interfere with interstate commerce. Many State laws have been superseded by Federal laws. To give a concrete example: Could a corporation, in answer to a demand that it furnish the necessary facilities to reasonably care for interstate commerce, plead a provision in a State charter that forbade the issue of the necessary stock and bonds to obtain funds for that purpose? I doubt that anyone will contend that such a plea would be accepted. It seems to me that the plea would demonstrate the necessity for a Federal law and would show that Congress had power to pass such a law because of its necessity in protecting interstate commerce.

I can see no good reason why our Supreme Court should not hold that Congress may control a State corporation engaged in interstate commerce as fully as can the State that creates it. This is practically the doctrine laid down by Justice Brown in Hale *v.* Henkel (201 U. S., 43). He there said:

It is true that the corporation in this case was chartered under the laws of New Jersey and that it received its franchise from the legislature of that State, but such franchises, so far as they involve questions of interstate commerce, must also be exercised in subordination to the power of Congress to regulate commerce. Being subject to this dual sovereignty, the General Government possesses the same right to see that its own laws are respected as the State would have with respect to the special franchises vested in it by the laws of the State. The powers of the General Government in this particular are the same as if the corporations had been created by an act of Congress.

Mr. STEVENS of Minnesota. Mr. Chairman, I now yield to the gentleman from Minnesota [Mr. STEENERSON].

[Mr. STEENERSON addressed the committee. See Appendix.]

Mr. STEVENS of Minnesota. Mr. Chairman, I now yield to the gentleman from Nebraska [Mr. BARTON].

[Mr. BARTON addressed the committee. See Appendix.]

Mr. STEVENS of Minnesota. Mr. Chairman, I now yield to the gentleman from Washington [Mr. BRYAN] for three minutes.

Mr. BRYAN. Mr. Chairman, I do not want to let a debate of this kind close without making what I consider the real vital argument, advancing the real vital proposition in connection with this whole situation. The Congress of the United States and the public men of the country have been handling the railroad problem with a great deal of energy since the creation of the Interstate Commerce Commission, and to-day we hear about Federal control, Federal organization, Federal license, Federal incorporation, and we are advancing step by step to a situation which simply demands the Government ownership of railroads. There is every reason in the world why the United States Government should take over these lines and own and operate and manage them. The railroads collect every year a toll from the people of the United States in excess of $3,000,000,000, over three times as much as it costs to manage this entire Government. The railroads have a capitalization on paper of over $20,000,000,000, in capital and bonds. Every obligation that exists against the railroads is a debt of the people on which toll will be collected by the railroads. Every bond they issue is a Government bond. The only difference is that they pocket the money and the people pay the debt, but in the case of sure-enough Government bonds the people get the money as well as pay the debt. There is no reason in the world why that kind of power and authority ought to be in the hands of any private institution or set of men. We are taking their power away every day, and we get a great chunk through this bill—that is why I favor it.

I just want to suggest three new pointers toward Government ownership of railroads, and I will amplify these suggestions in the RECORD later. In the first place, rates—the present controversy before the Interstate Commerce Commission to

raise the freight rates in this country. That might be called a mental argument, appealing to the minds of the people. Then we have Mellen; that suggests a moral argument which involves corruption and the morality of the situation. Then we have the Panama Canal and Alaska—a physical argument, the real application of the proposition.

The Panama Canal, with the Panama Railroad and the steamship lines operated by the United States Government, was too big to be handled by any private corporation, and the Alaskan railroad was a proposition so involved that it could not be handled by individuals. So we have an argument here from every standpoint for Government ownership of railroads, and I am for this bill because it reaches out and closes just so much more of the gap that exists between private ownership and Government ownership. Brains and common sense demand Government ownership. Good morals and the Ten Commandments demand it, and it works out right in practice.

Mr. GARNER. Mr. Chairman, will the gentleman yield?

Mr. BRYAN. Certainly.

Mr. GARNER. Is the gentleman speaking for the Progressive Party?

Mr. BRYAN. I am not speaking for any party. I am speaking my own beliefs, but I believe the Progressive Party will have Government ownership of railroads in its platform before long, because I believe the people of this country stand for Government ownership of the railroads, and that they are going to find expression of their sentiment in the Progressive platform more quickly than in the platform of either of the old parties.

Mr. GARNER. Does the gentleman come to that conclusion from talking with his colleagues and associates in the Progressive Party on this floor?

Mr. BRYAN. There are quite a number of my colleagues who are Progressives who believe in Government ownership of railroads.

Mr. GARNER. Does the leader, the gentleman from Kansas [Mr. MURDOCK]?

Mr. BRYAN. The gentleman from Kansas is entirely able to represent himself on the floor, and I am not authorized to speak his views.

Mr. GARNER. Then I will ask the gentleman if the real leader of the Progressive Party, Col. Roosevelt, is in favor of Government ownership?

Mr. BRYAN. I have never heard Col. Roosevelt express himself on the Government ownership of railroads, and I have never read anything from him on that subject, except that he said that if regulation failed we necessarily would go to Government ownership of railroads; and he did not go through all sorts of fits and spells as though he was scared to death at the prospect, either.

The CHAIRMAN. The time of the gentleman from Washington has expired.

Mr. STEVENS of Minnesota. I yield the gentleman one minute more.

Mr. BRYAN. The man who was the head of the gentleman's party over here at Baltimore only a few years ago declared, when he came back from Germany and his trip around the world, that he was for Government ownership of railroads, and he has not changed his mind, either. And so William Jennings Bryan, who is supposed to be the leader of the party of the gentleman from Texas, and who was the leader at Baltimore, and I suppose he is the leader of your party to-day, as far as that is concerned, is for Government ownership of railroads, and I think the Democratic Party is subject to censure for not following his leadership and that the gentleman himself is subject to mild censure for lagging behind his party leadership.

Mr. FESS. Will the gentleman yield?

Mr. BRYAN. Yes.

Mr. FESS. Does the gentleman regard this legislation as a step toward it?

Mr. BRYAN. I believe it does fill up the gap a little. I believe we are taking a more complete hold on the railroads by this statute than has ever been done before, and the tighter the hold the better I like it. We will get them, bag and baggage, a little later.

The CHAIRMAN. The time of the gentleman has again expired.

Mr. STEVENS of Minnesota. We have no further speakers.

Mr. ADAMSON. Mr. Chairman, I am sure the gentleman from Washington is trying to beat this bill. [Laughter.] The gentleman says he is going to vote for it; but if his opinions and reasons are any account, his opposition to the bill outbalances his vote. Of course if we can not get his vote for a right reason, we will accept his vote for a wrong reason; but if we believed this legislation was going to result in Government ownership, I have no doubt there would be almost a unanimous vote to defeat the bill and consign it to the everlasting demnition bow wows.

Mr. BRYAN. That is the advantage of the situation; that it is such a good opportunity to put it over on the old-time statesmen of the country that we are going to do it.

Mr. ADAMSON. It looks like the gentleman is putting it over now. That appears to be their idea of doing things, "to put it over"; and judging from the gentleman's argument, he is now operating according to the way that gang usually proceeds. They seize upon whatever they think will strike a popular breeze and put in their platform whatever they think the people will stand for. That is the way I understand their principles. Mr. Chairman, I now take pleasure in yielding to the able gentleman from Kentucky [Mr. BARKLEY], who will close the general debate in a most able and eloquent address.

Mr. BARKLEY. Mr. Chairman, as a member of the Committee on Interstate and Foreign Commerce, which framed this measure, I desire to discuss it briefly and call attention to some of the provisions of the bill and the reasons for their enactment. In doing so I am not unmindful of the temptation to wander far afield in discussions of railroads and their relations to the public; but I hope that this temptation may be somewhat restrained in view of the limited time allowed for debate, and the necessity for the speedy enactment of the bills now under consideration for strengthening the antitrust laws.

However, in considering a measure giving increased powers to the Interstate Commerce Commission for the regulation and control of the operations of the railroads of the country, we can not afford to lose sight of the public scope and character of their operations, nor the relationship existing between the common carriers and the public at large.

The history of railroad development in this country reads like a romance. It is perhaps true that in no other enterprise has there been invested so much of capital, so much of energy, so much of skill, so much of labor and of the inventive genius of man as in the establishment and improvement of the facilities of transportation throughout the United States. During the last half century we have seen vast stretches of wilderness transformed into fertile areas in which cities have grown, the whir and hum of the wheels of industry have been heard, and millions of people have found homes and employment. We have seen the pilot of the railroad engine push its nose into the density of the forest, bridging the streams and tunneling the mountains, until this whole Nation is spiked down with a network of railroads, bringing the people of every section into closer communication. This marvelous development did not take place without public approval or invitation. So anxious has this Government appeared in the past concerning railroad development, and the consequent development of mine, field, and forest, that it has granted to railroads and prospective railroads large areas of public lands as an inducement to them to extend their operations into the undeveloped regions of the country. Not only that, but in former days States and counties were authorized by law to issue bonds payable from the public treasury in aid of railroads which were contemplating the extension of their lines through such States and counties as did not possess railroad facilities. So flagrant and so far-reaching did this system become that many of the States were compelled to enact statutory and constitutional barriers against the continuance of this system.

In a new country seeking new enterprises and the improvement of older ones, it is but natural for speculation to run riot and cloud the judgment not only of individuals, but of the public as well. This was peculiarly true of railroad development. After the grants of public lands and other bounties had been received by the railroads, they drifted, or perhaps I might better say they voluntarily entered, upon a period of exploitation seldom experienced in this or any other country. After obtaining the favors of the public, which enabled them to become established, they became forgetful of the ladder upon which they had mounted, and "Scorned the low degrees by which they ascended," and proceeded arbitrarily to dictate not only the character of the service which they rendered to the public, but the rates which they would charge therefor. In many instances the service to the public was painfully inadequate, and the rates charged therefor exorbitantly high. This condition of affairs grew from bad to worse until Congress created the Interstate Commerce Commission and clothed it with authority to regulate and supervise not only the character of the service rendered to the public but the compensation they might receive therefor. This sort of public supervision and regulation was justified not only by reason of the conditions which prevailed as to service and rate but by reason also of the nature and scope of the corporations themselves.

Railroads and other common carriers are recognized both in fact and in law as public servants. They are more peculiarly clothed with the attributes of public servants than other and ordinary corporations, because, in theory at least, they were created and are permitted to exist, not primarily that their owners may become rich, but that the public may the better and more conveniently be served in the things that are necessary in these modern days than they could without their creation. Railroads and other common carriers are instruments of commerce, and Congress is by the Constitution given exclusive power to regulate commerce between the States and with foreign nations, which carries with it also the power to regulate the instruments of commerce.

The powers of the Interstate Commerce Commission over these interstate railroads has been gradually increased by act of Congress until they now have the authority to regulate the rates of charges of freight carried in interstate commerce, prescribe uniform systems of accounting among the railroads, prevent discrimination in rates, compel the installation of safety appliances designed to prevent the loss of life, as well as many other general and specific powers which need not be enumerated; and Congress has by recent enactment authorized the commission to bring about a physical valuation of all the railroad property in the United States for the purpose of using that information in connection with the fixing of rates and charges for the service rendered to the public. The commission, by the wise, patriotic, and beneficial manner in which it has constantly exercised the powers granted to it, has abundantly justified its creation and existence. Many of the evil practices of railroads have been eliminated. Many of the unfair methods of discrimination have been eradicated. Exorbitant rates have been lowered. The railroad companies have been thus compelled to abandon a policy which in the old days amounted almost to extortion, robbery, and exploitation, and adopt methods which recognize the rights of the public and are somewhat in keeping with the objects of their creation in the first instance.

However, there is yet prevalent one evil practice among the railroads which the Interstate Commerce Commission has not been able to reach for lack of authority, nor has any other agency of the Government been able to reach or prohibit it for the same reasons. That is the evil of overcapitalization, wildcat speculation, and other forms of money madness, which not only injure innocent stockholders and investors, but dissipate the power of the railroad or other carrier to perform its duty to the public.

That is the evil we are seeking to cure by the measure now under consideration. And this is a legitimate and proper exercise of the constitutional powers of Congress as well as of the commission which Congress has created as its agent to carry into effect the provisions of the law which it enacts. Not only so, but if Congress has the exclusive authority to regulate commerce as well as the agencies of commerce, it likewise has the power to regulate those matters which affect interstate commerce or the ability of interstate carriers to perform their full duties as agencies of commerce between the States and with foreign nations. No railroad company has a moral or legal right so to dissipate its assets or so manipulate its stocks or bonds, or its power to obtain credit, as to endanger its ability to measure up fully to the requirements of the public in its capacity as a public carrier. Whenever a railroad system is wrecked, the injury is not confined to the stockholders alone, but the public is also injured because of the lessening of the ability of the railroad to perform its duty to the public.

The remedy proposed in this measure is also made necessary and desirable because of the great diversity of laws of the communities and States through which an interstate railroad may run, many of them conflicting and incapable of harmonious observance.

Mr. GARNER. Will the gentleman yield there?

Mr. BARKLEY. Yes; I will yield.

Mr. GARNER. If I understand the purport of this bill as defined by the gentleman from Minnesota [Mr. STEVENS], it provides that the Interstate Commerce Commission shall regulate the issuance of stocks and bonds of railroads that do an interstate business. Even if their mileage is entirely within a State, if they do an interstate business, then the question of issuing stocks and bonds is with the Interstate Commerce Commission.

Mr. BARKLEY. In so far as its traffic may be interstate traffic. If its traffic was wholly intrastate then this bill would not cover it.

Mr. GARNER. Take a concrete case in Texas. The Missouri, Kansas & Texas Railway Co. of Texas is one corporation. The Missouri, Kansas & Texas Railway Co. of Kansas is another corporation, but the entire line is known as the Missouri, Kansas & Texas, and its traffic originates in St. Louis and ends at Galveston. The entire mileage of the Missouri, Kansas & Texas Railway Co. of Texas is in the State of Texas, but it connects with the Missouri, Kansas & Texas of Kansas which runs to St. Louis. Now, the Interstate Commerce Commission will control the issuance of stocks and bonds, so far as the Missouri, Kansas & Texas of Texas is concerned, under this bill, will it not?

Mr. BARKLEY. Yes; in so far as the issue of such stocks and bonds may have to do with its character as an interstate carrier.

Mr. GARNER. It certainly would if it issued stocks and bonds——

Mr. BARKLEY. If it issued stocks and bonds for the purpose of assisting and furthering its ability to carry interstate commerce, for the purpose of better equipping its tracks for interstate commerce, then the Interstate Commerce Commission would step in and take authority.

Mr. GARNER. Yes; and that to the exclusion of the authority of the Railroad Commission of Texas, whatever that may be.

Mr. BARKLEY. Yes; the Texas commission has no control over interstate commerce.

Mr. GARNER. In other words, to make it perfectly plain, if the Railroad Commission of Texas that now has supervision of the issue of stocks and bonds of the Missouri, Kansas & Texas Railway of Texas should decline to permit them to issue certain stocks and bonds requested by that road, and they should then come to the Interstate Commerce Commission here and ask for permission to issue those stocks and bonds, and that permission was granted, the stocks and bonds could be issued under this law.

Mr. BARKLEY. Oh, yes; if it affected interstate commerce, the Interstate Commerce Commission would have authority to regulate it.

Mr. GARNER. Would the gentleman as a member of that committee object to an amendment to this bill that would say——

Mr. BARKLEY. I want to answer the gentleman a little more fully there.

Mr. GARNER. Would there be any objection to an amendment to this bill that would provide that wherever a railroad company has its entire mileage within a State, then the permission of the State railroad commission should be had before that railroad company could issue stocks and bonds under the interstate-commerce law?

Mr. BARKLEY. Let us see. For instance, are the two Missouri, Kansas & Texas Railway Cos. both under the same general management?

Mr. GARNER. Yes; they have the same stockholders.

Mr. BARKLEY. They are practically the same.

Mr. GARNER. Identically the same thing.

Mr. BARKLEY. For all practical purposes it is one railroad company?

Mr. GARNER. One railroad company.

Mr. BARKLEY. If the Missouri, Kansas & Texas Railway Co. of Texas should make application for permission to issue a certain amount of stocks and bonds, notwithstanding the fact that the Texas commission may have denied them the right to do it, the Interstate Commerce Commission would, of course, notify them of the application, and if it could be shown that this particular issue of stocks and bonds had no connection with interstate commerce, but was wholly within the State of Texas, the Interstate Commerce Commission would not have the authority under the bill to permit them to issue the securities. If they were to be used wholly within the State of Texas and had only to do with commerce that was wholly within the State of Texas and did not affect its character as an interstate carrier, the Interstate Commerce Commission would not have any authority to act. And if after notification to the railroad commission of Texas and they had come here and were able to show to the Interstate Commerce Commission that this issue of bonds was for intrastate purposes, I do not think the Interstate Commerce Commission would grant the power.

Mr. GARNER. After all, the bill leaves it entirely to their discretion?

Mr. BARKLEY. It leaves it to them to determine.

Mr. GARNER. As a member of the committee, would the gentleman object to an amendment to the bill that would make it specific and direct without equivocation, that where the entire mileage of the road is in the State that the matter of the issue of stocks and bonds should be left to the State commission?

Mr. BARKLEY. No; I would not commit myself to an amendment of that kind at this time, because the separate incorporation of blocks of railroad may have come about by de-

sign, and for all practical purposes it may be that the Texas Railway Co. did it for that purpose. The Missouri, Kansas & Texas Railway of Texas is just a part of the Missouri, Kansas & Texas system, which crosses several States.

Mr. GARNER. It was one continuous company until the State of Texas adopted a constitutional amendment in which they said that no railroad could run through that State without becoming a separate and distinct Texas corporation. Therefore there is not a single line of railroad in the State of Texas but that is a corporation with no outside influence.

Mr. BARKLEY. The fact that they have incorporated in Texas is a legal technicality to get rid of the provision of the Constitution.

Mr. GARNER. It is; and I want the State of Texas to reserve the right for our commission, elected by the people, to determine how much bonded indebtedness can be issued on the line that is wholly in Texas.

Mr. BARKLEY. If it were shown that the issue of bonds for the Texas corporation was to be used wholly in Texas on the lines owned by the Texas corporation, the Interstate Commerce Commission would not give authority, but it would be wholly for the State of Texas.

Every railroad that runs through different States is practically a home corporation to the extent that it has to comply with the laws of each State before it can enter and before business of any kind can be done, and yet that does not deprive it of an interstate character. That is amply provided for in the bill by the provision that no interstate corporation shall be permitted to issue bonds before the Interstate Commerce Commission shall give them authority to do it. They are required to notify the railroad commission of every State through which the line runs, and if there is no commission they are required to notify the governor and the attorney general, so that the State officers may have an opportunity to appear and present such facts as would protect the interests of the State.

Mr. ADAMSON. Mr. Chairman, touching the question asked by the gentleman from Texas [Mr. GARNER], the gentleman from Minnesota stated his views of the case and was satisfied with them. Our view as to the effect of this provision is that if the railroad in the State of Texas is authorized by the law of Texas and the commission of Texas to issue stocks and bonds, it could not be done until this Federal commission determines whether it will exercise the veto power or not. If the States of Texas refused to issue the bonds, that ends it, it could not be brought before the Interstate Commerce Commission under this bill.

Mr. BARKLEY. It could not be; but if it is an interstate corporation doing an interstate business under the bill they would have a right to make application. You could not deny them the right to make the application.

Mr. ADAMSON. Yes; they are not authorized to make application except for ratification of the issue authorized by the State authorities. This bill will not authorize the Interstate Commerce Commission to interfere until appealed to after action by State authority, and even then when the authority to issue is refused by the State authority.

Mr. BARKLEY. I am frank to say that I do not so construe the bill.

Mr. GARNER. In other words, taking the concrete case of the Missouri, Kansas & Texas Railway, if the officials of the Missouri, Kansas & Texas Railway, beginning at St. Louis and terminating at Galveston, should apply for a bond issue covering the entire line, and the Interstate Commerce Commission should grant them authority to issue it, they could issue bonds covering that portion of it in Texas.

Mr. BARKLEY. Is the gentleman referring to the bill originally introduced or to the substitute proposed?

Mr. ADAMSON. They are both exactly alike in substance.

Mr. BARKLEY. Mr. Chairman, I call the gentleman's attention to the fact that the language of this bill provides that, regardless of the local authority creating the corporation, the Interstate Commerce Commission shall have power over the issue of these bonds if it is an interstate transaction.

So, therefore, taking into consideration not only the welfare of the people who depend upon the railroads for transportation, but the stockholders themselves, who have frequently very little voice in the real management of the railroad company, this committee has brought into this House and asks it to pass this bill giving to the Interstate Commerce Commission the power to pass upon the proposed issue of stocks, bonds, or other evidences of indebtedness of railroad corporations, and prohibiting their issue for any purpose except for the legitimate purposes of enabling the railroad company to perform its duty to the public as a common carrier. I desire to read this exact provision at this point, so that there may be no misunderstanding of its meaning:

That it shall be unlawful for any common carrier subject to the act to regulate commerce, as amended, to issue any capital stock or any bond or other evidence of indebtedness or to assume any obligation as lessor, guarantor, or surety for the securities of any other person, natural or artificial, even though permitted by the authority creating the carrier corporation, except for some purpose within its corporate powers necessary to the proper performance of its service for the public and not tending to impair the financial ability of the carrier to discharge its duty to the public. Extensions and improvements of its railroads and terminals used in connection therewith, increasing and improving its equipment, refunding and retiring existing bonds, and similar and kindred purposes shall be held to be necessary purposes in the meaning of this paragraph—

And so forth. I will not read the whole paragraph at this time.

You will observe from this language that no railroad company or common carrier can issue any stock, certificate of stock, bond, or any other evidence of indebtedness, nor assume or become guarantor for any such obligation or indebtedness, except for the purpose of carrying out the legitimate objects of its existence as a common carrier. No common carrier under this provision can issue bonds or certificates of stock or borrow money and become liable therefor for the purpose of speculating in independent enterprises having no real or legitimate connection with the business of the railroad.

The necessity for such a provision is obvious. Suppose a railroad company wanted to issue bonds to the extent of $1,000,000 or $10,000,000 for the purpose of engaging in some hazardous speculative enterprise not connected with its own business of acting as a common carrier of freight and passengers for the people. Suppose that enterprise is a failure, involving the total loss of the amount invested. In the meantime the property of the railroad company has become liable for the amount of the indebtedness, and the carrier's power and ability to perform its functions as a public servant have been crippled in proportion to the extent of the loss. In many such cases the inevitable result has been the appointment of a receiver or other costly and tedious methods of rehabilitating the carrier in its own ability and in the confidence of the people. Who suffers under such conditions? The railroad company? Yes. The stockholders, many of whom may have invested all the little surplus they possessed in a few shares of stock and who had no voice in determining the policy of the company, frequently lose the value of their investment, and frequently, also, the financial pirates and manipulators of the artificial rise and fall of stocks and bonds have reaped a rich harvest at the cost of the legitimate investor. But whatever the result of such transactions, the public has been made to suffer, either by reason of crippled and insufficient service from the railroads or by the appalling loss of life due to faulty or defective equipment or by increases in freight charges based upon such fictitious increases in capitalization. The object, therefore, of this measure is to protect the public from the evils of railroad overcapitalization, from unlawful and unprofitable speculation, from stockjobbing and aviating on the part of these great public-service corporations in the altitudes of high finance to the injury and detriment of the public interests.

The bill further provides that—

It shall likewise be unlawful to issue any such stock or bonds for purposes hereinbefore mentioned or for any other purpose connected with or relating to that part of the business of such carrier governed by the act to regulate commerce as amended, unless and until upon application and after investigation in the premises by the Interstate Commerce Commission of the purposes and uses of the issue and the proceeds thereof, such issue is approved by said commission as necessary and appropriate for the purpose stated.

In other words, the meaning of these provisions simply is that no common carrier can issue any stocks, bonds, or other evidences of indebtedness except for legitimate purposes, and before it can issue them for that purpose it must make application before the Interstate Commerce Commission for its consent and lay all the facts connected with the proposed issue, as well as the facts concerning the financial condition, the purposes for which issued, and the uses which are to be made of the proceeds and receive the consent and approval of the commission before such issue may be made. And in exercising this power the commission is required to ascertain whether the proposed issue is for a purpose permitted under the law, for they could not authorize a carrier to involve itself in an indebtedness which the laws would not permit it to incur.

The commission may also require the carrier to submit periodical and special reports showing its income account, a balanced statement of its receipts and expenditures on capital account, and of its surplus of income accruing during the period covered by the report as well as all other financial transactions taking place during the period, with whom had, whether in cash, in securities, or other valuable considerations. And the

commission may require the carrier to compile for the information of its shareholders such facts regarding its financial transactions as may be necessary for their protection and the protection of the public.

Under the provisions of this measure, when any common carrier subject to the act to regulate commerce shall apply to the commission for its permission to issue stock or bonds or evidences of debt as provided in the bill, it is made the duty of the carrier to file with the commission a certificate of notification, showing the following facts: The total amount authorized; the number and amount thereof outstanding prior thereto; the amount theretofore retired; the amount then undisposed of, and whether same is held in the Treasury as a free asset or is pledged, and the terms and conditions of the pledge; the number and amount to be issued, and whether sold or pledged or held as a free asset, and if sold whether any part of the consideration is to be received in property other than money; the par value of the stock; the preferences or privilege granted to the holders of any of such shares of stock; and the purposes or uses, in detail, to which the proceeds of the issue are to be devoted. In short, the application shall set forth in detail every fact connected with the transaction showing the condition of the company, the necessity for the issue, and the uses to which the proceeds are to be put, and the Interstate Commerce Commission is authorized to make public the information which it thus obtains as in its discretion it may deem proper.

It is believed that the publicity thus made possible under this bill concerning the financial transactions of these great public-service corporations, affecting as they do the public interests with such vital force, will go far to bring about a more wholesome condition that will in the end reflect itself in better service to the people, better equipment, better safeguards in behalf of the employees, and a more solid foundation upon which to construct these great arteries of commerce and maintain them in the future. Indeed, it has been contended by very earnest and very intelligent and patriotic men that publicity itself concerning these financial connections and operations would be sufficient to eradicate the evils against which we are seeking to legislate. But it has been deemed wise and proper to go further and provide for supervision and control, or, rather, the exercise of the veto power of the Government over the issue of such stocks and bonds and securities as vitally affect the ability of the common carriers to meet their obligations not alone to those who hold mortgages or debts against them but to the public, in whose interest they were created.

We recognize that railroad corporations, like other great business enterprises, are occasionally required to borrow large sums of money for the improvement of their equipment, for the extension of their lines, for the building of depots, terminals, and other necessary facilities for carrying on their business. And it is not the desire or the intention of Congress to abridge their right or their power to obtain credit or the loan of money in large or small quantities for such purposes. But the history of recent events in this country, revealing the exploitation and the wrecking of great railway systems through frenzied speculation in high finance, resulting in great loss to innocent stockholders, in loss of employment by hundreds of employees, and the impairment of the service to the public, has made it necessary for Congress to take notice of these tendencies and seek, if possible, to remedy them by appropriate legislation.

We believe the bill which we present to this Congress affords the remedy which is sought. It is approved by the Interstate Commerce Commission and by the business world in general and by the people. It is approved by this Democratic administration, which is now doing so much to aid business of every character to settle down upon solid rocks of financial strength sanctioned by law. It is approved by the Democratic platform, which declares against the overcapitalization of these public-service corporations, and in the end, if not already, it will be approved by the business conscience of the Nation and will be recognized as not only a lawful exercise of governmental authority, but a wise and proper exercise of such authority in behalf of the owners of the railroads, those who are employed by the railroads, and those who are served by the railroads in the transportation of the commerce of this Nation to and from its remotest boundaries. [Applause.]

I desire, in conclusion, to call attention briefly to the provision against the interlocking of directors in railroads engaged in interstate commerce. One of the great evils of this generation, not only in the managing of railroads but other large corporations as well, has been the fact that the same men have been and are officers and directors in many corporations which ought to be competing companies, but which, by reason of the duplication of directors and officers, are bound together by unnatural and unholy ties. We seek to change that condition in this bill with reference to railroads in an effort to unloosen the cords that join in unnatural wedlock concerns which ought to be and by nature and circumstances are competitors. We believe that the public will reap the benefit of this change by a clearing of the business atmosphere. And when these provisions are written into the law, we hope those who are affected by them will accept them in the spirit of patriotism and true devotion to the public cause, to the end that honest business and honest prosperity may walk hand in hand. [Applause.]

Mr. ADAMSON. The provision in the bill is that although the local authorities may authorize an issue it shall not be done until the Interstate Commerce Commission has approved it. That commission may veto it or approve it. This bill does not give them initial power in the matter, and their action does not depend on where the railroad is or how long it is nor in what county or State it is, but whether it is engaged in interstate commerce.

I yield to the gentleman from New York [Mr. CANTOR].

[Mr. CANTOR addressed the committee. See Appendix.]

Mr. ADAMSON. Mr. Chairman, I now yield to the gentleman from New York [Mr. TALCOTT].

Mr. TALCOTT of New York. Mr. Chairman, the supervision of the issue of stocks and bonds of railroads by a governmental body is not a new procedure. Many of the States now have statutes imposing this duty upon some State board or commission. The pending bill charges the Interstate Commerce Commission with such a duty in connection with railroads engaged in interstate commerce. It would undoubtedly have been of great public benefit if this had been done when the act to regulate commerce was enacted. But it is probable at that time, even if such legislation had been proposed, that it would not have been seriously considered. The States for a long period watched with apprehension every extension of the powers of the General Government, fearing possibly an interference with powers reserved by the Constitution to the States. There was deep opposition often to any extension of the application of the powers delegated to the General Government and a certain jealousy manifested sometimes of the exercise of those powers. This antagonism, which was often an obstacle and hindrance, happily has in great part passed away. And it seems that only by the exercise in full measure, when required, of the powers granted the Federal Government by the Constitution can the way be opened to national growth and prosperity.

But the conviction that the legislation of the States in relation to the issue of securities by railroad companies was of necessity incomplete and unsatisfactory became so widespread that in 1910 Congress provided for the appointment of a commission to examine the matter and to report concerning it. The commission was composed of men who had gained distinction in the study and discussion of the railway problems of this country. Hearings were held by the commission at New York and Chicago, as well as at Washington, and the report was submitted to the President November 1, 1911. It dwelt emphatically upon the importance of accurate knowledge of the facts concerning the issue of securities by railroad companies engaged in interstate commerce and the expenditure of their proceeds as the one thing upon which the Federal Government could effectively insist and the fundamental thing which must serve as a basis for additional regulation in the future. With the report was a supplementary statement containing suggestions relating to legislation to be enacted as amendments to the act to regulate commerce, so that proper publicity should be secured. The suggestions of the commission are embodied in the pending bill with other provisions relating to publicity, which render the legislation more effective. In this way a complete procedure is established for carrying out the recommendations of the commission. Although these recommendations were limited to methods by which publicity could best be secured, the report plainly discloses that the commission carefully considered the subject of the direct supervision by the Federal Government of the issue of stocks and bonds by railroad corporations; but while it found that enforced publicity was immediately needed, it reached the conclusion that enforced uniformity by substituting exclusive Federal control for the jurisdiction of the several States was not then attainable. Not only was there apprehension expressed that constitutional difficulties might stand in the way of accomplishing the latter object, but the commission was of opinion that, as a mere matter of expediency, the time was not ripe for any such immediate or forcible transfer of jurisdiction. Since the report of the commission was submitted to the President many events have occurred which have a direct bearing upon this question.

The decision of the Supreme Court in the Minnesota rate case has rendered more clear and definite the power of Con-

gress over commerce, removing altogether many of the objections discussed by the commission to the direct control of the issue of stocks and bonds by the Federal Government. Many investigations have been instituted. The investigation of the United States Steel Corporation and the money power by committees of this House, the investigations of the Frisco's financial dealings and the involved affairs of the New York, New Haven & Hartford by the Interstate Commerce Commission have made public many facts in relation to railroad management which render direct control of the issue of railroad securities seem imperative. The evasions of law by which the affairs of railroad companies are brought under the complete control of persons outside their responsible management, the holding companies, the boards of directors that either do not direct or direct unlawfully, the presidents of companies who leave the real authority to others, and the sale of securities by a company when insolvent, all disclose the need of adequate regulation. In many cases there seems to have been a financial machine not unlike a political one, irresponsible but vested with all real power, and becoming at length an arbitrary system of administration. Such a system is not new. At the trial of Warren Hastings, Burke, attacking such a system in the Government of India, said:

> An arbitrary system indeed must always be a corrupt system. There never was a man who thought he had no law but his own will who did not soon find that he had no end but his own profit. Corruption and arbitrary power are of natural unequivocal generation necessarily producing one another.

Now, many railroad securities have been issued under the influence of an arbitrary system of control; they have been issued often without adequate consideration and they have been issued, too, for objects foreign to the proper purposes of the corporation. The power to supervise the issue of stocks and bonds of railroads will give the Interstate Commerce Commission the power to control their issue for a sufficient consideration and for lawful and reasonable purposes. It will not be a guaranty of the securities by the Government, but it will be proof that the securities are properly issued. It will be a restraining influence.

Recent revelations of railroad management have startled the country and safeguards will be necessary to restore the confidence which has been lost. The shock caused by these revelations is the chief cause of the present financial condition. It is not the loss of money alone, it is the distrust awakened in the service of those to whom great trusts are committed. Plain people suspect that Mr. Mellen was chosen president of the New Haven, not because of his strength but because of his weakness; not because of his ability to direct and administer but because of his willingness to take orders. This distrust among those seeking investments can only be removed by the knowledge that the reckless management of great railroads is at an end, that their resources can not be wasted nor their money lavishly and foolishly expended. It is not that wrongdoers alone feel the effects of this distrust, it has extended its blighting influence over many systems of transportation honestly administered and has unjustly created a prejudice where wholly undeserved. Such a condition of public distrust is serious, and especially so at a time such as this, when large sums are needed for railroad improvement. The necessity of improvement in equipment, ways, and terminals is admitted by everyone who has made only a casual examination of the operation of the railroads. The average capitalization of railroads per mile in this country is only $60.000; in England, $265.000; in France, $137.000; in Germany, $109.000; in Belgium, $177.000. Those countries have what we need and what in the next few years increased density of population and increased traffic will render indispensable here. If improvements are not made in a reasonable time, there will be an interference with traffic that will affect injuriously industrial production as well as agriculture. When the means of distribution become clogged and unreliable, production is embarrassed, for delay in reaching the market means a total loss in some cases and a serious loss in all. The problem is pressing for solution. It is not to be solved by hostility to railroads, by ill-judged, intemperate, and hasty legislation, but by the establishment of proper methods, by forcing officials to meet the full responsibility of the positions they hold, and by the encouragement of stockholders to take active participation in the affairs of the corporations of which they are members.

The remedy for corruption in government has not been an increase of power in those administering it, but an increase of civic responsibility by the direct primary, and the remedy for corruption in railroads is not Government ownership, but a quickened sense of responsibility in officials, directors, and stockholders. However successful Government ownership may have proven in other countries, I, for one, believe that conditions prevail in this country which render it impracticable. From their very nature railroads are monopolies and they must receive adequate regulation in order that private ownership may be responsible, efficient, and honest. The provisions of the pending bill, if enacted, will not produce all the results claimed by some who have advocated them, but they will exert a strong influence for better methods and more careful administration. By these provisions it is made unlawful for any common carrier subject to the act to regulate commerce to issue any capital stock or any bond or other evidence of indebtedness or to assume any obligation as lessor, guarantor, or surety for the securities of any other person, natural or artificial, except for some purpose within its corporate powers necessary to the proper performance of its service for the public, and not tending to impair the financial ability of the carrier to discharge its duty to the public.

It is likewise made unlawful to issue any such stock or bonds for such purposes or for any other purpose relating to the business of such carrier governed by the act to regulate commerce, unless, upon application and after investigation by the Interstate Commerce Commission of the purposes and uses of the issue and proceeds thereof, such issue is approved by said commission as necessary and appropriate for the purpose stated. It is provided that nothing contained therein should be construed to imply a guarantee or obligation as to such issues on the part of the United States, and that the provisions referred to shall not apply to notes issued by such carrier, maturing not more than two years after their date, when they do not at any time aggregate more than 5 per cent of the total amount of the stocks and bonds issued and outstanding, and further, that upon application to the Interstate Commerce Commission for approval of a proposed issue of stock and bonds notice shall be given to the appropriate authority of each State through which the railroad passes or through which the carrier making the application operates any portion of its lines, and the State authority thus notified shall have the right to present to the commission such representations as are deemed just and proper for preserving and conserving the right and interest of their people and the States, respectively, as involved in the proceeding, and the right to be fully heard touching the same. Issues of stock or bonds contrary to these provisions may be enjoined at the suit of the United States, or of any director, officer, or stockholder of the carrier proposing to make the issue. Directors, officers, or stockholders of any such corporation are rendered subject to fine or imprisonment, or both, for assenting to or concurring in any issue of securities so forbidden.

It is the hope that the courts will find these provisions valid under the Constitution. The construction of a railroad, the equipment, ways, bridges, terminals, by which its operation is made possible, are the legitimate objects for which money is provided by the sale of stocks and bonds. They are the direct instruments of interstate commerce. It is true that the Minnesota rate case involved the question of rates only, but is it to be inferred that the relation of rates to commerce is more intimate than the very instruments by which that commerce is established and continued? State legislation has been productive of much benefit, but it lacks the scope necessary to provide the proper supervision of the issue of stocks and bonds by railroads in interstate commerce. In the report of the Railroad Securities Commission the following example is given of inadequate and harmful State regulation:

> When the Chicago, Milwaukee & St. Paul Railroad wished to build its Puget Sound extension it had to pass through several States whose laws forbade corporations chartered under laws of other States to build roads within their borders except as a connection or prolongation of a road actually built to the State line. In order to conform to these restrictions the St. Paul road would have had to build its line slowly, step by step, instead of doing work in several States at once and putting the road through as promptly as possible. To avoid this difficulty, it had to organize a separate company to build the road in each State which had such a law. This in itself was not a serious evil; it simply involved additional expense—to have separate corporations do things piecemeal which might have been done as a unit without such intermediaries. But it tended to render State control less effective, instead of more so. The system thus forced upon the St. Paul road would give every opportunity for deception to a road which might want to deceive.

In the recent investigation of the Frisco and New York, New Haven & Hartford systems the need of Federal supervision is plainly shown, if the financial integrity of railroads is to be maintained. In relation to the power of Congress it is interesting to turn to the opinion in the Minnesota rate case, in which the court, after reviewing the decisions upholding the power of the State to prescribe rates for commerce within the State, said:

> To suppose, however, from a review of these decisions, that the exercise of this acknowledged power of the State may be permitted to create an irreconcilable conflict with the authority of the Nation or that through an equipoise of powers an effective control of interstate commerce is rendered impossible is to overlook the dominant operation of

the Constitution, which, creating a nation, equipped it with an authority, supreme and plenary, to control national commerce and to prevent that control, exercised in the wisdom of Congress, from being obstructed or destroyed by any opposing action. But, as we said at the outset, our system of government is a practical adjustment by which the national authority, as conferred by the Constitution, is maintained in its full scope without unnecessary loss of local efficiency.

As decided in Smith *v.* Ames (169 U. S.), securities issued by a railroad have a relation to the reasonableness of its rates because their market value is an important element in determining the value of the property. The issue of such securities is necessary to the construction of the railroad and to its continuance and maintenance. The supervision of the issue of these securities is necessary in order to give assurance that they are issued for legitimate purposes and that the money obtained has been rightly expended. For many years the commerce clause of the Constitution has been the basis of a large amount of important legislation. It is the result of new conditions, the growth and advancement of the country, the spirit of discovery and invention, and the ceaseless energy of the American people. On every side industries have sprung up and prospered, while the products of the farm have increased in a still greater proportion. These activities, of great variety and enormous extent, have made necessary the development of the great systems of transportation by which the distribution of all the products and all the merchandise of the country is affected. These are the means by which the commerce between the States becomes possible. It is not necessary to speak of the relation it bears to the people of this country. Its public functions are many and important, and the efficient management of each unit in this vast system is a matter of deep public concern. So this bill seeks not only to protect these companies from the effects of legislation in every State through which each line may pass but to give assurance to the people themselves that in contracting new obligations the safeguards are extended so that the interests of the stockholders and the public will be fully protected by careful oversight of the purposes for which the issue of such securities is authorized and by a proper scrutiny of the manner in which the proceeds are expended.

Mr. ADAMSON. Mr. Chairman, under the agreement made in the House to-day, the general debate ends when we adjourn to-day. We have exhausted our general debate; and with the understanding that the bill will be read under the five-minute rule when we next meet, I move that the committee do now rise.

The CHAIRMAN. Without objection, general debate is closed. The question is on the motion of the gentleman from Georgia that the committee do now rise.

The motion was agreed to.

Accordingly the committee rose; and Mr. UNDERWOOD having taken the chair as Speaker pro tempore, Mr. HULL, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill H. R. 16586 and other bills embraced in the special order, and had come to no resolution thereon.

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted to Mr. SMITH of Minnesota, for two weeks, on account of important business.

ADJOURNMENT.

Mr. ADAMSON. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; and accordingly (at 5 o'clock and 49 minutes p. m.) the House adjourned until to-morrow, Friday, June 5, 1914, at 11 o'clock a. m.

EXECUTIVE COMMUNICATIONS.

Under clause 2 of Rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1. A letter from the Acting Secretary of the Treasury, transmitting copies of separate communications of the Postmaster General submitting estimates of urgent deficiencies in the appropriations for the Postal Service, payable out of the postal revenues, for the fiscal year ending June 30, 1914 (H. Doc. No. 1007); to the Committee on Appropriations and ordered to be printed.

2. A letter from the Acting Secretary of the Treasury, transmitting copy of a communication of the Acting Secretary of the Smithsonian Institution submitting suggested provision for inclusion in the sundry civil appropriation bill for fiscal year 1915, authorizing the Secretary of the Interior to permit the Smithsonian Institution to procure for the national collections specimens of elk and other animals from the national parks under the jurisdiction of the Secretary of the Interior (H. Doc. No. 1008); to the Committee on Appropriations and ordered to be printed.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, bills and resolutions were severally reported from committees, delivered to the Clerk, and referred to the several calendars therein named, as follows:

Mr. O'HAIR, from the Committee on Military Affairs, to which was referred the bill (H. R. 14155) to amend an act of Congress approved March 28, 1900 (Stat. L., p. 52), entitled "An act granting to the State of Kansas the abandoned Fort Hays Military Reservation, in said State, for the purpose of establishing an experiment station of the Kansas State Agricultural College and a western branch of the State normal school thereon, and for a public park," reported the same with amendment, accompanied by a report (No. 762), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. VAUGHAN, from the Committee on Foreign Affairs, to which was referred the bill (H. R. 12060) to enable the Secretary of War to pay the amount awarded to the Malambo fire claimants by the joint commission under article 6 of the treaty of November 18, 1903, between the United States and Panama, reported the same without amendment, accompanied by a report (No. 764), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. LEVER, from the Committee on Agriculture, to which was referred the bill (S. 110) to regulate trading in cotton futures and provide for the standardization of "upland" and "gulf" cottons separately, reported the same with amendment, accompanied by a report (No. 765), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. JOHNSON of Utah, from the Committee on the Public Lands, to which was referred the bill (S. 2068) to authorize the allowance of second homestead and desert entries, reported the same with amendment, accompanied by a report (No. 766), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII,

Mr. GITTINS, from the Committee on Military Affairs, to which was referred the bill (H. R. 13329) to place the name of Charles B. Gaskill on the unlimited retired list of the Army, reported the same with amendment, accompanied by a report (No. 761), which said bill and report were referred to the Private Calendar.

CHANGE OF REFERENCE.

Under clause 2 of Rule XXII, the Committee on Pensions was discharged from the consideration of the bill (H. R. 10426) granting a pension to Rebecca Eldridge, and the same was referred to the Committee on Invalid Pensions.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials were introduced and severally referred as follows:

By Mr. JOHNSON of Washington: A bill (H. R. 17040) providing for the payment to the Territorial government of Hawaii for the care of citizens of continental United States who are, or who may become, affected with leprosy; to the Committee on Interstate and Foreign Commerce.

By Mr. FITZGERALD: A bill (H. R. 17041) making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1915, and for other purposes; to the Committee of the Whole House on the state of the Union.

By Mr. MOON: A bill (H. R. 17042) to amend the postal and civil-service laws, and for other purposes; to the Committee on the Post Office and Post Roads.

By Mr. MORGAN of Louisiana: A bill (H. R. 17043) authorizing a survey of Tangipahoa River, La., from its mouth to Davies Iron Bridge; to the Committee on Rivers and Harbors.

By Mr. NEELEY of Kansas: A bill (H. R. 17044) to provide for the retirement of employees in the Postal Service; to the Committee on the Post Office and Post Roads.

By Mr. BRITTEN: Resolution (H. Res. 529) providing for the appointment of a board to examine into the mental and physical condition of John R. Early, now confined under the quarantine regulations of the District of Columbia as a leper; to the Committee on Interstate and Foreign Commerce.

By Mr. RAKER: Resolution (H. Res. 530) to print forest laws of States; to the Committee on Printing.

By Mr. LOBECK: Joint resolution (H. J. Res. 274) to remit, under certain conditions and for the year 1914 the penalties provided by the act approved October 3, 1913, for failure to properly return the income tax provided for in said act in cases where said returns are completed by July 1, 1914; to the Committee on Ways and Means.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BURKE of South Dakota: A bill (H. R. 17045) for the relief of William L. Wallis; to the Committee on the Public Lands.

By Mr. CRAMTON: A bill (H. R. 17046) granting a pension to Norman B. Hyde; to the Committee on Pensions.

Also, a bill (H. R. 17047) granting an increase of pension to Mary Johnson; to the Committee on Invalid Pensions.

By Mr. GILMORE: A bill (H. R. 17048) granting a pension to Walter A. Powers; to the Committee on Pensions.

By Mr. KAHN: A bill (H. R. 17049) granting a pension to Laurence Kidd; to the Committee on Invalid Pensions.

By Mr. KIESS of Pennsylvania: A bill (H. R. 17050) granting a pension to John H. Hipple; to the Committee on Pensions.

By Mr. MORGAN of Oklahoma: A bill (H. R. 17051) granting an increase of pension to Josiah R. V. Atkinson; to the Committee on Invalid Pensions.

Also, a bill (H. R. 17052) granting an increase of pension to Henry R. Boatman; to the Committee on Invalid Pensions.

Also, a bill (H. R. 17053) granting an increase of pension to Jacob T. Martin; to the Committee on Invalid Pensions.

Also, a bill (H. R. 17054) granting a pension to Harlan P. Reeves; to the Committee on Invalid Pensions.

Also, a bill (H. R. 17055) granting an increase of pension to Milly Schmitt; to the Committee on Invalid Pensions.

Also, a bill (H. R. 17056) granting an increase of pension to Walter Walsh; to the Committee on Invalid Pensions.

By Mr. MOSS of West Virginia: A bill (H. R. 17057) granting an increase of pension to Hiram J. Knight; to the Committee on Invalid Pensions.

By Mr. NEELEY of Kansas: A bill (H. R. 17058) granting an increase of pension to William Brackney; to the Committee on Invalid Pensions.

By Mr. PETERS of Maine: A bill (H. R. 17059) granting a pension to Maria A. Leland; to the Committee on Pensions.

By Mr. PHELAN: A bill (H. R. 17060) granting a pension to Sophia Murray; to the Committee on Invalid Pensions.

By Mr. ROGERS: A bill (H. R. 17061) granting a pension to Alice Taylor; to the Committee on Invalid Pensions.

By Mr. SELDOMRIDGE: A bill (H. R. 17062) granting an increase of pension to Charles R. Dunham; to the Committee on Invalid Pensions.

By Mr. SELLS: A bill (H. R. 17063) granting a pension to William A. Hathaway; to the Committee on Pensions.

Also, a bill (H. R. 17064) granting an increase of pension to John Walker; to the Committee on Invalid Pensions.

Also, a bill (H. R. 17065) granting an increase of pension to J. M. Hendrickson; to the Committee on Invalid Pensions.

By Mr. WALLIN: A bill (H. R. 17066) granting an increase of pension to Ira N. Haney; to the Committee on Pensions.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

By the SPEAKER (by request): Resolutions by pastors of various churches of Long Branch, N. J.; Denton, Tex.; Danville, Pa.; Fair Haven, Ohio; Malvern, Pa.; Birmingham, Iowa; Hobart, Okla.; Caledonia, N. Y.; Owatonna, Minn.; and Charleroi, Pa., protesting against the practice of polygamy in the United States; to the Committee on the Judiciary.

By Mr. ANSBERRY: Petition of various members of the Methodist Episcopal Sunday School of Napoleon, Ohio, favoring national prohibition; to the Committee on Rules.

By Mr. BARCHFELD: Petition of the Allegheny County Grand Army Association, of Pittsburgh, Pa., protesting against demotion or dismissal of veterans of the Union Army in the Government's employ; to the Committee on Reform in the Civil Service.

By Mr. BARTON: Petitions of various churches, representing 345 citizens of Edgar, 320 citizens of Clay Center, and sundry citizens of Culbertson, all in the State of Nebraska, favoring national prohibition; to the Committee on Rules.

By Mr. BRODBECK: Petitions of the Consistory of the Heidelberg Reformed Church, the Official Board of West Street Methodist Episcopal Church Ministers' Association, the Council of St. Luke's Lutheran Church, the Board of Ridge Avenue Methodist Episcopal Church, all of York, Pa., protesting against section 6 of House bill 12928, relative to Sunday work for postal employees; to the Committee on the Post Office and Post Roads.

By Mr. BROWN of West Virginia: Petitions of sundry citizens of Reedsville, Shenandoah Junction, Shepherdstown, 410 citizens of Harpers Ferry, 82 citizens of Jenningston, all in the State of West Virginia, favoring national prohibition; to the Committee on Rules.

By Mr. BULKLEY: Petitions of 5,732 residents of Cleveland, Ohio, protesting against national prohibition legislation; to the Committee on Rules.

Also, petitions of the temperance committee of the First Friends Church, members of Grace Congregational Church, the Ministerial Association of the Disciples of Christ, and Rev. Alonzo R. Stark, all of Cleveland, Ohio, favoring House joint resolution 168, by Mr. HOBSON, for national prohibition; to the Committee on Rules.

By Mr. CANTOR: Petitions of Antonio Canero and others of New York, protesting against national prohibition; to the Committee on Rules.

By Mr. CARY: Petition of the Italian Chamber of Commerce of New York City, protesting against national prohibition; to the Committee on Rules.

By Mr. CRAMTON: Petition of William L. Sutton and 5 other business concerns of Sebewaing, Frank Pesick and 5 other business concerns of Reese, A. J. Aldridge and 6 other business concerns of Fair Grove, and W. Hillman and 10 other business concerns of Akron and Unionville, all in the State of Michigan, in support of the Hinebaugh bill for taxation of mail-order concerns; to the Committee on Ways and Means.

Also, protest of Oscar Bartlett Post, No. 233, Grand Army of the Republic, of Wales, Mich., against any change in the United States flag; to the Committee on Military Affairs.

By Mr. CURRY: Petitions of 50 citizens and residents of the third California district, protesting against national prohibition; to the Committee on Rules.

By Mr. DALE: Petitions of the National Association of Retail Grocers of the United States and John Schandel and John Behr, of Brooklyn, N. Y., protesting against national prohibition; to the Committee on Rules.

By Mr. DYER: Petition of Henry J. Schmidt, Henry Bauer, William Hannon, Christ Bohmer, John P. Strack, A. Gutting, M. Gruber, and Sid L. Barnard, against national prohibition; to the Committee on Rules.

By Mr. GARDNER: Petition of sundry citizens of Newburyport, Mass., favoring national prohibition; to the Committee on Rules.

By Mr. HAMILTON of Michigan: Petitions of sundry citizens of Baroda, Mich., against national prohibition; to the Committee on Rules.

By Mr. HAWLEY: Petitions of various voters of Coos and Clackamas Counties, Oreg., protesting against national prohibition; to the Committee on Rules.

By Mr. HOWELL: Petitions from Mrs. C. Fletcher, Mrs. Margaret Schnow, Mrs. R. Maw, and 27 other voters of Salt Lake County, Utah, protesting against House joint resolution 168, Senate joint resolutions 50 and 88, and all similar prohibition measures; to the Committee on Rules.

Also, petitions of William H. Wright, W. D. Walton, T. B. Gibson, and 30 other voters of Weber County, Utah, protesting against House joint resolution 168, Senate joint resolutions 88 and 50, and all similar prohibition measures; to the Committee on Rules.

By Mr. HUMPHREY of Washington: Petitions of sundry citizens of Washington State, against national prohibition; to the Committee on Rules.

By Mr. LONERGAN: Petition of Richard J. Gibbs, of Hartford, Conn., protesting against national prohibition; to the Committee on Rules.

By Mr. McGILLICUDDY: Resolutions of the Beacon Street Methodist Episcopal Church, Sunday School, and Ladies Aid Society, of Bath; mass meeting of various churches of Rockland; the Diering Memorial Methodist Episcopal Church, of South Paris; the First Congregational Church of Paris; the Women's Foreign Mission Society of Bath; North Star Grange, No. 130, of Byron; and citizens of South Paris, all in the State of Maine, favoring national prohibition; to the Committee on Rules.

By Mr. MURRAY of Oklahoma: Petitions of the Baraca and Philathea Classes of the Methodist Episcopal Church South, of Henryetta, Okla.; 502 citizens of Cleora, and 5,500 citizens of Oklahoma City, Okla., favoring national prohibition; to the Committee on Rules.

By Mr. J. I. NOLAN: Protest of Henry Miller and 39 other citizens, and M. J. Reynolds and 21 other citizens, all of San

Francisco, against the passage of the Hobson nation-wide prohibition resolution; to the Committee on Rules.

Also, resolution of the Annual Convention of the Protestant Episcopal Church, Diocese of Los Angeles, Cal., favoring the passage of the Palmer child-labor bill; to the Committee on Labor.

By Mr. O'LEARY: Petition of the Italian Chamber of Commerce, of New York, against national prohibition; to the Committee on Rules.

By Mr. REILLY of Connecticut: Memorial of the Italian Chamber of Commerce, of New York, protesting against national prohibition; to the Committee on Rules.

Also, petition of the Central Labor Union of Meriden, Conn., favoring the passage of House bill 15222, relative to compensation for Federal employees in case of accident, etc.; to the Committee on the Judiciary.

By Mr. SELDOMRIDGE: Petitions of Miss Bessie Morefield and Mrs. John M. Price, of Mancos; 50 citizens of Lycan, 75 citizens of Mosca, 60 citizens of Florence, 150 citizens of Las Animas, 30 citizens of Idaho Springs, 30 citizens of Olney Springs, 100 citizens of Holbrook Center, 50 citizens of Hugo and Mead, and various Highland Lake churches, all in the State of Colorado, favoring national prohibition; to the Committee on Rules.

By Mr. SLOAN: Petition of the Nebraska State Association of Bonded Abstracters, protesting against the passage of House bill 12989, to establish national farm-land banks; to the Committee on Banking and Currency.

By Mr. TOWNER: Petition of the Page County (Iowa) Sunday School Association, favoring the enactment of national constitutional prohibition amendment; to the Committee on Rules.

By Mr. WALLIN: Petition of sundry residents of the thirtieth congressional district of New York, favoring national prohibition; to the Committee on Rules.

Also, petition of sundry residents of the thirtieth congressional district of New York and sundry citizens of Gloversville, N. Y., protesting against national prohibition; to the Committee on Rules.

By Mr. WILLIS: Petition of O. H. Ramsey and 50 other citizens of Delaware, Ohio, in favor of House joint resolution 168, relating to national prohibition; to the Committee on Rules.

By Mr. WOODS: Petitions of various societies and individuals of the tenth congressional district of Iowa, favoring amendment to the Constitution for national prohibition; to the Committee on Rules.

Also, petitions signed by numerous persons of the tenth congressional district of Iowa, protesting against amendment to the Constitution for national prohibition; to the Committee on Rules.

SENATE.

FRIDAY, *June 5, 1914.*

The Senate met at 11 o'clock a. m.

The Chaplain, Rev. Forrest J. Prettyman, D. D., offered the following prayer:

Almighty God, if there be master spirits among us who are capable of reading the signs of the times, if there be great souls that have healing in their touch, these are Thy gifts to us as a Nation and are tokens to all the people of Thy continued care for us. We pray Thee to give to Thy servants in places of power and authority the special qualifications for leadership, that Thou wilt endue them not only with wisdom concerning the passing phases of the world's life but with that deeper wisdom that understands the purpose of God in view of the ultimate end. This day may Thy blessing abide upon this Senate. For Christ's sake. Amen.

The Journal of yesterday's proceedings was read and approved.

Mr. SMOOT. Mr. President, I suggest the absence of a quorum.

The VICE PRESIDENT. The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Ashurst	Hughes	Overman	Smoot
Brady	Johnson	Page	Sterling
Bristow	Jones	Perkins	Sutherland
Bryan	Kenyon	Pittman	Swanson
Burton	Kern	Pomerene	Thomas
Catron	La Follette	Root	Thompson
Chamberlain	Lane	Saulsbury	Thornton
Clapp	Lodge	Shafroth	Tillman
Clark, Wyo.	McCumber	Sheppard	Townsend
Chilton	McLean	Sherman	Vardaman
Cummins	Martin, Va.	Shively	Walsh
Gallinger	Martine, N. J.	Simmons	Weeks
Goff	Nelson	Smith, Ga.	West
Gronna	Norris	Smith, Mich.	White
Hitchcock	O'Gorman	Smith, S. C.	Works

Mr. WHITE. My colleague [Mr. BANKHEAD] is unavoidably absent. He is paired with the junior Senator from West Virginia [Mr. GOFF]. This announcement may continue for the day.

Mr. CHILTON. The Senator from New Mexico [Mr. FALL] is necessarily absent to-day. He is paired with me.

I wish to state that the Senator from Tennessee [Mr. LEA] is also necessarily absent.

Mr. MARTIN of Virginia. I wish to announce that the senior Senator from Maryland [Mr. SMITH] is detained from the Senate by official business. He is paired with the Senator from Vermont [Mr. DILLINGHAM].

The VICE PRESIDENT. Sixty Senators have answered to the roll call. There is a quorum present.

ENROLLED BILL SIGNED.

The VICE PRESIDENT announced his signature to the enrolled bill (H. R. 15190) to amend section 103 of the act entitled "An act to codify, revise, and amend the laws relating to the judiciary," approved March 3, 1911, as amended by the act of Congress approved March 3, 1913, which had previously been signed by the Speaker of the House.

FRENCH SPOLIATION CLAIMS.

The VICE PRESIDENT laid before the Senate communications from the assistant clerk of the Court of Claims transmitting the findings of fact and conclusions of law filed under the act of January 20, 1885, in the French spoliation claims set out in the annexed findings of the court relating to the following causes:

The schooner *John*, Walter Jeffrey, master (H. Doc. No. 1016);

The schooner *Regulator*, Stephen Chase, master (H. Doc. No. 1015);

The snow *Light Horse*, James Gibson, master (H. Doc. No. 1010);

The schooner *Polly*, Alexander Ross and Justin McCarthy, masters (H. Doc. No. 1017);

The brig *Lydia*, John Allison, master (H. Doc. No. 1013);

The brig *Harmony*, Richard Penniston, master (H. Doc. No. 1012);

The brig *Clarissa*, Daniel Brewton, master (H. Doc. No. 1011);

The ship *Active*, John Garde, master (H. Doc. No. 1019);

The sloop *Rebecca*, William Clark, master (H. Doc. No. 1020);

The schooner *Phoenix*, Robert Miller, master (H. Doc. No. 1018); and

The brig *Friendship*, Gad Peck, master (H. Doc. No. 1014).

The foregoing findings were, with the accompanying papers, referred to the Committee on Claims and ordered to be printed.

PETITIONS AND MEMORIALS.

The VICE PRESIDENT presented a telegram in the nature of a petition from the Marine Engineers' Beneficial Association, of San Francisco, Cal., praying for the enactment of legislation to protect the lives of passengers and crews of vessels at sea, which was referred to the Committee on Commerce.

He also presented petitions of sundry citizens of Yankton and Ethan, S. Dak.; of Greencastle, Ind.; and of Philadelphia, Pa., praying for the adoption of an amendment to the Constitution to prohibit polygamy, which were referred to the Committee on the Judiciary.

Mr. SIMMONS. Mr. President, I send to the desk and ask unanimous consent to have read a telegram communicating a resolution adopted by the Democratic State convention which met in North Carolina on yesterday concerning the matter of the repeal of the tolls exemption.

There being no objection, the telegram was read and ordered to lie on the table, as follows:

[Telegram.]

RALEIGH, N. C., *June 4, 1914.*

Senator F. M. SIMMONS,
United States Senate, Washington, D. C.:

The Democratic State convention this afternoon, by a unanimous vote, adopted the following resolution, introduced by me:

"*Be it resolved*, The Democracy of North Carolina, in convention assembled, guided by the fundamental principles of the party in opposition to subsidies and bounties, gives its full indorsement to President Woodrow Wilson in his position for the repeal of the Panama Canal tolls exemption clause, applauds the action of the United States House of Representatives in voting for such repeal, and calls upon the Democratic majority in the United States Senate to uphold the President and sustain the time-honored and underlying principles of the Democratic Party."

EDWARD E. BRITTON.

Mr. ASHURST. Mr. President, I also have received a large number of telegraphic dispatches and letters in relation to the Panama Canal question, and, following the example set by the eminent Senator from North Carolina [Mr. SIMMONS], I shall

read one telegram. This which I now read is signed by a gentleman who is one of the most powerful orators and profound thinkers in our State. It is proper for me to state that this telegram is in response to a question I had asked of Mr. Cleary as to his opinion on the Panama Canal question. It is as follows:

[Telegram.]

BISBEE, ARIZ., *May 29, 1914.*

Hon. HENRY F. ASHURST,
United States Senate, Washington, D. C.:

There is but one way for you to vote, and that is against the repeal of free tolls. Have followed all arguments in Senate in favor of repeal. The one including our Nation in the term "all nations" is made absurd by the very reading of the entire treaty; the one on the ground of it being a subvention is weak, because even Jefferson stood for subventions relative to public schools; and your Underwood tariff law recognizes subventions as proper; besides, France, the most paternalistic country in the world, has its wealth more equally distributed. The one against the platform is perfidious. Lastly, Arizona, as well as the entire West, should not be denied nor curtailed in receiving the whole benefits of the canal. All Arizona against repeal save those connected with railroads and corporations. Be an American and stand for your country and Arizona will remember you.

WILLIAM B. CLEARY.

This telegram is signed by Mr. William B. Cleary. I ask that it may go with the telegram sent to the desk by the Senator from North Carolina.

Mr. CLAPP. Mr. President, I should like to inquire of the Senator from North Carolina if he is personally acquainted with the sender of the telegram that he had read?

Mr. SIMMONS. Of course I am.

Mr. CLAPP. Is he the man who held the Democratic convention at Baltimore for several hours in earnest protest against subsidy involved in the plank which declared for free tolls?

Mr. SIMMONS. I do not think Mr. Britton was a delegate to the convention. I never heard that he was.

The VICE PRESIDENT. The telegram read by the Senator from Arizona will lie on the table.

Mr. GALLINGER. I present a telegram in the nature of a protest, which I ask to have read.

There being no objection, the telegram was read and referred to the Committee on Interstate Commerce, as follows:

[Telegram.]

CONCORD, N. H., *June 4, 1914.*

Hon. JACOB H. GALLINGER,
United States Senate, Washington, D. C.:

At a meeting of the representatives of New Hampshire national banks, held in Concord June 4, 1914, the following resolution was unanimously adopted:

"*Resolved*, That we emphatically oppose the passage of House bill 15657 or any other measure which will prevent the same person from acting as a director in more than one national bank or in a national bank and savings bank and trust companies. We believe that any such measure would be detrimental to the best interests of both the banks and the people of the State, and that copies of this resolution be sent to our Senators and Representatives in Congress, with the request that they use their influence and vote in opposition to any such measure."

LESTER F. THURBER, *Chairman.*

Mr. WALSH. I send to the desk and ask unanimous consent to have read a letter concerning the radium bill received from a miner of carnotite ores in the State of Colorado.

The VICE PRESIDENT. Is there objection? The Chair hears none.

Mr. THOMAS. I was unable to understand what the Senator from Montana said.

Mr. WALSH. I send to the desk a letter received from a miner of carnotite ores in the State of Colorado in relation to the radium bill.

The Secretary read as follows:

NATURITA, COLO., *May 29, 1914.*

Hon. THOMAS J. WALSH,
Chairman Mines and Mining Committee,
United States Senate, Washington, D. C.

SIR: Speaking not only my own convictions, but also the sentiments of every bona fide prospector and miner in the carnotite region to whom I have talked, I earnestly pray the passage of the so-called radium bill, S. 4405, reported to the United States Senate on March 16, 1914.

I am owner of carnotite claims in both San Miguel County and Montrose County, and know that bill S. 4405 not only does not imperil any of my rights in these claims, nor in prospecting for and locating carnotite claims from lands now in the public domain, but that it offers to me the most positive encouragement in the vigorous prosecution of the mining of carnotite ore and acquirement of more property. Any man of good character can easily secure ample credit covering all legitimate expenses of the mining and transportation of carnotite ore if the United States Government is a steady buyer of the ore, as the facility of conversion of the value of the ore into cash and the absolute certainty attending such exchange makes the ore itself, in a way, a medium of exchange. These are the selfish reasons which actuate those engaged in the carnotite business in this region to favor bill S. 4405.

But in this carnotite region we have the most convincing proof of the curative powers of radium, for in this year one of our local miners was treated by radium for a deep-seated cancer by Dr. Howard A. Kelly. The terrible tortures of cancer had prevented this poor man from sleeping for three weeks; for many months he had been incapable of working; surgery had been ineffective. Nothing seemed before him but suffering, misery, and an early grave. That man came back home with clear eyes and buoyant spirits, 30 pounds heavier, and feeling 20 years younger, as he expressed it. Radium snatched this man from the grave. This is the proof which makes us steadfast in our faith in radium. When the Secretary of the Interior proposes that the hospitals of the Army and Navy shall be provided with sufficient radium to treat patients suffering from cancer and that this radium shall be furnished to those hospitals at actual cost, he is proposing only that which any decent man with knowledge of the facts must uphold him in.

You have reported a wise and efficient law and you have the support of the people of this carnotite region now, just as the United States Bureau of Mines will have the enthusiastic loyalty of our miners and prospectors in the practical operation of the law.

Respectfully, yours,

CHAS. F. CURRAN.

NATURITA, COLO., *May 29, 1914.*

Hon. JOHN F. SHAFROTH,
United States Senate, Washington, D. C.

DEAR SENATOR: I attach hereto copy of letter to Hon. THOMAS J. WALSH, chairman Committee on Mines and Mining of the United States Senate, in which I advocate the immediate passage of bill S. 4405, as reported to the Senate March 16, 1914.

When this bill was reported to the Senate it was taken for granted out here that it would become a law within a comparatively few weeks, but the long delay in its consideration has given us a very uneasy feeling, for I won't attempt to disguise the fact that our material prosperity is dependent upon the passage of this bill.

In securing amendments to the bill as originally framed by which the status of location, acquisition, and maintenance of carnotite claims was unaffected our neutrality was assured, but when provision was made that the Government should buy large quantities of the ore at competitive prices our position was changed to active partisans of the bill.

As an independent miner I realize that there is one concern operating in this region that has the resources to supply the European users of carnotite with all the ore they would require and cut off this European market entirely from the independent miner. If, then, that large concern should refuse to buy ore, the independent eventually would be forced to sell his holdings at whatever price the buyer might fix. This is a possibility which might easily become a probability if the situation is left as it exists to-day. Even the originally framed bill is preferable to such condition, for no sane miner will contend that it were better for the Standard Chemical Co. to fix values for profit than for Secretary Franklin K. Lane to fix them in the perfunctory exercise of the duties of his high office.

I know your notable record of service to the workingman, to the welfare and progress of the young man struggling to get a foothold in business and to swing himself onto the ladder of success. I know that you sympathize with men who, like me, have gone into the waste places and in sweat and toil try to acquire the minerals hidden by mother nature. I know that you understand the brutal callousness of big corporations in their relations with us, of the trickery, chicanery, and fraud to which they resort habitually, and that if we are left unprotected you would thereby foster the destruction of the very elements that are the very soul of independent manhood.

With sincere regards, I am,

Yours, respectfully, CHAS. F. CURRAN.

Mr. CLARK of Wyoming presented petitions of sundry citizens of Pine Bluffs, Powell, Carpenter, Wheatland, and Cheyenne, all in the State of Wyoming, praying for national prohibition, which were referred to the Committee on the Judiciary.

Mr. BRISTOW presented petitions of sundry citizens of Plainville and Palco, in the State of Kansas, praying for national prohibition, which were referred to the Committee on the Judiciary.

He also presented a petition of sundry citizens of Ottawa, Kans., praying for Federal censorship of motion pictures, which was referred to the Committee on Education and Labor.

He also presented a petition of the Farmers' Union of Pleasanton, Kans., praying for the enactment of legislation to make lawful certain agreements between laborers and employees and persons engaged in agriculture or horticulture and to limit the issuing of injunctions in certain cases, which was referred to the Committee on the Judiciary.

Mr. THOMAS. Mr. President, I have been requested by citizens of Longmont, Colo., to present and ask to have inserted in the CONGRESSIONAL RECORD certain resolutions which they adopted at a mass meeting on May 25, 1914, relative to labor conditions in that State. I ask unanimous consent to have the resolutions inserted in the RECORD without reading, accompanying the request with the statement that I do not either approve of or disavow the sentiments therein expressed.

The VICE PRESIDENT. Is there objection to the request of the Senator from Colorado? The Chair hears none, and it is agreed to.

The resolutions referred to are as follows:

Resolutions adopted by a mass meeting of citizens of Longmont, Colo., May 25, 1914.

Whereas a certain class of people, whose only claim to publicity is their ability and purpose to breed contempt of law, to encourage riot, murder, and incendiarism, are posing before the world as the representatives of the patriotic citizens of the patriotic State of Colorado: It is

Resolved, That we deny that this small class of agitators represents in any large sense the public sentiment of this State, and we denounce as unworthy of citizenship these people who to advance their political ambitions, to gratify their silly vanities, and thrust their otherwise obscure personalities into the limelight would befoul the nest that shelters them, incite ignorance to lawlessness, plunge the State into anarchy, and hold it up to the world emasculate and unworthy a place in the galaxy of Commonwealths; and

Whereas all Denver daily newspapers, under the gaudy pretext of maintaining popular rights, are aiding and abetting lawlessness, riot, and anarchy: It is further

Resolved, That such newspapers are unworthy the moral or financial support of the law-abiding citizens of the State; and

Whereas the State militia called to service by the legally constituted authority and representing the sturdy manhood of the State has been doing its duty as fully as did the young men of a generation ago, who bared their breasts to the assaults of disunion, we protest against the unpatriotic, false, and libelous vituperation that has been so unjustly used against our young soldiers as destructive to a wholesome military spirit that may stand the Republic in good stead in the not-distant future; and

Whereas we believe that the sovereignty of the State of Colorado and not the private disputes of individuals or corporations is the issue we are facing to-day: We therefore

Resolve, That it is the duty of every loyal citizen to sustain by word and deed the governor of the State at whatever cost in putting down rebellion, punishing treason by whomsoever instigated, and redeeming the State from the humiliation of standing as a mendicant, hat in hand, at the door of the White House, begging for the protection we are too feeble to afford ourselves, and to protest to the world that the mouthings of near statesmen, frenzied women, and patriots for revenue only is not the voice of the sovereign State of Colorado.

Mr. THOMPSON presented a petition of sundry citizens of Manhattan, Kans., praying for national prohibition, which was referred to the Committee on the Judiciary.

Mr. SHERMAN presented memorials of sundry citizens of Illinois, remonstrating against national prohibition, which were referred to the Committee on the Judiciary.

He also presented petitions of sundry citizens of Illinois, praying for national prohibition, which were referred to the Committee on the Judiciary.

He also presented petitions of lodges of International Association of Machinists of Bloomington and Mount Carmel; of the Federal Labor Union of Hillsboro; of the Trades and Labor Assemblies of Streator and Ottawa; of the United Mine Workers of Thayer, East Peoria, Springfield, and Rutland; of the Brick, Tile, and Terra Cotta Workers of Grant Park; of the Brotherhood of Blacksmiths and Helpers of Danville; of the Glass Bottle Blowers of Streator; of the Cigar Makers of Centralia; of the Electrical Workers of Chicago; of the Brewery Workmen of Peru and Quincy; of the Typographical Unions of Mount Morris, Quincy, and Galesburg; of the Packing House Teamsters and Chauffeurs of Chicago; of the Iron, Steel, Tin, and Granite Ware Workers of Granite City; of sundry post-office clerks of Chicago; of the Coopers' Union of Alton; of the Painters' Union of Chicago; of the Railroad Telegraphers of Forest City; of the Cement Workers and Helpers of Springfield, all in the State of Illinois, praying for the enactment of legislation to make lawful certain agreements between laborers and employees and persons engaged in agriculture or horticulture and to limit the issuing of injunctions in certain cases, which were referred to the Committee on the Judiciary.

He also presented a petition of sundry citizens of Illinois, praying for national recognition of the services of Dr. Frederick Cook in his polar efforts, which was referred to the Committee on the Library.

He also presented memorials of Pope Post, No. 411, Grand Army of the Republic, of Pana; of Dunham Post, No. 141, Grand Army of the Republic, of Decatur; of Abraham Lincoln Circle, No. 2, Ladies of the Grand Army of the Republic; of Corps No. 190, Woman's Relief Corps, of Pana; of Washington Alexander Post, No. 176, Grand Army of the Republic, of Bethany; of J. Q. A. Jones Post, No. 526, of Havana; and of Lovejoy Circle, No. 99, Ladies of the Grand Army of the Republic, of Brighton, all in the State of Illinois, remonstrating against any change in the American flag, which were referred to the Committee on the Judiciary.

He also presented petitions of Local Division No. 302, Brotherhood of Locomotive Engineers, of Chicago; of the joint protective board, Brotherhood of Locomotive Firemen and Enginemen, of Murphysboro; of the Brotherhoods of Railroad Trainmen, No. 24, of Galesburg; No. 647, of Chicago; and No. 578, of Murphysboro; of Lodge No. 477, Locomotive Firemen and Enginemen, of Galesburg; of Friendship Division, No. 81, Order of Railway Conductors, of Beardstown; of sundry citizens of Decatur; of New Hope Baptist Church, of Lakewood; of the Brotherhood of Railroad Trainmen, of Douglas Park Lodge, and of Victory Lodge, of Chicago; of Brotherhood of Railroad Trainmen, Calumet Lodge, and Hobbs Lodge, of Chicago; of Brotherhood of Locomotive Engineers, No. 826, of Chicago; of the State legislative board, Locomotive Engineers, of Blue Island; of the legislative committee, Order of Railway Conductors, of Peoria, all in the State of Illinois, praying for the enactment of legislation to further restrict immigration, which were ordered to lie on the table.

He also presented memorials of members of United Mine Workers of America, of Bloomington, Willisville, Herrin, Girard, Thayer, Mount Olive, Cary, Coal City, Percy, and Murphysboro, and resolutions passed at the international Labor Day celebration at Rockford, all in the State of Illinois, remonstrating against labor conditions in the mining districts of Colorado, which were referred to the Committee on Education and Labor.

He also presented memorials of the medical societies of Fulton, Wayne, Clark, Cass, Mercer, Whiteside, and Kendall Counties, all in the State of Illinois, remonstrating against the enactment of legislation to prohibit the distribution and dispensing of narcotic drugs by physicians, dentists, and veterinarians, which were ordered to lie on the table.

He also presented a petition of the congregation of the Central Presbyterian Church, of Joliet, Ill., praying for the adoption of an amendment to the Constitution to prohibit polygamy, which was referred to the Committee on the Judiciary.

He also presented a memorial of Typographical Local Union of Danville, Ill., remonstrating against an increase of second-class postage rates, which was referred to the Committee on Post Offices and Post Roads.

He also presented a petition of the Post Office Clerks Local Union No. 1, of Chicago, Ill., praying for the enactment of legislation to reduce night work and overtime work in the Chicago post office, which was referred to the Committee on Post Offices and Post Roads.

He also presented a petition of the Young Men's Christian Association of Chicago, Ill., praying for an appropriation of $165,000 for the maintenance of the Children's Bureau, which was ordered to lie on the table.

He also presented a petition of the Trades and Labor Assembly of Bloomington, Ill., praying that an increase be made in the pay of printers employed in the Government Printing Office, which was referred to the Committee on Printing.

He also presented a petition of Camp No. 54, United Spanish War Veterans, of Chicago, Ill., praying for the enactment of legislation to provide pensions for widows and orphans of veterans of the Spanish-American War, which was referred to the Committee on Pensions.

He also presented a petition of District Council No. 6, United Garment Workers, of Chicago, Ill., praying for the enactment of legislation to regulate the interstate commerce of prison-made goods, which was referred to the Committee on Interstate Commerce.

He also presented a petition of the Retail Druggists' Association of Chicago, Ill., praying for the enactment of legislation to provide publicity of prices, etc., which was referred to the Committee on Interstate Commerce.

He also presented a petition of Douglas Lodge, No. 832, International Association of Machinists, of Villa Grove, Ill., praying for the enactment of legislation to provide a more thorough inspection of boilers and appurtenances, which was referred to the Committee on Interstate Commerce.

Mr. SMITH of Michigan presented petitions of the Woman's Christian Temperance Union of Wheeler, of the congregation of the First Baptist Church of Ithaca, and of sundry citizens of Dowagiac, all in the State of Michigan, praying for the adoption of an amendment to the Constitution to prohibit the manufacture, sale, and importation of intoxicating beverages, which were referred to the Committee on the Judiciary.

He also presented a memorial of the Metal Polishers, Buffers, and Platers' Local Union No. 7, of Grand Rapids, Mich., and a memorial of sundry citizens of Michigan, remonstrating against the adoption of an amendment to the Constitution to prohibit the manufacture, sale, and importation of intoxicating beverages, which were referred to the Committee on the Judiciary.

Mr. SHEPPARD presented petitions of sundry citizens of Texas, praying for the adoption of an amendment to the Constitution to prohibit the manufacture, sale, and importation of intoxicating beverages, which were referred to the Committee on the Judiciary.

He also presented memorials of sundry citizens of Texas, remonstrating against the adoption of an amendment to the Constitution to prohibit the manufacture, sale, and importation of intoxicating beverages, which were referred to the Committee on the Judiciary.

Mr. WEEKS presented memorials of sundry citizens of Worcester, Holyoke, South Boston, Boston, New Bedford, Chicopee, Roxbury, Lawrence, Lowell, Springfield, and Fall River, all in the State of Massachusetts, remonstrating against national prohibition, which were referred to the Committee on the Judiciary.

Mr. TOWNSEND presented petitions of sundry citizens of Marley, Detroit, and Grand Rapids, all in the State of Michigan, praying for national prohibition, which were referred to the Committee on the Judiciary.

He also presented memorials of sundry citizens of Grayling, Detroit, Ypsilanti, and Grand Rapids, remonstrating against national prohibition, which were referred to the Committee on the Judiciary.

Mr. COLT. I present resolutions adopted by the Chamber of Commerce of Providence, R. I., which I ask may be printed in the RECORD and referred to the Committee on Commerce.

There being no objection, the resolutions were referred to the Committee on Commerce and ordered to be printed in the RECORD, as follows:

Whereas the Chamber of Commerce of the United States of America having by referendum presented to this organization for an expression of opinion the recommendations of their special committee on trust legislation in regard to the proposals to create an interstate trade commission; and

Whereas Government supervision and control of business concerns and operations as outlined in pending legislation before Congress, among which is included a bill to create an interstate trade commission, is a subject fraught with momentous consequences to American business and should receive careful analysis and deepest study: Now, therefore, be it

Resolved, That the Providence Chamber of Commerce most emphatically protests against the enactment of such legislation as is contained in the above-mentioned bills pending before Congress until ample time shall have been given for the consideration and discussion of these new proposals by all the people of the country, that provision be made for obtaining testimony from business men and business organizations throughout the United States whose activities would prevent their appearing at Washington to express their views, and that in order to prevent hasty and ill-considered action it is urgently requested that Congress refer passing such or similar legislation until a later session of Congress, thereby allowing time for a clearer comprehension and more thorough discussion and a resulting complete expression of opinion throughout the country, to the end that what shall finally be determined upon shall be the product of mature judgment and that which will be likely to inure to the benefit and not to the injury of the interests of all the people; and be it

Further resolved, That the Providence Chamber of Commerce accordingly defer voting upon the referendum of the Chamber of Commerce of the United States of America at this time; and be it

Further resolved, That a copy of these resolutions be forwarded to said chamber, as well as to the President of the United States and Rhode Island Senators and Representatives in Congress.

PENSIONS AND INCREASE OF PENSIONS.

Mr. SHIVELY, from the Committee on Pensions, to which was referred the bill (H. R. 14738) granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent children of soldiers and sailors of said war, reported it with amendments and submitted a report (No. 582) thereon.

BILLS AND JOINT RESOLUTION INTRODUCED.

Bills and a joint resolution were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. ROOT:

A bill (S. 5739) to present the steam launch *Louise*, now employed in the construction of the Panama Canal, to the French Government (with accompanying papers); to the Committee on Foreign Relations.

By Mr. BRISTOW:

A bill (S. 5740) granting an increase of pension to Jacob C. Rennaker (with accompanying papers); to the Committee on Pensions.

By Mr. LA FOLLETTE:

A bill (S. 5741) granting a pension to Alice S. C. McNaught; to the Committee on Pensions.

By Mr. SHIVELY:

A bill (S. 5742) granting a pension to Daniel Howery; to the Committee on Pensions.

By Mr. CHAMBERLAIN:

A bill (S. 5743) granting an increase of pension to George W. Evans (with accompanying papers); and

A bill (S. 5744) granting an increase of pension to Jacob M. Stark (with accompanying papers); to the Committee on Pensions.

By Mr. PAGE:

A bill (S. 5745) granting a pension to Jennie C. Potter; to the Committee on Pensions.

By Mr. McLEAN:

A bill (S. 5746) granting an increase of pension to Horace Page (with accompanying papers); to the Committee on Pensions.

By Mr. TOWNSEND:

A bill (S. 5747) granting an increase of pension to Margaretta B. Smyre; to the Committee on Pensions.

By Mr. GORE:

A bill (S. 5748) to establish a fish-cultural station in the State of Oklahoma; to the Committee on Fisheries.

By Mr. O'GORMAN:

A joint resolution (S. J. Res. 156) providing for a commission to contract for finishing the historical frieze in the Rotunda of the Capitol; to the Committee on the Library.

AMENDMENT TO SUNDRY CIVIL APPROPRIATION BILL.

Mr. OLIVER submitted an amendment proposing to appropriate $20,000 to purchase 25 oil portraits of the justices of the Supreme Court of the United States, etc., intended to be proposed by him to the sundry civil appropriation bill, which was referred to the Committee on the Library and ordered to be printed.

WIDOWS' PENSIONS.

Mr. JONES. Mr. President, I offer an amendment which I intend to propose to House bill 13044. I ask that it may be read, and I call the attention of the Committee on Pensions to the amendment, because I expect to press it when the bill referred to is called up for consideration.

The VICE PRESIDENT. In the absence of objection, the Secretary will read the amendment.

The Secretary read as follows:

Amendment intended to be proposed by Mr. JONES to the bill (H. R. 13044) to pension widows and minor and helpless children of officers and enlisted men who served during the War with Spain or the Philippine insurrection or in China, between April 21, 1898, and July 4, 1902, viz: At the proper place insert the following as section 3:

"SEC. 3. That every widow who is now receiving or may hereafter be entitled to a pension under present laws of less than $20 per month by reason of the Civil War shall, upon due proof that she was the wife of a soldier at any time during said war and continued his wife until his death, be entitled to a pension of $20 per month, the same to begin from the date of filing her application under the provisions of this act."

Mr. JONES. I ask that the amendment lie on the table and be printed.

The VICE PRESIDENT. The amendment will lie on the table and be printed.

PANAMA CANAL TOLLS.

Mr. SUTHERLAND submitted an amendment intended to be proposed by him to the bill (H. R. 14385) to amend section 5 of an act to provide for the opening, maintenance, protection, and operation of the Panama Canal and the sanitation and government of the Canal Zone, approved August 24, 1912, which was ordered to lie on the table and be printed.

WOMAN SUFFRAGE.

Mr. CLAPP. I ask to have printed in the RECORD the views of the minority submitted by Hon. Thomas B. Reed, of Maine, from the Committee on the Judiciary of the House of Representatives April 24, 1884, relating to the right of suffrage to women.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

Mr. Thomas B. Reed, of Maine, from the Committee on the Judiciary, submitted the following views of the minority:

No one who listens to the reasons given by the superior class for the continuance of any system of subjection can fail to be impressed with the noble disinterestedness of mankind. When the subjection of persons of African descent was to be maintained, the good of those persons was always the main object. When it was the fashion to beat children, to regard them as little animals who had no rights, it was always for their good that they were treated with severity, and never on account of the bad temper of their parents. Hence, when it is proposed to give to the women of this country an opportunity to present their case to the various State legislatures to demand of the people of the country equality of political rights, it is not surprising to find that the reasons on which the continuance of the inferiority of women is urged are drawn almost entirely from a tender consideration for their own good. The anxiety felt lest they should thereby deteriorate would be an honor to human nature were it not an historical fact that the same sweet solicitude has been put up as a barrier against every progress which women have made ever since civilization began. There is no doubt to-day that if in Turkey or Algiers, countries where women's sphere is most thoroughly confined to the home circle, it was proposed to admit them to social life, to remove the veil from their faces and permit them to converse in open day with the friends of their husbands and brothers, the conservative and judicious Turk or Algerine of the period, if he could be brought to even consider such a horrible proposition, would point out that the sphere of women was to make home happy by those gentle insipidities which education would destroy; that by participation in conversation with men they would learn coarseness, debase their natures, and men would thereby lose that ameliorating influence which still leaves them unfit to associate with women. He would point out that "nature" had determined that women should be secluded; that their sphere was to raise and educate the man child, and that any change would be a violation of the divine law which, in the opinion of all conservative men, always ordains the present but never the future.

So in civilized countries when it was proposed that women should own their own property, that they should have the earnings of their own labor, there were not wanting those who were sure that such a proposition could work only evil to women, and that continually. It would destroy the family, discordant interests would provoke dispute, and the only real safety for woman was in the headship of man, not that man wanted superiority for any selfish reason, but to preserve intact the family relation for woman's good. To-day a woman's property belongs to herself; her earnings are her own; she has been emancipated beyond the wildest hopes of any reformer of 25 years ago. Almost every vocation is open to her. She is proving her usefulness in spheres which the "nature" worshiped by the conservative of 25 years ago absolutely forbade her to enter. Notwithstanding all these changes, the family circle remains unbroken, the man child gets as well educated as before, and the ameliorating influence of woman has become only the more marked. Thirty years ago hardly any political assemblage of the people was graced by the presence of women. Had it needed a law to enable them to be present, what an argument could have been made against it! How easily it could have been shown that the coarseness, the dubious expressions, the general vulgarity of the scene, could have had no other effect than to break down that purity of word and thought which women have and which conservative and radical are alike sedulous to preserve. And yet the actual presence of women at political meetings has not debased them, but has raised the other sex. Coarse-

ness has not become diffused through both sexes but has fled from both. To put the whole matter in a short phrase: The association of the sexes in the family circle, in society, and in business having proved improving to both, there is neither history, reason, nor sense to justify the assertion that association in politics will lower the one or demoralize the other.

Hence we would do better to approach the question without trepidation. We can better leave the "sphere" of woman to the future than confine it in the chains of the past. Words change nothing. Prejudices are none the less prejudices because we vaguely call them "nature" and prate about what nature has forbidden when we only mean that the thing we are opposing has not been hitherto done. "Nature" forbade a steamship to cross the Atlantic the very moment it was crossing, and yet it arrived just the same. What the majority call "nature" has stood in the way of every progress of the past and present, and will stand in the way of all future progress. It has also stood in the way of many unwise things. It is only another name for conservatism. With conservatism the minority have no quarrel. It is essential to the stability of mankind, of government, and of social life. To every new proposal it rightfully calls a halt, demanding countersign, whether it be friend or foe. The enfranchisement of women must pass the ordeal like everything else. It must give good reason for its demand to be or take its place among the half-forgotten fantasies which have challenged the support of mankind and have not stood the test of argument and discussion.

The committee claim that suffrage is not a right, but a privilege to be guarded by those who have it, and to be by them doled out to those who shall become worthy. That every extension of suffrage has been granted in some form or other by those already holding it is probably true. In some countries, however, it has been extended upon the simple basis of expediency, and in others in obedience to a claim of right. If suffrage be a right, if it be true that no man has a claim to govern any other man except to the extent that the other man has a right to govern him, then there can be no discussion of the question of woman suffrage. No reason on earth can be given by those who claim suffrage as a right of manhood which does not make it a right of womanhood also. If the suffrage is to be given man to protect him in his life, liberty, and property, the same reasons urge that it be given to woman, for she has the same life, liberty, and property to protect. If it be urged that her interests are so bound up in those of man that they are sure to be protected, the answer is that the same argument was urged as to the merger in the husband of the wife's right of property, and was pronounced by the judgment of mankind fallacious in practice and in principle. If the natures of men and women are so alike that for that reason no harm is done by suppressing women, what harm can be done by elevating them to equality? If the natures be different, what right can there be in refusing representation to those who might take juster views about many social and political questions?

Our Government is founded, not on the rule of the wisest and best, but upon the rule of all. The ignorant, the learned, the wise, and the unwise, the judicious and the injudicious are all invited to assist in governing, and upon the broad principle that the best government for mankind is not the government which the wisest and best would select, but that which the average of mankind would select. Laws are daily enacted, not because they seem the wisest even to those legislators who pass them, but because they represent what the whole people wish. And, in the long run, it may be just as bad to enact laws in advance of public sentiment as to hold on to laws behind it. Upon what principle in a Government like ours can one-half the minds be denied expression at the polls? Is it because they are untrained in public affairs? Are they more so than the slaves were when the right of suffrage was conferred on them? It should also be considered, upon the proposition that to admit women would be temporarily to lower the suffrage on account of their lack of training in public duties, that what is now asked of us is not immediate admission to the right, but the privilege of presenting to the legislatures of the different States the amendment, which can not become effective until adopted by three-fourths of them. It may be said that the agitation and discussion of this question will long before its adoption have made women as familiar with public affairs as the average of men, for the agitation is hardly likely to be successful until after a majority, at least, of women are in favor of it.

We believe in the educating and improving effect of participation in government. We believe that every citizen in the United States is made more intelligent, more learned, and better educated by his participation in politics and political campaigns. It must be remembered that education, like all things else, is relative. While the average American voter may not be all that impatient people desire, and is far behind his own future, yet he is incomparably superior to the average citizen of any other land where the subject does not fully participate in the government. Discussions on the stump and, above all, the discussions he himself has with his fellows, breed a desire for knowledge which will take no refusal and which leads to great general intelligence. In political discussion, acrimony and hate are not essential, and have of late years quite perceptibly diminished and will more and more diminish when discussions by women, and in the presence of women, become more common. If, then, discussion of public affairs among men has elevated them in knowledge and intelligence, why will it not lead to the same results among women? It is not merely education that makes civilization, but diffusion of education. The standing of a nation and its future depend not upon the education of the few, but of the whole. Every improvement in the statuts of woman in the matter of education has been an improvement to the whole race. Women have by education thus far become more womanly, not less. The same prophesies of ruin to womanliness were made against her education on general subjects that are now made against her participation in politics.

It is sometimes asserted that women now have a great influence in politics through their husbands and brothers. That is undoubtedly true. But that is just the kind of influence which is not wholesome for the community, for it is influence unaccompanied by responsibility. People are always ready to recommend to others what they would not do themselves. If it be true that women can not be prevented from exercising political influence, is not that only another reason why they should be steadied in their political action by that proper sense of responsibility which comes from acting themselves?

We conclude, then, every reason which in this country bestows the ballot upon man is equally applicable to the proposition to bestow the ballot upon woman, that in our judgment there is no foundation for the fear that woman will thereby become unfitted for all the duties she has hitherto performed.

T. B. REED.
E. B. TAYLOR.
M. A. MCCOID.
T. M. BROWNE.

ADDRESS BY SENATOR ASHURST.

Mr. O'GORMAN. Mr. President, I ask consent of the Senate for the insertion in the RECORD of some remarks made by the Senator from Arizona [Mr. ASHURST] at a meeting of the Society of the Friendly Sons of St. Patrick, of Philadelphia, on the 17th of last March. They bear in part upon a question that is now agitating the country and receiving the attention of the Senate, and make special reference to the Panama Canal controversy.

The VICE PRESIDENT. Is there objection to the request of the Senator from New York? The Chair hears none, and it is agreed to.

The matter referred to is as follows:

"THE UNITED STATES," HON. HENRY F. ASHURST.

Mr. Toastmaster and members of the Friendly Sons of St. Patrick, my first duty is to return my thanks to the members of the committee who honored me with their kind invitation to be present upon this occasion, and I congratulate your society upon arriving at its one hundred and forty-third anniversary. Your freedom from sectarian and political bias is commendable, and worthy of emulation by many societies throughout our land.

The response you have assigned to me, "The United States," is so vast and varied that, in speaking upon it, I feel as if I were trying to grasp a globe so large that it permits the hand to obtain no hold.

If a student of the firmament, whose vigils are consecrated to exploring the skies and searching the heavens, were asked to describe in a single speech the influence of the sun upon our solar system, the student would stand amazed at the immensity of his task. Not less immense is the task of the speaker who attempts, in a single speech, to respond to the toast, "The United States."

Commencing with the War for Independence and extending down to this good hour, a great nation was and still immeasurably is in the making; fundamental principles of government, of infinite importance to the human race, have been and are now being applied and tested; new ideas are constantly taking hold; new truths constantly being discovered; reforms are being made in institutions and laws; a population noted for tireless energy and unconquerable spirit has pushed its way westward, founded towns, cities, and States, built roads, bridged rivers, joined great lakes by waterways and canals, built factories, mined for metals, covered prairies with mantles of waving grain, and dealt on a gigantic scale and in a new manner with economic, scientific, and financial problems in a vast country where nature has poured forth her resources with generosity, yea, extravagance.

Civilizations were built up in ancient times, notably in Greece and Rome, but it is an unhappy circumstance that it occurred to but few of the moral philosophers and statesmen of those early civilizations that to build an enduring State all the people must have equal civil and natural rights, and the recognition of this truth by our early statesmen largely accounts for our growth and opulence.

The discovery of America gave birth to an amazing awakening, for soon the stories of the discoveries of Columbus kindled the imagination of men. These discoveries doubled the earth, and ships of conquest, adventure, glory, and science began to cut through the billows of every sea. The expanse and magnificence of this new physical world thus opened had, as such things always have, its beneficent influence upon human character and the trend of the world's events, because a contemplation of the external charms of nature inevitably produces a mental and moral evolution and growth which excite a lively and intense interest in human existence.

In 1771 the population of the American colonies was composed principally of the descendants of persons who had felt the oppression of European tyrants, and had emigrated hither to enjoy freedom of conscience, speech, and worship.

The American colonists were descended from the most persevering, thrifty, and energetic races—they were intolerant of restraint and possessed a noble enthusiasm for civil and religious liberty, which even to-day is the dominant and characteristic trait of the American people. Large numbers of the sons and daughters of Erin's sturdy race, a race noted for bravery of spirit and loyalty to free government, were scattered through the colonies. Their ancestors had been tortured in dungeons, murdered on scaffolds, robbed of the fruits of their sweat and toil, scourged by famine, plundered by the avarice of heartless power, and driven by tyrants and despots like the leaves of autumn before the keen wintry winds. These various families of men, transplanted to this new soil and welded together by events and years, became a race of blood and iron. They evolved the Declaration of Independence and with their bayonets wrote

another charter of American liberty on the backs of the fleeing soldiers of Gen. John Burgoyne and Lord Cornwallis. [Applause.]

If by the potent influence of some magical wand, or some mysterious chant, we could be transported to the time when, 143 years ago, your ancient and honorable society held its first banquet, and then compare the conditions of 1771 in North America with the conditions of 1914, we would almost be persuaded to forsake our disbelief in Aladdin's lamp and Fortunatus's purse. In the intervening time between your first and your one hundred and forty-third annual dinner there has sprung up a nation, "The United States," which for strength and growth is unparalled in the annals of the human race, and the wildest hyperbole becomes prosaic in attempting to describe the social and moral advance made by our people during this period: the progress in mechanical and electrical contrivances, transportation, scientific research, educational facilities, and the multiplied accomplishments of liberty and civilization which have made life broader, more useful, and beautiful. [Applause.]

Your society held its first annual dinner just five days after Sam Adams had written to Mr. Charles Lucas and said, "The man who nobly vindicates the rights of his country and mankind shall stand foremost in the lists of fame." I would say nothing in this splendid presence that might savor of invidious distinction in any offensive sense; yet, how may one eulogize Pericles and not speak of the glories of Athens; how may one commemorate Cæsar and be silent concerning the achievements of his legions; how, then, may I speak of the United States at a banquet of the Friendly Sons of St. Patrick and omit to make the observation that the Irish race has nobly vindicated the liberty of our beloved country, and, therefore, is entitled, in the eloquent language of Sam Adams, "to stand foremost in the lists of fame." [Applause.]

When you held your first annual dinner, had any traveler possessed the fortitude—yea, the hardihood—to endure the discomforts and brave the dangers of a journey through the thirteen colonies, over the wretched roads, in jolting buckboards, ramshackle stagecoaches, or irregular packet boats, he would have found less than 3,000,000 people. Here in Philadelphia our traveler would have found Dr. Benjamin Franklin, known even then in the most remote corners of civilization as our American pioneer of experimental science—Dr. Benjamin Franklin, who later stood unabashed before kings and princes and challenged the admiration of Europe's best trained diplomats.

It is said that when Thomas Jefferson appeared before the King of France as the successor of Franklin, before that glittering court of letters and fashion, the King exclaimed to Jefferson, "So you have come to take the place of Dr. Benjamin Franklin?" and that Jefferson replied, "Sire, no man will ever take the place of Dr. Benjamin Franklin; I simply succeed him."

Our traveler would have found Chestnut Street, now so cluttered with banks and trust companies, to be the fashionable walk where ladies, wearing gorgeous brocades and taffetas and shoes with high wooden heels, gravely returned the stately salutations of gallant gentlemen wearing colonials and their faces besmeared with a prodigious profusion of white powder. Our sojourner would have found Philadelphia all unknown to the distinction which was later to come to her as the city where were to be enunciated the immortal principles of the Declaration of Independence. Our traveler would have found in the Eastern States a sturdy people, engaged largely in shipbuilding. Indeed, writing of the extent to which American timbers were found in English ships, Allen, a poet of ante-Revolutionary fame, says:

> Even the tall masts that bear your flag on high
> Grew in our soil and ripened in our sky.

And these same timbers a few years later furnished the gallant little navy that was baptized with the blood of fighting "Jack" Barry and John Paul Jones. [Applause.]

Our traveler would have found that George Washington had marched with Gen. Braddock to the fatal field of the Monongahela and had there exhibited a dauntless courage in the face of danger, disaster, and hardship, surpassed only by the wisdom, fortitude, and iron will he later exhibited in holding the little colonies united and determined amid all the grief and all the glory of Valley Forge and Yorktown.

At the time of your first annual banquet James Madison and Aaron Burr were students in Princeton, Thomas Jefferson had shown himself to be a young lawyer of erudition and ability, and was serving with distinction as a youthful and useful member of the house of burgesses. Alexander Hamilton, aged 14 years, was showing signs of genius at his desk in a countinghouse on the island of Nevis, and freckle-faced, sandy-haired Irish Andrew Jackson was 4 years of age, down on Waxhaw Creek, waiting in homely indigence the summons that was later to call him to New Orleans and immortal fame.

Looking back through the dust of history over the mutations of time we are justly proud of our country's achievements. We are the heirs and beneficiaries of heroes who sacrificed much that we might enjoy the rights which we exercise today. American citizenship is an inheritance which has been attained only by virtue of stupendous sacrifices that have been made by those who have gone before to secure this inestimably valuable boon for us. [Applause.]

While we of the present day are enjoying the fruits of the labors of those who have passed across the disk of human existence, we should not proceed with smug indifference to enjoy these blessings, for destiny casts upon us a duty as great, if not greater, than the duty so faithfully performed by our people in the past. Not only must we retain the advanced ground they nobly won, but we must resolutely attempt to solve the problems of the present and the future. The happiness of the people now in existence and the rights of our innocent and unborn posterity should ever engage the attention and solicitude of the statesmen of the present, for civilization's mighty sweep is each year multiplying our problems and augmenting their complexities.

I shall now briefly discuss the question concerning a certain strip of land, 10 miles wide and 49 miles long, owned by the United States and called the Panama Canal Zone.

Through this zone, at an expense to the American people of $435,000,000, we have constructed a ship canal. And in discussing this question I do so without reserve, for neither the proprieties of this occasion nor the careful guarding of official speech require that an American Senator shall withhold an open expression of the opinion he maintains upon the imminent questions of the day. Moreover, I was never much given to the habit of immersing my words in a tank of diplomatic antiseptic before I allowed them utterance. I represent, in part, a great Commonwealth—Arizona—whose heroic history shows that she has never been enamored of those public men who in their mind harbor one thought while their lips tell another. We are in full possession of the Canal Zone, having acquired this territory from the Republic of Panama. The United States, by the express terms of the grant, is made the sovereign and proprietor of the zone and the land through which and in which the canal is built. The American Flag flies over the canal and over the zone; the American Congress makes laws for the governing of the canal and zone. The zone and canal are as much the property of the United States as is Alaska. Of the nations of the world that have assumed any burden in constructing the canal the United States of America is the only one. Of the multitudes of the earth, the Americans are the only people who have been taxed to build this canal. Great Britain has protested that if we exempt our coastwise vessels passing through the canal from the payment of tolls we will have discriminated against her. How specious becomes such protest when we remember that foreign vessels are by law prohibited from engaging in our coastwise or local trade and that England, under an act not dissimilar, passed in 1815, guaranteeing equality of ships for 99 years, favored her local shipping.

Granting, for the sake of argument only, that the exemption of our own coastwise shipping from the payment of tolls is not a wholesome domestic policy, we would still be unable to adopt the British view, for its adoption would be the entering of the thin wedge which sooner or later would mean that our canal would be controlled from London instead of Washington. It does not require the services of a soothsayer to foretell that if we should yield to Great Britain on this point, the inexorable logic of the situation would compel us to yield to Great Britain on other points, for the present attitude of Great Britain on this question is simply the initial move on her part of a series of moves yet to be made by her, looking to the degrading of our country at Panama from the position of sovereign to the position of tollgate keeper.

In conclusion, allow me to say I believe that as the years glide by your society and its descendants will maintain the same record for virtue, rectitude, and patriotism that you have maintained during the past 143 years. [Applause.]

COMMITTEE SERVICE.

On motion of Mr. KERN, it was

Ordered, That the Committee on Cuban Relations be reestablished with five members, as follows:
Senator J. L. BRISTOW, of Kansas, chairman.
Senator SMITH, of Michigan.
Senator SUTHERLAND, of Utah.
Senator WHITE, of Alabama.
Senator WEST, of Georgia.

On motion of Mr. KERN, it was

Ordered, That Senator HOKE SMITH, of Georgia, be appointed a member of the Committee on Rules to fill the vacancy occasioned by the death of Senator Bacon.

On motion of Mr. LODGE, it was

Ordered, That the following appointments be made to the committees of the Senate:

Mr. DU PONT to the Committee on Expenditures in the Department of Justice;
Mr. STERLING to the Committee on Post Offices and Post Roads;
Mr. KENYON to the Committee on Agriculture and Forestry;
Mr. SHERMAN to the Committee on Pensions.
Mr. FALL to the Committee on Privileges and Elections;
Mr. MCLEAN to the Committee on Claims; and
Mr. COLT to the Committee on Military Affairs.

Mr. KENYON was, at his own request, excused from further service on the Committee on Military Affairs.

PENSIONS AND INCREASE OF PENSIONS.

Mr. SHIVELY submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 4260) granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy, and of wars other than the Civil War, and to certain widows and dependent relatives of such soldiers and sailors, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House numbered 2, and agree to the same.

That the House recede from its amendment numbered 1.

BENJ. F. SHIVELY,
CHARLES F. JOHNSON,
REED SMOOT,
Managers on the part of the Senate.

JOHN A. KEY,
WM. H. MURRAY,
Managers on the part of the House.

The report was agreed to.

Mr. SHIVELY submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 4657) granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy, and of wars other than the Civil War, and to certain widows and dependent relatives of such soldiers and sailors, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendments of the House numbered 1 and 4, and agree to the same.

That the House recede from its amendments numbered 2, 3, 5, 7, and 8.

That the Senate recede from its disagreement to the amendment of the House numbered 6, and agree to the same with an amendment as follows: In lieu of the sum proposed by said amendment insert the sum "$24"; and the House agree to the same.

BENJ. F. SHIVELY,
CHARLES F. JOHNSON,
REED SMOOT,
Managers on the part of the Senate.

JOHN A. KEY,
WM. H. MURRAY,
Managers on the part of the House.

The report was agreed to.

Mr. SHIVELY submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 4353) granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy, and of wars other than the Civil War, and to certain widows and dependent relatives of such soldiers and sailors, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its amendment numbered 1.

BENJ. F. SHIVELY,
CHARLES F. JOHNSON,
REED SMOOT,
Managers on the part of the Senate.

JOHN A. KEY,
WM. H. MURRAY,
Managers on the part of the House.

The report was agreed to.

Mr. SHIVELY submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 4167) granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy, and of other wars than the Civil War, and certain widows and dependent relatives of such soldiers and sailors, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its amendments numbered 1, 2, 3, 4, and 5.

BENJ. F. SHIVELY,
CHARLES F. JOHNSON,
REED SMOOT,
Managers on the part of the Senate.

JOHN A. KEY,
WM. H. MURRAY,
Managers on the part of the House.

The report was agreed to.

CLAIMS OF SISSETON AND WAHPETON SIOUX INDIANS.

Mr. GRONNA. Mr. President, I inquire if morning business has closed?

The VICE PRESIDENT. It has.

Mr. GRONNA. I ask unanimous consent for the present consideration of the bill (S. 5255) conferring jurisdiction on the Court of Claims to hear, determine, and render judgment in claims of the Sisseton and Wahpeton Bands of Sioux Indians against the United States.

Mr. President, I wish to state that this is a bill to which there can be no possible objection. The Indians who are interested in this legislation have for years been coming to Congress asking that a commission be appointed to investigate their claims. The Department of the Interior was opposed to the appointment of a commission, but drew a bill recommending that the claims be referred to the Court of Claims. The bill for which I ask consideration is practically the bill that was drawn by the department. The Committee on Indian Affairs unanimously recommend that the bill be passed, and in order that it may go to the House and be enacted into law at this session of Congress it is necessary that action here should be taken upon it immediately.

The VICE PRESIDENT. Is there objection to the present consideration of the bill?

Mr. GALLINGER. Let the bill be read first, Mr. President.

The VICE PRESIDENT. The Secretary will read the bill.

The Secretary read the bill (S. 5255) conferring jurisdiction on the Court of Claims to hear, determine, and render judgment in claims of the Sisseton and Wahpeton Bands of Sioux Indians against the United States; and there being no objection, the Senate, as in Committee of the Whole, proceeded to its consideration.

The bill was reported from the Committee on Indian Affairs with amendments, on page 3, line 1, after the words "by the," to strike out "Court of Claims" and insert "Secretary of the Interior," and in line 4, after the word "exceed," to strike out "5 per cent of the moneys found to be due said bands of Indians" and insert "$15,000," so as to make the bill read:

Be it enacted, etc., That all claims of whatsoever nature which the Sisseton and Wahpeton Bands of Sioux Indians may have or claim to have against the United States shall be submitted to the Court of Claims, with the right to appeal to the Supreme Court of the United States by either party, for the amount due or claimed to be due said bands from the United States under any treaties or laws of Congress; and jurisdiction is hereby conferred upon the Court of Claims to hear and determine all claims of said bands against the United States and to enter judgment thereon. If any such question is submitted to said court it shall settle the rights, both legal and equitable, of said bands of Indians and the United States, notwithstanding lapse of time or statute of limitations. Such action in the Court of Claims shall be presented by a single petition, to be filed within one year after the passage of this act, making the United States a party defendant, which shall set forth all the facts on which the said bands of Indians base their claims for recovery; and the said petition may be verified by the agent or authorized attorney or attorneys of said bands, to be selected by said bands and employed under contract approved by the Commissioner of Indian Affairs and the Secretary of the Interior, in accordance with the provisions of existing law, upon information or belief as to the existence of such facts, and no other statements or verifications shall be necessary. Official letters, papers, reports, and public records, or certified copies thereof, and oral testimony, depositions, and sworn statements by members of said bands of Indians may be used as evidence. Whatever moneys may be found due the Sisseton and Wahpeton Bands of Indians under the provisions of this act, less attorney's fees, shall be placed to their credit in the Treasury of the United States: *Provided*, That the compensation to be paid the attorney or attorneys for the claimant Indians shall be determined by the Secretary of the Interior, but in any event shall not be greater than the amount named in the approved contract: *Provided further*, That such compensation shall in no event exceed $15,000.

The amendments were agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

GLACIER NATIONAL PARK, MONT.

Mr. WALSH. I ask unanimous consent for the present consideration of the bill (S. 5433) to amend an act entitled "An act to establish the Glacier National Park in the Rocky Mountains south of the international boundary line, in the State of Montana, and for other purposes," approved May 11, 1910. The bill was reported from the Committee on Public Lands on Tuesday last, the 2d of June.

The VICE PRESIDENT. Is there objection to the present consideration of the bill?

Mr. SIMMONS. Mr. President, I shall not object to the request, provided no debate follows——

Mr. WALSH. I should not ask unanimous consent otherwise.

Mr. SIMMONS. But I give notice at this time that I shall object to further requests for unanimous consent to consider bills this morning.

Mr. SHAFROTH. I should like to know the nature of the bill before consent is given.

Mr. WALSH. The bill, Mr. President, provides for the exchange of land held in private ownership within the Glacier National Park in the State of Montana for dead, decadent, and matured timber within the park, and for the exchange of lands held in private ownership within the park for lands within national forests outside of the park, the exchange to be made by the Secretary of the Interior; but if the lands are selected outside, the selection to be made only with the approval of the Secretary of Agriculture.

I will state, Mr. President, to the Senate the immediate purpose of the bill. The Glacier National Park is entered from the western entrance at Belton by a magnificent boulevarded road 3 miles long to the lower end of the central feature of the park, Lake McDonald. That road is bordered by a magnificent grove of cedar trees. I should like to give you some kind of an idea of the beauty and grandeur of the cedars in that section of the country, but I will not take time now further than to say that many of them are at least 20 feet in circumference and tower to a height of a hundred feet, with magnificent spreading branches. This beautiful grove of cedars, just on the border of this boulevarded road, is on land held in private ownership. The owner of the land, as a matter of course, desires to avail himself of the timber upon it, but he is also desirous of preserving the beauty of the park. He does not want those trees destroyed, and he offers to exchange that land for dead, decadent, and matured timber somewhere else in the park, to be designated by the Secretary of the Interior. We desire to have an opportunity to make that exchange, and thus preserve the beauty of the scenery through which the road passes.

Mr. THOMAS. Mr. President, I should like to inquire of the Senator from Montana whether the Northern Pacific Railroad Co. owns any lands in this park, to be exchanged for other lands?

Mr. WALSH. No, Mr. President; it does not own any; nor does any railroad company.

Mr. THOMAS. Of course, the Senator well knows that large amounts of worthless railroad lands have been intentionally included in a great many of these reserves and parks which have afterwards been exchanged for the finest timberland in the country. Inasmuch as there is just a little of it left outside of the lands which thus far they have been able to secure under the operations of the forestry system, I am a little suspicious of all bills of this character.

Mr. WALSH. The question of the Senator is quite pertinent, and I am very glad to assure him that the Northern Pacific grant does not extend that far. The Northern Pacific Co. owns no land within the park.

The VICE PRESIDENT. Is there any objection to the present consideration of the bill?

Mr. SHAFROTH. Mr. President, this bill does not affect the exchange of lands in any other place than in the State of Montana?

Mr. WALSH. None except those within the Glacier National Park. It is intended to preserve the trees that line the routes of travel within the park.

Mr. SMOOT. Mr. President, I notice there is no report from the department on this bill. Does the Senator know whether or not it has been passed upon by the different departments?

Mr. WALSH. The Senator will find there is a report. The report of the committee says:

> The necessity for the legislation contemplated by this bill is suggested in the Annual Report of the Secretary of the Interior for the fiscal year ended June 30, 1912, wherein he discusses the matter of securing title to private holdings in the various national parks.

I speak from personal knowledge of every feature of the park and the particular grove of trees that it is intended thus to preserve.

Mr. SMOOT. I think myself the object of the bill is a worthy one, and I have no objection whatever to its provisions.

The VICE PRESIDENT. Is there any objection to the present consideration of the bill?

Mr. SIMMONS. Mr. President, I make the reservation that I indicated a few moments ago.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill, which was read, as follows:

Be it enacted, etc., That the Secretary of the Interior, for the purpose of eliminating private holdings within the Glacier National Park and the preservation intact of the natural timber along the roads in the scenic portions of the park, both on patented and park lands, is hereby empowered, in his discretion, to obtain for the United States the complete title to any or all of the lands held in private or State ownership within the boundaries of said park, by the exchange of dead, decadent, or matured timber that can be removed from any part of the park without affecting the scenic beauty thereof or from the Government lands within the metes and bounds of the national forests within the State of Montana, and also, in his discretion, to exchange for patented lands in the Glacier National Park Government lands of equal value within the metes and bounds of the national forests within said State: *Provided, however*, That the lands in the national forests to be offered in exchange shall be determined by the Secretary of Agriculture.

SEC. 2. That the value of all patented lands within said park, including the timber thereon, offered for exchange, and the value of the timber on park lands, or on Government lands within the metes and bounds of the national forests within the State of Montana, proposed to be given in exchange for such patented lands, shall be ascertained in such manner as the Secretary of the Interior and the Secretary of Agriculture may jointly in their discretion direct, and all expenses incident to ascertaining such values shall be paid by the owners of said patented lands; and such owners shall, before any exchange is effective, furnish the Secretary of the Interior evidence satisfactory to him of title to the patented lands offered in exchange; and if the value of timber on park lands or on the Government lands in the national forests within the State of Montana exceeds the value of the patented lands deeded to the Government in exchange, such excess shall be paid to the Secretary of the Interior by the owners of the patented lands before any timber is removed, and shall be deposited and covered into the Treasury as miscellaneous receipts. The same course shall be pursued in relation to the exchange of patented lands in the park for Government lands in the national forests within said State: *Provided*, That the lands conveyed to the Government under this act shall become a part of the Glacier National Park.

SEC. 3. That all timber on Government lands in the park must be cut and removed under regulations to be prescribed by the Secretary of the Interior, and any damage which may result to the roads or any part of the park or the national forests in consequence of the cutting and removal of the timber therefrom shall be borne by the owners of the patented lands, and bonds satisfactory to the Secretary of the Interior and the Secretary of Agriculture, jointly, must be given for the payment of such damages, if any, as shall be determined by the Secretary of the Interior so far as the same relates to lands within a national park and by the Secretary of Agriculture where the same relates to lands in the national forests.

Mr. CLARK of Wyoming. Mr. President, this seems to be almost entirely a local matter; therefore, I shall not oppose the bill. I do wish, however, to call attention at this time and in connection with this bill to the manipulations that are constantly going on in regard to our forest reserves, of which this is but another sample.

Many of the western Members of Congress and Senators have protested against the creation of so many of these forest reserves. They have been met by the forest reservists and others with the argument that the timber is absolutely necessary; that it should be protected for the future; and that the forest reserve embraces country that should not pass into private ownership under any circumstances. It has also been urged that land within the forest reserve, whenever it should be discovered to be available for agricultural purposes, should be thrown out of the reserves and made subject to agricultural purposes.

I understand from the Senator from Montana that this bill meets the approval of the departments of the Government. It is simply and solely an exchange by which private individuals are allowed to go into the national forests and acquire public lands. It seems to me that it is not consonant with the avowed purpose of the Forestry Service, in meeting objections, that when lands should be found to be not necessary for forest reserves they should be passed into private ownership through the operation of the general land laws.

It seems, however, that in the national forests of Montana there are areas, large or small, which the Forestry Service do not consider necessary for the purposes of that service and the purpose for which the forests were originally reserved, and this bill proposes to exchange those lands for patented lands now held within the Glacier National Forest. It is only of a piece with the sort of legislation and manipulation that has been going on in regard to the public lands, forested and unforested, in the West and Northwest.

I desire to enter this statement now so that it can not be assumed by anybody that the effect of this bill is not understood.

It is understood, and perhaps at some future time attention will be called to it.

Mr. SHAFROTH. Mr. President, I should like to ask the Senator before he takes his seat whether or not this bill simply limits the exchange to a national park. I do not like the idea of the ordinary forest reserves——

Mr. CLARK of Wyoming. No; as I understand—and if I am incorrect, the Senator from Montana will correct me—the bill provides that the Secretary of the Interior may exchange lands now in private ownership in the Glacier National Park for dead or matured timber in the park, or may exchange it for other lands in national forests in Montana. I think that is what the bill provides.

Mr. WALSH. The Senator has correctly stated the substance of the bill.

Mr. SHAFROTH. I do not see any objection, if the Government is going to have a national park out there, to its having absolute control of every foot and every acre of it. I am very much opposed to that policy as applied to the ordinary forest reserves, because they are supposed to be open to entry for homesteaders, and also for mining; and for that reason there is no occasion for any such exchange as to forest reserves. As to a park, however, it seems to me that it occupies a different position from a forest reserve, because there the Government is supposed to exercise jurisdiction and sovereignty over it. A national park is something of which it has control in every respect, whereas in forest reserves the Government is not supposed to have that control.

Mr. CLARK of Wyoming. I think the Senator from Colorado hardly understood my view upon the matter. I am not objecting to the Government getting under its administration and control and owning all the land within the borders of the Glacier National Park. I think that is proper; I think it is right for the proper administration of the park which has been created. I am, however, calling attention to the fact that the department and the Forestry Service are now saying that they are willing to let private individuals come in and acquire portions of the national forests. We have insisted all the time that if there are any portions of the national forests that are not absolutely required for the purposes for which they were created, they should be thrown open to the general public, and that a man should not be given an advantage simply because he owns a piece of land in a national park. That is the statement I wish to make.

Mr. SHAFROTH. I will state to the Senator that I am heartily in accord with that. I think it is proper.

Mr. SIMMONS rose.

Mr. WALSH. Mr. President, if the Senator will indulge me, we can dispose of this bill, I think, in just a few moments.

I merely desire to say that I trust no Senator will regard this as in any sense a local matter. The preservation of the beauty of the Glacier National Park as a national park is most distinctly a national consideration in the very highest sense. I trust that most of us shall live to see the day when that region, very appropriately spoken of as the Switzerland of America, will attract annually the great crowd of tourists who flock to the real Swiss mountains instead of visiting the beauties of our own country as they are there disclosed.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, and read the third time.

Mr. GALLINGER. Mr. President, before the bill is passed I simply wish to say that I have no objection to it, but I do object to the Senator from Montana taking from New Hampshire the appellation of "the Switzerland of America."

The VICE PRESIDENT. The question is, Shall the bill pass?

The bill was passed.

PANAMA CANAL TOLLS.

Mr. O'GORMAN. I ask that the tolls bill be laid before the Senate.

There being no objection, the Senate, as in Committee of the Whole, resumed the consideration of the bill (H. 14385) to amend section 5 of an act to provide for the opening, maintenance, protection, and operation of the Panama Canal and the sanitation of the Canal Zone, approved August 24, 1912.

Mr. STONE. Mr. President, I take advantage of this occasion to say what I wanted to say yesterday.

Mr. BRISTOW. Mr. President, will the Senator from Missouri yield to me for just a moment, for a resolution?

Mr. STONE. I will.

THE COMMITTEE ON CUBAN RELATIONS.

Mr. BRISTOW. Mr. President, I submit a resolution and ask for its immediate consideration. I desire to say that it requires no appropriation to provide for these clerks, for it is already provided in the appropriation bill.

Mr. STONE. Mr. President, I will say to the Senator that I have no personal objection to it, but I rather think that can not be done under the rules.

Mr. BRISTOW. If the Senator was making a speech, that is perhaps true, but I did not think the Senator had begun his speech.

Mr. STONE. I had addressed the Chair. I make no objection, however.

The resolution (S. Res. 387) was read, considered by unanimous consent, and agreed to, as follows:

Resolved, That the Committee on Cuban Relations be, and it hereby is, authorized to appoint a clerk, at $2,220 per annum; an assistant clerk, at $1,440 per annum; and a messenger, at $1,200 per annum.

PANAMA CANAL TOLLS.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 14385) to amend section 5 of an act to provide for the opening, maintenance, protection, and operation of the Panama Canal and the sanitation of the Canal Zone, approved August 24, 1912.

Mr. O'GORMAN. Mr. President, do I understand that the tolls bill is now before the Senate?

The VICE PRESIDENT. It is. The Senator from Missouri [Mr. STONE] has the floor.

Mr. CUMMINS. Mr. President, will the Senator from Missouri yield to me?

Mr. STONE. Mr. President, the Senator from Iowa was not present when the bill was laid before the Senate, and I had addressed the Chair with the intention of making some remarks. The Senator had the floor at adjournment yesterday, and if he especially desires to proceed at this time I will yield.

Mr. CUMMINS. I am perfectly willing that the Senator from Missouri shall make the address that he has it in mind to make. I assume that it is not upon the tolls bill.

Mr. STONE. No; it is not.

Mr. CUMMINS. The Senator very kindly yielded to my appeal yesterday morning, and I do not feel that I ought to interpose any obstacle in the way of his making the address this morning. Therefore I shall very gladly wait until the Senator from Missouri has finished.

Mr. SMOOT. Mr. President, I suppose the Senator from Iowa will not object to one or two other Senators following the Senator from Missouri?

Mr. CUMMINS. No, Mr. President; I will not. I realize the fairness and justice of the discussion being completed when once begun. I hope, however, that if I do not go on now, I shall not be required to go on until Senators have had an opportunity to get their lunch. I do not care to speak while they are eating.

Mr. STONE. Mr. President, on May 23 the Senator from Washington [Mr. JONES] presented a resolution calling on the Postmaster General to furnish the Senate with complete information respecting the resignation, discharge, and demotion since March 4, 1914, of employees in his department and in the Washington City post office who had ever served in any war of the United States, together with their efficiency ratings.

On Monday last the Postmaster General made his reply to this resolution, submitting the information called for. This resolution was the outgrowth of a "teapot tempest" raised by a rather odd combination of people in Washington over the alleged dismissal of 18 or 20 old Civil War veterans—that was the indefinite number stated more than once in the press—who had been employed in the Post Office Department and in the Washington City post office.

Several partisan newspapers, one or two partisan local Grand Army officials, and a lot of Washingtonians who are seeking to force the enactment of a law to pension civil employees of the Government have worked in concert to stir up a popular feeling against this administration because of these alleged dismissals, and thus force along the larger scheme for civil pensions. Public meetings have been held which have adopted denunciatory resolutions, and a number of newspapers have been filled with pictorial and printed stories to show that a great outrage has been committed. But back of all this furor has been a purpose, starting with using the names of old, decrepit soldiers to promote this civil-pension proposition. This propaganda has been apparently managed by one Fulton R. Gordon, a gentleman whose time seems to be chiefly employed in promoting various schemes out of which he gets a lot of free advertising, even though he may get nothing else.

Mr. GALLINGER. I did not understand the gentleman's name. Will the Senator repeat it?

Mr. STONE. Fulton R. Gordon.

Mr. GALLINGER. He is a lawyer here.

Mr. STONE. He has a long tin horn which he toots from day to day, gathering promiscuous crowds before whom he

shows himself that he may exploit his beneficent deeds arduously done for the public good.

One of his fads now is the civil-pension fad, his noble purpose being to organize and lead on a valiant fight to pension a great body of people who have been in the civil service of the Government, drawing salaries, for many years. For evident reasons we know it is not a difficult task to arouse a responsive sentiment in Washington to a movement of that kind.

When this story about the discharge of these old soldiers was started Mr. Gordon was in the front of it, clamoring for the restoration of these scarred veterans of war, and hoping out of the fuss and fume to find a chance for promoting his larger scheme for a civil-pension law.

On Monday night last a meeting was held here in Washington to consider this whole subject, over which Mr. Gordon presided as permanent chairman. According to the press reports, he was full of ardor and the glowing fire of a great enthusiasm. He made a speech to this meeting, from which I quote:

> We are going to take this battle to headquarters. We are not going to allow these old men to be made the sport and toy of politicians. * * * Furthermore, we will not allow the aged civil-service employees of Washington to be the coin with which political debts may be paid back home.

He speaks with the high tone of one in authority. He is dictatorial, and seems determined, willy-nilly, to force Congress into obedience. Whether there is merit in this propaganda, I will not say. Indeed, there may be. We can better discuss that, however, after Mr. Gordon has marched in under the dome of the Capitol and laid down his ultimatum at the door of the Senate. I wish now merely to say that it is easy to make a noise if men are permitted to invent their facts, to exaggerate and discolor the truth, and can find sympathetic newspapers to do the necessary exploiting. The sensational publications with which this community and other communities have been recently flooded have led many people to believe that 18 or 20 old soldiers had been, in fact, peremptorily and arbitrarily dismissed from the service of the Post Office Department since the 4th day of last March. That impression has been scattered through the country. Now, what are the real facts? Not a soldier—not one—has been dismissed or demoted in the Post Office Department since March last. Not only so, but, with one exception, not a soldier who ever served in any war on any side has been dismissed or demoted in the Post Office Department since Woodrow Wilson was inaugurated as President on March 4, 1913. The one exception was that of George Marshall, a colored laborer in the department, who served in the Spanish-American War. He was demoted from $720 per year to $660 per year as a disciplinary measure because he had been guilty of the excessive use of intoxicants; but this demotion was with the understanding that he would be restored to his former grade at the expiration of two months provided he should abstain from the use of liquor. Accordingly on May 24, that being the end of the two months' period, he was restored to his former position. That is the only instance of the dismissal or demotion of an ex-soldier serving in the Post Office Department during this administration.

Now, as to the Washington City post office. This post office, of course, stands on the same plane of any other city post office. The postmaster, Mr. Praeger, reports that since March 4, 1914, six Union soldiers employed in the city post office have resigned, two have been dropped from the rolls, and one reduced from $1,000 to $800 per year; also, that one ex-Confederate soldier had been reduced from $1,000 to $800 per year. That covers the whole case since March 4, 1914. Prior to that only one other ex-soldier serving in the Washington City post office had been dismissed or demoted since the incoming of the Wilson administration. That one was Henry L. Johnson, whose salary was reduced in 1913, when the postmaster was a Republican. This reduction was based on charges contained in a letter from Mr. Fulton R. Gordon—the same Gordon who now cries out so vociferously against the crime of demoting an employee who has ever served in the Army of the United States.

From all this it will be seen that since this administration began, 15 months ago, 6 ex-Union soldiers have resigned, 2 have been dropped without their consent, and 2 have been demoted, making 10 in all. One ex-Confederate soldier has also been demoted, as I have stated. There are very few ex-Confederates in the departmental service or in the city post office. Postmaster Praeger states in his letter to the Postmaster General, printed in Monday's RECORD, that all these changes, except in the case of Henry L. Johnson, demoted on Gordon's charges, resulted from a necessary reorganization of the Washington City post office, when a large number of changes were made in the clerical force, the reasons for which are clearly stated in Mr. Praeger's letter. I will ask leave to print as a supplement to these remarks a table furnished by Mr. Praeger, explaining in each individual case why the changes were made. An examination of this table will show that, considering the number of ex-soldiers employed in the Washington post office, the per cent of soldiers affected by the reorganization was small. So much for the facts.

Now, I wish to make a few general observations with reference to this matter. I cordially agree that the Government and people of the United States should deal generously with the men who have endured suffering and honorably imperiled their lives in the military service of the United States. No matter in what war our soldiers fought, it is the patriotic duty of the American people to care for them with tender and generous hands; and that, happily, this Government and people have done. No other nation in the whole history of the world has ever even approached the liberality which this Nation has displayed in caring for those who have fought and suffered under the American flag. We have allowed liberal pensions not only to the men who wore the national uniform, but to their widows and dependents even unto the second and third generations. Pensions have been allowed not only to those who served in the regular organizations in times of war or peace, but also to many who, when the stress of war was on, rendered service to the Government outside of any regular organization. Thousands upon thousands of special bills have passed Congress to pension men who could not establish a legitimate claim under the terms of the law. Since 1866 the United States have paid out in pensions $4,586,966,346.

In 1913 $176,714,907 were appropriated for the current fiscal year, and the report of the Commissioner of Pensions for that fiscal year shows that there are on the pension rolls at this time 820,200 persons, and this more than 50 years after Fort Sumter was fired upon. In addition to that, the United States have established 10 or 12 homes and branch homes for Federal soldiers in different parts of the country. These soldiers' homes are established on a magnificent scale. One of them near this city embraces a broad, picturesque domain of several hundred acres beautifully improved in every way, and with quarters on a splendid scale for the accommodation and comfort of the inmates. Recently I had occasion to visit the home at Hampton, Va., on the shores of Chesapeake Bay, which is one of the most beautiful and attractive spots in all the South. No expense is spared to make these places real and attractive homes for the old men who enjoy their hospitalities. For the support of these establishments we appropriated for the current fiscal year ending June 30, 1914, the munificent sum of $3,981,265. In addition to this, many of the States have provided State homes, run, for the most part, at State expense, as agreeable habitations for the old soldiers living within their borders. We have one such home in my State of Missouri. For this Federal soldiers' home the State makes annual appropriations. The General Government aids the States in the maintenance of these establishments. During this fiscal year we have appropriated for that purpose $1,200,000. Altogether, for the support of soldiers' homes, State and National, we are now appropriating out of the Federal Treasury between $5,000,000 and $6,000,000 per year. In addition to all that, we have enacted laws which give to old soldiers in the civil employment of the Government privileges and preferences not common to the people at large. Yes, Mr. President; the American people have been appreciative of the services rendered the country by the men who have borne arms in its defense. Far from begrudging this generous action, I applaud the patriotic American spirit which has prompted it.

But, Mr. President, we have no civil pension law nor civil pension list—at least, not yet. It may be that in the near future the Government, moved thereto by Fulton R. Gordon and like effervescent patriots, will be prevailed upon to load an additional burden of multiplied millions upon the taxpayers for the support of men and women who have long been favored with positions with good salaries in the civil service of the Government. But so far civil pensions have not been authorized; but to the contrary we now have, at least for the regulation of the Post Office Department, a law against civil pensions. By an act of Congress approved April 1, 1909, it is provided that—

> The establishment of a civil pension roll or an honorable service roll, or the exemption of any of the officers, clerks, and persons in the Postal Service from the existing laws respecting employment in such service, is hereby prohibited.

Now, what would you do with an old soldier employed in the civil service who becomes incapacitated? What would you do with a man who becomes mentally or physically so infirm as to be unable to perform with efficiency the duties of the place he may hold? Suppose a man should be paralyzed so that he lost the use of both hands and arms, what would you do with him? Suppose one became stone blind in both eyes, what would you do with him? Suppose one became old, infirm, and so utterly deaf that he could only be communicated with by writing, what would you do with him? Suppose one should be afflicted

with a contagious or infectious disease, such as malignant cancer, what would you do with him? Such cases are cited by the Washington City postmaster in his communication printed in the RECORD. Would you allow these unfortunate men to hold their desks nominally, and crowd them into rooms occupied by numerous associate clerks and maybe subject them to the danger of disease? What would you do in such cases? If a man is incapable of performing the service for which he is employed, but is still kept on the pay roll, would not that be in effect a civil pension—a civil pension added to his military service pension—and would that not be in violation of the statute of 1909, which I have quoted? Of course, we sympathize with those who have grown old, infirm, and incapacitated, whether they have served in the Army or not; but there is no provision made by the law to care for them, except in the case of soldiers who draw a pension for military service and who can enter a soldiers' home if necessary. In the meantime it should not be forgotten that the public work must go on if the Government is to be effectively administered. If a man who can not perform the duties of his position is kept at his post, then the public service must suffer. If the work committed to an employee, man or woman, is important, then it must be efficiently performed, or else the public service will be impaired. If the work is useless or unnecessary, then it would be a waste of public funds to continue it. The executive departments were not intended to be eleemosynary institutions. Mr. President, men should be reasonable, and I think the people generally will be reasonable, about matters of this kind. Strive as they may, it will be a difficult task for any set of men to inflame the public mind against the Government or the administration, when only things reasonable and fair and just are done. In this connection it is apropos to call attention to this provision of an act approved March 4, 1913, as follows:

That the appropriations made for the officers, clerks, and persons employed in the public service shall not be available for the compensation of any persons incapacitated, otherwise than temporarily, for performing such services.

Is not that a proper and just law, and is it not in the public interest? Mr. President, partisanship may cut fantastic capers before the country, but not many people will be misled by fustian intended to deceive. The people are quick to detect a pretense. One might suppose from the sensational partisan accounts printed during the last month that no old soldiers had ever been dismissed or demoted, and that no resignations had ever been accepted, until since the Wilson administration was inaugurated; but all these things were done under Taft, under Roosevelt, and under previous administrations. I hold in my hand a list showing the demotion in 1911 of 15 old soldiers in the Post Office Department alone. I ask leave to insert this table at the end of my remarks.

The VICE PRESIDENT. Without objection, permission to do so is granted.

The paper referred to will be found at the end of Mr. STONE'S remarks.

Mr. STONE. Mr. President, these 15 demotions of Civil War veterans occurred, mind you, not in the Washington City post office, but in the Post Office Department itself, and occurred under a Republican Postmaster General; and here I call special attention to the fact that on July 1, 1913, 2 of the 15 men demoted—L. S. Mortimer and A. Anderson—were restored by Postmaster General Burleson to their former positions and salaries. No one heard any roar from Fulton R. Gordon or Dr. Cleeson or any other man about these demotions in 1911, nor did you hear any roar from anybody about demotions, dismissals, or resignations in the Post Office Department or any other department during any year of former Republican administrations. Of course not, for that was a gray horse of another color. It appears to have been all right in the estimation of these men and papers who assail Gen. Burleson if a Republican Postmaster General demoted or fired employees who had seen service in the field.

Mr. GOFF. Mr. President——

The VICE PRESIDENT. Does the Senator from Missouri yield to the Senator from West Virginia?

Mr. STONE. Yes.

Mr. GOFF. Does the table to which the Senator from Missouri alludes, relative to the resignation of these soldiers, give information as to the number of requests for resignation that were made during the present fiscal year?

Mr. STONE. No; I think not. The table contains several columns under proper headings, stating the facts.

Mr. GOFF. I desire simply to know whether or not the information which the Senator has shows the requests that were made by the department for resignations?

Mr. STONE. I will undertake to say that the department has not requested the resignation of any man.

Mr. GOFF. I mean, as a matter of course, those in authority over the parties who did resign.

Mr. STONE. The table, to which I suppose the Senator from West Virginia refers, was prepared by Mr. Praeger, the postmaster of Washington City, which I have asked and obtained leave to insert at the end of my remarks, and which, of course, the Senator may examine.

Before closing there is one other thing of more immediate concern to the Senate to which I might allude. When some 14 or 15 years ago the Republicans regained control of this body they speedily fired Democratic Senate employees, whether ex-soldiers or not, and substituted Republicans. Only the other day—in fact, during the present week—an old ex-Civil War veteran from Ohio, who was severely wounded in battle, told me that he was dismissed from the position he held as a Senate employee to make room for a Republican ex-soldier whom Senator Dick, of Ohio, desired to have appointed. The name of this soldier is James W. Byrne, now residing in Washington. He is a Democrat, and he told me that he was discharged solely to make room for a Republican. After you Republicans had about cleaned the platter, and when at a later period the weather began to grow squally for you and Democratic prospects were brightening you passed this resolution in the Senate:

Resolved, That the Secretary of the Senate and the Sergeant at Arms of the Senate are hereby directed to retain in the employ of the Senate those persons who served in the Union Army during the late Civil War and whose service in the Senate is necessary and satisfactory and who are not otherwise provided for, and to continue such persons in their positions until cause for their removal shall have been reported to and approved of by the Senate and their removal directed.

July 11, 1911, is the date of that resolution. When the Democrats recovered control of the Senate, on March 4, 1913, we found 30 ex-Federal soldiers on the Senate pay rolls. Since then 2 of these 30 employees have voluntarily resigned and 2 have died. Of the remaining 26 only 1 is a Democrat and 25 are Republicans. But we have let the resolution of 1911 stand. We have made no effort to repeal it or to modify it. These 25 Republicans remain, although some of them are so old and feeble that long leaves of absence have been necessary and have been granted. Still they have been retained on the roll. This situation affords a striking contrast and shows how much greater consideration Democrats pay to old soldiers, without regard to politics, than Republicans accord them.

Mr. President, all these things are well calculated to make reasonable men who believe in fair and honorable fighting exceedingly fatigued and somewhat painfully weary over such outbursts as have recently regaled our ears. I wanted to say this much so that the Senate, the press, and the country might have some reliable information respecting these matters about which such a hullabaloo has been made. And yet, after all, I can not much blame Republicans. Since they are so hard pressed and can find no serious mistakes to criticize and no large things to complain of, they must of necessity invent something, even though very small, to quarrel with us about. But, as usual in such cases, the "thunder in the index" dwindles into a low, muffled growl as the story unfolds under the subduing light of truth.

The matter referred to by Mr. STONE is as follows:

Reductions of Civil War veterans during the year 1911, Post Office Department.

Name.	Date.	From—	To—
J. B. Moulton	Jan. 1, 1911	$1,400	$1,200
W. E. Nye	do	1,400	1,200
D. M. Gould	Mar. 16, 1911	840	720
C. B. Dickey	do	2,000	1,800
L. S. Mortimer [1]	do	1,600	1,400
H. A. Kelly	Dec. 16, 1910	2,000	1,600
H. Sherwood	Mar. 16, 1911	1,600	1,400
A. Anderson [2]	do	1,400	1,200
J. E. McCabe	do	1,600	1,400
J. Burroughs	Oct. 1, 1910 Mar. 16, 1911	1,800 1,400	1,400 1,200
W. A. MacNulty	Jan. 1, 1911	1,600	1,200
A. H. G. Richardson	Mar. 16, 1911	1,600	1,400
E. L. Richmond	Jan. 1, 1911	1,600	1,400
G. W. Smith	Mar. 16, 1911	1,600	1,400
S. R. Strattan	do	1,400	1,200

[1] Promoted July 1, 1913, to $1,600. [2] Promoted July 1, 1913, to $1,400.

MAY 28, 1914.

Hon. POSTMASTER GENERAL,
Washington, D. C.

SIR: Supplementing my letter of this date, giving the information called for in the Senate resolution of May 23, I herewith transmit a complete list of all demotions and separations from the service resulting from the reorganization of the Washington post office. In this connection I would call attention to the fact that the ratings given are misleading and valueless as an indication of the value of the employee to the Postal Service, inasmuch as the ratings generally took into consideration the past history and past standing of the superannuated employees, particularly war veterans.

The complete list is hereto attached.

Very respectfully, OTTO PRAEGER, *Postmaster.*

EMPLOYEES RESIGNED.

Name.	Salary.	Age.	Years of service.	Rating.	Character of work.	Remarks.
Mrs. Grace W. MacPherson	$1,600	46	13	75	Addressing pay envelopes	Stricken paralysis Oct. 2, 1912, and only partially recovered. Services of no value; kept on pay roll for half-day service from Apr. 28, 1913, to May 15, 1914. All her work had to be reviewed. Transferred from Moorestown, N. J., Sept. 1, 1900.
Mrs. May Barlow	900	72	(1)	(2)	Lightest work in directory service and stamping postmaster's name on cards.	Services entirely valueless and work unsatisfactory. Transferred from Post Office Department Oct. 30 1913.
Bliss N. Davis	1,800	43	(3)	(4)	1 of 2 assistant superintendents in money-order division.	Efficient, but unnecessary to the service and no place to put him. Transferred from Post Office Department July 1, 1913.
William A. Hutchins	1,200	77	19	84.8	Stamp clerk at Station A	Position abolished and services unnecessary. Appointed Nov. 24, 1894.
Mrs. Elizabeth Mainwaring	1,000	38	(1)	61.2	Directory searcher	Inefficient and services unnecessary. Excessive number of clerks on this work. Transferred from Post Office Department Oct. 8, 1913.
Mrs. Jennie W. Coleman	900	56	(1)	69	.....do	Same remarks as next above in every particular.
Miss Augusta L. Smith	1,100	47	11	82	.....do	Services unnecessary. Appointed Feb. 27, 1903.
Reuben T. Reeve	1,200	77	14	87.9	.....do	Services unnecessary. Transferred from Nyack, N. Y., July 1, 1899.
Miss Mary R. Sheets	1,000	71	12	85	.....do	Services unnecessary. Position abolished. Transferred from Philadelphia, Pa., Jan. 2, 1902.
Wm. E. Tew	900	74	37	78.4	Cutting table	Services unnecessary. Incapacitated by complete deafness and age. Appointed Dec. 13, 1876.
Samuel R. Strattan	1,200	74	(1)	85	Work in "Nixe" room, on misdirected packages.	Unnecessary. Transferred from Post Office Department, Oct. 8, 1913.
Gustav A. Knabe	1,000	70	31	65	Custody and care of hand stamps for postmarking mail, etc.	Services unnecessary Appointed June 13, 1882.
Augustus Ridgely	1,100	78	51	69.1	Work in "Nixe" room, on misdirected mail.	Inefficient, due to advanced age. Appointed January, 1863.
Joseph Randall	1,200	77	47	94.6	Cutting table	Services unnecessary. Appointed May, 1867.
William W. Nottingham	1,200	65	31	80	Canceling and dispatch of mails	Services unnecessary. Appointed Mar. 22, 1883.
J. J. B. Lerch	900	81	51	59.2	Opening and distributing sacks of "Nixe" mail matter, and helping on returning undeliverable mail.	Unsatisfactory and unnecessary. Incapacitated by age. Appointed Apr. 13, 1863.
Andrew A. Davis	720	74	11	88.5	Picking up paper from approaches to building.	Inefficient by reason of advanced age and infirmities. Appointed Sept. 15, 1902.
Guylott W. Bird	720	77	14	90	Watchman in carpenter shop	Unnecessary and incapacitated by age. Appointed Sept. 1, 1899.

EMPLOYEES DROPPED.

Dean, George	$1,200	69	41	88	Cutting table, and reviewing mail for Senators and Representatives.	Incapacitated by affliction. Also, services unnecessary. Appointed Sept. 5, 1872.
William W. Mills	1,200	77	42	88	Cutting table, and carrying inward letter mail to distributors.	Incapacitated by affliction. Also, services unnecessary. Appointed Apr. 9, 1872.
Charles White	720	68	21	75	Laborer at station	Services of little or no value, due to advanced age and infirmities. Appointed Aug. 22, 1892.

(1) Only 7 months.
(2) Only 11 months.
(3) Transferred to post office at Alexandria, Va., May 15, 1914.
(4) No rating, on account of short period of service in this office.
(5) No rating; supervisory officers not rated.

EMPLOYEES REDUCED IN SALARY.

Name.	Former salary.	Reduced to—	Age.	Years of service.	Rating.	Character of work.	Remarks.
George T. Galleher	$1,100	$800	68	32	85	Witness in opening remittance letters	Overpaid for character of service rendered. Appointed July 11, 1881.
John J. Hill	900	800	71	39	70	Watchman, special delivery section	Overpaid. Incapacitated by age and physical infirmities. Appointed May 1, 1875.
Harrison Wilson	900	800	73	31	70	.....do	Overpaid and incapacitated by age. Appointed Sept. 15, 1882.
John N. Mitchell	1,100	800	77	44	85	Employed in inquiry section on simple work.	Overpaid for character of service rendered. Appointed July 1, 1869.
Edward L. Rosse	1,400	1,200	63	30	99.8	Clerk, Registry Division	Overpaid for character of work performed. Transferred from Patent Office June 11, 1883.
Miss F. L. Hamilton	1,400	1,200	66	46	100	.....do	Overpaid for character of work performed. Appointed June 1, 1868.
Joshua Gideon	1,000	900	54	29	68.8	Clerk, Registry Division, on simplest kind of work.	Overpaid for character of service rendered. Appointed Aug. 1, 1884.
John B. Quay	1,200	1,000	60	2	87.2	Clerk, Station C	Overpaid for character of service rendered. Transferred from Baltimore, Md., Mar. 28, 1912.
Edward Rouser	1,200	1,000	44	22	83.5	State distribution	Overpaid for character of service rendered. Appointed June 6, 1892.
Philip W. Shippen	1,200	1,000	57	26	80.8	State distribution	Overpaid for character of work performed. Appointed Aug. 17, 1887.
William T. Hutchinson	1,200	1,000	61	31	75.3	Primary separation and dumping paper mail.	Overpaid for character of work performed. Appointed Feb. 15, 1883.
Henry A. Minor	1,100	900	54	22	80	State distribution, Station H	Same as above. Appointed Aug. 5, 1891.
Edwin Campbell	1,200	1,000	69	32	95.5	Box section, Delivery Division	Same as above. Appointed Aug. 1, 1881.
Orville T. Putnam	1,000	800	71	11	75	General station work	Efficiency impaired. Appointed May 1, 1903.
William M. Kennedy	1,100	900	55	29	80	Cutting table	Overpaid for character of work performed. Appointed July 15, 1884.
Herman W. Davis	1,200	1,000	66	40	90	Distributor	Overpaid for character and quality of service rendered. Appointed July 7, 1873.
William Witte	1,100	900	50	21	95	Watchman	Overpaid for character of service rendered. Appointed July 26, 1892.
John Holland	1,200	900	58	31	82.2	Distributor	Overpaid for character and quality of work performed. Appointed Apr. 1, 1883.
Allan R. Searle	1,100	900	57	22	88.1	Cutting table	Overpaid for character of work performed. Appointed Aug. 12, 1891.
James Holmes	1,100	900	60	11	85	.....do	Same as above. Appointed Dec. 29, 1902.
Henry Hood	$1,400	$900	43	13	86.5	.....do	Overpaid for character of work performed. Transferred from Niles, Mich. July 1, 1900.
James F. Johnson	1,000	900	57	31	80	Messenger and utility	Overpaid. Appointed Apr. 18, 1883.
John Biddle	1,200	1,000	66	40	89.3	Directory searcher	Efficiency impaired by advanced age. Appointed July 1, 1873.
Anthony L. Dennison	1,200	900	49	27	89.9	Abbreviated distribution	Overpaid for character and quality o. work performed. Appointed Dec. 15, 1883.

EMPLOYEES REDUCED IN SALARY—continued.

Name.	Former salary.	Reduced to—	Age.	Years of service.	Rating.	Character of work.	Remarks.
William R. Williams	$1,200	$900	58	8	91.8	State distribution	Overpaid for character of work performed. Transferred from Norfolk, Va., Sept. 16, 1905.
Charles C. Miller	1,200	900	52	14	85.9	....do	Same as above. Appointed Oct. 4, 1899.
Percival Marshall	1,200	900	40	15	90.8	Minor station work	Overpaid. Appointed Dec. 1, 1898.
Harry L. Walcott	1,200	1,000	52	32	74.7	Simple distribution	Overpaid. Appointed Apr. 1, 1882.
Charles W. Seville	1,100	1,000	43	19	93.6	....do	Overpaid. Appointed Feb. 9, 1894.
Thomas W. Short	1,000	900	43	(1)	85	State distribution	Overpaid for character and quality of work performed. Transferred from Post Office Department Nov. 5, 1913.

[1] Only 7 months.

Mr. SMOOT. Mr. President, I think the Senator from Missouri [Mr. STONE] will acquit me of any intention whatever of inflaming the mind of the public or of any particular class of people against the administration. What I have said in relation to the demotion and the discharge of old soldiers—and I now wish to say that I have said very little, indeed—I have said, because I think that a wrong has been done them. I know that I never would treat men who worked for me as long as some of the men discharged have worked for the Government in such a way as they have been treated by the Government, nor would I think, if men had saved my very existence, as the old soldiers did the existence of our Nation, of ever discharging them from my service so long as I had the power to give them employment.

Mr. President, I have read the report made in answer to the resolution of the Senator from Washington [Mr. JONES], and I want to call the attention of the Senate now to the cases reported by the Postmaster General of dismissals and demotions. I shall call them to your attention in detail, but before doing so, I want to call attention to a law that has been passed by Congress, later than the one that was read by the Senator from Missouri, referring particularly to the employment of old soldiers by our Government.

This is the law:

Provided, That in the event of reductions being made in the force in any of the executive departments no honorably discharged soldier or sailor whose record in said department is rated good shall be discharged or dropped, or reduced in rank or salary.

Any person knowingly violating the provisions of this section shall be summarily removed from office, and may also upon conviction thereof be punished by a fine of not more than $1,000 or by imprisonment for not more than one year.

Mr. President, let us take the names of the ex-soldiers who have been dismissed from the service, not in the Post Office Department but in the city post office, as stated by the Senator from Missouri.

Mr. STONE. Mr. President, will the Senator yield to me for a moment before he does that?

Mr. SMOOT. Certainly.

Mr. STONE. The law the Senator read is contained in a proviso in the legislative, executive, and judicial appropriation bill, is it not?

Mr. SMOOT. Yes; of the date of August 23, 1912.

Mr. STONE. It is an appropriation bill. The Senator will observe that it forbids, under penalties, the removal of any soldier serving in one of the executive departments. That is the language of the law. It does not, by any fair construction, relate to the post office.

Mr. SMOOT. Mr. President, the law does not say "executive departments." The law specifically says:

No honorably discharged soldier or sailor whose record in said department is rated good shall be discharged or dropped or reduced in rank or salary.

Mr. JONES. Mr. President, will the Senator permit me a word?

Mr. SMOOT. Yes; I yield to the Senator.

Mr. JONES. The first part of the section of which the proviso the Senator read is a part is as follows:

SEC. 4. The Civil Service Commission shall, subject to the approval of the President, establish a system of efficiency ratings for the classified service in the several executive departments in the District of Columbia based upon records kept in each department and independent establishment——

Mr. SMOOT. Yes; "independent establishment."

Mr. JONES (reading)—

With such frequency as to make them as nearly as possible records of fact.

Then the proviso appears at the close of that section.

Mr. SMOOT. Which, of course, includes the Washington City post office.

Mr. JONES. It includes everything.

Mr. SMOOT. Now, I want to call attention to the name, the age, the length of service, the efficiency rating, and the action taken in each of the cases referred to by the Senator from Missouri, and let the Senate decide for itself whether these men should have been dismissed from the service upon the rating that has been given them. I wish also to call attention to the fact that this rating has been given to them since this administration has been in power.

Take William E. Tew. His age is 74. His length of service is 37 years. His rating is 78.4. "Resigned."

Now, I want Senators to understand that these resignations were not given because the old soldiers desired to resign. They were requested.

Mr. STONE. I should like to ask why they resigned, if, as the Senator contends, the law making it a crime to dismiss them applied to the city post office. Of course I insist that the law does not apply to the city post office, for it says specifically, in words, that they shall not be dismissed from the executive departments.

Mr. SMOOT. No, Mr. President.

Mr. STONE. I have it right before me, and the language is as I have stated.

Mr. SMOOT. Mr. President, if the Senator will allow me to conclude, I am perfectly willing that he shall put in the RECORD the exact words of the law. They have already been put in the RECORD by the Senator from Washington; and I am perfectly willing to have Senators judge whether that language applies only to the executive departments or whether it applies to all of the departments of the Government, including the independent establishments.

Mr. STONE. But the Senator ought not to make such a statement, and insist upon it, when the very language of the law is, "in the event of reductions being made in the force in any of the executive departments."

Mr. SMOOT. I will let the law speak for itself, just as it reads.

Now we will take Samuel R. Strattan. His age is 71. The report says he has a length of service of seven months, with an efficiency rating of 85; "resigned." What are the facts? Mr. Strattan has been in the employment of the Government for nearly 20 long years, working in the dead-letter office in this city. Only seven months ago he was transferred from the dead-letter office to the Washington City post office, and, of course, the record shows that he served only seven months, whereas every Senator who knows him knows that he has been here nearly 20 years, and knows that he is an efficient man. Why, his very rating of 85 proves that he is efficient, and yet he is classed as one who "resigned."

William A. Hutchins; age 77; length of service, 19 years; with a rating of 84.4 per cent.

Joseph Randall; age 77; length of service, 47 years; with a rating of 94.6 per cent.

Mr. SMITH of Michigan. In what department?

Mr. SMOOT. In the Washington City post office, with a forced resignation.

Mr. GALLINGER. Did I understand you to say that those ratings have been recently made?

Mr. SMOOT. They have. All of the ratings have been given since this administration has been in power.

I am not going to go into the record of all, because there is no need of taking the time of the Senate to do so; but I do not believe there is a Senator in this Chamber who will say that a man holding a rating under the civil service of 94.6 per cent is inefficient——

Mr. GALLINGER. With a Democratic commission.

Mr. SMOOT. Or that he should be dismissed, or virtually dismissed, from the service of our Government.

It is true that one of the old soldiers is deaf, and perhaps it is true that every order that is given him by his superior must be given to him in writing. I want to say to the Senators that it was fighting for the preservation of the Government, and it was the roar of cannon that caused that affection. Now,

for efficiency's sake, for economy, this man who offered his life for his country, and through that service brought an affliction of deafness upon himself, must, because there may be a younger and more capable man, be demoted and driven from the service of this Nation.

Mr. President, where a man has worked for this Government, and is a soldier of the Civil War, with a service of 47 years, and there is not a charge against his character, and during that whole time his rating has been good, I do not believe there is a community in all the United States that would justify his dismissal from the service of the Government.

Is it only in the city post office? If it were only these few that I have named, this whole question might have been called a "tempest in a teapot"; but I wish to say to the Senate that it is in nearly all the departments of this Government. Not only that, but it is in the Senate itself.

It is true that there were 30 old soldiers in the service of the Senate when the Democratic Party came into power, and it is true that those who have not resigned and those who have not died are still in the service of the Senate; but what is their position? Every one of them, with the exception of four, has been demoted—demoted from the highest salary of $2,500 to $1,440; from a salary of $2,250 to $1,200; from a salary of $1,440 to $720.

Mr. President, we find right at the doors of this Chamber men who have served in the Civil War, who were wounded in that war, with a service in the war of three years and a service in the Government of nearly a quarter of a century, drawing salaries of $840 a year, while others, doing exactly the same work, guarding the same doors, are drawing salaries of $1,440. It is not that the old soldier who is drawing the $840 does not attend to the doors as well as anyone else, for he does, but it is a change made by the powers that be.

Mr. President, the Senator referred to the fact that there is no law for paying a man when he is inefficient and when he is incapable of performing his duty. How many Senators are there in this body now who do not remember, only three years ago, when there was a committee appointed by this body to consider the question of patronage. Do you not remember that the report to the Senate showed that there were certain individuals who never served one day in the year, who were continually away from Washington, who were drawing a salary? I remember when the vote was taken upon the continued payment of wage to John Jones. He was not in the city; he was absolutely incapable of doing any work; but because he was the bodyguard of Jeff Davis he was allowed to draw his salary, and is drawing it to-day.

If we are going to economize, I believe we ought to begin with the legislative appropriation bill, which will be considered by this body in a very few days, and strike from that bill clerks of Senators who spend very little time in the city of Washington. If we must have economy, let us not begin with the old soldier. Let us not cut him off. I believe the Senator from Missouri himself, if he had a man working for him as long as these men have worked for the Government, would be inclined to take care of him, particularly if he had saved the Senator's home or his family.

The Senator asks, "What would you do with an old soldier who has become physically incapable of performing his labors?" Mr. President, the report that is made to the Senate of the United States from the Post Office Department does not show that they are incapable of performing their duties. A man who holds a rating of 94 per cent is capable of performing his duties. I want to say frankly to the Senate and to the country that as far as I am concerned every old soldier would be kept in his position, even if some other person had to supervise his work, as intimated is the case in the report.

Mr. President, I want to say to the Senate that I have told the people of the intermountain country more than once that the expense of running this Government is greater than it ought to be; I have told them that it could be cut in many departments; and when I called their attention to the fact that there is one class of citizens in the Government service who perhaps could be discharged and others more competent employed and make a saving to the Government, but that was a class who saved this Nation, men in the departments with one arm, with one leg, with one eye, and in no instance has there been a single one who ever objected to the money paid to the soldiers of the Civil War by our Government.

I wish to say to the Senator that the honorary Senate roll of the Senate, created nearly a quarter of a century ago, is not composed of all Republicans. When I first came into the Senate a third of those on that roll were Democrats, and they have remained on the roll until death came to them, and I believe the Senate as a whole think they should have remained until they resigned or death took them to the great beyond.

Mr. President, I do not think that this question ought to be a partisan one. What I am saying here to-day is not a criticism of the party in power. I believe when the attention of the country is called to it this administration will rectify the wrong and see that these old soldiers are taken care of as long as they live. If we do that nobody will complain, no citizen of the United States will object.

Mr. President, there is not an appropriation bill passed at this session of Congress that with only a part of the appropriations for many items would pay the salary of every old soldier in the Government service, and as far as I am concerned I would just as leave see the money go to taking care of them in their last days, and a great deal more so, than to have the hundreds and thousands and millions of dollars appropriated for the eradication of imaginary bugs.

Mr. President, the happiness of an old soldier to me is just as dear as the happiness of a man who might have saved my home or my life, and I want, for one, to protest against any movement on the part of Congress to demote or dismiss them from the service.

I hardly think, Mr. President, that I will say more to-day. I want it understood that I have not the least feeling in my heart against anyone, and I only speak because I believe an injustice has been done to these few old men. I trust, as I stated before, that when attention is called to it it may be rectified.

Mr. JONES. Mr. President, I introduced this resolution simply for the purpose of getting the facts. I was not consulted by anyone before it was done. I had seen these statements and charges in the papers with reference to the discharge and demotion of soldiers in the Post Office Department and in the city post office, and I wanted to get the facts. It was not done to further any civil-pension propaganda or anything of the kind.

The Senator from Missouri has suggested that this is a political or partisan matter. I want to say that until he suggested it it never entered my mind, as far as that is concerned. There ought not to be any partisanship about it. There ought not to be any politics in it; and, if there should be any politics developed from it, it will come probably from what the Senator from Missouri has said and suggested and those who try to justify the acts taken and excuse the facts that appear to exist.

The resolution called for the facts. Some have asked why the resolution is confined to the time since the 4th of March of this year. The only reason why it was done was that no suggestion of any improper discharges or demotions or transfers had been made until lately, and that date was supposed to cover all the necessary facts in connection with this controversy. The fixing of that date had no significance whatever. If any suggestions had been made of improper transfers or demotions or discharges before that time—even a year or two years back—I should have been glad to have covered that time, because it would not make any difference to me what administration is in power with reference to a matter of this kind.

It seems to me that the facts as disclosed by this report show that injustice has been done to some of these soldiers, and that our Democratic friends and the administration should be just as anxious to rectify it as I am, because in nothing that I shall suggest shall I intimate that they are any more unfriendly to the old soldiers than anyone else. I hope they regard him and his services and sacrifices as highly as I do.

Attention has been called to the record by the Senator from Utah [Mr. SMOOT]. I want to reiterate it and to call attention to two or three or more of these discharges and as to what the ratings here show, because as to whether or not the soldiers were efficient and whether their discharge is justifiable will appear from the record itself. If we take the facts that have been sent to us by the department, it seems to me that they show clearly that an injustice has been done whether intentional or not.

Here is George Dean, who was dropped. He has been in the service for 41 years and his rating is 88. The statute says that if the rating is good the old soldiers shall not be dropped. I assume that that rating of 88 would be considered as good.

Mr. LEE of Maryland. Mr. President——

The PRESIDING OFFICER (Mr. JAMES in the chair). Does the Senator from Washington yield to the Senator from Maryland?

Mr. JONES. Certainly.

Mr. LEE of Maryland. I should like to ask the Senator two questions. The first is, are not these ratings made upon past services going back 30 or 40 years?

Mr. LODGE and Mr. JONES. Oh, no.

Mr. LEE of Maryland. I was so advised by the department, and that these ratings do not show the present efficiency. I should like to ask——

Mr. LODGE. The rating is made from year to year. They are given fresh every year.

Mr. LEE of Maryland. There is a fresh statement every year, but based upon considerations that go back for many years.

Mr. LODGE. The Senator is mistaken. The ratings are made from year to year. They do not make them 40 years back.

Mr. LEE of Maryland. But are they not made upon that basis? That is the question.

Mr. LODGE. They do not average them.

Mr. JONES. I understand that the ratings are based on service and the capacity for service not 40 years past, but the present. Under the law that we passed in 1912 we require the Civil Service Commission to "establish a system of efficiency ratings for the classified service in the several executive departments in the District of Columbia based upon records kept in each department and independent establishment, with such frequency as to make them as nearly as possible records of fact." That must mean records of fact up to date, not 40 years ago, and under this law these ratings must have been made.

Mr. LODGE. If the Senator will allow me, in the city post office the ratings are constantly made because the promotions are automatic and according to the ratings.

Mr. SMOOT. It may be one thing one year and another thing another year.

Mr. LODGE. Yes; it may be one thing one year and another thing another year. They do not average the ratings over a period of 40 years anywhere.

Mr. STONE. Postmaster Praeger states in his communication that the ratings cover the entire service and are based upon that.

Mr. JONES. They must be based upon the existing capacity of the employee. We have no right, it seems to me, to assume anything else.

Mr. LODGE. One of the men had been only seven months in the department, and his rating must have been for seven months. It could not have been for anything else.

Mr. LEE of Maryland. Obviously different facts are presented here, because I am advised by the assistant postmaster that the ratings go back over a large number of years and do not necessarily show present efficiency. That is a subject to be inquired into.

Mr. President, there is one other question——

Mr. LODGE. Does the Senator mean to tell the Senate that the ratings are averaged?

Mr. LEE of Maryland. That is what I have just been told by the assistant postmaster.

Mr. LODGE. The assistant postmaster is mistaken. They do not take the average for 1900, 1901, 1902, 1903, and then average them for 1914. They do not average the rating; at least they never did before. Probably the present man is doing it. I should think he is capable of it.

Mr. LEE of Maryland. The service for a number of years is considered in these ratings, I am advised. The question is whether the statement of the Senator from Massachusetts is the fact or the statement of the assistant postmaster to me is the fact.

Mr. LODGE. I say I think the assistant postmaster of the city, whoever he may be, who has just come in, evidently, does not understand the postal business. It is not surprising that he should not.

Mr. LEE of Maryland. It is a civil-service process, is it not?

Mr. LODGE. What is a civil-service process?

Mr. LEE of Maryland. The whole rating business.

Mr. LODGE. The rating is civil service.

Mr. LEE of Maryland. There is one other question I should like to ask the Senator. Has the place of this particular employee who was demoted or discharged been filled by any other person? My advices are that only three of these places have been filled at all, and those places that have been filled have been filled strictly from the civil-service list, the next person available in order.

Mr. JONES. They could not be filled in any other way.

Mr. LEE of Maryland. Then, of necessity, there was no political sinister meaning or significance in their removal.

Mr. JONES. I have not said anything and I have not suggested anything of the kind. I only said that I thought injustice had been done, and I am trying to suggest that if any injustice has been done when attention is called to it, it will be rectified by the administration. I am not concerning myself about the filling of these places, the dismissals are what is in issue now.

Mr. OLIVER. Will the Senator allow me?

Mr. JONES. Certainly.

Mr. OLIVER. Alluding to the statement of the Senator from Maryland that only three places have been filled, I should like to say there is no doubt whatever that quite a number more than three have been unfilled, and that is what we are talking about.

Mr. JONES. There is no question raised here as to the filling of the positions after the vacancies were created or putting somebody else in or anything of that sort. I do not understand that they were dropped in order to put somebody else in their place, but the question is whether these people have been justly and properly dropped from the service.

William W. Mills, mentioned here, is 77 years of age, has been in the service 42 years, and his rating is 88. That is a pretty high rating. I may be mistaken, but I understand the rating for admission into the service is 70. Here is a man who has a rating of 88 of efficiency of service, and yet he is dropped. Others may be put in on a rating of 70. I do not mean in this class, but I mean in general under the law. It seems to me that those are facts which show that injustice has been done.

The Senator from Pennsylvania [Mr. OLIVER] has called my attention to one sentence in the report of the Postmaster General that is printed here. It reads as follows:

> The ratings here given were made on January 1, 1914, and covered the period from July 1, 1913, to December 31, 1913. They were the only ratings with which the men were credited either on March 4, 1914, or at the time of their demotion or separation from the service.

That apparently shows that they have not gone back over many years and averaged up, but that the rating that he made shows his capacity as of the last year.

O. T. Putnam, 71 years of age, has been in the service 11 years. He has a rating of 75.

G. T. Galliher is 68 years of age. A great many men of 68 are very efficient. He has been 32 years in the service, and he has a rating of efficiency of 85, 15 per cent higher than is necessary for admission into the service. He has been reduced.

Then here is Augustus Ridgely, 78 years of age, 51 years in the service. His rating is only 69.1. He is a little below what would allow him to enter the service in the regular way. There might be some justification for his reduction or dropping him from the roll, although I do not think so myself; but on the figures and on the facts shown there is some justification for that.

Then here is John J. B. Lerch, 81 years of age, 56 years in the service, and his rating is 59.2 per cent, still lower.

Then here is Joseph Randall, 77 years of age, 47 years in the service, with a rating of 94.6 per cent. It seems to me that shows clearly that Mr. Randall has been unjustly dealt with and that there is no excuse for his discharge. Ninety per cent is a high rate in any work, and a man who maintains that rating is surely entitled to great consideration, whether a soldier or not, and when a soldier no thought of disturbing him should enter the mind of anyone.

Then here is William A. Hutchins, 77 years of age, 19 years in the service, 84.1 per cent rating, or 14 above the percentage required for admission into the service of those first taking the examination.

In this report it is stated that several of these employees have resigned, and that is all that is said about it. That gives the impression they left the service voluntarily. I am reliably informed, as the Senator from Utah [Mr. SMOOT] also mentioned a while ago, that these resignations were forced and brought about in this way: Some time ago these employees were told that unless they resigned to take effect on the 30th of June they would be dropped from the rolls on the 15th of May, and under those conditions the resignations were sent in. I have this from such a source that I consider it as a fact, and as a fact that ought to get into this record and ought to be considered in passing upon the justice of the action taken by the postmaster.

Mr. CLARK of Wyoming. Mr. President——

The PRESIDING OFFICER. Does the Senator from Washington yield to the Senator from Wyoming?

Mr. JONES. Certainly.

Mr. CLARK of Wyoming. I understood the Senator from Missouri [Mr. STONE] in his statement to give what I supposed to be authority that that was not the fact. It seems that there is a dispute here as to the facts. I understood from the Senator from Missouri that these resignations were absolutely voluntary and the persons seemed to be very ready and quick to separate themselves from the service.

Mr. JONES. Of course, that does not look to be reasonable. It looks to be very unreasonable. Men holding these positions so long and as efficient as they appear to be would not voluntarily resign.

Mr. STONE. I made no such statement that the Senator from Wyoming credits me with. I said nothing about their resignations except that they had resigned. I said in answer to the Senator from West Virginia that no resignations had been asked by the Post Office Department.

Mr. CLARK of Wyoming. Of course it was my dull comprehension—I should suppose that under the statement of the Senator from Washington that that was pretty definite asking for the resignations. Of course the Senator from Missouri and myself may misunderstand the import of that sort of language.

Mr. JONES. I understand the Senator from Missouri confined his statement, whatever that was, to the executive department. Apparently from his contention in reference to the law that we have read here that does not include the city post office, and these employees were in the city post office.

So I do not think now there is any difference with reference to the facts. It must be conceded and is conceded that the resignations of these men were asked for and they were told unless they did resign they would be dropped from the roll on the date stated.

Mr. SMOOT. Mr. President, I want to say to the Senator from Missouri I do not know whether it is true or not, but one of the old soldiers of the Post Office Department told me that there was a request from the Post Office Department for the resignation of 13 old soldiers. The letters were handed to them to sign, and the following day they were told not to sign the letters, that there had been a mistake made, and that their resignations were not called for. I say that is what they tell me. Whether it is true or not, of course I can not say.

Mr. JONES. Mr. President, we have the facts with reference to these discharges and these demotions. The facts show that there were a number of soldiers discharged or their resignations forced in the city post office. The record also shows that their record of efficiency in many cases was high, and so far as the record discloses there was no justification for the dismissal or the forced resignation of several of these men.

I am in favor of efficiency in the Government service. I am in favor of economy. I believe that our service should be as efficient as possible, that it should be done as economically as possible. I think there are many places in the Government service where we can begin to economize without impairing efficiency, but I do not believe we ought to begin or that the country expects or asks us or hopes that we will begin upon the old soldiers in the public service, even though those soldiers may not be as efficient as others who might take their places. I do not believe that even if we find an old soldier in a place where the work he is doing is not really necessary that simply for the purpose of saving a few dollars the people of the country expect or ask us or expect or ask any department of the Government to discharge that man and put him aside into the world without anything and without any way or means of sustenance. He helped to save this country when it needed the best of our men. They responded in the country's need, and they have a right now in their need and old age to expect that they will be taken care of by the people and by the Government, and the people themselves expect it. I am satisfied that the people will not condemn any administration even if it allows men of this character to be on the roll when their services are not efficient or not really necessary. I do not believe they would condemn it. I know I would not. I do not feel that these discharges have been made out of hostility to the soldier. I do not feel that at all, and I hope that is not the case; and I therefore look to see this injustice righted without delay.

I accept the statement of the postmaster here that he wants to reorganize his service and make it efficient and make it economic; but I do say he ought to take into account and consider these men and their services and what they have rendered the Government, and the way in which the people of the country regard them and ought to regard them. If he does that, if that is done by the administration, I am satisfied that some care and provision will be made for these men for their remaining few years. A man of 88 years will not be long with us. He will not be a burden upon the Government very long, and we can well afford to take care of these men in the positions that they are filling, and which the facts show they are capable of filling with efficiency, until the grim reaper takes them to their reward. Let us make their last days happy. Let them not feel embittered against the Nation they helped to save because of its apparent ingratitude in their declining years.

Mr. SIMMONS. Mr. President——

The PRESIDING OFFICER. Does the Senator from Washington yield to the Senator from North Carolina?

Mr. JONES. I yield.

Mr. SIMMONS. I was going to ask the Senator to permit me to interrupt him for a parliamentary inquiry. I wish to inquire of the Chair if the unfinished busness is before the Senate, notwithstanding the fact that it was not laid before the Senate when the morning hour expired? I wish to inquire if it is still before the Senate?

The PRESIDING OFFICER. The unfinished business was laid before the Senate prior to the time when the Senator from Missouri [Mr. STONE] took the floor.

Mr. SIMMONS. It is still before the Senate, notwithstanding the expiration of the morning hour?

The PRESIDING OFFICER. It is.

Mr. JONES. Now, just a word with reference to the employees of the Senate. I have not given any particular attention to that phase of this matter, and I do not know anything about the details except as to one employee of the Senate. The Senator from Missouri suggested that several old soldiers had resigned from the Senate roll. I know one of the old soldiers who as soon as the reorganization of the Senate took place, who had been filling a position on the Senate roll, was directed to take another place at a lower salary where he could not possibly do the work. He was directed to go away down into the folding room somewhere and put on overalls and do some heavy work. He could not stand that work. He was too old for it. He could fill efficiently the place he had been holding, but he could not do this work. It looked like it was done for the purpose of forcing him to resign, just as these men were forced to resign. While I have not looked into it, I know it was suggested that in a great many cases old soldiers who were employees of the Senate were placed in positions and placed at work where it was reasonable to suppose they could not stand it, and, whether that was the purpose or not, it was thought that the purpose was to force them to resign. Now, it may be that that is one reason why several of those to whom the Senator from Missouri referred have separated themselves from the Senate roll.

Mr. STONE. Only two.

Mr. JONES. I understood the Senator suggested that about 26 had resigned.

Mr. STONE. Oh, no; only two.

Mr. JONES. I misunderstood the Senator.

Mr. STONE. I said 26 are now on the roll; that there were 30 when the Democrats became the majority party in this body; that 2 had died since and 2 resigned.

Mr. JONES. I misunderstood the Senator, then; but many of them have been reduced, as the Senator from Utah [Mr. SMOOT] has just suggested, and put in other positions or continued in their old places at lower salaries, while increases have been made in other positions.

Mr. NORRIS. I should like to inquire if the Senator can give any information as to how many of these 26 have been demoted and are getting a less salary than when the Senate changed political control.

Mr. JONES. I have not gone into that myself, and I can not give the Senator that information.

Mr. SMOOT. All but four, I will say to the Senator.

Mr. NORRIS. They are demoted?

Mr. SMOOT. Yes; if the Senator does not——

Mr. KERN. Mr. President——

The PRESIDING OFFICER. Does the Senator from Washington yield to the Senator from Indiana?

Mr. JONES. Yes.

Mr. KERN. On the reorganization of the Senate there was a very earnest desire expressed on the part of some people that the example set by the Republicans of this body some years ago be religiously followed—that the soldiers' roll be maintained as heretofore, but that the Republican soldiers should give way to Democratic soldiers of equal merit. That proposition, apparently fair in the game of politics, was regarded as fair by the Republican Members of this body. It was regarded as fair throughout the country where Republicans were in control. It was voted down in the Democratic caucus, and there was a declaration made that these old soldiers, notwithstanding their politics, should be kept in office—not in the choice places which they held. We thought we were dealing generously by them in the way of comparison when we permitted them to remain here at all and did not fill their places from among the ranks of thousands of ex-soldiers of equal valor who are Democrats, who fought as they did to maintain the flag and honor of the country. There are thousands of old Democratic soldiers in this

country to-day, of equal merit to any of these, who would be glad to have these places, and who point us to the example set by the Republicans and want to know of us why there are no places about the Senate for them.

It seems to me in view of this generous treatment on the part of the majority of these men it comes with poor grace for Senators now to claim that there has been bad treatment of any ex-soldier here on the part of the Democratic majority.

So far as I know, and I have talked with many of them, the old soldiers who have been kept on the roll here, notwithstanding their partisanship, in the place of Democratic soldiers who want their places, are very well satisfied that they are kept here. I have heard no complaint from them. I know there were some from my own State who were personal friends of mine who were very glad to hold their places at a reduced salary, and regarded the treatment as generous because their places were not taken from them and given to Democratic ex-soldiers of equal merit.

Mr. NORRIS. Mr. President——

The PRESIDING OFFICER. Does the Senator from Washington yield to the Senator from Nebraska?

Mr. JONES. Certainly.

Mr. NORRIS. Mr. President, it seems to me that this system, whether practiced by a Democratic Senate or by a Republican Senate, is wrong. It is just as bad for the Republican organization to take partisanship into consideration and to remove men from office and to replace them with others of a different political faith as it is for Democrats to do it. In neither case do we get the most efficient service. I recognize, as I think everybody else does, that when the Democrats came into control of the Senate they were confronted with a large number of constituents and friends who had been out in the cold for a great many years, and they did not have nearly enough places to go around; they were in a very difficult position, and they are yet in that position. There is not any doubt that so long as you fill these places as a reward for political service, when a political party takes control of a body of this kind or of a similar body, the same difficulty will arise.

I understand it to be the fact that there is a law applying particularly to the old soldiers who are employees of the Senate. No matter how bad that law might apparently hurt, it ought to be enforced in good faith. If there is a law against the removal of an old soldier who is on the Senate roll, and that old soldier is transferred, as the Senator from Washington suggested had been done in some cases, to some work that he is unable to do, in order to put him in a position where he can not perform his work and would necessarily either have to resign or be discharged, it seems to me that is not the enforcement of the law in good faith.

I believe these places ought to be under some kind of a civil-service arrangement, not only with the idea of getting more efficient service but for the protection of the men themselves who have to dole out this patronage. It is a mistake in the Senate, as it is everywhere else, to think that the man who has a lot of political patronage to dole out is therefore in a position of advantage over the man who does not have any, as I presume a great many Democrats who have been out of power for a great number of years have learned since they came into power; at least many of them have said so to me privately. The greater reason why, as I look at it, it is wrong is because it does not bring about the most efficient service. As I understand from what I have heard Senators say here and from what little information I had before, there is a law making specific provision in regard to the employment of old soldiers in the Senate. There is a law—and it has been read here to-day—applying to the appointment of old soldiers in the several departments that has been often violated, I think, from information that has come to me not only in the Senate—I have not got any information in regard to the Senate—but in the departments in a great many instances, for partisan political reasons. When Republicans came into power after the Democrats, they did the same thing; they removed men for partisan political reasons. Democrats have done the same thing when they came into power. That, as a matter of fact, in my judgment, is a violation, in spirit at least, of the civil-service law.

Several old soldiers in the different departments have come to me and told me privately of being demoted and of being asked to resign. Several who were not old soldiers told me they were asked to resign, and were frankly told the reason for it was that the party in power had to have their places for Democrats.

When the Republicans came into power after the Democratic administration went out some of those men who were still in office, particularly in the Government Printing Office, were removed for the same offense. It is not a thing, in my judgment, that can be charged up alone to one party; but, nevertheless, it is a thing to be regretted. As I view it, it would be to the benefit not only of good service, but to the members of the political party in power themselves to say: "We will enforce the law in good faith; we are not going to resort to any circumlocution in order to put one man out and put another one in because they are of different political faiths."

Mr. JONES. Mr. President, I agree fully with what the Senator from Nebraska has said.

Mr. WEEKS. Mr. President——

The PRESIDING OFFICER. Does the Senator from Washington yield to the Senator from Massachusetts?

Mr. JONES. I yield to the Senator from Massachusetts.

Mr. WEEKS. Mr. President, the suggestion has been made by two or three Senators that there may be some difference in the construction of the ratings of the men who have been referred to in this discussion, but certainly there can be no dispute as to the quality of the service of those men who are immediately under the eye of the Senate. I am not surprised that Democratic Senators wish to avoid any possibility of being charged with unfairness to the old soldiers.

The Senator from Indiana [Mr. KERN] has said that, in his judgment, the old soldiers on the roll of the Senate were treated generously when the present organization of the Senate was made at that time. In my judgment, if Republican soldiers had been replaced with Democratic soldiers, Democratic Senators could not have been charged with unfairness, but that course was not followed in some cases and it was not done in the case of a few men who are serving right on this floor. Now, there are 14 doorkeepers employed on the floor of the Senate. Of those 14 men, 11 are Democrats and 3 are Republicans. The 11 Democrats are receiving an average of $1,520 per year and the 3 Republicans, all of whom are old soldiers with excellent, if not distinguished, records, are receiving an average salary of $946 a year.

Mr. KERN. Will the Senator state to the Senate how many Democrats were employed at those doors during the time of the Republican control of the Senate?

Mr. WEEKS. I am not complaining because Democrats have been employed at these doors, but there were two Democrats employed at that door over there [indicating], the Democratic door, under a Republican administration. One of them was paid a salary of $1,800 a year.

Mr. KERN. They are there yet, are they not?

Mr. WEEKS. They are there yet, and one of them, a distinguished veteran of the Confederacy, was paid a salary of $1,800 a year, which he is now receiving, and I do not complain of that, but I do complain that the man occupying a corresponding place at this door [indicating], a Republican with a distinguished record, is paid $840 a year. This Democratic Congress has demoted him from $1,440 to $840. The Democrats of the Senate owe it to themselves to see that these men who are performing the same service on this floor that they were performing before March 4, 1913, the same service that is being performed by Democrats in the same positions, should have their salaries restored to what they were before the change. It is an outrage that old soldiers who were occupying such places, and who have always performed their duties acceptably, should be reduced from $1,440 to $840 a year, as has been done in this case.

Mr. SMOOT. And in some cases to $720.

Mr. WEEKS. And I hope calling the attention of the Democratic Senators to this case will be sufficient to restore such salaries.

Mr. KERN. Mr. President——

The PRESIDING OFFICER. Does the Senator from Washington yield to the Senator from Indiana?

Mr. JONES. I yield.

Mr. KERN. I understand the Senator from Massachusetts—or was it some other Senator—said the Democrats would have been entirely justified if they had taken those places and filled them with deserving and worthy Democratic soldiers.

Mr. WEEKS. Mr. President, I said that I did not think the Democrats could have been greatly criticized if they had done it, but I think they can be greatly criticized if they demote these men who are perfectly able to perform the duties which they are performing. If you are looking for an economical administration, here is an opportunity to put it into force. You are saying that Republican doorkeepers should only be paid $1,000 a year and that Democratic doorkeepers be paid, on an average, $1,520 a year. If a thousand dollars a year is enough for a Republican, it is certainly enough for a Democrat, and you can save $6,000 every year here on the floor of the Senate.

Mr. KERN. If the Senator will allow me, the thing I had in mind when I asked the question was this: I know an old soldier in my State, I have known him for many years, indeed since my boyhood, who lost an arm at Shiloh. He served, I think, up to the Battle of Shiloh, and has gone lame through life ever since. When the Democrats came into control of the Senate, he came to me and insisted on knowing why he should not have a place on the soldiers' roll of the Senate. He called my attention to the fact that none of these soldiers were maimed as he was, that none of them could be quite as deserving so far as disability was concerned, that none of them had a higher character. Many of them he said had been on the pay roll for years, while he had never received any recognition of any kind at the hands of the Government, and he appealed to me as the caucus chairman—for it was after I was made caucus chairman—to use what little influence I had to take the place of some one of the Republican soldiers who had been on the pay roll here for years, and give it to him. Notwithstanding the loss of limb, he was entirely able to sit at a door. I turned a deaf ear to his request. He wanted to be on the soldiers' roll; it was the roll of honor; and he called my attention to the fact that when the Republicans came into control of this body every Democratic veteran was fired out. He wanted to know why, in view of those circumstances, he would not be permitted to sit at a door here as a long-deferred reward for the service he had rendered the country.

If the man who sits at the door is complaining that his salary was reduced, that under a Democratic administration he does not receive as much money as he did before, if these gentlemen are not satisfied with their salaries, if there is a disposition here to complain, I will agree to find one-armed and one-legged Democratic soldiers—men who lost a leg or an arm at Shiloh or at Antietam or at Gettysburg, as good soldiers as ever wore the blue—to fill every one of these places with men who will be satisfied.

I thought when we maintained this soldiers' roll of Republicans that we were rendering a favor to those men. If it is not so regarded, then men can be brought here who are every whit as worthy, men who are maimed, men who need the places, men who have never had an office, men who are willing to come here and take these places without any murmuring.

Mr. WEEKS. I understand perfectly well, and so does the Senate, that the majority can take that course if it sees fit; and if it sees fit to do so, I am not going to make complaint; but what I say to the Senator is that he had the power to give that maimed soldier a place, because there have been nine changes made among the doorkeepers on the floor of the Senate, and many of these places have been filled by men who are not maimed or who did not wear the blue, or the gray either.

Mr. KERN. Are they on the soldiers' roll?

Mr. WEEKS. Not on the soldiers' roll.

Mr. KERN. I am speaking of the soldiers' roll.

Mr. WEEKS. That could have been provided at the time. What I am saying is that you are asking Republican soldiers with distinguished records to perform the same service, one at $840 a year and two others at a thousand dollars a year, for which other men are receiving an average of $1,520 a year. That is the complaint I make.

Mr. KERN. I understood that we were rendering favors to these men when we permitted them to remain here. If it is not to be regarded as a favor, if it is not to be regarded as an act of generosity on our part, then we had as well understand it.

Mr. WEEKS. I am speaking for myself entirely. I do not consider it a favor or an act of generosity; I consider such a condition an insult to the men who wore the blue.

Mr. JONES. Mr. President, just a word, and then I am through. This resolution, as I have said, was introduced to get the facts with reference to certain resignations and removals in the departments and in the Washington post office. Certain facts have been secured and others that were not in the report have been brought out here in the discussion. They show that certain soldiers were discharged; that, while they are set down in the record here as having resigned, those resignations were forced; and that many of these soldiers had a very high rating of efficiency at the time of their resignation or discharge. It appears also that we have a law, the spirit of which at least says that no soldier who is efficient shall be discharged, removed, or demoted; that this law was passed as late as 1912, and that it expresses the sentiment not only of Congress, but of the country.

I do not know anything about the politics of the men who have been discharged. I do not think there ought to be any politics in this matter. There was no politics in my mind when I introduced the resolution, and there will be no politics made out of it, so far as I am concerned, unless it is shown that the wrong which has been done them is not rectified, and I hope that the administration will rectify the wrong which, in my judgment, has been done these men without delay.

Mr. THOMAS. Mr. President——

The PRESIDING OFFICER. Does the Senator from Washington yield to the Senator from Colorado?

Mr. JONES. I yield.

Mr. THOMAS. I should like to inquire of the Senator, if he will permit me, whether he does not think that the basis of this whole thing is politics?

Mr. JONES. I do not think so. I am speaking for myself, and I want to say to the Senator that I had no idea of politics when I introduced the resolution. I know that when matters of this kind come up statements are sometimes made in the newspapers that are not in accordance with the facts; I know that things are represented that do not exist; I know that there are two sides to these questions; and I introduced this resolution simply to get the facts with reference to this matter, and, so far as I am concerned—and I speak for myself—at any rate I have not endeavored to make politics out of it. I do not want any politics in it. I simply want justice done to the men who helped save this country, and whom our Democratic friends, I believe and hope, honor just as much as I do, and who would do them an injustice just as unwillingly as I would. That is the spirit that animates me. This Nation can not pay the debt it owes these men. They gave of their youth in its defense, and it can not afford to deny them aid, help, and a competence in their hour of need.

Now, Mr. President, I ask that I may print in the RECORD section 4 of the act of 1912, and it will speak for itself.

The PRESIDING OFFICER. Without objection, permission to do so is granted.

The section referred to is as follows:

SEC. 4. The Civil Service Commission shall, subject to the approval of the President, establish a system of efficiency ratings for the classified service in the several executive departments in the District of Columbia based upon records kept in each department and independent establishment with such frequency as to make them as nearly as possible records of fact. Such system shall provide a minimum rating of efficiency which must be attained by an employee before he may be promoted; it shall also provide a rating below which no employee may fall without being demoted; it shall further provide for a rating below which no employee may fall without being dismissed for inefficiency. All promotions, demotions, or dismissals shall be governed by provisions of the civil-service rules. Copies of all records of efficiency shall be furnished by the departments and independent establishments to the Civil Service Commission for record in accordance with the provisions of this section: *Provided*, That in the event of reductions being made in the force in any of the executive departments no honorably discharged soldier or sailor whose record in said department is rated good shall be discharged or dropped or reduced in rank or salary.

Any person knowingly violating the provisions of this section shall be summarily removed from office and may also upon conviction thereof be punished by a fine of not more than $1,000 or by imprisonment for not more than one year.

Mr. STONE. Mr. President, as the Senator from Washington has obtained permission to print the entire section 4 as a part of his remarks I will not make the same request, as I had intended to do, but I will call attention to the proviso in that section, as follows:

Provided, That in the event of reductions being made in the force in any of the executive departments no honorably discharged soldier or sailor whose record in said department is rated good shall be discharged or dropped or reduced in rank or salary.

That is the language of the proviso in the statute; so, clearly the impression which the Senator from Utah had and which he gathered from a newspaper from which he read is inaccurate.

I do not care to add more than a word or two to what I have said. The Senator from Washington [Mr. JONES] has disavowed any partisan purpose or thought in offering his resolution, and I accept his disclaimer. He has not made a partisan speech to-day; and that is in accord with what he declares to have been his purpose. The Senator from Utah [Mr. SMOOT] has injected a little more of the virus of partisanship into his observations. I agree with the Senator from Colorado [Mr. THOMAS] that this whole business was started and has been prosecuted, in the main at least, in the hope of deriving some partisan advantage from it. It has been exploited all through the country with that object in view.

There is one thing that makes it clear to my mind that partisanship is at the base of this propaganda. Old soldiers were discharged and demoted in salary and station under the administrations which preceded the present one, and no complaint was made here or by the people who started this noise around Washington and in the press. I have called special attention to the year 1911, when 15 veterans of the Civil War were demoted, one of them demoted twice during that year, or nearly twice as many soldiers as have been demoted during this entire administration. We did not hear anything about that. The Senator from Utah occupied a seat in this Chamber

at that time, and so did the Senator from Washington. This was two and a half years ago or less. How did it happen that the Argus-eyed representatives of the Republican section of the press did not exploit that? How did it happen that Dr. Gleason and Mr. Gordon, of this city, and others cooperating with them in this city, did not then call public meetings to adopt resolutions of protest and denunciation? Not a word, however, was printed in the press or couched in resolutions or uttered in public speech; but when this administration, not in a department, but in a local post office, finds it necessary in the reorganization of its force in the interest of economy and better administration to separate from the service or demote fifty-odd employees, nine of them being ex-soldiers, a great uproar is started, and an effort made to impress the remnant of the old soldiers of the land with the idea that this being a Democratic administration they might expect the grossest injustice done them. To arouse prejudice, passion, and partisanship was the primary purpose of this movement, and, though Senators on the other side may say that they have no partisan feeling, when they stand here to defend what has been done on the outside, the color of partisanship is reflected on them.

Now, Mr. President, just a word more. When Mr. Cleveland went out of office as President of the United States it is a fact that practically every Democrat in the various departments of the Government was separated from the service or demoted, old soldiers included. I was told but a moment ago by a Senator that it was a fact within his knowledge that a number of old Democratic soldiers from his State, who had been given places in the public service during the Cleveland administration, were demoted on the incoming of the Republicans, to the end that Republican soldiers might be given their places. I am not complaining that that was done; I have never complained, and never will; but what I complain of is that if a Republican soldier found holding a position in any department of the Government is demoted and a Democrat put in his place we are accused of unfriendliness to the men who wore the blue and fought the battles of the Republic. Right here in the Senate, when Republicans got control some years ago, Democratic soldiers employed by the Senate were not demoted, but dismissed. Our friends who have spoken on the other side are not entirely ingenuous or disinterested. What are you trying to do, if you are not trying to make party capital out of this?

I do not like to hear men disclaiming a partisan purpose, with honeyed words and soft speech, while at the same time their words and conduct can have but one intelligent meaning, and that is to arouse partisanship.

Mr. WILLIAMS. Mr. President, it has been nearly five decades since Jefferson Davis was captured, and the War between the States thereby terminated. This administration, a Democratic administration, has made a rule for admission into the public service under which no ex-Confederate soldier "need apply." Every one of them is barred by the age limit. The boy that entered the Confederate Army in 1862 at 14 years of age—and there were some of them—is barred by the age limit. The statute books bear an expression of preference for ex-Union veterans which must be obeyed.

The War between the States, five decades ago, has ended. At that time the States of these United States were separated into two independent groups. One group retained the old name, "The United States of America"; the other group assumed a new name "The Confederate States of America." The muse of history will never contemplate a picture equal to that of those two warring factions of the States, of those who stood by their States, because the northern soldier stood by Iowa and Massachusetts just as much as the southerner stood by Mississippi and Texas. There will be no picture of human valor, when the end comes, to equal that which both sides displayed. It is pitiable that now, five decades afterwards, men should seek to stir the embers of the old strife for pitiable, miserable, contemptible partisan advantage; and that, too, when there were more Federal soldiers dismissed and discharged and demoted under McKinley than under either Cleveland or Wilson.

It was a psychological problem. The Democratic Party had been accused of disloyalty, and it dared not discharge even inefficient Federal soldiers; whereas a man who had been major in the Federal Army, like Mr. McKinley, upon becoming President of the United States, could disport himself freely.

I wish to read a list of the men who were demoted, forced to resign, or discharged under the McKinley administration from March 4, 1897, to December 31, 1898; and after I have read it I hope this discussion will cease.

SOLDIERS AND SAILORS AFFECTED ADVERSELY FROM MARCH 4, 1897, TO DECEMBER 31, 1898.

Aspinwall, A. A., reduced from chief of division, $2,000 to $1,800.
Albert, A. D., reduced from principal examiner, $2,000 to $1,300.
Ake, W. S., reduced from $840 to $720.
Archer, J. W., reduced from $1,400 to $1,200.

These are chiefs of division as a rule.

Bell, H. C., resigned (?).
Bassett, George T., dismissed.

Every one of these is a Union soldier.

Bonorden, H. S., reduced from $1,400 to $1,300 to $1,200.
Boorom, C. R., reduced from $1,400 to $1,200.
Browa, Henry B., reduced from $1,400 to $1,300.
Buckley, J. D., reduced from $1,400 to $1,300.
Bliss, W. W., reduced from $750 to $720.
Britton, Wiley, reduced from $1,300 to $1,200.
Clayton, E. P.,* reduced from $1,000 to $900.
Clements, John T., reduced from $1,400 to $1,300.
Crosby, W. O., reduced from $1,300 to $1,200.
Chipp, Rodney, reduced from $1,400 to $1,300.
Clark, Eben E., reduced from $1,400 to $1,300.
Clark, John B., reduced from $1,000 to $900.
Davis, M. C., reduced from $1,400 to $1,300.
Davis, J. A., reduced from $1,400 to $1,300.
Davis, William P., reduced from $2,000 to $1,400.

They seem to have been a little hard on the Davises; I do not know why, particularly; perhaps because they are a good old Welsh family and because Jeff Davis bore the name.

Dick, J. M., dismissed.
Dungan, Irvine, dropped.

As I put these names in print Senators will notice that some of them bear the asterisk. The asterisk indicates that the men belonged to the Regular Army or Navy. The balance of them were volunteers.

Ellis, H. G., reduced; dismissed.
Elliott, Edward P., reduced from $1,400 to $1,200.
Erdman, Adolph, dropped.
Eager, J. H. L., reduced from $1,400 to $1,200.

Mr. Eager, as I am informed, was a member of the old Howard Eager family of Baltimore who kept the Star-Spangled Banner afloat when Key wrote about it.

Elliot, James H., reduced from $1,400 to $1,300.
Fleming, George B., dismissed.
Frisbie, W. R., reduced from $2,000 to $1,400.
Fuss, W. H., reduced from $1,300 to $1,200.
Fernald, George W., reduced from $1,400 to $1,300.
Fairbanks, Charles, reduced from $1,400 to $1,300.
Fawcett, Thomas R., dismissed.
Fierce, W. W., dropped.

Oh, I am not complaining about these things, Mr. President. I expect these men were inefficient from superannuation; but if a Federal major and a Republican President could afford, without hostile criticism, to do all these things, I say it is time for you to shut your mouths when you are talking about this administration.

Foote, J. M., reduced from $1,400 to $1,300.
Freeland, John J., reduced from $2,000 to $1,600 to $1,400.
Fritts, James R., reduced from $1,800 to $1,600 to $1,400 to $1,300.
Fairhurst, Jeremiah F., reduced from $750 to $720.
Gray, Thomas P., reduced from $1,200 to $900.
Gallenne, J. B.,* reduced from $1,000 to $900.

By the way, I happened to know something about him. He was in the Regular service, and had done remarkably good service, and he was reduced from $1,000 to $900.

Guernsey, A. W., reduced from $1,300 to $1,200.
Goldstein, Moses,* dismissed.
Gury, Louis C., reduced from $1,000 to $900.
Hanback, Charles, reduced from $1,600 to $1,400.
Harris, C. E., reduced from $1,300 to $1,200.
Hughes, William, reduced from $1,400 to $1,300.
Hale, James D., dismissed.
Halley, Noah W., reduced from $2,000 to $1,400 to $1,300.
Harding, A. C., dismissed.
Helpbringer, William H., dismissed.
Hersey, S. R., reduced from $2,000 to $1,800 to $1,400.
Harnit, J. N., reduced from $1,400 to $1,300.
Hoffiger, P. J., reduced from $1,300 to $1,200.
Hunter, A. J., reduced from $1,300 to $1,200; dismissed.
Hursh, E. G., reduced from $1,400 to $1,300.
Ingram, Thomas D., reduced from $2,000 to $1,400.
Jefferson, Ralph, reduced from $1,400 to $1,300.
Johns, L. E., reduced from $1,600 to $1,400.
Johnson, William L., dismissed; watchman.
Jones, F. C., dismissed.
Kennedy, James N., reduced from $1,400 to $1,300.
Kinney, A. T., reduced from $1,400 to $1,300.
Livingston, George S., reduced from $1,800 to $1,600.
Lucas, N. A., reduced from $1,400 to $1,300.
Lake, D. D., reduced from $1,400 to $1,300.
Lamson, H. P., reduced from $1,400 to $900.
Loomis, George C. dismissed.
Lake, D. D., reduced from $1,400 to $1,300.
Liverpool, W. H., reduced from messenger to assistant messenger.
Lowe, Heman, dropped.
McClain, Dow, reduced from $1,400 to $1,300.
Macy, W. W., reduced from $1,400 to $1,300.
Maxwell, E. H., reduced from $1,400 to $1,200.
Maxwell, H. P., reduced from $1,400 to $1,200.
Mays, Charles P., reduced from $1,400 to $1,300.
Miller, Martin B., reduced from $1,300 to $1,200.
Moler, Henry H., reduced from $2,000 to $1,300.
Melbourne, W. F., reduced; dismissed.
Martin, Henry T., reduced from $750 to $720.
Noble, P. S., reduced from $1,400 to $1,300.
Offley, Holmes E., dismissed.
Okey, C. W., reduced from $1,400 to $1,300.
Patterson, John S., dropped.

Patton, H. N., reduced from $1,400 to $1,300.
Perkins, H. E., reduced from $1,300 to $1,200.
Proctor, William H., reduced from $1,300 to $1,200.
Paine, John L., reduced from $1,400 to $1,300.
Palmer, A. B. P., dismissed.
Parkinson, E. C., reduced from $1,400 to $1,300.
Pearson, Samuel P., reduced from $1,800 to $1,600.
Peck, Fred C., reduced from $1,600 to $1,300.
Powell, Ransom T., reduced from $1,400 to $1,300.
Riley, John, dismissed.
Riley, Thomas F., reduced from $1,000 to $900.
Ribble, George T., reduced from chief of division, $2,000 to $1,200.

This was done for no reason that anybody has ever discovered, except that he was a Democrat.

Russell, Leonidas, reduced from $1,800 to $1,400.
Schuckers, William F., reduced from $1,400 to $1,300.
Shafer, Elias, reduced from $1,400 to $1,300.
Shanks, C. D., reduced from $1,400 to $1,300.
Sidman, George D., reduced from $1,400 to $1,200.
Smith, George M., reduced from $1,400 to $1,300.
Stibbs, J. H., reduced from $1,400 to $1,200.
Shoemaker, J. A., dismissed.
Slavens, Charles, reduced from $1,300 to $1,200.
Stockslager, T. A., reduced from $1,600 to $1,400 to $1,200.
Smith, Napoleon J., dismissed.

Even the name "Napoleon" could not save him under the Republican administration, he being a Democrat.

Smith, William, reduced from $2,000 to $1,400.
Sprague, F. H., reduced from $1,400 to $1,300.
Swaim, George M., dropped.
Schaffer, M. R., reduced from $1,600 to $1,400.
Stevens, C. A., reduced from $1,600 to $1,200.
Sues, O. L.,* reduced from $1,400 to $1,200.
Tansill, Charles F.,* reduced from $1,200 to $1,000.
Teicher, John G.,* dismissed.
Tegethoff, Anthony, reduced from $1,200 to $900.
Thompson, Charles W., reduced from $1,800 to $1,600.
Tierney, Matthew, reduced from $1,000 to $900.
Tyers, Frederick, reduced from $1,600 to $1,400.
Vail, Henry W., dropped.
White, William L., reduced from $1,600 to $1,200.
Wolston, J. R., reduced from $1,400 to $1,300.
Wright, Moses B. C., reduced from $2,000 to $1,800.

And that is not all, Mr. President.

Mr. SMITH of Arizona. Mr. President——

The PRESIDING OFFICER (Mr. MARTINE of New Jersey in the chair). Does the Senator from Mississippi yield to the Senator from Arizona?

Mr. WILLIAMS. I do.

Mr. SMITH of Arizona. As the Senator was reading the list of these many demotions and dismissals, I was wondering whether or not he knew the particular party to which those demoted or dismissed belonged?

Mr. WILLIAMS. I do not, except in a few cases that I have mentioned.

Mr. SMITH of Arizona. And I was wondering whether, amid all these demotions and dismissals, any ordinary or very loud complaints were made on the floor of the Senate by reason of them?

Mr. WILLIAMS. Not that I ever heard of.

Mr. President, I do not know the politics of these men, except in a few cases where I happened accidentally to know them. I do know, however, because I was serving in the other branch of Congress at the time, that a Democratic soldier stood no more chance under McKinley's administration than any other Democrat, as far as demotions were concerned. They dared not, as a rule, remove them outright, because there was a law expressing a preference; but in every department of this Government every chief of a division, whether an ex-Union soldier or not, if he were a Democrat, was removed and a Republican, whether an ex-Union soldier or not, took his place.

We are all Americans. The war is over, thank God, and it settled some things. Among other things that it settled was that these States were to continue as an indestructible union of indestructible States; and yet, under a national administration, there is a law upon the statute books giving the preference to ex-Union soldiers, and there is a rule of the departments cutting off all hope of public employment for ex-Confederate soldiers, both of them American soldiers, both of them fighting for a part of these United States.

It seems to me it is too late, and yet at the same time premature, and that it is wrong to indulge in a foul calumny against this administration to try to produce in the popular mind the impression that Woodrow Wilson is prejudiced against ex-Union soldiers. I could produce a much better case to prove him prejudiced against ex-Confederate soldiers—the rule of his departments.

Why, I recommended during this administration, for the office of assistant United States district attorney, a man who had been a Member of Congress, a man who had been a major in the Confederate army, a man who had borne along between the battle lines at Franklin—under God's providence, without losing anything except one finger—a command from Gen. Claiborne to Gen. Adams; and I was coolly told that he was "too old." The age limit affected not him alone, but all ex-Confederates. He had been an assistant United States district attorney under Cleveland, and he had borne himself splendidly in his position; but I was told that he was "too old." I said: "If he is too old, every man that wore the gray is too old. This man entered the Confederate service at 15 years of age." I begged for him; but my begging amounted to nothing. There was the rule.

I am not complaining. Perhaps he was too old. I do not think so. My friend the Senator from Michigan [Mr. SMITH] will remember him—Maj. Pat Henry, from Mississippi, who served with him and me in the House—and I think younger than either of us in spirit—but he was turned down. Yet you come up here now, at the last day, trying to calumniate Woodrow Wilson with the charge of prejudice against Federal soldiers. Why? Ah, because you know he was born in Virginia of southern parents, and you think, perhaps, the charge will take. You think perhaps people will think that that has influenced him to entertain prejudice against those who wore the blue.

He not only does not entertain that prejudice, but even I do not entertain it. If I knew the very man who shot and killed my father, I could shake hands with him and tell him that his duty was to shoot, and shoot true, and shoot right, and shoot a colonel, if he could, rather than a private. This attack on this Democratic administration is contemptible.

Mr. WORKS. Mr. President, I happen to be an old soldier myself, and as such I resent any effort on the part of a Republican or a Democrat to exploit old soldiers for political purposes. It is a pitiable thing to me that the names of these old veterans should be bandied about this Chamber for the purpose of securing some political advantage, either to Republicans or to Democrats.

The preference that has been given heretofore to old soldiers was not confined to Republican veterans or to Democratic veterans. The question whether they should be employed or retained in their positions as old soldiers should have nothing whatever to do with their politics, whether it be Republican or Democratic.

I have no means of knowing what reason there might have been for the discharge or demotion of the old veterans who have been referred to by the Senator from Mississippi. There may have been the best of reasons for taking that course. I do not know what may be the merits of the question of the discharge or demotion of the old soldiers in the post office here in Washington. It may have been entirely justified and in the proper exercise of the duties of the postmaster, so far as I know.

I have been surprised, however, at the position taken by the junior Senator from Indiana [Mr. KERN]. He says an old friend of his, maimed and crippled on the field of battle, appealed to him for a position here under the Senate. He was good enough to the incumbent to deny that request and continue in his place an old soldier who was a Republican; but he or his party retained the Republican old soldier upon a reduced salary. Now, if the Senator from Indiana can be held responsible for that course, he has committed two wrongs to two old soldiers. He has denied one of them employment here at the salary that had been theretofore allowed and has taken away a part of the salary from a Republican old soldier and given the higher salary to somebody else.

With all due respect to the Senator from Indiana, I say there is no justification for any such position as that. If the old soldier, whether he be a Democrat or a Republican, is competent and able to perform the duties of any position, he should be paid the salary that belongs to that position. To demote him or to reduce his salary, if he is able to perform the duties of his position, is an injustice; I do not care what his politics may be.

If the Senator from Indiana believes that under the political system that governs affairs here, I am sorry to say, he would have been justified in displacing the Republican veteran and putting in his place a Democratic veteran, that would have been infinitely more just than to deny one of them a position and reduce the salary of the other.

I regret exceedingly that politics should enter into the question of appointments of any of the employees of the Senate. The system itself is vicious and should be abolished. The idea of the Senate of the United States spending a large portion of this day, or any other, in discussing this question of place, upon political grounds, is an abomination.

I introduced only a short time ago, in an effort to correct this condition of things, a bill which provides for the appointment at the beginning of the term of a newly elected President of a commission to receive and pass upon all applications and recommendations for office, providing that that commission

shall select the man believed to be the most competent and efficient for the place and recommend him to the President for appointment, and providing—and this, I think, is the best provision in the bill—that no Member of Congress or Cabinet member shall have the right to recommend or aid in securing the appointment of anybody to office. This is a legislative body. It should not be here doing politics at all. It should have nothing whatever to do with the selection of other public officials. It is no part of the duty of a Senator of the United States to do any such thing. The duty is imposed upon us of passing upon appointments made by the President, and it is inconsistent with that duty, on our part, that we should become the champions of anybody seeking appointment at the hands of the President.

I have felt that the Democratic Party has been unjust to the old soldiers now in its employ. The real spirit and purpose of the law preferring the old soldier has been violated. If the Democratic Party believes that it had a right under the system that prevailed here to appoint Democrats in places held by Republicans that would have been better than to have sent these old soldiers away into dark places and inferior positions. There is no justification for that course. The political system that prevails here does not justify it, but it has been done in a great many instances. The case that has been referred to by the Senator from Massachusetts of a doorkeeper sitting at that door receiving $1,800 and one sitting at this door receiving $840 is a palpable injustice. I do not care anything about what the politics of the two of them may be, because as a matter of fact we all know the duties of a doorkeeper at this door are greater and more onerous than of the one at the back door of the Chamber. I do not mean to say that the Democratic Party purposely and maliciously reduced the salary.

Mr. OVERMAN. Mr. President——

The PRESIDING OFFICER. Does the Senator from California yield to the Senator from North Carolina?

Mr. WORKS. In just one moment. It reduced the salary of the doorkeeper here and retained the full salary to the doorkeeper there, and that has come about in some way which I say is unjust. Now I yield to the Senator from North Carolina.

Mr. OVERMAN. Perhaps some things ought not to be stated here on the floor as to the reasons which moved us in this matter. I think the doorkeeper at that door should thank his stars that he is there at all, because there are Republican Senators who think we did a kindly thing in keeping him at a lower salary.

Mr. WORKS. There is no justification——

Mr. OVERMAN. There are two sides to all these questions.

Mr. WORKS. I do not care what may have induced it, the injustice remains. I have no doubt in the world that many of these old soldiers are very glad to remain here at reduced salaries.

Mr. REED. Mr. President——

The PRESIDING OFFICER. Does the Senator from California yield to the Senator from Missouri?

Mr. WORKS. I do.

Mr. REED. I think the Senator from California is too fair a man to select a particular instance and to leave the impression, intentionally or otherwise, that there has been a discrimination by Democrats that did not exist when the Republicans had control of this body. I wish to ask the Senator if it is not true that the Democrats since they came in control of the Senate have been just as generous to their political opponents who are now in the minority as the Republicans were to the Democrats when the Republicans were in the majority?

Mr. WORKS. Mr. President, I am not discussing this question on political grounds. I do not know whether the Senator from Missouri is right or wrong. It does not make the slightest difference to me whether the old soldier whose salary has been reduced is a Democrat or a Republican. That has nothing to do with it, in my estimation; but if the Democratic Party has reduced the salary upon that ground, then there is no justification for it, and if Republicans have reduced the salary or dismissed employees of the Senate because they were Democrats that was equally unjustifiable.

Mr. OVERMAN. May I ask the Senator a question?

The PRESIDING OFFICER. Does the Senator from California yield to the Senator from North Carolina?

Mr. WORKS. I do.

Mr. OVERMAN. I wish to give the Senator one case where an ex-soldier was reduced who was thoroughly incompetent.

Mr. WORKS. I want to say I am not questioning that at all.

Mr. OVERMAN. The Senator says there was a man getting $1,800 and we reduced him to $840. He came to me and expressed his gratification that we kept him. The Senator does not complain of that.

Mr. WORKS. I have not complained.

Mr. OVERMAN. The Senator is very generous, and I am glad that he is an old soldier and has made the remark he has. They can be put against the remarks of some of the gentlemen who did not fight and would not have fought if they had been old enough to fight during the war. I am glad the Senator is in this Chamber. He is generous and kind. He was one of the old soldiers, and as an old soldier he has a kind feeling for the Confederate soldiers. That is the feeling of the old soldiers who fought on the same side the Senator did. It is only those who did not fight who are attacking them and seeking to make a political question out of it, and I say from the character of their remarks they would not have fought if they had been old enough. That is the kind of men who talk and rage in matters of this kind 50 years after the war. I have never seen an old ex-soldier of the Union yet who is not gracious and kind in his remarks about the Confederate soldier. When a man stands up in the Senate for political purposes on account of the Confederate soldiers I think it is contemptuous. I say I thank the old soldier on the Republican side for making the generous remarks he has made about these matters.

I happened to be on the committee, and I just want to cite an instance as to the old soldier who received $1,800 a year and who was reduced to $840. He admitted his incompetency, and he came to me and thanked me. The old soldier at the door there was reduced because he insulted the daughter of a Senator on this floor. We did not discharge that one from Massachusetts. All we did was to reduce him. If all the facts were known, there would not be this complaint made here on the floor. We have investigated the matter thoroughly. All these old soldiers are receiving pensions. Some of them could not do the work. We did the best we could to retain every one of them on the roll.

Mr. WORKS. I think I said in the beginning that where an old soldier was competent and able to perform the duties of the position his salary should not be reduced simply for the purpose of giving a place to somebody else who is receiving a higher salary.

Now, taking the case mentioned by the Senator from North Carolina, of course if an old soldier is incompetent and can not perform the duties of the position, he has no right to ask to be retained in the position; and if in the case mentioned he was given another position where he could perform the duties of that place, and was paid the salary that belonged to it, he might well be grateful; at least, he would have no reason to complain.

The question of the Confederate soldier has been mentioned here. Mr. President, I have shown by some remarks that I have made on the floor of the Senate on previous occasions that I have no animosity toward the Confederate veteran; none whatever. That question is not up here for discussion, except as it has been mentioned by the Senator from Mississippi. I know nothing about the number of Confederates who are employed. There is no reason why they should be excluded from employment simply because they are Confederate soldiers or because they come from the South. I have no sympathy with any feeling of that sort.

Mr. WILLIAMS. Mr. President, I hope the Senator will understand that he was not excluded from employment because he was a Confederate soldier. He has been excluded from employment because of an arbitrary age limit that has been fixed which happens to cover all Confederate soldiers; that is all.

I wish to add, before I take my seat, that no one is more appreciative than I am of the broad, tolerant attitude which the Senator from California has always shown, bearing malice toward none and good will toward all in this country. If you think we do not appreciate it, you are mistaken. We appreciate it, and we realize it perhaps more than you do.

Mr. WORKS. That is very kind of the Senator from Mississippi. I hope I am able to keep my mind from prejudice or animosity toward any class of people. I try to do that, at least.

Mr. President, I should not have said anything on this subject, except that I do entertain some feeling about any discussion of this kind involving the old soldier when it takes on a political aspect. I do not like to think of the old soldier in connection with politics at all in any employment he may have, and I regret myself that there should have been any occasion for a discussion of this kind on the floor of the Senate.

Mr. REED. Mr. President, on yesterday the Senator from Michigan [Mr. TOWNSEND] presented a letter which he said was

in the nature of a petition from the Cadillac Motor Co., and which afterwards he read into the RECORD, giving it his personal sanction. I would not advert to this matter at all if it were not for the fact that the RECORD is constantly being lumbered up with material like the Cadillac letter. This letter was put into the RECORD ostensibly as the expression of a business concern that had no interest in legislation except that which is common to all honest business.

Mr. President, in view of that fact, I want to ask the attention of the Senate for a few minutes to who and what the protestant in this particular instance is. If an honest business concern, honestly capitalized, honestly observing the law and having fair purposes, protests against a course of legislation, it may be well for Congress to hearken; but if the protest comes from the pen or the lips of a violator of the law, of a criminal who hates the law as it exists and yet fears that the law may be made even stronger, then we perhaps ought to regard the warning as an indication that Congress is proceeding in the right direction.

Now, what is the Cadillac Motor Car Co. that has the temerity to come here to the Senate with a statement such as is contained in this letter? What is it that it should undertake to lecture the President, to lecture Congress, to lecture the men who here under their sworn duty are doing the best they can as God gives them the light?

Mr. President, I have here Poor's Manual of Industrials for the year 1913. I looked for the "Cadillac Motor Car Co." in the index. The index referred me for information about the Cadillac Co. to the topic "The General Motors Co." It appears that the Cadillac Motor Car Co. no longer has an existence as an independent company. It has been absorbed by the General Motors Co. Turning to the General Motors Co., this is what Poor's Manual states:

It was incorporated September 16, 1908, in New Jersey, "as a holding company."

In other words, it is the latest and last word in the formation of a criminal trust. I read further:

Has acquired practically all of the capital stocks of the following companies engaged in the manufacture and sale of motor cars and parts.

Here follows a list of 26 companies, including the Cadillac. The list will appear later.

I observe also that the combination has already established branches in Europe. Evidently it is ambitious to become an international trust.

Now, this criminal trust, organized in defiance of the Sherman antitrust law, and which is out of place every day it is out of jail, has the temerity to lecture Congress, lecture the President, and lecture every man who seeks in any way to enact legislation that may interfere with its criminal career. When the organized gamblers, crooks, and blacklegs of the town denounce the prosecuting attorney for the enforcement of the law their denunciation is, in fact, a compliment; so also when a trust existing in violation of law denounces the administration and Congress for attempting to strengthen the trust statutes its denunciation is likewise a compliment. "No rogue e'er felt the halter draw with good opinion of the law."

I am willing for Congress to adjourn at an early date, but I am not willing that it should adjourn at the demand of corrupt business. I am willing to listen to the advice of all honest business, but I am not prepared to vote to adjourn Congress at the dictation of a hired man of the trusts. I am willing to adjourn and go home at an early date, but Congress will hardly consent to being kicked home by concerns that ought to be practicing "the lockstep."

The Cadillac Motor Co. is simply an integral part of the trust combination known as the General Motors Co.

This is the institution the Senator from Michigan brings here and tells us—

There is nothing in our country to warrant the present distress but a nation-wide distrust of Washington.

I think the thing "that warrants the present distress" is that criminals have seized great business institutions and, in violation of the law of the land, have proceeded to pile combination upon combination until they have become so powerful they can meet every attempt to arrest their aggressions with a total or partial paralysis of the general business of the country.

There may be something the matter with some of the business of the country, but the affliction does not appear to have reached this particular institution.

I read:

The net profits for 1912 of all the constituent companies, after deducting expenses of manufacture, including maintenance and depreciation, selling, and administration, as well as taxes, insurance, and interest on temporary loans, was $4,838,448.

So complete was the ownership of the subsidiary companies by the General Motors Co. that its proportion of the above profits was $4,746,756. The profits going to outside stockholders only amounted to $91,688. The fact that the General Motors Co. is a trust and combination in the form of a holding company is thoroughly demonstrated by the statement found at page 636, Poor's Manual of Industrials for 1913, which is as follows:

General Motors Co.—Incorporated September 16, 1908, in New Jersey as a holding company. Has acquired practically all of the capital stocks of the following companies in the manufacture and sale of motor cars and parts:

Buick Motor Co., Flint, Mich.; Cadillac Motor Car Co., Detroit, Mich.; Cartercar Co., Pontiac, Mich.; Champion Ignition Co., Flint, Mich.; Elmore Manufacturing Co., Clyde, Ohio; General Motors Co. of Michigan, Detroit, Mich.; General Motors (Europe) (Ltd.), London, England; General Motors Truck Co., Pontiac, Mich.; General Motors Export Co., New York, N. Y.; Jackson-Church-Wilcox Co., Saginaw, Mich.; McLaughlin Motor Car Co. (Ltd.), Oshawa, Ontario; Michigan Auto-Parts Co., Detroit, Mich.; Michigan Motor Castings Co., Flint, Mich.; Northway Motor & Manufacturing Co., Detroit, Mich.; Oakland Motor Car Co., Pontiac, Mich.; Oak Park Power Co., Flint, Mich.; Olds Motor Works, Lansing, Mich.; Peninsular Motor Co., Saginaw, Mich.; Randolph Motor Car Co., Flint, Mich.; Rapid Motor Vehicle Co., Pontiac, Mich.; Reliance Motor Truck Co., Owosso, Mich.; Welch Co. of Detroit (The), Detroit, Mich.; Welch Motor Car Co., Pontiac, Mich.; Weston-Mott Co., Flint, Mich.

Income account, year ended July 31, 1912.—Net profits for year, after deducting expenses of manufacture (including maintenance and depreciation), selling, and administration, as well as taxes, insurance, and interest on temporary loans, $4,838,448. General Motors Co. proportion thereof $4,746,756. Deductions: Accrued interest on 6 per cent first-lien notes, $850,463; preferred dividends (7 per cent), $1,040,211; total, $1,890,673. Surplus for year, $2,856,083.

The following table shows amounts of capital stock of subsidiary companies owned by General Motors Co., the operations and accounts of which are included in the following income and profit and loss accounts and general balance sheet (see below):

Mortgage obligations.	Total outstanding.	Owned and pledged.[1]
General Motors Co. of Michigan 6 per cent gold notes	$13,300,000	$13,000,000
CAPITAL STOCKS.		
Buick Motor Co., preferred	500,000	500,000
Buick Motor Co., common	2,000,000	2,000,000
Cadillac Motor Co	1,500,000	1,500,000
Olds Motor Works	3,132,390	1,132,390
Oakland Motor Car Co	800,000	800,000
Elmore Manufacturing Co	600,000	600,000
Carter Car Co., common	557,720	557,720
Carter Car Co., preferred	50,000	----------
Northway Motor & Manufacturing Co	725,000	725,000
Peninsular Motor Co	800,000	800,000
Randolph Motor Car Co	399,400	399,400
Rapid Motor Vehicle Co	500,000	500,000
Reliance Motor Car Co	481,493	481,493
The Welch Co. of Detroit	275,000	275,000
Welch Motor Car Co	250,000	250,000
General Motors Co. of Michigan	100,000	100,000
Champion Ignition Co	100,000	75,000
Jackson-Church-Wilcox Co	240,000	240,000
Michigan Auto-Parts Co	300,000	300,000
Michigan Motor Casting Co	100,000	100,000
Oak Park Motor Co	200,000	200,000
McLaughlin Motor Car Co. (Ltd.)	1,003,000	500,000
Weston-Mott Co	1,500,000	1,500,000
General Motors Export Co	100,000	100,000
General Motors Truck Co	250,000	250,000
General Motors (Europe) (Ltd.), preferred	----------	96,000
General Motors (Europe) (Ltd.), common	----------	12,000

[1] Owned by General Motors Co. and pledged as security for that company's 6 per cent notes.

Profit and loss account, year ended July 31, 1912: Surplus July 31, 1911, $1,240,175; surplus for year (as above), $2,856,083; total, $4,096,258.

Contra: Reduction of inventory and assets as carried on books October 1, 1910, and liquidation losses, $2,833,663; surplus, as per balance sheet, $1,262,595; total, $4,096,258.

Comparative condensed consolidated balance sheet of General Motors Co. and subsidiary companies directly connected with the manufacture of motor cars and parts, July 31.

	1911	1912
ASSETS.		
Real estate, plants, and equipment	$17,632,683	$19,280,889
Patents, agreements, etc.	2,049,832	1,871,436
Miscellaneous investments	854,803	560,500
Cash	4,054,844	3,080,921
Notes receivable	220,650	262,273
Accounts receivable	4,416,426	3,966,839
Inventories	17,303,716	17,578,366
Prepaid expenses	191,179	422,736
Good will	7,663,938	7,934,198
Total	54,388,072	54,958,158

General Motors Co.—Continued.

	1911	1912
LIABILITIES.		
Preferred stock	14,303,500	14,936,800
Common stock	15,822,330	16,371,183
6 per cent first-lien gold notes	14,002,000	12,452,000
Capital stock, subsidiary companies	1,436,000	578,000
Surplus, subsidiary companies	1,169,528	413,838
Accounts payable	2,143,847	2,853,022
Notes payable (Weston-Mott Co.)		600,000
Liabilities accrued not due	641,768	929,855
Reserve for dividends	335,848	261,394
Reserves for special purposes	3,203,076	4,299,471
Surplus	1,240,175	1,262,595
Total	54,388,072	54,958,158

Capital stock: Authorized 7 per cent cumulative preferred, $20,000,000; common, $40,000,000; total, $60,000,000. Issued July 31, 1912: Preferred (outstanding, $14,936,800; in treasury of company, $1,322,000; in treasury of subsidiary companies, $1,779,600), $18,038,400; common (outstanding, $16,371,183; in treasury of company, $3,173,147; in treasury of subsidiary companies, $329,700), $19,874,030; total (preferred, $18,038,400; common, $19,874,030), $37,912,430; shares, $100.

Transfer agent, etc.: Transfer agent, Corporation Trust Co., Jersey City, N. J.; registrar of stock, Equitable Trust Co., New York, N. Y.; stock dealt in on the New York curb market.

Dividends: Semiannual dividends of 3½ per cent each on the preferred stock were paid from April 1, 1909, to May 1, 1913, inclusive. A stock dividend of 150 per cent on the common stock was paid in common stock on November 15, 1909. Owing to change in dates of dividend payments from April 1 and October 1 to May 1 and November 1, a dividend of 4½ per cent (at rate of 7 per cent per annum) for the seven months to May 1, 1912, was paid May 1, 1912, to holders of record April 15, 1912.

Voting trust: A majority of the company's outstanding preferred and common stock has been deposited under a voting-trust agreement with James N. Wallace, Frederick Strauss, James J. Storrow, William C. Durant, and Anthony N. Brady, voting trustees. The voting trust is dated October 1, 1910, and runs to October 1, 1915, and until all of the 6 per cent notes described below at any time issued shall have been paid in full. The voting trustees may make earlier delivery at any time in their discretion. Transfer agent for voting-trust certificates, Central Trust Co., New York, N. Y.; registrar, Columbia-Knickerbocker Trust Co., New York, N. Y.; voting-trust certificates for both classes of stock listed on New York Stock Exchange.

NOTES OUTSTANDING MAY 1, 1913.

Thirteen million three hundred thousand dollars General Motors Co. of Michigan 6 per cent, first-mortgage, five-year gold notes, dated October 1, 1910; secured by a first mortgage upon all lands, plants and equipment, patents, etc., which the company then owned or shall hereafter acquire; trustee, Central Trust Co., New York, N. Y. Prior to the execution of this mortgage all real estate, plants, other fixed assets, and patents of the Buick, Cadillac, Olds, Oakland, Elmore, Northway, Peninsular, Rapid Motor, Reliance, Welch of Detroit, Welch Motor, Champion Ignition, Jackson-Church-Wilcox, Michigan Motor Castings, and Oak Park Power Cos. had been conveyed to the General Motors Co. of Michigan, so that through the pledge of these $13,300,000 first-mortgage notes with the trustee the 6 per cent first-lien notes are secured by a first lien upon all of those properties as well as by a first lien upon the capital stocks named.

Eleven million nine hundred and twenty-one thousand dollars 6 per cent first lien sinking fund gold notes, dated October 1, 1910, due October 1, 1915, interest April 1 and October 1 at the company's agency in New York, N. Y. Coupon bonds, $1,000; registerable as to principal. Subject to call as a whole or in part through sinking fund on any interest date at 102½ per cent and accrued interest. An annual cash sinking fund is provided, payable on or before October 1 in each year—$1,500,000 in 1911; $1,500,000 in 1912; $2,000,000 in 1913; and $2,000,000 in 1914—to be used to retire these notes through purchase at not exceeding 102½ per cent and interest or by drawing at that price. These sinking fund payments may be increased at the option of the company. Trustee, Central Trust Co., New York, N. Y. Secured by a first lien upon securities pledged with trustee, including the securities which constitute the entire interest of the General Motors Co. in subsidiary companies engaged in or directly connected with the motor car manufacturing industry. For statement of securities pledged see table preceding.

Authorized $20,000,000, of which $11,921,000 were outstanding May 1, 1913, after sinking fund payments of $3,079,000 had been applied, the remaining $5,000,000 can be issued from time to time only when approved by the board of directors and by finance committee.

While any of these notes are outstanding it is provided that none of said subsidiary companies, a majority of whose capital stocks is pledged thereunder, shall mortgage its properties or market or dispose of any bonds, notes, or other evidences of indebtedness maturing three months or more from date unless all such mortgage or other indebtedness is simultaneously acquired by the General Motors Co. and pledged with the trustee as further security for these notes; that if any such company shall incur any indebtedness other than for current operating expenses, or shall fail to pay indebtedness incurred for current operating expenses, then General Motors Co. will pay or acquire the same; also that none of such subsidiary companies shall issue any stock having preference or priority over the stock now pledged; also that if any company stock of which is pledged increases the present amount of its stock, the General Motors Co. must acquire and pledge, as further security for these notes, a proportionate amount of such increased stock as shall be required to preserve the percentage of the whole now held; also that while any of these notes are outstanding the company will not distribute in cash dividends on its common stock more than one-half of the net profits subsequent to October 1, 1910, applicable to such dividends, and that the net quick assets of the companies, as carefully defined, must always equal at least 133⅓ per cent of the amount of these notes outstanding plus an amount equal to the total cash dividends, if any, paid on the common stock. Listed on New York Stock Exchange.

Directors: Anthony N. Brady, J. H. McClement, Albert Strauss, Jacob Wertheim, New York, N. Y.; Edwin D. Metcalf, Auburn, N. Y.; Emory W. Clark, Andrew H. Green, jr., C. W. Nash, M. J. Murphy, Thomas Neal, Joseph Boyer, Detroit, Mich.; W. C. Durant, Flint, Mich.; James J. Storrow, Boston, Mass.; N. L. Tilney, Orange, N. J. Officers: Thomas Neal, chairman of board; C. W. Nash, president; Emory W. Clark, vice president; Standish Backus, secretary; James T. Shaw, treasurer; Thomas S. Merrill, assistant secretary and assistant treasurer; W. H. Alford, comptroller, Detroit, Mich. Office, Detroit, Mich.

An examination of the foregoing figures shows that this holding company owns substantially every dollar of the stock of all the companies. Referring especially to the Cadillac Motor Co., we find that it has $1,500,000 of stock, every dollar of which is owned by the General Motors Co.

So that it will be seen that the gentleman who wrote this letter denouncing Congress and ordering it home is simply a hired man of the trust. He does not even enjoy that doubtful dignity which attaches to the boss or even a director of a trust. He is an underling, a serving man, who serves a trust for a salary. I have no doubt he would not venture upon the subject of legislation without consulting his bosses; indeed, I apprehend in this instance he has merely carried out the demands of the trust magnates for whom he works. I suspect that every hired man who draws his weekly stipend from this trust has been ordered to write an epistle, expressing his independent righteous indignation at the wickedness of Congress in daring even to dream of passing statutes aimed at combinations in restraint of honest trade.

I challenge attention to the fact that this is not only a trust but it is an up-to-date concern, for you will observe in the statement in Poor's Manual, above quoted, that a majority of the trust's outstanding preferred and common stock is tied up in a voting-trust agreement, so that we have here a trust so airtight that even its stockholders are deprived of all control, the trust being in turn controlled by a voting trust.

Mr. President, this cold statement contained in Poor's Manual demonstrates beyond a peradventure to my mind that the Cadillac Motor Car Co. and all of the other subsidiary companies named in this table, a list of which I read, are simply parts of a trust organized in open defiance of the Sherman Antitrust Act. I am calling public attention to that fact. I am publicly directing the attention of the Attorney General of the United States to the fact, and am publicly asking him to investigate this concern and take the necessary steps to bring about its dissolution and punishment.

Here is an institution that comes in crying about poor business, and yet year before last its net profits were $4,447,146.58. Last year——

Mr. NORRIS. Mr. President——

The PRESIDING OFFICER. Does the Senator from Missouri yield to the Senator from Nebraska?

Mr. REED. Just as soon as I finish the sentence. Last year its net profits were $4,438,448. This criminal trust that is making over $4,000,000 a year comes here and undertakes to lecture Congress and the President and demands that Congress shall adjourn. Instinctively one recalls the ludicrous scene in the comic opera where outlaws demand, with great indignation, that the posse comitatus shall not be assembled, and resolve with much earnestness that the sheriff should go home and attend to his own business and let honest buccaneers proceed with theirs.

I now yield to the Senator from Nebraska.

Mr. NORRIS. Before I ask the Senator my question, I want to commend him for what he has just said in stating publicly that he calls the attention of the Attorney General to this trust. However, I want to suggest to the Senator that the other day when I undertook publicly to call attention to what I believe to be a violation of the Sherman antitrust law, and called the attention of the Attorney General to it by way of a resolution regarding a combination of railroads, the Senator himself was very strenuous in his objection and found fault with it, and he intimated that it was a reflection on the Attorney General to do it this way and that I ought to have done it by a private letter.

Mr. REED. Mr. President, the Senator entirely misapprehends the position I took. I do not intend to object, and I think nothing in my remarks as printed will show that I objected to directing the attention of the Attorney General to any matter. What I objected to was the method employed.

Mr. NORRIS. Now, I should like——

Mr. REED. Let me finish, and I will explain the difference to the Senator. The Senator brought in what purported to be a recitation of facts, and asked the Senate to adopt it as a true statement. Without being able himself to vouch for its correctness, he asked the Senate to solemnly make it of record that the facts were as set forth, and requested that the Senate demand from the Attorney General——

Mr. NORRIS. Why, Mr. President——

Mr. REED. Wait a moment—his opinion as to whether these alleged facts, which, if they were true, plainly showed a violation of law, were a violation of law. I said then, if the Senator was willing to assume responsibility for the facts, he should do so, and not ask the Senate to commit itself.

Mr. NORRIS. I was willing to assume that responsibility, and I called attention at the time——

The PRESIDING OFFICER. One moment. Does the Senator from Missouri yield to the Senator from Nebraska?

Mr. REED. I always yield.

Mr. NORRIS. I called attention to the fact then that the evidence upon which I based my statement was Poor's Manual, the very document the Senator from Missouri has offered here today in defense of his position; and I want the Senator from Missouri to understand, as I said in the beginning, that I am not criticizing the Senator for the position he takes; but I replied upon inquiry, either of the Senator from Missouri or some other Senator, in regard to what those facts were, that I had gathered at least a portion of them from Poor's Manual, and that another portion of them had been taken from an opinion rendered by the Interstate Commerce Commission. Although I was willing, when the Senator said there might be a doubt about these whereases, to amend the resolution even as he suggested, he said this could be nothing but notice to the Attorney General, and since he had had one notice, there would not be any use in giving him another, and it could be nothing but a reflection upon the Attorney General. The Senator, I think, used those very words. Now, because I was courteous enough to the Attorney General to first ask his opinion, it seems to me that I was more courteous than the Senator now is to take from Poor's Manual a statement of the facts and make the assertion, without any qualification, that this affair is a criminal trust.

Mr. REED. Mr. President, the Senator from Nebraska may entertain that opinion if he desires, but I say that the distinction between the Senator and myself is this: The Senator undertook to commit the Senate of the United States to a certain statement of facts, and then demanded from the Attorney General, by the United States Senate, an opinion upon those facts. I did not question the right of the Senator to rise in his seat and denounce in any way anything he saw fit as a criminal conspiracy. In that event he would be taking the responsibility himself and would be within his rights. I am doing that now; I am taking the full responsibility of calling the attention of the Attorney General to the situation as it is laid out in this book.

Mr. SMITH of Michigan rose.

Mr. REED. Just one moment. I do not question, and I never have questioned, the Senator's right to do that. The Senator, however, sought to do something more; he sought to commit the Senate to a statement of fact and to commit the Senate to a demand for a legal opinion, which is a very different thing from what I am now doing.

Mr. NORRIS. Mr. President——

The PRESIDING OFFICER. Does the Senator from Missouri further yield to the Senator from Nebraska?

Mr. REED. Yes.

Mr. NORRIS. Is not the Senator from Missouri seeking now to commit the Attorney General?

Mr. REED. I am not seeking to commit him. I am committing myself to a statement; I am making it publicly; and the Attorney General must take notice of it or not, as he sees fit.

Mr. SMITH of Michigan. Mr. President——

The PRESIDING OFFICER. Does the Senator from Missouri yield to the Senator from Michigan?

Mr. REED. I do.

Mr. SMITH of Michigan. I hope when the Senator from Missouri calls the attention of the Attorney General and of the President to this conspiracy, this combination in restraint of trade—the General Motors Co.—that he will also call their attention to the fact that that company was organized under the laws of New Jersey, when Woodrow Wilson was governor, or it continued to maintain its organization after he became governor, and not a step has been taken to repeal the law under which they are organized. Perhaps that will help in some way to clarify the situation.

Mr. REED. Mr. President, that is about as logical as it would be if a man indicted for stealing horses were to plead that the indictment ought to be quashed because on the date of the larceny Woodrow Wilson was governor of New Jersey.

Mr. SMITH of Michigan. Well, Mr. President, we will dismiss the question that he was governor of New Jersey. This institution was legalized under the laws of New Jersey, and not under the laws of Michigan.

Mr. REED. Mr. President, the laws of New Jersey were passed in the good old Republican days——

Mr. SMITH of Michigan. And retained.

Mr. REED. When a Democrat scarcely dare show his head above the surface; passed in the good old days when the Republican Party of New Jersey held to the doctrine that the more trusts we had and the bigger they were the better it was for New Jersey and all the rest of the world. In those good old days before the Progressive had lifted his voice to disturb the equanimity and sanctity of the old Republican household, before the Democrats had become powerful enough to in any way disturb the vested interests; in those good old days when your Hannas and Rockefellers and Morgans and Perkinses and Guggenheims and other high priests of the trusts were bossing the Republican Party, when you were passing laws that were made by "the interests" in the interest of "the interests," you put upon the statute books of New Jersey a great many wicked laws, and among others this law. The particular trust I am discussing was incorporated in 1908. Was Woodrow Wilson the governor of New Jersey at that time? Surely not.

Mr. SMITH of Michigan. He has been since then, and had a legislature of his own political party. He could have repealed any law in the State of New Jersey.

Mr. REED. But he could not have repealed the charters that had been granted by a previous legislature.

Mr. SMITH of Michigan. The Senator from Missouri is not speaking with his usual accuracy when he charges that these laws were passed by a Republican legislature. That is not the case. The Senator from Missouri will be unable to verify his statement. The laws could have been changed; you had plenty of Democratic authority to change them; and organizations are being made from day to day in New Jersey, and were all during the times that Democrats were dominant in the affairs of that State.

Mr. REED. The most you can say for the Senator's argument is that I ought not to have denounced this concern as a criminal conspiracy and a trust because Woodrow Wilson, as governor of New Jersey, did not choke it to death.

Mr. SMITH of Michigan. No, Mr. President; but the Senator from Missouri and his party have been in control of Congress for some time; they have had the Attorney General's department; and they have not seen fit to level any of their guns against this company as yet. This company has been in existence, its status has been known, and it needs no defense at my hands. It is one of the most honorable and upright in its management of any of the institutions of our State. Its products and the products of its labor and its genius are the pride of our Commonwealth; and it little becomes the Senator from Missouri to charge this concern with being a conspiracy, and a criminal conspiracy, when for over a year the Attorney General has rested securely in the impression that it was a lawful and legitimate business in the country.

Mr. REED. Ah, Mr. President, the trouble has been this: There are too many men in high places like the Senator who has just spoken, who rise and proclaim the high and honorable mission of criminal trusts.

Mr. SMITH of Michigan. Oh, Mr. President, everybody proclaims the efficiency of the Cadillac motor car, and even the Senator from Missouri has made his campaigns in that State in that car.

Mr. REED. The Senator is mistaken——

Mr. SMITH of Michigan. The Senator has done it many times.

Mr. REED. The Senator from Michigan is mistaken about my making my campaigns in that car; but I will admit that the Cadillac motor car is probably a very good car.

Mr. SMITH of Michigan. Yes; but the Senator——

Mr. REED. But I am not aware of the fact that the question of whether the Cadillac motor car runs smoothly has anything to do with whether the Cadillac Motor Car Co. runs honestly and in accordance with law.

Mr. SMITH of Michigan. Or whether Mr. Henry M. Leland, who sent the communication presented to the Senate yesterday by my colleague [Mr. TOWNSEND], has a perfect right, as any other citizen has, to memorialize Congress.

Mr. REED. Mr. President, I am going to bring the Senator from Michigan back to just the point that he has been avoiding by this pleasantry about my riding in a Cadillac motor car.

Mr. SMITH of Michigan. I will withdraw that, if it is offensive to the Senator.

Mr. REED. It would be no discredit to ride in a Cadillac motor car. In truth, if this concern keeps on growing and ab-

sorbing, in a little while we will all be riding in some of its cars, if we ride at all

Mr. SMITH of Michigan. You will be sure of getting to your destination if you do that. [Laughter.]

Mr. REED. Possibly; and if the proprietors of that concern, of that trust, are allowed to act as the chauffeurs of the Republican Party, they will land the Republican Party inside their works, and they will also be sure to land all of their friends back here in the Senate.

Mr. SMITH of Michigan. Mr. President, if there are any of those who make Cadillac motor cars out of employment now, I think we may safely look to them to defend our party principles in the next campaign. They are high-grade, high-class men.

Mr. REED. Ah——

Mr. SMITH of Michigan. The Senator from Missouri knows that their car is efficient.

Mr. REED. Why, certainly.

Mr. SMITH of Michigan. And their management is efficient; and if they are organized in defiance of law, let the Department of Justice call attention to it.

Mr. REED. The Senator says the car is efficient, and therefore these men are good men. He reminds me of a gentleman keeping a faro bank who insisted that his bank——

Mr. SMITH of Michigan. I protest, Mr. President——

The PRESIDING OFFICER. One at a time, Senators.

Mr. SMITH of Michigan. I protest against this comparison.

Mr. REED. Was mechanically accurate, and that therefore he was violating no law.

Mr. SMITH of Michigan. I protest. That may be proper in debate in Missouri, but it ought not to be indulged in in the Senate. I protest against any comparison of that kind.

Mr. REED. I would not offend my friend for anything in the world, but the comparison exactly illustrates the lack of logic in what he says.

Mr. SMITH of Michigan. Let us let the logic go.

Mr. REED. I was discussing, Mr. President, the question of whether this organization was a trust, running in violation of the law, and the Senator seeks to divert the question to one as to whether the Cadillac car runs well or does not run well; and I say it reminds me exactly of a man who would insist that his roulette game ought not to be interfered with because the balls roll smoothly and the bearings are well greased and the wheel does its business effectively. [Laughter.]

Mr. President, the Senator says that this concern has not been prosecuted; that it has existed for many years and has not been prosecuted. I grant that. It has existed now for some 14 or 15 or 16 months under the present Attorney General without being prosecuted; but prior to that time, from 1908 until Woodrow Wilson was inaugurated, it existed under Republican Attorneys General and was not prosecuted. The fact that it has or has not been prosecuted does not settle the question that it is a combination in restraint of trade, a combination organized in the teeth of the statute.

I want to read a telegram that has been sent to me:

FLINT, MICH., *June 5, 1914.*

Hon. JAMES A. REED,
United States Senate, Washington, D. C., U. S. A.:

I notice in the morning press dispatches that there was read in the Senate yesterday a letter from Mr. Henry M. Leland, of the Cadillac Motor Co., Detroit, Mich., in which the writer indicates that there is business depression existing, and painting a mournful tale as to conditions generally and charging such an alleged situation to Congress. Mr. Leland is a man of high character, and his business and personal honor is unquestioned. It is, however, interesting to note that this is the same Mr. Leland whose name appeared in connection with protected manufacturers upon a full-page advertisement which was run quite generally in Michigan newspapers in October, 1912, about 10 days before election. These signed advertisements were scare proclamations, intended to inflame, intimidate, and frighten the voters, and especially the laboring men, by the prediction that unless Mr. Taft were elected President ruin would result. That such roorback methods have no influence is clearly shown by the fact that Mr. Taft carried only two small States, Utah and Vermont. An important feature, however, bearing upon Mr. Leland's endeavor to get nation-wide publicity to his assertions as to business depression is the fact that the corporation with which he is connected, the General Motors Co., a holding company, of which the Cadillac and Buick are the two leading subsidiary companies, shows an advance in the market price on its stock of nearly 300 per cent during the past year and an advance of 100 per cent within the past six months. To make this clear, let it be understood that General Motors preferred advanced from 55 to 95, and this is based upon actual earnings and profits. The Buick Co. have manufactured and actually sold and received the cash therefor an output for 1914 models of 32,000 pleasure cars and 1,500 commercial cars, being the largest year in its history, and the outlook for 1915 is so promising that plans have been made and some contracts for material let upon a basis of 40,000 cars. Detroit, Mr. Leland's home city, is one of the most prosperous cities in the world—more building, increased bank deposits, everything flourishing, notwithstanding the thousands of dollars paid out during the 1912 campaign for the full-page advertisements bearing Mr. Leland's name predicting dire disaster. Does Mr. Leland claim that the business depression in Canada and some other nations is due to the United States Congress? That President Wilson's program may be carried out and constructive legislation enacted along the lines of his recommendation is the earnest hope of a great majority of the American people.

EDWIN O. WOOD.

Edwin O. Wood is a Democrat; he is the Democratic national committeeman from that State. And the Senator from Michigan will, I think, say that Edwin O. Wood is a man of the highest character.

Mr. SMITH of Michigan. Mr. President, lest my silence might be construed as disagreement with the statement of the Senator from Missouri, I want to say, without any qualification whatever, that Mr. Wood is a man of the highest character, a man of fine attainments, one of my warm personal friends, and I commend the statement which he has made to the Senator from Missouri. It indicates at least that there is one branch of industry in that State that has not yet suffered the blight of Democracy.

Mr. REED. Yes, Mr. President; there is one branch of industry that has not suffered the blight. This great concern, making last year nearly $5,000,000 net, this concern, the stock of which has advanced 300 per cent within the last 18 months, this concern, which is a criminal combination organized in defiance of law, which is extending its business and multiplying its profits, comes here to the Senate of the United States and says to it, "Lift your hand if you dare; enact any legislation that will stop us in our marauding expeditions at your peril. We proclaim that you are destroying the country."

Mr. President, we are going "to have it out" with concerns of this ilk pretty soon—if I may be pardoned a common slang expression. We are going to determine in the near future whether or not the criminal trusts have become so potential that their mere threats can compel Congress to adjourn and their wrath can arrest the powers of the Federal Government.

It has been said often here that some of these concerns were organized in the State of New Jersey. How does that fact answer the charge that they are engaged in criminal practices? It is a sad truth that the wise laws of many States of the Union have been practically nullified by the fact that under the interstate-commerce provision of the Constitution a corporation organized in one State can do business in another, and, consequently, that while many of the States have passed statutes limiting the capital of corporations and making other wise provisions, all these safeguards enacted by various States have been rendered nugatory by the conduct of certain other States in granting corporations franchises without limit as to capital and without any other proper limitation.

My own State for many years had upon its statutes a provision that a corporation could not be organized with a greater amount of capital than $15,000,000, unless it were a corporation engaged in operating a railroad. That statute was rendered null and void, so far as its effectiveness was concerned, by the existence of other States where there was no such limitation, and by the fact that being there organized corporations could enter my State where the limitation existed and do business, although they could not have received a Missouri charter.

The fact that the General Motors Co. was organized under the laws of New Jersey does not change the situation. If it was wrong to organize it in New Jersey, the fact that Woodrow Wilson in his short term as governor was not able to wipe out all of the wrongs and iniquities existing does not give the trust a clean bill of health. We must none the less meet the question and settle it upon its merits.

What I am at this time particularly calling attention to is the startling fact that a criminal trust, its pockets bulging with profits, gained in violation of law, coolly comes to the Congress of the United States and, in effect, orders Congress to adjourn, attaching to the demand the implied threat that big business will injure the country if Congress does not obey its commands.

The demand we have of this automobile trust is couched in language calculated to impress one with the fact that impudence frequently characterizes criminality.

Mr. President, while I am on my feet, and since the Senator has said "here is one concern that has not yet been wrecked," I call attention to one other matter. We have been repeatedly told here from the other side of the Chamber that nearly every business house in the United States is being closed up; that ruin and desolation are stalking across the earth; that the bats are now roosting in all of the workshops where once the music of labor delighted the ear; and we are told at the same time that prices have not been reduced a penny. It was stated here only the other day that there never has been any reduction in prices. Of course, it is a little difficult for a man to understand why a factory that can get the same prices now that it got three years ago should shut down; why it would not keep on running if its prices were just as high.

It is a little hard to understand how a man who is selling an article at a given price and making money, and his entire plant is buzzing and humming and whirling with industry, should shut that plant down as long as the prices stay just where they were. So, it is a little hard to understand, if prices have stayed up, why all the great factories of the country should be closing down. The truth is prices have been lowered and the factories have not shut down.

I want to put into the RECORD part of a letter from the National Cloak & Suit Co., of New York. I do not see on the floor the Senator from Utah [Mr. SMOOT] or the Senator from Rhode Island [Mr. LIPPITT]. They could tell us all about the various samples of cloth which are attached to this letter; but here they are [exhibiting]. I will ask to print the letter without reading it, except an excerpt or two, which I will take the liberty of reading:

Answering the above, we would say that the tariff has been the cause of reducing prices on woolens by the yard, and this will in turn enable the manufacturer of garments to give a better piece of material in a garment at fixed retail price than he did a year ago, or to sell the same garment he made a year ago at a lower price.

The letter then goes on to take up the question of woolens, which is the business in which this concern is engaged.

Here are these samples. I can not tell you what kind of goods they are, but they look like pretty good woolen goods. Here is a sample that was sold last year at $1.32½ a yard, which is now being sold at $1.02½. Another sample which was sold last year at $1.37 a yard is now being sold at 87½ cents. Another sample which was sold last year at $1.30 is now being sold at 97½ cents. Another sample which was sold last year at $1.45 is now being sold at $1.02½, and another sample which was sold last year at $1.37 is now being sold at 98¾ cents. All of these samples are attached to the letter of this large concern. While I can not give the technical names, the various samples are all of various worsteds.

I call attention now to the Journal of Commerce and Commercial Bulletin, under date of January 13. That is a good way back. I am introducing this to show that at that early period there was a reduction in prices, that it was general, and that all this talk to the effect that there has been no reduction of prices has been in the face of the published price lists since January, 1914.

The anxiously awaited prices on staple men's wear serges for fall 1914 delivery were made yesterday by the American Woolen Co.—

Certainly a very large concern—

The prices named showed sharp concessions from the figures made a year ago, but the downward revisions announced by the leading factor were by no means so great as to disturb the market unduly. The figures decided upon for the next heavyweight season were about what buyers generally anticipated. The reductions ranged from 10 cents to 37½ cents a yard compared with the opening quotations for the fall 1913 season.

The greatest cut was made on the Wood serge style No. 9118–010. This cloth, which was $2.10 a year ago, was dropped to $1.72½. On cloths that were priced last July for spring 1914 only slight changes were made.

I shall not read all of the article, but I shall ask to insert it.

The PRESIDING OFFICER. Without objection, that may be done.

The balance of the article referred to is as follows:

Serge No. 3194, one of the leading fabrics made in the Fulton Mill, was reduced from $1.37½, the price named last July for spring 1914, to $1.35. That the price of this cloth would be $1.35 was foreshadowed in these columns a couple of weeks ago.

Serge No. 3844, which was reduced from $1.82½ to $1.62½ last July, was lowered 7½ cents, making the total reduction on this number 27½ cents a yard during the past year. Two of the unfinished worsteds made in the Washington Mill were reduced 30 cents and 35 cents a yard. Ayer serge No 1814–44 was reduced from $1.55 for fall 1913 to $1.25.

The reductions made by H. W. T. Mail & Co., which ranged from 27½ cents to 45 cents a yard, compared with the fall 1913 prices, were the talk of the market. Patterson & Greenough reduced Waterloo serges and unfinished worsteds about 12½ per cent. Metcalf Bros. & Co. made no prices on Wanskuck serges, and it was announced that quotations would not be ready for a week or 10 days. S. Slater & Sons (Inc.) will make serge prices later in the week. At the office of the George H. Gilbert Manufacturing Co. it was stated that prices would not be named yesterday. The Coronet Worsted Co. expected to be ready about the end of the current week. The United States Worsted Co. serges will be opened to-day.

According to reports current in the market, the advance business booked on staple worsteds is substantial, and the indications point to a very satisfactory application during the season, in spite of the foreign lines that are being offered. It is apparent that domestic factors are determined to keep the staple worsted business in this country, but it is stated that this was possible only because of the low prices named, which, it is contended, are the closest ever made.

The advance orders placed late last week, coupled with the contracts accepted yesterday by the largest worsted corporation, were reported to be up to all reasonable expectations.

Fancy worsteds were also opened by the American Woolen Co. The lines shown by department 2 comprised fancy piece dyes with silk decorations, silk mixtures, skein dyes, vigoureux mixtures, and compound mixtures.

Those in charge of the selling end of the company declined to give out any information as to prices for the next heavy-weight season on goods of this description, but it was learned from other sources that the quotations were relatively as low as those made on staples.

Style number.	Fall, 1914.	Fall, 1913.
WASHINGTON STANDARD CLAYS.		
317, 12-ounce	$1.17½	$1.37½
338, 14-ounce	1.25	1.50
614-5	1.10	.....
615-5, 15-ounce	1.15	1.40
815-4	1.32½	.....
200, 16-ounce	1.37½	1.62½
WASHINGTON SERGES.		
209½-1	.65	.....
315-16	1.00	1.25
815-13	1.37½	.....
UNFINISHED WORSTEDS.		
113-5	1.30	1.52½
115-5, 15-ounce	1.40	1.67½
815-6	1.30	1.55
815½-2	1.60	1.82½
9613-1	1.02½	1.12½
9614-1	1.07½	1.20
9615-1, 15-ounce	1.12½	1.25
9115-75	1.50	1.80
9116-037	1.52½	1.87½
FRENCH BACKS.		
716-12	1.50	1.75
WOOD SERGES.		
9714-8	1.25	1.47½
9715-8	1.35	1.57½
9815-29	1.40	1.62½
9816-29	1.45	1.67½
9116-9	1.57½	1.90
9118-010	1.72½	2.10
FULTON SERGES.		
3194	1.35	1.60
4077, 16-ounce	1.47½	1.72½
3844	1.55	1.82½
5048, 15-ounce	1.40	1.65
6048	1.15	1.40
FULTON UNFINISHED WORSTEDS.		
3850	1.60	1.85
AYER SERGES.		
1614-3	1.07½	1.30
1814-44	1.25	1.55
1114-41	1.42½	.....
1115-29	1.55	.....

Mr. SUTHERLAND. Mr. President——

The PRESIDING OFFICER. Does the Senator from Missouri yield to the Senator from Utah?

Mr. REED. I do.

Mr. SUTHERLAND. Are these wholesale prices that the Senator is quoting?

Mr. REED. They are prices that are made by the American Woolen Co. in this particular instance; yes.

Mr. SUTHERLAND. They are wholesale prices?

Mr. REED. Oh, yes.

Mr. SUTHERLAND. Can the Senator tell us whether or not there has been any decrease in the price of clothing? That is, can a man go to a clothing store here and buy clothing cheaper than he could a year ago?

Mr. REED. Undoubtedly. I have just introduced a letter from a manufacturer on that subject. I think the Senator was not here at the time.

Mr. SUTHERLAND. I am speaking of the retail price of a single suit of clothes.

Mr. REED. Yes.

Mr. LANE. Mr. President, if the Senator goes to a tailor for a suit I think he will find that the tailors are selling the same quality of suits for less than they did last year.

Mr. SUTHERLAND. I shall have to call that to the attention of the tailor I patronize, then, because I have not been able to get a lower price.

Mr. LANE. I think it would be a wise thing for the Senator to do.

Mr. WILLIAMS. Mr. President, if the Senator will pardon me, the Senator from Utah is too high-toned and aristocratic.

Mr. SUTHERLAND. Oh, no.

Mr. WILLIAMS. Probably his tailor will not make a reduction; but if he belonged to the ordinary Democrats of the country and bought his clothes from the shelf in a ready-made clothing store, he could go down in Washington to-day and dis-

cover that there had been a reduction, especially in blue serges and summer light woolen underwear.

Mr. SUTHERLAND. I will say to the Senator that I patronize a very good tailor, but——

Mr. WILLIAMS. While I am on my feet I want to say something further on this point. My boy came to me lately and said: "Papa, I want $4. I want to buy a straw hat. I want a hat just like I had last summer, and that is what it cost." I gave him the $4, and he came back to me later and gave me back 75 cents, and said: "The man is selling them cheaper this year, and he told me it was on account of the tariff." [Laughter.] Now, I do not know whether the man meant that or not, but he was selling the hat 75 cents cheaper just the same.

Mr. SMITH of Michigan. It was due to a shortage of customers.

Mr. SUTHERLAND. I will say to the Senator from Mississippi that that has not been my experience. While I patronize a very good tailor, if the Senator from Missouri will yield to me just a moment——

Mr. REED. Yes.

Mr. SUTHERLAND. I am rather modest in my tastes. I have not been in the habit of buying high-priced clothing or high-priced anything else, but I have been unable to get better prices for the things that I bought than I did a year ago.

Mr. WILLIAMS. The Senator never will get better prices from an exclusive tailor.

Mr. SUTHERLAND. I paid the same price for a straw hat that I did a year ago. I paid a little more for shoes. I find, on the whole, that the things I buy at retail are about the same.

Mr. WILLIAMS. If the Senator will just join the holy army of men that God created with such perfection of physical form that they can be fitted at a ready-made clothing store, the Senator will find out that the goods are cheaper. [Laughter.]

Mr. SMOOT. Mr. President——

The PRESIDING OFFICER. Does the Senator from Missouri yield to the Senator from Utah?

Mr. REED. Oh, yes.

Mr. SMOOT. If the goods are sold by the manufacturer to the clothing man 10 cents a yard cheaper than they were last year, inasmuch as it takes 3¼ yards to make a suit of clothes, that would be 32½ cents on the suit of clothes; and I do not think the Senator himself will claim that the retailer is going to sell a $15 suit of clothes for $14.67½. Those are the absolute facts, Mr. President, and that is where you have to come in order to arrive at whether or not the ultimate consumer buys a suit of clothes cheaper.

I wish to say another thing to the Senator right in that connection. If the cloth of which he speaks costs $1.10, even if it took 3½ yards to make a suit of clothes, all the cloth in the suit of clothes would cost would be $3.85. Now, it is not in the price of the cloth. The cloth that the Senator's suit is made of, for which they charge him $55 here in Washington, will not cost more than $4.85 to $5. It is not in the price of cloth. There is hardly any cloth that ever costs more than 97½ cents a yard. Years ago it did not cost any more than that, and the Senator has quoted the prices of it to-day. There are only 3½ yards in a suit; and I want to say to the Senator that a difference in price of 10 cents a yard to the retailer makes no difference in the retailer's price.

Mr. WILLIAMS. Mr. President, I should like to ask the Senator from Utah a question.

The PRESIDING OFFICER. Does the Senator from Missouri yield to the Senator from Mississippi?

Mr. REED. Oh, yes.

Mr. WILLIAMS. Has the Senator from Utah definitively surrendered his old war cry that the country was to be immediately ruined by ruinously low prices?

Mr. SMOOT. Why, I do not know what the Senator refers to, I am sure. I have not had any such war cry, nor uttered it upon this floor.

Mr. WILLIAMS. But I remember, Mr. President, when we had the tariff bill under discussion, that the Senator from Utah said that we were to be flooded by goods of foreign production at such ruinously low prices that American industry would have to come to a stock-still status. Now, I want to know, merely for my own information, whether or not the Senator from Utah has surrendered that contention, because he seems to me to be making an entirely different contention now.

Mr. SMOOT. Oh, no, Mr. President; the Senator from Mississippi does not understand, or will not understand, what the Senator from Utah has said in the past, or his position.

Mr. WILLIAMS. Oh, I beg the Senator's pardon; it is not a matter of will at all. If I do not comprehend it is out of inability, not out of unwillingness at all.

Mr. SMOOT. Let the figures speak as to whether there is not a great increase of importations.

Mr. REED. Mr. President, I am not going to yield for any such discussion as this.

The PRESIDING OFFICER. The Senator from Missouri declines to yield.

Mr. REED. It has not anything more to do with the question we are discussing at this moment than the story of the fall of Sodom and Gomorrah has to do with the Constitution of the United States. I yielded to the Senator and gave him full time to talk about the matter I am talking about. The question of how many goods are being imported or exported has not anything to do with the question of prices, not the least.

Mr. SMOOT. Mr. President, I did not ask the Senator to yield, nor do I ask him now to yield. The Senator from Mississippi asked me a question, and I proceeded to answer it, but out of the wonderful and unbounded courtesy of the Senator I shall not do so.

Mr. REED. Mr. President, let me not be put in that sort of light.

Mr. SMOOT. I was not asking the Senator to yield to me.

Mr. REED. I gave the Senator full opportunity to ask me any question he wanted to ask. He got into a controversy with the Senator from Mississippi.

Mr. SMOOT. No; I did not get into any controversy at all.

Mr. REED. As long as they were talking about something that bore a faint, infinitesimal resemblance to the question I was talking about, I was willing to follow them, but I am not willing to go at this moment into the question of what the exports and imports of the country are. I am willing to take that up and discuss it as a separate proposition.

The PRESIDING OFFICER. The Senator declines to yield.

Mr. LIPPITT. Mr. President——

Mr. REED. I want for a moment now to reply to the Senator from Utah on a suggestion he made. When I am through with that I shall gladly yield to my friend from Rhode Island.

I have heard the threadbare argument that if you reduce the factory price of the goods the reduction never reaches the ultimate consumer until I think it will at least relieve me to say what I think about it. The argument is bottomed upon the idea that the cost of the raw material entering into a suit of clothes or into a dress has nothing to do with the cost of the garment. I utterly deny that. I deny that it is based upon fact or that it can be sustained by common sense. I deny that if the cloth going into a suit of clothes costs $2 per yard, and it is reduced to $1 per yard, some of that benefit does not in the long run reach the ultimate consumer.

Of course the Senator loves to take the cloth and say there are so many yards of cloth, and if you reduce it 25 cents a yard that ruins the manufacturer, does not enrich the middleman, and leaves the ultimate consumer just where he was before, and anyway that it is so small a sum that it amounts to nothing; but the Senator can not maintain the position that the cost of the raw material entering into a suit of clothes does not have something to do with the price of the suit of clothes.

In addition to the cloth, of which the Senator speaks, buttons, thread, lining, and a dozen or twenty other things enter into a suit of clothes. If you reduce that cost by 25 per cent it amounts, on a first-class suit of clothes, to several dollars. On a very cheap suit of clothes it amounts to a few dollars. It is utterly ridiculous to say that some benefit does not flow on down to the ultimate consumer. If that be not true, if the Senator's logic were carried to its ultimate conclusion, it would amount to this—that if you doubled the price of all the raw materials entering into a garment the price of the garment would still stay the same; if you made it four times as great, the price of the garment would still stay the same to the ultimate consumer; or if you divided it by four, the price would remain the same. I deny the soundness of that proposition. That argument is devoid of sense.

I desire now to call attention, at the point where I was interrupted, to the fact that not only the American Woolen Co. but other companies have marked down their prices.

Mr. LIPPITT rose.

Mr. REED. I promised to yield to the Senator from Rhode Island, and I gladly do so.

Mr. LIPPITT. Mr. President, before the Senator from Missouri leaves the case of the American Woolen Co., which he has been describing, I should like to know whether he has there any figures which show the result of the reductions he has been talking about upon the American Woolen Co. itself. I think those figures are quite instructive. They were published in the paper a short time ago. I have not a copy of the article, but I have a very distinct recollection of the statement in its broad lines.

Of course the Senator understands that the American Woolen Co. is a very large corporation, employing a very large amount of capital and a very large number of operatives. The result of this statement was that for the last year, as the result of these tariff changes, where the American Woolen Co. had been averaging a profit of about $3,000,000 a year, it showed for that year a loss of $800,000.

Mr. REED. For what year?

Mr. LIPPITT. I think it was the year ending last January.

Mr. REED. But, Mr. President, the Senator must know that these prices, made only last January, could not have caused a loss the year before.

Mr. LIPPITT. If the Senator will pardon me just one moment, in addition to showing this enormous loss, they were only enabled to employ from 50 to 60 per cent of the number of operatives they had been in the habit of employing.

We have heard a great deal from the Senator's party about what was going to be done to gentlemen who said they were injured by the tariff. Here is a report in cold figures of a corporation which for years under a Republican tariff had been averaging a little profit on the capital it had invested, and as the result of putting into operation this Democratic tariff it has been obliged to throw a very large number of its employees entirely out of employment and shows a very large loss on the capital that is invested in its business.

There is no mystery about the cause of the present business conditions in this country. The case of the American Woolen Co. is fairly representative. I think that if, as a result of that, there is some fraction of a cent saved on a suit of clothes, and it is done at a cost to the business of results that will make it impossible to continue the business if the results continue, there is something that the Senator ought to consider on that side of the question.

Mr. REED. Mr. President, I am glad the Senator has interrupted me to make this statement, because it throws a flood of light upon all of the criticisms that are now being put forward by those who are willing to wreck the finances of the United States if they can gain a little political advantage out of it; who would bring on a panic to-morrow, and do it gladly, if by that panic they could return themselves to power.

The Senator has told us that last year the American Woolen Co. was obliged to cut down its dividends; that it not only failed to make a profit last year, but that it suffered a loss last year; and yet all of that occurred the year before the tariff bill was passed by Congress, and it is charged up here now to the tariff.

Mr. LIPPITT. What was the date when the tariff bill was passed by Congress?

Mr. REED. The woolen schedule went into effect on the 1st of last January.

Mr. LIPPITT. Does the Senator suppose for a minute that business is conducted on the basis of not taking account of the results that are going to occur and the laws that are going to be put in force? The facts of the case are that for years under a Republican tariff that business was conducted at a reasonable profit; and the facts of the case are that the instant the Senator's ideas of tariff legislation are put into effect the operatives are thrown out of employment, and the legitimate profit on the capital disappears.

Mr. REED. In other words, they charged up a loss a year in advance. The law did not go into effect until last January, but they anticipated the loss and charged it up, and charged it to the woolen schedule which had not yet gone into effect. That is the logic of the Senator.

Mr. LIPPITT. The Senator talks about anticipating a loss, but this loss actually occurred.

Mr. REED. And they also discharged the employees a year before they even knew what the woolen tariff would be. Now, then, I think that points a moral and adorns a tale. I have not the slightest doubt that some of these protected industries would gladly close their mills for a year if they could force the American people to bow down once more and worship them and the theory out of which they enriched themselves.

The Senator makes the astonishing statement that a year before the tariff law was enacted this company suffered a loss, and that the loss is chargeable to the fact that a year afterwards a tariff bill was enacted. And yet, Mr. President, that is exactly the sort of evidence being manufactured and studiously urged against the tariff. If at the time the tariff bill was enacted there was anywhere an institution on its last legs; if it was doomed to certain death by its own diseased condition; if gangrene, beginning at the toes, had eaten clear up to the heart; if its arteries were drained dry by the rascality of its officers; if the coffin was, in fact, ordered when the tariff bill was passed, nevertheless the death is blamed on the tariff. But this is the first time I have known a Senator to assert that we ought to blame on the tariff a loss that occurred a year before the tariff bill was enacted.

The American Woolen Co. was not alone in publishing a reduction in prices. In the same paper—the Journal of Commerce of date January 13, 1914—I find the advertisements of other great houses. I present a few:

METCALF BROS. & CO. PRICES—FINE GRADES DOWN FROM 17½ CENTS TO 25 CENTS A YARD FOR FALL 1914.

Metcalf Bros. & Co. opened their finer grades of wool goods at prices that showed reductions of from 15 cents to 25 cents a yard compared with the quotations for fall 1913.

On the cheaper grades of men's-wear woolens the reductions averaged 7½ cents a yard.

It was stated that serge prices would not be made for the fall 1914 season for a week or 10 days.

Here is another:

PRICES ON WATERLOO SERGES—PATTERSON & GREENOUGH REDUCE HEAVYWEIGHTS ABOUT 12 PER CENT.

Patterson & Greenough, selling agents for the Waterloo Woolen Manufacturing Co., opened the Waterloo serges and unfinished worsteds at the following prices:

Ontario grade serge.

Style:	
5114, 14 ozs	$1.20
5116, 16 ozs	1.30
5118, 18 ozs	1.42½

Seneca.

5214, 14 ozs	1.30
5216, 16 ozs	1.45
5218, 18 ozs	1.60

Unfinished worsted.

51014, 14 ozs	1.25
51016, 16 ozs	1.35
52014, 14 ozs	1.35
52016, 16 ozs	1.50

These prices show a reduction of about 12 per cent compared with last year.

Here is the statement of our old friend:

ARLINGTON SERGES SELL WELL—MANY NEW NUMBERS OFFERED AT ATTRACTIVE PRICES.

William Whitman & Co. have made prices on Arlington Mill serges that are from 25 cents to 35 cents a yard lower than a year ago. These goods, it was stated yesterday, have been open for a week. In addition to the regular standard numbers many new staple fabrics are being offered by this corporation.

One of the best sellers is 2226, which cost $1.32½. An 11-ounce cloth, style No. 2228, is being offered at 80 cents. This cloth is causing a good deal of comment. Another new fabric is No. 2233, at $1.25.

The serge No. 2004, which was opened last August at 75 cents and subsequently advanced to 82½ cents, is being offered for the next fall season at 72½ cents. Serge No. 2034, which a year ago was opened at $1.87½ and lowered last August to $1.62½, is $1.55 for fall 1914 delivery.

The advance business placed on Arlington serges is reported to be substantial.

Mr. President, in the same paper which published the statements showing a reduction in woolen goods I find some evidence that those who spent all last summer prophesying the ruin of the sheep men and wailing over the decimation of their flocks and herds were somewhat in error.

Why, when the tariff bill was up for discussion a distinguished Senator, whose magnificent physique suggests the broad plains of the West and the manly virility of its sturdy population, stood up in the Senate daily looking like a monument of unshed tears; he could vocalize only in notes that were so pathetic that they would melt the stony heart of even a free-trade Democrat as he told us that the price of wool would all go to smash; that the disconsolate little lambs, refusing longer to gambol on the green, would pine away and die; that the wise old wethers, heartbroken at the thought of lower prices, would droop their sad heads, seek the underbrush, shrivel up, and blow away; that the cactus once more would embrace the surface of the earth in its thorny arms and the prairie dog build his lair in the streets of Cheyenne; that ruin and desolation would settle down upon our beloved country and the howl of the coyote would again be heard in the land. [Laughter.] But wool did not go down much; cows still have calves, and hens lay eggs, and chickens hatch, and pigs multiply, and the goat still distills his odoriferous sweets upon the plains of the great West.

For, after all these wailings, I read in a trade paper of January 13, 1914, this:

BOSTON WOOLS STRONG, HIGHER PRICES LOOKED FOR—TRANSACTIONS PRINCIPALLY IN FINE AND FINE MEDIUM TERRITORY—FOREIGN MARKETS FIRMER.

BOSTON, *January 12.*

There is no mistaking the very patent fact that raw wool the world over is master of the wool textile situation. The disinterested attitude which buyers adopted only a short time ago when examining wool, has disappeared and buyers are free to confess that wool prices are against them on Summer Street. The market is in a healthy condition and the prospects indicate higher prices rather than lower.

Probably the best feature of the whole trade, however, is the fact that manufacturers appear more cheerful over the outlook on goods. Some factors are understood to have done fairly well on their heavyweight openings and this is of no little significance this season. Certain show-

ings of woolen overcoatings, especially chinchillas, are reported to have sold well. Moreover, it is asserted by some mill men that certain staple worsteds, which have been kept up to a fixed standard hitherto are obtaining decided recognition from the clothing trade. One well-known manufacturer of medium-priced staple worsteds is reported to have recently sent abroad certain samples to see at what price they could be duplicated, and it is further reported that the results showed a price only 15 cents a yard in favor of the foreign goods, not taking into account the difference in freight nor the 35 per cent duty.

THE WEEK'S SALES IN DETAIL.

Transactions in the local market have been principally of the fine and fine medium grade territory wools of the clothing order, on the basis of 46 to 47 cents for the fine medium and about 50 cents for clean for the best fine wools, possibly 51 cents for choice. Best Montanas, which are now scarce, are quoted at 17 cents in the grease and good fine and fine medium Utahs, shrinking around 65 to 66 per cent, are quoted firm at 16 cents. A sale of over a half million pounds of graded Montana wools is reported, including fine, half-blood and three-eighths blood staple, as well as half-blood clothing wools. For fine staple, 18 to 18½ cents in the grease is reported and for half-blood 19 to 19½ cents is said to have been taken, while 19½ cents is reported on three-eighths blood. About a quarter million pounds of low wools, including common and braid, quarter and low quarter, have also been cleaned up at around 19 cents.

Several lots of original wools are also reported, including some Montana, Idaho, Wyoming, New Mexican, and Colorado at prices ranging from 43 to 44 cents for the poorer wools up to 49 to 50 cents for the best lots. Altogether close to 3,000,000 pounds of territory wools are reported as sold this week.

Manufacturers are carefully going over the stocks of foreign wool in the market and are sampling these wools very extensively as well as the domestic fleece. The usual call for fine Australian clothing wools has been in evidence again at former rates, namely, 56 to 63 cents for 64s–70s wools according to condition.

Included in the week's transactions were several hundred bales of New Zealand and Australian crossbreds.

Mr. President, if there has been one institution in the United States that has told us that the tariff would close down the factories, produce starvation, send the pale-faced laborer out to tramp upon the highways, do no good, and give us no reduction in prices, it was the Pittsburgh Plate Glass Co. It was always here when a tariff bill was up. Like the poor, it was eternally with us. Here is a letter from the Pittsburgh Plate Glass people. I read a part of it. It is dated back in March, when I intended to use some of this material.

MARCH 4, 1914.

* * * * * * *

We are in receipt of your communication of the 16th ultimo, which has been carefully noted.

It is not a simple matter to answer your question directly, because of the many conditions bearing upon the matter of price, and for the further reason that the effect of the present tariff has not been fully determined. To comply as accurately and concisely as circumstances will permit, the prices of plate glass may be considered in three general classifications, with the following comparisons:

Selected quality, used almost entirely for high-grade mirrors:

1912 prices—	Per square foot.
2 feet 8 inches by 5 feet	$0.37
5 by 10 feet	.51
Present prices—	
2 feet 8 inches by 5 feet	.32½
5 by 10 feet	.40½

Second quality, used principally for cheaper grade mirrors and automobiles:

1912 prices—	Per square foot.
2 feet 8 inches by 5 feet	$0.32
5 by 10 feet	.42
Present prices—	
2 feet 8 inches by 5 feet	.29
5 by 10 feet	.37

Glazing quality, used principally for exterior of buildings, show cases, table tops, etc.:

1912 price—	Per square foot.
Average assortment, 1 by 120 feet	$0.30
Present price—	
Average assortment, 1 by 120 feet	.28

The prices in first and second classification are shown in two brackets only, because grades of glass involved are used almost entirely in sizes under 10 square feet. Price in the third classification is based upon average assortment, accepted by wholesale trade buying glazing quality.

I wish the Senator from Utah [Mr. SMOOT] was here.

The above are wholesale prices, but retail prices for the same period would compare relatively.

Mr. VARDAMAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. MARTINE of New Jersey in the chair). The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Ashurst	Johnson	Page	Sutherland
Borah	Jones	Perkins	Swanson
Brady	Kenyon	Pomerene	Thomas
Bristow	Kern	Reed	Thompson
Burton	Lane	Saulsbury	Townsend
Chamberlain	Lea, Tenn.	Sheppard	Vardaman
Chilton	Lee, Md.	Sherman	Warren
Clark, Wyo.	Lewis	Shively	Weeks
Colt	Martin, Va.	Simmons	West
Cummins	Martine, N. J.	Smith, Ariz.	White
Gallinger	Nelson	Smith, Md.	Williams
Gronna	Norris	Smith, Mich.	Works
Hitchcock	O'Gorman	Smoot	
Hughes	Oliver	Sterling	
James	Overman	Stone	

Mr. CHILTON. I wish to state that the Senator from New Mexico [Mr. FALL] is necessarily absent from the Senate.

The VICE PRESIDENT. Fifty-seven Senators have answered to the roll call. There is a quorum present. The Senator from Missouri will proceed.

Mr. WILLIAMS. Mr. President——

Mr. REED. I yield to the Senator from Mississippi.

Mr. WILLIAMS. I wish to report, under the instructions of the Committee to Audit and Control the Contingent Expenses of the Senate, the resolutions which I send to the desk. If there should be any discussion in connection with any of them, I will withdraw them at once. I ask unanimous consent for their consideration. One of them is to pay the funeral expenses of the late Senator Bradley, and others are routine matters connected with the death of employees and the usual six months' allowance. Two of them propose to continue certain employees a month or two longer.

FUNERAL EXPENSES OF THE LATE SENATOR BRADLEY.

Mr. WILLIAMS, from the Committee to Audit and Control the Contingent Expenses of the Senate, to which was referred Senate resolution 381, submitted by Mr. JAMES on the 28th ultimo, reported it favorably without amendment, and it was considered by unanimous consent and agreed to, as follows:

Resolved, That the Secretary of the Senate be, and he is hereby, authorized and directed to pay, from the miscellaneous items of the contingent fund of the Senate, the actual and necessary expenses incurred by the committee appointed by the President of the Senate in arranging for and attending the funeral of the late Senator William O. Bradley, from the State of Kentucky, vouchers for the same to be approved by the Committee to Audit and Control the Contingent Expenses of the Senate.

EMELIE SMITH.

Mr. WILLIAMS. I am directed by the Committee to Audit and Control the Contingent Expenses of the Senate, to which was referred Senate resolution 378, submitted by Mr. NELSON on the 27th ultimo, to report it favorably with amendments. I ask for its present consideration.

The Senate, by unanimous consent, proceeded to consider the resolution. The amendments were, in line 6, to strike out the word "he" and insert "she," and in the same line, before the word "death," to strike out "his" and insert "her," so as to make the resolution read:

Resolved, That the Secretary of the Senate be, and he is hereby, authorized and directed to pay, out of the contingent fund of the Senate, to Emelie Smith, mother of Eli Smith, late a messenger to the Committee on the Five Civilized Tribes of Indians, a sum equal to six months' salary at the rate she was receiving by law at the time of her death, said sum to be considered as including funeral expenses and all other allowances.

The amendments were agreed to.

The resolution as amended was agreed to.

ASSISTANT CLERK TO COMMITTEE ON NAVAL AFFAIRS.

Mr. WILLIAMS, from the Committee to Audit and Control the Contingent Expenses of the Senate, to which was referred Senate resolution 377, submitted by Mr. TILLMAN on the 26th ultimo, reported it without amendment, and it was considered by unanimous consent and agreed to, as follows:

Resolved, That the Committee on Naval Affairs be, and it is hereby, authorized to continue the employment of an assistant clerk, at $1,440 per annum, to be paid from "miscellaneous items" of the contingent fund of the Senate, until July 1, 1914.

Mr. SMITH of Michigan. Mr. President, a parliamentary inquiry. The unfinished business being before the Senate, can the Senate pass these resolutions?

Mr. WILLIAMS. These are routine matters.

The VICE PRESIDENT. It can only be done by unanimous consent, and it is in direct violation of the rules.

MONUMENT TO PRESIDENT JOHN TYLER.

Mr. WILLIAMS. I am directed by the Committee to Audit and Control the Contingent Expenses of the Senate, to which was referred Senate concurrent resolution 22, authorizing the appointment of a committee of Congress to attend the unveiling of a monument to President John Tyler at Richmond, Va., to report it without amendment. I ask that that resolution may go to the calendar.

Mr. SWANSON. I should like to have the resolution passed at once. The exercises will be held very soon. I ask unanimous consent that the resolution be adopted.

The resolution was considered by unanimous consent and agreed to, as follows:

Whereas the Government of the United States has erected a monument in Hollywood Cemetery at Richmond, Va., over the grave of President John Tyler; and

Whereas exercises will be held very soon to unveil the said monument and it being considered very appropriate that the Senate and House of Representatives should be properly represented on this occasion: Therefore be it

Resolved by the Senate (the House of Representatives concurring), That a committee of 10 members be appointed, 5 by the President of the Senate and 5 by the Speaker of the House of Representatives, to represent the Congress of the United States to attend said ceremonies, and authority is hereby given to expend $250 from the contingent fund of the Senate and $250 from the contingent fund of the House of Representatives to defray the expenses of said committee, upon vouchers to be approved by the Committee to Audit and Control the Contingent Expenses of the Senate and the Committee on Accounts of the House of Representatives, respectively.

SENATOR FROM MARYLAND.

Mr. WILLIAMS. I am directed by the Committee to Audit and Control the Contingent Expenses of the Senate, to which was referred Senate resolution 379, to pay BLAIR LEE expenses incurred in proceedings involving his right to a seat in the Senate, submitted by Mr. KERN on the 28th ultimo, to report it without amendment.

Mr. KERN. Mr. President——

Mr. WILLIAMS. I ask that the resolution may go to the calendar unless the Senator from Indiana desires its present consideration.

Mr. KERN. I rose to ask unanimous consent for its immediate consideration.

Mr. GALLINGER. I will ask that the resolution be read once more.

The Secretary again read the resolution.

Mr. GALLINGER. I have nothing to say about it, Mr. President.

Mr. OVERMAN. That is a new precedent in the Senate.

Mr. GALLINGER. I wondered about the payment from the contingent fund.

Mr. OVERMAN. I think the resolution had better go over. We have had such resolutions before and declined to take action in this way.

Mr. WILLIAMS. I am perfectly willing to let the resolution go to the calendar.

Mr. WARREN. Such resolutions have always gone to the Committee on Appropriations and the appropriation has been made in the regular way.

Mr. OVERMAN. The resolution ought to go to the Committee on Appropriations.

Mr. GALLINGER. What attracted my attention was that it proposes to make the payment from the contingent fund of the Senate. It strikes me that there ought to be an appropriation made for the purpose.

Mr. WARREN. It should be regularly appropriated for.

Mr. WILLIAMS. That may be so. I ask that the resolution go to the calendar.

Mr. OVERMAN. Let it go to the Committee on Appropriations. I ask that it be referred to the Committee on Appropriations. That is the place where it belongs.

Mr. WILLIAMS. I agree to that.

The VICE PRESIDENT. The resolution will be referred to the Committee on Appropriations.

HON. FRANK P. GLASS.

Mr. WILLIAMS. I am directed by the Committee to Audit and Control the Contingent Expenses of the Senate, to which was referred Senate resolution 380, to pay Frank P. Glass expenses incurred in proceedings to establish his right to a seat in the Senate by appointment of the governor of Alabama, submitted by the Senator from Indiana [Mr. KERN] on the 28th ultimo, to report it without amendment. I ask that the resolution take the same course.

The VICE PRESIDENT. The resolution will be referred to the Committee on Appropriations.

THE COMMITTEE ON INTEROCEANIC CANALS.

Mr. WILLIAMS, from the Committee to Audit and Control the Contingent Expenses of the Senate, to which was referred Senate resolution 385, submitted by the Senator from New York [Mr. O'GORMAN] on June 3, reported it without amendment, and it was considered by unanimous consent and agreed to as follows:

Resolved, That the provisions of resolution of April 6, 1914, authorizing the Committee on Interoceanic Canals to employ temporarily a stenographer be extended for 30 days from the adoption of this resolution.

PANAMA CANAL TOLLS.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 14385) to amend section 5 of an act to provide for the opening, maintenance, protection, and operation of the Panama Canal and the sanitation of the Canal Zone, approved August 24, 1912.

Mr. REED. Mr. President, when I yielded to the interruption I was reading a letter from the Pittsburgh Plate Glass Co., showing the schedule of prices, with reductions, and I had called attention to this sentence:

The above are wholesale prices, but retail prices for the same period would compare relatively.

At the close of the letter this statement is made:

Indications now point to materially lower prices in the near future, particularly for the third classification.

In connection with the reduction in the price of woolens I have here a letter from S. Slater & Sons, of Webster, Mass., which reads as follows:

WEBSTER, MASS., *February 25, 1914.*

Mr. JAMES H. REED,
Chairman United States Senate Committee on Manufactures,
Washington, D. C.

DEAR SIR: Receipt is acknowledged of your inquiry of February 17, and in reply I am sending you herewith a memorandum showing the prices made on 10 of our staple styles for the fall of 1912 and also for the fall of 1914. The largest reductions are on styles which contain a percentage of foreign wools; the others are all domestic.

Yours, truly,

S. SLATER & SON (INC.),
By F. BARTLETT, *Treasurer.*

Here is the memorandum referred to in the letter:

Staple woolens.

Style.	Fall, 1912.	Fall, 1914.
382	$2.50	$2.40
618	2.15	2.05
1004	1.90	1.80
L B	1.40	1.30
L C X	1.75	1.55
1300	2.35	2.15
1600	2.47½	2.25
1516	1.60	1.45
Saxony	2.60	2.40
Sil. twill	2.75	2.55

Mr. GALLINGER. Mr. President——

The VICE PRESIDENT. Does the Senator from Missouri yield to the Senator from New Hampshire?

Mr. REED. I do.

Mr. GALLINGER. In a large manufacturing establishment in my own State the superintendent informed me that the product was being sold for a little less than a year ago; but, he added, that he had made an investigation and found that the ultimate consumer did not get any benefit from it.

Mr. REED. Oh, yes. I discussed that. Of course, if they made these goods for nothing and gave them away, the ultimate consumer would not get any benefit; if they made them for half the price now charged, the ultimate consumer would not get any benefit; if there was a reduction of 25 per cent, the ultimate consumer would not get any benefit; we all understand that; yet, singularly enough, we all know as an invariable rule of trade that when wholesale prices decline permanently in the end the reduction must reach clear down the line unless there is a combination that can absolutely control the market and fix prices.

Mr. GALLINGER. Well, of course, if the Senator is looking to the future for a reduction to the consumers, that may come some time, but they certainly have been waiting patiently now for a good many months, and it has not reached them as yet.

Mr. REED. Oh, Mr. President, that is all well enough to assert, but I have read a letter from the great Pittsburgh Plate Glass Co., the largest concern in the world, I suppose, in that line, saying that these prices have reached the ultimate consumer. I read a letter a few moments ago from a very large manufacturer, asserting that the reduction in the prices of woolens had reached and gone to the benefit of the consumer. I also put alongside those letters the very common sense of the situation, which is that, in the absence of monopoly or combinations, reduction at the wholesale establishment must finally reach the ultimate consumer.

I call attention now to a letter from Jeremiah Williams & Co., of Boston, Mass., dated February 19, 1914. This letter is written from the standpoint of those who believe in a very high tariff, but it contains this statement:

Our customers tell us that manufacturers' prices on samples of woolen and worsted goods shown in New York last month for delivery next summer, to be made up into clothing and sold next fall by the retailer, are lower than they have been for years, possibly lower than at any time since the previous low tariff under the Wilson-Gorman bill; in other words, in order to meet threatened foreign competition on their product, we believe manufacturers have in many instances put prices on their fabrics below the actual cost of production. There is no question in our mind but that those well posted in this line of manufacturing could demonstrate to you that woolen and worsted goods have been offered and sold for next fall's heavy-weight season at lower prices than for many years.

It is too soon—

Says this gentleman—

however, to tell you whether this reduction in the price of cloth will be passed on to the consuming public in materially lower prices on garments made up ready to wear.

A little later on in the letter is the statement, frankly made, that this concern is one believing in protection and making the argument that the prices in the end will not be of very great benefit. I think I will read that part of the letter, for I want to be fair to the writer of the letter. I think he is a very sincere man.

We are not trying to make a protectionist argument to you, although we ourselves are of that school. We accept the new tariff in the spirit that we are going to make the best of it, but we do not believe that you or your colleagues passed this bill with any intentions other than to benefit the consuming masses, and we feel that when they go to buy their clothes next fall they will pay $10 or $20 or $30 for the same clothes that they bought a year ago at those prices, and that they will not be able to buy at $9.20 or $19.20 or $29.20 and save the 80 cents per garment for themselves, the consumers.

That is his opinion, although he previously said it was too early to tell. Then he adds:

To sum up, answering your questions:
First. There has been a decided reduction in the price of cloth at the mills.
Second. We fear very much that this reduction will never reach the consumer. We hope for the best, however.

I read a portion of a letter written by Passavant & Co., of 440 Fourth Avenue, New York City:

The plain serges, one of the largely used fabrics, are being quoted at from 10 to 20 per cent below last year's prices. It is extremely difficult to give any positive opinion, because things have not settled down to a steady gait yet.

The rest of the letter is of the same tenor, but that is the only part bearing directly upon the reduction in prices. I have the letter here, of course, for any Senator to see it if he so desires.

Mr. President, in this connection I call attention merely to the headlines in a number of papers, running from the 19th to the 22d day of December, 1913:

Prices rise briskly.—Market makes quick response to Washington news.—Dealings on a large scale.—Felt that American Telephone dissolution agreement will lessen talk of Government ownership.—Statement by President Wilson of administration's hope as to business a favorable factor.

The beginning of the article is:

Emphatic response was made by the stock market to-day to the news from Washington of the American Telephone dissolution agreement and the passage by the Senate of the currency bill. Dealings were on a much larger scale and prices moved up vigorously.

The Democratic Party seems to be at present in this peculiar position: If the Democrats pass a bill which strengthens the financial situation of the country and the stock market responds and shows improvement, immediately Senators upon the other side rise and, with eyes rolling in a fine fury and with froth dropping from the corners of their mouths, declare that the Democratic Party has surrendered itself to the great financial interests; but if there is a trust or a combination on earth that sets up a wail we are immediately denounced as the enemies of honest business.

Mr. CLARK of Wyoming. Will the Senator give the date of the last headline which he read?

Mr. REED. New York, December 30, 1913. I call attention to another headline:

Market again strong. Further response is made to news from Washington. Early losses are made up. Substantial gains are recorded in many cases at close of business. Weakness during fore part of day due to foreign influences. Berlin unloads Canadian Pacific.

Another article, under date of December 19, is headed:

Retailing holds up. Christmas sales compare well with those of 1912. Railroad orders broaden. Large buying of pig iron encourages producers. Vast amount of new wealth created by the soil. Some lines quite optimistic. Preparations for inventory.

Under date of December 19, another headline reads:

Broad rise in prices. Stock market gives evidence of inherent strength. Investment buying large. Traders regard passage of currency bill as a favorable factor.

And because the traders did so regard the currency bill, at least one Senator arose on the other side to-day and declared the new currency law was a bankers' law for the benefit of bankers, and left the impression that it necessarily plucked everybody else. If prices rise, the Democratic Party is to be damned; if prices drop, the Democratic Party is to blame; but in any event let it be understood that the ultimate consumer gets no benefit of lower prices; it is always an understood thing, according to the logic of our Republican brethren, that the ultimate consumer never gets anything but "the worst of it."

I read another. This is dated January 12, 1914:

Boston wools strong. Higher prices looked for. Market is in healthy condition. Prospects indicate higher prices rather than lower.

Now, Mr. President, just to ascertain whether the country is actually going to perdition, and whether the chasm of universal bankruptcy is opening before us, I call attention to the stock-market reports in the American of yesterday. I read:

Range of the market: Daily average price of 32 stocks, 20 railway and 12 industrials: Average yesterday, 91⅞; average Wednesday, 91⅛; average week ago, 92⅛; average a month ago, 91¼; average a year ago, 89⅞.

So that upon these 32 great stocks, selected by this paper as typical of the conditions of the market, the average of the last four days being given in comparison with the average of a year ago, there is shown a distinct advance in the value of these stocks. Nevertheless Senators who prefer political success to that confidence which is essential to all business rise on the floor of the Senate every day to declare that stringency is upon us and the precipice of disaster immediately before us.

Mr. President, here is a comparison of bond sales in the New York World of Friday, June 5:

Total sales, June 4, 1914, $2,058,000; same day of week last year, $1,901,000.
From January 1 to date, $327,182,000; same period a year ago, $253,082,000.

Mr. President, those figures do not indicate that business has been entirely arrested; they do not point the road to ruin. With prices better upon stocks and a greater sale of stocks than there was for the corresponding period last year, it does not seem that we are about to be plunged into the gulf of universal bankruptcy.

Of course every time a trust can induce a Senator to read one of its letters proclaiming that woe is ahead of us some people will be frightened, the business of the country to some extent retarded; those who are timorous will experience a financial chill and begin to hoard their dollars. This propaganda of the trusts is carried on in the hope that the people can be deceived into believing that Democratic policies are ruining the country, and thus to induce them to return to power the Republican Party. The trusts know on which side their bread is buttered. Accordingly, they are willing to write letters as long as they can get Republican Senators to give them a place in the CONGRESSIONAL RECORD. There has been a persistent effort to convince the country that it is ruined.

I took part in a special congressional election in the State of Iowa last winter. I found circulated with every farmer in that district an excerpt from the speech of a Republican Senator, telling them that hundreds of millions of bushels of Argentine corn had already been imported. According to that statement more corn had already been imported into the United States from Argentina than Argentina's entire production. The farmers were told that in the very near future Argentina would drive the American farmer from the American market; whereas the truth is that Argentine corn can not sell in competition with the corn of the United States for feeding purposes. Argentine corn is fit only for certain manufacturing purposes. Besides, the entire amount shipped to the United States did not equal the production of one good corn county. Argentine corn was a bogy joyfully introduced and proudly paraded by Republican statesmen, who place party supremacy above national prosperity.

Mr. POMERENE. Mr. President——

The VICE PRESIDENT. Does the Senator from Missouri yield to the Senator from Ohio?

Mr. REED. I do.

Mr. POMERENE. Mr. President, I remember very distinctly during the tariff discussion the representatives of the pottery industries of Ohio and elsewhere were here protesting against any reduction of the duties on pottery, and insisting that, if there were any substantial reduction, it was going to seriously hamper the business. I have before me extracts from different papers in the vicinity of the pottery industries of Ohio, and I want to take the liberty of reading into the RECORD just three or four of them.

One is from the Sebring Times. Sebring is a town of eight or ten thousand people, about 60 miles west of Pittsburgh. In its issue of Tuesday, March 24, 1914, it says:

The past two weeks hold the record for the biggest output of pottery in the history of Sebring. Fifty-four glost kilns were made during that time, and the most gratifying feature is that the ware is not going into stock, but is being used to fill orders and is being shipped as soon as made.

China, Glass, and Lamps, the trade journal of the pottery trade, published in Pittsburgh, in its issue of Tuesday, April 14, said:

Never before in the history of the American potting industry have there been so many kilns in use or so many potteries in active operation. All the general ware plants are being rushed to the limit to fill orders on hand and take care of new business being booked. Large forces of operatives are working as well as the well-paid operatives of the American potteries usually work, and shipments are greater than ever before in the history of the trade.

The East Liverpool Review, which is a Republican paper printed in East Liverpool, Ohio, the center of the pottery industries, in its issue of May 1, said:

Business in the domestic potteries continues even better than was expected the first of the year, and there is not a general ware plant in the country without orders on its books and in sight to keep it in steady operation until the summer shutdown. But, as usual, there is a fly in the ointment. It is the lack of competent workmen.

In the issue of May 14 the East Liverpool News-Review, a Republican paper, says:

A seven-kiln pottery plant, modern in every respect, will be erected at Clarksburg, W. Va., during the next few months by the McNichol China Co., of this city, to be operated entirely separate from the local plant. The structure will represent an investment of nearly $125,000. A railroad siding for the new pottery is being laid.

The East Liverpool News-Review of May 14 says, with reference to local real estate conditions there—and there are quite a number of pottery plants there, as every Senator knows—as follows:

We have it from the lips of a local real estate man that East Liverpool needs 500 new houses to meet the present demand. There is absolutely not a house vacant that is fit for occupancy, and the only source of relief for the newcomers is to buy homes outright. The large influx of newcomers must be provided with shelter, and the only way out of the dilemma is for those who own vacant lots to improve them at once.

Mr. President, I felt that in view of the statements that have been made by the Senator from Missouri these quotations from these papers would be quite apropos.

Mr. REED. I am obliged to the Senator from Ohio for his contribution. I ought to say that while I was on the floor speaking the Senator from Mississippi [Mr. WILLIAMS] handed me a number of papers, the headlines of which I read. The evidence comes from every side. The Senator from New Jersey [Mr. MARTINE], who lives in that State characterized this morning by the Senator from Michigan as so wicked, has just handed me the New York Tribune of June 5, containing this interesting little item:

The New York Central has placed an order for 4,300 cars with the American Car Foundry Co., and for 3,000 cars with the Standard Steel Car Co.

An order for 7,300 cars in one day by one railroad from one factory is indicative of good railroad business. I presume the reduction in the tariff made it possible for the manufacturer to make a lower price. I wonder if my Republican brethren will claim that the ultimate consumer—to wit, the railroad—did not receive any benefit from the reduced price.

It is interesting, in connection with some of the wails we have heard, to call attention to a little evidence from the homes of some of the Job's comforters who have been performing here in the Senate.

I hold in my hand a copy of the New York Herald of February 18, in which I find the following:

SALT LAKE CITY, UTAH (Tuesday).

"Calamity howling," which was heard immediately after the last presidential election, has died out. Following the passage of the currency bill there was a quick change for better feeling, especially among the bankers. Business men have returned to Salt Lake with praise for the stability of this community.

Senator SMOOT'S insistent statements that hard times are ahead are repudiated by stanch Republicans here, as the following statements will show:

Lester D. Freed, president of the Freed Furniture Co. and a Republican said: "I feel that we are going to have a big wave of prosperity. The feeling not only exists here but is strong everywhere. On the strength of the feeling my company is arranging to do heavier advertising than has ever been done before in its history."

Col. Maurice M. Kaighn, receiver of the United States land office, having been appointed by Mr. Roosevelt and reappointed by Mr. Taft, in a speech before the Mining Exchange last Saturday night, declared that the policy pursued by the United States Interior Department toward the mining men of the West for several years has been all wrong, and he congratulated the present administration on the reversal of this policy

I shall not take more time to read that particular statement, but I ask leave to insert it in the RECORD.

The VICE PRESIDENT. Without objection, that may be done.

The matter referred to is as follows:

The policy of the Government in requiring prospectors to prove that their property was a paying mine before granting them a patent was just the same as requiring a homesteader to prove that his land was capable of producing crops before permitting him to settle on the land. "Such a policy," he said, "was the result of ignorance and antagonism toward the mining industry."

Mayor Samuel C. Park, a Republican, who operates a retail and wholesale jewelry house and who is well posted on business conditions, said to-night: "Salt Lake enjoyed prosperity during 1913. The coming year promises to exceed last year. Business men are confident that when the business world accommodates itself to the general readjustment, we will have a period of prosperity which will make us all forget predictions of disaster."

Mr. REED. I read now, because it comes distinctly, I think, from the other side of this controversy and not because it is Democratic at all, this statement:

Guy E. Tripp, chairman of the board of directors of the Westinghouse Electric & Manufacturing Co., whose offices are in No. 165 Broadway, was enthusiastic regarding the outlook for business and the articles calling attention to the improvement. As directing head of the Westinghouse company, which not only has extensive plants at Pittsburgh, Cleveland, and Newark, but also has large subsidiaries in Canada, Great Britain, and France, Mr. Tripp is constantly in touch with the situation in many important lines of business.

"I must certainly approve the Herald's efforts to bring to public attention the facts," said Mr. Tripp, "and I strongly disapprove manufactured pessimism, although I recognize there is some pessimism that is not manufactured.

"The Westinghouse company had better orders in January than in December, and so far in February the orders are larger in proportion than those received in January. The new business is well distributed in all departments of the corporation. The indications are that the improvement in business should not be regarded as temporary. In fact, this improvement gives every reason for the belief that the upward movement will be continued. The betterment may not be rapid, but it will be steady and permanent."

That was said after this wicked Democratic Congress had been ruining the country for 14 months.

Joseph W. Harriman—

I quote him again, because I think words coming from gentlemen engaged in these large adventures will appeal to my friends on the other side—

Joseph W. Harriman, president of the Harriman National Bank, a director of the Merchants' National Bank, and head of the New York Stock Exchange firm of Harriman & Co., said:

"The attitude of the Herald is splendid. It has restored confidence to those who were becoming apprehensive under the continued wails of the calamity howlers If persons will only read the facts as presented by the Herald instead of heeding the lamentations of the quacks, political and legal, who when brought to book are unable to place a finger on any really sore spot, they would be much better off mentally and financially. It is a pity that the mumps, which I notice has broken out in the United States Senate, did not attack some of these gentry long ago, that whatever 'holler' they might have been compelled to make would have been of a different character and not so likely to injure innocent and hard-working persons.

"So far as the banking business is concerned, there is improvement all along the line. Our correspondents speak most optimistically. The outlook for the crops is excellent. Nature has done her part to put everything in splendid shape, and it is up to us to do the rest."

Hugh Franey, of the American Federation of Labor, says:

In some branches of work it is practically impossible at present to obtain efficient men. On the other hand, there are hundreds of men idle in New York who are affiliated with the building trades, because of a halt in operations in this line.

Mr. Franey said that the big steel mills at South Chicago, Gary, Bethlehem, Pittsburgh, Wheeling, Martins Ferry, Canton, East St. Louis, Bessemer, and other points are practically working full time, and that orders have been booked which will mean a continuance of these conditions until late in the spring, at least.

A statement from Connecticut is interesting:

It may safely be said that "prosperity is here" in this center of one of the most extensive cotton manufacturing districts of New England. A careful canvass of the mill towns and villages within a radius of 25 miles around Putnam not only shows not a single skilled hand out of employment if able and willing to work, but a great scarcity of help.

With seven cotton mills and a dozen woolen and worsted mills around here running day and night, or part of the night, all are employed. And the 7,000 hands employed in this district have, with very few exceptions, had their wages increased in the last month. At Wauregan, some of the Killingly villages, Jewett City, Taftville, and Willimantic at least 1,000 more hands could find employment to-day.

These articles in the Herald, which come from all parts of the United States, were printed last February. They had the effect at the time of quieting the howling; but a little time has elapsed, and again the wail goes up, if not from Jericho, at least from the other side of this Chamber.

I might read here until nightfall statements from the Herald. I want to put in one which I have only partially glanced at:

Those Jeremiahs in Washington who have been busy prophesying the opening of soup houses and the closing of factories because they were not running the Government have been pretty busy with their lamentations.

It occurred to the Herald that they might have been so busy that some of them had not had time to find out what the folk at home thought of them. So for their information in part, but principally for the benefit of the general public, this newspaper inquired the views of Republicans among the constituents of the chief mourners over the "national peril."

With a unanimity that may pain the soup house prophets these same constituents proceed to prove with facts and figures that their conduct is prejudicial to the prosperity that is with the Nation.

JAMES R. MANN'S FEARS ARE NOT SHARED BY REPUBLICAN CONSTITUENTS IN CHICAGO.

Then is quoted a statement from Mr. MANN, together with this reply from the people of his home city:

Republican business men of Chicago take exception to the "hard-times" speeches made by Representative JAMES R. MANN, saying that his ideas and statements were not borne out by conditions in Chicago.

"Representative MANN has got the wrong idea, for business has been excellent," said Charles A. Stevens, president of Charles A. Stevens Bros., dealers in women's wear. "This store and most of the other

stores along State Street have had good sales in the last two months, and the prospects of the spring trade are better than they have been for several years.

"I can not reconcile Mr MANN'S statement to the trade conditions. But there may be certain circles of business which have suffered a depression, but it does not seem to me that the condition can be general throughout all lines of industry and in all parts of the country. If such conditions are general, Chicago should be grateful that such is not the case in this city. Representative MANN'S statements do not fit in with the reports of the stores of Chicago, but I can not speak in regard to other lines of industry."

Then follows a statement by Mr. Spiegel, treasurer of Spiegel, May, Stern & Co., and one by Mr. Hulbert, treasurer of the Merchants' Loan & Trust Co., both of them repudiating the claim that is being set forth here.

These articles come from all parts of the United States, and the statements which were true then are true to-day.

Mr. President, instead of sitting here in the Senate of the United States and proclaiming disaster, we ought to stand here endeavoring to produce a feeling of just confidence, and that confidence can be bottomed upon circumstances which are world-wide and which have to-day their happiest culmination in the United States.

Everybody who is candid admits that there was a great financial stringency in all of Europe which began something like two and a half or three years ago. The Balkan War increased that stringency, not so much because of the money actually consumed in the war as because it was feared that all of Europe might be plunged into that war. In consequence the European rate of exchange and d scount mounted to almost unprecedented figures. The banks of Germany charged at one time 9 per cent. The Bank of England raised its discount rate almost to the top notch. The Bank or Banks of France had done the same thing. The result, of course, was that as European money would bring a higher rate of interest in Europe than in the United States, the payment of European loans was demanded. At the same time and for the same reason it became almost impossible to sell American securities in European financial markets. That meant, of course, that many great enterprises that could only be floated or would only be floated when money conditions were easy hesitated and awaited the day when there would be a better tone and a lower interest rate.

The rates in Europe are inevitably reflected in this country; but the rates in Europe have dropped, and the rates in this country are correspondingly dropping. Accordingly enterprises which would not begin their operation under conditions as they existed 12 months ago are to-day beginning to prepare to exploit their various adventures.

I know of one proposition, involving the expenditure of $30,000,000, that absolutely stopped because it was found that the interest rates would amount to probably 6 per cent, whereas it had been expected the money could be obtained at 4 or 5 per cent, as it could have been had it not been for the European disturbances. Now that a better condition exists, enterprise is reaching to grasp opportunity, the while Senators sit here crying, "Woe, woe, woe; bankruptcy is upon us!"

Mr. SHAFROTH. Mr. President, if the Senator will yield for an observation, I will say that out of a list of stocks that was furnished by the New York Stock Exchange about 10 days ago of 63 companies the stocks of which were quoted, all but 10 showed a substantial increase in price over the corresponding low price of 1913, and that is caused unquestionably by the lower rates of interest.

Mr. REED. Mr. President, coincident with a better condition in Europe—indeed, I might almost say in anticipation of it—we passed our banking bill, a bill which was denounced the other day by a Republican Senator as a bankers' bill and as having been enacted in the interest of bankers. Thus we are by one branch of the Republican Party verbally crucified upon a very clumsy cross because we are doing something to prevent financial panics. At the same time the stand-pat remnant is with an exceedingly dull ax sharpening a stick upon which they hope to impale us as the enemies of property and business. Whatever we do, we are sure to displease one or the other branch of the other side.

But what is the fact with reference to this banking system? Let us be fair about it. The solitary effect it has had up to this date is a steadying one, growing out of the fact that financiers looking ahead understand that the day is coming when financial panics will probably be a thing of history. But, of course, the system has not yet been inaugurated. The banks have not yet been opened. The good that is to come from them, the large measure of good, all except its anticipatory effect, has not yet been realized. But we are working along toward the establishment of the banks, and it is a singular and a very propitious fact that it is admitted now by financiers all over the world that when the system is in full operation we shall have immensely added to the general stability of the financial system of the United States. No man can well doubt this who looks candidly at the circumstance that practically every national bank in the United States came into the system, a thing which would not have occurred had the system not been sound.

It was said here by the Senator from Kansas [Mr. BRISTOW] the other day that this was all for the benefit of bankers. I admit frankly that its primary benefits go to the bankers. But what are the character of the benefits going to the bankers? They are not benefits which increase their ability to charge interest or to make exactions or to impose hard conditions upon their customers. The benefits are simply those which make for the solidity of the banking system. It takes out of the banking system or away from the banking system the great danger of panics, and therefore enables the banks of the country to proceed with their business without fear of destruction, for which they are in no way responsible, coming out of the night.

How, then, does that affect the customer of the bank? Certainly not to his evil. The bank that knows that a panic may come at any minute must husband its resources to meet the panic or the possibility of a panic. Hence, it must circumscribe the loans to its customers and to a certain extent it must charge the customer a heavier rate of interest to compensate it for the risk. But just in proportion as you remove that risk, just in proportion as you make bank business secure, you make it possible for the banker to extend greater accommodations to his customers. If we could make every bank in the United States so secure that it could never fail and never have a loss, inevitably the customer of the bank would get the larger portion of the benefit, because of there being an active competition between the banks, and as you improve the conditions of the banks you improve the opportunity of the customer.

Mr. President, at the same time that the calamity howl is being raised and they tell us that everything is closed up and nobody has any money, the effort is being made to tell the farmers that they are being ruined. Tons of literature is being sent out, telling the farmers how the wicked Democrats have exposed them to competition with foreign countries and destroyed their opportunity to make a living; and yet I read in the paper of to-day that Kansas City prices are as follows:

Steers, $8.80 to $9.25 per hundredweight.
Hogs, $8.15 to $8.25 per hundredweight.
Lambs, $9.15 per hundredweight.
Wethers, $5.85 per hundredweight.
Corn, No. 2, 71 cents to 72 cents per bushel.
Wheat, No. 2, red, 94½ cents per bushel.

Mr. President, with good prices to the farmer, with lower prices for money, with better conditions in Europe, we ought to feel encouraged.

But there is an additional circumstance which, of course, is not due to the Democratic Party, although if there were a Republican administration it would be immediately appropriated by that modest organization. I refer to the fact that crop prospects are excellent.

For the last 50 years the Republican politician has declared himself to be the fountain spring of all prosperity. When the farmer in earliest spring wades knee deep in mud in preparation for planting; when from break of dawn to fall of night he trudges behind the plow; when with tireless sinews and generous hand he scatters seed upon the fruitful soil; when a kindly God, reproducing the miracle of creation, washes the land with silvery rain, warms it in the fiery mantle of the sun, fans it with the four winds of heaven, carpets it with green, and decks it with the harvest's shimmering gold; when, with sweat oozing from every pore, the farmer, tugging, straining, and enduring the very agony of toil garners in the precious sheaves—when all this, through the providence of God and the labor of man, has been achieved, the Republican politician blandly tells the farmer that he should repudiate the beneficence of God, forget his own industry and husbandry, and humbly thank the Republican Party for prosperity.

The Democratic Party advances no such absurd or insolent pretense; but we may be permitted to say it is a happy thing that from the Atlantic to the Pacific, wherever the eye is cast it embraces vast landscapes divided into splendid checkerboards of varying green, rich valleys covered thick with grasses, hillsides resplendent in the lighter emerald of growing wheat and oats, long, straight rows of corn, where every hill stands rank with vigor. Everywhere the farmers are cultivating the soil. On all hands are the evidences of a prosperous year.

Mr. President, if the weather only stays good and the howlings from the Senate at Washington do not too much disturb atmospheric conditions, we may hope that in due course of time there will be a great crop harvested. If the farmers of the country market that crop and their fat cattle and swine at the prices now being paid there will be in this country so much money that all the jeremiads of disgruntled politicians will be for-

gotten, and sad hearts will be found only in the bosoms of Republican politicians, who prefer political supremacy to national happiness.

Mr. TOWNSEND. Mr. President, this discussion has grown out of the letter introduced by me into the Senate yesterday written by Mr. Leland, of the Cadillac Motor Car Co. It has been charged by the Senator from Missouri that the company with which the writer is connected is in a criminal trust. I know nothing about that, but I do not believe it is true. I do not believe it exists and operates in violation of law. If it does I shall not defend it. I am confident that it needs no defense. I feel sure that if this company was subject to the penalties of the Sherman antitrust law that fact would have been discovered long before this.

I can not at this moment recall the history of the organization of the General Motors Co. My memory is, however, that it grew out of a patent known as the Selden patent, which is a device absolutely necessary to the mechanism of all gasoline motor cars. Some gentlemen, or a company, claimed to own this patent and served notice upon the manufacturers of cars that they could not proceed with their manufacture unless a royalty was paid to the owner of the patent. A number of automobile companies, as I remember, proceeded to make terms with this patent holder, and were permitted to manufacture under a royalty. These, I believe, constitute the General Motors Co. I am not sure, however, that this is true. Other automobile companies in the United States resisted this patent, although a decision had been rendered in an eastern Federal court confirming title to the patent in the alleged owners of it. The case was taken to the Supreme Court of the United States, where it was reversed. If my memory is correct, no manufacturing company has joined the General Motors Co. since then, and but very few concerns joined originally. I am not clear that my understanding is correct, and so far as my position is concerned it makes no difference as to how the organization was effected.

The General Motors Co. is not a very large factor in the manufacture of automobiles; it is certainly not sufficiently important to offer any restraint upon trade. I think that that company a few years ago, by common report, was in financial difficulties; I am sure that some of the companies connected with that organization are now not strong. I do not, however, care to discuss that matter further. If the General Motors Co., of which the Cadillac Motor Car Co. is a constituent part, is operating in violation of law the Attorney General should be able to determine the fact and prosecution should be instituted against it. I will join the Senator from Missouri [Mr. REED] in invoking action by the Department of Justice if such is the case.

I think, however, it ill becomes Senators to take advantage of their constitutional privilege on such information as has been presented here to attack by the use of violent and harsh language, by the charge of criminality, an organization which has at least the reputation of being an institution of good character and high standing and against which nobody, to my knowledge, except the Senator from Missouri, has ever lodged any complaint. The legal status of the Cadillac Motor Car Co., however, is not the real issue here; it is the false issue raised to divert attention from the true one. It does not answer the arguments presented by Mr. Leland to bring in some outside matter and charge the organization with which he is connected as being engaged in an unlawful business. The question raised by that gentleman in his letter to me and now a part of the record is whether the country is suffering from the acts of this administration or not. He has improved his opportunity to petition Congress through his Representative and has stated his views on the conditions of the country. The Senator from Missouri has charged this man with being connected with a trust, and has made the argument that the trusts of the country are opposing legislation which has been enacted. I do not believe that the record will disclose that that is true. If there are any concerns which are going to survive, even temporarily, the ill-advised experimental legislation of this Congress, it will be the large, strong concerns, not the small ones. I think that it is true that probably every Senator in the Senate has received letters similar to the one that I read yesterday. It must be true, because those with whom I have talked have told me that they have received letters asking that this session of Congress dissolve as soon as possible.

The senior Senator from Masssachusetts [Mr. LODGE], who was called from the Chamber a moment ago, handed me a letter from a concern for which he vouches as being not only not in a trust but as being a concern of the highest character and standing. The treasurer and general manager of that company wrote him this letter——

Mr. REED. Will the Senator kindly give us the name of the writer?

Mr. TOWNSEND. If the Senator will be patient, I will read the communication. This is a letter on the stationery of the American Steam Gauge & Valve Manufacturing Co. It is as follows:

AMERICAN STEAM GAUGE & VALVE MANUFACTURING CO.,
Boston, Mass., May 29, 1914.

The Hon. HENRY CABOT LODGE,
United States Senate, Washington, D. C.

DEAR SIR: We wish to bring the fact before your mind just as clearly as possible that business in this country is being terribly hurt through too much legislation.

The great, big units at whom the larger part of this legislation is pointed are backed up with such tremendous resources and surplus that they can stand a long siege of legislation without being in any serious danger. The smaller concerns who are only doing a moderate-size business are not situated in this way, and many of them will have to stand the brunt of the present legislative program.

In other words, the people at whom the legislation is aimed are not going to suffer through it, but, rather, be the gainers, as every time a small company is put out of business—unable to hold up its head under such disastrous conditions as are now existing—it makes things just so much safer and better for the big fellow.

By this we mean that the present legislation, rather than accomplishing what it aims to, will have, to a considerable extent, the contrary effect.

Take, for instance, this company, if you care for an example. Last year we did the biggest business in our history, amounting to $549,000, which shows that under reasonably normal conditions we forge ahead. The sales for the first three months of this year were exactly 20 per cent below last year's average. Our pay roll is $1,400 per week less than last year's average, showing that we had to let a lot of men go, and they are consequently out of positions and suffering through lack of work. This is to say nothing of what may have happened to their families through this same cause.

Orders taken during the present month, with only to-day to go, are over 33⅓ per cent less than they were last year, and over 15 per cent less than they were last month, showing that things are getting much worse instead of better.

In addition to this, we are keeping employed on full time at present a great many more men than we actually require, simply because they are good, faithful, capable men; and we feel it a necessity to keep such men as these employed through the need of them in better times, and also the fact that they need the work. This company has always gone the limit in keeping just as big a force going as possible. By so doing now we are accumulating stock which, although it can probably be sold at some future time, is not really good business policy, through the fact that it ties up too much money in merchandise for a small-size concern.

At the same time we are obliged to maintain in its entirety our expensive sales force, as it is impossible during a dull business period to do away with salesmen, as this is the time when they are urged harder than ever to obtain business. In this way the expenses for keeping the salesmen out on the road hustling for orders, when there are very few to be had—but through the necessity of getting every possible order we are obliged to make the effort just the same—practically absorbs all of the profit. In fact, under the present circumstances, very probably more than the profit, so that there is nothing left for the stockholders.

For all the reasons heretofore stated we urge most sincerely on you the necessity of an early adjournment of Congress and for an end to further legislation, especially that connected with business and the railroads. We ask you to do everything in your power to bring about the earliest possible adjournment, in order that this country may have at least a brief period in which to convalesce.

Business in this country is sick, terribly sick, and any more medicine of the sort that we have been having will prove more than disastrous. Instead of recovering and getting into a convalescent state, business in many cases will die outright, and through just one thing—too much medicine and too little rest.

It doesn't seem possible for me to put on paper how deeply I feel on this subject, but I can assure you that there are thousands and thousands of honest, straightforward, hard-working business men in this country who are bound to suffer, in most cases due to wrongs of others and an effort to right these wrongs.

We realize as deeply as anyone else the necessity of good laws and their enforcement, but there is always a time when wisdom calls for a cessation of activity in the legislative program, and if that time has ever come, it is here now.

We don't say that further legislation is not necessary, and we do not pretend to pass on this part of the proposition. The only point that we wish to make clear is that any further legislation now is not only dangerous but criminal. For the sake of the hard-working business men and the hard-working laboring men, please bring about an early adjournment of Congress if you can.

Yours, very truly,
RALPH B. PHILLIPS,
Treasurer and General Manager.

Mr. President, I introduced yesterday a letter and resolutions adopted by a strong and reputable business association of the city of Grand Rapids, Mich. It was along the general line of the Leland letter. I have heretofore filed communications from various business organizations to the same effect. Those gentlemen—business men, not politicians—not caring very much about what party controls this Government so long as it is controlled properly, state that business is depressed; that the country is not prospering as it ought to prosper; that enterprise is halting and prosperity waning.

I am glad that the Senator from Missouri has made his argument. He has presented the Democratic defense. I suppose it was made for the purpose of being circulated, and that it will go out to the business men of the country. It would be

interesting to note the effect upon these men when they read the Senator's arguments showing that times are good and that business is booming. I can imagine what they will think of those arguments, for they know that times are not good and that business is not booming with them. Senators may declare prosperity from this floor, but such declarations will not dispel adversity in the country.

The Senator dislikes to hear Members of Congress complain of the business depression of the country. Ah, if the Senator and his party had possessed that feeling in the years gone by, we would not be in the condition we are in to-day. It was through a misrepresentation of business conditions, through persistent and willful misrepresentations, that the Republican Party was retired from power in 1910 and 1912. Calamity has been Democracy's campaign material for years. Most of the arguments and statements which the Senator has presented have been to show that business is improving. Improving over what? Not over the conditions that maintained prior to two years ago, but over the conditions that existed six months ago or perhaps three months ago—improvement in Democratic conditions.

Mr. REED. Oh, Mr. President, the Senator ought not to make that statement, when every figure I gave went back to 1912.

Mr. TOWNSEND. I repeat the statement that there is nothing that has been presented—at least if there has been, I did not so understand it—that shows that conditions are better than they were under the Republican administration of this country prior to the agitation and the election of 1912.

Mr. REED. I will have to ask the Senator, then, to read the articles which I have had incorporated into the RECORD, because they go back to that very time.

Mr. TOWNSEND. Mr. President, my attention has been called to several letters similar to the one from Mr. Leland, but I do not care to take up the time of the Senate in repeating what is known to every Senator, namely, that there is business unrest; that there is business disturbance and retrogression all over our country.

I have just returned, after a week spent in Michigan. While in a certain large shoe store in my home city, the proprietor presented to me what is known in the shoe business as a trade journal. In that journal appeared what had never been seen before, viz, several advertisements by English shoe makers and dealers. The English manufacturer was advertising his wares as of superior worth and less cost than those of his American competitor. They would not advertise if they did not expect to sell. If they sold, they would supplant the American product, and thereby injure the American producer and the American laborer. The domestic shoe business can not be prosperous if the foreigner gets its markets. Of course, the Democratic Party wants foreign goods sold in our markets; that is what they passed the Underwood tariff bill for. That measure was enacted for the purpose of promoting the importation of goods made abroad.

A late report from the Democratic Secretary of Commerce shows, if I recall the figures correctly, that we sold abroad about $37,000,000 less in value of goods during the month of April of this year than we did a year ago last April, and that we purchased of foreign countries $27,000,000 more than we did in April, 1913. You may say that that is a good thing for the consumers of the country, but the business man, the laboring man, the man of common sense in the United States knows that when our country sells less abroad and buys more from other nations the result is detrimental to the laboring and manufacturing interests of the United States. The policy of opening our markets free to the agricultural interests of the world without opening the markets of other countries to the products of our farms may be popular in this Senate, but it is not popular with the American farmer.

I will agree with the Senator from Missouri that the prices of things will eventually go down. The prices of things measured in dollars and cents will undoubtedly be less just as, according to the Senator's statement, they were less during the period of the former Wilson tariff law; but the cost of goods measured by the ability to buy will be materially increased. The gauge of prosperity in this country is a man's ability to buy.

Of what advantage to a man is a cheap price if he has not that price? Workmen who are out of employment do not have the ability to purchase. The man with failing business must economize even to the extent of privation many times. That is what has happened in this country. Savings accumulated in the past are being dissipated, new enterprises are not to any considerable extent being launched, and the march of progress is being halted. All the arguments that Senators may make will fall on deaf ears when they reach the men who are suffering from the conditions which prevail now. The people want a cessation of hostile legislation, not theoretical arguments which do not square with experience.

All of this discussion grew out of the letter from the gentleman from Detroit who called upon Congress to finish its work and go home. I repeat he was but uttering the sentiment of hundreds of thousands of business men in this country; and it does no credit to the Senator from Missouri to charge this man with being engaged in a criminal business. I do not believe he is; I do not believe that the company with which he is connected has ever been operating in restraint of trade; I do not believe there is an organization of higher standing than that particular company; but I repeat, if it is true that it is in violation of law, it should be the business of the Department of Justice to investigate it; and if it is found to be so operating, to prosecute it and all similar concerns.

But we come back to the fact that the statement which the gentleman makes, and which is corroborated by thousands of similar statements all over the country, is that industry is suffering from too much ill-digested, speculative legislation. That is the trouble with the country; and you can not cry it down by eloquent denunciation in the Senate. The people are affected by legislation. They will decide whether it is beneficial or otherwise. They have already spoken at the election recently held in New Jersey, and they are waiting now for an opportunity to express themselves on the wisdom or unwisdom of the legislative policy that has so far been carried out.

The VICE PRESIDENT. The question is on the amendment proposed by the Senator from Nebraska to the amendment proposed by the committee.

Mr. REED. Mr. President, just a word. Again we are told that the country is being flooded with foreign-made goods, and in the same breath that prices have gone up.

Mr. TOWNSEND. If the Senator will allow me, he does not charge me with saying that? I have stated distinctly that prices would go down eventually if the tariff works as its advocates claim it will, because I can not conceive how foreign goods made at a cheaper cost will not finally supplant the American product.

Mr. REED. Then the Senator does not agree with the philosophy of the Senator from Utah, who holds that reduced prices never reach the ultimate consumer.

Mr. SMOOT. Mr. President——

Mr. REED. Just a moment, and I will yield.

Mr. SMOOT. I do not want the Senator to yield.

Mr. REED. If the price of boots and shoes has not gone down, then the foreign competition has not injured anybody. If it has gone down the consumer has received the benefit. It may be of some interest to say that two years before the present tariff law became effective, I know that a large shipment of foreign goods was brought in under peculiar circumstances, but it never had any effect.

Did the Senator desire to ask me something?

Mr. SMOOT. No.

Mr. REED. Very well. I have one further observation to make, and then I am through.

The Senator from Michigan told us that only a few years ago this Automobile Trust was in financial difficulties. He did not exactly specify the time. I showed in my remarks from Poor's Manual that last year its net profits were over $4,000,000. I also called attention to the fact that the year before its net profits were over $4,000,000. I know of no failure since that time. If there was any failure before that, or any financial trouble before that, it is a little peculiar that in 1912 this institution declared a stock dividend of 150 per cent on the common stock. It could not have failed before that, or it would not have had any assets on which to issue a 150 per cent stock dividend. That year it made over $4,000,000 net, and last year it made over $4,000,000 net. I am a little curious to know when it was in financial difficulties.

Mr. TOWNSEND. The Senator from Michigan nowhere stated that the Cadillac Motor Co. had ever been in financial straits. I was talking about the General Motors Co.

Mr. REED. That is exactly what I am talking about, if the Senator please. The Cadillac Motor Co.'s profits do not appear in this book, because the Cadillac Motor Co. exists to-day as a paper organization, every share of its stock and every one of its bonds being in the control of the General Motors Co.

Mr. TOWNSEND. I desire further to remind the Senator that I attempted to make no defense of any condition that is wrong there, and I know of none; and in referring to the conditions which had obtained I was simply calling to memory things that had appeared in the newspapers several years ago.

I have not given the matter any attention, and the statements I made as to those difficulties may be entirely unreliable.

Mr. OWEN. Mr. President, is it not a fact that the General Motors Co. also holds the stock and bonds of 15 or 20 of these so-called independent concerns or companies?

Mr. REED. I put a complete list of them in the RECORD, as far as I had them. There may be others.

PRODUCTION OF OIL IN OKLAHOMA.

Mr. OWEN. Mr. President, some days ago I introduced a bill, Senate bill 5550, with regard to public ownership of pipe lines, desiring that the matter might be considered. The State of Oklahoma now has an output of about 75,000,000 barrels of oil. Recently there have been the most drastic cuts in the price of the oil in Oklahoma, in the Healdton field it being cut down to 50 cents a barrel.

I desire to place in the RECORD a declaration in regard to this matter by the independent oil refiners, favoring this bill, through their counsel. I do not wish to take the time of the Senate to read it, but I should like to have it appear in the RECORD, if there be no objection.

The VICE PRESIDENT. Is there any objection?

Mr. SMOOT. I will ask the Senator whether it is very long?

Mr. OWEN. Yes; it is quite long.

Mr. SMOOT. Would the Senator be just as well satisfied with making it a public document?

Mr. OWEN. No; I would not.

The VICE PRESIDENT. Is there any objection? The Chair hears none, and it is so ordered.

The matter referred to is as follows:

DECLARATION ON BEHALF OF INDEPENDENT OIL MEN ADVOCATING THE GOVERNMENT OWNERSHIP AND OPERATION OF PIPE LINES FOR THE TRANSPORTATION OF PETROLEUM IN INTERSTATE COMMERCE.

(By C. D. Chamberlin, general counsel the National Petroleum Association, Cleveland, Ohio.)

[Senate bill 5550.]

DECLARATION.

This declaration on behalf of the independent portion of the petroleum industry in support of the Government ownership and operation of pipe lines for the transportation of oil in interstate commerce involves two essentials—the desirability and the validity of such action on the part of Congress.

Petroleum is among the most wonderful of nature's products, and perhaps exceeds any other in the number of differing forms and uses when finally manufactured. More than 2,000 principal and by-products are said to be found in the list of commercial articles produced in whole or in part from petroleum. In one form or another it enters every home and industry—a necessity to the poor, a luxury to the rich.

While the substance has been known for centuries, the petroleum industry is but a half century old, and during that comparatively short period by its monopolization has made one man the richest in history. During four-fifths of the time since the birth of the industry the most implacable commercial contest has waged between monopoly and its competitors ever recorded in industrial annals. The struggle has been more than commercial; it has been physical, political, social, and legal, and finally has engaged even the power of the sovereignty of the Nation and the end is not yet.

The natural divisions of the petroleum industry under normal conditions are four: (1) Production, (2) transportation, (3) manufacture, and (4) merchandising.

PRODUCTION.

3. Discovery in commercial quantities.

While it is true that petroleum as a substance has been known for hundreds of years, its discovery in commercial quantities was made about the year 1840 in connection with the production of salt in the salt wells or salt springs in northwestern Pennsylvania by Samuel Kier, who bottled and sold it for medicinal purposes under the name of "Kier's Petroleum or Rock Oil," and was used chiefly as a liniment.

In 1854 George H. Bissel, a graduate of Dartmouth College and by profession a journalist and teacher, saw a sample of this bottled "rock oil" in the laboratory of his old college and was impressed with the commercial possibilities of the product, and at once organized the Pennsylvania Rock Oil Co., the first oil company in the United States. Mr. Bissel sent a sample of the oil to Prof. Silliman, who made an analysis which predicated its commercial value. The company employed Edwin L. Drake to locate and drill a well near Titusville, Pa., which he completed in 1859. The well was only 70 feet deep, and was drilled through the rock by means of a spring pole. It took three months' time to complete it, and cost $3,000. The well came in at 25 barrels a day, and the oil sold at $18 a barrel.

The second well was drilled by William Barnsdall, a Titusville tanner. This was completed on February 1, 1860, and was also a 25-barrel well. In five months he had sold over $16,000 worth of the oil.

Production progressed rapidly from that time on, so that by the end of 1860 the total production of petroleum in the State of Pennsylvania amounted to 500,000 barrels. The average price for which the oil sold was $20 a barrel. (See pp. 12–38, Production of Petroleum in 1912, by Dr. David T. Day, Director of the Petroleum Division of the United States Geological Survey.)

2. The fields of production in the United States.

The field of production known as the Pennsylvania or Appalachian field, in which petroleum was first produced in commercial quantities by Col. Drake in 1859, extended rapidly over the entire western portion of Pennsylvania into New York and in a southwesterly direction, following the mountain trend, through West Virginia, southern Ohio, Kentucky, and Tennessee, and, with the close of the year 1912, had produced nearly 2,000,000,000 barrels of crude oil.

In the year 1876 the production of California was 12,000 barrels of petroleum; in the year 1887 Colorado produced 76,000 barrels; in the year 1889 Indiana produced 33,000 barrels; in the same year Illinois produced 1,460 barrels and Kansas 500 barrels; in 1896 Texas produced 1,450 barrels; in 1894 Wyoming produced 2,000 barrels; in 1900 Oklahoma produced 6,000 barrels; and in 1902 Louisiana produced 548,000 barrels. The above dates mark the discovery of substantial fields of oil in these several States.

The total amount of oil produced in California ending with the year 1912 was 542,000,000 barrels; in Colorado, over 10,000,000 barrels; in Indiana, over 100,000,000 barrels; in Illinois, nearly 200,000,000 barrels; in Kansas 49,000,000 barrels; in Texas, 168,000,000 barrels; in Oklahoma, 300,000,000 barrels; in Wyoming, nearly 2,000,000 barrels; and in Louisiana, over 63,000,000 barrels; the total production of the United States ending the year 1912 being 2,820,426,549 barrels, having a total value of $2,338,032,130.

In area the Pennsylvania or Appalachian field is greatest in extent and its production has been greatest, but for some years past has been gradually decreasing, its highest point having been reached in the year 1891, when it produced over 54,000,000 barrels of petroleum. The area of the Indiana field is limited and has probably been defined, since its production has been gradually decreasing during the last five years. The Illinois field is also a field of limited production and has likewise been decreasing during the last five years. The midcontinent field, including Kansas, Oklahoma, northern Texas, and Louisiana, rivals the Appalachian field in the extent of its territory and is not wholly defined, its production having rapidly increased during the last five years. The Texas field proper is essentially that portion of Texas bordering upon the Gulf, and has likewise been decreasing, so that in all probability its extent is defined. The California field, at present producing the largest amount of any field of production in the United States, extends over the entire southern half of the State and has shown the most rapid increase in production during the last five years of any field within the United States.

3. The amount of production.

The rapidity with which this wonderful industry has developed is perhaps most graphically shown by stating the total production by decades. In 1860 there were produced in the United States 500,000 barrels of petroleum; in 1870, 5,260,000; in 1880, 26,286,000; in 1890, 45,823,000; in 1900, 63,660,000; in 1910, 209,557,000. In 1913 the estimated amount by Dr. David T. Day on the data that he has already compiled shows the total production to be 242,000,000 barrels, which has added over $250,000,000 to the Nation's wealth.

4. The world's production.

The United States, the first country to produce oil in commercial quantities, has during the entire period maintained its place as first in the rank of producing countries. In the year 1912, as shown in Dr. Day's report above referred to, at page 137, the other countries, in order of their rank, were Russia, Mexico, Roumania, Dutch East Indies, Galicia, India, Japan, Peru, Germany, Canada, and Italy, the total production for the year being 351,178,236 barrels, of which amount the United States produced 222,113,218 barrels, or 63.25 per cent. No other single country produced more than 5 per cent except Russia, which produced less than 20 per cent. From these figures it is plain how important this industry is to the United States and to the world.

5. Value.

The total value in dollars of the production of petroleum in the United States for the year ending 1912 is reported by Dr. Day in his report for that year as $2,338,000,000. Adding the value of the production for the year 1913 would bring the total up to the enormous figure of $2,600,000,000; and it must be remembered that this is merely the value of the oil at the mouth of the well. The amount of property invested in production, refining, transportation, and marketing of this product in the United States has never been estimated, but must run into the hundreds of millions of dollars, and the increased value of the various products obtained by the process of manufacture renders the total value produced by the industry almost incalculable. Its value in money, however, tells but a small part of the worth of the petroleum industry to the human family. No other product is so rich in its various uses, and no other product has become so essential to the material, social, and political progress of the country.

TRANSPORTATION.

1. The vehicles of transportation.

When oil was first produced the only method of transportation known from the well to the refinery was by means of the ordinary wooden barrel, which was loaded upon a wagon and drawn to the nearest refinery or the nearest railroad station, and in the latter case loaded upon a car and transported to a refining point or to seaboard for export.

Much of the oil produced in the early development of the Pennsylvania field was barreled and loaded upon barges and floated down the streams to refineries located at Pittsburgh, Pa. The loss by reason of defective cooperage suggested the building of a tank upon the barge and carrying the oil in bulk. This in turn suggested the building of a tank upon a car, the first tank cars being merely cars mounted with wooden tanks, which were rapidly succeeded by the cylindrical iron tank cars. The tank barge, floated upon the streams, developed into the tank vessel that is now in use upon the ocean, the Great Lakes, and the navigable rivers for the transportation of oil in bulk.

With the advent of the tank containers in transportation the pipe line suggested itself as a convenient and less expensive method of transporting the oil from the well to the refinery or to the railroad station. Gen. S. D. Karns, of Parkersburg, W. Va., in 1860, was the first to use the pipe line for the transportation of oil. This pipe line was laid from Burning Springs to Parkersburg, W. Va., the oil flowing by gravity a distance of 36 miles. A few years later J. S. Hutchison, the inventor of the rotary pump, conceived the idea of forcing the oil through pipes by means of his pump. The first pipe line through which oil was forced in this manner was laid from the Sherman well, near Titusville, Pa., to the terminus of the railroad at the Miller farm, a distance of about 3 miles, the pipes being made of cast iron.

In 1862 a bill was introduced in the Pennsylvania Legislature to authorize the construction of a pipe line from Oil Creek to Kittanning, but this bill was defeated by those interested in teaming oil.

Samuel Van Syckle, of Titusville, Pa., was the first to put down a working pipe line. It was only 5 miles long, extending from Pithole to Miller's farm, and carried but eight barrels of oil per day. By the end of the year 1871 more than 20 pipe lines had been constructed in northwestern Pennsylvania. In the year 1872 the free pipe line bill was passed by both houses of the Pennsylvania Legislature, being the first pipe line legislation. In the same year the American Transfer Co. began to build and acquire by purchase pipe lines in the vicinity of Oil Creek and in the lower oil fields. This was the first Standard Oil Co. pipe line.

In the year 1874 the Pennsylvania Legislature passed a bill regulating pipe-line companies, requiring them to make monthly statements of runs, stocks, and receipts. In the same year a large number of independent pipe lines were consolidated under the name of the United Pipe Lines, and this association or merger was the first step taken in the direction of settling the question of transportation of oil by pipe lines for all time. It erected hundreds of 35,000-barrel oil tanks to store the oversupply of oil, made pipe-line connections to all of the tanks at the wells, and built pumping stations where they were needed to handle the oil.

In 1880 the business of the American Transfer Co. was transferred to the United Pipe Lines, and in 1884 the United Pipe Lines were transferred to the National Transit Co., all of which were Standard Oil properties, and the National Transit Co. became the Standard Oil Co.'s agency for acquiring, operating, and promoting transportation of petroleum by pipe line throughout all of the fields of the United States, except in the State of California.

2. *Control of transportation.*

At page 33 of the "Report on the transportation of petroleum," May 2, 1906, by the Commissioner of Corporations, it is said:

"The petroleum industry affords a striking example of the importance of the transportation problem. The cost of transportation is an exceedingly large factor in the cost of oil to the consumer. Consequently, any difference in transportation costs, as between different producers and refiners of oil, has a powerful influence upon their respective positions in competition.

"The importance of transportation, with respect to petroleum, grows chiefly out of the fact that petroleum and most of its products are low-priced commodities. They are heavy in proportion to their value. Moreover, the value of the raw material, crude petroleum, is a large proportion of the total cost of the finished product, while the cost of refining is comparatively small, and a reasonable profit to the refiner is also a comparatively small factor per unit of product. Even an apparently slight difference in transportation rates may, therefore, enable one refiner to sell at a profit while his competitor is losing money."

And, at page 29 of the same report, it is stated:

"Chief among the advantages which, aside from present railroad discriminations the Standard possesses, are the immense pipe-line systems of the company, which enable it at low cost to collect crude oil at highly favorable locations for refining. The great majority of the competitors of the Standard are located in, or very near to, oil-producing territories, and are thus dependent upon railroads for the transportation of oil almost the entire distance from the wells to the final consumer. The Standard Oil Co., on the other hand, often transports its crude oil hundreds of miles in pipe lines in order to refine it at points much nearer to great consuming markets."

The Interstate Commerce Commission, in its report on "Railroad discriminations and monopolies in coal and oil," in obedience to public resolution No. 8, approved March 7, 1906, entitled "Joint resolution instruction the Interstate Commerce Commission to make examinations into the subject of railroad discriminations and monopolies in coal and oil, and report on the same from time to time," which report was made to the Senate and House of Representatives under date of January 28, 1907, at page 5, said:

"The main purpose of this report is to point out in a general way the methods by which the Standard Oil Co. has built up and perpetuated this monopoly, and the relation of the agencies of transportation to that monopoly. At the basis of the monopoly of the Standard Oil Co. in the production and distribution of petroleum products rests the pipe line. * * *

"The advantages which the possession of these pipe lines give to the Standard are apparent upon the surface. The refineries of the independent producer who, as a rule, has no pipe line of any considerable extent, and who generally depends upon that of the Standard for his supply of crude material, are located for the most part near the source of the crude supply. * * *

"The possession of these pipe lines enables the Standard to absolutely control the price of crude petroleum and to determine, therefore, the price which its competitor in a given locality shall pay. * * * In any industry whoever controls the avenues of transportation of either the raw material or the finished product can speedily drive all competitors out of existence. The production and distribution of petroleum is no exception to this rule. While there may be a feeble competition in limited areas, even that must rest largely upon the sufferance of the Standard Oil Co. so long as it has practically the exclusive use of its present system of pipe lines. * * *

"We have in this record a vivid account of several attempts of this character—the construction and operation of pipe lines by independent concerns—and whoever has listened to this testimony will readily appreciate why success was difficult of attainment in these cases and why capital might well hesitate before embarking in such an enterprise. In the past every obstacle has been thrown in the way of such undertakings, and especially have they been opposed by the railroads of the country, whose right of way has generally stood as a Chinese wall against all attempts to extend pipe lines. This can be understood from a railway standpoint, for the pipe line takes the traffic which the railway otherwise obtains. What is difficult of comprehension is that the railway has in the cases brought to our attention extended to the Standard every facility for the construction of pipe lines, while doing all in its power to prevent their construction by the competitors of the Standard."

3. *Cost of transportation.*

In the report of the Commissioner of Corporations on the "Transportation of petroleum," May 2, 1906, at page 60, it is stated:

"The advantage of the location of the seaboard refineries and of the Whiting refinery grows out of the fact that the cost of pipe-line transportation to them from the oil fields is much less than the cost of rail transportation which the competitors have for the most part to pay in order to reach the same points. The Bureau of Corporations has not secured exact information as to the cost to the Standard Oil Co. of transporting oil through its great trunk pipe lines. The reports of the Prairie Oil & Gas Co., which is controlled by the Standard, show, however, that the operating expense of transporting crude oil through the trunk pipe line from Humboldt, Kans., to Sugar Creek, Mo., a distance of about 117 miles, is less than 1 cent per barrel of 42 gallons, and it is highly probable that the operating expense does not increase proportionately with an increase of distance. Even supposing expense to increase proportionately with distance, the operating cost of transporting oil from the Appalachian oil fields to New York Harbor, an average distance of about 300 miles, would still be less than 3 cents per barrel, if the figures of the Prairie Oil & Gas Co. may be taken as typical. * * *

"An allowance of 5 per cent for depreciation and 5 per cent for interest upon the actual investment of the Prairie Oil & Gas Co. in its pipe line from Humboldt to Sugar Creek is equal to about 3⅜ cents per barrel of crude oil (42 gallons) transported during the first five months of 1905. But the pipe line does not seem to have been used during this period to more than half its full capacity, and its capacity has since been increased more than one-half at a much less than proportional increase of investment. Even if the line is operated at considerably less than its full capacity, therefore 2 cents per barrel is a sufficient allowance for interest and depreciation, provided, of course, that the oil fields continue to produce largely for a long period. * * *

"A liberal allowance for the entire cost of transporting crude oil by trunk pipe line from the Appalachian field to the Atlantic seaboard would not exceed 10 cents per barrel of 42 gallons, or about one-fourth or a cent per gallon. It is quite likely that the cost is less than 8 cents per barrel, or about one-fifth of a cent per gallon. * * *

"This estimated cost of transportation by pipe line is only about one-fourth the cost of rail transportation from the refineries of the independent concerns in these oil fields to the seaboard and to Chicago, respectively. The freight rate from western Pennsylvania refineries to New York Harbor is almost exactly 1 cent per gallon, and to Chicago about 1¼ cents."

4. *Monopoly of control and use of pipe lines.*

The report of the Commissioner of Corporations, heretofore referred to, at page 37 says:

"The Standard Oil Co. has all but a monopoly of the pipe lines in the United States. Its control of them is one of the chief sources of its power. While in the older oil fields pipe lines are by the State laws common carriers, there has been little attempt by the States to regulate their charges. The Federal Government has not as yet exercised any control over pipe lines engaged in interstate commerce. The result is that the charges made by the Standard for transporting oil through its pipe lines for outside concerns are altogether excessive, and in practice are largely prohibitive. Since the charges far exceed the cost of the service, the Standard has a great advantage over such of its competitors as are forced to use its pipe lines to secure their crude oil."

MANUFACTURE.

1. *Ownership and location of refineries.*

The refineries owned and operated by the Standard Oil companies may be roughly divided according to location as follows: Seaboard, Eastern Interior, Lima-Indiana, Mississippi Valley, Texas, California, and Rocky Mountain territory refineries. The Standard Oil Co. of New Jersey owns the Bayonne works, at Bayonne, N. J.; the Eagle works, at Constable Hook, N. J.; the Bayway works, at Bayway, N. Y.; the Baltimore works, at Baltimore, Md.; the Baton Rouge works, at Baton Rouge, La.; and the Parkersburg works, at Parkersburg, W. Va. The Standard Oil Co. of New York owns the Pratt works, at Brooklyn, N. Y.; Long Island works, at Long Island City; Sone & Fleming works, at New York, N. Y.; and the Buffalo works, at Buffalo, N. Y. The Atlantic Refining Co. owns the Philadelphia works, at Point Breeze, near Philadelphia, Pa.; the Eclipse works, at Franklin, Pa.; and the Pittsburgh works, at Pittsburgh, Pa. The Vacuum Oil Co. owns the Olean works, at Olean, N. Y. The Solar Refining Co. owns the works at Lima, Ohio. The Standard Oil Co. of Ohio owns the works at Cleveland, Ohio. The Standard Oil Co. of Indiana owns the works at Whiting, Ind., the works at Sugar Creek, Mo., and the works at Wood River, Ill. The Standard Oil Co. of Kansas owns the works at Neodesha, Kans. The Standard Oil Co. of California the works at Point Richmond and also the works at El Segundo, Cal. The Magnolia Refining Co. the works at Beaumont and also the works at Corsicana, Tex. The United Oil Co. the works at Florence, Colo. These are the plants owned and operated by the various Standard Oil Co. interests, all of which were controlled by the holding company, the Standard Oil Co. of New Jersey, prior to May, 1911, when the holding company was required by court decree to return its stock to the stockholders of the various subsidiary companies.

Of the refineries independent of the Standard interests, there are at present 38 located in the State of Pennsylvania—2 at Markus Hook, near Philadelphia; the remainder at Bradford, Warren, Titusville, Oil City, and Pittsburgh, Pa., or in the immediate vicinity of those points. In Kansas there are 16 independent refineries located in the Kansas producing district; in Ohio 6—1 at Marietta, 2 at Cleveland, 1 at Findlay, and 3 at Toledo; in Oklahoma there are 27 located in the field of production; 4 in Illinois; 7 in Texas; 3 in New York; 1 in New Jersey; 4 in Louisiana; 2 in Wyoming; 1 in Missouri; 1 in Arkansas; and 44 in California.

2. *Products and processes.*

The products of petroleum are so numerous and varied that any specific description of them would be beyond the necessities of this declaration; and the same is true concerning the processes of manufacture. The Commissioner of Corporations, in his Report on the Petroleum Industry, part 1, published May 20, 1907, at page 254, states:

"Petroleum is a mixture of numerous hydrocarbons. The process of refining consists of the separation, through distillation, of the crude oil into certain fractions and the purification and standardization of these so that they meet commercial needs. The chief characteristics of the several divisions which indicate their serviceability for commercial uses are gravity, inflammability, color, and viscosity. * * * As the vapor comes from the still there is no immediate break in its character, but instead a gradual change, so that any fraction has the average quality of the vapors coming over between the limits set for it. If these limits be not too widely separated, the fraction is comparatively homogeneous. By changing the limits, both the quantity and quality of the fraction is affected. * * * Much skill may be exercised, not only in making the original separations, but also in manipulating the products so as to obtain the highest quality and the largest yield of the more valuable products. The number of possible products is so large and each is subject to so wide a range in quality that the refining business is more intricate than is perhaps ordinarily supposed."

At page 258 of the same report the commissioner gives the separations resulting from refining Pennsylvania crude by two processes, the first known as the "tar process," now practically abandoned, and the second known as the "cylinder stock process." By the first process the products obtained are:

1. Cymogene and rhigolene—usually not condensed.
2. Crude naphtha, redistilled, giving—
   a. Gasoline (chiefly 86° to 90° Baume).
   b. Gasoline or naphtha (chiefly 68° to 76° Baume).
   c. Benzine.
   d. Gas naphtha.

3. Illuminating oil distillates, treated, giving—
   Water white.
   Prime white.
   Standard white or export.
4. Tar or residuum, redistilled, giving—
   a. Gas oil.
   b. Fuel oil.
   c. Paraffin distillate, pressed, giving—
      (1) Paraffin wax.
      (2) Paraffin lubricating oils
   d. Greases, pitch, roofers' wax, coke.

By the cylinder process:

1, 2, and 3 are obtained and handled as in the tar process.
4. Wax distillate, redistilled, giving—
   a. Gas oil, heavy illuminating oil.
   b. Wax distillate, pressed, giving—
      (1) Pressed oils, reduced, giving—
         (a) 300 illuminating oil.
         (b) Neutral oils, filtered, etc., giving spindle oils, wool oils, engine oils, etc.
      (2) Paraffin wax.
5. Cylinder stock (residue), i. e., unfiltered cylinder oil.
   a. Filtered cylinder oils.

The percentages of each product obtained by the above processes have varied materially in the different qualities of crude, the different methods of operating the refineries, and to accommodate the changes in market requirements. At page 261 of the same report this latter phase is graphically shown by a comparison of the percentages of the various products for the years 1880, 1889, 1899, and 1904, or practically a period of 25 years. In 1880 the percentage of illuminating oil derived from crude was 75.2 per cent; in 1904, 48.2 per cent; fuel oil and residuum, 1.6 per cent and 18.5 per cent, respectively; lubricating oils, 2.1 per cent and 11.6 per cent; naphtha and gasoline, 10.3 per cent and 10.3 per cent; paraffin wax, 0.1 per cent and 1.4 per cent. At the present time the average percentages of each of the above products might be stated as follows: Illuminating oil, 45 per cent; fuel oil and residuum, 5 per cent; lubricating oils, 23 per cent; naphtha and gasoline, 20 per cent; and paraffin wax, 2 per cent. But even these averages are subject to very wide differences according to the different processes used in refining. For instance, in the mid-continent field and in the fields producing asphaltum oil many refiners merely distill off the gasoline and illuminating oil, selling the entire residual as fuel oil, thereby incurring an economic waste. The better equipped and more scientifically operated refineries in any field produce the largest possible quantities of those products having ready sale at highest margin of profit. At the present time gasoline and motor spirits are being produced in quantities averaging 30 per cent of the entire crude product.

3. *Capacities for refining.*

Referring to Dr. Day's "Report on the production of petroleum" for the year 1912, at page 15, it will be noted that there was delivered for refining during that year 177,916,475 barrels of crude oil, for fuel purposes during the same period 58,560,039 barrels, making a total delivery of 236,476,514 barrels, or a decline during the year in total stocks of over 14,000,000 barrels. The total stocks of crude on hand on December 31, 1912, was 122,869,702 barrels, nearly half of which was held in the mid-continent field.

While it is difficult to state the exact amount of crude consumed by each individual refinery on account of there being no statistics published showing such amounts, for obvious reasons, yet from the best obtainable information the annual refining capacities of the various refineries are stated in the following table as approximately but not entirely correct. From the total amount of the refining capacities of all refineries therein shown, being 198,310,000 barrels, it will be seen that this amount is approximately 112 per cent of the total amount of crude delivered for refining during the year 1912. Inasmuch as refineries can only be operated to the greatest advantage by being continually operated at their maximum capacities, and that their operation requires very little idle time and are usually run during all days of the year and all hours of the day, the excess would indicate the nearest to accuracy in the figures submitted in the table:

STILL CAPACITIES FOR REFINING CRUDE PETROLEUM.

Standard Oil refineries.

[Annual capacities in barrels (42 gals.).]

Refineries owned by—	
Standard Oil Co. of New Jersey	36,500,000
Standard Oil Co. of New York	7,300,000
Standard Oil Co. of California	23,725,000
Standard Oil Co. of Indiana	21,170,000
Standard Oil Co. of Ohio	2,000,000
Standard Oil Co. of Kansas	4,000,000
Atlantic Refining Co	18,250,000
Solar Refining Co	3,650,000
Vacuum Oil Co	1,300,000
Total	107,895,000

Independent refineries.

Refineries located in—	Number.	Annual capacities in barrels (42 gallons).
Pennsylvania	38	11,855,900
Kansas	16	8,213,500
Ohio	7	1,992,000
Oklahoma	27	15,081,000
Illinois	4	4,160,000
Texas	7	22,408,000
New York	3	790,000
New Jersey	1	3,500,000
Louisiana	4	516,000
Wyoming	2	2,263,000
Missouri	1	72,000
Arkansas	1	60,000
California	44	19,504,350
Total	155	90,415,750

Total capacities of all refineries, 198,310,750 barrels.

MERCHANDISING.

1. *Jobbers, dealers, and distributing stations.*

In the sale and distribution of the manufactured products of petroleum generally, the manufacturer sells to the jobber or distributor, he to the dealer, and the dealer to the consumer. This normal condition formerly prevailed in the marketing and distribution of petroleum and its products. At the present time it is estimated that the number of independent jobbers in petroleum and its products in the United States is about 1,500, whose business is largely that of buying from the refiners in carload lots and making distribution in smaller quantities to dealers in the territory surrounding the location of such jobber. There are dealers in these products in every city and town in the United States, usually the grocer or hardware dealer, or both.

For the purpose of securing as large a profit in the petroleum business as possible, the Standard Oil Co. at an early date adopted the practice of putting in distributing stations, ignoring the jobber and dealer in many instances. These distributing stations are now located in nearly every important town in the United States, and consist of tanks for receiving the oil in bulk shipments by tank cars and distributing it throughout the town in which such tank station is located, and also in the outlying district by tank wagon so far as gasoline and illuminating oil are concerned. It is fair to say that, in a rough way, there are more than 5,000 such stations belonging to the Standard Oil interests throughout the United States, and many of the larger independent refineries have felt it necessary to adopt the same method of distribution as a settled commercial condition. This method undoubtedly eliminates a great deal of waste and unnecessary cost to the final consumer, but can only be maintained by the provision of enormous capital.

Commenting upon the relation of marketing methods the Commissioner of Corporations in his "Report on the petroleum industry," part 1, May 20, 1907, at page 20, says:

"The relatively greater use of the bulk system of delivery by the Standard than by independent concerns has an important bearing on the degree of monopoly power enjoyed by the Standard Oil Co. * * * In the first place, the shipper of oil in barrels or other small packages pays freight on the weight of the container as well as on the contents, whereas a tank-car shipper pays only on the weight of the oil. As a barrel when empty weighs one-fifth as much as when full of oil, this means in the case of barrel shippers an increase of about 25 per cent in freight charges alone. Again, freight must be paid on the empty barrel when returned or if sold without returning there is often some loss. Furthermore, the cost of teaming oil in barrels or other packages after it has been delivered at railroad stations is often greater than the corresponding cost of local delivery in bulk. This is particularly true where the volume of business is large. Finally and most important, the bulk system is greatly preferred by retail dealers as cleaner and safer. All of this means that shippers of oil in barrels or other small packages are at a disadvantage in competition. * * * The Standard can maintain excessive prices in towns where competitors use only barrel delivery without much danger of losing control of the greater part of the trade.

"In the second place, the Standard's system of direct sale to retail dealers, in conjunction with the advantage of bulk delivery, favors the practice of price discrimination so destructive of competition. If the Standard Oil Co. sold its oil through jobbers, it would have to charge substantially the same net price for all parts of its product, as the logical result of a large wholesale business is always to equalize prices after allowing for cost of delivery. With the jobber eliminated, it is possible to maintain differences in prices between different towns and sections of the country all out of proportion to differences in cost. * * * This method of predatory competition keeps independent concerns small and weak and often destroys their business entirely. Only a competitor with enormous resources can afford so to extend his marketing business as to fight the Standard on equal terms."

2. *Domestic and export markets.*

The Commissioner of Corporations in his "Report on the petroleum industry," part 2, published August 5, 1907, at page 316, says:

"The export of illuminating oil in 1904, according to the estimate of the Standard Oil Co., was 58.9 per cent of the production of such oil, and according to the census figures and export statistics 56.1 per cent. The naphtha exported, on the other hand, according to the census and export statistics, was only about 8.6 per cent of the total production of naphtha. The lubricating-oil exports were about 27.6 per cent of that product. Of paraffin wax—a product small in quantity, but high in value—the exports are proportionately large, about 58 per cent of the production in 1904."

Dr. Day, in his report on the "Production of petroleum" in 1912, at page 106, gives the total amount of exports of mineral oils from the United States for that year, in comparison with the total production of oil in the United States for that year, the total production in gallons being 9,328,755,156, the total exports in gallons 1,883,479,897, or roughly 20 per cent of the total amount produced was exported. Of the total amount exported 1,026,138,000 gallons were illuminating oil or the lighter products, 216,393,000 gallons were lubricating oils, and 266,236,000 gallons residuum, the total value of which was $124,210,382. From the above figures it will appear that the consumption of petroleum in the United States is enormous as compared with that of any other country.

3. *Prices and profits.*

It is a well-known fact that the petroleum prices, both crude and refined, are fixed by the Standard Oil Co. or companies in affiliation known as Standard interests. The prices of crude oil in the various fields bear no relation to each other based upon refining values. While oil produced in the midcontinent field is transported to all refineries located east thereof belonging to the Standard interests through pipe lines owned by the Standard interests, the prices in such fields bear slight relation to the average prices fixed in the various domestic or foreign markets. Prices in the different localities for the finished products in the United States bear little relation to the cost of crude, the cost of refining, or the cost of transportation, but depend more upon the amount of competition against the Standard in any particular market.

In competitive areas prices are held low. In noncompetitive areas prices are held, relatively, exorbitantly high. In the foreign markets, if it suits the Standard to attempt to drive out competition, prices in that particular foreign market will be low as compared with the average export prices, while in such foreign markets without competition prices are held higher than the prices in the domestic markets.

The Commissioner of Corporations, in his report above referred to, at page 425, says:

"While the prices of illuminating oil in the principal foreign markets have for years been relatively lower than the prices in the United States, this disparity became especially conspicuous during the years 1903, 1904, and 1905. During those years the domestic prices stood at a much higher level than for many years before, while prices in the principal foreign markets, particularly in 1904 and 1905, were sharply reduced, with the result that the average price in leading foreign markets, like the United Kingdom, Germany, and the Orient, stood at times from 2 to 3 cents below the average price in the United States, transportation costs, difference in quality of oil, etc., being taken into account."

And on page 427 of the same report:

"The policy of the Standard Oil Co. in charging much higher prices in the domestic than in the foreign trade is an injustice and injury to the American consumer which is not compensated for by any material advantage to American producers of crude oil or to American labor." (See Report of the Industrial Commission, vol. 1, p. 570.)

The Interstate Commerce Commission, in its report to Congress in obedience to public resolution No. 8, approved March 7, 1906, made January 28, 1907, at page 13, says:

"The only knowledge this commission has of the competitive methods of the Standard Oil Co. is derived from the evidence taken in this investigation. We have already said that this testimony was under oath; that the witnesses were subject to cross-examination by the attorneys of the Standard Oil Co.; that that company was given permission to explain or rebut the facts shown. This evidence, if true, demonstrates that in the past the competitive methods of that company have been unfair and often disreputable; that its motto has been the destruction of competition at any cost, and that this policy has been pursued without much reference to decency or conscience. It is significant that the larger independent refiners sell the greater part of their product in foreign countries. One of these testified that 75 per cent of his product went abroad, and that he could compete with the Standard Oil Co. in Germany, where its methods in this country would not be tolerated, but that he could not compete with it here."

And at page 4 of the same report the commission said:

"Refined oil is sent from the Standard Co.'s refinery at Whiting, Ind., which is practically the same as Chicago, to both New Orleans and Denver, the distance being almost exactly the same, and the actual cost to the railway of transporting petroleum to these two points is not much different. The rates upon which it moves, however, is about 2 cents per gallon higher in case of Denver than in case of New Orleans, and the cost to the Standard Co. at these two cities differs to that extent. The price paid by the consumer in New Orleans was said to be 8½ cents a gallon; in Denver, 20 cents a gallon. Our impression from this whole record before us is that the chief effort of the Standard Oil Co. in the past has been to destroy competition, and that its principal profit has come from eliminating, in one way or another, its competitor."

TRANSPORTATION BY PIPE LINES.

As this declaration deals with the question of transportation by pipe lines, and advocates the ownership by the Government of such pipe lines engaged in the transportation of petroleum in interstate commerce, this question will be discussed under the following heads: I. The monopolistic nature of pipe lines; II. The desirability of Government ownership and operation of interstate pipe lines; III. The practicability of Government ownership and operation of interstate pipe lines; and IV. The validity of Government ownership and operation of interstate pipe lines.

I. THE MONOPOLISTIC NATURE OF PIPE LINES.

1. *The cost of transportation of petroleum by pipe line is so low as to preclude other means of transportation in any large volume.*

In the report of the Commissioner of Corporations on the "Transportation of petroleum," published May 2, 1906, at page 60, it is stated:

"The reports of the Prairie Oil & Gas Co., which is controlled by the Standard, show, however, that the operating expense of transportation of crude oil through the trunk line from Humboldt, Kans., to Sugar Creek, Mo., a distance of 117 miles, is less than 1 cent per barrel of 42 gallons. * * * An allowance of 5 per cent for depreciation and 5 per cent for interest upon the actual investment of the Prairie Oil & Gas Co. in its pipe line from Humboldt to Sugar Creek is equal to about 2⅞ cents per barrel of crude oil (42 gallons) transported during the first five months of 1905. But the pipe line does not seem to have been used during this period to more than about half its full capacity; and its capacity has since been increased more than one-half at a much less than proportional increase of investment. Even if the line is operated at considerably less than its full capacity, therefore, 2 cents per barrel is sufficient allowance for interest and depreciation."

The Commissioner of Corporations in his "Report on the petroleum industry," part 1, published May 20, 1907, at page 231, gives the estimated cost of transporting oil through the trunk pipe lines of the Standard and Tide Water Cos. The cost per barrel for operating expense is stated to be 3.32 cents; depreciation (5 per cent on investment of $15,543,000), 2.51 cents; interest on investment, at 10 per cent, 5.01 cents; total, 10.84 cents. With interest on investment at 5 per cent the cost, including interest and depreciation, would be 8.34 cents per barrel.

The cost is also given, at page 233 of the same report, for transporting oil by pipe line from Lima, Ohio, to Bear Creek, Pa., as follows: Operating cost, 1.98 cents per barrel; depreciation (5 per cent on investment of $5,500,000), 2.28 cents; 5 per cent on investment, 2.28 cents; making a total cost of 6.54 cents per barrel.

On page 234, same report, the cost is also estimated for transporting oil from Lima, Ohio, to seaboard, as follows: Operating expense, 5.30 cents per barrel; depreciation, 4.79 cents; interest, at 5 per cent, 4.79 cents; total cost, 14.88 cents. Also, on page 237, the cost from Lima, Ohio, to Whiting, Ind., including interest and depreciation, is given at 5.02 cents per barrel; and, at page 238, from the midcontinent field to Griffith, Ind., the cost is given as being about 9 cents per barrel, making the through charge, equivalent to the sum of the local charges, 28 cents per barrel from the midcontinent field to seaboard, including 5 per cent depreciation and 5 per cent interest on investment.

The rail rate on petroleum in carload lots from western Pennsylvania to New York Harbor is 16½ cents per 100 pounds, which is equivalent to 45 cents a barrel. To Philadelphia the rail rate is 14½ cents per 100 pounds, which is equivalent to 39 cents a barrel, which is the pipe-line charge. And without further comparisons it may be said, generally, that the pipe-line tariffs published by such pipe-line companies as are professedly common carriers are practically the same as the rail rates, although no tariffs are published by the Prairie Oil & Gas Co. for transportation from the midcontinent field to Griffith, Ind., or by the Ohio Oil Co. or Tide Water Pipe Co. from the Illinois field to seaboard.

The conclusion of the Commissioner of Corporations, at page 239, same report, referring to the rate to New York, says:

"It is obvious, therefore, that the rate of 45 cents was altogether extortionate, and it is no wonder that no use whatever was made of it by independent shippers."

At page 240 the following table is given, showing a comparison of selected rates by the Standard's pipe lines, with estimated cost of transportation:

[Cents per barrel of 42 gallons.]

From—	To—	Distance by pipe line.	Published rate.	Operating cost and depreciation.	Operating cost, depreciation and interest at 10 per cent.	Difference between published rate and—	
						Operating cost and depreciation.	Operating cost, depreciation, and interest.
		Mi.	*P. ct.*	*Per ct.*	*Per ct.*	*Per ct.*	*Per ct.*
Preble, Ind	Lima, Ohio	49	15.0	0.8	1.6	14.2	13.4
Do	Cleveland, Ohio	252	28.0	4.3	8.3	23.7	19.7
Downs, W. Va	Franklin, Pa	[1] 129	25.0	2.2	4.3	22.8	20.7
Scio, Ohio	do	[1] 140	25.0	2.4	4.6	22.6	20.4
Margantown, W. Va.	Philadelphia, Pa.	274	39.0	4.7	9.0	34.3	30.0
Corning, Ohio	do	402	39.0	6.8	13.3	34.2	25.7
Cygnet, Ohio	do	530	53.5	9.0	17.5	44.5	36.0
Do	Unionville, N. Y.	546	52.0	9.3	18.0	42.7	34.0
Lima, Ohio	Philadelphia, Pa.	577	53.5	9.8	19.0	43.7	34.5
Do	Unionville, N. Y.	593	52.0	10.1	19.6	41.9	32.4
Griffith, Ind	Buffalo, N. Y.	604	52.5	10.3	19.9	42.2	32.6
Do	Philadelphia, Pa.	766	68.5	13.0	25.3	55.5	43.2
Do	Unionville, N. Y.	782	67.0	13.3	25.8	53.7	41.2

[1] Part of distance is estimated.

The Interstate Commerce Commission, in their report under public resolution No. 8, approved March 7, 1906, under date of January 28, 1907, at page 5, said:

"The expense of pumping oil is very much less than the cost of transporting it by rail. It was said that the actual cost of pumping a barrel of oil 100 miles was about 2 cents; and while this must vary with different conditions, the estimate seems to be sufficiently high on the average. The cost to the Standard of transporting a barrel of oil from the Kansas field to the Atlantic seaboard would not be much, if any, above 30 cents."

2. *The right of way must be secured by grant of sovereign power.*

At page 11 of the brief for the United States, in the Supreme Court of the United States, in United States et al. *v.* The Ohio Oil Co. et al., Nos. 481, 482, 483, 506, 507, and 508, appeals from the United States Commerce Court, which cases are commonly known as the "Pipe Line cases," the following statement is made:

"It may be further stated that the pipe lines in question were located in part upon or across the rights of way of various railroad companies, upon or across public highways, and that 'said pipe lines are and always have been located, maintained, and operated over public highways or on the rights of way of railroad companies,' and 'that petitioner's predecessors in title did at certain points lay the pipe lines in question along or across public highways and streets in said State,' and 'that at various points petitioner's pipe lines are laid and are being operated upon, along, or across the rights of way of railroad companies engaged in interstate commerce.' (No. 482; R. 86–88.) In its answer the United States alleges that the predecessor in title of petitioner did for long distances lay said pipe in, along, and across certain of the navigable rivers of the United States, including the Hudson River, any private use whereof is contrary to the public policy of the United States. (No. 482; R. 35.) Petitioner does not deny that its pipe was so laid, though it does deny that what it did in that behalf is contrary to the public policy of the United States."

And at page 14 of the same brief:

"Its line to Griffith, Ind., is the only pipe line extending from the mid-continent field eastward. This is laid in part over the right of way of the Atchison, Topeka & Santa Fe Railway Co. from Sibley, Mo., to Joliet, Ill., a distance of about 500 miles (No. 506; R. 32–33), and portions of the company's lines are laid over the public domain in the Indian Territory and Oklahoma." (No. 506; R. 41 to 61, inclusive.)

The above instances of the use of railroad companies' rights of way, navigable rivers, public territory, and highways might be repeated with respect to the lines of all trunk pipe lines. In addition to which it appears in the record of the "Pipe Line cases," above referred to, that in the States of New York, Pennsylvania, West Virginia, Ohio, Indiana, Oklahoma, and Texas pipe-line companies are organized as common carriers, having the right of eminent domain and the power to condemn private property. It is true that the grant of the right of eminent domain comes from the State instead of national sovereignty, but if these rights are used to provide instrumentalities of interstate commerce, such interstate commerce and such instrumentalities, by reason thereof, fall under the control of the Federal Government to the same degree as though the Government itself had exercised its power of eminent domain for the establishment of a post road or a Government railroad.

3. *The cost of construction of interstate pipe lines is beyond the range of ordinary business investment.*

In part 1 of the "Report on the petroleum industry," by the Commissioner of Corporations, published May 20, 1907, at page 217, the cost per mile of the pipe line laid from Humboldt, Kans., to Kansas City, Kans., and from Chanute, Kans., to Humboldt, and from Caney, Kans., to Neodesha, Kans., is given. For the 8-inch lines from Humboldt to Kansas City, 117¼ miles long, the cost per mile was as follows: For pipe, $4,881.07; for fittings, $7.63; for right of way, $78.47; for construction, $1,030.38; making a total cost per mile of $5,497.55.

The 6-inch line, from Chanute to Humboldt, 8½ miles: For pipe, $2,799.94; fittings, $0.10; right of way, $8.03; construction, $573.78; total, $3,381.85.

The 6-inch line, from Caney to Neodesha, 33 miles: For pipe, $2,531.99; fittings, $0.31; right of way, $40.03; construction, $606.26; total, $3,178.59.

From the record of testimony, volume 7, on pages shown in the following table, in the case of the United States of American *v.* The Standard Oil Co. of New Jersey et al., in the District Court of the United States for the Eastern Judicial District of Missouri, the following is a summary of the investments and net profits of the various pipe line companies as of December 31, 1906:

Name of company.	Plant investment.	Net profit per year.	Page.
Buckeye Pipe Line Co	$15,326,661.49	$7,028,568.40	164
Southern Pipe Line Co	4,326,822.17	4,649,306.28	172
Indiana Pipe Line Co	4,652,099.75	2,513,553.69	180
Crescent Pipe Line Co	973,600.86	490,357.74	181
Eureka Pipe Line Co	7,155,544.59	2,435,105.83	189
Northern Pipe Line Co	2,796,474.57	1,591,614.22	197
South West Penn Pipe Line Co	3,122,591.59	373,383.67	198
New York Transit Co	5,824,466.13	2,343,282.59	206
National Transit Co. East Ohio Gas Co New Dominion Oil & Gas Co Cumberland Pipe Line Co Connecting Gas Co	11,801,636.00	10,689,349.20	233

In the same record of testimony, volume 8, page 619, the plant investment of the Prairie Oil & Gas Co. is stated as $19,008,445.27; but as this company has no pipe-line charges, its profits in transportation are not shown; and since the same is true concerning the Ohio Oil Co. and the Tidewater Pipe Co., a statement concerning these companies need not be made.

It is very evident, therefore, that the construction of interstate pipe lines is of such magnitude as to be beyond the resources of ordinary capital.

4. Duplication of plants an economic waste.

At page 649 of Volume II of the "Report on the petroleum industry," by the Commissioner of Corporations, published August 5, 1907, the following is stated:

"The advantage of the possession of a number of plants is intimately connected with the existence of the pipe-line system of transporting crude oil. In the absence of such a system there would, of course, be refineries in different parts of the country, because there are crude-oil fields in different parts of the country, but most of the refineries would be found in or very near to the oil fields, and there would be no advantage in locating refineries, as the Standard has done, at a number of points distant from the oil fields but convenient to centers of consumption and distribution. The transportation of refined petroleum products by rail costs no more than that of crude oil by rail. Consequently, if the Standard did not possess a great pipe-line system the advantage which it could derive from the ownership of a number of refineries would be quite limited. It is true, even under these conditions, if the Standard had refineries at each of the great oil fields it would have an advantage in the cost of transportation to certain markets, but such a situation would not be likely to arise. On the contrary, it would naturally be expected that in each of the important oil fields there would be competing refineries. To a large extent, therefore, the advantage of the Standard connected with the possession of numerous refineries resolves itself into its advantage through the control of the pipe-line system."

In Senate Document No. 399, Sixty-third Congress, second session, entitled "Government Ownership of Electrical Means of Communication," at page 10, it is stated:

"It is needless here to enter into the manifold advantages and benefits that would accrue to the people from a uniform telephone service. The telephone has now become an indispensable aid to business and a means of social intercourse to which all classes properly aspire. As it has done with the mails, it is the duty of the Government to make this facility available to all of its citizens without discrimination.

"There is only one other alternative, the enforcement in accordance with law of a condition of competition in the telephone and telegraph business. Without considering whether this could be done effectually in the case of an enterprise inherently so monopolistic, it is sufficient to note that while the execution of such a plan would be fraught with difficulty, its effect would not be to improve service and reduce rates, but the reverse. Competition applied to this public utility has clearly been shown to result in waste and inefficiency due to duplication. Not artificial restraint but natural development under Government control is the true policy for the public interest."

The similarity of the monopoly of communication by electrical means and the monopoly of transportation by pipe lines is striking. There is no room for a second system of pipe lines. A duplicated plant would not only add to the cost of the entire plant investment, but would likewise increase the cost of operating and expense. The production of crude oil is located. There are defined fields. The points to which crude oil is desired to be transported is also fixed. Transportation by pipe line is entirely unlike transportation by rail, where all kinds of commodities from all places of production are transported to all points of consumption. A single commodity is transported through the pipe line from the point of production to the point of manufacture. The plant can be used for no other purpose and in no other place. Any duplication of the present properties would be an economic waste; any increase in the quantity of transportation can be most economically done by adding to the existing plants.

5. Transportation by pipe lines susceptible to restriction in service by owner.

The characteristics of transportation of petroleum or other substance by pipe line tend always to a restricted use. From the point of production to the point of delivery there is but one line. Lateral branches for service to others do not mark pipe-line transportation. Pipe lines are generally built to a required capacity, and unless the transportation increases additions are not made. The quantity and capacity are generally balanced one with the other as nearly as possible. The owner, for various reasons, can require a certain character of petroleum to be presented in certain quantities to avoid mixture during the process of passing through the line.

As illustrative of the restrictive regulations, reference may be made to the joint tariff of the National Transit Co. in connection with the New York Transit Co., I. C. C. No. 1, effective August 28, 1906, as follows:

"REGULATIONS.

"This company will receive crude petroleum for interstate transportation only to established delivery stations on its own lines and lines of connecting pipe line companies on the following conditions:

"First. It will receive crude petroleum for interstate transportation when the shipper has provided the necessary facilities for receiving said petroleum as it arrives at destination.

"Second. It will forward such crude petroleum when there has been tendered to it by the shipper, individually, or by him and others, a quantity of the same kind and quality of crude petroleum amounting in the aggregate to not less than 75,000 barrels, all of which shall be consigned for delivery to the same delivery point.

"Third. All such crude petroleum will be accepted for transportation only on condition that it shall be subject to such changes in quality while in transit as may result from the mixture of said petroleum with other petroleum in the pipe lines or tanks of this or the connecting company or companies.

"Fourth. Orders for the shipment of any specified kind of such crude petroleum shall only become effective when orders from the shipper, in connection with orders from others shippers, for the same kind and quality of petroleum shall amount in the aggregate to 75,000 barrels or more, consigned to the same point of delivery; and, subject to this requirement, orders for shipment shall become operative in the order in which they shall have been received.

"Fifth. Crude petroleum will only be accepted for transportation when free from all liens and charges.

"Sixth. This company is not engaged in the transportation of refined oil, and will not therefore accept the same for transportation."

Referring to joint tariff of the Indiana Pipe Line Co., in connection with the Buckeye Pipe Line Co., Northern Pipe Line Co., National Transit Co., and New York Transit Co. (I. C. C. No. 1, effective Aug. 28, 1906), the same regulations are incorporated, with the exception that the quantity is increased from 75,000 to 300,000 barrels of crude petroleum as the minimum shipment.

The above regulations characterize all of the tariffs filed by the various pipe-line companies, acknowledging their obligations as common carriers to the public.

II. THE DESIRABILITY OF GOVERNMENT OWNERSHIP AND OPERATION OF INTERSTATE PIPE LINES.

1. Monopolies should be owned and operated by the Government.

It is a well-settled principle that the grant of a monopoly can be acquired only from sovereign power, and the sovereign power granting such monopoly may operate it for the benefit of all.

Whenever a monopoly is granted to private individuals or enterprises it should be properly guarded and regulated so that the interest of the public shall not be exploited or individual rights invaded.

In the report of the Industrial Commission, volume 1, page 797, in 1899, Mr. John D. Rockefeller stated:

"To perfect the pipe line system of transportation required in the neighborhood of fifty millions of capital. This could not be obtained or maintained without industrial combination. The entire oil business is dependent upon this pipe-line system. Without it, every well would shut down and every foreign market would be closed to us."

A power so vast in its consequences can not safely repose in unregulated private interests. The temptation to its abuse is unavoidable. The public is helpless against it except through the intervention of the Government. Complete safety to the public is only attainable by Government ownership and operation.

If the distribution of the mail were in the hands of a private monopoly instead of in the hands of the Government, what opportunities for exploitation would exist if the institution controlling it were endowed with vast capital and vast power similar to that which controls the pipe-line system? Or supposing that the great systems of railways were to combine and refuse to carry for the public generally, except under prohibitive restrictions, and were to force every producer and manufacturer to sell his commodities to the railways at the railway company's prices and force the consuming public to buy such commodities from the transportation company at prices fixed by the transportation company to the consumer; and yet this condition is exactly similar to that which exists at present, as a practical matter, through the private ownership of the pipe-line systems.

2. The Government would operate interstate pipe lines to public advantage instead of private gain.

Taking the Postal Department of this Government as best illustrating the public advantages resulting from Government operation of a monopoly, it is plain that the greatest benefits to the public have thereby been accomplished. It is in accord with the fundamental declaration of "public welfare," for which the Government was formed.

Referring to Senate Document No. 399, of the Sixty-third Congress, entitled "Governmental ownership of electrical means of communication," at page 8, it is stated:

"The telegraph and telephone systems have long been recognized as necessary adjuncts to a complete postal service. As with all other privately-controlled public utilities, these facilities have been extended in our country only in proportion as the service to be performed has insured substantial dividends for the stockholders. Under private ownership, therefore, the telegraph and telephone are for the classes. Under Government ownership, through the postal machinery, which is conducted in the interest of the whole people and already reaches every man's door, the benefits of these facilities could be extended to the masses.

"It is obvious that the longer the acquisition by the Government of these facilities is deferred the greater will be the cost. Moreover, it is economic waste to permit private enterprise to build up vast properties that must eventually be taken over by the Government in resuming its constitutional monopoly at a cost out of all proportion to the value of the parts of such properties that may be utilized to advantage in the postal system."

The pipe-line system in the hands of the Government would be made to reach out its lines to all fields of production and to each producer having a reasonable quantity to offer for transportation. It would afford the opportunity of such transportation and delivery

to all buyers of such crude petroleum indifferently and without unreasonable restriction.

3. *Government ownership and operation of interstate pipe lines would encourage development and conservation.*

Prospecting for the discovery of oil would be encouraged by the knowledge that wherever found the producer would have the certainty of being able to transport his oil to an available market to the best advantage. Whenever oil was discovered in large quantities the ability of the Government to furnish facilities for its transportation would be undoubted, and the enormous waste to sudden and flush production which has characterized the history of this industry would thereafter be avoided. The refiner would have the certainty of being able to acquire his crude supplies delivered at his plant at a minimum and reasonable transportation charge.

4. *Discrimination would be prevented through Government ownership and operation of interstate pipe lines.*

While the regulatory power of the Government over interstate commerce has constantly in view the prevention of undue discrimination, it is obvious that under Government ownership instead of regulation of interstate pipe lines there would exist no discriminations such as unavoidably creep in with respect to private operation of all instrumentalities of interstate commerce.

5. *Governmental ownership and operation of interstate pipe lines would result in the standardization of the different crudes in the different fields.*

The history of the petroleum industry shows that the prices of the different crudes produced in the different fields of production have heretofore been fixed in an arbitrary way. As the Interstate Commerce Commission observed, such control of transportation enabled the owners of the instrumentalities of transportation to arbitrarily fix the price to be paid to the producer and also the price to be paid by the consumer for the finished commodity. While some relation to value would necessarily be observed, no equivalence would be maintained based upon the inherent refining values of the different kinds of crude oil produced. The operation of the pipe-line systems would enable all refiners to obtain their crude from whatever field of production was most advantageous for their purposes, and would necessarily fix the standard of value to each class of crude oil.

6. *Governmental ownership of pipe lines would prevent the abandonment of production before exhausted.*

The history of the production of petroleum has shown that the opening of large pools of flush production has been followed by a marked reduction in the price paid for the crude oil. The result has always been to make unprofitable the production of oil in the older and partially exhausted fields and the abandonment of such fields by reason of the low prices of crude, thereby losing enormous quantities of oil that would otherwise have been produced. The question of the conservation of the production of petroleum and the prevention of premature abandonment of fields before exhausted is an important one, and is entirely in line with the policy of conservation wisely adopted by this Government in all matters under its control. Frequently several strata of underlying sands are saturated with oil, which if production had been continued in a partially developed field would have been found to be more prolific than the first stratum. Undoubtedly many millions of dollars worth of oil lies in such deeper strata of sands in abandoned territory.

An interesting paper has recently been issued by the Bureau of Mines in its Bulletin No. 51, by L. G. Huntley, treating of the causes of declining yield, all of which might be controlled by proper regulations if the Government owned and operated the instrumentalities of oil transportation. The waxy sediment that obstructs the passage of the oil into the well is a prolific cause of waste. The decline of gas pressure in the oil districts decreases the production. Decrease of oil supply within the drainage area of a well on account of near-by development decreases production. Also flooding by salt water, flooding by fresh water; also by the use of improper casing, unwise rate and time of pumping, and failure to clean, due to poor management—all are sources of waste which might, by proper surveillance, be eliminated.

7. *Government ownership of pipe lines would aid the Navy Department in securing supplies of fuel oil.*

It is perhaps unnecessary to point out the advantages of the use of oil as a fuel in the Navy Department, since that has been demonstrated by the department itself. It is a well-known fact that the requirements of the Navy Department this year of fuel oil will be nearly three times the quantity used last year. In the Associated Press, on December 30, 1913, the following item appeared:

"The new twin-screw oil-burning torpedo boat destroyer *Parker*, largest of its class and called the 'destroyer of destroyers,' has been turned over to the Government by the builders here. The *Parker* will be equipped with four 4-inch rapid-firing guns and four twin 8-inch torpedo tubes. One hundred men, including four officers, will be assigned to the ship. With its tanks loaded to their capacity of 300 tons of oil, the *Parker* is capable of 7,000 miles at cruising speed, or 800 miles at its highest velocity."

The American Review in a recent issue published a very interesting article, from which we quote:

"In a great war, such as all the European nations are preparing for, there will be no such thing as the respecting of the rights of the non-belligerents who are not powerful enough to protect themselves. In the same way the oil fields of the lesser powers would undoubtedly be seized by the first nation, or coalition, that felt it could further its own ends by their possession. Of such are the great fields of Roumania and the Dutch Indies, Sumatra and Borneo. The oil fields of Mexico would also be included in this list but for the fact that the protecting wing of the Monroe doctrine renders them fairly safe from European aggression. If the United States, however, became hard pressed for oil, as might happen in a war, this 'law of might and expediency' would undoubtedly be invoked to justify our seizure of the Mexican fields."

At the present time the Government is investigating the desirability of building and operating a pipe line of its own for the primary purpose of protecting the Navy in securing its supplies of fuel oil. Its investment in such a proposition would necessarily be considerable. Fuel oil, however, is manufactured and not produced, and this would require the investment by the Government in a refinery. A Government refinery, if built, would necessarily be operated in competition against privately owned refineries, and would not and could not be extended to the monopoly of the refining business in the hands of the Government, because by its nature the refining business is not such a natural monopoly as the transportation of oil by means of pipe lines. It would thereby invade the realm of private enterprise, which is undesirable.

By means of the acquisition and operation of existing interstate pipe-line systems, however, the Navy would be fully protected, not only by having deliveries made to it at Gulf points already reached by existing pipe lines and refineries located at such points, but also at all seaboard points where refineries are already established from which the Navy could secure its supplies of fuel oil in competitive markets. It would also be able to select the best quality of fuel oil under standard specifications which could be manufactured at interior points and transported through the pipe lines for delivery in large quantities to seaboard points.

Since the ownership and operation by the Government of pipe lines would prevent the arbitrary fixing of prices in any field of production, the Navy Department would be protected from an arbitrary advance in the price in any one particular field while the price in other fields was arbitrarily reduced. At the present time the price of Pennsylvania crude is $2.50 per barrel. Crude which is of nearly equal value is sold in the midcontinent field at 90 cents a barrel. The power that can make this artificial difference in prices can exactly reverse those prices, if to its advantage to do so.

8. *Revenue would be produced to the Government through its ownership and operation of pipe lines.*

From the information that the Government has already acquired through its investigation of the oil industry, it is obvious that the pipe lines have been the chief source of profit to the monopoly existing in the petroleum industry since the abolition of the railroad rebate. From the table shown on page 32 of this declaration, stating the plant investments and yearly profits for the year 1906 of the various pipe-line companies filing reports with the Interstate Commerce Commission, as required by the act to regulate commerce, it may be seen that there would be a sufficient guaranty of revenue to the Government accruing from its operation of pipe lines, even at a reasonable rate; and, as a transportation tax is one most easily collected and of little hardship upon the consuming public—an indirect tax—its burden would rest very lightly upon those who paid such revenue.

The cost of transportation by means of pipe lines, as compared with the value of the service, is inconsiderable, and as there is nothing intricate in pipe-line operation inasmuch as it requires but a small number of employees, the Government would be able to keep the expense of operation at a minimum. Plant cost and maintenance, as compared with the value of the service, is lower with respect to pipe lines than any other means of transportation. Depreciation of plant, or obsolescence, is an almost negligible factor. From the nature of the commodity transported frictional wear is almost entirely eliminated. Iron pipes are invariably laid underneath the surface of the ground, and consequently are not affected by atmospheric changes nor by contact with other activities. There is no deterioration of the metal itself from the oil transported, which is in itself a preservant, and the pipe when laid is covered with an adequate preservative coating. Terminal and station facilities are not costly and are easily and quickly provided. The volume of transportation, the plant considered, is enormous. So that every opportunity exists to provide a permanent revenue to the Government, at small cost of operation and without burden upon the public, through governmental operation of pipe lines.

III. PRACTICABILITY OF GOVERNMENT OWNERSHIP AND OPERATION OF INTERSTATE PIPE LINES.

1. *Such Government ownership and operation in harmony with other governmental enterprises.*

The acquisition and operation of interstate pipe lines is entirely in harmony with what the Government has undertaken of an industrial nature, such as the Postal System, including the Parcel Post System, the Forestry Department, the Alaskan railroad, Panama Canal, irrigation dams, and many other activities undertaken by the several executive departments of the Government.

2. *Valuation of interstate pipe lines within the scope of the Interstate Commerce Commission.*

In connection with its work of valuation of railroads the valuation of the properties of the interstate pipe lines would be an easy matter for the Interstate Commerce Commission, with all of its equipment for arriving at valuations, so that said commission could accurately and quickly return an estimate of what the Government should pay for such properties.

3. *Pipe lines could be readily operated by the Department of the Interior.*

On account of the vast properties of the Government which are placed under the jurisdiction of the Department of the Interior, the operation of interstate pipe lines could be readily undertaken by that department without great expense and with best results, since the necessary administrative control of other governmental properties has already established the machinery for the general superintendence of a proposition of this kind.

4. *The cost of acquisition of interstate pipe lines by the Government not prohibitive.*

While the cost of the properties to be acquired by the Government for the operation of a system of interstate pipe lines is not accurately available, reference to the capitalization of the various pipe-line companies, or to the plant investments of such companies, as shown by their balance sheets, will be of assistance in determining this cost. Taking the figures as shown in such balance sheets and making due allowance for the investments of such pipe-line companies in producing properties, large storage farms where oil is accumulated and stored for future shipment, refinery investments, etc., it will be found that the amount necessary to compensate the owners of such pipe-line properties would be much less than the sums expended on many of the projects already undertaken by the Government.

The total cost can be roughly estimated by taking the total mileage of the trunk pipe lines and multiplying that by a careful estimate of the average cost per mile, based upon the investigation of costs shown in the extensive report of the Commissioner of Corporations.

However, the cost could not reasonably be urged against the practicability of Government ownership, since, whatever that might be, the Government would have it within its power to recoup such cost by the imposition of transportation charges, and that without burdening the industry. In fact, the present pipe-line transportation charges are such that any reasonable rates which the Government might fix would at once work a reduction in the cost of petroleum and its products to the ultimate consumer.

From every standpoint of view, therefore, it is entirely practicable for the Government to acquire and operate interstate pipe lines.

IV. THE VALIDITY OF GOVERNMENT OWNERSHIP AND OPERATION OF INTERSTATE PIPE LINES.

1. *Fundamentally such ownership and operation would be in harmony with the purposes of government as expressed in the preamble of the Constitution—the "general welfare" of the people.*

In the Commentaries on the Constitution of the United States, by Joseph Story (vol. 1, p. 338), it is stated:

"The importance of examining the preamble for the purpose of expounding the language of the statute has been long felt and universally conceded in all juridical discussions. It is an admitted maxim in the ordinary course of the administration of justice that the preamble is a key to open the mind of the makers as to the mischiefs which are to be remedied and the objects which are to be accomplished by the provisions of the statute."

Having in mind, then, the purposes of the Constitution, any of its specific provisions or the powers delegated to Congress thereunder would be interpreted in relation to such declarations found in the preamble.

And at page 362, in discussing the "general-welfare" clause, the same author says:

"We pass in the next place to the clause to 'promote the general welfare.' And it may be asked, as the State governments are formed for the same purpose by the people, why should this be set forth as a peculiar or prominent object of the Constitution of the United States? To such an inquiry, two general answers may be given: The States separately would not possess the means; if they did possess the means, they would not possess the power to carry the appropriate measures into operation."

First, with respect to the means, the great enterprises entered upon by the Federal Government have, in the extent of their expenditures, been beyond the revenues of many of the States. And even if such projects could be contributed to by the revenues of the States as a whole, by their unanimous consent, a just distribution of the whole burden would be extremely difficult and an almost insurmountable problem.

And, second, with respect to the powers of the State, the powers of a State can not extend beyond the territory of its sovereignty, and, consequently, are confined to all of those matters which are internal; can not attempt to regulate affairs extending beyond its own territory. Commerce among the States must be controlled by the Federal Government, because its powers alone are commensurate with such commerce.

At page 364 the same author says:

"If a system of regulations, on the other hand, is prepared by a general government, the inequalities of one part may, and ordinarily will, under the guise of wise councils, correct and ameliorate those of another. * * * The navigation and commerce, the agriculture and manufactures, of all the States have received an advancement in every direction by the Union which has far exceeded the most sanguine expectations of its warmest friends.

"But the fact alone of an unlimited intercourse, without duty or restriction, between all the States is of itself a blessing of almost inconceivable value. It makes it an object with each permanently to look to the interests of all, and to withdraw its operations from the narrow sphere of its own exclusive territory. Without entering here into the inquiry how far the General Government possesses the power to make or aid the making of roads, canals, and other general improvements which will properly arise in our future discussions, it is clear that if there were no General Government, the interest of each State to undertake or to promote in its own legislation on any project would be far less strong than it now is, since there would be no certainty as to the value or duration of such improvements, looking beyond the boundaries of a State. * * *

"Independent of the exercise of any authority by the General Government for this purpose, it was justly foreseen that roads would be everywhere shortened and kept in better order; accommodations for travelers would be mutiplied and meliorated; an interior navigation on our eastern side would be opened throughout the whole extent of our coast; and, by canals and improvements in river navigation, a boundless field opened to enterprise and immigration, to commerce and products, through the interior States, to the farthest limits of our western territories."

It is true that the above-quoted language refers to things as they were 80 years ago, before the advent of railroads, telegraphs, telephones, and pipe lines, but the fact that the great commentator saw that the powers of the Government could be exercised, unless forbidden by the Constitution, along these avenues, shows that the same principles when applied to this question will be seen to be in entire harmony therewith.

2. *It is an exercise of the Government's constitutional grant of power to regulate commerce among the States.* (Federal Constitution, Art. I, sec. 8, par. 3.)

In volume 2, page 2, Story on the Constitution, it is stated:

"The want of this power (as has been already seen) was one of the leading defects of the Confederation, and probably, as much as any one cause, conduced to the establishment of the Constitution. It is a power vital to the prosperity of the Union, and without it the Government would scarcely deserve the name of a national government and would soon sink into discredit and imbecility. It would stand as a mere shadow of sovereignty, to mock our hopes and involve us in a common ruin."

If from the facts heretofore stated relating to the use made by the private pipe-line companies to control commerce among the States the conclusion is inevitable that these instrumentalities are not now regulated by this power of the Government, it stands as a "mere shadow of sovereignty" with relation to these instrumentalities, unless by the exercise of that power it can and does effectually regulate the commerce which flows through them. That it is commerce over which the power of the Government extends and that the Government has the power to regulate such commerce was well established in the early case of Gibbons *v.* Ogden (9 Wheat., 1), in which Chief Justice Marshall, at page 196, said:

"It is the power to regulate; that is, to prescribe the rule by which commerce is to be governed. This power, like all others vested in Congress, is complete in itself, may be exercised to its fullest extent, and acknowledges no limitations other than are prescribed in the Constitution."

As to the means by which this commerce can be regulate, this is amply set forth in the celebrated case of McCulloch *v.* Maryland (4 Wheat., 167), the syllabus of which is:

"The Government of the Union is a Government of the people; it emanates from them; its powers are granted by them, and are to be exercised directly on them and for their benefit.

"The Government of the Union, though limited in its powers, is supreme within its sphere of action, and its laws, when made in pursuance of the Constitution, form the supreme law of the land.

"There is nothing in the Constitution of the United States similar to the Articles of Confederation, which exclude incidental or implied powers.

"If the end be legitimate and within the scope of the Constitution, all means which are appropriate, which are plainly adapted to that end, and which are not prohibited, may constitutionally be employed to carry it into effect."

As said by the Supreme Court in re Debs (158 U. S. Rep., 564):

"Constitutional provisions will not change, but their operation extends to new matters as the mode of business and habits of life of the people vary with each succeeding generation. The law of the common carrier is the same to-day as when transportation on land was by coach and wagon, and on water by canal boat and sailing vessel, yet in its actual operation it touches and regulates transportation by modes then unknown—the railroad trains and steamships. Just so it is with the grant of power to the National Government over interstate commerce. The Constitution has not changed; the power is the same, but it operates to-day upon modes of interstate commerce unknown to the fathers, and it will operate with equal force upon any new modes of such commerce which the future may develop."

And, again, in Pensacola Telegraph Co. *v.* Western Union Telegraph Co. (96 U. S. Rep., 1, 24 L. ed., 708):

"They extend from the horse and wagon to the stage coach, from the sailing vessel to the steamboat, from the coach and steamboat to the railroad, from the railroad to the telegraph, as these new modes are successively brought into use to meet the demands of increasing population and wealth. They were intended for the government of the business to which they relate at all times and under all circumstances."

In Interstate Commerce Commission *v.* Brimson (154 U. S. Rep., 456), it is said:

"Congress has plenary power, subject to the limitations imposed by the Constitution, to prescribe the rule by which commerce among the several States is to be governed. Congress may, in its discretion, employ any appropriate means not forbidden by the Constitution to carry into effect and accomplish the objects of power given to it by the Constitution."

Cases might be multiplied upon this question of power and what it includes and the means that the Government may make use of in putting such power into effect, as the "commerce clause" has been considered by the court of last resort more frequently in the last half of the Nation's existence than any other clause in the Constitution. But this is not necessary, either to substantiate the power or the means of exercising such power so long as the power and means are exercised with respect to the regulation of commerce among the States.

3. *Interstate transportation of oil by pipe lines is a monopoly of such nature as to properly reside in the Federal Government.*

In United States *v.* Knight (156 U. S. Rep., 1) Mr. Chief Justice Fuller, at page 12, made use of the following language:

"The power to regulate commerce is the power to prescribe the rule by which commerce shall be governed, and is a power independent of the power to suppress monopoly. But it may operate in repression of monopoly whenever that comes within the rules by which commerce is governed or whenever the transaction is itself a monopoly of commerce."

Again, in Pearsoll *v.* Great Northern Railway Co. (161 U. S., 646), the Supreme Court said:

"There is, and has been, for the past 300 years, both in England and in this country, a popular prejudice against monopolies in general which has found expression in innumerable acts of legislation. We can not say that such prejudice is not well founded. It is a matter upon which the legislature is entitled to pass judgment. At least there is sufficient doubt of the propriety of such monopolies to authorize the legislature, which may be presumed to represent the views of the public, to say that it will not tolerate them unless the power to establish them be conferred by clear and explicit language."

In Texas & Pacific Ry. Co. *v.* Interstate Commerce Commission (162 U. S., 197) it is stated:

"Before we consider the phraseology of the statute it may be well to advert to the causes which induced its enactment. They chiefly grew out of the use of railroads as the principal modern instrumentality of commerce. While shippers of merchandise are under no legal necessity to use railroads, they are so practically. The demand for speedy and prompt movement virtually forbids the employment of slow and old-fashioned methods of transportation, at least in the case of the more valuable articles of traffic. At the same time the immense outlay of money required to build and maintain railroads, and the necessity of resorting, in securing rights of way, to the power of eminent domain, in effect disable individual merchants and shippers from themselves providing such means of carriage. From the very nature of the case, therefore, railroads are monopolies, and the evils that usually accompany monopolies soon began to show themselves and were the cause of loud complaints."

Again, in Swift *v.* United States (196 U. S., 375), Mr. Justice said:

"No more powerful instrumentality of monopoly could be used than an advantage in the cost of transportation."

4. *Privately owned pipe lines from their very nature trespass upon public rights.*

In the investigation by the Interstate Commerce Commission, "In the matter of pipe lines," Docket No. 4199 (I. and S.), after taking a large amount of testimony, the commission formulated seven questions of law upon which it requested counsel for the proponents and respondents to argue before the commission. The fourth question propounded by the commission was:

"Does the utilization by a pipe line of the right of way of a common carrier railroad impress upon that pipe line the obligations of a common carrier?"

The question arose by reason of the fact that the testimony before the Interstate Commerce Commission showed that in a great many instances the rights of way acquired by railroad companies had been utilized by pipe-line companies by arrangement with the railroad companies and without the consent of the abutting property owners. For instance, along the line of the Santa Fe, for more than 300 miles, the private pipe line of the Prairie Oil & Gas Co. extended. Other instances are referred to of other pipe lines occupying the rights of way of railroad companies, and in every instance, where necessary, such pipe lines crossed the rights of way belonging to the railroad companies.

The fifth question propounded by the Interstate Commerce Commission was:

"Does the utilization by a pipe line of a highway acquired for or dedicated to the public use impress upon that pipe line the obligations of a common carrier?"

This question arose from the facts shown in the record that in many instances private pipe lines, so called, extended along public highways, and in all instances, where necessary, crossed such highways, consent usually having been obtained from county commissioners or road commissioners in districts through which such pipe lines passed.

It will thus be seen that in the rights of way enjoyed by pipe-line companies, obtained by private arrangement and not by the exercise of eminent domain, that such pipe lines are necessarily trespassers upon public rights.

Very nearly all pipe-line companies, especially those that are so-called private pipe lines, are purchasers as well as transporters of crude oil. In coupling together the control of purchase and transportation, it necessarily follows that the sellers are at the mercy of the buyers, because the product must be transported in order to be available for use, and hence, have a market value. Since the pipe lines furnish the only means of reaching a final market, this leaves the seller of crude oil entirely at the mercy of the buyer and transporter, and consequently deprives the seller of the right to freely enter the market to dispose of his products, differing in that respect from other sellers of other products. The means of transportation as well as the product transported being owned by the pipe-line companies, the product is then directed to such receivers of the transportation as the pipe-line companies shall elect, and again they interpose their power to prevent buyers generally from securing this commodity. From the fact that the stockholders of the large Standard refineries and the stockholders of these pipe-line companies are practically the same, it is obvious that this situation will continue as long as the present status of the pipe-line companies exist.

While it may be true that the evils above described might be overcome in a measure by proper procedure under the existing laws, the fact remains that they have not been, and probably will not be without further remedial legislation, although these questions have been before our Federal tribunal.

5. *For proper Government purposes private property may be taken.*

The fifth amendment of the Federal Constitution provides that private property shall not be taken for public use without due compensation. This provision does not prevent the United States Government from taking property by the right of eminent domain, subject to reimbursement to the owner of the property. In United States *v.* Jones (109 U. S., 513) it was said:

"The power to take private property for public uses, generally termed the right of eminent domain, belongs to every independent government. It is an incident of sovereignty, and, as said in Boom *v.* Patterson (98 U. S., 106), requires no constitutional recognition. The provision found in the fifth amendment of the Federal Constitution and in the constitutions of the several States, for just compensation for property taken, is merely a limitation upon the use of the power. It is no part of the power itself, but a condition upon which the power may be exercised. * * * The proceeding for the ascertainment of the value of the property and consequent compensation to be made is merely an inquisition to establish a particular fact as a preliminary to the actual taking, and it may be prosecuted before commissioners or special boards or the courts, with or without the intervention of a jury, as the legislative power may designate. All that is required is that it shall be conducted in some fair and just manner, with opportunity to the owners of the property to present evidence as to its value and to be heard thereon."

In Kohl *v.* United States (91 U. S., 367) it was held that no State can interfere with the United States' right of eminent domain.

6. *Such ownership will protect producers and refiners from commercial duress.*

In re Debs (158 U. S., 582), the court said:

"The strong arm of the National Government may be put forth to brush away all obstructions to the freedom of interstate commerce or the transportation of the mails. If the emergency arises, the Army of the Nation and all its militia are at the service of the Nation to compel obedience to its laws."

In the "Pipe Line cases," before the Supreme Court of the United States, Nos. 481, 482, 483, 506, 507, and 508, considered together, the Solicitor General, in his brief before that court, at page 56, said:

"In practical result—and that is the thing courts and legislatures are concerned with—the small well owner is in a position closely resembling that of the mine owner in Strickley *v.* Highland Boy Gold Mining Co. (200 U. S., 527), who had no right of way out of his mines, or the owner of the arid land in Clark *v.* Nash (198 U. S., 361), who had no means of bringing water in, and was allowed to use his neighbor's irrigation ditch. The shipment of oil except by pipe line is a practical impossibility. No other means of transportation can possibly compete with it. Without a pipe line the oil producer is, as it were, shut in by an impassable barrier.

"But even these analogies do not adequately express the difficulties of the small producer. The possibilities of duress are even greater in the case of oil wells than in the case of mines and arid lands. The mine owner can shut up his mine and hold it, but the wells once opened can not be closed to await a more convenient season. And if they could be, or if they were not opened in the first place, the owner of the oil land would only lose instead of gain by waiting, because oil lies in great subterranean reservoirs, and the pumping of the wells upon adjacent lands would drain the common source. (Ohio Oil Co. *v.* Indiana, 177 U. S., 190.) Therefore the small producer is compelled either to sell his oil or to sell the wells themselves to the owner of the pipe lines at whatever terms the latter may choose to offer. He is caught beneath the sheer weight of capital and has no alternative except to yield.

"The court below says that there is no connection between monopoly and a situation where 'the greater number of oil producers are virtually compelled to sell their output to the owners of private pipe lines'; but Mr. Justice Holmes said, in Swift *v.* United States (196 U. S., 375, 402):

"'No more powerful instrument of monopoly could be used than an advantage in the cost of transportation.'

"It is largely the use of this potent instrument that has built up these enormous capitalizations, that has paid these enormous dividends, that once, at least, has thrown the oil industry of the whole United States into the hands of a single group of capitalists. The evidence in the Standard Oil case proves this; the statistics in the Government reports prove it; the facts were in the mind of Congress when it passed this legislation. Congress has declared the possibility of its recurrence a menace to the public welfare. Congress has struck down monopoly full grown. It now seeks to destroy the source from which it sprang.

"But the court below says that Congress is quite mistaken: that pipe lines have no relation to monopoly; that the right to injure the public in general and one's neighbors in particular is merely one of the legitimate and inviolable advantages arising from the acquisition of substantial amounts of property."

7. *Such ownership would prevent the evils sought to be remedied by the principle embodied in the "commodities clause" of the act to regulate commerce.*

At page 70, in the Solicitor General's brief in the "Pipe Line cases" above referred to, the following language is used:

"The commodities case, United States *v.* Delaware & Hudson Co. (213 U. S., 366), is directly in point. It was there held that Congress could prohibit common carriers from carrying their own coal, despite the fact that many of the companies affected had invested enormous sums of money in the business of mining prior to the passage of the law. There is no substantial distinction between that case and the present. In both the motive of Congress was the same—to prevent an unconscionable use of an advantage in the means of transportation. In the one case the owner of a railroad is forbidden to carry his own coal, unless he first parts with ownership; in the other the owner of a pipe line is forbidden to carry his own oil, unless he transports also the oil of others for reasonable compensation. The same reasoning which supported the one supports the other."

The Solicitor General might have noted further the difficulties attending even the application of the principle of the "commodities clause" to pipe lines if the "commodities clause" were to be extended in the control of pipe lines by regulation. In the instances of the Prairie Oil & Gas Co. and the Ohio Oil Co. the evidence in the "Pipe Line cases" shows that these companies are engaged in producing as well as purchasing and transporting oil. As producers and purchasers they claim the right to use the pipe lines which they have built and own to carry their own commodities. Unless such pipe lines are held to be common carriers by the Supreme Court, their status will remain the same as it is at present. If they are held to be common carriers, in order to make them effectively such, further legislation extending the application of the "commodities clause" to pipe lines will be necessary. The organization of a producing company to purchase and take over the producing properties will be a fiction supported by a mere matter of bookkeeping to avoid the effectiveness of the provisions of the "commodities clause" principle. The stockholders, who are the real parties at interest, will continue to be the same as now. The great bulk of transportation offered to the pipe lines will be by the owners of the producing and purchasing companies, whose stockholders are the same as those of the pipe-line companies. If such pipe lines are owned and operated by the Government, no such embarrassment and complications can arise.

8. *Government ownership and operation of transportation in interstate commerce not forbidden by any provisions of the Federal Constitution.*

In the broad declaration of Federal powers in McCulloch *v.* Maryland, supra, it was said:

"If the end be legitimate and within the scope of the Constitution, all means which are appropriate, which are plainly adapted to that end, and which are not prohibited, may constitutionally be employed to carry it into effect."

During the early period in the history of this Government, when constitutional construction was less liberal than it afterwards became, unless there was a specific grant of power, the Federal Government was slow to act. There is no such specific grant of power as to permit the Government to appropriate money for internal improvements. On March 3, 1817, President Madison vetoed a bill to set apart the bonus and Government dividends of the national bank as a fund for constructing roads and canals and improving navigable rivers, on the ground that the Constitution did not provide for the expenditure of money for internal improvements. On March 14, 1818, the House of Representatives passed a resolution declaring the Congress had the power to appropriate money for such improvements, and on March 3, 1823, the first bill was passed for the construction of internal improvements, since which time, without specific authority, but on the ground that the end was legitimate and not forbidden by the Constitution, huge enterprises have been undertaken by the Government, such as the construction of the Panama Canal, the Alaskan Railroad, great irrigation projects, the improvement of rivers and harbors, all of which are of undoubted advantage and promote the general welfare. While the doctrine of the conservation of natural resources is fully accepted as a Federal policy, it is equally important that the Government should guard all of its natural resources from the encroachments of private monopoly, that the entire welfare of the people may thereby be promoted.

Since, therefore, there is no prohibition in the Constitution, and since the Government has already entered the field of ownership and transportation, there can be no question on this ground but what the Government would be justified in such ownership and operation of interstate pipe lines.

9. *State laws recognize the public interest in pipe lines by requiring them to become common carriers.*

In very nearly all of the States in which oil is produced in quantities, and through which pipe lines pass, are to be found statutes providing that pipe lines shall be common carriers, thereby indicating the public interest residing in such means of transportation.

ARKANSAS.

The Statutes of Arkansas of 1911 (Kirby's Digest, pp. 253, 254; title "Eminent domain—oil and gas companies") provide:

"SEC. 2991a. Any corporation organized by virtue of the laws of this State for the purpose of developing and producing mineral oil or petroleum or natural gas in this State, and marketing the same, or transporting or conveying the same by means of pipes from the point of production to any other point or points, either to refine or market such oil or conduct such gas to any point to be used for heat or light, may construct, operate, and maintain a line or lines of pipes for that purpose along and under the public highways and the streets of cities and towns with the consent of the authorities thereof, or across and under the waters and over any lands of the State, and on the lands of individuals, and along, under, or parallel with the rights of way of railroads and the turnpikes of this State: *Provided*, That the ordinary use of such highways, turnpikes, and railroad rights of way be not obstructed thereby or the navigation of any waters impeded, and that just compensation be paid to the owners of such lands, railroad rights

of way, or turnpikes by reason of the occupation of such lands, railroad rights of way, or turnpikes by said pipe line or lines."

CALIFORNIA.

Pomeroy's Code of Civil Procedure of California, 1901, title 7, page 692, provides:

"SEC. 1237. Eminent domain is the right of the people or Government to take private property for public use. This right may be exercised in the manner provided in this title.

"SEC. 1238. Subject to the provisions of this title, the right of eminent domain may be exercised in behalf of the following public uses: * * *."

10. *Oil pipe lines.*

COLORADO.

The Revised Statutes of Colorado, 1908, chapter 45, 689, provide:

"SEC. 2436, subsection 22: Any foreign or domestic corporation organized or chartered for the purpose, among other things, of conducting or maintaining a pipe line for the transmission of power, water, air, or gas for hire to any mine or mining claim or manufacturing, milling, mining, or public purpose, shall have the right of way for the construction, operation, and maintenance of such pipe line or pipe lines, for such purposes, through any lands, without the consent of the owner thereof, where such right of way is necessary for the purpose for which said pipe line shall be used."

"SEC. 2439, subsection 25: Any such corporation or corporations organized or chartered for any or all of the purposes hereinbefore mentioned shall be deemed a common carrier or common carriers and shall fix and charge only a reasonable and uniform rate to all persons who desire the use of any such tunnel, pipe line, electric power transmission line, or aerial railway."

ILLINOIS.

The Legislature of Illinois in 1913 passed an act entitled "An act to provide for the regulation of public utilities," which provides inter alia:

"SEC. 10, subparagraph (a): May own, control, operate, or manage, within the State, directly or indirectly for public use, any plant, equipment, or property used or to be used for or in connection with the transportation of persons or property or the transmission of telegraph or telephone messages between points within this State; or for the production, storage, transmission, sale, delivery, or furnishing of heat, cold, light, power, electricity, or water; or for the conveyance of oil or gas by pipe line," etc.

INDIANA.

Burns's Annotated Indiana Statutes, Volume II, chapter 40, provide:

"SEC. 5148. Whenever three or more persons desire to form a company to lay on, over, or underneath the ground iron pipes or tubes, to erect pumps and pump stations and tanks for storing oil, and also to erect telegraph lines along said line or lines of pipe, and to carry on by means thereof the business of transporting and storing petroleum, they shall make, sign, and acknowledge before some officer capable to take acknowledgments of deeds, a certificate in writing which shall state the corporate name adopted by the company, the object of its formation, the amount of capital stock, the term of its existence (not, however, to exceed 50 years), the number of directors and their names, who shall manage the affairs of such company for the first year, and the names of the counties in which its operations are to be carried on, and the county where its principal office shall be located, and file the same in the office of the recorder of such county, which shall be placed upon the record, and a duplicate thereof in the office of the secretary of state."

KANSAS.

Dassler's General Statutes of Kansas, 1909, chapter 48, article 4, title "Transportation of oil," provide:

"SECTION 1. All pipe lines laid, built, or maintained for the conveyance of crude oil within the State of Kansas are hereby declared to be common carriers and said conveyance of oil shall be in the manner and under the restrictions of this act provided."

KENTUCKY.

Carroll's Kentucky Statutes, 1909, chapter 93a, title "Oil and gas—condemnation of land for," provide:

"SEC. 3766b. All corporations or companies organized for the purpose of constructing, maintaining, or operating oil or gas well or wells or pipe lines for conveying, transporting, or delivering oil or gas, or both oil and gas, are hereby vested with the right and power to condemn lands and material in this Commonwealth, or the use and occupation of so much thereof as may be necessary for constructing, maintaining, and operating such pipe line or lines, and all necessary machinery, pumping stations, appliances, and fixtures, including tanks, telephone and telegraph lines, for use in connection therewith, together with rights of ingress and egress to examine, alter, repair, maintain, and operate or remove such pipe line or lines, all such being hereby declared to be a public use."

LOUISIANA.

The Acts of the State of Louisiana, 1906, page 54, Act No. 39, approved June 29, 1906, provide:

"SECTION 1. That corporations, whether domestic or foreign, organized with the power of constructing and operating pipe lines for the transportation of oil or gas, or either, shall have the right to expropriate rights of way for such pipe lines and for telegraph and telephone lines incident to the operation of such pipe lines, and lands for pumping and tank stations, making part of such lines, or of storage stations connected therewith and necessary to the purpose thereof."

And Act No. 36, declaring pipe lines common carriers, provides:

"SEC. 1. That all pipe lines through which gases, oil, or other liquids are conveyed from one point in the State to another point in the State, for a consideration, are hereby declared to be common carriers, and are placed under the control and subject to regulation by the Railroad Commission of Louisiana."

NEBRASKA.

Sections 4575 and 4581, chapter 64, Compiled Statutes of Nebraska, 1911, provides—

"That any company, corporation, or association formed or created for the purpose of transporting, transmitting, or conveying petroleum or other like oil, and desiring or requiring a right of way for the laying and maintaining of any pipe line for such purpose within the State of Nebraska, and being unable to agree with the owner or lessee of any land, lot, or right of way on the amount of compensation for the use and occupancy of so much of any lot, land, real estate, or right of way as may reasonably be necessary for the laying, relaying, and maintenance of any such pipe line, shall have the right to acquire the same for such purpose, as hereinafter provided * * *."

NEW YORK.

Birdseye, Cumming & Gilbert's Consolidated Laws of New York, 1909, volume 5, page 6311, article 6, title "Pipe lines corporations," provide:

"SEC. 50. The pipe lines of every such corporation shall be open for transportation to the public use, and all persons desiring to transport products through such pipe line shall have the absolute right upon equal terms to such transportation in the order of application therefor on complying with the general requirements of such corporation, as to delivery for and payment of such transportation; but no application for such transportation shall be valid beyond or for a greater quantity of products than the applicant shall then own and have ready for delivery for transportation to such corporation, and every such corporation shall provide suitable and necessary receptacles for receiving all such products for transportation, and for storage at the place of delivery until the same can reasonably be moved by the consignee, and shall be liable as common carriers therefor from the time the same is delivered for transportation until a reasonable time after the same has been transported to the place of consignment and ready for delivery to the consignee, which time shall be fixed by general regulation by the corporation, and shall not be less than two days from and after the same shall be ready for delivery and notice thereof given to such consignee; and all rates and charges of every description, for or on account of or in any manner connected with the transportation of any products, shall be fixed by such corporation by general rules and regulations which shall be applicable to all parties who shall transport any products through such pipe line, or deliver or contract to deliver products for transportation, and shall be written or printed and exposed to public view and at all times open to public examination."

OHIO.

Page and Adams Annotated Ohio General Code, Volume IV, pages 1002, 1003, provides:

"SEC. 10132. Such company or companies, for the purpose of transporting natural gas, oils, water, and electricity, shall be a common carrier and subject to all the duties and liabilities of such carriers under the laws of this State."

OKLAHOMA.

Snyder's Constitution of Oklahoma, 1908, page 226, article 9, provides:

"SEC. 4. All oil pipe-line companies shall be subject to the reasonable control and regulation of the corporation commission, and shall receive and transport each other's tonnage or oils, or commodities, under such rules and regulations as shall be prescribed by law or such commission."

Section 786, chapter 11, article 1, provides:

"Every one who offers to the public to carry persons, property, or messages is a common carrier of what he thus offers to carry."

PENNSYLVANIA.

Pepper and Lewis Digest, 1910, volume 1, page 1903, title "Pipe line companies," provides:

"SEC. 458. * * * That any company organized for such purposes, under the provisions of said act, shall have the right to transport, store, insure, and ship petroleum, and for that purpose to lay down, construct, and maintain pipes, tubing, tanks, offices, and such other machinery devices, or arrangements as may be necessary, and to enter upon, use, and occupy such lands as may be requisite for the purposes of the company; and for rights of entry upon lands, rights of way, and the use of materials necessary for the construction, maintenance, and operation of said lines of pipes and fixtures as aforesaid they shall be entitled to all the rights and privileges, and be subject to all the limitations and restrictions, of railroad companies as contained in the act relating to railroad companies approved February 19, 1849, and the supplements thereto: *Provided, however*, That nothing herein contained shall be construed to authorize the construction of any railroad."

TEXAS.

Herron's Supplement to Sayles's Texas Civil Statutes, 1897–1906, chapter 15a, page 104, title "Oil, gas, salt, etc., corporations," provides:

"SECTION 1. Any number of persons, not less than three, may organize themselves into a corporation for the purpose of storing, transporting, buying, and selling oil and gas, salt, brine, and other mineral solutions in this State.

"SEC. 3. Such corporation shall have power to store and transport oil and gas, brine, and other mineral solutions, and to make reasonable charges therefor. * * *

"SEC. 6. It shall be unlawful for any corporation organized under this act to discriminate against any person, corporation, firm, association, or place in the charge for such storage or transportation, or in the service rendered; but shall receive, store, or transfer oil or gas for any person, corporation, firm, or association upon equal terms, charges, and conditions with all other persons, corporations, firms, or associations for like service."

WEST VIRGINIA.

West Virginia Code, 1906, chapter 62C, title "Transportation of petroleum or other oils or liquids," provides:

"SEC. 2830. Any company heretofore or hereafter organized for the purpose of transporting petroleum or other oils or liquids by means of pipe line or lines shall be required to accept all petroleum offered to it in merchantable order, in quantities of not less than 2,000 gallons, at the wells where the same is produced, making at its own expense all necessary connections with the tanks or receptacles containing such petroleum, and to transport and deliver the same at any delivery station, within or without the State, on the route of its line of pipes which may be designated by the owners of the petroleum so offered."

WYOMING.

The constitution of Wyoming, section 7, article 10, title "Corporations," provides:

"All corporations engaged in the transportation of persons, property, mineral oils and mineral products, news or intelligence, including railroads, telegraphs, express companies, pipe lines, and telephones, are declared to be common carriers."

Congress itself has recognized the public interest in interstate transportation by pipe lines in its amendment to the act to regulate commerce of 1906. It was undoubtedly the intention of Congress to include all pipe lines, whether common carriers or private (so called), engaged in the transportation of petroleum in interstate commerce.

The Interstate Commerce Commission, upon its own motion, after investigation, decided that such was the intention of Congress, and ordered such "private pipe lines," so called, to file tariffs and charges and rules and regulations with said commission. Those pipe lines, however, which did not profess to be common carriers secured an injunction against said order of the commission by application to the Commerce Court, which said court sustained, and the question has been appealed to and now is under consideration by the Supreme Court of the United States.

While there can be no question of the general recognition of the public interest in all State and interstate transportation of petroleum or gases by pipe lines, yet from all the facts heretofore set out it must be obvious that such control and regulation will always be attended with its embarrassing features, and that the entire interest of the public in such utilities can never be adequately accomplished or perfected until Congress shall exercise its sovereign power in the acquisition and operation of all interstate pipe lines.

PANAMA CANAL TOLLS.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 14385) to amend section 5 of an act to provide for the opening, maintenance, protection, and operation of the Panama Canal and the sanitation of the Canal Zone, approved August 24, 1912.

Mr. TOWNSEND. Mr. President, I ask permission to print as a part of my remarks a letter written on March 27, 1914, to J. P. Tumulty, Esq., Washington, D. C., by J. H. O'Neil. I do not agree with the writer that the railroads are entitled to the higher rates they ask. I do not agree that the depressed conditions mentioned by him are due to too low rail rates. I insert this letter from a Democrat to the President's secretary because the facts mentioned have a bearing on the prosperity issue which has been raised this afternoon.

The VICE PRESIDENT. Is there any objection? The Chair hears none.

The matter referred to is as follows:

FEDERAL TRUST CO.,
Boston, Mass., March 27, 1914.

J. P. TUMULTY, Esq.,
Washington, D. C.

MY DEAR MR. TUMULTY: Pardon me for bothering such a very busy man as you, but I know you are interested in the success of the party, and I want you to believe that I have no other object in writing. I have written Judge Clements and Secretary McAdoo, urging them to do something to hasten the case of railroad rates. In my opinion, anything would be better than nothing.

It is impossible to blink at the fact that slowly but surely business is getting to a standstill. For the first six months of the administration business was first class; for the second six months it was fair, but to-day it is dragging. One of the oldest machine shops in New England, down in Biddeford, Me., laid off 250 men; the New Haven shops at Readville have shut down, throwing 1,500 men out, and the Boston & Maine shops at Billerica, in this State, which have a capacity of employing 6,000 men, will not open. Now, these two latter may, of course, be blamed to local railroad conditions, but that is not true in the case of the Biddeford shop, nor in the case of the Pennsylvania Railroad Co., which has recently thrown out 15,000 men, 8,000 of them east of Pittsburgh. The Sturtevant Blower Works here has just let 250 men go. My information is that this is true pretty generally throughout the country.

For the past 30 years I have believed that the nub of any question in this country was the railroad situation; that when the railroads were prosperous the country was prosperous. While I admit that the railroads have done many, many things for which somebody should go to jail, I do not see why the present generation should be punished for the faults of those who have gone before. A 10 per cent increase in freight rates, as I pointed out to Judge Clements, on a case of shoes shipped from Boston to San Francisco would mean an additional cost of 1 cent per pair, but this 10 per cent increase in freight rates would mean $3 a week in the pockets of hundreds of thousands of men who would have to buy shoes, because it would give them work.

As I wrote Mr. McAdoo, I think in regard to many corporations, they ought to adopt the old Chinese custom, and when crimes are committed by corporations some heads should be lopped off and dropped into the basket—be cut close off to the shoulders. But we are facing a condition to-day, not a theory. Now, mind me, I do not own a share of railroad stock, and do not know that I ever shall, but I am writing you as one who can put in a word at the right place close up, and as you are a practical man, like myself, and know conditions as I think I know them, from practical experience, I hope that you will do your best to see that something is done, and done at once.

Should the roads not be allowed to increase their rates, then they must face bankruptcy or make a reduction in wages. I am opposed to a reduction in wages—radically and unalterably. Wages are none too good now. If it may be claimed that the railroad capitalization is excessive, I will admit it, but I do not think that the workingman, working for his day's wage, should be the one to be punished; rather give them a fair wage, a chance to live, and punish the fellows who have put the water into the road and arranged to squeeze it out. This is not a difficult thing to do, although it may take some time.

Now, I take the liberty of writing you on account of the friendly spirit you showed when I met you with Congressman MURRAY, and also because I believe you to be a practical man, who realizes, as I do, what these facts mean. Do this thing, and, in my opinion, the Republican Party need not nominate a candidate against us in 1916; do not do it, and I do not think there is the least necessity of our nominating one.

I may be in Washington some time next month, and, if so, I shall take the liberty of calling on you to say "How are you?"

With kindest regards, I am,

Yours, very truly, J. H. O'NEIL.

The VICE PRESIDENT. The pending amendment is the amendment offered by the Senator from Nebraska [Mr. NORRIS] in lieu of the amendment proposed by the committee.

Mr. O'GORMAN. May I ask what is the amendment to which the Chair refers?

The VICE PRESIDENT. The Secretary will state the amendment.

The SECRETARY. In lieu of the amendment at the end of the bill offered by the committee, the Senator from Nebraska offers the following——

Mr. O'GORMAN. The Chair was speaking, then, of the amendment of the Interoceanic Canals Committee.

Mr. President, the tolls bill has been nominally before the Senate all day; but owing to the peculiar rules of this body everything else has been discussed, and no opportunity has been given to the Senators who desired to be heard on this question to present their views.

I would ask at this time unanimous consent to make the tolls bill the business of the Senate to the exclusion of all other business until a vote can be reached, but I understand that making that request at this hour would involve calling the roll. I shall, however, make that request to-morrow morning; and I hope nothing will be presented to the Senate in the way of a discussion that will interfere with the tolls bill, and an opportunity to take a vote upon it at the earliest practicable moment.

Mr. SMITH of Georgia. Mr. President, I had thought of suggesting that instead of adjourning to-day we take a recess until 10 o'clock to-morrow morning.

Mr. SMOOT. I hope the Senator will not do that.

Mr. SMITH of Georgia. Or a recess until 8 o'clock to-night.

Mr. SMOOT. Oh, no; not to-night. If the Senator will leave that matter until to-morrow and see if a unanimous-consent agreement can be reached, such as the Senator from New York gave notice he would ask, I think more than likely it will be granted, and then we can go right along and get through with the bill in the early part of the week.

Mr. CUMMINS. Mr. President——

Mr. O'GORMAN. Unless the Senator from Iowa wishes to proceed——

Mr. CUMMINS. Will the Senator from New York yield for a moment?

Mr. O'GORMAN. Yes.

Mr. CUMMINS. I desire only to suggest that the unanimous-consent agreement which he has proposed, which he says he will bring before the Senate to-morrow, ought to contain a provision that will give the President of the Senate power to confine the discussion taking place here to the bill before the Senate. Otherwise it will accomplish nothing, inasmuch as we have had the canal bill before us all day long and not a word has been said with regard to it.

Mr. O'GORMAN. Mr. President, I agree with the suggestion of the Senator from Iowa. The unanimous-consent agreement would amount to nothing unless Members should respect the spirit of it, refrain from injecting other matters into the discussion until such a time as a vote is had upon the unfinished business.

Mr. CUMMINS. Of course I do not suggest that for the purpose of having it written into the agreement, but I do suggest it in order to create a proper spirit in the Senate if the agreement shall be made. I suspended a speech upon this question yesterday in order to permit the Members of the Senate to attend a very notable and worthy ceremony which was about to take place. I have been waiting all day long for an opportunity to resume the observations I was then making upon the canal bill. While I suppose I have no technical right to the floor, I hope that before many volumes shall have been filled with extraneous discussion I may be permitted to finish the argument I began.

Mr. OWEN. Mr. President, on Thursday, April 16, 1789, this was the rule of the Senate:

VIII. While a question is before the Senate no motion shall be received, unless for an amendment, for the previous question, or for postponing the main question, or to commit it, or to adjourn.

IX. The previous question being moved and seconded, the question from the Chair shall be: "Shall the main question be now put?"

I think the time has come to restore this venerable rule of the United States Senate, and to have a cloture in the Senate; to have the previous question.

The Senate of the United States has lost in large measure the respect of the people of the United States and of Senators on this floor by the abuse of the privilege of free speech in this body. I wish to enter my protest against the continuance of the custom which permits unending debate upon any question. I wish to enter my emphatic dissent from the practice of the Senate.

Last summer I called attention to this matter and introduced a proposed modification of the rule, establishing the previous question in the Senate, or at least permitting the Senate, by a vote of the majority of its Members, to terminate at some time any question before the Senate. The matter of unanimous

consent which is in vogue in this body has the effect of denying to the majority of the Senate the right to conduct the affairs of the Senate. It permits any bill or any number of bills to be used for the purpose, or at least with the effect, of killing time ad libitum; and in that way the majority is excluded from discharging its obligations to the people of the United States.

The Democratic Party, although in nominal control of this body, is absolutely unable to carry out its pledges to the people of the United States because of the obstruction of the business of this body by unlimited debate, a debate to which nobody listens. Senators rise on this floor and talk for hours——

Mr. SMITH of Georgia. Mr. President, I wish to ask the Senator if a cloture rule requiring him to address himself to the subject before the Senate would not preclude him from making his present speech?

Mr. OWEN. It would; and it would preclude the Senator from Georgia from making many speeches he has delivered on this floor.

Mr. SMITH of Georgia. I should like to have the Senator call attention to them.

Mr. OWEN. I will hunt through the RECORD and try to do so. If not, he is the only exception.

Mr. GALLINGER. Mr. President——

The VICE PRESIDENT. Does the Senator from Oklahoma yield to the Senator from New Hampshire?

Mr. OWEN. I had concluded what I wished to say.

Mr. GALLINGER. It would also have prevented the Senator from Oklahoma from filibustering for six or eight hours a little while ago to defeat a bill which the Senator did defeat.

Mr. OWEN. If the Senator is referring to the occasion when I objected to Arizona being kept out of the Union, I plead guilty. I will say to the Senator, moreover, that so long as our rules permit that kind of thing any Senator with sufficient resolution can do as he pleases on the floor of this body. I do not think it ought to be permitted. I am opposed to it for myself, and I am opposed to it for the Senator from New Hampshire.

Mr. GALLINGER. It is a matter of regret to some of us that the Senate has lost the reputation it formerly enjoyed in the estimation of the Senator from Oklahoma; and yet I apprehend the Senate will go along and transact its business exactly as it would have done if the Senator from Oklahoma had not read his lecture to the Senate to-day. There is no trouble about it. The Senator has offered his amendment to the rules, and I apprehend that the Senator will live to be as old as I am, at least, before it shall be adopted.

Mr. OWEN. Mr. President, I thank the Senator from New Hampshire for his lecture read to the Senator from Oklahoma; but I advise him that no amount of lecturing or hectoring on his part will abate one iota the opinion of the Senator from Oklahoma on this question.

I serve notice on the Senator, and on the Senate, too, that at some convenient time the unanimous consent in this body will be discontinued.

Mr. KENYON. Mr. President——

The VICE PRESIDENT. Does the Senator from Oklahoma yield to the Senator from Iowa?

Mr. OWEN. I have yielded the floor.

Mr. KENYON. I wish to ask the Senator a question, if he pleases.

Mr. OWEN. I shall be glad to answer any question I can.

Mr. KENYON. Where is the Senator's amendment now? What is the status of it?

Mr. OWEN. It is lying, as all matters of this kind lie, in the bosom of the committee.

Mr. KENYON. What does the Senator propose to do about it? I am very much in sympathy with his amendment, and I wish to support it. I wish to have an opportunity to vote on it. Why does not the Senator press it?

Mr. OWEN. Because of the hope that the matters which have so urgently pressed upon the attention of the Senate might be disposed of, and because that matter itself, under the rules of the Senate, would be made a subject of unlimited debate and would preclude the consideration of anything else at this time.

Mr. KENYON. I wish the Senator could get it in the program of work for the summer.

Mr. OWEN. If I were making the program, it would be the first on the list.

Mr. SMOOT. Mr. President, the Senator referred to the fact that the majority in this body could not control legislation, and complained that the time was wasted by unnecessary talk.

Mr. OWEN. Yes; there is no question whatever about it.

Mr. SMOOT. Mr. President, to be perfectly honest in this matter, as far as the discussion of to-day is concerned, if the Senator had been in the Chamber he would have known that the great majority of the time of this body has been taken by members of the majority party.

Mr. OWEN. Oh, well, this is the practice of the Senate, and Senators avail themselves of it; but it is a bad practice, and against the practice I enter my emphatic protest. There are many other Senators here who are silent now who realize as well as the Senator from Oklahoma the unwisdom of this rule, and the fact that it is impairing the standing of the Senate, and is degrading the Senate in the respect of the people of the United States.

Mr. GALLINGER. Mr. President, I have been a Member of this body for 23 years, and I do not recall a single important measure that has ever been before the Senate that has not been voted on, with one exception, and that was defeated by a Democratic filibuster.

I think we have attended to the business of the country diligently. We have debated questions of importance at great length, it is true; they needed such debate; but they have always been voted on, and a majority of the Senate has determined whether or not they should become laws.

I do not think the evil is so great as the Senator from Oklahoma imagines it to be. I feel quite sure that if we should adopt the rule that prevails in another body, where debate on these great questions is almost absolutely forbidden, we would live to rue the time when we made the change.

Mr. SMITH of Georgia. Mr. President, I rose to ask the Senator from Iowa at what hour it would suit him to-morrow morning to speak.

Mr. CUMMINS. Personally, one hour would suit me as well as another, but I see no reason for convening earlier than the usual time. There is no difficulty about this matter, Mr. President. If we will adhere to the subject before the Senate, we will finish the debate very soon.

Mr. SMITH of Georgia. What I wished to say was that if it would suit the Senator from Iowa, promptly after 11, I hope, although we can not make a unanimous-consent agreement this afternoon, the Senator from New York will move to take up the bill immediately after the approval of the Journal to-morrow, and that without taking any time for morning business to-morrow we may proceed with the unfinished business.

Mr. CUMMINS. I have no objection to convening at 11 o'clock and going forward immediately with what I have to say. We have a very important meeting of the Committee on Interstate Commerce at 10 o'clock to-morrow, which I feel I must attend. I hope there will be no effort made to convene the Senate before the usual time.

Mr. SMOOT. I wish to say to the Senator from Georgia that we have the matter in our own hands. We can object to anything outside of the routine morning business, and that will not take over 10 minutes in the morning. We can object to any consideration of outside matters.

Mr. SMITH of Georgia. Of course, one certain way to avoid it would be to take a recess until 11 o'clock to-morrow morning, and then have no morning hour.

Mr. BRISTOW. Mr. President, I desire to express my opinion, and I think it is the opinion of a great many Senators on this side of the Chamber. I do not speak for them except that I have heard expressions in conversation in the cloakroom. There is no desire on the part of anyone on this side, so far as I have had any conversation with Members, to delay a vote upon the tolls bill. The time that has been taken to-day has been taken by the majority. There has nothing been injected in this debate and no bill has been used upon the part of anyone on this side of the Chamber to delay the discussion. It seems to me if the majority want to keep the tolls bill before the Senate, so that we may consider it hour after hour, we will get to a vote, and those of us who attempt to attend to business faithfully will not be required to be here at unusual hours, either morning or evening.

So far as I am concerned, I do not want to put any obstacle in the way of a prompt disposition of this measure. I do not intend, if I can help it, to spend another summer in working day and night continuously with a program before us that will keep us here at least until October. I am willing to stay until October, if it is so decreed by those who are in control of the legislation of the country, but I am not willing to spend unusual hours so as to impair my health and the health of other Members of this body.

Mr. SIMMONS. Mr. President, I wish to say in reply to the Senator from Kansas [Mr. BRISTOW] that I think I know the feeling of Members on this side and on the other side, too. There seems to be a feeling on both sides of the Chamber unusually strong that we should get to a vote upon this question as speedily as possible. I do not believe there is any disposition

on either side to filibuster. For what has happened to-day the gentlemen who have participated are solely responsible, and I do not think it has been done by them with any view to postponing the vote upon the tolls bill, although it has had that effect.

I wish to give notice that if some other Senator does not do so, immediately after the reading of the Journal to-morrow I shall object to the consderation of any measure except the tolls bill.

Mr. O'GORMAN. In order to insure expedition in the consideration of the tolls bill to-morrow, I move that the Senate take a recess until 11 o'clock to-morrow, at which time the Senator from Iowa will be permitted to proceed with his discussion.

Mr. OLIVER. Will the Senator from New York withhold that motion for a moment?

Mr. O'GORMAN. Yes.

Mr. OLIVER. Inasmuch as evidently no business will be transacted to-morrow except in connection with the tolls bill, I wish to say that after to-morrow I shall be compelled to be away for at least 10 days, and I wish to ask unanimous consent for the present consideration of House bill 14242. It is a bill to increase the cost of the public building at Harrisburg, and one in which our people are greatly interested. It is a House bill and has been favorably reported from the Committee on Public Buildings and Grounds of the Senate.

Mr. O'GORMAN. I yield for that purpose.

PUBLIC BUILDING AT HARRISBURG, PA.

Mr. OLIVER. I ask the Senate to proceed to the consideration of the bill (H. R. 14242) to increase the limit of cost for the erection and completion of the United States Federal building at Harrisburg, Pa.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill. It proposes to so amend the provision in section 2 of the public-building act of June 25, 1910, for the enlargement, extension, remodeling, or improvement of the post office and courthouse at Harrisburg, Pa., as to increase by $75,000 the limit of cost fixed by that act for the work; and the Secretary of the Treasury is authorized to enter into contracts for the completion of the enlargement, extension, remodeling, and improvement of the building within the limit of cost as hereby extended.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

RECESS.

Mr. O'GORMAN. I move that the Senate take a recess until 11 o'clock a. m. to-morrow.

Mr. BRISTOW. Let me suggest to the Senator from New York that a single objection will prevent any delay at all by reason of the morning business. A Senator can not make a speech or do anything else that will consume time except by unanimous consent, and it is in the power of the Senator from New York to object.

Mr. SMITH of Georgia. There are resolutions coming over upon which Senators will have a right to speak.

Mr. O'GORMAN. Unless the Senator from Kansas has some business that he thinks ought to be presented to-morrow morning, I believe the wiser course is simply to take a recess, so that as soon as we convene the consideration of the tolls bill may be resumed.

Mr. BRISTOW. I have no desire to open up any debate upon resolutions that are pending. There is routine business that comes in which sometimes ought to be attended to at once. I will make no objection to the motion of the Senator.

Mr. O'GORMAN. Very well. I move that the Senate take a recess until 11 o'clock a. m. to-morrow.

The motion was agreed to; and (at 6 o'clock and 6 minutes p. m.) the Senate took a recess until to-morrow, Saturday, June 6, 1914, at 11 o'clock a. m.

HOUSE OF REPRESENTATIVES.

FRIDAY, *June 5, 1914.*

The House met at 11 o'clock a. m.

Rev. Ulysses G. B. Pierce, D. D., of All Souls Church, Washington, D. C., offered the following prayer:

Our Father who art in heaven, ere we turn to the labors to which Thou hast called us, we pause to acknowledge Thy goodness and to implore Thy guidance. Grant, we humbly pray Thee, that this day we may so labor as to receive the benediction of Thy favor. And as we ask Thy grace so do we render to Thee all glory now and forevermore. Amen.

The Journal of the proceedings of yesterday was read and approved.

LEAVE OF ABSENCE.

The Clerk read as follows:

CAMDEN, N. J., *June 4, 1914.*

Hon. CHAMP CLARK,
Speaker House of Representatives, Washington, D. C.

MY DEAR MR. SPEAKER: I met with an accident last week; I had a fall and broke two bones in my hand, and I am practically helpless. I would respectfully request that I be granted leave of absence indefinitely, or until I recover the use of my hand.

Yours, very truly,

WM. J. BROWNING.

The SPEAKER. Without objection, the request is granted.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. Tulley, one of its clerks, announced that the Senate had passed without amendment bill of the following title:

H. R. 3334. An act authorizing the quitclaiming of the interest of the United States in certain land situated in Hampden County, Mass.

The message also announced that the Senate had passed joint resolution and bill of the following titles, in which the concurrence of the House of Representatives was requested:

S. J. Res. 155. Joint resolution to remit, under certain conditions and for the year 1914, the penalties provided by the act approved October 3, 1913, for failure to properly return the income tax provided for in said act in cases where said returns are completed by June 1, 1914; and

S. 4522. An act to amend an act entitled "An act to amend an act entitled 'An act to regulate commerce,' approved February 4, 1887, and all acts amendatory thereof, and to enlarge the powers of the Interstate Commerce Commission," approved June 29, 1906.

The message also announced that the Vice President had appointed Mr. PAGE and Mr. LANE members of the joint select committee on the part of the Senate, as provided for in the act of February 16, 1889, as amended by the act of March 2, 1895, entitled "An act to authorize and provide for the disposition of useless papers in the executive departments," for the disposition of useless papers in the War Department.

NATIONAL STAR-SPANGLED BANNER CENTENNIAL CELEBRATION.

Mr. LINTHICUM. Mr. Speaker, I ask to take from the Speaker's table Senate joint resolution 148.

The SPEAKER. The gentleman from Maryland asks to take from the Speaker's table Senate joint resolution 148, there being one of similar tenor on the House Calendar. The Clerk will report the resolution.

The Clerk read as follows:

Joint resolution (S. J. Res. 148) authorizing the President to extend invitations to foreign Governments to participate, through their accredited diplomatic agents to the United States, in the National Star-Spangled Banner Centennial Celebration.

Resolved, etc., That the President be, and he is hereby, authorized to extend invitations to foreign Governments to be represented by their accredited diplomatic agents to the United States at the National Star-Spangled Banner Centennial Celebration to be held at the city of Baltimore, Md., in September of the year 1914: *Provided*, That no appropriation shall be granted by the United States for expenses of delegates or for other expenses incurred in connection with said invitation.

The joint resolution was ordered to be read a third time, was read the third time, and passed; and House joint resolution 209 of similar tenor was laid on the table.

SPEECH OF HON. PATRICK H. KELLEY, OF MICHIGAN.

Mr. CRAMTON. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD by inserting an address by my colleague, Hon. PATRICK H. KELLEY, of Michigan.

The SPEAKER. The gentleman from Michigan [Mr. CRAMTON] asks unanimous consent to extend his remarks in the RECORD by printing a speech by his colleague, Gov. KELLEY. Is there objection? [After a pause.] The Chair hears none.

EXTENSION OF REMARKS IN THE RECORD.

Mr. FESS. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD by printing a dispatch that was carried in the papers yesterday relative to whether the Monroe doctrine is in danger of being superseded by some other doctrine by the mediators at Niagara Falls.

The SPEAKER. The gentleman from Ohio [Mr. FESS] asks unanimous consent to extend his remarks in the RECORD by printing a dispatch that was in the papers yesterday to ascertain whether the Monroe doctrine is still extant or whether we are going to have a new doctrine. [Laughter.] Is there objection?

Mr. BARNHART. Mr. Speaker, being a newspaper man and believing everybody in the United States reads the newspapers and that they have read this article, I shall object.

The SPEAKER. The gentleman from Indiana objects.

Mr. MANN. Will the gentleman withhold his objection for a moment?

Mr. BARNHART. Yes.

Mr. MANN. Mr. Speaker, yesterday morning the gentleman from Ohio [Mr. GORDON] asked unanimous consent to extend his remarks in the RECORD by printing a speech by Mr. Untermyer made some time ago——

Mr. BARNHART. Will the gentleman yield?

Mr. MANN (continuing). And the gentleman from Indiana objected.

Mr. BARNHART. That was day before yesterday.

Mr. MANN. It may have been day before yesterday. Yesterday morning the gentleman from Ohio was recognized for half a minute and stated, under leave to print, he would extend his remarks, which he did by inserting the speech. That was contrary to the rule. The leave to print under the rule provides that debate shall be confined to the subject matter under discussion and that the right to print shall be upon the bill. Doubtless the gentleman from Ohio was not aware of this fact, but I think the Members of the House ought to know that leave to print under the rule under which we are operating is not a leave to print generally, and does not authorize the insertion of a lot of matter in the RECORD which is not pertinent to the subject under discussion.

Mr. FESS. Will the gentleman withhold his objection for just a moment?

Mr. BARNHART. Yes; to accommodate the gentleman.

Mr. FESS. I raised the question here some time ago whether the program of mediation might not reach this point. This dispatch of yesterday is no criticism of the administration, but rather complimentary to it, and I thought that probably there would be no objection to my having it inserted in the RECORD, indicating that I have not been dreaming on that question, and I would ask the gentleman if he would object, under the five-minute rule, to my inserting the dispatch?

Mr. BARNHART. I would have no disposition to object under the five-minute rule. I have no more control over that rule than any other Member of the House.

Mr. MANN. I will say under the five-minute rule the debate must be confined to the bill.

Mr. BARNHART. I understand that. In order to be understood in reference to this matter I desire to state that when I became chairman of the Committee on Printing I was asked by some leaders of the House if I could not be effective in preventing abuses of the CONGRESSIONAL RECORD by extending remarks including newspaper and magazine articles. I have tried to do it in a modest way, and probably given some offense at times in endeavoring to do so, for which I am very sorry. Members have their rights under the regular rules of the House to insert speeches and addresses and extend remarks, and if they take advantage of that and impose upon the rights and privileges and consistency in the use of the RECORD that is no more my affair than it is of any other Member of the House; but what I have been trying to do is to prevent the publication of miscellaneous newspaper and magazine articles and addresses by Tom, Dick, and Harry, who are not Members of the House, on subjects which many times are entirely foreign to legislative matters, but which is no doubt wholesome reading to the man who wants it inserted. I have no objection to the ambition of speakers to get their remarks in the RECORD, but, so far as I am concerned, I am going to continue to object to the insertion of newspaper articles and such miscellaneous stuff when they are offered.

Mr. FESS. Mr. Speaker, I appreciate fully the situation of the chairman of the Committee on Printing. I have no criticism personally; but I should like, however, to get this matter before the House some time, because I regard it a matter sufficiently important to ask for its publication. Yesterday under the general debate we did violate the rule by discussing subjects not pertinent to the subject under discussion, and there was no objection then. However, if the gentleman has objected to it, I will have to submit.

Mr. DONOVAN. Mr. Speaker, was the request of the gentleman from Ohio agreed to?

The SPEAKER. No; the gentleman from Indiana [Mr. BARNHART] objected.

CORRECTION IN A VOTE.

Mr. BAILEY. Mr. Speaker, I wish to have a correction made in the RECORD. On page 9800 of the RECORD it is stated that I was among those who failed to answer to the roll call yesterday. I was in the Chamber and answered "present."

The SPEAKER. Without objection, the correction will be made both in the Journal and the RECORD.

Mr. DONOVAN. Mr. Speaker, I want to reserve the right to object.

The SPEAKER. The gentleman from Connecticut [Mr. DONOVAN] reserves the right to object. Will the gentleman from Pennsylvania [Mr. BAILEY] give his attention?

Mr. DONOVAN. Now, I object for this purpose. The gentleman from Ohio [Mr. FESS] and the gentleman from Indiana [Mr. BARNHART] and the gentleman from Illinois [Mr. MANN] have more or less to say all the time as to what shall go into the RECORD. Here is a most villainous article in the RECORD, put in a few days ago, and I can not find for the life of me where the gentleman got any right or permission to put it in the RECORD. It is placed there by a Member from Wisconsin, one who is very seldom here, and it appears on page 10510. Now, that one article alone ought to eliminate everything from being extended or inserted in the RECORD. This Member practically calls a citizen of the District of Columbia a thief, and also accuses some of the officials of the District of Columbia. Now, the point I want to make is that the gentleman from Ohio and the great leader from Illinois allow those things to take place, as does the gentleman from Indiana, without any objection. I withdraw my objection.

Mr. RAYBURN and Mr. BARNHART rose.

The SPEAKER pro tempore (Mr. ADAMSON). The gentleman from Indiana [Mr. BARNHART] is recognized.

Mr. BARNHART. Mr. Speaker, just a word of explanation. I think if the gentleman from Connecticut [Mr. DONOVAN] will look at the RECORD he will discover that that speech is there by permission of the House, granted at the request of the Member to extend his remarks in the RECORD. The gentleman from Connecticut is just as much responsible to the House and to the country for having permitted what he thinks is an improper speech to be inserted in the RECORD as any other Member on the floor of the House, if he sits there dumb when requests are made for the extension of remarks. I have no means of knowing what a Member is going to say when he asks to extend his own remarks in the RECORD, and doubt if I have any right to object, and do not know that I could keep them out if I did object.

The SPEAKER pro tempore. The Chair understands that the gentleman from Connecticut has withdrawn his objection. Is there objection now to the request of the gentleman from Pennsylvania [Mr. BAILEY]?

Mr. DONOVAN. I want to say that there was no request made to insert the speech, according to the RECORD.

Mr. MANN. Regular order, Mr. Speaker.

Mr. RAYBURN. Mr. Speaker, the regular order.

Mr. MANN. I hope the gentleman from Connecticut [Mr. DONOVAN] will be in order for once. He so seldom is in order.

REGULATION OF RAILWAY STOCKS AND BONDS.

The SPEAKER pro tempore. The regular order is the further consideration of the stock-and-bond bill, H. R. 16586, and the House resolves itself automatically into the Committee of the Whole House on the state of the Union, with the gentleman from Tennessee [Mr. HULL] in the chair.

The CHAIRMAN. The House is in the Committee of the Whole House on the state of the Union for the further consideration of the bill H. R. 16586 and other bills embraced in the special order of the House. The Clerk will report the bill by title.

The Clerk read as follows:

A bill (H. R. 16586) to amend section 20 of an act to regulate commerce.

Mr. CULLOP. Mr. Chairman, I desire to send to the Clerk's desk a committee substitute for the pending bill. Copies of it have been distributed to the Members here, and I shall ask the chairman of the committee to see if he can not make some arrangement for the consideration of the substitute at this time.

The CHAIRMAN. The gentleman from Indiana [Mr. CULLOP] offers a substitute——

Mr. MANN. A substitute is not in order.

Mr. GARNER. Mr. Chairman, the original bill has not been read.

Mr. ADAMSON. Mr. Chairman, I will not try to press that until I have an understanding about it. I wish to ask unanimous consent on behalf of the committee that in lieu of the bill the substitute, copies of which were circulated and are on the desk, shall be read and considered in lieu of the original bill, with all the rights and privileges of the bill.

Mr. MANN. Mr. Chairman, I will have to object to that at this time. The bill has been reported. Let it be read, so that it will be printed in the RECORD, at least.

Mr. ADAMSON. I have no objection to its being printed in the RECORD. But I will say to the gentleman from Illinois [Mr. MANN] that the committee has worked on the bill in light of the objections and discussions, and we are practically unanimous on the substitute, which divides the bill into two sections

and rearranges some of the matter, in every respect making it much more satisfactory to the committee. And we can save time if we would read the substitute for amendment and discussion in lieu of the original bill.

Mr. MANN. That will come later when the gentleman offers a substitute in the regular order.

Mr. ADAMSON. The difficulty is that I thought it would come so much later that we could save time by reading the substitute now.

Mr. MANN. I think it would save time in this way.

The CHAIRMAN. Objection is heard to the request of the gentleman from Georgia [Mr. ADAMSON]. The Clerk will read the bill for amendment.

The Clerk read as follows:

Be it enacted, etc., That section 20 of an act entitled "An act to regulate commerce," approved February 4, 1887, as amended, be amended so as to hereafter read as follows.

Mr. ADAMSON. Mr. Chairman, would it be in order at the end of the reading down to the end of line 6 to offer a substitute to that section, with the understanding that we will move to strike out all the remainder of the bill?

The CHAIRMAN. The Chair will state to the gentleman that when the first section of the bill is read——

Mr. ADAMSON. There is but one section to the bill.

The CHAIRMAN. Just one section. The rule of the committee in considering bills other than revenue and appropriation bills is to read them by sections instead of by paragraphs.

Mr. ADAMSON. Could I get unanimous consent here to offer a substitute?

Mr. MANN. Mr. Chairman, I think the original bill reported to the House ought to be read to the House.

Mr. ADAMSON. All right; go ahead.

The CHAIRMAN. The Clerk will read.

The Clerk concluded the reading of the bill, as follows:

SEC. 20. That the commission is hereby authorized to require annual reports from all common carriers subject to the provisions of this act, and from the owners of all railroads engaged in interstate commerce as defined in this act; to prescribe the manner in which such reports shall be made, and to require from such carriers specific answers to all questions upon which the commission may need information. Such annual report shall show in detail the amount of capital stock issued, the amounts paid therefor, and the manner of payment for the same; the dividends paid, the surplus fund, if any, and the number of stockholders; the funded and floating debts and the interest paid thereon; the cost and value of the carrier's property, franchises, and equipments; the number of employees, and the salaries paid each class; the accidents to passengers, employees, and other persons, and the causes thereof; the amounts expended for improvements each year, how expended, and the character of such improvements; the earnings and receipts from each branch of business and from all sources; the operating and other expenses; the balances of profit and loss, and a complete exhibit of the financial operations of the carrier each year, including an annual balance sheet. Such reports shall also contain such information in relation to rates or regulations concerning fares or freights, or agreements, arrangements, or contracts affecting the same, as the commission may require; and the commission may, in its discretion, for the purpose of enabling it the better to carry out the purposes of this act, prescribe a period of time within which all common carriers subject to the provisions of this act shall have, as near as may be, a uniform system of accounts, and the manner in which such accounts shall be kept.

Said detailed reports shall contain all the required statistics for the period of 12 months ending on the 30th day of June in each year, or on the 31st day of December in each year if the commission by order substitute that period for the year ending June 30, and shall be made out under oath and filed with the commission at its office in Washington within three months after the close of the year for which the report is made, unless additional time be granted in any case by the commission; and if any carrier, person, or corporation subject to the provisions of this act shall fail to make and file said annual reports within the time above specified, or within the time extended by the commission for making and filing the same, or shall fail to make specific answer to any question authorized by the provisions of this section within 30 days from the time it is lawfully required so to do, such party shall forfeit to the United States the sum of $100 for each and every day it shall continue to be in default with respect thereto. The commission shall also have authority by general or special orders to require said carriers, or any of them, to file monthly reports of earnings and expenses, and to file periodical or special, or both periodical and special, reports concerning any matters about which the commission is authorized or required by this law, or any other law, to inquire or to keep itself informed or which it is required to enforce, including the matter of making public information regarding the issuance by said carriers of stocks, bonds, or other evidences of indebtedness. In such periodical or special reports the commission may require of the carrier, in addition to its income account, a balanced statement of its receipts and expenditures on capital account, and of the surplus of the income account accruing during the period covered by such statement, as well as of all other financial transactions that have taken place during such period, with whom had, whether in cash, in securities, or in other valuable consideration. The commission may also require the carrier to compile for the information of its shareholders such facts in regard to the financial transactions of the carrier for its fiscal year in such form as the commission may direct.

Every common carrier subject to the provisions of this act shall file with the commission on or prior to the date of issuance of any stocks, bonds, notes, or other evidences of indebtedness payable at periods of more than 12 months after the date thereof, and now or hereafter to be authorized, a certificate of notification in such form as the commission may from time to time determine and prescribe, which shall show:

First. (a) The total amount thereof authorized.

(b) The number and amount thereof outstanding prior to the date of such certificate; the amount thereof theretofore retired; the amount thereof then undisposed of, and whether such amount is held in the treasury of the corporation as a free asset or pledged, and if pledged, the terms and conditions of such pledge.

(c) The number and amount thereof then to be issued and whether to be sold, pledged, or held in the treasury of the corporation as a free asset; if such securities are to be sold, the terms of sale if a contract for such sale has been made, and if any part of the consideration to be received therefor is other than money, an accurate and detailed description thereof; if such securities are to be pledged, the terms and conditions of such pledge.

(d) The number and amount thereof remaining unissued.

(e) If the issue is of shares of stock, the certificate shall also show the par value thereof; or if the issue is of shares of stock that have no specified nominal or par value, the number of such shares, and the number of then outstanding shares previously issued.

2. The preferences of privileges granted to the holders of any such shares of stock; the dates of maturity, rates of interest of any such bonds, notes, or other evidences of indebtedness, and any conversion rights granted to the holders thereof, and the price, if any, at which such shares or bonds may be redeemed.

3. The purposes, in detail, to which the proceeds of the issue are to be devoted.

Whenever any securities set forth and described in any certificate of notification as pledged or held as a free asset in the treasury of the corporation shall, subsequent to the filing of such certificate, be sold or repledged or otherwise disposed of by the corporation, such corporation shall file a further certificate of notification to that effect, setting forth therein all such facts as are required by subdivision (c) of the foregoing first paragraph.

The provisions in regard to certificates of notification shall apply to notes or evidences of indebtedness running for periods of 12 months or less, and to the pledging or repledging of stocks, bonds, or other evidences of indebtedness to secure such notes or evidences of indebtedness running for periods of 12 months or less, except that such certificates may be filed within 10 days after the issue thereof instead of on or prior to the date of such issue.

The certificates of notification shall be signed and verified by the auditor, comptroller, or other acting fiscal head of the carrier.

Periodical or special reports to the commission, reports of the carriers to its stockholders, or certificates of notification shall be under oath whenever the commission so requires; and if any such carrier shall fail to make and file any such periodical or special report, or report to its stockholders, within the time fixed by the commission, it shall be subject to the forfeitures last above provided. If any such carrier shall refuse or fail to file certificates of notification as above provided, it shall be subject to a forfeiture of not less than $100 nor more than $5,000 for each such offense, and $100 for each day of the continuance of such offense; and the officer or officers of the carrier whose duty it is to cause the certificate to be filed shall, upon refusal or willful neglect to cause it to be filed, be deemed guilty of a misdemeanor, and shall be subject, upon conviction in any court of the United States of competent jurisdiction, to a fine of not less than $1,000 nor more than $5,000, or imprisonment for a term of not less than one year nor more than three years, or both such fine and imprisonment.

Said forfeitures shall be recovered in the manner provided for the recovery of forfeitures under the provisions of this act.

The oath required by this section may be taken before any person authorized to administer an oath by the laws of the State in which the same is taken.

It shall be the duty of the commission to make public by appropriate means the information received as in its discretion it may deem proper; and the certificates of notification shall at all times be deemed public records and open to inspection.

The commission shall have the power to investigate all financial transactions of said carriers and to inquire into the good faith thereof, to examine the books, papers, and correspondence of carriers, construction or other companies, or of firms or individuals with which the carrier shall have had financial transactions, for the purpose of enabling it to verify any statements furnished, and to examine into the actual cost and value of property acquired by it or services rendered to such carrier. The carrier may be required by order of the commission to disclose every interest of the directors of such carrier in any transaction under investigation. In addition to the certificates and reports hereinbefore mentioned, the commission may require the carrier to furnish any further statements of fact or evidence that it may deem necessary or appropriate.

The commission may, in its discretion, prescribe the forms of any and all accounts, records, and memoranda to be kept by carriers subject to the provisions of this act, including the accounts, records, and memoranda of the movement of traffic, as well as the receipts and expenditures of moneys. The commission shall at all times have access to all accounts, records, memoranda, correspondence, and other documents and papers regardless of the dates thereof kept by carriers subject to this act, and it shall be unlawful for such carriers to keep any other accounts, records, or memoranda than those prescribed or approved by the commission, and the commission may employ special agents or examiners, who shall have authority under the order of the commission to inspect and examine any and all such accounts, records, memoranda, correspondence, documents, and papers, and also the books, papers, and correspondence of carriers, construction or other companies, or of firms or individuals with which a carrier shall have had financial transactions. This provision shall apply to receivers of carriers and operating trustees.

In case of failure or refusal on the part of any such carrier, receiver, or trustee to keep such accounts, records, and memoranda on the books and in the manner prescribed by the commission, or to keep such correspondence and other documents and papers, or to submit such accounts, records, memoranda, and other documents and papers to the inspection of the commission, or any of its authorized agents or examiners, such carrier, receiver, or trustee shall forfeit to the United States the sum of $500 for each such offense and for each and every day of the continuance of such offense, such forfeitures to be recoverable in the same manner as other forfeitures provided for in this act. Failure or refusal of carriers, construction or other companies, or firms or individuals with which a carrier shall have had financial transactions to submit their books, papers, and correspondence for examination shall subject them to the same forfeitures, to be recovered in the same manner.

Any person who shall willfully make any false entry in the accounts of any book of accounts, or in any record or memoranda kept by a carrier, or who shall willfully file any certificate or other paper required under this act containing false or erroneous statements of fact, or who shall willfully destroy, mutilate, alter, or by any other means or device falsify the record of any such account, record, memoranda,

correspondence, or other documents or papers, or who shall willfully neglect or fail to make full, true, and correct entries in such accounts, records, or memoranda of all facts and transactions appertaining to the carrier's business, or shall keep any other accounts, records, or memoranda than those prescribed or approved by the commission, shall be deemed guilty of a misdemeanor, and shall be subject, upon conviction in any court of the United States of competent jurisdiction, to a fine of not less than $1,000 nor more than $5,000 or imprisonment for a term not less than one year nor more than three years, or both such fine and imprisonment: *Provided*, That the commission may, in its discretion, issue orders specifying such operating, accounting, or financial papers, records, books, blanks, tickets, stubs, or documents of carriers which may, after a reasonable time, be destroyed, and prescribing the length of time such books, papers, or documents shall be preserved.

Any examiner who divulges any fact or information which may come to his knowledge during the course of such examination, except in so far as he may be directed by the commission or by a court or judge thereof, shall be subject, upon conviction in any court of the United States of competent jurisdiction, to a fine of not more than $5,000 or imprisonment for a term not exceeding two years, or both.

That the district courts of the United States shall have jurisdiction, upon the application of the Attorney General of the United States at the request of the commission, alleging a failure to comply with, or a violation of any of the provisions of said act to regulate commerce, or of any act supplementary thereto or amendatory thereof, by any common carrier, to issue a writ or writs of mandamus commanding such common carrier to comply with the provisions of said act, or any of them.

That it shall be unlawful for any common carrier subject to the act to regulate commerce as amended to issue any capital stock or certificate of stock or any bond or other evidence of indebtedness or to assume any obligation as lessor, guarantor, or surety for the securities of any other person, natural or artificial, even though permitted by the authority creating the carrier corporation, except for some purpose within its corporate powers necessary to the proper performance of its service for the public and not tending to impair the financial ability of the carrier to discharge its duty to the public. Extensions and improvements of its railroads and terminals used in connection therewith, increasing and improving its equipment, refunding and retiring existing bonds, and similar and kindred purposes, shall be held to be necessary purposes in the meaning of this paragraph. It shall likewise be unlawful to issue any such stock or bonds for purposes hereinbefore mentioned or for any other purpose connected with or relating to that part of the business of such carrier governed by the act to regulate commerce as amended unless and until upon application and after investigation in the premises by the Interstate Commerce Commission of the purposes and uses of the issue and the proceeds thereof, such issue is approved by said commission as necessary and appropriate for the purpose stated: *Provided*, That nothing herein shall be construed to imply any guaranty or obligation as to such issues on the part of the United States: *Provided, however*, That the provisions of this section shall not apply to notes issued by such carrier maturing not more than two years after their date, when such notes do not at any time aggregate more than 5 per cent of the total amount of the stocks and bonds of such carrier which may have been issued and are then outstanding: *And provided further*, That upon application to the Interstate Commerce Commission for approval of proposed issues of stocks and bonds the said commission shall cause notice to be given, with copy of application and any other proceedings had, to the railroad commission or public-service or utilities commission, or whatever other appropriate authority may exist; and, if none, then to the governor and attorney general in each State through which any railroad or part of the system concerned passes or through which the carrier making the application operates any part of its lines. The railroad commission, public-service or utilities commission, governor, attorney general, or other appropriate State authority thus notified shall have the right to present before the Interstate Commerce Commission such representations as they may deem just and proper for preserving and conserving the right and interests of their people and the States, respectively, as involved in such proceeding, and the right to be fully heard touching the same; the allegations thus presented to be fully considered and determined by the Interstate Commerce Commission, in each instance, as may be just and reasonable, along with the other matters and things under said proceeding or application pending before that body as aforesaid.

All issues of capital stock, certificates of stock, bonds, and other evidences of indebtedness, contrary to the provisions of this section, may be enjoined by any court of competent jurisdiction at the suit of the United States, or of any director, officer, or stockholder of the carrier proposing to make the issue; and any director, officer, or stockholder of such corporation who assents to, or concurs in, any issue of securities forbidden by this section shall be punished by a fine of not less than $1,000 nor more than $10,000, or by imprisonment for not less than one year nor more than three years, or by both such fine and imprisonment.

That after two years from the passage hereof, unless the previous approval of the Interstate Commerce Commission shall have been secured, it shall be unlawful for any person to hold the position of officer or director of more than one carrier subject to the act to regulate commerce, or for any officer of such carrier to issue any certificate of stock, or issue and deliver any bonds until the approval of the Interstate Commerce Commission shall have first been secured. It shall also be unlawful for any president, vice president, chairman of board of directors, director, or directory of any such carrier to appropriate, pay, or receive as salaries or dividends any money resulting from the sale of stocks or bonds. Any violation of this provision shall be a misdemeanor, and on conviction in any United States court having jurisdiction shall be punished by a fine or imprisonment, or both, in the discretion of the court.

And to carry out and give effect to the provisions of said acts, or any of them, the commission is hereby authorized to employ special agents or examiners, who shall have power to administer oaths, examine witnesses, and receive evidence. That any common carrier, railroad, or transportation company receiving property for transportation from a point in one State to a point in another State shall issue a receipt or bill of lading therefor, and shall be liable to the lawful holder thereof for any loss, damage, or injury to such property caused by it or by any common carrier, railroad, or transportation company to which such property may be delivered, or over whose line or lines such property may pass, and no contract, receipt, rule, or regulation shall exempt such common carrier, railroad, or transportation company from the liability hereby imposed: *Provided*, That nothing in this section shall deprive any holder of such receipt or bill of lading of any remedy or right of action which he has under existing law.

That the common carrier, railroad, or transportation company issuing such receipt or bill of lading shall be entitled to recover from the common carrier, railroad, or transportation company on whose line the loss, damage, or injury shall have been sustained the amount of such loss, damage, or injury as it may be required to pay to the owners of such property, as may be evidenced by any receipt, judgment, or transcript thereof.

Mr. ADAMSON. Mr. Chairman, I would like to make a suggestion to the gentleman from Minnesota [Mr. STEVENS] and see if we can not reach an agreement as to considering the substitute sent to the desk by the gentleman from Indiana [Mr. CULLOP] in lieu of the original bill. If amendments are to be offered and arguments addressed to them, I would like to get an agreement that they be offered to the substitute instead of the original bill. It is unnecessary, I think, to proceed to perfect the original, because our committee is practically unanimous on agreeing to the substitute in lieu of the original, and if we can agree to let further consideration be directed to the substitute instead of the original bill, I think it would be better.

Mr. STEVENS of Minnesota. The substitute is composed of more than one section, and the rules of the House should apply, as usual, to the substitute.

Mr. MANN. The substitute is offered as one amendment.

Mr. STEVENS of Minnesota. But I know it would be more convenient. However, Mr. Chairman, it is satisfactory to us.

Mr. ADAMSON. Then the proposition is that further consideration of the matter be addressed to the substitute offered by the gentleman from Indiana [Mr. CULLOP].

Mr. MURDOCK. Does the gentleman mean by that that no amendment will be in order?

Mr. ADAMSON. I am willing that the substitute shall be considered instead of the original. I do not want to abridge amendments at all.

Mr. MANN. Has the substitute been offered?

Mr. ADAMSON. It has been sent to the desk.

Mr. CULLOP. I offer it now.

Mr. MANN. I call for the regular order, Mr. Chairman.

The CHAIRMAN. The gentleman from Indiana [Mr. CULLOP] offers a substitute to the section of the bill just reported.

Mr. ADAMSON. The unanimous consent request is that amendment and argument be addressed to the substitute.

Mr. MANN. I ask for the regular order.

The CHAIRMAN. The regular order is demanded. The substitute will be read.

The Clerk read as follows:

(Proposed substitute for H. R. 16586.)

[NOTE.—The parts of the bill in italics are new legislation proposed by the committee bill; parts in brackets are present law, to be omitted.]

A bill to amend section 20 of an act to regulate commerce, to prevent overissues of securities by carriers, and for other purposes.

Be it enacted, etc., SECTION 1. That section 20 of an act entitled "An act to regulate commerce," approved February 4, 1887, as amended, be amended so as hereafter to read as follows:

"SEC. 20. That the commission is hereby authorized to require annual reports from all common carriers subject to the provisions of this act, and from the owners of all railroads engaged in interstate commerce as defined in this act; to prescribe the manner in which such reports shall be made, and to require from such carriers specific answers to all questions upon which the commission may need information. Such annual report shall show in detail the amount of capital stock issued, the amounts paid therefor, and the manner of payment for the same; the dividends paid; the surplus fund, if any, and the number of stockholders; the funded and floating debts and the interest paid thereon; the cost and value of the carrier's property, franchises, and equipments; the number of employees, and the salaries paid each class; [the accidents to passengers, employees, and other persons, and the causes thereof;] the amounts expended for improvements each year, how expended, and the character of such improvements; the earnings and receipts from each branch of business and from all sources; the operating and other expenses; the balances of profit and loss, and a complete exhibit of the financial operations of the carrier each year, including an annual balance sheet. Such reports shall also contain such information in relation to rates or regulations concerning fares or freights, or agreements, arrangements, or contracts affecting the same, as the commission may require; and the commission may, in its discretion, for the purpose of enabling it the better to carry out the purposes of this act, prescribe a period of time within which all common carriers subject to the provisions of this act shall have, as near as may be, a uniform system of accounts, and the manner in which such accounts shall be kept.

"Said detailed reports shall contain all the required statistics for the period of 12 months ending on the 30th day of June in each year, or on the 31st day of December in each year if the commission by order substitute that period for the year ending June 30, and shall be made out under oath and filed with the commission at its office in Washington within three months after the close of the year for which the report is made, unless additional time be granted in any case by the commission; and if any carrier, person, or corporation subject to the provisions of this act shall fail to make and file said annual reports within the time above specified, or within the time extended by the commission for making and filing the same, or shall fail to make specific answer to any question authorized by the provisions of this section within [30 days from] the time [it is lawfully required so to do] *fixed by the commission*, such party shall forfeit to the United States the sum

of $100 for each and every day it shall continue to be in default with respect thereto. The commission shall also have authority by general or special orders to require said carriers, or any of them, to file monthly reports of earnings and expenses, and to file periodical or special, or both periodical and special, reports concerning any matters about which the commission is authorized or required by this *law*, or *by* any other law, to inquire or to keep itself informed or which it is required to enforce, *including the matter of making public, by appropriate means, any information regarding the issuance by said carriers of stocks, bonds, or other evidences of interest or indebtedness. In such periodical or special reports the commission may require of the carrier, in addition to its income account, a balanced statement of its receipts and expenditures on capital account, and of the surplus of the income account accruing during the period covered by such statement, as well as of all other financial transactions that have taken place during such period, with whom had, whether in cash, in securities, or in other valuable consideration. The commission may also require the carrier to compile for the information of its stockholders such facts in regard to the financial transactions of the carrier for its fiscal year and in such form as the commission may direct.*

[and] "Such periodical or special reports *to the commission, and reports of the carriers to stockholders*, shall be under oath whenever the commission so requires; and if any such carrier shall fail to make and file any such periodical or special report, *or report to its stockholders*, within the time fixed by the commission, it shall be subject to the forfeitures last above provided.

"Said forfeitures shall be recovered in the manner provided for the recovery of forfeitures under the provisions of this act.

"The oath required by this section may be taken before any person authorized to administer an oath by the laws of the [State] *place* in which the same is taken.

"*The commission shall have the power to investigate all financial transactions of said carriers and to examine into the actual cost and value of property acquired by, or services rendered to, said carriers. The carrier may be required by order of the commission to disclose every interest, direct or indirect, of the directors, stockholders, officers, agents, attorneys, employees, receivers, or operating trustees of such carrier in any transaction under investigation. In addition to the certificates and reports herein mentioned, the commission may require the carrier to furnish any further statements of fact or evidence that it may deem necessary or appropriate relating to business transactions of, for, or with said carrier.*

"The commission may, in its discretion, prescribe the forms of any and all accounts, records, and memoranda to be kept by carriers subject to the provisions of this act, including the accounts, records, and memoranda of the movement of traffic, as well as the receipts and expenditures of moneys, and it shall be unlawful for [such] *said* carriers to keep any other accounts, records, or memoranda than those prescribed or approved by the commission.

"In case of failure or refusal on the part of any [such] *said* carrier [receiver, or trustee] to keep such accounts, records, and memoranda [on the books and] in the manner prescribed by the commission, [or to submit such accounts, records, and memoranda as are kept to the inspection of the commission, or any of its authorized agents or examiners, such] *said* carrier [receiver, or trustee] shall forfeit to the United States the sum of $500 for each such offense and for each and every day of the continuance of such offense, such forfeitures to be recoverable in the same manner as other forfeitures provided for in this act.

"The commission shall at all times have access to all accounts, records, [and] memoranda, *correspondence, documents, papers, and other writings, regardless of the dates thereof*, [kept by carriers subject to this act,] *relating to financial transactions of, for, or with said carriers, and kept or preserved by or for, or in the custody or under the control of—*

"*(a) Any carrier subject to this act;*

"*(b) Any director, stockholder, officer, agent, attorney, employee, receiver, or operating trustee of said carrier;*

"*(c) Any other person, persons, corporation, joint-stock company, or corporate combination having, or having had, any financial transactions with or for said carrier.*

Mr. MOORE. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. MOORE. Would it be in order to move to strike out the last word now for the purpose of discussion under the five-minute rule, or must we wait until the reading is completed?

The CHAIRMAN. It would not be in order. The substitute would have to be read and considered as one amendment.

Mr. MOORE. This is the close of the paragraph; but we must not discuss it until the close of the reading of the section?

The CHAIRMAN. That is the Chair's understanding of the parliamentary situation. The Clerk will read.

The Clerk resumed the reading of the substitute, as follows:

[and it] *The commission* may employ special agents or examiners, who shall have authority under the order of the commission to inspect [and] examine *and take copies of* any and all accounts, records, [and] memoranda, *correspondence, documents, papers* [kept by such carriers. This provision shall apply to receivers of carriers and operating trustees], *and other writings to which the commission has the right of access as above provided. Failure or refusal to afford such access shall constitute an offense for which the offender shall forfeit to the United States the sum of $500 for each such offense, and for each and every day of the continuance of the offense, such forfeitures to be recoverable in the same manner as other forfeitures provided for in this act.*

"Any person *or persons, natural or artificial*, who shall willfully make, *or cause to be made*, any false entry in [the] *any* accounts, [of any book of accounts, or in any record] *records*, or memoranda kept by a carrier *subject to this act*, or who shall willfully neglect or fail to make, *or cause to be made*, full, true, and correct entries in such accounts, records, or memoranda of all facts and transactions appertaining to the carrier's business, or shall keep *or cause to be kept* any other accounts, records, or memoranda *of said business* than those prescribed or approved by the commission, *or who shall willfully file*, or *cause to be filed, any application, certificate, or other paper required under this act containing false or erroneous statements of fact*, or who shall willfully destroy, mutilate, alter, or by any other means or device falsify *any* [the record of any such account, record, or] *accounts, records*, memoranda, *correspondence, documents, papers, or other writings to which the commission has the right of access as above provided*, shall be deemed guilty of a misdemeanor, and shall be subject, upon conviction in any court of the United States of competent jurisdiction, to a fine of not less than $1,000 nor more than [$5,000] $5,000 or, *if a natural person, to* imprisonment for a term of not less than one year nor more than three years, or *to* both such fine and imprisonment, *in the discretion of the court. In construing and enforcing the provisions of this section, the act of any director, stockholder, officer, agent, attorney, employee, receiver, operating trustee, or other person acting for or employed by any carrier, corporation, joint-stock company, or other corporate combination, acting within the scope of his employment, shall be deemed the act of the carrier, corporation, joint-stock company, or other corporate combination, as well as that of the person so acting.* [: *Provided*, That the] *The* commission may, in its discretion, issue orders [specifying such] *designating* the operating, accounting, or financial papers, records, books, blanks, tickets, stubs, [or] documents, [of carriers] *or other papers or writings to which the commission has the right of access as aforesaid*, which may, after a reasonable time, be destroyed, and prescribing the length of time [such books, papers, or documents] *that all or any of the same* shall be preserved.

"Any examiner who divulges any fact or information which may come to his knowledge during the course of such examination, except in so far as he may be directed by the commission, or by a court or judge thereof, shall be subject, upon conviction in any court of the United States of competent jurisdiction, to a fine of not more than $5,000 or *to* imprisonment for a term of not exceeding two years, or *to* both *such fine and imprisonment, in the discretion of the court.*

"[That the] *The* [circuit and] district courts of the United States shall have jurisdiction, upon the application of the Attorney General of the United States at the request of the commission, alleging a failure to comply with, or a violation of, any of the provisions of said act to regulate commerce, or of any act supplementary thereto or amendatory thereof, by any common carrier, to issue a writ or writs of mandamus commanding such common carrier to comply with the provisions of said acts, or any of them.

"And to carry out and give effect to the provisions of [said acts, or any of them] *the act to regulate commerce or any amendment thereof* the commission is hereby authorized to employ special agents or examiners, who shall have power to administer oaths, examine witnesses, and receive evidence.

"[That any] *Any* common carrier, railroad, or transportation company receiving property for transportation from a point in one State to a point in another State shall issue a receipt or bill of lading therefor, and shall be liable to the lawful holder thereof for any loss, damage, or injury to such property caused by it or by any common carrier, railroad, or transportation company to which such property may be delivered, or over whose line or lines such property may pass, and no contract, receipt, rule, or regulation shall exempt such common carrier, railroad, or transportation company from the liability hereby imposed: *Provided*, That nothing in this section shall deprive any holder of such receipt or bill of lading of any remedy or right of action which he has under existing law.

"[That the] *The* common carrier, railroad, or transportation company issuing such receipt or bill of lading shall be entitled to recover from the common carrier, railroad, or transportation company on whose line the loss, damage, or injury shall have been sustained the amount of such loss, damage, or injury as it may be required to pay to the owners of such property, as may be evidenced by any receipt, judgment, or transcript thereof."

Sec. 2. That the act to regulate commerce as amended be further amended by inserting therein a new section, to be designated section 20a, to be placed after section 20 and before section 21, to read as follows:

"*Sec. 20a. That from and after the passage hereof it shall be unlawful for any common carrier subject to the act to regulate commerce, as amended, to issue any capital stock or certificate of stock or any bond or other evidence of interest in or indebtedness of the carrier (hereinafter collectively termed "securities"), or to assume any obligation or liability as lessor of another carrier, or as lessee, guarantor, surety, or otherwise in respect of the securities of any other person, natural or artificial, if connected with or relating to that part of the business of such carrier governed by the act to regulate commerce as amended, even though permitted by the authority creating the carrier corporation—*

"*(a) unless it be for some purpose within its corporate powers and in the public interest, necessary or appropriate to the proper performance of its service for the public, and not tending to impair the financial ability of the carrier to discharge its duty to the public; and*

"*(b) unless and until, and then only to the extent that, upon application by the carrier, and after investigation by the commission of the purposes and uses of the issue and the proceeds thereof, such issue is approved by order of the commission as reasonably necessary or appropriate for the purposes stated.*

"*Each such application shall be made in such form as the commission may from time to time determine and prescribe, and shall set forth such matters as the commission may require, including:*

"*First. (a) The total amount of proposed issue, and how authorized by or on behalf of the carrier;*

"*(b) The number and amount of all of its securities outstanding at any time prior to the date of such application, the amount thereof retired prior to said date, the amount thereof then undisposed of, and whether such amount is held in the treasury of the corporation as a free asset or pledged, and, if pledged, the terms and conditions of such pledge;*

"*(c) The number and amount of securities then to be issued, and whether to be sold, pledged, or held in the treasury of the corporation as a free asset, or otherwise disposed of or applied, as the case may be, specifying number and amount in each case; if any such securities are to be sold, the terms and conditions of sale; if any part of the consideration to be received therefor is other than money, an accurate and detailed description of such consideration; if any such securities are to be pledged, the terms and conditions of* [such] *pledge; or if other disposition or application is to be made, a full and detailed explanation thereof;*

"*(d) The number and amount of its securities so authorized, but not then to be issued;*

"*(e) If the issue is of shares of stock, the number thereof, the face or par value thereof, if any, specifying whether common or preferred, and the number and kinds of then outstanding shares previously issued.*

"*Second. The preferences or privileges granted to the holders of any such securities; the dates of maturity, rates of interest, or fixed dividend, whether cumulative or not, and any conversion rights granted to the holders thereof, and the price, if any, at which any such securities may be retired or redeemed.*

"Third. The purposes to which the proceeds of the issue are to be devoted, in such detail as the commission may require.

"Fourth. In case of proposed assumption of any obligation or liability in respect of the securities of any other person, natural or artificial, like showing shall be made as to the financial condition of said other person, as also of the objects sought and benefits to be realized by the carrier from such assumption, to be accompanied by copies of any agreements or contracts therefor.

"Every application for authority, as also every certificate of notification hereinafter provided for, shall be made out under oath, signed, and filed on behalf of the carrier by its president, a vice president, auditor, comptroller, or other executive officer having knowledge of the matters therein set forth and duly designated for that purpose by the carrier.

"Whenever any securities set forth and described in any application for authority or certificate of notification as pledged or held as a free asset in the treasury of the carrier shall, subsequent to the filing of such application or certificate, be sold, pledged, repledged, or otherwise disposed of by the carrier, such carrier shall, within 10 days after such sale, pledge, repledge, or other disposition, file a certificate of notification to that effect, setting forth therein all such facts as are required by subdivision (c) of the foregoing first paragraph, or as may be required by the commission.

"Upon application to the commission for approval of proposed issues of securities the commission shall cause notice to be given to the railroad commission or public service or utilities commission, or other appropriate authority, of each State in which the applicant carrier operates. The railroad commission, public service or utilities commission, or other appropriate State authority thus notified shall have the right to present before the commission such representations as they may deem just and proper for preserving and conserving the right and interests of their people and the State, respectively, as involved in such proceeding. The commission may hold hearings, if it sees fit, to enable it to determine its decision upon the application for authority.

"Nothing herein shall be construed to imply any guaranty or obligation as to such issues on the part of the United States.

"The foregoing provisions of this section 20a shall not apply to notes to be issued by any said carrier maturing not more than two years after the date thereof and aggregating not more than 5 per cent at any time of the securities of said carrier then outstanding. Within 10 days after the date of such notes the carrier issuing the same shall file with the commission a certificate of notification, in such form as may from time to time be determined and prescribed by the commission, setting forth as nearly as may be the same matters as those required in respect of applications for authority to issue other securities.

"The commission shall require periodical or special reports from all carriers hereafter issuing any securities, including such notes, which shall show, in such detail as the commission may require, the disposition made of said securities and the application of the proceeds thereof.

"All issues of securities contrary to the provisions of this section may be enjoined by any court of competent jurisdiction at the suit of the United States, or of any director, officer, or stockholder of the carrier proposing to make the issue; and any director, officer, attorney, or agent of such corporation who assents to or concurs in any issue of securities forbidden by this section 20a shall upon conviction be punished by a fine of not less than $1,000 nor more than $10,000, or by imprisonment for not less than one year nor more than three years, or by both such fine and imprisonment, in the discretion of the court.

"From and after two years from the passage hereof it shall be unlawful for any person to hold the position of officer or director of more than one carrier subject to the act to regulate commerce, as amended, unless such holding shall have been authorized by order of the commission, upon due showing, in form and manner prescribed by the commission, that neither public nor private interest will be adversely affected thereby. From and after the passage hereof it shall be unlawful for any officer or director of any such carrier to receive for his own benefit, directly or indirectly, any money or thing of value in respect of the negotiation, hypothecation, or sale of any securities issued or to be issued by said carrier, or to share in any of the proceeds thereof, or to participate in the making or paying of any dividends of an operating carrier from any funds properly included in capital account, or otherwise than from the revenues of said carrier. Any violation of these provisions shall be a misdemeanor, and on conviction in any United States court having jurisdiction shall be punished by a fine not exceeding $10,000, or imprisonment for a term not exceeding three years, or by both such fine and imprisonment, in the direction of the court."

Mr. ADAMSON. Mr. Chairman, the proposition of the committee is to strike out all the original bill after the enacting clause and substitute the new matter beginning with section 1, in line 3, as read by the Clerk. The committee has no disposition at all to press the original bill, but prefers the substitute. Therefore we hope that gentlemen offering amendments will offer them to the substitute, and it will not be necessary to go through the routine under the rule of trying to perfect the original, because we do not desire to stand for that, but desire to perfect the substitute.

Mr. GARNER. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. GARNER. If we could get unanimous consent to consider the substitute as an original bill for the purpose of offering amendments, it would give greater latitude in perfecting the substitute in this, that an amendment could be offered as if it were an original bill, and then an amendment to that amendment, and also a substitute for the amendment, whereas if you consider this substitute as one amendment you can offer only one amendment to it, and there is no opportunity to perfect the proposed amendment to the substitute. I hope the gentleman from Minnesota [Mr. STEVENS] and the gentleman from Illinois [Mr. MANN] will agree by unanimous consent that we may consider this substitute as an original proposition for the purpose of offering amendments.

Mr. MANN. Well, there will be plenty of opportunity to amend unless the gentleman from Georgia [Mr. ADAMSON], supported by a majority of the House, moves to close debate upon the amendment to the section, which he could do at any time, but which I think he will not do as long as any actual matter is pending before the committee. But if it is opened, as the gentleman suggests, there will be practically no way to limit debate at all except by limiting debate on each amendment as it is offered. It seems to me that it is to the interest of the House at present to proceed according to the rules. If it develops differently, that is all right. I think no one wants to prevent reasonable debate or consideration.

Mr. ADAMSON. Mr. Chairman, if the gentleman has finished, I will go on with the statement I started to make. The substitute is substantially little more than a division of the original bill into two sections, the entirely new part of the bill beginning on page 11—in the original bill at the bottom and in the substitute at the top of page 11—the new part of the bill, providing for the regulation of stocks and bonds, which a great many members of the committee insist ought to be in a separate section, being made section 2. The committee yielded to that insistence, and therefore drafted a substitute, placing in a second section the new part, and leaving the old part of section 20, with its verbal amendments, in section 1. There are a few linguistic changes, though none that radically affect the bill; but, such as there are, they can be dealt with in amendments to the substitute, and I am perfectly willing to enter into any sort of agreement for amendments to be offered to the subsitute and for fixing a time for debate on the substitute, and not waste time to perfect the original bill, because we do not want to consider the original bill, but wish to consider the substitute and perfect it in Committee of the Whole if the committee is willing to adopt it in Committee of the Whole.

Mr. STEVENS of Minnesota. Mr. Chairman, for the purpose of expediting the matter, I think we should consider the substitute, and not allow the suggestion of the gentleman from Texas [Mr. GARNER] to prevail. It would save time in the committee to offer each amendment by itself; and I therefore request that the substitute may now be considered as open to amendment as a substitute. I offer an amendment, Mr. Chairman.

Mr. ADAMSON. Then I suggest to the gentleman from Minnesota that we agree that amendments may be offered and that we agree upon a limit of debate, and, when that limit has expired, to vote on all the amendments and on the substitute.

Mr. STEVENS of Minnesota. I do not think we can agree on that at this time.

The CHAIRMAN. The gentleman from Minnesota offers an amendment, which the Clerk will report.

Mr. BRYAN. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. BRYAN. Under the present status, then, an amendment to the amendment will be entirely out of order. In other words, all of these amendments will be construed as an amendment to an amendment, and therefore we can not perfect any amendment that is offered here on the floor by an amendment in a subsequent degree.

The CHAIRMAN. An amendment to the amendment proposed to a substitute would be an amendment in the third degree.

Mr. BRYAN. The Clerk will report the amendment offered by the gentleman from Minnesota [Mr. STEVENS].

The Clerk read as follows:

Page 11, line 17, after the word "purpose," insert "for corporate organization or reorganization or."

Mr. STEVENS of Minnesota. Mr. Chairman, there is a request among Members around me here that the amendment may be again reported.

The CHAIRMAN. Without objection, the Clerk will again report the amendment.

There was no objection.

The amendment was again read.

Mr. MANN. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. MANN. Perhaps the Chairman can not answer this parliamentary inquiry; but I would like to know if it were possible to obtain the "5.30 edition" of this bill. I have the "noon edition," but that is a little behind the times. [Laughter.]

Mr. ADAMSON. Mr. Chairman, this bill in serial form——

Mr. MANN. I received the noon edition a little after 11 o'clock. I understand there is a 5.30 edition.

Mr. ADAMSON. The serial form of this bill has not yet reached the class and grade of the political papers on which the gentleman relies for his information.

Mr. MANN. We have what the gentleman sent to me this morning as the proposed substitute, and that is not the one that is now before us. I ask if it is possible to obtain copies of the one that has been offered.

Mr. ADAMSON. This bill was corrected and reprinted last night, and there is a stack of that print on the desk of the Doorkeeper, at the left of the Speaker's chair, and I have time and again requested the pages to furnish all gentlemen with them.

Mr. MANN. And the gentleman has had circulated over here on this side this morning a print of the bill dated June 3.

Mr. ADAMSON. No; that is not my fault.

Mr. MANN. It is not our fault.

Mr. ADAMSON. I am sorry that the gentleman from Illinois has been furnished with literature that is obsolete. I hope the gentleman will be furnished with the print of June 4, and that all gentlemen wil receive that print.

Mr. MANN. Is the print of June 4 the latest edition?

Mr. ADAMSON. Yes. There is an abundant supply of them, and I hope it will remain the latest edition.

Mr. BUTLER. Will the gentleman answer a question?

Mr. ADAMSON. If I can.

Mr. BUTLER. I am sure the gentleman can. Is there any report accompanying this last edition?

Mr. ADAMSON. The gentleman may adapt to it the last report made, coupled with——

Mr. BUTLER. That is dated May 16.

Mr. ADAMSON. That report covers the last print.

Mr. BUTLER. Under date of May 16?

Mr. ADAMSON. Yes; coupled with the statement I just made, if the gentleman will use his ears. I understood him to say that he could not hear on account of the disorder, and I hope we will have better order.

Mr. BRYAN. I should like to ask the gentleman if this print, which is headed "Confidential committee print," is the one that we are considering?

Mr. ADAMSON. If it is dated June 4, it is.

Mr. BRYAN. It is a confidential proposition, is it?

Mr. ADAMSON. It is dated June 4, and it is now released from its confidential character. The gentleman can publish it now.

Mr. STEVENS of Minnesota. Mr. Chairman, the amendment which I offer enlarges the scope of the authority for which the securities may be issued. It seems to me there is some doubt whether the paragraph on page 11, lines 7 to 21, allows securities to be issued for the purpose of corporate organization and reorganization. This morning I examined the statutes of the various States as far as I could within the limited time, and I find that about half of them contain these words and about half of them do not in granting authority to their commissions to regulate the issuance of securities.

This amendment that I propose was taken from the law of Wisconsin, which is as well drafted as any one of the State laws, and it clearly authorizes the issuance of securities for organization and reorganization.

The reason I suggest it is this: There will be many legal contests over our constitutional powers and statutory powers. I think these legal contests ought to be limited as far as possible, and the question might be raised as to whether or not the language in this paragraph did grant this authority. To make it clear and to eliminate the possibility of this kind of a lawsuit, I offer this amendment.

Mr. ADAMSON. Mr. Chairman, we do not regard that amendment as at all necessary. We think the bill confers ample power, and I am ready for a vote.

SEVERAL MEMBERS. Let the amendment be reported again.

The CHAIRMAN. If there be no objection, the Clerk will again report the amendment.

The Clerk read as follows:

Page 11 of the substitute of June 4, line 17, after the word "purpose," insert the words "for corporate organization or reorganization or."

Mr. GARRETT of Texas. Let the Clerk read it as it would be if amended.

The CLERK. So that the paragraph as amended will read:

(a) Unless it be for some purpose for corporate organization or reorganization or within its corporate powers and in the public interest, necessary or appropriate to the proper performance of its service for the public, and not tending to impair the financial ability of the carrier to discharge its duty to the public.

Mr. PAYNE. Do I understand that the chairman of the committee accepts this amendment?

Mr. ADAMSON. No; I do not. We went over this language very carefully, studied it thoroughly, conferred with the commissioners and their attorney about it, and we have no doubt that sufficient authority is conferred to cover all proper cases. I ask for a vote.

Mr. PAYNE. I did not know but the gentleman might be persuaded to accept an amendment striking out the enacting clause of the bill.

Mr. ADAMSON. I would not be at all surprised if the gentleman should propose that.

The CHAIRMAN. The question is on the amendment of the gentleman from Minnesota.

The question being taken, on a division (demanded by Mr. STEVENS of Minnesota) there were—ayes 46, noes 67.

Accordingly the amendment was rejected.

Mr. STEVENS of Minnesota. Another amendment, Mr. Chairman.

The CHAIRMAN. The gentleman from Minnesota offers an amendment, which the Clerk will report.

The Clerk read as follows:

Page 15, line 19 of the substitute, after the word "thereof," insert the following:

"The provisions of this section shall not apply to carriers whose property or business may be wholly within one State or whose total mileage as reported to the Interstate Commerce Commission may be less than 200 miles."

Mr. STEVENS of Minnesota. Mr. Chairman, the purpose of this amendment is to take out from the provisions of this regulatory section the small carriers.

Those of you who have kept track of what are described as the Tap Line cases, recently decided by the Supreme Court, will recall that the Supreme Court held a few weeks ago that these small lumber railroads, especially in the Southwest, were common carriers within the provisions of this act. There are quite a number of them which have been before the commission, I think, for several years. Some were built by lumber companies, some by mining companies. They are intended to be used as common carriers for the benefit of the people adjacent to these places, and they are so used.

Mr. GOEKE. Will the gentleman yield?

Mr. STEVENS of Minnesota. I will.

Mr. GOEKE. Would the effect of this amendment be to take out of the operation of this law electric urban street railroads that operate on lines less than 200 miles in length?

Mr. STEVENS of Minnesota. Yes; every carrier within the scope of the interstate-commerce act would be taken out of it if less than 200 miles in length.

Mr. GOEKE. Would it not be better to take them out of the operation of the law and leave it to the States?

Mr. STEVENS of Minnesota. Yes; I intended to say that the scope of the interstate-commerce act covers electric lines, telephones, express, and cable companies.

Mr. GREEN of Iowa. If the gentleman will yield, I think he inadvertently made a misstatement. The gentleman said that the scope of the interstate-commerce act applied to street railways.

Mr. STEVENS of Minnesota. I thought it did not, but I took the suggestion of the gentleman from Wisconsin. It occurred to me that there was an exclusion in the act.

Mr. MANN. Not in the act, but by the decision of the courts.

Mr. GREEN of Iowa. By a decision of the Supreme Court.

Mr. STEVENS of Minnesota. Yes; I recall, the gentleman is correct. However, the purpose I had in mind was to except these small companies that are within the scope of the interstate-commerce act. They are financed by small concerns, and it would be an expensive and unnecessary burden for them to come here to Washington and present their securities for approval to the commission. It would prevent their formation; it would prevent their operations; it would prevent their development; it would prevent the development of considerable sections of the newer portion of the country. Unless such a provision be adopted, you will much retard and injure the newer sections of the South and West. The testimony before the committee was that some such elimination should be made in the interest of development of the newer sections of the country.

Section 20, which we have had read, provides for all of them reporting to the commission to the fullest extent within its provisions. They are obliged to report to the other officials and examiners investigating all their affairs, so that there is the utmost publicity as to what they may have to do. The reasons which rendered necessary the passage of an act like this in the interest of investors for furnishing general facilities of transportation to the people do not apply to these small concerns. The Interstate Commerce Commission can investigate them at any or all times and see that the proper things are done, but I do not believe it is best for the commission to be loaded with this sort of small business, or for the small business to be loaded with the burdens provided by this section.

Mr. ADAMSON. Mr. Chairman, I could not hear distinctly the reading of the gentleman's amendment—if the 200 miles limit it to one State, or may it run into different States?

Mr. STEVENS of Minnesota. First, within the State which may be subject to the jurisdiction of the Interstate Commerce

Commission under the Minnesota rate case, and, secondly, 200 miles, wherever it may extend.

Mr. ADAMSON. If it is under 200 miles long, it would be exempt even if it ran into different States?

Mr. STEVENS of Minnesota. Yes.

Mr. SIMS. Will the gentleman yield?

Mr. STEVENS of Minnesota. Certainly.

Mr. SIMS. The gentleman's amendment applies to ordinary steam railroads, does it not?

Mr. STEVENS of Minnesota. It would apply to all sorts of common carriers.

Mr. SIMS. Take the State of Tennessee, which is about 110 miles wide. A railroad running from Decatur, Ala., through the whole State of Tennessee to some place in Kentucky, and doing a very large interstate business, would be exempt from the operation of this law if determined by the length of the road rather than by the service rendered?

Mr. STEVENS of Minnesota. Does the gentleman desire to ask a question?

Mr. SIMS. Take the State of Connecticut, a railroad could run through that State and into New York and New Jersey and yet be exempt.

Mr. STEVENS of Minnesota. The gentleman can make those statements in his own time. The financing of a road 200 miles long is not a very important transaction. The securities practically do not get to the public. They are not dealt with on the exchange and there is no speculation in it. There are not evils existing in that kind of securities which there are in the great corporations. As a rule, most of such lines would be entirely within the State and subject to State regulation. There is no particular reason why 200 miles should be the limit, but it is for the purpose of exempting the small lines that I offer this amendment.

Mr. GARNER. Will the gentleman yield?

Mr. STEVENS of Minnesota. Certainly.

Mr. GARNER. What the Texas Members are agitated about is that the proposition limits it to 200 miles. Now, where a railroad is wholly within a State, the mileage entirely within the State, does the gentleman see any reason why the State authorities should not control?

Mr. STEVENS of Minnesota. I think that ought to be done.

Mr. GARNER. The amendment does not go to that extent. The amendment says that a railroad 200 miles or less in length; so that a road over 200 miles in length, although it is entirely within a State——

Mr. STEVENS of Minnesota. No; the amendment is drafted with two conditions—wholly within the State or less than 200 miles in length.

Mr. GARNER. I would like to have the amendment reported, Mr. Chairman, because I have looked at it, and it is limited to 200 miles.

The CHAIRMAN. Without objection, the Clerk will again report the amendment.

The Clerk read as follows:

Page 15, line 19, after the word "thereof," insert the following: "The provisions of this section shall not apply to carriers whose property or business may be wholly within one State or whose total mileage as reported to the Interstate Commerce Commission may be less than 200 miles."

Mr. GARNER. Mr. Chairman, I apologize to the gentleman from Minnesota; he is correct.

Mr. STEVENS of Minnesota. Now, Mr. Chairman, I yield to my colleague from Texas [Mr. RAYBURN].

Mr. RAYBURN. I want to make a parliamentary inquiry. I want to know if this amendment is divisible. As far as I am individually concerned, I would like to vote for the first part of the amendment; but as to the latter part of it, I do not want to vote for it.

The CHAIRMAN. The present impression of the Chair is that the amendment is not divisible.

Mr. HARRISON. Mr. Chairman, will the gentleman from Minnesota yield?

Mr. STEVENS of Minnesota. I yield to the gentleman.

Mr. HARRISON. I understand from the amendment that the gentleman says these roads doing business wholly within the State are exempt from the operations of the act?

Mr. STEVENS of Minnesota. That is what I intended.

Mr. HARRISON. I would like the gentleman's opinion on whether or not he believes the provisions of this bill will apply to railroads operating wholly within a State and not engaged in interstate commerce?

Mr. STEVENS of Minnesota. Oh, no; the railroads must engage in interstate commerce, of course, to come within the scope of the commission; but there are very few railroads entirely within the State but that come within the scope of the interstate commerce act, under the decisions of the Supreme Court.

Mr. BARKLEY. Mr. Chairman, will the gentleman yield?

Mr. STEVENS of Minnesota. Certainly.

Mr. BARKLEY. The provisions of this bill, as has been suggested by the gentleman from Mississippi, exclude all railroads except those that come within the purview of the act to regulate commerce. Is not that true?

Mr. STEVENS of Minnesota. Yes.

Mr. BARKLEY. And that means that only railroads that are interstate railroads or doing an interstate business are regulated by the act to regulate commerce, and, therefore, is not the gentleman's amendment unnecessary?

Mr. STEVENS of Minnesota. Mr. Chairman, the gentleman has just made a statement which shows the necessity for it. He spoke of railroads doing an interstate business. The Supreme Court held this doctrine in a Colorado case. There was a narrow-gage road entirely within the State of Colorado, not having any possible physical connection with roads outside, and yet the Supreme Court held that such road was doing an interstate business and came within the scope of the safety-appliance act and, I think, other acts of that kind. Under the construction of that case as applied to this statute, that road would be obliged to submit its securities to the Interstate Commerce Commission and be taken out of the power of the authorities of the State of Colorado.

Mr. BARKLEY. With reference to the latter part of the amendment, limiting it to railroads 200 miles in length, notwithstanding they may cross State lines, would not that bring about this situation: That a railroad company which ran from one State into another, although it had only 200 miles of road or less, might make such connections and traffic arrangements and leases and contracts with other railroads that had more mileage than that, so as to form a complete system of many hundreds of miles, and by this provision absolutely escape the provisions of this law?

Mr. STEVENS of Minnesota. Oh, no; that would come under other arrangements and rules prescribed in the act to regulate commerce. All of the traffic arrangements would come within the general scope of the act to regulate commerce.

Mr. GARRETT of Texas. Mr. Chairman, is it not well recognized that there are practically no roads in the country that do not do an interstate business?

Mr. STEVENS of Minnesota. I think the gentleman is right.

The CHAIRMAN. The time of the gentleman from Minnesota has again expired. The gentleman from Texas [Mr. RAYBURN] made a parliamentary inquiry with reference to the divisibility of the pending amendment. On further examination the Chair is inclined to modify the former opinion and to answer that the amendment, in the judgment of the Chair, would be divisible.

Mr. MANN. Mr. Chairman, in the first place, no road or other carrier whose business is wholly confined to intrastate business is affected by this bill or by the Interstate Commerce Commission at all. The language of the amendment of the gentleman from Minnesota [Mr. STEVENS] undertakes to exempt carriers whose property and business is wholly confined to a State. I confess I do not quite understand what that means, and I would like the gentleman from Minnesota to state whether carrier business wholly confined within the State may be interstate business.

Mr. STEVENS of Minnesota. Yes; it may be under the decision in the Minnesota rate case; if it is a burden on interstate commerce or affects it directly, it may be.

Mr. MANN. If a lumber tap line takes lumber from a point in Louisiana and carries it on the tap line which is wholly within the State of Louisiana for shipment to Chicago, is that business, as far as the tap line is concerned, wholly within the State of Louisiana and exempt under the provisions of the amendment, or is it business which is interstate? I do not know what the gentleman intended by his amendment, but it seems to me that that business is interstate, and that if you want to exempt at all you must exempt either upon the basis of the amount of business per mile or the total business which is done by the railroad company or according to the mileage of the company. I do not believe there is a railroad in the United States of any importance, and I doubt whether there is any of no importance, whose business is wholly confined to intrastate business. They all connect in some way with other lines, and they all carry freight and passengers from in and out of the State, and unless the gentleman should define the word "business" as the business of the carrier and separate it from interstate business and say that, although it carried an interstate shipment, its own business was wholly

within the State. I doubt whether that part of the amendment would have very much effect.

Mr. SIMS rose.

The CHAIRMAN. The Chair will state that debate is exhausted on this amendment under the rule.

Mr. SIMS. Mr. Chairman, I move to strike out the last word.

The CHAIRMAN. That motion would not be in order under the rule.

Mr. ADAMSON. Mr. Chairman, I ask unanimous consent that the gentleman from Texas [Mr. RAYBURN] may discuss the amendment for five minutes.

Mr. BRYAN. Mr. Chairman, I ask unanimous consent that I may have five minutes.

Mr. GARNER. Mr. Chairman, we ought to have some kind of understanding at this time in reference to the discussion of amendments offered to this substitute. It would be in the interest of bad legislation, if the Chair will indulge me for a moment, to hold to the rule that five minutes' debate on each amendment offered to this substitute, which is being considered really as an original bill, is all that can be had, not giving the House an opportunity to get all of the information possible in respect to any amendment that is offered. I make this request, that all amendments to this substitute be discussed pro and con until the chairman of the committee may ask that debate be limited and cut off.

Mr. ADAMSON. Mr. Chairman, I ask that debate on this amendment end in 20 minutes, one half to be controlled by myself——

Mr. MANN. It is not usual for the Chair to invoke the rule unless it is made by a Member on the floor of the House.

Mr. GARNER. I want to call the attention of the Chair at this time to the very great importance of the various amendments that are likely to be offered to this bill, and if debate is confined to five minutes on a side it will not give the House the information to which it is entitled.

Mr. MANN. It will not be; the gentleman need not worry.

Mr. ADAMSON. I only want a few minutes to help the gentleman from Illinois answer the gentleman from Minnesota, and I think the gentleman from Texas will do it as well as I can.

Mr. SIMS. I want to discuss this amendment.

Mr. GARNER. It is seldom that I take up the time of the committee in discussing propositions, and I would like to be heard on this amendment.

Mr. ADAMSON. Then, I ask unanimous consent, the gentleman from Illinois and the gentleman from Minnesota having spoken, that debate be concluded in 20 minutes, I to consume 5 minutes, the gentleman from Texas 5 minutes, the gentleman from Tennessee 5 minutes, and the gentleman from Texas [Mr. GARNER] 5 minutes.

Mr. CRAMTON. I would like to ask the gentleman from Minnesota a question, if he is willing to answer it.

Mr. STEVENS of Minnesota. I have not the floor.

Mr. MANN. The gentleman from Michigan wants five minutes.

The CHAIRMAN. Will the gentleman from Georgia please repeat the request?

Mr. ADAMSON. Mr. Chairman, I withhold the request for the present. There seems to be a disposition to talk.

The CHAIRMAN. The gentleman from Tennessee asks to proceed for five minutes.

Mr. ADAMSON. But, Mr. Chairman, I first requested that the gentleman from Texas have five minutes.

The CHAIRMAN. The Chair did not hear the gentleman.

Mr. ADAMSON. That is the first request I made.

The CHAIRMAN The Chair will state the request. Is there objection to the request of the gentleman from Georgia?

Mr. BRYAN. Mr. Chairman, reserving the right to object, the Chair suggested that further debate was out of order, and, of course, if that is not to be enforced, I have no objection to proceeding without any further request.

The CHAIRMAN. The Chair is aware that under the five-minute rule where amendments to strike out in the nature of a pro forma amendment are in order there is no difficulty as to extending the time; but the Chair has not felt called upon to recognize gentlemen——

Mr. ADAMSON. The history is this: The Chair has stated that, and I asked unanimous consent for five minutes for the gentleman from Texas.

The CHAIRMAN. Is there objection to the request? [After a pause.] The Chair hears none.

Mr. RAYBURN. Mr. Chairman, as indicated by my question a while ago to the Chair about the divisibility of this amendment I stated at that time I would be willing to support the first part of it; but since I have reread the amendment I do not believe that the first part of it accomplishes anything whatever, and I am absolutely against the second part of it. As stated by the gentleman from Illinois and by others here, this bill can not apply to any transaction or to the business of a carrier that is wholly within a State and not connected with or does not affect its ability to do an interstate business.

Mr. GOEKE. Does the gentleman think there is a road in the country that will come within that exception? Every railroad in the United States does some kind of interstate business.

Mr. RAYBURN. There could be an amendment offered, I think, to the bill applying to lines wholly within the State, but this amendment certainly does not apply to that instance. Now, as to the second part of this amendment, I think it is going far afield. Mr. Chairman, I have in mind the transcontinental division of the Texas & Pacific Railroad that has a Federal charter. That railroad is something like 200 miles long, running from Texarkana, Tex., to Fort Worth, Tex. That corporation has for years been defying the people of Texas and the shippers who live along that line for the simple reason that the Texas Railroad Commission could not touch it, because each time they would make an order upon it it would jump behind its Federal charter and say that the Texas Railroad Commission has no right to control. This is one of the roads we hope to reach by this legislation, Mr. Chairman, and under the provisions of the amendment of the gentleman from Minnesota it would absolutely let that railroad out. As I said before, it has a Federal charter, and we can not reach it, and if this law does not reach it it can not be reached at all.

I will tell you what is the fact, for the simple reason the railroad can not be reached by the Texas Railroad Commission, the roadbed is in such a bad condition that within 12 miles I have known seven wrecks to occur in four days, not because the trains were running fast, because they were cut down to 18 miles an hour, but because, in my judgment, the tracks were so soggy and the roadbed was in such condition that it absolutely could make no more time than that, and even with making that time they had seven wrecks in four days, and it might be interesting to note further that, according to the statistics, it is the best paying piece of railroad in the State of Texas.

Mr. BARTLETT. Will the gentleman yield?

Mr. RAYBURN. Yes.

Mr. BARTLETT. The gentleman says this road has a Federal charter.

Mr. RAYBURN. Yes.

Mr. BARTLETT. What is to prevent the Congress which chartered this road to make any regulations or pass any statute it pleases without regard to whether it is engaged in interstate commerce or not, because if it is a Federal chartered road, then the authority that charters it can deal with it, whether it is interstate commerce or not.

Mr. RAYBURN. Nobody has contested for a moment that the road is in interstate commerce, but if it is 200 miles or less, under the Stevens amendment, it would be exempt from the operations of this law.

Mr. BARTLETT. I understood the Stevens amendment to apply in words, if not in spirit, to those railroads that were chartered by the State.

Mr. RAYBURN. It says nothing about that whatever. It says a railroad that had its lines wholly within the State or a railroad that had a mileage of 200 miles or less.

Mr. BARTLETT. Then if the amendment of the gentleman from Minnesota applies to State chartered railroads, the gentleman would not have any objection to it?

Mr. RAYBURN. I certainly would, and I am opposing that very amendment because I do not think it reaches anything, because I believe that railroads that amount to anything and that could be controlled by Congress under the act to regulate commerce can not be excluded by this bill; and the second part of this amendment, as I have just stated in connection with the Texas & Pacific Railroad of Texas and many other railroads of that character, I believe would render this amendment very detrimental to the bill.

Mr. GARRETT of Texas. Will my colleague yield?

Mr. RAYBURN. Yes; I will yield.

Mr. GARRETT of Texas. I understand from my colleague that if this amendment should be adopted, it would exempt the Texas-Pacific from being a Federal chartered railroad——

Mr. RAYBURN. It does not make any difference whether it is a Federal chartered railroad or State chartered railroad, because it applies to 200 miles or less.

Mr. GARRETT of Texas. I understand, then, if this amendment should be adopted the Texas-Pacific, not being under the regulation of the Texas Railroad Commission and being exempted by this law, would pass out from under the control of both commissions, Federal and State?

Mr. RAYBURN. It would pass out from under it as far as this bill is concerned.

The CHAIRMAN. The time of the gentleman from Texas [Mr. RAYBURN] has expired.

Mr. SIMS. Mr. Chairman, I am opposed to this amendment in toto. The Constitution settles this as to commerce wholly within a State, though performed by a railroad engaged in interstate commerce. Therefore we do not need it, so far as that is concerned. And the second provision, that it shall not apply to a railroad whose mileage does not exceed 200 miles, will practically destroy this bill.

Now, there are a number of terminal companies that own all the trackage which reaches a great terminal station and charge for its use that do not have 200 miles of track or anything like it, and why will not this amendment exempt every terminal company in the country from complying with this act? We ought not to exempt a railroad 10 miles long from the provisions of this bill. A railroad from the center of Manhattan Island to Jersey City can carry hundreds of millions of tons of freight each year, and under this amendment would not be subject to the provisions of this bill. This amendment, if adopted, will practically destroy this bill. Take a railroad running from Mobile, Ala., through a portion of Mississippi into New Orleans, La., connecting two great seaports less than 200 miles apart—it will not have to comply with the provisions of this section.

Mr. ADAMSON. Will the gentleman permit an interjection there?

Mr. SIMS. I will.

Mr. ADAMSON. Two of the most important railroads I know of in this country have a common management. One of them about 87 miles long, from Atlanta to West Point, all in Georgia, and the other 87 miles long, all in Alabama, together about 175 miles. The two combined make an important link between the Southern Railroad at Atlanta, Ga., and the Louisville & Nashville at Montgomery, Ala., and make one of the most important links in connection with interstate traffic in the United States. It would be entirely exempt under the amendment of the gentleman from Minnesota.

Mr. SIMS. And they do an immense interstate business.

Mr. ADAMSON. That is only one. There are many more cases which are similar.

Mr. SIMS. Which would be determined from the reports to be filed, and, consequently, the reports of the roads with which they are connected would not be complete, and the information furnished the Interstate Commerce Commission would not be the information that would enlighten the commission, but information that would obscure and confuse the commission. There is no need of the first part of this amendment, as we can neither add to or take away the powers of the States that are preserved under the Constitution, whether the limit is 200 miles, 100 miles, or 50 miles. So far as railroads doing an interstate business are concerned, they should not be exempt from the provisions of this bill.

Mr. STEVENS of Minnesota. Does not the gentleman understand that only this section as to reports would apply as to these railroads? They would make their reports just the same.

Mr. SIMS. The section as amended has reference to reports as I caught it.

Mr. STEVENS of Minnesota. Oh, no.

Mr. ADAMSON. It does require reports, the gentleman will admit, as to expenditure of money.

Mr. SIMS. I may have gotten mixed upon the different editions of the substitute bill.

Mr. BARKLEY. I would suggest to the gentleman, if these 200-mile railroads are to be exempt from the provisions of this bill there would be no use for them to report, because the reports would not be complete.

Mr. SIMS. And if this amendment is adopted, any number of such amendments can follow and so amend the bill as not to have any of its provisions apply to any railroad not over 200 miles in length, regardless of what the provisions may be.

Now, I think it is very important to vote down this amendment regardless of the application that it may have to this part of the bill. If an interstate road or one doing an intrastate business is not covered by the provisions of this bill, then I do not think the bill is worth passing.

The CHAIRMAN. The time of the gentleman from Tennessee has expired.

Mr. BRYAN. Mr. Chairman, it seems to me that the committee has taken a different position than what it seemed they were going to take when this amendment was offered, and I am glad of that. The only effect this amendment can have, no matter what are our views as to State rights and other rights concerned, would be to weaken this section. It only provides a loophole to help some get away from the restrictions we are putting on interstate commerce. I say "interstate commerce" advisedly. It does not make any difference whether it is a hundred-mile railroad or a ten-mile railroad; it is interstate commerce if it handles interstate traffic. That is all we are considering and all we have a right to consider in Congress; and whenever we weaken the power of the Interstate Commerce Commission to handle interstate commerce we weaken this bill; we weaken a movement that has been going on all over the country to strengthen the Interstate Commerce Commission and to tighten the people's hold on the railroads. The first amendment proposed by the able gentleman from Minnesota [Mr. STEVENS] had to do with reorganization. That suggestion is enough. If we leave loopholes in this bill and enable railroads to reorganize within State lines and then get out of the jurisdiction of the Interstate Commerce Commission we had better not pass this bill. If we incorporate an amendment of this kind in this bill, we would weaken the act as it now stands, and instead of progressing we would be going backward. Certainly we would not agree to do that. The State of Texas is a big State and has tremendous areas. We can not take their 200 miles or 300 miles or 400 miles as a measuring rod and say that a railroad which is that long or that short shall not be subject to the Interstate Commerce Commission.

Mr. GARNER. Would the gentleman object to an amendment saying it should not apply to railroads wholly within the State?

Mr. BRYAN. I certainly would. We do not want to take them out from under the jurisdiction of the Interstate Commerce Commission simply because they are in the State. Look at my State of Washington. We have five or six transcontinental railroads with terminals at Seattle, and all they would have to do would be to incorporate their properties in the State of Washington into a separate corporation, and all the interstate commerce that starts from one side of this continent and terminates on the other side of the continent, in the great Northwest, would be relieved from the regulation of the Interstate Commerce Commission the very moment it got into the boundaries of the State of Washington. Of course we do not want anything of that kind. Every time there has come up in this Congress a measure for strengthening the hands of the Federal Government against institutions of this kind some one on this side or on that side has proposed to the other side that the question of State rights is involved and that State rights are about to be invaded, in order to weaken the power of Congress by talking about the power of some State. We are dealing with the power of the people and with the rights of the people of this Nation, and we ought not for one moment to listen to a proposition to weaken a bill like this, or to enable the transportation companies of any State to avoid responsibility to the Interstate Commerce Commission. I would like to extend that responsibility so that every railroad, even where both its termini are in one State and where it can not handle interstate commerce, would be subject to the provisions of the Federal law; but under our Constitution we can not do that. But we can make every railroad that deals with interstate commerce subject to the provisions of the law. I say let us not accept any amendment that would limit that proposition.

The CHAIRMAN. The time of the gentleman from Washington has expired.

Mr. GARNER. Mr. Chairman, I ask unanimous consent to offer to the committee a substitute for the amendment offered by the gentleman from Minnesota [Mr. STEVENS].

Mr. ADAMSON. I would like to hear the substitute read.

Mr. GARNER. I ask unanimous consent to offer a substitute for the substitute offered by the gentleman from Minnesota.

Mr. ADAMSON. I am willing to hear it read; then I will decide whether I shall object or not. I reserve the right to object to its being offered or considered.

The CHAIRMAN. The Clerk will report the substitute proposed by the gentleman from Texas.

The Clerk read as follows:

Page 15, line 19, after the word "of," insert the following: "The provisions of this section shall not apply to carriers whose total mileage is wholly within one State."

The CHAIRMAN. The gentleman from Texas asks unanimous consent——

Mr. ADAMSON. I object, Mr. Chairman.

[Mr. GARNER addressed the committee. See Appendix.]

Mr. ADAMSON. Mr. Chairman, I am glad to hear the gentleman from Texas give such a good report from that State. I hope when the bill goes into effect it will not be necessary for

the Federal Government to interfere with any railroads that run through Texas, as to the issuance of stocks and bonds. The reason that impelled us was that the issuance of stocks and bonds had been abused; there was speculation, there was robbery, there was inefficiency and carelessness, and the railroads were practically so far destroyed that they could not perform their duty as carriers. I have as much regard for my State as the gentleman has for his State, but I do not think it will be necessary to interfere much with my State because we have also a good railroad commission. But I want to warn my brethren not to be misled by the specious propositions of gentlemen appealing to the idea of State rights. I am not the only original State rights man, and I hope I will not be the last State rights man, and I want my State to enjoy the privileges and perform the duties of discharging its part of the functions of the Government as much as any man here. The question is, Do you want to pass this law authorizing the Federal Government to prevent the overissue of stocks and bonds? If you do, you had better steer clear of these amendments. This amendment would exempt every railroad in the United States. The Constitution protects wholly domestic railroads, and the language of this bill exempts wholly domestic business of railroads. The test of interstate commerce is not where the railroad is chartered. Any railroad, no matter where, is subject to the regulation by the Interstate Commerce Commission if it engages in interstate-commerce business.

Mr. GARRETT of Texas. Will the gentleman yield?

Mr. ADAMSON. Certainly.

Mr. GARRETT of Texas. Will the gentleman state just what rights and powers would be left to the railroad commission of Texas to control the issue of bonds after this bill is passed as now reported?

Mr. ADAMSON. The railroad commission of Texas may pass upon proposals to issue stocks and bonds, and if the Interstate Commerce Commission thinks that it is unwise, if it thinks that it is an overissue, if it thinks that it is reckless and not within the law, the Interstate Commerce Commission will veto that issue.

Mr. GARRETT of Texas. In that case the Interstate Commerce Commission is supreme over the Texas commission?

Mr. ADAMSON. The word "supreme" is misused by everybody talking about this matter. The question is one of function. Is it a Federal function or a State function? If it is a Federal function, the Supreme Court has declared that under the commerce clause of the Constitution there is plenary power to regulate it by the Interstate Commerce Commission. If it is a Federal function conferred by the Constitution, there is no question of supremacy about it.

Mr. GARNER. Will the able and distinguished chairman of the committee yield?

Mr. ADAMSON. If the gentleman is referring to me, I will. I could not help it. [Laughter.]

Mr. GARNER. If a road in Texas doing an interstate-commerce business should apply for the issuance of stocks and bonds, they would have to come to the Interstate Commerce Commission in Washington.

Mr. ADAMSON. I think the plan of this bill is that they shall apply to their own authority, and if that authority grants it they can ask the Federal commission to sanction it, and it would be all right; but if they veto it, it is all wrong.

Mr. GARRETT of Texas. Suppose the railroad of Texas should go to the Texas commission, and the commission should go out and inspect the physical property, inspect the road, and say to the railroad, "You are not entitled to the issuance of any more stocks and bonds," and the road appeals to the Interstate Commerce Commission and they say they may issue the stocks and bonds, which will control?

Mr. ADAMSON. It was not our intention to encourage anything of that sort in this bill.

Mr. GARRETT of Texas. It is not what you intend, but what the law will provide.

Mr. ADAMSON. It was our purpose to write the bill so that the law would cover only the veto power, but the gentleman from Minnesota contends that they could take original jurisdiction. I do not think it is so.

Mr. GREGG. Does not the commission have appellate jurisdiction, at least?

Mr. ADAMSON. That is the veto power.

Mr. GREGG. If the State commission refuses, can not the Interstate Commerce Commission grant it?

Mr. ADAMSON. I do not think so.

Mr. GREGG. If the State refuses to permit the bond issue, does the gentleman say that the Interstate Commerce Commission can not grant it?

Mr. ADAMSON. I do not see why it is necessary to interfere there.

Mr. GREGG. Mr. Chairman, will the gentleman agree to an amendment saying that in the bill?

Mr. ADAMSON. I do not think so. I hope it does not.

Mr. HARDY. Will the gentleman agree to an amendment saying that?

Mr. ADAMSON. No.

The CHAIRMAN. The time of the gentleman from Georgia has expired.

Mr. ADAMSON. Mr. Chairman, may I proceed until I finish the statement that I desire to make?

The CHAIRMAN. The gentleman from Georgia asks unanimous consent to proceed with his statement for five minutes. Is there objection?

There was no objection.

Mr. ADAMSON. Mr. Chairman, if it is our purpose to regulate the overissue of stocks and bonds, I hope my brethren will not be misled by ideas of State sovereignty to take out of the operation of the bill every solitary railroad in the United States. I admit one good thing would be accomplished, but others would not say that that is a good thing. The first result of adopting any of these amendments would be the breaking up of every consolidation in the country. The railroads would get out of the jurisdiction of the Interstate Commerce Commission by resolving themselves into their original elements. I would welcome that, but others would not.

Mr. GARNER. Mr. Chairman, will the gentleman yield?

Mr. ADAMSON. Because they are made up of independent sections, originally chartered in the different States, coupled together in these consolidations. It is impossible to exempt one without destroying the entire scheme, unless it is one already exempted under the Constitution and terms of the bill by being entirely within a State and not doing any interstate business at all.

Mr. SUMNERS. Mr. Chairman, will the gentleman yield?

Mr. ADAMSON. I will yield first to the gentleman from Texas [Mr. GARNER].

Mr. GARNER. I yield to my colleague.

Mr. SUMNERS. Mr. Chairman, I desire to ask the chairman of this committee what inducement there would be under this bill for these big railroad systems to break up because of the fact that their status is fixed by the character of the business they do and not by their charter?

Mr. ADAMSON. One can not always tell definitely what they will do in a given case, but this is the general rule, that whatever authority is trying to regulate them at that time they try to avoid that, hoping no other would operate. When we first tried to regulate they plead State rights, and when the States regulated they went into the States and plead the other side of the proposition. Their law and their insistence depend entirely on what their temporary interests may seem to be.

Mr. CULLOP. Mr. Chairman, will the gentleman yield?

Mr. ADAMSON. Yes.

Mr. CULLOP. This provision that they are seeking to amend does not apply to the regulation of freight, but to the issue of stocks and bonds.

Mr. ADAMSON. I am perfectly familiar with that fact.

Mr. CULLOP. I suggest that in reply to the gentleman from Texas [Mr. SUMNERS].

Mr. ADAMSON. And I will say to the gentleman that, rather than have an amendment of this sort adopted, they better follow the gentleman from New York [Mr. PAYNE], who is consistent, and who wanted to strike out the enacting clause of the bill. It will have the same effect and cause less trouble.

Mr. SUMNERS. Mr. Chairman, will the gentleman again yield?

Mr. ADAMSON. Yes.

Mr. SUMNERS. In practical operation every railroad in the United States doing a common-carrier business does an interstate business, does it not?

Mr. ADAMSON. If it accepts or delivers freight or passengers or express or any business to or from railroads in other States, it does.

Mr. SUMNERS. In practical operation they all do interstate business?

Mr. ADAMSON. Yes.

Mr. MURRAY of Oklahoma rose.

The CHAIRMAN (Mr. HOUSTON). The gentleman from Oklahoma [Mr. MURRAY].

Mr. MANN. Mr. Chairman, I call for the regular order.

Mr. ADAMSON. That would be a vote on the amendment of the gentleman from Minnesota [Mr. STEVENS].

Mr. GARNER. Mr. Chairman, I ask unanimous consent at this time to offer my substitute.

Mr. ADAMSON. I object.

Mr. MURRAY of Oklahoma. Mr. Chairman, I believe I was recognized.

Mr. MANN. Mr. Chairman, I demand the regular order.

Mr. MURRAY of Oklahoma. But I was recognized before the gentleman made that demand.

Mr. MANN. That would not make any difference.

The CHAIRMAN. The gentleman from Oklahoma would not be in order in face of the demand for the regular order.

Mr. MURRAY of Oklahoma. Mr. Chairman, I ask unanimous consent to address the committee for five minutes.

Mr. MANN. Mr. Chairman, I do not like to object, but I shall have to demand the regular order at this time.

The CHAIRMAN. The regular order is to vote on the amendment of the gentleman from Minnesota. The question is on agreeing to the amendment offered by the gentleman from Minnesota.

The question was taken, and the amendment was rejected.

Mr. GARNER. Mr. Chairman, I now offer the amendment which I send to the desk and ask to have read.

The Clerk read as follows:

Page 15, line 19, after the word "thereof," insert the following: "The provisions of this section shall not apply to carriers whose total mileage is wholly within one State."

Mr. MURRAY of Oklahoma. Mr. Chairman, referring to what the gentleman from Georgia [Mr. ADAMSON], the chairman of the committee, said a while ago, it does not occur to me that this is a question of State rights. It may be a question of State power—regretful enough with our present Constitution that in the matter of the control of transportation and transmission companies the power is too much divided, and too much of the twilight zone. I rather believe it would be wisest to turn over to the Federal Government the entire control of such carrier by amendment to the Constitution.

This does not involve the question of State rights, but it does involve under present conditions the rights and interests of a great people in different sections of the country. I do not know of another State similarly situated to the State of Texas. They began in their old republic with a provision that "no bonds or stocks should be issued for the roads except for money paid, labor done, and property actually received." They have another clause that compels every railroad company to become a State corporation. Unfortunately many other of the Western States, and I include my own, had their railroads built before they were enabled to make a constitution. We tried the same experiment in Oklahoma, but we failed because the railroads were constructed before the constitution was made, but I know that the conditions existing in Texas are such that under that strict power which is stronger than the Federal policy this Federal authority, if permitted, would do injury to those companies who are holding and who have always held their stock down to these three defined in their constitution.

Now, in reply to what the gentleman from Kentucky said, let us take the State of Texas. The M., K. & T. of Texas and the M., K. & T. of Kansas are not only distinct corporations in name, but they are distinct in the matter of expenses, in the matter of their operation, in the matter of their bonds; so I sympathize with the amendment offered by the gentleman from Texas, because I realize the possibility of a great damage being done to the people of Texas. It does not affect my State, because we were unable to do it——

Mr. CULLOP. Will the gentleman yield for a question?

Mr. MURRAY of Oklahoma. I do not wish to break my line of thought. The gentleman does not want to get information from me, but he wants to interrupt me, and I will not permit the interruption. The great trouble about the proposition is perhaps this may not be the proper amendment, and yet I believe it could be framed so as to take care of all the questions concerned if the provision were made that no bonds and stocks should be granted to any railroad company operating or chartered under the State—in other words, an intrastate railroad—by the Interstate Commerce Commission of the United States without the permission of the State railroad or corporation commission. This would relieve the situation and do no damage, which is feared by the gentleman from Georgia, and yet at the same time leave those few States which have been enabled to meet the situation of the common carriers as they have. Now, I think that this bill without some provision will do an injury to the people of the State of Texas without doing thereby any benefit to the people of other sections of the country. Therefore I feel like voting for this amendment, but I raise the question that perhaps it would be wiser to provide that there shall be no increase in those States without the permission of the State corporation commission.

Mr. CULLOP. Mr. Chairman, a moment ago I rose to interrupt the gentleman from Oklahoma, who said that this amendment would not affect the people of his State. This amendment would affect the people of his State. There is no State in the Union that has been complaining as much of the oppression of the pipe lines of the Standard Oil Co. as the citizens of the State of Oklahoma. Pipe lines are common carriers and come under the provisions of this bill. Now let us see what the effect of this amendment would be. Take the great terminal lines at Chicago and St. Louis and other large cities.

Mr. GARNER. They do not go outside of Oklahoma.

Mr. CULLOP. They go to the Oklahoma State line and then are under the name of another corporation. Now, if this amendment is adopted it would exempt terminals in every big city in this country. There is not a more oppressive railroad institution in the land than the terminals at Chicago and St. Louis. That is what this amendment, if adopted, would do, and that is the injury and oppression that would be kept upon the people of this country if the amendment of the gentleman from Texas should be adopted here. In other words, for the purpose of upholding his Texas law, which would not be impaired in fact by the passage of this measure, by the adoption of this amendment he is willing to oppress and asks that the millions of people throughout the other States of this Union shall be oppressed by the adoption of his amendment. It will not destroy the power of the railroad commission of the State of Texas.

There is nothing that can be done under the operations of this bill unless the railroad commissions of the different States or the public-utilities commissions, the commissions that have jurisdiction, are notified and have the right to appear and be heard on the subject to be investigated. But if this amendment is adopted, you will add a burden to every shipper in the United States whose product is shipped through from one State to another. It would relieve terminals like St. Louis, which is the commercial emporium through which most of the products of Texas either go or come, from the provisions of this law; and when you adopt this amendment, instead of relieving the people of Texas you will place a burden upon them by subjecting them to the exorbitant charges of terminal lines in our large cities, over which the major portion of the freight of the country must necessarily pass. I concede Texas has a good railroad law, much better than most of the States.

Mr. BARKLEY. Will the gentleman yield?

Mr. CULLOP. I will.

Mr. BARKLEY. Would it not be better to adopt an amendment exempting the whole State of Texas from the operations of this law than to adopt this amendment which is now under consideration?

Mr. CULLOP. Certainly it would. Whenever we adopt this amendment we bring about a dangerous condition and make it possible to be continued. Relief from present conditions the country demands. Two hundred miles is just about an average division of railroads. They can then incorporate to the State line and operate their divisions under separate corporations, and thereby escape entirely this law. A number of the largest and most populous States of the Union are not more than 200 miles wide. The State of Illinois is not 200 miles wide, and every railroad crossing that State could make a separate organization and incorporate under the State laws of Illinois and be relieved from the provisions of this act.

Mr. GARNER. Will the gentleman yield?

Mr. CULLOP. Certainly.

Mr. GARNER. If they did organize under the Illinois statute and became wholly within the State, could not the commission of Illinois require the issuance of stocks and bonds? Has not the gentleman confidence enough in the people of Illinois to believe that they can prevent the issue of watered stocks and bonds?

Mr. CULLOP. Oh, State laws on this subject would not all be uniform, and then we would have a diversity of regulations which complicate rather than simplify conditions. We could have a different rate for the same product practically in every State in the Union, and then all control would be lost; the situation would be chaotic, and relief would be impossible under such a system. One of the troubles we have is to get a uniform classification. There is in the gentleman's State one classification, and there is a different one for the same product in New York.

Mr. GARNER. Will the gentleman yield?

Mr. CULLOP. Yes.

Mr. GARNER. This bill has nothing to do with the question of rates; it is a question of the issuance of stocks and bonds. Does the gentleman from Indiana believe that the Interstate Commerce Commission is better qualified to pass upon the issue of stocks and bonds of a railroad wholly within his State than the railroad commission of Indiana?

Mr. CULLOP. If it does an interstate business, it is. The commission in Texas would not be impaired by this, so far as the citizens of Texas are concerned in intrastate shipping. The intrastate transportation of products would be identically under the same jurisdiction as it is now, and the Interstate Commerce Commission would only affect interstate commerce transported over the railroads in that State. The jurisdiction would remain the same as it now is. The railroad commission of that State can not regulate charges for interstate shipments, but its jurisdiction is limited to intrastate matters only.

The adoption of this amendment would destroy the purposes for which this measure is intended, and I hope it will be defeated.

Mr. STEVENS of New Hampshire. Mr. Chairman, I would like to call the attention of the committee to one result of this amendment, certainly in its present shape. A great many roads of the eastern part of the United States have been built up by consolidations of small lines, lines which still retain to-day their own organization, issue their own stocks and bonds. They are frequently held by the parent company on long-term leases. The Boston & Maine system as it exists to-day is composed of many separate complete organizations. The same way with the Pennsylvania Railroad system. This amendment would exempt from this law every one of those original separate roads which have really become part of a big system but retain their own organization and their own stocks and bonds. It would mean that some of the most important railroad systems of the country would be entirely relieved from the provisions of this act.

Mr. HULINGS. Will the gentleman yield?

Mr. SUMNERS. Will the gentleman yield?

Mr. STEVENS of New Hampshire. Yes.

The CHAIRMAN. To whom does the gentleman yield?

Mr. STEVENS of New Hampshire. To the gentleman from Pennsylvania [Mr. HULINGS].

Mr. HULINGS. Mr. Chairman, I would like to ask the chairman of the committee a question. Assuming that a railroad that had gone into Texas and had built a line within the State and had been built under the conditions and provisions established by their State commission, then, if this bill be passed, will the Interstate Commerce Commission oust the jurisdiction of that State commission?

Mr. ADAMSON. They can overrule it if the commission acts unwisely. It will interdict any unwise issue that the State commission allows.

Mr. HULINGS. And it does oust it?

Mr. ADAMSON. Yes; to that extent, if it is engaged in interstate commerce. The test is, Does it do business in interstate commerce?

Mr. BARKLEY. Will the gentleman yield?

Mr. ADAMSON. Certainly.

Mr. BARKLEY. I would like, if the gentleman would yield long enough in this argument for me to read into the RECORD a part of the Democratic platform on this subject.

Mr. ADAMSON. The gentleman from Pennsylvania [Mr. HULINGS] has the time.

Mr. HULINGS. I desired only to ask the question which seemed to me to meet the crux of this situation.

Mr. BARKLEY. I wish to read into the RECORD a statement from the Democratic platform on this subject, as follows:

> We favor such legislation as will effectually prohibit the railroads, express, telegraph, and telephone companies from engaging in business which brings them into competition with their shippers or patrons, also legislation preventing the overissue of stocks and bonds by interstate railroads, express companies, telegraph and telephone lines.

Mr. HARRISON. You do not find anything in the Democratic platform, however, that says we have a right to take away from the States those powers that are now exercised by the railroads and public-utility commissions of those States, do you?

Mr. BARKLEY. But we are not trying to do that in this bill.

Mr. HARRISON. You admit that—that you are——

Mr. BARKLEY. I do not admit anything of the kind.

Mr. HARRISON. I understood the gentleman to say, and also the chairman of the committee [Mr. ADAMSON] to say, that the public-service commission of a State may pass certain orders about this matter, but that they must be approved by the Interstate Commerce Commission, and that the Interstate Commerce Commission might accept or reject the recommendations of the railroad or public-service commissions of the States.

Mr. BARKLEY. Not unless the order of the commission permits the issue of stocks and bonds that affect interstate commerce.

Mr. HARRISON. But you can overrule the public-service commission of a State?

Mr. BARKLEY. A State commission can not regulate interstate commerce, because Congress has the exclusive right to regulate interstate commerce and things that affect it. But if the railroad commission of Texas or any other State should permit the issue of stocks and bonds that affect only intrastate business, the Interstate Commerce Commission would have no right to exercise power over that.

Mr. GREGG. Will the gentleman yield?

Mr. BARKLEY. I yield.

Mr. GREGG. It could state what series of bonds issued by a railroad would affect interstate commerce and what series would affect intrastate commerce?

Mr. BARKLEY. We are not called upon to settle that question.

Mr. GREGG. The gentleman said that if the bonds authorized by the State only affected intrastate traffic, then this bill would not affect it.

Mr. BARKLEY. The application for the bond itself by the interstate carrier must show that it affects interstate business.

Mr. BARTLETT. May I ask the gentleman a question?

Mr. BARKLEY. I yield to the gentleman.

Mr. BARTLETT. The gentleman has read from the Baltimore platform. Will he turn to pages 168 and 169 and read the extended assertion there of the rights of the States and of the duty of the Democratic Party to preserve and maintain in their integrity the rights of the States?

Mr. BARKLEY. That is a very lengthy provision. I can not read that in the time that I have, but I will answer the gentleman by saying that there is not a word or syllable, line, or sentence in the bill now under consideration that in any way abridges the right of the State to regulate their internal affairs.

Mr. BARTLETT. There is not a line in it that does not destroy it.

Mr. MANN. Regular order, Mr. Chairman.

The CHAIRMAN. The regular order is on the amendment offered by the gentleman from Texas [Mr. GARNER].

Mr. DECKER. Mr. Chairman——

Mr. MANN. Mr. Chairman, I ask for the regular order.

Mr. DECKER. I want to speak on the amendment, if it is in order.

Mr. HARDY. Is it in order to offer an amendment to the amendment of the gentleman from Texas [Mr. GARNER]?

Mr. MANN. The gentleman can offer an amendment later.

The CHAIRMAN. The regular order is on the amendment, as all debate has been exhausted. The question is on the adoption of the amendment.

The question was taken, and the Chairman announced that the noes seemed to have it.

Mr. BARTLETT. Division, Mr. Chairman.

Mr. GARNER. Mr. Chairman, I ask for a division.

The committee divided; and there were—ayes 9, noes 76.

Mr. HARDY. Mr. Chairman, I voted against the amendment offered by Mr. GARNER a moment ago, but I wish to offer an amendment to this section of the bill which incorporates what I have understood from more than one member of the committee was their understanding. In other words, I do not believe where the State jurisdiction has limited the amount of stocks and bonds of a railroad wholly within that State the Interstate Commerce Commission, or the United States itself, ought to undertake to raise the limit.

The CHAIRMAN. There is nothing before the House for the gentleman to address his remarks to.

Mr. STEVENS of Minnesota. Mr. Chairman, have I the floor?

Mr. HARDY. Mr. Chairman, I believe I had the floor for the purpose of offering an amendment.

The CHAIRMAN. The gentleman from Texas [Mr. HARDY] offers an amendment, which the Clerk will report.

Mr. HARDY. I have it in my own language, and, if I may be permitted, I will read it.

Mr. MANN. It will have to be sent to the Clerk's desk to be reported.

Mr. HARDY. I think the Clerk can read it. If not, I will go and help him.

The CHAIRMAN. The Chair thinks the amendment is offered to the original bill and not to the substitute we have under consideration.

Mr. HARDY. I offer it to the substitute, as we are considering the substitute.

The CHAIRMAN. The gentleman will have to show where the amendment is offered to the substitute.

The Clerk read as follows:

Amendment offered by Mr. HARDY: Page 15, line 19, of substitute bill, after the word "thereof," insert: "*Provided further*, That nothing in

this act shall authorize or legalize the issue of any stocks or bonds, by any railroad wholly within any State, in excess of the amount of such stocks and bonds as fixed and limited by the law of such State."

Mr. HARDY. Mr. Chairman, if we are to preserve any authority in the State administrations over the amount of bond issues and stock issues of railroads—a matter which the State of Texas has for a number of years endeavored to do by passing laws limiting the amount of stocks and bonds which railroads organized within that State may issue—we ought to adopt the amendment I offer. I have no objection to supplementing the State's action by providing that even though a State commission does authorize the issuance of stocks and bonds, the Interstate Commerce Commission may have the veto power on it and may say that those bonds or that amount of bonds shall not be issued; but I think that when the State of Texas or any other State, by its legal authorities, has said to a railway organized and wholly lying within its boundaries that "the value of your property does not warrant the issuance of more than so much of bonds or stock" there ought not to be a higher authority to override that veto and say that "notwithstanding the State of your residence or habitation has limited the amount of your bonds to, say, $20,000 a mile, we will give you authority to issue $30,000 a mile."

If it be true, as the chairman of the committee said a moment ago, that the purpose of this bill was not to authorize an appeal by the railroads from the action of the State or an increase of bonds over the limitations fixed by a State, then we ought to adopt this provision, which provides that nothing contained in this law shall authorize the Interstate Commerce Commission to authorize the issue of more bonds or stocks than are permitted by the State. My amendment will make this matter plain and free from doubt or question.

Now, I have said all that is involved in the matter. If it is right, if the chairman is right in his opinion, if that is the intention of this bill, it ought to be so clearly written into the face of the bill that it can not be questioned.

Mr. BARKLEY. Mr. Chairman, it would be manifestly unwise to limit the jurisdiction of the Interstate Commerce Commission in matters over which it has exclusive jurisdiction, as proposed by the amendment of the gentleman from Texas [Mr. HARDY].

There can not be two jursdictions over interstate commerce. Wherever the Federal Government enters upon fields which by the Constitution are given to it exclusively it enters them exclusively, so far as other jurisdictions over those particular things are concerned; and to adopt the amendment which has been offered here by the gentleman from Texas, that notwithstanding the fact that the Interstate Commerce Commission has exclusive and supreme jurisdiction to regulate not only interstate commerce but things that affect interstate commerce or that may affect it, would simply be to prescribe a rule to the effect that they can perform within their jurisdiction only so long as they are permitted to do so by a State railroad commission.

Mr. STEVENS of Minnesota. Mr. Chairman, will the gentleman yield for a question?

The CHAIRMAN. Does the gentleman from Kentucky yield to the gentleman from Minnesota?

Mr. BARKLEY. I will yield to the gentleman.

Mr. STEVENS of Minnesota. The amendment proposed by the gentleman from Texas [Mr. HARDY] proposes that nothing in this act shall be construed to legalize or authorize the issue of any stocks and bonds by any railroad wholly within a State in excess of the amount of such stocks and bonds as fixed and limited by the State law. Is there anything in this act that is intended to legalize any issue of securities?

Mr. BARKLEY. There is nothing in this bill that undertakes to legalize an issue of bonds. It merely gives the Interstate Commerce Commission the right to approve or consent to the issue, but it does not bind the United States Government to guarantee either their legality or the forms through which the companies may have gone in order to bring it about. Therefore the amendment would be vicious in that respect.

Mr. GARRETT of Texas. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. Does the gentleman from Kentucky yield to the gentleman from Texas?

Mr. BARKLEY. I do.

Mr. GARRETT of Texas. I understood from the statement of the gentleman from Georgia [Mr. ADAMSON], the chairman of the committee, a few moments ago, that if the Railroad Commission of Texas should grant to the railroads of that State the right to issue bonds to a certain amount and the railroads desired to issue a greater amount than that and should appeal from the decision of the Texas commission to the Interstate Commerce Commission for an increase, this law would not apply to that increase, and that he did not so construe it or understand it to mean that the Interstate Commerce Commission could override the State commission and allow this increase in the issuance of bonds and securities?

Mr. BARKLEY. The chairman of the committee has made his position plain on that subject. I would like to read this provision here.

Mr. GARRETT of Texas. Do you agree with his position on that?

Mr. BARKLEY. Let me read it.

Mr. GARRETT of Texas. I would like to have the gentleman's opinion.

Mr. BARKLEY. I will answer the gentleman if I get the time. I read:

That it shall be unlawful for any common carrier subject to the act to regulate commerce—

And so forth. Now, bear in mind that no carrier is subject to the act to regulate commerce except an interstate carrier, a carrier engaged in interstate commerce.

Mr. GARRETT of Texas. I believe they are nearly all engaged in interstate commerce.

Mr. BARKLEY. No. There is one in my district only 10 miles long.

Mr. ADAMSON. Mr. Chairman, we have spent a great deal of time on this section and different amendments concerning the same subject, and I want to call for a vote. I do not want to cut off the gentleman from Texas [Mr. HARDY], who is such a quiet, modest gentleman. Let his amendment be read again.

Mr. MANN. Mr. Chairman, I ask for the regular order.

Mr. ADAMSON. If the gentleman from Illinois [Mr. MANN] will consent, I shall not object to this modest gentleman.

The CHAIRMAN. Does the gentleman from Illinois object to the Clerk reporting the amendment?

Mr. MANN. Oh, no.

The CHAIRMAN. Without objection, the Clerk will report the amendment.

The Clerk read as follows:

Page 15, line 19, of substitute bill, after the word "thereof," insert: "*Provided further*, That nothing in this act shall authorize or legalize the issue of any stocks or bonds, by any railroad wholly within a State, in excess of the amount of such stocks and bonds as fixed and limited by the law of such State."

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from Texas [Mr. HARDY].

The question was taken, and the Chairman announced that the noes seemed to have it.

Mr. HARDY and Mr. LINTHICUM demanded a division.

The CHAIRMAN. A division is demanded.

The committee divided; and there were—ayes 12, noes 15.

So the amendment was rejected.

Mr. STEVENS of Minnesota. Mr. Chairman, I have an amendment which I wish to offer.

The CHAIRMAN. The gentleman from Minnesota [Mr. STEVENS] offers an amendment which the Clerk will report.

The Clerk read as follows:

Amendment by Mr. STEVENS of Minnesota: Page 15, line 18, after the word "outstanding," strike out the period and insert a comma and the following language: "Or to notes issued by such carriers for the purpose of discharging lawful obligations of the carriers, secured by pledge of or lien upon any securities or property of said carriers."

Mr. STEVENS of Minnesota. The effect of that amendment is as follows: The bill provides that the Interstate Commerce Commission shall have jurisdiction to regulate the issuance of notes issued by carriers, exceeding 5 per cent of the total amount of stocks and bonds then outstanding.

Mr. SIMS. Not to run over two years.

Mr. STEVENS of Minnesota. Carriers have the right to issue notes to an amount less than 5 per cent of the amount of outstanding stocks and bonds without the approval of the commission. This amendment authorizes the carriers to issue notes without the approval of the commission whenever necessary to pay outstanding indebtedness secured by property or securities of the carriers.

The reason for that is this: It is very evident from the discussion here that there is a violent difference of opinion as to whether this authority be exclusive or not in the Interstate Commerce Commission. We realize that this question is fundamental and must be settled by the Supreme Court. And until these questions shall be settled, not one dollar of securities can be sold or marketed under the operation of this bill. Now, the railroads have large amounts of securities maturing from time to time, and while this litigation shall be in progress these securities will continue to mature, and unless we suitably provide for the proper discharge of those securities and provide in some way that they can be settled or refunded and cared for,

there will necessarily be receiverships of solvent companies, and such a condition will surely bring disaster upon the business affairs of this country. Now, my amendment is solely designed to provide that for the purpose of caring for existing obligations secured by mortgages, or pledge of securities, that in such cases the carrier may issue its notes without approval of the commission, to care for that kind of obligation. If it desires to issue its securities or its notes for anything else for any other purpose, then the provisions of the bill with its regulation should apply. This amendment is only designed to act for the temporary purpose of preventing receiverships and enabling solvent corporations to care for themselves in this emergency, until this litigation shall be settled. For that reason I offer the amendment.

Mr. RAYBURN. Mr. Chairman, I oppose this amendment, for the reason that I believe the exceptions in this bill have already beeen carried far enough. It seems to me when we say that a railroad company, without the approval of the Interstate Commerce Commission or without that commission having the right to exercise their veto power, shall have the right to issue notes running two years or less, and that that amount may come up to 5 per cent of the outstanding securities of the carrier at that time, that is giving latitude enough, and, as far as I am individually concerned, when I first submitted this part of the bill to the committee it had in it only the provision that they could issue notes to an amount equaling 5 per cent of their outstanding stocks and bonds and that the notes should not run for more than one year. But after much consultation we decided that possibly it would be fairer and better if they were allowed to issue notes running two years or less equal to 5 per cent of their outstanding obligations. I want to say that this one specific provision has been submitted to the Interstate Commerce Commission more than once, and, as I understand it, they stand almost solidly behind the proposition that this is as much latitude as the railroad companies should be allowed in this particular instance. I hope the committee will vote down the amendment, and if nobody else desires to be heard I should like to have a vote.

Mr. SIMS. Mr. Chairman, I had risen to my feet to say substantially what the gentleman from Texas [Mr. RAYBURN] did say; but I wish to refer to one thing to which he did not refer. Every once in a while it turns up that some railroad company is in a terrible financial condition that was not previously known. We do not know how many companies are now in that condition. Now, if they are permitted to issue their notes, stocks, and bonds under this amendment without submitting to the Interstate Commerce Commission, it becomes a power of refunding that might not be authorized if submitted to the commission, and I think where the amount is larger than 5 per cent of the entire stock and bond issues of a road it is too important to allow them to be freed from the necessity of submitting that matter to the Interstate Commerce Commission, especially when they can issue notes to the extent of 5 per cent of their outstanding stocks and bonds, and for a term of two years or less without approval by the commission. Therefore, I think the amendment ought to fail.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Minnesota.

The amendment was rejected.

Mr. STEVENS of Minnesota. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The gentleman from Minnesota offers an amendment which the Clerk will report.

The Clerk read as follows:

Page 16: Strike out lines 5 to 11, both inclusive, and the first three words in line 12, and insert in lieu thereof the following:

"It shall be unlawful for any person to hold the position of officer or director of two or more carriers subject to the act to regulate commerce as amended, which shall substantially compete with each other."

Mr. STEVENS of Minnesota. Mr. Chairman, the provisions of this amendment are that instead of excluding all——

Mr. ADAMSON. If the gentleman will pardon me, the conversation around me prevented my getting the scope of the amendment. Does it strike out the entire paragraph and substitute that language?

Mr. STEVENS of Minnesota. No; it strikes out from lines 5 to 11, both inclusive, and the first three words of line 12, on page 16. It strikes out the prohibitory provision against all interlocking directorates, and inserts in lieu of that a provision against interlocking directorates in competing corporations.

The reason for that is this: It has been shown in this debate this morning that quite a number of States, like Oklahoma, Texas, Missouri, and other States in the West and South, compel the corporations to have a local domicile or to be reincorporated in those States for the purpose of doing business. The situation is, then, that some of these transcontinental railroad systems are compelled to have local incorporations, and in order to have the proper control of those local corporations they have the officials of the parent line as officials and directors of the local corporations. They could have dummy directors, of course, but as good public policy we do not want and should not allow that. We want the responsible men who operate these corporations to be the responsible directors and managers of them. These State laws compel local incorporation, and they ought to have the best class and quality of directors. That is the best way to encourage honest, capable, and responsible management of our business concerns. Under these circumstances it is for the interest of the public that that shall be done, and there can be no question that when that fact shall be presented to the Interstate Commerce Commission under the provisions of this bill the Interstate Commerce Commission will at once grant such request that those responsible officials be allowed to serve as directors. There is no doubt about such a policy. Again, many of these through lines are made up of subsidiaries, branch lines, extensions of lines, and these lines maintain their corporate entity for various good reasons; but the stock is entirely or mostly owned by the parent corporation. For that reason also these subsidiary corporations have as directors the officers of the main line.

When that fact shall be presented to the Interstate Commerce Commission, of course it will make an order allowing these men to act as directors of these subsidiary corporations. The result will be that several thousand of these corporations under the provision of your substitute must be presented to the Interstate Commerce Commission within the next two years requesting an order allowing them to serve. The Interstate Commerce Commission will grant such request, and they ought to, but the result will be that it will place an additional burden on the commission. It compels them to do much work that is unnecessary, it compels the carriers to do work that is unnecessary. The evil which is desired to be cured is against the practice of acting as interlocking directors in competing lines. Is it not the best thing to do to put a straight prohibition against that evil, as provided by my amendment, subject to the penalty provision in your paragraph, and that is all that is intended or covered by my amendment.

Mr. ADAMSON. Mr. Chairman, the question of competition, although important in a great many situations, is not the entire moving cause for this part of the legislation. That can easily be taken care of. The greatest evil of interlocking directorates is in cases where railroads are wrecked by speculation and wreckers getting charge of the different corporations whether they are competing lines or not. The strongest argument before us for giving them the control of all this matter was that some States would not authorize them to issue stocks and bonds to use on their line in other States, which was abhorrent to the moral sense, because each State has a right to tax the property in the State and look to the preservation of that property to some extent. The trouble is that a little coterie of men would get possession of a number of railroads through being directors of all. They may sacrifice one of these roads in order to build up another, not primarily for the purpose of building it up, but because by that particular transaction they can pocket more gains from speculation. This statement is borne out by the history of all the wrecks that have disgraced the transportation conditions of this country. [Applause.]

Now, the first result of this amendment will be that corporations will quit trying to fill offices with a few men. There are enough good men in the world to fill the offices, and there are not enough offices to go around. It will be only when peculiar conditions make it necessary for some man to be a director in different railroads, and when those conditions exist the Interstate Commerce Commission will already know it, because under the operation of section 20 as amended they keep themselves posted all the time as to who are the directors and other officers of the railroad. These conditions would have to be proven to the commission. The burdens of the commission will not be increased, because the occasions for this provision will be fewer and fewer. When they find out what the law is the corporations will quit putting excuses up to them except in meritorious cases.

The CHAIRMAN (Mr. HOUSTON). The question is on the amendment offered by the gentleman from Minnesota.

The question was taken, and the amendment was rejected.

MESSAGE FROM THE SENATE.

The committee informally rose; and Mr. ALEXANDER having taken the chair as Speaker pro tempore, a message from the Senate, by Mr. Tulley, one of its clerks, announced that the Senate had agreed to the reports of the committees of confer-

ence on the disagreeing votes of the two Houses on the amendments of the House to bills of the following titles:

S. 4167. An act granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy, and of wars other than the Civil War, and to certain widows and dependent children of such soldiers and sailors;

S. 4260. An act granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy, and of wars other than the Civil War, and to certain widows and dependent children of such soldiers and sailors;

S. 4353. An act granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy, and of wars other than the Civil War, and to certain widows and dependent children of such soldiers and sailors; and

S. 4657. An act granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy, and of wars other than the Civil War, and to certain widows and dependent children of such soldiers and sailors.

REGULATION OF RAILWAY STOCKS AND BONDS.

The committee resumed its session.

Mr. STEVENS of Minnesota. Mr. Chairman, I present another amendment, which is my last.

The Clerk read as follows:

Page 16, line 26, after the word "court," insert the following:

"SEC. 3. That section 24 of the act to regulate commerce, approved February 4, 1887, as amended, be, and the same is hereby, further amended so as to read as follows:

"'SEC. 24. That the Interstate Commerce Commission is hereby enlarged so as to consist of nine members with terms of seven years, and each shall receive $10,000 compensation annually. The qualifications of the members and the manner of the payment of their salaries shall be as already provided by law. Such enlargement of the commission shall be accomplished through appointment by the President, by and with the advice and consent of the Senate, of two additional interstate commerce commissioners, one for a term expiring December 31, 1920, one for the term expiring December 31, 1921. The terms of the present commissioners, or of any successor appointed to fill a vacancy caused by the death or resignation of any of the present commissioners, shall expire as heretofore provided by law. Their successors and the successors of the additional commissioners herein provided for shall be appointed for the full term of seven years, except that any person appointed to fill a vacancy shall be appointed only for the unexpired term of the commissioner whom he shall succeed. Not more than five commissioners shall be appointed from the same political party.

"'That all existing laws relating to the attendance of witnesses and the production of evidence and the compelling of testimony under the act to regulate commerce and all acts amendatory thereof shall apply to any and all proceedings and hearings under this act.'

"SEC. 4. That in the performance of the duties prescribed by this act the Interstate Commerce Commission, for such time as it may deem necessary, may authorize a division of three commissioners, to be selected by the chairman of the commission, to have full power to investigate, order, certify, report, and determine as to all matters arising under this act.

"In any such proceeding, such division shall have all the jurisdiction and powers and may proceed as provided under said act to regulate commerce as amended, the same as therein authorized to or for said commission, subject to the order of the commission.

"In carrying out the provisions of this act the commission may consider all facts within its jurisdiction, and whenever it shall deem necessary, it may utilize, for the purpose of carrying out the provisions of this act, such of its employees, experts, or engineers as may be employed in the duties provided in section 19a of the said act to regulate commerce, as amended. In such case, an accurate account shall be kept of such use and the expense thereof, which shall be borne and shall be paid by said applicant to said Interstate Commerce Commission, which shall deposit the same in the Treasury of the United States, to be credited to the general fund, taking the receipt of the Treasurer therefor, and filing the same in its office with said application. If the applicant shall refuse or neglect to pay the expense of said appraisal, the Interstate Commerce Commission shall dismiss such application."

Mr. ADAMSON. Mr. Chairman, I make the point of order that that amendment is not germane to this portion of the bill or to any other portion of the bill.

Mr. STEVENS of Minnesota. Will the gentleman reserve his point of order?

Mr. ADAMSON. I will reserve it if the gentleman desires to be heard.

Mr. STEVENS of Minnesota. Mr. Chairman, the provisions of this bill put upon the Interstate Commerce Commission a very large burden and a very great increase of duties. It is absolutely necessary for the public welfare that these duties imposed by this bill shall be properly performed. Unless they are so performed, not only will the operation of the law be a failure but a great injury will be liable to be visited upon the carriers, on the public, and on the investors in the securities of the carriers. More than that, there will be a temptation for the Interstate Commerce Commission itself, in order to perform some of the many duties imposed on it by this law, to neglect its other work. There is a growing complaint throughout the country that this is being done now, that too much of the commission's important work is being done by subordinates, by examiners, and by clerks. The work under this bill could not be so performed. It ought to be done by the commissioners personally. For that reason I have introduced this amendment to increase the number of the members of the commission, to provide how the work shall be performed by a subdivision of three, with authority to do the work provided by this measure. If they do the work personally, it will be well done. Unless the work shall be done by the commissioners in that way, under their personal supervision and personal responsibility, the work will not be well done and injury will come to the work of the commission, to the foresight of the commission, and to the country.

For that reason I have introduced this amendment. I admit that it is not germane if the gentleman from Georgia cares to enforce the rule on me. But I think it is my duty to apprise the committee of the situation which will arise and of the remedy which ought to be presented now, and which must be faced some day in the near future by this House. [Applause.]

Mr. ADAMSON. Mr. Chairman, I make the point of order with less reluctance than I should if I had not consulted with the commissioners about it. They do not approve of it as necessary in carrying out the provisions of the existing or proposed law. We, furthermore, are going ahead now with the general consideration of all amendments proposed to be made to the interstate-commerce law, and we will thrash out all these questions and try to report to the House a bill as early as possible, with such amendments as we deem meritorious. A bill comprising this amendment is already before the committee, and I insist on the point of order.

The CHAIRMAN. The Chair sustains the point of order.

Mr. BARTLETT. Mr. Chairman, I offer the following amendment, which I send to the desk and ask to have read.

The Clerk read as follows:

Page 16, line 26, after the word "court," insert: "*Provided*, That nothing contained in this act shall deprive the railroad commissions or the public service or utilities commissions of the various States from exercising all the powers now conferred upon them by the various States.

Mr. BARTLETT. Mr. Chairman, we are told by the gentleman from Kentucky [Mr. BARKLEY] and others that the compelling reason to pass this bill is that a promise to do so is contained in a certain part of the Democratic platform made by the Democratic Party in 1912 at Baltimore, and the gentleman from Kentucky has read a few lines on which he bases his support of this bill—more extreme in its provisions, Mr. Chairman, than was ever dreamed of by Hamilton or any Federalist that advocated the Hamiltonian theories of government. The platform at Baltimore does contain three lines, which I will read:

Also legislation preventing the overissue of stocks and bonds by interstate railroads, express companies, telegraph and telephone lines.

But that platform contains sentences and sections which assert in no uncertain terms the rights of the States, and the promise to preserve the rights of the States, and I want to read to the gentleman from Kentucky and his conferers on the Interstate and Foreign Commerce Committee what they seem, in the preparation and report of this bill, to have forgotten, which is a part of the platform, namely, a duty to sustain the rights of the States now proposed by this amendment, and to call to their attention their duty to the States as demanded and required by the Democratic platform. Let us see what it says:

RIGHTS OF THE STATES.

We believe in the preservation and maintenance in their full strength and integrity of the three coordinate branches of the Federal Government—the executive, the legislative, and the judicial—each keeping within its own bounds and not encroaching upon the just powers of either of the others.

Believing that the most efficient results under our system of government are to be attained by the full exercise by the States of their reserved sovereign powers, we denounce as usurpation the efforts of our opponents to deprive the States of any of the rights reserved to them and to enlarge and magnify by indirection the powers of the Federal Government.

We insist upon the full exercise of all the powers of the Government, both State and National, to protect the people from injustice at the hands of those who seek to make the Government a private asset in business. There is no twilight zone between the Nation and the State in which exploiting interests can take refuge from both. It is as necessary that the Federal Government shall exercise the powers reserved to them, but we insist that Federal remedies for the regulation of interstate commerce and for the prevention of private monopoly shall be added to, and not substituted for, State remedies.

Gentlemen, I pause to call your attention back to that promise of the party when you propose by this bill to substitute for State remedies in control of interstate commerce roads the remedies you now propose, and to call your attention to the fact that this amendment I have offered rings with the declaration of the platform, preserving to the State every right it has to regulate by its railroad commission or its public-utilities commission, whatever it may be named, as it exists in my State and in the State of Kentucky and in the State of Michigan and in the State of Wisconsin, and all these States, the internal

affairs of corporations created by them, and I intend to vote for it, and to say, as I have said before on the floor of this House, aided at the time by some who now take the opposite position, that the Government has not the right under the Constitution to undertake to say that the States shall not regulate the issuance of the stocks and bonds in those corporations that it creates, and to assert that the issuance of stocks and bonds is not commerce.

The CHAIRMAN. The time of the gentleman from Georgia has expired.

Mr. BARTLETT. Mr. Chairman, I ask unanimous consent to proceed for five minutes more.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. RAYBURN. Mr. Chairman, will the gentleman yield?

Mr. BARTLETT. Certainly.

Mr. RAYBURN. Mr. Chairman, does the gentleman recall another part of the platform that also says that we demand legislation to prevent the overissue by railroad companies of securities?

Mr. BARTLETT. I just read it.

Mr. RAYBURN. Is not the gentleman good enough lawyer to know that under the commerce clause of the Constitution, and generally under the Constitution, any power that Congress has has already been delegated by the States, and that when Congress has the power to enter a field of legislation and does enter it, it does it to the exclusion of the States?

Mr. BARTLETT. I do; and what I say is that this power to regulate the issue of stocks and bonds has never been delegated by the people of the States to the Congress of the United States, but remains by the tenth amendment preserved to them and the people thereof, and if I had the time I would read now some of the decisions of the Supreme Court which declare that the issuance of stocks and bonds is not commerce and that therefore we have not the right to do what we are attempting to do.

But I am not going to change my position upon this bill, because the gentleman from Illinois [Mr. MANN] knows I fought that out with him in the Sixty-first Congress, and the gentleman knows what remarks I made at that time, and I am not ashamed of them, and I stand by them now.

Mr. GARNER. Mr. Chairman, will the gentleman yield?

Mr. BARTLETT. Yes.

Mr. GARNER. If the gentleman's amendment should be adopted, it would not prohibit what the gentleman from Texas desires to do?

Mr. BARTLETT. No.

Mr. GARNER. And that is for the Interstate Commerce Commission here to regulate interstate railroads.

Mr. BARTLETT. That is all.

Mr. GARNER. It only reserves the right to the States to control that which is within their border.

Mr. BARTLETT. Yes; and which the Democratic Party by its platform promised the people it would do, that it would only exercise that right in conjunction with the various States and not deprive them of their power.

Mr. MANN. Mr. Chairman, will the gentleman yield?

Mr. BARTLETT. Yes.

Mr. MANN. The gentleman stated that he had not changed his position?

Mr. BARTLETT. Yes.

Mr. MANN. I agree with the gentleman. But does not the gentleman admit, in view of the fact that his party almost unanimously voted against the stock-and-bonds provision which I had in the bill four years ago and has now reported substantially the same thing, that his party has changed its position?

Mr. BARTLETT. Mr. Chairman, I am not here to criticize what anybody else has done, but I am here to say and to repeat and to maintain it by the decisions of the courts that the duty of issuing stock and bonds by a corporation is not commerce, and in proof of my position I used at that time the language of no less distinguished jurists than Judge Harlan and Judge White and others.

Now, I read from the One hundred and sixty-first United States Court Reports in the case of the Louisville and Nashville Railroad Co. against The State of Kentucky. The two roads undertook to combine in this case against the public policy expressed by the constitution and laws of Kentucky that no railroad or telegraph company should consolidate its capital stock or pool its earnings, in whole or in part, with any other railroad.

Now, what do they say about that? I will read:

Section 201 of the constitution of the State of Kentucky is a legitimate exercise of the police power of the State, and forbids the consolidation between the Louisville & Nashville Co. and the Chesapeake, Ohio & Southwestern Co., which is the subject of the controversy in this suit, at least so far as the power to make it remains unexecuted.

They undertook to say in this bill, which they filed against the State of Kentucky, that they could consolidate notwithstanding the laws of Kentucky and the constitution, because they were interstate railroads, and therefore when Kentucky undertook to prevent a combination it undertook to pass a law which interfered with interstate commerce. I will read:

But little need be said in answer to the final contention of the plaintiff in error that the assumption of a right to forbid the consolidation of parallel and competing lines is an interference with the power of Congress over interstate commerce. The same remark may be made with respect to all police regulations of interstate railways. All such regulations interfere indirectly, more or less, with commerce between the States in the fact that they impose a burden upon the instruments of such commerce and add something to the cost of transportation by the expense conferred in conforming to such regulations. These are, however, like the taxes imposed upon railways and their rolling stock, which are more or less, according to the policy of the State within which the roads are operated, but are still within the competency of the legislature to impose.

* * * * * * *

It has never been supposed that the dominant power of Congress over interstate commerce took from the States the power of legislation with respect to the instruments of such commerce, so far as the legislation was within its ordinary police powers. Nearly all the railways in the country have been constructed under State authority, and it can not be supposed that they intended to abandon their power over them as soon as they were finished. The power to construct them involves, necessarily, the power to impose such regulations upon their operation as a sound regard for the interests of the public may seem to render desirable. In the division of authority with respect to interstate railways Congress reserves to itself the superior right to control their commerce and forbid interference therewith, while to the States remains the power to create and to regulate the instruments of such commerce, so far as necessary to the conservation of the public interests.

If it is to be assumed that the States have no right to forbid the consolidation of competing lines because the whole subject is within the control of Congress, it would necessarily follow that Congress would have the power to authorize such consolidation in defiance of State legislation, a proposition which only needs to be stated to demonstrate its unsoundness. As we have already said, the power of one railway corporation to purchase the stock and franchises of another must be conferred by express language to that effect in the charter; and hence if the charter of the Louisville & Nashville Co. had been silent upon that point, it will be conceded that it would have no power to make the proposed purchase in this case. As the power to purchase, then, is derivable from the State, the State may accompany it with such limitations as it may choose to impose. It results, then, from the argument of the appellant that, if there be any interference with interstate commerce, it is in imposing limitations upon the exercise of a right which did not previously exist, and, hence, if the State permits such purchase or consolidation it is bound to extend the authority to every possible case or expose itself to the charge of interfering with commerce. This proposition is obviously untenable.

That opinion was by Judge Brown, and was concurred in by all. The court further says:

That, conceding that the requisite power existed in both the above companies, section 201 of the constitution of 1891 was a legitimate exercise of the police power of the State, and forbade such consolidations, at least so far as such power remained unexecuted.

So that the Kentucky case, which permitted the consolidation of the Louisville & Nashville with other roads, contrary to the laws of the State of Kentucky, saying that the State had no right to forbid them because the whole subject was in control of Congress, is a proposition which only needs to be stated in order to demonstrate its unsoundness.

I am somewhat concerned about this, because my State has this in its constitution:

Article 4 of paragraph 3 of the constitution of Georgia says:

The general assembly shall have no power to authorize any corporation to buy shares and stock of any other corporation in this State or elsewhere, to make any contract or agreement with any such corporation which shall have the effect to lessen competition in their respective business or to encourage monopolies, and all such contracts and agreements are void.

We have in my State two great railroad lines, which could not be consolidated under the laws of the State of Georgia. And yet, if they desire to consolidate, the Interstate Commerce Commission is to be consulted, and, although they are competing lines, the laws of Georgia are to be destroyed by stretching the power of Congress under this elastic shield of interstate commerce, permitting any violation of the policy of my State, or all other States, to consolidate or destroy competition.

I am opposed to the provisions of the bill which endeavor to regulate

THE ISSUES OF STOCKS AND BONDS AND CONSOLIDATION OF COMPETING LINES.

The case chiefly relied upon is the Northern Securities case, volume 193. But that case does not sustain the contention nor justify the provisions in this bill relative to the control of the issues of stocks and bonds by railroads engaged in interstate commerce, or the right of Congress under that power to authorize the consolidation of competing lines contrary to the laws of the States where such railroads may have been chartered and where they operate. That question was distinctly stated by

Justice Harlan not to be a question in that case. On page 333 he says:

It is said that whatever may be the power of a State over such subjects Congress can not forbid single individuals from disposing of their stock in a State corporation, even if such corporation be engaged in interstate and international commerce; that the holding or purchase by a State corporation or the purchase by individuals of the stock of another corporation, for whatever purpose, are matters in respect of which Congress has no authority under the Constitution; that, so far as the power of Congress is concerned, citizens or State corporations may dispose of their property and invest their money in any way they choose; and that in regard to all such matters citizens and State corporations are subject, if to any authority, only to the lawful authority of the State in which such citizens reside or under whose laws such corporations are organized.

This was the claim made in the case, and, continuing, Justice Harlan says, on page 334:

It is unnecessary in this case to consider such abstract general questions. The court need not concern itself with them. They are not here to be examined and determined.

Continuing, Justice Harlan said:

In this connection it is suggested that the contention of the Government is that the acquisition and ownership of stock in a State railroad corporation is itself interstate commerce, if that corporation be engaged in interstate commerce. This suggestion is made in different ways, sometimes in express words, at other times by implication. For instance, it is said that the question here is whether the power of Congress over interstate commerce extends to the regulation of the ownership of the stock in State railroad companies by reason of their being engaged in such commerce. Again, it is said that the only issue in this case is whether the Northern Securities Co. can acquire or hold stock in other State corporations. Still further, it is asked, generally, whether the organization or ownership of railroads is not under the control of the States under whose laws they come into existence? Such statements as to the issues in this case are, we think, wholly unwarranted and are very wide of the mark; it is the setting up of mere men of straw to be easily stricken down. We do not understand that the Government makes any such contentions or takes any such positions as those statements imply. It does not contend that Congress may control the mere acquisition or the mere ownership of stock in a State corporation engaged in interstate commerce. Nor does it contend that Congress can control the organization of State corporations authorized by their charters to engaged in interstate and international commerce.

So that in this case, if we take the view of Justice Harlan, who pronounced the opinion of the court, instead of deciding the question contended for by those who assume that Congress has the power to regulate the issuance of stocks and bonds of railroad corporations because they are engaged in interstate commerce, or to prescribe the manner in which they shall so issue, or acquire competing lines, the court stated positively that that question was not involved.

Justice White, in his dissenting opinion in behalf of himself and three other justices, cited the case in the One hundred and sixty-first United States as controlling, but as the majority of the court decided that that question was not there to be examined and determined, the Northern Securities case can not be invoked to sustain the action of the committee. In this dissenting opinion Justice White refers to the case decided by Justice Jackson, In re Green, Fifty-second Federal Reporter, with approval, and quotes from that decision, as follows:

Congress may place restrictions and limitations upon the right of corporations created and organized under its authority to acquire, use, and dispose of property. It may also impose such restrictions and limitations upon the citizen in respect to such restrictions and limitations upon the citizen in respect to the exercise of a public privilege or franchise conferred by the United States. But Congress certainly has not the power or authority, under the commerce clause or any other provision of the Constitution, to limit and restrict the right of corporations created by the States or the citizens of the States in the acquisition, control, or disposition of property. Neither can Congress regulate or prescribe the price or prices at which such property, or products thereof, shall be sold by the owner or owners, whether corporations or individuals. It is equally clear that Congress has no jurisdiction over, and can not make criminal, the aims, purposes, and intentions of persons in the acquisition and control of property which the States of their residence or creation sanction and permit. It is not material that such property, or the products thereof, may become the subject of trade or commerce among the several States or with foreign nations. Commerce among the States, within the exclusive regulating power of Congress, consists of intercourse and traffic between their citizens, and includes the transportation of persons and property, as well as the purchase, sale, and exchange of commodities. * * *

Continuing, Justice White said that if this opinion had been written in the case now considered, it could not more completely than its reasoning does have disposed of the contention that the ownership of stock by a corporation in competing railroads was commerce.

We do not understand that the Government makes any such contention, nor does it contend that Congress can control the organization of State corporations organized by their charters to engage in interstate commerce.

Another case from which I read to show that the issue or transfer of stock and bonds is not interstate commerce, is that of Hatch *v.* Reardon (204 U. S., 153), in which the court held:

The protection of the commerce clause of the Federal Constitution is not available to defeat a State stamp-tax law on transactions wholly within a State because they affect property without that State or because one or both of the parties previously came from other States.

The tax of 2 cents a share imposed on transfers of stock, made within that State, by the tax law of New York of 1905, does not violate the equal-protection clause of the fourteenth amendment, * * * nor is it as to such transfers of stock an interference with interstate commerce.

On page 160 the court say:

The other ground of attack is that the act is an interference with commerce among the several States. * * * There is not a shadow of ground for calling the transaction described such commerce. The communications between the parties were not between different States, * * * and the bargain did not contemplate or induce the transport of property from one State to another, as in the Drummer cases. * * * The bargain was not affected in any way, legally or practically, by the fact that the parties happened to have come from another State before they made it. It does not appear that the petitioner came into New York to sell his stock, as it was put on his behalf. It appears only that he sold after coming into the State. But we are far from implying that it would have made any difference if he had come to New York with the supposed intent before any bargain was made.

Here it is plainly stated that the taxing of these kinds of property, though the sale is made between citizens of different States, is not an interference with commerce. Another case which to me seems to be directly in point is Chicago, and so forth, Railway Co. *v.* Solan, to be found in One hundred and sixty-ninth United States Reports, page 133. In the opinion of the court, pronounced by Justice Gray, we find, on page 137, the following:

Railroad corporations, like all other corporations and persons doing business within the territorial jurisdiction of a State, are subject to its laws. It is in the law of the State that provisions are to be found concerning the rights and duties of common carriers and the measures by which injuries resulting from their failure to perform their obligations may be prevented or redressed. A carrier exercising his calling within a particular State, although engaged in the business of interstate commerce, is answerable to the laws of the State for acts of nonfeasance or of misfeasance committed within its limits. * * *

It is equally within the power of the State to prescribe the safeguards and precautions foreseen to be necessary and proper to prevent by anticipation those wrongs and injuries which, after they have been inflicted, the State has the power to redress and punish. The rules prescribed for the construction of railroads and for their management and operation designed to protect persons and property are strictly within the scope of the local law. They are not in themselves regulations of interstate commerce, although they control in some degree the conduct and the liability of those engaged in such commerce.

But it may be, Mr. Chairman, that I am lagging somewhat, lagging behind in progressiveness. It may be that devoted as I am to the theory of government that that which is not delegated by express language, or by language which is implied that it is necessary to carry out the powers granted, can not be exercised; it may be I am mistaken in following the old law writers and the decisions of the Supreme Court which declare the regulation of the internal affairs of a corporation, such as the issuance of stocks, the issuance of bonds, is a police power belonging to the State which granted the charter; but if I am in error, my path of error is blazed by great statesmen and approved of by great judges. I can not content myself without such an amendment is adopted in full conformity with the Democratic platform; I can not content myself to vote for this bill, and will not do it, unless we ingraft upon that bill such a provision, without which it sails out into a sea of infinite federalism and Hamiltonism. Why? Because we meant when we put that in the Democratic platform that the rights of the States can not be taken away in this day of mad federalism and mad days of centralizing all the power in the Federal Government. [Applause.] Others may follow that path; others may seek promotion, office, and the approval of the unthinking crowd. For myself I will be content to surrender the commission that I have borne for 20 years from my constituency rather than advance along the line of federalism, advance along the line of Hamiltonism, do that which will drive a dagger to the hearts of the States—that will destroy them. [Applause.]

Mr. SIMS. Mr. Chairman, all of us who have served as long with the distinguished gentleman from Georgia [Mr. BARTLETT] as I have know that he is a good lawyer and a sincere and honest man. He never makes a mere play for political effect; in everything he does he is sincere. I want to say, as far as I am concerned, that I have no more desire that Congress should take upon itself jurisdiction to which it is not entitled under the Constitution than is the gentleman himself. There is not a line in this bill that undertakes anything of that kind, neither in purpose nor in fact. Now, as the gentleman from Texas said a moment ago, there are fields of legislation authorized by the Constitution to be exercised by the National Legislature, the Congress. That field may be of great benefit to a State, and if Congress does not legislate, and the State legislates, the legislation of the State is good and valid to the extent of its powers, because Congress has not seen proper up to that time to occupy that field. But the moment Congress does see proper to act, it occupies that field to the exclusion of the State. As it were, the State is not a legislative trespasser, although not exer-

cising a reserved power, so that legislation by Congress is, in the language of the Democratic platform, really supplemental and does not in any way undertake to substitute the Federal authority to the exclusion of the State authority in all things reserved to the States. Now, there is no question better settled than that the States have no power to regulate interstate commerce. There is no authority that is better settled, no question of law, than that Congress alone has authority to do so; and there is not a line in this bill that can deprive a State of any of its reserved powers, because such powers are reserved to the people of the States under the Constitution; and if we have no power we can not exercise it, and if we attempted to do so it would be void.

Mr. BARTLETT. May I interrupt the gentleman?

Mr. SIMS. I yield to the gentleman from Georgia [Mr. ADAMSON].

Mr. ADAMSON. I did not see the gentleman from Georgia [Mr. BARTLETT] on his feet. I just wanted to ask this: If you could do that, would not you exempt everything in the country and leave nothing for this bill to operate on?

Mr. SIMS. Providing the States all legislate on the same subject.

Mr. BARTLETT. The gentleman has proceeded on the ground that issues of stocks and bonds are interstate commerce; he has got to have that basis for doing what he desires to do.

Mr. SIMS. If I understood the gentleman's amendment, it provides that this bill shall not apply to any State——

Mr. BARTLETT. No; it does not.

Mr. SIMS. Will the gentleman state what it does?

Mr. BARTLETT. The amendment provides that nothing in this bill shall be construed to take away from the various State railroad commissions, public-service commissions, utilities commissions exercising the powers they have now that have been conferred upon them by the various States; and if the various States can not confer power to regulate commerce, it does not take that away.

Mr. SIMS. Now, the State——

Mr. ADAMSON. Will the gentleman yield for a moment?

Mr. SIMS. Certainly.

Mr. ADAMSON. I am perfectly familiar with the decisions referred to by my beloved and distinguished colleague, and I would not run counter to them for anything in the world. In shaping this bill we do not run counter to them, and it is not proposed under this bill that the Federal Government will issue any bonds or stocks. We confine our efforts in this bill to prohibiting agents and officers of interstate railroads from doing things inimical to the public interest. We say that if they do so-and-so in connection with interstate commerce it is unlawful, and we punish them, and the Supreme Court of the United States has never said that is unconstitutional.

Mr. SIMS. If I understand the question raised, it is this: That this bill can not take——

Mr. BARTLETT. Does not.

Mr. SIMS. Does not take from the State commissions the public-service commissions, the public-utilities commissions of any State any power already vested in it by the States in which such commission serves. Is that correct?

Mr. BARTLETT. That is what it is.

Mr. SIMS. Mr. Chairman, just what authority has been vested in these respective State commissions by their respective State legislatures I do not know, but if they confer upon the State commissions authority to do that which Congress, under the Constitution, is alone authorized and empowered to do and which the State may do when Congress does not act, then if any State has authorized its State commission to regulate interstate commerce and any provision of this bill should run counter to that authority, of course the authority in the State commission would be void as against this bill to that extent.

It is just as the distinguished chairman of the committee has said. Suppose the legislature of every State in the Union should meet before this bill becomes a law and enact laws in every State of the Union regulating interstate commerce or regulating the facilities and means of doing interstate commerce, and then we should pass a bill with the amendment of the distinguished gentleman from Georgia [Mr. BARTLETT] in it, our bill would not be worth the paper on which it is written.

Mr. SUMNERS. Mr. Chairman, I wanted to ask the gentleman from Tennessee a question.

The CHAIRMAN. The time of the gentleman from Tennessee has expired.

Mr. SIMS. Mr. Chairman, I ask for five minutes more, but do not expect to use it all.

Mr. MANN. Mr. Chairman, I ask for the regular order. Debate is exhausted on this amendment.

Mr. ADAMSON. The vote is on the amendment offered by my colleague from Georgia [Mr. BARTLETT].

The CHAIRMAN. The question is on the amendment offered by the gentleman from Georgia [Mr. BARTLETT].

The question was taken, and the Chairman announced that the noes seemed to have it.

Mr. BARTLETT. Division, Mr. Chairman.

The committee divided; and there were—ayes 13, noes 57.

So the amendment was rejected.

Mr. SUMNERS and Mr. TOWNER rose.

The CHAIRMAN. The gentleman from Iowa [Mr. TOWNER] is recognized.

Mr. TOWNER. Mr. Chairman, I wish to offer an amendment.

The CHAIRMAN. The gentleman from Iowa [Mr. TOWNER] offers an amendment, which the Clerk will report.

The Clerk read as follows:

Page 10, line 5, strike out the paragraph and insert in lieu thereof the following.

Mr. ADAMSON. Mr. Chairman, I will ask if the Members of the House are not sufficiently acquainted with the amendment to waive the reading of it?

Mr. TOWNER. I hardly think they are. I will not insist on it, though.

Mr. ADAMSON. I did not know but that they were familiar with it. It has been pending in the Senate and likewise in our committee.

Mr. MANN. Is it satisfactory to the committee?

Mr. ADAMSON. No, sir; but we are considering it.

Mr. MANN. Let it be read.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

Page 10, line 5, strike out the paragraph and insert in lieu thereof the following:

"That any common carrier, railroad, or transportation company receiving property for transportation from a point in one State or Territory or the District of Columbia to a point in another State, Territory, District of Columbia, or foreign country shall issue a receipt or bill of lading therefor, and shall be liable to the lawful holder thereof for any loss, damage, or injury to such property caused by it or by any common carrier, railroad, or transportation company to which such property may be delivered or over whose line or lines such property may pass, and no contract, receipt, rule, regulation, or other limitation of any character whatsoever, shall exempt such common carrier, railroad, or transportation company from the liability hereby imposed; and any such common carrier, railroad, or transportation company so receiving property for transportation from a point in one State, Territory, or the District of Columbia to a point in another State or Territory, or from a point in a State or Territory to a point in the District of Columbia, or to a foreign country, or for transportation wholly within a Territory shall be liable to the lawful holder of said receipt or bill of lading or to any party entitled to recover thereon, whether such receipt or bill of lading has been issued or not, for the full actual loss, damage, or injury to such property caused by it or by any common carrier, railroad, or transportation company to which such property may be delivered or over whose line or lines such property may pass, notwithstanding any limitation of liability or limitation of the amount of recovery or representation or agreement as to value in any such receipt or bill of lading, or in any contract, rule, regulation, or in any tariff filed with the Interstate Commerce Commission; and any such limitation, without respect to the manner or form in which it is sought to be made, is hereby declared to be unlawful and void: *Provided, however*, That if the goods are hidden from view by wrapping, boxing, or other means, and the carrier is not notified as to the character of the goods, the carrier may require the shipper to specifically state in writing the value of the goods, and the carrier shall not be liable beyond the amount so specifically stated, in which case the Interstate Commerce Commission may establish and maintain rates for transportation, dependent upon the value of the property shipped as specifically stated in writing by the shipper. Such rates shall be published as are other rate schedules: *Provided further*, That nothing in this section shall deprive any holder of such receipt or bill of lading of any remedy or right of action which he has under the existing law: *Provided further*, That it shall be unlawful for any common carrier to provide by rule, contract, regulation, or otherwise a shorter period for giving notice of claims than 90 days, and for the filing of claims for a shorter period than 4 months, and for the institution of suits than 2 years: *Provided, however*, That if the loss, damage, or injury complained of was due to delay or damage while being loaded or unloaded, or damaged in transit by carelessness or negligence, then no notice of claim nor filing of claim shall be required as a condition precedent to recovery.

"SEC. 2. That this act shall take effect and be in force from 90 days after its passage."

Mr. TOWNER. Mr. Chairman, what is known as the Carmack amendment to the antitrust law was adopted in 1906. It provides among other things that a railroad or transportation company receiving property for carriage shall issue a receipt or bill of lading therefor, shall be liable to the lawful holder thereof for any loss, damage, or injury to such property while in transit, and further provides that—

No contract, receipt, rule, or regulation shall exempt such common carrier, railroad, or transportation company from the liability hereby imposed.

Under the common law as it had been interpreted by the courts in the various States carriers could not by contract limit their liability for their own negligence. But the railroads and other transportation companies found a means of avoiding the rule by a skillfully designed bill of lading or contract, in which

a rate was made on a stated valuation, and the carrier's liability was limited to such declared valuation. This contract was sustained by most of the courts, largely on the ground of estoppel. That is, it was held that the shipper having declared the value of his property, and having received a rate based on that value, could not afterwards be heard to claim that the value was in fact greater than the declared value, but must be limited in his right to recover in case of loss to the declared value.

This seems sound as stated, but it did not work fairly to the shipper. In most cases no rates upon a higher valuation were given the shipper, or if given they were so much higher than the rate fixed on the low standard stated in the contract by the railroad as to be prohibitive. In many cases the shipper did not know the limitation until he was confronted with it when a loss occurred. In many cases the shipper did not know his rights and supposed he was forced to accept the terms proposed for the company.

So universal was the complaint that many of the States passed laws preventing the railroads from in any way limiting their liability from negligence by contract. These laws were sustained both in the State courts and by the Supreme Court of the United States.

Such was the situation when the Carmack amendment was adopted. The evident purpose of this provision was to prevent transportation companies engaged in interstate commerce from limiting their liability for negligence by contract. That purpose, however, in large measure failed, for the effect of the amendment as finally interpreted by the courts was something very different. In the first place it was held that it manifested the purpose of Congress to bring contracts for interstate shipments under one uniform rule of law, and therefore overthrew all State legislation. It was held that the amendment was so loosely drawn as not to prevent the railroad companies from limiting their liability by contract in cases where a rate was made on a valuation stated. So that conditions under the Carmack amendment, instead of being made better, were much worse than they were before its adoption.

Until February, 1913, when the Supreme Court of the United States handed down the decision in Adams Express Co. against Groninger, the railroads responded in cases of loss or damage for the full value of the property. This decision held that the Carmack amendment did not prescribe or require full liability in cases where a contract limiting liability to a value stated had been made. It will thus be seen that the very object and purpose of the law has failed, and instead of extending the benefits of the prohibition to all the States it has taken away those benefits from the States which had secured them. Thus, in Iowa the legislature passed a law which prohibited the railroad company from escaping from or limiting its liability for negligence. The validity of the law was contested by the railroads, and the law was sustained by the supreme court of the State. It was then carried to the Supreme Court of the United States. The decision of the State court was affirmed in Solan v. Railroad Co. (169 U. S., 133). Thereafter the railroads, without further contest, responded for losses in Iowa to the full value, until the passage of the Carmack amendment and its interpretation by the Supreme Court in the Groninger case. Since then all contracts of shipment and bills of lading contain the limitation, and losses are paid on that basis.

The standard valuations, as stated in the railroad companies' printed bills of lading, which the shipper is virtually compelled to accept and sign, are much below the real values on live stock. Thus recovery on the western roads is practically limited to $100 for horses, $50 for cattle, $10 for calves, hogs, sheep, and goats. In most cases this is about one-half the real value.

HOW THE LAW WORKS AT PRESENT.

In order that Members of the House may understand just how the law operates I will give some specific instances:

A shipper desired to ship a carload of horses from Benton, Iowa, to Buffalo, N. Y. He was asked to sign a contract which contained, among others, the following provisions:

1. It is agreed, and the shipper hereby declares, that none of said animals exceeds in value the value given by the shipper, as above specified; and if no value is specified above said shipper hereby declares that none of said animals exceeds in value the value as given in paragraph 2 of this contract of animals of like kind.

2. The rates provided in the tariffs of the carrier and the rates given above are based upon the following values of animals named, to wit: Each horse, ass, or pony (gelding, mare, stallion, mule, jack, or jenny), $100; each colt (under 1 year), $50; each ox, bull, or steer, $50; each cow, $30; each hog or calf, $10; each sheep or goat, $3.

3. Where the value declared herein by the shipper exceeds the value given in paragraph 2 above an addition of 25 per cent to the rate will be made and collected for each 100 per cent or fraction thereof additional declared value per head.

4. In case of loss or damage of said animals, the carrier shall not be liable in excess of said agreed and declared valuation upon each animal lost or damaged, and in no case for any loss or damage incurred after delivery to any connecting carrier or when not on the line of the carrier. No connecting carrier shall be considered an agent of the carrier.

On this the carload rate was $145.90. The shipper demurred to the limitation to $100, saying he had paid over $200 each for the horses he proposed to ship, and asked for a rate based on $200 valuation. The agent was unable to give a rate on that valuation and referred the matter to the division freight agent. After several days' delay a letter was received from the division freight agent, in which he stated:

Beg to advise the rate of horses, carload, from Benton to Buffalo, when the valuation of each horse is $200 per head, on a car of 20 head, the animals being loaded in a common 36½-foot car, would be $763.55.

Of course this rate was prohibitive, and the shipper was compelled to send them at the $100 valuation.

In his testimony before the committee in the Senate hearings the representative of the railroads admitted the values "were determined upon many years ago—perhaps 25 years or more—and it is a fact that the average value of live stock has gradually increased since the time the values were established." But he said the railroads had determined they could not increase the valuations without increasing the rates. On examination he was forced to admit, however, that until February, 1913, the roads did respond in cases of loss or damage for the full amount, and did not increase their rates by reason of that fact. It clearly appears that the railroads make their standard of valuation low, because by this means they can reduce their liability almost one-half.

It was further admitted by the railroads in the hearings that the increase for a higher or actual valuation was not uniform. We have seen that by contract they increase it in some cases to 25 per cent on each 100 per cent additional value, while in practice it is increased to a much higher rate.

It further appears that while the standard valuation is supposed to be uniform, in fact it is not. It is seen that in Iowa the standard is $100 for horses, while in Illinois, at least in some instances, the valuation is $160.

A lawyer writes of this instance:

We have a client who lives in Sturgis, N. Dak. This last spring he shipped a carload of horses to Port Washington, Wis., through Omaha. They should have gone the direct route, but through the negligence of the railroad companies, particularly the North Western, they were diverted through South Omaha, delaying them about two days, and when they arrived at Port Washington they were terribly emaciated, tired, gaunt, and depreciated for market to the extent of some $20 to $30 per head, which undoubtedly, and I might say concededly, affected the sale to that amount.

The plaintiff sues the North Western, and now this defendant answers and relies upon the Carmack amendment as construed in the Groninger case, saying that your horses sold for $100 or more per head, and the bill of lading which you shipped them under expressly specifies that the value of the horses is not to exceed $100, which is printed on all bills of lading uniformly through this country and approved by the Interstate Commerce Commission, I understand. In other words, the railroad company concedes that he has been damaged to the extent of $1,000 or so, but that he is estopped to claim it on account of shipping his horses under the uniform bill of lading at the regular rate and not paying a higher rate for insurance. This rule meets us on every hand when a farmer or shipper asks for protection and remuneration for delayed shipments, and I believe it is not the spirit of the Carmack amendment and should be rectified.

A farmers' cooperative society in Iowa shipped a carload of hogs to Milwaukee. The hogs were destroyed by fire in transit. They cost $1,635.61. The railroad company only paid $730.80 at the $10 per head valuation. The farmers' loss on this carload was $904.81.

A shipper shipped a carload of hogs, 64 in number, from another point in Iowa to Chicago. They were destroyed in a collision. They were worth on the market $25 per head, or $1,600. He was compelled to settle with the railroad company for $640, or $10 per head. His loss on that one car was $960.

It is not alone as to live stock that these written limitations work injustice. A letter from a freight commissioner of a western city representing shippers gives instances of another character:

I do not think that live stock is at all the only traffic that is transported at so-called released rates, which have the effect of depriving the shipper of the right to recover for loss or damages while the property is in the carrier's hands. Examples: The western classification provides for certain charges if the propery is shipped released to a declared valuation limit of $10 per hundred pounds.

There is a great deal of household goods and emigrant movements being transported every day in every direction, so this is not a trivial matter.

A recent case was spoken of to me—so that my knowledge is to that extent hearsay, but I am convinced it is accurate—was a shipment from a point in Texas to Chicago, Ill. It appeared that the shipper had not signed the bill of lading releasing the property to the $10 per 100 pounds valuation. He had, however, asked to be named the freight rate, and the charge quoted was the figure that would have applied had the business been shipped subject to the released contract. When the property reached Chicago the owner was away from the city on business. A business associate, but without power of attorney, as a matter of neighborliness, when he found that the freight had come in and was charged very much greater than the figure that he had understood from

the owner it was to bear, took the matter up with the railroad company and asked that the charge be reduced to the lower—the quoted—rate. This was done, and then the property was delivered, and not until then was it found by the unloaders that the car had been robbed of somewhere between nine hundred and one thousand dollars worth of property. The carrier, because of having collected the released rate, tendered settlement, according to my information, in a lump sum of about $40.

Another illustrative case was a shipment from some point in Pennsylvania to a point in Iowa some time ago. The car contained some hay, a buggy, and a typewriter, which the preacher-owner used in his work. This machine was boxed and the box screwed to the floor of the car as a matter of safeguarding it from damage by being slammed around in the car in the event of rough transportation. Here again the car was robbed, and it was the typewriter that was stolen. Payment is said to have been tendered at the rate of $10 per 100 pounds released valuation. The question which naturally arises is, if, instead of the typewriter being stolen, some of the hay had been stolen, would they have paid $10 per 100 for the stolen hay? We think not.

A representative of the Nebraska Stock Shippers' Association writes as follows:

As the law now stands the carrier is permitted to place an arbitrary valuation upon the commodity, this valuation having but little, if any, relation to the rate charged, but being made almost wholly for the purpose of limiting the carrier's liability to the lowest possible figure; and the increased rate exacted for an increased valuation is ridiculously out of proportion to the increased risk assumed. For instance, in ordinary live-stock shipping contracts steers are valued at from $30 to $50, these valuations being printed in advance on the contract, and an increase of 10 per cent is exacted for each 100 per cent increased valuation of the commodity, whereas you are probably aware that the average beef steer—especially the corn-fed Iowa variety—brings from $75 to $90, and in many cases more, on the market. It is a matter of common knowledge that the ratio of loss in transit is considerably less than 1 per cent of the value of the goods actually shipped. The increased rate charged for increase in valuation is wholly arbitrary. Again, an important factor in working injustice upon the shipper is the fact that only one rate is ordinarily quoted to him, that being the rate supposed to be based upon the very limited valuation above described, and unless he makes *specific* inquiry as to the other rates he is not advised of their existence and is given no real choice of contracts on conditions under which he may ship.

TIME LIMITATIONS.

The same principle of interpretation of the Carmack amendment has upheld as valid provisions in shipping contracts which prevent a recovery for any amount unless notice is given and suit commenced within a very limited time. It was stated by the representative of the railroads in the Senate hearings that "the notice of damage varies on different railways from 5 to 24 hours." In many instances the owner of the property might not know of his loss until after the time of giving notice had expired and his right of recovery be lost entirely. It can readily be seen how unjust such a provision is to the shipper and how exceedingly advantageous it is to the carrier. In the amendment I have prepared this is cured.

NECESSARY TO REWRITE CARMACK AMENDMENT.

Ever since the disastrous effects of the operation of the Carmack amendment have been realized efforts have been made to prevent the continuance of the imposition. I introduced a bill some time ago designed to cure the evil, and other bills are pending in the House. Bills were introduced also in the Senate, particularly three by Senator CUMMINS, of Iowa. On these the Senate committee had hearings, and finally reported out Senator CUMMINS's last bill with amendments. Yesterday this bill was considered by the Senate and passed. The amendment which I now propose is the Senate bill, which is now before us for action.

The bill as reported by the House committee and which we are now considering contains the Carmack amendment in exactly its original form and would continue the rule and application of that unfortunate act with all its iniquities. I confess I am surprised that the committee should give its approval to a law so generally discredited. Certainly none but the transportation companies which unjustly profit by it can now approve of the Carmack amendment. And yet it is made verbatim et literatim a part of this bill, and unless amended will be considered not as an approval of the provision as it was probably intended, but as an approval of the provision as it has been interpreted. Certainly this can not be the desire of the committee or the House.

Mr. ESCH. Is the bill which you have had read by way of an amendment a bill that has passed the Senate?

Mr. TOWNER. It is. There were several amendments to the original bill adopted by the Senate yesterday.

Mr. ESCH. But they were not incorporated in the bill as it was read at the desk?

Mr. TOWNER. Oh, yes; they are. My amendment is the bill as it came from the Senate. All the amendments that were adopted by the Senate are incorporated in the amendment which I present. It is, in fact, the official bill.

Mr. ADAMSON. Will the gentleman permit an interruption?

Mr. TOWNER. I will; certainly.

Mr. ADAMSON. Does the gentleman think that when we have under consideration an important bill of this sort we ought to stop and dismiss its consideration and have it acted upon ad captandum just because the Senate has passed it?

Mr. TOWNER. As the chairman of the committee puts it, I would say no; I do not. But the committee must have considered it, for they present it here as part of the bill which they ask us to pass. They say to the House, here is the Carmack amendment in its original form; we approve of it and ask you to reenact it into law. We must act on the matter, for it is before us, and I hope we shall be able to act wisely. If we do act wisely, we certainly will not reenact the Carmack amendment in its present form.

Mr. ADAMSON. I will say to the gentleman—I do not want to consume his time unnecessarily—that our committee has a bill just like that, and we have promised hearings on it and it will have consideration in the near future, and it is too serious a matter for us to permit it to go off in this slipshod manner here. And I do hope he will not insist on its going on here, but will allow it to take its course and allow our committee to make amendments that ought to be made.

Mr. TOWNER. Can the gentleman promise the House that action will be taken on the Senate bill by his committee at this session?

Mr. ADAMSON. If the Congress will stay here and a quorum will stay here, we can pass a bill. I promise this: that it is in the mill, and we are going to put it through as rapidly as circumstances will permit.

Mr. TOWNER. I do not question the good faith of the chairman of the committee. But I am afraid of delay, and I know the people interested will not justify us in defeating this necessary legislation; neither will they justify us in delaying it for more than a year, as is probable if the matter is not acted on now.

Mr. ADAMSON. If the gentleman will permit me, the country will much more likely applaud me for preventing inconsiderate action, than for going ahead hastily and permitting inconsiderate action.

Mr. TOWNER. I think there is no danger of inconsiderate action. It should be understood that I am not bringing this matter up for consideration. The committee brings it before us by asking us to reenact the Carmack amendment. This I am unwilling to do. I should think the gentleman, the committee, and the House would be unwilling so to do. It is not a new question. It has been under discussion for over a year at least. It has been considered by farmers' and stock growers' and shippers' associations all over the country. It is not a complicated proposition. The evil is well known, and the remedy is simple and at hand. There is no benefit to be derived from delay. It is not an unknown proposition, and it has been well considered.

Mr. STEVENS of Minnesota. Will the gentleman allow me to ask him a question?

Mr. TOWNER. Certainly.

Mr. STEVENS of Minnesota. Who has considered it?

Mr. TOWNER. Everybody interested has considered it.

Mr. STEVENS of Minnesota. Has this House considered it or has this committee considered it?

Mr. TOWNER. I understand your committee has considered it.

Mr. STEVENS of Minnesota. We have had no hearings upon it.

Mr. TOWNER. Your chairman has said that you have had hearings.

Mr. ADAMSON. I said hearings have been promised. We were asked to have them, and we are going to grant them.

Mr. STEVENS of Minnesota. Simply because the Senate happens to pass some bill, and the gentleman approves it, does he advocate our abdicating our functions? We have had no opportunity to legislate upon it in a practical way.

Mr. TOWNER. I would not have the House abdicate its functions. But this matter is here already. I did not bring it here. It is in this bill we are now considering. We are asked here and now to reenact the Carmack amendment in its original form, and I would prevent this if I could, for it is a bad piece of legislation and ought not to receive our approval.

Mr. MANN. Will the gentleman yield for a question?

Mr. TOWNER. Certainly.

Mr. MANN. Does the gentleman know how the Carmack amendment got into the law?

Mr. TOWNER. I do not know just what the gentleman means.

Mr. MANN. It was a Senate amendment to a House bill, and it was never considered in the House; and, while wisely considered by the Senate, when the courts construed it they took all the meaning out of it. Now, does the gentleman think that it is essential, because the Senate has passed another amend-

ment on the same subject, that we should agree to that without consideration for fear the courts will take all the meaning out of that?

Mr. ADAMSON. If the gentleman will permit, I want to add to what the gentleman from Illinois [Mr. MANN] has said, that they did it in such a bungling manner that they put it in the wrong section, where it was not germane at all.

Mr. TOWNER. I am not asking that this legislation be adopted without consideration. I am asking that we now consider it. It is before us in the old, bad form. I do not want to again sanction it in that form. I want it corrected so that it will work good and not evil. I do not want the people of the country to understand that we are approving that which they have condemned. I do not want them to believe we are refusing them the relief they claim and which they should have. I believe it is our duty to place this law in the form which we can approve and not reenact legislation which we can not approve. That is what I understand to be my duty and what I believe to be the duty of the House.

Mr. RAYBURN. Mr. Chairman, I suppose that I am about as much interested, from a local standpoint, in the propositions contained in the thoughts of those who are urging the amendment to the Carmack amendment, or a substitute, as anyone on the floor of this House, because I think my State is a bigger shipper, especially of live stock, than any other State in the Union.

As was suggested here before, there are several bills pending on this subject before the Committee on Interstate and Foreign Commerce. They have not been considered. I, myself, have a bill pending before the committee on that subject. The gentleman from Missouri [Mr. BORLAND] has a bill pending on that subject, and several others have bills. We had hoped within the next few days or weeks to take up this question and thoroughly consider it. We have, as the chairman has said, promised hearings.

In my State lives the attorney for the National Live Stock Association of this country. He has requested that he be heard. Men from Kansas City and from St. Louis have requested that they be heard upon this question. And, following out what the gentleman from Illinois [Mr. MANN] has said, and what the chairman of the committee [Mr. ADAMSON] has said, about this ill-considered legislation, it is true that this legislation in a general sense has been considered from one end of the country to the other, and all of the people, I think, want some legislation upon it; but are we to get up here and add an amendment to this bill, or a substitute for that part of the bill which is the original Carmack amendment, without consideration in committee? It may be that we will find ourselves, the first time this question is carried into the courts of the country, in the same shape that we are in at this time, with the law construed by the courts to mean almost nothing, to the detriment of the shippers from one end of the country to the other.

I sincerely trust that the House will give the committee the chance to perform its functions and allow the committee to give the promised hearings; and I hope that we may consider this bill in the light of all the hearings and all the information that comes to us, and give to the country, when we do present it, a well-considered piece of legislation.

Mr. Chairman, I ask for a vote.

Mr. GREEN of Iowa. Mr. Chairman, I ask unanimous consent that I may proceed for three minutes.

The CHAIRMAN. Is there objection to the request of the genteman from Iowa?

Mr. ADAMSON. I understood the gentleman wanted three minutes?

Mr. GREEN of Iowa. Yes; three minutes.

Mr. ADAMSON. The gentleman is such a clever fellow I shall not object.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. GREEN of Iowa. Mr. Chairman, without attempting to criticize the committee, it seems to me that if the committee was not able to do anything at this time with the Carmack amendment, it at least ought to be stricken out of this bill. Every day, every week, almost every hour, it is inflicting a wrong upon some shipper. Numerous cases come up where, by reason of unfair, improper, and wrongful exemptions and limitations, men are prevented from obtaining the amount they ought to recover when their shipments are damaged or lost, or are entirely prohibited from obtaining anything whatever under the provisions of this Carmack amendment. If we can not do anything in the way of amending it, it seems to me the committee ought to have stricken it out entirely.

Mr. ADAMSON. Mr. Chairman, I ask for a vote. We ought to have time to consider that also.

The CHAIRMAN. The question is on agreeing to the amendment.

The question was taken, and the Chairman announced that the noes seemed to have it.

Mr. TOWNER. Mr. Chairman, I ask for a division.

The CHAIRMAN. A division is demanded.

The committee divided; and there were—ayes 20, noes 50.

So the amendment was rejected.

Mr. HARRISON. Mr. Chairman, I desire to offer an amendment.

The CHAIRMAN. The gentleman from Mississippi offers an amendment, which the Clerk will report.

The Clerk read as follows:

Page 14, line 23, after the word "proceeding," strike out the period and insert the following:

"*Provided*, Any such representations made to the Interstate Commerce Commission by any such railroad commission, public-utilities commission, or other appropriate authority of any State relating to any railroad chartered by such State and wholly within such State, shall be conclusive on the Interstate Commerce Commission in rendering its decision."

Mr. HARRISON. Mr. Chairman, I am not prone to offer amendments to bills reported out of committees after they have been considered by those committees, because I know that the committees of this House always give to every proposition coming before them the deliberation and consideration that they deserve; and while the purposes of this bill are excellent, and much good will come from its operation, it strikes me that the bill goes too far in interfering with the railroad and public-service commissions of the various States.

I voted for the Garner amendment; I voted for the Bartlett amendment; and I voted for the Hardy amendment, because I believe that where a railroad is wholly within a State the State, through its delegated authorities, ought to have the right to control and regulate it.

Evidently this committee in considering this question, by giving to the various States the right to come before the Interstate Commerce Commission and present their views, believed that those views would be along progressive lines and would be in the interest of the people that the public-service commissions represented. I state that fact because in your bill you say that before the issuance of the bonds or stocks the railroad or public-service commissions of the various States affected may appear before the Interstate Commerce Commission and present their views to that commission. Here is the language of your bill along that line:

The railroad commission, public service or utilities commission, or other appropriate State authority thus notified shall have the right to present before the commission such representations as they may deem just and proper for preserving and conserving the right and interests of their people and the States, respectively, as involved in such proceeding.

Why did you insert that in the bill? Because you did not want to override the wishes of the people of the various States, and you believed that the railroad and public service and utilities commissions of the various States knew best what their people wanted with respect to railroads. And why should they not? They are in practically all the States elected by the people. The Interstate Commerce Commission is far removed from the people and appointed by the President. Now, this amendment only changes the bill in so far that where a railroad is wholly within a State and chartered by that State, and when the duly authorized representatives of that State appear before the Interstate Commerce Commission and present their views to the commission as to what they deem best in the interest of the people of their State concerning their rights and interests, that their opinion shall be conclusive on the Interstate Commerce Commission.

The amendment goes no further than that. If a railroad is of an interstate-commerce character, then their views may be presented to the Interstate Commerce Commission, but shall not be conclusive upon the Interstate Commerce Commission in its findings. I submit to the gentlemen of this committee that drafted this bill, the Democratic members of which, at least, have always professed that the States ought to have certain rights, especially in the matter of the regulation of railroads and in the matter of saying what their railroad and public service and utilities commissions shall do and shall not do, that you should accept this amendment, which is not radical in form, but, in a conservative way, retains to the States those rights which they now have and ought to have.

Mr. MOORE. Mr. Chairman, I rise to oppose the amendment. Yesterday afternoon until nearly 6 o'clock we were discussing a bill known as the Rayburn bill "to amend section 20 of an act to regulate commerce," which bill provided for a complete

reregulation and resupervision of all the common carriers of the United States, affecting their billions of capital and their hundreds of thousands of employees. The Rayburn bill, which is the last of the three antitrust bills which Congress must pass to please the President, was given long consideration by the 21 gentlemen who constitute the personnel of the Interstate and Foreign Commerce Committee, headed by the distinguished gentleman from Georgia [Mr. ADAMSON]. This morning, shortly after the House met, we were called upon to discard the carefully prepared and tremendously important Rayburn bill, and without any dicussion of a general nature to proceed at once to the consideration of a substitute for the entire bill, which substitute was scarcely dry from the printer's press. Thus the great deliberative body of the American people is expected to pass upon and settle the railroad problem of the Nation. If we succeed in doing it, it will be the greatest demonstration of confidence in the few leaders of the Interstate and Foreign Commerce Committee that has been witnessed in recent years, and it will demonstrate how easily the judgment of 100,000,000 people may be expressed by a few men in a few hours.

Mr. RAYBURN. Will the gentleman yield?

Mr. MOORE. I can not yield in five minutes. Let me finish my remarks. Personally, I do not believe the country is going to be satisfied with this railroad bill, nor with the two other bills that Congress has been forced to consider under a special rule. There is ample evidence that much of the unrest which now prevails in business circles throughout the country is due to excessive legislative tinkering, in pretended compliance with the declarations of hazy political platforms.

In the five minutes I am able to obtain under the rules I hope briefly to make plain my reasons for voting against these three administration antitrust bills. The least objectionable of them all, perhaps, is the Covington or trade-commission bill, which carries over to a commission the machinery of the Bureau of Corporations and takes that bureau away from Executive domination. This bill, however, increases the power to investigate and inquire into and disturb the affairs of large and small industrial corporations and makes it almost impossible for a small business concern to comply with its drastic provisions. The larger concerns, like the Steel Corporation or the Harvester Trust, can better afford to do business under this bill than any of their smaller competitors. They have the money and the facilities in better array than independent business men, whose money and facilities under undue pressure would be the sooner exhausted. In passing such legislation we are not serving the people generally, because if we make investigation and supervision onerous to the independent business man, we promote monopoly and throttle competition.

Second. The antitrust bill, now known as the Webb bill, is an exceedingly objectionable measure, and has the earmarks of a sop to certain classes of our citizens who have a great voting power. It is so radical in terms, however, as to suggest the substitution of some other for our present form of government, which assumes to protect the rights of men and property. This bill makes it a crime for an industrious man to seek a market for his own products if he holds that market against the faker or the counterfeiter of commodities. It opens the way for the fraud to avail himself of the avenues of trade established by honest merchants and manufacturers. It establishes the dubious principle that a man can not own certain kinds of property if some one else wants it. It places a certain class of men in favor before the law as against a larger body of men who are not so favored. It minimizes the influence of the courts and compels certain men who are aggrieved and who fear the loss of life or property to make their appeal to those who, in some cases, might use their power to oppress them, rather than to the courts.

The CHAIRMAN. The time of the gentleman has expired.

Mr. MOORE. I ask unanimous consent to proceed for two minutes more.

The CHAIRMAN. The gentleman from Pennsylvania asks unanimous consent to proceed for two minutes. Is there objection?

There was no objection.

Mr. MOORE. Lawyers may differ as to what this bill means, but the spirit, if not the letter of it, proposes class legislation, in open defiance of the equality of the rights of man as stated in the Declaration of Independence. The spirit of this bill, so far as the exemption of farmers' organizations is concerned, is intended to convey to the farmer the impression that certain kinds of combinations to raise and fix the price of food supplies may be permitted, in defiance of persistent Democratic promises to reduce the cost of living to the consumer. The American doctrine of an equality of rights for all men before the law may be sadly shattered if this bill is passed.

Third. The Rayburn bill—few of us have had time to analyze the substitute upon which we are now acting—is objectionable, because, in attempting to further regulate the alleged mismanagement of railroads, it is subject to the same fault that underlies all this legislation born of hysteria. It punishes the innocent railroad managers and common carriers as well as the guilty, and, because the innocent far outnumber the guilty, does more harm than good. Furthermore, the bill is a curb upon new railroad construction, since it practically estops any new enterprise of an interstate character that requires money in its incipiency before the common carrying begins.

I shall vote against all these bills, because their tendency will be not to quiet the public mind, but to further disturb the business of the country. If these bills are passed, they may increase the number of big and little agitators, learned in the law and otherwise, who have fattened upon recent investigations; they may add to the large number of specialists, detectives, muckrakers, and others of the supereducated brood who have no useful occupations; but they will be more likely to vastly increase the nonemployment and depression of active, honest, and industrious men, who constitute the great mass of our people and who are the backbone of legitimate industry and enterprise. [Applause.]

Mr. CULLOP. Mr. Chairman, I will say to the gentleman from Mississippi [Mr. HARRISON] in regard to this provision of the bill which he is attempting to amend, that it is exactly in the language that the utility commissions, public-service commissions, and railroad commissions of the different States desire. Last October——

Mr. HARRISON. Will the gentleman yield?

Mr. CULLOP. Let me get through with this statement. Last October they had a national meeting here in the city of Washington, which unanimously passed a resolution requiring this provision to be put in this bill exactly as it is reported by the committee. Not only that, but a number of the commissions of the different States have written to the chairman of the Interstate and Foreign Commerce Committee, requesting that this provision be put into this bill in the exact language in which it is in the bill.

Mr. ADAMSON. It is just as they wanted it.

Mr. CULLOP. Just as they wanted it. Now, one thing about the amendment of the gentleman from Mississippi: He is trying to get inserted into this bill a provision that will emasculate the power which this bill confers for the regulation of the transportation companies of this country. The very provision that he is seeking to get adopted here would, if adopted, destroy the great benefits which will flow from this legislation. The gentleman, by offering his amendment, is opposing the consensus of opinion of the public-service commissions of the different States.

Mr. HARRISON. Will the gentleman yield now?

Mr. CULLOP. Yes.

Mr. HARRISON. The gentleman has made that statement. How many State railroad commissions or public-service commissions will the gentleman state have expressed themselves as favoring this provision?

Mr. CULLOP. Nearly every State in the Union that has a public-service law, a railroad-commission law, or a public-utility law was represented in that convention by one or more members.

Now, further than that, if the gentleman will take the pains to read the examination of Commissioner Clements, set out in the hearings—one of the ablest and most experienced members of the Interstate Commerce Commission—he will find that this provision is exactly as Commissioner Clements requested it to be. If the provision offered by the gentleman from Mississippi was adopted, it would do just what Commissioner Clements said—destroy the uniformity of the workings of this bill, because different States would adopt different rules and different methods of procedure and would eliminate the great vitality that is contained in this measure.

Now, let me say to the gentleman from Mississippi again, who is a supporter of the doctrine that he thinks this bill is infringing upon, but it is not as he thinks, that if his amendment should be adopted it would strike this bill the most deadly blow that could be dealt it. He would exempt from the provisions of this bill the terminal railroad systems of every great city in the United States, and instead of rendering a benefit to his constituents he would be imposing a hardship, by continuing the exploitation of these monopolies upon his constituents and the people of the United States. This amendment, if adopted, would destroy the purposes of this measure and enable the continuance of the present deplorable conditions, which have made every investor in railroad securities suspicious, because of the disgraceful exposures recently made

in the manipulation of stocks and bonds. This measure is directed at all such operations, and if adopted as presented here by the committee will furnish the means for prohibiting their repetition. The honest investor needs the protection, the public requires it, and the best interests of the country demand it.

Railroad stocks and bonds ought to furnish a safe investment and one in which the public should have confidence. There is no good reason why, if honestly managed and intelligently handled, they should not be considered a safe investment, subject to little fluctuation, and they would be so if it were not for the dishonest manipulation of them by the controlling officials in charge of their corporate affairs.

The development of certain conduct recently in the management of the affairs of some of the best properties have caused the public to lose confidence in this class of securities. This measure, if adopted as reported to the House, will prevent a recurrence of these outrages upon innocent investors and restore public confidence, and give them in the markets of the country a stable value and make desirable investments. I hope the amendment of the gentleman from Mississippi will be voted down.

Mr. ADAMSON. Mr. Chairman, I ask for a vote.

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from Mississippi [Mr. HARRISON].

The question was taken; and on a division (demanded by Mr. HARRISON) there were 2 ayes and 49 noes.

So the amendment was rejected.

Mr. ADAMSON. Mr. Chairman, I would like to ask the gentleman now if we can not agree to some limitation of time for debate on the substitute and amendments?

Mr. CRAMTON. I have several amendments I want to offer.

Mr. LENROOT. I have an amendment I would like to discuss.

Mr. ADAMSON. How much more time do gentlemen on that side want?

Mr. STEVENS of Minnesota. The gentleman from Michigan has four amendments, and if they could be presented in order he would discuss them all together.

Mr. MANN. We would like 40 minutes on this side.

Mr. ADAMSON. Can not the gentleman get along with less?

Mr. MANN. If we can, we will. We are as anxious to get through as is the gentleman from Georgia.

Mr. ADAMSON. Suppose we say that debate shall not exceed one hour? That will give 30 minutes on a side.

Mr. MANN. If the gentleman will give us 40 minutes, I do not care how little time he takes.

Mr. ADAMSON. All right, we will say an hour. I ask unanimous consent that all debate on this substitute and amendments thereto be closed in 1 hour, 40 minutes to be controlled by the gentleman from Minnesota [Mr. STEVENS] and 20 minutes by myself.

The CHAIRMAN. The gentleman from Georgia asks unanimous consent that all debate on the substitute and amendments thereto be closed in 1 hour, 40 minutes to be controlled by the gentleman from Minnesota [Mr. STEVENS] and 20 minutes by himself. Is there objection?

Mr. LENROOT. Reserving the right to object, will not the gentleman include in that the request that the amendments be voted upon at the conclusion of the debate in the order presented?

Mr. MANN. The hour is for debate. The amendments will be voted upon as they are offered.

The CHAIRMAN. The Chair hears no objection, and it is so ordered.

Mr. CULLOP. Mr. Chairman, I was going to ask if all the amendments could not be submitted and read and be pending, so that we would know just what the amendments were presented for consideration.

Mr. MANN. They would have to be reread each time.

Mr. CULLOP. Then, that would not conserve any time, and I will not ask it.

Mr. STEVENS of Minnesota. Mr. Chairman, I yield five minutes to the gentleman from Michigan [Mr. CRAMTON].

Mr. CRAMTON. Mr. Chairman, I offer the following amendment.

The Clerk read as follows:

Amend, by inserting in line 26, page 15, after the words "twenty A," the following: "or any application of the proceedings thereof otherwise than for the purpose authorized by the commission in its approval of the issue thereof."

Mr. CRAMTON. Mr. Chairman, I offer this amendment in the hope that the committee may concede its value. I take it that the committee desires not only to legislate but to provide penalties that will make the legislation efficient. This amendment is designed to provide a penalty in case a corporation comes in and secures approval of the issue of securities for a certain purpose and then applies that issue to some other purpose. Under the provisions of the bill, when they come before the commission asking an approval of an issue of securities, they must state the purpose for which they propose to use it. The commission gives consideration to that fact, and having given consideration and found that it is a desirable purpose, they can approve the issue. Thereafter the officers of the carrier are compelled under this bill to report for what purpose they have used the money, but, as a matter of fact, there is no penalty provided in the bill to cover a case where they secure the issue for one purpose and use it for another, as, for instance, in case they should secure the money for an extension of the line and use it for building a terminal, or for refunding.

In the State of Michigan within the last two or three years a certain railroad company made application for an issue of $8,000,000 new securities. The commission granted the application with the express understanding that five and one-half millions should be used for refunding and two and one-half millions for certain betterments on the system. The company not only made false returns, but when the truth was finally ascertained it was discovered that instead of using two and one-half million dollars for betterments they had not used anywhere near that amount, but had broken faith with the commission. The money was spent, the securities were issued, they were in the hands of innocent purchasers, and there was no remedy. At any rate, you ought to have in this bill a penalty to cover cases where they break faith with the commission. In the best of faith I ask the committee to give that amendment consideration.

Mr. RAYBURN. Mr. Chairman, no one on this side wants to be heard, and I will ask for a vote.

Mr. CRAMTON. If the gentleman will pardon me, I will restate my amendment. In this paragraph, at the bottom of page 15, you have provided for certain penalties, for the issue of securities contrary to the provisions of the section, and that the issue thereof may be enjoined, and also that any director or officer who assents to or agrees to any issue of securities forbidden by this section shall be subject to a penalty. I only propose to add a provision that any director or officer who should assent to or agree to any application of the proceeds of any issue otherwise than for the purpose authorized by the commission in its approval of the issue, and so forth.

The CHAIRMAN (Mr. FOSTER). The question is on the amendment offered by the gentleman from Michigan.

The question was taken; and on a division (demanded by Mr. CRAMTON) there were—ayes 30, nays 53.

So the amendment was rejected.

Mr. CRAMTON. Mr. Chairman, I offer the following amendment.

The Clerk read as follows:

Amend by inserting in line 15, on page 14, after the word "notice," the following: "of said application and of all hearings thereon."

Mr. CRAMTON. Mr. Chairman, my purpose in offering this amendment is to perfect the bill. The committee provide in that for notice to the different State commissions, but there is no statement as to what the notice shall cover. I simply specify that the notice shall cover the application and all hearings thereon.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Michigan.

The amendment was rejected.

Mr. CRAMTON. Mr. Chairman, I offer the following amendment, which I send to the desk and ask to have read.

The Clerk read as follows:

Amend by inserting in line 7, on page 11, after the word "amended," the following "the valuation of which shall have been fixed by the Interstate Commerce Commission."

The CHAIRMAN. Does the gentleman from Minnesota yield more time to the gentleman from Michigan?

Mr. STEVENS of Minnesota. Mr. Chairman, I yield five minutes more to the gentlemen from Michigan.

Mr. CRAMTON. Mr. Chairman, this amendment I do not offer with the same hope of adoption as in the previous cases, but to my mind it embraces the most important phase of this problem, and it has not been discussed heretofore in this debate. It is my judgment that this bill proposing to regulate the issuance of securities of railroad carriers is either 25 years too late or 5 years too soon. You are putting the cart before the horse. Regardless of what may be our views here as to whether the capitalization of carriers is to be considered in connection with the fixing of railroad rates, that is the settled policy of this Government.

We have already authorized and the commission is now engaged in a valuation of all of the railroad properties of the United States. For what purpose? As a matter of idle curiosity or in order to give the commission something to do? Absolutely no. Simply because we have come to realize that if we are ever going to really and effectively regulate freight rates in this country the commission which regulates them must have before them some standard of valuation for the properties in order to do it intelligently. And now, before that valuation is completed, we are apparently going to take a step which should not precede that valuation, but should follow it. Otherwise you run the risk of bringing about complications attending the capitalization of these corporations, which will make it at least difficult, if not impossible, to regulate them according to their valuation after you shall have secured the valuation. As a matter of practical working, we know this, that when a question of fixing a certain rate comes before the commission——

Mr. DECKER. Mr. Chairman, will the gentleman yield?

Mr. CRAMTON. My time is too limited. As a matter of practical proof, when a complaint is made to the commission involving a certain rate, the railroad company comes in and says that it must have enough money out of the earnings from their rates on freight and passengers to permit them to pay interest on their liabilities and dividends upon their stock. That is the railroad position; and just as soon as the commission reduces the rates sufficiently to prevent the railroad from doing that thing, then there comes trouble in that corporation, and if the rate is sustained and continued at a figure which is too low to enable them to pay that interest and dividend, then there must be a reorganization of that corporation and some of that watered stock must be squeezed out. Anyone who heard the able discussion of the stock watering of the different railroads of the country as presented by the gentleman from Wisconsin [Mr. ESCH] on yesterday must realize that stock watering is not an isolated thing at all.

The CHAIRMAN. The time of the gentleman from Michigan has expired.

Mr. STEVENS of Minnesota. Mr. Chairman, I yield five minutes more to the gentleman.

Mr. CRAMTON. Mr. Chairman, that is not an isolated case here and there, but it is apparently an ordinary practice wherever the banking interests have gotten into the railroad business. That means that there are quantities of railroad stocks and securities in this country that do not represent value. If you allow the law to remain as it is until we have completed our valuation and then have the Interstate Commerce Commission pass upon applications, with the knowledge of the value of the railroad property before them, they can act intelligently, and they can prevent any issue that is going to exceed the fair valuation of the property, and the Supreme Court has already pointed out the fair value of the property as the basis for rate regulation.

Mr. WILLIS. Mr. Chairman, will the gentleman yield?

Mr. CRAMTON. Briefly.

Mr. WILLIS. I simply want to ask the gentleman to again state his amendment in substance. There was so much noise that I did not hear it.

Mr. CRAMTON. It is to prevent the application of this law to any railroad until it shall have been valued by the Interstate Commerce Commission. If under the present law this question of rate regulation comes up, then stocks and bonds that have been issued must take their chances. But suppose under this law the Interstate Commerce Commission authorizes a further issuance of liabilities which in themselves may be necessary and legitimate? In order thereafter that the commission shall hold good and protect the securities which it itself has authorized and in a way approved, then it would have to protect likewise millions and millions of stock or securities previously issued. For instance, take a corporation with a valuation really of $50,000,000 and securities outstanding to the amount of $100,000,000.

If that carrier corporation should go before the commission under this act and ask for an expenditure of $10,000,000 for needed betterments, thereafter that $10,000,000, the last issued, would be the first to suffer in case the rates of that company were reduced to a point that did not permit it to pay interest and dividends on $110,000,000. We are putting the cart before the horse. Let the valuation of the roads first be determined; then we can logically regulate their issues of securities. In this amendment I am simply asking to insert the language I have proposed so that it will read:

That from and after the passage hereof it shall be unlawful for any common carrier subject to the act to regulate commerce, as amended, the valuation of which shall have been fixed by the Interstate Commerce Commission, to issue any capital stock—

And so forth.

I present the amendment and ask for its adoption, and yield back the remainder of my time.

Mr. ADAMSON. Mr. Chairman, I ask for a vote.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Michigan.

The amendment was rejected.

Mr. STEVENS of Minnesota. Mr. Chairman, I yield two minutes more to the gentleman from Michigan.

Mr. CRAMTON. Mr. Chairman, I offer the following amendment, which I send to the desk and ask to have read.

The Clerk read as follows:

Amend, by inserting at the end of the paragraph, in line 26 of page 14, the following:

"Such application shall not be approved in any case where an increase in the securities of the carrier is proposed, unless the valuation of said carrier as considered for purposes of rate regulation will not be exceeded by the increased total securities of such carrier."

Mr. CRAMTON. Mr. Chairman, I will not unduly take the time of the committee further than to call attention to the purpose of this amendment, which is similar to that just offered, and which, I am sorry to say, was not accepted.

This amendment would provide that when an application is made to the commission for approval of certain securities the commission shall not approve of such issuance if it appears to the commission that with such issuance the liabilities of the carrier corporation would be greater than the assets of the corporation. I submit that unless that policy is followed the Government is going to approve of the issuance of unsound securities.

The CHAIRMAN. The question is upon the amendment offered by the gentleman from Michigan.

The question was taken, and the amendment was rejected.

Mr. STEVENS of Minnesota. Mr. Chairman, I yield two minutes to the gentleman from Minnesota [Mr. LINDBERGH].

Mr. LINDBERGH. Mr. Chairman, I offer the following amendment.

The CHAIRMAN. The gentleman from Minnesota offers the following amendment, which the Clerk will report.

The Clerk read as follows:

Amend by striking out the period in line 3, on page 15, and insert a comma, and add the following words: "and no act of the commission shall estop the United States from showing the actual value of any property, bonds, or stocks involved in any proceeding in which the United States shall become a party, nor shall the value fixed by the commission upon any property, bonds, or stocks in accordance with the provisions of this act be prima facie evidence of their value in any proceeding of condemnation or other proceeding in which a State or the United States shall be a party."

Mr. LINDBERGH. Mr. Chairman, the amendment I offer is self-explanatory and does not require any discussion to understand its meaning, and I therefore would ask for a vote.

Mr. RAYBURN. The amendment needs no explanation. The committee thinks it is hardly necessary, and I ask for a vote.

The question was taken, and the amendment was rejected.

Mr. STEVENS of Minnesota. I yield three minutes to the gentleman from Illinois [Mr. THOMSON].

Mr. THOMSON of Illinois. Mr. Chairman, I would like to ask the chairman of the committee, if I may, the meaning of the last sentence in this bill. One would suppose after the divers and sundry editions we have had of this bill that when we got the last one, the sentences would at least mean something. I would take it from the reading of that sentence that it is proposed that a violation of the provisions of this paragraph, upon conviction, was to be punished.

Mr. MANN. That is what it says.

Mr. THOMSON of Illinois. Does not the committee feel that the punishment ought to be meted out to some person who was convicted of such violation?

Mr. ADAMSON. That is what it says.

Mr. THOMSON of Illinois. It does not say so.

Mr. RAYBURN. It says "shall be fined and imprisoned not exceeding three years in the discretion of the court."

Mr. THOMSON of Illinois. Then it proposes a fine or imprisonment of the violation.

Mr. ADAMSON. It would not be a violation unless some person violated it.

Mr. RAYBURN. It hardly could be a violation without a violator.

Mr. THOMSON of Illinois. The sentence says:

Any violation of these provisions shall be a misdemeanor, and on conviction in any United States court having jurisdiction shall be punished by a fine not exceeding $10,000 or imprisonment for a term not exceeding three years, or by both such fine and imprisonment, in the discretion of the court.

Is the violation to be fined or imprisoned? Is that what the committee meant?

Mr. RAYBURN. I think it is the usual language.

Mr. THOMSON of Illinois. Very well; I just wanted to know how the committee proposed to punish the violation—whether they really proposed putting the violation in jail.

Mr. ADAMSON. What we tried to do was to punish crime when we find the crime.

Mr. THOMSON of Illinois. The committee apparently has not bothered about the criminal. Why not punish him?

Mr. ADAMSON. Crime is punishable.

Mr. THOMSON of Illinois. I have not offered an amendment, as I realize from the experience of other Members of the House that no amendment has any hope of success unless it comes from the committee or that side of the House, but I thought I would at least call the attention of the committee to this.

Mr. ADAMSON. I congratulate the gentleman on having made a brilliant and witty speech instead of failing with a foolish amendment. [Laughter.]

Mr. STEVENS of Minnesota. Was the amendment of the gentleman from Illinois disposed of?

The CHAIRMAN. The gentleman did not offer an amendment.

Mr. STEVENS of Minnesota. I yield five minutes to the gentleman from Wisconsin [Mr. LENROOT].

Mr. LENROOT. Mr. Chairman, I offer the following amendment.

The CHAIRMAN. The gentleman from Wisconsin offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amend, by adding at the end of line 3, page 15, the following as a new paragraph:

"Any issue or disposition of securities contrary to the terms and conditions stated in the application of the carrier and approved by the commission shall be unlawful."

Mr. LENROOT. Mr. Chairman, if I may have the attention of the committee——

Mr. ADAMSON. Mr. Chairman, I did not hear the amendment; my attention was distracted otherwise.

Mr. LENROOT. Mr. Chairman, I ask that the amendment be again reported.

The CHAIRMAN. Without objection, the amendment will be again reported.

There was no objection, and the amendment was again reported.

Mr. LENROOT. Mr. Chairman, notwithstanding what the gentleman from Illinois [Mr. THOMSON] has said, and the fate of prior amendments which have been offered, I sincerely trust that the Committee on Interstate and Foreign Commerce will accept this amendment, for, in my judgment, if this bill, or this section, too, is to amount to anything more than a mere publicity agency, the adoption of this amendment is absolutely necessary.

Now, Mr. Chairman, four years ago this entire question of stock watering was discussed upon the floor of this House, but upon quite a different theory then than is presented now. At that time the foundation of the regulation of the issuance of stocks and bonds was the value of the property. Since that time we have provided for the valuation of railway property, and we all now see to make that the basis and to attempt to apply it at this time would mean that there could be no issue of railway securities for perhaps two or three years to come, so the committee, I think, has very wisely taken the position that they will not attempt to limit the issue of stocks and bonds based upon value of the property, but will only attempt to see that in future issues that there shall be value returned to the carrier and that the proceeds shall be used by it in the public interest, but unless my amendment be adopted, Mr. Chairman, I insist that the result is not accomplished. The approval of the commission required is that the issue is reasonably necessary or proper for the purposes stated.

No power is given the commission to prescribe the terms or conditions of the sale of the issue. No power is given the commission to see that the proceeds are actually used for the purpose for which the issue is made. There is no penalty prescribed in the bill for any misstatement or false statement made in the application of the carriers. The moment this issue is approved by the commission they may go and sell their securities for 25 cents on the dollar or 50 cents on the dollar, so far as this bill is concerned; they may violate every provision that is made in their application to the commission and upon which the commission has given their approval, and yet there is not one word in the bill that would either punish them for it or permit an injunction against them for it, or provide any relief whatever to the public.

So outside of the mere fact of publicity, as the bill now stands, instead of a bill that will tend to prevent stock watering in the future it might be a medium for any unscrupulous railroad financiers to use as a means for defrauding and deceiving the public. And so, Mr. Chairman, I feel certain that upon mature consideration the committee will see that it is necessary, if this bill is to accomplish what its authors intend, that any issue of stocks and bonds in violation or contrary to the terms and conditions stated in the application and approved by the commission shall be unlawful.

The last paragraph of the bill provides for punishment for the directors and officers for issuing securities in violation of the law, and on page 15 all issues of securities contrary to the provisions of the section may be enjoined; but I will ask the chairman when he concludes to point out a sentence in this bill that makes an issue of securities sold at a price different than that stated in the application contrary to the terms of this bill. I ask him to state what there is in the bill that will prevent a railroad company, after making application, after securing the approval of the Interstate Commerce Commission, from making any terms whatever, if they choose, with respect to it?

The CHAIRMAN. The time of the gentleman from Wisconsin has expired.

Mr. STEVENS of Minnesota. Mr. Chairman, I yield to the gentleman one minute more.

Mr. LENROOT. I ask the chairman to state, if they should not accept this amendment, what there is in this bill to prevent, after the approval by the Interstate Commerce Commission, the railroad company from selling those securities, those approved by the commission, at any price they choose? There is nothing in the bill as it stands now that permits the commission to fix the price. There is nothing in the bill now that permits the commission to fix the terms. But if my amendment be adopted, they may require all those things to be stated in the application, and then, when they finally approve the application, my amendment will make it unlawful to issue securities contrary to the application made by the carrier and approved by the commission. I sincerely hope my amendment will be accepted.

Mr. ADAMSON. Mr. Chairman, the words of the eloquent gentleman from Wisconsin [Mr. LENROOT] are music in my ear. They are more musical than they commonly are, although his cadences are always musical to me. Sometimes he is logical, but music is not always logical nor reasonable. Among other things which I oppose is tautology. There is no use of loading a bill down with repetition of the English language. The reason, however, that his language is musical to me is that I have been the victim of rolling billows of execration, mountain high, from people who imagine that this bill is too drastic. He comes in and pours balm on my wounded soul and soothes my feelings by saying it is not drastic enough, and that there ought to be more pains and penalties, and more folks in jail. We have taken care, Mr. Chairman, to safeguard everything which it is necessary to safeguard. We have protected by writ of injunction and by criminal punishment any deviation from the course pointed out in the provisions of this bill. And I ask for a vote.

Mr. LENROOT. Will the gentleman yield?

Mr. ADAMSON. Yes.

Mr. LENROOT. I would like to ask the gentleman where an injunction will lie to prevent stock watering at all under the terms of the bill as it stands?

Mr. ADAMSON. It is expressly provided that injunction will lie against any violation of the plan laid down in this bill, and it is also expressly provided that there may be criminal punishment.

Mr. LENROOT. Will the gentleman yield for one more question? Will the gentleman point out any provision whatever in the bill that forbids in itself stock watering?

Mr. ADAMSON. It is certainly in here, plain and palpable. I do not admit that we have to put all the language in the bill the gentleman may imagine is necessary. There may be a great many things done without using all the extravagant ideas various gentlemen may wish to put in the bill. I say that this bill does safeguard the interests we seek to safeguard by the bill. I ask for a vote, Mr. Chairman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Wisconsin [Mr. LENROOT].

The question was taken, and the Chairman announced that the noes seemed to have it.

Mr. LENROOT. Division, Mr. Chairman.

The committee divided; and there were—ayes 31, noes 57.

So the amendment was rejected.

Mr. MANN. Let us rise now.

Mr. ADAMSON. I would like to use a little time. I have not used all my time, and would like to use five minutes. I wish to yield that much to the gentleman from Illinois [Mr. RAINEY].

The CHAIRMAN. The gentleman from Illinois [Mr. RAINEY] is recognized for five minutes.

Mr. RAINEY. Mr. Chairman, I desire to offer an amendment at this time, which I am aware is not germane to this bill. At the conclusion of the five minutes allotted to me I shall withdraw the amendment, when I have called attention to the evils mentioned in it. I now send it to the Clerk's desk.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amend the substitute by adding a new paragraph to be known as section 20b, as follows:

"SEC. 20b. That the commission is hereby authorized to require the owners of all railroads engaged in interstate commerce as defined in this act to equip all crossings along the line of said railroads, where public highways cross the right of way of said railroads at grade, with gates which will close automatically when a train approaches and passes said crossing, or with electric bells which will ring continuously when a train is within one-half mile of said crossing. Said commission is authorized to require either or both of said devices at said crossings in the discretion of the commission, said devices to be such as meet with the approval of said commission, or said commission may require that the owners of said railroads shall station a flagman at any of said crossings, in which event said electric bells or automatic gates may, in the discretion of the commission, be not required at said crossings where said flagman is stationed. The owners of said railroads shall equip all such crossings as required in this section prior to January 1, 1915: *Provided*, That the commission, in its discretion, may make such reasonable extensions of the time to so equip said crossings as may to it seem advisable, and if the owners of any railroads subject to the provisions of this act shall fail to equip any grade crossing or crossings as provided in this section within the time specified, or within the time extended by the commission for so equipping the same, such owners shall forfeit to the United States the sum of $100 for each and every day they shall continue to be in default with respect to each of such crossings as shall not be so equipped."

Mr. ADAMSON. Mr. Chairman, I wish to claim the benefit of the gentleman's admission that it is not in order. I reserve it.

The CHAIRMAN. Does the gentleman from Georgia make a point of order?

Mr. ADAMSON. I reserve the point of order.

Mr. RAINEY. Mr. Chairman, while this amendment may not be germane to the bill we are considering, I am satisfied that legislation of this character is proper and ought to be considered by the Congress and adopted. The act that we are amending here—the act to regulate commerce—provides for regulation of switch connections, of water competition, for continuous carriage of freight, for continuous billing on through routes. Congress in other acts has already provided for safety appliances for trains engaged in interstate commerce. We have protected the lives of the men who operate the trains, which are the medium through which interstate commerce is transacted, but we have made no provision for protection so far for the lives of the people in the several States who are killed at these grade crossings by trains engaged in interstate commerce.

I have a compilation here, which I will not read, but I will print it as a part of my remarks, which I have made from the files of a single paper published in the United States for the month of May of this year of these grade-crossing accidents; and this compilation, made from the Chicago Daily Farmers and Drovers' Journal, a great newspaper published in the Middle West, shows that during the month of May, at grade crossings in the United States, 31 members of farmers' families were killed and 23 members of farmers' families were either fatally injured or maimed for life.

Now, these are all farmers and their families, nearly all of them riding in automobiles, except perhaps in one or two instances. If the fatalities in May at these grade crossings are a fair average for all the months of the year, then during the 12 months of the year at these grade crossings 648 members of farmers' families in the United States will be killed or maimed for life.

Trains move faster than they did a quarter of a century ago. Farmers are investing in automobiles. Country roads are better. Vehicles move faster over country roads. Automatic brakes, compressed-air brakes, improved roadbeds, improved methods of laying tracks, all have decreased the amount of noise that an approaching train makes; and trains move faster than they ever did before. The old methods of protecting grade crossings by requiring signs to be placed there reading, "Look out for the cars," "Stop, look, and listen," and all that sort of thing belong to that period when the country was not so thickly populated as now—when men traveled slowly over the country in prairie schooners and in oxcarts.

With but slight expense—only a few dollars—the crossings on these roads engaged in interstate commerce—and they are almost all engaged now, under the decisions, in interstate commerce—there can be installed a bell that rings at these grade crossings when a train is within half a mile of the crossing either way, and that would save the lives of hundreds of members of farmers' families every year.

I will print here the memoranda I have prepared of grade-crossing accidents for May:

GRADE-CROSSING ACCIDENTS IN MONTH OF MAY, 1914.

May 3, 1914. Two Hoffman children killed, grade crossing, Glenview, Ill. Mother, with skull fractured, in hospital.

May, 1914. Farmer Johnson, son, wife, and baby daughter killed at grade crossing, Merrill, Iowa. At same crossing a funeral carriage was run down and three persons killed prior to that time.

May 14, 1914. Absolom Meyers and wife killed at grade crossing, Olathe, Kans., going to church. Nine children survive.

May 15, 1914. Two farmers and farm woman killed, grade crossing, Kaufman, Ill., by Toledo, St. Louis & Western train, riding in automobile—John Stuckwissch and wife and Oscar Maurer.

May 17, 1914. R. E. Davis, son, Claude, and brother-in-law, J. C. Schaeffer, killed, grade crossing, Fort Benjamin Harrison, Ind. Four other members of family probably fatally injured. Automobile. Killed by Union Traction car.

May 19, 1914. Five persons narrowly escape death, Brookfield, Mo., when Burlington passenger train collided with car driven by Hugh Green.

May 20, 1914. Five persons killed when Sciota Valley Traction car struck automobile at grade crossing near Ashville, Ohio.

May 20, 1914. One man killed, five persons probably fatally injured, Crescent, Pa.; struck by Pennsylvania flyer; grade crossing.

May 19, 1914. Body of J. H. Swan, mayor, South Fulton, Tenn., found decapitated; grade crossing.

May 21, 1914. Missouri, Kansas & Texas and Frisco trains collided near Parsons, Kans.; grade crossing. Brakeman received serious injuries, and three passengers.

May 23, 1914. Nicholas Geison killed on grade crossing near Westville by fast Lake Shore & Michigan Southern train; body discovered on pilot of locomotive when train reached station in Chicago.

May 25, 1914. Clyde Guy killed; grade crossing near Granger, Ind.; passenger train.

May 24, 1914. Charles Altman, daughter Lillian, killed, Norfolk, Ohio; Lake Shore mail train; Sunday, May 24; in automobile; bodies carried quarter of a mile on pilot before train stopped; widow left, with 6-weeks-old baby.

May 24, 1914. John Klein and 3-year-old baby daughter killed. D. T. Hartwell, of Marion, Ill., State's attorney; Miss Lydia Aikam and Miss Francis Freeman, school-teachers; Mrs. Klein; severely injured, not expected to live. Teachers crippled for life. Grade crossing near Herrin Hill; Chicago, Burlington & Quincy freight train.

May 24, 1914. W. C. Dunn and wife killed, Parthersville road crossing, near Kansas City, Mo.; automobile; Excelsior express, electric line steel train.

May 24, 1914. Mrs. G. C. Sauers and daughter-in-law, Mrs. Bert Sauers, Dana, Ill., killed on grade crossing, Streator, Ill.; automobile; Santa Fe passenger train. Mrs. Bert Sauers, a bride, recently graduated from Knox College.

May 26, 1914. Five persons injured by freight train; grade crossing; riding in automobile near Burchard, Nebr. (Noted in papers of that date.)

May 27, 1914. Pauline Kalkerlilk, Morton Grove, Ill., killed on grade crossing; fast passenger train, Chicago, Milwaukee & St. Paul.

Total killed, 31; total maimed, 23.

Grade-crossing accidents are more frequent than they ever were before. The legislatures of States have not acted in the matter. In most of the States the railroads still furnish favors to members of the legislature. In many States, however, passes have been discontinued, but even those States have not acted. The amendment I have just had read from the Clerk's desk, I am aware, is not germane to this bill. It is a proper subject, however, of legislation by the Congress. We have, as I have just stated, provided safety devices to be used on trains engaged in interstate commerce for the purpose of protecting the lives of the men who operate the trains. Is it not perfectly proper also to provide for the safety of persons whose lives are in danger on grade crossings by trains engaged in interstate commerce? I have provided in this amendment for automatic gates or bells that will ring when a train is a half mile away from the grade crossing, or a flagman. There are no other known methods than these three of protecting lives at grade crossings. Under this amendment the Interstate Commerce Commission can require either a bell or automatic gate, or both, or a flagman and neither of the other devices, or one or both, in its discretion. The chances are that at nearly all grade crossings in rural districts the commission would find that a bell would be a sufficient warning. A bell could be installed for a few dollars, and the result would be the saving of the lives of hundreds of people every year. Railroads engaged in interstate commerce are generally equipped now with semaphores and block systems, requiring the frequent adjustment of electric wires and the constant patroling of tracks by electricians to keep these signals in order. Installation of bells or automatic gates would not require the employment of additional electricians. The cost to the railroads would be slight and these horrible grade-crossing accidents would end forever.

A great newspaper, the Chicago Daily Farmers and Drovers' Journal, devoted to the interest of farmers, has started the fight for proper signals at grade crossings. I can not hope to discuss the question as eloquently, as ably, and as forcefully as it has been discussed the past month in the columns of that paper, and I propose to print with my speech at this point the story of grade-crossing accidents for the month of May as it has appeared in that newspaper. The record for this one month alone is sufficient to show the absolute necessity of speedy legislation by the Congress on this great question.

The CHAIRMAN. The time of the gentleman from Illinois has expired.

Mr. RAINEY. I withdraw the amendment, Mr. Chairman, because I know it is not germane.

The CHAIRMAN. The amendment offered by the gentleman from Illinois [Mr. RAINEY] is withdrawn.

The articles referred to by Mr. RAINEY are as follows:

[From the Chicago Daily Farmers and Drovers' Journal, Thursday, May 7, 1914.]

RAILROADS SELL SPEED, NEGLECT CROSSINGS, AND KILL FARMERS.

"Evils of the grade crossing could be eliminated if the American people would slow down. There is too great a desire for speed, and the people have failed to exercise caution. Coupled with this there should be a little cooperation between the railroads and the municipalities where there are grade crossings." (W. H. Scribbins, general agent and superintendent of the Pennsylvania Railroad.)

This statement was made following the killing of the two little Hoffman children last Friday on the grade crossing at Glenview, Ill., when the farmers were stirred to drastic action in defense of their lives.

It isn't the American people who demand speed so much as it is the railroads, who sell and guarantee speed to those who will buy what they can get. Furthermore, the statement that the municipalities should cooperate with the railroads is a preposterous statement in face of the fact that the farmers in every municipality in the State of Illinois have endeavored to cooperate with the railroads year after year to fix up the dangerous crossings. The railroads have absolutely refused to listen to the farmers, who have almost begged them to spend a few dollars for signal lights, and every time a heavy passenger train shoots across any crossing, especially the one at Glenview, which is the scene of one of the bloodiest atrocities and an example of the gross neglect on the part of the railroads, farmers' lives are endangered. Farmers' lives are taken, their homes are darkened, their hearts are broken, poverty and deprivation follow in many instances, when it is a father or a grown son who handles the business of the farm. The wives and daughters can not work the farm. Does the American farmer demand the speed or does the Chicago, Milwaukee & St. Paul sell their speed to those who will buy what they can get?

The Chicago, Milwaukee & St. Paul was selling its speed to those who would buy, and could not stop for a mere farmer's wife and her babies.

Mrs. Bessie Hoffman gained consciousness again Wednesday and was able to recognize her husband. Her skull is fractured and her face and body smashed frightfully. When she saw her husband standing near the bed the first question that quivered weakly to her lips was, "How are the children, Louis?"

Louis Hoffman did not answer. He looked at his wife and smiled. She stared at him fearfully, and a horrible look of fear came to her eyes. To tell her meant death, and he had to allay her fear.

"They are all right," he replied, at length.

Mrs. Hoffman is one of those persons who is afraid of a train or a railroad crossing. Most women are especially afraid when children are along. This woman took all the caution anybody could take when she drove the buggy and its sacred load upon that grade crossing. There was not a sound. The train did not whistle, and there wasn't even a cloud of silent smoke to send the warning. Still the heavy passenger train hurtled from behind a clump of foliage just when Mrs. Hoffman had gained the middle of the track, but then it was too late. Hundreds of people are too late every year, and it will take all the fingers on both hands to count those who are killed throughout the United States every month.

"Evils of the grade crossing could be eliminated by the exercising of a little care on the part of the farmers when approaching crossings." (R. C. Richards, chairman of the central safety committee of the Chicago & North Western Railroad.)

Care! Why don't the railroads put flagmen at the crossings or pay a few of their dollars to fortify against taking human life. Are farmers no better than a lot of animals? If a railroad runs over a cow and kills it, why, they are usually sued and pay a small sum to the farmer. That is precisely what they do in case of taking a farmer's life. They are immediately sued, and, of course, they pay a certain amount, say they are awfully sorry, and let it go at that.

Farmer Louis Hoffman will sue the Chicago, Milwaukee & St. Paul and get damages. There is no doubt about it. The railroad will get real good and make a lot of promises. To show their good intentions and sorrow over the outrage they are responsible for they may even go so far as to place a flagman at the crossing—a week or more, as they did before.

Before this blows over and the killing grows stale there is one thing for the farmers to do, and the Farmers and Drovers' Journal will help: Get out that bill that Gov. Dunne so faithfully promised to aid in passing and which was sidetracked. Get it out and throw it into the teeth of the legislators at Springfield.

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[From the Chicago Daily Farmers and Drovers' Journal, Friday, May 8, 1914.]

CLAIM AGENT WILL PAY FOR FARMER'S BABIES WITH GOLD.

"Louis Hoffman is satisfied, and we will fix the matter up with him. It's a wonder you people would not let this trouble rest a while. There is no use of stirring up a fuss." (A. D. Aettli, personal claim agent, Chicago, Milwaukee & St. Paul.)

Farmer Louis Hoffman can not be satisfied, when the railroad smashed and took the lives of his little daughters. What is more, the Farmers and Drovers' Journal knows he isn't satisfied to be compensated with filthy hush gold, when everything that he lived for has been taken from his life. Since the killing of his children last Sunday at the grade crossing in Glenview, Ill., he has been trying to pace out his anguish at St. Francis's Hospital in Evanston, Ill., where his wife, with a fractured skull and a badly hacked-up face, hovers between life and death. The railroad can not "fix the matter with him," because it has taken two lives that all the gold in the world could not pay for; it has mutilated his wife and injured her to such an extent that if she should live life will be a torment; and it plunged Louis Hoffman's life into an abyss of darkness and despair.

The Farmers and Drovers' Journal was asked to let the trouble rest a while. Why should it rest a while? The bill that was framed to protect the farmers from being brutally smashed to death at grade crossings was sidetracked by the worthy solons at Springfield, Ill. It was literally kicked into the drink. Who was responsible for this action in the legislature? Gov. Dunne and several other legislators, who went among the farmers and asked their support and who promised to support the bill, suddenly forgot. Everybody forgot except the farmers, and they were silent because their begging proved futile.

But the railroad men were there—the representatives of the grand officials. They were there for a purpose. Their effort to squelch the bill was highly successful. In squelching it they were instrumental in bringing about the death of Hoffman's children.

But these atrocities can not be hushed up any longer. This one is too bloody and grewsome. Its awfulness is appalling. It is a thing that won't be kicked back into the drink by a lot of unfaithful legislators, because it is a shriek of warning that the Chicago, Milwaukee & St. Paul gold can not wipe out. Bills come and go, and the one that came and went at the capital has a red smear across its printed face.

The farmers demand that it be washed off now, because it is getting dirtier every year. Killings take place every month. The time is ripe to issue a challenge and go to war with the men who connive with railroad officials. The railroads always pay for the lives they snuff out, but it is the legislators who allow the snuffing out.

Why was that bill requiring railroads to equip grade crossings with signals and flagmen killed? Every farmer in the State of Illinois should write to Gov. Dunne and ask the reason. Probably he would stir the valorous solons to action. But more than likely he would hire an extra secretary to carry the flood of mail out of his gilded office. Many suppositions are probable.

What the farmers demand right now worse than anything else is action. They demand action, because every time a farmer drives over a railroad grade crossing his life is endangered. The American farmer is the backbone of the Nation; he feeds its millions, and therefore he should be protected. The farmer has been humiliated long enough by railroads. The legislators have had their laugh, and now it is time to bring out that bill and do some honest legislating.

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[From the Chicago Daily Farmers and Drovers' Journal, Thursday, May 14, 1914.]

FAST TRAIN HURLS TWO MORE TO DEATH AT GRADE CROSSING.

Another farmer's home was plunged in sorrow when Absolom Meyers and his wife were smashed to death on a grade crossing near Olathe, Kans., by a Santa Fe Frisco limited. Their nine children were insane with grief when the unrecognizable remains were brought to the farmhouse. The children are of tender age and their screams attracted a score of farmers passing on their way to church.

The Meyers killing was precisely the same as that of Louis Hoffman's little daughters by a Chicago, Milwaukee & St. Paul train at the grade crossing in Glenview, Ill. The Santa Fe Frisco limited plunged along at a rate of 55 miles an hour toward the crossing, which is surrounded by trees. The whistle was not blown, and, unaware of the approaching express train, Farmer Meyers drove upon the track. The engine smashed the buggy to kindling wood, knocked the horse 30 feet into the air, smashed the farmer and his wife against the pilot of the engine, and carried them a quarter of a mile before the train could be stopped.

The pilot of the engine dripped with blood, spattered the tracks, and covered the overalls of the fireman and engineer and made them look like smeared butchers fresh from a killing. The bodies were so badly mutilated that Farmer Meyers's pockets had to be searched for letters to identify him.

Farmer Meyers and his wife were on their way to church. Near the crossing is an electric line which runs parallel at the place where the accident occurred. After crossing the electric line tracks an oncoming train can not be seen, and there are no bells to sound a warning. This grade crossing has worried the farmers for years, and they have protested and demanded that the railroad install signal lights and bells, but the railroad refused, just as the Chicago, Milwaukee & St. Paul refused to put a signalman at the grade crossing in Glenview, Ill. As a result, Farmer Hoffman's daughters were smashed to death and his wife was maimed for life. Farmer Meyers's life is the second horrible example. The killings are two weeks apart. Four bodies—smashed to pulp—two of them babies, and two adults, have smeared engines with blood. In both cases the bodies were so badly mangled that the men who dragged them from the engines had to cover their faces. It is not murder—it is butchery. Heinous blood spilling by great corporations, who endeavor to atone by offering filthy gold. These corporations will not spend one cent to protect the life of the farmer. They don't care.

They know that if they fix up one grade crossing that they will have to fix them all. The railroads would have to spend a few hundred dollars to fix every grade crossing in the States of Illinois, Kansas, Iowa, and the various other States where killings occur daily, weekly, monthly—always bloody, always casting farmers' homes in sorrow and despair, and bringing poverty and deprivation.

Isn't a farmer's life worth just as much as the man who lives in the city?

In the cities every railroad crossing is protected by automatic gates, signal lights, and flagmen. When a killing occurs every newspaper prints columns of seething criticism, city councils meet, mayors give orders, there is a general clamor for vengeance, and the railroad does not hesitate an instant to do anything that is demanded. But when the farmer is smashed to death, like Absolom Meyers and his wife and Hoffman's babies and wife, the railroads take their time about looking into the matter, give weak excuses, and blame the municipalities for neglecting to contribute funds to put up such appliances as will protect the lives of the farmers.

LITTLE RECOURSE FOR FARMERS.

The railroads give him very poor service, bribe the legislators whom the farmers elect to pass bills that will protect their lives, and then butcher at random and notify the personal-claim agent to pay out so much gold to the survivors of the victims. If the farmers protest the sum of money offered, the railroads pocket the money and tell the farmer to take the case to the courts. And the judge usually says the farmer has no business driving over sacred railway property, and it is on record where the court has ordered the railroads to pay less gold than the primary offer.

What does a farmer's life amount to?

It amounts to this: He is the hardest working, most honest, patriotic, law-abiding citizen in the United States. He can not be bribed. He supplies more than 100,000,000 Americans with food, and they would starve without him. His life is clean and wholesome, his progeny are red-blooded and sturdy, and are among the first to step forward in defense of their flag and those 100,000,000 who depend upon the farmer for the food they eat. When those loyal sons fall in battle they bleed to defend the United States and everything in it—including the railroads who murder him.

How many railroad officials—the big men who sit in their offices and control the dollars and cents and lament the farmer's death by tendering gold when his life is smashed out—would abandon this plush chair and fight? Railroad presidents have been found to be crooked. Recent investigations show it. They have been bribed, too. They manipulate shady political deals, and when men do these things they are undesirable citizens.

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[From the Chicago Daily Farmers and Drovers' Journal, Friday, May 15, 1914.]

FAST-GROWING TOLL OF GRADE-CROSSING DEATHS STIR STATE TO ACTION.

Two farmers and a farm woman were smashed to death on a grade crossing Friday at Kaufman, Ill., when an automobile in which they were riding was struck by a Toledo, St. Louis & Western express train, which was plunging along at 50 miles an hour.

The dead, who lived near Marine, Ill., were:

John Stuckwisch.

Mrs. John Stuckwisch.

Oscar Maurer, brother of Mrs. Stuckwisch.

The grade crossing where the killing occurred is near an embankment and several persons who witnessed the killing assert that the automobile was stopped near the crossing and that the man who was driving looked for a train before he proceeded upon the track.

Harry Groot, the engineer, says that he did not see the automobile upon the tracks and that he was shooting his train along at a terrific rate. He says the foliage about the crossing obscured his view, or the accident could have been averted. Where the accident occurred the railroad crosses a wagon road at an angle of 45 degrees.

The automobile was smashed to pieces and carried many yards before the train could be stopped. Two of the bodies were crushed in the demolished automobile and the other was horribly smashed on the pilot. All of them were mangled beyond recognition.

Protection of the farmer's life campaign at rural grade crossings in behalf of the farmer by the Farmers and Drovers' Journal is having its effect on Illinois. Thursday the Illinois public utilities commission assigned experts from the engineering department to investigate grade crossings on the Indiana Harbor Belt Railroad at Arlington Heights, following deaths and complaints of dangerous conditions.

During the last five years many farmers have been killed at grade crossings on the Indiana Belt Line, and the demand has been made time and time again that the road install gates and other devices. A short time ago the farmers appealed to the Belt Line officials to place flagmen at the crossings where the farm traffic is heaviest. The railroad officials declared they would consider the matter, but too much time elapsed before an answer was returned, and so the matter was placed before the Illinois public utilities commission.

Thursday, when the investigation was started, the railroad officials protested that watchmen were not needed, and charged that the protests did not come from the farmers, but were filed by real estate agents seeking to increase the value of their property.

Invariably the railroads shy at a little expense and are never wanting when the time arrives to trump up excuses. It would cost them a large amount of money to install gates that would decrease the railroad killings at grade crossings. The Indiana Harbor Belt Railroad officials hold that real estate agents are responsible for the demand to install flagmen. Even if the real estate men are they should be commended. They value human life and are wise enough to see where a man's life is in constant danger he will not buy property.

It does not make any difference who made the demand for protection. The essential thing is that it is absolutely necessary. Think of the farmers who come and go across that grade crossing. They are not buying real estate, but they live near there. The railroad argument is preposterous, outrageous. Sooner or later it will smash the life out of some farmer and will offer to pay for the murder in gold. If there were more real estate men operating near railroad crossings in the country there would be more public utility commission investigations.

Within two weeks railroads have crushed the lives out of six persons, maimed one for life, killed horses, and smashed wagons and automobiles on grade crossings.

Every one of the killings occurred on grade crossings where the farmers have demanded that the railroads either install flagmen for a period of 12 hours each day or automatic gates. In each case the railroads frankly refused and coolly informed the farmers that they should keep their eyes open.

SIX KILLED IN TWO WEEKS.

The most notable killings within the last two weeks follow:

Farmer Louis Hoffman's baby daughters, smashed to death on the grade crossing at Glenview, Ill., by a Chicago, Milwaukee & St. Paul express train. Mrs. Bessie Hoffman, skull fractured, body badly maimed. She will be an invalid for life.

Farmer Absolom Meyers and wife, smashed to death on a grade crossing near Olathe, Kans. Meyers's clothes had to be searched for letters to identify him. He is survived by nine children.

W. H. Kenney, an insurance agent, driving his automobile over a grade crossing near Hammond, Ind., was struck by a Michigan Central passenger train traveling 50 miles an hour. Both the machine and Kenney were carried more than 600 feet on the pilot of the engine.

Dominick Dernardi died after being struck by a southbound Chicago & North Western express train on the grade crossing at Skokie Road, near Glencoe.

These are just a few of the killings that have been brought to the notice of the Farmers and Drovers' Journal. Farmers come every day and point them out as horrible examples of the negligence of legislators and the thrift of begrudging railroad officials who hate to see a few dollars squeezed out of their coffers to protect lives.

For a long time the farmers were the only ones to protest, but now cities, municipalities, and counties have entered in the fight. The residents of the cities are safe enough, because city ordinances compel railroads to install gates, flagmen, signal lamps, and other appliances. But the residents of the cities have become cognizant of the heinous murder of the men who feed them, who till the fields of golden grain to make the Nation prosperous.

It is incredulous to think that it takes the protests of the entire Nation to rouse the legislators from their seeming lethargy to the fact that the railroads are killing the farmers like flies at grade crossings. And it is awful the way the railroads protest against being forced not to continue to kill, and it is monstrous the way the railroads coldbloodly offer a fixed amount for the human harvest of souls they reap.

Killing farmers must stop. It is the blackest blotch on society. The laws do not allow the ruthless taking of life. The penalty for taking life is death. Railroads take life—scores of lives—every year. The only penalty they pay is in dollars and cents. The penalty is cheap—a mere pittance for these monster, money-grabbing corporations.

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[From the Chicago Daily Farmers and Drovers' Journal, Monday, May 18, 1914.]

THREE MORE SMASHED TO DEATH—FOUR INJURED AT GRADE CROSSING.

HERE IS WHAT GOV. RALSTON, OF INDIANA, SAYS.

I favor reasonable legislation for protecting life and property.

HERE IS WHAT GOV. RALSTON, OF INDIANA, SHOULD SAY.

Laws should be made forcing every railroad to place electrically operated automatic gates, flagmen, and other devices to halt the numerous killings.

Railroads are killing farmers like flies.

Public-service utilities commissions must be given absolute power to force railroads to protect the farmer.

Every time a train plunges across an unprotected crossing lives are endangered.

Every day farmers are killed on grade crossings.

The railroads pay so much gold for the lives they smash out; but they go right on killing.

Gold is insignificant; life is invaluable.

Therefore the onward march of death must halt, and drastic legislation that gives no quarter, that does not consider expense, is necessary in every State in the Union.

Indiana farmers are being killed like flies on the unprotected railroad grade crossings. Sunday R. E. Davis, his son Claude, and his brother-in-law, J. C. Schaeffer, were smashed to death on a grade crossing at Fort Benjamin Harrison, and four other members of the family were injured, probably fatally, when an Indiana Union Traction car hurtled from behind a clump of trees that obscure the crossing and crashed into the automobile in which the family was riding. Mr. Davis was driving his automobile slowly at the time, and infinite caution was taken before he drove upon the track.

Coroner Durham said Monday:

"The crossing is dangerous. It is diagonal and prevents 'holding back' and closely parallels a railroad track."

There are hundreds of grade crossings as dangerous as this one, and hundreds of farmers have been slain every year on them. Conditions are awful; death stalks everywhere.

The killings in Indiana are appalling. The railroads have positively refused to install gates and the legislators only offer sympathy. Gov. Ralston sits in his gilded office and says that he is sorry. He even goes so far as to say that he is in favor of "reasonable legislation for protecting life and property." This is the statement he makes to the Farmers' and Drovers' Journal.

Gov. Ralston is "in favor of only reasonable legislation." How about some quick action, Gov. Ralston? You gave your promise to the farmers of Indiana to protect them when they put you in office. That is one of the reasons you are drawing a fine salary. The bulk of that salary comes out of the pockets of the farmers. You begged them with tears in your eyes for the job. Now, when the railroads are outcenering them at railroad crossings you sigh in a weak voice that you only favor stopping the blood spilling.

The farmers are tired of a man who allows railroads to kill them. They have begged the railroads to put up gates to protect them, but railroads are not in the habit of spending money when there is no return. The farmers have appealed to the legislators; the governor has heard their pleas. But nothing ever has been done. No bill demanding that railroads install electrically operated automatic gates, signals, or flagmen have ever been put through. The legislators have promised—so did the railroads promise.

Lives are being smashed out every day, week, month—hundreds every year. The gross negligence of the legislators has caused a storm of protest. At every meeting of farmers and cattlemen in the State grade-crossing death is the main topic of discussion. The howl of protest is being raised to get some immediate action on the part of Gov. Ralston, the man who favors saving life, but who does not raise a finger to put into black and white laws that will eradicate outrageous murder.

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[From the Chicago Daily Farmers and Drovers' Journal, Monday, May 18, 1914.]

TOLL OF THE DEADLY GRADE CROSSINGS FOR TWO WEEKS ENDING SUNDAY, MAY 17.

THE DEAD.

Mrs. Polly Lindsey and Mrs. Suzan Lattman, Quincy, Mich., killed on a grade crossing by a Michigan United Traction train, near Albion.

Absolom Meyers and wife, Olathe, Kans., killed by a Frisco passenger train at Pleasant View crossing.

Dominick Dernardi, Glencoe, Ill., killed by a Chicago & North Western train on a crossing near Glencoe.

R. E. Davis, his son Claude, and his brother-in-law, J. C. Schaeffer, killed by an Indiana Union Traction car on a crossing near Fort Benjamin Harrison.

Louis Hoffman's two baby daughters, killed by a Chicago, Milwaukee & St. Paul train on the grade crossing at Glenview, Ill.

W. H. Kennedy, killed by a Michigan Central train on a grade crossing at Hammond, Ind.

Mr. and Mrs. John F. Stuckwisch and Oscar Maure, killed by a Toledo, St. Louis & Western express on a grade crossing at Kaufman, Ill.

THESE ARE FIGHTING FOR LIFE FROM INJURIES.

Mrs. George Lindsey, Quincy, Mich., badly smashed and maimed.

George Lindsey, Quincy, Mich., probably will be a cripple for life.

Ambrose Lattman, Quincy, Mich., badly cut.

Mrs. Bessie Hoffman, Glenview, Ill., skull fractured, near death.

R. E. Davis and wife, Nauvoo, Mich., both injured seriously; not expected to live.

Richard Boutel, Samuel Quick, and Frederick Boutel, South Bend, Ind., badly mutilated, are dying.

Three members of Thomas O. Stout's family injured; reported dying.

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[From the Chicago Daily Farmers and Drovers' Journal, Tuesday, May 19, 1914.]

FIVE NEAR DEATH AS TRAIN SMASHES AUTO AT GRADE CROSSING.

Five men narrowly escaped death on an unprotected grade crossing Tuesday afternoon near Brookfield, Mo., when a Burlington passenger engine crashed into a car driven by Hugh Green. Green and his com-

panions, Frank and William Guest and Gus and Edward Petska, were thrown from the car and injured seriously.

Hugh Green, the owner of the car, said that he could not hear the train coming and the grade crossing was obscured by trees. Just as he drove upon the crossing the express train shot out from behind the trees and smashed into the car, carrying it many yards before the engine could be stopped. Fortunately the car hung in an upright position on the pilot and the occupants were able to fling themselves off the automobile into the ditch.

GOV. M'GOVERN PRAISES GRADE-CROSSING WARFARE.

Farmers in the State of Wisconsin are not treated like so many flies. Railroads are no longer allowed to wipe them out on unprotected grade crossings, simply because the Wisconsin legislators, backed by Gov. McGovern, have put into force drastic laws that compel railroads to install automatic gates, signals, flagmen, or cut down the foliage that obstructs the view of the crossings. Promptly, in accordance with orders from the railroad commission, which is vested with absolute authority to protect the grade crossings—and Wisconsin's farmers.

There is no horrible red trail of blood from one boundary of the State to the other, and death does not stalk everywhere as it does in Illinois, Indiana, Iowa, and several other States. Farmers can drive on the grade crossings in perfect safety.

This was not always the case in Wisconsin, however. Wisconsin farmers were smashed to death on the crossings just the same as they are in Indiana until the Farmers and Drovers' Journal was appealed to. The Farmers and Drovers' Journal took the initiative and bore the brunt of the great campaign for legislation to protect the life of the farmer.

Whenever a Wisconsin farmer registers a complaint with the railroad commission advising the installation of gates, the railroads have to spend money on gates or whatever protection is ordered. It costs the railroads a vast amount of money each year. They do not like to pay that money, but Gov. McGovern and his legislators do not "dicker" with railroads—they demand of railroads, and point to the law that says: "Wisconsin farmers must not be smashed to death on grade crossings."

The Wisconsin commission is experimenting constantly with all sorts of new apparatus that will make the crossings more secure. Whenever some new device is considered worthy of experiment the commission orders the railroads to pay out so much money for the new apparatus and it is installed for a trial.

The newest device that the railroads have had to buy is an "automatic flagman," which is being installed under the direction of the railroad commission on a crossing of the North Western road in the town of Geneva, near Williams Bay. It is a device which raises a red flag, which it waves, shows a light, and rings a bell when a train is approaching. It also shows another light to the engineer, which shows him that it is in operation. The railroad commission ordered this trial at the expense of the North Western Railroad, and if it proves more effective other appliances will have to come down and go into the scrap heap, perhaps. It will not only cost the North Western Railroad a pretty penny, but every road in the State of Wisconsin will have to install this new appliance.

SEVEN LIVES ARE LOST.

S. C. Coatley, Graettinger, Iowa, says: "Seven lives were lost two years ago on the North Western grade crossing near Graettinger, Iowa. At some of the crossings the railway company has installed bells, but they are useless, because they are always out of order. I will aid in any way possible the Farmers and Drovers' Journal in its fight for decent legislation."

C. E. Hilton, Mills County, Iowa, says: "In recent years seven farmers were killed on the unprotected grade crossings near my farm in Mills County, Iowa. The Burlington and North Western roads run through the county and the farmers' lives always are in danger. I think a bill should be passed in the State of Iowa forcing railroads to install appliances on all grade crossings. The Farmers and Drovers' Journal is doing a great deal of good, and I think through its efforts proper legislation will be brought about."

F. I. Cannon, of Mitchell County, Iowa, says: "During the time I lived in Ames and Sheridan, Iowa, many farmers lost their lives and many were injured for life on the grade crossings. It was a shame the way the farmers were killed. This is a farmers' fight, but it is great the way the Farmers and Drovers' Journal is bearing the brunt of the battle for protection. I am in favor of legislation forcing railroads to install automatic gates."

H. W. Martin, of Maxwell, Iowa, says: "The only appliance that will do any good is the automatic gate. The Milwaukee line passes through Maxwell, and three farmers have been killed during the past two years. In the near-by towns several have been killed and maimed. I commend the Farmers and Drovers' Journal for the sincere fight it is waging for protection."

Fred Robinson, Rhodes, Iowa: "Automatic gates or elevation will save life. This is the only way out. I believe legislation is the only way to secure safety. The Farmers and Drovers' Journal is conducting the right sort of campaign—it is a grand fight."

J. P. Burkholder, Maple Hill, Iowa: "The Farmers and Drovers' Journal is making a brave fight for the life of the farmer. I hope it is successful. There is a grade crossing in a coulee near Maple Hill that is obscured from all sides. Two people were killed there a short time ago by a Rock Island passenger train. We need the legislation that the Farmers and Drovers' Journal is fighting for."

J. F. Wendling, Independence, Iowa: "The installation of automatic gates or track elevation is the only way to stop this constant killing. Several farmers have lost their lives on the grade crossing near Independence."

John Kriepen, Brooklyn, Iowa: "Automatic gates should be installed or flagmen stationed at the crossings. One man was run down on a grade crossing this year at Brooklyn. Something must be done right away. There is a curve in the track where this killing took place, and it is a death trap. I indorse the Farmers and Drovers' Journal campaign. I take the paper and am proud of it. The daily editorial demanding legislation is great. It bears an awful but truthful message."

J. E. Vaughn, Northwestern, Iowa: "The North Western and Rock Island lines have claimed seven farmers' lives within two years. I think the Farmers and Drovers' Journal is fighting a winning battle for the farmer. What is needed most are the automatic gates. Tunnels are the surest, however. Right now the farmers want anything that will even reduce the death rate."

P. A. McCreey, Rolfe, Iowa: "The Farmers and Drovers' Journal is fighting for us. I believe that the only solution is drastic legislation. There have been no killings near my home, but it is more good fortune than anything else that farmers have not been run down."

K. C. Rigger, Cameron, Iowa: "Public opinion will eventually force the railroads to protect the grade crossings by elevation or automatic gates. The Farmers and Drovers' Journal is a great instrument of assistance to the farmers. The paper has always fought for the farmer, and I feel sure that its campaign will be closed soon with a victory."

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[From the Chicago Daily Farmers and Drovers' Journal, Wednesday, May 20, 1914.]

DAY FAILS TO PASS WITHOUT FATALITIES AT GRADE CROSSINGS.

Five persons were smashed to death and one injured seriously late Wednesday, when a Scioto Valley Traction car struck an automobile on an unprotected grade crossing near Ashville, Ohio.

The dead are:

William Miller, cashier of the Ashville Bank.

Mrs. Miller.

Mrs. Agnes Staiger (Miller's sister).

Mrs. C. H. Hill and her 6-year-old daughter.

Miss Viola Bond, a sixth member of the party was burned severely. She was rushed to a hospital at Chillicothe, Ohio.

Mrs. Staiger and Mrs. C. H. Hill and her little daughter were burned to death in the flaming wreckage of the automobile.

Miller and his wife were thrown from the car and killed instantly.

Scioto Valley Traction cars are operated by the third-rail system. Immediately following the accident the wrecked automobile and the interurban car were enveloped in flames.

Bodies of the victims were saved from the flames by rescuers. The wreckage was consumed by the flames. It is thought the occupants who were only smashed so they could not escape were electrocuted.

MISSOURI LAWS SAVE FARMERS FROM DEATH AT GRADE CROSSINGS.

The hideous death specter, that gorges itself with farmers' lives and blood in Indiana, Illinois, and Iowa on the railway-grade crossings, does not cause a reign of terror among Missouri farmers any longer. Gov. Elliott W. Major and his legislators put a stop to the grewsome killings. They had precisely the same proposition to cope with as the other States, where the farmers are now being slain daily, and there are no laws that demand grade-crossing protection.

The railroads in Missouri killed the farmers at random, played politics, coerced or bought off dishonorable lawmakers, laughed at the municipal ordinances, and literally tore them up and threw the bits into the faces of the men who framed them.

Conditions went from bad to worse. Farmers died by scores at the grade crossings; homes were plunged in darkness and hearts filled with pain and anguish. This was followed by a mighty wave of protest for justice from the farmers that shocked the capital. Immediately a bill was framed forcing railroads to install automatic gates, flagmen, and any other devices demanded by the public-service commission, which is vested with absolute power to demand any protection of grade crossings to protect the farmer.

Just as soon as the bill was approved and passed by the Missouri legislators the grade-crossing deaths decreased from a score of killings every six months to none. Where hundreds of death-trap crossings formerly took an enormous toll of life all now are protected by automatic gates and other devices, and hundreds of others have been eliminated entirely by tunneling and elevation. The Missouri commission now has under consideration the elimination of 45 other grade crossings. Every one of these crossings which are to be eliminated is protected by gates, but in a majority of cases they still are considered dangerous, and Missouri legislators will not tolerate another killing if it can be averted, and it can be.

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[From the Chicago Daily Farmers and Drovers' Journal, Thursday, May 21, 1914.]

HEAVIEST DEATH TOLL AT GRADE CROSSINGS TAKEN ON SUNDAYS.

WHAT GOV. A. O. EBERHART, OF MINNESOTA, SAYS.

"I am heartily in favor of all legislation that will reduce accidents and protect human life."

Gov. Eberhart sent this reply in response to a telegram from the Farmers and Drovers' Journal, asking his views on the campaign now being waged for legislation forcing the railroads to protect the grade crossings.

With sickening fear in their hearts, the farmers of Indiana, Iowa, Illinois, Kansas, and many other States where the grade crossings are grossly neglected, drive across the dangerous death traps daily. The killings in these States are not so frequent during the week days, but on Sunday—a day set aside as holy; a day of prayer, peace, and rest—the greatest toll is taken by the grade crossings, and often as many as 10 farmers' lives are sacrificed. When the killings have been most numerous the days always have been beautiful and sunny.

Far across the wooded vales and fields of golden grain that feed the Nation's millions the church bell summons. Hundreds of carriages filled with happy farmer folk on their way to church drive over the unprotected grade crossings, and many of the grade crossings are obscured by heavy foliage. Express trains plunge across these unprotected crossings with impatient passengers anxious to arrive at some eastern or western metropolis. The railway companies have guaranteed to carry the passengers to their destinations on scheduled time, and these trains are not very often behind time.

They travel at a rate of from 40 to 50 miles an hour. Even the local trains make exceptionally fast time, and all of them clear these unprotected grade crossings at high speed. The engineers can not see the approaching farm carriages on account of the growths that hedge the tracks. Consequently, during the summer hundreds of farmers, their mothers, fathers, sisters, sons, and daughters are killed—whole families at a time are wiped out.

In almost every instance the appalling killings that have stirred the farmers and people of Indiana, Kansas, and Illinois recently have happened on beautiful, sunny Sundays, and of the 15 persons killed 10 of them were on their way to church.

GOV. EBERHART ACTS.

It is horrible—awful—the way these farmer lives are smashed out. Almost invariably on a holy day, the day of rest and prayer.

This is why Gov. Eberhart, of Minnesota, is heartily in favor of drastic legislation to eliminate killings of this sort—to wipe out the trail of blood that has reddened the American Continent from sea to sea. Gov. Eberhart does not "favor reasonable legislation"; he favors and advocates "absolute legislation," whether the cost to the railroads is reasonable or not. Gov. Ralston, of Indiana, only favors "reasonable legislation," and Indiana is the scene of many horrible killings. There is no protection on the grade crossings there, and no

attempt has been made to force the railroads to install electrically operated automatic gates. At least not on the part of the governor or the legislature. If the Indiana legislators decide to stop the railroads from jeopardizing the lives of whole families, they will have to abandon the "reasonable" attitude and make laws that are "unreasonable." It is better to have unreasonable laws that place the railroads under heavy expense than to sacrifice the farmer and let that money go into the idle gold heap of the corporations.

Why should Gov. Ralston, of Indiana, put "reasonable" in his declaration for legislation?

Not another governor has done this. Gov. Eberhart did not simply because he is aware of the fact that the railroads have been and are astoundingly unreasonable with the farmers and everybody else when money is concerned, and particularly when the farmers have literally begged them for protection. They are unreasonable because railroad representatives coerce and buy off legislators who would otherwise frame and pass bills that would instantly stop the railroads from killing farmers and cost the railroads thousands of dollars a year. After killing a farmer, the railroads will take the matter to court if the survivors of the dead demand too much gold. The roads laugh at the ordinances made by municipalities demanding protection.

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[From the Chicago Daily Farmers and Drovers' Journal, Saturday, May 23, 1914.]

BODY OF SLAIN FARMER CARRIED ON PILOT OF ENGINE FOR 40 MILES.

In a tangle of harness, the horribly mangled body of Nicholas Geison, 50, a Westville, Ind., farmer, was found on the pilot of a fast Lake Shore & Michigan Southern train in the La Salle Street Station in Chicago Saturday.

Geison was smashed to death when struck on a grade crossing near Westville and the body not found until Chicago was reached.

When the train stopped in the La Salle Street Station Edward Bailey, the engineer, found the lifeless bundle amid the pieces of harness and bits of smashed buggy. He immediately notified the South Clark Street police, and the bloody body was removed to Ball's undertaking rooms at 500 South Dearborn Street.

The identification was made from a notebook found in one of the pockets of the torn clothing, which gave his address as Rural Free Delivery No. 1, Westville, Ind.

The belief is that Geison was struck and killed while driving over one of the unguarded grade crossings near Westville, but Engineer Bailey asserts that neither he nor the firemen knew that the train smashed into a buggy during the night.

Immediately after the mangled body was taken from the pilot, Chicago police sent a telegram to the Westville police in an endeavor to positively identify the victim.

The train runs between Boston and Chicago, and it is believed that at the time of the killing it was traveling faster than 55 miles an hour.

This is the third bloody accident of the kind that has occurred inside of three weeks, and it is said that it could have been prevented had the grade crossing been protected by gates, which would have fallen and kept the farmer from driving upon the tracks. The killing occurred during the night, when it was too dark for the engineer to see the tracks far in advance of the engine.

During the past two years the Lake Shore trains have been forced by legislation of the city councils of South Bend and Laporte, Ind., to cut down the speed from 85 miles an hour, owing to the fact that life is jeopardized at every grade crossing. When there are no gates to fall and give warning before the approach of a train, and especially in the dead of the night, where there is a turn in the tracks or the track is obscured by trees, death is imminent at all times.

Simultaneously with the police investigation for positive identification, officials of the railroad started an investigation to learn where the killing happened. From the great amount of blood on the pilot, it is thought that the horse was carried some distance also.

The inquest was held in Ball's undertaking parlors by Coroner Peter M. Hoffman at 3 o'clock Saturday afternoon.

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[From the Chicago Daily Farmers and Drovers' Journal, Monday, May 25, 1914.]

UNGUARDED CROSSINGS TAKE APPALLING TOLL OF LIFE; MANY MAIMED.

Clyde Guy, 36, was struck and killed Monday afternoon near Granger, Ind., by a fast passenger train when he drove his horse and buggy upon a dangerous grade crossing a short distance from that city.

When in the middle of the track, which is obscured by shrubbery, the train swept from behind, smashed the buggy to kindling wood, and carried his lifeless body many yards on the pilot before the train could be stopped.

Two more farmers were killed instantly Sunday near Norfolk, Ohio, when Charles Altman, 42, and his baby daughter, Lillian, 7, were smashed to death on an unprotected grade crossing by a fast Lake Shore mail train traveling at a rate of 70 miles an hour.

The automobile in which they rode was demolished. The bodies were carried a quarter of a mile on pilot before the train could be stopped, and both were terribly mutilated.

Altman's widow, who is left with a 6-weeks-old baby, is prostrated and not expected to live.

When a Chicago, Burlington & Quincy freight train crashed into an automobile on another unprotected grade crossing near Herrin Hill, Ill., Sunday John Kline and his 3-year-old baby daughter were smashed to death, and D. T. Hartwell, Marion, State's attorney; Miss Ludia Aikman and Miss Frances Freeman, school-teachers; and Mrs. Kline were severely injured.

Mrs. Kline was horribly maimed and is not expected to live. The two school-teachers were injured so badly that it is thought they will be crippled for life.

Baby Kline was killed instantly.

Two other victims were claimed on an unprotected grade crossing near Kansas City, Mo., Sunday, on the Parthersville road crossing, when the Excelsior Springs Electric Line steel train crashed into an automobile driven by W. C. Dunn, instantly killing him and his wife. Their 4-year-old son was hurled 90 feet through the air and had a miraculous escape.

Mr. and Mrs. Dunn were hurled 20 feet into the air over the shelter station, and the bodies were badly battered and torn.

The Parthersville crossing is used every day by farmers and hundreds of automobiles going and coming between Kansas City and Excelsior Springs. No protection of any kind has ever been installed, and hundreds of lives are constantly endangered.

When a Santa Fe passenger train hurtled over the unprotected grade crossing at Ancona, near Streator, Ill., Sunday, Mrs. C. G. Sauers and her daughter-in-law, Mrs. Bert Sauers, of Dana, Ill., were smashed to death and their automobile was wrecked.

Mrs. Koengsen, a family friend, and Bert Sauers, who were sitting in the front seat, escaped sudden death by jumping.

Mrs. C. G. Sauers was frightfully mangled, but lived an hour.

The husbands of the dead women are in the grain business. Mrs. Bert Sauers was a bride, and recently graduated from Knox College, and was a daughter of Dr. Ensign, of Rutland.

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[From the Chicago Daily Farmers and Drovers' Journal, Monday, May 25, 1914.]

INDIANA FARMERS BLAME LAWMAKERS FOR GEISON DEATH.

The gruesome Indiana grade-crossing tragedy at Otis Saturday, when Nicholas Geison, 40, a prosperous farmer, was smashed to death by a fast Lake Shore & Michigan Southern mail train, which carried his mangled body, unnoticed on the pilot of the engine, out of the State of Indiana to the La Salle Street Station in Chicago, has stirred the smoldering enmity of every farmer in the Nation.

The scene of this death—an unguarded grade crossing—was visited by a staff reporter and a staff photographer of the Farmers and Drovers' Journal Sunday. Their pictures, one drawn with words and the other an actual photograph, are given in the Farmers and Drovers' Journal.

In a tangle of harness, horribly mangled, the head cut open and the brains spilled over the pilot, the body was found by Edward Bailey, the engineer, upon alighting from the cab of his engine in Chicago. Bailey was attracted first by the wild exclamations of a horror-stricken crowd which congregated on the other side of the station gates and gazed at the ghastly spectacle. The body was covered by a horse blanket as it lay on the pilot. This same blanket was used to convey it to the undertaking parlors. The inquest was held by Deputy Coroner C. F. Kennedy, and a jury returned a verdict of "death through accident."

Following the inquest over the body in Chicago it was taken to Otis for a second investigation, on demand of Coroner Osborn, of Laporte, who conducted the second inquest Monday.

The killing occurred in the dead of the night, on one of the most dangerous grade crossings in Indiana. Farmer Geison, whose farm is 2 miles from Otis, had been visiting his brother, Emil Geison. They parted at midnight. According to Emil Geison, shortly after his brother got into his buggy and rode away the midnight express thundered through the village and cleared the crossing at a rate of 55 miles an hour.

The buggy was exactly in the middle of the tracks when the engine swept down upon it. The horse was found browsing near the railroad station, 300 yards above the crossing, the following morning. The fact that the horse was not injured, nor even knocked off its feet, shows that the train was traveling at a terrific rate. The buggy was knocked into 1-foot lengths and strewn along the tracks many feet from the crossing. The shafts, that still clung to the horse, were clipped as cleanly as though a cannon ball had struck them.

ENGINEER ADMITS SPEED.

Bailey, the engineer, asserted that the night was foggy and he was not even aware that his engine had hit anything. He said there was no jar, which usually records a collision, and admitted his train was traveling from 55 to 60 miles an hour at the time he passed Otis until he drew his train into the suburbs of Chicago.

The express trains always travel at more than 55 miles an hour over the Otis crossing. Hundreds of farmers pass over it every day, and many during the night. Very seldom the trains blow a warning when crossing this "chasm of death."

Hundreds of infuriated farmers swarmed into Otis Sunday. They did not blame the railroad so much as they did the lawmakers, who should have forced the railroad to install electrically operated automatic gates. This is the second killing on the Otis grade crossing. John Shannon, a farmer near Otis, was smashed to death a short time ago. His body was so badly mangled that his clothing had to be searched for identification, as was Geison's when taken from the pilot in Chicago.

Fortunately, Nicholas Geison had no wife or children, but his brother is prostrate with grief. The dead man was at the prime of his life, and his life was too precious to have been sacrificed. He died when death seemed furthermost from him, and he never had a chance to get out of the way of the steel monster that plunged with his body to its terminal in another State.

The railroad blamed the killing on the darkness of the night. The farmers near Otis blamed the killing on the railroad and the legislators. Both are guilty. One did the killing and the other allowed it. If the legislators in the State of Indiana had made laws forcing the railroads to protect the grade crossings, where hundreds of farmers are killed, and particularly this one, Geison would have arisen with the sun on Monday morning and gone whistling to his farm work. Instead, another bloody slaying exemplified Indiana's legislative negligence.

Sunday hundreds of farmers visited the grade crossing, and the sentiment was that Gov. Ralston and his legislators "would get the surprise of their lives if they were to take a look."

Felix Maraski, a wealthy farmer near Otis, said: "Many would have been killed in this 'death chasm' had the farmers relaxed their watchfulness for one minute. Everybody is exceedingly careful, because the crossing is a damnable thing. Geison was careful, because he realized the danger to which his life was constantly exposed. It was the same thing in the killing of George Shannon, who was horribly smashed. It is high time that the State government took action. A bill should be passed forcing the railroads of Indiana to protect the 'death traps.' If a man is to comply with the 'safety first' signs that are plastered over the State, he might as well quit traversing the country highways. Everybody is shouting 'safety first,' and the legislators, who have the power to make the slogan mean something, are idle. I am willing to start a fight for legislation in this community, such as the Farmers and Drovers' Journal is waging in behalf of the farmer. The railroads are making their money from the people and should do something to safeguard them."

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[From the Chicago Daily Farmers and Drovers' Journal, Tuesday, May 26, 1914.]

FIVE INJURED AT GRADE CROSSING IN NEBRASKA.

When a fast freight crashed into an automobile driven by Frederick C. Casey at an unprotected grade crossing near Burchard, Nebr., his collar bone was broken and he was badly bruised and cut. Marie, his baby daughter, is lying in a hospital with concussion of the brain, and Mrs. Casey and two other children were severely slashed and bruised.

Heavy foliage, that obscured the crossing and shut off a view of the tracks, is responsible. Casey avers that he slowed down his car and took every precaution before driving upon the tracks.

[From the Chicago Daily Farmers and Drovers' Journal, Wednesday, May 27, 1914.]

JURIES BLAME ST. PAUL RAILROAD FOR DEATHS AT GRADE CROSSINGS.

The Chicago, Milwaukee & St. Paul still continues to slaughter persons at its unprotected grade crossings. The railroad has taken more than its share of human life. Almost every time it has taken a life coroner's juries have returned a verdict of death due to the gross negligence of this road to guard its "death traps" with automatic gates.

Mrs. Pauline Kalkelik, of Morton Grove, Ill., was smashed to death on a Morton Grove grade crossing by a fast passenger train last Thursday. She was killed instantly. A jury was empaneled by Coroner Peter M. Hoffman, who investigated the death. The investigation proved conclusively that the killing was caused by the negligence of this railroad. But there was only one brave, honest man on that jury who dared express his own candid opinion. Milton Jones was the man. He could not agree with the others that Mrs. Kalkelik's death came through accident. He held tenaciously that the Chicago, Milwaukee & St. Paul was guilty of taking a human life when it could have been avoided.

Other members of that jury acted like some of the legislators in those States where the grade crossings are claiming a great number of lives—they were dubious as to whether the railroad should protect its own crossings. Perhaps the railroad was too fearful a power for them to render a verdict against.

Coroner Peter Hoffman was of the same opinion as Milton Jones. He is convinced that the Chicago, Milwaukee & St. Paul is guilty of killing a human being, and at heart he commended the stand taken by Milton. The jury was out exactly one hour and a half and could not return a verdict of "death through accident" because Milton disagreed. Coroner Hoffman apparently became disgusted and discharged the "bickering five" who would mask "a murder as an accident."

Three weeks ago this road smashed out the lives of Louis Hoffman's babies at the Glenview, Ill., grade crossing. Coroner Peter Hoffman made the investigation and a jury returned a verdict of gross negligence. At this crossing the Chicago, Milwaukee & St. Paul had taken two lives prior to the killing of the Hoffman children and the maiming of their mother. In both cases the railroad was warned that unless it stationed a flagman at the crossing for a period of 12 hours each day a charge of murder would be lodged with the grand jury. The railroad complied with the verdict. But at the end of three weeks the flagman suddenly vanished. Then came another killing. This time the Chicago, Milwaukee & St. Paul was ordered to install automatic gates to protect the farmers' lives. The road promised. This was followed by the Hoffman killing. It took three killings to convince the railroad that it was high time to protect the Glenview grade crossing.

Coroner Hoffman did not forget about the killing of his cousin's children and the brutal maiming of Mrs. Bessie Hoffman. He kept after the railroad, and they treated him with a great amount of consideration. They put a flagman at the Glenview crossing and have sent Coroner Hoffman a blue print of the gates that are being installed.

The coroner says that the killing should stop. He is indignant at the way the railroads have been allowed to kill—take human life—and then go right on taking it, because no one is strong enough to make them give a thought to the protection of human beings. The sacrifice is awful. The Chicago, Milwaukee & St. Paul probably will pay the beneficiaries of Mrs. Kalkelik a certain amount of gold. It is the same old thing over and over again.

The Milwaukee kills people and then sends them to the personal-claim agent—he pays for all killings.

[From the Chicago Daily Farmers and Drovers' Journal, Thursday, May 28, 1914.]

TWO HURLED TO DEATH, TWO SEVERELY HURT AT GRADE CROSSINGS.

A man believed to be W. D. Patton, a veterinarian of Siloam Springs, Ark., was killed early Thursday at a grade crossing near St. Joseph, Mo., when a fast Rock Island train struck and demolished the automobile which he was driving

The body was terribly mutilated and the papers in his pocket did not confirm the identification.

A high embankment shuts off the view of the crossing, and it was impossible for Patton to see or hear the approaching train. His car was hit near the front end and hurled many feet from the track.

Patton's shoulder was caught in the wreckage and ground to pieces.

MISSOURI TAKES ACTION.

The public-utilities commission of Missouri has started to eradicate the reign of death and terror on the unprotected railroad grade crossings in Missouri. The first real action was taken Thursday, when Judge John Kennish, of the supreme court, sitting at the Baltimore Hotel, as representative of the State-utilities commission, considered the advisability of altering the Fifteenth Street unprotected grade crossing over the Rock Island tracks.

The hearing is the outcome of a request filed with the State board by Frank Rozzelle, county counsellor, acting under instructions from the county court.

This hearing is expected to bring out evidence of the number of people maimed and injured at this dangerous crossing. The extent of the railroad's share in remedying the condition, should a viaduct be decreed necessary, also will be determined. The hearing is expected to bare the whole situation concerning the danger or lack of danger at this grade crossing where people have been hurt.

James Cox was instantly killed and Mrs. Cox, Mrs. Edward Borchard, and Miss Tillie Olson, all of Beloit, Wis., were injured severely when a Chicago & North Western train crashed into their automobile on an unprotected grade crossing near Janesville Thursday.

Mr. ADAMSON. Mr. Chairman, I ask for a vote on the substitute.

The CHAIRMAN. The question is on agreeing to the substitute offered by the gentleman from Indiana [Mr. CULLOP].

The substitute was agreed to.

The CHAIRMAN. The question now recurs on the original bill as amended by the substitute.

Mr. ADAMSON. Mr. Chairman, I move that the committee do now rise.

The CHAIRMAN. The Chair was putting the motion on the passage of the original bill as amended by the substitute.

Mr. ADAMSON. There is only one committee amendment, Mr. Chairman, and I move that the committee rise and report the bill as amended by the substitute, with a favorable recommendation.

The CHAIRMAN. The Chair is under the impression that the proper motion is to agree to the original bill as amended by the substitute.

Mr. MANN. That comes after the motion to rise.

Mr. ADAMSON. I would not mislead the Chair. Just follow me. [Laughter.]

Mr. MANN. Mr. Chairman, I take it that the motion that the gentleman from Georgia makes is to rise and report this bill favorably, and also the other bills that have been laid aside with a favorable recommendation.

Mr. ADAMSON. We have amended the bill we were considering by adopting a substitute for it.

The CHAIRMAN. The gentleman from Georgia [Mr. ADAMSON] moves that the committee do now rise and report the substitute——

Mr. MANN. And the other bills that have been laid aside with a favorable recommendation.

Mr. ADAMSON. That is right. I move, Mr. Chairman, that all bills under consideration embraced within the special order be reported to the House with favorable recommendation that they pass as amended.

Mr. MANN. There are just three that have been laid aside.

The CHAIRMAN. The gentleman from Georgia moves that the committee rise and report the bill H. R. 15613, the bill H. R. 15657, and the bill H. R. 16586, with sundry amendments, with the recommendation that the amendments be agreed to and that the bills as amended do pass.

The motion was agreed to.

Accordingly the committee rose; and the Speaker having resumed the chair, Mr. HULL, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee, having had under consideration the bill (H. R. 15613) creating an interstate trade commission, to define its powers and duties, and for other purposes; the bill (H. R. 15657) to supplement existing laws against unlawful restraints and monopolies, and for other purposes; and the bill (H. R. 16586) to amend section 20 of an act to regulate commerce, and for other purposes, had directed him to report each bill with amendments, with the recommendation that the amendments be agreed to, and that the bills as amended do pass.

The SPEAKER. The Chairman of the Committee of the Whole House on the state of the Union reports that that committee, under the special rule, having had under consideration House bill 15613, House bill 15657, and House bill 16586, had directed him to report the same back with sundry amendments, with the recommendation that the amendments be agreed to and that the bills as amended do pass.

Mr. ADAMSON. I believe, Mr. Speaker, the rule provides that the previous question is ordered.

The SPEAKER. Yes; it is already ordered.

Mr. ADAMSON. The first bill is the trade commission bill.

The SPEAKER. The first bill is House bill 15613. The question is on agreeing to the amendment.

Mr. MANN. Mr. Speaker, were there any amendments?

The SPEAKER. The Clerk advises the Chair that there is one amendment. The Clerk will report it.

The Clerk read as follows:

On page 12, line 7, strike out the word "thirteenth" and insert the word "thirtieth."

The SPEAKER. The question is on agreeing to the amendment.

The amendment was agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill as amended was ordered to be engrossed and read a third time, and was read the third time.

Mr. MURDOCK. Mr. Speaker, I make the following motion to recommit.

The SPEAKER. Is the gentleman opposed to the bill?

Mr. MURDOCK. I am not.

The SPEAKER. Is anybody in the House opposed to it, and wants to offer a motion to recommit? If not, the Chair will entertain the motion of the gentleman from Kansas [Mr. MURDOCK], which the Clerk will report.

The Clerk read as follows:

By Mr. MURDOCK: I move to recommit the bill (H. R. 15613) to the Committee on Interstate and Foreign Commerce, with directions to that committee to report said bill back to the House forthwith, with the following amendment, viz: Strike out all after the enacting clause and insert in lieu thereof the following:

"That there is hereby created and established an interstate trade commission, which shall consist of seven members. On January 1,

1914, the Bureau of Corporations shall cease to exist, and all the employees, officials, funds, and records of said bureau, and all the powers and duties thereof and of the Commissioner of Corporations shall be transferred to and conferred upon the interstate trade commission. The Commissioner of Corporations holding such office on said date shall be ex officio a member of the commission for the first year of its existence. The remaining six members of the commission shall be appointed by the President, by and with the advice and consent of the Senate, and the terms of office of such commissioners so first appointed shall be for two, three, four, five, six, and seven years, respectively, from January 1, 1914, as designated in each case by the President and thereafter all the commissioners shall hold office for seven years and be appointed by the President, by and with the advice and consent of the Senate. Any commissioner may be removed by the President for inefficiency, neglect of duty, or malfeasance in office. The commission shall choose a chairman from its own membership, and appoint a secretary, who shall receive a salary of $5,000 a year. The commissioners shall each receive a salary of $10,000 a year. A majority of the commission shall constitute a quorum for the transaction of business; but any one of the members of the commission may administer oaths and affirmations and sign subpœnas. The commission may, by one or more of the commissioners, prosecute any inquiry necessary to its duties in any part of the United States into any matter or question of fact pertaining to the business of any corporation or association subject to the provisions of this act. All orders adjudicating matters in controversy before the commission shall be approved by a majority of the commissioners.

"SEC. 2. That every corporation or association shall be subject to the jurisdiction of the commission which is engaged in commerce among the several States or with foreign nations, and which, by itself or with one or more other corporations or associations owned, operated, controlled, or organized in conjunction with it so as to constitute substantially a business unit, has annual gross receipts exceeding $3,000,000 from business within the United States, excepting corporations or associations subject to the act entitled 'An act to regulate commerce,' approved February 4, 1887, as amended, but including pipe-line companies.

"SEC. 3. That the term corporation or association, as used in this act, shall include all incorporated associations of two or more persons organized to carry on business as coowners with a view to profit and all unincorporated associations of two or more persons organized to carry on business as coowners with a view to profit.

"SEC. 4. That it shall be the duty of the commission and the commission shall have the power—

"(a) To determine whether any corporation or association engaged in commerce among the several States or with foreign nations, excepting corporations and associations, subject to the act entitled 'An act to regulate commerce,' approved February 4, 1887, as amended, but including pipe-line companies, is subject to the jurisdiction of the commission, and to determine whether any particular number or group of such corporations or associations are so owned, operated, controlled, or organized as to constitute substantially a business unit, having annual gross receipts exceeding $3,000,000 from business in the United States and are therefore subject to the jurisdiction of the commission. The determination of such questions of jurisdiction by the commission shall be final.

"(b) To require from all corporations or associations, subject to the jurisdiction of the commission, information as to their organization, conduct, management, security holders, financial condition, and business transactions to such a degree and extent and in such form as the commission may require, and to require from such corporations or associations complete access at all reasonable times to their records, books, accounts, minutes, papers, and all other documents, including the records of any of their executive or other committees.

"(c) To make, alter, enforce, and repeal regulations proper and necessary to enforce the provisions of this act.

"(d) To require, by regulations duly made, uniform or comparable methods of accounting by the corporations or associations subject to the jurisdiction of the commission, and to prescribe the forms of accounting necessary to that end.

"(e) To make public, from time to time, the information received by it in such form and to such extent as the commission shall by regulations prescribe.

"(f) To point out and make public, from time to time, specifically and separately, in such form and to such extent as in the discretion of the commission will best advance fair, honest, and efficient business, all cases of material overcapitalization, unfair competition, misrepresentation, or oppressive use of credit of which any corporation or association subject to the jurisdiction of the commission may have been guilty, and whenever any action of such corporation or association shall, in the opinion of the commission, constitute a violation of the laws of the United States, to present such case to the Attorney General for prosecution.

"(g) To make an annual report which shall be transmitted to Congress, setting forth data obtained by the commission relevant to the general question of the regulation of interstate commerce, together with any recommendations for further legislation which the commission may desire to present.

"(h) To make an investigation and report as to the methods best adapted to the carrying out of a final decree of dissolution under the act entitled "An act to protect trade and commerce against unlawful restraints and monopolies," approved July 2, 1890, when such a decree shall have been entered against any corporation subject to the jurisdiction of the commission and when the court having jurisdiction of the enforcement of such decree shall refer the case to the commission for its action as herein provided.

"SEC. 5. That for the purposes of this act and in aid of its powers herein granted the commission shall have power to compel the attendance and testimony of witnesses and the production of documentary evidence equivalent so far as applicable within its jurisdiction to the power conferred upon the Interstate Commerce Commission in the act entitled 'An act to regulate commerce,' approved February 4, 1887, as amended, and specifically the commission shall have power to require by subpœna the attendance and testimony of witnesses and the production of all books, papers, contracts, agreements, documents, or other things of every kind and nature whatsoever relating to any matter under investigation by the commission. Such attendance of witnesses and the production of such documentary evidence may be required from any place in the United States at any designated place of hearing, and in case of disobedience to such subpœna the commission, or any party to a proceeding before the commission, may, with the aid of the commission, invoke the aid of any court of the United States in requiring the attendance and testimony of witnesses and the production of books, papers, and documents under the provisions of this section.

"And any of the district courts of the United States within the jurisdiction of which such inquiry is carried on may, in case of contumacy or refusal to obey a subpœna issued by the commission to any corporation or association, subject to the provisions of this act, or other person, issue an order requiring such corporation or association, or other person, to appear before said commission (and produce books, documents, and papers, if so ordered) and give evidence touching the the matter in question, and any failure to obey such order of the court may be punished by such court as a contempt thereof. The claim that any such testimony or evidence may tend to criminate the person giving such evidence shall not excuse such witness from testifying.

"The testimony of any witness may, with the consent of the commission, be taken at the instance of a party in any proceeding or investigation pending before the commission by deposition at any time after the inquiry is instituted. The commission may also order testimony to be taken by deposition in any proceeding or investigation pending before it at any stage of such proceeding or investigation. Such deposition may be taken before any person authorized so to do by the commission and who has power to administer oaths.

"Any person may be compelled so to appear and depose and to produce documentary evidence in the same manner as witnesses may be compelled to appear and testify and produce documentary evidence before the commission as hereinbefore provided. Such testimony shall be reduced to writing.

"Witnesses whose testimony is taken under the provisions of this act shall severally be entitled to the same fees as are paid for like service in the courts of the United States.

"No person shall be excused from attending and testifying, or from producing books, papers, documents, or other things before this commission, or in obedience to the subpœna of the commission, whether such subpœna be signed or issued by one or more of the commissioners on the ground, or for the reason, that the testimony or evidence, documentary or otherwise, required of him may tend to criminate him or subject him to a penalty or forfeiture. But no natural person shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he may testify under oath or produce evidence, documentary or otherwise, before said commission in obedience to a subpœna issued by said commission: *Provided*, That no person so testifying shall be exempt from prosecution and punishment for perjury committed in so testifying. The purpose of this provision is to give immunity only to natural persons who under oath testify in response to a subpœna of the commission or produce evidence, documentary or otherwise, under oath, in an inquiry instituted by the commission, in response to such subpœna.

"And to carry out and give effect to the provisions of this act, the commission is hereby authorized to designate and employ special agents or examiners, who shall have the power to administer oaths, examine witnesses and documentary evidence, and receive evidence.

"SEC. 6. That it shall be the duty of every corporation or association subject to the provisions of this act to comply with the terms hereof, and to comply with the orders and subpœnas of the commission issued pursuant to the authority herein granted, and it shall be the duty of every corporation, association, or person to furnish to the commission such information as the commission may deem necessary and proper to determine whether any corporation or association is subject to the jurisdiction of the commission.

"SEC. 7. That it shall be the duty of every corporation or association subject to the jurisdiction of the commission, within four months after January 1, 1914, or, if becoming subject thereto after said date, then within two months after so becoming subject thereto, to file with the commission written statements under oath showing such facts as to its organization, conduct, financial condition, management, security holders, operations, and business transactions as may be prescribed by the commission, and it shall be the duty of every corporation or association subject to the jurisdiction of the commission to furnish to the commission from time to time such information as to its organization, conduct, financial condition, management, security holders, operations, and business transactions, and to such degree and extent and in such form as may be prescribed by the commission, and to afford to the commission or its duly authorized agents complete access to all its records, books, accounts, minutes, and papers, and all other documents, including the records of any of its executive or other committees.

"SEC. 8. That neglect or failure by any corporation or association or by the officers or agents of any such corporation or association, subject to any of the provisions of this act, to comply with the terms hereof or failure or refusal to furnish information required by the commission within 60 days after written demand for such information, shall constitute a misdemeanor and shall be punished by fine of not more than $100 for each and every day of the continuance of such neglect or failure. Any person who shall willfully make or give to said commission any false or deceptive return or statement required by this act, knowing the same to be false or calculated to deceive in any material particular, shall be deemed to be guilty of a misdemeanor and upon conviction shall be punished by fine of not more than $5,000 or by imprisonment for not more than two years, or by both fine and imprisonment.

"SEC. 9. That if any provision or requirement of this act shall for any reason be held unconstitutional the validity of the remaining provisions or requirements of this act shall not be affected thereby."

Mr. ADAMSON. I move the previous question on the motion to recommit.

The previous question was ordered.

The SPEAKER. The question is on the motion to recommit.

The question was taken; and on a division (demanded by Mr. MURDOCK) there were—ayes 19, noes 151.

Accordingly the motion to recommit was rejected.

The SPEAKER. The question is on the passage of the bill.

The bill was passed.

On motion of Mr. ADAMSON, a motion to reconsider the last vote was laid on the table.

The SPEAKER. The next bill reported from the Committee of the Whole is the bill (H. R. 15657) to supplement existing laws against unlawful restraints and monopolies, and for other purposes. Is a separate vote demanded on any amendment?

Mr. MANN. There is but one amendment.
Mr. GARDNER. There were other amendments.
Mr. MANN. They were amendments to the amendment.
Mr. GARDNER. Mr. Speaker, a parliamentary inquiry.
The SPEAKER. The gentleman will state it.
Mr. GARDNER. I rise to ask whether it is true that when a bill is reported back from the Committee of the Whole with a perfected amendment it is impossible to get a record vote on an amendment to that amendment adopted in committee?
The SPEAKER. It comes back to the House in the form of one amendment.
Mr. GARDNER. The reason I asked the question was that when the rule was introduced it was specifically stated that it would be possible to get a separate vote on certain amendments.
Mr. GARNER. That was in Committee of the Whole.
Mr. GARDNER. A record vote.
The SPEAKER. Who made that statement? The Chair did not.
Mr. GARDNER. The Chair did not state it.
The SPEAKER. There is only one amendment to this bill. The question is on the amendment.
The amendment was agreed to.
The bill as amended was ordered to be engrossed and read a third time, and was accordingly read the third time.
The SPEAKER. The question is on the passage of the bill.
Mr. WEBB. Mr. Speaker, I demand the yeas and nays.
Mr. MANN. Mr. Speaker, I ask for the yeas and nays.
Mr. MURDOCK. I ask for the yeas and nays, too, Mr. Speaker, if everybody is making the demand.
The SPEAKER. The gentleman from North Carolina [Mr. WEBB], the gentleman from Illinois [Mr. MANN], and the gentleman from Kansas [Mr. MURDOCK] demand the yeas and nays.
The yeas and nays were ordered.
The question was taken; and there were—yeas 277, nays 54, answered "present" 3, not voting 99, as follows:

YEAS—277.

Abercrombie	Dershem	Hughes, Ga.	Page, N. C.
Adair	Dickinson	Hulings	Palmer
Adamson	Dies	Hull	Park
Aiken	Dillon	Igoe	Patten, N. Y.
Alexander	Dixon	Jacoway	Peters, Mass.
Allen	Donovan	Johnson, Ky.	Peterson
Anderson	Doolittle	Johnson, S. C.	Phelan
Ashbrook	Doremus	Johnson, Wash.	Porter
Aswell	Driscoll	Keating	Post
Bailey	Dupré	Kelley, Mich.	Pou
Baker	Eagle	Kelly, Pa.	Quin
Baltz	Edwards	Kennedy, Conn.	Ragsdale
Barkley	Elder	Kennedy, Iowa	Rainey
Barnhart	Falconer	Kent	Raker
Barton	Farr	Kettner	Rauch
Bathrick	Fergusson	Key, Ohio	Rayburn
Beakes	Ferris	Kindel	Reed
Bell, Cal.	Fields	Kinkaid, Nebr.	Reilly, Wis.
Bell, Ga.	Finley	Kinkead, N. J.	Riordan
Blackmon	Fitzgerald	Kitchin	Roberts, Nev.
Booher	FitzHenry	Konop	Rothermel
Borchers	Floyd, Ark.	Korbly	Rouse
Bowdle	Foster	La Follette	Rucker
Broussard	Fowler	Lazaro	Rupley
Brown, N. Y.	Frear	Lee, Pa.	Russell
Bruckner	French	Lenroot	Sabath
Brumbaugh	Gallagher	Lesher	Saunders
Bryan	Gallivan	Lever	Scott
Buchanan, Ill.	Gard	Lieb	Scully
Buchanan, Tex.	Gardner	Lindbergh	Seldomridge
Bulkley	Garner	Linthicum	Shackleford
Burgess	Garrett, Tex.	Lloyd	Sharp
Burke, S. Dak.	Gilmore	Lobeck	Sherwood
Burke, Wis.	Glass	Logue	Sims
Burnett	Goeke	Lonergan	Sinnott
Byrnes, S. C.	Good	McAndrews	Sisson
Byrns, Tenn.	Goodwin, Ark.	McClellan	Sloan
Campbell	Gordon	McCoy	Small
Candler, Miss.	Gorman	McDermott	Smith, Idaho
Cantor	Goulden	McGillicuddy	Smith, J. M. C.
Cantrill	Gray	McKellar	Smith, Md.
Caraway	Green, Iowa	McKenzie	Smith, N. Y.
Carlin	Gregg	McLaughlin	Stafford
Carr	Griffin	MacDonald	Stedman
Cary	Hamill	Maguire, Nebr.	Stephens, Miss.
Casey	Hamlin	Mahan	Stephens, Tex.
Church	Hammond	Maher	Stevens, N. H.
Clancy	Hardwick	Mapes	Stone
Claypool	Hardy	Mitchell	Stringer
Cline	Harris	Mondell	Sumners
Coady	Harrison	Morgan, La.	Sutherland
Connelly, Kans.	Hart	Morgan, Okla.	Taggart
Conry	Haugen	Morrison	Talcott, N. Y.
Copley	Hawley	Moss, Ind.	Tavenner
Covington	Hay	Moss, W. Va.	Taylor, Ark.
Cox	Hayden	Murdock	Taylor, Colo.
Cramton	Heflin	Murray, Mass.	Taylor, N. Y.
Crosser	Helgesen	Murray, Okla.	Temple
Cullop	Henry	Neeley, Kans.	Thacher
Curry	Hensley	Neely, W. Va.	Thomas
Davenport	Hill	Nolan, J. I.	Thompson, Okla.
Davis	Hinebaugh	O'Brien	Thomson, Ill.
Decker	Hobson	O'Hair	Towner
Deitrick	Holland	Oldfield	Tribble
Dent	Houston	O'Leary	Tuttle
Underhill	Walsh	Whitacre	Woodruff
Underwood	Walters	Williams	Woods
Vare	Watkins	Wilson, Fla.	
Vaughan	Weaver	Wingo	
Vollmer	Webb	Witherspoon	

NAYS—54.

Anthony	Fess	Kiess, Pa.	Sells
Austin	Gillett	Langley	Shreve
Bartholdt	Graham, Pa.	McGuire, Okla.	Slemp
Britten	Greene, Vt.	Madden	Steenerson
Browne, Wis.	Guernsey	Mann	Stevens, Minn.
Butler	Hamilton, N. Y.	Moore	Switzer
Calder	Hayes	Mott	Treadway
Chandler, N. Y.	Hinds	Nelson	Volstead
Danforth	Howell	Paige, Mass.	Wallin
Drukker	Humphrey, Wash.	Parker	White
Dunn	Johnson, Utah	Payne	Willis
Edmonds	Kahn	Platt	Winslow
Esch	Keister	Plumley	
Fairchild	Kennedy, R. I.	Powers	

ANSWERED "PRESENT"—3.

Bartlett	Fordney	Gerry

NOT VOTING—99.

Ainey	Eagan	Kreider	Reilly, Conn.
Ansberry	Estopinal	Lafferty	Roberts, Mass.
Avis	Evans	Langham	Rogers
Barchfeld	Faison	Lee, Ga.	Rubey
Beall, Tex.	Flood, Va.	L'Engle	Sherley
Borland	Francis	Levy	Slayden
Brockson	Garrett, Tenn.	Lewis, Md.	Smith, Minn.
Brodbeck	George	Lewis, Pa.	Smith, Saml. W.
Brown, W. Va.	Gittins	Lindquist	Smith, Tex.
Browning	Godwin, N. C.	Loft	Sparkman
Burke, Pa.	Goldfogle	Manahan	Stanley
Callaway	Graham, Ill.	Martin	Stephens, Cal.
Carew	Greene, Mass.	Merritt	Stephens, Nebr.
Carter	Griest	Metz	Stout
Clark, Fla.	Gudger	Miller	Talbott, Md.
Collier	Hamilton, Mich.	Montague	Taylor, Ala.
Connolly, Iowa	Helm	Moon	Ten Eyck
Cooper	Helvering	Morin	Townsend
Crisp	Howard	Norton	Walker
Dale	Hoxworth	Oglesby	Watson
Difenderfer	Hughes, W. Va.	O'Shaunessy	Whaley
Donohoe	Humphreys, Miss.	Padgett	Wilson, N. Y.
Dooling	Jones	Patton, Pa.	Young, N. Dak.
Doughton	Kirkpatrick	Peters, Me.	Young, Tex.
Dyer	Knowland, J. R.	Prouty	

So the bill was passed.
The following pairs were announced:
Until further notice:
Mr. GRAHAM of Illinois with Mr. SAMUEL W. SMITH.
Mr. REILLY of Connecticut (for the bill) with Mr. BARCHFELD (against).
Mr. PADGETT (for trust bill) with Mr. ROBERTS of Massachusetts (against).
Mr. YOUNG of Texas with Mr. HAMILTON of Michigan.
Mr. SLAYDEN with Mr. BURKE of Pennsylvania.
Mr. GARRETT of Tennessee with Mr. FORDNEY.
Mr. HILL with Mr. COPLEY.
Mr. TAYLOR of Alabama with Mr. HUGHES of West Virginia.
Mr. CALLAWAY with Mr. ROGERS.
Mr. AINEY with Mr. COLLIER.
Mr. OGLESBY with Mr. PROUTY.
Mr. CARTER with Mr. AVIS.
Mr. DOOLING with Mr. COOPER.
Mr. FLOOD of Virginia with Mr. KREIDER.
Mr. GOLDFOGLE with Mr. LAFFERTY.
Mr. SMITH of Texas with Mr. LANGHAM.
Mr. HOWARD with Mr. LINDQUIST.
Mr. HUMPHREYS of Mississippi with Mr. MANAHAN.
Mr. LEE of Georgia with Mr. MILLER.
Mr. SHERLEY with Mr. NORTON.
Mr. TALBOTT of Maryland with Mr. STEPHENS of California.
Mr. CAREW with Mr. YOUNG of North Dakota.
Mr. GITTINS with Mr. BROWNING.
Mr. SPARKMAN with Mr. DYER.
On this vote:
Mr. BARTLETT with Mr. MARTIN.
Mr. WATSON (for the bill) with Mr. PETERS of Maine (against).
Mr. WILSON of New York (for the bill) with Mr. MORIN (against).
Mr. DOUGHTON (for the bill) with Mr. METZ (against).
Mr. SMITH of Minnesota (for the bill) with Mr. PATTON of Pennsylvania (against).
Mr. RUBEY (for the bill) with Mr. GERRY (against).
Mr. BRODBECK (for the bill) with Mr. GRIEST (against).
Mr. DALE (for the bill) with Mr. LEVY (against).
Mr. DONOHOE (for the bill) with Mr. MERRITT (against).
Mr. MONTAGUE (for the bill) with Mr. GREENE of Massachusetts (against).
Mr. GERRY. Mr. Speaker, I am paired with the gentleman from Missouri, Mr. RUBEY. I wish to withdraw my vote of "no" and answer "present."

The Clerk called the name of Mr. GERRY, and he answered "Present," as above recorded.

Mr. FORDNEY. Mr. Speaker, I voted "no." I find I am paired with the gentleman from Tennessee, Mr. GARRETT. I wish to withdraw my vote and answer "present."

The Clerk called the name of Mr. FORDNEY, and he answered "Present," as above recorded.

Mr. MOON. Mr. Speaker, I desire to vote "aye" on this bill. I do not know whether I am entitled to vote or not. I was in the committee room in the preparation of a matter that is to be presented to the House before adjournment. I did not hear the bell for roll call until a few moments ago.

The SPEAKER. The gentleman does not bring himself within the rule.

Mr. TOWNSEND. Mr. Speaker, can I be recorded on this vote?

The SPEAKER. What is the gentleman's request?

Mr. TOWNSEND. I wish to vote "aye" on this bill.

The SPEAKER. Was the gentleman in the Hall and listening when his name should have been called?

Mr. TOWNSEND. I was not, Mr. Speaker. I thought it was a call of the House.

The SPEAKER. The gentleman does not bring himself within the rule.

The result of the vote was then announced as above recorded.

On motion of Mr. WEBB, a motion to reconsider the vote whereby the bill was passed was laid on the table.

REGULATION OF RAILWAY STOCKS AND BONDS.

The SPEAKER. The next bill reported from the Committee of the Whole House on the state of the Union is the bill 16586, to amend section 20 of an act to regulate commerce to prevent overissues of securities by carriers, and for other purposes, and the question is on the amendment.

The question was taken, and the amendment was agreed to.

The SPEAKER. The question now is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

Mr. BARTLETT. Mr. Speaker, I desire to submit a motion to recommit.

The SPEAKER. Is the gentleman from Georgia opposed to the bill?

Mr. BARTLETT. I am.

The SPEAKER. Does any gentleman on the minority of the committee that reported the bill desire to offer a motion to recommit? [After a pause.] Apparently not. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. BARTLETT moves to recommit the bill to the Committee on Interstate and Foreign Commerce, with instructions to report the bill back to the House with the following amendment: Add, on page 16, after the word "court," in line 26, the following: "*Provided*, That nothing contained in this act shall deprive the railroad commissions or public service or utilities commissions of the various States from exercising all the powers now conferred upon them by the various States."

Mr. ADAMSON. Mr. Chairman, I move the previous question on the motion to recommit.

The previous question was ordered.

The SPEAKER. The question is on the motion to recommit.

The question was taken; and on a division (demanded by Mr. BARTLETT) there were 39 ayes and 228 noes.

So the motion to recommit was rejected.

The SPEAKER. The question now is on the passage of the bill.

Mr. RAYBURN and Mr. MANN demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 325, nays 12, answered "present" 2, not voting 94, as follows:

YEAS—325.

Abercrombie	Bathrick	Burke, S. Dak.	Clark, Fla.
Adair	Beakes	Burke, Wis.	Claypool
Adamson	Bell, Cal.	Burnett	Cline
Aiken	Bell, Ga.	Butler	Coady
Alexander	Blackmon	Byrnes, S. C.	Collier
Allen	Booher	Byrns, Tenn.	Connelly, Kans.
Anderson	Borchers	Calder	Conry
Anthony	Bowdle	Campbell	Copley
Ashbrook	Britten	Candler, Miss.	Covington
Aswell	Broussard	Cantor	Cox
Austin	Brown, N. Y.	Cantrill	Crosser
Avis	Brown, W. Va.	Caraway	Cullop
Bailey	Browne, Wis.	Carlin	Curry
Baker	Bruckner	Carr	Danforth
Baltz	Brumbaugh	Cary	Davenport
Barkley	Bryan	Casey	Davis
Barnhart	Buchanan, Ill.	Chandler, N. Y.	Decker
Bartholdt	Bulkley	Church	Deitrick
Barton	Burgess	Clancy	Dent
Dershem	Hayes	McLaughlin	Sharp
Dickinson	Heflin	MacDonald	Sherwood
Dies	Helgesen	Madden	Shreve
Dillon	Henry	Maguire, Nebr.	Sims
Dixon	Hensley	Mahan	Sinnott
Donovan	Hill	Maher	Sisson
Doolittle	Hinds	Mann	Slemp
Doremus	Hinebaugh	Mapes	Sloan
Driscoll	Hobson	Mitchell	Small
Drukker	Holland	Mondell	Smith, Idaho
Dupré	Houston	Moon	Smith, J. M. C.
Eagle	Howard	Morgan, La.	Smith, Md.
Edmonds	Howell	Morgan, Okla.	Smith, N. Y.
Edwards	Hughes, Ga.	Morrison	Stafford
Elder	Hulings	Moss, Ind.	Stedman
Esch	Hull	Moss, W. Va.	Steenerson
Falconer	Humphrey, Wash.	Mott	Stephens, Tex.
Farr	Igoe	Murdock	Stevens, Minn.
Fergusson	Jacoway	Murray, Mass.	Stevens, N. H.
Ferris	Johnson, Ky.	Murray, Okla.	Stone
Fess	Johnson, S. C.	Neeley, Kans.	Stringer
Fields	Johnson, Utah.	Neely, W. Va.	Sumners
Finley	Johnson, Wash.	Nelson	Sutherland
Fitzgerald	Kahn	Nolan, J. I.	Switzer
Fitzhenry	Keating	O'Brien	Taggart
Floyd, Ark.	Keister	O'Hair	Talcott, N. Y.
Foster	Kelley, Mich.	Oldfield	Tavenner
Fowler	Kelly, Pa.	O'Leary	Taylor, Ark.
Frear	Kennedy, Conn.	Page, N. C.	Taylor, Colo.
French	Kennedy, Iowa	Paige, Mass.	Taylor, N. Y.
Gallagher	Kennedy, R. I.	Palmer	Temple
Gallivan	Kent	Park	Thacher
Gard	Kettner	Patten, N. Y.	Thomas
Gardner	Key, Ohio	Peters, Mass.	Thompson, Okla.
Garrett, Tex.	Kiess, Pa.	Peterson	Thomson, Ill.
Gerry	Kindel	Phelan	Towner
Gillmore	Kinkaid, Nebr.	Plumley	Townsend
Glass	Kinkead, N. J.	Porter	Treadway
Goeke	Kitchin	Post	Tribble
Good	Konop	Pou	Tuttle
Goodwin, Ark.	Korbly	Powers	Underhill
Gorman	La Follette	Quin	Underwood
Goulden	Langley	Ragsdale	Vare
Graham, Pa.	Lazaro	Rainey	Vaughan
Gray	Lee, Pa.	Raker	Vollmer
Green, Iowa	Lenroot	Rauch	Volstead
Greene, Vt.	Lesher	Rayburn	Walsh
Gregg	Lever	Reed	Walters
Griffin	Lieb	Reilly, Wis.	Watkins
Guernsey	Lindbergh	Riordan	Weaver
Hamill	Linthicum	Roberts, Nev.	Webb
Hamilton, N. Y.	Lloyd	Rothermel	Whitacre
Hamlin	Lobeck	Rouse	White
Hammond	Logue	Rucker	Williams
Hardwick	Lonergan	Rupley	Willis
Hardy	McAndrews	Russell	Wilson, Fla.
Harris	McClellan	Sabath	Wingo
Harrison	McCoy	Saunders	Winslow
Hart	McDermott	Scott	Woodruff
Haugen	McGillicuddy	Scully	Woods
Hawley	McGuire, Okla.	Seldomridge	
Hay	McKellar	Sells	
Hayden	McKenzie	Shackleford	

NAYS—12.

Bartlett	Dunn	Gillett	Payne
Buchanan, Tex.	Fairchild	Moore	Wallin
Cramton	Garner	Parker	Witherspoon

ANSWERED "PRESENT"—2.

Fordney	Stephens, Miss.

NOT VOTING—94.

Ainey	Faison	Langham	Roberts, Mass.
Ansberry	Flood, Va.	Lee, Ga.	Rogers
Barchfeld	Francis	L'Engle	Rubey
Beall, Tex.	Garrett, Tenn.	Levy	Sherley
Borland	George	Lewis, Md.	Slayden
Brockson	Gittins	Lewis, Pa.	Smith, Minn.
Brodbeck	Godwin, N. C.	Lindquist	Smith, Saml. W.
Browning	Goldfogle	Loft	Smith, Tex.
Burke, Pa.	Gordon	Manahan	Sparkman
Callaway	Graham, Ill.	Martin	Stanley
Carew	Greene, Mass.	Merritt	Stephens, Cal.
Carter	Griest	Metz	Stephens, Nebr.
Connolly, Iowa	Gudger	Miller	Stout
Cooper	Hamilton, Mich.	Montague	Talbott, Md.
Crisp	Helm	Morin	Taylor, Ala.
Dale	Helvering	Norton	Ten Eyck
Difenderfer	Hoxworth	Oglesby	Walker
Donohoe	Hughes, W. Va.	O'Shaunessy	Watson
Dooling	Humphreys, Miss.	Padgett	Whaley
Doughton	Jones	Patton, Pa.	Wilson, N. Y.
Dyer	Kirkpatrick	Peters, Me.	Young, N. Dak.
Eagan	Knowland, J. R.	Platt	Young, Tex.
Estopinal	Kreider	Prouty	
Evans	Lafferty	Reilly, Conn.	

So the bill was passed.

The Clerk announced the following additional pairs:

On the vote:

Mr. DALE (for the bill) with Mr. LEVY (against).

Mr. STEPHENS of Mississippi with Mr. AINEY.

The result of the vote was announced as above recorded.

Mr. ADAMSON. Mr. Speaker, I think it is necessary to amend the title.

The SPEAKER. Without objection, the title will be amended in accordance with the text.

There was no objection.

On motion of Mr. ADAMSON, a motion to reconsider the vote by which the bill was passed was laid on the table.

GILL AGAINST DYER.

The SPEAKER. The Chair desires to make this announcement. By agreement of those concerned the contested-election case of Gill against Dyer will be called after the reading of the Journal on the morning of Thursday, June 18, and continued on the 19th if necessary.

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted as follows:

To Mr. NEELEY of Kansas, indefinitely, on account of important business.

To Mr. GORDON, indefinitely, on account of illness in his family.

To Mr. BRODBECK, for five days, on account of death and burial of his brother-in-law.

ENROLLED BILLS SIGNED.

Mr. ASHBROOK, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bills of the following title, when the Speaker signed the same:

H. R. 3334. An act authorizing the quitclaiming of the interest of the United States in certain land situated in Hampden County, Mass.

The SPEAKER announced his signature to enrolled bills of the following title:

S. 4168. An act granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent relatives of such soldiers and sailors;

S. 4552. An act granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent relatives of such soldiers and sailors; and

S. 4352. An act granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent relatives of such soldiers and sailors.

ENROLLED BILL PRESENTED TO THE PRESIDENT FOR HIS APPROVAL.

Mr. ASHBROOK, from the Committee on Enrolled Bills, reported that this day they had presented to the President of the United States for his approval the following bill:

H. R. 15190. An act to amend section 103 of the act entitled "An act to codify, revise, and amend the laws relating to the judiciary," approved March 3, 1911, as amended by the act of Congress approved March 3, 1913.

HOUR OF MEETING TO-MORROW.

Mr. FITZGERALD. Mr. Speaker, I ask unanimous consent that when the House adjourns to-night it adjourn to meet at 11 o'clock to-morrow morning.

The SPEAKER. The gentleman from New York asks unanimous consent that when the House adjourns to-night it adjourn to meet at 11 a. m. to-morrow. Is there objection?

Mr. MANN. Oh, I object.

SUNDRY CIVIL APPROPRIATION BILL.

Mr. FITZGERALD. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of the bill H. R. 17041, the sundry civil appropriation bill.

The SPEAKER. The gentleman from New York moves that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of the bill H. R. 17041.

Mr. FITZGERALD. And pending that motion, Mr. Speaker, I desire to inquire of the gentleman from Massachusetts [Mr. GILLETT] if we can agree upon the time for general debate?

Mr. MANN. Mr. Speaker, I do not think the gentleman from Massachusetts needs to bother himself about that to-night. The gentleman intends to rise as soon as he dispenses with the first reading of the bill?

Mr. FITZGERALD. Yes; I am going to move to rise, but I desire to see if we could not fix some time for general debate. I ask unanimous consent that the time for general debate be equally divided, one-half to be controlled by the gentleman from Massachusetts [Mr. GILLETT] and one-half by myself.

Mr. MANN. I object. It is not a proper request to be made to-night; make it to-morrow.

The SPEAKER. The question is on going into the Committee of the Whole House on the state of the Union.

The motion was agreed to.

Accordingly the House resolved itself into the Committee of the Whole House on the state of the Union for the consideration of the bill H. R. 17041, with Mr. HARDWICK in the chair.

The CHAIRMAN. The House is in Committee of the Whole House on the state of the Union for the consideration of the bill H. R. 17041, the sundry civil appropriation bill, which the Clerk will report by title.

The Clerk read as follows:

A bill (H. R. 17041) making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1915, and for other purposes.

Mr. FITZGERALD. Mr. Chairman, I ask unanimous consent to dispense with the first reading of the bill.

The CHAIRMAN. The gentleman from New York asks unanimous consent to dispense with the first reading of the bill. Is there objection? [After a pause.] The Chair hears none.

Mr. FITZGERALD. Mr. Chairman, I move that the committee do now rise.

The motion was agreed to.

Accordingly the committee rose; and the Speaker having resumed the chair, Mr. HARDWICK, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill H. R. 17041, the sundry civil appropriation bill, and had come to no resolution thereon.

ADJOURNMENT.

Mr. FITZGERALD. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 36 minutes p. m.) the House adjourned to meet to-morrow, Saturday, June 6, 1914, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS.

Under clause 2 of Rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1. A letter from the assistant clerk of the Court of Claims, transmitting the findings of fact and conclusions of law in the case of the Insurance Co. of the State of Pennsylvania *v.* The United States in the French spoliation claim relating to the sloop *Rebecca* (H. Doc. No. 1020); to the Committee on Claims and ordered to be printed.

2. A letter from the assistant clerk of the Court of Claims, transmitting the findings of fact and conclusions of law in the cases of George F. Chace, administrator of Stephen Chace, and others *v.* The United States in the French spoliation claims relating to the schooner *Regulator* (H. Doc. No. 1015); to the Committee on Claims and ordered to be printed.

3. A letter from the assistant clerk of the Court of Claims, transmitting the findings of fact and conclusions of law in the cases of Francis M. Boutwell, administrator of Abraham Touro, and others *v.* The United States in the French spoliation claims relating to the schooner *John* (H. Doc. No. 1016); to the Committee on Claims and ordered to be printed.

4. A letter from the assistant clerk of the Court of Claims, transmitting the findings of fact and conclusions of law in the cases of the Insurance Co. of the State of Pennsylvania and others *v.* The United States in the French spoliation claims relating to the ship *Active* (H. Doc. No. 1019); to the Committee on Claims and ordered to be printed.

5. A letter from the assistant clerk of the Court of Claims, transmitting the findings of fact and conclusions of law in the case of the president and directors of the Insurance Co. of North America *v.* The United States in the French spoliation claims relating to the brig *Friendship* (H. Doc. No. 1014); to the Committee on Claims and ordered to be printed.

6. A letter from the assistant clerk of the Court of Claims, transmitting findings of fact and conclusions of law in the case of the president and directors of the Insurance Co. of North America *v.* The United States in the French spoliation claims relating to the schooner *Phoenix* (H. Doc. No. 1018); to the Committee on Claims and ordered to be printed.

7. A letter from the assistant clerk of the Court of Claims, transmitting the findings of fact and conclusions of law in the French spoliation claims relating to the snow *Light Horse* in the case of the Maryland Insurance Co. and others *v.* The United States (H. Doc. No. 1010); to the Committee on Claims and ordered to be printed.

8. A letter from the assistant clerk of the Court of Claims, transmitting the findings of fact and conclusions in the French spoliation claims relating to the schooner *Polly* in the case of Brooks Adams and others *v.* The United States (H. Doc. No. 1017); to the Committee on Claims and ordered to be printed.

9. A letter from the assistant clerk of the Court of Claims, transmitting the findings of fact and conclusions of law in the French spoliation claims relating to the brig *Lydia* in the case of The Insurance Co. of North America and others *v.* The United States (H. Doc. No. 1013); to the Committee on Claims and ordered to be printed.

10. A letter from the assistant clerk of the Court of Claims, transmitting the findings of fact and conclusions of law in the French spoliation claims relating to the brig *Harmony* in the case of Insurance Co. of North America and others *v.* the United States (H. Doc. No. 1012); to the Committee on Claims and ordered to be printed.

11. A letter from the assistant clerk of the Court of Claims, transmitting a certified copy of the findings of fact and conclusions of law in the French spoliation claims relating to the brig *Clarissa* in the case of The Insurance Co. of North America *v.* The United States (H. Doc. No. 1011); to the Committee on Claims and ordered to be printed.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, bills and resolutions were severally reported from committees, delivered to the Clerk, and referred to the several calendars therein named, as follows:

Mr. DAVENPORT, from the Committee on the Territories, to which was referred the bill (H. R. 5851) to authorize and provide for the manufacture, maintenance, distribution, and supply of electric light and power within the Lihue district and the Koloa district, county of Kauai, Territory of Hawaii, reported the same without amendment, accompanied by a report (No. 767), which said bill and report were referred to the House Calendar.

Mr. SMITH of New York, from the Committee on Foreign Affairs, to which was referred the bill (H. R. 14128) granting permission to Lieut. Col. John P. Finley to accept and wear a decoration presented by the Sultan of Turkey, reported the same without amendment, accompanied by a report (No. 769), which said bill and report were referred to the House Calendar.

Mr. MOON, from the Committee on the Post Office and Post Roads, to which was referred the bill (H. R. 17042) to amend the postal and civil-service laws, and for other purposes, reported the same with amendment, accompanied by a report (No. 770), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII,

Mr. McKELLAR, from the Committee on Military Affairs, to which was referred the bill (H. R. 13470) to remove the charge of desertion from the record of James Grady, reported the same with amendment, accompanied by a report (No. 768), which said bill and report were referred to the Private Calendar.

CHANGE OF REFERENCE.

Under clause 2 of Rule XXII, committees were discharged from the consideration of the following bills, which were referred as follows:

A bill (H. R. 3575) granting an increase of pension to Samuel R. Price; Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

A bill (H. R. 6110) to remove the charge of desertion against William H. Benjamin, alias Charles Clarke; Committee on Military Affairs discharged, and referred to the Committee on Naval Affairs.

A bill (H. R. 16861) granting a pension to Michael E. McGrath; Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

A bill (H. R. 16966) granting a pension to Joseph E. La Rocque; Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

A bill (H. R. 16967) granting a pension to Henry F. Baldwin; Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of rule XXII, bills, resolutions, and memorials were introduced and severally referred as follows:

By Mr. HOWELL: A bill (H. R. 17067) to amend the acts of July 1, 1862, and of July 2, 1864, relating to the construction of a railroad from the Missouri River to the Pacific Ocean, to declare a forfeiture of certain public lands granted as a railroad right of way, and for other purposes; to the Committee on the Judiciary.

By Mr. MOSS of Indiana: A bill (H. R. 17068) for securing the uniform grading of grain, preventing deception in transactions in grain, and regulating traffic therein, and for other purposes; to the Committee on Agriculture.

By Mr. TAVENNER: A bill (H. R. 17069) providing a minimum wage for certain employees of the United States Government designated as "laborers," "helpers," "skilled laborers," and others of similar skill; to the Committee on Labor.

By Mr. MOON: Resolution (H. Res. 531) fixing a time when it shall be in order to consider H. R. 17042; to the Committee on Rules.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BRUCKNER: A bill (H. R. 17070) for the relief of Edward F. McDermott, alias James Williams; to the Committee on Military Affairs.

By Mr. CARR: A bill (H. R. 17071) granting an increase of pension to Jefferson Walters; to the Committee on Invalid Pensions.

By Mr. CANTRILL: A bill (H. R. 17072) granting an increase of pension to Marion Marshall; to the Committee on Invalid Pensions.

By Mr. CLAYPOOL: A bill (H. R. 17073) granting an increase of pension to Elias England; to the Committee on Invalid Pensions.

By Mr. DRUKKER: A bill (H. R. 17074) for the relief of the Paterson & Hudson River Railroad Co.; to the Committee on Claims.

By Mr. KELLY of Pennsylvania: A bill (H. R. 17075) granting a pension to Bertha S. Young; to the Committee on Invalid Pensions.

Also, a bill (H. R. 17076) to correct the military record of James Brown; to the Committee on Military Affairs.

By Mr. KONOP: A bill (H. R. 17077) granting an increase of pension to Treflay Cayan; to the Committee on Invalid Pensions.

By Mr. KORBLY: A bill (H. R. 17078) to provide compensation for injuries received by George F. O'Hair; to the Committee on Claims.

By Mr. LANGLEY: A bill (H. R. 17079) granting an increase of pension to James Wheeler; to the Committee on Invalid Pensions.

By Mr. McCLELLAN: A bill (H. R. 17080) to correct the military record of Augustus York; to the Committee on Military Affairs.

By Mr. O'HAIR: A bill (H. R. 17081) granting a pension to William Gilman; to the Committee on Invalid Pensions.

By Mr. OLDFIELD: A bill (H. R. 17082) granting an increase of pension to Mary F. Pinkley; to the Committee on Invalid Pensions.

By Mr. O'SHAUNESSY: A bill (H. R. 17083) granting a pension to Sarah W. Wilcox; to the Committee on Pensions.

By Mr. PATTEN of New York: A bill (H. R. 17084) granting an increase of pension to Rudolph A. Linsenhoff; to the Committee on Invalid Pensions.

By Mr. PLATT: A bill (H. R. 17085) for the relief of the Montgomery & Erie Railway Co.; to the Committee on Claims.

Also, a bill (H. R. 17086) for the relief of the Goshen & Deckertown Railway Co.; to the Committee on Claims.

By Mr. PLUMLEY: A bill (H. R. 17087) granting a pension to Belle A. Allen; to the Committee on Invalid Pensions.

By Mr. SMITH of New York: A bill (H. R. 17088) granting an increase of pension to Joseph Quinn; to the Committee on Invalid Pensions.

Also, a bill (H. R. 17089) granting an increase of pension to Horatio N. Warren; to the Committee on Invalid Pensions.

By Mr. TAVENNER: A bill (H. R. 17090) granting an increase of pension to Mordica Terry; to the Committee on Invalid Pensions.

By Mr. THOMAS: A bill (H. R. 17091) granting a pension to Sarah E. Tally; to the Committee on Invalid Pensions.

By Mr. THOMSON of Illinois: A bill (H. R. 17092) granting a pension to Charlotte Alice Drury; to the Committee on Invalid Pensions.

By Mr. TREADWAY: A bill (H. R. 17093) granting an increase of pension to Mortimer S. Easton; to the Committee on Invalid Pensions.

Also, a bill (H. R. 17094) granting an increase of pension to Edwin N. Hubbard; to the Committee on Invalid Pensions.

Also, a bill (H. R. 17095) granting an increase of pension to Caroline E. Smedley; to the Committee on Invalid Pensions.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

By the SPEAKER (by request): Memorial of the Chamber of Commerce and the Commercial Association of Porto Rico,

and the Guild of Retail Merchants of San Juan, praying for the annulment, on ground of unconstitutionality, of act No. 24 passed by the Legislative Assembly of Porto Rico, to amend certain sections of the penal code; to the Committee on the Judiciary.

Also (by request), resolutions signed by pastors of various churches and presidents of various societies of Yankton and Ethan, S. Dak.; Greencastle, Ind.; and Philadelphia, Pa., protesting against the practice of polygamy in the United States; to the Committee on the Judiciary.

By Mr. BRUCKNER: Petitions of the American Association of Foreign Language Newspapers, sundry citizens of New York, and 440 voters of the twenty-second New York congressional district, protesting against national prohibition; to the Committee on Rules.

By Mr. BURKE of South Dakota: Protests of sundry citizens of Sioux Falls, Hartford, Clear Lake, Bemis, Hoven, Altamont, Menno, Watertown, Zell, Rockham, Blunt, Canning, Aurora, Brookings, Leola, Eureka, Carter, Webster, Waubay, Ferney, Burke, Ward, Selby, Belvidere, Huron, Belle Fourche, and Bowdle, all in the State of South Dakota, against national prohibition legislation; to the Committee on Rules.

By Mr. CANTOR: Petitions of sundry citizens of New York, protesting against national prohibition; to the Committee on Rules.

By Mr. CARR: Petitions of sundry citizens of Pennsylvania, against national prohibition; to the Committee on Rules.

Also, petitions of 320 citizens of Masontown, 135 citizens of Mayersville, and 350 citizens of Vanderbilt, all in the State of Pennsylvania, favoring national prohibition; to the Committee on Rules.

By Mr. CHURCH: Telegrams from the Congregational, Baptist, Christian, and Methodist Churches of Tulare; the Woman's Christian Temperance Union of Fresno County; the Baptist, Methodist, and Presbyterian Churches of Hanford; the Presbyterian Church of Coalinga, the First Baptist Church of Dinuba, and the Oakdale Bible Class, of Oakdale, all in the State of California, favoring national prohibition; to the Committee on Rules.

Also, petitions of 500 citizens of the seventh congressional district of California, protesting against national prohibition; to the Committee on Rules.

By Mr. CURRY: Petitions of 44 citizens and residents of the third California district, protesting against national prohibition; to the Committee on Rules.

Also, petition of 61 citizens and residents of Yolo County, Cal., protesting against national prohibition; to the Committee on Rules.

By Mr. DALE: Petitions of Paul Horen and other citizens of Brooklyn, N. Y., protesting against national prohibition; to the Committee on Rules.

By Mr. DILLON: Petitions of 975 citizens of Wessington Springs, S. Dak., favoring national prohibition; to the Committee on Rules.

By Mr. DIXON: Petition of 35 citizens of Jackson County, Ind., against passage of House joint resolution 168, for nation-wide prohibition; to the Committee on Rules.

By Mr. DONOVAN: Petition of sundry citizens of Bridgeport, Conn., favoring House bill 13205, the Stevens price bill; to the Committee on Interstate and Foreign Commerce.

By Mr. GERRY: Petitions of 57 residents of Providence, R. I., urging the passage of legislation providing for national prohibition; to the Committee on Rules.

Also, petitions of 18 residents of Coventry, R. I.; 87 residents of West Warwick, R. I.; Walantin Saltzsiok, Peter Y. Wetzelaer, Edward E. Hertell, E. T. Cahoone, Jacob Wemmer, Jacob Mach, 2d, H. E. Jordan, Randolph Mitschke, Karl Spiller, William Reichert, Stephen Keidel, all of Cranston, R. I.; Hermann Bernott, P. H. Breard, A. E. Merrifield, William J. Nilhsner, Gottlieb Nonnenmacher, George Brehm, A. Kraff, Johan Docekal, Max E. Wuensch, Martin Trendiamin, Gustav Theibner, Max Hoffman, and Charles Mende, all of Providence, R. I., protesting against the passage of legislation providing for national prohibition; to the Committee on Foreign Affairs.

Also, petition of the Rhode Island Federation of Women's Clubs, of Providence, R. I., urging an indorsement of President Wilson's Mobile pledge; to the Committee on Foreign Affairs.

Also, petition of the Northeastern Federation of Women's Clubs, urging an appropriation of $150,000 to celebrate half century of negro freedom; to the Committee on Appropriations.

Also, petition of Rhode Island District Lodge, No. 3, Order of Vasa, urging an appropriation of $100,000 for a statue in memory of Capt. John Ericsson; to the Committee on the Library.

Also, petitions of 15 residents of East Greenwich, 5 residents of Apponaug, and 10 residents of River Point, all in the State of Rhode Island, urging passage of House bill 5308, compelling certain consumers to contribute their portion of funds toward upkeep of the local community, county, and State; to the Committee on Ways and Means.

By Mr. GRAHAM of Pennsylvania: Petition of the Italian Chamber of Commerce of New York, protesting against national prohibition; to the Committee on Rules.

By Mr. HOXWORTH: Petition of sundry citizens of the fifteenth congressional district of Illinois, protesting against national prohibition; to the Committee on Rules.

By Mr. HULINGS: Petitions of 68 voters, members of the United Presbyterian Church, and 81 voters, members of the First Methodist Episcopal Church, all of Sharon, Pa., favoring national prohibition: to the Committee on Rules.

By Mr. KENNEDY of Rhode Island: Petition of the Tolerton & Warfield Co., of Sioux City, Iowa, favoring House bill 15986, relative to false statements in the mails; to the Committee on the Post Office and Post Roads.

By Mr. LONERGAN: Petitions of Charles M. Goddard and other citizens of Hartford, Conn., protesting against national prohibition; to the Committee on Rules.

By Mr. McCLELLAN: Petitions of 6 citizens of Hudson, N. Y., and 1 citizen of Greenport, N. Y., protesting against national prohibition; to the Committee on Rules.

Also, petitions of Percy R. Stull, of Windham; 40 citizens of Plattehill; and 50 citizens of Gardiner, all in the State of New York, favoring national prohibition; to the Committee on Rules.

Also, protests of Frank G. Jacobs, of South Cairo; M. T. A. Rourke, of Hudson; Lee Youngs, of Cobleskill; A. H. Craig, of Sharon Springs; Henry Austin, of Central Bridge; W. Scott Gillespie and G. A. Hart, of Kingston, all in the twenty-seventh congressional district of New York, protesting against national prohibition; to the Committee on Rules.

Also, protests of Peter Furr, Charles Mayer, Charles Andres, William Hasselman, of Kingston, N. Y., and William Carter, of Hudson, N. Y., against national prohibition; to the Committee on Rules.

By Mr. MAHAN: Petition of A. B. Newell and 18 other citizens of Rockville, Conn., asking for the passage of House joint resolution 168, proposing an amendment to the Constitution of the United States for nation-wide prohibition of the traffic in intoxicating liquors as a beverage; to the Committee on Rules.

Also, petition of the James H. Bunce Co. and 14 other business firms of Middletown, Conn., and John Donovan, grocer, and 6 other business firms of East Hampton, Conn., in support of House bill 5308, asking that legislation be enacted which will compel concerns selling goods direct to consumers entirely by mail to contribute their portion of funds in the development of the local community, the country, and the States; to the Committee on Ways and Means.

By Mr. NEELEY of Kansas: Petitions of 29 citizens of Reno County, Kans., protesting against national prohibition; to the Committee on Rules.

Also, petitions of 75 business men of the seventh congressional district of Kansas, favoring passage of House bill 5308, relative to taxing mail-order houses; to the Committee on Ways and Means.

By Mr. NELSON: Petition of 10 citizens of Richland County, Wis., against national prohibition; to the Committee on Rules.

By Mr. J. I. NOLAN: Protest of the Bank of California, of San Francisco, Cal., against the passage of the Hobson nation-wide prohibition resolution; to the Committee on Rules.

Also, protest of the National Retail Grocers' Association of the United States, against the passage of the Hobson nation-wide prohibition resolution; to the Committee on Rules.

Also, protest of the Italian Chamber of Commerce in New York City, against the passage of the Hobson nation-wide prohibition resolution; to the Committee on Rules.

Also, letters from the Council of Women for Home Missions of New York City; the Charity Organization Society of Buffalo, N. Y.; and Mr. George F. Shepard, of Bethel, Conn., favoring the passage of House bill 16130, providing for the creation of a national bureau of labor employment; to the Committee on Labor.

By Mr. O'SHAUNESSY: Petitions of the Central Labor Union of Pawtuxet Valley, R. I., and E. L. Jordon and others of Providence, R. I., protesting against national prohibition; to the Committee on Rules.

Also, petitions of Rhode Island District Lodge No. 3, Order of Vasa, and the Swedish Workingmen's Association, of Providence,

R. I., favoring erection of a statue to John Ericsson; to the Committee on the Library.

Also, petition of Mrs. John McElroy, of Providence, R. I., against national prohibition; to the Committee on Rules.

Also, petition of William M. Harris, jr., of Providence, R. I., against repeal of tolls-exemption clause in Panama Canal bill; to the Committee on Interstate and Foreign Commerce.

Also, petition of the Chamber of Commerce of Providence, R. I., favoring House joint resolution 183 to authorize the Secretary of Commerce to investigate the conditions of trade with China; to the Committee on Interstate and Foreign Commerce.

Also, petition of the executive board of the Rhode Island State Federation of Women's Clubs, indorsing the President's policy as to acquiring foreign territory as enunciated in his Mobile (Ala.) speech; to the Committee on Foreign Affairs.

Also, petition of the Charles E. Hancock Co., of Providence, R. I., favoring Newlands river-regulation bill; to the Committee on Rivers and Harbors.

Also, petition of sundry citizens of Newport, R. I., favoring woman's suffrage; to the Committee on the Judiciary.

Also, petitions of Philip B. Simonds and Joseph J. Bodell, of Providence, R. I., relative to appropriation for dredging at Willapa Harbor, Wash.; to the Committee on Rivers and Harbors.

Also, petition of Gustaf II Adolf Lodge, U. O. of A., Providence, R. I., favoring bill for memorial to John Ericsson; to the Committee on the Library.

By Mr. PLATT: Papers to accompany a bill for relief of the Montgomery & Erie Railway, of Goshen, N. Y.; to the Committee on Claims.

By Mr. PLUMLEY: Petition of the Woman's Christian Temperance Union of Ludlow, Vt., favoring national prohibition; to the Committee on Rules.

By Mr. REED: Petitions of J. Lee Cronin, of Wolfeboro, N. H., and Frank L. Young and 23 others, of Portsmouth, N. H., protesting against national prohibition; to the Committee on Rules.

By Mr. REILLY of Wisconsin: Petition of sundry citizens of the sixth congressional district of Wisconsin, against national prohibition; to the Committee on Rules.

By Mr. SCULLY: Petitions of sundry citizens of Perth Amboy, Freehold Farmingdale, Adelphia, and Ardena, N. J., favoring national prohibition; to the Committee on Rules.

Also, petition of the Italian Chamber of Commerce in New York, against national prohibition; to the Committee on Rules.

By Mr. SMITH of Idaho: Petition of 59 citizens of Idaho, against national prohibition; to the Committee on Rules.

Also, petitions of various churches, representing 1,100 citizens of Twin Falls, 57 citizens of Greenleaf, and 19 citizens of Caldwell, all in the State of Idaho, favoring national prohibition; to the Committee on Rules.

By Mr. SPARKMAN: Petitions of 49 citizens of Barstow, 200 citizens of Fort Myers, 250 citizens of Arcadia, and sundry citizens of Dunnellon all in the State of Florida, favoring national prohibition; to the Committee on Rules.

By Mr. STEVENS of Minnesota: Memorial of the Trinity Methodist Episcopal Church, of St. Paul, Minn., favoring national prohibition; to the Committee on Rules.

By Mr. TEMPLE: Papers to accompany House bill 17003, for the relief of Marshall Cox; to the Committee on Invalid Pensions.

Also (by request), petition of sundry voters of the twenty-fourth congressional district of Pennsylvania, protesting against national prohibition; to the Committee on Rules.

Also, petition and affidavit in support of House bill 17003, for the relief of Mrs. Delilah Kirker; to the Committee on Invalid Pensions.

By Mr. TREADWAY; Memorial of the city council of North Adams, Mass., favoring passage of House bill 5139, for the relief of civil-service employees; to the Committee on Reform in the Civil Service.

By Mr. UNDERHILL: Petitions of sundry citizens of New York State, favoring national prohibition; to the Committee on Rules.

By Mr. WILLIS: Petition of J. E. Baldridge and 71 other citizens of Delaware, Ohio, in favor of House joint resolution No. 168, relating to national prohibition; to the Committee on Rules.

By Mr. WINSLOW: Petitions of 25 citizens of Millville, 125 citizens of Worcester, and 30 citizens of Uxbridge, all in the State of Massachusetts, favoring national prohibition; to the Committee on Rules.

SENATE.

SATURDAY, *June 6, 1914.*

(Continuation of the legislative day of Friday, June 5, 1914.)

The Senate reassembled at 11 o'clock a. m. on the expiration of the recess.

The VICE PRESIDENT. The Senate resumes the consideration of House bill 14385, the unfinished business.

PANAMA CANAL TOLLS.

The Senate, as in Committee of the Whole, resumed the consideration of the bill H. R. 14385) to amend section 5 of an act to provide for the opening, maintenance, protection, and operation of the Panama Canal, and the sanitation of the Canal Zone, approved August 24, 1912.

Mr. SMOOT. Mr. President, I suggest the absence of a quorum.

The VICE PRESIDENT. The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Ashurst	Gallinger	Martine, N. J.	Smith, S. C.
Borah	Goff	Nelson	Smoot
Brady	Gronna	Norris	Sterling
Bristow	Jones	O'Gorman	Sutherland
Bryan	Kenyon	Overman	Swanson
Burton	Kern	Owen	Thornton
Catron	Lane	Page	Townsend
Chamberlain	Lea, Tenn.	Perkins	Vardaman
Chilton	Lee, Md.	Root	Walsh
Clark, Wyo.	Lodge	Sheppard	West
Colt	McCumber	Sherman	White
Culberson	McLean	Simmons	Williams
Cummins	Martin, Va.	Smith, Ga.	Works

Mr. CHILTON. I wish to announce that the Senator from New Mexico [Mr. FALL] is necessarily absent from the Chamber.

Mr. WHITE. I wish to announce that the Senator from Alabama [Mr. BANKHEAD] is necessarily absent, and that he is paired with the Senator from West Virginia [Mr. GOFF]. I will allow this announcement to stand for the day.

The VICE PRESIDENT. Fifty-two Senators have answered to the roll call. There is a quorum present.

Mr. CUMMINS. Mr. President, a longer time has elapsed than was expected since I suspended the discussion of the subject I was considering on Thursday. I do not regret the delay. When I yielded to the Senator from Indiana [Mr. KERN] to move an adjournment in order that Senators might witness the noble and inspiring ceremonies about to occur at Arlington I had in mind the character of the occasion. I knew that the lofty and patriotic sentiments which would fall upon the ears of that audience must in some measure awaken the American spirit which I desire so much to invoke. The scene of the men of 1861, of the North and the South, standing in a sacred place, united by common sentiment and by common brotherhood, could not have an effect other than to intensify the patriotism and devotion we feel for the country of which we are all citizens. And when yesterday Senators desired to recall the services of the men of 1861 of the Union Army I could make no objection, for I knew, as you all knew, that to revive the memories of those immortal days was to increase the great debt of gratitude which every loyal heart feels toward the men of that heroic time, and the discussion could but awaken the spirit of Americanism and devotion to American interests in the light of which the problem before us ought to be solved.

When I think of those days and speak of the men of the Union Army—I am not disparaging the men of the southern army, inspired with like courage, led, I believe, by a like sense of duty—I must pause to pay these veterans of the Army of the North the tribute which rises instinctively to my lips. I have seen many a badge, many a decoration. I have seen the cross of the Legion of Honor, sometimes beautiful with its color and flashing with its jewels, which France bestows upon the men whom she delights to honor. I have seen the Iron Cross of Germany that that stalwart nation pins upon the bosom of men who have done great deeds for her. I have seen the badge which England gives to the men who have written chapters of glory for her. But I have never seen any badge or any decoration that so stirs every emotion of the patriotic soul as the little bronze button that rises and falls with the heartbeats of the member of the Grand Army of the Republic. And whenever those days of 1861 are recalled, no matter from what point of view, whether from the standpoint of the sons of the South or the standpoint of the sons of the North, I know that those who hear will be moved by a livelier sense of the duty that we of this generation owe to the country which they so much loved and which they still are willing to serve.

What little I have to say this morning in concluding my remarks of Thursday I hope will be heard in that spirit. I call

upon that new flood of light to illuminate the duty, the judgment, the mind, the heart of every patriotic American citizen.

It will be remembered that in my discussion of Thursday I did not attempt to express my opinion with regard to the proper interpretation of the treaty of 1901. I will do that before the debate has closed in connection with an amendment that I shall offer to the pending bill. I devoted myself rigidly to the task of showing what Great Britain thought of this treaty, and in what respects that nation believed we had violated it in passing the act of 1912.

I had expressed extreme wonder and amazement that there could be found an American citizen who was willing to put upon the treaty an interpretation far more unfavorable to the American Nation than had been put upon it by Great Britain herself, whose commerce is said to be involved and whose profits are said to be at peril. I can not yet understand why an American is not willing to assume that the keen self-interest of Great Britain will not carry the interpretation as far as it can be carried, even from a selfish standpoint, against the United States.

I restate very briefly the British view—and there is no doubt about the British view; it is not collected in vague and fugitive opinions which may have been set afloat by irresponsible persons who may be subjects of Great Britain. The British view is set down accurately with reasons in the form of an argument by the authorized representative of that Government. I had recalled to the attention of the Senate the letter written by Lord Grey, the final word upon this subject by the British foreign office, and expressive of the final conclusions of that Government. I had shown that in Lord Grey's letter the statute of 1912 was assailed, first, because we had given to the President of the United States the power to discriminate in favor of American shipping engaged in business between nations. That objection raises the whole dispute with regard to the construction of the treaty, and unquestionably England does take the position that we are bound by the rules of the Hay-Pauncefote treaty, and are bound to give to the ships of all nations the same advantages and to impose upon them the same rates of charge that are made against our ships engaged in foreign trade. That is a controversy which must be settled in some way. I think, as I will show hereafter, that it ought to be settled, first, by exhausting all the resources of diplomacy, fellowship, good feeling; and that failing, it ought to be settled by arbitration, not, however, in The Hague tribunal, all the members of which would be chosen from nations interested adversely to the United States, but settled by a tribunal created for the occasion composed of an equal number of Americans and Englishmen and an arbiter between them if they can agree upon one.

I pass that and come to the second objection which England makes, and it is in the nature of a forecast rather than in the nature of a present protest. England says, practically, that we have no right to allow the ships of Panama to pass through the canal without charge. I am sorry the Senator from New York [Mr. ROOT] is not here. He has a decided view with regard to the interpretation of this treaty; he has expressed it with great fullness, with great argumentative force, and I should like to know from him, or from any other Senator who so highly values the good will of Great Britain and the esteem of the world—I should like to know from some Senator who takes the view that we have no other rights in the canal save those which are shared by all the nations of the world, whether we ought to yield to this suggestion on the part of Great Britain in order to hold her esteem and to recognize in a broad, magnanimous way her insistence in that respect. In all this debate, in all this evident attempt to court the good opinion and the favor of the nations of the world, we have never heard the suggestion that in this respect we ought to change the construction that we have already put upon this agreement.

Third, England says—I use that name synonomously with Great Britain, of course—if our provision touching railroad-owned ships or ships in which railroad companies have an interest comprises the railroads of Canada—she does not use the name "Canada," but the inference is so plain that no one can avoid it—that if our provision with regard to railroad-owned ships affects the interest of Canada, then she stands ready to protest against that part of our act.

Now, let us inquire of these advocates of extreme and servile, as I look at it, desire to stand well with the rest of the world, why do they not ask that we repeal that provision in the act of 1912? I should like some one to answer that question before this debate has concluded. The President of the United States does not ask Congress to repeal that provision in our law. Why does he not? England's attitude toward that phase of the matter is more decided, more positive, as we can gather from inference, than is her attitude toward our provision with regard to the coastwise trade. That, however, leads me to inquire—for the argument would not be complete unless I did—whether Canadian railroads are affected by our provision prohibiting railroad owned or controlled ships from the use of the canal? Let us see. The Panama Canal act provides:

> From and after the 1st day of July, 1914, it shall be unlawful for any railroad company or other common carrier subject to the act to regulate commerce to own, lease, operate, control, or have any interest whatsoever—by stock ownership or otherwise, either directly, indirectly, through any holding company, or by stockholders or directors in common, or in any other manner—in any common carrier by water operated through the Panama Canal or elsewhere with which said railroad or other carrier aforesaid does or may compete for traffic or any vessel carrying freight or passengers upon said water route or elsewhere with which said railroad or other carrier aforesaid does or may compete for traffic.

The sole question, then, in order to settle the inquiry I have just made, is this: Are the Canadian railroads, or any of them, subject to the provisions of the act of 1887, being an act to regulate commerce? I do not believe there will be any controversy about that. They are subject to that act; they are subject to the jurisdiction of the Interstate Commerce Commission, in so far as they do business in the United States, and there are at least two of the Canadian railroads that have recognized the jurisdiction of the Interstate Commerce Commission, as I have been informed and as I believe. They are the Grand Trunk Railroad and the Canadian Pacific.

Let me read just a paragraph from the act of 1887, in order to show that these Canadian railroads will either be compelled to quit doing business in the United States and with the United States or they will fall within the provisions of the canal act, as they have fallen heretofore within the provisions of the act of 1887. That act, after reciting certain other corporations that are within the act, says that it shall apply—

> to any common carrier or carriers engaged in the transportation of passengers or property wholly by railroad (or partly by railroad and partly by water when both are used under a common control, management, or arrangement for a continuous carriage or shipment) from one State or Territory of the United States or the District of Columbia to any other State or Territory of the United States or the District of Columbia, or from one place in a Territory to another place in the same Territory, or from any place in the United States to an adjacent foreign country, or from any place in the United States through a foreign country to any other place in the United States.

This quotation from the interstate-commerce act suffices to show how well founded is the fear of Great Britain, expressed in the letter of Lord Grey, that some of her railroads would fall within the prohibition of the act of 1912, and that a Canadian railroad can no more own ships or control ships passing through the Panama Canal when the commerce of the United States is affected than can an American railroad, and it ought to be so. We ought to protect the interests of the people of the United States; and if a Canadian railroad doing business in the United States threatens the welfare of our people by owning or controlling ships passing through the Panama Canal, this act applies. I should like to know from the advocates of the British construction of the treaty in that regard what they propose to do when England reasserts that we have violated the Hay-Pauncefote treaty because we have forbidden railroad-owned ships that may be under the Canadian sovereignty from passing through the canal.

I suppose that when that contingency arises, as my friend from Idaho [Mr. BORAH] said a day or two ago, we will be called upon to take another bitter dose of humiliation; but the President has not asked us to repeal the law in that regard, although Great Britain has expressed an opinion about it, and I assume that it is a cause of irritation that in the foreign policy of the administration ought to be allayed.

The Senator from Georgia [Mr. SMITH] and the Senator from North Carolina [Mr. SIMMONS] did not ask us to repeal our law in that respect, although from some standpoints it is more obviously a violation of the treaty than is the exemption of our coastwise trade from tolls. But I pass from that to the next objection.

The next objection that England makes is that if the provision in the law of 1912 relating to trust-controlled ships is applicable to her, then she desires to make further representations. I assume that she will never be vexed in that respect, because it is very clear that this provision of the act of 1912 does not apply to Great Britain and can not apply to Great Britain. The reason is that our act limits the operation of this provision of the statute to coastwise traffic; and, inasmuch as Great Britain can not engage in that traffic, it is not to be presumed that she will ever claim that there is a violation of the treaty in

that regard. In order that it may be in the minds of Senators, I will read the provision of the canal act as to this subject:

No vessel permitted to engage in the coastwise or foreign trade of the United States—

I think I will have to recall what I have just said. My recollection was that it was limited to the coastwise trade, but it is not—

No vessel permitted to engage in the coastwise or foreign trade of the United States shall be permitted to enter or pass through said canal if such ship is owned, chartered, operated, or controlled by any person or company which is doing business in violation of the provisions of the act of Congress approved July 2, 1890, entitled "An act to protect trade and commerce against unlawful restraints and monopolies."

This, it is seen, is confined not to the coastwise trade but to our coastwise trade and to our foreign trade. That, I take it, however, could never affect England or Great Britain, because ships engaged in foreign trade, flying a foreign flag and under foreign register, can not come within the provisions of that part of the act.

The fifth and last objection made by Great Britain with regard to the act of 1912 relates to coastwise ships, and I reassert that England has never suggested that coastwise trade was within the scope or the meaning of the Hay-Pauncefote treaty. On the contrary, in the most pointed way, diplomatically, she has agreed that our coastwise trade is not within the purview of the treaty. She says, however, that from her standpoint it is impossible to restrict the coastwise trade within its proper limits, and that we will find it impossible to carry on coastwise traffic without at the same time carrying on foreign traffic. That is an admission with regard to the meaning of the treaty as applied to coastwise trade, but a reservation with regard to the regulations under which the trade is actually conducted.

Lord Grey says, in the letter to which I have referred, first, that he objects because by the exemption of our coastwise trade in the computation a greater burden is put upon foreign ships with regard to the cost of maintenance and operation and original investment, and that therefore a charge so computed is not just and equitable. Now, we all agree that these charges made to all the foreign ships must be just and equitable. That particular claim was immediately answered by the Secretary of State, Mr. Knox, in which he pointed out that Lord Grey's letter was probably written in ignorance of the proclamation that had been issued by President Taft, which showed that in ascertaining what the charge should be upon foreign ships the entire tonnage of the canal had been taken into account. That entirely disposed of the first objection.

The second objection which Lord Grey makes is that if the ships engaged in the coastwise trade are permitted to enter any foreign port upon their passage from one coast to the other and do a business from a foreign port to a port in the United States, then, under the guise of coastwise trade, we shall be actually carrying on foreign business. Granting the British construction of the treaty that we are bound by these rules to equality of tolls, the claim of Great Britain in that respect would be true; but if we so frame our regulations, if we so exercise and execute this exemption, that a coastwise ship shall not do an international business, then we have answered the extreme claim of Great Britain.

Further, Lord Grey says that the traffic carried in coastwise ships, when landed at a port on one coast or the other of the country, might be taken up and loaded in a ship destined to a foreign port, and in that way the commerce might receive the benefit of the exemption against the British construction of the treaty. I grant that if that were done, under the British view it would be a violation of our agreement. Great Britain says there is danger that it would be done; but it is not necessary that it shall be done, and that has nothing to do with the principle for which we are contending, namely, that we have an absolute right to deal with our internal shipping and our internal affairs as we think best; that we have a right to exercise all the sovereignty which a nation inherently possesses with regard to our internal affairs and our internal interests to promote the welfare of our own people and to enhance the common good of all our citizens.

This, Senators, is the view of Great Britain.

Mr. SIMMONS. Mr. President——

The VICE PRESIDENT. Does the Senator from Iowa yield to the Senator from North Carolina?

Mr. CUMMINS. I yield.

Mr. SIMMONS. I desire to say, in interrupting the Senator, that I am not doing so in a controversial spirit; and I would not interrupt him at all but for the fact that I think, as a result of the failure to quote the whole of Mr. Innes's and Lord Grey's statements with reference to the effect upon British shipping of the exemption of our coastwise trade, an erroneous impression has been created, and I have risen simply to make that correction.

Before I do that, however, I wish to say to the Senator that I think probably he is correct in the statement that the British note to our Secretary of State would seem to indicate three objections, which the Senator has mentioned. The first is that the exemption of our coastwise trade probably would throw an additional burden upon the ships of other countries, because our ships would not participate in paying their pro rata part of the cost of maintaining the canal. The Senator said that inasmuch as the proclamation of the President fixing the rates bases those rates upon the assumption that all American coastwise trade shall pay tolls, that eliminates the difficulty.

Possibly that might be true if that were a part of the permanent law of the land; but I wish to call the Senator's attention to the fact that this is done merely in a proclamation of the President fixing present rates, and the basis of rates for the present time. Those rates can be changed in any respect or in all respects in six months. I think the provision is that after giving six months' notice they can be changed.

That expedient, therefore, is one that is not permanent. It is subject to change by the present Executive, or by the next Executive, or at any time the United States might see fit to base the tolls upon some other arrangement than the assumption that the American coastwise trade paid tolls.

I do not know whether I make myself clear or not. I hope I do.

Mr. CUMMINS. Perfectly so.

Mr. O'GORMAN rose.

Mr. CUMMINS. I will yield in a moment to the Senator from New York.

Mr. SIMMONS. Will the Senator from New York permit me to finish my several statements? I am just directing the attention of the Senator from Iowa to——

Mr. CUMMINS. May I reply to one statement made by the Senator from North Carolina, in order that we may get together as nearly as possible?

Mr. SIMMONS. Yes.

Mr. CUMMINS. I recognize the truth of the statement just made by the Senator from North Carolina, and I recognize its force. There ought to be in the canal law a provision that would make it compulsory upon the President to take into account the entire tonnage of the canal in fixing the rates on foreign ships.

That, however, is one thing, and the repeal of the exemption is quite another; and to put a construction on the treaty by a repeal under the recommendation of the President so that we are bound for all time, save at the risk of great offense, to accept an interpretation which compels us to put the same charge upon our coastwise trade that we impose upon our foreign trade is a very different thing.

If the Senator from North Carolina will propose a substitute for this bill taking away that discretion from the President, and making it mandatory that all the tonnage of the canal shall be considered in fixing the tolls upon foreign ships, so that the United States alone will bear whatever burden may be created by the exemption of coastwise ships, I will support it with very great pleasure.

Mr. O'GORMAN rose.

Mr. SIMMONS. If the Senator from New York will pardon me just a minute, I simply meant to say that so far as that particular objection on the part of Great Britain is concerned—and I want to be entirely frank in the discussion of this question—I thought that objection would be removed if the basis upon which tolls are fixed in the President's proclamation were a part of the law, and permanent, instead of being subject to change at the will of the administration. That was the only point I wished to make about that.

Mr. O'GORMAN. Mr. President——

Mr. SIMMONS. I should be glad if the Senator would let me finish my statement.

Mr. O'GORMAN. I desire to say a word——

Mr. CUMMINS. Perhaps the Senator from New York wishes to make a suggestion on this point?

Mr. O'GORMAN. I do; on this point.

Mr. CUMMINS. I am glad to yield to him.

Mr. O'GORMAN. I am surprised that the Senator from North Carolina views the suggestion contained in the second note of protest——

Mr. SIMMONS. I have not reached that.

Mr. O'GORMAN. I beg the Senator's pardon.

Mr. SIMMONS. The Senator is anticipating what I was about to say.

Mr. O'GORMAN. The Senator has referred to the claim made by the British Government that the exemption of American

coastwise vessels might result in imposing upon foreign vessels an undue share of the cost of the maintenance and upkeep of the canal.

Mr. SIMMONS. Yes.

Mr. O'GORMAN. I am surprised that the Senator from North Carolina, who at various times has viewed this subject from different angles, and at various times has adopted various views of this controversy, in all his investigation of it has not been impressed with the fact that the fixing of these rates has not been upon the basis of securing an adequate or a reasonable return to the Government that built the canal; that these rates never can be self-sustaining; that these rates are fixed as low as they are now because of the commercial necessity of having the Panama Canal compete with the Suez Canal, a canal that cost but one-quarter as much as the Panama Canal, and in which canal the present rate is the equivalent of practically $1.20 per ton, the same figure fixed in the proclamation of President Taft.

The generally recognized opinion as to the cost of maintenance of this canal fixes the amount at $27,000,000 a year—$5,000,000 for actual cost of maintenance, $10,000,000 being the minimum amount that will be required for the military defense of the canal and for the necessity of preserving its neutrality, and $12,000,000 more representing a 3 per cent return on the initial cost of $400,000,000. From abundant evidence presented to the committee, of which the Senator from North Carolina is a member, it is estimated that for a number of years there will pass through the Panama Canal but 10,000,000 tons a year. If the total cost imposed upon this Government in the maintenance of the canal is $27,000,000 a year, and the traffic passing through will be but 10,000,000 tons, that would place upon each ton, on a fair and equitable basis, a charge of $2.70 instead of $1.20.

In no instance can any foreign Government—Great Britain or any other nation—complain that our rates are unjust, discriminatory, or inequitable unless the charge per ton should exceed $2.70 instead of being placed, as it is, at the low and inadequate rate of $1.20. I say "inadequate" in view of the cost of the canal and the cost of maintenance; but the charge is necessarily made inadequate because if we charged more we could not divert business from the Suez Canal, in which Great Britain to-day has the largest commercial interest of any nation on earth.

Mr. SIMMONS. Mr. President——

Mr. CUMMINS. I yield further to the Senator from North Carolina.

Mr. SIMMONS. Undoubtedly in fixing rates below the $1.25 limit prescribed in the act the President did have in view the fact that this canal would compete with the Suez Canal. There is no question about that. The President himself, however, in his Ottawa speech to which I have heretofore alluded, and which, if I can find, I shall be glad——

Mr. CUMMINS. Mr. President, may I make a suggestion to the Senator from North Carolina? I wish he would pursue his debate with me, leaving to some other time a reply to the Senator from New York.

Mr. SIMMONS. I will say just a word in reply to the Senator. The President, in his Ottawa speech, said that he had fixed the toll rate upon the canal upon the basis of assuming that American coastwise trade was to pay tolls, and because of that he said that neither England nor any other foreign country had any right to complain of that exemption. Now, it is true, as the Senator says, that the canal is not going to pay expenses right away. The Suez Canal did not in the beginning. It soon did. This canal also, paralleling the history of the Suez Canal, will soon be paying all the expenses of operation, and more. I have no question in the world about the fact that in the course of a very few years this canal will be making a profit, and in the course of 30 or 40 years, a very small time in the history and life of a nation, the canal, like the Suez Canal, will become a great profit-bearing property. The President was seeking to fix a basis not for the present but for the future. That was the theory of the President, and that was the theory that is advanced in all the subsequent declarations with regard to this matter. I should like to have answered the Senator very fully, but I appreciate the situation, and I do not wish to trespass unnecessarily upon the time of the Senator from Iowa.

I was going to say, when the Senator interrupted me, if this were a permanent arrangement; if it were a part of the law of the land that the rates should be based upon the theory that coastwise trade did pay tolls, then that part of the British protest might lose its force. I say that in frankness.

The Senator says that the British Government has protested also upon the ground that our coastwise vessels do now actually engage in foreign trade. That, I believe, was established in the hearings before the committee from the testimony of the Commissioner of Navigation. They do now actually engage to some extent, and a very considerable extent, I think, in foreign trade. The British Government protests with reference to that. That also might be adjusted. That might be arranged. As the Commissioner of Navigation said, and as is perfectly apparent, this Government could prescribe such rigid regulations that our coastwise vessels would not be permitted hereafter to engage to any extent whatever in foreign trade, and that part of the British protest would lose its force.

Mr. O'GORMAN. Mr. President——

Mr. SIMMONS. I do not understand, however——

Mr. O'GORMAN. Just one question.

Mr. SIMMONS. I hope the Senator will let me state my position.

Mr. O'GORMAN. I wish to ask just a simple question at this point. Of course, when the Senator speaks of our coastwise shipping engaging in foreign trade he does not mean that our coastwise ships engage in over-seas trade. They do occasionally engage in Cuban and Mexican trade adjacent to our southern border.

Mr. SIMMONS. With South America or Central America. I do not mean to say that they go to Europe or to Asia, but I mean to say that they do engage in foreign trade as a matter of fact, in our trade with all the countries of this hemisphere. There is no dispute about that.

Mr. CUMMINS. We are discussing a principle. Of course it does not apply to Europe and Asia, but it does apply to the coasts of Central America and Mexico and possibly some other South American ports; but the principle remains the same.

Mr. SIMMONS. I say that could be avoided by restricting by legislation more rigidly the rights of vessels enrolled for the coastwise trade. But I do not understand that that is the gravamen of the contention of Great Britain with reference to the exemption of our coastwise trade from tolls. My understanding is that the contention is that under the stipulations of the treaty this Government has entered into an agreement with Great Britain, of which the balance of the world become the beneficiaries, that we will not impose any charges upon the canal that will, in effect, discriminate against the shipping, the traffic, of other countries. It is not a question of vessels at all, but a question whether the effect of the imposition of tolls upon one class of vessels and the exemption of another class of vessels results in a discrimination against the traffic of the citizens or the subjects of another country. That is the gravamen. Now——

Mr. CUMMINS. Does the Senator desire to do more than to call that to my attention?

Mr. SIMMONS. Yes; I do.

Mr. CUMMINS. I can not, of course, yield to allow a full and complete argument.

Mr. SIMMONS. If the Senator will permit me just a minute——

Mr. CUMMINS. Very well.

Mr. SIMMONS. I was simply going to read from the notes and correspondence that the Senator has just referred to, stating his contention, to show that the Senator had not, in my judgment, read the correspondence correctly, or rather had not stated it correctly, as I understand it.

Mr. CUMMINS. I have read a part of it, and I am about to read more of it.

Mr. SIMMONS. That is the very point. I thought the Senator had not read the whole of it. I know the Senator from New York read only a part of it. I think the part he read left an interpretation which was directly the reverse of that which the full context imports. Now, if the Senator will permit me——

Mr. CUMMINS. I will be very glad to hear the Senator read that part of it which he thinks bears some other construction.

Mr. SIMMONS. In the first note of Mr. Innes he said:

> If the trade should be so regulated—

Meaning the coastwise trade—

> If the trade should be so regulated as to make it certain that only bona fide coastwise traffic which is reserved for United States vessels would be benefited by this exemption, it may be that no objection could be taken.

Several Senators in discussing it have read that and stopped there. The Senator from New York did that in his speech. The next sentence, however, shows exactly what he did mean, and it shows he meant exactly what I said a minute ago, that the contention of their Government was that there should be absolute equality, and anything that interfered with absolute equality was in contravention of the treaty.

He then adds:

But it appears to my Government that it would be impossible to frame regulations which would prevent the exemption from resulting, in fact, in a preference to United States shipping, and consequently in an infraction of the treaty.

Earl Grey, secretary of the British foreign office, writing upon the same subject, said:

Coastwise trade can not be circumscribed so completely that benefits conferred upon it will not affect vessels engaged in the foreign trade.

Mr. O'GORMAN. Mr. President——

Mr. SIMMONS. I understand the meaning of those statements on the part of Earl Grey and Mr. Innes to be that they insist that Great Britain and all the beneficiaries are entitled to absolute equality with respect to their traffic passing through the canal, and that any exemption or any regulation which will place their traffic at a disadvantage in passing through the canal, whether it affects a coastwise vessel or an over-seas vessel, would be a violation of the agreement, and that any such discrimination in the charges upon the canal against the ships of other countries in favor of the ships of this country would be inadmissible under the treaty.

Mr. O'GORMAN. Mr. President——

Mr. SIMMONS. I could elaborate that argument, but I simply wanted to state it to the Senator from Iowa.

Mr. CUMMINS. I yield to the Senator from New York.

Mr. O'GORMAN. I dislike to trespass further upon the time of the Senator from Iowa, but on account of the personal allusion made by the Senator from North Carolina I ask to say a word. The Senator stated that in quoting the first note of protest from Great Britain I did not refer in detail to the entire statement.

Mr. SIMMONS. That he did not quote the entire statement.

Mr. O'GORMAN. That I did not quote the entire statement. The Senator is in error in his recollection.

Mr. SIMMONS. If I am, I withdraw that statement.

Mr. O'GORMAN. I called attention to the fact that in that note of protest the British Government recognized the propriety of the American Government exempting American coastwise vessels from the payment of tolls going through the canal. I then added that the British Government pointed out the difficulty, as they viewed it, in the way of restricting coastwise vessels to local trade, and in that connection I stated that the British Government probably knew less than our own officials as to the ease with which coastwise vessels could be confined to local trade, because the Commissioner of Navigation, Mr. Chamberlain, who testified before us, said there would be no difficulty in so regulating our navigation as to confine our coastwise vessels to strictly coastwise trade, and I prefer to take the judgment of our own Commissioner of Navigation as to how our own navigation laws can be enforced rather than the judgment of a member of some foreign Government.

Mr. SIMMONS. Mr. President, I hope the Senator from Iowa will permit me.

Mr. CUMMINS. I will have to exact a promise from the Senator from North Carolina that he will not consume very much time. I desire to proceed.

Mr. SIMMONS. I will not take much time. I want simply to say in reply to the Senator from New York that I notice in his speech he quoted the first sentence in the paragraph of Mr. Innes's letter and did not quote the remainder.

Mr. O'GORMAN. But I referred to it.

Mr. SIMMONS. I notice the Senator from Louisiana [Mr. RANSDELL] did the same thing. I think the first sentence separated from the second sentence conveys just the reverse of the impression that was intended by the writer. Now, Mr. President, if the Senator will permit me just one word——

Mr. CUMMINS. Just one word.

Mr. SIMMONS. In further reply to the Senator from New York, the Senator has said that we can and that the Commissioner of Navigation said we could confine our coastwise vessels strictly to trade between the two coasts of this country. We can; I have no doubt about that. I think that is a clear proposition. But when you do that, Mr. President, as I think I could show if I had the time, and I think I have shown in the speech I made, you still have the fact that our coastwise shipping is in competition with the vessels of every other nation in the world that trade in American ports upon either one ocean or the other ocean, and it is against the discrimination that results from imposing a burden upon these vessels actually competing with our coastwise vessels that Great Britain makes the protest, as I understand it. I thank the Senator.

Mr. CUMMINS. Mr. President, it is in the last sentence of the Senator from North Carolina that his whole error lies. He seems so desirous to construe this treaty against the American interest—I do not mean that he is an enemy of the public welfare, but he has intellectually in some fashion or other reached the conclusion that we have no rights in this canal that are not held by all the other nations of the world, and he seems so determined to square all the applications of that theory to American affairs that he sacrifices the American good and destroys American sovereignty.

Now, I will point it out to him in a minute. Whatever he may say of the Senator from New York—I was not present when that former colloquy occurred—he can not assert that I did not read the entire note of Mr. Innes, so far as that paragraph is concerned. I read it on Thursday, and I commented upon that part of it which the Senator from North Carolina now seems to think he brings for the first time to the attention of the Senate.

Mr. SIMMONS. Oh, not at all.

Mr. CUMMINS. Not only so, Mr. President, but I read the other sentence which he has quoted from Earl Grey's letter, and I am about to read it again. If it is true that England has protested against the act of 1912 simply because in some way or another the exemption of coastwise ships from tolls will help American trade and will make them more effective in competition against English trade, then that is some ground for his conclusion. I deny that. I assert with all the emphasis that I can command that England has never suggested to the United States or to the world that our coastwise trade could not be exempted because it might affect injuriously British commerce. Of course it may affect British commerce. I hope it will. I hope that the eastern part of this country may be able to supply our western coast with the products of our mills and our factories against the competition of Great Britain or of France or of Belgium.

If the Senator from New York or any Senator does not desire that we shall be able to supply our western country with the commodities which have been produced in the manufacturing parts of the United States, and wants that trade turned over to Great Britain or to France or Germany, then I think he can very well reason that we not only ought to attach the same tolls to our own shipping that we attach to foreign shipping, but we ought to make our shipping bear a greater burden than is borne by foreign countries. I assume that England would not complain, nor would any other country complain, nor could complaint well be made possible under the treaty, that instead of putting $1.20 a ton upon our trade we should put $2.40 a ton upon that and $1.20 upon the English, German, French, and Belgium trade. But, of course, no one contemplates anything of that kind.

There is the vital mistake. You Senators upon the other side of this controversy are proceeding upon the theory that England has claimed that if exemption from tolls of coastwise shipping makes it easier for us to compete with England in the markets of San Francisco, Los Angeles, Portland, or Seattle, then we have violated the treaty. England has not the assurance to make any such complaint. She never has made it, and I think she would lose her standing in the minds of all honorable men if she did assert so absurd and so unjust a claim against the United States. She has asserted all that she dare assert. You can not find in the history of England in her diplomatic career a single instance in which she has not claimed all that under any possible circumstances she was entitled to receive, and she has claimed it all here in a most carefully worded instrument, in a communication that evidently has received the most deliberate thought of the best minds of Great Britain, minds that were determined to put a construction upon this treaty that would give to that great country the advantage she has always sought in the commerce of the world.

Now, I intend to read the paragraph out of which the Senator from North Carolina extracted a sentence. I read part of it the other day. I was just on the point of reading it when he interrupted me, and I am very glad of the interruption, because he has very frankly stated his position. It is a position that I think does great credit to him. I want you to remember what he said. He said that so far as the inclusion of our commerce in order to reach a basis for the fixing of tolls for our foreign ships was concerned, that could be easily taken care of, if it has not already been adjusted, and that there is nothing in that that would demand a repeal of this law. He said, further, that if England's objection involved only the claim that we could not confine our coastwise trade within its true limits, then that could be very easily adjusted, and that there would be no reason for the repeal of the law which is now under consideration.

Mr. SIMMONS. Mr. President, will the Senator pardon an interruption?

Mr. CUMMINS. I intend to read a further extract, if the Senator from North Carolina will bear with me a moment, and

then I will yield to him to make another statement, if he desires to do so.

Mr. SIMMONS. I simply want to correct the Senator's statement about what I had said; that is all.

Mr. CUMMINS. Wait until I finish this particular subject, and then I shall be glad to yield to the Senator. Now, mark the language of Lord Grey:

It has been argued that as the coastwise trade of the United States is confined by law to United States vessels, the exemption of vessels engaged in it from the payment of tolls can not injure the interests of foreign nations. It is clear, however—

Now, mark—

that the interests of foreign nations will be seriously injured in two material respects.

Does the Senator from North Carolina think that the comprehension of this great statesman would not have gathered in any other respects in which it would materially injure foreign shipping, if there were any other such respects?

We proceed, bearing in mind now that he has stated that there are two respects in which the exemption of our coastwise trade will materially injure foreign nations:

In the first place, the exemption will result in the cost of the working of the canal being borne wholly by foreign-going vessels, and on such vessels, therefore, will fall the whole burden of raising the revenue necessary to cover the cost of working and maintaining the canal. The possibility, therefore, of fixing the toll on such vessels at a lower figure than $1.25 per ton, or of reducing the rate below that figure at some future time, will be considerably lessened by the exemption.

That is the first respect in which it is claimed that our law exempting coastwise traffic will injure foreign interests. The Senator from North Carolina, if I did not misunderstand him, has said that this objection could be removed—possibly it has been removed; that all he desires is that its removal shall be in the form of a permanent law instead of in the form of a proclamation by the President; and he has said, substantially—this is a conclusion; I am not quoting from him now—but the effect of that which he has just said is that, so far as this respect is concerned, there is no reason for the repeal, of which he is one of the distinguished champions.

Mr. SIMMONS rose.

Mr. CUMMINS. Now, one moment further.

In the second place—

We are now dealing with the second respect in which it is said that exemption will injure foreign nations, and I assume he uses that as the equivalent of saying it would be a violation of the treaty—

In the second place, the exemption will, in the opinion of His Majesty's Government, be a violation of the equal treatment secured by the treaty, as it will put the "coastwise trade" in a preferential position as regards other shipping.

Why? Lord Grey answers that question in a manner that admits of no possible difference of opinion. He continues:

Coastwise trade can not be circumscribed so completely that benefits conferred upon it will not affect vessels engaged in the foreign trade. To take an example, if cargo intended for a United States port beyond the canal, either from east or west, and shipped on board a foreign ship could be sent to its destination more cheaply, through the operation of the proposed exemption, by being landed at a United States port before reaching the canal, and then sent on as coastwise trade, shippers would benefit by adopting this course in preference to sending the goods direct to their destination through the canal on board the foreign ship.

Again, although certain privileges are granted to vessels engaged in an exclusively coastwise trade, His Majesty's Government are given to understand that there is nothing in the laws of the United States which prevents any United States ship from combining foreign commerce with coastwise trade, and consequently from entering into direct competition with foreign vessels while remaining "prima facie" entitled to the privilege of free passage through the canal. Moreover, any restriction which may be deemed to be now applicable might at any time be removed by legislation, or even, perhaps, by mere changes in the regulations.

These are the two respects in which he says we shall injure foreign nations, and the Senator from North Carolina has now admitted—and I do not see how he could well avoid the admission; every candid man must join in the admission—that the first is easily removable and constitutes no reason for this repeal. He has admitted that the second is likewise removable by Congress without difficulty, namely, by either such law or such regulation as will confine the traffic of a coastwise ship to the traffic belonging to the people of the United States.

I now assert again that Great Britain has put before us the full extent of her objections to this law, and there is not within that objection, there is not within the correspondence anywhere, the suggestion that we ought to repeal our coastwise-exemption law, or that we would violate the treaty by allowing a ship departing from the port of New York laden with commodities to be used by the people of California to pass through the Panama Canal without any charge whatsoever. The American who finds in this correspondence any suggestion of that kind, it seems to me, has begun his inquiry with a prejudiced mind. I now yield to the Senator from North Carolina.

Mr. SIMMONS. Mr. President, the Senator, I think, misrepresents my position, especially with reference to the conclusion to be drawn from my position.

Mr. CUMMINS. Mr. President——

Mr. SIMMONS. If I am going to be allowed to interrupt the Senator, I hope he will permit me to do so to the extent of stating my position with some degree of clearness. I was a little hurried in doing so a little while ago, because the Senator showed some little impatience.

Mr. CUMMINS. The Senator from North Carolina understands the office of an interruption just as well as I do. I want to yield to a proper interruption, but I do not want to yield to a reply to my speech.

Mr. SIMMONS. I am not going to attempt to reply to the Senator's speech; I am simply going to state my position, which I think the Senator has, unintentionally, of course, misrepresented.

Mr. President, as I understand this correspondence—and I have studied it very closely, and nothing which the Senator has said has changed my opinion about the meaning of it—Great Britain made the point, first, that by exempting our coastwise vessels we threw a greater burden upon the shipping of the balance of the world in order to maintain the canal. President Taft responded to that by saying, "I have avoided that, temporarily at least, by the basis upon which I have fixed rates for ships passing through the canal." I stated that, so long as that act of the President remained in force, possibly it might remove that objection; but I also stated that that was not a permanent regulation, and that it would require legislation in order to make it permanent in its effect upon the shipping of the balance of the world. In other words, that to me this objection of Great Britain, providing that objection was found to be valid, might be removed through legislation.

The next objection of Great Britain with reference to this matter was that at present our coastwise vessels engage in foreign trade. That is admitted to be a fact. Great Britain was speaking about an actual condition when she said that our coastwise vessels do now, as a matter of fact, engage in foreign trade. I do not know whether or not they are being permitted to engage in foreign trade as a result of a proper and correct interpretation of the present navigation laws, but I assume that they are. I assume that the authority now granted them under their enrollment to engage in foreign trade is sanctioned by the law. It would require legislation in order to adjust that, if Great Britain's contention is sound, just as it requires legislation to remove the discrimination produced by the act of 1912.

But Great Britain, after saying, "Here are two particulars in which we would be affected; first, as to the rate of tolls being extended, because American coastwise ships will not participate in paying the expenses of the canal, and, second, because your coastwise vessels engage, like your over-sea vessels, in foreign trade," in answer to the argument made on the part of this Government that we can circumscribe our coastwise trade so that it will not be permitted to engage in foreign trade, Great Britain says:

It appears to our Government that it is impossible for you to so circumscribe your coastwise trade that you will not by this exemption give a preference to the traffic carried in your coastwise vessels over the traffic carried in the over-sea vessels of other countries, and you can not, therefore, by circumscribing it, you can not by confining it absolutely to local trade, you can not by prohibiting your coastwise vessels from engaging to any extent in foreign trade, remove the fundamental objection that exemption from tolls gives your vessels going through the canal a preference in the competition which our vessels going through the canal have to meet in every American port where the cargoes of the coastwise vessels and the cargoes of foreign vessels are sold in competition.

That I understand to be the situation.

I can not understand what is meant when Mr. Innes says:

But it appears to my Government that it would be impossible to frame regulations—

That is in reply to the suggestion that regulations might be framed by which we could circumscribe our coastwise vessels to local trade and prohibit them from engaging in foreign trade—

But it appears to my Government that it would be impossible to frame regulations—

Regulations controlling the coastwise trade, regulations limiting the coastwise trade to strictly coastwise traffic—

which would prevent the exemption—

Exemption of what? Exemption of the strictly coastwise trade carried through the canal and sold in competition with the cargoes of British vessels in every port of the United States in which the vessels would meet—

which would prevent the exemption from resulting, in fact, in a preference to United States shipping and consequently an infraction of the treaty.

That is my construction of it.

Mr. CUMMINS. Mr. President, I am glad the Senator from North Carolina has restated his position.

Mr. SIMMONS. Now, if the Senator will permit me, as he gave an illustration, I should like to give an illustration——

Mr. CUMMINS. Mr. President——

Mr. SIMMONS. I will not interrupt the Senator's speech further.

Mr. CUMMINS. The Senator from North Carolina has stated his position, and I would prefer that he would elaborate his reply at another time. I am only sorry that there are not other Senators in the Chamber who are joining and cooperating with the Senator from North Carolina in endeavoring to secure the passage of this bill, that I might ask them whether they concur in the view now expressed by the Senator from North Carolina. I should like to know whether the Senator from Georgia [Mr. SMITH] is willing to adopt the argument just made by the Senator from North Carolina. I should like to know whether the Senator from Massachusetts [Mr. LODGE] and the Senator from New York [Mr. ROOT] are willing to adopt the view which the Senator from North Carolina has just so clearly and, as I might well say, so eloquently stated, because if we can bring this controversy to the issue just stated by the Senator from North Carolina and make the outcome of the vote about to be had depend upon the validity of the position just assumed by the Senator from North Carolina, it is a foregone conclusion.

The Senator has, in substance, departed from everything that has been heretofore said in support of the bill to repeal the exemption clause in the canal act of 1912. He says it is true Great Britain has not insisted that to carry our coastwise trade or traffic through the Panama Canal is a violation of the treaty; he admits it. He proposes broadly and comprehensively——

Mr. SIMMONS. I made no such admission as that.

Mr. CUMMINS. To abandon for the time a right which he now says England has not insisted that we shall surrender. He says that we ought to repeal the exemption, and that we ought to say to the world that we surrender our right to deal in the future with our coastwise shipping, because England has suggested that there are difficulties, grave difficulties, in the way of confining the trade within its true limits, because it is the opinion of the British Foreign Office that when we come to frame a law or issue regulations which shall govern this trade from coast to coast, we will not be successful in limiting to our own people the favor that we are trying to extend to our own people and to our own trade. That is the most marvelous, the most extraordinary assertion and admission I have ever heard in all the debate upon this subject.

Now, Mr. President, I intended to go forward and see to what extent the colleagues of the Senator from North Carolina agree with him.

Mr. SIMMONS. Mr. President——

Mr. CUMMINS. I intend to inquire what the President's view is with regard to that matter, because my mind is bent on just one thing: It is to find out how much further the advocates of repeal insist on going than Great Britain has demanded that we shall go. I want to know how much of our sovereignty we are called upon to surrender because England wants it, and how much we are called upon to surrender by these philosophical altruists who seem to fear that in some fashion or other our honor is in danger in the civilized world.

Mr. SIMMONS. Will the Senator permit me an interruption now?

Mr. CUMMINS. I think the Senator has had an opportunity to explain his view fully, and I should prefer to go on just a little further before he interrupts me.

Mr. SIMMONS. The Senator misrepresented me a little while ago, and I desire to state in what particular he misrepresented me.

Mr. CUMMINS. I may have done so, Mr. President. Of course I have not quoted anything the Senator has said. I have drawn my conclusions from what he has said, and all who have heard the debate are at liberty to draw their conclusions. I have not imputed to the Senator from North Carolina any specific words, and I am very desirous of making the argument somewhat continuous.

Mr. SIMMONS. But I say the Senator misrepresented me, and I think the Senator ought to permit me in a few words to state the respect in which he has misrepresented me.

Mr. CUMMINS. Well, Mr. President, I yield.

Mr. SIMMONS. If the Senator does not want to be interrupted——

Mr. CUMMINS. I think I am probably an exception in this great debate. Every other Senator notified the Senate in advance that interruptions would not be allowed. I presume, however, the matter can be reached in this way better than in any other, and I yield to the Senator.

Mr. SIMMONS. I shall be exceedingly brief.

The Senator said that I had admitted that these difficulties could be removed by legislation. I did, Mr. President. I said that the first difficulty could be removed by legislation, the second could be removed by legislation, and the last could be removed by legislation, so far as that is concerned. When, however, the Senator states that I am basing my contention in favor of a repeal simply upon the fact that Great Britain contends that the exemption of our coastwise trade would be giving a preference to our shipping and prejudicial to hers, when he puts me in the attitude of taking that position simply and solely for the purpose of meeting the protest of Great Britain, whether that protest addresses itself to my judgment as correct or not, he puts me in a position that I will not occupy.

Not only to-day, but elaborately in the speech which I made a few days ago, I undertook to show that to permit our coastwise ships to pass through the canal without the payment of tolls, even if they were circumscribed to purely coastwise trade, would be a discrimination against the over-seas ships of the balance of the world. If the Senator will read my speech, he will see that I made that contention as my contention. If Great Britain makes that protest, I believe that protest is just, because I believe it is capable of demonstration, and I believe I demonstrated it in my speech, as I think others have demonstrated in this argument, that however closely you may circumscribe coastwise trade in this country, if you permit it to go through the canal free there will be a necessary and inevitable discrimination against the over-seas ships of the balance of the world using the canal to reach the ports of our coasts where their cargoes will be sold in competition with those of our coastwise vessels; and therefore I said that in my judgment the protest was properly made.

Mr. CUMMINS. Mr. President, the Senator has risen to answer an accusation which, if made, has been made by his own conscience. I did not make it. I do not know how the thought which he has just expressed came into his mind. I did not say that the Senator from North Carolina was yielding or surrendering to the demand or view of Great Britain. I said that we were going far beyond the demand of Great Britain. The very thing that he protests against is the very thing that I admit.

The Senator from North Carolina is not trying to carry out the views of Great Britain, as erroneous as those views are, as selfish as those views are. Great Britain has not insisted that we should surrender our right to allow our coastwise trade to pass through the canal free. It is the Senator from North Carolina who has insisted upon that.

When we come before the great forum of the people you will not hear the Senator from Iowa claiming that the Senator from North Carolina yielded under the duress of a foreign pressure. You will hear him claiming that the Senator from North Carolina and all other Senators who join with him have yielded to some other influence—the influence, I will assume, of their own convictions. All that I have said is that it is marvelous to me, inexplicable to me, that any American is willing to put on this treaty a construction so much more unfavorable to his own people than has been put upon it by the great nation whose history convinces every impartial man that she claims everything to which she is entitled.

But, Mr. President, I was about calling the attention of the Senate very briefly to the origin of this controversy in the Senate so far as this legislation is concerned. I have shown, I think, what Great Britain asks, and if I have not shown that Great Britain does not ask us to abandon or surrender our right to deal with our real coastwise trade as we think it ought to be dealt with, then I am unable to understand the force of the English tongue.

This is what the President said, and this is the way in which he initiated the movement which we are now carrying forward:

> I have come to ask you for the repeal of that provision of the Panama Canal act of August 24, 1912, which exempts vessels engaged in the coastwise trade of the United States from payment of tolls, and to urge upon you the justice, the wisdom, and the large policy of such a repeal with the utmost earnestness of which I am capable.

Mark, Senators, the very thing that Great Britain has really protested against is not mentioned by the President at all. The protest or objection of Great Britain against that part of the canal act which gave to the President the power to discriminate in favor of our foreign ships is not brought to the attention of Congress. It was not in the mind of the President. He declares that he comes before Congress simply to ask it to repeal the exemption of coastwise ships.

I should like some Senator who is in the confidence of the President or in the confidence of the Democratic councils to tell the country why it is that when the President comes before

the legislative body seeking a repeal or seeking legislative action he confines his request to coastwise trade, without ever a suggestion relating to that part of the canal act against which England did positively, emphatically, argumentatively launch her objection, namely, the discretion that we gave to the President to discriminate in favor of our ships doing a foreign trade. If anyone can answer that, it will explain a great mystery that has enveloped my mind ever since I heard this message.

Our Executive then proceeds to give his reason for the recommendation he makes or the request that he prefers. He says:

> In my own judgment, very fully considered and maturely formed, that exemption constitutes a mistaken economic policy from every point of view, and is, moreover, in plain contravention of the treaty with Great Britain concerning the canal concluded on November 18, 1901.

I have no reason to doubt the sincerity of his conclusion with regard to the matter. I never enter a man's inner consciousness and endeavor to ascertain whether or not he sincerely thinks what he says. The President says that in his opinion it is in plain contravention of the treaty of 1901, although England has never so declared, England has never so suggested, and, so far as I know, not a nation on earth has made the suggestion.

I limit that statement to my own knowledge, of course. I do not know what may be in the archives of the State Department; but if there is a protest there from England, or if there is a protest there from any other nation, we have a right to know what it is and from whence it comes. We must deal with this subject upon the hypothesis that there is nothing in the diplomatic records of this country upon this subject of which we have not been advised.

The President, however, gives another reason for the repeal of this exemption. He says:

> But I have not come to urge upon you my personal views. I have come to state to you a fact and a situation. Whatever may be our own differences of opinion concerning this much debated measure, its meaning is not debated outside the United States. Everywhere else the language of the treaty is given but one interpretation, and that interpretation precludes the exemption I am asking you to repeal.

Has a President of the United States a right to ask this legislation upon this ground without submitting the proof to Congress? When did Great Britain put upon the treaty the interpretation stated by the President? In what communication? When did France or Germany or Belgium or Norway or Sweden or Austria or Spain or Italy or Russia or Turkey put upon the treaty the interpretation that is asserted in the message of the President?

I challenge any advocate of repeal to furnish any evidence of an official representation upon the part of any nation insisting that we have no right to deal with our coastwise trade as our interests may require. Great Britain has not done it. I have shown that, as I think, so conclusively that it must satisfy any reasonable mind.

This message is brought to us recommending a repeal, first, because in the opinion of the President an exemption of our coastwise trade is in violation of the treaty. With that I have no quarrel. I do not believe his conclusion is correct, but I grant him the right to hold that opinion. When, however, he says: I ask you to repeal this statute because Great Britain holds another interpretation of the treaty, or because any other nation holds a different interpretation of the treaty, then I demand the proof. It is vain, with a serious subject, for the President to ask us to exercise our legislative power upon evidence of which we are entirely ignorant, and which many of us—and I have no hesitation in enrolling myself among that number—believe does not exist.

If the President puts upon the communications from Great Britain the same interpretation that has been put upon them by the Senator from North Carolina, then he could say that Great Britain has demanded this repeal, but I do not know whether he does or not. Under the admissions of those who have treated the subject here, especially the statements of the Senator from North Carolina—and I look upon him as the leader of this movement so far as Congress is concerned—I can not believe that there is any evidence whatever that Great Britain has ever demanded a repeal of the exemption for coastwise trade.

Great Britain has said you must confine it to coastwise trade, and if we do confine the exemption to coastwise trade then we will not have violated the treaty. But until that time comes it seems to me not only in the highest degree unwise but utterly indefensible for Congress to proceed as it is now proposed to proceed.

But I take one step further in order to compare Great Britain's view with the views in this Chamber. The first Senator, as I remember it, who made a speech upon this subject was the Senator from Massachusetts [Mr. LODGE]. Mr. LODGE said he had no doubt about the construction of this treaty, that it gave us the right to deal with our foreign shipping as we might see fit, and much the more, that it gave us the right to deal with our coastwise shipping as the good of our people might require. He declared himself in favor of the repeal. Why? Because he did not want to flaunt an American right in the face of the public opinion of Europe. I may not quote him with exactness, but that was the substance of what he said. He wanted the repeal, because he accepted the declaration of the President that all the nations of the earth had declared against our sovereignty in this respect, and that we ought to yield to that foreign opinion and reach the same result by subsidizing our ships that might pass through the canal, and in that way give them the favor which we have attempted to give them through the exemption.

Such is the opinion of the Senator from Massachusetts, and I reply to him as I have said so many times. He is wrong when he says that Great Britain has insisted that we could not exempt our coastwise trade, and therefore even if I wanted to be so submissive as to be unwilling to flout my American right in the face of foreign opinion—and I do not want to be offensive, of course, to the other nations of the world—but if that were so, the basis is wrong; there is no such foreign opinion. Great Britain has made no such demand, and the American who proceeds upon that hypothesis is making a fundamental mistake.

I now refer to the Senator from Georgia [Mr. SMITH]. I ask you to remember what his opinion is and see how that corresponds with the judgment of the President or the judgment of the Senator from Massachusetts. The Senator from Georgia is of the opinion that the exemption of the coastwise ships is a violation of the treaty, because the treaty commands equality of treatment as between the citizens of the United States and the citizens of Canada and the citizens of Mexico and the citizens of any other country that might use the canal in coastwise trade. I shall not stop here to discuss the validity of that position. I am endeavoring only to point out how far you are asking us to go beyond the claim made by Great Britain out of which all this dispute arises. Great Britain has not asked us to repeal the exemption clause on any such ground as that. Great Britain has not claimed that the citizens of Canada are entitled to an equality of treatment with the citizens of the United States in so far as our coastwise trade is concerned. That is a theory of the Senator from Georgia. I understand its origin; he has explained it upon more than one occasion; but I am simply pointing out that he is projecting an argument against the entire coastwise trade, and that Great Britain has only insisted that the coastwise trade must be limited and confined to that trade so that the exemption shall not be enjoyed by international trade.

I pass from the Senator from Georgia to the Senator from New York [Mr. ROOT]. He wants the exemption clause repealed. Why? Not because he has any doubt the coastwise trade may be properly exempted—real coastwise trade, as he terms it—but he does not agree with the Senator from Massachusetts; he does not agree with the Senator from Georgia, or the Senator from North Carolina. He also takes a ground never before occupied by anyone who has debated this topic. He says we can not exempt the coastwise trade because traffic from the one coast of this country to the other through the Panama Canal is not coastwise trade, inasmuch as the ships that carry it on must be large ships, and they must venture into the open sea before reaching the canal. This is his reason for believing that we can not exempt coastwise trade. Again I say that he is building up a barrier between the people of his own country and their welfare and prosperity never dreamed of by Great Britain, the other party to this contract.

In view, Senators, of these things, if I have recited them correctly, if I have correlated them so that they are understandable, will you not agree with me that I stated the truth in my first sentence when I declared that the spectacle now presented in the Senate of the United States is without precedent in the history of mankind? You may search the records of humanity and organized governments in vain for such an instance as we are now witnessing, when one nation, party to a treaty, has asked one thing, has objected to an assumption of power on the part of the other, and that then the other not only rushes to accept everything that is demanded but insists upon pouring out, through pure magnanimity, through pure generosity, a great volume of the sovereignty of the country.

You may put it down that it is a spectacle that will never be repeated. It has no predecessor, and it will have no successor. I am not willing to do that; but if we are willing to do it, we ought at least to be content with granting to Great Britain all that she demands. When we go further and entangle future generations in the meshes of this interpretation, we may well

reflect upon the consequences of our act. You are about to put that interpretation upon this treaty, I care not how you phrase the qualifying provision. The President has said that this repeal is demanded because it is in violation of our agreement. He has said that it is demanded because all the nations of the world insist that it is a violation of our agreement, and that to stand four square before the peoples of the world we must accept that interpretation and agree that we have no right under the treaty to discriminate in favor of our own trade, our coastwise trade being the subject just at this moment under consideration.

When that interpretation is insisted upon by the President of the United States, when you eminent, distinguished, and learned Senators and patriots arise and declare that it is the proper interpretation of the treaty and that we did violate our solemn obligation when we exempted our coastwise ships, then action following these declarations and under these circumstances must be an admission to the world that we have parted forever with this vital right.

What can you know of the development of the United States in the next half century? What can you foretell with respect to the currents of her trade? What can you say with regard to the magnitude of our interests? How can you declare what ties will bind the two coasts of America together in the next century? How can you manacle and shackle unborn generations? How can you part with our right to deal with our own affairs according to the interests of our own people? How do you know that within the next quarter of a century it may not be demanded—that the life of the country, the life of business, may not demand—that the United States itself shall carry on the trade between our eastern and our western coasts in her own ships, manned by her own officers; and yet the moment you put the interpretation for which you stand so earnestly apparently on this treaty, you have denied to the United States the chance to serve her people in that way. I do not suggest that there is any exterior or pernicious influence exercising itself here or elsewhere; but I know—I believe I know—why there are interests in the United States so deeply intent in attaching to this treaty the construction that the President asks.

If we do it, then, when the United States shall enter this traffic in an attempt to serve the people of the country by carrying on the trade in her own ships, Great Britain will say, "No, no; you have already assented to a construction of the Hay-Pauncefote agreement which forbids that activity on the part of your Government." The United States can not pay itself. It can not receive money from its own ships. Its own ships can not pay it money in the way of tolls. Whenever you declare that it is not within our right to pass an American ship engaged in the coastwise trade through the canal without charge, you have declared that the United States can not pass one of its own ships through engaged in commerce.

I should like to know whether the people of this generation are willing to accept the responsibility of binding the next generation against the exercise of that right which may be essential to the life of our institutions. I can not conceive a situation more crowded with grave consequences than the one in which we are now placed. I can not conceive of a question more important than the one we are now discussing. I am not asking for the free passage of our ships. I myself do not believe that they should pass free. I have a view upon that subject which I will present at a later time in connection with an amendment I shall propose. I am not pleading for free ships. At this time I am pleading for the integrity of the Union, the preservation of the strength of our mighty Nation. I am begging that we will not make the mistake that was made in 1850 when we entangled ourselves with Great Britain in the Clayton-Bulwer treaty. I am begging that we will not perpetuate what I regard to be a mistake made in 1901 when we recognized the right of Great Britain to interpose between us and the construction of a canal across the Isthmus at Panama. Let us not write another chapter in this book of blunders. Let us stand firm and fast and true to our plighted word; but let us not yield what we believe to be our unquestioned rights. In such fashion we will not only perpetuate our Nation's honor, but we will serve the interests of the greatest people on earth.

Mr. O'GORMAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. VARDAMAN in the chair). The Senator from New York suggests the absence of a quorum. The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Ashurst	Bristow	Crawford	Hitchcock
Borah	Burton	Cummins	Johnson
Brady	Catron	Gallinger	Kenyon
Brandegee	Chamberlain	Gronna	La Follette
Lane	Page	Smith, Ga.	Thompson
Lea, Tenn.	Perkins	Smith, Md.	Tillman
Lewis	Poindexter	Smith, S. C.	Townsend
Lodge	Ransdell	Smoot	Vardaman
McCumber	Reed	Stephenson	Walsh
Martine, N. J.	Shafroth	Sterling	Warren
Newlands	Sheppard	Stone	Weeks
Norris	Sherman	Sutherland	
O'Gorman	Shively	Swanson	
Overman	Simmons	Thomas	

Mr. TOWNSEND. The senior Senator from Michigan [Mr. SMITH] is absent on important business.

Mr. MARTINE of New Jersey. I desire to state that the Senator from Mississippi [Mr. WILLIAMS] is absent on official business, and that he is paired with the Senator from Pennsylvania [Mr. PENROSE].

The PRESIDING OFFICER. Fifty-three Senators have answered to their names. There is a quorum present.

Mr. HITCHCOCK. Mr. President, I favor the amendment offered by my colleague, Senator NORRIS, and I shall favor any other amendment of like import which will attach to this bill a declaration that its passage shall not be construed as a surrender of the American right to discriminate in favor of American vessels in the use of the Panama Canal.

I should be willing to go even further, Mr. President, and favor a pecific declaration, reaffirming and asserting that right, because that would express my own convictions in the matter.

I favor the repeal bill not because I think the exemption of American coastwise vessels is a violation of the treaty but because I think the exemption was bad policy and against public interest. I think that the great investment made by the people of the United States in the Panama Canal should not be thrown open to the free use of any vessels operated for pleasure or profit, but that all should be required to pay the very moderate, I may say the very low, charge provided in the original canal act and carried into effect by the President's proclamation. I am opposed to the free passage of such vessels now, and I have always been opposed to their free passage.

Ordinarily, Mr. President, to meet my views, it would be sufficient to pass this repeal measure as originally drafted had the movement originated in the Congress and been based upon domestic or economic considerations. When, however, the President of the United States took the initiative and pressed the repeal upon Congress for the chief reason, as stated by him, that the canal act was a violation of our treaty, the situation is changed, and to act upon his suggestion without qualification may perhaps put Congress in the light of indorsing his reasons and might put the United States on record as abandoning its former interpretation of the treaty and assenting to the interpretation placed upon it by Great Britain. I am not willing to do that, if it is possible to attach to this bill a declaration to prevent it. I believe the United States should stand by the position it has taken and continue to maintain and to insist upon its interpretation of the treaty which was made officially by both branches of Congress and by the President in the passage of the canal act of 1912. That is the dignified attitude, the correct attitude, and it is an honorable attitude, providing at the same time this country stands ready, as it should, if Great Britain insists upon its interpretation as we insist upon ours, to submit the matter to an impartial tribunal for arbitration, as provided for in our existing arbitration treaty with Great Britain.

This course, Mr. President, is, in my opinion, the only one which is fair to both countries, and it is the only course which is fair to the opposing views of people in our own country. We can not shut our eyes to the fact that sentiment in the United States is widely divided on this subject. Very many distinguished public men contend for the interpretation placed upon the treaty by the President, but probably an equal number contend for what I feel justified in calling the American interpretation. Both of these elements can be properly recognized by the passage of the bill with this amendment. Those who agree with the President will have amended the canal act so as to conform to his recommendations, while the other class will have reserved and reasserted the American interpretation of the treaty, leaving the final decision ultimately to the arbitration which we are solemnly bound to accept. Thus the change in the law would not operate to alter the attitude of the United States on the interpretation of the treaty.

Those, in brief, Mr. President, are my reasons for favoring the amendment offered by my colleague. Those will be my reasons for supporting other amendments which have already been drafted, and which may possibly come before the Senate, having the same purport, intending to save the country what rights it may possess, and to avoid giving away those rights without at least having our day in court to assert them.

My own views, Mr. President, after studying the history of these unfortunate treaties with Great Britain, beginning with the Clayton-Bulwer treaty and ending with the second Hay-Pauncefote treaty, are that the history of those treaties and the letter of those treaties argue in favor of the contention that we have the right to discriminate in favor of American vessels in the use of the canal.

The eighth article of the Clayton-Bulwer treaty has been often referred to on the other side in this argument; but, to my mind, the eighth article of the Clayton-Bulwer treaty can bear no other interpretation, read in the light of the subsequent Hay-Pauncefote treaty, than that the power which constructs and agrees to defend the canal reserves to itself the right to the best treatment on the subject of tolls, and that any power not constructing and not defending the canal has no special right, but only the right to equal tolls with other nations not constructing or defending the canal. Listen to the concluding words of the eighth article:

> And that the same canals or railways, being open to the citizens and subjects of the United States and Great Britain on equal terms, shall also be open on like terms to the citizens and subjects of every other State which is willing to grant thereto such protection as the United States and Great Britain engage to afford.

Mr. President, suppose under that eighth article we, in partnership with Great Britain, had constructed the canal, will anyone contend that any other country would have had the right for its citizens or its subjects to equal treatment with our citizens, except in such case as it should become a constructor and defender of the canal? I put a question to the Senator from Georgia [Mr. SMITH] a day or two ago which he answered fairly and which I think settles this matter. I said to him, "Suppose the canal had been constructed jointly by the United States and Great Britain, would it not follow that the United States and Great Britain, the constructors and the defenders of the canal, would have had the right to charge higher tolls to other countries participating neither in the construction nor in the defense of the canal?" and the Senator from Georgia answered "Yes." Great Britain has stepped aside, has stepped out of the class of the United States, has ceased to be either a constructor or a defender of the canal, and does it not follow as a natural consequence that the United States now has what the United States and Great Britain formerly had jointly—the right to discriminate in favor of its own citizens?

It is written in this eighth article of the old Clayton-Bulwer treaty that the condition of equal treatment is participation in the protection of the canal. If it was intended to extend this right to citizens and subjects of countries not so participating, why was the correct language not used in the second Hay-Pauncefote treaty? Why did those negotiators not put in plain English the statement that the citizens and subjects of any nation observing the rules of the canal should have the same rates or tolls as citizens of the United States? That would have settled it; that would have been language easily secured, easily inserted in the treaty if both sides were willing to agree to it. In fact, that language was considered; and to my mind the very fact that it was considered and rejected is the strongest possible circumstantial evidence that it was not intended to put it in the treaty. Let me read a proposed and rejected section of that treaty. On August 20, 1901, while the treaty was under negotiation, our ambassador to Great Britain, Mr. Choate, wrote Mr. Hay a review of the situation as it then existed in London, and proposed an article to our Secretary of State which reads as follows:

> In view of the permanent character of this treaty, whereby the general principle established by article 8 of the Clayton-Bulwer treaty is reaffirmed, the United States hereby declares (and agrees) that it will impose no other charges or conditions of traffic upon any other canal that may be built across the Isthmus (or between the Atlantic and Pacific Oceans) than such as are just and equitable, and that such canals shall be open to the subjects and citizens of the United States and of all other nations on equal terms.

So the very language which would have rendered unquestionable the right claimed by Great Britain was not only considered by Mr. Choate but was presented to Mr. Hay. Why was it not accepted? We all know why it was not accepted. It was because of the attitude of the Senate of the United States. I have no doubt that Ambassador Choate and Secretary Hay would have been willing to incorporate that generous proposition in the treaty, and that the only reason it was not put into the treaty was the realization that it would result in the rejection of the treaty by the Senate or in the amendment of the treaty, as the former treaty had been already amended by the Senate, in standing up for American rights and American interests.

Mr. President, these are some of the considerations which lead me to feel that the correct interpretation of the treaty gives to the United States, as the power which not only builds but protects the canal for the use of the world, the right to discriminate in favor of its own vessels.

While I hold this belief, I also cling with equal firmness to two other beliefs. One is that it is contrary to public policy for us to give the free use of the canal to ships owned and operated for pleasure or for profit. I believe that the taxpayers of the United States, having built this great waterway and being expected to pay the annual losses which its operation will involve, are entitled to demand of every ship which goes through the waterway a reasonable charge for the service rendered. I do not believe that those companies owning such vessels should have the free use of that waterway any more than that those companies should have the free use of the United States mail. They should pay a reasonable charge for the use of the canal.

I also cling to the other belief that while we maintain the American construction of this treaty, while we insist upon it and reassert the doctrine that we are entitled to exempt our coastwise vessels from the payment of tolls under the treaty, I also think that we should carry out in good faith our agreement with Great Britain, and if she insists upon her interpretation should submit the matter to the arbitration of a fair and impartial tribunal.

Mr. THOMPSON obtained the floor.

Mr. POINDEXTER. Mr. President, will the Senator from Kansas yield to me for a moment?

The PRESIDING OFFICER (Mr. KENYON in the chair). Does the Senator from Kansas yield to the Senator from Washington?

Mr. THOMPSON. I yield.

Mr. POINDEXTER. I desire to give notice, Mr. President, that, unless it conflicts with some previous notice, immediately after the routine morning business on Monday next I will submit some observations upon the Panama Canal tolls question, the pending bill.

Mr. THOMPSON. I will say, for the benefit of the Senator from Washington, that I will only occupy a short time, if he desires to go on to-day.

Mr. POINDEXTER. I do not desire to go on to-day.

Mr. SIMMONS. Mr. President——

The PRESIDING OFFICER. Does the Senator from Kansas yield to the Senator from North Carolina?

Mr. THOMPSON. I do.

Mr. SIMMONS. I wish to say to the Senator from Washington that, while I do not think it altogether probable that we can reach a vote upon this question to-day, I think it possible that if we should stay here some time to-night we might reach a conclusion, unless some Senator makes a very long speech; and I hope the Senator from Washington will go on to-day, if it is not inconvenient for him to do so, and not foreclose the possibility—I admit it is a mere possibilty—of our reaching a vote to-night.

Mr. POINDEXTER. Mr. President, if the Senator from Kansas will pardon me, I am willing to agree to anything reasonable to facilitate the disposition of this business. I do not think, however, that the final disposition of it will be hastened in any way by holding night sessions or pressing the matter through unreasonable hours at this time. It seems to me, if we go on in the usual way, that it will ultimately hasten a conclusion of the business. I scarcely think that it is possible to dispose of it to-day.

Mr. SIMMONS. The Senator realizes the fact that Senators on both sides of the Chamber are exceedingly anxious to get through with this matter at the earliest possible moment.

Mr. POINDEXTER. I do.

Mr. SIMMONS. And I myself know of only two or three Senators who desire to speak now upon the main question. The Senator from Washington [Mr. POINDEXTER] is one, the Senator from Wisconsin [Mr. LA FOLLETTE] another, and the Senator from Kansas [Mr. THOMPSON], who, I understand, will only occupy a short time, is the third; and we might get through——

Mr. MARTINE of New Jersey. Mr. President——

Mr. SIMMONS. Just a moment, if the Senator please. We might get through the general discussion this evening by 6 o'clock if the Senator from Washington is not going to make a very long speech and if the Senator from Wisconsin does not make a very long speech. That would bring us to a vote on the amendments and make it possible to dispose of the matter to-night. The opinion has been expressed to me by quite a number of Senators that if it is possible to get through by staying here until 10 or 11 o'clock to-night, they would be very glad to subject themselves to that inconvenience. Some Senators want to leave here early next week.

Mr. MARTINE of New Jersey. Mr. President——

The PRESIDING OFFICER. Does the Senator from Kansas yield to the Senator from New Jersey?

Mr. THOMPSON. I yield to the Senator.

Mr. MARTINE of New Jersey. I do not want to interfere with the Senator, but I do trust in all reason that we may not have a session to-night.

Mr. SIMMONS. I want to say to the Senator that I do not think anybody contemplated a session to-night, unless we saw at the usual hour of adjournment some possibility of getting through with this matter to-night.

Mr. MARTINE of New Jersey. I desire to say that I feel an intense interest in this matter, and while I can not add to the enlightenment of the Senate in any degree I feel that my constituency have a right to know, at least, where I stand and why I take the position which I do take. It is not convenient just now for me to give expression to my views as I should like to do, and I trust that the bill may go over until Monday. I do not think there is any prime necessity for passing it to-night. The heavens are not going to fall, whether the exemption clause of the Panama Canal tolls act is repealed or not. It has stood reasonably quiet since we adopted it in 1912, and I think the world will go on if we do not adopt this measure until Monday or Tuesday, or even later next week. I am as anxious to get home and to get through with the business of the session as any man can possibly be, but it is a big subject; it is a matter that affects every man, woman, and child in our land, and in the name of all that is good and fair do not try to stifle debate.

Mr. SIMMONS. Mr. President, the Senator knows that I have said nothing that indicated that I wanted to stifle debate or cut off debate. I have no such desire.

Mr. MARTINE of New Jersey. I do not believe the Senator has any such desire, but if you insist——

Mr. O'GORMAN. Mr. President——

The PRESIDING OFFICER. The Senator from Kansas has the floor. To whom does he yield?

Mr. THOMPSON. I yield to the Senator from New Jersey until he concludes.

Mr. MARTINE of New Jersey. I do not believe the Senator from North Carolina does want to stifle debate, but if you insist upon staying here until midnight and securing action to-night the result would be to stifle debate.

Mr. SIMMONS. I have not said that we are to do it; I have not said that I would unduly press the matter at all. I said if, when we reached the usual hour of adjournment this evening, 6 o'clock, the conditions were such as to make it possible that we could finish up this work to-night, I knew of a number of Senators who are exceedingly eager that we should conclude the matter in order that they may go home. A number of Senators have made that statement to me, and I know that there is a feeling and a desire here that this matter shall be disposed of as soon as possible. Of course the Senator is right in saying that there is no great necessity of passing the bill to-night, except to serve the convenience of Senators who want it disposed of.

Mr. MARTINE of New Jersey. Of course we want to finish the business of the Nation.

Mr. SIMMONS. I shall not, however, to the point of excluding anybody who wants to speak, ask that the matter be acted upon to-day.

Mr. O'GORMAN and Mr. POINDEXTER addressed the Chair.

The PRESIDING OFFICER. To whom does the Senator from Kansas yield?

Mr. THOMPSON. I yield to the Senator from New York, who wants to say a word and who requested recognition a while ago.

Mr. O'GORMAN. Mr. President, I simply desire to say that, with the very best of intentions on the part of some of my colleagues, we are just now wasting time, as we did waste all of yesterday, so far as this particular legislation is concerned. I do not wish to be understood in that connection as saying that the time was lost, because I think the topics that were discussed yesterday were of great public interest and a day might very well be devoted to them, although some of us who are interested in expediting the consideration of and in reaching a vote on the tolls bill might have preferred that some other time should have been selected for that purpose.

As I understand, the Senator from Washington, who, within the knowledge of Senators, has been detained from the Senate for a few days by public duties, desires to speak, but is not desirous of speaking to-day, and has given notice that he will speak on Monday. I tell him, with all the desire on the part of the entire Senate to expedite the disposition of this legislation, he will have ample time on Monday to address the Senate, because no vote will be reached on the amendments before Monday.

I think the only thing now in order, Mr. President, is to allow the Senator from Kansas, who desires to address himself to this subject, to proceed with his remarks.

Mr. SIMMONS. Mr. President——

The PRESIDING OFFICER. Does the Senator from Kansas yield further to the Senator from North Carolina?

Mr. THOMPSON. I yield.

Mr. SIMMONS. Mr. President, I do not know, of course, what is in the mind of the Senator from New York. He may know of speeches to be made that would make it utterly impossible to finish this matter to-day. I do not myself know of such speeches, and I have merely suggested to the Senator from Washington that if it were not too inconvenient for him he might go on to-day; but if it is inconvenient to the Senator, I withdraw that suggestion. I simply threw it out to him, and that was all.

Mr. POINDEXTER. Mr. President, I desire to say that of course I did not intend in anything that I said to intimate that the Senator from North Carolina had been endeavoring to unduly limit debate. I think, on the contrary, that he has been very reasonable about the matter; but it will be impossible to reach a vote this afternoon. I would be very glad to see Senators have an opportunity to dispose of this business in order to go away; I should like to take a holiday myself; but I think the Senator from Indiana [Mr. KERN] is going to insist on the Senate remaining in session for the consideration of trust legislation, and we are likely to reach a vote on trust legislation immediately after the disposition of the Panama tolls question, so that it would be dangerous for Senators to leave even after we dispose of the pending measure.

Mr. THOMPSON. Mr. President, for reasons very apparent to the Senate in this preliminary discussion, I would prefer not to be interrupted during the course of my few remarks. If any Senator wishes to ask any question, when I am through I will be glad to answer him as best I can.

I do not want to tax the patience of those Senators who desire to vote instead of talk or listen to further talk, but before voting I wish to make a few remarks in explanation of my vote and in behalf of the pending measure.

In my judgment there has been much more excitement and anxiety raised over the subject involved than the true situation really justified. There has been a great deal of exaggeration, misrepresentation, and some misunderstanding of the necessary consequences of the legislation. Some severe criticisms have been made against the President and his purpose in recommending the repeal. The President was clearly within his constitutional rights in suggesting the legislation, and from his viewpoint could not have honestly evaded the responsibility. Although it is a subject which was perhaps somewhat unpopular at the particular time the legislation was initiated, yet its recommendation took all the more courage and demonstrated with greater certainty the absolute sincerity and conscientious belief of the President in the wisdom of the legislation.

Regardless of the rant and fustian of the opposition the people of the United States fully understand that there is not going to be any un-American or unpatriotic act committed by the administration, and they also know there will be no surrender of any American rights or privileges to Great Britain under any treaty, as has been so often charged. To make this plain, so that our action in the matter can not be misunderstood by anyone now or at any future time, I introduced an amendment to the repeal bill providing, as follows:

> That by the passage of this act it shall neither be regarded as a construction of any treaty between the United States and any foreign country, nor a waiver, surrender, or abandonment of any rights or privileges of the United States thereunder, nor the waiver of any rights by the United States in the maintenance and control of the Panama Canal.

The committee, however, reported an amendment which has for its purpose the same thing I had in mind, but expressed in a little different language, as follows:

> *Provided*, That neither the passage of this act nor anything herein ontained shall be construed or held as waiving, impairing, or affecting any treaty or other right possessed by the United States.

I also understand the committee will make further amendments to cover every question even more specifically than embodied in my amendment. I shall therefore not press my amendment, but will vote for the bill as amended by the committee.

I have never believed that the Panama Canal act violated the Hay-Pauncefote treaty. It is true that lawyers are greatly divided in opinion on this question. It is generally conceded to be a doubtful question. Being doubtful, I would prefer to resolve the doubt in favor of the act, and thereby uphold the

good faith of the people of the United States in passing it than to resolve such doubt against the law. When the legality or constitutionality of an act is involved, it is the universal rule of law to resolve all doubts in favor of sustaining the act, and I think the same rule should apply here.

The term "all nations" in rule 1, article 3, of the Hay-Pauncefote treaty, being one of the six rules prescribed by the United States as a basis of the neutralization of the canal in its use by other nations, wherein it is stated "all nations observing these rules," necessarily excludes the United States. Five of the six rules prescribed clearly apply to other nations than the United States, hence they can not possibly be said to include the United States. Furthermore, by reason of the changed conditions since its ratification, the Panama Canal can not possibly be burdened with the provisions of the treaty. The treaty was made in 1901, and the United States did not acquire the territory through which the canal was built until 1903.

When the treaty was negotiated the representatives of both Governments expected and assumed that the canal would be constructed on alien territory. At that time the contemplated route was through the Republic of Nicaragua, and Panama was not even thought of or suggested. Hence the important and controlling surrounding conditions have completely changed and we have had no treaty regarding the canal with Great Britain under the new and present existing conditions. There is no rule of international law better established than that a treaty ceases to be binding when the conditions upon which it was executed are essentially altered.

The proposition, as I view it, is therefore reduced to a purely economic question. It is estimated that the total cost of maintaining and operating the canal, including military protection and the interest on the indebtedness, will amount, in round numbers, to about $25,000,000 annually, and that the income from reasonable charges on all "over-sea" vessels will amount to only about $10,000,000. According to the report of Prof. Emory Johnson, of the University of Pennsylvania, whom President Taft intrusted with the task of ascertaining what the toll rate at Panama should be, based on actual world shipping in 1910, there were 8,328,029 tons of water freight which would have naturally passed through the Panama Canal had it been in existence. At $1.20 per ton the tolls collected would have been $9,993,634, or approximately $10,000,000. He also estimated the 1914 and 1915 tonnage at 10,500,000 tons, which, if all paid tolls, would produce $12,600,000. It is estimated of this amount approximately 800,000 tons, or about 8 per cent, would have been American coast-to-coast shipping. Exemption from tolls would therefore deprive the United States Treasury, in which all the people of the Nation are interested, of about $960,000 tolls on this traffic, or practically $1,000,000 annually. On the basis of $25,000,000 actual cost of maintenance and operation of the canal, the tolls for 1914 and 1915 would yield only 50 per cent of the charge if made against all vessels using the canal, which would necessitate drawing upon the Treasury of the United States for the balance.

The American people would, therefore, have to contribute about $12,500,000 by congressional appropriation for the maintenance and operation of the canal for the first year. Including the proportion of this expense on the 800,000 tons of American coastwise shipping free tolls would result in a total gratuity to the coastwise shipping corporations of $1,960,000, or practically $2,000,000, annually. This donation would go to relatively a very few corporations, which now, under the law, are permitted to operate as a complete monopoly as against any foreign competition in the coastwise trade. If the proposition was to pay them $2,000,000 annually direct from the Treasury, it would not receive a single vote in the Senate.

At the hearings recently held before the Senate committee it was clearly demonstrated that about 92 per cent of the coastwise vessels were owned by the railroads and that one-half of the remaining 8 per cent constituted a shipping monopoly. For the present, therefore, there would seem to be no good reason why vessels of any character should pass through the canal free of charge outside of war vessels and other vessels owned by the United States Government itself, which it is generally conceded will pass through free under every reasonable construction of the treaty. There is certainly no reason why such a great special privilege should be granted any shipping monopoly. Therefore, instead of the people receiving any benefit by free tolls, the only benefit would go to a monopoly. Monopolies are not usually formed for humanitarian purposes. Instead of filling the pockets of the people they usually empty them and fill their own pockets. So, under these conditions, it would certainly not cause a reduction in freight rates, which, after all, is the principal thing which those who favor free tolls are fighting for. All of the arguments against the repeal finally dwindle down to the single one of aid to shipping, and consequent lowering of freight transportation.

Mr. GALLINGER. Mr. President——

The PRESIDING OFFICER (Mr. KENYON in the chair). Does the Senator from Kansas yield to the Senator from New Hampshire?

Mr. THOMPSON. I announced in the beginning that I should prefer not to yield until I got through, but I will answer the question of the Senator.

Mr. GALLINGER. My attention was attracted by the statement the Senator made that 92 per cent of the coastwise vessels were owned or controlled by railroads. Did I understand the Senator correctly?

Mr. THOMPSON. That, as I understand, is the testimony of witnesses before the Interoceanic Canals Committee of the Senate.

Mr. GALLINGER. If the Senator will turn to the Alexander report—Mr. ALEXANDER being the chairman of the committee of the House making the report, and a Democrat—he will find that only 330 vessels are controlled, in any way, by railroads out of the 27,000 vessels, I think, engaged in the coastwise trade. Ninety-two per cent of the regular lines are thus controlled; but that does not include the vast number of American vessels engaged in the coastwise trade which do not come under that head.

Mr. THOMPSON. That is the testimony of some of the witnesses, as I understand it, that the proportion is about 92 per cent of the regular lines now engaged in the coastwise trade.

Mr. GALLINGER. That is the report of Mr. ALEXANDER, the chairman of the House committee which made the investigation.

Mr. THOMPSON. I shall be glad to look at the report. My understanding of the testimony given before the Senate committee is as I have given it here.

It is argued that to deny American shipping this aid is to give away all the benefits of the canal and to leave the people of either coast at the mercy of the transcontinental railroads. It would certainly be no worse to leave the people at the mercy of the railroads, which are controlled by the Interstate Commerce Commission, than to leave them at the mercy of a Shipping Trust, which controls itself. The more we study into the relations between the tolls to be collected from American ships using the Panama Canal and the rates charged by the transcontinental railroads the more difficult it becomes to see any merit in the contention that has been made by the opposition to the repeal that the collection of tolls from American ships would be of material benefit to the railroads. We are forced to the conclusion that the sole beneficiary of the free tolls would be the corporations engaged in coastwise trade, and that the railroads would not profit by the repeal of the exemption. Consequently the chief beneficiary of the repeal would be the American public, who built the canal at the enormous expense of about $400,000,000. So instead of the profits from the exemption going into the coffers of the steamship corporations that use the canal, in the form of additional dividends, according to the usual practice of all monopolies, the tolls charged the American ships will go into the United States Treasury, to be distributed generally to the benefit of the people throughout the country. By charging everybody reasonable tolls the people of the whole country will save in taxes the amount of the toll charges. The whole people of the country are therefore to be benefited by this legislation, instead of the few interested in coastwise shipping. By the passage of this act with the amendment we are declaring that for the present we can not afford and do not wish to grant free tolls, when we are morally certain that the people would not get the benefit of it in lower freight rates.

By the express provisions of the amendment to the bill we are saving all rights of the American people under the treaty and all rights of the United States Government in the maintenance and control of the canal, so that we may grant free tolls or favor our home trade at any time in the future, should we desire to do so. We are simply saying, for the present, at least, the free-tolls proposition is economically wrong, and the law should therefore be repealed. If at any time later an independent American shipping business should grow up in this country which would merit special consideration by the Government, and wherein there would be some reasonable assurance or guaranty that the people would receive the benefit of the free tolls in lower freight rates or otherwise, then the law granting free tolls can be passed again.

So there is no need of anyone becoming excited over the situation or unfurling the American flag and frantically declaring that the honor of the Nation is betrayed if we repeal a law which now seems to us to be wrong in justice to ourselves as well as other nations which have questioned our good faith. There is

no need of placing ourselves in a position which will subject us to criticism, or even call into question our rights under any treaty, especially when by not doing so we are to be the chief beneficiaries.

The Democratic Party has always been opposed to granting subsidies and special privileges. The Panama Canal act contains both features. It is true that the last Democratic platform declared for free tolls, but this provision is inconsistent with the fundamental principles of the party and inconsistent with other provisions in the platform declaring against special privileges and subsidies. This plank was not discussed in Kansas during the campaign of 1912, and has since been repudiated by four-fifths of the delegates who created it at the national convention. But even if it was in our platform, and if it had been consistent with our former declarations, but should appear to us at this time to be wrong, as the representatives of our party now we ought to be big enough and brave enough to correct the wrong. Two wrongs never make a right, and many wrongs may be righted by doing right at the proper time. It takes courage to acknowledge a wrong, but, after all, it only shows the best spirit and greatest strength to do so.

The American people have no fears whatever of this administration committing any act or doing anything that will reflect in any way against the honor of the Nation. They have too great confidence in the President to believe, imagine, or even suspicion any such thing. It may take a little time, but sooner or later it will be clear to the people of the country that there could be no possible benefit to them by subsidizing the shipping interests of the country, and that the people of the United States as a whole are the true beneficiaries of this legislation.

Therefore, in harmony with the true Democratic doctrine of "equal rights to all and special privileges to none," I will vote for the repeal bill as amended by the Senate committee.

Mr. WORKS. Mr. President, the Committee on Interoceanic Canals has reported an amendment to this bill that can have no other effect than to mislead and deceive the public without any beneficial effects. There is but one single right involved here and that is our right to exempt our ships, engaged in the coastwise trade, from the payment of tolls for passing through the canal, while imposing tolls on the ships of other nations. We provided for this exemption by statute. The bill as it came from the House is one to repeal that clause of the statute fully, without reservation, condition, or limitation. The bill goes to that question alone. It is in plain terms a surrender of that right because of the influences that have been brought to bear to bring about such surrender. The British Government protested against the exemption of our coastwise ships because they might carry foreign goods, and their exemption might increase the tolls to be exacted from foreign ships. This claim, made by Great Britain, had been fully and conclusively met by our State Department. It has never since been renewed or urged by that Government. It was left to the senior Senator from New York [Mr. ROOT] to again raise the question after it had been practically settled, and to make broader and more unjustifiable claims against his own Government and in favor of England than she had claimed for herself.

It was an unjust assault upon the good name of our country and the good faith of its Congress. It had the desired effect. It aroused and manufactured a sentiment that seems to have changed the mind of the President on this vital question of national honor involving the right and sovereignty of the Government over the canal. While before, the President and his party had stood firmly for the exemption, and the Democratic Party had declared for it in its national platform, the Chief Magistrate has changed his mind, has violated the platform under which he was elected, and denounced the exemption as a violation of the treaty with Great Britain. He says in his message:

> In my own judgment, very fully considered and maturely formed, that exemption * * * is in plain contravention of the treaty with Great Britain concerning the canal concluded on November 18, 1901.

Why he changed his mind no one knows. Such a surrender of the views of a public official on a matter so important was never known in the history of the country. Such an open and willful violation of a party platform by any high official was never heard of. The willingness of Members of Congress to stand by this repudiation of their party platform will look to the future historian like a political scandal.

Now, Mr. President, why should the President put himself and his political friends in Congress in this most unfortunate situation? It could not have been on economic grounds alone. If an economic mistake had been made, surely the President would not on that account have sacrificed himself by this remarkable change of front and the violation of the platform of his party or have asked Democratic Members of Congress to make a like sacrifice.

No; this question of repeal involves only the question of a violation of a treaty with a foreign country. It has been presented, almost wholly, on this issue. Senators are going to vote for it on that ground and that only. The people of this country know it. History will so record it. If we pass this bill, we will have stultified ourselves and the country and confessed ourselves guilty of a willful and intentional violation of a solemn treaty with another and friendly nation for a money advantage. Singularly enough, in this effort to bring ourselves and the country into disgrace and disrepute, the President and the senior Senator from New York have become firm allies and are supported by Senators who do not believe as the President and the Senator from New York seem to do—that the exemption is a violation of the treaty. It is a strange alliance, resting upon a marvelous foundation.

With this condition of things confronting us, and because of the wave of popular protest and indignation that has swept over the country at this betrayal of a party pledge and surrender of the rights of the country, the attempt is now made by, not the friends of repeal, for they can be counted on the fingers of your two hands, but by those who are obsequiously bowing to the will of the President, to deceive and mislead the people and turn away their wrath by the amendment proposed by the committee. This is it:

> *Provided*, That neither the passage of this act nor anything therein contained shall be construed or held as waiving, impairing, or affecting any treaty or other right possessed by the United States.

What right of this Government involved here could by any possibility be guarded or preserved by such an amendment as this? It must be borne in mind that the only matter in dispute is our right to exempt our own ships from the payment of tolls. There is no reason or occasion for attempting to protect any other right. Does anybody really believe that we acquired this right by treaty? By no means. On the contrary, we have the right solely because of our ownership of and sovereignty over the canal, and the contention against it is that we surrendered the right by the terms of the Hay-Pauncefote treaty. The claim is not that we acquired the right by the treaty, but that we lost it in that way. How absurd and misleading it is, then, for Congress to provide that by surrendering a right not acquired by treaty the act shall not affect any right so acquired. We never gained a right by any such means that could be lost or preserved, and we surrender a right in one sentence of the act and then by proviso say the act shall have no such effect if it was acquired by treaty. Such false and misleading legislation would be an insult to an intelligent people and discredit the lawmaking body that enacted it.

Mr. President, there should be no call for any attempt by proviso to preserve our right as owner of the canal to pass our own ships through it on such terms as we may elect. The bill itself presents a false issue. No one should ever have thought of surrendering this right so clearly an incident of ownership and sovereignty. The idea that we have estopped ourselves to exercise the right by the terms of the Hay-Pauncefote treaty has few supporters among our own people. Unfortunately one of these is the President. With all his power he will coerce others to adopt his view, who do not agree with him in the least. Unfortunately again, the votes of Senators who do not agree with him, but who will respond to his request and support this repeal bill only because he asks them to do it, will hold the balance of power when the bill comes to a vote and their support will pass it, if it passes at all.

So, Mr. President, we shall have another law vital in its consequences that is passed by unwilling votes cast against the judgment and opposed to the convictions of a large majority of the Members of this body. It will be one more added to the list of laws enacted by this Congress at the will of one man without whose dictation it would never have passed.

This being the situation, we are called upon to protect, in direct terms, and without evasion, subterfuge, or ambiguity, the one and only right that is assailed and about to be surrendered, namely, the right as the owner of the canal, and not by treaty, to exempt our ships from the payment of tolls. If we pass the bill as it came from the House we will have surrendered our right for all time. The President asks the repeal because the exemption is in violation of the treaty. If we pass the bill without a declaration to the contrary, the surrender will be complete and forever. The record, taking the President's message and the following passage of the bill, would be so made and we could not escape from it; and it would be a falsehood thus established against our own people. I think it may be safely said that not a half dozen Members of this body believe that the exemption is in violation of the treaty.

But if we pass this repeal bill, a majority will have declared to that effect and seal it by statute. However willing Senators may be to repeal the exemption clause of the statute, it would be inexcusable to make such a record as that with the hope of protecting ourselves and the country from such a misfortune. I have proposed and shall offer the following amendment:

Provided, That neither the passage of this act nor the imposition upon or collection of tolls from the ships of this country or its citizens for passing through the Panama Canal shall deprive the United States of the right, as owner of said canal, to exempt from the payment of such tolls any and all ships of the Government and its citizens at any future time, nor shall this act be construed as a waiver of such right or as an acceptance of or consent to such a construction of any treaty with a foreign country as will deny or abridge the same.

With such an amendment we can safely and consistently say that we have not repealed the statute because of or upon the theory that the exemption it provides for is in violation of the Hay-Pauncefote or any other treaty, but for economic or other reasons not affecting the rights of any other nation. And this would be strictly true. If this bill presented but the one question of the violation of the Hay-Pauncefote treaty and Senators voted their own sincere convictions, it would not receive 10 votes in this body. Every Senator here knows that to be true; but, unfortunately, there are Members who do not believe we have violated the treaty, but will vote for the bill on economic grounds, and one who, according to his own declarations, will vote for it to make other nations believe we are honest. What a fearful sacrifice to make to secure the good opinion of other nations! Have we sunk so low as to make it necessary to sacrifice our sovereignty over the canal to make other nations think better of us? The senior Senator from Massachusetts [Mr. LODGE] seems to think so. I do not. I think better than that of my country. It is most unfortunate that any Senator should have conceived such an idea. It is little less unfortunate that any Member of this body should vote for the bill, under the circumstances, on economic grounds. Say what he may, explain his vote as he will, his vote will be counted in the estimation of the people of the country and of other nations as in support of the President's declaration that the exemption of our ships was in violation of the treaty, and will help to place the country in the attitude of having willfully violated a solemn pledge.

The amendment I have proposed will enable such Senators, if they feel they are in duty bound to vote for the bill on economic grounds, to so declare, in effect, in the law itself. The adoption of the amendment, if the bill passes, will at least leave us free to assert our right at any future time and at the same time free us from the humiliating position of confessing that we have violated a treaty when a large majority of the Members of this body do not believe we have done any such thing. It would be a shameful thing to do.

Mr. President, I have not proposed the amendment because I believe there is any good reason for passing this repeal bill; but if the majority of the Senate are going to vote for the bill, then I sincerely hope we will at least maintain the honorable ground that we are not doing it at the dictation of England or because we have violated any of her rights.

I hope the amendment will be favorably considered.

Mr. BORAH. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. MARTINE of New Jersey in the chair). The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Borah	Jones	Page	Smith, Md.
Brady	Kern	Perkins	Smith, S. C.
Bristow	Lane	Poindexter	Smoot
Bryan	Lea, Tenn.	Pomerene	Stephenson
Burton	Lee, Md.	Ransdell	Sterling
Catron	Lippitt	Reed	Sutherland
Chamberlain	Lodge	Root	Swanson
Chilton	McCumber	Saulsbury	Thomas
Clark, Wyo.	Martin, Va.	Shafroth	Thompson
Cummins	Martine, N. J.	Sheppard	Thornton
Gallinger	Nelson	Sherman	Vardaman
Goff	Norris	Shively	Warren
Hitchcock	O'Gorman	Simmons	West
James	Oliver	Smith, Ariz.	Works
Johnson	Overman	Smith, Ga.	

Mr. KERN. I wish to announce the unavoidable absence of the following Senators: The senior Senator from Arkansas [Mr. CLARKE], the junior Senator from Arkansas [Mr. ROBINSON], the junior Senator from New Hampshire [Mr. HOLLIS], the senior Senator from Alabama [Mr. BANKHEAD], and the senior Senator from Texas [Mr. CULBERSON], all of whom are paired. This announcement may stand for the day.

Mr. GALLINGER. I desire to announce the unavoidable absence of the junior Senator from Maine [Mr. BURLEIGH], who is paired with the junior Senator from New Hampshire [Mr. HOLLIS].

Mr. CHAMBERLAIN. I was requested to announce that the senior Senator from Mississippi [Mr. WILLIAMS] is absent on official business. He is paired with the Senator from Pennsylvania [Mr. PENROSE].

The PRESIDING OFFICER. Fifty-nine Senators have answered to their names. There is a quorum present.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by J. C. South, its Chief Clerk, announced that the House had passed the joint resolution (S. J. Res. 148) authorizing the President to extend invitations to foreign Governments to participate, through their accredited diplomatic agents to the United States, in the National Star-Spangled Banner Centennial Celebration.

The message also announced that the House had passed the following bills, in which it requested the concurrence of the Senate:

H. R. 15613. An act to create an interstate trade commission, to define its powers and duties, and for other purposes;

H. R. 16586. An act to amend section 20 of an act to regulate commerce, to prevent overissues of securities by carriers, and for other purposes; and

H. R. 15657. An act to supplement existing laws against unlawful restraints and monopolies, and for other purposes.

ENROLLED BILLS SIGNED.

The message further announced that the Speaker of the House had signed the following enrolled bills, and they were signed by the Vice President:

H. R. 3334. An act authorizing the quitclaiming of the interest of the United States in certain land situated in Hampden County, Mass.;

S. 4167. An act granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy, and of wars other than the Civil War, and certain widows and dependent relatives of such soldiers and sailors;

S. 4168. An act granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent relatives of such soldiers and sailors;

S. 4260. An act granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy, and of wars other than the Civil War, and certain widows and dependent relatives of such soldiers and sailors;

S. 4352. An act granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent relatives of such soldiers and sailors;

S. 4353. An act granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy, and of wars other than the Civil War, and certain widows and dependent relatives of such soldiers and sailors;

S. 4552. An act granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent relatives of such soldiers and sailors; and

S. 4657. An act granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy, and of wars other than the Civil War, and certain widows and dependent relatives of such soldiers and sailors.

HOUSE BILLS REFERRED.

The following bills were severally read twice by their titles and referred to the Committee on Interstate Commerce:

H. R. 15613. An act to create an interstate trade commission, to define its powers and duties, and for other purposes; and

H. R. 16586. An act to amend section 20 of an act to regulate commerce, to prevent overissues of securities by carriers, and for other purposes.

H. R. 15657. An act to supplement existing laws against unlawful restraints and monopolies, and for other purposes, was read twice by its title.

Mr. OVERMAN. I move that the bill be referred to the Committee on the Judiciary.

The motion was agreed to.

PETITIONS AND MEMORIALS.

Mr. PERKINS presented a petition of Local Branch No. 228, National Association of Letter Carriers, of Pasadena, Cal., praying for the enactment of legislation to grant compensatory time privilege to postal employees, which was referred to the Committee on Post Offices and Post Roads.

He also presented a petition of the Woman's Christian Temperance Union of Ripon, Cal., praying for national prohibition, which was referred to the Committee on the Judiciary.

He also presented a petition of the Church Federation of Palo Alto, Cal., praying for the enactment of legislation to provide for Federal censorship of motion pictures, which was referred to the Committee on Education and Labor.

Mr. WORKS presented a petition of sundry citizens of Pasadena, Cal., praying for national recognition of Dr. Frederick A. Cook, which was referred to the Committee on the Library.

Mr. NORRIS presented petitions of sundry citizens of Chase County, Nebr., praying for national prohibition, which were referred to the Committee on the Judiciary.

Mr. PAGE presented the memorial of J. Henry McGreevy, of Burlington, Vt., remonstrating against national prohibition, which was referred to the Committee on the Judiciary.

Mr. LODGE presented petitions of sundry citizens of Newburyport, Fitchburg, and West Brookfield, all in the State of Massachusetts, praying for national prohibition, which were referred to the Committee on the Judiciary.

He also presented a petition of the Nies Club, of Dorchester, Mass., favoring national censorship of motion pictures, which was referred to the Committee on Education and Labor.

He also presented a petition of the Board of Aldermen of Malden, Mass., and a petition of the City Council of North Adams, Mass., praying for the enactment of legislation to provide pensions for civil-service employees, which were referred to the Committee on Civil Service and Retrenchment.

Mr. SHIVELY presented memorials of George Issler, William Griffin, Frank Wayne, and 19 other citizens of Fort Wayne, Terre Haute, and Indianapolis; of the Central Labor Union of Elkhart and of Local Branch No. 60, Glass Bottle Blowers' Association, of Terre Haute, all in the State of Indiana, remonstrating against national prohibition, which were referred to the Committee on the Judiciary.

He also presented petitions of Charles Hoover, W. C. Trayle, E. A. Stanton, and 22 other citizens of Middlebury, Goshen, Orland, and Milford, all in the State of Indiana, praying for national prohibition, which were referred to the Committee on the Judiciary.

Mr. SIMMONS presented a petition of sundry citizens of Greensboro, N. C., praying for national recognition of Dr. Frederick A. Cook, which was referred to the Committee on the Library.

Mr. BURLEIGH presented a petition of Smyrna Mills, Me., praying for national prohibition, which was referred to the Committee on the Judiciary.

Mr. JOHNSON presented petitions of sundry citizens of Weld, and of Cumberland County, in the State of Maine, praying for national prohibition, which were referred to the Committee on the Judiciary.

Mr. SMITH of South Carolina, presented a memorial of sundry citizens of Laurens, S. C., remonstrating against national prohibition, which was referred to the Committee on the Judiciary.

Mr. POINDEXTER presented a memorial of General O. O. Howard Circle, No. 45, Ladies of the Grand Army of the Republic, of Port Townsend, Wash., remonstrating against any change being made in the American flag, which was referred to the Committee on the Judiciary.

FEDERAL TRADE COMMISSION.

Mr. NEWLANDS. I submit an amendment, in the nature of a substitute, which I intend to propose to the bill (S. 4160) to create a Federal trade commission, to define its powers and duties, and for other purposes. I ask that it may be printed in the RECORD and referred to the Committee on Interstate Commerce.

There being no objection, the amendment was referred to the Committee on Interstate Commerce and ordered to be printed in the RECORD, as follows:

Amendment, in the nature of a substitute, intended to be proposed by Mr. NEWLANDS to the bill (S. 4160) to create a Federal trade commission, to define its powers and duties, and for other purposes, viz: Strike out all after the enacting clause and insert the following:

"A commission is hereby created and established, to be known as the Federal trade commission, composed of five members, not more than three of whom shall be members of the same political party, and the said Federal trade commission is referred to hereinafter as 'the commission.'

"The words defined in this section shall have the following meaning when found in this act, to wit:

"'Commerce' means such commerce as Congress has the power to regulate under the Constitution.

"The term 'corporation' or 'corporations' shall include joint-stock associations and all other associations having shares of capital or capital stock, organized to carry on business for profit.

"'Antitrust acts' means the act entitled 'An act to protect trade and commerce against unlawful restraints and monopolies,' approved July 2, 1890; also sections 73 to 77, inclusive, of an act entitled 'An act to reduce taxation, to provide revenue for the Government, and for other purposes,' approved August 27, 1894; and also the act entitled 'An act to amend sections 73 and 76 of the act of August 27, 1894, entitled "An act to reduce taxation, to provide revenue for the Government, and for other purposes,"' approved February 12, 1913.

"SEC. 2. Upon the organization of the commission, the Bureau of Corporations, and the offices of Commissioner and Deputy Commissioner of Corporations, shall cease to exist, and the employees of said bureau shall become employees of the commission in such capacity as it may designate. The commission shall take over all the records, furniture, and equipment of said bureau. All work and proceedings pending before the bureau may be continued by the commission. All appropriations heretofore made for the support and maintenance of the bureau and its work are hereby authorized to be expended by the commission for said purposes.

"The Bureau of Corporations and the offices of Commissioner of Corporations and Deputy Commissioner of Corporations are, upon the organization of the commission and the election of its chairman, abolished, and their powers, authority, and duties shall be vested in and exercised by the commission free from the direction or control of the Secretary of Commerce.

"Any commissioner may be removed by the President for inefficiency, neglect of duty, or malfeasance in office. A vacancy in the commission shall not impair the right of the remaining commissioners to exercise all the powers of the commission.

"The commissioners shall be appointed by the President, by and with the advice and consent of the Senate. The terms of office of the commissioners shall be seven years each. The terms of those first appointed by the President shall date from the taking effect of this act, and shall be as follows:

"One shall be appointed for a term of three years, one for a term of four years, one for a term of five years, one for a term of six years, and one for a term of seven years; and after said commissioners shall have been so first appointed all appointments, except to fill vacancies, shall be for terms of seven years each. The commission shall elect one of its members chairman for such period as it may determine. The commission shall elect a secretary and may elect an assistant secretary. Said secretary and assistant secretary shall hold their offices or connection with the commission at the pleasure of the commission. Each commissioner shall receive a salary of $10,000 per annum. The secretary of the commission shall receive a salary of $5,000 per annum. The assistant secretary shall receive a salary of $4,000 per annum. In case of a vacancy in the office of any commissioner during his term, an appointment shall be made by the President, by and with the advice and consent of the Senate, to fill such vacancy for the unexpired term. The office of the commission shall be in the city of Washington, but the commission may at its pleasure meet and exercise all its powers at any other place, and may authorize one or more of its members to prosecute any investigation, who shall have and exercise the powers herein given the commission necessary to such investigation. The commission shall have such attorneys, accountants, experts, examiners, special agents, and other employees as may, from time to time, be appropriated for by Congress, and shall have authority to audit their bills and fix their compensation.

"With the exception of the secretary and assistant secretary and one clerk to each of the commissioners, and such attorneys, accountants, experts, examiners, and special agents as may be employed, all employees of the commission shall be a part of the classified civil service. The commission shall also have the power to adopt a seal, which shall be judicially noticed, and to rent suitable rooms for the conduct of its work.

"The Auditor for the State and Other Departments shall receive and examine all accounts of expenditures of the commission.

"All the expenses of the commission, including all necessary expenses for transportation incurred by the commissioners or by their employees under their orders in making any investigation or upon official business in any other place than in the city of Washington, shall be allowed and paid on the presentation of itemized vouchers therefor, approved by the commission.

"Witnesses summoned before the commission shall be paid the same fees and mileage that are paid witnesses in the courts of the United States.

"SEC. 3. The commission shall have power, among others—

"(a) To investigate from time to time, and as often as the commission may deem advisable, the organization, business, financial condition, conduct, practices, and management of any corporation engaged in commerce and its relation to other corporations and to individuals, associations, and partnerships.

"(b) To require any corporation subject to the provisions of this act which the commission may designate to furnish to the commission from time to time information, statements, and records concerning its organization, business, financial condition, conduct, practices, management, and relation to other corporations, or to individuals, associations, or partnerships, and to require the production for examination of all books, documents, correspondence, contracts, memoranda, or other papers relating to or in any way affecting the commerce in which such corporation under inquiry is engaged or concerning its relations to any individual, association, or partnership, and to make copies of the same.

"(c) To prescribe as near as may be a uniform system of annual reports from such corporations or classes of corporations subject to the provisions of this act as the commission may designate and to fix the time for the filing of such reports, and to require such reports, or any special report, to be made under oath or otherwise, in the discretion of the commission.

"(d) To make public, in the discretion of the commission, any information obtained by it in the exercise of the powers, authority, and duties conferred upon it by this act, except so far as may be necessary to protect trade processes, names of customers, and such other matters as the commission may deem not to be of public importance, and to make annual and special reports to the Congress and to submit therewith recommendations for additional legislation.

"(e) In any suit in equity brought by or under the direction of the Attorney General as provided in the antitrust acts if the court finds for the complainant it may, upon its own motion or the motion of any party to such suit, refer the matter of the form of the decree to be entered to the commission as a master in chancery; whereupon the commission shall proceed in that capacity upon such notice to the parties and upon such hearing as the court may prescribe, and shall as speedily as practicable make report with its findings to the court, which report and findings having been made and filed shall be subject to the judicial procedure established for the consideration and disposition of a master's report and findings in equity cases.

"(f) Wherever a restraining order or an interlocutory or final decree has heretofore been entered or shall hereafter be entered against any defendant or defendants in any suit brought by the United States to prevent and restrain any violation of the antitrust acts, the commission shall have power, and it shall be its duty, upon the application of the Attorney General, to make investigation of the manner in which the order or decree has been or is being carried out, and as to whether the same has been or is being violated and what, if any, further order, decree, or relief is advisable. It shall transmit to the Attorney General a report embodying its findings as a result of any

such investigation with such recommendations for further action as it may deem advisable and the report shall be made public in the discretion of the commission.

"(g) If the commission believes from its inquiries and investigations, instituted upon its own initiative or at the suggestion of the President, the Attorney General, or either House of Congress that any corporation, individual, association, or partnership has violated any law of the United States regulating commerce, it shall report its findings and the evidence in relation thereto to the Attorney General with its recommendations.

"For the purpose of prosecuting any investigation or proceeding authorized by this section the commission, or its duly authorized agent or agents, shall at all reasonable times have access to, for the purpose of examination, and the right to copy any documents or writings of any corporation being investigated or proceeded against.

"SEC. 4. The powers and jurisdiction herein conferred upon the commission shall extend over all trade associations, corporate combinations, and corporations as hereinbefore defined engaged in or affecting commerce, except banks and common carriers.

"SEC 5. Any person who shall willfully destroy, alter, mutilate, or remove out of the jurisdiction of the United States or authorize, assist in, or be privy to the willful destruction, alteration, mutilation, or removal out of the jurisdiction of the United States of any book, letter, paper, or document containing an entry or memorandum relating to commerce, the production of which the commission may require under this act, or who shall willfully make any false entry relating to commerce in any book of accounts or record of any trade association, corporate combination, or corporation, subject to the provisions of this act, or who shall willfully make or furnish to said commission or to its agent any false statement, return, or record, knowing the same to be false in any material particular, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not exceeding $5,000 or by imprisonment not exceeding one year, or by both said punishments, in the discretion of the court.

"Any employee of the commission who divulges any fact or information which may come to his knowledge during the course of his employment by the commission, except in so far as it has been made public by the commission, or as he may be directed by the commission or by a court, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not exceeding $5,000, or by imprisonment not exceeding one year, or by both said punishments, in the discretion of the court.

"SEC. 6. The commission shall have and exercise the powers possessed by the Interstate Commerce Commission to supœna and compel the attendance and testimony of witnesses and the production of evidence, and to administer oaths. All the powers, requirements, obligations, liabilities, and immunities imposed or conferred by the act to regulate commerce, as amended in relation to testimony before the Interstate Commerce Commission, shall apply to witnesses, testimony, and evidence before the commission.

"SEC. 7. The district courts of the United States, upon the application of the commission alleging a failure by any corporation, or by any of its officers or employees, or by any witness, to comply with any order of the commission for the furnishing of information, shall have jurisdiction to issue such writs, orders, or other process as may be necessary to enforce any order of the commission and to punish the disobedience thereof.

"SEC. 8. The several departments and bureaus of the Government, when directed by the President, shall furnish the commission, upon its request, all records, papers, and information in their possession relating to any trade association, corporate combination, or corporation subject to any of the provisions of this act."

Amend the title so as to read: "A bill to create a Federal Trade Commission, to define its powers and duties, and for other purposes."

Mr. NEWLANDS. I am directed by the Committee on Interstate Commerce, to which was referred the bill (S. 4160) to create an interstate trade commission, to define its powers and duties, and for other purposes, to report it with an amendment in the nature of a substitute, and I submit a report (No. 583) thereon. I ask that the bill may go to the calendar.

The VICE PRESIDENT. The bill will be placed on the calendar.

STEPHEN MORRIS BARLOW.

Mr. MYERS, from the Committee on Military Affairs, to which was referred the bill (S. 4954) for the relief of Stephen Morris Barlow, reported it with an amendment, and submitted a report (No. 584) thereon.

BILLS AND JOINT RESOLUTION INTRODUCED.

Bills and a joint resolution were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. SHIVELY:

A bill (S. 5749) granting an increase of pension to Frank Stemm (with accompanying papers); and

A bill (S. 5750) granting a pension to Eliza J. Arthur; to the Committee on Pensions.

By Mr. THOMAS:

A bill (S. 5751) authorizing the Secretary of the Interior to grant patent to E. M. Palmer for certain lands in the State of Colorado; to the Committee on Public Lands.

By Mr. POINDEXTER:

A bill (S. 5752) for the relief of John Morrow; to the Committee on Military Affairs.

A bill (S. 5753) granting an increase of pension to William H. Satterthwait; to the Committee on Pensions.

By Mr. GORE:

A bill (S. 5754) for the relief of Miles Cook (with accompanying papers); and

A bill (S. 5755) for the relief of Jesse J. Clemmons (with accompanying papers); to the Committee on Military Affairs.

By Mr. POINDEXTER:

A bill (S. 5756) providing for farm loans from funds deposited in postal savings banks; to the Committee on Post Offices and Post Roads.

A bill (S. 5757) to amend the commerce act, approved June 29, 1906; to the Committee on Interstate Commerce.

A bill (S. 5758) providing for mineral entries on lands in diminished Indian reservations; to the Committee on Indian Affairs.

By Mr. OLIVER:

A joint resolution (S. J. Res. 157) requesting the President of the United States to invite foreign Governments to participate in the International Congress on Education; to the Committee on Foreign Relations.

PANAMA CANAL TOLLS.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 14385) to amend section 5 of an act to provide for the opening, maintenance, protection, and operation of the Panama Canal, and the sanitation of the Canal Zone, approved August 24, 1912.

Mr. O'GORMAN. Mr. President, I do not know that there is any other Senator present who desires to discuss the canal tolls bill to-day. Two Senators have announced that they will speak on Monday if they have the opportunity. I know of no others who intend to participate in the discussion. Under the circumstances, so that we may make as much progress as possible on Monday and perhaps reach a vote Monday evening, I move that the Senate take a recess until 11 o'clock Monday morning.

Mr. GALLINGER. I ask the Senator to withhold that motion. May we not devote an hour to the calendar this afternoon?

Mr. O'GORMAN. I have no objection to that. I withdraw my motion and ask that the tolls bill be temporarily laid aside.

The PRESIDING OFFICER (Mr. MARTINE of New Jersey in the chair). Without objection, the unfinished business will be temporarily laid aside and the motion for a recess is withdrawn.

THE CALENDAR.

Mr. GALLINGER. I ask unanimous consent that the Senate proceed to the consideration of unobjected cases on the calendar under Rule VIII.

The PRESIDING OFFICER. Is there objection to the request of the Senator from New Hampshire? Without objection, such will be the order, and the Secretary will announce the first bill on the calendar.

The bill (S. 1240) to establish the legislative reference bureau of the Library of Congress was announced as first in order.

Mr. GALLINGER. Let that go over.

The PRESIDING OFFICER. It will go over.

The bill (S. 655) authorizing the Secretary of the Interior to survey the lands of the abandoned Fort Assiniboine Military Reservation and open the same to settlement was announced as next in order.

Mr. SMOOT. Let that go over.

The PRESIDING OFFICER. The bill will go over.

The joint resolution (S. J. Res. 41) authorizing the Secretary of the Interior to sell or lease certain public lands to the Republic Coal Co., a corporation, was announced as next in order.

Mr. SMOOT. Let that go over also.

The PRESIDING OFFICER. The joint resolution will go over.

The bill (S. 2242) making it unlawful for any Member of Congress to serve on or solicit funds for any political committee, club, or organization was announced as next in order.

Mr. SMOOT. Let that go over.

The PRESIDING OFFICER. The bill will go over.

MINERAL LANDS IN INDIAN RESERVATIONS.

The bill (S. 2651) providing for the purchase and disposal of certain lands containing kaolin, kaolinite, fuller's earth, and other minerals within portions of Indian reservations heretofore opened to settlement and entry was announced as next in order.

Mr. CLARK of Wyoming. Let the bill go over.

Mr. STERLING. This bill has been up several times and has gone over under objection. I should like very much to have the bill acted upon this afternoon. It is a matter of considerable interest to the people of my State.

Mr. CLARK of Wyoming. I am perfectly willing that it shall be called up, but I want to remind the Senator and the Senate that it will probably lead to debate. I understood that the calendar was to be called simply for the consideration of unobjected cases.

Mr. GALLINGER. That is right.

Mr. CLARK of Wyoming. I have no objection whatever to having the bill considered, if it does not lead to debate.

Mr. STERLING. I will say that I think the original bill will not lead to debate. There is an amendment proposed by the Senator from Washington [Mr. POINDEXTER] that is pending. The rest of the bill has been acted upon in Committee of the Whole, and agreed to in Committee of the Whole; I understood that there will be no objection to it.

Mr. CLARK of Wyoming. Do I understand the Senator to say that the bill as it stands has been acted upon in Committee of the Whole, and agreed to?

Mr. STERLING. Yes, sir; it has been acted upon in Committee of the Whole, and agreed to. I think the RECORD will so show.

Mr. CLARK of Wyoming. Does the Senator understand that the bill will lead to any debate as it now stands?

Mr. STERLING. I do not expect that it will lead to any debate. The bill has been quite fully considered.

Mr. CLARK of Wyoming. The amendment that the Senator spoke of has already been offered?

Mr. STERLING. The amendment has been offered.

Mr. SHAFROTH. I should like to ask the Senator from South Dakota whether there is anything in the bill which involves the question of leasing any of the mineral lands?

Mr. STERLING. There is not anything in the bill which involves the question of leasing.

Mr. SHAFROTH. Then, I have no objection to its consideration.

The Senate, as in Committee of the Whole, resumed the consideration of the bill.

Mr. GALLINGER. Let the amendment be stated.

The VICE PRESIDENT. The Secretary will state the amendment proposed by the Senator from Washington [Mr. POINDEXTER].

The SECRETARY. It is proposed to add as an additional section the following:

SEC. 2. That all lands reserved as timberlands or for other purposes within diminished Indian reservations shall be open to mineral entry and location under the mining laws of the United States: *Provided*, That upon every producing mine developed thereon the Secretary of the Interior shall levy and collect a reasonable royalty at a rate to be fixed by him, the proceeds thereof to be paid into the tribal funds of the Indians for whose benefit said reservation was made.

Mr. SHAFROTH. I understand that there was nothing in the nature of a leasing proposition to be upon the bill. If the Senator will agree to strike out the proviso, I have no objection whatever to the bill.

Mr. POINDEXTER. Mr. President, if the Senator insists upon his objection, rather than have the bill fail I will agree that it shall go out, but I should like the Senator to withhold the objection for a moment until I state very briefly the nature of the amendment.

Mr. SHAFROTH. Very well.

Mr. POINDEXTER. It applies only to Indian lands. There was objection made by some Senators to the amendment because they apprehended that it would shut off lands from entry or establish a royalty system upon lands which they thought ought to be subject to the public-land laws without any special conditions. The lands covered by the amendment are not now subject to mineral entry at all. The reason why I introduced the amendment was in the interest of the Indians as well as in the interest of the white people. If there are any valuable minerals on these lands, it is obviously a wise policy to encourage the development of them. The lands belong to the Indians. They are not public lands. If the Senator from Colorado will consider it carefully, I think he will conclude as to those lands which belong exclusively to the Indians that it would be wrong or unwise not to allow some return to the Indians for any valuable proceeds that may come from them. I am not in favor of a royalty system as applied to public lands generally, but these are not public lands. I should like very much to have the Senator withhold his objection, or if he insists upon it, that we may dispose of it in conference. I will not insist upon the amendment to the extent of defeating the bill.

Mr. SMITH of Arizona. Will the Senator yield to me for a moment?

Mr. POINDEXTER. I yield to the Senator from Arizona.

Mr. SMITH of Arizona. These are not Indian lands, for if they were they could not be reduced in size without an act of Congress. Is this an Executive reservation or a reservation created by act of Congress?

Mr. POINDEXTER. It does not cover any Executive reservation, and could have no effect whatever upon the class of Executive reservations which the Senator has in his part of the country. It simply covers a case where there is an Indian reservation that has been by act of Congress opened up for the settlement of agricultural lands. All the agricultural lands that have not been allotted to Indians are open to homestead entry by white people. Outside of agricultural lands in these reservations there are timberlands that were not opened for settlement, but are still reserved as an Indian timber reservation not subject to entry of any kind.

Mr. SMITH of Arizona. Are there timber reservations reserving the timber for the Indians?

Mr. POINDEXTER. Yes; there have been for a number of years. It is the purpose of this amendment to open up those reservations for mineral entry.

Mr. SMITH of Arizona. The point I make is simply this: Some time ago I introduced a resolution, and if I can ever get an opportunity when my modesty will permit me to interrupt the exciting proceedings of the Senate on the tolls bill or at any subsequent time, I wish to submit some remarks to the Senate on the power of an Executive reservation to carry mineral lands with it. My contention is that no Executive order extending or creating an Indian reservation can carry with it minerals. Therefore I feel that any reservation of these mineral lands in a diminished reservation, not lands thrown out from the reservation, are not in control by the Federal Government as against a man who wishes to locate it, and no tax or imposition of any kind can be placed on that mineral property. It strikes me as absolutely opposed to the whole spirit of our mining laws that such an imposition should be made, and it ought not to be done.

Mr. POINDEXTER. I am very much in sympathy with the views of the Senator from Arizona in regard to that, and I have myself insisted in reference to several reservations which are supposed to contain minerals that under the law they are now subject to entry. Nevertheless, entries are impossible because the executive branch of the Government refuses to allow them, and, as a practical matter, they never will be made, however great the mineral resources developed, unless there is an act of this kind expressly authorizing mineral entry upon the land.

I am very much afraid the Senator from Arizona misapprehends the nature of the land designated as diminished Indian reserves. It is just the opposite of what the Senator referred to. It is not lands that have been thrown out from a reservation, but it is lands that have been kept in the reservation when some others have been thrown out.

Mr. SMITH of Arizona. But that is one of the reasons of my objection. The Senator will understand I do not wish to antagonize his bill, but there is no doubt in my mind, at least—and to that question I have given some consideration recently—that the lands even within an Executive reservation that contain mineral are open to location and settlement by miners. But whether that be true or not, I do not want that open question foreclosed by an act of Congress. If we settle it with this act of Congress, we recognize the right that I claim the President does not have in these reserves.

In answer to the further suggestion of the Senator, that you can not sue the Government, my judgment is that a valid mining claim on an Executive-order reserve is to-day open to location and settlement, and if it be true that you can not sue the Government, you can get an injunction against the particular individual who attempts to stop you from mining, and therefore foreclose the Government by the judgment of the court from further interference with the location For these reasons I hope the Senator will leave the proposed section out of the bill.

Mr. POINDEXTER. Mr. President, I hope that the Senator from Arizona will not press his objection. I should like to have an opportunity to have the amendment placed on the bill, and I feel in a perfectly reasonable frame of mind in regard to it. I do not want to press it unduly, and I want the Senator from Arizona to agree with me about it, because I am satisfied that our object is the same; that is, to allow the use of valuable minerals which under the present law will be locked up forever. The Indians never will develop it. White people are not allowed to enter the lands, and as long as they remain there locked up there is an exaggerated idea about the value of the minerals in them. It creates a state of public opinion which is very disagreeable. I think the people have some reason to object to a policy which would shut off from any kind of development or entry lands of this kind.

Mr. SMITH of Arizona. I heartily agree with the Senator that these lands ought to be developed. They are of no earthly use to the Indians. In fact, the development of them would be of great advantage to the Indians, because they would find work among their neighbors. I dislike to see the precedent established now. I would be glad if the Senator would let the bill go over.

Mr. POINDEXTER. If the Senator will withhold his objection I will later on consent to an amendment excepting Executive-order reservations.

Mr. SMITH of Arizona. I would be obliged to the Senator if he would pursue that course, for I am very averse to raising any objection to his bill, and he and I agree on this proposition, for our purpose is exactly the same.

Mr. CLARK of Wyoming. Will the Senator yield to me a moment?

Mr. POINDEXTER. I yield to the Senator from Wyoming.

Mr. CLARK of Wyoming. It seems that my objection to the bill lies on an entirely different ground from that of the Senator from Arizona. These are Indian lands on a diminished reservation, that portion of the reserve which is not separated from the Indians but continues to be Indian lands.

Mr. POINDEXTER. Exactly.

Mr. CLARK of Wyoming. All the land belongs to the Indians; all the timber and all the mineral land still adheres to it. Have we the right, by an act of Congress, without an agreement with the Indians, especially upon a treaty reservation, to say what disposition shall be made of the lands upon that diminished reserve? I do not think so. I think we would have to have an agreement with the Indians before we could legislate.

Mr. GALLINGER. I rise to a point of order, Mr. President. The reason why the calendar has become so voluminous results from the fact that when we proceed to it we do not observe the rule of the Senate, which is that each Senator can speak five minutes and only once on a bill. Heretofore we have spent hours in debating a single bill on the calendar under Rule VIII. Under the unanimous-consent agreement, unless the rule is to be observed, I will object to the further consideration of the bill.

Mr. POINDEXTER. I will not make any further argument on the question.

Mr. GALLINGER. If the bill can be passed, I have no objection.

Mr. POINDEXTER. I ask the Senators to withhold their objection and let it, in view of the congested calendar, go through. Then in conference, if we can not agree upon it, I shall be perfectly willing to withdraw it.

Mr. CLARK of Wyoming. I can hardly, with the view that I hold, agree to Congress disposing of Indian property without the consent of the Indians any more than I could consent to the idea of one man entering another man's bank and taking out what he chose to take.

Mr. POINDEXTER. The Indians have consented.

Mr. SUTHERLAND. Mr. President, I think I shall have to object to the further consideration of the bill if the Senator from Washington insists upon the consideration of his amendment. It presents a very important question—a question that ought to be looked into, it seems to me, by a committee.

Mr. SHAFROTH. I ask the Senator from Washington whether he will not withdraw the proviso. My objection to the leasing provision contained in this bill is——

Mr. SUTHERLAND. I object to the further consideration of the bill.

Mr. POINDEXTER. Did the Senator from Utah withdraw his objection to the bill?

SEVERAL SENATORS. Regular order!

Mr. POINDEXTER. If the Senator from Utah will withdraw his objection to the bill, I will withdraw the amendment to which he objects.

Mr. SMOOT. Regular order!

Mr. SUTHERLAND. I withdraw the objection, and I ask if we can pass the bill?

Mr. SHAFROTH. With the understanding that the amendment is withdrawn, the bill is perfectly satisfactory, and I hope it will pass.

Mr. CLARK of Wyoming. Just a moment. I do not want to object; but I want to put the bill into some kind of shape if we can do so. There is no provision in the bill for coal at all; and yet under the provisions of the bill these lands shall "be disposed of under the general provisions of the mining and coal-land laws of the United States." I move to strike out the words "and coal-land," as they are surplusage. Of course, we can not dispose of this land as coal land is disposed of. The words to which I refer are found on page 2 of the bill, in line 14.

Mr. SHAFROTH. As I understand, the amendment proposed by the Senator from Washington [Mr. POINDEXTER] is withdrawn.

Mr. CLARK of Wyoming. I know; but I am calling attention to another portion of the bill, on page 2, line 14, where it is provided that these lands—

> Shall be open to exploration and purchase and be disposed of under the general provisions of the mining and coal-land laws of the United States.

In the first place, the words "and coal-land" are surplusage; and, in the next place, if they are not surplusage, they are not applicable to this particular kind of land.

The VICE PRESIDENT. It will be necessary to reconsider the vote whereby the amendment heretofore adopted was agreed to. Is there objection? The Chair hears none, and the vote whereby the amendment was agreed to is reconsidered. The Senator from Wyoming now proposes an amendment to that amendment, which will be stated.

The SECRETARY. In section 1, page 2, line 14, it is proposed to amend the amendment by striking out the words "and coal-land."

The amendment to the amendment was agreed to.

Mr. LANE. Mr. President, this bill is one with which I am not familiar, but it seems to me that it will be far-reaching in its effects; it is an important measure, and it will apply to lands belonging to Indians all over the United States. The Indians object to it. I have letters from them in my office. I was not looking for this bill to come up to-day, or I would have brought the letters with me and presented them to the Senate. The Indians object to having these lands taken away from them without their consent. They wish to be fully advised as to what measures are to be taken in regard to them.

The Indians of this country have been deprived of an immense deal of property of enormous value, for which they have received no return. They have been deprived of their agricultural lands, of their mineral lands, of all manner of lands, and they have had nothing in return for them. Their condition is pitiable. If this is a proposition to reach out another hand and take from them other great resources without their consent, I want to object to its passage and do all I can to defeat it.

Mr. STERLING. Mr. President, I think the Senator from Oregon is under a misapprehension as to the meaning of this bill. It does not purport to dispose of Indian lands at all. The lands covered by the bill have already been opened to settlement, but no provision has been made by Congress in regard to the disposition of the lands containing these particular kinds of mineral; that is all. This bill is simply to permit of the disposition of lands containing kaolin, kaolinite, fuller's earth, and fire clay.

Mr. LANE. "And other minerals."

Mr. STERLING. And minerals of that kind.

Mr. LANE. The bill says "and other minerals," and that phrase includes every known mineral.

Mr. CLARK of Wyoming. There are two prints of the bill.

Mr. STERLING. It does not include other minerals, but it refers to other mineral lands. The provision in regard to minerals is stricken out and the bill relates specifically to the particular kinds of minerals named in the bill. They are kaolin, kaolinite, fuller's earth, china clay, and ball clay—minerals found within reservations heretofore opened up for exploration and settlement, but for the disposition of which there was no provision of law at all, and the bill allows of the disposition of them under the general mining laws.

Mr. SMOOT. Mr. President, in comparing the copy of the calendar I have with that of the Senator from Wyoming [Mr. CLARK] I find that there are two bills being considered by the Senate. The bill that is on the Senator's calendar is entirely different from the bill which is on mine. I tried to follow the Senator's amendment and could not. I think the Senator from Oregon has another bill. For that reason I think we had better have an opportunity to know what we are acting upon, and so I object to the further consideration of the bill.

Mr. STERLING. Mr. President, I will say that the bill before the Senate is a reprint.

Mr. SMOOT. Regular order, Mr. President.

The VICE PRESIDENT. There being objection, the bill goes over.

Mr. WALSH. Mr. President, though I was here during practically all of the session to-day, I was unfortunately out of the Chamber when the calendar was taken up. I therefore ask unanimous consent to recur to Calendar Order 99. I believe there is not any opposition to it.

Mr. GALLINGER. That could not be done under the agreement. The agreement was that the Senate should proceed to the calendar under Rule VIII, and consider unobjected cases in their order.

Mr. SMITH of Arizona. Regular order!

BILLS AND RESOLUTIONS PASSED OVER.

Senate resolution No. 156, limiting expenditures for telegrams sent or received by Senators, was announced as next in order.

Mr. GALLINGER. Let that go over.

The VICE PRESIDENT. The resolution goes over.

Senate resolution No. 84, providing that any Senator upon his own request may be recorded and counted as present in order to constitute a quorum, was announced as next in order.

Mr. OVERMAN. Let that go over.

The VICE PRESIDENT. The resolution goes over.

Senate resolution No. 218, proposing an amendment to the standing rules of the Senate, was announced as next in order.

Mr. SUTHERLAND. Let that go over.

The VICE PRESIDENT. The resolution goes over.

The joint resolution (S. J. Res. 26) proposing an amendment to the Constitution of the United States was announced as next in order.

Mr. GALLINGER and Mr. SUTHERLAND. Let that go over.

The VICE PRESIDENT. The joint resolution goes over.

The bill (S. 3023) relating to the duties of registers of United States land offices and the publication in newspapers of official land-office notices was announced as next in order.

Mr. BURTON. I ask that the bill may go over.

The VICE PRESIDENT. The bill goes over.

The joint resolution (S. J. Res. 94) to authorize the Secretary of Commerce to investigate the condition of trade in China, for the purpose of determining the desirability of establishing there a permanent exposition of the products of the United States of America, was announced as next in order.

Mr. SMOOT. I ask that the joint resolution may go over.

The VICE PRESIDENT. The joint resolution goes over.

The bill (S. 2425) to authorize the Roanoke River Development Co. to construct and maintain a dam across the Roanoke River in Mecklenburg County, in the State of Virginia, approximately 20 miles below the town of Clarksville, in said State, was announced as next in order.

Mr. BURTON. Let the bill go over.

The VICE PRESIDENT. The bill goes over.

The bill (S. 3971) to provide for permanent exhibits of the resources of the States of the Union in or near Washington, D. C., was announced as next in order.

Mr. SMOOT. I ask that the bill may go over.

The VICE PRESIDENT. The bill goes over.

The joint resolution (S. J. Res. 10) proposing an amendment to the Constitution of the United States, fixing the time for the convening of Congress and commencement of the terms of the President, Vice President, Senators, and Representatives, was announced as next in order.

Mr. SUTHERLAND. Let that go over.

The VICE PRESIDENT. The joint resolution goes over.

Mr. SHAFROTH. Mr. President, that is a measure of which I gave notice a number of times, and I ask unanimous consent that it may now be taken up and considered immediately after the disposition of the tolls bill.

Mr. SUTHERLAND and Mr. WALSH. I object.

The VICE PRESIDENT. There is objection, and the joint resolution goes over.

The bill (S. 1986) to remove the charge of desertion from the military record of Henry Fuller was announced as next in order.

Mr. GALLINGER. This bill and the two bills following have been reported adversely. I ask if any Senator has any objection to their indefinite postponement, thereby getting them off the calendar?

Mr. SMOOT. The senior Senator from Michigan [Mr. SMITH] has asked that they go over. I understand he desires to make a statement before they are indefinitely postponed.

Mr. GALLINGER. Then I shall merely ask that they may go over.

Mr. OVERMAN. I ask that they may go to the calendar under Rule IX.

The VICE PRESIDENT. Is there objection? The Chair hears none, and the bills go to the calendar under Rule IX.

The bills referred to are as follows:

A bill (S. 1986) to remove the charge of desertion from the military record of Henry Fuller;

A bill (S. 3594) to correct the military record of Peter Duchane; and

A bill (S. 1990) to correct the military record of Samuel J. Kearns.

The resolution (S. Res. 254) to create a special committee of five Senators to assist the Interstate Commerce Commission in investigating certain facts regarding the methods and practices of the Louisville & Nashville Railroad, and for other purposes, was announced as next in order.

Mr. LEA of Tennessee. I ask that the resolution go over.

The VICE PRESIDENT. The resolution goes over.

The bill (S. 392) to create in the War Department and Navy Department, respectively, a roll designated as "the Civil War volunteer officers' retired list," to authorize placing thereon with retired pay certain surviving officers who served in the Army, Navy, or Marine Corps of the United States in the Civil War, and for other purposes, was announced as next in order.

Mr. BRYAN. I ask that the bill may go over.

The VICE PRESIDENT. The bill goes over.

Mr. KENYON. I ask unanimous consent that this bill be taken up immediately after the vote on the tolls bill.

Mr. BRYAN. I object.

Mr. KENYON. I gave notice on the 9th of March that I would ask for the taking up of this bill. I know that does not give it any right, but I think it is a bill which ought to be acted on during this session.

Mr. BRYAN. Mr. President, I understand the Senator's request would require a roll call, so as to ascertain the presence of a quorum; and to save that, I object.

The VICE PRESIDENT. Objection is made, and the bill goes over.

The bill (S. 121) to provide that petty officers, noncommissioned officers, and enlisted men of the United States Navy and Marine Corps on the retired list who had creditable Civil War service shall receive the rank or rating and the pay of the next higher enlisted grade was announced as next in order.

Mr. OVERMAN. I object.

The VICE PRESIDENT. The bill goes over.

TRAFFIC IN OPIUM.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 6282) to provide for the registration of, with collectors of internal revenue, and to impose a special tax upon all persons who produce, import, manufacture, compound, deal in, dispense, sell, distribute, or give away opium or coca leaves, their salts, derivatives, or preparations, and for other purposes.

Mr. OVERMAN. The bill has been heretofore read.

Mr. GALLINGER. Let the first committee amendment be reported.

Mr. THOMAS. I think that bill has been considered.

The VICE PRESIDENT. The pending amendment proposed by the Committee on Finance will be stated.

The SECRETARY. In section 2, on page 4, line 6, before the word "municipal," it is proposed to strike out "and," and after the word "municipal" it is proposed to insert "and insular," and in line 9, after the word "drugs," to insert the words "or articles," so as to read:

And the State, Territorial, District, municipal, and insular officials named in section 5 of this act. Every person who shall give an order as herein provided to any other person for any of the aforesaid drugs or articles shall, at or before the time of giving such order, make or cause to be made a duplicate thereof on a form to be issued in blank for that purpose by the Commissioner of Internal Revenue, and in case of the acceptance of such order, shall preserve such duplicate for said period of two years in such a way as to be readily accessible to inspection by the officers, agents, employees, and officials hereinbefore mentioned.

The amendment was agreed to.

Mr. THOMAS. In section 2, page 4, line 20, after the words "veterinary surgeon," I move to strike out "registered under this act."

The amendment was agreed to.

The VICE PRESIDENT. The next amendment proposed by the committee will be stated.

The SECRETARY. In section 2, on page 4, line 21, after the word "*Provided*," it is proposed to strike out "*however*," and in line 22, after the word "shall," to strike out "personally attend upon such patient" and to insert "have been specially employed to prescribe for the particular patient receiving such drug: *And provided further*, That such drug shall be dispensed in good faith and not for the purpose of avoiding the provisions of this act," so as to read:

Provided, That such physician, dentist, or veterinary surgeon shall have been specially employed to prescribe for the particular patient receiving such drug: *And provided further*, That such drug shall be dispensed in good faith and not for the purpose of avoiding the provisions of this act.

The amendment was agreed to.

Mr. THOMAS. On behalf of the committee I offer an amendment to come in following the committee amendment in line 2, on page 5.

The VICE PRESIDENT. The amendment will be stated.

The SECRETARY. After the word "act." on page 5, section 2, line 2, it is proposed to insert the following:

Provided also, That a record of the drugs thus dispensed shall be made in a suitable book kept for that purpose, and shall be preserved for two years in such a way as to be readily accessible to inspection by the officers, agents, employees, and officials hereinbefore mentioned.

The VICE PRESIDENT. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. THOMAS. On page 5, section 2, line 4, after the word "drugs," the committee offers an amendment to insert the words "or articles."

The amendment was agreed to.

Mr. THOMAS. The committee also offers an amendment on page 5, section 2, line 4, to strike out the word "pharmacist" and to insert the word "dealer."

The amendment was agreed to.

Mr. THOMAS. On page 5, section 2, line 10, after the word "such," the committee offers an amendment to strike out the word "pharmacist" and to insert "dealer."

The amendment was agreed to.

Mr. THOMAS. On page 5, section 2, line 11, after the word "such," I move on behalf of the committee to strike out "prescriptions" and to insert "prescription."

The amendment was agreed to.

Mr. THOMAS. On behalf of the committee, on page 5, section 2, line 12, before the word "prescription," I move to strike out "each" and to insert the words "the same."

Mr. SMOOT. I suggest to the Senator that the word "such" should be inserted there instead of the words "the same."

Mr. THOMAS. I accept the suggestion of the Senator from Utah. The word "such" should be inserted. I move to insert the word "such" instead of the word "each."

The VICE PRESIDENT. The amendment will be stated.

The SECRETARY. On page 5, section 2, line 12, before the word "prescription," it is proposed to strike out "each" and to insert "such."

The amendment was agreed to.

Mr. THOMAS. On page 5, section 2, line 17, after the word "drugs," I move, on behalf of the committee, to insert the words "or articles."

The amendment was agreed to.

The next amendment reported by the Committee on Finance was, in section 2, subsection (c), page 5, line 18, after the word "America," to insert "or any Territory or the District of Columbia or any of the insular possessions of the United States of America"; and in line 20, after the word "country," to insert "regulating their entry in accordance with such regulations for importation thereof into such foreign country as are prescribed by said country, such regulations to be promulgated from time to time by the Secretary of State of the United States," so as to read:

(c) To the sale, exportation, shipment, or delivery of any of the aforesaid drugs by any person within the United States of America, or any Territory or any of the insular possessions of the United States of America, to any person in any foreign country, regulating their entry in accordance with such regulations for importation thereof into such foreign country as are prescribed by said country, such regulations to be promulgated from time to time by the Secretary of State of the United States.

The amendment was agreed to.

Mr. THOMAS. On behalf of the committee, I offer the amendment which I send to the desk, to come in at the end of subsection (c).

The VICE PRESIDENT. The amendment will be stated.

The SECRETARY. On page 7, after line 5, it is proposed to insert the following:

(d) To the sale, barter, exchange, or giving away of any of the aforesaid drugs or articles to any officer of the United States Government or any State, county, or municipal government lawfully engaged in making purchases thereof for the various departments of the Army and Navy, and for Government, State, county, or municipal hospitals or prisons.

The VICE PRESIDENT. The question is on agreeing to the amendment.

The amendment was agreed to.

The next amendment reported by the committee was, on page 6, line 23, after the word "drugs," to insert the words "or articles."

Mr. SMOOT. Mr. President, I should like to call the attention of the Senator from Colorado to an amendment that should be inserted on page 6, line 10. It reads as follows:

Provided, That such forms shall be furnished by the collector without cost to the officers of the United States Government or the State governments who are lawfully engaged in making purchases of the aforesaid drugs for the various departments of the Army and Navy and for Government and State hospitals.

Mr. THOMAS. On what page of the printed bill?

Mr. SMOOT. Page 6, line 10.

Mr. THOMAS. What is the page of the document where the amendment is suggested?

Mr. SMOOT. On page 4, Senate Document 473, about the middle of the page. It is suggested that, on line 10, page 6, after the word "district," the proviso which I have read should be inserted.

Mr. THOMAS. That is proper, Mr. President. On page 6, line 10, after the word "district," I move, on behalf of the committee, that that amendment be inserted.

The VICE PRESIDENT. The amendment will be stated.

The SECRETARY. On page 6, line 10, after the word "district," it is proposed to insert:

Provided, That such forms shall be furnished by the collector without cost to the officers of the United States Government or the State governments who are lawfully engaged in making purchases of the aforesaid drugs for the various departments of the Army and Navy and for Government and State hospitals.

The amendment was agreed to.

The next amendment reported by the Committee on Finance was, on page 6, line 23, after the word "drugs," to insert the words "or articles"; on page 7, line 1, after the word "drugs," to insert "or articles"; and on the same page, line 3, after the word "drugs," to insert "or articles," so as to read:

Whenever any collector shall sell any of such forms, he shall cause the name of the purchaser thereof to be plainly written or stamped thereon before delivering the same; and no person other than such purchaser shall use any of said forms bearing the name of such purchaser for the purpose of procuring any of the aforesaid drugs or articles or furnish any of the forms bearing the name of such purchaser to any person with intent thereby to procure the shipment or delivery of any of the aforesaid drugs or articles. It shall be unlawful for any person to obtain by means of said order forms any of the aforesaid drugs or articles for any purpose other than the use, sale, or distribution thereof by him in the conduct of a lawful business in said articles or in the legitimate practice of his profession.

The amendment was agreed to.

Mr. THOMAS. In section 2, line 5, on page 7, before the word "articles," I move, on behalf of the committee, to insert the words "drugs or."

The amendment was agreed to.

Mr. THOMAS. On page 7, after line 5, on behalf of the committee, I offer the amendment which I send to the desk.

The VICE PRESIDENT. The amendment will be stated.

The SECRETARY. In section 2, page 7, after line 5, it is proposed to insert:

The provisions of this act shall apply to the United States of America, the District of Columbia, the District of Alaska, the Territory of Hawaii, the insular possessions of the United States, and the Canal Zone. In Porto Rico and the Philippine Islands the administration of this act, the collection of the said special tax, and the issuance of the order forms specified in section 2 shall be performed by the appropriate internal-revenue officers of those Governments, and all revenues collected hereunder in Porto Rico and the Philippine Islands shall accrue intact to the general governments thereof, respectively. The courts of first instance in the Philippine Islands shall possess and exercise jurisdiction in all cases arising under this act in said islands. In the Canal Zone the administration of this act, the collection of the said special tax, and the issuance of the order forms specified in section 2 shall be performed by such officer or officers in said Canal Zone as the President may designate for that purpose. The courts of the Canal Zone having jurisdiction of crimes and offenses committed in said zone shall have jurisdiction to hear, try, and determine all actions and proceedings in which any person shall be charged with having violated any of the provisions of this act within the limits of said Canal Zone.

Mr. GALLINGER. Mr. President, in that amendment I observe that Alaska is designated as a District. Is not Alaska a Territory?

Mr. SMOOT. It is.

Mr. GALLINGER. I suggest that the word "District" be stricken out and the word "Territory" be inserted.

Mr. THOMAS. I think that is an excellent suggestion, Mr. President. Alaska is a Territory, and I modify the amendment in that way.

The VICE PRESIDENT. The question is on agreeing to the amendment as modified.

The amendment as modified was agreed to.

The next amendment reported by the Committee on Finance was, in section 3, page 7, line 11, after the word "drugs," to insert "and articles," so as to make the section read:

SEC. 3. That any person who shall be registered in any internal-revenue district under the provisions of section 1 of this act shall, whenever required so to do by the collector of the district, render to the said collector a true and correct statement or return, verified by affidavit, setting forth the quantity of the aforesaid drugs and articles received by him in said internal-revenue district during such period immediately preceding the demand of the collector, not exceeding three months, as the said collector may fix and determine, the names of the persons from whom the said articles were received, the quantity in each instance received from each of such persons, and the date when received.

The amendment was agreed to.

The next amendment was, in section 4, page 7, line 21, after the word "drugs," to insert "or articles," so as to read:

SEC. 4. That it shall be unlawful for any person who shall not have registered and paid the special tax as required by section 1 of this act to send, ship, carry, or deliver any of the aforesaid drugs or articles from any State or Territory.

Mr. SMOOT. Mr. President, is that amendment right? Should not the amendment on page 7, line 21, inserting the words "or articles," be disagreed to? The committee sug-

gested that amendment before the bill was reported to the Senate, but the changes which have been made on page 3 of the bill, I think, require that those words should be left out of the bill; in other words, that the amendment should be disagreed to. I will ask the Senator from Colorado if that is not correct?

Mr. THOMAS. So far as I am able to judge offhand, I should say that the words "or articles" are proper. I do not know that I understand the reason given by the Senator for suggesting that the amendment inserting those words be disagreed to.

Mr. SMOOT. If the Senator will note the amendments suggested in Senate Document 473, he will find on page 4 of that document a suggested amendment in line 3, page 7, to strike out the words "or articles."

Mr. THOMAS. All of those amendments, I will say to the Senator, were suggested by the department and depended upon disagreeing to the amendment reported by the committee on page 2, lines 1 to 3, proposing to insert the words "or hypodermic syringes or needles adapted to administer any of the above drugs." Those words have not been stricken out, and consequently the retention of the words "or articles" is necessary throughout the bill.

Mr. SMOOT. I understood, Mr. President, that the amendment referred to by the Senator was to be stricken from the bill. If it is not, then the Senator is perfectly correct; but if it is to be stricken from the bill the amendment inserting the words "or articles" is proper.

Mr. THOMAS. I should not feel authorized to agree to striking out the proposed amendment concerning hypodermic syringes in the absence of the senior Senator from Mississippi [Mr. WILLIAMS], who really has charge of the bill. Personally I should not object to the elimination from the bill of that amendment.

Mr. SMOOT. All these amendments will go to conference.

Mr. THOMAS. Yes.

Mr. SMOOT. And if it is finally decided to eliminate the words read by the Senator from Colorado covering hypodermic syringes or needles, then the words "or articles" will likewise have to be dropped out in conference.

Mr. THOMAS. Certainly.

The VICE PRESIDENT. The question is on agreeing to the amendment reported by the committee.

The amendment was agreed to.

The next amendment reported by the Committee on Finance was, in section 4, page 7, line 22, before the word "the," to strike out "or" and insert "the Territory of Alaska"; in the same line, after the words "District of Columbia," to insert "or any insular possession of the United States of America"; in line 25, after the words "District of Columbia," to insert "or insular possession"; and on page 8, line 5, after the word "or," to strike out "to," and insert "in pursuance of," so as to read:

SEC. 4. That it shall be unlawful for any person who shall not have registered and paid the special tax as required by section 1 of this act to send, ship, carry, or deliver any of the aforesaid drugs or articles from any State or Territory, the Territory of Alaska, the District of Columbia, or any insular possession of the United States of America, to any person in any other State or Territory or the District of Columbia or insular possession: *Provided*, That nothing contained in this section shall apply to common carriers engaged in transporting the aforesaid drugs or articles, or to any employee within the scope of his employment, of any person who shall have registered and paid the special tax as required by section 1 of this act, or in pursuance of the written prescriptions of physicians, dentists, and veterinary surgeons who have registered under this act.

The amendment was agreed to.

Mr. THOMAS. The committee proposes an amendment to strike out all after the word "act," in section 4, page 8, line 5, and to insert in lieu thereof the amendment I send to the desk.

The VICE PRESIDENT. The amendment will be stated.

The SECRETARY. In section 4, page 8, line 5, after the word "act," it is proposed to strike out the remainder of the section down to and including the word "employed," in line 11, and in lieu thereof to insert:

Or to any person who shall deliver any such drug or article which has been prescribed or dispensed by a physician, dentist, or veterinarian who has been specially employed to prescribe for the particular patient receiving such drug or article.

The amendment was agreed to.

The next amendment of the Committee on Finance was, in section 5, page 8, line 16, after the word "section," to strike out "four" and insert "three"; in line 20, after the words "District of Columbia," to insert "or any insular possession of the United States of America"; in line 24, after the word "drugs," to insert the words "or articles"; on page 9, line 4, after the words "District of Columbia," to insert "or any insular possession of the United States of America"; in line 14, after the words "District of Columbia," to insert "or any insular possession of the United States of America"; and in line 18, after the word "drugs," to insert "or articles," so as to make the section read:

SEC. 5. That the duplicate-order forms and the prescriptions required to be preserved under the provisions of section 2 of this act, and the statements or returns filed in the office of the collector of the district, under the provisions of section 3 of this act, shall be open to inspection by officers, agents, and employees of the Treasury Department duly authorized for that purpose; and such officials of any State or Territory, or of any organized municipality therein, or of the District of Columbia, or any insular possession of the United States of America, as shall be charged with the enforcement of any law or municipal ordinance regulating the sale, prescribing, dispensing, dealing in, or distribution of the aforesaid drugs or articles. Each collector of internal revenue is hereby authorized to furnish, upon written request, certified copies of any of the said statements or returns filed in his office to any of such officials of any State or Territory or organized municipality therein, or the District of Columbia or any insular possession of the United States of America, as shall be entitled to inspect the said statements or returns filed in the office of the said collector, upon the payment of a fee of $1 for each 100 words or fraction thereof in the copy or copies so requested. Any person who shall disclose the information contained in the said statements or returns or in the said duplicate order forms, except as herein expressly provided, and except for the purpose of enforcing the provisions of this act, or for the purpose of enforcing any law of any State or Territory or the District of Columbia or any insular possession of the United States of America, or ordinance of any organized municipality therein, regulating the sale, prescribing, dispensing, dealing in, or distribution of the aforesaid drugs or articles, shall on conviction be fined or imprisoned as provided by section 9 of this act. And collectors of internal revenue are hereby authorized to furnish upon written request to any person a certified copy of the names of any or all persons who may be listed in their respective collection districts as special-tax payers under the provisions of this act upon payment of a fee of $1 for each 100 names or fraction thereof in the copy so requested.

The amendment was agreed to.

Mr. THOMAS. In section 6, page 10, line 5, after the word "than," on behalf of the committee I move to strike out "one-twelfth" and insert "one-fourth."

The amendment was agreed to.

Mr. THOMAS. The committee also ask that the amendment reported by the committee in section 6, page 10, line 16, proposing to insert after the word "act" the words "*Provided*, That the amount of any drug herein mentioned shall be shown upon the label of the container of such remedy or preparation," be disagreed to.

The VICE PRESIDENT. The question is on agreeing to the amendment reported by the committee.

The amendment was rejected.

The next amendment of the Committee on Finance was, in section 8, page 11, line 7, after the word "drugs," to insert "or articles," so as to read:

SEC. 8. That it shall be unlawful for any person not registered under the provisions of this act, and who has not paid the special tax provided for by this act, to have in his possession or under his control any of the aforesaid drugs or articles.

The amendment was agreed to.

Mr. THOMAS. In section 8, page 11, line 12, on behalf of the committee I move the amendment which I send to the desk.

The VICE PRESIDENT. The amendment will be stated.

The SECRETARY. In section 8, page 11, line 12, after the word "person," it is proposed to insert the words "or to a nurse under the supervision of a physician, dentist, or veterinary surgeon registered under this act."

The amendment was agreed to.

Mr. THOMAS. In the same section, page 11, line 13, after the word "employment," I move, on behalf of the committee, to insert the words "or occupation."

The amendment was agreed to.

Mr. THOMAS. In the same section, page 11, line 14, after the word "drugs," I move, on behalf of the committee, to insert the words "or articles."

The amendment was agreed to.

Mr. THOMAS. Also, on behalf of the committee, in section 8, page 11, line 18, after the word "drugs," I move to insert the words "or articles."

The amendment was agreed to.

Mr. THOMAS. That completes the committee amendments.

Mr. SUTHERLAND. Mr. President, I notice that all the way through this bill when it speaks of the United States it says "the United States of America." What is the necessity of having the words "of America" in the bill? It is unusual and unnecessary in legislation. We can legislate only for the United States of America. It seems to me we had better follow the usual form, and simply say "the United States."

Mr. THOMAS. I am perfectly willing to strike out the words "of America," Mr. President. We are so accustomed in this body to using more words than are necessary that I supposed it would do no harm in this case. [Laughter.]

Mr. SUTHERLAND. I notice that in two or three places in the bill the words "the United States" are used, but in a great majority of cases it says "the United States of America."

Mr. THOMAS. Let the last two words go out, Mr. President.

The VICE PRESIDENT. The amendment will be stated.

The SECRETARY. Wherever the words "United States of America" occur in the bill it is proposed to strike out the words "of America."

The amendment was agreed to.

Mr. GALLINGER. Mr. President, I notice that in one part of the bill the words "registered under this act" are stricken out, and I am sure an amendment was agreed to a moment ago retaining those words. The registration is under an entirely different act of Congress, and the words ought to be stricken out of this bill. I refer to the amendment which was acted upon a moment ago.

Mr. THOMAS. What part of the bill does the Senator refer to?

Mr. GALLINGER. The amendment concerning veterinary surgeons, and so forth, where the words "registered under this act" are used. Manifestly they are not registered under this act, there being a general law on the subject.

Mr. THOMAS. Do I understand that the Senator asks to have the words "registered under this act" inserted in the bill?

Mr. GALLINGER. I ask to have them stricken from the bill.

Mr. THOMAS. They were stricken from the bill.

Mr. GALLINGER. They were, in one case, but I am very sure an amendment was read a moment ago in which those words occurred.

Mr. LANE. The amendment was in section 8, page 11, line 16. I think that is the one to which the Senator refers.

Mr. GALLINGER. I think wherever those words occur they should be stricken from the bill.

Mr. WALSH. Mr. President, I call the Senator's attention to the fact that under the provisions of section 1 anyone dealing in those articles must register; and I apprehend that the registration refers to the provisions of that section.

Mr. GALLINGER. I know very little about it. The bill is too complicated for me to comprehend.

Mr. WALSH. I inquire of the Senator from Colorado if that is not correct?

Mr. THOMAS. The Senator from Colorado can not definitely answer that question. I do not recall that the words "registered under this act" appear more than once in the act.

Mr. GALLINGER. Oh, yes, they do; several times.

Mr. THOMAS. If they do, I am inclined to think the suggestion made by the Senator from New Hampshire should be followed.

Mr. WALSH. Under the provisions of section 1, everyone dealing in these articles is required to register with the collector of the district.

Mr. THOMAS. There is a provision in the act which dispenses with registration, which was stricken out for reasons set forth in the document which deals with the amendments, although I am not able to turn to it immediately in my copy of the bill; and I do not recall that any amendment offered includes those words.

Mr. SMOOT. Mr. President, on page 11, line 12, after the word "person," the following amendment was agreed to:

Or to a nurse under the supervision of a physician, dentist, or veterinary surgeon registered under this act.

Mr. JAMES. That is all right. It can be stricken out in conference.

Mr. SMOOT. Mr. President, may I ask whether the amendment of the committee on page 2, beginning in line 1, and ending with the word "drugs" in line 3, was agreed to?

The VICE PRESIDENT. The Secretary informs the Chair that it was.

Mr. SMOOT. Now, Mr. President, I wish to ask the Senator having the bill in charge——

Mr. THOMAS. Just a moment, if the Senator please. I think the amendment which was offered on page 11, line 12, properly required registration. The purpose of striking out the words "registered under this act" in subdivision "(a)" in section 2 on page 4 was to remove the necessity of such registration in cases of the dispensing and distribution of the drugs or articles provided for in that subsection and others. In other words, it was designed to make an exception that might be necessary in cases of exigency. Therefore I am inclined to think the suggestion made by the Senator from New Hampshire is not sound.

Mr. GALLINGER. I quite agree with the Senator, upon examining the bill more closely. The words ought not to be stricken out at that point.

Mr. SMOOT. Mr. President, I wish to inquire of the Senator whether he intends the bill to pass with the amendment of the committee on page 2, beginning in line 1, and ending with the word "drugs" in line 3; that is to say, in these words:

Or hypodermic syringes or needles adapted to administer any of the above drugs.

Mr. THOMAS. Mr. President, that amendment was offered by the senior Senator from Mississippi [Mr. WILLIAMS], who is the chairman of the subcommittee having this bill in charge. It was adopted by the subcommittee, and the report has been made upon it. The report I have heard concerning that amendment practically convinced me that there was no necessity for including these instruments in the bill; but, as I say, in the absence of the Senator from Mississippi I can not consent to having them eliminated. They can be taken care of in conference.

Mr. SMOOT. I wish to call attention to the fact that the National Drug Trade Conference, the Treasury Department, and the Internal-Revenue Office all object to those words going into the bill, and I think give excellent reasons why they should not be in the bill.

For instance, the Commissioner of Internal Revenue states:

The reasons for striking out the committee's amendment are as follows—

Referring to the particular amendment to which I am now calling attention.

The bill is designed to control the use of narcotics. If it is effective in the control of such drugs, it is wholly unnecessary to regulate the instruments by which they are administered. Further, the committee's amendment would make it necessary for all manufacturers of any kind of a hypodermic syringe or needle to register under the act. To this the Internal Revenue Bureau of the Treasury Department is opposed, because of the great labor that would be required and the unnecessary records that would have to be kept, thus adding greatly to the expense of administering the act.

Then, at the National Drug Trade Conference the association took almost the same position as that taken by the Treasury Department.

Mr. GALLINGER. Mr. President, the National Drug Trade Conference suggests that if the hypodermic-syringe provision is stricken out, the words "or articles" should not go in the bill; and yet we have been inserting those words here for the last half hour.

Mr. SMOOT. That is true, and I called attention to it a little while ago. Of course if the Senator feels that he would rather let this bill go to conference, and thrash it out there, I will state frankly that it can be done, because all of these are amendments made by the Senate.

Mr. THOMAS. I do not feel that I can do otherwise in the absence of the Senator from Mississippi.

Mr. SMOOT. Then I shall not insist.

Mr. THOMAS. I fully sympathize with the views expressed by the Senator from Utah. I think they are sound.

Mr. SMOOT. All right.

Mr. BURTON. Mr. President, I am in receipt of very strenuous objections to that amendment from physicians and others. It is my recollection that the Senator from Colorado proposed an amendment as a substitute for that when this bill was up before. Attention was called to this when the bill was considered on a prior occasion. I think the senior Senator from Indiana [Mr. SHIVELY] objected to it.

Mr. SHIVELY. I was under the impression that the objection that has been made had been obviated by a change of the language.

Mr. BURTON. It is my own recollection that the Senator from Colorado [Mr. THOMAS] proposed an amendment which was to be inserted as a substitute for this, and which would remove the objections which were made.

I do not feel like objecting to the further consideration of the bill because of this amendment; but very strong objection has been made to it by dealers, physicians, and others. It seems to me utterly unnecessary. It would require every physician who has an instrument of that kind to register.

Mr. THOMAS. When the bill was before the Senate heretofore, it was in charge of the Senator from Mississippi. I assisted him in proposing some amendments to the measure, but I have no recollection of proposing a substitute for this amendment.

The VICE PRESIDENT. If the Chair may be permitted to interrupt, it was amended on the 16th of April by the Senator from Colorado, whose amendment the Secretary will read.

The SECRETARY. The amendment of the committee reads:

Or hypodermic syringes or needles adapted to administer any of the above drugs.

To that an amendment was agreed to, as follows:

Except veterinary hypodermic syringes and needles, and hypodermic syringes and needles designed and used for the administration of serums, vaccines, toxins, and analogous products.

Mr. THOMAS. Yes; I remember now quite distinctly that that amendment was then proposed and adopted; but of course that does not do away with the force of the criticism made by the Senator from Utah.

Mr. SMOOT. No; as the Senator says, that does not do away with the criticism to which I have called the Senator's attention. That does away with the criticism as to a certain kind of instrument where the serums are used.

Mr. THOMAS. If the Senator cares to move to strike out the proposed amendment, I shall not oppose it.

Mr. SMOOT. I really feel that it ought to go out, and I do not believe the Senate should pass the bill with that language in it. If the Senator does not object, I shall move that that amendment be stricken from the bill, and also the words "or articles" wherever they have been put in the bill by the committee. That will cover the whole of the objections of the department in one motion.

Mr. WARREN. Mr. President, I wish to ask the Senator in charge of the bill, owing to the confusion and the fact that there are only about 13 pages in the bill and some 1,300 amendments so far—I do not know exactly how many—whether he feels confident that the bill, when passed here, will be in a condition to go to conference, or whether it ought not to be rewritten and have a reexamination by the committee before it passes out of the Senate?

I merely make the suggestion. I have no objection to the bill. It is a very serious condition, however, I should think, when a bill is subject to so many amendments, made on various days, and when no one seems to understand where the bill is now. I doubt if any man in his seat here now has an idea what this bill provides and what it does not provide.

Mr. THOMAS. The amendments which were made to the bill heretofore were made to the part of it which preceded the portion that has been read and amended to-day.

Mr. SMOOT. Yes; all of them.

Mr. THOMAS. I am quite willing to act upon the suggestion of the Senator from Wyoming after the amendments have been agreed to.

Mr. WARREN. I do not suggest it in order to create delay. I simply suggest it as a warning, perhaps, as to whether it ought to be rewritten or whether the committee is satisfied to have it passed as it is.

Mr. THOMAS. I do not believe there ought to be any further needless delay in the passage of this bill. Its importance, of course, is well known. I imagine that it can be printed and laid before the Senate so that we can consider it on Monday, and doubtless an opportunity will present itself where, by unanimous consent, a final vote may be taken upon it. I am willing to take that course, if desired.

Mr. GALLINGER. I think that would be a wise course to pursue. In the meantime the Senator can go carefully over the bill.

Mr. THOMAS. Yes. In the meantime I think the motion of the Senator from Utah should be disposed of, because that will make a great difference.

Mr. SMOOT. Yes; I think all of the Senate will agree that that amendment should be disagreed to. If that is the case, with all of the amendments that were put into the bill on account of this amendment—that is, the words "or articles,"—stricken out, it would be well to have the bill reprinted, and then the Senator can go over it carefully, as suggested by the Senator from Wyoming.

The VICE PRESIDENT. The question is on reconsidering the amendment as amended, at the top of page 2.

The motion to reconsider was agreed to.

The VICE PRESIDENT. The question now is on agreeing to the amendment as amended.

The amendment as amended was rejected.

The VICE PRESIDENT. The Senator from Utah moves that wherever the words "or articles" or the words "and articles" have been included in the bill the vote by which the amendment was agreed to may be reconsidered.

Mr. BURTON. I should like to understand that. Do the words "or articles" include only the items specified at the top of page 2?

Mr. THOMAS. Yes.

Mr. SMOOT. Simply the syringes. Everything else is the drug itself, and the word "drugs" cover that; but when we put in the amendment about hypodermic syringes and needles we designated them thereafter as "or articles" or "and articles." It applies only to this amendment.

Mr. BURTON. I had supposed that was inserted for greater conclusiveness.

Mr. THOMAS. No, Mr. President; it was meant only to cover the syringes and needles.

Mr. BURTON. Merely for those?

Mr. THOMAS. That is all.

The VICE PRESIDENT. The pending question is whether the motion to reconsider the various amendments embracing the words "or articles" and "and articles" shall be agreed to.

The motion to reconsider was agreed to.

The VICE PRESIDENT. The question is on agreeing to the amendments.

The amendments were rejected.

Mr. THOMAS. The committee proposes, on line 24, page 2, after the word "Navy," to insert the words "the Public Health Service."

The VICE PRESIDENT. That language has been all stricken out, and an amendment has been adopted at that point.

Mr. THOMAS. Then I withdraw the request, Mr. President. I had no note of that action here, and I did not want to overlook the amendment.

The VICE PRESIDENT. The Chair will call the attention of the committee—it is not the Chair's business, but it will assume it—to the fact that on the first page of the bill it is provided that it shall go into effect on the 1st day of January, 1914.

Mr. THOMAS. That was changed to "October."

The VICE PRESIDENT. It has not been changed by the record.

Mr. THOMAS. It was the first amendment offered.

The VICE PRESIDENT. The amendment will be stated.

The SECRETARY. It is proposed to strike out the word "January," on page 1, line 3, and to insert in lieu thereof "October."

The amendment was agreed to.

Mr. LANE. Mr. President, I should like to call the attention of the Senator from Colorado to section 6, on page 10. This bill is one, I presume, to curtail the use of drugs such as opiates and cocaine; and yet in that section there is a provision which allows any street faker or anyone else to dispense a solution containing 2 grains of opium to each fluid ounce of a preparation—a grain to a tablespoonful. That is not a good provision. It should be better guarded than that. That will permit the use of these drugs in soothing sirups, cough mixtures, and all kinds of dopes which can be sold by fakers, and which are deadly to infants. That is a deadly dose to an infant or a child under a year old. A teaspoonful of that mixture will kill a child, and such a provision ought to be looked into.

I should like to have the committee, before they put the bill on its final passage, hear some testimony on that subject. That is directly contrary to every principle which seems to govern the remainder of the bill.

Mr. THOMAS. Mr. President, that section has been the subject, I suppose, of as much discussion, particularly by way of correspondence, from the National Drug Trade Association and from physicians and dealers, as any other of the various sections of the bill. The consensus of their statements is in favor of this section as it has been drawn by the House and amended by the Senate.

I am quite willing to turn over to the Senator from Oregon the accumulated correspondence which I have upon the subject. I am unable at this time to give him the general course of the arguments which were used in favor of the measure as it has been reported.

Mr. LANE. That would be interesting reading. I would like to see some of that correspondence. I submitted this bill to the State Board of Health of Oregon, and criticism was made in regard to that feature, and they did not indorse it. I know of no board of health that has indorsed it. On the other hand, there has been a lot of correspondence from people who are manufacturing those mixtures and preparations and from dealers and druggists. You can, no doubt, secure many indorsements from manufacturing druggists who make patent medicines, for the reason that they sell them at a profit, and they are in many patent medicines.

Mr. THOMAS. I will give the Senator the correspondence in my possession, and meantime I will have the bill printed.

Mr. GALLINGER. Printed with amendments?

Mr. THOMAS. Printed with amendments, of course.

Mr. LANE. That is all I ask.

The VICE PRESIDENT. The bill will be passed over.

BILLS PASSED OVER.

The bill (H. R. 6827) to amend an act entitled "An act to change the name of the Public Health and Marine-Hospital Service to the Public Health Service, to increase the pay of officers of said service, and for other purposes," approved August 14, 1912, was announced as next in order.

Mr. SMOOT. Let that bill go over, Mr. President. One of the Senators who wanted to speak on it is absent.

The VICE PRESIDENT. The bill will be passed over.

The bill (S. 2002) to reduce fees in the United States district courts, to fix the salaries of the clerks of such courts, to increase the mileage and per diem of witnesses and jurymen therein, and to repeal section 840 of the Revised Statutes and all other conflicting laws, was announced as next in order.

Mr. SMOOT. Let that bill go over, for the same reason.

The VICE PRESIDENT. The bill will be passed over.

EMORY SCOTT LAND.

The bill (S. 67) for the relief of Emory Scott Land was announced as next in order.

The VICE PRESIDENT. The bill has been reported adversely.

Mr. GALLINGER. Let it go to Rule IX, Mr. President.

The VICE PRESIDENT. The bill will go to the calendar under Rule IX.

PENSIONS AND INCREASE OF PENSIONS.

The bill (H. R. 12045) granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent children of soldiers and sailors of said war was considered as in Committee of the Whole.

The bill had been reported from the Committee on Pensions with amendments.

The first amendment of the Committee on Pensions was, on page 1, line 9, after the word "receiving," to insert: "*Provided*, That in the event of the death of Pearl Schnader, helpless and dependent child of said Edward D. Schnader, the additional pension herein granted shall cease and determine: *And provided further*, That in the event of the death of Clara P. Schnader the name of the said Pearl Schnader shall be placed on the pension roll, subject to the provisions and limitations of the pension laws, at the rate of $12 per month from and after the date of death of said Clara P. Schnader," so as to make the clause read:

The name of Clara P. Schnader, widow of Edward D. Schnader, late of Company C, Seventy-ninth Regiment Pennsylvania Volunteer Infantry, and pay her a pension at the rate of $24 per month in lieu of that she is now receiving: *Provided*, That in the event of the death of Pearl Schnader, helpless and dependent child of said Edward D. Schnader, the additional pension herein granted shall cease and determine: *And provided further*, That in the event of the death of Clara P. Schnader the name of the said Pearl Schnader shall be placed on the pension roll, subject to the provisions and limitations of the pension laws, at the rate of $12 per month from and after the date of death of said Clara P. Schnader.

The amendment was agreed to.

The next amendment was, on page 2, after line 19, to strike out:

The name of Patrick Mahan, late of Company B, One hundred and twenty-fourth Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The amendment was agreed to.

Mr. SHIVELY. Mr. President, on page 3, I move to amend by striking out lines 23 and 24, and on page 4 by striking out lines 1 and 2, the soldier having died.

The VICE PRESIDENT. The amendment will be stated.

The SECRETARY. On page 3, beginning with line 23, it is proposed to strike out lines 23 and 24 and lines 1 and 2 on page 4, in the following words:

The name of Conrad Stephan, late of Company C, Fifteenth Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The amendment was agreed to.

The next amendment of the Committee on Pensions was, on page 4, after line 15, to strike out:

The name of John J. Haley, late civilian pilot, Mississippi River, and pay him a pension at the rate of $30 per month.

The amendment was agreed to.

The next amendment was, on page 5, after line 10, to strike out:

The name of Charles R. Gentner, late of Company D, Sixth Regiment Pennsylvania Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The amendment was agreed to.

The next amendment was, on page 5, line 22, before the words "per month," to strike out "$24" and insert "$20," so as to make the clause read:

The name of Elizabeth Dorman, widow of Louis Dorman, late of Battery F, First Regiment Missouri Volunteer Light Artillery, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The amendment was agreed to.

Mr. SHIVELY. On page 6, I move to strike out lines 7, 8, 9, and 10. The soldier is deceased.

The VICE PRESIDENT. The amendment will be stated.

The SECRETARY. On page 6 it it proposed to strike out lines 7, 8, 9, and 10, in the following words:

The name of John Beckley, late of Company H, Fourth Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The amendment was agreed to.

The next amendment of the Committee on Pensions was, on page 6, after line 22, to strike out:

The name of Eliza A. Stevenson, widow of David K. Stevenson, late of Company E, One hundred and fifty-fifth Regiment Pennsylvania Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The amendment was agreed to.

The next amendment was, on page 7, after line 18, to strike out:

The name of Rebecca L. Scarbrough, widow of Martin L. Scarbrough, late of Company D, Sixty-second Regiment Ohio Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The amendment was agreed to.

The next amendment was, on page 7, line 25, before the words "per month," to strike out "$24" and insert "$30," so as to make the clause read:

The name of Louis Krott, late of Company K, Tenth Regiment Indiana Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The amendment was agreed to.

The next amendment was, on page 8, after line 8, to strike out:

The name of Minnie S. Rector, widow of John E. Rector, late of Company F, Fiftieth Regiment Missouri Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The amendment was agreed to.

The next amendment was, on page 11, after line 7, before the words "per month," to strike out "$17" and insert "$20," so as to make the clause read:

The name of Juliet Burt Norton, widow of Oliver D. Norton, late acting assistant surgeon United States Army, and pay her a pension at the rate of $20 per month.

The amendment was agreed to.

The next amendment was, on page 11, after line 11, to strike out:

The name of Ruth E. Hering, widow of Samuel Hering, late of Company I, Fourth Regiment United States Infantry, and pay her a pension at the rate of $12 per month.

The amendment was agreed to.

The next amendment was, on page 12, after line 22, to strike out:

The name of Rosa T. Wallace, widow of William J. Wallace, late of Company A, Thirteenth Regiment New York State Militia Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The amendment was agreed to.

Mr. SHIVELY. On page 12, the soldier having died, I move to strike out lines 15, 16, 17, and 18.

The VICE PRESIDENT. The amendment will be stated.

The SECRETARY. On page 12 it is proposed to strike out all of lines 15, 16, 17, and 18 in the following words:

The name of Andrew J. Bruer, late of Company D, Forty-ninth Regiment Pennsylvania Volunteer Infantry, and pay him a pension at the rate of $40 per month in lieu of that he is now receiving.

The amendment was agreed to.

Mr. GALLINGER. Mr. President, I will ask the Senator from Indiana if in all cases where these paragraphs are stricken out the beneficiaries have died since the bill was reported?

Mr. SHIVELY. Not in all cases.

Mr. GALLINGER. In most of them?

Mr. SHIVELY. In all cases where I have tendered the amendment to-day that is true.

The next amendment of the Committee on Pensions was, on page 13, after line 6, to strike out:

The name of L. Maggie Morris, widow of James S. Morris, late of Company M, Ninth Regiment Kentucky Volunteer Cavalry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The amendment was agreed to.

The next amendment was, on page 13, after line 10, to strike out:

The name of Winchester E. Moore, late acting third assistant engineer, United States Navy, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The amendment was agreed to.

The next amendment was, on page 14, after line 6, to strike out:

The name of Susie B. Kellogg, widow of Charles R. Kellogg, late of Company H, Eleventh Regiment Indiana Volunteer Infantry, and pay her a pension at the rate of $24 per month in lieu of that she is now receiving.

The amendment was agreed to.

The next amendment was, on page 15, line 15, before the word "widow," to insert "former," so as to make the clause read:

The name of Phoebe Jane Cosgriff, former widow of James Cosgriff, late of Company B, Thirty-first Regiment Missouri Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The amendment was agreed to.

The next amendment was, on page 16, line 19, after the word "receiving," to insert "*Provided*, That in the event of the death of Alice G. Morse, helpless and dependent child of said Asa Morse, the additional pension herein granted shall cease and determine: *And provided further*, That in the event of the death of Marianne F. Morse the name of the said Alice G. Morse shall be placed on the pension roll, subject to the provisions and limitations of the pension laws, at the rate of $12 per month, from and after the date of death of said Marianne F. Morse," so as to make the clause read:

The name of Marianne F. Morse, widow of Asa Morse, late of Company B, One hundred and seventy-first Regiment Pennsylvania Volunteer Infantry, and pay her a pension at the rate of $24 per month in lieu of that she is now receiving: *Provided*, That in the event of the death of Alice G. Morse, helpless and dependent child of said Asa Morse, the additional pension herein granted shall cease and determine: *And provided further*, That in the event of the death of Marianne F. Morse the name of the said Alice G. Morse shall be placed on the pension roll, subject to the provisions and limitations of the pension laws, at the rate of $12 per month, from and after the date of death of said Marianne F. Morse.

The amendment was agreed to.

The next amendment was, on page 18, line 5, before the words "per month," to strike out "$50" and insert "$40," so as to make the clause read:

The name of William Cassidy, late of Company I, Sixth Regiment United States Infantry, and pay him a pension at the rate of $40 per month in lieu of that he is now receiving.

The amendment was agreed to.

The next amendment was, on page 18, line 9, before the words "per month," to strike out "$24" and insert "$36," so as to make the clause read:

The name of Frank Fuquay, late of Company G, Seventeenth Regiment United States Colored Infantry, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The amendment was agreed to.

The next amendment was, on page 19, after line 6, to strike out:

The name of Louisa M. Buchanan, widow of Charles H. Buchanan, late of Company K, Fourth Regiment Michigan Volunteer Infantry, and pay her a pension at the rate of $36 per month in lieu of that she is now receiving: *Provided*, That in the event of the death of Viola L. and Nora J. Buchanan, helpless and dependent children of said Charles H. Buchanan, the additional pension herein granted shall cease and determine: *And provided further*, That in the event of the death of Louisa M. Buchanan, the name of said Viola L. and Nora J. Buchanan shall be placed on the pension roll, subject to the provisions and limitations of the pension laws, at the rate of $12 per month each from and after the date of death of said Louisa M. Buchanan.

The amendment was agreed to.

The next amendment was, on page 20, line 5, before the words "per month," to strike out "$24" and insert "$30," so as to make the clause read:

The name of Stephen S. Kelly, late of Company A, Twenty-fifth Regiment Indiana Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The amendment was agreed to.

The next amendment was, on page 21, line 4, after the word "determine," to strike out "*And provided further*, That in the event of the death of Mary A. Austin, the name of said Carl L. Austin shall be placed on the pension roll, subject to the provisions and limitations of the pension laws, at the rate of $12 per month from and after the date of death of said Mary A. Austin," so as to make the clause read:

The name of Mary A. Austin, widow of Eli Austin, late of Company H, One hundred and first Regiment Illinois Volunteer Infantry, and pay her a pension at the rate of $24 per month in lieu of that she is now receiving: *Provided*, That in the event of the death of Carl L. Austin, helpless and dependent child of said Eli Austin, the additional pension herein granted shall cease and determine.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time and passed.

IMPORTATION OF CONVICT-MADE GOODS.

The bill (S. 4161) to prohibit the importation and entry of goods, wares, and merchandise made in whole or in part by convict, pauper, or detained labor, or made in whole or in part from materials which have been made in whole or in part or in any manner manipulated by convict or prison labor, was announced as next in order.

Mr. POMERENE. Mr. President, that was originally a Senate bill, and I think Order of Business No. 490 is a House bill relating to the same subject matter. There is also a favorable report upon that bill.

While the chairman of the committee is not here, I am disposed to think that he would prefer to have the House bill taken up for consideration and passed when it is reached. For that reason I suggest that this bill be passed over.

The VICE PRESIDENT. The bill will be passed over.

Mr. GALLINGER. I give notice that when the bill is reached, if I am in the Senate, I shall move to include goods, wares, and merchandise made by any trust.

BILLS OF LADING.

The bill (S. 387) relating to bills of lading was considered as in Committee of the Whole.

The VICE PRESIDENT. The bill has heretofore been read.

Mr. POMERENE. I send to the desk an amendment which I offer to the bill.

The VICE PRESIDENT. The amendment will be stated.

The SECRETARY. Strike out the first paragraph, lines 3, 4, 5, and 6 on page 1, in the following words:

That bills of lading issued by any common carrier for the transportation of goods from a place in a State to a place in a foreign country or from a place in one State to a place in another State shall be governed by this act.

And in lieu to insert:

That bills of lading issued by any common carrier for the transportation of goods in any Territory of the United States or the District of Columbia, or from a place in a State to a place in a foreign country, or from a place in one State to a place in another State, or from a place in one State to a place in the same State through another State or foreign country, shall be governed by this act.

Mr. SMOOT. I should like to ask the Senator having the bill in charge whether this was a unanimous report from the Committee on Interstate Commerce?

Mr. POMERENE. I will say that it was, and also that the bill as presented now passed the Senate in August, 1912.

Mr. SMOOT. I knew a bill similar to it had passed the Senate. I did not know whether it was a unanimous report.

Mr. POMERENE. It was.

The VICE PRESIDENT. The question is on agreeing to the amendment submitted by the Senator from Ohio.

The amendment was agreed to.

Mr. POMERENE. On page 20, line 13, I move to strike out "fourteen" and insert "fifteen," so as to read:

SEC. 49. That this act shall take effect on the 1st day of January, 1915.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. POMERENE. For the information of Senators and Representatives who may not be familiar with the bill I ask that the report which was submitted may be printed in the RECORD. It consists of only about 5 pages.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

[Senate report No. 309, Sixty-third Congress, second session.]

BILLS OF LADING.

Mr. POMERENE, from the Committee on Interstate Commerce, submitted the following report to accompany S. 387:

The Committee on Interstate Commerce, to which was referred Senate bill 387, reports it back to the Senate with the recommendation that it pass.

This is the same bill passed by the United States Senate on August 24, 1912. It represents the result of the labors of the commissioners on uniform State laws of the American Bar Association after repeated conferences with representatives of the American Bankers' Association, the railroad organizations, and the shippers' associations. It was originally prepared for the purpose of having it enacted by the various State legislatures, so as to provide uniformty of legislation upon this subject. It has already been enacted by 10 of the leading commercial States—Connecticut, Illinois, Iowa, Louisiana, Massachusetts, Maryland, Michigan, New York, Ohio, and Pennsylvania. The pending bill does not vary substantially from the acts passed by the legislatures of the several States just named, save that it is made applicable to interstate and foreign commerce.

NECESSITY FOR FEDERAL LEGISLATION.

In the hearings before the Interstate Commerce Committee it was testified that bills of lading were annually issued in American commerce representing consignments of merchandise valued at $25,000,000,000; that 99 per cent of the tonnage and value of the commodities shipped and covered by these bills of lading involved interstate and

foreign commerce and 1 per cent intrastate commerce. On these bills of lading it was estimated that $5,000,000,000 in cash was advanced annually by the banks. It must follow, therefore, that any reasonable legislation which will lead to the security of these bills of lading in the hands of their owners or holders must be of immense value to all parties concerned.

In 1889 the Supreme Court of the United States in the case of Friedlander v. Texas & Pacific Railroad (130 U. S., 416) held:

"A bill of lading fraudulently issued by the station agent of a railroad company without receiving the goods named in it for transportation, but in other respects according to the customary course of business, imposes no liability upon the company to an innocent holder who receives it without knowledge or notice of the fraud and for a valuable consideration."

Under the agreed statement of facts in this case it appears that the bill of lading issued November 6, 1883, was executed by one Easton, the agent of the railroad company, fraudulently and in collusion with one Lahnestein, and without receiving any of the cotton represented by the bill of lading to have been received and without any expectation on the part of Easton to receive it. A conspiracy had been entered into between Easton and Lahnestein to issue these bills of lading for Lahenstein's benefit. They had been guilty of similar transactions without receiving the cotton. The court held that under these circumstances the agent was acting beyond the scope of his authority, and therefore the railroad company was not bound.

Whether this decision was sound doctrine or not, it was based upon precedent, and ever since has been recognized as the law of the land by the Federal courts as well as by some of the State courts.

This rule has resulted in great losses to the buyers of merchandise who have the right to depend upon the bona fides of bills of lading, to bankers and financial men who have bought or discounted drafts secured by these bills of lading, and to the sellers of cotton, grain, or other products who are honest and whose transactions are discredited by reason of the frauds which have been permitted to be perpetrated by fraudulent shippers conspiring with freight agents.

As a further result of this rule millions of dollars have been lost to commerce.

The pending bill (sec. 25) modifies the law as laid down in the Friedlander case by declaring:

"SEC. 25. That if a bill of lading has been issued by a carrier or on his behalf by an agent or employee the scope of whose actual or apparent authority includes the issuing of bills of lading, the carrier shall be liable to (a) the consignee named in a straight bill or (b) the holder of an order bill who has given value in good faith for damages caused by the nonreceipt by the carrier of all or part of the goods or their failure to correspond with the description thereof in the bill at the time of its issue."

Other defects in the present law which it is sought to correct by this bill may be classified under the heads of: (1) Shipper's load and count; (2) Duplicate bills of lading; (3) Altered bills of lading; (4) Spent bills of lading; (5) Forgeries.

SHIPPER'S LOAD AND COUNT.

Many abuses have arisen by carriers marking a bill of lading "Shipper's load and count." This, of course, affects their value for banking and credit purposes. These abuses are sought to be remedied by sections 23 and 24 of the bill, which provides:

"SEC. 23. That when goods are loaded by a carrier such carrier shall count the packages of goods, if package freight, and ascertain the kind and quantity, if bulk freight; and such carrier shall not, in such cases, insert in the bill of lading "Shipper's load and count," or other words of like purport, indicating that the goods were loaded by the shipper and the description of them made by him. If so inserted, contrary to the provisions of this section, said words shall be treated as null and void and as if not inserted therein.

"SEC. 24. That when goods are loaded by a shipper, at a place where the carrier maintains an agency, such carrier shall, on written request of such shipper, and when given a reasonable opportunity by the shipper so to do, count the packages of goods, if package freight, and ascertain the kind and quantity if bulk freight, within a reasonable time after such written request, and such carrier shall not, in such cases, insert in the bill of lading 'Shipper's load and count,' or other words of like purport, indicating that the goods were loaded by the shipper and the description of them made by him. If so inserted, contrary to the provisions of this section, said words shall be treated as null and void and as if not inserted therein."

DUPLICATE BILLS OF LADING.

The regulations with regard to duplicate bills of lading are found in sections 6, 7, and 18. They read as follows:

"SEC. 6. That order bills issued in a State for the transportation of goods to any place in the United States on the Continent of North America, except Alaska and Panama, shall not be issued in parts or sets. If so issued, the carrier issuing them shall be liable for failure to deliver the goods described therein to anyone who purchases a part for value in good faith, even though the purchase be after the delivery of the goods by the carrier to a holder of one of the other parts: *Provided, however*, That nothing contained in this section shall be interpreted or construed to forbid the issuing of order bills in parts or sets for such transportation of goods to Alaska, Panama, Porto Rico, the Philippines, Hawaii, or foreign countries, or to impose the liabilities set forth in this section for so doing.

"SEC. 7. That when more than one order bill is issued in a State for the same goods to be transported to any place in the United States on the Continent of North America, except Alaska and Panama, the word 'duplicate,' or some other word or words indicating that the document is not an original bill, shall be placed plainly upon the face of every such bill except the one first issued. A carrier shall be liable for the damage caused by his failure so to do to anyone who has purchased the bill for value in good faith as an original, even though the purchase be after the delivery of the goods by the carrier to the holder of the original bill: *Provided, however*, That nothing contained in this section shall in such case for such transportation of goods to Alaska, Panama, Porto Rico, the Philippines, Hawaii, or foreign countries be interpreted or construed so as to require the placing of the word 'duplicate' thereon, or to impose the liabilities set forth in this section for failure so to do.

"SEC. 18. That a bill upon the face of which the word 'duplicate,' or some other word or words indicating that the document is not an original bill, is placed plainly shall impose upon the carrier issuing the same the liability of one who represents and warrants that such bill is an accurate copy of an original bill properly issued, but no other liability."

ALTERED BILLS OF LADING.

Section 16 provides:

"SEC. 16. That any alteration, addition, or erasure in a bill after its issue without authority from the carrier issuing the same, either in writing or noted on the bill, shall be void, whatever be the nature and purpose of the change, and the bill shall be enforceable according to its original tenor."

SPENT BILLS OF LADING.

Many frauds have been committed in the commercial world by using bills of lading after the goods have been delivered because they were not taken up or canceled. Frequently these bills of lading have been used for the purpose of securing credit. The railroads have not been responsible because they have been able to prove the delivery of the goods. Sections 14 and 15 of the bill remedy these abuses. They read as follows:

"SEC. 14. That except as provided in section 29, and except when compelled by legal process, if a carrier delivers goods for which an order bill has been issued, the negotiation of which would transfer the right to the possession of the goods, and fails to take up and cancel the bill, such carrier shall be liable for failure to deliver the goods to anyone who for value and in good faith purchases such bill, whether such purchaser acquired title to the bill before or after the delivery of the goods by the carrier and notwithstanding delivery was made to the person entitled thereto.

"SEC. 15. That except as provided in section 29, and except when compelled by legal process, if a carrier delivers part of the goods for which an order bill had been issued and fails either—

"(a) To take up and cancel the bill, or

"(b) To place plainly upon it a statement that a portion of the goods has been delivered, with a description, which may be in general terms, either of the goods or packages that have been so delivered or of the goods or packages which still remain in the carrier's possession, he shall be liable for failure to deliver all the goods specified in the bill to anyone who for value and in good faith purchases it, whether such purchaser acquired titled to it before or after the delivery of any portion of the goods by the carrier, and notwithstanding such delivery was made to the person entitled thereto."

FORGED BILLS OF LADING.

While the laws of the several States penalize the forging of bills of lading, it is believed, because of the fact that by far the greater part of the commerce is interstate in character, there should be some Federal legislation making the forging and issuing of forged bills of lading punishable by the Federal courts. This is done by section 44 of the pending bill.

It is not intended by this report to call especial attention to all of the provisions of the bill, as they are self-explanatory. Suffice it to say that in addition to the correction of the abuses hereinbefore specially referred to the bill is a codification of the principles now controlling interstate shipments. It defines the rights and liabilities of the common carriers, consignors and consignees, and all other intermediate owners and holders of bills of lading. It will serve to make more uniform the commercial laws of our country.

CONSTITUTIONALITY OF THE BILL.

Congress is given the right "to regulate commerce with foreign nations and among the several States and with the Indian tribes." Under this provision of the Constitution it seems clear that interstate shipments are subject to the control of Congress. Bills of lading are but representatives of the goods therein described, defining the rights and liabilities of the carriers, the consignor, and the consignee, and other holders thereof. If the goods shipped are subject to the rules and regulations of interstate commerce, then clearly it seems bills of lading, representing them, also must be interstate commerce, and Congress therefore has the right to declare the terms and conditions upon which they may be issued, used, and retired.

Without intending to discuss the many decisions of our Supreme Court defining the power of Congress over interstate commerce, we believe the constitutionality of the pending bill by analogy clearly follows from the doctrine laid down in Southern Railway *v.* United States (222 U. S., 20). The syllabus reads as follows:

"The safety-appliance act of March 2, 1893 (27 Stat., 571, ch. 196), as amended March 2, 1903 (32 Stat., 943, ch. 976), embraces all locomotives, cars, and similar vehicles used on any railway that is a highway of interstate commerce, and is not confined exclusively to vehicles engaged in such commerce.

"The power of Congress under the commerce clause of the Constitution is plenary and competent to protect persons and property moving in interstate commerce from all danger, no matter what the source may be; to that end Congress may require all vehicles moving on highways of interstate commerce to be so equipped as to avoid danger to persons and property moving in interstate commerce."

Mr. Justice Van Devanter, who delivered the opinion of the court, said, at page 26:

"We come, then, to the question whether these acts are within the power of Congress under the commerce clause of the Constitution, considering that they are not confined to vehicles used in moving interstate traffic, but embrace vehicles used in moving intrastate traffic. The answer to this question depends upon another, which is, Is there a real or substantial relation or connection between what is required by these acts in respect of vehicles used in moving intrastate traffic and the object which the acts obviously are designed to attain, namely, the safety of interstate commerce and of those who are employed in its movement; or, stating it in another way, is there such a close or direct relation or connection between the two classes of traffic, when moving over the same railroad, as to make it certain that the safety of the interstate traffic and of those who are employed in its movement will be promoted in a real or substantial sense by applying the requirement of these acts to vehicles used in moving the traffic which is intrastate as well as those used in moving that which is interstate? If the answer to this question, as doubly stated, be in the affirmative, then the principal question must be answered in the same way. And this is so, not because Congress possesses any power to regulate intrastate commerce as such, but because its power to regulate interstate commerce is plenary and competently may be exerted to secure the safety of the persons and property transported therein and of those who are employed in such transportation, no matter what may be the source of the dangers which threaten it. That is to say, it is no objection to such an exertion of this power that the dangers intended to be avoided arise, in whole or in part, out of matters connected with intrastate commerce."

POSTAL SAVINGS DEPOSITORIES.

The bill (H. R. 9318) to amend the act approved June 25, 1910, entitled "An act to establish postal savings depositories for depositing savings at interest with the security of the Government for repayment thereof, and for other purposes," was announced as next in order.

Mr. GALLINGER. Let the bill go over.

The VICE PRESIDENT. The bill will go over.

POSTAL SAVINGS SYSTEM.

The bill (H. R. 7967) to amend the act approved June 25, 1910, authorizing a postal savings system was announced as next in order.

Mr. GALLINGER. Let that likewise go over.

The VICE PRESIDENT. The bill will go over.

Mr. BRYAN. Does the Senator from New Hampshire ask to have the bill go over?

Mr. GALLINGER. If it can be acted upon immediately, I will not object. There is an amendment pending, I believe.

Mr. BRYAN. I think there will be no further debate upon it. It has been discussed quite fully.

Mr. GALLINGER. The two Senators from Massachusetts are much interested in the bill. They are both absent. I will ask that the bill go over for the day.

Mr. BRYAN. Of course the Senator can do that, but the Senators from Massachusetts have understood all the time that at the first opportunity the bill would be called up. I served notice upon both of them and upon the Senate, and I appeal to the Senator from New Hampshire to let the bill come up and be voted upon. It has been postponed and kicked about for three months.

Mr. GALLINGER. That is equally true of the entire calendar, or most of the calendar. We have been unfortunate in not passing many bills. We have passed only several in the last two hours or hour and a half. I am very sure that the Senators from Massachusetts would wish to be present when the bill is considered. One other Senator has suggested to me that he wishes to have the bill go over. He did not speak for himself and I do not want to speak for him, but this is a very important measure. I hope the Senator from Florida will not feel that any injustice is being done him. I think the bill ought to be acted upon at some time, but it is a House bill and we have yet some time in which to pass House bills. Our rule has been in former Congresses when nearing the close of a session to take up only House bills and act upon them.

Mr. BRYAN. This is not such a bill as can be passed on a few moments' consideration, but the bill has been considered several days, though the consideration has always been fragmentary. The bill passed the House in December and was referred to the committee in February and reported here in March. Because of the grain-inspection bill and other bills it has been postponed. The last time the Senator from New Hampshire objected to the bill because of the absence of the Senators from Massachusetts. I stated then, as the Senator can verify by the RECORD, that I would give notice to every Senator that at the first opportunity when the bill was reached upon the calendar I intended to ask that it be considered. We have been upon the calendar for an hour and a half this afternoon, and, certainly, if either of the Senators from Massachusetts wanted to speak further on the bill—and they have already spoken upon it two or three times—they had an opportunity to find out that it would be reached, and they could be here.

Mr. GALLINGER. I do not at all speak for the Senators from Massachusetts, and in view of the fact that the Senator from Florida did give that notice, which I distinctly recall, and the Senators from Massachusetts are not present, I withdraw my objection.

Mr. BURTON. I must object, Mr. President.

The VICE PRESIDENT. Objection is made, and the bill goes over.

PANAMA CANAL TOLLS.

Senate resolution 289, requesting the President to inform the Senate what "other matters of even greater delicacy and nearer consequence" are referred to in his message of March 5, 1914, was announced as next in order.

Mr. JAMES. Let that go over.

The VICE PRESIDENT. The resolution will go over.

CHRIS KUPPLER

The bill (S. 2304) for the relief of Chris Kuppler was considered as in Committee of the Whole. It proposes to pay to Chris Kuppler, of Seattle, Wash., $2,137.21, in payment of the amount withheld from him as liquidated damages under a certain contract for the construction of the United States executive mansion at Juneau, Alaska, entered into by and between the duly authorized officer of the Treasury Department, representing the United States of America on the one part, and the said Chris Kuppler on the other part, dated August 1, 1912.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

FREDERICK J. ERNST.

The bill (S. 1128) for the relief of Frederick J. Ernst was considered as in Committee of the Whole.

The bill was reported from the Committee on Claims with an amendment, in line 4, to strike out "$1,500" and insert "$730," so as to make the bill read:

Be it enacted, etc., That the Secretary of the Treasury be, and he is hereby, directed to pay to Frederick J. Ernst the sum of $730, which sum, or so much thereof as may be necessary, is hereby appropriated out of any money in the Treasury not otherwise appropriated, said sum to be payment in full for injury sustained by the breaking of a carboy of vitriol oil while storing the same for the United States Government at the Washington Navy Yard September 12, 1906.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in. The bill was ordered to be engrossed for a third reading, read the third time, and passed.

PENSIONS AND INCREASE OF PENSIONS.

The bill (S. 4845) granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent relatives of such soldiers and sailors was considered as in Committee of the Whole.

It proposes to pension the following persons at the rates given per month:

Lemuel White, late of Company F, One hundred and nineteenth Regiment United States Colored Volunteer Infantry, $20 per month in lieu of that he is now receiving.

Adaline Stoker, widow of Joseph Stoker, late of Company B, Twenty-eighth Regiment Kentucky Volunteer Infantry, $20 per month in lieu of that she is now receiving.

Robert A. Henderson, late of Company C, Thirty-sixth Regiment Illinois Volunteer Infantry, $30 per month in lieu of that he is now receiving.

Katharina Britsch, widow of Bartholomew Britsch, late of Company B, Seventh Regiment New York Volunteer Infantry, $20 per month in lieu of that she is now receiving.

Sarah L. Bentley, widow of George D. Bentley, late of Company C, Second Regiment Connecticut Volunteer Heavy Artillery, $20 per month in lieu of that she is now receiving.

Elizabeth Fogg, widow of Charles H. Fogg, late of Company I, Second Regiment Connecticut Volunteer Heavy Artillery, $20 per month in lieu of that she is now receiving.

Emily H. Bailey, widow of Joseph A. Bailey, late of Company D, Twenty-eighth Regiment Connecticut Volunteer Infantry, $20 per month in lieu of that she is now receiving.

Sarah McMunigale, widow of Samuel McMunigale, late of Company E, Seventh Regiment Connecticut Volunteer Infantry, $20 per month in lieu of that she is now receiving.

Emma F. Dimmock, widow of Thomas Dimmock, late of Company B, Seventh Regiment Connecticut Volunteer Infantry, $20 per month in lieu of that she is now receiving.

Jane E. Peck, widow of Franklin G. Peck, late of Company A, Sixteenth Regiment Connecticut Volunteer Infantry, $20 per month in lieu of that she is now receiving.

Jefferson Conklin, late of Company M, Sixth Regiment New York Volunteer Cavalry, and Company M, Second Regiment New York Provisional Volunteer Cavalry, $30 per month in lieu of that he is now receiving.

Henry W. Bradley, late of Company M, Fourth Regiment Michigan Volunteer Cavalry, $50 per month in lieu of that he is now receiving.

James W. Smith, late of Company E, Fifth Regiment Michigan Volunteer Infantry, $50 per month in lieu of that he is now receiving.

Charles Van Dusen, late captain Company B, Thirty-eighth Regiment Indiana Volunteer Infantry, $50 per month in lieu of that he is now receiving.

Joseph Hiler, late of Company G, Third Regiment Missouri State Militia Cavalry, $40 per month in lieu of that he is now receiving.

David P. DeTar, late of Company C, Twelfth Regiment Kansas Volunteer Infantry, $30 per month in lieu of that he is now receiving.

Annie A. Voigt, widow of Charles H. Voigt, late of Company I, Thirty-third Regiment Indiana Volunteer Infantry, $20 per month in lieu of that she is now receiving.

Amanda M. Dixon, widow of Rufus S. Dixon, late of Company K, Twenty-first Regiment Connecticut Volunteer Infantry, $20 per month in lieu of that she is now receiving.

Andrew J. Merrill, late of Company F, Twenty-second Regiment Indiana Volunteer Infantry, $50 per month in lieu of that he is now receiving.

Richard F. Jacks, late second lieutenant Company C, One hundred and fiftieth Regiment Indiana Volunteer Infantry, $24 per month in lieu of that he is now receiving.

George W. Shreeve, late first lieutenant Companies B and D, Seventh Regiment Indiana Volunteer Cavalry, $40 per month in lieu of that he is now receiving.

Alfred H. Fodrea, late of Company A, One hundred and first Regiment Indiana Volunteer Infantry, $40 per month in lieu of that he is now receiving.

Thomas Jared, late of Company K, Thirty-second Regiment Illinois Volunteer Infantry, $36 per month in lieu of that he is now receiving.

Samuel Waggoner, late of Company B, One hundred and twentieth Regiment Indiana Volunteer Infantry, $50 per month in lieu of that he is now receiving.

Moses N. Jones, late of Company F, Third Regiment Provisional Enrolled Missouri Militia, $24 per month in lieu of that he is now receiving.

Sarah W. Loud, widow of Thomas B. Loud, late of Company H, Thirty-fifth Regiment Massachusetts Volunteer Infantry, $20 per month in lieu of that she is now receiving.

Addison C. Walker, late of Company B, Twenty-third Regiment New York Volunteer Infantry, $36 per month in lieu of that he is now receiving.

Almira J. Sterling, former widow of Josiah Gibson, late of Company A, Third Regiment Pennsylvania Volunteer Heavy Artillery, $12 per month.

Charlotte H. Ely, widow of John J. Ely, late captain Battery E and major First Regiment Michigan Volunteer Light Artillery, $25 per month in lieu of that she is now receiving.

Francis C. Sturtevant, late of band, Fifth Regiment Connecticut Volunteer Infantry, $30 per month in lieu of that he is now receiving.

Ithamar Spurlin, late of Company D, Thirty-third Regiment Indiana Volunteer Infantry, $40 per month in lieu of that he is now receiving.

Susannah M. Smith, widow of William E. Smith, late of Company A, Eighth Regiment, and Company C, Tenth Regiment, Iowa Volunteer Infantry, $12 per month.

Joel Yeager, late of Company I, Forty-seventh Regiment Indiana Volunteer Infantry, $30 per month in lieu of that he is now receiving.

George W. North, late of Company K, Eighty-eighth Regiment Indiana Volunteer Infantry, $50 per month in lieu of that he is now receiving.

Harriet J. Tuttle, widow of Elisha Tuttle, late of Company F, Twenty-third Regiment Connecticut Volunteer Infantry, $20 per month in lieu of that she is now receiving.

William H. Murch, late of Company G, Fifteenth Regiment United States Infantry, $36 per month in lieu of that he is now receiving.

John B. Craig, late of Company K, Thirty-second Regiment Illinois Volunteer Infantry, $30 per month in lieu of that he is now receiving.

John F. Spence, late of Company C, Seventy-second Regiment Illinois Volunteer Infantry, $50 per month in lieu of that he is now receiving.

James F. Brann, late of Company D, Eleventh Regiment Indiana Volunteer Infantry, $30 per month in lieu of that he is now receiving.

Harriet A. Frasier, widow of Benjamin Frasier, late of Company A, Third Regiment Michigan Volunteer Infantry, $12 per month.

Charlotte Lewis McMahon, widow of Michael McMahon, late of Company I, Eighth Regiment New York Volunteer Heavy Artillery, and former widow of Merritt Lewis, late of Company K, Seventh Regiment Michigan Volunteer Cavalry, $12 per month.

Nathan Long, late of Company D, Fifth Regiment Ohio Volunteer Cavalry, $40 per month in lieu of that he is now receiving.

John J. Schneller, late of Company E, Forty-ninth Regiment Wisconsin Volunteer Infantry, $36 per month in lieu of that he is now receiving.

Allison W. Pollard, late second lieutenant Company K, Seventeenth Regiment Kentucky Volunteer Cavalry, $20 per month in lieu of that he is now receiving.

Abel Williams, late of Company C, Ninety-fourth Regiment, and Company H, Thirty-seventh Regiment, Illinois Volunteer Infantry, $36 per month in lieu of that he is now receiving.

Daniel Igo, late of Company E, Eleventh Regiment, and first lieutenant Company I, Two hundred and eleventh Regiment, Pennsylvania Volunteer Infantry, $40 per month in lieu of that he is now receiving.

Logan McD. Scott, late of Company G, Fifteenth Regiment Ohio Volunteer Infantry, $50 per month in lieu of that he is now receiving.

John B. Salsman, late first lieutenant Company H, Sixth Regiment Missouri Volunteer Cavalry, $50 per month in lieu of that he is now receiving.

Andrew Fifer, late of Company B, Eighty-ninth Regiment Indiana Volunteer Infantry, $36 per month in lieu of that he is now receiving.

Robert G. Sleater, late of Company H, Sixth Regiment Iowa Volunteer Infantry, $50 per month in lieu of that he is now receiving.

Tillman H. Snyder, late of Company H, Thirty-eighth Regiment Wisconsin Volunteer Infantry, $24 per month in lieu of that he is now receiving.

Catherine E. Brown, widow of David H. Brown, late of U. S. S. *Little Rebel*, United States Navy, $12 per month.

Charles M. Sanderson, late of Company C, First Regiment Michigan Volunteer Infantry, $40 per month in lieu of that he is now receiving.

Mary A. Forbes, widow of William B. Forbes, late of Company A, Tenth Regiment Michigan Volunteer Infantry, $24 per month in lieu of that she is now receiving: *Provided*, That in the event of the death of Isolina M. Forbes, helpless and dependent child of said William B. Forbes, the additional pension herein granted shall cease and determine: *And provided further*, That in the event of the death of Mary A. Forbes the name of the said Isolina M. Forbes shall be placed on the pension roll at $12 per month from and after the date of death of said Mary A. Forbes.

Truman S. Bigelow, late of Company K, Twenty-first Regiment Maine Volunteer Infantry, $30 per month in lieu of that he is now receiving.

Edwin H. Dana, late of Company B, Tenth Regiment Vermont Volunteer Infantry, $36 per month in lieu of that he is now receiving.

Henry Hahn, late of Company D, Seventieth Regiment Ohio Volunteer Infantry, $36 per month in lieu of that he is now receiving.

John W. Shults, late of Company M, First Regiment Tennessee Volunteer Cavalry, $40 per month in lieu of that he is now receiving.

Caroline Smith, widow of Orville B. Smith, late first lieutenant Company F, Twenty-second Regiment New York Volunteer Infantry, $25 per month in lieu of that she is now receiving.

Michael Andrews, jr., late of Company I, Twenty-ninth Regiment Maine Volunteer Infantry, $40 per month in lieu of that he is now receiving.

Franklin K. Prescott, late of Company D, Nineteenth Regiment Maine Volunteer Infantry, $36 per month in lieu of that he is now receiving.

Jennie F. Wilson, widow of William E. Wilson, late surgeon Tenth Regiment Illinois Volunteer Cavalry, $12 per month.

Martin Judy, late of Company G, Fifty-third Regiment Kentucky Volunteer Mounted Infantry, $30 per month in lieu of that he is now receiving.

Charles H. Bailey, late of Company E, Twenty-fourth Regiment Maine Volunteer Infantry, $30 per month in lieu of that he is now receiving.

John Walker, late of Company F, Ninety-seventh Regiment Pennsylvania Volunteer Infantry, $50 per month in lieu of that he is now receiving.

Edwin R. Partridge, late of Company E, Third Regiment Wisconsin Volunteer Cavalry, $36 per month in lieu of that he is now receiving.

Frank Boone, late of Company G, Second Regiment Missouri Volunteer Infantry, $30 per month in lieu of that he is now receiving.

Mary F. Helmer, widow of John Helmer, late of Company C, Sixteenth Regiment Kentucky Volunteer Infantry, $20 per month in lieu of that she is now receiving.

Benjamin A. Hey, late of Company A, Fifty-third Regiment Kentucky Volunteer Infantry, $30 per month in lieu of that he is now receiving.

Torgus Haraldson, late of Company E, Second Regiment Minnesota Volunteer Infantry, $50 per month in lieu of that he is now receiving.

John J. Evans, late of Company H, Thirteenth Regiment Kentucky Volunteer Cavalry, $50 per month in lieu of that he is now receiving.

John Campbell, late of Company I, Fifty-second Regiment Illinois Volunteer Infantry, $30 per month in lieu of that he is now receiving.

John E. Wheelock, late of Company D, Thirteenth Regiment Vermont Volunteer Infantry, $36 per month in lieu of that he is now receiving.

John Myer, late of Company D, Forty-fourth Regiment Indiana Volunteer Infantry, $24 per month in lieu of that he is now receiving.

George L. Freeman, late of Company B, First Regiment Oregon Volunteer Cavalry, $50 per month in lieu of that he is now receiving.

Warren Rich, late of Company H, One hundred and fifty-fifth Regiment Illinois Volunteer Infantry, $15.50 per month, the same to be paid to him without further recovery or rebate on account of former alleged overpayments or erroneous payments of pension.

Frederick R. Davis, late of Company H, Thirteenth Regiment Illinois Volunteer Cavalry, $30 per month in lieu of that he is now receiving.

George W. Taylor, late of Company E, One hundred and fifty-first Regiment Illinois Volunteer Infantry, $30 per month in lieu of that he is now receiving.

William B. Houck, late of Company D, Twenty-first Regiment Pennsylvania Volunteer Cavalry, $30 per month in lieu of that he is now receiving.

Chandler Swift, late of Company F, Twenty-third Regiment Maine Volunteer Infantry, $40 per month in lieu of that he is now receiving.

Albinia J. Pierce, widow of Jerome Pierce, late of Company H, Thirty-sixth Regiment Massachusetts Volunteer Infantry, $20 per month in lieu of that she is now receiving.

Jacob W. Smith, late of Company A, Fifth Regiment Iowa Volunteer Cavalry, $30 per month in lieu of that he is now receiving.

Pleasant W. Logan, late surgeon First Regiment Tennessee Volunteer Cavalry, $36 per month in lieu of that he is now receiving.

James K. Brooks, late of Company A, Ninth Regiment Michigan Volunteer Infantry, $50 per month in lieu of that he is now receiving.

John F. Sacks, late of Company M, Third Regiment West Virginia Volunteer Cavalry, $40 per month in lieu of that he is now receiving.

Hiram Focht, late of Company I, Fiftieth Regiment Pennsylvania Volunteer Infantry, $50 per month in lieu of that he is now receiving.

Charles Duggan, late of Company D, Twenty-eighth Regiment Connecticut Volunteer Infantry, and landsman, U. S. S. *Victoria*, *St. Lawrence*, and *Poppy*, United States Navy, $40 per month in lieu of that he is now receiving.

Edward P. Champlin, late captain and assistant quartermaster United States Volunteers, $50 per month in lieu of that he is now receiving.

Henry H. Helphenstine, late of Company A, Eighteenth Regiment Indiana Volunteer Infantry, $50 per month in lieu of that he is now receiving.

William McKinzy, late of Company C, First Regiment Oregon Volunteer Infantry, $24 per month in lieu of that he is now receiving.

Henry Snyder, late captain Company E, Forty-sixth Regiment Indiana Volunteer Infantry, $50 per month in lieu of that he is now receiving.

Abbie E. Fairbanks, widow of Benjamin L. Fairbanks, late of Company F, Twenty-first Regiment Massachusetts Volunteer Infantry, $12 per month.

Simpson Newman, late of Company D, Fifteenth Regiment Illinois Volunteer Cavalry, $36 per month in lieu of that he is now receiving.

William B. Warren, late of Company H, First Regiment United States Lancers, Michigan Volunteer Cavalry, $24 per month in lieu of that he is now receiving.

William J. Keen, late of Company A, Eighteenth Regiment Illinois Volunteer Infantry, $36 per month in lieu of that he is now receiving.

William Green, late of the U. S. S. *Rattler*, *Great Western*, and *Tyler*, United States Navy, $36 per month in lieu of that he is now receiving.

Junius T. Turner, late of Company E, Second Regiment Massachusetts Volunteer Cavalry, and captain Company F, Third Regiment Maryland Volunteer Cavalry, $50 per month in lieu of that he is now receiving.

Henry J. Groves, late of Company E, Eighth Regiment Iowa Volunteer Infantry, $30 per month in lieu of that he is now receiving.

Edwin Snyder, late of Company E, One hundred and twenty-third Regiment Ohio Volunteer Infantry, $50 per month in lieu of that he is now receiving.

John M. Miller, late of Company K, One hundred and second Regiment Illinois Volunteer Infantry, $24 per month in lieu of that he is now receiving.

James M. Nelson, who served as pilot, second class, on the U. S. S. *General Sherman*, Mississippi Squadron, United States Navy, $24 per month.

Maria L. Johnson, widow of Daniel L. Johnson, late first lieutenant Company C, Fifty-eighth Regiment Massachusetts Volunteer Infantry, $20 per month in lieu of that she is now receiving.

Mary A. Eisenhard, widow of Lewis Eisenhard, late of Company A, One hundred and seventy-sixth Regiment Pennsylvania Volunteer Infantry, $20 per month in lieu of that she is now receiving.

William G. Simpson, late of Company D, One hundred and forty-sixth Regiment Illinois Volunteer Infantry, $24 per month in lieu of that he is now receiving.

Edward McMillan, late of Company A, Ninety-fifth Regiment, and Company A, Forty-seventh Regiment, Illinois Volunteer Infantry, $30 per month in lieu of that he is now receiving.

Jacob W. Perkins, alias William West, late of Company L, Third Regiment Wisconsin Volunteer Cavalry, $24 per month in lieu of that he is now receiving.

James R. Beaty, late of Company H, Fifty-fifth Regiment Indiana Volunteer Infantry, $18 per month.

Robert R. Polk, late of Company C, Thirty-sixth Regiment Iowa Volunteer Infantry, $50 per month in lieu of that he is now receiving.

Florence M. Craigie, widow of David J. Craigie, late brigadier general, United States Army, $50 per month in lieu of that she is now receiving.

Amelia Peabody, widow of John B. Peabody, late of Company H, Sixteenth Regiment Wisconsin Volunteer Infantry, $20 per month in lieu of that she is now receiving.

Delia D. Watson, widow of Gilbert Watson, late of Company G, Twenty-first Regiment Maine Volunteer Infantry, $12 per month.

Eliza F. Withee, widow of John Withee, late of Company H, Nineteenth Regiment Maine Volunteer Infantry, $12 per month.

Amelia Raschig, widow of Gustavus F. E. Raschig, late captain Company F, Sixty-third Regiment Indiana Volunteer Infantry, $20 per month in lieu of that she is now receiving.

Joseph Stall, late of Company I, Forty-fifth Regiment Ohio Volunteer Infantry, $50 per month in lieu of that he is now receiving.

Burden H. Barrett, late of Company A, Sixteenth Regiment New York Volunteer Heavy Artillery, $40 per month in lieu of that he is now receiving.

George W. Carroll, late of Company A, First Regiment Ohio Volunteer Infantry, $30 per month in lieu of that he is now receiving.

Hanah Meece, widow of Greenup Meece, late of Company G, Nineteenth Regiment Kentucky Volunteer Infantry, $12 per month.

Jobe Morris, late of Company A, Forty-seventh Regiment Kentucky Volunteer Infantry, $30 per month in lieu of that he is now receiving.

Henry C. Taylor, late of Company G, Thirty-fifth Regiment Kentucky Volunteer Infantry, $40 per month in lieu of that he is now receiving.

Margaret T. Fuger, widow of Frederick Fuger, late major Fourth Regiment United States Artillery, and lieutenant colonel United States Army, retired, $50 per month in lieu of that she is now receiving.

Marshal B. Burk, late of Company K, Forty-fourth Regiment New York Volunteer Infantry, and first lieutenant and captain Company C, Ninth Regiment New York Volunteer Heavy Artillery, $40 per month in lieu of that he is now receiving.

Asa J. Alexander, late of Company B, Ninth Regiment Maine Volunteer Infantry, $40 per month in lieu of that he is now receiving.

Thomas A. Harvey, late of Company I, Twenty-sixth Regiment Maine Volunteer Infantry, $40 per month in lieu of that he is now receiving.

Israel A. Gardner, late of Company F, Nineteenth Regiment Maine Volunteer Infantry, $36 per month in lieu of that he is now receiving.

Sewell B. Harriman, late of Company E, Seventh Regiment Maine Volunteer Infantry, and landsman, United States Navy, $36 per month in lieu of that he is now receiving.

Helen E. Sturtevant, widow of Josiah H. Sturtevant, late second lieutenant Company E, Eightieth Regiment United States Colored Volunteer Infantry, $20 per month in lieu of that she is now receiving.

Isaac P. Whitesides, late sergeant major One hundred and twenty-fifth Regiment Ohio Volunteer Infantry, $30 per month in lieu of that he is now receiving.

George W. Hayes, late of Company G, Thirty-fifth Regiment Indiana Volunteer Infantry, $30 per month in lieu of that he is now receiving.

Dudley L. Chase, late of Company C, Ninth Regiment Minnesota Volunteer Infantry, $50 per month in lieu of that he is now receiving.

Lydia Richardson, widow of David P. Richardson, late first lieutenant Company I, Twentieth Regiment Illinois Volunteer Infantry, $20 per month in lieu of that she is now receiving.

Elizabeth H. Smith, widow of Otis H. Smith, late first lieutenant Company B, One hundred and sixty-first Regiment New York Volunteer Infantry, $20 per month in lieu of that she is now receiving.

Frederika L. M. Christman, widow of Charles C. Christman, late of Company C, First Regiment Minnesota Volunteer Heavy Artillery, $20 per month in lieu of that she is now receiving.

James W. Dunbar, late of Company E, One hundred and thirty-fourth Regiment Indiana Volunteer Infantry, $30 per month in lieu of that he is now receiving.

John B. Haley, late of Company H, Second Regiment Missouri Volunteer Light Artillery, $40 per month in lieu of that he is now receiving.

James A. Tylor, late of Company G, Eighteenth Regiment Michigan Volunteer Infantry, $36 per month in lieu of that he is now receiving.

Judson Kellogg, late of Company G, First Battalion Minnesota Volunteer Infantry, $18 per month in lieu of that he is now receiving.

Joseph Wilson Whittier, late of Company E, Second Battalion, Seventeenth Regiment United States Infantry, subsequently Company E, Twenty-sixth Regiment United States Infantry, $24 per month in lieu of that he is now receiving.

Richard M. J. Miller, late of Company B, Third Regiment West Virginia Volunteer Cavalry, $50 per month in lieu of that he is now receiving.

Mary McGowan, helpless and dependent daughter of Anthony McGowan, late of Company G, Thirty-fifth Regiment Indiana Volunteer Infantry, and Company F, Twelfth Regiment Veteran Reserve Corps, $12 per month.

David Crandell, late of Company K, Thirty-sixth Regiment Wisconsin Volunteer Infantry, $30 per month in lieu of that he is now receiving.

Wallace W. Chaffee, late of Company C, Twenty-eighth Regiment Wisconsin Volunteer Infantry, $50 per month in lieu of that he is now receiving.

Stephen M. Buckner, late of Company K, Third Regiment North Carolina Volunteer Mounted Infantry, $20 per month in lieu of that he is now receiving.

Leonidas Folckemmer, late of Company A, One hundred and tenth Regiment Ohio Volunteer Infantry, $40 per month in lieu of that he is now receiving.

Alexander H. Farmer, late second lieutenant Company H, Thirty-second Regiment Kentucky Volunteer Infantry, $50 per month in lieu of that he is now receiving.

Augusta C. Bennett, widow of James E. Bennett, late of Company F, First Regiment Connecticut Volunteer Heavy Artillery, $20 per month in lieu of that she is now receiving.

Alferetta S. Bond, widow of William Bond, late of Company A, Seventh Regiment Connecticut Volunteer Infantry, $20 per month in lieu of that she is now receiving.

Sarah L. Bushnell, widow of John C. Bushnell, late of Company A, Twenty-sixth Regiment Connecticut Volunteer Infantry, $24 per month in lieu of that she is now receiving: *Provided*, That in the event of the death of Julian H. Bushnell, helpless and dependent child of said John C. Bushnell, the additional pension herein granted shall cease and determine: *And provided further*, That in the event of the death of Sarah L. Bushnell the name of the said Julian H. Bushnell shall be placed on the pension roll at $12 per month from and after the date of death of said Sarah L. Bushnell.

Sarah M. Chaffee, widow of Samuel J. Chaffee, late captain Company D, Forty-ninth Regiment Massachusetts Volunteer Infantry, $20 per month in lieu of that she is now receiving.

Bridget O'Loughlin, widow of Michael O'Laughlin, late of Company C, Twenty-fourth Regiment Connecticut Volunteer Infantry, $20 per month in lieu of that she is now receiving.

Caroline M. Smith, widow of Benajah E. Smith, late of Company A, Twenty-first Regiment Connecticut Volunteer Infantry, $20 per month in lieu of that she is now receiving.

Happy M. Smith, widow of Benjamin G. Smith, late of Company C, First Regiment Connecticut Volunteer Heavy Artillery, $20 per month in lieu of that she is now receiving.

Bertha H. Tiesler, widow of Bruno Tiesler, late of Company C, Second Regiment Massachusetts Volunteer Heavy Artillery, $20 per month in lieu of that she is now receiving.

Timothy W. Reardon, late of Company F, First Regiment Minnesota Volunteer Infantry, $30 per month in lieu of that he is now receiving.

Joseph H. Truax, late of Company G, Forty-ninth Regiment New York Volunteer Infantry, $50 per month in lieu of that he is now receiving.

Maria Roberson, widow of Albert Roberson, late of Company K, One hundred and first Regiment United States Colored Volunteer Infantry, $24 per month in lieu of that she is now receiving: *Provided*, That in the event of the death of Jacob C. Roberson, helpless and dependent child of said Albert Roberson, the additional pension herein granted shall cease and determine: *And provided further*, That in the event of the death of Maria Roberson the name of the said Jacob C. Roberson shall be placed on the pension roll at $12 per month from and after the date of death of said Maria Roberson.

Elisha N. Mullinnix, late of Company F, One hundred and forty-third Regiment Illinois Volunteer Infantry, $30 per month in lieu of that he is now receiving.

William P. McGuire, late of Company F, Forty-ninth Regiment Illinois Volunteer Infantry, $30 per month in lieu of that he is now receiving.

James Allen Wood, helpless and dependent child of Oliver Wood, late of Company F, First Battalion, Louisville Provost Guard, Kentucky Volunteer Infantry (Company F, Thirty-fourth Regiment Kentucky Volunteer Infantry), $12 per month.

Sophia Armstrong, widow of John Armstrong, late of Company A, Seventh Regiment, and Company I, Eleventh Regiment, Missouri Volunteer Infantry, $12 per month.

Mary E. Fales, widow of James M. Fales, late of Company E, and second lieutenant Companies F and A, First Regiment Rhode Island Volunteer Cavalry, $20 per month in lieu of that she is now receiving.

Catharine Burroughs, widow of Jeremiah Burroughs, late of Company E, One hundredth Regiment Indiana Volunteer Infantry, $20 per month in lieu of that she is now receiving.

Sarah F. Johnson, former widow of Charles J. Patterson, late of U. S. S. *Colorado*, United States Navy, $12 per month.

Lewis Estes, late of Company B, One hundred and seventeenth Regiment United States Colored Volunteer Infantry, $24 per month in lieu of that he is now receiving.

Mary W. Kilgore, widow of John Kilgore, late of Company B, One hundred and thirty-third Regiment New York Volunteer Infantry, $20 per month in lieu of that she is now receiving.

Susanah S. Ramsey, widow of James Ramsey, late of Company B, Second Regiment North Carolina Volunteer Mounted Infantry, $20 per month in lieu of that she is now receiving.

August Schnelle, late of Company M, First Regiment Minnesota Volunteer Heavy Artillery, $24 per month in lieu of that he is now receiving.

Daniel Prince, late of Company A, Eighth Regiment Vermont Volunteer Infantry, $50 per month in lieu of that he is now receiving.

Mary C. Grant, widow of Robert Grant, late of First Independent Battery, New York Volunteer Light Artillery, $20 per month in lieu of that she is now receiving.

Mr. SHIVELY. I move to strike out lines 23 and 24, on page 17, and the first two lines on page 18, in the following words:

The name of William B. Warren, late of Company H, First Regiment United States Lancers, Michigan Volunteer Cavalry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

I move the amendment because the soldier has died since the bill was reported.

The amendment was agreed to.

Mr. SHIVELY. On page 24, line 21, the name "Tylor" should be "Tyler." I move to strike out "Tylor" and insert "Tyler," so as to read "James A. Tyler."

The amendment was agreed to.

Mr. SHIVELY. On page 25 I move to strike out lines 19, 20, 21, and 22, in the following words:

The name of David Crandell, late of Company K, Thirty-sixth Regiment Wisconsin Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The amendment was agreed to.

Mr. BRYAN. On page 9 I move to strike out lines 1, 2, 3, and 4, which read as follows:

The name of Allison W. Pollard, late second lieutenant Company K, Seventeenth Regiment Kentucky Volunteer Cavalry, and pay him a pension at the rate of $20 per month in lieu of that he is now receiving.

The VICE PRESIDENT. The question is on agreeing to the amendment proposed by the Senator from Florida.

Mr. BRYAN. Mr. President, this pensioner was placed on the pension roll by special act. He could not get upon the rolls under the law applying to soldiers of the Civil War. In 1866 he was granted a pension by special act. He served as second lieutenant in a Kentucky cavalry company from May 9, 1865, to September 20, 1865. The Interior Department held that it would not consider that he had taken part in the Civil War unless he showed actual engagement in battle or service; that the burden was upon him.

In view of the finding of the Interior Department the name of the pensioner was dropped from the rolls, he having been on the rolls before they found it out, I suppose. Then he applied to the Secretary of the Interior to reinstate him. He could only get upon the rolls by a special act. In 1906 he was placed upon the roll by a special act, and this bill is to increase his pension. He was not enlisted during the period of the war, as held by the Secretary of the Interior. The Secretary was right in his holding. I think there can be no doubt of this case. The House committee incorporates the former finding. I can see no reason why this name should appear in the bill to pension soldiers engaged in the Civil War, because he never enlisted until after the war was over.

Mr. SHIVELY. There is something formal and technical in the Senator's objection. It certainly does not go to the merits. There is no reason in the ground stated why the name of this beneficiary should be stricken out. Senators will observe that the report on this case is quite a long one. I will not detain the Senate by reading it. It is one of the cases in which the late lamented Senator from Kentucky, Mr. Bradley, took an interest.

On page 24 the report states:

Claimant is now 77 years of age and, as the evidence shows, in poor health and needy circumstances. His physician and neighbors testify that claimant is feeble and broken down and entirely incapacitated for any kind of labor to earn a living. The testimony further shows that claimant has no property except a small cottage home and no other income than his pension, namely, $12 per month, which is entirely insufficient for his support.

An increase of this soldier's pension to $20 per month is justified by the proofs on file, and your committee so recommend.

Mr. BRYAN. The Senator from Indiana reads in defense of the action of the committee from the report of the House committee showing that he is old and poor. The Senator does not undertake to meet the proposition that he never had any war service at all. If that is to be the test, we will have many more upon the pension roll. There are now many people old and poor who have as much right to be upon the pension roll as Mr. Pollard, whose name I move to strike out of the bill.

Mr. SMOOT. There is this difference, however, in Mr. Pollard's case: When he made application for a pension at the Pension Office he was allowed a pension at $8 per month. He had drawn a pension for a number of years when, after an investigation, the department held that having been stationed in one particular place and not in direct service and not having participated in any engagement of the Civil War——

Mr. BRYAN. Oh, no; the Senator will pardon me. He was not enlisted until May 19, 1865.

Mr. SMOOT. That is true; but the legal end of the war was August 20, 1865.

The Senator has been on the committee for a long enough time and he knows that there have been many pensions granted where the enlistment was even later than this one.

Mr. BRYAN. Mr. President, if the Senator will permit me, I do not deny that. I think that is true. I think if the Senator appeals to precedent he can find any kind of precedent——

Mr. SMOOT. Many of them.

Mr. BRYAN. Yes—that will justify any kind of a pension. There is no doubt about that.

Mr. SMOOT. I want to conclude what I have to say. In this case Mr. Pollard was granted a pension by the department, and it was found by the department that he was suffering from rheumatism and other disabilities contracted while he was in the service, but after he had been drawing a pension for a number of years at $8 per month there was another examination made, and under a rule of the department, as he had not been in any engagement in the Civil War, the pension was withheld from him.

Mr. GALLINGER. I recall very distinctly, Mr. President, that what is stated in this report is the exact truth, because I discussed it more than once with the late Commissioner of Pensions, and that is that the Pension Bureau made a ruling that the technical legal termination of the war was August 20, 1866, but—

Subsequently the Secretary of the Interior held that service under the second section of the act of June 27, 1900, must have been rendered both during and in some necessary connection with the War of the Rebellion as a part of its belligerent operations.

That is the technicality in this case. This soldier came under the ruling of the Bureau of Pensions and was granted a pension——

Mr. SMOOT. Of $8 per month.

Mr. GALLINGER. Of $8 per month. Subsequently the Secretary of the Interior made a different ruling as to the time of the termination of the war, and I suppose the soldier was dropped from the rolls as a consequence of that ruling.

Mr. SMOOT. He was dropped from the rolls.

Mr. JAMES. I want to say, if the Senator will permit me, that I know Mr. Pollard well. He lives in the adjoining county to mine. I have often talked with him about his pension case; he used to come to see me about it. It seems to me that if he went into the service of his country, though the war was technically over and though he was in no real engagements, yet if he did service to the Government, and by reason of that service contracted the disease that has afflicted him, as I know it has——

Mr. SMOOT. All his life.

Mr. JAMES. And he is a very deserving old fellow. I do not think a technicality of this sort ought to be invoked to keep him out of a pension, and I shall very gladly vote to give it to him.

Mr. GALLINGER. The report shows that—

During the period of his service was on detached duty at Bowling Green, Ky., and that his company, during the whole period of its existence, was stationed at Russellville, Owensboro, and Louisville, Ky.

So he apparently was in the service though he did not happen to be in any engagement, because the war was practically over.

Mr. SMOOT. I want to say further that this pensioner is 77 years old. The late Senator from Kentucky, Mr. Bradley, virtually made the same statement to the committee that the Senator from Kentucky [Mr. JAMES] has now made. The late Senator from Kentucky knew this pensioner personally; he knew the physical disabilities of the man and what he was suffering. The committee for that reason, and for the reason that the department has passed upon the question of his contracting the disease while in the Army, thought it was nothing more than right that he should be given a pension of $20 a month.

Mr. JONES. I want to ask the Senator a question. I have no objection to this bill, but, as I understand it, this pensioner is already drawing a pension by special act?

Mr. SMOOT. Yes; of $12 a month.

Mr. JONES. I had the impression—I do not know whether or not I am wrong—that the Committee on Pensions would not consider a bill where the pensioner was already drawing a pension under a special act. I want to know about that.

Mr. SMOOT. I will say to the Senator that there are particular cases where by a special act a pension is granted to a soldier or to a soldier's widow, but it is only in a case where they are utterly helpless, requiring a constant attendant, and where the condition of the soldier has materially changed for the worse since the first act was passed.

Mr. JAMES. If the Senator will permit me, while I was a Member of the other House I introduced the special act for Mr. Pollard, something like 10 years ago.

Mr. JONES. The granting of the pension has probably been delayed on the ground that the committee could not consider a bill where a pension by special act had already been secured.

Mr. JAMES. The special act was passed giving him $12 a month.

Mr. JONES. I want to say to the Senator from Utah that I have had one or two such cases. I remember one where a man was getting a pension by a special act, and he became paralyzed, actually absolutely helpless.

Mr. SMOOT. Requiring an attendant?

Mr. JONES. He had to be rolled around in a chair; but the committee absolutely refused to consider the bill for his relief.

I had another case where a man had secured a pension by special bill and became absolutely blind, and the committee said—I think it was the House committee, probably—that they would not consider a bill where they had granted a pension by special act. I think it is unjust, and I got the impression that the Senate committee would not consider bills of that kind; that that was an actual rule adopted by the committee.

Mr. BRYAN. It is.

Mr. SMOOT. There is a rule of the committee that a second special act for the relief of a soldier shall not be considered; but that rule, I will say to the Senator from Washington, has been violated—if you call it a violation—in a few cases; but it has been violated in no case, unless there has been a material

change in the condition of the soldier from the time of the passage of the first act. In nearly every such case the pensioners are utterly helpless and require the constant attendance of a nurse.

Mr. JONES. I am glad to know that the committee will relax the rule in some cases upon a certain showing, because I have had cases that appealed very strongly to me as to which I was unable to get action.

Mr. BRYAN. Mr. President, of course if the Senator from Kentucky, the Senator from Indiana, and the Senator from Utah base this pension upon either of the grounds stated, that the Senator from Kentucky knows the pensioner, that he lives in an adjoining county, or that the late Senator from Kentucky was much interested in the case, or, as they all wind up their statement with the claim that he is old and poor, there is no answer to that; and I have no doubt the amendment I have offered will be disagreed to. But it will not be disagreed to with the Senate acting under the belief that this man suffered any injury in the service during the war. He does not claim to have done so, and this report does not say that he so claims.

Mr. JAMES. Will the Senator yield for a question?

Mr. BRYAN. Not just now.

Mr. GALLINGER. Mr. President, if the Senator from Florida will permit me. I will say that I became rather the champion of the Mexican War veterans. They were receiving pensions of eight and ten dollars a month, and I introduced a bill, which I think became a law, increasing their pension to $20. That was done solely upon the ground that they were old and poor. Many of those men did not have any wounds or disease contracted in the service. This is a very exceptional case, and I think we may well pass the bill.

Mr. BRYAN. It is an old-age pension, pure and simple, and nothing else.

Mr. GALLINGER. Not quite that, Mr. President, because this man did render service.

Mr. BRYAN. Not in the war.

Mr. GALLINGER. Then the report is not correct.

Mr. BRYAN. How could he render service in the war when the war was over, as the Senator knows, on May 17, 1865?

Mr. GALLINGER. We have granted pensions to hundreds of men who never reached the battle field. Many of the soldiers in the Mexican War were only en route to Mexico, and yet we granted them all pensions.

Mr. BRYAN. That is true.

Mr. GALLINGER. In the Spanish War there were regiments from New England that never got beyond Georgia, and yet they contracted disease there, and we pension them.

Mr. BRYAN. Of course, that has been true in all wars, Mr. President.

Mr. GALLINGER. Yes.

Mr. BRYAN. But they had enlisted while the war was going on; this man had not.

Mr. GALLINGER. But this man enlisted, he was accepted as a soldier, and he was given certain duties to perform as an officer. He could not very well participate in an engagement at that period, but he nevertheless owed allegiance to the Government as a soldier.

Mr. BRYAN. Oh, yes. Forty-nine years ago he was over 21 years of age, and his enthusiasm could have become aroused some years earlier; but he waited until a month after the war was over. Then it happened to occur to him that it would be a good idea to enlist; and now, after almost 50 years have elapsed, we are putting him on the pension roll; and the members of the committee who argue in favor of the claim do so upon the ground that he is old and poor. You can not distinguish his claim from the claim of any other old, poor, and dependent person.

Mr. JAMES. Mr. President, if the Senator will yield, I should like to ask him a question. The Senator announces the doctrine, if I gather the thought he suggests correctly, that a man in order to be entitled to a pension must have participated in a battle or a conflict.

Mr. BRYAN. The Senator did not gather my contention correctly.

Mr. JAMES. The Senator said that the war was over before this soldier enlisted. This soldier was in the service of his country, and whether he was in a conflict or not, whether the war had ended or not, if, while wearing the uniform and doing service under the flag, he contracted disease, in my judgment, he is as much entitled to a pension as if he were wounded in front of the cannon's mouth. It makes no difference provided he was serving his country; and you can not establish the doctrine that we will pension only those who are wounded, and say to a man who has, in the service of his country, contracted disease which has taken away from him his earning power and has racked him with pain, "Oh, no; we will not pay you anything because you were in no battles that were fought; you were in no conflicts; you stood ready to serve, however; you were serving——

Mr. BRYAN. In time of peace.

Mr. JAMES. "But the war was over." Many soldiers, and among them many of the best soldiers, are soldiers in time of peace because they help to preserve peace.

Mr. BRYAN. Mr. President, the Senator from Kentucky can not base this proposed increase of pension upon the ground that this man claims to have suffered or to have contracted any disease because of his enlistment in the Army. He did not claim that for himself.

Mr. JAMES. The report of the committee shows it.

Mr. SHIVELY. Has the Senator read the words on page 23 of the report?

Mr. BRYAN. I have; and they apply to the time before he enlisted, when he claims that he was a scout, and that his horse was shot from under him. He was not enlisted in the Army of the United States at that time and he does not claim that while he was a soldier after the war was over he contracted any disease. The Senator from Indiana and the Senator from Utah can only base action in this case on the ground that the claimant is old and poor.

Mr. SHIVELY. Mr. President, I base it on the ground that he was a soldier; that he was in the service of the United States; that he did serve over 90 days; that he served honorably; and that now he is old and poor.

The VICE PRESIDENT. The question is on agreeing to the amendment offered by the Senator from Florida.

The amendment was rejected.

Mr. BRYAN. I move to strike out, on page 27, lines 3 to 5, inclusive.

The VICE PRESIDENT. The amendment will be stated.

The SECRETARY. On page 27, after line 2, it is proposed to strike out:

> The name of Jennie F. Wilson, widow of William E. Wilson, late surgeon Tenth Regiment Illinois Volunteer Cavalry, and pay her a pension at the rate of $12 per month.

Mr. BRYAN. Mr. President, I make this motion in order that it may be brought to the attention of the Senate that this widow was married after June 27, 1890. She was married on June 3, 1891. Her age is given as 62. I do not believe that it is proper to be picking out cases here and there and granting pensions in cases in which the rule of the committee says it will not be done and the law says it will not be done. I think all ought to be treated alike. Personally I do not believe the date ought to be brought down to the present time, but there is no reason for singling out an individual who can get the ear of a Member of Congress and persuade him to introduce a bill for her relief.

Mr. SHIVELY. Mr. President, of course this pension could not be allowed under the general law or the case would not be before us. There are a few cases in which we have granted pensions to those who married soldiers within a brief time after June 27, 1890. If the widow had married the soldier before that time, as I have said, she would be entitled to a pension under the general law. The facts are exceptional and the case meritorious.

Mr. SMOOT. Mr. President, there is another point in this case. She was a faithful nurse to the soldier, as the report states, "during many years of complete invalidism"; and that was taken into consideration.

The VICE PRESIDENT. The question is on agreeing to the amendment offered by the Senator from Florida.

The amendment was rejected.

Mr. BRYAN. On page 19, I move to strike out lines 3 to 6, inclusive.

The VICE PRESIDENT. The amendment will be stated.

The SECRETARY. On page 19, after line 2, it is proposed to strike out:

> The name of John M. Nelson, who served as pilot, second class, on the U. S. S. *General Sherman*, Mississippi Squadron, United States Navy, and pay him a pension at the rate of $24 per month.

Mr. BRYAN. Mr. President, this man was a Mississippi River pilot and never enlisted at all.

The VICE PRESIDENT. The question is on agreeing to the amendment submitted by the Senator from Florida.

The amendment was rejected.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

THE PUBLIC HEALTH SERVICE.

The bill (S. 2616) to promote the efficiency of the Public Health Service was announced as next in order.

Mr. JAMES. Let that bill go over.

Mr. RANSDELL. Mr. President, I hope the bill will not be objected to unless there is some good reason for the objection. I do not want to object to the bills of other Senators. This bill has been on the calendar for a long time, and involves a matter of great public importance. I hope the Senator from Kentucky will withdraw his objection.

Mr. JAMES. I have no objection; I did not know the Senator was here.

Mr. RANSDELL. I am here and have been waiting to have it considered not only to-day but on many other days. I think the bill will take but very little time.

The VICE PRESIDENT. Is there objection to the present consideration of the bill?

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill (S. 2616) to promote the efficiency of the Public Health Service, which had been reported from the Committee on Public Health and National Quarantine with amendments.

Mr. SMOOT. Mr. President, the Senator who objected to the consideration of the bill the last time it was reached on the calendar is not in the Chamber, and I believe he would like to be present when the bill is being considered.

Mr. SWANSON. Who made the objection?

Mr. RANSDELL. Who objected to it at that time? I do not recall.

Mr. SMOOT. The RECORD will show, Mr. President.

Mr. SWANSON. I think a similar bill has repeatedly passed the Senate.

Mr. RANSDELL. This bill has been on the calendar for a long time. It is, as I have said, a matter of great public importance, and I hope Senators will allow it to be considered and acted upon. It is not our fault that Senators who may want to object to it are not here to-day.

Mr. SMOOT. I am perfectly aware of that, Mr. President. I have not said anything about that, but if the bill is going to be considered I should like to ask some questions about it as to what the cost will be and what it really means.

Mr. RANSDELL. I will be glad to try to answer the questions.

Mr. SMOOT. I will ask the Senator, then, in what cost will the bill involve the Government?

Mr. RANSDELL. The estimated cost is about $50,000 per annum. That is according to the report from the Treasury Department, which is found on page 4 of the report with the bill at the lower part of the page.

Mr. SMOOT. The figures are $49,634.

Mr. RANSDELL. Yes; $49,634.

Mr. SMOOT. I will ask the Senator if this bill does not propose an increase in addition to the one that was granted two or three years ago?

Mr. RANSDELL. I can not say just when the other increase was granted, but I know that the bill is in the interest of fairness to this great health service. I believe that the officers of that service ought to be put on a par with the officers of the Army and Navy, and that is where the increase comes in principally.

Mr. SMOOT. Mr. President, I have not even had time to read the report on the bill, but I will say to the Senator that it seems to me that this was a part of a bill that was introduced two years ago, at which time there was a substantial increase granted to the officers of this service, and the legislation proposed in this bill was rejected by the Senate.

Mr. SWANSON. Mr. President, if the Senator will permit me, I think this bill has passed the Senate repeatedly. It has failed of passage in the House of Representatives on account of objection there.

Mr. SMOOT. If that is the case, then I am mistaken as to the bill, and I really feel that I ought to read over the report.

Mr. RANSDELL. I should like to say that the Senator was a member of the committee that reported this bill favorably and was present when part of the discussions were had with reference to it. He did not say anything of that kind when we were discussing it in the committee, as I recall.

Mr. SMOOT. I was not there when the bill was reported out. If it is the same bill that passed the Senate, with the amendments that were offered by myself on the floor of the Senate, two years ago, and failed of passage in the House, I really have no objection to it; but from hastily reading the bill, and without taking the time to read the report, it seems to me the items of increase provided in this bill are the items of increase that were disagreed to by the Senate at the time the increase was granted before.

Mr. RANSDELL. I will say to the Senator that I do not see how there can be any objection to the items of increase, because they simply provide for commutation of quarters for the medical officers of the Public Health Service and place those public health officers on terms of equality with the health officers of the Army and the Navy. Those are substantially all the increases that I know of, except that the bill does provide for the appointment of several additional officers in the Public Health Service, who are strongly urged by the Secretary of the Treasury—five additional professors in the Public Heatlh Service. That, of course, would mean some additional pay, but it seems to me we can well afford to be a little bit liberal with the Public Health Service. We have been liberal with many things, and they do not use up a great deal of the public money. I should like to see just a little liberality displayed toward them, if we are going to be liberal with anything in the world.

Mr. GALLINGER. Mr. President, I am always a friend of the Public Health Service, and recognize the great importance and value of its work. I have not studied this bill. I will ask the Senator exactly why five professors are appointed? What do they do? Do they lecture?

Mr. RANSDELL. No; I do not understand that they are to lecture. To be entirely frank with the Senator, I can not tell him exactly why they are called professors, except that they wish to give them some title. They wish, I may say, to keep them in the service. A good many of their very best men have left the service because of increased pay and increased honors offered elsewhere, and it was thought that this would help to keep them in the service.

Mr. GALLINGER. In view of the title, I should think they must be teachers in some capacity; and, if so, that is desirable. I do not question the advisability of it; it was only that the term attracted my attention.

Mr. RANSDELL. I will say very frankly that it was thought by the head of the Public Health Service that this title would be helpful in retaining the services of these very valuable men. The service has lost some men of very great professional ability recently and it is in danger of losing some others. Whenever the men develop great ability some college or other educational institution tries to get them, and offers them bigger salaries. There is a tendency to quit the health service because the pay is so small. This, I imagine, is an attempt to help keep them by giving them more honorary titles anyway.

Mr. GALLINGER. If this title confers an honor, I do not see why it should not go to men now in the service.

Mr. RANSDELL. I may say that they propose to give it to several of the men who are already in the service.

Mr. GALLINGER. It says "five additional professors."

Mr. RANSDELL. That is true; and it also says:

That the chiefs of the Divisions of Zoology, Pharmacology, and Chemistry in the Hygienic Laboratory may, upon the recommendation of the Surgeon General of the Public Health Service, be appointed by the Secretary of the Treasury as professors of zoology, pharmacology, and chemistry, respectively, of the Public Health Service, and they shall be entitled to leaves of absence as now provided by law for the commissioned medical officers of the Public Health Service.

And so forth.

Mr. GALLINGER. It continues the matter a little further. The men who are in this service are all graduates, and they have all undergone a very rigid examination. It seems to me rather strange that we should now assign men to instruct them in zoology, pharmacology, and chemistry. I am not going to object to it. I only wished to get the information; that was all.

Mr. SWANSON. If the Senator will read the report on page 3, he will see that these five men are to engage in research work. I do not think any department of the Government has done more good work and done more to benefit the country than the Public Health Service of this Government.

Mr. GALLINGER. We all recognize that.

Mr. SMOOT. Nobody denies that.

Mr. KENYON. Mr. President——

The VICE PRESIDENT. Does the Senator from Louisiana yield to the Senator from Iowa?

Mr. RANSDELL. I do.

Mr. KENYON. I should like to ask if these men, designated as professors, are doctors?

Mr. RANSDELL. They are.

Mr. KENYON. And the committee feel that by calling them professors they will be able to retain them better than by calling them doctors?

Mr. RANSDELL. Yes. I understand they are physicians.

Mr. KENYON. I call that to the attention of the Senator from New Hampshire as being worthy of serious consideration.

Mr. SMOOT. I wish to say to the Senator that no one has a higher regard for the Public Health Service than I. I think a law ought to be passed consolidating all of our public health activities into one public health service, taking them from the different departments, and having that great service perform all of the work along that line that the Government has to do. I have introduced a bill to that effect upon more than one occasion, but it has failed of passage.

I do not understand this bill, however; and it is for that reason, and that alone, that I am going to ask that it be passed over for a day. I will promise the Senator in charge of it that I will take the report home to-night and read it, and I will also take the bill passed by the Senate two years ago and compare it with this one; and if this is the same as the bill that passed the Senate two years ago I will assist the Senator in any way I can to secure its passage. I object to its consideration at this time, however.

The VICE PRESIDENT. The bill will be passed over.

Mr. WARREN. Mr. President, I ask permission to say to the Senator who has charge of the bill that before it comes up again I wish he would consult the Army law regarding this 10 per cent matter. He will find that this bill does not correspond to the rate paid in the Army, which I understand it is the intention of this bill to follow.

Mr. RANSDELL. I thank the Senator for the suggestion. I was taking what the Secretary of the Treasury said in regard to it. He was probably misinformed.

Mr. WARREN. Furthermore, there should be some information as to how these professors are to be appointed. As their rank will be that of lieutenant colonel, we want to know where they will come from.

Mr. RANSDELL. I thank the Senator, and I will make the investigation.

FRANK AUSTIN AND OTHERS.

The bill (S. 4449) for the relief of Frank Austin and others was considered as in Committee of the Whole.

The Secretary read the bill, as follows:

Be it enacted, etc., That the Secretary of the Treasury is hereby authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to the parties named herein or their legal representatives, the following amounts of money that are their pro rata parts of the sum of $5,618.51, the balance due one J. B. Greer, under his contract with the Eastern Branch, National Home for Disabled Volunteer Soldiers dated, September 25, 1907, for the improvement of sewerage and a drainage system at the Eastern Branch, National Home for Disabled Volunteer Soldiers at Togus, Me., and which sum was not paid to the said J. B. Greer, but was retained by the treasurer of said Eastern Branch to meet the claims of persons and corporations who furnished materials and labor to said Greer in connection with said contract and was afterwards covered by the said treasurer into the Treasury of the United States after the parties herein named had filed notice of their claims stating the character and amount of the same with the treasurer of said Eastern Branch, namely: Frank Austin, $25.90; Harold Bickford, $34.97; H. Brown, $4.10; Bennett & Stoddard Co., $18.13; Brooks Hardware Co., $278.15; E. R. Bean, $11.55; E. E. Brookings, $5.29; M. L. Bayard & Co., $418.09; John F Burns, $58.71; J. H. Cogan & Co., $242.69; Mark T. Clafton, $4.40; Decker & Day Hardware & Coal Co., $32.73; W. A. French, $5.29; C. M. Fossett, $1.60; Patrick Fag, $7.56; George Fuller Sons, $20.90; J. A. Ferguson, $34.97; R. A. Fossett, $9.69; Fifield Bros., $8.43; John Goodine, $11.51; W. Henry, $46.44; A. R. Hayes & Co., $34.41; Kennebec Central Railroad Co, $94.34; Kennebec Construction Co., $226.63; Ira Marston, $4.15; William J. Marston, $5.40; L. L. Newcomb, $2.25; Oakland Manufacturing Co., $262.02; Pacific Flush Tank Co., $507.24; Proctor & Bowie, $99.29; Portland Stoneware Co. $1,164.67; Peter Rackliff, $7.55; George E. Reed, $68.48; W. H. Radcliff, $3.24; Charles Rockliff, $18.37; Claud Rockliff, $7.55; Roe Stephens Manufacturing Co., $231.53; B. C. Shaw, $103.74; H. M. Springer, $107.19; Charles E. Sturgis, $20.72; J. A. Shaw, $230.31; W. J. Skehan & Co., $20.33; Charles Stockbridge, $3.24; Charles W. Shaw, $108.37; Alfred O. Turner, $28.33; L. L. Wellman, $116.56; F. A. Witham, $5.29; O. R. Wellman, $84.50; W. D. Harrington, $89.51; W L. Blake, $32.69; Leo. Rafeal, $649.51; total, $5,618.51.

Mr. SMOOT. Mr. President, I notice that the Senator reporting the bill is here. In the report I notice nothing from any of the departments as to the justice of the claim or what the claim may be.

Mr. JOHNSON. I call the attention of the Senator from Utah to the fact that the report says:

The president of the Board of Managers of the National Home for Disabled Volunteer Soldiers recommends the passage of the bill in a letter dated March 2, 1914, to the Secretary of War.

Mr. SMOOT. That may be true, but——

Mr. JOHNSON. Very briefly, I will explain to the Senator the object of the bill.

A contractor undertook to put in a system of sewerage and drainage at the Soldiers' Home at Togus, Me. He entered into a contract and failed to carry out his contract. In the meantime the material men and labor men who had furnished material and labor filed claim for lien, and the amount of $5,618.51 was retained by the Government to meet these claims. The Government afterwards went on and performed the contract and charged it up to the contractor. After the payment of all the bills and performing the work this money was left with which to pay these lien claims. In the meantime the money was covered into the United States Treasury, because under the law it had to be returned after a year, I think, and it is in the United States Treasury now. These people filed their claims, however, and they were approved, and the treasurer of the home reported that they had been approved and the amounts agreed upon fully decided upon; and here they have asked to have their pro rata part of this money which was held back by the Treasury.

Mr. SMOOT. I will ask the Senator why these people did not get their money from the bondsman of the contractor?

Mr. JOHNSON. The bondsman proved to be unable to satisfy the claim. This money in the hands of the Treasury did not belong to the United States. It was money due the contractor, the balance of the contract price which was not needed to complete the work.

Mr. SMOOT. Does the Senator know whether, after the work had been completed by the Government, it cost the Government more than the original contract called for?

Mr. JOHNSON. This balance was left after the work was done.

Mr. SMOOT. Surely that can not be the case.

Mr. JOHNSON. Yes; I mean that. I have looked through the matter, and that is exactly what I mean. After the work was completed by the Government there was left of the contract price this balance that was not needed to reimburse the Government for the work which it had performed in completing the contract. That was covered back into the United States Treasury. Claims to the amount of $12,000, I think, were filed; but there was only this sum to meet those claims, and I have asked here that these men may be paid their pro rata part of the balance.

Mr. SMOOT. Has it cost the Government no more to do the work itself than if the contractor had been successful?

Mr. JOHNSON. No more, and this balance was left.

Mr. SMOOT. That being the case, I have no objection to the consideration of the bill. The report ought to state it, however.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

BOLOGNESI, HARTFIELD & CO.

The bill (S. 1882) for the relief of Bolognesi, Hartfield & Co. was announced as next in order.

Mr. GALLINGER. There is an adverse report on that bill. Let it go to Rule IX.

The VICE PRESIDENT. The bill will go to the calendar under Rule IX.

AIDS TO NAVIGATION IN ALASKA.

The bill (S. 3800) making an appropriation for aids to navigation in Alaska was announced as next in order.

Mr. KERN. Let the bill go over.

Mr. CHAMBERLAIN. Mr. President, I hope the Senator will not ask to have this bill go over, unless there is some particular reason for it. It is very much needed along the coast of Alaska, and it is recommended by the department, as shown by the report. The bill is a very short one. It is simply carrying out an appropriation that has been heretofore made for the same purpose.

The Senator knows that there have been a great many wrecks up there and great loss of life, simply because that coast has been neglected; and it seems to me the bill ought to be passed.

Mr. KERN. I withdraw the objection, then, if it will not take any time.

There being no objection the Senate, as in Committee of the Whole, proceeded to consider the bill. It appropriates, out of any money in the Treasury not otherwise appropriated, the sum of $60,000 for the establishment of aids to navigation and the improvement of existing aids to navigation in Alaska, in accordance with the estimates submitted by the department.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

BILLS PASSED OVER.

The bill (S. 531) to set apart certain lands in the State of Oregon as a public park, to be known as the Saddle Mountain National Park, was announced as next in order.

Mr. SMOOT. I am requested to ask that that bill go over.

The VICE PRESIDENT. The bill will be passed over.

The bill (H. R. 4938) providing for the issuance of patents to transferees of town lots purchased from the United States at public sale in certain cases was announced as next in order.

Mr. KERN. Mr. President, I ask to have that bill go over.

The VICE PRESIDENT. The bill will be passed over.

THE PHILIPPINE SCOUTS.

The bill (S. 1281) providing for the retirement of certain officers of the Philippine Scouts was announced as next in order.

Mr. KERN. Let that bill go over.

Mr. WARREN. Mr. President, I hope that bill may be considered. It is very short. It has passed the Senate twice and has been favorably recommended to the House. It applies only to three men, possibly, and perhaps only to one now, as one has died since, and possibly two.

Mr. KERN. All right; I withdraw the objection.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill. It provides that any person who served at any time in the Volunteer Army in the Civil War and has heretofore served as captain in the Philippine Scouts, and has since been retired as an enlisted man, and whose time of actual service in the Regular and Volunteer forces of the United States shall aggregate more than 40 years, and whose aggregate of services, together with certificates of merit and honorable service, when computed as provided by existing law for the retirement of enlisted men, shall amount to not less than 50 years, may, upon nomination by the President and by and with the advice and consent of the Senate, be placed upon the retired list of the Army as a captain of Infantry in recognition of his long and efficient service in the Army.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

MATTHEW LOGAN.

The bill (S. 3761), for the relief of Matthew Logan, was announced as next in order.

Mr. KERN. Let the bill go over.

Mr. WARREN. Mr. President, these are very short bills; they are for the relief of very old people, so that they may have pensions, and I hope they will not be objected to. The individual cases have been carefully scanned.

This bill relates to a man who did excellent service for a long time. I hope the Senator will withdraw the objection.

Mr. SHIVELY. Yes; he performed over 50 years of splendid service.

Mr. KERN. I withdraw the objection.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill. It provides that in the administration of the pension laws and the laws governing the National Home for Disabled Volunteer Soldiers, or any branch thereof, Matthew Logan shall hereafter be held and considered to have been honorably discharged from the military service of the United States as a private of Battery H, First Regiment Rhode Island Volunteer Light Artillery, on the 25th day of July, 1865, provided that no pension shall accrue prior to the passage of this act.

Mr. OVERMAN. Was any adverse report ever made on this bill by the Committee on Military Affairs?

Mr. WARREN. Never. The bill has passed the Senate twice, and has been favorably reported to the House, but it was not reached there.

Mr. OVERMAN. It has been a long time since the war. Sometimes these bills come before the committee and are reported adversely, and later are introduced again and reported favorably. I should like to know whether that has ever been done in this case.

Mr. WARREN. No; it has not.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

JOHN P. WAGNER.

The bill (S. 229) for the relief of John P. Wagner was announced as next in order.

Mr. OVERMAN. Let that bill go over.

Mr. KENYON. I hope the Senator will withdraw the request.

Mr. OVERMAN. Is the Senator interested in the bill?

Mr. KENYON. Yes; I am.

Mr. WARREN. I think if the Senator will read the report he will see that the bill is one that ought to be acted upon.

Mr. OVERMAN. Has there ever been any adverse report on this bill?

Mr. KENYON. No; there has not.

Mr. WARREN. This man has had two honorable discharges from the Army, after several promotions, in one case by expiration of time. He was mustered in for a third time as a second lieutenant and recruiting officer, and raised a company. Some altercation came up between him and a general officer, and he was dropped without any trial at all.

Mr. GALLINGER. I think a reading of the report will show that the bill ought to be passed. It says that he was sent from his command to get provisions, and among other things he got some intoxicating liquids, which he carried back internally. [Laughter.]

Mr. OVERMAN. I withdraw the objection.

Mr. GALLINGER. On his way back he failed to salute an officer and was summarily dismissed from the service.

Mr. WARREN. Without any trial.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill. It provides that in the administration of the pension laws and the laws governing the National Home for Disabled Volunteer Soldiers, or any branch thereof, John P. Wagner shall hereafter be held and considered to have been honorably discharged from the military service of the United States as a captain of Company H, Two hundred and second Regiment Pennsylvania Volunteer Infantry, on the 12th day of November, 1864, provided that no pension shall accrue prior to the passage of this act.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

CAPT. HAROLD L. JACKSON.

The bill (S. 3768) to restore Capt. Harold L. Jackson, retired, to the active list of the Army was announced as next in order.

Mr. KERN. Let the bill go over.

The VICE PRESIDENT. The bill will go over.

BENJAMIN E. JONES.

The bill (S. 1803) for the relief of Benjamin E. Jones was considered as in Committee of the Whole.

The bill was reported from the Committee on Claims with an amendment, on page 1, line 5, to strike out "$100" and insert "$70," so as to make the bill read:

Be it enacted, etc., That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay Benjamin E. Jones, junior engineer, United States Geological Survey, the sum of $70, and said amount is hereby appropriated out of any money in the Treasury not otherwise appropriated, said sum to be in full of all losses incurred and damages sustained by him in an accident while engaged in the Government service.

The amendment was agreed to.

The bill was reported to the Senate as amended and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

S. W. LANGHORNE AND H. S. HOWELL.

The bill (S. 2334) for the relief of S. W. Langhorne and the legal representatives of H. S. Howell was announced as next in order.

Mr. SMOOT. There have been a great many bills similar to this from the Committee on Claims of the Senate. I remember one from my own State. I have always been unable to get a favorable report from the committee for paying rent for an office for the land office at Salt Lake City.

Mr. KERN. I am surprised at that.

Mr. SMOOT. I want to say to the Senator that I believe there are a great many cases of this kind all through the United States, and was it not understood——

Mr. BRISTOW. If the Senator will allow me, may I inquire if this is one of those cases where a land office in the old days provided its own building until the receipts amounted to a certain sum and then the Government repaid the rent?

Mr. SMOOT. I was going to ask the same question.

Mr. BRISTOW. If it is, there are scores of such claims lying around here, and we had better not go into the question now at this late hour in the afternoon anyway.

Mr. WALSH. Permit me to say that the merits of this bill have been fully considered by the committees of the House and the Senate, and a similar bill has heretofore passed both bodies. I think this bill passed this body twice before and the House once, and I think in each instance the bill failed to be enacted simply because of the state of the calendar.

Mr. BRISTOW. If it is the general type of bills of which a great many have been presented, they all ought to be considered together. They are all upon exactly the same basis and one ought not to go through and the others be denied.

Mr. WALSH. The report gives the entire facts. I do not understand that there is any doubt about the situation at all.

Mr. SMOOT. I have the report here, and I think this is one of those cases.

Mr. BRISTOW. One ought not to be allowed and the others held back.

Mr. SMOOT. Let the bill go over for the present, anyway.

The VICE PRESIDENT. The bill will go over.

PHILIP COOK.

The bill (S. 1063) for the relief of Philip Cook was announced as next in order.

Mr. KERN. Let the bill go over.

Mr. KENYON. I hope an objection will not be made to this bill. This man served over four years in the Army. He is an old man. He went home after the war was over and supposed that the matter was ended. It is very unjust, it seems to me, to refuse relief on that military record. He was in some 30 or 40 battles. He had a remarkable military record. I hope the Senator who objected will withdraw his objection.

Mr. KERN. Very well.

The bill was considered as in Committee of the Whole. It provides that in the administration of the pension laws Philip Cook, who was a private of Troop H, Sixth Regiment United States Cavalry, shall hereafter be held and considered to have been discharged honorably from the military service of the United States as a member of said troop and regiment on the 3d day of August, 1865.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

BILLS PASSED OVER.

The bill (S. 543) to correct the military record of John T. Haines was announced as next in order.

Mr. KERN. Let the bill go over.

The VICE PRESIDENT. It will go over.

The bill (S. 4405) to provide for and encourage the prospecting, mining, and treatment of radium-bearing ores in lands belonging to the United States, for the purpose of securing an adequate supply of radium for Government and other hospitals in the United States, and for other purposes, was announced as next in order.

Mr. SUTHERLAND. Let the bill go over.

The VICE PRESIDENT. It will go over.

The bill (S. 2806) relative to the appointment, pay, and rank of chief warrant officers in the Revenue-Cutter Service was announced as next in order.

Mr. KERN. Let the bill go over.

The VICE PRESIDENT. It will go over.

The bill (S. 1802) construing the provisions of section 8 of the act entitled "An act to improve the efficiency of the personnel of the Revenue-Cutter Service," approved April 16, 1908, was announced as next in order.

Mr. OVERMAN. Let the bill go over.

The VICE PRESIDENT. It will go over.

The bill (H. R. 6060) to regulate the immigration of aliens to and the residence of aliens in the United States was announced as next in order.

Mr. SMOOT. Let that go over.

The VICE PRESIDENT. The bill will go over.

The bill (H. R. 8846) making appropriation for payment of certain claims in accordance with findings of the Court of Claims, reported under the provisions of the acts approved March 3, 1883, and March 3, 1887, and commonly known as the Bowman and the Tucker Acts, and under the provisions of section No. 151 of the act approved March 3, 1911, commonly known as the Judicial Code, was announced as next in order.

Mr. GALLINGER. Let that go over.

The VICE PRESIDENT. The bill will go over.

FREDERICK B. M'GUIRE.

The bill (S. 2245) for the relief of Frederick B. McGuire, trustee for Bessie J. Kibbey, owner of lot 75, square 628, Washington, D. C., with regard to assessment and payment of damages on account of changes of grade due to construction of the Union Station, District of Columbia, was considered as in Committee of the Whole.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

CLARA DOUGHERTY AND OTHERS.

The bill (S. 23) for the relief of Clara Dougherty, Ernest Kubel, and Josephine Taylor, owners of lot No. 13; of Ernest Kubel, owner of lot No. 41; and of Mary Meder, owner of the south 17.10 feet front by the full depth thereof of lot No. 14, all of said property in square No. 724, in Washington, D. C., with regard to assessment and payment for damages on account of change of grade due to the construction of Union Station, in said District, was considered as in Committee of the Whole.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

CHARLOTTE J. PILE AND OTHERS.

The bill (S. 11) for the relief of Charlotte J. Pile, Eastmond P. Green, and Easie C. Gandell, owners of lots Nos. 53, 54, and 55, in square No. 753, Washington, D. C., with regard to assessment and payment of damages on account of change of grade due to construction of the Union Station, in said District, was considered as in Committee of the Whole.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

DESTITUTE, INFIRM, OR AGED PARENTS.

The bill (S. 1653) providing against the abandonment of destitute, infirm, or aged parents was announced as next in order.

Mr. KERN. Let the bill go over.

The VICE PRESIDENT. The bill will go over.

PENSIONS AND INCREASE OF PENSIONS.

The bill (S. 4969) granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy and of wars other than the Civil War, and to certain widows and dependent relatives of such soldiers and sailors, was considered as in Committee of the Whole.

It proposes to pension the following persons at the rate per month named:

Emma Sherwood, widow of John Sherwood, late of U. S. S. *Cumberland*, United States Navy, War with Mexico, $20 per month in lieu of that she is now receiving.

Louisa A. Thatcher, widow of Joseph L. Thatcher, late carpenter, United States Navy, and dependent mother of William J. Thatcher, late chief turret captain, U. S. S. *Georgia*, United States Navy, $24 per month in lieu of that she is now receiving.

Mary Bottino, dependent mother of Celestin Bottino, late of Company D, Seventeenth Regiment United States Infantry, War with Spain, $12 per month.

Blanche Packard, late nurse, medical department, United States Volunteers, War with Spain, $12 per month.

Marion C. Turrill, widow of Henry S. Turrill, late brigadier general, United States Army, $50 per month in lieu of that she is now receiving.

Laura E. Hess, widow of Harry G. Hess, late of Sixty-ninth Company, United States Coast Artillery, $20 per month in lieu of that she is now receiving, and $2 per month additional on account of the minor child of said Harry G. Hess until he reaches the age of 16 years.

Michael E. Breck, late of Company K, Second Regiment Massachusetts Volunteer Infantry, $24 per month in lieu of that he is now receiving.

Francis M. Good, late of Capt. Gardner's company, Ninth Regiment Oregon Mounted Volunteers, Oregon Indian War, $20 per month in lieu of that he is now receiving.

Lucinda Randall, widow of William Randall, late of the U. S. S. *Raritan*, United States Navy, $12 per month.

William Cross, late chaplain First Regiment Arkansas Volunteer Infantry, War with Spain, $20 per month.

Nana E. Sears, widow of Walter J. Sears, late commander, United States Navy, $30 per month.

Harriet G. Hayes, widow of Edward M. Hayes, late colonel Thirteenth Regiment United States Cavalry, and brigadier general, United States Army, $50 per month in lieu of that she is now receiving.

James B. Romaine, late of Troop K, Eighth Regiment United States Cavalry, $20 per month in lieu of that he is now receiving.

Catherine J. Carter, widow of Jacob Carter, late of U. S. S. *Concord*, United States Navy, Florida Indian War, $20 per month in lieu of that she is now receiving.

Thomas Jordan, late of Company D, Second Regiment Oregon Volunteer Infantry, War with Spain, $12 per month.

Henry Luch, late of Company A, Fourteenth Regiment United States Infantry, $17 per month in lieu of that he is now receiving.

Eugene P. McFadden, late of Company A, Fifth Regiment Missouri Volunteer Infantry, War with Spain, $12 per month.

Nettie Nieschang, widow of Louis E. Nieschang, late of Company D, Nineteenth Regiment United States Infantry, $12 per month.

Leonidas Recob, late of Company C, Fifteenth Regiment United States Infantry, $12 per month in lieu of that he is now receiving.

Fred Kamm, late of Company G, Thirty-third Regiment Michigan Volunteer Infantry, War with Spain, $8 per month.

Emma E. Bear, widow of Henry A. Bear, jr., late of the United States Marine Corps, $12 per month.

Bessie P. Dummer, widow of Samuel R. Dummer, late captain Company H, Tenth Regiment United States Infantry, War with Mexico, $20 per month in lieu of that she is now receiving.

Thomas Ranahan, late of the company of Indian scouts known as the Forsyth Scouts, commanded by Col. George A. Forsyth, United States Army, who participated in the battle with the Indians on the Arickaree Fork of the Republican River, in Colorado, on the 17th day of September, 1868, $20 per month.

Sigmund Schlesinger, late of the company of Indian scouts known as the Forsyth Scouts, commanded by Col. George A. Forsyth, United States Army, who participated in the battle with the Indians on the Arickaree Fork of the Republican River, in Colorado, on the 17th day of September, 1868, $20 per month.

Eli Ziegler, late of the company of Indian scouts known as the Forsyth Scouts, commanded by Col. George A. Forsyth, United States Army, who participated in the battle with the Indians on the Arickaree Fork of the Republican River, in Colorado, on the 17th day of September, 1868, $20 per month.

Mr. SHIVELY. On page 1 I move to strike out lines 6, 7, 8, and 9, in the following words:

The name of Emma Sherwood, widow of John Sherwood, late of U. S. S. *Cumberland*, United States Navy, War with Mexico, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

I move the amendment because the beneficiary has died since the bill was reported.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

IDA A. CHEW.

The bill (S. 31) for the relief of Ida A. Chew, owner of lot 112, square 721, Washington, D. C., with regard to assessment and payment of damages on account of changes of grade due to construction of the Union Station, District of Columbia, was considered as in Committee of the Whole.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

EDWARD STEWART.

The bill (S. 4311) for the relief of Edward Stewart was announced as next in order.

Mr. KERN. Let the bill go over.

Mr. CATRON. Mr. President, I should like to have the bill passed at this time. I hope the Senator from Indiana will withdraw his objection. Mr. Stewart is 84 years old. He served three and a half years in the war and was in nearly every battle in which his command was engaged during that time.

He enlisted in May, 1861, and served until March 31, 1863, when, at Louisville, Ky., the officers of his command went to a barbecue and left the soldiers standing in line; they had nothing to eat, and became dissatisfied, and quite a number of them went home. Mr. Stewart afterwards reenlisted in the Sixth Ohio Cavalry and served 17 or 18 months, when, at the close of the war, he was honorably discharged. His whole record is good. He is now 84 years old and in absolute need.

Mr. KERN. I have no objection to the passage of the bill.

The PRESIDING OFFICER (Mr. WALSH in the chair). The objection is withdrawn.

The Senate, as in Committee of the Whole, proceeded to consider the bill. It provides that in the administration of the pension laws and the laws governing the National Home for Disabled Volunteer Soldiers, or any branch thereof, Edward Stewart shall hereafter be held and considered to have been honorably discharged from the military service of the United States as a private of Company C, Second Regiment Michigan Volunteer Infantry, on the 31st day of March, 1863, but no pension shall accrue prior to the passage of this act.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

BILLS, ETC., PASSED OVER.

The joint resolution (S. J. Res. 120) creating a joint committee of Congress, and authorizing said committee to acquire, by purchase or condemnation, the property known as Monticello, and embracing the former home of Thomas Jefferson and the family graveyard in which his remains were interred, with such lands and grounds appurtenant thereto as the committee shall find necessary in order to carry out the various public objects and purposes in said resolution set forth, all of said property being located in Albemarle County, Va., was announced as next in order.

Mr. KERN. Let the joint resolution go over.

The PRESIDING OFFICER. The joint resolution will go over.

The bill (S. 3545) to provide for the highway-improvement work by the United States Department of Agriculture in cooperation with the highway departments of the several States was announced as next in order.

Mr. GRONNA. I ask that the bill may go over.

The PRESIDING OFFICER. The bill will go over.

JOHN W. CUPP.

The bill (S. 201) for the relief of John W. Cupp was announced as next in order.

Mr. KERN. Let that go over.

Mr. BRISTOW. I do not think the Senator wants this bill to go over. It is for the relief of a postmaster who was authorized to put his money in a national bank. The bank failed, and this is to reimburse him.

Mr. KERN. Very well.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill, which had been reported from the Committee on Claims with an amendment, in line 6, after the word "of," to strike out "$229.48" and to insert "$205.71," so as to make the bill read:

Be it enacted, etc., That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay, out of any moneys in the Treasury of the United States not otherwise appropriated, to John W. Cupp, late postmaster at Galion, Ohio, the sum of $205.71, to reimburse him for the payment of said sum, which, as postmaster, he had deposited as funds of the post office at Galion, Ohio, in the Galion National Bank, and which funds were lost by reason of the insolvency and failure of said bank.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

ESTATE OF JAMES HARVEY DENNIS.

The bill (S. 3808) to carry out the findings of the Court of Claims in the case of James Harvey Dennis was announced as next in order.

Mr. JAMES. This is a very meritorious bill and carries out the findings of the Court of Claims. I sincerely trust that no Senator will object to its consideration. It pays a claim that ought to have been paid many years ago. A bill similar to this one, which has been favorably reported from the Committee on Claims of the Senate, has passed the House of Representatives and is now upon the calendar. It is House bill 11040, which I ask be substituted for this bill.

The PRESIDING OFFICER. Without objection, the substitution will be made.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. 11040) to carry out the findings of the Court of Claims in the case of James Harvey Dennis. It proposes to pay to L. Helen Dennis, administratrix of the estate of James Harvey Dennis, deceased, the sum of $26,538, in accordance with the findings of the Court of Claims reported in Senate Document No. 619, Sixty-second Congress, second session, said sum to be accepted and receipted for in full of said claim against the Government; but L. Helen Dennis shall file in the Treasury Department a certificate showing her appointment as administratrix of said estate and a certified copy of her bond, which bond must be at least equal in amount to the sum hereby appropriated. If L. Helen Dennis be dead or no longer holding said office, payment shall be made to her successor upon his or her complying with the same requirements as herein provided with respect to the said L. Helen Dennis, administratrix.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

Mr. GALLINGER. Let the Senate bill be indefinitely postponed.

Mr. JAMES. I move that the bill (S. 3808) to carry out the findings of the Court of Claims in the case of James Harvey Dennis be indefinitely postponed.

The motion was agreed to.

T. S. WILLIAMS.

The bill (H. R. 1055) for the relief of T. S. Williams was considered as in Committee of the Whole.

The bill was reported from the Committee on Claims with an amendment, in line 6, to strike out "$315.55" and insert "$47.17," so as to make the bill read:

Be it enacted, etc., That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to T. S. Williams the sum of $47.17, in full compensation for payments made by the said T. S. Williams to secure the service of a mail carrier from August 6, 1900, to June 30, 1902, at Williamsburg, Idaho.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time and passed.

SIMON M. PRESTON.

The bill (S. 691) for the relief of Simon M. Preston was considered as in Committee of the Whole. It proposes to pay to Simon M. Preston, of Seattle, Wash., the sum of $5,838.36, the amount of the defalcation of D. C. Kearns, a deputy collector under Simon M. Preston, who was collector of internal revenue for the first election district of Mississippi from the 1st of June, 1869, to the 22d of May, 1873, which sum was repaid to the United States Government by Simon M. Preston, and its collection by him from D. C. Kearns having been hindered and prevented by his pardon by the President of the United States and the remission of the fine equivalent to said sum.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

FREDERICK J. ERNST.

Mr. SMITH of Maryland. Mr. President, the Senate has this afternoon pass the bill (S. 1128) for the relief of Frederick J. Ernst. I find on the calendar a similar bill which has passed the House of Representatives. I ask that the Senate reconsider the vote by which the Senate bill was ordered to a third reading, read the third time, and passed, and proceed to the consideration of the House bill.

The VICE PRESIDENT. Without objection, the vote by which the Senate passed the bill S. 1128 will be reconsidered. The Chair hears none.

Mr. SMITH of Maryland. I now move that the Senate proceed to the consideration of House bill 4405.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. 4405) for the relief of Frederick J. Ernst, which had been reported from the Committee on Claims with an amendment, on page 1, line 4, after the words "sum of," to strike out "$1,500" and to insert "$730," so as to make the bill read:

Be it enacted, etc., That the Secretary of the Treasury be, and he is hereby, directed to pay to Frederick J. Ernst the sum of $730, which sum is hereby appropriated out of any money in the Treasury not otherwise appropriated, said sum to be payment in full for injury sustained by the breaking of a carboy of vitriol oil while storing the same for the United States Government at the Washington Navy Yard, September 12, 1906.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The amendment was ordered to be engrossed and the bill read a third time.

The bill was read the third time and passed.

Mr. SMITH of Maryland. I now ask that the bill (S. 1128) for the relief of Frederick J. Ernst be indefinitely postponed.

The VICE PRESIDENT. In the absence of objection, it will be so ordered.

MISSOURI RIVER BRIDGE AT KANSAS CITY.

Mr. SHIVELY obtained the floor.

Mr. SMOOT. Will the Senator from Indiana yield for just a moment?

Mr. SHIVELY. I yield.

Mr. SMOOT. I want to ask unanimous consent on behalf of the senior Senator from Missouri [Mr. STONE] for the consideration of the bill (H. R. 14189) to authorize the construction of a bridge across the Missouri River near Kansas City.

Mr. BRISTOW. The next bill on the calendar is just as important as a bridge bill.

Mr. SMOOT. Of course, if the Senator from Kansas objects——

Mr. BRISTOW. Let us follow the regular order.

Mr. SMOOT. I understood the Senate was going into executive session, and that is why I made the request.

Mr. BRISTOW. I would like for the Senator from Indiana to withhold his motion for an executive session until the bill for the relief of Oakley Randall is passed. It is only for $160, to pay for actual service in the Army.

Mr. SHIVELY. Very well.

OAKLEY RANDALL.

The bill (S. 1216) for the relief of Oakley Randall was considered as in Committee of the Whole. It proposes to pay to Oakley Randall, of Worthington, Marion County, W. Va., $160, due him for services rendered as a volunteer soldier in the Fourteenth Regiment West Virginia Volunteer Infantry during the Civil War.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

EXECUTIVE SESSION.

Mr. SHIVELY. I move that the Senate proceed to the consideration of executive business.

Mr. SHEPPARD. Will the Senator from Indiana yield to me for a moment? I have waited here all the afternoon——

Mr. SHIVELY. I have been on the point of making this motion for the last 30 minutes, but I have been yielding.

Mr. SHEPPARD. I request the consideration of a bill which carries no appropriation.

Mr. SMITH of Arizona. I desire the consideration of the bill on the calendar after the one in which the Senator from Texas is interested.

Mr. SHEPPARD. I ask unanimous consent that when we consider the calendar the next time we begin at this point.

Mr. SMITH of Arizona. That would require a call of the roll.

Mr. SHIVELY. I renew my motion that the Senate proceed to the consideration of executive business.

The motion was agreed to, and the Senate proceeded to the consideration of executive business. After five minutes spent in executive session the doors were reopened.

RECESS.

Mr. KERN. I move that the Senate take a recess until Monday morning next at 11 o'clock.

The motion was agreed to; and (at 5 o'clock and 30 minutes p. m., Saturday, June 6, 1914) the Senate took a recess until Monday, June 8, 1914, at 11 o'clock a. m.

CONFIRMATIONS.

Executive nominations confirmed by the Senate June 6, 1914.

ENVOY EXTRAORDINARY AND MINISTER PLENIPOTENTIARY.

John L. Caldwell to be envoy extraordinary and minister plenipotentiary to Persia.

POSTMASTERS.

INDIANA.

William W. Drake, Greenwood.
Charles A. Steele, Rising Sun.

KANSAS.

A. H. Hecox, Iola.
Uriah C. Herr, Medicine Lodge.
Charles N. Page, Oberlin.
George E. H. Six, Lyons.

MASSACHUSETTS.

Robert H. Howes, Southboro.
Edward F. Maher, Hyannis.
Eugene Meagher, Rockport.
John O'Hearne, Taunton.

MICHIGAN.

H. W. Hagerman, Sturgis.

NEW JERSEY.

Emery Benoit, Edgewater.

TENNESSEE.

A. M. Riggs, Lafollette.

HOUSE OF REPRESENTATIVES.

SATURDAY, *June 6, 1914.*

The House met at 12 o'clock noon.

The Rev. N. H. Holmes, D. D., of Washington, D. C., offered the following prayer:

O Lord our God, hear our prayers we beseech Thee for our country's representatives, that wisdom and strength may be given them to perform their every duty to the approval of their conscience, their constituency, and, above all, to God, the Judge of all men.

Mercifully guard their loved ones, that no illness or death enter the gates of their home life, nor any harm come near their dwelling places, while they are absent one from another.

Grant, we humbly pray, that these leaders of a Nation may enjoy a growing acquaintance with the Man of Galilee to the exaltation of their views of life, duty, and death, and to sustain them in all their arduous toils, with the hope that when their workday is over a grateful country and a merciful God will pronounce upon each of them the plaudits, "Well done, good and faithful servant"; through Jesus Christ our Lord. Amen.

The Journal of the proceedings of yesterday was read and approved.

LEAVE OF ABSENCE.

Mr. SIMS, by unanimous consent, was granted leave of absence, indefinitely, on account of illness in family.

CHANGE OF REFERENCE.

The SPEAKER. By clerical mistake the bill (H. R. 14128) granting permission to Lieut. Col. John P. Finley to accept and wear a decoration presented by the Sultan of Turkey was referred to the House Calendar. It should have been referred to the Private Calendar. Without objection, the change will be made.

There was no objection.

NAVAL APPROPRIATION BILL.

Mr. PADGETT. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the naval appropriation bill, with Senate amendments, disagree to the Senate amendments, and ask for a conference.

The SPEAKER. The gentleman from Tennessee [Mr. PADGETT] asks unanimous consent to take from the Speaker's table the naval appropriation bill, disagree to the Senate amendments, and ask for a conference—or does the gentleman from Tennessee ask to agree to a conference?

Mr. PADGETT. I ask for a conference. I understand the Senate has named the conferees.

Mr. MANN. I ask that the gentleman let it go over.

Mr. PADGETT. All right. Will it be satisfactory to call it up Monday?

Mr. MANN. Likely; but I will not say.

SUNDRY CIVIL APPROPRIATION BILL.

Mr. FITZGERALD. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill H. R. 17041, the sundry civil appropriation bill; and pending that, I will ask the gentleman from Massachusetts [Mr. GILLETT] if we can agree upon time for general debate?

Mr. GILLETT. I think it would be better to wait and let general debate run on for to-day. It may be possible to complete it to-day, but I doubt it, in view of the applications I have.

Mr. FITZGERALD. I think it might be much preferable if we could fix the time—the number of hours it will consume.

Mr. GILLETT. I am advised on this side that they are not ready to fix the time. I have had applications for five hours to-day.

Mr. FITZGERALD. I should think that the House would have talked itself pretty well out in the last two or three days.

Mr. GILLETT. I do not suppose that Members on this side desire to discuss the matters that have been occupying our attention for the last few days.

Mr. MANN. The Members on this side observed the recent rule, and only discussed the matters under consideration.

Mr. GARNER. That has not been invariable on that side.

Mr. MANN. I think it has.

Mr. GARNER. Oh, no. The gentleman from Pennsylvania [Mr. MOORE] made a political speech, and the gentleman from Ohio touched on that a little himself.

Mr. FITZGERALD. Mr. Speaker, I ask unanimous consent that the time for general debate be controlled one-half by the gentleman from Massachusetts and one-half by myself.

The SPEAKER. The gentleman from New York asks unanimous consent that the time be controlled one half by himself and the other half by the gentleman from Massachusetts. Is there objection? [After a pause.] The Chair hears none.

The question now is on the motion of the gentleman from New York [Mr. FITZGERALD] to go into Committee of the Whole House on the state of the Union for the consideration of the sundry civil bill.

The motion was agreed to.

Accordingly the House resolved itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill (H. R. 17041) making appropriations for the sundry civil expenses of the Government for the fiscal year ending June 30, 1915, and for other purposes, with Mr. GARRETT of Tennessee in the chair.

Mr. FITZGERALD. Mr. Chairman, I yield 45 minutes to the gentleman from Illinois [Mr. RAINEY]. [Applause.]

Mr. CULLOP. Mr. Chairman——

The CHAIRMAN. For what purpose does the gentleman from Indiana rise?

Mr. CULLOP. To ask unanimous consent to insert in the RECORD an article from the Terre Haute Tribune, of Terre Haute, Ind., of June 4, 1914, concerning the condition of the window-glass industry.

The CHAIRMAN. Does the gentleman from Illinois [Mr. RAINEY] yield to his colleague, the gentleman from Indiana?

Mr. RAINEY. I do.

The CHAIRMAN. The gentleman from Indiana [Mr. CULLOP] asks unanimous consent to insert in the RECORD the matter indicated.

Mr. MANN. We could not hear what the matter indicated was.

Mr. CULLOP. It is an article from the Terre Haute Tribune, of Terre Haute, Ind., relative to the condition of the window-glass industries in that city, in which city some of the largest factories in the United States are located, especially the North Baltimore plant. This article shows them to be in a most prosperous condition, unable to fill their orders.

The CHAIRMAN. Is there objection?

Mr. HUMPHREY of Washington. Mr. Chairman, reserving the right to object, I ask to insert an editorial from the Iron Trade Review in regard to the tin-plate industry, showing the increase of importations in that industry.

The CHAIRMAN. The time of the gentleman from Illinois [Mr. RAINEY] is running. Does the gentleman couple his request with that of the gentleman from Indiana?

Mr. GARNER. Let us have each one of these requests put separately.

The CHAIRMAN. Is there objection to the request of the gentleman from Indiana [Mr. CULLOP]?

There was no objection.

Mr. CULLOP. The following is the article referred to:

"LOCAL GLASS PLANTS KEEPING FORCES BUSY—FULLY 2,000 MEN AT WORK AT THREE FACTORIES WITH SUMMER PROSPECTS UNUSUALLY GOOD.

"Prospects for the summer business at the glass factories in Terre Haute are better this year than in any previous year, according to the statements made at the three concerns Thursday. At the North Baltimore glass factory it was necessary to refuse several big orders recently, because the factory lacked the equipment to turn out the orders. The Turner and the Root glass factories both report that they are running full forces.

"'We are using about 900 men on full time at the present,' said A. L. Pfau, of the North Baltimore company. 'This is the twenty-seventh year for the plant, and we are turning out more goods now than ever before. We will keep our men working at capacity up until the first week in August. Business for next fall is coming in already, and we have several large contracts that will keep the men busy beginning with the first week in September. It will be necessary to enlarge two of the furnaces during the month of August, and this will increase the force to a hundred more men. We expect a record business next year.'

"RUNNING AT CAPACITY.

"At the Root glass factory the regular force is running at capacity. Between 600 and 700 men are employed regularly at the plant, and these men are kept busy supplying the orders on hand. According to a statement made by the manager of the plant, men will be used full time throughout the summer. The plant will draw its fires the first week in August and the work will open with a full force in September.

"'Although we are not working as many men as we would like to, we can't complain of the business,' said C. M. Turner, of the Turner glass factory. 'At the present we are working about 400 men. The explosion of a large glass tank last week made it necessary to lay off 100 men. Business is as well as could be expected. We intend to open next fall with a full force.'

"All fires at the glass plants will be drawn the first week in August and the plants will resume work the first week in September. At the North Baltimore plant the traveling men have been soliciting no orders since January 1, because the plant had all the orders it could take for the summer."

The CHAIRMAN. Is there objection to the request of the gentleman from Washington [Mr. HUMPHREY]? [After a pause.] The Chair hears none.

Mr. RAINEY. Mr. Chairman, I expect to discuss the question of corn, and I would like very much to be permitted to discuss that question and that question alone during the time I shall address the committee. On this floor for quite a number of weeks the tariff bill has been the subject of attack from the Republican side of this House, and those attacks usually center about that clause in the Underwood tariff bill which puts corn on the free list. It has been frequently asserted on the Republican side of this House that corn in large quantities was on its way to the city of Chicago. I called attention to what I believed then to be a fact during the address delivered by the gentleman from Minnesota [Mr. HAMMOND],

that only one carload of corn was on its way to Chicago or would likely reach Chicago. And some gentlemen on the other side most violently combated this statement, and insisted that hundreds of thousands of bushels of corn had been purchased for May delivery in Chicago, where prices for corn are made in this country, and which is our great corn market.

Now, whenever hundreds of thousands of bushels of corn from the Argentine Republic reach Chicago, Ill., they will commence to carry coals to New Castle. Some days ago there appeared in a Chicago paper, under great scare headlines, the statement that Argentine corn was on its way to Chicago, and under the headlines there appeared this article:

The first shipment of Argentine corn to come to Chicago is on its way here from New York. The buyers are Loomis & Edwards, and the car contains 60,000 pounds. According to the junior partner of the above firm, the corn is coming here in the way of a trial as chicken feed.

When I made that statement on this floor, a distinguished Republican Member indulged in a ghost dance on that subject and denied the statement, insisting that a very large amount of corn, some hundreds of thousands of bushels, had been purchased for May delivery in Chicago. I took the matter up with the Secretary of Agriculture, and he, after investigating the matter, advised me that he could hear of only one carload of Argentine corn that had as yet reached Chicago, and this was well along in the month of May.

I took the matter up with the secretary of the board of trade in Chicago, and he wrote me a letter, to which I may have occasion to refer again soon, advising me that 500,000 bushels of Argentine corn had been purchased for May delivery in the city of Chicago.

Now, I knew no corn could reach Chicago. I watched the Chicago papers all through the month of May, and no corn reached Chicago—not a bushel—except this one carload that was shipped there for the purpose of experimenting with it to see whether chickens would eat it or not.

I was not satisfied with my examination of the daily papers of Chicago, and so I wired yesterday to the secretary of the board of trade in Chicago and asked him what had become of that corn intended for May delivery in the city of Chicago. He had previously in his letter told me that it was expected that that tremendous shipment of corn would be stopped at Montreal and would be shipped to New England points. He wired me in reply, advising me that the corn that was purchased for May delivery in Chicago had been all stopped on the Atlantic coast for sale in New England. In his prior letter to me he had advised me that corn was at that time being shipped from Chicago to New England, and therefore he considered it extremely unlikely that these 500,000 bushels would reach Chicago. It would not be good business judgment to pay the freight on it to Chicago and then ship it back to New England. In his telegram yesterday he advised me, as I stated, that these 500,000 bushels of corn were stopped at Atlantic ports for New England delivery.

A fleet of grain vessels was organized once in Chicago for the purpose of carrying grain from Chicago to Liverpool through the Welland Canal and the Laurentian Canals, all the way without breaking bulk. This fleet of vessels was organized by the late Charles Councilman. They drew less than 14 feet of water. They were less than 255 feet long, and therefore they could go out through the Welland Canal. They made only two or three trips, and the fleet of vessels was disorganized and the vessels were sold soon after Mr. Councilman started on this plan. I asked the secretary of the Chicago Board of Trade why this happened, and he told me—and, of course, the fact is apparent to everyone—he told me that these ships could get no return cargoes from Liverpool or other European ports to Chicago; that shipments of grain from Chicago to Liverpool were irregular, and you could not tell when a vessel ought to go, and therefore the business of Charles Councilman did not succeed, and after just two or three trips he was compelled to abandon it.

Now, for the same reason Argentine corn can never reach Chicago in vessels that can go through the canal, for the reason that return cargoes from Chicago to the Argentine Republic are simply out of the question. We shall never see the day in this country when Chicago has a trade with the Argentine Republic that will authorize the installation of a line of vessels.

I am aware of the fact, however, that a peculiar condition with reference to freight rates prevails to-day upon the high seas. Ocean freight rates are cheaper than they have been for years, and the whole carrying trade of the ocean highways of the world seems at the present time to be disorganized, and vessels are not making the same regular trips they have made heretofore. So I thought it might be possible that this particular corn was purchased in good faith; that the contracts were really made in Chicago for the shipment of this corn in vessels that could reach Chicago and go all the way there by water. The figures for importations of corn for the month of May are not yet available, and so yesterday I wired all the ports in the United States—all the collectors of customs at those ports—where Argentine corn is likely to enter. I wired the collector of customs at Mobile, the collector at New Orleans, the collector at Galveston, the collector at New York, and the collector at Philadelphia. I was advised by the department that corn was expected at no other ports than these. But in order to examine more thoroughly into the Chicago transactions I wired also Boston. I got the reply from the collector of the port at Boston that no Argentine corn had reached that port during the month of May. I got the reply from the collector at Philadelphia that no Argentine corn had reached that port in the month of May. Argentine corn reached New Orleans, Galveston, New York, and Mobile during the month of May. Four hundred and two thousand four hundred and one bushels reached New York in May.

Now, this was all the corn that was brought here during the month of May that could possibly be stopped on the Atlantic coast by these Chicago grain speculators to be shipped to New England. But the Corn Products Co. has been the most important buyer in this country. Their plant at which purchases of Argentine corn are made is located at Edgewater, N. Y. I wired the president of the Corn Products Co. at Edgewater, asking him to advise me how much corn he had received at his plant for manufacture during the month of May, and he advised me that he had received 120,000 bushels. Now, this left only 282,401 bushels that could be stopped by Chicago traders at any Atlantic coast port from which distribution points in New England could be reached. This amount has been just about the amount of Argentine corn purchased each month by New York traders for their customers in New York. Therefore I have reached the conclusion—and I think the evidence bears me out in the statement—that these corn transactions, apparently made of record on the Board of Trade of Chicago, were absolutely fraudulent. There was no intention ever to deliver 500,000 bushels or any number of bushels of Argentine corn in Chicago in May except the one carload of chicken-feed corn to which I have called attention. It was never delivered there. It was never deflected at Montreal. It was never stopped on the Atlantic coast. It was never even purchased in the Argentine Republic.

The corn that reached New York in May came on these five ships—the *Byron*, the *Van Dyke*, the *Anselm*, the *Queen Helena*, and the *Siam*. The *Byron* and the *Van Dyke*, as I find this morning by consulting the Chief of the Bureau of Navigation, have regular lines. They belong to the Lamport & Holt Line. They carry mails, and they are too big to get to Chicago. It is not at all probable that ships which carry mail and have regular routes could be even sent as far as Montreal. These two ships have never been in that trade.

The *Anselm* belongs to a Spanish company, is 264 feet long, and usually runs on regular routes. It never goes even to Montreal. Sometimes, however, it becomes a tramp steamer.

The *Queen Helena* belongs to a British company, the Dunlap Steamship Co., and is 364 feet long.

There are in the world four ships named *The Siam*. I do not know which one of them went to New York in May with corn from the Argentine Republic; but the very smallest of them is 258 feet long at the water line, and could not get through the Welland Canal. The Welland Canal locks are 270 feet long, have a depth over the miter sills of 14 feet, a width of 45 feet, and a ship 255 feet long on the water line is the very largest ship that can possibly go through that canal, owing to the fact that the extreme length of a vessel above the water line would be more than 270 feet if the vessel was over 255 feet in length at the water line. The smallest one of these five ships arriving at the port of New York was at least 3 feet too long to go through the Welland Canal. The evidence is absolutely convincing that these trades were never made. They were simply registered there in Chicago for the purpose of keeping down the price of May corn, and that is all there was to the transaction. They may have been made a matter of record there for the purpose of giving Republicans in this House an opportunity to make some speeches or some references to the question, and several of these gentlemen—I will not mention their names, for I do not wish to make them appear any more absurd than they have made themselves appear by believing these stories—several gentlemen on that side became victims of this sort of a hoax. No Argentine corn has reached Chicago. None of it will reach Chicago. No trades of this kind were made. The evidence is absolutely convincing, and that disposes of that argument.

The secretary of the Chicago Board of Trade, in one of his letters to me, told me that a through water rate from Argentina to Chicago for this proposed shipment had been made of 12 cents a bushel, and that this contemplated the transfer at Montreal of the cargoes to vessels that could go through the canal and included the expense of transferring the grain, which he stated was to be 2 cents a bushel. Of course, such an arrangement as this would be possible. It might be possible to assemble a fleet of lake vessels at Montreal to receive from these larger vessels I have named their cargoes of grain, but such an arrangement as this would not be at all probable, and the fact that the greater number of these vessels had regular routes and carry mail and could not be expected under any circumstances to go to Montreal shows that Chicago traders, anxious to keep down the price of May corn, deceived the officials of the Chicago Board of Trade as to this transaction. I will undertake to say that an examination of the papers of these vessels will show that not one of them had Montreal as its destination. If any one of these vessels was destined for Montreal, how was it possible to stop it in the high seas and land it at ports from which New England points could be reached, unless, of course, the vessels were equipped with a wireless apparatus? It is hardly possible that all of them were. At any rate the evidence I have collected shows that these pretended contracts for May delivery of Argentine corn in Chicago were a trick, an attempt to perpetrate a hoax upon the public, which, judging from the price of May corn in Chicago, was so clumsy that it did not succeed. The freight cost of delivering a bushel of corn from the Argentine Republic to Chicago by any possible ordinary route—by water to New York, by rail to Chicago—is 22 cents; of course, absolutely prohibitive, now and always.

Now, I have brought here this afternoon some samples of corn. I have here a sample of the old crop of Argentine corn and a sample of the new crop, which has just commenced to come in—all yellow corn. Side by side with these in another box is a sample of the yellow dent variety of corn raised in the corn belt of the West. This is the first Argentine corn of any kind to reach the city of Washington. The only Argentine corn that has ever come here was consigned to me, and I received it at my office. I have in my possession letters written to the Galt Co. feed store here in Washington, the leading company here handling corn, to whom I am indebted for some of these samples, written by New York dealers in Argentine corn a few weeks ago. In this letter these dealers made a price in New York of 71 cents per bushel, and advised the Galt Feed Store Co. here that it would cost 10½ cents per hundred pounds to get the corn down here to Washington. Of course this was prohibitive. Larger ships can reach Washington than can reach the city of Chicago from the Atlantic. Washington is a great corn-consuming point, and not a single bushel of Argentine corn, except these small samples that I have obtained here, has reached this city. Argentine corn at the present time reaches our seaport cities.

This corn is not used without grinding or cooking for feeding purposes, not even in the Argentine Republic. Up in New England and in New York they raise a flint corn which very much resembles this. They are accustomed to that kind of corn up there, and they use it for feed to a certain extent when they can not get our western corn. If any gentleman who knows anything about feeding stock thinks this Argentine corn, of either the old or the new crop, would do to feed whole to stock in that section of the Middle West where we raise corn and where we engage in animal husbandry, I want him to try to bite some of it and see whether he can or not. This is the hardest flint corn raised anywhere in the world. It could not be fed successfully to our beef animals in the West or to our hogs without either cooking it or grinding it. A gentleman who has just come down here to the table and examined it suggests that it looks very much like popcorn.

In the Argentine Republic they have about 10,000,000 acres in corn at the present time. We have in the United States 107,000,000 acres in corn. On the western continent there are 130,000,000 acres of corn lands, and we have within our boundaries the enormous acreage to which I have just called attention. We have a monopoly of the corn-producing business of the world, absolutely unassailable. If the entire product of the Argentine Republic could reach our shores, all they can ever possibly have to export, we would not know it ever came here if it were not for the speeches gentlemen on that side of the House so frantically make. I have obtained from these ports the shipments for the month of May. In the month of April we only brought 94,000 bushels of Argentine corn to the United States. Argentine corn matures in the month of April, and the new crop, of which I have a sample here, is just beginning to come in. During the month of May we brought in a little over 1,000,000 bushels of Argentine corn, probably most of it belonging to this new crop. We have brought up altogether from the Argentine Republic since the 3d of October, when the tariff bill went into effect, a little over 9,000,000 bushels of Argentine corn, including these May shipments. Now, that is all.

We have one county in the State of Illinois, McLean County, where they raise every year nearly twice as much corn as has reached the United States from Argentina since the Underwood tariff bill became a law. In McLean County, Ill., they raise every year over 16,000,000 bushels of corn. We have five counties in Illinois where they raise every year more corn than has yet come into this country from the Argentine Republic. The product of each of these five counties is all the way from 12,000,000 bushels to 16,000,000 bushels of corn every year. We raise in the State of Illinois alone, or in the State of Iowa either, twice as much corn as they can ever hope to raise for export in any one year in the entire Argentine Republic.

We have in corn in Illinois, and in Iowa also, an area larger than the entire corn area of the Argentine Republic. Recently Mr. Lavenir, of the agricultural department of the Argentine Republic, wrote an exceedingly interesting treatise on Argentine corn possibilities. His article has been carefully analyzed by that great farm paper, Wallace's Farmer. I presume they got it from his article. I know of no other place where they could have obtained this information. According to the analysis of Mr. Lavenir's article, compared with the corn situation in our country, Wallace's Farmer finds that our corn land is better than Argentine corn land; that it contains more of the elements which go to make up corn land than does the Argentine land, and that the Argentine corn land is already wearing out; that it is not likely, on account of the sandy nature of the Argentine soil, on account of the fact that alfalfa grows there so readily, that there will be any great extension of the area of corn land in the Argentine Republic.

We have engaged in the business of producing corn in the United States——

Mr. BUCHANAN of Illinois. Will the gentleman yield?

Mr. RAINEY. Yes.

Mr. BUCHANAN of Illinois. Has the gentleman any information as to how much corn Illinois and Iowa produce annually?

Mr. RAINEY. About 400,000,000 bushels each.

Mr. CULLOP. If the gentleman from Illinois will allow me, I want to suggest to the gentleman that in Indiana we produce more corn annually than is produced in the Argentine Republic.

Mr. RAINEY. And you do not claim to be a corn State, either. We have engaged in the business of agriculture in the United States, according to the last census of farmers, planters, and overseers, 5,281,557 persons, and of agricultural laborers 3,004,061—in all, 8,285,618, about one-twelfth of our population, are engaged in this industry. It is fair to presume that in the Argentine Republic about the same ratio prevails, although I have not been able to get any data on the subject. If that is true, then there are in the Argentine Republic about 600,000 persons engaged in producing corn. Six hundred thousand persons in the Argentine Republic competing with over 8,000,000 men trained to this industry in the United States, producing corn, and operating on only 10,000,000 acres as against our 107,000,000 acres—why, the situation is absurd.

They raise corn all over the world. There is not a nation of Europe that does not raise corn, and yet in all Europe they only raise 654,000,000 bushels of corn in a year. That is the best they can hope to do. In the United States our shortage alone last year was nearly 700,000,000 bushels. We raise over 3,000,000,000 bushels of corn within the boundaries of the United States. The shortage of corn alone in the United States last year was greater than the entire annual production of all Europe.

Mr. CULLOP. Will the gentleman yield?

Mr. RAINEY. Yes.

Mr. CULLOP. I would like to ask the gentleman if he has any statistics in regard to the amount of exports of corn this year by the United States?

Mr. RAINEY. Yes; we export corn every year. The figures for corn exported in April, the latest I have, is 709,098 bushels.

Mr. CULLOP. Has the gentleman the amount up to the 1st of April?

Mr. RAINEY. I have not.

Mr. CULLOP. I would like to state that the amount up to this time is something near 4,000,000 bushels, in round numbers.

Mr. RAINEY. I thank the gentleman. During April we sent to Canada 434,730 bushels of corn. Why did not Chicago traders buy Argentine corn for Canada? We shipped corn to Cuba in April, 223,508 bushels. If they had corn on the way from the Argentine Republic, why did they not stop it at Cuba?

Now, one-half the corn brought to this country goes to the Corn Products Co., at Edgewater, N. Y. I have here a series of letters which I received from the president of that company and from the export manager of that company. The Corn Products Co. have four plants, three in Illinois and one of them at Edgewater. The Edgewater plant was built for the purpose of manufacturing corn for export and for that purpose alone. That is the business in which they engage. On account of the scarcity of corn in the West—Illinois, where we had a drought—they have been temporarily supplying a small demand in the immediate neighborhood of their factory. They have been bringing in about half their supplies from the Argentine Republic. I have here a letter from the president of the Corn Products Co., dated June 4, day before yesterday, in which he advises me that if it had been impossible for him to have obtained Argentine corn this year that great plant would have closed, and we would have lost the tremendous export business from the Edgewater plant, amounting to 10,000,000 bushels every year. They employ there from 700 to 900 men. They could move their plant just as well to the other side. The business of manufacturing corn products is a highly competitive business. They could move the plant to England, and they could get there just as good ocean freight rates and, as he says, perhaps better freight rates from the Upper Plate River, from where this corn comes, than from the Upper Plate River to Edgewater, N. Y., where he can unload right at his factory. But he has been bringing the Argentine corn here, manufacturing it here, and shipping the product abroad. Now, 4,000,000 bushels is all the corn that has been brought to the United States since the bill went into effect that could possibly have come into competition with American farmers. And now let me analyze, if I can, what that situation is.

Mr. ADAIR. Mr. Chairman, will the gentleman yield before he gets to that?

Mr. RAINEY. Certainly.

Mr. ADAIR. Prior to the taking effect of the Underwood tariff law had this Corn Products Co. been importing corn for this Edgewater plant from any other country?

Mr. RAINEY. Yes; and manufacturing it under rebate, getting it practically free.

Mr. ADAIR. And some had come from the Argentine to this plant prior to the passage of this bill?

Mr. RAINEY. Yes; some had come from the Argentine, and some from the Danube Provinces, and during the month of September, before this bill went into effect, we brought into this country over 500,000 bushels of corn, nearly all of it coming from the Argentine Republic.

Mr. GOOD. Mr. Chairman, will the gentleman yield?

Mr. RAINEY. Certainly.

Mr. GOOD. If I understand the gentleman correctly, his argument is to the effect that the importation of corn from the Argentine has not lowered the price to the American farmer of the corn that he has to sell?

Mr. RAINEY. Yes; and I am going to discuss that now. It would lower the price, perhaps, if it furnished serious competition. That is the only way to lower the price of anything. Let me see what the competition has been. We have brought in at the outside 4,000,000 bushels that could in any way be considered in competition with the American farmer. We really have not brought in that much. We raise in this country in a year, and we are talking now about a year's yield, 800 bushels of corn for every bushel of corn that has come into the country from the Argentine Republic to go on the market here.

Mr. HARDY. Mr. Chairman, will the gentleman yield for a suggestion?

Mr. RAINEY. Yes.

Mr. HARDY. I understand the gentleman to take the position, though not definitely clear, that that corn which came in for export was not affected by any reduction of the tariff, because before the Underwood bill was passed it was introduced, by rebate, and exported without the payment of any tariff dues.

Mr. RAINEY. Yes; without the payment of any tariff except 1 per cent, absolutely nominal, just enough to reimburse us for keeping books at New York, and this could have continued just the same. For every 75 cents' worth of corn the Argentine farmer brings to this country, we produce over $600 worth of corn. Is there any competition about that?

Mr. GOOD. Mr. Chairman, will the gentleman yield?

Mr. RAINEY. Yes.

Mr. GOOD. If I remember correctly, last year we produced 2,445,000,000 bushels of corn.

Mr. RAINEY. Yes; about that much.

Mr. GOOD. Of which we fed on our farms 80 per cent, leaving to be sold less than 500,000,000 bushels of corn. This year in Argentina, if I understand the statistics correctly——

Mr. RAINEY. Mr. Chairman, I would rather the gentleman would not put his statistics in my speech.

Mr. GOOD. I just want to ask my question. The gentleman is dealing with statistics, and in order to ask my question I must, also. If I remember correctly, the Agricultural Department claims that the export surplus of corn from Argentina in the crop they are now harvesting will amount from 240,000,000 to 250,000,000 bushels. Therefore I want to ask the gentleman if it will not make serious competition for a country to import into this country corn free of duty, to the amount of from 240,000,000 to 250,000,000 bushels as against the crop the American farmer has to sell here of less than 500,000,000 bushels?

Mr. RAINEY. We do not export the amount of corn the gentleman talks about.

Mr. GOOD. I am talking about the amount that we have for sale.

Mr. RAINEY. We use it ourselves on our farms.

Mr. GOOD. We use 80 per cent.

Mr. RAINEY. Yes; the greater portion of what the farmer raises to sell is used also on farms.

Mr. GOOD. Oh, the gentleman is mistaken about that. The Agricultural Department has contended all along——

Mr. RAINEY. The Corn Products Co. uses 2 per cent of the entire product of this country and the greater portion of what remains is consumed here. We exported 189,000,000 bushels of corn in 1897, and we did that when the price of corn in Chicago ranged from 21 to 31 cents a bushel. We did that when there was a protection of 15 cents a bushel on corn. From 1897 to 1909 we added in this country to our corn-producing area 25,000,000 acres of land. The figures are not available as to how much we have added since 1909, but it is safe to assume that from 1897, when we had this low-priced corn under a Republican tariff of 15 cents a bushel and exported this amount, we have added to the corn-producing area in this country 30,000,000 acres of land, three times as much land as there is in corn in the entire Argentine Republic. We have furnished the farmers, the growers of corn, those who grew corn in 1897, with three times as much competition as could have been furnished by the Argentine Republic if the Argentine Republic had been moved bodily and set down here as a part of our coast, and yet corn has been going up in this country ever since, and there is a shortage in the country to-day in the corn area. We have not as many acres in corn as we ought to have in order to supply our immense and our rapidly increasing population, and while from 1897 until the present time the price of corn has been going up, the amount that we have exported has been going down until last year we only exported 45,000,000 bushels.

Mr. ALEXANDER. Mr. Chairman, will the gentleman yield?

Mr. RAINEY. Yes.

Mr. ALEXANDER. The gentleman from Iowa [Mr. GOOD] stated that the farmers would sell about 500,000,000 bushels of corn, being the excess of the amount they feed, and that Argentina would have about 240,000,000 or 250,000,000 bushels for export. What proportion of that corn for export in Argentina would come to this country in competition with the 500,000,000 bushels?

Mr. RAINEY. The Argentine Republic raised in 1913 a bumper crop of corn. They had never raised so much corn there as they raised then, and they exported to all the world in that year only 190,000,000 bushels of corn, which was much more than they had ever exported before. If they raise a bumper crop every year and bring every bushel that they have for export to the United States, it will not amount to half as much as we can raise in the State of Illinois.

Mr. SLOAN. Mr. Chairman, will the gentleman yield?

Mr. RAINEY. Yes.

Mr. SLOAN. I call the gentleman's attention to the fact that he said that in 1897 we exported 189,000,000 bushels of corn, being at a time when there was a duty of 15 cents a bushel on corn. Now, my recollection is—I may be wrong—but my recollection is that during the latter part of 1897 there was no duty whatever upon corn; that we were then under the benign influence of the tariff, very much like the tariff we have now that puts nearly everything we raise in the Northwest on the free list. I think the Dingley law did not go into effect until the latter half of the year 1897, which the gentleman quotes.

Mr. RAINEY. I think the Dingley law went into effect in July of that year; it went into effect July 24, 1897.

Mr. SLOAN. That is the latter half of the year.

Mr. RAINEY. The crop commences to mature in December. In 1898, the very next year after the Dingley law went into effect, corn, spot, sold in Chicago from 26 to 38 cents a bushel, the lowest price being in January of 1898 and the highest price being in December. I might say with reference to the Wilson tariff, which was superseded July 24, 1897, by the Dingley tariff, that we put corn on the dutiable list in our Democratic Wilson bill. It was not free. The tariff on corn in the Wilson bill was 20 per cent ad valorem, which was a higher rate than the Payne bill fixed. The Payne bill retained this Dingley specific rate of 15 cents per bushel, which, reduced to its equivalent ad valorem under the Payne bill, was 16.73 per cent. Therefore, if corn was higher in price under the Payne bill than under the Wilson bill, it was not because this tariff protection was higher—the rate was lower.

Mr. SLOAN. And in that connection it increased from the time it went into effect and kept on increasing until 1912, when it was the maximum, and it has been falling ever since.

Mr. GOOD. Will the gentleman yield? I am sure the gentleman did not intend to misrepresent the situation in his answer to the question of the gentleman from Missouri——

The CHAIRMAN. The time of the gentleman has expired.

Mr. RAUCH. Mr. Chairman, in the absence of the chairman of the Committee on Appropriations, I am authorized to yield the gentleman from Illinois 15 minutes additional.

Mr. GOOD. The gentleman has stated that in 1913 the export of the surplus of Argentina was 190,000,000 bushels and that is the largest crop Argentina produced. I will ask if it is not a fact that the estimated crop of 1914, both by Argentina and the Agricultural Department of the United States, is that the surplus for export from Argentina this year will amount to from two hundred and forty to two hundred and fifty million bushels?

Mr. RAINEY. I will say to the gentleman I do not know about that, but I do know that all the previous estimates as to the amount of corn that can possibly be exported from the Argentine Republic this year have been completely upset by the continuous rains in the Argentine Republic. There they harvest the corn and put it in bags for shipment, 5 bushels each, and it has no protection at all and easily molds, and they have had rain for two or three weeks on the unprotected corn, and a great deal has been ruined.

Mr. GOOD. Another brief question, if the gentleman will permit. I will ask the gentleman if he has read Farmers' Bulletin 587 of the Department of Agriculture, in which the department sets forth a chemical analysis of the corn grown here and comparing it with the corn of Argentina, and states the fact that the corn grown in Argentina is just as valuable a food product as the corn grown in the United States?

Mr. RAINEY. The bulletin to which the gentleman has called attention reaches no such conclusion as that.

Mr. GOOD. Will the gentleman allow me to publish in the RECORD——

Mr. RAINEY. Not in my speech.

Mr. GOOD (continuing). The chemical analysis of the Department of Agriculture showing that fact?

Mr. RAINEY. The gentleman can publish it in his speech if he wants to do so. I know what the chemical analysis is. It is that the food content compares favorably with our No. 2 corn. The president of the Corn Products Co. advises me that it contains less starch than our No. 2 corn, but it contains more oils, and for that reason is as valuable to them in their business in manufacturing it into sirup and glucose as our native corn. The Argentine corn is a good corn, so far as its food content is concerned, the elements which go to make up food, proteins, starches, and oils, and the lack of moisture, and it compares in those particulars favorably with our No. 2 corn, but not for stock-food purposes, and that is what we want to use corn for principally.

Mr. WILLIAMS. Will the gentleman yield?

Mr. RAINEY. Yes.

Mr. WILLIAMS. Has my colleague investigated and can he tell us if any of this Argentine corn has reached the interior, for instance, of the State of Illinois?

Mr. RAINEY. I just went over that a while ago.

Mr. WILLIAMS. I am sorry I did not get in in time to hear the gentleman's statement.

Mr. RAINEY. Some of it has reached Illinois, one carload of it, to be used for experimental purposes in feeding chickens; that is all.

Mr. WILLIAMS. Will the gentleman permit one other question? Does the gentleman know or can he enlighten us whether this corn which came to Illinois and other interior sections of the country was in the natural course of trade, or whether it was induced to come by some kind of conspiracy for political purposes and effect?

Mr. RAINEY. Well, I do not know about that. I know that this carload of corn that went to Chicago was brought there for the purpose I have stated, and the firm bringing it there so stated.

Mr. ADAIR. Will the gentleman permit me to ask him a question?

Mr. RAINEY. Yes.

Mr. ADAIR. When we produce in this country a surplus of corn, as we have in many years gone by, and have exported corn each year, regardless of how high the tariff has been, it has had no effect upon the price?

Mr. RAINEY. No. When we export corn we sell it on world markets, in competition with Argentine corn; and Argentine corn, when we export corn, is just as much of a factor in fixing a world price for corn, if none of it comes here, as it would be if a very large part of it came here.

Mr. ADAIR. Then, if we should not produce a sufficient amount of corn for our own consumption, if our production should drop off 25 per cent or even 50 per cent, would it not be to the advantage of the American farmer to be able to buy corn imported without the duty upon it to feed the stock on his own farm?

Mr. RAINEY. I will say to the gentleman I am a farmer myself. I live on my farm, and I have a practical system of animal husbandry, and I feed all the corn I can raise. Last summer in a large portion of the corn belt of central Illinois there was a drought, and farmers there now are buying corn in carload lots—in one of the greatest corn-producing sections in the world. I paid a few weeks ago 75 cents a bushel for a carload of corn.

It came from the State of Iowa. I tried to buy some more a little while ago, and I found it would cost me 82 cents a bushel.

Mr. SLOAN. Will the gentleman yield right there?

Mr. RAINEY. Yes, sir.

Mr. SLOAN. I noted the answer—and I thought I understood it correctly—to the gentleman from Indiana [Mr. ADAIR] that the importation of corn into this country has not affected the price of corn?

Mr. RAINEY. The gentleman from Nebraska [Mr. SLOAN] would not answer it that way, I am sure.

Mr. SLOAN. Is that the way the gentleman answers it?

Mr. RAINEY. That is the way I understand it. I just offered some explanation for that.

Mr. SLOAN. Will the gentleman answer this, then? There has come in free of duty since the passage of the Underwood tariff bill, in round numbers, 8,000,000 bushels of corn, nearly all from Argentina, and if it has not affected the price, what has been the advantage——

Mr. RAINEY. To be fair with the gentleman, over 9,000,000 bushels of corn have come in, including the May delivery.

Mr. SLOAN. What has been the particular advantage, if it has not affected the price, in the casting away of the million and a quarter dollars of revenue that would have come in if that corn had come in under the 15 per cent duty of the former tariff?

Mr. RAINEY. I will answer that——

Mr. BORCHERS. What was the amount of production in this country in 1913?

Mr. RAINEY. We produce annually a little over 3,000,000,000 bushels of corn, and we had a shortage of nearly 700,000,000 bushels in 1913.

I want to tell you how the importation of Argentine corn benefits the farmer and does not hurt him any. The only fellows who are hurt are the speculators in Chicago. Corn has been as high or higher than it is now—spot corn in Chicago—only seven times, or perhaps eight times, in the last 43 years. In 1874 corn in Chicago ranged in price from 49 cents to 86 cents, the lowest price being in January of that year and the highest price being in September. In other words, those Chicago corn speculators paid the farmer 49 cents for his corn and sold it for 86 cents. The farmer did not get the benefit of that. By September he has disposed of his corn. He could not hold it. He had either fed it out by September or sold it. In 1882 was the next time when spot corn in Chicago was as high or higher than it is now. In that year the highest price paid was 81¼ cents and the lowest price paid was 79¼ cents. Again, in 1892, spot corn sold in Chicago in May for $1 a bushel, and the lowest price in that year was in January, when it sold for 37½ cents. In other words, those Chicago speculators knew they were shucking out their crops in January throughout the corn belt, on every acre of it, and they paid the farmer 37½ cents for it, and in the following May, when the farmers did not have any corn, they sold it for $1 a bushel.

In 1902 spot corn in Chicago ranged from 43¾ cents to 88 cents. It sold for the lowest in December, when the farmer was shucking it and putting it on the market, and those Chicago fellows kept it until the following July and sold it for 88 cents, when the farmer did not have any, and if he ran short he had to buy it back on that basis. In 1908 spot corn in Chicago ranged in price from 56½ cents to 82 cents. It sold in September and May for 88 cents, and in February it sold for 56½ cents. It sold for the lowest price in February. In other words, when the farmer had it for sale they paid him 56½ cents, and when they wanted to sell it they sold it back to him or anybody else who wanted it for 82 cents.

In 1911 spot corn ranged in price from 45½ cents to 76 cents in Chicago. Those Chicago dealers paid the lowest price in January, February, and March, when the farmer was putting his corn on the market, and they held it until November and sold it back to him, if he wanted it, at 76 cents a bushel. In 1912 spot corn ranged in price, in Chicago, from 47½ cents to 83 cents, the lowest, of course, in December, when the farmer had it for sale; and if he wanted any of it back in August he paid 83 cents for it, and then paid the freight from Chicago back to his farm. In 1913 corn ranged in price from 46½ cents a bushel to 78¼ cents; of course lowest in January, when the farmer had it for sale, and the highest in August and September, when he wanted to buy it.

That is the situation. These are the only years, in the last 43 years, when corn has ever sold at prices it sells for now or higher than it sells for now on the Chicago market. These corn speculators in Chicago have made more out of the corn that the corn-belt farmer of Nebraska, Illinois, Indiana, Ohio, Iowa, and Missouri produced, although the farmer made the crop, working under the hot suns of summer, than the farmer himself made.

Now, the Argentine corn crop matures in April. It commences to come to this country in May. It will commence under this law to come in when the farmer has no corn, when he has fed it out, or sold it to those Chicago speculators, and the only profits free corn can affect are the profits of the speculators in corn, who make more out of a bushel of corn every year than the farmer can possibly make.

The figures that I have been quoting are from the last report of the Chicago Board of Trade.

Now, considerable has been said about the effect on the value of farming lands of the importations of corn from the Argentine Republic.

The CHAIRMAN. The time of the gentleman has expired.

Mr. FITZGERALD. How much more time does the gentleman need?

Mr. RAINEY. About 15 minutes.

Mr. FITZGERALD. I yield 15 minutes to the gentleman from Illinois [Mr. RAINEY].

Mr. SLOAN. Will the gentleman yield just for a question before he leaves that branch of his argument, a branch in which I am very much interested?

Mr. RAINEY. Yes, sir; I will yield.

Mr. SLOAN. Will the gentleman place in the RECORD the exports of the various corn-producing countries of the world for the last five or six years? As I understand it, the exportation of corn or any grain is the principal price-fixing factor.

Mr. RAINEY. Well, if I find it necessary in following the thread of my argument, or if I find it important, I will be glad to do it; but the gentleman can get as much time as I can, and if he thinks it advisable he can make that statement himself.

I want to print some extracts from local papers out in the corn belt in Illinois—I think nearly all of them are in my district—as to the price of corn lands at a time when these Chicago speculators and these Republican orators on that side have been trying to frighten farmers. Here is an extract from the Democrat Message, published at Mount Sterling, Ill., of March 28, 1914:

At a conservator's sale of land held in Hancock County recently $250 per acre was bid for 105 acres of land, but the court refused to approve the sale, claiming that the land did not sell for its full value.

Here is one from the Franklin (Ill.) Times of February 5, 1914:

HIGH LAND PRICES.

One hundred and sixty acres of land near Homer sold for $200 an acre last week and 76 acres near there changed hands at $230 an acre. The Byron E. Burke farm of 200 acres, 3 miles east of Bloomington, was sold to a neighboring farmer a few days since for $300 an acre.

These are all corn lands, every acre of them. Some of them I know myself. Now I read from the Jacksonville (Ill.) Courier of March 14, 1914:

MORGAN COUNTY FARM LAND BRINGS HIGH PRICE.

Morgan County land is still valuable, as was indicated in a public sale at 2 o'clock Saturday afternoon at the courthouse. The sale was in the case of Mary J. Ratliff against James F. Brown et al., and the land was a tract of 90 acres lying 1 mile north of the village of Concord. Mrs. Ratliff, the plaintiff in the suit, was the purchaser, and the sum paid was $229.50 per acre, or a total of $20,655.

From the Independent Press, Greggsville, Ill., of February 25, 1914, I read:

At a recent sale of the lands belonging to the late John Harris, of Bushnell, Hon. J. E. Harris, of that city, one of the heirs, purchased 1,017 acres, paying $163,649.96, or $160 per acre.

Chicago Daily Farmers & Drovers' Journal of March 2, 1914:

INCREASED LAND VALUES MAKE PASTURES SCARCE.

The increasing value of farming lands in central Kansas has almost put pasture land off the market entirely, and prairie lands are being put under the plow more and more. During the past year, 9,000 acres of prairie land was "broke" in Saline County, according to the reports of the various township assessors, which have just been made.

The land values are on an average $1.05 an acre higher than last year.

There is a shortage of cattle in this country at the present time, and the farmers of the West are just adopting a new system of animal husbandry in order to meet that shortage. Our pastures are being broken up and placed under cultivation. We are feeding now nearly 100,000,000 people, with less beef animals in the country than we had when we had less than 70,000,000 people. Recently the Department of Agriculture estimated that our beef shortage in this country was 18,000,000 head.

Now, this beef that is coming in from the Argentine Republic is simply fed on alfalfa. I have examined the statistics from the Argentine Republic as to the cattle industry there for the latest year for which statistics are available—the year 1908, I think—and, according to the statistics, they had there then in Argentina as many animals, counting dairy cows and everything else, as the shortage amounts to in this country. In other words, if they should bring to the United States every acre of land in the Argentine Republic that is in corn and annex it to this Republic, it would not supply the shortage in the area necessary for producing corn sufficient to support the population that we now have, and if they brought every ox and cow and steer in the Argentine Republic that was a beef animal, and if every one of them was brought in a body to the United States and turned loose here, they would not supply the cattle shortage in this country.

Mr. GOOD. Mr. Chairman, will the gentleman yield there?

The CHAIRMAN. Does the gentleman from Illinois yield to the gentleman from Iowa?

Mr. RAINEY. Yes.

Mr. GOOD. Does the gentleman think the importation of this amount of chilled and frozen meats from Argentina has reduced the price that the American farmer and stock raiser gets for his product?

Mr. RAINEY. I do not think so.

Mr. GOOD. Then, if the reduction of the duty on corn and on oats and on wheat and on meat did not reduce the price, your tariff is a failure, so far as reducing the cost of living is concerned, is it not?

Mr. RAINEY. Oh, the tariff does reduce the cost of living, and it will reduce it more and more as time passes. These foodstuffs reach our congested coast cities, where they ought to have something to eat cheaper than they now get it. The Argentine beef can not compete with our beef any more than the broken-down dray horses they kill in Kansas City and manufacture into wienerwurst can compete with our corn-fed beeves. The Argentine beeves are grass-fed cattle. What the farmer engaged in animal husbandry in our country needs—and they will all be engaged in that soon—is exactly what we have given him in this tariff bill—free live cattle. He gets bigger prices now than he ever got before for his finished beeves, but he pays higher prices for the material out of which he makes them than he ever paid before.

Mr. MANN. Mr. Chairman, will the gentleman yield?

Mr. RAINEY. Certainly.

Mr. MANN. Does the gentleman deny that the Argentine alfalfa-fed cattle of recent stock is not just as good meat as the corn-fed cattle?

Mr. RAINEY. Does the gentleman from Illinois—from that great cattle-feeding State—think so?

Mr. MANN. I assert it on the strength of information furnished to me by men engaged in the business in Chicago.

Mr. RAINEY. I advise the gentleman to get his information from a more reliable source, and then he will not ask these questions.

Mr. MANN. I get it from the most reliable source in the world, from such institutions as Armour's, Swift's, and——

Mr. RAINEY. Yes; you get it from the people who are interested in paying just as little to the American farmer as possible, and who do pay him as little as they can.

Mr. MANN. From the men who are interested in sending their meat to this country and other countries, and who find

that it is just as salable and just as edible and just as tasteful as the corn-fed cattle.

Mr. RAINEY. Well, the gentleman ought to go and talk to somebody who eats it, and try some of it himself. [Laughter.] He will find that the kind of information you get from men who eat it is different.

Mr. MANN. I have eaten some of it, I will say to the gentleman; and I will add that I am a fairly good expert on meat.

Mr. RAINEY. That kind of information is not of the kind that is valuable to the farmers.

Mr. MANN. The gentleman has evidently referred to old statistics, applying to the old long-horn cattle of Argentina. They now have modern Durham beef that is just as good as ours.

Mr. RAINEY. I expected somebody on that side of the House to champion the beef barons of Chicago in their efforts to oppress the farmers of this country, and I am delighted that the Republican leader on that side, speaking for his party, has assumed that burden. [Applause on the Democratic side.]

Mr. MANN. It is the gentleman who is championing the beef barons by taking the tariff off meat. I am not championing them. I am championing the American farmer, whom the gentleman is trying to put on the scrap heap. [Applause on the Republican side.]

Mr. RAINEY. You can not make the farmer believe it by that sort of an argument.

Mr. SLOAN. The farmers do believe it.

Mr. MANN. The farmers know it.

Mr. RAINEY. When we bring into this country at a lower price than we are able to get it now, the raw material out of which we make finished beef, we will be able to sell at a lower price than we sell now, and the farmer engaged in animal husbandry will make more money.

Now, we put cattle on the free list. They have tried to bring cattle in from Canada. There are only two places in the world from which cattle can come into this country, and those places are Canada and Mexico. Nearly all the cattle in the Argentine Republic are afflicted with the foot-and-mouth disease, and there is not any country in the world, as I understand it, which permits the importation of live cattle from the Argentine Republic. Talk about cattle with the foot-and-mouth disease competing with our corn-fed beef in the West! Why, no country in the world permits Argentine cattle to leave the vessel on which they arrive alive.

They tried to bring feeders from Canada down into our corn-belt section of the United States, and the result has been a failure. Cattle accustomed to those colder climes do not do well in our warmer climate. But cattle just across the line in Mexico will do well, and just across the Mexican line is the greatest expanse of grasslands in all the world, where grass grows the entire year. Whenever peace is restored there and their herds are replenished, the farmers of the corn belt will be able to get feeding cattle to eat the corn we raise on this land, worth from $250 to $300 an acre, at a price that will enable them to buy and feed and keep up the fertility of their land, worth from $250 to $300 an acre, at a price that will enprofit to themselves. If farmers are unable to get cattle to feed on their lands and keep up soil fertility, their lands will not long retain their present value.

Talk about frightening the farmers of the corn belt with Argentine corn produced by a little army of 500,000 or 600,000 men on 10,000,000 acres of land, competing with 107,000,000 acres of land here and 9,000,000 men producing corn on it. Can a little army like that compete, with the opportunities they have, with the great army of farmers in the corn-belt section of this country? The proposition is absurd. You gentlemen can not frighten the farmers of the corn-belt section of this country. Their ancestors came there when the country was new. They came down the rivers in flatboats and down the long forest avenues in oxcarts, facing the conditions of a frontier, always following our westward-moving frontier. Their grandsons are in the corn belt to-day, producing on the farms they made this tremendous corn crop of the United States. Do you think you can frighten men of that kind by holding up in front of them these scarecrows? Do you gentlemen have such contempt for the corn-belt farmers of your own section that you think you can scare them under such circumstances as these? Do you think your constituents have as little courage as you pretend to believe they have? [Applause on the Democratic side.]

Mr. SCOTT. Will the gentleman yield?

The CHAIRMAN. The time of the gentleman has expired.

Mr. FITZGERALD. Mr. Chairman, how much time has been consumed?

The CHAIRMAN. One hour and 15 minutes.

Mr. FITZGERALD. I ask the gentleman from Massachusetts [Mr. GILLETT] to consume some of his time.

Mr. GILLETT. I yield five minutes to the gentleman from Iowa [Mr. GOOD].

Mr. GOOD. Mr. Chairman, at some future time I hope to make some observations in regard to the tariff as it affects corn and other cereals as well as our meat production. At the present time I only desire to call the attention of the House and the country to certain facts from which the gentleman from Illinois [Mr. RAINEY] draws his conclusions.

The gentleman from Illinois has brought with him some samples of Argentine corn, and has invited Members of the House to come down and examine that corn and test it. Gentlemen will remember that the test submitted by the gentleman from Illinois was to have a Member place a grain of corn between his teeth and try to break the corn or bite it. Who ever heard of testing corn in that way? The gentleman says he is a farmer, and this being true I am amazed at his method of testing corn to determine its food qualities. The idea of corn being more valuable because it is soft and palatable to the mouth will be something new to the farmers of the United States. If the gentleman is a farmer, he knows—at least every other farmer in the United States knows—that soft corn is not worth one-third what good dry corn is worth.

Mr. RAINEY. Will the gentleman yield?

Mr. GOOD. Yes.

Mr. RAINEY. The gentleman is an expert cattle feeder?

Mr. GOOD. No; I am not an expert cattle feeder.

Mr. RAINEY. I am glad to hear you are not, because I knew you were not or you would not have made those statements.

Mr. GOOD. If I were, I would not feed soft corn, and no expert cattle feeder in the United States would feed soft corn in preference to dry hard corn at the same price.

Mr. RAINEY. Do you think cattle can digest all these grains of hard corn? Why, usually farmers when they feed even our soft corn keep hogs following the cattle in order that they may not waste so much corn, and even hogs, after that corn has passed through the digestive tract of a steer, could not digest it.

Mr. GOOD. By his last statement the gentleman has again given abundant proof that he knows nothing about farming or stock raising.

Now, Mr. Chairman, the Agricultural Department under the present administration has caused a chemical analysis to be made of corn grown in Argentina and of corn raised in the United States. I read from page 12 of Farmers Bulletin 581:

TABLE 6.—*Chemical composition of four cargoes of Argentine flint corn as discharged at New York and of four cargoes of North American dent corn as loaded for export, calculated to a water-free basis.*[1]

Item.	Argentine corn crop of 1912 as imported at New York.	North American corn crops of 1910 and 1911 as loaded for export.
	Per cent.	*Per cent.*
Ash	1.72	1.43
Ether extract (oil)	5.52	4.07
Protein	11.01	9.81
Crude fiber	1.99	2.18
Pentosans	6.02	6.19
Invert sugar	.30	.38
Sucrose	1.08	1.13
Acid calculated as acetic	.33	.28
Undetermined	72.03	74.53

[1] Chemical analyses of the individual samples made by Cattle Food and Grain Laboratory of the Bureau of Chemistry.

From Table 6 it will be seen that the ether extract or oil was approximately 1.5 per cent greater in the Argentine corn than in the United States corn, while the protein was 1.2 per cent greater.

Here is an analysis, made under the direction of the present Secretary of Agriculture, which shows that the food value of Argentine corn is equal to our own; and yet the gentleman from Illinois would make the House and the country believe that this corn is not fit for food products, but is only useful for chicken feed. If the other statements contained in the gentleman's speech on the subject of agriculture are no more reliable than that statement, then the whole argument he has made in regard to this subject ought to be cast aside as unworthy of consideration. [Applause on the Republican side.]

MESSAGE FROM THE SENATE.

The committee informally rose; and Mr. CULLOP having taken the chair as Speaker pro tempore, a message from the Senate, by

Mr. Tulley, one of its clerks, announced that the Senate had passed without amendment bill of the following title:

An act (H. R. 14242) to increase the limit of cost for the erection and completion of the United States Federal building at Harrisburg, Pa.

The message also announced that the Senate had passed bills and resolution of the following titles, in which the concurrence of the House of Representatives was requested:

S. 5255. An act conferring jurisdiction on the Court of Claims to hear, determine, and render judgment in claims of the Sisseton and Wahpeton Bands of Sioux Indians against the United States;

An act (S. 5433) to amend an act entitled "An act to establish the Glacier National Park in the Rocky Mountains south of the international boundary line, in the State of Montana, and for other purposes," approved May 11, 1910.

Senate concurrent resolution 22:

Whereas the Government of the United States has erected a monument in Hollywood Cemetery at Richmond, Va., over the grave of President John Tyler; and

Whereas exercises will be held very soon to unveil the said monument, and it being considered very appropriate that the Senate and House of Representatives should be properly represented on this occasion: Therefore be it

Resolved by the Senate (the House of Representatives concurring), That a committee of 10 members be appointed, 5 by the President of the Senate and 5 by the Speaker of the House of Representatives, to represent the Congress of the United States to attend said ceremonies, and authority is hereby given to expend $250 from the contingent fund of the Senate and $250 from the contingent fund of the House of Representatives to defray the expenses of said committee, upon vouchers to be approved by the Committee to Audit and Control the Contingent Expenses of the Senate and the Committee on Accounts of the House of Representatives, respectively.

SUNDRY CIVIL APPROPRIATION BILL.

The committee resumed its session.

Mr. GILLETT. Mr. Chairman, I yield to the gentleman from Tennessee [Mr. AUSTIN].

[Mr. AUSTIN addressed the committee. See Appendix.]

Mr. GILLETT. Mr. Chairman, criticism is one of the functions of the minority; in fact, in this Congress, where the majority determines everything in caucus, it is about the only function that is left to the minority. It is always a useful function, because no matter how good the administration may be I believe it will be better if it knows that its conduct is being watched and its derelictions likely to be exposed.

Mr. SCOTT. Will the gentleman yield?

Mr. GILLETT. I will.

Mr. SCOTT. Does not that largely account for the splendid administration this country has had in the past under Republican rule?

Mr. GILLETT. I am inclined to think it would have been very splendid without a minority party, though I am willing to admit that fear of detection may have prevented some abuses. Now, as a member of the minority of this committee it is a part of my function to criticize this bill. I will say frankly at the outset that its general features do not call upon me for criticism. I, of course, do not approve of many items in it. There are many I would change, but I expect that that is true even of the chairman of the committee, who of course has more voice in the formation of the bill than anybody else.

A bill consisting of thousands of items pertaining to the administration of the whole country can not be formulated as any one man would wish it. There has to be taken into consideration the temper of the House, the temper of the country, the temper even of the Senate, and possibilities of success have to be considered, so that no bill is perfect to the mind of any one man. I am ready to admit that in my judgment this is a very good bill and upon its general aspects I desire to make no criticism. If it is not much worse when the House and Senate shall have acted on it I shall be both pleased and surprised.

But there are a few incidents which occurred in the hearings which I will advert to briefly, not particularly important in themselves, but indicating the spirit and tendency of this administration.

The committee's report at the outset speaks of a reduction of nearly $17,000,000 below the appropriations for the last fiscal year. We all know that economy was the great cry of the Democratic Party till they were elected, and while that statement of a reduction is correct, I think it is but fair to point out that that is not largely the result from any economies by this committee. For instance, of the $17,000,000, $8,000,000 are in the expenditure for public buildings in the coming year as against last year. Now, we are not economizing in public buildings, but it happened that the last bill appropriated for 18 months and this bill provides for only 9 months, so that accounts for the saving of $8,000,000.

The same is true of river and harbor appropriations. Last year we appropriated for 18 months as against 9 this year, and there $3,000,000 is saved. In Panama we save $2,000,000 this year in the combined cost of the fortifications and the expenses of the canal, because our fortifications are mainly completed. That is no particular credit to those who framed the bill. Last year we had an appropriation of $3,000,000 for the Capitol grounds and that is completed. So there are $16,000,000 that has dropped out accidentally and not as a matter of economy.

I should state in fairness that against this there is an additional appropriation of three and a half million dollars for the Interstate Commerce Commission which we did not have last year. There are a number of other smaller savings of a similar character, and I simply point out these facts to indicate that this saving of $16,000,000 can not fairly be claimed as an economy of this year over the last.

Now, as I stated, there are a number of small matters which I wish to refer to briefly as subject to criticism. One is the failure of the heads of the departments of this administration to attend the hearings of the committee. Since I have been on the Appropriations Committee it has been the custom for the heads of the departments to come before that committee and give us the benefit of their judgment, their opinions, their wisdom, and point out their policy and tell us why they made the estimates and why they desire these appropriations.

This year, except in the case of the Department of Commerce, the head of which has been very recently a Member of this House, not one of the heads of departments came before us. They sent down their subordinates. Possibly their subordinates knew much more than they did about the matters that we were investigating; but it is always well to have the man who is responsible, who outlines the policy of the department, before the committee, not only to volunteer information but to give us an opportunity to question him about that policy. I do not suppose there was any unwillingness to subject themselves to such inquiry, but for some reason or other no head of a department appeared. I remember in one case the head of a department did not appear when we were considering an appropriation for one of his bureaus of about $3,000,000. We could not get the head of the bureau nor the deputy, and we were referred for all information to the clerk of the department, who knew less about the subject than did the clerk of our committee.

Mr. MANN. Will the gentleman yield for a statement along the same line?

Mr. GILLETT. Certainly.

Mr. MANN. It has always been the custom of committees to refer many bills to the departments for report upon them. It used to be the custom for the head of a department to sign the report, which indicated, very often, the policy of the head of the department. The custom now is for some assistant secretary to sign the report, expresing his opinion upon it, and nobody knows whether that expresses the views of the head of the department or the views of some clerk. It is a reprehensible practice, I think, that has recently grown up.

Mr. AUSTIN. May I ask the gentleman if the committee requested the presence of the members of the Cabinet?

Mr. GILLETT. We sent notice to each, I suppose. I do not know certainly, and I will ask the chairman about that. I assume that notice was sent requesting the heads of the departments to appear.

Mr. FITZGERALD. Mr. Chairman, invariable practice of the Committee on Appropriations when matters are under investigation is to send to the chief clerk of the department notice that hearings are to be conducted upon certain subjects, and stating that the committee would be pleased to have the head of the departments appear, if it be convenient or desirable for him to attend.

Mr. GILLETT. Mr. Chairman, I now turn to one of the hearings which brought out facts properly subject to criticism. It appears in the hearings, page 1683, that on January 8 last the Secretary of the Treasury sent a letter to the Comptroller of the Treasury, telling him that he wished to provide rooms in the Treasury Building for the new reserve board, and stating at length the importance of changing some of the arrangements in the building to provide suitable quarters for the reserve board, and asking the comptroller whether under the law he had a right to expend the $100,000 which had been appropriated for the expenses of the reserve board in preparation for these quarters or whether they must be paid from the regular appropriation for maintenance of the Treasury Building. Of course, this House is familiar with the functions of the Comptroller of the Treasury. He is practically a judicial officer. It is his duty to interpret for all the accounting officers of

the departments the acts of Congress. If they are uncertain whether they can make an expenditure, they apply to the Comptroller of the Treasury and he interprets the act and informs them whether they can or can not make the desired expenditure, and his ruling is final, and if they disregard his ruling or if they run the risk that he will rule favorably, and he does not, their accounts are disallowed.

The Secretary of the Treasury, naturally aware of that, and apparently from his letter aware of the fact that it was questionable whether he had the right to make this expenditure in the Treasury Building as he desired, sent this letter on January 8 to the comptroller, and on January 17 the comptroller answered the letter and told him, as was quite obvious from the ordinary precedents, that inasmuch as there was a specific appropriation for making changes in the Treasury Building a general appropriation could not be diverted to that same use. That is a precedent which has been followed invariably by the Comptrollers of the Treasury. The Secretary of the Treasury, apparently acquiescing in this axiomatic decision, came to Congress and requested that special authority should be given him to expend money for changing the rooms in the Treasury as he desired. Congress declined to give him the desired authority. What reason the majority of Congress had in declining to give it to him I am not at all aware; but the fact appears that the request was made, that it was refused, and therefore the Secretary of the Treasury was limited to the amount which had theretofore been appropriated for the Treasury in order to provide the quarters he desired for the reserve board. Instead of acquiescing in this decision, the Secretary of the Treasury on the 6th of April wrote another letter to the comptroller, stating more fully the reasons why he desired to provide quarters for the reserve board in the Treasury Building, and that the regular appropriation was insufficient for that purpose, and asked the comptroller to revise his decision and reconsider it. On the 8th of April, two days after the receipt of that letter, the affable and accommodating comptroller wrote back to his chief a letter in which he quoted the letter to him, and I attach herewith both letters.

The letters are as follows:

TREASURY DEPARTMENT,
OFFICE OF THE COMPTROLLER OF THE TREASURY,
Washington, January 17, 1914.

THE SECRETARY OF THE TREASURY.

SIR: I have your letter of the 8th instant as follows:

"Your attention is respectfully invited to part of the Federal reserve act found at page 3 (Public No. 43, 63d Cong.), as follows:

"'* * * The organization committee shall have power to appoint such assistants and incur such expenses in carrying out the provisions of this act as it shall deem necessary, and such expenses shall be payable by the Treasurer of the United States upon voucher approved by the Secretary of the Treasury, and the sum of $100,000, or so much thereof as may be necessary, is hereby appropriated, out of any moneys in the Treasury not otherwise appropriated, for the payment of such expenses.'

"Under the provisions of the foregoing section and other parts of the act which authorize the Secretary of the Treasury to quarter the Federal Reserve Board in this building, the department feels that the above appropriation is available for such expenses as may be actually necessary in providing suitable space for the board in the Treasury Building. The contingent appropriation made by Congress for the upkeep of the Treasury Building is not sufficient to properly accommodate and house the members of the Federal Reserve Board. It is considered necessary that each member of said board ought to be provided with a large room and a small anteroom. The present construction of the quarters which it is proposed to assign the Federal Reserve Board is not at all adapted or suited to their purposes, and it will be necessary to erect certain partitions and make other changes.

"The premises considered, your opinion is respectfully requested as to whether the views of the department are correct that the foregoing appropriation of $100,000 is available for putting in proper shape the quarters for the Federal Reserve Board."

The Federal reserve act constitutes the Secretary of the Treasury, the Secretary of Agriculture, and the Comptroller of the Currency as the "Reserve Bank Organization Committee," and authorizes the committee, among other things—

"To employ counsel and expert aid, to take testimony, to send for persons and papers, to administer oaths, and to make such investigations as may be deemed necessary by the said committee in determining the reserve districts and designating the cities within such districts where such Federal reserve banks shall be severally located."

The act also empowers the organization committee to appoint such assistants and incur such expenses in carrying out the provisions of the act as it may deem necessary, and the appropriation quoted in your submission is made for the payment of such expenses.

The act also creates a Federal Reserve Board and provides (Public No. 43, p. 11) that—

"The Secretary of the Treasury may assign offices in the Department of the Treasury for the use of the Federal Reserve Board."

The changes contemplated being made because of the assigning of offices to the members of the Federal Reserve Board are not specifically stated other than "it will be necessary to erect certain partitions and make other changes."

Section 10 of the act (p. 11) provides:

"The Federal Reserve Board shall have power to levy semiannually upon the Federal reserve banks, in proportion to their capital stock and surplus, an assessment sufficient to pay its estimated expenses and salaries of its members and employees for the half year succeeding the levying of such assessment, together with any deficit carried forward from the preceding half year."

For many years specific appropriations have been made by Congress for the upkeep of the Treasury Building. The appropriations therefor for the current fiscal year, as made by the sundry civil act of June 23, 1913 (Public No. 3, p. 13–14), are as follows:

"Repairs and preservation of public buildings: For repairs and preservation of all completed and occupied public buildings and the grounds thereof under the control of the Treasury Department, and for wire screens therefor, Government wharves and piers under the control of the Treasury Department, together with the necessary dredging adjacent thereto, buildings and wharf at Sitka, Alaska, * * * : *Provided*, That of the sum herein appropriated, not exceeding $100,000, may be used for marine hospitals and quarantine stations, including wire screens for same, and not exceeding $12,000 for the Treasury, Butler, and Winder Buildings at Washington, D. C. * * *

"Mechanical equipment of public buildings: For installation and repair of mechanical equipment in all completed and occupied public buildings under the control of the Treasury Department, including heating, hoisting, plumbing, gas piping, ventilating, vacuum cleaning, and refrigerating apparatus, electric-light plants, meters, interior pneumatic tube and intercommunicating telephone systems, conduit, wiring, call-bell and signal systems, and for maintenance and repair of tower clocks: * * *: *Provided*, That of the sum herein appropriated for mechanical equipment of public buildings, not exceeding $40,000 may be used for marine hospitals and quarantine stations, and not exceeding $9,000 for the Treasury, Butler, and Winder Buildings at Washington, D. C."

The use to which the appropriations last quoted have been put is shown by the following statements made by the chief clerk of the Treasury Department and the Supervising Architect before the House Committee on Appropriations (see hearings, sundry civil bill, 1914):

"Mr. WILMETH (p. 180). We probably could take care of that one item (painting and window frames) out of our maintenance fund. I want to say in connection with that, Mr. Chairman, there is $12,000 for repairs and preservation of the Treasury, Butler, and Winder Buildings, under which that particular item would come. That appropriation is used for everything in connection with these three buildings, except mechanical equipment. You give us, I think, $9,000 for mechanical equipment for the same buildings. There is 500,000 square feet of floor space in those three buildings. All of these buildings are old. That is not quite enough money to keep them up in proper shape."

* * * * * * *

"Mr. WENDEROTH (p. 101). Twelve thousand dollars is for repairs and preservation and $9,000 for mechanical equipment, or the other way around. Out of repairs and preservation there is an allotment of $12,000, and out of mechanical equipment an allotment of $9,000; that is, for all three buildings each year—Treasury, Butler, and Winder Buildings—and is for ordinary repairs, such as repairs to roof, changing of a partition now and then, cutting a door through, or something of that kind."

It is well established that the continued use of an appropriation should be consistent with the former use, where not clearly wrong, in the absence of a change in the appropriation acts by Congress.

I have the honor to advise you that the appropriations last quoted above, viz, "Repairs and preservation of public buildings" and "Mechanical equipment, public buildings," is more specific than the one quoted in your submission, and is therefore exclusively applicable for the expenses of making such changes in the building as erecting partitions, cutting doors, etc.

Respectfully,

GEO. E. DOWNEY, *Comptroller.*

TREASURY DEPARTMENT,
OFFICE OF THE COMPTROLLER OF THE TREASURY,
Washington, April 8, 1914.

THE SECRETARY OF THE TREASURY.

SIR: I have your communication of the 6th instant, requesting reconsideration of a former decision of this office, and for the purpose of the better addressing my reply to the facts stated it is quoted in full, as follows:

"On behalf of myself as Secretary of the Treasury and as chairman of the reserve bank organization committee under the Federal reserve act, I desire to submit for your decision certain matters relative to the work necessary to be done preliminary to the organization of the Federal Reserve Board, in order that said board may be equipped for the proper discharge of its duties under the act, the expenses thereof to be paid from the appropriation of $100,000 carried by the said act.

"The Federal reserve act (Public, No. 43) creates 'the reserve bank organization committee,' and this committee is given broad powers extending not only to the creation of Federal reserve districts and the designation of Federal reserve cities, but also to the supervision of the preliminary organization of the reserve banks, the calling of subscriptions, etc.

"It was the evident intention of Congress that the organization committee should turn over to the reserve board a created system ready to be put into operation.

"These matters are only important for the purposes of this submission, because they show the necessity that the reserve board should be properly equipped for the transaction of its business from the very day of its organization.

"It is highly essential that the machinery of the system be ready to be put into operation upon the organization of the reserve board, and it is submitted that any interruptions or delays at that time incident to the preparation of quarters or the purchase of equipment for the use of the board will be very detrimental.

"The act provides that 'the Secretary of the Treasury may assign offices in the Department of the Treasury for the use of the Federal Reserve Board.' The word 'may,' I understand, is frequently construed as meaning 'shall' or 'must,' and such interpretation seems to be required in this instance, for the reason there is no authority contained in the act for the renting of quarters elsewhere.

"Space has been assigned the board in the Treasury Building in compliance with the terms of the act, but such space has heretofore been used for the most part by clerks, and the rooms as laid out are by no means suitable or properly equipped for the purposes of the members of the board. As the rooms now stand, some members of the board would have more room than necessary; others would not have sufficient room, and all the members of the board would have no privacy nor places for their stenographers and secretaries except in the rooms with the members of the board. Considerable rearrangements of the rooms are necessary for the proper handling of the business of the board.

"The act appropriates $100,000 for such expenses as the organization committee may deem necessary in carrying out the provisions of the act, and provides for payment thereof on vouchers approved by the Secretary of the Treasury.

"It is believed that Congress intended to vest in the organization committee and the Secretary of the Treasury an absolute discretion in the matter of expenditures within the limits of said appropriation, and that any expenditure necessary in the judgment of the committee preliminary to the turning of the system over to the reserve board, including proper rearrangement of rooms and equipment necessary for the transaction of its business by the board, is properly within the appropriation.

"The organization committee has determined that an expenditure of approximately $15,000 from the appropriation in question, for the purposes above stated, is an expense necessary to be incurred in carrying out the provisions of the said act.

"The submission of this question to you on January 8, 1914, upon which your decision of January 17, 1914, was predicated, was not made by me personally, and did not present the considerations which in my judgment ought to be conclusive. I have, therefore, to request reconsideration of your said decision of January 17, 1914, and to submit whether or not, on the statement of facts herein contained, the indicated expenditures from the appropriation in question may not be authorized."

The considerations suggested by you were not, as stated, brought to my attention when the question was previously considered. They present a condition quite apart from anything ordinarily for consideration in connection with such matters.

There is no necessity for repetition of facts stated, and upon your presentment of them I am led to conclude that if the reserve bank organization committee has determined, as stated, that the proposed expenditure is an expense necessary to be incurred in carrying out the provisions of the Federal reserve act the appropriation in question may be used therefor.

Vouchers for such expenditures should be certified as authorized by the organization committee and should be approved by you.

Respectfully,

GEO. E. DOWNEY, *Comptroller.*

Mr. GILLETT. You will observe that it took the comptroller nine days to answer the first letter and give his first opinion, but it only took him two days after receipt of the Secretary's second letter to reverse himself and give his chief the authority he had so urgently asked for.

It is easy to see the position in which the comptroller was placed. He is a judicial officer. Upon him was the duty of interpreting the acts of Congress, of saying what could be expended and what could not; but, and here is the point, he was an appointive officer. He had no tenure except at the will of his superior, and his superior was the Secretary of the Treasury. He is not in the civil service. He had been recently appointed by this administration. The Comptroller of the Treasury, who had rendered excellent service for many years, who had given admirable decisions, who had acquired experience and knowledge, had been unceremoniously dropped from the rolls by the incoming administration, and this present comptroller had been appointed. Then when the administration wished a particular appropriation, after the comptroller had once decided on the perfectly plain and patent facts that the appropriation was unjustified, the Secretary, his superior, wrote to him again, not arguing the question of law at all, which the comptroller had previously stated, but putting at greater length the reasons which he had before stated, why the authority was desirable, and the comptroller, subject to removal, uncertain of his tenure, promptly acquiesced in his wishes, and wisely, perhaps, does not discuss the law at all, but simply states that the Secretary's letter is convincing and conclusive. As a ruling by a law officer it is humorous.

Mr. Chairman, I am not much disposed to blame the poor Comptroller of the Treasury. He was there holding office at the will of his superior, and his superior asked of him, and pressed upon him, for a certain judicial decision, and he yielded, but I am disposed to criticize the Secretary of the Treasury for bringing that pressure to bear upon his subordinate. There were times, which have gone by, I am happy to say and to believe, such as are sometimes referred to as "the good, old times," when the administration in power had absolute control of all of its subordinates, when the spoils system flourished, when an administration was recognized as holding office and making appointments for the good of the party. There is a tradition that in those times, which I trust have passed forever, the President of the United States once sent for the Comptroller of the Treasury, who had made a decision which balked some purpose of his, and reasoned with him, trying to induce him to reverse his decision, but the comptroller answered his arguments with other arguments and was obstinate. The President found that he could not convince him that he was wrong, and so finally said, "Well, I can not make you change your mind, but I can change my comptroller." Tradition has it that under that very forcible argument the comptroller saw a new light and reversed his decision.

I do not know what pressure there was in the present case more than the letter which is published, but it seems to me it is not creditable for a department officer to bring such pressure to bear upon a comptroller to reverse a judicial decision, particularly after he has once acquiesced in it and come to Congress and asked Congress to give him the appropriation he wished. After having failed in that, after his own party in Congress had decided that his wishes should not be granted, then he ought not to try again to get from the comptroller an opinion which allows him to do his will contrary to the wishes of his own party majority in Congress. It seems to me that is an improper interference with a judicial officer. I believe the comptroller ought to be made independent of any department or the President, even. I believe he is a judicial officer who is the only barrier between the different departments and the Treasury, and I believe that barrier ought not to be weakened, but to be made absolutely independent. I believe in some way he should be made independent of the Treasury Department or any other department, and this to me illustrates the need of such a law, although I do not believe such illustrations have often happened. There is much discussion nowadays about the independence of the judiciary. Some think the judiciary are too independent of the people. Personally I believe the judiciary should be absolutely independent. I believe the practice in my State of the governor appointing the judiciary for life has given us a splendid judiciary, which has the confidence of every class in the community more than in any other State in the Union. But whatever some believe about the independence of the judiciary of the people, I believe all agree that the judiciary ought to be independent of the Executive, and here is an officer whose functions are purely judicial and yet who is dependent for his place upon his superiors in office and liable to removal if his opinions do not conform to their wishes.

Mr. BARTLETT. Will the gentleman permit me to ask him a question?

Mr. GILLETT. Certainly.

Mr. BARTLETT. The gentleman says that the judiciary in Massachusetts are now appointed by the governor for life?

Mr. GILLETT. Yes.

Mr. BARTLETT. Has that always been the system?

Mr. GILLETT. Always.

Mr. BARTLETT. They have never been elected by the legislature or the people?

Mr. GILLETT. I think never.

Mr. BARTLETT. I thought there was a time when they were elected.

Mr. GILLETT. I do not think they ever have been. I saw recently what seemed to me another instance of interference by the administration with a body with judicial functions. A new office was created in the Interstate Commercce Commission, the office of counsel, at a new and largely increased salary. Before then the salary, I think, had been $5,000; suddenly there was an increase of the salary to $10,000, and simultaneously a gentleman of great political distinction was appointed to that office, Gov. Folk. Now, I have no criticism upon Gov. Folk. As far as I know, he has in political life led a distinguished and admirable career.

Mr. GARNER. Will the gentleman yield?

Mr. GILLETT. I will.

Mr. GARNER. Was that office created by act of Congress and the salary fixed?

Mr. GILLETT. No.

Mr. GARNER. Then, by what authority was this office created and the salary placed at the figure which the gentleman has stated?

Mr. GILLETT. The commission had absolute power, I think.

Mr. GARNER. Paid out of the bulk appropriation?

Mr. GILLETT. Yes. Now, before that the commission had been admirably served, as far as I know, by the counsel at $5,000. Gov. Folk, who had always been a sturdy supporter of the Secretary of State, who had distinction politically, but I never heard of his having distinction as a lawyer, was appointed Solicitor for the State Department, at a salary of $5,000. When the Interstate Commerce Commission created this new office of counsel at $10,000, does anybody believe that, looking throughout the country to find a lawyer who would best fill that position, a lawyer who had been actively familiar with the kind of work which would come before the counsel of that commission—does anybody suspect that for a moment they would have thought of the Solicitor of the State Department? I do not. I believe myself that experience along this line was one of the characteristics that would have been demanded. To be sure, I believe the Secretary of State thinks that experience in diplomatic life, at least, is not at all essential; that it does not contribute to efficiency and performance of duty. Perhaps he thought that same way in reference to the appointment of counsel to the Interstate Commerce Commission. That is the only argument I can think of for the appointment.

Mr. CLINE. Will the gentleman yield?

Mr. GILLETT. I do.

Mr. CLINE. Does not the gentleman think that a man capable of revealing the rottenness of the New Haven Railroad system is worth $10,000 a year?

Mr. GILLETT. All that has been accomplished there might have been done by any incipient lawyer. What I have heard of the gentleman's conduct of that examination does not reflect credit upon his ability, though I did not wish to say anything about that.

Mr. CLINE. Does not the gentleman think the office of counsel to the Interstate Commerce Commission is important enough to command a salary of $10,000 a year, although there might be a man of lesser ability in the position than that required. In other words, is not the importance of the office such as to justify the appointment of a $10,000 man?

Mr. GILLETT. I think very likely it is. I do not criticize the salary of the office. What I am criticizing is that I can not repress the suspicion that the appointment of the well-known person who fills that position was not upon merit, but was pressed upon the Interstate Commerce Commission for political reasons.

Mr. MANN. Will the gentleman yield for a question?

Mr. GILLETT. Certainly.

Mr. MANN. Did the gentleman ever hear any criticism of the law officers of the Interstate Commerce Commission who had charge of the law business of that commission before this raise of salary was made?

Mr. GILLETT. On the contrary, I never heard anything but praise of them.

Mr. MANN. Does the gentleman remember any other case or any previous case where the Interstate Commerce Commission made a political appointment?

Mr. GILLETT. Well, the gentleman who has been chairman of the Interstate Commerce Committee is much better versed than I am, and I would like to ask him that question.

Mr. MANN. I never have; I have always thought the Interstate Commerce Commission was considered free from politics.

Mr. GARNER. Will the gentleman yield?

Mr. FITZGERALD. If the gentleman will permit me, it was not a political appointment. The Interstate Commerce Commission is not in sympathy with the administration politically.

Mr. MANN. If this was not a political appointment, I do not know what political appointments are.

Mr. GARNER. If the gentleman was a prominent person, there is no reason why it should be called a political appointment.

Mr. MANN. Because a man who was a candidate for President and then was not selected, and because he had a friendly Secretary of State was appointed Solicitor of the Department of State, a cheap job for a candidate for the Presidency, and then wanted a better job, and the Interstate Commerce Commission or the administration was forced to appoint this man to the place, I would consider that a political appointment.

Mr. HENSLEY. Will the gentleman yield right there?

Mr. GILLETT. Certainly I will yield.

The CHAIRMAN. To whom does the gentleman from Massachusetts yield?

Mr. GILLETT. I will yield to the gentleman from Missouri [Mr. HENSLEY].

Mr. HENSLEY. Has the gentleman from Illinois taken into consideration the fact that Gov. Folk, as circuit attorney in the city of St. Louis, has a record that the whole country is familiar with, as an able lawyer, as a prosecutor of graft and fraud, and so on, and that as governor of Missouri he was a distinguished official?

Mr. MANN. He was a good prosecuting attorney, I believe—so much so that he made a great many enemies in the Democratic Party in Missouri. But that was no excuse for putting him in as counsel of the Interstate Commerce Commission at double the salary that was ever paid to anyone before, when there was no complaint of the legal services being furnished to that commission.

Mr. BRYAN. The gentleman from Illinois [Mr. MANN] suggests that being mentioned as a candidate for the Presidency of the United States is somewhat connected with the disqualification.

Now, I want to suggest that I have heard recently the gentleman from Illinois himself suggested as an adequate and proper man to be a candidate on the Republican ticket for President of the United States. Does that disqualify the gentleman from serving in an important position? I will say from the reports I get from my State the people are proud of the work of Gov. Folk.

Mr. GARNER. Will the gentleman yield?

Mr. GILLETT. I will.

Mr. GARNER. I believe the gentleman from Massachusetts agrees that this office is sufficiently important to command a salary of $10,000 a year, and as to the qualifications of Gov. Folk we all have, possibly, our separate opinions. As far as I can see, he seems to be making good so far. I want to ask the gentleman if the public policy in reference to making lump-sum appropriations and permitting the heads of departments to pay any salary they see proper out of that for services is not a bad public policy, and ought not these salaries to be fixed by Congress and through the Appropriations Committee rather than by making lump-sum appropriations and permitting such salaries as the departments may see proper?

Mr. GILLETT. I quite agree with the gentleman as to that.

Mr. SLOAN. Will the gentleman yield for a moment?

Mr. GILLETT. Yes.

Mr. SLOAN. I want to say in the absence of my Democratic colleagues from Nebraska, in answer to the charge of the gentleman from Illinois that the Secretary of State, who is a distinguished citizen of Nebraska, had something to do with this political appointment, that I deprecate that charge. I am sorry it was said, because I do not believe he would have had a hand in making an appointment if it smattered or smacked or savored of politics.

Mr. GILLETT. I appreciate the satiric humor of the gentleman's remark, but we have wandered far afield from what I intended. What I wanted to say was that, in my opinion, this was another instance where the administration had used political influence upon a body which is largely judicial in its functions. I think it is properly subject to criticism, and I deplore it.

Mr. GARNER. Why can not the Appropriations Committee, as it has done in this bill in a number of instances, limit these lump appropriations with the provision that the salary shall not be increased over the present salary until they have come back to Congress and gotten authority to do so, in order that Congress may keep its hand on the Treasury in the matter of increasing salaries until they have come back and consulted you gentlemen and Congress with reference to what we shall pay?

Mr. GILLETT. I agree thoroughly with the gentleman as to that policy, and it is true to-day with nearly all the departments of the Government. The Interstate Commerce Commission is an exception, as its province and functions to-day are very exceptional.

Mr. BARTLETT. May I interrupt the gentleman?

Mr. GILLETT. Certainly.

Mr. BARTLETT. The gentleman, of course, knows that since the last Congress there have been quite a number of additional duties placed upon the Interstate Commerce Commission—the matter of the valuation of railroads, and that sort of thing—and the gentleman also knows that the railroads have attorneys employed specially here in Washington to represent them in that matter to whom they pay very large fees. In view of this increased duty of the Interstate Commerce Commission and responsibilities in that and other matters, I understand the gentleman to say he does not complain at the amount of the salary?

Mr. GILLETT. I do not complain of that, although I understand Gov. Folk has nothing to do with the railroad valuation branch. I complain of what I suspect to be the projection of political influence on the Interstate Commerce Commission, because I do not believe they would have ever selected the man they did select if left to their own judgment.

Mr. FOWLER. Will the gentleman yield?

Mr. GILLETT. Certainly.

Mr. FOWLER. Does the gentleman think a better choice could have been made than the ex-governor of Missouri?

Mr. GILLETT. I do. But I do not wish to go into personalities and discuss that.

Mr. FOWLER. In the light of what the gentleman from Illinois [Mr. MANN] said, that Mr. Folk in his prosecutions as district attorney in St. Louis has divided the Democratic Party, do you think in the light of that it is very much of a political appointment?

Mr. GILLETT. Certainly there has been no division between him and the Secretary of State. But I do not care to discuss that further.

Mr. HENSLEY. May I ask the gentleman a question?

Mr. GILLETT. Not on that point any further.

Now, I wish to turn to another instance. The Democratic platform says:

> We demand a return to that simplicity and economy which befits a democratic government and a reduction in the number of useless offices, the salaries of which drain the substance of the people.

Economy, you know, was the watchword on which you went into power, and we have been looking to see a few of those useless offices dropped off, but there came to my attention in the course of our hearings an order which has recently been promulgated by the President which indicates the kind of Democratic economy which is being practiced in destroying useless offices.

There was put in an appropriation bill this winter by Congress an appropriation of $25,000 for opening the Panama Canal and giving the President authority to provide a committee to superintend it. Whom did the President appoint on that committee, and how was that $25,000 to be spent? The President appointed on the committee Col. George W. Goethals, Hon. Richard L. Metcalfe, Col. William C. Gorgas, Col. H. F. Hodges, Col. William L. Sibert, and Civil Engineer H. R. Rousseau. All of these were engineers in the construction of the canal, except Mr. Metcalfe and Col. Gorgas, who was head of the department of sanitation.

Hon. Richard L. Metcalfe was, I believe, an editor of the Commoner, and was appointed when this administration came into power as governor of the Canal Zone, at a salary of $14,000 and a residence—probably the most lavishly remunerated office in the whole Government, considering the work which was to be done. You may remember, also, that he made a report suggesting that the new government of the canal should be vested in a commission of three, and not a single-headed government. But I am happy to say the President did not approve that, and Col. Goethals was appointed governor of the Canal Zone.

It seems to me that Col. Goethals and the officers with him were amply qualified to arrange the ceremonies for inaugurating the canal; yet it seems that it was considered necessary that Hon. Richard L. Metcalfe should also be appointed on that committee, and by the President's order each member of that committee was to receive an annual salary of $10,000, from which was to be deducted any salaries they were already receiving from the Government. Now, Col. Goethals, as governor, was already receiving a salary of $10,000, and Col. Hodges was receiving $10,000, and Mr. Rousseau was receiving $10,000. Col. Sibert had accepted a mission to China, with leave of absence, during which he should draw nothing from the United States, so that he could draw nothing of this $25,000. Col. Gorgas was the only person who had connection with the construction of the canal who would receive anything from it. He is now Surgeon General of the Army, receiving a salary of $6,000, so that his salary would be increased at the rate of $4,000 a year.

I am glad myself, considering the eminent and inestimable services that Col. Gorgas performed in the sanitation of the Canal Zone, that he should get this recognition of a small addition to his salary. But I can see no reason why Hon. Richard L. Metcalfe should be given $10,000 a year, to be joined with these men on this committee in preparing for the opening of the Panama Canal. I believe the other gentlemen have sufficient capacity and sufficient familiarity with the canal to perform their functions unaided, without the distinguished assistance of the associate editor of the Commoner.

Mr. BARTLETT. Mr. Chairman, will the gentleman yield?

Mr. GILLETT. Certainly.

Mr. BARTLETT. That amendment was put on in the Senate, I believe?

Mr. GILLETT. Oh, no. That was the order of the President.

Mr. BARTLETT. I mean the appropriation. It was put on the urgent deficiency bill in the Senate?

Mr. GILLETT. I have forgotten about that. Very likely it was.

Mr. BARTLETT. And the gentleman was on the conference?

Mr. GILLETT. Yes.

Mr. BARTLETT. And if the gentleman had agreed with somebody else on the conference the House would likely have gotten an opportunity to vote for or against it?

Mr. GILLETT. I do not remember that.

Mr. BARTLETT. I think I remember that it was discussed in conference, and that two of the conferees were in favor of it.

Mr. GILLETT. I do not know as to that.

Mr. BARTON. Mr. Chairman, will the gentleman yield?

Mr. GILLETT. Yes.

Mr. BARTON. Is it not true that the law providing for the construction of the Panama Canal provided for the members of the board that governed the canal and fixed the salaries?

Mr. GILLETT. Which law?

Mr. BARTON. The law covering the management of the canal.

Mr. GILLETT. This was for the opening of the canal.

Mr. MANN. It did not. It did not fix the salaries.

Mr. BARTON. Did not the President fix the salaries, and appropriations were made for them?

Mr. GILLETT. Yes.

Mr. BARTON. And these positions were filled previously to this time, and the salaries were drawn?

Mr. GILLETT. Yes.

Mr. BARTON. Is there anything unusual for even a member of another party filling a position, if he has the qualifications to do so, drawing the same salary?

Mr. GILLETT. I do not understand the gentleman's question and I do not catch his point.

Mr. BARTON. Is there not authority vested in the Secretary of War to make the appointments to both of these positions?

Mr. GILLETT. No; it was the President who made them. The President made the appointment. I have seen the order issued by the President.

Mr. BARTON. Recommended by the Secretary of War?

Mr. GILLETT. Very likely.

Mr. BARTON. And not from the State Department?

Mr. GILLETT. I do not know. I do not know who recommended it. The President makes the order, and it is on his authority.

Mr. GARNER. Mr. President, will the gentleman yield?

Mr. GILLETT. Yes.

Mr. GARNER. In order to ascertain just how much of this fund will go to Mr. Metcalfe, how long does this board continue?

Mr. GILLETT. It continues for nine months.

Mr. GARNER. From his appointment?

Mr. GILLETT. Yes; from his appointment.

Mr. GARNER. So that he will draw a salary at the rate of $10,000 a year for nine months incident to the opening of the canal?

Mr. GILLETT. Yes. And that recalls a singular incident in connection with this matter. The President's order was dated May 20, appointing this commission, but in the order he provides that the salary shall date back and commence on April 1, so that from April 1 to May 20, when the commission was not in existence, the salary is to be paid. It is also a singular coincidence that Mr. Metcalfe's former salary as governor ended on April 1, so that by making the pay for this new position date back to April 1—50 days before the position was created—there was no hiatus in the salary drawn from the Government by Mr. Metcalfe.

Mr. SLOAN. Mr. Chairman, will the gentleman yield?

Mr. GILLETT. Yes.

Mr. SLOAN. I regret very much that the gentleman has criticized the appointment of Mr. Metcalfe, a resident of our State and a distinguished and able gentleman; and I think I might say this as an absolute truth, that if appointments under this administration averaged 60 per cent as high as Mr. Metcalfe it would tend to increase the life of this otherwise short-lived administration. [Laughter on the Republican side.]

Mr. GILLETT. I am very glad to have the gentleman's assurance, because I do not have the honor of a personal acquaintance with the gentleman; and please understand that I am not saying this with the slightest reflection upon him. I accept the gentleman's assurance that he is amply fit for a high position as well as this purely ornamental one. But my contention is that here is a position created with absolutely no function for this gentleman to perform. No matter how able and admirable he might be, he could not exhibit his ability here. Col. Goethals and these other gentlemen are quite qualified to perform all the functions of this commission, and here simply a place is being created at a salary of $10,000 for the apparent purpose of giving the gentleman from Nebraska a solace for losing his position as governor of the zone at $14,000.

Now, I do not criticize him for accepting the position. What I do criticize is the administration for appointing him to this position, which is absolutely unnecessary. If there is need of somebody in Washington, here is Col. Gorgas, Surgeon General of the Army, who is receiving $4,000 a year in addition to what he would otherwise receive. He could certainly attend to what is needed to be done at this end of the line. And we all believe that Col. Goethals and the other gentlemen, who do not get any addition to their salaries, can attend to what is necessary at the other end.

Mr. FITZGERALD. Will the gentleman yield?

Mr. GILLETT. Certainly.

Mr. FITZGERALD. Mr. Metcalfe was a member of the Isthmian Canal Commission, designated as the civil governor.

Mr. GILLETT. Yes.

Mr. FITZGERALD. In the deficiency bill passed in April a provision was inserted authorizing the President to appoint a commission to arrange ceremonies for the formal opening of the canal, the commission to consist of persons who had been members or were members of the Isthmian Canal Commission. Under the provisions of the law would it not have been a discrimination that could not have been justified if the President *had appointed* everyone else on the commission and excluded Mr. Metcalfe? For instance, the provision is—

For the purpose of paying the expenses of formally and officially opening the Panama Canal as provided in section 4 of the Panama Canal act, including the compensation of such persons as may be appointed by the President to provide for such opening under the direction of the governor of the Panama Canal, the President is authorized to use out of the moneys heretofore or hereafter appropriated for the construction, completion, operation, or maintenance of the Panama Canal the sum of $25,000, or so much thereof as may be necessary. The appointment of persons in the military and naval service of the United States is hereby expressly authorized.

Mr. GILLETT. I do not see that that says anything about appointing members of the Isthmian Canal Commission.

Mr. FITZGERALD. Our understanding——

Mr. GILLETT. I do not know anything about the understanding. There is the law which you yourself have read.

Mr. FITZGERALD. My recollection is that in the communication sent by the President, upon which this provision was inserted in the law, the statement was made that it was the purpose to appoint on this commission those persons who had been serving on the Isthmian Canal Commission.

Mr. GILLETT. Very likely; but that information was never communicated to me.

Mr. FITZGERALD. I am quite sure the gentleman saw it, because, as he well knows, I keep nothing from him, and he is as completely possessed of all the information I have about such matters as I am myself.

Mr. GILLETT. I thank the gentleman for his complimentary statement, though I suspect he means it humorously. Shortly after that time I do remember hearing gossip, or a report that this position was created in order to give a place to Mr. Metcalfe.

Mr. BARTLETT. Will the gentleman yield?

Mr. GILLETT. Certainly.

Mr. BARTLETT. Does the gentleman recall that there was a letter to the chairman of the Committee on Appropriations of the Senate, which was read in conference, and which, in the discussion of the conference report I called attention to, and printed it in the RECORD, and read it to the House.

Mr. GILLETT. I had forgotten the fact.

Mr. BARTLETT. And when the conference report was considered, I, myself, objected to that amendment to the bill in conference and on the floor of the House, and the RECORD will show it.

Mr. MANN. Will the gentleman yield?

Mr. GARNER. If the gentleman will yield just there, the gentleman from Georgia has made a very important statement concerning this matter in connection with the gentleman from Massachusetts. If I understand, the gentleman from Georgia [Mr. BARTLETT] says that in conference he objected to agreeing to this amendment. The gentleman from Massachusetts [Mr. GILLETT] was on that conference committee, and he is now condemning the appropriation.

Mr. GILLETT. The gentleman is mistaken.

Mr. GARNER. If he had joined with the gentleman from Georgia [Mr. BARTLETT], the conference committee could not possibly have agreed to this item.

Mr. GILLETT. The gentleman is mistaken. I am not criticizing this appropriation. What I am criticizing is the appointment that is made under the appropriation.

Mr. GARNER. But the statement has just been made that the gentleman from Massachusetts was aware of the fact as to who it was contemplated would be appointed.

Mr. GILLETT. I do not remember ever seeing that letter.

Mr. GARNER. The gentleman from New York [Mr. FITZGERALD] has just said that it was well known in the conference committee that he had a communication from the President that he was going to appoint these identical officials to these positions.

Mr. GILLETT. The gentleman has not stated that fact.

Mr. GARNER. If the gentleman from Massachusetts did know that fact——

Mr. GILLETT. I did not.

Mr. GARNER. And if he did agree to the conference report over the protest of one of his fellow conferees, he was in a position to defeat it, and should not now condemn it.

Mr. GILLETT. As I say, I do not remember any such letter as the chairman of the committee speaks of, and I do not believe it was brought to my attention.

Mr. MANN. Will the gentleman yield?

Mr. GILLETT. Certainly.

Mr. MANN. I want to plead guilty to some of this. The gentleman knows there was a very bitter conflict going on as to whether there should be an efficient government in the Panama Canal Zone, with Col. Goethals at the head of it, or whether there should be a political, inefficient government, composed of a commission; in which controversy a very distinguished gentleman having a very high standing with the present administration was exercising influence. It was proposed—the gentleman may not know that it was proposed, but I know it, because I was one of those consulted—that the advocacy of the inefficient government might be dissipated by making an appropriation which would take care of all the members of the Isthmian Canal Commission until the canal was officially opened; and that in common with a good many other Members of the House who believed in an efficient government under Col. Goethals down there, while we considered that we were being somewhat held up, we thought the price was cheap at $25,000.

Mr. GILLETT. I do not remember any such occurrence.

Mr. MANN. The gentleman may not.

Mr. FITZGERALD. Of course these obiter dicta statements by the gentleman from Illinois will not be regarded as of very much importance; but if the gentleman will permit me. I should like to call his attention to a communication, under date of February 28 last, sent to me by the President. I think the gentleman from Massachusetts [Mr. GILLETT] saw the letter. He may have forgotten it, but, with his permission, I shall print it in the RECORD.

Mr. GILLETT. I would like to hear it.

Mr. FITZGERALD. The President wrote to me as follows:

THE WHITE HOUSE,
Washington, February 28, 1914.

Hon. JOHN J. FITZGERALD,
Chairman Committee on Appropriations,
House of Representatives, United States, Washington, D. C.

MY DEAR MR. FITZGERALD: In accordance with the authority given me by the Panama Canal act I have issued an Executive order doing away with the Isthmian Canal Commission and establishing the permanent government of the Canal Zone under a governor, to take effect April 1, 1914.

As a result of this action the services of several members of the Isthmian Canal Commission will no longer be needed, and they will therefore discontinue their official connection with the Panama Canal.

I feel that after the able work done on the Isthmus by the Isthmian Canal Commission these members should have some official connection with the formal opening of the Panama Canal, which was directed under the Panama Canal act and which is set for approximately the first of next year. In order to cover this matter it has been suggested that these gentlemen might be appointed to a special commission, which should, under the governor, have charge of and be present at the formal opening of the canal, such commission to serve for a compensation which would be set by me. In order that these gentlemen may have their formal service with the Panama Canal continuous, it is desired that I be authorized to announce the commission at an early date, and if practicable, before the abolition of the Isthmian Canal Commission. I would therefore suggest the advisability of adding to the urgent deficiency bill a clause which will give me the necessary authority, it being noted that the Comptroller of the Treasury has ruled that I have not the authority to make payment to such a commission under existing appropriations. The clause referred to is as follows:

And then was set forth the draft of the clause desired, and, as I recall, the only change made in it was the insertion of the words "under the direction of the governor of the Panama Canal." The President's letter stated that the commission was to act under his direction; and so that there might be no misunderstanding and no conflict the provision suggested was modified by the insertion of those words; and the order which has been issued appointing the commission, if I recall correctly, designates Col. Goethals as chairman. As the order now stands, it provides that the commission shall perform the duties under the direction of the governor of the Panama Canal Zone and that Col. Goethals, now governor of the Panama Canal, shall be chairman of the committee. I was under the impression that the gentleman from Massachusetts was familiar with the correspondence, which is official, although he may not have understood entirely the purpose of the communication.

Mr. GILLETT. I do not remember seeing the letter. I am not saying that I did not, because my memory is uncertain about such matters. My recollection, however, is as I first stated, that I did not.

Mr. MANN. If the gentleman from Massachusetts will permit, I would like to ask the gentleman from New York if I understood him correctly in saying that this letter was a part of the official files of the committee?

Mr. FITZGERALD. Oh, I know to what the gentleman refers——

Mr. MANN. The gentleman knows that the President violates the rules of the House continually.

Mr. FITZGERALD. The President is not bound by the rules of the House.

Mr. MANN. The President and members of the Cabinet have recently got in the habit of writing official letters addressed to chairmen of committees expressing official wishes. All of them know the practice and rules of the House. Rule XLI of the House provides:

Estimates of appropriations and all other communications from the executive departments, intended for the consideration of any committees of the House, shall be addressed to the Speaker, and by him referred as provided by clause 2 of Rule XXIV.

If the President had complied with this rule, of which he is cognizant, there would be no question about its having come to the attention of the gentleman from Massachusetts, because it would be printed and all Members of the House would have cognizance of it. These secret official communications which the President and members of the Cabinet are now engaged in sending to chairmen of committees are one of the greatest abuses that can possibly take place in a representative form of government.

Mr. FITZGERALD. Mr. Chairman, if the gentleman will permit me, I think I have notified more members of the Cabinet and heads of bureaus than has any other Member of this House that communications addressed to me are for my personal use, and that if they desired to have them considered as official communications and for the use of the committee they should comply with the rule to which the gentleman has referred and address them to the Speaker. I have done so frequently during this session and during previous sessions, and the result has been that the formal communications have been sent. The letter addressed to me by the President reached me after the urgent deficiency bill had left the House. If it had come before the bill had passed the House, I would have suggested to the President the propriety of sending a message to Congress. I did inform him that as the matter had passed beyond the jurisdiction of the House it would be necessary, in order to have any action taken, that it should be taken up with the Senate. I do not recall in just what way it was taken up, whether formally or informally, but my impression is that the President addressed a communication to the chairman of the Appropriations Committee of the Senate.

At the beginning of this Congress I sent to all members of the Cabinet a little manual, which contained certain laws with respect to estimates and appropriations and the rules of the House particularly applicable to the members of the Cabinet, and requested them to familiarize themselves with them and observe them. I hope at least that this discussion will have the effect of making members of the Cabinet a little more particular about the observance of this particular rule. Its object is to make public the communications between the executive departments and Congress. If they are sent to the Speaker, they are printed and properly referred. I have never given very much consideration to communications, either in this administration or previous ones, addressed to me personally, other than those from the Chief Executive, and I do not propose to do so in the future. The rule is an important one, in the interest of the public, the proper transaction of public business, and it should be observed. [Applause.]

Mr. MANN. Mr. Chairman, I have no criticism of the gentleman from New York. I know his views would be very similar to mine. But I called attention to this because within a few days it came to my notice, as it would and will to the notice of other Members, that the Secretary of War, for whom I have the highest regard, wrote a letter to the President asking him to write a letter to the chairman of one of the committees urging the committee to make a favorable report of a claims bill, which the President did. It was not sent to the Speaker, as it should have been, so that Members of the House could have it.

Mr. GILLETT. Mr. Chairman, I am sorry that so much time has been taken on this little incident. I simply took it up as an illustration of the economy which the Democratic Party is professing as their guiding motive.

Mr. GARNER. I think the gentleman from Massachusetts ought to yield there. I think the gentleman's criticism is very unjust, considering the fact that the leader of his own party agreed to this arrangement. After the leader of the party agreed to it, it ought not to lie in the mouth of the gentleman from Massachusetts to criticize it.

Mr. MANN. You can criticize me; I am perfectly willing.

Mr. GILLETT. What the gentleman from Illinois stated was unknown to me. While the gentleman from Texas is possibly correct, that it takes away the charge of extravagance, it certainly adds another charge, which I think is much graver, and that is to accomplish a proper action in connection with the Canal Zone certain arrangements of patronage had to be made, which is not creditable to the administration.

Mr. FITZGERALD. I do not know anything about the secret intrigues of the gentleman from Illinois. I had no knowledge of them, had nothing to do with them, and I am not bound by them, and I will not be by any in which he may engage in the future.

Mr. GILLETT. I wish it to be distinctly understood by the gentleman from Nebraska, as well as others, that I mean no criticism on Mr. Metcalfe, for whom the office was made. My criticism is solely on the administration and upon its failure to carry out the profession.

Here is another illustration that came to my attention, and I am shocked to find how much time has been consumed; but Members will bear me witness that I have not used all of it or been wholly to blame——

Mr. BARTON. Will the gentleman yield?

Mr. GILLETT. Yes.

Mr. BARTON. Might we not criticize the administration for not prosecuting more vigorously the charges in the commissary department at Panama? There is an indictment pending, but not much prosecution going on.

Mr. FITZGERALD. I think if the gentleman knew anything about it he would not make the statement that this administration or any other administration is subject to any criticism. I do not know whether the man is innocent or guilty, but an employee of the commissary department is under indictment.

Mr. MADDEN. Let him be tried, and that will settle it.

Mr. FITZGERALD. I think he ought to be given a chance to be tried without anyone making a statement that any administration should be criticized because he has not been prosecuted.

Mr. MADDEN. Mr. Chairman, I would like to ask the gentleman from Massachusetts to explain, if he will, what he meant by saying that his criticism was directed mainly to the fact that the professions of the party had not been lived up to.

Mr. GILLETT. I have already alluded to that. There is one other incident, Mr. Chairman, to which I desire to refer, which has come to my attention. On March 3, 1913, an act was passed which originated in the Senate and which designated to perform the duty of special resident commissioner of the Lincoln Memorial Hon. Shelby M. Cullom, who was to receive compensation at the rate of $5,000 a year. That was approved March 3, 1913. That bill was passed, as those who are here will remember, because Mr. Cullom, after an unusually long and useful and distinguished service, was leaving the Senate, and was supposed to be absolutely without means of support. I think it was generally understood that this was a sinecure, to give him $5,000 a year for the few remaining months which he obviously had to live, for he then seemed to be trembling upon the brink of the grave. The act originated in the Senate. It came over here and was passed. Whether it was justifiable or not I shall not undertake to say. It was done, at any rate, for a venerable man who was just finishing an eminent career in the Senate, who was on the edge of the grave, and who was supposed to be penniless.

Mr. WILLIAMS. Mr. Chairman, will the gentleman yield?

Mr. GILLETT. Certainly.

Mr. WILLIAMS. Does the gentleman know that the estate of Mr. Cullom inventoried approximately $100,000?

Mr. GILLETT. Yes; I do know it, and was as much astonished as everyone else; but it was supposed at the time that he was without means, otherwise I do not think the act would ever have passed. I think all of us were very much surprised to find that he had saved a handsome estate. In less than a year Mr. Cullom died. The sinecure ended. But this Democratic Party, that is pledged to abolish useless offices—and that this office is useful I think few will contend, because the Commissioner of Public Buildings and Grounds is the agent of the Lincoln Memorial here in the city, and there is no necessity for another official—this Democratic Party, pledged to economy and to the abolishment of useless offices, instantly revived the same bill, inserting, however, the name of Hon. Joseph C. S. Blackburn instead of that of Mr. Cullom. I have great admiration and regard for Mr. Blackburn. He also has done good service for his country. He is not and he was not at the time emerging from the Senate or from Government service. As to his pecuniary condition I have nothing to say. I am not upholding the bill which originally made the appointment. I am only saying that I should suppose the party whose banner and watchword was economy and the abolition of useless offices would have seized this opportunity to drop that office and not instantly revive it and put a new incumbent in the place.

Mr. GARNER. Mr. Chairman, does the gentleman really believe that this is an entirely unnecessary office?

Mr. GILLETT. I believe so.

Mr. GARNER. And that this bill ought not to have passed?

Mr. GILLETT. I believe so.

Mr. GARNER. Does the gentleman know that this bill passed the House by unanimous consent?

Mr. GILLETT. I did not know it passed at all until it was called to my attention.

Mr. GARNER. It was passed by unanimous consent.

Mr. GILLETT. Very well. I do not see what that has to do with it.

Mr. GARNER. I simply want to call to his attention the fact that any gentleman might have prevented it by saying no.

Mr. GILLETT. Oh, the majority is responsible for it, and you can not evade responsibility for the act in that way.

Mr. GARNER. I am not trying to evade responsibility; but the gentleman or any other gentleman in the House could have stopped it by objecting.

Mr. MANN. As I understand it, the gentleman from Texas contends that it is the duty of the gentleman from Massachusetts to force the Democrats to observe their platform?

Mr. GARNER. The gentleman from Texas contends this, that where a gentleman sits on the floor of the House and permits a bill to become a law, he ought to be estopped thereafter from criticizing that law.

Mr. MANN. He did not sit on the floor of the House. The gentleman knows how it was passed. There were not 20 Members here when the bill was passed.

Mr. GILLETT. We are not all of us here when unanimous-consent bills are passed, and the gentleman knows that.

Mr. MANN. It was not passed on unanimous-consent day.

Mr. GARNER. That is true.

Mr. GILLETT. Just one further allusion to a matter which I discussed some weeks ago, and I am done. I refer now to the waiver by the President of the civil-service rules for the appointment of the Rev. Glazebrooke to be consul at Jerusalem. I referred to that some weeks ago in some remarks in the House, and I showed, as it seemed to me then, that it was a contradiction of the President's professed purposes. I have waited, hoping that some one would explain why it was necessary to waive that requirement.

Mr. SELDOMRIDGE. Mr. Chairman, will the gentleman yield?

Mr. GILLETT. Yes.

Mr. SELDOMRIDGE. I know the gentleman who was appointed consul to Jerusalem, and I consider he is preeminently qualified by his experience and training to fill that post.

Mr. GILLETT. Experience and training in what?

Mr. SELDOMRIDGE. In the line of knowledge and intelligence and in adaptability for the difficult duties of the position.

Mr. MADDEN. Mr. Chairman, is not Jerusalem an extraterritorial place and does it not require a lawyer?

Mr. GILLETT. Certainly. Is the Rev. Glazebrooke versed in the law?

Mr. SELDOMRIDGE. He is not; but I presume his general knowledge of the law and the duties of the consulship at Jerusalem would more than offset any specialist in legal acumen.

Mr. GILLETT. He has been a clergyman all of his life, has he not?

Mr. SELDOMRIDGE. I presume he is. I think if there is any one office in the United States Consular Service that would require the services of a clergyman the consulship at Jerusalem is that particular office.

Mr. GILLETT. Now, Mr. Chairman, that is just where I differ with the gentleman. The President last summer said such an appointment would be an exception to the rule and would be made only when the convenience and good of the service clearly required such an exception. I have been waiting to ascertain why the good of the service required that exception. The gentleman says that he thinks he is eminently qualified as a clergyman to be appointed consul at Jerusalem. Does Jerusalem require a clergyman? In the first place, the consul at Jerusalem has extraterritorial jurisdiction and he has to sit as a judge. I do not know why the life of a clergyman gives a man the training and experience to which the gentleman refers as qualifying him. The gentleman would be wiser to take the attitude of the Secretary of State, that experience is not a qualification. The fact that the gentleman is a clergyman, to my mind, peculiarly disqualifies him from the post at Jerusalem. It undoubtedly makes Jerusalem more attractive to him, but we have tried that before. We have had a consul before at Jerusalem, very learned in oriental lore, and our experience with that consul was such as to make us believe we ought never to repeat it. The fact is, Jerusalem, more than almost any other place on the globe, is a place of religious dissension, where religious feeling is intense, and affects the life of the place. Why, Kingsley, if I am not mistaken, in his history of the Crimean War, said that one of the main causes of that war was a contest among the sects at Jerusalem as to displaying an emblem on the walls of the chapel. In Jerusalem, of all places, we do not want to be represented by a person who is a clergyman and will at once excite sectarian feeling.

It seems to me no reason at all has been given why the rule which the President approved and said he should enforce, of appointing as our consuls young, active, virile men who are acquainted with and would promote the business interests of the United States, should be broken by the appointment at Jerusalem of a clergyman 69 years old and who could not pass the regular examinations. The consul may be all the gentleman from Colorado states. I have no doubt he is an estimable and cultured man, but we do not want our Consular Service to become a sanitarium for venerable clergymen or a retreat for broken-down politicians. [Applause on the Republican side.]

Mr. SELDOMRIDGE. I would like to say to the gentleman that I do not wish to take up the gentleman's time in endeavoring to refute the gentleman's argument——

Mr. GILLETT. The gentleman can do that in his own time.

Mr. SELDOMRIDGE. But I would be very glad at some time to take a counter position to that occupied by the gentleman.

Mr. GILLETT. The gentleman can undoubtedly procure time; and I wish very much he would state why the convenience and good of the service required this appointment, as the President stated. Now, I wish to apologize to the committee for taking so much time; but you will bear witness that it was not my fault entirely that I have been much longer than I intended. I simply wished, in performing a function which I think devolved upon the minority of the committee, to call attention to some of these specific instances as specimens how the conduct of the Democratic administration squares with its professions and its platform. [Applause on the Republican side.]

Mr. FITZGERALD. Will the gentleman use some time?

Mr. GILLETT. I yield one hour to the gentleman from Wyoming [Mr. MONDELL].

Mr. MONDELL. Mr. Chairman, I do not think I shall use the hour which has been yielded to me; but I desire to make a few observations in regard to the bill which we are about to consider. The sundry civil appropriation bill, more than any other appropriation bill coming before the House, relates to or affects every part of the governmental service. It contains items making provision for almost every class of governmental activities. Taking that into consideration, this is a very remarkable bill. We are increasing in population in this country at the rate of about 2,000,000 per annum. We are widening and broadening and extending our governmental activities even more rapidly than we are increasing in population; and yet this bill, having to do with nearly every department of the Government service, is the smallest bill, as it stands now, of any sundry civil appropriation bill in nine years. We all know that in that period of time we have widely extended our governmental activities. We all know in that period of time we have increased our population very greatly, and under ordinary conditions of legislation the sundry civil appropriation bill should increase somewhat year by year; and yet this bill as reported not only carries less than the sundry civil appropriations for the last eight years, but very much less. It carries approximately $107,000,000 as against $124,000,000 carried in the sundry civil and deficiency appropriations in 1914. We must go back to 1906 to find a sundry civil appropriation bill in which the expenditures were anything like as small as the amount carried in this bill.

This bill as reported compared with sundry civil and deficiency appropriations under the same heads for the 10-year period are as follows:

Total in this bill	$107,696,759.28
1914	124,689,948.87
1913	118,126,982.96
1912	142,638,044.14
1911	115,158,726.82
1910	138,020,927.76
1909	124,465,338.23
1908	111,043,001.30
1907	111,146,884.65
1906	68,383,450.66

There is a reduction in the bill as reported of something like $17,000,000 below the estimates. The administration is undoubtedly laboring earnestly to keep the appropriations down; therefore the estimates were, no doubt, all considered essential. I am willing to give the administration credit for attempting to keep the party pledges touching economy. That being the case, the estimates were not excessive, and when the committee makes a cut of $17,000,000 in one bill below the estimates it may be assumed that the committee is doing some considerably,

heavy trimming. And yet I want to say this in justice to the committee—to the chairman of the committee particularly, for he is very largely entitled to whatever credit or whatever discredit there may be in the size or character of the appropriations carried in the bill—while the reductions have been very great, they have not been made recklessly or carelessly or without due regard to the public service. As a matter of fact, under the management of the able chairman of the committee, much as the estimates have been pruned, much as the bill has been reduced, I am of the opinion that with a comparatively few exceptions there is no branch of the Government service that would seriously suffer in its present activities if this bill were not greatly increased over the amount which it now carries when it becomes a law. Of course we all know that the bill will be very greatly increased. We all know that when the bill, pruned as it has been far below the estimates—which in themselves, we must admit, were not high—reaches another body there will be great additions made to it, and then we shall have a real test of whether our Democratic friends are sincere, so far as these expenditures are concerned, in the matter of their protestations of economy.

We shall again have the fact illustrated that this is a growing and developing country, and that, talk as much as you will about economy, Government expenditures will grow unless you refuse to provide for proper growth and extension of governmental activities. I do not want to be misunderstood in what I have said relative to the character of the bill. I have said that there are comparatively few public services and activities that would be seriously unfavorably affected if the items of the bill were not greatly increased. The fact remains, however, that the bill, pruned as it is, necessarily fails to provide for the proper growth and extension of Government service, fails to provide for many things which, while we may be able to get along without, should be provided for.

In making up this bill the committee did what some committees in Republican Congresses have done, to a certain extent, that is, appropriate for nine months instead of for a year, and that fact explains to a very considerable extent the reduction of the bill below estimates, which are lower than our expenditures for similar purposes for a number of years past. I think the committee has fallen into this error of appropriating for only part of the year, this sharp practice, more than is justifiable. While it is not entirely essential that an appropriation bill presumed to care for certain public services for a year shall contain sufficient amounts to care for all services for 12 months, it certainly is better practice, fairer practice, more honest practice, to have the bill carry the necessary sums for the entire year rather than in many lines only enough to care for those services for eight or nine months. The expectation is that in the following bill, passed after the elections are over, amounts carried will be increased over what would otherwise be necessary, sufficient to make up for the deficiencies and shortcomings of the bill.

The public-building items illustrate this practice better perhaps than any other items contained in the bill. The public-building service will not suffer, because we only appropriate up to the 4th of March next, or a sum sufficient to care for public buildings up to the 4th of March next; still it would be very much more honest if the bill carried the entire amount which will be necessary for the entire year it is supposed to cover.

There are one or two items which are very considerably decreased by reason of changed conditions or views since the first estimates were made. There is a considerable reduction in the appropriations for the Panama Canal, but I believe the committee has given enough to carry on the work on the canal in a satisfactory way to completion. There is also a considerable decrease in the items for fortifications on the Panama Canal, due to the fact that it has been deemed wise to utilize as far as practicable the buildings we already have on the Canal Zone, rather than to erect new buildings for the housing of our troops. Whatever may have occurred elsewhere, whatever others may have done in disregard of the declarations of the Democratic Party in various matters, the chairman of the Committee on Appropriations has endeavored to keep faith in the matter of economy, and if his colleagues will stand by him, there is still some hope that they will not create so large a deficit through their appropriations for the coming fiscal year as has seemed inevitable heretofore.

And let it be remembered that it is up to the majority to practice economy, for of a free balance in the general fund of the Treasury, left by the late outgoing Republican administration, of over $150,000,000 there remains less than $74,000,000. Unless our Democratic friends are more lucky in the future in the matter of revenue and more careful in the future in the matter of expenditures than they have been up to this time, we will soon reach the period when it will be necessary to resort to the characteristic Democratic method of raising revenue through the issuance of bonds. Personally I shall be somewhat surprised if the administration does not find it absolutely essential to issue bonds before the first half of the coming fiscal year has passed. I have no doubt but that an earnest effort will be made to get beyond the November elections without resorting to this method of raising revenues. Possibly nothing further will be done than to have the plates ready and everything in preparation, waiting until after the ides of November to make the issue. Every fact and indication at the present time of revenues and expenditures points straight in the direction of such a deficit as will render a bond issue necessary in the no-distant future. In view of these facts, well known and appreciated by the chairman and all the members of the Appropriations Committee, it is not to be wondered at that this great bill has been so trimmed, scaled, and reduced. I again congratulate the chairman and the members of the committee that in the sweeping reductions deemed necessary in view of the situation they have not done more harm than they have. I want to say for the chairman that he and the other members of the subcommittee made an earnest effort to care for the public service so far as that could be done and keep this bill down to the very lowest penny. The majority members of that committee realize the situation that confronts us of increased cost of running the Government and reduced receipts. They realize business conditions in the country are such as to accentuate this situation in the future, and that unless there shall be a very radical change in affairs in the near future progression toward a deficit will be very rapidly accelerated.

Let us see what the business condition of the country is as indicated by our foreign trade. I happened to pick up this morning the advance statement of the Department of Commerce relative to exports and imports for the month of April, 1914, as compared with the exports and imports for the same month in 1913. I find that there was an increase of imports in April, 1914, over April, 1913, of $27,702,015; and the alarming thing about that increase of imports is that it is especially large in finished manufactures ready for consumption. There was an increase of imports in crude materials for use in manufacturing from approximately fifty-two to approximately sixty-five million dollars; in foodstuffs, crude, from $15,000,000 to $20,000,000, in round numbers; in foodstuffs, partly or wholly manufactured, from $18,000,000 to $25,000,000.

Mr. DIES. Will the gentleman yield for a question?

Mr. MONDELL. Yes.

Mr. DIES. Does the gentleman think that the increase of imports has had a tendency to increase the high cost of living?

Mr. MONDELL. I am sorry to have to say, because I naturally regret anything that does not carry out the hopes and claims of the gentleman's party, that I have seen no evidences of any reduction in the cost of living.

Up to this time the only articles, so far as I know, that have been decreased in price are golf balls and automobile tires. I do not play golf. [Laughter.] Otherwise the cost of living has steadily increased.

Mr. DIES. The injury that the gentleman speaks of results in what?

Mr. MONDELL. What injury?

Mr. DIES. I suppose the gentleman's speech is a lamentation. That is what we have had from gentlemen on the other side of the House.

Mr. MONDELL. No; not a lamentation, but a statement of facts. But it happens that under Democratic administrations a statement of facts is necessarily a lamentation, because it shows an unfortunate condition of affairs. [Applause and laughter on the Republican side.]

Mr. DIES. Who is the injured party in that particular case?

Mr. MONDELL. I will try to enlighten the gentleman before I get through. I am calling attention to the fact that we are importing increased quantities of goods, and I do not need to explain to so intelligent a gentleman as the gentleman from Texas the truth of what Abraham Lincoln once said—that if you buy an article at home you have at home the money and the article, but if you buy an article abroad you have at home the article and the foreigner has your cash.

Mr. DIES. Precisely; and the gentleman has given us the imports for April. Will you give us the exports for the same month as compared with that month of last year?

Mr. MONDELL. If the gentleman had listened to me he would know I was comparing the various items of imports. I shall come to exports later. Possibly the gentleman has not been listening. I said a moment ago that of foodstuffs, for instance, in crude condition and food animals we imported in April, 1913, to be accurate, $15,991,013; in April, 1914, $20,414,438, an increase of almost four and one-half millions.

Mr. DIES. Now, to make those statistics valuable, does not the gentleman think that the exports for the corresponding month should be given?

Mr. MONDELL. I will give them if the gentleman will only give me an opportunity.

Mr. DIES. I will, with pleasure and patience.

Mr. MONDELL. Now, coming to manufactures ready for consumption, we imported in April, 1913, $28,937,438 worth; in April, 1914, $34,082,964 worth, or an increase in that month over the corresponding month of the year before of finished products ready for consumption of over $5,000,000.

Now, I do not know—perhaps some gentleman who has studied that matter more than I have can tell me—I do not know just what is the estimate of the average daily production of a man in the industries. You might say that his average wage in the United States would probably be in the vicinity of $2 50 or $3 a day. I do not know what his production would be, but it is entirely conservative to say that the increased importations of finished products in April, 1914, over April, 1913, probably means the loss of about half a million days' work to American citizens. Now, if the gentleman thinks that is a good thing, he is welcome to that view.

Mr. DIES. How does my friend reconcile his statement without giving to the House the benefit of the exportations of that month? If we are exporting more than we are importing for the corresponding month——

Mr. MANN. I will state to the gentleman that we are exporting less, and we shall give him the figures later.

Mr. MONDELL. I will say to the gentleman from Texas that I will give him that information if he is patient; and when he hears the figures he will not be happy over them, unless he takes a different view of things than I think he does.

Now, how about these exports? How about this foreign market that we were to find under the New Freedom? How about the ports of the earth that were to throw wide open their gates and invite us in with our cargoes of crude and manufactured articles under the new dispensation? How is that working out?

I want to remind the gentleman that these are figures. They are not "psychological" propositions. [Laughter on the Republican side.] They are matters of dollars and cents in trade, and they are not something that resides only in somebody's imagination. In the month of April in the year 1913 we exported of crude materials for use in manufacturing $47,556,871 worth, and in the unfortunate April that has just passed, under the dispensation of the party to which my friend from Texas belongs, we exported just a little more than $10,000,000 less; or, to be accurate, we exported $37,627,006 worth—$10,000,000 f loss in one class of exports. How long will it take us to lose all our foreign trade at that rate? The gentleman can figure it out.

Of foodstuffs in crude condition and food animals we exported in April, 1913, $13,209,610; in 1914, the April just passed, we exported $6,738,021. We lost more than half of our export trade last April, as compared with the export trade of the April before, in foodstuffs in crude condition and food animals—the sort of things that the farmers export. Of foodstuffs partly or wholly manufactured we exported in April, 1913, in round numbers, $26,000,000; in April, 1914, in round figures, $19,000,000—a loss of $6,000,000 in foodstuffs partly or wholly manufactured. Thus we are conquering the markets of the world under the New Freedom. [Laughter on the Republican side.]

Mr. DIES. Does my friend think that they will not take our goods because we have taken theirs? Is that his position?

Mr. MONDELL. Well, I do not feel called upon to furnish any hypothesis as to the whys and wherefores of this proposition of foreign trade, other than to say that the Democratic proposition that you have to import largely in order to get a market for your exports has been proven fallacious beyond the power of words to express, and every time we have tried it.

Mr. MANN. Mr. Chairman, will the gentleman yield?

Mr. MONDELL. I will.

Mr. MANN. The gentleman from Texas just asked the gentleman from Wyoming if foreigners had not refused to take our goods because we had refused to take theirs.

Mr. MONDELL. Is that what he asked? I did not quite understand it.

Mr. MANN. That is the simple question he asked. I do not mean "simple" because easily understood, but because it could come only from a simple mind, after hearing your statement that we had increased our imports.

Mr. MONDELL. If that is the question, it is so simple that there is no difficulty, of course, in answering it. The facts speak for themselves.

Mr. DIES. No. I think the gentleman from Wyoming would get a better sense of what my question was than by listening to the gentleman from Illinois. My question was this: Do they refuse to take our exports because we have taken their imports?

Mr. MONDELL. The fact is they have not taken our exports, the prophecies of the gentleman's party and its advocates to the contrary notwithstanding.

Mr. FESS. Will the gentleman yield?

Mr. MONDELL. I will.

Mr. FESS. I understood you to say that our loss was $10,000,000.

Mr. MONDELL. On one class of articles.

Mr. FESS. Ah! A year ago the balance of trade in our favor was nearly $54,000,000, and this year in April the balance was something like $10,000,000 against us, which would make something like $64,000,000 of loss.

Mr. MONDELL. I am afraid I did not make myself entirely clear. I said that we had lost $10,000,000 in exports in April, 1914, compared with April, 1913, in one class of articles.

Mr. FESS. I did not understand that.

Mr. MONDELL. Crude materials for use in manufacturing.

Mr. FESS. Will the gentleman give the whole sum of the loss?

Mr. MONDELL. Yes; I will do that if the gentleman from Ohio and the gentleman from Texas will be patient with me.

Mr. FESS. I beg the gentleman's pardon. I think there are other Members here who would like to have those figures.

Mr. DIES. I do not wish to interrupt the gentleman, but if I gather his philosophy it is this: A decrease of exports, an influx of imports, and the high cost of living remaining stationary.

Mr. MANN. It is going up.

Mr. MONDELL. A loss of trade abroad, a loss of employment at home, nobody benefited, and millions of men out of employment. [Applause on the Republican side.] That is the situation.

Mr. BEALL of Texas. What is the gentleman going to say as to the prophecy about wool, while he is talking about prophecies?

Mr. MONDELL. I was coming to that, if the gentleman will be good enough. I pointed out wool went to its lowest point when the Democratic Party got in a position to threaten to put wool on the free list. There was a slight increase immediately thereafter, to be followed—as every wool buyer at a meeting before the Department of Agriculture the other day agreed—by a still lower price next year than we had two years ago.

Mr. BEALL of Texas. In other words, we are still in the realm of prophecy as to what will happen next year.

Mr. MONDELL. But the prophecies came true. The price a year ago was some 5 or 6 cents less per pound in my country than we had the year before under a protective tariff. And our people have not forgotten that even though the reaction has brought the price up a cent or two since. This is what we are not forgetting. We are still getting several cents a pound less than we generally got under a protective tariff. Meanwhile no one, including the gentleman from Texas, has heard of anybody buying woolen goods any cheaper. The promise of lower cost of living has not been fulfilled.

Mr. SLOAN. Will the gentleman yield?

Mr. MONDELL. I yield.

Mr. SLOAN. In view of the question of the gentleman from Texas [Mr. BEALL], when the gentleman from Wyoming discusses the wool question will he also discuss the Angora goat-hair question?

Mr. MONDELL. Oh, yes. Of course, in Texas they cultivate the goat more than they do the sheep; and the Democratic Party carrying out its policy of playing favorites in its legislation and contrary to the Scripture proposition as to the division of these creatures—the Democratic Party has selected the goat for its favor, while the gentle sheep has fallen under the ban, and the industry is steadily decreasing.

Mr. BEALL of Texas. I will say to the gentleman that that may be on the theory that we have gotten the Republican Party's goat. [Laughter.]

Mr. MONDELL. Not for long, I will say to the gentleman.

Mr. DIES. The gentleman from Wyoming still recognizes that the country at large is still keeping the sheep on the right-hand side, does he not?

Mr. MONDELL. The country at large will ultimately put the sheep on the right-hand side. Not that we wish to do the goat any injury, but eventually we will also recognize the good qualities of the sheep and the tremendous importance of having the sheep industry prosper.

Now, Mr. Chairman, when I was interrupted I was calling attention to the tremendous loss in exports.

In the matter of manufactures ready for consumption we exported during April, 1913, in round numbers, $70,000,000;

in the month of April, 1914, we exported of the same articles $62,000,000, a trade loss in that one class of articles of over $8,000,000.

The total decrease of exports in April, 1914, below April, 1913, was $37,266,403, a loss of thirty-seven and a quarter million dollars of foreign trade in April, as compared with the corresponding month of the year before, under a bill that, according to its proponents, advocates, and defenders, was to open to us the markets of the world.

Taking those two items, exports and imports, for April, 1914, as compared with April, 1913, and adding together the increase of imports and the loss of exports, to show how the balance of trade is shifting against us, we find an unfavorable trade movement in that one month amounting to $64,968,418. Now, honor bright, I ask the gentlemen on the other side if anyone on this side of the House criticizing your tariff bill and prophesying, as you say, as to what would occur under it, made a prophecy at any time which would compare as a condemnation of Democratic policy with these cold, hard facts of conditions under your tariff legislation?

What does it mean? Why, it means that this loss of trade on the one hand and this increase of importations on the other, going on as it is constantly, increasing in volume and percentage almost in a geometrical ratio, will, if it is continued, paralyze the trade of the country within another 12 months. You can not have that sort of a condition of constantly increasing imports and decreasing exports go on for a year without bringing on a panic, because that means the closing of mills and factories, the shutting down of industry. It means millions of idle men. It means want and misery.

Mr. FESS. Will the gentleman yield there?

Mr. MONDELL. I yield.

Mr. FESS. If this process continues, what effect will it have upon the supply of gold that is required in the settlement of international balances?

Mr. MONDELL. No one understands that better than the gentleman who has just spoken. It means a constant and continuous drain, and a drain that in the course of time is likely to place us in the position that we were in under the last Democratic administration, where we had to issue bonds in order to buy gold to keep up the gold reserve.

Did I understand the gentleman from Texas to say that he was not sure about my figures?

Mr. DIES. I think I am sure about them. I feel that I am.

Mr. MONDELL. I am reading from a statement that I received from the Department of Commerce this morning, a statement they made for general circulation.

It is as follows:

ANALYSIS OF THE FOREIGN COMMERCE OF THE UNITED STATES FOR THE MONTH OF APRIL.

WASHINGTON, D. C., *June 2, 1914.*

The usual monthly statement of the foreign trade of the United States was to-day completed by the Bureau of Foreign and Domestic Commerce, Department of Commerce. The imports and exports by great groups during the month of April and the 10 months ended with April are presented in the following statement:

Groups.	Month of April.		10 months ended with April.	
	1913	1914	1913	1914
IMPORTS.				
Crude materials for use in manufacturing	*Dollars.* 52,987,663	*Dollars.* 65,868,163	*Dollars.* 538,404,090	*Dollars.* 520,344,419
Foodstuffs in crude condition and food animals	15,991,013	20,414,438	184,187,182	210,169,827
Foodstuffs partly or wholly manufactured	18,243,578	25,065,622	163,546,882	176,652,010
Manufactures for further use in manufacturing	29,278,333	27,298,264	292,240,550	269,849,425
Manufactures ready for consumption	28,937,438	34,082,964	356,636,245	380,760,889
Miscellaneous	756,436	1,167,025	13,023,695	14,661,484
Total imports	146,194,461	173,896,476	1,548,038,644	1,572,433,054
EXPORTS.				
Crude materials for use in manufacturing	47,556,871	37,627,006	655,178,548	722,056,206
Foodstuffs in crude condition and food animals	13,209,610	6,328,730	161,671,083	116,320,048
Foodstuffs partly or wholly manufactured	26,178,111	19,588,017	271,726,527	252,650,662
Manufactures for further use in manufacturing	37,044,590	31,844,607	340,478,584	312,709,818
Manufactures ready for consumption	70,664,090	62,557,755	640,994,412	608,305,040
Miscellaneous	1,580,524	1,021,188	7,228,524	6,240,623
Total domestic exports	196,233,706	158,967,303	2,077,277,678	2,018,083,447
Foreign merchandise exported	3,579,732	3,583,567	30,594,133	27,689,338
Total exports	199,813,438	162,550,870	2,107,871,811	2,045,772,785

Mr. DIES. I feel sure that if the gentleman uses figures to show that exports are decreasing and imports are increasing and the high cost of living is remaining stationary, his figures will be received with a degree of allowance by every sane person, whether he is in the gallery or on the floor.

Mr. MONDELL. Now, if the gentleman will let me proceed——

Mr. DIES. It is a wonder how exports can decrease and imports increase and the cost of living remain the same and nobody gets the benefit of it.

Mr. MANN. The foreigner gets the benefit of it.

Mr. MONDELL. How can anybody on this side of the water get the benefit of it? I will tell you gentlemen where we will find those who get the benefit of it. Let the gentleman visit Manchester or Birmingham or Hamburg or any of the manufacturing centers of the world outside of our borders and he will find who is getting the benefit of it.

Mr. DIES. They are getting less from us, getting a bigger price for their goods, and imports are increasing here, and the cost of living is remaining stationary. Wonderful, wonderful!

Mr. MONDELL. Oh, the gentleman from Texas can make his visionary, Democratic argument in his own time. I am stating facts. The gentleman, like our beloved President, may, if he can, get his people to agree with him, resolve all these facts on the hypothesis of psychology. He may get his people down in the back districts of Texas to believe that bad business and hard times is all psychological. [Laughter on the Republican side.]

Mr. DIES. I voted against free wool and free lumber, but how both the buyer and the seller can become bankrupt in the same transaction I can not see.

Mr. MONDELL. That is one peculiar thing in a Democratic administration—we get hit coming and going. Nobody has been able yet to understand anything about it except that it is a fact. [Laughter and applause on the Republican side.] Facts are facts to me, and they prove themselves. I do not find it necessary to analyze them.

I am telling you, gentlemen, just what the situation is. There is no reduction but rather an increase in the cost of living. The situation is just what we said it would be. It is just what I said it would be, it is just what the gentleman from Illinois [Mr. MANN] said it would be, just what the gentleman from California [Mr. KAHN] said it would be, just what the gentlemen from New York [Mr. PAYNE] and Ohio [Mr. FESS], and all of us on this side said it would be. Judging from what has occurred heretofore under the Democratic policies applying to your proposition the ordinary rules of logic, we said that if you legislated as you insisted on legislating you would close our factories, deprive our people of employment, open the factories abroad, and flood the country with foreign goods. We said that you would not benefit anyone on this side of the water, but that you would bring disaster to millions. It is all coming even faster than we anticipated.

Mr. DIES. In other words if I understand the gentleman, the sellers are getting less for their goods and the buyers are paying more.

Mr. MONDELL. If the gentleman understands how merchants are buying foreign goods, and I suppose cheaper goods than the same kind of American goods, and still selling them for the same price, well and good. What interests me is the fact that they are doing it, for no one even claims to be buying goods any cheaper.

Mr. DIES. The gentleman from Wyoming would vote to reenact the Payne tariff law, would he?

Mr. MONDELL. I would vote to-day with great enthusiasm to write on the statute books of the Nation a good, sound protective tariff bill. [Applause on the Republican side.]

Mr. DIES. Precisely.

Mr. MONDELL. And about 9 people out of 10 in the country would be mighty glad to give us a chance to do it. [Applause on the Republican side.]

Mr. DIES. Would the gentleman vote now, as he voted in 1909, for the Payne bill; would he do it again if he had it to do over again?

Mr. MONDELL. I vote for the best legislation for the time and conditions.

Mr. MANN. The gentleman from Texas, like all Democrats, is four or five years behind the times.

Mr. MONDELL. The gentleman said he did not like his own tariff bill, but the trouble with the gentleman was that he thought there were a lot of good things in it and some bad things in it. The fact is there was not anything good in it.

Mr. ADAIR. Will the gentleman yield?

Mr. MONDELL. Yes.

Mr. ADAIR. The gentleman's State is a large wool-producing State and the price has increased 3 or 4 cents a pound under

the Underwood tariff bill. I would like to ask the gentleman if that is working a hardship on the farmers of his State?

Mr. MONDELL. The trouble is that the gentleman from Indiana does not state the fact. Wool has not increased 3 or 4 cents a pound under the Underwood tariff bill.

Mr. ADAIR. How much has it?

Mr. MONDELL. Wool has not increased in price at all under the Underwood tariff bill.

Mr. ADAIR. It is selling for more money now than it was.

Mr. MONDELL. A cent or two more than last year at this time. Last year's wool clip was sold before the Underwood bill became a law.

Mr. ADAIR. Well, whether 1 cent or 2, it is 3 or 4 cents in my State; has that increase worked a hardship on the farmers of his State?

Mr. MONDELL. If that is all the gentleman from Indiana has left to carry him through the coming campaign, the gentleman will be left out in the cold. Now, Mr. Chairman, a little later I propose to discuss this entire wool and woolen situation. And when I do, I think I can convince even the gentleman from Indiana [Mr. ADAIR], biased as I fear he is, that the wool industry has suffered frightfully under the Underwood tariff bill, and will continue to suffer as long as that law remains on the statute books.

Mr. FITZGERALD. The gentleman says that wool is selling for more money now than it did a year ago?

Mr. MONDELL. A little.

Mr. FITZGERALD. The Underwood tariff bill has not been a law for a year. Then the gentleman says that wool has not increased under the Underwood tariff law.

Mr. MONDELL. It has not increased by reason of the Underwood tariff bill.

Mr. FITZGERALD. Oh, the gentleman did not say that. He said it had not increased under it. Wool is selling for more now than it did a year ago. The Underwood tariff bill has not been in effect for a year, and therefore, according to the gentleman's statement, wool is not bringing more under the Underwood tariff bill. Is not that the ordinary Republican standpat logic?

Mr. MANN. How much money has the Treasury lost on the importations?

Mr. MONDELL. Fifteen millions.

Mr. FITZGERALD. The gentleman from Wyoming is able to make his speech. Mr. Chairman, without any help from the gentleman from Illinois.

Mr. MANN. Or the gentleman from New York.

Mr. FITZGERALD. Although the gentleman from Illinois may imagine that nobody on that side can make a speech without his assistance, and I insist that the gentleman from Wyoming has just given a very valuable illustration——

Mr. MANN. Mr. Chairman, who is making this speech? [Laughter.]

Mr. FITZGERALD. A very valuable illustration of the character of logic believed in and adopted and pursued by the standpat Republicans that although something is bringing in more money now than it did a year ago, and although since that time a law was enacted, that those prices are not brought under that law.

Mr. MANN. And the gentleman from New York is guilty of the lack of logic that permeates all Democratic legislation.

Mr. MONDELL. Mr. Chairman, in view of the fact that I intend to discuss this whole matter a little later, and that I do not intend to allow the Democratic side to consume my entire hour by riveting attention to the one glimmer of hope on the whole gloomy Democratic horizon, I am going to make just one brief statement

Mr. FITZGERALD. Oh, I will give the gentleman another hour if he will make that kind of a speech.

Mr. MONDELL. As everybody who knows anything about wool knows, wool went to or below the foreign price as soon as you gentlemen had declared your intention to put it on the free list, in advance of the passage of the Underwood bill, as it did in advance of the Wilson bill.

Mr. FITZGERALD. Oh, they were trying to scare Congress.

Mr. MONDELL. And as it always will in advance of any tariff reduction.

Mr. FITZGERALD. Is not that an attempt to frighten Congress not to do what it desires to do? Is not that the old trick of these highly protected Republicans?

Mr. MONDELL. Oh, I suppose the gentleman imagines that the woolgrowers out in my State sell their wool at a low price and lose money on it just for fun and with the idea that they are going to influence Congress by so doing. That is the kind of argument that the gentleman from New York now advances, and it is hardly worthy of him.

Mr. FITZGERALD. Was it not a notorious fact that for the purpose of coercing and influencing Congress in that way, a large steel plant did stop operations in the district of the gentleman from Alabama [Mr. UNDERWOOD], the chairman of the Committee on Ways and Means, and did he not denounce that attempt to coerce and influence his action in this House when the steel schedule was under consideration?

Mr. MANN. And I suppose that is the reason that so many of them have stopped since.

Mr. FITZGERALD. Was not that an illustration of what these chaps, who have fattened and grown rich under Republican tariff, had been doing for years every time any attempt was made to give relief to the people? Have they not always tried to frighten Congress by saying that the bottom would fall out of prices? I see my colleague from New York [Mr. PAYNE] laughs. No wonder he laughs, for he understands it.

Mr. PAYNE. I think that kind of stuff might go down with the gentleman's constituents——

Mr. FITZGERALD. He now appreciates the joke for the first time in his life.

Mr. PAYNE. I think that kind of stuff might go down with the gentleman's constituents, but he could not go where people are intelligent and make them believe it.

Mr. FITZGERALD. Oh, if I made a speech in the gentleman's district, it would go Democratic, and he ought to thank me for not coming into it.

Mr. PAYNE. My majority would be double what it is now if the gentleman came up and made a speech. Come up and I will pay your expenses.

Mr. ADAIR rose.

Mr. MONDELL. Mr. Chairman, I feel that I can not yield further.

Mr. ADAIR. Mr. Chairman, the gentleman hardly gives me a square deal.

Mr. MONDELL. I will yield in just a moment, after I have taken care of the gentleman from New York. The gentleman from New York [Mr. FITZGERALD] has referred to some alleged happenings in the district of the gentleman from Alabama that I do not recall, but I do happen to have noticed that the industries down there in the district of the gentleman from Alabama are now protesting and wailing and rending the firmament. They say that the foreign producer of steel can lay down steel in Mobile for very much less than they can make it, and that the foreign steel men are invading their markets.

Mr. ADAIR. Mr. Chairman, before we close I just want to get into the RECORD the fact that nine out of eleven farm products have been higher in price since the Underwood bill passed than before.

Mr. MONDELL. Mr. Chairman, the gentleman from New York [Mr. FITZGERALD] and the gentleman from Indiana [Mr. ADAIR], having, without observing the rule, interjected their various observations, allegations, and imaginings into my speech, I trust I may now be allowed to say a few words myself. It will be observed that none of the gentlemen on the Democratic side who have interrupted me have attempted to question the facts I have presented as to the lamentable condition of the Nation's finances, its trade, and its industries. They pursue the ordinary Democratic method of confession and avoidance. They abused us for alleged extravagance, and promised economy, yet the sum total of their appropriations will be greater than under Republican administrations. They assured the people improved conditions of trade and employment and a lower cost of living. Trade and industry is paralyzed, employment is lacking, and they themselves confess that the cost of living has not been reduced—they even make a virtue of the claim that it is increased.

The fact is that things have come out just as we said they would under their policies, and even more unfortunately and rapidly than we had predicted. They have not a rag or a thread of argument left to hang to, and in their desperation they are adopting their customary tactics of each making the kind of argument which he hopes will save him in his particular district. They put wool on the free list not because the majority of them wanted to, but because the President told them they must to make wool and woolens cheaper. Their threat did make wool cheaper with a vengeance, and caused the American woolgrower a loss in last year's clip of many millions of dollars. Wool having quite naturally, slightly, and temporarily recovered from the lowest price of last year, they take that as a justification for a free-wool policy which they were driven to adopt, ignoring the fact that the wool industry is in a condition of depression, that the Government has lost many millions in revenue, and that no one has bought woolen goods any cheaper.

It ought not to have required the experience we are having to prove the fallacy of Democratic arguments and the incapacity

of the Democratic Party to wisely legislate in the interest of the people of the country. In fact, it did not require this further experience under Democratic policies to enlighten the people as to their disastrous consequences, but it has required this experience to convince Republicans that in settling their differences and disagreements they make an awful mistake when they carry them to a length that gives the Democratic minority a lease of power such as it now has. This lesson has, in my opinion, been brought home to Republicans with convincing emphasis, and the result will be that while there may still continue for a time some differences of view, mostly on nonessentials, among our people, the great majority of those who have believed in protection, who approve sane principles and methods of government, who want to be relieved and relieve the country from present unfavorable and unfortunate conditions, will unite in the coming election in the support of Republican candidates. [Applause on the Republican side.]

Mr. Chairman, I ask unanimous consent to extend my remarks in the RECORD.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. FITZGERALD. Mr. Chairman, I yield three minutes to the gentleman from Alabama.

The CHAIRMAN. The gentleman from Alabama is recognized for three minutes.

Mr. UNDERWOOD. Mr. Chairman, I did not propose to become involved in this debate, and I only rose for the purpose of saying to the gentleman from Wyoming that I sincerely hope that he will print in the RECORD the information which he has just stated in reference to the district which I have the honor to represent. There has been a dull iron market and comparatively low prices for iron, but not nearly as low as I have seen them under Republican administration and under a Republican tariff bill. The lowest price that I have heard of pig iron selling in the Birmingham district in the last few months has been about $10 to $10.50 a ton, and I can recall a time when, under the Dingley bill, before the Spanish War, pig iron was selling in the Birmingham district at from $7 to $8 a ton, and they were glad to get it. Those conditions are brought about by general world conditions and conditions in the country——

Mr. MONDELL. Will the gentleman yield?

Mr. UNDERWOOD. I wish to call the gentleman's attention to a fact which I read in the papers this morning, which stated that there had been very large sales of pig iron in the Birmingham district at about $10.50 a ton just recently, and that there had been large shipments of pig iron to Italy and to Australia, and some to England, from the Birmingham (Ala.) district within the last 30 days. [Applause on the Democratic side.] If somebody has assumed that pig iron has been landed at Mobile cheaper than they could make it in Birmingham, that gentleman was working entirely on his imagination, because I will say to the gentleman this, that if I were a wagering man I would wager that you can not find where a ton of pig iron has been landed at the port of Mobile from any foreign country since the Payne law was repealed.

Mr. MONDELL. Will the gentleman yield?

Mr. UNDERWOOD. Yes.

Mr. MONDELL. The gentleman misunderstood me, if he understood me to say anything about pig iron. I spoke of steel.

Mr. UNDERWOOD. Well, pig iron is the basis.

Mr. MONDELL. I can understand how you can make pig iron, with the cheap black labor down there, very cheaply.

Mr. UNDERWOOD. I will renew the statement. I challenge the gentleman to show that there has been a pound of steel landed at the port of Mobile or that there has been a steel rail or a pound of pipe or a pound of steel that competes with the products of the Birmingham district.

Mr. MONDELL. The statement I made was taken from some newspaper article which I saw——

Mr. FITZGERALD. That is a Republican paper.

Mr. UNDERWOOD. Some gentleman theorizes that it can be done; but I am talking about the facts, and I challenge the gentleman——

Mr. MONDELL. It is under a Mobile date line.

Mr. UNDERWOOD. Well, it is a mighty easy thing for the gentleman to find it and put it in the RECORD. The importations of iron or steel at the port of Mobile are shown in the Treasury reports, and I challenge the gentleman to sustain his statement by the records that he can get if he wants to get them. [Applause on the Democratic side.]

Mr. FITZGERALD. I yield to the gentleman from Colorado [Mr. TAYLOR].

Mr. TAYLOR of Colorado. Mr. Chairman, I do not desire to speak on the pending bill, but to briefly mention another matter. I had the pleasure yesterday of visiting the United States Naval Academy at Annapolis and attending the graduating exercises of the class of 1914.

That class started four years ago with 231 members and graduated only 154. There were three Colorado boys in the class, and all three of them were within the 10 honor graduates of the class.

Midshipman Edward Ellsberg, of Denver, graduated with the highest honors and was the first one to be presented with his diploma by President Woodrow Wilson. Young Ellsberg not only graduated at the head of the class of 1914, but he led his class during the entire four years' course and was the honor man at the end of each year. In addition to the distinction of making the highest record in scholarship during the entire four years, he won several very highly prized medals. He won the splendid silver cup annually donated by the Daughters of the American Revolution for the one in each graduating class who attains the highest proficiency in seamanship and international law. He also won the honorary prize of a navigating sextant presented annually by Col. R. M. Thompson, of the class of '68, for the highest proficiency in navigation; also a medal for fencing, another for the championship in dueling, and two or three others for the best English essay work.

Another boy, Midshipman Frederick E. Pelton, of Denver, stood fourth in the class one year, fifth another, sixth another, and graduated eighth in the class.

I am supremely proud to say to the House that those two Colorado boys were my first appointments to Annapolis. [Applause.] They were the two highest in a competitive examination which I held during my first term in Congress.

The other Colorado boy that graduated with honors was Abraham Marron, also of Denver, appointed by the late Senator Charles J. Hughes, jr. His standing was ninth in the class. I believe I am safe in saying that no State in this Union has ever equaled this record. It speaks well for our school system and is an inspiration to the youth of our State. Colorado is proud of these boys, and they are entitled to this mention and this record, because the course at that academy is most awfully hard work.

By reason of their rank, Midshipman Ellsberg was allowed to select his ship, and he chose the new battleship *Texas*, while, I understand, young Pelton and Marron chose the battleship *Maryland*, to which they will be assigned.

This is the first time in the history of our State that Colorado has carried off the highest honors at Annapolis. Some 25 years ago Gen. Irving Hale, from Colorado, was the honor man at West Point, and he has been a credit to our State ever since; and I am confident that these three Colorado boys will likewise during the future years be an honor to our country, to the Navy, and to the Centennial State. [Applause.]

Mr. GILLETT. I yield 20 minutes to the gentleman from California [Mr. KAHN].

Mr. KAHN. Mr. Chairman, for many months there has been a constant denial on the part of the members of the present administration of any business depression in the United States. However, a few days ago, when a delegation of western business men called upon the Chief Executive at the White House and asked that some of the proposed antitrust legislation be put over until next winter, so as to allow business to adjust itself to the laws already passed, the President admitted that there was a business depression in the country, but said it is purely "psychological."

Many of us on the minority side of the House have constantly contended and have presented facts to prove that there is business depression all over the United States. But heretofore we have been called "calamity howlers." At last we have wrung a confession from high authority that there is business depression, although it is contended by the Democratic administration that there is no real reason for that depression.

The Democratic Party has constantly assured the manufacturers and business men of this country that there was nothing to fear from the legislation proposed by the members of that party. No doubt the manufacturers and producers for a time believed the statements that emanated from the lips of the distinguished gentlemen on the other side of the aisle and from the gentleman who heads the executive department of this Government. They have had an awakening. The New York Sun published a little item several months ago which exactly pictures the condition of the business world to-day. It is as follows:

"KIND WORDS CAN NEVER DIE."

To the EDITOR OF THE SUN.

SIR: The kind words from the administration to the business interests of the country remind me of the thrilling melodrama entitled "Nellie, the Beautiful Cloak Model."

[Laughter.]

In the early part of the play the villain pushed Nellie off the Brooklyn Bridge. Later he threw her overboard from an Atlantic liner. Later still he thrust her under a descending elevator. The next time they met he said: "Nellie, why do you fear me?"

[Laughter and applause.]

The business interests of the country have grown afraid of the legislation that was threatened and that is being enacted by the Democratic majority. Yesterday we passed three of the so-called antitrust bills, the "three little maids from school." [Laughter.] One of them at least will again have a deterrent effect upon the business of this country—the so-called Clayton antitrust bill——

Mr. ADAIR. Did not most of the gentleman's party in the House vote for those bills?

Mr. KAHN. I am only responsible for my vote.

Mr. ADAIR. I think about two Republicans to one voted for them.

Mr. KAHN. I do not know what the proportion is, but I think my friend is mistaken. At any rate, there is one hope for the business interests of this country. In all the half-baked, undigested legislation to regulate business that has been passed by this House it has been so revised at the other end of the Capitol that in many instances it has been made less destructive than if it had been enacted in the form in which it left the House of Representatives.

Mr. FITZGERALD. Does the gentleman say that those bills would have a terrible effect on the business of the country?

Mr. KAHN. I say that they will have a deterrent effect on the business of the country.

Mr. FITZGERALD. You mean the crooked business that flourished under Republican administrations?

Mr. KAHN. The gentleman uses the arguments of the demagogue now, and they are unworthy of him.

Mr. FITZGERALD. Ah, I prithee, forgive me!

Mr. KAHN. Because it is the demagogue who tries to point out that all business is crooked.

Mr. FITZGERALD. Oh, no. These are not designed to affect an honest business, but designed to affect the crooked business under which the country has been robbed.

Mr. KAHN. Oh, yes. There has been a great deal of honest, legitimate, genuine business in the country, and always will be, and some of the legislation that is proposed in these bills will affect honest, legitimate business adversely.

Mr. FITZGERALD. But give them a legitimate chance, which they have not had prior to this time.

Mr. KAHN. They will kill legitimate business.

Mr. FITZGERALD. Oh, nonsense.

Mr. KAHN. Some of the provisions will kill legitimate business, and the gentleman knows there are features in that Clayton bill that are bound to affect business adversely.

Mr. BARTLETT. Will the gentleman yield for a question?

Mr. KAHN. In a few moments. I want to get on a little.

Mr. BARTLETT. Did not the gentleman vote for two out of the three bills?

Mr. KAHN. I voted for the first and third: yes, sir. [Laughter.] The first provides for a trade commission. There can be no harm in that. The third was a substitute, which was submitted in the closing hours of the debate for a very bad bill. The substitute embodied all the good points that the gentleman from Minnesota [Mr. STEVENS] contended for.

Mr. ADAIR. Does not the gentleman believe, if the antitrust bill is going to be detrimental, that the majority of the Republicans in the House who voted for it should take, at least, their portion of the blame for it?

Mr. KAHN. I do not know. It was legislation that emanated from the Democratic majority, and there is no doubt in my mind but that it will be toned down at the other end of this Capitol so as to make it a less dangerous piece of legislation.

Mr. ADAIR. But the majority of the Republicans thought it was good, or they would not have voted for it, I presume.

Mr. KAHN. Possibly, though not necessarily. A majority of the Republicans, I am informed, did not vote for it. There were about 54 Republicans, as I understand, who voted against it and only about 40 voted for it.

Mr. ADAIR. I understand that a majority of the Republicans voted for it.

Mr. KAHN. I can not yield further. My time is limited.

Now, Mr. Chairman, we have had further confirmation from high authority that there is business depression in the great manufacturing sections of our country. Yesterday the newspapers published a speech that was delivered by the Secretary of Commerce at Raleigh, N. C. I have a very high opinion of the distinguished Secretary of Commerce, who served in this House, and we all know he is a well-meaning, well-intentioned gentleman. He undertook to say that the business of the country was highly prosperous in every section except the Northeast. He likened the business conditions to the weather map, and asserted that it is clear and white in the West, and clear and white in the Mississippi Valley, and in the region of the Great Lakes, but that over in the Northeast it is dull gray. If he were to study the conditions thoroughly, he would find that there is more or less business depression in the West, the Northwest, the Southwest, the East, the Southeast, and in every section of the country. There is general complaint from every quarter that times are dull. Some industries feel it more than others. But there is no evidence of great prosperity anywhere. There are more men out of employment now than for many years past.

The distinguished gentleman who presides over the Department of Commerce should have taken another and, to my mind, a more appropriate illustration. He should have likened the country to the condition that is spoken of by Æsop in his fable of "The Belly and the Members." That fable runs as follows:

One fine day it occurred to the Members of the Body that they were doing all the work and the Stomach was having all the food. So they held a meeting, and after a long discussion decided to strike work till the Stomach consented to take its proper share of the work. So for a day or two the Hands refused to take the food, the Mouth refused to receive it, and the Teeth had no work to do. But after a day or two the Members began to find that they themselves were not in a very active condition; the Hands could hardly move, and the Mouth was all parched and dry, while the Legs were unable to support the rest. So thus they found that even the Stomach in its dull quiet way was doing necessary work for the Body, and that all must work together or the Body will go to pieces.

Mr. Chairman, the northeastern part of this country is like the stomach referred to in the fable. The raw material from the farms and the mines of this country go there to be converted into finished products. The food products of the farm are sent there to feed the operatives in the mills, the factories, and the workshops of that important area. The stomach is out of condition. It is disordered and ailing, according to the admission of the Secretary of Commerce, and that condition has its baneful effect upon every other section of the United States. Any man who will honestly investigate will find that there is business depression all over the United States, the Secretary of Commerce to the contrary notwithstanding. I rather think he is the Mark Tapley of this administration. [Laughter on the Republican side.]

In his speech at Raleigh the Secretary rejoiced that "we have sent large sums abroad of late." It were far better for the people of the United States if these large sums had been kept at home and invested in existing enterprises of this country or in the establishment of new ones. But capital is once more showing its timidity. It is afraid of your radical legislation, your legislation "with teeth in it," as was suggested on this floor a day or two ago. The exodus of these large sums to other lands is one of the surest signs, one of the best proofs, of business depression.

Mr. Chairman, the trouble is that at the present time dilettanteism is at the helm in this country. Doctrinaires and theorists occupy the positions of high station. The people are demanding that practical men shall again run the Government. And they will speak in no uncertain language at the ballot box next November. They know that there is dullness and uncertainty in the business world. The evidences of the depression are found everywhere. Take this item from this morning's Washington Herald as an illustration. It reads:

PENNSY'S IDLE EQUIPMENT.

Eighty-six million dollars' worth of freight cars and locomotives are standing idle on the sidetracks in the yards, roundhouses, and shops of the Pennsylvania Railroad system as a consequence of the depression in railroad traffic, which in the last fortnight, according to the figures showing the decline in the movement of loaded freight cars, has become more acute than at any time since the present era of retrogression began months ago.

Very nearly one-third of the freight cars owned by the Pennsylvania lines, east and west, are out of use. The number of cars idle, according to the latest reports which were available yesterday, is 80,000. The Pennsylvania lines own, altogether, approximately 250,000 freight cars. More than 300 locomotives are idle, out of a total of 7,000 owned. The percentage of idle freight cars is naturally greater than that of idle locomotives, because reducing the number of cars in a train is a more common proceeding than eliminating a train altogether.

That item tells its own story—a story that can not be controverted.

Contrast that condition with the one that prevailed only two or three years ago, under a Republican administration, when it was impossible to supply the various sections of the country with enough freight cars to move the great crops and carry the freight of the great business interests of this country. Yes; contrast the present condition with the condition of two or three years ago.

Mr. ADAIR. Mr. Chairman, will the gentleman yield for just a question there?

Mr. KAHN. Yes.

Mr. ADAIR. Does the gentleman mean to say that there were no idle freight cars in 1907, under a Republican administration? Thousands of them were idle all over the country.

Mr. KAHN. In 1907 there was a temporary condition of depression, due largely to overspeculation in Wall Street. It was very brief, and in the following years there was an enormous demand for cars. That demand continued practically through all the remaining years of Republican administration.

Mr. ADAIR. But the gentleman said that such a thing had never happened before.

Mr. KAHN. The gentleman evidently misunderstood what I said.

Mr. RAGSDALE. Mr. Chairman, will the gentleman yield there for an interruption?

Mr. KAHN. I believe I am correct when I say that there never were so many cars idle as at the present time.

Mr. RAGSDALE. Mr. Chairman, will the gentleman yield?

Mr. KAHN. I can not yield.

The CHAIRMAN. The gentleman declines to yield.

Mr. RAGSDALE. I would like to know——

Mr. KAHN. I regret I can not yield. I have but little time left.

In looking over some of the publications of the present Chief Executive I find this statement in the American Political Science Review of February, 1911, in an article entitled "The law and the facts," in which the President, then Mr. Wilson, said:

> I do not know how some students of politics get along without literature as some of them make shift to do—without interpretation of poetry or of any of the other imaginative illuminations of life—or without art, or any of the means by which men have sought to picture to themselves what their days mean or to represent to themselves the voices that are forever in their ears as they go their doubtful journey. They read history, indeed, in search of the "facts"; but if they miss the deepest facts of all, the spiritual experience, the vision of the mind, the aspirations of the spirit, that are the pulse of life, I do not see how they can understand the facts or know what really moves the world.

That in a measure may explain what the Chief Executive meant when he told the western business men that the business depression is "psychological." He has "visions of the mind." He sees visions of prosperity in this country where there is business depression; and he doubtlessly is surprised because the hard-headed, practical business men of the country, realizing that their enterprises are in a serious and uncertain condition, do not have visions of the same kind. The business man does not have to go in search of "facts," so far as existing conditions in the business and financial world are concerned. He finds them ready at hand wherever he turns. He has no "visions" of prosperity, because there is no prosperity at the present time.

Mr. BEALL of Texas. Mr. Chairman, will the gentleman yield?

Mr. KAHN. I can not yield. I have only three or four minutes longer.

Now, the trouble with our friends on the other side is that they do not recognize actual conditions. They deal with theories. They see "visions." That is the unfortunate part of it. A good many of you on the Democratic side rebel inwardly at some of the legislation that is being forced through this House. It were better for the country if you were to rebel outwardly and refuse to lend yourselves to the enactment of drastic legislation which is bound to cripple the commercial interests of the United States. Fortunately, there is more deliberation at the other end of this Capitol. Fortunately, there is no resorting to gag rules to shut off debate and prevent proper discussion of great public problems in that body. There, at any rate, the Democratic majority on a recent vote showed they were not at all in accord with one of the highly lauded policies of the present administration. Let me illustrate: On October 27, 1913, the President of the United States delivered a speech at Mobile, Ala. It was a very excellent literary utterance. It was commended on all sides. Its high ideals met with general favor. In that speech the President said this:

> I want to take this occasion to say that the United States will never again seek one additional foot of territory by conquest—

Now, in order to put the Democratic Party to the test at the other end of the Capitol, a distinguished Senator [Mr. LA FOLLETTE] offered an amendment to the "justification resolution" in the Mexican trouble that was then being considered in the Senate. That amendment read:

> *Be it further resolved*, That the United States hereby disclaims any disposition or intention to exercise sovereignty, jurisdiction, or control over Mexico or any portion of the same, except for the pacification thereof, and asserts its determination, when that is accomplished, to leave the government and control of Mexico and every portion thereof to its people.

That amendment was clearly in line with the President's altruistic sentiments uttered in the Mobile speech. Then the roll was called upon that amendment. It was defeated by a vote of 44 to 39. Of the 44 votes cast against it, 42 were Democrats, who refused to follow the President of the United States in his position never again to seek a foot of territory by conquest; 2 were Republicans. Of the 39 votes in favor of the amendment, 37 were Republicans, 1 was a Democrat, and 1 was a Progressive.

Mr. Chairman, I merely cited this instance as an evidence of the independence from Executive pressure of the Democratic majority at the other end of this Capitol.

The CHAIRMAN. The time of the gentleman has expired.

Mr. FITZGERALD. Mr. Chairman, I yield a minute to the gentleman from Texas [Mr. BEALL].

The CHAIRMAN. The gentleman from Texas [Mr. BEALL] is recognized for one minute.

Mr. BEALL of Texas. Mr. Chairman, the gentleman from California [Mr. KAHN] read an extract from the Washington Herald of this morning, written by whom I do not know. I want, in connection with that, to have incorporated in the RECORD an article from the Star of this afternoon, covering an estimate of the situation as made by Dun's review of trade and Bradstreet's review, as follows:

TRADE ADVICES OPTIMISTIC—IMPROVED SENTIMENT REFLECTED IN SOME EXPANSION IN VOLUME.

NEW YORK, *June 6*.

Dun's review of the week says:

"Advices from the leading commercial and industrial centers are more optimistic and the improved sentiment is reflected in some expansion in the volume of trade. Of late there has been marked increase in the number of orders placed with manufacturers, and there is much less idle machinery than a month ago.

"There is a healthier tone to the dry-goods market. A better inquiry is noted for wool, which has lost none of its former strength."

Bradstreet's review says:

"Sentimentally and fundamentally, trade conditions are better, even though irregularity is still in evidence. Jobbing trade at many points outside of the Southeast, and particularly in the Northwest, has broadened; interest in fall and winter goods is gradually developing; there is more doing in retail lines; some improvement has appeared in connection with collections; larger sales of southern pig iron are noted; wool is active at strong prices; textile mills are fairly well employed; crop conditions have improved; railway traffic is heavier."

I also wish to insert the following item from the Philadelphia Ledger of to-day concerning the improvement of the steel trade:

EQUIPMENT ORDERS CHEER STEEL TRADE—NEW YORK CENTRAL AND ILLINOIS CENTRAL BETWEEN THEM CONTRACT FOR 10,300 CARS—LOOK FOR PENNSYLVANIA RAILROAD RAIL ORDER TO-DAY.

NEW YORK, *June 5*.

Makers of railroad equipment and rails are encouraged by the orders placed this week, and they expect the orders will be increased to-morrow or early next week by a big rail contract from the Pennsylvania Railroad. This company has about completed arrangements for the purchase of some 76,000 tons of rails, in addition to 20,000 tons ordered two months ago, and it was reported in the steel trade that the contract would probably be approved by noon to-morrow.

The Steel Corporation is expected to receive a large part of the order. The earlier purchase of 20,000 tons was rolled by the Bethlehem and Pennsylvania Steel Cos., and it is understood that in the placing of these orders the specifications were altered slightly so as to make the cost of manufacture somewhat less on subsequent contracts.

The New York Central has ordered 7,300 cars, of which 4,300 will be made by the American Car & Foundry Co. and 3,000 by the Standard Steel Car Co.. The Illinois Central has distributed contracts for 3,000 box cars among the Western Steel Car Co., Haskell & Barker, American Car & Foundry Co., and the Standard Steel Car Co.

Mr. FITZGERALD. Mr. Chairman, I move that the committee do now rise.

The motion was agreed to.

Accordingly the committee rose; and the Speaker having resumed the chair, Mr. GARRETT of Tennessee, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill (H. R. 17041) making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1915, and for other purposes, and had come to no resolution thereon.

ENROLLED BILLS SIGNED.

Mr. ASHBROOK, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bill of the following title, when the Speaker signed the same:

H. R. 14242. An act to increase the limit of cost for the erection and completion of the United States Federal building at Harrisburg, Pa.

The SPEAKER announced his signature to enrolled bills of the following titles:

S. 4260. An act granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy, and of other wars than the Civil War, and certain widows and dependent relatives of such soldiers and sailors;

S. 4353. An act granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy, and of other wars than the Civil War, and of certain widows and dependent relatives of such soldiers and sailors;

S. 4657. An act granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy, and of other wars than the Civil War, and certain widows and dependent relatives of such soldiers and sailors; and

S. 4167. An act granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy, and of other wars than the Civil War, and certain widows and dependent relatives of such soldiers and sailors.

ADJOURNMENT.

Mr. FITZGERALD. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 4 o'clock and 28 minutes p. m.) the House adjourned until Monday, June 8, 1914, at 12 o'clock noon.

EXECUTIVE COMMUNICATION.

Under clause 2 of Rule XXIV, a letter from the Secretary of the Treasury, transmitting copy of a communication from the Secretary of War submitting an urgent estimate of deficiency in the appropriation for sites for fortifications and seacoast defenses, fiscal year ending June 30, 1914 (H. Doc. No. 1021), was taken from the Speaker's table, referred to the Committee on Appropriations, and ordered to be printed.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, bills and resolutions were severally reported from committees, delivered to the Clerk, and referred to the several calendars therein named, as follows:

Mr. HARRISON, from the Committee on Foreign Affairs, to which was referred the bill (H. R. 1991) to amend section 3 of an act entitled "An act in reference to the expatriation of citizens and their protection abroad," approved March 2, 1907, reported the same with amendment, accompanied by a report (No. 771), which said bill and report were referred to the House Calendar.

Mr. STOUT, from the Committee on the Public Lands, to which was referred the bill (S. 654) to accept the cession by the State of Montana of exclusive jurisdiction over the lands embraced within the Glacier National Park, and for other purposes, reported the same without amendment, accompanied by a report (No. 772), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

CHANGE OF REFERENCE.

Under clause 2 of Rule XXII, the Committee on Pensions was discharged from the consideration of the bill (H. R. 16552) granting an increase of pension to Alexander Smith, and the same was referred to the Committee on Invalid Pensions.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials were introduced and severally referred as follows:

By Mr. KETTNER (by request): A bill (H. R. 17096) for the relief of retired officers of the Navy who were retired for physical disability incident to the service when due for promotion to the next higher grade; to the Committee on Naval Affairs.

By Mr. JOHNSON of Kentucky: A bill (H. R. 17097) to fix the salary of the auditor of the Supreme Court of the District of Columbia, and for other purposes; to the Committee on the District of Columbia.

By Mr. TAVENNER: A bill (H. R. 17098) providing a minimum wage for certain employees of the United States Government designated as laborers, helpers, skilled laborers, and others of similar skill; to the Committee on Labor.

By Mr. MITCHELL: A bill (H. R. 17099) authorizing the Secretary of War to donate to the city of Dover, Mass., two bronze or brass cannon or fieldpieces with their carriages; to the Committee on Military Affairs.

By Mr. GOULDEN: Concurrent resolution (H. Con. Res. 41) authorizing the printing of the Journal of the National Encampment of the Grand Army of the Republic; to the Committee on Printing.

By Mr. TAVENNER: Joint resolution (H. J. Res. 275) requesting the President to consider the expediency of effecting a treaty with the European powers providing for the neutralization of the Philippine Islands and the recognition of an independent government there when established; to the Committee on Foreign Affairs.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BORLAND: A bill (H. R. 17100) granting an increase of pension to William Carson; to the Committee on Invalid Pensions

By Mr. BROWN of New York: A bill (H. R. 17101) for the relief of Roscoe V. Wickes; to the Committee on Naval Affairs.

By Mr. BRUMBAUGH (by request): A bill (H. R. 17102) for the relief of the Columbus, Delaware & Marion Railway Co., of Columbus, Ohio; to the Committee on Claims.

By Mr. BYRNES of South Carolina: A bill (H. R. 17103) for the relief of the heirs of George W. Croft; to the Committee on War Claims.

By Mr. CHURCH: A bill (H. R. 17104) granting a pension to James G. Wofford; to the Committee on Pensions.

By Mr. CRAMTON: A bill (H. R. 17105) granting an increase of pension to Charles S. Gilbert; to the Committee on Invalid Pensions.

By Mr. CULLOP: A bill (H. R. 17106) granting an increase of pension to Thomas B. Brown; to the Committee on Invalid Pensions.

By Mr. GARD: A bill (H. R. 17107) granting a pension to George Leveline; to the Committee on Invalid Pensions.

By Mr. GOULDEN: A bill (H. R. 17108) granting an increase of pension to Mrs. James McCauley; to the Committee on Pensions.

Also, a bill (H. R. 17109) to correct the military record of Charles Snow; to the Committee on Military Affairs.

By Mr. HARRISON (by request): A bill (H. R. 17110) to reimburse Epps Danley for property lost by him while light keeper at East Pascagoula River (Miss.) Light Station; to the Committee on Claims.

By Mr. KETTNER: A bill (H. R. 17111) granting a pension to Lucy Ord Mason; to the Committee on Invalid Pensions.

By Mr. KEY of Ohio: A bill (H. R. 17112) granting a pension to Victoria A. Davis; to the Committee on Pensions.

By Mr. O'SHAUNESSY: A bill (H. R. 17113) granting a pension to Edward Plunkett; to the Committee on Pensions.

By Mr. SELDOMRIDGE: A bill (H. R. 17114) granting a pension to Leroy E. Cuckow; to the Committee on Pensions.

By Mr. SMITH of Idaho: A bill (H. R. 17115) granting an increase of pension to Lydia A. Lint; to the Committee on Invalid Pensions.

By Mr. TAGGART: A bill (H. R. 17116) granting a pension to Martha E. Hart; to the Committee on Invalid Pensions.

By Mr. TAYLOR of New York: A bill (H. R. 17117) granting an increase of pension to Anna M. Meissner; to the Committee on Invalid Pensions:

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

By the SPEAKER (by request): Resolutions signed by pastors of certain churches in East Peoria, Ill.; Laurel Springs, N. J.; and Coles Ferry, Va., protesting against the practice of polygamy in the United States; to the Committee on the Judiciary.

Also (by request), resolutions of the International Brotherhood Welfare Association of St. Louis, Mo., signed by the secretary of the association, favoring the appropriation of money for the purpose of carrying on the work of controlling floods on the Mississippi River and of reclamation of arid lands; to the Committee on Rivers and Harbors.

By Mr. BEAKES: Petitions of 29 voters of the second district of Michigan, in opposition to national prohibition; to the Committee on Rules.

By Mr. BRUCKNER: Petitions of the National Association of Retail Grocers in convention assembled at Louisville, Ky.; of Piel Bros., of Brooklyn, N. Y.; of 185 voters of the twenty-second congressional district of New York; of Michael A. McDonnell; and of sundry citizens of New York, protesting against national prohibition; to the Committee on Rules.

By Mr. DALE: Petition of the Brooklyn Chapter of the American Institute of Architects, relative to House bill 13880, which provides for an appropriation for a building for the Department of Justice; to the Committee on Public Buildings and Grounds.

By Mr. DANFORTH: Petition of Hustlers Lodge, No. 700, Association of Machinists, of Rochester, N. Y., favoring ex-

tension of the provisions of the boiler-inspection act; to the Committee on Interstate and Foreign Commerce.

Also, petitions of 29 residents of Rochester, of 23 residents of Walker, 1 resident of Hilton, 1 resident of Adams Basin, and 6 residents of Batavia, all in the State of New York, against national prohibition; to the Committee on Rules.

Also, petition of the Central Trades and Labor Council of Rochester, N. Y., favoring Government ownership of the mines and resources of Colorado; to the Committee on Mines and Mining.

Also, petitions of sundry citizens of Nunda, Warsaw, and Castile, all in the State of New York, favoring passage of House bill 5308, to tax mail-order business; to the Committee on Ways and Means.

By Mr. DIXON: Petitions of 25 citizens of Lawrenceburg, Ind., and 30 citizens of Aurora, Ind., protesting against national prohibition; to the Committee on Rules.

By Mr. FITZGERALD: Petitions of A. B. Chambers, Charles Johnson, M. Vanclervoort, George Flaherty, Frank O'Connell, Thomas Feely, Bernard Chambers, Robert Lambert, J. J. Pelleane, Richard Ruhe, John Rielly, William Malcomson, Fred Benter, J. P. King, Charles Hahn, Thomas Lynaugh, John Konig, W. F. Flaherty, J. F. Neasy, C. J. Hayes, William Campis, M. J. Reilly, William Smith, Lorente Cantor, E. H. Higgins, Vanderbilt Spader, J. V. Laffan, M. A. Snooks, J. J. P. Regan, E. F. Eagen, T. E. Fitzgerald, E. R. J. Began, J. J. Devening, E. J. Gallagahan, R. J. Klein, David Husband, E. H. Hogan, Joseph Talbe, W. J. Hagan, E. J. Healey, William Cullen, E. H. Higgins, W. J. Maxwell, E. Van Pouk, E. P. Cummings, J. F. Dale, W. A. Ganort, William Feeney, T. J. Flinn, James William, Thomas Coaney, Charles Metzler, Harry Fletcher, Richard Callahan, O. Halloway, John Wuner, J. J. Burns, W. F. Burke, T. J. Brosnan, M. Hamelberger, F. N. Saunders, P. Fitzgibbons, J. J. Hynes, B. J. Mulligan, E. E. Mulligan, J. L. Wood, P. J. Connors, I. J. Hayes, Charles Mulligan, D. Meagher, Ben Schmidt, Charles Ohlmann, B. Bischoff, B. U. Manne, Fred Denny, Cail W. Fisher, T. J. Cosgrove, D. Moore, J. J. Cleany, P. F. Lynch, A. B. Chambers, J. J. Thornton, R. J. Wilson, W. F. Campbell, H. O'Neill, L. Buckman, Thomas Moore, W. J. Gorman, R. A. Foster, H. A. Mason, S. W. Heney, Charles Walsh, E. McCormick, J. A. Reilly, J. J. O'Brien, M. Hardiman, William Catherwood, John Maning, L. H. Fasbach, Charles Klunder, G. F. Travers, William Condon, J. S. Molony, J. F. Farley, P. O'Keefe, William Maloney, J. F. Carr, W. J. McLaughlin, John Travers, Patrick Golden, W. J. Blatz, W. F. Schumann, L. F. Harris, G. H. Harris, H. C. Christgaer, W. F. Conlon, Robert Shulta, George Farley, William Morhoff, D. S. Higgins, R. H. Colgan, Charles McGrath, Patrick Brennan, Thomas O'Brien, Peter Brennan, P. Burke, Robert Derbyshire, Arch. Brewer, Edward Michel, J. L. Donlon, J. J. Kenney, James Deverson, William Quigley, Hugh Meeghan, M. Higgins, John Brady, A. Rand, G. B. Stille, W. F. Foley, F. S. Schultis, H. Schamel, C. J. Young, A. Buchann, N. A. Ellers, C. J. Dalton, J. Brunkhorst, E. J. Farrell, J. Nelele, C. E. Johnson, G. Meny, John Mahnten, H. J. Beek, William Priedigkeit, H. J. Meissner, Henry Wendel, William Ganther, T. J. Laflin, Cecil MacCoy, J. J. Maneich, George Weigelspeiyer, E. F. Hilloy, B. L. Reilly, Louis Luesson, and Courin West, all of Brooklyn, N. Y., against national prohibition; to the Committee on Rules.

By Mr. GOULDEN: Petition of 70 members of the Trinity Congregational Church of The Bronx, New York City, favoring national prohibition; to the Committee on Rules.

By Mr. HAMMOND: Petitions of four citizens of New Ulm, Minn., protesting against national prohibition; to the Committee on Rules.

By Mr. LEE of Pennsylvania: Petitions of sundry citizens and churches of Schuylkill Haven; Zion Baptist Church, of Girardville; 32 citizens of Port Carbon; and 600 citizens of Shenandoah, all in the State of Pennsylvania, favoring national prohibition; to the Committee on Rules.

By Mr. MAGUIRE of Nebraska: Petition of sundry citizens of Lincoln, Nebr., protesting against national prohibition; to the Committee on Rules.

By Mr. MITCHELL: Petition of 90 citizens of Framingham, Mass., favoring national prohibition; to the Committee on Rules.

By Mr. MURRAY of Oklahoma: Petition of the Methodist Episcopal Church South of Coalton, Okla., favoring national prohibition; to the Committee on Rules.

By Mr. J. I. NOLAN: Letter from the Marine Engineers' Beneficial Association, No. 35, of San Francisco, Cal., indorsing House bill 12056, to regulate the hours of labor; to the Committee on Labor.

Also, indorsement of Mr. T. R. Hamilton and 16 other members of the National League of Government Employees residing in San Francisco, Cal., of House bill 12056, to regulate the hours of labor; to the Committee on Labor.

Also, petition of the Joplin (Mo.) Trades Assembly, favoring House bill 13871, to provide for the creation of a workers' homes bureau in the Department of Labor; to the Committee on Banking and Currency.

By Mr. O'LEARY: Petition of sundry citizens of the second congressional district of New York, protesting against national prohibition; to the Committee on Rules.

By Mr. PATTEN of New York: Petitions of Frank Maurer and others, of New York City, protesting against national prohibition; to the Committee on Rules.

By Mr. RAKER: Resolutions of the Red Bluff City Union of Protestant Churches, of Red Bluff, Cal., favoring national prohibition; to the Committee on Rules.

Also, letter from F. S. Stevens, of Auburn, Cal., favoring House bill 13306, the Stevens price bill; to the Committee on Interstate and Foreign Commerce.

Also, resolutions of the Red Bluff City Union of Protestant Churches, of Red Bluff, Cal., favoring the Gillett bill, designed to check polygamy; to the Committee on the Judiciary.

Also, resolutions of the Chamber of Commerce of Los Angeles, Cal., favoring the San Carlos Dam project in Arizona; to the Committee on Rivers and Harbors.

Also, resolution of the San Francisco Labor Council, of San Francisco, Cal., protesting against an apparent cooperation between the Government and private hostile employers to mulct unions in damages under the Sherman antitrust law; to the Committee on the Judiciary.

By Mr. ROBERTS of Nevada: Petition of Walter E. Drabwick and sundry citizens of Goldfield, Nev., and W. T. Scott Butler and sundry citizens of Gerlace, Nev., protesting against national prohibition; to the Committee on Rules.

By Mr. SELDOMRIDGE: Petition of the Denver (Colo.) Clearing House Association, protesting against extension of parcel post; to the Committee on the Post Office and Post Roads.

By Mr. STEPHENS of California: Petitions of R. H. Morton and 5,000 other citizens of Los Angeles City and County, protesting against the Hobson prohibition resolution; to the Committee on Rules.

By Mr. TAYLOR of New York: Petition of the Methodist Episcopal Church and sundry voters of Haverstraw, N. Y., favoring national prohibition; to the Committee on Rules.

By Mr. WILLIS: Petition of I. M. Jordan and 41 other citizens of Delaware, Ohio, in favor of House joint resolution No. 168, relating to national prohibition; to the Committee on Rules.

By Mr. WILSON of New York: Petition of 108 citizens of the third congressional district of New York, against national prohibition; to the Committee on Rules.

Also, petition of the National Association of Retail Grocers, against national prohibition; to the Committee on Rules.

Also, petition of the Brooklyn (N. Y.) Legislative Committee, favoring House bill 16130, to establish a national employment bureau; to the Committee on Labor.

SENATE.

MONDAY, *June 8, 1914.*

(Continuation of the legislative day of Friday, June 5, 1914.)

The Senate met at 11 o'clock a. m. on the expiration of the recess.

The VICE PRESIDENT. The Senate resumes the consideration of House bill 14385, the unfinished business.

PANAMA CANAL TOLLS.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 14385) to amend section 5 of an act to provide for the opening, maintenance, protection, and operation of the Panama Canal, and the sanitation of the Canal Zone, approved August 24, 1912.

Mr. SMOOT. Mr. President, I suggest the absence of a quorum.

The VICE PRESIDENT. The Secretary will call the roll.

The Secretary called the roll and the following Senators answered to their names:

Ashurst	Colt	Kern	Page
Borah	Culberson	La Follette	Perkins
Brady	Cummins	Lane	Pittman
Bristow	Fletcher	McCumber	Poindexter
Bryan	Gallinger	McLean	Reed
Burleigh	Gronna	Martin, Va.	Root
Burton	James	Martine, N. J.	Shafroth
Chilton	Johnson	Norris	Sheppard
Clapp	Jones	O'Gorman	Sherman
Clark, Wyo.	Kenyon	Overman	Shively

Simmons	Smoot	Thompson	West
Smith, Ga.	Sterling	Thornton	White
Smith, Mich.	Sutherland	Tillman	Williams
Smith, S. C.	Swanson	Walsh	Works

Mr. LANE. I wish to announce the absence of my colleague [Mr. CHAMBERLAIN] on official business.

Mr. CHILTON. I wish to announce the necessary absence of the Senator from New Mexico [Mr. FALL]. He is paired with me.

Mr. WHITE. I wish to announce the absence of my colleague [Mr. BANKHEAD]. He is paired with the Senator from West Virginia [Mr. GOFF]. I will let this announcement stand for the day.

The VICE PRESIDENT. Fifty-six Senators have answered to the roll call. There is a quorum present.

Mr. POINDEXTER. Mr. President, that part of the pending measure which is of great significance reads as follows:

That the second sentence in section 5 of the act entitled "An act to provide for the opening, maintenance, protection, and operation of the Panama Canal, and the sanitation and government of the Canal Zone," approved August 24, 1912, which reads as follows: "No tolls shall be levied upon vessels engaged in the coastwise trade of the United States," be, and the same is hereby, repealed.

Mr. President, if this bill were of concern only to the section of the country which I in part have the honor to represent, I would not venture to intrude any observations into a debate which has already been somewhat extended and which has been characterized by a vast amount of research and a most learned exposition of the great principles involved in the bill. But it is not of concern alone to the State which I in part represent, nor to the Pacific coast, nor to any other section of the country. It involves the great question whether the Panama Canal is to be an American canal or whether it is to be an international canal, subject to the joint control of the United States and the other nations of the world, particularly represented by Great Britain.

The issues involved in this bill affect the national integrity of the United States. Later on I shall undertake to refer to some of the purposes and motives of the great interests which have been active in prosecuting this issue before the country and in Congress and to point out that they verge at least upon an attack on our national independence. Some of the people who have been most influential in this movement have on various occasions expressly declared their desire for a surrender of our national independence and for a merger with the great nation which is our principal antagonist in the effort to direct and control this great waterway.

The issues involved in this bill will determine the direction of the current of trade and the commerce of the world. Upon the determination of this question depends in large measure the future of the shipping interest of the United States—whether we are to build up a merchant marine and become a great commercial Nation, or whether we are to cast a blight upon what we already have and absolutely destroy the prospect of any future increase.

This great question, in my judgment—and I think it can be demonstrated—will determine whether the United States will enjoy the benefits of its own domestic commerce, or that commerce which is now domestic—all that vast trade which goes from that portion of the United States east of the Rocky Mountains, connected by the navigable waters of the Gulf of Mexico and the Atlantic Ocean and the rivers connecting with them—the commerce of which goes from that vast region to our own people of the Pacific coast—or whether that commerce, through economic forces that will be put in operation by the repeal of this law—beyond the control of any legislation—shall be turned over to a foreign country.

It involves the question whether the trade of our people coming the other way from the Pacific coast to the eastern parts of the United States, in the great natural products of our Pacific States, shall be retained in the hands of our own people as a means of their livelihood and an increase of their wealth, or whether by opening this canal upon such terms that it will be impossible for our people to compete, will throw that commerce also into the hands of the ships of Great Britain plying from the ports of Canada on the Pacific Ocean.

Strange to say, Mr. President, the entire interest which Great Britain has in this controversy, and which makes the issue, can be traced back, along clear and connected lines, to the violent and lawless acts of that strange nation of pirates called the buccaneers, operating in the Caribbean Sea in the early part of the seventeenth century.

The treaties which have been negotiated between the United States and Great Britain in regard to a canal were based upon the assumption that Great Britain had certain interests which it was necessary for the United States to acquire in order to construct a canal. Those interests consisted of the claims of Great Britain to what is called the Mosquito Coast, and they consisted of that alone. The Mosquito Coast was Spanish territory. It was a part of that vast area discovered by Christopher Columbus and visited by him in 1502, explored by Spaniards in 1521, and settled permanently by Spain in the following year.

Later on certain islands along that coast were occupied as a rendezvous by the buccaneers, who were devastating the Spanish commerce in that sea. Great Britain continued to make claims, having recognized the settlement of these lawless pirates and taken them under her protection later on, until toward the middle of the nineteenth century, when the matter of the construction of an Isthmian Canal by the United States had become a practical question and was attracting the interest and attention of our people and the people of the world. Great Britain's claims were constantly being extended, and her rights of suzerainty over the Mosquito Indians on the coast of Nicaragua were constantly disputed by the United States as being in violation of the Monroe doctrine.

There is no foundation of right or justice in international law or in morals for any claim which Great Britain had to seize the territory of Spain upon that coast, which in 1821 became the territory of the free, sovereign Republic of Nicaragua, which had been recognized and taken under the good will and protection of this great Republic; and yet, as the proposition of constructing a canal developed, Great Britain prosecuted her claims to that territory more and more vigorously, inciting a great deal of hostility in the United States.

In 1848, without warrant of authority, under the pretense of the Mosquito Indian protectorate, she seized the Atlantic terminus of the only canal route which the United States at that time contemplated. She seized it deliberately, in my judgment, for the express purpose of acquiring an interest in any future waterway which might be constructed there. That seizure created great excitement in the United States. Upon that and those events which preceded it, to which I have referred, are based the subsequent treaties, the present controversy, and every claim which Great Britain has, to a word, in the control and management of the canal which is now about completed.

The Clayton-Bulwer treaty was negotiated—and I shall not stop now to characterize it or to analyze it, because it is not relevant or important to the question to be here determined—but it was negotiated and, wisely or unwisely, in good or in bad form, for the purpose of freeing ourselves, so far as the canal was concerned, from the incubus which sat upon that great project through this lawless act of the seizure of Greytown, at the mouth of the river San Juan, on the Nicaragua shore, the Atlantic terminus and a necessary portion of the canal.

What was the consideration which Great Britain agreed to give in that treaty? I think, perhaps, the best way to state that is to call attention to the exact language of what Great Britain agreed to do. In article 1 of the Clayton-Bulwer treaty Great Britain agreed that she would never—

erect or maintain any fortifications commanding the same or in the vicinity thereof, or occupy, or fortify, or colonize, or assume, or exercise any domain over Nicaragua, Costa Rica, the Mosquito Coast, or any part of Central America; nor will either make use of any protection which either affords or may afford—

That referred to the protection of the Mosquito Indians. The language is quite pertinent and significant as indicating precisely what sort of interest Great Britain had which she put into this contract as a consideration—

or any alliance which either has or may have to or with any State or people, for the purpose of erecting or maintaining any such fortifications, or of occupying, fortifying, or colonizing Nicaragua, Costa Rica, the Mosquito coast, or any part of Central America, or of assuming or exercising dominion over the same.

That was the consideration which Great Britain gave or promised to give but which she failed to carry out. She has continued down to the present day, in defiance of that clear and express language, to do the very specific thing which in artcle 1 of the Clayton-Bulwer treaty she agreed not to do. She has colonized and has assumed and exercised dominion over parts of Central America. She possesses to-day in British Honduras, in defiance of this treaty and in violation of the consideration which she agreed to give, a great and rich territory 225 miles long, 40 or more miles in width, covered with valuable forests in some parts and containing fertile lands in other parts, with valuable seaports and islands; and her own authorities recognize the fact, as they express it, that it was a "flagrant" violation of her obligations under the Clayton-Bulwer treaty.

In a recent edition of the Encyclopedia Britannica, a British publication, in an edition printed at Cambridge, England, in 1910, volume 6, page 475, is this statement:

It seems to be a just conclusion that when in 1852 the Bay Islands were erected into a British "colony" this was a flagrant infraction of

the treaty; that as regards Belize, the American arguments were decidedly stronger and more correct historically.

That was the violated treaty which, in turn, was the basis and consideration for the Hay-Pauncefote treaty; and that, Mr. President, is the chain of title, so to speak, which advocates of this repeal set up as the deed and warranty of the United States to construct, own, and operate the Panama Canal, a canal constructed in another territory, upon the soil of another sovereign nation, where Great Britain never owned nor claimed to own a foot of soil, where she did not possess any of the authority which she describes in such peculiar language as a "protection" which she affords or an "alliance" which she may have with any State or people "or the Government" of any State or people.

Without referring for the moment to the terms of the Hay-Pauncefote treaties, which constitute the subsequent stages and links in this alleged chain of title to this great property, I here make the assertion that the title to the Panama Canal can not be traced through that chain of title, but is to be traced through an entirely different series of transactions, with other people, with which Great Britain had no concern and no connection whatever, and that other title, with which Great Britain had no concern, has no missing link, is clear and connected, and indisputable.

It is a peculiar thing, Mr. President, that in the discussion of this question and of the Hay-Pauncefote treaties it should be assumed by learned Senators that certain terms and language used in those treaties relate to the Panama Canal. Those treaties refer to a canal to be constructed and to rights to be acquired subsequently to the execution of the treaties. Why, Mr. President, the Panama Canal was partly in use; it was in large part constructed by the genius of the great French people long before the Hay-Pauncefote treaties were executed, and the title to it was perfect and secure. I propose to ask the indulgence of the Senate for a moment to call attention to the documents upon which that title rested, which seem to me to demonstrate that Great Britain has no ground upon which she can make the astounding claim that she has, to all intents and purposes, in the Panama Canal a partnership with the United States, which acquired it from the Republic of Colombia as the assignee and grantee of the concessionaire, who, in 1878, first acquired the necessary property rights to construct a canal at that point.

Mr. President, a great deal has been said in argument and in official papers, and particularly by Sir Edward Grey—and his statements are important because they are official, because they are the statements of the foreign minister of Great Britain, our antagonist in this matter—about the eighth article of the Clayton-Bulwer treaty; in fact, Sir Edward Grey bases his principal claim upon the eighth article of that treaty. He claims, as I have already said and as I repeat, in order that what I say may be clear, a part control in the Panama Canal, and because of that and because of its importance I want also to refer to the exact language of that article. It provides:

ARTICLE 8.

The Governments of the United States and Great Britain having not only desired, in entering into this convention, to accomplish a particular object, but also to establish a general principle, they hereby agree to extend their protection by treaty stipulations to any other practicable communications, whether by canal or railway, across the isthmus which connects North and South America, and especially to the interoceanic communications, should the same prove to be practicable, whether by canal or railway, which are now proposed to be established by the way of Tehuantepec or Panama. In granting, however, their joint protection to any such canals or railways as are by this article specified, it is always understood by the United States and Great Britain that the parties constructing or owning the same shall impose no other charges or conditions of traffic thereupon than the aforesaid Governments shall approve of as just and equitable; and that the same canals or railways, being open to the citizens and subjects of the United States and Great Britain on equal terms, shall also be open on like terms to the citizens and subjects of every other State which is willing to grant thereto such protection as the United States and Great Britain engage to afford.

I desire to make it clear that I deny that this article has any force and effect. I think that was demonstrated most conclusively by the distinguished Senator from California in his discussion of this question, but, because it is set up by Great Britain as the principal basis of her contention, I refer to it. The question, of course, is whether there is anything in the article, conceding that it has any effect whatever, that has any bearing upon the Panama Canal.

It has been asserted by a number of Senators in the Senate and by a great many people out of the Senate that the United States could not have constructed the canal without the consent of Great Britain. Mr. President, the United States had as much right on the Isthmus of Panama as had the Republic of France or as had the Compagnie Universelle du Canal de Panama, of France, the company which we call the Old Panama Canal Co., or as had the receiver or liquidator of that company, which took over its property and its works, or as had the New Panama Canal Co., which succeeded it. It has never been disputed that they had a right to construct a canal at Panama. They were constructing a canal there; they completed it in a large part. We took their route, and you can see upon the great cliffs which have been created by the cut at Culebra, a line marking the extent of the French excavation. We adopted their plan; we have taken their route. The Gatun locks and dam are in accordance with the French plan—larger, but substantially based on the same principle. It is their route; it is their work which we took advantage of. That is the canal which we now are ready to operate in its completed form; and, until this controversy arose under the Hay-Pauncefote treaty no human being ever heard a claim made by Great Britain or by any one in her behalf that she had an interest in the Panama Canal, which I have just described, or any right to be considered in the management of it.

Mr. GALLINGER. Mr. President——

The VICE PRESIDENT. Does the Senator from Washington yield to the Senator from New Hampshire?

Mr. POINDEXTER. I yield to the Senator.

Mr. GALLINGER. I am interested in the Senator's discussion of this phase of the question. I assume that the Senator is of the opinion, which seems reasonable, that if France had completed that project neither Great Britain nor any other nation would have felt that it had any special interest in the canal or could control it in any way or to any extent.

Mr. POINDEXTER. I am very decidedly of that opinion; so much so, in fact, and the evidence upon that subject is so conclusive, that it seems to me doubtful whether Great Britain herself would deny it.

I note that the language in article 8 which I have read refers not only to a canal connecting the two oceans, but to a railway or contemplated railway at Panama, and to any railway which might be constructed at Tehuantepec. I have never heard of any joint protection of the United States and Great Britain over the Tehuantepec Railroad nor over the Panama Railroad. Both are referred to in article 8 of the Clayton-Bulwer treaty. The point I am making is that it never has been contended that under article 8 of the Clayton-Bulwer treaty any rights were acquired by Great Britain or by the United States over a railroad either in Mexico or in Panama. It relates to entirely different matters. It refers, as will be noted, to treaty stipulations which were in the future to be made, and which never have been made. That point is referred to by our negotiators in the voluminous documents which have been printed here relating to the formulation of the Hay-Pauncefote treaty. The third line of article 8 says:

They hereby—

What? Establish a protection over a canal or over a railway? By no means—

agree to extend their protection by treaty stipulations.

Nobody has pointed out any treaty stipulation made in pursuance of article 8 of the Clayton-Bulwer treaty relating to any canal or to any railway other than the Hay-Pauncefote treaty, which, as I shall point out in a moment, related to a canal at Nicaragua, and said nothing about railroads.

How did we acquire the Panama Canal? We did not acquire it from Great Britain, because Great Britain never owned it or had any interest in it. If we had dug a canal at Nicaragua there might have been, however lawless its origin, some foundation for a claim on the part of Great Britain that the property necessary for its construction was acquired from her, but not at Panama.

In 1878 there was a concession granted—and this is the beginning of the title to the Panama Canal—known as the Wyse concession, and which begins as follows:

Eustorgio Salgar, secretary of the interior and of foreign relations of the United States of Colombia, duly authorized, of the one part—

Nobody denied that the United States of Colombia had a right to grant this concession—

and of the other part Lucien N. B. Wyse, chief of the Isthmus scientific surveying expedition in 1876, 1877, and 1878, member and delegate of the council of administration of the International Interoceanic Canal Association, presided by Gen. Etienne Turr, in conformity with powers bestowed at Paris from the 27th to the 29th of October, 1877, which he has exhibited in legal form, have celebrated the following contract:

ARTICLE 1. The Government of the United States of Colombia grants to Mr. Lucien N. B. Wyse, who accepts it in the name of the International Interoceanic Canal Association, represented by their council of administration, the exclusive privilege for the construction across its territory and for the operating of a canal between the Atlantic and Pacific Oceans. Said canal may be constructed without restrictive stipulations of any kind.

This concession is made under the following conditions:

First. The duration of the privilege shall be for 99 years from the day on which the canal shall be wholly or partially opened to the use of the public or when the grantees or their representatives commence to collect the dues on transit and navigation.

* * * * * * *

ART. 6. The United States of Colombia reserve to themselves the right to pass their war vessels, troops, and munitions of war at all times and without paying any dues whatever. The passage of the canal is strictly closed to war vessels of nations in a state of open hostility with one or more other nations and which may not have acquired by public treaty with the Colombian Government the right to pass through the canal at all times.

* * * * * * *

The company shall carry gratis through the canal or on the auxiliary railway the men destined for the service of the nation, for the service of the State through whose territory the canal and railroad may pass, or for the service of the police, with the object of guarding against foreign enemies or for the preservation of public order, and shall also transport gratis the baggage of such men, their war materials, armament, and clothing which they may need for the service assigned to them.

* * * * * * *

The company guarantees to the Government of Colombia that the share of the latter shall in no case be less than the sum of $250,000 a year—

That is, from the proceeds of the operation of the canal—

which is the same as that received as its share in the earnings of the Panama Railroad, so that if in any year the 5, 6, 7, or 8 per cent should not reach said sum it shall be completed out of the common funds of the company.

Mr. President, as is well known, that concession was about to expire, and on December 26, 1890, it was extended for 10 years. I shall not detain the Senate to read that document, which I have in my hand. That extension in turn was about to expire, and on April 4, 1893, another contract was executed, signed by the representatives of the Republic of Colombia at Bogota and by the representatives of the French Canal Co., extending the franchise or concession, as follows:

The extension of 10 years granted in article 1 of the contract of 1890 to the liquidator of the Compagnie Universelle du Canal de Panama remains in force, subject to the conditions then provided, except the second, which is modified by the extension until October 31, 1894, of the period within which the new company is to be formed and work on the canal is to be resumed in a serious and permanent manner.

The term of 10 years shall begin to run from the date of the formal organization of the new company.

On April 26, 1900, another contract was executed between the Republic of Colombia and the representatives of the new canal company, granting a further extension of the franchise for six years.

When the United States, after having abandoned the idea of constructing a canal at Nicaragua—and I desire in a moment to call attention to the connection of its action in abandoning that route with the Hay-Pauncefote treaty—and, through the action of the Senate in reversing the action of the House of Representatives in 1902, concluded to construct a canal at Panama, it took up negotiations with this French canal company, which owned these existing franchises giving it a certain period in which to construct the canal and the privilege of operating it for 99 years after the commencement of its operation. The canal company, in proper form under French law, obtained authority from its stockholders to sell its franchises and its property to the United States for the sum of $40,000,000 in gold. That sum was paid to the new French canal company by the United States for the Panama Canal, and constitutes the principal foundation of its title.

Of course, before completing such a transaction the United States, as was perfectly natural, made the most careful investigation of this title and of the right of the French canal company to sell to the United States. It obtained the opinion of a most prominent French lawyer, Mr. Waldeck Rousseau, upon whose opinion and upon an independent investigation also the Attorney General of the United States, who, with his staff of legal advisers, had investigated the matter most thoroughly, both as to the rights of the French canal company under the French law and their rights under the concession granted by the Republic of Colombia and the laws of that Republic, advised the President that the title was good and that they had a right to transfer it and that its deed would convey to the United States this canal and all the rights and privileges specified in the concession.

I want to read very briefly just a few lines of the significant parts of the opinion of Mr. Waldeck Rousseau, whom the United States consulted. He says, in the first paragraph of his opinion:

The concession for the Interoceanic Panama Canal was obtained by M. Wyse. (Agreement of Mar. 23, 1878; law 28 of 1878, of Colombia.)

Not only by its nature was it transferable, but its transfer to a company by the concessionary and by this company to other companies or capitalists was expressly contemplated by article 21.

Incidentally, he remarks:

There is no need of reviewing the difficulties encountered by the Compagnie Universelle or its financial vicissitudes. In 1889 it was driven to dissolution.

That was the old company.

In paragraph 19 he says:

Finally, besides the liquidator of the Compagnie Universelle and the new company, there was a third party interested in maintaining the rights which it had under the concession of 1878—the Government of Colombia. Without referring to other documents exchanged between this Government and that of the United States of America, it is enough to say that on April 18, 1902, the envoy extraordinary of the Republic of Colombia to the United States agreed with the Secretary of State of the United States upon a treaty, article 1 of which contains an authorization by the Government of Colombia, given to the new company, to sell and transfer to the United States its rights, privileges, property, and concessions, as well as the Panama Railroad, and all shares and parts of shares of this company. We shall omit, therefore, from the present opinion all objections based upon the prohibition of transfer to a foreign government contained in the law of 1878.

The first question, he states, is:

Has the New Panama Canal Co. a certain and absolute title to the property it has offered for sale to the Government of the United States?

And he answers it as follows:

The title of ownership—certain and absolute ownership—which is to be invoked for the benefit of the new company, comes from the contribution which was made to it by the liquidator of the Compagnie Universelle.

* * * * * * *

It is indisputable that everything which forms the subject of the present plan of transfer to the United States is comprised in the contribution enumerated in article 5.

There is no dispute as to the validity of the title of the Compagnie Universelle to the property which was the subject of this contribution.

If the Compagnie Universelle was indeed the owner of the concession and of what we have called its increment, had it the right to transfer them? Did it transfer them regularly? Such are the first two questions to be examined.

II.—The Compagnie Universelle had the right to transfer the concession, because it was the owner of it, the right to alienate being one of the elements of ownership.

To make it otherwise it must be shown that the instrument by which it acquired them contained a restriction of this elementary right. Now, not only does this restriction not exist in the contract of 1878, but it contemplates a transfer and even successive transfers, and authorizes them. Furthermore, the transfer made was known to the original grantor—the Government of Colombia—it ratified it both beforehand and afterwards. (See especially the agreement of extension of December 26, 1890, stipulating that the liquidator shall transfer all the assets to a new company—article 1 of the agreement of April 5, 1893, giving the liquidator time to form a new company—the agreement of May 7, 1900, in which the newly formed company is expressly mentioned and recognized.)

The right of transfer by the Compagnie Universelle belonging to it, from the very fact that it was owner, this right not having been restricted by the agreement of concession, but, on the contrary, expressly recognized both by the agreements of concession and by the subsequent agreements above mentioned, we are of the opinion that the right of the Compagnie Universelle to transfer to the new company the whole of its rights is absolutely certain.

Mr. President, the subsequent transactions of the United States for the purchase of the canal with Colombia and with the Republic of Panama are well known. There have been disputes in regard to them, but suffice it to say, for the purposes of determining this issue, Great Britain was not concerned in them.

Mr. CRAWFORD. Will the Senator permit an interruption?

Mr. POINDEXTER. I yield to the Senator from South Dakota.

Mr. CRAWFORD. Before this transfer was made by the French company had the payments, the annuities of $250,000, been paid regularly right along by the French company?

Mr. POINDEXTER. Two hundred and fifty thousand dollars a year was to be paid out of the earnings of the canal when it was completed. Of course that was not paid, but——

Mr. CRAWFORD. There were payments from the proceeds of the railroad?

Mr. POINDEXTER. Yes; there were payments from the railroad prior to its acquirement by the Panama Canal Co.

Mr. CRAWFORD. What I had in mind was this: As I recall it, under the treaty with Panama the United States pays to the Republic of Panama an annuity of $250,000. The question is whether the origin of that obligation is not traceable back to this previous obligation on the part of the French company to the Colombian Republic.

Mr. POINDEXTER. Undoubtedly.

Mr. CRAWFORD. So the circumstances dovetail in that respect.

Mr. POINDEXTER. Undoubtedly they do. There were payments also made in a lump sum for the various renewals of the concession. I have here the proof—that is, the publication of the proof—of those payments having been made. There never has been any question as to the payment of any annuity that was due or of the purchase price of the original concession or of any renewal. Among the later payments, and that would in itself carry evidence that previous accounts had been satisfactorily taken care of, is this taken from the records of the deliberations of the council of administration of the New Panama Canal Co. at the session of January 9, 1902. Naming

the officers of the company present, the minutes recite as follows:

The council decides unanimously to make an offer—

This is not what I thought it was, but I will read it—

The council decides unanimously to make an offer at a fixed price for the cession to the Government of the United States of all the properties and rights which the new company possesses on the Isthmus, without any exception, for $40,000,000, and it delegates to its president, M. Bo, all powers to transmit that offer and effect and sign the said cession.

What I referred to previously is as follows:

On the 31st day of October proximo—

This is dated Bogota, September 12, 1896, Republic of Colombia, ministry of the treasury—

On the 31st day of October proximo deliver to the Messrs. Schloss & Bros., of London, 2,000,000 francs, being the annual payment due January, 1897—

This is addressed to the director of the New Panama Canal Co.—

Said delivery will be made in accordance with the contract between the Government of this Republic and the company you represent as administrator, respecting anticipated discount and formalities required in making the annual payment due. (1896.)

Your most obedient servant,

MANUEL PONCE DE LEON.

Document dated Republic of Colombia, ministry of treasury, Bogota, May 28, 1900:

Mr. ALEJANDRO MANCINI:

For your information I beg to transmit the following communication and the resolution pertaining to same:

Sec. 1, No. 159.] REPUBLIC OF COLOMBIA, MINISTRY OF WAR, *Bogota, May 26, 1900.*

The MINISTER OF THE TREASURY:

In conformity with authorization received from His Excellency the President of the Republic, communicated through the minister of state in the telegram I had the honor to transcribe for you in my official note No. 155, dated the 22d instant, I beg to state that this ministry notified the banking house of Fould & Co., of Paris, to accept as a deposit the 5,000,000 francs, French gold, which is to be paid by the New Panama Canal Co. for the concession of "prolongation," as I had the honor of informing you for the conclusion of the business.

I am, sir, your obedient servant,

MANUEL CASABIANCA.

This is followed with various other documents indicating that that order was carried out and most conclusive evidence that all those payments were made.

That constitutes, Mr. President, what the United States has in the way of title for the Panama Canal. When the United States paid $40,000,000 to the New French Canal Co. it was not paid on the condition that Great Britain should approve of it or that Great Britain should share in the amount of it. She had no original interest in the property, the franchises, the rights, the partially constructed canal for which $40,000,000 were paid, and none was created in her by the payment of the $40,000,000 to the New French Canal Co.

In other words, the United States not only acquired the physical property but it acquired the incorporeal right without any more conditions attached to it in the hands of the United States than were attached to it in the hands of the original concessionaries of the Republic of Colombia. The Hay-Pauncefote treaty with all the dispute about its meaning and effect never referred to this canal, which was already in existence and which Great Britain and the United States at the time the Hay-Pauncefote treaty was made had no right to make a contract in reference to.

All through the negotiations of the Hay-Pauncefote treaty, or which resulted in the Hay-Pauncefote treaty, the correspondence between the diplomatic representatives of the United States and Great Britain and the action of Congress subsequent to the negotiation and the proclamation of the treaty, the declarations of distinguished Senators who are advocating this repeal, such as the distinguished Senator from New York [Mr. ROOT], it is manifest and admitted that the Hay-Pauncefote treaty was made in the contemplation of the construction of a canal at Nicaragua, and if the general language referred to, by some vague and uncertain effect, would apply to canals constructed at other points it referred to some one of the 16 different points which at different times had been examined and reported upon as possible routes for interoceanic canals, and did not refer to the Panama Canal.

Now, Mr. President, I wish to refer to the Hay-Pauncefote treaty. I think the exposition of it has already been clear and conclusive, and all has been said that can be said by the advocates of repeal or the opponents of repeal of the tolls-exemption clause of the act of 1912. But there are some collateral questions connected with it which have not been referred to and which I want briefly to take up. I may be pardoned for repeating what, by the way, is admitted by the representatives of Great Britain, that the language which is in dispute in article 3 of the Hay-Pauncefote treaty can not apply to the United States; that is, that Great Britain admits that paragraphs 3, 4, and 5 can not apply to the United States.

Sir Edward Grey assumed the discretion of selecting out of the Hay-Pauncefote treaty certain material provisions and excluding them from any binding effect upon the two countries because of the changed conditions existing under which the canal was constructed from those which were contemplated at the time the treaty was negotiated. The United States has the same right that Sir Edward Grey, representing the Empire of Great Britain, has, to select the other paragraphs of article 3, upon the same ground on which he proposes to exclude several paragraphs, and to exclude these also from any binding effect upon the two countries.

I think Sir Edward Grey's reasoning is good. It is sound in international law. In the first place, if the Hay-Pauncefote treaty be given the construction claimed by the advocates of this repeal, that article 3 in its general language includes the United States, it would be impracticable of enforcement, utterly inconsistent with the situation in which the United States is placed, utterly impossible. To say that this country, having bought the canal for $40,000,000 from private owners and for $10,000,000 from the Republic of Panama in order to extend the concession from 99 years to perpetuity, or in all effect a perpetual franchise—in order to enlarge the concession paying this additional $10,000,000 to Panama and an annuity of $250,000 a year forever—having established herself as a sovereign upon the territory so acquired, and with the consent of Great Britain and the acquiescence of everyone who is interested in this treaty having erected there muniments of war, probably the greatest guns, the most formidable fortifications that we possess in all the wide sweep of our national territory; to say that under those conditions—operating the canal with these great guns guarding the passage of ships through it—the language of this treaty can be construed so that the ships of war of the United States in a state of belligerency shall not revictual in the canal, nor within 3 marine miles of the entrance of the canal, could not depart from the canal within 24 hours of the departure of its enemy, is to say what is impossible and impracticable and unreasonable. Conditions are so utterly different from those which were contemplated when the treaty was negotiated, when it was thought the canal would be constructed at Nicaragua, that by every authority of international law the treaty is utterly worthless, and is what Mr. Waddington, the British ambassador at Paris, said to Lord Salisbury with reference to the Suez Canal convention of 1888, which is of most paramount importance in the discussison of this case, and which I will refer to a moment later, "qu'une feuille de papier sans valeur"—a worthless leaf of paper.

Mr. President, a good authority upon this question, one of our own citizens, recognized both at home and abroad as an authority, author of a history of diplomacy, skilled in international law, David Jayne Hill, says in one of his articles on the subject:

On the other hand, Great Britain, as the greatest of maritime powers, might profit greatly by the construction of such a canal; and there was the possibility that the United States, whose position in the Western Hemisphere had been profoundly modified in the 50 years that had elapsed since the signing of the Clayton-Bulwer treaty, might consider it expedient to denounce that treaty, on the ground that treaties—

And this is the purpose for which I am reading this extract—the view upon the principle of law involved—

even when alleged to be perpetual, are morally binding only rebus sic stantibus, and cease to be so when conditions have essentially changed.

In the same connection and to the same effect I read from another American author, Mr. Hannis Taylor, author of various works on international law and the British and American Constitutions. He says:

As treaties stand upon a basis of their own, entirely apart from private contracts, the law of nations has always recognized the fact that all such agreements are necessarily made subject to the general understanding that they shall cease to be obligatory so soon as the conditions upon which they were executed are essentially altered.

I pause here to remark that this seems to be a principle of international law about which there is little dispute, and yet, strange to say, when it comes to the discussion of this Panama Canal question, it seems to be impossible to get the advocates of this repeal to recognize that such a principle ever existed. However, it is a substantial, vital, important principle, which governs not only this treaty but all treaties.

The principle that all treaties are concluded upon the tacit condition, rebus sic stantibus, clearly recognized by Grotius (Chap. XVI, s. XXV et seq.) and Vattel (Book 2 c. 13, s. 200), has been denied by no modern authority. Hall, the greatest of the recent English publicists, whose book is the vade mecum of the British foreign office, declares in his work on International Law (s. 116) that neither party to a treaty "can make its binding effect dependent at

will upon conditions other than those contemplated at the moment when the contract was entered into; and, on the other hand, a contract ceases to be binding so soon as anything which formed an implied condition of its obligatory force at the time of its conclusion is essentially altered." Mr. Oppenheim, now professor of international law in the University of Cambridge, has, in his great work, Volume I, page 550, section 539, said:

"It is an almost universally recognized fact that vital changes of circumstances may be of such a kind as to justify a party in notifying an unnotifiable treaty. The vast majority of publicists, as well as all the Governments of the members of the family of nations, agree that all treaties are concluded under the tacit condition rebus sic stantibus."

In my own work on International Public Law (s. 394) I have stated the matter in this way:

"So unstable are the conditions of international existence, and so difficult is it to enforce a contract between States after the state of facts upon which it was founded has substantially changed, that all such agreements are necessarily made subject to the general understanding that they shall cease to be obligatory so soon as the conditions upon which they were executed are essentially altered."

Having thus restated the rule, it was not strange, perhaps, that I should have been the first to apply it to the construction of the Hay-Pauncefote treaty of 1901, which contemplated the building of an interoceanic canal by the United States in foreign territory. It seems to me that a radical breach of the tacit condition, rebus sic stantibus, occurred when, in November, 1903, the Canal Zone became, by purchase, the domestic territory of the United States. It is hard to deny that by that event the tacit condition, rebus sic stantibus, was broken; and yet the subject is a delicate one—it should be approached with great calmness, great caution. The existence of the rule, rebus sic stantibus, as applied to the construction of treaties, has never been denied, so far as I know, and it is not at all likely that Great Britain will deny its existence in the present instance.

I want to cite one more authority.

Mr. BORAH. Mr. President——

The VICE PRESIDENT Does the Senator from Washington yield to the Senator from Idaho?

Mr. POINDEXTER. I yield.

Mr. BORAH. I understand that the Senator from Washington takes the position that the change of conditions, which arose by reason of the purchase of the Panama Canal Zone and the building of the canal at a different point than that contemplated under the Hay-Pauncefote treaty, brings into existence the rule which he has just been discussing?

Mr. POINDEXTER. Partly those reasons and partly others, which made the difference of conditions still greater; in other words, a comparison between what was contemplated by the parties to the treaty as to conditions under which the canal should be built and the conditions under which the canal was actually built. In one case it was agreed by everybody, as I have the authority here to show—it was accepted by Great Britain, and it was expressly so stated over and over again—that the canal was to be constructed in Nicaragua, through territory owned by Nicaragua, at a point where Great Britain originally had a claim—an utterly lawless claim, in my judgment—and we considered the question foreclosed as to the origin of it, which she had in it, as a consideration for the construction of this canal; that the United States at that time did not dream of taking over and paying a large sum of money for a canal which was already in large part built and owned by a French company and acquiring from the government through whose territory it went the sovereignty over a strip of territory; that those conditions are so different that it makes the treaty inapplicable.

The other authority, Mr. President, which I want to cite in support of this principle, and applying it to this particular case, is Sir Edward Grey himself, in the principal official document which exists in the controversy over this question between the United States and Great Britain on the side of Great Britain. It is important not because Sir Edward Grey said it, but because it was the official expression of our opponents in this matter. He says:

I notice that in the course of the debate in the Senate on the Panama Canal bill the argument was used by one of the speakers that the third, fourth, and fifth rules embodied in article 3 of the treaty show that the words "all nations" can not include the United States, because, if the United States were at war, it is impossible to believe that it could be intended to be debarred by the treaty from using its own territory for revictualing its warships or landing troops.

I interrupt the reading here to say that there has been some confusion of argument, in my judgment, or misapprehension on the part of some of those who are interested in this question in assuming that articles 3, 4, and 5, as originally drawn, and when originally drawn were not intended to apply to the United States. The position is on both sides, as I understand that they were intended to apply to the United States when originally drawn, but that it is now conceded that they do not apply to the United States because of the changed conditions under which the canal was constructed from those which were contemplated at the time of the treaty.

The same point may strike others who read nothing but the text of the Hay-Pauncefote treaty itself, and I think it is therefore worth while that I should briefly show that this argument is not well founded.

The Hay-Pauncefote treaty of 1901 aimed at carrying out the principle of the neutralization of the Panama Canal by subjecting it to the same régime as the Suez Canal.

I want, later, to refer to that régime to show how utterly impossible it was and would have been to apply it to this canal.

Rules 3, 4, and 5 of article 3 of the treaty are taken almost textually from articles 4, 5, and 6 of the Suez Canal convention of 1888. At the date of the signature of the Hay-Pauncefote treaty the territory on which the Isthmian Canal was to be constructed did not belong to the United States, consequently there was no need to insert in the draft treaty provisions corresponding to those in articles 10 and 13 of the Suez Canal convention, which preserve the sovereign rights of Turkey and of Egypt and stipulate that articles 4 and 5 shall not affect the right of Turkey, as the local sovereign, and of Egypt, within the measure of her autonomy, to take such measures as may be necessary for securing the defense of Egypt and the maintenance of public order, and, in the case of Turkey, the defense of her possessions on the Red Sea.

Now that the United States has become the practical sovereign of the canal, His Majesty's Government do not question its title to exercise belligerent rights for its protection.

I am glad they do not, because I am sure if they had done so they would find great support in the United States Senate. How should the principle of rebus sic stantibus be applied or measured? As Mr. Taylor says, with justice, of course. I was very much struck in reading the former speech of the distinguished Senator from New York [Mr. ROOT], with his eloquent invitation to the Senate of the United States to not take such action as would give us the reputation among the nations of the world of making sharp bargains, of being guilty of sharp practice, of taking advantage of those with whom we were dealing. It would be too bad, it would be too unfortunate, if the United States should be caught in the act, after having expended a vast sum of money for this canal, having constructed it through its own efforts upon territory with which Great Britain had no concern, that we should be guilty of driving the sharp bargain and of perpetrating the sharp practice of saying that Great Britain should not have an equal share with us.

Why, Mr. President, if you talk of sharp practice and driving sharp bargains, there will be a monument of shrewdness to go down the ages if the contention of Great Britain is to prevail in this case—that having given nothing, proposing in her official documents that she be relieved of responsibility, saying in this very letter of Sir Edward Grey that she does not expect to have the burden of protecting this canal, yet she should come out of her diplomacy and her negotiations with Mr. Hay and Mr. Choate as a partner in the enterprise.

Mr. BORAH. Mr. President——

The VICE PRESIDENT. Does the Senator from Washington yield to the Senator from Idaho?

Mr. POINDEXTER. I yield.

Mr. BORAH. The Senator having just spoken of England's being relieved of cost, expense, and responsibility by reason of the Hay-Pauncefote treaty, what possible commercial interest or commercial or business advantage would Great Britain have had under the Clayton-Bulwer treaty that she has not under the Hay-Pauncefote treaty, if she obtains the construction of the treaty for which she contends? Notwithstanding the fact that she has been relieved of all burden and all possible responsibility, is she not in just as good a position commercially, without any expense or without any responsibility, as she possibly could have been if she had expended upon the canal a sum of money equal to that spent by the United States?

Mr. POINDEXTER. Absolutely.

Mr. BORAH. Is there any commercial advantage, in other words, which England would have had under the Clayton-Bulwer treaty that she has not now?

Mr. CLAPP. Mr. President, will the Senator from Idaho permit an inquiry?

Mr. BORAH. Yes.

Mr. CLAPP. What other object could England have had in substituting the Hay-Pauncefote treaty for the Clayton-Bulwer treaty except to get the advantage the Senator refers to? Surely when England makes a treaty she wants to gain something by it, does she not?

Mr. BORAH. I am rather inclined to agree with the Senator from Minnesota, but the argument has been made here, and has had its effect undoubtedly, that England gave up a vast amount of consideration, benefit, and advantage when she yielded the Clayton-Bulwer treaty.

Mr. CLAPP. Surely no one who has studied the diplomatic relations between England and the United States would suggest that, because it would be such a novel suggestion in the light of our diplomatic relations with that country.

Mr. BORAH. It is true, however, that Sir Edward Grey made that contention, and that has been followed up here by repeated arguments to the effect that Great Britain would have

received nothing for what she gave up in the Clayton-Bulwer treaty. I was simply asking what did she give up?

Mr. POINDEXTER. Well, Mr. President, she agreed to give up all those peculiar things that she described in the Clayton-Bulwer treaty, such as protection over nations or governments and alliances and influences in Central America, and she agreed never to colonize or to occupy territory in Central America; but, as I read from an English authority a moment ago, she flagrantly violated her agreement and still occupies a most valuable and rich territory in Central America.

To answer the Senator's question further, the sum and substance of Great Britain's claim is this, that the United States shall enjoy no advantage from the Panama Canal which Great Britain shall not likewise enjoy; so that if Great Britain had expended the entire amount necessary for its construction, in the purchase of the property and the concessions, and owned it absolutely, so far as she hereself is concerned she could not have enjoyed any more benefits in the canal than she will enjoy if this bill passes and settles, as it will settle forever, the international status of that canal.

I think that no candid man could ever imagine, if Great Britain had constructed the canal upon her territory, the Hay-Pauncefote treaty and the Clayton Bulwer treaty notwithstanding, that she would ever have countenanced for one moment or ever have entered into negotiations with the United States to consider the question of whether she could not do with it as she chose as to her own shipping.

Mr. CLAPP. Mr. President, will the Senator pardon an interruption?

Mr. POINDEXTER. I yield.

Mr. CLAPP. Would the Senator blame England for taking that attitude?

Mr. POINDEXTER. I would rather admire her for taking it.

Mr. CLAPP. Yes; that is what I thought.

Mr. POINDEXTER. I would rather admire her for taking it; and that is the attitude which the United States ought to take.

I was just going to say, with reference to this principle of treaty law which I have been discussing, that it is not an unjust rule, and I am not advocating that it should be applied so as to do an injury to anyone, or so as to take advantage of anyone. I am trying to say what I can, in my feeble way, to protect the United States from having an injury done to her. The application of this rule under these circumstances, the United States having borne the burden of this great enterprise, the people of the United States from their hard efforts having paid the expense, is doing all that justice can call upon her to do if she opens the canal upon just and equitable rates to all the other nations of the world upon equal terms. Is there anything unfair about it? Is there any hardship from the application of the well-recognized principle of international law? I have not heard anybody demonstrate to the contrary.

Now, Mr. President, pursuing a little further——

Mr. BORAH. Mr. President——

Mr. POINDEXTER. I yield for a brief interruption.

Mr. BORAH. I only want to put in the RECORD a single statement in connection with what the Senator has said.

Mr. POINDEXTER. Very well.

Mr. BORAH. This is from the London Times, under date of December 31, 1913. It says:

> The canal will be a boon to Europe. While the United States built it and glories in it, its commercial importance to the United States is a bagatelle as compared to its importance to the world's foreign trade.

Mr. POINDEXTER. Mr. President, I am very glad the Senator read that, and I want to follow it up by reading, in the first place, from Sir Edward Grey, who is my favorite author on this question. He says in this same official note:

> The volume of British shipping which will use the canal will, in all probability, be very large. Its opening will shorten by many thousands of miles the waterways between England and other portions of the British Empire, and if, on the one hand, it is important to the United States to encourage its mercantile marine—

I pause to say that here and there in the utterances of British statesmen, I find only suggestion of an expression of the great concern which the United States, from a national standpoint, has in this canal. I have searched in vain among the letters and declarations of the diplomatists who were supposed to protect our interest in the negotiations for any indication that they understood, or if they understood, that they had a concern for the tremendous interests of our country that are involved in this question.

Sir Edward Grey refers to it here:

> If, on the one hand, it is important to the United States to encourage its mercantile marine and establish competition between coastwise traffic and transcontinental railways—

That foreign statesman understood perfectly well what our own apparently were blind to. He says:

> It is equally important to Great Britain to secure to its shipping that just and impartial treatment to which it is entitled by treaty, and in return for a promise of which it surrendered the rights which it held under the earlier convention.

Mr. Joseph Choate, who was in London during the formation of the Hay-Pauncefote treaty of 1900, the discussion which ensued in regard to the Senate amendment, and the negotiations for the formulation of the Hay-Pauncefote treaty of 1901, has indicated in his correspondence, which has been published, how the United States was represented and the spirit in which our interests were protected.

I wish to call attention at this point, because I probably shall not refer to it again, to the fact that in this document, which was published, I think, in response to the resolution of the Senator from Nebraska [Mr. NORRIS], supposed to contain all the correspondence with reference to these treaties, there are some rather significant omissions, including two letters from Mr. Choate. On page 10 a letter from Mr. Choate to Mr. Hay of January 15, 1901, is not published, and a notation appears to the effect that it is not on the department's files. On page 31 a letter from Mr. Hay to Mr. Choate, dated August 5, 1901, is referred to, and a notation is made that it is not on the department's files.

A gentleman who is interested in this matter has forwarded me some correspondence which he had recently with Mr. Choate in regard to the matter, and here is quite a significant statement, I think:

> NAUMKEAG, STOCKBRIDGE, MASS., *June 2, 1914.*
>
> DEAR SIR: Your letter of May 29 was duly received. I have now received the answer of the Secretary of State to my letter, whether he would have me comply with your request to have copies of the letters in question for publication in your pamphlet. The Secretary is of the opinion that I should not do so.

But we have a number of letters from Mr. Choate, and he seemed to be very much concerned about enabling the British Government to make a creditable showing to the House of Commons as to what it was doing in regard to this treaty. I should like to have the Senate know, particularly in the light of the question just asked by the Senator from Idaho [Mr. BORAH], Mr. Choate's concern about that matter and as to the benefits which Great Britain would receive from this canal.

He said:

> Lord Lansdowne's object in insisting upon article 3a is to be able to meet the objectors in Parliament by saying that although they have given up the Clayton-Bulwer treaty they have saved the "general principle," and have made it immediately effective and binding upon the United States as to all future routes and have dispensed with future "treaty stipulations"—

The words "treaty stipulations" are in quotation marks. That is what the Clayton-Bulwer treaty provided—that they should make future treaty stipulations in regard to a particular railroad or a particular canal. This "general principle" was not roaming around the world establishing in and of itself specific rules and regulations for any old canal that might be constructed anywhere. The general principle under which these nations agreed was that when they were constructing a canal they would come together in a treaty. Now, he says, they left that out, thereby—

> making it much stronger than it was before. I think his all-sufficient answer is that by giving up the Clayton-Bulwer treaty, which stood in the way of building any canal—

It did not, as a matter of fact, but this is what Mr. Choate says—

> he has insured the building of a canal for the benefit of Great Britain at the expense of the United States——

Mr. NORRIS. Whose letter is that?

Mr. POINDEXTER. That is Mr. Choate's letter to Mr. Hay, explaining to Mr. Hay what Lord Lansdowne could say to the House of Commons—

> relieving Great Britain of all responsibility about it, now and forever, and imposed upon the United States stringent rules of neutrality as to Great Britain and all mankind.

That is the American spirit which showed itself through the Court of St. James at a time when we should have had a representative who understood and was concerned and was able to protect the interests of the United States.

In this negotiation it seems to me that many of these letters and statements by our diplomatic representatives at that time, indicating that they did not know exactly what this or that language meant, and they had not had much time to examine it, and they hoped they would soon get through with the "troublesome business," are hardly more than mere chatter. None of it, I think, was written into the treaty. No treaty ever would have been ratified with the views—changing, apparently, as they were, from day to day—of Mr. Choate and Mr. Hay and

their uncertainty about the meaning of what they were doing, if it had ever been supposed by any Senator upon this floor when those treaties were here for ratification that those rambling comments would be read into the treaty and be a part of the obligations of the United States.

Mr. Choate says:

I've not had time—

He had been negotiating with Lord Lansdowne and Lord Pauncefote about the specific provisions in this treaty, and after having said what he told Lord Lansdowne, he says:

I've not had time to study this question carefully, but my present strong impression is that they would—

Do so-and-so.

These are only my hasty suggestions after having Lord Lansdowne's papers in my hands for only two busy days. I told him what I thought, because he wanted to know, and I give them to you for what they are worth.

* * * * * * *

Upon the whole the prospect of a satisfactory settlement of this troublesome matter seems to me better than it has ever been before.

That is the degree of interest and of knowledge which our representatives had in the formulation of this treaty, either as to the interests of the United States or as to the meaning of the treaty which they were negotiating.

The Hay-Pauncefote treaty was said by Sir Edward Grey to be based upon the Suez Canal convention of 1888, in which Great Britain, France, Russia, Germany, Austria, Italy, Spain, and Turkey came to an agreement in regard to the Suez Canal. There has been considerable discussion as to that convention, because it is referred to in the Hay-Pauncefote treaty as the basis of certain articles in that treaty, and therefore it becomes of paramount importance. Strange to say, it has been assumed in this debate that the position of Great Britain with regard to the Suez Canal is the same as that of the United States with regard to the Panama Canal.

Great Britain did not construct the Suez Canal. Great Britain does not own the Suez Canal. She owns 176,000 shares out of the 400,000 shares in a stock company which does own and operate the canal. Under the charter of this company the voting power of any one stockholder is limited to 10 votes, so that Great Britain is entitled to only 10 votes out of 16,000 votes in the Maritime Canal Co., which owns the Suez Canal. Under the articles of association every 25 shares are entitled to 1 vote, but with the limitation of 10 votes to any one shareholder Great Britain has only 10 votes out of 16,000.

That is her sole interest of law and right in the Suez Canal; and yet she has assumed authority in regard to the Suez Canal, and undertakes here to claim that under these wholly different conditions the principles which have been adopted by a number of nations there which had no legal power or right whatever to make any regulations in regard to the Suez Canal should govern the United States Government, which owns not only the Panama Canal, the waterway itself, but a strip of dry land 5 miles wide upon each side of it, and is the exclusive sovereign of that territory, and makes the claim that the United States can have no greater rights than Great Britain, which is a minor stockholder and a small share voter, has in the Suez Canal, or, for that matter, no greater right than any one of the treaty powers have therein.

Mr. BORAH. Mr. President——

The VICE PRESIDENT. Does the Senator from Washington yield to the Senator from Idaho?

Mr. POINDEXTER. I do.

Mr. BORAH. Do I understand the Senator to say that Great Britain has only a minority stock holding in the Suez Canal Co.?

Mr. POINDEXTER. That is all. She has only a very small minority vote in the Suez Canal Co. There are 400,000 shares. Great Britain owns 176,000 shares. Under the articles of association, as they are called, which govern the company, each 25 shares is entitled to 1 vote, but no one shareholder can have more than 10 votes; so Great Britain is limited to 10 votes out of 16,000 votes.

Mr. BORAH. Has she observed that rule?

Mr. POINDEXTER. I suppose she observes it, but constantly violates it.

Mr. BORAH. I had understood that she controlled the majority of stock. That is the reason I asked the question.

Mr. POINDEXTER. She does not control the majority of stock. She controls the canal.

Mr. NORRIS. Mr. President——

The VICE PRESIDENT. Does the Senator from Washington yield to the Senator from Nebraska?

Mr. POINDEXTER. I yield.

Mr. NORRIS. Is it true that with her stock and other stock owned by citizens of Great Britain she has a control?

Mr. POINDEXTER. That is unknown.

Mr. NORRIS. I have understood that was the fact. I have assumed that was true. I have read it a good many times.

Mr. POINDEXTER. I have here a statement in regard to that matter from most excellent authority, Col. Sir Howard Vincent, who is a very prominent business man in England, who made a study of the Suez Canal for the purpose of making this address before the London Chamber of Commerce on the subject. All that he says in regard to English stockholders is, after a most thorough discussion of the entire management of the canal and Great Britain's interest in it, that the presumption is that the citizens of Great Britain are well represented among the shareholders. Even if they were, however, the fact that private, individual citizens of Great Britain own stock in the Suez Canal would not give to the Government of Great Britain authority to control it.

Mr. NORRIS. Oh, no, no.

Mr. POINDEXTER. It would be an important circumstance, of course.

Let us compare for an instant the situation at Panama and the situation at Suez.

At Panama the United States owns the territory, and has constructed the canal. Sir Edward Grey says that there were certain rights reserved at Suez to Turkey, and to Egypt within the limits of her autonomy, because they are sovereigns. While sovereigns, however, they lack that most important interest which the United States has in being the owner of the canal itself. They are sovereigns over the country in which the canal is situated, but neither Turkey nor Egypt is the owner of the canal. Neither Turkey nor Egypt expended a dollar in its construction. Great Britain never expended a dollar in its construction.

Under those conditions it is agreed between the countries I have named that the agents of all of them shall gather at stated intervals to observe whether or not the convention of 1888 is being carried out and enforced. How preposterous it would be for anyone to propose that the representatives of foreign powers should gather periodically at Panama to observe whether or not these rules were being enforced. Yet that is what could be done if the Panama Canal is to be put upon the same basis as the Suez Canal.

Great Britain, long before the convention of 1888, assuming an authority which she had acquired by force of arms through bombarding the peaceful city of Alexandria, making war upon Arabi Pasha, following it up by an attack upon the Mahdi and his followers in the Sudan, had undertaken to close completely the Suez Canal with her gunboats stationed at each end of it, and shut out the traffic of every nation on earth, although she was merely the minority stockholder I have mentioned, and had no other interest in it. Even as late as 1898—I suppose she did it as an act of friendship for the United States, or claimed that she did, but it was really an act of friendship for Spain—she refused to let the Spanish fleet go through the Suez Canal in order to attack the American fleet in the Philippines. She had no right to do that. It was purely an assumption on the part of Great Britain. Not only by the convention of 1854 but by the more formal one of 1888, in the specific convention terms which have been read here so often, the right of Spain to have her vessels pass through that canal was as clear as the title to any property or any right possibly could be. Great Britain nevertheless refused, with the predominant influence which she had there, to allow the Spanish vessels to pass through.

As throwing some light not only upon the so-called neutralization of the Suez Canal but upon the meaning of neutralization generally, and also as applied to the Panama Canal, it is interesting to read some expressions of authorized English statesmen when the Suez-Constantinople convention of 1888 was being negotiated among the nations which were parties to it. It is quite interesting.

On August 19, 1887, the Marquis of Salisbury wrote to Monsieur Waddington, the British representative at Paris, in regard to these stipulations. Speaking of the dangers which were to be avoided to the interests of the various countries in the Suez Canal he says:

These dangers may practically be divided into those which may arise from local disturbances and any attack which might proceed from one of the great European powers who are to be the signatories to this convention.

In regard to this latter danger—

That is, the danger of an attack by a great European power, notwithstanding it was a signatory to the convention—

far the more formidable of the two, I am glad to note that the course of discussion has brought us into accord. You admit in your letter under reply that in such a case the convention would be "qu'une feuille de papier sans valeur." This view does not perceptibly differ from that which I suggested in my letter of the 18th ultimo, when I

said that in the case supposed "the convention would be broken and annulled and all parties would resume their natural liberty."

* * * * * * *

It is obvious, however, that this question links itself closely with the definition of that which your excellency has designated as the region of the canal, a definition which, in the letter under reply, you invite me to discuss.

The restriction in question assumes a very different aspect if we interpret the word "canal," as your excellency seems inclined to do, to mean not only the portion of land covered by water, but a border of dry land upon each side. If there is to be on each side of the canal a space of greater or less width, to which the stipulations we are now considering are to apply, very serious difficulties will arise.

These spaces must be subject to a kind of neutralization fundamentally different from that which is to be provided for the real canal. If the formula is applied to them, that they are to be "open to all powers at all times," it is obvious that they will become rather common ground than neutral territory. Any power will be at liberty to place whatever amount of military force it pleases upon them at any time. On the other hand, if neutralization in its more ordinary sense is applied to them, and, instead of any power at any time being allowed to pass through them, it is provided that no power at any time shall do so, it is obvious that a band of territory will be marked out within the dominions of the Sultan which he will not be at liberty to enter, even at the request of the khedive, but which will be singularly at the mercy of a local insurrectionary movement, if any such should arise.

Mr. BORAH. What is the date of that letter?

Mr. POINDEXTER. August 19, 1887.

Mr. BORAH. At the time the Marquis of Salisbury wrote that letter it was some 10 or 15 years before the new definition of neutralization had been adopted to meet this situation.

Mr. POINDEXTER. Eminently so, and that is a very pertinent suggestion of the Senator from Idaho. I would like the Senate to apply the very clear and common sense views which the Marquis of Salisbury took of the condition, which is identical with the actual situation at Panama where we are the sovereigns of the strip of dry land on each side of the canal, and where Great Britain is attempting now through Sir Erward Grey to apply to it a definition of neutralization which created the situation which Lord Salisbury says would result in a great deal of difficulty.

Mr. BORAH. Of course it would be impossible to say that the word "neutralization" was never used in the sense of equality of tolls prior to the Hay-Pauncefote treaty, but I have gone through the English authors and I have investigated to a considerable extent the manner in which that term has been used by English writers and English statesmen, and the first instance I can find where the word "neutralization" was used as synonymous with equality of tolls or equality of charges was in Sir Edward Grey's letter, which the Senator referred to a short time ago. Prior to that time it was always used in the sense they are using it there, as neutral territory applying to a condition of war. Never before have I been able to find where they used it in the sense in which it is now used in this discussion by some as applied to equality of charges or equality of tolls.

Mr. SMITH of Michigan. I should like to suggest to the Senator from Idaho that that is the only word that they have upon which they can predicate their theory, and they are as wrong as the Senator from Idaho describes.

Mr. POINDEXTER. Lord Salisbury continues:

In fact, if such a stretch of land should be closed to the sovereign of the territory in which it is placed, it will be in a position for which no precedent in international law or practice can be found. It will be part of the Ottoman Empire, under the sanction of the treaty of Paris, but the Sultan will be forbidden to exercise on it any rights of sovereignty or suzerainty. It can not be expected that the Porte will accept such a proposal.

Yet it is expected and demanded that the great United States will accept such a proposal, and that this strip of dry land and the canal itself shall be deprived of its national character and become international through a perverted definition of the word "neutralization."

Mr. President, there is not a word in the articles of the Suez convention which provides for equal tolls. Whatever is the law requiring charges in the Suez Canal to be the same to all nations—and none of them occupy a position with regard to it that the United States occupies with reference to the Panama Canal—it is not found in the articles of the Suez convention, but is found in the concession which the Khedive granted to the Maritime Canal Co., which constructed it.

Mr. BORAH. That concession excepted the sovereign authority over the canal from the operation of that equality of charges, did it not?

Mr. POINDEXTER. Entirely so.

Furthermore, although not expending any money in the construction of the canal, in granting this concession Egypt reserved to itself 15 per cent of the gross proceeds of the canal, which would be far more than Egypt, even if she had ships passing through the canal and had commerce, would be required to pay in tolls.

Mr. President, the proposition is so preposterous that if the situation which exists in this canal and the rights governing it had been presented to the Senate of the United States in the form of the Hay-Pauncefote treaty, to be applicable to them, I doubt whether it would have received the vote of a single Senator. No American would ever have dreamed that the United States, having become sovereign of the territory and having bought the partially constructed canal, should become involved in the articles of the Suez Canal convention, confining ourselves to the same privileges and rights enjoyed by nations which did not pretend to have ever expended any effort or any money in the construction of that canal, and none of whom, with the exception of Great Britain, were even stockholders in it.

That reminds me of what I had overlooked before, that not only did Egypt, expending no money on the Suez Canal, retain 15 per cent of the gross proceeds, but retained or received in pursuance of her concession 176,000 shares of the capital stock, which Great Britain now owns, which, because of the financial difficulties of the Khedive, he afterwards parted with and sold to Great Britain.

That was the situation with reference to the little country of Egypt in the Suez Canal—not only acquiring almost half of the stock and entitled to the dividends upon that stock, but, in addition to that, receiving 15 per cent of the gross proceeds—expending nothing, reserving every right of sovereignty, while the United States, expending everything, is supposed to operate this canal for tolls which represent the actual cost of operation and is to be bound to give to its citizens no greater rights than every other country in the world may have.

Mr. SMITH of Michigan. Mr. President, if the Senator will allow me——

The PRESIDING OFFICER (Mr. CLAPP in the chair). Does the Senator from Washington yield to the Senator from Michigan?

Mr. POINDEXTER. I yield to the Senator.

Mr. SMITH of Michigan. If this were a proposition to vote the money to build a canal across the Isthmus of Panama in the light of the construction placed upon the treaty, I assert that there would not be a dozen men in this Chamber who would vote a dollar to build it on that theory, and the American people would not sustain it for a moment.

Mr. POINDEXTER. There is no question about that, Mr. President. I do not want to use strong language, but if, having been induced through their representatives to consent to this vast expenditure for the construction of this canal, they are now, through finespun technicalities of the construction of treaties and upon what are called principles of generosity toward the claims of a country which can afford no example of generosity in its diplomatic history, the American people are deprived of the full benefit of this canal, it will be the perpetration of an outrage upon a great people.

Mr. SMITH of Michigan. Mr. President——

The PRESIDING OFFICER. Does the Senator from Washington yield further to the Senator from Michigan?

Mr. POINDEXTER. Certainly.

Mr. SMITH of Michigan. The reason why I made the statement I did a moment ago was because I was one of the men who voted the original money to build this canal, and we had some difficulty even then in getting the appropriations to build it. It was a matter of controversy extending over a long period, but it never would have been done in the world upon any theory that the Government of the United States would build it, maintain it, defend it, and yet have no more interest in it than a country that did not contribute a penny toward it and gained by reason of its construction a thousand fold more by that fact than our own country.

Mr. CLARK of Wyoming. And was not made responsible for it.

Mr. SMITH of Michigan. No; that had no responsibility at all.

Mr. POINDEXTER. I am glad to have that view stated by the Senator who took part in the ratification of those treaties, and I will add to it the statement that in my judgment if that construction of these treaties is to prevail, and I say it in all candor and good faith, it would be a good business proposition for the United States to-day to surrender the canal and put the cost of its maintenance, and its operation, and its protection upon Great Britain and take our stand under the claim of equal rights in the canal under the treaty in the position which Great Britain now occupies.

Now, reverting to the Suez Canal, which is the parallel sought to be made to the Panama Canal and in respect to the international rights, bearing in mind the acts and authority which Great Britain has committed in reference to it, closing it to the

vessels of all nations, excluding the warships of Spain, let us see who are the real owners of the canal.

They were nearly all—

Says this author, Sir Howard Vincent—

as Lord Palmerston contemptuously said, "small people"—

That reminds me that Great Britain, although now controlling the Suez Canal, did everything she could in the first place to prevent its construction, threw every obstacle that the British Government could in the path of Ferdinand De Lesseps in that great undertaking—

They were nearly all, as Lord Palmerston contemptuously said, "small people," but not quite within his description of "Café waiters deceived by the newspapers lying on the tables, or grocers and dry-goods assistants entrapped by the paper in which they wrapped their wares." Only 369 were bankers and brokers, while clergymen numbered 480; schoolmasters, 434; doctors, 433; lawyers, 819; and workmen and mechanics, 910.

Those were the owners of the Suez Canal. Those were the people whose money constructed it. Yet Great Britain says that we must enjoy in the Panama Canal, constructed solely by our Government, no more rights than the nations of Europe enjoy in the Suez Canal.

The French people organized a committee of defence of their company against the aggressions of Great Britain, which aggressions finally accomplished her purpose to dominate and control the great canal at Suez. It was called a committee of defence of the Suez Canal, and it is most significant and interesting that the stockholders of the company were compelled to take proceedings of that kind. This author proceeds, and it is perfectly pertinent and applicable to the present situation:

It has been necessary to enter into some detail to give a clear account of these matters, as in some quarters an idea seems to prevail that the canal was dropped from heaven for the benefit of England.

That idea is pretty prevalent through the Senate of the United States as well as in Great Britain.

Furthermore, Mr. President, not only did the Egyptian Government, expending nothing on the Suez Canal, retain 176,000 shares of the stock out of 400,000 shares and 15 per cent of the gross proceeds, but, more important than either of those, she retained the reversion of the canal at the end of 99 years. At the time that this address to the London Chamber of Commerce was made in 1905, in summing up his conclusions Col. Vincent said:

That under present arrangements the British Government—

Mark this—

the British Government is undoubtedly trustee for Egypt and the Egyptian people, who in 64 years come into this vast property and everything appertaining to it.

They will own the canal absolutely, after having enjoyed the stock and 15 per cent of the gross proceeds since it began its operation. At the end of 64 years the privilege of the Suez Canal Co. will be terminated, and Egypt, in the hollow of Great Britain's hand, will become the absolute owner and exclusive master of the canal. That is what Egypt got out of the Suez Canal. Yet it is said here that we must build our canal exclusively and bear the entire burden of its operation, and yet enjoy no greater commercial advantage in it than England or any other nation.

Now, Mr. President, what is the attitude of Great Britain with reference to her domestic commerce passing through the Suez Canal? Great Britain says that as to the Panama Canal we have no right to exempt from tolls our coastwise shipping. She says that we have no right to reimburse our coastwise shipping for the tolls which they would be required to pay if this bill passes, in passing through the canal, because that would be merely an evasion of the treaty and would be in effect an exemption.

There are so many preposterous propositions about this matter that it is difficult to discuss it in moderation. What I have said and am saying in regard to it, I feel more applicable to our foreign trade. It seems to me, from a common-sense view of the situation, that it will not be necessary to say a word in regard to our coastwise trade, although that at the present time is the only thing that is involved. The only contention that is being made is that the ships of both countries should be put upon an equal footing. There is nothing in this law as it stands now which interferes with that principle of equality as to ships of both countries. If there is a British ship that engages in our coastwise trade it would be exempt under the terms of this law. It is not the canal act that makes a discrimination between the ships abroad and the ships of the United States. The Panama Canal act, as I recollect it, does not say that the United States ships engaged in domestic commerce passing through the canal shall be exempt from tolls. It says that all ships engaged in our coastwise shipping passing through the canal shall be exempt.

Mr. NORRIS. Foreign ships can not engage in coastwise shipping.

Mr. POINDEXTER. Foreign ships could engage in coastwise shipping if we modified our shipping laws.

Mr. NORRIS. We would have to change our law.

Mr. POINDEXTER. We would not have to change the Panama Canal act.

Mr NORRIS. No.

Mr. POINDEXTER. The Panama Canal act would stand just as it is now. It is not it that discriminates against the shipping of Great Britain in this matter, but it is the law which confines our coastwise shipping to our own ships. Great Britain has the same law as to her ships, and it is that law which has given her the maritime mastery of the sea. The importance of the Panama Canal to Great Britain is that she is the mistress of the world's trade. She became so when she revived her drooping commerce and took it from the ships of Holland by the passage of the great navigation act of 1651, in which she excluded Holland and every foreign country from participation in her coastwise or her colonial trade. Immediately her shipping increased, and from that time to this it has grown, and it is that act more than any other which has piled up in the British Isles the greatest wealth that any similar territory of the world has ever seen. And yet because we adopt the same policy as to our coastwise shipping and confine it to our own ships she protests, and by a quibble, by an equivocation, seeks to escape the effect of it by claiming that it is due to a discrimination in the Panama Canal.

I was proceeding to discuss, Mr. President, the British shipping in the Suez Canal. I will show later on just what they have done. On page 19 Col. Howard Vincent says—this is quite interesting as showing what Great Britain has gotten out of the Suez Canal—

To-day the market value of these 176,602 shares exceeds £32,000,000.

Great Britain taking advantage of the straitened circumstances of the more or less profligate Khedive of Egypt, by acting quickly in the masterly way in which many of her statesmen have acted, without waiting to consult Parliament, entered into negotiations with him and paid him £4,000,000 for the interest which Egypt had retained in the Suez Canal. That £4,000,000 had grown in 1905 through the appreciation of the value of those shares to £32,000,000.

In addition they—

The British Government—

have received over £12,000,000 in interest and dividends. The whole purchase price having been thus reimbursed threefold to the British public, really by the dues paid by British ships, it seems to me that after allowing, say, 10 per cent per annum upon the outlay thereon, the balance should be applied either for the benefit of British shipping as a whole, by the remission of light dues or some other impost, or else for the benefit of the British ships earning this source of national income by a reimbursement of, say, 2 francs a ton.

Lewis Nixon, in Monthly Bulletin of New York State Chamber of Commerce, says:

Why not discuss the question if such discussion be enlightening? Other nations do directly rebate Suez Canal tolls, and the committee must know it and know, too, that the subsidies which it tries to make general are in most cases directly voted to equalize such tolls. So why run away from the issue, or must we only provide a free feast of commerce to which all the world is bidden to partake at our expense?

The Russian Government in 1909 appropriated 650,000 rubles in exact terms to pay the tolls of the merchant steamers of the Russian volunteer fleet, both for tonnage and for all men, women, and children carried.

The British P. & O. Co. receives in subsidies enough to nearly pay all its canal dues, although it operates through the canal a number of boats apart from the mail steamers.

The North German Lloyd receives an annual subsidy on its vessels using the canal of $1,385,000. Japan pays a subsidy of $1,336,947 to the Nippon Yusen Kaisha for its steamers through the Suez to Europe.

The Massageries Maritimes, the largest French company using the Suez Canal, was paid for its lines to China, Japan, Australia, and Madagascar $2,145,000 in subsidies.

Austria specifically provides by law for payment of Suez tolls on Austrian steamers from Trieste to Bombay, Calcutta, and Kobe.

The Swedish Government calculates its subvention to the Svenska Ostasiatiska Kompaniet to represent the amount of tolls paid by the ships of the company for passing the Suez Canal.

However, since the committee seems to draw comfort and inspiration from the utterances of the Commissioner of Navigation, I will quote him further: "A deliberate conclusion to tax directly American shipping to pay for the maintenance of that canal when no tolls are imposed on vessels, American or foreign, for the use of our other improved highways, will be well-nigh inexplicable save as the definite surrender of the oceans to others by the United States except as we may use its waters from time to time for the maneuvers of our war fleets.

If the same propositions were made to-day by Great Britain as to her ships passing through the Panama Canal, or which will pass through the Panama Canal, that Great Britain should reimburse those ships the amount that they had paid for tolls

at Panama, would we protest? I apprehend not. I apprehend we would have no ground to object. I can scarcely conceive that we would be so unreasonable as to assume an attitude which is manifestly untenable. If Great Britain can do that, why can not the United States, which is the proprietor of the canal, do the same thing? As Great Britain herself has said that would be equivalent, in another form, to the exemption of tolls, how does it change the substance of the matter if we pay the tolls into the Treasury before the ships go through the canal or if we pay the tolls after the ships go through the canal to the ships? There is no difference in principle. Great Britain can do it; why not we? Of course we can. Yet it is claimed by Great Britain and by the President of the United States that we can not; that is, it is now claimed by Great Britain that we can not, though it has been admitted by Great Britain officially that we can. I have a statement dated at Kineo, Me., British embassy, July 8, 1912. The Senate is more or less familiar with it, but I desire to read a few lines from it. It is from Mr. Innes. It is no more important than the views of another man as an individual expression, but it is of paramount importance as the official declaration of the British embassy in official negotiations with the United States in regard to this identical question. He says:

As to the proposal that exemption shall be given to vessels engaged in the coastwise trade, a more difficult question arises. If the trade should be so regulated as to make it certain that only bona fide coastwise traffic, which is reserved for United States vessels, would be benefited by this exemption, it may be that no objection could be taken.

How does Mr. Innes, how does Sir Edward Grey, know that it would not be so regulated? No man can tell until the event. That is a matter of administration. It can not be dealt with until it arises. The law does not provide for the exemption of anything except vessels engaged in the coastwise trade. Whether it is practicable to enforce the law remains to be seen. Here is the official declaration that, so far as the law is concerned, the British Government may not have any objection to it.

As a matter of fact, Mr. President, Great Britain had ceased to object upon this ground after the exchange of notes between Great Britain and the United States. As it has been pointed out very often here, the controversy was revived by a distinguished Senator upon this floor, who at the same time is a member of the executive committee of the Carnegie Peace Board, which has never slept nor rested in the campaign, which it has persisted in after the officials of Great Britain had abandoned it, to deprive the United States of its national rights and privileges in this canal and to fix upon it an international character.

I want to call attention to some of the minutes of that peace board. Of course its inspiration comes from Andrew Carnegie. He is a man who in many phases of his career is entitled to the greatest admiration. It would be unfortunate if anyone should envy him his great success. What I object to is not Mr. Carnegie or what Mr. Carnegie does, so long as he attends to his own business and confines his activities in legitimate channels; but I do object when he uses $500,000,000 and the power that that represents, acquired in the manner that it has been acquired—from the toil and the privation of American citizens—to oppose an American policy, and in the devious and insidious ways which wealth can command applies a powerful influence in behalf of a foreign country, and to give a foreign construction which is unwarranted by this treaty. The controversy was closed. This great power, always awake, always active, took it up. Here are some of the proceedings:

[June 12, 1912, page 7985 CONGRESSIONAL RECORD.]

Mr. ROOT. Mr. President, in view of the various remarks which have been made about the report on the Panama Canal bill, I wish to say that in my opinion the bill, with regard to the remission of tolls on American vessels, is in violation of our treaty with Great Britain, and I shall take occasion at an appropriate time hereafter to give my reasons for that belief. * * *

[July 15, 1912, page 9073.]

Mr. ROOT. * * * I feel very reluctant to make an argument regarding the rights of the United States under the treaty which have already come into diplomatic discussion. I feel the more reluctant because the view I entertain would require me to argue against the position which the Government of the United States may be bound to take if the opinion of the Senate should agree with the opinion of the House and this provision should be enacted into law.

The event was as he anticipated. The opinion of the Senate was the same as the opinion of the other House, the same as the opinion of the President and of the Attorney General, the same as the opinion of the country; and the question was settled. These questions involving human differences of opinion must be settled somewhere by human agencies. You can not remove the differences of opinion, but a self-governing people, capable of conducting a great nation, must recognize some authority which finally settles it. What higher authority could there be in the American Nation than its Congress and its executive department? All of the avenues of further presentation of the question to the Supreme Court which were open then remain open now if there has been a violation of any international right.

In part 63, page 4819, Hearings before the Committee on the Judiciary, August 7, 1912, appears the following letter:

WASHINGTON, D. C., *August 7, 1912.*

DEAR ADMIRAL BOWLES: Soon after my letter of the 31st ultimo the President sent for Representative KNOWLAND and others in accord with him, and they had a conference with the President, at which conference Secretary Stimson was present. The President explained that Mr. Stimson was very anxious to have the entire matter go over until the next session. Mr. KNOWLAND and his associates promptly informed the President that they would not agree to any such arrangement. * * *

* * * Some little progress was made on the bill in the Senate on yesterday, as you will see by extract from the CONGRESSIONAL RECORD herewith inclosed, which also contains the message of the President urging action at this session. At the time that he sent for KNOWLAND and the others I think he was favorable to the delay but did not wish to so express himself.

Now he has seen the handwriting on the wall and is for prompt action. I understand that Senator ROOT, who was the one who prompted Stimson to ask for delay, is against free tolls, while Senator O'GORMAN, of New York, is for free tolls, and if the bill goes through, therefore, it will perhaps serve to embarrass ROOT with the people.

Very truly, yours,

CLARENCE W. DE KNIGHT.

The note of Sir Edward Grey dated November 14, 1912, was handed to the Secretary of State December 9, 1912, and published in the press December 10, 1912.

The Carnegie endowment for international peace is controlled by a board of trustees presided over by President ELIHU ROOT and includes among its members Senators BURTON and WILLIAMS (pt. 62, p. 4772). Appropriations of money are allotted to specific purposes by the executive committee, consisting of Messrs. Root, Scott, Butler, Fox, Montague, Pritchett, and Tower (p. 4773).

Two days after the publication of the British note the board of trustees of this institute held a meeting.

[Extracts from the minutes of Dec. 12, 1912.]

Miscellaneous business was next announced in order, and the board discussed at length the attitude which the endowment should assume with reference to the Panama Canal toll dispute between the United States and Great Britain. * * * The board reconvened pursuant to adjournment and resumed the discussion of the Panama toll question. At the conclusion of the discussion the following resolution was adopted:

"*Resolved*, That a committee of five, of which the president of the board [Mr. ROOT] shall be chairman, be appointed by the chair to prepare a brief statement concerning the present discussion between the parties of the Hay-Pauncefote treaty, to be signed individually by members of the board and published."

The chairman appointed on the committee Mr. Butler, Mr. Cadwalader, Mr. Choate, Mr. Eliot, and Mr. Root, upon the adoption of the foregoing resolution. The advisability of having this committee report to the board was considered, and the following resolution adopted:

"*Resolved*, That when the committee which has been authorized and appointed has agreed upon a paper, a meeting of the board be called, to which the committee shall report."

On January 14, 1913, as appears from page 1482 of the CONGRESSIONAL RECORD, a bill (S. 8114) to prevent discrimination in Panama Canal tolls was introduced by Mr. ROOT and referred to the Committee on Interoceanic Canals.

On January 17, 1913, Secretary Knox replied to Sir Edward Grey's note.

On January 21, 1913, Senator ROOT made his speech in the Senate.

At a meeting of the executive committee of the Carnegie Endowment for International Peace, February 7, 1913, the following appears:

Mr. Eliot then read to the committee a statement which he had drafted as a member of the subcommittee of the committee appointed by the board of trustees on December 12, 1912, to prepare a statement concerning the present discussion between the parties to the Hay-Pauncefote treaty. The committee discussed the advisability of issuing the statement in view of the present state of the negotiations, but concluded so to do, and adopted the following resolution:

"*Resolved*, That the statement read to the committee by Mr. Eliot be printed and sent to each member of the committee appointed by the board to consider the Panama Canal toll question and to each member of the executive committee with the request that any suggestions concerning its phraseology be sent to Mr. Eliot at the earliest possible date.

"*Resolved further*, That when the statement has been completed it be sent to each member of the board, with a request for his signature."

* * * * * * *

The secretary then presented the following resolution to provide for the distribution of Senator ROOT's speech and other literature on the Panama Canal toll question, which, upon motion duly made and seconded, was adopted:

"*Resolved*, That the sum of $6,000, or so much thereof as may be necessary, be, and the same is hereby, allotted from the unallotted balance of the emergency appropriation for the fiscal year ending June 30, 1913, for the distribution of literature on the Panama toll question, and the treasurer is hereby authorized to disburse the said sum accordingly."

* * * * * * *

The following report was submitted by the secretary on the distribution of the statement issued by the trustees of the endowment on March 15, 1913, concerning the exemption of American vessels from the payment of tolls on the Panama Canal:

He recommended the further distribution of approximately 1,200,000 copies of the statement to the following selected lists of persons throughout the country and submitted an estimate of $19,000 to defray the cost of such distribution.

The committee concurred in the recommendation and adopted the following resolution:

"*Resolved*, That the allotment of $6,000, made February 7, 1913, for the distribution of literature on the Panama toll question, be, and the same is hereby, increased to $25,000, and the treasurer is hereby authorized to disburse the said sum accordingly."

(Extracts from the minutes of the meeting of the executive committee of June 28, 1913.)

The following resolution, requested by the acting director of the division of intercourse and education, was also adopted by the committee:

"*Resolved*, That the sum of $7,469.40, or so much thereof as may be necessary, be, and the same is hereby, allotted from the appropriation for the division of intercourse and education for the fiscal year ending June 30, 1913, for work of propaganda on the question of the Panama Canal tolls."

Mr. President, what interest has the Carnegie Peace Society in the Panama Canal tolls controversy? Is the question of peace or war involved? The Senator from Massachusetts [Mr. LODGE], while giving a very striking picture here of a Quixotic Ajax defying an imaginary lightning, said that no nation on earth would think of going to war about this question of tolls in the Panama Canal. I apprehend that nations might think of going to war about it if other nations than those which are concerned were the principal parties to the controversy; but no nation will think of going to war with the United States about this question. There is not any danger of war; the question of peace and war is not involved; and why should the Carnegie Peace Society be pouring out the contents of its golden treasury in this propaganda against an American canal? One reason is that Andrew Carnegie is a British subject, registered as a voter in Great Britain. In the parish of Dornoch, in the county of Sutherland, you will find his name and the name of his secretary among the legal voters of Great Britain. You will find that he is an advocate of coalition between nations. He has made the title of one of his books "The Empire of Business." That is the only empire that he cares about. I hate to say anything about him, and I would not say anything about him if he would not, with the proceeds of his watered stock, meddle in this question. Of course, as an individual, he has a right to take part, but he is exerting more than the influence and the power of an individual; $500,000,000 becomes an international force. He believes that trade follows the flag, but he is like, it is said, the Ratner Bros. in Mexico—he does not care which flag.

The Ratner Bros. are American citizens, but they are supplying arms and munitions of war and friendly advice to Victoriana Huerta. I notice that some woman here in the city of Washington sent Huerta a locket placed in a receptacle of embroidered silk, bearing the name "Victoriana Huerta." You can excuse a woman for a thing of that kind. He may be mysteriously fascinating in some of his qualities; he has shown strength, if he has not shown virtue, and a woman, as a matter of sentiment, might send a locket to Victoriana Huerta and yet remain a good American citizen; but when it comes to men dealing in affairs of state it is a different proposition. They can not constantly live in an "empire of business," amidst the hard, metallic grinding of coin, and retain the fine flavor of patriotism which has made this a great people. That is the influence which has taken up this question, after it had been abandoned by Great Britain, and is carrying it forward.

Does anybody suppose that the day of the Tory is gone? Does anybody suppose that there is not in our midst to-day the same element, the same kind of people who opposed Washington and his patriot Army among his fellow citizens when we were struggling for our independence? Of course there are Tories to-day, and they are at work, and they are working to internationalize the United States.

Why should a "peace society" be concerned about this question? Let them confine themselves to the statesmanship of peace treaties. There is no peace treaty concerned here. They have gotten a number of distinguished Senators upon the membership of their executive board, and far be it from me to criticize the personal judgment of any Senator who cares to act with them; that is a question for them to determine; but I find them advocating strange doctrines, including universal arbitration, and some of them go so far as to believe in an international army, applying to governments the same principle of trusts and combinations that is applied to business. They seek to wipe out international lines.

Why, Mr. President, there are some things that I would not arbitrate; there are some things that the American people would not arbitrate. They dislike war. Every good fighter will go a long way around to avoid a conflict, if he can do so honorably, but there are limits to that. They will not arbitrate national existence; they will not arbitrate national independence; they will not arbitrate a question which would merge in any degree whatever the sovereignty of the United States, gained at so much sacrifice, with the sovereignty of Great Britain. As much as they dislike war, if war were necessary, they would undertake it for independence and life and sacred honor; and yet this "peace society" would arbitrate all those questions and accept the award of the arbitrators upon them. It is not an American doctrine. The same un-American influences have furnished the fine hand that has kept this fight alive and pressed it forward.

Another influence is a set of men who have done great engineering work on the canal. They have made themselves immortal for all time as engineers, and have become so absorbed in the canal and their pride in the canal that they are insisting on every ship that goes through it paying tolls in order that it shall yield a financial return, and the canal be on the safe side of the ledger so far as its financial accounts are concerned. They seem to have a mistaken notion that you can make the canal pay for itself by taxing the very people who have already paid for it. They forget the distinction between an enterprise built for commercial purposes by private individuals and an enterprise built upon the broad lines of national policy by a great government.

There is a third interest that has combined with these, and that is the transportation interest of the country, the railroad companies. As was said by Lewis Nixon, in a letter filed with the Chamber of Commerce in New York a short time ago on this question, the interests which are opposing free passage of our coastwise ships through this canal are doing so because they know that as soon as the canal is opened under this law every shipyard in the United States will be ringing with the sounds of industry, building ships to engage in our domestic trade through it.

Mr. President, it is an elementary proposition that water transportation is the basic regulator of the cost of moving our freight. It ought not to be necessary to cite instances in order to make that clear. The great discrimination between certain cities upon our railroads—some have low rates, some high rates—is justified in many instances by the railroads because they claim that it is necessary to put their rates down in order to meet water competition.

I have some specific illustrations, which I want in just one word to cite, illustrating the effect of water competition upon freight rates. When you demonstrate the effect of water competition upon freight rates, you demonstrate the fact that every transcontinental railroad in the United States is interested in imposing tolls, tolls, tolls, upon every ship that goes through the Panama Canal. Every cent that is imposed is that much of a discrimination and that much of an influence; and I desire to call attention to the fact that it does not require any very great difference in rates in order to control the channels of trade. A slight discrimination, a little lower rate, will control the trade. For that reason I wish to call attention in a moment to the fact, and to point out the reasons for it, that if our ships are thrown into competition with the ships of England passing through this canal, England will capture our domestic coast trade, notwithstanding the tariff.

The policy of tolls was long ago abandoned. They have not been collected on the Erie Canal since 1882. I wish to cite this instance in the case of that canal, which is as clear as it can be as to the effect of free passage by a waterway upon freight rates.

In 1871 the rate on wheat from Chicago to Buffalo by rail was 31 cents a bushel. Water transportation came in about that time—at least, I have figures for that year all the way by water—by lake and by canal. Immediately the rate by water was 20.24 cents a bushel, a difference of 10.76 cents per bushel in favor of water transportation between Chicago and New York. Through the operation of this influence constantly reducing the rates, by 1912 the rate had come down—and, of course, the railroads were compelled to put down their rates—to 9.6 cents per bushel by rail, while the rate by water had come down to 5.57 cents per bushel, a difference of 4.03 cents per bushel in favor of the water route.

In 1890 wheat was shipped from St. Louis to Liverpool by two different routes—one by rail via New York and the other by water via New Orleans. That furnishes a perfectly clear, succinct comparison as to the effect of water transportation upon freight rates. In 1890 the rate from St. Louis to Liverpool by rail via New York was 21.48 cents per bushel. The rate from St. Louis to Liverpool by water via New Orleans was 14.33 cents a bushel, a difference of 7.05 cents per bushel in favor of the water route. In 1903, through the operation of the same forces, the rate had been cut down by rail via New York to 16.02 cents per bushel, and by water via New Orleans to 10 cents per bushel, a difference of 6.02 cents per bushel.

I shall not go into the citation of figures at this time to show what is the universally recognized fact, that from various causes we can not compete upon equal terms with Great Britain in the operation of ships. British ships plying from the ports of

British Columbia in any trade in which they can compete with the American ships will get the trade, because they give lower rates; they employ cheaper labor; they are not subject to the same standards and regulations of operation that our own ships are. British ships plying from Great Britain through the Panama Canal to the Pacific coast will operate more cheaply than American ships plying from our Atlantic coast through the canal to the Pacific coast, for the same reasons which I have stated. If they are put upon equal terms, so far as the canal is concerned, the lower cost of operating the British ships, together with the lower cost of producing the merchandise in England, will give to England the trade and commerce of the Pacific coast, those great populous States which now buy their millions annually from the marts of New York and Boston and the other manufacturing towns of the Atlantic coast.

England can not get that trade now because of the transcontinental haul. She has to land her goods upon the Atlantic coast, and there they are subject to the same conditions as American goods, after having paid the cost of transportation across the Atlantic, as to the cost of transportation across the continent. If, however, we open the canal, with the cheaper water transportation with which the railroads can not compete, Great Britain will load her ships in England with the manufactured products of England, sail them through the canal to our Pacific ports, pay the tariff, and deliver them to the consumer at a lower rate than our Atlantic coast manufacturers can pay the cost of transportation from coast to coast by the more expensive American ships. That applies to the mighty trade, now domestic, which will then become foreign, imported by the Pacific coast States.

Let us reverse the consideration. One of the great exports of the Pacific coast is lumber. In 1911 the State of Washington produced 4,064,754,000 feet of lumber. The State of Oregon produced 1,803,698,000 feet. The State of California produced 1,207,561,000 feet; a total of 7,016,013,000 feet of lumber.

British Columbia is our great rival; and in the case of this lumber—which finds a market, much of it, on the Atlantic coast, a great deal of it because it is used for purposes for which no other adequate lumber is available—the ships of British Columbia, operated more cheaply, carrying similar foreign lumber, which is free of tariff charges, passing through the Panama Canal, will put our ships in the lumber trade out of business and capture the lumber trade of the Atlantic coast, which is now enjoyed by the great States of Washington, Oregon, and California.

The same thing is not true of some other products of the Pacific coast, such as apples, oranges, various other fruits, and wheat, which are produced in vast quantities on the Pacific coast, but which either, as in the case of wheat, are shipped mostly abroad rather than to the Atlantic coast markets of the United States, or, as in the case of fruits, are not produced in large quantities in British Columbia. That, however, involves another consideration.

For years, in fact ever since the Pacific coast was first occupied by the pioneers, who spent six months in crossing the plains with their ox wagons, taking up the land under the hardships of the wilderness, separated from their native country practically by the great intervening continent, they have been looking for this canal as a quick, cheap, easy connection between them and their mother States in the Mississippi Valley and upon the Atlantic coast. It is perfectly natural that, now that the obstacles to its construction have been overcome after 50 years of opposition by the railroad interests, and after the contest that was made to prevent the United States from fortifying the canal, which was finally won by the United States, they resent this last stand of the transportation monopoly to put burdens and costs upon our domestic commerce passing through the canal, thus lessening to the extent of every cent of those tolls the effect of the canal as a great band binding the Pacific States to the Atlantic States, and cementing in a material way the interests of the Union.

Thousands of tons of valuable fruit, for which the population of crowded cities in the East is famishing, rot upon the ground in the fertile irrigated valleys in California, Washington, and Oregon because the railroads have overdone the principle of levying upon the traffic all that the traffic would bear, and have levied upon it more than it would bear, and have made it unprofitable to ship that produce to the consuming public, who are willing, if they can get it, to pay a reasonable price for it.

Every dollar of tolls that may be levied upon our domestic commerce, if this bill passes, will be a dollar levied upon the fruit and upon the lumber and upon all the products of the Pacific coast which should find a market not only in the coast cities of the Atlantic, but in every town and hamlet that can be reached by waterway, from the Gulf of Mexico and the Atlantic and all the great rivers that empty into them. I do not mean that necessarily in all cases they would be transported up the rivers by water, but that the possibility of water transportation will hold down freight rates, as it has done upon the Columbia and upon the Missouri from the time the country was settled. It means a dollar upon every ton of freight going east or west, by rail or water, from one side of the Rocky Mountains to the other.

Mr. President, if this canal is given its full effect it will connect the navigable waters of the Columbia, and all the great territory which it drains, and whose transportation is regulated by its navigability, with the waters of the Missouri. It will be equivalent to a canal through the Rocky Mountains, because it will be possible for freight from the great inland empires of the Pacific slope to go down the rivers of that slope to the sea, through the canal, and up the Gulf of Mexico and the Mississippi River and all of its tributaries. So it is not a local question. As I had occasion to say once before in this debate, there never has been and there never will be a public improvement which is so universal in its commercial and material effects upon the Nation as the Panama Canal. Every part of the country is affected by it, even the towns in the heart of the Rocky Mountains.

The Senator from Georgia [Mr. WEST] asked me here one day if Denver would be affected by it. Why, Mr. President, if the Senator from Georgia knew the lifelong struggle which the present inhabitants of Denver have made to relieve themselves of the extortionate freight rate which is based upon rates from the East to San Francisco and from San Francisco back to Denver, he would not have asked me that question. Every city which can be reached through the Hudson, the Erie Canal, and the Great Lakes, including the great city from which comes my friend the distinguished Senator from Illinois [Mr. LEWIS], has a direct and immediate interest in the free use for our domestic commerce of this great highway of transportation.

Chicago has dreams of becoming a seaport, and I have no doubt that with the increase of population and wealth and industry the time will come when it will have ship channels to the sea. I am told by contractors who worked upon the enlargement of the Erie Canal, in the expenditure of the $100,000,000 which the State of New York recently voted to enlarge that canal, that $40,000,000 more would have made it navigable for sea-going ships. It is unfortunate that it was not made so at that time, but the time will come when it will be enlarged and ships plying from Seattle and Portland and San Francisco and the cities which will grow up in Alaska, transporting the resources of those great, rich, new Territories which are needed by the people of Chicago, will sail through the Panama Canal and land their commerce upon the docks of the Chicago River.

Mr. President, the objection is made to the exemption from tolls of coastwise ships passing through the canal that it benefits a trust. I think I can settle that question with any reasonable man in five minutes. I will agree, and I think many Senators on this side will agree, to vote for a bill which will impose tolls on every trust-owned ship that goes through the canal. It seems absurd to say that, because the present law prohibits ships owned by trusts from going through the canal; and I say it only because the argument is made that exemption will benefit a trust.

When, however, did we come to the policy of regulating trusts by taxing all of the industry of the country? When did we adopt the policy of suppressing the Standard Oil Trust, for example, by levying a tax upon every person engaged in the oil business? Yet that is the result of the argument that we must levy tolls, which are nothing but a tax for a specific purpose, levied through the same governmental authority, on the same principle that any general tax is levied. We are confronted with the result that we must levy tolls upon all of our domestic commerce passing through the canal because, perchance, ships owned by a trust may go through it.

If the Senators who advocate this bill can stand upon that proposition before the people of this country, let them stand. The people of this country are intelligent, and they know that you can not excuse or justify a universal burden upon an essential element of their life, which transportation is, by saying that some ships owned by a trust might go through the canal without paying a tax. No ship owned by a trust can go through the Panama Canal.

Even if there were ships ready to go through the Panama Canal, by what authority and upon what information does anybody say that ships going through the Panama Canal are owned by a trust? What ships are going through the Panama Canal? Nobody knows. The same influences which obstructed the building of the canal and obstructed its fortification and are now fight-

ing its free use by its own people, have obstructed, and, in many cases—some to my own knowledge—have prevented the financing of independent companies seeking to build and equip ship lines to engage in our domestic commerce through the canal. The railroad monopoly is intimately connected with the money monopoly called the Money Trust.

I recollect that the Senator from Louisiana [Mr. THORNTON] argued in his speech that the rule which would govern rates through this canal would be "all that the traffic would bear," the maxim which the railroads have adopted. I have heard their experts swear in court, or at least before the Interstate Commerce Commission, that that was the only principle by which they were guided; that they looked into a business and found out the conditions of it and how much it would stand.

The Senator from Louisiana has been quite active in this matter—upon both sides of the question. Of course, he has the right to be on both sides of the question. I respect him and respect his opinion, whichever side he may be on. I think if a man has reason to change his views he ought to change them. The only difficulty about that is—and the same statement might be applied to most of his colleagues upon that side—that it creates some confusion in the minds of those who respect their views as to whether or not their views were sounder last year than they are this year.

The Senator from Louisiana, and I think others, have said that any exemption from tolls would not benefit the consumer, that the ship lines would absorb it, that they would levy on the traffic all it would bear, and he cast some animadversion upon those who, he said, sought to make political capital by attacking the railroads.

A number of Senators interested in this matter have attacked the railroads. As far as I am concerned, in whatever attacks I have made upon railroads I have endeavored to see that they were just and well informed.

There is no man who realizes the universal interests of the people in railroads any more than I do, but I have been free, in the great railroad abuses from which we have suffered—in some sections more than others—to express my opinion upon them. However, I am somewhat astounded to hear a Senator of the United States practically declaring that we must submit to that obnoxious policy of levying upon traffic "all that it will bear." That is what we have been fighting to free ourselves from, and to establish as the basis of rates not what a man can afford to pay, but what is reasonable for the railroad to receive. Notwithstanding the complacency with which Senators advocating the passage of this bill declare here in the Senate or elsewhere that we must supinely submit, notwithstanding the fact that they declare in favor of the perpetuation of that oppressive policy of extortionate rates, we will not submit to it whether this bill passes or not, and we will insist that the rates paid by rail and by water are subject to public regulation; and if competition does not produce reasonable reduction and a reasonable basis for their regulation, we will establish governmental commissions or enlarge the powers of those already existing which will see to it that reasonable rates both by rail and by water are enforced. That power is in the Government, and whether it is exercised or not, the country may conclude to exercise it at any time; and if it does, would it not be right that such a commission, in fixing rates through the canal for freight, should take into consideration and make allowance for the tolls which the shipowners have to pay?

Of course, the fundamental proposition is that water transportation is the basic regulator of freight rates, and that the freer from tolls and charges and obstructions our transportation is the cheaper the rates will be. We have spent millions of dollars in blowing out rocks at Hell Gate, in New York, and from the Columbia River, and in digging mud from the bottom of the Missouri. For what purpose? Not to make navigation possible. It was possible before. Those were navigable streams, but we have improved them in order to make navigation cheaper and easier.

Are we going to apply that policy to every harbor and every river in the United States and to reverse it when it comes to the greatest waterway of the Nation and the greatest in the world, and instead of trying to make it cheaper make it more expensive by levying charges and tolls upon our commerce which goes through it? We do not have to do it, because it has been demonstrated in the most conclusive manner and has been admitted by Great Britain that there is nothing in the treaty that compels us to do it.

To say that it is a wise policy seems to me as a reversal of every public regulation and attitude which the Government has ever taken upon that question. The policy of the Government has always been, as expressed in the Constitution, to relieve interstate commerce of charges and tariffs and to make it free. The theory upon which this great Federal Government was constructed was that we should build up a great domestic commerce among ourselves—develop our home markets—so there should be no charges and tariffs in trade between the States, that whatever tariff was necessary to be levied should not be levied upon our trade, domestic or export, but should be levied upon the import trade of the country. That has been the policy of the Government from the foundation, and to start now for the first time in the history of the Government to reverse it in the very heart and center of the transportation system of the continent is an astounding proposition.

The people will not rest under it, in my judgment. The Senator from New Hampshire [Mr. HOLLIS], in his able speech in behalf of this bill, a part of which I heard, if I mistook him not, argued that under the Hay-Pauncefote treaty we could not exempt our domestic commerce, because it was a violation of the principles of the common law. That is a new application of the principles of the common law. The principles of the common law did not prevent Great Britain, by statute in 1651—at least they were not so precious to her that she could not change them by statute and give the exclusive monopoly of domestic commerce to her own ships. The principle of common law, as I have always understood it, if you are to apply the common law to a national and international question, is that each individual should use his own as he saw fit so long as he did not do injustice to another. I think one of the first things I learned in the law was the old maxim "Sic utere tuo ut non alienum laedas."

This canal belongs to us. Is there any principle of common law which would be obnoxious to using our own canal for our own benefit so long as we do no injustice or injury to anyone else? Certainly it is no injury to Great Britain, for with our own funds we have constructed a waterway for her vast commerce. The route of all her vessels to her possessions and to foreign countries in the west Pacific will be shortened by many thousands of miles of expensive travel.

But, as the Senator from Utah [Mr. SUTHERLAND] has said, international law is a domain of jurisprudence entirely separate and distinct from the common law; and I might add that questions of national policy are likewise so.

How has this matter been presented to us? In a strange way. It is said that we ought to repeal the law because of the opinion of foreign nations.

By the way, I have in my hand a statement issued by the board of trustees of the Carnegie Endowment for International Peace, in pursuance to the resolution I read a moment ago. Among the signers of it, I notice the name of Mr. Cleveland H. Dodge. I read the proceedings indicating the extent in which this endowment has concerned itself in this matter. Far be it from me to express an opinion as to whether or not the fact that Mr. Cleveland H. Dodge contributed $35,000 to the Democratic campaign fund had anything to do with the acuteness of the present issue. This is the exact language of the President:

> Whatever may be our own differences of opinion concerning this much-debated measure, its meaning is not debated outside the United States. Everywhere else the language of the treaty is given but one interpretation, and that interpretation precludes the exemption I am asking you to repeal.

That is one of the reasons advanced by the President of the United States in his short and strange message on this subject why Congress after having settled this matter should reverse its action whatever we may think about it; that is, I might paraphrase it that way, whatever differences of opinion we may have about it, because foreign opinion is against us. In other words, we must direct our policy even in this domestic matter of so much concern to our people not by our own judgment, not through the counsels of our own statesmen, not by opinions which may be formed here as to the law or the economics, not by our opinion of the treaty, not as to whether we are right or whether we are wrong, but because of foreign opinion on the question.

When Great Britain passed the navigation act of 1651, it was denounced by Holland and all the rest of Europe as being an outrage. She did not repeal it. It resulted in her control for centuries, and up until the present hour of the trade of the world. When in the history of the United States in any of the great affairs with which we have been compelled to deal in our short and simple story—in which "not once but twice the path of duty has been the path of glory"—have we paused to direct our action by the opinion of foreign countries?

Mr. President, even at the present time I want to call attention to another one of the current issues and to the opinion of foreign countries in regard to it. I see no indication of the administration changing its policy in order to suit that foreign opinion. I have in my hand a statement from the Literary

Digest, which is a responsible organ, of March 28, 1914, as follows:

The European press almost universally condemn President Wilson's handling of the Mexican problem.

He has not changed his way of handling it, though, on that account. I am not criticizing it at this time, nor saying that he ought to modify it. I am calling attention to the fact that he ignores foreign opinion apparently, which he has stated to us in his message on the tolls question of March 5, 1914, should govern our action. Continuing to read:

He is said to have tried to impose the standards of a civilized state upon an Indian Empire just as if he had gone into Central Africa and expected to find a condition of civilized order, or had visited Madagascar and lifted his hands in holy horror on witnessing the feuds and fights between clans of Hovas and Betsimisarakas. While the London Outlook thinks that he has complicated matters by lifting the embargo and speaks bitterly about it to the effect that "there has been nothing so cruelly immoral and so cynically cruel in the history of the world," other papers generously treat the President and his Secretary of State with more consideration, and charitably but pityingly put the mismanagement down to want of training and experience, or sheer ignorance of the condition of things south of the Rio Grande. The leading paper of Paris, the Temps, deplores the way in which French interests are being sacrificed in Mexico, but puts it all down to our President's "mistakes."

In the same publication of May 23 is a digest of German opinion which I presume we ought to obey upon this question:

Unqualified condemnation of President Wilson and his Secretary of State is dealt out by almost all of the leading papers of Berlin and the great German industrial centers. War has been begun without sufficient reason, on the pretext of the Tampico affair, we are told. Why did not Mr. Bryan put into practice his favorite theory of arbitration rather than rush hastily into what is sure to prove a bloody war, it is asked.

The Neueste Nachrichten (Leipzig) says:

No one can fail to detect the absurdity and lying hypocrisy of the United States in their propositions of peace and of arbitration, while at the same time on a trifling pretext they immediately take the "Big stick" in hand. This is the bankruptcy of their pacifism which ends in doing nothing but affix a mortal stigma on the peoples who refuse to do everything that England and the United States desire. While we may have little sympathy with Mexico, no one can hail with enthusiasm the policy of banditism pursued by the United States, whose sole aim is the possession of Mexico's oil wells.

That foreign denunciation has no effect on me, and I think little upon the average American citizen. I care nothing for it. I would prefer that our Nation and those who are responsible for its affairs should to our own country be true, and then let it "follow as the night the day" that they can not be false to any nation.

I would prefer that those standards of morality and conduct which have been worked out through a century and a quarter of trial—beginning in a death grapple for independence—our own ideas, our own standards and ethics, should guide our conduct rather than the opinion of Germany and France. And so they should guide our conduct with reference to the Panama Canal, notwithstanding the assertion in the President's message that we must yield to a hostile foreign opinion upon that question; a foreign opinion which, by the way, I have not seen nor heard, nor among all the advocates of repeal has it been presented upon this floor.

A new policy was advanced during his argument here by the Senator from Massachusetts [Mr. LODGE]. I might call it a policy of politics to the water's edge. I had better read what he said:

We should determine what is right, without fear and without favor.

That is good. Then he goes on to say:

The allurements of political advantage appeal as strongly to me as they can to any man. But when the relations of my country with other nations are involved I can not yield to them. My politics have always stopped at the water's edge. In any question involving our international relations I have always felt compelled to decide it upon its merits as they appeared to me, without regard to politics.

In other words, we must walk on a high moral plane of merit and justice when we come to dealing with foreigners, and we may take every political advantage we can of our neighbors at home.

There was a man in our town who was said to "walk on a high moral plane, skinning everybody he could." That seems to be this new theory of politics clear up to the water's edge. No sincerity in dealing with our domestic questions, every possible political advantage to be taken, concealment of real opinions and real motives when it comes to dealing with our own people. But when it comes to the Britishers, for God's sake let us be honest with them. Let us be more than honest, says the President; let us be generous. He says:

We are too big, too powerful, too self-respecting a nation to interpret with a too strained or refined reading the words of our own promises just because we have power enough to give us leave to read them as we please. The large thing to do is the only thing we can afford to do, a voluntary withdrawal from a position everywhere questioned and misunderstood. We ought to reverse our action without raising the question whether we were right or wrong, and so once more deserve our reputation for generosity and for the redemption of every obligation without quibble or hesitation.

Let me warn Senators, if they will pardon me for doing it, that what might be regarded as pathetic and pitiable in the surrender of a little nation of its rights to foreign aggression is very apt to be considered contemptible when done by a great and powerful nation; and that what might be regarded as generous, if we were dealing with a little Republic like Panama or Mexico, is very apt in the eyes of the world to be interpreted as fear when we are dealing with England, the mistress of the seas, who sits like a colossus on every strategic point of commerce around the world.

One strange thing, Mr. President, about the message of the President of the United States was that you could read it and you could hear it, but you failed to recognize from it that he had ever entertained a different opinion. The farmers of New Jersey hung upon the honey of his lips when he painted to them in his masterly rhetoric the advantages of a free canal. And who will gainsay that if he had advocated a different policy at that time and the platform upon which he was nominated had declared that our domestic shipping must pay tolls through this canal that he perhaps would not have had the power or position to bring this question to the front at this time?

When a candidate of a great party—and I say it with the utmost respect, and everything else that I say in regard to him is in that spirit—had expressed himself formerly in the campaign for the election upon one of the cardinal principles of his platform, and if within a little more than one year after he had been inaugurated into the office to which he was elected upon that platform he saw fit to convene the two Houses of Congress and to declare to them an opposite policy upon that question, one would think that he would have explained to Congress why he had changed.

Was Mr. Wilson less wise in 1912 than he is in 1914? Of course that was before the obligations and the complexities which come out of political campaigns and which follow the inauguration of a new party into office; but we have no reason to suppose that he was less informed, less capable of reaching a just conclusion in 1912 than he is in 1914. The presumption in favor of one is equally as strong as in favor of the other, "if not more so." So it becomes necessary, or ought to become necessary, that if the President declares in this formal manner a change from the policy of the candidate for the Presidency the burden would be upon him to give some convincing reason for a change. Yet he not only gives none but fails to mention the fact that he ever entertained a different opinion. It is strange, passing strange. Here we witness the Charge of the Political Light Brigade.

Was there a man dismayed?
Though every Senator knew some one had blundered,
Their's not to make reply,
Their's not to reason why,
Their's but to do and die.

Now, Mr. President, it was said that the platform was not binding—that is, that this plank of the platform was not binding. Of course, to deal with each plank of the platform in turn as they come I suppose some of them would be binding and some of them would not be binding; some of them were deliberately adopted, some inadvertently passed, some slipped in, some put in on purpose, varying in accordance with the exigencies of the occasion. I do not know of any other way of determining which ones slipped in and which ones did not slip in.

It is urged that this plank of the platform was not binding because when the Senator from Indiana [Mr. KERN], representing the committee on platform, read it to the convention there was so much noise and confusion in the convention hall that no one could hear a word that he said. Of course, if they could not hear a word that he said, they could not hear any part of the platform, and the whole platform would be abrogated by it.

We have been asserting conditions which practically abrogate the Hay-Pauncefote treaty—but it had not occurred to us to urge, what I have no doubt was true, that when it was read to the Senate there was so much disorder in the Chamber it could not be heard by all the Senators.

Here is another plank in the platform that I will read:

The law pertaining to the civil service should be honestly and rightly (rigidly) enforced, to the end that merit and ability shall be the standard of appointment and promotion rather than service rendered to a political party.

This was adopted inadvertently during much noise and confusion and has not been binding on the party since the election.

We favor a single presidential term—

That is right in the middle of the platform—

and to that end urge the adoption of an amendment to the Constitution making the President of the United States ineligible for reelection, and we pledge the candidate of this convention to this principle.

I have not any doubt whatever that that kind of oozed in between the planks; I can see myself how it might be charged such a plank was only "to be relied on during the campaign"; and so the platform itself says it was not, but was likewise "to be kept when in office," and yet it may be discovered after all that it, like the tolls plank, is contrary to fundamental tenets of Democratic faith. Here is another one that must have gotten in by mistake:

We pledge the Democratic Party to the enactment of a law prohibiting any corporation from contributing to a campaign fund and any individual from contributing any amount above a reasonable maximum.

Of course, I do not know whether $35,000 from one man is "reasonable" or not. It may be that it was a trust or combination of men who contributed that amount and he acted as the syndicate representative. Anyway, we have not yet been able to determine: there has been no expression as to whether that plank is really in conflict with some other portion of the platform or not; it may be. It has been discovered, when there is a specific declaration in favor of exemption from tolls of domestic commerce between the States, that on account of there being a general provision in the platform against subsidies the special provision is of no effect. Of course, the rule of law is just the opposite of that; but that does not apply to this platform. Of course, the Democratic platform committee had no idea of the meaning of subsidies when they declared against them, and at the same time declared in favor of tolls exemption, and placed these two declarations not only in the platform but in juxtaposition in the platform.

It has been discovered since that time by many who desire this repeal that exemption from taxation is a subsidy. It was a long time before we had any income tax in this country. Exemption from income tax was a subsidy, I suppose, but we did not know it. We have an exemption now of a certain class of people from the operation of the income tax, who have an income of less than $4,000, and that I suppose is a subsidy. There are various forms and powers of taxation vested in the Government which are not exercised; but, according to this new definition of subsidy, every omission to tax the people with a stamp tax, or a capitation tax, or an inheritance tax, or a tax upon transportation, or a toll upon a road or in a canal, or in the shape of tonnage dues in a harbor, is a subsidy. If you allow a man to walk upon a street which is built and improved at public expense, he is obtaining a subsidy, although he does not know it. That is the theory upon which it is attempted to relieve the Democratic Party of the obligation of this plank in the platform.

But, Mr. President, the conditions now—and I must hurry to a conclusion—are the same as on August 8, 1912, when the distinguished Senator from Georgia [Mr. SMITH] made this declaration:

I am opposed to giving free passage through the canal in any event. I do not think it good policy. It is a very different proposition to extend free passage to the domestic trade and to broaden it to the foreign trade. The remission of tolls to ships in the domestic trade helps to regulate our transcontinental transportation by railroads; it benefits a far greater number of our people than would a like exemption in the case of the foreign trade. The number who derive the benefit is much less in the case of foreign trade. I do not, however, put it especially upon that ground; I put it especially upon the ground that I do not doubt the effect of such a course with reference to the final return of every dollar of tolls we collect from the vessels of other countries.

The people of this country, Mr. President, in their various homes, many of them out of touch with mediums of communication, yet whose opinions go to form the great body of public opinion, the wisest agency governing human action of which we know, long ago arrived at a conclusion upon this question without following the devious lines of legal argument and nice distinction as to the exact meaning of words about which even the men who framed these treaties differ.

The people have formed their opinions upon broad fundamental considerations. They have been taught to suppose that the law is founded upon justice. High terms have been used to define the wisdom and the justice of the law. It has been said that it is "a rule of action directing what is right, prohibiting what is wrong, enjoining the one and punishing the other." Bolingbroke declared that "of the law no less can be said than that its seat is the bosom of God, its voice the harmony of the world." Young lawyers starting out in their profession have been instructed by wise counselors to seek the very justice of a cause, and they would be apt to rest their feet upon the law. So our people in the instincts of justice and of righteous conduct, with a proper and decent self-respect, albeit a respect for their opponents, have been imbued in the very nature of this thing with the injustice, and consequently the probable illegality, of the British claim. I say that they would assume, without examining the documents, that it would hardly be unlawful that the United States, having constructed this work upon its own territory, should have the right of an owner to use it for the benefit of our own people so long as we deal equitably and justly and uniformly with foreign nations. Guided by those fundamental propositions, our people have arrived at the same conclusion that able and disinterested lawyers have arrived at after a minute and exhaustive examination of the documents and history of the case and a weighing of the particular words of the instrument.

England is acting like a Shylock. She is resting her case upon a narrow interpretation of certain words in the bond, and she demands that she shall have a part of the very heart and center of our system. Those men who acquired original holdings there, which became the basis of treaty negotiation, burned and plundered and ravished; and England held up her priestly hands in holy horror at their deeds; but she winked the other eye, and when they returned home some of them were made baronets and lieutenant governors of colonies. Wherever around the world a British commander—and there is no man who has more admiration for the fighting qualities of the British than have I, but I am an American, rather than British, and I can never forget the issues which have existed between us nor fail to oppose any infringement of our national rights by Great Britain—wherever her commanders upon some strategic point, like Hongkong, Gibraltar, the Straits Settlements, the plains of India, the ports of Egypt, have, even without authority and in violation of orders, seized a piece of land and hoisted the royal ensign above it, they have been supported and backed up by the British Government. So it is that she sits as mistress of all the great trade routes of the world. The English are great fighters; they are a race that has produced many heroes; and I am not one of those who believe that even yet she is a decadent nation.

How has she acquired this empire of the seas and the islands of the seas? By slow stages. First, probably by somebody on an exploring expedition, some trader among savage tribes. That is the germ. They usually have a gunboat fooling around in the vicinity; and out of that grows what might be called the embryo that they call "spheres of influence." You will find that marked upon the map of nearly every continent of the world—"spheres of influence," British spheres of influence. Out of "spheres of influence" grow protectorates, over the Mosquito Indians and others, and out of protectorates has grown the absolute sovereignty of the soil.

Let us beware, in view of the history of Great Britain and its results, her masterly diplomacy, and her record of victories won on land and sea, her record of continuous and masterly advance, her flag following her trade—not some foreign flag, but her flag and her ships—that we do not find here in the repeal of this clause—recognizing the contentions and claims of Great Britain to a voice in the disposition of rates in the Panama Canal—the foundation of another "sphere of influence," the beginning of another "protectorate," which it may tax our strength and treasure at some future time to destroy.

Mr. MARTINE of New Jersey. Mr. President——

Mr. KENYON. I suggest the absence of a quorum.

The VICE PRESIDENT. The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Ashurst	Hughes	O'Gorman	Smith, Mich.
Brady	James	Overman	Smith, S. C.
Brandegee	Johnson	Page	Smoot
Bristow	Jones	Perkins	Stephenson
Bryan	Kenyon	Pittman	Sutherland
Burton	Kern	Poindexter	Swanson
Chamberlain	Lane	Pomerene	Thomas
Chilton	Lea, Tenn.	Ransdell	Thompson
Clapp	Lewis	Reed	Thornton
Colt	Lippitt	Shafroth	Tillman
Cummins	Lodge	Sheppard	Townsend
Dillingham	McCumber	Sherman	Vardaman
du Pont	Martin, Va.	Shively	Walsh
Fletcher	Martine, N. J.	Simmons	Warren
Goff	Nelson	Smith, Ariz.	White
Gronna	Newlands	Smith, Ga.	Williams
Hollis	Norris	Smith, Md.	

Mr. KERN. I desire to announce the unavoidable absence of the following Senators, and to state that they are paired: The senior Senator from Arkansas [Mr. CLARKE], the junior Senator from Arkansas [Mr. ROBINSON], the Senator from Nebraska [Mr. HITCHCOCK], the Senator from Alabama [Mr. BANKHEAD], and the Senator from Texas [Mr. CULBERSON]. This announcement may stand for the day.

The VICE PRESIDENT. Sixty-seven Senators have answered to the roll call. There is a quorum present.

Mr. NORRIS. Mr. President, several days ago I offered an amendment, which I believe is the pending question now before the Senate.

The VICE PRESIDENT. It is.

Mr. NORRIS. After some consultation with quite a number of Senators on both sides of the Chamber, particularly with the Senator from North Carolina [Mr. SIMMONS], I believe an understanding has been reached by which those who favor the kind of a proposition contained in my amendment can better unite upon an amendment which the Senator from North Carolina will offer. I therefore desire to withdraw my amendment and yield to the Senator from North Carolina to offer the substitute which he has.

The VICE PRESIDENT. The Senator from Nebraska withdraws his amendment.

Mr. JONES. Mr. President, does it not require unanimous consent to withdraw an amendment that is pending?

The VICE PRESIDENT. The Chair does not think so. Any other Senator can reoffer it who wants to do so.

Mr. JONES. The matter is in the hands of the Senate, and it seems to me that it would require unanimous consent to withdraw the amendment, and I do not know that I myself am prepared to give unanimous consent for its withdrawal at this time.

Mr. NORRIS. Any Senator has a right to withdraw an amendment at any time before any action is taken on it by the Senate, or at least before any amendment is offered to it.

Mr. JONES. I doubt very much whether it can be withdrawn after it has been presented to the Senate and is in the hands of the Senate.

The VICE PRESIDENT. The Chair rules that a Senator may withdraw an amendment when he chooses.

Mr. SIMMONS. I offer, as a substitute for the committee amendment, the amendment which I send to the desk, to take the place of the proviso in the bill as reported.

The VICE PRESIDENT. The Secretary will read the amendment to the amendment.

The SECRETARY. In lieu of the amendment proposed by the committee, on page 2, section 2, it is proposed to insert the following:

Provided, That the passage of this act shall not be construed or held as a waiver or relinquishment of any right the United States may have under the treaty with Great Britain, ratified the 18th of November, 1901, or otherwise, to exempt the vessels of the United States, or its citizens, from the payment of tolls for passage through said canal, or as in any way waiving, impairing, or affecting any right of the United States under said treaty, or otherwise, with respect to the sovereignty over or the ownership or control and management of said canal and the regulation of the conditions or charges of traffic through the same.

Mr. REED. Mr. President, I desire to ask the Senator from Nebraska a question. He stated, in substance, that an arrangement had been effected by which his amendment would be withdrawn and the amendment presented by the Senator from North Carolina would be offered as a substitute. I want to ask him, lest it might be understood that it would be taken by general consent, with whom that arrangement was made?

Mr. NORRIS. Mr. President, I have no desire to intimate that it has been or should be taken by general consent. I had various conferences with various Senators on the subject of an amendment similar to the one I had offered. The Senator from North Carolina, who represented the committee, as I understand, or, at least, that portion of the committee favoring the pending bill, had various conferences with various Senators. I was only anxious that some amendment embracing the idea contained in the amendment which I had submitted should be adopted, and I agreed with the Senator from North Carolina that I would withdraw my amendment and yield the floor for the purpose of having him offer his amendment as a substitute for the committee amendment.

Mr. REED. Then, as I understand, the only understanding was between the Senator from Nebraska and the Senator from North Carolina?

Mr. NORRIS. I would not put it in that way. I am not claiming, however, that anyone is bound to support that amendment or to oppose an amendment to it or anything of that kind. I am not attempting to bind anyone. I have agreed to this arrangement because I have felt it would strengthen the likelihood of this idea, this principle, being put into the bill. I desire to preserve all our rights under the treaty, and I believe this amendment will fairly accomplish that fact.

Mr. REED. I merely wanted to have a clear understanding myself about it, and I am obliged to the Senator from Nebraska.

Mr. MARTINE of New Jersey obtained the floor.

Mr. SUTHERLAND. Mr. President——

The VICE PRESIDENT. Does the Senator from New Jersey yield to the Senator from Utah?

Mr. MARTINE of New Jersey. I yield to the Senator from Utah for a moment.

Mr. SUTHERLAND. Mr. President, a few days ago, in speaking upon this bill, I had occasion to criticize the amendment which had been reported by the committee, generally known as the Simmons amendment. That amendment reads:

Provided, That neither the passage of this act nor anything therein contained shall be construed or held as waiving, impairing, or affecting any treaty or other right possessed by the United States.

I think that amendment was utterly meaningless. It was a transparent sham. The amendment which the Senator from Nebraska and the Senator from North Carolina have now agreed upon is not quite so transparent, but it is a sham nevertheless. That proposed amendment reads:

That the passage of this act shall not be construed or held as a waiver or relinquishment of any right the United States may have under the treaty with Great Britain—

And so forth.

There is absolutely no assertion of any right on the part of the Government of the United States. It throws doubt upon any right by its very terms, the provisions being:

As a waiver or relinquishment of any right the United States may have—

Of course the United States may have a right, and the use of the words "any right the United States may have" necessarily implies the converse that it may not have any right. I undertake to say that a majority of the Members of the Senate believe that the United States has an undoubted right to exempt its coastwise shipping from the payment of tolls for the use of the Panama Canal, and, having that opinion about it, they owe it to the people of the United States to so declare and to declare in positive terms. I shall offer as a substitute for the amendment proposed by the Senator from North Carolina the amendment which I send to the desk and ask to have read.

Mr. SIMMONS. Mr. President——

Mr. SUTHERLAND. I ask the Senator to let the amendment be read.

The VICE PRESIDENT. The Secretary will read.

The SECRETARY. In lieu of the amendment offered by the Senator from North Carolina [Mr. SIMMONS] it is proposed to insert the following:

Provided, That nothing herein shall be considered as denying or abridging the right of the United States to discriminate in favor of the ships of commerce of its citizens in respect of the conditions or charge of traffic which may be imposed for the use of the Panama Canal, but, on the contrary, such right is hereby reasserted.

Mr. SIMMONS. I rise to a parliamentary inquiry, Mr. President.

The VICE PRESIDENT. The Senator from North Carolina will state his parliamentary inquiry.

Mr. SIMMONS. Mr. President, I offered my amendment as a substitute for the committee amendment. I want to inquire if it is competent to offer a substitute to a substitute? I make the point of order that it can not be done.

Mr. SMITH of Michigan. Oh, yes; it can.

Mr. WILLIAMS. Mr. President, I wish to ask the Senator from North Carolina a question.

Yesterday some of us were consulted about this proposed change, and I understood—and I am asking the Senator from North Carolina now for information—that the words "or sovereignty, ownership, or" were to be inserted just prior to the words "treaty rights" or "rights under any treaty" in his original amendment.

It seems to me the amendment proposed now goes somewhat further. It reads:

That the passage of this act shall not be construed or held as a waiver or relinquishment of any right the United States may have under the treaty with Great Britain ratified the 18th of November, 1901, or otherwise—

The words "or otherwise," I take it, meaning there or under the treaty with Panama——

Mr. SIMMONS. Or in any other way.

Mr. WILLIAMS (reading):

To exempt the vessels of the United States or its citizens from the payment of tolls for passage through said canal.

Mr. MARTINE of New Jersey. Mr. President——

Mr. WILLIAMS. Now, there never has been any doubt about the right of the United States to exempt its own ships from the payment of tolls, provided it also exempted those of everybody else. The point involved is a point of discrimination, not a point of exempting——

Mr. MARTINE of New Jersey. Mr. President, I most respectfully rise to a point of order. I feel that I have the floor. I yielded for the presentation of an amendment, not for the discussion ad libitum of propositions that may end in froth, and I most respectfully ask——

Mr. WILLIAMS. Of course, I shall not interfere with the claim of the Senator from New Jersey to the floor; but this question having been brought up, I thought it was of some im-

portance to the people of the United States to understand it before it went any further.

Mr. MARTINE of New Jersey. Undoubtedly they will have ample time. The discussion will go on for days before it is either adopted or rejected.

Mr. WILLIAMS. If the Senator thinks his speech is of higher importance, I will waive my place.

The VICE PRESIDENT. The Senator from New Jersey is entitled to the floor.

Mr. MARTINE of New Jersey. Mr. President, I do not claim that I can bring any great amount of intelligence to this subject, which perhaps more than any other since I have been a Member of this body has been discussed and analyzed to an extent that has been quite remarkable. I can bring probably no information to this question; but I do feel, as a Senator from the little sovereign State of New Jersey, the home of the President of the United States, who has raised the question, that it is fitting and proper at least that I should assert myself as to where I stand, and why I stand in the attitude I do on this question.

Mr. President, I can not bring to this subject aught of legal knowledge, nor do I feel that there is any need of it. The Senate has been regaled with all knowledge in that direction. Two years ago, when the bill regulating the tolls was before the Senate, I was a most attentive listener to the debates. I also made some remarks on the bill and finally voted for the tolls as now existing. I confess, however, that even at that time it did not entirely meet my views. I wanted then, and I still want, to have the tolls bill grant free passage to American craft, both ocean and coastwise, and to have the rate for all the other nations of the world fixed at such a figure as shall give only enough return to maintain the physical condition of the canal, leaving the interest on the cost of construction as America's gift to the civilized world. No fair-minded nation on earth would dare protest against such a policy.

The splendid arguments of Senators on both sides of this question have been to me most illuminating and instructive. If I had had doubts, which I never had, they would have been completely dissipated by the discussions and arguments.

I was a delegate to the Baltimore convention. As a delegate, I voted to adopt the plank touching the matter of tolls in the Panama Canal. Later, on every hustings where I had the honor and privilege of speaking, I dwelt with all the earnestness of my nature upon the wisdom and justice of the policy declared in the platform of my party. I believed in it as ardently as ever a child believed the words that fell from its mother's lips.

Was I justified, Mr. President? Yes, answering my own question; for did not our standard bearer—Woodrow Wilson—reiterate and declare both the wisdom of the policy and its justice to the American people?

Further, it was my privilege to have conferred with the late Senator from Georgia, Mr. Bacon, on the subject; also former Senator Butler; also Hon. Hannis Taylor, who is deemed an authority on international subjects. All of these and many more authorities agreed not only as to our right, but insisted on the wisdom of resisting the repeal of this so-called tolls measure.

Aside from these verbally expressed opinions the voters at the polls have also ratified the plank declaring for exemption from tolls. The Democratic campaign textbook was placed in my hands and in the hands of every other stump speaker and in the hands of thousands of others. When handed to us we were bidden: "Now go forth and proclaim the true Democratic doctrine."

The textbook pressed with much force the justice and wisdom of this particular plank in our platform. To my mind it is most unfortunate and unfair now, after all this, to attempt to run away from the question and to disavow or disown this plank.

Mr. President, after most deliberate thought two years ago I voted for the present tolls bill, and I have heard no argument that has convinced me against the wisdom of my judgment at that time. To this day I declare myself as unalterably opposed to the repeal of this measure, and shall so vote.

I listened some weeks since to the exhaustive and instructive address of the Senator from Massachusetts [Mr. LODGE], which carried with it particular force to me because of the Senator's identification in the Senate with the construction of the Hay-Pauncefote treaty. His conclusion that there was no legal or moral reason to demand from the United States the repeal of the act was to me most forceful and convincing; but his conclusion that since we were so big and so rich that we might be justified in granting this claim and demand of Great Britain brought to my mind the instance of an old fellow I knew, of eccentric tastes, who lived near a little country schoolhouse. Two or three times a year he would stand in his door and throw from $8 to $10 in quarters in the road for the delight of seeing the boys scramble for them. When asked why he did this, his response was: "Oh, I do this just to impress the kids." [Laughter.]

This, I feel, is about the only justification that has been offered by the Senators on the other side for the repeal of this bill. It is just to tickle Great Britain.

Further, Mr. President, I can not subscribe to the doctrine and expressions of the Senator from Oklahoma [Mr. OWEN], in his address some weeks since, with reference to the platform. I believe in the platforms of our party. I believe in adopting platforms by nominating conventions, and when so adopted they are the creed of our party. To me politics is a religion. I believe in it and in the policies I advocate.

I was a delegate to the Baltimore convention and to four previous presidential conventions. In the campaigns following each of these conventions I pressed the claims of our party with all the earnestness, fidelity, and zeal of my nature. I believed in the platform; and, Mr. President, I would hesitate—I would be ashamed—to face my fellow citizens now and repudiate the words and the platform I then pressed. No; a thousand noes. Though I shall stand alone in this body, I will vote "no."

Senators, my countrymen, I plead, do not take this step. Do not commit this wrong upon the country and the posterity that may come after us.

A kindly disposed friend writes me: "We think it best that you should be with the procession on this repeal measure." Now, just whom "we" may constitute I do not know, for his is the only name signed to the letter. Mr. President, I want to state in the Senate and to my countrymen that I deem it better—yes, best—that I should stand right. But do you ask me, "What is right?" for great minds in the Senate differ widely. In answer, "My conscience and intelligence, as God has given me reason to see it—this must be my guide. This course to me is safer and better to follow than that of any man, be he king or potentate on earth."

Mr. President, my relations with the President of the United States have been, and I feel still are, particularly close and pleasant. As a Jerseyman, I say that the State of New Jersey owes to Woodrow Wilson a debt of gratitude that it can scarce repay; for it was he who, when governor of our State, opened to us a new pathway, and started us again upon a glorious future. The people of New Jersey breathe more freely now. We have faith in him, and we love him. Now, in the larger and broader field of President of this great Republic I believe the great masses of all our fellow citizens are still firm in the belief that he is an unselfish patriot. They believe he is prompted only by honest and patriotic motives. But, Mr. President, honest and patriotic though we know him to be, he may err; and I believe this measure is a most serious and unfortunate error, though I feel it is one of the head and not of the heart. Presidents are but human. There is none of us who is infallible. Then, Mr. President, in this dilemma, and yielding to my conscience, I shall be on the side of my country as against any man on earth.

I want to be with the President. It is hard, very hard, for me to be against him in this matter, for I believe him to be a patriot and a conscientious man; but I want to be with him in heart and in conscience. On this matter of yielding our rights to satisfy the greed of Great Britain—and it can be termed nothing else—both voice and vote shall be recorded on the side of my country, and I shall vote "no" to this proposition.

I am told by some that by opposing this repeal I am breaking allegiance with my party. This I deny. I love my party. There is no Senator in this body or elsewhere who has made greater sacrifices than have I for 45 years for my party's welfare, as God gave me reason to understand it. No; the charge is as ungenerous as it is untrue. I was fighting the battles of my party when my present accusers knew not where they stood, but ran, like frantic madmen, to and fro, worshiping false gods on every side.

Mr. President, we own the land upon which this gigantic work has been about completed. The brains of American men conceived and designed the great undertaking. American men did the work; $400,000,000 or more of the hard-earned money of the people paid for it; more than a thousand lives have been sacrificed in the accomplishment of this stupendous work. Of course, it was built primarily to advance the well-being of the American people; and to this end I feel that we have the right to grant exemption from tolls, both ocean and coastwise, to our own people.

Mr. President, I feel that the treatment that foreign powers have received at our hands in connection with this great waterway is fair, just, and generous, and naught but greed and avarice on the part of any foreign power can prompt faultfinding or protest. I shall stand by the rights of our Government as I understand them. If there be doubts—and great minds do doubt—then I shall give the benefit of the doubt to America, my country.

Mr. President, I clipped from the London Times the following little editorial. It says, after some other matter, referring to the tolls:

It is, however, an unavoidable situation and will remain so as long as the Constitution gives Congress a share in the making of treaties.

Great God, Mr. President, they do not even like our form of government! Our Constitution is not right. They want to eliminate this. Is it not funny that some of the advocates of repeal on that side, and some of them on this side, have not had the wisdom to propose even our changing that to suit Great Britain?

The editorial says, further:

It * * * will remain so as long as the Constitution gives Congress a share in the making of treaties, or until the country is sufficiently educated in foreign affairs—

"Oh, ignoramuses of America, educate yourselves, absolve yourselves, cleanse yourselves by voting to repeal," is the dictum of Great Britain.

I appeal to the chairman of the Committee on Education and Labor, the Senator from Georgia [Mr. SMITH], who unfortunately is on the English side of this question—I pray and beg him to formulate at once a bill that shall have for its purpose the education and teaching of the American people to give away their very souls to Great Britain without a whimper or a murmur.

Oh, what a humiliating spectacle! I fear this measure may pass this body. I ask, When will the bending and bowing of the American neck to the British yoke cease? I was taught that that ignoble habit on our part ended with the Battles of Princeton, of Monmouth, of Bunker Hill, and of Concord. Mr. President, have we, the sons of noble sires, degenerated? What will our sons say of us, what will the world say of us, if we yield to this unjust and unwarranted demand?

The whole demand is chiefly sentimental, after all. The President, in his address to the Congress, did not once claim that the United States were bound in law or morals to repeal this law; but he urged that since we are so rich, so big, so powerful, and so self-respecting we should accede to Great Britain's demand.

Ah, Mr. President, I feel the hour has come for America to assert herself, once for all, against these arrogant demands. Grant this unreasonable and unfair demand, and our children will not live to see the end of these unjustifiable claims.

I can see no justification or warrant in the proposition to submit this question to arbitration. Arbitration is only the escape door for doubtful minds, after all. I have no doubt on this matter. To submit it to arbitration would be an admission that we have doubts as to our own rights in our own territory.

Mr. President, arbitration? Arbitration? Did you ever hear of Great Britain pressing or assenting to arbitration with any nation except one stronger than herself? No! To a smaller or weaker power, the thundering of cannon and the clash of steel would be the answer.

Senators, run your minds back a few years. How well I remember it! Do you not recall the struggle of that Spartan band contending for justice, right, and liberty—the Boers? Did not they, while contending against brutal odds, ask for arbitration? What answer came back from this great Christian, peace-loving nation but more soldiers, the clash of steel, more cannon, and more blood?

It was most touching to me a short time ago to listen to the tremulous tones of the senior Senator from New York [Mr. ROOT], trying to place Great Britain in a good light before the world, and to give her a clean bill of health. Read back further, until you find the poor, helpless Sepoy band bound in front of the English cannon mouths and shot therefrom in order to impress their helpless captives!

All this and more I might recite, but I sicken at the task.

We are told, Mr. President, that all this was done in the interests of peace, and for the advancement of Christianity and civilization. God help our land!

As to the amendment offered by the Senator from North Carolina [Mr. SIMMONS], I say most respectfully, and in a most kindly spirit, that the proposition is to me as empty as a shell. It is as though, on the highway, I were robbed of my belongings, and I should tell the highwayman, "Use my money, spend it as you will; all I ask is that you acknowledge, when you have done so, that it belongs to me."

Oh, I can not vote for such tomfoolery under any conditions. [Laughter.]

Senators, Democrats and Republicans, patriots all, join with us to avert the humiliation and disaster that threatens our Nation through the repeal of the canal-tolls bill.

I have listened, almost to the degree of nausea, to the well-worn plea: "Even though we do grant this demand, we will be only yielding to a nation of our blood and our bone." Mr. President, none of my blood or bone, I will thank you! Oh, it is humbug and nonsense!

It crossed my mind but to-day that this is 1914. They love us, we are told. This is 1914. Only a hundred years ago—but a day in the life of a nation—in 1814, our so-called brothers, of our bone and our blood, so loved us that they set fire to and burned the very building in which to-day we deliberate! They acted then as though they loved us, and they still act in the same way. I say sadly, and without feeling of revenge, that too many of my colleagues seem willing to sing praises and hallelujahs to the Crown of Great Britain in a higher key than they have ever tuned their voices or hearts to the air of "My country! My country!"

Mr. President, this is not a party question. It transcends all party controversy. I feel that it is vital to my country. Yet I feel that the well-being of our country is so interlaced and interwoven with the Democratic Party that I look with jealous eyes on every step that may be taken by our party while it is the dominant party, the ruling party, of the Nation. Therefore I appeal to you, my Democratic fellow Senators, to stop and listen; do not be led as willing lambs to the slaughter; for I tell you an outraged and wronged people will visit their vengeance on your heads.

I want to stimulate the building of ships, and I believe that with the completion of this great waterway, and exemption from tolls for both ocean and coastwise vessels, the dawn of a brighter day for the American merchant marine will be at hand.

Mr. President, listen:

There is nothing in which I am more interested than the fullest development of the trade of this country and its righteous conquest of foreign markets.

* * * * * * *

I am sure that I speak the convictions of all of you when I say that one of our chief needs is to have a merchant marine, because if we have to deliver our goods in other people's delivery wagons their goods are delivered first and our goods are delivered incidentally on their routes.

* * * * * * *

If the shipowners of the nations carry your grain and cargoes, they are going to carry them by routes and to markets which suit them, not the routes and the markets which are chosen by you.

Those words I quote. You know whose they are. They were delivered in the White House on the 28th day of May, less than two weeks ago. I stand with that theory. These are not my words, but they contain my thoughts and views. As I say, they are the words of the President of the United States, expressed by him on the 28th day of May. I want to bring about these thoughts in the form of legislation as passed by the Senate.

I have here a little clipping which I gleaned from the London Times. Some people think that this canal will not amount to much. Take the opinion of the London Times. The London Times says:

But the American foreign-carrying mercantile marine is comparatively small, and it is fairly certain that, as in the case of the Suez Canal, British ships will outnumber those of any other nation using the Panama Canal for a good many years to come.

That is, that America, owing to her small shipping interests, will be overdone by England for many, many years to come. God grant that America may have more. It has been my hope and my dream that I might live to the day when I should see the deep blue ocean decked with American-registered white-winged craft, messengers of peace, of plenty, of trade and commerce, carrying the products of our farms, our shops, our looms and mills, and the wealth of our mines to the remotest corners of the globe. It has been my hope and my prayer that each such craft might carry aloft our Starry Banner, and that it might go on and on to greet and reflect the morning sun in every clime and dip and drop only that it might kiss the waters of every sea.

Senators, thousands—yes, tens of thousands; aye, millions—of my countrymen share with me the same patriotic hope. Senators, will you dash from their lips this cup of glorious expectancy?

Mr. President, the dawn of a better day is near at hand. Stop, and do not take this step of weakness and imbecility.

To pass this repeal measure I feel is to blot our boasted Americanism, and it is to defile a page of our Nation's history.

My country, my country, I cherish thee still,
Though many the ills that defile thee;
I weep o'er thy wounds and pray for thy weal,
Yet never, no, never, revile thee.

[Applause on the floor and in the galleries.]

The PRESIDING OFFICER (Mr. SWANSON in the chair). The Senate will be in order. Manifestations in the galleries are prohibited by the rules of the Senate.

Mr. MARTINE of New Jersey. Mr. President, I have a letter which was sent to me by a very profound and distinguished lawyer in New York—I will say, by the way, the son of a former Member of the House of Representatives and author—Thomas Dunn English. I ask that it may be printed at the end of my remarks.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The matter referred to is as follows:

No. 27 CEDAR STREET,
New York, May 2, 1914.

HON. JAMES H. MARTINE,
United States Senate, Washington, D. C.

MY DEAR SIR: In considering the question of repealing the clause of the act of 1912, exempting coastwise vessels from paying toll for passing through the Panama Canal, it appears that some advocates of the repeal claim the treaty with Great Britain of 1901 binds the United States to refrain from a regulation which discriminates in favor of the vessels of the United States as against those of other nations.

The first question which presents itself, before an examination of the words of the treaty, is whether or no the treaty itself is one of binding force on the Government. This entails an investigation as to the facts of its making and the effect of its being so made.

The treaty was negotiated and submitted to the United States Senate for ratification by the President, and the Senate ratified it by the necessary majority. So far as procedure is concerned the treaty was conducted throughout in the required constitutional manner.

But the power of the President to make such a treaty binding on the United States involves the subject matter to which it relates.

Its wording shows it to be a commercial treaty. It relates to navigation of a waterway constructed within territory solely under our control. It matters not whether that control be an easement or fee or whether a conditional estate in perpetuity or forever. This waterway is not a part of the high seas over which the vessels of all nations can alike and on equal terms transport their commerce. It is a privately constructed way provided by the United States, at its own and sole expense, for its own citizens and for such others as it may see fit to allow its use. No treaty with foreign nations was necessary to enable us to construct the canal as we finally decided to construct it; a cession of territory was all that was required, and we obtained that from Panama. There is no obligation on the part of the United States to allow the canal to be used by any foreign nation. To allow a canal built by the United States within its own territory, over which no foreign nation has any rights whatsoever, to be used by a foreign nation is a mere act of courtesy. We can extend that courtesy at such times and on such terms as Congress alone sees fit.

WHAT THE SUPREME COURT SAYS OF COMMERCE.

In Brown *v.* Maryland (12 Wheat., 419–445) Chief Justice Marshall says:

"The oppressed and degraded state of commerce previous to the adoption of the Constitution can scarcely be forgotten. *It was regulated by foreign nations with a single view to their own interests*, and our disunited efforts to counteract their restrictions were rendered impotent by want of combination. Congress, indeed, possessed the power of making treaties, but the inability of the Federal Government to enforce them had become so apparent as to render that power in a great degree useless. Those who felt the injury arising from this state of things and those who were capable of estimating the influence of commerce on the prosperity of nations perceived the necessity of giving the control over this important subject *to a single government*. It may be doubted whether any of the evils proceeding from the feebleness of the Federal Government contributed more to that great revolution which introduced the present system than the deep and general conviction that commerce *ought to be regulated by Congress.*"

In accordance with the views above expressed by Marshall, the framers of the Constitution provided:

"ARTICLE I, SECTION 1. All legislative powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and a House of Representatives."

What does this mean? It means, to use the words of the Federal Court in United States *v.* Ormsbee (74 Fed., 209), that—

"The sovereign power to make national laws is vested in Congress * * *."

By section 8 the Constitution provides:

"The Congress shall have power * * * to regulate commerce with foreign nations and among the several States * * *."

In Gibbons *v.* Ogden (9 Wheat., 188) Chief Justice Marshall said:

"As men whose intentions require no concealment generally employ the words which most directly and aptly express the ideas they intend to convey, the enlightened patriots who framed our Constitution and the people who adopted it must be understood to have employed words in their natural sense and to have intended what they have said."

In the same case Marshall said:

"Commerce is traffic, but it is something more; it is intercourse. It describes the commercial intercourse between nations and parts of nations, in all its branches, and is regulated by prescribing rules for carrying on that intercourse. The mind can scarcely conceive a system for regulating commerce between nations which shall exclude all laws concerning navigation, which shall be silent on the admission of the vessels of the one nation into the ports of the other, and be confined to prescribing rules for the conduct of individuals in the actual employment of buying and selling or of barter.

"The word 'commerce,' used in the Constitution then, comprehends, and has been always understood to comprehend, navigation within its meaning; and a power to regulate navigation is as expressly granted as if the term had been added to the word 'commerce.'

"It has, we believe, been universally admitted that these words 'with foreign nations,' etc., comprehend every species of commercial intercourse between the United States and foreign nations. No sort of trade can be carried on between this country and any other to which this power does not extend.

"What is this power? It is the power to regulate; that is, to prescribe the rule by which commerce is to be governed."

From the provisions of the Constitution and the words of the Supreme Court cited it is clear that Congress alone can make laws and that Congress alone can regulate commerce. Upon no other body are these powers conferred, hence commerce and navigation can not be regulated or interfered with by any department of the Government without the consent of Congress. And Congress comprises the Senate and the House of Representatives.

"The power vested in Congress to regulate commerce with foreign nations and among the several States and with the Indian tribes *is the power to prescribe the rule* by which that commerce is to be governed, and is a power complete in itself *acknowledging no limitations other than those prescribed in the Constitution.*" (Leisy *v.* Hardin, 135 U. S., 100.)

"Having power to regulate commerce with foreign nations and among the several States, and navigation being a branch of that commerce, it has the control of all navigable waters between the States, *or connecting with the ocean*, so as to preserve and protect their free navigation." (Miller *v.* New York, 109 U. S., 393.)

Mr. Justice Story, in The Barque *Chusan* (2 Story, 455–464), said:

"The power to regulate commerce includes the power to regulate navigation with foreign nations and among the States, and it is an exclusive power in Congress. This I conceive has been firmly established by the Supreme Court of the United States, and the doctrine stands, as I conceive, upon grounds which can not be shaken without endangering the interests of the whole Union, if not the very existence of the Constitution as a frame of Government for the professed objects and purposes which it was intended to accomplish. * * * Congress having power to regulate the whole subject, regulates it as much by what it leaves without positive regulations as by what it expressly provided for."

But why add more authorities? The Supreme Court Reports are filled with like expressions and in no case has that court ever held that the right to regulate commerce existed in any other department than the legislative.

The grant in the Constitution to Congress to regulate commerce is exclusive, and that means that no other body can exercise that power. It means that all rules which restrict or regulate or extend or interfere with commerce are void unless Congress has authorized them.

In March, 1789, Congress, knowing its exclusive jurisdiction over commerce, passed the following resolution:

"That provision ought to be made by law for holding a treaty to establish peace between the United States and the Wabash, Miami, and other nations of Indians northwest of the Ohio River; also for regulating trade and intercourse with the Indian tribes and the mode of extinguishing their claims to lands within the United States."

On August 7, 1789, Washington, recognizing or being advised of the exclusive powers of Congress over commerce, sent to Congress the following message:

"If it should be the judgment of Congress that it would be most expedient to terminate all differences in the southern district, and to lay the foundation for future confidence by an amicable treaty with the Indian tribes in that quarter, I think proper to suggest the consideration of the expediency of instituting a temporary commission for that purpose, to consist of three persons whose authority shall expire with the occasion."

Thus Congress recognized and Washington acknowledged that when any commercial matter was to be transacted it required that Congress should act; that in Congress alone lay the power to regulate commerce, and no other department of the Government could make any treaty or regulation concerning it.

But the Constitution, Article II, section 2, says that the President "shall have power, by and with the advice and consent of the Senate, to make treaties, provided two-thirds of the Senators present shall concur."

Congress and Washington, from the resolution and message heretofore cited, evidently did not think this power to make treaties thus conferred on the President extended to a treaty of commerce. Both the President and many Members of that Congress had sat in the convention that framed the Constitution, and it had gone into effect the same month the above resolution was passed, and but five months before Washington sent the message suggesting to Congress it make a treaty with the southern Indians.

But there are other clauses of the Constitution relating to treaties.

Section 2 of Article III provides that "the judicial power shall extend to all cases in law and equity arising under this Constitution, the laws of the United States, and treaties made or which shall be made, under their authority * * *."

What does "under their authority" apply to? Clearly it means under the authority of the Constitution and the laws made by Congress. Thus the judicial power only extends to treaties made under the authority of the Constitution or under some law of Congress. This would indicate beyond doubt that the framers contemplated that there would be some treaties at least that would require a law of Congress before they would become valid and that the law authorizing or making effective such a treaty would have to be one within the Constitution and not in violation of it. Does this word "their" limit the jurisdiction of the courts to such treaties as are made under authority of a law of Congress? Or is it a limitation on the character of treaties that the President and Senate can make? I think the latter.

What kind of treaties, then, would be those made under the authority of the laws of the United States? Clearly those treaties which contained any matter of which the Constitution had given Congress exclusive jurisdiction. Treaties relating to other matters could be made by the President and Senate without authority of Congress. Treaties which related to commerce, or war, or money, or the 17 matters specifically mentioned in article 1 could not be made alone by the President and Senate and some foreign ruler or Indian chief, because the subject matter had been confined exclusively to the lawmaking power, which meant the House and Senate, not the Senate and President.

But there is another provision of the Constitution on this subject and it provides, Article VII:

"This Constitution and the laws of the United States which shall be made in pursuance thereof, and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land; and the judges in every State shall be bound thereby, anything in the Constitution or laws of any *State* to the contrary notwithstanding."

What means this provision that a treaty shall be the supreme law of the land?

It means, as declared in section 2, Article III, that treaties made under the authority of the United States shall be supreme law as against the Constitution and laws of the States. It certainly does not mean that the treaties shall be the supreme law as against the Constitution of the United States. Nor the supreme law as against the statute of the only body that the Constitution gives power to make laws. "Under the authority of the United States" means under the sovereign power of the United States and the sovereign power can only be expressed by Congress. This provision of Article VII must be read with section 2 of Article III and what it means is clear.

WHAT THE COURTS SAY.

What say the courts on this subject?

In Doe *v.* Braden (16 How., 635) Chief Justice Taney says:

"The treaty is therefore a law made by the proper authority, and the courts of justice have no right to annul or disregard any of the provisions, *unless they violate the Constitution of the United States.*

"The treaty power as expressed in the Constitution is in terms unlimited, except by those restraints which are found in that instrument against the action of the Government or of its departments and those arising from the nature of the Government itself and of that of the States. It would not be contended that it extends so far as to authorize what the Constitution forbids or *a change in the character of the Government or in that* of one of the States or a cession of any portion of the territory of the latter without its consent." (De Geofroy *v.* Riggs, 133 U. S., 258.)

In Siemssen *v.* Bofer (6 Cal., 252) Chief Justice Murray, of the Supreme Court of California, said:

"The treaty-making power can only be coeval with the express grant of power to the Federal Government and can never be extended by implication to the reserved powers of the States and matters which belong to State sovereignty or the right which appertains to govern her own domestic concerns and establish her own police regulations; *neither can the exercise of this power* on the part of the President and Senate be extended to matters which are the proper subject of congressional limitation."

In Foster *v.* Nielson (2 Pet., 314) Marshall said:

"A treaty is in its nature a contract between two nations, not a legislative act. In the United States a different principle is established.

"Our Constitution declares a treaty to be a law of the land. It is consequently to be regarded in courts of justice as equivalent to an act of the legislature *whenever it operates of itself*, without the aid of any legislative provision. *But when the terms of the stipulation import a contract—when either of the parties engages to perform a particular act*—the treaty addresses itself to the political, not to the judicial, department, and the legislature must execute the contract before it can become a rule for the court."

After commenting on the treaty he continued:

"This seems to be the language of contracts, and if it is the ratification and confirmation which are promised must be the act of the legislature; until such act be passed the court is not at liberty to disregard the existing laws on the subject."

The treaty regarding the navigation of the Panama Canal is clearly a contract as to its use. It is a contract which gives all nations subscribing to the rules relating to navigation of that way certain privileges, and thus it is a commercial contract but inoperative until sanctioned by Congress.

In Turner *v.* American Baptist Missionary Union (5 McLean, 344) Justice McLean, of the United States Supreme Court, said:

"A treaty under the Constitution is declared to be the supreme law of the land. This unquestionably applies to all treaties where the treaty-making power, without the aid of Congress, can carry it into effect. It is not, however, and can not be, the supreme law of the land where the concurrence of Congress is necessary to give it effect. Until this power is exercised, as when the appropriation of money is required, the treaty is not perfect. It is not operative in the sense of the Constitution, as money can not be appropriated by the treaty-making power. This results from the limitations of our Government. The action of no department of the Government can be regarded as law until it can have all the sanctions required by the Constitution to make it such. As well might it be contended that an ordinary act of Congress, without the signature of the President, was a law as that a treaty which engages to pay a sum of money is in itself a law, and in such cases the representatives of the people of the States exercise their own judgment in granting or withholding the money. They act upon their own responsibility and not on the responsibility of the treaty-making power. It can not bind or control the legislative action in this respect, and *every foreign Government may be presumed to know that* so far as the treaty stipulates to pay money the legislative action is required."

This reasoning, of course, applies to a treaty relating to navigation.

In Taylor *v.* Martin (2 Curtis, 454) Justice Curtis, also of the Supreme Court, said:

"To refuse to execute a treaty for reasons that approve themselves to the conscientious judgment of the Nation is a matter of the utmost gravity and delicacy; but the power to do so is a prerogative of which no nation can be deprived without deeply affecting its independence. That the people of the United States have deprived their Government of this power in any case, I do not believe. That it must reside somewhere and be applicable to all cases, I am convinced. I feel no doubt that it belongs to Congress."

The words in each of the above decisions would apply to a regulation of commerce as to an appropriation of money. In either case the exclusive power of the subject is given to Congress and a treaty concerning it would be inoperative without the sanction of Congress and, as Mr. Justice McLean says, every foreign Government is presumed to know this.

Madison, in March, 1796, nine years after he had sat as an active member of the convention that framed the Constitution, said:

"The term supreme as applied to treaties evidently meant a supremacy over the State constitutions and laws, and not over the Constitution and laws of the United States; and it was observable that the judicial authority and the existing laws *alone of the States* fell within the supremacy expressly enjoined."

There is still another clause in the Constitution that bears on this question. It is the eighteenth power given Congress in Article I, and it reads that Congress shall have power—

"to make all laws which shall be necessary and proper for carrying into execution the foregoing powers, *and all other powers* vested by the Constitution in the Government of the United States or *in any department or officer thereof.*"

This is a sweeping provision and well indicates the intention of the convention to repose a power in Congress that was supreme to all other powers granted.

This confers on Congress the sole power to make laws to carry into execution a decision of a Federal court or an act of the President. The courts have recognized it in their case. In the case of the President, while he is the Commander in Chief of the Army and Navy in time of war, his chieftianship is nothing without an act of Congress to carry it into execution. There are but very few acts of the President that he can carry into execution against the wishes of Congress. And when it comes to making a treaty which concerns one of the seventeen matters confided to Congress exclusively, the President is without any power whatsoever beyond negotiation and a promise to use his endeavors to have it sanctioned by Congress. Beyond that he is without power.

There is but one body that can make a supreme law of the land, and that is Congress. If the Czar of Russia and the Senate and the President could make a treaty concerning one of the matters delegated alone to Congress there is no word in the Constitution conferring the power. If these three could make a law, then there are two law-making bodies in the United States Government, and a say in one may be an alien despot or an Indian chief.

Is it possible that anyone who can read places such a construction on our Constitution—that he can find in the plain words of the Constitution the establishment of two law-making powers, each capable of repealing the law of the other?

Mr. Justice McLean, of the Supreme Court, in Smith *v.* Turner (7 How., 396) said:

"A concurrent power in two distinct sovereignties to regulate the same thing is as inconsistent in principles as it is impracticable in acton. It involves a moral and physical impossibility. A joint action is not supposed, and two independent wills can not do the same thing. The action of one, unless there be an arrangement, must necessarily precede the action of the other; and that which is first, being competent, must establish the rule. If the powers be equal, as must be the case, both being sovereign, one may undo what the other does, and this must be the result of their action."

Seven years after the adoption of the Constitution, the House of Representatives considered this very question. Almost without exception the party of Jefferson and Madison maintained that no treaty made by a foreign king with the aid of the Senate and President could make a law on any subject which the Constitution had exclusively confined to Congress by Article I.

At that time Hamilton was writing the messages of Washington and sent a message to Congress that combated the position taken by Madison and other Democratic Republicans in the House. Hamilton's position was absolutely destroyed by Madison and a host of other able statesmen. And later he himself refuted one of his own arguments, as also did the United States Supreme Court.

WHAT OUR STATESMEN SAID ON THE SUBJECT.

Jefferson, on March 13, 1816, writing of Washington's real attitude on the question at that time and also indicating his own, says:

"A writer in the National Intelligencer of February 24 who signs himself B., is endeavoring to shelter himself under the cloak of Gen. Washington, the present enterprise of the Senate to wrest from the House of Representatives the power, given them by the Constitution, of participating with the Senate in the establishment and continuance of laws on specified subject. Their aim is by associating an Indian chief, or foreign Government, in form of a treaty, to possess themselves of the power of repealing laws become obnoxious to them, without the assent of the third branch, although that assent was necessary to make it a law. We are then to depend for the secure possession of our laws, not on our immediate Representatives chosen by ourselves, and amenable to ourselves every other year, but on Senators chosen by the legislatures, amenable to them only, and that but at intervals of six years, which is nearly the common estimate for a term for life. *But no act of that sainted worthy*, no thought of Gen. Washington, ever countenanced a change of our Constitution so vital as would be the rendering insignificant the popular, and giving to the aristocratical branch of our Government the power of depriving us of our laws."

This accords with Washington's message to Congress in 1789, before given.

Jefferson, writing to William B. Giles on the subject on December 31, 1795, said:

"Randolph seems to have hit upon the true theory of our Constitution; that when a treaty is made, involving matters confided by the Constitution to the three branches of the legislature conjointly, the Representatives are as free as the President and Senate were to consider whether the national interest requires or forbids their giving the forms and force of law to the articles over which they have a power."

By Randolph, Jefferson meant Edmund Randolph, of Virginia, who took an important part in framing the Constitution and was Attorney General under Washington.

On March 21, 1796, Jefferson wrote to James Monroe as follows:

"The British treaty has been formally at length laid before Congress. All America is a-tiptoe to see what the House of Representatives will decide on it. We conceive the constitutional doctrine to be, that though the President and Senate have the general power of making treaties, yet whenever they include in a treaty matters confided by the Constitution to the three branches of legislature, an act of legislation will be requisite to confirm these articles, and that the House of Representatives as one branch of the legislature are perfectly free to pass the act or to refuse it, governing themselves by their own judgment whether it is for the good of their constituents to let the treaty go into effect or not. On the precedent now to be set will depend the future construction of our Constitution and whether the powers of legislation shall be transferred from the President and Senate and House of Representatives to the President and Senate and Piamingo or any other Indian, Algerine or other chief."

On March 27, 1796, Jefferson wrote a letter to Madison in which, after commending Gallatin's speech on the treaty, he says:

"According to the rule established by usage and common sense, of construing one part of the instrument by another, the objects on which the President and Senate may exclusively act by treaty are much reduced, but the field on which they may act with the sanction of the legislature is large enough; and I see no harm in rendering their sanction necessary, and not much harm in annihilating the whole treaty-making power except as to making peace. If you decide in favor of your right to refuse cooperation in any case of treaty, I should wonder on what occasion it is to be used, *if not in one where the rights, the interest, the honor, and faith of one nation are so grossly sacrificed; where a faction has entered into a conspiracy with the enemies of their country to chain down the legislature at the feet of both.*"

Richard Henry Lee, the Revolutionary general and a distinguished writer of the time when the Constitution was under consideration by the States for ratification, writing over the title of "The Federal Farmer," said:

"On a fair construction of the Constitution I think the Legislature has a proper control over the President and Senate in settling commercial treaties. By one article 'the Legislature shall have power to regulate commerce with foreign nations,' etc., and by another article the President, with the advice and consent of two-thirds of the Senate, shall have power to make treaties. These clauses must be considered together; and we ought never to make one part of the same instrument contradict another, if it can be avoided by any reasonable construction. By the first recital clause the Legislature has the power—that is, as I understand it, the sole power—to regulate commerce with foreign nations or to make all the rules and regulations respecting trade and commerce between our citizens and foreigners. By the second recital clause the President and Senate have power generally to make treaties. There are several kinds of treaties, as treaties of commerce, of peace, of alliance, etc. I think the words 'to make treaties' may be consistently construed, and yet so as it shall be left to the Legislature to confirm commercial treaties. They are in their nature and operation very distinct from treaties of peace and of alliance. The latter generally require secrecy. But it is but very seldom they interfere with the laws and internal police of the country, and operate immediately on persons or property, especially in commercial towns—they have in Great Britain usually been confirmed by Parliament. They consist of rules and regulations respecting commerce; and to regulate commerce, or to make regulations respecting commerce, the Federal Legislature, by the Constitution, has the power. I do not see that any commercial regulations can be made in treaties that will not infringe upon this power in the Legislature. Therefore, I infer that the true construction is that the President and Senate shall make treaties, but all commercial treaties shall be subject to be confirmed by the Legislature. This construction will render the clauses consistent, and make the powers of the President and Senate respecting treaties much less exceptional."

Madison, in a speech in conflict between treaty and grant to Congress in 1796, is reported as follows:

"It was an important, and appeared to him to be a decisive view of the subject, that if the treaty power alone could perform any one act for which the authority of Congress is required by the Constitution, it may perform every act for which the authority of that part of the Government is required. Congress have power to regulate trade, to declare war, to raise armies, to levy, to borrow, and appropriate money, etc. If by treaty, therefore, as paramount to the legislative power, the President and Senate can regulate trade, they can also declare war, they can raise armies to carry on war, and they can procure money to support armies. These powers, however different in their nature or importance, are on the same footing in the Constitution and must share the same fate. A Member from Connecticut had admitted that the power of war was exclusively vested in Congress; but he had not attempted, nor did it seem possible, to draw any line between that and the other enumerated powers. If any line could be drawn, it ought to be presented to the committee; and he should for one be ready to give it the most impartial consideration. He had not, however, any expectation that such an attempt could succeed; and therefore should submit to the serious consideration of the committee that although the Constitution had carefully and jealously lodged the power of war, of armies, of the purse, etc., in Congress, of which the immediate Representatives of the people formed an integral part, yet, according to the construction maintained on the other side, the President and Senate by means of a treaty of alliance with a nation at war might make the United States parties in the war. They might stipulate subsidies and even borrow money to pay them; they might furnish troops to be carried to Europe, Asia, or Africa; they might even attempt to keep up a standing army in time of peace for the purpose of cooperating on given contingencies with an ally for mutual safety or other common objects. Under this aspect the treaty power would be tremendous. The force of this reasoning is not obviated by saying that the President and Senate would only pledge the public faith, and that the agency of Congress would be necessary to carry it into operation. For what difference does this make if the obligation imposed be, as is alleged, a constitutional one, if Congress have no will but to obey, and if to disobey be treason and rebellion against the constituted authorities? Under a constitutional obligation with such sanctions to it, Congress, in case the President and Senate should enter into an alliance for war, would be nothing more than the mere heralds for proclaiming it. In fact, it had been said that they must obey the injunctions of a treaty as implicitly as a subordinate officer in the executive line was bound to obey the Chief Magistrate, or as the judges are bound to decide according to the laws.

"As a further objection to the doctrine contended for, he called the attention of the committee to another very serious consequence from it. The specific powers as vested in Congress by the Constitution are qualified by sundry exceptions deemed of great importance to the safe exercise of them.

"These restrictions are contained in section 9 of the Constitution, and in the articles of amendment which have been added to it; thus, 'the migration or importation of such persons as any of the States shall think proper to admit shall not be prohibited by Congress.'"

He referred to several of the other restrictive paragraphs which followed, particularly the fifth, which says that no tax shall be laid on exports, no preference given to the parts of one State over those of another, etc. It was Congress also, he observed, which was to make no law respecting an establishment of religion or prohibiting the free exercise thereof or abridging the freedom of speech or of the press; or of the right of the people peaceably to assemble, etc. Now, if the legislative powers specifically vested in Congress are to be no limitation or check to the treaty power, it was evident that the exception to those powers could be no limitation or check to the treaty power.

Returning to the powers particularly lodged in Congress, Madison took notice of those relating to war and money, or the sword and the purse, as requiring a few additional observations in order to show that the treaty power could not be paramount over them.

It was well known that, with respect to the regulation of commerce, it had long remained under the jurisdiction of the States; and that in the establishment of the present Government the question was whether, and how far, it should be transferred to the general jurisdiction. But with respect to the power of making war, it had from the commencement of the Revolution been judged and exercised as a brand of the general authority essential to the public safety. The only question therefore that could arise was whether the power should be lodged in this or that department of the Federal Government. And we find it expressly vested in the legislative and not in the executive department; with a view, no doubt, to guard it against the abuses, which might be apprehended, from placing the power of declaring war in those hands which would conduct it when declared; and which therefore, in the ordinary course of things, would be most tempted to go into war. But according to the doctrine now maintained, the United States, by means of an alliance with a foreign power, might be driven into a state of war by the President and Senate contrary both to a sense of the Legislature and to the letter and spirit of the Constitution.

On the subject also of appropriating money, particularly to a military establishment, the provision of the Constitution demanded the most severe attention. To prevent the continuance of a military force for a longer term than might be indispensable, it is expressly declared that no appropriation for the support of armies shall be made for more than two years, so that at the end of every two years the question whether a military force ought to be continued or not must be open for consideration and can be decided in the negative by either the House of Representatives or the Senate refusing to concur in the requisite appropriation. This is a most important check and security against the danger of standing armies and against the prosecution of a war beyond its national objects; and the efficacy of the precaution is the greater, as at the end of every two years a reelection of the House of Representatives gives the people an opportunity of judgment on the occasion for themselves.

But if, as is contended, the House of Representatives have no right to deliberate on appropriations pledged by the President and Senate, and can not refuse them without a breach of the Constitution and of their oaths, the case is precisely the same, and the same effects would follow, as if the appropriations were not limited to two years but made for the whole period contemplated at once. Where would be the check for a biennial appropriation for a military establishment raised for four years, if at the end of two years the appropriation was to be continued by a constitutional necessity for two years more?

Albert Gallatin, Edward Livingstone, and other prominent statesmen of the day supported the position taken by Madison.

John Page, of Virginia, friend of Washington, Revolutionary soldier, and afterwards governor of Virginia, said:

"I may agree that a treaty is necessary to establish a commercial intercourse between two nations to their mutual advantage and satisfaction, but I must affirm that as that treaty would be a commercial regulation, and as Congress is expressly empowered by the Constitution to regulate commerce, whenever such treaty shall be made between the United States and any other nation Congress must either direct that the negotiation be commenced upon conditions approved or sanction the ratification of such treaty by some act showing that the regulation of commerce by the treaty was made by the authority of Congress, in conformity to the Constitution. Besides, if the President and Senate can regulate the commerce of the United States with one nation, they can with all nations, and if they can with all, what nation can there be with whom Congress can regulate commerce? This argument must therefore fall to the ground. We are told, however, that the treaty-making power, from its nature, is competent to all the objects and is not to be controlled or checked by the House.

* * * * * * *

"If it be true, then, can the President repeal, as he has by the treaty, the laws of Congress, although by the Constitution he can not negative them? He can oblige Congress to levy taxes; can withdraw impost and tonnage from their reach; prohibit the exportation of sundry articles of produce of the United States, although the Constitution forbids the Senate and House of Representatives concurring to lay the smallest duty on the exportation of any article; he can create offices and annex salaries thereto, destroy the rights of the House, provoke war; in short he can do anything; but this we are sworn to deny. The absurdity of that construction must be evidence, and *the recollections of our oaths* to support the Constitution, of which we have been reminded, must force us to revolt at the thoughts of adopting such a monstrous construction of the Constitution."

Mr. Page then said that the amendments submitted by Virginia were intended to remove the evils which the construction of those gentlemen put on the Constitution if adopted must produce.

He further said that if no objections had been made to treaties before, it might be said to be high time for us to make a stand, to examine into and check a little the expensive business of treaty making.

Mr. Richard Brent argued that treaties became supreme law of the land if they involved only executive powers; if it involved powers confided to Congress the President could only make a conditional treaty, and the treaty did not become a law until Congress so made it.

Brent contended that a treaty made by the President and Senate, as far as it relates to commerce, is not a treaty made under the authority of the United States until it has obtained the sanction of the Legislature. If treaties can repeal laws, then laws can repeal the Constitution, for the second laws are to the Constitution what the treaties are to the laws, therefore treaties could repeal the Constitution.

THE HOUSE ADOPTS THE SAME CONSTRUCTION.

April 6, 1796, the House of Representatives passed the following resolution written by Madison:

"*Resolved*, That it being declared by the second article of the Constitution that the President shall have power, by and with the advice of the Senate, to make treaties, provided two-thirds of the Senate present concur, the House of Representatives do not claim any agency in making treaties; but that *when a treaty stipulates regulations on any of the subjects submitted by the Constitution to the power of Congress* it must depend for its execution as to such stipulations on a law or laws to be passed by Congress. And it is the constitutional right and duty of the House of Representatives *in all such cases to deliberate on the expediency or inexpediency of carrying* such treaties into effect, and to determine and act thereon, as, in their judgment, may be most conducive to the public good."

FEAR OF USURPATION BY THE PRESIDENT.

The fear of Executive power by the people of the States was very general and marked. After the Constitution had been submitted to the States for ratification many amendments were submitted to the convention for its consideration. The people generally understood that the proposed Government was to be one of delegated powers only and that what was not especially delegated could not be exercised. Yet there was a desire to impress upon the prospective officeholders and the prospective Congress certain things that they should not do and certain powers they should not exercise. The people feared that without the prohibition the new Government would be led to exceed the powers delegated and usurp powers not mentioned.

The managers of the convention were fully aware that undelegated powers did not and could not exist in a Government of limited jurisdiction, but they did not deem it necessary to encumber the Constitution with a lot of what they deemed unnecessary prohibitions. Hence they rejected everything of that character.

As an evidence, however, of the fear in which the people stood of an Executive and of their desire that the lawmaking power should participate in everything, a few of these proposals by the different States may not be inappropriate to refer to.

Virginia proposed as an amendment to the Constitution—

"That all power of suspending laws or the execution of laws by any authority without the consent of the representatives of the people in the legislature is injurious to their rights and ought not to be exercised."

North Carolina proposed the same.

The States wanted to impress beyond question the principle that no power could supersede a law without the consent of Congress.

Maryland also considered proposing a similar clause, but neglected to submit it.

North Carolina submitted an amendment reading:

"That no treaties which shall be directly opposed to the existing laws of the United States in Congress assembled shall be valid until such laws shall be repealed or made conformable to such treaty, nor shall any treaty be valid which is contradictory to the Constitution of the United States."

Virginia also proposed—

"that no navigation law or law regulating commerce shall be passed without the consent of two-thirds of the Members present in both Houses."

Other proposals indicative of the disinclination to allow an Executive to act without the sanction of Congress and to impress it upon him, even though not necessary, because the Federal Government was one of delegated powers alone, were the following:

From New York came a provision reading—

"that no Standing Army or regular troops shall be raised or kept up in time of peace without the consent of two-thirds of the Senators and Representatives in each House."

"That no money be borrowed on the credit of the United States without the assent of two-thirds of the Senators and Representatives in each House."

New Hampshire, Maryland, and Virginia also made the same proposal with regard to keeping a Standing Army.

John C. Calhoun, in his "Constitution and Government of the United States," says:

"But although the treaty-making power is exclusively vested, and without enumeration or specification, in the Government of the United States, it is, nevertheless, subject to several important limitations. It is, in the first place, strictly limited to questions *inter alios;* that is, to questions between us and foreign powers which require negotiations to adjust them. All such clearly appertain to it. But to extend the power beyond these, be the pretext what it may, would be to extend it beyond its allotted sphere, and thus a palpable violation of the Constitution. It is, in the next place, limited by all the provisions of the Constitution which inhibit certain acts from being done by the Government or any of its departments, of which description there are many. It is also limited by such provisions of the Constitution as direct certain acts to be done in a particular way, and which prohibit the contrary, of which a striking example is to be found in that which declares that 'no money shall be drawn from the Treasury but in consequence of appropriations to be made by law.' This not only imposes an important restriction on the power, but gives to Congress, as the lawmaking power and to the House of Representatives as a portion of Congress, the right to withhold appropriations; and thereby an important control over the treaty-making power whenever money is required to carry a treaty into effect, which is usually the case, especially those of much importance."

John Randolph said:

"Where a treaty is made involving matters confided by the Constitution to Congress the Representatives are as free as the President or the Senate were to consider whether the national interests require or forbid their giving the forms and force of law to the articles over which they have this power."

Further illustrations of what the President and Senate could do if the supreme power of making treaties were true are unnecessary. Any reader may examine the Constitution for himself and see from the 17 exclusive powers given Congress what the President could do if his power to make a treaty without Congress were unlimited. Such an examination will convince any intelligent man, be he layman or lawyer, that the Hay-Pauncefote treaty is inoperative and invalid.

Jefferson, in his Manual, a copy of which every Congressman and Senator has always at hand, speaking of the treaty-making power, says:

"By the Constitution of the United States this department of legislation is confided to two branches only of the ordinary Legislature—the President originating and the Senate having a negative. To what subjects this power extends has not been defined in detail by the Constitution nor are we entirely agreed among ourselves.

"1. It is admitted that it must concern the foreign-nation party to the contract or it would be a mere nullity, *res inter alios acta.*

"2. By the general power to make treaties the Constitution must have intended to comprehend only those subjects which are usually regulated by treaty, and can not be otherwise regulated.

"3. It must have meant to except out of these the rights reserved to the States, for surely the President and Senate can not do by treaty what the whole Government is interdicted from doing anyway.

"4. And also to except those subjects of legislation in which it gave a participation to the House of Representatives. This last exception is denied by some on the ground that it would leave very little for the treaty power to work on. The less the better, say others. The Constitution thought it wise to restrain the Executive and Senate from entangling and embroiling our affairs with those of Europe. Besides, as the negotiations are carried on by the Executive alone, the subjecting to the ratification of the Representatives such articles as are within their participation is no more inconvenient than to the Senate."

Henry Clay in 1820 said, speaking of the treaty with Spain, relating to the boundary between Louisiana and Mexico:

"The Constitution of the United States has not defined the precise limits of that power, because from the nature of it they could not be presented. It appears to me, however, that no safe American statesman will assign to it a boundless scope. I presume, for example, that it will not be pretended that in a government *which is itself limited there is a functionary without limits.* The first great bound to the power in question, I apprehend, is that no treaty can constitutionally transcend the very object and purposes of the Government itself. I think also that wherever there are specified grants of power to Congress they limit and control, or, I would rather say, modify the exercise of the general grant of the treaty-making power upon a principle which is familiar to everyone. * * * But if the concurrence of this House be not necessary in the cases asserted, if there be no restriction upon the power, I am considering it may draw to itself and absorb the whole of the powers of the Government. To contract alliances, to stipulate for raising troops to be employed in a common war about to be waged, to grant subsidies, even to introduce foreign troops within the bosom of the country, are not infrequent instances of the exercise of this power; and if in all such cases the honor and faith of the Nation are committed by the exclusive act of the President and Senate, *the melancholy duty alone might be left to Congress of recording the ruin* of the Republic."

S. M. Cullom, late Senator from Illinois, on July 10, 1868, said:

"Congress can not originate a treaty, nor can the President and Senate raise revenue nor *regulate commerce.*"

Mr. Upshur, in instructing Mr. Wheaton, minister to Prussia in 1843, regarding the treaty with the Zollverein, said to bear "always in mind that the sanction of Congress, as well as of the Executive, will be indispensably required."

In declining to ratify the treaty with the Zollverein in 1844, the Committee on Foreign Relations reported that—

"The Constitution in express terms delegates the power to Congress to regulate commerce and to impose duties and to no other, and that the control of trade and the function of taxing belong, without abridgment or participation, to Congress.

William Loughridge, a celebrated lawyer of Iowa, on June 30, 1868, on the floor of the House, said:

"An attempt is made, through the means of the treaty-making power, to concentrate almost all of the power of this Government in the hands of the President, subject only to the advice and consent of the Senate. And this proposition is, if adopted, a long step in that direction. I hesitate not to say, sir, that if, without any explanation, disaffirmance, or protest, we make this appropriation, we shall, so far as this House can do it, have surrendered practically all the power of the Government into the hands of the treaty-making department and reduced this House to the position of an involuntary agent of that power, with no discretion but to carry out its expressed will. That we are rapidly drifting in that direction, it seems to me, must be apparent to the most casual observer.

"By substituting a foreign Government or an Indian tribe in place of this House, on the principle claimed by the Executive, there is nothing within the whole scope of the legislative powers of the Government that can not be done without the consent or intervention of this House. I defy any gentleman to point out a single act of legislation that can not be done through and by the treaty-making power, if we admit that power to the extent claimed by the Executive."

There is even another ground for holding this treaty to be invalid and that is the lack of power in the President and Senate and the King of Great Britain to deprive the American people of a right which they own. Whence this power to grant away any interests of the country without compensation? It is certainly not given by the Constitution. In England, for an ambassador to agree to do what is beyond his authority is ground for impeachment, and it was held even by Washington's friends that he might be impeached if he went beyond his authority in agreeing to the Jay treaty with England.

What say the writers of despotic countries on this subject? Martin (L. U., ch. 1, sec. 3, p. 49) says:

"Anything that has been promised by the chief or his agent beyond the limits of the authority with which the State has intrusted him is at most no more than a simple promise (sponsio) which only obliges the promisor to use his endeavors to produce the ratification."

Again, he says that—

"Even the stipulation of a monarch, though he should be absolute, can not be valid if it militates against the fundamental law of the State unless ratified by the nation."

Fiore, in his Volkerecht, section 98, says:

"All treaties are to be looked upon as null which are in any way opposed to the development of the activities of a nation, or which hinder the exercise of its own natural rights."

Hefter declares to the same effect.

Vattel (2d book, ch. 22, p. 298) says:

"A treaty pernicious to the State is null and not obligatory, no conductor of the nation having power to make such treaties. The nation itself can not enter into engagements contrary to its indispensable obligations. In the year 1506 the States General of the Kingdom of France, assembled at Tours, engaged Louis XII to break the treaty he had concluded with the Emperor Maximilian, and the Archduke Philip, his son, because that treaty was pernicious to the kingdom. They found that neither the treaty nor the oath that had accompanied it could oblige the King to alienate the dominions of the Crown. From the same reason, a want of power, a treaty is absolutely null."

Yet these writers were speaking of treaties made by monarchs, and not by a servant of the people, like the President of the United States, whose powers are limited by a written Constitution, and where the sole body that can make law is Congress.

Under what theory of interpretation can it be claimed that the President of the United States can make a treaty that a despot can not?

"The powers of the President * * * can not be enlarged by analogy to the powers of an English King, because the two have their origin and mode of existence in different and opposite principles." (10 Opin. Atty. Gen., 545.)

"But they are not prerogatives—they are legal powers vested in, and duties imposed upon, the President by the letter of the Constitution; and they are to be exercised and judged of as other granted powers and imposed duties are." (Ibid.)

Therefore the powers exercised by the King of Great Britain or of the chief executive of any foreign nation is not authority in the United States.

From the authorities to which I have called your attention it is clear this alleged treaty was a mere promise by the then President to use his endeavors to have it enacted into a law by Congress. As that was never done, there is no question of faith or contract involved. And every foreign Government may be presumed to have known when the treaty was signed that so far as it stipulated to regulate commerce legislative action was required. Great Britain knew this, particularly as her own laws require parliamentary action after the King ratifies a commercial treaty before it becomes binding on the Government.

With assurances of my high regard and admiration for the courageous stand you have taken on this Panama treaty matter, I beg to remain,

Yours, respectfully,

ARTHUR ENGLISH.

Mr. SMITH of Michigan obtained the floor.

Mr. O'GORMAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. SWANSON in the chair). The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Ashurst	Goff	O'Gorman	Smith, S. C.
Bankhead	Gronna	Overman	Smoot
Brady	Hollis	Owen	Stephenson
Brandegee	Hughes	Page	Sterling
Bristow	Johnson	Perkins	Stone
Bryan	Kenyon	Pittman	Sutherland
Burton	Kern	Saulsbury	Swanson
Chamberlain	Lane	Shafroth	Thomas
Chilton	Lea, Tenn.	Sheppard	Thompson
Clark, Wyo.	Lee, Md.	Sherman	Thornton
Colt	Lewis	Shields	Tillman
Crawford	McCumber	Shively	Townsend
Cummins	Martin, Va.	Simmons	Vardaman
Dillingham	Martine, N. J.	Smith, Ariz.	Walsh
du Pont	Myers	Smith, Ga.	White
Fletcher	Nelson	Smith, Md.	Williams
Gallinger	Norris	Smith, Mich.	Works

The PRESIDING OFFICER. Sixty-eight Senators having answered to their names there is a quorum present.

Mr. SMITH of Michigan. Mr. President, I do not intend to prolong the discussion unnecessarily this afternoon. I think, however, in view of the statement of the Senator from Oklahoma [Mr. OWEN] on Saturday last, it may not be inappropriate to say that the latitude of debate in the Senate of which he complains has many times illustrated the wisdom of that method of procedure in this body. I have seen measures of far-reaching importance stripped of imperfections by elucidation and debate, resulting in legislation that was wholesome and of practical value to the country, while ill-considered bills rarely reflect the sober judgment of Congress or the people we represent. Hasty judgment smacks of sovereign decrees. Republics should forge no fetters in a night.

As I recollect it, when the tariff bill came over here from the other House a few months ago, many Senators, especially upon that side of the Chamber and newer Members of this body, deplored the fact that they could not enact that bill into a law without delay, and it was hinted that revenue bills were solely the function of the House of Representatives, and the Senate should promptly approve such bills without debate. Sir, we still remain a coordinate branch of the American Government, and while our methods are old-fashioned there remains much good work for us to do. Several eminent British diplomats, including Mr. Bryce, long accredited to Washington by the English sovereign, characterizes this body as unnecessary to the perfection of our system of Government, and deplores the delay and often the defeat of international contracts because of the local influences affecting our judgment. The King can bind the Empire of Great Britain; but since Valley Forge and Yorktown, no one man speaks with authority for this blessed Union of States. We changed schedule after schedule of the tariff bill and when it left this Chamber it was less imperfect than when we received it.

When the banking and currency bill, of which the Senator from Oklahoma had charge, left the committee of CARTER GLASS in the House of Representatives the President of the United States was quoted as saying that it was the most perfect banking and currency measure ever devised by man. Yet under the wide latitude of discussion afforded in this Chamber 50 per cent of the bill as it originally appeared in the House of Representatives was changed. Can anyone say that unlimited debate was harmful to that legislation?

Take the message of President Wilson on the Mexican situation. He forced through the House of Representatives without the dotting of an "i" or the crossing of a "t" a resolution so irregular and inappropriate that even the Democratic members of the Committee on Foreign Relations would not support it. When it reached here, instead of directing attention to wrongs and injuries we had suffered at the hands of prowling bandits and misgovernment in Mexico, he focused his animosity upon a defenseless and unfortunate soldier of fortune, then struggling with problems beyond his control, and sent our Army and Navy into his dominion, armed only with a searchlight and a microscope, with instructions to find this offender somewhere among the 17,000,000 of his countrymen and bring him forth for execution in the sight of the world.

Mr. LEWIS. Mr. President——

Mr. SMITH of Michigan. I do not want to yield, but I will yield of course.

Mr. LEWIS. I will not insist on interrupting the Senator.

Mr. SMITH of Michigan. I will yield to my honored friend from Illinois.

Mr. LEWIS. I think I prefer not to interrupt the discussion. I fear it would cause some debate.

Mr. SMITH of Michigan. Does any Senator doubt that the unlimited discussion given to that matter improved its form, that it was far more creditable to our Government and our statesmanship than when it passed the coordinate branch of Congress under whip and spur of Executive decree? Certainly not.

Now we are wrestling with the Panama tolls bill, of supreme national importance because it involves the reconstruction of a treaty with a great foreign power; perhaps we are laying down a rule which will burden our countrymen for generations to come; and yet we are told that the President is impatient with our delay. O sir, if we are to be unfaithful, we can at least be reverent. Thus far I have taken no time. I am not going to take time unnecessarily this afternoon; neither shall I traverse the statements so often and so strongly made upon both sides; but I am going to invite the attention of the Senators and the few sensible critics of our rules to the fact that the wide latitude of debate has given you time to adjust your differences and made possible at least a less dishonorable and ignominious surrender of your plighted faith than would have resulted had you followed the lead of our illustrious President.

Senators may come and go, as they do come and go with each passing year, but the wholesome latitude in debate afforded by our rules tends to avoid much unnecessary friction and insures a higher degree of efficiency in governmental affairs than could otherwise be obtained.

Mr. President, I am going to offer a suggestion regarding the tolls matter that I do not think has yet been made, a matter of my own observation and experience as a Member of Congress, and I am particularly pleased that so many Senators are doing me the honor to listen to my remarks. I am especially pleased that both the Senators from New York are here, and I invite the attention of the senior Senator [Mr. ROOT] to a phase of this situation which he has evidently overlooked in the consideration of this bill.

What was the political atmosphere in which the Hay-Pauncefote treaty was prepared? I was a Member of Congress in 1900. My honored friend the Senator from Mississippi [Mr. WILLIAMS], who sits near me, was a Member of the House at that time. What was the condition of the public mind when the present Hay-Pauncefote treaty was prepared? Perhaps the answer would throw a truer light upon the negotiations than many of the indefinite impressions now retailed for partisan purposes. The Clayton-Bulwer treaty still encumbered the records of the State Department. Officially it was not dead, although it had long since fallen into a subconscious state, but the great popular branch of Congress deliberately ignored it. While the first Hay-Pauncefote treaty, prepared by Secretary Hay, was pending in the Senate, the House of Representatives drove a steel blade squarely into the vitals of these bastard laws, and in defiance of the customs of stilted chancelleries spoke the voice of indignant protest against further artfulness or diplomatic chicane in dealing with a principle of government so important to us all.

I shall never forget the fruitless endeavor of my distinguished and honorable friend from Ohio [Mr. BURTON], who sits by my side, to check that ruthless onslaught against the diplomatic plans of Lord Pauncefote and Secretary Hay. Again and again he tried to rally the scattered remnants of peace, but even the talismanic voice of his party chieftain was drowned in the roar of the victor's cry, and the advancing hosts of American fair play scaled the mountain peaks of parliamentary obstruction as though they were paper barriers intended only to restrain children at play. Protests were vain, the Secretary of State was engulfed, and a resolution passed the House directing the President of the United States to enter upon the construction of a canal across the Republic of Nicaragua without waiting for the consent of any foreign Government. Did not the honored Senator from New York overlook this important historical fact in his brilliant description of the situation surrounding the negotiations at the time this treaty was made?

How well I remember that debate. My friend from Mississippi [Mr. WILLIAMS] voted to thus outrage the diplomatic policy of the country, and seemingly he did it with great joy. My honored friend from Colorado [Mr. SHAFROTH], a new Member of this body but at that time a Member of the House, voted to pass the Nicaragua canal bill in the teeth of the Clayton-Bulwer treaty and in defiance of the engagement of Hay and Pauncefote, not even according that treaty the merit of proper and appropriate funeral rites. My honored friend from Nevada [Mr. NEWLANDS] voted for that bill and is still consistently battling for freedom from foreign fetters. Is it not significant that in open defiance of both treaties, one old

and decrepit, the other young but wither-wrung, the President of the United States was by an overwhelming vote directed to acquire the territory and enter upon the construction of that canal without further parleying or delay?

Sir, that was the situation which the Senator from New York [Mr. ROOT] failed to recall when he made his notable contribution to this debate a few days ago. We who were here remember the scurrying about on the floor of the House of Representatives for negative votes. We remember how the leaders endeavored to line up Members against that international outrage, as it was called. And yet the bill passed that body by the tremendous majority of 224 to 36 and left no room for doubt as to the purpose of the American people regarding this canal project across Central America or through the Isthmus. Here is our second declaration of independence; listen, Senators:

A bill to provide for the construction of a canal connecting the waters of the Atlantic and Pacific Oceans.

Be it enacted, etc., That the President of the United States be, and is hereby, authorized to acquire from the States of Costa Rica and Nicaragua, for and in behalf of the United States, control of such portion of territory now belonging to Costa Rica and Nicaragua as may be desirable and necessary on which to excavate, construct, and defend a canal of such depth and capacity as will be sufficient for the movements of ships of the greatest tonnage and draft now in use, from a point near Greytown, on the Caribbean Sea, via Lake Nicaragua, to Breto, on the Pacific Ocean; and such sum as may be necessary to secure such control is hereby appropriated out of any money in the Treasury not otherwise appropriated.

Does the Senator from New York [Mr. ROOT] or my honored friend from Ohio [Mr. BURTON] doubt for one moment that that bill when enacted into law would have sounded the death knell of the Clayton-Bulwer treaty, or its offspring, the first Hay-Pauncefote treaty? The nature of this action was flashed over the ocean, was promptly conveyed to the British foreign office, and fully understood by Mr. Choate, the American ambassador. The effect of our action was instantaneous and electric. Senators who have proclaimed their devotion to our treaty contracts with foreign nations, Senators who honor me with their presence here this afternoon, voted without the slightest hesitation to pass this drastic and revolutionary measure proposed by Mr Hepburn, of Iowa, on the 2d day of May, 1900. From that moment a new diplomatic alignment was imperative, if Great Britain was to save anything from this unexpected rebuff.

The first Hay-Pauncefote treaty, then pending in the Senate, attempted to perpetuate the Clayton-Bulwer treaty and give it new life; there is no question about that. That treaty proposed to deprive us of the right to fortify our canal; that treaty gave England the joint right with the United States to fix regulations for its management and control; that treaty was a copartnership with England from the first line to the last, and I have felt that some of the distinguished gentlemen who have taken such prominent part in this discussion may have had a part in the framing of the first Hay-Pauncefote treaty. I could not believe that my experienced and sagacious friend, the Senator from Massachusetts [Mr. LODGE], had had any hand in the framing of that treaty so generally regarded with disfavor through the country; I could not believe that the senior Senator from New York [Mr. ROOT] had had any hand in framing that treaty; and yet, as I now recall, the Senator from New York was then Secretary of War and sat at the Cabinet table with Mr. Hay and must have known all about that first treaty. If he consented to it, then he consented to the perpetuation of the odious Clayton-Bulwer treaty and a perpetual alliance with Great Britain in the management of this great American enterprise.

Mr. President, what did the Senate do with that treaty? It promptly extracted its vitals, reduced its impertinent swagger, and left the enacting clause only as a warning epitaph to its authors. It was emphatically un-American, and was so denominated over and over again here; and, Mr. President and Senators, that was the atmosphere in which the second Hay-Pauncefote treaty was prepared; that was the attitude of the American public mind toward this question; that was the condition of public opinion here. Is it a stretch of the imagination to say that nothing less than a complete abdication by England would have been acceptable to the American people?

Who voted against the Hepburn bill? The Senator from Ohio [Mr. BURTON], sitting by my side, was one of the little band of martyrs who voted against it and tried to stop its passage. He was an intimate personal friend of the American negotiator and was appealed to by the Department of State when the waters became rough; but the men in the House of Representatives at that time who voted for the Hepburn Nicaraguan bill while the first Hay-Pauncefote treaty was pending include that stalwart defender of the President in this unpatriotic struggle, Mr. Burleson, now Postmaster General of the United States; Mr. BANKHEAD, now Senator from Alabama; Mr. SHAFROTH, now Senator from Colorado; Mr. WILLIAMS, now Senator from Mississippi; Mr. SWANSON, now Senator from Virginia, and numerous others. Their solicitude about our treaty obligations seems to have developed suddenly, after an injection of a special brand of presidential serum, calculated to allay party pain and perfidy.

England was plainly discouraged in the face of this Yankee demonstration; the great popular branch of Congress had literally torn her hopes to tatters, and Lord Lansdowne and Lord Pauncefote began to take soundings on the diplomatic sea, where new and threatening shoals had been revealed by the lowering tide.

But, Senators, the vote was only 224 to 36, just a sandstorm on the desert, or a hurricane at Hatteras; that was all; only a slight indication of cosmic chaos. Is it any wonder that the able advocates of this bill should have overlooked this interesting page of history while calling our attention to the sacrifices made by England in surrendering her rights under the treaty of 1850?

Mr. President, are we not forced to the conclusion that the British foreign office fully understood then, if never before, that if they were to get anything at all as the result of the Clayton-Bulwer treaty, if they were to have any interest at all in the canal that we were about to construct, all England could hope to save would be the voluntary neutralization of the canal and just treatment as one of our customers in its use? There is not a line or a syllable in the correspondence which shows otherwise, and until American propagandists set their subsidized printing presses to work and American Senators took the side of England no confusion existed anywhere as to our rights or our duty. President Taft fixed the charges on foreign shipping, and Congress and the President gave the vessels flying our flag and engaged in purely domestic commerce from port to port the same privileges at Panama as we accord them on the Mississippi, the Ohio, the St. Marys, and all other internal waterways. President Wilson approved this plan in speeches during his campaign for the Presidency; the Baltimore platform, upon which he stood, approved it in the following terse and vigorous language:

We favor the exemption from toll of American ships engaged in coastwise trade passing through the canal.

His speech of acceptance said that the plan did not go quite far enough to rehabilitate the merchant marine.

Former President Roosevelt, who made the present treaty possible, approved the exemption of our coastwise ships from the payment of tolls, saying in his speech accepting the presidential nomination at the hands of the Progressive Party, August 6, 1912:

The Panama Canal must be fortified. It would have been criminal to build it if we were not prepared to fortify it and to keep our Navy at such a pitch of strength as to render it unsafe for any foreign power to attack us and get control of it. * * * We have a perfect right to permit our coastwise traffic with which there can be no competition by the merchant marine of any foreign nation, so that there is no discrimination against any foreign navy to pass through that canal on any terms we charge, and I personally think that no tolls should be charged on such traffic.

Mr President, these declarations were a sufficient notice to Great Britain that we would never again enter into any arrangement for joint control of this proposed waterway. Senators, what base treachery is at the bottom of this cowardly surrender now?

What gives this treaty question so much prominence at this time? The President of the United States, in his speech of acceptance addressed to the Senator from Kentucky [Mr. JAMES] and the other members of the notification committee, did not think that we were conferring any great privilege upon our coastwise shipping by the exemption. He did not feel that our national honor was involved then; the plaudits of the multitude in his campaign easily drowned the roar of the British lion then. What did he say in his speech of acceptance to Mr. JAMES and his associates about it? Listen, Senators:

The very fact that we have at last taken the Panama Canal seriously in hand and are vigorously pushing it toward completion is eloquent of our reawakened interest in international trade. We are not building the canal and pouring out millions upon millions of money upon its construction merely to establish a water connection between the two coasts of the continent, important and desirable as that may be, particularly from the point of view of naval defense. It is meant to be a great international highway. It would be a little ridiculous if we should build it and then have no ships to send through it. There have been years when not a single ton of freight passed through the great Suez Canal in an American bottom, so empty are the seas of our ships and seamen. We must mean to put an end to that kind of thing or we would not be cutting a new canal at our very doors merely for the use of our men-of-war. We shall not manage the revival by the mere paltry device of tolls—

Said President Wilson to the notification committee—

by the mere paltry device of tolls.

Paltry device. You would think, from reading his message to Congress and from the speeches of some of our friends who advocate repeal, that this was a gigantic subsidy; that some one was going to reap a tremendous benefit from it; and yet the President, in his speech to Senator JAMES and his associates, said:

We shall not manage the revival by the mere paltry device of tolls. We must build and buy ships in competition with the world.

"A paltry device," he said, and yet he puts forward the repeal of this "paltry device" with great solemnity as the sine quo non of British friendship for us, as the one national favor which will unify the English-speaking people in both hemispheres in bonds of perpetual sympathy and love for all the future generation of men, and virtually says it can be accomplished in no other way. This "paltry device of tolls" which he had pressed forward in the campaign is now to be waived in order to cement the English-speaking race. O Mr. President, I marvel that he should have suggested such a "paltry" sacrifice, so meaningless and of so little advantage to the British Government, as a basis of American and British amity. It must be, Senators, that this waiver means more to England than appears upon the surface; it must be that our President is sorely perplexed; indeed, he admits it; but he does not tell us what it is about. Can it be that he has been reading Jean Paul Richter's dream of crashing worlds and has not yet awakened from its magic spell?

Mr. President, the attitude of the Chief Executive of the country is absolutely inexplainable. In his campaign he approved with great vigor this legislation, then before the House. He said nothing to deter his party associates in the Senate, who were about to ratify what the House had done; the policy pursued was supposedly his. He entered the campaign with the purpose firm in mind to permit the coastwise shipping of our country to enjoy the same privileges in Panama which they enjoy on every other waterway over which our flag is supreme.

He was then in harmony with the American purpose and hostile to the further control in any manner by England of the interoceanic canal. Is there any Senator here who doubts that? I should like to ask any of the numerous Senators who voted for the Hepburn bill in the House of Representatives May 2, 1900, or any other Senator here, if he doubts that the passage of that bill in the House of Representatives was distinctly inimical to the convention of 1850, prepared by Mr. Clayton and Mr. Bulwer? It ended all uncertainty and reflected our unalterable purpose to go into this project alone.

What did the old treaty do? Did the treaty of 1850 preclude the American Government from constructing a canal across the Isthmus of Panama? Certainly not. The treaty of 1850 provided that there should be joint supervision and control on the part of England and the United States over any canal built through Central America via Lake Nicaragua and Lake Managua and the Republic of Nicaragua. There is not a line or a syllable in that treaty which binds us at the Isthmus of Panama. Senators who support the administration may frown, but the treaty itself speaks in unmistakable language, and eminent Senators about me give encouragement to my contentions.

In the eighth article of that convention there was a provision that if any other route through the Isthmus of Panama were to be adopted as a means of communication either by water or rail it should be the subject of future negotiations. But there was no provision against our constructing a canal across the Isthmus of Panama. Central America and Nicaragua are not the Isthmus. Central America and Nicaragua have never been treated as the Isthmus by anyone. The Isthmus in 1850 was that territory controlled by New Granada, and New Granada had given the American Government an exclusive right to build a canal or a railroad across it. A little later Mr. Aspinwall and his associates built a railroad across there. Did Great Britain, through its foreign office, ask the United States to fix rules for its operation? No. Was there any treaty made by England and the United States with reference to its control? No. None was proposed and none was made. We were free to do as we pleased and did it unhampered by England. We had no treaty with England regarding the Isthmus of Panama until the second Hay-Pauncefote treaty, now before us, which gives Great Britain only such treatment as is accorded other customers of the United States in the use of the canal. If any Senator here doubts that statement, I invite him to rise and say so. What, will no one venture a contradiction?

The truth is that the only reference made to Panama was in the eighth article of the Clayton-Bulwer treaty, as I said a moment ago, and that article did not bind us with reference to a canal across the Isthmus, but said that if one was built it would be the subject of future discussion between the two countries, and it was not the subject of negotiations between the two countries until 1901, when this treaty was perfected.

What did the distinguished Senator from Mississippi [Mr. WILLIAMS] mean when he voted in favor of the Hepburn bill in the spring of 1900? Did he mean to violate the Clayton-Bulwer treaty without notice or was that act to be the notice? He was not overscrupulous then, and he was not overscrupulous when he voted for free tolls for our coastwise shipping two years ago.

What did my honored friend, the Senator from Nevada [Mr. NEWLANDS] mean when he voted, on the 2d of May, 1900, to pass the Hepburn bill directing the President to proceed with the construction of a canal across Nicaragua? Did the Senator mean to flaunt his Government in the teeth of Great Britain? Certainly, and he has never made an apology for it and never will; he is too intense in his Americanism.

Mr. President, for 25 years nearly everyone has treated the Clayton-Bulwer treaty as a dead letter. Mr. Arthur, while he was President, had made a treaty with Nicaragua giving us the right to construct a canal across Nicaragua in defiance of that treaty. Mr. Frelinghuysen, his Secretary of State, said the treaty had no binding effect; that it had outlived its usefulness; and no claim was seriously made on the part of Great Britain that it had any further legal vitality whatever, and yet there were many strong men who regarded it with awe. The learned Senator from Ohio [Mr. BURTON] was one of these. He struggled manfully to maintain his high standard of national virtue. He had offered an amendment proposing that a commission should be appointed to look over the routes; but we had had several commissions, I believe, up to that time, and the country was tired of them. The country was determined to build that canal in 1900.

We had been through the Spanish-American War and knew the necessity of uniting our Atlantic and Pacific ports without the necessity of going around Cape Horn or through the Straits of Magellan. The country was determined to act, and the desperate attempt of Great Britain to save some little remnant of her influence in whatever canal might be constructed between the two oceans commands my unadulterated admiration. The American people, however, would not stand for delay any longer; and in that situation Mr. Hay was directed to proceed in the new light of American public opinion. The second Hay-Pauncefote treaty was made not in the atmosphere of the convention of 1850, not in the fog of the convention of February, 1900, but in the light of this national declaration upon the part of the popular branch of Congress. In such a situation, is it any wonder that Great Britain should seek to save just as much as she could get out of the wreck of her hopes?

What did she save? She saved neutrality. I think the Senator from Connecticut [Mr. BRANDEGEE] said that neutrality meant that we were all on an equality at the Isthmus. I do not believe the distinguished Senator from New York [Mr. ROOT] indorses that definition of neutrality.

Switzerland and Belgium are both neutral States by contract. Does anybody deny that both Belgium and Switzerland can regulate their domestic affairs in their own way? The fact that they are neutral simply means that they will not pick a quarrel with the other States that have contracted to help maintain their neutrality or show preference between them. That is all. It does not mean a surrender of sovereignty. It means that they have elected to stand neutral between contending forces. It is an alliance of peace, not a declaration of war.

No one doubts that Belgium has absolute control over her domestic affairs, notwithstanding she is a neutral State. Luxemburg regulates her own domestic affairs and is content. Neutrality simply means that where there is a conflict between States which are its friends it will not use military or other force to influence the contest.

John Bassett Moore, in his very able elucidation of this principle, says:

A State is neutral which chooses to take no part in a war; and persons and property are termed neutral which belong to a State occupying this position.

In the name of Heaven, if we contracted to neutralize the canal at the Isthmus as between our customers, are we forbidden to exercise all the rights of sovereignty ourselves? Certainly not. There is no condition of neutrality anywhere which recognizes any such principle in the law of nations. If we were a semisovereign State, if we were controlled by a protectorate, our situation would be vastly different.

Belgium is as distinctly an independent State to-day as the United States of America. Does anyone doubt it? She makes treaties with other nations; she passes her own laws; she ac-

credits her ministers to foreign courts; we accredit our minister to Belgium; and yet Belgium is a neutral State, because she has elected not to war upon her neighbors. We are neutral in our canal among our customers because our customers use the canal under conditions laid down by our Government. That American territory is calm and unvexed and tranquil; it can not become the football of warring nations and be useful to mankind. None of our patrons could enter the canal and do damage there without inviting at once the vengeance of the entire world. We said the canal should be neutralized among our customers; but this duty rests upon ourselves. Our right to protect it and govern it and control it is not challenged anywhere, and we have no constitutional right to surrender this sovereignty. It is little less than insulting for any Senator on this floor to ask us, in the interest of peace, to waive our sovereign rights lawfully acquired on the Isthmus of Panama.

Mr. President, all England saved out of the Clayton-Bulwer treaty was the principle of neutralization and equal treatment with other customers of the canal in the matter of tolls.

My honored friend from Utah [Mr. SUTHERLAND], an able lawyer, with whom I have served for many years, nods his assent to this suggestion. We accord to Germany the same treatment that we do to England by our law now upon the statute books. We are asked to do no more, and American Senators have no right to brief this case for England.

Mr. President, the Senator from Mississippi [Mr. WILLIAMS] seems to be examining my record, or the record of the House of Representatives, made in May, 1900.

Mr. WILLIAMS. Yes; the record of the House, not of the Senator from Michigan.

Mr. SMITH of Michigan. I am very glad he has it, and I am perfectly willing he shall explain to the Senate just how much deference he then showed for solemn foreign contracts.

My friend from Ohio [Mr. BURTON] seems to be agitated about something. [Laughter.] I cheerfully yield if he desires to make an observation; but in what I have to say about the Clayton-Bulwer treaty I acquit him of any ruthless disregard for international conventions.

The truth is that he resisted it with all his might, and he gathered together, as he usually does, a select company of rather distinguished gentlemen who, most of the time, are obliged to satisfy themselves in the minority, and I regret that in this instance his tribe seems to have increased.

If Great Britain had no rights under the Clayton-Bulwer treaty upon the Isthmus of Panama, then she sacrificed none when the treaty was nullified in 1901, and she needs no healing balm now to soothe her anger over certain slights put upon her citizens in our neighboring Republic south of the Rio Grande.

I charged one day, while sitting next to the distinguished Senator from Massachusetts [Mr. LODGE] and the distinguished Senator from New York [Mr. ROOT], that neither one of them could have known about the first Hay-Pauncefote treaty, or they would have counseled Secretary Hay against it, knowing that it could not be ratified in the Senate, and thus he would have been saved the humiliation of seeing his treaty so mangled by the Senate that it was beyond the power of Great Britain to recognize it when it finally reached the British foreign office. The Senator from Massachusetts [Mr. LODGE] said, "Oh, no; you are mistaken. I knew about the first treaty." I said I could not believe that a Senator so wise and so powerful could have known what was then in contemplation. But he did and helped to make it fairly acceptable. I think he reported the treaty to the Senate. That treaty was as objectionable as its earlier prototype and was proposed in the guise of a friendly intermingling of the two English-speaking races. The treaty of Clayton and Bulwer was in defiance of American public opinion. The Senator from Michigan at that time, Lewis Cass, hauled John M. Clayton, of Delaware, over the coals in this body with a vigor and earnestness and an intensity of Americanism which left no room for doubt that Mr. Cass regarded it as a betrayal of our rights.

Is there a Senator in this Chamber now, North or South, East or West, old or young, distinguished or with a reputation yet to make, who believes that the Clayton-Bulwer treaty was a desirable one for the United States? Is there a Senator in this Chamber who would have voted for its ratification if he had been here at that time? Senators, why do not some of you who have been defending its sanctity and significance rise? Is there a Senator in this Chamber who believes that it was conceived in wisdom?

England had been hovering around Central America for more than a hundred years before that treaty was made, seeking strategic points of advantage. Great Britain had asked Spain to give a few English people the right to go down the coast of Central America and cut a few mahogany logs. Spain said they did not want them to do so, because they might seek to assert some sovereign right over the territory, but England said, "No; we just want these people to cut a few logs." They went in there and cut a few logs, and put up a few fences, besides, and in every crisis since 1763, when Spain gave these English woodsmen a license to cut logs on the small islands in Fonseca Bay, Great Britain has fortified her position. In 1783 she disclaimed any ulterior purpose in remaining, and three years later agreed to leave. Even the British House of Lords questioned the justness of the claims of the King, while two acts of Parliament conceded England had no sovereign right or dominion over Honduras, and yet the foreign office persisted in staying there.

Mr. LEWIS. May I interrupt the Senator to ask as to the accuracy of an historical reference made by him?

Mr. SMITH of Michigan. Mr. President, I have known the Senator from Illinois now for a generation; I served with him in the House of Representatives nearly a generation ago. He has known me intimately all this time, and this is the first time in all our acquaintance that he ever questioned my accuracy.

Mr. LEWIS. Then, Mr. President——

Mr. SMITH of Michigan. I am amazed at the Senator from Illinois to thus seek to cast some suspicion upon the historical fact which I have just stated.

Mr. LEWIS. Will the Senator from Michigan allow me to elaborate a little further by asking him the query which I rose to propound, if I do not interrupt his trend of argument?

Mr. SMITH of Michigan. I am very glad to have the Senator interrupt me. I yield cheerfully to the Senator.

Mr. LEWIS. I desire to reciprocate the exquisite sentiment expressed by the Senator. I meant to ask him whether he has not fallen into a slight error of memory.

Mr. SMITH of Michigan. No; I have not fallen into any error.

Mr. LEWIS. The Senator anticipates me. He probably means if he fell into an error before, it was not a slight one.

Mr. SMITH of Michigan. No; I would not admit that; but if the Senator feels that his question is appropriate, I will let it stand.

Mr. LEWIS. I will withdraw the observation that the Senator has himself admitted any former error. Is he not in error as to the position of Senator Cass? My memory of the history is that the Clayton-Bulwer treaty, when it was made a subject of discussion in the Senate, was defended by Mr. Cass and was opposed by Mr. Douglas, the Senator then from Illinois, who had devised for himself a policy known as the American policy, which at that time opposed the execution of the treaty or the entrance upon it, and Mr. Cass, who then represented Michigan, sought to enforce that treaty over the proposition of the Democrat from Illinois, who regarded it as an un-American document.

Mr. SMITH of Michigan. Mr. President, I am very familiar with the attitude of Gen. Cass. The truth about the matter is that Gen. Cass chased Senator Clayton around this Chamber with a cat-o-nine-tails and basted him at every step he took for two or three days; because of his treaty. Mr. Clayton had come to the Senate and was upon equal ground with the Senator from Michigan, and he did it because for the first time he learned that an exchange of notes between Clayton and Bulwer fixed the status of England's claims in British Honduras, and it was a most amazing thing to Senator Cass that an understanding of that kind should have been entered into between the American diplomat and Lord Bulwer. He found great fault with it, and the records of the department indicate that that exchange of notes was so little known that even Mr. Cass with all his shrewdness never knew anything about it until after the treaty was ratified.

Mr. GALLINGER and Mr. THOMAS addressed the Chair.

The PRESIDING OFFICER (Mr. SWANSON in the chair). Does the Senator from Michigan yield, and if so, to whom?

Mr. SMITH of Michigan. Certainly; to the Senator from Colorado.

Mr. THOMAS. I merely wish to state that the Senator's statement concerning Mr. Cass's position is confirmed absolutely by the history of the Clayton-Bulwer treaty, written by Mr. Travers.

Mr. SMITH of Michigan. I am obliged to the Senator from Colorado. I know that Senator Cass did not know about this side agreement between Clayton and Bulwer, and it was upon that that Great Britain maintained her right to occupy British Honduras. The Senator from New Hampshire will pardon me. I yield to him.

Mr. GALLINGER. Mr. President, I may have read the history of that transaction incorrectly, but my recollection is that

Mr. Clayton was very severely criticized because of the part he took in negotiating the Clayton-Bulwer treaty, and for the purpose of defending himself he sought election to the Senate. He was elected, and he had a particular animosity toward Mr. Cass and intended to attack Mr. Cass, but because Mr. Cass was at home in attendance upon his sick wife he then sought Mr. Douglas, who was Mr. Cass's chief lieutenant, and the great debate occurred between Mr. Clayton and Mr. Douglas under those circumstances.

Mr. SMITH of Michigan. Yes; the Senator from New Hampshire, as usual, is entirely correct.

Mr. LEWIS. May I ask the Senator from New Hampshire, whose knowledge of history is so accurate, for a correction of my own view or its confirmation? Am I not right in assuming that Douglas's attitude was one of opposition to that treaty?

Mr. GALLINGER. Absolutely so.

Mr. LEWIS. Such was my impression.

Mr. GALLINGER. It was one of violent opposition to Mr. Clayton's position.

Mr. SMITH of Michigan. As I was saying, when interrupted by the Senator from Illinois, the War with Mexico and our acquisition of California was the signal to Great Britain for a renewal of the claims of sovereignty at Greytown and Belize. She could not take her hands off these two points in Central America, although she had many times promised to do so, and when Lord Palmerston learned of the Granada-Nicaragua concessions and the plans of certain citizens of the United States to go ahead with a canal in 1849, he immediately established a protectorate on the Mosquito Coast to head off the pretenses of adventurous North Americans. This was the situation when Clayton and Bulwer got together.

Mr. President, the most caustic arraignment that I have been able to find of the duplicity of England in matters of treaty obligations was uttered by John M. Clayton, of Delaware, and yet he was caught in her meshes.

Spain urged England to quit Honduras and the Mosquito Coast. I will read what Mr. Fox, the British premier, said about the matter on the 18th of July, 1783, when Spain protested, and protested vigorously, that her sovereignty was interfered with, and that England had designs upon that territory.

"Get the treaty signed, no matter under what cost," is the motto of Britain, and a projected canal across Central America stirred her anew.

Mr. President, that marvelous diplomacy for which Britain is noted is a science. It is not a half-hearted, haphazard game of chance. Each succeeding head of the foreign office takes up the game where the last actor left it. It is a science, and each prime minister in England contributes his full share toward the perfection of her diplomacy. That she did not have her own way finally at Panama is no fault of her system; every semblance of virility and genuine Americanism, or, as Representative UNDERWOOD, of Alabama, says, we yield to the "un-American spirit of surrender."

President Wilson says in his message that he wants this done, "right or wrong." Why? To palliate Great Britain? Yes; although she has never asked us to give up the right of sovereignty in that canal. There can be no answer to the splendid argument of the senior Senator from Iowa [Mr. CUMMINS] upon that point; he tore that futile contention into shreds the other day by unanswerable argument.

I would not say anything to reflect upon the President of the United States. He is evidently a cultured and well-meaning man, but he has not the experience, foresight, or the courage of some of his predecessors or he would not have fallen into this grievous and unnecessary error.

Mr. President, his attitude on the tolls question may have been comforting to Great Britain, but it can not be otherwise than disappointing to the people of our country. What caused him to make that utterance? I wish I could give my impression of what drove him to such desperate straits, for I have very pronounced views upon the subject. They were gathered in the presidential presence while sitting as a member of the Committee on Foreign Relations. Other Senators sitting near me were there. I think I know why he took this step, but, of course, I can not in fairness reveal it; I may, however, with perfect propriety say what is common knowledge to us all, that he was undoubtedly moved to this action by an acute situation at that time existing in Mexico and as a result of a visit of the officers of a Japanese battleship to Gen. Huerta at Mexico City. That visit close upon the heels of a British protest for wrongs inflicted upon her citizens and unavenged by us aroused the keenest suspicions in this Capital, and the presence of a Japanese battleship at Vera Cruz did not accord with our policy of "watchful waiting."

The Senator from Mississippi [Mr. WILLIAMS], sitting near me, and the Senator from Utah [Mr. SUTHERLAND], sitting near me, I think, were both present at that conference, when for the first time the President indicated his intention to ask for repeal of the free-tolls law. What was the mysterious message? I should like to have the historical facts known. I did not hear it all read, but that night decided the fate of this bill. Congress was soon asked to repeal this law. I protested to the President against it, as did other Senators, and said if a future Congress reasserted the principle he would ask us to repeal. England would then have a grievance against us which did not exist at that moment. But the President was in trouble, and I was there reminded of a former occupant of the White House, who, when the French were upon the soil of Mexico, when their menacing guns sought to assert authority over a sister Republic in the Western Hemisphere, when France was begging the United States to recognize belligerency, that President Lincoln firmly said, "I can not do it; I will not do it; you must leave Mexico." Over and over again France begged Mr. Lincoln, as he was upon the verge of a war in his own country, to yield; but with all the burdens that were then upon him, he still had courage enough and fortitude enough and red blood enough to assert an American doctrine in the face of possible international complications, and it was the insistence of Mr. Lincoln that drove the French out of Mexico and kept the Monroe doctrine inviolate.

When the great French soldier De Latour D'Auvergne was the hero of many battles, but remained by his own choice in the ranks, Napoleon gave him a sword and the official title "the first grenadier of France." When he was killed the Emperor ordered that his heart should be intrusted to the keeping of his regiment and that his name should be called at every roll call; that his next comrade should make answer, "Dead upon the field of honor." So, Mr. President, with our martyred and immortal Lincoln, so long as the world lasts, some one of God's creatures, somewhere, in hovel or palace, on mountain or plain, will answer to his name, "Dead upon the field of glory."

Mr. President, I saw the entire diplomatic corps accredited to this Capital go to the White House in 1898 to beg of President McKinley not to go to war with Spain. The press and the country were aroused to a high degree of anxiety over the protest of these foreign powers. I remember distinctly when they entered the front door of the White House; I saw them there. The significance of their visit was reflected in this Chamber, not so much in the other Chamber, where I was then a member of the Committee on Foreign Affairs, as was my friend from Mississippi [Mr. WILLIAMS]. I heard Senators say "We are courting international trouble." The disposition of Spain's colonies had aroused anxiety. The nations of Europe had had their eyes on Cuba for a hundred years. England and France, in 1852, prepared a tripartite agreement, under which they asked the United States to assist in the perpetual government of Cuba for all time. When the British foreign office was asked about their anxiety with reference to Cuba, the Earl of Malmesbury replied "that the nation possessing Cuba might either protect or obstruct the commercial routes from one ocean to the other." Spain was being hard pressed by her creditors then, but the United States refused to enter into such an arrangement, the President saying that "the convention proposed would be viewed with disfavor by the United States Senate." Think of it, Senators! President Fillmore actually consulted the wishes of this body! How strange and ancient that practice has become! War with Spain now became inevitable. Senator Proctor's simple story of wrong and suffering brought the country to a realization of its duty, and the crimes committed by Spanish rulers could not longer be tolerated, while the destruction of the *Maine* inflamed the public mind to the fighting point.

What do you think President McKinley said when all of these diplomats went to the White House and begged him to desist? Do you think that he convened Congress in joint session and told it to undo some American policy forthwith, "right or wrong"? Did William McKinley call the two Houses together and then propose to them that we should yield up some measure of our national sovereignty in "ungrudging measure" in support of the foreign policy of the administration lest he should "not know how to deal with other matters of even greater delicacy and nearer consequence"? No! A thousand times no! President McKinley looked these ambassadors straight in the eye and said to them: "Gentlemen, this is very courteous and thoughtful of you, but this is an American matter, and we will attend to it ourselves." And the diplomatic corps took their hats and returned to their embassies and their legations. We, the representatives of the people, proceeded here in this Capitol to draft a joint resolution fixing the purpose and the policy of the

American Government with reference to Spain in this hemisphere. I was here when President Cleveland called England to book for her pretensions in Venezuela, and the country rang with his praise.

My mind also goes back to the time when Perdicaris was held in bondage by a Tangier bandit. President Roosevelt did not wait to consult the convenience of bandits or what the effect would be on a personal foe, but he sent a cablegram to our consul general at Tangiers, saying "I want Perdicaris alive or Raisuli dead." Shades of Benton, upon what strange times have we come? Benton murdered, Americans slaughtered, and no reparation demanded in our name, because, forsooth, Villa is engaged in a holy cause. The Americanism of Lincoln and Cleveland, McKinley and Roosevelt cries out in despair; while they were in the presidential chair the standing of an American citizen in any part of the world was never questioned.

But President Wilson, in order to compose certain differences growing out of Mexican affairs, which have been made more complex by his halting and hesitating policy, calls us together immediately after the officers of a Japanese battleship paid a visit to Gen. Huerta, and asks us to surrender up a part of our sovereignty in the canal which we have just built across the Isthmus of Panama in the interest of peace, "right or wrong."

Why, Mr. President, we could have gone on and built that canal, just as my friend the Senator from Mississippi [Mr. WILLIAMS], and the Senator from Nevada [Mr. NEWLANDS], and the Senator from Colorado [Mr. SHAFROTH], and the Senator from Alabama [Mr. BANKHEAD], and the Senator from Virginia [Mr. SWANSON] wanted to do it in May, 1909. If those Senators believed as they then acted, why do they not vote as they believe now?

I do not know whether I have made my point clear, but nowhere in the Clayton-Bulwer treaty were we inhibited from building the Panama Canal; article 8 only provided that if we decided to go that way, rather than across Nicaragua, where England had territory, it would be the subject of future negotiations. I am very sure I am right about that. If there is any Senator here who thinks I am not right about it, I will cheerfully yield to him.

Mr. WILLIAMS (to Mr. SMITH of Michigan). Read the clause and you will find that you are wrong.

Mr. SMITH of Michigan. I will read the clause of article 8 I ask the Senator from Mississippi, is not that the only article that refers to Panama?

Mr. WILLIAMS. No; the whole treaty applies to a canal anywhere across the Isthmus.

Mr. SMITH of Michigan. Well, you evidently did not think so in May, 1900. I will see about that.

The United States of America and Her Britannic Majesty—

Begins the treaty—

being desirous of consolidating the relations of amity—

And so forth. I do not want to read it all, but in the first line of the first article of the treaty it is provided:

The Governments of the United States and Great Britain hereby declare that neither the one nor the other will ever obtain or maintain for itself any exclusive control over the said ship canal—

What is "the said ship canal"? A—

ship canal which may be constructed between the Atlantic and Pacific Oceans by the way of the River San Juan de Nicaragua and either or both of the lakes of Nicaragua or Managua, to any port or place on the Pacific Ocean.

That is what the treaty says.

Mr. WILLIAMS. From what treaty is the Senator reading?

Mr. SMITH of Michigan. I am reading from the Clayton-Bulwer treaty.

Mr. WILLIAMS. I thought the Senator was referring to the Hay-Pauncefote treaty.

Mr. SMITH of Michigan. I repeat:

The Governments of the United States and Great Britain hereby declare that neither the one nor the other will ever obtain or maintain for itself any exclusive control over the said ship canal, agreeing that neither will ever erect or maintain any fortifications commanding the same or in the vicinity thereof, or occupy, or fortify, or colonize, or assume, or exercise any dominion over Nicaragua, Costa Rica, the Mosquito Coast, or any part of Central America.

Where is there in that language any inhibition upon the right of the United States to build a canal in some other place than in the territory described? Where is there in this treaty any inhibition against our Government building a canal or other means of communication at any other place than the places mentioned, namely, Nicaragua, Costa Rica, the Mosquito Coast, or any part of Central America? Central America is not the Isthmus of Panama, it has no political connection with the Isthmus of Panama, and it had not at the time this treaty was made in 1850. England had rights in Nicaragua; and those rights she was protecting, but she had no rights in Panama. Article 8 does provide that the United States and Great Britain—

hereby agree to extend their protection by treaty stipulations to any other practicable communications, whether by canal or railway, across the isthmus which connects North and South America.

But that does not rise to the dignity of a contract. An agreement to agree is not an agreement. We said we would enter into future negotiations, but we were never asked to do so. An American railroad was constructed across the Isthmus and operated for more than 40 years without the slightest interference upon the part of Great Britain in the American right to regulate and control it.

No, Mr. President, England had a very bad case in the estimation of the House of Representatives in May, 1900. England was in a very trying situation in 1901, and she devoted herself to the purpose of getting what little she could out of it. She got the principle of neutralization, which only means that we will stand apart from her controversies; and she got equality of tolls among our customers, never questioning our right to prefer our own ships in our own way. May I ask Senators this plain, direct, and simple question: If the construction now placed upon this treaty by the Senator from Georgia [Mr. SMITH], with his great learning and ability, and by other Senators upon the other side of the Chamber, had been the construction placed upon the treaty when we were providing the money to build the canal, would there have been a dollar appropriated for its construction?

If we were considering now de novo the question of building a canal across the Isthmus of Panama under the strained construction which is sought to be given to our treaty rights, would Senators vote the money necessary to build it? I think not.

I was among those who voted the first money to build the canal. I would not have voted five cents to build it under the construction now placed upon our rights by the President. Oh, no, Mr. President, the truth is that the Chief Executive has been unduly alarmed by an acute but temporary situation in one of our neighboring Republics. He has been somewhat overanxious about the attitude of certain European and oriental States with reference to that controversy, and in his dilemma is seeking an ally to compose those differences. If Mr. Lincoln had taken the same course, he would have pleased France and England, for England came with France to Mexico just before the Civil War, but when she found the purpose of Maximilian's soldiers England withdrew. President Lincoln could see through the thinly veneered plans of these European States.

Mr. LEWIS. Mr. President, does the Senator from Michigan intimate that the President of the United States is seeking to make an ally of England, and, to compensate her for an alliance, is seeking to surrender a right of the American Government?

Mr. SMITH of Michigan. If that idea has been suggested, the Senator from Illinois is entitled to the credit for it, for he is the only man that ever made that statement on this floor.

Mr. LEWIS. Does the Senator from Michigan say to me that I ever made that statement?

Mr. SMITH of Michigan. I do. Standing in his place a few weeks ago the Senator stated that, at the risk of offending somebody, he was going to speak the truth, though it slew him, or something to that effect. The Senator then filled the air with dire prophecy about our relations to the outside world, creating undue alarm in our own country.

Mr. LEWIS. Mr. President, I desire, if I am not interrupting the Senator——

Mr. SMITH of Michigan. The Senator is interrupting me, and I am sorry that he persists in doing it, because I am very weary.

Mr. LEWIS. I want to give the Senator now a little rest by asking him to pause for a moment.

Mr. SMITH of Michigan. I would rather have the Senator speak in his own time, if he will permit me.

Mr. LEWIS. No; at this particular time I must correct the statement of the Senator, for he has inadvertently placed upon my statement a construction which I assure him can not be placed on any statement which has ever fallen from me in this place.

Mr. SMITH of Michigan. Does the Senator want me to read what he said?

Mr. LEWIS. No; my memory is accurate, my conduct has been just, and I have no reason for forgetting it.

Mr. SMITH of Michigan. Very well; I will not read it now.

Mr. LEWIS. I will recall it to the Senator, if he will permit me. The Senator said, if I understood him, that I in my place had said that I would take an opportunity to disclose the truth though it wrecked me, or something of that sort.

Mr. SMITH of Michigan. As a matter of fact, the Senator quoted from Shakespeare, and just at this moment the quotation does not come back to me.

Mr. LEWIS. The Senator is confirming me in what I said, that his memory is inaccurate as to this matter; but I am not seeking——

Mr. SMITH of Michigan. Oh, do not take unfair advantage of my courtesy.

Mr. LEWIS. It is impossible for my feeble mind to assail the eminent Senator's argument.

Mr. SMITH of Michigan. If it falls of its own weight, I ask the Senator to let it alone. Why does the "galled jade wince"? If I am not saying anything that impresses the Senator, why not let me go ahead unheeded?

Mr. LEWIS. I desire to say to the Senator that the "galled jade" does not wince because my withers are not unwrung.

Mr. SMITH of Michigan. Mine are pretty nearly wrung, but the Senator may proceed.

Mr. LEWIS. I wish to correct the impression the Senator has unhappily created, that I had said somewhere something from which the deduction can be drawn that there has been an alliance between this country and England, or between the President and England, touching the Panama Canal.

The PRESIDING OFFICER. Does the Senator from Michigan yield to the Senator from Illinois?

Mr. LEWIS. I desire to say that the able Senator is quite in error.

The PRESIDING OFFICER. Does the Senator from Michigan yield to the Senator from Illinois?

Mr. SMITH of Michigan. I am reminded by my colleague [Mr. TOWNSEND], who also heard the same statement, that the Senator said, "I will speak to thee though it blast me."

Mr. LEWIS. That is from Mr. Hamlet.

Mr. SMITH of Michigan. Well, I did not know Hamlet personally, but I think what the Senator said blasted him. [Laughter.]

The PRESIDING OFFICER. Does the Senator from Michigan yield to the Senator from Illinois?

Mr. LEWIS. I do not want to interrupt the Senator. I have just a word to say, and then I will not interrupt further. That is, the Senator is in error, unhappily for lack of memory, as to any assertion from me——

Mr. SMITH of Michigan. I am responsible for my errors.

Mr. LEWIS. Yes; I am not intimating that the Senator is not responsible.

Mr. SMITH of Michigan. I do not want the Senator to become chronic in his faultfinding; it would be contrary to his true nature.

Mr. LEWIS. I merely want to make this observation——

The PRESIDING OFFICER. Does the Senator from Michigan yield to the Senator from Illinois?

Mr. SMITH of Michigan. I do not yield.

The PRESIDING OFFICER. The Senator from Michigan refuses to yield. The Senator from Illinois will please take his seat.

Mr. LEWIS. I simply wish to say——

Mr. SMITH of Michigan. I do not want to yield further now.

Mr. LEWIS. I simply wish to say that the Senator is in error in assuming that any remark of that kind was made by me.

The PRESIDING OFFICER. The Senator from Michigan refuses to yield.

Mr. SMITH of Michigan. I wish to say that I shall look up the quotation accurately before I print my remarks to-night, and if I find that the Senator from Illinois did not horrify the peaceful feelings of this Chamber by a reference to our diplomatic chaos I will take my statement out of the RECORD.

Mr. LEWIS. I referred to the diplomatic situation, but I am talking now about the Senator's reference to an "alliance between the President and England."

Mr. SMITH of Michigan. I did not say there was any alliance between the President and England.

Mr. LEWIS. Or that he sought such.

Mr. SMITH of Michigan. I did not say that.

Mr. LEWIS. Then I misunderstood the Senator.

Mr. SMITH of Michigan. But I will tell the Senator from Illinois that Senators of his party, when the first Hay-Pauncefote treaty came here, had no hesitation in saying that there was an alliance between President McKinley and England. Does the Senator deny that? I have heard it over and over again.

Mr. O'GORMAN. Mr. President——

The PRESIDING OFFICER. Does the Senator from Michigan yield to the Senator from New York?

Mr. SMITH of Michigan. Certainly.

Mr. O'GORMAN. Simply to confirm the recollection of the Senator, I wish to say that a reference to the Democratic national platform of 1900 will show a condemnation of the Government respecting its proposed treaty with Great Britain at that time.

Mr. SMITH of Michigan. Mr. President, I thank the Senator from New York. Democratic platforms usually reflect the passing gloom. I have such high respect for my friend from Illinois that I do not wish to put him in a wrong light, and I know he does not wish to put me in a wrong light. I do say that when the first contract between Hay and Pauncefote was made it was generally believed throughout the country that an alliance had been made between Great Britain and the United States; and it was only the independence and fortitude and courage of Senators, some of whom are in my presence at this moment, that saved us from a most humiliating spectacle with reference to that treaty.

Is there a Senator on this floor who would vote for the first Hay-Pauncefote treaty now? Not one; not one. Why do they vote to repeal this law? Not because it is the habit of our fellow Senators upon the other side to give up anything, ordinarily, but because they have been commanded to do it, "right or wrong," in the interest of that "larger but undefined policy" wrapped up in the presidential bosom. What must we surrender next? What is the next thing for us to give up in the interest of peace? Are you going to surrender the canal just upon the eve of our celebration of its completion, when our hearts are filled with pride over the magnitude of that accomplishment, after all the money for its construction has been raised out of the pockets of the American people; and, now, do you propose to turn over to Great Britain its joint control for all future generations of men? Shame! Shame!

What will the doctor do next? I do not think he is a good diagnostician. If you stub your toe, I should expect him to doctor your brain.

Are we alone in the world? Have we no friends among the great family of nations? There was a time when our friends could be numbered in every part of the world. If we have lost them, we have lost them because we have not treated them all alike, large and small. We have not had one undeviating rule. We have been bungling and stumbling for over a year, and to-day, if we stand alone, our isolation is preferable to buying temporary allies at public expense.

Mr. GALLINGER. Mr. President——

The PRESIDING OFFICER. Does the Senator from Michigan yield to the Senator from New Hampshire?

Mr. SMITH of Michigan. I do.

Mr. GALLINGER. Does the Senator think, or has the Senator any reason to suppose, that we have lost the traditional friendship of Russia or France or Germany because of anything we have done up to the present time?

Mr. SMITH of Michigan. Mr. President, in answer to the direct inquiry of the Senator from New Hampshire, I am obliged to say in truth that we passed laws in open defiance of Russia; we have offended her to the heart—Russia, which had been our friend in time of greatest need. When the diplomacy of our country could not stop the construction of British privateers for use against us in the War of the Rebellion, when the voice of our ambassador at the Court of St. James was powerless, the voice of Russia was heard in our defense, and had much to do with stopping the work upon British privateers and turning the tide of battle in our favor. I speak of this because I know it from the lips of one of the most eminent divines who ever graced the pulpit in God's service to humanity. I heard Dr. T. De Witt Talmage say—in fact, he told it to me, not in confidence, but with pride—that the old Emperor of Russia told him the contents of the sealed orders which he gave his admirals when they started for American waters at a critical time in our national existence, when British interference in behalf of the South seemed to have gone to the danger point, that Russian battleships should fire upon any foreign foe that attempted to interfere with the Government of Abraham Lincoln.

I say this in memory of my beloved friend Dr. Talmage, whom I knew intimately in his lifetime. He told me this upon his return from Russia, where he was the honored guest of the old Czar Nicholas for many days, and I never have forgotten it. Russia does not have to do over and over again courtesies for this country to deserve our good will and obtain, at least, fair treatment for herself in matters of international concern.

No, Mr. President; I can not say that there is no feeling of ill will toward us. I will say to the Senator from New Hampshire that I do not believe it is very strong against us. The American traveler formerly found everywhere a feeling of cordiality and good will toward our country, but we were then, however, pursuing an American policy and treating the world justly and fairly—no entangling alliances, no enemies to punish. Our laws were uniform, and special favors were few.

I think favoritism a mistaken policy of government, the breeding ground of jealousy and hate. The teachings of the great Virginia sage and father of our country still ring true to the spirit of our institutions. No matter what the President says, the world is not united against us on this matter. I indorse all that was said the other day by my honored friend from Iowa [Mr. CUMMINS]. I do not believe there is on record with the President of the United States a protest from any Government in the world against our policy at Panama, except the half-hearted and weak protest which Mr. Innes made in behalf of Great Britain, largely because he was asked to do it by the premier of Canada.

Mr. CUMMINS. Mr. President——

The PRESIDING OFFICER. Does the Senator from Michigan yield to the Senator from Iowa?

Mr. SMITH of Michigan. Certainly.

Mr. CUMMINS. The Senator from Michigan does not quote me with absolute accuracy.

Mr. SMITH of Michigan. I did not mean to quote the exact words of the Senator.

Mr. CUMMINS. I said that I knew of no protest from any nation, including Great Britain, challenging our right to exempt our coastwise traffic from the burden of tolls through the Panama Canal. There is a very emphatic protest against our right to give the President authority to discriminate in favor of our foreign shipping.

Mr. SMITH of Michigan. Mr. President, that is the statement I desire to approve. If there is any such protest I think we ought to have it. We are entitled to have it. The Vice President and the Speaker of the House were entitled to it. The Committee on Foreign Relations were entitled to it.

I do not think, however, that England contemplated quarreling with us over the tolls matter. I think she was asked to do this by Canada. It is a singular thing, but it is the truth, that Mexico upon our south and Canada upon our north—Mexico with probably fourteen or fifteen million people and Canada with nearly 10,000,000 people—are exercising more influence over the internal affairs of the United States of America than the rest of the world.

The other day I interrupted the Senator from Oregon [Mr. CHAMBERLAIN] and stated my impression that Canada had initiated this entire proceeding, and now I am going to give the reason for the charge.

I quote from a cable:

London, July 4, 1912—

We passed that law on August 24, 1912.

PREMIER BORDEN IN LONDON—THREE CANADIAN MINISTERS WITH HIM—MUCH INTEREST IN THE VISIT.

LONDON, *July 4, 1912.*

Robert L. Borden, the Canadian premier, with his colleagues, J. D. Hazen, minister of marine; C. J. Doherty, minister of justice; and L. P. Pelletier, postmaster general, arrived here this afternoon * * *.

Mr. Borden is the most heralded colonial visitor to come to London for years. The press and public are making much of his pronouncement, "I stand for a great navy," which is interpreted to mean that Canada is prepared to make a handsome contribution to the British Navy in the shape of two more dreadnaughts. * * * Among the many subjects to be discussed between the Canadian statesmen and the British Government is the proposal of the Senate committee in Washington that no ship owned by a railroad shall be allowed to use the Panama Canal.

Before returning to Canada Mr. Borden intends to visit Paris to discuss trade relations with the French Government, and the question of steamship connection between Canada and France.

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[From the New York Times, Friday, July 5, 1912.]

ENGLAND ASKS CANAL BILL DELAY—REQUESTS THAT LEGISLATION BE HELD UP PENDING A FORMAL NOTE—MAY OBJECT TO TOLLS—ACTION SAID TO BE UNPRECEDENTED—BILL EXPECTED TO PASS AT THIS SESSION.

WASHINGTON, *July 10, 1912.*

* * * The notification from the British embassy that there was a desire to have the matter considered diplomatically was received this afternoon by mail from Michell Innes, the chargé of the embassy, who is spending the summer at Kineo, Me. Mr. Huntington Wilson, the Acting Secretary of State, promptly sent a note to Senator BRANDEGEE, chairman of the Senate Committee on Interoceanic Canals, informing him of the new turn in Panama Canal affairs, and submitted to him precisely as he had received it the request of the British Government.

The canal bill is now before Mr. BRANDEGEE'S committee and has the prospect of prompt consideration and a favorable report within a very few days.

The British request came probably just in the nick of time, if it is to have the effect of delaying consideration * * *.

It is a fair guess that study of the question has tended to satisfy the British diplomats that the case is not a foregone conclusion for the British contention, and the best way to hold ground is to take it early in the game by a protest, even at the risk of the charge of interfering in our internal affairs.

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[From the New York Times, Thursday, July 11, 1912.]

ENGLAND A MEDDLER IS WASHINGTON VIEW.

WASHINGTON, D. C., *July 11, 1912.*

* * * It is understood that Ambassador Bryce discussed the matter of canal tolls with Count Bernstorff, the German ambassador, and Mr. Jusserand, the French ambassador, several months ago.

(Afraid of California interference with West India fruit railroad ship has provoked the opposition of Great Britain.)

[From the New York Times, Friday, July 12, 1912.]

LONDON, *July 12, 1912.*

London Times editorial says submit to arbitration.

Morning Post editorial commenting on the same subject hopes that the British Government will stand firm in defense of the shipping interest of the Empire.

LONDON, *Friday, July 12, 1912.*

There are other points, however, about which the British foreign office, through the embassy at Washington, has addressed the United States Government; and since the arrival here of the Canadian premier, Mr. Borden, the question of the regulations in regard to steamers owned by railroads has been taken up; Canada has protested to the home Government on the ground that these regulations are inimical to her interest.

Senators, Senators, has it come to the point where our nearest neighbor on the north is to dictate our relations with England? We have always been kind to Canada. We have always been indulgent with her. She is our neighbor. I live near her border. In the name of all that is good, however, are they to influence England's course toward us? Must all our relations revolve around Canada?

O Senators, Senators, is it possible that we must now back somersault for the edification of the diplomatic world? We were asked to submit to arbitration, yet with hot foot Senators would have us hastily do the Executive will.

Mr. TOWNSEND. Will my colleague yield to me for a moment?

Mr. SMITH of Michigan. Certainly.

Mr. TOWNSEND. In connection with what my colleague is saying it might be well to understand also that at the time the bill of 1912 was being considered by the Senate Committee on Interoceanic Canals a representative of the Pacific Mail Co., which is owned by the Union Pacific Railroad Co., was before that committee most of the time. He was contending against the provision that would prevent railroad-owned boats going through the canal. After it was determined that the provision was going to be included in the bill he is reported to have gone to Canada and from there to England, and a statement was circulated that he was in that country at the time this contest over the Canadian Pacific Railroad was presented to Great Britain.

Mr. SMITH of Michigan. I am obliged to my colleague. He has contributed a most valuable piece of historical information at this point, and I thank him for it. The London Times says, "Submit to arbitration"; administration Senators say, "Pass the bill"; while distinguished Senators who sympathize with England put their propaganda before the British public.

Our tolls are so generous that the income will barely pay the annual expense of operation, while Great Britain imposes tolls for the use of the Suez Canal sufficient to pay the expense of operation and large dividends to the stockholders, of which she is the principal one. French money built the Suez Canal, but on its completion English money held control and dominated it.

Mr. CUMMINS. Mr. President——

The PRESIDING OFFICER. Does the Senator from Michigan yield to the Senator from Iowa?

Mr. SMITH of Michigan. Certainly.

Mr. CUMMINS. In connection with the statement just made by the junior Senator from Michigan [Mr. TOWNSEND], it ought not to be forgotten that in Lord Grey's letter, which fully developed the British position, he said:

I assume that the provision in the canal act excluding railroad-owned or railroad-controlled ships from the canal does not apply to the Canadian railroads.

Mr. SMITH of Michigan. When?

Mr. CUMMINS. That happened in November, I think, 1912. "If that part," said he, "of the act does apply to Canadian railroads, Great Britain will have something more to say to the United States." I recall that to the attention of the Senator from Michigan to ask him whether, in his opinion, if he has given study to the question, that part of the act does apply to the Canadian railroads, and to remind him of what I said the other day about it, that there is no question but that the Canadian Pacific and the Grand Trunk Railroads are both described by the bill.

Mr. SMITH of Michigan. There is some doubt about the meaning of the law; other Governments do not accept the Senator's interpretation.

Now, see what we have done. We have forbidden American railroad-owned vessels from going through the canal, have we not? Did the Senator vote for it? We have allowed railroad-owned vessels under the British flag to go through the canal. There is not a Grand Trunk or a Canadian Pacific Railroad owned vessel that can not pass through that canal under the law as it now stands. In other words, it makes a great deal of difference whether the railroad-owned boat flies the British flag or the American flag. We may keep our commerce from the enjoyment of unrestricted privileges at Panama, but we can

not enforce the same rule against railroad boats owned in England, Germany, or France. There is no law on the statute books—one can not be passed—which will reach a railroad-owned vessel under a foreign flag. What becomes of equality of treatment among your customers when you can do that? The Canadian Pacific and the Grand Trunk may send their ships through this canal at pleasure, but American railroad-owned vessels must continue to go around Cape Horn.

Mr. O'GORMAN. Mr. President——

The PRESIDING OFFICER. Does the Senator from Michigan yield to the Senator from New York?

Mr. SMITH of Michigan. I do.

Mr. O'GORMAN. The Senator has now spoken for several hours and has not quite completed his observations. I understand it is the desire to occupy a brief time with an executive session.

Mr. SIMMONS. Will the Senator from New York yield to me for a moment?

Mr. O'GORMAN. Yes.

Mr. SIMMONS. I desire to perfect the amendment which I offered to-day so that it may appear in the RECORD in its perfected form. There is a mistake in the amendment. I had it ratified, speaking of the treaty of the 18th of November, 1901. That was the day when it was signed in duplicate. It should read ratified the 21st day of February, 1902, and between the word "to" and the word "exempt" I wish to add "discriminate in favor of its vessels by exempting."

Mr. GALLINGER. The Senator will have the amendment printed?

Mr. SIMMONS. I am offering it so that it may be printed in its perfected form.

The PRESIDING OFFICER. The correction suggested by the Senator from North Carolina will be made, and the amendment as modified will be printed.

Mr. SIMMONS's amendment as modified is as follows:

Provided, That the passage of this act shall not be construed or held as a waiver or relinquishment of any right the United States may have under the treaty with Great Britain, ratified the 21st day of February, 1902, or otherwise to discriminate in favor of its vessels by exempting the vessels of the United States or its citizens from the payment of tolls for passage through said canal, or as in any way waiving, impairing, or affecting any right of the United States under said treaty, or otherwise, with respect to the sovereignty over or the ownership, control, and management of said canal and the regulation of the conditions or charges of traffic through the same.

Mr. JONES. Mr. President——

The PRESIDING OFFICER. Does the Senator from Michigan yield the floor?

Mr. SMITH of Michigan. No; I do not yield the floor.

The PRESIDING OFFICER. Does the Senator from Michigan yield to the Senator from Washington?

Mr. WILLIAMS. Has the Senator from Michigan yielded the floor?

Mr. SMITH of Michigan. I do not yield the floor, but I would do so for a recess or an executive session. I am tired, and if I may be permitted to resume my remarks in the morning, I shall not take long. I would prefer to do that.

Mr. WILLIAMS. Mr. President, we have had about three weeks of this debate, and it is about time that we were getting through with it somehow.

Mr. SMITH of Michigan. I will not finish until to-morrow, Mr. President. I have the floor.

Mr. WILLIAMS. I thought the Senator had yielded the floor. If so, while on my feet——

Mr. SMITH of Michigan. If the Senator wants me to go ahead, I will proceed.

Mr. WILLIAMS. I wish to make a few remarks in response to some of the historical references——

Mr. SMITH of Michigan. All right; the Senator can do that to-morrow.

Mr. WILLIAMS. I do not see any reason for taking a recess in order that either one of us may speak.

Mr. SMITH of Michigan. I will go ahead to-night if the Senator wants me to proceed.

Mr. WILLIAMS. I would rather agree with the Senator that we shall vote.

The PRESIDING OFFICER. The Senator from Michigan has the floor.

Mr. SMITH of Michigan. I thought I was to yield for the purpose of an executive session.

Mr. SHIVELY. Do I understand that the Senator from Michigan does not desire to complete his speech this afternoon?

Mr. SMITH of Michigan. I did intend to complete it. If I am delaying Senators——

Mr. SHIVELY. I do not think there is any objection to the Senator concluding to-morrow.

Mr. SMITH of Michigan. I would prefer to finish my remarks to-morrow. I will not take a long time. If a short executive session or anything else is desired, I will yield the floor for that purpose.

Mr. O'GORMAN. I supposed a motion was to be made for an executive session. I wish to move that the Senate take a recess until to-morrow at 11 o'clock.

Mr. JONES. Will the Senator yield to me?

Mr. WILLIAMS. Mr. President——

The PRESIDING OFFICER. To whom does the Senator from Michigan yield, or does he yield the floor?

Mr. SMITH of Michigan. I will move that the Senate take a recess until to-morrow at 11 o'clock.

Mr. SHIVELY. Pending that, I move that the Senate proceed to the consideration of executive business.

Mr. OWEN. Mr. President, before that is disposed of, I move, as a substitute, that the Senate take a recess until 8 o'clock to-night.

Mr. WILLIAMS. I second the motion. I do not believe the motion is debatable; but it is time we were getting through with this measure, sometime, somehow.

Mr. SMITH of Michigan. I withdraw my motion.

The PRESIDING OFFICER. The Chair understands that the Senator from Indiana [Mr. SHIVELY] moves an executive session, and that has precedence over a motion for a recess.

Mr. WILLIAMS. I understood that the Senator from Oklahoma had moved that we take a recess until 8 o'clock this evening.

The PRESIDING OFFICER. The motion for an executive session has precedence over a motion for a recess.

Mr. OWEN. I understood that the Senator from Indiana [Mr. SHIVELY] made his motion subject to the disposition of the previous motion.

Mr. SHIVELY. I did not. I said pending that motion I would move an executive session.

Mr. GALLINGER. Regular order!

The PRESIDING OFFICER. The regular order is demanded.

Mr. SMITH of Michigan. Mr. President, a parliamentary question. I desire to give notice that if the motion of the Senator from Indiana is adopted I shall expect to proceed briefly with my remarks to-morrow morning.

The PRESIDING OFFICER. The Senator from Michigan has the floor and the Chair will recognize him to conclude his remarks when the bill comes up to-morrow.

EXECUTIVE SESSION.

Mr. SHIVELY. I ask for a vote on my motion.

The PRESIDING OFFICER. The Senator from Indiana moves that the Senate proceed to the consideration of executive business.

The motion was agreed to, and the Senate proceeded to the consideration of executive business. After nine minutes spent in executive session the doors were reopened.

PETITIONS AND MEMORIALS.

Mr. KERN presented petitions of sundry citizens of Solsberry and Newark, in the State of Indiana, praying for national prohibition, which were referred to the Committee on the Judiciary.

He also presented memorials of sundry citizens of Indianapolis, Fort Wayne, and Terre Haute, all in the State of Indiana, remonstrating against national prohibition, which were referred to the Committee on the Judiciary.

Mr. PAGE presented a petition of sundry citizens of Burlington, Vt., praying for national prohibition, which was referred to the Committee on the Judiciary.

Mr. BURLEIGH presented petitions of sundry citizens of Brewer, Me., praying for national prohibition, which were referred to the Committee on the Judiciary.

Mr. WEEKS presented a petition of the Board of Aldermen of Malden, Mass., and a petition of the City Council of North Adams, Mass., praying for the enactment of legislation to grant pensions to civil-service employees, which were referred to the Committee on Civil Service and Retrenchment.

Mr. OWEN presented petitions of sundry citizens of Cushing, Lawton, Avard, Crescent, Tulsa, and McAlester, all in the State of Oklahoma, praying for national prohibition, which were referred to the Committee on the Judiciary.

PURCHASE OF STATUE OF GEORGE WASHINGTON.

Mr. LEA of Tennessee, from the Committee on the Library, to which was referred the bill (S. 5429) for the purchase of two bronze copies of the original marble portrait statue of George Washington, reported it without amendment and submitted a report (No. 585) thereon.

PENSION APPROPRIATIONS.

Mr. SHIVELY, from the Committee on Pensions, to which was referred the bill (H. R. 15280) making appropriations for the payment of invalid and other pensions of the United States for the year ending June 30, 1915, and for other purposes, submitted a report (No. 586) thereon.

BILLS INTRODUCED.

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. BANKHEAD:

A bill (S. 5759) for the relief of James Keith, jr., administrator (with accompanying papers); to the Committee on Claims.

By Mr. THOMAS:

A bill (S. 5760) granting an increase of pension to Elizabeth McKeever (with accompanying papers); to the Committee on Pensions.

By Mr. MYERS:

A bill (S. 5761) to open for immediate homestead entry all remaining Government lands within the former Flathead Indian Reservation, in the State of Montana, opened to settlement under the act of Congress of April 23, 1904; to the Committee on Public Lands.

By Mr. RANSDELL:

A bill (S. 5762) to prevent unlawful restraint of trade; to the Committee on Interstate Commerce.

A bill (S. 5763) to provide divisions of mental hygiene and rural sanitation in the United States Public Health Service; to the Committee on Public Health and National Quarantine.

By Mr. OWEN:

A bill (S. 5764) to correct the military record of William Pearson (with accompanying papers); to the Committee on Military Affairs.

LABOR TROUBLES IN COLORADO.

Mr. OWEN. I introduce a joint resolution providing for the appointment of a commission to settle the labor disturbances in the State of Colorado, which I ask may be read twice by its title and referred to the Committee on Interstate Commerce.

Mr. THOMAS. I object, Mr. President, to the second reading and to the reference of the joint resolution. I ask that it may go over until to-morrow.

The PRESIDING OFFICER. The joint resolution will lie over.

AMENDMENTS TO SUNDRY CIVIL APPROPRIATION BILL.

Mr. OWEN submitted an amendment proposing to appropriate $25,000 for an exhibit at the Panama-Pacific International Exposition of such articles, materials, and processes as may illustrate the progress of the Nation in the practice of hygiene and the art of sanitation, etc., intended to be proposed by him to the sundry civil appropriation bill, which was referred to the Committee on Appropriations and ordered to be printed.

Mr. RANSDELL submitted an amendment proposing to appropriate $12,000 for the purpose of constructing a new wharf at the New Orleans (La.) quarantine station, etc., intended to be proposed by him to the sundry civil appropriation bill, which was referred to the Committee on Appropriations and ordered to be printed.

RURAL CREDIT IN GERMANY.

Mr. JONES. I ask to have referred to the Committee on Printing for publication as a Senate document an address delivered by Ralph Metcalf, State senator and executive commissioner for the State of Washington of the American commission, before the Sixth Annual Convention of the Farmers' Educational and Cooperative Union of America, Division of Washington and Idaho, at Spokane, May 26, 1914. The address relates to agricultural problems of the United States and Europe, and so forth.

The VICE PRESIDENT. Without objection, the matter will be referred to the Committee on Printing.

RECESS.

Mr. O'GORMAN. I move that the Senate take a recess until to-morrow morning at 11 o'clock.

The motion was agreed to; and (at 6 o'clock and 20 minutes p. m.) the Senate took a recess until to-morrow, Tuesday, June 9, 1914, at 11 o'clock a. m.

NOMINATIONS.

Executive nominations received by the Senate June 8, 1914.

(Legislative day of June 5, 1914.)

CHIEF JUSTICE OF THE SUPREME COURT OF THE DISTRICT OF COLUMBIA.

J. HARRY COVINGTON, of Easton, Md., to be chief justice of the Supreme Court of the District of Columbia, vice Harry M. Clabaugh, deceased.

UNITED STATES ATTORNEYS.

Perry B. Miller, of Morganfield, Ky., to be United States attorney for the western district of Kentucky, vice George Du Relle, resigned.

Clarence Merritt, of McKinney, Tex., to be United States attorney for the eastern district of Texas, vice James W. Ownby, whose term expires July 1, 1914.

UNITED STATES MARSHAL.

Otho T. Wood, of Liberal, Kans., to be United States marshal, district of Kansas, vice John R. Harrison, removed.

APPOINTMENTS IN THE ARMY.

MEDICAL RESERVE CORPS.

To be first lieutenant with rank from June 4, 1914.

Otto Joe Cook, of Texas.
Alexander Lambert, of New York.
George Henry Richardson, of California.
Miley Barton Wesson, of Texas.
Udo Julius Wile, of Michigan.

PROMOTIONS AND APPOINTMENT IN THE NAVY.

Lieut. Lewis Coxe to be a lieutenant commander in the Navy from February 21, 1914.

Lieut. (Junior Grade) Joseph S. Evans to be a lieutenant in the Navy from March 10, 1914.

The following-named ensigns to be lieutenants (junior grade) in the Navy from June 5, 1914.

William W. Smith,
Harold T. Smith,
Gerard Bradford,
Benjamin V. McCandlish,
Alan G. Kirk,
Levi B. Bye,
Francis W. Scanland,
Joel W. Bunkley,
Leo L. Lindley,
Monroe Kelly,
Alfred L. Ede,
George K. Stoddard,
Charles H. Morrison,
Paul H. Rice,
Charles E. Reordan,
Virgil J. Dixon,
Franklin Van Valkenburgh,
Eugene M. Woodson,
James S. Spore,
Mark C. Bowman,
Ralph G. Haxton,
James M. Doyle, and
Ewart G. Haas.

Albert J. A. Hamilton, a citizen of Massachusetts, to be an assistant surgeon in the Medical Reserve Corps of the Navy from June 1, 1914.

The following-named assistant paymasters with rank of ensign to be assistant paymasters in the Navy with rank of lieutenant (junior grade) from June 5, 1914:

Arthur H. Mayo,
William Gower,
Thomas Cochran, and
Frederick C. Bowerfind.

Pharmacist Maury D. Baker to be a chief pharmacist in the Navy from April 17, 1914.

Ensign Henry G. Cooper, jr., to be a lieutenant (junior grade) in the Navy from the 5th day of June, 1914.

The following-named midshipmen to be ensigns in the Navy from the 6th day of June, 1914:

Edward Ellsberg.
Edward L. Cochrane.
Noel Davis.
Robert W. Ferrell.
Warner W. Bayley.
George C. Manning.
Donald Royce.
Fred E. Pelton.
Adrian R. Marron.
Carl H. Jones.
John N. Laycock.
Conrad D. Fry.
Charles B. C. Carey.
Gordon W. Nelson.
Henry P. Samson.
Joseph L. McGuigan.
Carleton F. Bryant.
William J. Larson.
Fred M. Earle.
Alfred P. H. Tawresey.

Thomas N. Vinson.
John H. Buchanan.
Herman A. Spanagel.
Joseph R. Redman.
Frank L. Lowe.
Franklin G. Percival.
Theo D. Westfall.
K. P. Gilchrist.
Theodore D. Ruddock, jr.
Zeno W. Wicks.
Andrew H. Addoms.
Albert G. Berry, jr.
James D. Black.
George B. Wilson.
William H. Porter, jr.
William K. Harrill.
Sherrod H. Quarles.
John I. Hale.
Alfred H. Balsley.
Greene W. Dugger, jr.,
Charles D. Swain.
Edmund W. Burrough,
Albert H. Rooks.
George F. Neiley,
Russell E. Perry,
Byron B. Ralston,
Stanley L. Wilson,
Herbert J. Ray,
Charles E. Rosendahl,
John G. Moyer.
Robert W. Hayler,
Bert F. Clark.
Theodore W. Sterling,
Archibald N. Offley,
Richard L. Conolly,
William A. Corn,
Thomas L. Nash,
Edwin T. Short.
William A. Teasley,
John B. W. Waller,
Arthur E. Wills.
Robert L. Vaughan,
Homer L. Ingram,
Thomas J. Doyle, jr.,
Alexander R. Early, jr.,
Charles F. Martin.
Vincent A. Clarke, jr.,
Kemp C. Christian,
Philip W. Yeatman,
James A. McCown,
Samuel G. Moore.
William J. Hart, jr.,
John L. Vaiden,
Swift Riché.
George Marvell.
Benjamin H. Page,
Frank J. Cunneen.
Allan W. Ashbrook,
Raymond A. Deming,
Charles T. S. Gladden,
Benjamin S. Killmaster,
Robert A. Dyer, 3d,
Raymond S. Hatch,
James E. Boak.
William A. Heard,
Charles H. Mecum,
George T. Howe.
Rudolph F. Hans,
Simson C. Stengel,
Wilder DuP. Baker,
Julius M. Moss,
Boleslaw L. Dombrowski,
Robert S. Wyman,
Lewis H. McDonald,
Ervine D. Peck,
Thomas F. Downey,
Horace H. Jalbert,
George S. Arvin.
Foster C. Bumpus,
Harold J. Nelson,
William C. Burgy,
Frank P. Thomas,
Ralph O. Davis.
Francis K. O'Brien,
Sifrein F. Maury,
Martin Griffin,
Marion Y. Cohen,
William F. Roehl.
Malcolm W. Callahan,
Thomas C. Slingluff,
Donald F. Washburn,
William S. Popham, jr.,
Frederick D. Powers,
Robert H. Maury.
Thomas C. Latimore, jr.,
Robert W. Cary, jr.,
Karl R. Shears,
Lloyd J. Wiltse,
Leon O. Alford.
Lawrence J. K. Blades,
Henry W. Hoyt.
Robert C. Starkey.
William DeW. Austin,
Joseph C. Arnold.
Philip R. Weaver.
Charles A. Macgowan,
Robert P. Luker.
Clarence J. McReavy,
Oliver O. Kessing,
John F. Moloney,
Delorimier M. Steece,
Wallis Gearing.
William K. Beard,
Paul Fitzsimons, jr.,
Charles F. Angel.
John H. Brown, jr.,
William D. Bungert,
Lewis J. Stecher.
Malcolm L. Worrell, and
Ralph G. Pennoyer.

CONFIRMATIONS.

Executive nominations confirmed by the Senate June 8, 1914.
(Legislative day of June 5, 1914.)

UNITED STATES MARSHALS.

McDuffie Cain to be United States marshal for the middle district of Alabama.

Vincent Y. Dallman to be United States marshal for the southern district of Illinois.

POSTMASTERS.

ALABAMA.

William M. Head, Ozark.

NEW JERSEY.

George H. Abel, Haddon Heights.

NEW YORK.

Owen J. Burns, Clinton.
Albert R. Kessinger, Rome.
C. Gordon Simmons, Vernon.
George H. Steele, Oriskany.

VERMONT.

W. H. Boardman, Charlotte.

HOUSE OF REPRESENTATIVES.

MONDAY, *June 8, 1914.*

The House met at 12 o'clock noon.

Rev. James F. Mackin, pastor of St. Paul's Church, Washington, D. C., offered the following prayer:

In the name of the Father, the Son, and the Holy Ghost. Amen.

Our Father, the Father of all, of the Jew and the Gentile; our Father who art in heaven, which we hope will one day be our home, hallowed be Thy name. We pray Thee, O God of might, wisdom, and justice, through whom authority is rightly administered, laws are enacted, and judgment decreed, assist with Thy Holy Spirit of counsel and fortitude the Members of this Congress; let the light of Thy divine wisdom direct their deliberations and shine forth in all the proceedings and laws framed for our rule and government, so that they may tend to the preservation of peace, the promotion of national happiness, the increase of industry, sobriety, and useful knowledge, and may perpetuate to us the blessings of equal liberty; through Christ our Lord. Amen.

The Journal of the proceedings of Saturday, June 6, was read and approved.

THE PRIVATE CALENDAR.

Mr. POU. Mr. Speaker, I ask unanimous consent that on Tuesday, June 9, the House stand in recess from 5 o'clock p. m. until 8 o'clock p. m.; that a session be held from 8 o'clock p. m. until 11 o'clock p. m. for the consideration in the House as in Committee of the Whole of bills on the Private Calendar which are not objected to, commencing with No. 132 on said calendar.

The SPEAKER. The gentleman from North Carolina [Mr. POU] asks unanimous consent that to-morrow at 5 o'clock p. m. the House stand in recess until 8 o'clock p. m.; that there shall be a night session, extending not later than 11 p. m., for the consideration of bills on the Private Calendar which are not objected to in the House as in Committee of the Whole, to begin with No. 132 on the Private Calendar. Is there objection?

Mr. UNDERWOOD. Mr. Speaker, why does the gentleman say 5 o'clock? If the House recesses at 6 o'clock until 8, it will be ample time for the Members to get their dinners.

Mr. POU. I thought 5 o'clock was about the usual time for recessing when we have an evening session.

Mr. FITZGERALD. Let the House meet at 11 o'clock a. m.

Mr. POU. The gentleman in charge of the appropriation bill [Mr. FITZGERALD] suggests that the House meet at 11 o'clock.

The SPEAKER. Is there objection to the double request—one, the request of the gentleman from North Carolina [Mr. POU] just stated by the Speaker, and the other, by the gentleman from New York [Mr. FITZGERALD], that when the House adjourns to-day it adjourn to meet at 11 o'clock to-morrow a. m.? Is there objection to either request?

Mr. MANN. Reserving the right to object, will it not be practicable to have the Private Calendar considered during the daytime on some day a little later in the session?

Mr. POU. There are perhaps 75 bills on the Private Calendar which have never been considered by unanimous consent. My idea was that if we began at No. 132 we might finish the consideration of the Private Calendar by unanimous consent, and then later on there certainly ought to be one or two days given for the consideration of contested bills. I think we will scarcely finish the Private Calendar to-morrow night, in the manner in which we have been proceeding heretofore. I believe there is certainly more than three hours' work, and the pressure has been very great to have these bills considered in order to have an opportunity to pass upon bills which are not objected to. I think there are quite a number of bills on the calendar which will not be objected to.

Mr. AUSTIN. May I ask the gentleman why he omits the first 10 or 11 bills on the Private Calendar?

Mr. POU. I will say to the gentleman that we have had two nights for the consideration of bills by unanimous consent, and we got down to No. 132. Now, I think it would be only fair to begin at No. 132. The bills preceding No. 132 have already had their opportunity for consideration. By beginning at No. 132 and continuing until the end of the calendar it will give all bills an opportunity to be considered by unanimous consent.

Mr. MANN. What I asked was whether it would not be practicable to have this done at a day session. Twelve hours a day at this session, with the weather the way it is to-day and the way it is prophesied for to-morrow, in addition to other work which Members have, is rather a long session of the House.

Mr. POU. I would be very glad to accept the suggestion, if the House would agree to give the committee a day instead of a night; but we have been displaced so many times that I have hesitated to ask for a day, because the Committee on Claims wishes to preserve its usual attitude of humility.

Mr. FITZGERALD. The gentleman might get a day after we finish the sundry civil bill.

Mr. MANN. As far as I am concerned, I should think the gentleman might get a day after the sundry civil bill is finished, not to interfere with the contested-election case.

Mr. UNDERWOOD. I do not think we ought to attempt to agree on a day that far in advance at this time. I see no reason in the world, if gentlemen want to come here to-morrow evening to consider the Private Calendar, why they should not do so. Considering bills by unanimous consent can not hurt anybody, because one man's objection will send a bill over; but I think if any class of bills are badly treated in this House, the small claims on the Private Calendar are badly treated. Such a bill has nobody as its friend and no opportunity to be heard. Many of these cases could be disposed of by unanimous consent, and I think the request of the gentleman from North Carolina is eminently fair and correct. I would be willing myself at this time to agree to a unanimous-consent order that should take effect after the disposition of the sundry civil bill, because there are other matters of great importance that ought to be considered, and it will probably be 10 days or 2 weeks before we finish the sundry civil bill. We can not tell what the pressure at that time may be.

Mr. MANN. Mr. Speaker, the gentleman from Alabama [Mr. UNDERWOOD], who is very attentive to his duties, probably would not be here at the evening session. On the other hand, I would be here. It makes a rather long day. It seems to me that the House ought to be able to get an afternoon for the consideration of these bills, and I have no doubt will be able to do so a little later.

Mr. GARNER. Will the gentleman from New York [Mr. FITZGERALD] agree that next Saturday may be devoted to the consideration of private claims?

Mr. FITZGERALD. I will not agree to anything which will delay the consideration of the sundry civil appropriation bill. The passage of that bill is more important than anything else pending in the House. It ought to become a law before the 1st of July, and it can not if it is to give way to everything that comes up. It carries $107,000,000 for the conduct of the Government, beginning on the 1st of July, and gentlemen ought to realize its importance.

The SPEAKER. Is there objection to the double request stated by the Chair? It seems that they ought to go together.

Mr. MANN. I object.

The SPEAKER. The gentleman from Illinois objects.

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted as follows:

To Mr. J. R. KNOWLAND, for 10 days, on account of important business.

To Mr. IGOE, for one week, on account of important business.

To Mr. GOEKE, for one week, on account of important business.

To Mr. J. I. NOLAN, until June 20, on account of important business.

SUNDRY CIVIL APPROPRIATION BILL.

Mr. FITZGERALD. Mr. Speaker, I move that the House resolve itself into Committee of the Whole House on the state of the Union for the further consideration of the bill H. R. 17041, the sundry civil appropriation bill, and I desire to ask the gentleman from Massachusetts if we can not agree on time to close general debate on the bill.

Mr. GILLETT. Mr. Speaker, I have promised two hours and a half of time for the minority, and the minority of the minority wants one hour in addition.

Mr. FITZGERALD. Oh, the gentleman has not promised that time; he means that he has had requests for it.

Mr. GILLETT. Gentlemen have asked me for that time, and I told them they might have it if the majority was reasonable, as I supposed it would be. We want two hours and three quarters besides one hour for the minority of the minority.

Mr. FITZGERALD. Mr. Speaker, how much time has already been occupied?

The SPEAKER. The gentleman from New York has occupied 1 hour and 21 minutes and the gentleman from Massachusetts 2 hours and 40 minutes.

Mr. FITZGERALD. Mr. Speaker, the request of the gentleman from Massachusetts involves more time than we can possibly consent to. I ask unanimous consent that when the House adjourns to-day general debate be closed.

Mr. GILLETT. I can not agree to that. I do not know what time the House proposes to adjourn.

The SPEAKER. What was the request of the gentleman from New York?

Mr. FITZGERALD. I ask unanimous consent that when the House adjourns to-day general debate on the bill be closed, the time to-day to be divided equally between the two sides.

Mr. GILLETT. What time does the gentleman propose to adjourn?

Mr. FITZGERALD. Between 5 and 6 o'clock.

Mr. GILLETT. That would leave us only three hours, whereas we want four.

Mr. FITZGERALD. We can stay until 7 or 8, as far as I am concerned. I am willing to stay until general debate is closed.

Mr. MANN. This is a hot day and everybody will be exhausted early.

Mr. FITZGERALD. If the speeches are attractive, Members will stay; and if they are not, I do not blame them for leaving.

The SPEAKER. The gentleman from New York asks unanimous consent that when the House adjourns to-day general debate on this bill shall be closed and the time to-day be equally divided.

Mr. MANN. I think the gentleman from New York ought to be reasonable in allowing time for general debate.

Mr. FITZGERALD. I only have requests for 45 minutes on this side, and I want a few minutes myself.

Mr. MANN. Will the gentleman give us four hours?

Mr. FITZGERALD. Oh, that is too much.

Mr. MANN. Then take more time.

Mr. FITZGERALD. I am willing to give the gentleman five hours if we sit long enough.

Mr. GILLETT. If you are only to use one hour on that side, that would give us sufficient time.

Mr. FITZGERALD. At the present outlook that seems to be about all that we shall want, but the longer we leave this matter open the more requests we will have.

Mr. MANN. I do not see why the gentleman from New York should not take his chances as well as to put them all on us.

Mr. FITZGERALD. I am taking my chances.

Mr. GILLETT. If the gentleman only takes one hour on that side that would give us 4 hours.

Mr. GARNER. It would if we ran until 6 o'clock.

Mr. FITZGERALD. I can not make that arrangement, but I will try and accommodate the gentleman; otherwise, I will move to close debate.

Mr. MANN. The gentleman has the power to do that, but I do not think it will expedite the passage of the bill.

Mr. FITZGERALD. I am willing to sit to-day long enough to complete the general debate, and we can easily complete it if gentlemen will make the agreement.

Mr. GILLETT. If the gentleman will give us 4 hours we will agree.

Mr. FITZGERALD. It is unreasonable to ask us for 4 hours when that side has had double the time that we have used. I can not tell what indiscriminate Munchausen statements may be made in the general debate on that side of the House, and it may require some statements of fact on this side or the public will get confused. [Laughter.]

Mr. GILLETT. I rather think it will; but it seems to me that on a bill like this, carrying $107,000,000, 4 hours more of general debate is not an unreasonable amount of time, when we have not had any lately.

Mr. FITZGERALD. The House has been talking for three weeks.

Mr. GILLETT. Not in general debate; we are not going to talk on the trust bill.

Mr. MANN. Here is the most important appropriation bill of the session. It has always been customary to give a reasonable amount of general debate on it.

Mr. FITZGERALD. I think it is reasonable—two days on the bill at this stage of the session. There are a number of items in the bill which will require some debate.

Mr. MANN. I do not think we have made any unreasonable request for time.

Mr. FITZGERALD. Mr. Speaker, I move that when the committee rise to-day the general debate on the bill be concluded.

Mr. MANN. I warn the gentleman from New York that that will not expedite the passage of this bill.

Mr. FITZGERALD. I am ready to make any reasonable agreement.

Mr. BUCHANAN of Illinois. Mr. Speaker——

The SPEAKER. For what purpose does the gentleman rise?

Mr. BUCHANAN of Illinois. I wish to ask what is the parliamentary situation?

The SPEAKER. The gentleman from New York moved that the House go into Committee of the Whole on the state of the Union for the consideration of the sundry civil appropriation bill, and, pending that, asked that when the committee rose finally to-day the general debate be closed.

Mr. BUCHANAN of Illinois. Is not this District day?

The SPEAKER. It is District day, but it takes only a majority to dislocate District day.

Mr. BUCHANAN of Illinois. If I may be permitted, I would like to state the reason for my inquiry. There is a bill on the calendar reported out by the District Committee introduced by me that provides for safeguards for the workmen in the building industry and construction work. There was a man killed on the construction of a building within sight of this Capitol in the past week, and if this measure had been a law his life would have been saved. About 8 or 10 people in that industry each year lose their lives because a proper safeguard is not thrown around it.

Mr. FITZGERALD. Mr. Speaker, I make the point of order that this discussion is not in order. We are trying to get started on the sundry civil appropriation bill.

Mr. BUCHANAN of Illinois. I wanted to state my reasons for thinking that this bill I speak of is so important that it should be given at least one hour of the House's time, in order that it might be passed, in spite of the opinion of the gentleman from New York [Mr. FITZGERALD].

The SPEAKER. The situation is this: This is District day, but the rule also provides that after the reading of the Journal, it shall always be in order for the chairman or anyone else to make a motion that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of general appropriation bills, and the gentleman from New York is acting entirely within his rights, and is also within his rights when he makes this motion that when the committee rise finally to-day that general debate shall be ended.

Mr. MURDOCK. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. MURDOCK. If the gentleman from Illinois desires to get at his bill, he can do so by voting down the motion of the gentleman from New York, can he not?

The SPEAKER. Of course he can.

Mr. FITZGERALD. Mr. Speaker, I ask unanimous consent that there be six hours of general debate, the gentleman from Massachusetts [Mr. GILLETT] to have four hours, which includes the allies, and this side to have two hours.

The SPEAKER. The gentleman from New York asks unanimous consent that there shall be not to exceed six hours of general debate upon this bill, four hours to go to the gentleman from Massachusetts [Mr. GILLETT] and two hours to the gentleman from New York [Mr. FITZGERALD]. Is there objection?

Mr. BRYAN. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. BRYAN. If we grant unanimous consent, would that prevent us from voting with the gentleman from Illinois [Mr. BUCHANAN] against doing away with District day?

The SPEAKER. No. The gentleman can vote with the gentleman from Illinois [Mr. BUCHANAN] if he desires to, on the motion to go into the committee.

Mr. BRYAN. We want to take up the Crosser bill for the Government ownership of the street-car lines in the District.

The SPEAKER. Then the gentleman can vote down the motion of the gentleman from New York. The Chair hears no objection to the gentleman's request. The gentleman from New York withdraws his motion to close general debate, and the question is on the motion of the gentleman from New York that the House resolve itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill H. R. 17041, the sundry civil appropriation bill.

The question was taken; and on a division (demanded by Mr. JOHNSON of Kentucky) there were—yeas 101, noes 22.

Mr. BUCHANAN of Illinois. Mr. Speaker, I make the point of order that there is no quorum present.

The SPEAKER. Evidently there is not a quorum present. The Doorkeeper will close the doors, the Sergeant at Arms will notify the absentees, and the Clerk will call the roll.

The Clerk called the roll, and there were—yeas 203, nays 65, answered "present" 4, not voting 161, as follows:

YEAS—203.

Abercrombie	Cullop	Gregg	McGuire, Okla.
Adair	Deitrick	Hamilton, Mich.	McKellar
Adamson	Dent	Hamlin	McKenzie
Aiken	Dickinson	Hammond	McLaughlin
Alexander	Dies	Hardy	Madden
Allen	Dillon	Harris	Maguire, Nebr.
Anthony	Dixon	Harrison	Mann
Aswell	Donohoe	Haugen	Metz
Avis	Donovan	Hawley	Mitchell
Bailey	Driscoll	Hay	Mondell
Baker	Dupré	Heflin	Morgan, La.
Barkley	Eagle	Helgesen	Moss, Ind.
Bartlett	Edwards	Henry	Mott
Beakes	Elder	Hensley	Murray, Okla.
Beall, Tex.	Esch	Hinds	Padgett
Bell, Ga.	Estopinal	Holland	Page, N. C.
Blackmon	Evans	Houston	Paige, Mass.
Booher	Fergusson	Howard	Park
Borchers	Ferris	Howell	Parker
Bowdle	Fields	Hughes, Ga.	Patten, N. Y.
Britten	Finley	Hull	Platt
Broussard	Fitzgerald	Humphrey, Wash.	Plumley
Brown, N. Y.	Flood, Va.	Jacoway	Post
Browne, Wis.	Floyd, Ark.	Johnson, S. C.	Powers
Brumbaugh	Fordney	Johnson, Utah	Quin
Buchanan, Tex.	Foster	Johnson, Wash.	Rainey
Burgess	Frear	Keister	Raker
Burke, S. Dak.	Gallivan	Kennedy, Conn.	Rauch
Butler	Gard	Kennedy, Iowa	Rayburn
Byrnes, S. C.	Gardner	Key, Ohio	Reed
Byrns, Tenn.	Garner	Kitchin	Reilly, Conn.
Candler, Miss.	Garrett, Tenn.	Lazaro	Reilly, Wis.
Carr	Garrett, Tex.	Lenroot	Rouse
Chandler, N. Y.	Gillett	Lesher	Rubey
Church	Gilmore	Lever	Russell
Claypool	Glass	Levy	Scott
Coady	Godwin, N. C.	Lieb	Seldomridge
Collier	Good	Lloyd	Sells
Connelly, Kans.	Goodwin, Ark.	Lobeck	Sherwood
Conry	Green, Iowa	McAndrews	Sisson
Cox	Greene, Vt.	McGillicuddy	Small

Smith, Idaho	Taggart	Townsend	Walsh
Smith, J. M. C.	Talbott, Md.	Treadway	Watkins
Stedman	Talcott, N. Y.	Tribble	Weaver
Stephens, Miss.	Taylor, Ark.	Underhill	Whaley
Stephens, Nebr.	Taylor, Colo.	Underwood	White
Stephens, Tex.	Taylor, N. Y.	Vaughan	Williams
Stevens, Minn.	Ten Eyck	Vollmer	Wilson, Fla.
Stout	Thacher	Volstead	Witherspoon
Sumners	Thompson, Okla.	Walker	Woods
Sutherland	Towner	Wallin	

NAYS—65.

Ashbrook	Doolittle	Lindbergh	Sinnott
Austin	Dyer	Lonergan	Stafford
Baltz	Falconer	McDermott	Steenerson
Barton	Farr	MacDonald	Stephens, Cal.
Bathrick	Fowler	Mapes	Stone
Bell, Cal.	French	Morgan, Okla.	Stringer
Brown, W. Va.	Gorman	Murdock	Tavenner
Bryan	Gray	Nelson	Temple
Buchanan, Ill.	Hill	O'Hair	Thomas
Burke, Wis.	Hinebaugh	Oldfield	Thomson, Ill.
Burnett	Hulings	Peterson	Walters
Caraway	Johnson, Ky.	Pou	Willis
Cary	Kettner	Ragsdale	Wingo
Connolly, Iowa	Kinkaid, Nebr.	Roberts, Nev.	Woodruff
Cramton	La Follette	Rupley	
Davenport	Langley	Sabath	
Decker	Lee, Pa.	Shackleford	

ANSWERED "PRESENT"—4.

Burke, Pa.	Cline	Guernsey	Hughes, W. Va.

NOT VOTING—161.

Ainey	Fairchild	Kirkpatrick	Peters, Mass.
Anderson	Falson	Knowland, J. R.	Peters, Me.
Ansberry	Fess	Konop	Phelan
Barchfeld	FitzHenry	Korbly	Porter
Barnhart	Francis	Kreider	Prouty
Bartholdt	Gallagher	Lafferty	Riordan
Borland	George	Langham	Roberts, Mass.
Brockson	Gerry	Lee, Ga.	Rogers
Brodbeck	Gittins	L'Engle	Rothermel
Browning	Goeke	Lewis, Md.	Rucker
Bruckner	Goldfogle	Lewis, Pa.	Saunders
Bulkley	Gordon	Lindquist	Scully
Calder	Goulden	Linthicum	Sharp
Callaway	Graham, Ill.	Loft	Sherley
Campbell	Graham, Pa.	Logue	Shreve
Cantor	Greene, Mass.	McClellan	Sims
Cantrill	Griest	McCoy	Slayden
Carew	Griffin	Mahan	Slemp
Carlin	Gudger	Maher	Sloan
Carter	Hamill	Manahan	Smith, Md.
Casey	Hamilton, N. Y.	Martin	Smith, Minn.
Clancy	Hardwick	Merritt	Smith, N. Y.
Clark, Fla.	Hart	Miller	Smith, Saml. W.
Cooper	Hayden	Montague	Smith, Tex.
Copley	Hayes	Moon	Sparkman
Covington	Helm	Moore	Stanley
Crisp	Helvering	Morin	Stevens, N. H.
Crosser	Hobson	Morrison	Switzer
Curry	Hoxworth	Moss, W. Va.	Taylor, Ala.
Dale	Humphreys, Miss.	Murray, Mass.	Tuttle
Danforth	Igoe	Neeley, Kans.	Vare
Davis	Jones	Neely, W. Va.	Watson
Dershem	Kahn	Nolan, J. I.	Webb
Difenderfer	Keating	Norton	Whitacre
Dooling	Kelley, Mich.	O'Brien	Wilson, N. Y.
Doremus	Kelly, Pa.	Oglesby	Winslow
Doughton	Kennedy, R. I.	O'Leary	Young, N. Dak.
Drukker	Kent	O'Shaunessy	Young, Tex.
Dunn	Kiess, Pa.	Palmer	
Eagan	Kindel	Patton, Pa.	
Edmonds	Kinkead, N. J.	Payne	

So the motion to go into the Committee of the Whole House on the state of the Union was agreed to.

The Clerk announced the following pairs:

One week from June 8:

Mr. CLINE with Mr. SLOAN.

Until further notice:

Mr. SHERLEY with Mr. WINSLOW.

Mr. ALLEN with Mr. FESS.

Mr. GLASS with Mr. SLEMP.

Mr. BARNHART with Mr. KENNEDY of Rhode Island.

Mr. TAYLOR of Alabama with Mr. HUGHES of West Virginia.

Mr. IGOE with Mr. ANDERSON.

Mr. GRAHAM of Illinois with Mr. SAMUEL W. SMITH.

Mr. DALE with Mr. MARTIN.

Mr. SLAYDEN with Mr. BURKE of Pennsylvania.

Mr. CALLAWAY with Mr. MERRITT.

Mr. CLANCY with Mr. HAMILTON of New York.

Mr. ASHBROOK with Mr. AINEY.

Mr. BORLAND with Mr. BARTHOLDT.

Mr. BRODBECK with Mr. COOPER.

Mr. BULKLEY with Mr. CURRY.

Mr. CANTOR with Mr. COPLEY.

Mr. CANTRILL with Mr. BARCHFELD.

Mr. CARTER with Mr. CALDER.

Mr. CASEY with Mr. DAVIS.

Mr. CLARK of Florida with Mr. DRUKKER.

Mr. COVINGTON with Mr. DUNN.

Mr. DERSHEM with Mr. CAMPBELL.

Mr. DIFENDERFER with Mr. EDMONDS.

Mr. DOREMUS with Mr. GRAHAM of Pennsylvania.

Mr. DOUGHTON with Mr. GRIEST.

Mr. FRANCIS with Mr. HAYES.

Mr. GALLAGHER with Mr. KAHN.

Mr. GEORGE with Mr. KELLEY of Michigan.

Mr. GOEKE with Mr. KIESS of Pennsylvania.

Mr. GOLDFOGLE with Mr. KELLY of Pennsylvania.

Mr. GORDON with Mr. J. R. KNOWLAND.

Mr. HARDWICK with Mr. GREENE of Massachusetts.

Mr. HAYDEN with Mr. GUERNSEY.

Mr. HELM with Mr. KREIDER.

Mr. HELVERING with Mr. LAFFERTY.

Mr. HUMPHREYS of Mississippi with Mr. LANGHAM.

Mr. LEE of Georgia with Mr. LINDQUIST.

Mr. LINTHICUM with Mr. MANAHAN.

Mr. MCCLELLAN with Mr. LEWIS of Pennsylvania.

Mr. MCCOY with Mr. MILLER.

Mr. MONTAGUE with Mr. MOORE.

Mr. MOON with Mr. PATTON of Pennsylvania.

Mr. MURRAY of Massachusetts with Mr. PETERS of Maine.

Mr. NEELEY of Kansas with Mr. PORTER.

Mr. PALMER with Mr. PAYNE.

Mr. RIORDAN with Mr. J. I. NOLAN.

Mr. RUCKER with Mr. NORTON.

Mr. SAUNDERS with Mr. ROBERTS of Massachusetts.

Mr. SHARP with Mr. ROGERS.

Mr. SIMS with Mr. SHREVE.

Mr. SMITH of Texas with Mr. SWITZER.

Mr. SPARKMAN with Mr. VARE.

Mr. TUTTLE with Mr. SMITH of Minnesota.

Mr. WATSON with Mr. YOUNG of North Dakota.

Mr. WEBB with Mr. MOSS of West Virginia.

Mr. YOUNG of Texas with Mr. MORIN.

For the session:

Mr. SCULLY with Mr. BROWNING.

Mr. HOBSON with Mr. FAIRCHILD.

Mr. BURKE of Pennsylvania. Mr. Speaker, is the gentleman from Texas, Mr. SLAYDEN, recorded as voting?

The SPEAKER. He is not.

Mr. BURKE of Pennsylvania. I voted "aye," and I desire to withdraw my vote and be recorded "present."

The name of Mr. BURKE of Pennsylvania was called, and he answered "Present."

Mr. HUGHES of West Virginia. Mr. Speaker, I am paired with the gentleman from Alabama, Mr. TAYLOR, and I desire to answer "present."

The name of Mr. HUGHES of West Virginia was called, and he answered "Present."

Mr. CLINE. Mr. Speaker, I am paired with the gentleman from Nebraska, Mr. SLOAN, and I wish to withdraw my vote of "aye" and be recorded as answering "present."

The name of Mr. CLINE was called, and he answered "Present."

The result of the vote was announced as above recorded.

The SPEAKER. A quorum is present and the Doorkeeper will open the doors.

Accordingly the House resolved itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill H. R. 17041, the sundry civil appropriation bill, with Mr. GARRETT of Tennessee in the chair.

The CHAIRMAN. The House is in Committee of the Whole House on the state of the Union for the further consideration of the bill H. R. 17041, the title of which the Clerk will report.

The Clerk read as follows:

A bill (H. R. 17041) making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1915, and for other purposes.

The CHAIRMAN. The time is in control of the gentleman from New York [Mr. FITZGERALD] and the gentleman from Massachusetts [Mr. GILLETT].

Mr. GILLETT. Mr. Chairman, I yield 15 minutes to the gentleman from Illinois [Mr. MANN].

Mr. MANN. Mr. Chairman, just in passing and as an illustration of practical methods of legislation of my Progressive friends, we just had a vote on going into the Committee of the Whole House on the state of the Union for the further consideration of the sundry civil bill. Various gentlemen voted "no" for various reasons, but my Progressive friends voted "no" because they said they wanted to consider the Crosser bill, providing for Government ownership of public utilities. That was a strange reason for voting "no," considering the Crosser bill is not before the House, has not been reported to the House, and could not be considered by the House at this time—but it illustrates the intelligent manner in which some gentlemen would legislate.

Mr. BRYAN. Will the gentleman yield?

Mr. MANN. Certainly.

Mr. BRYAN. I was the Member who told the gentleman I voted——

Mr. MANN. The gentleman told it publicly.

Mr. BRYAN. I said I voted for that reason, as I did. The gentleman will realize that the Crosser bill will be before the House to-morrow morning, and in view of the fact that they have announced that the reason why the Committee of the Whole House can not consider it is that other District business——

Mr. MANN. I did not yield to the gentleman for a speech.

Mr. BRYAN. But the gentleman yielded for a question, and I want to ask the gentleman——

Mr. MANN. The gentleman is making an unfortunate speech. Does the gentleman claim that the Crosser bill is before the House or could be now considered?

Mr. BRYAN. I claim if we take up the matter of District business it will expedite the Crosser bill; and anybody who has the intelligence of the gentleman from Illinois knows that if we take up and dispose of District business to-day that will tend to expedite the Crosser bill.

Mr. MANN. Anybody who has any intelligence—not my intelligence, but anybody who has any intelligence in a parliamentary sense—knows that you can not consider a bill in the House which is not pending before the House and has not been reported to the House.

Mr. BRYAN. The gentleman will admit——

Mr. MANN. I would not admit anything of the kind.

Mr. BRYAN. Well, it is a fact, just the same. The gentleman does not admit the truth; that is what is the matter with him.

Mr. MANN. This would be District day, and what is done to-day has nothing to do with what would be done to-morrow under the rules of the House; and the gentleman from Washington, pretending to have some intelligent perception of legislation, voted against the consideration of a great appropriation bill to-day because he thought that he wanted to consider a bill which would not be considered under any circumstances to-day; and if the gentleman from Washington knew anything about the status of business in the House, he would not have given such a weak and silly excuse.

Mr. BRYAN. Will the gentleman yield?

Mr. MANN. No.

The CHAIRMAN. Will the gentleman from Illinois yield to the gentleman from Washington?

Mr. MANN. No.

Mr. BUCHANAN of Illinois. Will the gentleman yield?

The CHAIRMAN. Will the gentleman yield to the gentleman from Illinois [Mr. BUCHANAN]?

Mr. MANN. No.

Mr. Chairman, on Saturday my colleague from Illinois [Mr. RAINEY], in discussing the beef situation and the placing of meats on the free list, referred to beef of Argentina, and among other erroneous statements which he made I quote:

> Argentina for many years has been importing the best breeding cattle the broken-down dray horses they kill in Kansas City and manufacture into wienerwurst can compete with our corn-fed beeves. The Argentine beeves are grass-fed cattle.

And again:

> Nearly all the cattle in the Argentine Republic are afflicted with the foot-and-mouth disease, and there is not any country in the world, as I understand it, which permits the importation of live cattle from the Argentine Republic. Talk about cattle with the foot-and-mouth disease competing with our corn-fed beef in the West!

And so forth.

Of course, those statements enamanting from the fanciful imagination of my colleague, who dwells in vivid imagination, pass without necessary contradiction, and yet in view of the fact that the Democratic administration of the Agricultural Department just issued the Agricultural Yearbook within the last few days, and they have an article on this subject by one of the officials of the present administration, it is perhaps proper to call the attention of the House to a few of the things which actually do exist. My colleague suggests that the Argentine beef is like the dray horses. I notice in the Agricultural Yearbook, opposite page 353, the picture of a Shorthorn bull sold at the Palermo stock show, Argentina, for $35,000 gold. I suppose, of course, that is a dray-horse bull. I do not recall when any bull raised in the district of my agricultural friend from Illinois sold for $35,000. But I suppose that these fine bulls which they have in Argentina will be considered as akin to the dray horses in the district of my colleague.

And you will find opposite page 352 the picture of young cattle on a typical ranch in the alfalfa regions.

Mr. BORCHERS. Will the gentleman yield?

The CHAIRMAN. Does the gentleman from Illinois yield?

Mr. MANN. I do not. I ask the gentleman to follow me closely, and follow the yearbook, and he will learn a great deal that he does not know now. This is a picture of a herd of young cattle on a typical ranch in the alfalfa region of Argentina, and I doubt very much whether in the district of my colleague they can produce a herd of young cattle of finer looks, or of finer beef, or which will even make a finer picture.

Here is the report of an investigation made by the Department of Agriculture by the direction of the Democratic Secretary of Agriculture—and I apologize for saying "the Democratic Secretary of Agriculture," because I do not think there is any politics in that department—where the Chief of the Bureau of Animal Industry has made a report to the effect that this meat is of the highest quality, that the herds are of the best kind, that the feed is of the best quality, and that the meat is thoroughly and well inspected where it is killed, before it leaves the country.

My colleague, dwelling in the times of old, probably remembers when Texas cattle were supposed to have horns 3 or 4 yards long between the extreme points, and he has an imagination that that still exists in Argentina. But as the cattle of this country have been improved, so the cattle of Argentina have been improved. Here is a portion of this report, on page 358:

> Argentina for many years has been importing the best breeding cattle and sheep from Great Britain, and to-day has some of the finest types in the world.

And the gentleman will find, opposite page 360, some more pictures of Hereford and Shorthorn bulls which it would be hard to meet in quality in the district of my colleague from Illinois [Mr. RAINEY]. That is not all. This administration of the War Department, claiming that it wished to supply meat of good quality to the army at Vera Cruz, recently attempted to purchase a cargo of beef controlled in part by the beef packers and shippers of this country for the purpose of diverting the cargo to Vera Cruz. And I am wondering whether it is the policy of the present administration to furnish the meat of dray horses to our boys at the front. [Applause on the Republican side.] Either the gentleman, my colleague from Illinois, owes an apology to Argentina or else the War Department owes an apology to the soldier boys at Vera Cruz and to the people of the United States.

And yet, Mr. Chairman, it is on stuff like this, without any facts and dealing wholly in fancy, that that side of the House expects—no; I will not say expects, because they do not expect, but they propose to make a fight for the next House without any expectation of winning it. [Applause on the Republican side.]

Mr. FITZGERALD. Mr. Chairman, I yield five minutes to the gentleman from Illinois [Mr. RAINEY]. [Applause on the Democratic side.]

Mr. RAINEY. Mr. Chairman, the argument I made with reference to Argentine beef last Saturday is that it is a grass-fed beef. The cattle are fattened upon grass and not upon corn. I have not read the yearbook, which has just made its appearance there, or any other publication recently issued on the subject, but I know that in the Argentine Republic their method of beef feeding and method of conducting their various branches of animal husbandry is to increase the area of their alfalfa-producing lands and feed upon alfalfa. And I will undertake to say that no grass-fed animals fattened upon grass anywhere in this world can compare with the corn-fattened beeves of the corn belt of this country. They may be better than some of the animals they manufacture into weinerwurst in Kansas City, but they can not compare with corn-fed beeves, no matter how much the Beef Trust would like to make the country believe they can in order to force down the price of our beef animals. I have not the facts with reference to supplying the army down there at Vera Cruz with Argentine beef, but if they have attempted to supply under this administration our soldiers and sailors in Vera Cruz with Argentine beef, they are doing better than the Republican administration did when our soldiers and sailors were on the great island to the south of us and they fed them with the potted beef the Republican Party was able to obtain in the city of Chicago. [Applause on the Democratic side.] Argentine beef may not be as good as our corn-fed cattle, but if we feed our men with Argentine beef we have not fed them with the kind of rotten potted meats sent down by the Republican administration to Cuba and fed to our soldier boys there in the Spanish-American War. All of it was manufactured in Chicago by the very gentlemen he champions upon this floor. [Applause on the Democratic side.]

I remember that the leader of the Progressive Party in this country to-day, and President of the United States for seven

years, a Republican President, when holding a high command on the Island of Cuba, headed a round robin addressed to the generals in command there, protesting against the kind of "embalmed beef" the friends of the leader on the Republican side were furnishing our soldiers there on the Island of Cuba. [Applause on the Democratic side.]

Now, I am speaking for the corn-belt farmers. I do not know these beef barons in Chicago. I am not speaking for them, but the gentleman last Saturday admitted that he knew them well and personally, and that he had discussed with them the question of Argentine beef, and they told him it was all right. And so he becomes their advertising agent upon this floor in opposition to the farmers of this country. [Applause on the Democratic side.]

A few million dollars in gold held up in front of him will hypnotize any Republican leader.

I saw a subject of a mesmerist once at a public exhibition given a piece of an old leather boot, and he was told by the mesmerist that it was the finest kind of beefsteak; and he did the best he could to eat it, but he was mesmerized. [Laughter.]

Mr. HUMPHREY of Washington. It was psychological beef. [Laughter on the Republican side.]

Mr. RAINEY. It produced that psychological effect upon his mind. [Laughter.]

Now, millions of money and the influence of the Armours in Chicago and their money reach out through the section of the State——

The CHAIRMAN. The time of the gentleman from Illinois has expired.

Mr. FITZGERALD. I yield to the gentleman two minutes.

The CHAIRMAN. The gentleman is recognized for two minutes more.

Mr. RAINEY. Reach out through the section of Chicago represented by my colleague from Illinois. The millions that they hold there in front of his eyes have mesmerized him—have hypnotized him—until he appears here as the advertising agent in the country for the kind of stuff they furnished our soldiers down in Cuba in opposition to the farmers of the corn belt in the Middle West; and there are other gentlemen on that side who seem to have been hypnotized and mesmerized in the same kind of a way. [Applause on the Democratic side.]

Mr. GILLETT. Mr. Chairman, I yield five minutes to the gentleman from Illinois [Mr. MANN].

The CHAIRMAN. The gentleman from Illinois [Mr. MANN] is recognized for five minutes.

Mr. MANN. Mr. Chairman, my colleague made statements Saturday which I have refuted by the testimony of his own administration, and then he takes the floor, and does he answer my statements? No; he dodges. He may be termed an "artful dodger." Having made statements that he had no basis to believe, he then makes other statements of similar character.

I do not know whether my colleague is familiar with alfalfa or not. He claims to be a farmer, and I believe he owns a farm and supports it by his salary received here. [Laughter.] But if he has acquaintance with alfalfa, he knows that there is no better feed than alfalfa. I quote again from the report of the Department of Agriculture:

> Nearly all of the cattle slaughtered in the frigorificos are either raised upon alfalfa pastures or are brought in from native-grass pastures and finished on alfalfa. These cattle as a rule are highly bred, the principal breeds being the Durham (shorthorn), Hereford, and the Polled Angus, ranking numerically in the order named.

My colleague, having uttered a libel which he ought to have known was utterly untrue on Saturday, now attempts to dodge that by talking about furnishing poor beef at the time of the Cuban War, and with an ignorance which is not surprising, considering its source, refers to the "round robin" with which Col. Roosevelt was connected as being in conjunction with the matter of beef supply. A man ought to have intelligence enough and memory enough before he refers to facts of this kind to know what they were. The "round robin" had nothing to do with that subject, but my colleague is as near to the truth there as he usually gets with his vivid imagination.

Mr. Chairman, I do not represent the packing houses. I am not advertising the packing houses. I am seeking to refute a scandalous charge, wholly without foundation, which my colleague made on Saturday for the purpose of deluding the farmers to favor a tariff bill which he assisted in putting through, putting meat on the free list. And now he is trying to fool the farmers. The farmers are not fooled. They have noted what these gentlemen have done in reference to the tariff, as you will discover in November. But now, having been caught with the goods on him, in reference to the effect of the tariff, my colleague seeks by innuendo and statements without foundation, to make out that there is no competition between American beef and Argentine beef. There is an active competition, and the men who favor the Beef Trust are the men who put meat on the free list, so that the Armours and Swifts, who own these slaughterhouses in Argentina, can bring the meat into the United States free of duty.

I am on the side of the farmer. My colleague has legislated in favor of the Beef Trust, and, without manhood enough to acknowledge it, tries to make statements without any foundation. The Beef Trust, through their houses in Argentina, are in active competition, both in the United States and abroad, with American beef, bringing beef from Argentina.

Mr. GARRETT of Texas. Mr. Chairman, will the gentleman yield?

Mr. MANN. I think there ought to be a duty on that beef in the interest of the farmer, and there will be when we get a chance to legislate. [Applause on the Republican side.]

Mr. FITZGERALD. Mr. Chairman, I yield three minutes to the gentleman from Illinois [Mr. RAINEY].

The CHAIRMAN. The gentleman from Illinois [Mr. RAINEY] is recognized for three minutes.

Mr. RAINEY. Mr. Chairman, adopting his characteristic methods on this floor, my colleague, with the ill humor which always characteristizes him in debate, charges me with lack of manhood in the speech I made on Saturday; charges me with uttering a libel in that speech. What I said in reference to Argentine beef was that it was fattened upon alfalfa. What he proved in his speech this morning was that it was fattened upon grasses and only finished upon alfalfa. He proved everything I said and more. That is the libel I uttered. That is the lack of manhood I have exhibited, according to the explanation of the gentleman from Illinois.

The gentleman from Illinois has a perpetual grouch in this House. I never knew him to be pleased with anything here or anywhere else in my life, except Argentine beef, imported by the cattle barons of his own city. I do not care what the breeding of cattle is. I know that if they are fattened upon grasses they are not as good as, and can not be compared with, cattle that are fattened upon corn; and everybody knows that except the gentleman from Illinois.

Now, I remember what the conditions were in Cuba. The gentleman criticizes us in his speech because we were furnishing the Army down there with Argentine beef which, according to his standard, he says is as good as ours. I called attention to the embalmed beef provided by the gentleman's administration to our soldiers in the island of Cuba, manufactured by his constituents in Chicago; and there are soldiers of the Spanish-American War on this floor—one of them right in front of me—who know about it, and who were there on that island and ate or tried to eat that embalmed beef, and there are thousands of them throughout the country to-day. The "round robin" was a protest against all of the conditions on the island of Cuba, made possible by a Republican administration of affairs here and maladministration of the Army there on that island. [Applause on the Democratic side.]

Afterwards, when the matter was investigated by a committee of Congress, they found that the beef was all right. A Republican committee found it was all right. I myself talked with the buyer for Armour—a man who was employed on a salary—at that time, and I said, "Do you think they are going to approve this embalmed beef of yours down there in Cuba?" He said, "They have got to approve it. The administration has said it is all right. They have denied these complaints. We are safe. We will get our money." And they did. [Applause on the Democratic side.]

MESSAGE FROM THE SENATE.

The committee informally rose; and Mr. ABERCROMBIE having taken the chair as Speaker pro tempore, a message from the Senate, by Mr. Tulley, one of its clerks, announced that the Senate had passed bills of the following titles, in which the concurrence of the House of Representatives was requested:

S. 2304. An act for the relief of Chris Kuppler;

S. 4845. An act granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent relatives of such soldiers and sailors;

S. 4449. An act for the relief of Frank Austin and others;

S. 3800. An act making an appropriation for aids to navigation in Alaska;

S. 1281. An act providing for the retirement of certain officers of the Philippine Scouts;

S. 3761. An act for the relief of Matthew Logan;

S. 229. An act for the relief of John P. Wagner;

S. 1803. An act for the relief of Benjamin E. Jones;

S. 1063. An act for the relief of Philip Cook;

S. 2245. An act for the relief of Frederick B. McGuire, trustee for Bessie J. Kibbey, owner of lot 75, square 628, Washington, D. C., with regard to assessment and payment of damages on account of changes of grade due to construction of the Union Station, District of Columbia;

S. 23. An act for the relief of Clara Dougherty Kubel, owner of lot No. 13; of Ernest Kubel, owner of lot 41; and of Mary Meder, owner of the south 17.10 feet front by the full depth thereof of lot No. 14, all of said property in square No. 724, in Washington, D. C., with regard to assessment and payment for damages on account of change of grade due to the construction of Union Station, in said District;

S. 11. An act for the relief of Charlotte J. Pile, Eastmond P. Green, and Easie C. Gandel, owners of lots Nos. 53, 54, and 55 in square No. 753, Washington, D. C., with regard to assessment and payment of damages on account of change of grade due to construction of the Union Station, in said District;

S. 4969. An act granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy and of wars other than the Civil War, and to certain widows and dependent relatives of such soldiers and sailors;

S. 31. An act for the relief of Ida A. Chew, owner of lot 112, square 721, Washington, D. C., with regard to assessment and payment of damages on account of changes of grade due to construction of the Union Station, District of Columbia;

S. 4311. An act for the relief of Edward Stewart;

S. 201. An act for the relief of John W. Cupp;

S. 691. An act for the relief of Simon M. Preston;

S. 1216. An act for the relief of Oakley Randall; and

S. 387. An act relating to bills of lading.

The message also announced that the Senate had passed with amendment bills of the following titles, in which the concurrence of the House of Representatives was requested:

H. R. 1055. An act for the relief of T. S. Williams;

H. R. 12045. An act granting pensions and increase of pensions to certain soldiers and sailors of the Civil War, and certain widows and dependent children of soldiers and sailors of said war; and

H. R. 4405. An act for the relief of Frederick J. Ernst.

The message also announced that the Senate had passed without amendment bill of the following title:

H. R. 11040. An act to carry out the findings of the Court of Claims in the case of James Harvey Dennis.

SUNDRY CIVIL APPROPRIATION BILL.

The committee resumed its session.

Mr. GILLETT. Mr. Chairman, I yield 24 minutes to the gentleman from Wyoming [Mr. MONDELL].

Mr. MONDELL. Mr. Chairman, as a Representative of an alfalfa-producing region, I can not allow the opportunity to pass to attempt to enlighten the gentleman from Illinois [Mr. RAINEY] relative to the meat-producing qualities of that great and splendid grass product. Alfalfa beef is as much better than corn-fed beef in richness and juiciness as corn-fed beef is better than the dray-horse meat that the gentleman from Illinois [Mr. RAINEY] referred to. I was struck by some of the inconsistencies of the gentleman's references to the matter of the importation of beef. He spent an hour on Saturday laboriously trying to prove that the free importation of corn had not reduced and never would reduce the price of corn. That speech was made for circulation in the corn belt. It will have no place in the Democratic campaign literature circulated east of the Allegheny Mountains. Tell it not in Gath, publish it not in the streets of Ascalon, lest those whom you have promised that free trade in agricultural products would bring lower prices and lower cost of living will learn that you are now trying to prove that these tariff changes will have no such effect.

The gentleman from Illinois [Mr. RAINEY] says that Argentine beef can never find a considerable market here because the cattle are of the dray-horse variety, and that they all have the foot and mouth disease. I suppose that is the kind of beef the Democratic Party intended to give the people when they put beef on the free list. The American consumer under Republican times could eat good American beef, but in Democratic times he needs, or, at least, our Democratic friends offer him under free trade, dray-horse beef and beef infected with the foot-and-mouth disease. If Argentine beef is infected with the foot-and-mouth disease to such an extent that no civilized country will allow it to be imported on the hoof, as I understood the gentleman to say, in God's name why is this Democratic administration allowing it to be killed and the meat shipped into our market without the inspection that is required of our beef products?

On Saturday, in connection with the sundry civil bill, I took occasion to refer to some matters illustrating the condition of the Treasury and our foreign trade. I called attention to the fact that the generous balance left in the Treasury at the close of a Republican administration had been dissipated and reduced by one-half in 15 months of Democratic administration. I called attention to the fact that at the rate at which expenditures were outrunning receipts a bond issue for the purpose of securing revenue was inevitable, and at the best could scarcely be postponed much beyond the coming elections.

I also called attention to the progressively unsatisfactory and lamentable condition of our foreign trade, illustrating that disastrous condition by the foreign commerce reports for the month of April last as compared with April a year ago. I pointed out the fact that while we had imported more than $27,000,000 worth of goods in April, 1914, more than we had imported in April, 1913, our sales abroad in the April just past of goods, wares, and merchandise were $37,000,000 less than our sales abroad in April a year ago. In April, 1913, the balance of trade in our favor amounted to over $50,000,000. During the April last past the balance of trade against us amounted to nearly $15,000,000. In other words, there was an adverse shifting of trade for the month of April, 1914, compared with April, 1913, of nearly $65,000,000, or, to be entirely accurate, $64,968,418.

Gentlemen on the other side can not fail to be impressed by trade conditions such as these. Even the reckless optimism of a free-trade Democrat is not altogether proof against the startling conditions of trade which these figures indicate.

But one does not need to study figures of exports and imports to learn of the alarming condition of the country industrially. Go where you will and you hear the same story of stagnation and depression; of industries closed, running on short time, or operating without profit in the hope of better conditions later. In short, we have come upon the conditions which are proverbial under Democratic policies, with every indication of worse conditions ahead. Increasing imports of foreign goods, depriving the American producer of his market at home, coupled with decreasing sales abroad, warns us that bad as is our present situation conditions are certain to become more unfavorable as time passes.

Where are the markets abroad which were promised and the lower cost of living at home which was prophesied. The gentleman from Texas [Mr. DIES], interrupting me on Saturday, took the position, as I understood him, that with a decrease of exports and an increase of importation articles must of necessity be cheaper; but facts are stubborn things, and whatever ones theory may be the fact is conceded by all intelligent observers that the cost of living has increased rather than decreased since the passage of the Underwood bill. In fact, our Democratic colleagues from the country districts are themselves making that claim as regards foodstuffs.

The gentleman from Indiana [Mr. ADAIR] at the close of my speech on Saturday injected into the RECORD a statement that 9 out of 11 agricultural products were higher now than they were when the Underwood bill passed. The gentleman from Illinois [Mr. RAINEY] labored for an hour to prove that corn was not lower, and that it would not be lower by reason of free trade in that article. In other words, our Democratic friends are now endeavoring to make a virtue of the fact or the claim that their prophecies have not been fulfilled. They promised the consumers of the country cheaper living and lower prices, and to accomplish it they opened the gates and allowed to come in the weevil-eaten corn of Argentina, as it is described by the gentleman from Illinois [Mr. RAINEY], and the foot-and-mouth diseased beef of Argentina, as it is described by the gentleman from Illinois [Mr. RAINEY]. They let it in for the purpose of making living cheaper, and now the only claim they can make, in the face of the unfortunate conditions which exist throughout the country, is that they were mistaken, and that the cost of living has not been reduced, but so far as agricultural products are concerned has been increased. Those are arguments, of course, for the corn belt and the country districts, and they will not be circulated along the Atlantic seaboard where dwell the people out of employment who were promised good wages, steady work, and cheaper living.

The gentleman from Texas [Mr. BEALL] seemed on Saturday exceedingly proud of the fact that the price of wool, pressed down to a point below the value of foreign wool of the same quality under the Democratic threat of free trade, had, to a very limited extent, risen from that extremely low price and is now somewhat higher than a year ago. He makes a virtue, in the matter of wool, of the fact that their prophecies that free wool would make wool cheaper for the consumer had not been fulfilled.

Mr. BUCHANAN of Illinois. Mr. Chairman, I make the point of no quorum.

The CHAIRMAN. Does the gentleman yield?

Mr. MONDELL. I do not.

Mr. BUCHANAN of Illinois. I am not asking the gentleman to yield. I make the point that there is no quorum present.

The CHAIRMAN. The gentleman from Illinois [Mr. BUCHANAN] makes the point that there is no quorum present. There are 58 Members present, not a quorum. The Clerk will call the roll.

The Clerk proceeded to call the roll, when the following Members failed to answer to their names:

Ainey	Elder	Kiess, Pa.	Parker
Allen	Estopinal	Kindel	Patten, N. Y.
Anderson	Fairchild	Kinkead, N. J.	Patton, Pa.
Ansberry	Faison	Kirkpatrick	Payne
Anthony	Fergusson	Kitchin	Peters, Me.
Barchfeld	Fess	Knowland, J. R.	Peters, Mass.
Barkley	Francis	Konop	Plumley
Barnhart	Gallagher	Korbly	Porter
Bartholdt	George	Kreider	Reilly, Conn.
Bartlett	Gittins	Lafferty	Riordan
Brockson	Glass	Langham	Roberts, Mass.
Brodbeck	Goeke	Langley	Rogers
Browning	Goldfogle	Lee, Ga.	Rothermel
Bruckner	Gordon	L'Engle	Sabath
Buchanan, Tex.	Gorman	Lewis, Md.	Saunders
Burnett	Goulden	Lewis, Pa.	Scully
Butler	Graham, Ill.	Lindquist	Seldomridge
Byrnes, S. C.	Graham, Pa.	Lloyd	Sharp
Calder	Gray	Loft	Sherley
Callaway	Greene, Mass.	McAndrews	Sherwood
Cantor	Griest	McClellan	Shreve
Cantrill	Griffin	McCoy	Sims
Carew	Gudger	McGuire, Okla.	Slayden
Carlin	Hamill	McKenzie	Slemp
Casey	Hamilton, N. Y.	McLaughlin	Sloan
Chandler, N. Y.	Hardwick	Mahan	Small
Church	Harris	Maher	Smith, Md.
Clark, Fla.	Hart	Manahan	Smith, Minn.
Connolly, Iowa	Hayes	Martin	Smith, N. Y.
Cooper	Helgesen	Merritt	Smith, Saml. W.
Copley	Helm	Miller	Smith, Tex.
Covington	Helvering	Montague	Sparkman
Cox	Hobson	Moore	Stanley
Crisp	Hoxworth	Morin	Stevens, N. H.
Crosser	Hughes, Ga.	Moss, Ind.	Stout
Dale	Hughes, W. Va.	Murray, Mass.	Talcott, N. Y.
Danforth	Hull	Neeley, Kans.	Taylor, Ala.
Dickinson	Humphreys, Miss.	Neely, W. Va.	Underwood
Dies	Igoe	Nelson	Vare
Difenderfer	Jacoway	Nolan, J. I.	Watkins
Dooling	Jones	Norton	Watson
Doremus	Kahn	O'Brien	Webb
Doughton	Keister	Oglesby	Whitacre
Drukker	Kelley, Mich.	O'Leary	Wilson, N. Y.
Dunn	Kelly, Pa.	O'Shaunessy	Winslow
Eagan	Kennedy, R. I.	Palmer	Young, N. Dak.
Edmonds	Kent	Park	Young, Tex.

The committee rose; and the Speaker having resumed the chair, Mr. GARRETT of Tennessee, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill H. R. 17041, the sundry civil appropriation bill, and finding itself without a quorum, had caused the roll to be called, and 245 Members answered to their names, and that he presented a list of the absentees.

The committee resumed its session.

The CHAIRMAN. The gentleman from Wyoming has 13 minutes remaining.

Mr. MONDELL. Mr. Chairman, when I was interrupted with the roll call I was alluding to the present unfortunate conditions of domestic business and foreign trade. Our democratic friends, no longer able to deny the deplorable industrial conditions of the country, no longer able to blink the fact that the industries of the country are paralyzed, running on short time, without profit, or closing down entirely, are attempting to explain it on the theory that these conditions are psychological. No longer able to deny that our foreign trade is in a condition which, if it continues for 12 months longer, will bankrupt the Treasury and bring an industrial panic, no longer able to deny these facts, the gentlemen from the bucolic districts of the Mississippi Valley are laying the flattering unction to their souls that they can be reelected by saying, "Well, at any rate, the promises we made that the cost of living was going to be reduced has not been fulfilled any better than the balance of the promises we made; things have gone up when we said they would go down. The fact is that the cost of living has actually increased under the Underwood bill." That may go all right in Indiana and Ohio and some of the back districts of Illinois, but I doubt it. The American farmer understands that, whatever may be the immediate effect, free trade in his products is bound in the long run to injure him; the American wool grower knows that the threat of free trade in wool always sends American wool to a price below the foreign price and that thereafter there is a slight temporary reaction. He knows that he is now receiving about 5 cents a pound less for his wool, compared with the price of like foreign wool, than he received under the Republican protective tariff.

Mr. THOMAS. Mr. Chairman——

The CHAIRMAN. Does the gentleman from Wyoming yield to the gentleman from Kentucky?

Mr. MONDELL. I do not. The farmer also knows—and if he does not there will be plenty to remind him when you get ready to issue bonds—that we have lost about $15,000,000 in revenue through increased importations of wool duty free. The American farmer also knows that no one has benefited by free wool except some manufacturers.

So much for the conditions at home confronting our Democratic friends. What do we find when we look abroad? A foreign policy that no man under the flag honestly defends; leastwise I have not been able to find anyone who did not openly or under his breath condemn it or apologize for it. A foreign policy based wholly on the President's determination to have his personal way in an international matter. Our entire foreign policy can be summed up in these words, "Huerta must go." To carry out that declaration the administration made friends with every enemy of order in Mexico. We aided, encouraged, and abetted all of the outlaws and bandits in the Republic to the south of us. In order that the President may have his way he opened our ports to the shipment of arms, and thus spread and extended the theater of rapine and desolation. To eliminate Huerta we have become responsible for the bloody scenes of Torreon and Gomez Palacio. We became largely responsible for the cold-blooded murder of defenseless unarmed men, prisoners of war, by our allies under Villa at Paredon, Saltillo, and Tepic.

In order that Huerta might be eliminated our boats sailed away from Tampico, and left 2,000 of our people at the mercy of a howling mob. To drive out Huerta we sacrificed the lives of our brave marines at Vera Cruz; in order that Huerta may be driven from power we are breaking our faith with the mediators who have met at Niagara Falls, by virtually acting as convoy for vessels carrying arms to the so-called constitutionalists. In order that the President might have his way in Mexico we are about to surrender our sovereign rights in the canal we have builded to unite the waters of the Atlantic and Pacific. And that is our situation abroad.

Oh, you gentlemen on the other side realize the situation at last. You can fight against facts for a time, but ultimately they conquer you. You may attempt to govern this country and care for it and its citizens upon your theoretical lines, under your policies that have proven disastrous when they were tried, but ultimately the day of reckoning must come, and it is coming, coming very soon.

You have had your Belshazzar's feast of Democratic policies, legislative and administrative, and now you sit blanched with fear, knowing that the day of reckoning is not far off. The finger of time is writing upon the wall of passing events the fatal words written in the court of the king of Babylon: "Ye have been weighed in the balance and found wanting." It will require no Daniel to interpret the writing. The American people understand full well its true meaning, and in November they will repudiate you and all your works and doctrines and return a majority on this side of the House. [Applause on the Republican side.] I yield back the balance of my time.

Mr. FITZGERALD. Mr. Chairman, I yield to the gentleman from Michigan [Mr. BEAKES].

Mr. BEAKES. Mr. Chairman, I ask unanimous consent to extend my remarks in the RECORD.

The CHAIRMAN. The gentleman from Michigan asks unanimous consent to extend his remarks in the RECORD. Is there objection?

There was no objection.

Mr. FITZGERALD. Mr. Chairman, I yield to the gentleman from Indiana [Mr. CULLOP].

Mr. CULLOP. Mr. Chairman, I ask unanimous consent to insert in the RECORD an article from the Louisville Times of June 5, 1914, in relation to the woolen-mill industry, and also an article from a Portland, Oreg., paper regarding the woolen industry of that section.

The CHAIRMAN. The gentleman from Indiana asks unanimous consent to extend his remarks in the RECORD. Is there objection?

There was no objection.

Mr. FITZGERALD. Mr. Chairman, I yield to the gentleman from Wisconsin [Mr. REILLY].

Mr. REILLY of Wisconsin. Mr. Chairman, it has been an almost daily occurrence during the past several months for some Republican Member of this body to deliver a speech wherein the industries of our country are pictured as wrecked and ruined as a result of an honest effort on the part of the Democratic Party to comply with the mandate of the people to revise the tariff downward.

The distinguished gentleman from Wyoming [Mr. MONDELL] has carried the leading rôle in the calamity chorus. He has just had the floor for almost half an hour for the purpose of repeating his indictment of the Democratic Party and the Underwood tariff law, and I might say in passing that this same gentleman occupied the floor of this House for a considerable length of time on last Saturday repeating in substance what he said to-day, and has said on various other occasions in this House.

In order to be fair to the gentleman from Wyoming and to the other Members of the minority party, I should state that in this work of attempting to create distrust and to destroy confidence in the business world the gentleman from Wyoming has been ably assisted by the gentleman from Washington [Mr. HUMPHREY]. These valiant representatives of special privilege have been working overtime in their efforts to give to the public the impression that no matter what the actual conditions of the industrial and business world may be, the country will and must go to wreck because of the dreadful mistake the people made in November, 1912, in turning the Republican Party out of power.

We have heard from these distinguished gentlemen about the Argentine corn, the Argentine beef, the Australian wool, the Australian butter, the Chinese eggs, and I believe the Japanese cheese, that under the new tariff rates were sure to put the American farmer out of business, so often that it would overtax one's memory to recall the number of times. The fact of the matter is, these gentlemen have repeated their calamity stories regarding the American farmer so many times that they have come to believe in the truthfulness of their own statements, and continue to repeat them, notwithstanding the fact that market reports show that the American farmer is doing fairly well, notwithstanding the panic-producing efforts of the calamity howlers.

The gentleman from Wyoming has been particularly brilliant in his prophecies as to the fate of the sheep industry of this country because of the fact that wool was put on the free list in the Underwood bill. From the very beginning of the movement to reduce the tariff this gentlemen has been firmly convinced that free wool meant the ruination of the sheep industry. Yet the fact is and the gentleman from Wyoming knew, or ought to have known, that the wool industry of this country had all but perished under the high protection of the Republican tariff measures; he knew or ought to have known that during the decade from 1900 to 1910, when the Republicans were in power and wool was highly protected, that the number of sheep in this country decreased 13,000,000 head.

But such knowledge did not prevent this distinguished advocate of high protection and of Cannonism and prophet of industrial ruin from denouncing the Underwood bill and terrifying the woolgrowers of our country into the belief that their industry was ruined.

Instead of the sheep industry being ruined, that industry has been made more profitable as a result of putting wool on the free list.

Wool is bringing a higher price to-day than at any time since 1897, and a great many woolgrowers, particularly in the West, who contracted their year's clipping early at a low rate because of the prophecies of the calamity howlers of the Republican Party are to-day mourning the loss of several cents a pound on their 1914 wool clip.

I venture the statement, Mr. Chairman, that when the gentleman from Wyoming appears before his constituents this fall asking for reelection to Congress, the woolgrowers of his district, who have suffered a loss of several cents a pound on their wool clip because of the gentleman's terrifying speeches prophesying a ruined sheep industry as a result of free wool, will have some embarrassing and pointed questions to propound to the star prophet of industrial ruin.

Mr. Chairman, we have not only been told time and again by the leaders of the Republican Party on the floor of this House that the American farmer was going to be ruined by the tariff reductions of the Underwood law, but we have also been told that the manufacturers of the country were going to be put out of business.

The common and oft-repeated statement has been that the tariff rates of the Underwood bill have closed factories, annihilated profits, and all but ruined the manufacturing interests of our country, and in the very next breath we have been told that *prices* have not come down at all.

Of course, the advocates of special privileges, in their zeal to make a case never stopped to think that if prices have not come down the manufacturers ought not to complain. If prices have not fallen, the manufacturers must be getting the same prices for their goods now that they received before the passage of the Underwood tariff bill, and consequently there should be no occasion for closing their factories.

Mr. Chairman, it seems that all Republicans have not the same view regarding the Underwood tariff bill and its effects on the industries of this country. Most of the prophecies of disaster that we have heard on this floor have come from the ranks of the old guard of the Republican Party.

The members of the Progressive Party and what might be called the progressive element of the Republican Party have been content to await developments and to allow the Underwood tariff bill to have a chance to demonstrate the wisdom of its enactment before attempting to indulge in criticisms, real or imaginary.

Not only are the Republicans in this House divided on the question of the merits of the Underwood tariff bill and its effect on industry in general, but it would appear also that a great many of the leading Republican papers of the country take an entirely different view of the present industrial situation, as resulting from the Underwood tariff law, than the pessimistic views expressed and reexpressed and expressed again and again by the gentleman from Wyoming [Mr. MONDELL] and his associates in the work of creating a panic.

I received this morning a copy of the Oshkosh Northwestern, a Republican newspaper published in my district, containing an editorial bearing on the present industrial situation.

The editorial is under date of June 6, 1914, and it reads as follows:

THE TARIFF AND WOOL PRICES.

When the tariff on raw wool was reduced western sheep growers joined in the prediction that the change would speedily ruin their business. This was last year, and as the western sheepmen are now engaged in shearing and marketing another "clip" it is of interest to note to what extent their dire predictions of last summer are being verified.

A special dispatch from Great Falls, Mont., to the Minneapolis Journal quotes Joseph Strong, a veteran wool dealer, who has been in business for 25 years in that State, as saying the Montana wool crop this year will probably reach 26,000,000 pounds, and that there is very active competition for such portion of it as still is unsold, with prices ranging from 18 to 20 cents per pound for the standard grades. This is several cents better than the average price received for the wool clip of last year and also several cents more than the bulk of this year's crop was actually sold for. In other words, it appears that the woolmen were needlessly apprehensive of the effect of the lowered tariff, and early in the season they "contracted" most of their clip around 15 and 16 cents. Now they are sorry they did so, for their neighbors who held off are getting much better prices and they realize their own groundless fears have cost them a considerable amount, which alone would represent a handsome profit.

This appears to be typical of the situation which prevails in many lines of business at the present time. There has been much talk and many predictions of the "injurious effects" of the new tariff and a general tendency on the part of manufacturers and others to slow down and hold back in anticipation of seeing these predictions verified. This very tendency has had an adverse effect on trade and business and probably has done more real harm than any direct result of tariff changes. *The new tariff may not be perfect, it is true, and in fact a perfect tariff is beyond the range of hope or possibility. It will be noted, however, that few, if any, specific instances are being cited where the new tariff is proving destructive or even seriously damaging to American industry.* It is the fear of the thing that is causing the trouble, and in most instances this fear is quite groundless, as has been shown in the case of the western woolgrowers.

In the wool manufacturing industry, the same as with the woolgrowers, it is now conceded that the tariff, instead of proving destructive, is having very little effect on conditions. The American woolen mills are having all they can do, there has been no reduction in profits or dividends, and with assurance of continued prosperity there have been several notable extensions and enlargements of the business.

This editorial strikes an entirely different note as regards the present industrial situation than the note usually struck by those who have taken upon themselves the task of creating distrust and destroying confidence in the business world simply because in the writing of the Underwood bill the tariff barons were not permitted to have their way.

I fear that some of my colleagues will think the Oshkosh Northwestern must be a Democratic paper, inasmuch as its editorial takes a position directly the opposite of what we have been hearing on the floor of this House from the leaders of the Republican Party.

The Oshkosh Northwestern is not only a Republican paper, but it is owned and edited by one of the distinguished Republicans of Wisconsin, a man who has long been identified with the Republican Party and who has been honored with high office by that party.

This paper has the largest circulation, I believe, of any paper, Democratic or Republican, in the State of Wisconsin outside the city of Milwaukee. It is published and has a large circulation in a district known as the Fox River Valley, a veritable beehive of industry and one of the most highly developed agricultural sections of the whole country.

It is a pleasure, indeed, to note that there are not a few Republican editors who are unwilling to join the chorus of calamity howlers in their attempt to create distrust in the industrial

world and thereby bring about a panic in order that their party might reap some political benefit.

This editorial speaks of the industrial conditions as they are. The calamity howlers within and without this House have drawn upon their imaginations for the purpose of picturing industrial conditions as their exploded theories would have them be.

The editor and owner of this paper is an able and honest leader of public opinion, caring more for the truth than he does for party advantage.

If the representatives of the Republican element of the business world and the Republican press had joined forces with the calamity howlers in and out of Congress in an attempt to destroy confidence and instill fear in the business world, there can be no doubt at all but that we would have had a panic long ago.

If we do not have a panic and if we are able to go through the process of reorganizing our industrial system on just and equitable lines without any severe industrial depression, the success of the process will not be due to any patriotic impulse that animated the leaders of the Republican Party on the other side of this Chamber, but rather to the patriotism of many leaders of the industrial world and to the patriotism of a respectable element of the Republican press, all of whom cheerfully put the welfare of country above the welfare of party.

I commend to the careful consideration of my distinguished colleagues on the other side of this House who have been engaged so industriously for the past few months in waving the flag of industrial distress the following quotation from the editorial herein referred to:

> The new tariff may not be perfect, it is true, and in fact a perfect tariff is beyond the range of hope or possibility. It will be noted, however, that few, if any, specific instances are being cited where the new tariff is proving destructive or even seriously damaging to American industry.

Mr. FITZGERALD. Mr. Chairman, I yield 25 minutes to the gentleman from Indiana [Mr. CLINE].

Mr. CLINE. Mr. Chairman, I want to say, to start with, that I have been very much impressed with the character of the discussion here this morning. The continuous vaudeville between our two distinguished friends from Illinois, followed by the distinguished gentleman from Wyoming, who found it necessary to redeliver the speech he made on Saturday for fear the country would not fully appreciate the extent to which he has gone in drawing upon his imagination, makes it somewhat embarrassing for me to discuss the proposition that I have in mind. And inasmuch as the gentleman referred to the Representatives of Indiana as some of the men who are attempting to fool the farmer back West this year on the wool question, I want briefly to say that the people of Indiana, in its whole 13 congressional districts, are a very intelligent class of people; they need no gratuitous advice from the gentleman from Wyoming. In the district which I have the honor to represent the farmers are building a woolen mill at the present time through a subscription of $100,000 of stock. They do not entertain the fears that the gentleman from Wyoming pretends that he does. I do not want it understood that I am accusing the gentleman from Wyoming of misrepresenting the facts, but I want to say that it is the most marvelous exhibition of economy of truth that I have witnessed in a long time. No man in this House but knows that the trend of the market on wool has absolutely impeached every declaration made by advocates of the woolen doctrine from a high protection standpoint last year. Wool is bringing more to-day than it has brought in the last 10 years at this season of the year in the open market. Wool is bringing more in Wyoming to-day than it has brought in 7 years, and the statistics are available to show that fact. The people of this country are to have an opportunity to buy and wear real woolen goods and escape the shoddy that a protective tariff fraudulently shelters. I want to discuss very briefly in the few minutes that I have some of the conditions that have produced the economic social situation that exists to-day.

Mr. Chairman, the Congress of the United States is to be congratulated that it has set its face for the solution of great economic problems that confront it with a purpose to solve them and solve them correctly. The efforts of the last 10 days can not be without favor in every line of enterprise. With men of all parties no greater exhibition of patriotism for the public weal has been shown during my service here. Stripped of every selfish purpose, men regardless of party or section vie with each other in their determination to write into law those conditions that shall evolve out of the great social fabric of American democracy a great equality and justice for all. In this wonderful sweep of the new adjustment of business we have all had a part. Speaking from a party standpoint, the transition period has been the most wonderful of any period of our political history. No party was ever subjected to a severer test to maintain its popular favor or to safely guard the interests of all classes of business than ours has been. In no other period has any party reduced the rates of duty on imports without seriously disturbing business conditions; at no period heretofore have we concurrently reduced the rate of duty on imports and changed our whole fiscal system. The Democratic Party made the changes because the people demanded that they should be made, and because we promised to make them if intrusted to power. You know why there has been no serious interruption to business; why in the million avenues of trade throughout our diversified industries there was no unnatural depression. It is because the people have confidence in the business ability, capacity, and patriotism of the Democratic Party. It is worth while to remark that no charge has been made against us in the recent tariff legislation that we discriminated between citizens. No charge has been made against us that we make the Government an instrument in the hands of special interests to promote their own private well-being. No charge is made against the Democratic Party that in currency legislation we permitted great financial interests, heretofore all controlling, to prescribe the character or the methods of the administration of the currency measure. The Democratic Party is commended everywhere and by all classes of citizens for its efforts to legislate in the interests of all the people and not to the prejudice of any class of people.

But how do these problems happen to confront us now? How does it occur that the reduction of the tariff, the introduction of a new currency system into our fiscal affairs is necessary; the regulation of corporations, the enlargement of the powers of the Interstate Commerce Commission, the enactment of trust legislation, the conservation of the natural resources—all intricate, complex, and embarrassing—how does it occur that they come to us now for solution? What is there in the trend of events that forced upon us these serious questions that reach down to the very roots of our national life, that should make it necessary, in the interests of the people, that they be settled now? Let me refresh your recollections of a few historical facts. For more than 75 years of our history we were engaged in settling political problems, not social or economic problems. We amended, defined, and interpreted the Constitution; we blocked out great States in the empire of the unimproved lands of the West; we fought for 50 years over the doctrine of State rights and nullification, until we were compelled to settle those questions by the bloodiest and most devastating war in human history. Having done that, every citizen turned to the development of our boundless resources. On every side were beckoning hands inviting the genius, the thrift, the energy of all the people to rehabilitate the Nation and turn its feet into the highway leading to the achievement it now enjoys.

The liberties and privileges of the individual citizen were larger, freer, and more unrestrained at that time than in any other period in our national growth. For more than a quarter of a century following the war the life of the individual citizen was one of individualism in trade, in manufacture, and commerce. It is within the memory of many whom I now address that your neighbors in every line of manufacture contributed to your wants. The wagon maker, the shoemaker, the little local woolen mill, ministered to your necessities. Men were free to enter any pursuit or line of business unrestrained, except by the competition of other single individuals engaged in like enterprises, and find a market for their labor and their products. That was the age of individualism that followed the eventful struggle of 1861. At that period State legislation bore lightly upon the citizen, and the very largest possible liberty was the possession of all classes. But the war taught us other lessons than those of politics. It taught us the power of cooperation. We learned from that eventful struggle what it meant to mass a great body of men and capital in a single enterprise. Surrounded as we were by such opportunities, we early found that we wanted to produce great results and produce them on an enormous scale; consequently we invaded every avenue of commerce with this new theory of production. The home wagon maker was swept off his feet by the mass of men and improved machinery that could make a thousand wagons while he made one. The shoemaker, with his crude methods and antiquated tools, was engulfed by thousands of other shoemakers with new machinery in the employment of a single man. The woolen mill on the small head of back water in some stream was overtaken by a company that could clothe a community while he was making material for a single garment. That is collectivism. The transition from one condition to the other, from individualism in economics to collectivism in economics, was borne

with the evolution that followed the Union of the States. Do not understand that I deprecate the change. I indorse it. It gave us a new civilization, and by this transition new forces were inducted into our national life that thereby make us great. Such changes were in the proper line of our commercial destiny.

Mr. BUCHANAN of Illinois. Mr. Chairman, I make the point of order that there is no quorum present.

The CHAIRMAN (Mr. GALLIVAN). The gentleman from Illinois makes the point of order that there is no quorum present. The Chair will count. [After counting.] Ninety-seven Members present; not a quorum. The doors will be closed and the Clerk will call the roll.

The Clerk called the roll, and the following Members failed to answer to their names.

Ainey	Fess	Knowland, J. R.	Riordan
Alexander	Flood	Konop	Roberts, Mass.
Allen	Francis	Korbly	Rogers
Anderson	Gallagher	Kreider	Rothermel
Ansberry	George	Lafferty	Rucker
Ashbrook	Gerry	Langham	Sabath
Barchfeld	Gittins	Langley	Saunders
Barkley	Godwin, N. C.	Lee, Ga.	Scully
Barnhart	Goeke	L'Engle	Seldomridge
Bartholdt	Goldfogle	Lewis, Pa.	Sells
Bartlett	Gordon	Lindquist	Shackleford
Bathrick	Gorman	Linthicum	Sharp
Beall, Tex.	Graham, Ill.	Loft	Sherley
Brockson	Graham, Pa.	McClellan	Shreve
Brodbeck	Green, Iowa	McCoy	Sims
Brown, W. Va.	Greene, Mass.	McGuire, Okla.	Sisson
Browning	Gregg	McLaughlin	Slayden
Bruckner	Griest	Mahan	Slemp
Burgess	Griffin	Maher	Sloan
Burke, Pa.	Guernsey	Manahan	Small
Byrnes, S. C.	Hamill	Martin	Smith, Md.
Calder	Hamilton, N. Y.	Merritt	Smith, Samuel W.
Callaway	Hardwick	Miller	Smith, Minn.
Cantor	Hart	Mondell	Smith, N. Y.
Cantrill	Haugen	Montague	Smith, Tex.
Carew	Hay	Moore	Sparkman
Carlin	Hayden	Morgan, La.	Stanley
Carr	Hayes	Morin	Stephens, Miss.
Casey	Helgesen	Moss, W. Va.	Stevens, N. H.
Chandler, N. Y.	Helm	Murray, Mass.	Stout
Church	Helvering	Neeley, Kans.	Sutherland
Clancy	Henry	Neely, W. Va.	Talbott, Md.
Cooper	Hinebaugh	Nelson	Taylor, Ala.
Copley	Hobson	Nolan, J. I.	Thacher
Covington	Holland	Norton	Towner
Crisp	Houston	O'Brien	Townsend
Crosser	Howard	Oglesby	Tribble
Dale	Hoxworth	O'Leary	Tuttle
Danforth	Hughes, Ga.	O'Shaunessy	Vare
Davis	Hughes, W. Va.	Page, N. C.	Walker
Dershem	Humphreys, Miss.	Palmer	Wallin
Dies	Igoe	Parker	Watkins
Difenderfer	Jacoway	Patten, N. Y.	Watson
Dooling	Johnson, Utah	Patton, Pa.	Webb
Doughton	Jones	Payne	Whaley
Drukker	Kahn	Peters, Me.	Whitacre
Dunn	Kelley, Mich.	Peters, Mass.	Wilson, N. Y.
Dupré	Kelly, Pa.	Platt	Winslow
Eagan	Kennedy, R. I.	Plumley	Woodruff
Edmonds	Kent	Porter	Young, N. Dak.
Estopinal	Kiess, Pa.	Post	Young, Tex.
Evans	Kinkead, N. J.	Prouty	
Fairchild	Kirkpatrick	Ragsdale	
Faison	Kitchin	Reilly, Conn.	

The committee rose; and the Speaker having resumed the chair, Mr. GALLIVAN, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill H. R. 17041, and finding itself without a quorum, under the rule he caused the roll to be called; 220 Members answered to their names, and he presented therewith the list of absentees to be recorded in the Journal.

The SPEAKER. The Chairman of the Committee of the Whole House on the state of the Union reported that that committee having under consideration the bill H. R. 17041, finding itself without a quorum, under the rule he caused the roll to be called; thereupon 220 Members, a quorum, answered to their names, and he presents herewith the list of absentees to be entered upon the Journal. The committee will resume its sitting.

Thereupon the committee resumed its sitting.

The CHAIRMAN. The gentleman from Indiana [Mr. CLINE].

Mr. CLINE. Mr. Chairman, when I was interrupted by the roll call I was attempting to show the effect of combinations with large numbers of men and vast amounts of capital upon our economic conditions. In this new environment of collectivism the power of groups of men organized into stock companies and financed by other men acting in concert overshadowed the individual, the community, the State with the magnitude of their power. The success of such massing of men and capital not only astonished the promoters but astonished the whole commercial world. In these colossal changes the individual was driven by force of the very change itself from his unlimited field of election of employment. His circle of personal liberty for his life business was narrowed because the field of his employment became more and more restricted through the absorption of his individual opportunities by corporations that swept by him in their constantly accumulating power like a torrent in a stream. The transition from individualism to collectivism, as you know, massed great bodies of men into a single community following a single activity. The independence of a citizen was partially lost because the diversity of daily employment and the freedom of the citizen to elect his employment was transferred to the corporations that in a measure compelled his employment. Men under our form of government have a right to feel secure, no matter in what they may be engaged, and at all times have a right to seek that protection from the State that is designed to promote always the public good. It is a singular coincidence that as the magnitude of single lines of employment developed the interests of the State became involved and restrictive legislation upon the powers and duties of the corporations the State had created began to be written upon the statute books. Men before me know that for nearly a generation the strength of the corporation has been matched against the power of the State to control it. We learned the impotency of the State to protect the liberties and the property rights that belonged to the local citizen when they became involved in interstate commerce as against the power of corporations that sought to control prices and destroy competition.

The same citizen who was jealous of his rights under State government and condemned the Federal power for its attempted absorption of the States' prerogative turned away from his State to the Federal Government, because of its strength, for his protection. The theory of State rights in an unrestricted sense found its greatest censure in its incapacity to protect a State from the advancing interests of those close and compact organizations. Men deeply interested in the protection of personal rights demanded Federal legislation and restriction in response to the determined power of organized capital. Hence these propositions with which we have been engaged have come to us for solution. I believe in big business; not in destructive big business, but in business that grows big by legitimate and lawful means and through which permeates a high moral tone of social justice. This is an age of big business, and I doubt whether we would be able to seriously check its growth even if it was desirable to do so. We shall do well if we are able to control it so that it shall not become an outlaw among the forces that tend to our marvelous commercial development. My faith is weak in our ability to preserve for the small dealer and trader a fair competition in a contest with unlimited capital and perfect management that gives the consumer as good an article at a cheaper price. The Federal Government may control the commerce of an article, but if it is a stable product it can not control its production. So long as it can be put upon the market at a profit, so long will the production continue to increase in volume. We are overwhelmed by the magnitude of our enterprises. Their stupendous character can not be comprehended. Unlimited commercial power envelops our national life and its magnitude turns us into day dreamers as to their possibilities for the future.

The Republican Party went out of power because it refused to enter the contest where was forged into Federal law a recognition of those principles that lie at the very base of our prosperity and the recognized personal rights of the citizen. Let me call your attention to another direction to illustrate the power of corporations. Some of them command more resources and occupy territory greater than a single State. With their vast systems of business they have put to flight every opposition that sought to check and control them, except the Federal Government itself. This is the situation: This colossal force in the business and transportation world, moving in a single line, with a single ultimate purpose, with complete unity of action, converging power under the command and generalship of one head, like that of the house of Morgan, not alone in money and credits, but in steel, cotton, coal, meats, and transportation, is so extensive that no man can measure it. These mighty institutions mingle and interlock their directorates with each other so that the entire economic force of society is involved in their power and shaped and fashioned at their will. These forces in the business enterprises of the people not alone affect our social fabric, but, unless checked and controlled, may seek, if they have not already done so, to become a dominating force in the politics of this country.

No man can measure their influence who has not observed their methods and studied their possibilities. That their further development either in scope or power unrestrained is inimicable to the public good admits of no denial. The problem of control, at least in some degree, is up to us. The interests

of a hundred millions of people, however, must not be jeopardized by legislation that destroys liberty in business except as the exercise of that liberty invades the domain of public justice, nor must it paralyze the effectiveness of capital operating along legitimate lines, even though massed for the accomplishment of great purposes. That the recent legislation tends to a stronger centralized government must be admitted by all. As questions develop into national prominence involving the rights of more than a single State, they of necessity come within the jurisdiction of the Federal Government. The interstate-commerce act, whose powers we have sought to enlarge—our pure-food laws, the white-slave act, the migratory bird law, the antitrust legislation that we passed yesterday, the assumed right of the Federal Government to take over in the interest of the people the water-power privileges in navigable rivers—all illustrate the tendency to enlarge the powers of the Federal Government at the expense of the State. I have invited your attention to this short discussion of the transition of our whole industrial system from individualism to collectivism to show you how the economic forces of society are gradually but certainly passing from State to Federal control.

The business of the citizen is as much entitled to freedom from restraint as his political freedom is. It is the duty of the Congress to maintain that freedom. When business becomes monopolistic it becomes oppressive; when it becomes oppressive it assumes and exercises special privileges. Two classes are interested in commercial and economic freedom—the consuming public and the small business man. Both classes are always the victims of trust and monopolistic control. There is room in the commerce of this Republic for all. There is no room in American democracy for oppression, either political or economic. [Applause.]

Mr. Chairman, I yield back the balance of my time.

Mr. FITZGERALD. How much time did the gentleman consume?

The CHAIRMAN. The gentleman from Indiana yields back eight minutes.

Mr. FITZGERALD. Mr. Chairman, I yield two minutes to the gentleman from Tennessee [Mr. PADGETT].

Mr. PADGETT. Mr. Chairman, I ask unanimous consent to extend my remarks in the RECORD by inserting a speech of the Secretary of the Navy recently made in New York City at the Naval League banquet.

The CHAIRMAN. The gentleman from Tennessee asks unanimous consent to extend his remarks in the RECORD by inserting therein a speech made by the Secretary of the Navy at a recent banquet. Is there objection? [After a pause.] The Chair hears none.

Mr. PADGETT. Mr. Chairman, I yield back the remainder of my time.

Mr. GILLETT. Mr. Chairman, I yield to the gentleman from Illinois [Mr. MADDEN].

Mr. MADDEN. Mr. Chairman, for the fifth time since 1776, when, on the 4th of July of that memorable year, those stern patriots signed the Declaration of Independence, we again find ourselves engaged in the possibilities of another war; our warships are now anchored in Mexican waters and our troops occupy Mexican soil. The flag floats over Vera Cruz, and we have entered upon a task which may well give us pause for serious reflection. Mexico is a rugged and mountainous country and the fanatical zeal of its inhabitants in defending their country may make our problem difficult.

We can not, therefore, be too careful in considering what we have undertaken in our conflict with Mexico. True, we have men and money and resources sufficiently adequate to pursue such a campaign, and there can be no doubt of the result, no matter what the stern demands of the war may require.

All the great wars, as shown by history, had their inception in small beginnings, but ere they had ended many neighboring States became involved. Beginning with 1792 and coming down to 1815, nearly all Europe was little else than an armed camp, while the enormous debt then incurred is even grievously felt to this day. The Crimean War, indeed, was but an echo of the 23 years of deadly conflict between the nations. The struggle of 1854–1856 involved all Russia, England, France, and Italy.

Mr. Chairman, I am compelled to say that in the face of the present struggle we are very fortunate that we have among the colored portion of our population near 12,000,000 American citizens, historically known as a fighting force in all the wars of the past, a people who have won the right to stand in the front rank of the world's best fighters.

Perhaps the country is not aware of this great military resource which it has in our colored population. This is a fighting strength that may well enable us to hope for success in any struggle. But before going further into this question, let me outline in a brief manner the task we have set for ourselves in Mexico.

MEXICO.

Mexico has to-day a population of about 16,000,000 people. Its fighting strength is out of all proportion to its normal population. The Mexican women are often employed as an effective fighting force, and must always be reckoned with by any invading army. We have already had an example of Army service under tropical conditions as set forth in the Philippine country. It therefore behooves us not to underrate or belittle our Mexican foes. Should we enter upon this war it must not be forgotten that the Mexicans now have all the modern equipment needed for the prosecution of a combat. They have Maxim guns, improved rifles, telegraphic accessories, mountain batteries, and the like, none of which were possessed by the Filipinos. We may thus form some estimate of the task which confronts us. We must also reckon with the climatic conditions, which are unfavorable to Americans. In 1846, when the population of Mexico did not exceed 6,000,000, we put in the field at that time an army of more than 100,000 men. That war lasted two years, and would have lasted longer had not the Mexicans, then as now, been torn asunder by civil dissensions. In the two years the number of deaths from tropical fever exceeded the number killed in battle.

If we enter upon a war with Mexico now, we must be prepared to raise an army of 500,000 men and count on a 10-year conflict, a thing too horrible to contemplate.

COLORED SOLDIERS IN REVOLUTIONARY WAR.

CALEB BARBOUR, THE NEGRO SCOUT IN THE REVOLUTION, THE HERO OF STONY POINT BATTLE.

It will surprise many scholars familiar with Revolutionary history to learn that one of the most daring feats of the War of the Revolution was performed by Caleb Barbour, a free negro of New York, and that by his aid Gen. Anthony Wayne was able to recapture from the British Stony Point by surprise July 16, 1779.

Stony Point, with its almost inaccessible heights, was the recognized key to the British position in New York. It was the route by the old French and Indian road into Canada, whence the British drew most of their supplies. The British took it after a stubborn fight May 31, 1779, and since that time, urged by Washington, Gen. Wayne had planned its recapture, but with little hope of success, when Barbour, famous as a scout in the American service, returned one day with the British countersign, and thus armed he led the American forces 1,200 strong at the dead of night up the perilous heights and into the British lines and to victory.

In Steele's "History of the United States," page 130, is given the following:

> The capture of Stony Point was one of the most brilliant exploits of the war. The countersign, which curiously enough was "the fort is ours," was obtained by a negro, who was in the habit of selling strawberries to the British. He guided the troops in the darkness to the causeway leading over the flooded marshes around to the foot of the hill on which the fort was situated.
>
> The unsuspecting sentinel having received the countersign was pleasantly chatting with the negro when he was suddenly seized and gagged. An instant more and the deafening shouts told that the victory was won. The British loss was 63 killed and 553 wounded and prisoners, while the American loss was 15 killed and 83 wounded. According to the numbers engaged Stony Point was one of the bloodiest encounters of the War of the Revolution, and by its capture Gen. Gates's victory at Saratoga was rendered possible and the Americans, by their possession of this important strategic point, were able to cut off Gen. Burgoyne from his base of supplies in Canada. Barbour served through the entire campaign and undoubtedly contributed more to the ultimate defeat of the British arms in that section than any other one man.

The sources of American history on this particular topic are somewhat meager. Many of our recent historians fail to make any mention whatever concerning the early enlistments in the American Army of colored soldiers. Truthfully speaking, the colored soldier has played an important as well as a vital part in the military history of this country. I shall refer to a few of these events, which will prove beyond any controversy the heroism of the American soldier of color.

Color prejudice, Mr. Chairman, is said to be a species of injustice, so arrogant in its decrees as to be termed an iniquity in itself. It is destitute of all reason, and in its operations it actually refuses to countenance so much as an appeal from its unreasoning maxims.

The colored man in this country has been a loyal soldier, and his record is coeval with that of the history of our country. Starting in the year 1775, with the Revolutionary War, history tells us that Varnum's Rhode Island Battalion was the first large aggregation of colored troops which served in any war, numbering some 3,000 men. These were all volunteers, and enlisted from the States of Connecticut, New York, and New Hampshire. Each of these States also furnished a company in addition to these individual enlistments. Thus before

the close of this war there were few companies, brigades, or regiments which did not contain some colored men as soldiers.

These companies and brigades appear to have been made up from the free colored people of the States; but before the war closed many slaves were pressed into the service of the Army, as the slaveholders did not care to lose their human property, as they termed it. Hence even at that early period it became the policy of the country to use colored troops in our military conflicts.

The issue of employing slaves to fight our battles nevertheless became a burning one, and in May, 1775, the Massachusetts committee of safety voted that thereafter "only free men should be enlisted as soldiers." During that same year, in the month of July, Gen. Gates, then in command, issued an order prohibiting further colored enlistments, though still retaining in the service all who had up to that time enlisted.

As an evidence of the heroism of the negro soldier in the early period of the country I quote the following from the Annals of Congress, under date of December 5, 1775:

To the honorable General Court of the Massachusetts Bay:

The subscribers beg leave to report to your honorable house—which we do in justice to the character of so brave a man—that under our observation we declare that a negro man named Salem Poor, of Col. Frye's regiment, Capt. Ames's company, in the late Battle of Charleston, behaved like an experienced officer as well as an excellent soldier.

To set forth particulars of his conduct would be tedious. We would only beg to say in the person of this negro centers a brave and gallant soldier. The reward due to so great and distinguished a character we submit to Congress.

Jona Bremer, colonel; Thomas Nixon, lieutenant colonel; Joseph Baker, lieutenant; Jonas Richardson, captain; Ebenezer Varnam, second lieutenant; William Smith, captain; Richard Welsh, lieutenant; William Prescott, colonel; Ephm. Corey, lieutenant; Eliphalett Bodwell, sergeant; William Hudson Ballard, captain; John Morton, sergeant.

This is, indeed, a splendid and a well-attested tribute to the gallantry of a worthy negro soldier of the Revolutionary War, and is only one of the many instances wherein black men offered their lives as willing sacrifices for a country the people of which for years held their race in bondage.

The record also shows that Gen. Washington, on the 30th of December, 1775, issued a proclamation authorizing the enlistment of free colored people. Those soldiers bore an honorable part in all the engagements from Bunker Hill to Yorktown. History records some very noted instances of valor displayed by individual colored Revolutionary soldiers, among which may be mentioned the engagement which resulted in the killing of the English Maj. Pitcairn in the thick of the fight by Peter Salem, a colored patriot, and also may be mentioned the heroism of Jordan Freeman at Fort Griswold, who destroyed the English Maj. Montgomery.

Gen. Washington's proclamation of 1775 to Congress on the matter of colored troops reads as follows:

It has been represented to me that the free negroes who have served in this army are very much dissatisfied at being discarded. As it is to be apprehended that they may seek employ in the ministerial army, I have presumed to depart from the resolution respecting them and have given license for their being enlisted. (Vol. 3, pp. 218–219, Sparks's Washington.)

Congress on the 16th of January, 1776, decided the whole question submitted by Washington by the passage of the following act:

That the free negroes who have served faithfully in the Army at Cambridge may be reenlisted therein, but no others. (Vol. 2, p. 26, Journal of Congress.)

The colored soldiers took a vital part in the capture of Maj. Gen. Prescott at Newport during the Revolutionary period, while their gallant defense of their beloved commander, Col. Greene, when he was surprised and murdered at Croton River, May 13, 1781, after the last of his faithful guards had been shot and cut down, will ever remain a monument to their valor and patriotism. And in the same war, at the Battle of Rhode Island, a battalion of 400 colored troops withstood three separate and distinct charges from 1,500 Hessian soldiers led by Count Donop, beating them back with such tremendous loss that the count, fearing lest his men would kill him if he went into battle with them again for having exposed them to such slaughter, at once applied for his personal exchange.

The Historian Bancroft tells us that during the Revolutionary period the right of free negroes to bear arms was little disputed. Bancroft states that these soldiers took their place not in a separate corps but in the ranks with the white soldiers, and our pension rolls show that their names are still borne side by side on this roster of fame of their country.

Mr. Chairman, my purpose is to picture for the House and for the country an historic parallel. I want to show to the House, to the country, and to the world by an unmistakable parallel that if you will place on one side of the ledger what these people have accomplished as American soldiers and on the other side of the ledger the inhuman suggestions to segregate and to discriminate against them by acts of Congress, that every unbiased man in this country of ours will at once agree that such segregation, such discriminations as proposed by bills in the present Congress, should no longer be attempted; that these people have won their rights—their civil and political rights—that it is now time to call a halt and to unbend a little in their favor, especially in the face of another war. This is the parallel I wish to exhibit.

WAR OF 1812–1814.

In the main the War of 1812 was fought upon the water, and the colored men in the American Navy stood in the ratio of about 1 to 6. Commodore Perry, because of the large number of negroes sent to him, at first made some complaint, but later on paid a high tribute to their bravery and efficiency. Capt. Shaler, who had charge of the armed brig *General Thompson*, speaks thus of an engagement between his vessel and a British frigate at the time:

The name of one of my poor fellows who was killed ought to be registered in the book of fame and remembered as long as bravery is a virtue. He was a black man, by name John Johnson. A 24-pounder struck him in the hip and took away all the lower part of his body. In this state the poor brave fellow lay on the deck, and several times exclaimed to his shipmates: "Fire away, my boys; no haul a color down."

Another black man by the name of John Davis, who was struck in much the same manner, repeatedly requested to be thrown overboard, saying that he was only in the way of others. I know of nothing finer in history than these.

But let me read for the information of the House and the country what the great apostle of the Democratic Party, Gen. Andrew Jackson, had to say about the valor of colored soldiers while he was President of the United States. Writing under date of December 18, 1814, he stated:

To the men of color, soldiers:

From the shores of Mobile I called you to arms. I invited you to share in the perils and to divide the glory of your white countrymen. I expected much from you, for I was not uninformed of those qualities which must render you so formidable to an invading foe. I knew you could endure hunger and thirst and all the hardships of war. I knew that you loved the land of your nativity, and that, like ourselves, you had to defend all that is most dear to man. But you surpass my hopes. I have found in you, united to those qualities, that noble enthusiasm that impels to great deeds.

Soldiers: The President of the United States shall be informed of your conduct on the present occasion, and the voice of the representatives of the American Nation shall applaud your valor. The enemy is near. His sails cover the lakes, but the brave are united; and if he finds us contending among ourselves it will be for the prize of valor and fame, its noblest reward.

During the War of 1812 a charging column of the American Army was repulsed and thrown into great disorder. A colored soldier, a private in the ranks, at the risk of his life, sprang upon a horse near by and with great heroic effort rallied the troops and led them back to a second charge, in this way completely routing the enemy. This colored soldier was afterwards rewarded by Gen. Jackson with the honorary title of major. Under the laws which existed at that time Gen. Jackson could not commission this gallant solider, and after the close of the war he returned to his home in Nashville, Tenn., where he lived for many years thereafter and was highly respected by the citizens of all races.

Again, at the battle of New Orleans, the colored troops stood with Gen. Jackson behind a hastily constructed breastwork, and 400 of their sharpshooters helped to hurl back the flower of the English army, subsequently to the English defeat. Gen. Jackson also commanded the colored troops in the fight against Lord Peckenham at New Orleans.

And now, Mr. Chairman, for the information of the House and the country, I feel it my duty to read at this point Gen. Jackson's proclamation to the colored soldiers while commanding the forces in the War of 1814. I desire that it shall be inserted in full in the RECORD as part of my remarks:

[From Nile's Register, Vol. VII, p. 205.]

GEN. JACKSON'S PROCLAMATION TO THE NEGROES.

HEADQUARTERS, SEVENTH MILITARY DISTRICT,
Mobile, September 21, 1814.

To the free colored inhabitants of Louisiana:

Through a mistaken policy you have heretofore been deprived of a participation in the glorious struggle for national rights in which our country is engaged. This no longer shall exist.

As sons of freedom you are now called upon to defend our most inestimable blessing. As Americans, your country looks with confidence to her adopted children for a valorous support, as a faithful return for the advantages enjoyed under her mild and equitable government. As fathers, husbands, and brothers, you are summoned to rally around the standard of the eagle to defend all which is dear in existence.

Your country, although calling for your exertions, does not wish you to engage in her cause without amply remunerating you for the services rendered. Your intelligent minds are not to be led away by false representations. Your love of honor would cause you to despise the man who should attempt to deceive you. In the sincerity of a soldier and the language of truth I address you.

To every noble-hearted, generous freeman of color volunteering to serve during the present contest with Great Britain, and no longer, there will be paid the same bounty, in money and lands, now received by the white soldiers of the United States, viz, $124 in money and 160 acres of land. The noncommissioned officers and privates will also be entitled to the same monthly pay, and daily rations, and clothes, furnished to any American soldier.

On enrolling yourselves in companies the major general commanding will select officers for your government from your white fellow citizens. Your noncommissioned officers will be appointed from among yourselves.

One regard will be paid to the feelings of freemen and soldiers. You will not, by being associated with white men in the same corps, be exposed to improper comparisons or unjust sarcasm. As a distinct, independent battalion or regiment, pursuing the path of glory, you will, undivided, receive the applause and gratitude of your countrymen.

To assure of the sincerity of my intentions and my anxiety to engage your invaluable services to our country, I have communicated my wishes to the governor of Louisiana, who is fully informed as to the manner of enrollment, and will give you every necessary information on the subject of this address.

ANDREW JACKSON,
Major General Commanding.

Three months after the above proclamation was issued, on December 18, 1814, Gen. Jackson reviewed all the troops, white and colored, in New Orleans, and at the close of the review a white soldier by the name of Edward Livingston, who was an aide on the staff of Gen. Jackson, read the above now famous address to the enthusiastic Army.

At this point I desire to state, Mr. Chairman, that I am indebted in a large degree to Mr. Daniel Murray, a representative of the colored race, who has for many years been connected in an official way with our Congressional Library, for the many important historical facts brought out by me in this historical parallel. Mr. Murray has been connected with the Library of Congress for twenty or more years, and has gathered for publication an entire encyclopedia of the colored race and every historical event of importance in which that race has been connected.

THE LATE CIVIL WAR.

The first systematic attempt to organize colored troops in our Civil War was the so-called "Hunter regiment," by Gen. David Hunter. The first order issued by the War Department on this subject bears the date of May 7, 1862, although this order did not have the full authority of the department behind it. The second of the kind bears date of August 6, 1862, and was issued to the First Kansas Colored Troops, with Richard J. Hinton as colonel, and which antedates Lincoln's Proclamation of Emancipation.

We had in the Civil War, all told, about 178,975 colored troops, the deaths amounting to some 36,847. These troops were organized into—

Regiments of Infantry	138
Regiments of Cavalry	6
Regiments of Heavy Artillery	14
Regiments of Light Artillery	1

They participated in 449 battles, and a few of the colored regiments had the largest number of men killed in any one single engagement. The States furnishing these troops were:

Alabama	2,969
Arkansas	5,526
Colorado Territory	95
Connecticut	1,764
Delaware	954
District of Columbia	3,269
Florida	1,044
Georgia	3,486
Illinois	1,811
Indiana	1,537
Iowa	440
Kansas	2,080
Kentucky	23,703
Louisiana	24,052
Maine	104
Maryland	8,718
Massachusetts	3,966
Michigan	1,387
Minnesota	104
Mississippi	17,869
Missouri	8,344
New Hampshire	125
New Jersey	1,185
New York	4,125
North Carolina	5,035
Ohio	5,092
Pennsylvania	8,612
Rhode Island	1,837
South Carolina	5,462
Tennessee	20,133
Texas	47
Vermont	120
Virginia	5,723
West Virginia	196
Wisconsin	165

Our Civil War had many incidents not recorded by any of the historians which showed the value of colored men as a military force. For instance, perhaps few persons are aware that there were several thousand colored soldiers enlisted in white regiments, as may be seen upon an examination of our pension roll, while quite a number were officers in such regiments.

Napoleon paid them a tribute when he transferred Louisiana to the United States in the year 1803, when he was about to engage in a death struggle with England. He said at that time that—

If a mere handful of poorly equipped negro soldiers in Santo Domingo could hold at bay for two years and finally defeat over 60,000 of Europe's best soldiers, I could not hold Louisiana against England's great navy.

Napoleon therefore sold Louisiana. He also stated at another time, with extreme admiration for the valor of the black soldiers of Haiti, that—

with such soldiers, and led by me, I could defy Europe in arms.

It is also little known that from 1861 to 1865 Louisiana is credited with contributing 24,052 colored soldiers, the largest quota furnished by any single State. Kentucky comes next with 23,703, and then Tennessee with 20,133 men. No other State save Mississippi, which had an enrollment of 17,869, is credited with double figures in its enrollment of colored soldiers in the Civil War.

I do not lose sight of the fact, Mr. Chairman, that in every period of our country nearly every section has at times been imbued with extreme racial prejudice on the ground of color and without being able to assign any rational grounds therefor. I do think, however, that when we impartially compare the loyalty of our colored citizens, especially in the time of war, contrasting it with the almost inhuman propaganda of race distinction on our part, that the time has now arrived when we should call a halt and forever obliterate all efforts and measures, in Congress or out, which aim at racial segregation and discrimination on color grounds. Hence I appeal to the men of this Congress, to the Representatives of all parties and from every section of the country, to take steps, by their vote or otherwise, to take from the calendars of Congress bills and resolutions drawn in the light of the dead past, the sole purpose of which is to draw more acutely the color line by national legislation. This we ought to do before adjournment. This we ought to do in view of the fact that ere long we may again have to call upon colored Americans to help fight our battles in Mexico and elsewhere.

WAR WITH SPAIN.

During the outbreak of hostilities between the United States and Spain in 1898 the Republican Party, to demonstrate its loyalty to the broad and humane principles set forth in the Declaration of Independence, and in order to give legal sanction to the fourteenth and fifteenth amendments of the Constitution, called into the military service for that conflict over 15,000 colored soldiers. Of this number nearly 300 were officers, a fact which is without precedent in all our military history. The service of these men was characterized by gallantry and bravery, and at the time aroused the admiration of the world. We all know that the valor of the black troops at San Juan Hill largely contributed to the victory achieved on that occasion, as the department records fully testify. As a further mark of recognition for the heroic services, President McKinley in 1899 issued his famous order for the organization of the Forty-eighth and Forty-ninth Infantry Regiments, composed of colored men.

The Ninth and Tenth Cavalry, as well as the Twenty-fourth and Twenty-fifth Infantry, all colored troops, made splendid records in Cuba and the Philippines, and it is said that to-day there are no finer horsemen who carry carbines and sabers than these troopers. History also records that the Tenth Cavalry arrived at Santiago just in the nick of time to save the whole command from utter annihilation by the Spanish forces. The Twenty-fourth Infantry performed a large service in both Cuba and the Philippines, not only in the matter of fighting but also in the matter of the law-abiding conduct of its members in foreign lands. In the Cuban campaign many of the colored companies were led by their own noncommissioned officers, and there seems to be no doubt that among the 300 officers of colored men in the Volunteer service at that time there were many of these officers who measured well up to the standard in every emergency.

During the Philippine trouble it is related by Dr. Joseph M. Heller, late major and surgeon, United States Army, that during the campaign Capt. Bachelor, a North Carolinian by birth and a hero if ever there was one, with 350 colored troopers, a brave and splendidly disciplined little band, marched and fought their way over a distance of 310 miles in one month. The route selected was over roads so difficult as to be almost impossible of travel. In fact, the route did not really deserve the name of roads, but were simply trails, through which the men plodded along, sinking at times to their knees in mud.

The expedition at the time was chasing Aguinaldo through the northern and central portions of Luzon and toward the China Sea. Dr. Heller stated that he never saw men show

truer courage than these troops with Capt. Bachelor. They were insufficiently clothed for the long march, and without guides in a strange region, but through chilling nights and sweltering days they forded 123 streams and crossed precipices and mountains where the daily average of ascent and descent was not less than 8,000 feet. For three weeks these troops lived on unaccustomed and insufficient foodstuffs and drove the enemy twice from strong positions. They captured many of the natives and set free more than 400 prisoners. They finally forced the surrender of the commander of the insurrecto forces and made the people of Luzon enthusiastic advocates of American supremacy. No other single command during the Philippine trouble stood as many hardships or accomplished so much as these negro soldiers under Capt. Bachelor. Such was the report made at the time; and although Gen. Lawton was killed, Capt. Bachelor carried out his verbal orders, and died of cholera in the Philippines, thus going to his grave without any further reward of recognition for one of the bravest expeditions ever attempted by soldiers in modern times.

A writer on military subjects, referring to the incident, wrote that—

When Alexander, in quest of kingdoms, had laid Egypt at his feet, he fell against Abyssinia, and was utterly repulsed. L'Overture and Dessalines whipped England, France, and Spain, and a half million black men whipped one-half of Europe. And for 30 years Cuban negroes fought Spain for political freedom, and finally, with the aid of the Ninth and Tenth Cavalry of the United States, fought for and won their industrial and political emancipation.

In a report made by the Surgeon General of the Army under date of October 31, 1912, it is found that the negro soldier loses less time in the Army service by reason of sickness than does the white enlisted soldier. The report in question states:

The negro soldier has demonstrated his ability to serve with less loss of time from active duty by reason of sickness than the white enlisted man. The noneffective rate of the colored soldier was 25.88, while that of the white was 33.60. (From report of Surg. Gen. George H. Torney, 1912.)

In conclusion, Mr. Chairman, I desire to place in the RECORD this historical data as an object lesson and a living parallel to demonstrate for all time why there should be no segregation bills offered against our colored people; why Congress, at least on the grounds of common justice, should call a halt in this matter of color discrimination, and as an appeal to the men composing this Congress who have offered such measures to be fair enough on the grounds of Americanism to forever strike such measures from the calendars of Congress.

I insert the bills to which I refer:

[Sixty-third Congress, second session.]

IN THE HOUSE OF REPRESENTATIVES,
February 23, 1914.

Mr. EDWARDS of Georgia introduced the following bill, which was referred to the Committee on Reform in the Civil Service and ordered to be printed:

A bill (H. R. 13772) to segregate Government employees of the white race from those of African blood or descent.

Be it enacted, etc., That the heads of all executive departments shall issue all orders that may be necessary to secure in all branches of the service of the United States the segregation of Government employees of the white race from those of African blood or descent in the performance of their services.

SEC. 2. That white clerks or employees shall not be required to occupy the same offices or workrooms with clerks or employees of African blood or descent; nor shall any white clerk or employee be placed under the orders, direction, or supervision of any person of African blood or descent.

SEC. 3. That in the Railway Mail Service of the Post Office Department white clerks shall not be ordered to duty in the same mail car with postal clerks of African blood or descent.

[Sixty-third Congress, first session.]

IN THE HOUSE OF REPRESENTATIVES,
June 10, 1913.

Mr. ASWELL of Louisiana introduced the following bill, which was referred to the Committee on Reform in the Civil Service and ordered to be printed:

A bill (H. R. 5968) to effect certain reforms in the civil service by segregating clerks and employees of the white race from those of African blood or descent.

Be it enacted, etc., That heads of all executive departments shall issue all such orders as shall be necessary to secure in all branches of the civil service of the United States, to the utmost extent consistent with public interests, the segregation of civil employees of the white race from those of African blood or descent in the performance of their services.

SEC. 2. That in all executive departments within the District of Columbia clerks or employees shall not be required to occupy the same office or workrooms with clerks or employees of African blood or descent; nor shall any white clerk or employee be placed under the orders, direction, or supervision of any person of African blood or descent.

SEC. 3. That in the Railway Mail Service of the Post Office Department white clerks shall not, except in cases of emergency, be ordered to duty in the same mail car with postal clerks of African blood or descent.

SEC. 4. That in the administration of the provisions of this act there shall be no discrimination in favor of or against clerks or employees of equal efficiency on account of race.

[Sixty-third Congress, first session.]

IN THE HOUSE OF REPRESENTATIVES,
June 17, 1913.

Mr. HARRISON of Mississippi introduced the following bill, which was referred to the Committee on the District of Columbia and ordered to be printed:

A bill (H. R. 6150) to require street railways carrying passengers in their cars within the District of Columbia to provide equal but separate accommodations for the white and colored races, and to prescribe punishments and penalties for violating its provisions.

Be it enacted, etc., That within two months after the passage of this act each and every person or corporation operating a street railway carrying passengers in cars within the District of Columbia shall provide equal but separate accommodations for the white and colored races, by providing two or more cars or by dividing the cars by a partition or by an adjustable screen which may be made movable so as to allow adjustment in a manner suited to the requirements of the traffic and so as to secure separate accommodations for the white and colored races.

SEC. 2. That no person shall be permitted to occupy a seat in a car or compartment other than the one assigned to them on account of the race to which they belong.

SEC. 3. That officers of such street cars shall have the power and are required to assign each passenger to the car or compartment used for the race to which such passenger belongs. Any passenger insisting upon going into a car or compartment to which by race he or she does not belong shall be liable to a fine of $25, or in lieu thereof be imprisoned for a period of not more than 30 days in the District Jail; and any officer of any street railway insisting on assigning any passenger to a car or compartment other than the one set aside for the race to which said passenger belongs shall be liable to a fine of $25, or in lieu thereof to imprisonment for a period of not more than 30 days in the District Jail; and should any passenger refuse to occupy the car or compartment to which he or she is assigned by the officer of such street railway, said officer shall have the power to refuse to carry such passenger on his car or cars, and for such refusal neither he nor the street railway company shall be liable for damages in any court.

SEC. 4. That all officers and directors of street railway companies that shall refuse or neglect to comply with the provisions of this act shall be deemed guilty of a misdemeanor, and on conviction shall be fined not less than $100, or be imprisoned in the District Jail not less than 60 days and not more than 6 months, and any conductor or other employee of such street car company having charge of the same who shall refuse or neglect to carry out the provisions of this act shall, on conviction, be fined not less than $25, or be imprisoned in the District Jail for not less than 10 days nor more than 30 days for each and every offense. All street railway companies carrying passengers in the District of Columbia shall keep this law posted up in a conspicuous place in each and every car and at their transfer stations: *Provided*, That nothing herein contained shall be construed as applying to nurses attending children of the other race.

Give this people the chance for existence to which their patriotism and valor entitle them; encourage them in the race for success; let them realize that they are a desirable part of our citizenship; help them to help themselves; spread the doctrine of liberty among them; sow the seeds of patriotism in their hearts, and in time of need the Nation can be certain of reaping a harvest of gratitude and devotion.

[By unanimous consent, Mr. HARRISON was granted permission to extend his remarks in the RECORD.]

[Mr. GILLETT addressed the committee. See Appendix.]

Mr. FITZGERALD. Mr. Chairman, I yield to the gentleman from Colorado [Mr. KINDEL].

[Mr. KINDEL addressed the committee. See Appendix.]

Mr. FITZGERALD. I yield to the gentleman from Florida [Mr. CLARK].

[Mr. CLARK of Florida addressed the committee. See Appendix.]

Mr. BURKE of South Dakota. Mr. Chairman, I had intended, under the five-minute rule, when the item in the pending bill making an appropriation for the Battle Mountain Sanitarium, located at Hot Springs, S. Dak., was reached, to make some remarks with reference to that institution. The gentleman from Kansas [Mr. ANTHONY] having made reference to this sanitarium in his remarks made to-day prompts me in discussing the matter now.

On the 29th of April the gentleman from Illinois [Mr. BUCHANAN]—I regret that he does not appear to be present—made a speech in the House complaining of the management of the Battle Mountain Sanitarium, and inserted in the RECORD some communications containing various charges received by him from members of the institution, three of whom had been recently expelled. The gentleman from Kansas [Mr. ANTHONY] says that he will insert in the RECORD some communications containing complaints that he has received, similar, I presume, to the communications received by the gentleman from Illinois.

Mr. GOULDEN. Mr. Chairman, will the gentleman yield for an observation?

Mr. BURKE of South Dakota. Certainly.

Mr. GOULDEN. The gentleman will find on the same page of the RECORD a statement made by myself, which I now wish publicly to withdraw, because, having investigated them, I find that the charges are not as I had reason at the time to believe that they were—not of the atrocious character that I thought, from the statements made by the gentleman from Illinois [Mr. BUCHANAN].

Mr. BURKE of South Dakota. I am very glad that the gentleman from New York makes that statement, because I had intended to comment upon the remark made by him when the gentleman from Illinois [Mr. BUCHANAN] made the speech that I have referred to, wherein the gentleman from New York assumed to accept as true the charges made by the gentleman from Illinois.

Mr. GOULDEN. I based my statement then on the assumption that the statements made by the gentleman from Illinois were true, as given to the House at that time.

Mr. BURKE of South Dakota. Mr. Chairman, I appreciate that the gentleman from New York was moved for the moment by the eloquence of the gentleman from Illinois, and I am not surprised that when he had an opportunity to inquire as to the facts he changed his opinion and that he now withdraws the statement that he made. Mr. Chairman, it is to be deplored that Members of the House will accept, as often is the case, villifying statements reflecting upon officials in high and responsible positions and bring them before this House before they have verified and inquired as to the truth or falsity of the charges. The communications used as the basis for the remarks of the gentleman from Illinois [Mr. BUCHANAN] contain charges that, if true, would demand the censure of this House upon those in charge of the Battle Mountain Sanitarium and their immediate removal from their positions, as no one would attempt to justify a continuation of conditions as set forth by the persons making the complaint. I submit, however, that before any Member of this House accepts such statements and makes them public, he ought to first satisfy himself that the charges are true, and without assuming to state whether these charges are true or not, I do not believe the gentleman from Illinois was justified in becoming responsible for them to the extent that he did in bringing them to the attention of the House.

At the outset I want to say that the Battle Mountain Sanitarium is not located in the district I have the honor of representing. It is located at Hot Springs, in the western portion of the State, in the district represented by my colleague, Mr. MARTIN, who, if he were able to be present, would, I am sure, answer these charges and convince the House that they are without sufficient foundation to warrant anyone in condemning the board of managers and officials of the home in advance of a thorough investigation.

The Battle Mountain Sanitarium has only been in operation for a few years. It differs from the ordinary soldiers' home in that it is a sanitarium. It is a place to which members from the soldiers' homes generally throughout the country are sent who are afflicted with diseases, and particularly with tuberculosis. It is therefore more of a sanitarium than a home in the sense that we ordinarily speak of soldiers' homes.

In the years that the sanitarium has been in operation I have never had or received a single complaint from any member of the institution that the conditions were not satisfactory until I received the same complaint that was sent to the gentleman from Illinois [Mr. BUCHANAN]. When I received the charges I immediately referred them to the president of the board of managers, a gentleman whom I had known for many years and with whom I had served for a number of terms in this House when he was an honored Member thereof, and requested him to make such answer or explanation as he might wish to make. At the same time I wrote to two responsible citizens of the city of Hot Springs, which is a city of about 2,000 people, and sent them a copy of the charges, requesting that they investigate the same and write me. My purpose, Mr. Chairman, in doing this was, if I found the charges were considered to be founded on facts, to bring the same to the attention of the House in order that there might be a full and thorough investigation.

I believe that the soldiers' homes of the country should be conducted with a view to the comfort and care of those who have rendered military service to the country and who are now, through age or disability incurred in the service, unable to provide for themselves, and that they should have the best of food and medical attention and be treated with the highest consideration from every standpoint, and I would be the last one to justify continuation of conditions such as are charged in connection with the Battle Mountain Sanitarium, but I would not accept such charges and condemn the entire management of the National Soldiers' Home Board and the officials in charge of this sanitarium until there had been a thorough investigation.

Before receiving replies to the letters written by me, as I have stated, the gentleman from Illinois [Mr. BUCHANAN] made his speech and put the charges in the RECORD, and I presume the gentleman from Kansas [Mr. ANTHONY] will incorporate in his remarks charges that he has received reflecting upon the management of the Battle Mountain Sanitarium.

In order that it may be known what the president of the board of managers had to say with relation to the charges made, I will send to the Clerk's desk and have read a letter from that official, under date of April 24, 1914, which letter was written before the speech of the gentleman from Illinois [Mr. BUCHANAN] was made.

The CHAIRMAN. If there is no objection, the Clerk will read the letter in the time of the gentleman from South Dakota.

The Clerk read as follows:

NATIONAL HOME FOR DISABLED VOLUNTEER SOLDIERS,
346 Broadway, New York, N. Y., April 24, 1914.

Hon. CHARLES H. BURKE,
House of Representatives, Washington, D. C.

MY DEAR CONGRESSMAN: 1. I am in receipt of your letter of April 18, 1914, relative to disturbers dropped from the rolls of the Battle Mountain Sanitarium, with letter from Walich, Lacy, and Yount, and have to state that they were dropped from the rolls for the following reasons:

"These members, patients in the tuberculosis ward, have banded together and persistently violated the rules governing conduct, and by their language and actions have kept the ward in a state of irritation and confusion. They have indulged in violent, abusive, and profane language, in the presence of the other patients, the nurses, and attendants, to and about patients, nurses, attendants, and officers. Repeated warnings have proven ineffectual, and they have continued the agitation and disturbance in the ward until their presence and association with the well-disposed patients is working a harmful and injurious effect on their peace of mind and health. In the treatment of tubercular patients quiet, rest, and peaceful surroundings are absolutely essential."

2. Their case was thoroughly investigated by a committee of Spanish War veterans who went to the Battle Mountain Sanitarium especially to hear their complaints, and, after giving them full opportunity to prove their case, recommended that they be dropped from the rolls. Proof was positive as to their bad conduct; therefore I do not feel justified in readmitting them. Their presence is a menace to the comfort, happiness, and health of other members.

3. Walich's letter returned herewith.

Respectfully, yours,

J. W. WADSWORTH,
President Board of Managers,
National Home for Disabled Volunteer Soldiers.

Mr. BURKE of South Dakota. Mr. Chairman, I want to call particular attention to the statement contained in the letter just read to the effect that the cases of the three men expelled from the sanitarium were thoroughly investigated by a committee of Spanish War Veterans, and they were dropped from the rolls upon their recommendation. I also want to call attention to the fact that the three men who were expelled and who made the complaints that have been referred to are not old soldiers in the sense that we understand that term. They are Spanish War veterans, men in middle life, and not aged as are those who served in the Civil War. I am sure the Members of the

House will be interested in knowing just what is the age and military record of the man who is most conspicuous in making these charges. He is 47 years old, and I have his record from The Adjutant General, under date of July 31, 1913, and this is what he says:

The records show that Anthony H. Walich was enrolled May 1, 1898, at Buffalo, N. Y., and was mustered into service May 17, 1898, as a private of Company M, Sixty-fifth New York Volunteer Infantry, to serve two years, and that he was mustered out of service with the company as a private November 19, 1898, at Buffalo, N. Y.
The medical records show that this soldier was under treatment from June 10 to June 12, 1898, for ingrowing toenail of right foot.

As before stated, I sent the charges received by me to two citizens of Hot Springs, requesting them to make inquiry with reference to the charges and write me the result of their inquiry. One of these gentlemen to whom I wrote in his reply says:

I have so much confidence in the integrity and gentlemanly qualifications of the governor of the home that I do not think any criticism should be made upon him in this matter. If these men were unjustly discharged, it was by the order of the board of managers. From what I can learn Walich is a trouble maker. He has a little better than the average opinion of himself, and does not agree with anyone on most any proposition.

Mr. Chairman, two of the three men that were dropped from the rolls reside outside of South Dakota—one of them, I think, in Illinois, perhaps in the district of the gentleman from that State [Mr. FOSTER]. They have left Hot Springs and are not in South Dakota at the present time.

Mr. FOSTER. I beg to say that the gentleman I spoke of is not a resident of the district I represent.

Mr. BURKE of South Dakota. He is a resident of the State of Illinois, is he not?

Mr. FOSTER. He is a resident of the State of Illinois.

Mr. ANTHONY. Will the gentleman from South Dakota yield for an interruption?

Mr. BURKE of South Dakota. Certainly.

Mr. ANTHONY. I want to say to the gentleman that I never received any communication from either of the three men named by the gentleman from South Dakota. I only referred to them in my remarks because I had heard the gentleman from Illinois [Mr. BUCHANAN] bring their cases upon the floor, and I was curious to know the facts.

Mr. BURKE of South Dakota. Mr. Chairman, I never met the governor of this home. Therefore I do not know him. I do not know from whence he came or upon whose authority he was appointed. Consequently I am unable to make any statement with reference to him except from hearsay. The reports that I have had touching that gentleman, the governor of this home, are that he is a man of experience and character, and that the conditions in the home under his administration are of a high order.

The gentleman from Kansas [Mr. ANTHONY] inferred, if he did not state, that conditions in the national homes are not as satisfactory as conditions in the State homes. I will say that at Hot Springs, S. Dak., where the Battle Mountain Sanitarium is located, is the State soldiers' home for our State, and there is no better institution anywhere in any other State of this Union, in my opinion. I know that it is quite frequent for members of the State home to go to the Battle Mountain Sanitarium from choice, and sometimes residents of the State come from the Battle Mountain Sanitarium over to the State home. I do not know that there is any particular choice between the two institutions, but we all know from experience that especially when we are living away from our homes we get dissatisfied and discontented, and if we stop at one hotel we wish we had stopped at another. Therefore we change our places of abode. It has happened in South Dakota with men in the sanitarium and in the State home that they would change from one place to the other, but I never have heard of anyone who was a member of the Battle Mountain Sanitarium claim that he had been mistreated or that the food or the service in that institution was not of a high class until I received the complaint of the three men dropped from the rolls.

I stated that I had never met and do not know the governor of the Battle Mountain Sanitarium. I do, however, happen to know the treasurer and quartermaster of that institution, Mr. W. H. Stanley. In the charges filed and incorporated in the speech of the gentleman from Illinois [Mr. BUCHANAN] is a very serious reflection upon this official. Mr. Stanley is a young man who has resided in South Dakota the greater part of his life, has held positions of much responsibility, is a man of ability and of the highest character and against whom there has never been, to my knowledge, a suggestion of improper conduct, and I have no hesitancy in asserting that an investigation of his official conduct would completely exonerate him. The charges against him in the communication to the gentleman from Illinois [Mr. BUCHANAN], which will be found in the RECORD of April 29, 1914, on page 7434, are to the effect that he issued to the members of the home tobacco that was damaged and spoiled and unfit for use, and that when his attention was called to it he refused to correct it, and, to quote specifically from the charges, I read as follows:

The tobacco, you will observe, is green with mildew and is a fair sample that has been issued at this sanitarium three times a month since about August, 1913. * * * Now, the only satisfaction we the undersigned members could get to our complaints was the statement of the quartermaster that he was powerless to buy new tobacco to replace the moldy, rotten stuff dealt out to us, because he would first have to go to the great trouble of making out papers and getting the sanction of the supreme board of managers away off in New York City, and, further, that when the present stock of moldy tobacco, known as the "Fawn" brand—which, by the way, is not a standard and is entirely unknown to users of tobacco—would run out no more of that brand would be purchased by him.

He goes on further and charges that the damaged tobacco was renovated, and also charges that the quartermaster and treasurer refused to allow members to exchange the tobacco that had been issued to them for other brands, and I again quote from his letter:

I in common with other members tried to exchange it, as we sometimes used to do, with other brands that had been issued to us from time to time and as we were at that time privileged to do, when we would get tired of chewing tobacco and wanted to smoke a cigar; but we were turned down by the storekeeper of the post store, who informed us that henceforth he would not take our chewing tobacco in exchange, he being ordered so to do by the treasurer of the home, because, he explained, it was not a standard brand of tobacco and consequently could not be sold in the post store. In other words, this now rotten and moldy "Fawn" brand was good enough to give to the nonpensioners, but not nearly good enough to be placed on sale at the post store. So, plainly speaking, Mr. BUCHANAN, the charge I wish to make in common with the other comrades, whose signatures are attached to this communication, is that it was and is criminal indifference on the part of the officers of this sanitarium, especially since they were duly notified, to issue such tobacco, the use of which would not only make a well man sick but would certainly kill a sick man, especially when suffering from tuberculosis.

To give you a better idea as to what extremes these incompetent officers will go to, they, even after being informed as to the condition of this tobacco—which even no self-respecting goat would have anything to do with—deliberately added insult to injury by attempting to palm off on us that kind of tobacco by first putting it through some renovating process, which resulted in changing its appearance, and removed the tags and labels therefrom.

I have received from Maj. Stanley a communication with reference to these charges, and in order that the House may know what he has to say I will incorporate his letter in my remarks. The letter is as follows:

BATTLE MOUNTAIN SANITARIUM, N. H. D. V. S.,
Hot Springs, S. Dak., May 5, 1914.

Hon. CHARLES H. BURKE, M. C.,
Washington, D. C.

MY DEAR MR. BURKE: I am in receipt of your valued favor of April 30, transmitting a copy of the CONGRESSIONAL RECORD of April 29 and inviting my attention to a speech delivered by Congressman BUCHANAN, printed on pages 7433–7434 of the RECORD, relating principally to alleged irregularities and abuses at Battle Mountain Sanitarium, a branch of the National Home for Disabled Volunteer Soldiers, and containing a communication from Anthony H. Walich, late a member of this branch, printed as a part of Mr. BUCHANAN'S remarks.

Although the temptation to do so is strong, it is perhaps inadvisable for me to attempt to reply at length and in detail to the vicious, slanderous, and untruthful accusations made by former members of this branch against Gov. Mattison and the treasurer and quartermaster of Battle Mountain Sanitarium and members of the Board of Managers of the National Home. It has been found, after very thorough and exhaustive investigations at various branches of the National Home, that complaints similar to these, and many of a much more serious nature—complaints of incompetence and gross negligence on the part of surgeons and other officers, of poor food and of graft and extravagance—were in nearly every instance wholly without foundation, as the testimony adduced at these hearings and the findings and conclusions of the investigators will disclose. It has been found that practically all of these complaints have been made by incorrigible members of intemperate and vicious habits, who resented any interference with their "personal liberties" or any necessary disciplinary measures adopted for their control, and in some instances by members whose minds have become perverted by disease or dissipation. It is obviously unfair for one to assume without investigation that such complaints and charges are true, and it is regrettable that they are given widespread publicity without any effort first being made to verify them. Much of the information obtained at these hearings and investigations has been submitted to the Committee on Military Affairs of the Senate and House and is doubtless accessible to members who are seeking information along these lines. An investigation of the National Home for Disabled Volunteer Soldiers was recently made by a committee appointed for this purpose by the national organization of Spanish War Veterans, the inspection and investigation of this sanitarium having been made on March 23 and 24 by Col. Melcher G. Cockey, M. D., recently retired after 23 years of very active service as surgeon in the United States Army, and Col. Frank F. Jones, of Youngstown, Ohio. The testimony taken by these gentlemen at this sanitarium and their findings and conclusions, much of which had to do with the charges and complaints of Mr. Walich and his associates, referred to by Mr. BUCHANAN in his remarks, are probably now on file with the Committee on Military Affairs of the House or may be had, I presume, upon application to Col. Cockey, whose address is Salina, Kans.

Briefly stated, the facts in regard to the chewing tobacco are as follows: For 30 days following October 26, 1912, sealed proposals were invited by newspaper advertisement and circular letter for furnishing subsistence supplies for the quarter ending March 31, 1913, bids to be opened on November 26, 1912. Among the supplies for the furnishing

of which proposals were invited was a quantity of chewing tobacco, which was specified as "a choice grade of plug tobacco, 1-pound plugs, in original packages," and a sample was required to be submitted with the proposal. Among the bidders was Franklin MacVeagh & Co., a well-known, responsible, and trustworthy wholesale grocery company of Chicago, who submitted with their proposal, in accordance with the requirements, a sample of the tobacco they proposed to furnish, known as "Spotted Fawn." This brand not being of a standard variety, and being unfamiliar to the treasurer, whose duty it was to make the awards for supplies, the sample was carefully inspected and tested by several members and employees, all of whom, without exception, pronounced the tobacco of good quality and very satisfactory. The contract for the "Spotted Fawn" chewing tobacco was therefore awarded to Franklin MacVeagh & Co. A consignment was received from them in due time and issued to members who were nonpensioners, in accordance with the provisions of paragraph 262 of the home regulations. This brand of tobacco was purchased and issued regularly for four successive quarters—one year—and no complaint of it was heard by or made to the writer until after the last consignment was received and a part of it issued, when Mr. Walich, the author of the letter included in Mr. BUCHANAN'S remarks, and Mr. Yount, a subscriber to the postscript, called at the office of the writer and complained that the chewing tobacco last issued to them was moldy, hard, and unfit for use, and submitted samples in proof of their complaint. These are probably the samples sent to Congressman BUCHANAN and referred to by Walich and other complainants. Upon inquiry it was found that the samples submitted had been kept for some days in the lockers of the complainants, and had therefore become dry and hard, but examination disclosed that it had been somewhat moldy, and an investigation was promptly made. It was found that some of the inside plugs in the butt from which the tobacco in question was taken were somewhat moldy, and that a portion of the tobacco in another butt was in the same condition. Franklin MacVeagh & Co. were immediately advised of the facts and instructed to forward another shipment of tobacco to replace that found to be unfit for use. This consignment was received promptly and issued in due course, and no further complaint was heard. It is probable that this last consignment of fresh tobacco, sent to replace that rejected, is the tobacco referred to by Mr. Walich as having been put "through some renovating process which resulted in changing its appearance," as the writer was not aware that any such process had been used, and certainly none was necessary, as the objectionable tobacco was promptly returned to Franklin MacVeagh & Co. after the receipt of the new consignment.

I am informed that the storekeeper in charge of the "post-fund store" declined to accept the "Spotted Fawn" chewing tobacco in exchange for cigars or other tobacco, for the reasons that he knew nothing about the tobacco offered, as it was not a so-called standard brand; that there was no call or demand for it, and that he would have some difficulty disposing of it. The quality of the tobacco offered had nothing to do with the refusal of the storekeeper to accept it in exchange for other tobacco or cigars, as he knew nothing about it and made no inquiry concerning it.

The uniformly high quality of subsistence supplies furnished to the members of Battle Mountain Sanitarium and the excellent manner in which they are prepared and served are subjects of much favorable comment by the appreciative members, and it is inconceivable that any member, especially the tubercular members, who are supplied with the best the market affords, should complain of the quality of the food. It is, of course, inevitable that occasionally (though it rarely occurs) a shortage will occur in some article of subsistence and other supplies. It is possible that at some time the supply of port wine was temporarily exhausted, and that it was necessary for the time being to substitute sherry or grape juice; that we were short of apple butter or that plum butter or some other fruit butter had been supplied in place of it to give more of a variety, but the writer does not recall a single instance when the supply of eggs was exhausted, as was alleged by one of the complainants, and, of course, it is absolutely untrue that rotten apples, to which reference was made by Mr. BUCHANAN, were ever served to members. It is quite probable, however, that Mr. BUCHANAN has samples of such apples received from the complainants, purporting to have been issued to them while members of Battle Mountain Sanitarium.

Thanking you for calling my attention to the remarks of Congressman BUCHANAN as published in the CONGRESSIONAL RECORD relating to complaints and charges made against the officers of Battle Mountain Sanitarium, and for giving me an opportunity to make a statement of the facts so far as they relate to the department of the treasurer and quartermaster of Battle Mountain Sanitarium, I am, with personal regards and best wishes,

Sincerely, yours,

WM. T. STANLEY.

Extract from letter dated May 6:

In my letter forwarded to you yesterday reference was made to the attempt of the complainants to exchange the tobacco issued to them for other merchandise at the post-fund store. In this connection I intended to state that paragraph 262 of the home regulations provides that "free issues (of tobacco) will be denied to any member detected in disposing of his allowance to others," and that the storekeeper in charge of the post-fund store has been directed not to accept any tobacco so issued in exchange.

Very respectfully,

WM. T. STANLEY.

Mr. Chairman, on April 29 last, when the gentleman from Illinois [Mr. BUCHANAN] made his speech, and incorporated therein the complaint against the management of the Battle Mountain Sanitarium, there happened to be in that institution an old soldier whom I had known intimately for many years, a veteran of the Civil War, with a distinguished military record, a man who was a pioneer in the Dakotas, and who was known through the Northwest as a statesman, an orator, and a writer. His name is Gen. S. J. Conklin, and he resided at Clark, in my congressional district. On May 7 he wrote me a letter. I hold that letter in my hand, and I am going to quote a statement from it, because it is pertinent to the subject.

The CHAIRMAN. The time of the gentleman from South Dakota has expired.

Mr. GILLETT. I yield to the gentleman as much time as he desires.

Mr. BURKE of South Dakota. Gen. Conklin was receiving the CONGRESSIONAL RECORD, and, speaking of having received the RECORD of April 29, he says:

I loaned my copy, and it can not be found. It contains remarks from Mr. BUCHANAN, Congressman from Illinois, in regard to a resolution to have a committee appointed for the investigation of affairs at the Battle Mountain Sanitarium, at Hot Springs, S. Dak.

The letter which he read is the rottenest thing that I have ever met with; there is not one iota of truth in the whole matter, as will appear if an investigation is ever had.

Mr. Chairman, that letter was written, as I have stated, by a man of prominence and high standing, and any statement from him refuting the charges of mismanagement of the Battle Mountain Sanitarium would have great weight with me. Upon receipt of his letter I wrote him, requesting that he make a further and more detailed statement regarding the charges and with reference to the general conditions in the sanitarium. I regret that before he received my letter he was called by death, and therefore I have no statement from him except the one that I have read.

Mr. Chairman, I have a letter from the governor of the Battle Mountain Sanitarium, which refers to the charges against his administration, which I wish to also incorporate in my remarks. The letter is as follows:

NATIONAL HOME FOR DISABLED VOLUNTEER SOLDIERS,
BATTLE MOUNTAIN SANITARIUM,
Hot Springs, S. Dak., May 6, 1914.

Hon. CHARLES H. BURKE, M. C.,
Washington, D. C.

SIR: The treasurer and quartermaster of the Battle Mountain Sanitarium, William H. Stanley, has just called my attention to a speech delivered by Congressman BUCHANAN before the House of Representatives and printed in the CONGRESSIONAL RECORD April 29, relating to irregularities, etc., at the Battle Mountain Sanitarium, a branch of the National Home for Disabled Volunteer Soldiers.

Among other statements made by the honorable gentleman from Illinois was this: "I have evidence on file in my office, Mr. Speaker, regarding conditions and treatment of patients in this institution that would bring the blush of shame to the face of any patriotic, public-spirited citizen. One of the instances cited to me was that of a certain patient who complained to the governor regarding some poor food a certain orderly had served him. Instead of investigating the matter properly himself the governor notified the orderly that a complaint had been made, and at the same time tells him who made the complaint. The result was that the orderly, in connection with one or more of his companions, attacked the patient while in bed and severely beat him up. The patient endeavored to secure redress through the governor, but was denied. He filed suit against the orderly on the charge of assault and battery. But when the patient requested the governor to permit several other members of the home who had witnessed the assault to leave the home to testify in the trial, the governor flatly refused. I was further informed that the governor brought his influence to bear upon the prosecuting attorney, with the result that the attorney, who previously was very willing to take up the matter, absolutely refused to go on with the case," etc.

In reply to the above I wish to state the actual facts, which are as follows: Trouble arose between a certain ward man and a certain patient, but did not originate from information conveyed to the ward man by the governor that the patient had complained of food served; but the trouble arose over the fact that the ward man overheard the patient applying such epithets as bums, hobos, etc., to certain patients at the tuberculosis cottage. The ward man called the patient to task for it, and the patient called the ward man vile names, such as s. o. b., etc. The ward man lost his temper and struck the patient, who was an ambulatory case. The matter was reported to the governor by the nurse in charge. The ward man was brought before the governor's court, found guilty of striking a patient, and was relieved from extra duty at once and fined 15 days' labor without pay.

This ward man was also a Spanish War soldier, who was under treatment for tuberculosis, but had recovered sufficiently so that he was able to take a position as ward man.

The statement that the governor flatly refused to allow other members to leave the sanitarium to testify in the trial is absolutely false. The patient in question asked the governor if the female nurse and the ward men on duty at the tuberculosis cottage might go down and testify at the trial. The governor stated that there would be no objection to this, providing it could be arranged so that these employees would not be detained from their work long enough for their work to suffer as a consequence. These employees were not subpœnaed at all.

The statement that the governor brought his influence to bear upon the prosecuting attorney, with the result that he refused to go on with the case, was also basely false. The prosecuting attorney asked the governor if he had any objection to the case being tried in the city court in Hot Springs. He was told that the governor had absolutely no jurisdiction over the action of the city court, and that he therefore had nothing whatever to say in regard to the matter, and had no objection to the case being tried by the prosecuting attorney.

Very respectfully,

JAMES A. MATTISON,
Governor and Surgeon.

Mr. Chairman, I have mentioned what one citizen of Hot Springs wrote me with reference to the charges against the management of the sanitarium, and will say that from the other citizen to whom I wrote I received a reply, in which he states that from his knowledge of the facts he is of the opinion that there was nothing else to do under the circumstances but to drop the three members in question from the rolls, but he goes on to deplore that there is no place where such unfortunates who may be so constituted mentally, or may be afflicted with intemperate habits that may make them irresponsible at

times, may be cared for. He mentions that the institution being a sanitarium where there are diseased persons, many of them afflicted with tuberculosis, that it is necessary to keep them quiet, and that members who insist upon creating disturbances have to be expelled from the home, as there is no other alternative. He further expresses the opinion that there ought to be some provision by which such men could be segregated and cared for, and that at least when they are expelled there ought to be available funds to pay to have them transported to the place from which they came, and not allow them to remain a charge upon the locality where the institution is located.

I want to quote one statement from this gentleman's letter referring directly to the three men dropped from the rolls, as follows:

> These men have, no doubt, made trouble for six months or more. They are bright men, not drinking men or men of bad habits in any way; they have studied the Blue Book, the Red Book, and the large printed report of the congressional committee investigating the Sawtelle National Home, in California, a short time ago, hence their dissatisfaction and complaint.

Mr. Chairman, in conclusion, I want to say, speaking for myself, that I am always in favor of the most thorough investigation of any charges that reflect upon the conduct of public officials, and that, so far as I am concerned, I would welcome an investigation of the Battle Mountain Sanitarium, and I believe the board of managers and the officials of that institution would not object to an investigation. I would be satisfied if the gentleman from Illinois [Mr. BUCHANAN] should be selected as a member of the committee to make the investigation. If the charges he has brought to the attention of the House are true, the sooner it is known and the sooner the conditions in that institution are corrected the better it will be for all. No one will defend such a condition of affairs as that. On the other hand, if the charges are untrue and without foundation, those upon whom they reflect should be exonerated.

I maintain, Mr. Chairman, that men who have enjoyed many years of a successful career in any walk of life, and who have established and built up reputations, ought not to be assailed by charges brought to the attention of this House based upon statements that come from sources that may not be responsible and without opportunity of verifying the truth or falsity of the charges. I therefore believe that Members should be more careful about accepting charges reflecting upon public officials, until they have made sufficient inquiry to be convinced that they are true. [Applause.]

Mr. GILLETT. I yield five minutes to the gentleman from Washington [Mr. BRYAN].

Mr. BRYAN. Mr. Chairman, I would like to ask unanimous consent that I may extend my remarks in the RECORD on the subject of the civil-service retirement before I proceed.

The CHAIRMAN (Mr. GARRETT of Tennessee). The gentleman from Washington asks unanimous consent that he may extend his remarks in the RECORD on the subject of civil-service retirement. Is there objection? [After a pause.] The Chair hears none.

Mr. BRYAN. Mr. Chairman, this morning, when the debate was begun on the sundry civil bill, the gentleman from Illinois [Mr. MANN] took occasion to pronounce his judgment upon my suggestion that I voted against dispensing with District day in order to expedite the consideration of the Crosser bill. Well, that incident has passed and amounts to nothing one way or the other, but I am glad to have had that opportunity to cast a vote which, if the majority had voted likewise, would have expedited the consideration of the Crosser bill. I consider that the Crosser bill for the taking over of these street railway lines in the District of Columbia important enough to demand just as speedy consideration as possible. It is true that the bill has not been reported formally by the Member who is charged with the responsibility of reporting it, but the House has seen by the action of the gentleman from Illinois [Mr. BUCHANAN] on behalf of the bill that he is interested in that there are matters reported by the Committee on the District of Columbia that have to be considered or that circumstances will require that they be considered before this bill can come up; and to-day, if we had devoted our time to the consideration of the bill of the gentleman from Illinois [Mr. BUCHANAN] and others that have been reported instead of to these roll calls, there would have been no trouble in taking up the Crosser bill on next District day.

The newspapers of the District who are opposing the Crosser bill are especially impressing upon the minds of the Members who may read their comments the fact that there are other matters before the committee, and that those matters ought to be taken up first. "The Crosser Bill to Lag" is one heading. And every suggestion that can be made to impress the idea of delay on that particular bill, because of the lateness of the session, is suggested in these papers. We ought not to permit any delay on the bill. We ought, in the District of Columbia, to own these lines and operate them in the name of the Federal Government.

The city of Toronto has a population of 410,036 people. Its street railways pay a rent for the use of the streets of $2,437 a day, and grant a 4-cent fare during rush hours of the day. The city of Detroit, with a population of 465,766, has a 4-cent fare, and after the revenue has exceeded $3,000,000 the city gets a fifth of the gross receipts. The city of Chicago, with a population of 2,285,283, recently received an annual rent of $2,500,000 from the street railroads. Chicago receives 55 per cent of the net receipts of the railroads. Last year they received $695,000 more than they received the year before.

Here in the city of Washington we have two lines. We do not have the benefit of a universal transfer. We have less advantages than are granted in most of the cities of the country, while we have unlimited funds. It is not like in the ordinary cities of the country where there is trouble about financing the problem. We have the Federal Government back of us, have no trouble about raising the necessary money to buy the lines and operate them, and yet we permit them to be operated in a way such as to deprive us of the ordinary privileges of other cities and at an expense that is unjust and under conditions, as I have said, that are wrong.

So I was glad enough this morning of an opportunity to boost the Crosser bill. Mr. CROSSER came here from Cleveland, from under the inspiration of Tom Johnson and his experiences there, and there is no reason in the world why we can not handle these lines here, why we can not enact this measure, why we can not establish our own plant out here at Great Falls, and operate the roads without a cent of profit, and operate them under the management of Government departments, with a universal transfer and a 3-cent fare.

I do not know whether there was some kind of a sting about that bill or not that caused the gentleman to attempt to demonstrate some kind of lack of information on our part, but there was no lack of information. The fact is that the bill has been ordered reported by the committee, and the quicker we consider the other bills that are going to be urged in advance of the street railway bill the quicker we will have the street railway bill up for consideration. And when we do we will have instituted a doctrine of Government ownership not only in the Territory of Alaska, but we will also have instituted it in the District of Columbia.

Mr. GILLETT. Mr. Chairman, I yield five minutes to the gentleman from Kansas [Mr. MURDOCK].

Mr. MURDOCK. Mr. Chairman, I sympathize to a large extent with the expression just made by the gentleman from Washington [Mr. BRYAN]. The Crosser bill is a long step in advance and because it is a long step in advance it is going to have hard sledding in the Congress of the United States. For one, I can foresee that a condition of public ownership of a utility like the street railway will be of great benefit to the people in this District. I can foresee a condition in the city of Washington where we will have summer cars in summer and winter cars in winter, and enough of them, where we can have a lower flat rate per passenger than we have to-day, and where we can have, like they have in some other cities, a low rate for the department people and for school children during periods in the morning and in the evening. I can also foresee a condition in this city where there would be to the benefit of all the people the privilege of universal transfer. But I can not foresee any such advantage to the people of this District without a fight in the American Congress and a bitter fight against those who seem to stand in fear of or in sympathy with the great interests. Now, the sooner we get at that fight the better. The preliminary battle has been won in committee by a majority of one. That bill will be reported out to the House, and the sooner we clear other District matters away the sooner we can get at the proposition where the public shall own these railroads.

However, I did not arise to talk about the Crosser bill. I voted "nay" this morning against the House going into the Committee of the Whole House for the consideration of the sundry civil bill. I voted with the gentleman from Illinois [Mr. BUCHANAN] to defeat that motion, knowing that if we did defeat it then we could take up District bills. And I was particularly anxious to get to one District bill, the one introduced by the gentleman from Illinois [Mr. BUCHANAN] to improve the conditions under which laboring men work in the building trades. Labor comes with great difficulty to its rights in this House. We have two days in the month for the consideration of District business. The last District day was set aside by a special rule. That business has passed. We had this morning

arrived legitimately at a District day. The District was entitled to this day.

The motion was made by the chairman of the Committee on Appropriations to supersede the District Committee. The question was up to the membership of this House to consider the sundry civil bill in the desultory general debate that we are now having, with the point of no quorum coming every few minutes, or to consider the Buchanan bill for the benefit of labor in the building trades. And the House by a majority vote went into this general debate, with its constant interruptions in the shape of long, tiresome roll calls, and passed up the consideration of a measure of moment.

Now, this measure which Mr. BUCHANAN of Illinois has introduced and which was reported, by the way, 30 days ago, is unquestionably of benefit to labor. It is entitled, "A bill amending the building regulations of the District of Columbia by providing for the better protection of persons engaged in and about the construction, repairing, alterations, or removal of buildings, bridges, viaducts, and other structures." Now, what does the bill do? It provides in terms specifically for all manner of safety devices in the building trades; for instance, safety rails on scaffolds, for a factor of safety on scaffolding, providing, in that connection, that the scaffolding or device shall be so constructed as to bear four times the maximum weight required to be dependent thereon or placed thereon when in use.

The CHAIRMAN. The time of the gentleman has expired.

Mr. MURDOCK. Mr. Chairman, I would like three or four minutes more.

Mr. GILLETT. Mr. Chairman, I yield five minutes more to the gentleman.

Mr. MURDOCK. It provides that whenever any workman or mechanic discovers any defect in a scaffold or hoist, or other building device, that that workman may notify the building inspector of the defect, and the building inspector shall thereupon serve notice upon the contractor for the correction of that defect. Then if the contractor takes no notice of the inspector's warning, it provides for punishment. The measure also makes provision for safety to workmen against overloaded floors, one of the causes of frequent accidents in the building trades. It also makes provision for a correct system of communication in hoists between the man who runs the engine and the elevator which is run by the engine and those in charge of the elevator. It prohibits the use of freight lifts and elevators for passenger service in the erection of buildings. It provides for the protection, by planking, of floors beneath that floor where the construction is in progress.

Now, I should think, Mr. Chairman, that these provisions would appeal to every individual in the House of Representatives. It is only a week ago, I am told, that a man lost his life in Washington who would not have lost it if this measure had been a law. It is within the recollection of almost every man here that in the construction of the great building at Fifteenth and H Streets two men lost their lives in one day by reason of the failure of the contractors to adopt such safety devices as are provided for in this bill.

I am told that this bill, which the House refused to consider this morning, is framed and adopted from a like measure which has become a law in Illinois. I am told that in the year 1906, the year previous to the adoption of that statute in Illinois, out of a membership of some 1,100 among the structural iron workers in Chicago 29 were killed and 116 injured. I am told that it can be proved—and I think the gentleman from Illinois [Mr. BUCHANAN] has the figures—that since the adoption of that statute in Illinois the casualty list has been materially reduced.

Now, my point to the House is this: Compared with a great appropriation bill which carries $107,000,000 this bill may seem to some of comparatively small importance; but the truth is that this bill is of major importance. The bills that we pass here for the District of Columbia become, in a measure, models for the whole country, and we ought not to pass by for general debate bills of this character.

I can conceive that the gentleman from New York [Mr. FITZGERALD], anxious to get this great appropriation bill through before the 1st of July, is eager to force a consideration of that measure. But this morning the majority of the House turned down a measure of this merit for the general debate we have been having—general debate which consists largely of requests to extend remarks in the RECORD, of speeches made upon political subjects, with every few minutes an interruption in the form of a point of no quorum. The House ought to give the District of Columbia affairs their time. I doubt very much now, with the few days remaining in this session, whether this bill or the Crosser bill will reach consideration.

The CHAIRMAN. The time of the gentleman from Kansas has expired.

Mr. FITZGERALD. Mr. Chairman, it might be appropriate to point out some things that were overlooked by the gentleman from Kansas [Mr. MURDOCK] in his remarks. This House has been in session practically since a year ago last April, and there have been many days during which the bill to which the gentleman refers might have been considered. There did not seem to be any alarming anxiety on the part of the gentleman from Kansas or others interested in that bill to have it taken up until now, as the session is drawing to a close. Then, when one of the bills that is vital to the continuation of the Government is called before the House they show a sudden and peculiar interest in this bill.

Mr. MURDOCK. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. Does the gentleman from New York yield to the gentleman from Kansas?

Mr. FITZGERALD. Yes; I will yield.

Mr. MURDOCK. I do not know what the gentleman's position is on the Buchanan bill, but does he not think it would be better to consider a bill of this merit than to have the general debate that we have been trying to have against the point of no quorum? I ask the question in all fairness.

Mr. FITZGERALD. No; I do not. This bill carries $107,000,000, and it must become a law before the 1st of July in order that the orderly activities of the Government shall be carried on. It carries appropriations for the Bureau of Mines, which affect the safety of more men in some single congressional districts than can possibly be affected by the bill to which the gentleman refers. It provides an additional mine rescue car for the Bureau of Mines and money to replace completely the equipment on the existing cars. Of course that is of no importance to the gentleman from Kansas, because he overlooks the fact, or did not know, perhaps, that the appropriation is contained in the bill.

Mr. MURDOCK. Now, will the gentleman yield?

The CHAIRMAN. Does the gentleman from New York yield to the gentleman from Kansas?

Mr. FITZGERALD. I can not yield. This bill carries $2,500,000 to maintain the Life-Saving Service. It is not of importance to the gentleman from Kansas that the Life-Saving Service may be adequately provided for at the beginning of the fiscal year. It provides for the collection of customs duties. It provides $2,500,000 for the Public Health Service, to carry on investigations of vital importance to the laboring men, as well as to all other classes of citizens, and to prevent infectious and contagious diseases being brought into this country. It contains an item to build a hospital in the District of Columbia. It contains an item of over $3,500,000 for the Interstate Commerce Commission, $1,900,000 of which is for the physical valuation of railroads. It carries money for the United States Board of Mediation and Conciliation, to help adjust the controversies between capital and labor and to bring about that friendly cooperation between capital and labor that will be conducive to the happiness and prosperity of the laboring men. It carries $200,000 for the Commission on Industrial Relations, engaged in investigations designed primarily in the interest of the laboring people of the country.

Mr. MURDOCK. Now, will the gentleman yield right there?

Mr. FITZGERALD. Not at present. It carries many million dollars for necessary work in connection with the defenses of the country, for the national defense—things considered highly imperative and essential and for which the appropriations must be made. It carries $275,000 for artificial limbs for Union soldiers—these allowances are made under the law—and for trusses for disabled Union soldiers. It carries money for the support of the national soldiers' homes and for the State soldiers' homes, for the Lighthouse Service, for the Immigration Service, and for innumerable other activities of the Government, for which provision must be made.

The gentleman from Kansas asks if I do not think that the bill to which he refers should have been considered to-day instead of this general debate, interrupted by the point of no quorum. In the first place, the length of the general debate to which I was compelled to agree was due to some extent to the fact that the 17 followers of the gentleman from Kansas demanded one hour of general debate—practically as much time as will be consumed by the Democratic majority in this House upon this bill—and as those who understand——

Mr. BUCHANAN of Illinois. Mr. Chairman, will the gentleman yield now?

The CHAIRMAN. Does the gentleman from New York yield to the gentleman from Illinois?

Mr. FITZGERALD. In a moment. Those who understand how things must be done in this House know that it would be a saving to yield to such demands than to take two rolls in fixing the time for general debate.

Now, the point of no quorum has been made continuously by the gentleman from Illinois [Mr. BUCHANAN], who is disappointed because his bill was not taken up and because of the motion submitted by me by direction of the committee which reported this bill. He served notice upon me while the vote was being taken that he would endeavor to have a week taken in disposing of the six hours of general debate. That is his notion, Mr. Chairman, of the manner in which to expedite this bill through the House, so that we may more speedily reach the bill which he claims to be interested in; and such conduct arouses some suspicion in my mind that gentlemen perhaps are not so anxious to have their bill considered as they are to get the advertising that comes from this sort of agitation.

If the Members of the House do not wish the time to be wasted by calling the roll to ascertain a quorum, let 100 of them remain here, so that a quorum will be present, and the House can transact its business properly.

Mr. BUCHANAN of Illinois. Mr. Chairman, will the gentleman yield now?

The CHAIRMAN. Does the gentleman yield?

Mr. FITZGERALD. I will yield for a question.

Mr. BUCHANAN of Illinois. This bill that you are now considering——

Mr. FITZGERALD. I will yield for a question, and for nothing else.

Mr. BUCHANAN of Illinois. The gentleman will not yield for a statement?

Mr. FITZGERALD. No; I will not. I decline to yield to the gentleman from Illinois.

The CHAIRMAN. The gentleman from New York declines to yield.

Mr. BUCHANAN of Illinois. Mr. Chairman, I make the point of no quorum present.

The CHAIRMAN. The gentleman from Illinois [Mr. BUCHANAN] makes the point of no quorum present. The Chair will count. [After counting.] Eighty-seven Members present—not a quorum. The Clerk will call the roll.

The Clerk proceeded to call the roll, when the following Members failed to answer to their names:

Allen	Francis	Konop	Rogers
Anderson	Gallagher	Korbly	Rothermel
Ansberry	Gard	Kreider	Rucker
Barnhart	Gardner	Lafferty	Sabath
Bartholdt	George	Langham	Saunders
Bathrick	Gerry	Lee, Ga.	Scully
Beall, Tex.	Gittins	L'Engle	Sells
Brockson	Glass	Levy	Sharp
Brodbeck	Goeke	Lewis, Pa.	Sherley
Browning	Goldfogle	Lindquist	Shreve
Bruckner	Gordon	Loft	Sims
Brumbaugh	Gorman	McClellan	Slayden
Burnett	Graham, Ill.	McCoy	Slemp
Butler	Graham, Pa.	McDermott	Sloan
Calder	Greene, Mass.	McGuire, Okla.	Small
Callaway	Griest	McKenzie	Smith, Md.
Candler, Miss.	Griffin	Mahan	Smith, S. W.
Cantor	Guernsey	Maher	Smith, Minn.
Cantrill	Hamill	Manahan	Smith, N. Y.
Carew	Hamilton, N. Y.	Martin	Smith, Tex.
Carlin	Hammond	Merritt	Sparkman
Casey	Hardwick	Miller	Stafford
Chandler, N. Y.	Hart	Montague	Stanley
Clancy	Hay	Moore	Stephens, Nebr.
Claypool	Hayden	Morin	Stephens, Tex.
Cooper	Hayes	Murray, Mass.	Stevens, N. H.
Copley	Helm	Neeley, Kans.	Stout
Covington	Helvering	Neely, W. Va.	Stringer
Cramton	Hinebaugh	Nelson	Taylor, Ark.
Crisp	Hobson	Nolan, J. I.	Taylor, Colo.
Crosser	Houston	Norton	Thacher
Cullop	Howard	O'Brien	Towner
Dale	Hoxworth	Oglesby	Townsend
Danforth	Hughes, Ga.	O'Hair	Treadway
Davenport	Humphreys, Miss.	O'Leary	Tribble
Decker	Igoe	O'Shaunessy	Tuttle
Dickinson	Jacoway	Palmer	Underhill
Difenderfer	Jones	Parker	Vare
Dooling	Kahn	Patten, N. Y.	Volstead
Doughton	Keating	Patton, Pa.	Wallin
Driscoll	Kelley, Mich.	Payne	Walsh
Drukker	Kelly, Pa.	Peters, Me.	Watson
Dunn	Kennedy, R. I.	Peters, Mass.	Webb
Eagan	Kent	Platt	Whaley
Edmonds	Key, Ohio	Plumley	Whitacre
Evans	Kiess, Pa.	Porter	Wilson, Fla.
Fairchild	Kindel	Ragsdale	Wilson, N. Y.
Faison	Kinkead, N. J.	Rainey	Winslow
Fess	Kirkpatrick	Reilly, Conn.	Woodruff
Finley	Kitchin	Riordan	Young, N. Dak.
Fordney	Knowland, J. R.	Roberts, Mass.	Young, Tex.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. GARRETT of Tennessee, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee, having under consideration the bill (H. R. 17041) making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1915, and for other purposes, finding itself without a quorum, he caused the roll to be called, when 230 Members answered to their names, and he reported the names of the absentees to the House to be entered upon the Journal.

The committee resumed its session.

Mr. FITZGERALD. Mr. Chairman, when by the courtesy of the gentleman from Illinois [Mr. BUCHANAN] the point of no quorum was made, so that a quorum might be here to listen to me, I was explaining to the House the relative unimportance of the bill reported by the District Committee, as compared to the sundry civil appropriation bill, so far as matters in which the laboring people of the country were concerned. I had already mentioned the fact that the gentleman from Illinois [Mr. BUCHANAN] had threatened that if the motion to go into Committee of the Whole House on the state of the Union to consider the sundry civil appropriation bill prevailed he would undertake to see that as much time was taken in this six hours' general debate as a man with that parliamentary skill and resourcefulness which enable him to make the point of no quorum from time to time could effect. The gentleman seems to forget that it is no punishment to me to drag out the time taken in general debate on this bill. I must stay here until the bill is ended. Many other Members of the House, having been compelled to remain here continuously for some time during the consideration of the so-called antitrust bills, were hopeful that during the time occupied by general debate they might properly go to their offices to clean up accumulated work; but the gentleman from Illinois seems to believe that I am being punished in some way for some imaginary breach, and because of that fact he seems determined to punish the membership of the House generally by compelling them to remain here to listen to speeches which they do not desire to listen to while the gentleman from Illinois [Mr. BUCHANAN] from time to time goes out and refreshes himself on the balcony outside of the House lobby.

Mr. Chairman, so far as I am concerned, I shall neither be coerced nor frightened nor driven off from what I conceive to be my duty to the House by this idle process of insisting that Members be compelled to remain here to listen to speeches against their will. The House can determine for itself whether it proposes that any one individual can fritter away public time in this manner. If 100 Members will remain here, then he is deprived of the sole weapon at his command.

I was somewhat amused by the gentleman from Kansas [Mr. MURDOCK] complaining against time being given for general debate. He was one of those supposed patriots who have strutted around in previous Congresses insisting that every Member of the House should be given the absolute right to voice the sentiments of his people on every occasion and at every opportunity; and because we consented to set aside six hours to-day during which some Members who believed that they had some message of real value either to the House, to the country, or to their respective constituencies might be given the opportunity to deliver it, the gentleman from Kansas [Mr. MURDOCK] talks about "this ridiculous waste of time in general debate."

Mr. MURDOCK. Now will the gentleman yield?

Mr. FITZGERALD. In a moment. I notice that no one ever deems ridiculous the time for general debate unless he does not intend to speak himself.

Mr. MURDOCK. Mr. Chairman, will the gentleman yield?

Mr. FITZGERALD. I yield for a question.

Mr. MURDOCK. Would it not have been better economy of time for the gentleman from New York [Mr. FITZGERALD] as chairman of the committee to have given up, say, an hour to the consideration of this Buchanan bill to-day, and then gone into his general debate? Would he not really have saved time and saved his own feelings in the matter?

Mr. FITZGERALD. No; Mr. Chairman, nobody ever saved time here or anywhere else by being sandbagged into doing something that one individual wants and nobody else wants.

Mr. MURDOCK. I want to ask the gentleman another question.

Mr. FITZGERALD. How could the gentleman from Kansas or anybody else say that the bill could be disposed of in one hour?

Mr. MURDOCK. Or a couple of hours at the most.

Mr. FITZGERALD. Will the gentleman permit me to finish what I have to say? I know how it pains the gentleman.

Mr. MURDOCK. It does not pain me.

Mr. FITZGERALD. But he need not sit here if he does not wish to listen to it. Any one Member of the House who was recognized by the Speaker could take an hour. I have seen attempts to do the business of the District Committee in an hour. I have seen how little progress has been made in the

course of an entire day. This pending bill is the most important business before the House. How much will it avail the gentleman from Kansas if he should succeed in suspending the operation of the seven mine rescue cars of the Bureau of Mines because the bill that he believes is more important and should be taken up is not taken up?

This is not something that I want done. I am merely the mouthpiece of the committee preparing the bill carrying $107,000,000, which is essential for the proper conduct of the Government of the United States. Because one or two individuals of this House set themselves up as superior judges of what is best, because the overwhelming majority of the House disagree with them as to the particular business that should be done at a particular time, then they do the "dog-in-the-manger" act and say "if we can not have our way, we will try to prevent the majority of the House doing business." It is for the majority of the House to determine that question.

I have no more interest in the passage of this bill than anyone else. The bill is prepared and reported to the House, taken up in an orderly manner in accordance with the rules of the House. I am convinced that the great majority of the House proposes that it shall take up its business in an orderly manner and in the manner that the great majority desires. Mr. Chairman, I reserve the balance of my time, expressing the hope that a sufficient number of Members will remain here to proceed without unnecessary waste of time by repeated roll calls. [Applause.]

Mr. GILLETT. Mr. Chairman, I yield to the gentleman from Nebraska [Mr. BARTON].

Mr. BARTON. Mr. Chairman, I ask unanimous consent to extend my remarks in the RECORD upon the application of the Underwood tariff bill.

The CHAIRMAN. The gentleman from Nebraska asks unanimous consent to extend his remarks in the RECORD. Is there objection?

There was no objection.

Mr. GILLETT. Mr. Chairman, I yield 40 minutes to the gentleman from Nevada [Mr. ROBERTS].

Mr. ROBERTS of Nevada. Mr. Chairman, so wide has the range of debate taken in this House during the past few weeks, and so much done to promote harmony among the various factions, that I feel inclined at this time to pour some oil upon the troubled waters in the hope that what I say will be received by my friends across the aisle in the spirit in which it is given, and that the little differences existing among the warring elements will be entirely forgotten and the remaining days of this session will be in keeping and perfect unison with the tenets of the opposition.

We had a general election in this country in 1912. Most of us remember it. There were three great presidential condidates, Mr. Taft, Mr. Roosevelt, and Mr. Wilson. [Applause.] Mr. Taft was defeated and went back to school. Mr. Roosevelt was defeated, went fishing, and brought back a river to prove it. [Laughter.] Mr. Wilson was elected and—well, that is another story. At last account Mr. Taft was still alive and doing well, Mr. Roosevelt was still alive and "doing" Europe, and Mr. Wilson was still alive, but doing poorly—he also will go back to school at the opening of the spring term in 1917.

I am an optimist and believe that all the Members on this side will be together in one great party, under the same banner, fighting for the same principles, and will sweep the country in 1916. Two parties, even though traveling around the earth and moving in opposite directions, with the same lofty ideals in view, will each get back to the original starting point, somehow, some time. The preliminary exodus on that side of the House has already begun and will be practically completed at the coming election. Those Members who stood for the Underwood tariff schedules and the doctrine of free trade, and who stand for and defend the administration's weak-kneed, wobbly foreign policy, will have some explaining to do when they go back home.

The Baltimore convention nominated for the Presidency a great man and a good man, and one worthy of the respect and admiration of his countrymen; a man certain to be elected under the existing circumstances. It would have been the same with any man whose name was presented for the Presidency in that convention. Several great leaders' names were presented for consideration, but for the good of the country in general, and the Republican Party in particular, the one least capable of remaining long in power was selected—selected by virtue of catalysis at the opportune moment.

Had the convention nominated the real choice of the American people, it would have nominated and elected that great, honest Democratic Speaker of this House, the gentleman from Missouri, Hon. CHAMP CLARK. [Applause.] His foreign policies would have so pleased the American people that, regardless of the administration's faulty, free-trade tariff policy, he would have been a much harder man to dislodge in 1916.

The American people are sick and tired of our present so-called "watchful-waiting" foreign policy and are anxious to go to the polls and put into office a good, strong man who believes in maintaining and preserving for all time inviolate the true principles and established traditions of our Republic. [Applause on the Republican side.]

And now that the present session is slowly drawing to a close, it is but meet and proper that some consideration should be given to devising ways and means by which the majority in this House might successfully get together and agree upon a campaign program for the coming election. The country within the last 15 months has reached such a level of business depression as has not been witnessed since the former idol of Democracy, Mr. Cleveland, and a Democratic Congress ran the ship of state upon the rocks.

It might be well to have another investigating committee appointed. I introduced a resolution in this House during the Sixty-second Congress which I thought would perhaps be the last investigating committee needed during the present administration. It was a resolution calling for an investigation of investigators. [Laughter.] It still sleeps the sleep that knows no waking. It might suffice and be more appropriate to create a board of mediators to be known, for the lack of other unused terms, "the X Y Z mediators," whose duty it will be to promulgate the true principles of Democracy and harmonize the differences and misunderstandings existing among the various factions in the opposition ranks.

In passing it might be well for the mediators to harmonize the two great Memorial Day addresses delivered at Arlington on Memorial Day, together with all the incidents connected therewith, or in any manner related thereto, one by the President of the United States and the other by the Speaker of this House, the Hon. CHAMP CLARK, of Missouri, and in order to assist as much as possible I desire to insert in my remarks a brief comparison of the salient points of each side by side as they appeared in the Washington Post of May 31 last:

WAR STILL THE CHIEF END OF CIVILIZATION, SAYS CLARK.

It is written, "Blessed are the peacemakers," but after 19 centuries of Christian endeavor * * * we are prone to smite the smiter.

* * * * *

The day has not yet arrived when swords are beaten into plowshares or spears into pruning hooks; and, judging from facts which can be neither blinked nor denied, that era of perfect peace is out of sight in the distant future.

* * * * *

If history is to be believed, war has been the most important occupation of man since Cain slew Abel and since Tubal Cain first worked in a blacksmith shop. The corporation of captains from Nimrod to Gen. Wood occupy more space in the annals of mankind than do all the statesmen, philosophers, poets, preachers, writers, and artisans that ever lived.

* * * * *

All history is but one unending story of human butchery. All our boasted and multiplied acts of civilization are but preparations for the sacrifice of war—the festival of death.

PEACE IS THE KEYNOTE OF THE PRESIDENT'S ADDRESS.

I can never speak in praise of war, ladies and gentlemen; you would not desire me to do so. But there is this peculiar distinction belonging to the soldier, that he goes into an enterprise out of which he himself can not get anything at all.

* * * * *

There are battles which are just as hard to go into and just as hard to stay in as the battles of arms; and if the man will but stay and think never of himself, there will come a time of grateful recollection, when men will speak of him not only with admiration but with affection and with reverence.

* * * * *

That is their achievement, unequaled anywhere else in the annals of mankind, that the very men whom they overcame in battle join in praise and gratitude that the Union was saved.

* * * * *

This flag calls upon us daily for service, and the more quiet and self-denying the service the greater the glory of the flag. We are dedicated to freedom, and that freedom means the freedom of the human spirit.

I also desire to insert a clipping which appeared in the Washington Times on the same date, together with a Washington dispatch appearing in that Democratic newspaper, well known to this administration as well as others, the New York American:

PRESIDENT MAKES PEACE WITH GRAND ARMY OF THE REPUBLIC.

President Wilson made his peace to-day with the Grand Army veterans. Deciding at the last moment to reverse his decision not to attend the Memorial Day exercises at the Arlington National Cemetery, he not only attended but made an address.

In a speech devoted to a eulogy of the veterans and the part which they played in preserving the Union, he sought to salve the wound which his ill-timed refusal to participate in the exercises had opened.

It was a trying ordeal for all taking part in the ceremonies, for in the list of orators for the day were veterans who a few hours before had been planning to criticize the President for what they regarded as his slight of the Grand Army. All passed off, however, as though nothing had occurred to mar the preparation for the services.

GRAND ARMY OF THE REPUBLIC COOL TO WILSON—OVATION FOR CLARK—PRESIDENT AT LAST HOUR DECIDES TO ADDRESS VETERANS AT ARLINGTON AFTER SPEAKER OF HOUSE WAS ANNOUNCED AS ORATOR—FINAL ACTION TAKEN, SAYS WHITE HOUSE, TO AVOID "MISCONSTRUCTION"—MISSOURIAN PAYS FINE TRIBUTE TO SOLDIER HEROES.

WASHINGTON, *May 30.*

President Wilson, after declining to attend the Memorial Day ceremonies at Arlington National Cemetery to-day, suddenly changed his mind, following the announcement that Speaker CLARK had accepted an invitation to make the principal address in place of the President, and hurriedly put in an appearance.

At the cemetery Speaker CLARK was given a tremendous ovation. The President was received with unmistakable coolness. Perfunctory applause, which quickly became silent, followed the President's address.

It might also be well to attempt to harmonize the speeches of the Speaker of this House and the distinguished chairman of the Ways and Means Committee with the speeches of the more distinguished gentleman who presides over the destinies of this Republic, on the Panama tolls question. It will require some time, but it will be worth while, and for the benefit of all concerned I desire to insert in my remarks the following climax to that great speech delivered by the Speaker of this House:

Now may the God of our fathers, who nerved 3,000,000 backwoods Americans to fling their gage of battle into the face of the mightiest monarch in the world, who guided the hand of Jefferson in writing the charter of liberty, who sustained Washington and his ragged and starving army amid the awful horrors of Valley Forge, and who gave them complete victory on the blood-stained heights of Yorktown, may He lead Members to vote so as to prevent this stupendous folly—this unspeakable humiliation of the American Republic.

Of course the question of platform pledges, party promises and performances, and other questions such as back pedaling, mediating, hesitating, dictating, straddling, backbiting, double-crossing, double-dealing, dealing from the bottom, and so forth, should not be overlooked. A discussion of these subjects pro and con will tend to harmonize the party. Some attention should also be paid to the ethics of professional politicians in national conventions. [Laughter.]

I further respectfully submit as a side issue some attention be given to that much-mooted question the high cost of living under the Underwood tariff bill; and in order to arrive at a proper solution of the question it would be well for the mediators to subpœna as witnesses the people who voted the free-trade ticket at the last election.

The committee should also, while not otherwise engaged, call before them the laboring men and the business men of this country and explain to them fully wherein the Democratic tariff bill has resulted in bettering their conditions; and, further to unify and pacify the various malcontents in the opposition party, I suggest that at the conclusion of their hearings they have a good old-fashioned "hard-times party" in honor of the rank and file; that much care and forethought should be used in preparation for the event, which in some respects will resemble Belshazzar's feast with the wine left out and grape juice—imported—substituted in lieu thereof; that the decorations be our national colors on imported bunting intertwined with foreign-made flowers—artificial; that the table upon which the course is laid be made from lumber grown, hewed, and put together in Canada. There might be some men present interested in the lumber industry, and it will be a pleasure to them to have the entire banquet as nearly in keeping with the principles of free trade as possible. All fruits and vegetables should be plainly marked "Imported," and all meats used should be strictly of the Canadian-Australian or "A. B. C." brands, in honor of the sheep growers and cattlemen in attendance. Particular care should be used in marking the eggs with these letters, "Laid in China"; that the sugar cubes used be plainly marked "Importations," in honor of the guests who attend from cane and beet sugar growing sections of the country; that the linen, tablecloths, and napkins be marked "Made in Belfast"; that no cutlery be used except the prevailing imported grade direct from England or Germany—that will please "John Bull" especially. The subpœnas and invitations sent out should be printed on Canadian paper in honor of the printers and paper men who will attend. Some one might recite the following poem by Jack Wiley:

THE LIMIT.

Shall the flag be made in England?
  Kinder riles one up a bit;
Kinder starts the blood a bilin'
  Just to merely think of it.
Shall the flag we call "Old Glory"
  In a foreign land be made?
This is certainly the limit
  Of the foul work of free trade.
Shall the flag be made in England,
  Far away, across the deep?
Down with sentiment and feeling?
  Buy your bunting where it's cheap?
What care free-trade foes of country?
  They've no patriotic pride.
What's the flag but so much dry goods?
  Make it on the other side.
Shall the flag be made in England?
  Kinder riles one up a bit;
Kinder starts the blood a bilin'
  Just to merely think of it.
Work and wages they have taken,
  And in idleness men lag;
Taken industry to England;
  Now they want to take the flag.

As a further mark of respect to the feelings of the gentlemen from Louisiana in attendance, I suggest that, inasmuch as they lost out on the regional bank proposition and their chief industry has been destroyed, they be made waiters for the occasion, and that they be properly attired in suits the texture of which was grown in their own cotton fields, sold abroad, manufactured abroad, and sold back to them in the form of the finished product, the profits going to support foreign workingmen.

These suggestions are made in the best of faith and for no other purpose than promoting harmony in the ranks of the opposition. We on this side of the House realize the necessity for such a gathering and feel that you will adopt our suggestions and receive them in the proper spirit. It might be well for those who attend to provide themselves with a few silver dollars, as some Members of the party might speak who are accustomed to receiving Chautauqua prices; and, by the way, that reminds me that the Secretary of State is booked for the coming season. [Laughter.]

To doubly insure harmony I suggest that the premier and the honorable Speaker sit at opposite ends of the table, and that the President be not invited—he might refuse. A seat should be provided for him, however, as he might reconsider and conclude to attend. It might also be well for the distinguished gentleman from Missouri to leave his "dawg" at home; and if the president of the American Federation of Labor is present, and his secretary, and are called on for speeches, those in attendance will doubtless find out all about the question of compromise on section 7 in House bill 15657 and how the administration leaders and the Judiciary Committee back-pedaled, side-stepped, and straddled over that important provision. They might also call to the attention of those present the thousands and thousands of workingmen out of employment, but that is another question. The voting is over on the presidential question for a couple of years, and they will have plenty of time to quietly think the matter over. Of course the opposition party may justly claim the honor of giving more men, women, and children perpetual holidays in the same length of time than any other party in our history—they are all idle now, but have not the price to even purchase foreign-made "cheap John" firecrackers and punk for the occasion. [Applause on the Republican side.]

And as the banquet proceeds and the grape juice becomes red and giveth its color in the cup and moveth itself aright, some gentleman, for the sake of the country in general and the opposition party in particular, should suggest to those in attendance the urgent necessity of giving to the business men of this country a little breathing spell now and then, and an opportunity to go ahead and lawfully organize and do business according to the "Rules of Hoyle." Some one with the true interest of the country at heart might suggest that Congress adjourn forthwith and not convene again until March 4, A. D. 1917.

Of course, there will be no differences of opinion as to the administration's Mexican policy, as all will agree that Carranza, Huerta, and Villa, the "trifling trinity," have acquired through long years of plunder, rapine, and murder a prescriptive right to slaughter, ravish, and torture our own citizens in that country as well as those of other foreign Governments, and at this late date we have no right to interfere. Such a policy will get you votes.

Some Member should propose the abandonment of the Monroe doctrine as a dead letter and the adoption of some new-fangled Anglo-American alliance that will sound better and be more effective in preventing foreign countries from acquiring territory on the American Continents.

Let the new doctrine have a new name. Let it be in keeping with the great spirit of unrest which prevails and one which will tend to catch more votes and be more in keeping and consonance with your ideals of a new and up-to-date foreign-made policy. It will get you votes, and, after all, my dear friends, is not that what you are after? Come out strong on the administration's Panama tolls policy and the recent Colombian treaty; it will bring harmony in many congressional districts, and especially harmony in the various congressional districts of Missouri. But, then again, some of the people will "have to be shown," and in this connection let some aspirant for a presidential appointment as postmaster in New Jersey make himself solid with the administration by reading the following contribution to the New York American from the pen of John Temple Graves.

TOLLS AND MEXICO WORK PARTY RUIN.

[By John Temple Graves, in New York American.]

A great House Democrat told me to-day that his private and official reports were full of discouraging information from New York, from Indiana, from Ohio and Illinois, and from Louisiana.

A Wilson Senator of the inner circle and almost of the "kitchen cabinet" confessed to me to-day that the best he hoped for in November was to see the House remain Democratic by from 8 to 10 votes. Senator Vardaman yesterday prophesied, like a Democratic Jeremiah, the coming misfortunes of his party.

What is the matter with this triumphant Democracy of 1912? Why do the prophets upon the housetops cry the warnings of disaster near at hand? Why are the people discrediting it, and why are the leaders cast down?

What has happened, and who is to blame if that magnificent majority of 142 should fade and dwindle into 7 or 8? The Democrats have passed a tariff measure, it is true; but it is too early to condemn that measure yet, before it has been tried. The party has passed a currency bill, but the currency bill is just now going into practical experiment.

TOLLS AND FOREIGN POLICY.

Sifting the situation with fairness and care, it is logical to say that if the Democratic fortunes are fading and falling, it is due to tolls repeal and the foreign policy of the administration.

Mexico and Panama are the undoing of the Democratic administration.

The don't-know-what-to-do policy in Mexico and the weak and un-American surrender at Panama have alienated the people and demoralized the most magnificent fighting army of Democrats that the Capital has known for a quarter of a century.

Everybody in Washington says this now—in both parties and in all assemblies. Even Senators who have been both loyal and silent—and also obedient—are saying to-day what they would not have dared to say last week—that the administration has lost its hold.

Five of the most loyal have said to me with real impatience:

"There was no need to project this tolls question into a united and victorious Democratic Party. I protested against it at the time, and I see now that I was right. It was foolish and obstinate."

Only those who frequent those historic corridors at the Capitol can understand what a mighty change this kind of comment illustrates in Congress. And these men say that reports of disaffection reach them "from all over the country." There is no doubt of the fact that strong men and loyal men in the Democratic Party are sore and indignant.

While some aspiring candidate for a clerical position in the Department of Commerce might with propriety read the following editorial appearing in the Washington Post of Saturday's issue:

LOW-TARIFF RESULTS.

The more detailed figures on the imports and exports for March which have just been issued by the Department of Commerce give a rather puzzling aspect to the recent assurances of Secretary Redfield to the President that the foreign trade of the United States is improving.

There is little evidence of improvement in the crude materials for use in manufacture, which show an increase of $12,000,000 in imports and a decrease of $9,900,000 in exports, or in foodstuffs in crude condition and food animals, which show an increase of $4,400,000 in imports and a decrease of $6,680,000 in exports.

Evidently the trade balance is going steadily against us. There is no way to avoid this conclusion, and in the figures of the Department of Commerce is to be found the real psychology of the present situation which brought the complaint from the Illinois and Ohio business men.

Imports are constantly increasing all along the line, according to the official figures of the Department of Commerce. About the only exception is in manufactures for further use in manufacturing, which show a decrease of $1,900,000 in imports.

While the rise in imports in nearly every commodity is accompanied by a corresponding lowering of the export figures, this does not hold good with the manufactures for further use in manufacturing. That trade has fallen off largely because American manufacturers find no profit in completing the manufacture of the articles under the protective tariff. Not only are we failing to make contracts to complete the manufacture of the articles, but we are not manufacturing as many articles to be used as part of a manufactured product abroad. Under the single heading of "Manufactures for further use in manufacturing" our exports have fallen off no less than $5,100,000 in the single month of April, 1914, compared with the corresponding month of the previous year.

The situation may be wholly "psychological," but as the jump in imports and the drop in exports have been coincident with tariff revision the tariff will have to bear the brunt of the country's complaint when election time arrives.

Of course, the old question of personal liberty and State rights will be carefully thrashed out, and there might be some differences of opinion, but in that case harmony can be procured by an appeal to the distinguished leader at the other end of the Avenue, the party secret caucus, or by an appeal direct to the high court of rules—Henry's edition of rules and procedure governs. It is true that this procedure may not please all parties for and against the Hobson resolutions, the Bristow-Mondell amendment, or be entirely satisfactory to the delegates present from the Pacific coast States, who have an idea that they have the right to determine for themselves the propriety of close association in the public schools of their children with those of Asiatics. The people out there are about as pronounced on that subject and on the question of alien-land laws as some of the old-timers who will attend from that section of the country south of Mason and Dixon's line. Of course, the propriety of the administration sending the Secretary of State to Sacramento for the purpose of bringing about closer and more friendly relations with the Japanese on the farms and orchards and in the public schools will be judiciously handled. [Laughter.]

To further obliterate any sectional feeling that might arise some Member from the arid-land States might call the attention of the assemblage to the following timely article appearing in the Oregonian:

The West got what was to be expected when the House refused to consider the bill extending time of payment by settlers on reclamation tracts. The House is dominated by southern Democrats, who would gladly abolish the Reclamation Service and turn land-office receipts into the Treasury, in order that their pork bills may not cause a deficit. The West is being smitten with the jawbone of the Democratic ass.

The question of economy should be brought up and thoroughly gone into. It is one which will appeal to all of those who assemble and in the interest of the strictest economy the question of cutting down the salaries of all minor officials without a political pull should be carefully gone over. It might be suggested that inasmuch as the residents of the District of Columbia have no voice nor vote in national affairs and can not possibly make themselves felt from a political standpoint, that they be made to pay at least half of the running expenses of the entire National Government.

And it is to be hoped that like the guests of old at Belshazzar's feast they will drink "grape juice" and praise the gods of gold and of silver, of brass, or iron, or wood, and of stone, and that in the same hour there will come forth the fingers of a man's hand and write over against the candlestick upon the plaster of the wall of the king's palace and that the king will see the part of the hand that wrote "Mene, mene, tekel, u-pharsin," and that some Daniel will be brought forth and interpret the writing which was written, and that he will at least interpret that particular sentence "tekel," which means "Thou art weighed in the balance and found wanting."

Some wise man present might suggest that inasmuch as their days were numbered something should be done forthwith to get all there was coming, and that all hands dig deep into the pork barrel and that all possible means of evading the civil-service rules and regulations be forthwith devised and put into practice in the various departments of the Government; that all old and efficient members of the Grand Army of the Republic be demoted, placed in the poor farm, or relegated to the "scrap pile," and that they be displaced by political patriots, who fought, bled, and died upon the fields of partisanship, for surely their services are of far greater value and more in keeping with the true principles of the administration than long and honorable service in the preservation of the Union. Loud applause will doubtless follow any such timely and appropriate remarks, and if some gentleman present with an eye to the eternal fitness of things will only suggest that the occasion be concluded by pulling off one great Democratic, hesitating, side-stepping, back-pedaling ball, preceded by a grand march led by Gen. Coxey and Gen. Rosalie Jones, the Nation's two most democratic travelers, and a proper program is carried out, some real good may come to the opposition party, while all hands join in singing and dancing "Waltz me around again, Willie" and "We marched right in and we turned around and we marched right out again." [Laughter and applause on the Republican side.]

Mr. GILLETT. Mr. Chairman, I yield to the gentleman from Wisconsin [Mr. FREAR] 30 minutes

The CHAIRMAN (Mr. BUCHANAN of Illinois). The Chair would like to call the attention of the committee to the fact that there is evidently no quorum present. Before this important question is further discussed—and it is important, as the gentleman from New York states—the Chair thinks that a quorum should be present to hear the gentleman from Wisconsin.

Mr. HARRISON. Mr. Chairman, I raise the point of order that the Chair can not, of his own motion, raise the point of no quorum while sitting in the chair.

The CHAIRMAN. The Chair will read the rule to the gentleman from Mississippi:

Whenever a Committee of the Whole House or of the Whole House on the state of the Union finds itself without a quorum, which shall consist of 100 Members, the Chairman shall cause the roll to be called, and thereupon the committee shall rise, and the Chairman shall report the names of the absentees to the House, which shall be entered on the Journal; but if on such call a quorum shall appear, the committee shall thereupon resume its sitting without further order of the House.

Will the gentleman from Mississippi state the ground of his point of order?

Mr. HARRISON. It occurs to me, Mr. Chairman, that the Chair can not, by his own motion, raise the point of no quorum. The point of no quorum should come from one not in the chair. Of course, if the point of order is made, the Chair can entertain the motion.

The CHAIRMAN. The rule does not state that any Member of the committee must make the point of order or call the attention of the Chair to it.

Mr. MURDOCK. Mr. Chairman, may I ask the gentleman from Mississippi a question? What would be the remedy in this situation?—if every Member of the Committee of the Whole should disappear, what would the Chairman do?

Mr. HARRISON. I do not think that could possibly happen, because I am sure that the gentleman from Kansas would always be here.

Mr. MURDOCK. But suppose it did disappear and only leave the Chairman present?

Mr. TAGGART. Then what would happen if the Chairman walked off?

Mr. HARRISON. Mr. Chairman, I withdraw the point of order.

The CHAIRMAN. The Chair will count. [After counting.] Ninety-four Members present—not a quorum.

Mr. MANN. Mr. Chairman, I move that the committee do now rise.

Mr. FITZGERALD. Oh, no; let us stay here and do business.

Mr. FOWLER. Mr. Chairman, I raise a point of order.

The CHAIRMAN. The gentleman will state it.

Mr. FOWLER. The Chair has stated that there was not a quorum present.

The CHAIRMAN. It is not necessary to have a quorum for the committee to rise.

Mr. FOWLER. The Chair has announced that no quorum is present, and, according to the rules, the next thing is the calling of the roll.

Mr. GARNER. No; you can make a motion that the committee shall rise without a quorum.

The CHAIRMAN. The motion for the committee to rise is always in order in Committee of the Whole House. The question is on the motion of the gentleman from Illinois that the committee do now rise.

The question was taken; and on a division (demanded by Mr. MANN) there were 22 ayes and 52 noes.

Mr. FITZGERALD and Mr. MANN asked for tellers.

Tellers were ordered, and the Chair appointed as tellers Mr. FITZGERALD and Mr. GILLETT.

The committee again divided; and the tellers reported—ayes 26, noes 73.

So the motion to rise was rejected.

The CHAIRMAN (Mr. GARRETT of Tennessee). On this vote the tellers report ayes 26, noes 73, and with the Chair that makes 100 present—a quorum. The gentleman from Wisconsin [Mr. FREAR] is recognized for 30 minutes.

Mr. FREAR. Mr. Chairman, I wish to preface my remarks by reading a short editorial from a magazine which enjoys the greatest reading clientele of any publication in the world. Any editorial utterance from this magazine is presented to the reading public only after thorough investigation of the matter under consideration. Its judgment is impartial and impersonal, and its editorial utterances are accepted by the American people as the result of conviction rather than as hastily prepared opinions that reflect the views of the advertising counter so often charged against some other publications.

I read a leading editorial from the Saturday Evening Post of June 6:

[From the Saturday Evening Post, Philadelphia, June 6, 1914.]

THE PEOPLE WANT TO KNOW.

Congress appropriates thirty-five or forty million dollars a year for improvement of rivers and harbors. The bills are passed on the time-honored pork-barrel plan. That the expenditures involve huge waste of public funds, and that a considerable part of them is nothing better than graft in an especially obnoxious form, is commonly believed.

If it were generally accepted that such misuse of money derived from the general public obtained in any other field—say, in the railroad field—Congress would immediately order an investigation. Congressman FREAR proposes in a concurrent resolution that the House shall order a thorough investigation by the Interstate Commerce Commission of river and harbor expenditures. An investigation by a body independent of Congress would be better, but the Interstate Commerce Commission is acceptable.

We feel warranted in assuring Congress that the public would like to know approximately how much of the hundred and fifty millions or upward that has been spent on river and harbor improvement in the last five years has resulted in any tangible public benefit, approximately how much has been wasted, and about how much represents a form of political graft.

We say this without prejudice. A great part of the expenditure may have been quite justified by tangible public benefits resulting from it. The waste may be inconsiderable. But people generally believe that an important portion of the hundred and fifty millions or upward is just a tapping of the public till for the political benefit of individual Congressmen.

Surely that circumstance requires an authoritative investigation. Congress commands extensive resources for investigating. Let it employ them in this case at home.

Mr. TREADWAY. Will the gentleman yield?

Mr. FREAR. Not at this time. I shall be pleased to do so later. Before commenting upon this editorial, which has a relation to the bill here under discussion, I desire to make a suggestion regarding the Post's understanding of the amount of appropriations for rivers and harbors.

As nearly as can be ascertained, for 1914 the appropriations are as follows:

House appropriation, river and harbor bill	$43,289,004
House appropriation, sundry civil	6,990,000
Senate appropriation, increase estimated	6,000,000
Total, 1914, cash appropriations	56,279,004
New House projects adopted	32,897,871
New Senate projects adopted	6,000,000
Total, 1914, cash and new projects	95,176,875

In the foregoing table estimated Senate increases are taken from press reports.

For the last four years the total cash appropriations appear as follows:

1911	$49,380,541.50
1912	40,559,620.50
1913	51,115,889.00
1914	56,279,004.00
Four years, cash	197,335,055.00
New projects, 1914	38,897,871.00
Total	236,232,926.00

This astounding sum does not include projects adopted prior to 1914, which amount to approximately $273,000,000 in existing Government obligations.

The 1913 report of the Chief of Engineers, page 30, shows total river and harbor appropriations to have been $789,288,614.45 for all purposes, to which should be added the 1914 appropriations above itemized in order to ascertain the full amount appropriated. It is difficult to learn from the reports the exact proportion of this vast amount which has been poured into the rivers of the country, but after expending over three-quarters of a billion dollars we now discover that during this period the commerce on the rivers of the country has decreased approximately 80 per cent.

To this tremendous sum of $789,288,614.45 in past appropriations is now to be added in the year 1914, for present and future payment obligations, $95,176,875, or a total of $884,465,489. Again, to this sum should be added $273,000,000 in projects heretofore adopted and begun; also $92,500,000 for projects heretofore adopted but for which no appropriations have yet been made; also 120 additional surveys in the 1914 bill, entailing unknown future expenditures.

And the balance sheet shows a loss of 80 per cent in river navigation, according to Government statistics which I have heretofore submitted to the House.

Mr. Chairman, I hasten to do justice where justice is due, and I have read the Post editorial to the House in order to make full atonement for a suggestion made by me in a speech of June 2 in the House, which was printed on the following day. However humble his place in this body, every Member of Congress occupies a responsible position toward the country at large. Sometimes we speak our convictions to a handful of Members occupying these seats. When our remarks are revised and inserted in the RECORD, we find them embalmed for all time, rarely attracting the attention of the public at large. The country is too busy to concern itself over speeches of individual Members, unless, forsooth, they reflect the policy of a political administration or have some special significance.

On the contrary, great newspapers and great magazines speak to hundreds of thousands of readers every week. The editorial utterance of a strong publication like the Chicago Tribune, with a daily circulation of more than a quarter of a million readers, becomes the standard for those people who believe in the good work which the Tribune has performed through the Mulhall investigation and other matters of great public interest which involve legislative morals; and I speak of the Tribune only as a leading member of a group of papers which is engaged in working for the public uplift.

Several magazines could be named, all of which have helped to raise the moral tone of business and of legislative performance. Such publications reach hundreds of thousands in every issue, and in the case of the Saturday Evening Post we have a publication which speaks to over 2,000,000 readers every week. Apart from flippant comments indulged in by different writers, and which do not always present a true picture of congressional action or of Members, these magazines have a powerful influence in shaping public sentiment—a sentiment which is rarely misdirected.

Mr. Chairman, in a recent number of the CONGRESSIONAL RECORD appears an article written by the distinguished gentleman

from Mississippi [Mr. HUMPHREYS]. It was first written for the Saturday Evening Post in an entertaining vein and dealt with what purported to be "The inside of the pork barrel." Thereafter an equally distinguished Senator secured its insertion in the CONGRESSIONAL RECORD, and it thereupon became a semiofficial utterance, which reflected upon the judgment of many Members who do not view the rivers and harbors pork barrel through the spectacles used by the gentleman from Mississippi.

Many of us believe the pork barrel is what it was once appropriately styled by a Senator at the other end of the Capitol, a "humbug and a steal," and believing, further, that its insertion in the RECORD challenged contradiction, on June 2 I hastily prepared a brief statement, which was given to the House as the truth concerning the pork barrel from my own viewpoint, and I attempted to point out some of the influences which are behind the barrel. During my remarks I expressed genuine disappointment over the failure of the Saturday Evening Post to declare its disapproval of the pork barrel and made a brief reference to the responsibility of great publications, possessed in common with Members of Congress, to present a true likeness of public conditions and of legislative measures.

It is very probable that those remarks did not reach the ears or attention of any considerable number of people, and the Post is not likely to be concerned with the judgment of any individual Member of the House. Yet I desire to publicly express my own appreciation and that of hundreds of thousands of the Post's readers for its fearless and well-timed demand that Congress investigate charges which have been repeatedly offered against the corrupt pork barrel.

In my remarks heretofore made on the subject I have quoted from Presidents of the United States, Senators, and leading publications throughout the country, all of whom by common agreement arrive at the same conclusion—that the river and harbor pork barrel is a "humbug and a steal," as it was fitly denominated by a distinguished Senator.

Mr. GARNER. Will the gentleman yield?

Mr. FREAR. Not at this time; I will do so later. Editorially the Saturday Evening Post demands an investigation, the Chicago Tribune demands an investigation, the Washington Times said, in effect, the facts developed were astounding and justify an investigation. Scores of papers and other publications are becoming aroused to the iniquity of the pork barrel. The bill is not in the House at this time. It has gone to the Senate; but if it is returned to this body we are assured a dozen millions more will have been added to its $76,000,000 for present and future projects. That was the sum total of obligations which the bill carried when it passed the House. Added to that amount will be approximately a dozen millions more before the bill is returned to us, which will bring its total up to $88,000,000.

Mr. Chairman, the story is still incomplete. In the bill before us—the sundry civil appropriation bill—there has been added about $7,000,000 more for river and harbor improvements. In other words, approximately $100,000,000 may be covered by these two bills for the 1914 pork barrel, the greatest barrel ever foisted on the American people, worse than any of its predecessors and so filled with vicious, objectionable items that I can not believe the President will ever permit the measure to become a law.

In the sundry civil bill before us $4,176,000 is appropriated for the notorious $64,000,000 Ohio River Canal venture. Five million dollars has already been appropriated this year for the Ohio River Canal, making a total of $9,176,000 for this one canal for 1914. When President Cleveland vetoed the $14,000,000 river and harbor bill in 1896 he condemned that bill because of its present and continuing obligations. Private projects paid for by the Government were as objectionable to him as future obligations that smacked of pork-barrel methods. What would Cleveland say to the 1914 appropriations, which reach about $100,000,000, including scores of private and vicious projects, as pointed out in my speech of March 26? Many Members, through the importunities of constituents, may plead for some particular project, whether it be the Kissimmee, which is dry eight months in the year and gets $47,000 for a real-estate project, or the Oklawaha, which gets three-quarters of a million to help out some orange growers and real-estate interests, or the Ohio River Canal, which gets more in 1914 than was given to the whole river and harbor proposition in any one year during the seven years from 1875 to 1881, inclusive, when actual river navigation existed.

What a commentary upon legislative methods, Mr. Chairman, that $9,176,000 is being poured into a useless canal on the Ohio during a single year, when, aside from coal, iron ore, and lumber, only 132,189 tons were shipped through the Louisville locks in 1906, whereas shipments by the open river, for which other appropriations are made in 1914, reached many times the shipments by the canal. For illustration, the total 1905 traffic on the Ohio River—open river and canal—according to the report of the Commissioner of Corporations, amounted to 13,163,656 tons. In 1906 it had fallen to 11,427,784, and in 1912, according to the authority quoted in my remarks on March 26, the traffic had fallen to 8,618,396 tons. Of the 1906 traffic, the latest data available, only 1,343,904 tons out of a total of 11,427,784, or about 10 per cent of the total river traffic, went by way of the canal, and of this small proportion of total canal traffic, 1,211,715 tons was heavy freight, including coal, timber, and so forth, which could have gone by the open river, as it has always gone during the past century. In other words, 99 per cent of the total river traffic went by the open river, or was, properly speaking, open-river commerce.

These statistics I have taken from the best available Government reports, and they disclose that the Government is to pay out $64,000,000 for about 1 per cent of the river traffic known as high-grade freight, and of this $64,000,000, $9,176,000 is sunk in the Ohio Canal through the 1914 appropriations to be made by Congress. Figure out the cost to the Government per ton on a rapidly diminishing commerce and ascertain, if you can, how many dollars per ton are to be paid for the high-class traffic which we are trying to force through the canal. Rather than make such wasteful appropriations the Government could better afford to pay all freight bills for a century to come for every ton to be shipped by rail along the river which will ever be carried by the river and canal combined, because most of the shipments are for short distances, according to engineers' reports, and the canal will be a worthless and discarded venture long before the work on it is ever completed.

Mr. Chairman, the Mississippi has been plastered over with $144,000,000, which would have built a parallel railway on both sides of the river from Minneapolis to the river's mouth, yet during the last three decades this great river has lost over four-fifths of all its traffic. Notwithstanding ocean commerce has grown inversely and railway traffic has many times doubled within the same period to meet the demands of a population which has increased over 80 per cent, the Mississippi and the Missouri and countless other streams and rivulets covered by the 1914 appropriations have lost their commerce or never had any or never will.

Based on the statistics quoted by me to the House on a former occasion, we find the Ohio River traffic dropped from 13,163,656 tons in 1905 to 8,618,396 tons in 1912. I do not vouch for the last figures, because they were volunteered by the gentleman from Kentucky [Mr. SHERLEY], a supporter of the bill; but if they are reliable, they disclose a loss of over 33 per cent in Ohio River traffic in seven years. At the same proportionate rate the Ohio River traffic will have decreased as rapidly as that of the Mississippi before 20 more years pass by, and long before the $64,000,000 canalization project is finished the Ohio River Canal will follow the fate of other canals, over one-half of which, according to Government statistics, have been abandoned and result in approximately 2,500 miles of deserted, muddy, valueless ditches—a lasting monument to the grim, relentless progress of railway traffic.

In the 1914 appropriations two rivers, the Mississippi and the Ohio, get out of the Government Treasury $9,500,000 and $9,176,000, respectively, about one-third of the entire $56,279,000 cash appropriation for 1914. For what purpose? Where is the traffic? What a wild, reckless waste of $18,676,000! And all the commerce on the entire 4,000 miles of these two great streams does not approach in volume the annual 29,000,000-ton commerce of the Duluth-Superior Harbor, on the north border of my own State. Nor does the $18,676,000 of wasted millions in those two rivers include millions of dollars frittered away in 1914 in macadamizing with gold the bottom of the boatless, muddy Missouri; nor $72,000 used for the mysterious Mattewan fertilizing factory projects; nor $33,800 for scooping out the shallow Scuppernong; nor $47,000 for flushing Florida's famous dry-run real-estate project, the osculatory Kissimmee; nor $750,000 of Government money pulled out of the Treasury by the only original Oklawaha money octopus; nor over $6,000,000 of Government gold dumped into the crooked Coosa River cataracts, $65,000 of which is appropriated in 1914; nor does it include many millions of dollars more which I have before pointed out to the House are wasted in the 1914 bill by being dumped into a hundred other unnavigable streams, devoid of commerce, that can not be lured back from the railways with all the wealth possessed by the Government Treasury.

The Ohio River traffic is diminishing, excepting that the open river carries a small proportion of bulky, heavy commerce in competition with railways. The Mississippi, after an expendi-

ture of $144,000,000, and the Missouri River, after a $13,000,000 expenditure, show a traffic decrease of over 80 per cent within the past 20 years.

Mr. Chairman, there are many worthy harbor projects which deserve fair treatment at the hands of the Government, but river improvements have been so recklessly and improvidently made that constituencies have come to look upon the river and harbor bill as a legitimate graft to be extended to them by Congress. I firmly believe the fault lies primarily with the constituent who forces his representative to espouse a project that is frequently vicious and bad. Nor do I seek to avoid the responsibility that comes to every one of us and which can not longer be ignored when we vote for such pork-barrel bills.

The sundry civil bill carries about $7,000,000 for rivers and harbors, in addition to the $88,000,000 now reported from the Senate side. It carries over $4,000,000 for the Ohio River Canal, in addition to the $5,000,000 already appropriated this year for the same purpose by the regular pork-barrel bill. I realize the sundry civil bill carries many needed appropriations; that it will be impossible to pry loose from the bill a single vicious pork-barrel appropriation; but I believe we owe it to ourselves and to the country to take warning from the demands that have come to us from high publicity sources. I do not believe this bill should pass when loaded down with these objectionable items. If it does pass, the Democracy of the country should revise its utterance contained in the 1912 platform, when it said:

> We call the attention of the patriotic citizens of our country to the record of economy and constructive legislation of the Democratic House of Representatives.

What was intended by the platform declaration at Baltimore?—

> We denounce the profligate waste of money wrung from the people by oppressive taxation through the lavish appropriations of recent Republican Congresses.

You got into power by such promises of economy, and the people believed you when you said:

> We demand a return to that simplicity and economy which benefits a democratic government.

How can that utterance be justified when viewed in the shadow of the 1914 river and harbor pork barrel of nearly $100,000,000?

I have voted with you gentlemen across the aisle when, in my judgment, measures have been presented in which the good overcame the bad. I do not believe politics should determine our action on measures which affect the welfare of the people; but I can not understand how any man, be he Democrat, Republican, or Progressive, can justify a wasteful $100,000,000 pork barrel which places a burden of one dollar on every man, woman, and child in the country. I believe the vicious measure will never get through the Senate, nor do I believe President Wilson could be induced to sign it if it ever comes before him.

If the rivers and harbors and sundry civil bills of 1914 become laws with these objectionable items included, they will be an indictment against this Congress and this administration, a specter which, like Banquo's ghost, will not down in the minds of the people whose money is being squandered.

Mr. Chairman, I shall hereafter endeavor to do what I conceive to be my duty in regard to a few of the most vicious items contained in the bill before us. However ineffective my efforts may be, I feel sure that an indignant people will soon demand an early investigation of facts, which can not longer be ignored, which strike at the roots of honest methods of legislation and which are destructive to the confidence reposed in us by the people.

In my remarks of June 2 I inserted two strikingly strong editorials from great metropolitan dailies in each of which is demanded an investigation before more money is squandered on worthless river projects. I do not desire to insert clippings of a general character, but will say that editorials which I have received, coming from papers from all sections of the country, unanimously condemn the 1914 pork barrel and join in with the Saturday Evening Post's demand that an investigation be had as to present methods of preparing and passing rivers and harbors legislation.

Mr. Chairman, I will be very glad now to yield to any gentleman who wishes to ask me a question.

Mr. PLATT. Mr. Chairman, does not the gentleman think that some of these river projects might be made to pay if the Interstate Commerce Commission can be induced to raise railroad rates high enough?

Mr. FREAR. Mr. Chairman, I will say to the gentleman from New York, if the House is interested in that particular proposition, that I received word from one connected with the Interstate Commerce Commission, who suggests that when by navigation we are able to reduce the freight rates on any particular river, as was suggested by the gentleman from Illinois [Mr. MANN] when this point was first made during the discussion of the river and harbor bill—when you do that and permit the railroads to make rates lower than the boats can make, so as to drive traffic off the rivers, you ought also to give to the Interstate Commerce Commission power to fix minimum rates, for only by so doing can you preserve river commerce. But the commerce has been driven from off the rivers not to return, unless through different methods of navigation, and then only to a limited extent. I shall be very glad to yield for any further questions.

Mr. BUCHANAN of Illinois. Mr. Chairman, I make the point of order that there is no quorum present.

Mr. FITZGERALD. Mr. Chairman, I make the point of order that the point is dilatory, and I refer the Chair to volume 5, Hinds' Precedents, section 5730.

Mr. BUCHANAN of Illinois. Mr. Chairman, I would like to be heard upon the point raised by the gentleman from New York.

The CHAIRMAN. The Chair will hear the gentleman briefly.

Mr. BUCHANAN of Illinois. Mr. Chairman, the gentleman has stated that the bill now under discussion carries matters of great importance, and therefore it seems to me that we should have at least a hundred Members present to listen to the discussion. He can not sustain his position that it is dilatory, because it is very evident that there is no quorum present, and therefore the point of order must certainly be without ground.

Mr. MANN. Mr. Chairman, I would like to be heard on the point of order.

The CHAIRMAN. Has the gentleman from Illinois [Mr. BUCHANAN] concluded?

Mr. BUCHANAN of Illinois. Yes.

Mr. MANN. It does not seem to me that making the point of order that there is no quorum present, when it is manifest that there is probably not a quorum present, can be called dilatory, especially as it takes no time to speak of to count and determine the presence or absence of a quorum. It is true that the point of order of no quorum was made half an hour or so ago, and it is also true that at that time there were 100 Members present. It is perfectly patent to the Chair and to everyone else that possibly, if not probably, some of those present have disappeared. Whether or not others have come in in the meantime, I do not know.

Mr. FITZGERALD. Three or four times during the afternoon this point of order has been made.

Mr. MANN. And it has been sustained every time, except once, so it could not have been dilatory.

Mr. FITZGERALD. And each time, on the roll being called, a large number of Members responded. In 1907 the same performance was indulged in on this same bill, and a very distinguished parliamentarian, the gentleman from Indiana, Mr. Watson, held that these repeated points of order made by one Member were evidently an attempt to obstruct the public business, and he thought it dilatory and declined to recognize the point. That decision is referred to in Hinds' Precedents, section 5730.

Mr. MANN. Well, Mr. Chairman, it is perfectly patent, of course, if some Member should keep on making a point of no quorum when a quorum is present it would be apparent it was dilatory, because the Chair could not permit some one Member to stand on the floor and repeat every two seconds, "I make the point of order that there is no quorum present," and then declare a quorum here; but every time a point of no quorum has been made to-day it has been ascertained by the Chair after counting that there was no quorum present. Now, I do not think that the Chair can hold——

Mr. FITZGERALD. I think not; a few moments ago the Chair itself for the first time in the history of the Government called attention to the fact that, in his opinion, there was not a quorum present.

Mr. MANN. And made a count.

Mr. FITZGERALD. And upon a vote being taken immediately it was ascertained that a quorum was present. Now the same gentleman occupying a position on the floor, not quite so advantageous a one from which he could count, renews the point of no quorum.

The CHAIRMAN. Has the gentleman from Illinois concluded?

Mr. BUCHANAN of Illinois. Mr. Chairman, I would like to say a word further in reply to the statement of the gentleman from New York that the gentleman who occupied the Chair found a quorum was absent, and after a count being made and orders and signals given we did get a quorum, I believe, after some hustling around and Members coming from other places, but it is, as usual, a misleading statement and an erroneous

argument when the gentleman makes the statement that there was not an absence of a quorum at that time. Of course, probably if the gentleman had permitted a statement to-day in regard to the bill which should have been considered by this House to-day for the protection of life and limb of the building craftsmen in the District of Columbia, in order that lives might be saved, if that gentleman had made the same effort to give his support to it, it could probably have been considered and passed on in half an hour. The gentleman is proceeding in opposition to a measure for the protection of the wageworkers.

Mr. FITZGERALD. Mr. Chairman, the gentleman ought not to speak further out of order, because his statement is so inaccurate that it should not go in the RECORD.

SEVERAL MEMBERS. Regular order!

The CHAIRMAN. The Chair is hearing the gentleman on the point of order, and the Chair would suggest that the gentleman is not discussing the point of order.

Mr. BUCHANAN of Illinois. I would like to suggest to the Chair the point of order was not being discussed in the remarks made before I made these remarks.

The CHAIRMAN. The Chair agrees with the gentleman in that; but no one made the suggestion.

Mr. MANN. I am very sure I did not discuss anything but the point of order.

The CHAIRMAN. The gentleman from Illinois did discuss the point of order, and he will excuse the Chair. The Chair is prepared to rule.

Of course the question of no quorum and the matter of its being dilatory is a delicate proposition. The Constitution requires that a quorum be present. The present occupant of the chair thinks that any Chairman should be very careful in passing upon the point of order that a point of no quorum is dilatory, but we have here this practical situation: It has not been half an hour since the presence of a quorum was developed by actual count in the Committee of the Whole House on the state of the Union. There has been no business whatever transacted since that time. The gentleman who occupied the floor—the Chair means business in the sense of a passage of a bill or a motion made——

Mr. MANN. There has been no motion made.

Mr. BARTLETT. There could not be any.

The CHAIRMAN. A gentleman was occupying the floor, who took the floor immediately after that and is at present occupying the floor except for this point of order, no business has been transacted, no motion has been made. The presence of a quorum was developed on the last count a very few moments ago, and the Chair feels that he is not infringing upon the rights of the country in holding that the motion is dilatory, and the Chair therefore sustains the point of order made by the gentleman from New York.

Mr. FITZGERALD. Mr. Chairman, I yield 15 minutes to the gentleman from Illinois.

The CHAIRMAN. Does the gentleman from Wisconsin desire to submit anything further?

Mr. FREAR. I only desire to yield back the balance of my time.

The CHAIRMAN. The gentleman yields back two minutes.

Mr. FOSTER. Mr. Chairman, I had hoped, owing to the lateness of the hour, that after the hot day we have experienced here to-day I might postpone until to-morrow what few words I desire to say upon this bill, but in order to expedite the business and to get through the bill as soon as possible I am willing to occupy the time this evening.

What I especially desired to call attention to at this time was the item in the sundry civil bill providing an appropriation for the Bureau of Mines, especially that part which refers to mine rescue work. In 1910 the Bureau of Mines was established and given certain power in the way of investigations for the safety of miners and the economic production of coal and other minerals throughout the country. At a later date the organic act was changed so as to enlarge the scope, powers, and duties of the Bureau of Mines, until to-day we have an act which we believe is sufficiently broad to provide a means of investigation along the lines of health and safety and economical development. The appropriation which is provided in this bill has been increased, I am pleased to say, to some extent, and among the items of increase is the one providing $30,000 for the purchase of new equipment in mine rescue work.

In going into the mines for the purpose of rescuing those who may be entombed there after an accident it is necessary that the apparatus should be first class and in good working condition. Three men who had been employed by the Bureau of Mines have lost their lives in doing rescue work after an explosion or a fire, or, I think, who have gone in the mine to determine whether or not it was safe for the miners to enter after a fire had occurred. And possibly you can recall the case in Pennsylvania, which is a recent one.

Mr. FARR. Is that in reference to the accident at Throop, in Pennsylvania?

Mr. FOSTER. Yes; that was after a fire.

Mr. FARR. He was a constituent of mine.

Mr. FOSTER. This apparatus which the rescuers use ought to be in such a condition that the danger would be reduced to the minimum, because these men, when traveling into these mines after an explosion or for any other purpose where there is danger from poisonous gases, must depend entirely upon the air that they get through this breathing apparatus.

There has also been provided in this bill $25,000 for the work of the Bureau of Mines in investigations in petroleum production. It is ascertained that hundreds of thousands, yes, millions, of dollars' worth of natural gas is going out into the air, being burned or permitted to escape each year, without any useful purpose, and the Bureau of Mines has ascertained through experiments in the State of Oklahoma that this natural gas, this valuable fuel, can be preserved in the ground until it becomes necessary to use it, and then can be taken out without interfering with the production of oil. And in that one particular alone the Bureau of Mines has performed a wonderful work in the way of conservation.

Take it in California alone, where there is produced 100,000,000 barrels of oil each year. I do not know what it sells for there, but if the price is only 50 cents a barrel, it makes the production in California worth $50,000,000 annually. I think the Appropriations Committee has wisely provided this small amount in order that investigations may be carried on further in this important industry of our country.

In Oklahoma, which is the next largest oil-producing State in the Union, millions of barrels are produced each year; and if we are able to determine the best way of producing that oil, the best way of conserving the resources in that particular line, we have done a valuable service to that State and to the Nation. The State in which I live is the third largest oil-producing State we now have, and I know our people have for several years been concerned as to the importance of this valuable industry. I know also that hundreds of thousands of feet of gas escape each day in that field, which is wasted, forever gone, because when gas escapes, but is not burned for a useful purpose, it is of no benefit to the people and there is no source of revenue to those who own it. It is gone forever and can not be replaced.

The Committee on Appropriations, since the present chairman has held that important position, has been friendly to the Bureau of Mines, and the committee has provided each year some increase of appropriation; and yet I believe that we ought to, in the mine rescue work especially, have more revenue, and that these rescue cars, which are an important item of education to the miners of the country, might be in operation for 12 months in the year. As it is now, 6 to 9 months is about the time they can operate with the amount of appropriation provided. We have eight cars; seven of them could be kept in continuous operation. One could be kept to take the place of those that are out of commission for a certain time. What we need is that these rescue cars—not so much the rescue stations, because they are not the important part in the mine rescue work and the education of the miners—but these cars can be moved from mining camp to mining camp, where instructions may be given the miners in the proper rules for safeguarding the lives of miners and they may be instructed in first-aid work; where, in fact, they may teach them all the problems which a miner has to meet. And we know in many of these coal mines there are a number of foreigners, who do not speak our language and are unacquainted with our laws, and it is necessary, it is important, in order to save human life, that these men should be instructed so that they may understand the laws, the rules, the regulations, and all those things that are necessary to conserve human life in the mines.

Mr. BRYAN. In addition to the matter of instruction, motor cars are equipped to be immediately dispatched in case of accident, are they not?

Mr. FOSTER. Yes, sir.

Mr. BRYAN. In case of alarm they go quickly to the scene?

Mr. FOSTER. Yes, sir. It is estimated that at the present rate at which these cars can operate which the Government now owns it will require 12 years to go to all the mining camps in the United States and give sufficient instruction to these miners. And wherever they go the miners take great interest in this work. They are anxious to learn; they are anxious to know what they can do to make life safer where they are employed.

As the gentleman from Washington [Mr. BRYAN] has just stated in reference to this work, I think it is an important

thing that wherever there is a mining camp this instruction should be given in order that these men may know and may be taught what is necessary to be done to make mining safer. Operators in some cases are providing cars and apparatus in order that they may keep them where they may be necessary when an explosion occurs or when some other great accident takes place, and, as suggested by the gentleman from Washington, these cars should be placed in different parts of the country accessible to the mining regions, where they may be of service in case of explosions.

The Bureau of Mines has eight cars, distributed as follows: Wilkes-Barre, Pa.; Huntington, W. Va.; Evansville, Ind.; Ironwood, Mich.; Pittsburg, Kans.; Denver, Colo.; Rock Springs, Wyo.; and Billings, Mont. These cars, which the Bureau of Mines now owns, are so stationed as to be as readily accessible as possible to the thickly populated mining regions, so that they may go as soon as possible wherever an explosion occurs; and the Government maintains over the country rescue stations at the following places: Pittsburgh, Pa.; Knoxville, Tenn.; Birmingham, Ala.; McAlester, Okla.; Urbana, Ill.; and Seattle, Wash., where equipment is readily accessible, and to be used in case of accidents, where it may be taken wherever needed.

We think sometimes of the great catastrophes that occur and that are called to our attention by the great loss of life in mines, and yet there goes out from day to day human lives in the mines which the newspapers do not record in their headlines. Here and there some miner's life goes out on account of a falling roof or some other accident in the mine. One by one these men lose their lives.

I believe that if an additional appropriation was made in this bill these eight mining cars might be properly equipped, which they will be with this appropriation of $30.000 that is to be made, and then if sufficient money is given these cars might be in continual use for 11 or 12 months in a year; and in that case they would do a great deal of good in the work of instruction among these employees in the mine.

Then, another thing: With each of these cars there should be a mining engineer, a man who is versed in the industry, who knows what a mine ought to be to insure safety, who knows what a mine needs, to go through that mine and suggest to the operators certain improvements that ought to be made. Then there ought to be a first-aid surgeon, who shall go along with the car, and who will instruct the miners in first-aid work. As it is now these cars must go out without these men, without these men who are necessary to make this work as effective as it should be.

My friends, when we think of the thousands and hundreds of thousands of men who work in the mines; when we think of the importance of the mining industry of this country; when we think that it is next to that of agriculture in basic wealth; when we stop and consider that for agriculture we appropriate each year nearly $30,000,000; when we think what this Government has done for the benefit of agriculture, increasing the production of the farm, which I am pleased to see; when we think of this we do not realize that in this great mining industry, which is the basic industry second to that of farming, we appropriate less than $1,000,000. I hope that our good friends on the Committee on Appropriations, before this bill shall have been completed, may conclude that in this case, in this item in the bill, they will willingly give to this great industry a little more help than it now has.

Mr. BRYAN. Is it not a fact that the State mining bureaus cooperate with these Federal agencies and increase the efficiency all through the several States?

Mr. FOSTER. That is true with respect to almost all of the States of the Union. Where there is any considerable mining done, the States are taking hold of this work. For instance, in the State of Illinois the State legislature appropriated the money for the purchase of three cars, in order that they may be taken over the State of Illinois, and experienced men instruct the 82,000 miners who are working in this industry in that great coal-mining State.

The CHAIRMAN. The time of the gentleman from Illinois has expired.

Mr. FOSTER. I ask unanimous consent, Mr. Chairman, to extend my remarks in the RECORD.

Mr. FITZGERALD. I was going to ask the gentleman what other States had done. I will yield five minutes to the gentleman.

The CHAIRMAN. The gentleman from Illinois [Mr. FOSTER] is recognized for five minutes more.

Mr. FITZGERALD. I desire to ask the gentleman from Illinois to state what other States have done any of this work, instead of attempting to place all the burden on the Federal Government.

Mr. BRYAN. The State of Washington has done a lot.

Mr. FITZGERALD. What has it done? It has done nothing.

Mr. BRYAN. The gentleman from New York is entirely mistaken when he says we have done nothing.

Mr. FOSTER. The State of Pennsylvania employs 50 inspectors, at $3,000 each, besides in other ways to help the industry. The States spend as much money as the Federal Government for the benefit of their own miners; all the mining States, so far as I know, are helping along in this work.

Mr. FITZGERALD. That is what they ought to do.

Mr. MANN. Has the gentleman examined some of the "bad" provisions in this bill on the subject of the Bureau of Mines? I say, has the gentleman examined the provisions in the pending bill relating to the Bureau of Mines?

Mr. FOSTER. Yes; I have read these items very carefully.

Mr. MANN. If we go on at the same rate, how much will it cost the General Government inside of five years for having created the Bureau of Mines?

Mr. FOSTER. I will say to my colleague that I do not know, but I would suggest to him that as important an industry as coal mining or metal mining is in this country, the Federal Government can well afford to spend something more than it is now doing for the benefit of these great industries.

Mr. MANN. Is it any more important than making woolen clothes?

Mr. FOSTER. I do not know how my colleague could compare so important a work of saving human life with the making of woolen clothes.

Mr. BRYAN. It is attended with more danger.

Mr. FOSTER. But we spend nearly $30,000,000 for agriculture, or will expend this amount when the extension bill lately passed is in full operation, which is all right, and we all agree the amount spent for investigation and instruction among farmers is beneficial.

Mr. FITZGERALD. Oh, no; we do not.

Mr. FOSTER. Nearly that much, taking all the appropriations for the benefit of agriculture.

Mr. FITZGERALD. Oh, no.

Mr. FOSTER. Nearly that much, when we count up all the provisions of the different bills, or, as the figures furnished by the Agriculture Department, $27,950,000.

Mr. MANN. Does the gentleman say that the National Government should assume all the responsibility for human life and that the States should have nothing to do with it?

Mr. FOSTER. Certainly I think the States should do their part. That same argument might apply to many items that come up in appropriation bills; and if my colleague takes that view of it in reference to the mining industry, which is so important, I hope we will endeavor to see that many of the other items that are of less importance are taken out of the different bills as they are reported to the House.

Mr. MANN. The fact is, we aid agriculture and we aid mining. The cost of our aid to agriculture has increased from practically nothing since I came here to $22,000,000 or $23,000,000 a year, and I believe in every item of it. Whether we are going to do the same thing for mining I do not know; but there are a hundred other industries of great importance, and it would seem as though those States which make great amounts of money out of having mines within their borders ought not to seek to shift the responsibility upon the General Government.

Mr. FOSTER. I am thoroughly in accord with my colleague in reference to the Agricultural bill and the items in it, but I think the gentleman is mistaken about the statement he makes, because I do not believe the States are attempting to shift the burden upon the Federal Government with reference to mining any more than they do in reference to education or agriculture and other matters for which Congress provides.

Mr. MANN. I take back the suggestion about the States endeavoring to shift the burden. I do not think the States are endeavoring to shift the burden. I think the Chief of the Bureau of Mines is endeavoring to claim the burden.

Mr. FOSTER. No; I think the gentleman is wrong about that. The Director of the Bureau of Mines is a very capable official, and is doing splendid work, and his work is appreciated all over the country by those who know what he is doing.

Mr. FARR. Is it not a fact that some of the States were opposed to the Federal Bureau of Mines?

Mr. FOSTER. I do not know as to that. The gentleman may be correct about it, but I want to say to my colleague that the State from which he comes has not endeavored to shift the responsibility, but that it has endeavored to do its part. The State has taken hold of this work, and it is not intended by the Bureau of Mines that this work shall keep up forever, but that after the preliminary educational work has been done it shall be turned over to the States to continue it,

and that is all that is intended for the use of these mine rescue cars.

We sometimes too little appreciate under what difficulties and dangers these men go into the mines and what their dangers are. This great industry has not been given the attention its importance deserves. I believe this House will continue to stand by the Bureau of Mines in the great work it is doing in the educational work among the miners, and the most important work of making mining safer and saving of human life. Operators are interested in this work, as well to them it may mean more safety of the lives of the miners, and the more economical mining and furnishing to the people cheaper fuel. Let us not forget we should do our part to encourage this important industry by giving the necessary appropriation to carry on the work.

Mr. FITZGERALD. Mr. Chairman, I move that the committee do now rise.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. GARRETT of Tennessee, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill (H. R. 17041) making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1915, and for other purposes, and had directed him to report that they had come to no resolution thereon.

HOUR OF MEETING TO-MORROW.

Mr. FITZGERALD. Mr. Speaker, I ask unanimous consent that when the House adjourns to-day it adjourn to meet at 11 o'clock a. m. to-morrow.

The SPEAKER. The gentleman from New York asks unanimous consent that when the House adjourns to-day it adjourn to meet to-morrow at 11 o'clock a. m. Is there objection?

Mr. MANN. Reserving the right to object, I should like to ask the gentleman two questions: First, if the gentleman knows what the temperature to-day is?

Mr. FITZGERALD. I have been very cool. I never pay any attention to the thermometer. The more you watch the thermometer the warmer you get.

Mr. MANN. I notice that the gentleman has used up three handkerchiefs to-day, and that is an extreme number for a married man. I object.

The SPEAKER. The gentleman from Illinois [Mr. MANN] objects.

ENROLLED JOINT RESOLUTION.

The SPEAKER announced his signature to enrolled joint resolution of the following title:

S. J. Res. 148. Joint resolution authorizing the President to extend invitations to foreign Governments to participate through their accredited diplomatic agents to the United States, in the National Star-Spangled Banner Centennial Celebration.

ENROLLED BILL PRESENTED TO THE PRESIDENT FOR HIS APPROVAL.

Mr. ASHBROOK, from the Committee on Enrolled Bills, reported that this day they had presented to the President of the United States for his approval the following bill:

H. R. 3334. An act authorizing the quitclaiming of the interest of the United States in certain land situated in Hampden County, Mass.

ADJOURNMENT.

Mr. FITZGERALD. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 4 minutes p. m.) the House adjourned until Tuesday, June 9, 1914, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS.

Under clause 2 of Rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1. A letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, reports on preliminary examination and survey of harbor at Morehead City, N. C., with a view to extending the present project westerly to the main channel of Bogue Sound and to widening channel in front of the wharves so as to provide a turning basin of adequate area (H. Doc. No. 1022); to the Committee on Rivers and Harbors and ordered to be printed.

2. A letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, reports on preliminary examination and survey of Cape Channel, including the inner and outer approaches thereto, on the east side of Pamlico Sound, N. C. (H. Doc. No. 1023); to the Committee on Rivers and Harbors and ordered to be printed.

3. A letter from the Secretary of the Treasury, submitting estimate for the construction of a breakwater in connection with the marine hospital at Chicago, Ill., with the request that it be incorporated in the sundry civil appropriation bill (H. Doc. No. 1024); to the Committee on Appropriations and ordered to be printed.

4. A letter from the Secretary of the Treasury, transmitting copy of a communication of the Acting Secretary of the Navy reporting under the provisions of the naval act of June 24, 1910, that the Navy Department has considered, ascertained, adjusted, and determined the amount due the claimant therein specified on account of damages for which the vessels of the Navy were found to be responsible (H. Doc. No. 1025); to the Committee on Appropriations and ordered to be printed.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII,

Mr. HINDS, from the Committee on the Merchant Marine and Fisheries, to which was referred the bill (H. R. 16477) to conduct investigations and experiments for ameliorating the damage wrought to the fisheries by predaceous fishes and aquatic animals, reported the same with amendment, accompanied by a report (No. 780), which said bill and report were referred to the Committee of the Whole on the state of the Union.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, private bills and resolutions were severally reported from committees, delivered to the Clerk, and referred to the Committee of the Whole House, as follows:

Mr. DILLON, from the Committee on Claims, to which was referred the bill (H. R. 1352) for the relief of George H. Grace, reported the same with amendment, accompanied by a report (No. 773), which said bill and report were referred to the Private Calendar.

Mr. DIES, from the Committee on Claims, to which was referred the bill (H. R. 13761) for the relief of Catherine Grace, reported the same with amendment, accompanied by a report (No. 774), which said bill and report were referred to the Private Calendar.

Mr. McCLELLAN, from the Committee on Claims, to which was referred the bill (H. R. 7078) for the relief of Mary Macon Howard, reported the same with amendment, accompanied by a report (No. 775), which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill (H. R. 3088) for the relief of Nels A. Nelson, reported the same with amendment, accompanied by a report (No. 776), which said bill and report were referred to the Private Calendar.

Mr. EDMONDS, from the Committee on Claims, to which was referred the bill (H. R. 14931) for the relief of Arthur Brose, reported the same with amendment, accompanied by a report (No. 777), which said bill and report were referred to the Private Calendar.

Mr. McCLELLAN, from the Committee on Claims, to which was referred the bill (H. R. 6654) for the relief of William S. Eames and Thomas C. Young, reported the same with amendment, accompanied by a report (No. 778), which said bill and report were referred to the Private Calendar.

Mr. STOUT, from the Committee on the Public Lands, to which was referred the bill (H. R. 16205) for the relief of Davis Smith, reported the same without amendment, accompanied by a report (No. 779), which said bill and report were referred to the Private Calendar.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials were introduced and severally referred as follows:

By Mr. ALEXANDER: A bill (H. R. 17118) to amend an act entitled "An act to adopt regulations for preventing collisions upon certain harbors, rivers, and inland waters of the United States by requiring that fog signals shall be given by vessels towed"; to the Committee on the Merchant Marine and Fisheries.

By Mr. BRITTEN: A bill (H. R. 17119) to amend an act entitled "An act to codify, revise, and amend the penal laws of the United States," approved March 4, 1909; to the Committee on the Judiciary.

By Mr. CARTER: A bill (H. R. 17139) to regulate insurance companies and others in the use of the United States mails; to the Committee on the Post Office and Post Roads.

By Mr. TAGGART: Resolution (H. Res. 534) to make privileged House joint resolution 241; to the Committee on Rules.

By Mr. KEATING: Joint resolution (H. J. Res. 276) authorizing the President of the United States to appoint a commission

to settle the Colorado coal strike; to the Committee on Interstate and Foreign Commerce.

By Mr. GOULDEN: Concurrent resolution (H. Con. Res. 42) authorizing the printing of the Journal of the National Encampment of the Grand Army of the Republic; to the Committee on Printing.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. ADAIR: A bill (H. R. 17120) granting an increase of pension to William R. Pingry; to the Committee on Invalid Pensions.

By Mr. ALEXANDER: A bill (H. R. 17121) granting a pension to Alfred L. Fann; to the Committee on Invalid Pensions.

By Mr. BROUSSARD: A bill (H. R. 17122) for the relief of John Burrows; to the Committee on Claims.

By Mr. BURNETT: A bill (H. R. 17123) granting an increase of pension to Jane Alexander; to the Committee on Invalid Pensions.

By Mr. CAMPBELL: A bill (H. R. 17124) granting a pension to Mary Glenn; to the Committee on Invalid Pensions.

By Mr. CLARK of Missouri: A bill (H. R. 17125) granting an increase of pension to Nannie J. McDowell; to the Committee on Invalid Pensions.

By Mr. CONRY: A bill (H. R. 17126) granting an increase of pension to Catherine Carroll; to the Committee on Pensions.

By Mr. DERSHEM: A bill (H. R. 17127) granting a pension to Isaac Wise; to the Committee on Invalid Pensions.

Also, a bill (H. R. 17128) granting an increase of pension to Charles M. Long; to the Committee on Invalid Pensions.

Also, a bill (H. R. 17129) granting an increase of pension to Hannah J. Stahl; to the Committee on Invalid Pensions.

By Mr. HILL: A bill (H. R. 17130) granting a pension to Nannie A. Mann; to the Committee on Invalid Pensions.

By Mr. LESHER: A bill (H. R. 17131) granting an increase of pension to Peter Meixsell; to the Committee on Invalid Pensions.

By Mr. McCLELLAN: A bill (H. R. 17132) for the relief of Augustus York; to the Committee on Military Affairs.

By Mr. POST: A bill (H. R. 17133) granting an increase of pension to John Taylor; to the Committee on Invalid Pensions.

By Mr. SMITH of Minnesota: A bill (H. R. 17134) granting a pension to Leanna M. Barry; to the Committee on Invalid Pensions.

Also, a bill (H. R. 17135) granting an increase of pension to Lizzie Waltz; to the Committee on Invalid Pensions.

By Mr. TALBOTT of Maryland: A bill (H. R. 17136) granting an increase of pension to Georgiana Moran; to the Committee on Invalid Pensions.

By Mr. TAYLOR of Arkansas: A bill (H. R. 17137) for the relief of the heirs of Lot Quinn; to the Committee on War Claims.

By Mr. TAVENNER: A bill (H. R. 17138) granting an increase of pension to Adelbert Gray; to the Committee on Invalid Pensions.

By Mr. GREGG: Resolution (H. Res. 532) referring certain claims to the Court of Claims for finding of facts and conclusions of law under section 151 of the act of March 3, 1911, entitled "An act to codify, revise, and amend the laws relating to the judiciary"; to the Committee on War Claims.

By Mr. SHERWOOD: Resolution (H. Res. 533) authorizing the payment of $1,200 to Norman E. Ives; to the Committee on Accounts.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

By the SPEAKER (by request): Resolutions signed by the pastors of certain churches in Clearfield, Iowa, and White, S. Dak., protesting against the practice of polygamy in the United States; to the Committee on the Judiciary.

Also (by request), petition of the Tennessee Press Association, signed by its secretary, favoring an early adjournment of Congress; to the Committee on Rules.

Mr. ALEXANDER: Petitions of 295 citizens of Hardin, Mo., favoring national prohibition; to the Committee on Rules.

By Mr. ASHBROOK: Memorial of the Licking County (Ohio) Ministerial Association, protesting against section 6 of House bill 12428, relative to Sunday work for postal employees; to the Committee on the Post Office and Post Roads.

By Mr. BAILEY (by request): Petitions of W. H. Stevens, G. W. Hoover, Howard Mauk, W. P. Montgomery, S. B. Confer, D. P. Confer, M. L. Keeney, C. H. Treese, John H. Black, L. E. Ressler, D. A. Heisel, J. N. Landis, R. R. Decker, Jacob Ritchey, A. S. Ritchey, T. F. Koon, Earl Moore, C. E. Jarrett, H. F. Harper, W. O. Kephart, R. E. Dodson, Asberry Kantner, James E. Heisel, B. O. Hicks, H. S. Wertz, H. H. Thomas, C. S. Gable, R. D. Martin, Richard Lingenfelter, C. G. Shaffer, R. W. Shaw, H. A. Justice, and William J. Wright, all of Duncansville, Pa., favoring national prohibition; to the Committee on Rules.

Also (by request), petitions of William H. Lewis, Harrison Foster, William Weaver, J. C. Nicholson, J. H. Stuller, William C. Rohn, Charles Drenning, S. W. Salkeld, Arthur Jones, Morris P osser, Arch Whitney, Frank Prosser, S. A. Blair, W. P. White, Charles Stevenson, D. Eichelberger, and Walter Whitney, all of Six Mile Run, Pa., favoring national prohibition; to the Committee on Rules.

By Mr. BEAKES: Petitions of 30 voters of Ypsilanti, Mich., in opposition to national prohibition; to the Committee on Rules.

By Mr. BORCHERS: Petitions of 186 citizens of Urbana and 300 citizens of Champaign and Urbana, all in the State of Illinois, favoring national prohibition; to the Committee on Rules.

By Mr. BURKE of South Dakota: Petition of sundry citizens of Aberdeen, S. Dak., favoring passage of House bill 12928, retaining section 6, relative to Sunday work for postal employees; to the Committee on the Post Office and Post Roads.

By Mr. BYRNS of Tennessee: Memorial of the Grace Presbyterian Church, of Nashville, Tenn., protesting against the practice of polygamy in the United States; to the Committee on the Judiciary.

By Mr. CALDER: Petitions of sundry citizens of Kings County, N. Y., and the National Association of Retail Grocers of the United States, protesting against national prohibition; to the Committee on Rules.

By Mr. CARY: Petition of the directors of the Wisconsin State Audubon Society, favoring migratory bird law; to the Committee on Agriculture.

By Mr. DALE: Petition of the Brooklyn Legislative Committee, favoring passage of House bill 16138, for establishment of a national employment bureau; to the Committee on Labor.

Also, petition of Fred C. Hertinann, of Brooklyn, N. Y., protesting against national prohibition; to the Committee on Rules.

By Mr. DERSHEM: Petitions of 19 citizens of Lewistown, Pa., and 78 voting citizens of Mifflinburg, Pa., and vicinity, favoring national prohibition; to the Committee on Rules.

By Mr. DEITRICK: Memorial of the Evangelical Alliance of Greater Boston, representing over 500 pastors and churches, protesting against the practice of polygamy in the United States; to the Committee on the Judiciary.

Also, petition of sundry citizens of Middlesex County, Mass., protesting against national prohibition; to the Committee on Rules.

By Mr. DONOVAN: Petition of the Central Labor Union of Danbury, Conn., and vicinity, against national prohibition; to the Committee on Rules.

By Mr. FRENCH: Petitions of sundry voters of Bonner County, Idaho, protesting against national prohibition; to the Committee on Rules.

By Mr. GRAHAM of Pennsylvania: Petition of Donelson Caffery, relative to antitrust legislation; to the Committee on the Judiciary.

Also, petitions of E. H. Weaver, of Philadelphia, Pa., and the Chamber of Commerce of Milwaukee, Wis., protesting against national prohibition; to the Committee on Rules.

By Mr. GUERNSEY: Petition of sundry citizens of Beaver, Me., favoring national prohibition; to the Committee on Rules.

By Mr. HAWLEY: Petitions of J. W. Bass and others, of Jackson County, Oreg., protesting against national prohibition; to the Committee on Rules.

By Mr. KELLEY of Michigan: Petition of G. S. Brown, G. C. Garrett, C. H. Stevens, and 95 other citizens of Highland Park, Mich., favoring national prohibition; to the Committee on Rules.

Also, petition of Thomas Pond and 23 other citizens of Michigan, against national prohibition; to the Committee on Rules.

By Mr. KENNEDY of Rhode Island: Petitions of the Charles R. Elliot Co., of North Philadelphia, Pa., favoring 1-cent letter postage, and the Williamson-Halsell-Frasier Co., of Oklahoma City, Okla., favoring the passage of House bill 15988, relative to false statements through the mails; to the Committee on the Post Office and Post Roads.

Also, petition of Lodge No. 99, International Association of Machinists, of Woonsocket, R. I., favoring Senate bill 5303, to promote safety of travelers on railroads; to the Committee on Interstate and Foreign Commerce.

By Mr. LEWIS of Maryland: Petition of the members of the Woman's Bible Class of Rockville, Md., for the passage of House joint resolution 168, to prohibit the sale of intoxicating liquors; to the Committee on Rules.

Also, petition of the members of St. James Brethren Church, of St. James, Md., for the passage of House joint resolution 168, to prohibit the sale of intoxicating liquors; to the Committee on Rules.

Also, petition of the members of St. James Sunday School, of St. James, Md., for the passage of House joint resolution 168, to prohibit the sale of intoxicating liquors; to the Committee on Rules.

By Mr. LONERGAN: Petitions of Joseph Litz and E. P. L. Schumm, of Hartford, Conn., protesting against national prohibition; to the Committee on Rules.

By Mr. METZ: Petitions of various voters of the tenth congressional district of New York, protesting against national prohibition; to the Committee on Rules.

By Mr. MORIN: Petitions of sundry citizens of Pittsburgh, Philadelphia, Athens, and Allegheny County, the Chamber of Commerce of Pittsburgh, all in the State of Pennsylvania, and the Italian Chamber of Commerce of New York City, protesting against national prohibition; to the Committee on Rules.

Also, petitions of sundry citizens of Delaware County, Pa., sundry citizens and the Herron Avenue Presbyterian Church, of Pittsburgh, Pa., and citizens of Pennsylvania, favoring national prohibition; to the Committee on Rules.

By Mr. PAIGE of Massachusetts: Petition of 247 citizens of West Brookfield, Mass., and sundry citizens of Fitchburg, Mass., favoring national prohibition; to the Committee on Rules.

By Mr. PATTEN of New York: Petitions of sundry citizens of New York, against national prohibition; to the Committee on Rules.

By Mr. PHELAN: Petitions of sundry citizens of Lynn, Mass., favoring national prohibition; to the Committee on Rules.

By Mr. POST: Petition of the Church of God of Piqua, Ohio, favoring national prohibition; to the Committee on Rules.

By Mr. RAKER: Resolutions of the Humboldt Chamber of Commerce, of Eureka, Cal., asking that all antitrust legislation be put over until the next session of Congress; to the Committee on the Judiciary.

Also, letter from Excelsior Cereal Milling Co., of Los Angeles, Cal., relative to House bill 16675, amending the mixed-flour law; to the Committee on Ways and Means.

Also, letter from C. H. Plans, of Loomis, Cal., and F. J. Crittenden, of Truckee, Cal., favoring House bill 13305, to prevent cut rates; to the Committee on Interstate and Foreign Commerce.

Also, letters from J. R. Wells, of Long Beach, Cal.; Carl A. Anderson, of Paskenta, Cal.; and Lucile Forsyth, of Williams, Cal., favoring national prohibition; to the Committee on Rules.

By Mr. TALBOTT of Maryland: Petitions of the Baltimore (Md.) Christian Endeavor Union and churches of Baltimore, representing 259 citizens, and sundry citizens of Taylorsville, Md., favoring national prohibition; to the Committee on Rules.

Also (by request), petition of sundry citizens of Maryland, against national prohibition; to the Committee on Rules.

By Mr. TAVENNER: Petition of the Shaw Music Co., of Aledo, Ill., favoring passage of the Stevens standard-price bill; to the Committee on Interstate and Foreign Commerce.

By Mr. TAYLOR of Colorado: Resolution from the Chamber of Commerce of Denver, Colo., praying for the passage of House bill 13921, for extension of time on payments of settlers under United States reclamation projects; to the Committee on Irrigation of Arid Lands.

Also, memorial of the Uncompahgre Valley Water Users' Association, of Montrose, Colo., urging the passage of Senate bill 4688, extending time for payment for settlers under United States reclamation projects; to the Committee on Irrigation of Arid Lands.

Also, petition of sundry citizens of New Raymer, Colo., favoring national prohibition; to the Committee on Rules.

By Mr. TEN EYCK (by request): Petition of the Woman's Home Missionary Society of Troy, N. Y., signed by the officers of the society, for the passage of the Hobson bill for the prohibition of the sale, manufacture, and importation of liquor; to the Committee on Rules.

By Mr. UNDERHILL: Petition of S. A. Meyer, of Elmira, N. Y., and Retail Liquor Dealers' Association of Howell, N. Y., protesting against national prohibition; to the Committee on Rules.

By Mr. WILLIS: Petition of E. C. Dolbert and 15 other citizens of Delaware, Ohio, in favor of House joint resolution 168, relative to national prohibition; to the Committee on Rules.

By Mr. WINGO: Petition of Billie Klinger and others, of Fort Smith, Ark., protesting against national prohibition; to the Committee on Rules.

SENATE.

TUESDAY, *June 9, 1914.*

(Continuation of the legislative day of Friday, June 5, 1914.)

The Senate met at 11 o'clock a. m. on the expiration of the recess.

The PRESIDING OFFICER (Mr. SWANSON in the chair). The Senate resumes the consideration of House bill 14385.

PANAMA CANAL TOLLS.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 14385) to amend section 5 of "An act to provide for the opening, maintenance, protection, and operation of the Panama Canal, and the sanitation of the Canal Zone," approved August 24, 1912.

Mr. O'GORMAN and Mr. SMITH of Georgia. I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum is suggested. The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Ashurst	Hollis	O'Gorman	Smith, S. C.
Borah	Hughes	Overman	Smoot
Brady	James	Owen	Sterling
Bristow	Johnson	Page	Sutherland
Bryan	Jones	Perkins	Swanson
Burton	Kenyon	Pittman	Thomas
Chamberlain	Kern	Ransdell	Thornton
Clapp	La Follette	Shafroth	Tillman
Colt	Lane	Sheppard	Townsend
Culberson	McCumber	Sherman	Vardaman
Cummins	McLean	Shields	Walsh
Dillingham	Martin, Va.	Simmons	West
Gallinger	Martine, N. J.	Smith, Ariz.	White
Goff	Nelson	Smith, Ga.	Works
Gronna	Norris	Smith, Mich.	

Mr. KERN. I desire to announce the unavoidable absence of the senior Senator from Arkansas [Mr. CLARKE], the junior Senator from Arkansas [Mr. ROBINSON], and the Senator from Nebraska [Mr. HITCHCOCK], all of whom are paired. This announcement may stand for the day.

The PRESIDING OFFICER. Fifty-nine Senators have answered to their names. A quorum of the Senate is present. The Senator from Michigan [Mr. SMITH] is entitled to the floor.

Mr. GRONNA. Mr. President——

The PRESIDING OFFICER. Does the Senator from Michigan yield to the Senator from North Dakota?

Mr. SMITH of Michigan. Certainly.

Mr. GRONNA. Out of order I ask leave to introduce a bill.

Mr. JONES. Mr. President, I desire to offer and have considered as pending, and that it be printed and lie on the table, an amendment to the text of the committee amendment. I ask that it may be read.

Mr. BRYAN. Mr. President, I rise to a point of order.

The PRESIDING OFFICER. The Senator from Florida will state his point of order.

Mr. BRYAN. It is against the rule of the Senate to offer a resolution or bill while a Senator has the floor, and it is the duty of the Chair to enforce this rule. The rule makes it the duty of the Chair to enforce it without a point of order being raised.

Mr. JONES. This is an amendment to the pending bill.

Mr. BRYAN. But the Senator from Michigan has the floor and is addressing the Senate.

The PRESIDING OFFICER. It is the rule of the Senate that a Senator upon the floor can not be interrupted when making his address, and it is the duty of the Chair to enforce the rule if it is insisted upon. The Senator from Michigan will proceed.

Mr. SMITH of Michigan. Mr. President, I referred yesterday to the attitude of Great Britain toward the Spanish possessions in this hemisphere with some detail. I presume that Mr. Clayton, who was in the Senate in 1854, knew something about those relations, and I desire to read from his speech on January 3 some quotations bearing upon that question. Senator Clayton said:

> It is said by the Earl of Clarendon that Great Britain intends "religiously" to observe the stipulations of the treaty—

That is, the treaty with Spain over her possessions in this hemisphere—

> Yes, sir; "religiously"—that is the word. By the second article of the treaty of Versailles of the 3d of September, 1783, it was provided that the two parties to it should "exactly and religiously" observe all of the provisions of all former treaties and, among the rest, of the treaty of Paris of 1673. The object of the seventeenth article of said last treaty was to prevent the British from occupying this very country about which we are now debating. They obligated themselves "religiously and exactly"—such are the words—to observe that treaty. It is interesting to look back at the history of the negotiations attend-

ing the treaty of 1873 and the conduct of Great Britain afterwards, to see how "religiously and exactly" those stipulations were observed.

Lord John Russell has within the last year published the correspondence of Charles James Fox, who was the British premier at the time of the negotiation of the treaty of Versailles by the Duke of Manchester. By looking into the second volume of that correspondence the minutes of the cabinet, to which the treaty of 1783 was referred, will be found. It will there be seen that the British cabinet were recommended that the sixth Spanish article, as it was called—that is, the sixth article of that treaty—should be deferred for six months, and that the rest of the treaty should be signed by the negotiators. That article was the one which bound Great Britain not to occupy or hold any part of the Spanish continent embracing, as was understood, what we now call Central America and the Mosquito coast. Mr. Fox, as will be found by looking at the volume to which I have referred, immediately wrote to the King (on the 18th of July, 1783), stating:

"There has been a great deal of discussion upon this matter; but it appearing to be still in our power to put our own interpretation upon the words 'Continent Espagnol' and to determine upon prudential considerations whether the Mosquito shore comes under that description or not, it was the opinion of Your Majesty's confidential servants present (except Lord Stormont) that the desirableness of getting the treaty signed ought to prevail."

Senator Clayton continued:

Remark, sir, they were to determine the meaning of the treaty by prudential considerations only. Lord Russell says Fox was a statesman who never would condescend to an intrigue, and never would betray a principle.

It was soon found by the Spaniards that the considerations which were to govern the construction of that treaty were not the "religious views" of the case, but the "prudential considerations." "If from prudential considerations hereafter," says Mr. Fox, in effect, "we should see fit to construe the words 'Spanish continent' to mean something entirely different from what the Spaniards understood them to mean in the making of the treaty, we shall be at liberty to do so." This was the mental reservation made by one of the most fair and ingenuous of British statesmen at the time of negotiating an important treaty. The King wrote back, saying, in effect, that "it was a very untoward circumstance that a definitive treaty could not be made without leaving clear ground for fresh disputes."

Mr. President, even the English King sickened of the duplicity of his foreign office.

Sir and Senators, this treaty that we have before us to-day is the third attempt upon the part of Great Britain to unify America and Great Britain in this great project in Central America and at Panama. Every time our countrymen have broached with seriousness the question of the construction of a canal across the Isthmus, for prudential considerations Great Britain reasserted her undisguised interest in her pretended possessions in Central America. Again and again did she manifest her intention, at least to Spain, to withdraw from this attempt to acquire territory against her specified promise not to do so, and again and again did she reassert it whenever she found it necessary to participate in any negotiation looking toward concessionary rights from any Central American State regarding a canal. At last she encountered a perfect hurricane of American public opinion. Again and again did Mr. Lowell, at the instance of Secretary Blaine, call the attention of the British foreign office to the intention of our countrymen to construct a canal across Nicaragua or the Isthmus of Panama which should constitute a part of the American coast line.

I said yesterday that President Arthur undertook to compose these differences by striking straight from the shoulder at the delay and annoyance suffered by this country as a result of treaty engagements which certain distinguished gentlemen of our own country were from time to time insisting still had vitality and life.

President Arthur directed Mr. Frelinghuysen to enter into a treaty with Nicaragua. That treaty was made in 1884. It was called the Frelinghuysen-Zavalla treaty. It provided that the canal should be built by the United States of America and owned by it and the Republic of Nicaragua, and managed as hereinafter provided.

Article 2 said that there shall be an alliance between the United States of America and the Republic of Nicaragua, and the former agreed to protect the integrity of the territory of the latter.

It has been said that the ratification of that treaty would have perhaps established the American status in Central America much earlier than the present Hay-Pauncefote treaty could have possibly done, and I am quite ready to believe it. It failed, however, of ratification because Mr. Cleveland's election changed the political complexion of the Government, and it was thought that he could with greater propriety deal with that situation than could the outgoing administration.

What followed the Frelinghuysen-Zavalla undertaking? Why, Mr. President, this act passed by the House of Representatives on the 2d day of May, 1900, followed the negotiations of President Arthur, and it had great significance. It had a direct object in view and went after it with a determination and a relentlessness that struck terror to those communities that had relied for perpetual rights across the Isthmus upon our laxity. I think I ought to have that act printed in the RECORD as a part of my remarks, because there is not a line or a syllable in it which recognizes the Clayton-Bulwer treaty. Every line of that act is repugnant to the first Hay-Pauncefote treaty, made practically coincident with the passage of this bill.

There was a very spirited debate in the House of Representatives when this measure was before the House. I remember distinctly. The Senator from Virginia, now occupying the chair [Mr. SWANSON], also remembers that debate very distinctly, for he, too, was then a Member of the House of Representatives and one of the men who voted for the passage of this Nicaraguan bill.

I am going to read this act, because I want it officially certified. It is not an ordinary bill. It was read twice and referred to the Committee on Interoceanic Canals of the Senate, a committee whose members were familiar with this proposition. I think the late Senator from Alabama, Mr. Morgan, was an influential member and favored its passage. The bill reads:

Be it enacted, etc., That the President of the United States be, and is hereby, authorized to acquire from the States of Costa Rica and Nicaragua, for and in behalf of the United States, control of such portion of territory now belonging to Costa Rica and Nicaragua as may be desirable and necessary on which to excavate, construct, and protect a canal of such depth and capacity as will be sufficient for the movements of ships of the greatest tonnage and draft now in use, from a point near Greytown, on the Caribbean Sea, via Lake Nicaragua, to Breto, on the Pacific Ocean; and such sum as may be necessary to secure such control is hereby appropriated, out of any money in the Treasury not otherwise appropriated.

SEC. 2. That when the President has secured full control over the territory in section 1 referred to, he shall direct the Secretary of War to excavate and construct a canal and waterway from a point on the shore of the Caribbean Sea near Greytown, by way of Lake Nicaragua, to a point near Breto, on the Pacific Ocean. Such canal shall be of such capacity and depth that it may be used by vessels of the largest tonnage and greatest depth now in use, and shall be supplied with all necessary locks and other appliances to meet the necessities of vessels passing from Greytown to Breto; and the Secretary of War shall also construct such safe and commodious harbors at the termini of said canal and such provisions for defense as may be necessary for the safety and protection of said canal and harbors.

SEC. 3. That the President shall cause such surveys as may be necessary for said canal and harbors, and in the constructing of the same employ such persons as he may deem necessary.

SEC. 4. That in the excavation and construction of said canal the San Juan River and Lake Nicaragua, or such parts of each as may be made available, shall be used.

SEC. 5. That in any negotiations with the States of Nicaragua and Costa Rica the President may have, the President is authorized to guarantee to said States the use of said canal and harbors, upon such terms as may be agreed upon, for all vessels owned by said States or by citizens thereof.

SEC. 6. That the sum of $10,000,000 is hereby appropriated, out of any money in the Treasury not otherwise appropriated, toward the project herein contemplated; and the Secretary of War is further hereby authorized to enter into a contract or contracts for materials and work that may be deemed necessary for the proper excavation, construction, completion, and defense of said canal, to be paid for as appropriations may from time to time be hereafter made, not to exceed in the aggregate $140,000,000.

Passed the House of Representatives May 2, 1900.

Attest:

A. MCDOWELL, *Clerk.*
By WILLIAM J. BROWNING, *Chief Clerk.*

Senators, there is not a line or a syllable or a sentence of that bill which recognizes any treaty right upon the part of Great Britain, and the Clayton-Bulwer treaty dealt directly with Nicaragua. Senators now seem unusually scrupulous over the rights of Great Britain, when they should be excessively virile over the defense of American rights.

The Senator from Mississippi [Mr. WILLIAMS], then a Member of the House, made a few remarks about it, and if he was very solicitous about our treaty obligations at that time his remarks fail to disclose it.

The Senator from Nevada [Mr. NEWLANDS], usually exceedingly scrupulous, then said:

In reply to the suggestion of the gentleman from Ohio [Mr. BURTON] that we are proceeding with undue haste in this matter; that so formidable are the interests that are arraigned and have been for years arrayed against this measure; so strong is the caution and fear of many statesmen; so strong is the opposition of those who object to Government participation in an enterprise of this kind; so formidable is the moral argument that is presented to us with reference to the restraining effect which it is claimed that the Clayton-Bulwer treaty should have on our action—if all these sources of opposition are united against this measure, it will be delayed and possibly defeated.

He said further:

A certain amount of brute force is required in order to put this bill into the legislative hopper.

"A certain amount of brute force," and he was willing to be one of the——

Mr. BRISTOW. Brutes. [Laughter.]

Mr. SMITH of Michigan. Well, I will not say that, but he was willing, at least, not to stay the brutish instinct, if there was such a thing in his nature.

Mr. BURTON. Who said that?

Mr. SMITH of Michigan. The distinguished, erudite, able, and conscientious Senator from Nevada [Mr. NEWLANDS].

Now, think of it—and I want my friend from Oklahoma [Mr. OWEN], who seems to be busily engaged on the other side of

the Chamber, to consider for a moment what would have happened if the doctrine which he urged last Saturday had been effective. Why, sir, this bill would have been passed in the Senate in 20 minutes, just as he always expects to pass bills perfected by himself, without discussion; and yet, note the mellowing effect of time.

Oh, no, Mr. President; I can never agree, so long as I am a Member of this body, to any snap judgment on the measures brought here for our consideration. Delay in this matter has almost composed the differences dividing the other side of the Chamber; and if we can compose the differences on the other side of the Chamber by discussion and delay, we may prevent the country from blundering, as is the natural habit of the other side whenever it has freedom of action. [Laughter.]

My friend from Mississippi [Mr. WILLIAMS], who does not seem to be here at this moment, looked this record over yesterday with some care after I had called his attention to it, and said to me last night, "You have got the history of that bill mixed." "No," I said, "I have not got it mixed; you have got your record mixed. To be sure, I did not vote for the bill, because I was paired with a Democrat from South Carolina, but I would have voted for it if I had been permitted to vote that day." I cheered as loudly as I could the speeches of JOHN SHARP WILLIAMS and Senator NEWLANDS and Senator SHAFROTH and thus gave them my moral support.

Do you remember where Representative Cooney was from?

Mr. BURTON. I forget.

Mr. SMITH of Michigan. Somewhere in the South; I think Missouri. Mr. Cooney was a very able man——

Mr. BRANDEGEE. A Frenchman?

Mr. SMITH of Michigan. No; I think he was not a Frenchman. I think some of his ancestors were born in Ireland and some in Connecticut. [Laughter.] That is my recollection. Mr. Cooney tried to solve that situation, which was very perplexing to our friends who opposed such drastic and sudden action upon the part of this Government. Mr. Cooney said in that debate:

> I have never witnessed in this House or elsewhere so remarkable an exhibition of logic as has accompanied the discussion of this bill. I have never seen a measure denounced by so many men who declare they will vote for it.

[Laughter.]

Why, history repeats itself. The proposition we are now considering has been denounced by everybody, and yet a few men who have evidently received their orders propose to cast their votes for a measure they do not approve.

Said Mr. Cooney:

> The undertaking is new and foreign to the usual functions of government. It proposes the expenditure of vast sums upon an improvement in a foreign country and a necessary subtraction from the appropriations for improvements in our own country, where, in many places, trade and commerce are dead and lie languishing and people are being daily impoverished, and where, by the generous assistance of the Government, more trade and commerce and wealth would be built up than can ever be realized by the United States from any isthmian canal.
>
> I partake of the feeling indulged in by all Americans that an isthmian canal should be built, owned, and operated by the Government of the United States independently of any European power. That is one reason why I am opposed to this bill.

Mr. President, that is fine logic. He opposes a bill which authorizes the construction of an American canal under the American Government with American money because he wants a canal owned by the Government constructed by American money and built by American genius!

Senators, let me quote further from Mr. Cooney:

> It is made to masquerade in the highly wrought colors of a manufactured patriotism, for the moment, to facilitate its passage through this House; but when it returns from Senate, through the washtub of the conference committee, its color will be faded into harmony with every line of the Hay-Pauncefote treaty.

What Hay-Pauncefote treaty is that? He wants the color of this legislation to fade into every line of the Hay-Pauncefote treaty. What Hay-Pauncefote treaty? The first one, to which no reference has been made by any Senator upon this floor? He wants the washtub of the conference committee to fade every line of the House bill into the Hay-Pauncefote treaty which was made in February, 1900. That is the treaty about which they were talking, and it is a treaty to which the Senator from New York [Mr. ROOT] never referred in his masterful address. He did not even dignify it by letting us know that such a proposition ever had been presented to the Senate. Yet the senior Senator from New York sat at the Cabinet table where it was approved, and if such leadership had been permitted to prevail, the Senate of the United States would have ratified the first Hay-Pauncefote treaty, sealing a perpetual partnership with Great Britain in regard to the canal, with no right to fortify or to defend it. Who is there here now who would vote to ratify that treaty? And yet Mr. Cooney—I suppose one of the followers of our honored friend from Ohio—said that when this bill came from the washtub of the conference committee its color would be faded into harmony with every line of that treaty.

Mr. Cooney also says:

> That treaty has been vigorously condemned by the American people.

Why, Mr. President, has it? Why, I am amazed that that treaty was condemned by the American people. You do not mean to tell me that there was any treaty with England concerning a canal across the Isthmus of Panama that was ever condemned by the American people! Why, we have heard nothing about it during the debate. Nobody has refreshed our recollections regarding it. If it was condemned by the American people, then the State Department must have been put upon notice that there should be no more trifling about the ownership or control and operation of the canal across the Isthmus.

Is not that a fair conclusion? Is not that the atmosphere in which the treaty now before us was perfected and considered? Surely. When Mr. Cooney, a Missouri Democrat, admits it, why go further? [Laughter.]

> That treaty has been vigorously condemned by the American people—

Says Mr. Cooney—

> It was put to sleep in the Senate by popular indignation.

Where is my honored friend [Mr. ROOT], the great Senator from New York? I should like to ask him—and I say it with the greatest respect, for he has no more ardent admirer in this Chamber than the Senator from Michigan—if the first Hay-Pauncefote treaty was put to death in the Senate of the United States with his consent?

Mr. ROOT. Mr. President, the Senator from New York did approve its death; and it was put to death because it excluded the United States from that political and military control which is given to it by the second and existing Hay-Pauncefote treaty, without one word in negotiation, in correspondence, or in agreement to change the rights of all the world to equal treatment in regard to the charging of tolls.

Mr. SMITH of Michigan. I am glad to hear that statement from the Senator from New York. He is usually very frank.

Mr. LEWIS and Mr. OWEN addressed the Chair.

Mr. SMITH of Michigan. He is exceptionally able; I greatly admire him; but I should like to inquire when this hostility to the first Hay-Pauncefote treaty was suggested by the Senator from New York? Whether he opposed it at the meetings of the Cabinet, of which he was a member? And whether Mr. Hay submitted it to the Senate in spite of the protests of the Secretary of War, now the honored Senator from New York?

Mr. ROOT. No, Mr. President; the attention of the Senator from New York was called to the subject first by the discussion which arose upon the Hay-Pauncefote treaty. Up to that time the Senator from New York had not read or seen the first Hay-Pauncefote treaty.

Mr. SMITH of Michigan. And knew nothing of the negotiations?

Mr. ROOT. No; nothing about it.

Mr. SMITH of Michigan. Then when I make the statement that it was largely the product of John Hay's labors, am I correct?

Mr. ROOT. Of course.

Mr. SMITH of Michigan. I am very glad to know that the Senator from New York, who was an influential member of the Cabinet and sat about the table with the lamented Mr. Hay, had no part in that performance, so universally condemned throughout the country. But I marvel that he could be straitjacketed so soon again by the same agents and not know it, and that we are still struggling to be free without the help of the great Senator from New York.

I regret that the morning papers say that I said anything unkind about the Senator from New York. I knew the Senator from New York before he entered public life; I knew how ideally he was equipped for public service; I have felt an honest pride in his brilliant career; and I rejoice that we can know from his lips that one member of the Cabinet of Mr. McKinley did not give consideration to the first Hay-Pauncefote treaty.

Mr. ROOT. Mr. President——

The PRESIDING OFFICER. Does the Senator from Michigan yield to the Senator from New York?

Mr. SMITH of Michigan. Certainly.

Mr. ROOT. The Senator will permit me to say that if I had known I was going to run into so many compliments when I casually entered the Chamber a moment ago I would have stayed out. Let me say also that I feel so great a confidence in the friendship of the Senator from Michigan that I never would think for one moment of his saying anything unkind about me.

Mr. SMITH of Michigan. No.

Mr. ROOT. And if he did say anything which to others appeared unkind, I should know he did not mean it.

Mr. SMITH of Michigan. No; I would not say anything unkind about the Senator.

Mr. LEWIS. Mr. President, will the Senator from Michigan yield to me for a question?

The PRESIDING OFFICER. Does the Senator from Michigan yield to the Senator from Illinois?

Mr. SMITH of Michigan. I have not finished with the Senator from New York——

Mr. LEWIS. Will the Senator yield to me for a moment to enable me to ask the Senator from New York a question?

Mr. SMITH of Michigan. Can not my friend from Illinois restrain himself a moment?

Mr. LEWIS. Oh, unquestionably; but, Mr. President, in the presence of the mendacious constructions of the Senator from Michigan no justice-loving man can restrain himself from an expression of indignation.

The PRESIDING OFFICER. The Senator from Michigan has the floor, and can not be interrupted without his consent.

Mr. SMITH of Michigan. I wish to reply to the Senator from New York, and then I will cheerfully yield to the Senator from Illinois, for whom I have the highest respect and who is numbered among my warmest friends here.

What I desire to say in the presence of the Senator from New York is this, that the first Hay-Pauncefote treaty, according to prominent Members of the House of Representatives, was driven out of the Senate by the overwhelming indignation of the American people. I know it was charged at the time that an effort was being made to bring about an alliance between Great Britain and the United States. In such an atmosphere American rights should have been made plain. I think our interests were properly safeguarded. The Senator from New York still feels that we have undefined obligations to perform, and entirely out of harmony with the spirit of that time.

This is the third treaty in regard to which I have disagreed with the Senator from New York. I found him arrayed against my attempt to limit the use of the waters of the St. Marys River to the line fixed by the Webster and Ashburton treaty, and disagreed radically with his views, which were far more satisfactory to Canadians than to the people of Michigan, whom I represent——

Mr. LEWIS. Mr. President——

Mr. SMITH of Michigan. Then I found myself in opposition to him on the fisheries convention, when Mr. David Starr Jordan, representing this Government, has seen fit, in his treaty with Great Britain, to exempt Georgian Bay, an arm of Lake Huron, from the operation of the regulations, while including Saginaw Bay, another arm of Lake Huron. I found my honored friend quite willing to exempt Georgian Bay, and very loath to permit me to have Saginaw Bay exempted. I can not exactly understand the viewpoint of one who seems to be so intensely American, and at the same time so generous with Mother England.

I now yield with pleasure to the Senator from Illinois.

Mr. LEWIS. Mr. President, I desired to put to the Senator from New York a query that would lead to information. I should now like to ask the Senator if he will inform me who it was who negotiated the treaty which, as he says, so omitted protection to the United States in the particular respects which he has outlined, and who were the parties who prepared that document and consummated it?

Mr. ROOT. Mr. President, I will gladly give to the Senator from Illinois any information I have, but I do not quite know what treaty he is talking about.

Mr. LEWIS. I refer to the particular provision that the Senator from New York said omitted the necessary protection to the United States in such manner that he himself was compelled to take such steps as the Senator from Michigan had previously criticized.

Mr. ROOT. I do not recognize the theater of action at all. I took no steps about any treaty.

Mr. LEWIS. I understood the Senator from New York to say, in response to a criticism on the part of the able Senator from Michigan, that the reason the Senator from New York had taken certain steps and assumed certain positions respecting a certain document was because that document had omitted to provide for a form of military defense and proper guardianship of the rights of the United States; and I understood that the Senator referred then to the original treaty, or the treaty designated as the first Hay-Pauncefote treaty.

Mr. ROOT. Mr. President, I think the Senator from Illinois misapprehended the colloquy.

Mr. LEWIS. That is rather likely. I may have done so.

Mr. ROOT. The Senator from New York took no steps whatever about either treaty. The Senator from Michigan asked the Senator from New York whether he approved the putting to death of the first Hay-Pauncefote treaty, and the Senator from New York responded that he did

Mr. LEWIS. The Senator from Illinois is seeking from the Senator from New York to know who prepared the particular document to which the Senator from New York alluded, in response to the Senator from Michigan, that the document had not provided sufficient military defenses and guardianship for the United States. To what document did the Senator from New York allude?

Mr. ROOT. The Senator from New York alluded to what is called the first Hay-Pauncefote treaty.

Mr. LEWIS. Now, then, may I ask the Senator from New York who it was who prepared that particular document and consummated it in behalf of the Government?

Mr. ROOT. It appears upon the face of the treaty. It was negotiated by the Secretary of State, at that time John Hay.

Mr. LEWIS. I thank the Senator from New York.

Mr. SMITH of Michigan. Has the Senator from Illinois finished?

Mr. LEWIS. Yes.

Mr. SMITH of Michigan. There is not a Senator in this Chamber, including the distinguished Senator from New York, who would vote to ratify the first Hay-Pauncefote treaty if it were pending here to-day.

Mr. OWEN. Mr. President——

The PRESIDING OFFICER. Does the Senator from Michigan yield to the Senator from Oklahoma?

Mr. SMITH of Michigan. Certainly.

Mr. OWEN. Will the Senator from Michigan permit me to call his attention to the circumstance that in the draft of the first Hay-Pauncefote treaty describing all nations who were to use the canal on terms of perfect equality the words "observing these rules" did not appear, although they were inserted in the second Hay-Pauncefote treaty?

Mr. SMITH of Michigan. Yes.

Mr. OWEN. And when the first draft of the Hay-Pauncefote treaty was accepted by the Senate it was accepted by the Senate of the United States as drafted by the Secretary of State, and agreed to practically by all the authorities of the United States with no limitation upon the words "all nations." So the term "all nations" in the first draft of that treaty confessedly included the United States.

Mr. SMITH of Michigan. Now, Mr. President, I want to return to Mr. Cooney.

Mr. NEWLANDS. Who is Mr. Cooney, may I ask the Senator from Michigan?

Mr. SMITH of Michigan. You must look back over the records of your party associates.

Mr. LEWIS. There is no record of fame or glory that I can recall of my party which indicates the name Cooney.

Mr. SMITH of Michigan. The Senator from Illinois certainly ought to know him. He was in the House of Representatives, a distinguished Member from Missouri.

Mr. LEWIS. Among those I regret that I have lost that name.

Mr. SMITH of Michigan. Listen. This is what he says——

Mr. LEWIS. I can not accept the wisdom of a Member so unknown to me.

Mr. GALLINGER. Mr. President, I rise to a point of order.

Mr. LEWIS. I yield for the point of order.

Mr. GALLINGER. There is a rule of this body which is well known to us, and I think it ought to be observed.

Mr. SMITH of Michigan. Here is what Mr. Cooney says, speaking about the Nicaragua bill:

> There is a general opinion throughout the country that the treaty known as the Clayton-Bulwer treaty is as dead as Hector and that somehow Blaine was the Achilles that slew it and dragged it to pieces at his chariot wheels.

Mr. Cooney had an art in portraying his inmost emotions that has been rarely excelled.

Mr. LEWIS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Illinois rises to a parliamentary inquiry. He will state it.

Mr. LEWIS. I am only anxious to know to what the Senator from New Hampshire [Mr. GALLINGER] alluded when he spoke of a general rule. If the Senator from Michigan will yield to me, I desire to know it and to avail myself of it. In what way am I impinging upon a rule? I am anxious to know.

Mr. GALLINGER. I had reference to the rule which requires that no Senator shall interrupt another during debate unless he addresses the Chair and obtains permission.

Mr. SMITH of Michigan. Why suspend this illustrious American in the air while parliamentary questions are being discussed?

Mr. GALLINGER. I think the parliamentary question which was made ought to be settled. I have no disposition to interfere with the procedure of the Senate in any way, except that unless Senators do get permission from the Chair before interrupting a Senator on the floor we will have a condition of things here which will not be to our credit.

The PRESIDING OFFICER. The Senator from New Hampshire has well stated the rule. A Senator must address the Chair and get permission, through the Chair, of the Senator who is entitled to the floor.

Mr. LEWIS. Mr. President——

The PRESIDING OFFICER. Does the Senator from Michigan yield to the Senator from Illinois?

Mr. SMITH of Michigan. Certainly.

Mr. LEWIS. I only desire to say, through the Chair, that there had been no ignorance of the rule or ignoring it on my part. The Senator from Michigan had yielded to me, and, therefore, I think the suggestion of the Senator from New Hampshire was irrelevant.

Mr. SMITH of Michigan. I find no fault with the inquiry of the Senator from Illinois.

My honored friend from Ohio [Mr. BURTON], sitting by my side, did not believe the Clayton-Bulwer treaty was dead. His course is always consistent; his vote usually stands out almost alone as a shining example of personal and official integrity, and I honor him for it.

But the House of Representatives considered that treaty dead. The House of Representatives considered the treaty made by Mr. Hay and Mr. Pauncefote in February, 1900, an affront and promptly answered it. Do not get the impression that that answer did not find its way into the British foreign office. Do not imagine for one moment that the British foreign office was unmindful of the attitude of the American people regarding a canal across the Isthmus or even through the Republic of Nicaragua. The truth is that that bill and the vote in the House of Representatives went like magic to the Court of St. James, and they immediately recast their position lest they should be left out in the cold altogether.

I admired John Hay as much as the Senator from New York could have admired him—a sweet-tempered, able, manly man, kindly, refined, sympathetic, unpretentious, modest, faithful. I join with the great Senator from New York in commending his simple virtues. But, Mr. President, he had just returned from the Court of St. James. He had just come out of the atmosphere of British officialdom He had not been at home for some time when that first treaty was made, and coming home he did not realize the tremendous importance of reflecting the American attitude in whatever was done regarding this canal. He tried his first plan of joint ownership with England in the canal and failed. The first Hay-Pauncefote treaty did not repeal or rescind the Clayton-Bulwer treaty. It gave Great Britain the right to join with the United States in making rules for its operation and control, and it forbade us to fortify or defend it.

The Senator from Massachusetts [Mr. LODGE] brought the first treaty in here. I do not know now whether he approved it or not. It does not seem possible that he could have approved it, because it is so completely out of harmony with all he has said in this body that I can not believe that that treaty met with his approval. I do not believe it would have ever seen this Senate floor if the Senator from Massachusetts had not been convinced that the amendments to be proposed to it would be adopted by his colleagues. If I am wrong about that I should like the Senator from Massachusetts to set me right. I do not believe he was ever consulted about it at all, although he was the ranking member of the Committee on Foreign Relations then as now. I have too much confidence in his genuine Americanism to believe that he would consent to a surrender of our rights in the treaty now before us.

Secretary Hay said in transmitting the treaty to the Senate:

> The whole theory of the treaty is that the canal is to be an entirely American canal. The enormous cost of construction is to be borne by the United States alone. When constructed it is to be exclusively the property of the United States and is to be managed, controlled, and defended by it. Under these circumstances and considering that won by the new treaty, Great Britain is relieved of all responsibility and burden of maintaining its neutrality and security. It was thought fair to omit the prohibition that no fortifications should be erected commanding the canal or the waters adjacent.

Mr. LODGE. Mr. President——

The PRESIDING OFFICER. Does the Senator from Michigan yield to the Senator from Massachusetts?

Mr. SMITH of Michigan. I yield.

Mr. LODGE. The Senator referred to me in connection with the first Hay-Pauncefote treaty. At that time the Senator from Minnesota, Mr. Davis, was chairman of the Committee on Foreign Relations. He was one of the ablest chairmen that committee ever had. Mr. Hay, some time before the making of the treaty, asked Senator Davis and myself if we did not think it was desirable to supersede the Clayton-Bulwer treaty and get rid of it by an agreement with England. We told him that we did think so. Of course everyone thought that it was most desirable to get rid of that obstacle to the building of the canal. We were not consulted any further in regard to it.

When the treaty appeared in its completed form it contained provisions to which neither Senator Davis nor I could assent; and the amendments which were reported out of the Foreign Relations Committee were intended to cure what we believed to be the defects of the treaty. One, as the Senator remembers, was the insertion of the words "is hereby superseded." It was a very vital amendment, indeed. Another was striking out the invitation of other powers to guarantee. We made three changes, I think, altogether on the recommendation of the committee.

When those amendments had been made, we ratified the treaty. I thought it was safe. We were not consulted as to the details of the treaty at all; merely as to the general question whether it would not be desirable to get rid of the Clayton-Bulwer treaty, and, of course, everybody thought so.

Mr. SMITH of Michigan. Let me ask the Senator if he is willing to answer whether he would have voted an appropriation for the construction of the canal across the Isthmus at Panama under the interpretation of our rights now given by the President of the United States?

Mr. LODGE. Mr. President, I do not understand exactly what the Senator means.

Mr. SMITH of Michigan. I mean, would the Senator have voted to build this canal if he had known what the attitude of the present President of the United States would be with reference to our rights therein, and that attitude was to be affirmed by his party associates here?

Mr. LODGE. I could not possibly have anticipated what any President thought. I should have voted appropriations to build the canal, even if my construction of our rights under the treaty had been disputed.

Mr. SMITH of Michigan. The Senator would not have voted for an appropriation to build the canal under the Clayton-Bulwer treaty?

Mr. LODGE. Certainly not.

Mr. SMITH of Michigan. And he certainly would not have voted to build the canal under the original draft of the Hay-Pauncefote treaty?

Mr. LODGE. You mean, as unamended by the Senate?

Mr. SMITH of Michigan. Yes.

Mr. LODGE. No; I think not.

Mr. SMITH of Michigan. I am glad to have the Senator say that, because I know that I voted for the first money that was appropriated for the construction of this canal, and I would not have voted a dollar for it on any other theory than that the United States was building it, was to control it, and that it was to be a part of our coast line. I would not have voted a dollar for it otherwise. I am glad to know that the Senator from Massachusetts takes that view.

Mr. LODGE. I do not take precisely that view, because I should have voted to build the canal even if we had not reserved the right of discrimination.

Mr. SMITH of Michigan. On the theory that any differences might be arbitrated later?

Mr. LODGE. No; I mean that if it were unquestionably not ours to discriminate, if we had agreed specifically in so many words that we would not discriminate in favor of our own ships.

Mr. SMITH of Michigan. I am obliged to the Senator.

Mr. LODGE. That would not have prevented me desiring the construction of the canal.

Mr. SMITH of Michigan. Oh, there has been a desire ever since the American Government was formed to build such a canal; there has been a desire upon the part of thinkers and students and poets and dreamers for 500 years to build a canal across the Isthmus.

Mr. WEST. Mr. President——

The PRESIDING OFFICER (Mr. SAULSBURY in the chair). Does the Senator from Michigan yield to the Senator from Georgia?

Mr. SMITH of Michigan. Certainly.

Mr. WEST. Suppose this canal had been constructed by a stock company; in what way would the Government have se-

cured to the ships of its own citizens free passage through the canal?

Mr. SMITH of Michigan. Mr. President, I think the Government would have had some difficulty in appropriating private property without due process of law and without proper compensation; but that question does not arise. When we were talking about the canal being constructed by private individuals, by a private corporation, of course the Government was merely a friendly suzerain; we were not dominant, and exercised no sovereignty there; this has been true during all the years of the Panama Railroad. Great Britain has not asked to share in the management of the Panama Railroad, and I do not think she would ever have asked to share in the management of this canal had it not been for the overweening ambition of her fair daughter to the north of us, who seems to have awakened the quickening spirit of conquest in the mother country.

Mr. WEST. Mr. President——

The PRESIDING OFFICER. Does the Senator from Michigan further yield to the Senator from Georgia?

Mr. SMITH of Michigan. Certainly.

Mr. WEST. Is it not a fact that England exercised a protectorate over Egypt and territory in that section? Is it not a fact that the Suez Canal was built by a stock company and that the ships of every nation that pass through there pay tolls?

Mr. SMITH of Michigan. Egypt is a semisovereign State under the suzerainty of the Ottoman Porte. The Khedive is hereditary ruler and receives his investiture from the Sultan of Turkey, but its affairs are practically administered by Great Britain. After private parties had gone down into their pockets and put up the money to build the Suez Canal, Great Britain, with her usual foresight and acquisitiveness, got possession of $20,000,000 worth of that stock—about 176,000 shares—upon which a dividend of upward of 35 per cent per annum is annually earned. If, out of these profits, she chooses to give back to her vessels passing through the Suez Canal the tolls they pay, she evidently thinks it is a good investment. The Suez Canal is 103 miles long. It cost a little over $126,000,000. In 1911 more than 4,500 vessels passed through it, with an aggregate tonnage of 16,581,898 net tons, for which service the canal company received $25,168,400. The tolls charged are higher than at Panama and the service not as good. It takes 17 hours to pass through the Suez Canal, while it will require less than 12 hours to pass through Panama. Their canal is 28 feet deep, while ours has a depth of 41 feet and is but 54 miles in length. The distance saved from New York to Pacific ports of North America is about 8,000 miles through the Panama Canal.

Mr. SUTHERLAND. Mr. President——

The PRESIDING OFFICER. Does the Senator from Michigan yield to the Senator from Utah?

Mr. SMITH of Michigan. Certainly.

Mr. SUTHERLAND. The question propounded to the Senator from Michigan by the Senator from Georgia [Mr. WEST], as I understand, is how the United States would be able to get its ships of commerce through free of tolls if this canal had been built and was owned by a private company. Is there the slightest doubt that the United States Government could have paid the tolls for the ships of its citizens, that it could have delivered the money out of its Treasury into the hands of the owners of those ships, and that that money could have been paid to the owners of the canal for transporting the ships through the canal?

Mr. SMITH of Michigan. There is no doubt about that at all.

Mr. SUTHERLAND. Now, if that be true, how is the situation of the United States altered in that respect when the United States itself becomes the owner of the canal? If it may pay the tolls in advance for the ships of its own citizens going through the canal when the canal is owned by a private company, is there any reason why it may not pay the tolls of the ships of its citizens when the Government itself owns the canal? That being so, is there any difference in principle between the United States advancing the money in the first instance to the owners of these ships so that they may return the money to the United States in payment of the tolls and relieving them from the payment of the tolls in the beginning? Is there any difference in substance between those two cases?

Mr. SMITH of Michigan. I see no difference, Mr. President.

Mr. SUTHERLAND. If there is any difference, I should like somebody to point it out.

Mr. SMITH of Michigan. I see no difference. The Senator from Utah is exactly correct; we have no engagement which would interfere with that course. Does the Senator from Utah believe that under the Clayton-Bulwer treaty our Government was precluded from building a canal across the Isthmus of Panama in its own way, and without the consent of Great Britain?

Mr. SUTHERLAND. Mr. President, in the remarks I made the other day I had occasion to discuss that very question. I will say to the Senator from Michigan that I have not the slightest doubt that the Government of the United States under the Clayton-Bulwer treaty could have built the canal across the Isthmus of Panama precisely as it has built it, because the Clayton-Bulwer treaty did not refer to the Isthmus of Panama in its substantive provisions. The Senator from Michigan will read the substantive provisions of the Clayton-Bulwer treaty in vain to find any reference to the Panama Canal. The references in all those substantive provisions are to Central America, to the particular portions of Central America which are named in the treaty, and to other portions of Central America. Of course, the Isthmus of Panama never was and is not now any part of Central America. The only reference to the Isthmus of Panama is contained in the eighth article of the treaty, and that is not a substantive agreement at all; but it is simply an agreement to thereafter agree with reference to the Isthmus, an agreement which, obviously, could not be enforced because the terms had not been determined upon. It was simply an engagement that thereafter they would make some agreement about it.

Mr. SMITH of Michigan. But that did not rise to the dignity of an agreement.

Mr. SUTHERLAND. If they had left 't alone, there was no agreement about it; the whole thing would have been open, just as it would have been in the case of a contract between two individuals, as, for example, if I should stipulate with the Senator from Michigan to do certain things, and further say that if another situation named should arise, he and I would thereafter agree about that. Of course, such an agreement could not be enforced, and either of us would be at liberty to deal with that particular matter in any way we pleased without reference to the agreement.

Mr. SMITH of Michigan. I am greatly obliged to the Senator from Utah, who is always careful in his statements and accurate in his judgment. I have read the Clayton-Bulwer treaty over and over again to find an inhibition against the United States Government doing the very thing which we are now doing at the Isthmus of Panama, and I can not find it; very evidently it is not there.

Mr. President, I notice the Senator from New York [Mr. O'GORMAN] in his seat, and I am moved to ask him whether, among the papers submitted by the Department of State to his committee in response to the resolution of the Senate bearing upon the negotiations for this treaty, there appears anything that takes into account the rising tide of American public opinion against joint ownership in a canal to be built across the Isthmus of Panama?

Mr. O'GORMAN. Mr. President——

The PRESIDING OFFICER Does the Senator from Michigan yield to the Senator from New York?

Mr. SMITH of Michigan. Certainly.

Mr. O'GORMAN. The Senate several weeks ago passed a resolution requesting the production of all the diplomatic correspondence affecting the Hay-Pauncefote treaty. The correspondence which was produced and which has since been printed omitted two letters, one from Secretary Hay to Mr. Choate, the ambassador, and one from the ambassador to Secretary Hay. I am now in possession of copies of those two letters, and at the proper time I shall ask to have them inserted in the RECORD.

In the letter of Ambassador Choate to Secretary Hay he makes specific reference to the legislation then pending in Congress seeking the construction of an isthmian canal which the House passed and which contained a direction to the President to proceed at once to the construction of a canal, as was stated yesterday by the Senator from Michigan, in disregard of the Clayton-Bulwer treaty and in disregard of the then pending Hay-Pauncefote treaty.

Mr. SMITH of Michigan. I am pleased to have that statement from the Senator from New York, as it adds another important chapter to the interesting events leading up to the treaty of 1901.

Mr. SUTHERLAND. Mr. President, right at that point will the Senator from Michigan permit me to call his attention to statements made by the officers of this Government, as far back as 1880, with reference to the relationship of the Clayton-Bulwer treaty to the Isthmus?

Mr. SMITH of Michigan. Certainly.

Mr. SUTHERLAND. The first reference is in a communication addressed to the President of the United States by the then Secretary of State, Mr. Evarts, in the course of which he says:

> But the United States undertook by this provision to extend to Great Britain such participation in the general benefits of any inter-

oceanic connection which might be opened in these countries, as was afforded by the principles of the Clayton-Bulwer treaty; and these were to be secured by "treaty stipulations"—

That is, as I have already stated, by a subsequent agreement—

to be made at the proper time and under such conditions as might appear wisest and best when that time should come.

Mr. SMITH of Michigan. Exactly.

Mr. SUTHERLAND. Mark that—

to be made at the proper time—

That is the subsequent agreement—

to be made at the proper time and under such conditions as might appear wisest and best when that time should come—

Leaving, of course, both parties open to make propositions, to accept or reject propositions, and, indeed, to formulate a new agreement wholly independent of anything in the Clayton-Bulwer treaty.

This declaration, therefore, of a general principle to be put in practice could not and did not modify either the rights or obligations which the United States had acquired or assumed by the treaty with New Granada of 1846, and which still exist in all their binding effect. The concession—

Now, mark this—

The concession, the building, and the administration of the Panama Railroad are a sufficient illustration of the correctness of this view.

Article 8 applied both to a canal and a railroad. It provided that the two Governments would extend by treaty stipulations their protection to this means of communication whether by canal or by railroad. The railroad was constructed; it has been under the control of the United States for a generation or more; the Government of Great Britain has never sought to have these nebulous provisions of article 8 carried into operation with reference to that railroad; and yet they apply as much to a railroad as they do to a canal.

I do not want to interrupt the Senator from Michigan unduly.

Mr. SMITH of Michigan. I am very glad to have the Senator from Utah proceed.

Mr. SUTHERLAND. Bearing out that same proposition, there is a communication from Mr. Frelinghuysen, of May 8, 1882, in the course of which he says:

Article 8 of the Clayton-Bulwer treaty relates only to those projects now (1850) proposed to be established, and expressly contemplates some further "treaty stipulation" on the part of Great Britain with the United States of America and New Granada, now the United States of Colombia, before Great Britain can join the United States in the protectorate of the canal or railway by the Panama route. No such treaty stipulation has been made or has been proposed by Great Britain. Since the ratification of the Clayton-Bulwer treaty, for 30 years the United States, under the treaty of 1846 with New Granada, has extended protection to the transit from sea to sea by the Panama Railway.

That is the sole protection of the United States. Again, he says:

Should Her Majesty's Government, after obtaining the consent thereto of the United States of Colombia, claim under the Clayton-Bulwer treaty the right to join the United States in the protection of the existing Panama Railway or any future Panama Canal, the United States would submit that experience has shown that no such joint protectorate is requisite; that the Clayton-Bulwer treaty is subject to the provisions of the treaty of 1846 with New Granada while it exists, which treaty obligates the United States to afford and secures to it the sole protectorate of any transit by the Panama route; and if Great Britain still claimed the right to join in the protectorate, the United States would then determine whether the "treaty stipulations" proposed by Great Britain regulating that joint protectorate were just, and if so, whether the length of time during which Great Britain has concurred in the protection of the Panama route under the treaty with New Granada has or has not relieved the United States from any obligation to accept a proposal from the Government to join in the guaranty.

I could go on further, as there are a number of other statements in the correspondence to the same effect. Later on it is said:

The eighth article, therefore, is simply a declaration of the intention entertained more than 30 years ago by two nations to take up at some subsequent period the negotiation of a treaty on a particular subject. In order to carry out this purpose, treaties must be made by the United States and England with each other and with each of the Central American States through which a canal may be built, defining in detail the stipulations necessary to execute the general principle.

And so the Senator will find all through this correspondence that the position taken by our Secretaries of State away back in that day was that article 8 of the Clayton-Bulwer treaty did not contain any substantive provision with reference to the Isthmus of Panama; that whatever was done there, so far as Great Britain might share in it, must be accomplished by subsequent agreement. The whole subject was open for Great Britain to make her proposals and for the United States to accept them or not.

Mr. SMITH of Michigan. Well, Mr. President, if any Senator in this Chamber can console himself with the imaginary fact that we inhibited ourselves from constructing a canal across the Isthmus of Panama by the Clayton-Bulwer treaty, I am quite content to leave him in his ignorance, because of all the claims which have been put forward in this debate as the basis for our treatment of Great Britain, that claim is the least substantial.

What the Senator from Utah has just said annihilates completely any theory that the Clayton-Bulwer treaty contemplated a canal across the Isthmus of Panama to be jointly owned or regulated and controlled and defended by Great Britain and the United States. There is not a line in the Clayton-Bulwer treaty that justifies it. The title of the act speaks only of a canal across Nicaragua; the claim that Great Britain gave up anything when she made the present Hay-Pauncefote treaty is the idlest nonsense. She gave up nothing, for she had nothing to give; but, as usual, was very skillful in trying to extract something from a very uncomfortable situation.

The Senator from Mississippi [Mr. WILLIAMS] made a few observations about this House bill which, as usual, were quite to the point and follow the remarks of the present Senator from Colorado [Mr. SHAFROTH], which are recorded in the appendix. The danger from an appendix was not so great then as now. [Laughter.] Listen to my friend from Mississippi. I quote:

I feel not the slightest degree of hesitancy in trusting the American people to protect this canal, even under the language of this bill. I feel that even if the Hay-Pauncefote treaty were to be confirmed—and I am almost certain in my own mind that it never will be—

Shades of the Southland! Who is this speaking? Never confirmed! Why not?

Why not? Why should it not be confirmed? If the Clayton-Bulwer engagement still lived, why should it not be confirmed? How can any Senator or Representative take the view that the first Hay-Pauncefote treaty should not have been ratified if he believes that there was still lingering any life in the Clayton-Bulwer treaty? The Senator from Mississippi, however, seems to have doubted that.

and I am almost certain in my own mind that it never will be—

He said.

Then, again, I quote from the Senator:

The power given in that treaty to "police" the line of that canal could be taken advantage of for the purpose of garrisoning it in the first place.

Senators, here is a scrupulous, jealous advocate of international honor who proposes to construe the word "police" into the right to garrison that canal from ocean to ocean.

Again, he says:

To "police" the line of that canal could be taken advantage of for the purpose of garrisoning it in the first place, and in the second place leaving it unfortified perhaps in time of peace, but the moment the tocsin of war was sounded I am certain we would proceed with the garrison then and there to throw up earthworks and fortifications necessary to protect the interests of our people and their money invested in the canal.

Sir, that was before the special peace propagandists had completed their organization. [Laughter.] That was before Mr. Carnegie, the peace moderator, had fortified his theories of international comity. The Senator from Mississippi was not then so punctilious and overscrupulous about the construction of a treaty; but "after we are attacked we are to have the right to build fortifications and garrison the canal."

That is like some of the orders claimed to have been given to our soldiers at Vera Cruz—not to shoot until fired upon, and then only at the man who shot at you; that is a species of warfare which even the Carnegie Peace Foundation would hardly approve.

Senators, listen again to my friend the Senator from Mississippi:

When I think of this long route by Cape Horn; when I think of the southern cotton lying upon the banks of the Mississippi on both sides; when I dwell upon the fact that the construction of this canal will virtually empty the Mississippi River into the Pacific Ocean, giving it a new mouth; when I think of the fact that the construction of this canal will realize the dream of Christopher Columbus—

The Senator takes great pride in Christopher Columbus, although he could not have been very much of a Democrat. [Laughter.]

Mr. BURTON. Is that his language?

Mr. SMITH of Michigan. No; the comment is mine. But he adds:

And enable people to sail directly west from Europe to reach "far Cathay" and the "rich East where Prester John once ruled." It seems to me that all little matters in connection with the mere verbiage of the bill sink into absolute insignificance.

I shall vote for the amendment—

That is, the amendment of Mr. Cooney giving notice that the Clayton-Bulwer treaty had been denounced. He tried very hard to work in a notice. I do not know whether he gave the notice before my friend from Ohio did or not; but there seemed to be

a mad rush there on the part of some of our associates to give notice before they proceeded to unhand the villain. [Laughter.]

I shall vote for the amendment, and I hope it will be defeated, because I think we ought to be plain about expressing beforehand what our undoubted intent is—

So said the Senator from Mississippi—

Then if the amendment shall be defeated—

Now, he is going to vote for something which he hopes will be *defeated*. [Laughter.] I will read it again:

I shall vote for the amendment, and I hope it will—

I guess I misread that line—

I hope it will not be defeated, because I think we ought to be plain about expressing beforehand what our undoubted intent is.

The reason I fell into that error was because of a practice which has grown up here of voting one way and hoping another. [Laughter.] I thought it had grown to be a habit. Perhaps it is not a habit, but only periodical [Laughter.] My friend the present Senator from Mississippi goes on:

Then if the amendment shall be defeated, I shall then vote for the bill, firmly believing that the mere fact of enabling the cotton goods of the South to reach Japan and China, Manchuria and Korea, with the obliteration of 10,000 miles of ocean transportation, will amount to something like a cent a pound of additional net receipts to every southern planter upon every pound of cotton which he sells to those markets.

Mr. President and Senators, is this the same voice that was raised in protest against a subsidy? It can not be; he would not vote for a bill which provided a subsidy. Perish the thought. "A cent a pound of additional net receipts to every southern planter" rather shocks my sense of circumspection. [Laughter.]

He further says:

I shall vote for the bill, because I believe it will carry Tennessee iron and coal entirely by waterway to a market where coal sells now for $14 a ton, coal that we can get out of the mines at a cost of $1.25 a ton. I hope, Mr. Chairman, that the amendment will prevail.

So spoke the distinguished Senator from Mississippi a few short years ago.

I hope he can find some comfort in his record. I have no doubt the agility which he seems to have acquired since he came to the Senate of promptly changing his opinions to meet Executive favor and at the same time remaining unruffled in his relations to his fellow Senators is rather more praiseworthy than censurable.

But why should we prolong this discussion further? They have got the shroud all made and the casket built, and they are going to inter this poor little American offspring with great formality on the historic shores of the Potomac River, where it will ever stand as a towering monument of party perfidy and dishonor. Our countrymen will deplore this base surrender to England, and future generations will pay the penalty of our folly.

Mr. President, the other day a bill passed the Senate containing a provision for the remission of tolls on foreign warships visiting the Panama Exposition at San Francisco.

Those favoring the repeal of the tolls-exemption clause in the present bill could not consistently accept the provision in the naval appropriation bill, but they did, whereby it is provided that tolls through the Panama Canal on all vessels of war passing through the canal to or from the Panama-Pacific Exposition are to be remitted, although such an enactment was plainly in contravention of the Hay-Pauncefote treaty, as interpreted by the proponents of this repeal. The treaty does not provide for any discrimination among our customers in the use of the canal, and a nation observing the rules could justly complain if one of its war vessels bound on an urgent mission was compelled to pay tolls while the war vessels of another nation bound to the Panama-Pacific Exposition were passed through the canal free.

If such a remission of tolls does not constitute a violation of the Hay-Pauncefote treaty, then why can not the United States remit the tolls on a vessel bound from New York to San Francisco, or on a vessel engaged in our foreign trade? If such a remission by legislative enactment is not a violation of the Hay-Pauncefote treaty, then why argue against giving this right to our own citizens? If the United States, through legislation, can provide for the remitting of tolls through the Panama Canal for one cause, then it can do so for any cause it deems wise without contravention of the terms of the Hay-Pauncefote treaty—

The canal shall be free and open to the vessels of commerce and of war of all nations observing these rules, on terms of entire equality.

That is the language of our compact, and yet we have just discriminated in favor of visitors to the Panama Exposition at San Francisco and no objection has been raised by anyone, and the President will promptly attach his signature to the bill. Subsidies, indeed!

Mr. President, if it had been the intention to include the United States in the term "all nations," then the treaty should have read "so that there shall be no discrimination against or in favor of any nation or its citizens." The fact that "in favor of its citizens" was left out is a powerful argument with me that it never was intended to be put in, either by construction or otherwise.

My honored friend from Illinois yesterday thought I was a little hard on him when I adverted to his fear lest we were about to array the entire world against us.

Mr. LEWIS. No; Mr. President; if I may interrupt my friend——

The PRESIDING OFFICER. Does the Senator from Michigan yield to the Senator from Illinois?

Mr. SMITH of Michigan. Well, the world was against us, anyway, according to the Senator.

Mr. LEWIS. My objection, if I may be permitted just a word, was that I feared my able friend had left the impression that I had said there was an alliance between the President and England, or that he desired such, in compensation for the repeal of the tolls exemption. It was that particular allusion which the able Senator made that I could not permit to rest without contradiction.

Mr. SMITH of Michigan. Mr. President, the Senator from Illinois stands in awe of Great Britain. He admits it. In the course of his very able speech, to which I listened with a great deal of pleasure, when he reaches the point where he is quite overcome by the situation into which we are drifting, he says:

Mr. President, at the threshold of the presentation—this one fact the world must understand—the Panama Canal is the property of America. No nation—no people—can have privileges therein except as granted by the grace and equity of the United States. We are the sovereign proprietors. No other nation on earth can be recognized as having any sovereign right over this canal, its use or operation, and this is addressed to Great Britain.

Great Britain. When we speak of her we pause.

I pause when I speak of her. [Laughter.]

Mr. LEWIS. May I ask the Senator to proceed with the remainder of that dissertation? He will get his reply.

Mr. SMITH of Michigan. I paused because the Senator asked me to pause. You have a period after the word "pause."

Mr. LEWIS. But the distinguished Senator from Michigan seems to have no period anywhere, Mr. President.

Mr. SMITH of Michigan. Well, my friend is in a period of great vexation and doubt, and uses a period only to express it.

Mr. LEWIS. I apologize to the Senator. I do not interrupt him. I will reply to him, and I withhold any further interruption.

Mr. SMITH of Michigan. If the Senator is going to reply, perhaps he had better desist now. I do not want to invite any controversy which will delay this humiliating surrender of any of our rights at Panama.

When we speak of her we pause. * * * We may inquire where the doctrine of retaliation on the part of these nations against us for discrimination against their ships and tonnage would lead us.

Thus spoke my honored friend from Illinois in the very dawn of this discussion.

The inquiry is pertinent. I am not surprised that my able friend from Illinois should be placed upon inquiry.

First, as I see it—

Says the Senator from Illinois—

First, as I see it, to where our commerce would be stricken from their seas; second, it would awaken discordancy between the nations and ourselves and a destruction of harmonious dealings between their people and ours at home. Such an unfortunate sense of disagreement would set in as would lead to conflict at our doorways; and from that there arises things in their magnitude so much greater that war too frequently is the word to characterize their after consequence. Therefore I say, Why should we pause to make a distinction as to whether Great Britain has made a formal protest?

The President of the United States brings this matter here, says the Senator from Illinois.

Sir, I do marvel to some degree that the able Executive did not find it compatible with his sense of propriety to enter with more detail and explanation into the things which were in his apprehension.

The entire world marvels at that. The only thing about which we all seem to be in accord is the marvel that he should do this whole business alone.

Therefore, Mr. President, when I contrast that attitude with this strange exception, I am forced to the conclusion that there was reason so impelling and of a nature so momentous, of a consequence so dire, that, according to the logic of the man, the judgment of the ruler, and the sense of the patriot, it were better, in the language of Bassanio, that he should, "to do a great right, do a little wrong."

Now, Senators, if this is so dire, if the consequences are so far-reaching, if the President has failed to give us light, where did the distinguished Senator from North Carolina [Mr. SIMMONS] obtain his light? He said he had been literally submerged in a flood of light since he voted in favor of free tolls.

Yet the Senator from Illinois seems to be engulfed in darkness. There is something wrong.

Then I desire to ask the Senator from Illinois when the Chief Executive of this Nation became a ruler? He may—he evidently does—rule your side of the Chamber, but does he also rule this? He is not king or emperor or czar. If he respects the fundamental law from which he derives his short tenure of office, he must know that he is only one of the coordinate departments of the Government. My friend from Illinois is unfortunate in his choice of expression. He must have been thinking of his own relation to his party.

But I, for myself—

Said the Senator from Illinois—

will not hesitate to give what I feel may have been the reasons.

Whose reasons?

The President has not yet taken the Senator from Illinois into his confidence, but he is going to give some of the reasons which moved the President to this action. There is no more fertile intellect in this body than that of the Senator from Illinois. He can always give reasons, and good ones, too. I thought he gave the reasons on the 20th of March for the President's course, and it was to that to which I referred yesterday.

It may be distasteful—

Says the Senator from Illinois—

but I do it; it may not be in consonance with propriety that I enter upon it; it may be questionable according to diplomatic usage that I should detail it; yet, in the words of Hamlet—

I'll cross it though it blast me.

And he did. I do not think he has yet been blasted, but I think his party has. He may be saved from the wreck—I hope he will—but the word "blast" has a powerful and potential meaning in the politics of our country.

I did not mean to misrepresent the honorable Senator, and do not believe I did.

However, when I referred to the visit of the officers of a Japanese battleship then in the harbor of Vera Cruz to Gen. Huerta, at Mexico City, a few months ago, I seem to have touched a sensitive point in my friend's anatomy usually so serene.

He refers to our relations with Japan and Mexico and Mexico's relations with Japan. Then he refers to the seething war upon our border, laying special emphasis upon the word "seething."

Mr. President—

Said the Senator from Illinois—

if we should now, in defiance of the attitude Mexico has taken, or because of some grievance which we feel we have suffered, attempt to intervene in Mexico and march our Army into Mexico, contemplate the European response.

Said the Senator from Illinois:

Hear the world's reply to our threat. England says: "Hold, gentlemen; we have our property here to protect." Germany, with its large possessions, says: "Stay, gentlemen; here are our concessions." France, with her large interests and her investments, says: "Stop, gentlemen; you can not come into Mexico." All in chorus cry out, saying, "Now, since you have started, we will protect our own property. We march our army into Mexico and protect our own by our own."

America says: "Hold, Europe!"

Senators, there we are in battle array. There we are drawn up in solemn phalanx before the god of battle. I did not say it; the honorable Senator from Illinois filed that caveat last March.

I said yesterday that there was an acuteness in the Mexican situation which had prompted the President to seek an ally somewhere in the world that would strengthen his hand and insure his purpose to dethrone the de facto head of the Mexican Government. I think I am right about it. I think that is at the sole foundation of this emergency. One mistake always leads to another. I think that situation precipitated this crisis, and yet I only described the situation as acute; but the Senator from Illinois, before we had put our troops on Mexican soil and before our Navy was in Mexican waters, said:

Hold, Europe! Thus far and no farther; for a doctrine known as the Monroe doctrine, propounded by our founders upon the theory that America would remain ever within America and that Europe or Asia should never come within it, as we should never come within theirs, exists in all its vital principle in America, and our countrymen demand its execution and fulfillment.

That is good, red-blooded ardor. I commend my honorable friend and only wish he had more influence with the head of state, who by accident or design has imperiled the Monroe doctrine by inviting a situation which could have been easily avoided. But listen to these ominous words:

Japan, with her grievance, and already with an alliance with Mexico—

Says the Senator from Illinois—

such an alliance that all Japan, when Huerta's particular representative came to that country, gave him a celebration the like of which was never accorded to any American or Englishman since the foundation of their new dynasty—Japan would promptly seize the Philippine Islands. She would then seize Hawaii. Then, with such conditions pointed out by me, our Army is in Mexico, the canal not finished, no way to have a joinder of our Navy, in what condition would our country be?

That is most deplorable, but even if we lost our Atlantic and Pacific outposts in war, that would be vastly preferable to a cowardly surrender in time of peace.

I turn to consider the attitude of the other nations—

Says the Senator from Illinois—

Russia, with her grievances—she who says she lent aid to the American Union at a time when it was threatened with disunion; she who charges that because of English influence the administration in power during the last 10 years lent its aid to Japan against her, Russia, and brought the United States where it gave not only its sympathy but its financial contribution to Japan against her—Russia, remembering this wrong, carrying it brooding in her bosom, with frowning face, as gloomy as the very aspect of death, having already her smoking forts upon the border of Japan, and now in an offensive and defensive alliance of life and death with Japan, this Russia would not lose her opportunity; and with her grievance now so great that she has no treaty with the United States of either companionship or commercial amity, she would promptly aid Japan by seizing Alaska, at the north, near her borders, to embarrass our armies.

Well, we have now lost Hawaii and the Philippines and Alaska. Because we will follow the President, "right or wrong," we have been despoiled of all our outlying possessions. That is a very serious affair. I can not pass such a statement by without giving it the attention which it richly deserves.

Then the Senator from Illinois goes on to say that the whole world is against us, even—

Central America, bordering the canal, would be furnishing supplies to the European and oriental enemy and supporting their assault. Mr. President, reflect in what desperate condition we would stand; appalling, indeed, to contemplate.

I did not go that far yesterday; my statement was mild; I merely suggested that an acute situation had grown out of our policy toward Mexico which had prompted us to cultivate our ancient foe; that in order to strengthen the hands of Mr. Walter Page, our ambassador at the Court of St. James, we were to be asked to repeal the tolls-exemption law. That is all we can discern through the haze and mystery of our present diplomacy. If the President had given that as the reason for his anxiety, the American people would have rejected it with scorn. No wonder he confined himself to the most glittering generalities; that he asked us to grant his request ungrudgingly, "right or wrong." Sirs, right or wrong indicates the desperate character of his cause.

I have said many times since this debate began that I thought the seeming exigency which gave it birth would have passed away before we reached a vote on the bill. If the administration was not so solicitous about the fate of the Mexican rebels, Carranza and Villa, if the President had given the A B C mediators a free hand at Niagara Falls, the exigency which gave birth to the bill we are now considering would long since have passed away.

How much did the Panama Canal cost? Three hundred and seventy-five million dollars. We still owe on it $134,621,980. Who is going to pay that debt? We have not yet paid for the canal; we still owe this vast sum of money. Who is going to pay it? Why, the American people, of course. Why? Because they own the canal.

No wonder the British foreign office, through Lord Lansdowne, said to Mr. Hay, "When we are relieved, as we are under the new Hay-Pauncefote treaty, from the responsibility of maintaining the neutrality of that canal, we are relieved of about all the responsibility which we formerly assumed." He knew they had no rights under this treaty, for they had no obligations.

How much did the Suez Canal cost? One hundred and twenty-six million dollars; probably a little more. England permitted it to be built by private capital, and then acquired it through subjecting a dependent State to her will.

Great Britain knew of our treaty with New Granada—executed, exchanged, and ratified four years before Mr. Clayton and Mr. Bulwer entered upon their negotiations—which stood for more than half a century as our fundamental right to do what we pleased at the Isthmus of Panama.

Before the Clayton-Bulwer treaty a concession was made to Cornelius Vanderbilt, Joseph L. White, Nathaniel H. Wolf, and their associates for the exclusive right to construct the Nicaragua Canal. Enterprising railroad people have never been unmindful of the value of such a waterway or of its probable effect upon the railroad transportation of the country.

Mr. President, we did agree with Great Britain that that canal should be neutralized, and we will keep our word; but that only means, as I said yesterday, that we will stand apart from the controversies of our customers. I think that is as far as our obligation goes. I believe that was the construction

placed upon the word "neutralization" by the distinguished Senator from West Virginia [Mr. GOFF].

Mr. GOFF. Mr. President——

The PRESIDING OFFICER (Mr. POMERENE in the chair). Does the Senator from Michigan yield to the Senator from West Virginia?

Mr. SMITH of Michigan. I do.

Mr. GOFF. It is in the nature of a suggestion. I have followed with much interest the remarks of the Senator from Michigan in relation to the Clayton-Bulwer treaty and to the effect a bill pending in the House would have upon the then existing situation had it been passed by the Senate relative to the Nicaraguan route. I am in full accord with the Senator upon the suggestion that the enactment of that bill into law would have repealed the Clayton-Bulwer treaty. The suggestion I make now is this: Conceding that to be true, as I think we must from the decisions of our own Supreme Court, if the position of the President is correct and those who are in full accord with the Executive upon that question, if it plainly appears that the canal-tolls act is in conflict with the Hay-Pauncefote treaty, why does not that act tend to repeal the Hay-Pauncefote treaty?

Mr. SMITH of Michigan. Does the Senator go beyond the particular clause affected by the legislative act?

Mr. GOFF. I say that if any act repeals any clause of a treaty, under international law it abrogates the entire treaty.

Mr. SMITH of Michigan. Because of his recognized ability as a lawyer and his large experience as a jurist, I am quite willing to accept the construction which the Senator from West Virginia gives to this matter, and we are now placed in the anomalous situation of undertaking to repeal by statute something which died many months ago at the hands of Congress when the tolls bill was passed.

Mr. GOFF. I understand that the first Hay-Pauncefote treaty failed for several reasons, one of the most important of which was that it failed to explicitly repeal the Clayton-Bulwer treaty.

Mr. SMITH of Michigan. It did.

Mr. GOFF. Previous to that, through long years England and the United States had virtually by their action recognized the fact, I claim, that the Clayton-Bulwer treaty was dead. I make that suggestion because from the time of the commencement by De Lesseps to construct the canal down to the time almost of the Hay-Pauncefote treaty, and especially a communication of Secretary Blaine to the English Government, there had been, because of the recognition of the grant to the French, the acquiescence of the United States Government in the construction of the canal under French management, and with the difficulty subsequent thereto occasioned by the failure of the French company and the reorganized French company, and still the acquiescence on the part of the Government, it tended, impliedly at least and by long recognition of the existing condition of affairs, to create the impression not only through this country but through all others that as a matter of fact the Clayton-Bulwer treaty was abrogated. Now, why our State Department ever revived it has always been a mystery, not only to myself but, it seems, to all others who have studied that international question. The only explanation that suggests itself to my mind is that it would be better to have an explicit abrogation of that matter than, since the Government of the United States built the canal, to have it an open matter that hereafter might haunt us in reference to its management.

Mr. SMITH of Michigan. I am greatly obliged to the Senator from West Virginia. The act to which I referred, which passed the House, had no specific language repealing the treaty. It would have operated ipso facto to do it had the Senate concurred.

Mr. WORKS. Mr. President——

The PRESIDING OFFICER. Does the Senator from Michigan yield to the Senator from California?

Mr. SMITH of Michigan. I do.

Mr. WORKS. The Senator from Michigan has stated two or three times that the bill to which he referred, if it had finally passed, would have abrogated the Clayton-Bulwer treaty. Is it not equally true that the passage of a Panama Canal act, if it was in any sense inconsistent with the treaty then in existence, would also abrogate that treaty?

Mr. SMITH of Michigan. It certainly is true; an act of Congress would abrogate that treaty; but the singular thing about it all is that the Government at that time with practical unanimity held that the free-tolls bill was in perfect harmony with the treaty. This new modern construction of our treaty obligations, which came to us only after the new light had shed itself upon the President of the United States, gives force to the argument now suggested by the Senator from West Virginia [Mr. GOFF] and the Senator from California [Mr. WORKS]. Two years ago, when we were using a field glass instead of a microscope in our foreign affairs, the two acts harmonized with the purposes of the Government, and I still believe they are not in conflict.

Mr. GOFF. I agree with the Senator from Michigan; but the question I propounded to him is, If it be true that the President is right in his construction of that act, does it not necessarily and logically follow that the Hay-Pauncefote treaty is repealed or abrogated?

Mr. SMITH of Michigan. It does; in other words, if the contention of our friends on the other side of the Chamber is to be taken as the rule of law, then the treaty has already been annulled. I am greatly comforted by the words of the Senator from West Virginia. I know that he has been a member of the Cabinet of a President of the United States in the past and an honored member of the other House; that he has sat upon the Federal bench for many years with credit and honor, and I think I know what very few people perhaps do know about him—that he was the special choice of President McKinley for Attorney General in his first Cabinet. In fact, the late President McKinley told me before he had assumed the duties of his high office that he wanted NATHAN GOFF, of West Virginia, as his Attorney General. The only reason the Senator from West Virginia did not sit at the Cabinet board at the time this controversy arose in its incipient stage was because of his own desire not to do so, and not because he was not wanted by one of the ablest Presidents who has ever graced the White House in the history of this Government, whose memory still pervades every department of the public service, and whose example of kindliness, generosity, and valor is still an inspiration to us all.

But, Mr. President, what of this real "flood of light" that broke so suddenly upon the Senator from North Carolina [Mr. SIMMONS] and that blinded the Democratic Party to its platform pledges—this "flood of light" that came upon the country the very hour that the President delivered his special message to Congress—where had it been concealed? He carried that "flood of light" all bound up in a little leather case. None escaped between the White House and the House of Representatives. That "flood of light" which was bound up in the President's portfolio fell upon the benighted world in these enlightening and sunlit words:

> We ought to reverse our action without raising the question whether we were right or wrong, and so once more deserve our reputation for generosity and for the redemption of every obligation without quibble or hesitation.
>
> I ask this of you in support of the foreign policy of the administration. I shall not know how to deal with other matters of even greater delicacy and nearer consequence if you do not grant it to me in ungrudging measure.

This was the "flood of light" that burst upon the unsuspecting world; this was the overwhelming revelation that came to our friends upon the other side of the Chamber. It caused the distinguished Senator from Mississippi [Mr. WILLIAMS] to turn a double back summersault and land squarely upon his feet; it blinded the eyes of the Senator from North Carolina [Mr. SIMMONS] as it burst in its glory upon his great soul, and he arose forthwith and followed the star to the White House; it struck the giant frame of the distinguished Senator from Georgia [Mr. SMITH], but made no lasting impression upon his fertile brain. It was great enough to engulf the Senator from Louisiana [Mr. THORNTON], who proclaimed openly its power to change his previous course of action.

Mr. THORNTON. Mr. President, am I to understand that the Senator from Michigan is calling on me now to explain why I changed?

Mr. SMITH of Michigan. No; I know why the Senator changed. I know the Senator changed because he felt the piercing glare and considered it was his duty to do so.

Mr. THORNTON. I thank the Senator.

Mr. SMITH of Michigan. Just as he meets every public emergency. I think none the less of him for it, or of any other Senator who sees the new light; but this light was so carefully confined within the little portfolio of the Chief Executive that I marvel it could be seen with so much precision through the mist of our time by men of mature age. Like the prophets of old, who saw the spirit in the burning bush, this "flood of light" instantly, surprisingly, filled the breasts of those who had dwelt in ignorance and darkness until that moment. Well, Mr. President, I do not know but that I ought to permit them, without further resistance, to lapse into their semiconscious state, with their idol in their arms. I do not know why I should longer attempt to influence the action of the Senate. Nearly every Senator's mind is made up, and we might just as well take the verdict at one time as at another. I think, how-

ever, that we are surrendering important national rights which we ought to defend.

Mr. REED. Mr. President——

The PRESIDING OFFICER. Does the Senator from Michigan yield to the Senator from Missouri?

Mr. SMITH of Michigan. I yield to my friend from Missouri with pleasure.

Mr. REED. Mr. President, a few moments ago the Senator from Michigan made a remark the import of which was that England in her diplomacy and in her policy always claimed England's full share. That was not the language, but that was the import of the statement. It led me to think of some remarks made by John A. Dix, which I read many years ago and which Mr. Dix made in the year 1845. They are so thoroughly American and so refreshing at this time that I ask permission of the Senator from Michigan to read them into his remarks.

Rapid and widespread as has been the progress of the latter, we have never sought to interfere with it. She holds one-third of the North American continent. She has established her dominion in the Bermudas, the West Indies, and in Guiana, on the South American continent. She holds Belize, on the Bay of Yucatan, in North America, with a district of about 14,000 square miles, if we may trust her own geographical delineations. We see her in the occupation of territories in every quarter of the globe, vastly, inordinately extended, and still ever extending herself. It is not easy to keep pace with her encroachments. A few years ago the Indus was the western boundary of her Indian empire. She has passed it. She has overrun Afghanistan and Beloochistan, though I believe she has temporarily withdrawn from the former. She stands at the gates of Persia. She has discussed the policy of passing Persia and making the Tigris her western boundary in Asia. One stride more would place her upon the shores of the Mediterranean, and her armies would no longer find their way to India by the circumnavigation of Africa. Indeed, she has now, for all Government purposes of communication except the transportation of troops and munitions of war, a direct intercourse with the East. Her steamers of the largest class run from England to Alexandria; from Alexandria there is a water communication with Cairo, some 60 miles; from Cairo it is but eight hours overland to Suez, at the head of the Red Sea; from Suez her steamers of the largest class run to Aden, a military station of hers at the mouth of the Red Sea; from Aden to Ceylon, and from Ceylon to China. She is not merely conquering her way back from Hindostan; she has raised her standard beyond it. She has entered the confines of the Celestial Empire. She has gained a permanent foothold within it; and who that knows her can believe that pretexts will long be wanting to extend her dominion there? Though it is for commerce mainly that she is thus adding to the number and extent of her dependencies, it is not for commerce alone. The love of power and extended empire is one of the efficient principles of her gigantic efforts and movements. No island, however remote, no rock, however barren, on which the cross of St. George has once been unfurled is ever willingly relinquished, no matter how expensive or inconvenient it may be to maintain it. She may be said literally to encircle the globe by an unbroken chain of dependencies. Nor is it by peaceful means that she is thus extending herself. She propagates commerce, as Mohammedanism propagated religion, by fire and sword. If she negotiates, it is with fleets and armies at the side of her ambassadors, in order, to use the language of her diplomacy, "to give force to their representations." She is essentially and eminently a military power, unequaled on the sea and unsurpassed on the land. Happily, the civilization which distinguishes her at home goes with her and obliterates some of the bloody traces of her march to unlimited empire.

Mr. President, many of the predictions in that statement have been realized; and, while we are constantly spending our time dwelling upon the fraternity of the two nations, it is well enough to turn back to the pages of history and consider the past in connection with the present.

Mr. SMITH of Michigan. Mr. President, I am obliged to the Senator from Missouri. I think, however, that much of Great Britain's progress in the world has been made because of the very scientific system of diplomacy which she has formulated during the ages of her dominance. I am very glad indeed that we have an English-speaking people to the north of us. If Canada can not be a part of the United States, I am glad that it is inhabited by a fine race of people. But, Mr. President, I do not like to see our domestic policy influenced so largely by either our neighbors on our north or our neighbors on our south. If it had not been for the internal conflict now going on in Mexico I do not believe this proposition would have ever emanated from the brain of the President of the United States; and if it had not been for the activities of the officers of the Canadian Government, I do not believe England's interest would have been quickened in the present contest for commercial advantage. The countries of the Western Hemisphere will soon stand face to face with the necessity of dealing with one another as Americans. The Mediterranean is a world sea lying in the Temperate Zone, amid an ancient civilization, and our southern basin is destined to be a world sea, now that a canal pierces the Isthmus connecting the Eastern and Western Hemispheres by direct and rapid communication.

Senators, will you bear with me while I recapitulate what I have taken altogether too long to say? England had no right on the Mosquito Coast or in British Honduras under her treaty with Spain. She has hovered around that narrow strip of land connecting the two continents of North and South America like a vulture in anticipation of an opening between the two oceans.

The treaty between the United States and Great Britain formulated by Mr. Clayton was not intended to affect us at Panama. President Arthur and Mr. Frelinghuysen and Mr. Blaine treated it as a nullity; President Hayes and President Garfield called any waterway connecting the two oceans at the Isthmus part of our coast line.

Every time we approached the question of the construction of a canal across Central America, England became active in its vicinity; and if she could not influence us by kindly offices, she did not hesitate to provoke our concern; the dust was sure to rise somewhere just enough to complicate the situation and assure us that it was very desirable to have her friendship.

There was no inhibition against us at Panama. The old treaty had no reference to a canal built at a different point than that described in the instrument. When the American public asserted itself, the British foreign office and our State Department promptly adjusted themselves to the new situation. Our insistence forced her to give up everything except what we were willing to give to every other country—neutralization and equality of tolls among our customers; that is all.

Mr. President, if that represents all her rights in equity and good conscience, if that is all she has under the law of nations, then we are not called upon to make this sacrifice to-day. If the exemption clause is repealed, if we bow to the suggestion of Mr. Innes, the British consul; if we comply with the wishes of Mr. Borden, the Canadian premier; if we reverse the policy of this Government solemnly and almost unanimously decreed less than two years ago, difficulties will multiply and our foreign relations will become sadly awry. And if we should ever attempt to reimpose this exemption from tolls, we will find this verdict you have to-day written emblazoned in letters of living light at every angle of our national experience.

O Mr. President, it is too far-reaching, too important to future generations of our countrymen to be thus surrendered on the mere ipse dixit of the President of the United States.

Mr. CLAPP. Mr. President——

The PRESIDING OFFICER. Does the Senator from Michigan yield to the Senator from Minnesota?

Mr. SMITH of Michigan. Certainly.

Mr. CLAPP. A few moments ago the Senator made the statement that if it had not been for the internal difficulties in Mexico we never would have heard of this proposition to repeal the free-tolls clause. I do not know how others may feel, but I certainly should be very much interested in the discussion of any possible relation between the little revolution in Mexico and the regulation of our tolls a thousand miles or more south of Mexico.

Mr. SMITH of Michigan. What I said I repeat to the Senator from Minnesota, that the first time this subject was ever mentioned to any committee of Congress it was mentioned by the President to the Foreign Relations Committee, then considering the Mexican situation at its most acute stage; and when it was suggested that the hands of our ambassador in London might be strengthened by such a course, I for one, and there were others, protested against it.

Mr. CLAPP. But what had our ambassador in London to do with the relation which we sustained to Mexico? That is what interests me.

Mr. SMITH of Michigan. The Senator from Minnesota knows that Great Britain has a treaty of offensive and defensive alliance with Japan, does he not?

Mr. CLAPP. I have heard so.

Mr. SMITH of Michigan. I happened to be in London when it was promulgated, and knew something of the sentiment that prompted it.

Mr. CLAPP. Yes.

Mr. SMITH of Michigan. The Senator knows of the unusual friendship existing between those two Governments. The Senator knows that Japan at one time, not very far distant, became greatly interested in the Mexican situation. The Senator knows that the officers of a Japanese battleship paid a visit to Gen. Huerta in Mexico City for a week; and it was at that moment when the administration seemed to be perplexed and impressed with the necessity of finding support for his Mexican policy, just at the time when he asked us to repeal this law, "right or wrong," in support of the foreign policy of the administration, adding, "I shall not know how to deal with other matters of even greater delicacy and nearer consequences if you do not grant it to me in ungrudging measure."

Mr. CLAPP. Mr. President, I still fail to see any connection. Does the Senator mean to imply that in order to offset an alliance based upon a treaty between England and Japan we are

making this surrender to England as a measure of national protection?

Mr. SMITH of Michigan. Mr. President, that is a very blunt inquiry. It is very characteristic of the Senator from Minnesota. I am no alarmist, but I think the answer to his question can be found in the message of the President of the United States just read.

Mr. CLAPP. Then we have reached the point in national decadence where we buy peace? Is that it?

Mr. SMITH of Michigan. I dislike to admit it, but I can not find any other motive for this course.

Mr. CLAPP. I thought there must be some powerful motive that acted on us.

Mr. SMITH of Michigan. As the Senator from Rhode Island [Mr. LIPPITT] very appropriately says, we do not know what is the full price of the friendship we are now buying.

Mr. CLAPP. No; but are we buying friendship?

Mr. SMITH of Michigan. If we are not buying friendship, we are taking a great deal of pains to cultivate ill will.

Mr. GALLINGER. Mr. President, will the Senator permit an interruption?

The PRESIDING OFFICER. Does the Senator from Michigan yield to the Senator from New Hampshire?

Mr. SMITH of Michigan. Certainly.

Mr. GALLINGER. I assume that it has occurred to the Senator from Michigan as a remarkable circumstance that England, which has always protected her subjects everywhere—going to the extent, I think, of raising 5,000 troops and spending millions of money to rescue a single English citizen in Abyssinia a few years ago—has been quiescent over the murder of an English citizen in Mexico. Has the Senator any suggestion to make as to why England has not, in her usual way, demanded reparation for that affront and the murder of that English citizen?

Mr. SMITH of Michigan. No, Mr. President; but I believe that if the truth were known the British Government has been assured redress for that wrong if she will "watchfully wait" an appropriate time for vengeance.

Mr. CLAPP. Mr. President, if the Senator will pardon me, that is a very serious charge against the English Government. That involves the proposition that they would abate their protection and the avenging of a wrong to an English citizen for the commercial benefits to be derived from our surrender of our sovereignty in the Panama Canal Zone.

Mr. SMITH of Michigan. Mr. President, far be it from me to exalt the commercial virtues of England. They have a way entirely their own. Commerce has driven her flag into every port of the world, and the ambitions of her rulers have planted it permanently at the very outposts of civilization. From the days of Cromwell to the rule of George IV her diplomacy and her commerce have sailed the seas together; commercial expansion has prompted her to conquest, scattered her soldiers into every clime, and impoverished her people by ruinous competition. Yet the strength of her Government and the permanence of her plans challenge the admiration of the world.

Mr. CLAPP. Mr. President, if the Senator will pardon me further, I think we can find a way out of this dilemma and save the national honor of England and America, and that is to recognize that the underlying spirit that is demanding this repeal consists of the railroad interests of the country. That frees us from the humiliating spectacle of two great nations bartering national honor upon a commercial basis.

Mr. SMITH of Michigan. Mr. President, the communications of railroad people have been quite unanimous.

Mr. CLAPP. It is the only logical reason you can find for it which preserves the honor of the two nations.

Mr. SMITH of Michigan. The President favored the Panama tolls exemption in his campaign; and in the speech of acceptance which he delivered to the Senator from Kentucky [Mr. JAMES] and his associates he thought that exemption was not going quite far enough to rehabilitate our merchant marine. He said in that speech that the device which we had formulated was merely paltry; that it went only halfway, and did not quite assure the establishment of an appropriate merchant marine. Then he said in his address to Congress last March:

> The large thing to do is the only thing we can afford to do, a voluntary withdrawal from a position everywhere questioned and misunderstood.

It was not everywhere questioned and misunderstod in the campaign when he was running for President, nor when he faced Senator JAMES and his associates in his speech of acceptance. It was not supposed to be misunderstood during the first year of his administration. It was not supposed to be so all-powerful until he found that his policy in Mexico was not working as he had imagined it would; until there was activity upon the part of other countries in Mexican affairs; until the attitude of Sir Lionel Carden, the British ambassador to Mexico, had excited the President's suspicions, for which he was called to London, supposedly for discipline.

Has not the State Department declined to furnish the Senate with the correspondence touching this matter? Are not the resolutions of Senators asking for information buried in the Committee on Foreign Relations? The President wants to hedge this matter about with mystery which no one can understand because of the "nearer" and "more delicate" questions, which he "will not know how to solve" if he does not get this repeal.

There is no assurance in anything he has said that he will know how to solve those questions if he does get repeal. I am suspicious that the next step will be to comply with some wish of Japan, the British ally in the Orient, before we can have absolute assurance of peace.

The words read by the Senator from Missouri regarding the matchless character of the British Empire thrill all English-speaking people; but we are American Senators. We hold no commission from any other Government. We are American Senators, with our duty to our own. We are fighting for American rights. The Senator from Missouri, in what he has quoted, speaks of the "white circle of British Empire." Why, Mr. President, it has been the boast of England for a hundred years and more that she has a country upon which the sun never sets. But so have we. Our acquisition of the Aleutian Isles in Russian America gave us a country upon which the sun never sets. While the Aleutian fisherman, lulled by the shades of approaching night, is pulling his canoe toward the shore, the woodchopper of Maine is beginning to wake the forest echo with the stirring music of the ax. We have an empire upon which the sun never sets. It is the glory of the generation in which we live that wherever we have gone with our high ideals, intelligence, moderation, good citizenship, virtue, and patriotism have followed our flag. If we yield now our sovereign rights on the Isthmus of Panama, without reason, to placate a country from which we were obliged to revolt in order to enjoy our freedom, who is to say what the next contribution to amity will be?

Already Senators on the other side have a policy, which you are nursing, to set the Philippines free. How are we to know but that is a part of the sacrifice we are now making? Does the President contemplate a British and Japanese protectorate over the Philippine Islands? How do we know that we are not to be despoiled of Hawaii, which shines like a beacon light on the highway to the Orient? How do we know but that Porto Rico, that glistening pearl at the very entrance to the canal, is not to go to some stronger power in the interest of that "larger" peace which the President of the United States is so anxious to exemplify?

Mr. President, we ought not to yield to this demand. Poets and authors and philosophers have for hundreds of years contemplated the construction of a canal across the Isthmus. Goethe, the bard of Weimar, nearly a hundred years ago said he wished he might live to see the day when a canal would be constructed across the Isthmus of Suez, to be controlled by Great Britain. Goethe foresaw the dreams of navigators in his moments of fancy, and nearly a century ago predicted the construction of a canal across the Isthmus of Panama and expressed the wish that he might live to see the Mexican Gulf and the Pacific Ocean united under the direction and control of our Government and a junction made between the Danube and the Rhine by the Government of the fatherland. But in the wildest flights of his poetic fancy he could never have conceived the possibility that a canal would be constructed across the Isthmus by the American Government and then, just as we were to celebrate its triumphant completion, temporary officers of the American Government would turn it over to the joint management and control of our greatest rival among the nations of the earth.

O my fellow Senators, do not commit this wrong against your country. There is no exigency which demands it. There is no condition in the wide world that calls for such a sacrifice. Vexation and temporary fear will soon pass away, but the act that you are passing will stand as a perpetual monument to the singular folly of our times.

Mr. President, the Senate has been marvelously indulgent with me to-day. Never before have I trespassed upon your good nature so long, and I little thought I should do so now. But, Senators, it is due entirely to the importance of my theme. Is there no one to stay this wrong? From the bottom of my heart I wish the consummation of this outrage could be thwarted before it is too late.

Mr. LEWIS. Mr. President, if the Senator from Michigan is not so fatigued that he thinks he should take some rest or res-

pite by leaving the Chamber, I prefer that he remain in the Chamber, as I should like to make some reference to a few of his observations; and lest I should misquote him or disclose a misunderstanding, I prefer that he should be present, that he might correct me should I fall into error.

Mr. President I have been greatly interested in listening to the very copious presentation of the able senior Senator from Michigan [Mr. SMITH] touching the question of Panama tolls. I say "touching" the question—occasionally touching it; and touching it in such manner that it will hereafter be known to have been touched by such a hand as he always discloses wherever he wields a blade.

I have been at a loss, however, doubtlessly due to the obtuseness for which I must express great regret, to understand whether the able Senator has meant his speech as a display of humor or one of serious statesmanship. I have observed his party colleagues on the other side surround him and, under the proper tutelage of his excellent colleague the junior Senator from Michigan, they had their risibilities awakened at certain stated periods, when an evidence of humor ripples forth like to that adjusted by the claquers at a vaudeville performance to the first entrance of a new and untried artist. Whether all of that was due merely to a desire to give to the distinguished Senator from Michigan an understanding that his remarks were having great effect and as being humorous, or whether it was intended to indicate that his colleagues were exceedingly amused at the references made by the able Senator to other Members of the Chamber, including myself, is to me more or less a doubt. I can not say how the speech of the able Senator from Michigan is to be taken.

As the Senator referred very fully to the attitude of one of his distinguished predecessors, Gen. Cass, a Senator from Michigan, who, upon a previous occasion, had an important part in the debate in the Senate upon the question of the Clayton-Bulwer treaty and upon the relations of our country with Central America, and it being true that at that particular time there was a Senator from Illinois occupying the floor and taking a very active part in that debate, I fancied that my very able friend from Michigan threw out his lariat in a vocabularic circle and dragged me from my obscure place in the Senate to be the victim of his animadversions, that he might possibly duplicate in history that other debate between Cass, of Michigan, and Douglas, of Illinois. He should have been more merciful; for while, by the gift of heaven, it is his quality to duplicate at any time the capacity of his distinguished predecessor, Cass, of Michigan, I am unhappily so limited that I can not occupy the place of the distinguished opponent from Illinois, Douglas, but must be as one who dares but to latch the shoes.

I do not understand what the able Senator from Michigan means when, from his very exalted station, he seriously charges the President of his country with having gravely and deliberately entered into some understanding with a foreign country to surrender the rights of American citizens for some imaginary protection, which only in the flaming imagination and heated discussion of the distinguished Senator from Michigan exists in the fancy of some pending alliance.

I do not fancy for a moment that so patriotic a gentleman as the able Senator from Michigan could have seriously made those allusions either to-day or yesterday in the opening of his able speech, because it was well prepared, carefully thought and arranged, with historical quotations and introductions, indicative of vast labor and industry, for which the Senator must always be praised. But, further on, yesterday, when that intimation was made I assumed to invite my able friend to the fact that he made an unconscious utterance, I will say, through overflowing expression rather than reflection of intellect.

But to-day the Senator from Minnesota [Mr. CLAPP] having had his attention likewise directed to the full meaning of such assertions gravely asked the able Senator from Michigan, who is a member of the Foreign Relations Committee, if he really meant to intimate that it is his belief that the President of the United States has entered into an understanding in the form of some shape of agreement with England to yield up the rights of American citizens in the United States in turn for something not yet defined, to be granted by that English Government. Then the able Senator from Michigan by his answer seems to be thoroughly impressed that something of the kind must have existed; otherwise, said he, the President would not have indulged in expressions that have found their way to the Senate in his address to both Houses of Congress upon the questions of the repeal.

I heard the able Senator in his speech say that at a meeting of the Foreign Relations Committee—and I am now referring to what the able Senator said yesterday in his remarks upon the floor of the Senate—that at some meeting of the Foreign Relations Committee, of which he is a member—representing capacity which Michigan may well take credit—he said that in his position as a member he had occasion, if I did not misunderstand him, to be in the presence of the President of the United States, who was either before that committee at its session or having that committee before him, and that previous to that particular occasion there had been no allusion to the question of the repeal of the tolls; but that in his presence there was a cable or telegram handed to the President of the United States; that this telegram or cable was opened by the President, a part of it read by the President, and the able Senator from Michigan deduces that the contents of that message was the inducing power which impelled the President thereupon and immediately to make some concession of an ignoble and contemptuous kind in asking of his Nation that it surrender the sovereign rights of American citizens to yield an accommodation of something implied within that mystic, mysterious, and undisclosed message.

I can understand very easily how, upon a rostrum before the voters of Michigan, intoxicated with the genial presence of the able Senator, they would applaud any expression he may bring forth, and that before such a body as that the able Senator might make such expression and not feel the responsibility of the utterance, feeling that his constituency would merely have their curiosity tickled and their pride appeased, but in no wise their convictions impressed by that form of recital.

But, unhappily, the records of this Chamber disclose that any expression of any man carrying ambassadorial power from a sovereign State is embalmed in some form of perpetuity and finds its way into the recorded annals of this celebrated and historic assembly, and in after days is to be read by men who must read those utterances with all the solemnity and conviction communicated by the position from which these expressions came.

Mr. President, Senators elected by their respective States to this body occupy the highest altitude that compliment or honor from any State may confer. They ought not to lightly indict the head of their Government with having made surrender of the great rights of the American people upon so slight a reason and for so small a cause as the fright and terror induced by the contents of a cablegram.

Shall the able Senator from Michigan be content that in after days upon the responsibility of his eminent position he shall bear the consequences of a legitimate criticism that will come from the reflective sense of our country when it is recalled that gravely in his station and high position he has made this charge against the President of his American country?

For what would such a surrender be made? What object would the President have? What service to himself? What service to his country? What theory of freedom, what purpose of nation could be served by any American entering upon so contemptuous an attitude, making so dishonorable a surrender of his own country?

What is there in the history of this man Woodrow Wilson, of his ancestors, of his birth, of his breeding, of his life, of his public and private conduct, that would license any man, however free in fancy, burning in imagination or copious of rhetorical observation, to gladden narrow spirits about him by making such accusations? What is there, I must ask of the able Senator, in all the surroundings of that man which would justify any man charging him with a nature so craven, with a quality so base, as could have done such a thing as the able Senator charges against the President of the United States?

I am sure, therefore, that my very learned and distinguished friend meant to be humorous. That it was not his intention to have his speech taken seriously. That it was one of his excursions into the field of wit and humor. That being encouraged by the constant breaking forth of cheery smiles, globular mutterings, and explosions of joy on the part of his colleagues he was urged further on quite as a romping deer might be as he rushes along a stream that ripples against the bank and then has met ultimately his destruction on rocks or drowning in the gush of waters.

I know the distinguished Senator from Michigan. As he said yesterday our acquaintance began in service in the House, my service an humble one and his, as he has himself certified, with such distinguished quality and elevating magnificence as to bring him the confidence of Presidents of the United States. To him there was whispered every thought which the President had even as to the making of Cabinets and the shaping of policies and the fate of the country. Those things were not mine to enjoy, but it was mine to enjoy the sweet and simple disposition of the able Senator from Michigan, the fertile quality he ever possesses in the form of imagination, the

genial manner in which he dismisses all differences between fact and assertion, and the accommodating spirit that ever justifies him in a mere trope and simile of rhetoric without regard to the fundamental facts upon which it may be constructed.

Now, let no man assume for a moment that I am speaking in condemnation. I confess to have something of envy, that I am not gifted in such quality that I could thus charm and entertain surroundings with these versatile qualifications. I am limited to a condition where I must recognize in a solemn assemblage like this my disqualification to excel in these airy excursions. I must be content to and pinion myself, as it were, to the ground. But the able Senator from Michigan is content to draw from the flaming armory of his imagination such things as will give entertainment to his constituents who may not have the knowledge that facts are to the contrary.

Now, I speak seriously to my friend. I speak seriously because I can not feel that his speech was intended to be seriously taken by the great American audience who must here listen, and by the great State of Michigan as she speaks through the voice of her distinguished representative. I know my learned friend in his quiet moments has the tranquillity of the humming bird sipping dewdrops from the tulip, yet in such hours as we have just seen him, lashing himself about as the Ethiopian lion that devours all in its track and crunches his jaws over everything that opposes him, but despite these extremes in conduct, and far distances of latitude in both manner and speech, a middle ground can sometimes be reached upon a basis of a personal responsibility. Where, I ask my distinguished and able friend, the senior Senator from Michigan, will he take the middle ground of responsibility for having had read to-morrow morning from the great newspaper sources of this country by the millions and millions of citizens of his own Nation that their country had been surrendered by the President of the United States to England and the sovereign rights in the property of America, and her privileges as a Republic have been bartered for something which the Senator would imply was contained in the undisclosed provisions of some cable that frightened the President of the United States to make this surrender brazenly before the world? What responsibility will my distinguished and able friend take in the middle ground before Europe, that has not, as he says, too much affection for us at best, when it reads with contemptuous smile to-morrow morning in the cable dispatches that the learned Senator for many years a Member of the House and in the secrets of the Foreign Relations Committee, honored in his place as a Member of the Senate of the United States and a member of the Foreign Relations Committee here, yet in that position confesses to the whole world that he has convictions within him which justify the accusation that his President, the head of his Nation, has surrendered his country—America—to the demand of England; and all for a thing which he sees not, hears not, knows not, but in the imagination that knows no limitation flashes forth in accusation. Surely my able friend did not mean that speech seriously.

Now, so far as I am concerned, I am not, Mr. President, a member of the Foreign Relations Committee. I am not able to see from my point of view the justification of any member of the Foreign Relations Committee detailing what he knew was a personal conversation between the President of the United States and that committee. I would fear if I did such as that that I would drive that Executive into fear of every man coming into his presence with any form of confidence, and I would likewise discourage him in his incentive to be frank with the committee, lest by doing so and having his remarks misconstrued suffer that misconstruction to be put forth before the world as a confession from the mouth of the Executive himself.

Mr. President, the President of the United States is not permitted by our rules to appear upon this floor and respond to any Senator who may by his allusion place the President in this unjust and unenviable position. Nor can any Senator in the President's behalf reply for him, because no Senator can know what the President had really said, unless that Senator was likewise present at this gathering, and he would be amenable to the same form of condemnation of revealing those confidences and be placed in the same category of the one who first perpetrated the offense.

Now, I must say I stated my position on this tolls question as well as I could when I opened the debate here on this floor with an amendment which I tendered, having for its object authorizing the President to grant exemptions to ships whenever there was such exaction by railroads as would justify it to prevent monopoly.

If I believed, Mr. President, that any President of the United States had merely for the purpose of serving some national and foreign rival of my country yielded to that accommodation without any reason of justice to my own people and welfare to my own Nation, I would not only decline to support him without regard to what party he may be aligned, but I would denounce him in any public presence where I was honored with an audience. No appellation of Democrat or Republican could rescue him and no privilege, personal or political, could give him refuge against my indignant judgment.

Therefore, Mr. President, there is neither foundation—in fact, there is no excuse in parliamentary privilege for the assertions of the distinguished and able Senator. I must insist, therefore, that those observations were intended by him rather in the sense of a figure of speech than as an assertion and accusation against the President of his own country.

If there shall be a reference made to any surrender or arrangement between this country and England for anything, let us have a frank understanding as to when it occurred.

The able Senator refers to Russia and her grievance, and right he is. Russia seems to have a grievance, and that she does recall the days when she offered her services to the Union, and that she has likewise been offended because of the attitude of our country subsequently against her. We all saw that under the administration of the party of my distinguished friend from Michigan, when Japan was at war with Russia, America offended Russia. Does not history record that it was the Republican administration, through the influence of England, which lent its aid specifically to Japan against Russia? Will it be lost sight of that the only alliance that was made with England in any business or governmental transaction within the memory of men sitting here was that conducted by a Republican administration touching both the affairs of China and Japan?

Then, if these things are to be condemned, as condemned they should be, let the able Senator recall that the only recorded event is that which was consummated by his own administration.

Now, when my able friend says that the President was alarmed with the situation in Mexico and the conduct of Huerta and did nothing but falter and blunder, I ask him what other attitude would he have had the President take than the one which he did. President Taft, the predecessor of President Wilson, had refused to recognize Huerta. President Taft had taken the step in behalf of this Republic which President Wilson himself merely followed. Where was the vice in the Democratic President doing that which was the virtue on the part of President Taft? I am unable to see it.

Then, I say to the Senator from Michigan, what course would he have taken? When a Member of the House to which he alludes, referring to his own distinguished service, to which I grant my certificate, likewise, as being distinguished, able, and of effect, there was an effort made by certain portions of this Government to precipitate the Nation in war with Spain over Cuba. Did not the able Senator from Michigan then work against it, vote against it, and serve against it upon the theory that it was an unnecessary war and a ruthless destruction of the young men of this country and would be inhuman, as it was un-American and un-Christian?

Is there any difference as to the attitude to Mexico and the position the President is now occupying to the sons of his own country, as he seeks to save their lives and preserve the integrity of Christianity and the honor of American justice in his own Republic? Therefore, where is that "vacillating" and what my friend calls an awkward and inexcusable course of blunders on the part of the President of the United States, because he restrains war?

Mr. President, I conclude with the suggestion I rose to make, to call the Senator's attention that he had indulged in observations which I am sure he could not have intended seriously.

Mr. President, I understood from the Senator from Michigan sincerely that there has never been made a mention of the repeal of this tolls by the President until the Mexican imbroglio was upon the community and the President's presence before the Foreign Relations Committee.

Mr. President, if the question were new it would justify some observations of a little different character from that which must only be indulged now. The whole theory of the repeal of tolls, as I understand it, was in order that the canal might be maintained and maintained by the charges upon all those using that waterway. When the Senator from Michigan calls the attention of the country that $134,000,000 of outstanding bonds are upon that canal and still unpaid, and that many more millions are still to be due, I ask him in what way shall you pay that debt if you shall not have the canal pay for its own obligations? Will you levy a direct tax upon your neighbors in Michigan and make them pay for the canal, when the obligation could be paid for by the users? I do not understand that the President of the United States goes any further in his object.

Mr. President, having made that observation, I now turn to what the Senator said concerning myself. The Senator said that I in a speech on this floor intimated that there was great terror of England. I invite the able Senator's attention that no such utterance was made by me. I never at any time intimated that I had any terror of England. I think if England could have had anyone in this Chamber speaking in her behalf or hearing in her behalf, they would report home that there was one thing in which England need stand in terror, and that was the senior Senator from Michigan. No one could hear the senior Senator from Michigan without realizing the furies he summons up when he speaks.

He says I referred in my speech to that which would "blast" and that some one will be "blasted." I beg to recall the attention of my able friend that there need be no source from which anyone need fear blasting so much as from his distinguished capacity when his trumpet blows and the sound from the bassoon goes forth from his attuned lungs. All the country stands in terror lest either their patience or their capacity of endurance should be blasted with one single bugle call from the senior Senator from Michigan.

Blasted! No; when I used that expression I did not refer to tolls. If my able friend will read my speech, I referred to that portion of the President's speech where he said, referring to those "nearer issues," the foreign policy, in which I spoke of what he must have meant by the expression "those nearer issues." These I said I would cross if it blasted me, using the phrase of Hamlet. I may quote the words wrongly—I referred then to what the President meant, and I called the attention of the country to that which I now repeat and bring to the attention of the Senator. That the President called attention, no doubt, to that helpless state this country had been put in by the policies of the Republican administration, by which it was compelled for a while to parley and play with the emergencies until it could fit itself with equipment that it might defend itself in honor and in strength. I alluded to the policy of the Republican administration precipitating the Philippine Islands as a doctrine of conquest upon us, which the distinguished Senator from Michigan correctly alluded to a few moments past as he closed his speech, with the beautiful peroration when he referred to our "subjects" in the Philippine Islands.

I would not mar the beauty of the wonderful figure of my friend from Michigan. It will be recited in the school exercise orations. Orators will adopt it as they have those perfections of Webster's reply to Hayne and the observations of Blaine upon Conkling, but I allude to the fact that my able friend does not hesitate to speak of these people just as the administration had made them, as the "subjects" of this Government. So if I did refer to the President of the United States in my remarks as the chief ruler of the country, I now animadvert that the one propriety possible was that if there are there subjects created by the distinguished Senator's administration, there must be a ruler over them.

Then I did say the precipitancy of the Philippine Islands upon this country, with all the burdens it entailed and the dangers it threatened and the consequences of the future, the unseen and immeasurable, placed this country at such a disadvantage that, coupled with other things, with the grievances which we had brought upon ourselves, compelled, no doubt, the President to mean in that expression that was somewhat mysterious and not fully clarified that we pause to consider our situation; that if any conflict with Mexico was to come we take methods and time to such preparation as would enable us to defend the Nation in honor and maintain the country in victory—a proper Navy and Army—sufficient for the defense of our possessions and our country.

The able Senator seems to have wholly misapprehended both the theory of my remarks and their expression, and as he has my speech before him and has referred to it this morning, of course that will show that that which I say now was the exact purport of my utterance then.

Mr. President, I shall pass by the pleasant allusion of my beloved friend touching the description he gave of that horror which my countenance portrayed when I came to the expression "we pause." I assure the Senator I will now give a thorough definition to that meaning. Differing from my able friend, I will pause; I will find a place where I can with propriety make that pause; and I pause at that point to invite my able friend from Michigan to contemplate if he does not wish to revise the observations, which, unfortunately, came from the copiousness of utterance and not from the reflection of judgment, when, in response to the Senator from Minnesota, and at his own deliberation on the day before he left the country with the conviction that from himself, the able Senator and eminent spokesman of Michigan, he charges the President of the United States with having no object to serve in whatever he undertook but the surrender of his own country, the ignominy of his own fellow citizens, and the dishonor of his own Republic. I invite him that he contemplate the effect of his charge, that he consider the full strength of the insinuation, and in his place at the proper time confess that which was no doubt his object, to demonstrate himself a wit and a humorist, who provoked the risibilities of his side in laughter and mirth, as he might the admiration, though sometimes the wonderment and amazement, of this side. I warn him that it is not always wise, in order to tickle "the ears of the groundlings," that we "make the judicious grieve."

Mr. O'GORMAN. Mr. President, the Senator from Washington [Mr. JONES] is temporarily engaged in a committee meeting; and at his request I send to the desk a copy of an amendment which he proposes, which I ask to have read.

The PRESIDING OFFICER. The Secretary will read the proposed amendment.

The SECRETARY. It is proposed to amend the text of the committee amendment by adding thereto the following words:

And Congress hereby asserts that the United States has the unrestricted right to regulate the use of the Panama Canal by its citizens and commerce as it may at any time deem wise and proper.

Mr. O'GORMAN. Mr. President, as I stated this morning, when the diplomatic correspondence relating to the Hay-Pauncefote treaty was furnished to the Senate by the State Department, a few weeks since, two letters were omitted. I am advised by the Secretary of State that these two letters were not in the possession of the department at that time. One is a letter from Mr. Hay to Mr. Choate under date of August 5, 1901. The other is a letter to Col. Hay from Mr. Choate under date of January 15, 1901. I ask that both may be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it will be so ordered.

The matter referred to is as follows:

AMERICAN EMBASSY,
London, SW., January 15, 1901.

MY DEAR COL. HAY: As I telegraphed you on Friday last, Lord Lansdowne had named yesterday for an informal and unofficial conference about the Senate amendments to the Hay-Pauncefote treaty which I had suggested in my note to him of January 4. I told him at the outset that I was wholly uninstructed; that I was in no way authorized to negotiate; that my instructions had been to present to him the amendments and to express the hope that they would be found acceptable by his Government; but that so much dust had been thrown about the matter by the press and so many things misrepresented that I thought it would be well for both of us, before he took up the amendments for serious consideration, that we should have an informal and unofficial talk, not to be made matter of record, but strictly confidential. He thought that nothing could be better or more advisable, and the conversation proceeded on that basis. I told him that my object was to clear the situation and to ascertain if practicable what, if any, obstacles he found in the way of accepting the amendments. I told him that I had repeatedly seen it stated that the Senate had assumed, by its mere vote, to supersede the Clayton-Bulwer treaty, and much criticism had been cast upon them for so doing; that, on the contrary, the Senate was acting strictly within its constitutional province and in its ordinary way in amending the treaty; and that whenever a treaty was negotiated under our Constitution it was with the knowledge on both sides that it must be submitted to the Senate for its consent and approved and be confirmed by two-thirds of that body. He seemed interested in this and said there had been an idea that they had undertaken, by their own vote, to supersede a treaty. I told him that I had also often seen it charged that the Senate was actuated by a spirit of hostility to Great Britain; that, on the contrary, I believed that its course had been dictated by no such spirit, but by a high sense of public duty and in the belief that what they did was required by the best interest of the United States, and was without any injustice or injury to Great Britain.

I called his attention to the components of the great majority vote of 65, that it included the Senators very friendly to the President and to the support of his administration, and that it was quite impossible that men of the character who gave that vote for the amendments could have been governed by any but patriotic and honorable motives. He said he gladly accepted my opinion on the motives of the Senate and their freedom from any unfriendliness to Great Britain as final and satisfactory. I told him further that, so far as could be judged from what had appeared in the press since the vote, the action of the Senate met with large support in the community, where there was a deep-seated conviction that the canal ought to be built, controlled, and managed as an American canal, but for the free and equal use of all nations upon the same terms; and that I had hoped he would come to the conclusion that the treaty, both in its original shape and as amended, accomplished that purpose and nothing more. I told him also that I thought it was the general sentiment at home that if the United States were going to expend a great sum like £40,000,000 or £50,000,000 in constructing the canal, for the equal benefit of all mankind, their own interests and safety should be carefully guarded, and I hoped he would find that the amendments were properly adapted to that purpose, as the Senate obviously intended. We talked over the Hay-Pauncefote treaty, and he agreed with me that it involved a general agreement on both sides that the Clayton-Bulwer treaty had been outgrown and was wholly inapplicable to the present situation and needs of the country and the world. We then took up the Senate amendments, and I asked him to tell me what objection occurred to him, so far as he had examined them, to their acceptance by Great Britain; and it soon transpired, as I thought and as I had expected, that the Davis amendment was the chief stumbling block, and I think that if that could be arranged there would be

no great difficulty about the others. He said his objection to that was that it gave to the United States, at any time and for any reason which in its own judgment made it necessary for the defense of the United States, to deneutralize the canal by departing from all the stipulations of the five foregoing clauses; even in time of peace, on the pretense or belief that it was necessary for the defense of the United States, it would enable us to close the canal against all nations even, and to do all or any of the things that are prohibited by these five clauses; that it would, at any rate in case of war, shut out the vessels of the enemy from the use of the canal, and this would be a very wide departure from the Hay-Pauncefote treaty or the Clayton-Bulwer treaty. I asked him what his Government had intended by the use of the same words in the Suez Canal treaty, and suggested that they certainly could not have intended, by their use there, any such fanciful meaning as he had suggested. He said, well, there was a very wide difference between the circumstances of the Suez Canal and the proposed Nicaragua Canal.

First. That the Nicaragua Canal was going to be very remote from the territory of the United States, which was very different from the relation of the Suez Canal to Egypt. This consideration, he said, is perhaps not so very important, in which I concurred; but then he placed his finger on the sticking point, calling attention to article 11 of the Suez treaty, which provided "that the measures which shall be taken for securing the defense of Egypt," and so forth, "shall not interfere with the free use of the canal," and that there were no such words or qualification in the Senate amendments. I told him that although that phrase was not adopted in the Senate amendments, there was the express prohibition in article 7 of the amendment against fortifications, even more explicitly than in the Suez treaty. I called his attention to the gross misstatements which had been made about the repeal of that provision by the amendments, and that it remained absolutely intact, and was obvious from the fact that the Davis amendment specifically referred to the five preceding numbered sections, and could not possibly apply to the subsequent fortification clause. He said that he was no jurist, but he feared that it would nevertheless be somewhat impaired by the breaking down of the first five clauses. He spoke of the possibility in the case provided for in the Davis amendment, of disembarking troops and munitions of war on the canal, and guns, perhaps, and wondered whether that would not be fortification. At any rate, it might be doubtful. I told him that I thought his construction of the Davis amendment was much strained; that if that amendment really related, as I thought, to actual war between the United States and some other power, the absence of the provision in article 11 of the Suez treaty was not so important; that I had no right to speak for the Senate or to say what they meant by the words; that I could refer him to the statement of Senator LODGE, given to the press on December 21, which I knew was authentic, because Senator LODGE had sent a copy of it to Mr. White, and there it was explicitly stated that the real object of the amendment was to negative the promise "to permit a hostile fleet to use the canal." He said he already had that statement, and I told him that he might accept it as the authentic statement of the Senator, who was a foremost member of the Foreign Affairs Committee, and knew what the intent of the amendments was. I told him that I thought it would be more just to impute to the Senate, in view of Senator LODGE'S statement as the real purpose of the Davis amendment, to secure to the United States the right of self-defense under all circumstances, notwithstanding the provisions of the first five clauses; that all nations were treated alike in this respect, and that in case of actual war with any power, it being impossible to tell how far they would feel restrained by those provisions from attacking the United States, it was not asking so very much that the United States should reserve the right of defending themselves from attack whenever and wherever; that looking to the practical operation of the matter, given a canal always unfortified, any conflict would naturally resolve itself into a naval one, and Mr. LODGE had in that case fairly disclosed the intent of the amendment. I asked him if he supposed that in such a war the enemy of the United States would permit a United States fleet to pass unmolested through the canal, and how far they would feel restrained by the provisions of the clauses qualified by the Davis amendment, and that if that could not be foreseen, why deprive the United States in any such emergency where it deemed it necessary for its defense of the right to refuse to permit a hostile fleet to use the canal, and was it not fair to impute to the Senate the purpose not further to interfere with the free use of the canal than such necessity required, and why would not all the powers who remained at peace with the United States enjoy the free use of the canal all the while? He said he was afraid of the vague and indefinite nature of the phrase "measures which the United States may find it necessary to take for securing the defense of the United States"; that it might mean anything that the United States, in its own uncontrolled will, might see fit to have it mean. I commended him to give full consideration to the construction imputed by Senator LODGE to the Davis amendment, and said that of course I had no authority or guide beyond that.

Then, coming to the amendment which erases article 3, providing for inviting other powers to adhere to the convention, he said he found a special difficulty in that, and it was not the one which I had expected as the natural one. He expressed no objection to leaving out the other powers except this, that as by their omission the United States and Great Britain would be the only two contracting powers, the United States would be at liberty, by means of the Davis amendment, to deal with the canal as they pleased; all other powers could attack it, but Great Britain alone, as a contracting power, would have her hands tied by the contract and not be at liberty to do anything, and, dovetailing the two together, he thought the Davis amendment made this amendment highly objectionable. I suggested that this was an ingenious objection, but that here again, if he followed Mr. LODGE in construing the Davis amendment, as applicable to the occasion of actual war, it could have no great weight. Something was said about the practical effect of actual war upon some of the treaty provisions, and in that connection I called his attention to Lord Salisbury's final reason, expressed in the Suez correspondence, page 42, for accepting the tenth clause of the Suez treaty, and asked how far the same doctrine would apply to the Hay-Pauncefote treaty as amended. I do not think that this objection to the amendment striking out article 3 was regarded by Lord Lansdowne as of very great weight. I had supposed that he would lay stress upon the great benefit to be derived by all parties concerned, and, in fact, by all the world, from pledging all nations to the neutrality of the canal.

Then reverting to the first amendment, "which convention is hereby superseded," I said supposing some agreement had been come to upon the Davis amendment, securing to the United States the right of self-defense to the extent there provided, what is there left in the Clayton-Bulwer treaty which either party should desire to retain? He said, of course the Davis amendment was directly hostile to article 2 of the Clayton-Bulwer treaty, even as construed by Senator LODGE, and that there would remain of article 1, even if the Davis amendment and the other amendment about other powers were adjusted, the express stipulation that neither party "will occupy or fortify or colonize or assume or exercise any dominion over Central America," etc., to the end of the article. But I asked, wasn't all that provided merely for the purpose of securing the primary object described in the first clause of article 1? He said he believed it was, and then as we went along with the other articles he more than implied that there was nothing of very great importance in them not provided for in the new treaty; but he said, of all his own suggestions, as I said of mine, that they must be taken as wholly unofficial, and were really what occurred to him as the matter came up; but I could discover no strenuous objections in his mind to letting go the rest of the Clayton-Bulwer treaty if it were not for the fatal objection to the Davis amendment as it stood. However, this may be the subject of very extended objections before the cabinet and he and Lord Salisbury have got through with it. I told him that I felt deeply desirous that the amendments should be so dealt with as in no manner to disturb the cordial relations and feeling now existing between the two countries; that I thought that an abrupt and blunt refusal to accept them would create some disturbance of feeling and disappointment on our side of the water, and that we should like to feel that they had received the careful consideration to which the high character and motives of their authors were entitled. He said we need not fear any harsh treatment of the matter, although he added that it was a little "abrupt," I think was his word, after they had yielded all that we asked in the making of the Hay-Pauncefote treaty, and which had then been accepted as apparently all that was desired, and in doing so they had been declared by our side to have acted with "magnanimity," that these amendments should be sent to them without a word of explanation or statement of reasons why they were desired.

I told him that this arose from the necessary procedure of having the amendments made by the Senate after the treaty had come to their hands in the usual constitutional way; that Senator LODGE'S statement was immediately made to the public as an explanation and statement of reasons, and was entitled as such to careful consideration. He said if it was disappointing to us to have the amendment rejected, it was hard for them, after they had supposed the matter was settled, to have new demands made which again unsettled them; and I said that the new demands were only what the Senate regarded as necessary for the true interest and safety of the United States. I asked him how the amendments would probably be acted upon; that is, would they be submitted to the Cabinet for an immediate vote, or how otherwise. He said he thought that if an immediate vote was taken upon them it would be in the negative; that he thought there was a very general feeling against the amendments; that we were asking too much after they had yielded enough; but the matter would be fully considered, and suggested that perhaps before final action they might give a statement of grounds of objection, with an opportunity for us to answer, if we could. Our interview and discussion of the matter was in a most friendly and courteous spirit, and Lord Lansdowne was good enough to say that he thought it would do good from our point of view of the case; but you know what a courteous man he is. I made no allusion to the pending canal bill or to any prospective change in the composition of the Senate, or to the expiration of Congress on the 4th of March and the new Congress not convening in all probability until December, because I inferred that he knew all these things perfectly well, and have no doubt that he does; and my impression is that the amendments will be considered with that deliberation and caution which is characteristic of all their proceedings, and that we may not receive any answer for some time. He said that possibly he might desire to talk with me again in the same informal, unofficial, and confidential way, to which I replied that I should be happy to respond to any such invitation from him. I told him that I thought he could do nothing to promote the good understanding between the two countries and the peace and welfare of the world so much as by coming to an agreement with us on this treaty as amended. It was his birthday, and it would be a capital way to celebrate it. I can't help thinking that if the way were open for some modification of the Davis amendment by defining it in the direction of Senator LODGE'S statement, so as to meet the criticism, that it might be made to mean anything that the United States should deem necessary for their defense in any way in peace or in war, this very important matter might be satisfactorily settled. In the course of our discussion I asked Lord Lansdowne if he would have been satisfied with the Davis amendment if it included the provision of the eleventh article of the Suez treaty, that measures taken in the cases provided for by articles 9 and 10 "shall not interfere with the free use of the canal," but he was hardly prepared to answer that question. The Cabinet is to meet on Friday, and it may be that before this letter reaches you the matter will be disposed of, but I do not think so.

Yours, very truly,

JOSEPH H. CHOATE.

AUGUST 5, 1901.

DEAR MR. CHOATE: I have received your most interesting letter of the 24th of July and hasten to say I agree entirely with the view contained in it.

(Then follows a reference to the "Peking matter," and then he proceeds about the treaty or the project for the treaty.)

I have read with great interest and entire approval what you have to say about our project of a canal treaty. Your "ideal," as expressed in the third page of your letter, is mine also, but we must work with the tools we have. There are several matters of detail in the project which might be improved if we were working in vacuo, but I thought it desirable to introduce as few changes as possible into the form which had already received the approval of the Senate.

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JOHN HAY.

Mr. O'GORMAN. I also ask unanimous consent to have printed in the RECORD some remarks by Mr. Neal Henry Ewing pertinent to the subject we are now discussing. They are very instructive, but I shall not occupy the time of the Senate to ask to have them read at this time.

The PRESIDING OFFICER. In the absence of objection, it will be so ordered.

The matter referred to is as follows:

[Rewritten from the Review, Roselle Park, N. J.]

THE AMERICAN-BRITISH CONTROVERSY—THE LEGALITY OF OUR FREE TOLLS.

(Neal Henry Ewing, M. A., LL. B.)

This writing aims to add its modicum to the great wave of national expression against the proposal that we retract the exemption of our vessels from the tolls of our Panama Canal; a proposal initiated by a foreign government—under plea of treaty violation—and fostered here at home from a high-minded but mistaken and hence overscrupulous view as to the rectitude of the position which our country has taken.

The question of policy of such exemption will not be entered into except incidentally, the scope of the article being the underlying question of principle which has been the matter of a controversy between the United States and Great Britain. If the British charge of treaty violation could be substantiated, we should certainly bear the humiliation of acknowledgment and reparation, for the sake of justice. But if the British charge proves an unfounded imputation, then, even though diplomatically broached, we should just as certainly repel it, for the sake of our country's standing, and, second, our country's defense.

THE REDUCTION TO ABSURDITY.

1. There are five documents comprising the diplomatic discussion of the Panama tolls exemption—the note of Mr. Mitchell Innes of July 8, 1912; the memorandum of President Taft of August 24, 1912; the note of Sir Edward Grey of November 14, 1912 (delivered December 9, 1912); the reply of Secretary of State Knox of January 17, 1913; and the note of Ambassador Bryce of February 27, 1913.

Ambassador Bryce merely urges arbitration. He states: "His Majesty's Government have not desired me to argue in this note that the view they take of the main issue—the proper interpretation of the Hay-Pauncefote treaty—is the correct view."

Thus the British Government professedly refrains from pursuing the argument, and after the lapse of a year the American contention still holds the field.

2. Great Britain has put forward two distinct arguments, the first based on the all-nations provision, and the second and later one based on the provision for just charges.

3. President Taft, in his memorandum of approval, answers the all-nations argument by a reduction to the absurd:

"If it is correct, then, to assume that there is nothing in the Hay-Pauncefote treaty preventing Great Britain and the other nations from extending such favors as they may see fit to their shipping using the canal, and doing it in the way they see fit, and if it is also right to assume that there is nothing in the treaty that gives the United States any supervision over or right to complain of such action, then the British protest leads to the absurd conclusion that this Government in constructing the canal, maintaining the canal, and defending the canal finds itself shorn of its right to deal with its own commerce in its own way, while all other nations using the canal in competition with American commerce enjoy that right and power unimpaired."

4. The British Government tacitly admits the absurdity of the contemplated state of affairs, but denies its conclusive character. This it would avoid by giving its objection a restricted scope. While impugning the virtual subsidy of the canal act, it "does not question the right of the United States to grant subsidies to United States shipping generally."

Now, on the one hand the admission is suicidal, and on the other hand the restriction still leaves the protest to the harassing absurdity.

5. The consequence of admitting a general subsidy. Under a system of nonexemption such as is urged, a general American subsidy, however low, would operate as a partial relief of tolls. Now, since the right to subsidize is not conditioned on the maintenance of subsidies by all other nations or by any other nation, but is independent in its root, it follows that the British Goverment must admit a partial relieving of tolls by subsidies as permissible; and as a consequence a total relieving also, for the two cases of relieving differ in degree but not in kind. In point of fact the general subsidy (conceded as proper) need only be made high enough to offset tolls completely, and to demand a maximum limit for subsidies would be quite as clearly an infraction of sovereignty as would be their absolute impeachment.

6. Now, since total exemption of tolls (actually established by the present law) and such totally relieving subsidy (as supposedly established after the proposed Sims repeal) have the same purpose and the same effect, any distinction between the two courses of action is unsubstantial and illusory.

It follows, then, from the British admission of the propriety of a general subsidy that free tolls for American vessels are permissible under the treaty. Thus Great Britain's admission, by which it ought to escape from an absurd conclusion, cuts away all ground for its protest.

7. Furthermore, the protest for all its restriction of scope is hampered with the absurdity of conclusion. Both Governments agree that "there is no difference in principle between charging tolls only to refund them and remitting tolls altogether." For parity of reason there is no difference in principle between remitting tolls and advancing the money with which the tolls may be paid, and from the British view this last course of action would likewise fall under the adverse judgment.

8. Advancing tolls money. Let us suppose under a system of nonexemption two vessels, American and British, arriving at Colon. Let each home Government, through a financial representative, advance to its vessel the exact sum of tolls money that it is called upon to pay.

This would afford equality. For first there would be equality of tolls and second there would be equality in relief. Here, then, is a touchstone, and whichever contention will stand its test is the more reasonable.

On the one hand we find that the allowing of exemption under the present law conforms to this plan of equality; there is, in fact, as above noted, no difference in principle between the two. On the other hand, the forbidding of exemption fails to adjust with this equitable plan. For if the British contention is sound, the United States could be thus enjoined: "You (alone of all nations) are forbidden to relieve your vessels."

And if Great Britain omitted to relieve its shipping it could not charge the United States with the omission. Besides, there would still be equality in potential relief; that is to say, in relievability, just as under the present law there is this equality in potential relief which the United States for its part at once changes from potential to actual, leaving Great Britain and other foreign nations to enjoy the like freedom of action.

There can not be at the same time rigid equality in the relation of canal and vessels—allowing no option of exemption—and also equality in the relation of vessels and home governments; the reason, of course, being the twofold character which the United States sustains. The United States by becoming canal owner did not forfeit its character of home government of American vessels using the canal. These are not ships without a country. Therefore the proposition that the United States must hold itself to equality with other nations in the matter of tolls collection—reducing itself to the level of its own most-favored nations—can only be maintained after the natural equality of the United States with other nations in the matter of dealing with its own commerce has been destroyed. The superficial equalizing finds itself opposed by an equality more substantial and fundamental.

9. Nor could the United States, on the ground that Great Britain's action in advancing tolls produced an inequality, raise the rates for the British vessels with a view to restoring equal conditions. The treaty gives the United States no such inquisitorial rights, and Great Britain would, with reason, deny that such advancing of tolls constituted any inequality within the meaning of the treaty.

Yet if the United States, as the home government for American vessels, were in its turn to advance tolls to its nationals, Great Britain would charge a violation of equality.

No rule of consistency appears here except, indeed, the extraneous one of striving for the same objective—a consistency devoid of legal value. The inconsistency is patent and vitiates its argument.

10. We may observe in passing, in view of its citation in the Hay-Pauncefote treaty, that "the convention respecting the navigation of the Suez maritime canal" leaves all nations to their right of relieving their vessels by subsidies. Great Britain exercises this right and would not deny it there to the United States.

11. The exorbitance of the protest shows in more pronounced light when we consider that the British view would forbid the United States to meet in kind a general movement operating to its detriment, even though concerted. It is not merely that the United States could not inaugurate the practice of advancing tolls—which the Panama Canal act does in effect—but it could not adopt the practice even in the wake of all the nations of the world.

Indeed, the United States would have to remain quiescent even if the world powers, in furtherance of their South American trade and in competition with the United States, should grant canal bonuses over and above the tolls money.

12. Nor is it an answer to say that Great Britain might not press its advantage in the premises and hold the United States to the extremity of these hard terms, for it is not more absurd that the United States should see its right to subsidize actually curtailed than that it should exercise this right on foreign sufferance and forbearance.

And even with a pledge from the British Government—which is lacking—that they would forego this advantage, the British contention would not be helped, for they have not so pledged themselves in the treaty; and it is the treaty obligations and rights that are under discussion.

Hence even if Great Britain limits its protest to the form of subsidy contained in the canal act, its disclaimer will not avail, and the weight of President Taft's charge of absurd conclusion falls on the protest with its full argumentative force.

From the foregoing it results, first, that the British claim entails absurd consequences even without regard to the sovereignty of the United States over the canal, and this in view of the sovereignty of the United States over its commerce and of its ownership of the canal; and, second, that the same absurdity attaches to any challenging of free tolls for our over-sea vessels as attaches to such challenging for our coastwise marine.

THE BURDEN OF PROOF.

13. As will be remarked, the conclusion to which the British protest leads is absurd, not logically but practically, and hence in the end it is a matter of possible treaty stipulation. Nevertheless the absurdity of conclusion must not be forgotten in our examination of the treaty, as is the case with the proponents of repeal generally; the absurd character of the conclusion is closely relevant, and this for the reason that it brings with it a heavy burden of proof. International law is not tender, but severe toward those who would use a treaty to wrest from a nation a sovereign right. If two constructions are possible, if two points of view may be taken, that one is to be rejected which derogates from governmental liberty.

If the British plan of attack is involved in any doubt, it is discredited, native possession holding a just vantage ground. Therefore, even if the British claim were from the face of the treaty the stronger claim—instead of being, as it proves to be, by far the weaker—it would sink beneath its burden of extravagant conclusion, unless, passing beyond such merely stronger demonstration, it could find in the face of the treaty entire and undebatable support.

In the words, then, of the Hon. William M. Collier: "The United States may grant a subsidy in any form as it chooses unless its treaty obligations by express terms or by absolutely necessary inference have restricted it."

14. If, as was suggested by President Taft immediately after the passage of the bill, the Panama Canal act were amended so as to permit subjects of foreign nations to try the question at issue in the Supreme Court of the United States, that tribunal would have for its precedent its own ruling in the case of Ogden *v.* Saunders (12 Wheat., 269):

"It is but a decent respect for the wisdom, integrity, and patriotism of the legislative body by which any law is passed to presume in favor of its validity until its violation of the Constitution is proved beyond a reasonable doubt."

Now, a violation of the treaty in the present case would be coincident with a violation of the Constitution. Thus the fact itself of the present tolls exemption militates hypothetically against the British contention for American minds. Nor could Great Britain flout this view as purely subjective, for it does not comport with international comity that one nation should in a controversy treat as negligible either the wisdom of the opposed nation or its integrity or its patriotic regard for national consistency and honor, as evidenced in its legislation.

While, then, the fact of exemption does not directly touch the merits of exemption, it is nevertheless relevant. An added doubt exists for the benefit of the American contention; an added weight falls on Great Britain's burden of proof.

15. Nor is it superfluous to observe that from the treaty correspondence and public discussions 12 and 13 years ago the British Government fails now to produce any allusion to the restriction of our right of maritime subvention which its contention involves. This argues that no

such allusion is to be found, for if available it would be cited. We are expected, then, to believe that American officials would deem no word of explanation necessary when fastening on their country a great and permanent disability.

16. Let us search the treaty for the "express terms" of subsidy restriction, or, failing this, for the requisite "absolutely necessary inference" of such restriction.

The treaty does not yield one express word impairing the right of the United States to aid its commerce by subvention. If such impairment was, in fact, considered, it is a matter for surprise and explanation that a consequence so momentous should not be thought worthy by the high contracting parties of comment or adversion, but should be left in implication.

It can not be rejoined that neither, on the other hand, does the treaty expressly permit the United States to subsidize its canal vessels, for such right does not have to seek its warrant in the treaty; it rests on the original sovereignty of the United States over its commerce and was subsisting undisturbed under the Clayton-Bulwer treaty when the present agreement was concluded.

In point of fact, if, as falls within the contemplation of the present treaty (art. 2), the canal had been "constructed under the auspices of the Government of the United States," not "directly at its own cost," but "by gift or loan of money to individuals or corporations, or through subscription to or purchase of stock or shares," the plea that the treaty had restricted the United States in its right to subsidize under such circumstances would be too patently wrong to be urged. Yet nowhere does the treaty make a distinction as to the consequences, in this regard, of the different plans of constructions.

17. As to the "absolutely necessary inference" of subsidy restriction in the treaty, no independent lodgment for it has been suggested apart from its disputed premise, the point of controversy, that tolls exemption is prohibited. Since, then, the extravagant conclusion of impaired sovereignty is not independently bolstered in the treaty by its own proper implication, its disputed premise is all the more to be suspected.

With an enormous handicap, therefore, placed on it by the logic and law of the case, the British contention against the right of exemption stands to be tested. Here, naturally, we are left again to implication. There is no provision by express words that free tolls for American vessels are permissible only on the prodigious terms that the United States shall forego all compensation for its vast expenditures.

THE ALL-NATIONS PROVISION.

18. As noticed above, two clauses of the treaty are appealed to in the protest, the all-nations clause and the just-charges clause.

Here follows the text of that part of the Hay-Pauncefote treaty (concluded November 18, 1901), the construction of which is the matter of dispute:

"ARTICLE 3.

"The United States adopts, as the basis of the neutralization of such ship canal, the following rules, substantially as embodied in the convention of Constantinople, signed the 28th October, 1888, for the free navigation of the Suez Canal, that is to say:

"1. The canal shall be free and open to the vessels of commerce and of war of all nations observing these rules, on terms of entire equality, so that there shall be no discrimination against any such nation, or its citizens or subjects, in respect of the conditions or charges of traffic, or otherwise. Such conditions and charges of traffic shall be just and equitable."

19. The summary of argument currently advanced to show discrepancy between the canal act and the treaty is that since the United States is a nation it is necessarily included in the phrase "all nations."

But the expression "any such nation" in the very same sentence bids us look for some qualifying antecedent, which, indeed, we find. The unbroken phrase reads: "All nations observing these rules." Furthermore, the preceding section yields the pertinent fact that "the United States adopts" the rules under notice.

It is, then, a truncating of the question to ask whether the United States, being a nation, is not included in "all nations." This offers a glimpse at the treaty and not a full view. Let it be inquired rather whether the United States, having adopted rules, is or is not included in "all nations observing these rules."

There is no reason for not considering these two functions, adopting and observing, to be as distinct as are the words which describe them. To adopt rules which others must, even though contingently, observe is to lay down rules for such others; as far as any transaction eventuates, the two parties are the rule giver and the rule obeyers.

The United States alone adopts the rules, and is thus distinguished from all other nations, even from the cosignatory, Great Britain.

While Great Britain agrees with the United States as to what rules are to be adopted, it withdraws and allows the rules to be adopted by the United States.

Thus the very fact that Great Britain is a party to the treaty throws into relief the unique position with regard to the rules which is occupied by the United States.

20. Again, the treaty guarantees that such nations as qualify therefor shall have free and open passage for their vessels, and it is these same nations that are covered by equality of terms, since there is no intimation of a distinction, nor, indeed, by the grammatical construction, any room for it. "The canal shall be free and open to the vessels of commerce and of war of all nations observing these rules, on terms of entire equality."

But since the United States controls the canal it is not necessary that it should guarantee freedom of passage for its vessels of commerce and of war. Furthermore, this would be pointless, as Great Britain could not have concern that the United States should deal fairly with American vessels. Since, then, it can not be seriously maintained that Great Britain secured the promulgation of any such guaranty as curator of maritime nationals of the United States, to safeguard their interests against their own country, it follows that the United States is not a subject for treaty guaranty in the matter of canal passage. Hence, as a further consequence, the United States is not a subject of treaty regard in the matter of equal terms which are extended to all nations observing the rules.

21. Again, the treaty provides in regard to a certain class (the rule-observing nations) that there shall be "terms of entire equality" for all, "so that there shall be no discrimination against any." Now, the natural interpretation of this is that every one of the rule-observing nations shall be free from discrimination. The expression "so that" is grammatically an equation of purpose or intention and it refers "any" to everyone of the "all." In other words, the treaty contemplates the guaranty against discrimination as fully coextensive with observance of the rules. If, then, we find that the United States is not a possible subject for discrimination, it is not included in the mind of the treaty within the rule-observing nations.

Now, since discrimination can only come from the United States—because with it rest "the regulation and management of the canal"—and since discrimination by the United States against the United States or its nationals is not a matter for British solicitude, or treaty stipulation, it follows that the treaty does not contemplate the United States as a subject for discrimination. As a further consequence, therefore, the treaty does not contemplate the United States as being included in "all nations observing these rules."

22. The treaty couples "vessels of commerce and of war." They are put on the same footing; no distinction as to tolls is made. Furthermore, in regard to foreign vessels, it is not contended by Great Britain that there is to be any distinction between them. If we would know, then, whether exemption is admissible for American vessels of commerce—the point of dispute—it is highly pertinent to inquire concerning American vessels of war. Now, exemption for American men-of-war must be, and in fact is, admitted, for any tolls levied upon American men-of-war would be supported by the owner of the canal, the United States Government. To deny, then, that the owner of the canal may relieve American merchantmen is to introduce into the case an element of confusion.

Since, in other words, under the treaty there was admittedly no intention of including one class of American vessels under equality of terms, it is more closely consistent, in the lack of distinguishing words, to deduce a lack of such intention for the other class, rather than to suppose its existence.

23. The rules of the treaty were adopted "as the basis of the neutralization" of the canal. The British Government would let "neutralization" imply "equal rights" having in view equal rates, and would actually restrict the present instance of the word to this bearing. This definition offends precedent, general and particular; for it runs counter to the accepted meaning of the word and it does not conform to the significance given to it by the same Governments when treating of the same matter.

The present treaty supersedes the Clayton-Bulwer treaty of April 19, 1850, except that the construction of a canal "under the auspices of the Government of the United States," as authorized, is to be had "without impairing the 'general principle' of neutralization established in article 8" of the earlier convention. Let us consult the source of the general principle. The main body of the earlier treaty guarantees the "neutrality and security" of a Nicaraguan canal and this neutrality can not consist of or imply equal rights, for the settlement thereof lay without the treaty jurisdiction, however much a matter of treaty concern.

Article 8 of the Clayton-Bulwer treaty provides that "the Governments of the United States and Great Britain having * * * desired * * * to establish a general principle, they hereby agree to extend their protection * * * to any other practicable communications * * *. In granting, however, their joint protection * * * it is always understood by the United States and Great Britain that the parties constructing or operating the same shall impose no other charges or conditions of traffic thereupon than the aforesaid Governments shall approve of as just and equitable; and that the same canals or railways, being open to the citizens and subjects of the United States and Great Britain on equal terms, shall also be open on like terms to the citizens and subjects of every other State which is willing to grant thereto such protection as the United States and Great Britain engage to afford."

Here, then, the force of the word "general" is to extend neutrality otherwise referable to a particular canal only, so as to cover communications by all routes and by canals or railways. Neutralization has its field enlarged; and there is thus no necessity and hence no warrant for disturbing its accepted significance.

By the eighth article the signatories do not guarantee equal rights or rates and furthermore they are not in a position to do so. The understanding that the rates are to be equal is not an agreement to this effect, but simply a supposition, which, if actualized, would support neutralization. On the other hand, there is a guaranty of neutrality, although conditional. Equal rates and neutrality are not put on the same ground, but are distinguished, coming from different and, in fact, opposite sources.

Thus we see the error of the second British note in mentioning the principle of article 8, "which provides," it states, "for the equal treatment of British and United States ships."

We further read in this second note that in article 8 "there is no mention of belligerent action at all. Joint protection and equal treatment are the only matters alluded to and it is to one or both of them that neutralization must refer." It is more reasonable to say that whatever joint protection implies falls within the purview. We can not then ignore belligerency when protection is alluded to for the total content and the whole concern of protection is a refraining from belligerency and a restraining of the belligerency of others.

The British note intimates that the United States was "most anxious to get rid" of joint protection and therefore that it was not joint protection to which the United States referred in the preamble of the present treaty; continuing that, on the other side: "It certainly was not the intention of His Majesty's Government that any responsibility for the protection of the canal should attach to them in the future. Neutralization must therefore refer to the system of equal rights."

Protection as joint was certainly meant to cease. But what good reason is there to dwell on the circumstance of jointness and disregard the operation to which it belongs? Protection, whether joint or otherwise, is a restraint of others and self from belligerency to its object. Under the present system protection, though no longer joint, continues, devolving upon the United States under the first law of nature.

Protection is a burden, a "responsibility." That it should cease to be joint, that Great Britain should be relieved of responsibility, is a contract consideration extended by the United States, of which, indeed, Great Britain shows a clear appreciation in its present disavowal.

Other nations, furthermore, though they need not protect the canal, must respect its immunity from attack. This is the condition for their enjoyment of the canal privileges. In this way the general principle of neutralization is preserved.

In the same note Sir Edward Grey observes that if the present treaty secures "to Great Britain no more than most-favored-nation treatment, the value of the consideration given for superseding the Clayton-Bulwer treaty is not apparent to His Majesty's Government."

Great Britain, as will be noticed, nowhere assumes to occupy a position in regard to tolls better than that of other foreign nations. If, then, Great Britain wonders why it should be considered no more than a conditional most-favored nation in the matter of canal treatment, there is cause for it to wonder how it came to be on a level with other

foreign nations in this regard. There is the same explanation for both cases.

For, as has been pointed out by the Hon. Lewis Nixon, "the entire Clayton-Bulwer convention speaks of equal treatment, owing to the fact that equal obligations were undertaken in affording protection and in guaranteeing neutrality."

The consideration, therefore, which eludes Great Britain's cognizance is a relief from "responsibility" of protection; and its value is sufficiently evidenced in Great Britain's present emphasis on its withdrawal from the support of such burden. It is on account of this withdrawal that Great Britain takes its place in the general level of outside nations.

The following provisions appear in the treaty: "The canal shall never be blockaded, nor shall any act of war * * * be exercised within it. * * * Vessels of war of a belligerent shall not revictual * * * in the canal. * * * Vessels of war of a belligerent shall not remain in such waters. * * * The plant establishments, buildings, * * * shall enjoy complete immunity from attack." Before the conclusion, therefore, can be reached that the neutralization for which the rules are a basis must refer to equal rights only and not to belligerency, the above provisions must disappear from the treaty.

It is evident, then, that the general principle of neutralization of the Clayton-Bulwer treaty was to remain unimpaired under the Hay-Pauncefote treaty, not by equal rights and rates, something which the first treaty never guaranteed but only aspired after; something which as unestablished was not a subject for impairment; but by canal immunity (neutralization properly so called) which that treaty did in set terms offer.

24. As seen above, the imposing of the treaty rules is to be viewed as not extending to the United States because of its position as rule giver. If besides this the character of the rules is such as to render them inapplicable to the United States, then plainly the United States was not intended to be included in "all nations observing these rules." The rules are six in number. Concerning the last five, the American contention sets forth: "Then follow five rules to be observed by other nations to make neutralization effective, the observance of which is the condition for the privilege of using the canal."

A reading of the rules shows, indeed, their plain incongruity to the position of canal owner and canal sovereign.

The British Government did not controvert the statement that rules 2, 3, 4, 5, and 6 were laid down for the observance of other nations than the United States. It contented itself by explaining as to rules 3, 4, and 5 that while at the date of the signature of the treaty the canal territory did not belong to the United States, "now that the United States has become the practical sovereign of the canal, His Majesty's Government do not question its title to exercise belligerent rights for its protection."

The British Government, however, can not evade a consequence of argument by a concession intended to dispense with the argument itself. It can not account for a status under the treaty by a present validation thereof. The title must exist by reason of the treaty or not at all. Therefore Great Britain's statement that now it does not "question" the right under consideration must stand as an admission that under the present circumstances the treaty allows the right, not that an admission naturally is required.

But if, under whatever circumstances, the treaty allows the right, it must be for the reason of original exclusion of the United States from the rule-observing nations and not for the reason of change in territorial sovereignty—unless it is Great Britain's meaning to disregard the fourth article of the same Hay-Pauncefote treaty:

"It is agreed that no change of territorial sovereignty or of the international relations of the country or countries traversed by the before-mentioned canal shall affect the general principle of neutralization or of the obligation of the high contracting parties under the present treaty."

Nor could the British Government help its contention by setting up likewise against article 4 the rule of rebus sic stantibus, that the treaty was made on the supposition of "conditions thus standing," and that the passing of the territorial sovereignty, not to some other third nation, but to the United States itself, was an essential change in conditions such as was not really contemplated by article 4, because this plea would have invited disaster.

For the principle, if once introduced, can not be restrained for the required purpose of discussion; and if its standpoint is accepted, then, as is shown by the distinguished publicist, the Hon. Hannis Taylor, even if we admit for argument that the United States was originally looked upon as one of the rule-observing nations, "we have now a perfect right, under the rule of rebus sic stantibus, to demand a modification, as the treaty as a whole has become voidable or 'notifiable.'"

Thus, if the British Government essays to cross the barrier of the fourth article, it finds itself without a place to stand, while if it remains within the barrier, it must face the controlling fact of the inapplicability of the rules to the United States.

Senator ROOT remarks in his oration of May 21: "There is not a rule from the second to the fifth that does not impose duties upon the United States"; and then comes to particulars, as, for instance: "If ships of war in time of war loiter in the canal, it will be the duty of the United States to urge them forward." Assuming this to be correct, how does it help the British claim? Other nations must observe these rules and the United States must see that they do so. But how can this be tortured into the sense that the United States must observe the rule itself (as though observance and enforcement were the same thing)? And, failing this, the remark of the distinguished speaker does not meet the matter of issue.

25. The British claim of American inclusion is hindered therefore by several aspects of the treaty centering about the following phrases: "Observing these rules," "free and open," "discrimination," "and of war," "neutralization," and also by the very character of the rules themselves.

Not only, then, does the impairment of the right to subsidize (the absurd conclusion of the British claim) decidedly lack any "absolutely necessary inference" on the score of inclusion of the United States in "all nations observing these rules," but the inference on this head leads us in the opposite direction.

THE JUST-CHARGES PROVISION.

26. To reenforce its position the British Government, in its second note, surmises that the system of American exemption would "impose upon British or other foreign commerce an unfair share in the burden of the upkeep of the canal."

The treaty provides that "the charges shall be just and equitable." Now, there are two factors determining the justness of the charges. First, the aggregate tolls must not exceed a just maximum, the regard being had to interest on capital, to cost of operation and maintenance, and to amortization. Secondly, this aggregate must be evenly distributed so that no vessel shall bear more than its proper quota.

The first element is entirely untouched by the difference between the two systems. The second element accommodates itself as well to one system as to the other. Under exemption there merely stands the added caution that any vessels properly exempted shall be continued in the calculation as part of the volume of commerce, since such they do not cease to be. In this way the exempted tolls are not thrown upon foreign commerce, but are borne vicariously by the Government of the United States, which has voluntarily adopted this plan.

It is not relevant to say that exemption is unjust if by reason thereof the tolls are made unduly high (having in mind a voluntary effect). The unjust feature of such conjectured transaction would not be found in exemption, but directly in the excessive tolls. In order to attach it to exemption it must first be shown that by reason thereof the tolls must be made unduly high.

But under either system (exemption or nonexemption) there is the same opportunity for propriety in the matter of charges, and there is the same opportunity for impropriety, and whatever avenues of protection or redress are open to foreign Governments under one system remain open to them under the other. It is unfounded, therefore, in the absence of any necessary casual relation between free tolls for American vessels and excessive tolls for foreign vessels, that the first should be challenged on the ground of the unlawfulness of the second.

27. The British Government intimates, indeed, that with exemption it is not feasible to take into account the exempted tolls in the calculation of the rates. It does not show, however, wherein the difficulty consists. In the case of each successive change in the tolls to meet changing circumstances the computation of the tolls need not lack the necessary data. For it could hardly be supposed that the canal records would in any event be so scanty as not to show the total volume of commerce (which would include "vessels engaged in the coastwise trade of the United States"); and at all events, given an occasion for recording the volume of commerce, it is doubly unfounded to suppose that it would not be done.

And if it is to be assumed (by pure gratuity) that the United States will fail to keep the necessary records, the effect of such imagined remissness would bear as heavily against one system as against the other and would be an argument, not for repeal of free tolls, but for taking away from the United States the management of the canal after its successful construction.

For the computation of the initial tolls there is, of course, no record to serve as a basis, but recourse must be had to an estimate. Prof. Emory R. Johnson, special commissioner of Panama traffic and tolls, has set the total at ten and a half million tons for the year 1915, including American coast-to-coast shipping, and on this was based the present tolls. Since the estimate of the total commerce is independent of the system of exemption, whatever imperfection the estimate may have (it is in point of fact highly considered), it is not due to our system of free tolls.

28. That the United States, by way of reimbursement for remitted tolls, should ever levy excessive tolls on nonexempted vessels (something which the present tariff avoids with the widest margin of caution) would indeed be unjust. But in order to deduce from this the injustice of exemption it would be necessary to frame a new principle of law, namely, that "any act is itself wrong the consequence of which may later be alleged as a pretext for some other act admittedly and independently wrong." The unsoundness of such a rule would match its novelty. As Secretary Knox cogently remarks: "It is the improper exercise of a power and not its possession which alone can give rise to an international cause of action." And not only so, but even with the system of nonexemption there is no way of limiting the power and thus saving Great Britain harmless, short of Great Britain's assumption of the canal management.

Hence Great Britain's second plea, the just-charges provision, falls wide of the mark and takes its place with the objection first advanced.

RELATED OBSERVATIONS.

29. The liberty of the United States in the premises thus standing beyond the reach of the attack it is quite proper to dwell on the incentives to the exercise of that liberty.

Thus Senator O'GORMAN, the protagonist of the current debate, makes the telling observation that the Democratic free-tolls plank of 1912 "was the one dominant American note in that campaign." The Progressive platform, of later date, gave it a hearty response, while the Republican candidate, in a practical way, committed his party, without protest, to the free-tolls principle when, by his ready approval, the Panama Canal bill became American law.

There was, in fact, no occasion to make free tolls an issue of campaign debate, the parties being in such accord thereon and the dissentients in any party not jeopardizing their party's chances by inopportuneness.

30. As exemplified by James G. Blaine, in his review of the fisheries dispute, the British Government is remarkable, alert, adroit, and eager to gain points of diplomatic interest, so strong is its maternal solicitude for the British.

It is for Great Britain a natural disappointment that the United States (seemingly in disregard of its tradition) should now enact a maritime subvention competitive with British and Canadian interests and of marked initiative.

This is the gravamen of Great Britain's real grievance, and it does not admit of legal formulation. It is a case of "loss without injury," unless we concede that the right of the United States to help its commerce has lapsed through nonuser, and that Great Britain may exploit the American tradition and has acquired vested rights thereunder.

Concurring in the estimate of Prof. Emory R. Johnson, opinion is settled that only after a number of years will the canal be self-sustaining, whether or not with tolls for all. This results, at least in part, in the United States dispensing for years to come a largess to the maritime nations.

Great Britain from its colossal commerce (nurtured on subsidies) is the chief beneficiary of this general bounty. It would thus retain the consolation of "the greatest service ever rendered to one nation by another in the entire commercial history of the world" (to quote the judgment of Senator BRISTOW) in the rejection of its claim that the United States may not afford the supplementary free-tolls aid to its own commerce.

Nor should Americans be asked to feel agitation over the diminution in canal receipts resulting from American exemption and benefit, while at the same time they are left to view with equanimity the above general item of reduction, several times greater, which will inure far more to foreign nations than to our own.

31. If we seek an explanation of the reversal in the Panama Canal act of the traditional American attitude toward subsidies, we find that this reversal is apparent rather than real. Our quasi subsidy owes its exceptive popularity to its exceptional character, because in its case there is accentuated the view that certain American nationals are preferred to foreign nationals, because it tends to curb the monopoly of the transcontinental railroads, and because the quasi subsidy is not payment of money, subject to varied diversion, but is service only.

There is a final reason that would seem to have special weight, and in fact to change the aspect of the case, namely, that the subsidy attaches not to the ocean voyage, but directly to the passage through American territory, thus approximating closely to our system of domestic improved waterways and canals, so that in their regard there would be "a reversal of the time-honored policy of the United States" in anything short of toll-free passage through American territory for American ships plying between American seaboard and American seaboard.

32. There is to be added that this plan of subsidy, having been actually established by American law, is subjected by a foreign Government to an attack which would involve the matter of policy into one of principle. This serves as a constraint against receding, lest suspension of the exercise of our rights (and this at the instance of our great commercial competitor) should compromise the rights themselves.

Nor is the Sims repeal bill particularly improved in this respect by the Simmons amendment, which, noncommittal as to the issue, would safeguard "any treaty or other right possessed by the United States" instead of intrenching in direct and open words "the right of the United States to exempt from canal tolls all its vessels of whatever kind."

It is of incidental interest that American pleasure craft and ships designed to secure and keep American laurels in the great marine olympic seem to lie outside the plane of treaty contention.

33. If, as is well urged, the Panama Canal is to be a benediction to humanity, this implies that the world benefits are not limited to the shippers of the world, and hence that the shippers of any nation under notice do not monopolize from these benefits that nation's portion. If, then, the American share in the general benefits of the canal are not restricted to American commerce, then, by the same principle of solidarity, the special benefits (derived from tolls exemption) are an asset of the American people at large. Thus the wide outlook of the Panama enterprise, which universally strikes the imagination, serves to enhance the popular aspect of our tolls exemption.

It is claimed, however, that the exemption gives money to the shipowners without any benefit to shippers. This offers a dilemma. For if the shipowners do not use the money to increase their business (which is directed to one or the other of the American coasts), then competing British or Canadian commerce (directed to the same points) is not affected; in which case Great Britain's protest must be explained as academic. But this view is untenable, for Great Britain, as is well understood, has a real and practical interest in repeal.

If, then, the subsidy is used to work an increase of our coastwise commerce and an extension of our commercial flag (a patriotic desideratum); in other words, if American coast-to-coast trade will be greater without tolls than with tolls, this stimulation is necessarily brought about by lower rates for coast-to-coast shippers, for there is no other variation of business conditions to bear upon the case.

34. It has been prominently suggested that the United States should recede from its position in the matter of tolls "from a decent respect to the opinions of mankind." The allusion is infelicitous, as this historic phrase had its rise in a difficulty between the selfsame countries, when the decent respect was had, not by any reversal of action, but by making known the causes of our stand.

Curiously, as may be noted, Great Britain at that time persisted in a plan of taxing us, which taxing we resisted, while now Great Britain insists that we must levy certain taxes on ourselves.

In the present juncture the United States, by a close parallel to its former action, has not sent to Great Britain a note of relinquishment, nor, on the other hand, proceeded without a civil reply, but has diplomatically vindicated its course in two masterly declarations.

GENERAL CONCLUSION.

35. The following, therefore, is a fair epitome of the American-British controversy: First, that the American Government would suffer a functional impairment, both wide and fixed, through the operation of the British claim, which claim consequently international law will tolerate only if established on absolute and undebatable ground. Second, that the British Government has signally omitted to establish its claim with this unquestionable certainty, which, in view of its abnormal consequence, international law exacts; and that, far short of this, it does not afford its claim an equal or even a moderate probability, and leaves it encumbered and beset with a number of embarrassments. Third, that the controversy, which was inaugurated by Great Britain, fails for Great Britain's purpose and leaves intact the right of the United States to exempt from tolls its own vessels, as an incident of its sovereignty.

36. A regard for our treaty does not imply a regard for its forced and extreme interpretation, requiring us to forego our treaty rights. Since, therefore, the violation of the treaty is an imagination, as demonstrated by our Government, and since the British charge of violation is a reality, there is no reason why Americans should feel anxiety on the score of the one; but rather there is reason why they should refuse admission to the other, and for their country's honor cast it back.

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MAY 23, 1914.

MR. BUNAU-VARILLA AND THE PANAMA CANAL LAW.

A REPLY TO THE ARGUMENTS OF THE FRENCH ENGINEER AND DIPLOMAT.

[From the New York Sun of Sept. 30, 1912.]

A novel attack on the Panama Canal law is set forth in the Shipping World by the eminent engineer and diplomat, Mr. Bunau-Varilla. His argument is based on the stipulation in article 3 of the Hay-Pauncefote treaty: "The charges shall be just and equitable." This he construes to mean: "The charges shall be such as to cover the expenses of operation and interest on and reimbursement of the capital invested."

He should rather put it that the charges shall not more than cover the items specified. It could not be held that the United States violated the treaty through allowing the total receipts to fall below any particular point, even though the canal were made toll free, since the tolls themselves go to meet items to the credit of the United States. Surely the United States is not under treaty restriction in the matter of foregoing its own dues. The critic's looseness of expression is really looseness of idea; it serves as a link in his argument; for he maintains that if a large part of the trade is allowed to pass the canal free, the tolls collected will be largely diminished and universal trade will be unduly taxed, owing to the suppression of part of the canal's earning power.

Since if a large deduction is made from any amount that amount will show a large reduction, his statement as to the diminution of tolls is necessarily correct. In contrast with this his further statement as to undue taxation of universal trade is in the nature of a prophecy; it has logical value only if we adopt the incorrect premise that by "just and equitable charges" there is implied a minimum in the proceeds which must be kept up to at all hazards.

Besides, to come particularly to the point, whatever might be the apprehension that the United States, by way of compensating for the loss of tolls, would advance the rates or fail to reduce them with the increase of commerce, the proper contention would be not against the exempting of American ships but against the exemption being used as a pretext for holding the rates too high, if this should ever come to pass.

Let the policy of canal tolls be what it may, there is always room for the possibility of the rates being too high. Exemption leaves room for this and nonexemption does not shut it out. It is plainly wrong, therefore, to intimate that there is a causal relation between exemption and excessive rates. And thus undue taxation of general trade not following necessarily from loss of American tolls, the critic's argument, which assumes the necessity of the consequence, must fall with its support. If the principle were correct, instead of being incorrect, that the income not only may but must equal the proper items of credit—whatever the exact determination of these may be—then exemption would, indeed, involve higher rates. But this unsound notion naturally invalidates any conclusion attached to it.

This wrong idea appears again in the critic's remark: "The United States is a trustee of humanity in this great work. The law just quoted puts her in the unenviable position of a trustee who uses part of the proceeds of the trusteeship in favor of his own family."

The fallacy of the ambiguous middle term lurks here. The obligation of the United States, besides building, maintaining, and defending the canal, is to draw no more income from the enterprise than is just, with reference to the outlay, and to let no more of the burden of tolls fall on any ship than is its share with reference to the total commerce. This takes effect to the benefit of the world at large; but for all that the United States remains a contractor under the treaty and not a trustee.

To be sure, there need be no objection to the use of the word "trustee" in a broad, general way if this use is consistently adhered to. But there is need of instant objection to any shuffling between this and the exact meaning of the word—"a person to whom property or funds have been committed in the belief and trust that he will hold and apply the same for the benefit of those who are entitled."

If now the "proceeds of the trusteeship" are to be applied to expenses, interest, and reimbursement, as we are told, they are to be laid to the account of the trustee itself. How misleading is the insinuation that the United States must account for the disposition of the proceeds to some beneficiary.

If this beneficiary could only be conjured up, then, of course, exemption to American shipping would be to his loss and injury, and no compensation for the loss could rightfully be secured by increasing the rates, since this would in its turn be an unwarranted levying on foreign commerce. But as this state of affairs can not obtain, it is idle to base an argument upon it. Thus we see the unfounded character of the critic's disparagement of our country in his attempted comparison.

Mr. Bunau-Varilla restates his argument in a recent article in the New York Sun, which, aside from rhetorical topics—complimentary and exhortative—is largely taken up in showing that the United States is a "trustee for humanity" in the canal enterprise. Here again he leaves the nature of the "trust" under a wrong insinuation, as though the proceeds—provided they do not result from excessive rates—do not belong to the United States Government, which is under no trust for their disposition.

The critic contends that the United States implicitly declared "that she would reimburse herself on the proceeds, but that she would not deviate a part of them to her own advantage." The proceeds, however, unless they should come with the taint of excessive rates, all belong to their collector. It is not reimbursement on the proceeds, but with the proceeds, and there is thus no part left for any kind of diverting.

Separating, now, the matters of rates and exemption, which the distinguished French critic would entangle, let us consider the rates as unduly low, normal, and unduly high. As observed above, the rates can not be unduly low; even if the United States made the canal toll free, no foreign country could gainsay this course. As far as the rates are normal, the proceeds belong in the General Treasury of the United States with its other revenues. And there then remains, fixed on its own independent foundation, the right of the United States to grant subsidies.

If, from increase of commerce or from whatever cause, the proceeds should tend to become excessive, such changing conditions must be met, and the proper corrective is clearly a lowering of the rates. And just as the occasion for the corrective is a possibility under the system of nonexemption as well as under the system of exemption, so the application of the corrective is as feasible under the second system as under the first.

Lastly, in the ascertaining of the rates the same calculation should be followed under either treatment of American vessels. Let the dividend cover the proper items of credit, and whatever difference of opinion there may be as to what these are, the matter lies apart from the question of exemption. Let the divisor include the American commerce. The resulting quotient is the rate of charges, and these are then "just and equitable." They may, of course, be lowered indefinitely at the option of the United States itself. The quota being thus fairly laid on all ships passing the canal, each country, the United States not excluded, is left free to take the burden from its commerce to its own shoulders by subsidies or, in the case of the United States, by equivalent remission of tolls.

Under the present law, therefore, the United States, in the successive readjustments of rates, must base the rates on the American ships being included in the total commerce. But it is one thing to recognize that the United States could not rightfully reimburse itself from foreign shipping for the dues remitted to American ships; and it is something quite different to contend that the United States could not relieve its ships in the first instance, the allegation being that this might serve as a pretext for such reimbursement. The only foundation for this contention would be a rule of law that any act the consequence of which might later be advanced by the person acting as a pretext or incorrect reason for some wrongdoing is itself wrong, and the absurdity of such a rule need not be pressed.

Incidentally, the incongruity of forcing the United States to charge American warships for the use of the canal would be easily seen; and the same would be true in the matter of all ships, whatever their character and number, that the United States might own. Should we, then, thank Mr. Bunau-Varilla and his fellow critics for bringing within our understanding an implied guarantee in the treaty against American socialism?

With strange inadvertence, Mr. Bunau-Varilla concedes that the United States would be perfectly free to grant subsidies "once her mandate was accomplished and her expenses of interest and operation covered by their just repartition on all ships using the canal." Let us suppose the canal law, by amendment, not to exempt American vessels—this would be "the just repartition"—and let us suppose "the expenses of interest and operation covered" by the resulting income. It would then be legitimate, according to the last-quoted statement, for the United States to grant subsidies. That this surrenders the case is plain to see. To what purpose would the Government collect tolls at Colon from American ships and return the money to the ships when they reached Ancon? As the British Government maintains there is no "difference in principle between the United States charging tolls only to refund them and remitting tolls altogether."

It is a matter of notice that Mr. Bunau-Varilla, following the example of other canal law opponents, refrains from discussing the argument of the President's memorandum to Congress in which he communicated his approval of the bill. The judgment therein remains unshaken that "the British protest leads to the absurd conclusion that this Government, in constructing the canal, maintaining the canal, and defending the canal, finds itself shorn of its right to deal with its own commerce in its own way, while other nations using the canal in competition with American commerce enjoy that right and power unimpaired."

NEAL H. EWING.

NEW YORK, *September 27, 1912.*

Mr. BURTON. Mr. President, I listened with interest to the eloquent and able remarks of the Senator from Michigan [Mr. SMITH]. He took a wide range, but gave special attention to the bill passed by the House of Representatives on the 2d day of May, 1900. It is to that portion of his speech that I intend to address my remarks. The Senator referred to that bill as the most important enactment of many years, as having abrogated the Clayton-Bulwer treaty, as having conveyed a message to England which changed her policy toward the United States, and determined future engagements with reference to an isthmian canal.

The bill passed by the House of Representatives on the 2d day of May, 1900, provided, first, that the President should enter into negotiations with the Governments of Costa Rica and Nicaragua to obtain a route for an isthmian canal from the Caribbean Sea to the Pacific Ocean; second, that the Secretary of War should, under the direction of the President, proceed with the construction of such canal; third, that the sum of $140,000,000 be appropriated or authorized for doing the work.

At the very outset I wish to call attention to a very palpable inconsistency of the Senator from Michigan in regard to the relations existing between the other House and the Senate. He took up three bills—first, the tariff bill of last year; described its passage by the other House and its treatment in the Senate; and, from his remarks, it would be thought that that measure was trampled upon here, trodden out of shape; that the legislation coming from the other House was in a shapeless, chaotic mass; and that it was necessary for the Senate to give it form and vitality. In reference to the tariff bill the Senator certainly recognizes the fact that there are two branches of the legislative department of this Government.

The Senator from Michigan again referred to the currency bill and the very material modifications which were made in that measure by the Senate before it became a law. He treated it as though it had been mangled out of shape in the Senate, stating that before it became a law it was an entirely different measure from that which was considered in the other House.

The fact is, Mr. President, that sometimes the House of Representatives considers a measure more carefully, and at other times the Senate. Sometimes the other House has the last word on a measure originating here, but more frequently the Senate has the last word on a measure originating in the other House; but each alike contributes to the wisdom or unwisdom of any bill.

Reference was also made to the bill now pending, with the inference that very material modifications ought to be made in it; but the Senator from Michigan overlooked the fact that this bill of 1900, to which he assigns such supreme importance, passed the House of Representatives and never went any further. It was either torn to pieces, thrown in the furnace and burned, or, if any shred of it remained, it was buried as deep as Thor's hammer. I remember very well the passage of that bill in the other House, and I accept with pleasure the badinage of the Senator from Michigan that I was a member of a small minority who opposed it; he complimented me by saying, I believe, they gathered around me as their leader. I am very willing, Mr. President, after the lapse of a little more than 14 years, to again discuss that measure. I think the fact that it passed the House of Representatives by a vote of 224 to 36 is one of the best arguments that could be adduced that a majority is not always the best argument. Among those who voted in the negative on that bill—among the 36—were Mr. Cannon, since Speaker of the House of Representatives for four terms; Mr. Dalzell; Mr. Gillett; Mr. Lawrence; Mr. McCall; Mr. Moody, who was afterwards Secretary of the Navy, Attorney General, and a justice of the Supreme Court of the United States; Mr. Littlefield, of Maine; and Mr. Champ Clark, of Missouri, now Speaker of the House of Representatives. It is a singular fact that the nucleus of the negative vote was from the States of Massachusetts and Missouri. From the State of Missouri the negative votes were cast by Mr. Clark, Mr. Cowherd, Mr. Rucker, Mr. Shackleford, and Mr. Cooney, to whom the Senator from Michigan has made such pleasing reference.

Now, let us see whether it was a very important measure; let us see whether it changed the course of things. There was hardly an idea embodied in that bill that was not afterwards rejected. First, it intended to entirely ignore the existence of the Clayton-Bulwer treaty; its aim was to go ahead without clearing the diplomatic situation, without regard to our diplomatic obligations, and pass a bill for a canal to be owned and operated by the United States. It was in plain contradiction of the first section of the Clayton-Bulwer treaty. Whether that treaty was wise or unwise—and I must say I think of all our engagements with foreign countries that is the one of which we can say with the greatest emphasis that we obtained the worst of the bargain—the existence of that treaty was recognized at that time by all those who had given the most careful attention to the subject.

Reference was made yesterday to the fact that the then distinguished Senator from Michigan—afterwards Secretary of State—Mr. Cass, opposed and criticized this treaty. I wish to read a few words by way of quotation from Mr. Cass and from another Secretary of State, which were read when this question was under consideration in 1900 on the subject of the binding effect and the existence of the Clayton-Bulwer treaty. Mr. Marcy, in a letter written in 1853 to Mr. Buchanan, who was then our minister to Great Britain, said:

> In relation to the Clayton-Bulwer treaty, about which so much is said in your dispatches, I have only to remark that this Government considers it a subsisting contract, and feels bound to observe its stipulations, as far as by fair construction they impose obligations upon it.

Secretary Cass, in 1858, when Secretary of State, said:

> A considerable amount of friction having arisen, the two Governments were thrown back upon their respective rights under the Clayton-Bulwer treaty.

Again, in a conversation which is detailed in a letter written by Lord Lyons on the 15th of July, 1859, he spoke of certain public men as—

> young and ardent politicians, who were loud in their condemnation of the Clayton-Bulwer treaty, who considered that the engagement not to exercise dominion over Central America was a sacrifice of interest and dignity and an unjustifiable obstacle to the fulfillment of the manifest destiny of the United States.

On two occasions in the administrations of President Grant, the latest in the month of January, 1877, this treaty was recognized as an existing obligation. An endeavor was made in the administrations of President Garfield and President Arthur to recede from its provisions, and numerous resolutions were introduced, but in 1900 it was regarded as still subsisting.

Mr. President, we might as well recognize the fact that there is a wide difference sometimes between a statesman in opposition and a statesman who has responsibility. Mr. Cass might have criticized this treaty and spoken unfavorably of it, spoken as if it were not an obligation, when he was in the opposition, but when he was Secretary of State, with the responsibility of that position, he recognized its existence.

Mr. BORAH. Mr. President——

The PRESIDING OFFICER (Mr. SWANSON in the chair). Does the Senator from Ohio yield to the Senator from Idaho?

Mr. BORAH. Would it interrupt the Senator if I would call attention to some other views as to whether that treaty was a subsisting obligation?

Mr. BURTON. I would not care to be interrupted now. I have frankly stated that the binding effect of the treaty was questioned. Mr. Blaine, Mr. Frelinghuysen, and others sought to make it appear that the Clayton-Bulwer treaty was no longer in force. I think the Senator from Idaho had better take that up in his own time and in his own way. I believe he has already done so in some prior remarks.

Mr. BORAH. No; I have not called attention to that; but I thought it would be appropriate at this particular time, because the men whose views I desire to quote are not men who could be called young and enthusiastic politicians.

Mr. BURTON. The Senator from Idaho will recognize that I referred to Mr. Cass largely because he was quoted yesterday as opposing the validity of the treaty; at any rate, the Senate in the consideration of both of the Hay-Pauncefote treaties recog-

nized the Clayton-Bulwer treaty of 1850 as an existing obligation the binding force of which must be admitted.

Mr. BORAH. Mr. President——

The PRESIDING OFFICER. Does the Senator from Ohio yield to the Senator from Idaho?

Mr. BURTON. I do.

Mr. BORAH. Does the Senator from Ohio think, if Great Britain had insisted upon the Clayton-Bulwer treaty as it stood, that the Senate of the United States would have recognized or felt bound by it for a single moment?

Mr. BURTON. I think they would. There is no other explanation of their course. The Senate of the United States observes its treaties with other nations, or attempts to do so.

Mr. BORAH. The Senate of the United States, through its most responsible committee, had gone upon record years before to the effect that there was no legal or moral obligation binding upon the United States by that treaty at all.

Mr. BURTON. I am perfectly aware that Senator Sherman, Senator Edmunds, and other men of prominence expressed themselves on the subject; and yet even the most eminent men have sometimes expressed themselves in regard to our foreign relations with a degree of carelessness that I think we hardly ought to imitate. When this bill was under discussion in 1900 and 1901 it was regarded as in full force.

Mr. BORAH. Mr. President——

The PRESIDING OFFICER. Does the Senator from Ohio yield further to the Senator from Idaho?

Mr. BURTON. I yield.

Mr. BORAH. The expression of Mr. Sherman and of the men who were associated with him, such as George F. Edmunds, William P. Frye, William M. Evarts, J. N. Dolph, John T. Morgan, Joseph E. Brown, H. B. Payne, and J. B. Eustis, expressed this opinion, not in debate, but as the result of a thorough investigation in a responsible report made to this body.

Mr. BURTON. I have the utmost respect for all those men, with nearly all of whom I was acquainted; but their opinion as expressed in that report has not been held by our State Department, save for a comparatively brief period, and it was not accepted at the time the Hay-Pauncefote treaties were made in 1900 and 1901.

Second, this bill of May 2, 1900, to which such reference is made and which is regarded as the great bill, proposed to proceed with the building of an isthmian canal without waiting for the report of a commission, which was then in the field.

My friend from Michigan is plainly in error in stating that I asked in the debate of May 1 and 2, 1900, that a commission be appointed. That commission had already been appointed under the river and harbor act of March 4, 1899. It was composed of six or seven of the leading engineers of the country, both civil and military, Mr. Morison; Mr. Albert Noble; Prof. Burr, of Columbia University; Mr. Haupt, of Philadelphia; Gen. Ernst; Gen. Hains; and one or two others whose names do not come to me at this moment. That was the first commission which entered upon the work with plans for a thorough, painstaking examination of all the routes. They were instructed to examine Panama, Darien, Nicaragua, and all other possible routes, and a million dollars was appropriated for the purposes of their examination. They engaged a small army of subordinates and made surveys.

The bill of 1900 proposed to go ahead without any regard to that commission and before its report was made. It was proposed to pass the bill and proceed to expend $140,000,000 under circumstances under which the Congress would hardly have proceeded to adopt a $100,000 improvement under a rivers and harbors act. It was proposed to go ahead without knowledge, in the first place, of what was the best route, without knowledge of the probable cost and the best method of construction, without knowledge as to where locks should be located, if it were along the Nicaragua route, or how much of the total part of it should be made up of river and how much of canal.

What was done? The Senate never gave an hour's consideration to this bill passed by the House in 1900. Congress waited until that commission had made its report. It acted upon its recommendation in the selection of a route. What next? The advocates of this bill sneered at the Panama route. I remember at a later time it was argued that the declaration in the platform of the Kansas City convention in favor of a Nicaraguan canal meant the Nicaraguan route; that it did not merely mean a canal, but that it meant a particular route.

What did Congress do in this regard? They gave to the President of the United States authority to go ahead, but directed him to choose Panama in case that within a reasonable time and at a reasonable cost a satisfactory title could be obtained.

I can not, Mr. President, sympathize with the opinion that any very great degree of importance is to be given to this bill, because there is not a principle laid down in it that has not been rejected, and that, too, for the good of the country. In the first place, after mature deliberation, it was decided that it was best to have a treaty; in the next place, that this commission should make their report before we went ahead; then, that there should be some estimate of cost; and, finally, the route which the majority chose was rejected and another chosen in its place upon which this great canal has been constructed.

Mr. President, I am willing to confess to some responsibility for the opposition at that time. I am glad that the comparatively small number who stood against the passage of that bill fought the fight and went down fighting. I am glad to note that arguments were made which the country since that time has weighed, and weighed carefully; I am glad to note that the country through its respective agencies has accepted practically all the arguments and propositions put forward by the minority at that time.

I am willing also to accept the statement made by the Senator from Michigan that my opposition was, in the first instance, prompted by Secretary Hay, a man whose friendship I enjoyed and in whom I had a confidence that I have been able to give to but few men in all my life. The recollection of my acquaintance with him is and always will be one of the most pleasing of memories. Since reference has been made to his part in respect to this canal I think I am justified in saying just a few words as to what his opinions were in regard to equality of treatment in tolls.

His views were frequently expressed. It is true I never had any conversation with him in which any reference was made to coastwise shipping as distinguished from other shipping, but there is no one on this floor who in all this discussion has expressed himself more strongly or, I may say, in as strong terms as he did in those two years, 1900 and 1901, in favor of making that canal neutral and affording absolute equality to all the shipping of the world. How could he have done otherwise? Why, less than a year preceding that time he had made a demand upon the nations having spheres of influence in China for equality of treatment; he had made a demand that on the Port Arthur Railroad and the other railroads leading from Antung to Mukden, built by Russian capital, guarded by Russian police, and constructed under a concession from China, our merchandise and our citizens should have absolutely equal treatment with those of Russia. His course in that regard had been applauded by the world; it had been applauded in his own country as an achievement in diplomacy. With that fresh in his mind and fresh in the minds of the statesmen of every country with which we were dealing, where would he have been and where would the United States Government have been if it had been said "We are claiming equality with Russia and all nations on those railroads in China and Manchuria, but we are not going to give equality on a canal to be built by us at Panama"? The inconsistency of it would have cried to heaven.

Not only was that his policy, but I believe he was farsighted, for with a clear vision he looked into the future. He believed that the days of peace were nearer than ever before; that however long might be the delay, a period of greater amity and good will was coming, and not only the interest of the American people, with our expanding exports and trade, but our record as an advocate of equality in routes of transportation, demanded equality at Panama. Even more, a regard for the good name and lasting credit of the American people prompted him to make the Panama Canal, in accordance with our traditional policy to which he had so often referred, a channel which should be open to all nations alike, a trust for the world.

Mr. LIPPITT. Mr. President, the discussion of the bill before the Senate has been very largely upon the interpretation of the canal treaty with Great Britain as to whether the words "all nations" meant all nations including the United States, or all other nations, leaving the United States free to act in regard to her own ships and the ships of her citizens without regard to what policy she might pursue toward the ships of the rest of the world.

That question has been argued with extraordinary ability and at great length by many of the best qualified and ablest men in the Senate, and Senators of large experience, of great learning and ability have taken exactly opposite views as to what is the correct interpretation. Such men as the senior Senator from Massachusetts [Mr. LODGE] and the senior Senator from New York [Mr. ROOT], both qualified by long experience in foreign affairs, the Senator from Massachusetts having been for many years an active member of the Committee on Foreign Relations of this body, and the Senator from New York having

been Secretary of State, have opposite views as to the interpretation of this particular clause. Senators of high standing in the legal profession and of experience, such as the junior Senator from Utah [Mr. SUTHERLAND] and my own colleague from Rhode Island [Mr. COLT], a man who has had a lifelong training upon the bench and whose natural ability and experience particularly qualify him to pass a judicial opinion upon this question, take opposite views about it.

I am not a lawyer, Mr. President. I am not trained in weighing the delicate considerations involved in a judicial settlement of such a legal question as this. It is not surprising, therefore, if upon that particular phase of the subject I have not very rigid views. Nevertheless, I am strongly inclined to agree with the opinion of my colleague, and of those who think as he does, that we as a Nation are bound to the broader interpretation of this treaty. I am influenced, perhaps, in arriving at that view by the fact that, whether or not we are so bound, I think it is the wise course for us to pursue. I believe if we had not committed ourselves at all, if we had no treaty, and were absolutely free to take any course we liked in this connection, it would be the part of wisdom for us so to treat the vessels using this canal that the merchandise of the world might appear in the various markets of the world on equal terms so far as tolls were concerned.

That is the traditional American view. It was the view as long ago as the time of Clay and Webster. It was the view in the time of Blaine. I believe it is the view that has been entertained by a large majority of the people of this country for many years; that it is the view taken by the bulk of the people of this country to-day; and that as time goes on and we gather experience in the conduct of this great achievement, we will be confirmed and strengthened in the wisdom of that policy.

But, Mr. President, when we decide that the treaty means that foreign ships are to be placed "on terms of entire equality" with our own we have not, to my mind, settled the question of our right to exempt our ships from the actual payment of tolls. That question is inextricably mixed up with the long-established custom of the world of subsidizing its ships, and it is generally admitted that there is nothing in the Panama treaty, whichever way it is interpreted, that forbids the United States or forbids any other nation from subsidizing its ships in the form of paying the canal tolls. Exempting our coastwise vessels is, in effect, simply a convenient way of paying such a subsidy to that class of vessels; but it is claimed that though the effect is the same the form is different, and that, therefore, it violates the "entire equality." This, it seems to me, is the real question that is at issue in determining our right to exempt; for if the right to subsidize is admitted, exemption is so clearly a form of subsidy that the right to use that form must be denied if our right to exempt is denied. The ground for such denial has been perhaps as clearly and concisely expressed by the senior Senator from New York [Mr. ROOT] as by anyone else in this body.

I have here an extract from his speech covering that point, which I will not read in full, but which I should like to have printed in connection with my remarks.

The PRESIDING OFFICER (Mr. POMERENE in the chair). Without objection, it is so ordered.

The matter referred to is as follows:

Nor, Mr. President, is there any question here about the right of the United States to subsidize its own ships. That is as clear and as unquestionable as its right to appropriate money to put up a public building in the city of Washington. It does not rest upon our assertion, for Sir Edward Grey, the secretary of state for foreign affairs of Great Britain, in his memorandum handed to our Secretary of State on the 9th of December, 1912, says, commenting upon President Taft's memorandum accompanying the signature to the bill:

"The President argues upon the assumption that it is the intention of His Majesty's Government to place upon the Hay-Pauncefote treaty an interpretation which would prevent the United States from granting subsidies to their own shipping passing through the canal, and which would place them at a disadvantage as compared with other nations. This is not the case. His Majesty's Government regard equality of all nations as the fundamental principle underlying the treaty of 1901 in the same way that it was the basis of the Suez Canal convention of 1888, and they do not seek to deprive the United States of any liberty which is open either to themselves or to any other nation; nor do they find either in the letter or in the spirit of the Hay-Pauncefote treaty any surrender by either of the contracting powers of the right to encourage its shipping or its commerce by such subsidies as it may deem expedient."

I take the line to be at the point where title to the money vests in the United States. If the construction which I feel forced to give to this treaty is a sound one, we are not at liberty to produce the result of a subsidy to American ships by relieving them of tolls which we impose upon other ships. We are not at liberty to produce the effect of a subsidy in that way; but the instant that the money paid for tolls becomes the property of the United States, becomes a part of the general fund of the United States, the United States has absolute and uncontrollable authority in the disposition of that money. All lawyers are familiar with the distinction between accomplishing an unlawful object in a lawful way and accomplishing a lawful object in an unlawful way. To subsidize American ships is lawful. However we may differ about the policy, we have the power; we have the right; but if the construction I give to this treaty is the correct one, we have excluded ourselves by solemn covenant from accomplishing that lawful result in this particular way; and if it be true that we have excluded ourselves from doing it in this particular way, it is no answer to say the same result could be accomplished in another way. In my view it is no concern of ours why Great Britain chooses to insist upon our keeping the covenant and not to produce the effect of a subsidy in that particular way. If this construction of the treaty is right, she has a right to say, "You shall not do that thing in that way"; and if we made the covenant, it is none of our affairs why she chooses to say it.

Mr. LIPPITT. In his statement of this particular aspect of the matter the Senator from New York said, in the first place, in regard to the right of the United States to subsidize its own ships—

That is as clear and as unquestionable as its right to appropriate money to put up a public building in the city of Washington.

He goes on to say that it does not rest upon our own assertion, but that Sir Edward Grey, the Secretary of State for Foreign Affairs of Great Britain, has acknowledged that right in a clause which he quotes. He then says that the point of difference between exemption and subsidy is as follows:

I take the line to be at the point where title to the money vests in the United States. If the construction which I feel forced to give to this treaty is a sound one, we are not at liberty to produce the result of a subsidy to American ships by relieving them of tolls which we impose upon other ships. We are not at liberty to produce the effect of a subsidy in that way; but the instant that the money paid for tolls becomes the property of the United States, becomes a part of the general fund of the United States, the United States has absolute and uncontrollable authority in the disposition of that money.

The practical effect of that statement of the case, as I understand it, is that we must collect the toll from a vessel owned by an American citizen passing through the canal, but that we can, if we choose, pay it back to that vessel at any time after it comes into our possession. I suppose the situation the distinguished Senator had in his mind was that perhaps we would collect a toll at one end of the canal upon the entrance of a vessel and that we would pay it back to that vessel as it left the canal at the other end. But, Mr. President, if we have the right, having collected that money, to pay it back when the vessel leaves the canal, we have an equal right to pay it back in the middle of the canal or we have an equal right to pay it back the instant it has been received.

We would then have this situation: In order to conform to a mere technical situation upon a coastwise vessel of the United States entering the canal its master would hand to the representative of the United States Government a package conaining the amount of money necessary for the toll, receive a receipt for it, and the United States officer would immediately hand that same money back to the captain of the vessel and receive his receipt for the payment.

It seems to me that reduces the matter to an absurdity. Certainly the nations of the world could not demand that we should go through any such entirely useless form as this. It accomplishes no useful object. It is of no benefit to the commerce of any other nation using the canal. Nevertheless, if we have the right of returning this money at any time we like, undoubtedly that is the situation that would exist. Moreover, we must have the right to some such procedure to be on equal terms with the position other nations may take in regard to subsidies.

Canada, for instance, may have a great interest in paying the tolls of Canadian ships using the canal. If she should do it and we did not, she might attract a very considerable commerce from the United States; and if she subsidized, doubtless she would do it in the simplest and easiest form. The easiest form, perhaps, would be for her to have a fiscal agent at each end of the canal. Upon the arrival of one of her ships whose tonnage was known, her agent could simply hand to the representative of the American Government the money necessary to pay the tolls, and the captain, perhaps, might not even have to come ashore at all.

Mr. President, though it has been asserted that to conform to the treaty, this red tape has to be gone through with, so far as commercial vessels are concerned, the futility of it is admitted as applied to other classes of ships. The Senator from North Dakota [Mr. MCCUMBER] takes that view of it. He says:

It was not necessary to specifically exempt our war vessels, even though both countries knew that the spirit of the agreement would not be abrogated by allowing our own war vessels to pass without tolls, because the payment of tolls would be but idle ceremony, the taking of money from one pocket and putting it into another, so that no intelligent nation could make complaint that we did not make the actual transfer from one pocket to the other.

Mr. President, if it would be simply an idle ceremony in the case of our war vessels—and I thoroughly agree with that

statement of the case—it would be no less an idle ceremony in the case of our vessels of commerce. I can see no reason why a form that is the same in all its points is needless in the case of one class of our vessels, but is absolutely necessary in order to protect our agreement in the case of other vessels. So I think if we have the right to subsidize we have the right to exempt, provided, of course, we take the exempted tonnage into account in fixing the rate of tolls. We can not so arrange the matter that unexempted vessels would pay an additional rate because of the exemption.

But the mere fact that we have the right to do one thing or another is not in itself a reason for exercising that right. Our decision as to the course we should take on this question must be governed by other considerations than the mere fact that we have the right to exempt. I find one of those considerations in the situation in which this matter has been put by President Wilson in his very brief message of March 5, 1914, on this subject. He uses this language:

> In my own judgment, very fully considered and maturely formed, that exemption constitutes a mistaken economic policy from every point of view.

If he had stopped there, I should probably have complied with his request; for I, too, believe it is a mistaken economic policy. When this matter was before the Senate at the time of the passage of the Panama Canal act I was not in favor of exempting our coastwise ships, or any of our ships, from the payment of canal tolls. I did not vote upon the question, because I was paired at the time with a Senator who favored exemption; but if I had had an opportunity to vote upon it I should have voted against the exemption. As a matter of economic policy I believe now that it is not wise to exempt our ships. It does not, however, seem to me that for the present, anyway, it is a very important matter from the standpoint of our domestic economy. The amount of tolls, if paid, is estimated at about $1,250,000, and that is not enough to have any great effect on our commerce either way.

But the President of the United States goes on to say, referring to the exemption:

> And is, moreover, in plain contravention of the treaty with Great Britain concerning the canal concluded on November 18, 1901.

It seems to me, Mr. President, that if we pass this bill there is no possibility that it will be viewed by the people of the world otherwise than as an agreement with that position of the President. Whatever view one Senator or another may have with regard to the reasons which may induce him to vote for this bill, whether based on treaty rights or domestic considerations, I thoroughly believe that in spite of any amendments we may make to the resolution that fall short of a plain declaration asserting our right to exempt our vessels from tolls the views of the other nations of the world would be that we have waived that right.

In addition to that this tolls question involves several other considerations. Great Britain, in her communications on this matter, has not confined her remarks entirely to this one question of the exemption of our coastwise vessels. She makes several other assertions in her communications to us.

She takes exception to our exempting from tolls the vessels of Panama, as we have done by treaty. She also apparently takes the view that the use of the canal by our naval vessels must be taken into consideration in fixing the rate of tolls. She makes a further statement in connection with the rate of tolls that would be allowable for us to charge that I think ought not to be left out of sight in the consideration of this question. I refer particularly to the claim she makes that in fixing just and equitable tolls we can take into account only the interest, the maintenance, and the operation of the canal.

I have not heard any mention made in this debate of that particular phase of the question, but it seems to me it is one of great importance. Interest, in the ordinary acceptation of the term, does not include profit. It means simply the amount of income that is received from bonds and securities of that kind. It does not seem to me that the United States, in fixing the basis for its tolls, is in the slightest degree limited to the mere question of the amount of interest that may be necessary to pay the yearly cost of our bond issue. In the case of the Suez Canal, which is largely owned by Great Britain—she does not quite own a majority of the shares, but comes very close to it—the tolls are fixed at a rate that for the year 1911 paid a profit of 33 per cent to the owners of that great engineering work, and for many years prior to that time the tolls had amounted to rates which paid a profit running all the way from 20 to 30 per cent.

It seems to me, therefore, that all these questions, and perhaps others, will be involved in a settlement of this matter, and that before we commit ourselves to the abandonment of any rights which we may have in regard to the canal the only proper way, the only businesslike way to proceed, is to so act that all the questions will be considered at the same time and adjusted in accordance with some common principle. It seems to me that it might very reasonably be done in the ordinary course of diplomatic conference; but if that is not possible or not successful, the former Secretary of State, Mr. Knox, proposed that there should be a commission which should take the matter under consideration, to the end that the questions of fact might be settled and the issues might be clearly defined, and he refers to the fact that a provision for such purposes had been suggested in the proposed arbitration treaty with Great Britain.

If that is not a satisfactory method, then, by all means, we should refer the question to arbitration; but when we refer it to arbitration it should be not simply the one question of the payment of coastwise tolls, but all the questions involved in our relations with the other nations of the world that have so far arisen in the discussion of this subject.

It seems to me that is the businesslike way to handle it; that is the way that will lead to the least confusion in the future; and that is the only way that will avoid our being liable in the future to be placed in a very perplexing and difficult situation.

Mr. TILLMAN. Mr. President, in considering this question of tolls there are many aspects, some of them startling and almost ludicrous. The Democratic platform declares "we favor exemption from tolls of American ships," and so forth. This is plain, explicit, and easily understood. The act "for opening, maintenance, protection, and operation of the Panama Canal and sanitation and government of the Canal Zone," approved August 24, 1912, has this provision:

> No tolls shall be levied upon ships engaged in the coastwise trade of the United States.

This enactment simply makes into law what the party had demanded at Baltimore, and the Democrats who voted for it thought they were following the platform of the party. The bill we are considering repeals this provision absolutely, and the President asks us to pass it on the ground that it is a subsidy and therefore contrary to time-honored Democratic principles. He said that it "constitutes a mistaken economic policy from every point of view." The party has grown old in opposing subsidies. From its very origin it has been against such a policy. In a speech in New Jersey, which has been often quoted and thrown in our teeth, the President explained the object of this plank and indorsed it fully—not only indorsed it, but praised it for the service it would render the farmers of the country. In that same speech the President also said, "Our platform is not molasses to catch flies. It means what it says." It will be hard to make the average voter understand the contradiction and seeming betrayal of the people in not carrying out our pledges. Democratic candidates in the next election will be kept busy explaining and apologizing, which is very uncomfortable to have to do.

The plank in the platform about the merchant marine reads as follows:

> We believe in fostering, by constitutional regulation of commerce, the growth of a merchant marine, which shall develop and strengthen the commercial ties which bind us to our sister Republics of the south, but without imposing additional burdens upon the people and without bounties or subsidies from the Public Treasury.

This language, too, is plain and explicit; but to some minds why the ideas are inconsistent and destroy each other is hard to see. We alone built the canal and have spent $400,000,000 in its construction, and many people feel that our country ought to get all the benefit possible from it for its citizens. We have spent hundreds of millions on other improvements to canals, rivers, and harbors for the public welfare, and they are free to all the world. Why should we levy tolls on this one only? The canal, broadly speaking, is merely an extension of our coast line by joining the two oceans together. Why exact tolls from our citizens for passing through it, then? The only argument why American ships going through the canal should pay tolls like ships of other nations is either because of our treaty obligations or because all the people can not enjoy the benefit alike. In the very nature of things all the taxpayers in the United States can not enjoy the same privileges in regard to the canal as those owning ships do. It was a national enterprise, undertaken primarily on account of the United States Navy. The object lesson presented by the long and dangerous voyage of the *Oregon* from our western coast around Cape Horn during the Spanish-American War, only arriving just in time to participate in the Battle of Santiago, had much to do with hurrying up the construction of the canal. It required the united efforts of all the people of our country to furnish the money to carry this gigantic work to a success. But for its national importance it would not have been undertaken by this Government alone. The upkeep

of the canal will require a deal of money, to say nothing of guarding it. It will be many years before money received from tolls will come near equaling the expenses to maintain the canal and provide a sinking fund. Whether the remission of tolls would be a subsidy or not is not worth while to argue. If we remit the tolls entirely to our coastwise ships, those owning them would get the benefit of the Nation's bounty and have the enjoyment of special favors which all the people can not have. This is the policy of Republican protection, and the Democracy has declared that policy to be "robbery."

We hear much about a "shipping trust," but the most complete monopoly in the United States at this time is our coastwise trade. Not a passenger or a pound of freight can be carried from one port to another in the United States except in an American-built ship. Our navigation laws need mending as much as, indeed more than, this law which we propose to repeal; and I would gladly support an amendment to allow vessels built abroad and purchased by our citizens to obtain American registry and enter into our coastwise trade. We created the Shipping Trust by this favoritism. If our people can buy just as good ships as we can have built at home, far cheaper, why not allow them to do it? To my mind, it is absurd and outrageous not to do so. All the trusts in America owe their origin to this same cause.

The protective tariff has been the nursing mother to monopolies, and is the fruitful source of many inequalities and injustices which now exist. We ought to do away with the last vestige of it, and in order to do so we will have to make radical changes in our navigation laws. Indeed, I believe that it is the thing we ought to do at this very time. We pass resolutions and put planks in a platform about the merchant marine, but we do nothing practical.

While the American flag used to float from the mastheads of our wooden ships in all the seas of the world, we do not seem to be able to compete with foreigners in building ships of steel or in running them. In those good old days when our commerce was so flourishing, the "Yankee clipper" was famous throughout the world; but our New England friends, having found they could persuade the Congress of this country to "protect" them, immediately set about concocting schemes to rob the balance of the people for their special benefit, and we are keeping it up until this day. I am bound to believe that it is the paramount duty of the Democracy, now, while it is working upon the bad laws passed by our Republican predecessors, to take care that this one particular law shall no longer hamper and throttle our commerce. We should be able to build ships as cheaply in the United States as they are built abroad, just as we can make armor here as cheaply as they can anywhere; and why not do it? While we have revised the tariff downward in no uncertain way, and changed the law in many particulars, the policy of protection is still allowed to control in too many things. We are forever confronted with some of the deviltry which has thus grown up, giving one class of citizens favors and compelling the balance of us to pay tribute to those favorites.

The debate on this question of tolls has been very able and has been conducted in admirable spirit and temper, but the question is kaleidoscopic and more difficult to unravel than any other with which we have had to deal this session. I admire the President very much. I believe he is entirely loyal to the public welfare and to the party's interests as he understands them. His patriotism and integrity of purpose can not be doubted for one instant. Well-nigh all the people trust him, and most Democrats are learning to love him more and more. He will go down in history as one of our greatest Presidents. If he succeeds in emancipating the white people of this country from the thraldom to money and bonds, where the Republican Party has placed them, he will deserve and occupy a place alongside of Lincoln in the estimation of posterity. I have felt that as the first Democrat in half a century—real Democrat I mean, for I never regarded Cleveland as a Democrat—it is the duty of every man who claims to be a Democrat to support him in all his policies, wise or unwise. If he makes blunders, let us all make blunders and stand shoulder to shoulder and fight it out on that line and go down together. This has been my policy and desire since his inauguration.

But it does stagger my common sense, and I have been unable to understand just why he projected this fight into the party at this time. The canal will not be completed and ready for use until 1915. He could have waited until the regular session next year and then brought the issue to a test. There was every argument in favor of delay. It is of great importance to the Democratic Party to control the House of Representatives at the next election, and I believe the President should have kept quiet until that election was over. It would have been the best statesmanship as well as the best politics to have done so. Until this issue was pressed to the front the course of Democracy had been onward and upward. While the opposition was intense and bitter, it was hopeless and helpless. This is the first jolt or check it has received. I do not believe in the Machiavellian principle of politics—deception and hypocrisy—but there would have been neither displayed in remaining quiet. There was wisdom in silence and it would have been "golden." This question was not a burning issue at the time when he read his message in the House of Representatives to the joint assembly. There are so many things of more importance that the Democrats ought to do, that I must say, in my opinion, it was a great blunder on the part of the President—and I say it with all due respect—to have precipitated this fight now. The Democratic Party instead of presenting a solid, united front is split into contending factions.

While the Republicans, too, disagree on this important subject, both wings of that party—I mean the Progressives and "standpatters"—are smiling complacently at the division in the Democratic ranks. They had well-nigh given up all hope as far as the next election goes. Now they are pricking up their ears and scenting victory from afar. I have been glad to see what while Democrats are very earnest there has been no anger or bad temper shown, and I feel safe in saying that, whatever the result of this contest may be, after the vote is had a solid Democracy will move forward behind the President and try to redeem all our party pledges. It would be almost a crime for the Democracy to hesitate now and not finish cleansing the "Augean stable." We can not hope under the rules of the Senate to pass very much constructive legislation during the short session. If we lose the next House, all the reforms so necessary would have to be done between December and March. An extra session, with one branch of Congress controlled by the Republicans, would only be able to pass the appropriation bills. The Democracy should make hay while the sun shines, and I am glad to see the President pressing the anti-trust legislation so vigorously. I am sorry that he did not include rural credits in the legislative program. He will have to face much criticism on account of his failure to redeem his promise made last winter just after the passage of the banking and currency law that this would be done. The farmers are a mighty power, who are just beginning to understand what their real interests are.

The question of "What is a Democrat?" and "What is Democracy?" are being earnestly asked, for our boasts that the platform was not "molasses to catch flies" accentuates the inconsistency and apparent betrayal. Men who are perfectly honorable and loyal to the truth are explaining why they are voting to reverse their action on the tolls matter. Even the "Bull Moosers" are growing hopeful and boasting. Theodore Roosevelt, the great Advertiser, has returned from Brazil, and, true to his nature, he is "dee-lighted" to see how much the newspapers make of him. Of course those familiar with his methods know that he is furnishing a great deal of the "copy" and some of his friends are paying for this free advertising.

When David B. Hill, the great and distinguished predecessor of the Senator from New York [Mr. O'GORMAN], in opening the Democratic campaign at the Academy of Music in Brooklyn in 1885, said, "I am a Democrat," it was startling because of its simplicity and triteness, and evoked a loud outburst of laughter and applause. The cartoonists of the Republican press took it up and had much fun at his expense.

Should Senator O'GORMAN in the coming campaign address an audience on the same spot he, too, could say, "I am a Democrat," and could point to his long and distinguished services as a leader of the party in his city and State. But he would have difficulty in explaining just what a Democrat is, and would be twitted with a number of questions that can be asked about this canal matter. Some will ask why two planks so antagonistic were put in the platform and how they got there? Whose fault was it that Democracy is thus made a spectacle in the eyes of the people of the country? The Senator from Montana, who acted as secretary to the subcommittee which finally drafted the platform into words, has told us all about the discussions in that committee and how this plank came to be there. The President himself told me frankly that when he made his speech in New Jersey explaining and praising this plank he did not know its real meaning and that he had never studied its full effects. And I am bound to believe Mr. Bryan was also napping, though he was the most alert man in the Baltimore convention that I saw there and was so agile, virile, and vigorous as to astonish his old friends as well as his enemies. We have from high authority that—

Even the worthy Homer sometimes nods.

And we must charitably suppose that both the President and his Secretary of State were caught napping—the one when the plank slipped into the Baltimore platform, the other when he made a speech praising it.

I had made up my mind, however, to vote against the repeal of this law, preferring that we should arbitrate the matter with Great Britain, if necessary, rather than be chargeable justly with bad faith in keeping a treaty. I still believe this would have been the best way out of the dilemma. The testimony is so conflicting on what the treaty really means and what are our obligations under it, and so many good men and able lawyers differ honestly in regard to it, that I thought it better to submit it to the judgment of an unbiased jury and abide the result. To me it seems that it would be better to submit to arbitration, even though we knew we should lose the case, than be made a laughingstock, as we now are. If we, as a nation, have lost caste with other nations, as is hinted rather than asserted, because of our action on this canal matter, it would certainly be less mortifying to have the other nations join with Great Britain in telling us so, than voluntarily to declare that we wanted to take advantage of England contrary to our treaty obligations, and were shamed into decency by the public opinion of the world.

Then, too, there was a peculiar condition, personal or local in its nature, which embarrassed me very much.

Senators will remember that in 1902, while Hon. John L. McLaurin was a Senator from South Carolina, he and I came to blows on the floor of this Chamber, because I had charged him with selling out to the Republicans on the Spanish treaty, which charge he denied with bitterness and called me a liar. This I promptly resented with a blow. Some of the older Senators who witnessed the scene are yet with us; but I do not propose to go into any further details. I merely mention it in order to explain why it is embarrassing for me to vote for this repeal. At the next State Democratic convention following the encounter between McLaurin and myself I urged and succeeded in having passed by the convention a provision changing the constitution and rules of the party in South Carolina so as to require each candidate for the Senate and House to subscribe to the following pledge. This is the pledge that every candidate for the House and for the Senate in South Carolina has to take to-day:

> I will support the political principles and policies of the Democratic Party during the term of office for which I may be elected, and work in accord with my Democratic associates in Congress on all party questions.

I wanted to tie his hands.

This was made for McLaurin, and everybody understood why. While his betrayal of his trust was very flagrant and fully warranted my characterization of it, it was no more clear and explicit than this question of tolls, for where will we look for "Democratic policies and principles" if not in the party platform? Where will we get plainer language than the pledge at Baltimore on this subject? There has been no caucus of Senators or Democrats to determine what is the party policy. The platform says one thing; and the President has indorsed and praised the platform and explained that very thing in a speech. No authoritative repeal or disavowal of the platform at Baltimore has been uttered by anyone, and Democrats everywhere are very much muddled. The President alone urges the repeal, because, in his judgment, it is necessary to maintain our honor as a Nation.

I would be very unhappy if McLaurin could justly charge me with prescribing physic for him which I myself am unwilling to take. Should I fail to stand by the party platform and vote for the repeal, he could justly say that I am inconsistent. I have always prided myself on my frankness and bluntness in speaking just what I believe to be true. The predicament we are now in has caused me more worry than anything that has happened in a long while.

We have just had another State convention of the Democratic Party of South Carolina, and that convention indorsed President Wilson's administration in no uncertain terms. Indeed, it went further than good taste or truth seemed to demand or allow. It said:

> Recognizing in the President the greatest moral force that has been in the White House during the past century, we heartily commend his efforts to secure a repeal of the Panama free-tolls act, a law enacted by a Republican Congress and signed by a Republican President regardless of national honor. We condemn this law as undemocratic and against the economic policy of our party and country. We believe that this law would create a shipping trust and would repeat the outrageous scandals of the building of our transcontinental railways. We demand that our Senators vote for the unqualified repeal of this act, and thus support the President in upholding Democratic principles and the honor of this Nation.

I want it distinctly understood that political considerations have not influenced me one iota, because I have five years more to serve, if I live, and I do not have to appear before my people until my time is out. I will die, I expect, before that, but I do not intend to die until I am obliged to, and my health, as you all can see, is very good and improving slowly every day.

It seems to me that this resolution is much exaggerated, and a milder and more conservative utterance would have been in better taste. Woodrow Wilson is recognized by all as a great statesman and a good man, but his best friends will not claim for him infallibility, and he has too much sense to listen to flattery. He has acknowledged to me that he had never studied that plank in the platform nor analyzed it, and was led to indorse it and praise it because the party at Baltimore had put it in our platform. He is a great exponent of Democratic principles, but even he, when reading such resolutions as our State convention passed, must remember that there have been many great Democrats in the "past century"; that Madison, Monroe, and Jackson have been Presidents during that time, to say nothing of Lincoln. Therefore I know he will agree with my criticism.

Democracy, according to my definition, is a government by the people, speaking through a majority; and as all the people can not assemble in one body at one time, they can act only through their representatives. Therefore a Democrat means a man elected by the people, who obeys the people and serves their interests honestly and equally. Equality of opportunity and equality of burden is as fundamental a principle of Democracy as local self-government or State rights.

I know the repeal of this bill is right because it is in accordance with old Democratic principles, and I am glad the party leaders have returned to the beaten paths and will stand by those principles for which our party has always stood.

This trouble about the Baltimore platform only shows the vital importance of the work done by the committee in our national conventions and the very watchful care that ought to be taken to prevent "jokers" from being incorporated in such important papers.

The delegates to the Baltimore convention from South Carolina in 1912 stood by Woodrow Wilson from first to last, and I believe the support our State gave him is largely to be credited with his triumphant nomination. Therefore, in a peculiar sense he is South Carolina's more than he is Georgia's or North Carolina's President, and our people love him.

Like the good Democrat he is, at first he fell in line and tried to explain and defend this exemption of American ships from paying tolls. He saw it in the platform and, of course, thought it was right; but the moment he analyzed it he saw the pernicious and wrong ideas it contained, and has had the courage to lead the party back to the pathway of duty to the people—a majority of the people, not favorites and those who are to be especially looked after and cared for. That is Republican doctrine, not Democratic, and I am glad that we propose to spew it out of our mouths. I shall, therefore, vote for the repeal, notwithstanding the Democratic platform.

Mr. GORE. Mr. President, the issue involved in this controversy is clear cut and unmistakable. It is not so obscure as seems to be the language of the Hay-Pauncefote treaty out of which it has arisen. It is simply this: Shall we repeal the act exempting our coastwise vessels from the payment of canal tolls? This issue, however, involves five distinct, yet related, questions: First, Is the remission of tolls equivalent to the granting of a subsidy? Second, Is the granting of a subsidy just as a matter of principle and wise as a matter of policy? Third, Is the Democracy bidden and bound by its platform to support such a subsidy? Fourth, Is the Government of the United States forbidden by treaty obligation to grant such a subsidy or discrimination? And fifth, Which is paramount—a platform promise or a treaty obligation?

Mr. President, that the remission of tolls is equivalent to a subsidy has not, indeed, been controverted. To ask that question is to answer it. No one would deny that, if the Government should first collect tolls and then return them to the shipowners, that would constitute a subsidy. The character of the transaction is not changed by the circumstance that the shipowners are allowed to retain the tolls in the first instance. The effect upon the General Treasury is the same. The effect upon the private treasury of the shipping concerns is the same. In both instances the shipowners receive and enjoy the money, and the people are taxed to supply the deficiency thus occasioned. That, sir, involves every element of subsidy.

We are not, however, left to mere speculation or to abstract reasoning upon this point. The whole matter is concluded by

the very highest authority. Former President Taft, in a speech delivered in January last, used this conclusive language:

> The idea of Congress in passing the bill and my idea in signing it was that we were thus granting a subsidy to our coastwise vessels.

No one will deny that, for once at least, former President Taft did not err. But, sir, I cite even a higher authority, an authority more commanding and more convincing. I refer to the senior Senator from the State of New Hampshire [Mr. GALLINGER]. That Senator has been the avowed apostle, he has been the acknowledged champion, of ship subsidy these many years. He has advocated such a policy certainly in season and, as some think, out of season. He was the chairman, I believe, of the Merchant Marine Commission; he prepared and submitted an elaborate report recommending that the Government of the United States subsidize its vessels engaged in foreign commerce. I do not recall that he recommended a subsidy to our coastwise vessels.

During this debate my colleague [Mr. OWEN] asked the Senator from New Hampshire if the remission of tolls was not equivalent to the granting of a subsidy, and that Senator, with his accustomed candor, answered, "It is exactly the same thing." He did not say that it was the same in effect; he did not say it was analogous to a subsidy; but he said, with perfect truth, "It is exactly the same thing." Mr. President, it is the same thing. Both are gratuities out of the Public Treasury in behalf of private enterprise.

Mr. GALLINGER. Mr. President——

The PRESIDING OFFICER (Mr. SWANSON in the chair). Does the Senator from Oklahoma yield to the Senator from New Hampshire?

Mr. GORE. I do.

Mr. GALLINGER. I believe, Mr. President, the Senator from Oklahoma quotes me accurately. I know he intends to do so, and I have every reason to believe he does.

Mr. GORE. Yes, sir.

Mr. GALLINGER. I answered the question of the Senator's colleague frankly and squarely and without equivocation or qualification, that, according to the interpretation given to subsidies by the Democratic Party, this remission of tolls is a subsidy.

The Senator from Oklahoma says that in the report submitted by the Merchant Marine Commission, of which I was chairman, no mention was made of subsidies to coastwise ships.

Mr. GORE. Mr. President, I said that I did not recall that there was.

Mr. GALLINGER. Of course, Mr. President, no mention was made of that, for the reason that our coastwise ships are protected by laws that have been on the statute books for a hundred years against competition with foreign ships. My only contention as to coastwise ships passing through the Panama Canal is that that is an American waterway, and that they have the same right of exemption from competition with foreign ships there that they have in other American waters.

The Senator from Oklahoma will recall the fact that I have heretofore suggested that we are constantly voting subsidies in bills which we are passing here from day to day that are less defensible than any subvention which we are giving our coastwise ships by the legislation of Congress. I did not mean to use that term exactly in the connection which the Senator applies it; I meant if the Democratic contention regarding subsidies was correct that this was as much a subsidy as are certain other things that we are voting from day to day, and I stand by that proposition. We are now, according to the Senator's interpretation of a subsidy, subsidizing our ships in the foreign trade. Under the provisions of the act of 1891, commonly known as the ocean-mail act, we are granting relief to our ships engaged in the over-seas trade to a certain extent beyond what they are earning by carrying our mails; but unless we gave them that relief we would not even have the few ships that we to-day have engaged in the over-seas trade. I think we have only 10 or 11 such ships altogether.

The last bill that I reported to the Senate and advocated was a bill proposing to increase the postal subvention to a small amount, so that we might keep the vessels engaged in the over-seas trade, especially those on the Pacific Ocean, which were then tied up at the docks at San Francisco rotting at their anchors, regularly on the route to the Orient and Australasia. Two or three of those vessels are now running across the Pacific, because little New Zealand is adding a subvention to the small amount of postal subvention that we are granting to those ships. If it were not that New Zealand, a colony of Great Britain, is adding something to what we are allowing the ships that are sailing across the Pacific Ocean to Australasia to-day, those ships would be tied up at the docks in San Francisco.

I thank the Senator from Oklahoma for permitting me to interrupt him to say this much.

Mr. O'GORMAN. Mr. President——

The PRESIDING OFFICER. Does the Senator from Oklahoma yield to the Senator from New York?

Mr. GORE. Certainly.

Mr. O'GORMAN. I should like to ask a question of the Senator from New Hampshire, who has given so much thought to this very important question. If the ships to which the Senator alludes and which are now aided in part by New Zealand did not have that aid and were tied up at the docks in San Francisco, what would be our postal facilities with New Zealand and that part of the world?

Mr. GALLINGER. We would be absolutely dependent on foreign ships, as we are to-day, practically, in our postal facilities with South America.

Mr. O'GORMAN. That is what I supposed.

Mr. GALLINGER. When our Government wants to transmit our official dispatches to our ambassadors in any of the capitals of South America they are sent to Europe and there transshipped. Our official correspondence goes in that way, largely because we have no adequate ships going to South America.

Mr. O'GORMAN. Does the Senator know of any other maritime nation dependent upon the foreigner as we are in this respect?

Mr. GALLINGER. Absolutely none. The President of the United States did me the honor the other day to quote almost exactly a sentence which I used in a speech I made in this Chamber two years ago, or thereabouts, in which I said that if a commercial house depended upon its rivals to deliver its goods disaster would come to the house thus dependent upon its rivals; and that is as true to-day as it was when uttered.

Mr. STONE. Mr. President, will the Senator from Oklahoma yield to me a moment?

The PRESIDING OFFICER. Does the Senator from Oklahoma yield to the Senator from Missouri?

Mr. GORE. I yield to the Senator.

Mr. STONE. Without entering into a discussion of subsidies or of the merits of the legislation referred to by the Senator from New Hampshire, granting what he calls postal subsidies to ships carrying mail between San Francisco and Australasia—passing the merits of all that by for the present, I am curious to know, after listening to what the Senator from New York has just said, whether that Senator favors a policy of ship subsidies. What he has said would seem to indicate that he does.

Mr. O'GORMAN. Mr. President, there has been no declaration of the Democratic Party at a national convention in many years that has not contained a pledge that the Democratic Party favored legislation which would tend to a revival of the merchant marine of this country. If the distinguished Senator from Missouri knows of any way in which the merchant marine of this country can be restored, except by bounties, subventions, or subsidies, I should be glad to have the benefit of his knowledge or judgment on that subject.

Mr. STONE. The Senator has not answered my question. Does the Senator from New York believe in granting subventions or subsidies to promote the maritime interests of this country?

Mr. O'GORMAN. Mr. President, I regret that I am compelled to reply that the distinguished Senator from Missouri shows no disposition to answer the question that I ventured to address to him.

Mr. JAMES. Mr. President——

Mr. STONE. Just a moment. I think our merchant marine can be resuscitated without granting subsidies. I think I could give good reasons for that faith. But, of course, Mr. President, to enter upon that and elaborate it would take considerable time, which I can not consume at this juncture and in the time of the Senator from Oklahoma. I am against subsidies; and I contend that they are not necessary to the restoration of our merchant marine. The Senator from New York must mean, if he means anything by what he has said, that he stands here as an advocate of ship subsidies.

Mr. GALLINGER. Mr. President——

The PRESIDING OFFICER. Does the Senator from Oklahoma yield to the Senator from New Hampshire?

Mr. GORE. I yield.

Mr. GALLINGER. I rather regret, Mr. President, that this discussion has been precipitated, because I am very anxious, for one, to vote on the bill that is under consideration. I will suggest to my learned friend from Missouri, however, that there is a bill now before the Committee on Commerce, of which he is a very prominent member——

Mr. STONE. I am not a member of that committee.

Mr. GALLINGER. I thought the Senator was.

Mr. STONE. I was, but I am not now.

Mr. GALLINGER. Then I will suggest to the Committee on Commerce that there is a bill before that great committee, introduced by me at an early day in the present session, proposing to increase the mail subvention under the act of 1891, known as the ocean mail act, and if the committee will report that bill out, either adversely or favorably, we can then have a discussion of this subsidy question, in which I shall be very glad to participate. The fact is that under the ocean mail act of 1891 we are now giving subvention to our ships engaged in the overseas trade, and no Democrat, so far as I know, has risen in this Chamber at any time to say that he wants to repeal that act.

Mr. O'GORMAN. Mr. President, with the permission of the Senator from Oklahoma——

The PRESIDING OFFICER. Does the Senator from Oklahoma yield to the Senator from New York?

Mr. GORE. I yield; yes, sir.

Mr. O'GORMAN. The Senator from Missouri states that there are methods by which the American marine may be resuscitated without granting subsidies. He refrains from indicating what they are, suggesting that it would occupy too much time of the Senate if he were to dwell at length upon those methods. I am in favor of any necessary legislation that will bring about a revival of the merchant marine. The flag of the United States is not seen upon any ocean in the world except the flag that is carried upon about 11 ships on the Pacific and Atlantic Oceans. Two years ago 3,000 vessels passed through the Suez Canal flying the British flag, while during that entire year but 2 ships flying the American flag passed through that canal.

Mr. GALLINGER. Mr. President, may I suggest to the Senator from New York one further object lesson? We have spent $15,000,000, or thereabouts, on the harbor of Galveston, Tex., and the waterways connected therewith; there is an enormous foreign trade going out of that port, but there is just one lone American schooner carrying the American flag out of Galveston engaged in foreign trade. What a spectacle that is, my fellow Senators!

Mr. O'GORMAN. Mr. President, I have never declared that I was in favor of granting subsidies; I am not in favor of granting subsidies as a means of restoring the merchant marine if, as stated by the distinguished Senator from Missouri, there are other ways of restoring the navigation which was once enjoyed by the United States upon the oceans of the world. If there are other ways of restoring the American merchant marine, what excuse has our party for its failure to redeem the pledges which we have made time and time again in our national platforms?

To-day the American merchant marine is prostrate. It is humiliating for an American to be compelled to confess that, although there was a time in our history when we carried in our own American bottoms 89 per cent of the products of this country, now and for years past we have been dependent upon the foreign shipowner for the carriage of our products from this country and for the carriage of our imports into this country.

Much as we declaimed for a number of years against the burdens of the Payne-Aldrich tariff act, and claimed that it imposed a tribute of $300,000,000 annually upon the American people, it is undisputed that for years we have been paying to the foreign shipowners—we, the American people—$300,000,000 annually; and no efficient effort seems to be made to change this condition and give our great country the boast and the prestige enjoyed by other nations, of having a merchant marine of our own.

Mr. JAMES. Mr. President, I should like to ask the Senator a question.

The PRESIDING OFFICER. Does the Senator from Oklahoma yield to the Senator from Kentucky?

Mr. GORE. Yes, sir.

Mr. JAMES. The Senator states that our platforms in the past have advocated a revival of the American merchant marine. Is it not true that those platforms say that, while they do advocate such a revival, it must be done without giving a subsidy or a bounty out of the Public Treasury?

Mr. O'GORMAN. That is true, Mr. President; but the distinguished Senator from Missouri states that there are ways of restoring the merchant marine without resorting to bounties, subsidies, or subventions. I hope that at some time in the near future the Senator from Missouri will explain in some detail how that can be done.

Mr. STONE. And the Senator from New York thinks there is no other way.

Mr. O'GORMAN. I have not expressed that opinion.

Mr. STONE. If the Senator has not expressed that opinion, he has not expressed any.

Mr. JAMES. Whether there are other ways or not, the Democratic Party has said in its platforms that if the only way to revive it is by a subsidy or a bounty, we are opposed to it. That is the Democratic position, as set forth in all our platforms.

Mr. GORE. Mr. President, this has been a most luminous and most interesting digression; but neither the Senator from New Hampshire nor the Senator from New York has indicated how a subsidy to our coastwise vessels passing through the Panama Canal would restore the Stars and Stripes to the high seas. I will yield to a further interruption from either Senator to volunteer that valuable information.

Mr. GALLINGER. Mr. President, I will say in reply that I have never made that contention. What I have said, and what I will now repeat, is that as our coastwise vessels are protected from competition with those of foreign nations, and they are allowed to carry goods around Cape Horn from New York to San Francisco, Portland, Oreg., Seattle, and Hawaii without any foreign competition being permitted, manifestly they have a right to pass through the American waterway known as the Panama Canal, which shortens the distance to California, Portland, Hawaii, and Seattle. That is the only contention I have ever made. In other words, I believe the Panama Canal is exclusively an American waterway, which we have a right to administer in our own way.

Mr. GORE. I shall refer to that subject a moment later.

I share the regrets expressed by the Senator from New York and the Senator from New Hampshire as to the disappearance of the American flag from the seven seas. That flag never will be restored to its former glorious position until our antiquated navigation laws are repealed.

Mr. President, it is true that other nations subsidize their vessels engaged in foreign commerce. It is true that other nations tax their people to pay our freight. Against that policy I enter no protest; but I am not willing to tax the American people and subsidize our seagoing vessels in order to pay or to reduce the freight of the foreigner.

I am not aware that any nation grants a subsidy to the vessels engaged exclusively in its coastwise commerce. As far as I know, this is a new subsidy under the sun.

I do not intend, however, to embark upon a general discussion of the subject of ship subsidies. That grain and that chaff have been winnowed often in the Senate. Both the subject and the Senate have been exhausted time and time again "with vain repetition." I come immediately to the question before us: Shall we grant this subsidy to our coastwise vessels passing through the Panama Canal?

It is estimated that the cost of maintenance, operation, and interest charges in connection with the Panama Canal will aggregate some fifteen and a quarter million dollars yearly. It is also estimated that the tolls paid by our coastwise commerce would amount to $1,200,000. Now, sir, the question is, Shall the people pay this $1,200,000, or shall the shipowners who use the canal pay this $1,200,000?

Mr. O'GORMAN. Mr. President——

The PRESIDING OFFICER. Does the Senator from Oklahoma yield to the Senator from New York?

Mr. GORE. I yield.

Mr. O'GORMAN. The estimate that the coastwise vessels passing through the canal would pay $1,200,000 a year by way of tolls was based upon the number of vessels engaged in our coastwise trade before the passage of the Panama Canal act, in August, 1912.

Mr. GORE. Mr. President, the amount is really immaterial. The principle is the vital point.

Mr. O'GORMAN. With the permission of the Senator from Oklahoma, I should like to occupy just a moment longer.

Mr. GORE. I yield.

Mr. O'GORMAN. By the act passed in August, 1912, all railroad-controlled and all trust-controlled vessels in the coastwise trade were excluded from the use of the canal; and it has been estimated by a committee of the House that the ships thus excluded represent 92 per cent of all the vessels engaged in the coastwise trade of this country. Out of the remaining 8 per cent which would be permitted to use the Panama Canal, it is estimated by the Commissioner of Navigation, Mr. Chamberlain, that there are but 33 American ships in the coastwise trade of the United States that can make use of the Panama Canal, and the probable amount paid in the course of a year by 33 ships using the Panama Canal if tolls were charged would not exceed $250,000 or $300,000.

Under the method that is approved and sanctioned by those who support the repeal there would be a deficit each year of

$17,000,000 borne by the taxpayers of the United States, and the ships of Great Britain, representing one-half of all the navigation of the world, will have the benefit of one-half of that deficit, which will be $8,500,000.

No complaint is made of that princely benefaction which the American Treasury is offering for the benefit of British shipping, yet in this body there are voices raised in protest against the suggestion that in order to promote and encourage our own American shipping it is proper to allow it to have in an indirect way the benefit of $250,000 or $300,000 in a year.

Mr. GALLINGER. Mr. President, will the Senator permit me to say a word at this point?

The PRESIDING OFFICER. Does the Senator from Oklahoma yield to the Senator from New Hampshire?

Mr. GORE. Yes, sir.

Mr. GALLINGER. I do not agree with the figures given by the Senator from New York. I discussed that matter in some observations I made a few days ago, and I shall not repeat them in detail now. The estimate of 92 per cent, made by the chairman of the House Committee on the Merchant Marine and Fisheries, referred only to the regular lines of steamers. Suppose, however, half a million dollars would cover the annual loss because of the exemption from tolls of our coastwise ships, which is quite probable, if my mathematics are at all correct that would be a tax of half a cent on every man, woman, and child in the United States—a very small subsidy as compared to the subsidies that we voted in the Agricultural appropriation bill, of which the distinguished Senator from Oklahoma had charge.

Mr. GORE. Mr. President, if the Senator from New York is correct in the assertion that the tolls would aggregate $200,000 instead of $1,200,000 yearly, then, sir, the more is the shame that we should barter our principles and surrender our convictions for such a miserable mess of pottage as that.

Without reference to the amount, whether it be $1,200,000 or $200,000, this is the question: Shall we exempt the people and tax the ships or shall we exempt the ships and tax the people to maintain this canal?

That, sir, is the question. For my part, I cast my choice with the people. I would not consent to remit these tolls if I knew that the benefits of such a remission would be shared equally by the producers and the consumers using the canal. I would not consent to the remission of these tolls if I knew that the benefits would be transferred to the producer in the form of higher prices upon what he sells, or transferred to the consumer in the form of lower prices upon what he buys. Why tax the American people in order to lavish this favor upon any class of consumers or any class of producers merely because their goods chance to pass through this canal?

Mr. WALSH. Mr. President——

The PRESIDING OFFICER. Does the Senator from Oklahoma yield to the Senator from Montana?

Mr. GORE. I yield.

Mr. WALSH. I am constrained to inquire of the Senator from Oklahoma what policy he would advocate with reference to the Soo Canal or the Erie Canal?

Mr. GORE. Mr. President, I do not intend to detour at this time through either one of those canals. I am addressing myself now to this particular subsidy, which, unfortunately, has the support of the distinguished Senator from Montana, for whom I entertain the highest admiration.

I do not believe the benefits of this exemption would be shared in any measure either by the producers or by the consumers of this country. Those benefits would be absorbed by our coastwise shipping monopoly, which already has been loaded down with favors at the hands of the National Government. Water transportation is so cheap in its nature that the coastwise vessels could underbid the transcontinental railroads for the competitive traffic.

It is true, as the Senator from New Hampshire asserted, that our coastwise vessels to-day enjoy exclusive privileges. They constitute an absolute, a universal, an ironclad, and an airtight monopoly. Many people do not know how absolute this monopoly is. Many American citizens do not know that no foreign vessel can engage in our coastwise commerce. Many do not know that the proudest English ship that sails the sea can not receive a bale of cotton at Galveston and deliver that bale of cotton at New York. That is reserved for our favorite coastwise shipping. Many people do not know that no ship flying the German flag can take on a bolt of calico at Boston and "deliver the goods" at New Orleans. That, sir, is reserved to the coastwise monopoly, a legalized monopoly, a statutory trust, and the violation of its privileges is a crime under the laws of the land.

Mr. REED. Mr. President——

The PRESIDING OFFICER. Does the Senator from Oklahoma yield to the Senator from Missouri?

Mr. GORE. I yield.

Mr. REED. The Senator is on a theme that touches me very closely, because I have introduced an amendment opening the coastwise business of the United States to the ships of all nations. In view of the fact that the present coastwise business is so thoroughly monopolized, as the Senator describes, I wish to ask him if he will not give his support in helping to break that monopoly?

Mr. GORE. Mr. President, I never differ from the Senator from Missouri when the Senator is right, and the Senator is nearly always right.

Mr. GALLINGER. Mr. President——

Mr. GORE. When I differ from him I suspect the correctness of my own views and my own position. In this instance I do not differ. I think that every ship that sails the seas ought to be allowed to receive cargoes at New York and discharge them at San Francisco. Then the monopoly will be undone and coastwise freight rates will be reasonable. I would not do so overnight. I think the change should be gradual, so as to avoid needless dislocation and allow time for readjustment.

Mr. GALLINGER. Mr. President——

The PRESIDING OFFICER. Does the Senator from Oklahoma yield to the Senator from New Hampshire?

Mr. GORE. I yield.

Mr. GALLINGER. Does not the Senator think if we put our coastwise vessels in competition with foreign vessels that the coastwise industry would share the same fate that has come to our over-seas shipping?

Mr. GORE. Mr. President, that is exactly the reason why I suggested the limitation in answering the Senator from Missouri.

Mr. GALLINGER. If the Senator will permit me one further word, I did not quite understand what the Senator from Missouri said. Did he say that he had offered an amendment to some bill touching the repeal of our coastwise legislation?

Mr. REED. I offered an amendment to this bill March 28.

Mr. GALLINGER. Then we will have an opportunity to vote on that question, I apprehend.

Mr. REED. I hope you will.

Mr. GALLINGER. So do I. I was about to say to the Senator from Oklahoma that, holding the view he does, I have wondered that he or some other good Democrat did not offer a provision repealing the coastwise laws of the United States, which have been on the statute books for a century. No such bill has been introduced during my service, and I was wondering why it was not done. The Senator from Missouri now states that he has offered an amendment which will accomplish that purpose if agreed to. So we will get a vote on the proposition, and I am glad of it, the result of which, I feel sure, will not be what the Senator from Missouri desires.

Mr. GORE. Mr. President, the Government has not only invested our coastwise ships with monopolistic power, but it has permitted the abuse of that power.

Compare the freight rates between our coastwise vessels and vessels that are obliged to meet the competition of the world.

Bagging from New York to New Orleans is 35 cents a hundred; from Liverpool to New Orleans, 17½ cents a hundred. The rate on wire and on cotton ties from New York to New Orleans is 35 cents; from Liverpool to New Orleans, 13½ cents a hundred. The distance from Liverpool to New Orleans is three times as great as from New York to New Orleans, yet the coastwise rate is three times as much as the foreign rate.

Sir, that is not all. Take the rate on plows. From New York to Wilmington, a distance of 550 miles, the rate is 15 cents a hundred pounds; to New Orleans, 35 cents a hundred; to Argentine ports, 6,000 miles away, 49½ cents a hundred; to Cape Town, in South Africa, 42 cents a hundred; and to Shanghai, 12,500 miles away, 58 cents a hundred.

Compare the rate on dry goods. From New York to Wilmington, 550 miles, 50 cents a hundred; to New Orleans, 1,700 miles, 70 cents a hundred; to Shanghai, 12,500 miles away, 60 cents a hundred. Shanghai is twenty times as far from New York as Wilmington, yet the rate is only 10 cents a hundred more, and it is 10 cents less a hundred to Shanghai than to New Orleans.

Mr. President, of course competitive conditions affect these rates in some measure, but they do not justify and they do not account for this enormous disparity.

Now, the Congress of the United States is asked to confer an additional subsidy on this favored monopoly at the expense of the overburdened taxpayers.

Mr. O'GORMAN and Mr. WEEKS addressed the Chair.

The PRESIDING OFFICER. Does the Senator from Oklahoma yield, and to whom?

Mr. GORE. I yield to either Senator.

Mr. O'GORMAN. I simply want to ask the Senator from Oklahoma if he is not aware that the coastwise shipping to which he has just been referring is coastwise shipping controlled by the railroads and by the trusts in the aggregate of 92 per cent of all the American coastwise shipping, and the remainder will be the shipping that under the statute of 1912 may use the canal?

Mr. GORE. The Senator from New York is in error as to his figures. The figures which the Senator cites relate to the line tonnage of the United States, and aggregate, I believe, something like a million tons, whereas the total coastwise tonnage of the United States, including the tramp ships, is six millions. The Senator from New Hampshire may correct me.

Mr. O'GORMAN. I presume the best-informed public official on the *subject*——

Mr. GORE. Is the Senator from New Hampshire [Mr. GALLINGER], and I refer the Senator from New York to him.

Mr. O'GORMAN. On the subject to which the Senator is addressing himself is the Commissioner of Navigation, Mr. Chamberlain, and it is his evidence given before our committee that I have been substantially quoting in the remark I addressed a moment ago to the Senator from Oklahoma. I reiterate that of the twenty-five or twenty-seven thousand ships of all classes embraced in the coastwise trade of the United States, 92 per cent of them are owned or controlled by the railroads and by corporations operated in defiance of the antitrust law, and are excluded from the use of the canal whether they pay tolls or not, by the act of 1912; and of the 8 per cent of the coastwise ships that may use the canal, the Commissioner of Navigation, Mr. Chamberlain, states that they aggregate but 33 which are suitable for use through the canal.

Mr. GORE. The last phrase the Senator uses modifies his remark. I think possibly the Senator from New Hampshire has the statistics at his desk as to the line companies; that is, the railway vessels and the consolidated shipping companies' vessels. There are many vessels belonging to other concerns.

Mr. GALLINGER. Mr. President——

The PRESIDING OFFICER. Does the Senator from Oklahoma yield to the Senator from New Hampshire?

Mr. GORE. I do.

Mr. GALLINGER. The statistics that I have collated, and I have taken great pains to have them accurate, show that there are only 330 steamers, of 808,741 gross tons, which are engaged in the regular line service.

Mr. GORE. That is true.

Mr. GALLINGER. This is only about one-eighth of the entire number of coastwise ships. Of all kinds, sail and otherwise, there are 27,070 vessels of 7,886,578 gross tons which were enrolled licensed vessels engaged in the coastwise trade; so the 330 vessels of 808,000 tons in the regular line service are only, as I have said, one-eighth of the entire fleet of coastwise vessels, including tramp steamers and sailing vessels, which are very small affairs as compared to the 330 vessels that are described as being engaged in the regular line service. But however that may be, the Senator is contending against the principle of exempting any of them on the ground that it is a subsidy; and, of course, it makes very little difference whether the number is large or small from the Senator's point of view.

Mr. WEEKS. Mr. President——

The PRESIDING OFFICER. Does the Senator from Oklahoma yield to the Senator from Massachusetts?

Mr. GORE. I yield.

Mr. WEEKS. I wish to call the attention of the Senator from Oklahoma to the fact that the rates made for ocean traffic are constantly changing.

Mr. GORE. That is true.

Mr. WEEKS. It is impossible to say that the rate to-day will obtain to-morrow. They are intensely competitive, not only as applied to foreign traffic but coastwise traffic. There are in every port of the United States tramp steamers at all times ready to take freight to any point at a competitive rate. I think if the Senator will examine the statistics, he will find that the coastwise shipping of the United States as a whole is not a highly remunerative industry under the conditions which obtain.

Mr. GORE. Mr. President, I suggested that competitive conditions had more or less influence upon foreign rates, but that those conditions did not entirely account for this wide and inexcusable disparity of rates.

I may say before passing that the Senator from New York seems to discuss the number of vessels with a great deal more alacrity than he does those comparative freight rates. I will add here that every man knows that the vessels, the forbidden vessels now owned by railroads, will soon pass into other hands when this canal is opend up to commerce. The temptations, the advantages, and the inducements will be so great that the railroads will be obliged to sell them. These will recruit the number of vessels which can avail themselves of this great highway even at the rate of 3 cents a hundred po nds, which is the toll proposed by the President on foreign vessels.

Mr. President, the opponents of the pending measure reached the very summit of their indignation, patriotism, and defiance when they hurled this gauge at our feet: Have we not expended $400,000,000, they say, to construct this canal, and can we not then exempt our own vessels from the payment of tolls?

As a matter of course, the Government of the United States will not pay tolls upon the vessels belonging to the Government. But, Mr. President, it is true that we have taxed the American people $400,000,000 to construct this canal. Shall we now tax the American people millions of dollars every year in order to maintain the canal for the use and enjoyment of a legalized monopoly? Is it not enough to tax the people $400,000,000 to construct this great highway? Can not the beneficiaries afford to pay for maintenance and operation. Shipowners and Senators who complain that the American people ought to be taxed to maintain this great highway after having been taxed $400,000,000 to construct it are a good deal like the woman who borrowed her neighbor's bonnet and then complained because it did not suit her complexion.

Mr. GALLINGER. Mr. President——

The PRESIDING OFFICER. Does the Senator from Oklahoma yield to the Senator from New Hampshire?

Mr. GORE. I yield.

Mr. GALLINGER. The Senator, I assume, is of opinion that even if the coastwise ships pay tolls there will be a deficit in the operation of the canal.

Mr. GORE. That may be true for a time. I say "true," but I do not wish to express an opinion. I do not know.

Mr. GALLINGER. It is estimated, as I remember it, that there will be a deficit something like $12,000,000 annually. If we admit all nations to the free use of that canal on the same terms as the country that built it at an expenditure of $400,000,000, does not the Senator think that those other nations ought to help pay that deficit in some way?

Mr. GORE. I think no one has suggested the remission of the tolls to ships belonging to other nations or to citizens and subjects of other countries. I certainly have made no suggestion of that kind.

Mr. GALLINGER. No; the Senator did not. I think the Senator did not, perhaps, catch my interrogatory accurately. I repeat that if after spending $400,000,000 on that great waterway we open it to the nations of the world on terms of absolute equality with ourselves, and there is a large deficit, does the Senator think that the nation that built the canal out of taxes collected from the people ought to be called upon to make good that entire deficit, while the other nations, enjoying the privileges and benefits of the canal, pay nothing?

Mr. GORE. It may be true that those in *authority* in 1900 and 1901 drove a bad bargain when they negotiated and ratified the Hay-Pauncefote treaty. I do not undertake to pronounce judgment upon that point at this time. The question now is not whether the Hay-Pauncefote treaty was wise or whether it was the best possible treaty. My only contention is that it is the treaty, and it ought to be observed both in letter and in spirit. I doubt not that when the canal becomes a going concern the tolls will equal the cost of maintenance, operation, and interest charges. I hope the receipts may ultimately amortize the debt and return to the Treasury the $400,000,000, that can be applied to other useful and beneficent improvements.

Mr. GALLINGER. Mr. President, I read the other day that there had been slight earthquake shocks felt on the Canal Zone, which is in the earthquake zone. Suppose the Panama Canal was destroyed by an earthquake, I apprehend the Government of the United States would be called upon to rebuild it, would it not?

Mr. GORE. I assume so.

Mr. GALLINGER. That is reasonable to suppose.

Mr. GORE. Yes, sir; I think no other assumption is possible. We could hardly consent to take up a collection.

Mr. GALLINGER. Yet we give all other nations equal rights with us in the canal, on which we have spent $400,000,000, and if the canal should be destroyed we would be called upon to expend $400,000,000 more to rebuild it, and then we would give all other nations equal rights with ourselves in its use. That is the most extraordinary specimen of eleemosynary legislation that I ever heard of.

Mr. GORE. That promise is set down in the bond, and we have no discretion now to treat it lightly.

It was some years ago when the decision was made against a sea-level canal. I entertained apprehension at that time that some extraordinary catastrophe, such as suggested by the Senator, might one day dismantle the canal and necessitate its reconstruction.

Congress recently appropriated $35,000,000 to construct a railroad in Alaska. Do Senators on the other side think that this railway, constructed at public expense, should be open to all American railroad companies free of tolls? Is there any reason which would justify the passage of a ship through the canal without charge that would not justify the passage of a locomotive and train over this railroad without charge?

Mr. President, is the Democratic Party bound by its platform to grant this subsidy to our coastwise vessels? It is true that the Baltimore platform contained a plank declaring that coastwise vessels shall be allowed to pass through the canal without the payment of tolls. The promise is explicit. The promise is unequivocal. The promise is not shrouded with mist and fog. The promise is as luminous as a desert sun at noontide. Indeed, sir, the promise is as clear and as unmistakable as the language of the Hay-Pauncefote treaty.

Mr. President, we did make the promise. Shall we now break the promise? That is the point. I have been among those who have attached the greatest weight, and I may say the greatest sanctity, to platform pledges. I regard a platform as a covenant between the party making it and the people approving it. Yet I have never gone so far as some. I have never hedged a convention about with any sort of divinity. The doctrine that a convention can do no wrong is as dangerous as is the doctrine that a king can do no wrong. This instance demonstrates the danger of such a dogma.

Mr. President, I am impelled by reasons I believe to be just and justifiable not to keep the pledge. I assume the responsibility; I accept the consequences; yet those who are disposed to do so can plead extenuating circumstances in their behalf. The platform contained a pledge that coastwise vessels should be allowed to make the transit through the canal untaxed. Democratic Senators who vote against repeal undoubtedly have in that plank a plea that will be accepted in the court of public opinion. But, Mr. President, Democrats who vote for repeal, Democrats who vote against the continuance of this subsidy, will find another plank in this platform which sustains and which justifies their course of conduct. The Democratic platform contains a clear-cut and explicit declaration against the granting of ship subsidies. That is the ancient, the accepted, the immemorial faith of Democracy. The Democratic platform of 1904 fulminated a denunciation against ship subsidies; the Democratic platform of 1900 announced the faith of the fathers, a declaration against the granting of bounties and subsidies to American shipping. That, sir, is the traditional doctrine of the Democratic Party, and upon that doctrine stand those Senators who cast their vote for the pending bill.

Mr. President, there have always been two schools of thought in the United States touching protective duties, touching the granting of favors, bounties, subsidies, and privileges. The Republican Party has uniformly maintained that principle. The Democratic Party has uniformly stood out in favor of the principle of justice and equality and against the policy of privileges and of subsidies. That the heart of Democracy is still true to the faith is abundantly proven to-day. The vote in the other House in favor of repeal, the vote in the other House against this subsidy, was at the ratio of 4 to 1 amongst the Democrats. The heart of Democracy is still true to the principles of justice. The vote in this Chamber, I doubt not, amongst the Democrats, will be in the ratio of 4 to 1. The heart of Democracy still beats in sympathy with the unprivileged masses in an unequal contest with the privileged classes. This fact is proven by the circumstance that 713 delegates to the Baltimore convention have signified their support of the pending bill, and only 126 of those delegates have signified their opposition to the pending bill. This ratio is 5 to 1. Counting all who were silent as adverse, the vote of the delegates would be in the ratio of 2 to 1 in behalf of the traditional principles of the Democratic faith. I base these statements on a poll of the delegates which I have recently made. This, I say, proves their continued devotion to these accepted and recognized standards of justice and equality.

Democrats who desire to do so can plead the doctrine of ultra vires that the convention exceeded its powers. Could a Republican convention by declaring in favor of free trade and tariff for revenue only bind its membership to that principle? Would such a declaration bind the conscience and the conduct of lifelong Republicans who were devoted to the policy of protection? Sir, I mean no disrespect, but could a conference of the Methodist Church, could a convention of the Baptist or Christian Church, could a council of the Catholic Church renounce and adjure the Apostles' Creed and commit its membership to the philosophy of negation? Would such an attempt be binding either upon the conscience or the conduct of a Christian congregation? Could a Democratic convention by declaring in favor of a protective tariff bind its membership to that Republican fallacy? Can you thus convert the apostles of equal justice into the champions of special favors?

Mr. President, to the Democracy the upas tree of privilege is the tree of death, not the tree of life. Its deadly fruit is the forbidden fruit. I must say that I marveled when I discovered that this cuckoo egg of subsidy was in the Democratic nest of equality. I must beware when I see this Republican horse freighted with destruction introduced into the citadel of Democracy.

Mr. President, there is still another reason justifying Democratic Senators in withholding their support from this plank of the Baltimore platform. Whatever may be said of the platform pledge, of its solemnity, and of its binding effect upon individual Democrats, in so far as the British Government is concerned, it was an ex parte proceeding.

The Government of the United States is bidden, it is bound by solemn treaty obligations, to equal treatment and to equal tolls as among all the nations of the earth in respect to the Panama Canal. Mr. President, let it be remembered here that the Clayton-Bulwer treaty was entered into upon the initiative of the United States, and not upon that of Great Britain. In 1850 Great Britain maintained a protectorate over the strip of territory including the mouth of the San Juan River in Nicaragua. That point was regarded as indispensable to the construction of an interoceanic canal. The seizure of Tiger Island that year precipitated a crisis in the international relations between the United States and the Government of Great Britain. Out of that crisis came the Clayton-Bulwer treaty. It composed all the differences then existing between the two Governments.

It can not be denied that article 8 of the Clayton-Bulwer treaty embodies the principle of neutrality and the principle of equality. It provides that the canal shall be open to the citizens and subjects of the United States and Great Britain on equal terms. No one will deny that if the canal had been constructed under the Clayton-Bulwer treaty it would have been impossible for the United States to have discriminated in favor of its coastwise shipping.

It must also be remembered that the Hay-Pauncefote treaty was entered into not upon the initiative of Great Britain, but upon the motion of the United States. During the course of that correspondence Lord Lansdowne declared that Great Britain had no desire to secure a modification of the Clayton-Bulwer treaty. The principle of neutralization embodied in the eighth article of that treaty was imported into and made a part of the Hay-Pauncefote treaty.

Now, Mr. President, what is the controverted language in the Hay-Pauncefote convention? It is this:

> The canal shall be free and open to the vessels of commerce and of war of all nations observing these rules on terms of entire equality, so that there shall be no discrimination against any such nation or its citizens or subjects in respect of the conditions or charges of traffic or otherwise. Such conditions and charges of traffic shall be just and equitable.

Mr. President, what is the historic background in accordance with which that language must be interpreted? A long and illustrious line of Secretaries of State, from Henry Clay to John Hay, have given expression to the traditional policy of this Government. As far back as 1825 Henry Clay, then Secretary of State, declared that the benefits of a trans-Isthmian canal "ought not be exclusively appropriated to any one nation."

Secretary of State Clayton, who assisted in the negotiation of the treaty bearing his name, entertained the view that the canal should be as open as the high seas.

President Taylor, Chief Executive when the Clayton-Bulwer treaty was negotiated, declared in a message to Congress that the canal "ought to be dedicated to the common use of mankind."

That, sir, was before the spirit of monopoly was so rampant in this Republic.

Mr. Cleveland declared that the proposed canal had been consecrated to the common use of mankind.

John Hay subscribed to the principle of neutralization and equality.

Mr. President, the best review of our traditional policy of neutrality and equality is contained in the Republican campaign book for the year 1900. It reviews the language of these distinguished statesmen, these distinguished Secretaries of State; it demonstrates why the principle of equality could not have been abrogated in the first Hay-Pauncefote treaty, then pending before the Senate. It is elaborate; it is comprehensive; it

is illuminating; it characterizes the position of the Democratic Party at that time as born either of ignorance or of willful disregard for our solemn contractual relations. In regard to the principle of neutralization it uses this powerful language:

This has been the uniform and unchanging policy of the Government of the United States from the very beginning. It has never had any other thought or purpose than to open this interoceanic waterway to the use of all nations upon equal terms.

"To the use of all nations upon equal terms." The Democratic platform in 1900 characterized the Hay-Pauncefote treaty then pending as "a surrender of American rights and interests, not to be tolerated by the American people," but it did not impinge, it did not challenge the principle of neutralization or equality. The Democratic campaign book of 1900 used this clear-cut and unmistakable language:

No one can deny that an interoceanic canal should be open to all commerce on equal terms. It is beneath the dignity of the United States to discuss it with any other power in any other phase.

Nobody dreamed at that time that the United States had the power to discriminate when the treaty said there should be no discrimination.

But, Mr. President, what did the plenipotentiaries of the United States, what did the representatives of the United States in this negotiation think that they said, what did they think that they meant by the use of the language in the Hay-Pauncefote treaty? Their testimony is uniform and unvarying. Joseph Choate was at that time ambassador to the Court of St. James. He says that—

The language of the treaty excludes the possibility—

Excludes the possibility, mark that—

of any discrimination in favor of any American vessel, excepting ships of war in time of war.

Mr. President, that is tolerably clear; we at least understand what he was driving at; we understand what he thought he was saying and what he thought he meant. Mr. Henry White was for a time during the negotiations American chargé d'affaires. What does Mr. White say? He says that it was his understanding, and, as he thinks, the understanding of Lord Lansdowne, Lord Salisbury, and Lord Pauncefote, from the beginning to the end of the negotiations, that there was to be no discrimination in favor of American vessels, not even coastwise vessels. That is what Mr. White thought he said during those negotiations; that is what he thought he meant, before Senators came to enlighten him as to his real intents and purposes.

What did John Hay, then Secretary of State and a fairly good master of correct English, imagine that he was saying and meaning when he gave consent to the Hay-Pauncefote treaty? Mr. Hay was one of our most illustrious Secretaries of State and received his baptism in politics as confidential secretary to Abraham Lincoln, the greatest President between Jackson and Wilson. I shall quote Mr. Hay's exact language a little further on. Let me now analyze the mysterious, the obscure, the mystifying verbiage in the Hay-Pauncefote treaty. We begin with the first clause in the mooted article:

The canal shall be free and open to the vessels of commerce and of war of all nations observing these rules.

Mr. President, from the very threshold we are plunged into impenetrable darkness. "All nations." What can that phrase possibly mean? "All" is an obscure word. It is vague, indefinite, uncertain. It is as indefinite as space itself. Where does it end? If we only know that "all" meant "all," we should be freed from perplexity, but who will be so bold as to suggest in this presence that "all" means "all"?

There was one so audacious as to attribute to the word that definition. That was Secretary John Hay. He undertook to define it. He said, "'All' means 'all.'" He said, "The treaty was not so long that we could not have said 'all other nations' if that had been the meaning." He then adds, with presumption, "'All nations' means 'all nations.'" But who would undertake to balance the authority of John Hay, whose name this treaty bears, with the advocates of subsidy and monopoly who have now come to judgment? These great linguists and diplomatists could have put all doubt to death by simply saying "all nations and then some."

But we proceed, amid the fog and the obscurity, to the second clause:

The canal shall be free and open to the vessels of commerce and of war of all nations—

How?

on terms of entire equality.

Here our bewilderment becomes more wildering—"on terms of entire equality." If we only knew that "entire" meant "entire," our feet would rest upon an unriven rock. But, sir, who will venture such an interpretation? "On terms of entire equality." Senators say that "entire" does not mean "entire"; and who will challenge such high authority?

We proceed. Doubts peep over doubts and clouds on clouds arise.

The third clause:

The canal shall be free and open to the vessels of all nations on terms of entire equality—

Why?

So that there shall be no discrimination against any such nation, or its citizens or subjects.

Here is confusion worse confounded. Here we heap shade upon shadow. Cimmerian darkness, contrasted with this Delphian oracle, were as sunlight unto moonlight, nay, as noontide unto midnight.

So that there shall be no discrimination.

Now, they could have made it stronger than that if they had seen fit. The question immediately springs into every Senator's mind, "Does 'no discrimination' mean 'no discrimination'?" If it does, there the controversy may rest; but I am not commissioned to say that "no discrimination" means "no discrimination."

Mr. President, we must let some Daniel come to judgment; some one who can interpret the dream of the King without having heard the King's dream. Mark this bewildering confusion: "All nations," "entire equality," "no discrimination."

About, about in reel and rout,
These doubtful phrases thread the mazes of the misty dance.

From this time forth let Talleyrand's paradox be taken as a truism, that the object of language is to conceal thought.

We close our eyes and call it night;
We grope and fall in seas of light.

There are two historic incidents that shed much light upon this question and illuminate the pathway of our duty. Senator Bard, of California, offered an amendment to the first Hay-Pauncefote treaty which reserved, in express terms, the authority to exempt from the payment of tolls our coastwise vessels. That amendment was rejected by an overwhelming majority. Great Britain had a right to understand that action on the part of the Senate as a reaffirmation of our traditional policy in favor of equality of treatment and in favor of equality of tolls. Senators say, however, that the Bard amendment was rejected because it was unnecessary. Senators say that the Bard amendment, reserving the express authority to exempt from tolls, was rejected because the power was involved and implied in the terms of the treaty itself.

Sir, that was a fastidious parsimony of words which ought to warn all statesmen of the future to be exact, even at the peril of being extravagant.

Mr. KERN. Mr. President, does the Senator desire to conclude this evening?

Mr. GORE. Yes. It will not take me very long.

Great Britain rejected the first Hay-Pauncefote treaty. The prizes which it held out were not so alluring as to secure her ratification nolens volens. Can any Senator imagine that Great Britain would have ratified the second Hay-Pauncefote treaty if it had contained the Bard amendment? Does any Senator imagine that Great Britain would have ratified this treaty if she had suspected that the United States intended to depart from its traditional policy in favor of equal treatment and equal tolls?

There is another historic incident which shoots a ray of light into the blackness. In 1884 the United States negotiated a treaty with the Republic of Nicaragua. The treaty was never ratified, yet it is significant. It is known as the Frelinghuysen-Zevalla treaty. Under the terms of that treaty Nicaragua conceded to the United States the right and authority to construct a canal across her territory and to own the canal. It was to be operated under a board of management appointed by the two contracting Governments.

Mr. President, in article 14 of this treaty I find the following salient and significant language, which Senators will mark:

The tolls hereinbefore provided shall be equal as to vessels of the parties hereto and of all nations, except that vessels entirely owned and commanded by citizens of either one of the parties to this convention and engaged in its coasting trade may be favored.

This secured equality of tolls in all international commerce between the United States, Nicaragua, and all other nations, but as to our coastwise trade we expressly reserved the power to exempt those vessels from the payment of tolls. We had a treaty subsisting many years with Great Britain assuring neutrality and equality. When the Hay-Pauncefote treaty was negotiated Great Britain had before her eyes this rejected treaty between the United States and Nicaragua. Great Britain had a right to believe that if the United States intended to renounce the principle of equal treatment the United States would have

the candor and would have the courage to say so, as they did say in the Frelinghuysen-Zevalla treaty.

As if to anticipate this very discussion, as if they caught glimpses of coming events, the British negotiators suggested this article in the Hay-Pauncefote treaty:

It is agreed that no change of territorial sovereignty or of the international relations of the country or countries traversed by the beforementioned canal shall affect the general principle of neutralization or the obligation of the high contracting parties under the present treaty.

Our subsequent acquisition of the Panama Canal Zone does not relieve us from our solemn covenant to maintain entire equality of treatment to all nations observing the stipulated rules.

Mr. President, Great Britain, especially in the esteem of some Senators here, enjoys the reputation of being a pretty shrewd bargainer. What did Great Britain get under the Hay-Pauncefote treaty? What did she get in return for the concessions made by the abrogation of the Clayton-Bulwer treaty? All this labored language, all this iteration and reiteration of assurances as to equality and discrimintion comes to this, that Great Britain was simply insisting that the treaty should be so written that she never could receive at the hands of the United States any favor, any advantage, any consideration, any return for the abrogation of the Clayton-Bulwer treaty.

It would have been infinitely better for Great Britain had she merely insisted upon the insertion of the "favored-nation" clause, a proviso that the vessels of Great Britain should be as favorably treated as the vessels of the most-favored nation. That would have given her all the equality, all the guaranties against discrimination, which she enjoys under the Hay-Pauncefote treaty, and it would not have foreclosed the possibility of her receiving some favor in the future for her generosity in the abrogation of that convention. It would have left at least the opportunity for the United States to bear witness to their appreciation of Great Britain's magnanimous action in revoking the Clayton-Bulwer treaty, the abandonment of her demand for equal treatment.

Mr. President, if this be true, Great Britain gave one other indication either of treachery or of stupidity that can hardly be imputed to that ancient and enlightened Government. Great Britain agreed to renounce the guaranties of equality and subjected her own commerce to serious discrimination, and abandoned the coastwise trade of the Dominion of Canada to an impossible competition against the coastwise trade of the United States.

Let me cite one or two instances. Let us say that a vessel receives at Liverpool a cargo of dry goods and structural steel, bound for some port in Japan. It passes through the Panama Canal and pays, let us say, $15,000 toll. It is desired in New York to ship dry goods and structural steel to the same port in Japan in competition with the English goods. A vessel engaged in our coastwise trade receives the cargo at New York, passes through the canal toll free, touches at San Diego, Cal., and there the cargo is transshipped to another vessel, owned perhaps by the same concern, and is delivered at its destined port in Japan without having paid tribute for passing through the canal. That would be coastwise trade from New York to San Diego; and can we provide guaranties that such cargoes shall never be shipped beyond the seas?

Take another instance. A Canadian ship clears at Halifax, bound for San Francisco. It pays, let us say, $10,000 toll in transit through the canal. Another ship, bound to the same point, laden with a similar cargo, clears at New York, bound for San Francisco. It passes through the canal tax free. Is not that intolerable competition?

Reverse the voyage. A Canadian ship takes on a cargo of grain and of lumber at Vancouver, makes a passage through the canal, paying $10,000 in tolls, and delivers its cargo at New York. An American vessel receives grain and lumber at Port Townsend or Seattle, Wash., passes through the canal without the payment of tolls, and delivers its cargo in New York in competition with the Canadian vessel. What will be the first result of that?

Mr. GALLINGER. Mr. President——

The PRESIDING OFFICER. Does the Senator from Oklahoma yield to the Senator from New Hampshire?

Mr. GORE. I yield.

Mr. GALLINGER. Does not the Senator think that there is another situation which is even more intolerable than what the Senator calls attention to? That is, that while we prevent American ships owned or controlled by railroads from entering the canal at all, we allow Canadian ships that are owned by railroads to pass through the Panama Canal?

Mr. GORE. Mr. President, I think that raises a most interesting question, and a question that will insist upon consideration at some future time.

Mr. GALLINGER. Yes; I am glad the Senator says that, because aside from the great questions involved in this debate, which has been most interesting and edifying to me, that feature of our legislation is manifestly unfair, and I feel sure the American people will not always stand for the proposition that we shall prohibit our own ships that are controlled or owned by railroads from entering the canal at all, and at the same time allow the fleets of the Canadian Pacific and the Grand Trunk Railroads to pass through the canal without let or hindrance. Some remedy must be found for that.

Mr. GORE. It can hardly be denied that the Government sometimes insists upon increasing difficulties incident to transactions which are absolutely essential not only to commerce but to civilization.

Mr. President, what will be the first result of the situation which I have just described with respect to Vancouver and Seattle? The first result will be that wheat and lumber produced in British Columbia would be diverted from Vancouver and would be shipped by rail to Port Townsend or Seattle and then shipped by American coastwise vessels to our Atlantic seaboard cities. The second result would be that the Dominion of Canada would impose an export duty or a prohibition on the shipment of goods from Canada into the United States. Carlyle's observation that "Injustice begets injustice" is as true as truth.

We must not subject ourselves to the criticism or the suspicion that our principles change with our interest or vary with our situation. This is not the first controversy we have ever had concerning the definition of the phrase "equal treatment," as contained in an international treaty. The United States and Great Britain entered into a treaty in 1871 known as the treaty of Washington. Under the twenty-seventh article of that convention equal treatment was guaranteed to the citizens of the United States and to the inhabitants of Canada in regard to the canals in their respective territories connecting the waters of the Great Lakes. Canada passed a law imposing a toll of 20 cents per ton on all vessels passing through the Welland Canal. She provided, however, that vessels carrying cargoes as far east or farther east than Montreal should be entitled to a rebate of 18 cents per ton. President Cleveland protested that this refund or subsidy violated the guaranty of equal treatment to the citizens of the United States. President Harrison reiterated this protest. Congress enacted a law authorizing the imposition of retaliatory tolls. Canada receded from her position. Her canals are free and open to citizens of the United States upon equal terms with her own inhabitants. Does the reciprocal pledge of equal treatment bind the other nation alone, and is it to our Government fragile as a rope of sand? It is no special credit, either to an individual or to a nation, to observe a contract when it is highly advantageous to do so. That imposes no strain either upon the private or the public conscience. The easiest morals could assume that virtue. Good faith at 5 per cent were a delightful duty. It is they who keep the faith when the advantage is doubtful or adverse that are entitled to the confidence and admiration of mankind.

Mr. President, this question arises now, Which is paramount, the obligation of a platform promise or the obligation of a treaty? Surely this question is not open to controversy. Under the Constitution of the United States the Constitution itself and the laws and treaties made in pursuance thereof are the supreme law of the land. This treaty is the supreme law of the land. The Baltimore platform, strange as it may seem, is not in every particular the supreme law of the land. No one can hesitate as to the path of duty when a platform comes into collision with a treaty obligation.

Let me digress for one moment at this juncture. I have been much amused at the bombastic bravado manifested by certain Senators when engaged in the luxurious pastime of baiting the British lion. I shall do no more than allude to that splendid and entertaining pantomime, but I remember that Tam O'Shanter's wife had to nurse her wrath to keep it warm. I think that these irate Senators must have placed their hereditary wrath in cold storage this century past in order that it might flame out into incandescent fury on this occasion. I remember that the heroism of Sir John Falstaff was in direct proportion to the square of the distance between himself and his embattled enemies.

Mr. President, if I may be pardoned for so saying, I am Irish in lineage, I am Irish in sympathy, and, sir, if you please, I am Irish in my antipathies. I hope to see the hopes of Ireland gratified in the realization of home rule. While I may have no right to express such an opinion, the greatest disaster that could befall Ireland would be the fall of the present British ministry.

Mr. President, reverting to the obligations of our treaty, the United States can not afford to sacrifice the high and justified reputation it has always borne for faithful, for scrupulous observance of each and every such obligation. One Senator took occasion the other day to defend the United States against the supposed imputation that they had not been faithful to their treaty pledges. Sir, the United States needs no such defense. Their record and their reputation are not only above challenge, they are above suspicion. We can not afford to sacrifice our fair fame for fair dealing by the repudiation of a solemn, ratified obligation.

Mr. President, good faith is to a nation what honor is to a man and what chastity is to a woman. It is the one virtue without which all other virtues are unavailing.

Mr. President, during the course of this discussion it has been said, regretfully by some and rejoicefully, if I may so say, by others, that the pending bill is the rock upon which the Democracy must split. While I am no mariner, I anticipate no such disaster. Senators who feel bound by the platform and oppose the pending measure have ample justification, and they will receive no criticism at the hands of their associates here or at the hands of their constituencies at home. Senators who feel bound by treaty obligations to disregard the Baltimore platform have a justification that will exempt them from criticism by their Democratic colleagues here and their constituencies at home.

Mr. President, it has been said that the President of the United States has reversed his views touching the remission of tolls. He has been impeached for inconsistency. It sometimes requires more courage to be right than to be consistent. I have no doubt that the present Chief Magistrate of this Republic would rather be right than be consistent.

The President is not one to change his matured convictions for light and transient causes. When he recanted his former utterances and renounced his former views we must assume that he was impelled by reasons not only of the most patriotic but of the most overpowering character. Under our Constitution he is peculiarly charged with the direction of our international relations. He possesses information upon the subject more intimate than that to which any Senator can pretend. For my part, when I receive such solemn assurances at his hands as were contained in his message in relation to the pending bill I am disposed to follow his leadership.

Mr. President, the present Democratic administration is dedicated to the rights of man. I may say it is consecrated to the rights of man. It came into power as a revolt against privilege and monopoly, as a revolt against ancient abuses. The present administration came into power pledged to a revision of the tariff. It has kept the faith. The present administration came into power pledged to a revision of our banking and currency system. The party has kept the faith. It came into power pledged to dismantle existing monopoly and to emancipate the American masses from the thraldom and from the tyranny of the trusts. The party will keep the faith. The Democracy is entitled to receive and so long as it is entitled it will continue not merely the passing plaudits but the deep and enduring approbation of the enlightened citizenship of this Republic.

Mr. KERN. Mr. President, I have been asked to move a short executive session, which I will do presently. I think I will move, if it is in order now, that at the conclusion of the executive session the Senate will take a recess until 8 o'clock this evening.

The PRESIDING OFFICER. The Senator from Indiana moves that at the conclusion of the executive session the Senate will take a recess until 8 o'clock to-night.

Mr. O'GORMAN. I assume that that is with the understanding that we will continue the session from 8 o'clock until 10 o'clock, and then take a recess until to-morrow morning at 11. Is that correct?

Mr. KERN. I have no objection to that.

Mr. JAMES. It might be that some Senator would be in the midst of a speech at 10 and would conclude in 30 minutes. It is not absolutely necessary that we shall agree to adjourn at 10 o'clock.

Mr. GALLINGER. That, I think, will take care of itself.

Mr. KERN. That will take care of itself.

Mr. O'GORMAN. I have not pressed my suggestion as to any limitation, but——

Mr. KERN. We will have no trouble about it.

The PRESIDING OFFICER. The question is on the motion of the Senator from Indiana that the Senate take a recess after the executive session until 8 o'clock p. m.

Mr. REED. Mr. President, I simply want to make the statement that if the Senate is to remain here and dispose of the program which is now before us any attempt to hasten progress by holding the Senate in session all day long and then forcing a night session will not result, in my opinion, in the advancement by a single hour of the program which we understand we are expected to go through. The health of Senators will be impaired. The patience and ability of Senators to work will be impaired. While I am willing to stay here and am physically able to stay here as long as any other Senator on either side, I see no reason for undertaking at 15 minutes past 6 to go into executive session and then to hold a night session and to proceed along that line.

If there was a filibuster, or if there was a consumption of time here for the mere purpose of consuming time, a different question would be presented. There has not been the appearance of a filibuster. There has not been the slightest evidence of an attempt to prolong this discussion for the sake of prolonging it. We happened to have a cool day to-day, but let us have a few days of the temperature and atmospheric conditions of yesterday and, with such a forced program, we will have some sick men, and we may have some dead men. As far as I am concerned, I do not intend to be one of those sick men or one of the dead men, because I am fortunately in an excellent condition of health; but there are men in this Chamber who are entitled, I think, to a reasonable recess and who, if they come here at 11 o'clock in the morning and stay until 6 o'clock and work, have gone the limit of reasonable physical endurance.

Mr. BRISTOW. Mr. President, I desire to supplement what the Senator from Missouri has just said. The trust bills, so called, have come over from the House. They have been referred to committees. The committees will be considering those bills for weeks. There is not the slightest occasion——

Mr. SIMMONS. Mr. President, I rise to a question of order. Is the motion debatable?

The PRESIDING OFFICER. The motion to take a recess is not debatable under the rule.

Mr. THOMAS and others. Question!

Mr. BRISTOW. I desire to say that the Senator will make no progress by undertaking to force things here, if that is the purpose?

Mr. KERN. Will the Senator allow me?

Mr. BRISTOW. I simply wanted to offer a few suggestions, and if Senators think they can take me off my feet in this way and make progress to-night they will find they can not.

Mr. SIMMONS. I have no objection to the Senator making the suggestion he rose to make; but, clearly, I think the motion is not debatable. I am glad to hear the Senator's suggestion.

Mr. BRISTOW. The remarks are being made by unanimous consent, and I am speaking only by unanimous consent. I was making a suggestion that I think is in the interest of public business and in the interest of the time of the Senate. We want to complete the work. There is no use undertaking to interfere with the program. I am willing to stay here until October and help carry it out, and it will take until October to do it; but it is not common sense to hold sessions of 10 and 11 hours in the middle of summer in order to accomplish the work that is laid out for this session.

The PRESIDING OFFICER. The Senator from North Carolina makes the point of order that the motion is not debatable, and the Chair sustains it The question is on the motion of the Senator from Indiana.

Mr. REED. Let it be stated.

The PRESIDING OFFICER. The motion is that after an executive session the Senate will take a recess until 8 o'clock to-night.

The motion was agreed to.

EXECUTIVE SESSION.

Mr. KERN. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to, and the Senate proceeded to the consideration of executive business. After seven minutes in executive session the doors were reopened, and (at 6 o'clock and 25 minutes p. m.) the Senate took a recess until 8 o'clock p. m.

EVENING SESSION.

The Senate reassembled at 8 o'clock p. m. on the expiration of the recess.

The PRESIDING OFFICER (Mr. SWANSON in the chair). The Senate resumes consideration of the unfinished business, which is House bill 14385.

PANAMA CANAL TOLLS.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 14385) to amend section 5 of an

act to provide for the opening, maintenance, protection, and operation of the Panama Canal and the sanitation of the Canal Zone, approved August 24, 1912.

Mr. JONES. Mr. President, if we are to have a night session, we certainly ought to have a quorum, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The Senator from Washington suggests the absence of a quorum. The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Brandegee	Jones	Overman	Sutherland
Bryan	Kenyon	Page	Swanson
Burleigh	Kern	Perkins	Thomas
Chamberlain	Lea, Tenn.	Pittman	Thornton
Clapp	McCumber	Sheppard	Townsend
Clark, Wyo.	McLean	Sherman	Vardaman
Gallinger	Martin, Va.	Simmons	Walsh
Hollis	Martine, N. J.	Smith, Ga.	Warren
Hughes	Myers	Smith, Md.	White
James	Norris	Smith, Mich.	Works
Johnson	O'Gorman	Smoot	

The PRESIDING OFFICER. Forty-three Senators have answered to their names. There is not a quorum present. The Secretary will call the names of the absentees.

The Secretary called the names of the absent Senators, and Mr. LANE and Mr. WEST answered to their names when called.

Mr. ASHURST entered the Chamber, and answered to his name.

The PRESIDING OFFICER. Forty-six Senators have answered to their names—not a quorum.

Mr. KERN. I move that the Sergeant at Arms be directed to request the attendance of absent Senators.

The motion was agreed to.

The PRESIDING OFFICER. The Sergeant at Arms will execute the order of the Senate.

Mr. FLETCHER and Mr. STEPHENSON entered the Chamber, and answered to their names.

The PRESIDING OFFICER. Forty-eight Senators have answered to their names. A quorum is present.

Mr. KERN. I move that the order just entered be vacated.

The motion was agreed to.

Mr. McCUMBER. Mr. President, I have heretofore, at the opening of this discussion, spoken at considerable length on practically every principal feature of the subject, and I could have no excuse whatever for reiterating any part of what I then said. If the vote to-day, or whenever we shall arrive at a vote, were to settle the entire question, I certainly would not be heard to continue any further remarks upon the subject. While the remarks I am about to make will be, I think, of advantage for future reference when this subject may be before the Senate again, I can scarcely hope that they will have any present effect.

Mr. President, the Senator from Iowa the other day expressed great surprise that there were Senators so un-American as to be willing in this tolls controversy to grant more than Great Britain had asked. Whether it is un-American depends entirely upon what we regard as the true American attitude. If the American policy is to avoid our agreements whenever they conflict with our interest, and, above all, never to go beyond the demand of the other party in the fulfillment of our obligations, then I am ready to concede that our position is un-American. But if, on the other hand, the true American attitude is to meet our national obligations without quibble and proceed to carry out our contracts in accordance with the clear and known understanding of the parties and without waiting for any demand whatever, partial or complete, then, Mr. President, I believe that it is we who are representing the true American attitude.

If I have entered into a contract with the Senator from Iowa and another contract of like tenor with the Senator from New Hampshire, in which, for a valuable consideration, I have agreed to follow a certain course of conduct in reference to both of them and all other parties, I am not going to wait for any demand from either of them to comply with that contract. I am going to proceed to make my promise good.

So in this case, Mr. President, I have never given the British protest any particular consideration. I have only considered the simple question, What did the United States agree to do? And there being no question on earth as to not only what we did agree to do but also as to what we said we understood our words to mean, I want my Government to do just what I, as an individual citizen, would do under just those conditions. I took that position before any protest was ever made by the British Government, and I shall continue to take that position until the good name of my country is reestablished among the nations of the earth and maintained in the minds of all its people who understand its obligations and who would jealously guard its national word.

I, too, Mr. President, have been greatly surprised to find that Senators seem to adopt one standard of individual ethics and an entirely different standard of national ethics—one standard for the citizen and another for the Nation.

There is not a Senator in this body who would attempt to give his personal contract a construction which would differ from his previous statement to the other party as to what he had intended and both intended that the contract should mean. I go further and say there is no Senator here who would insist on a construction of his personal contract out of harmony with what he believed the other party in good faith understood it to mean, even though he felt he had a perfect moral right to give it a different construction.

And yet, Mr. President, I find Senators blinding their eyes not only to the natural, usual, obvious meaning of words in an international agreement, shutting them not only to the previous history of the transaction, which shows that the words were intended to have their natural meaning and not a restricted use, but also closing them to the clear and unqualified declaration of every party who had to do with the negotiations and drafting of the treaty as to what they all meant and intended to mean, and then proceeding with most studious effort and with all the technicalities which imagination can suggest to avoid the purposes and understanding of the negotiators of that contract. I do not question the integrity of Senators, but I confess I can not fathom their mental operations.

Mr. President, the passage of this bill will not settle this question. I shall not prophesy that it will not be settled until it is settled right, for things in this world are not always settled that way, but that the real settlement is postponed to the future.

For the use of those who may desire some ready references and a very concise history of this matter, I shall proceed to place in the permanent RECORD some of the most salient points bearing on this matter.

Mr. President, nations speak to each other and to the world at large through executive declarations, legislative resolutions, and diplomatic utterances. By those declarations, resolutions, and utterances are they judged, and through them are their treaties and contracts construed. In the simplicity and directness of these modes of communication we recognize their courage and candor; in the lack of that simplicity and directness we recognize their shiftiness and unworthiness.

Mr. President, we are about to vote whether or not our country shall retain its place in the former class and whether our previous reputation for absolute candor in our international diplomacy is to be maintained by the Senate of the United States.

Before that vote is taken I wish to place the two Nations—the United States and Great Britain—face to face, and, refraining from any comment myself, let this Senate and the country read what they said to the world and to each other for a century preceding the adoption of the Hay-Pauncefote treaty, concerning equality of treatment of all vessels of the world, including our own, in the use of any canal that might be constructed across the Isthmus of Panama. I shall reproduce only, and very briefly, those sentences bearing directly upon that question.

ON THE GENERAL QUESTION OF FREE NAVIGATION OF RIVERS AND CANALS LEADING TO THE SEA.

UNITED STATES TO FRANCE AND SPAIN. August 6, 1779. (Instructing John Jay, our minister, to conclude a treaty with France and Spain:)

"Nevertheless you shall insert on the part of your State a proper article or articles for obtaining *free navigation of the Mississippi River.*"

UNITED STATES AND GREAT BRITAIN TO EACH OTHER. September 3, 1783. (Treaty with Great Britain:)

"The navigation of the River Mississippi from its source to its mouth *shall forever remain free and open to the subjects of Great Britain and the citizens of the United States.*"

UNITED STATES TO THE WORLD. 1792. (Mr. Jefferson, then Secretary of State. Report to Congress:)

"When their rivers enter the limits of another society, if the right of the upper inhabitants to descend the stream is in any case obstructed, *it is an act of force by a stronger society against a weaker, condemned by the judgment of mankind.*"

UNITED STATES TO THE WORLD. March 2, 1803. (Letter of President Jefferson to Livingston and Monroe, our representatives in France:)

"The United States *have a just claim to the use of the rivers which pass from their territory through the Floridas.* They

found their claims on like principles with those which supported their claims for the use of the Mississippi."

UNITED STATES TO GREAT BRITAIN. 1823. (President Monroe in negotiation with Great Britain for equal navigation of St. Lawrence:)

The right to navigate the St. Lawrence River is one which may be established upon the "general principle of the law of nature."

UNITED STATES AND GREAT BRITAIN TO EACH OTHER. March 17, 1816. (Reciprocal treaty:)

The right of reciprocal navigation of the St. Lawrence by both nations on terms of equality established.

UNITED STATES AND GREAT BRITAIN TO EACH OTHER. 1854. (Reciprocal treaty:)

"It is agreed that the citizens and inhabitants of the United States shall have the right to navigate the River St. Lawrence and the canals in Canada used as the means of communicating between the Great Lakes and the Atlantic Ocean with their vessels, boats, and crafts, *as fully and freely as the subjects of Her Britannic Majesty, subject only to the same tolls and other assessments as now are or may hereafter be exacted of Her Majesty's said subjects.*

* * * * * * *

It is further agreed *that British subjects shall have the right freely to navigate Lake Michigan with their vessels, boats, and crafts so long as the privilege of navigating the River St. Lawrence, secured to American citizens by the above clause of the present article, shall continue;* and the Government of the United States further engages to urge upon the State governments to secure to the subjects of Her Britannic Majesty the use of the several State canals on terms of equality with the inhabitants of the United States."

UNITED STATES AND GREAT BRITAIN TO EACH OTHER. 1871. (Reciprocal treaty relating to the canals of both countries:)

"The Government of Her Britannic Majesty engage to urge upon the Government of the Dominion of Canada *to secure to the citizens of the United States the use of the Welland, St. Lawrence, and other canals in the Dominion on terms of equality with the inhabitants of the Dominion.*"

"*The subjects of Her Britannic Majesty shall enjoy the use of the St. Clair Flats Canal on terms of equality with the inhabitants of the United States.*"

DECLARATIONS IN RESPECT TO ANY CANAL WHICH MIGHT BE CONSTRUCTED ACROSS THE ISTHMUS.

UNITED STATES TO THE WORLD. 1826. (Instructions prepared by Henry Clay, Secretary of State under President John Quincy Adams, referring to the construction of the canal:)

"If the work should ever be executed so as to admit of the passage of sea vessels from ocean to ocean, *the benefits of it ought not to be exclusively appropriated to any one nation, but should be extended to all parts of the globe upon the payment of a just compensation or reasonable tolls.*"

UNITED STATES TO THE WORLD. March 3, 1835. (Congressional resolution:)

"*Resolved*, That the President be requested to consider the expediency of opening negotiations with the Governments of other nations for the purpose of effectually protecting by suitable treaty stipulations with them such companies as may undertake the construction of a ship canal across the Isthmus, and securing for them by such stipulations *the free and equal rights of navigating such canal to all such nations on the payment of reasonable tolls.*"

UNITED STATES TO THE WORLD. March 2, 1839. (Report of committee of House of Representatives:)

"The policy is not less apparent which should prompt the United States to cooperate in this enterprise liberally and efficiently before other disposition may be awakened in the particular State within whose territory it may be ceded or other nations shall seek by negotiation to engross a commerce *which is now and should ever continue to be open to all.*"

UNITED STATES AND NEW GRENADA TO THE WORLD. December 12, 1846. (Treaty:)

"The right of way or transit across the Isthmus upon any modes of communication *shall be open and free to the two Governments on equal terms.*"

UNITED STATES TO THE WORLD. 1846. (Message of President Polk submitting treaty with New Grenada:)

"The ultimate object (of the resolution of March 3, 1835) *is to secure to all nations the free and equal right of passage over the Isthmus.*"

UNITED STATES TO GREAT BRITAIN. September 25, 1849. (Our minister to France, duly instructed, communicating with Lord Palmerston, representative of Great Britain:)

"That the United States *sought no exclusive privilege or preferential right of any kind in regard to the proposed communication*, and their sincere wish, if it should be found practicable, *was to see it dedicated to the common use of all nations on the most liberal terms and a footing of perfect equality.*"

UNITED STATES TO GREAT BRITAIN. September 25, 1849. (American minister to Lord Palmerston, British representative:)

"That the United States *would not, if they could, obtain any exclusive right or privilege in a great highway which naturally belonged to all mankind.* That while *they aimed at no exclusive privilege themselves, they would never consent to see so important a communication fall under the exclusive control of any commercial power.*"

UNITED STATES TO GREAT BRITAIN. 1849. (Letter of Mr. Clayton, Secretary of State, to Mr. Lawrence, our representative in Great Britain, to be made known to the British Government:)

"If, however, the British Government shall reject these overtures on our part and shall refuse to cooperate with us in the generous and philanthropic scheme of rendering the interoceanic communication by way of the port and river of San Juan *free to all nations upon the same terms*, we shall deem ourselves justified in protecting our interests independent of her aid and despite her hostility."

UNITED STATES TO THE WORLD. December 4, 1849. (Message of President Taylor to Congress:)

"The territory through which the canal may be opened *ought to be freed from the claims of any foreign power.* No such power should occupy a position that would enable it hereafter to exercise so controlling an influence over the commerce of the world or to obstruct a highway *which ought to be dedicated to the use of mankind.*"

CLAYTON-BULWER TREATY.

UNITED STATES AND GREAT BRITAIN TO EACH OTHER AND TO THE WORLD. April 19, 1850. (Clayton-Bulwer treaty, article 8:)

"The United States and Great Britain, having not only desired in entering into this convention to *accomplish a particular object*, but also to *establish a general principle*, they hereby agree."

Particular object to be accomplished:

"The Governments of the United States and Great Britain hereby declare that neither the one nor the other will ever obtain or maintain for itself *any exclusive control over the said ship canal.*"

General principle to be established:

"It is always understood by the United States and Great Britain that the parties constructing or owning the same *shall impose no other charges or conditions of traffic thereupon than the aforesaid Governments shall approve of as just and equitable, and that the same canals or railways, being open to the citizens and subjects of the United States and Great Britain on equal terms, shall also be open on like terms to the citizens and subjects of every other State.*"

The foregoing clause was always thereafter referred to as the "*general principle.*" And wherever "general principle" of the Clayton-Bulwer treaty is used by the parties, this is the particular clause referred to.

UNITED STATES TO GREAT BRITAIN AND TO THE WORLD. 1857. (Mr. Cass, Secretary of State, replying to Lord Napier, who had suggested a plan of joint protectorate:)

"In view of these interests and after having invited capital and enterprise from other countries to aid in the opening of these great highways of nations under pledge of free transit to all desiring it, *it can not be permitted that these Governments* [countries through which the canal might pass] *should exercise over them arbitrary and unlimited control.*"

UNITED STATES TO THE WORLD. 1862. (Note of Mr. Seward, Secretary of State under President Lincoln:)

"*This Government has no interest in the matter different from that of any other maritime power.* It is willing to interpose its aid in execution of its treaty and further *equal benefit of all nations.*"

UNITED STATES TO NICARAGUA AND THE WORLD. 1867. (Treaty concerning the construction of a canal:)

"*And no higher or other charges or tolls* shall be imposed on the conveyance or transit of persons and property of citizens or subjects of the United States *or of any other country* across

the said routes of communication than are or may be imposed on the persons and property of the citizens of Nicaragua."

UNITED STATES AND COLUMBIA TO EACH OTHER AND TO THE WORLD. 1868. (Treaty authorizing the United States to construct a canal not ratified by the Senate:)

"The Government of the United States of America shall establish a tariff of tolls and freights for the said canal *on a basis of perfect equality for all nations whether in time of peace or war.*"

UNITED STATES TO THE WORLD. (President Grant through Secretary Fish:)

"We shall be glad of any movement which shall result in the early decision of the question of the most practical route and the early commencement and speedy completion of an interoceanic communication which shall be guaranteed in its perpetual neutralization *and dedication to the commerce of all nations without advantage to one over another* of those who guarantee its assured neutrality. * * * The benefit of neutral waters at the ends thereof for all classes of vessels entitled to fly their respective flags with the cargoes on board *on equal terms in every respect as between each other.*"

UNITED STATES TO GREAT BRITAIN. June 24, 1881. (President Garfield, through Secretary Blaine, to our minister to England:)

"*Nor in time of peace does the United States seek to have any exclusive privileges* accorded to American ships, in respect to precedence or tolls, through any interoceanic canal *any more than it has sought like privileges for American goods in transit over the Panama Railway* under the exclusive control of an American corporation. * * * It would be our earnest desire and expectation *to see the world's peaceful commerce enjoy the same just, liberal, and rational treatment.*"

UNITED STATES TO GREAT BRITAIN. November 19, 1881. (President Garfield through Secretary Blaine:)

"This Government entertains no design in connection with this project for its advantage which is not also *for the equal or greater advantage of the country to be directly and immediately affected; nor does the United States seek any exclusive or narrow commercial advantage.* It frankly agrees, and will by public proclamation declare at the proper time in conjunction with the Republic on whose soil the canal may be located, *that the same rights and privileges, the same tolls and obligations for the use of the canal shall apply with absolute impartiality to the merchant marine of every nation on the globe,* and equally in time of peace the harmless use of the canal shall be freely granted to the war vessels of other nations."

GREAT BRITAIN TO THE UNITED STATES. (Replying to the above letter through Lord Granville:)

"Such communication concerned not merely the United States or the American continent but, as was recognized by article 6 of the Clayton-Bulwer treaty, the whole civilized world, and that she would not oppose or decline any discussion for the purpose of securing *on a general international basis its universal and unrestricted use.*"

UNITED STATES TO THE WORLD. (President Cleveland in his first annual message to Congress:)

"*Whatever highway that may be constructed across the barrier dividing the two greatest maritime areas of the world, must be for the world's benefit—a truth for mankind.*"

UNITED STATES TO GREAT BRITAIN. (Second administration of President Cleveland, through Secretary of State Olney:)

"That the interoceanic routes there specified should, under the sovereignty of the States traversed by them, *be neutral and free to all nations alike.* Under these circumstances, upon every principle which governs the relations to each other, either by nations or of individuals, *the United States is completely estopped from denying that the treaty* [Clayton-Bulwer treaty] *is in full force and vigor.*"

UNITED STATES TO THE WORLD. December 5, 1898. (Message of President McKinley:)

"That the construction of a maritime highway is now more than ever indispensable to that intimate and ready intercommunication between our eastern and western seaboards demanded by the annexation of the Hawaiian Islands and the prospective expansion of our influence and commerce in the Pacific, and that our national policy now more imperatively than ever calls for its control by this Government, are propositions which I doubt not the Congress will duly appreciate and wisely act upon."

GENERAL UNDERSTANDING OF PEOPLE OF BOTH COUNTRIES AS TO A MODIFICATION OF THE CLAYTON-BULWER TREATY.

GREAT BRITAIN TO THE UNITED STATES. (Expressed in leading editorials on President McKinley's message:)

Editorial, London Spectator, December 10, 1898:

"The Times says most reasonably *that if the freedom of the waterway were secured to ships of all nations, as in the case of the Suez Canal,* we do not see what object we should have in standing strictly upon claims which originated when the circumstances were altogether different."

Editorial of Spectator, same date:

"All we want is that the canal shall be made, *and when it is made it shall be open and available to our merchant ships and ships of war as freely as to those of the United States or other power.*"

"We would abrogate the treaty on the following terms:

"4. That the canal should be open at all times to all nations at peace with the United States.

"5. *That the duties charged would be the same in the case of American and other vessels.*

"If the United States were to agree, as we believe they would, to such terms as these, we would have no possible grounds for refusing to give up our rights under the Clayton-Bulwer treaty."

UNITED STATES TO GREAT BRITAIN. (As expressed in the press of the United States and congressional debates, to wit:)

"That the Government should be reimbursed for the money which should be expended by it in the construction of the canals, in tolls to be charged all vessels using the canal, as per estimates made upon the tonnage which would probably pass through it, and *which estimates included the vessels of the United States as well as all other nations.*"

UNITED STATES TO GREAT BRITAIN. February 6, 1900. (Article in New York World analyzing the Hay-Pauncefote treaty, which had just been signed by Hay and Pauncefote:)

"The United States, however, is given the right to protect the canal, and may employ such measures as are needful for the safety of the canal and navigation. The canal, being the property of the United States and built with American capital, all the profits from the navigation of the canal will go to the United States, *but there will be no discrimination in favor of the American vessels.*"

DIPLOMATIC COMMUNICATIONS BETWEEN THE TWO COUNTRIES RELATIVE TO THE PRESERVATION OF THE "GENERAL PRINCIPLE" OF THE CLAYTON-BULWER TREATY PROVIDING FOR EQUAL TREATMENT OF VESSELS OF BOTH NATIONS.

GREAT BRITAIN TO THE UNITED STATES. February 22, 1901. (Letter of Lansdowne to Pauncefote to present to Secretary Hay:)

"So far as Her Majesty's Government were concerned there was no desire to procure a modification of that convention [the Clayton-Bulwer treaty]. Some of its provisions had, however, for a long time past been regarded with disfavor by the Government of the United States, and in the President's message to Congress of December 18, 1898, it was suggested, with reference to a concession granted by the Government of Nicaragua, that some definite action by Congress was urgently required if the labors of the past were to be utilized and the linking of the Atlantic and Pacific Oceans by a practical waterway to be realized. * * * This passage in the message having excited comment, your excellency made inquiries of the Secretary of State in order to elicit some information as to the attitude of the President. In reply the views of the United States Government *were very frankly and openly explained. You were also most emphatically assured that the President had no intention whatever of ignoring the Clayton-Bulwer convention, and that he would loyally observe treaty stipulations.* But in view of the strong national feeling in favor of the construction of the Nicaraguan Canal and of the improbability of the work being accomplished by private enterprise, the United States Government were prepared to undertake it themselves upon obtaining the necessary powers from Congress. For that purpose, however, they must endeavor by friendly negotiations to obtain the consent of Great Britain to such a modification of the Clayton-Bulwer treaty as would, *without affecting the general principle therein declared,* enable the great object in view to be accomplished for the benefit of the commerce of the world. * * * Her Majesty's Government agreed to this proposal, and the discussions which took place in consequence resulted in the draft of the convention which Mr. Hay handed to your excellency on the 11th of January, 1899."

GREAT BRITAIN TO THE UNITED STATES. February 22, 1901. (Lansdowne, through Lowther:)

"The proposal to abrogate the Clayton-Bulwer convention is not, I think, inadmissible if it can be shown that sufficient pro-

vision is made in the new treaty for such portions of the convention *as ought in the interests of this country to remain in force.* This aspect of the case may be considered in connection with article 1 of the Clayton-Bulwer convention which has already been quoted and article 8, referred to in the preamble of the new treaty. Thus, in view of the permanent character of the treaty to be concluded and of the '*general principle*' *reaffirmed thereby as a perpetual obligation*, the high contracting parties should agree that no change of sovereignty or other change of circumstances in the territory through which the canal is now to pass shall *affect such 'general principle' or release the high contracting parties, or either of them*, from their obligations under the treaty, and that the rules adopted as the basis of neutralization shall govern, so far as possible."

GREAT BRITAIN TO THE UNITED STATES. August 3, 1901. (Lansdowne to Secretary Hay, after receiving copy of draft of treaty:)

"I would therefore propose an additional article in the following terms on the acceptance of which His Majesty's Government would probably be prepared to withdraw their objections to the formal abrogation of the Calyton-Bulwer convention, to wit: 'In view of the permanent character of this treaty *whereby the general principle established by article 8 of the Clayton-Bulwer convention is reaffirmed*, the high contracting parties *hereby declare and agree that the rules laid down in the last preceding article (article 3) shall, so far as they may be applicable, govern all interoceanic communication across the Isthmus* which connects North and South America, *and that no change of territorial sovereignty* or other change of circumstance *shall affect the 'general principle'* or the obligations of the high contracting parties under the present treaty."

Mr. HITCHCOCK. Mr. President——

The PRESIDING OFFICER. Does the Senator from North Dakota yield to the Senator from Nebraska?

Mr. McCUMBER. I will say to the Senator that I am seeking here to put in something without comment on my part, quoting only to get a line of conversations between the parties, and it would somewhat mar the purpose of this short essay if I were to go into a discussion. For that reason I hope the Senator will excuse me.

GREAT BRITAIN TO THE UNITED STATES. August 3, 1901. (Through the same parties:)

"On the other hand, I conclude that, with the above exception [which relates to fortifications], *there is no intention to derogate from the principles of neutrality laid down by the rules.* As to the first of these propositions, I am not prepared to deny that contingencies may arise when, not only from a national point of view, but on behalf of the commercial interests of the whole world, it might be of supreme importance to the United States that they should be free to adopt measures for the defense of the canal at a moment when they were themselves engaged in hostilities."

GREAT BRITAIN TO THE UNITED STATES. (Through the same parties, August 3, 1901:)

"I suggest the renewal of one of the stipulations of article 8 of the Clayton-Bulwer convention by adding to rule 1 the words 'such conditions and charges shall be just and reasonable.'"

GREAT BRITAIN TO THE UNITED STATES. (Salisbury speaking through White to Hay:)

"I think that in due course of time we shall consent to the abrogation of such parts of the Clayton-Bulwer treaty as stand in the way of your building the canal, *subject, however, to one condition, on which we lay great stress, namely, that the ships of all nations shall use the canal or go through the canal on equal terms.*"

GREAT BRITAIN TO THE UNITED STATES. September 21, 1901. (Lansdowne speaking to Mr. Choate, and which Mr. Choate communicated to Secretary Hay:)

"But he [Lansdowne] said they could not give up article 3a altogether; that it was quite obvious that we might in the future acquire all the territory on both sides of the canal; that we might then claim that a treaty providing for the neutrality of a canal running through a neutral country could no longer apply to a canal running through American country only; and he again insisted, as Lord Lansdowne had insisted, that they must have something to satisfy Parliament and the British public *that in giving up the Clayton-Bulwer treaty they had retained and reasserted the 'general principle' of it;* that the canal should be technically neutral and *should be free to all nations on terms of equality*, and especially that in the contingency supposed—of the territory on both sides of the canal becoming ours—the canal, its neutrality, its being free and open to all nations on equal terms, should not be thereby affected; *that without securing this they could not justify the treaty either to Parliament or to the public; that the preamble that had already passed the Senate was not enough*, although he recognized the full importance of the circumstance of its having passed.

UNITED STATES TO GREAT BRITAIN. (Answer of Secretary Hay in reference to the proposed article 3a:)

"*The preamble of the draft treaty retained the declaration that the 'general principle' of neutralization established in article 8 of the Clayton-Bulwer treaty is not impaired. To reiterate this in still stronger language in a separate article and to give article 8 of the Clayton-Bulwer convention what seems to be a wider function than it originally had, would, I fear, not meet with acceptance.* If, however, it seems indispensable to his Majesty's Government that an article providing for the contingency of a change of sovereignty should be inserted, then it might be stated that '*it is agreed that no change of territorial sovereignty or of international relations of the countries traversed by the aforesaid canal shall affect the "general principle"* of *neutralization* or the obligations of the high contracting parties under the present treaty.'"

UNITED STATES TO THE SENATE COMMITTEE ON FOREIGN RELATIONS. (Secretary Hay explaining the composing of differences between the two nations:)

"The proposed draft in the new treaty was submitted to Lord Lansdowne, and after mature deliberation he proposed, on the part of His Majesty's Government, only three substantial amendments. * * * Under this modified aspect of the relations of the two nations to the canal, he was not indisposed to consent to the abrogation of the Clayton-Bulwer treaty *if the 'general principle' of neutrality which was reaffirmed in the preamble in the new treaty, as well as of the former one*, should be preserved and secured against any change of sovereignty or other change of circumstances in the territories through which the canal is intended to pass, and that the rules adopted as the basis of neutralization should govern, as far as possible, all interoceanic communication across the Isthmus. *He referred in this connection to articles 1 and 8 of the Clayton-Bulwer treaty.* He, therefore, proposed by way of an amendment the insertion of an additional article."

The article proposed is as follows:

"In view of the permanent character of this treaty whereby the general principle established by article 8 of the Clayton-Bulwer convention is reaffirmed, the high contracting parties hereby declare and agree that the rules laid down in the last preceding article shall, so far as they may be applicable, govern all interoceanic communications across the isthmus which connects North and South America, and that no change of territorial sovereignty or other change of circumstances shall affect such general principle or the obligations of the high contracting parties under the present treaty.

"*The President, however, was not only willing but desirous that the 'general principle' of neutralization referred to in the preamble of this treaty should be applicable to this canal* now intended to be built, notwithstanding any change of sovereignty or of international relations of the territory through which it should pass. *This 'general principle' of neutralization had always, in fact, been insisted upon by the United States*, and he recognized the entire justice of the request of Great Britain that if she should now surrender the material interest which had been secured to her by the first article of the Clayton-Bulwer treaty which might result in the indefinite future, should the territory traversed by the canal undergo a change of sovereignty, *this 'general principle' should not be thereby affected or impaired.* These facts were communicated to His Majesty's Government, and as a substitute for the article proposed by Lord Lansdowne the following was proposed on the part of the United States:

"'It is agreed that no change of territorial sovereignty or of the international relations of the country or countries traversed by the above-mentioned canal shall affect the general principle of neutralization or the obligations of the high contracting parties under the present treaty.'"

UNITED STATES AND GREAT BRITAIN TO EACH OTHER AND TO THE WORLD. (Second Hay-Pauncefote treaty, adopted by the Senate December 16, 1901:)

PREAMBLE.

"The United States and Great Britain, 'being desirous to facilitate the construction of a ship canal to connect the Atlantic and Pacific Oceans by whichever route may be considered expedient, and to that end remove any objection which may arise out of the convention of the 19th of April, 1850, commonly called the Clayton-Bulwer treaty, to the construction of

such canal under the auspices of the Government of the United States *without impairing the 'general principle' of neutralization established in article 8 of that convention*, have for that purpose appointed as their plenipotentiaries,' etc.

ARTICLE 3.

"The United States adopts as the basis of the neutralization of such ship canal the following rules *substantially* "—

Not fully—

"as embodied in the convention of Constantinople signed the 28th day of October, 1888, for the free navigation of the Suez Canal; that is to say:

"1. The canal shall be free and open to the vessels of commerce and of war *of all nations observing these rules on terms of entire equality, so that there shall be no discrimination against any such nation or its citizens or subjects in respect of conditions or charges of traffic or otherwise.* Such conditions and charges of traffic shall be just and reasonable."

That is up to the signing of the treaty.

The treaty was adopted—ayes 72, noes 6.

UNDERSTANDING OF THE UNITED STATES SENATE THAT THE WORDS "VESSELS OF COMMERCE AND OF WAR OF ALL NATIONS" INCLUDED VESSELS OF THE UNITED STATES.

The only unquestionable evidence bearing upon this matter is the report from the Committee on Foreign Relations explaining the purpose and meaning of the treaty and the votes on proposed amendments.

The Committee on Foreign Relations, through its chairman, Senator C. K. Davis, conveyed to the Senate the committee's construction and understanding; and there appearing nothing to the contrary, it must be admitted that the Senate, in adopting the treaty, adopted the construction placed upon it by the committee.

THE COMMITTEE ON FOREIGN RELATIONS TO THE UNITED STATES SENATE. (Report of Senator Davis, chairman:)

"No American statesman speaking with official authority or responsibility *has ever intimated that the United States would attempt to control this canal for the exclusive benefit of our Government or people.* They have all, with one accord, declared that the canal was to be neutral ground in time of war and always open, *on terms of impartial equality, to the ships and commerce of the world.*"

COMMITTEE ON FOREIGN RELATIONS TO THE UNITED STATES SENATE:

"*Special treaties for the neutrality, impartiality, freedom, and innocent use of the two canals that are to be the eastern and western gateways of commerce between the great oceans are not in keeping with the magnitude and universality of the blessings they must confer upon mankind. The subject, rather, belongs to the domain of international law.*"

COMMITTEE ON FOREIGN RELATIONS TO THE UNITED STATES SENATE:

"Whatever canal is built in the Isthmus of Darien will be ultimately made subject to the *same law of freedom and neutrality as governs the Suez Canal, as a part of the laws of nations, and no single power will be able to resist its control.*"

COMMITTEE ON FOREIGN RELATIONS TO THE UNITED STATES SENATE:

"The United States can not take an attitude of opposition to the principles of the great act of October 22, 1888, without discrediting the official declarations of our Government for 50 years *on the neutrality of an isthmian canal and its equal use by all nations without discrimination.*"

COMMITTEE ON FOREIGN RELATIONS TO THE UNITED STATES SENATE:

"*To set up the selfish motive of gain by establishing a monopoly of a highway that must derive its income from the patronage of all maritime countries would be unworthy of the United States if we owned the country through which the canal is to be built.*"

COMMITTEE ON FOREIGN RELATIONS TO THE UNITED STATES SENATE:

"But the location of the canal belongs to other Governments, from whom we must obtain any right to construct a canal on their territory, and it is not unreasonable, if the question was new and was not involved in a subsisting treaty with Great Britain, *that she should question the right of even Nicaragua and Costa Rica to grant to our ships of commerce and of war extraordinary privileges of transit through the canal.*"

COMMITTEE ON FOREIGN RELATIONS TO THE UNITED STATES SENATE:

"It is not reasonable to suppose that Nicaragua and Costa Rica would grant to the United States the exclusive control of a canal through those States *on terms less generous to the other maritime nations than those prescribed in the great act of October 22, 1888;* or if we could compel them to give us such advantages over other nations, *it would not be creditable to our country to accept them.*"

ON THE QUESTION OF SPECIAL PRIVILEGES WITH REFERENCE TO TOLLS BECAUSE THE CANAL WAS BUILT WITH OUR OWN MONEY.

COMMITTEE ON FOREIGN RELATIONS TO THE UNITED STATES SENATE:

"That our Government or our people will furnish the money to build the canal presents the single question whether it is profitable to do so. *If the canal, as property, is worth more than its cost, we are not called on to divide the profits with other nations. If it is worth less and we are compelled by national necessities to build the canal, we have no right to call on other nations to make up the loss to us.* In any view, it is a venture that we will enter upon if it is to our interest, and if it is otherwise we will withdraw from its further consideration."

"*The Suez Canal makes no discrimination in its tolls in favor of its stockholders and, taking its profits or the half of them as our basis of calculation, we will never find it necessary to differentiate our rates of toll in favor of our own people* in order to secure a very great profit on the investment."

COMMITTEE ON FOREIGN RELATIONS TO THE UNITED STATES SENATE:

"In time of war, as in time of peace, the commerce of the world will pass through its portals in perfect security, enriching all the nations, and we of the English-speaking peoples will either forget that this grand work has ever cost us a day of bitterness or we will rejoice that our contentions have delayed our progress until the honor has fallen to our grand Republic to number this among our best works *for the good of mankind.*"

SENATE COMMITTEE ON FOREIGN RELATIONS TO UNITED STATES SENATE. (Speaking through Senator Morgan, special report:)

"The treaty under consideration is for the avowed purpose of removing any objection that may arise out of the convention of April 19, 1850, commonly called the Clayton-Bulwer treaty, to the construction of such canal under the auspices of the United States, *without impairing the 'general principle' of neutralization established in article 8 of the convention.*

"*That 'general principle,'* as it is modified or specially defined in this treaty, is all that is left of the Clayton-Bulwer treaty, *as now being in continuing force.*

"All that is left of this general treaty is the 'general principle' provided in article 8 of the Clayton-Bulwer treaty. *That is, that the vessels of all nations using the canal should be treated with exact equality, without discrimination in favor of the vessels of any nation.*"

COMMITTEE ON FOREIGN RELATIONS TO THE UNITED STATES SENATE. (Speaking through Senator Morgan, special report:)

"Then this convention, in article 2, proceeds to define and formulate into an agreement, *intended to be world-wide in its operation, 'the general principle of neutralization,' established in article 8 of the Clayton-Bulwer treaty on the basis of the treaty of Constantinople of October, 1888, relating to the Suez Canal.*

"*Nothing is given to the United States* in article 2 of the convention now under consideration, *nor is anything denied to us that is not given or denied to all other nations.*"

VOTE OF SENATE ON ATTEMPT TO MODIFY THE HAY-PAUNCEFOTE TREATY SO AS TO EXEMPT OUR COASTWISE VESSELS.

AMENDMENT OFFERED BY SENATOR BARD:

Strike out all of article 3 and substitute the following:

"ART. 3. *The United States reserves the right* in the regulation and management of the canal *to discriminate in respect to the charges of traffic in favor of its own citizens engaged in the coastwise trade.*"

ANSWER OF SENATE:

Vote—ayes 27, noes 43.

UNDERSTANDING OF THE NEGOTIATORS OF THE HAY-PAUNCEFOTE TREATY THAT AMERICAN VESSELS WERE INCLUDED IN ITS TERMS.

The treaty was made and worked into form by Hay and Lansdowne. Hay spoke through American Ambassador Choate and Chargé d'Affaires White. Lansdowne spoke through Ambassador Pauncefote and Chargé d'Affaires Lowther.

MR. CHOATE, AMERICAN AMBASSADOR, TO THE UNITED STATES. March 25, 1914. (Letter answering inquiry of Senator McCumber:)

"First. Was it understood by the state departments of the two countries that the words 'vessels of commerce and war of all nations' *included our own vessels?*

"Second. Was it understood that these words also *included our own vessels engaged in the coastwise trade?*

"I answer both of these questions *most emphatically in the affirmative.* The phrase quoted, 'vessels of commerce and war of all nations,' certainly included our own vessels, *and was so understood by our own State Department and by the foreign office of Great Britain.* It was understood by the same parties that these words *also included our own vessels engaged in the coastwise trade.*"

MR. CHOATE, AMERICAN AMBASSADOR, TO THE UNITED STATES. (Same letter:)

"By article 2, clause 1, of the first Hay-Pauncefote treaty, that of February 5, 1900, it was provided that 'the canal shall be free and open in time of war as in time of peace to the vessels of commerce and of war of *all nations on terms of entire equality, so that there shall be no discrimination against any nation or its citizens or subjects in respect to the conditions or charges of traffic or otherwise.*'

"And the language used by article 3, clause 1, of the second Hay-Pauncefote treaty of 1901, that now under consideration, is as follows: '*The canal shall be free and open to the vessels of commerce and of war of all nations observing these rules on terms of entire equality, so that there shall be no discrimination against any such nation or its citizens or subjects in respect to the conditions or charges of traffic.*'"

"When we came to the negotiation of this last treaty, that of 1901, there was no question that, as between the United States and Great Britain, *the canal should be open to the citizens and subjects of both on equal terms,* and that it should also be open on like terms to the citizens and subjects of every other State that brought itself within the category prescribed. On that point there was really nothing to discuss, and in the whole course of the negotiations *there was never a suggestion on either side that the words 'the vessels of commerce and of war of all nations' meant anything different from the natural and obvious meaning of these words.* Such language admitted of the exemption or exception of no particular kind of vessels of commerce and of war of any nation, whether of vessels engaged in foreign trade or coastwise trade, or of steam vessels or sailing vessels, or of black vessels or white vessels, or of iron vessels or wooden vessels. The parties to the negotiation tried to use terms of the meaning of which there could be no doubt or dispute, *and they meant what they said and said what they meant.*"

MR. CHOATE, AMERICAN AMBASSADOR, TO THE UNITED STATES. (Same letter:)

"The exception or exemption of vessels of the United States engaged in the coastwise trade would have excepted or exempted something like five-sixths of the entire shipping of the United States—coastwise, 6,812,532 tons; foreign, 1,017,862 (World Almanac for 1914, p. 176)—and it is inconceivable, as it appears to me, that we should have intended, without saying a word on the subject, to except or exempt what would thus be approximately the entire shipping of the United States. *Any such idea would have made the further negotiation of the treaty impossible and would have wrecked the purpose which both parties had in mind.*"

MR. CHOATE, AMERICAN AMBASSADOR, TO THE UNITED STATES. (Same letter:)

"Of course, I submitted from time to time as the negotiations proceeded the substance of all our negotiations to our Secretary of State in dispatches and private letters, all of which, or copies of which, are, as I believe, on file in the State Department, and are doubtless open to the examination of Senators. And Lord Pauncefote, in like manner, was in frequent communication with Lord Lansdowne or the foreign office of Great Britain, and, of course, submitted all that was said and done between us to them. So when what you refer to in your letter as the State Departments of the countries approved and adopted the result of our work and exchanged ratifications of the treaty as it stands *they necessarily intended that the words 'the vessels of commerce and of war of all nations' included our own vessels as well as those of Great Britain,* and also included our own vessels engaged in the coastwise trade. There was no kind of vessel that the words used did not include."

MR. WHITE, AMERICAN CHARGÉ D'AFFAIRES, TO THE UNITED STATES. March 23, 1914. (Answering questions propounded by Senator MCCUMBER:)

"I was in constant touch, as secretary of the embassy, with these negotiations, each phase of which Mr. Choate was good enough to tell me of. Indeed, I was often present during their discussion of the question at issue, which took place for the most part at the embassy.

"Under these circumstances, there is but one way in which I can answer the inquiry contained in your letter 'as to the understanding of Mr. Hay and Lord Pauncefote on the question of the use of the canal by vessels engaged wholly in the coastwise trade,' to wit:

"(1) That the exemption of our coastwise shipping from the payment of tolls was never suggested to, nor by, anyone connected with the negotiation of the Hay-Pauncefote treaties in this country or in England.

"(2) That from the day on which I opened the negotiations with Lord Salisbury for the abrogation of the Clayton-Bulwer treaty until the ratification of the Hay-Pauncefote treaty the words '*all nations*' and '*equal terms*' *were understood to refer to the United States as well as to all other nations* by every one of those, whether American or British, who had anything to do with the negotiations whereof the treaty last mentioned was the result."

MR. HAY, SECRETARY OF STATE. 1904. (In conversation with Mr. W. F. Johnson:)

"I asked Col. Hay plumply if the treaty meant what it appeared to mean on its face, and whether the phrase 'vessels of all nations' was intended to include our own shipping or was to be interpreted as meaning 'all other nations.' He replied:

"'*All means all.* The treaty was not so long that we could not have made room for the word "other" if we had understood that it belonged there. *All nations means all nations, and the United States is certainly a nation.*'"

Mr. President, these are words we spoke to each other; these are the assurances upon which we asked the signature of the other party to a contract which must rest for its enforcement upon our national integrity. We are asked to maintain the sincerity of our words and the obligation of our treaty. What shall our answer be? Talk as we may, vote as we may, study as we may the wording of the final contract to find some technical excuse to avoid the natural meaning of the words "all nations," and to make them read "all other nations," we shall be unable to deceive ourselves or blind our eyes to the unassailable and unquestionable fact that we declared to the other party to this contract that "all nations" did include the United States, and that we are bound by every canon of national honor and good faith to give that treaty the same construction after it was signed as we did before the signatures of the parties were affixed.

The foregoing brief excerpts from our national and international discourse show conclusively—

That the policy of the Government from its earliest history has been equality of treatment of all vessels which might use any canal connecting the two oceans.

That this policy should control, no matter who owns the canal or where constructed.

That this policy was enacted into positive legislation in the "general principle" of article 8 of the Clayton-Bulwer treaty, which provided: "It is always understood by the United States and Great Britain that the parties constructing or owning the same [the canal] shall impose no other charges or conditions of traffic thereupon than the aforesaid Governments shall approve as just and equitable; and that the same canals or railways, being open to the citizens and subjects of the United States and Great Britain on equal terms, shall also be open on like terms to the citizens and subjects of every other State"—

And so forth.

That when this Government approached Great Britain for the abrogation of the Clayton-Bulwer treaty, it gave emphatic assurances of our purpose to maintain that "general principle" of article 8 of the Clayton-Bulwer treaty without impairment.

That at that time the people of the United States understood that the interest upon the investment and cost of maintenance of the canal should be met by tolls collected from all the vessels using the same, including all of our own vessels, as per estimates then presented and published.

That at that time the people of Great Britain were perfectly willing to abrogate the Clayton-Bulwer treaty if in the new treaty the vessels of that country should be allowed the use of the canal on the same terms as the vessels of the United States, and which equality should also apply to vessels of all other nations.

That upon this mutual understanding of purpose the two countries proceeded to put the new treaty into form.

That in the negotiations in formulating the new treaty the one party was insistent that this equality of treatment of all vessels of both countries should be preserved beyond question, and the other party as positively asserted that the right was preserved without impairment in the preamble of the new treaty and reasserted in section 1 of article 3 of the new treaty.

That all parties to the negotiation of the treaty—Hay, Choate, and White on the American side and Lansdowne and Pauncefote on the British side—declared most positively that they all

understood the treaty to mean "equality of all vessels," including the American vessels, and (by Choate) that if it had not been so clearly understood the treaty never would have been agreed to.

That the report of the Committee on Foreign Relations to the Senate construes the treaty to mean that vessels of all nations included the vessels of the citizens of the United States.

That upon that report and without questioning the accuracy of its construction the Senate confirmed the treaty.

That an amendment to free our coastwise vessels from the operation of the treaty was voted down.

If we thought we had this right without the Bard amendment, then making that right certain could not possibly have done any harm.

If we thought we did not have this right and wished to secure it, then it was our duty to have voted for the amendment.

If we thought the other party to the contract was agreeing to it with the understanding that it compelled equal treatment of the vessels of both parties, but we believed that its words were not so certain and conclusive as to preclude us from giving it a different construction, then our act in closing that agreement with that misunderstanding, with that reservation in our minds, was a piece of downright deception, grossly shocking to individual morality, and most unworthy a great, powerful, honorable nation.

Mr. President, the obligations of national honor impose upon us the duty of giving that treaty a construction in accordance with the understanding of the representatives of both Governments at the time we entered into it, a duty from which no refined reasoning, no strained construction, no studied sophistry, and no pseudo-patriotism can ever relieve us. [Applause in the galleries.]

The PRESIDING OFFICER. Under the rules of the Senate, occupants of the gallery are not permitted to express approval or disapproval, and they must obey the rules.

Mr. SIMMONS. Mr. President, by way of perfecting the substitute amendment to the pending bill offered by me on yesterday, I wish to add, in line 5, after the date "1902," the following words: "or the treaty with the Republic of Panama ratified February 26, 1904"; and I ask for a reprint of the substitute as so modified.

The PRESIDING OFFICER. If there be no objection, it will be so ordered. The Chair hears none.

Mr. JAMES. Mr. President, I am in favor of the passage of the pending bill, first, because it keeps intact the Nation's honor, and, second, because it repeals a subsidy to a monopoly. Some of our friends upon this side of the Chamber and some upon the other side of the Chamber fail to call this issue by its right name. Some Senators call it "tolls exemption," but I call it a subsidy. I think President Taft, who signed the bill which we are now undertaking to repeal, had the true conception of what it really is, and in a speech which he made before the Canadian Club in Ottawa, Canada, he used this language:

> The idea of Congress in passing the bill and my idea in signing it was that we were thus giving a subsidy to our coastwise ships between New York and San Francisco and Boston and Seattle, as we did in the early days to our transcontinental railways.

I think that is a true statement of just what this issue is. Some of our Democratic friends say that they feel that they ought to vote against this measure because the platform of the Democratic Party has committed them to that policy. Mr. President, I shall discuss that platform. I think I had a fair opportunity to observe the Baltimore convention, and I say to those of the Democratic faith who are seeking to base their vote upon that declaration in the platform, which contravenes the whole of the Democratic Party's history, all its traditions, and all its policies, that they are establishing themselves upon a very weak and a very dangerous foundation.

There is a declaration in that platform which says—and in order to be absolutely accurate, I shall read it—

> We favor the exemption from toll of American ships engaged in coastwise trade passing through the canal.

What is meant by "American ships"? Some gentlemen say, "Why, that means, of course, all vessels flying the American flag." I know that those who drew it expected it to mean that; but when they stated they were in favor of exemption of American ships engaged in coastwise trade, what was the natural thought that came to the mind of every Democrat? It was that we were exempting ships of the United States doing the work of the Government for the whole people, not the ships of a monopoly doing private business for personal profit. The platform did not say "We are in favor of the exemption of ships owned by American citizens" from payment of tolls, but they clothed it in that very patriotic language of "the exemption from tolls of American ships engaged in coastwise trade." But before that statement in the platform we find this declaration:

> We believe in fostering, by constitutional regulation of commerce, the growth of a merchant marine, which shall develop and strengthen the commercial ties which bind us to our sister Republics of the south, but without imposing additional burdens upon the people and without bounties or subsidies from the Public Treasury.

If we are to say the first declaration meant a subsidy to the coastwise shipping monopoly, then, according to these contradictory planks in the Democratic platform, you would give a subsidy to a monopoly engaged in the coastwise trade, not extending our commerce with the nations of this earth, not finding sale for the product of our labor, but, under the law, a monopoly that is without foreign competition. You would give a subsidy to them, and, under the guise of American ships, you would allow the Standard Oil ship flying the American flag, you would allow the Steel Trust ship flying the American flag, you would allow the Coal Trust ship flying the American flag to go through the canal without cost, but you would hold at its gates the ship loaded with the product of our labor consigned to some South American port, flying the American flag, and require it to pay a toll before you would allow it to pass through the canal.

If I were in favor of a subsidy of any character, I should give it to that ship and to those engaged in the merchant marine that operate in competition with the world, extend our trade, and find a market for our labor, instead of giving it to a monopoly that did neither, and that was absolutely, by reason of the law, protected against competition.

But I do not stop there in the consideration of this question before the Democratic convention. This platform goes further:

> At this time when the Republican Party after a generation of unlimited power in its control of the Federal Government is rent into factions, it is opportune to point to the record of accomplishment of the Democratic House of Representatives in the Sixty-second Congress. We indorse its action, and we challenge comparison of its record with that of any Congress which has been controlled by our opponents.

Mr. President, what was the rock upon which we built our hope and our faith in the battle of 1912? For almost 20 years we had been out of power. Our Republican brethren had controlled both branches of Congress and the Presidency. For the first time in that length of time we had been trusted by the American people with control of the great House of Representatives, and we built our hopes for success upon the rock of accomplishment and the acts of the House of Representatives in that Congress.

Upon this very question of giving a subsidy to this coastwise monopoly, when the roll was called and the Democratic membershi of that House answered, a majority of the Democrats voted against this subsidy. This platform indorses that Democratic House of Representatives. It indorses its acts. One of it acts was that a majority of its membership, under a roll call of record, had voted against this very provision.

I say, Mr. President, and as I declare it I measure my words and weigh them well, that if that great convention had known the full facts and this question had been presented to them in the open, those favoring this subsidy saying this exemption of tolls to American ships meant a subsidy to this monopoly, that convention would not have adopted this plank by a vote of 723 to 125, as is shown by a poll recently taken of those delegates who constituted that convention, but I believe that out of the entire membership in it this policy of subsidy would not have received 100 of the votes there assembled. Three of the best known tenets of my party which I have been taught are a tariff for revenue only, taxation of the fortunes of the rich, and opposition to subsidy. I challenge any man who claims to speak the language of my party to name three better known or better loved principles of the Democratic Party.

I do not have to stop there, however. In my judgment, the reason for adopting this plank favoring exemption from tolls or a subsidy for American ships, if that is to be the construction given to it—American ships that were owned largely by that dominating financial force which that convention, by resolution, said they wanted no President to be controlled by—was to drive through this body, in which that bill was then pending, this tolls exemption or subsidy proposition.

I am not wandering upon strange ground when I declare that my party has always opposed a subsidy. I have a record of its platforms in the past. The very shibboleth of it, "Equal rights to all and special privileges to none," is enough, if no more.

As the Senator from Oklahoma [Mr. OWEN] suggests, under a poll of the delegates since made, when this question was submitted to them, more than 726 of the delegates that have replied voted in favor of the repeal and only 125 were opposed to it.

When I came to Congress, nearly 12 years ago, the first battle I saw fought by my party was against a subsidy.

Let us see, however, what the party has said before.

In our platform of 1900, what did we say? Here it is:

We denounce the lavish appropriations of recent Republican Congresses, which have kept taxes high and which threatened the perpetuation of the oppressive war levies. We oppose the accumulation of a surplus, to be squandered in such barefaced frauds upon the taxpayers as the shipping subsidy—

Barefaced frauds! Why, now you call it something else.

Such barefaced frauds as the shipping subsidy bill, which, under the false pretense of prospering American shipbuilding, would put unearned millions into the pockets of favorite contributors to the Republican campaign fund.

That was the Democratic platform of 1900; but we will not stop there. Let us see what they said in 1904.

The Democratic platform of 1904 uses this language:

We denounce the ship-subsidy bill recently passed by the United States Senate as an *iniquitous* appropriation of public funds for private purposes, and a wasteful, illogical, and useless attempt to overcome by subsidy the obstructions raised by Republican legislation to the growth and development of American commerce on the sea.

We favor the upbuilding of a merchant marine without new or additional burdens upon the people and without bounties from the Public Treasury.

That was the declaration of our party in 1904.

In 1908, in the Democratic platform, we used this language:

We believe in the upbuilding of the American merchant marine without new or additional burdens upon the people and without bounties from the Public Treasury.

So our party in 1900, in 1904, and in 1908 has declared against subsidies of every character. It has said that it was undemocratic, that it was a barefaced fraud, that it was an iniquitous appropriation of public funds for private purposes. In our platform of 1912 we again reiterate our position of opposition to subsidies.

But what is the issue here now presented? Some of our distinguished friends say that we ought to allow this because if we do not we will surrender to England.

Mr. President, my hatred for England is not fierce enough to make me give a subsidy to a monopoly. Under the guise of "not surrendering to England" I am not going to surrender the Public Treasury of the United States of America to a shipping monopoly.

Surrendering to England? What are we surrendering to England? Our country made a treaty with them. I did not make it; our party did not make it; but men representing our country did make it. If that treaty, as I believe it does, denies us the right to give this character of subsidy to a monopoly, I hope to see more treaties made between this country and other countries that will deny us the giving of special privilege to private monopoly.

But it is the old cry over again. When they first came to the United States Congress and asked us to give them the right of subsidy, to take the people's money, the taxpayer's money, from their Treasury and give it to a favored few, generally, as in this case, a monopoly, they called it then a subsidy. They were defeated. The next time they came demanding the right to take from the Public Treasury so many million dollars and give it to a monopoly they called it a "subvention," and now they come, this time, and they call it a tolls exemption.

What are the facts, Mr. President? We built the Panama Canal. We taxed the American people $400,000,000 to build it. The canal is built. It has saved us in the time taken for transportation at least two-thirds of that formerly required. Now, these gentlemen are coming with their ships, not carrying the commerce of the Government—not at all. They speak of them as American ships, as if they were loaded down with the munitions of Uncle Sam. They call them American ships, as if they were doing the peculiar service of the Government, when they are privately owned ships carrying the commerce of other private citizens for money, for profit.

They come to the canal. Here it is. It has been built. Four hundred million dollars it has cost the producers of the United States of America. What is the price that it costs us for its upkeep? About $4,500,000 a year. Here comes one of the ships making immense profits. It goes up there, and the monopoly that owns it says to Uncle Sam, "Open your gates; give us a pilot; put your men on board; furnish the coal; furnish the power; furnish the labor; and take our ship 50 miles through the canal and empty it into the Pacific Ocean; but we are not going to pay you anything for it." It is true the ship monopoly is being paid by citizens who ship their goods, to transport them from coast to coast, but they want to have Uncle Sam—that is, all the people—to do for them without charge or cost that for which they have been abundantly paid by the shippers themselves to do.

Why, Senators, if it were proposed that we should give to every laborer in this country who did not make as much as $2 per day a subsidy that would make up the additional amount required in order to meet the $2 wage, Senators would call that socialism, and they would be right; but you are doing the very same thing, not for the poor fellow who digs into the earth or beats at the forge for his bread, but for a monopoly, and you call that Americanism!

Take this ship. You run it through the canal. The Government of the United States is responsible for every dollar of damage that is done to it. All we ask from this monopoly is simply this: We have reduced the time for you. We have made it possible for a ship to go from New York to San Francisco in one-third the time formerly required. We have given you an absolute monopoly, so far as the Government is concerned, against competition with foreign vessels. Now, all we ask of you is this: Just pay us what it will cost us to put you through the canal; that is all. We do not want any interest upon the $400,000,000 we have expended; we do not want any profit upon our investment, but we ask you in the way of tolls to pay your pro rata part of the charge that we have to pay in order to operate the canal.

Oh, but some of our friends tell me that the reason they are in favor of this exemption is because it will lower transportation rates. Yes! I never did see an advocate of a subsidy come up and meet the issue fairly and squarely. They always have some deceptive cry. It is always not for themselves—oh no—but for the dear people. "Just let us ram our hands into the Public Treasury and take the money out, and then we will give it back to the people in an indirect way." As the people already have the money, I would rather rely upon keeping it by holding it in the Treasury, rather than to hand it to them upon the theory that they will give it back to us again by a reduction of freight rates. One thing of which we can be certain the monopoly in any event will not give us more back than they took from us, so we in any event have nothing to gain.

That is the principle, however. Why, the advocate of this subsidy first dons the uniform of Uncle Sam; he grabs the American flag and waves it over his head, and cries, "Patriotism, patriotism, patriotism," when what he really means is "Plunder, plunder, plunder." Then, if that does not work, why, "We will say, then, that you are surrendering."

Let us see about the question of freight rates. Who is the best qualified man in this Government to speak upon the question of whether or not exemption from tolls will lower freight rates? Col. Goethals built the canal. I want to read to the Senate what he says upon this question of lowering freight rates, and I will read it. He says:

NO FREE TOLLS, SAYS COL. GOETHALS.

[A statement by Col. Goethals.]

My views on the economic side of the tolls question follow: Government will expend $375,000,000 for canal and intends to charge for its use. Basis of tolls given in Emory Johnston's report on Panama Canal traffic and tolls, pages 193, 194, and 195. These figures should be corrected for operating expenses, which will be $5,500,000, including depreciation.

I believe tolls should pay outstanding indebtedness, fixed charges, and operating expenses, leaving amounts appropriated from current revenues to be the contribution of the present generation toward canal, and because of unknown future conditions not burdening posterity for remainder. Bond issue to date under canal acts $134,631,980, interest on these approximately $3,200,000, annual amount to be set aside for redemption of bonds $3,250,000, operation and maintenance $5,500,000, annual payment to Panama $250,000. Amount to be secured annually through tolls is therefore $11,950,000. If additional bonds are issued, these figures should be changed accordingly.

To secure this amount through tolls—

Five million and five hundred thousand dollars—

it is necessary to charge all shipping, as indicated in report quoted. Established steamship companies fix rates after conference, and as they are in the business for profit will demand the highest rates the traffic will bear.

Yes; this beneficent Shipping Trust that is so patriotic now, clad in the habiliments of Uncle Sam and waving his red, white, and blue colors, whenever it gets the subsidy, Col. Goethals says, it will have a conference and do what? Demand the highest rates the traffic will bear.

These rates will be independent of tolls. It follows that exemptions from tolls will not give cheaper rates from coast to coast to either shipper or receiver, but will increase profits to shipping companies.

And yet, because the President of the United States of America has asked Congress to repeal a law of this character that will do nothing more, according to Col. Goethals, than to pour money into the pockets of the shipping monopoly he is denounced as a surrenderer of American rights, and it is said that he is afraid to defend American honor. He is charged with cowardice, and every other charge imaginable is brought against him. Why? Because the profits are not permitted to

flow from the people's Treasury into the pockets of these gentlemen who own this shipping monopoly. When the Alaskan railroad is built will gentlemen here insist that after the Government has expended $40,000,000 in constructing it that the freight of the Gugenheim-Morgan syndicate shall be transported over it without charge? Will they say the American taxpayers built and paid for it in order that monopoly might use it free? Speaking for myself—and, I know, for the people of Kentucky—I consider such a contention as the very acme of special privilege and the worst of subsidies.

Col. Goethals proceeds:

The same is applicable to rates from interior points to either coast. Agreements will be made between railroads and ships for through rail and water rates same as at present, and rates divided between two interests as per agreement. Again, exempted tolls will not give lower rates to shipper or receiver.

Therefore free tolls to vessels engaged in coastwise trade result in a subsidy to a class of shipping already fully protected and not in need of subsidy.

You can not even claim that they need the subsidy. You can not even claim that they are not fully protected in everything in these two governmental advantages by law, and you now want to give them a subsidy.

Col. Goethals continues:

I do not believe in exemption of tolls for coastwise trade, first, because this amounts to a subsidy to a class of shipping and will benefit stockholders and not shippers; second, because this canal will need all the revenue it can get to pay its current expenses and indebtedness.

Our position is let the ships pay for this themselves. The other gentlemen want the taxpayers to pay for it.

I suppose Col. Goethals wants to surrender after he went at the risk of his life to construct this great improvement.

But what is the next question that is brought up. I notice, Mr. President, that some of my Democratic friends are very solicitous about the Democratic platform. They are the special guardians of the party faith upon this particular issue. I have as much respect and as much loyalty and as much devotion for a Democratic platform as any man upon this floor, but let us see what it is upon this question where there are two declarations against a subsidy and one of doubtful construction for it.

I want to point out one plank in this platform of the Democratic party of which there was no earthly doubt. It is not susceptible of a double construction. It has no contradictory provisions in it.

I expect to show, Mr. President, that some of the gentlemen who are assailing us most bitterly for violating what they contend is a declaration for a subsidy have themselves been the first offenders.

I do not cite that to justify the ac. of any other Democrat who may be unwilling to follow the direction of his party in its platform, but I submit it for the purpose of showing that these gentlemen had the opportunity first to show loyalty to the platform where a subsidy was not involved and they were not very active in its defense.

What is that plank? In the House of Representatives, the Democratic House of the Sixty-second Congress, there was introduced what was known as the Cullop amendment. It was offered as an amendment to a bill creating a new judicial district and providing for the appointment of a judge. It was introduced for the purpose of requiring the President of the United States to make public the names of all persons and all communications in relation to the appointment or any recommendation made in regard to the appointment of a judge.

That amendment was adopted by the Democratic House of Representatives. I was a Member of the House at that time and voted for it, and it came to this body, which was then Republican, and it was defeated.

When we assembled in the Baltimore convention with that question fresh in our minds a plank upon the provision of publicity was made to apply directly to such cases, and the cause for its adoption was the defeat by the Republican Senate of that very provision in the House bill. The reason for that provision in the Democratic platform was this: There was great unrest in the country in regard to the judiciary. Col. Roosevelt himself was advocating the recall of Federal decisions. Many gentlemen of distinction and ability were advocating the recall of Federal judges. The Democratic Party sought to throw the light of publicity around these appointments. We adopted this plank for that purpose, and I want to read it:

We note with gratification the unanimous sentiment in favor of publicity, before the election, of campaign contributions—a measure demanded in our national platform of 1908, and at that time opposed by the Republican Party—and we commend the Democratic House of Representatives for extending the doctrine of publicity to recommendations, verbal and written, upon which presidential appointments are made.

The one thing which caused the insertion in the platform of that plank was the amendment known as the Cullop amendment to the bill creating a judicial district.

And, Mr. President, why not? A judge holds the scales in which the life of a human being is weighed. He holds the scales in which the property rights of our citizens are weighed. As to this important official, who has within his keeping the happiness, the property, and the lives of our citizens, the Democratic Party said that every light that can shine ought to be thrown around such recommendations and appointments.

The Democratic Party wrote that in its platform. Yet my distinguished friend Senator O'GORMAN assails all bitterly who refuse to accept the version of that 1912 Democratic plank as applying to a subsidy. I have the record to show, as a member of the Judiciary Committee, when a like bill went before that committee with an amendment providing for publicity which came from this present Democratic House, and that committee reported it to the Senate with an amendment striking out the publicity amendment. We did not see Senator O'GORMAN, heroic and powerful, towering with drawn sword as a defender of the Democratic platform and assailing all those who refused to follow as a betrayer of the Democratic trust.

Mr. O'GORMAN. Mr. President——

The PRESIDING OFFICER (Mr. SWANSON in the chair). Does the Senator from Kentucky yield to the Senator from New York?

Mr. JAMES. I yield.

Mr. O'GORMAN. I do not suppose the Senator from Kentucky would be guilty of any unfair statement regarding one of his colleagues; but on a former occasion when he alluded to this incident I told him in the Senate that I was not present at a meeting of the Judiciary Committee when that action was taken, and I was advised within half an hour afterwards that the Senator himself went to the clerk of the Judiciary Committee and asked for the record of those who were present at that meeting. The record which was shown to him disclosed the fact that the Senator from Idaho [Mr. BORAH] and the junior Senator from New York did not attend the meeting.

While there might have been some excuse for the Senator's reference to this matter on a former occasion, in the light of the information which he received from the clerk of the Committee on the Judiciary, I will leave it to the judgment of my colleagues whether there is any possible excuse, justification, or extenuation for the repetition of the statement on this occasion.

Mr. JAMES. Did the Senator from New York follow my language? I said that the Senator from New York was a member of the Judiciary Committee, and that committee struck out that amendment, and it was so reported to the Senate, and that I did not see the Senator defending that Democratic promise.

But the Senator has not looked at the record, happily for my position. Mr. President, I have the record here myself. The one to which I at one time in the Senate alluded and to which the Senator says that he was not present does not apply to the Chilton bill which I have in front of me with the record notes of the proceedings of that committee, and I shall read it:

Mr. CHILTON called up S. 577, authorizing the appointment of an additional circuit judge in the fourth circuit. Upon motion of Mr. O'GORMAN, the bill was ordered reported favorably, and Mr. CHILTON requested to make the report.

The Senator from New York will not say that I misrepresent him in this record I have read. Mr. President, the purpose of the Democratic Party in adopting that particular plank to which I referred was caused by the Cullop amendment; and does the Senator say he had not knowledge that the House again had passed such an amendment to the Palmer bill?

Mr. O'GORMAN. Mr. President——

Mr. JAMES. But if the Senator was not there, I point him to the Democratic platform which requires publicity in the case of all appointments; and here he is creating a new appointment, and he does not apply the plank of the Democratic platform which he himself helped to make to a provision of the law.

The PRESIDING OFFICER. Does the Senator from Kentucky yield to the Senator from New York?

Mr. JAMES. I do.

Mr. O'GORMAN. Does the Senator from Kentucky state that at the meeting to which he now refers the subject of which he speaks was under consideration or discussion?

Mr. JAMES. Oh, it ought to have been.

Mr. O'GORMAN. No; I am asking was it?

Mr. JAMES. I do not know what was under discussion. I know that you reported out a bill with that provision of publicity left out. The Senator may escape my charge by saying that he was not present when the committee struck out the House amendment, but he can not escape the charge that the Chilton bill, that was before his own committee, had no such

amendment to it, but ought to have had one, and the Senator did not offer one, but moved to report it out without a publicity amendment, and it was reported out and passed.

Mr. O'GORMAN. Then, Mr. President, it seems that all the committee did on the occasion to which the Senator refers was to confirm an appointment made by the President of the United States.

Mr. JAMES. Oh, not at all, Mr. President. The Senator is clearly mistaken. The committee was considering a bill creating a new judicial district and providing for an appointment by the President. The Senator misstates the whole issue.

Mr. O'GORMAN. The bill originated in the House?

Mr. JAMES. I do not know whether the bill originated in the House or in the Senate, but it was in the Senate, and the bill was for the purpose of creating a new judicial district and a new judge, and not for the purpose of confirming an appointment. The Senator is very badly mixed up in his cards. He is not as familiar with Democratic platforms as I anticipated that he was.

Mr. O'GORMAN. I do not claim any particular familiarity with cards; I leave that distinction to the Senator from Kentucky; but I repeat, as I have said on a previous occasion, that at no time in my presence at a meeting of the Judiciary Committee was the question discussed as to whether the President of the United States had failed to comply with the provisions of the platform requiring that all indorsements for judicial positions should accompany——

Mr. JAMES. Again the Senator has mistaken the issue. The question was not what the President had done about making public any recommendation given to him. That was not the issue. The Senator helped to write the Democratic platform in which there was a plank which said that it was our policy to require by law all recommendations and all indorsements to be made public. My position is that the Senator as a legislator was helping to pass the bill through the Senate and did not carry out the promise of the Democratic platform in regard to that provision. The President had nothing to do with it. The President made no recommendation. It was a bill introduced by the Senator from West Virginia [Mr. CHILTON]. Not only that, Mr. President, but I have the record here of many other bills creating other new judicial districts and providing for appointments of judges that were introduced and before the committee of which the distinguished Senator from New York was a member, and to not a single one of those bills was there an amendment offered putting in effect the plank in the Democratic platform made at Baltimore.

Mr. WALSH. Mr. President——

The PRESIDING OFFICER. Does the Senator from Kentucky yield to the Senator from Montana?

Mr. JAMES. Certainly.

Mr. WALSH. I, too, am a member of the Judiciary Committee, and all the strictures addressed to the Senator from New York equally apply to myself. I therefore want to be clear about the attitude of the Senator from Kentucky. There is a plank in the platform calling for legislation requiring that the President of the United States should make public all recommendations for public office.

Mr. JAMES. Not at all. The Senator does not understand the platform. [Laughter.]

Mr. WALSH. Well, I am trying to understand the Senator. I understand he complains because the Democratic members of the Judiciary Committee, when the bill he speaks of was under consideration by it, did not offer an amendment calling upon the President——

Mr. JAMES. Providing by law.

Mr. WALSH. Exactly.

Mr. JAMES. That was the cause originally of the plank being placed in the platform.

Mr. WALSH. I understand the Senator distinctly. Accordingly every act of any kind which has during the present session come before this body, under the provisions of which any new office has been created, must carry with it a provision——

Mr. JAMES. Oh, the Senator, Mr. President, is not frank. The Senator is not fair in that statement.

Mr. WALSH. That when the officer is appointed the President of the United States shall make public the recommendations given concerning that office, and every Democrat here who, being a member of a committee to which any legislation of that character was submitted, did not propose an amendment of that kind is equally subject to the strictures of the Senator.

Mr. JAMES. The Senator need not undertake to interpret my speech. I want to say to the Senator that if he had read recently that plank of the platform he would not have made that statement. The reason why that plank was written in the platform was to apply particularly to the appointment of judges. That is why it was written there. And to whom would we look to throw the white light of publicity around judicial appointments except to such guardians of Democracy as Senator O'GORMAN and Senator WALSH? You gentlemen were upon the committee, and you can not escape whatever responsibility attaches to that neglect to carry out the promises of the Democratic platform by saying that some other Democratic Senator who was not on the committee and knew nothing about it ought to have done what you yourselves failed to do.

Mr. O'GORMAN and Mr. WALSH addressed the Chair.

The PRESIDING OFFICER. To whom does the Senator from Kentucky yield?

Mr. JAMES. I will yield to either Senator.

Mr. WALSH. I will ask the Senator if the meaning is not that there should be general legislation to that effect?

Mr. JAMES. I say to the Senator that the reason why it was written into the platform was because it was attached to a bill just like the one the committee of which he is a member struck it from and just like the others to which the committee failed to apply it. I can only answer the Senator by saying that the thing that brought about the writing of that plank I suppose was the thing that we desired to remedy.

Mr. O'GORMAN. Mr. President——

The PRESIDING OFFICER. Does the Senator from Kentucky yield to the Senator from New York?

Mr. JAMES. I yield.

Mr. O'GORMAN. The Senator from Kentucky was a Member of this body when the bill to which he alludes passed this body.

Mr. JAMES. Certainly I was a Member of it, but I knew nothing about it. I was at that time, if the Senator will permit me, relying upon him. I knew what a guardian he was of the Democratic platform. I was out helping to make the tariff bill. I was sitting night and day in company with the Senator from Missouri [Mr. STONE], the Senator from Colorado [Mr. THOMAS], and the Senator from North Carolina [Mr. SIMMONS] on a subcommittee when this performance was going on, and I relied upon the Senator from New York. I will swear I did. [Laughter.] I had implicit confidence in the Senator from New York. [Laughter.]

The PRESIDING OFFICER. The Senate will be in order.

Mr. O'GORMAN. Was the Senator from Kentucky surprised that none of the Democratic membership of this body raised the point to which he referred.

Mr. JAMES. The Senator must not seek to escape by trying to secure from me a censure of his colleagues. I can not agree to do that, Mr. President.

I can not agree to that, Mr. President, because we all know that Senators who are on the committees are those to whom we look for guidance when a bill is brought before this body.

Mr. O'GORMAN. Mr. President, no matter what excuses may be offered by the distinguished Senator from Kentucky exculpating himself from responsibility for legislation which he now condemns——

Mr. JAMES. Oh, Mr. President, I am not the special guardian of the Democratic platform, as is the Senator from New York.

Mr. O'GORMAN. Evidently the Senator to-night thinks he is the special representative of certain elements of the party, and is making as good a defense of their party perfidy as his great ability makes possible.

Mr. JAMES. Perfidy! Mr. President, the idea of that word escaping the lips of one who advocates taking the public money and giving it to a monopoly as a subsidy! Perfidy indeed! [Applause in the galleries.]

The PRESIDING OFFICER. Occupants of the galleries must not express approval or disapproval of anything which takes place on the floor of the Senate; and the Chair will insist on the observance of the rule.

Mr. JAMES. Mr. President, I simply brought forward these Democratic acts and Democratic platform utterances in order to clarify in some degree the atmosphere in this Chamber. Suppose my friend the Senator from New York would yield to me to offer an amendment providing, as to the farmers of my State—and they are good people; they are deserving people; they are patriotic people—that a subsidy should be given to them of this sort, allowing them to ship or to have transported through the mails by parcel post, and that they should be exempt from postage to the extent of a hundred dollars per year in sending their eggs, their meat, and products of the soil to the market; that would be called socialism; that would be denounced vehemently; but when you have given it to a monopoly it rises above such low earth as that and treads upon the purer heights and mountain top of statesmanship. When-

ever you take from all the people and give to a particular class, and especially if that class is a monopoly and does not need it, and is very rich, why, of course, that is Americanism; and gentlemen who do not do that must forever wear the brand of yielding cowardlike to Great Britain.

Mr. MARTINE of New Jersey. Mr. President——

Mr. JAMES. I am delighted to yield.

Mr. MARTINE of New Jersey. I can not resist stating to the Senator from Kentucky that I think he, in common with the greater part of the Senators from the South, voted for a subsidy to eradicate the cotton boll weevil, and some of the rest of us were duped into voting for it, too. Now, "acknowledge the corn." You did it in your interest——

Mr. JAMES. Mr. President, I have never heard the question of a subsidy raised; have never seen an attempt to take the public money and give it to a monopoly as a subsidy advocated by anybody in this Chamber when it was assailed that they did not talk about the cotton boll weevil.

Mr. MARTINE of New Jersey. Call it what you may, it is much of the same character, according to your idea.

Mr. JAMES. Oh, Mr. President, happily I can see a difference between taking a couple of million dollars a year out of the Public Treasury and ramming it into the pockets of a monopoly owned by a lot of very rich people up on the coast of New England and in New York, and appropriating a sum of money to try to eradicate the boll weevil that is destroying all the cotton of the toiling farmers, who wring from the earth under the sunny skies of Dixie that product which keeps the balance of the world's trade in our favor. Bless your soul, Senator, if you do not see any difference between those two things, your Democratic education has been sadly neglected. [Laughter.]

The PRESIDING OFFICER. The Senate and the galleries must be in order.

Mr. MARTINE of New Jersey. Mr. President, my education in the cause of Democracy has been at a shrine as pure and holy as that of the Senator from Kentucky. I say it is well for the Senator to defend his side of the question in breaking up a Democratic platform, but call it "subsidy" or whatever else you may, it is of the same kin and character as the illustration to which I have referred.

Mr. JAMES. Mr. President, I am perfectly content with my position. I am willing to account to the great people of Kentucky; and when the Senator from New Jersey speaks of the Democratic platform, to which one of the three planks does he refer—the two against subsidy or the doubtful one in favor of it? Whatever I may do about construing Democratic platforms, no President of my party will ever have me standing with the enemy firing upon him when he is fighting the greatest battle that was ever fought in favor of human rights and in the interests of the great mass of the American people.

Mr. OWEN. Mr. President——

The PRESIDING OFFICER. Does the Senator from Kentucky yield to the Senator from Oklahoma?

Mr. JAMES. I yield.

Mr. OWEN. Will the Senator from Kentucky permit me a moment to call his attention to the fact that the Democracy in not a single one of the 48 States authorized this subsidy to be put into the Democratic platform?

Mr. JAMES. Why, certainly not, Mr. President. You could not get 50 in a Kentucky Democratic convention of a thousand delegates to advocate a subsidy. It is antagonistic to the whole history and the whole teaching of the Democratic Party from beginning to end.

Mr. MARTINE of New Jersey. No; and you could not have got 50, I believe, in all the States of the Union that would have voted to expend money for the building of the Panama Canal, at a cost of $400,000,000, had they known that this was to be the policy of the United States Senate.

Mr. JAMES. Why, Mr. President, that is just where the Senator from New Jersey is in error. After the people dug the canal, at a cost of $400,000,000 to the taxpayers, then you take your ships there and say: "Here, take charge of us now; run us through. It will cost you on an average of $3,000 per ship, but you take us and run us through." Why do you not send the Government wagons out to the farmers in this country and haul their products to town free of charge. It would be just as fair as it is to haul the ships of monopoly through the canal without any charge. Why do you not pay the laborer's way to and from his daily toil? He needs it worse than this Rockefeller-Morgan-Wall Street monopoly does. But the worst of it all is you take from the farmer and the laborer and give to the monopoly

Mr. MARTINE of New Jersey. The Senator would go backward. The same argument that he advances would establish toll gates on every highway in our land.

Mr. JAMES. Ah, Mr. President, after we have dug the canal, after the ships go up to it, then your monopoly is not satisfied with the great expenditure of money. We do not want any profit; we do not ask any interest on the money; we ask only that you pay your proportionate part of the work we do for you; that is all, and nothing more. It reminds me of the fellow down in my community who would not work, and after the neighbors had become tired of giving him this and giving him that, aiding him and feeding him, a few of the boys, in a spirit of deviltry, one day said, "We will take this fellow, put him in a coffin, haul him to the graveyard, and bury him." They put him in the coffin and started with him to the graveyard, and as they were going along they met an old farmer with a load of corn, and he said, "Boys, who is dead?" They said, "Bill Jones." He said, "Is he dead?" They said, "No; but we are going to bury him anyhow." He said, "My goodness, you are not going to bury him alive, are you?" They said, "Why, certainly." He inquired why. They said, "Because he will not work. We have been giving him and giving him, and he will not do anything to support himself." The old man said, "Boys, do not do that; I will give him a load of corn." The fellow stuck his head out of the coffin and said, "Is it shelled?" The farmer said, "No." The man in the coffin said, "Drive on, then." [Laughter.] That is the way with the ship monopoly. After we have expended $400,000,000 digging that canal for them, then they come to the canal and say, "You dug it for us; now put us through it."

My friend the distinguished Senator from Mississippi [Mr. VARDAMAN], always happy and eloquent in expressing himself, proceeded to tell us in that very elaborate and excellent discourse he made on this subject that President Wilson had signed the death warrant of the Democratic Party. Mr. President, I should have expected that prophecy from some one upon the other side—some of our Republican friends, but not from a Democratic Senator, especially from Mississippi. I have heard the funeral of the Democratic Party preached many times, but always from the other side. They have told us of the impending death of this party of Democracy which was born before the Constitution and has buried every party that has contended against it, and I want to say to the Senator from Mississippi that if it shall ever go to its grave, which God forbid, the hand that takes its life will do something more than sign a bill repealing a subsidy to a monopoly. Signing a bill repealing a special privilege to a monopoly will come as near killing the Democratic Party as proclaiming anew the Ten Commandments would in killing the Christian religion.

But, Mr. President, the Senator from Mississippi tells us that ROOT and Bryan are going hand in hand, side by side. Everybody nowadays takes a lick at Mr. Bryan, but under each blow which they deal him he grows in strength and in the love and the confidence of the American people. ROOT and Bryan side by side. What a powerful argument to drive the Democrats in favor of a subsidy. I, Mr. President, have always taken the position that I would not allow some one with whom I disagreed to select my position for me, and I would not allow the fact that Senator ROOT was in favor of repealing the subsidy to drive me from its support.

But if that powerful argument, so subtle and brilliant, is to have an effect, let me see with whom the distinguished Senator, my beloved friend from Mississippi, is associated. If companionship and comradeship in this struggle is to be the brand of infamy, behold the hero of Mississippi marching down to the good old State where the cotton blossoms, advocating this subsidy to this monopoly, upon one side of him the distinguished Senator GALLINGER and upon the other side of him the distinguished Senator SMOOT, and directly in front of him BOIES PENROSE, of Pennsylvania. [Laughter.]

Mr. GALLINGER. Mr. President——

The PRESIDING OFFICER. Does the Senator from Kentucky yield to the Senator from New Hampshire?

Mr. JAMES. I yield.

Mr. GALLINGER. The Senator from Kentucky, Mr. President, honors me by calling me by name, contrary to the rules of this body.

Mr. JAMES. I withdraw that, Mr. President.

Mr. GALLINGER. But no matter about that, I simply rise——

Mr. JAMES. I meant no offense at all; I merely desired to put the Senator from Mississippi in good company.

Mr. GALLINGER. I simply rise to say, Mr. President, that the performance that is going on to-night is an illustration of "how good and how pleasant it is for brethren to dwell together in unity."

Mr. JAMES. And how good and how pleasant it is for that statement to come from one who has so recently dwelt in such harmony and unity with his own colleagues. [Laughter.]

But, Mr. President, I say if that argument is a good one now, I point to the fact that Senator VARDAMAN is following the leadership of Senators upon the other side of the Chamber and following a majority of the Republicans of this Chamber. I do not present that argument because it has any merit; I present it because I deem it a worthy and fit reply to the suggestion made by the Senator from Mississippi.

Speaking for the great Commonwealth of Kentucky, I rejoice to take my stand with President Wilson. Practically the men of that State of all parties and creeds are supporting him in this battle against subsidy. I delight in the thought that no monopoly can make our President surrender the people's money to it. No fake or false cry of "surrender" can drive him from the position that a Nation's honor must be as pure as the mothers' hearts who prayed, as clean as the fathers' hands who fought to create this great Republic to have it take its place among the nations of the earth. Mr. President, against the insolent demands of this monopoly for this subsidy I place the rights of every taxpayer in this Nation: those who by toil in the field and the forest, the shop and the factory pay the taxes that built this canal, pay the taxes that must operate and maintain it. In their interest I solemnly and emphatically insist that this great engineering feat shall not be made the vehicle upon which greed shall raid the Public Treasury and exploit our people.

Mr. President, the people of the United States of America demand the repeal of the tolls-exemption clause of the Panama Canal act; first, because it violates this Nation's honor; and, second, because it violates the best-known principle of popular government—equal rights to all and special privileges to none.

Mr. THORNTON. Mr. President, I do not propose to discuss any phase of this question that I mentioned in my address to the Senate on the 9th of May, but I wish briefly to allude to two points in connection with it which have been given prominence in the debate since that time.

Some Democratic Senators in this body who are opposed to the repeal of the exemption clause of the canal act lay great stress on the fact that a provision of the Baltimore convention declared in favor of the exemption of American vessels in the coastwise trade from the payment of tolls.

I think that I realize as much as any other party man the general obligation of observing the declarations contained in a party platform; but I wish to say, further, that the principle has its limitations. It is to be presumed that a plank in a platform is placed there by its framers because they suppose that the effect of it will be conducive to the general interest, and just so long as they are satisfied that that plank is conducive to the general interest they are justified in standing by that provision, but not one moment longer.

If it should become evident to the members of a political party after a declaration had been put in a platform that its effect would not be conducive to the public interest, it is their duty to the public not only to refrain from trying to carry it into effect, but if any steps have been taken to carry it into effect, then patriotism and public duty require that they should endeavor to undo what they have already done in that direction.

I have not the slightest idea, if the report of the House Committee on Merchant Marine and Fisheries, following their investigation of shipping combinations, and likewise the testimony taken recently before the Senate Interoceanic Canal Committee, had been known before the meeting of the Baltimore convention that the tolls-exemption plank would ever have gone into it.

At this time those who are satisfied from the investigation that has been made since and from the evidence that has been adduced which was not accessible before that that particular plank in the platform is wrong are justified in not insisting upon it, and would not be justified if they did not strive to repeal it to the extent of undoing anything that has already been done in the direction of putting it into effect. Nor have I the slightest idea that President Wilson, if that knowledge had been in his possession at the time he made that New Jersey speech, which has been so harped upon here by the Democratic as well as the Republican opponents of repeal, would have made it.

I know that I changed my position on the subject on account of this new evidence that was not accessible before; the knowledge brought to me that had not been and could not be brought to me before; and I assume that the President of the United States has just as much right as I have to change his opinion, based upon a sincere conviction that he was mistaken in the premises. I say that I honor him, I feel far more respect for him for the position he now occupies since he has discovered that his first position was wrong than if he had continued to maintain that position just because it was a part of the party platform.

To one who persists in a course which he had originally adopted because he thought it was right, and who still thinks it is right, can be applied the expression that "consistency is a jewel"; but to him who persists in a course that he has once adopted because he thought it was right, but now is convinced that it is wrong, can be applied the expression, "Consistency is the main virtue of fools."

I think that those Democrats in this body who are so much disturbed on account of the change of position of the President on this question since he made that New Jersey speech are very unduly disturbed, much more disturbed on account of it than the President himself is.

It has also been stated, with more or less dramatic effect, by Democratic Members of this body who are opposed to repeal that if this bill is passed it will mean the loss of power of the Democratic Party in the approaching elections; and if it shall happen that the party loses in the fall elections, or that its power is considerably decreased, they will most certainly claim that the effect was due to that cause, and in the nature of things it could not be proven that it was not so. I said in my address of the 9th of March that if the Democratic Party should be defeated in the approaching elections it would not be due to the passage of this bill, but to other causes; and, of course, if that contingency should happen, I would not be able, either, to prove the truth of my assertions. Even, however, if the party should be defeated for that reason, in my judgment, it is far better that it should be defeated on account of trying to uphold the right than succeed on account of trying to uphold the wrong, for I believe that in the ultimate outcome any political party will be benefited by an adherence to principle, rather than by a resort to expediency.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by J. C. South, its Chief Clerk, announced that the House disagrees to the amendments of the Senate to the bill (H. R. 14034) making appropriations for the naval service for the fiscal year ending June 30, 1915, and for other purposes; asks a conference with the Senate on the disagreeing votes of the two Houses thereon, and had appointed Mr. PADGETT, Mr. TALBOTT of Maryland, and Mr. BUTLER managers at the conference on the part of the House.

The message also announced that the House disagrees to the amendments of the Senate to the bill (H. R. 12045) granting pensions and increase of pensions to certain soldiers and sailors of the Civil War, and certain widows and dependent children of soldiers and sailors of said war, asks a conference with the Senate on the disagreeing votes of the two Houses thereon, and had appointed Mr. RUSSELL, Mr. ADAIR, and Mr. LANGHAM managers at the conference on the part of the House.

ENROLLED BILL AND JOINT RESOLUTION SIGNED.

The message further announced that the Speaker of the House had signed the following enrolled bill and joint resolution:

H. R. 14242. An act to increase the limit of cost for the erection and completion of the United States Federal building at Harrisburg, Pa.; and

S. J. Res. 148. Joint resolution authorizing the President to extend invitations to foreign Governments to participate, through their accredited diplomatic agents to the United States, in the National Star-Spangled Banner Centennial Celebration.

PETITIONS AND MEMORIALS.

Mr. OWEN presented memorials of sundry citizens of Oklahoma, remonstrating against national prohibition, which were referred to the Committee on the Judiciary.

Mr. GALLINGER presented a petition of sundry citizens of Concord, N. H., and a petition of the congregation of the First Baptist Church of Laconia, N. H., praying for national prohibition, which were referred to the Committee on the Judiciary.

Mr. PERKINS presented a petition of the Chamber of Commerce of Los Angeles, Cal., praying for an appropriation for the construction of the San Carlos Dam, in Arizona, which was referred to the Committee on Irrigation and Reclamation of Arid Lands.

He also presented a memorial of the Humboldt Chamber of Commerce, of Eureka, Cal., remonstrating against the passage of antitrust legislation at this session, which was referred to the Committee on Interstate Commerce.

He also presented memorials of sundry citizens of Los Angeles, Cal., remonstrating against national prohibition, which were referred to the Committee on the Judiciary.

He also presented petitions of sundry citizens of El Centro Cal., praying for national prohibition, which were referred to the Committee on the Judiciary.

Mr. LODGE. I present resolutions adopted by the General Court of the Commonwealth of Massachusetts, which I ask may be printed in the RECORD and referred to the Committee on Finance.

There being no objection, the resolutions were referred to the Committee on Finance and ordered to be printed in the RECORD, as follows:

THE COMMONWEALTH OF MASSACHUSETTS, 1914.

Resolutions relative to the purchase of bunting for the manufacture of the United States Flag.

Whereas bids for the supply of bunting for the manufacture of the United States Flag have been received by the Navy Department of the United States from foreign firms or corporations in response to advertisements for bids issued by the said department: Be it

Resolved, That the General Court of Massachusetts hereby protests against the granting of any contract to any foreign person or corporation for the supply of bunting for the Flag of the United States as being unwarranted, unpatriotic, and improper.

Resolved, That copies of these resolutions be transmitted by the secretary of the Commonwealth to the Secretary of the Navy Department of the United States, and to the Senators and Representatives in Congress from Massachusetts.

In house of representatives, adopted May 25, 1914.
In senate, adopted, in concurrence, May 29, 1914.
A true copy.
Attest:

FRANK J. DONAHUE,
Secretary of the Commonwealth.

Mr. LODGE presented a petition of Local Union No. 444, United Brotherhood of Carpenters and Joiners of America, of Pittsfield, Mass., praying for the enactment of legislation to further restrict immigration, which was ordered to lie on the table.

Mr. BRANDEGEE presented a memorial of Local Union No. 15, United Hatters of North America, of South Norwalk, Conn., remonstrating against national prohibition, which was referred to the Committee on the Judiciary.

Mr. CLARK of Wyoming presented petitions of sundry citizens of Cheyenne, Worland, Fox Park, Carpenter, Powell, Greybull, Burns, Inyan Kara, Sundance, and Arcola, all in the State of Wyoming, praying for national prohibition, which were referred to the Committee on the Judiciary.

Mr. LEA of Tennessee presented petitions of sundry citizens of Harriman and Tullahoma, and of the congregation of the Presbyterian Church of Knoxville, all in the State of Tennessee, praying for the adoption of an amendment to the Constitution to prohibit polygamy, which were referred to the Committee on the Judiciary.

He also presented petitions of sundry citizens of Erin, Springfield, Henryville, Nashville, Martin, Fayetteville, and Ridgedale, all in the State of Tennessee, praying for national prohibition, which were referred to the Committee on the Judiciary.

Mr. WEEKS presented resolutions adopted by the General Court of the Commonwealth of Massachusetts, relative to the purchase of bunting for the manufacture of the United States flag, which were referred to the Committee on Finance.

Mr. JOHNSON presented a petition of the congregation of Monument Square Methodist Episcopal Church, of Camden, Me., praying for national prohibition, which was referred to the Committee on the Judiciary.

BILLS INTRODUCED.

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. GRONNA:

A bill (S. 5765) granting an increase of pension to Minerva Freeman (with accompanying papers); to the Committee on Pensions.

By Mr. BRANDEGEE:

A bill (S. 5766) granting an increase of pension to Cornelia A. Anderson (with accompanying papers);

A bill (S. 5767) granting an increase of pension to Margaret A. Bitgood (with accompanying papers);

A bill (S. 5768) granting an increase of pension to Almira E. Briggs (with accompanying papers);

A bill (S. 5769) granting an increase of pension to Mary J. Campbell (with accompanying papers);

A bill (S. 5770) granting an increase of pension to Henry S. Gay (with accompanying papers);

A bill (S. 5771) granting an increase of pension to Mary A. Harrington (with accompanying papers);

A bill (S. 5772) granting an increase of pension to Agnes M. Heck (with accompanying papers);

A bill (S. 5773) granting an increase of pension to Louise M. Hunie (with accompanying papers);

A bill (S. 5774) granting an increase of pension to Maria B. Hyde (with accompanying papers);

A bill (S. 5775) granting an increase of pension to Maria Lewis (with accompanying papers);

A bill (S. 5776) granting an increase of pension to Johannah C. Mansfield (with accompanying papers);

A bill (S. 5777) granting an increase of pension to Jessie A. Maxson (with accompanying papers);

A bill (S. 5778) granting an increase of pension to Isabella A. Neff (with accompanying papers);

A bill (S. 5779) granting an increase of pension to Amelia M. Payson (with accompanying papers);

A bill (S. 5780) granting an increase of pension to Francis Robinson (with accompanying papers);

A bill (S. 5781) granting an increase of pension to Elizabeth C. Service (with accompanying papers);

A bill (S. 5782) granting an increase of pension to James Tucker (with accompanying papers);

A bill (S. 5783) granting an increase of pension to Ellen Twomey (with accompanying papers);

A bill (S. 5784) granting an increase of pension to Julia F. Whipple (with accompanying papers);

A bill (S. 5785) granting an increase of pension to Emily J. Williams (with accompanying papers); and

A bill (S. 5786) granting an increase of pension to Ida Ingraham (with accompanying papers); to the Committee on Pensions.

By Mr. WEEKS:

A bill (S. 5787) providing for the promotion of certain officers of the Navy or Marine Corps, on retirement, to the next higher grade; to the Committee on Naval Affairs.

By Mr. SHIVELY:

A bill (S. 5788) granting a pension to Alice I. Henderson; to the Committee on Pensions.

By Mr. GORE:

A bill (S. 5789) providing for the erection of a public building at Hobart, Okla.;

A bill (S. 5790) to provide for the erection of a public building at Frederick, Okla.; and

A bill (S. 5791) providing for the purchase of a site and the erection of a public building thereon at Hugo, Okla.; to the Committee on Public Buildings and Grounds.

A bill (S. 5792) granting a pension to Samuel A. Blair; to the Committee on Pensions.

By Mr. JOHNSON:

A bill (S. 5793) granting an increase of pension to Elisha W. Ellis (with accompanying papers); to the Committee on Pensions.

By Mr. JONES:

A bill (S. 5794) granting an increase of pension to Marion D. Egbert; and

A bill (S. 5795) granting an increase of pension to Elizabeth Pangburn (with accompanying papers); to the Committee on Pensions.

AMENDMENT TO SUNDRY CIVIL APPROPRIATION BILL.

Mr. PERKINS submitted an amendment proposing to appropriate $200,000 for the construction and equipment of a storehouse at the arsenal at Benicia, Cal., intended to be proposed by him to the sundry civil appropriation bill, which was referred to the Committee on Appropriations and ordered to be printed.

PRESIDENTIAL APPROVAL.

A message from the President of the United States, by Mr. Latta, executive clerk, announced that the President had, on June 4, 1914, approved and signed the following act:

S. 2860. An act providing a temporary method of conducting the nomination and election of United States Senators.

NAVAL APPROPRIATIONS.

The PRESIDING OFFICER laid before the Senate the action of the House of Representatives disagreeing to the amendments of the Senate to the bill (H. R. 14034) making appropriations for the naval service for the fiscal year ending June 30, 1915, and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. THORNTON. I move that the Senate insist upon its amendments, agree to the conference asked for by the House, the conferees on the part of the Senate to be appointed by the Chair.

The motion was agreed to; and the Presiding Officer appointed Mr. TILLMAN, Mr. SWANSON, and Mr. PERKINS conferees on the part of the Senate.

RECESS.

Mr. O'GORMAN. I move that the Senate take a recess until 11 o'clock to-morrow morning.

The motion was agreed to; and (at 10 o'clock and 45 minutes p. m.) the Senate took a recess until to-morrow, Wednesday, June 10, 1914, at 11 o'clock a. m.

NOMINATIONS.

Executive nominations received by the Senate June 9, 1914.

(Legislative day of June 5, 1914.)

PROMOTIONS IN THE ARMY.

INFANTRY ARM.

Maj. William F. Martin, Fifth Infantry, to be lieutenant colonel from June 5, 1914, vice Lieut. Col. William M. Wright, Nineteenth Infantry, detailed as adjutant general on that date.

Capt. John McA. Palmer, Fifteenth Infantry, to be major from June 5, 1914, vice Maj. William F. Martin, Fifth Infantry, promoted.

POSTMASTERS.

ALABAMA.

Charles E. Niven to be postmaster at Columbiana, Ala., in place of J. H. Mason, resigned.

TENNESSEE.

G. W. Bell to be postmaster at Bells, Tenn., in place of William R. Williams. Incumbent's commission expired April 21, 1914.

Isaac Milton Steele to be postmaster at Ripley, Tenn., in place of John D. Tarrant, jr. Incumbent's commission expired May 31, 1914.

CONFIRMATIONS.

Executive nominations confirmed by the Senate June 9, 1914.

(Legislative day of June 5, 1914.)

UNITED STATES ATTORNEYS.

Perry B. Miller to be United States attorney for the Western District of Kentucky.

Charles L. Rigdon to be United States attorney, district of Wyoming.

Alfred Jaques to be United States attorney, district of Minnesota.

PROMOTIONS IN THE ARMY.

INFANTRY ARM.

Lieut. Col. Walter H. Chatfield to be colonel.
Lieut. Col. Charles H. Barth to be colonel.

CAVALRY ARM.

First Lieut. Otto W. Rethorst to be captain.
First Lieut. Robert Sterrett to be captain.
Second Lieut. Frederick S. Snyder to be first lieutenant.
Second Lieut. William C. Christy to be first lieutenant.
Second Lieut. Sloan Doak to be first lieutenant.
Second Lieut. Leland Wadsworth, jr., to be first lieutenant.

COAST ARTILLERY CORPS.

Capt. Laurence C. Brown to be major.
First Lieut. Walter Singles to be captain.
Second Lieut. Edward L. Dyer to be first lieutenant.
First Lieut. Albert H. Barkley to be captain.
Second Lieut. Joseph F. Cottrell to be first lieutenant.

APPOINTMENTS IN THE ARMY.

MEDICAL CORPS.

To be first lieutenants.

Charles Lewis Gandy.
Alexander Watson Williams.
Louis Hopewell Bauer.
William Washington Vaughan.
John Berwick Anderson.
Eide Frederick Thode.
Walter Paul Davenport.
Harry Neal Kerns.
Robert Henry Wilds.
Austin James Canning.
Lanphear Wesley Webb, jr.
John Henry Hedley Scudder.
Wilson Carlisle von Kessler.
John Murdoch Pratt.
Coleridge Livingstone Beaven.
William Guy Guthrie.

MEDICAL RESERVE CORPS.

To be first lieutenants.

George Schuyler Bangert.
Arthur William Charles Bergfeld.
Joseph Bidleman Bissell.
Swithin Chandler.
Leo Eloesser.
Erle Franklin Fisher.
Leonard Davis Frescoln.
Oscar Amadeus Hansen.
John Everett Hewitt.
Allen Jones Jervey.
Homer Hill Lewis.
William Hay McLain.
Robert Daniel Maddox.
Irwin Beede March.
Harry Stoll Mustard.
John Henry Wallace Rhein.
Michael Joseph Sheahan.
William Atmar Smith.
James Evans Stowers.
Julius Frederick Zenneck.

APPOINTMENT IN THE NAVY.

William E. Lawhead to be an assistant surgeon in the Medical Reserve Corps.

POSTMASTERS.

MICHIGAN.

W. M. Beadle, Marcellus.
F. J. Bertschy, Spring Lake.
Henry C. Glasner, Nashville.
Walter E. Hodges, Pentwater.

TENNESSEE.

G. W. Bell, Bells.
William B. Hunt, Tellico Plains.
Isaac Milton Steele, Ripley.

HOUSE OF REPRESENTATIVES.

TUESDAY, *June 9, 1914.*

The House met at 12 o'clock noon.

Rev. Jay T. Stocking, of the First Congregational Church of Washington, D. C., offered the following prayer:

Our Father, we thank Thee among Thy manifold gifts to us for our part in the good world's work. Give unto us vision, faith, courage, and conscience that we may do our work well and play the man. Let Thy blessing rest upon this House, its Speaker, its officers, that they may be in every way adequate for the varied demands of the day. For the glory of our country and our God. Amen.

The Journal of the proceedings of yesterday was read and approved.

SENATE BILLS REFERRED.

Under clause 2 of Rule XXIV, Senate bills of the following titles were taken from the Speaker's table and referred to their appropriate committees, as indicated below:

S. 2304. An act for the relief of Chris Kuppler; to the Committee on Claims.

S. 4845. An act granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent relatives of such soldiers and sailors; to the Committee on Invalid Pensions.

S. 4449. An act for the relief of Frank Austin and others; to the Committee on Claims.

S. 3800. An act making an appropriation for aids to navigation in Alaska; to the Committee on Interstate and Foreign Commerce.

S. 1281. An act providing for the retirement of certain officers of the Philippine Scouts; to the Committe on Military Affairs.

S. 3761. An act for the relief of Matthew Logan; to the Committee on Military Affairs.

S. 229. An act for the relief of John P. Wagner; to the Committee on Military Affairs.

S. 1803. An act for the relief of Benjamin E. Jones; to the Committee on Claims.

S. 2245. An act for the relief of Frederick B. McGuire, trustee for Bessie J. Kibbey, owner of lot 75, square 628, Washington, D. C., with regard to assessment and payment of damages on account of changes of grade due to construction of the Union Station, District of Columbia; to the Committee on Claims.

S. 23. An act for the relief of Clara Dougherty, Ernest Kubel, and Josephine Taylor, owners of lot No. 13; of Ernest Kubel, owner of lot No. 41; and of Mary Meder, owner of the south 17.10 feet front by the full depth thereof of lot No. 14, all of said property in square No. 724, in Washington, D. C., with regard to assessment and payment for damages on account of change of grade due to the construction of Union Station, in said District; to the Committee on Claims.

S. 1063. An act for the relief of Philip Cook; to the Committee on Military Affairs.

S. 11. An act for the relief of Charlotte J. Pile, Eastmond P. Green, and Easie C. Gandell, owners of lots Nos. 53, 54, and

55, in square No. 753, Washington, D. C., with regard to assessment and payment of damages on account of change of grade due to construction of the Union Station, in said District; to the Committee on Claims.

S. 4969. An act granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy and of wars other than the Civil War, and to certain widows and dependent relatives of such soldiers and sailors; to the Committee on Pensions.

S. 31. An act for the relief of Ida A. Chew, owner of lot 112, square 721, Washington, D. C., with regard to assessment and payment of damages on account of changes of grade due to construction of the Union Station, District of Columbia; to the Committee on Claims.

S. 4311. An act for the relief of Edward Stewart; to the Committee on Military Affairs.

S. 201. An act for the relief of John W. Cupp; to the Committee on Claims.

S. 691. An act for the relief of Simon M. Preston; to the Committee on Claims.

S. 1216. An act for the relief of Oakley Randall; to the Committee on War Claims.

S. 387. An act relating to bills of lading; to the Committee on Interstate and Foreign Commerce.

S. 2538. An act to repeal sections 1538 and 1539 of the Revised Statutes; to the Committee on Naval Affairs.

S. 5255. An act conferring jurisdiction on the Court of Claims to hear, determine, and render judgment in claims of the Sisseton and Wahpeton Bands of Sioux Indians against the United States; to the Committee on Indian Affairs.

S. 4522. An act to amend an act entitled "An act to amend an act entitled 'An act to regulate commerce,' approved February 4, 1887, and all acts amendatory thereof, and to enlarge the powers of the Interstate Commerce Commission," approved June 29, 1906; to the Committee on Interstate and Foreign Commerce.

S. 5433. An act to amend an act entitled "An act to establish the Glacier National Park in the Rocky Mountains south of the international boundary line, in the State of Montana, and for other purposes," approved May 11, 1910; to the Committee on the Public Lands.

S. J. Res. 155. Joint resolution to remit under certain conditions and for the year 1914 the penalties provided by the act approved October 3, 1913, for failure to properly return the income tax provided for in said act in cases where said returns are completed by June 1, 1914; to the Committee on Ways and Means.

PENSIONS.

Mr. RUSSELL. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H. R. 12045) granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent children of soldiers and sailors of the Civil War, disagree to the Senate amendments thereto, and ask for a conference.

The SPEAKER. The gentleman from Missouri asks unanimous consent to take from the Speaker's table the bill H. R. 12045, an omnibus pension bill, disagree to the Senate amendments thereto, and ask for a conference. Is there objection?

There was no objection.

The Chair announced the following conferees: Mr. RUSSELL, Mr. ADAIR, and Mr. LANGHAM.

NAVAL APPROPRIATION BILL.

Mr. PADGETT. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill H. R. 14034, the naval appropriation bill, disagree to all of the Senate amendments thereto, and ask for a conference.

The SPEAKER. The gentleman from Tennessee asks unanimous consent to take from the Speaker's table the bill H. R. 14034, the naval appropriation bill, disagree to the Senate amendments thereto, and ask for a conference. Is there objection?

Mr. FOSTER. Mr. Speaker, reserving the right to object, I desire to ask the chairman of the committee about some of the Senate amendments. As I observe, quite a number of amendments have been placed in the bill by the Senate in which the appropriations are made available until expended. It seems to me that that is a departure from the line of holding in appropriations, having them extend from year to year. It is not a good policy to pursue.

Mr. PADGETT. Mr. Speaker, I will state to the gentleman that in the House we fixed a time limit, and I am in sympathy with the views expressed by the House.

Mr. FOSTER. I would not want the conferees to agree to those provisions, so far as I am concerned, without giving the House an opportunity to vote upon them and to express its opinion as to whether it desires to agree to a lot of appropriations that shall be available until expended.

Mr. GARNER. Mr. Chairman, will the gentleman yield?

Mr. FOSTER. Yes.

Mr. GARNER. The chairman of the committee originally carried the same identical provision in his bill, and of course there will be great pressure brought to bear on the conferees to insist upon their agreeing to what they originally wanted in the bill. I think it is nothing but proper for us, if necessary and the committee thinks they need that backing up, to instruct the conferees to insist upon the views of the House.

Mr. PADGETT. I do not think on that question it is necessary.

Mr. GARNER. I am very glad to hear the chairman state that. The chairman will remember that this matter was discussed at the time.

Mr. PADGETT. And the gentleman will remember the position the chairman took on the floor of the House.

Mr. GARNER. I recall it very well. I called it to the attention of the gentleman from Tennessee in the second item that carried this particular language, and he agreed then to limit it to two years, thinking that would be sufficient to carry out the needs of the Navy Department. I hope he will insist that the House provisions remain in the bill.

Mr. FOSTER. Mr. Chairman, there is one other matter that I desire to ask the chairman about, and that is amendment No. 71, in reference to the sale of two battleships now belonging to the Navy, namely, the *Idaho* and the *Mississippi*. This is such a radical departure that I could not consent, without sufficient debate, to agree to that until we would have an opportunity to consider the question in the House.

Mr. PADGETT. Mr. Speaker, I will state to the gentleman what I stated to the leader of the minority, the gentleman from Illinois [Mr. MANN], on yesterday, in conversation, that that is a matter upon which the House has not expressed itself, and I will state for myself, and as far as I am able for the conferees, that that matter will be brought to the House and the House will have an opportunity to vote upon it.

Mr. FOSTER. So that the conferees would not agree to that amendment without a thorough discussion of the matter in the House?

Mr. PADGETT. No.

Mr. FITZGERALD. Mr. Speaker, amendment No. 72 makes all of the appropriations in this bill immediately available.

Mr. PADGETT. There will be no necessity for that, because it will be July when the bill is passed.

Mr. FITZGERALD. It may not be July, but I believe that the House should have an opportunity to pass upon that amendment before it is agreed to. It absolutely destroys our whole fiscal system. It will destroy the fiscal year.

Mr. PADGETT. The gentleman need not worry himself over that amendment.

Mr. FITZGERALD. Upon the assurance that the House, if the Senate is insistent upon the amendment, will have an opportunity to express its views before any agreement is reached, I shall not oppose it at this time.

Mr. PADGETT. I do not think the gentleman need give himself any anxiety with respect to that.

Mr. BRYAN. Mr. Speaker, will the gentleman yield?

Mr. PADGETT. Yes.

Mr. BRYAN. I do not know the number of the amendment, but I understand the Senate has reinserted the provision authorizing the Secretary of the Navy to contract with the Union Iron Works for patronage to a private dock, which they are to construct in San Francisco Bay, at $50,000 a year, and I would like to know what the view of the chairman is in respect to that amendment?

Mr. PADGETT. That is the same provision which the committee reported, and, speaking frankly to the gentleman, I should be inclined to concur in the amendment.

Mr. FITZGERALD. Mr. Speaker, the Senate passed a bill in which it provided that not more than $50,000 a year should be paid for the use of that dock. My recollection is the amendment in the bill is that at least $50,000 shall be paid. That is a somewhat radical change of position on the part of the Senate.

Mr. PADGETT. This is the provision that was in the House bill.

Mr. MANN. The Senate amendment provides for an expense of $50,000 a year.

Mr. FITZGERALD. The Senate passed a bill some time ago providing that not more than $50,000 a year should be paid. I believe the House should have an opportunity to vote on that question as to whether we will subsidize a private company to build a dock or whether the Government should build the dry dock itself.

Mr. BRYAN. This matter is of more importance than ordinarily would be thought, because if these battleships are docked at Hunters Point the Union Iron Works will have the repairs, which will amount to a tremendous expenditure. The Government has a thoroughly equipped dock at Puget Sound and will have another one down at the Panama Canal, and why a third dock should be established at Hunters Point at Government expense and owned by a private concern I can not see.

Mr. PADGETT. It is not to be at the Government expense; the contract is only to run for not exceeding six years. I have no objection to submitting it to the House and letting the House pass on the matter.

Mr. FITZGERALD. It will never be ready for the ships that pass through the Panama Canal at the opening.

Mr. PADGETT. No; the contract provides that it is to be established in two years.

Mr. BRYAN. The understanding is that they have got to have this dry dock for commercial ships, and that the dock will be constructed whether Uncle Sam makes a contribution or not. The objection I have is that it involves the dockage and repairing of ships in a private concern.

Mr. PADGETT. This is no contribution; it is simply for the use of the dock. It is 900 miles north to Bremerton and 1,500 or 2,000 miles, I think, to Balboa dock. The Government can use the dock at a cost of not exceeding $50,000 a year, and I think will make a great saving.

Mr. BRYAN. Of course, this is right near the Mare Island Yard.

Mr. PADGETT. But the Mare Island Yard at present is not equipped for the larger ships, and they only pay here a charge that is fixed not to exceed the commercial rates.

Mr. FITZGERALD. There is a provision that they may pay more than $50,000 a year.

Mr. PADGETT. If they do exceed the commercial rates.

Mr. FITZGERALD. The Senate passed a bill that it should not exceed $50,000 a year, and I think a provision should be put in here to that effect.

Mr. PADGETT. If we should limit it in that way and an emergency should arise, they could not expend more than $50,000 per year and they could not take care of the emergency.

Mr. FITZGERALD. A provision can be framed for all the dockage necessary at an expenditure of not to exceed $50,000 a year.

Mr. PADGETT. But if the dockage at commercial rates should amount to more than $50,000 a year——

Mr. FITZGERALD. It might be advantageous to make special rates for the Government.

Mr. BARTON. Mr. Chairman, there was a provision in the House bill for the appointment of a commission to investigate the feasibility of erecting an armor plant. I know how the chairman expressed himself as being favorable to the proposition while in the House, and I would like to know if we can be permitted to have a vote on it.

Mr. PADGETT. I do not know of any opposition to it. The committee reported a proposition of this kind, and I know of no opposition.

Mr. UNDERWOOD. Mr. Chairman, I do not desire to delay the expeditious passage of this bill. I think we all desire to get away from here as soon as we can, but it is necessary to pass this bill before we go. As to the dock in San Francisco, I think if it was only the dockage charges of $50,000 a year, it would be a reasonable charge for the use of a great dock, because it probably costs from one to three million dollars to build a dry dock.

Mr. PADGETT. I think this one will cost not less than $2,000,000.

Mr. UNDERWOOD. But I desire to call the gentleman's attention to this fact. You dock a ship because it requires repairing, and if you dock it at a private yard the repairing will necessarily have to be done by the forces of the private corporation and take it away from the Government yards.

Mr. PADGETT. That is not contemplated. It is contemplated by the department to use the men at the Mare Island yard to do the work in the dock.

Mr. UNDERWOOD. How can that be done if the docking is to be done at a place not adjacent to the yard? How far is it from this dock to the Mare Island yard?

Mr. PADGETT. Twenty-eight miles. The men would go back and forth on the transports or tugs.

Mr. UNDERWOOD. And you would have to remove the entire force and the machinery for the work?

Mr. PADGETT. Not the machinery. In the cleaning of the ship they would transport the men back and forth from the dock to the yard.

Mr. UNDERWOOD. But you do not dock ships for the purpose only of cleaning off the barnacles, but you dock them for repairs as well. Will not that be considerably more expensive than if you provided for docking the ships in a Government yard?

Mr. PADGETT. If the department found that the repairs were of such a character that they could be done at the yards for less than it could at the dry dock, they would do it that way.

Mr. UNDERWOOD. In the end would it not result that this provision, if it should be adopted, would carry the repairs of these ships into these private yards?

Mr. PADGETT. It might carry some into them.

Mr. UNDERWOOD. It seems to me that there ought to be a provision in the bill to provide against that.

Mr. PADGETT. This provision does not carry any obligation on the part of the Government to employ the men in these private yards.

Mr. UNDERWOOD. I know; but the natural result will be that, if the ship is docked in private yards, to have the repairing done by the private yard, and ultimately it will lead to extreme charges, which I think the conferees ought to guard against.

Mr. FITZGERALD. In the past the private yards have been trying to do the repair work for Government vessels.

Mr. FOSTER. The gentleman would have no objection to the House discussing the provision before the conferees agree to it?

Mr. PADGETT. No; if it wants to.

Mr. FOSTER. I think it ought to.

The SPEAKER. Is there objection to the request of the gentleman from Tennessee?

Mr. UNDERWOOD. One minute to interrogate the gentleman, if he will yield to me for that purpose.

Mr. PADGETT. Yes, sir.

Mr. UNDERWOOD. When the bill was before the House there was a question raised here as to the building of a dry dock at Pearl Harbor, and I desire to inquire whether that provision has been put back into the bill by the Senate?

Mr. PADGETT. It has.

Mr. UNDERWOOD. Has the gentleman any information further than what he had when the bill was before the House?

Mr. PADGETT. No, sir. We went into it very fully then, and the hearings give very full information in regard to it, but I do not think the Senate has conducted any further hearings.

Mr. UNDERWOOD. I do not desire to stop the gentleman's bill, but I hope before that proposition is agreed to I may have a chance to confer with him about it.

Mr. PADGETT. I would be very glad to do so.

Mr. BRYAN. Mr. Speaker, along the line suggested by the gentleman from Alabama, I desire to state that the dry dock can not in any event be considered an entity by itself. You can not drive a rivet without compressed air, you can not lift a propeller without an electric station on the ground, and hence a dry dock is part of a navy yard, and you have got to take all the rest in connection. Now, as to the $50,000, that is not required at all for the use of the dock, but we are only agreeing to patronize it to the extent of $50,000. We may patronize it to the extent of $1,000,000 a year, but we bind ourselves to patronize it to the extent of $50,000, and if the docking of two ships takes all the $50,000 then, of course, we will continue under the language of the bill without restriction.

Mr. PADGETT. There is no obligation to go beyond the $50,000, but there is an obligation to take that much.

Mr. WITHERSPOON. Will the gentleman yield?

Mr. PADGETT. I will.

Mr. WITHERSPOON. I understood the gentleman to state to the House that we had hearings before the Committee on Naval Affairs on this matter?

Mr. PADGETT. No; I said the hearings contain information about it, but there were no specific hearings other than what the Secretary stated about it, but there is a good deal of information in the hearings about it.

Mr. WITHERSPOON. The truth about the business is nobody has been before the Committee on Naval Affairs to tell us anything about the facts of this except the statement that the gentleman made of information given in the conference between the gentleman and Mr.——

Mr. PADGETT. I stated on the floor of the House and I want to say here there is a good deal of information, and it was commented upon when the bill was before the House.

Mr. GARNER. The gentleman from Alabama suggests before the gentleman agrees to the Senate amendment he will give the House a chance to discuss the amendment.

Mr. PADGETT. As to what?

Mr. GARNER. As to the Pearl Harbor proposition.

Mr. PADGETT. I did not understand the gentleman from Alabama to say that. He said he wanted to speak to me personally about it.

Mr. GARNER. We want that agreement. I do not think it ought to be a conference only between as distinguished a gentleman as the leader of the majority and the chairman of the committee on a proposition that attracted so much attention at the time without the House having a chance to discuss the matter.

Mr. PADGETT. I have no objection, but I did not understand the gentleman to ask other than——

Mr. UNDERWOOD. I do not go that far, but I want to give some further investigation to the matter, because I was not thoroughly satisfied and the gentleman stated he had no further information, and I desire to make some investigation myself.

Mr. PADGETT. All right, sir.

Mr. MANN. Mr. Speaker, I demand the regular order.

The SPEAKER. Is there objection to the request of the gentleman from Tennessee? [After a pause.] The Chair hears none.

The Chair announced the following conferees: Mr. PADGETT, Mr. TALBOTT of Maryland, and Mr. BUTLER.

EXTENSION OF REMARKS ON LATE REPRESENTATIVE PEPPER.

Mr. ASHBROOK. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD by inserting a tribute on the late Congressman PEPPER. I will say I was not here on the day set apart, nor was I here within five days thereafter.

The SPEAKER. The gentleman from Ohio asks unanimous consent to extend his remarks by printing a speech on the life, character, and public services of the late Representative PEPPER. Is there objection? [After a pause.] The Chair hears none.

SUNDRY CIVIL APPROPRIATION BILL.

Mr. FITZGERALD. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill H. R. 17041.

The motion was agreed to.

Accordingly the House resolved itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill H. R. 17041, the sundry civil appropriation bill, with Mr. GARRETT of Tennessee in the chair.

The CHAIRMAN. The House is in Committee of the Whole House on the state of the Union for the further consideration of the bill, the title of which the Clerk will report.

The Clerk read as follows:

A bill (H. R. 17041) making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1915, and for other purposes.

Mr. GILLETT. Mr. Chairman, I yield 30 minutes to the gentleman from Kansas [Mr. ANTHONY]. [Applause.]

Mr. ANTHONY. Mr. Chairman, remarkable as it may seem, there is over $5,000,000 in the present bill under consideration, which carries more than $100,000,000 for various branches of the Government, which is expended without responsibility to any one of the executive departments of the Government. Because of this defect in the laws creating national soldiers' homes evils have arisen. Now, the few remarks I am going to make will be related to the expenditure of these $5,000,000; and before proceeding I want to ask unanimous consent to extend my remarks in the RECORD by the insertion of a very remarkable letter from a member of one of these branches of the Soldiers' Home setting forth conditions which prevail, and I also ask unanimous consent for the publication of several extracts bearing on conditions there.

The CHAIRMAN. The gentleman from Kansas asks unanimous consent to extend his remarks in the RECORD by inserting the matter indicated. Is there objection? [After a pause.] The Chair hears none.

Mr. ANTHONY. Mr. Chairman, the complaints that have come to Congress in the last year from the several branches of the Soldiers' Home have grown to such an enormous number that I believe the time has come when Congress ought to take some action in relief of the situation that is there presented. I have received myself probably 1,000 letters from members of these homes concerning the conditions. The Committee on Military Affairs has in its archives hundreds, if not thousands, of letters bearing upon the same subject. The question is, What is the cause of the trouble? I can answer it in a very few words. It mainly arises from the fact that the men are not properly fed; and the situation can be explained in a very few words when I state to the committee that of the $5,000,000—or, rather, of the $4,000,000—which directly goes in this bill to the support of the 10 branches of the Soldiers' Home, 32 per cent of that enormous amount of money goes for the salaries of employees connected with those institutions, and only about 15 per cent for the subsistence or food of the 17,000 to 19,000 soldiers who are members of these homes.

The fact is, gentlemen, that the subsistence of these men is so stinted that they are not being fed in a manner consistent with their age and with the needs of a body of men like that. The figures show—and they will be found in the matter which I will introduce in the RECORD—that the average cost of a ration in the homes during the past year was about 22 cents per day per member; that is, in the volunteer homes, provision for which is made in the sundry civil bill. And I want you to compare that cost with the subsistence cost of a member of the home right here in Washington, the Regular Army Home, administered under the supervision of the War Department, where that department allows 35 cents a day for the subsistence of a veteran of the Regular Army who is cared for in that home. And, again, the parsimonious management of these Volunteer homes allows about 24 cents per day for the subsistence of a sick soldier in one of the Volunteer home hospitals, whereas in Washington, at the Regular Army Soldiers' Home, the cost runs about 44 cents a day. At the Fort Bayard (N. Mex.) Sanitarium for the soldiers of the Regular Army afflicted with tuberculosis they allow about 48 cents a day for subsistence. At the Battle Mountain Sanitarium the veteran Volunteer soldier who fought in the Civil War and the Spanish War—and all of them are suffering from tuberculosis—is maintained at the cost of about 24 cents a day. Now, that is the difference between good food and bad food—between, practically, starvation and feeding the men in a manner in which a veteran soldier should be subsisted—and those figures practically tell the whole story. There is undoubtedly plenty of rough food furnished in the Volunteer Homes, but the general opinion of those who know is that it is miserably cooked, and that there is not a sufficient variety suited for aged and invalid men. From a discussion of this matter with hundreds of the soldiers who are interested and with a number of the officers of the Army who have given the matter careful consideration, I arrived at the conclusion that the proper remedy was the transfer of the control of these 10 soldiers' homes from the present board of managers to the supervision of the War Department.

Right here in Washington, at the Regular Army Soldiers' Home, we have the spectacle of nearly a thousand soldiers living in absolute contentment. They are happy and well satisfied. In the 10 Volunteer Soldiers' Homes throughout the country we have nearly 19,000 men, half of whom are complaining of what the Government is giving them, and if you go among them you can see that they are unhappy; that they are discontented with their lot, and we are not doing what we can to make comfortable their last days on earth. In my visits to these Volunteer Homes they have impressed me as being conducted more in the nature of charitable or penal institutions than as homes of veteran soldiers of the greatest and most patriotic nation in the world. There is an air of oppression which pervades every one of them, and it only requires a visit or talk with the members to see that things are not as they should be.

I have offered the House in the nature of a bill, which I introduced some time ago, what I think is the remedy, and that is to transfer all these homes to the War Department. The Military Committee of the House took the bill under consideration. A subcommittee investigated it, probably not as thoroughly as it might have done had it had the time, but it went far enough to convince the committee that some necessity for action existed. And the Military Committee reported out a resolution introduced by the gentleman from Illinois [Mr. O'HAIR], which authorizes a subcommittee of the Committee on Military Affairs to make a proper investigation of these homes and to report to Congress on the conditions which exist and as to a proper remedy for the cure of any evil conditions. I am in hopes that this House may reach consideration of that resolution. It should be passed. We should give some relief to the hundreds and thousands of men who are asking for it, that we may do our part toward making their last days on earth comfortable at least.

The other branch of Congress has gone into this matter. Last year the Senate appointed a committee to investigate the California home. They have made a voluminous report of about 500 pages, every page of which bears out the statements I have made on the floor to-day. That committee recommended the discharge of a number of the officials of that home, including the governor. They found out that the charges made against the board were true and borne out by the facts. The facts in the Senate document alone are enough to warrant this House

in going ahead and taking away control from the board in which these powers are now reposed and transfer them to the War Department.

Mr. BURKE of South Dakota. Will the gentleman yield?

Mr. ANTHONY. Yes.

Mr. BURKE of South Dakota. I understood the gentleman to state that the Committee on Military Affairs has reported a resolution for the appointment of a committee to visit and inspect these several Volunteer homes. Do I understand that is a resolution that is expected to be passed through the House or is there such a subcommittee already appointed; and if so, does it intend to visit these homes?

Mr. ANTHONY. As I understand it, Mr. Chairman, Mr. O'HAIR'S resolution calls for the appointment by the chairman of the Committee on Military Affairs of a subcommittee to investigate these charges relative to the soldiers' homes and report as to whether or not it is expedient to transfer the management.

Mr. BURKE of South Dakota. Has the committee been appointed?

Mr. ANTHONY. The resolution has not yet passed the House. It is on the calendar.

Mr. BURKE of South Dakota. If the resolution is passed, it will provide that there will be a subcommittee of the Committee on Military Affairs clothed with jurisdiction to make a thorough investigation and personally visit some of these homes or all of them?

Mr. ANTHONY. That is the idea, and to make a report recommending proper action in the case.

Mr. GOULDEN. Will my friend from Kansas yield for a question?

Mr. ANTHONY. With pleasure.

Mr. GOULDEN. Do the charges which you have made on the floor here include any of the State homes?

Mr. ANTHONY. They do not. As a general rule, I think, the State homes are very well conducted. At least, I know in the State home in my own State there is no complaint whatever.

Mr. GOULDEN. I am glad to hear the gentleman say so. For 12 years I have been one of the managers of the New York State home at Bath, and I think it has been efficiently and honestly managed. We have had, it is true, an occasional complaint as to some particular class of food, but very rare, indeed, which was always promptly remedied to the satisfaction of its 2,000 members.

Mr. ANTHONY. I want to tell the gentleman the reason why, to my mind, these State homes are well conducted and the national homes are not: The board of managers in these national homes maintains a sort of quasi military authority all through them. You will see under officials and the head officials running around, with brass buttons, epaulets, and uniforms, as if they were all major generals of the Army. They maintain the most rigid discipline in these homes, and feeble men, men who are dying, and go there to spend their last days on earth in a peaceful manner, are oppressed with this military, tyrannical atmosphere in these homes. That is the situation. In the State soldiers' homes there is an utter lack of that. They are real homes, not only in name but in fact. And in the Regular Army Home that is conducted by the War Department here in Washington, where you would expect to find brass buttons and military authority, there is an absence of both, and you do not see any of it about the place. If you go to the Volunteer homes, you will find that the reverse is true.

Mr. McKENZIE. How are these various appointees named in these institutions; by the board?

Mr. ANTHONY. The various appointees are supposed to be named by the board on the recommendation of the local governor, but I can say for the information of the gentleman that the board of managers has practically degenerated into a one-man board—Maj. Wadsworth, of New York, the president of the board.

Mr. McKENZIE. Does he have the power any time he feels disposed to appoint persons to manage those homes?

Mr. ANTHONY. I think he has. I will say for the information of the gentleman that this board a few years ago consisted of 10 or 11 members. Friction arose in the board. Some of the membership protested against the arbitrary use of power on the part of one of the members of the board, and from the resulting situation political manipulation was used right here in this body so as to reduce the membership on that board from 10 to 7 or 5, and so perpetuate the present head of the board in power. That is what we did in the last sundry civil bill—reduced the membership of the board in order to perpetuate the present management and to prevent a change in the head of the board.

Now, what happened this year? There were four vacancies on the board. An election came up in the latter part of April for the chairmanship of the board. The Committee on Military Affairs reported out a resolution filling those vacancies. That resolution is still on the House Calendar—kept there for the purpose of permitting the present head of the board to maintain his present ascendancy over the board. It is, in fact, a one-man board. One man, in fact, controls these 10 great Government institutions.

Mr. BURKE of South Dakota. Mr. Chairman, before the gentleman proceeds I would like to ask him another question. I believe he has in his district one of the largest Volunteer homes that there is in the United States, and I presume the members of that home come from different parts of the country. They do not come entirely from the locality where the home is located. Is that true?

Mr. ANTHONY. They come from all over the country, as I understand.

Mr. BURKE of South Dakota. I would like to ask the gentleman whether or not he has had any complaints of members being expelled and becoming a charge upon the locality where the home is located, and if so, whether he has considered the advisability of making some provision by which such persons can be transported to the places from which they came and not be a public charge upon the county where the home is located?

Mr. ANTHONY. I am obliged to the gentleman for calling my attention to that matter, and I want to say this, for his information and that of the House, that the matters to which he alludes is one of the crying evils of the present system. At every one of these home poor unfortunate devils who transgress some minor regulation are deliberately thrown out upon the world to starve in midwinter, without a dollar in the world. Perhaps they may be addicted to the drink habit, or some other habit which they can not control, and thus they violate the regulations of the institution. They are decrepit. In many cases they are afflicted with disease and are utterly unable to care for themselves. But for a simple violation of one of these regulations the power is vested in the board or in the local governor to throw these men out on the street, as it were. A number of them have come to my office when I am at home, begging for money to keep them from starving to death. The county board maintains them; the local Grand Army posts maintain them; and the most pitiful spectacle is presented in the country adjacent to these soldiers' homes in the persons of these men who are discharged for the reasons I have given and thrown upon their own responsibility. I am not exaggerating when I say that many a man who is "given the gate," as they say, in this way, starves to death. A number of them do die every winter as a result of this harsh, cruel, and unusual punishment on helpless men.

Mr. BURKE of South Dakota. Under any system, of course, you would have some who would be expelled. Now, ought there not to be some appropriation available to transport these expelled members to the places from which they come, so as to relieve the locality from having to support them, as I understand is the case?

Mr. ANTHONY. I will say to the gentleman from South Dakota that, in my opinion, the proper remedy for the present situation would be the segregation of these unfortunate soldiers who can not control their habits—their segregation into one particular barrack or into one of the 10 homes, where the men can be taken care of, and not be thrown out onto the communities, or not be brought into contact with the other members of the homes.

I want to call your attention to the fact that those who may have committed a slight infraction of the rules of the home may have been in their day most excellent soldiers. If you were to talk with one of these men, as I have done, you might find that he may have been one of the finest soldiers in the world during the years he served in the Army. I have personally looked up the records of some of them and have found out that some of these unfortunate men were the bravest soldiers and had splendid records of war-time service; some of these heroes of dozens of battles; but they may have contracted bad habits, and now in their old age the Government throws them out, to make their own way among strangers.

Mr. BURKE of South Dakota. Do I understand that the gentleman suggests that there should be a portion of the home set apart for these unfortunates, and that such a portion of the home should be conducted, in a sense, as a penal institution?

Mr. ANTHONY. I say the homes are now conducted as penal institutions, practically, instead of real homes for self-respecting veteran soldiers of the United States.

Mr. BURKE of South Dakota. I would like to have the gentleman indicate how such members can be controlled under existing laws if they refuse to adapt themselves to the regulations? There is no way by which you can keep them in if they want to go out.

Mr. ANTHONY. They can be segregated into a barrack by themselves. There are perhaps 50 men of this kind in each of the homes. They could be segregated in a barrack by themselves. In many cases they are not mentally responsible. In many cases after the pension-money jag wears off these so-called delinquents would be amenable to kind, considerate treatment, if offered by the officials, and respond to it.

Mr. BURKE of South Dakota. Would they not resent that segregation?

Mr. ANTHONY. Oh, yes; they would; but I think that——

Mr. MADDEN. And would they not, in a sense, be placed on a roll of dishonor?

Mr. ANTHONY. Oh, no.

Mr. MADDEN. Are not these men in receipt of pensions?

Mr. ANTHONY. Yes; most of them. They get their pensions every three months. A man of that class, when he gets his pension, spends it in a day, perhaps. Then he would starve.

Mr. MADDEN. Let us assume for a moment that the gentleman spends all his income in a day. What would happen to him?

Mr. ANTHONY. Oh, well, perhaps I would have the physical ability to go out and hustle for a loaf of bread.

Mr. MADDEN. But if the gentleman's habits were such that he could not control them, he would not have the physical ability to go out and hustle.

Mr. ANTHONY. Then I would want to be treated just exactly as I would have the Government treat these unfortunate soldiers.

Mr. COOPER. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. Does the gentleman from Kansas yield to the gentleman from Wisconsin?

Mr. ANTHONY. Yes.

Mr. COOPER. Is it not a fact that many of these men are over 70 years of age and many of them are 75?

Mr. ANTHONY. That is true.

Mr. BURKE of South Dakota. Many of them are veterans of the Spanish-American War, their disability having occurred subsequent to their military service, and therefore they are not pensionable.

Mr. ANTHONY. A statement that I will put in the RECORD comes from a veteran of the Spanish War, now afflicted with tuberculosis. He was at the Battle Mountain Home, and he voluntarily left that home in order to save his life, as he put it.

Mr. BURKE of South Dakota. I think the man in question was expelled, was he not?

Mr. ANTHONY. I think the gentleman is mistaken. I have taken the pains to get this man's record, and I find——

Mr. BURKE of South Dakota. Will the gentleman give the name?

Mr. ANTHONY. Yes. The name is Wilford Davis.

Mr. BURKE of South Dakota. I am not familiar with that name.

Mr. ANTHONY. I will say to the gentleman that a favorite method of the board of managers of defending themselves against attack, whenever a veteran makes complaint about one of these homes, is to reply with an attack upon the character of the soldier, in order to discredit what he says; but I have been very careful in the statement I will place in the RECORD to see that every soldier whom I have quoted in this statement has been honorably discharged from these homes and has a good record.

Mr. MADDEN. Will the gentleman yield for a question?

Mr. ANTHONY. Certainly.

Mr. MADDEN. What percentage of the total home membership would be included in the list of unfortunates that the gentleman has been describing?

Mr. ANTHONY. In my judgment, I should say probably 10 or 15 per cent of the total membership are unable to take care of themselves properly.

Mr. MADDEN. Does the gentleman think it is fair to arraign the management of the home because that 10 or 15 per cent are not allowed to run the home?

Mr. ANTHONY. I think I am entirely fair. I do not care how low in the scale of humanity one of these veteran soldiers may have sunk. I say if that man has become weak or unable to take care of himself, and has perhaps taken on vicious habits, it is all the more incumbent upon this Government to extend to him a helping hand, instead of kicking him out upon the street. [Applause.]

Mr. MADDEN. I entirely agree to that. I think the gentleman will agree, however, that there ought to be some restraining influence somewhere, by means of which the homes can be managed, and they can not be managed by people who are going to kick over the traces on every occasion.

Mr. ANTHONY. That is the purpose for which we have the officials there, to manage the homes, and I know of no body of men anywhere who are more amenable to discipline and reason than the veteran soldiers in these homes.

Mr. FOSTER. Will the gentleman yield?

Mr. ANTHONY. Certainly.

Mr. FOSTER. Along the line suggested by the gentleman from Kansas, I want to state that I have had complaints about the Battle Mountain Sanitarium. I have in mind an old soldier who was thrown out of the Battle Mountain Sanitarium, and who has now gone back to the State of Illinois and located in the State home at Quincy; a man who ought to have the kind of treatment that the Governnent affords to the inmates of the Battle Mountain Sanitarium, but can not get it, because the governor of the home concludes he is not a fit person to be in that home.

Mr. BURKE of South Dakota. Will the gentleman give us the name of the man?

Mr. FOSTER. I have the soldier's letter and can give his name to the gentleman.

Mr. BURKE of South Dakota. If the gentleman from Kansas [Mr. ANTHONY] will permit me, I will state that there have been some complaints from the Battle Mountain Sanitarium. Three members were recently expelled from that institution, and they have made complaints to many Members of the House, and it was brought to the attention of the House by the gentleman from Illinois [Mr. BUCHANAN] recently. I have received a statement from one or more officials of the home, and also from the president of the board, and under the five-minute rule I expect to bring it to the attention of the committee. I have not assumed to refute the charges and asked the gentleman from Kansas [Mr. ANTHONY] with reference to a resolution that he stated had been reported from the Committee on Military Affairs for the appointment of a subcommittee from that committee to investigate all of these homes. My desire is, and I think it is the desire of the management of the Battle Mountain Sanitarium, that there may be such a committee, in order that there may be an investigation.

With reference to these members who were expelled, I will say to the gentleman from Illinois [Mr. FOSTER] that they were expelled upon the report of a committee appointed by the commander of the National Spanish War Veterans' Association, who went to the home and made an investigation and recommended that these three particular members be expelled, and they were expelled. I understand that one of them has gone to his home in Illinois, and he may be the one to whom the gentleman from Illinois [Mr. FOSTER] refers. One of the others has also left Hot Springs and returned, I presume, to his home somewhere outside of South Dakota.

Mr. FOSTER. If the gentleman from Kansas [Mr. ANTHONY] will permit, I will say it is claimed that they expelled these men upon some report made by some official, without giving these men an opportunity to say a word as to whether these charges were true or untrue. They threw out these men and compelled them to go back to the States from which they came without giving them an opportunity to defend themselves and without giving them an opportunity to live where they might live in some sort of comfort and prolong their lives after serving their country, because, forsooth, they do not do as these officials think they ought to do. I think the greatest trouble with these men is that they are not lenient enough and not patient enough with those unfortunate people.

Mr. BURKE of South Dakota. I do not wish the gentleman from Illinois to understand me as saying that there may not be cause for these complaints; but as to the three members whom I have in mind, they were dismissed from the home by order of the board of managers upon the report and recommendation of a committee appointed by the Spanish War Veterans' Association, and therefore the board of managers are responsible, and not the governor, for their dismissal or expulsion.

Mr. ANTHONY. Let me give the gentleman from South Dakota a little information in reference to these three men to whom he refers. This purported investigation by the committee was, as I am informed, under the personal auspices of the board of managers. In other words, it was one of these personally escorted affairs.

Mr. FOSTER. I think the gentleman from Kansas is entirely correct about that.

Mr. ANTHONY. I know I am right, because I have a letter from one of that committee before the investigation severely denouncing the board, and one afterwards practically apologizing for the delinquencies he found, and a later letter from another

one of the committee stating that certain Spanish War veterans who had been active in criticizing the board of managers had been offered positions in the home; and I have been personally solicited to vote for one of the members of that so-called commission to membership in the board of managers. That is the wheel within a wheel which there is there.

Now, in reference to the three poor devils who were "given the gate" at the Battle Mountain Home, the board does say that they were undesirable members of the home, and I have no doubt that in a way they were men who should be restrained; but I wrote to a man upon whom I can rely to find out just what sort of men these three were that were thrown out of the Battle Mountain Home. Their names were Wallack, Lacey, and Yount. Something about the harmless type of men these poor fellows are—all three invalids, in advanced stages of tuberculosis—appears in the letters which I will print in connection with my remarks.

This bill is the remedy:

A bill (H. R. 3409) to place the National Homes for Disabled Volunteer Soldiers under the administration of the War Department.

Be it enacted, etc., That upon January 1, 1915, after the passage of this act, the powers heretofore vested in the Board of Managers of the National Home for Disabled Volunteer Soldiers shall be vested in the Secretary of War, and the administration of the laws providing for the operation and regulation of said home shall be under the jurisdiction of the War Department. The Adjutant General, Inspector General, Quartermaster General, Commissary General, and Surgeon General, each, under the direction of the Secretary of War, shall perform such portion of the work of administration as shall appropriately fall to the respective bureaus of the War Department.

SEC. 2. That upon January 1, 1915, after the passage of this act, the terms of office of the various members of the Board of Managers of the National Home for Disabled Volunteer Soldiers shall cease, and all title to property and authority heretofore vested in said board shall pass to the Government of the United States.

SEC. 3. That such provisions of existing laws as are in conflict with the provisions of this act are hereby repealed.

Pass this O'Hair resolution and get the facts:

House resolution 439.

Resolved, That the Committee on Military Affairs of the House of Representatives or a subcommittee thereof, be, and it is hereby, instructed to make full investigation of the conditions and affairs of the national homes for disabled volunteer soldiers and sailors, and particularly to determine the nature of the treatment given at the various branch homes to the members thereof, and with a view of determining whether or not it is for the advantage and best interests of said homes and the management and conduct thereof, that they should be by an act of Congress placed under the management and control of the Department of War, and to report the facts and their findings to the House; and that said committee shall be authorized to sit during the sessions of the House and during any recess of the House or Congress, and hold its sessions at such place or places as it shall deem most convenient for the purposes of such investigation; to employ stenographers and such competent accountants as it may deem necessary; to send for persons and papers and to administer oaths; and that the expenses of the inquiry shall be paid from the contingent fund of the House upon vouchers to be approved by the chairman of the committee.

THE CONVINCING STATEMENT OF WILFORD W. DAVIS IN REFERENCE TO ADMINISTRATION AT BATTLE MOUNTAIN SANITARIUM AND OTHER HOMES.

BATTLE MOUNTAIN SANITARIUM,
NATIONAL HOME FOR DISABLED VOLUNTEER SOLDIERS,
Hot Springs, S. Dak., December 30, 1913.

The Hon. DANIEL R. ANTHONY,
House of Representatives, Washington, D. C.

DEAR SIR: I should be pleased if you would kindly allow me to bring to your attention an old subject, but probably in a new light. My attention has often been called to your attitude on the soldiers' home question, which, in my judgment, is very plausible.

But the incident which finally induced me to address you on this mooted question was a speech by the Hon. WILLIAM W. RUCKER, of Missouri, on the floor of Congress under date of December 12, 1913, and appearing in the CONGRESSIONAL RECORD of same date, page 745. Mr. RUCKER said in part: "* * * I shall vote against any appropriation bill which proposes to tax the American people to pay pensions to millionaires or to people already protected and cared for by the Government in soldiers' homes. * * *"

The above is a fair idea of the understanding of the average citizen as to the sumptuous luxury of the wards of the Government in the soldiers' homes, which means that the old soldier is classed with millionaires in his luxurious protection. But in view of the fact that you have probably gone into the soldiers' home question pretty thoroughly, and in view of the further fact that there are in your district in Kansas both a soldiers' home and a Federal penitentiary, I am confident that you have the situation sized up far more accurately than has Mr. RUCKER. I may say in this connection that I have had an opportunity to go over a considerable volume of data on this subject, from which I have culled information that lay concealed under a maze of apparently harmless figures, and from these figures I have been able to deduce certain facts that did not appear at first sight from a perusal of annual reports, etc., of these homes; and I have also been an inmate of one of the homes. In view of this I believe I will be able to submit below some information which may enable you to more enthusiastically support your contentions in this connection than ever before. I have done this work with my own hands at such times as I felt able, much of it I have done while sitting propped up in bed, so please overlook any possible equivocal language which may appear here and there. But why multiply words? Let the facts be submitted to a candid world.

In the first place, I wish to call attention to a colloquy that took place between Maj. J. W. Wadsworth, president of the Board of Managers National Home for Disabled Volunteer Soldiers, and Senator GEORGE E. CHAMBERLAIN, in the course of the investigation of the Santa Monica Branch of the National Home. The following is taken from page 1197, Report 1167, Senate Calendar No. 1034, third session, Sixty-second Congress:

"Maj. WADSWORTH. Well, if it is not a happy existence (meaning that of the inmates of the soldiers' homes), God Almighty alone can make it so. The Government of the United States can not do any more for these men than it is doing. No Government in the world is doing anything like it. * * *

"Senator CHAMBERLAIN. * * * Right in that connection, I think that we are willing to concede all that you say, but the trouble is not in what the Government is doing for them, but in the manner of administration. * * * A change must be made in the way in which the Government is having its bounty administered. Now, that is up to the board. That is where the trouble is."

The foregoing remark was made by Senator CHAMBERLAIN to Maj. Wadsworth after Senator CHAMBERLAIN has just finished an extensive investigation of conditions at the Santa Monica Home, and I leave it to Mr. ANTHONY'S good judgement as to whether Mr. CHAMBERLAIN'S remark was very accurately and timely put. Now, in order to the more forcibly corroborate Senator CHAMBERLAIN'S remark, I wish to call attention to the following remarks with reference to the Pacific Branch (Santa Monica) of the Soldiers' Homes by Maj. J. W. Wadsworth, president board of managers, in his annual report to Congress for the fiscal year ending June 30, 1912 (p. 7):

* * * * * * *

"* * * The Pacific Branch has been under the close supervision of the manager residing in California and, on account of its remote location, has received especial attention by frequent visits of the inspecting officers. The president of the board has also visited and inspected this branch during the year, as well as all other branches. All of the branches have been regularly inspected by the inspecting officers of the home, and all irregularities and faulty conditions discovered have been corrected as promptly as possible."

* * * * * * *

In the same report, page 16, appears a draft of the annual report for fiscal year ending June 30, 1911, in which the president of the board of managers makes the following significant remarks, with reference to the magazine articles that were then being printed broadcast, touching upon conditions at the Santa Monica Branch:

* * * * * * *

"The affairs of the home have been administered in accordance with the law and the established regulations. The several branches of the home have been thoroughly inspected at various times during the year by the board of managers and the inspecting officers of the home. All irregularities and faulty conditions found have been corrected as promptly as possible. Notwithstanding the publication in one or more magazines of the muck-raking variety of untruthful and apparently malicious articles, relating to the home and its management, which were designed to encourage unrest among the members of the home and to arouse feelings of apprehension and anxiety in the minds of their friends and relatives, there has been no time in the history of the home when a higher degree of general contentment among the members of the home has prevailed."

* * * * * * *

Please note that the above encomiums as to the management of the homes, were included in the president of the board's annual report for fiscal year ending June 30, 1912, and which, according to the regulations, must have been compiled sometime during the month of August, 1912. Please carefully note the date. You will note that, from the board of managers' angle of vision, that things with the homes in general, Santa Monica and all, "were lovely and the water was fine." Now, please note that on August 19, 1912 (while the board of managers was compiling its annual report) that a resolution (No. 160) was introduced, and passed, in the Senate, directing an "investigation of the condition and affairs of the branch National Home for Disabled Volunteer Soldiers at Santa Monica, Cal." The full text of the resolution will be found on page 3 of the investigating committee's report (S. Rept. No. 1167). The investigating committee began its work of taking testimony at Los Angeles, Cal., on November 19, 1912, just three months after the board of managers had made up its annual report. Now, the report of the investigating committee of the Senate comprises 1,243 pages—1,243 pages of the most illuminating information, setting forth just how things were, and had been, running at that home for years past. The report is too voluminous to be read in its entirety by a busy man, but permit me to call your attention to just a few of the things which were found to exist at Santa Monica just three short months after the president of the board of managers had said that he himself had inspected the Santa Monica Branch, and that "all irregularities and faulty conditions found had been corrected as promptly as possible."

The following extract is taken from the testimony of Maj. Wadsworth, president of the board, and found on pages 1135 to 1179 of the aforementioned report:

* * * * * * *

"Maj. WADSWORTH. The Pacific Branch is using 91 per cent of the Army ration. * * * The first quarter of the year in 1905 they were using 91 per cent. In 1906 they (meaning the Pacific Branch) were using 89 per cent of the Regular Army ration. In 1907 they were only using 82 per cent in the Pacific Branch. * * *

"Senator CARTON. How do you account for that variation in the quantity that would be served each year?

"Maj. WADSWORTH. It is caused by the commissary not attending properly to his duty. I should say, and seeing that it is all accurately weighed.

"Maj. HARRIS. It is the fault of the branch officers. That applies not only to coffee but to all other food supplies (p. 1135).

* * * * * * *

"Senator CHAMBERLAIN. There is not one man in a hundred in that home, nor I venture to say in any of the homes, that knows anything about the rules and regulations. * * *

"Senator JONES. There did not seem to be any copy of these rules and regulations available. We could not find any copies in the different barracks where the members could get at them.

"Maj. HARRIS. There is a sufficient number issued to every branch, and they should have sufficient copies for everybody * * * and if they have not been distributed it is through neglect of the branch officers.

* * * * * * *

"Senator CHAMBERLAIN. I do not know what we found in that home was a fair criterion, but I think it is true in every home that there is a lack of entente cordiale between the officers and the man. There is not that feeling between them that ought to exist.

"Maj. HARRIS. A feeling that you can not buy with money.

"Senator CHAMBERLAIN. Yes; and when you find a man who has not got it in him naturally, he ought to be demoted (p. 1157).

* * * * * * *

"Maj. WADSWORTH. I can not understand it. The same rules and regulations govern that home as govern the other branches of the home.

"Senator CHAMBERLAIN. I think we can understand it. It is simply not born in those particular officers at that particular home to come in touch with the men and to gain their good will.

"Senator JONES. They are not the right men for those positions.

"Maj. WADSWORTH. Well, I can not understand it (p. 1158).

* * * * * * *

"Maj. WADSWORTH. I came on the board about six years ago, and we found a very bad condition of affairs there [meaning Santa Monica], an incompetent and dishonest governor and an incompetent and dishonest quartermaster. I came back home and demanded their resignations, and I put in Cochrane. * * * The first two years Cochrane did very well, indeed * * * but for the last two and a half years or three years he has simply fallen down. * * *

"Senator CATRON. I think the administration there has been defective for a year. * * * We had testimony that they were not careful about matters, and that dirt, etc., would get into the food when they were cooking.

"Maj. WADSWORTH. You know there are lapses in those matters everywhere. * * *

"Senator CATRON. We can not be expected to suggest the entire remedy. You [meaning the board of managers] are the commission appointed to look after these things.

"Maj. WADSWORTH. Possibly a layman could see things that the officer can not.

"Senator JONES. It seems to me, from my observation there, that the difficulty largely grew out of the lack of apparent interest in the officers in seeing that matters under their control were properly carried on. That is, there were things about the kitchen there that apparently the commissary paid no attention to at all. He never came around and looked into things.

"Maj. WADSWORTH. We have been very weak in our commissary there.

"Senator JONES. That is not only true with regard to the commissary, but the other departments also, except the hospital (p. 1165).

* * * * * * *

"Senator CATRON. The greatest need there is to have officers who will keep in touch with the men?

"Maj. WADSWORTH. Yes; that is it (p. 1166).

* * * * * * *

"Senator CATRON. We found the governor [meaning Santa Monica] calling men up before him for the most ridiculous kind of charges. For instance, one man talking among the men, just happened, casually, to say: 'The governor has not got any sense.' Some one overheard him and he was called up before the governor. * * * The governor sentenced him to 40 days on the dump for disrespect to his commanding officer * * * and it struck me that that was an unnecessary punishment to put upon that man. * * * There were a great many instances there that bore in that same direction that he did not seem to think he had any discretion. * * * It was not only Cochrane but the whole administration; all the officers there seemed to agree with him that he was just right—that is, that the whole administration was right.

"Maj. WADSWORTH. Yes (p. 1166).

* * * * * * *

"Maj. WADSWORTH. We find sometimes accumulation of rubbish in the attic [meaning at regular inspections].

"Senator JONES. Of course you expect to find those conditions better when you are there, because the governor is given notice.

"Maj. WADSWORTH. That is so. * * *

"Maj. HARRIS. The regulation is that the commissary of subsistence shall look after these things [meaning variation of bill of fare].

"Maj. WADSWORTH. They did not tell you that they were tied down to that bill of fare, did they? * * *

"Senator CATRON. They called our attention to that bill of fare and said they were governed by it.* * *

"Maj. WADSWORTH. * * * There is the regulation.

"Senator CATRON. That is not what they said.

"Maj. WADSWORTH. The regulation also provides that the ration shall have suitable proportions of fish, cereals, bread, and fruit, and, the physical condition of the members being considered, coffee, tea, sugar, milk, and the usual table condiments will also be provided.

"Senator CATRON. They seemed to think that their discretion was to be exercised within the limits of the regulation prescribed.

"Maj. WADSWORTH. We do not prescribe any amount. * * * Yes; and the bill at that home until the appointment of Cochran was not satisfactory, and it was satisfactory for two or three years, and now it has not been satisfactory for two or three years; but we have run up against that old-soldier sentiment, and it was impossible to change it. I would have changed it if I had my own way. I am not criticizing them [meaning the rest of the board], because they are old soldiers and have the warmest sympathy for the old men." (P. 1172.)

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"Senator CHAMBERLAIN. You were speaking of the extreme sympathy of the governors for those men [meaning the old soldiers]. Now, as good a man as I believed Cochran to be, the evidence of himself and all the others showed that he did not get around. Those old men would very rarely get into his sanctum sanctorum for the purpose of speaking about things they wanted. Now, if he has the right sympathy, the governor ought to go to the bedsides of those old men in the hospital and speak an encouraging word to them and they do not do it. He ought to do it whether he feels it or not.

"Maj. WADSWORTH. You can not expect them to do it.

"Senator CHAMBERLAIN. You were speaking of the intense sympathy that these old men [meaning the governors, etc.] have. They do not show it.

"Maj. WADSWORTH. I think they have as much as I have, and no man can have more than I have. * * *

"Senator CHAMBERLAIN. You take this chaplain out there; while I think he is not an intensely good man, yet the evidence showed that he did not pay any attention to the material welfare of those men, and very little to their spiritual welfare. He did not attend at the hospital, except to attend at the funeral of a man. I think he should have gone around to see them.

"Maj. WADSWORTH. I agree with you on that. Gen. Smith is a member of the board, and he will bear me out in saying that I have always insisted on having and tried hard to get men who had the physical vigor to attend to the needs of these old men.

"Senator JONES. The chaplain has the physical vigor.

"Maj. WADSWORTH. Yes. I thought Wilson was a good average chaplain.

"Senator CHAMBERLAIN. If he is a sample of them, they do not need any.

* * * * * * *

"Senator CHAMBERLAIN. Have you ever adopted the rule of letting your governors understand that that [meaning personal visits to the men in barracks and hospitals] was required and expected of them, and if they did not come up to the mark you would relieve them? Do you not think that would have some effect?

"Maj. WADSWORTH. I never visit a home without impressing that upon the governor.

"Senator CHAMBERLAIN. The strongest way to impress it upon them is to let a fellow out once in a while.

"Maj. WADSWORTH. You can issue orders galore; how do you know that he complies with them?

"Senator CHAMBERLAIN. Let him out if he does not do it. Let them out once in a while; that is the best lecture.

"Maj. WADSWORTH. I could tell you why I could not let them out once in a while." (P. 1180.)

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"Senator CHAMBERLAIN. The evidence was undisputed out there [meaning at Santa Monica] on the part of the officers, that in order to have enough milk to go around they put in gallons of water.

"Maj. WADSWORTH. I saw that, too." (P. 1188.)

* * * * * * *

"Senator CATRON. That coffee at the Santa Monica Home was evidently drowned to death with water.

"Maj. WADSWORTH. That, of course, is not the allowance. The amount given here is what the homes actually consume.

"Senator CATRON. I understand that.

"Senator CHAMBERLAIN. You do not know how much water they consumed with it?

"Maj. WADSWORTH. There is no allowance on any single item of the ration.

"Senator CATRON. It may be that he would drink two or three times as much water [in his coffee] as the regular soldier to get that much coffee.

"Maj. WADSWORTH. If there was only that much coffee [meaning 19 pounds] in 100 gallons of water, that was not enough.

"Senator CATRON. That is what they put in.

"Maj. WADSWORTH. That is an unreasonable proposition and is purely a local fault, in not making the coffee as it should be made." (P. 1194.)

Now, after the Senate investigating committee had forced the foregoing damnable admissions from the president of the Board of Managers [Maj. Wadsworth] and the board's inspector, and just as soon as Maj. Wadsworth could recover his self-composure, he proceeded to deliver himself of the following, apparently in a wild endeavor to "whitewash" the whole thing. Here is what he said, in part (p. 1196):

"Maj. WADSWORTH. I would like to make a statement to go into the record, because I do not think that the Nation at large, or Congress, knows what we are doing for these old men. [Quite right, Major; we didn't know how you were treating these old men until after the Santa Monica investigation, but we do know now.—W. W. D.] * * * I believe, honestly, that 98 per cent or 99 per cent of the 17,000 or 18,000 old men are physically comfortable and mentally happy; as happy as men of that age, leading their idle lives, can be. The other 1 or 2 per cent are the men who, through overindulgence, have rendered themselves absolutely unable to enjoy old age [How about the many hundreds of respectable and sober old veterans who complained against your system at Santa Monica, Major?] or who are the chronic growlers or kickers you find in every walk of life. [The findings of the investigating committee do not bear you out, Major.—W. W. D.]

"What does the Government do for them? When a man comes to the home he is clothed from the top of his head to the bottom of his feet [with old, second-hand clothes, Major—W. W. D.], he is housed in a well-lighted, ventilated, and heated room [you mean he is herded in naked old barracks with a hundred other old men, Major—W. W. D.]. Those men sleep in a perfectly clean, comfortable bed [when the bedbugs are not too numerous, Major; see testimony of Santa Monica witnesses—W. W. D.]. * * * They have their bathrooms, waterclosets, and lavatories [65 old men to one bathtub, Major; see where diseased old men bathe in with the rest, in Santa Monica testimony, Major—W. W. D.]. They do not have to go out, as three-fourths of them used to [you mean 50 years ago, Major—W. W. D.], being farmers in the country, to a privy on a cold night [farmers now have lavatories in their houses, Major—W. W. D.]. They are even supplied with toilet paper [Major, toilet paper replaced corncobs on the farm 40 years ago—W. W. D.]. We give those men three wholesome, nutritious meals a day [Major, the "wholesome" meals you talk about cost you 6 cents apiece—composed of coffee, one-third strength, watered milk, badly baked bread, inferior cooking etc. Major, you said that the sheets on the beds of the old soldiers are changed just as they are in your own home. Now, are the meals anything like you have in your own home? Do you think you would be able to perform your duties as president of the board on 20 cents' worth of rations a day?—W. W. D.]. Best of all, when one of these poor old fellows falls ill, he knows that right there is a splendidly equipped hospital, where he will get the best of care. * * * When he dies he is put in a coffin fit for anybody, the American flag is put over him, and he is taken to the grave with the band leading the procession and a troop of mourners following [who furnishes the mourners, Major, the board of managers?—W. W. D.], and when he is put in the grave a stone monument is put at his head, and his grave is decorated with flowers on each Memorial Day. What more could the Government do for those men? [Major, the Government does its share, but do you do yours?—W. W. D.]

"Senator CATRON. I do not think they look at that latter performance very favorably" (p. 1197).

In justice to Maj. Wadsworth it might be proper for me to say in connection with the foregoing remarks by the major that the purchase of "whitewash" is authorized by the regulations of 1912; the exact paragraph in which it is authorized has slipped my memory for the time being. I may say that after the Santa Monica investigation the governor of that branch was discharged, along with several other officials of that home.

Next, in order, I wish to call attention to certain things in the annual report of the board of managers for the fiscal year ending June 30, 1912—I would use a later report, but the 1913 report has not yet been published.

According to the above-mentioned annual report, the average per diem cost of the ration for members was as follows:

Branch homes.

Central	$0.2032
Northwestern	$0.1992
Eastern	$0.2243
Southern	$0.2053
Western	$0.1945
Pacific	$0.2012
Mountain	$0.2051
Danville	$0.1936
Marion	$0.2144
Battle Mountain Sanitarium	$0.2125
Average	$0.2053
Total average members present for year 1912	18,977
Multiplied by average annual per capita cost	$74.9345
Making total annual cost of ration	$1,432,032

The following is a statement which was made up from the reports of the various branches as to the maintenance of farms:

Farm at—	Income.	Cost.	Net loss.
Central	$14,258.61	$27,762.79	$13,504.18
Northwestern	471.03	9,018.28	8,547.25
Eastern	11,547.86	20,257.43	8,709.57
Southern	108.29	9,864.66	9,756.37
Western	7,716.64	18,456.34	10,739.70
Pacific	7,967.64	15,780.83	7,813.19
Marion	11,126.61	13,481.58	2,364.97
Danville	1,153.01	10,730.13	9,577.12
Mountain	13,842.50	20,546.29	6,703.79
Battle Mountain Sanitarium	408.20	6,452.22	6,044.02
Total	68,600.39	152,350.55	83,760.16

In this connection I may say that according to the statement of Maj. Wadsworth, on page 1189, Santa Monica Soldiers' Home investigating committee's report, the care of the grounds about the homes is also charged up to the farm. As to whether or not this covers to some extent the losses incident to operating the farms is a matter of considerable speculation. A careful computation of the income and cost of the farm at the Battle Mountain Sanitarium shows that it costs each member of the institution $17.17 per annum for "scenery," this being the net loss per capita for operating the farm.

The following is an analysis of the amount paid for salaries during the fiscal year 1912. This I gathered only after a great deal of computation:

Salaries paid out.

Branch.	General expenses.	Commissioned officers.	Noncommissioned officers.	Members.	Civilians.	Total.
Central	$626,864.29	$23,358.07	$11,959.31	$68,394.82	$92,719.58	$196,431.78
Northwestern	350,812.67	19,594.34	6,041.33	40,060.82	53,845.76	119,542.25
Eastern	375,411.79	20,339.18	7,088.51	31,901.62	65,507.73	124,837.04
Southern	513,097.87	18,692.89	6,534.82	37,806.22	68,812.97	131,846.90
Western	467,391.61	20,012.46	7,202.16	38,983.83	79,342.87	145,541.32
Pacific	444,003.90	17,946.67	7,480.00	33,471.78	76,142.81	135,041.26
Marion	298,148.11	17,764.50	6,679.84	33,647.98	53,173.19	111,265.51
Danville	384,367.26	19,827.24	7,595.67	42,876.56	54,763.60	125,063.07
Mountain	300,412.98	17,483.59	4,615.34	28,905.10	61,778.28	112,782.31
Battle Mountain Sanitarium	173,655.11	11,099.70	755.49	8,789.47	43,324.24	63,968.90
Total	3,934,165.59	186,118.64	65,952.47	364,838.20	649,411.03	1,266,320.34

From the foregoing it will be seen that the total general expenditures for the various branches amounts to $3,934,165.59, and that the total amount paid out for salaries amounts to $1,266,320.34, which is exactly 32 per cent of the entire general expenditures of the various branch homes; in other words, $32 out of every $100 goes for salaries. This I ascertained only after dissecting a great many figures.

In table D, page 51, annual report of Board of Managers for fiscal year 1912, shows that $272,503.99 was covered into the United States Treasury, the same being unexpended balance for fiscal year 1912. This sum added to $1,432,032, which was the total cost of the ration for all the homes (see p. 10, this letter), would be $1,704,535.99. This sum might have been spent for rations, and had it been done it would have increased the average per diem cost of ration per capita from $0.2053 to $0.2461. On page 1206, Santa Monica investigating committee's report, is found Gen. E. A. Garlington's testimony with reference to the Regular Army ration, the ration for the United States Army Soldiers' Home, Washington, also the hospital ration there, which is as follows:

	Cents.
Regular Army ration per diem per capita	23.78
United States Army Soldiers' Home per diem per capita	34.75
Hospital United States Army Soldiers' Home per diem per capita	46.54

Annual report Board of Managers for National Home for Disabled Volunteer Soldiers shows as follows (see p. 10, this letter):

	Cents.
Average annual per diem cost of ration per capita	20.53
Average annual cost of ration per diem per capita at Battle Mountain Sanitarium, National Home for Disabled Volunteer Soldiers	21.25

The foregoing comparisons require no explanation; they speak for themselves, and speak very loudly for the men in the National Home for Disabled Volunteer Soldiers. Gen. E. A. Garlington, Inspector General of the Army, sums up his testimony with reference to the ration for the National Home for Disabled Volunteer Soldiers, as follows (see p. 1207): "* * * From my study of the question, the principal trouble is in too much economy with respect to the rations," and everyone else, almost, is of the same opinion—with, of course, the exception of the administration of the National Home for Disabled Volunteer Soldiers.

On page 1234, Sana Monica investigating committee's report, appears the findings of the expert accountant as to the methods for estimating for supplies, and he states, in part, as follows:

"I would recommend that a closer supervision be maintained over the handling of supplies. At the present time no close record of receipt and delivery of supplies is maintained and the supplies might be depleted through carelessness or intention, and it would be difficult to discover it.

* * * * * * *

"REYNOLD E. BLIGHT,
"Certified Public Accountant."

We come now to the local administration of the Battle Mountain Sanitarium, National Home for Disabled Volunteer Soldiers, here at Hot Springs, S. Dak. On page 196, annual report, National Home for Disabled Volunteer Soldiers, fiscal year 1912, will be found report of Battle Mountain Sanitarium, in which it is stated that the average attendance for that year was 352, and that the per diem cost of the rations per capita was $0.2125; this means that the total amount expended for rations there was $26,329.60. Please note now, that while the hospital of the United States Army Soldiers' Home, Washington, spends 46.54 cents per diem per capita for rations, that this Battle Mountain Sanitarium (which is the hospital for the National Home for Disabled Volunteer Soldiers) spends only 21.25 cents, less than one-half as much as the United States Army Soldiers' Home hospital spends. On the same page of the annual report mentioned above will be noted that the Battle Mountain Sanitarium turned back to the general treasurer of the National Home for Disabled Volunteer Soldiers $21,553.03, unexpended balance for fiscal year 1912. Had this sum been added to the $26,329.60 spent for rations, it would have swelled the amount to $47,882.63, and raised the per diem per capita ration allowance from 21.25 cents per diem per capita, to 37.54 cents. As nearly as I could ascertain from Maj. Wadsworth's testimony, the reason why the National Home for Disabled Volunteer Soldiers stubbornly adheres to the starvation ration allowance, is on account of "long established custom."

From the annual report above mentioned I ascertained, after considerable dissection of figures, that just 15 per cent of the money spent at the Battle Mountain Sanitarium was utilized for the purchase of the rations, while 30½ per cent, or $63,968.90, was spent for salaries, and that the net cost to each member for the maintenance of the farm was $17.17 per annum; this is the net loss for the operation of the farm which, according to the testimony of Maj. Wadsworth, is the amount expended for the maintenance of the grounds about the buildings.

I will note below something of what I have observed with my own eyes since I came to the Battle Mountain Sanitarium as a patient and leave it to your good judgment as to whether you think I am acting wisely in leaving the place to go out in the world penniless and rely upon the kindness and generosity of others for sustenance rather than put up with what one has to contend with here. The following remarks will, I think, give you a sufficient basis to form an opinion as to whether this institution is in just as bad a state of lethargy and procrastination as was Santa Monica Soldiers' Home when the Senate investigating committee went there, now about a year ago.

The first thing I encountered when I entered the door of this place was the astounding stupidity of the civilian employees. I went to the desk of the receiving clerk (or adjutant), and he looked over my application for admission, which clearly set forth my occupation at the time I entered the Army, which was that of stenographer. Attached to my application for admission were also several efficiency ratings which I had received while I was in the civil service, War Department. But notwithstanding this evidence this young fellow had the astounding and abysmal stupidity to calmly ask me if I could "read and write." He also asked me if I had utilized by Government transportation to this place, and I replied that I had; but I observed that he made no note of what I said. I went to the tubercular ward, which is some distance from the main building, and I was feeling very weak from my long trip by rail. I had not been in the ward long when I was summoned by an orderly to go up to the treasurer's office, thinking that I would be required to sign some papers, maybe, and that there was some reason for my appearance there in person. So I climbed a number of flights of stairs, up a hill, and into the main building; then up to the treasurer's office, and reached there completely exhausted.

And as soon as I entered I was again confronted with this question as to whether I had utilized my Government transportation. I was, to say the least, utterly exasperated. I replied that I had utilized my transportation, and told this callow youth in the Treasurer's office that I had already given the same information to the receiving clerk across the hall, to which he replied that that was none of his affair. Now, it occurred to me that if they had even a modicum of a system of checking up things there, that this receiving clerk could have noted about the

transportation on my papers, and when the Treasurer's clerk came to check up the transportation he might, instead of dragging a poor sick man up before him, have simply stepped across the hall and secured the information from the receiving clerk, like any businesslike establishment would do. In case the receiving clerk didn't have this information, it seems to me that the Treasurer's clerk might have sent me down a memorandum by the orderly, with merely the question as to whether I had utilized my transportation, to which I could have easily added "yes," and that would have ended the matter in a businesslike manner. But not so with this administration here.

When I entered the ward to which I had been assigned I observed that the patients were protesting because they had not been issued any chewing and smoking tobacco for several weeks, as is provided for in paragraph 262 of the Soldiers' Home Blue Book. I believe they did get chewing tobacco, but am sure it was not smoking; but they showed the tobacco they had received to me, and it was all permeated with a greenish mildew. On October 20 last I observed that no smoking tobacco was issued—only chewing—and that the chewing tobacco that was issued was filled with this greenish mildew. Issue of smoking tobacco was resumed November 20, after having been out for more than a month. During the time no smoking tobacco was issued to the nonpensioner patients I was in the post store several times and observed that they had smoking tobacco for sale there, and it struck me rather curiously that an institution that was bound by the regulations to issue tobacco to its nonpensioner members was failing to do so, but was selling it.

The issue of smoking tobacco has relapsed again this month (December), and without one word of explanation as to why; they send around not one word of explanation, only leaving the patients to wonder at their failure to comply with the regulation. That there is a question as to the advisability of a sick man smoking or chewing a little, I will admit; but that for them to issue this mildewed chewing tobacco to a sick man there is, to my mind, absolutely no justification under the sun. Why, if I had a billy goat and he had no more self-respect than to chew this tobacco they issue here, I'd take him out and shoot him. The smoking tobacco was just about as bad as the chewing. It was this "Hugh Campbell's Shag," and when a man would light his pipe he would be thrown into a fit of coughing, since the tobacco was nothing but screenings and ground almost as fine as snuff and as rotten as cabbage leaves. I couldn't smoke it myself, and I heard the other patients saying they couldn't smoke it either, and they threw it away.

Between November 7 and the present date eggs, sirup, oranges, port wine, grape juice, apple butter, tomato ketchup, graham bread, and various other articles of diet have alternated in being "out" and no explanation as to why. I know two or three men who were depending upon eggs alone, almost, and when eggs would run out these men would naturally feel dissatisfied and wonder where the trouble lay. I might be more exact and name dates on which the various articles of diet and medicince are reported to be "out," but it would be too voluminous; I have the dates here, but will not insert them. From the foregoing it will be clearly seen, by reference to the Blue Book, that when these various articles of diet are allowed to run out it is a direct violation of paragraph 74, which says, in part: "* * * Strict economy will be observed in the preparation of food, without stinting the tables." Paragraph 604 makes ample provision for the purchase and issue of subsistence supplies. Paragraph 606 makes ample provision for "emergency requisitions." Paragraph 609 makes ample provision for the special diet of hospitals, and does not restrict the amount. Paragraph 57 makes ample provision for the surgeons in charge of hospitals to make timely requisitions for all supplies needed in hospitals, and paragraph 32 makes ample provision for the governor to make emergency purchases.

From the foregoing it will be clearly seen that the administration here is bound by no cast-iron regulations, which might impair the efficiency of their administration, so about the only excuse I can give for their failure to provide the things which the United States Government intends the members shall have is simply on account of official procrastination and stupidity and indifference as to their duties.

When I came here I heard the patients complaining about the excessive dust in the wards, and I observed that the ward men were sweeping up the bare floors without anything to keep down the dust. They finally induced the governor to send down some sawdust, which came in a few days—only about half a bushel. This soon ran out, and a barrel of shavings finally came down, but the ward men couldn't use them since they would stick to the floors like wet leaves. The governor's attention was called to this on or about November 15, and he promised to get some sawdust. Things rocked on for two or three weeks without any sawdust, and in the meantime the patients were protesting loudly at the excessive dust, which always irritates the lungs of a tubercular patient. On December 12 I importuned the governor to please get some sawdust, and four days later down came some coarse stuff which was unfit for any use to speak of. It took the governor just 31 days to replace the sawdust, and in the meantime my cough increased in violence until I began to run a high pulse and fever, but the governor was apparently as oblivious of his delinquencies as if he had been a child. The sawdust might have been secured from any of a number of sawmills all within a radius of 2 to 3 miles of this place, and the institution here has wagons and teams a plenty.

Then another instance of the governor's procrastination came very forcibly home to me in November and December of this year. I had a small tumor on my forehead, and on November 10 asked the governor to remove it; he replied that it could be done in a few moments, but without making any note of it passed on down the ward. A week later I again called it to his attention, and he said he was a little short of doctors, and for me to call it to his attention in another week, which I did, but this time he told me that he could do it the following Thursday, and when Thursday came around I reminded him of it as he had requested me to do, but he said that was a holiday and he couldn't do it that day, so he again passed along without even saying when he could do it.

A week later we had changed nurses in our ward and had a very efficient nurse, Mrs. Gilchrist, who called the tumor to the governor's attention, and he then finally said he would remove it that afternoon, which he did, after nearly 30 days' of begging on my part, and after he had had the matter brought to his attention five times. I submit that when a patient brings a thing to the doctor's attention and the doctor says it is expedient that the operation be performed, that from that moment the responsibility for the operation passes from patient to doctor. But to impose upon a patient the necessity of reminding a doctor of his duty time and again is, in my judgment, very poor professional ethics on the part of the doctor.

After the operation had been performed, about five days, I went to one of the internes, Dr. Crane, who pulled the dressing off the wound, leaving the vicinity of the wound covered with dried blood and the wound itself still raw, but notwithstanding this, Dr. Crane told me to go back to the ward and wash the wound off with warm water; this right in the face of the fact that the wound was still raw, and in the face of the fact that I am suffering from pulmonary tuberculosis and would in all likelihood run a great risk of infecting the wound. This, too, in my judgment, is an indication on the part of Dr. Crane of very poor professional ethics, and shows a spirit of indifference and procrastination. You may rest assured that I did not do as Dr. Crane told me, but left the wound entirely alone until it had healed sufficiently to prevent the possibility of infection.

I would like, also, to call attention to certain very grave derelictions of duty on the part of a Miss Turner, the nurse who preceded Mrs. Gilichrist in this ward. I observed that this nurse seemed to take pulse and respiration simultaneously, and then for only 15 seconds. I heard Mr. Frank H. Henderson and Mr. P. E. Holman, patients, say that they had held their breath while the nurse was supposed to take their respiration, and they said that they observed that she put down respiration just the same, and this of course aroused my suspicion, and I decided to give her a tryout, so I carefully observed her the next morning, and the instant she reached my side I withheld my breath, and during the 15 seconds that she held my pulse I breathed just once, and as she turned to write it down I observed that in addition to writing down my pulse she also put down "24" as my respiration, and I immediately reminded her of it, and told her I had held my breath, and she seemed a trifle confused a moment, then said I oughtn't to do that. That she was taking respiration by actual guess instead of by actual count, is absolutely beyond peradventure.

We have rest hour twice a day here, or are supposed to have, but this nurse would tramp through the ward right in the midst of the rest hour, when patients were trying to doze, and do so with the reckless abandon of a schoolboy. One day I asked her to refill my atomizer receptacle with oil, but instead of putting oil in it she brought it back to me with carbolic acid in it. As it happened the carbolic was weak and didn't burn my nose much when I tested it. On another occasion I saw her give P. E. Holman his daily medicine, and as he swallowed it he exclaimed that it was awfully bitter and tasted unusually queer; whereupon she said she had given him the wrong kind and went and refilled his glass with the proper kind, brought it back, and told him to take it on top of the other; that "it wouldn't hurt him"; and she did this with the most absolute diffidence imaginable. This nurse was a constant source of irritation to all the patients on this side of the ward and no one had any confidence in her to speak of. I wouldn't take another dose of medicine from that nurse for $500, not unless I was contemplating suicide; and I don't think you would blame me, either.

Another thing which is a source of great annoyance to the patients in the tubercular ward is the fact that from 12 to 15 men are required to be crowded up in one small 16-foot room; that is, it wouldn't square any more than that. According to the best medical authorities, a patient in a hospital should have at least 3,000 cubic feet of fresh air per hour. Now this room contains only 2,400 cubic feet of air space, and it would be just about enough for one man, with a change of air once an hour; but to force 12 to 15 men to lounge in it would require that the air should change about fifteen times an hour, or once every four minutes. Now, on cold days and nights in the winter, with the temperature about zero outside, it is an absolute impossibility to get even half enough fresh air or one-fifth enough fresh air. The patients usually congregate in the room for a couple of hours after meals to smoke or read, for the room is used as a cloakroom, as all their clothes are kept in it in lockers, and as a lounging room and recreation room. I find it oppressive to remain in the room when there are more than three or four men in it. I submit that any doctor who will silently stand by and allow a crowd of consumptives to be cooped up in such a "Black Hole of Calcutta" hasn't any more humane feelings than a fence post. Yet this goes on from month to month, and the governor knows it, and knows it is inadequate, but he is as indifferent to it as an infant.

Another thing I have thoroughly verified, and that is the utter carelessness of the doctors in making their morning rounds of this ward. The governor himself visited this ward for about six weeks, and I observed that he went through it very quickly. So one day I concealed my watch under the cover of my bed, and timed him from the moment he entered the building till he left. I did this for about a week. I found that it took him just about eight seconds to enter the chart room and get into the ward. This made it utterly impossible for him to examine the temperature, pulse, respiration, and weight records, which are supposed to be made up for the doctor to examine each morning before he passes through a ward or to be carried along with him as he visits each patient. But he ignored these charts and passed immediately into the wards and down the line, and, on an average, he spent 5 to 10 seconds to the patient. I was running a high pulse and temperature during the latter days of the governor's visits, but he never once said a word about it, but would pass me and, as he did so, stare down at me with a meaningless expression on his face, just as if he were viewing an Egyptian mummy. He hurried past his patients, whose lungs were in all sorts of decay, from incipiency to tertiary stages, and he never, never once offered to examine a man unless the poor fellow begged him to, and then, as a rule, he would put the man off two or three times. Mr. P. E. Holman, to my knowledge, kept at him for several weeks for an examination, but to date he swears he hasn't been examined. I was given a hasty examination when I entered, but haven't been examined since, except once or twice I asked the governor to sound my chest, and then it was but for a moment.

But "we have with us" now Dr. Milligan, late of Santa Monica, and from his actions he doesn't seem to have profited in the least by the terrible shaking up they got out there a year ago, although he was there at the time, so the records show. The nurse tried to tell him, a morning or so after he was assigned to our ward, that I was running an unusually high pulse and temperature, and she told him just as he was reaching my bedside, but he paid absolutely no more attention to her than if she hadn't spoken to him. Yesterday morning he again came through the ward and passed by me without stopping at all, so as he came back on his way out of the ward I asked him if he had examined my temperature and pulse chart for the past 24 hours, and he replied that he had not; then the nurse told him that I had a temperature of over a hundred and high pulse. Right there he admitted that he was neglecting his duty; he admitted that he did not examine the charts before going through the wards.

If the charts are not kept for the purpose of enlightening the doctor as to the patients' condition, I wonder what they are for. He spends even less time in the wards than did the governor. Dr. Milligan has now ceased making his afternoon rounds altogether, except to come to the dining room at supper time to see about the meals now and then. He is a source of constant irritation to the patients because of his professional lethargy; they see it; they see he hasn't the slightest

regard for the psychotherapy (popularly known as the "mental attitude") element in the treatment of tuberculosis. That sick men are apt to be restive and impassive now and then is to be expected, but if Dr. Milligan or the governor has ever manifested the slightest personal interest in the men I have never been able to detect it. Another thing, we have a chaplain here, but only in name, and most certainly not in deeds, for he hasn't been in this ward since I came here—now nearly three months—and patients who have been here nearly a year say that they have never seen the chaplain in the wards. This is strictly in violation of paragraph 82 of the bluebook, which requires that chaplains shall make frequent visits to the hospitals. No notice of a service has ever been published in these wards in this building; nor do we ever see a bulletin board; nor are we furnished with a copy of all orders, and also the Blue Book, as required by the Blue Book.

That the governor is arbitrary in his administration goes without saying. He tries to force the sick men to line up with their coats on when he makes his morning rounds; that is, if they are in the recreation room, where it is close and stuffy and where a man should never wear his coat unless he wants to contract a death of cold the moment he goes out of it. That the governor is arbitrary and unreasonable in refusing to allow the nurses and other help to ever be seen in the company of men—it matters not whether on the grounds or off—goes without saying, and I hear them protesting loudly about it. It makes the nurses dissatisfied and tends to make them indifferent.

I have found that there is neither entente cordiale nor esprit de corps among the officials of this home; that they haven't any more respect or consideration for the feelings of the members than if they were inanimate, mechanical devices. That the employees—I mean the clerical contingent—are snobbish I am thoroughly convinced of. I was in the Federal civil service seven years, and if I am any judge of men at all I must say unhesitatingly that the clerks here couldn't hold jobs as messengers in the classified civil service.

Now, in view of the foregoing you will no doubt see the wisdom in it when I say that unless a man is drawing at least a small pension when he is in these national homes, God help him. Use this for any purpose you may see fit.

Yours, very truly,

WILFORD W. DAVIS,
Late Private, Troop M, First United States Cavalry, and
Ex-Civil Service Clerk, War Department.

—

DAVIS LEAVES BATTLE MOUNTAIN HOME.

BATTLE MOUNTAIN SANITARIUM,
Hot Springs, S. Dak., December 30, 1913.

The Hon. DANIEL R. ANTHONY,
House of Representatives, Washington, D. C.

DEAR SIR: I am inclosing a copy of my application to the governor of this institution for my discharge, and am leaving this date for Denver, Colo., where I intend to enter a charitable institution. This application for discharge is self-explanatory.

In this connection please refer to my letter of even date setting forth conditions here.

Now, Mr. ANTHONY, if you would like to find out how lovely and efficient things are here at the Battle Mountain Sanitarium, National Home for Disabled Volunteer Soldiers, just call on the Board of Managers, National Home for Disabled Volunteer Soldiers, 346 Broadway, New York, N. Y., for an investigation; but if you wish to know how superbly inefficient, how astoundingly incompetent, how abysmally indifferent this administration really is, just send a congressional investigating committee out here.

My future post-office address will be Wilford W. Davis, Denver, Colo., care of general delivery.

Yours, very truly,

WILFORD W. DAVIS,
Late Private, Troop M, First United States Cavalry, and
Ex-Civil Service Clerk, War Department.

—

T. B. COTTAGE, *December 29, 1913.*

The GOVERNOR AND SURGEON,
Battle Mountain Sanitarium.

DEAR SIR: I should be pleased if you would please grant me my discharge, and have the papers ready in order that I may leave on the Burlington train at 5.55 p. m., Tuesday, the 30th instant.

As to my reasons for desiring to leave, you will find them upon examination of my chart, which shows that I have been steadily declining now for more than a month. This place does not agree with me, and unless I go elsewhere at once I shall not be able to leave at all.

I am a poor man, without a cent on earth, and am in debt, and have no pension or income of any kind whatever, and will be entirely dependent upon the kindness and generosity of others for my maintenance on the outside; yet I had rather face these conditions than to imperil my life by remaining here.

Yours, very respectfully,

WILFORD W. DAVIS.

—

ADAMS MEMORIAL HOME,
Denver, Colo., April 11, 1914.

The Hon. DANIEL R. ANTHONY, Jr.,
House of Representatives, Washington, D. C.

DEAR SIR: Your letter of inquiry with reference to the Battle Mountain Sanitarium has just been received. Your suggestion as to the methods of the Board of Managers in combating complaints against the National Home for Disabled Volunteer Soldiers is more than true, but I am happy to assure you that in the present instance these tactics will be absolutely of no avail to them. I learned of these methods soon after I entered the Battle Mountain Sanitarium, and I therefore took the greatest of care to see that I gave them not the slighest excuse for any recriminations against me in this particular. No charges were ever preferred against me, either in writing or orally. My relations with them were courteous and polite. My first break with them was when I mailed you my report of December 30, 1913, the day I left the place. They know that I reported conditions to you, and this constitutes every syllable of differences I have had with them. There was no malingering, no infractions of rules in any way whatsoever, during my stay with them. I am inclosing you my discharge certificate from Battle Mountain Sanitarium, which is self-explanatory.

As further proof of my reliability I am also inclosing my discharge certificate from the United States Army, which shows that my Army record was above reproach in any way. I am inclosing a letter written by the adjutant general, Philippines division, Manila, April 30, 1904, confirming my appointment to the classified civil service of the Quartermaster's Department, and with this I have attached two of my efficiency ratings, showing my standing in the civil service after my return to the United States and while on duty at the depot quartermaster's office, Jeffersonville, Ind., which was just before my resignation from the civil service. For a full record of my connection with the civil service I refer you to the records of the Quartermaster General's Office there in Washington between 1904 and 1909. I also refer you to Dr. William S. Washburn, member of the United States Civil Service Commission, Washington, who is a personal friend of mine and whom I knew for five or six years while he was chief of the Philippine civil service, Manila.

There will probably be a political aspect to this matter before it is settled, which you will instantly recognize the moment you look at the front page of the inclosed menu of Battle Mountain Sanitarium, which bears the picture of the Hon. E. W. MARTIN, of South Dakota, who, it appears, is quite a friend of the present governor of the sanitarium, James A. Mattison, and who will probably put up a fight for Mattison. Mr. MARTIN has a nephew employed as adjutant at the sanitarium, and this nephew is the fellow whom I criticized quite severely in my report to you for his "abysmal stupidity." I am merely bringing this to your attention, so that you may know what to anticipate when the fight comes up on the floor of the House.

In conclusion, I may say that since writing my report to you of December 30 I have in not one single instance found that any statement I made was without good and sufficient foundation, and that subsequent incidents at Battle Mountain Sanitarium have only confirmed its truthfulness. The nurse whom I called attention to as being remiss in her duties, etc., was discharged as soon as it was known that I had reported her to you.

Any further information which you may desire in this connection will be cheerfully furnished, if within my power. I would have been more explicit and more thorough in my reports to you but for the fact that I have been too ill to leave my room

I should be pleased if you would kindly return the inclosures herein as soon as they are no longer required. Thanking you for your interest in this gigantic problem, and again assuring you of the merits of the case, I remain,

Yours, very truly, WILFORD W. DAVIS.

P. S.—It will be noted that in my report to you I signed myself as "Ex-Pvt., Tr. M, 1st U. S. Cav.," while my Army discharge and that of the sanitarium show "Pvt. Unassigned 12th Cav." This is due to the fact that a few weeks before my discharge from the Army I was transferred from Troop M, First United States Cavalry, to Unassigned Twelfth Cavalry. W. W. D.

AN HONORABLE DISCHARGE.

A most reprehensible method of defense on the part of home officials, when the homes are criticized by members, is to attack the character or record of the soldier making the complaint. The following honorable discharge of Wilford W. Davis is therefore printed as a part of this record:

To all whom it may concern:

Know ye, that Wilford W. Davis, late private, unassigned company, Twelfth Regiment United States Cavalry, a member of the National Home for Disabled Volunteer Soldiers, who was admitted on the 15th day of October, 1913, is hereby honorably discharged, by reason of his own request. No objection to his readmission is known to exist.

Said Wilford W. Davis was born in Alabama, is 33 years of age, 5 feet 11¼ inches high, fair complexion, blue eyes, dark brown hair, and by occupation, when admitted, a stenographer.

Given at Battle Mountain Sanitarium Branch, National Home for Disabled Volunteer Soldiers, this 30th day of December, 1913.

JAMES A. MATTISON,
Governor and Surgeon.

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RELATIVE TO A REPORTED INVESTIGATION OF SOLDIERS' HOME CONDITIONS BY A COMMITTEE OF SPANISH WAR VETERANS, SUPPOSEDLY INSTIGATED AND FATHERED BY SOLDIERS' HOME OFFICIALS.

ADAMS MEMORIAL HOME,
Denver, Colo., April 18, 1914.

Hon. D. R. ANTHONY, Jr.,
House of Representatives, Washington, D. C.

DEAR MR. ANTHONY: I have just received your letter of the 14th instant with reference to the report of Mr. Frank F. Jones regarding Battle Mountain Sanitarium, in which he states that my letter to you of December 30 is "one tissue of false charges."

It would appear to an outsider that a very grave "blunder" had been made by Mr. Jones and Maj. Wadsworth in linking me up with three men who had not the slightest connection with me or my report. But to one who is familiar with the inside workings of this matter it is palpably evident that these gentlemen are striking at me over the shoulders of three men who may have been unfortunate enough to fall within the grasp of these said gentlemen. This, it appears, was done in the absence of any charges these gentlemen might lodge against me personally.

You asked me for a statement as to what I know about Walick, Lacey, and Yount, the three men who have recently been given the "gate" at Battle Mountain—for criticizing the management. I am personally acquainted with each of them.

Walick: A frail chap, in the secondary stages of pulmonary tuberculosis. Inclined to be fanciful as to his surroundings. Reads socialistic literature, but I never heard him voice a single sentiment in favor of "direct-action" tactics, such as is the wont of the I. W. W.'s. I am most certain he is entirely harmless, and am sure that the fellow would never knowingly insult a decent woman much less assault a respectably built athlete like the governor of Battle Mountain Sanitarium. I never knew of this fellow's taking a drink while I was at Battle Mountain.

Lacey: The remains of a once healthy Irishman, but now in the advanced stages of pulmonary tuberculosis and unable to lick a postage stamp without stopping to get his breath. Never drinks: i. e., never saw him under the influence of liquor. Has a well educated wife, who was an instructor in foreign languages in New York high schools. Lacey himself was, until he became ill, chief electrician for the New York World, World Building, New York, at a salary of $175 per month; showed me documentary evidence to prove this. Quite restive and impassive at times. One day when this Miss Turner—the nurse who I reported on page 19 of my letter to you—came in and gave him a medicine glass of clear water, having, as she said, forgotten to put the nux vomica in it, I heard Lacey say "damn." As the nurse walked away

Lacey brought the glass to my bedside and I tasted its contents, and it was pure H_2O. Presently she returned with the concoction the doctor had ordered. Probably Lacey should only have said "darn." What would you have said under the circumstances? I warned Lacey that some day the governor would hold this over his head. I can not support Lacey in what he said; I am merely pleading "aggravating circumstances." This was the nurse whose services were dispensed with when it was learned that I had reported her to you. Never heard Lacey threaten the governor's life, or anybody else's life, nor talk of "destroying the place by fire." This fellow is inclined toward socialism, but I have often heard him denounce the I. W. W.'s.

Yount: An easy-going, uneducated chap, in the advanced stages of pulmonary tuberculosis, but able to get about some yet. Was told that he got drunk Christmas, at any rate the contour of his face after he had been beaten up indicated such, and he admitted as much to me, then promptly went up to the governor's office and apologized. I saw him go to the governor's office, but only had his word for what he told the governor. This fellow is another helpless, harmless consumptive. Never heard him insult a nurse, nor make any threats.

In a word, these three men are simply three miserable, wretched, nonpensioned, impoverished invalids, with a rather exaggerated idea of their surroundings. They may have said what Jones reports they said, I don't know for sure; but I am constrained to the opinion that they were weak enough to succumb to the temptation to express themselves too freely in the presence of careless nurses and indifferent doctors. These three men probably suffering more from violation of conventionalities than on account of any profanity or malice which has been attributed to them. You know how soldiers will sit 'round the barrack room and indulge in idle remarks about people from the President down to the humblest private in the rear ranks. I have it very accurately that the governor had a man or two in the ward with these men for the purpose of reporting any remarks they might make which would incriminate them in any way. If these men have been guilty of violation of either the letter or spirit of politeness or of rules and regulations, I think you'll find a precedent for it in the carelessness of nurses, procrastination of doctors, as outlined to you in my letter of December 30. You will no doubt recall the disorder that used to exist in the schoolroom when you were a boy, when you had a weak schoolmaster—the big, bad boys throwing paper wads, pulling the girls' hair, banging one another over the head with books, etc. Well, in my judgment, Battle Mountain Sanitarium is nothing more than a replica of just such a state of things. When the trustees would haul the teacher up for not preserving order, he would promptly conceal himself behind the behavior of certain noisy pupils, etc. Well, this is just what James A. Mattison and James W. Wadsworth are now doing in Washington with regard to the soldiers' homes.

Last week a patient, who left Battle Mountain Sanitarium a week or two ago, came to Denver and out to my room and told me of this "investigation" and how it was conducted. This is merely reported to you in connection with what you stated about this investigation. This fellow told me that there appeared to be the greatest felicity between this fellow Frank F. Jones and the representatives of the board of managers that were with him. That they went arm in arm through the place and went through the wards and challenged each patient with, "Well, what have you got to kick about?" And if the man offered to say anything in the way of a complaint, Jones and the others would say, "Another kicker." He further stated that they held hearings behind closed doors in the chapel or picture show room. That they only let in one man at a time, and when through with him let him out, and call in another one, never allowing any spectators inside—nobody being inside but the committee and the man they happened to be questioning. That this fellow Jones was apparently the guest of the board of managers and was partaking of their courtesies and hospitality—and cigars.

With reference to how they investigated my report to you: When I left Battle Mountain I left two copies of my report with some of the fellows, and told them that I didn't expect to live long enough to see anything come of my report, since I was sinking very rapidly and did not expect to live more than a few weeks after I came to Denver. So I told them that if anything came up at Battle Mountain before the report was taken up in Washington that they might use it there, so I suppose some of them presented it before the investigating committee. But the committee nor anybody else ever communicated with me about it. I hope you may be able to find out whether these men—Walick, Lacey, and Yount—testified before the committee that my report was true. If they did support it, I leave it to your imagination as to the underlying cause of their getting the "gate."

Now, Mr. ANTHONY, investigations and court-martial proceedings are not new to me. Permit a moment's personal reference. I was in the Philippines when the famous "water-cure" cases were being tried and assisted in taking a great deal of the testimony. I was connected with the undertakings of courts of inquiry. I assisted in getting up the famous "Quartermaster Shop" cases, when graft was so thick that you could cut it with a butter knife. I've seen graft and grafters, crooks and crooked work, lies and liars. I have observed the tactics of all sorts of miscreants, both on the witness stand and off. And during my long connection with the Government service, coming in contact with a great deal of this sort of thing in investigations and trials, I may say that it has tended to develop a sort of sixth sense along this line. I've seen visionaries on the stand, taken their testimony; I've seen false charges run to earth, and have seen serious charges substantiated. And permit me to say that, in view of the foregoing, Mr. ANTHONY, I feel that my sense of perception, discrimination between the true and the false, has been sufficiently developed in the past to enable me to see a little deeper into things like the Battle Mountain incident than the average patient there. I have helped compile figures and statistics in cases like this before, and this, in addition to the experience cited above, leads me to reiterate with renewed emphasis every last syllable of my report to you of December 30, 1913. I have reached P. E. Holman by long-distance telephone, and he will be here to-morrow to make a sworn statement, supporting my report to you of December 30. He has offered to do it. The Mrs. Gilchrist, the very efficient nurse mentioned on page 19 of my report, was handed carbon copy of it, and she states it is true in every particular. She is in Denver, having resigned from Battle Mountain Sanitarium because of the unsatisfactory manner in which they were running things up there, so she says. Mr Holman will see her to-morrow as soon as he gets here and get her statement. I will have Mr. Holman bring a notary here to my room, and I will swear to my statement to you of December 30, carbon (facsimile) copy of which I have here with me. These three sworn statements will be attached to this carbon copy, and all three of us will swear as to the truthfulness of the report and make the report a part of our sworn statements. This done, I shall have it mailed to you Monday afternoon by special delivery, so that you may get it in Washington at the earliest possible moment. We have no Soldiers' Home money with which to defray traveling expenses, etc., like Maj. Wadsworth has, so please pardon our meager showing for promptness and our inability to come to Washington and lobby around, as Maj. Wadsworth appears to be doing.

In closing I should esteem it a great favor if you would kindly give me the address of this Frank F. Jones and ascertain what camp of the Spanish-American War Veterans he hails from, as I have a friend here who is in a position to ascertain whether this man Jones is acting in good faith with the veterans; and if not, I think maybe Mr. Jones will have a chance to either explain himself or accept employment with the Board of Managers of the National Home for Disabled Volunteer Soldiers. Imagine a judge of a court convicting or acquitting a man after the man had testified both for and against himself, and after the judge had been felicitating with him, partaking of his hospitality, and smoking his cigars. This is indeed one of the strangest anomalies of these internal investigations conducted of the Board of Managers, by the Board of Managers, for the Board of Managers.

Yours, very truly,

WILFORD W. DAVIS.

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ADAMS MEMORIAL HOME,
Denver, Colo., January 29, 1914.

The Hon. DANIEL R. ANTHONY,
House of Representatives, Washington, D. C.

DEAR SIR: Your kind letter of January 7, acknowledging receipt of mine of December 30, was received some time since. I am willing to admit that the subject upon which I addressed you—National Home for Disabled Volunteer Soldiers—is about as stale as the hackneyed "Philippine question" used to be, but at the same time I and a large number of my friends have been and are at the present time vitally interested in both of these old questions. Our participation in the solution of the Philippine unpleasantness unfortunately forced a lot of us into the National Home for Disabled Volunteer Soldiers later.

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Mr. ANTHONY, if you only knew how the fellows are howling for the relief as proposed in your bill, I am sure you would just scratch up the grass around the Capitol in an endeavor to get your bill through. The despicably rotten conditions prevailing in some of these homes is enough to drive a man to the brink, if not to drink. I am inclosing copy of a letter I recently addressed to the governor and surgeon of the Battle Mountain Sanitarium, National Home for Disabled Volunteer Soldiers, which is self-explanatory. You will observe that I became a trifle facetious in this letter, but I felt that the exceptionally disgusting circumstances warranted me in departing to some extent from the straight and narrow path of conventional formalities. I have virtually bantered the governor of the Battle Mountain Sanitarium to holler for an investigation in order to exonerate himself, but he is afraid of an investigation, so far as I am able to judge, for he knows that if an investigating committee were to wait upon him that he would get fired, just as the erstwhile Cochrane was fired from the Santa Monica Soldiers' Home about a year ago. Trusting that I may be favored with good news from you in reply, I remain,

WILFORD W. DAVIS.

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ADAMS MEMORIAL HOME,
Denver, Colo., January 20, 1914.

Col. JAMES A. MATTISON,
Battle Mountain Sanitarium, Hot Springs, S. Dak.

DEAR SIR: You will probably not be able to recall me personally, but your records will, in all probability, show that I was an inmate of Battle Mountain Sanitarium from October 15 to December 30, 1913.

I had intended to address a few remarks to you at the time I left, but as I was suffering from a relapse and as I had been devoting my comfortable moments to a report, setting forth a few of the irregularities of Battle Mountain Sanitarium, to a Member of the House of Representatives, I was unable to write to you.

One would naturally expect that an ex-patient would write his doctor in appreciation of the treatment he had received; at any rate circumstances ought to warrant a patient in so doing. But I regret exceedingly that the present circumstances do not justify me in extending my appreciation. I would have written this earlier, but the "treatment" I got at Battle Mountain was such as to put me in bed, and I have been in bed ever since I left there, with the exception of the last two or three days.

If you wish to gain some idea of my opinion of the "treatment" I got while at Battle Mountain Sanitarium, and under your jurisdiction (I shall not say "care"), just read the coming issues of a little paper entitled "The Westgate News." I think you will find copies of this paper in circulation around your institution, and I think Capt. Milligan will be able to gather one up for your perusal. While the compositors may get a few of my figures a little twisted, still at the same time you will find the facts standing there in stately alignment, just like the ancient columns in front of the old Hall of Karnark.

But in addition to what may appear in the above-mentioned publication there are two or three other little matters which I should be pleased to bring to your attention. It is usual with me to indulge in nothing but the choicest of elegant expression, and I try to be guided by the rules laid down by the acknowledged masters of English diction. But I must confess that there is a time when patience ceases to be a virtue, and also it occasionally happens that one must express himself in such terms as may be thoroughly comprehended by his readers or his audience, and on such occasions it may now and then become expedient to depart from the straight and narrow path of classical prose diction; so, if you will please pardon me, I will "remove my coat" and be frank with you.

I think that if you can recall having seen me personally while I was a patient in the tubercular cottage at the sanitarium that I was usually in a cheerful mood; that I invariably carefully complied with all rules and regulations; and that our relations were courteous and polite, and that when I left, my discharge certificate bore the note: "No objection to his readmission is known to exist." So my record is without any blemish whatever.

I suffered intensely the last six weeks of my stay at Battle Mountain, but I think the doctors will recall that I said but little, for I knew that the temperature record would speak for me, but I found that the record "spoke to nobody"; at least, if it did, it fell on deaf ears. When I felt my pulse running like a mill race and my temperature seemingly well above the hundred mark, never once, not once, did either you or your subordinates ever say one word to me about it. My suspicions as to high pulse and temperature were several times confirmed by the nurse, who told me of an unusually high pulse and temperature, and I

heard the nurse tell you about it and I heard her tell Dr. Milligan about it. One day, when my side was cramping me so badly that I couldn't get a comfortable breath, I called you over to my bed and asked you to sound my side with your stethoscope. You hurriedly placed the instrument to my side and said, "Oh, yes, yes; moist rales," and before I could get my breath to tell you what misery I was in you had lubricatingly glided half way down the ward to the door. That same morning I took particular pains to note that you stood for 11 seconds staring into a vacant cupboard in my ward to see if the two blankets on the bottom shelf were properly folded. But you sounded the fever-parched lungs of a sick man just 6 seconds. Don't flinch at my exactness, for I had my watch under the cover and was observing you. I saw you spend from 2 to 10 minutes a day looking into cupboards and lockers, a thing the nurse could easily have done, while at the same time you only devoted from 5 to 8 seconds to the miserable, emaciated sick men in the same wards. You made a practice of this. I checked the time you were supposed to consult the fever charts before you should come into the wards, too. It usually took you 7 to 10 seconds to enter the chartroom and come out into the ward. This proves beyond peradventure that you never looked at anybody's chart before coming into the wards, a thing that no doctor with any regard for professional ethics would think of doing, and you know it. Dr. Milligan *did identically* the same thing; only he, if anything, was more abbreviated than you were. He would pay absolutely no attention to the nurse when she would tell him that so and so was running abnormal temperature and pulse. And if a man looked as if he were going to say something, Dr. Milligan expeditiously moved on. It is beyond me to understand how two doctors can possibly have the unmitigated effrontery to pass before a large number of intelligent sick men day after day with such an absurdly transparent showing of professional hypocrisy. Almost every man in the ward saw it and commented on it. I heard Frank H. Henderson try to tell you one day of the exceedingly sharp pains he was having in his back, and before he could hardly get the words out of his mouth you said, "Oh, yes, yes; how's your side?" and immediately you lubricatingly glided past him.

You will read in my printed letter where I stated that I had to ask you five times to operate on the tumor on my head before I finally got your attention, although you admitted in the first instance that the operation was expedient. In this connection permit me to say that the tumor is again showing signs of abnormal growth, which means that you did not kill the abnormal tissue, which would have easily been possible by the use of a little caustic acid. But instead of cauterizing the tissue you only jabbed a little probe around in there a few times—possibly you were suffering from "writer's cramp" that day, due to having signed so many special requisitions for apples for the tubercular patients (which they didn't get), which apples you had promised to get on so many occasions. When I'm thinking of nothing, I'm thinking of your promises. I never in my life was in a place where men had to be continually begging for things which were provided for them by regulation, but which they couldn't get without assuming a continual spirit of mendicity. No patient bothered you for anything not provided by the regulations. You were not restricted by any regulation or by a lack of funds (your F. Y. 1912 report shows that you turned back more than $21,000), yet why was it that you had to be importuned to replace eggs when they would run out? Why was it that eggs were ever out? Why was it that such ration components as tomato ketchup, graham bread, apple butter, sirup, port wine (which the men had to have in taking raw eggs), and various other items were constantly running out? And why was it that the men had to howl before these items were replaced on the tables? No explanation was ever made. No questions supposed to be asked. And yet you had the effrontery to face those men day after day. You would come through the wards looking like a brass band on dress parade, but when a man tried to say anything to you, you would immediately make a noise like a "stop watch." Now, steady yourself and don't get excited. If I had as much of your gall as would cling to the tip end of a bumblebee's stinger, I would be the Czar of Russia in less time than it would take a Government mule to "boost" you up over the flagpole out there in front of your office. Now, please be comfortable, for I know you can stomach a great deal. Any man that can, month in and month out, ignore the importunities of a ward full of sick men to get them a barrel of sawdust to keep the dust down when the floors are swept, any man that can ignore that can stand most anything. I fancy that were Uncle Sam to ride up and hitch his mule to that flagpole that you could provide yourself with a barrel of whitewash a darned sight quicker than you provided the men in the tubercular cottage with a barrel of sawdust.

I do not expect that you or any other mediocre doctor can enhance a man's appetite, or that you can provide him with a new pair of lungs, or that you could put a new lining in his stomach, or that you could cure his pleurisy. Now, in the absence of your known inability to do these things, the only thing under heaven that you could do would have been to feed a man; but this was the thing which you stubbornly and persistently refused to do. Twenty-one cents a day for food for a sick man! Are you proud of it? Suppose the Mayo brothers knew of this. Suppose the Rockefeller Institute, of New York, knew this. Wouldn't they lean back and laugh with a loud guffaw? During the F. Y. 1912 you could have spent 37 cents a day for food for every patient severally instead of only 21 cents, had you only spent that $21,000 that you turned back.

But right here lay your only opportunity of showing the board of managers that you had an excuse for holding your job, and that was by making a showing for saving—never mind whether you made a record for helping sick humanity. Are you proud of the record of the cases that have come and gone from the tubercular wards there during the past five or six months? Have you any records to show that you have been producing good results? There's Fred Culver, Frank H. Henderson, Henrysen, George Dunn, William Noel, George Cossboom, Morris Rosenfield, and a number of others, men who took the greatest care of themselves, but who steadily declined. And as to what these men think of you and your treatment, just write them and find out. What some of us really think would hardly look well spread out on this white paper.

Now, if I were feeling half-way well, I might write you a rather caustic letter, but, as it is, I will not say anything that might be calculated to hurt your feelings. So I am going to close, and submit the foregoing remarks to your own conscience and your innermost meditation. Remember that it is sick humanity that is speaking to you out of these written pages. It is the voice of not only one sick man, but the pleading of dozens, nay hundreds, who have gone to you for treatment; gone to a man who Uncle Sam expects shall do his best for the men that ruined their lives and their health in an effort to serve Uncle Sam. Are you worthy of the trust Uncle Sam has reposed in you? Do you think that all the men who come to you for treatment are sick on account of vicious habits? That was a very unkind cut of Maj. Wadsworth, when he said that most of the Spanish-American War men that entered the homes were there because of over-indulgences which had rendered them unable to take care of themselves. This is sweet consolation to a man after he has ruined his health while lying out in the mud in the Philippines and Cuba, trying to help defend the honor of the United States. Yet this Maj. Wadsworth was very loud in his ostentatious declarations about having a heart full of sympathy for us men. Simply because it now and then occurs that a man comes into the homes who is a wreck from vicious habits, this, to Maj. Wadsworth's mind, is sufficient grounds for branding a majority of them with the same odious charge.

It would hardly appear wise for me to offer any suggestions to you. But you know those homes were built for the accommodation of men in my condition, and you and some others were hired by Uncle Sam to take care of us, but through your vacillating procrastinating policy, we are unable to partake of the bounty provided for us by our faithful Uncle Sam. True, we could stay with you for a time, but, as has been the experience of many of us, we'd pay for it with our own life's blood, and nobody knows it any better than you do yourself. I say, in the name of sick, suffering men, come out of it! But, never mind, Colonel, there's usually a "calm before the storm." I would advise you to see to it well that your whitewash barrel is well filled. I have read some "very interesting" letters from Washington; at least they would be of great "interest" to you, no doubt. But, sit tight for the present, and keep your friends in Congress well lined up on the front page of the menus of Battle Mountain Sanitarium, and I am quite sure they will not desert you when the day of adversity comes upon you.

Yours, respectfully,

WILFORD W. DAVIS.

FORMER CHIEF ENGINEER A. L. NICHOLS MAKES DIRECT CHARGES AGAINST THE GOVERNOR OF THE WESTERN BRANCH HOME.

MILDRED, KANS., *September 21, 1913.*

Hon. D. R. ANTHONY, Jr.,
Member of Congress, Leavenworth, Kans.

MY DEAR MR. ANTHONY: By careful attention to the newspapers I have been able to learn the decision of the Board of Managers in the case I so recently presented to them at their recent session at the Western Branch.

When I appeared before them I believed it was the consensus of opinion among the various members, or at least a part of them, that a liberal coat of whitewash was to be applied to the responsible party. This was by intuition, if you will permit me to so describe it, hence I presented no other matters than directly affected the matter at issue.

Now, I am able to present the following charges and substantiate them if given the opportunity to do so before the proper authority. These charges apply to the commanding officer of the home, and while he may not be cognizant of the conditions charged, yet he, as the active managing officer, is derelict in his duties in that it is his business to know or find out these things, and were he not so unapproachable and so supercilious in his actions he would have found them out long ago:

1. He is entirely out of sympathy with the members and is harsh and unrelenting with any members brought before him for minor infractions of the home rules.

2. Members of the home guard who are on police duty are required to work from 12 to 18 hours per day every day of the week. This is in violation of the law regulating hours of labor on Government work.

3. Women of ill repute have made their camp on the home grounds and preyed upon the members of the home, while no effort has been made to eject them from the home grounds or to protect the members.

4. Apparently no effort has been made to secure the cooperation of the State or county authorities in the protection of the members from the dangers which lurk along the "Pike."

5. He has shown discrimination among the civilian employees in various ways, among which are the permission to some employees of an inferior class to take their meals at the "noncommissioned officers' mess," while employees of a higher grade are required to eat at the general mess.

6. He conspired, in violation of an act of Congress, to erect additional buildings on the home grounds for the residence of civilian employees.

7. He has failed to secure the most economical and efficient operation of the home by discharging faithful and competent employees and substituting inexperienced and incompetent, who have failed signally in the performance of the duties assigned to them and yet are retained in the employ of the home.

8. He is not in harmony with the subordinate officers of the home and does not secure the hearty cooperation due the superior officer.

9. He has been guilty of permitting surgeons in the employ of the home to maintain offices in near-by cities and to spend a part of their time in these offices in the practice of medicine and surgery.

10. He as commanding officer is responsible for the conditions resulting from the recent invasion of bedbugs, as it was his duty to see that steps were taken to eradicate the evil upon being advised that the bugs were prevalent and to see that all filth was removed.

11. Members have been given the "gate" when their offense did not warrant such extreme penalties. He is vindictive to such an extent that the slightest crossing of his wishes results in the final discharge of employees and the "gate" for members who have been the cause of even a fancied grievance.

These, with probably some additional ones, are the charges I am prepared to submit, and I transmit them to you for your inspection and opinion thereon.

If in your opinion there be any chance to secure action, I am only too willing to go in and stay to the finish.

I have such credentials as would enable me to reach the ears of Senators REED, STONE, and THOMPSON with my story. Whether the story would interest them to such an extent as to enlist their support is a matter of opinion.

* * * * * * *

Very truly, yours,

A. L. NICHOLS.

A SAMPLE OF THE "TENDER" TREATMENT ACCORDED UNFORTUNATE VETERANS IN THE HAMPTON HOME.

Affidavit of John J. Swab concerning the Hampton (Va.) National Home for Disabled Volunteer Soldiers:

On or about the 27th of February past, as I was going into the Southern Branch of the National Home for Disabled Volunteer Soldiers at Phoebus—across the bridge from Phoebus to the home—I saw the

small wagon used as a patrol wagon backed up to the guard's house at aforesaid Phoebus bridge, and a large man, guard of the home, gave the sharp command, "Bring him out"; then the guards in charge brought out of the guardhouse a man, member of the home, whom I know as Norman, of Company "E." Norman was quiet, but appeared dazed by drink. Norman was led up to the wagon and very violently told to "get in." Norman put both hands on the wagon bed and prepared to get in, but being a heavy old man, dazed by drink, was slow, whereat the aforesaid powerful guard seized Norman by both knees and threw him into the wagon with great force and violence. I then passed the wagon, thinking Norman killed, but the guard quickly closed the rear of the wagon; however, I saw that Norman was bleeding from hurts there received. On the following Sunday I met the hospital steward and asked him how Norman was, he having been taken from the police station and from there to the hospital. The hospital steward told me that Norman had one ear nearly torn off, a bad cut on the temple, and one on the forehead; also that the doctor's report was that he had a concussion of the brain; that he was silly. I asked what the police report was; he said that the report was that Norman fell off the bench at the police station and injured himself so. I thereat told the hospital steward what I saw and told him how Norman was injured; he told me he would report the case so, but nothing came of it. Instances of guards' brutality are common, and this is a typical case, where, perhaps, the injury was greater than usual. These guards seem to be protected and encouraged in rough usage to the members of the "home" by their superiors.

I also wish to call attention to the semipenal character of the home. There are three gates to the home; at each gate at least two guards who closely scrutinize the pass of the member who wishes to go out or in. These passes are taken or withheld for trifling breaches of discipline. The guards have evidently hard and set instructions from their superiors. Also the food is poor, and the affiant often had nothing but bread and coffee for meals, while the Government appropriations are large and seem plenty, with a very poor table.

I have seen Gov. Knox severely reprimand a member for wearing tan shoes contrary to rules. Browbeating and general aggressive repressiveness are common. Many other instances can be cited, but I forbear.

[SEAL.] JOHN J. SWAB.

MARCH 17, 1914.

STATE OF VIRGINIA, *County of Elizabeth City, to wit:*

I, W. H. Power, a notary public in and for the county aforesaid, in the State of Virginia, whose commission expires on the 30th day of November, 1915, do hereby certify that John J. Swab, whose name is signed to the foregoing writing, dated this 17th day of March, 1914, has sworn the same before me in my county aforesaid.

Given under my hand this 17th day of March, 1914.

[SEAL.] W. H. POWER, *Notary Public.*

(No tax.)

A TYPICAL APPEAL.

SAWTELLE, CAL., *May 20, 1914.*

CONGRESSMAN ANTHONY,
Washington, D. C.

HONORED SIR: Pardon the liberty I take in addressing you, but feeling that you have the best interest of the disabled soldiers at heart I appeal to you in the name of humanity. Am suffering with pulmonary tuberculosis, without pension, and unable to do manual labor. Was a patient in Soldiers' Home Hospital, but was dropped from the rolls and ordered from the grounds on May 16, charged with "using insulting and insubordinate language to the surgeon." These are the exact words printed in the general order. I am innocent of this offense, as I could prove, but at my trial the governor refused to allow me to bring any witnesses for my defense. Even if I were guilty of the offense charged I claim that the punishment was contrary to the laws governing the national homes, since I am totally disabled and without means of support, and requiring medical treatment. I do not wish to be a charge upon the county, and appeal to you for redress. I refer you to my excellent record of service, covering a period of over five years in the Regular Army, and I have a perfectly clear record in the home, never before having been called to the governor's court. This is the first offense charged against me in the home. Hoping that you will see that justice is given me, I remain,

Yours, sincerely,

CHARLES W. BADGER,
Late Co. G, 17th U. S. Inf.; Co. L, 19th Inf.

Address, in care general delivery, Sawtelle, Cal.

VETERAN LIVES IN JAIL—PREFERS IT TO SOLDIERS' HOME.

[From the Los Angeles (Cal.) Herald, May 2, 1914.]

Preferring the county jail to life at the Soldiers' Home at Sawtelle, Lawrence Dunn, aged 82, has left the institution never to return of his own volition.

Dunn, who served four years in the Civil War and who is an old friend of Capt. George Gallagher, county jailer, applied for admission to the jail and a place to sleep 10 days ago. Sheriff Hammel gave special permission to admit Dunn, and he says he is enjoying his entertainment there better than the accommodations at the Soldiers' Home.

The old soldier declares that the regulations of the home made him unbearably miserable and that he would rather camp in the river bed than to return.

Dunn alleges that Gov. Barry denied him the privilege of spending his pension money, of which he has a balance of $134.

AN APPEAL FROM THE MILWAUKEE WISCONSIN HOME.

NATIONAL HOME, WIS., *April 15, 1914.*

Congressman D. R. ANTHONY,
Committee on Military Affairs, Washington, D. C.:

Questions supporting your bill:

Is Gov. Wheeler physically and mentally competent? Always sober?

Chaplain Tisworth never visited sick. Was generally disliked. Why bring him back?

Why present commissary when all inspectors find him incompetent?

Why take decent quarters away from veteran bandmaster and allow civilian clerk officer's quarters?

Why so many civilian officers contrary to law?

Is entire medical staff graduate licensed physicians?

Why so economical with lights, etc., for veterans and not for officers?

Should Col. Miller promote his personal friends?

Give veterans a hearing or investigate all homes.

Help us.

See Congressman CARY.

VETERANS' ASSOCIATION.

STATEMENT OF CHARLES A. TAYLOR OF BAD FOOD AND OTHER BAD CONDITIONS AT NATIONAL SOLDIERS' HOME, HAMPTON, VA.

NATIONAL SOLDIERS' HOME,
HAMPTON, VA., *February 18, 1914.*

TO THE CHAIRMAN OF COMMITTEE
INVESTIGATING NATIONAL SOLDIERS' HOMES,
Washington, D. C.

DEAR SIR: At the request of many inmates of this home I am writing you concerning the condition of things here, which are fast becoming intolerable. We are pleased to note a movement to transfer the management of the homes to the War Department.

While there are several abuses here of which we justly complain, the more serious one is the quality and the quantity of the food served in the mess halls. Very many of the meals set before the inmates are so meager and unsubstantial that we, the inmates, in order to keep the body sufficiently nourished, are under the necessity of taking several meals each week—at least one per day—outside the home dining halls. For these meals we must pay from 20 to 35 cents. Now, it could be shown, we believe, that this scant feeding at the home tables is in accordance with a well-devised plan on the part of the home officials to compel the inmates, by force of circumstances, to leave a very liberal percentage of their pension money at the home store, hotel, and restaurant.

Color is given to this belief by the fact that about 30 days prior to the payment of pensions, notices are posted in all the barracks that credit at the hotel, store, or restaurant, to the amount of one month's pension, will be extended to pensioners who apply therefor. As soon as pensions are paid, all passes held by members of four nonactive companies, sometimes called convalescents, are annulled and the gates are closed against them for five days, thus compelling them to patronize the home hotel or to go hungry. This exceedingly unjust action of the home officials affects nearly 400 men. This necessity for additional and better food, we believe, is not only recognized and understood by the home officials, but we also believe that it is created and fostered by them; that it is to this necessity that the home hotel and restaurant cater, and on which they depend entirely for patronage.

The method of punishing inmates for trifling infractions of the home rules are brutal in some cases, degrading and humiliating to the offender.

The menial work which they are required to do under the guardianship of a squad of "home" police creates intense bitterness and resentment within the hearts of these old, bent, and crippled unfortunates.

Is this in keeping with Mr. Lincoln's expressed wish and purpose, "to care for him who shall have borne the battle"?

And then the method of holding up an inmate's pension, wholly or in part, for months is, we believe, without warrant of law. The scavenger work done about the home grounds by comrades who are hardly able to crawl about should be done by laborers hired for the purpose.

As evidence of my sincere interest in whatever concerns the veteran soldiers of the Civil War, permit me to say that I served in the Twelfth New York Infantry as a drummer, in the Twenty-fourth New York Infantry as a private and sergeant, in the Twenty-fourth New York Cavalry as a first lieutenant and as a captain. My father served as a captain in the Twenty-fourth New York Infantry, and as captain and major in the Twenty-fourth New York Cavalry. One of my brothers served as a lieutenant in the Forty-ninth New York Infantry, as a captain and major in the United States Signal Corps, serving on the staff of Gen. Hancock and later on the staff of Gen. J. A. Logan. Another brother served as a sergeant in the Twenty-fourth New York Infantry and was killed at Bull Run August 30, 1862. One of my sons served in the Third New York in the War with Spain and in the Fifteenth United States Infantry in the Philippines. I am a companion of the M. O. L. L. Commandery of New York.

I respectfully refer you to the Hon. L. W. MOTT, Member of Congress, with whom I have been personally acquainted for many years.

Very respectfully,

CHAS. A. TAYLOR.

MORE INTERESTING DETAILS.

A Leavenworth newspaper of September 14, 1913, publishes these articles pertaining to conditions at the Leavenworth Soldiers' Home:

FORMER ENGINEER AT SOLDIERS' HOME TO SEE THE BOARD—MR. NICHOLS FEELS THAT HE WAS UNFAIRLY TREATED BY GOV. COOKE—HOW HIRED AND HOW FIRED—BOARD OF MANAGERS CAN UNDOUBTEDLY SECURE A VERY INTERESTING STORY FROM NICHOLS—OTHER EMPLOYEES VOUCH FOR HIM.

It is understood that Mr. A. L. Nichols, until a few months ago chief engineer at the Leavenworth Soldiers' Home, but now engineer in charge of a large steam plant at Mildred, Kans., will probably appear before the Board of Soldiers' Home Managers at their meeting to-day and ask for a full investigation by the board into the matter of his original appointment as chief engineer, and the methods used to force his resignation a few months ago.

When Mr. Nichols left the home he was given a testimonial, signed by the civilian employees and mechanics of the home, testifying to their high regard for him personally and to his ability as an engineer, although Gov. Cooke is said to have demanded his place, because he "was not securing sufficiently satisfactory results" from the antiquated boilers and steam-generating apparatus at the home in which oil is burned as fuel.

It seems that when Mr. Nichols was first appointed chief engineer at the home, the late J. H. Johns, a veteran soldier and former capable engineer at the home, was an applicant for reappointment. Capt. Johns has left a written statement that when he went to Gov. Cooke the governor promised to recommend him to the board, but said that the appointment lay entirely in the hands of the board of managers. When the matter was put up to Maj. Wadsworth and Maj. Warner of the board they assured him that the matter lay entirely in the hands of the governor through his recommendation to the board. Capt. Johns made the statement before he died that the board members undoubtedly followed the governor's recommendation, but that Gov. Cooke had "double crossed" him and Mr. Nichols of Kansas City received the appointment.

Now, Mr. Nichols's story of his appointment will undoubtedly be interesting to the board. He says that he lived in Kansas City and was not a candidate for the place until a Kansas City man named Jack Squires, an electrical contractor, who had done work at the home, asked him if he did not want the job of chief engineer at the Leavenworth Soldiers' Home, saying he could get it for him. It seems that Mr. Squires is a son-in-law of Gov. Cooke, and would naturally have considerable influence at the soldiers' home.

Mr. Nichols took the place, and from every employee and officer of the home, comes the statement that he filled it with great skill and satisfaction until, so Mr. Nichols's friends state, Gov. Cooke concluded to make a place for the present incumbent who was a college friend of a young son of Gov. Cooke. Mr. Nichols feels that these family considerations should not be permitted by the board of managers to cost him a position with the Government, which all claim he so well filled.

It is believed that Mr. Nichols is entitled to justice and vindication at the hands of the board of managers.

VETERAN SLOUGH CRITICIZES WORK AT HOME HOSPITAL—SAYS WAS COMPELLED TO LEAVE SOLDIERS' HOME TO GET PROPER FOOD AND TREATMENT—CROWDED OUT BY CIVILIANS—IF PHYSICAL CONDITION PERMITS, MR. SLOUGH WILL APPEAR BEFORE BOARD OF MANAGERS—STATES DOCTORS SPOKE OF VETERANS AS "VICTIMS."

Another veteran who will appear before the Board of Soldiers' Home Managers at their meeting Sunday afternoon at 4 o'clock, if his physical condition will permit, is Fred H. Slough, a Spanish War veteran. Mr. Slough is now a patient at St. John's Hospital, Leavenworth, having been compelled to go there because of what he claims were unbearable conditions at the soldiers' home hospital, of which Dr. Fryer, Gov. Cooke's son-in-law, is chief surgeon. Should he not be able to appear personally before the board the sick veteran is preparing a statement which the board can secure if it so desires.

Mr. Slough stated to a Times representative that he was formerly a member of the Leavenworth Soldiers' Home, but was compelled by unpleasant conditions to voluntarily withdraw therefrom on August 15. Being a $24 pensioner he was able to do this. It seems that Mr. Slough is suffering from catarrhal appendicitis and resulting appendicostomy, or an open wound in the abdomen. He was compelled to go to the soldiers' home hospital for treatment, but he says conditions were such that it put him in a highly nervous state and that in his delicate condition he needed plenty of milk and eggs and nourishing food suitable for an invalid and which he could not there secure. He says he and another veteran with a serious medical case were given a very comfortable room, but that finally the soldiers' home authorities ordered these two stricken soldiers out of the small room and into one of the large wards, where his condition grew steadily worse, and as he had lost in weight from 160 to 129 pounds he concluded to withdraw from the home and go to St. John's Hospital in Leavenworth, where the sisters would give him better care. And Mr. Slough says that he and the other sick soldier were removed from their private room in the hospital because the authorities desired to and did turn the room over to two civilian employees of the home who were being treated in the hospital.

It seems that one of the things that made Mr. Slough extremely nervous was that his room was next to the doctor's room where sick veterans were received for treatment, and he says that as one veteran would go out he would hear the doctor say to his assistant, "Send in the next victim."

It would certainly seem as if the story told by Mr. Slough was serious enough to receive careful investigation at the hands of the Board of Managers.

VETERAN REPORTS BEDBUGS THICK—WHILE NURSING, HE WAS OFTEN CALLED UPON BY SICK PATIENTS TO KILL THEM.

The Times is in receipt of two communications from the soldiers' home bearing upon the expected investigation there to-day. One is from a former nurse in the hospital, and tells of a bad condition there. It is as follows:

Editor of the Times:

I take pleasure in thanking you for publishing the story which you did in your issue of September 9. I positively assure you of the truth of same, especially in reference to bedbugs. I will say that a few weeks ago, before the hospital wards and barrack buildings were fumigated, which has just recently been done, I myself, six weeks ago, was night nurse (male). One of my patients (paralyzed), when I would go to his bed at 12 o'clock to turn him over, I could scrape the bedbugs off his pillow. Many and many's the time he called me to kill them. He had to buy a skull cap to keep them off.

I suppose that after the ladies you mentioned spoke of bedbugs they had to get to work.

If a man is able bodied, he need not have bedbugs, because he can use the different disinfectants which are furnished him, or can buy some remedy or may scald the bed. But the sick patients can not do that, and the female nurses keep the male help doing so much of this work that a man simply can not keep the beds clean and do other things he is told to do.

ONE WHO KNOWS.

NATIONAL SOLDIERS' HOME, *September 11, 1913.*

The other correspondent appears to be unduly suspicious of the board of managers and doubtful of its accomplishing anything. He expresses his doubts in verse, as follows:

BOARD MAY INVESTIGATE.

The board of managers comes,
Old vets will fix them now.
The band, it plays, and the drums
Go "ripety-rip, bow wow."

The board of managers comes,
They drink their wine and they wink,
When the old vet tells his tale of woe;
Then they take another drink.

The board of managers goes,
The old vet gets the gate.
What they have done the devil knows,
God never enters the gate.

DIAMOND HITCH.

NATIONAL SOLDIERS' HOME, *September 12, 1913.*

LETTER AND NEWSPAPER CLIPPINGS FROM GRANT KRESLER, SAWTELLE, CAL., IN REGARD TO CONDITIONS IN TUBERCULAR WARD AT SOLDIERS' HOME IN CALIFORNIA.

HAMILTON S. HAWKINS CAMP,
United Spanish War Veterans.

Hon. D. R. ANTHONY, Jr.,
Washington, D. C.

DEAR SIR: On account of our mutual desire to have the national soldiers' homes under the care of the War Department, I take the liberty of sending the inclosed clippings from the Westgate News, the truth of which I can vouch for, and, if necessary, prove by affidavits. Since the homes are expected to care for at least 400 tubercular members yearly, and a large majority of these being Spanish War veterans in the prime of life, special provision should be made by the Government for this class of patients, many of whom have a chance to recover if given the proper care and treatment.

Having at one time been a patient in the soldier's home hospital, and having lived in close proximity to it during the past 10 years, I can make affidavit that I have never seen anyone cured of tuberculosis there, nor have I ever heard of anyone being cured in any other national home. In fact, on account of adverse conditions, all who come here for treatment give up the fight at the outset and hopelessly wait for certain death, in some cases taking much longer than others. The officers of this home, in order to cover up their deficiencies, pursue a method of intimidation toward the members, and threaten dire vengeance upon any who protest, Maj. Hayden, the surgeon, being the worst offender in this respect. I have been asked by my comrades there to take this matter up with you in their behalf, and I trust I may enlist your sympathy.

Very sincerely,

GRANT KRESLER.
Box 596, Sawtelle, Cal.

A PLEA FOR BETTER TREATMENT OF TUBERCULAR PATIENTS AT THE PACIFIC BRANCH SOLDIERS' HOME.

Although no absolute specific has yet been discovered to cure the great white plague, still all reputable physicians agree that plenty of good nourishment, fresh air, and rest will invariably cause improvement and in incipient cases cure this disease. What is the record of the tubercular ward at the soldiers' home? Like in Dante's Inferno, all who enter here leave hope behind. And why? Because of the failure in the first essential of providing proper nourishment to the patients. The standard bill of fare for all is composed of rough food of poor selection, such as is furnished in camps to the laboring class, and hardly fit for consumption by these patients, who almost invariably have a combination of ailments in the digestive tract.

The food is sufficient in quantity but poor in quality and cooked execrably.

The meat is generally the poorest cuts, the eggs of the cold-storage variety, the milk has but a small percentage of butter fats, and there is a total lack of fresh vegetables, an article of diet which should be furnished in abundance since it is healthful and cheap.

The cook is an old lady in her dotage, who should be in an old ladies' home rather than attempting something for which she is absolutely unqualified, having had no previous experience cooking for invalids.

Because the board of managers considered $35 per month ample wage for a cook, she was given the position, and is kept, although proven incapable, for fear that none better could be procured at this price.

At the recent congressional investigation Senator JONES remarked that if competent employees could not be obtained at the present scale of wages the board of managers should raise the scale.

This is a liberal Government, and really means that every soldier shall have the best care and attention that money can procure, but the soldiers have to thank the board of managers for this present method of false economy, backed up by a chief surgeon who is willing to sacrifice professional honor in order to hold his job, since he knows that conditions should be otherwise, and it is in his power to recommend sweeping changes for the better.

ONE WHO KNOWS.

GOOD, CLEAN FOOD; RICH, RED BLOOD.

Since it is an established fact that an abundance of good nourishing food is absolutely essential in the treatment of tuberculosis, good, red blood being necessary to fight the inroads of the tubercular bacilli, how can a surgeon in charge allow the existing conditions at the soldiers' home?

Picture to yourself bedfast patients being served corn beef and cabbage or food equally unpalatable and cooked after a fashion in vogue at the 5-cent restaurants. Is it a wonder that their stomachs rebel and that they give up the fight for life? The records show that 90 per cent of those who go to bed die. In spite of a letter signed by all the patients and sent to the surgeon in charge asking for a better cook and better food, the present incumbent feels so sure of her position that she has presumed to insult patients, and claims that she is the major surgeon's pet and that no influence can have her removed. Individual patients have gone to the surgeon with complaints, but instead of receiving redress they have been threatened with dire punishment, and some have been sent to another ward in the hospital, although the surgeon contends that tuberculosis is contagious and infectious, and denies the patients the library privilege on that account.

It is apparent that complaints from patients are useless. Now, what recourse is left? Appeals to the board of managers would be returned for investigation, and we would have the usual farce of the officers investigating their own misdemeanors.

They would fix up a few good meals and have them inspected, and then whitewash all charges. My contention is that since free sanitariums are being erected in every State in the Union, there being six such in this State, where any persons can receive the best care and treatment free, since the best physicians in the vicinity tender their services gratis, why can not the Federal Government recognize that they owe a debt to these men and give them at least as good care and treatment as the ordinary citizen can get outside the home for nothing? I claim that the food should be bought separately from the general mess for the tubercular ward and sent direct from the quartermaster's department and not, as at present, be first sent to the hospital kitchen and then doled out at the pleasure of those in charge there, they naturally keeping the most desirable portion for their own mess.

ONE WHO KNOWS.

THE OFFICIAL REPORT OF THE BOARD TO CONGRESS NEVER TELLS SUCH THINGS AS THESE.

The annual report made to Congress by the board of managers carefully suppresses the complaints made by the soldiers against the management. A perusal of this volume would give the innocent reader the idea that the homes are but little short of a heaven on earth, and the local officials in their reports take pains to scratch each other's backs with mutual commendations. But the following article from a local newspaper describing the events which transpired at the meeting in September, 1913, of the board at the Leavenworth Branch

Home will give some insight into real conditions. Previous publicity was the only reason why the board permitted itself to give this extended hearing, and the only reason the veterans appeared before the board instead of being deterred by the usual fear of being afterwards "given the gate" was because of the previous assurance by the board that men who appeared would be protected from the vengeance of local officials.

As a result of the bedbug exposure the chief surgeon of the home was discharged. This action of the board has been severely criticized, because the executive head of the home was said to be primarily responsible for failure to make proper inspection of conditions. The former surgeon is an exceptionally competent medical practitioner. He had been in the Government service for about 13 years, and, it is understood, his appointment was made through the influence of Gov. Cooke, his father-in-law, who was then a member of the board of managers.

Here is the story of this one session of the board at the Leavenworth Branch:

BOARD OF MANAGERS HEARS MANY COMPLAINTS OF CONDITIONS AT INSTITUTION HERE—GOV. COOKE UNDER FIRE—CHARGED HE DISMISSED NICHOLS AND HIRED INCOMPETENT MAN AS ENGINEER—SYLVESTER, "GIVEN THE GATE," TO BE READMITTED.

The Board of Managers of the Soldiers' Home last night completed its annual inspection of the Leavenworth Branch. The board arrived Sunday noon, and in a short time completed its routine inspection of barracks, mess hall, and other departments.

At 4 o'clock in the afternoon the board convened to hear complaints. It adjourned at 8 o'clock, and not one-sixth of the complaints had been heard.

MANY CHARGES MADE.

At 2 o'clock yesterday afternoon the board convened again, and listened until 6 to complaints made by veterans of bedbugs and other unsatisfactory conditions in the hospital, of summary dismissal of members without money or means for subsistence, unfair treatment at the mess, discrimination by the head matron at the mess hall, cursing of colored members by an official, a "Jim Crow" rule, and last, but not least, juggling of appointments to suit the wishes of Gov. Sidney G. Cooke, despite protests of other officials to whom the governor's appointees are directly responsible. For the first time in the board's history a newspaper man was present at a hearing.

In all, 21 veterans and citizens appeared before the board, the largest number of protests ever heard by the board of managers at any institution in the United States, according to a statement made by Franklin Murphy, ex-governor of New Jersey and vice president of the board. Not only did veterans testify as to the unsatisfactory conditions, but Mrs. J. J. Edic and Mrs. James Duffy, of this city, appeared voluntarily to testify concerning bedbugs in the hospital, which, according to their description, fairly swarmed in certain wards.

The number and seriousness of the charges made it impossible for the board to pass judgment on all cases until a more thorough investigation is made. So Col. James E. Miller, inspector general and chief surgeon, will remain here an indefinite time, probing into the various complaints.

However, the case of Marcus Sylvester, a Civil War veteran, summarily "given the gate" by Gov. Cooke about a week ago, was so pitiful that before leaving the board instructed Sylvester to make application for readmission. When discharged, Sylvester was penniless and was forced to live off the kindness of Leavenworth citizens. His "crime" had been to write a letter to the Pension Bureau in Washington asking the reason for delay in his pension and intimating it was held up by home authorities so they might get the interest.

While it has not been officially announced that changes other than the dismissal of Maj. Fryer will follow the investigation, there is little doubt a shake-up in the mess hall will be made before Col. Miller leaves, the allegations of veterans concerning discrimination and harsh treatment being so vehement. Members of the board intimated at various times during the hearing such a step was contemplated.

Although the board showed every kindness toward the complainants, several of the feeble and tottering old men showed timidity and talked in a rambling, almost incoherent manner. A suggestion has been made that in the future an attorney, or "first friend," be retained to present each case to the board in a terse, businesslike manner.

GOVERNOR ACCUSED.

The most sensational revelation of Gov. Cooke's alleged despotism was made during the hearing of A. L. Nichols, of Mildred, Kans., formerly chief engineer, discharged by Gov. Cooke. It was proved that Gov. Cooke employed as Nichols's successor a man described by Capt. C. M. Pearsoll to the board of managers as "incompetent, insubordinate, and lazy."

Furthermore, Capt. Pearsoll, differing from other officials, excepting the treasurer, is under bond and responsible in a monetary way for the actions of men in his department. Yet, despite Capt. Pearsoll's apprehension and his sincere belief that Mr. Nichols was the most competent engineer ever in his employ, Gov. Cooke arbitrarily discharged him and appointed an "incompetent, insubordinate, and lazy" man.

Primarily Nichols was discharged because he had used too much heating oil. Nichols presented figures showing the consumption during the months that he had acted as engineer and the consumption during similar months a year previous, when his predecessor was in charge. In many months his figures, taken from the quartermaster's report, showed a decided decrease, and in only one month was there a noticeable increase.

NO ACTION TAKEN.

Nichols declared, and Capt. Pearsoll substantiated his declarations, to the board that the increase during that month was caused by a defective heater, which caused the building to be heated by live steam run through the pipes and necessitating, as is well known, much more fuel consumption.

While the board listened attentively, it showed no disposition to right matters, and before leaving Maj. Wadsworth announced Nichols's dismissal was final. The matter of retaining and discharging employees laid entirely in the hands of the governor, he said.

If Capt. Pearsoll wished to retain Nichols, he should have appeared before the board before his dismissal. As yet no officer at the home has had the temerity to cross the governor in any matter of this kind.

Nichols was first to appear before the board. His reasons for desiring an audience, he said, was that he wished an investigation as to the reason for his dismissal.

NO REASON, SAYS NICHOLS.

"That reason has been given," said Maj. James W. Wadsworth, president of the board.

"Not in my estimation," retorted Nichols.

"Retaining and discharging men is left to the governor and heads of various departments," said Maj. Wadsworth. "In your case it was left to Gov. Cooke and the quartermaster. That's all the board knows."

"According to my understanding my resignation was not asked by the quartermaster."

"You were discharged for using too much fuel oil," said Maj. Wadsworth, "and there were other incidents cited."

"I realize that, sir; but under conditions as they were it could not be averted. The heater was defective, and my only alternative was to keep the institution warmed by live steam, which, necessarily, would consume more oil. I explained the matter to the proper officials and asked at what temperature I might keep the various buildings. They told me, and I complied with their demands."

Here Maj. Wadsworth explained the board's position, saying that while it had supreme power over the governor, yet in such instances it was necessary for the board to give the governor leeway. It was in this case to the best interests of the home that the governor's recommendations be upheld.

WRECKED A PLANT.

"But the retaining of this man will not be to the best interests of the home," said Nichols. "An investigation into the operation of the ice plant will prove that. The present man is incompetent and inexperienced. He was employed as an assistant under me, and his work was so unsatisfactory that I was obliged to release him."

"Did you discharge him?"

"No, sir; but I obtained a position for him outside of the home, and six months later he left the plant he was in charge of a total wreck; that is, the light and heating plant at Salina.

"In regard to the ice plant, while I was in charge 7,500 pounds of ice were turned out daily. Shortly before discharged 30 more freezing cans were installed and a larger output made possible. Yet such has not been the case."

CITES FIGURES.

Nichols then presented the quartermaster's report concerning the consumption of fuel oil. He read to the board the amount of oil used certain months in 1911, when his predecessor was in charge, and the consumption during the same months when he was engineer. This report follows:

	1911	1912
	Gallons.	*Gallons.*
July	102,124	75,125
August	84,664	57,876
September	102,845	105,771
October	148,746	190,890
November	210,833	209,833
December	284,477	322,302

It was during December the heater was out of order.

The board made an ineffectual attempt to learn just what reasons other than for the good of the home Gov. Cooke had for discharging Nichols. It was stated by Nichols that he had heard that a college friendship between the governor's son and the chief engineer was responsible for his discharge. This Gov. Cooke later denied. That the governor contemplated his dismissal long before the consumption of fuel oil was thought of is firmly believed by Nichols. This belief is held by Nichols because of Gov. Cooke's alleged eagerness to move a house onto the grounds for certain employees, among whom is Russell, who had no home furnished him and who was working only on a small salary.

GOVERNOR TESTIFIES.

After Mr. Nichols retired Gov. Cooke and Capt. Pearsoll were summoned. Gov. Cooke was asked the reasons for Nichols's discharge.

Lack of a technical education, too much laxity in consumption of fuel, and carelessness were the general reasons for Nichols's dismissal, the governor affirmed. He did not pay enough attention to outside temperatures, said the governor, and kept up the same temperatures within, whether it was cold or warm outside. Gov. Cooke cited an instance where a fireman had been found asleep on duty, and Nichols defended him. The man was retained, and again found asleep. One or two other trifling incidents were recited by the governor.

"Did you talk to the quartermaster of Nichols's service?" asked Maj. Warner, of Kansas City.

"It was my impression that the quartermaster approved Nichols's service and thought him a good man."

Here Capt. Pearsoll interposed. There was some excuse for the excessive consumption, he thought, because an inferior heater had been installed by the engineer preceding Mr. Nichols.

"My prime objection to the new man is that he had been insubordinate to me, and in my opinion is incompetent and lazy."

FOR "HARMONY."

Then began an argument as to whether the governor or quartermaster should have the power of dismissal. Ex-Gov. Franklin Murphy contended that as the quartermaster was under bond for the engineer's actions he should be consulted in such matters, and while the governor also should have voice and was directly responsible to the board, yet they should act in harmony.

Gov. Cooke retorted to this and declared if he was head of the institution he wanted to be in complete charge. Capt. Pearsoll hastily informed the board that he always had tried to act in harmony with the governor.

Mrs. Edic and Mrs. Duffy, with their bedbug story, were the next to appear. Their stories were the same in general details. Mrs. Duffy's husband, a veteran partially paralyzed, entered the hospital in June.

When they visited him they saw two beds in his ward nearly alive with the vermin, they stated, and there were blood stains on the sheets where the bugs had been mashed by a woman cleaning the wards. Mr. Duffy's back was raw from bites, and when they removed him a few weeks later his mental condition was much worse.

"The medicine or something was causing him to lose his mind," said Mrs. Duffy.

DR. FRYER SUMMONED.

Maj. Fryer was then summoned before the board. He admitted there were bugs in that ward at that time, but declared the women's statements were somewhat overdrawn. He had done all in his power to rid the ward of the pests, he testified. The surgeon in charge of the ward was then called. He also admitted the presence of bugs, and declared it was infested when he took charge. Almost five months were consumed before they were killed.

After the two surgeons left, Col. Miller addressed the board, averring that such a condition was unprecedented, and he could not see why the bugs could not have been killed in a much shorter time. He knew that shortly after an assistant inspector reported them the bugs disappeared entirely. And a thorough inspection made since his arrival showed they were no longer in existence.

JOINER'S STORY.

Marshall Joiner, the Spanish-American War veteran who was "given the gate" because he wrote letters to President Wilson regarding alleged unfair treatment at the hands of Gov. Cooke, next appeared. He asked the board for an honorable discharge from the home, alleging that he had been unfairly treated by certain officials, especially Anna *Malinowski*, matron of the general mess hall. It was the matron, he said, who had "got the gate" for him. He had been arrested and tried before Gov. Cooke in "his kangaroo court."

"What is a kangaroo court?" asked Maj. Warner.

"Where the judge is accused and tries himself," retorted Joiner.

"Anna Malinowski is the real governor of the home," he declared. "She gets the gate for anyone she gets it in for."

He asked for witnesses to prove his statements. Waitresses, nurses, dining-hall officials, and old veterans were summoned.

Joiner's object was to show that he was kind to old veterans while in the hospital, and the patients in his ward had asked that he be given a position as ward man. He accused Maj. Fryer of holding up his appointment to the coveted position. He was in the hospital, according to Dr. Matz's testimony, for observation as to his mental condition. He proved, however, that the veterans in his ward wanted him for their ward man.

Then he asked other witnesses, old veterans, if in past years Anna Malinowski did not sell whisky to them and play cards with them in a joint on the "pike." This was agreed, and Miss Malinowski also admitted that in past years the home in which she lived was used as a joint. Furthermore, Joiner produced testimony from girls now in the hospital and restaurant that they left the mess hall because Miss Malinowski made it hard for them.

ALL KINDS OF CHARGES.

Complaints of nearly every description were lodged against the officials, including discrimination in giving employment to civilians in preference to veterans who are fitted for the work, cruelty in the hospital, etc.

THE HAMPTON HOME.

The following description of the national home at Hampton, Va., recently appeared in the Norfolk Daily News; it is typical of conditions in most of the homes:

AN OLD SOLDIER PROTESTS.

EDITOR, THE NEWS.

SIR: The reunion at Gettysburg has made a great many people think more about the "old soldier" than they are in the habit of doing; and I think that some information about the Southern Branch of the National Soldiers' Home will be welcomed by those who want to be just to the men who fought in the war of the sixties.

Enough money is probably appropriated for the men who are at the home in Hampton, but the funds are not properly divided. The officers get too much and the "beneficiaries of Government bounty" get too little. The number of prior choices make the soldier's share a "Hobson's choice." I may not be exactly accurate in the figures which I give, but they are not much out of the way. First, to consider the actual overhead:

Hon. Franklin Murphy, local manager.—Railroad fare, Pullman sleepers, hotel expenses for at least two trips a year to Hampton, Va.; Johnson City, Tenn.; Leavenworth, Kans.; Danville, Ill.; Marion, Ind.; Milwaukee, Wis.; Togus, Me.; Santa Monica, Cal.; and Washington. This outlay is a big treat at Government expense, while the real work has been done by two officials, President J. W. Wadsworth and Maj. Moses Harris, who each get about $5,000 apiece per year.

An expensive office is maintained at New York City, with a force to do the clerical work. The expense attendant on the New York office and trips for the sight-seeing board, together with salaries for inspectors and clerical hire, will probably approximate $60,000 to $70,000 a year. The system seems to require much clerical work in developing records for the "nesting of dishes," vital statistics, discipline, police court records, inspections—weekly, monthly, and otherwise—red cards, special passes for erring brethren who need consolations in the Phoebus art saloons, where special affection is displayed for old veterans.

This system and its various ramifications have apparently stood the test of time, and you may say "it is time tried and fire tested" and is really essential to the proper digestion and preparation of such food and toothsome luxuries as the honorable board and indulgent governor now at the helm of the Southern Branch, viz, Col. T. T. Knox, may at their discretion provide. At this point it is best not to overlook the qualities, experience, and usefulness of Maj. Mose Harris. His very delicate modesty prevents his shining publicity in the galaxy of unknown but genuine stars. His absence from the performance of board duties would be a sad loss to the home mess hall and kitchen.

Then come the local staff with their emoluments.

GOV. KNOX AND STAFF.

Gov. Col. T. T. Knox (retired), born in Tennessee July 3, 1849; cadet July 1, 1867; June, 1871, second lieutenant of Cavalry; July, 1898, transferred to Inspector General's Department, so continued until April 13, 1903, when retired; yearly pay, $3,850. Pay as governor, about $3,000. Total Government pay, about $6,850. Estimated amount of money value for free house rent, about 12 rooms furnished, free heat, light, free horse and carriage and horse feed, free vegetable garden, free flowers, $1,500. Grand total, $8,350. In addition thereto may be added the privilege of first choice of all meat cuts, milk and cream, vegetables and groceries at Government prices, which amounts to no inconsiderable sum of money for a family in the course of a year, particularly such a prominent family as that of Col. Knox.

Maj. F. E. Skinner, treasurer.—The major, who is a civilian, is provided with an abundant force to do all and singular his work of recording of the financial end of the local institution. The major is probably paid about $2,000 per annum for assisting in "bossing" the job. His other perquisites, the use of a dwelling house of about 9 rooms, furnished, with free heat, free light, free horse and carriage. His other monetary values are involved in the next choice of meat cuts, milk and cream, vegetables, and groceries at Government prices. The major is raising young America, and his perquisites all told may average about $1,500 per annum. Approximately, a good $3,500 job.

Maj. L. A. Thompson, surgeon.—In charge of the hospital, about a $2,500 salary. Residence of 8 or 10 rooms furnished. He enjoys free heat, free light, and the right to a free horse; prefers his own automobile. A Spanish-American soldier about 45 years old. Next on the meat cuts, milk and cream, vegetables, and groceries at Government prices.

Capt. D. C. Spencer, quartermaster.—Citizen and about 50 years old. Salary about $2,000. House of about 8 or 9 rooms, furnished. Free heat, free light, horse. Next cut of meats, milk and cream, vegetables, and groceries at Government prices. The captain's position may be rated at about $2,750 annual worth.

Capt. E. B. White, commissary of subsistence and superintendent of post fund.—Annual salary about $1,800. House, 8 or 9 rooms, furnished. Free heat, free light, horse. Next cut of meats, milk and cream, vegetables, and groceries at Government prices. The annual worth of his job might reach about $2,250.

Capt. Luther M. Parker, adjutant and inspector.—A youngish man from Tennessee. Salary about $1,500 per annum. Notwithstanding the fact that the captain is a handsome bachelor, he has the use of a furnished house of about seven rooms all by himself. He has, of course, free heat and free light. What other perquisites he enjoys we are unable to say, but of course he eats same as other men, probably in some special mess where they may come in for the next choice of meat cuts and such like. Probably his perquisites are equal to his salary.

Rev. J. Martyn Neifert, chaplain.—About $150 per month. House eight or nine rooms and usual facilities; said to be a popular man.

Capt. A. W. Bartel, senior assistant surgeon.—Salary, etc., $2,000. Has furnished rooms for housekeeping in hospital building.

It must be understood that all of these private dwellings in the home are well provided with baths, hot and cold water, with regulation toilet facilities, sanitary in all respects. That the private members on the governor's special staff, otherwise known as the "dump brigade," clean daily all refuse and accumulation from kitchens, and other dirt.

The hospital staff includes three young men (single men), who have quarters in the hospital building and are in a special mess with other drug men. The "practice" goes largely by "numbers," and the sailing is usually easy and unruffled, with frequent chances for "cat naps" in midday. Old soldiers, as a rule, are supposed to have and hold the same line of ailments, however. An occasional amputation varies the monotony of hospital practice for the young M. D.'s.

Mr. Ideal, chief engineer.—A young civilian; occupies a seven or eight room house; free heat, free light, commissary prices. Probably $1,800 or $2,000 man.

Mr. Long, a department head.—Young civilian; lives in a six or seven room house; free heat, free light, commissary prices. Likely a $1,200 man.

Home hotel and home restaurant buy their supplies from the home commissary at home prices. These two places are run for profit and not for unselfish purposes.

Noncommissioned officers' mess of about 60 members, who have the right of buying in the home commissary.

Now, this is the biography of the man in the home, the "old soldiers" toward whom the country is displaying its appreciation.

Private Shorty, Company Q, Two hundredth Indiana Volunteers.—This biography, history, and information would not be complete without some reference to the aforesaid soldier; in fact, there are several hundreds of "Shorties" in this camp.

He comes from Pennsylvania, New York, Ohio, Maryland, Delaware, New Jersey, Connecticut, Massachusetts, and from all over this vast land which his valor and patriotism annealed into the greatest Government on the face of the earth. Shorty has always been very modest about his claims on this Nation; in fact, he has almost let his mortgage right go by default.

In view of the number of families and people who seem to have, hold, and enjoy rights of priority in the commissary department as to first cuts of all meats, milk and cream, vegetables, and groceries, the "Shorties" in this institution, when seated in the general mess hall, are always "short" on choice cuts, fresh vegetables, and such like, all of which are bought for and charged to their account. Somebody seems to think that canned goods, old, rotten potatoes, and roasted bones, gristle, scraps, cheapest dried fruits which Hampton can scrape up, and everything of the cheapest grade will do to throw to these old American soldiers.

What a wonderful reading to our old boys in blue the Gettysburg bill of fare, for instance, the Fourth of July "eatings"—puffed rice, fried eggs, fried bacon, creamed potatoes, chicken fricassee, peas, corn, ice cream, cakes, cigars, fresh bread, coffee, iced tea, salmon salad, macaroni and cheese—and for the other days, beefsteak, fried onions, sliced tomatoes, roast beef, mashed potatoes, boiled rice and milk, rice pudding, baked sweet potatoes, and other "cookings" equally as good will be served. Mr. Shorty, if those eatables can be served at Gettysburg, they can likewise be served on the tables of your general mess hall; you must get busy and go back into politics, get your committees, get your leaders, get your hands on the parasites and leeches, if you would go out and leave the institution, what use would there be for the "first-cuts-and-milk-and-cream people"?

Mr. Shorty, what does the average mechanic, clerk, and bookkeeper make? Anywhere from $500 to $800 per annum, out of which he must pay rent, doctors' bills, light and heat, and also full market price for all cuts of meats, milk and cream, vegetables, and groceries. And now, Mr. Shorty, why should not Gov. Knox pay rent for his 12-room house and cream, vegetables, and groceries in the outside markets, paying full price, just the same as all American citizens are now doing? Why should not his staff do the same thing? Why should this extra money be given to these people when all the camp "Shorties" are compelled to be satisfied with boiled and roasted bones, gristle, scraps, old rotten potatoes, and the very cheapest grades of canned and dried fruits and vegetables? What wonderful services has Gov. Knox and his staff rendered in order to entitle them to more than double pay? Not in saving this Nation. Not because they are experts; Lord save the mark. Could these people make such big money outside of this camp? Not on your life, Shorty; they would get lost in the great American scramble for wealth and existence; yet perforce they must be taken care of, and that at your detriment mainly. Shorty, your comfort, health, and rights requires that the kitchen be remodeled with modern appliances, up-to-date service in preparing the meals, with

the best meats—no cuts out—fresh vegetables, first-class groceries, and all the necessary "fixings" in order to furnish palatable and nutritious food for men whose ages range from 65 to 85 years of age. You are entitled to all this and more, while Gov. Knox and his staff are not entitled to what they receive in pay and perquisites. Shorty, these conditions are an outrage on you. You are not the slave of the Board of Managers and Gov. Knox. Your rights are inherent and theirs are not. They are your servants and not your masters.

ONE PRIVATE SHORTY.

ALL APPEALING TO CONGRESS.

[From the Westgate News.]

The following able analysis of conditions at the homes is being mailed to Senators and Representatives in Congress:

DEAR SIR: Believing you to be an honorable, public-spirited man with the good of your constituents and your country's interests at heart, I am taking the liberty of addressing to you this communication, asking for your help and cooperation in a matter of the most vital interest and importance to not only my comrades here in misery with myself, but also for our grand country at large.

The subject I respectfully wish to call your attention to is an old one, which has been clamoring for the attention of Congress for these many years and which has to do with the National Homes for the Disabled Volunteer Soldiers being administered by a close corporation known as the board of managers and brought into existence by an act of Congress of March 21, 1866.

Now, honorable sir, while I, or anyone else for that matter, have never had the slightest doubt that the people of this glorious Republic, through their Representatives in Congress, had, because of their wonderful generosity and love of justice and fair play, provided the national homes for the succor and treatment of the valiant men now suffering from the disabilities their valor and patriotism had brought upon them, which made this Commonwealth possible, yet the wisdom of giving the power to a close corporation to administer the affairs of the soldiers' homes is questioned by a great number of people. Experience has proven beyond a shadow of doubt that the experiment has proven to be an absolute failure. The truth of this Congress and the people as a whole know very little, if anything, about, for the reason that the board of managers have in the dark but have actually been able to defeat, through their supporters in Congress, every effort to deprive them of their power.

The board of managers, although they pose in public as being great love and labor patriots, serving the veterans free gratis, have again and again, as indicated by the discussion on the floor of Congress, resisted every attempt to demote them or even to reduce their number. This is evidenced by the fact that only last summer a Member of Congress made the direct charge that the board had been maintaining a lobby for that very purpose.

To demonstrate to you, honorable sir, how subtly the board of managers, through their satellites in these so-called homes, operate to mislead the people at large and Congress regarding the character of these homes, I want to respectfully refer you to the report of the board of managers, to the last one available. This report itself is so misleading and the data so subtly arranged and cunningly devised, with the express purpose, I take it, of hiding the facts, that it required several men with the aid of an expert accountant to delve through the maze of figures in order to get at their meaning. Even then it proved to be the hardest problem in the world to ascertain; for instance, just what the board spent, or squandered, in the different departments of the homes. We tried hard to figure out just what amount the board had disbursed for supplying the public with scenery, but we discovered that instead of itemizing that account, as they did in the case of some other insignificant ones, they merely included the cost of maintenance of scenery with the item of farm upkeep, thereby making the home farms the goats for their (the board's) extravagance.

Here I want to give you the result of the figures deduced. The total expenditures for the maintenance of all of the home farms (for the period before stated) were $152,350.55. The total receipts were $68,600.39, which shows, as nearly as we are able to estimate, scenery furnished the public at the expense of the veterans' rations and other necessary comforts was, to be exact, 55.6 per cent of the total expenditures. No wonder the home farms show such an enormous loss each year.

What is the object of squandering that money for something the veterans never asked for? Why, for no other purpose than just to fool the people into believing that the homes as operated by the board are the grandest places in the world.

But the figures given above are not a drop in the bucket as compared to the initial cost of scenery, such as the approaches and surroundings of these homes, which make the veritable show places. The fine landscapes embellished with beautiful flower gardens, tropical palms, growing shrubbery, and fine trees presents an animated view of scenic splendor to the eye of the visitor as he approaches the wonderfully constructed, gigantic buildings, whose architectural dimensions are a marvel to behold. It is just as a poor, sick, and emaciated, half-starved veteran remarked in answer to a visitor's comment on the beautiful surroundings, "We can't eat those things; it's only done to fool the public."

It should not be implied, however, that the veterans do not enjoy or appreciate the beautiful and artistic. But they do insist that the veterans are entitled to have their welfare and comforts looked after first, which is not done, as is evidenced by the fact that the board insists on pursuing a mad policy of so-called economy in furnishing the food supply and in the sanitary arrangements of the buildings, which are generally infested with rats, mice, bedbugs, cockroaches, and other vermin too numerous to mention, all of which tends to keep the suffering veterans (especially in the home hospitals) in deadly fear of being attacked by the rats and bedbugs, which frequently happens.

As a matter of fact, these so-called soldiers' homes which the people and Congress intended should be real homes have, in fact, degenerated under the careful, economical, and sympathetic administration of the board into a veritable semimilitary prison or detention barracks in which the men who have offered their very lives for their country are deprived not only of their liberty by means of a "card-pass" system, much akin to the prison trusty's, but they are forced to eke out a cheap and miserable existence on 5 or 6 cent meals in overcrowded, ill-ventilated, unsanitary, and bare barrack rooms in which are not even provided the common privacies usually found in the cheapest lodging houses (known as "flop-houses") in all of our large cities.

But, asking your kind indulgence further, and hoping you will bear with me on account of the necessary length of this horrible tale of woe, and assuring you the while that it is not taken from some obscure work of fiction, or from the history of life in Libby Prison, or anything of that sort, but being merely an attempt on my part to make a plain and unvarnished statement of facts born of actual experience of life in these so-called soldiers' homes, most of the truth of which can be easily verified by a perusal of the findings and reports to Congress of the senatorial Committee on Military Affairs of their investigation of the Santa Monica Soldiers' Home in California on November 19, 1912, and entitled "Report No. 1107, Calendar No. 1034," to which I most respectfully wish to refer you.

However, continuing my story to show you how well we, the veterans, are loved and taken care of by the board, headed by that noblest and most patriotic of all men called Maj. Wadsworth, who deliberately insulted the veterans by making the statement to the honorable senatorial investigating committee (see p. 1173 of their report), "That you gentlemen"—meaning the committee—"must not think that because a man is a soldier he is a good man. You know in the Army a good deal of the scum got in toward the end" (meaning the Civil War). I have no doubt that the major meant to include himself in that statement, as he went in on the last call.

According to the regulations as laid down by the board of managers, no man is admitted to these homes unless he is totally disabled and needs medical treatment. So, of course, a medical staff dispenses the treatment, which, though, is about as poor as can be imagined. The so-called physicians are in most cases very poorly paid, inexperienced, incompetent, and inefficient, who strut through the sick wards of the hospitals attired like the military satraps that they try to imitate, making their calls in the most perfunctory manner possible, and paying but little heed or attention to the needs of the patients.

Medicines which are prescribed to relieve the suffering veterans are allowed to constantly run out of stock and dopes substituted, which sometimes do more harm than good. Opiates that are habit producing are administered sometimes without the slightest compunction—and then people will wonder where the dope fiends come from.

Frequently the nursing is done by poorly paid, inefficient, careless nurses, who are not at all interested in their work or in the welfare of their patients, because, as is the case at the B. M. S., they come here and get disgusted with the liberty-depriving discipline and insane arbitrary rules laid down for their conduct, not only during duty hours, but when they are off duty as well, which is certainly getting to the extreme. Good, self-respecting nurses remain but a short time and leave in disgust, making frequent changes of nurses necessary, to the detriment of the patients.

There seems to be an entire absence of that friendly spirit and feeling of good will or any feeling of cordiality between the veterans of the homes and the officers and civilian employees. The employees and officers seem to look down upon the veterans as though they were paupers and deserving no better treatment than they see fit to dole out to them. Whenever an opportunity presents itself, they seem only too glad to enforce some tyrannical, unreasonable, and oftentimes arbitrary rule or regulation laid down by themselves and the board. Most of these rules were promulgated for the government of the homes some 20 or 30 years ago, when the conditions to be met were entirely different from those of the present, and which, if strictly enforced, inflicts a positive hardship on the veterans. It actually seems that most of the officers delight in a nonenforcement of any and all regulations that happen to favor the veterans.

To show how very considerate and sympathetic the president of the board is toward the Spanish War veterans now coming into the homes, I have the honor to refer you to his statement as made under oath to the honorable senatorial committee investigating the Santa Monica Home (see p. 1175 of their report), which is as follows:

"Maj. WADSWORTH. We are getting from the Spanish War men probably their worst class; the men who by their overindulgences have made themselves incompetent to take care of themselves. With very few exceptions, the class of Spanish War men we are getting are very poor."

There you have it—a statement that is nothing but a deliberate slander and falsehood, and the honorable senatorial committee ought to have prosecuted that man Wadsworth for perjury, because just the opposite is the truth. As a class, the Spanish War veterans now in the homes are on the whole and with few exceptions as decent, self-respecting, and patriotic a set of men as can be found anywhere; men who have seen the hardest service in this country and in the Tropics, which has incapacitated them so they have to seek refuge in the homes. But these men have aroused the hostility of the president of the board because they have in a measure been able to fight back, and to show up the outrageous conditions prevailing in these so-called homes. The Spanish War veterans are satisfied that if the Santa Monica investigation did not accomplish another single thing, it surely unmasked that man Wadsworth, the would-be love-labor patriot.

Another one of the most reprehensible things the board inflicts on the veterans is in the manner of employment in these homes. Regulation No. 314 provides that "Members of the home be employed as far as practical for the best interests of the homes." That regulation is and has been violated most persistently of any regulation laid down by the board. Veterans in the homes are usually given the most menial and poorest-paid positions. Most of the best-paid and desirable positions are given to civilians who never would enter the service of their country on the firing line. They are often merely political "hangers on" or relations of the powers that be in these homes. In fact, the board of managers make it their business (because of the great consideration they have for the veterans) to exploit and slave them to death. Their infirmities force them to take refuge in the homes, which make them easy victims for exploitation purposes. For example, civilian employees are paid from $25 to $250 per month, while veterans are forced to accept jobs that only pay as low as $7 to $35. To give you a correct idea as to what extent the veterans are being exploited, I beg leave to refer you to the board of managers' report to Congress for the fiscal year ending June 30, 1912, page 203 (which is the last one available), and which gives the cost of labor at the Battle Mountain Sanitarium. The number of members employed was 277, to whom was paid the munificent sum of $8,789.47. The total number of civilians employed was 299, to whom was paid $43,324.24. So, while they had employed 22 more civilians than veterans, yet the civilians were paid $34,324.24 more. In other words, the total expenditures for salaries to both veterans and civilians employed were $52,113.17. Out of this the veterans received only 17 per cent, while the civilians were paid 83 per cent. Yet the board has the effrontery and unmitigated gall to pretend that they are giving the veterans in these homes a square deal, when, as a matter of fact, the general treasurer of the board, testifying at the Santa Monica investigation, admitted under oath (see p. 1156 of the committee report) that the wages paid to veterans were less than one-third that paid to civilians. Maj. Wadsworth, president

of the board, also admitted under oath (see pp. 1157–1158) that the officers of the homes always requested him to get rid of the veterans and give the positions to civilians, showing how the veterans are always discriminated against in direct violation of regulation No. 314, and excusing this action when pressed by the committee by stating that they could not get enough veterans who were competent to do the work. As a matter of fact, the satellites of the board of managers in these homes turn down the application of both old and young veterans for positions nearly every day. Not only is this a fact, but if the board really wanted to do right by the veterans, they could get from the ranks of the old and young veterans' organizations, such as the Grand Army of the Republic and United Spanish War Veterans, men competent enough to fill every position in every soldiers' home in the land, from governor down to common laborer. Then, why don't they do it? Will Maj. Wadsworth quit handing out the usual line of patriotic bunk long enough to answer the question? But no; the board of managers would rather break all world's records by preserving a policy of so-called economy which imposes sweat-shop, labor-exploiting conditions on the veterans in these so-called homes, while they, the board, travel about the country on their so-called inspection tours in regal style in Pullman palace cars, piling up expense accounts that are staggering, and with no one to say to them nay, notwithstanding the fact that they force the poor, sick, emaciated veterans who are transferred from one home to another to travel a great distance in day coaches and without even providing them with coffee money. Contrast that sort of treatment to the ample provisions that are made for civilian employees traveling on home business, whom they allow 7 cents a mile and all expenses while en route. Right here another question suggests itself. Were these homes built for the benefit of the board of managers and their satellites or for the veterans who have made them possible? Which?

Now, I could go on indefinitely and relate to you the terrible abuses and outrages that we veterans are subjected to constantly. My own personal experiences since I have been forced to seek refuge in these homes has been sad to say the least. The charges that I make against the powers that be I can substantiate in every particular, if given an opportunity by Congress. Thousands of my suffering comrades stand ready to corroborate me. But none of us will, I am sure, have anything more whatever to do with the board of managers and their fake investigators, who always use the whitewash brush and then often summarily expel us from the homes for having the temerity to expose the misconduct of their incompetent parasites mismanaging these homes.

Congress has the power to make these places of refuge for the veterans real homes. This they should do forthwith by acting on the recommendation of the honorable Senate Committee on Military Affairs, which found the conditions of the Santa Monica Home as bad, if not worse, than I have stated them to be.

The board of managers stands tried and convicted before the whole world on every count—among them being the following: Starvation and improper rations; exploitation and sweat-shop labor conditions; wanton waste and extravagance; incompetency; inefficiency; criminal carelessness and indifference on the part of the medical staff; rank injustice and discrimination; vacillating procrastination; brutality and extreme cruelty and neglect; and last, but not least, suggestions of graft—and plenty of them, too.

In closing, the question suggests itself: Can Congress afford to ignore the demands of the Nation's defenders and force them to appeal to the public and the press to help them in their fight for justice and the real homes in fact? I hope not. Therefore I and all of my comrades beg and beseech you to cooperate with all these honorable men in Congress and give the problem your immediate attention.

And so, awaiting your pleasure, for which please accept my thanks in advance, I beg to remain,

Yours, for the Nation's defenders,

ONE OF THE BOYS OF '98.

SAWTELLE, CAL.

The revelations made of the treatment of veterans at the soldiers' homes will doubtless be startling to Members of Congress. That at the will of any one man decrepit old veterans, without a cent with which to buy themselves food to keep them alive, are thrown upon the street is almost past belief. But it is even so, and this abuse of power has been going on for years. Hundreds of old men have been "given the gate" in recent years.

It is wrong that such power should be placed in the hands of one man. No man is big enough to exercise arbitrary power over so large a body of men, and many men are small enough to use the power to wreak their revenge upon the helpless veterans.

In no case should one of these veterans be cast out upon the world. The United States recognizes its liability for their support. That is what these homes are for. They were not established to give positions to politicians where they may lord it over the Nation's wards. In the Regular Army, perhaps, arbitrary power may be necessary, but it is not so in the soldiers' homes. These should be, in fact as well as in name, homes for the veterans.

It is true that some of these men become insubordinate at times and in need of restraint. They are old, many of them may be cranky, and some of them are addicted to drink. There must be rules for their restraint and penalties for the infraction of the rules, but in no case should they be thrown from the home. There should be detention quarters where they may be held in case of violation of the rules, and perhaps other mild punishment should be permitted, but always they should be retained at the home unless their offense has been so great as to require their being turned over to the county authorities.

When a helpless and penniless veteran is turned out to be dependent upon charity or to starve, as was the case with Marcus Sylvester, who was "given the gate" for merely suspecting that his pension had been withheld by the officers, a crime has been committed.

The punishment of "giving a man the gate" at the national soldiers' homes has been abused about as much as the Czar's prerogative of banishing subjects to Siberia.

For two or three years past Congress has been hearing complaints of the harsh treatment of veterans by officers of soldiers' homes. Many have come to the conclusion that the veterans who are forced to find refuge there are not made to feel that it is what its name indicates and what the Government meant that it should be—a home.

The great trouble appears to be that a few of the officers of the home are austere in their temperament and treat the inmates with harshness unwarranted by the positions they hold. There appears to be a disposition among the officers to regard the inmates as charity patients and to subject them to such rigorous treatment as even young men of the Regular Army grow restive under.

An immediate change is necessary. These veterans are growing old and most of them are in poor health. They are not charity patients, but have earned by their past service to the country the best care that can be given them.

They should have over them, not white-gloved martinets of whom they are taught to stand in awe, but friendly officers who, though firm in requiring compliance with necessary rules, have hearts filled with sympathy for the veterans and with respect for the great work they did for their country, and who will make them feel that the institution is indeed a home for them. They should have a kind smile and words of cheer instead of the frosty attitude of a superior officer to an underling. And when some veteran, a victim of mental or physical weakness perhaps, does transgress the rules of the home, he should be given a helping and a restraining hand, instead of "the gate" and possible starvation and death.

The placing of these homes under the administration of the War Department, with an executive authority responsible to Congress and to the people, is the remedy for present evils.

The CHAIRMAN. The time of the gentleman from Kansas has expired.

Mr. FITZGERALD. Mr. Chairman, I hold no brief for the managers of the soldiers' homes. But in view of the statements made by the gentleman from Kansas [Mr. ANTHONY], it might be well for me to make some statement in regard to them.

The Board of Managers of the National Soldiers' Homes is composed of men who are Republicans and ex-Union soldiers. Most of them have been appointed on the board upon the recommendation of the committee of which the gentleman from Kansas is a member.

Mr. BUCHANAN of Illinois. Mr. Chairman, I make the point of order that no quorum is present.

The CHAIRMAN (Mr. VAUGHAN). The gentleman from Illinois makes the point of no quorum and the Chair will count. [After counting.] Eighty-nine Members present, not a quorum.

Mr. FITZGERALD. Mr. Chairman, I move that the committee do now rise.

The question was taken; and on a division (demanded by Mr. MANN and Mr. GARNER) there were 5 ayes and 81 noes.

Mr. MANN and Mr. GARNER asked for tellers.

Tellers were ordered, and the Chair appointed Mr. FITZGERALD and Mr. GILLETT as tellers.

The committee again divided; and the tellers reported that there were 11 ayes and 96 noes.

So the motion that the committee rise was lost.

The CHAIRMAN. A quorum is present, and the gentleman from New York [Mr. FITZGERALD] will proceed.

Mr. FITZGERALD. Mr. Chairman, I was stating when the gentleman from Illinois, in order that I might have a quorum to listen to my interesting remarks, made the point of no quorum that the Board of Managers of the National Soldiers' Homes consists of men who are all Republicans, and who have served with distinction in the Union Army. That board is composed of Maj. James W. Wadsworth, president, for 18 or 20 years a distinguished Member of this House; Lieut. Franklin Murphy, first vice president, who served as governor of the State of New Jersey; Col. Henry K. Markham, of Pasadena, Cal.; John M. Holley, of Wisconsin; Maj. William Warner, of Kansas City, Mo., who served in the United States Senate; Col. Edwin C. Hammond, of Indiana; Gen. Joseph S. Smith, of Maine; Lieut. Oscar M. Gottschall, of Dayton, Ohio; and Capt. Lucien S. Lambert, of Galesburg, Ill.

These men all served in the Civil War, and their sympathies are with the Union soldiers and other veterans of wars who, through one misfortune or another, are compelled to live in the national soldiers' homes. These men are all Republicans, of the same political faith as is the gentleman from Kansas.

In the sundry civil appropriation act of the current year this provision was inserted:

Hereafter vacancies occurring in the membership of the Board of Managers in the National Homes for Disabled Volunteer Soldiers shall not be filled until the whole number of members of such board are reduced to five, and thereafter the whole number of members constituting that board shall not exceed five.

In the last Congress this House passed a resolution providing for the filling of all vacancies in the Loard. Three of the men named in the resolution were Democrats and one was a Republican. The resolution did not pass the Senate. The Senate was Republican, and the failure to pass the resolution perpetuated in office the Republicans whose terms had expired. There is pending here in the House a resolution to fill the existing vacancies. I think there are four Democrats named in the resolution. If the conditions could possibly be anything like those described by the gentleman from Kansas, he should welcome the substitution of these Democrats for the Republican members on the board. I do not believe that any such situation exists.

Mr. GOULDEN. Will the gentleman yield?

Mr. FITZGERALD. Certainly.

Mr. GOULDEN. Did not the distinguished president of that board, who served here as our colleague for many years, Mr. Wadsworth, indorse and recommend that the board should be reduced to five members, instead of the unwieldy and unsatisfactory number that now makes up the board of managers?

Mr. FITZGERALD. Yes.

Mr. GARNER. What salary is paid to the members of the board?

Mr. FITZGERALD. The president gets $4,000 a year. I do not think the others are paid.

Mr. GOULDEN. The others are not paid.

Mr. GARNER. It is merely an honorary and political position.

Mr. FITZGERALD. Not a political position.

Mr. GARNER. They undertake to take care of the political positions of the homes.

Mr. GOULDEN. I would not go that far; I think that is a mistake. Politics plays no part in the action of the board.

Mr. FITZGERALD. The number of members on the board, as it was constituted, was equal to the number of national homes and one more. So the practice has been for each member on the board to act as a general custodian of one particular home, and then one man was left as president of the board. The complaint has been made by the president of the board himself that under such a system it was difficult, if not impossible, to have a board action taken with reference to any particular home, because, as each member of the board was in charge of a particular home, whatever he recommended the others were likely to acquiesce in. And so the president of the board, Maj. Wadsworth, has from time to time recommended that the board be reduced in number so as to disassociate from the members of the board that local attachment that has existed.

The gentleman from Kansas states there has been a failure to pass the resolution here because it is to perpetuate Maj. Wadsworth in the board. The truth of the matter is, Mr. Chairman, that under the legislation enacted by Congress the vacancies occurring hereafter by which the board is to be reduced makes it probable that Maj. Wadsworth will be one of the first to leave the board. From what I know of him, from my service with him in the House and my knowledge of his career both as a soldier and a public servant and a private citizen, I believe that it will be a great misfortune to the ex-soldiers of this country when the time comes that he is eliminated from the board. [Applause.]

From time to time complaints are made about the character of the food furnished to men in the soldiers' homes. I asked some questions relative to such complaints. Maj. Harris said:

There are always some complaints, but we have endeavored to improve the messing somewhat. There is a sentiment among the patriotic people for the old soldiers, and they say that nothing is too good for them. We can not go entirely on that basis, but we endeavor to conduct the home—

He was here interrupted by the chairman, and I will read further from the hearings and what Mr. Wadsworth said:

The CHAIRMAN (interposing). What is the character of food furnished them?

Mr. WADSWORTH. For instance, here is the bill of fare at the Pacific Branch, Sunday, for breakfast: Beef stew with garden vegetables, graham and white bread, oleo, and coffee. Dinner: Roast loin of beef, sage dressing, brown gravy, mashed potatoes, cabinet pudding, cream sauce, graham and white bread, oleo, coffee. Here is printed the bill of fare for every day in the week. On Monday they had for breakfast fried ham with creamed potatoes, graham and white bread, oleo, and coffee.

The CHAIRMAN. You have visited all these branches?

Mr. WADSWORTH. Yes, sir; many times.

The CHAIRMAN. How is the food prepared?

Mr. WADSWORTH. It is mostly steam cooked, but it is prepared in a wholesome, clean way. Mr. FITZGERALD, and there is no real cause of complaint. But when you are feeding 17,000 men, coming from all sections of the country, accustomed to different kinds of homes and different kinds of cooking—New England cooking being different from western cooking, and so on—it is very hard to please every one of them, and three or four men in a home can raise more trouble by writing to Representatives and Senators and to magazines and various newspapers than you can imagine; and yet with all that, I claim that not over one-half of 1 per cent of the members make complaints.

Taking 17,000 as the basis, 1 per cent would be 170, and one-half of 1 per cent would be 85, which would be about 20 members to a home, and I do not think there are that number who comprise the grumblers and the growlers. I do not believe you can find 17,000 men in any walk of life any more contented or happier than these men. It is almost impossible to make a man 80 years old happy and contented in every way. He either has lumbago or rheumatism or some trouble with his digestion, and when you come to Spanish War veterans you have another class of men to deal with; they are tubercular to a very large extent and the very nature of the disease makes them restless and dissatisfied. They will be at one place and will think that if they could go somewhere else they would get well, and when they get there they want to go somewhere else. I think their complaints are mostly owing to the nature of their disease more than anything else, and I pity them very much; and when you think of the very small number of complaints you have out of 17,000 old soldiers, I think it is remarkable.

Mr. Chairman, from time to time gentlemen have made criticisms of the board. I do not say that the board is above criticism or that things do not happen in the conduct of the soldiers' homes which ought to be criticized, but I express the opinion, based on information gathered and investigations made over a course of eight or nine years and my knowledge of the character of men who are serving on the board, and from the fact that the board is composed of men who have served in the Union Army, that the board is interested only in the welfare of the men, and that these homes are and have been well managed on the whole.

Of course, some of us understand the reason for the complaint of the gentleman from Kansas [Mr. ANTHONY]. He has had a grievance against the president of the Board of Managers of the Soldiers' Homes for a great many years. He has been dissatisfied with the conduct of these homes because the board of managers declined to expend from $60,000 to $70,000 to equip the national soldiers' home at Leavenworth, in the gentleman's own district, so that it may burn coal produced in that district rather than conduct the home more economically by burning oil. At the request of the gentleman from Kansas, two investigations were made this year to ascertain the facts. These investigations were made by impartial persons, so that there could be no conflict between the committee and the gentleman from Kansas. One investigation was made by the Bureau of Mines, and the other by the Quartermaster General's Department of the Army, and both of the reports sustained the contention made on this floor in other sessions by the members of this committee, based upon the information that this committee had obtained, that it would cost the sum of money I have stated to equip the plant there for the economical and proper consumption of coal, and that when that was done there would be no economy in burning coal instead of oil. I suggest that criticisms from such a source are not entitled to the same weight as criticisms from a disinterested source.

Mr. ANTHONY. Mr. Chairman, will the gentleman yield?

Mr. FITZGERALD. Certainly.

Mr. ANTHONY. If I can show that the gentleman, as chairman of the Committee on Appropriations, was deceived by the board of managers last year in the estimate they submitted to the committee for fuel at Leavenworth, will he admit that I had cause for complaint?

Mr. FITZGERALD. I will not; but if the gentleman can satisfy me that the report made by the inspector sent out by the Director of the Bureau of Mines and the report made by the Army officers attached to the Quartermaster's Corps at Fort Leavenworth are incorrect, and do not sustain the contention made by the board of managers and advocated by the Committee on Appropriations, then I will be content to agree with the gentleman.

Mr. ANTHONY. Will the gentleman yield for a further question?

Mr. FITZGERALD. Yes.

Mr. ANTHONY. Has the gentleman been informed yet that the board of managers asked about $43,000 for fuel at the Leavenworth home last year, and has the committee been informed as yet that after stating that would be sufficient the board of managers came back for a deficiency of $6,000; and then that the report of the inspector at the War Department shows that the board took $8,000 of money out of the post fund, supposed to be used for the benefit and amusement of the soldiers?

Mr. FITZGERALD. We know that the appropriation for fuel was insufficient.

Mr. ANTHONY. Why will the committee stand for that?

Mr. FITZGERALD. And that does not justify the contention of the gentleman that it would have been cheaper to burn coal.

Mr. ANTHONY. That will take quite a while to explain, and I will undertake to do that under the five-minute rule.

Mr. FITZGERALD. We will be very glad to meet the time when the gentleman advances it. Mr. Chairman, this is the first time, however, that the gentleman's criticism has been directed at the board for its treatment of the old soldiers, and in view of what has happened in the past it seems to me that any facts that might justify a motive for this criticism might properly accompany the criticism itself, so that those who are impartial and who wish to know the facts and to do only that which is right and just can take such action as will be conducive to the best interests and contentment of these soldiers.

I reserve the remainder of my time.

Mr. GILLETT. Mr. Chairman, I yield 25 minutes to the gentleman from Washington [Mr. HUMPHREY].

Mr. HUMPHREY of Washington. Mr. Chairman, a great light has at last penetrated the darkness and gloom that has so long enshrouded the great blessings that the Democratic administration has brought to this Nation. These blessings are here in unmeasured abundance, but the people of this Nation do not know it. They ought to rejoice and be happy, but their minds are in such state that they can not. But at last the truth is out. Men are out of work. The unemployed number millions. This is at last admitted, but the President assures us that this panic is "psychological." Business is bad, when it ought to be good. Of course there is nothing the matter with the Democratic theories or with the Democratic legislation. It is only that the business men of the Nation are too stupid to comprehend this beneficence. But the "psychological" condition that has permeated the White House has not yet reached the majority in Congress.

We have been told day after day that business is good—never better; that there is no depression; that there are no closed mills, and that there are no idle men, by our friends on that side of the House. But now the President admits that business depression is widespread and universal throughout the country.

In the sacred name of outraged virtue, with all the solemnity that my lacerated feelings will permit, I want to protest against this reflection by the President upon that tireless oratorical demonstrator of efficiency, that vocal creator of imaginary prosperity, that circulating vocabulary of the administration, that suave sophist, the radiant and serene Hon. William C. Redfield. What is the use of this optimistic spouter of twisted figures, that never met a truth that he could not strangle nor a fact that he could not vanquish, daily performing throughout the country, demonstrating by doctored reports of discredited "experts" and by specially prepared statistics our unexampled prosperity, if even the President will not believe him?

Again I protest against the President contradicting that sedate and retiring gentleman who, when other matters do not interfere, presides over the deliberate deliberations of that other legislative White House annex at the other end of this Capitol.

The other day, when having his hand properly held in a beauty parlor, this modest man shrinkingly declared that this Nation was splendidly prosperous and business universally good. What a fascinating female that must have been to make the world look so rosy to our own Thomas Riley. But in all fairness let it be said that the prosperity ecstasies enjoyed by our brilliant and voluble Vice President on that auspicious occasion were in all probability mostly "psychological." Why should the President contradict such prophets of prosperity as Marshall and Redfield, especially when all three look upon the same facts from the same angle and inspired by a common hope.

But this "psychological" condition makes clear many things we could not understand a few days ago. "Then when we saw as through a glass darkly, and now see face to face."

A few days ago we were informed that unless we surrendered our control over the Panama Canal and gave other nations the fruit of our labors that something awful would happen. The President said he would not know what to do in things of "nearer consequence." The awful thing that was to happen has not happened. We now learn that no nation was protesting against the canal law. We have it upon the high authority of the chairman of the Foreign Affairs Committee of the Senate that no nation is protesting and that no nation has protested against the present law; that no nation has ever asked or is asking now that it be changed. What, then, was it that so filled the President with dread and fear that he pleaded with Congress to do this astounding and cowardly thing, "right or wrong"? No one knows. The only explanation the present reveals is that it was a "psychological" condition, a state of mind, an unsubstantial dream, and not a real danger that threatened us.

A few days ago the President refused, as he had refused a year ago, to go to Arlington on that sacred day when a grateful Nation pays its tribute of loving remembrance to its heroic dead. An invitation was extended to the patriotic Speaker of this House to be the orator on that occasion. Then the President, without knowing of this invitation to the Speaker and without communicating the fact to either the members of the Grand Army of the Republic or the newspapers, suddenly changed his mind. True, this was a strange and striking coincident, but no doubt the real explanation is that it was "psychological."

It was no doubt the same thing that caused the President, after repeated urgings by Democratic friends, to change his attitude and be present at the Gettysburg reunion of a year ago.

A few days ago we practically declared war against an individual, not because American citizens had been murdered, not because millions of American property had been destroyed, but because he persisted in firing 5 rounds in salute instead of 21. I can not understand why the President and Huerta did not compromise on the magic 13. Then one of the mightiest battleship squadrons of the world was rushed to the coast of Mexico to blockade her ports, and Vera Cruz was seized to prevent the landing of a cargo containing munitions of war by a German ship. In this undertaking 17 brave American soldiers gave up their lives in the heroic performance of duty. A few days ago this same ship unloaded this same cargo unmolested, and these same guns, shotted with the same ammunition, are ready to be turned upon American soldiers.

We are informed that ammunition is still, with the knowledge and consent of the administration, being sent to the Mexican rebels. We are informed that two vessels have, with the knowledge of the Secretary of State, sailed for Tampico loaded with guns and other war material, and that these are to be permitted to reach Villa and his band of bandits and assassins. More bullets that may rend the flesh of American soldiers. Let us in charity hope that these things are not criminal blunders but only "psychological" mistakes.

I hold in my hand a copy of the New York Sun of to-day, and I read the following dispatch, which is quoted in one of the editorials of that paper:

Much relief was manifested in official circles when it was learned to-day that Huerta has backed down from his plan to blockade Tampico. It obviates the necessity of the United States showing its hand in favor of the constitutionalists.

I have wondered why the administration is so careful about publicly showing its hand in favor of the constitutionalists. I am reliably informed that a day or two ago the newspaper correspondents had an interview with Charles Douglas, who is the attorney of the constitutionalists, who received that position largely because of the fact that he is a friend of the Secretary of State, and when these newspaper men assembled to receive information in regard to the constitutionalists Mr. John Lind, the man who had been the special representative of the President of the United States in Mexico, was there, advising the attorney of the constitutionalists what he should say and what he should give out to the newspapers.

What closer connection do you want between the rebels and this administration—the President's special representative to Mexico a short time ago, now the adviser of the attorney who represents these so-called constitutionalists?

Let us see if this business depression, which the President at last admits, is a "psychological" condition or an ugly fact. Since the Democratic Party went into power the business of this Nation has decreased more than 40 per cent. Last April the balance of trade against us was more than $10,000,000, the first time it has been against us since the old Wilson-Gorman law was struck from the statute books. On the 15th day of last month 238,000 railroad cars were standing idle, the largest number in the history of the Nation.

I hold here a clipping from yesterday's Post of this city, and I will read a line or two from it:

WORKERS FOR HIGHER RATE—RAILROADS, LAYING OFF THOUSANDS OF MEN, NEED IT, SAYS LABOR LEADER.

NEW YORK, *June 6, 1914.*

A Washington dispatch to the New York Times says:

"Railroad workers, as well as railroad owners, favor the 5 per cent rate increase asked by the roads, according to Fred L. Feick, of the western railroad employees, who is in Washington to testify on the subject to the Interstate Commerce Commission. Mr. Feick said that his organization included 1,000,000 men. While they do not advocate a particular increase, he said they feel that a fair share in business should be permitted to the roads.

"Five hundred thousand railroad men in the West are out of work," said Mr. Felck. "Men who have been engineers and conductors of 10 years' service to-day have been set back to braking, something that has never happened before. Many employees have been dismissed, and retrenchment is general in all departments. In many cases wages have been cut anywhere from 10 to 20 per cent and the hours of employment of thousands of employees have been reduced."

I wonder if the railroad men believe this is a "condition of mind"? Are these conditions simply "psychological"? Can these idle men feed themselves and their families on imagination?

Here are some more "psychological" facts: The importation of tin plate the first six months before the enactment of the present tariff law was 3,000,000 pounds. The amount imported the first six months following that law was 33,000,000 pounds—ten times as much—and valued at $1,034,000. Nor was as much tin plate used in this country the first six months' period mentioned as in the last. Of course, it is only a "psychological" fact that should alarm no one that in the tin-plate industry alone in the last six months a million dollars has been taken from American labor, from American manufacturers, sent out of the country and given to the foreigner.

Thousands of tons of foreign steel are going into the ports of San Francisco and Seattle. Thousands of tons of cotton ties made in England are going to New Orleans and Galveston. The National Tube Works, at McKeesport, Pa., employing 2,500 men, a few days ago closed. The vice president of the Baldwin Locomotive Works declared the other day that 12,000 men formerly employed in that concern are to-day walking the streets looking for work. But all this is merely "psychological."

A distinguished gentleman told me yesterday that in one industrial district in Chicago, 12 blocks long and 6 blocks wide, there were 4,000 idle men, more than one-third of the entire number that live in the district. He declared that taking the entire city of Chicago to-day that more than one-third of all the workingmen were out of employment; that they were looking for work and waiting for an opportunity to vote the Republican ticket. [Applause on the Republican side.]

The last three months of 1914 our sale of cotton goods abroad decreased $1,200,000. Our purchases abroad in the same period increased $2,100,000. Bradford, the great woolen and worsted center of England, has increased the sale to the United States of these goods since the Underwood law went into effect 280 per cent.

During the first six months of the Underwood law our foreign trade was more than a hundred million dollars less than it was under the first six months of the Payne law.

Our imports of cotton cloth the first three months of 1914 were $4,539,295; during the first three months of 1913 it was $2,407,120, or a balance in favor of the foreigner of $2,132,175. Our imports of woolen and worsted goods the first three months of 1914 were $7,664,370; the first three months of 1913 were $2,254,010, a balance in favor of the foreigner in three months of $5,410,360.

Yesterday the gentleman from Indiana [Mr. CLINE] entertained the House by telling them how some farmers in the northern part of his State were going to start a woolen mill. Well, if that be true, the farmers will furnish the money and the promoters will be that much richer, and in less than a year from now that stock will not be worth 10 cents on the dollar. They had better read this increase in the imports, and then figure out how they are going to be able to compete with the cheap labor in England.

Mr. BUCHANAN of Illinois. Mr. Chairman, it is very evident to me there is not a quorum here, and I make the point of order that there is no quorum present.

Mr. HUMPHREY of Washington. If the gentleman wants to make the point of no quorum, all right; but I do not yield to him to interrupt my speech.

The CHAIRMAN. The gentleman from Illinois makes the point that there is no quorum present. It is evident that there is not a quorum present, and the Clerk will call the roll.

The Clerk called the roll and the following Members failed to answer to their names:

Ainey	Bruckner	Cramton	Flood, Va.
Allen	Brumbaugh	Crisp	Fordney
Anderson	Burke, Pa.	Crosser	Francis
Ansberry	Byrnes, S. C.	Dale	Gallagher
Anthony	Calder	Danforth	Gardner
Baker	Callaway	Davis	George
Baltz	Cantor	Decker	Gerry
Barchfeld	Cantrill	Dies	Glass
Barnhart	Carew	Difenderfer	Goeke
Bartholdt	Casey	Dooling	Goldfogle
Bartlett	Chandler, N. Y.	Doughton	Goodwin, Ark.
Beall, Tex.	Clancy	Dunn	Gordon
Borland	Cline	Eagan	Gorman
Brodbeck	Collier	Elder	Graham, Ill.
Browne, Wis.	Copley	Fairchild	Graham, Pa.
Browning	Covington	Fess	Greene, Mass.
Gregg	Kindel	Morin	Sims
Griest	Kinkead, N. J.	Mott	Sisson
Griffin	Kirkpatrick	Murray, Mass.	Slayden
Gudger	Knowland, J. R.	Neeley, Kans.	Slemp
Hamill	Konop	Nolan, J. I.	Sloan
Hamilton, N. Y.	Korbly	Norton	Small
Hammond	Kreider	O'Brien	Smith, Md.
Hardwick	Lafferty	O'Leary	Smith, Sam'l W.
Harris	Langham	O'Shaunessy	Smith, Minn.
Hart	Lee, Ga.	Palmer	Smith, N. Y.
Hay	L'Engle	Parker	Smith, Tex.
Hayden	Lesher	Patton, Pa.	Sparkman
Hayes	Lever	Payne	Stafford
Helgesen	Lewis, Md.	Peters, Me.	Stanley
Helm	Lewis, Pa.	Peters, Mass.	Steenerson
Helvering	Lieb	Peterson	Stephens, Miss.
Hinebaugh	Lindquist	Platt	Stephens, Nebr.
Howard	Linthicum	Porter	Taylor, Ala.
Hoxworth	Loft	Post	Tuttle
Hulings	Logue	Powers	Vare
Humphreys, Miss.	McClellan	Riordan	Vaughan
Igoe	Mahan	Roberts, Mass.	Watson
Johnson, S. C.	Maher	Rogers	Webb
Jones	Manahan	Rothermel	Whitacre
Kahn	Martin	Sabath	White
Keating	Merritt	Saunders	Wilson, N. Y.
Keister	Metz	Scully	Winslow
Kelley, Mich.	Miller	Sharp	Woodruff
Kelly, Pa.	Montague	Sherley	Young, N. Dak.
Kennedy, R. I.	Moore	Sherwood	Young, Tex.
Kless, Pa.	Morgan, La.	Shreve	

The committee rose; and the Speaker having resumed the chair, Mr. GARRETT of Tennessee, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill H. R. 17041, and, finding itself without a quorum, under the rule he caused the roll to be called, whereupon 246 Members answered to their names, a quorum, and he reported the list of absentees to be entered upon the Journal.

The SPEAKER. The Chairman of the Committee of the Whole House on the state of the Union reports that that committee has had under consideration the bill H. R. 17041, and, finding itself without a quorum, under the rule he caused the roll to be called, whereupon 246 Members, a quorum, answered to their names, and he reports herewith the list of absentees to be entered upon the Journal. The committee will resume its sitting.

The committee resumed its sitting.

The CHAIRMAN. The gentleman from Washington has nine minutes remaining.

Mr. HUMPHREY of Washington. Mr. Chairman, I have no particular desire to criticize the distinguished gentleman who shows his statesmanship every few minutes by making the point of no quorum, but it does occur to me that a majority of this House should be wildly enthusiastic for the legislation he is urging. I believe that he owes a higher duty and more respect to the great laboring interests of this country than to be constantly trying to delay the business of this House. Now, when I was interrupted I was speaking in regard to the imports in the port of New York.

During the month of March the exports at the port of New York alone decreased $11,000,000. During the month of April they decreased $12,000,000, or a loss of $23,000,000 at one port in two months. Imports increased over $26,000,000 in the same time at the same port, or a balance in favor of the foreigner of over $46,000,000 in the port of New York alone for the months of March and April, 1914, or at the rate of $276,000,000 per year. But of course all this is simply "psychological" and not facts that should alarm anyone.

This tremendous loss of trade is made much more striking when you remember that our imports of materials used in manufacturing has decreased in the first six months under the Underwood law $48,000,000. The imports of finished manufactured articles ready for sale, the value of which consists mostly of labor, increased in March alone over $8,000,000. During April, 1914, the last month for which the figures are available, as compared with April, 1913, we bought from the foreigner $36,000,000 more and sold him $37,000,000 less.

It is estimated that every million dollars' worth increase in imports and every million dollars' decrease in exports means a thousand idle men in this country. Who, then, can look at these figures and fail to understand the reason for closed mills and idle factories and the millions of unemployed? Who but the President would contend that these conditions are simply "psychological"?

The value of the stocks of this Nation has decreased $2,000,000,000 within the last six months. The business of this Nation has decreased $1,000,000 every hour that Woodrow Wilson has been in the White House. This is the result of the "new freedom." This is the practical workings of that law that was to give us the trade of the world and drive the foreigner from our market places.

Millions of dollars' worth of farm products have been bought abroad, but the cost of living has not decreased. One hundred million pounds of fresh meat has been imported under the Underwood law, but beef is 30 per cent higher to-day than it was last September, the last month of the Republican tariff law that was, according to Democratic doctrine, responsible for the high cost of living. We have free wheat; but I notice that in my own State the price of bread has been increased.

I hold here in my hand an article taken from one of the newspapers in my State—the Tacoma Tribune—which says that the bakers have raised the price of bread. The following is the article:

BAKERS RAISE PRICE OF BREAD.

The Master Bakers' Association of Washington, Tuesday morning, served formal notice on the local grocers that shortly the price of bread will be raised. When the new scale goes into effect, the grocers will receive 28 loaves of bread for $1 instead of 30 as heretofore.

E. M. Thomas, president of the Tacoma Retail Grocers' Association, received the notice; but just when the scale will go into effect is not known.

It is not believed, however, that the new scale will affect the consumer, as the bakers declare that if the grocers raise the price of the loaf the manufacturers will install delivery wagons and sell direct to the consumer.

Leading grocers declare they do not object to receiving less profit under the new order, but that they will insist that the bakers keep the weight of the bread up to the standard of 16 ounces, dough measure, and 14 ounces after baking and ready for sale.

Last September, under the Payne law, 30 loaves of bread could be bought for $1 in the State of Washington. Now you can purchase but 28 for that sum. This is the way that the Democratic Party has reduced the cost of living.

I wonder if it has ever occurred to the now terrified and discredited Democracy that all their howling about the increased cost of living caused by a protective tariff was simply a "psychological" condition, a state of a perturbed mind. [Applause on the Republican side.]

Of course, all these facts and figures, according to the President—and the rest of the Democrats of the country must accept this statement, for they permit without protest the President to do all their thinking for them—is simply "psychological." The only cure for this condition is more legislation.

We are to be kept in session all summer to cure this "psychological" condition in our efforts to place upon the statute books laws that will strangle what little business is left. It may be "psychological," but every day this Congress is in session the business of the country grows less. There is but one small consolation for the meek and cowardly way in which the Democratic majority obeys the President, resulting in keeping us here all summer, and that is that while they are destroying the business of the country they are also destroying the Democratic Party. [Applause on the Republican side.]

Business men see their markets gone, their factories closed, but they should not complain. Let them read a chapter on the "New Freedom." [Applause on the Republican side.]

They see the foreigner with his products made by foreign cheap labor coming into this country and driving them from the market, but why should they complain. Let them read an essay on "Free Trade."

The business men of this country are daily selling less abroad, are daily selling less at home; daily the foreigner is increasing his sales in this country; but why should our business men complain? Let them listen to a lecture on "Efficiency." [Applause on the Republican side.]

The business man looks upon the closed factory, the dying fires, the idle men, the poverty, upon the vast army of unemployed, but let him be of good cheer, let him read our new "Constitution of Peace" and be comforted.

What the hungry want is not bread, but more law.

What the naked want is not more clothes, but more statutes.

What the idle need is not work, but more legislation.

What capital needs is not investment, but legal confiscation.

What the Nation needs to-day is not prosperity, but a cheerful state of mind. [Applause on the Republican side.]

What the people of this country need is the faith cure. They took it last election, and it cured their faith in the Democratic Party forever. [Laughter and applause on the Republican side.]

Poverty, want, hunger, idleness, and rags. These are not pitiful facts; these are not awful realities; these are but the figment of a fevered and uncultured imagination unable to grasp the eternal verities of the "new freedom" and the splendid truths of the new "constitution of peace."

Mr. TAGGART. Will the gentleman yield?

Mr. TOWNER. Will the gentleman yield?

The CHAIRMAN. Will the gentleman from Washington yield; and if so, to whom?

Mr. HUMPHREY of Washington. I will yield in a moment.

Surely this Nation to-day is reaping the reward of being directed by the impractical, the dreamer, the reformer, the uplifter, the scholar, and the theorist. This is the day of the triumph of the "intellectual unintelligent."

Yes, all our troubles are "psychological." Is death by fear any more delightful than when the terror comes in any other form?

"Psychological" is a blessed word. There is none with which it can be compared. "Charity covers a multitude of sins," but "psychological" in its beneficent elasticity covers the measureless multitude of Democratic blunders. [Applause on the Republican side.]

Mr. TOWNER. Will the gentleman yield?

Mr. HUMPHREY of Washington. Yes.

Mr. TOWNER. Do I understand the gentleman to claim that the President has abandoned his old scheme by which all of these were to be overcome on the part of employers and manufacturers by sharpening their wits against the foreigner, and that now that is to be supplanted by the new psychology theory he speaks about?

Mr. HUMPHREY of Washington. The President has succeeded in having the people of this country sharpen their wits in competition with the other nations of the world. We have lost our home markets to the foreigner. Each day we import more and sell less, and now, as I said a moment ago, after he looked around upon closed mills, the 500,000 men out of employment on the railroads alone, upon the 3,000,000 of the unemployed in this country, the largest number that ever existed in the history of this Nation, it seems that that fact has just penetrated the White House, although it has not yet crossed the aisle, and then the President replies to the business men of this country, who come before him beseeching that Congress adjourn—the only blessing they could bestow upon this country—that the conditions are merely psychological; that the people of this country are not hungry, but simply imagine that they are. [Applause on the Republican side.]

Mr. GILLETT. Mr. Chairman, I yield 25 minutes to the gentleman from South Dakota [Mr. DILLON].

Mr. DILLON. Mr. Chairman, on January 17, 1914, I introduced H. R. 11808, a bill to secure cooperation between the Interstate Commerce Commission and the State railway boards and commissions of the several States in correlating, changing, and establishing intrastate rates, charges, and fares which indirectly affect interstate commerce in the transportation of passengers and property by public carriers, and providing for procedure relative thereto.

I desire briefly to discuss the provisions of this bill. Section 1, in substance, provides that the Interstate Commerce Commission, through one or more of its members, may enter into a conference with any one or more State railway boards. Such boards, upon complaint of any interested party, may correlate and prepare schedules for the changing of rates for transportation of passengers and property, and in so doing may compare existing rates with State rates and also make comparisons between one or more States, and may consider ways and means of arriving at fair, reasonable, and just intrastate rates.

Section 2 provides, in substance, that when any interested party files a complaint concerning any existing or proposed interstate schedule with the Interstate Commerce Commission, then any State board, whose State rates may be affected thereby, may intervene and be heard, and when any matters are pending before the Interstate Commerce Commission affecting intrastate rates any State board may intervene and introduce evidence and arguments in support of the State rates.

Section 3 provides, in substance, that any interested party may file a complaint with any State railway board, pursuant to the laws of such State, concerning any proposed intrastate rates which indirectly affect interstate commerce, or when such State board proposes, on its own initiative, any such intrastate schedule of rates the Interstate Commerce Commission may, upon request of such State board, participate in such proceedings by conferring through one or more of its members with such State railway board. It may make suggestions and proposals concerning such matters pending before such State board and through such request may submit evidence and present arguments relative to such matters.

Section 4 allows the Interstate Commerce Commission to adopt reasonable administrative rules and regulations for the purpose of carrying out the provisions of the act and for facilitating the joint conferences and action of and between State railway boards and the Interstate Commerce Commission, and for that purpose may fix the time and place of meetings in which State boards may participate.

Section 5 provides in substance that the Interstate Commerce Commission and State railway boards participating in such joint conferences, if empowered by the laws of their respective States, may make their respective tentative findings

and conclusions; the Interstate Commerce Commission as to interstate and the State boards as to intrastate schedules. But none of such findings or conclusions of the Interstate Commerce Commission nor of the State boards shall have any binding force or effect until ratified by the Interstate Commerce Commission acting independently of each of the participating State boards. Upon the submission of such findings and conclusions for ratification the Interstate Commerce Commission may permit interested parties to be heard upon such ratification, and when ratified shall be binding as to interstate rates, and when ratified by the State boards shall be binding as to State rates.

Section 6 provides in substance that the Interstate Commerce Commission may, if permitted by the laws of the State, appear before the State board of any State upon any matter affecting interstate rates and may adduce and submit evidence in support of its contention upon such hearing.

Section 7 provides in substance that the Interstate Commerce Commission or any State railway board may separately ratify the joint action of such boards, and when so ratified it shall constitute a final adjudication.

Section 8 provides in substance that any one or more of the members of the Interstate Commerce Commission may be delegated by the commission to attend any joint meeting or conference with any one or more of the State railway boards, and the action of such representative may be ratified or rejected by the Interstate Commerce Commission.

This bill seeks to bring together the Interstate Commerce Commission and the different State railway boards for unity of action in establishing just and reasonable rates for transportation of persons and property.

The Interstate Commerce Commission is the representative of the national power, while the State railway board is the representative of the power of the State, the one possessing power over interstate commerce while the other retains power over intrastate commerce. Under our complex system of Government there is a constant conflict between the National and the State powers. One frequently trespasses on the other and often the power of one shades into the other and sometimes there is difficulty in distinguishing the rights of each.

The legislatures of 48 States are passing diversified laws, seldom are any two of them alike and uniformity is scarcely ever obtained. Those matters that are national in character, affecting all the people alike, should be controlled by a national power, while those matters that are local in character should be controlled by local or State power.

Nearly all of the States have railway boards created for the purpose of regulating rates of the transportation companies. The laws governing these boards are not uniform, yet they seek to reach the same result. The national board is seeking to reach the same result in interstate-commerce rates. Why should they not cooperate with a common purpose and reach effectively the same result?

In order to fix just and reasonable rates the tribunal assuming such functions must have knowledge of the value of railway properties. The different State boards have adopted a variety of methods in arriving at the valuation. Scarcely any two of them agree as to the elements that should be considered in reaching the valuation. Shall capitalization, earning power, commercial value, market value, book value, cost of reproduction, or fair value constitute the basis of the valuation? What will constitute fair deductions also causes a vast amount of uncertainty. What shall be allowed or deducted for engineering fees, contingencies, legal expenses, discount on stock and bonds, promoting, financing, supervision, depreciation, and working capital, all of which constitute uncertainties entering into the valuation of the properties.

About 20 of the States are now engaged in efforts to secure the physical valuation of railroad properties in their respective States. It is estimated that it will cost from $3 to $15 per mile to secure the valuation for rate making and taxation purposes. The National Government, through the Interstate Commerce Commission, is now commencing the herculean task of making a valuation of all the property of railroads engaged in interstate commerce. This appropriation bill carries $1,000,000 for valuation of railroads engaged in interstate commerce. The States will spend millions of dollars in their efforts to fix the valuation for taxation and rate-making purposes and the National Government will duplicate the work and the expense.

After the valuations are made the National and the State Governments will be constantly duplicating the annual expenditures in keeping the evidence up to date. While these large expenditures of the public money are justified in order that just rates may be secured, yet more effective results could be obtained through the spirit of cooperation. Cooperation between the State and national boards would stop the duplication of the work and save vast sums of money. With cooperation it will be largely immaterial whether it be a national duty or a State duty so long as it accomplishes results.

This bill provides the means of bringing about joint action and conferences, and then for a separate ratification by each board. The State boards would have a superior knowledge of local conditions, and would bring a wealth of knowledge to the Federal board, while the Federal board, with its large experience in rate-making methods, would bring into the conference its enriched knowledge of national matters. With a spirit of cooperation these boards would consider the rate-making power from every angle, efficiency guiding their action. The interchange of views would bring capability and would establish high grade and efficient service. The railroads and the shippers would rely implicitly upon fair dealing and fair methods in the rate-making power.

The Federal board would need only to send a single representative to the conference. All policies would be discussed and harmonized, and the boards would engage in a common work, with a common purpose, each looking to the other for friendly assistance and advice. Through the conference all conflict between the Federal and State power could be avoided and each remain supreme in its sphere. We would utilize the State boards by shifting upon them the burden of gathering facts and evidence to aid in the common purpose.

The joint orders and decrees would be stronger because resting upon and fortified by the Federal and State powers. They would be made stronger by concerted action, and at the same time would protect the rights of the State and Nation. One of the important features of the bill is that the joint action of the boards shall not have effect until it is ratified by each separately. When the subject matter of the joint action comes up for ratification, the interested parties are granted a full hearing before the Federal and the State boards, each acting independently of the other.

The State boards would have the judgment of the Federal board, as well as the judgment of the boards of other States, when the matters came up for independent ratification. Likewise the Federal board would have the judgment of the State boards before making its findings effective. This unity of action would in a measure create an alliance against any litigation that might follow.

No constitutional argument could be urged against the proceedings, because the interested parties would have notice of the joint conference. The separate action of each board on the ratification proceedings would also be upon notice, which would constitute due process of law within the meaning of the Constitution. In the first instance the joint action would be simply advisory and would become effective only upon ratification and notice to interested parties.

A dozen State boards could meet together with a single member of the Interstate Commerce Commission in conference. The rates fixed by one board, under the existing practice, affects all railroads; the rates of one State affect all States, and, in turn, affect the fixing of rates in interstate commerce. If one State lowers rates or raises rates, it affects all States, and thus unfair and unjust discrimination arises. This would not be possible if there was uniformity existing in the action of the States. There will always be a conflict between rates made by the Interstate Commerce Commission and the rates fixed by the various States. Some States have lower rates than the interstate rate and some have higher rates. In both instances the system has been unjust. No attempt has been made to equalize these rates. The conferences provided for in the bill would enable the State boards and the Interstate Commerce Commission to work together, so that the State rates and the interstate rates could be made to harmonize.

Section 10 of Article I of the Constitution provides:

> No State shall, without the consent of the Congress * * * enter into any agreement or compact with another State.

Under this provision the States can enter into an agreement in the fixing of transportation rates provided Congress would consent. This bill would bring into play this constitutional provision: Congress by passing the act would approve of the methods and allow the States to agree among themselves, and when they so agreed the congressional consent would exist by reason of the provisions contained in the bill.

By these joint conferences the States could bring about agreements and thus establish uniformity. This provision of the Constitution has been unused and could now be vitalized so as to bring about State cooperation, and, at the same time, with one-half of the expense establish uniformity. If a number of

the States could obtain unity of action under the above constitutional provision with the assistance of the Interstate Commerce Commission, the power of regulating rates would be firmly established for all time. The conflict now going on between the public and the carriers would cease and just and fair dealing would constitute the rule of action.

I ask leave to insert, as a part of my remarks, an article on this subject by Hon. Charles E. De Land, of Pierre, S. Dak., published in the Central Law Journal May 2, 1913. [Applause.]

The article by Hon. Charles E. De Land is as follows:

"FEDERAL AND STATE COOPERATION ON RATES.

"Is it feasible for State railway commissions to cooperate with the Interstate Commerce Commission in solving the question of intrastate as related to interstate rates and fares, and vice versa?

"Would such character of joint action and administrative determination pursuant thereto be legally tenable under the Federal system?

"It is believed that both of these questions should be answered in the affirmative.

"The coordinate departments of State governments are as certainly and as devotedly concerned and as lawfully invoked in the process of local or State supervision and control of public carriers as are those of the Federal arm of the Government concerning interstate carriage. This being true, and the subject in hand being peculiarly within the view and potential oversight of the State authorities, it would seem safe to conclude that in an assembly of conference between a given number of State boards and the Interstate Commerce Commission, upon the question of proposed State rate schedules embracing the States thus locally represented, the sum of information, opinion, and judgment expressed by the State boards should be regarded as superior to that of the Federal commission. Among other reasons why this should be true is that in arriving at a conclusion as to the local necessity for, and the mutual fairness as between the public and the carriers of the proposed rates and fares here supposedly under such joint consideration, the local boards must be regarded as having diligently and intelligently considered existing interstate rates and fares as related to existing or proposed inrates, as well as those obtaining locally, and to have compared the former with the latter, and also the relations between and the relative fairness or otherwise of the various schedules in the States so represented as between themselves. For it is matter of common knowledge that the State boards of railway commissioners in current administration do consider these various elements of the questions involved, and, indeed, find it necessary to do so in order to reach intelligent and just conclusions in the premises.

"It would seem to follow from the foregoing, as a further fair deduction, that such a conference between several State boards and the Federal commission could not fail to in some degree enrich the intelligence and strengthen the judgment of the latter board concerning not only the reasonableness or otherwise of the existing interstate rates and fares thus involved but the relations then existing between as well as those which should exist between the inrates and the interstate rates.

"On the other hand, such a conference would as certainly shed some new and valuable light upon the case thus presented, as viewed by the State boards, through special knowledge and resulting superior judgment of the Interstate Commerce Commission regarding the existing interstate schedules and their relations to inrates involved imparted by its members to those of the State boards.

"That a mutual desire on the part of the State and Federal commissions to obtain new information and suggestions from the other should exist at all times would seem to be axiomatic. And that the net result of such a conference would be the further maturing of the judgment and efficiency of both the State and Federal boards concerning their respective functions is undeniable. And to the extent that such joint action resulted in tentatively fixing upon the basis of proposed new and mutually satisfactory, reasonable, and fair intrastate rates and fare by such State boards and upon interstate rates by the Federal board a long step would have been taken toward reducing the amount of statutory investigation concerning inrates as related to interstate rates, and vice versa, involved in hearing complaints, as well as toward eliminating court litigation resulting from unsatisfactory action of the boards. And such interchange of views between the Federal and the State boards would bear directly upon and improve the functions of the Interstate Commerce Commission, wherein it finds itself charged with the incidental duty of affecting and regulating intrastate commerce far enough to protect the freedom of and to regulate interstate commerce. (Brown *v.* Maryland, 12 Wheat., 448; Caldwell *v.* North Carolina, 187 U. S., 623; Gulf, Colorado, etc., Ry. Co. *v.* Heffey, 158 U. S., 980.)

"Pensacola Telegraph Co. *v.* Western Union Telegraph Co. (96 U. S., 1), while the benefits of such cooperation would increase the capacity of the State boards to act intelligently in so regulating intrastate rates as not to substantially burden or regulate interstate commerce, although it may be thereby remotely or incidentally affected. (Norfolk & Western Ry. Co. *v.* Pennsylvania, 136 U. S., 114.)

"If tenable, it is believed that such a process of exchange of views and cooperative action would be or could easily be made practicable; that the necessary time for meetings and deliberation as suggested could be arranged for through administrative regulations, supplemented by some additional legislation, State and Federal. In considering this phase of the subject it can be said that it would not be necessary for the full membership of either the Federal or the State boards to come together in carrying out the processes contemplated in this paper. Representatives of the several bodies, as delegations or committees, could be charged in some authoritative manner with the duty of attending such joint conferences, at stated times and places previously fixed upon by the Federal commission alone or through some arrangement between it and the State boards whose functions were called into action by the particular rate or fares problem in hand. Certain tentative discussion of such problem could be had by the State boards in advance, and if deemed necessary by the Interstate Commerce Commission, in which preliminary deliberations certain conclusions concerning rates or fares could be arrived at as a basis for the proposed joint discussion and action, as the result of which each delegation or committee would be able to bring into joint assembly certain specific propositions for or against a set of existing or proposed schedules, and would urge their respective views in support thereof, subject to such modification or adverse action as the wisdom of the joint deliberation might suggest.

"Again, if the utility of such cooperative action were conceded in advance, or was found, after repeated efforts of this character, to be productive of beneficial results in the general direction above indicated, the practicability of such a plan as a permanent feature of administration in the premises could be expedited, and eventually vindicated, in one of several modes of action. It would probably be found that such joint discussion, exchange of views, and advocacies, and action pursuant thereto, would result in accomplishing ends, in the readjustment of rates and fares, intrastate or interstate, or both, by more practical, inexpensive, expeditious, and effective methods than those now existing. Incidental arrangements could be made by the Interstate Commerce Commission to enable the carriers and complaining shippers, if any, to be heard at the joint meeting; and that incident, as to the State boards, could be effected through similar action by the latter. There would probably result a mutual saving of time which in the end would enable both sets of boards to bestow more time in such joint deliberation and action than was thought possible in the outset. And if such utility and effectiveness were demonstrated in a series of preliminary or experimental joint conferences, the State legislatures and the Congress could readily enlarge the membership of the respective boards, if deemed expedient, for the purpose of enabling them to expend more time in this mode of joint action and in perfecting such a system as a permanent feature of administration, State and Federal.

"If, then, the questions of practicability and utility of such joint discussion and cooperative action were demonstrated by actual experiment to the satisfaction of the Federal and State boards, and the governmental authorities behind them, the further question whether, and if so how far, such joint deliberation and action, if made mandatory and declared effective by statute as regards the Federal and the State governments, would be justified under our Federal system would, of course, arise. The questions involved would seem to be that of empowering the Federal and State boards of railway commissioners, respectively, to enter into such joint deliberation and action, and that of providing that such action should be legally effective through ratification by the respective boards, as regards the subject of fixing and of altering rates and fares, intrastate and interstate, as the result of or the sequel to the joint action under and pursuant to the Federal and the State constitutions.

"And in determining the question of the tenability of such proposed legislation the discussion would go on in the light of what had already been done experimentally by the respective boards. And in discussing what had thus actually occurred it would be seen that all that had been done was effected through the simple process of voluntary action in the delegation of authority by the respective boards to their respective committees or other representatives to meet with and to urge tenta-

tive propositions before the joint conference and to report back to their respective bodies the result of such conferences and consequent action, none of the boards, State or Federal, being legally bound by such joint action until confirmed by the respective boards acting normally. In other words, it would appear that the beneficial results attained experimentally, although done informally and outside of the pale of specific statutory authority, had been accomplished without violating any law, State or Federal, since such joint action would not in fact or by intendment be, per se, legally binding upon any of the commissions involved.

"While no actual work seems to have been done thus far by way of cooperation in a joint conference between the State boards and the Interstate Commerce Commission in seeking to tentatively settle upon a set of rates or fares, intrastate or interstate, involved in proceedings pending before either set of boards, yet this subject has been one of repeated and earnest suggestion and recommendation before the conventions of the National Association of Railway Commissioners, in which assemblies members of the Interstate Commerce Commission have annually for many years sat in deliberation with those of a large number of State railway commissions, involving discussions as to ways and means of prompt and effective determination of the questions of rates and fares and many other phases of the work of the respective commissions which regularly come up for debate and recommendation. So clearly has that association put itself on record in this particular that no doubt can arise as to cooperative consideration of rates having been deliberately recommended by members of the Interstate Commerce Commission, including some of its chairmen, before that association. To go no further back than 1908, we find Mr. McChord, chairman of the association, declaring in opening his annual address:

"The necessity for cooperative and concerted action between the Interstate Commerce Commission and the State railroad commissions in every phase of the regulation of railroads has been advocated and approved by every convention of this association since it was organized in 1889.

"He there refers to the expressions of Judge Cooley, in whose address at the first session of that organization the latter said, speaking of the relative work of the two sets of railway commissions:

"We are all engaged in a kindred work, and not a kindred work merely, but in a large degree in the same work. What is often spoken of as the railroad system of the United States is an illustration of unity in diversity, such as it would be difficult to find elsewhere in the world.

"Mr. McChord then refers to the remarks of Judge Knapp, then chairman of the Federal commission, made at the preceding convention, where the latter observed that, regarding public interests and independent of legislation—

"We have an opportunity for very useful service * * * by harmonizing as far as we possibly can our policies and our work of administration.

"Mr. McChord then refers to the additional powers granted to the Federal commission by the Hepburn Act, and observes:

"Now that these additional powers have been conferred and as the intrastate regulation of railroads is so closely allied with that of interstate regulation, it is but natural that the State commissions are looking to the Interstate Commerce Commission for closer cooperation in the struggle they are making against such great odds in their efforts to regulate the railroads of their respective States.

"The 'importance of cooperation of State governments and the Federal Government in the regulation of rates' is emphasized, in view of judicial decisions adverted to, and he makes this specific recommendation:

"We believe that a practical and feasible plan of cooperation would be that when complaint has been filed with the Interstate Commerce Commission and a copy served upon the defendant carrier, and it is cited to appear and defend, * * * the commissioners of the States affected by that complaint should be furnished with similar copies and notices and be granted leave to intervene or submit argument in support of or against the relief sought by the complainant, and, in a similar way, when complaint has been filed with the State commissions, which would of necessity affect interstate rates, a copy of such complaint should be furnished the Interstate Commerce Commission, and both State and Federal commissions should feel free to call for such information as each may possess bearing upon the subject matter under investigation. In short, if the State and Federal commissions are to cooperate in this work, and if there is to be preserved to the State commissions their present usefulness and the limited powers yet left them, something tangible along these lines should be agreed upon by this association and should be carried out without further delay.

"That 'it is clear that if the Interstate Commerce Commission is to effectually cooperate with the various State commissions it must have some officer or representative whose sole duty it is to keep constantly in touch with these State commissions and keep a record of all that they are doing.' And after observing that—

"Under our dual form of government the State commissions are at last at the mercy of the Federal authorities—

"He adds:

"Therefore I am firmly of the opinion that the Federal and State commissions should get together in the beginning of these investigations, and by mutually cooperating and assisting each other be in better position to maintain in the courts their respective orders when made. (Proceedings of National Association of Railway Commissioners, 1908, pp. 10–14.)

"In 1909, Mr. Decker, president of the National Association of Railway Commissioners, in his address at the annual convention of that association, spoke of the trade elements which—

"Create a lasting interpendence between the States and the Nation in regulation of our commerce. (Proceedings of National Association of Railway Commissioners, 1909, p. 10.)

"In 1910 the same distinguished official said in a similar connection—

"We have about reached the time, I think, when investigation of related railway rates may properly include conferences between regulating commissions before determination.

"That the line of demarkation between State and Federal jurisdiction being, fundamentally, determined, harmonious action is promoted by 'trying through conferences and cooperation to bring about rates and rate rules based upon consideration of right and justice to all concerned.' That 'the association through its committees may work actively toward securing harmonious action,' and 'many things that remain to be accomplished may be constantly progressed under the larger comprehension and broader outlook resulting either from special conferences between particular commissions or as the result of the work of committees acting under the authority of this association.' That 'still greater effective work can be done by the various commissions through associated action. * * * To that end it would be advisable for the various commissions to so arrange their own engagements that their members may participate actively through the year in the general but highly important work as fixed by the association in convention. It is worthy of careful consideration whether conferences between State commissions and the Interstate Commerce Commission concerning the work in which any State commission and the Federal commission may have joint interest would not be valuable.' (Proceedings of National Association of Railway Commissioners, 1910, pp. 10–13.)

"In 1911, Judge Clements, chairman of the Interstate Commerce Commission, in his annual address before that association, said:

"It would be useless for me to repeat what all know, and that is that the conferences and sessions of this convention, and the recommendations of the association and the cooperation between the Interstate Commerce Commission and the State commissions and between the State commissions themselves, have been of the utmost value to all of us and to all who are engaged in this most important work of railway regulation. (Proceedings of National Association of Railway Commissioners, 1911, p. 5.)

"The foregoing quotations from addresses made before the National Association of Railway Commissioners clearly indicate that the scope of suggested and proposed action between State commissions themselves, and between them and the Interstate Commerce Commission, embraces not merely the deliberations and consequent action of that association, but conferences between the various sets of State boards, and also between such of the latter as may be involved in determining a pending question and the Federal board, wherein the latter may find its functions operative in determining the relations between the inrates and the interrates thus actually or possibly involved; and also the proposition of action by such State boards and the Federal commission, in becoming by intervention or otherwise, parties to pending proceedings before either or any of those bodies, and in being heard in the determination of the question involved, through counsel and also through committees or delegations. Thus, 'cooperative and concerted action,' 'closer cooperation,' 'harmonizing of policies,' freedom in 'calling for information,' 'effectual cooperation' between the Federal and State boards through 'some officer or representative,' 'getting together in the beginnings of these investigations' and 'by mutually cooperating and assisting each other,' to 'create a lasting interdependence between the States and the Nation,' and 'conferences between regulating committees before determination,' under 'the larger comprehension and broader outlook' resulting from 'special conferences between particular commissions' 'through the year'—all these proposed expedients are evidences of serious consideration and urgent recommendation at the hands of the highest deliberative body existing in this country as the representative of the administrative functions of our State and Federal boards in regulating and controlling commerce, State and National.

"Now while some of these various recommendations may not have been intended to mean joint deliberate action on rates, in the sense of expressing formal conclusions into which both

State and Federal administrative action enter in a responsible way, yet the terms actually used do mean just that character of work. Cooperation is the act of 'cooperating, or of operating together to one end; joint operation; concurrent effort or labor.' Conference means 'formal consultation,' 'interchange of views,' or 'a meeting for consultation, discussion, or instruction.' While 'concerted action' is indicated by the verb 'concert,' which means 'to plan together; to settle or adjust by conference, agreement, or consultation.'

"If these defined means to the end are not broad enough to comprehend and to justify the expedients suggested in this paper, it is difficult to understand how they can be interpreted to mean less than that.

"Suppose then that Congress, and the legislatures of the various States, or some of them, shall enact legislation providing for such conferences as may be deemed necessary or expedient between the State boards and the Interstate Commerce Commission, concerning pending rate questions existing either independently of, or under, complaint, and embracing provisions for presenting evidence bearing upon the questions at issue, by or before the respective boards; that the findings and conclusions arrived at in such conferences regarding questions not then in litigation shall, when ratified by each board acting by itself, be legally binding upon the respective participating boards, and further declaring binding upon each State board and the Federal commission conference findings and conclusions in litigated cases where carriers are parties or are represented—that is, binding, upon such ratification, upon carriers, complainants, and State boards wherein the joint action related to intrastate traffic, and upon the same parties and the Interstate Commerce Commission when related to interstate traffic. That such Federal legislation was designed to operate as a complement to similar legislation by the respective States, and vice versa concerning legislation by the latter. That through such dual system of legislation cases or pending questions, involving the fixing or changing of both inrates and interrates were consolidated in the sense that questions pertaining to intrastate traffic, in one or more States, the determination of which questions would or might affect interstate traffic and rates, could be tentatively determined by the Federal commission acting in conference with the State boards; and containing a complementary provision enabling the Federal commission and other State boards to participate in like manner in the tentative determination of similar issues pending before a particular State board, with like binding force upon the Federal commission as to interstate rates after ratification by it; such joint conclusions not to be regarded as in law constituting an administrative decision, or the equivalent of due process of law in the quasi legal sense or otherwise. That carriers and shippers, in order to be bound by such a proceeding, could participate therein by becoming parties under issues presenting specific questions, with the right to submit evidence and be heard argumentatively, both as to State and interstate traffic issues if and when presented, and with the further right to be heard in the separate State or Federal commerce tribunal when the question of ratification or rejection of the joint conclusions was presented in such separate body; with or without further provision requiring carriers under certain specified circumstances, to become parties to such proceeding. Would such a system of procedure be tenable? And if not, why not?

"Each State element in such conference would present issues involving the case in hand as related to intrastate rates and fares in the particular State or States. The findings and conclusions would therefore meet those issues as fully as if the particular State board or boards had acted alone in considering them. The same would be true of the Federal commission regarding issues as to interstate schedules. The tentative findings and conclusions would therefore as fully cover all issues of both characters as would be the case if separate initial determinate action had been resorted to. There would, in consequence, be found a record of the joint conference in question, presenting a juridical repository from which the State and Federal boards, respectively, and the carriers and complainants as parties, could draw in making up for presentation before any separate board at its ratification session such partial record embracing issues pertaining to the functions of such separate board as might be necessary for such purpose.

"The mere fact that in such conference a board created by and accountable solely to the Federal power, and limited in its administrative acts and determinations to functions concerning interstate commerce, had actually participated in drawing conclusions concerning intrastate commerce, would not in law vitiate those conclusions. This is obvious, since all that would have been done by the Federal commission would be merely advisory, and the State board or boards would merely have had the benefit of the views and judgment of the Federal commission in support of such conclusions. The conclusions themselves might or might not have been actually assented to although nominally acquiesced in by such board or boards. Equally sound upon similar reasoning would seem to be the contention that mere participation by State boards in such conference conclusions, wherein they referred solely to interstate rates, would not vitiate such conclusions. And this contention as applied to either case is strengthened when we reflect that in lending such mutual aid, each and all representatives or committees of boards in question would, in thus cooperating, be simply using their faculties of judgment precisely as they would if acting normally; since every question of State rates would or might involve, incidentally, its relations to interstate rates, and vice versa.

"If it be objected to the plan of joint procedure above outlined, that it presents a medley of State and Federal elements of administrative deliberation and adjudication, involving confusion as to the identity of the tribunal in which the conference deliberation and hearing was had, and before which the parties, carriers and otherwise, would thus appear, or as to the issues as related to those elements, it would seem that by adopting rules and regulations pursuant to appropriate State and Federal legislation, this phase of the subject could easily be met, to the end of preserving the rights of complainants and other litigants on the record, concerning their attitudes, objections, and exceptions as related to both State and Federal elements of action so involved, as well as before the future respective ratification sessions.

"Some practical difficulty might be encountered by the boards of those States other than that in which the particular joint conference met, in the production of evidence beyond the State limits, for use before the conference, and in enforcing the appearance of witnesses. However, to the extent that such difficulty might be anticipated in a given case, the taking of testimony and incidental evidence within the particular State might go on before an examiner, or some State official, the depositions so taken to be used both before the joint and the subsequent hearings. Again, the question of evidence might, under a somewhat different procedure, be solved by some means whereby the conference conclusions could be made to rest upon some information and evidence calculated to raise a presumption of their reasonableness and fairness, the issue to be finally contested at the respective ratification sessions; with the right to produce further evidence both by way of attack and in support of the action of the conference.

"There seems to be no sufficient ground for the conclusion that such a conference procedure would be violative of the Federal Constitution. If it would, the conclusion would seem to be warranted because due Federal procedure had thus been defeated, or Federal jurisdiction in the Interstate Commerce Commission had been injuriously invaded by concerted action between it and a State board or boards, through encroachment by State authority upon the field of Federal power. And such a result of cooperative action would also affect the right of a carrier, as a party to a proceeding before the Federal commission, to appear and be heard before that body as a distinct, independent tribunal capable legally of making and enforcing a valid order, involving directly and vitally interstate commerce.

"But unless due process under Federal jurisdiction had been defeated or unduly obstructed by such joint action, the Federal Constitution would not have been invaded by such participation of a State board or boards.

"But jurisdiction, in order to be subject to such invasion, must be in course of exercise to the end of a determination of an issue or right in the particular proceeding and forum. (Brown on Jurisdiction, sec. 1. United States v. Arredondo, 6 Pet., 709; Pittsburg, etc., R. Co. v. Backus, 154 U. S., 421; 10 Am. and Eng. Encyc. of Law, pp. 290, 300.)

"However, no such determinate function has been imputed to such a joint deliberation in conference as we have hereinbefore supposed to be in existence. On the contrary, we have assumed that the proposed legislation would go no further than to render the conference act merely tentative or advisory, postponing final or determinative action to the future and separate proceedings of the respective boards constituting the constituent elements of the conference. And such being the character of the deliberations of the joint conference, the cooperation of the State boards could not have the effect of destroying or substantially invading Federal jurisdiction or power operating in determinate action.

"The principle we have assumed to be applicable to a proceeding pending before the Interstate Commerce Commission, when a State board is supposed to be acting in conjunction with

the former, would seem to apply with equal force to the conference action if the relations between the two sets of boards were reversed and the Federal commission were participating in a proceeding pending before a State board of railway commissioners. In either case, the fact that issues primarily determinable solely by the board to whose membership the other board had acceded for purposes of the conference, were considered by such acceding element, would not amount to an invasion of Federal or of State power or jurisdiction, as the case might be.

"If such a system of treatment of questions of rates and fares as is outlined in this paper were in force, it would seem that its utility in advancing the cause of prompt, simple, and effectual settlement of problems involving groups of schedules and territory would be proven beyond dispute. If, for instance, such a complexity of questions or relations and prospective disturbances between the in-rates and inter-rates and fares as that of the Minnesota Rate cases (Shepard *v.* Northern Pac. Ry. Co., et al., 184 Fed. Rep., 765), could have been dealt with through conferences of the general character hereinbefore indicated, followed by final administrative action by the State boards in fixing and in changing in-rates and fares, and by the Federal commission in readjusting those of interstate character as related to the State schedules involved, after hearing upon evidence, the various carriers interested being parties, is it to be doubted that such joint action and subsequent determination would have resulted in a readjusted system of schedules which, although not in all respects such as would have entirely eliminated litigation thereafter concerning such settlements and schedules, would yet have been mutually satisfactory to the railway commissions and the railroads in all or nearly all main aspects of the general problem? The State boards of, say, Minnesota, North Dakota, Montana, and Wisconsin might have thus met at St. Paul with a delegation of the Interstate Commerce Commission after the respective phases of the proposed action of the Minnesota board, as they would appear to the other boards, State and Federal, had been considered in advance and a set of suggestions and contentions had been framed by them, respectively, for such joint consideration; the various carriers affected could have appeared at the conference and been heard in the light of more or less evidence adduced by them and by the boards; a tentative set of schedules could have been framed by the conference, each set being thereafter taken up by its appropriate board and confirmed in whole or in part, with such modifications in detail, if any, as might have been deemed proper, the carriers and boards bringing into these separate final hearings such contentions and further evidence as the laws and rules of practice would permit.

"Such a system of procedure would also be almost certain to result in more or less periodical conferences looking to successive readjustments of rates and fares, upon some general plan or plans of consideration wrought out as a further consequence of the establishment of the initial practice itself. In this way large areas of territory, embracing a multitude of related rate problems, would in time come to be treated under some well-defined system of administrative management and subjection to hearings for the joint benefit of the carriers and the public.

"The time has, indeed, come for serious general consideration by the public of any and all possible expedients under the administration of the State and Federal railway commissions, through which to simplify, expedite, and effectuate modes of adjustment of rates and fares under the rapidly changing circumstances and conditions surrounding State and interstate commerce. If some plan of joint action to that end similar to or widely differing from the one outlined in this paper can, after due discussion and investigation, be established, the sooner such a desirable end is accomplished the better it will be for the general welfare."

Mr. FITZGERALD. Mr. Chairman, I yield to the gentleman from Alabama [Mr. BURNETT].

Mr. BURNETT. Mr. Chairman, I rise merely to make a few remarks upon two questions that have been discussed quite freely of late. Some of the States, especially in the Northeast, where there has been a tremendous influx of immigrants who in a short time become insane, are agitating the proposition that the Federal Government ought to bear a part of the expense of the maintenance of such alien insane and who become insane. I desire to oppose that idea, because I feel that it is a condition that can be corrected to a very great extent by the restrictive measures embraced in the bill which passed the House at this session. This bill, when passed, will keep out thousands of these very people who become insane in a short while after they reach our shores. As long as gentlemen in Congress from those States whose asylums are being filled with alien insane oppose a restriction which will prevent the coming of such people, I shall oppose the people of my State and other sections of the country being forced to bear any part of the expense of maintaining that class of people.

The other proposition, Mr. Chairman, is that there are many associations and some people who are advocating the policy that the Government at its expense should furnish means for the distribution of immigrants throughout the country. It would be manifestly unjust to require the Government to pay the expenses, or any part of the expenses, of these people to force them upon others who do not want them. Yet such would be the result of that kind of legislation. The Progressive Party in one of the planks of its platform, as I recollect it, announced that it believed in a distribution, perhaps, of that kind. I believe it would be unfair to people who favor keeping out that class of immigrants to say that they should be made to bear any part of the burden of carrying those people into their communities. The very communities into which the advocates of distribution by Government want to send them are the ones in which they are not wanted. And then the greatest trouble, Mr. Chairman, is that when they are distributed they will not stay distributed unless it suits them to do so. There was an example of that kind in South Carolina a few years ago, when, through the activity of some of its industries, that State brought a shipload of aliens over to work in the cotton mills of the State, and in perhaps less than 30 days from the time they landed and went to the mills they left them, went into the congested districts of the North, where their own people were. It is simply absurd to talk about the Government going into the business of distributing people into sections where they are not wanted and where they do not want to go. That kind of an agitation is being gotten up for the purpose, as I think, of trying to sidetrack and postpone the passage of legislation that will keep out that very kind of people. Take the people from the great Northwest. They do not need any inducement by the Government or by anyone else to carry them into sections where they thrive and where they build up the material prosperity of the sections to which they go.

The great Scandinavian people, who have built up to a marked degree the Northwest, did not think, when they came in in large numbers, of asking for Government aid to send them into the interior. The Germans and the Irish came, and many others of the desirable people from northwest Europe, and when they were scattering themselves over the country and aiding in its upbuilding and in the development of the country they were not aided. The man in my State that desires to make his home in Texas or in New Mexico or anywhere else is not asking to be helped, and yet it is proposed to help those who are coming here for the purpose, many of them, of bettering their financial condition and returning to the country whence they came. And those who are agitating the bringing of that class of people are the ones who are also agitating the distribution of them at the Government expense. I have always been liberal, Mr. Chairman, whenever the question of establishing stations for the protection of these people when they arrive in this country has been discussed. I have always been in favor of liberal appropriations.

I was sorry a few days ago, when some gentlemen who take the contrary view as to restriction were opposing the construction of an immigration station at Baltimore which would have been adequate for the care of the arriving aliens. When they come, and come voluntarily, I want our country to present to them the best conditions that we have. I do not believe in stimulating immigration. We all deprecate, as we claim, stimulated immigration; and yet that very idea is involved in the question of distribution. It is stimulating the distribution of these people to sections of the country that they themselves are not seeking; and I, for one, desire now to say that whenever an effort is made either to compel the General Government to pay any part of the maintenance of the insane from other countries or to pay any part of the expense of distributing them into other sections of the country, I shall raise my voice and cast my vote against it every time.

Mr. BRYAN. Mr. Chairman, will the gentleman yield there?

Mr. BURNETT. Yes.

Mr. BRYAN. The gentleman stated a moment ago something about his view of the Progressive position with reference to the distribution of immigrants. One fact is that here a short time ago every Progressive on the floor, with the possible exception of one or two, voted for the literacy test in the gentleman's bill. Now does the gentleman assert that that bill is being held up—that is the rumor, at any rate—by President Wilson, and that the President is against it? Does the gentleman know whether that is true or not?

Mr. BURNETT. I do not; and I do not believe the President has ever said to anyone that he was opposed to that bill. I do not know why it is being sidetracked in the Senate, if it is being

sidetracked; but I do not believe that President Wilson, after the declarations he made a few years ago in a book which he wrote in criticizing the very class of people that would be kept out by the literacy test, will veto that bill or has said to anybody that he would do so.

Mr. BRYAN. The gentleman must admit that the Progressives helped him in the enactment of that bill.

Mr. BURNETT. Yes; every one except one of them, I think.

In regard to the first proposition, that of Government aid in the care of alien insane, I will say that a few weeks ago I received a letter from the governor of New York urging the passage of a law by Congress requiring the Federal Government to aid in their care and maintenance. I wrote him that the Burnett illiteracy-test bill if enacted into law would keep out thousands of this class of people, and yet the Members of Congress from New York City were loud in their opposition to this bill. This opposition showed their willingness to receive them, and yet when they get here they want the people of Alabama and other States to help support the insane who come in.

If they so readily open their gates to receive them, in the name of justice should they not be willing to support them?

I also received a resolution passed a short time ago by the New Hampshire Medical Society on May 13, 1914, asking "assumption by the Federal Government of an equitable share of the burden of caring for dependent aliens which is now borne by the States." An equitable share, indeed! Would it be equitable for States who are clamoring for the exclusion of these very people to be compelled to bear any part of the burden of the care and support of the paupers and lunatics forced into our country by the folly of Members of Congress? The annual expense of caring for the alien insane in New York alone is nearly $3,000,000. This number is being each year greatly increased by the admission of that very low class of immigrants that the illiteracy test would keep out.

In the report of the New York Board of Alienists for the year ending September 30, 1911, on page 22, the following statement is made:

> For the first few years after the commencement of that remarkable migration of the races of southern and eastern Europe to this country (to which Austria-Hungary, Italy, and Russia have contributed nearly 500,000 persons a year) it is noted that the increase of patients of those nationalities in the State hospitals was gradual. By 1905, however, it was possible to predict that when the effects of the "new immigration" commenced to be felt the "old immigration" (of Germans, Irish, and Scandinavians) would be outdone in the numbers of insane added to the foreign-born population of our State hospitals. To-day that prediction is fulfilled, and during the year more than 55 per cent of the aliens deported by the United States Immigration Service were natives of those three countries.

The New York Times of March 28, 1912, says:

> INSANE ALIENS.
>
> The Times is informed by Secretary McGarr, of the State commission in lunacy, that of the 31,432 insane patients under treatment in the 14 State hospitals on February 10 last, 13,163, or 41.9 per cent, were aliens. Foreign-born patients have increased since the Federal census of December 31, 1903, by 1,552, or 13.4 per cent. In the two State hospitals for the criminal insane there were 1,230 patients on February 10, of whom nearly 44.4 per cent were of alien birth; the Federal census of 1910 showed a percentage of aliens to total population in this State of 29.9 per cent.
>
> The prevalence of insanity among immigrants is evidently much greater than among the native born. Of the 5,700 patients admitted to the civil hospitals for the year ending September 30, 1911, 2,737, or 48 per cent, were aliens, and 1,481, or 26 per cent, were of alien parentage, while only 1,224, less than 26 per cent, were of native stock. Of the whole number, the nativity of but 218, which is 3.8 per cent, was not ascertainable. Insanity among the foreign peoples of this city occurs in a still larger percentage of cases. Of the first admissions to the hospitals, 2,003 out of 3,221 residents of the city were of foreign birth; that is 64.1 per cent, although the foreign-born population is but 40.4 per cent of the whole.

Do other States want the same conditions to arise in their borders? Does Indiana want its insane asylums and poorhouses filled with low Italians and Greeks? If not, they should see to it that their Members vote right on the bill which, to a great extent, will prevent that condition. If the Government is made to pay the expense of distributing the aliens as they come in, the day will soon come when the poorer States will see their asylums, almshouses, and penitentiaries filled with the most undesirable lot that can be inflicted on any people. Last year over 1,300,000 aliens came to this country. The year before about the same. Within the last 10 years nearly 12,000,000 came in. The numbers are increasing every year. Suppose this continues for 10 years longer.

Suppose in the meantime the plan of Government distribution should be adopted. Then the Black Hand and the Mafia and Camorra will not be confined to New York and Chicago, but the lives of honest people in every State in the Union will be at the mercy of these assassins.

True, the Black Hand leaders would escape the illiteracy test, but it would keep out thousands of illiterates who are easy tools and dupes in the hands of the leaders. Besides, other sections of the bill, if passed, would keep out the leaders themselves.

This idea of distribution is a delusion and a snare, and is intended to forestall legislation that would keep out the undesirable hordes that are flocking to our shores.

All plans for the distribution of immigrants have proved a failure wherever tried. Immigration distributes itself. As has often been pointed out, schemes to distribute immigrants have invariably been advocated by the steamship or transportation companies, or by persons who believe that we ought to have an unlimited supply of cheap labor, regardless of the maintenance of a high standard of living for American workmen.

The present Division of Information in the Bureau of Immigration I regard as a useless appendage, barren of beneficial results. The Immigration Commission, of which I was a member, investigated this question carefully, and reached the following conclusion:

> The law of 1907 provided for the establishment of a division of information in the Bureau of Immigration, the intent being that the division should disseminate among admitted immigrants information relative to opportunities for settlers in sections of the country apart from cities and purely industrial centers. It was hoped that the division could devise means of inaugurating a movement among immigrants which would eventually result in their more equitable distribution. The apparent result, however, does not indicate that the purpose of the law is being fulfilled. As conducted, the work of the division appears to be essentially that of an employment agency whose chief function is supplying individuals to meet individual demands for labor in agricultural districts. It does not appear that persons thus distributed have, as a rule, been distributed with the purpose that they would become permanent settlers in the districts to which they went, but rather that a more or less temporary need of the employer and employee was supplied through this agency.
>
> No satisfactory or permanent distribution of immigrants can be effected through any Federal employment system, no matter how widespread, because the individual will seek such social and economic conditions as best suit him, no matter where sent.

The distribution that is being made by soulless employers of labor is working grievous wrong and hardship to the old immigrant and the American workingman. Look up the history of the recent reign of terror in the Colorado and Michigan strikes and you will find that they were brought about by the employment of the low-priced alien who drove out the old immigrant and the Americans who wanted a living wage to support and clothe those whom God had made dependent on them.

When will the country arouse from its lethargy and drive from Congress those who vote to weld the shackles on the hands of labor?

Mr. FITZGERALD. Mr. Chairman, I yield one minute to the gentleman from Virginia [Mr. CARLIN].

Mr. CARLIN. Mr. Chairman, I ask unanimous consent to extend my remarks in the RECORD by inserting some remarks and a speech recently made on industrial conditions.

The CHAIRMAN. The gentleman from Virginia [Mr. CARLIN] asks unanimous consent to extend his remarks in the RECORD by inserting the remarks and speech indicated.

Mr. MANN. Mr. Chairman, no one could hear what the matter indicated was.

The CHAIRMAN. Some remarks and a speech made on the subject of industrial conditions.

Mr. MANN. Whose speech?

Mr. CARLIN. A speech of Secretary Redfield's, recently made.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. GILLETT. Mr. Chairman, I yield 15 minutes to the gentleman from South Dakota [Mr. BURKE].

The CHAIRMAN. The gentleman from South Dakota [Mr. BURKE] is recognized for 15 minutes.

[Mr. BURKE of South Dakota addressed the committee. See Appendix.]

Mr. BUCHANAN of Illinois. Mr. Chairman, I suggest the absence of a quorum.

The CHAIRMAN. The gentleman from Illinois makes the point of no quorum, and the Chair will count. [After counting.] Eighty-nine Members present—not a quorum.

Mr. FITZGERALD. Mr. Chairman, I move that the committee do now rise.

The question was taken; and on a division (demanded by Mr. FITZGERALD) there were 26 ayes and 42 noes.

Mr. FITZGERALD. I demand tellers.

Tellers were ordered, and the Chair appointed as tellers Mr. FITZGERALD and Mr. GILLETT.

The committee again divided; and the tellers reported that there were 15 ayes and 85 noes.

Mr. BUCHANAN of Illinois. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. BUCHANAN of Illinois. Has a member of the committee, when he knows the count is wrong, the right to make a protest? When he knows that certain Members have voted twice is there any relief or remedy from a practice of that kind, a practice of Members that have probably been schooled in Tammany Hall?

Mr. FITZGERALD. The count of the tellers is absolutely correct. The gentleman from Illinois [Mr. BUCHANAN] and the chairman have not been counted. The gentleman from Illinois makes the point of no quorum, and then goes out so that he can not be counted.

Mr. BUCHANAN of Illinois. I am asking for information from the Chair, if the House of Congress is going to adopt the practices of Tammany Hall?

Mr. GOULDEN. The gentleman from Illinois has no right to make any such an untrue statement on the floor of Congress, and I enter my protest against it.

The CHAIRMAN. The Chair has no method of determining except from the report of the tellers.

Mr. BUCHANAN of Illinois. And there is no way to verify the count?

Mr. FITZGERALD. Yes; there is a way to verify the count; just let the gentleman from Illinois stay here instead of running out to avoid being counted and trying to reduce the number. He might be satisfied with his own count, although I doubt that.

Mr. BUCHANAN of Illinois. The gentleman from New York is mistaken; the gentleman from Illinois did not run out; and the gentleman from New York, as he did yesterday, is trying to defeat one of the most meritorious bills that has ever been before Congress, and these reactionaries from New York are following him and trying to kill legislation for the benefit of the laboring people of this country.

The CHAIRMAN. Answering the gentleman's parliamentary inquiry, the Chair will state that the Chair is dependent on the tellers for the report. The tellers report that there were 15 ayes and 85 noes.

Mr. GILLETT. Mr. Chairman, I would like to be allowed to state that I counted not only the ayes but also the noes, and the count was absolutely correct. [Applause.]

Mr. BUCHANAN of Illinois. And I want to repeat my statement, Mr. Chairman, that the count was incorrect; I can count as well as the tellers.

The CHAIRMAN. The gentleman from Illinois will be in order.

Mr. HEFLIN. Mr. Chairman, the count was 15 ayes and 85 noes, and I just came from the Senate Chamber, and I asked a page to notify Members of the House in there, and they came in after the report.

The CHAIRMAN. The matter is settled; the report of the tellers is final.

Mr. FOWLER. A parliamentary inquiry, Mr. Chairman.

The CHAIRMAN. The gentleman will state it.

Mr. FOWLER. Was the count on a quorum or on the question as to whether the committee would rise or not?

The CHAIRMAN. On the question as to whether the committee would rise.

Mr. FOWLER. The Chair has not so reported.

The CHAIRMAN. The Chair stated that the noes had it. The committee determines not to rise, and the Clerk will read.

The Clerk read as follows:

Be it enacted, etc., That the following sums be, and the same are hereby, appropriated for the objects hereinafter expressed, for the fiscal year ending June 30, 1915, namely.

Mr. FITZGERALD. Mr. Chairman, from time to time the Treasury Department is sending estimates here for additional sums for public buildings where arrangements have been completed to acquire sites which are authorized. I ask unanimous consent that the public-buildings items included in the first 19 pages of the bill be passed over until the end of the bill, so that as official estimates come in an opportunity may be had to investigate them and offer such amendments as may be proper.

The CHAIRMAN. The gentleman from New York asks unanimous consent that the public-buildings items appearing from page 2 to line 21 on page 19, inclusive, be passed over without prejudice. Is there objection?

Mr. BUCHANAN of Illinois. I object.

The CHAIRMAN. The gentleman from Illinois objects, and the Clerk will read.

The Clerk read as follows:

UNDER THE TREASURY DEPARTMENT.

PUBLIC BUILDINGS, CONSTRUCTION AND SITES.

For sites, commencement, continuation, or completion of public buildings within the respective limits of cost authorized by law, including rent and removal expenses in cities pending extension and remodeling of buildings, as follows.

Mr. MANN. Mr. Chairman, I move that the items in the bill from page 2 down to and including line 21, page 19, be postponed for consideration until after section 14 has been read.

The CHAIRMAN. The gentleman from Illinois moves that the public-buildings items, from page 2 down to and including line 21, page 19, be postponed until after section 14 is read.

The question was taken, and the motion was agreed to.

The Clerk read as follows:

QUARANTINE STATIONS.

The provision in the sundry civil act approved June 23, 1913, which reads as follows: "Cape Charles Quarantine Station: Residence for quarantine officer, $8,000," is amended so as to authorize the Secretary of the Treasury, in his discretion, to cause such residence to be erected upon land now owned by the United States at Fort Monroe, Va.

Mr. MANN. Mr. Chairman, I move to strike out the last word. I would like to ask the gentleman what the object is in moving the residence of the officer in charge of the quarantine station at Cape Charles from a place where it would be convenient to put it over to where the Government now owns land, I suppose where Fort Monroe is, where he would have to be conveyed back and forth every day probably by Government vessels?

Mr. FITZGERALD. Mr. Chairman, under the original authorization it was intended to put this residence at Fort Monroe. When an attempt was made to erect a station, as intended and as was explained when the appropriation was originally made, it was ascertained that there was some doubt whether the expenditures for the residence at that particular place should be approved. This item was to carry out what was intended should be done when the appropriation was made in the last sundry civil appropriation bill.

Mr. MANN. Where is this quarantine station located?

Mr. FITZGERALD. On Fishermans Island.

Mr. MANN. How far is that from the point?

Mr. FITZGERALD. It is not very far. It is out in the bay.

Mr. MANN. It is quite a ride from Fort Monroe to this place. My recollection is that it takes several hours to make it, and of course it requires the services of a cutter or a quarantine boat, and it will take that much longer than it would if the officer lived within a reasonable distance from the quarantine station. What is the object in locating the residence of the quarantine officer a good many miles away from where he has to perform his duties?

Mr. FITZGERALD. The intention was to have the quarantine officer commence boarding at sunrise, and the boat leaves Fort Monroe to meet the incoming vessels.

Mr. MANN. Does that boat run into Norfolk every night? Of course, that is where the boat goes, if it goes in. Why should the quarantine boat go into Norfolk every night instead of tying up at the quarantine station?

Mr. FITZGERALD. This is not into Norfolk. It is into Chesapeake Bay.

Mr. MANN. When Government vessels go into Fort Monroe, they tie up at Norfolk, as a rule. There is no place for them to tie up at Fort Monroe that I know of.

Mr. FITZGERALD. Vessels going up the Potomac are boarded at this point.

Mr. MANN. I imagine the quarantine officers do not wait to board a vessel going up the Potomac River until it gets into the Potomac River. They board the vessel out at sea.

Mr. FITZGERALD. The statement is that the vessel on which he boards leaves Fort Monroe, and the desire is to have the officer reside there so that he could start out at sunrise.

Mr. MANN. Of course, it is natural for the officer to prefer to reside at a military camp where there are a lot of military officers, and have a nice home there, although it is not convenient to his place of business, and then have the Government vessel spend some hours every day taking him to and fro so as to get him to his place of business from where he lives at night. It does not strike me as very economical, nor do I think we ought to run the whole business of the Government based on the fancy of an officer that he wants to live where the other officers live.

Mr. FITZGERALD. The quarantine officer resides at present, it was stated last year to the committee, in an old hulk which is anchored off Fort Monroe. On several occasions the vessel broke away and drifted out with the doctor's outfit, and a rescuing party had to be sent after it. The statement was made that it was desired to have a physician at Fort Monroe. Fishermans Island is 19 miles across the bay, but the physician has been residing not on Fishermans Island but in this old hulk.

Mr. MANN. Is not Fishermans Island where the physician ought to reside?

Mr. FITZGERALD. I do not know.

Mr. MANN. If they have a quarantine station there, why should not the officer in charge of it live at that quarantine station instead of our having to convey him every day by vessel 19 miles at considerable expense necessarily?

Mr. FITZGERALD. They say it is necessary to have a physician on shore in the daytime where he can receive messages and be in touch with his work. When the station was authorized a residence was authorized and the intention was to place it at Fortress Monroe. Under the provision as worded it could not be built there, and this is to permit them to put the physician on shore at Fortress Monroe. It may be just as well to leave him in the old hulk or to put him at Fishermans Island, but the Public Health Service seemed to believe it was desirable and essential that this residence should be at this particular point.

Mr. MANN. Mr. Chairman, I do not wish to set my judgment up against the judgment of the committee, although I can not see that they have very good judgment in regard to the matter, and I shall withdraw the pro forma amendment. I can understand how an officer in the service likes to live near the Hotel Chamberlin at Old Point Comfort. It makes it very pleasant in the evening for social engagements and things of that sort, but it is a long way from where he is performing his duty. He wants to build a residence there, and I take it that is where it will be built—over where the residences of the officers of the Army are, convenient to the crowds that gather at the Chamberlin Hotel during the season.

Mr. FITZGERALD. I think that might make it more congenial.

Mr. MANN. I have no doubt it makes it more congenial, but I am afraid not more effective.

Mr. FITZGERALD. The Surgeon General of the Public Health Service insisted it was highly desirable to have the residence at Fort Monroe, that all of the quarantine work for Norfolk, Newport News, Hampton, Smithfield, and Richmond should be done from that station.

As to whether a message can be received from the one at Fishermans Island I am unable to say. This seems to be the opinion of those in control of the service, and it is the intention to build a residence at this place and this enables it to be done.

The CHAIRMAN. The time of the gentleman has expired. Without objection, the pro forma amendment will be considered as withdrawn.

There was no objection.

The Clerk read as follows:

PUBLIC BUILDINGS, REPAIRS, EQUIPMENT, AND GENERAL EXPENSES.

Repairs and preservation: For repairs and preservation of all completed and occupied public buildings and the grounds thereof, under the control of the Treasury Department, and for wire partitions and fly screens therefor, Government wharves and piers under the control of the Treasury Department, together with the necessary dredging adjacent thereto, buildings and wharf at Sitka, Alaska, and the Secretary of the Treasury may, in renting said wharf, require that the lessee shall make all necessary repairs thereto; for care of vacant sites under the control of the Treasury Department, such as necessary fences, filling dangerous holes, cutting grass and weeds, but not for any permanent improvements thereon; for repairs and preservation of buildings not reserved by vendors on sites under the control of the Treasury Department acquired for public buildings or the enlargement of public buildings, the expenditures on this account for the current fiscal year not to exceed 15 per cent of the annual rentals of such buildings: *Provided*, That of the sum herein appropriated not exceeding $100,000 may be used for marine hospitals and quarantine stations, including wire partitions and fly screens for same, and not exceeding $14,000 for the Treasury, Butler, and Winder Buildings at Washington, D. C., including the old building of the Bureau of Engraving and Printing: *Provided further*, That this sum shall not be available for the payment of personal services except for work done by contract or for temporary job labor under exigency not exceeding at one time the sum of $100 at any one building, $725,000.

Mr. MADDEN. Mr. Chairman, I reserve a point of order against the paragraph for the purpose of asking the gentleman from New York what is meant by the words "building and wharf at Sitka, Alaska, and the Secretary of the Treasury may, in renting said wharf, require that the lessee shall make all necessary repairs thereto." What is the purpose of this? Is the Government going to embark in the building of a wharf for the purpose of leasing it to somebody else?

Mr. FITZGERALD. This is a little old frame building with a wharf. The department wanted to sell it for some nominal sum. This provision is placed in this item so as to prevent the Treasury Department from engaging in extensive repairs to the wharf at Sitka, Alaska. The provision for the lease has been such that the lessee is required to make all the repairs and permit the Government boat to dock at this wharf. The department prefers to have this changed and permit them to turn it over to the city of Sitka, if I recall correctly, but the committee did not think it wise to do so.

Mr. MADDEN. The Government owns this wharf now?

Mr. FITZGERALD. This provision has been carried in this item for some years, and is to prevent the use of this appropriation for a very large expenditure.

Mr. MADDEN. Mr. Chairman, I withdraw the point of order.

The Clerk read as follows:

General expenses: To enable the Secretary of the Treasury to execute and give effect to the provisions of section 6 of the act of May 30, 1908 (35 Stats., p. 537, pt. 1): For additional salary of $1,000 for the Supervising Architect of the Treasury for the fiscal year 1915; for one architectural designer, at $6,000 per annum; for foremen draftsmen, architectural draftsman, and apprentice draftsmen, at rates of pay from $480 to $2,500 per annum; for structural engineers and draftsmen, at rates of pay from $840 to $2,200 per annum; for mechanical, sanitary, electrical, heating and ventilating, and illuminating engineers and draftsmen, at rates of pay from $1,200 to $2,400 per annum; for computers and estimators, at rates of pay from $1,600 to $2,500 per annum, the expenditures under all the foregoing classes for which a minimum and maximum rate of compensation is stated, not to exceed $168,450; for supervising superintendents, superintendents, and junior superintendents of construction and inspectors, at rates of pay from $1,600 to $2,900 per annum, not to exceed $278,960; for expenses of superintendence, including expenses of all inspectors and other officers and employees, on duty or detailed in connection with work on public buildings and the furnishing and equipment thereof, under orders from the Treasury Department; office rent and expenses of superintendents, including temporary stenographic and other assistance in the preparation of reports and the care of public property, etc.; advertising; office supplies, including drafting materials, specially prepared paper, typewriting machines, adding machines, and other mechanical labor-saving devices, and exchange of same; furniture, carpets, electric-light fixtures and office equipment; telephone service; not to exceed $6,000 for stationery; not to exceed $1,000 for books of reference, law books, technical periodicals and journals, subscriptions to which may be paid in advance; for contingencies of every kind and description, traveling expenses of site agents, recording deeds and other evidences of title, photographic instruments, chemicals, plates, and photographic materials, and such other articles and supplies and such minor and incidental expenses not enumerated, connected solely with work on public buildings, the acquisition of sites, and the administrative work connected with the annual appropriations under the Supervising Architect's Office as the Secretary of the Treasury may deem necessary and specially order or approve, but not including heat, light, janitor service, awnings, curtains, or any expenses for the general maintenance of the Treasury Building, or surveys, plaster models, progress photographs, test pit borings, or mill and shop inspections, $563,560.

Mr. FOWLER. Mr. Chairman, I reserve a point of order against the paragraph. On page 23 I discover that there is a provision for the increase of the architect's salary for the coming year of $1,000. What is the necessity for that increase?

Mr. FITZGERALD. It has been carried in this way for a great many years. The salary of $5,000 is carried in the legislative bill. For a number of years since the work of the Supervising Architect's Office has been very greatly increased an additional $1,000 has been carried in this item.

Mr. FOWLER. I discover also that the gentleman provides for a salary of $6,000 for an architectural designer.

Mr. FITZGERALD. That place is authorized by law. It is authorized in the last public-buildings act.

Mr. FOWLER. Is it authorized at the salary of $6,000?

Mr. FITZGERALD. Yes; in the public-buildings act approved March 4, 1913. I can refer the gentleman to it, if he desires—section 28, "that the employment is hereby authorized of an architectural designer at a compensation of $6,000 per annum."

Mr. FOWLER. Well, the matter which occurs to me, in reference to the compensation, is that these men, whom I regard as holding subordinate positions, get a greater salary than the First, Second, Third, and Fourth Assistant Postmasters General of the Post Office Department.

Mr. FITZGERALD. Yes. The technical services rendered by these men are of such a character that this designer was provided in order to avoid, if possible, or as much as possible, the employment of certain outside architects at very large fees. After the repeal of the Tarsney Act, by which the Secretary of the Treasury was authorized, in his discretion, to employ outside architects for any public building, it was believed that a man of very high skill and capacity should be employed in the Supervising Architect's Office and a saving would be effected. That position was created in the public-buildings bill.

Mr. FOWLER. I have no doubt but what a high degree of skill is required there, but I also believe there is a good deal of lapping over in work. I can see no reason why the design for a certain building can not be used in many places instead of making a design for each building.

Mr. FITZGERALD. Well, they are doing that now.

Mr. FOWLER. That is a recent thing, is it not?

Mr. FITZGERALD. Within the last two or three years.

Mr. FOWLER. That is what I meant. I shall not make the point of order against the additional $1,000, but I do not think it ought to be carried here, and I do not think that these subordinate places should receive a salary above those of great responsibility, such as the First, Second, Third, and Fourth Assistant Postmasters General.

Mr. FITZGERALD. The recommendation of the Public Buildings Commission, I think, is that the compensation of this position should be increased to $7,500. We are spending about $20,000,000 a year in the construction of public buildings in the United States, and the responsibility, I think, is much greater than that of any of the positions mentioned by the gentleman from Illinois, because a competent man can save a very considerable sum of money every year, while an incompetent man makes the whole building program of the Federal Government almost approach a scandal.

Mr. FOWLER. Why, the efficiency of the Post Office Department ought to be such as to handle more than $300,000,000 economically, because that is the appropriation this year. The gentleman speaks about efficiency——

Mr. FITZGERALD. I think, however, that the technical knowledge required by men engaged in construction commands a higher compensation than other positions. Men do not seek such positions because of the honor as they do the other places. They seek them because it is part of their professional work.

Mr. FOWLER. And because they are remunerative.

Mr. MADDEN. This is a real workman's job.

Mr. FOWLER. I know that, and that is the reason I am not going to make the point of order. If it was a playhouse job, I would make the point of order.

Mr. MADDEN. This is a workman's job, and really I do not know of a job that requires greater technical knowledge.

Mr. FOWLER. It does, and we want to get the very highest order of efficiency in these public servants, and they ought to have a good salary.

Mr. MADDEN. You can not employ that kind of a man without paying him good compensation for the responsibility and the knowledge required by it.

Mr. FOWLER. I agree with the gentleman.

Mr. MADDEN. You do not have to get that same kind of talent for an Assistant Postmaster General.

Mr. FOWLER. I am sorry I can not agree with my colleague.

Mr. MADDEN. A man to be appointed one of the Assistant Postmasters General requires no technical knowledge whatever; all they need is to be good looking and have some political influence.

Mr. FOWLER. My experience is that the heads and chiefs of nearly everything, like the chief cook, is always a good-looking fellow or a good-looking woman, but the subordinates are really the ones who have the efficiency and have the lash put to them if they do not do the work correctly.

Mr. MADDEN. They are the men who tell the superior officer how to do it.

Mr. FOWLER. I withdraw the point of order.

The Clerk read as follows:

PUBLIC BUILDINGS, OPERATING EXPENSES.

Operating force: For such personal services as the Secretary of the Treasury may deem necessary in connection with the care, maintenance, and repair of all public buildings under the control of the Treasury Department (except as hereinafter provided), together with the grounds thereof and the equipment and furnishings therein, including assistant custodians, janitors, watchmen, laborers, and charwomen; engineers, firemen, elevator conductors, coal passers, electricians, dynamo tenders, lampists, and wiremen; and for the mechanical labor force in connection with said buildings, including carpenters, plumbers, steam fitters, machinists, and painters, but in no case shall the rates of compensation for such mechanical labor force be in excess of the rates current at the time and in the place where such services are employed, $2,600,000: *Provided*, That the foregoing appropriation shall be available for use in connection with all public buildings under the control of the Treasury Department, including the customhouse at Washington, D. C., but not including any other public building within the District of Columbia, and exclusive of marine hospitals, quarantine stations, mints, branch mints, and assay offices.

Mr. BUCHANAN of Illinois. Mr. Chairman, I make the point of no quorum.

The CHAIRMAN. The gentleman from Illinois makes the point of order that there is no quorum present. The Chair will count. [After counting.] Seventy-three gentlemen are present; not a quorum. The Clerk will call the roll.

The roll was called, and the following Members failed to answer to their names:

Ainey	Campbell	Danforth	Finley
Allen	Cantrill	Davenport	Floyd, Ark.
Anderson	Carew	Decker	Fordney
Anderry	Carlin	Dershem	Francis
Anthony	Carter	Dies	Frear
Barnhart	Casey	Difenderfer	Gallagher
Bartholdt	Chandler, N. Y.	Dooling	Gardner
Bell, Cal.	Church	Doremus	George
Bell, Ga.	Clancy	Doughton	Gerry
Borland	Clark, Fla.	Drukker	Gittins
Brodbeck	Copley	Dyer	Glass
Browning	Covington	Eagan	Goeke
Bruckner	Cramton	Elder	Goldfogle
Burke, Pa.	Crisp	Fairchild	Goodwin, Ark.
Calder	Crosser	Faison	Gordon
Callaway	Dale	Fess	Gorman
Graham, Ill.	Konop	Nelson	Small
Graham, Pa.	Korbly	Nolan, J. I.	Smith, Md.
Greene, Mass.	Kreider	Norton	Smith, Sam'l W.
Griest	Lafferty	O'Brien	Smith, Minn.
Griffin	Langham	Oglesby	Smith, N. Y.
Hamill	Langley	O'Hair	Smith, Tex.
Hamilton, N. Y.	Lazaro	Oldfield	Sparkman
Hardwick	Lee, Ga.	O'Shaunessy	Stafford
Hart	L'Engle	Page, N. C.	Stanley
Hayes	Lenroot	Paige, Mass.	Stephens, Nebr.
Helgesen	Lever	Palmer	Stephens, Tex.
Helm	Levy	Parker	Stevens, N. H.
Helvering	Lewis, Pa.	Patten, N. Y.	Stout
Henry	Lieb	Patton, Pa.	Stringer
Hinebaugh	Lindquist	Payne	Talbott, Md.
Howard	Lloyd	Peters, Me.	Taylor, Ala.
Hoxworth	Lobeck	Peters, Mass.	Taylor, N. Y.
Hughes, W. Va.	Loft	Plumley	Thomas
Humphreys, Miss.	Lonergan	Porter	Towner
Igoe	McClellan	Ragsdale	Tuttle
Jacoway	McCoy	Reed	Underhill
Johnson, Utah	McGuire, Okla.	Riordan	Vare
Jones	McLaughlin	Roberts, Mass.	Vaughan
Kahn	Mahan	Rogers	Walker
Keister	Maher	Rothermel	Wallin
Kelley, Mich.	Manahan	Rucker	Watson
Kelly, Pa	Martin	Sabath	Webb
Kennedy, Conn.	Merritt	Saunders	Whaley
Kennedy, R. I.	Metz	Scully	Whitacre
Kent	Miller	Sharp	White
Key, Ohio	Mondell	Sherley	Wilson, N. Y.
Kiess, Pa.	Montague	Shreve	Winslow
Kindel	Moore	Sims	Woods
Kinkaid, Nebr.	Morgan, La.	Sinnott	Young, N. Dak.
Kinkead, N. J.	Morin	Slayden	Young, Tex.
Kirkpatrick	Murray, Mass.	Slemp	
Knowland, J. R.	Neeley, Kans.	Sloan	

Thereupon the committee rose; and the Speaker having resumed the chair, Mr. ASHBROOK, Chairman of the Committee of the Whole House on the state of the Union, reported that the committee, having under consideration the bill H. R. 17041, finding itself without a quorum, he had caused the roll to be called, and that 223 Members answered to their names, a quorum, and that he presented a list of the absentees for printing in the Journal.

The committee resumed its session.

The CHAIRMAN. The Clerk will read.

Mr. RAKER. Mr. Chairman, I move to strike out the last word. Some two years ago I introduced in the House a bill for the purpose of creating a national park out of the territory in which Mount Lassen and Cinder Cone are located. I have been attempting to get that matter out of the committee——

Mr. MANN. I make the point of order against that. It is not in order.

Mr. RAKER. I know it is not; but I thought I would try it.

Mr. MANN. The gentleman is not speaking to the paragraph of the bill under consideration. I have no desire to enforce the point of order unless it is the intention of the gentleman from New York [Mr. FITZGERALD] to enforce it against this side. I am not willing to let gentlemen on that side discuss questions out of order and then have the rule enforced against Members on this side.

Mr. GARNER. I think the gentleman ought to protect that side of the House against violations of the rule, and we will do so on this side.

Mr. FITZGERALD. I did not object to this, Mr. Chairman. The gentleman from California [Mr. RAKER] speaks so seldom that I thought it would be all right now.

Mr. MANN. That is not sufficient for me. I want to know whether the gentleman is going to enforce the rule on gentlemen on this side of the House, because if he is I am going to enforce it against gentlemen on that side of the House. I make the point of order.

The CHAIRMAN. The gentleman from Illinois makes the point of order.

Mr. RAKER. Mr. Chairman, under the point of order made by the distinguished leader on the other side of the House, I withdraw my motion to amend, as the point of order is undoubtedly well taken.

The CHAIRMAN. Without objection, the pro forma amendment will be withdrawn, and the Clerk will read.

The Clerk read as follows:

LIFE-SAVING SERVICE.

For district superintendents of life-saving and lifeboat stations and houses of refuge, as follows: Maine and New Hampshire, 1, $2,200; Massachusetts, 1, $2,200; Rhode Island and Fishers Island, 1, $2,000; Long Island, 1, $2,200; New Jersey, 1, $2,200; Delaware, Maryland, and Virginia, 1, $2,200; Virginia and North Carolina, 1, $2,200; South Carolina, Georgia, and Florida, 1, $1,900; Gulf of Mexico, 1, $2,000; Lakes Ontario and Erie, 1, $2,200; Lakes Huron and Superior, 1, $2,200; Lake Michigan, 1, $2,200; California, Oregon, Washington, and Alaska, 1, $2,200; 13 in all, $27,900.

Mr. MANN. Mr. Chairman, I reserve a point of order on that item at the bottom of page 29. I would like to ask the gentleman if the title of the superintendents of life-saving stations have been changed.

Mr. FITZGERALD. They have not been changed.

Mr. MANN. The gentleman carries the title here, "district superintendents of life-saving and lifeboat stations and houses of refuge." When were those words added to the title of superintendents of life-saving stations?

Mr. FITZGERALD. That is in the current law.

Mr. MANN. No; it has never been carried in the current law heretofore.

Mr. FITZGERALD. We have changed the arrangement; that is all.

Mr. MANN. I understand the arrangement has been changed, and I have no objection to that, but the title used to be, and I think still is, "district superintendents of life-saving stations." There is one to each district. Now, you carry it as "district superintendents of life-saving and lifeboat stations and houses of refuge." It is true that these district superintendents have under their control some lifeboat stations and some houses of refuge, but I think that is not their title, and this is merely descriptive of the title of those officials.

Mr. FITZGERALD. Formerly it was "district superintendent of life-saving stations, as follows." Then we would enumerate the life-saving stations.

Mr. MANN. It should still be "for district superintendents of life-saving stations."

Mr. FITZGERALD. Then would come a "superintendent of a house of refuge"—that would be another title—and then "for life-saving and lifeboat stations." There are titles corresponding to that. Some have no houses of refuge. The arrangement is merely changed. I do not think it affects in any way the substance of it, but it eliminates the repetition of the words.

Mr. MANN. I understand they have under their control certain life-saving stations, certain lifeboat stations, and certain houses of refuge; but the title of the officer is "district superintendent of life-saving stations."

Mr. FITZGERALD. I call the attention of the gentleman to the fact that in the current law there was this: "For district superintendent of life-saving station."

Mr. MANN. That is the title of the officer.

Mr. FITZGERALD. That is one.

Mr. MANN. That is proper. That is the one you make appropriation for.

Mr. FITZGERALD. "District superintendent" is the title of the office.

Mr. MANN. "District superintendent of life-saving station" is the title of the office, and it covers, for instance, the life-saving station and the house of refuge on the coast of South Carolina, Georgia, and Florida. But you do not wish to change the title of the office?

Mr. FITZGERALD. No; we do not wish to change it.

Mr. MANN. You have changed it in this appropriation.

Mr. FITZGERALD. In order to eliminate the repetition of certain words this modification was made, and the item was submitted to the department officials, and they said it would not affect the occupants of the places.

Mr. MANN. I understand. I suppose that is true, and I should say that the district superintendent of a life-saving station carried in this bill, for example, for the life-saving station in the South Carolina district, would still have jurisdiction over the houses of refuge. I am not going to insist upon the point of order.

Mr. GARNER. Mr. Chairman, I move to strike out the last word.

The CHAIRMAN. Does the gentleman from Illinois withdraw his point of order?

Mr. MANN. Yes; I withdraw it.

The CHAIRMAN. The gentleman from Texas moves to strike out the last word.

Mr. GARNER. What is the object of having different salaries for similar places in this paragraph?

Mr. MANN. The salaries are fixed by statute, I will say to the gentleman—a very good reason.

Mr. FITZGERALD. The compensation is fixed by statute, and I think it depends upon the importance of the station or of the district, rather. Some districts have a number of stations and a great deal of work and others have not so much.

Mr. GARNER. One of them coming under my observation is the district of the Gulf of Mexico. I do not know who the superintendent is, when he was appointed, or where he comes from, but I know he covers as much territory and puts in as many hours as the superintendent of any district in the United States.

Mr. FITZGERALD. The cost of living is cheaper there.

Mr. GARNER. That can not be the reason. The gentleman's reason for the difference in the salary does not hold good. He first said it was the importance of the station and the importance of the work done.

Mr. FITZGERALD. The coast there is not so dangerous.

Mr. MADDEN. It is protected by Angora wool. [Laughter.]

Mr. GARNER. It is not protected by the gentleman from Illinois [Mr. MADDEN]. He is far distant from it.

Mr. FITZGERALD. It is a matter that should be taken up with the committee that has jurisdiction of the subject. We can not fix the compensation.

Mr. GARNER. I wanted to see if it was the importance of the station and the amount of work done or the energy of the Congressman representing the district.

Mr. FITZGERALD. I think not, because if it depended upon the ingenuity of the Congressmen and their activity I am sure the Gulf station would have a much higher compensation than any other. [Laughter.]

Mr. MANN. The hardships on the Gulf coast are not as great as those at other stations.

Mr. GARNER. I am not convinced by the statement of the gentleman from New York. In glancing over this bill I find in stations close together a difference in salary of as much as $200. It occurs to me that in arranging those salaries it might be dependent on the activity of the Congressman representing the district.

Mr. MANN. I assure the gentleman from Texas that the activities of the Congressmen had nothing whatever to do with the case. Those salaries were fixed by a bill which was framed and reported out by the Committee on Interstate and Foreign Commerce, based largely on the work and the hardships that these men perform. They are sometimes transferred, but not often, from one station to another. They used to be. Their salaries were fixed upon the recommendation of the department at the time they were fixed.

Mr. GARNER. The gentleman from Illinois [Mr. MANN] says it depends upon the work and the hardships. What does he term "the work and the hardships"?

Mr. MANN. I will say this: It is much less of a hardship to be the superintendent of a life-saving station on the Gulf coast than it is on the coast of Maine.

Mr. GARNER. Yes. But here on the Virginia and North Carolina coast, 300 miles away, with the same climatic conditions, you have a $2,000 job and a $2,200 job.

Mr. MANN. We have in Virginia and North Carolina one of the worst coasts there is anywhere. In the case of the superintendent of the district covering Virginia and North Carolina the salary is $2,200.

Mr. GARNER. No; $1,900.

Mr. MANN. Two thousand two hundred dollars. The gentleman from Texas can not tell me that, because I know otherwise.

Mr. GARNER. Virginia and North Carolina, $2,200; South Carolina, Georgia, and Florida, $1,900.

Mr. MANN. The gentleman admits that the coast along South Carolina, Georgia, and Florida is a simple and safe coast to take care of, compared with the North Carolina coast?

The CHAIRMAN. The time of the gentleman has expired. If there be no objection, the pro forma amendment will be considered as withdrawn and the Clerk will read.

The Clerk read as follows:

For establishing new life-saving stations and lifeboat stations on the sea and lake coasts of the United States, authorized by law, $25,000, to be available until expended.

Mr. MANN. Mr. Chairman, I move to insert after the word "States" and before the word "authorized," in line 20, page 31, the word "when."

The CHAIRMAN. The gentleman from Illinois offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amend, page 31, line 20, by inserting after the word "State" the word "when."

Mr. MANN. It should come before the word "authorized," after the comma.

Mr. FITZGERALD. These are for the life-saving stations that are already authorized.

Mr. MANN. It should read:

When authorized by law.

Mr. FITZGERALD. There are certain stations already authorized.

Mr. MANN. That would be covered. I do not mean when authorized hereafter.

Mr. FITZGERALD. It is unnecessary.

Mr. MANN. I think the fact is that under this appropriation, which is intended to provide for the construction of life-saving stations that are authorized by law, they use the language—

Authorized by law—

as meaning authorized by this appropriation, and go ahead and construct a station without any authorization of law whatever.

Mr. FITZGERALD. There has not been any instance of that character.

Mr. MANN. Where were the new stations authorized last year? I know there have been cases where stations have been constructed, with no previous authorization of law.

Mr. FITZGERALD. There is one station at Seagate, N. Y.

Mr. MANN. When was that authorized by law?

Mr. FITZGERALD. There are three stations authorized—one at Seagate, N. Y.; one at Mackinac Island, Mich.; and one at Half Moon Bay, Cal. They were authorized in the act of August 24, 1912. There is another for Liberty Island. No attempt has been made to select a site there. There is a balance of $37,000, and with the $25,000 appropriated in this bill they expect to complete the four stations.

Mr. MANN. This item is carried every year, is it not?

Mr. FITZGERALD. Not every year.

Mr. MANN. How were these three stations authorized in 1912?

Mr. FITZGERALD. They were carried in some bill reported from the Committee on Interstate and Foreign Commerce.

Mr. MANN. The gentleman may be correct, but I doubt it.

Mr. FITZGERALD. We do not provide for them unless they are authorized.

Mr. MANN. I know the gentleman does not endeavor to provide for unauthorized stations, but some stations have been constructed without any authorization of law.

Mr. FITZGERALD. In 1906 there was an appropriation of $30,000. The next appropriation was in 1911, of $20,000. There was one in 1912 of $20,000. There was none for 1913. For the current year there is an appropriation of $20,000.

Mr. MANN. For the current year, $20,000?

Mr. FITZGERALD. Yes. They have an unexpended balance of $37,000. The estimate was for $62,000, to complete these four stations. There are some other stations which have been authorized, some of them as far back as 1872.

Mr. MANN. Certainly the committee does not intend to appropriate money to build stations that were authorized in 1872.

Mr. FITZGERALD. No. That is one of the reasons why appropriations have been eliminated in certain years. The act approved August 24, 1912, provides for the establishment of one life-saving station on the larger of the two Liberty Islands situated at the entrance to Machias Bay, Me.; one life-saving station at Half Moon Bay, Cal.; one life-saving station at Mackinac Island, Mich.; and one life-saving station at or near Seagate, N. Y.; and it provides for increased facilities at the quarantine station at Portland, Me.

Mr. MANN. They are to cost about $15,000 for each station?

Mr. FITZGERALD. It is estimated they will cost about that. I am inclined to think that some of them will cost more than $15,000.

Mr. MANN. Which would provide for a pretty fanciful life-saving station.

Mr. FITZGERALD. The increased cost of some of the stations is due to the fact that because of the character of the landing place it is necessary to have somewhat expensive launching ways. When there is no beach, it is necessary to launch into deep water from ways, or by some apparatus, and the statement is made that the cost is thus increased considerably. Most of the stations consist of a single building with the life-saving apparatus occupying the ground floor and the living quarters in the upper portion. A good many stations, however, have a boathouse separate from the building in which the crew resides. That seems to be a more desirable condition when it is possible.

Mr. MANN. Mr. Chairman, I ask to withdraw my amendment.

The CHAIRMAN. Without objection, the amendment will be withdrawn.

There was no objection.

The Clerk read as follows:

REVENUE-CUTTER SERVICE.

For pay and allowances of captain commandant and officers of that rank, senior captains, captains, lieutenants, engineer in chief and officers of that rank, captains of engineers, lieutenants of engineers, 2 constructors, not exceeding 14 cadets and cadet engineers, who are hereby authorized, 2 civilian instructors, and pilots employed, and rations for pilots; for pay of warrant and petty officers, ships' writers, buglers, seamen, oilers, firemen, coal heavers, water tenders, stewards, cooks, and boys, and for rations for the same; for allowance for clothing for enlisted men; for fuel for vessels, and outfits for the same; ship chandlery and engineers' stores for the same; actual traveling expenses or mileage, in the discretion of the Secretary of the Treasury, for officers traveling on duty under orders from the Treasury Department; commutation of quarters; for maintenance of vessels in the protection of the seal fisheries in Bering Sea and the other waters of Alaska, and the enforcement of the provisions of law in Alaska; for maintenance of vessels in enforcing the provisions of the acts relating to the anchorage of vessels in the ports of New York and Chicago, and in the Kennebec River, and the movements and anchorage of vessels in St. Marys River; for temporary leases and improvement of property for revenue-cutter purposes; not exceeding $5,000 for the improvement of the depot for the service at Arundel Cove, Md.; not exceeding $150 for medals for excellence in marksmanship; contingent expenses, including wharfage, towage, dockage, freight, advertising, surveys, labor, and all other necessary miscellaneous expenses which are not included under special heads, $2,350,000: *Provided*, That hereafter ration supplies may be purchased by the cabin, wardroom, and warrant officers' messes and payment therefor made in cash to the commissary officer; the prices to be charged for such supplies shall not be less than the invoice prices, and the cash received from such sales shall be accounted for on the ration return and may be expended for the general mess.

Mr. MANN. Mr. Chairman, I move to strike out the last word. I wish the gentleman from New York would give us some information about the proviso.

Mr. FITZGERALD. Capt. Berthold stated that the law provides rations for the crew. Sometimes the ships have to leave port suddenly and there is not sufficient mess stores in the cabin and wardroom for the officers' mess, for which the officers pay and the Government does not. On such occasions they draw from the general mess maintained for the seamen, for which the Government does pay. When they do that the money must be turned in as miscellaneous receipts, but it curtails to that extent the appropriation for the mess for the crew. This is to enable the officers when at sea or on the vessel to purchase from the stores for the crew, and that that money may be utilized in replacing the stores so purchased.

Mr. MANN. Is it not almost invariable that the officers who make the purchase of seamen's mess will purchase in many cases such articles as they desire for the officers and carry these purchases on the ship, and then if the officers want them they take them, and if they do not want them they do not take them?

Mr. FITZGERALD. It may be subject to some abuses, but I doubt it. It amounts to a very little sum in the course of a year. From the explanation given, it seems to be very desirable that the officers be given this opportunity, and at the same time by taking these stores from the crew's mess the fund available for the mess for the crew ought not to be diminished.

Mr. MANN. It would amount to a very small sum now, and the reason given is a very good one, if it does not lead to the system of having all the supplies for the officers' mess purchased as a part of the seamen's mess and carried on board the ship and delivered to the officers as they want them, because they have no longer any reason for not making the purchases, and the money that comes in will be available for that purchase.

Mr. FITZGERALD. Perhaps some provision might be inserted to guard against abuse, but the showing made by the head of the Revenue-Cutter Service seemed to indicate that it was a desirable provision for them. It differs from the situation in regard to the Army and the Navy officers who purchase supplies on shore. It is only intended for use on the ships.

The pro forma amendment was withdrawn.

The Clerk read as follows:

Punishment for violations of internal-revenue laws: For detecting and bringing to trial and punishment persons guilty of violating the internal-revenue laws or conniving at the same, including payments for information and detection of such violations, $150,000; and the Commissioner of Internal Revenue shall make a detailed statement to Congress once in each year as to how he has expended this sum, and also a detailed statement of all miscellaneous expenditures in the Bureau of Internal Revenue.

Mr. FOWLER. Mr. Chairman, I offer the following amendment to come in at the end of the paragraph.

The Clerk read as follows:

Amend, page 35, at the end of line 21, by inserting the following: "*Provided further*, That the Attorney General is hereby authorized and directed to pay, as rewards, 10 per cent of any sum which may be recovered in the nature of penalties, fines, forfeitures, or otherwise to the person or persons who shall first furnish evidence of the violation of any of the antitrust laws, resulting in the recovery of penalties, fines, forfeitures, or recoveries."

Mr. FITZGERALD. Mr. Chairman, I make the point of order that that is not authorized by law and it is not germane to this part of the bill.

Mr. FOWLER. Mr. Chairman——

The CHAIRMAN. The Chair thinks it is clearly subject to the point of order.

Mr. FOWLER. Mr. Chairman, the amendment may be subject to a point of order, but it deals with the same question that the paragraph itself deals with; that is, the question of

paying for information leading to violations of the customs-revenue laws. The paragraph is subject to a point of order. If the amendment is germane to the subject matter, no point of order against it will lie. I would be very glad if the chairman of this committee would consent to the adoption of the amendment. I think it is necessary.

Mr. MADDEN. It is a good amendment.

Mr. FOWLER. It is a splendid amendment. If the distinguished gentleman from New York will withhold his point of order, I think I can convince him that it is necessary and that it should be adopted here.

Mr. FITZGERALD. That is all the more reason why I should insist upon the point of order.

Mr. FOWLER. Mr. Chairman, the gentleman from New York [Mr. FITZGERALD] is a student of economics, and I know he is anxious to reduce expenditures of this Government, and also is more than anxious to reduce the violations of law committed in this country. This amendment will not only aid him as the chairman of the Committee on Appropriations in cutting down expenditures, but it will prove to be a source of revenue to the Government.

Mr. MADDEN. This would open up a new industry for employment, would it not?

Mr. FOWLER. Indeed, I might say it would open up a new industry of such magnitude as to give employment to all idle prosecutors of crime and give them an opportunity to earn their salaries. It will reveal graft in high places, locate the hiding places of big criminals, and expose the unlawful methods by which the Government has been robbed of millions. It will expose a picture of crime which will not only shock the wisdom of the gentleman from New York, but will astonish the world to know that such conduct has been tolerated. Its benefits to the country can not be estimated. The criminal only should oppose its adoption. The innocent should encourage it, for it will protect the Government and the citizen alike. Hideous grafter, how did you get rich quick? Where is your hiding place? Who are you allies? This amendment is able to answer all these questions.

The CHAIRMAN (Mr. GARRETT of Tennessee). The Chair sustains the point of order.

The Clerk read as follows:

Money laundry machines: For all miscellaneous expenses in connection with the installation and maintenance of money laundry machines, including repairs and purchase of supplies, for machines at Washington, D. C., and in the various subtreasury offices, $9,000.

Mr. MANN. Mr. Chairman, I move to strike out the last word. I wish the gentleman might give us some information about this item.

Mr. FITZGERALD. Mr. Chairman, about a year and a half or two years ago a machine was devised for the purpose of laundering Treasury notes so that they might be reissued instead of being destroyed. Those machines have been put into operation in several of the subtreasuries and some of them are in operation in the city of Washington. It was not found necessary to use as many as originally had been anticipated. They have reissued about 28,000,000 laundered notes in the past year, which is equivalent to 7,000,000 sheets of special paper, distinctive paper, purchased for Treasury notes. So far as they have been utilized the machines have been found to be very efficient, and their use has resulted in cleaner currency being kept in circulation, and has eliminated the necessity of engraving about twenty-eight to thirty million notes.

Mr. MANN. Mr. Chairman, we have carried an item in the legislative bill at different times, I think, for these expenses at the subtreasuries, have we not?

Mr. FITZGERALD. Mr. Chairman, this item was formerly carried in the legislative bill, and it was transferred to this bill this year so as to be carried in connection with the work of the printing and issuing of Treasury notes. The $9,000 carried here is for the purchase of materials required in the operation of the machines, the peculiar chemical or soap, or whatever it is, that is used to wash the notes, and the oil and other materials necessary for the operations of the machines. They are not using the machines to full capacity, because the number of notes that have been turned in fit to be reissued has not been sufficiently large to justify laundering and reissuing, but they have been able to launder and reissue a number of notes that justifies the maintenance of the machine.

The CHAIRMAN. Without objection, the pro forma amendment will be withdrawn and the Clerk will read.

MESSAGE FROM THE SENATE.

The committee informally rose; and Mr. GOULDEN having taken the chair as Speaker pro tempore, a message from the Senate, by Mr. Tulley, one of its clerks, announced that the Senate had insisted upon its amendments to the bill (H. R. 14034) making appropriations for the naval service for the fiscal year ending June 30, 1915, and for other purposes, disagreed to by the House of Representatives, had agreed to the conference asked by the House on the disagreeing votes of the two Houses thereon, and had appointed Mr. TILLMAN, Mr. SWANSON, and Mr. PERKINS as the conferees on the part of the Senate.

SUNDRY CIVIL APPROPRIATION BILL.

The committee resumed its session.

The Clerk read as follows:

Distinctive paper for United States securities: For distinctive paper for United States securities, including transportation, traveling, laundry, and other necessary expenses, salaries for not more than 10 months of not exceeding 1 register, 2 assistant registers, 5 counters, 5 watchmen, and 1 skilled laborer, and expenses of officer detailed from the Treasury, $400,000.

Mr. CULLOP. Mr. Chairman, I move to strike out the last word in order to ask the Chairman a question about this paragraph. In line 18, among other items, there is one for laundry. What does that item mean? Is that for the laundry of the wearing apparel of these traveling men in the employ of the Government?

Mr. FITZGERALD. No; it is the laundering of the rags and cloths.

Mr. CULLOP. It does not read in that way. The item reads:

Including transportation, traveling, laundry, and other necessary expenses, salaries for not more than 10 months of not exceeding 1 register, 2 assistant registers, 5 counters, 5 watchmen, and 1 skilled laborer, and expenses of officer detailed from the Treasury, $400,000.

I do not think that it is a necessary item of expense where some agent of the Government is traveling to pay his laundry expenses. His traveling expenses are paid and his board. If he were here in Washington, he would be on the same salary, and his laundry bill would not be any greater when he is away or any more reason why he should pay it. It is unfair to the Government and unjust to the people that we should pay his laundry bills, if that is what it means, and I think it does.

Mr. MANN. Mr. Chairman, will the gentleman yield?

Mr. CULLOP. Yes.

Mr. MANN. Does the gentleman think the transportation there refers to individuals?

Mr. CULLOP. I am asking the Chairman. It says:

Including transportation, traveling, laundry, and other necessary expenses.

What else could it mean?

Mr. MANN. It says:

For distinctive paper for United States securities, including transportation, traveling, laundry,"

And so forth.

Mr. CULLOP. How would they pay the traveling expenses of distinctive paper? This item refers to what follows and not what precedes it, and clearly refers to the traveling expenses connected with certain named employees.

Mr. FITZGERALD. Oh, it includes some employees, too.

Mr. CULLOP. Certainly, it is employees. It refers to their expenses and nothing else; that is too plain for dispute.

Mr. FITZGERALD. These men are sent to the mill in Massachusetts where the paper is made. If the gentleman will pardon me for a moment, I will get the exact information.

Mr. GARNER. Mr. Chairman, while the gentleman is looking up that matter we might consider the question of transportation. In these bills somewhere is hidden authority, or at least so construed by the auditor for the various departments, to buy all of the automobiles necessary for every subhead there is in the Government, and the number of automobiles in this District used for purposes not intended by the Congress has become almost a public scandal.

Mr. FITZGERALD. There is a recent decision of the Comptroller of the Treasury which was printed in the hearings, if I recollect correctly, on the urgent deficiency bill, in which decision, citing a provision of the Revised Statutes requiring him to construe the word "vehicle" as covering every form of land transportation, he held that automobiles could be purchased.

Mr. BUCHANAN of Illinois. Mr. Chairman, I make the point of order of no quorum. I can only count——

Mr. FITZGERALD. Mr. Chairman, I make the point of order that the gentleman's point of no quorum is dilatory. The gentleman made one a few moments ago.

Mr. BUCHANAN of Illinois. It has been over an hour ago, and I count only 30 Members in the Chamber.

Mr. MONDELL. Mr. Chairman, I hope the gentleman will withhold the point of order until we get this matter of dirty linen cleaned up.

The CHAIRMAN. The gentleman from Illinois makes the point of order there is no quorum present.

Mr. CULLOP. There seems to be a dispute over there as to whether there is any reference to dirty linen; the gentleman from Illinois seems to think not.

Mr. MANN. That is contrary to the ethics of the Democratic Party.

The CHAIRMAN. The gentleman from Illinois makes the point of order that there is no quorum present, and the gentleman from New York makes the point of order that that point of order is dilatory. The bill is now being considered under the five-minute rule, and amendments are being offered and voted upon. The Constitution requires a quorum to do business, and the Chair stated yesterday afternoon——

Mr. MANN. Mr. Chairman, I simply wish to call the attention of the Chair, so he will have it correct in the RECORD, that the Constitution does not make any reference about the Committee of the Whole House on the state of the Union.

Mr. CULLOP. The rules of the House do that.

The CHAIRMAN. The rules of the House provide that, and I take it it is the spirit of the Constitution. The Chair yesterday sustained a point of order of a character similar to this while general debate was in progress, but when actual business is being done, with amendments being offered and voted upon, the Chair feels that the benefit of the doubt should be given to the point of no quorum, and therefore the Chair overrules the point of order made by the gentleman from New York, and the Chair will count. [After counting.] Sixty-seven gentlemen are present, not a quorum, and the Clerk will call the roll.

The Clerk called the roll, and the following Members failed to answer to their names:

Ainey	Fess	Kinkead, N. J.	Pou
Allen	Finley	Kirkpatrick	Riordan
Anderson	FitzHenry	Knowland, J. R.	Roberts, Mass.
Ansberry	Floyd, Ark.	Konop	Rogers
Anthony	Fordney	Korbly	Rothermel
Austin	Francis	Kreider	Rucker
Avis	Gallagher	Lafferty	Sabath
Barchfeld	Gardner	Langham	Scully
Barnhart	George	Lazaro	Seidomridge
Bartholdt	Gerry	Lee, Ga.	Sells
Bell, Ga.	Gillett	L'Engle	Sharp
Borland	Glass	Lesher	Sherley
Bowdle	Goeke	Levy	Sherwood
Britten	Goldfogle	Lewis, Md.	Shreve
Brodbeck	Goodwin, Ark.	Lewis, Pa.	Sims
Broussard	Gordon	Lieb	Slayden
Brown, W. Va.	Gorman	Lindquist	Slemp
Browning	Graham, Ill.	Loft	Sloan
Bruckner	Graham, Pa.	Lonergan	Small
Burgess	Green, Iowa	McClellan	Smith, Md.
Burke, Pa.	Greene, Mass.	McCoy	Smith, Saml. W.
Calder	Griest	McDermott	Smith, Minn.
Callaway	Griffin	McGillicuddy	Smith, N. Y.
Cantrill	Guernsey	McGuire, Okla.	Smith, Tex.
Carew	Hamill	McKenzie	Sparkman
Carlin	Hamilton, N. Y.	Mahan	Stafford
Carter	Hamlin	Maher	Stanley
Casey	Hardwick	Manahan	Steenerson
Chandler, N. Y.	Hart	Martin	Stephens, Nebr.
Clancy	Hayes	Merritt	Stephens, Tex.
Clark, Fla.	Heflin	Metz	Stevens, N. H.
Claypool	Helgesen	Miller	Stout
Cline	Helm	Montague	Stringer
Coady	Helvering	Moore	Taggart
Copley	Hinebaugh	Morin	Talbott, Md.
Covington	Hobson	Murray, Mass.	Taylor, Ala.
Cramton	Houston	Neeley, Kans.	Taylor, Colo.
Crisp	Howard	Nelson	Towner
Crosser	Hoxworth	Nolan, J. I.	Tribble
Dale	Humphrey, Wash.	Norton	Tuttle
Danforth	Humphreys, Miss.	O'Brien	Underhill
Davenport	Igoe	Oglesby	Vare
Decker	Jacoway	O'Hair	Volstead
Dies	Johnson, Ky.	O'Shaunessy	Wallin
Difenderfer	Johnson, Utah	Paige, Mass.	Watson
Dooling	Jones	Palmer	Webb
Doughton	Kahn	Parker	Whaley
Drukker	Keister	Patten, N. Y.	Whitacre
Dunn	Kelley, Mich.	Patton, Pa.	White
Elder	Kelly, Pa.	Payne	Wilson, N. Y.
Estopinal	Kennedy, R. I.	Peters, Me.	Winslow
Evans	Kent	Peters, Mass.	Woods
Fairchild	Kiess, Pa.	Peterson	Young, N. Dak.
Falconer	Kindel	Porter	Young, Tex.

The committee rose; and the Speaker having resumed the chair, Mr. BARTLETT, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee, having under consideration the bill H. R. 17041, finding itself without a quorum, under the rule he caused the roll to be called, and thereupon 218 Members answered to their names, a quorum, and he reported herewith the list of absentees to be entered upon the Journal.

The SPEAKER. The Chairman of the Committee of the Whole House on the state of the Union reports that that committee, having under consideration the bill H. R. 17041, finding itself without a quorum, under the rule he caused the roll to be called; whereupon 218 Members, a quorum, answered to their names, and he presents herewith the list of absentees to be entered upon the Journal. The committee will resume its sitting.

The committee resumed its sitting.

Mr. FITZGERALD. Mr. Chairman, in reply to the inquiry of the gentleman from Indiana [Mr. CULLOP], I desire to state that in 1910 in the preparation of the sundry civil bill for the fiscal year 1911 the Assistant Secretary of the Treasury, Mr. Norton, when before the committee, explained that the word "laundry" in the paragraph was for the purpose of paying for the laundering of towels used by the employees and the sheets and pillow cases used on the watchmen's beds.

We maintain special watchmen at the mill to guard everything in connection with the manufacture of this paper. They had been paying these expenses for 30 years out of this particular appropriation, when the Comptroller of the Treasury held that they were not allowable without specific authority. And in that year the word "laundry" was inserted in order to continue the payment for the laundering of towels, sheets, and pillowcases. It is not intended for the personal laundry of the employees.

Mr. CULLOP. I would like to ask the gentleman where this mill is situated?

Mr. FITZGERALD. It is located in Massachusetts, at Dalton.

Mr. GARNER. Can the gentleman from New York [Mr. FITZGERALD] state to the committee that no part of this appropriation is used for the purpose of paying the laundry of employees of the Government when they travel?

Mr. FITZGERALD. I can not say that, because I do not know whether under the ruling of the Comptroller of the Treasury laundry is allowable as a traveling expense. This wording was included in the provision to take care specifically of the expenses of the character indicated. So far as I am aware, it was never intended to be otherwise.

Mr. GARNER. It makes no difference what the intention of the committee is, if the committee authorizes the care of laundry for the Treasury Department, and it is used for that purpose, this committee ought to guard against the uses of money in a way not intended by Congress. The gentleman from South Carolina [Mr. JOHNSON] just remarked in an undertone that they had construed this language to mean for the payment of laundry used in traveling expenses.

Mr. JOHNSON of South Carolina. The "gentleman from South Carolina" did not say that, but the "gentleman from South Carolina" did say that where the traveling expenses of a Government employee are provided for they do allow laundry.

Mr. GARNER. Let me ask the gentleman from South Carolina if they use this language they could not pay the laundry bill of an employee out of this appropriation, because it says "including transportation, traveling, laundry, and other necessary expenses"?

Mr. FITZGERALD. Unless it is included under the word "traveling," it would not come, in my opinion, under "laundry." The Comptroller of the Treasury in ruling upon these questions invariably examines the record made before the committee which makes the appropriations, and does not permit, as a rule, money to be used for a purpose which it is clearly indicated was not contemplated when provisions were framed.

Mr. CULLOP. Mr. Chairman, if the gentleman from New York will permit, he will remember that some years ago—within the last three or four years—the question was up before the House on one of the appropriation bills, wherein it was claimed that some of the appropriations under the word "laundry" had been applied to paying the laundry bills of individuals, for the laundry of their personal wearing apparel. And if that is so, that is certainly an abuse of the appropriation and is diverting it to a purpose for which it was never intended. Now, would the gentleman have any objection to this kind of an amendment, namely, after the end of the paragraph insert:

Provided, That no part of this appropriation shall apply to the payment of the private laundry bills of any of the employees or officials of this department.

In my judgment, that would be appropriate, in order to prevent any abuse in this matter.

Mr. FITZGERALD. Well, I do not think it is necessary to attach it to this appropriation.

Mr. CULLOP. The gentleman will concede that as it now stands it is subject to this abuse? This would prevent any diversion of this fund from the purpose for which it is made.

Mr. FITZGERALD. No; I do not, unless they construe laundry to be a legitimate traveling expense; and if that be the decision of the Comptroller of the Treasury, there is no reason why the register and two assistant registers, five counters, five watchmen, and one skilled laborer employed at this particular place should have a rule applied to them that does not apply

to all Government officials who travel. It would be somewhat unfortunate to single them out.

Mr. CULLOP. The gentleman will concede, I suppose, that it ought to apply to all Government officials? You can not make such a construction of traveling expenses that would include the laundry of the wearing apparel of the individual. That is no part of the traveling expenses. To so construe it would be ridiculous.

Mr. FITZGERALD. They have construed as a legitimate charge under traveling expenses a charge for pressing trousers.

The CHAIRMAN. The time of the gentleman from Indiana [Mr. CULLOP] has expired.

Mr. CULLOP. I ask unanimous consent for five minutes more.

The CHAIRMAN. The gentleman from Indiana [Mr. CULLOP] asks unanimous consent for five minutes more. Is there objection?

Mr. BUCHANAN of Illinois. I object, Mr. Chairman.

The CHAIRMAN. The gentleman from Illinois objects.

Mr. FITZGERALD. Well, Mr. Chairman, I will ask for recognition in my own right.

The CHAIRMAN. The Chair understands the point of order is reserved upon the paragraph.

Mr. CULLOP. No; I moved to strike out the last word. That was the motion, instead of a point of order.

Mr. FITZGERALD. I ask to be recognized in opposition.

The CHAIRMAN. The gentleman from New York [Mr. FITZGERALD] is recognized.

Mr. FITZGERALD. I was calling the attention of the gentleman from Indiana to the fact that a few years ago a member of the Fine Arts Commission included in his account of traveling expenses an item for pressing several pairs of trousers. The item was submitted to the Comptroller of the Treasury twice. On the second occasion he held that it was a proper item of disbursement to come within the construction of the term "traveling expenses."

Mr. CULLOP. I will ask the gentleman from New York if he does not think that was very far-fetched for a statutory construction? It could not be approved.

Mr. FITZGERALD. I think perhaps that a member of the Fine Arts Commission would naturally have, as a necessary part of his traveling expenses, charges for the pressing of his trousers more frequently than I myself might find necessary. This word "laundry," however, is to cover the specific work to which I have called attention. I do not believe that it is necessary to add anything else. It covers sheets and pillowcases and towels of five watchmen and one skilled laborer, and five counters of distinctive paper and one register and his two assistants.

Mr. CULLOP. I would like to ask the gentleman from New York a question there, if he will permit. Are these watchmen employed in Washington, or are they employed in Massachusetts, at the place where this mill is located?

Mr. FITZGERALD. They are employed at the mill.

Mr. CULLOP. Then they are not sent from Washington?

Mr. FITZGERALD. I do not think so.

Mr. CULLOP I would like to ask the gentleman from New York, in this connection, who are the men, and what are the positions they hold, who are sent up from this city to Massachusetts, where this mill is located, to superintend or look after this part of the Government's business?

Mr. FITZGERALD. I think, but I am not certain, that it is the register, his two assistants, and the five counters.

Mr. CULLOP. Then the five watchmen and the one skilled laborer mentioned in this paragraph are persons who live up there where the mill is located? Is that correct?

Mr. FITZGERALD. I think so, but I am not certain about it.

Mr. CULLOP. It seems to me, in the matter of economy in the administration of this branch of the Government work——

Mr. FITZGERALD. I think it is, but I did not inquire about it.

Mr. CULLOP. If they are employed up there in this character of labor, I think it would be a considerable saving to the Government. It would be an economy so far as the Government is concerned.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

Compensation in lieu of moieties: For compensation in lieu of moieties in certain cases under the customs revenue laws, $50,000.

Mr. FITZGERALD. Mr. Chairman, I move that the committee do now rise.

The motion was agreed to.

Accordingly the committee rose; and the Speaker having resumed the chair, Mr. GARRETT of Tennessee, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill (H. R. 17041) making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1915, and for other purposes, and had come to no resolution thereon.

LEAVE OF ABSENCE.

Mr. DAVENPORT, by unanimous consent, was granted leave of absence, indefinitely, on account of important business.

ENROLLED BILL SIGNED.

Mr. ASHBROOK, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bill of the following title, when the Speaker signed the same:

H. R. 11040. An act to carry out the findings of the Court of Claims in the case of James Harvey Dennis.

ALSTON G. DAYTON.

Mr. NEELEY of West Virginia. Mr. Speaker, I rise to a question of privilege.

The SPEAKER. The gentleman from West Virginia [Mr. NEELEY] rises to a question of privilege. The gentleman will state it.

Mr. MANN. I make the point of order, Mr. Speaker, that there is no quorum present.

The SPEAKER. The gentleman from Illinois makes the point of order that there is no quorum present. Evidently there is not.

Mr. FITZGERALD. I move, Mr. Speaker, that the House do now adjourn.

Mr. MANN. I withdraw my point of order, Mr. Speaker.

Mr. NEELEY of West Virginia. Mr. Speaker, by virtue of my office as a Member of the House of Representatives I hereby impeach Alston G. Dayton, judge of the District Court of the United States for the Northern District of West Virginia, of high crimes and misdemeanors.

Mr. MANN. Mr. Speaker, I make the point of order that there is no quorum present.

The SPEAKER. The gentleman from Illinois makes the point that there is no quorum present, and the gentleman from New York moves that the House do now adjourn. The question is on agreeing to that motion.

The motion was agreed to; accordingly (at 6 o'clock and 2 minutes p. m.) the House adjourned until to-morrow, Wednesday, June 10, 1914, at 12 o'clock noon.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, bills and resolutions were severally reported from committees, delivered to the Clerk, and referred to the several calendars therein named, as follows:

Mr. TAYLOR of Colorado, from the Committee on the Public Lands, to which was referred the bill (H. R. 15533) granting public lands to the city and county of Denver, in the State of Colorado, for public park purposes, reported the same with amendment, accompanied by a report (No. 782), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. LOGUE, from the Committee on Public Buildings and Grounds, to which was referred the joint resolution (H. J. Res. 269) relating to the awards and payments thereon in what is commonly known as the Plaza cases, reported the same with amendment, accompanied by a report (No. 783), which said joint resolution and report were referred to the Committee of the Whole House on the state of the Union.

He also, from the same committee, to which was referred the bill (H. R. 12464) providing for the expenditure of part of the unexpended balance of the appropriation of $10,000, made by the urgent deficiency bill of October 22, 1913, for the completion of the post-office building at Hanover, Pa., reported the same without amendment, accompanied by a report (No. 784), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. ASHBROOK, from the Committee on Coinage, Weights, and Measures, to which was referred the bill (H. R. 4899) to fix the standard barrel for fruits, vegetables, and other dry commodities, reported the same with amendment, accompanied by a report (No. 800), which said bill and report were referred to the House Calendar.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, private bills and resolutions were severally reported from committees, delivered to the Clerk, and referred to the Committee of the Whole House, as follows:

Mr. DEITRICK, from the Committee on Military Affairs, to which was referred the bill (H. R. 12229) for the relief of Wil-

liam A. Wallace, reported the same with amendment, accompanied by a report (No. 781), which said bill and report were referred to the Private Calendar.

Mr. MOTT, from the Committee on Claims, to which was referred the bill (H. R. 15557) for the relief of Anna Miller, reported the same with amendment, accompanied by a report (No. 785), which said bill and report were referred to the Private Calendar.

Mr. POU, from the Committee on Claims, to which was referred the bill (H. R. 16578) for the relief of Frank P. Sammons, reported the same with amendment, accompanied by a report (No. 786), which said bill and report were referred to the Private Calendar.

Mr. METZ, from the Committee on Claims, to which was referred the bill (H. R. 11062) for the relief of William E. Campbell, reported the same with amendment, accompanied by a report (No. 787), which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill (H. R. 10693) for the relief of the legal representatives of George W. Soule, reported the same with amendment, accompanied by a report (No. 788), which said bill and report were referred to the Private Calendar.

Mr. MOTT, from the Committee on Claims, to which was referred the bill (H. R. 10460) for the relief of Mary Cornick, reported the same with amendment, accompanied by a report (No. 789), which said bill and report were referred to the Private Calendar.

Mr. METZ, from the Committee on Claims, to which was referred the bill (H. R. 14679) for the relief of Clarence L. George, reported the same with amendment, accompanied by a report (No. 790), which said bill and report were referred to the Private Calendar.

Mr. MOTT, from the Committee on Claims, to which was referred the bill (H. R. 8554) for the relief of George W. Trahey, reported the same with amendment, accompanied by a report (No. 791), which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill (H. R. 4001) for the relief of Daniel J. Ryan, reported the same with amendment, accompanied by a report (No. 792), which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill (H. R. 3430) for the relief of Lottie Rapp, reported the same with amendment, accompanied by a report (No. 793), which said bill and report were referred to the Private Calendar.

Mr. STEPHENS of Mississippi, from the Committee on Claims, to which was referred the bill (H. R. 16524) for the relief of the heirs of Benjamin S. Roberts, reported the same without amendment, accompanied by a report (No. 794), which said bill and report were referred to the Private Calendar.

Mr. METZ, from the Committee on Claims, to which was referred the bill (H. R. 11199) for the relief of Joe T. White, reported the same with amendment, accompanied by a report (No. 795), which said bill and report were referred to the Private Calendar.

Mr. MOTT, from the Committee on Claims, to which was referred the bill (H. R. 13161) providing for the refund of certain additional duties collected on pineapples, reported the same without amendment, accompanied by a report (No. 796), which said bill and report were referred to the Private Calendar.

Mr. METZ, from the Committee on Claims, to which was referred the bill (H. R. 11719) to reimburse D. Dale Condit, of the United States Geological Survey, of Washington, D. C., for moneys expended in the payment of a damage claim, reported the same without amendment, accompanied by a report (No. 797), which said bill and report were referred to the Private Calendar.

Mr. MOTT, from the Committee on Claims, to which was referred the bill (H. R. 7639) for the relief of Myron A. Brownlee, reported the same without amendment, accompanied by a report (No. 798), which said bill and report were referred to the Private Calendar.

Mr. STEPHENS of Mississippi, from the Committee on Claims, to which was referred the bill (H. R. 3954) for the relief of William E. Horton, reported the same without amendment, accompanied by a report (No. 799), which said bill and report were referred to the Private Calendar.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials were introduced and severally referred as follows:

By Mr. METZ: A bill (H. R. 17140) to revise and amend the laws relating to patents; to the Committee on Patents.

By Mr. DAVENPORT: A bill (H. R. 17141) to provide for the erection of a public building at Nowata, Okla.; to the Committee on Public Buildings and Grounds.

Also, a bill (H. R. 17142) to establish public highways or roads along all section lines in the Seneca, Wyandotte, Ottawa, Eastern Shawnee, Peoria, West Miami, and Quapaw Tribe of Indians in the Quapaw Agency, in eastern Oklahoma, and for other purposes; to the Committee on Indian Affairs.

By Mr. PARK: A bill (H. R. 17143) to increase the salaries of the United States district attorney and United States marshal and deputy marshals for the southern district of Georgia, and for other purposes; to the Committee on the Judiciary.

By Mr. DAVENPORT (by request): A bill (H. R. 17144) to provide for the reimbursement to the emigrant Cherokees by blood for lands allotted to the negro freedmen (Cherokees) from the lands granted to the emigrant Cherokees by blood under treaty of 1835; to the Committee on Indian Affairs.

By Mr. McANDREWS: A bill (H. R. 17145) to enlarge the post office at Oak Park, Ill., and for other purposes; to the Committee on Public Buildings and Grounds.

By Mr. THOMPSON of Oklahoma: A bill (H. R. 17146) to enlarge, extend, and remodel the Federal building located at Guthrie, Okla.; to the Committee on Public Buildings and Grounds.

By Mr. WEBB: A bill (H. R. 17147) to amend section 195 of the act entitled "An act to codify, revise, and amend the laws relating to the judiciary," approved March 3, 1911; to the Committee on the Judiciary.

By Mr. FOSTER: Resolution (H. Res. 536) providing for the consideration of sundry bills relating to Alaska; to the Committee on Rules.

By Mr. CANTRILL: Resolution (H. Res. 537) relative to the procedure in the consideration of House joint resolution 168; to the Committee on Rules.

By Mr. HOBSON: Joint resolution (H. J. Res. 277) proposing an amendment to the Constitution of the United States; to the Committee on the Judiciary.

By Mr. GILMORE: Memorial from the Massachusetts Legislature relative to the purchase of bunting for the manufacture of the United States flag; to the Committee on Naval Affairs.

By Mr. TREADWAY: Memorial from the Legislature of the State of Massachusetts relative to the purchase of bunting for the manufacture of the United States flag; to the Committee on Naval Affairs.

By Mr. THACHER: Memorial from the Legislature of the State of Massachusetts relative to the purchase of bunting for the manufacture of the United States flag; to the Committee on the Judiciary.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. AUSTIN: A bill (H. R. 17148) granting a pension to William H. Miller; to the Committee on Pensions.

By Mr. COLLIER: A bill (H. R. 17149) reinstating Edgar N. Coffey to his former rank and grade in the United States Army; to the Committee on Military Affairs.

By Mr. CULLOP: A bill (H. R. 17150) granting an increase of pension to Charles H. Twomey; to the Committee on Invalid Pensions.

By Mr. DAVENPORT: A bill (H. R. 17151) for the relief of Carl Puckett; to the Committee on Indian Affairs.

By Mr. FIELDS: A bill (H. R. 17152) granting a pension to Martha L. Smith; to the Committee on Invalid Pensions.

By Mr. FINLEY: A bill (H. R. 17153) for the relief of the Cheraw Lyceum, Cheraw, S. C.; to the Committee on War Claims.

By Mr. GOULDEN: A bill (H. R. 17154) for the relief of Dennis Shevlin; to the Committee on Military Affairs.

Also, a bill (H. R. 17155) for the relief of Charles Snow; to the Committee on Military Affairs.

By Mr. HAMMOND: A bill (H. R. 17156) renewing United States patent No. 551,055, issued to William Snure, of Lakefield, Minn., for bean-harvester, for a term of 17 years from date of its expiration; to the Committee on Patents.

By Mr. MAPES: A bill (H. R. 17157) granting a pension to Ernest J. Nichols; to the Committee on Pensions.

Also, a bill (H. R. 17158) granting an increase of pension to Alonzo L. Belcher; to the Committee on Invalid Pensions.

By Mr. MORGAN of Oklahoma: A bill (H. R. 17159) granting a pension to John E. Jamison; to the Committee on Pensions.

Also, a bill (H. R. 17160) granting an increase of pension to David Sayer; to the Committee on Invalid Pensions.

By Mr. NEELY of West Virginia: A bill (H. R. 17161) granting an increase of pension to Andrew King; to the Committee on Invalid Pensions.

By Mr. SCULLY: A bill (H. R. 17162) granting a pension to Mary F. Treganowan; to the Committee on Invalid Pensions.

By Mr. SMITH of Idaho: A bill (H. R. 17163) for the relief of the State board of regents of the University of Idaho; to the Committee on Claims.

By Mr. J. M. C. SMITH: A bill (H. R. 17164) granting a pension to Josephine Phillips; to the Committee on Invalid Pensions.

By Mr. TALBOTT of Maryland: A bill (H. R. 17165) to redeem certain Spanish War documentary stamps from Edgar A. McAllister; to the Committee on Claims.

By Mr. TAYLOR of Colorado: A bill (H. R. 17166) granting a pension to Julia Jones; to the Committee on Invalid Pensions.

Also, a bill (H. R. 17167) granting an increase of pension to George W. Dowell; to the Committee on Invalid Pensions.

By Mr. SHERWOOD: Resolution (H. Res. 535) authorizing the payment of $1,200 to Norman E. Ives; to the Committee on Accounts.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

By the SPEAKER (by request): Petition of 76 female citizens of the States of Connecticut and Massachusetts, favoring the passage of House joint resolution 168, for national prohibition; to the Committee on Rules.

Also (by request), petition of the executive council of the American Federation of Labor, favoring the seamen's bill; to the Committee on the Merchant Marine and Fisheries.

Also (by request), petition of 47 male citizens of the State of Connecticut favoring the passage of House joint resolution 168, for national prohibition; to the Committee on Rules.

Also (by request), resolutions signed by the pastors of certain churches in Colerain, Pa., and Gregory, S. Dak., protesting against the practice of polygamy in the United States; to the Committee on the Judiciary.

By Mr. AUSTIN: Memorial of sundry citizens of Harriman, Tenn., protesting against the practice of polygamy in the United States; to the Committee on the Judiciary.

By Mr. AVIS: Petition of the Central Methodist Episcopal Church, of Charleston, W. Va., favoring national prohibition; to the Committee on Rules.

By Mr. BELL of California: Memorial of the Arizona and California River Regulation Commission, favoring an appropriation of $15,000 for a survey of the watershed of the Victor Valley in California; to the Committee on Rivers and Harbors.

Also, memorial of the Chamber of Commerce of Los Angeles, Cal., and the Arizona and California River Regulation Commission in regard to proposed San Carlos Dam in Arizona; to the Committee on the Public Lands.

By Mr. BORCHERS: Petitions of various legal voters of Decatur and Macon, Ill., favoring national prohibition; to the Committee on Rules.

By Mr. BROWNING: Petition of 46 citizens of Camden, N. J., protesting against national prohibition; to the Committee on Rules.

By Mr. CANTOR: Petitions of sundry citizens of New York, protesting against national prohibition; to the Committee on Rules.

By Mr. CARY: Petition of the Glass Bottle Blowers' Association, of Milwaukee, Wis., protesting against national prohibition; to the Committee on Rules.

By Mr. CURRY: Petitions of 54 citizens and residents of the third California district, protesting against national prohibition; to the Committee on Rules.

Also, petition of the Fremont Park Presbyterian Church, of Sacramento, Cal., in favor of a constitutional amendment to prohibit polygamy; to the Committee on the Judiciary.

Also, petition of Mrs. Etta I. Finch, of Sacramento, Cal., and the Presbyterian Church of Danville, Cal., in favor of national prohibition; to the Committee on Rules.

By Mr. DALE: Petition of Charles W. Goodman, of Brooklyn, N. Y., protesting against national prohibition; to the Committee on Rules.

By Mr. DICKINSON: Petition of 448 citizens of the sixth district of Missouri, in favor of the national-constitutional prohibition amendment; to the Committee on Rules.

By Mr. DILLON: Petition of sundry citizens of Lake County, S. Dak., protesting against national prohibition; to the Committee on Rules.

By Mr. DONOVAN: Petition of Local No. 15, Norwalk Hatters' Association, of the United Hatters of North America, protesting against national prohibition; to the Committee on Rules.

By Mr. DUNN: Petition of the Chamber of Commerce of Rochester, N. Y., protesting against the passage of the omnibus antitrust bill; to the Committee on the Judiciary.

By Mr. DYER: Petitions of Fred Ohme, Martin Fellhauer, Joseph Saettele, W. F. Kuerz, Frank Kuerz, Christ Beck, William Finn, Hermann Hartwig, George A. Vaccarezzo, and F. B. Connolly, all of St. Louis, Mo., against national prohibition; to the Committee on Rules.

Also, petition of the Central Coal & Coke Co., of Kansas City, Mo., favoring House bill 15869, providing for 10 mining experiment stations; to the Committee on Mines and Mining.

Also, petition of the Woman's Prohibition League of Shreveport, La., favoring national prohibition; to the Committee on Rules.

Also, petition of the Commercial Club of Kansas City, Mo., relative to antitrust bill; to the Committee on the Judiciary.

Also, petitions of the Italian Chamber of Commerce of New York; Martin Fellhauer and George A. Vaccarezza of St. Louis, Mo.; and the National Association of Retail Grocers, against national prohibition; to the Committee on Rules.

By Mr. FINLEY: Papers to accompany a bill for the relief of the Cheraw Lyceum, Cheraw, S. C.; to the Committee on War Claims.

By Mr. GARNER: Memorial of the Chamber of Commerce of Dallas, Tex., relative to haste in the antitrust bills; to the Committee on the Judiciary.

Also, memorial of the Texas Grain Dealers' Association, favoring passage of House bill 14492, the grain grades act; to the Committee on Agriculture.

By Mr. GARRETT of Tennessee: Petition of 526 citizens of Kenton, Tenn., and sundry citizens of Troy, Tenn., favoring national prohibition; to the Committee on Rules.

By Mr. GREENE of Vermont: Petition of Fred W. Hall and 86 other residents of the first congressional district of Vermont, for national constitutional prohibition amendment; to the Committee on Rules.

By Mr. HAMILTON of New York: Petition of sundry citizens of Rushford, Wellsville, and Panama, all in the State of New York, favoring national prohibition; to the Committee on Rules.

Also, petition of sundry citizens of Falconer, N. Y., and the Woman's Christian Temperance Union of Rushford, N. Y., favoring national prohibition; to the Committee on Rules.

By Mr. HUMPHREY of Washington: Petitions of sundry citizens of King County, Wash., protesting against national prohibition; to the Committee on Rules.

By Mr. JOHNSON of Washington: Petition of sundry citizens of Chehalis and Tacoma, Wash., protesting against national prohibition; to the Committee on Rules.

Also, petition of 41 young people of Marysville, Wash., favoring national prohibition; to the Committee on Rules.

Also, petition of sundry business men of Lyle and Goldendale, Wash., favoring the passage of House bill 5308, relative to taxing mail-order houses; to the Committee on Ways and Means.

By Mr. KENNEDY of Rhode Island: Memorial of the Union Electric Supply Co., of Providence, R. I., favoring passage of House bill 13305, Stevens standard-price bill; to the Committee on Interstate and Foreign Commerce.

By Mr. LEWIS of Maryland: Petition of Mr. F. William Seifers and 35 citizens of Allegany County, protesting against the passage of House resolution 168, to prohibit the sale of intoxicating liquors; to the Committee on Rules.

Also, petition of the Liquor Dealers' Association of Allegany County, Md., protesting against the House joint resolution 168, to prohibit the sale of intoxicating liquors; to the Committee on Rules.

By Mr. LONERGAN: Petition of Charles Gunther, of Hartford, Conn., protesting against national prohibition; to the Committee on Rules.

By Mr. McDERMOTT: Petition of the City Council of Chicago, Ill., favoring the passage of House bill 15733; to the Committee on Industrial Arts and Expositions.

Also, petition of Michael Kennedy, of Chicago, Ill., protesting against the passage of national prohibition; to the Committee on Rules.

By Mr. MAGUIRE of Nebraska: Memorial of the Department Encampment, Grand Army of the Republic, of Grand Island, Nebr., relative to bill to protect monuments on the battle fields of Bull Run, Va.; to the Committee on Military Affairs.

Also, petition of the united congregations of the Methodist Episcopal and Presbyterian Churches of Raymond, Nebr., favoring national prohibition; to the Committee on Rules.

By Mr. METZ: Petition of various voters of the tenth congressional district of New York, protesting against national prohibition; to the Committee on Rules.

By Mr. MOTT: Petition of sundry citizens of the thirty-second congressional district of New York, against national prohibition; to the Committee on Rules.

By Mr. NEELY of West Virginia: Petitions of the Methodist Episcopal Church of Lumberport; the Woman's Christian Temperance Union of Wallace; the Odd Fellows' Lodge of Wallace; the Rebekah Lodge of Wallace; the Methodist Episcopal Church of Wallace; Lodge No. 172, Knights of Pythias, of Wallace; the Ladies' Aid Society of Wallace; and the Peora Sunday School, of Shinnston, all in the State of West Virginia, for national constitutional prohibition amendment; to the Committee on Rules.

By Mr. O'LEARY: Petitions of sundry citizens of Queens County, N. Y., protesting against national prohibition; to the Committee on Rules.

Also, petition of the Bible Class of the Methodist Episcopal Church of Springfield Garden, N. Y., favoring national prohibition; to the Committee on Rules.

By Mr. O'SHAUNESSY: Petitions of Elizabeth Mills, Hills Grove, R. I., and Dexter Yarn Co., Pawtucket, R. I., against Edwards bill to prohibit importation of Egyptian cotton; to the Committee on Ways and Means.

Also, petitions of the Union Electric Supply Co., of Providence, R. I., and Charles M. Cole, Newport, R. I., favoring House bill 13305, the Stevens price bill; to the Committee on Interstate and Foreign Commerce.

By Mr. RAKER: Resolutions of the Chamber of Commerce, Los Angeles, Cal., favoring the proposed San Carlos Dam in Arizona; to the Committee on Irrigation of Arid Lands.

Also, letter from the Federation of Civil Service Employees of San Francisco, Cal., favoring House bill 12056, to regulate the hours of labor; to the Committee on Labor.

Also, resolutions of the Chamber of Commerce, Los Angeles, Cal., favoring Government acquisition of sufficient Mexican territory to place the Colorado River entirely within the boundaries of the United States; to the Committee on Foreign Affairs.

By Mr. REED: Petition of the Manchester (N. H.) Central Labor Union, signed by Joseph P. Kenney, president, and Thomas F. Thornton, recording-corresponding secretary, opposing national prohibition of the liquor traffic; to the Committee on Rules.

By Mr. REILLY of Connecticut: Petition of Local No. 8, P. B. P. S. W. U., protesting against conditions in mines of Colorado; to the Committee on the Judiciary.

By Mr. ROBERTS of Massachusetts: Papers to accompany a bill (H. R. 17038) granting an increase of pension to Erskin Hawley; to the Committee on Invalid Pensions.

By Mr. J. M. C. SMITH: Papers to accompany House bill 2845, a bill for the relief of J. H. Milbourn; to the Committee on Invalid Pensions.

Also, resolution by the Trades and Labor Council of Kalamazoo, Mich., favoring Government ownership of natural resources, safeguarding lives and homes of Colorado mine workers, and forbidding importation of strike breakers; to the Committee on Mines and Mining.

By Mr. SMITH of Idaho: Petition of Mrs. Jennie Cortner and 128 other women of Payette, Idaho, urging the adoption of a resolution introduced by Mr. GILLETT, of Massachusetts, to amend the Federal Constitution so as to prohibit polygamy in the United States; to the Committee on the Judiciary.

Also, petitions of various business men of Genesee, Boise, and Weiser, all in the State of Idaho, favoring passage of House bill 5308, relative to taxing mail-order houses; to the Committee on Ways and Means.

By Mr. STEPHENS of California: Petition signed by Charles S. Anderson and 434 postal employees at Los Angeles, praying Congress to pass an equitable law for the retirement of superannuated public servants; to the Committee on Reform in the Civil Service.

Also, resolution of East Hollywood (Cal.) Woman's Christian Temperance Union, 40 members, favoring national constitutional prohibition amendment; to the Committee on Rules.

Also, resolution of the Ministerial Union of Los Angeles, Cal., representing 160,000 adherents, favoring a national constitutional prohibition amendment; to the Committee on Rules.

Also, resolution of Humboldt Chamber of Commerce, protesting against undue haste in enacting antitrust legislation; to the Committee on the Judiciary.

Also, resolution of the Los Angeles Chamber of Commerce, favoring the San Carlos (Ariz.) Dam project; to the Committee on Irrigation of Arid Lands.

Also, petition of the advisory board of the Arizona and California river regulation commission, relative to appropriations for Victor Valley, Cal.; to the Committee on Rivers and Harbors.

Also, memorial of advisory board of the Arizona and California river regulation commission, relative to San Carlos Dam, in Arizona; to the Committee on Irrigation of Arid Lands.

By Mr. SWITZER: Petition of 75 voters of Oak Hill, Ohio, asking for the passage of House joint resolution 168, the constitutional prohibition amendment; to the Committee on Rules.

Also, protests of 28 citizens of Ironton, Ohio, against House joint resolution 168, the constitutional prohibition amendment; to the Committee on Rules.

Also, protests of 48 citizens of Portsmouth, Ohio, against House joint resolution 168, the constitutional prohibition amendment; to the Committee on Rules.

Also, protests of 636 citizens of Portsmouth, Ohio, against House joint resolution 168, the constitutional prohibition amendment; to the Committee on Rules.

Also, petition of 1 citizen of Manchester, Ohio, and 2 citizens of Stout, Ohio, protesting against national prohibition; to the Committee on Rules.

By Mr. TEN EYCK (by request): Petitions, letters, and postals from 300 citizens of the cities of Albany, Troy, Watervliet, Cohoes, and the county of Albany, all in the State of New York, petitioning against the Hobson prohibition measure; to the Committee on Rules.

By Mr. TUTTLE: Petitions of the Temple Baptist Christian Endeavor Society, the Netherwood Christian Endeavor Society, Young Peoples' Society of Christian Endeavor of the Seventh Day Baptist Church, all of Plainfield; sundry citizens of Wharton, and 898 of Dover, all in the State of New Jersey, favoring national prohibition; to the Committee on Rules.

Also, petition of sundry voters of the fifth congressional district of New Jersey, protesting against national prohibition; to the Committee on Rules.

Also, petition of Plainfield Lodge, No. 167, International Association of Machinists, of Plainfield, N. J., favoring passage of Senate bill 5303, relative to extension of Federal locomotive boiler inspection; to the Committee on Interstate and Foreign Commerce.

SENATE.

WEDNESDAY, *June 10, 1914.*

(Continuation of the legislative day of Friday, June 5, 1914.)

The Senate met at 11 o'clock a. m. on the expiration of the recess.

The PRESIDING OFFICER (Mr. SWANSON in the chair). The Senate resumes the consideration of House bill 14385, which is the unfinished business.

PANAMA CANAL TOLLS.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 14385) to amend section 5 of "An act to provide for the opening, maintenance, protection, and operation of the Panama Canal, and the sanitation of the Canal Zone," approved August 24, 1912.

Mr. SMOOT. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The Senator from Utah suggests the absence of a quorum. The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Ashurst	Gallinger	Martine, N. J.	Smith, Mich.
Bankhead	Goff	Myers	Smith, S. C.
Borah	Gronna	Nelson	Smoot
Brady	Hitchcock	Norris	Sterling
Brandegee	James	O'Gorman	Stone
Bristow	Johnson	Overman	Sutherland
Bryan	Jones	Page	Swanson
Burleigh	Kenyon	Perkins	Thomas
Burton	Kern	Pomerene	Thornton
Chamberlain	Lane	Saulsbury	Townsend
Chilton	Lea, Tenn.	Shafroth	Vardaman
Clapp	Lewis	Sheppard	Weeks
Clark, Wyo.	Lodge	Sherman	West
Colt	McCumber	Shively	White
Culberson	McLean	Simmons	Williams
Dillingham	Martin, Va.	Smith, Ga.	Works

Mr. KERN. I desire to announce the unavoidable absence of the senior Senator from Arkansas [Mr. CLARKE] and the junior Senator from Arkansas [Mr. ROBINSON], both of whom are paired. This announcement may stand for the day.

The PRESIDING OFFICER. Sixty-four Senators have answered to their names. A quorum is present. The question before the Senate is the amendment offered by the Senator from North Carolina [Mr. SIMMONS] in the shape of a substitute for the amendment proposed by the committee.

Mr. SUTHERLAND. Mr. President, I suppose it would be in order to move to amend the original amendment proposed by the committee, in order to perfect it before the vote is taken, and for that purpose I submit an amendment, which I send to the desk and ask to have read. It is to strike out from the original amendment certain words and to insert.

The PRESIDING OFFICER. The Secretary will read the amendment.

Mr. BRANDEGEE. Mr. President, I rise to a point of order.

Mr. SUTHERLAND. Let the amendment be read.

Mr. BRANDEGEE. I rise to a point of order.

The PRESIDING OFFICER. The Senator from Connecticut will state his point of order.

Mr. BRANDEGEE. The point of order is that there is a committee amendment pending to the bill now. There is also offered an amendment in the nature of a substitute for the committee amendment, and therefore any amendment——

Mr. SIMMONS. Will the Senator from Connecticut please speak a little louder?

Mr. LODGE. I think the amendment should be read.

Mr. BRANDEGEE. I should like to make the point of order. The point of order is that the amendment can not be offered at present, and I understood the Senator from Utah to offer the amendment now. If he simply asks for a reading of it, and that it then be laid aside to be offered in future, I have no objection to that course.

The PRESIDING OFFICER. The amendment can be read, the Senator from Connecticut reserving all points of order against it.

Mr. SUTHERLAND. The amendment is moved as an amendment to the amendment proposed by the committee.

Mr. BRANDEGEE. That, Mr. President——

The PRESIDING OFFICER. The Secretary will read the amendment, the Senator from Connecticut reserving all points of order.

Mr. BRANDEGEE. I do not desire to have the point of order reserved. The Senator from Utah moves that the amendment be adopted. That is an offer of an amendment in the third degree which I——

Mr. GALLINGER. He can not move it until it has been read. Let it be read.

The PRESIDING OFFICER. It will be impossible for the Chair to pass on the point of order until after the amendment has been read. It will be read.

Mr. BRANDEGEE. An amendment of that nature is an amendment in the third degree.

The SECRETARY. The Senator from Utah proposes, on page 2, line 11, to strike out of the committee amendment the words:

Or affecting any treaty or other right possessed by the United States.

And to insert in lieu thereof:

The right of the United States to discriminate in favor of the ships of commerce of its citizens in respect of the conditions or charges of traffic which may be imposed for the use of the Panama Canal, but, on the contrary, such right is hereby reasserted.

Mr. LODGE. Mr. President, if I may be permitted, I should like to say a word in regard to the point of order made by the Senator from Connecticut [Mr. BRANDEGEE], which I think is clearly correct. The motion of the Senator from Utah [Mr. SUTHERLAND] is to perfect the original amendment offered by the committee; that is, he is applying to that amendment the rule in regard to perfecting a passage of a bill which it is proposed to strike out. Where the motion is to strike out and insert, we have a right, under our rules and under general parliamentary law, to perfect both the portion which it is proposed to strike out and the words which it is proposed to insert. There is no proposition here to strike out anything, because there is nothing to strike out. The amendment which is offered by the committee is like any other amendment. It is an amendment to the bill. The fact that it is a committee amendment gives it, in a parliamentary sense, no privilege. It is printed in the bill merely as a matter of convenience, just as we give committee amendments, by unanimous consent, the right of precedence in considering a bill, as a matter of convenience, but that does not alter their character. They are simply amendments offered to the bill, to be added or inserted. You can not strike this committee amendment out because it is not a part of the bill yet.

Mr. President, in dealing with this question, the Senate has no special rule. We therefore come under the parliamentary law as laid down in Jefferson's Manual, and which is general parliamentary law apart from the manual. It is on page 116:

If an amendment be moved to an amendment, it is admitted; but it would not be admitted in another degree, to wit, to amend an amendment to an amendment of a main question. This would lead to too much embarrassment. The line must be drawn somewhere, and usage has drawn it after the amendment to the amendment.

Now, what is included under the language of Jefferson's Manual, which is also general parliamentary law? The main question is the bill. The amendment to the main question is the committee amendment. The amendment to the amendment of the main question is the substitute proposed by the Senator from North Carolina. To offer to amend either the committee amendment or the amendment proposed by the Senator from North Carolina is obnoxious to the objection that it is an amendment in the third degree. It must be constantly kept in mind that this is not a case of striking out and inserting.

In the House of Representatives the principle I have just stated is fully recognized, but they make an additional provision. That is a provision of their own rules, not general parliamentary law. They provide, first, that after an amendment is offered to an amendment another amendment can not be offered because it is in the third degree. Then they go on and add a provision that if a substitute is offered for an amendment, that substitute and one perfecting amendment to the substitute may also be in order. That is, under the rule of the House four amendments may be pending at the same time; but the House fully recognizes that this is not general parliamentary law, because they make a special provision for it.

The House rule was formulated in 1880, but it embodied an old practice. We have no such rule. We are proceeding under general parliamentary law as laid down in Jefferson's Manual and in other books of authority on parliamentary law. In the Senate only two amendments can be pending, instead of four, as the House rule specially provides. The number of amendments pending is the test of the degree of the amendment. Two, the committee and the Simmons amendments, are now pending. There can not be a third pending.

Mr. WEST. Mr. President, it is not exactly clear to me. Would the substitute offered for the text be in the second degree for the whole provision?

Mr. LODGE. There being an amendment in the nature of a substitute offered, under the House rule one amendment to that amendment is in order.

Mr. SUTHERLAND. This amendment would be in order in the House.

Mr. LODGE. One moment. Under the House rules a substitute may be offered for the entire amendment, and to that substitute one perfecting amendment is in order. Therefore you may have pending the original amendment and an amendment to it and the substitute and an amendment to the substitute—four. But that provision about the substitute is purely a House provision. It is not general parliamentary law and it is not the rule of this body.

Mr. CLARK of Wyoming. Will the Senator from Massachusetts yield for just a moment? I understand the amendment proposed by the Senator from Utah does not propose to amend the substitute, but proposes to amend the amendment of the committee.

Mr. LODGE. But it is an amendment to the amendment of the committee just the same as that offered by the Senator from North Carolina. It does not make any difference whether the second amendment is in the nature of a substitute or not, under general parliamentary law, and under the rule in the manual, there is a second amendment pending, and it is of no consequence whether it is a perfecting amendment or a substitute. There is one amendment offered to the amendment now. No other amendment can be offered to the committee amendment.

Mr. BRANDEGEE. Will the Senator let me ask him a question there? The Senator from North Carolina has proposed an amendment to the committee amendment.

Mr. LODGE. Certainly.

Mr. BRANDEGEE. The Senator from Utah has done exactly the same thing.

Mr. LODGE. Precisely.

Mr. BRANDEGEE. Can there be two pending amendments before the Senate in the same parliamentary status at the same time?

Mr. LODGE. Certainly not, under the rule of the Senate. It makes no difference under the rule of Jefferson's Manual and general parliamentary law what the amendment is, whether it is a perfecting amendment, as it is usually called, or an amend-

ment in the nature of a substitute. It is an amendment to the amendment. The Senator from Utah offers another amendment to the original amendment. That, of course, is excluded. It is an amendment in the third degree.

Mr. BORAH. Mr. President——

The PRESIDING OFFICER. Does the Senator from Massachusetts yield to the Senator from Idaho?

Mr. LODGE. I do.

Mr. BORAH. I know the authority with which the Senator speaks upon this question, but has not this precise thing been done a number of times during this session?

Mr. LODGE. Not to my knowledge.

Mr. BORAH. It has to my knowledge.

Mr. BRISTOW. Mr. President——

Mr. LODGE. If we have done it, we have done wrong. But I want to say, if the Senator from Kansas will allow me, I gave this subject some careful examination yesterday. I took the trouble to go over to the House and consult the gentleman who, I think, is the ablest parliamentarian now living in this country, and that is Mr. HINDS, whose familiarity with House provisions and parliamentary law generally everyone knows is very great. I went over this whole subject with him, and especially the House rule with which he is most familiar.

Mr. CLARK of Wyoming. Mr. President——

The PRESIDING OFFICER. Will the Senator from Massachusetts yield to the Senator from Wyoming?

Mr. LODGE. Certainly.

Mr. CLARK of Wyoming. We all recognize the Senator's authority on parliamentary law, but can he give us a concise definition——

Mr. SMITH of Georgia. We can not hear the Senator over here.

Mr. CLARK of Wyoming. I ask the Senator if he can give a concise definition as to what an amendment in the second degree is?

Mr. LODGE. The main question is the bill. I use the language of the manual. The main question is the bill. The committee amendment is amendment No. 1. Any amendment to that amendment is in order and is No. 2, but any further amendment, whether substitute or perfecting, is amendment No. 3, and must be excluded at that stage; but if the amendment of the Senator from North Carolina is adopted, or if it is rejected, the amendment remains open to indefinite amendment as before. The amendment never passes in committee beyond the stage where it can be amended until it ceases to be an amendment.

When it ceases to be an amendment by the body placing it in the bill, then it can not be amended any further in the committee stage, but if we substitute the amendment proposed by the Senator from North Carolina [Mr. SIMMONS] for the committee amendment, that would be open to successive amendments of any different kind from those already passed upon.

Mr. SUTHERLAND. Mr. President, will the Senator permit me to ask him a question?

Mr. LODGE. Certainly.

Mr. SUTHERLAND. If the committee amendment were now a part of the bill, then the last proposed Simmons amendment would be in the nature of a motion to strike out and insert, would it not?

Mr. LODGE. It would be a motion to strike out and insert.

Mr. SUTHERLAND. Yes; and in that event the motion which I now make would be in order.

Mr. LODGE. Beyond doubt.

Mr. SUTHERLAND. Let me ask the Senator this question: When an amendment is proposed to a bill, is it not in order to move to strike out words from that amendment and to insert other words?

Mr. LODGE. Certainly; and the Senator from North Carolina has done it.

Mr. SUTHERLAND. Well, then, if that is so, upon what theory does the Senator limit the language of Rule XVIII, which is:

But pending a motion to strike out and insert——

Mr. LODGE. Mr. President——

Mr. SUTHERLAND. Now, wait. The rule continues—

the part to be stricken out and the part to be inserted shall each be regarded for the purpose of amendment as a question; and motions to amend the part to be stricken out shall have precedence.

Mr. HITCHCOCK. Mr. President, I make the point of order that this question is not debatable. We are wasting a lot of time here. The Chair can decide.

Mr. SUTHERLAND. The Chair, as I understand, has indicated that he did not object to being enlightened.

Mr. HITCHCOCK. It is not necessary for the Chair to object. Any Senator can object; any Senator can make the point of order that debate is out of order on an undebatable question.

Mr. LODGE. I should be glad to reply to the Senator's question, of course, but the point of order having been made no further debate is in order.

Mr. SUTHERLAND. If I may be heard a moment by the indulgence of the Chair, I should like to be heard.

Mr. BRANDEGEE. If the Chair desires to have information, it certainly is in order to give it.

The PRESIDING OFFICER. It has been the practice that if the Chair desires he can hear discussions of points of order, and the Chair will be very glad to hear the Senator from Utah and the Senator from Massachusetts.

Mr. SUTHERLAND. I should like to be heard a moment before the matter is disposed of.

Mr. HITCHCOCK. What was the ruling of the Chair?

The PRESIDING OFFICER. The Vice President has frequently ruled that when the occupant of the chair desires to hear a point of order discussed he could do so.

Mr. HITCHCOCK. I hope the Chair will not desire it very long. We are wasting a lot of time.

The PRESIDING OFFICER. The Chair will be reasonable in connection with that.

Mr. SUTHERLAND. The question which I was submitting to the Senator from Massachusetts was this: The Senator from Massachusetts concedes that where an amendment is pending as this committee amendment is pending, it would be in order to move to strike out any words from that amendment and to insert other words. That is precisely the motion which has been made, as it seems to me.

Mr. LODGE. That is the motion of the Senator from North Carolina.

Mr. SUTHERLAND. What I want to ask the Senator from Massachusetts is, Upon what theory he narrows what appears to be the very broad terms of Rule XVIII? The rule reads:

But pending a motion to strike out and insert—

It does not say, "Pending a motion to strike out from a bill and insert something."

Mr. LODGE. Because, Mr. President, the motion to strike out and insert does not apply to anything but the bill. You are not proposing to strike out anything here; you can not strike out what is not in the bill; you can only strike out of a bill what is in the bill; you can not strike out an amendment that is not in the bill. The striking out and inserting applies beyond any question to the bill.

Mr. SUTHERLAND. Mr. President, I think the amendment which I propose is in order. I think the Senator from Massachusetts takes altogether too narrow a view of Rule XVIII, which is perfectly plain, and under which, it seems to me, it is perfectly clear that this amendment is in order.

The House of Representatives has reached the result by one kind of a rule, and we have reached it by another kind of a rule. Rule XVIII of the Senate reads in full as follows:

If the question in debate contains several propositions, any Senator may have the same divided, except a motion to strike out and insert, which shall not be divided—

That means any question in debate; it does not mean a question relating to an amendment of the bill, but, as I view it, any question relating to the amendment of a proposed amendment. The rule continues:

But the rejection of a motion to strike out and insert one proposition shall not prevent a motion to strike out and insert a different proposition; nor shall it prevent a motion simply to strike out; nor shall the rejection of a motion to strike out prevent a motion to strike out and insert.

Now, it is not clear that thus far in this rule the language is not to be limited to the original provisions of the bill, but that it is to be extended to any proposition which is pending before the Senate.

Mr. BRANDEGEE. Mr. President——

Mr. SUTHERLAND. Wait a moment. The rule continues—and this is the specific part of it which applies to this question—

But pending a motion to strike out and insert—

Not a motion to strike out something from the bill and to insert something else in the bill; but broadly—

pending a motion to strike out and insert, the part to be stricken out—

That is, the original committee amendment being the part to be stricken out—

and the part to be inserted shall each be regarded for the purpose of amendment as a question; and motions to amend the part to be stricken out shall have precedence.

Mr. LODGE. Mr. President——

The PRESIDING OFFICER. Does the Senator from Utah yield to the Senator from Massachusetts?

Mr. SUTHERLAND. I do.

Mr. LODGE. I am sure, under general parliamentary law, the words "strike out and insert" apply only to the bill. They are distinguished very plainly. If the Senator will turn to the manual, he will find this:

When it is proposed to amend by inserting a paragraph, or part of one, the friends of the paragraph may make it as perfect as they can by amendments before the question is put for inserting it. * * * In like manner, if it is proposed to amend by striking out a paragraph, the friends of the paragraph—

And so forth.

There is no proposition to strike out here. The proposition here is to add or insert, and that is all. There is nothing to perfect except the amendment itself, and that can be perfected by a series of amendments, but not by more than two pending at one time under our rules.

Mr. SUTHERLAND. Mr. President, the difficulty——

Mr. WEST. Mr. President——

Mr. SUTHERLAND. Just a moment. The difficulty with the Senator from Massachusetts is that he treats the illustration of the rule as the rule itself, which it is not.

Mr. LODGE. If the Senator will allow me, the rule is to strike out and insert; and I never before heard of applying that to an amendment in any parliamentary body, though I may be wrong about it.

Mr. SUTHERLAND. The Senator from Massachusetts is usually right.

Mr. LODGE. I will say, if I may refer to Mr. HINDS by name, that I asked him that particular question, and he said there is no parallel whatever between the two propositions.

Mr. SUTHERLAND. Of course I have great respect for the view of Mr. HINDS, but I do not know how familiar he is with Rule XVIII of the Senate, which naturally controls the question.

Mr. LODGE. Mr. HINDS has spent a great many years, I may say, compiling the precedents in his great work on the rules of the House, in which, I think, he reviews the Senate rules.

Mr. SUTHERLAND. Mr. President, but the Senator from Massachusetts quotes an illustration of the rule as though it were the rule itself. The rule is laid down:

But pending a motion to strike out and insert, the part to be stricken out—

May be perfected, and so on.

As illustrating that rule, the Manual speaks of striking a paragraph out of the bill, but that is a mere illustration of the rule; it is not the end of the rule itself. By a parity of reasoning when any other proposition is pending before the Senate, as the original amendment is now pending, the rule applies to that just as it does to a bill.

I call the attention of the Chair to the broad language of the rule. The rule is not limited in any way. The rule applies to a situation of this kind quite as much as it does to the original bill. Here is an amendment proposed by the committee, which is now pending before the Senate and is to be voted on. A motion is made to substitute for that another amendment, the effect of which is to strike out all after the word "*Provided*" in the original amendment and to insert other language. That is the situation.

The Senator from Massachusetts concedes that such a motion as that is in order. It is in order to move to strike out from this amendment certain words and to insert others; and that is what has been done. Then the question arises, What is the parliamentary situation of that matter? The rule is that, "pending a motion to strike out and insert"—not to strike out and insert in the original bill, but to strike out and insert as to any proposition which is pending before the Senate—"the part to be stricken out and the part to be inserted shall each be regarded for the purpose of amendment as a question; and motions to amend the part to be stricken out shall have precedence." It seems to me that under that rule the amendment which I propose is in order.

Mr. BRANDEGEE. Mr. President, I ask that the Secretary may state the amendment proposed by the Senator from Utah.

The PRESIDING OFFICER. It has been stated, but the Secretary will again read the amendment.

The SECRETARY. On page 2, lines 11 and 12——

Mr. BRANDEGEE. Of what?

The SECRETARY. In the committee amendment—it is proposed to strike out the words "any treaty or other right possessed by the United States" and insert the words "the right of the United States to discriminate in favor of the ships of commerce of its citizens in respect of the conditions or charges of traffic which may be imposed for the use of the Panama Canal, but, on the contrary, such right is hereby reasserted."

Mr. BRANDEGEE. Mr. President, it seems to me perfectly clear that that is a proposition to amend the committee amendment by striking out and inserting. There is already a bill, a committee amendment, and an amendment to the committee amendment, which later amendment to the amendment was proposed by the Senator from North Carolina [Mr. SIMMONS]. The Senator from Utah [Mr. SUTHERLAND] now proposes, before the vote is taken upon the amendment to the amendment, to offer an amendment to perfect the committee amendment in another respect from that suggested by the Senator from North Carolina; and, of course, that being an amendment in the third degree, it is absolutely out of order. If not, I have a right to offer an amendment to the amendment proposed by the Senator from Utah, and the Senator from New Hampshire can offer an amendment to my amendment to the amendment of the Senator from Utah, and we would spend the rest of the year here offering amendments down the line to the other amendments.

The question is upon the amendment offered by the Senator from North Carolina as a substitute for the committee amendment, and until that is settled no other amendment is in order either to the bill or to the committee amendment or to the amendment proposed by the Senator from North Carolina.

Mr. SUTHERLAND. Mr. President, will the Senator permit me to interrupt him?

Mr. BRANDEGEE. Certainly.

Mr. SUTHERLAND. The Senator overlooks the provision of the rule, which is:

But pending a motion to strike out and insert, the part to be stricken out and the part to be inserted shall each be regarded for the purpose of amendment as a question.

There it must terminate under the rule; so that the Senator is in error, under the rule, in insisting that we may go further.

Mr. BRANDEGEE. I am aware that the Senator thinks I am in error, Mr. President, and, of course, I may be in error; but I have not overlooked the rule. I have just read the rule and have had it reread to me by the Senator from Utah, and I do not think the rule applies to this case at all. If it did, it would operate to take down the bars against amendments to amendments.

The trouble with the Senator from Utah, in my opinion, is that he takes the wrong view of that rule in this, that he thinks the question referred to by the rule is an amendment, while it is not; the question under discussion here is the bill. An amendment to the bill has been recommended by the committee, and the Senator from North Carolina has proposed a substitute for that amendment. Now——

Mr. SUTHERLAND. Mr. President——

Mr. BRANDEGEE. I yield.

Mr. SUTHERLAND. Does the Senator take the same view that the Senator from Massachusetts [Mr. LODGE] takes, that the motion of the Senator from North Carolina proposing his last amendment is in substance a motion to strike out the original amendment and to insert his own?

Mr. BRANDEGEE. I do not know how the Senator has prepared it or what the language of it is; but, as I understand, it is an amendment in the nature of a substitute.

Mr. SUTHERLAND. A motion to substitute one thing for another is a motion to strike out the one and insert the other. The Senator from Massachusetts conceded that if it were offered to the language of the bill it would clearly be a motion to strike out and insert. Now, does it alter the character of it because the motion is offered to an amendment instead of to the bill? Is it not still a motion to strike out and insert, no matter what we may call it?

Mr. BRANDEGEE. The question is whether or not it is an amendment in the third degree; that is the point. The effect of the motion of the Senator from North Carolina to insert his amendment in the bill instead of the committee amendment is in effect a motion to strike out the committee amendment and insert his; but, however that may be, it can not be construed that Rule XVIII is meant to abolish all limitation upon the number of amendments that can be pending at the same time.

Mr. SIMMONS. Mr. President——

Mr. BRANDEGEE. I yield to the Senator from North Carolina.

Mr. SIMMONS. Mr. President, I simply want to suggest to the Senator that my motion was a motion to substitute certain language for the committee amendment.

Mr. BRANDEGEE. I understand that; but I do not think that alters the essential character of the operation. The motion is in the nature of a substitute, to strike out what is proposed and to substitute in lieu thereof the amendment of the Senator from North Carolina.

Mr. BRISTOW and Mr. SMOOT addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. BRISTOW. Mr. President, right in line with this question, I want to call the Chair's attention to the RECORD of May 29, pages 9455, 9456, wherein the Senator from New York [Mr. O'GORMAN] offered an amendment to the naval appropriation bill and the Senator from Mississippi [Mr. WILLIAMS] offered a substitute for that amendment. I addressed the Chair the following inquiry:

Mr. BRISTOW. Mr. President, a parliamentary inquiry. Is not the amendment of the Senator from Mississippi an amendment in the third degree?

Mr. WILLIAMS. I am offering the House language.

The VICE PRESIDENT. The Chair thinks that, under the last clause of Rule XVIII, "motions to amend the part to be stricken out shall have precedence," it comes fairly within the rule. The Senator from Mississippi is seeking to amend the part to be stricken out before the motion is put on striking it out.

Mr. BRISTOW. Then the amendment of the Senator from New York will come later.

Mr. LODGE. If the Senator will allow me one moment, that is not a parallel case. The amendment offered was to strike out.

Mr. SUTHERLAND. So it is here.

Mr. LODGE. No; the amendment——

Mr. BRISTOW. It was exactly a parallel case.

Mr. LODGE. One moment; let me state the case before the Senator interrupts. The amendment there was to strike out part of the bill, and both were open to amendment.

Mr. BRISTOW. If the Senator from Massachusetts will give me his attention, the amendment of the committee was to strike out a certain part of the bill.

Mr. LODGE. Certainly.

Mr. BRISTOW. The Senator from New York offered an amendment to that amendment to strike out a part of that which the committee had reported to be stricken out in its entirety. That was the amendment of the Senator from New York. Then the Senator from Mississippi offered as an amendment to the amendment of the Senator from New York his amendment; which was in the nature of a substitute for the amendment offered by the Senator from New York, and the Vice President ruled that the amendment offered by the Senator from New York and the amendment offered by the Senator from Mississippi could each be perfected under Rule XVIII; and that is exactly what the Senator from Utah is undertaking to do now.

Mr. LODGE. That was a motion to strike out part of the bill.

Mr. BRISTOW. But, if the Senator will pardon me, the committee had an amendment pending which struck out a part of the bill.

Mr. LODGE. It does not make any difference; the motion of the Senator from New York was to strike out part of the bill.

Mr. BRISTOW. The Senator from New York proposed to amend the amendment of the committee by striking out certain lines.

Mr. LODGE. He may have adopted an erroneous form, but what he proposed to do was to strike out a part of the bill.

Mr. BRISTOW. No.

Mr. WILLIAMS. Mr. President, if the Senator from Kansas will pardon me, upon that occasion my amendment was an amendment to the text of the original House bill. The question before the Senate was the bill as it came from the House. The Senator from New York moved as an amendment to the committee amendment to strike out a certain part of the bill, to strike out a different part, but the Chair ruled that as my amendment was an amendment to the bill and not an amendment to either amendment, it was in order.

Mr. BRISTOW. The Senator is mistaken as to the ruling. The Chair ruled that the amendment of the Senator from Mississippi was a substitute for the amendment of the Senator from New York; that they were both separate propositions; and that either could be amended; and we proceeded to vote on the two separate propositions in the nature of perfecting them.

Mr. WILLIAMS. The Senator has the text before him and I have not, but if the Senator will refer to it, if my memory serves me aright, he will find that the Chair based his ruling upon the ground that I had a right to perfect the language of the original bill before either one of the other amendments was considered.

Mr. HITCHCOCK. Mr. President, the Senate has now been proceeding out of order for 40 minutes, and I renew my point of order that this question is not debatable.

Mr. BRISTOW. Mr. President, I make the point of order that the Senator from Nebraska can not interrupt me to make a point of order.

The PRESIDING OFFICER. The Chair will hear discussion of the point of order for a few minutes.

Mr. HITCHCOCK. Mr. President, I have a right to make that point of order.

Mr. BRISTOW. Whether or not this debate shall continue is wholly within the discretion of the Chair. It is a question for him alone to decide, and he has a right to listen all day if he sees fit to do so.

The PRESIDING OFFICER. The point of order is well taken, if it is insisted upon by the Senator. The usual custom has been for the Chair to hear discussion on these points of order, but the rule, if insisted upon, states that points of order shall be decided without debate.

Mr. JONES. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state his parliamentary inquiry.

Mr. JONES. A few days ago, when the Senator from Nebraska [Mr. HITCHCOCK] was in the chair, he held that I could not interrupt a Senator without his consent in order to raise the highest point of order that can be made—a point of no quorum. I wish to know whether or not it is proper for the Senator from Nebraska to interrupt the Senator from Kansas, without his consent, to make a point of order.

The PRESIDING OFFICER. The Chair will state that speakers can always be interrupted on points of order. The Secretary will read Rule XX.

Mr. GALLINGER. Mr. President, I do not propose to participate in debate on the point of order, but I submit for the RECORD that while the Chair patiently and courteously listens to debate, it is not in order for another Senator to call a Senator to order. It is fully within the province of the Chair to listen to debate or not to listen to debate, and the Chair can terminate it at any moment.

The PRESIDING OFFICER. The Secretary will read Rule XX.

The SECRETARY. Rule XX, on page 19 of the Standing Rules of the Senate, is as follows:

QUESTIONS OF ORDER.

A question of order may be raised at any stage of the proceedings, except when the Senate is dividing, and, unless submitted to the Senate, shall be decided by the presiding officer without debate, subject to an appeal to the Senate.

Mr. SMOOT. Mr. President, I wish to say frankly that I wish to discuss the question of the point of order but a few minutes, not very long; and if the Chair is willing——

The PRESIDING OFFICER. If the point of order is insisted upon, the Chair must determine it without debate, under Rule XX. The Chair is willing to hear from the Senator upon it, unless objection is raised.

Is there any objection to the Senator discussing the point of order? The Chair hears none.

Mr. SMOOT. Mr. President, I believe under the ruling of the Chair——

Mr. HITCHCOCK. Mr. President, I did not understand that the Chair was addressing me. I made my point of order, and insisted on it.

The PRESIDING OFFICER. The Chair was addressing the entire Senate.

Mr. HITCHCOCK. I make the point of order that this is not a debatable question. I think the time has come when the wasting of time in the Senate ought to be drawn to a close.

Mr. SMOOT. Not to embarrass the Chair at all, and to yield to the unreasonable demand of the Senator from Nebraska, I shall say no more, Mr. President.

The PRESIDING OFFICER. The present occupant of the chair is satisfied that under general parliamentary law an amendment in the third degree can not be moved. Only one motion to amend the main question and one motion to amend that amendment can be pending at the same time. So the question for the Chair to determine is whether or not the amendment offered by the Senator from Utah [Mr. SUTHERLAND] is an amendment in the third degree.

The proposition before the Senate is House bill 14385. The committee when it reported the bill reported an amendment, which amendment is printed with the bill but is not a part of the bill. It is offered for the consideration of the Senate as a proposed amendment. That is an amendment in the first degree, a distinct proposition.

The Senator from North Carolina [Mr. SIMMONS] has offered, not a motion to strike out and insert, but a substitute for the amendment proposed by the committee. That makes two distinct propositions for the Senate to pass upon. That is a second amendment, in the form of a substitute.

The Senator from Utah [Mr. SUTHERLAND] has offered an amendment to the amendment offered by the committee. If his amendment were in order, it would have precedence over the amendment offered by the Senator from North Carolina—that is, if it tended to perfect the original amendment—but

precedence can not be given to any amendment unless the amendment is in order.

The amendment submitted by the Senator from Utah is a third proposition, which would leave three amendments pending before the Senate for consideration at the same time to the main question.

The Chair is satisfied that under general parliamentary law, which prevails in this body, on this question an amendment in the third degree is not permissible. Consequently the Chair must sustain the point of order and declare that at this time the amendment is not in order.

Mr. SMOOT. Mr. President, in that connection may I ask the Chair a question?

The PRESIDING OFFICER. The Chair is perfectly willing to answer any question that is suggested by the Senator.

Mr. SMOOT. There is no doubt that not the present occupant of the chair, but the Vice President, has ruled at least three times during this session that wherever a substitute for an amendment was offered, either in the first or the second degree, the Senate had a right to perfect either amendment, and that the first amendment had precedence. I simply state that fact and wish to know whether the Chair now rules contrary to that ruling.

The PRESIDING OFFICER. The Chair rules that no amendment can have precedence unless it is in order. If the amendment offered by the Senator from Utah were not of the third degree, it would then have precedence as perfecting the original amendment; but in order to have precedence an amendment must be such an amendment as can be offered under the rules of the Senate. Under the rules of the Senate an amendment in the third degree is not in order.

Mr. SMOOT. I am perfectly aware that under our rules an amendment in the third degree is not in order, and if I understand the Chair's ruling it is that wherever there are two amendments offered to the bill there is no right to perfect either one of those amendments.

The PRESIDING OFFICER. The Chair rules that where a bill is pending before the Senate and one amendment is offered, when a second amendment is offered that constitutes an amendment in the second degree, and a third amendment is not in order, being in the third degree.

Mr. SMOOT. Whether it be a perfection of the amendment or not?

The PRESIDING OFFICER. The only exception to this is under Rule XVIII. Where a motion is made to strike out and insert that is considered as one question; but the Senator from Utah has no right to change the motion made by the Senator from North Carolina and make it a motion to strike out and insert when it is not a motion to strike out and insert. Besides, the amendment of the committee is not in the bill and included as a part of it. It is an amendment itself and is not included in the bill.

Mr. STONE. Let us have the regular order.

Mr. SIMMONS and others. Regular order!

Mr. BORAH. Mr. President, I understand the matter now before the Senate is the amendment of the Senator from North Carolina [Mr. SIMMONS] to the amendment of the committee.

The PRESIDING OFFICER. That is the question before the Senate.

Mr. BORAH. I presume we are about ready to vote upon this amendment; but I think we should have, before we vote, a little enlightenment from the Senator as to what this amendment is intended to accomplish.

The amendment which I have before me reads:

Provided, That the passage of this act shall not be construed or held as a waiver or relinquishment of any right the United States may have under the treaty with Great Britain ratified the 21st of February, 1902 or the treaty with the Republic of Panama ratified February 26, 1904, or otherwise to discriminate in favor of its vessels by exempting the vessels of the United States or its citizens from the payment of tolls for passage through said canal, or as in any way waiving, impairing, or affecting any right of the United States under said treaty, or otherwise, with respect to the sovereignty over or the ownership, control, and management of said canal and the regulation of the conditions or charges of traffic through the same.

The Senator who offers this amendment stated upon the floor a few days ago that for the United States to exempt her vessels of commerce from tolls while passing through the canal would be a plain violation of the treaty. In view of that statement of the Senator, I wish to ask the Senator what is the meaning of this amendment and what object is sought to be accomplished by it. Does the Senator modify his view that there is a possibility that we may have a right to pass our vessels of commerce through the canal free of tolls; or what is the object of this amendment?

Mr. SIMMONS. Does the Senator desire that I shall reply now?

Mr. BORAH. Yes. I desire to yield sufficient time to enable the Senator to reply.

Mr. SIMMONS. I shall require only a few minutes.

Mr. President, I do not think it is possible to draft an amendment that is plainer in its purport and its meaning than is this amendment. I drafted this amendment after much consideration and with much care, and if it does not contain a plain expression of its purpose, it is because I am not able to use the English language to express a purpose.

I do not think any Senator can have any doubt as to what the amendment means. I do not understand the Senator from Idaho as expressing any doubt as to what it means; but the Senator asks me how I square this amendment with my position with reference to the right of the United States to exempt its coastwise vessels from the payment of tolls, as I understand.

Mr. BORAH. No; not exactly that. What I want to know from the Senator is this: Does the Senator by this amendment mean to assert that the United States has the right to exempt its vessels from tolls passing through the canal?

Mr. SIMMONS. Mr. President, the issue that is drawn by the several amendments that have been introduced, some by the friends of the bill and some by the opponents of the bill, is a very clear-cut issue. It is whether these amendments, if any are to be adopted, shall reserve to the United States any rights that it may have under these treaties or otherwise, or whether we shall expressly assert the right of the United States hereafter to exempt its vessels from tolls.

The amendment I have introduced is an amendment of reservation of right. It is nothing more and nothing less. It does not assert any right in the United States with respect to these things, but it declares that we reserve any right that the United States may have. It is therefore expressly an amendment of reservation.

The amendment which the Senator from Utah [Mr. SUTHERLAND] has introduced, and some other amendments of like character that have been introduced by those who are opposed to repeal, expressly assert the right of the United States hereafter to exempt its coastwise vessels from the payment of tolls. This amendment of mine is a declaration that in repealing this provision of the canal-tolls act we reserve any right that the United States may have under the treaty with Great Britain, under the treaty with Panama, or ortside of the treaties with Great Britain and Panama, with respect to the imposition of tolls or the exemption of tolls upon its vessels. The amendments which have been offered in antagonism to this idea assert that notwithstanding we now repeal the act exempting coastwise vessels from tolls, we assert that the United States has that right, and may at any time in the future when it sees fit exempt these vessels from the payment of tolls.

That is the clear-cut issue between the proponents of these several amendments. The friends of repeal present an amendment reserving whatever rights the United States may have. That is to say, it provides that the act of repeal shall not be construed as waiving any rights that the United States may have under these treaties or otherwise. The opponents of repeal offer amendments asserting that the United States has the right under the treaty with Great Britain to make this exemption without giving like exemption to other nations.

These proposed amendments now offered raise the question of whether we want simply to reserve whatever rights the United States may have, whatever rights it may be determined hereafter by diplomacy or by arbitration or otherwise that the United States has shall be reserved, or whether in repealing this act we want to declare that the United States has the right to make the exemption this bill repeals.

That is the issue between the proponents of these diverse amendments.

Now, the Senator asks me a further question, and I should like to answer that now, and then I shall have nothing more to say about it, because I think the proposition is so well understood in this body that it is not necessary that we should spend any great length of time in elaboration or in discussion.

The Senator asks, in view of my position, stated a few days ago, to the effect that in my opinion under the treaty with Great Britain we have no right to exempt our coastwise vessels from tolls without at the same time exempting vessels of other countries, how I could justify the provisions of this amendment reserving whatever right the United States may have in the premises. The Senator very well knows that this debate has developed two lines of opinion, separate and distinct, with respect to this question. Certain Senators who are in favor of the repeal of the act of 1912 have taken the position that the United States has no right under the treaty to exempt these vessels from the payment of tolls without at the same

time exempting the vessels of other countries. They have taken the position that we had no right to make that exemption under the treaty, and for that reason they favor the repeal of that act.

There are other Senators who favor this repeal who, while believing that we have the right to make the exemption, believe and contend the act of 1912 ought to be repealed for economic reasons; that it ought to be repealed upon grounds of sound public policy, and for that reason they favor its repeal.

Those who believe that we have not the right to make this discriminatory exemption, and who put their attitude upon that ground independently of the question whether it is good policy or bad policy, of course, do not regard this amendment as necessary. They would not desire it; they would think it would be innocuous. But that class of Senators who believe that this exemption is unwise as a matter of economic policy, who believe that it is unwise as a matter of national policy, and who, at the same time think we have the right, if we see fit, under the treaty to make the exemption, naturally desire that whatever right the United States may have shall be reserved, and that that shall be done contemporaneously with the repeal of the exemption in the act of 1912. I concede that the gentlemen who are supporting this repeal upon that idea, and upon that idea alone, have a right to ask the Senate to make that reservation, and in deference to their views about this matter I have offered the amendment.

Mr. BORAH. Mr. President——

Mr. FLETCHER. Will the Senator from North Carolina allow me one moment. I wish to ask the Senator before he resumes his seat——

Mr. SIMMONS. If the Senator will pardon me, I should have said, of course, there are some who believe that the United States have no right to make the exemption and who oppose the exemption upon that ground, who are also opposed to it upon economic grounds, and there are others who believe, as the Senator from Nebraska [Mr. NORRIS] believes, that we have a right to make the exemption but that it is unwise as a matter of economic policy to exercise it.

Mr. FLETCHER. I was going to suggest to the Senator that his amendment would be relieved of some ambiguity if, in the eleventh line, the word "treaties" was substituted for the word "treaty."

Mr. SIMMONS. That ought to be done. That is a purely typographical error. I was going to ask that the word "treaty" be changed to "treaties"; it is a mistake.

Mr. BORAH. Mr. President, I am under obligations to the Senator from North Carolina [Mr. SIMMONS] for making so plain his position. As I understand the Senator's position, it is that the United States has no right to exempt its vessels from tolls passing through the canal; that it is a plain violation of the treaty to do so; but that he offers an amendment providing that in case we have any right it shall be reserved. That is a somewhat singular not to say a surprising position. To reserve a right which plainly, according to the Senator, does not exist seems quite an unnecessary and probably a useless thing to do.

Mr. SIMMONS. If the Senator will pardon me, in order to make my position plain and that he may not misrepresent me, I take the position that we have no right, but I also stand with the others who believe that it is unwise public policy to exempt, and I so stated.

Mr. BORAH. I understand that there are those who would retain our rights under the treaty and who believe that we have the right under the treaty to pass our vessels through the canal free, and I understand perfectly why they desire an amendment which would reserve our rights under the treaty and at the same time would like to vote for repeal upon the ground of the domestic proposition. I understand perfectly why one desiring to retain the rights under the treaty should want an amendment if at the same time he believed it unwise to have free tolls as a matter of domestic policy, and a Senator's vote upon an effective amendment holding those views would not be difficult for me to understand at all.

But I do not understand, Mr. President, how one who believes that the act of 1912 was in plain violation of the treaty and at the same time believes the act unwise also as a domestic matter could possibly vote for anything which is a compromise of his position. If it is a violation of the treaty, if the act of 1912, as said by the President, is in plain violation of our obligations with another nation, there is only one thing one having a true sense of obligation can do, and that is to vote to repeal the act without the attempt to reserve something which he denies has any existence at all. The effort to reserve something which if reserved would be dishonorable is not a high-minded thing to do.

But even as to those Senators who believe that we have a right under the treaty to pass our ships of commerce through the canal free and at the same time desire not to do it on account of the economic question, I still think that this amendment does not deal with the question candidly and fairly and courageously. Let us read the amendment—

That the passage of this act——

Mr. SIMMONS. Would it interrupt the Senator, before he enters upon that second proposition, to permit me to answer a thought that he has just developed which was not contained in his original statement and inquiry?

Mr. BORAH. I will yield to the Senator.

Mr. SIMMONS. The Senator says he can not see how those who believe that we have not the right under the treaty could vote for this amendment of reservation. In reply to that, I want to say to the Senator while I believe that, I am not so absolutely sure of my opinion, I do not regard myself as so absolutely infallible, as to feel that because I entertain that opinion the question is, therefore, absolutely foreclosed; and I take it that is the view of other Senators.

Mr. BORAH. It must be a surrender of his own conscience and a compromise with his solemn judgment.

Mr. SIMMONS. It is a matter of opinion. Those of us who believe, like I do, that we have not the right are perfectly willing that that question shall be reserved, because we recognize the fact that we may be mistaken about this matter. We are willing that it shall be reserved for diplomacy or for arbitration or for settlement in such other way as is usual and proper in the settlement of like questions in dispute between friendly nations.

Mr. BORAH. Then, if I understand the Senator correctly in his second enunciation of principle, it is that this matter is not to be settled by this repeal; that the question whether or not we have a right to exempt our vessels of commerce from tolls shall yet be open and unsettled; that there may be another tribunal which can arrive at a final conclusion, which the Senate seems unable to reach; that there may be other judges and another tribunal which can make a final determination in regard to this question.

Mr. President, as I said before, I perfectly understand the position of those Senators who divide this proposition into an economic question and into a legal question under the treaty, believing we ought not to do it as a matter of economics, and believing that we should retain our rights under the treaty; but I do not understand how, having arrived at a conclusion that it is a plain violation of the treaty, and at the same time believing it unwise as a domestic proposition, anyone can vote to reserve anything in the nature of that which he insists does not exist. It is not legislating upon a plane commensurate with the great subject before us.

Mr. SIMMONS. I want to ask the Senator if he does not know the fact that President Taft, after having stated that he thought it was not a violation of the treaty, immediately afterwards said that he was willing to arbitrate that question.

Mr. BORAH. That would not change the situation. But the ex-President insisted that we had a right to exempt our ships, but was willing to arbitrate it; he did not say we have no right, but, nevertheless, we will arbitrate something we do not claim.

Mr. SIMMONS. Will the Senator pardon one other question? Does the Senator know that the senior Senator from New York [Mr. ROOT], who has taken, probably, stronger grounds than anybody else against the right of the United States, has always insisted that, notwithstanding his views about it, the other party to the contract has rights, as well as ourselves, with reference to the construction of the treaty, and that these doubts, these differences of opinion, raise a proper question for arbitration?

Mr. BORAH. I understand that to be true of the Senator from New York.

Mr. CLAPP. Will the Senator pardon me?

Mr. BORAH. Certainly.

Mr. CLAPP. There is a vast difference between the attitude of a man who claims something and is willing to submit that to arbitration, as in the case of President Taft, and a man who claims nothing and still reserves the right to claim the thing which he admits he does not claim. There is a difference between the attitude of the two.

Mr. BORAH. I was going to address myself for a moment, and for a moment only, to the question of the language of this amendment. In this amendment, as I see it, there are two separate and distinct propositions upon which we are to vote:

That the passage of this act shall not be construed or held as a waiver or relinquishment of any right the United States may have under the treaty with Great Britain,

Now, I call the attention of the Senators who assume that they are reserving the right of the United States if that kind of an amendment is adopted, in the face of the statement and following the statement of the President and of Members of the Senate, to the fact that we have no such right; we say that we do not claim any such right; the Chief Magistrate has said it is in violation of the treaty; and yet they ask those who believe that we have such a right, and it is of vital and of supreme importance to this country, to vote for an amendment which does nothing more than say that we retain it if we have it. What we ought to have is a plain, distinct assertion that we have a right to pass the vessels of commerce through the canal free and enable those who believe that to vote for it in the integrity of the language which would undoubtedly reserve that right.

Let me call the attention of the Senators to the President's message. He says:

> In my own judgment, very fully considered and maturely formed, that exemption constitutes a mistaken economic policy from every point of view, and is, moreover, in plain contravention of the treaty with Great Britain concerning the canal concluded on November 18, 1901.

The President takes the position that it is not only wrong as an economic policy, but that it is in plain violation of the treaty. Furthermore, he says:

> We consented to the treaty; its language we accepted, if we did not originate it; and we are too big, too powerful, too self-respecting a Nation to interpret with a too strained or refined reading the words of our own promises just because we have power enough to give us leave to read them as we please. The large thing to do is the only thing we can afford to do—a voluntary withdrawal from a position everywhere questioned and misunderstood.

Are you withdrawing from that position? You are not clearing the way for the President. You write into this act of repeal a notice to all the nations of the earth that, notwithstanding the request and plain entreaty of the President, the Congress of the United States believes that we have a right and are not willing to give it up. If you do not say that, then you, upon the other hand, are practicing a duplicity and deception with reference to this matter. You do not do what you are about to do in a plain, open, candid way. You leave the President in a most unfortunate position in view of his langauge; either that, or you are misleading the people of this country.

Mr. WILLIAMS. Mr. President, if the Senator will pardon an interruption——

Mr. BORAH. I will.

Mr. WILLIAMS. I think that the Senator would have a much clearer apprehension of the position of the President of the United States if he would once come clearly to the position that Woodrow Wilson, the present incumbent of that high office, does not think that he is the United States, and that there are two parties to this contract, or three, rather—one, the Republic of Panama; one, the Kingdom of Great Britain and Ireland; and one, the Republic of the United States. The President may very well say that I, Woodrow Wilson, think thus, but I am not the high contracting party; these United States of America constitute the high contracting party; and there are many of them who think otherwise, and it is my duty to give them a day in court. Therefore we might very properly be in favor of this legislation and at the same time be in favor of submitting this question to an international tribunal of arbitration.

The Senator all along is mixing two things that are not identifiable at all. In the first place, the President of the United States with the United States; in the second place, the Congress of the United States with the United States. They constitute the Government of the United States between them, but they do not constitute the United States, and they are mere temporary incumbents of office. Therefore, if there be a shadow of right of the United States, it ought not to be surrendered permanently and ultimately, but a day in court ought to be kept for the assertion of such rights as she may have.

Mr. BORAH. Mr. President, far be it from me to suggest that the President of the United States entertains the view that he is the United States or the Congress. No such thought as that, I trust, has escaped me. If I said anything to that effect, I should want to modify it at once.

Mr. WILLIAMS. But does not the Senator admit that the right of arbitration, if it exists for anybody, exists for the entire people, and that where any of the people claim to get any right under the treaty to exempt these vessels, that right ought to be submitted to international arbitrament; and that it is perfectly proper while doing that temporarily to waive, pendente lite—to use a law phrase—the assertion upon the side of either of the high contracting parties?

Mr. BORAH. Mr. President, the best answer to the argument of the Senator from Mississippi is found in the language of the President himself. The President says:

> The large thing to do is the only thing we can afford to do—a voluntary withdrawal from a position everywhere questioned and misunderstood.

To whom was the President speaking? To an arbitral tribunal, to some one else who would finally pass upon it, or to the Congress of the United States? His language is unmistakable. Therefore, why this modification? Has the rising tide of public opinion reached the Senate Chamber?

Whose view did this bill, as it came over from the other House, embody with its plain, unmistakable, unquestionable assertion of repeal? The President of the United States asked the Congress without equivocation, without the use of subterfuge or insincerity, or duplicity in language, to repeal this law; and I will venture to say that no man on the other side of the Chamber will dare to rise and say that this amendment meets with the approval of the President of the United States. His party is asking him to do that before the nations of the earth which will compromise either his intellectual integrity or his courage. I think we owe it to the situation and to the subject to speak in unmistakable manly language.

Mr. CLAPP. Mr. President, right in that line I call the Senator's attention to the last paragraph of the President's message——

Mr. BORAH. I was just going to read it.

Mr. CLAPP. Which absolutely eliminates the suggestion of the Senator from Mississippi [Mr. WILLIAMS].

Mr. BORAH. It reads:

> We ought to reverse our action without raising the question whether we were right or wrong.

Why reserve for arbitration when the proposition is to yield. Why do you want this reservation when the proposition of the President is to yield our position, right or wrong. If you are opposed to yielding, then say so in plain language, but if you believe it is plain violation of the treaty in the name of open candid action relative to a great question, say so.

Mr. WILLIAMS. Mr. President——

Mr. BORAH. Just a moment, and then I will yield to the Senator from Mississippi. The President continues:

> And so once more deserve our reputation for generosity and for the redemption of every obligation without quibble or hesitation.

Put this amendment down beside the President's assertion that we should do this without quibble, without hesitation, without circumvention, without going around Robin Hood's barn to accomplish it, and you have the President's condemnation of this amendment and not mine.

Mr. WILLIAMS. Mr. President, I am not defending this amendment, but I am trying to defend the position of the President, and to show that there is no contradiction in it. The Senator from Idaho has read the language of the President, and unconsciously he puts a wrong interpretation upon it. The President says that we "ought to reverse our action" "without raising the question whether we were right or wrong." To what did he refer? Our action in passing the bill and thereby becoming the judges in our own case, without submitting it to an international tribunal. The reversion of action to which the President referred, as every Senator knows, was merely a repeal of this clause, because in passing that provision we had made ourselves the judge in our own case, and the President uses the language; therefore, "without raising the question" of whether our original action "was right or wrong," let us reverse it, because we ought not to be the judge in our own case. That is what I understand the President means.

Mr. BORAH. Mr. President, if the President of the United States had meant that, adept as he is and accomplished as he is in the use of expression, he would have undoubtedly conveyed it to the Congress of the United States. The President conveyed no such idea to the Congress of the United States. The President says this is a plain violation of the treaty. He does not say that the treaty is questioned or that our right under it is questioned, and, therefore, we should put ourselves in the position which we occupied before passing the bill; he does not say that we should place ourselves in a position where we may arbitrate it before a tribunal and not pass upon our own rights, but he says this is a plain violation of the treaty and we should repeal that act because it is a plain violation of the treaty, and that we should do so without quibble or without equivocation, right or wrong.

Mr. WILLIAMS. Mr. President, if the Senator will pardon me, it seems to me that what he forgets is that what the President must have meant, and all that he could have meant, is this: "This is, in my opinion, a plain violation of the treaty,

but as there are many of you in whose opinions it is not a plain violation of the treaty, let us not raise the question of our right or wrong in the matter, but let us reverse that original action," which was the legislation we are now about to repeal. Then, of course, under our treaties with Great Britain and all other countries, leaving "questions of the interpretation of treaties" to arbitration, the right can be internationally determined—this is his plain further meaning. Of course the President did not mention everything in the world in connection with this question, but he expressed his opinion—not the opinion of the United States, nor would he have arrogated to himself the right to express the opinion of the United States. So when he said "This is a plain violation of the treaty," he meant, "My opinion is that it is a plain violation of the treaty." When he added, "Let us reverse our action without raising the question of right or wrong," it is as much as if he had said in so many words, "But I know that there are many of you who do not agree with me about that, and therefore let us not raise that question; let us simply reverse our action; put an end to all claim that we do not keep faith."

Mr. BORAH. Well, Mr. President, we will see from a further reading of the President's message. He says:

> I ask this of you in support of the foreign policy of the administration. I shall not know how to deal with other matters of even greater delicacy and nearer consequence if you do not grant it to me in ungrudging measure.

The "ungrudging measure" is that we are about to put into the repeal law an amendment which, in the language of the Senator from North Carolina [Mr. SIMMONS], reserves this right for future determination. The Senator from North Carolina proposes to reserve this treaty and our rights under it for future determination. I understand perfectly the great capacity of the Senator from Mississippi [Mr. WILLIAMS] to deal with these questions in a way to protect the situation, whatever that situation may be, and his great power in dialectics; but does the Senator from Mississippi really believe that we are giving to the President, in order that he may deal with this foreign situation in ungrudging manner, his request when we place a restraint upon it and reserve it as a matter for future determination? Is it settled finally? If so, then this bill is certainly a misleading proposition. If it means anything at all, it means that it is yet to be determined and yet to be adjusted. The President, in my judgment, condemns the very thing which we are now about to do.

Mr. President, I did not intend to detain the Senate so long, but I want to say in all sincerity that in my judgment we are doing the wrong thing by sidestepping on this great proposition. We are not dealing with a domestic matter; it is not a matter about which our people alone are concerned; the action of the Senate of the United States to-day will be looked upon and observed by all the nations of the earth. Our action will be criticized or upheld in the four corners of the earth wherever commerce prevails or wherever a people could have any possible interest in the commerce upon this side of the globe.

Mr. THOMAS. Mr. President——

Mr. BORAH. Just a moment. Mr. President, they will not condemn or uphold so much upon what we do as the decided, unmistakable, manly, and courageous way in which we do it. We are placing the President, who is the representative of this Government among the nations of the earth, in a position where he can not defend his intellectual integrity if he ever signs this bill. There is only one thing to do. If we have violated the treaty and any man upon the Senate floor believes that we have violated the treaty, he can not compromise with his conscience for a moment and place his country in a compromising position. If we believe, on the other hand, that we have not violated the treaty, then we should protect the rights of our Government without hesitation and in an unequivocal way. If we have violated it, you should yield without hesitation and let the chips fall where they will; do your duty by casting your vote on that line.

The Senator from Mississippi has said that we are here temporarily; true enough; that we are not the United States; true enough; but we propose, nevertheless, to take the bit in our teeth and go ahead and do this thing without having submitted it to the people of the United States. We propose to cut off from discussion before that body, which really constitutes the United States, this important question. We therefore are under every obligation to deal with this question sincerely and candidly, and those who believe that we have violated the treaty must cast their votes accordingly, it seems to me. Those who believe we have not, must vote against repeal and take the responsibility.

So far as I am concerned, I am perfectly willing to vote upon the proposition that our rights under the treaty are plain and unmistakable; that the Panama Canal was built as our property, to be used for our advantage in the commerce of the world as against the whole world, and to take the responsibility for such a position.

Mr. WILLIAMS and Mr. CLAPP addressed the Chair.

Mr. BORAH. I yield to the Senator from Colorado [Mr. THOMAS].

Mr. WILLIAMS. Mr. President, I thought the Senator was through.

Mr. CLAPP. I also thought the Senator was through.

Mr. BORAH. I wanted to yield to the Senator from Colorado before I sat down. I understood he desired to ask me a question.

Mr. THOMAS. I rose because of a remark of the Senator's at the time I sought to interrupt him, from which I inferred that we would, in his opinion, reach a vote to-day.

Mr. BORAH. Possibly.

Mr. THOMAS. That is the most gratifying information I have had upon this subject for six weeks.

Mr. BORAH. I trust the Senator from Colorado will not leave the city.

Mr. THOMAS. He will not.

Mr. WILLIAMS. Mr. President, I confess that I am at a loss to understand the difficulty that seems to lie in the mind of the Senator from Idaho. If I believed that the provision of the Panama Canal act which exempted our coastwise ships from the payment of tolls, and thereby discriminated against other ships, were a violation of the treaty—I do not believe that it is, but if I did believe it—I could find no sort of trouble at all in saying, "Why, JOHN SHARP WILLIAMS, you are not the only man in the United States; there are other men with as much brains as you; there are other men as good lawyers as you; there are other men who have made as much of a study of the Constitution and of international law as you have; do not make of yourself the superb spectacle not only of national but of international egotism, of regarding a matter of interpretation as settled because that is your opinion." "I am of the opinion," I would say in a case like that—putting myself in the other man's place—"that this is a violation of the treaty, but the distinguished junior Senator from New York is not of that opinion; the distinguished Senators from North Carolina are not; the distinguished Senator from Wisconsin is not; the distinguished Senator from Idaho is not; the distinguished Senator from Massachusetts is not," and so I might run through the list; and I can not see how in common modesty, much less common sense, I can take the position that because I had come to the conclusion that our conduct was a violation of the treaty, therefore that violation was a settled fact, and that the American people had no right to a day in court for the settlement of any rights which a lot of good lawyers, good constitutionalists, good patriots, and smart men say they had a right to under the treaties. I would consider myself a poor citizen, I would consider myself unpatriotic, if I were not willing to go further, after expressing my opinion, and thus going further, say the whole people of the United States are the American party to this contract; God knows if they have rights I do not want by my conduct to make them forego the proper assertion of them, although I am a Senator or a President.

Now, what is the proper assertion of them? Not only Taft, but Roosevelt, too, came out and said that while they did not believe we had violated the treaty, they were yet in favor of leaving this matter to the definitive and ultimate settlement of an international tribunal. What do men who say that mean? They simply mean on the side against repeal, as the Senator from New York [Mr. ROOT] means on his side, and as the President of the United States means on his, that, "while that is my opinion, I want the interpretation of our respective rights definitively settled by a tribunal greater than I or you or any of us, and which shall be authoritative between the nations of the earth."

I am not in favor of this amendment as it stands here; but I am not opposed to it upon the ground that the Senator from Idaho is opposed to it. I think to say that "nothing in this act shall be construed as surrendering any right which we may have under these treaties" would be a fair, reasonable, and proper thing to do, but I find that it goes further than that and says:

> *Provided*, That the passage of this act shall not be construed or held as a waiver or relinquishment of any right the United States may have under the treaty with Great Britain, ratified the 21st of February, 1902, or the treaty with the Republic of Panama, ratified February 26, 1904, or otherwise—

"Or otherwise"—

> to discriminate in favor of its vessels by exempting the vessels of the United States or its citizens from the payment of tolls for passage through said canal.

There is no "otherwise" about it. Whatever rights we have in regard to the Panama Canal are treaty rights——

Mr. SUTHERLAND. Mr. President——

Mr. WILLIAMS. We have rights growing out of the treaty with Panama, as her grantee under certain conditions; we have rights growing out of a treaty with Great Britain, which treaty was repeated in the Panama treaty, but there are no inherent "otherwise" rights there. We have under those treaties the right of absolute sovereignty, the right to fortify, the right to defend, the right to control and manage under such rules as we ourselves may make, subject to the one plain condition, namely, that we shall treat the commerce of the world passing through the canal equally. In my opinion that rule of equality does not refer to the coastwise vessels, but in the opinion of some people it does. It is disputed, is here and now disputed; let it be determined, arbitrated.

Mr. SUTHERLAND. Mr. President——

Mr. WILLIAMS. One word, and then I will yield to the Senator. I find further on, after the amendment says "under such treaties or otherwise," this language:

With respect to the sovereignty over—

Our sovereignty over the strip—the land and the people of the strip—is absolutely unimpeached and unquestioned by anybody. It is only in our management and operation and control of the canal and as to the sole condition that we shall manage, operate, and control it with equality for all and without discrimination against it. In this one particular only is our activity in the slightest degree limited. I am not willing to say that there is any question of sovereignty necessary to be reserved at all. Nobody is disputing it. With the exception of Colon and Panama, we own the canal strip just as we own Porto Rico, and have the same rights. It is only with regard to the operation and management of the canal itself that the rule of equality is invoked as a condition precedent to the grant. Great Britain has come into the forum and said, "I protest that you have violated the rule of equality. You admit the existence of the rule, but you say you have not violated it, because coastwise ships do not fall within the intendment of the act." Then we went on and passed an act in which we make ourselves the sole judges in our own case, asserting by legislation our own interpretation, and, without considering Great Britain at all or the other nations of the world at all, though these last receive the benefit of this treaty provision. We say that we will, anyhow, exempt these ships; none of you have anything to do with it; we do not care what rights you claim under treaty with us.

Now and then a gentleman says to me that "if you repeal this act you leave nothing to arbitrate except an abstract right." Why, my friends, if you will think for a moment, that was all that was left between us and Great Britain in Revolutionary War days. She repealed the stamp act; she repealed the duty on tea; but she asserted the right to reimpose them whenever she pleased; and we said, "You have no right to sit on the other side of the water and determine that question for yourself; we have an equal right to determine it. So long as the direct act is repealed, there is nothing but a so-called abstract right at issue between you and me; but that abstract right is the most sacred of all possible things." So we asserted upon the battle field our right of equal construction of an unwritten constitutional agreement between the various branches of the English-speaking race under which we thought that an Englishman born in America had every right that an Englishman born in Great Britain had. Now I yield to the Senator from Utah.

Mr. SUTHERLAND. Mr. President, I was struck by the statement which the Senator made, that we had no rights in Panama except treaty rights. Does the Senator mean that?

Mr. WILLIAMS. I mean that every right we have in Panama arises from a treaty; yes.

Mr. SUTHERLAND. Does the Senator take that position because we went there by virtue of a treaty with Panama?

Mr. WILLIAMS. We went there by virtue of a treaty. We had the right to go there by virtue of a treaty. We bought and paid for the land by virtue of a treaty. We acquired this strip by virtue of a treaty. We constructed the canal by virtue of a treaty, and we constructed the canal under certain preagreed conditions and limitations upon our management by virtue of treaties.

Mr. SUTHERLAND. We got Louisiana by virtue of a treaty. We got California, Utah, Colorado, and New Mexico by virtue of a treaty. Does the Senator think we have no rights in California and Louisiana except treaty rights?

Mr. WILLIAMS. Oh, the Senator from Utah is too good a lawyer and too smart a man to attempt to leave either upon my mind or upon the mind of the country the impression that he thinks the two acquisitions and the purposes of the two acquisitions were in the slightest degree analogous.

Mr. SUTHERLAND. Mr. President——

Mr. WILLIAMS. We acquired Louisiana by treaty, under an agreement that that very territory should become a part of the United States, and in the course of time should be constructed into States upon an equal footing with all the original States. It was a part of the very treaty. Had we failed to do our duty, and to grant liberty and free government to Louisiana, we would have been violating the treaty. In that case and in the case of California and in the other cases to which the Senator refers, the thing that we acquired by treaty was the right to rule and govern and absorb into ourselves as parts of ourselves the land and the people.

The thing that we acquired the right to do by treaty in Panama was to construct a canal to be operated under certain conditions; and with it, in order to facilitate our operations, there went sovereignty and right of defense and government over a certain prescribed zone. Surely the Senator does not want the country to believe that the rights under the treaty whereby we acquired Louisiana, for example, are in the slightest degree analogous with the rights which we acquired under the treaty with Panama.

Mr. SUTHERLAND. Mr. President, of course the treaties are different; but I do take the position that as far as Panama is concerned, the treaties may restrict the exercise of some rights which otherwise we might have. That we must look to the treaty, however, as the affirmative measure of our rights I utterly deny.

Mr. WILLIAMS. When the Senator says that under the treaty there are certain restrictions of our activities, that moment he confesses that his subsequent denial is confessed to be badly taken, because that moment he looks not only for our affirmative rights to the treaty but likewise to it for the circumscriptions and limitations and conditions assented to by us, not by any surrender of sovereignty, but by the highest exercise of sovereignty—self-limitation under contract.

When we made the treaty in regard to Louisiana we accepted no restrictions on our self-governing activities. When we acquired the territory of California we acquired it without accepting governmental or operating restrictions. When we acquired this right to build a canal in Panama we acquired it with limitations and restrictions in one sole respect, but a respect great and sacred, to wit, the management and operation of the canal in such a way as to make it an equal and undiscriminating management and operation not only as to toll charges but as to rules to be obeyed en route.

I do not care what foot of territory you ever acquire by treaty in any part of the world; you have no right in the code of morals to hold the territory under the treaty and violate the treaty. I say this, although I did not think what we did when we passed the exemption clause was a violation of the treaty, and I do not think so yet. I want merely to acknowledge the equal right of the other party to sit in judgment upon the interpretation of the treaty. I want merely to recognize the sacredness, the sanctity of our agreement, not only with Great Britain but with some 19 other nations that questions of the interpretation of treaties shall be left to international arbitral tribunals.

I will close by saying what the Senator from New York [Mr. ROOT] said, that we are voting to repeal this bill because we were afraid and thought we knew that you would not give us a two-thirds vote to arbitrate it; and after we repeal it we know that you will arbitrate it. You will be running over one another to arbitrate it then, because you will think that is your last chance to get something, and you will be right about it. We have felt from the beginning that it ought to be arbitrated. Roosevelt thought so, Taft thought so, the President of the United States thought so.

Mr. BORAH. Mr. President, did I understand the Senator to say that in case of repeal under this particular amendment that would practically force arbitration?

Mr. WILLIAMS. I think that after this provision of the Panama Canal act has been repealed seven out of ten of the men who have opposed repeal will be in favor of arbitration. That is what I said.

Mr. BORAH. I see now more clearly the object and purpose of this amendment.

Mr. WILLIAMS. Suppose the Senator does? I take no shame in the thought that I have tried as far as I could to enforce honest conduct upon the part of my own country; that I have tried to enforce upon the part of my own country a compliance with sacred treaties, the plighted faith of a Nation of freemen. If we succeed by this act, not in forcing, as the Senator calls it—I see no force in it; we are not going to make you do it

vi et armis—but in persuading you to do justice to the sanctity of the plighted faith of the Republic of the West. I for one will not consider myself the subject of any just scorn or sarcasm about it. All thought or jibes of that character will pass me by without feeling of shame, and all expressions of that character will fall hurtless from the shield of a perfectly honest intent.

If I had my way, I would regard as the chief object of my political life doing my best, humble though it may be, at all times, to have my country keep its word, whatever its word may be. You forget that while it is debatable whether the act that we are repealing is in violation of the Hay-Pauncefote treaty, it is not in the slightest degree debatable that refusing to leave it to arbitration is a violation of another treaty with Great Britain and a violation of the spirit of a score of other treaties with still other countries, all of which say plainly that all questions of the interpretation of treaties not involving the honor, the vital interests, or the independence of the country, or the interest of third parties, shall be submitted to arbitration.

Why, I ask the Senator what other course could be taken? When he and I draw up a contract together, he does not sit in arbitrary judgment upon his own case and impose his own interpretation and decide the case in his own favor.

Mr. BORAH. No, Mr. President——

Mr. WILLIAMS. I can not sit in judgment upon it and decide it in my favor. Why? Because a higher somebody than we—the Government under which we live—has said that that is a damnable principle. Our laws, our ethics, allow no man to sit in judgment upon his own case. We appoint a court which shall sit in judgment upon my and your case, and we say that in all matters not involving the defense of your life, your wife, and your children, and your home, in all cases where the law does not give you a right to kill in order to defend yourself, you shall go into court. All I am contending is that when two nations have a quarrel about a written contract they, too, shall go into court; and as there is no permanent court, that they shall make one for themselves—erect one—a court of justice and honor.

Senators need not disguise the fact, and the country will not forget it, that we have been forced to repeal this act by the necessity of defending the country's honor by securing ultimately an arbitration of the question at dispute.

Mr. BORAH. I understand perfectly how the Senator can take the position that he does, believing that the act is a violation of the treaty, but a Senator who entertains the view that it is not a violation of the treaty should not be impeached for want of a sense of national honor for saying there is nothing to arbitrate.

Mr. WILLIAMS. My Heavens——

Mr. BORAH. Wait a moment, Mr. President.

Mr. WILLIAMS. If the Senator can not understand——

Mr. BORAH. Wait just a moment, and perhaps I shall not be so obscure as the Senator now seems, from his facial expression, to think. I object also to conceding that we are wrong, conceding that we have violated the treaty, and then going into a tribunal to arbitrate the matter thereafter.

The Senator quoted Col. Roosevelt a few moments ago upon this proposition, and I requote him to the Senator—that while he is in favor of arbitration, he is not in favor of conceding the case before we go to the arbitral tribunal.

Mr. WILLIAMS. Mr. President, the Senator says he can not understand how a man who does not think the exemption from tolls provision of the Panama Canal act is a violation of the treaty can be willing to submit the question to arbitration. Now, I can not understand how the Senator can not understand. [Laughter.] It seems to me so plain, in friendly and neighborly feeling between gentlemen as well as nations, that when I differ with other people about an interpretation, and they are countrymen of mine, and high officers and men of great intellect in my country, and they say to me: "I think you are wrong; I think the other party to the controversy has rights; and whether she has rights or not, she at least has clearly this right, to wit, a right to a fair trial of the question at issue." I can not understand how anybody can not understand that, nor why, therefore, I should not say: "Notwithstanding my opinion, I believe that the other party to the controversy—my own country on one side and she upon the other—have at least one right, and that is the right to a day in court and a fair trial and a fair hearing of the question of difference by a court of competent jurisdiction—an international court."

I would be in favor of that course if we had had no treaty with Great Britain upon arbitration, but there is our plighted word besides.

I repeat that if I am charged with casting this vote because I want to force the arbitration of this question of the respective rights of the two countries under the treaty, I shall take no shame to myself from the impeachment, but shall, upon the contrary, admit it.

Mr. NEWLANDS. Mr. President, I wish to state briefly the principles which will control my vote upon the bill repealing the toll-exemption clause and the pending amendments.

We are the owners of the Panama Canal. We exercise sovereignty over the Panama Canal Zone. We have expended there $400,000,000 in the construction of a great waterway. The tonnage borne upon this canal will be of two classes, international and domestic, the latter of which, under our navigation laws, can be transported by ships of United States registry only.

Tolls have been imposed upon the international tonnage passing through this canal, including that of the United States, the purpose of which is to reimburse the United States for a portion of its interest charge and upkeep. No tolls are imposed upon the domestic tonnage, called the coastwise tonnage; and the first question is whether, as a matter of domestic policy, so far as domestic tonnage is concerned, without reference to the treaty, which will be considered later, the charges for the construction and upkeep of this canal shall continue to stand against the Federal Treasury or shall be imposed upon such domestic tonnage. This involves an historical inquiry regarding the waterway development of the United States.

I will not be tedious in recounting the history of this country as to waterway development. It is analogous to that of the roads of the country. In the early history of the country our roads were toll roads and our artificialized waterways were toll waterways. But gradually the policy of internal improvement was developed. The last vestige of toll roads has been swept away, and the last vestige almost of canal tolls has been swept away. We find that to-day one of the toll canals in private ownership is about to be purchased by the United States for the sum of $3,000,000, with a view to relieving the commerce between Philadelphia and Baltimore of the burden imposed by these tolls, and hereafter this connecting link between Delaware Bay and Chesapeake Bay, long managed as a tolls canal, is to be a free canal.

We have built the Soo Canal; we have artificialized the entire Ohio River, a work not yet completed, involving the expenditure of $65,000,000. That entire river is to be artificialized and made practically, by locks and dams, a series of canals.

Does the Senator from Kentucky insist that the traffic borne on the Ohio River thus artificialized shall pay tolls to the United States Government for the expenditures made upon it? No; he joins with all the people of the United States in declaring that the waterways of the country should be improved and developed and artificialized at the expense of the National Government, and that no charge whatever should be imposed upon the tonnage borne upon these waterways.

All three parties during the last campaign and the campaign of four years previous focused their platforms largely upon the demand for waterway development, the Democratic Party committing itself in the most emphatic way by declaring that a full and comprehensive plan should be adopted for the development of our waterways, involving the cooperation of all the scientific and engineering services of the Government that had anything to do with water, involving the cooperation of the Nation with the States, involving the related questions of the conservation of water for irrigation, water-power development and its control, for swamp-land reclamation, declaring for an ample fund to be expended under the direction of a board of experts authorized by law. That demand was repeated in the platform of 1912, and under this great system the entire charge for construction and development and maintenance was to be imposed upon the Federal Treasury and not upon the tonnage transported.

We went beyond that in the last national platform and declared that the problem of the Mississippi was a national problem, practically relieving the adjoining States from responsibility for the construction and maintenance of an extensive protective system such as levees, and imposing the entire expenditure for the improvement and development of that river upon the National Treasury.

Was there any suggestion that the tonnage between St. Louis and New Orleans should pay anything either on account of construction or maintenance? Oh, no. This was a policy of national development, of internal development, requiring the improvement of our waterways as national agencies of transportation, at the cost of the Treasury, and their complete development, so that the waterways would be as perfect as the railways themselves, with terminal facilities, transfer facilities, and facilities for coordination with rail, our waterways thus dovetailing with our railways and both dovetailing with the ocean transportation

which it is to be hoped will yet be established under the American flag.

Mr. President, I assume it will be admitted that the Pacific coast is a part of the Union, that the Pacific Coast States are States of the Union, that the cities of San Francisco and New Orleans have the same right to have their traffic from port to port go through any waterway of the United States free of charge as the people of Baltimore and Philadelphia have a right to have it transported through the Delaware Canal, which brings the Chesapeake and Delaware Bays into conjunction as a connected waterway of the country.

It seems to me, therefore, that no difference of opinion can arise upon the question as to whether that should be imposed as a charge upon the National Treasury or a charge upon the tonnage transported. The people of the Pacific and the Gulf coasts have the same right to have tonnage transported between those coasts free from any charge for waterway improvement that the people of Philadelphia and Baltimore have, or the people of Boston and of Beaufort, S. C., have, connected, as they will be some day, by an inland waterway embracing the Cape Cod Canal, Long Island Sound, Delaware River, Delaware Bay, Chesapeake Bay, and Pamlico Sound, without any charge whatever so far as the Government itself is concerned. I have not the slightest doubt that within a reasonable time the Cape Cod Canal itself will be acquired by the Government, and for the express purpose of relieving the tonnage of a tax imposed upon it by private interests.

Mr. President, these pledges with reference to the waterways of the country are specific. They were contained in the platforms of 1908 and of 1912. They are just as explicit as the platform pledge regarding subsidy. They are just as explicit as the platform pledge regarding the exemption of domestic vessels from Panama tolls. All these are pledges given by the Democratic Party to the American people. Then will it be contended for a moment that this waterway improvement constitutes a subsidy; that the great waterway development called for by our platform involves a subsidy to private interests forbidden by another plank?

The platform itself interprets the term "subsidy." It absolutely excludes its application to any exemption from charge for either construction or maintenance of the waterways of the country. It clearly recognizes the right and the wise policy of the American Government to improve its waterways and impose the entire charge of construction and of upkeep upon the Federal Treasury.

Mr. President, we now come to the treaty. We are told that we can not pursue this domestic policy which has been built up in a hundred years with reference to domestic vessels of American registry engaged in a business in which no foreign interest can engage, because we entered into a treaty with Great Britain regarding the construction of the Panama Canal, an enterprise in which Great Britain did not put up a dollar, the only basis of her recognition being a treaty, the Bulwer-Clayton treaty, a worn-out treaty which it would have been our right at any time to have condemned under the law of nations.

I do not propose, so far as I am concerned, to enter into the reason of the question as to whether the Panama Canal treaty obligates us to give to England the same treatment that we give to our domestic vessels under a purely domestic policy. I do not propose to repeat the argument which I made two years ago in reply to the Senator from New York upon this subject. I stand upon the argument that I made then. I do not believe that that treaty has any relation whatever to our purely domestic policy, to the regulations of our domestic sovereignty with reference to matters entirely under our jurisdiction and control; and, believing that, I maintain we have a right to declare that we should continue to pursue the traditional American policy with reference to a domestic waterway constructed by American money in its relation to purely domestic ships engaged in purely domestic trade.

But the President of the United States is of a different view. He believes that that treaty controls our domestic policy; that under that treaty we have put ourselves in a strait-jacket with reference to our domestic tonnage, and that honor and good faith demand that we should repeal the exemption; and he asks us to repeal it.

Numerous amendments have been proposed providing different methods of disposing of this great question. Among these amendments, unless we stand firmly by the repeal, the best, it seems to me, is that suggested by the Senator from Mississippi [Mr. VARDAMAN], which provides for a suspension of this exemption for the period of two years and for a diplomatic negotiation, not an arbitration, with England, with a view to adjusting this difficulty. I think that is an eminently practical way of reaching this question.

The country is divided in opinion regarding the construction of this treaty. Statesmen are divided in opinion. Lawyers are divided in opinion. Many men of distinction in England believe that the construction which we have given to this treaty is right. Mr. Innes, the diplomatic representative of England, in one of his letters declared that this question of the coastwise traffic involved a question of serious doubt, and indicated that it might lawfully be withdrawn from the operation of the treaty if the withdrawal should be applied to coastwise traffic alone. So in the diplomatic correspondence we find a doubt expressed by England herself as to the correctness of this contention regarding the coastwise traffic in domestic ships. Yet thus far there has been no parley, no diplomatic negotiation, regarding the matter. Why should we proceed to arbitration now when diplomatic negotiation conducted by diplomatic representatives of both nations may bring about an amicable adjustment of this matter?

For my part, I have always thought if we had declared in the tolls act that our purpose in exempting American ships was not to impose an additional burden upon international tonnage, but to make the cost chargeable to domestic tonnage a charge against the Treasury of the United States, England would not have taken the position which she did. In a speech which I made two years ago I insisted upon it that we shou'd by amendment insert in the act a declaration of our purpose, our honorable purpose, not to impose upon foreign countries the burden from which we relieve our domestic vessels, but simply to frankly impose that charge against the Treasury of the United States pursuant to the fixed and traditional policy of the United States with reference to our domestic waterways.

I believe this matter could be settled by diplomatic negotiation, and I see no reason why we shou'd absolutely surrender our contention when possibly by diplomatic negotiation the matter can be adjusted to the mutual satisfaction of England and the United States. There is such a thing as an unconscionable contract from which diplomacy as well as equity may relieve. And if this treaty really means what the supporters of this repeal declare it means, then it is a hard bargain, an unconscionable agreement, from which the honest purpose of England will doubtless relieve us, if assurance is given that the burthen from which our domestic ships are relieved will not be transferred to the ships of other nations.

A suggestion which strikes me favorably is the suggestion of the Senator from Montana [Mr. WALSH] that we should provide a method by which a suit, which will finally find its way to the Supreme Court of the United States by some expedited process, can determine whether this exemption is in derogation of the treaty. The Supreme Court is called upon to interpret our Constitution; it is called upon to determine whether our laws infringe upon that Constitution; it is called upon frequently to determine the question of treaty rights. Why should not this question of domestic legislation be submitted by some quick process to that tribunal for determination before we surrender for all time our right to legislate upon one of the most important of our domestic affairs?

Mr. President, I have listened with great interest to this debate. I recognize, of course, the high purpose of the President, his conscientiousness and courage in recommending legislation in direct contradiction of our platform. Believing, as he doubtless does, that the legislation of 1912 is an infringement of the treaty, and realizing, as he does, that a treaty is the supreme law of the land, he is right, from that standpoint, in advising that the supreme law of the land should stand above a mere party platform. I have no criticism to make of him regarding his action, but I have no similar appreciation of or praise for those men who, believing to the contrary, will vote for this bill simply with a view to supporting an administration measure.

I propose to stand by my original vote because I am unconvinced, because I believe that as a matter of public policy the waterways of the country should be a charge upon the National Treasury and not upon the tonnage transported upon them, and because I believe that the treaty, whilst requiring equality of treatment with reference to international tonnage, has no application whatever to purely domestic tonnage carried upon domestic ships and between domestic ports.

Mr. LEA of Tennessee. Mr. President, I desire to make a short statement giving the reasons for the vote which I intend to cast.

The discussion of the repeal of the act granting exemption from tolls of American coastwise shipping has passed beyond the limits of a debate. It is now a yawning invitation to all Senators to indulge in monologues, and one which will apparently not be withdrawn until accepted by all the Members of this body.

Therefore, for the purpose of conserving time, I accept the invitation and will state briefly the reasons which control my vote upon this question.

It is customary at the threshold of a discussion of this question to analyze the Hay-Pauncefote treaty, to split hairs, to define the ordinary meaning of commonplace words, and to end by construing the exemption as being permitted or prohibited by the treaty, according to the conviction of the speaker.

I am not going to discuss this phase of the question, for even if it were conceded that the exemption from tolls of our coastwise shipping did not violate the treaty I should, nevertheless, vote to repeal that provision of the act of 1912.

If the view be sound—that the treaty is not violated by the exemption—then those Senators adhering to this view should be the last to urge that by the repeal of this provision we are surrendering any part of our complete and absolute sovereignty of the Canal Zone or recognizing any right of Great Britain, or any other nation on earth, to interfere with our management or control of the canal.

Under their view it is immaterial whether we merely pass the repealing act as it came from the House of Representatives or ornament it with amendments containing trite truisms which can neither add to nor subtract from the obligations of the treaty, for in repealing the exemption, which according to their view is not affected by the treaty, we are not surrendering sovereignty or truckling to England or waiving our rights to fortify the canal and use it in times of war to the best advantage of American arms. By statute Congress can not add or subtract one iota to or from the obligation of a treaty.

Irrespective of what our relations with England may have been or are—whether we are next of kin, drawn together by ties of blood, or foes suspicious of each other—neither view should blind our eyes or warp our judgment in considering the great economic question involved in exempting our coastwise vessels from the payment of tolls.

But, before answering, or even considering this question, those of us on this side of the Chamber must answer another question, whether as Democrats we are free to consider and determine the economic soundness of the tolls exemption, or are we bound by our party platform, promulgated at Baltimore in 1912, to vote against repealing this act.

Under the head of "Merchant marine," there was inserted in that platform the following plank:

> We favor the exemption from toll of American ships engaged in coastwise trade passing through the canal.

If that was the only provision contained in the party pronouncement, then whatever might be my convictions as to the wisdom or unwisdom of the exemption from tolls I would feel bound to vote against the repeal.

The same section, however, provides:

> We believe in fostering, by constitutional regulation of commerce, the growth of a merchant marine, which shall develop and strengthen the commercial ties which bind us to our sister Republics of the south, but without imposing additional burdens upon the people and without bounties or subsidies from the Public Treasury.

Despite the severe characterization of the Senator from Montana [Mr. WALSH] of those who insist that these two planks in the platform are contradictory, I can not but believe that only one of them can stand as the view of the Democratic Party.

The plank last quoted directly prohibits the granting of bounties or subsidies from the Public Treasury.

Is the exemption from tolls to the coastwise vessels a bounty or subsidy?

The canal is owned by the United States. The tolls collected will be covered into the Treasury. If the act of August 24, 1912, instead of granting the exemption, had provided that out of moneys in the Treasury not otherwise appropriated the sum of $1.25 per ton should be paid to the American coastwise vessels that went through the canal no one could question but that such an act granted a direct subsidy, and yet the exemption from tolls grants to the vessels so exempted an uncollected bounty of $1.25 per ton and deprives the United States Treasury of an equal amount per ton, and the only difference in this case between the exemption and the subsidy is a matter of bookkeeping, the largess or bounty of $1.25 per ton being granted by statute instead of being collected, covered into the Treasury, and repaid.

The exemption being a subsidy, the question, therefore, is, Which of the two planks, inconsistent with and contradictory of each other, must perish and which survive?

To determine this we must look to the history of the party. The Democratic Party has always been a friend of the merchant marine, and has believed that it should be built up, not by subsidy and the granting of privilege to a favored few, but by the repeal of the laws and a cessation of the policy that destroyed it, so it may be built on a foundation which will be both sound and lasting.

In the platform of 1904 we find the special denunciation of ship subsidy under the heading "Merchant marine," as follows:

> We denounce the ship subsidy bill recently passed by the United States Senate as an iniquitous appropriation of public funds for private purposes and a wasteful, illogical, and useless attempt to overcome by subsidy the obstructions raised by Republican legislation to the growth and development of American commerce on the sea.
>
> We favor the upbuilding of a merchant marine without new or additional burdens upon the people and without bounties from the Public Treasury.

Again, in the platform adopted at Denver in 1908 we find another prohibition against the building up of our merchant marine by bounty:

> We believe in the upbuilding of the American merchant marine without new or additional burdens upon the people and without bounties from the Public Treasury.

Such is in line with the settled policy and established traditions of the Democratic Party, for in the platform adopted at Baltimore in 1872 we find a specific plank against giving grants or bounties to railroads and other corporations.

If we are to regard the plank in the Baltimore platform declaring in favor of the tolls exemption of coastwise vessels as destructive of, as repealing, or rendering ineffective the other plank against granting subsidies and bounties from the Treasury to our merchant marine, of which the coastwise vessels are a part, then we must overthrow the established policy of the Democratic Party throughout its long and useful life and no longer inveigh against the granting of special privilege to a favored few.

With the history of the party before us, its traditions, and the opportunities it offers for equality of service to all, the conclusion is inevitable that the provision in the Baltimore platform declaring in favor of granting exemption from tolls of coastwise vessels is rendered nugatory and without meaning by the other provision declaring against the granting of subsidies to the merchant marine, which is sanctioned by the traditions and policies of the party since the days of Jackson and Jefferson.

Believing that as a Democrat I can vote in favor of the repealing act, not only without violating the Democratic platform, but that the platform requires me to vote for the repeal in order that I may carry out the provision against subsidies, I am delighted to find that the platform provision coincides with my belief in the economic unsoundness of the exemption.

The history of this country is told in the story of the struggle between privilege and democracy. Privilege knows neither section nor party. Slavery was a species of privilege granted and protected by the Constitution, a privilege which was not only inhuman but economically unsound, and the greatest curse ever visited upon the section which, within its constitutional rights, fought to disrupt the Union to the end that this privilege might be preserved.

The tariff is but another striking example of privilege, and the industry that is built to exist and prosper only when protected, is built upon a foundation of quicksand and must in the end crumble and be reduced to ashes, as was slavery.

At the inception of our life as a Nation privilege in the form of slavery was established.

At the outset of our domestic industrial life privilege in the form of a tariff became the settled policy of our country; and now, at the outset of our life as the greatest international power, we are again asked to place privilege in the saddle by granting a subsidy in the form of a toll exemption to a shipping industry that is in no need of such exemption and is powerful enough to prevent the exemption from finding its way into the pockets of the ultimate consumer.

Trade, industry, and commerce are no longer provincial or domestic, but are international.

Irrespective of which flag flies at the mast of our vessels, be they regular liners or tramps, we find, through the holding companies, trusts, and combinations, English capital promoting and owning American bottoms and American dollars building part of the English merchant marine.

A monopoly has been given by statute to the coastwise trade. This was a mistake. Shall we add to this mistake at this time by giving to that monopoly the exemption which it neither needs nor deserves?

Mr. REED. Mr. President——

The PRESIDING OFFICER (Mr. LEE of Maryland in the chair). Does the Senator from Tennessee yield to the Senator from Missouri?

Mr. LEA of Tennessee. I do.

Mr. REED. I am glad to hear the Senator from Tennessee admit that the coastwise trade is given a monopoly, and I want to ask him, in view of the fact that the coastwise trade is, as he

says, controlled by a monopoly enjoying a special privilege, if he does not think he could afford to support the amendment which I have proposed to destroy this monopoly by opening all the ports of the United States to the vessels of all nations?

Mr. LEA of Tennessee. I will say to the Senator from Missouri that at another time I should be delighted to support a bill repealing the law touching the coastwise vessels which gives them a monopoly; but I would not support any amendment brought in at this time which would result, even if it were not the purpose of the amendment, in defeating what I think is absolutely a meritorious and necessary measure, namely, the repeal of the subsidy granted by the act of 1912.

Mr. REED. I beg to say to the Senator from Tennessee that I have not offered the amendment for the purpose of defeating the bill. I have offered the amendment as a means to do two things: One is to avoid the difficulties which have been raised against this bill, and the other is to avoid the exactions of this coastwise monopoly. I have not offered the amendment with any purpose such as the Senator might have meant to intimate by his remarks.

Mr. LEA of Tennessee. I will say to the Senator from Missouri that as an independent proposition I should be glad to support it, but as an amendment to this proposed act I would not.

It is said that the Underwood-Simmons tariff bill, in which all of us on this side of the Chamber feel as much confidence and to which we point with as much pride as when it was enacted into law, contains a provision that is a subsidy. Grant it. But the bill contains so much more good that this evil did not justify any Democrat in either branch of Congress in opposing it or the President in not signing it because it contained one un-Democratic and vicious provision.

It is said that we grant a subsidy when we develop the internal waterways of this country and do not exact tolls. This is not sound nor a correct analogy to granting of exemption from tolls upon the Panama Canal.

The work upon our rivers and harbors is necessarily work of internal improvement, and all who have reason or cause to benefit by these improvements use them upon the same terms of absolute equality.

The English vessel or the Chinese bark that comes into our harbors improved by American dollars uses it upon the same terms as our domestic vessels.

The question before us is not whether there should be any tolls, whether any tolls should be imposed upon vessels using the canal, but whether we should exempt a certain class of vessels using the canal.

Personally I hope the day may come when this great country can afford to spend the nearly $30,000,000 per annum necessary for the maintenance of the canal and the investment, and charge not one cent of tolls to any vessel in the world, receiving in compensation for this great outlay a reduced price upon the commodities transported through it, a compensation to be enjoyed by all, great and small, rich and poor, monopoly and independent, which, unlike a subsidy to a class, would find its way into the pockets of the smallest of the common people; but to-day we are concerned not with this but merely with the question of whether we will grant a subsidy to our coastwise vessels.

To subsidize was once a term of opprobrium. To subsidize is defined in the Century Dictionary "to secure the cooperation of by bribing."

> Pietro could never save a dollar? Straight
> He must be subsidized at our expense.

Must we nickname our coastwise vessels Pietros?

Subsidies have fallen into such disrepute that those who favor their being paid out of the Public Treasury seek to call them by the more euphonious term of "subvention." But whether called subvention or subsidy, the principle is wrong which permits taxes to be collected from all of the people and a part of them returned to a few who are powerful and rich enough to secure by legislation this privilege.

One word more in conclusion.

It has been charged during this debate that the votes in favor of the repeal will be given by those who believe, first, that exemption violates the Hay-Pauncefote treaty; second, by those who believe that exemption is economically unsound; and, third, by those who are influenced by the Executive to adopt his view in preference to their own.

While I do not enjoy the pleasure of the most intimate association with the President, yet I feel that I know enough of his attitude upon this as well as upon all public questions to say that he would be the last man in the world to attempt to substitute his judgment or opinion for the judgment or opinion of any man, unless the reasons controlling his judgment and opinion appealed to those with whom he is associated as strongly as they do to his own mind.

It is evident to all who have even a passing acquaintance with political conditions that the President is passing, and passing triumphantly, through the crisis of his administration. The assault is most terrific at this time, because the enemies of the administration and the foes of the principles for which Woodrow Wilson stands know that if he solves successfully the problems immediately confronting his administration that not only will he justify the belief of the American electorate that placed power in his hands, but that he will hand down to posterity a record of greater achievements than have been accomplished by any other administration within the same period of time.

Whatever may be the views of individual Senators upon the phases of the problems embodied in the pending measures, if one has doubt as to his course it should be the attitude of each Senator to resolve that doubt in favor of sustaining at this time the man in the White House, whom all concede to be animated by the purest motives and the highest purposes, and who to a singular degree is the Chief Executive of all the people of this great country.

Woodrow Wilson's ambition is to contribute to the amelioration of humanity. Let us help him.

The PRESIDING OFFICER. The question is on the amendment offered by the Senator from North Carolina [Mr. SIMMONS] to the amendment of the committee.

Mr. REED. Mr. President, I regret very much that the point of order was made this morning against the amendment offered by the Senator from Utah [Mr. SUTHERLAND]. It looks to me as though there was some design in arranging a situation to force a vote upon a proposition framed in a particular way and to avoid a free vote upon a question differently and more vigorously stated.

Mr. SMITH of Georgia. Will the Senator from Missouri yield to me for just a moment?

Mr. REED. Yes.

Mr. SMITH of Georgia. I think I can at once relieve the Senator's mind of that impression. We who are going to vote for this substitute concede that as soon as it is substituted for the committee report, the amendment then is open to amendment, and is open to amendment in the freest and most complete way, and that it is even also open to a complete new substitute.

I took an entirely opposite view from the ruling of the Chair on yesterday morning, and I tried to sustain it, but I concluded that the authorities were against me.

Mr. REED. Mr. President, I think I understand the situation, and I do not think it exists without design. I think I understand fully why the point of order is insisted upon. I used to know an Irish gentleman who had an expression that ran like this, "I did not come to town yesterday." The committee propose an amendment to this bill; a prominent member of the committee brought in an amendment to the amendment; the Senator from Nebraska [Mr. NORRIS] proposed to amend that amendment, which was the last step which could be taken under parliamentary law, but if the situation had remained in that way there would have been a vote upon the amendment offered by the Senator from Nebraska. Thereupon the Senator from Nebraska was induced to have his amendment incorporated, and it having been incorporated and withdrawn by the Senator, a parliamentary situation was created by which, under the ruling of the Chair, no further amendments could be made. I think that was pretty carefully worked out.

Mr. BRISTOW. Mr. President, may I call the Senator's attention to the fact that the Senator who supported the point of order stated that during the last 24 hours he had consulted with some great authority in regard to the rules, and so forth, governing this body?

Mr. REED. The Senator might also call my attention to the fact that the whole matter was spoken of in the press of Washington, and it was stated that the Senator from Nebraska had very adroitly gained an advantage, so that he could force a vote.

I am not criticizing the Senator from Nebraska. He stated that there were certain things he wanted incorporated, and being in some doubt, I apprehend, whether his goods would get to town if he undertook to haul them in his own cart, he was willing to load them into a wagon which he thought had a better opportunity to arrive; and, therefore, I think he was very shrewd in making the move he did. But, nevertheless, I think that this situation has been created for the purpose of preventing a square vote at this time upon the broad question whether the Senate means to say to all the world that, in its opinion the United States is free to exempt its coastwise vessels from the payment of tolls and to force the question on

here, and have adopted a sort of compromise in an innocuous form.

So far as I am concerned I think that the great question we are now settling is not one of subsidy; it is not one of tolls; it is not one of internal policy. The question we are settling now, and from which we can not escape, is whether the United States has any rights in the Panama Canal not possessed by every other nation on earth, except the right to pay the interest, maintain the canal, and protect it, if need be, by the blood and treasure of the country.

I want the opportunity now at this time to vote upon that question, to vote upon it squarely, frankly, manfully, and not to dodge it in any way or not to hide behind a phraseology so doubtful that it seems to me it must have originated in the brain of some diplomat who wrote the Panama Canal treaty.

I am not saying how I shall vote on this bill at this time, because I do not know the form this bill will assume before the final vote comes, but I can say to the friends of this bill that they do not incline me toward its support by denying me the opportunity to vote squarely upon the proposition whether we propose to assert our ownership, our control, and our sovereignty over this property.

Mr. President, I did not intend at this time to go into the argument of the merits of the case. I do not know that I shall at any time impose on the good nature of the Senate and upon the impatience of those who have already spoken two or three times by making any prolonged remarks. I have observed, however, I remark in passing, that the man who is perfectly satisfied in his own mind that the time has arrived for a vote, and that any delay is inimical to the welfare of the country and jeopardizes the entire course of creation, is a man who has himself made two or three speeches.

Mr. President, this question has assumed this morning a phase which, it seems to me, demands a more positive statement on the part of the Senate than was demanded by the conditions yesterday. Now, let us see what it is. We are face to face with the question whether the United States has any rights in the Panama Canal that are of any real value except the right to fortify. It is insisted that the amendment offered by the Senator from Nebraska and the Senator from North Carolina preserves whatever rights we have, and that, therefore, by the repeal of the tolls clause we leave ourselves in as good a position as we were before we repealed the tolls clause.

Mr. President, if the author of that amendment had asserted upon the floor of the Senate that he believed we had the right to control this canal; that the treaty had not taken away from us that right, and he had offered the amendment to carry out that purpose, his amendment would have meant very much more, in my opinion, than it does when he says "I do not believe we have any rights; and being an advocate of the doctrine that the United States has no right, I offer this amendment." To what end or purpose does a man who believes that the United States has no rights proceed to recite that we do not hereby waive the rights which he, the author, says we do not possess?

Mr. ASHURST. Mr. President——

The PRESIDING OFFICER (Mr. SWANSON in the chair). Does the Senator from Missouri yield to the Senator from Arizona?

Mr. REED. I do.

Mr. ASHURST. I wish to make an observation, and I thank the Senator from Missouri for yielding to me, as I might not have the opportunity to make it later on.

I shall, of course, vote against the amendment proposed by the distinguished Senator from North Carolina [Mr. SIMMONS]. I have large respect for that eminent statesman, but have no respect for his amendment. I have never liked shams of any kind. I am just thinking in what category or what place history will write this amendment, whether it will write it down as the Simmons amendment or the Simmons apology; but it occurs to me that it will be written in history as the Simmons tango, because it is one step forward, two steps backward, and then a "side step." [Laughter.]

Mr. REED. Now, Mr. President, I wonder what sort of standing we will have in an international court of arbitration, referred to by the Senator from Mississippi [Mr. WILLIAMS], who is a very strong advocate of arbitrating all international disputes, and who is a most eloquent advocate of that doctrine—I wonder what kind of position we will occupy before that tribunal when we come in and lay down our papers in the case, and the question is raised by England, as it will be raised, "You waived your rights, you conceded the contention of England when you repealed the tolls clause"—when that transpires I wonder how the representative of the United States Government will appear when he declares, "No; we did not waive our rights; we adopted the Simmons amendment, reserving our rights," and the English statesman replies that from the record written out of the mouth of the Senator who wrote this amendment he himself declared we had no rights.

Will we not be in a wonderfully strong position before a court of arbitration under those circumstances? Why, sir, we will be like a disputant in a court over a land title, where one party sturdily insists that he is the owner of the land, and the other appears, saying, "I should like to try the question whether I am the owner of the land; and I at one time declared that I reserved my rights as owner if I had any, but in the same breath and at the same moment of time I said I knew mighty well I did not have any." How long could a litigant stand in court under those conditions and circumstances?

If this question must ever go to arbitration, I should like it to go to arbitration at least with a square declaration of right. No man ever won a lawsuit in a court of arbitration or in any other court who did not go there asserting that he had a right. No man ever gained a controversy in a court where his opponent was insisting sturdily upon a certain right, and he himself was standing in an attitude that to say the least is pusillanimous, and saying: "I do not know whether I have any rights or not, but if I have any rights then I want the court to find out whether I have them or not. I can not assert them myself."

Nobody ever won a lawsuit that way. No nation ever gained a controversy that way. I am in favor of saying here to-day that we do stand asserting a right; not that we stand here asserting that if we have something then we propose to say that we have not by this act given it away.

The unfortunate thing about the case now is that I am afraid it is ruined at this point. I am afraid enough has transpired now, so that if we ever go to any court of arbitration on earth the representatives of the people of the United States have furnished arguments that will put us out of court and insure a judgment against us.

It was well said here by the Senator from Mississippi that we are but temporary incumbents. Ah, Mr. President, I want to enforce that thought. We are but temporary incumbents. We are but trustees, holding for a time the responsible position of representing the people of the United States. I want to draw a line between our duty here as trustees and what our rights might be if we were proprietors.

There is a great difference between the right of a trustee and the right of a proprietor. A proprietor, having engaged himself in a contract with his neighbor, and finding that a dispute or difference of opinion has arisen between them, may assume the old-fashioned southern gentleman's attitude and say to his neighbor: "Well, sir, rather than have a dispute with you, I yield you the $1.000 that you claim," or, "I yield you the possession you insist you understood you were to have." Being the proprietor, the owner of the land, or the possessor of the money, he can pay a compliment to his own generosity, and he can pay a compliment in like manner to his instincts as a gentleman, by giving to his neighbor that which is his own. But, sir, if he has in his hand the property of the widow or the orphan or the friend, he can not be generous with that money. He can not give that away in compliment of his ideas as a gentleman. He can not transfer the rights of those whom he represents on any other ground or basis save that he is compelled to do it as a matter of absolute justice; and when there is a serious dispute on a question of fact he has no right to resolve it against his cestui que trust. It is his business at least to have the decision of some impartial tribunal before he yields those rights.

So, when I hear men talk about our high sense of honor, and how we should not permit a dispute to arise, urging that foreign nations have arrived at a conclusion that they have as much right in the canal as we have, and therefore, to be generous, to be good hearted, to be whole souled, we should concede the point, I remind those who think they ought to concede this point that, as was said by the Senator from Mississippi, they are here only in a transitory state. They do not own this canal. The people of the United States own this canal. Every dollar of money that has been spent, and every dollar of money that must yet be paid, is but coined sweat from the brow of the labor of the United States; and the only justification we can have for yielding this great point of dispute is to justify it by asserting that it is without question against us.

Mr. President, who can assert that it is without question against us, and do it with the modesty which ought to become a man? I may well say that, to my mind, the question is without dispute; but when I find my brother Senator, as capable, as efficient as myself—aye, more capable and efficient than myself—taking the diametrically opposite view, I can no longer assert that the question does not have two sides, and no other

honest and modest man can do it. When I find that the Congress of the United States by a majority vote and after full debate inserted in the canal law this clause which has been the occasion of the present dispute; when I know that that debate went into every ramification of the question as to our rights under the treaty, and a majority of the Senate and a majority of the House after that debate determined that we did have this right, I can not say that the question does not have two sides. There must be some merit to a contention that has been supported by a majority vote of both Houses of Congress, and for which a majority of the Democrats voted, if my recollection serves me right.

Mr. CLAPP. Overwhelmingly.

Mr. REED. Overwhelmingly, the Senator says, and that is my recollection. Aye, we forced it; we fought for it; we contended for it; we overcame by our votes the tremendous influence and power of the Senator from New York [Mr. ROOT], who contended that the treaty barred us from this privilege.

Who, then, can say that this is not a question at least of serious doubt?

I come now to the present debate. Why, here are men who have been judges of courts, here are Senators of long experience, here are men who, while we meet them as equals in this Chamber, are nevertheless regarded by the country at large as authorities upon questions of law and statesmanship, ranging themselves against the proposition that the United States has violated this treaty; and who shall say the question is beyond doubt?

Mr. President, if it is not beyond doubt, what is our duty to the 100,000,000 people who are not here in the Senate, but who have trusted their rights to us? Is it upon a doubtful proposition, upon a questionable proposition, to concede away their rights; or is it to affirm here that they have a right, and, having affirmed it, to seek by all honorable and fair means to maintain it? Certainly we can afford to go as far as is proposed by the amendment of the Senator from Mississippi [Mr. VARDAMAN], when he asks that we shall assert this right, and then shall appoint a commission to confer diplomatically with reference to it.

I repeat, if this case has not already been ruined, it will be if we pass a questionable resolution of reservation.

Let us examine it.

Yonder stands the representative of the great Government of England. We are going to have an arbitration now, for that is the thing that seems to be ahead of us. The representative of England, without any doubt, without any cavilling, without equivocation, without any hesitancy, comes into that tribunal and asserts that under the terms of this treaty the United States can not grant to a vessel of its citizens a single privilege that it must not grant to every other citizen and vessel of the world.

The case proceeds to trial. The representative of Great Britain will introduce the statement of the President of the United States. Exhibit A, that hearing, will be the message of the President of the United States, and the first sentence read, or at least emphasized, will be this:

> That exemption * * * is, moreover, in plain contravention of the treaty with Great Britain concerning the canal concluded on November 18, 1901.

"But," the American representative will reply, "that was merely the statement of the President, and does not commit us." Whereupon the representative of Great Britain will say, "But the President recommended, because of this expressed view, that Congress take certain action, to wit, that it repeal the clause that had given offense; and Congress did take that action, and by so doing it approved the language of the President when he said we had violated the treaty."

"Ah," says the representative of the United States, "but while we did that we reserved our rights." "Yes," says the representative from Great Britain in reply, as he holds up the Simmons amendment, "you reserved your rights which your President said you did not possess, but you did not dare assert a right. You could not get enough votes in either branch of Congress, when you were there all alone, to assert in manly tones that you had a right."

What do you think, Senators, would be your reply if you stood there representing the United States before that board of arbitrament? I think you would do what, once or twice, I have had to do. I have had to ask the court please to permit me to retire.

Mr. CLAPP. Withdraw a juror.

Mr. REED. The Senator from Minnesota suggests that the device in his State is to withdraw a juror.

Mr. President, I did not rise to discuss the main issue. I may do so before this debate is over, because it is not over yet. I say, however, that since the Senator from North Carolina has said, of and concerning his own amendment, that he does not propose to assert any right, but merely to reserve such rights as we may have; and when he has said, in addition to that, that his own opinion is that we have no rights, that we gave them away by this treaty—and, of course, the rights I am discussing are the particular rights that are now in question—since that is the case, in my opinion it becomes imperative that we shall adopt different language than that contained in the amendment offered by the Senator from North Carolina.

I would prefer that amendment to nothing; but a parliamentary situation has been created where I must either vote for that amendment without the right to offer an amendment to it or to vote for an amendment offered by another Senator strengthening it, or I must vote seemingly to give my approval to the uncertain terms of the Simmons amendment. I am going to vote against it, because under the circumstances presented here this morning I think it is far from going to the point to which we should go, and I am going to vote against it in the expectation and hope and certainly that at the proper time I shall have an opportunity to vote for an amendment that asserts the authority of the United States to control this canal as to the domestic commerce of the United States.

Mr. President, I am going to take a moment to discuss this subsidy question. What is the use of Senators undertaking to set up straw men to hide behind? There is not a Senator in this Chamber who does not know what the Baltimore platform said and meant. We need not cavil here about phrases. We knew what we were talking about then, and we know what we are talking about now.

The Baltimore platform contained two propositions which these gentlemen say are contradictory. One was that we condemned ship subsidies; the other was that we proposed that there should be exemption from tolls to the coastwise vessels of the United States. These logicians say now that these two propositions are in conflict, and therefore they will pick the one they choose and stand on that. They forget that if there were two propositions in absolute conflict one of them would kill the other and neither of them would be of any force or validity.

If you have two propositions in absolute conflict, you can not pick the one you choose, because one of them is deadly to the other and both die from the same cause and at the same moment of time. The rule of construction that is adopted everywhere by every court of the world is that when there are two propositions of a different nature you shall, if possible, give to both of them their full meaning and effect, not using one to destroy the other, but construing both so that both shall be vitalized.

Apply that here to what we were talking about. We need not haggle about phrases. For many years the Republican Party had advanced the doctrine of going down into the Treasury of the United States and paying a subsidy in the shape of dollars and cents to certain vessels that might comply with certain rules. We condemned that in many platforms. We were talking about that thing, and only about that thing, when we said in our platform that we condemned subsidies, and we knew what we were talking about—the specific instance, the particular case, the historic topic, had been before us for years.

What was the other proposition? The other proposition was the question of tolls through the canal. We had that before us. It had been the subject of discussion and debate. We knew what we were dealing with. We proposed to say, and we did say, that our coastwise vessels should go through free.

We gain nothing by trying to deceive ourselves and saying that these two propositions being in conflict, we may therefore set aside one of them. They are not in conflict. They are no more in conflict than if we had said, "We are against subsidies"—and for the moment I am conceding this to be a subsidy, which I do not concede as a matter of fact—"we are against paying subsidies to vessels plying between the United States and England, but we are in favor of granting a remission of duties to goods shipped in American vessels plying between North and South America."

If those two propositions had been there together, they could have been construed together, and both of them could have lived, and each would have expressed the pledge it was intended to express. So when it is claimed, as it has been here by many eloquent Senators, that we are in some manner exculpated from our pledge that coastwise vessels shall not be compelled to pay tolls, I can not deceive myself by that sort of argument. I know what we meant by those words, and so do other Senators know, and so does every citizen of the United States know.

That brings us squarely to the question. Having put into our platform the statement that we believed in the exemption from tolls of coastwise vessels, we must either stand by that declaration or we must, in a manly way, say that we are going to repudiate it and give the reasons for repudiating it; but let us not hide behind the miserable pretense that there is a conflict in the two provisions in the platform, when, as a matter of fact, the platform was dealing with two diametrically different propositions.

I have no quarrel in the world with a man who has become convinced that for economic reasons we ought to charge tolls. I have no criticism to make of him. He has a right to take that view and he has a right to go back to his constituency and say, "After maturely studying this question, various considerations arose which made me believe that we ought to declare for a different policy, and I did it." But I can not, so far as I am concerned, tell my people that I did it because there was a conflict in the provisions of the platform.

That brings me to another question. Is this a subsidy? Mr. President, if it is a subsidy, then the Democratic Party has been favoring subsidies ever since there was a Democratic Party.

Mr. CLAPP. Will the Senator pardon an interruption?

Mr. REED. Certainly.

Mr. CLAPP. We will be confronted with a good-sized bunch of them when the river and harbor bill comes here from the other House.

Mr. REED. Subsidy! We frequently get ourselves involved in difficulty by trying to go into refinements of reason and refinements of meaning when, as a matter of fact, if we will take language in its ordinary meaning in connection with the subject with which we are dealing there will be no difficulty.

There is not a Senator of the United States who has ever used the term ship subsidy in his life up to the time this debate began, when refinements of reason became very necessary, who ever thought of anything else except the Republican proposition of paying a bounty to a vessel that would carry the American flag, and so forth. He never thought of applying it to a river improvement; he never thought of applying it to a harbor improvement; he never thought of applying it there any more than he thinks of applying the term subsidy to the farmers of this country when there is an appropriation made to kill the boll weevil. The kind of subsidy we have always been dealing with, when we talked about subsidy, is the direct subsidy; but when we have been talking about this other question we have been dealing with the proposition of improving the facilities of commerce; and what have we done along that line? There were a great many vessels plying upon our inland seas. If you had proposed to Congress to pay them a bonus upon the tonnage they carried, every Democrat, at least, would have voted against it, and a great many Republicans. But if on some day you proposed to appropriate $250,000 to remove some rocks out of the channel through which these boats must pass, and to deepen the channel, so that commerce could pass over it, it would be voted not as a subsidy but merely as an aid to commerce. Everybody understands that distinction. Gentlemen can stand here and talk until they are black in the face, and they will not even convince themselves that they have been successful in producing a gold brick that will deceive their own judgment.

What have we done? it has been asked here many times. Just let us rehearse it. We started in spending millions and millions of dollars on the Ohio River. We acquired canals that had been privately owned and we built canals. As one said this morning, there is a bill now in Congress to expend $3,000,000 to buy a canal from Philadelphia to Baltimore—that is a toll canal—and to give it to commerce free, aye, to give it to this wicked trust we have heard so much about, for the boats that will ply on that canal are just as much in combination as these other boats. We have appropriated, or approved a plan to appropriate, $20,000,000 for the improvement of the Missouri River. We have appropriated altogether and paid altogether, I think, nearly $800,000,000 for the improvement of the waterways of this country, and whether it is a channel dug through a lake, or a canal dug across the dry ground, or whether it is the removal of stumps and bars in rivers, or whether it is the dredging of harbors, in every instance it has been done since the foundations of this Republic without anybody ever attaching the word "subsidy" to it.

Now, let us assume for a moment that there had not been any treaty with England, and that by honest methods we had acquired a strip of land 10 miles wide across the Isthmus of Panama and without regard to any other nation on earth, but simply because we wanted to promote competition between the transcontinental railroads and the boats plying along our coasts we had expended $400,000,000 to build that canal, how would we have undertaken to justify it to the people of the United States? We would have justified the expenditure of that money as we have justified the expenditure of every dollar that has been expended since the foundation of the Government in improving harbors, rivers, and lakes, and in the acquisition of canals, namely, upon the sole ground that the Government of the United States was providing a means of communication between the different parts of this country, and it was doing no more and no less than it would do if it built a public highway across the land upon which the commerce of the people could move. We would have replied the benefit comes back to the people of the United States in recompense for the taxes they shall pay in the form of a cheaper transportation and a less tax upon the industry and the production of the land. That would have been the answer we would have returned. No man could have or would have cried "subsidy," because we would have been doing a few hundred miles from our coast that which we are now doing within the body of the United States itself. The claim of subsidy would not have been upon the lips of any man.

How can you justify permitting vessels to go through this canal engaged in the coastwise trade of the United States? I am putting aside the treaty now for a moment. You can justify it upon the hypothesis that as an original proposition the great causes for building this canal were two—one to add to our strength in time of war, which I need not pause to discuss, and the other to cheapen the cost of transportation between the Pacific and the Atlantic and to create an actual, active rival for the railroads and force a reduction of railroad rates.

That is the argument that was advanced. Those are the reasons why we built this canal. We did not build it out of any chimerical love of humanity. We did not build it as a benefaction to the world. We built this canal and the people were content to pay for it, because they believed it would add to our strength in time of war, for the reason that it would permit our fleets to pass from the Atlantic to the Pacific by the short route and from the Pacific back to the Atlantic, so that we could meet with our entire fleet an enemy in either sea, and so that we could mass our entire fleet upon either coast that was menaced. We did it for the other reason that we wanted to get the products of the East and the products of the West back and forth at the least possible cost. The people were content under those circumstances to pay for the canal.

If the purpose was to produce a rival for the railroads and to force a reduction of railroad rates, then just in proportion as you increase the burdens upon the shipping you decrease the ability of the owner of the vessel to compete, and every dollar you add to the cost of hauling goods through the canal you enable the railroads to add to every pound of freight they carry across the continent overland. It is because of the consideration that a reduction of the water tolls to the lowest rates will force a reduction of the land tolls on the vast volume of trade that crosses the country that some of us voted originally for this tolls exemption.

I do not like to see Senators whom I regard highly stand upon this floor and hear them say that those who oppose the repeal of the tolls exemption are doing it in the interest of a shipping trust. It is an unfair argument, and it puts the Democratic Party in the position of having voted for the shipping trust and having favored the shipping trust at the session of Congress in 1912 when we passed the act.

Mr. CLAPP. Will the Senator pardon me?

Mr. REED. Yes.

Mr. CLAPP. Does it not put them in the still worse position of tacitly admitting that this administration does not intend to enforce the prohibition in the existing law against monopolized ships or ships owned by railroads?

Mr. REED. I was coming to that. It also puts the Democratic Party in a position of having either through ignorance or willfully in its platform in Baltimore taken the side of the coastwise shipping monopoly, a proposition that I repudiate, and then it puts us in the position suggested by the Senator from Minnesota [Mr. CLAPP] a moment ago, which I need not repeat. Is that fair? Is that true? Is there any Senator who will rise in this Chamber and look me in the eye or any other man in the eye and say that the Democrats voted in favor of a ship monopoly, intending further to enable that monopoly to feather its nest and to pluck the feathers from the body of honest commerce, if I may use so very bad a metaphor?

Let me show you what the other side of that would be and how unfair it would be to argue this question in the same

spirit on the other side. It would be for Senators to rise in their seats and say to every man who wants to put a toll upon these vessels, "You are working for the transcontinental railroad, are you not? You know that every time you increase the cost of transporting goods by water you help the railroad monopoly, and therefore with that diabolical purpose in your heart you are here trying to put this toll up to a prohibitive point so that the railroads may continue to enjoy their monopoly and pluck and plunder the country."

The man who would make that argument would not be fair, and the man who charges that those Members who believe in toll exemption are in league with monopoly and are the servants of combinations is as unfair as I would be if I turned upon those on the other side and asked them whether they were working for the Southern Pacific or the Northern Pacific Railroad. Shame upon that kind of argument! It reflects no credit upon its authors. It convinces the judgment of no man. It makes no votes unless there be cowards who can be driven.

Mr. President, there is another consideration, and that is that in the canal act itself we struck a deadly blow at the Shipping Trust. We provided that the railroads that had already begun to take steps to control water competition could not send their railroad-owned boats through the canal. We struck at the railroad monopoly in that bill, and at the same time we struck at the coastwise combination. If that law is faithfully enforced, there will be no coastwise monopoly plying through that canal, either with tolls or without tolls, for at the threshold of the canal the monopoly-controlled and the railroad-owned boats will be halted, and the canal will either not be used for coastwise business or there will come to its gates vessels that are not controlled by railroads or combinations. If the law is honestly enforced, the result must be that these railroads will be forced to dispose of their boats to independent owners, that the combination must be broken up, or otherwise the independent boats, a few of which exist, will get all the business of the canal and will have such an advantage that the combination can not live in competition with them.

Now, that being true, why should we stand here and rave over the proposition that there is a coastwise monopoly and claim that this provision in the act was for the benefit of that monopoly, when by the very act that exempted vessels from tolls we expressly provided that a railroad-owned vessel and a monopoly-controlled vessel should not pullute the waters of the canal.

You see, you do not argue fairly when you argue that way. You must assume that the law will be enforced, and the moment you assume that the law will be enforced, then your monopoly is barred from the use of the canal. Why stand here and try to hide behind the coat tails of a monopoly when you have already decreed the death, dissolution, and burial of that monopoly by denying it any chance to enter this canal?

There is another way to kill that monopoly. That is to adopt the amendment which I offered, and at the proper time will submit, and that is to admit into the coastwise trade of the United States every vessel desiring to enter it.

Now, "all ye who labor and are heavy laden" with monopoly, who have spent your time upon this floor denouncing the coastwise trade of the United States as a monopoly, who have declared that it is so bad and so wicked a thing that it ought to be penalized out of business through the imposition of tolls—all ye who declare yourselves the enemies of special privilege and who claim that all these special privileges are contrary to the principles of the Democratic Party, come let us reason together.

I do not believe in special privilege. I do not believe that a thing which can not exist in the pure free air of competition, that has to be supported artificially, ever produced a penny of genuine profit.

When an industry can not stand alone and yet is found standing, it must be supported by some other institution capable of standing alongside the weekling and holding it up. An institution which does not possess sufficient vitality to exist and yet does exist must be living off of energies which it does not produce. It is necessarily a parasite feeding upon that which is produced by others.

Mr. ASHURST. Mr. President——

The PRESIDING OFFICER. Does the Senator from Missouri yield to the Senator from Arizona?

Mr. REED. I do.

Mr. ASHURST. I wish to make an observation. It has just occurred to me how singular indeed it is that during the campaign of 1912, when all the western speakers were instructed to dwell emphatically upon the platform and especially upon the tolls-exemption provision to catch votes in the West, the idea of a subsidy did not apear to those who at that time stood upon the platform and urged us to point out the beneficent features of that provision.

Mr. REED. Mr. President, for nearly a hundred years we have been endeavoring to build up a merchant marine by granting to vessels built and owned in the United States the sole right to engage in the coastwise trade of the United States. At the end of that long period of time what do we find? What is our reward? What recompense comes to us from this fostering and pampering? The Senator from New York has extensively examined into the question. The committee of the House of Representatives, after long investigation, has filed its report. We are told by both of these authorities that nearly 92 per cent of all line vessels engaged in the coastwise trade are either controlled by the railroads or in combination. Aside from the line vessels there are of course many tramp vessels, both sail and steam. These vessels do not run upon regular lines. It is conceded that but few of the so-called tramp vessels will pass through the canal. It is also conceded that practically none of these vessels will be of assistance as auxiliaries in time of war.

Mr. WEEKS. Mr. President——

The PRESIDING OFFICER. Does the Senator from Missouri yield to the Senator from Massachusetts?

Mr. REED. I do.

Mr. WEEKS. I should like once more to call the Senate's attention to the incorrectness, I think, of the statement which has just been inadvertently made by the Senator from Missouri, in that he is using the figures which apply to line traffic—that is, direct lines of steamers—and not to the total traffic of the country. There are about 800,000 tons in steamers that are either controlled by railroads or controlled by large companies, which is the tonnage included in the figures which the Senator from Missouri has just quoted; but the total tonnage of the United States engaged in the coastwise and lake traffic is between 7,000,000 and 8,000,000 tons. So only about 10 per cent of the total tonnage is the tonnage which the Senator from Missouri has just quoted as being 90 per cent of the total coastwise tonnage of the country.

Mr. REED. Mr. President, I understand, I think, with a reasonable degree of accuracy the situation and the distinction which the Senator from Massachusetts makes. Practically all of the "line vessels" are in combination or are controlled and owned by the railroads, and that applies to and embraces the line vessels carrying through freight upon the Great Lakes, which embrace the larger part of the tonnage to which the Senator referred when he said "the greater amount" a moment ago.

In addition to those vessels there are a larger number of vessels not running in lines; but, Mr. President, the hearings before the House committee showed that, as to those vessels, the great majority of them are owned by companies with interlocking directorates, so that to all intents and purposes the great mass of all the coastwise business upon the seas is under the control of what would be commonly termed a trust or combination. I think I am safe in that statement; and if I am not, of course I want to be corrected.

Mr. WEEKS. Mr. President, I know the Senator from Missouri wishes to be accurate in his statements, but I think he has been misled by the reports made by the committee of the other House and has not examined them as carefully as he does most matters. I think I could demonstrate, if I had the time—and I may before this debate is over put into the RECORD—just who controls all the coastwise traffic of the United States; and the Senator from Missouri will see from such a statement that the reference which he has just made can not be accurate.

Mr. O'GORMAN and Mr. BRANDEGEE addressed the Chair.

The PRESIDING OFFICER. To whom does the Senator from Missouri yield?

Mr. REED. I yield to the Senator from New York, who first addressed the Chair, and then I will yield to the Senator from Connecticut.

Mr. O'GORMAN. Mr. President, I think on a former occasion I made a statement in the Senate substantially similar to the one now made by the Senator from Missouri [Mr. REED], and that was that 92 per cent of the vessels engaged in the American coastwise trade are either owned or controlled by the railroads of the country or form part of a shipping combination.

No more exhaustive investigation of that subject, perhaps, was ever made in the history of this Government than that made by the so-called Alexander committee in the other House, and that was the conclusion reached by that committee; that is the statement contained in the report of the committee, after weeks and months of inquiry into this subject.

Mr. WEEKS. Mr. President, if the Senator will pardon me just one moment, I will say that I do not wish to prolong this

debate, but in order to correct what is a serious misapprehension of the character of the coastwise business, I shall take the time later to put into the RECORD the exact facts relating to coastwise shipping.

Mr. BRANDEGEE. Mr. President——

The PRESIDING OFFICER. Does the Senator from Missouri yield to the Senator from Connecticut?

Mr. REED. I do.

Mr. BRANDEGEE. I am glad to hear the Senator from Massachusetts [Mr. WEEKS] make the statement that he has. I think there has been an entire misapprehension of this question. I think a careful examination of even the Alexander report will not sustain the contention that is being made either by the Senator from Missouri or by the Senator from New York. I think so, among other reasons, for this reason: About two months ago I received a letter from a Boston shipping man who claimed to be very familiar with the situation. I laid it on top of my desk with the intention of showing it to the Senator from Georgia, who had made an address upon the subject; but it was lost with other papers that are swept away from our desks here after the daily adjournment of the Senate. So I am unable to state now from whom it was; but the writer called attention to the point of distinction and to the point of confusion to which I have alluded, and he said that the amount of tonnage controlled by railroads and by railroad-owned ships, by liners that were controlled by railroads, and by ships controlled by corporations which were not trusts, so to speak, was not over one-third of the total tonnage of the coastwise trade on the Atlantic coast; and that there was severe competition between the vessels engaged in the coastwise trade on the Atlantic coast. I can not give the exact figures and proportions, but I am satisfied that there is a confusion existing upon that subject which I do not think is even warranted by the statements in the Alexander report. I am glad the Senator from Massachusetts will clear it up.

Mr. REED. Mr. President, I examined the Alexander report, I thought, with reasonable care, and reached the conclusion from my examination which I first stated. The Senator from Connecticut and the Senator from Massachusetts arrived at a different conclusion; but if I were to take the figures just given by the Senator from Connecticut and were to say that only one-third of the coastwise business of the United States had combined itself in violation of the principles of law, that it had been seized upon by the railroads, and thus its competition with the railroads removed, I would yet be justified, and abundantly justified, in saying that the favors we have heaped upon the coastwise vessels of the country had met with poor recompense. If the figures given by the Senator from Oklahoma as to rates charged are correct, then there is a just cause of complaint against vessels in the coastwise trade. Instead of appearing in the light of servants of the people, fostered and protected as they have been, they would appear to be engaged in a conspiracy little short of robbery. If it be true, as stated by the Senator from Oklahoma, that goods can be shipped from England in English bottoms 12,000 miles for less than is charged for hauling them 800 miles in a coastwise vessel of the United States, then, instead of protecting and fostering and preserving a monopoly of that kind, we ought to be glad to compel it to meet competition and to fix its rates in competition with the world.

Mr. President, there is another reason—and I am going to appeal to those western Senators who are paying me the compliment of their attention, why the amendment I have in mind ought to be adopted.

The suggestion was well put by the Senator from Oregon [Mr. LANE] a few days ago, that when this canal is opened if all coastwise vessels pay the same tolls, then this is bound to result: That the Canadian ports upon the east and the west, being open to the vessels of all nations and enjoying the advantages of the competitive rates fixed by the boats of all countries, will obtain rates so much lower than will be granted by the coastwise monopoly of the United States, that every Canadian port on the east and every Canadian port on the west will have the advantage over ports of the United States on the eastern and western coasts just to their south. Goods will be landed by vessels flying the flag of England and of every other country. Goods will be transported from Canadian ports at such an advantage that the Canadian farmer upon his wheat, the Canadian merchant upon his goods, the Canadian lumberman upon his lumber, the Canadian citizen, whatever his vocation in life, will enjoy a lower rate than we will be able to obtain from vessels protected by our maritime laws from any competition. The inevitable result will be, if we do not open our ports to the vessels of all nations, that the United States ports will be at a disadvantage with Canadian ports. I do not want to indulge in any extreme statement; no man can look into the future and say that he has the right to speak with certainty, but I fear if we open the Panama Canal to vessels of all nations and do not at the same time open our ports to the vessels of all nations that the canal will prove a commercial disadvantage instead of an advantage to us.

I know how useless it is sometimes to try to talk to the Senate. There is a formative period here when opinions are changed. Then we reach a point where opinion has in a measure crystallized, and at that point talking is of but little use, particularly when the one attempting to talk is no more gifted than am I. I heard of an old farmer who had the reputation of being a sort of amateur veterinary surgeon, for whom the neighbors sent in emergencies. They brought him on one occasion to look at a sick calf. He looked at it a minute, when observing that its eyes were steadfastly fixed, and having seen calves in that condition before, he said: "There is no use wasting medicine on the critter; his eyes are sot." I do not know whether at this period of the debate I can enlist the interest of Senators, but I want to put this case to you: If you were about to establish a great wholesale house upon the western coast and you had your option to establish that house at Portland, Oreg., or to establish it at Vancouver, and you expected to sell your goods to the great Northwest, and you realized that into the port of Portland no vessel could come except a vessel engaged in the coastwise trade, flying the American flag, and that there was in fact no real competition between these vessels, and that as conditions are now there is no real competition between them and the railroads which own them, and you had the other option offered of locating your wholesale establishment in Vancouver, where every day there would be at the wharves not only the coastwise vessels of the United States, if they dared to go there to compete, but the vessels of every nation on earth, the liners and the tramps, as a man possessing ordinary business sense, at which place would you locate your great wholesale establishment?

I turn now to my friends from the eastern coast, to the—and I use the term kindly—to the Yankee statesmen upon this floor, and ask them, the Senators from Maine and Massachusetts, to ponder well what may be the effect of taking through the canal products from eastern Canada, from the Canadian cities just north of you, and carrying those goods at the cheapest possible rates, in bottoms that compete each with the other and that sail under every flag known to the breezes of heaven; what will be the effect upon your industries, upon your manufactures? Will you not be forced, in order to save your manufacturers from a competition that will spring directly out of the existence of the Panama Canal, to sacrifice the boat monopoly that has so long existed?

Mr. WEEKS. Mr. President——

The PRESIDING OFFICER. Does the Senator from Missouri yield to the Senator from Massachusetts?

Mr. REED. Certainly.

Mr. WEEKS. I hope the statement which the Senator has just so forcefully made will lead him to vote against the pending bill. That will be the surest way of preventing the turning over of this trade to our foreign rivals.

Mr. REED. Mr. President, I am not sure at all that the tolls will be sufficient to compensate; I am not sure at all that if we took entirely off our ships the tolls which will be charged other vessels going through the canal we would have yet equalized the difference in freight rates charged by the coastwise vessels of the United States and the rates which are charged by the vessels of the world. I am informed by the Senator from Georgia [Mr. SMITH] that toll exemption would not nearly equalize conditions; but in so far as it would, candor, of course, compels the statement that it would aid to that extent.

Mr. MARTINE of New Jersey. Mr. President, if the Senator will permit me, his reference at the outset of his address, wherein he declared that he thought there was a fair understanding in certain quarters that the amendment which has been offered might be agreeable to the Government of Great Britain, I desire to read a most remarkable statement which I have clipped from the London Times of April 30, 1914. It is as follows:

[From our own correspondent.]

AMENDMENT OF THE PANAMA BILL—SENATE COMMITTEE'S ACTION.

WASHINGTON, *April 29.*

The Senate Committee on Interoceanic Canals is holding this afternoon its final meeting on the Panama tolls-repeal bill. The atmosphere of the committee is not friendly, and the chances are that the bill will be reported either without recommendation or with a suggestion that it be amended. Whichever course is followed, it is beginning to be agreed that the measure is almost certain to be amended during debate.

Which is the situation in which we are now placed.

In face of the popular opposition to repeal manifested since the President's message urging repeal, Mr. Wilson is stated to have weakened in his determination to accept no amendment. The aim of his lieutenants will now be to secure that the change shall, if possible, be inoffensive to Great Britain.

Think of it! And that, I take it, is the aim of the amendment which has been proposed—to be inoffensive to Great Britain.

Their present idea is that they will accomplish that end if they can persuade the preferentialists to accept a rider to the bill to the effect that the passage of the bill does not prejudice any rights of the United States under the Hay-Pauncefote treaty.

Think of it! Is there a Senator, in view of the knowledge and light shed by that clipping from the leading paper of Great Britain, who would stand up here and so forget his duty and obligations to his country as to vote to acquiesce in this nefarious scheme?

LATER.

The committee have decided to suggest the amendment already outlined. Senators do not believe that Great Britain will object, and should they be right, feel sanguine that the measure can be put through. The chances are that acceptance of the amendment by the administration, the Mexican trouble, and the general pressure of business will combine to curtail debate somewhat. The preferentialists, at any rate, will not be able to use with such effect as they did in the House their favorite argument that American rights are thrown overboard.

Mr. REED. Mr. President, I have been discussing for a moment the effect upon the cities and industries of our eastern and western coasts. I pause long enough to call the attention of Senators from the interior of the country and Senators from the South to the fact that they are interested, not in as direct a manner as would be the cities of the North Pacific coast of the United States and of the North Atlantic coast of the United States, but, nevertheless, interested, and gravely interested. Let us assume the establishment of a great industry at New Orleans having to draw a portion of its supplies from the eastern coast of this country and a portion of its supplies from the western coast to be engaged in manufacturing products and, in turn, shipping those products all over the world. If such an industry needed lumber from the West and was obliged to pay the rates fixed by our coastwise vessels, if it needed iron from the East and was obliged to pay the rates fixed by our coastwise vessels, and, having manufactured a product, sought to compete with the Canadian product in the markets of Europe, and the Canadian could haul at a cheaper rate his original goods used in manufacturing, would not the manufacturer at New Orleans be at a disadvantage?

Nor is it true, Mr. President, as has been said here frequently in debate, that the tolls on the Panama Canal will affect only the eastern, western, and southern coasts of our country. The tolls charged for the canal and also the freight charged by the boats engaged in the coastwise trade will inevitably affect the railroad tolls of the entire country, and will in turn affect the industries of the great interior, if not so much as those of the eastern and western coasts, at least to a material degree.

Let us examine that for a moment. Let me take my own State in illustration.

It never was intended that when we had built this canal we should cease building waterways. Congress has already made appropriations for the improvement of the Mississippi River. A vast system of improvement is going on. Organizations exist having for their object the procurement of at least a 14-foot channel from St. Louis, Mo., to the mouth of the river. The work is under way. Now, let us assume that in the city of St. Louis there is a manufacturer who is selling his goods all over the United States and all over the world. Is he in any way concerned in this canal? I answer, he is vitally concerned. Why? Because now, if he desires to reach the western coast or the great western country, he must ship his goods by railroad, and must pay the railroad rates. Every man who has studied the railroad rates applying to the great West knows how unjustly that entire country has been treated; and I include in the great West my own State. But, sir, when this canal is completed, immediately there will be set up a new line of competition. The north-and-south railroads running from St. Louis and points north clear to the Gulf of Mexico can not now enter into rivalry with the transcontinental lines; but the moment this canal is finished, if we act wisely, the merchant can at once enjoy a competition, for the north-and-south lines will haul his goods to the Gulf ports, a new element will enter into the competition, and the result will be that there must be better rates made from St. Louis to the great West, or else the transcontinental lines will lose the business; and instead of going, as it does now, all by rail east and west, it will go over the north-and-south railways and through the canal.

That will not only benefit the manufacturer at St. Louis but it will benefit the consumer in all of the great coast States, the Mountain States, and inevitably all of the United States.

Mr. BORAH rose.

Mr. REED. I will yield to the Senator from Idaho in one moment.

That is a condition which will obtain immediately. It is as certain as fate itself. But, sir, when the Mississippi River is but slightly improved great barges will be moving up and down that stream, and there will be an actual water competition all the way from the city of St. Louis to Portland, Oreg.; and in like manner there will be a means of water communication between Boston, Mass., and St. Louis, Mo.; and that water competition will lower the price of all the staple goods that are used in the great interior of the United States. So you can not say that if you grant exemption from tolls you are taxing all of the country for the benefit merely of the East and West.

The Senator from Idaho has been waiting. I yield to him.

Mr. BORAH. In connection with the point which the Senator is making I desire to call attention to an article in the Chicago Record-Herald, under date of June 3, 1914. It is entitled:

SHIPPERS TO BENEFIT BY OPENING OF CANAL—CUT OF 40 TO 50 PER CENT IN WATER RATES FROM PACIFIC COAST IS PREDICTED—ESTIMATE BELIEVED FAIR—PROBABLE REDUCTIONS PREPARED BY SAN FRANCISCO COMMERCE BODY.

The first concrete evidence of the benefit the Panama Canal will work to shippers was offered yesterday by the foreign trade department of the San Francisco Chamber of Commerce.

According to a prospectus issued by the department all water rates on shipments from San Francisco to points on the Mississippi, Missouri, and Ohio Rivers will be reduced from 40 to 50 per cent when the canal is opened to commerce. A rate table has been compiled showing the estimated reductions in rates on shipments of numerous California products. The table takes into account figures supplied by barge companies operating on the rivers.

The statement is held by shippers to be a fair estimate of the reductions that will be made in rates between all points affected by the opening of the canal. They believe that corresponding reductions will be announced on shipments from river points to the Pacific coast and between river points and Atlantic ports.

One thing more, if the Senator will allow me.

Mr. REED. Certainly.

Mr. BORAH. The London Outlook a few days ago said that on the basis of the crop of 1912 the farmers of Alberta alone will receive an annual benefit of $200,000,000 by reason of the opening of the canal. It added:

It is easy to see that it is not far hence when farmers of Alberta and Saskatchewan will receive a free gift from this canal of something in the neighborhood of $250,000,000 a year in foreign rates saved.

Mr. REED. I am obliged to the Senator for his contribution, which is very illuminating.

Mr. President, for my part I have looked forward to the opening of this canal as the beginning of a wonderful era of prosperity for our country. I have believed, sir, that without injustice to any railroad interest the inevitable result of the construction of the canal would be an active water competition between boats and railroads upon all classes of heavy freight. I have believed, and yet believe, that every dollar you take off the cost of transportation is a dollar added to the net value of the product imported. It is that much money saved for the pocket of the producer or the pocket of the consumer. I have believed that every dollar taken off the cost of transportation was in practical effect a reduction of distance, and that when you make it possible to move from the interior of this country to the coast for $1 an article that now costs $2, you have in practical effect divided in the middle the distance between the two points. I have believed that the construction of the Panama Canal would break the strangle hold which railroads have upon certain communities, even under the rulings of the Interstate Commerce Commission and the beneficent mandates of that body. I have believed that instead of the basic rates being fixed upon certain selected points having water competition, as they are now, the basic point of rates would be affected by the introduction of this new line of competition, and that that would be extended along the line of every north-and-south railroad, so that we would have inaugurated in the United States practically three independent competing forces—the transcontinental east-and-west railroads, the north-and-south railroads, the coastwise and lake traffic; and, in addition to that, in the near future we would introduce a large traffic upon the great rivers of the country.

Mr. CHAMBERLAIN. Mr. President, may I interrupt the Senator?

Mr. REED. In a moment.

If that results, the advantage it will give to our country can not be measured in figures or even grasped by the imagination.

In illustration, business is frequently done upon a close margin, particularly business that competes in the open markets

of the world. A difference of a few cents in freight rates may mean the difference between a prosperous year and a bad year for any manufacturing institution. If by the building of this canal, if by the introduction of these new forces of competition, we can reduce freight rates, it may mean—indeed, I believe it will mean—such additional advantage to the commerce and industries of our country as will enable us to meet competition in every land, and to gather gold in every clime.

I now yield to the Senator from Oregon.

Mr. CHAMBERLAIN. Mr. President, I am very much interested in what the Senator has said. I should like to have him reply to the argument which has been made here by some of the Senators that if rates are too high between the Middle West and the West, or between the Middle West and the East, the Interstate Commerce Commission has absolute power to correct those evils. If the views of the Senator are correct, and these rates are unjust, I should like to have him discuss the question whether the contention of Senators is well founded that the Interstate Commerce Commission might possibly regulate these rates.

Mr. REED. Mr. President, I hesitate to go into that branch of the discussion, because it is a large one; but I have always maintained that the middle sections of this country and the great West have never had fair railroad rates, nor anything approximating fair railroad rates, notwithstanding the existence of the Interstate Commerce Commission.

Mr. WEST. Mr. President, I should like to interrupt the Senator from Missouri, if he will permit it.

Mr. REED. Certainly.

Mr. WEST. If what the Senator is looking to, the cheapening in time of rates by remitting the tolls through the canal, would absolutely take away from the great transcontinental railroads any of the terminal freights, would it not inevitably result in the increase of the rates in the interior, if the railroads are permitted to live—and I suppose they expect to live?

Mr. REED. Mr. President, that argument, carried to its legitimate conclusion, would lead us to go down immediately and dynamite the canal, lest the interior of the country might be ruined by the existence of the canal. I think that completely answers the argument. It goes too far. It leads to too bad a conclusion.

Has it come to this: That we have built the canal only to discover that water rates are going to be too cheap, goods can be hauled for too small an amount of money, and therefore we must put burdens upon the vessels so that they can not give the people cheaper rates lest the railroads retaliate and charge it up to somebody else? If that is true, we ought never to build another boat, we ought never to dig another canal, we ought never to appropriate another dollar for waterway improvement, because the railroads in the end would punish somebody for all the benefits we had created. That will not do. It is not sound argument.

Mr. WEST. Mr. President, if the Senator will permit a further interruption——

Mr. REED. Certainly.

Mr. WEST. If the railroads are barely living now at the present rates, and they can not reduce expenses, then, if the terminal freights are taken away from them, does it not necessarily follow that the interior rates will have to be increased in order that the railroads may continue to exist?

Mr. REED. If I were to admit all of the Senator's premise, of course I would answer "yes"; and if the Senator will permit me to frame a question in my own way, I can always compel him to answer "yes," if he answers frankly, as he will.

I am going to spend just one moment on this question and then pass on.

There is no justification, and there never has been any justification, in morals or in justice, for a railroad to charge less than a fair price for hauling goods to a point, whether there is competition or whether there is not competition; and nothing is more unjust than to allow a railroad, because it has competition at a certain point, to haul goods to that point at a loss and then tax up the loss to somebody else. We are going to come to a time in this country very soon, I hope, when every part of the country will be put upon exactly the same basis with reference to rates. By that I mean not, of course, the same rates in dollars and cents, but the same rates taking into consideration the physical conditions, the density of population, and the amount of goods to be carried. The time will come very soon when the railroads will not be permitted to haul goods through Salt Lake City to the Pacific coast and then haul them back to Salt Lake City for less than they will haul them direct to Salt Lake City. I use Salt Lake City merely as illustrative. The same is true of Denver and other places.

Mr. BRISTOW. Mr. President, if the Senator will pardon an interruption, as an illustration of the accuracy of the Senator's opinion, I want to submit to him an experience which his own city had and the region of the country where I live.

There was a controversy, as he will remember, some years ago, looking to the reduction of the rates from the East to Kansas City, and a counterclaim was made that the rates from Kansas City to central Kansas points should be equivalently reduced, since otherwise it would give Kansas City a lower rate, and the rate from Kansas City west not being changed, it would give Kansas City an advantage over the distributing points west of Kansas City.

A reduction, however, was made of 4 cents a hundred on traffic into Kansas City, and the rates west of Kansas City were left the same. On a certain commodity the rate from the East to Salina, Kans., was 56 cents a hundred before the reduction, 24 cents to Kansas City, and 32 cents from Kansas City to Salina. A reduction of 4 cents was made in the rate to Kansas City; that is, it was reduced from 24 to 20 cents. That reduction was reflected in the through rate to Salina, that rate being reduced from 56 cents to 52—and that will happen everywhere where there is a reduction in any rate. It is always reflected in any joint rates that are made for that point, and must be.

Mr. REED. I wish to answer further the interrogatory of the Senator from Georgia, and particularly his premise, which he put in the form of a question. If the railroads are already carrying as cheaply as possible, then, the Senator inquired, what would they do if lower rates were made through water transportation?

Mr. WEST. Not lower rates, but less hauling.

Mr. REED. Very well; less hauling. I do not know how that particular matter will work out, but I pause long enough to make this observation: If this canal cheapens rates to the great interior, as I have argued it will, and as I believe it will, then the increased population and the increased traffic and business which must be done by the railroads will speedily more than recompense the railroads for the losses incident to the through traffic upon heavy freights. The trouble with the railroads in the West and in many parts of the South is that they proceed through countries sparsely settled and with but a limited manufactured output. There will be a compensation as I have indicated, in my opinion; but, whether there is or not, the railroads must face the competition through this canal; and if the canal competition is going to destroy the railroads, and therefore is a wicked enterprise, we ought to blow out its locks to-morrow, if it is going to ruin and injure the country—a thing that I utterly deny, but to which the logic of the Senator's question would drive us.

I pause, however, to make another remark. I hear a great deal of talk about the poor railroads, their inability to pay interest and dividends, and of the effort to raise rates; but I have not seen any of these railroad presidents meeting together in solemn session for the purpose of squeezing the water out of their stocks. I have not seen them dissolving their holding corporations. We have heard much of the New Haven Railroad scandal, and, of course, it has shocked the conscience of the American people; but the New Haven Railroad is not alone. I might call your attention to the fact that railroad after railroad in this country is capitalized by underlying bonds and stocks, and then that a holding company has been organized to hold the voting majority of the stocks, and that that holding company has issued its stocks and its bonds, and then another holding company has been organized for the holding company, and more stocks and more bonds issued, and in the case of the Rock Island Co. still another holding company for a holding company of a holding company. Thus there has been pyramided a burden of stocks and bonds upon which no railroad can earn interest or dividends. Some day I am going to take a little of the time of the Senate to call attention to some of these matters.

This, however, is all aside from the question. I take it that the Senate is agreed that we ought to reduce the rates of transportation as far as we can by the employment of natural advantages, supplemented by such artificial advantages as it is proper for the Government to create. That being true, and it having been asserted here by Senator after Senator that the coastwise business of this country is controlled by a monopoly, that it is a conscienceless monopoly, that it is a monopoly largely owned and controlled by the railroads, that it exists to-day for the purpose of preventing what little water competition there might be, I challenge their attention to their own statements. I ask them, Why not apply to these concerns that have been granted immunity from competition for a hundred years, the doctrine of the Democratic platform, that where there is a monopoly the tariff advantage should be repealed, and in this instance, applying the principle, repeal the advantage we have by law given

the coastwise monopoly? Why not do what England and other up-to-date countries have done, admit all vessels to enter our ports and transport goods?

When you do that, Mr. President, you will have destroyed the advantage which the Canadian ports will have over the American ports through the use of the canal. You will have put our coast cities upon the same beneficial level the Canadian coast cities will occupy. You will have put our vast interior in the same position of advantage the people of the interior of Canada will enjoy, because instead of compelling our merchants to load their goods into vessels owned and controlled by a monopoly and compelling them to pay that monopoly its prices you will give them the benefit of the same competition as to water rates that every Canadian citizen will enjoy. When you do that you will have at once destroyed the coastwise monopoly of the United States and you will have answered the complaint of England and of all the world as to a violation of this treaty.

Mr. President, that leads me to a suggestion which I have not heard elaborated, at least upon this floor. I deny, sir, in express terms that this treaty is violated by the clause in our statute which provides that vessels engaged in the coastwise trade of the United States may pass through the canal free. Mark you, by treaty, according to the construction which is insisted upon by some of our friends and by the President, we agreed to allow the vessels of all nations to go through the canal on equal terms, and they claim that includes the vessels of the United States. Let us grant it for the moment. At what point in the law have we discriminated against the vessels of other nations? We have not said vessels of the United States or sailing under the American flag shall go through the canal free. We have not said vessels sailing under our flag shall go through free, but the vessels of other nations shall pay tolls. We have said all vessels except those engaged in the coastwise trade shall pay tolls, and that the vessels engaged in the coastwise trade of the United States shall go through free.

In what respect, then, have we violated the treaty? If we have violated the treaty, it is by the enactment of a statute that is purely local to the United States, and that concerns its internal affairs and business, and that is not found in the clause complained of in the law under discussion.

I want to make that, if I can, a demonstration. If we were to repeal our coastwise laws to-morrow, which everybody admits we have the right to do, by repealing our coastwise laws, which is a thing of our own business, which no nation on earth has any right to interfere with, which is local to ourselves and of our own concern, we would remove the objection offered by England. In other words, England is not complaining here and can not complain here of the terms of the law under consideration. England is, in fact, demanding that we shall waive the right which we possess and every nation possesses of saying who shall go into the coastwise business. The United States to-morrow could amend its coastwise laws and provide that all vessels sailing under the English flag could engage in the coastwise trade, and by amending that law, which is our own business and which has nothing to do with treaties, remove the objection of England.

What England is trying to do is to deny to the United States the right to regulate its coastwise vessels an. to say under what terms they shall sail. It is a wholly distinct proposition of law from the one we have been discussing here for days. If we had written into this law, "All vessels sailing under the United States flag shall go through free," it would have been a discrimination in the law, but the discrimination which Great Britain complains of arises not from anything we put in the law, but from the fact that under another law of purely domestic concern we have seen fit to limit the class of vessels which can engage in our coastwise trade.

How can it be said that Great Britain in writing this treaty intended it to mean, and that our representatives intended it to mean, that we could not confer benefits upon a commerce which is as much an internal affair as is the question of a railroad running from New York to San Francisco?

I do not know whether I have made the question as clear as it is to my own mind. I repeat that we have not in the law now complained of discriminated at all. We have simply provided that a certain class of vessels shall go through free, and that all other vessels shall pay tolls; but the definition as to what constitutes that certain class of vessels is found in another law, which we had a perfect right to pass, that no one can question, a law that existed nearly a hundred years before the treaty was made with England.

I concede that if the coastwise business of the United States had when the treaty was made been open to the vessels of all nations and we had put in a clause exempting vessels engaged in the coastwise trade from the payment of tolls and then immediately had passed a law excluding any but American-owned vessels from the coastwise trade, England might have said, "You have resorted to a subterfuge; you are trying to do indirectly that which you can not do directly." But, sirs, that is not the case here. Our coastwise vessels are operated under laws that antedate the treaty The privileges they enjoy of entering our ports and taking on passengers and freight existed before the treaty was made. We had the right to provide that they should be a certain length, if we saw fit; that they should carry a certain complement of men, if we saw fit; that they should carry guns or that they should go unarmed, if we saw fit. We had the right to say to them that they could not trade at all, if we saw fit, and we had the right to say to them they could enter our ports free of pilotage, if we saw fit, or enter one of our canals, if we saw fit, because all these questions are of purely internal concern. By amending the coastwise laws so as to admit the vessels of all nations to the coastwise trade we remove the objection of England, which is an absolute demonstration that that which she complains of is a condition not arising because of the tolls act but because of our coastwise laws, for by changing the coastwise law we remove the objection.

Mr. President, I am appealing to Senators upon this floor for a broad view. I am asking them to consider the welfare of the whole of the United States. I am asking Senators who have stood here and denounced the tolls act as in the interest of a monopoly and who have declared the coastwise business of the United States to be in the clutch of a monopoly to come with me and vote with me to break that monopoly down by the most effective means that have ever been employed to break a monopoly—that is, by bringing in competition. I ask them to do so not alone upon the narrow ground of destroying the monopoly, although that might well excite and delight a man who abominates a combination in restraint of trade, but I am asking them to do it upon the broader proposition that if we do not do it the ports of Canada will have an advantage over the ports of the United States. The farmer of Canada will have an advantage in the shipment of his wheat over the farmer of the United States; the manufacturer of Canada will have an advantage over the manufacturer of the United States; and why? Because the Canadian will have coming to Canadian ports and passing through the canal the vessels of all nations. He will have the advantage of the cut rates which come from keen and active competition. He will have the advantage of the regular line steamers and of the tramp steamers. He will have the advantage of rates that have been forced down upon the railroads of Canada through the water transportation that reaches the eastern and western coasts.

Mr. O'GORMAN. Mr. President——

Mr. REED. Beyond any question, if you do not admit to our ports the vessels of all nations and give our people the benefit of that competition, you will find out in the long run and at the end of the road that the canal we built at such tremendous expense has inured to the greater benefit of Canada, which contributed neither of genius nor money nor toil to its construction.

I yield to the Senator from New York.

Mr. O'GORMAN. With the permission of the Senator from Missouri, I wish to call attention to one statement indicating the tremendous advantages to be enjoyed by the Canadian farmer from the use of the Panama Canal.

In the first place, it will be noticed that in the transportation of the products of western Canada to the European market the use of the canal means a saving of 8,000 miles of travel, and in the London Outlook of recent date it was estimated that the new route opened by the Panama Canal will effect a saving of £40,000,000 annually—$200,000,000—to the farmers of Alberta alone, a single Province of western Canada, and that the Province of Saskatchewan will receive a free gift from the canal of £50,000,000—$250,000,000—a year in foreign rates saved on the basis of the crop yield in 1912. With this vast displacement of traffic it is not surprising that the rival railway interests are working all sources to prevent the exemption of tolls to American ships in the Panama Canal.

Mr. REED. Senators have said here in answer to interrogatories that they were ready to vote for the proposition contained in my amendment some time, but not now; some other day; at some more convenient season. Why not now? We are dealing with this question now. The amendment I propose will take out of the mouth of England and every other nation on earth the last possible objection, and will enable us to escape from a construction of the treaty which may be of incalculable disadvantage to our country. Why not now? Is the fact that the coastwise monopoly is a hundred years old a reason why we should perpetuate it a little longer? Will we lose any valuable time in the passage of this bill? We have spent two months

and more now in its discussion. The question is ripe. It is before the country. Why not now? This is the accepted time. Now is the day of salvation. If we are in the clutch of a railroad-controlled shipping monopoly, as Senators have solemnly averred, when will you get ready to vote to abolish it?

Mr. GALLINGER. Mr. President——

Mr. REED. If we have created a special pet and conferred upon it a special privilege, and for a hundred years violated the fundamental principles of the Democratic Party that we all do so much love, why not regenerate ourselves at this particularly interesting moment?

I yield to the Senator from New Hampshire.

Mr. GALLINGER. I beg to say to the Senator that some of us who have studied this question pretty carefully absolutely deny that there is any such thing as a monopoly in the coastwise trade. Again, I will suggest to the Senators that his scheme would turn over our coastwise trade to the tramp ships of Great Britain and other countries of Europe, and wipe out our coast shipping exactly as England, by her superior management of those matters, wiped out our over-seas commerce.

Mr. REED. Mr. President, I did not expect the Senator, who always is noted for the calm manner in which he watches an advantage, to rise and denounce the very premise I have laid down and upon which I am trying to get a few Democrats into line on this proposition. Of course, I might digress now and discuss the proposition the Senator has raised. He denies that there is any monopoly. If this were a question of a political character, upon which political parties sometimes differ, and the Senator were to make that sort of a statement to me, I would simply regard it as a settled fact, and lay it by in the budget of my memory as an eternal truth, and would never afterwards venture to even question it. But this being a question upon which the mists of political doubt and difference have settled down, I am always afraid that the very able Senator is afflicted with a sort of intellectual strabismus that prevents him seeing things just as they are. I am sure he will never see them from my standpoint.

Mr. GALLINGER. Mr. President, the Senator's kindly observations, as well as his humorous observations, are appreciated by me; but the fact has been well established, as it can be established again, that while there are 330 ships that are in a combination, there are certain other ships, a limited number, controlled by railroads and companies that will not go into the canal. There are 24,000 coastwise ships out of the 27,000 that are no more in combination than are the automobiles which are run on our streets in Washington in combination. I say to the Senator again, Mr. President, if we open our coastwise shipping to the tramp steamers of England and France and Germany and Norway, with their cheaper crews than we can possibly under our laws admit to our ships, and with their cheaper food supplies, that our coastwise shipping will go exactly where our over-seas shipping has already gone.

Mr. REED. Ah, Mr. President, I know that is the Senator's honest opinion. I can not quarrel with him about matters of opinion, because he and I are of two diametrically opposite schools of political thought. We could no more agree upon a question of political opinion than a Mohammedan and a Christian could agree upon the doctrine of transubstantiation.

Mr. GALLINGER. But, Mr. President, I do not regard this as a political question. I think it is a business question, pure and simple.

Mr. REED. But, Mr. President, while the Senator from New Hampshire has spoken of the thousands of vessels that are not in the combination, he ought, as he said they were no more in combination than are the automobiles of the country, to be perfectly frank, and say to us that the vast majority of them could no more use the Panama Canal than could the automobiles of the country. He is including in that list every vessel plying upon the Great Lakes. They are in there, and they are going to stay there. All the great steamers that carry iron ore and other kinds of freight and passengers, which are built on the Lakes to remain on the Lakes. The Senator is including every little sailing craft. The truth about the matter is, if the House report is to be believed, that there is a tremendously powerful and potential combination. Mr. President, if that is true, why should we waste much of our time in worrying about what would happen to those boats if there were competition?

Mr. GALLINGER. Mr. President——

Mr. REED. I will yield to the Senator before I proceed.

Mr. GALLINGER. I am troubled, and have been troubled, over the great anxiety that is felt to destroy American vessels that may be in a combination. We exclude our ships that are owned or controlled by railroads from the Panama Canal, but permit the ships of Canada owned by two great railroad combinations to enter that canal. The same thing is true of these other matters. If we exclude ships that are in combination or controlled by trusts, why should we not try to exclude at least foreign ships that are so controlled in similar combinations? I do not like the idea of discriminating against our own people in that regard.

Mr. REED. In other words, England has a trust; therefore we ought to let our trusts run because England has a trust.

Mr. GALLINGER. Well, we are in competition with those trusts of England. Not only are those vessels in trusts and combinations, but they have enormous subsidies direct from the Government of Great Britain, and from all other European Governments, and I say if we undertake to open our coastwise shipping under existing conditions to the ships of other countries, it will be absolutely blotted out as a natural result.

Mr. REED. Well, let us see. There is a trust in the United States and there is a trust in England. We are in the grip of a trust here. If we let the trust vessels of England come here, we will be using one trust with which to fight another trust, and the people who have to pay the freight will probably get some benefit when these two transportation pirates begin doing business against each other. If, on the other hand, one of them destroys the other, or absorbs the other, we shall, of course, be then in the position of having to meet that question in some other way. I do not say that competition is a complete remedy, but I do say that whenever I can stir up competition between the trusts of the world and set them fighting each other, I shall be very certain when I sic them on that I am engaged in the service of my country and of the Lord God of Hosts.

Mr. GALLINGER. Mr. President, very likely that is true; but when the Senator from Missouri destroys a trust in his own country and maintains a trust of our competitor, I think the Lord God of Hosts might well be called upon to solve the problem.

Mr. REED. Mr. President, I do not admit the premise of the Senator. The Senator has almost answered himself, although I know of no one who can steer clearer of the shoals than can the veteran debater from New Hampshire; but the Senator has asserted that there are thousands of vessels under the American flag that are not in the trust. The Senator will not pretend to say that there are not many more thousands of vessels engaged in the trade of the world not in a trust. Therefore if we were to admit the vessels of all nations to our ports, the trust-controlled vessels as well as the independent vessels, we would have competition between our own trust-owned vessels, our own nontrust-owned vessels, the trust vessels of other countries, and the thousands and tens of thousands of independent vessels, and until there was a world-wide combination the people would get the benefit.

Why not do this now? Why put it off? You Senators who cry there is a trust, all you who proclaim there is a trust, why not now dethrone that trust by interposing competition?

Mr. BRISTOW. Mr. President——

Mr. REED. But somebody will rise——

Mr. KERN. He has risen. [Laughter.]

Mr. REED. Indeed, as is suggested, he has risen. I yield to the Senator from Kansas.

Mr. BRISTOW. Mr. President, I am inclined to agree with the Senator from Missouri that the coastwise shipping of the United States has been largely controlled by combinations—that is, the important routes, at least, have been—but I want to call his attention to a fact, which he well knows, that the very law which it is now sought to amend provides that vessels that are controlled by a trust can not use the Panama Canal. The Senator himself offered the amendment providing that. So that the trust that is disturbing some of our friends so much, who fear that it may be benefited by this legislation, can not profit by the canal. That canal alone of all the highways of the United States is made free from the operations of the trust.

Mr. REED. I am obliged to the Senator from Kansas; but I had already discussed almost in the same words, though not so well, the very thought the Senator has expressed.

Mr. President, it will be replied that we are going to drive our flag from the ocean and that we shall have no vessels to use in time of war to transport our troops and our munitions of war. Why, Mr. President, when we had the little War with Spain, although we had been protecting by law the coastwise vessels of this country for nearly a hundred years, we had to buy foreign bottoms; we could not get boats at home. If at the end of a hundred years that is the result as to our national defense, I submit the argument ought to appeal to no man.

But that is not all. There is to be found in that circumstance an illustration of the patriotism and the cupidity of the coastwise shipping monopoly. After the War with Spain was over

the United States had these old hulks upon her hands. She found a purchaser, but the purchaser wanted to sail them under the American flag and attach as a condition of purchase that the vessels should be admitted to American registry. Whereupon the coastwise monopoly swarm down on the Commerce Committee of the Senate as flies swarm about a pesthouse, like the lice came to Egypt. The coastwise patriots demanded that the United States should not even, for the purpose of selling the vessels it had purchased in time of war, register or permit the registering of those vessels under the American flag—an example of patriotism which makes it perfectly easy for me to understand why it was that the Savior said, "It is easier for a camel to go through the eye of a needle than for a rich man to enter into the Kingdom of God."

Mr. GALLINGER. Mr. President, I presume the Senator is aware of the fact that, if the owners of the coastwise ships did oppose giving American registry to certain ships, the labor unions and the laboring men of the country also opposed it.

Mr. REED. I do not think that there was any uprising on the part of the union labor of the country on that question. If there was, it did not come to my attention; and, if it had come to my attention, I should have been forced to say to union labor—once, at least, in my life—that I thought its position unjustifiable.

Mr. GALLINGER. Well, Mr. President, it is a fact that no class of our people are more solicitous about keeping American shipyards open than are the laboring men. They have a direct stake in the matter, and they do not want any legislation to be placed on our statute books that turns over our shipping interests to foreign countries.

Mr. REED. O Mr. President, our shipping interests are turned over to foreign countries.

Mr. GALLINGER. In part.

Mr. REED. There are not enough boats under the American flag engaged in the deep-sea trade to carry the corn from one good Iowa county across the ocean.

Mr. GALLINGER. Mr. President, we all admit that; and that is a circumstance so deplorable and, from my point of view, so disgraceful to our country that it ought to be remedied.

Mr. REED. I think so, too. You have tried your plan for a hundred years, and the result is that there are practically no vessels with the American flag over them; and I think that almost any proposed remedy ought to be readily accepted, because it certainly could not bring about any worse conditions than those at present obtaining.

Mr. GALLINGER. The Senator's party undertook in the recent tariff law to remedy it; but that has proved abortive. Those of us who have been interested in the development of the over-seas shipping have been ready to try almost any reasonable remedy to accomplish the result. As I called attention yesterday, we had a few years ago three large ships belonging to the Oceanic Co. plying on the Pacific Ocean. They were losing money in competition with Japan, a subsidized shipping country, and they asked for relief; but certain Senators laughed at the idea that they needed relief. The result was that those ships were tied up at the docks in San Francisco to rot at their anchors. Two or three of them are now running to Australasia and to the Orient, because a colony of Great Britain, New Zealand, is helping to pay the loss which they otherwise would sustain. It is a deplorable situation, and one that ought to be remedied.

Mr. REED. Mr. President, we get but a little distance along the line of this debate by undertaking to discuss everything "in the heavens above, the earth beneath, and the waters under the earth"; just to end this part of the discussion, as far as I am concerned, I call attention again to the patriotism of these gentlemen. I have not been in the Senate as long as most of its Members, but I remember that before the Commerce Committee a year or so ago some gentlemen appeared who desired to fit out a vessel to carry an exhibit of the products of the great West to the ports of other countries. They did not want to exhibit American products under a foreign flag. They went to the American shipping interests to try to buy a vessel, but they were asked a prohibitive price. They found a vessel under a foreign flag which they could buy for about one-third the amount demanded by the Shipping Trust of the United States. They came and asked for the privilege of registering it, so that in carrying American products to foreign ports they might exhibit them under the American flag. They were not doing it to make money; they were doing it for the purpose of advertising American products. But immediately there appeared before the Commerce Committee a representative of every shipyard in this country, demanding that we should not recommend a bill permitting this vessel to sail under the American flag. When they found the bill would be reported favorably they concluded to sell their vessel at a reasonable price. So, Mr. President, I see no benefit that has accrued to us during this hundred years of nursing and many years of monopoly.

I want to see freight rates reduced to the people of the United States, and you will reduce those freight rates, Senators, when you open the ports of the United States to the vessels of the world and give to the people of the United States the benefit of a world-wide competition. Nor do I believe our vessels will be driven from the seas. I believe we will build up a trade and commerce and we will build up a Navy by pursuing the policy England has pursued. England has opened her ports to the vessels of the world. She does not fear the Norwegian tramp steamer referred to by the Senator, and we need not fear it; for, if it comes to our ports and hauls our goods and people cheaper than the present monopoly will haul them, so much the better for the people of the United States. The day will come when we will restore our flag to the sea, not by undertaking to pamper, not by undertaking to subsidize, but by making conditions under which the vessels of the world can do business in our markets, and our vessels in like manner shall sail the seas and do business in the markets of other nations.

Mr. President, at the proper time I shall urge this amendment. I am urging it now, because it removes every difficulty from our path. Pass this amendment, and we have not conceded that England or any other country has rights in the canal which interfere with our dominion. Pass this amendment, and you break the monopoly that all of you, with the exception of the Senators from New Hampshire and Massachusetts, have asserted exists. Pass this amendment, and you give to the people of the United States an opportunity to meet upon equal terms the competition that is bound to exist the moment the canal is opened between Canadian ports and the ports of the United States. Fail to pass it, and you will have left a very large part of the United States at a disadvantage in the contest with England.

Mr. President, I challenge your attention to this proposition. The construction we place upon the treaty at this time will be a construction that will bind us to the last day of time, unless we escape from it by paying the price of the escape—I mean if we construe it wrongly. Let me tell Senators something. You may give this canal away, but as surely as there is a God of nations the people of the United States will take it back. Let me tell you something. You may concede away a part of the rights of the United States in this canal, but the people of the United States will recover them.

The people of the United States may not understand the intricacies of treaty construction; they may not understand the inner consciousness of the gentlemen who negotiated the treaty; but they will not inquire whether one of the negotiators of the treaty wrote the immortal ballad "Little Breeches," or whether another negotiator believed we should build a canal and grant it freely to the world. The people are spending but little time on those questions; but guided by a high sense of equity and justice, guided by that common sense which we sometimes call horse sense, which means good, practical sense, they know that it was American genius that conceived the canal, that it was American labor and American life that built the canal, that it was American dollars that produced the canal, that American guns are to be planted at both ends of the canal, that it is our canal, and you can not give it away if you try to do it.

Make no mistake. You might as well tell the man who bought the soil and paid for it, who raised the crop of potatoes and sweated as he planted and hoed and digged them, that they belong to the gentleman sitting on the fence and fanning himself, as to tell the people of the United States that they do not own the Panama Canal.

Treaty obligations? Yes. The United States should keep faith everywhere and always, but keeping faith does not necessarily consist in yielding all the demands your antagonist may make. If that were to be the construction or the rule of conduct, then the more avaricious a nation, the more unjust a nation, the greater would be its reward.

I remind Senators, as I did a while ago, that in dealing with their own property, they may, if they so desire, yield to the man with whom they have contracted a doubtful point, or even a contested point that is not doubtful, because when they yield they will be relinquishing their own property; but you can not be so generous with the money or the goods you hold in trust for another. We are but trustees of the national property in the canal, and if we yield it we yield not that which is ours to give but that which belongs to our principals, who never instructed us to yield it, but who by their votes instructed us the other way.

I am sometimes a little inclined to be amused, sometimes to be irritated, at the argument put forward that the Senator

from Oklahoma [Mr. GORE] has written to all the delegates to the Baltimore convention and that he has received replies from most of them that they are perfectly willing to back up on that platform. That does not meet the point. The delegates to the Baltimore convention have no more right to rescind that platform than a man has a right to rescind his proposition after the other man has acted upon the faith of the proposition. The Baltimore convention, if it had made a mistake, might have the day after it adjourned been reassembled and might have rescinded its platform. Possibly if a mistake is made by a convention the delegates may after adjournment by a unanimous vote rectify the error, but when? Surely before the people of the United States have accepted the contract and upon its faith cast their ballots and elected men to office; and then, as the Senator from Minnesota [Mr. CLAPP], with his usual clearness of expression, says, the people who voted would have to be consulted.

Mr. President, when I arose, I intended only to discuss the propriety of the point of order being urged. I have been led by interruptions and questions far afield. Since I have gone thus far, I shall briefly advert to one other question. I refer to the contention that we should determine what the treaty means, not by its language but by ascertaining what the negotiators thought it meant, or said it meant.

Who made this treaty? Was it a treaty when the representatives of England met the representatives of the United States, and when they reduced a proposition to writing? Why, at that period, sirs, it had no more force, validity, or life than the blank parchment had before ink had been touched to it. They were preparing a proposition, to be submitted to whom? To the high contracting parties.

Who were the high contracting parties? Were they Mr. Choate and Lord Lansdowne? Why, those gentlemen had no more power to make a contract binding upon either country than any single Senator in this body, and any single member of the House of Parliament had power to meet and make a treaty. They were not the contracting parties at all; and consequently that which they did and that which they wrote does not enter into the opinion, the conclusion, or the act of the contracting parties.

Who were the contracting parties? They were the Government of Great Britain and the President of the United States, and still there was no contract until the Senate of the United States made the contract valid.

I will admit that if, between the Senate of the United States and the President upon the one hand and the English Government upon the other, communications had passed back and forth, those communications between the contracting parties might be considered for the purpose of throwing light upon dark passages and obscure sentences in the treaty; but I utterly deny that the inner consciousness of a mere negotiator can bind either the Government of England or the Government of the United States; and there is plenty of reason for that.

What did we know about the private talks held between the negotiators? What we had before us was the written document. Upon the written document, and not upon the private talks, we acted and we made amendments. If we are ever to admit the heresy that the private understanding of the negotiators is to be binding upon the Senate, then before we ever ratify another treaty we must first have all the correspondence passing between the negotiators, and, second, we must take evidence and find out what each negotiator said to the other; and then, instead of adopting a treaty as the conclusion and finality, and as the thing agreed upon, we will just adopt all the evidence and all the correspondence, and call that a treaty.

It is a dangerous doctrine. It is a vicious doctrine. It leaves us in a position, if it becomes the policy of the Senate, where when we examine a treaty in the future we will have no knowledge as to whether the treaty means what its language imports or whether that language is to be distorted and twisted and changed by virtue of a private talk between two negotiators.

Mr. President, I believe this is an American canal, built by American money, for the benefit of the American people. I believe that we have contracted that we will treat alike the vessels of all nations "observing these rules"; and if that provision were not in the treaty I would insist that we should do so. But I believe that the United States is not included in the term "all nations observing these rules." We are the sovereign, the proprietor. I might be prepared even to waive all questions of internal economics and vote for the repeal out of consideration for the views of others if I could do so without yielding for all time, under the conditions now existing, the right of the American people to dominate the canal.

But we do not stand here to vote upon this naked bill. We must take the bill with its history. Its genesis was a protest from England, mildly made and subsequently practically withdrawn. The second step was a speech by the Senator from New York [Mr. ROOT], circulated in an amount, I think, of 1,750,000 copies by an organization existing in the city of Washington which, in my opinion, comes so nearly being international that it can not be described as national. The third step was the assembling of Congress to hear the President declare that great message. The fourth step is the enactment of this bill, in response to the demand of Great Britain and the President. We must vote for it in the face of repeated declarations by Senators upon this floor that they have arrived at the conclusion since they voted the last time that after all the United States has no rights in the canal, except the right to pay for it.

So I am unwilling that an amendment such as is offered by the Senator from North Carolina shall go through as the expression of our rights in this canal. The man who comes in and asserts, "I own this property; it is mine; nevertheless, out of consideration for your opinion, I will submit it to an impartial tribunal or I will negotiate with you further," occupies a position where every moment of the time he can defend his interest. But when a man comes in, as comes the Senator from North Carolina, and says, "I admit in advance that I believe we have no rights; therefore I offer an amendment solemnly reciting that whatever rights we do not have are hereby sacredly reserved," that kind of an amendment does not suit me, and in my opinion it does not suit the American electorate. I propose to vote against that amendment now, because I do not believe it properly declares the position of the United States, and because I do not believe it properly reserves and conserves our rights. I express regret again that a point of order is raised which denies us the right in advance to vote squarely upon the proposition advanced here that we shall assert our sovereign and complete rights in the canal.

Mr. WEEKS obtained the floor.

Mr. JONES. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The Senator from Washington suggests the absence of a quorum. The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Ashurst	Gronna	Norris	Smith, S. C.
Bankhead	Hollis	O'Gorman	Smoot
Borah	Hughes	Overman	Stone
Brady	James	Page	Sutherland
Brandegee	Johnson	Perkins	Swanson
Bristow	Jones	Pittman	Thomas
Bryan	Kenyon	Pomerene	Thornton
Burleigh	Kern	Ransdell	Tillman
Chamberlain	La Follette	Reed	Vardaman
Chilton	Lane	Saulsbury	Walsh
Clapp	Lea, Tenn.	Shafroth	Warren
Clark, Wyo.	Lee, Md.	Sheppard	Weeks
Colt	Lewis	Shields	West
Crawford	Lodge	Shively	White
Culberson	McCumber	Simmons	Williams
Cummins	McLean	Smith, Ariz.	Works
Fletcher	Martin, Va.	Smith, Ga.	
Gallinger	Martine, N. J.	Smith, Md.	
Goff	Nelson	Smith, Mich.	

The PRESIDING OFFICER (Mr. JAMES in the chair). Seventy-three Senators have answered to their names. A quorum is present.

Mr. BRISTOW. Mr. President——

The PRESIDING OFFICER. Does the Senator from Massachusetts yield to the Senator from Kansas?

Mr. WEEKS. I do.

Mr. BRISTOW. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. BRISTOW. This morning the Chair ruled an amendment out of order on the ground that it was in the third degree. It was an effort to amend the original amendment to which the amendment of the Senator from North Carolina is a substitute. I wish to inquire if the amendment offered by the Senator from North Carolina should be adopted will it then be open to amendment?

The PRESIDING OFFICER. It will be then subject to amendment. The Senator from Massachusetts will proceed.

Mr. WEEKS. Mr. President, the Senator from Missouri [Mr. REED], who has just discussed the tolls bill at great length and with his usual skill, introduced a new feature into the debate to which I wish to give some consideration, namely, the amendment which he has introduced to repeal the laws which give a monopoly, so called, to our coastwise shipping.

The Senate should appreciate the fact that business in this country is not nearly as good as fundamental conditions seem to warrant its being, and, in my judgment, one of the principal reasons for this is the repeated attacks which are being made on its organization and methods of conduct similar to

the one which has just been launched against coastwise shipping by the Senator from Missouri. New capital will not enter a field where its value may be lessened or practically destroyed by ill-considered legislative action.

I happen to have at hand an extract from the first annual message which James Buchanan made to Congress in 1857, and which, I think, is applicable to the point which I am making. President Buchanan said:

Since the adjournment of the last Congress our constituents have enjoyed an unusual degree of health. The earth has yielded her fruits abundantly and has bountifully rewarded the toil of the husbandman. Our great staples have commanded high prices, and up till within a brief period our manufacturing, mineral, and mechanical occupations have largely partaken of the general prosperity. We have possessed all the elements of material wealth in rich abundance, and yet, not withstanding all these advantages, our country in its monetary interests is at the present moment in a deplorable condition. In the midst of unsurpassed plenty in all the productions of agriculture and in all the elements of national wealth we find our manufacture suspended, our public works retarded, our private enterprises of different kinds abandoned, and thousands of useful laborers thrown out of employment and reduced to want.

In giving a monopoly to our coastwise shipping during the past hundred years, as we have done, we have been following the course practiced by all other nations. This is a protection country. If the people of the United States had an opportunity to vote on the question of protection or free trade they would, in my judgment, without any doubt vote in favor of protection. We have been protecting our coastwise trade against the competition of the rest of the world, carrying out the protective policy which we have made applicable and useful in all of our industrial affairs.

To some degree this information may have been put in the RECORD, but I have before me, in the annual report of the Commissioner of Navigation for 1912, a statement of the manner of protecting the coastwise traffic of every commercial country in the world. I will not take the time to read it, but I will ask to have it incorporated in my remarks.

The PRESIDING OFFICER (Mr. SWANSON in the chair). Without objection, it is so ordered.

The matter referred to is as follows:

[From Annual Report of Commissioner of Navigation for 1912.]

APPENDIX M.

STATEMENT OF COASTING TRADE OF VARIOUS FOREIGN COUNTRIES, WHETHER RESERVED OR OPEN TO GREAT BRITAIN.

Statement submitted on June 17, 19.., by the British foreign office, with additions supplied by the board of trade to the select committee of the House of Commons on steamship subsidies.

Country.	Treaty, etc.	Treatment of coasting trade.
Austria-Hungary.	Treaty, Art. II, Apr. 30, 1868.	National treatment; also open to certain colonies.
Belgium	Treaty, Art. XI, July 23, 1862.	Coasting trade reserved. (Treaty expired but system in force continued by exchange of notes of July 27, 1898.)
Bolivia	Treaty, Art. II, Sept. 29, 1840.	Coasting trade reserved. (Bolivia at present has no seaboard.)
Brazil	Constitution, 3, 13	Coasting trade reserved.
Bulgaria	Arrangement, July 12-24, 1897.	Coasting trade to British vessels during arrangement of July 12-24, 1897.
Chile	Convention, Art. I, May 10, 1852.	Coasting trade reserved by treaty, but now foreign ships engage in the trade. (See Sir B. Cusack Smith's telegram 1, commercial, June 29, 1901: British ships engage in coasting trade without restriction.)
China	1863, etc	Coasting trade (between open ports) opened by treaty.
Colombia	Treaty, Art. IX, Feb. 16, 1866.	Coasting trade reserved.
Costa Rica	Treaty, Art. II, Nov. 27, 1849.	Do.
Denmark	Law, Apr. 14, 1868	Coasting trade allowed by reciprocity in Denmark.
Do	Law, Apr. 17, 1868	Coasting trade allowed in case of Iceland and Faroe Islands by reciprocity.
Dominican Republic.	Decree, Dec. 30, 1858	Coasting trade reserved except at certain ports.
Egypt	Convention, Art. V, Oct. 29, 1889.	Coasting trade reserved.
Ecuador		Coasting trade open to foreign vessels. (Mr. Lawrence, No. 8, Sept. 22, 1888.)
Finland	(No information in library.)	Probably covered by Russia.
France	Treaty, Art. IX, Feb. 28, 1882.	Coasting trade reserved.
Do	Note, Dec. 28, 1898	Coasting trade, Madagascar, left open.
Germany	Law, May 22, 1881	Coasting trade reserved, except where granted by treaty.
Do	Law, May 11, 1898	Most favored nation treatment.
Do	Decree, Dec. 29, 1881	Opened to British vessels, subject to reciprocity.
Greece	Treaty, Art. VII, Nov. 10, 1886.	Reciprocal national treatment.
Guatemala	See treaty, Art. II, Feb. 20, 1849.	Coasting trade reserved. (Treaty has expired.)
Honduras	Treaty, Art. III, Jan. 21, 1887.	Vessels of both countries placed on national footing in every respect.
Italy	Law, Art. XV, Dec. 6, 1885.	Coasting trade reserved.
Japan	Treaty, July 16, 1894	Coasting trade between open ports to British vessels during treaty.

Statement submitted on June 17, 1902, by the British foreign office, etc.—Continued.

Country.	Treaty, etc.	Treatment of coasting trade.
Mexico	Treaty, Arts. II and IV, Nov. 27, 1888.	Most favored nation treatment. (Coasting trade not mentioned, but, as a fact, foreign vessels do participate.)
Morocco	Treaty, Art. VIII, Dec. 9, 1856.	Coasting trade allowed.
Nicaragua		Open to British vessels. (See Mr. Corbett's No. 9 of Aug. 11, 1872.)
Paraguay	Protocol, Oct. 16, 1884.	Coasting trade opened.
Peru	Decree, Aug. 31, 1888	Coasting trade reserved. (See Mr. Beauclerk's telegram of June 30, 1901: Coasting trade allowed to steamers obtaining Government authority.)
Portugal	Decree, Apr. 31, 1895	Coasting trade reserved.
Portugal (colonies).	Decree, Oct. 21, 1880	Coasting trade of Macao and Timor, and between those ports and ports of the Portuguese colonies opened to foreign vessels.
Do	Decree Aug. 18, 1881	Coasting trade between ports of Portuguese transmarine Provinces and to Guinea, St. Thomas, and Princip, opened to foreign vessels.
Do	Law, Apr. 16, 1885	Coasting trade between Portugal and the transmarine Provinces to the east of Cape of Good Hope (Mozambique, India, Macao, and Timor) opened to foreign vessels.
Do	do	Coasting trade between Portugal and adjacent islands and Portuguese West Africa reserved.
Do	Decree, Dec. 29, 1892	Mozambique coasting trade thrown open. (Mozambique tariff, Art. XIV.)
Do	Decree, Apr. 30, 1895	Coasting trade between Portuguese ports and Madeira opened.
Russia	Treaty, Art. VIII, Jan. 12, 1859.	Coasting trade reserved. (Trade between Russia and her far eastern possessions reserved: law of 1897 operating from January, 1900.)
Spain	Decree, Art. XXVI, Nov. 17, 1852.	Coasting trade reserved.
Sweden	Proclamation, Aug. 15, 1854.	Coasting trade opened to British vessels.
Norway[1]	(No information in library.)	
Turkey		Coasting trade open to foreign vessels (except to foreign steam passage boats.)
United States		Coasting trade reserved to United States ships.
Uruguay	Treaty, Art. III, Nov. 13, 1885.	Coasting trade reserved.
Venezuela	Decree, Feb. 20, 1871	Do.

[1] Norway, according to information furnished by the Norwegian minister on Oct. 23, 1912, to the Bureau of Navigation, opens its coasting trade to foreign vessels except those of Sweden, which maintains a similar prohibition against Norwegian vessels.

Mr. WEEKS. I simply want to add that the statement shows that every country, with the exception of Great Britain, at this time makes reservations relating to its coastwise shipping, and not only does every country do it, but Great Britain even now does it in this way: It makes a different port charge to vessels flying the British flag from that made to vessels flying the flag of any other country.

Now, has it been of any benefit to this country to have protected our coastwise shipping as we have done? I think the figures will demonstrate that it has enabled us to build up a business that is of material benefit to every coastwise section of the United States.

Let us examine for one moment some of the figures relating to this trade. We had 50 years ago more than two and a half million tons of vessels engaged in our foreign trade. In 1910 we had 791,000 tons of American vessels engaged in the American trade

We had 50 years ago engaged in the coastwise trade about two and a half million tons. Last year we had 7,400,000 tons. Therefore while our vessels engaged in the foreign trade have decreased 200 per cent in tonnage our coastwise shipping has increased an equal amount, so that now it is three times what it was 50 years ago.

We have depended upon the men employed in this coastwise trade to furnish seamen for our Navy in time of need. We have depended upon the vessels employed in the coastwise trade to supplement our Navy, furnishing auxiliaries for every purpose for that service, and we have in many other ways as a Nation made use of this coastwise development. So, even from the standpoint of the Government itself, it has been of material value to us.

But, in addition to that, we employ in this country more than 250,000 men in shipbuilding. We employ on board vessels engaged in this trade tens of thousands of men at good wages under good working conditions.

My friend from Missouri has offered a proposition which would prevent any necessity for further consideration of the pending bill, because if his proposal were to prevail and we were to adopt the amendment which he has offered—to repeal

the laws which protect our coastwise shipping—in one year's time, in my judgment, every dollar's worth of that shipping would be flying a foreign flag, and there would be no reason for Great Britain to object to our permitting our coastwise shipping to go through the canal without paying toll, because we would not have any. If the owner of a coastwise vessel continued to fly the American flag, he would simply be flying it in the face of Providence, because under the conditions which prevail we can not possibly compete with other nations.

A few years ago some patriotic men in this country built a couple or ships to ply between Seattle and the Orient, to see if they could develop a first-class line to engage in the foreign trade and make it profitable under our prevailing laws. Those two ships cost about $2,000,000, and six years afterwards the Government bought them, paying 36 per cent less than their original cost; that is, the owners charged off a depreciation of 6 per cent annually, while 3 per cent is an ordinary charge for such a purpose, and they had not earned a net dollar during the six years they had been in operation. So the men who put money into these ships, which were brought into direct competition with the Japanese and English ships plying between the Orient and our Pacific coast, lost practically 72 per cent on their investment in the six years in which they were in operation. That is simply an indication of what would happen if we were to adopt this amendment.

We were told yesterday by the Senator from Oklahoma [Mr. GORE] that the rates charged in our coastwise trade were materially higher than the rates which are charged by foreign tramp steamers, or possibly higher than the rates which are paid by foreigners for their own coastwise trade. I think probably that is true. There is no doubt, in fact, that we are paying higher rates, and yet the comparisons which the Senator submitted can not be depended on, as rates vary radically in such cases.

For instance, a tramp steamer will come into an American port bringing a cargo, and if there is a large amount of merchandise offering for shipment the rate will be materially different from what the rate will be if there is comparatively little merchandise offering for shipment. In other words, in order to get a return cargo for a tramp steamer the rate which it will charge will depend on the amount of goods offering for shipment. The rate might double in some cases over and above what it would be in other cases. Very much of the foreign shipping which is engaged in trade with our country is of the tramp variety, with no fixed schedule of rates. It goes from one port to another, dependent on the course of business. Therefore it is not possible that there can be any real comparison made in rates between the shipping engaged in our foreign trade or our coastwise shipping and that of foreign countries. To emphasize that statement I will read a letter from Prof. Huebner, of the University of Pennsylvania, with whom I consulted some time ago. Prof. Huebner was employed as the expert by the Committee on the Merchant Marine and Fisheries of the House of Representatives, which, in many respects, made a very careful examination of the conditions of our shipping trade during the Sixty-second Congress. Prof. Huebner says:

UNIVERSITY OF PENNSYLVANIA,
Philadelphia, May 6, 1914.

Senator JOHN W. WEEKS,
United States Senate, Washington, D. C.

MY DEAR SENATOR: This is to acknowledge your favor of May 4, forwarded to me from Washington, and I hasten to reply. While it may be comparatively easy to obtain rates charged by carriers engaged in the coastwise trade of foreign countries, a comparison of those rates with the rates charged by carriers in the American coastwise trade would only be fair if numerous conditions were ascertained and taken into account. In other words, the object of a comparison is to ascertain whether the rates charged in any given route are "reasonable" as compared with those charged on another route, involving a study of: (1) The difference in the nature of the service rendered by the lines engaged, respectively, in the American and foreign coastwise services; (2) the initial cost of the vessel and the expensiveness of operating the same (in this respect American owners of vessels engaged in the coastwise trade, I understand, are operating at a very considerable disadvantage); (3) the different conditions surrounding each trade route as regards the quality of the service, the cost of terminal facilities, the necessity or absence of lighterage service from the pier to the vessel, the quantity of cargo offered in both directions, involving possibly a very light haul in one direction, and the opportunity for affecting proper combination cargoes. All of these factors cause rates to vary in a given trade.

I would also mention all these factors as applicable to a comparison of our coastwise rates with the rates charged by carriers in the foreign trade for equal distances, although, in addition, the influence of the tramp steamer in competition with certain of the line services is also important. Judging from my experience in comparing rates charged by lines engaged in the American foreign trade, it will also be difficult to make comparisons, because the rate tariffs are in many instances not quoted on the same basis—that is, sometimes the rate will be based on weight and sometimes on measurement. This difference in the rate tariffs would necessitate translating weight figures into measurement figures.

I shall be in Washington on Friday and in case you should desire further information I shall be pleased to assist you further. I may be reached at room 279, House Office Building.

Respectfully, yours, S. S. HUEBNER.

Mr. PAGE. Mr. President——

The PRESIDING OFFICER. Does the Senator from Massachusetts yield to the Senator from Vermont?

Mr. WEEKS. I do.

Mr. PAGE. The Senator from Massachusetts will perhaps remember that in the hearings before the Committee on Interoceanic Canals, last month and the month before, the evidence was very conclusive that competition between steamers plying in the coastwise trade, especially on the Pacific coast, was very severe. I think no one claims that the profits were abnormal; that no one claims that those vessels were not working on a very close basis; and I think no one made the claim that, so far as the general traffic was concerned, there was any trust or combination.

Mr. WEEKS. Mr. President, I shall try to demonstrate before I finish that the coastwise shipping of this country is not in an unusually prosperous business condition, and I will demonstrate the fact that the steamship lines, which are claimed to monopolize trade, lost money last year almost without exception, and that for a term of years their earnings have been such that all of their securities are selling below par.

Mr. NORRIS. Mr. President——

The PRESIDING OFFICER. Does the Senator from Massachusetts yield to the Senator from Nebraska?

Mr. WEEKS. I yield to the Senator from Nebraska.

Mr. NORRIS. I think the Senator from Massachusetts mentioned a few moments ago that he had a statement giving a synopsis of the laws of other countries in regard to their several regulations of the coastwise traffic.

Mr. WEEKS. I did; and I put it into the RECORD.

Mr. NORRIS. My attention was diverted, and I did not know that the Senator had asked permission to put it into the RECORD.

Mr. WEEKS. I have put it into the RECORD.

Mr. NORRIS. Would the Senator object to stating, if it will not divert him from the line of his thought, the substance, in a general way, as to what the statement shows?

Mr. WEEKS. It shows that substantially every commercial country in the world reserves the right to its own shipping to conduct its coastwise trade. There are exceptions based on reciprocal arrangements which may be made. In the case of Great Britain the only difference is one of port charges; but, generally speaking, not only the home coastwise trade, but, as in the case of Russia, for example, the trade with its far eastern possessions is reserved to Russian ships.

Mr. BRISTOW. Mr. President——

The PRESIDING OFFICER. Does the Senator from Massachusetts yield to the Senator from Kansas?

Mr. WEEKS. I yield.

Mr. BRISTOW. Mr. President, a gentleman appeared before the Committee on Interoceanic Canals and made a suggestion which I wish to submit to the Senator from Massachusetts and to have his opinion upon. He said that for the canal to be of the greatest benefit to the American people foreign ships should be permitted to engage in our coastwise commerce, but should be taxed and licensed; that that license should be per ton on the cargo handled; and that it should amount to the difference in the cost of construction and operation of the American ships and the foreign ships. His argument was that we did not have at present the American-built ships; that the political uncertainty as to tolls, and so forth, would prevent capital from investing in such ships, and that if some such arrangement as that were made there would be ample protection to the American ships, and it would still give the American business man an opportunity to ship by water and have ships to carry his commerce. That gentleman was a man of experience and was much opposed to the general proposition of admitting foreign ships to compete with our coastwise vessels.

Mr. WEEKS. Mr. President, if I thought there were a monopoly which is burdensome to the shippers of the United States connected with the coastwise marine, I think I might be in favor of some such suggestion as that; but I do not think the monopoly exists; in fact, I am so confident that it does not exist that it seems ridiculous to me to suggest that it does. Anybody who can buy a vessel can go into this trade anywhere he desires. There is no shortage of wharfage in any seaport in the United States, and there is no possibility that a man can not get a vessel by purchase or construction for that purpose. While we make a national monopoly of the trade, it is absolutely open and competitive to the individual.

The reason that there is no more competition in line service in many places is because line service under present conditions is not profitable. If it were profitable, you may be quite sure that there would be ample capital available to go into that business in competition with the existing service.

Mr. BRISTOW. Mr. President——

Mr. WEEKS. Now, let me answer a little further the suggestion which the Senator has made, that our people will not go into this service on account of uncertainties. It is true that there are uncertainties in connection with this Panama trade, largely developed by this legislation, and yet the American-Hawaiian Steamship Co. has 26 excellent ships, as the Senator from Kansas knows, which are engaged in trade in connection with the Tehuantepec Railroad. They will probably go through the canal if tolls are not charged, and will quite likely add to their present service, carrying the products of Hawaii to New York and returning cargoes to ports on the Pacific coast. The Luckenbach Steamship Co. has 10 steamships already in operation from Atlantic ports by the Straits of Magellan to the Pacific ports, and from the Pacific coast ports to Panama. If they have been able to conduct that trade under the conditions necessary in going through the straits, naturally they will continue it and extend it if they are able to use the canal.

W. R. Grace & Co. have four ships already in the same service, and the same statement will apply to them. The John S. Emery Co., of Boston, have two ships building, and more are to be chartered, to run from Boston through the canal to San Francisco and Puget Sound points. The Red Star Line now has two ships in the trans-Atlantic service in the United States to be transferred to this service, and it has plans for others; so that our shipping interests are preparing for this trade, and will, so far as possible, I assume, take advantage of the benefits of the canal.

But the Senator will notice that that is not confined to any one class of shippers or to any one class of citizens. Those ships can not be owned by trusts under our laws or by railroads; they must be independent concerns; and yet I have given the names of five concerns that undoubtedly will in a large way make use of the canal.

Mr. BRISTOW. I want, with the Senator's permission, to suggest, as great stress has been laid upon the allegation that the American coastwise trade was controlled by a monopoly, that that argument could possibly have no bearing upon the question that is before the Senate, because the law which is under discussion, a clause of which it is sought to repeal, distinctly provides that such ships shall not use the canal; and, if they are permitted to use the canal, it would be because of dereliction on the part of the administrative officers of the United States.

Mr. WEEKS. That is true. The reason why so many Senators seem to have come to the conclusion that there is a monopoly in our coastwise service is on account of the report made by the Committee on the Merchant Marine and Fisheries of the House of Representatives, in which it was stated that 92 per cent of the ships engaged in line service—that is, service between definite points on the Atlantic coast—were either owned by railroads or by two large combinations—those two large combinations being the Atlantic Coast & West India Co., which includes the Clyde and Mallory Lines, and the Eastern Steamship Co., which operates from Boston to the eastern coasts, principally to Maine coast points. It is true that 92 per cent of that kind of service on the Atlantic coast is either owned by those two companies or by the railroads; but that is only 10 per cent of the total coastwise shipping of the United States. Ninety per cent of the coastwise shipping is owned and controlled by a great variety of citizens.

As an indication of diversified ownership, I am going to open a list of the ships of the United States engaged in the coastwise trade and read from one page of it. I have not looked at this page and do not know anything about what names I shall find. The first vessel whose name I see is the *Pennsylvania*, of the Pacific Mail Steamship Co.; then the *Colin C. Baker*, owned by Asa E. Coleman, of Bath, Me.; the *Richmond*, owned by the Atlantic Coast Lumber Co.; the *Stephen J. Watts*, owned by W. H. Wyman, of Jonesport, Me.; the *Emma McAdam*, owned by Margaret M. Robbins, of Calais, Me.; the *Annie Gus*, owned by Ira J. Kelley, of Pembroke, Me.; the *Charles W. Alcott*, owned by George E. Hammond, of Greenport, N. Y.; the *Henry P. Hallock*, owned by James Murray, of South Norwalk, Conn.

I have read about one-sixth of one page, and there are over 40 pages containing the list of vessels engaged in the coastwise trade, and it will be found by anyone who wants to take the trouble to investigate the matter that those ships are owned by hundreds of individuals; that there are 361 different owners of vessels engaged in the coastwise trade who own two or more vessels, while the monopoly that is being talked about is controlled by half a dozen railroads and two steamship lines. The fact is there is not a more diversified or more country-wide controlled business in the United States than is the coastwise shipping.

Mr. TOWNSEND. Are they in competition?

Mr. WEEKS. They are absolutely in competition with all other coastwise ships.

Mr. CRAWFORD. Mr. President, will the Senator permit me to interrupt him there?

Mr. WEEKS. Yes.

Mr. CRAWFORD. Is there not a wide difference between the question of diversity of ownership of the shares and the question of whether or not, after all, they are not in a combination by which they control, by agreement, the charges?

Mr. WEEKS. Mr. President, there is not a syllable of testimony—at least I do not recollect a syllable of testimony—taken by the Committee on the Merchant Marine and Fisheries of the House of Representatives which indicates that there is any collusion or any cooperation or any combination in making rates for the service performed by these independently owned vessels.

Mr. CRAWFORD. My recollection is that Prof. Johnson, in his testimony before the Committee on Interoceanic Canals, referring to the report of the House committee, made the statement that by this sort of agreement they charged all the traffic would bear, and that a sort of general agreement did exist among them. As to the question of ownership, that, of course, is a different proposition.

Mr. WEEKS. Let me ask the Senator from South Dakota this question: If 10 vessels were in the port of Boston waiting for a cargo and there was only cargo enough for 5 of them, what does he think would happen as to rates? Of course, the rates would be cut indiscriminately. I will make the assertion here and now that there is not a scintilla of evidence to show that the tramp steamers or the tramp sailing vessels engaged in our coastwise trade have any arrangement whatever as to rates.

Mr. CRAWFORD. If the Senator will permit me, my recollection of Prof. Johnson's statement is also that he undertook to claim that, as a rule, liberal dividends were paid on investments in coastwise vessels.

Mr. WEEKS. I should like to point out some opportunities for investments in coastwise shipping at less than its original cost available to anyone who thinks the industry is very profitable. We built less tonnage last year than for many years, showing that the trade is well supplied with tonnage.

Mr. CRAWFORD. I am quoting from an expert witness before the committee.

Mr. LANE. Mr. President——

Mr. WEEKS. I yield to the Senator.

Mr. LANE. I wish to call the attention of the Senator to the fact that quite frequently, where there are a large number of vessels in competition, some of the best carriers are kept tied up at the dock. They are subsidized or paid a certain sum per annum to remain idle. This happened out on the Pacific coast quite frequently in the past during my memory.

There is another thing which I would like to call to the attention of the Senator, and that is, in relation to the Hawaiian-American Line of vessels, 26 in number, as the Senator said. I am told that line favors the payment of tolls through the canal, and that they are using their influence in behalf of the passage of the bill that is now under consideration, stating that they prefer to pay tolls, although they have vessels, each one of which would have to pay $4,000 in tolls for a single passage, or $8,000 for the round trip. Just why they should be in favor of paying tolls when they have so many vessels is something I do not understand; and that is one of the reasons why I concluded, after having carefully considered the matter without prejudice, to vote against the repeal of the exemption clause.

Mr. WEEKS. Mr. President, that line of steamers sails from Honolulu to the Mexican coast, transfers its freight to the Tehuantepec Railroad Co., which retransfers it on the Atlantic side. If they are in favor of tolls—I do not know anything about whether they are or not—but if they are in favor of tolls, it must be that they have an arrangement with the Tehuantepec Railroad which will enable them to get their freight to the Atlantic coast, or vice versa, at a lower rate than they would be able to get it by paying tolls; and, therefore, their competitors would pay the higher rate, and they would get the advantage. I do not know that that is the case; but that would be the only solution I could offer for any such proposition. I doubt if the suggestion that vessels tie up, and are paid to do so, occurs frequently. I do not remember any testimony indicating such a pooling on the Atlantic coast.

Mr. LANE. That would be a physical impossibility; they could not do that.

Mr. LODGE. Mr. President, if my colleague will allow me, their contract with the Tehuantepec road has a proviso which ends the contract if the toll exemption remains on the canal.

Mr. BRISTOW. Mr. President, if the Senator will yield, the American-Hawaiian line is a regular line. It sails on schedule time. Is it not possible that, being a regular line, tolls might be of greater advantage to it, because they would be a great impediment to the tramp?

The tramp vessel that might be in port seeking cargo could find a load, possibly, from San Francisco to New York. It would make the lowest rate. That always happens. The tramp is the regulator of sea rates. Staring in the face of that tramp, however, is this toll of $6,000, if it is a 5,000-ton ship, which is a net expense that it has to meet; and so it has to get a full cargo or have an enormous tax put upon the tonnage that it carries. So it will be greatly handicapped in the use of the canal, because it could not pick up two or three thousand tons and make the trip at any profit. That will militate in favor of the line that makes regular sailings, and in that way cut out the effective competition and the effective rate reducer of the ocean.

Mr. WEEKS. Mr. President, it is understood that the New Haven Railroad, which owns the New England Steamship Co. and the Merchants' and Miners' Transportation Co., will be ordered by the Interstate Commerce Commission to sell those lines of steamers. I do not know whether that will be done, but under the terms of the Panama Canal act the New Haven Co. will quite likely be obliged to make a sale.

Mr. LEWIS. Mr. President, may I interrupt the Senator to ask him a question for information?

Mr. WEEKS. Yes.

Mr. LEWIS. I have just been discussing with a couple of colleagues certain testimony in the RECORD presented by the address of the able Senator from South Dakota [Mr. CRAWFORD], and I think I recall an address on the subject by the Senator from Nebraska [Mr. NORRIS], where reference is made to the fact that some one testified to 92 per cent of the coastwise ships of the United States being in one consolidation. Does the Senator from Massachusetts know from whom that came and to what it referred?

Mr. WEEKS. It comes from the report of the House Committee on the Merchant Marine and Fisheries, and the 92 per cent refers to vessels engaged in regular transportation between two definite points. It includes the Eastern Steamship Co., the New England Navigation Co., the Merchants' & Miners' Co., the Atlantic, Gulf coast, and West Indies steamship lines, which include the Clyde Line, the Mallory Line, the Ward Line, and the Porto Rico Line. It also includes the Reading Railroad Co. barges.

Incidentally, the Reading Railroad Co. owns more vessels than any other owner engaged in the coastwise service—more vessels, but they are entirely engaged in transporting coal from the terminus of the Reading Railroad to the point of shipment.

Substantially speaking, those are the lines which are referred to as controlling 92 per cent of the Atlantic coastwise trade; but it is really only 8 per cent of the total traffic; and these lines are operated in different sections. They do not run to the same points, except that they center in New York, with the exception of one line, but go in different directions. That is the basis of the generally accepted charge that there is a monopoly, controlled by one general interest, which covers 90 per cent of the Atlantic coastwise business.

Mr. LEWIS. I thank the Senator for allowing the interruption.

Mr. WEEKS. I have suggested that the New Haven Railroad will probably be compelled to sell its steamship lines. I have here statements of two of those lines, which I wish to submit to the Senate, because they indicate the condition of this trade.

One of these lines covers practically all of the Sound steamship lines running from Fall River, Providence, and other points to New York. It is really a part of the New Haven system, and has been for many years. This arrangement is of advantage to the shipper, because those steamers have their New York terminus at different points down town in New York. If the freight from New England to New York all went by rail, it would have to be transported from the uptown district, where freight is generally received; but going by boat, it is landed at convenient points down town, near the point where it is to be used, and therefore the arrangement is of material advantage to the shipper.

The Merchants & Miners' Line was purchased by the New Haven Railroad a few years ago, and includes steamers which run from Boston and New York to Philadelphia and Baltimore. The New Haven Railroad paid $3,750,000 for 25 000 shares of this stock, which was very much more than the control of the company; in fact, as I recall, it is five-sixths of the shares of the company. That stock is now selling, whenever there is a market for it, at 30 cents on the dollar; so that the 25,000 shares would sell for one-fifth what the New Haven Railroad paid for them.

Let us examine the reason for this, what are the results of the operation of the Merchants & Miners' Steamship Line. Last year it earned from freight $4,590,000; from passengers, $643,000; and all its other revenues were sufficient to make a total operating revenue of $5,347,000. Its operating expenses were $5,029,000, which, taking out taxes, left a total net income of $250,596. The interest on the bonded debt of this company was $239,000. The charge for rents, wharfage, and other charges which the company had to pay was $177,000, making a total of $417,000, or a deficit in the operations of the company of $166,000 for the year. In other words, the New Haven Railroad did not get any return on its investment and the company lost $166,000 for the year.

If there is anyone who wants to go into the coastwise steamship business and thinks it is a rich field for adventure, he can buy the Merchants & Miners' Steamship Line for probably not more than one-half what it cost the New Haven Railroad Co., and very much less than it would cost to duplicate the property, notwithstanding the fact that the company has a good name and a well-established trade.

Mr. WEST. Mr. President, was that without writing off anything for deterioration?

Mr. WEEKS. They wrote off for deterioration $143,000. The steamers are carried at very much less than cost and I judge by looking over their ages that there has been a reasonable write off during the life of the company, though not sufficient, in my judgment, to bring the steamers down to their actual value to-day.

The New England Steamship Co., as I have said, covers all of the Sound lines of steamers centering in New York. The freight revenues from these steamers last year were $2,483,000. The passenger revenues were $2,065,000. Other revenue brought the total revenue from operation up to $4,916,000. Taking out the operating expenses of $4,361,000 and taxes of $32,000 there was a total income from operation of $581,000 for the year. The interest on the bonds and the rentals and wharfage and other charges paid by the company aggregated $936,000, or it left a deficit of $335,000, and no dividends were paid on the stock of the company.

The present steamers of this line cost originally $12,422,000, and they have been written down to $8,319,000, which I think is a fair write off.

I will add that the earnings of the Atlantic, Gulf & West Indies Line were not sufficient to pay any dividends on the stock; that the earnings of the New England Steamship Line, which covers all of the coastwise traffic between Boston and the Maine coast, showed for the year 1912 a surplus of $6,095, and for the year 1913 a deficit after paying wharfage and interest on the bonded indebtedness, no dividends being paid on the stock either year.

In other words, as far as those four great lines are concerned, which are practically the passenger lines of the Atlantic coast, if we combined their net earnings for the past year they would show a deficit, without paying a dollar of return on the stock.

What nonsense it is to talk about a grinding monopoly on shippers, when the earnings of these companies are not sufficient to pay their fixed charges without paying anything by way of a fair return on the capital actually invested in the stocks of the companies.

Mr. President, I do not care to take any further time of the Senate to discuss this question. I have two or three matters relating to subjects I have touched which I should like to have permission to include in the RECORD. Generally speaking, however, the reasons why our shippers can not compete with foreign shippers, and why if we should remove this restriction on our coastwise trade our coastwise shipping would be sold to foreign owners at once, and would immediately fly a foreign flag, are as follows:

We have established a better standard of food for American sailors. That is one of the navigation laws which Senators talk about repealing.

We have a higher standard of pay for American sailors. That is another one of the navigation laws which they talk about repealing.

The requirement that ships sailing under the American flag shall be constructed in American shipyards by American workmen, who are paid American rates of compensation, is the third very important reason why we can not compete with foreign shipping.

There are other reasons, however. The high cost of labor, which is from 50 to 100 per cent more in this country than in rival countries; the high cost of material, which is at least 25 per cent higher than in rival countries; the high rate which money commands in this country, at least 1 to 2 per cent more than money in foreign countries; the high cost of wages and salaries in the United States; the high cost of fuel; the high

cost of repairs; the fact that a freight rate established by an American line can not be changed under 30 days, while the foreign craft will make any kind of rate to get a cargo on a return trip. These are some of the many reasons why we can not enter into active competition with foreign shipping.

If this amendment should prevail, Mr. President, I will make the prediction that inside of one year not one-tenth of the coastwise shipping which is now flying the American flag would still be under that flag. It would be controlled by foreign concerns flying foreign flags, and the rates would be marked up to correspond to other shipping rates which are made by the combinations which actually control our foreign trade to-day.

If Senators want to find a real combination in the shipping business, let them read the report of the Committee on the Merchant Marine and Fisheries of the House. They will find there a clear-cut statement of the combinations which are burdensome to our American foreign traffic which is being carried almost entirely by ships sailing under foreign flags. Why try to destroy our small coastwise shipping for the benefit of our foreign rivals? On the Atlantic coast we have less than 5,000,000 tons, and yet there are 30,000,000 tons of foreign shipping engaged in our American trade—16,000,000 tons controlled by Great Britain, 4,000,000 tons by Germany, and the balance by the other commercial nations of Europe. Does anyone think that inside of the shortest possible time this enormous foreign tonnage would not be diverted into the coastwise trade of the United States, taking the place of the service which is being furnished now, and in many cases furnishing the kind of service which is furnished by tramp steamers, without any corresponding reduction in rates? If that is done, we will have real combinations, and foreigners will be the beneficiaries.

I can not express my surprise that there should be a deliberate proposition to repeal the laws which have been in force in this country for a hundred years, which are similar to those which obtain in all other countries, and which have been instrumental in building up this traffic without any proposition whatever to replace them if the amendment should prevail.

Mr. WEST. Mr. President——

Mr. WEEKS. I yield to the Senator from Georgia.

Mr. WEST. Does not the Senator think the argument which he has made in reference to the difference in cost of our labor here and labor in Europe should be a very strong argument in favor of unrestricted immigration to this country.

Mr. WEEKS. Mr. President, I believe in maintaining an American standard of labor, of wages, and of every other condition. That is what the Republican Party believes in. That is what we are trying to do in this coastwise trade. It has not been different in the shipping industry than in the course followed in all other protected industries of this country.

Mr. CRAWFORD. Mr. President, before the Senator sits down, I wish to ask him a question for his opinion.

I am not in favor of an amendment like that offered by the Senator from Missouri; but I have thought that so far as our overseas trade is concerned, possibly instead of giving subsidies we might see the American flag flying on vessels engaged in the overseas trade if we should permit American capital to buy ships wherever it sees fit to buy them, instead of being required to get them in American shipyards, and employ sailors just as the owners of foreign vessels employ sailors, at wages the same as they pay, and employ them to work under conditions such as sailors on board foreign vessels work.

I admit we can not furnish high-class table fare, shower baths, and a separate basin and towel for each sailor; eight hours a day shifts in the lookout, in the pilot house, in the engine room, and all that sort of thing; buy all the material from American producers; buy ships made in American yards; and then go out and compete with the owners of vessels who buy them everywhere and anywhere and employ Japanese and Chinese and give them Jap fare and Chinese fare and work them 12 hours or 16 hours or 18 hours a day. We can not compete under such conditions as those; but if we were to throw the door open, allow American capital to go out on an absolutely equal footing with foreign capital and remove these restrictions, would we not then have our flag floating in overseas trade?

Mr. WEEKS. I am only in favor of floating our flag under conditions which will give the people engaged in the trade the protection and the good conditions which prevail in our American life.

I will say to the Senator that if he were given the best ship in the world, with an obligation to run it under the American flag under the conditions provided in our navigation laws, he could not afford to accept the gift if he had to run the ship 20 years in competition with foreign ships of the same class.

Mr. CRAWFORD. Just to put it bluntly and plainly, then, are we not face to face with a situation where we must either see our ambition to have the American flag float in over-seas trade unfulfilled, or we must wipe out the differences I have suggested? What other alternative is there except to grant subsidies?

Mr. WEEKS. I am not discussing alternatives at this time under these conditions, but I will say to the Senator that if I were the general manager of the United States I would transport in American ships the goods of the United States, not only to South America and the Orient but to Europe; I would not allow it to be carried by our commercial rivals. It might cost me more in the beginning than the immediate conditions would seem to warrant, but it would be doing what every business man does when he attempts to establish trade. He spends money to get it, and when the trade is once controlled he ordinarily gets a return which warrants his attempt. That is what the United States ought to provide for by law.

Mr. CRAWFORD. The Senator would have it through a bounty?

Mr. WEEKS. I would have it through a subsidy or some form of subsidy.

Mr. CRAWFORD. And there is no other way, unless we unshackle the conditions?

Mr. WEEKS. I am not in favor of unshackling conditions. I am in favor of a subsidy.

Mr. CRAWFORD. We might as well face the situation. It is one or the other.

Mr. WEEKS. I am willing to face the situation. I would like to do it.

Mr. SUTHERLAND (at 6 o'clock p. m.). Mr. President, we have been in session continuously since 11 o'clock this morning and I think we are entitled to a short rest, time enough to go home and get our dinner. I move that the Senate take a recess until 8 o'clock.

The PRESIDING OFFICER. The question is on the motion of the Senator from Utah. [Putting the question.] The noes have it.

Mr. SUTHERLAND. I ask for the yeas and nays.

The yeas and nays were ordered, and the Secretary proceeded to call the roll.

Mr. SUTHERLAND (when his name was called). I transfer my pair with the Senator from Arkansas [Mr. CLARKE] to the Senator from New Mexico [Mr. CATRON] and vote "yea."

Mr. THOMAS (when his name was called). I have a general pair with the senior Senator from New York [Mr. ROOT]. He is absent and I withhold my vote.

Mr. THORNTON. I am paired for a while this afternoon with the senior Senator from Ohio [Mr. BURTON]. I transfer that pair to the Senator from Oklahoma [Mr. GORE] and vote. I vote "nay."

Mr. WILLIAMS (when his name was called). I transfer my pair with the senior Senator from Pennsylvania [Mr. PENROSE] to the junior Senator from Arkansas [Mr. ROBINSON]. I vote "nay."

The roll call was concluded.

Mr. CHAMBERLAIN (after having voted in the negative). I have a general pair with the junior Senator from Pennsylvania [Mr. OLIVER], which I transfer to the Senator from New Jersey [Mr. MARTINE] and will let my vote stand.

Mr. CHILTON. I have a general pair with the Senator from New Mexico [Mr. FALL]. I transfer that pair to the Senator from Nevada [Mr. NEWLANDS] and vote "nay."

Mr. THORNTON (after having voted in the negative). The Senator from Oklahoma [Mr. GORE], to whom I transferred my pair, having since entered the Chamber and voted, I withdraw my vote.

The result was announced—yeas 28, nays 46, as follows:

YEAS—28.

Borah	Colt	Lodge	Smoot
Brady	Cummins	McLean	Sterling
Brandegee	Gallinger	Nelson	Sutherland
Bristow	Goff	Norris	Townsend
Burleigh	Jones	Page	Warren
Clapp	Kenyon	Perkins	Weeks
Clark, Wyo.	Lippitt	Smith, Mich.	Works

NAYS—46.

Ashurst	James	Pittman	Smith, Md.
Bryan	Johnson	Pomerene	Smith, S. C.
Chamberlain	Kern	Ransdell	Stone
Chilton	Lea, Tenn.	Reed	Swanson
Crawford	Lee, Md.	Saulsbury	Thompson
Culberson	Lewis	Shafroth	Tillman
Fletcher	McCumber	Sheppard	Walsh
Gore	Martin, Va.	Shields	West
Gronna	Myers	Shively	White
Hitchcock	O'Gorman	Simmons	Williams
Hollis	Overman	Smith, Ariz.	
Hughes	Owen	Smith, Ga.	

NOT VOTING—21.

Bankhead	Fall	Penrose	Thomas
Burton	La Follette	Poindexter	Thornton
Catron	Lane	Robinson	Vardaman
Clarke, Ark.	Martine, N. J.	Root	
Dillingham	Newlands	Sherman	
du Pont	Oliver	Stephenson	

The PRESIDING OFFICER. The Senate refuses to take a recess. The question is on the amendment offered by the Senator from North Carolina [Mr. SIMMONS] to the amendment.

Mr. NORRIS. I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. O'GORMAN. Mr. President, I do not desire to protract the discussion, but I intend to vote against the amendment offered by the Senator from North Carolina, and I desire briefly to state my reason for voting against it.

This legislation which has been engaging our attention for the last two months was induced by the request of the President that we repeal the exemption clause of the act of 1912 for the reason, as claimed by him, that it contravenes the provisions of the Hay-Pauncefote treaty. I do not know that his statement in that respect is based on any opinion that he entertains himself with respect to the controverted questions of the treaty. I do not know whether he formed that opinion himself or whether he accepted the opinion of others on that question. If this bill is to be enacted, we are now carrying out his views and acting upon the opinion then conveyed by him to the Congress of the United States.

Since the passage of this bill in the House, in order to make it more palatable to the American public various amendments have been proposed. If I did not entertain a very high respect for the author of the amendment before us, I would say its only purpose was to throw dust in the eyes of the American people. I would say it was designed only to make them believe that the Congress of the United States was not surrendering vital national rights.

Unpalatable concoctions frequently are sugar-coated. So it is with this particular piece of legislation. It is proposed by the amendment of the Senator from North Carolina to couple with the enactment the declaration that we are not waiving any rights that we may have and that we are not surrendering our rights of sovereignty over the canal. We may have our own views in this body to-day as to the interpretation that ought to be placed on the language of this proposed amendment. It is not impossible that we might be in accord as to its legal significance, but it should be remembered that all our diplomatic relations with Great Britain from the beginning of our Government have been marked by controversy and dispute and contentions as to the meaning and intent of the various treaties into which we have entered from time to time. We are now, after a space of 64 years, engaged in a dispute as to the meaning of the Clayton-Bulwer treaty of 1850. After 13 years there is a sharp dispute in this body, as well as outside this body perhaps, as to the true meaning and intent of the Hay-Pauncefote treaty of 1901.

I can entertain little doubt that if the amendment proposed by the Senator from North Carolina should be adopted it will be the source of infinite controversy and dispute in the future. Verbal gymnasts and intellectual acrobats will split hairs over it in the future. We have a right to look forward and anticipate what will be the attitude of Great Britain years hence—perhaps in 3 or 4, perhaps in 10 or 15 or 20 years—as to what significance is to be attached to the action of the American Congress in passing a statute repealing the exemption in the Panama act at the instance and because of the protest of Great Britain. Of course it would be said, if this amendment be adopted, that the Senate incorporated by amendment the declaration that we were not waiving any rights that we have, but reference will then be made to the declaration of the President of the United States at this time that we had no rights and therefore we are waiving no rights. Reference will be made to the declaration of the distinguished Senator from North Carolina on the floor of the Senate that we are not surrendering any right in passing this bill. The same thing will be said with reference to the attitude of the distinguished Senator from Georgia [Mr. SMITH].

It will not avail us to remind the representatives of the British Government at that time that the views of the President and these two Senators and the views of other Senators were but their personal views. It will not avail us to say that in 1912 these Senators expressed themselves upon the floor of the Senate with every confidence that the exemption of the coastwise vessels did not constitute a violation of the Hay-Pauncefote treaty. Of course they have changed their views, and with a becoming modesty from one or both we have the statement that perhaps if the third opportunity be presented they may revise their opinions and entertain other views. That is not extraordinary. Men change their views with respect to the meaning of legal instruments. They have a right to change those views in questions of doubtful interpretation. But that emphasizes the need of precision at this time in enunciating our attitude and declaring the reasons why we, the Congress of the United States, are willing, if there be a majority so inclined, to repeal this exemption. In my judgment the only declaration that will meet the hope and the prayers of the American people to-day is that contained in the amendment proposed by the Senator from Utah [Mr. SUTHERLAND]. Those who insist upon a repeal should couple with the enactment of the repeal the emphatic declaration, in substance, that we make this change and reverse our policy because of economic reasons, not that we entertain any doubt as to our legal and our moral right under the treaty to discriminate in favor of American ships.

Much of the confusion in the past, much of the confusion now prevailing, has been due, in my judgment, to a tendency on the part either of the American Government or of the American Congress to resort I will not say to subterfuge, but to compromise in verbal expression when there should be a strong, vigorous, determined effort by the use of the direct, unambiguous language to safeguard the rights of the American people. Those rights in this critical situation, if this repeal is to be enacted into law, can at best be but partially safeguarded by the declaration that we assert our legal rights to grant such exemption as we see fit at any time to American ships.

It is for this reason, Mr. President, that I shall vote against this compromise measure, which is now fathered by the Senator from North Carolina [Mr. SIMMONS]. I hope it will be defeated; and I hope, if this repeal bill unhappily should pass, that it will have coupled with it the amendment proposed by the Senator from Utah [Mr. SUTHERLAND].

The PRESIDING OFFICER. The Secretary will call the roll.

The Secretary proceeded to call the roll.

Mr. CHAMBERLAIN (when his name was called). I have a pair with the junior Senator from Pennsylvania [Mr. OLIVER]. When he was leaving here he advised me that he wanted to release me from the pair and to allow me to vote on all the amendments except the Simmons amendment, which he did not mention; but I have since seen a telegram from him, in which he asked me to observe the pair with respect to the Simmons amendment, and stating that if he were here he would vote for it. In view of that statement I observe the pair and withhold my vote.

Mr. CHILTON (when his name was called). I announce my pair as on the former vote; but I wish to state that I have made an arrangement with the Senator from Colorado [Mr. THOMAS], who is paired with the Senator from New York [Mr. ROOT], to transfer my pair with the Senator from New Mexico [Mr. FALL] to the Senator from New York, so that both the Senator from Colorado and I may vote. I vote "yea."

Mr. SUTHERLAND (when his name was called). I have a general pair with the Senator from Arkansas [Mr. CLARKE], which I transfer to the Senator from New Mexico [Mr. CATRON], and vote "nay."

Mr. THOMAS (when his name was called). I have a general pair with the senior Senator from New York [Mr. ROOT]. My understanding is that if he were here the Senator from New York would vote as I shall vote upon this amendment. I therefore vote. I vote "yea."

Mr. LODGE. The Senator from New York [Mr. ROOT], if present, would vote "yea."

Mr. THORNTON (when his name was called). Upon this question I am paired with the senior Senator from Ohio [Mr. BURTON]. If I were at liberty to vote, I should vote "yea."

Mr. VARDAMAN (when his name was called). I have a pair on this vote with the Senator from Wisconsin [Mr. STEPHENSON]. If I were at liberty to vote, I should vote "nay."

Mr. WILLIAMS (when his name was called). Transferring my pair with the senior Senator from Pennsylvania [Mr. PENROSE] to the junior Senator from Arkansas [Mr. ROBINSON], I vote "nay."

The roll call was concluded.

Mr. KERN. I desire to announce the unavoidable absence of the two Senators from Arkansas, both of whom are paired and both of whom, if here, would vote "yea" on this roll call.

Mr. SIMMONS (after having voted in the affirmative). Has the senior Senator from Minnesota [Mr. CLAPP] voted, Mr. President?

The PRESIDING OFFICER. The Senator from Minnesota has not voted.

Mr. SIMMONS. I have a pair with the Senator from Minnesota, which I transfer to the senior Senator from South Carolina [Mr. TILLMAN], and will let my vote stand.

The result was announced—yeas 50, nays 24, as follows:

YEAS—50.

Bankhead	Johnson	Nelson	Smith, Ga.
Brandegee	Kenyon	Newlands	Smith, Md.
Bryan	Kern	Norris	Smith, S. C.
Chilton	Lane	Overman	Sterling
Colt	Lea, Tenn.	Owen	Stone
Crawford	Lee, Md.	Pittman	Swanson
Culberson	Lewis	Poindexter	Thomas
Fletcher	Lippitt	Saulsbury	Thompson
Gronna	Lodge	Shafroth	Weeks
Hitchcock	McCumber	Sheppard	West
Hollis	McLean	Shively	White
Hughes	Martin, Va.	Simmons	
James	Myers	Smith, Ariz.	

NAYS—24.

Ashurst	Goff	Pomerene	Sutherland
Bristow	Jones	Ransdell	Townsend
Burleigh	Martine, N. J.	Reed	Walsh
Clark, Wyo.	O'Gorman	Shields	Warren
Cummins	Page	Smith, Mich.	Williams
Gallinger	Perkins	Smoot	Works

NOT VOTING—21.

Borah	Clarke, Ark.	Oliver	Thornton
Brady	Dillingham	Penrose	Tillman
Burton	du Pont	Robinson	Vardaman
Catron	Fall	Root	
Chamberlain	Gore	Sherman	
Clapp	La Follette	Stephenson	

So the amendment of Mr. SIMMONS to the committee amendment was agreed to.

Mr. SUTHERLAND. Mr. President, I offer as a substitute for the pending amendment the amendment which I send to the desk.

The PRESIDING OFFICER. The Senator from Utah offers an amendment, which the Secretary will read.

The SECRETARY. As a substitute for the amendment just agreed to it is proposed to insert the following:

Provided, That nothing herein shall be considered as denying or abridging the right of the United States to discriminate in favor of the ships of commerce of its citizens in respect of the conditions or charges of traffic which may be imposed for the use of the Panama Canal, but, on the contrary, such right is hereby reasserted.

Mr. SUTHERLAND. Mr. President, the amendment which has just been adopted as a substitute for the original Simmons amendment, as it seems to me, is most inadequate. That amendment reads:

Provided, That the passage of this act shall not be construed or held as a waiver or relinquishment of any right the United States may have under the treaty with Great Britain, ratified the 21st of February, 1902, or the treaty with the Republic of Panama, ratified February 26, 1904, or otherwise to discriminate in favor of its vessels by exempting the vessels of the United States or its citizens from the payment of tolls for passage through said canal, or as in any way waiving, impairing, or affecting any right of the United States under said treaties, or otherwise, with respect to the sovereignty over or the ownership, control, and management of said canal and the regulation of the conditions or charges of traffic through the same.

Mr. President, the Senate has been engaged for the past two months in discussing the question whether or not the United States has the right under the Hay-Pauncefote treaty to exempt the vessels of its citizens from the payment of tolls. That is the question which we are called upon to determine. I venture to say that during this entire debate there has not been one one-hundredth part of the time devoted to the discussion of the economic aspects or of any other aspects of the question other than the right of the United States under the treaty to make this exemption.

Now, Mr. President, after having engaged in that debate, it must follow that every Member of the Senate has made up his mind one way or the other upon it.

That being so, the Senate owes it to itself and to the people of the United States, whose trustees we are in this matter, to declare in unmistakable terms one way or the other upon this subject. If I believed as Senators upon the other side believe upon this question, I would have the courage of my convictions, and offer an amendment to this bill declaring that the United States had no right to make any exemption. I would not content myself, if I believed the United States had no such right, by assenting to a pitiful and dodging proposition such as is this amendment of the Senator from North Carolina. I would declare one way or the other upon it.

Now, I undertake to say, and I think it can not be successfully contradicted, that a majority of the Members of the Senate have become convinced that under the treaty with Great Britain we have the right to exempt our coastwise ships, and our other ships for that matter, from the payment of tolls. If that be true, why should we hesitate to declare ourselves? Are we afraid of somebody? Are we afraid of offending the President? Are we afraid of offending Great Britain? Have we not the courage of our convictions upon a matter of this kind? Is it not a question of importance? Why should the Senate of the United States, a majority of whose Members believe and are convinced beyond any doubt in their own minds that under this treaty we have the right to do this thing, hesitate to declare it in positive and unmistakable terms? That, Mr. President, is what the amendment that I have proposed does.

Let me analyze for a moment the amendment which has just been substituted.

That the passage of this act shall not be construed or held as a waiver or relinquishment of any right the United States may have.

Why, Mr. President, in this very first phrase of the amendment we have thrown discredit upon our own position. We have said "any right the United States may have," thereby implying plainly the converse of that—that the United States may not have any right at all. Why should we, believing as we do that we have the undoubted right under this treaty to exempt our coastwise shipping, be willing to cast discredit upon that claim by adopting this kind of an amendment, which expresses not our convictions but our doubts? Let us have the courage to declare not that the United States "may have," but as most of us believe, that the United States "has" this right.

Again, the provision is, after reciting the treaty with Great Britain—which, by the way, is not correctly described in the amendment, because it says "under the treaty with Great Britain, ratified the 21st of February," when, as a matter of fact, it was ratified, as I recall, on the 16th of November. At any rate, it was not ratified upon that date; that was the date upon which it was proclaimed; and the same thing may be said with reference to the recital of the treaty with the Republic of Panama, which was not ratified on February 26, as is here recited, but was proclaimed upon that date. The provision is:

Or otherwise to discriminate in favor of its vessels by exempting the vessels of the United States from the payment of tolls.

We do not assert that the United States "may have" a right to discriminate in favor of its vessels, but we limit even that hypothetical right by confining it to the single method of "exempting" them from the payment of tolls.

The treaty which we have upon this subject, in the third article, provides that:

The canal shall be free and open to the vessels of commerce and of war of all nations observing these rules on terms of entire equality, so that there shall be no discrimination against any such nation, or its citizens or subjects, in respect of the conditions or charges of traffic or otherwise.

What we undertake to do, or what we ought to undertake to do, is to negative that whole provision. We ought to declare that we have the right to discriminate in favor of our ships not only with reference to tolls but with reference to the conditions of traffic as well. We have limited even this hypothetical claim, this doubtful claim with reference to the matter, by saying that we may have the right to discriminate in favor of our coastwise vessels by exempting the vessels from tolls, thereby conceding, if language means anything, that we have no right whatever, and that we concede that we have no right whatever, to discriminate in favor of our vessels in any other respect.

The amendment which I have proposed recites in the very language of the treaty the provision of it which we intend to negative—

Nothing herein shall be considered as denying or abridging the right of the United States to discriminate in favor of the ships of commerce of its citizens in respect of the conditions or charges of traffic which may be imposed for the use of the Panama Canal, but, on the contrary, such right is hereby reasserted.

There we have asserted our right to discriminate in favor of our ships not only in respect to the matter of tolls, but also in respect to the conditions, which may be quite as important. The amendment which has just been adopted as a substitute leaves out that very important point.

As I have said, if the Members of the Senate who believe as I believe with reference to this treaty will vote their convictions, we can put this amendment, which means something, on the bill. How can the senior Senator from Missouri [Mr. STONE] afford to vote against this amendment? He said, in the course of discussing this question in the Senate a short time ago, on May 5:

I speak not now of any question of power or policy, but only of our naked right under the treaty to exempt our coastwise vessels from tolls exactions. More than that, I was equally convinced that the United States had the right under the treaty to exempt not only our coastwise trade vessels from the payment of tolls, but also to exempt our oversea vessels from the payment of tolls. That was my conviction in 1912, and it is my conviction to-day.

If that is the conviction of the Senator from Missouri to-day, as it undoubtedly is, then it seems to me that he can not afford to vote against the amendment which I have suggested.

Mr. STONE. That is my conviction to-day.

Mr. SUTHERLAND. Undoubtedly it is the Senator's conviction.

Mr. STONE. I have not departed a hair's breadth from it. I think, however, that the amendment adopted upon the vote cast a few minutes ago sufficiently preserves any right the United States has. It holds safe the thing that I contended for, namely, the right of the United States to pass its ships, coastwise or otherwise, through the canal, giving them preferential rates. I think we could do that easily, though I am opposed to exemption from tolls.

Mr. SUTHERLAND. Does the Senator from Missouri think that we *may* have the right to exempt our ships, or does he think we *have* the right to do it?

Mr. STONE. Why, I think we have the right.

Mr. SUTHERLAND. The Senator has voted for an amendment which says that we may have the right. I have presented for the consideration of the Senator from Missouri an amendment which says that we have the right. Why will the Senator not vote his convictions upon it?

Mr. STONE. I have voted my convictions. I voted my convictions when I voted for this amendment.

If the Senator will permit me just a word, I do not think any of these amendments are vitally necessary or very important. I think the claim which has been made here in the Senate during this debate, that we were surrendering some part of our sovereignty and our control over the canal, is absolutely unwarranted. I think the vote cast in 1912, when that was an acute question, settled it for all time. I think the amendment the Senator is offering, and those that others who take his position generally on the bill have offered and will offer, are to imperil the passage of this measure; and I am not going to vote for them, for I want the bill to pass.

Mr. SUTHERLAND. Mr. President, I should be glad to do anything I could to imperil the passage of this bill.

Mr. STONE. I think so.

Mr. SUTHERLAND. I should be very glad to do anything I could to prevent its passage.

Mr. STONE. I think so.

Mr. SUTHERLAND. I have not offered the amendment with that view, however, because I realize that the bill is going to pass. I have offered it because I think the bill is going to pass, and I do not want the United States to stand before the world in the attitude of admitting through one branch of its Government, the executive branch, that it positively has no rights whatever, and by another branch of the Government, the legislative branch, that it may have some rights; but that that branch of the Government doubts it very much.

Mr. SMITH of Georgia. Mr. President, may I ask the Senator a question?

Mr. SUTHERLAND. I yield to the Senator from Georgia.

Mr. SMITH of Georgia. Does the Senator favor the repeal with his amendment added?

Mr. SUTHERLAND. No, Mr. President; I do not. I shall vote against the bill, whatever amendment is adopted, as far as that is concerned; but I repeat that I am quite sure the bill is going to pass, and so long as we are confronted with that evil certainty I want to stand before the world in the attitude of having asserted the right, whenever in the future the time may come to act upon it, to deal with our coastwise shipping as we please.

This amendment further says that it—

> Shall not be construed or held as a waiver or relinquishment of any right the United States may have under the treaty with Great Britain.

Any right which the United States has to exempt coastwise shipping is not *under* the treaty with Great Britain. It is a right which exists independently and in spite of the treaty with Great Britain.

It has been said by the Senator from Mississippi that arbitration will follow the passage of this bill. I hope it will. I am heartily in favor of arbitrating this question, and I shall do whatever I can in the direction of promoting that notion, whatever may be the fate of this measure. But, Mr. President, we are not going to enter into an arbitration for the purpose of satisfying our own minds. I think no matter what may be the result of the arbitration, no matter what may be the judgment of the arbitrators upon it, most of us will remain in pretty much of the same mind upon the question as we now are. We are submitting it to arbitration, if we do submit it, for the purpose of settling the question.

What a ludicrous attitude we shall present, going before an arbitral board with a statement from the President of the United States first of all positively declaring that we have no right whatever, and then this half-hearted statement from the Senate of the United States and from Congress that we doubt whether we have any right to exempt our coastwise ships!

Why, Mr. President, if two parties were engaged in ordinary litigation before a court, and a complaint were to be filed by one of the parties to the transaction declaring that he had some doubt about his rights, but that he might have some rights, and asking the court to investigate the matter, he certainly would not put himself in a very advantageous position to have his rights determined by the court. People who go before courts assert their rights, and we ought to assert them here. We are not judging of the question. We are simply one party to this transaction, and we assert a right upon the one hand, and Great Britain asserts that we are mistaken upon the other hand, and that presents a question which the board of arbitration can take hold of and effectually deal with.

I think I have said all I care to say upon this amendment. I hope Senators like the Senator from Missouri and like the Senator from Mississippi and like a number of other Senators whose names I might mention upon the other side of the Chamber, who believe that under the treaty we have the right to exempt our coastwise shipping, will vote their sentiments upon the question.

Mr. SMITH of Georgia. Mr. President, I shall detain the Senate less than five minutes.

The Senator from Utah [Mr. SUTHERLAND] openly declares that if his amendment were added he would still vote against repeal. It is rather dangerous to have a man who intends to vote against your final measure show you how to perfect it. The truth is the suggestion of the Senator from Utah was expressed a few minutes before by the Senator from New York [Mr. O'GORMAN], who also intends to vote against the repeal bill, even if the amendment were added to it.

What is the real object of this amendment? What would be its practical effect? To divide the forces that are in favor of repeal. The men who are against repeal would put on an amendment, if they could, and then vote against repeal; but by their amendment they seek to divide those who favor repeal.

It is well understood that those in favor of repeal can be divided into two classes. Some of them believe that under the treaty we can not give a discrimination even in favor of our coastwise vessels. Some of them believe we can; but because, as a matter of economic policy, they are opposed to giving this benefit or subsidy to the coastwise vessels they favor repeal. If the Senator from Utah can attach to the repeal bill a declaration that we assert the right to discriminate, then he drives off Senators like the Senator from Ohio [Mr. BURTON], the Senator from New York [Mr. ROOT], and a number of other Senators who could not vote for repeal if it were coupled with the declaration that we had the right to discriminate in favor of coastwise vessels. It would simply defeat the repeal. I would say that was the purpose, but I understood the Senator from Utah to say it was not the purpose.

The Senator from Utah says the amendment we adopted a few moments ago was a meaningless thing. I take issue with him. It is an express declaration that we reserve every right that the United States has under the treaty. The Senator from New York said that it would be the subject of construction. If there had been no such proviso added, it might have been the subject of construction. The object of this proviso was expressly to declare that we did not waive but reserved every right we had, and there is nothing left for construction. It gives the opportunity for every Senator to vote his convictions that the repeal should take place, whether he believes under the treaty we could discriminate or whether he believes under the treaty we could not discriminate.

If the amendment of the Senator from Utah were adopted, you would drive from the proposition of repeal those who believe we have no right to discriminate, while those who are opposed to repeal would vote against repeal even after they had added the provision which the Senator offers.

Mr. CLARK of Wyoming. Mr. President, I have carefully refrained from taking any part in this debate from the beginning, for two reasons: First, because I knew that it would be handled by those who are accustomed to debating, and second, because I really wanted to inform myself, and the vote was really the important thing.

My position on this question has been outlined with a good deal of severity, although unknown to that Senator, by the Senator from Georgia [Mr. SMITH] in his last remarks. I shall vote for the amendemnt of the Senator from Utah.

Mr. SMITH of Georgia. It was certainly unintentional, because——

Mr. CLARK of Wyoming. It was entirely unintentional, because I had made no expression of my position.

Mr. SMITH of Georgia. I never meant to be severe on my friend from Wyoming.

Mr. CLARK of Wyoming. I shall also vote against repeal, even if that amendment be added. I shall vote for the amendment, because if the majority forces this country to go to the un-American doctrine which this repeal inculcates, I want to do as little damage as possible. Therefore, if this repeal must go through, as I think it ought not, I want to see it go through with the saving American clause that we sacrifice none of the rights which we have under the treaty.

That is the reason I shall vote that way; and it is not a matter of logrolling. I voted against the amendment which has just been adopted because it is not only a meaningless thing, but it is worse. I do not believe in writing any more conundrums into our laws.

We have been debating here for two months over the meaning of language. We have been debating here for two months earnestly, by the best intellects of this Nation, as to what the written word means in a treaty. It is agreed by everybody that the amendment that has just been adopted means one thing to this man and another thing to that man. It is safe to say that that is the reason the amendment is adopted; and the Senator from Georgia intimates that that is the case.

Mr. SMITH of Georgia. Oh, no, Mr. President; I did not.

Mr. CLARK of Wyoming. The Senator said you had to have an amendment in the bill that would keep in line those who were in favor of repeal as an economic policy and those who were in favor of repeal, because they thought the existing law violated the treaty. You had to have an amendment there that would keep both of those in line; otherwise your bill would fail.

I do not care to go into the argument. If you are going to repeal the existing law, I want it repealed so that the whole world will understand exactly what we mean. I do not want to see this law written on the statute books with an apology at the end of it which says to one man, "Interpret it your way," and to another, "Interpret it your way." I would rather see your bill go through naked, as it was introduced here and as it came from the House, than to have it tied down with this ambiguity, which is going to afford only field for disagreement in the future; and I think that is the manly course that ought to be taken in this respect. You ought either to assert the right as the amendment of the Senator from Utah asserts the right, or you ought to take the naked repeal and pass it without any compromising addenda.

I make these remarks simply for the purpose of indicating my views in brief and the reason for my vote.

Mr. VARDAMAN. Mr. President, I expect to vote for the amendment offered by the Senator from Utah [Mr. SUTHERLAND]. I am going to vote for it because it means something. There is no equivocation, there is no double meaning, there is no doubt about what it means.

I voted against the amendment offered by the Senator from North Carolina [Mr. SIMMONS] for the reason that I regard it as the acme of diplomatic dissimulation. It really, Mr. President, means nothing. It preserves no rights over the canal to the American people which they would not have without it. I think the time has come when we should deal candidly with the American people, when we should say what we think and try to think what we say.

If the amendment offered by the Senator from Utah should be adopted, our right of sovereignty over this canal will never be questioned again.

Personally, as I said a few days ago, I am not interested at this moment about the economic principle involved in this controversy. That is not the issue. The vital, paramount question involved in this controversy is the right of the United States Government to own and control the canal. If we adopt the amendment offered by the Senator from North Carolina, we have got nothing. It is meaningless—an outrageous abandonment of the rights of the Government of the United States and an affront to candor. If we adopt the amendment offered by the Senator from Utah, all doubts as to our rights are eliminated and the American people will know what we have done. The world will know the position we have taken, and all question will be removed.

Mr. NEWLANDS. Mr. President, I am for the amendment of the Senator from Utah provided the words "in the domestic coastwise trade" are inserted in line 5, after the word "canal," so that the proviso will read:

Provided, That nothing herein shall be considered as denying or abridging the rights of the United States to discriminate in favor of the ships and commerce of its citizens in respect of the conditions or charges of traffic which may be imposed for the use of the Panama Canal in the domestic coastwise trade, but, on the contrary, such right is hereby reasserted.

Mr. SUTHERLAND. Mr. President, let me say to the Senator from Nevada that the danger of such a change in the amendment as that would be that we would then assert that we had the right to discriminate in favor of one class of our ships, and that would be equivalent to an admission that we did not have the right to discriminate in favor of the other class of ships. I think we have the right to discriminate in favor of both. I think that our right to discriminate in favor of our ships engaged in the foreign trade is just as clear under the treaty as our right to discriminate in favor of the coastwise ships.

I could not assent to any amendment which would declare in favor of one class and thereby carry with it an implication that we have no right to discriminate in favor of the other class.

Mr. NEWLANDS. Mr. President, I believe that we have a right only to discriminate as to ships engaged in the coastwise trade. I believe that the treaty requires that all international tonnage passing through the canal, including our own, shall pay the same rates. I believe, however, that the treaty, according to the Olsen case, according to the fixed policy of the Nation, ought not to apply and does not apply to purely domestic commerce, which alone can be conducted upon purely domestic ships. I believe that the treaty settled the question as to international tonnage, over-seas tonnage, as distinguished from purely domestic coastwise tonnage, and that such portion of our tonnage as is borne by vessels of the United States engaged in foreign commerce is subject under the treaty to the tolls. Therefore I can not vote for this amendment in its broad form. Later on I may offer an amendment, if the amendment of the Senator from Utah is lost, which will cover my contention.

In this connection, Mr. President, I must say that I object to the use of the term "discriminate" in this proviso. I do not think that the United States, in providing tolls exemption for domestic vessels engaged in the coastwise trade, is discriminating against England. I do not think this treaty has anything whatever to do with our domestic coastwise transportation and that we do not discriminate against England when we provide for tolls exemption. As to the tonnage of domestic ships engaged in the coastwise trade, we simply exercise a right of legislation regarding a purely domestic concern not covered at all by the terms of the treaty.

Let me say briefly, further, that I believe this amendment, if it contains the amendment which I added, should also provide as follows at the close:

Provided, however, That the charges imposed on international tonnage shall be only such proportionate part of the total upkeep and interest charge of the canal as such international tonnage bears to the total tonnage passing through the canal.

I wish to give England clear evidence that when we exempt our domestic ships from tolls we do not seek to impose the burden from which we relieve them upon international tonnage, but that we propose to apply to that international tonnage only its proportional part of the upkeep and interest charge of the canal.

I deem it a matter to be regretted that in the original legislation we did not make a specific declaration to this effect, stating that our purpose was not to impose an additional burden upon international tonnage but simply to pursue the traditional policy of the United States for the last century, which has been for the full development of our waterways, both natural and artificial, at the expense of the United States Treasury and not at the cost of the traffic borne upon such waterways.

Mr. President, we have expended over $500,000,000 upon our domestic waterways, including canals connecting such waterways. We have highly artificialized the Ohio River so that to-day from Pittsburgh to Cairo it is simply a canal divided by dams and locks, and slack-water navigation can be pursued from Cairo to Pittsburgh. This has been done at a cost of $65,000,000. There has not been a suggestion that any part of the maintenance or the interest charge of that expenditure should be imposed upon the tonnage borne upon the waters of the Ohio.

So it has been throughout the history of the Republic. In the early days we had toll roads and we had toll canals. We have drifted away from that narrow and contracted policy. Roads are now constructed at the expense of the taxpayers, and canals and waterways are developed at the expense of the taxpayers in the interest of commerce.

It is an outrage upon the Pacific Coast States, it is an outrage upon the Gulf Coast States, it is an outrage upon all the ports of the Atlantic that have traffic borne to the coast from the ports of the Pacific and vice versa, that they should be charged with a toll imposed by a purely domestic waterway constructed from the funds in the Treasury of the United States with a view to the reimbursement ultimately of such funds when the domestic traffic of all other ports upon the Atlantic coast with each other, upon the Mississippi River and its tributaries with

each other, upon the Pacific coast waterways and their tributaries with each other, goes untaxed and uncharged.

By this action of imposing tolls we discriminate against certain sections and certain commercial areas of the United States instead of dealing out to all that just and equal legislation that becomes a great Nation.

Now, so far as I am concerned, I want to bear evidence to the world that our purpose is not to impose upon international traffic an unfair burden, that having expended $400,000,000 upon this canal and having to meet a certain interest charge and upkeep we can, if we choose, allow that charge so far as our domestic traffic is concerned to stand as the traditions of the Republic require against the Treasury and not against the tonnage carried; but that, on the other hand, so far as international traffic is concerned a charge shall there be imposed upon the tonnage because that is the only way we have of collecting it.

I would gladly see put into the Panama Canal act a declaration that the tolls of the vessels belonging to the various nationals shall be paid by the nationals themselves instead of by their citizens. If we were to do that, we would then have a statute that would deal fairly with all. We could then impose by this statute that proportion of the charge of the upkeep and interest of the canal properly chargeable against domestic ships upon the Treasury, as has been the custom throughout the history of the Republic, and we could also provide that foreign Governments could, if they chose out of their treasuries, pay the tolls exacted from their citizens.

I am in favor of no discriminating legislation. I want the rule of equality and justice both international and domestic, and the course which I advocate will, in my judgment, best secure it.

Mr. WILLIAMS. Mr. President, purely in the interest of the economy of the public time and the economy of the time and the health of Senators, I move to lay the amendment of the Senator from Utah on the table.

The PRESIDING OFFICER. The Senator from Mississippi moves to lay on the table the amendment of the Senator from Utah to the amendment.

Mr. POINDEXTER. Mr. President, I make the point of no quorum.

The PRESIDING OFFICER. The Senator from Washington makes the point of no quorum. The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Ashurst	Goff	O'Gorman	Smith, S. C.
Bankhead	Gronna	Overman	Smoot
Borah	Hollis	Page	Sterling
Brady	Hughes	Perkins	Stone
Brandegee	James	Poindexter	Sutherland
Bristow	Johnson	Pomerene	Swanson
Bryan	Jones	Ransdell	Thomas
Burleigh	Kern	Reed	Thornton
Catron	Lane	Saulsbury	Townsend
Chilton	Lea, Tenn.	Shafroth	Vardaman
Clark, Wyo.	Lee, Md.	Sheppard	Walsh
Colt	Lewis	Sherman	Warren
Crawford	Lippitt	Shields	West
Culberson	Lodge	Shively	White
Cummins	Martin, Va.	Simmons	Williams
Dillingham	Martine, N. J.	Smith, Ariz.	Works
du Pont	Myers	Smith, Ga.	
Fletcher	Newlands	Smith, Md.	
Gallinger	Norris	Smith, Mich.	

The PRESIDING OFFICER. Seventy-four Senators have answered to their names. A quorum is present. The question——

Mr. BRISTOW. I move that the Senate adjourn.

Mr. WILLIAMS. I remind the Presiding Officer that the motion pending is the motion to lay the amendment of the Senator from Utah [Mr. SUTHERLAND] on the table.

Mr. GALLINGER. The motion to adjourn takes precedence of that.

The PRESIDING OFFICER. A motion to adjourn has been made by the Senator from Kansas [Mr. BRISTOW].

Mr. BRISTOW. On that I demand the yeas and nays.

The yeas and nays were ordered.

Mr. STONE. That would seem to be a pretty clear case of filibustering.

Mr. SUTHERLAND (when his name was called). I again announce my pair with the Senator from Arkansas [Mr. CLARKE], who is absent, and on that account I withhold my vote.

Mr. WILLIAMS (when his name was called). Repeating the announcement made by me upon the last roll call, I vote "nay."

The roll call was concluded.

Mr. CHILTON. I transfer my pair with the Senator from New Mexico [Mr. FALL] to the senior Senator from South Carolina [Mr. TILLMAN] and vote "nay."

Mr. SIMMONS (after having voted in the negative). I transfer my pair with the Senator from Minnesota [Mr. CLAPP] to the Senator from Nevada [Mr. PITTMAN] and will let my vote stand.

Mr. CHAMBERLAIN. I am paired with the junior Senator from Pennsylvania [Mr. OLIVER]. If I were permitted to vote, I should vote "nay."

Mr. LODGE. The Senator from New York [Mr. ROOT] is unavoidably absent from the city. If present, he would vote "nay."

Mr. VARDAMAN (after having voted in the negative). I have a pair with the Senator from Wisconsin [Mr. STEPHENSON]. As I do not know how he would vote on this question, if present, I withdraw my vote.

Mr. CRAWFORD. The junior Senator from Massachusetts [Mr. WEEKS] asked me to say for him that he was temporarily unavoidably absent from the Chamber.

The result was announced—yeas 22, nays 53, as follows:

YEAS—22.

Borah	Colt	Jones	Smoot
Brandegee	Cummins	Page	Townsend
Bristow	Dillingham	Perkins	Warren
Burleigh	du Pont	Poindexter	Works
Catron	Gallinger	Ransdell	
Clark, Wyo.	Goff	Smith, Mich.	

NAYS—53.

Ashurst	Johnson	O'Gorman	Smith, Md.
Bankhead	Kern	Overman	Smith, S. C.
Brady	Lane	Owen	Stone
Bryan	Lea, Tenn.	Pomerene	Swanson
Chilton	Lee, Md.	Reed	Thomas
Crawford	Lewis	Saulsbury	Thompson
Culberson	Lippitt	Shafroth	Thornton
Fletcher	Lodge	Sheppard	Walsh
Gore	McCumber	Sherman	West
Gronna	Martin, Va.	Shields	White
Hitchcock	Martine, N. J.	Shively	Williams
Hollis	Myers	Simmons	
Hughes	Newlands	Smith, Ariz.	
James	Norris	Smith, Ga.	

NOT VOTING—20.

Burton	Kenyon	Penrose	Sterling
Chamberlain	La Follette	Pittman	Sutherland
Clapp	McLean	Robinson	Tillman
Clarke, Ark.	Nelson	Root	Vardaman
Fall	Oliver	Stephenson	Weeks

So the Senate refused to adjourn.

Mr. WILLIAMS. I remind the Chair of the fact that the motion to table the amendment proposed by the Senator from Utah [Mr. SUTHERLAND] is pending. I ask for the yeas and nays on the motion to lay the amendment on the table.

Mr. SMITH of Michigan. What is the motion, Mr. President?

The PRESIDING OFFICER. The motion is that of the Senator from Mississippi [Mr. WILLIAMS] to lay on the table the amendment offered by the Senator from Utah [Mr. SUTHERLAND].

The yeas and nays were ordered, and the Secretary proceeded to call the roll.

Mr. CHAMBERLAIN (when his name was called). I have a pair with the junior Senator from Pennsylvania [Mr. OLIVER], but I understood from him that I was released with reference to this amendment. I therefore take the liberty, with his permission, of voting. I vote "nay."

Mr. CHILTON (when his name was called). I make the same announcement as to my pair with the Senator from New Mexico [Mr. FALL] which I made on the last roll call. I transfer that pair to the Senator from South Carolina [Mr. TILLMAN] and vote. I vote "yea."

Mr. McCUMBER (when his name was called). On this question I have a pair with the junior Senator from Pennsylvania [Mr. OLIVER], who, if present, would vote "nay." I transfer that pair to the senior Senator from New York [Mr. ROOT] and vote "yea."

Mr. SUTHERLAND (when his name was called). I again announce my pair with the Senator from Arkansas [Mr. CLARKE], and on account of his absence I withhold my vote.

Mr. THOMAS (when his name was called). I have a general pair with the senior Senator from New York [Mr. ROOT]; but I am informed that if he were here, the Senator from New York would vote as I shall vote. I therefore vote. I vote "yea."

Mr. WILLIAMS (when his name was called). Repeating my announcement on the previous roll call, I vote "yea."

The roll call was concluded.

Mr. JAMES. I have a general pair with the junior Senator from Massachusetts [Mr. WEEKS], which I transfer to the Senator from Nebraska [Mr. HITCHCOCK], and will allow my vote in the affirmative to stand.

Mr. SIMMONS (after having voted in the affirmative). I transfer my pair with the Senator from Minnesota [Mr. CLAPP]

to the Senator from Nevada [Mr. PITTMAN], and will let my vote stand.

The result was announced—yeas 49, nays 33, as follows:

YEAS—49.

Bankhead	James	Overman	Stephenson
Brandegee	Johnson	Owen	Sterling
Bryan	Kern	Pomerene	Stone
Burton	Lea, Tenn.	Saulsbury	Swanson
Chilton	Lee, Md.	Shafroth	Thomas
Colt	Lewis	Sheppard	Thompson
Crawford	Lippitt	Sherman	Thornton
Culberson	Lodge	Shively	West
Fletcher	McCumber	Simmons	White
Gore	McLean	Smith, Ariz.	Williams
Gronna	Martin, Va.	Smith, Ga.	
Hollis	Myers	Smith, Md.	
Hughes	Norris	Smith, S. C.	

NAYS—33.

Ashurst	Dillingham	Newlands	Smoot
Borah	du Pont	O'Gorman	Townsend
Brady	Gallinger	Page	Vardaman
Bristow	Goff	Perkins	Walsh
Burleigh	Jones	Poindexter	Warren
Catron	Kenyon	Ransdell	Works
Chamberlain	La Follette	Reed	
Clark, Wyo.	Lane	Shields	
Cummins	Martine, N. J.	Smith, Mich.	

NOT VOTING—13.

Clapp	Nelson	Robinson	Weeks
Clarke, Ark.	Oliver	Root	
Fall	Penrose	Sutherland	
Hitchcock	Pittman	Tillman	

So Mr. SUTHERLAND'S amendment to the amendment was laid on the table.

Mr. CUMMINS. Mr. President, I intend presently to offer an amendment to the amendment proposed by the Senator from North Carolina, but I will take the liberty before I send it to the desk of explaining what it is and what it seeks to accomplish.

I desire to strike out in the second line of the amendment of the Senator from North Carolina, which is now the pending amendment, as I understand, the word "any" and insert in lieu of it the word "the." I desire also to strike out from line 3 the words "may have" and insert in lieu of them the word "has." I also desire to strike out from lines 7 and 8 the words "discriminate in favor of its vessels by exempting" and insert the word "exempt," so that when amended, as I hope it will be, in accordance with this suggestion, it will read:

Provided, That the passage of this act shall not be construed or held as a waiver or relinquishment of the right the United States has under the treaty with Great Britain, ratified the 21st of February, 1902, or the treaty with the Republic of Panama, ratified February 26, 1904, or otherwise to exempt the vessels of the United States or its citizens from the payment of tolls for passage through said canal, or as in any way waiving, impairing, or affecting any right of the United States under said treaties, or otherwise, with respect to the sovereignty over or the ownership, control, and management of said canal and the regulation of the conditions or charges of traffic through the same.

Mr. President, I voted against the amendment proposed by the Senator from North Carolina not because, in my opinion, it is not a better expression than the amendment proposed by the committee, but because it seemed to commit me to the proposition it contains. I know that the motives of the Senator from North Carolina, who proposed it, are good; I know that the motives of those who voted for it are good; I know that they believe it to be the pure metal, but I think that its only effect will be to "gold-brick" the people of the United States and to delude and deceive them with respect to the actual conditions which now confront us.

The Senator from Mississippi [Mr. WILLIAMS] says with the utmost frankness, as is characteristic of the Senator from Mississippi, that this is but a prelude to the arbitration between Great Britain and the United States of the dispute with regard to our right to exempt our vessels from the payment of charges in the use of the canal. I have not a word to say against that effort to prepare the way for an arbitration, but this amendment as it passes into the bill, as I assume it will, will not prepare the way for an arbitration for the settlement of that dispute, and it can not prepare the way for any such arbitration or settlement. There can be no arbitration unless there is a controversy. It is impossible to conceive a settlement of a controversy without the existence of a controversy. If the bill passes as it is now proposed that it shall pass, what will be the controversy between Great Britain and the United States? A controversy involves the notion that one claims something that another denies, and that the dispute is submitted to an impartial arbitrator for settlement. Tell me what Great Britain claims that the United States denies if this bill shall pass.

Mr. POMERENE. Mr. President——

The PRESIDING OFFICER. Does the Senator from Iowa yield to the Senator from Ohio?

Mr. CUMMINS. I yield.

Mr. POMERENE. Is it the purpose of the amendment to have the Senate place upon the treaty a construction to the effect that the United States has the right to discriminate?

Mr. CUMMINS. I want to be fully understood. I yielded to the Senator for the purpose of permitting him to ask me a question. He has asked the question and I answered it. I do not yield for any other purpose.

It is the purpose of the amendment which I shall presently offer so to modify the amendment presented by the Senator from North Carolina that it will constitute an assertion, a claim of our right to exempt the vessels of the United States and her citizens from the payment of tolls. It is not quite like the amendment of the Senator from Utah, because that amendment seemed to recognize that in so doing we were discriminating in favor of our vessels or discriminating against the vessels of other countries. I do not so believe. I think we can exempt the vessels of the United States and her people without any discrimination whatever, and therefore I have sought to eliminate those words from the amendment proposed by the Senator from North Carolina.

I return, however, to my proposition.

What will be the controversy that is to be submitted to arbitration or to settlement in any other way? What does Great Britain claim that we will not have conceded when we have passed this bill in its present form? I grant you that there are two things—one, possibly, that Great Britain has claimed—that we do not concede by passing this bill.

First, she claims that we have no right to pass the vessels of Panama through the canal without charge. That will be left for arbitration. I wonder how many Senators want to submit that question to arbitration? That, of course, is a mere shadow. There is not a Senator here, there is not a citizen of the United States, who has any thought of submitting to arbitration a question of that kind.

Secondly, Great Britain claims that we have no right to exclude the railroad-owned ships of Canada or the Canadian railroads from the canal. That, I concede, will be open for settlement. Those, however, are the only questions that will be so open.

Mr. WILLIAMS. Mr. President——

The PRESIDING OFFICER. Does the Senator from Iowa yield to the Senator from Mississippi?

Mr. CUMMINS. I do.

Mr. WILLIAMS. I wish to remind the Senator from Iowa of the fact that every arbitration treaty we have says that we shall leave to arbitration the interpretation of treaties. It says "in all cases," and then specifies certain exceptions; and one of the exceptions specified is where the interests of third parties are concerned. Therefore, of course, we could not submit to arbitration any question that affected Panama.

Mr. CUMMINS. Very well. I think that is true. That is the only question that is open so far as Great Britain is concerned, but that is one of the two questions now.

Mr. HITCHCOCK. Mr. President, suppose the Senator's amendment should be adopted, would there be anything more open to arbitration?

Mr. CUMMINS. Certainly there would be something more open to arbitration. The United States must in some fashion or other claim that we have the right to exempt these vessels from the payment of tolls before anything can be submitted to arbitration. The United States has made that claim in the passage of the canal act. Now, we recede from the claim we then made by the passage of that act and establish equality of tolls between all ships, including our own. Who will suggest the arbitration? Who will say to Great Britain that the United States claims the right to exempt her own vessels? The President can not say it. Even if constitutionally he might open the negotiation, we all know that he believes we have no right to exempt these vessels; and it would be an idle form, it would be a shameful mockery, for the President of the United States to assert to Great Britain that we had the right to exempt these vessels from the payment of tolls.

The only men who can make the assertion are the men who compose the Congress of the United States; and if we ever approach arbitration, we must do it, of course, through a treaty or an agreement with Great Britain; and before we can adopt that treaty the Congress of the United States will be compelled to say to Great Britain that we claim the right to pass these vessels through the canal without charge; and if we do that, how, then, will the Senators in this Chamber vote?

Mr. HITCHCOCK. Mr. President, I think the Senator mistook my question a little. The doubt that I had in my mind—and I believe it is a real doubt that exists—is this: Is it possible to arbitrate a mere declaration?

My judgment would be that no declaration in this bill could be the cause of an arbitration. It would simply reserve our right and notify Great Britain that we reserve it; and upon some future occasion, if we desired to exercise that right, then the occasion for arbitration would arise.

Mr. CUMMINS. I do not deny that. I do not deny that 10 years hence or 40 years hence or 100 years hence some Congress might pass a resolution claiming the right; but——

Mr. HITCHCOCK. No; that was not my point.

Mr. CUMMINS. But England has claimed her right.

Mr. HITCHCOCK. I think the Senator still misunderstands me. My point is that whether the Congress passes the bill with the amendment that has already been adopted, or whether the Congress passes the bill with the amendment proposed by the Senator from Iowa, still in neither case would there be any occasion for arbitration until, at some future date, the right reserved in either of these two amendments was sought to be exerted by Congress. Then the occasion would arise for arbitration.

Mr. CUMMINS. On the contrary, England has already asked us to arbitrate this question; and, notwithstanding our sensitiveness about taking a position with regard to our own rights, England has taken her position through her duly constituted authorities. She has no hesitation in saying to the world how she construes the treaty, and she asks us to arbitrate. Now, we can not arbitrate if we conceded what she asks; and if we pass this bill in its present form there will be no longer anything left to arbitrate.

Mr. BORAH. Mr. President——

Mr. CUMMINS. I am not saying that Congress in the future might not review and reverse the action we now take, but I think the Senator from Nebraska must feel sure that if we do this thing without asserting the American construction of the treaty there never will be arbitration, and we will be bound for all time, so far as one can foresee, to the course upon which we now enter.

I now yield to the Senator from Idaho.

Mr. HITCHCOCK. Mr. President, I had not fully finished; and I am still unable to get the Senator's attention to the exact point I make.

It seems to me that Great Britain will not demand arbitration simply because the United States passes an act containing a clause reserving a certain right. Great Britain will demand arbitration only in the event that at some future time we proceed to enact legislation exercising the right which we are now asserting. If that is true, if I am correct in that position, then the amendment which the Senator from Iowa offers is no better occasion for arbitration, is no more certain reservation of our right, than the amendment which has already been tentatively adopted by the Senate.

I am making this statement, although I am rather inclined to vote for the Senators' amendment; but I doubt whether he is justified in the declaration that it will lay any more foundation for the assertion of our right and for the settlement of that right by arbitration than the amendment which has already been adopted.

Mr. CUMMINS. I do not understand that we must have action. I do not understand that we must take the thing in dispute before we can submit the controversy to arbitration, but I do understand that we must assert our right, our title to the thing which is in dispute, before we can have or even yield to the arbitration.

Mr. HITCHCOCK. Then the Senator is of opinion, is he, that the mere assertion that we have the right would afford Great Britain an occasion for demanding arbitration?

Mr. CUMMINS. That always has been done. I think nearly every arbitration we ever had was based upon the assertion upon the one side of a right which was denied upon the other.

Mr. HITCHCOCK. I can not recall any occasion when arbitration was demanded except when action was either being taken or threatened. A declaration is not action.

Mr. CUMMINS. How did we arrive at the settlement of the claims growing out of the course of Great Britain during the Civil War?

Mr. HITCHCOCK. There was a denial of the claims. There was a refusal to pay them.

Mr. CUMMINS. Certainly. How did we arrive at the boundary line between the United States and Canada?

Mr. HITCHCOCK. We arrived at that because we were taking action to maintain our theory of the boundary, while Canada was taking the same action on her side.

Mr. CUMMINS. Precisely; but there was no collision, so far as possession was concerned.

Mr. HITCHCOCK. There was not actual war.

Mr. CUMMINS. It was simply an assertion of our right upon the one side, and the denial of it upon the other.

I now yield to the Senator from Idaho.

Mr. BORAH. Mr. President, I desire to say before a motion is made to lay this amendment on the table, for fear I may never get a chance to say it again, that I shall vote for the amendment of the Senator from Iowa because I want to vote for all the amendments which make a positive assertion as to the right of the United States to send our vessels through the canal free; I want to vote for all assertions as to our complete, exclusive ownership of the canal and our right to dominate it and control it in the interest of the American Commonwealth as against the world; but I do agree in large measure with what the Senator from Nebraska has said as to the question of arbitration.

We are proceeding to repeal the law which was objectionable to Great Britain. We are proceeding to wipe out that which was offensive to Great Britain, and which seems to have been more offensive to some upon this side of the water than to those upon the other side of the water. What will Great Britain have to quarrel about? It is true there is found in the repealing act a harmless, insidious, wholly meaningless amendment, which says that while we are doing that which you want us to do, and all that you want us to do, we reserve our rights, if we have any, asserting at the same time that we have not any at all. Now, England is entirely too wise to ask for an arbitration when there is conceded to her all that she wants. She will permit the sleeping dog to sleep.

Mr. WILLIAMS. Mr. President, does the Senator deny that a case can be made up between two nations as it can be between individuals? Does the Senator deny that an abstract right under a treaty can be arbitrated just like a concrete offense of any description?

Mr. BORAH. I can imagine——

Mr. WILLIAMS. Now, then——

Mr. BORAH. Just a moment. The Senator has asked a question, and I want the Senator to permit me to answer it.

I can imagine two great nations engaging in what the boys do sometimes when they are studying law—a moot trial, in which there is nothing to settle, but for the mere purpose of going through the performance of having a judgment; but a practical nation, a far-seeing nation, as Great Britain is, will not ask to arbitrate, and take the possible event of a judgment against her, when she already has all that she asks.

Mr. WILLIAMS. Now, Mr. President, if the Senator will pardon me one moment longer——

Mr. CUMMINS. I yield.

Mr. WILLIAMS. When we pass a resolution through the Senate asking the President to open diplomatic relations with Great Britain for the purpose of effecting an arbitration of the rights at issue under this treaty, that moment we have served notice upon Great Britain that "if you do not submit the matter to arbitration, then we have given you your day in court, and we have the right at any time to act." Now, Great Britain is a practical nation and not a mere theorist like the Senator from Idaho; and Great Britain, being practical, knows that just as long as the question is not settled we are apt at any time to renew the legislation—and she does not want it renewed—and in this very amendment we reserve the right.

Mr. BORAH. While the Senator from Idaho may be a theorist, he does not change his theory every 60 days at the dictation of somebody else.

Now, Mr. President, I was proceeding to say——

Mr. NORRIS. Mr. President, I wish to ask a question.

Mr. WILLIAMS. Of course I can not consume the time of the Senate in answering a mere gibe and fling that it would be unworthy of the Senator from Mississippi to reply to, whether unworthy of the Senator from Idaho to make or not.

Mr. BORAH. It must be very unworthy if it is unworthy of the attention of the Senator from Mississippi.

Mr. CUMMINS. I have yielded to the Senator from Idaho, and I will yield to the Senator from Nebraska.

Mr. BORAH. I regret the wisdom of this body has now departed, and I do not know that I ought to discuss this matter any further, notwithstanding the circumambient and omnipresent wisdom of those who seem to have the judgment of the country and who have lately departed from the Senate Chamber.

Now, Mr. President, we stand in this position: We asserted a right in the act of 1912. We passed a law which was offensive to Great Britain. Great Britain protested. We proceed immediately to repeal the law, right or wrong, and we yield everything that that great country asks us to yield.

Mr. CUMMINS. And more.

Mr. BORAH. And more than she, the English Government on the other side of the channel, asks us to yield. And now we are said to proceed close to arbitration. To arbitrate what? To arbitrate the declaration that we reserve the right which we solemnly declared before the world we did not have. Imagine anyone except a driveling idiot going into court to try a case when he has announced solemnly to the judge, "I have no right upon which this judge can pass; I make no claim." Yet that is the attitude in which we are being placed to-night, the great Republic of the West talking about arbitration, and we have announced to the world that we have nothing to arbitrate.

Mr. CUMMINS. I yield to the Senator from Nebraska [Mr. NORRIS], if he still desires to ask me a question.

Mr. NORRIS. I desired at the time I interrupted the Senator to ask the Senator from Idaho a question, but I have a question that I want to ask the Senator from Iowa also. The Senator from Iowa, in a colloquy with my colleague, called attention to the arbitration in regard to the line between this country and Canada in elucidating his idea that it was necessary to make a positive claim. I wanted to ask the Senator from Iowa—and I am asking the Senator for information, because I am not familiar with the fact—whether or not in the act which provided for arbitration with Canada we specifically defined in the act where the line was or where we claimed it was?

Mr. CUMMINS. Mr. President, I can not answer the question, because I am not sufficiently familiar with the act. I answered to the senior Senator from Nebraska as I did because I did know that we had arbitrated a claim made on the one side and denied upon the other without the forcible possession of the disputed territory. Of that I feel sure, and it seems to me to be a perfect answer to the suggestion of the Senator from Nebraska that we must positively exact these tolls or positively pass our vessels through without tolls before we had a subject of arbitration.

Mr. NORRIS. I agree with the Senator that on that suggestion it was an answer. Since the Senator from Iowa is arguing that this amendment is meaningless and we ought to declare positively in the act just exactly what we claim, it occurred to me that it might be interesting to know whether, in the act passed providing for arbitration with Canada, we followed the rule in that case the Senator wants us to follow here. I am not sure but that we did.

Mr. CUMMINS. I do not know. I do know that the United States must have claimed something and Great Britain must have claimed something, the two claims being inconsistent, before there could be any arbitration. We claim nothing here when we pass the act. We simply claim to Great Britain and the world that we have the right to exempt these vessels from charges. That is the claim. If the people of the United States do not believe that we have such a right, then we ought not to make it. If a majority of the Senators do not believe that we have such a right, then we ought not to make it. If they do believe that we have the right, they ought to say so in order that our claims can be put side by side with the claims of Great Britain. Great Britain has made up her claim. She has not been hesitant about it. She was not bashful or reluctant about asserting her claim.

Now, no matter what we do—it does matter what we do, but without regard to what we do, why do we not stand up like men and say to the world that we have a right either to pass our ships through or that we have no such right? We have been discussing this matter now for three months, that has been the burden of the debate, and the mind that has not been able to come to a conclusion upon that question can never reach a conclusion upon it. Somebody must act before this dispute is settled.

Mr. BRISTOW. Mr. President——

Mr. CUMMINS. The United States in some way, through somebody, through some function of organized society, must assert that right if we are ever to have it settled.

I yield to the Senator from Kansas.

Mr. BRISTOW. Mr. President, there are present now in the Chamber not to exceed 6 of the 50 Senators who were so exceedingly anxious to remain here to-night. I make the point of no quorum.

The PRESIDING OFFICER (Mr. JOHNSON in the chair). The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Ashurst	Burleigh	Clark, Wyo.	Dillingham
Borah	Burton	Colt	Fletcher
Brady	Chamberlain	Crawford	Gallinger
Bristow	Chilton	Culberson	Goff
Bryan	Clapp	Cummins	Gronna
Hitchcock	McCumber	Pittman	Sterling
Hollis	McLean	Ransdell	Stone
Hughes	Martin, Va.	Shafroth	Sutherland
James	Martine, N. J.	Sheppard	Swanson
Johnson	Myers	Sherman	Thomas
Jones	Nelson	Shields	Thompson
Kenyon	Newlands	Shively	Thornton
Kern	Norris	Simmons	Vardaman
La Follette	O'Gorman	Smith, Ariz.	Warren
Lane	Overman	Smith, Ga.	White
Lea, Tenn.	Owen	Smith, Md.	Williams
Lee, Md.	Page	Smith, S. C.	Works
Lewis	Perkins	Smoot	

The PRESIDING OFFICER (Mr. SWANSON in the chair). Seventy-two Senators have answered to their names. A quorum is present. The Senator from Iowa will proceed.

Mr. CUMMINS. Mr. President, I am afraid my friend from Kansas has accomplished little more than to impose some unwelcome exercise upon an already wearied Senate. However, I appreciate his motive and am very much obliged to him for the effort to furnish me with a larger audience. The truth is, however, Mr. President, that the question I am discussing has already been decided. I understand that perfectly, and I think we all understand it. But I am speaking to a larger audience, an audience of which there is always a quorum, an audience that never adjourns. I hope to convince that audience that when the Senate refuses to declare its opinion upon our right to exempt our ships from charges as they pass through the canal it has abdicated, deserted, and abandoned without any cause whatsoever one of its highest and most sacred duties. That is the question that I make in my amendment, and that is the question that will be discussed from one border of this country to the other. I state it again: Does the Senate believe that under the treaty we have a right to pass our ships free through the canal? If a majority of the Senators believe that we have such a right, we will be—I will not use the word that was on my tongue—we will disregard our bounden duty and we will forsake our clear responsibility if we do not say so, for that is the very question that has been argued here for three months, and the people of this country will want to know why we discussed for three months the construction of the treaty and then refused to say to them what the opinion of the Senate is.

If, on the other hand, there is a majority of the Senators who believe that we have no right under the treaty to exempt our ships, the same degree of courage requires them to say so and to cease masquerading before the world in mystery and in that twilight zone in which their figures can be discerned but in which their opinions are completely obscured.

Mr. CLAPP. Mr. President——

The PRESIDING OFFICER. Does the Senator from Iowa yield to the Senator from Minnesota?

Mr. CUMMINS. I do.

Mr. CLAPP. If anyone believes that we have no right to pass our ships through free, should he not only, as the Senator says, have the courage to say so, but ought he not in honest dealing with the parties interested in the treaty also say so?

Mr. CUMMINS. Unquestionably, Mr. President, there never was a more imperious demand upon a great legislative body for an answer to that question than now confronts us. It will be a miserable, inadequate outcome of this famous debate if we pass upon the subject without declaring our opinion respecting the very controversy that has raged here for three months or more. I never dreamed that there would be any hesitation in making a declaration. I honor a man who differs from me. I am very often wrong, and my opponents are often right, but there never was a time when I was not willing to say what my position is with regard to a controversy of this sort. If there is a majority of the Senate and a majority of Congress who believe that we have agreed with the world that our ships must bear the same charges as do the ships of other nations, for the peace and tranquillity of the public mind, for the honor of our country, why are you not willing to so declare? If, on the other hand, you believe that we have the right, but for reasons connected with a domestic policy or, if you please, for reasons connected with a foreign policy, you do not see fit to exercise it at this time, have the courage to say that.

I agree with the Senator from Mississippi that—I think he said it in colloquy with the Senator from Idaho—if we declare in the form of the amendment as it will be if my suggestion is adopted, that we have the right to do this thing, there is a controversy ripe for arbitration, and, upon proper representations, there will be no difficulty in entering into an agreement for the submission of that controversy to a tribunal, if an impartial tribunal can be secured. It is not necessary that we shall allow a single one of our ships to pass through free or that we shall charge a single one of our ships as she goes through the Panama Canal in order to create an arbitrable con-

troversy. Nations are so careful, and properly so careful, of provoking actual collision that it has been their custom from time immemorial to arbitrate claims that are made upon the one side or the other before they ripen into either actual legislation or into actual collision; but when you pass this bill as it is, without declaring any such right, without asserting any such right, tell me where you will find the basis for arbitration?

Let me be fully understood. I do not claim that next year or the year after or 25 or 50 years hence a Congress could not assert the claim and create a basis for arbitration; but there will be no settlement of this dispute until Congress does act in that fashion. Suppose that a joint resolution or a bill for arbitration were now before Congress, or suppose the President of the United States was opening negotiations with Great Britain looking to a peaceful settlement of the controversy, what would he say to Great Britain? He could not say that he believed there was any dispute; he could not say that Congress believed there was any dispute; all that he could say would be that a few—I assume he would say "a few"—irreconcilable madmen throughout the country believed that we had the right to pass our vessels through, but that the country as an organization, the Government as such, had never asserted a claim of that sort.

Mr. WILLIAMS. Mr. President, will the Senator from Iowa pardon an interruption?

The PRESIDING OFFICER. Does the Senator from Iowa yield to the Senator from Mississippi?

Mr. CUMMINS. I yield.

Mr. WILLIAMS. I think the Senator from Iowa will agree with me about this, that it requires no great wisdom to know that the same power which can repeal a statute can reenact it, that every man in America knows that, and that every practical statesman of Great Britain knows it, and that therefore Great Britain has as much interest as we have in having the matter determined and put out of question, because it may at any moment, upon a change of administration or otherwise, arise again.

Furthermore, I think the Senator will agree with me about this, that every one of our arbitration treaties says that questions involving the interpretation of treaties shall be arbitrated. That does not mean when the two parties are upon the verge of war about it and are quarreling that arbitration shall be resorted to; but, on the contrary, it means that in advance, if both sides are wise, before they have reached a critical stage at all, it shall be resorted to. The very language of the treaties themselves furnishes a ground for arbitration, and a right on the part of either party to ask it and the duty upon the part of the other party to grant it.

Mr. CUMMINS. I do not disagree with the statement just made by the Senator from Mississippi. I have no doubt that Congress next year could assert the right or at any future time could insist that we had under the treaty the lawful power to pass our ships through the canal.

Mr. WILLIAMS. And the Senator from Iowa has also no doubt that the wise men in charge of the affairs of Great Britain are also aware of the simple fact that the same power that repeals a statute can reenact it, and may do it any day.

Mr. CUMMINS. But whenever we pass this proposed act without a declaration of that sort, we fasten upon ourselves the interpretation insisted upon by the President of the United States, and the likelihood of any Congress ever provoking a controversy with Great Britain over it, a controversy that would be, I think, vastly more offensive to Great Britain under those circumstances than the assertion of the right would be at the present time—these are the considerations which seem to me ought to require a declaration now. There will never be a Senate that will be better advised with regard to our rights under the treaty than is this. It is not at all probable that any debate over its construction will ever consume the time which we have consumed or will ever employ higher qualities of mind than has this debate.

Mr. WILLIAMS. I should like to ask the Senator just one more question, and then I promise not to interrupt him any more.

Mr. CUMMINS. I yield.

Mr. WILLIAMS. Suppose we were simply to pass a bill repealing the statute and did not say another word. We would neither be asserting nor denying the right, would we?

Mr. CUMMINS. We would be, however, in the eyes of the world and in the eyes of Great Britain morally estopped from ever insisting upon a different construction of the treaty.

Mr. WILLIAMS. If the Senator from Iowa will pardon me one more moment, that is where I think he differs with our ancestors. They passed some tax law, you remember, over in Great Britain, some stamp laws, and some other laws. They repealed them, and then afterwards they asserted the right to reenact them. There is where the Senator differs with two great parties in recent history.

Mr. CUMMINS. Precisely. And what followed? War. Does the Senator from Mississippi want war to follow our insistence upon that right at some future time?

Mr. WILLIAMS. No; that was in a case where there could not very well have been an arbitration, because we were a part of the same Government; we were British subjects, living on two different continents; and in that respect it is not analogous with this case between separate existing sovereignties; but I can give the Senator another case.

The Senator seems to think that where a concrete case or incident that may constitute the offense is once out of the way, there is nothing left for settlement. Remember that all that arbitration can do is to settle a thing which otherwise might be settled by war. At one time a prince of the house of Hohenzollern was invited to take the throne of Spain. A protest went up from the Emperor of the French against that, and the Emperor of Germany persuaded his young kinsman to refuse to take the throne of Spain. Then there followed a demand on the part of the Emperor of the French that a pledge should be given that no prince of the house of Prussia should thereafter ever occupy the throne of Spain. That was not in a day when Bismarck wanted to arbitrate. He was ready to conquer, and was going on to do it, but he had as much right to arbitrate and there was as much right to demand arbitration as there was to make war, yet war was made upon that simple proposition, although the particular concrete incident of offense was out of the way. The casus belli was an abstract right. That merely emphasizes the idea that abstract rights growing out of differences or alleged rights contended for upon each side, when they have not reached an acute stage, where they either demand or necessitate immediate arbitration or war, one or the other, are much more arbitrable even than when they have reached that stage. This case has already been made out; it is already down in the State Department; it has its declaration, its plea, its rejoinder, its surrejoinder, its rebuttal, and its surrebuttal, but it was concluded to let it alone awhile and see what Congress would do. I suppose it will be taken up at once after Congress acts. I think I can assure the Senator that; if not, it will be taken up upon the demand or request of the Senate.

Mr. CUMMINS. Mr. President, with much of the reasoning of the Senator from Mississippi I entirely agree. I do not think it requires the commission of an injury in order to create a cause of action between nations that should be arbitrated; but I reply in just a word—and then I will yield to the Senator from Utah—that we took action; the President of the United States declared that action in violation of our treaty, and he asked us to repeal or to reconsider the action we took, because it was in violation of the treaty; and whenever we recede under the circumstances that surround us we have said to the world that, in the opinion of a majority of Congress, as it is known to be in the opinion of the President, we did something we had no right to do. Any Senator who believes that we had no right to exempt our coastwise ships ought to vote against my amendment; his conscience requires it. But there are Senators who believe that we have the right to do it and who desire to reconsider our action because it is not in accord with the highest and best domestic policy. Now, those Senators ought to vote in favor of my amendment.

Mr. WILLIAMS. How about the third class of men, who think that you have the right, but that you had not the right to do it at that time and thereby assume to settle the issue in your own favor?

Mr. CUMMINS. The Senator from Mississippi has really answered himself. He said the other day, or possibly to-day, that we ought not to decide the case for ourselves.

Mr. WILLIAMS. I was asking the Senator's opinion on it; of course I know mine.

Mr. CUMMINS. That is true; and we can not decide it for ourselves—that is, we can not enter a final judgment if we are willing to arbitrate—but we can decide this matter in just the same way that Great Britain has decided it. She has decided for herself, and she has told the world what her decision is; and we, by asserting our right under the treaty to do what we did—to exempt coastwise vessels—decided for ourselves, and in that way the issue is created. I now yield to the Senator from Utah.

Mr. SUTHERLAND. Mr. President, I want to suggest to the Senator from Mississippi before he leaves the Chamber that I have not any doubt of our right to submit this question to arbitration, no matter what action the Senate may take, because the treaty of arbitration provides that we shall arbitrate,

and we agreed to arbitrate differences as to the interpretation of treaties, and this is really a question as to the interpretation of a treaty; but the question I wanted to submit to the Senator from Mississippi was this: Does he think the American case would be strengthened before an arbitration board if we should go before that commission with a declaration from the President of the United States that we have no case at all, with the refusal of Congress to declare that we have a case, and with the adoption by Congress of an amendment to this bill which says that we have grave doubt about our right? Did the Senator from Mississippi ever hear of any nation asking for an arbitration under those circumstances?

Mr. WILLIAMS. In answer to that—and I am sorry to be taking up the time—candor compels me, of course, to say that the Chief Magistrate of the country having taken the position that the exemption clause is a violation of the treaty, our case would be weakened before a court or international tribunal by that fact, provided that evidence of that fact was relevant to the controversy in the slightest degree.

Mr. SUTHERLAND. Does the Senator from Mississippi not think——

Mr. WILLIAMS. Let me finish and then I will yield—or that the action of the Senate is relevant to the controversy in the slightest degree. If the Senate, which ratified, and the President, who negotiated, this treaty had taken that position, then, in my opinion, in case of a patent ambiguity in the treaty itself, their utterances and their recollections of the intention in the hearts of both parties and the real thing concerning which their minds came to a meeting place could be brought before the arbitral tribunal to shed light upon the meaning intended to be given to the treaty, but certainly the opinion of a subsequent President or a subsequent Senate could not be introduced for that purpose.

Mr. SUTHERLAND. Now will the Senator allow me?

Mr. WILLIAMS. Otherwise, of course, it would weaken the case.

Mr. SUTHERLAND. Suppose the Senator from Mississippi had a lawsuit pending before a court. Of course the opinion of the Senator's lawyer that he did not have a good case, or his opinion that he had a doubtful case, would not be admissible, but would the Senator think it would tend to bring about a decision in his favor if his lawyer said he did not have any case or expressed doubt about it and that opinion got to the judge and the jury?

Mr. WILLIAMS. That is again a different proposition. If in that case my lawyer proved untrue to me and let the jury and the judge know, or if my lawyer selected a judge who agreed with him and did not agree with me, his client, of course that would weaken the case very much indeed, probably lose it.

Mr. SUTHERLAND. What I think the American people will do will be to change lawyers in this matter.

Mr. WILLIAMS. Well, then, if I did not have sense enough to get a lawyer who did agree with me about the case, I would be weakening my own case.

Mr. SUTHERLAND. I think they will do that.

Mr. WILLIAMS. But neither of those cases can be presumed here. It can not be presumed that the President of the United States is going to select men who are committed beforehand to the other side of the controversy. My own idea is that he will probably select two of the judges of the Supreme Court, regardless of their opinion. I say that, not because I have any reason to say it, but because that is what I would do if I were he; and I would suggest that the British side will probably select their greatest lawyers and let them sit upon the matter as great lawyers should on a question of legal interpretation.

The Senator and I know enough to know that lawyers have legal minds and take professional pride in the fact. When you ask a lawyer to give his opinion on a law point, regardless of his predilections, prejudices, or interests, he is going to give an opinion upon the law point, if he is a good lawyer, and he is going to prepare himself very thoroughly upon it before he comes to a final conclusion.

Mr. CUMMINS. Mr. President, the last suggestion is hardly relevant to the point I am trying to make. There can be no lawsuit without a claim. The United States is the client, and unless the United States declares that she has the right to do this thing there can be no arbitration. If I believed as does the Senator from New York, or the Senator from Georgia, or the Senator from North Carolina, or the Senator from Oklahoma, I would not vote for any arbitration of this controversy, for there is no controversy, so far as those Senators are concerned, and if a majority of the people of the United States felt as they do—and I use them simply as types or representatives—if a majority of the people felt as they do about this question, we never would have arbitration with Great Britain over it, and we ought not to have arbitration with Great Britain or any other country over it.

Mr. CRAWFORD. Mr. President——

Mr. CUMMINS. It is dishonorable for any country to insist upon arbitrating a claim in which the country presenting it does not sincerely believe; and the only way in which the people of this country can speak is through Congress and the President together. Therefore, if a majority of the Members of Congress honestly believe that we have no right such as I have been insisting upon under this treaty, they will foreswear themselves if they suggest arbitration and insist that Great Britain shall secure, at the end of a long dispute or controversy, what they in their hearts concede Great Britain in the beginning. It is only in the event that a majority of the people of this country—because this is a question of doubt; everybody must concede that—honestly and sincerely believe that we have that right under the treaty, and express that opinion through their chosen representatives, that we have either the legal or the moral right to call Great Britain into arbitration with us.

Does the Senator from South Dakota desire to interrogate me? If so, I yield.

Mr. CRAWFORD. Mr. President, because I have the same opinion as that held by the Senator from Iowa, as to the right of the United States, under the treaty, to exempt its coastwise vessels, I am inclined to vote for this amendment; but I wish to suggest to the Senator that after all, if this law is repealed with the amendment attached to it that the Senate has already adopted, offered by the Senator from North Carolina, and 5 years from now or 10 years from now Congress should enact a law exempting vessels from the payment of tolls, and the matter should then be brought into controversy as a plain violation of the treaty, does not the Senator think the United States would be in much better position by having placed in the repealing act the language of the amendment offered by the Senator from North Carolina than it would have been had it simply passed a flat repeal with no such language in the act?

Mr. CUMMINS. I am inclined to think that is so.

Mr. CRAWFORD. Does not the Senator also think that in view of the fact that there is such a sharp conflict of opinion among men whose opinions we are bound to respect, and who are manifestly sincere, we ought to take the attitude of so presenting the question that it will fairly express the issue, so far as a majority of men so differing can present it, and that it is legitimate to place it in the best form upon which the majority can agree and have a reservation in the bill, rather than to insist that it shall express the view of those of us who hold as the Senator does, and as I really hold, with reference to this treaty?

Mr. CUMMINS. Mr. President, I do not see very much to dissent from in the suggestion made by the Senator from South Dakota. Of course, I have no way of ascertaining the exact views of every Senator in this body. They are known to all of you as well as to myself. I believe, however, that a very considerable majority of the members of this body construe the Hay-Pauncefote treaty as I do; or, rather, I construe it as they do. I believe a very considerable majority of the members of this body believe, or think, or hold the opinion that the United States has the right to exempt, if it cares to do so, these vessels from the payment of tolls.

Mr. PITTMAN rose.

Mr. CUMMINS. I will yield to the Senator in just a moment. There is in the law—and the Senator from South Dakota is a lawyer of long experience—a doctrine known as laches. There is a doctrine known as a disfavor toward stale claims. I instance those two principles of law, although they are really one, in order to suggest that if we now fail to make this declaration, and years pass on, while we may be legally able to make the claim in future years, it will lose much of its force and persuasiveness as compared with the claim made at the present time and under the conditions which now surround us.

I now yield to the Senator from Nevada.

Mr. PITTMAN. I understand that the Senator from Iowa asserts by his amendment the right of the United States to exempt all of its vessels from tolls in passing through the Panama Canal.

Mr. CUMMINS. He does; all the vessels of the United States or its citizens.

Mr. PITTMAN. It is apparent from this debate that some of the Members of this body believe as the Senator does, that the United States has the right to exempt all of its vessels, while there are others who believe that the United States has the right to exempt only its coastwise vessels, while there are still others who believe that it has not the right to exempt any

of its vessels. I want to know whether the Senator from Iowa thinks that a Senator who believes, for instance, as does the Senator from Nevada, that the United States has a right to pass only its coastwise vessels through the Panama Canal without the payment of tolls without a violation of the treaty could conscientiously vote for his amendment?

Mr. CUMMINS. If I understand the Senator from Nevada, he asks whether a Senator who believes that under the treaty we may pass coastwise ships through free, but can not pass ships engaged in the foreign trade through free, can vote conscientiously for my amendment. I do not think he can; but the Senator who can not do it can not escape his responsibility by simply voting against my amendment, for there will be abundant opportunity for him to vote for an amendment that applies simply to coastwise ships, asserting a reservation with regard to ocean-going ships. My amendment appeals only to those Senators who think that we have the right to deal with our own shipping as we please, who believe that the Hay-Pauncefote treaty does not include the vessels of the United States or of its citizens, and that simply emphasizes what I have already said.

When this amendment is voted down, if it is voted down, it will be a declaration to Great Britain and a declaration to the world that the United States does not controvert the English claim that we must impose upon our vessels engaged in international trade the same charges that we impose upon foreign vessels engaged in international trade. I simply want Senators to have clearly in view what their vote means in this respect.

One word more, and I shall have concluded my suggestions.

I understand that the other day the Foreign Relations Committee reported a joint resolution looking to arbitration of this very controversy. The joint resolution is now pending before us. It is now on the calendar. As it seems to me, every Senator who votes against this amendment of mine must, if he is conscientious, vote against the joint resolution so reported by the Committee on Foreign Relations; for there is nothing to arbitrate—it is utterly impossible to erect an arbitration—if this bill is passed in its present form, without an assertion of some right that Great Britain denies. It would be as futile as a bull against the comet. It would be absurd as an endeavor to foretell the opinions of the people of the United States a century hence. If we now grant to Great Britain all that she wants, we must defer any suggestion of arbitration until the American people are restored to their common sense, and restored to their patriotic instincts, and are in a frame of mind to assert a right which is denied by Great Britain. Then, and then only, can we call into exercise the high tribunal whose jurisdiction will be invoked under the resolution proposed by the Committee on Foreign Relations.

One word more. We are here not only conceding everything that Great Britain has asked, but we are conceding vastly more than she has asked. It is precisely as though my friend upon my right here had a note against me for $100, and presented it and insisted upon payment, and out of my magnanimity, my generosity, my desire to be honorable among men, I insisted upon confessing judgment for a thousand dollars. I might convince that friend that I had a high sense of honor, but I would convict myself at the same time as a fit candidate for the madhouse; and it seems to me that is about the situation in which we are placed if we proceed to pour out into the lap of Great Britain a great privilege that she has not yet suggested belongs to her under the treaty.

Mr. President, I offer the following amendment.

The PRESIDING OFFICER. The Secretary will read the amendment.

The SECRETARY. Amend the substitute adopted by the Senate as follows:

In line 2 of the substitute strike out the word "any," before the word "right," and insert the word "the"; in line 3, strike out the words "may have" where they appear and in lieu insert the single word "has"; also strike out, in lines 7 and 8 the words "discriminate in favor of its vessels by exempting" and insert the word "exempt," so that if amended it will read:

Provided, That the passage of this act shall not be construed or held as a waiver or relinquishment of the right the United States has under the treaty with Great Britain, ratified the 21st of February, 1902, or the treaty with the Republic of Panama, ratified February 26, 1904, or otherwise to exempt the vessels of the United States or its citizens from the payment of tolls for passage through said canal—

And so forth.

Mr. CUMMINS. Mr. President, on the amendment just offered I ask for the yeas and nays.

Mr. SIMMONS. Mr. President, I move to lay the amendment on the table.

Mr. CLAPP and others. Oh, no.

Mr. NORRIS. I hope the Senator will not make that motion.

Mr. GALLINGER. I ask the Senator from North Carolina not to make it.

Mr. CUMMINS. I have asked for the yeas and nays on my amendment.

The PRESIDING OFFICER. The Senator from Iowa demands the yeas and nays on his amendment, and the Senator from North Carolina has moved to lay the amendment on the table.

Mr. SIMMONS. If we are going to have a vote, I will not make the motion, of course.

Mr. CUMMINS. I do not know how the Senator has any right to make the motion when I have asked for the yeas and nays.

Mr. GALLINGER. No time will be gained by moving to lay the amendment on the table.

Mr. SIMMONS. I move to lay the amendment on the table.

Mr. NORRIS. I hope the Senator will not make the motion at this time.

Mr. CUMMINS. Mr. President, I rise to a point of order. I ask for the yeas and nays, and that is equivalent to a motion that the vote be taken by a roll call, and it is not in order to move to lay the amendment on the table until at least the Chair has decided whether the motion for the yeas and nays has been seconded.

The PRESIDING OFFICER. The Chair will state that, pending the request of the Senator from Iowa, the Senator from North Carolina addressed the Chair, and the Chair recognized the Senator from North Carolina, not knowing for what purpose he arose. Is the request of the Senator from Iowa for the yeas and nays seconded?

The yeas and nays were ordered.

The PRESIDING OFFICER. Does the Senator from North Carolina now insist on his motion?

Mr. SIMMONS. If we can have some understanding that the debate will be closed in half an hour, or something like that, I will not press the motion.

Mr. BRISTOW. If the Senator will yield to me, I desire to say he will not hasten the passage of the bill by cutting off debate on amendments that many Senators think are important. The Senator will hardly move to lay his own amendment on the table, and that would therefore be open to debate. There has been no disposition here to unduly delay the disposition of the bill, but some of these amendments we believe are important, and we intend to consume sufficient time to present our views upon them, after they are laid on the table if not before.

Mr. SIMMONS. I understand the view of the Senator from Kansas very well. I am not at all deterred by the threat of the Senator from Kansas in the course that I have proposed to pursue, but the request of the Senator from Minnesota [Mr. CLAPP] and the Senator from Nebraska [Mr. NORRIS] does appeal very strongly to me. If I thought the debate could be foreclosed in half an hour or three-quarters of an hour, I would have no sort of objection.

Mr. CLAPP. Will the Senator pardon an interruption?

Mr. SIMMONS. Certainly.

Mr. CLAPP. Personally I am not so concerned, because the remarks that I intended to make will be applicable to the final motion for the adoption of the Senator's amendment, but I would make a suggestion to the Senator. This debate has proceeded with a degree of cordiality and lack of friction and with a want of undue hostility that, I think, is unequaled perhaps in the history of this body since I have been here. It does strike me that when near the end, as we are now, for those who are in control of the bill to take the position that they will move to table every amendment is rather drastic and is hardly warranted by the former course of the debate.

Mr. SIMMONS. Mr. President, with reference to what the Senator from Minnesota has said, I have only to say that we have been now several months discussing the bill, and it seems to me, and it seems to a great many other Senators here, that we have exhausted the various phases of the controversy. Yet if the Senator from Minnesota desires to speak, I feel that I do not wish to cut him off, and I would not wish to cut off the Senator from Nebraska [Mr. NORRIS].

Mr. NORRIS. I should like to suggest to the Senator——

Mr. SIMMONS. But I do not want it to lead to an interminable discussion.

Mr. NORRIS. There have been an hour and a half or two hours taken on this amendment, and all on one side. I do not know that any further debate will change anyone's vote or whether the debate which has taken place has changed anyone's vote. I am just as anxious to finish the discussion as anyone, but it seems to me that when we are debating amendments we are properly legislating. We have wasted an entire day several

times in speeches that were far afield, but the debate to-night is on the proposition immediately before the Senate.

Mr. SIMMONS. If the Senator desires himself to make a speech——

Mr. NORRIS. I intend to make an argument against the amendment either now or afterwards.

Mr. SIMMONS. I call the Senator's attention to the fact that this amendment is, in effect, the same as the amendment we have already voted on.

Mr. NORRIS. I understand that it is in effect about the same as the amendment of the Senator from Utah [Mr. SUTHERLAND]. I tried to get recognition upon that amendment to discuss it, but there were so many seeking recognition that the Chair always recognized some one else. That amendment was finally laid on the table, after apparently those who desired to speak had been heard and I did not get an opportunity to be heard.

Mr. SIMMONS. I will temporarily withdraw the motion I made.

The PRESIDING OFFICER. The Senator from North Carolina withdraws the motion.

Mr. SIMMONS. I withdraw it for the present.

The PRESIDING OFFICER. The Senator from North Carolina withdraws his motion to lay on the table the amendment of the Senator from Iowa.

Mr. NORRIS. Mr. President, I want to say, to begin with, that it seems to me it is a sad commentary on the Senate of the United States that it can never pass any important item of legislation unless it must be had after a test of physical endurance. In ancient times, before the people were civilized, there were questions of great importance decided by a test of strength. Later on, when courts were established, the judges were in the habit of locking up juries and denying them anything to eat or any rest until they had agreed on a verdict. Of course the strongest man will eventually succumb to physical treatment that humanity can not stand up against. Everyone here knows that the real debate on this question and all other great questions that have finally been settled by the physical-endurance test takes place when we come to the actual offering of amendments and their consideration.

I will go probably further than some—it may not be quite as far as others—and I am quite willing at any time to so amend the rules of this body that interminable debate can not take place. I should like to see it limited. But after some Senators have talked from three to four and five and six hours apiece, a great portion of the time talking about something entirely irrelevant from the consideration of the question, to insist on a test of physical endurance when we come to a time when we are debating the real questions at issue is not right, it is not fair either, and we should not now, when we are about to vote on the various amendments, resort to methods that are relics of barbarism.

There ought to be a reasonable, sensible, and manly way of limiting debate, so that such occurrences could not take place as always have occurred in the last several years at the end of a very great piece of legislation. You can not get the best there is in men by holding them in continuous session. You can not get the best legislation by compelling men to be subjected to a physical test, to see how long this one or that one can endure the fatigue that is brought on by such a test.

Now, Mr. President, to get to the question. The amendment offered by the Senator from Iowa [Mr. CUMMINS] under ordinary circumstances would not be objected to by me. I have no personal objection to it. I do not believe it improves the bill. It does not make it any worse. If it were not that I believed the adoption of the amendment would endanger the passage of the bill, I would not turn my hand over whether we adopted the amendment or whether we rejected it.

Bearing upon that subject, I want to take up the several parts of the amendment. There are three different divisions. I want the Senate to notice particularly that one part of the amendment of the Senator from Iowa, independent from the others, strikes out in lines 7 and 8 the language "discriminate in favor of its vessels by exempting" and inserts in lieu thereof the word "exempt." If that amendment were adopted, this proposition would then be in the identical terms in which it was originally when the Senator from North Carolina [Mr. SIMMONS] first offered his substitute amendment. The Senator from Iowa has offered an amendment the effect of which would be to put back the amendment in the exact form in which it was introduced. Now, let us see.

Mr. CUMMINS. Mr. President——

Mr. NORRIS. I yield to the Senator.

Mr. CUMMINS. All that is quite true. The vice of the amendment offered by the Senator from North Carolina was not in the omission of the word "discriminate," but in the failure to assert that we had any right at all.

Mr. NORRIS. Oh, yes; I understand that.

Mr. CUMMINS. I do not believe in saying that we have a right to discriminate, because I think that the exemption of these vessels is not a discrimination.

Mr. NORRIS. Exactly. I understand the Senator's position perfectly. As I said, I would just as lief have it in that form as in this form, but let us see why that form was changed. There were other Senators here who said: "If you do not put something in to show that we have the right to discriminate, we will not support either the amendment or the bill." Here is the argument. They said as it was originally introduced and as it would be if the Senator's amendment were adopted it would read this way: "To exempt the vessels of the United States or its citizens." The argument was made, "Of course you can exempt the vessels of the United States or its citizens if you exempt all the vessels of the world." "I will not stand for that," said several Senators; "we think it is a loophole by which it can be said that it does not mean anything, because, of course, you can exempt vessels of the United States; we must make a declaration that we have a right to exempt vessels of the United States and impose a toll upon the vessels of foreign nations; that we have a right to 'discriminate' in favor of American vessels." The very language that was put into the bill by the Senator from North Carolina was suggested by those Senators. So we come to this position now: Several Senators, in the first place, objected to the language which the Senator from Iowa wants to have inserted, because, they said, it was not a proper statement of the case and would leave a loophole by which it could be said, "Of course, you can exempt the vessels of the United States if you exempt the vessels of everybody else, and we insist on putting in this discrimination." I did not think it added anything to it, and I do not believe that an ordinary citizen in considering this language would give any different construction to it. Everybody knew what it meant, I think. I had no objection to its going in. I thought it would satisfy those who would otherwise be opposed to the bill. But as soon as it is put in, here comes the Senator from Iowa, and he insists that it shall go out. But I do not understand that the Senator from Iowa will vote for the bill even if it does go out.

Mr. CUMMINS. I do not regard the latter amendment as the vital part of it.

Mr. NORRIS. I am taking up one thing at a time. I am going to get to the other part of the Senator's amendment.

Mr. CUMMINS. The Senator from Nebraska knows the amendment can be divided and we can adopt the first part and not the last.

Mr. NORRIS. Oh, yes. The Senator does not get my point. I am illustrating that on one side some Senators say that if you do not put this in it will not express the proper American idea and another set of Senators say if you do put it in it is a surrender to Great Britain. The reasons were identically the same given by some who wanted to put it in that are now given by others who want to put it out. I am only speaking of it to illustrate that point. I do not think it is important either way. I would support the bill with this amendment attached just as quickly if the entire amendment of the Senator from Iowa were adopted as I would without it. I am going to tell it to the Senate frankly. I am going to tell it to you just as I see it and as I believe it to exist. If it is not good, if it is foolish, if we be characterized, as has been almost intimated by several Senators who have debated this question, as fit subjects for the insane asylum if we support this amendment, and you think that that is your right, I am not going to criticize anybody who votes for the amendment as being overzealous, unfair, or as trying to put anything in the bill that would defeat the bill, although I believe it would.

Now, let us see. There are some Senators here who believe that under the treaty with Great Britain we have a perfect right to exempt the vessels of the United States and its citizens from paying tolls at Panama. Everybody concedes that. There are other Senators who believe that we have no right under the treaty to exempt the vessels of the United States and its citizens. Who denies that? There is the contention as far as the international question is concerned.

Now, here are Senators again who are opposed to the exempting of these vessels from tolls as going through the canal for economical reasons, believing that it is a bad economical policy. That is another class of Senators. Some of those Senators believe that we have a right to exempt our vessels if we want to, and some of them believe we have no right to exempt our vessels under the treaty.

There is another class who believe that we have a right to exempt one class of American vessels and not another class. There are two classes, both included in the law and in the treaty. One is American coastwise vessels; the other class is American vessels engaged in foreign trade. We repeal the act as to both of them. One of them by existing law is made absolutely free, and the other it is within the discretion of the President to make practically free if he wants to do so. Some Senators think that under the treaty we have a right to exempt the coastwise vessels but that we have no right to exempt all over-sea vessels of the United States and its citizens. Nobody disputes that.

Now, there are three or four propositions that I have just laid down that are admitted by everybody. Nobody denies that those Senators and people outside of the Senate, at least a large number of them—and, as far as I am concerned, I am willing to admit that all of them—are honest in those convictions; but for the sake of argument, at least, we ought to be fair enough to concede that they are all honest, and I am conceding it.

I am one of the Senators who believe that we have a right to pass anything we want to through the Panama Canal, either the coastwise American vessels or American vessels engaged in the foreign trade; but I do not believe it is a good economical policy. I am not going into that now. I went into it at length and gave reasons for my faith, being convinced in my own mind that the policy of passing our ships through there free is wrong, that it ought not to be done; that we ought to charge tolls on all vessels, and therefore I, of course, would be in favor of repealing the law.

A great many Senators here believe that it is a wrong economic policy. I believe that a large majority of the Senate believe that. You want to repeal the law, therefore. Now, to get the law repealed we have to have a majority of the votes of the Senate.

On the other hand, let us pause right there and take up the other question. I do not want to take any action here that will take away from the United States Government any right on earth that she possesses under the treaty. I believe she is supreme in that respect. Other Senators, and many in this country and abroad, some of the ablest minds of the present age, do not agree with me in that proposition. I do not believe I am bound, as some of these Senators said, that if you believe we have a right to pass our ships through free of tolls then you must say so, and if you believe you have not the right to pass them through then you must say that, and there is not anything to arbitrate and no dispute. If that theory is right, then, of course, I am wrong.

Now, here we come to the amendment. To my belief and my conscientious convictions it would not frighten me. No matter how severe we made this amendment I should like to couch it in respectful language. I do not want to be disrespectful to anybody here or anybody abroad, but as far as declaring our right is concerned I am willing to go to any length in a respectful way to do it. But we are confronted with this proposition: There are quite a number of Senators in this body, some on this side of the Chamber and some on the other side, who believe that we have no right under the treaty to exempt American vessels from tolls for passing through the Panama Canal. What are you going to do with that class of Senators? Shall we say they are foolish? Shall we charge them with lack of courage, as has been intimated? Is not the fair and honest and honorable way to admit, as every man in his heart knows, that those Senators are honest in their belief, and that they have as good a right to their opinion as I have to mine? Many of the Senators who believe this would be opposed to this bill if it should be amended as suggested by the Senator from Iowa. We must have the votes of at least a portion of that class of Senators to pass this bill. That is what moved me to agree to this kind of an amendment, although I would not have agreed to it if I believed it sacrificed any right that we possessed. Unless we get those votes this bill will fail. I have talked with enough Senators on both sides of the Chamber who, if they vote as they said they would vote, would defeat this bill on its final passage if the amendment of the Senator from Iowa [Mr. CUMMINS] were adopted. So I think we are confronted with a proposition right now as to whether or not we are going to have any legislation at all. Mark my word, if the amendment of the Senator from Iowa is adopted the death knell of this bill is recorded.

Believing, as I do, that the law ought to be repealed, that it is a subsidy, that it is a wrong and mistaken economic policy to exempt our coastwise vessels at Panama from the payment of tolls, I do not see why I am not consistent in voting against this amendment, which will jeopardize the passage of the bill, if at the time I do so I am convinced that the amendment for which I am standing meets all questions that can be fairly and honestly met, or that should be met. Let us see whether it does. The Simmons amendment now provides:

> That the passage of this act shall not be construed or held as a waiver or relinquishment of any right the United States may have—

And so forth.

I have not yet heard a Senator indicate a single, solitary right that would be jeopardized if we adopted that language. I should like to have any Senator tell me now of a single instance, with that language in force, where we would sacrifice or lose any rights that we possess under the treaty. Is not that enough? Is not that all we want?

I wish right here to say that I am not finding fault with Senators who are opposed to this bill for supporting this amendment; I think their action is perfectly consistent. I do not want anyone to get the idea that I think Senators are supporting this amendment simply because they think it will defeat the bill. I do not know of any such Senators. I concede, however, they would have a right to do that, and I would not find fault with them, if they were opposed to the bill, if they did so.

Mr. WORKS. Mr. President——

The PRESIDING OFFICER (Mr. SWANSON in the chair). Does the Senator from Nebraska yield to the Senator from California?

Mr. NORRIS. In just a moment. Senators like the Senator from California, for instance, conscientiously can support this amendment, because I know, according to his idea, it puts the bill in better shape than it would be if it were not adopted; and he feels that if we must repeal the law, although he is opposed to that, and will vote against the proposition, as I understand, anyway, yet we ought to make it as good as we can. I am conceding that all other Senators are in that same class; but that does not do away with the fact, Mr. President, that if we drive from the support of this bill those Senators who are willing to vote for it in its present shape, but who would be opposed to it in the form that the adoption of the amendment of the Senator from Iowa would leave it, there is grave danger, if not a certainty, that the bill will be defeated.

Now I yield to the Senator from California.

Mr. WORKS. Mr. President, I do not want to allow the statement of the Senator from Nebraska that the Simmons amendment protects all of our rights to go unchallenged.

Mr. NORRIS. I should like to have the Senator point out one right now which it does not protect.

Mr. WORKS. I do not think it does protect them; but I am not going now in the time of the Senator from Nebraska to discuss that question. Directly, when I have an opportunity, I am going to offer an amendment with the object of strengthening the amendment already adopted by the Senate, which was offered by the Senator from North Carolina [Mr. SIMMONS]. When I do that I shall undertake to explain to the Senate the particulars in which I think the Simmons amendment is inadequate and insufficient to protect entirely the rights of this Government, if it has any rights. I shall not offer an amendment that the Senator from Nebraska can object to on the ground that it will prevent any Senator who believes as he does from finally voting for the bill.

Mr. NORRIS. I will say to the Senator from California that if he offers an amendment which I believe is in accordance with what he has suggested it will get my vote. I should like to vote for everything that is proper, that will more fairly place the Government of the United States in what I believe to be the proper position.

But now, Mr. President, take Senators who believe that we have no right under the treaty to exempt our vessels from the payment of tolls, and let us see if they are consistent—I believe they are—in their statement when they say, "We shall vote against the bill if an amendment similar to the one offered by the Senator from Iowa is adopted." Let us see why they are willing, as they say, while they are firm in their belief that we have no right—they are just as firm as some of us are that we have such a right—they concede that the controversy over the treaty is an honest dispute, and in order to protect it they concede to those who believe we have that right the right to protect by proper amendment to this bill any right which the Government of the United States may have; but they say, "When you ask us to vote positively for statements such as the amendment would be in the form in which the Senator from Iowa would put it by his amendment, it is putting us in a position where we can not vote conscientiously for that kind of a statement, as we believe it would be a falsehood." And from the standpoint of those Senators it would be; and we can not blame those Senators for feeling in that way.

I would not be in favor of compromising on the proposition, even though I believed that a lack of it meant defeat of the bill, if I did not believe that fairly and honestly the amendment now protects every right which we have or that we can possibly acquire that the ingenuity of man can think of or invent. I do not see how it can be broader. It says "any right the United States may have."

The Senator from Iowa said, "Why, suppose we were going to arbitration, they would get this law and say, 'You have not made any positive assertion.'" I hope the Senator from Iowa does not think that in making up pleadings before an international tribunal the Senate or the House of Representatives would make them up. Great heavens, Mr. President, if the Senate of the United States had to agree on pleadings before a court or other tribunal, we would all die of old age before we could possibly reach an agreement; it would be a physical impossibility to do so. If we have any arbitration, proper men representing the United States, after the necessary correspondence and diplomatic arrangements have taken place and been made by the State Department, will be employed for that purpose. They will represent us. There is no reason, in my humble judgment, for any man to say that the Simmons amendment sacrifices our rights, and that we are giving up anything. On the other hand, we are claiming everything by it.

Mr. CUMMINS and Mr. BORAH addressed the Chair.

The PRESIDING OFFICER. To whom does the Senator from Nebraska yield?

Mr. NORRIS. I yield to the Senator from Iowa.

Mr. CUMMINS. Does the Senator from Nebraska think we ought to go into an arbitration with Great Britain over this treaty, hire lawyers to represent us, and simply say to those lawyers to make such claims under the treaty as they thought ought to be made, or does he think——

Mr. NORRIS. Well, let me answer one question at a time.

Mr. CUMMINS. Or does he think that the responsible Government of the United States, represented in Congress, must assert the right which it is desired that those lawyers shall maintain before the tribunal?

Mr. NORRIS. I will answer the two questions the Senator has asked me, Mr. President. If we are to arbitrate this question with Great Britain it will not be until a treaty of arbitration has been agreed upon between this Government and Great Britain, and when that is agreed upon it will be after the Senate of the United States, as part of the treaty-making power, has passed upon it and we will, if necessary, make the proper stipulations or claims. We will not be bodily present as a Senate before the international tribunal, if one is appointed to decide the question, but we will be represented there by attorneys, and I presume they will take the necessary steps, if pleadings are necessary in the agreement that is made, to protect every right which we in this act are asserting that we have. We want every right and any right that we may have, whether we know what it is or whether we do not; we are claiming everything. It could not be broader, and it seems to me, Mr. President, when you take into consideration——

Mr. VARDAMAN. Mr. President——

Mr. NORRIS. I yield.

Mr. VARDAMAN. I want to ask the Senator what question there will be to arbitrate when this bill shall have been passed?

Mr. NORRIS. That is a question that we ought to have settled by having two of the opponents of this bill, namely, the Senator from Iowa [Mr. CUMMINS] and the Senator from Idaho [Mr. BORAH], have a joint debate upon it. The Senator from Iowa argues that we can in this way go on and have an arbitration, even though we repeal the law; he concedes that; while the Senator from Idaho, another great lawyer, does not concede that, as I understand, but he says before we have an arbitration we must in some way do some act that somebody else claims is a violation of the treaty.

Mr. VARDAMAN. There must be some question of difference between the two nations.

Mr. NORRIS. Yes.

Mr. VARDAMAN. Now, if you remove it, what is there to arbitrate? What is there to settle?

Mr. NORRIS. I am not going to determine the question as between the Senator from Iowa and the Senator from Idaho and the Senator from Mississippi, all of whom are opposed to this bill and none of whom agree on that proposition. I do not know why they should question me about that. I am willing to tell you what I think. I believe——

Mr. VARDAMAN. The point I make is this——

Mr. NORRIS. If the Senator will permit me, I believe that we can have this question arbitrated whether we repeal the exemption clause or not. I do not have any doubt about that, and I want to say to the Senator from Mississippi that I have an amendment, which I propose to offer at the proper time to this bill, stating in substance that we regard the question in dispute between the two nations as a proper subject for international arbitration.

Mr. VARDAMAN. Mr. President, if the bill before the Senate should become a law, all questions of difference between the two nations are settled.

Mr. NORRIS. Yes. But our "right" to discriminate is still in dispute.

Mr. VARDAMAN. And there is nothing to arbitrate.

Mr. NORRIS. All right.

Mr. VARDAMAN. The United States has conceded to England all that she wants, and that settles it.

Mr. NORRIS. Let us take that position; of course I do not agree with the Senator, but let us for argument's sake assume that that is right. That is the position of the Senator from Idaho. Suppose it is true that when we pass this bill there is not anything left to arbitrate. Then what becomes of the importance of the amendment of the Senator from Iowa? It falls to the ground with everything else; it is all tomfoolery like the other amendments. There is not anything to it. If you take that position, the whole thing falls, and I will concede that whether you adopt the amendment of the Senator from Iowa or any other amendment will not make a particle of difference.

Mr. VARDAMAN. If the amendment offered by the Senator from Iowa should be adopted, it would leave this question to be settled. That amendment contains an affirmative declaration of our right over the canal.

Mr. NORRIS. But we repeal the law, and——

Mr. VARDAMAN. Oh, that is another matter.

Mr. NORRIS. Therefore there is no wrong done and there can be no arbitration. That is the argument of the Senator.

Mr. VARDAMAN. The question of repealing the tolls-exemption clause has nothing whatever to do with the question of our sovereign right to control the canal. That is a mere bagatelle in this discussion; it is a triviality. The economic question involved is comparatively not worth considering.

Mr. NORRIS. Then we have wasted a good deal of time.

Mr. VARDAMAN. If the amendment of the Senator from Iowa shall be adopted, then the issue will be made between the two Governments as to whether the United States is supreme.

Mr. NORRIS. Now, Mr. President, I myself believe that the United States is sovereign down there; I do not doubt that at all.

Mr. VARDAMAN. If the Senator feels that way——

Mr. NORRIS. I have never doubted it.

Mr. VARDAMAN. Well, is it not incumbent upon the Senator, if he feels that way, to vote that way?

Mr. NORRIS. I will vote that way at every opportunity; but I will not vote for an amendment that does not add anything to what we already have, in my judgment. I will not vote for an amendment that does not do any good and that will drive somebody else away from the support of this bill.

Mr. VARDAMAN. As a matter of fact, nothing is secured under the Simmons amendment except what is secured without it.

Mr. NORRIS. Technically speaking, I presume that is true; and that is true of any other amendment. I suppose, speaking in a strictly technical sense, the simple repeal of the tolls-exemption clause without putting in any saving clause, without any amendment setting forth our claims, would not be a surrender of our claims; but as a moral proposition I believe the world would believe, unless we did something of that kind, that we had given up the right, for the reason that we believed we did not possess it, especially when you take it in connection with the message of the President of the United States, and that is the reason why I want to put in a saving clause.

Mr. VARDAMAN. But you are not putting in a saving clause.

Mr. NORRIS. I concede the Senator has a right to his opinion; but, in my opinion, we are putting in a saving clause.

Mr. VARDAMAN. Mr. President——

The PRESIDING OFFICER. Does the Senator from Nebraska yield to the Senator from Mississippi?

Mr. VARDAMAN. I do not want to interrupt the Senator.

Mr. NORRIS. Yes; I yield to the Senator.

Mr. VARDAMAN. I merely want to say that when you adopt the Simmons amendment you simply announce that you have the rights you have; that is all; you do not express any opinion as to what your rights are; but if you adopt the Cummins amendment, then you proclaim to the world the fact that you think you have some rights and what those rights are.

Mr. NORRIS. I would not have any objection, as I have said several times, to doing that; but there are Senators who

do not agree with the Senator from Mississippi and with me on that proposition.

Mr. VARDAMAN. Then, let them disagree.

Mr. NORRIS. Exactly, and thus get no bill through and allow the present law to stand. As one who would like to repeal that law, which I believe to be wrong as a fundamental proposition for our Government, I am not willing to take that course, especially when I believe that in supporting——

Mr. VARDAMAN. I will take it.

Mr. NORRIS. I am not willing to take that course, especially when I believe that in supporting the amendment of the Senator from North Carolina I am saving every right that my country possesses, and I do believe that.

Mr. VARDAMAN. The Senator is willing to sacrifice our sovereignty over the canal in order to get the bill passed.

Mr. NORRIS. Oh, the Senator can not put me in that predicament.

The PRESIDING OFFICER. If the Senator from Nebraska will allow the Chair——

Mr. KERN. I rise to a point of order.

The PRESIDING OFFICER. It is impossible for the Senator from Nebraska to yield to the Senator from Mississippi and also to keep on talking at the same time.

Mr. VARDAMAN. What is the point of order the Senator from Indiana makes?

Mr. KERN. My point of order is that Senators in all parts of the Chamber do not desire to lose any part of this illuminating dialogue, but they can not understand it while both Senators are talking at the same time, in violation of the rules.

The PRESIDING OFFICER. The point of order is well taken.

Mr. NORRIS. I presume Senators will at least have the opportunity of taking their choice as between the two evils.

Mr. KERN. We can not take any choice; we can not hear either Senator.

The PRESIDING OFFICER. Does the Senator from Nebraska yield to the Senator from Mississippi? Only one Senator can occupy the floor at a time.

Mr. VARDAMAN. Mr. President, the Senator from Nebraska yielded to the Senator from Mississippi, and then there ensued a continuation of the colloquy. I did not know that the rules of the Senate required that after finishing a sentence I should again get permission of the Chair or permission of the Senator to ask another question.

The PRESIDING OFFICER. The difficulty the Chair had was that, if the Senator from Nebraska yielded, he could not speak at the same time the Senator to whom he yielded was speaking.

Mr. NORRIS. I will say to the Senator from Mississippi that the Chair is finding fault with me and not with the Senator from Mississippi; and I am not finding fault with the Senator from Mississippi or the Chair.

Mr. VARDAMAN. I will not permit the blame to be put upon the Senator from Nebraska. [Laughter.]

Mr. NORRIS. Mr. President, it seems to me the unreasonableness of those who are on the other side of this proposition is illustrated by what the Senator from Mississippi has said and what the Senator from Iowa has said in their positive statements, without giving anybody else any latitude anywhere to stand on the earth with a different opinion. They say, as the Senator from Mississippi has just said, "But you are not retaining anything." Now, he may be right. I may be wrong. I am not claiming that he, at least, does not believe he is right, or that he may not be right; but I am just as satisfied that I am right when I believe that there is not a right possible under the treaty that our Government possesses that is not protected by this amendment. Believing that, I can do nothing, it seems to me, but oppose any change in the amendment that would endanger the bill itself, which I am very anxious to have passed.

Mr. BORAH. Mr. President——

The PRESIDING OFFICER. Does the Senator from Nebraska yield to the Senator from Idaho?

Mr. NORRIS. I yield to the Senator from Idaho.

Mr. BORAH. As I understand, then, the Senator from Nebraska contends that the amendment offered by the Senator from North Carolina, and adopted, is a positive assertion of a right upon the part of the United States to exempt vessels going through the canal from the charge of tolls?

Mr. NORRIS. The amendment offered by the Senator from North Carolina admits, from its very nature, that there is a dispute between the two Governments.

Mr. BORAH. Does the Senator——

Mr. NORRIS. Let me follow that for just a moment, and then I will yield to the Senator. I wish to make this clear. In the amendment that I prepared, and which I withdrew when I compromised on the amendment offered by the Senator from North Carolina, I felt as though that principle ought to be recognized; that while I did not believe her claim was right, I conceded that she was making it honestly, and that I ought to use language that would be respectful, and so I used the word "claimed." I said in my amendment that the United States claimed a right. I spoke of it as the right claimed by the United States to exempt its vessels.

Some Senators, several of them, criticized that language, and thought it was not quite diplomatic with Great Britain. It seemed to me, though, that it was fair. It conceded that there was a dispute and that it was honest. If we ever arbitrate, as a matter of course, we must concede that; otherwise, there can be no arbitration. On the other hand, it seems to me that the language the Senator wants is practically saying—I will say to the Senator that it does not affect me in that way, but it does a good many Senators who would vote against the bill if it had that language in it—that we will submit to no arbitration. As they have said to me, "Why, if such language is put in the bill we might just as well write another clause in it and say, 'We will not arbitrate this matter with anybody on earth. We make this assertion, and will permit no one to controvert it.'" Senators who believe that we have no right, under the treaty, to exempt our vessels, object to any statement in the law which makes, in unequivocal language, a positive assertion that their position is wrong. They are willing to admit that there is an honest dispute on the question, and that therefore they may be wrong. In that belief they are willing to compromise and agree to words that protect every right which our Government can by any possibility be entitled to. The language used is, "Any right the United States may have." To me that covers everything, and we have no reason to ask more. It seems to me that is fair. I do not believe the language suggested by the Senator from Iowa would be any better or give us a single additional right or a particle more of protection. The language suggested by the Senator from Iowa to take the place of the words I have just quoted is, "The right which the United States has." Either phrase would suit me, but when the adoption of one would defeat the bill I can have no choice but to support the other.

Mr. BORAH. Mr. President——

Mr. NORRIS. I think that is the difference between the two propositions. One, in my judgment, is just as good as the other; and if it were not for that fact driving men away from the bill, I would not turn my hand over, no matter which you used.

Mr. BORAH. The Senator from Nebraska believes that we have a right under the treaty to exempt our vessels from tolls? Is that correct?

Mr. NORRIS. Yes.

Mr. BORAH. And the Senator from Nebraska, in voting for this amendment, believes that he is voting according to his conviction as to the interpretation of the treaty?

Mr. NORRIS. Yes. I think I am protecting all the rights we have. Does the Senator think that I am not?

Mr. BORAH. Yes.

Mr. NORRIS. Will the Senator tell me what one right we lose? Where is that right?

Mr. BORAH. Well——

Mr. NORRIS. Point it out to me.

Mr. BORAH. I want to settle this question for just a minute, and then I will answer that question. The Senator from Nebraska is voting, as he believes, for an amendment which asserts the right of the United States to pass its vessels through the canal free?

Mr. NORRIS. Mr. President, I am not being cross-examined on the witness stand. I think I have answered the Senator's question. He is repeating it. I have told him distinctly my understanding of the matter.

Mr. BORAH. Yes; but——

Mr. NORRIS. If that is not satisfactory, I can not make it satisfactory. I will repeat it, however.

I believe that the Simmons amendment concedes from its very nature that there is an honest dispute between the two Governments. Other people who are opposed to the amendment of the Senator from Iowa believe that his amendment does not make that concession, and that we ought not to put it in the law. Now, that is my position.

Mr. BORAH. Exactly; but what I want to know is whether or not any Senator voting for the Senator's amendment is willing to assert here upon the floor of the Senate that he votes for it believing that the amendment asserts the positive right of the United States to pass its vessels through the canal free.

Mr. NORRIS. I think you might put it in language that would assert it more positively. I believe, however, that it

protects and saves every right we have. It says so in so many words. If the Senator does not believe that, he is welcome to his belief; but since the Senator from Idaho has interrupted me, I should like to call the attention of the Senate to the fact that he thinks we can not have an arbitration, for instance, unless there is first a statute passed that somebody says is a violation of the treaty. Is not that right?

Mr. BORAH. I do not know how the Senator got that idea.

Mr. NORRIS. I got that idea from the Senator's statement to me in the time of the Senator from Iowa [Mr. CUMMINS].

Mr. BORAH. Oh, no; I did not say that. What I said was that we were dealing with a very practical nation, to wit, Great Britain, as 100 years of experience with that country has demonstrated to a moral certainty; and I said that having repealed the law to which Great Britain made objection, as a practical nation they would not ask for arbitration.

Mr. NORRIS. There is the point, exactly.

Mr. BORAH. Wait a minute, until I get through. I said that there would be no occasion for her to ask for arbitration, everything that she asked for having been conceded.

Mr. NORRIS. Yes.

Mr. BORAH. The time might arise when she would ask for it if we should change our position, but the law having been wiped out, the obstacle having been removed, and her rights having failed to be impeached any longer, there would be no occasion for Great Britain to ask for arbitration.

Mr. NORRIS. The Senator said the same thing before.

Mr. BORAH. I might agree with the Senator from Mississippi that you could arbitrate an abstract proposition; but there will be no occasion for Great Britain to desire an arbitration under such circumstances.

Mr. NORRIS. I have a great deal of respect for that opinion. I am not sure but that it will turn out that way. The Senator from Idaho, however, ought to be as fair as I have been and admit that, if that is true, the adoption of the amendment of the Senator from Iowa would not change it one iota, because we would have repealed the law just the same.

Mr. BORAH. The Senator from Nebraska will remember that I stated that I was not voting for the amendment of the Senator from Iowa because I believed it enabled us to get more expeditiously to arbitration. I do not want any arbitration at all. I think this is a matter of most vital concern, and I am opposed to arbitration. Arbitration is out of my mind entirely; but I am willing to vote, any time I get a chance, for a positive assertion and declaration that that canal belongs to the United States and that we have a right to use it as against the whole world for the advancement of our commerce, treating all users of the canal on an equal basis. [Manifestations of applause in the galleries.]

Mr. CUMMINS. Mr. President, I do not think the Senator from Nebraska quite grasps the issue or meets the point suggested by the Senator from Idaho. I do not understand that there is any difference between his view and mine. He says that if we repeal this law Great Britain will not be desirous of an arbitration; that there will be nothing to arbitrate. That is true; but if we pass this law with the amendment for which the Senator from Nebraska is now standing we can not ask arbitration, whereas if we pass it with the amendment which I have proposed, while Great Britain will not ask arbitration, the United States can ask arbitration. She can not ask it under what is known as the Simmons amendment.

Now, just one word more for an inquiry.

Mr. NORRIS. Very well. I thought the other was an inquiry.

Mr. CUMMINS. No; the other was a statement.

Mr. NORRIS. I have an inquiry from the Senator from Idaho also.

Mr. CUMMINS. The other was a statement. The Senator from Nebraska ought not to desert his pupils.

My amendment was fashioned upon the thought of the original amendment proposed by the Senator from Nebraska. I was led by him very largely to believe in the justice of that amendment. His amendment as it was originally proposed and as it is printed contained a claim on the part of the United States to the right to pass these vessels free through the canal. It said "the right claimed by the United States." I was in favor of his amendment. I think he will remember that I so stated to him upon more than one occasion, and I was overwhelmed with surprise when I found his amendment, which contained a positive, unequivocal claim to this right, merged into the vague and meaningless amendment proposed by the Senator from North Carolina.

If the Senator from Nebraska will propose just what he originally proposed—which, as I understood, was a claim made by the United States—he will have accomplished just what I hope to accomplish by the amendment I have offered. I have come just as near the amendment originally suggested by the Senator from Nebraska as I could, having due regard for the general language contained in the amendment of the Senator from North Carolina.

I wanted to say that because I do not want to be put in the position of having brought forward here an idea that has no value in it, and that is entirely baseless. I had assumed that there was a good deal of difference between making a claim and attempting to reserve a right, if we have any right.

Mr. NORRIS. Will the Senator from Iowa repeat the question that he started to ask me? I have forgotten it.

Mr. CUMMINS. The question is, Why did the Senator from Nebraska relinquish or abandon the ground which he originally occupied in regard to this subject?

Mr. NORRIS. Mr. President, I do not believe I have abandoned any ground. I withdrew, as I stated at the time, my amendment that was before the Senate and that I had drawn, in which, as I said a while ago, I used the word "claimed," because I believed that by so doing there would be more of an assurance of placing in this bill the idea that I believed ought to be placed in it, and that I had tried to express in my amendment. I could not have done that with the amendment that I had offered. I thought this method would get more votes for a proposition which at the time I introduced my amendment was being laughed at by a great many Senators who are seriously opposing this amendment now and who said it was foolish to try to get it adopted. I took the course that to me seemed proper to engraft on this law the idea that all the rights of the United States in the future to exempt her vessels as she sees fit should be properly protected.

If in my ignorance I have done something which is foolish, that is a different proposition. If the Senator's argument is right, we have no way, he says, to arbitrate if we pass this amendment; but if we put in his amendment, then we can suggest to Great Britain that she should arbitrate.

That is a positive statement made by the Senator from Iowa. I do not know upon what he bases it. Personally, if it were not made so positively, I would have made the other assertion; but I do not want to get into the difficulty of being driven, as it was intimated a while ago those who favor the Simmons amendment should be driven, into the insane asylum. I contend that the words that are in the Simmons amendment, namely, to reserve "any right the United States Government may have" under that treaty, are sufficient to enable the United States to take the initiative with Great Britain to bring about an arbitration of our rights, whatever they may be; and it is a broader statement and includes more than if we say "the right." We may have several. There may be one right as to American foreign-going ships and another as to coastwise ships. There are Senators who believe that. If that is true, the words "the right" would not be the proper words to designate it. There may be a dozen rights. If there are a hundred, the compromise amendment offered by the Senator from North Carolina protects everyone. The amendment of the Senator from Iowa concedes there can be but one.

Now, I want to get back to the Senator from Idaho. By the way, Mr. President, he did not answer my question to point out any particular right that we would lose by this amendment.

Mr. BORAH. If the Senator will give me an opportunity, I shall be glad to do so.

Mr. NORRIS. I will give it to the Senator right now.

Mr. BORAH. The right which we lose is by reason of the failure to assert that we have any right at all. It would be calculated to forfeit or impeach all rights. It is just like going into court, admitting, as a pleader, that we have no right, and at the same time asking the court to pass upon it. I do not say that there is one right protected under the amendment and another right lost, but it is the general principle that we have failed to assert any right whatever under it.

Mr. NORRIS. Mr. President——

Mr. BORAH. If the Senator from Nebraska will bear with me for a moment, when I asked the author of this amendment to-day if he believed that we had any right at all, he said no.

Mr. NORRIS. Well, I am not responsible for those who do not believe with me in regard to our rights in Panama.

Mr. BORAH. No.

Mr. NORRIS. I can not be held accountable for that; but I think the Senator from Idaho in good faith ought to concede to the Senator from North Carolina that when he believes that way he is going quite a way toward a compromise to vote for an amendment that will protect any rights we may have; and he ought to concede that there is a pretty good reason, if the Senator from North Carolina could not vote for the amendment of the Senator from Iowa, because on his theory—not on mine,

but on his theory—it would be a wrong statement of the facts as they exist.

Mr. BORAH. Does not the Senator see, right there, that the Senator from Iowa is entirely correct——

Mr. NORRIS. No.

Mr. BORAH (continuing). When he says that his amendment means much more than the amendment of the Senator from Nebraska, for the very reason that the Senator from North Carolina will not vote for the amendment of the Senator from Iowa? Why will he not do it? Why, because it is an assertion of a positive right. It puts him up against the position which he occupies in saying that there is no right; but the Senator knows that when he says we reserve "any right we may have," that is not in conflict with the position he has taken that we have no right.

Mr. WILLIAMS. Mr. President, may I ask the Senator a question?

Mr. NORRIS. Mr. President, I can not answer more than one at a time.

Mr. WILLIAMS. May I ask the Senator a question?

Mr. NORRIS. I do not like to prolong this debate, and when I yield for a question it invariably leads to considerable discussion. I am not referring to any Senator in particular; but every Senator who has interrupted me so far has made a 5-minute speech, and some of them 15-minute speeches.

Mr. WILLIAMS. I just want to ask if it is possible that the Senator from Idaho wants to assert any right which we may not have?

Mr. BORAH. The surpassing and scintillating wisdom of that remark has passed entirely over my head.

Mr. WILLIAMS. Mr. President——

Mr. NORRIS. I will not yield further to the colloquy between the Senators.

The PRESIDING OFFICER. The Senator from Nebraska declines to yield.

Mr. WILLIAMS. I think all wisdom seems to pass over the head of the Senator from Idaho.

The PRESIDING OFFICER. The Senator from Nebraska declines to yield.

Mr. WILLIAMS. I have never known him to be so failing in wisdom as to-day.

Mr. NORRIS. The Senator from Idaho has still failed to answer my question. I did not ask for a general answer. I asked him if he could tell me of a single right which we will lose. He has not pointed to one. There is not a man on earth who can, because we lose none. We expressly reserve and protect every one. He says that this Simmons amendment is a failure to assert our rights, but I say it is not a failure when we by our very language preserve and protect every right that we may under any conditions have. I do not see how it could be made stronger.

I want to call attention to the fact, in closing, Mr. President, that those who are the most anxious to make this change, a change that I would be willing to concede in a moment if I thought it would not endanger the bill, those who are fighting so earnestly to put this amendment on the bill, I believe, without exception, will be found when the final vote is taken voting against the passage of the bill.

Mr. BORAH. As far as the Senator from Idaho is concerned, that is true.

Mr. NORRIS. Exactly; and I say that is something those who believe in the passage of the bill ought to take notice of, and we ought not to try here to split hairs when the very life of the entire measure is at stake.

The Senator from Idaho says he would not arbitrate. Personally to me, I can not imagine how anyone could refuse to arbitrate this question. I have the greatest respect and confidence and friendship for the Senator from Idaho, and when he says he would not arbitrate this question I know that there are reasons that are sufficient to satisfy his conscience; but, Mr. President, to me, where a simple question about the construction of a treaty is at issue there can be given nowhere by anyone any reason why we should say to the world we will decide this question in which we are one of the parties without the interference of anybody else; we will refuse to submit this dispute to a disinterested tribunal. I do not believe——

Mr. POINDEXTER. Mr. President——

The PRESIDING OFFICER. Does the Senator from Nebraska yield to the Senator from Washington?

Mr. NORRIS. I yield.

Mr. POINDEXTER. Would the Senator submit to arbitration the question which arises, or is at least alleged to arise, under a treaty with Japan, as to the right of Japanese to immigrate to and to own land in this country?

Mr. NORRIS. Mr. President, I decline to answer the question, when it has not anything more to do with this subject than "the flowers that bloom in the springtime."

Mr. POINDEXTER. The Senator stated a moment ago that he would arbitrate any question arising under a treaty.

Mr. NORRIS. I was speaking of this treaty, I will say to the Senator. I might under any treaty, but I am not going into a dispute about Japan. I do not think it has anything to do with the Hay-Pauncefote treaty. I say I am willing to arbitrate this treaty, and right now I want to read——

Mr. POINDEXTER. If the Senator will yield just a moment. Where I differ from him in his statement is the assertion that any question arising, as he said, simply under a treaty, of course we ought to arbitrate, when as a matter of fact the most vital and significant questions concerning the Nation might arise under a treaty, and the fact that it arises under a treaty can not be the measure or the rule whether we should arbitrate or should not arbitrate it.

Mr. NORRIS. I think my friend from Washington ought to take into consideration what I said when he called my attention to the language I used. I said I am speaking of this treaty. I am not taking a position one way or the other on any other treaty. I would go a good ways in arbitrating almost any question.

I want to suggest language that I think ought to be added and that I am going to offer at the proper time as an amendment:

> The protest heretofore filed with the Government of the United States by the Government of Great Britain denying the right of the United States under the said treaty with Great Britain to exempt the vessels of its citizens from the payment of tolls when passing through the said canal is hereby recognized as presenting an international question suitable and proper for settlement by arbitration.

Mr. President, there is only this in dispute. Under the Hay-Pauncefote treaty the British Government claims we have no right to exempt our vessels. Our Government claims that we have a right to exempt our vessels. That is all the dispute there is, and that is a proper subject, in my humble judgment, to arbitrate. Personally I can not see how any man can consistently vote against it.

Mr. CUMMINS. Mr. President——

The PRESIDING OFFICER. Does the Senator from Nebraska yield to the Senator from Iowa?

Mr. NORRIS. Yes.

Mr. CUMMINS. Would the Senator from Nebraska consider an affirmative vote upon the amendment which he has just read as an assertion that we have the right to pass our ships through the Panama Canal free of tolls?

Mr. NORRIS. I have gone over that, and I do not want to waste any further time. My belief is that the amendment of the Senator from North Carolina is a concession that there is a dispute existing between the two nations about tolls. The amendment of the Senator from Iowa is construed by those who are opposed to it—I am not opposed to it, but by those who are opposed to it—as denying that there is any dispute and denying that we should ever arbitrate the question that really is in dispute. That is the contention.

Mr. CUMMINS. But the Senator from Nebraska did not understand me, I am sure.

Mr. NORRIS. I think I did understand the Senator.

Mr. CUMMINS. I did not refer to the amendment of the Senator from North Carolina or to my amendment. I am asking the Senator from Nebraska if the Senate adopt either in the form of a resolution or as an amendment to this bill the arbitration suggestion which he has just read, would it thereby assert that the United States has a right to pass its ships free through the Panama Canal?

Mr. NORRIS. Yes; I think so. I desire also to apologize to the Senator. I did not understand his question.

Mr. CUMMINS. Therefore, the Senator from Nebraska is willing to assert that positively in an amendment which he proposes to offer, but he is not willing to assert it in the amendment that is now pending before the Senate.

Mr. NORRIS. I want to answer that, and I insist that the Senator shall permit me to make a reply while it is fresh in my memory, and then I will yield and the Senator can ask any further question. The Senator has stated it exactly right, as I understand the language. I would be willing to put it in this amendment and not in the amendment of the Senator from Iowa, because, as I have stated repeatedly, I believe it would make a condition that would lose votes for the bill on its final passage and probably defeat it, which I do not want to see done. That is my reason, and to me it is satisfactory.

Mr. CUMMINS. I understand that; but suppose the amendment that will be offered by the Senator from Nebraska, which

he says is an equivalent assertion, is adopted by the Senate, what then would be the fate of the bill?

Mr. NORRIS. The fact is, Senators who believe that the Senator's amendment is obnoxious and who would vote against the bill if it should prevail, do not regard the arbitration amendment in the same light as the Senator has indicated it is and I believe it is. They do not regard it as an assertion which conflicts with their ideas of what should be in the bill. I know some Senators who tell me that they would vote against the bill if the Senator from Iowa succeeded in having his amendment adopted who are in favor of the arbitration amendment that I have drawn. They do not agree with the Senator from Iowa and myself that the arbitration amendment asserts such a positive claim of right that they can not support it. On the contrary, most, if not all, of them are most heartily in favor of submitting this controversy to arbitration. Personally I think it is an assertion of our right, and I think the Senator from Iowa believes so, from the very fact that he asked the question.

Mr. CUMMINS. I think so; but——

Mr. NORRIS. But other Senators do not think so. It can not endanger the bill, for the simple reason that if they would think that way they would vote it down and it would not be adopted; but, as I have said, I happen to know most of them are going to vote for it. So I have some hope of having it go in. Now I yield to the Senator. I hope the explanation will be satisfactory.

Mr. CUMMINS. The Senator has several times assigned me to a position on the final vote. I do not think that he has any good reason for doing so, for I say to him now that my vote upon the passage of the bill will depend upon the fate of an amendment that I intend to offer to the bill before it is finally disposed of. If that amendment is adopted, I will vote for the bill. If it is not adopted, I will not vote for the bill.

Mr. NORRIS. I accept the Senator's explanation.

Mr. CUMMINS. So the Senator from Nebraska could not have prophesied very correctly about my position.

Mr. NORRIS. I have not prophesied, although I know what the Senator's amendment is. He knows, the Senate knows, everybody knows, and God knows it will not be adopted. So he will be against the bill, and therefore I could reasonably prophesy with certainty that he would vote against the bill when the time comes.

Mr. CUMMINS. I do not know. Of course, I assume that God knows, but I hope that the Senator from Nebraska is wrong with regard to the knowledge of the Senate. I assume that Senators are waiting with open mind to hear the amendment and to hear the debate upon it, and that if it is found to be sound and wise it will be adopted.

Mr. NORRIS. I am not arguing against the amendment that the Senator proposes to offer later on. Knowing what it is, I want to say to the Senator that, while I should oppose it now, it may be that after we have operated the canal a few years I should be as much in favor of his amendment as he is. I would not vote for it now, because I think it is premature. I believe we ought to operate the canal a while to see just how it is going to pay and whether we are charging too high tolls or too low tolls, or whether we can charge lower tolls to American vessels than foreign vessels, as the Senator proposes in this amendment. I am not opposing his amendment; it may be a very good idea to adopt it in the future; but it seems to me that now, when we do not know, when it is nothing but a guess as to what the income from the canal will be, it is premature to try to adopt it.

The PRESIDING OFFICER. The question is on the amendment offered by the Senator from Iowa [Mr. CUMMINS]. The yeas and nays have been ordered, and the Secretary will call the roll.

The Secretary proceeded to call the roll.

Mr. LODGE (when Mr. ROOT's name was called). The senior Senator from New York [Mr. ROOT] is unavoidably absent from the city. If present, he would vote "nay."

Mr. SUTHERLAND (when his name was called). I again announce my pair with the Senator from Arkansas [Mr. CLARKE], and on account of his absence withhold my vote.

Mr. THOMAS (when his name was called). I have a general pair with the senior Senator from New York [Mr. ROOT]. In view of the announcement just made by the Senator from Massachusetts [Mr. LODGE] as to what the vote of the senior Senator from New York would be, I vote "nay."

Mr. WILLIAMS (when his name was called). Transferring my pair as announced on the previous roll call, I vote "nay."

The roll call was concluded.

Mr. McCUMBER. I transfer my pair with the junior Senator from Pennsylvania [Mr. OLIVER] to the senior Senator from New York [Mr. ROOT] and vote "nay."

Mr. CHILTON. I transfer my pair with the Senator from New Mexico [Mr. FALL] to the Senator from South Carolina [Mr. TILLMAN] and vote "nay."

Mr. KERN. I wish to announce the unavoidable absence of the senior Senator from Arkansas [Mr. CLARKE] and the junior Senator from Arkansas [Mr. ROBINSON], both of whom are paired.

The result was announced—yeas 37, nays 49, as follows:

YEAS—37.

Ashurst	Cummins	Lippitt	Smoot
Borah	Dillingham	Martine, N. J.	Townsend
Brady	du Pont	O'Gorman	Vardaman
Bristow	Gallinger	Page	Walsh
Burleigh	Goff	Perkins	Warren
Catron	Hitchcock	Poindexter	Weeks
Chamberlain	Jones	Ransdell	Works
Clapp	Kenyon	Reed	
Clark, Wyo.	La Follette	Shields	
Crawford	Lane	Smith, Mich.	

NAYS—49.

Bankhead	Johnson	Owen	Stephenson
Brandegee	Kern	Pittman	Sterling
Bryan	Lea, Tenn.	Pomerene	Stone
Burton	Lee, Md.	Saulsbury	Swanson
Chilton	Lewis	Shafroth	Thomas
Colt	Lodge	Sheppard	Thompson
Culberson	McCumber	Sherman	Thornton
Fletcher	McLean	Shively	West
Gore	Martin, Va.	Simmons	White
Gronna	Myers	Smith, Ariz.	Williams
Hollis	Nelson	Smith, Ga.	
Hughes	Norris	Smith, Md.	
James	Overman	Smith, S. C.	

NOT VOTING—9.

Clarke, Ark.	Oliver	Robinson	Sutherland
Fall	Penrose	Root	Tillman
Newlands			

So Mr. CUMMINS's amendment to the amendment was rejected.

PETITIONS AND MEMORIALS.

Mr. GRONNA presented petitions of sundry citizens of Kintyre and Rutland, in the State of North Dakota, praying for national prohibition, which were referred to the Committee on the Judiciary.

Mr. CRAWFORD presented a petition of the congregation of the Trinity Lutheran Church, of Letcher, S. Dak., praying for national prohibition, which was referred to the Committee on the Judiciary.

Mr. GALLINGER presented petitions of sundry citizens of Portsmouth, N. H., praying for the enactment of legislation to supplement existing laws against unlawful restraints and monopolies, and for other purposes, which were referred to the Committee on the Judiciary.

Mr. TOWNSEND presented a memorial of Printing Pressmen's Local Union No. 13, of Grand Rapids, Mich., remonstrating against national prohibition, which was referred to the Committee on the Judiciary.

REPORTS OF COMMITTEES.

Mr. SHIVELY, from the Committee on Pensions, to which were referred the following bills, reported them each with amendments, and submitted reports thereon:

H. R. 15071. An act granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy, and of wars other than the Civil War, and to certain widows and dependent relatives of such soldiers and sailors (Rept. No. 587); and

H. R. 15504. An act granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy, and certain soldiers and sailors of wars other than the Civil War, and to widows of such soldiers and sailors (Rept. No. 588).

Mr. PAGE, from the Committee on Indian Affairs, to which was referred the bill (H. R. 11006) authorizing the disposal of a portion of the Fort Bidwell Indian School, California, reported it without amendment and submitted a report (No. 589) thereon.

BILLS INTRODUCED.

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. LEWIS:

A bill (S. 5796) for the relief of James D. Vernay; to the Committee on Military Affairs.

By Mr. LODGE:

A bill (S. 5797) granting an increase of pension to Mary M. Calef (with accompanying papers); to the Committee on Pensions.

By Mr. CLAPP:

A bill (S. 5798) authorizing the health officer of the District of Columbia to issue a permit for the removal of the remains

of the late Lewis Bancroft from Glenwood Cemetery, District of Columbia, to Mantorville, Minn.; to the Committee on the District of Columbia.

By Mr. JOHNSON:

A bill (S. 5799) granting an increase of pension to John A. Patterson (with accompanying papers); and

A bill (S. 5800) granting an increase of pension to George W. Harding (with accompanying papers); to the Committee on Pensions.

By Mr. JONES:

A bill (S. 5801) granting a pension to J. H. Short; to the Committee on Pensions.

AMENDMENT TO APPROPRIATION BILLS.

Mr. LANE submitted an amendment intended to be proposed by him to the river and harbor appropriation bill, which was referred to the Committee on Commerce and ordered to be printed.

Mr. OWEN submitted an amendment relative to the claims of the Ponca Tribe of Indians residing in Oklahoma and Nebraska, etc., intended to be proposed by him to the Indian appropriation bill, which was referred to the Committee on Indian Affairs and ordered to be printed.

Mr. JOHNSON submitted an amendment proposing to appropriate $600 for one stamp deputy at Portland, Me., intended to be proposed by him to the legislative, etc., appropriation bill, which was ordered to lie on the table and be printed.

OMNIBUS CLAIMS BILL.

Mr. BURLEIGH submitted an amendment intended to be proposed by him to the omnibus claims bill, which was ordered to lie on the table and be printed.

RECESS.

Mr. O'GORMAN. I move that the Senate take a recess until 11 o'clock to-morrow morning.

The motion was agreed to; and (at 10 o'clock and 20 minutes p. m., Wednesday, June 10) the Senate took a recess until to-morrow, Thursday, June 11, 1914, at 11 o'clock a. m.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, *June 10, 1914.*

The House met at 12 o'clock noon.

Rabbi Louis Stern, of the Eighth Street Temple, Washington, D. C., offered the following prayer:

We earnestly and reverently invoke Thy blessing, O Heavenly Father, upon this representative body, its Members and officers; and we ask Thy special blessing upon the Chaplain of this House, absent to-day, who for years, day after day, has so faithfully performed the sacred office here. We thank Thee for his fervent words of prayer, for the sanctifying impressions they have created, and the ennobling influences they have wrought. We thank Thee for the lessons they have taught—lessons of lofty patriotism, of personal liberty, of civic righteousness, of true humanity. We thank Thee that out of the physical darkness enshrouding his vision there has shone forth continually the resplendent light of an undying faith, a cheerful, contented disposition, and a superb optimism. O God, bless Thy servant with health and long life, as a constant example and inspiration to the world around him, and more especially to the Members of this House in their daily lives and deliberations. We ask it for our common good and for the glory of Thy name. Amen.

The Journal of the proceedings of yesterday was read and approved.

FRIDAY EVENING SESSION.

Mr. POU. Mr. Speaker, I ask unanimous consent for the adoption of the following resolution. I ask the Clerk to read it.

The SPEAKER. The Clerk will report the resolution.

The Clerk read as follows:

HOUSE RESOLUTION 538.

Resolved, That on Friday, June 12, the House stand in recess from 5 o'clock p. m. until 8 o'clock p. m.; that a session be held from 8 o'clock p. m. until 11 o'clock p. m., for consideration in the House as in the Committee of the Whole of bills on the Private Calendar which are not objected to, commencing with No. 132 on said calendar.

The SPEAKER. Is there objection to the present consideration of this resolution?

Mr. FITZGERALD. Mr. Speaker, reserving the right to object, considering the slowness with which the House has been proceeding with the consideration of the sundry civil appropriation bill, I can not agree that the House shall recess at 5 o'clock in the afternoon.

Mr. POU. I will make it 5.30 or 6 or whatever hour the gentleman suggests.

Mr. FITZGERALD. Make it 6 o'clock.

Mr POU. I ask unanimous consent that the House recess at 6 o'clock instead of 5 o'clock.

The SPEAKER. The gentleman modifies his resolution by asking unanimous consent to make the recess at 6 o'clock instead of 5 o'clock.

Mr. MANN. I will object to that.

The SPEAKER. The gentleman from New York [Mr. FITZGERALD] objects to 5 o'clock, and the gentleman from Illinois [Mr. MANN] objects to 6 o'clock.

Mr. FITZGERALD. Make it 5.30.

Mr. MANN. In this kind of weather I do not think——

Mr. POU. I hope the gentleman from New York will not insist on his objection.

Mr. FITZGERALD. Mr. Speaker, I must try to get the sundry civil bill through the House, and can not consent that we spend only five hours a day in its consideration. If the gentleman will couple with the request another request that we meet at 11 o'clock on Friday——

Mr. MANN. That would not do any good.

Mr. POU. I will agree to any order that we can get through the House.

Mr. MANN. It seems to me we shall have plenty of time to take up all the bills on all the calendars before we are likely to adjourn, according to present indications.

The SPEAKER. Is there objection?

Mr. MANN. What is the request?

The SPEAKER. The request is that the House take a recess on Friday at half past 5 o'clock until 8 o'clock, and then have a session to last not later than 11 o'clock, and that at the evening session the House as in Committee of the Whole consider bills on the Private Calendar to which there is no objection.

Mr. GOLDFOGLE. I should like to inquire of the gentleman from North Carolina [Mr. POU] whether the bill No. 132, mentioned in the resolution, was the bill last taken up when we had a night session for consideration of private bills?

Mr. POU. We got to No. 132.

The SPEAKER. Is there objection?

Mr. GARNER. Reserving the right to object——

Mr. FOSTER. I hope the gentleman from Texas will not object.

Mr. GARNER. The gentleman from Texas is going to take care of himself, if the gentleman from Illinois will let him.

Mr. FOSTER. I do not desire to interfere with the freedom of action of the gentleman from Texas in the least, but I do want kindly and earnestly to request him not to object.

Mr. GARNER. It was not the intention of the gentleman from Texas to object; but the gentleman from Texas would like to ask the gentleman from North Carolina [Mr. POU] why it is that we can not take up these bills on the Private Calendar as they stand now on that calendar? I happen to have a bill on the Private Calendar to which I do not think there will be any objection, but under his proposed order it could not be reached.

Mr. POU. I will say to the gentleman that we commenced at the beginning of the Private Calendar and got down to No. 131 on the last occasion. To go back over the calendar and begin at the beginning would give the bills up to No. 132 a double opportunity, whereas from 132 to the end of the calendar the bills have had no opportunity whatever for consideration.

Mr. GARNER. After you have considered bills on the calendar from No. 132 to the end of it, will there be any chance to take up bills that were passed over at the last meeting and ask the House for unanimous consent for their present consideration?

Mr. POU. I can only express the hope that there will be such opportunity. So far as I am concerned, whenever the calendar is completed, it is my purpose to ask unanimous consent to begin at the beginning of the calendar, and I am hoping that we will have at least one or two other opportunities to consider bills on the calendar that are contested, but the gentleman knows——

Mr. MANN. A parliamentary inquiry, Mr. Speaker.

The SPEAKER. The gentleman will state it.

Mr. MANN. If this resolution is agreed to, and the House begins with Calendar No. 132 and runs through to the end of the calendar before 11 o'clock, will it not then commence at the beginning and run down as far as possible before 11 o'clock?

Mr. POU. I see nothing in the resolution to prevent that course being pursued. The resolution merely fixes the beginning point.

The SPEAKER. All that the resolution says about it is "commencing with No. 132 on said calendar." If the present

occupant of the chair should happen to be in the chair, he would rule that they had a right to go back to the beginning after they had got through with the calendar. Is there objection to the present consideration of the resolution? [After a pause.] The Chair hears none.

The resolution was agreed to.

NAVAL APPROPRIATION BILL.

Mr. PADGETT. Mr. Speaker, I wish to submit a request for unanimous consent relative to the conference on the naval appropriation bill. In some of the paragraphs of the bill there were amendments changing the amounts of specific items, but they failed to change the totals, leaving the text of the bill unchanged with reference to the total. I want the assent of the House that the conferees, wherever it is necessary, may change the totals in order to make it speak the truth.

The SPEAKER. The gentleman from Tennessee asks unanimous consent that the conferees shall have the privilege of correcting totals in the naval appropriation bill. Is there objection?

Mr. JOHNSON of Washington. Reserving the right to object, I would like to ask the gentleman from Tennessee about certain changes reported to have been made in the naval appropriation bill. I am receiving quite a large number of letters from persons in my district stating that a change has been made in the Senate by which an additional number of chaplains has been authorized.

Mr. PADGETT. There is a provision in the bill, the same as was in the House bill, that went out on a point of order in the House.

Mr. JOHNSON of Washington. Is there any way by which the House can get at that now?

Mr. PADGETT. I do not know of any.

The SPEAKER. Is there objection to the request of the gentleman from Tennessee? [After a pause.] The Chair hears none.

PENSION BILLS.

Mr. ADAIR. Mr. Speaker, I call up conference reports on the bills S. 4168, S. 4252, S. 4552, and ask that they be agreed to.

Mr. MANN. Are there any statements with the conference reports?

Mr. ADAIR. The conference reports have been printed, but there was no statement with them.

The SPEAKER. Have the conference reports been printed?

Mr. ADAIR. They have.

The SPEAKER. The Clerk informs the Chair that those reports have been agreed to.

REVISION OF THE LAWS—JUDICIARY TITLE.

The SPEAKER. This is Calendar Wednesday, and the House automatically resolves itself into Committee of the Whole House on the state of the Union, with the gentleman from Missouri [Mr. RUSSELL] in the chair.

The CHAIRMAN. The House is in Committee of the Whole House on the state of the Union for the further consideration of the bill (H. R. 15578) to codify, revise, and amend the laws relating to the judiciary, and the Clerk will read.

The Clerk read as follows:

SEC. 218. A bill of exceptions allowed in any cause shall be deemed sufficiently authenticated if signed by the judge of the court in which the cause was tried, without any seal of the court or judge being affixed thereto. And in case the judge before whom the cause has been tried is, by reason of death, sickness, or other disability, unable to hear and pass upon the motion for a new trial and allow and sign said bill of exceptions, then the judge who succeeds such trial judge, or any other judge of the court in which the cause was tried, holding such court thereafter, if the evidence in such case is taken in stenographic notes, or if said judge is satisfied by any other means that he can pass upon such motion and allow a true bill of exceptions, shall pass upon said motion and allow and sign such bill of exceptions; and his ruling upon such motion and allowance and signing of such bill of exceptions shall be as valid as if such ruling and allowance and signing of such bill of exceptions had been made by the judge before whom such cause was tried: but in case said judge is satisfied that owing to the fact that he did not preside at the trial, or for any other cause, that he can not fairly pass upon said motion and allow and sign said bill of exceptions, then he may, in his discretion, grant a new trial to the party moving therefor.

Mr. MANN. Mr. Chairman, I move to strike out the last word. In reference to section 218, I have this memorandum submitted by one of the district Federal judges as to the signing of bills of exceptions, which I would like to call to the attention of the gentleman from Louisiana.

The condition of the law as to the time when bills of exceptions shall be signed and allowed is very unsatisfactory.

The general rule is that a bill of exceptions should be signed at the term. Some terms are six months long and some are one month long. The victorious party in a suit is generally content to rest on his laurels; a defeated attorney often deliberately waits until the incidents of the trial have passed from the mind of the trial judge and then submits a grossly unfair and indeed untrue bill of exceptions. There should be a time limit upon the presentation of bills of exceptions. The writ of error must be taken to the circuit court of appeals within six months, but I have had bills of exceptions submitted to me more than a year after trial.

The section ought to read:

A bill of exceptions allowed in any cause shall be deemed sufficiently authenticated if signed by the judge of the court in which the cause was tried within four months of the rendition of the verdict, if there was one, or the entry of a final order or judgment if there was no jury. It shall not be necessary to affix to such bill of exceptions the seal of the court or judge.

Mr. WATKINS. Will the gentleman yield?

Mr. MANN. Certainly.

Mr. WATKINS. The gentleman says that the memorandum he has read is from a presiding judge.

Mr. MANN. Yes.

Mr. WATKINS. I am not surprised that he put the time at four months. No judge ought to have four months to sign a bill of exceptions. I agree with the gentleman that it is proper to fix a time limit. I think that often 10 days after the termination of the case is a sufficient time, and 30 days would be ample.

Mr. MANN. I should think myself that four months was a long time; but considering the fact that they sometimes take a year, I suppose the judge thought he was doing pretty well to cut it down to four months.

Mr. WATKINS. If the gentleman will suggest an amendment making it 30 days, I would not object to that.

Mr. MANN. I should be perfectly willing to do that, but I have not the form of the amendment.

Mr. WATKINS. Strike out the words "four months" and insert in lieu thereof "thirty days."

Mr. CULLOP. Mr. Chairman, I think 30 days is too short a time, for this reason: Sometimes the court stenographer is kept busy through the entire session of the court and has no time to prepare a transcript of the evidence. Therefore, there must be some time permitted after the term. If there is not, there will be instances in which it will be impossible to get a stenographic report of the evidence. I would suggest 60 days—that within 60 days after the adjournment of the term it shall be done.

Mr. MANN. Suppose the gentleman passes this section over at this time and prepares an amendment to the section which would put some kind of a time limit upon it.

Mr. WATKINS. Mr. Chairman, I will state to the gentleman that if that was done it would not change my opinion at all. I have had sufficient experience in the courts to know that 30 days is ample time. The suggestion of the gentleman from Indiana [Mr. CULLOP] would be practical if it was a fact that the stenographer was the one who prepared the bill of exceptions, but the lawyer in the case prepares the bill of exceptions and the judge signs it without any assistance from the stenographer whatever. It is not necessary at all.

Mr. CULLOP. But if the stenographer takes down the evidence, the evidence must be incorporated in a bill of exceptions, and no one but the stenographer can transcribe the evidence or make the longhand manuscript of his shorthand notes. Therefore in all such cases it would be impossible for any lawyer where there was a stenographer taking the evidence to make out a bill of exceptions which incorporated the evidence, and in many instances the very question that goes to the court of review is some question arising during the trial over the admission or rejection of evidence and the ruling thereon.

Mr. MANN. Why would it not be practicable to put in a limit of, say, 30 days, and then give the judge power to extend that time?

Mr. CULLOP. Mr. Chairman, I would like to make this suggestion to the gentleman: He is right on that proposition, except in many cases 30 days would not be sufficient time. Make this amendment so that it will be such time as the judge trying the case shall grant, not to exceed 90 days.

Mr. MANN. I would fix the time and give the judge authority to extend the time. There might be reasons why time ought to be extended.

Mr. CULLOP. But if the gentleman fixes it as I suggest, I think it will be satisfactory—such time as the court will grant, not to exceed 90 days.

Mr. MANN. We all agree there ought to be some kind of time limit. Lawyers ought not to be permitted to bring in a bill of exceptions without any occasion for it a year after the trial.

Mr. CULLOP. Certainly not.

Mr. BARTLETT. Mr. Chairman, may I interrupt the gentleman?

Mr. MANN. Certainly.

Mr. BARTLETT. The gentleman's amendment proposes to say that the bill of exceptions shall be filed within four months after the rendering of the decision complained of?

Mr. MANN. I did not offer an amendment. I read a suggestion which was made by one of the presiding judges in New York City to a Member of the House who is not now present, and that suggestion was that it be signed by the judge of the court in which the case was tried within four months after the rendition of the verdict, if there was a verdict, or the entry of final order or judgment, if there was no jury. Of course it would require the preparation of an amendment to go with the section that is in the bill.

Mr. BARTLETT. They now have six months?

Mr. MANN. I think there is no time limit. This judge says that he has had bills of exceptions presented to him more than a year after the trial.

Mr. BARTLETT. I take it that was because the court was in continuous session?

Mr. MANN. I think not, though that might be the case.

Mr. BARTLETT. I think myself there ought to be some time within which the bill of exceptions would have to be presented to the judge and certified, but I do not think the time should be so short as 30 days, unless it be 30 days after the adjournment of the term in which the decision complained of was rendered. For instance, take the court in my district. It is in session in my city, is never closed, from the 1st of November until some time in July or August, when the court adjourns for the year. I think we ought not leave it in the discretion of the judge to say whether he will give more time or not.

Mr. MANN. Something unusual might arise. A man might be ill or the stenographer who took the testimony might be sick or dead, and there might be some reason for granting further time.

Mr. BARTLETT. It seems to me four months or six months is plenty of time, even taking into account such a contingency.

The CHAIRMAN. The time of the gentleman from Illinois has expired.

Mr. CULLOP. Mr. Chairman, I ask for five minutes in my own time. I want to ask the gentleman from Illinois another question. There is no provision in this code as it stands now to meet this contingency. If the admission or rejection of testimony is made the cause for a new trial, and an appeal is taken upon that, I think there should be some provision made whereby the one complaining could appeal on the particular question; and while the gentleman is preparing an amendment on the subject he has presented I wish he would also be kind enough to prepare one upon that proposition, namely, where a single question has arisen over the admission or a rejection of testimony, that the person who appeals from the ruling shall not be required to take up the whole evidence in order to get a review but have certified the particular question for review and decision.

Mr. MANN. If my friend will permit me, I do not expect to prepare an amendment. On a matter of this sort I prefer to take the wisdom of the gentleman from Louisiana [Mr. WATKINS] and gentlemen working with him in the preparation of this bill as to the form of any amendment which is offered. I make my suggestion to him, and I hope my friend from Indiana will make his suggestion to him, so that whatever is done it will work in harmony with the rest of the bill.

Mr. CULLOP. I will make the suggestion, and that is this: That where a motion for a new trial assigns as an error a ruling upon some particular question of the admission or rejection of evidence the party who appeals ought not to be required to provide a transcript of all of the evidence in order to get that one question passed upon, and there ought to be some provision in this code whereby the statement of the court presenting the exact question complained of would be sufficient in order to have the appellate court review that question.

If it was not so fixed by law, the court might go off on a tangent or technicality in ruling on the question and say that perhaps there was some other evidence admitted which cured the error of which the appealing party complained. There ought to be some provision in this code whereby the court could certify the precise question to the court of appeals for decision and have an expression of the court of appeals upon the error complained of, as to whether it was or was not error. Many of the States have that kind of a provision in their statutes providing for appeal, and it works most successfully. It reduces both labor and cost in determining such controverted questions. Appeals should be made so as to conserve both labor and expense. Such a provision would be, in this respect, most advantageous. But if there is not something of that kind, then a party must take up the entire evidence in order to get the court to pass upon that question, or it will say, technically, that all the evidence is not before the court to be reviewed on the question, or, for aught the court knows, there may have been evidence that cured the error of which the party complained. That is why some provision ought to go in this code covering that question, so as to reduce the cost of appeals to the party who desires to have a question reviewed of that kind.

Mr. WATKINS. Mr. Chairman, while I do not think that 60 days is at all necessary for the purpose of allowing the judges to sign up a bill of exceptions, in view of the fact there is quite a variety of opinions among the able lawyers of this House, and in view of the fact that there is no time limit now, and that there should be a time limit, I have reluctantly given my consent, if the pro forma amendment be withdrawn, to offer an amendment for a 60-day limit.

The CHAIRMAN. The gentleman from Louisiana offers an amendment which the Clerk will report.

The Clerk read as follows:

Page 118, line 13, after the word "tried," insert "within 60 days from the rendition of the verdict or the signing of the decree by the court."

Mr. BARTLETT. Mr. Chairman, I move to amend by striking out "60 days" and inserting "four months."

The CHAIRMAN. The gentleman from Georgia offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amend the amendment by striking out the words "60 days" and inserting in lieu thereof "four months."

Mr. BARTLETT. Mr. Chairman, I have very little to say on this proposed amendment, but it seems to me that 60 days is too short a time to which to limit the filing of a bill of exceptions, especially in view of the fact there is no statute of limitation now on the statute books. A great many cases in the United States court, where exceptions are taken and filed during the trial, take quite a time to try them. I myself have seen cases tried in my own State in the United States court where it took 40 or 50 days to try a case, and you must remember that exceptions must be noted as you proceed in the trial. If the judge rules against you, as you believe, erroneously, and you desire to except to it, you have to note an exception then and there and make a record of it. The circuit court of appeals in the fifth circuit decided in a very important criminal case that you can not waive even with the consent of the prosecuting attorney, but that the record must show that the exceptions were made at the time and noted in the manner provided for by the rules of trial.

It was stated, and a contest arose about it, that the prosecuting attorney and the court had virtually agreed that the exceptions should not be presented at the time that they ought to have been and noted of record, but could be presented at the end of the trial, and because that was done by a divided court of the court of appeals it rendered a decision which committed men to the penitentiary upon a verdict of guilty. So we are passing a law here now in reference to cases that take a short time and cases that take a long time, and you say that the cases that will take three months to try or 40, 50, 60, or even 30 days to try, that you have to prepare and present your bill of exceptions within 60 days, when in all probability you will not be able to get the record of the trial from the stenographer in that time.

Mr. CULLOP. I would like to call the gentleman's attention to an instance that carries out the very argument he is presenting here. Take the dynamite trials in Indianapolis in 1912. They took over four months to try them. The stenographer could not have made out the evidence in 60 days; it was impossible.

Mr. MANN. As a matter of fact, was not that evidence written out every day and furnished the counsel in the case every night or morning?

Mr. CULLOP. Yes; but I do not know, I will say to the gentleman from Illinois about that matter, but that the stenographers would not certify to a bill of exceptions in all probability to a bill made out that way.

Mr. BARTLETT. The judge?

Mr. CULLOP. I mean the stenographer himself certifying to the correctness of the transcript of his notes, and such transcript as was made during that trial is made out for the lawyers on either side and not for the purpose of a bill of exceptions.

Mr. MANN. If they are not accurate, what are they good for? They are made for use in court at the time.

Mr. CULLOP. I do not say they were not accurate, but he will not furnish them for that use.

Mr. MANN. He will if he is paid for it.

Mr. BARTLETT. I think four months is short enough time, Mr. Chairman. It takes sometimes two or three months to

get the exact case up to the supreme court or to the appellate court. The judge has to examine the court stenographers' notes, and he is controlled by them. The judge will not follow the notes of a stenographer engaged by either party. I apprehend lawyers who appear in United States courts have had that experience—that the judge will require the notes of the official stenographer before he will certify to the exceptions or to the correctness of the statement of what transpired in the trial; but even then it is very difficult sometimes to get some judges to certify what the stenographer reports, and I apprehend men in this House who have practised law have had that sort of experience, so that for a lawyer or lawyers or parties who are engaged in a long trial for three or four weeks or months in a case shall only have this limited time in which to file these exceptions, it seems to me, is to put the parties at a disadvantage, and they ought certainly to have the time suggested by the gentleman from Illinois, as suggested by the judge in New York, who doubtless has had much experience in the matter, and I hope the amendment will be adopted.

Mr. BRYAN. Mr. Chairman, I think that to adopt the amendment of the gentleman from Georgia and just make it four months will extend the law's delay in many cases, and I do not think it is right to do it. It ought to be nearer 30 days, with right of extension on cause shown for as much as 120 days—that is, 90 days more. I believe with this the committee ought to follow the suggestion of the gentleman from Illinois [Mr. MANN], which he made a while ago from correspondence which he had, and then we will find it will make appellate procedure better.

As far as the small cases and the large cases are concerned, the practice is that the large cases, the cases involving large sums of money, are generally kept better up, and the stenographers' notes are kept better up, and the testimony transcribed more readily, than in these little cases where they do not know whether they are going to appeal or not until the very last minute. They do not know whether they are going to have the necessary funds, and it is more often these little cases that are delayed. And if you put it 120 days in all cases the finality of the judgment, or at least the effect of the judgment, is held up that long, and then after appeal for no telling how long. I know from practice in our own State courts, where we have 30 days to file a bill of exceptions, then the right of extension for the full 90 days, it takes a long time then to get a final verdict and decision. And I am sure if we extend the time of the Federal court in that way we will hurt rather than help.

Mr. PETERSON. Does the gentleman understand the granting of the time delays the entering of the final judgment?

Mr. BRYAN. It does not.

Mr. PETERSON. Does it delay the procedure in any way?

Mr. BRYAN. It does not delay the execution the minute the judgment is rendered. But if you desire to appeal, attorneys are courteous to each other, agreements are made, and all of those matters are involved—it causes delay. And after notice of appeal is given the time continues to run. I recognize the fact that execution can issue on a judgment unless a supersedeas bond is filed.

The CHAIRMAN. The question is on agreeing to the amendment.

The amendment was agreed to.

The CHAIRMAN. The question is on the amendment as amended.

The amendment as amended was agreed to.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

SEC. 223. In equity and admiralty causes only the process, pleadings, and decree, and such orders and memorandums as may be necessary to show the jurisdiction of the court and regularity of the proceedings shall be entered upon the final record.

Mr. BRYAN. Mr. Chairman, I would like to ask if that word "memorandums" is right. Ought not that to be "memoranda," the plural of memorandum? Is there any such word as "memorandums"?

Mr. WATKINS. I will see if there is.

Mr. BRYAN. I will pass it over. I merely suggested it.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

SEC. 229. Upon all bonds on which suits are brought for the recovery of duties, interest shall be allowed at the rate of 6 per cent a year from the time when said bonds became due.

Mr. MANN. Mr. Chairman, I move to strike out the last word. Would the gentleman have any objection to making that 5 per cent instead of 6 per cent?

Mr. WATKINS. I have not any objection even to the 4 per cent, to conform to the other provisions in this codification, but 5 per cent would be a reasonable amount.

Mr. MANN. Six per cent was fixed——

Mr. WATKINS. It was fixed when interest was high. I have no objection to the change.

Mr. MANN. Mr. Chairman, I move to strike out the word "six," in line 14, and insert the word "five."

The CHAIRMAN. The gentleman from Illinois offers an amendment, which the Clerk will report.

The Clerk read as follows:

Page 124, line 14, strike out the word "six" and insert in lieu thereof the word "five."

The CHAIRMAN. The question is on agreeing to the amendment.

The amendment was agreed to.

The Clerk read as follows:

SEC. 230. In all suits for balances due to the Post Office Department, interest thereon shall be recovered from the time of the default at the rate of 6 per cent a year.

Mr. CULLOP and Mr. MANN rose.

The CHAIRMAN. The gentleman from Indiana [Mr. CULLOP] is recognized.

Mr. CULLOP. Mr. Chairman, I move that the word "six," in line 18, be stricken out and the word "five" inserted in lieu thereof, so as to conform to the other amendment just passed.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Page 124, line 14, strike out the word "six" and insert in lieu thereof the word "five."

The CHAIRMAN. The question is on agreeing to the amendment.

The amendment was agreed to.

The Clerk read as follows:

SEC. 231. In suits upon debentures issued by the collectors of the customs under any act for the collection of duties, interest shall be allowed at the rate of 6 per cent per annum from the time when such debenture became due and payable.

Mr. CULLOP. Mr. Chairman, I move to strike out the word "six," in line 21, and insert the word "five," so as to conform to the amendments already adopted.

The CHAIRMAN. The question is on agreeing to the amendment.

The amendment was agreed to.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

SEC. 232. Interest shall be allowed on all judgments in civil causes, and may be levied by the marshal under process of execution issued thereon in all cases where, by the laws of the State in which such court is held, interest may be levied under process of execution on judgments recovered in the courts of such State; and it shall be calculated from the date of the judgment, at such rate as is allowed by law on judgments recovered in the courts of such State.

Mr. CULLOP. Mr. Chairman, I move to strike out the last word, for the purpose of asking the chairman of the committee a question on the subject of suits on bond. Is there any provision in this act presented here with reference to the service of process in suits by the Government upon official bonds?

Mr. WATKINS. I believe it is regulated in conformity with the laws of the State in which the judgment is rendered.

Mr. CULLOP. I wanted to ask the chairman if there is a provision in here which provides that in case any judgment is rendered in a suit brought upon an official bond, it shall become a lien upon the property of all of the defendants from the date of the service of the process?

Mr. WATKINS. I do not know about the date of the service of the process, but it shall become a lien upon it in conformity with the laws of the State. Where a judgment is rendered in a State, the law applying in that State on State obligations applies also to the United States obligation.

Mr. CULLOP. Then there is a provision here that the statutes regarding the time of becoming liens in judgments of that kind shall be the same as in the States?

Mr. WATKINS. As in the States.

Mr. CULLOP. So that if the statute of some State so provided in the event of judgment being rendered against the principal and surety on an official bond, the judgment shall become a lien from the date of the service of the process if the State where the suit is prosecuted has such a statute?

Mr. WATKINS. That is my opinion about it.

Mr. CULLOP. In my State we have a statute of that kind, and it is found very advantageous in suits upon public bonds, because in many instances after suit is brought, and the service of process, and before judgment is rendered, the surety or even the defendant might convey his property for full value, and wherever judgment is rendered it becomes a lien from the date of the process, irrespective of any conveyances during the meantime. It is a very salutary provision in regard to the collection of these judgments.

The CHAIRMAN. The pro forma amendment will be withdrawn. The Clerk will read.

The Clerk read as follows:

SEC. 234. The provisions of section last preceding, so far as applicable, shall apply throughout the United States for the arrest and removal therefrom to the Philippine Islands of any fugitive from justice charged with the commission of any crime or offense against the United States within the Philippine Islands, and shall apply within the Philippine Islands for the arrest and removal therefrom to the United States of any fugitive from justice charged with the commission of any crime or offense against the United States. Such fugitive may, by any judge or magistrate of the Philippine Islands, and agreeably to the usual mode of process against offenders therein, be arrested and imprisoned, or bailed, as the case may be, pending the issuance of a warrant for his removal to the United States, which warrant it shall be the duty of a judge of the court of first instance seasonably to issue, and of the officer or agent of the United States designated for the purpose to execute. Such officer or agent, when engaged in executing such warrant without the Philippine Islands, shall have all the powers of a marshal of the United States so far as such powers are requisite for the prisoner's safe-keeping and the execution of the warrant. The provisions of sections three hundred and seventy-one and three hundred and seventy-two, so far as applicable, shall apply to the Philippine Islands, which, for the purposes of said sections, shall be deemed a Territory within the meaning thereof.

Mr. WATKINS. Mr. Chairman, there is a word "the" left out, which I wish to have inserted.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Page 127, line 9, after the word "of" insert the word "the."

The CHAIRMAN. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. MANN. Mr. Chairman, I move to strike out the last word.

The CHAIRMAN. The gentleman from Illinois moves to strike out the last word.

Mr. MANN. Mr. Chairman, this section covers extradition to the Philippine Islands. I do not know that it is necessary, but I was going to ask whether there is any provision in the bill anywhere that would cover extradition between the Canal Zone and the United States?

Mr. WATKINS. Yes.

The CHAIRMAN. The pro forma amendment will be withdrawn. The Clerk will read.

The Clerk read as follows:

SEC. 237. Warrants of arrest for violation of internal-revenue laws may be issued by United States commissioners upon the sworn complaint of a United States district attorney, assistant district attorney, collector or deputy collector of internal revenue, or revenue agent, or private citizen; but no such warrant of arrest shall be issued upon the sworn complaint of a private citizen unless first approved in writing by a United States district attorney.

Mr. BRYAN. Mr. Chairman, I would like to ask a question here. Why at this time provide that exception in violations of internal-revenue laws, that private citizens can not complain without the complaint is first approved by the district attorney? That is, one can not be sued until a district attorney, who is perhaps quite a long distance away, approves. Now, that offense of selling liquor in violation of the internal-revenue laws has become a more common thing than formerly, or perhaps the situation is somewhat different from what it was when that was enacted.

Mr. WATKINS. All the United States district attorneys have assistants, and it might be well to put after the words "district attorney" the words "or assistant district attorney."

Mr. MANN. They are in here.

Mr. WATKINS. It is not thought advisable that people who may be prejudiced or interested in having a person arrested should be permitted to cause them to be jerked up without the knowledge of the prosecuting officer. Any prejudiced citizen might prefer a complaint and have a warrant issued and have a citizen arrested; and it is proposed that some one having authority shall first approve, and the district attorney is supposed to be the one having the authority to pass upon the matter before the arrest is made.

Mr. BRYAN. I shall not insist, but it does not obtain as to other crimes—for instance, petty larceny or any other kind of an offense is not subject to the reservation. If the gentleman wants it left as it is I shall not insist.

Mr. WATKINS. Probably there is more prejudice in that class of cases than any other, and that may be the reason why the clause was enacted to begin with.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

SEC. 240. The defendant may, in the place of giving bail, deposit with the clerk of the court to which the defendant is held to answer, the sum of money mentioned in the order; and upon delivering to the marshal the certificate of deposit, who shall execute a receipt therefor, may be discharged from custody. The money so deposited shall be subject to forfeiture upon the failure of the defendant to comply with the order of the court.

Mr. BRYAN. Mr. Chairman, I desire to ask a question there as to these last words, "comply with the order of the court." Now, where a cash bond is put up for the appearance of a defendant, and he appears and is tried and is fined, is it legitimate to put him in a position where he can not obtain a bail bond for appearance without the money is subject to the orders of the court after conviction, which means if he is fined they will take that money? I think if he appears and is fined, then the bail money ought to be returned to the bondsman, and I think that ought to be only bail money. Of course, if the money belongs to the defendant, it is subject to the judgment.

I have seen in many cases in smaller jurisdictions the money taken to pay the fine. That is what they do in our city courts; but in a Federal court, if a man is arrested and can get somebody to deposit cash as security for his appearance for trial, when the trial is over the money should be refunded to the person who put it up and not be subject to the order of the court at all; a defendant might get a bail bond if the money is not liable to pay the fine where he could not if the money was held subject to the order of the court. I move to strike out the words "comply with the order of the court" and insert "appear at all times under order of the court."

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Page 130, lines 12 and 13, strike out the words "comply with the order of the court" and insert "appear at all times under the order of the court."

Mr. MANN. Mr. Chairman, I would like to ask the gentleman from Washington what, in his judgment, is the meaning of the next section, where it reads, "If money has been deposited instead of giving bail, and the defendant, at any time before the forfeiture thereof, shall give sufficient special bail, or shall surrender himself in open court or to the marshal," and so forth, "the court shall order a return of the deposit to the defendant"?

Mr. BRYAN. I think that refers to a surrender before trial, and I think that it carries out the theory I have suggested as obtaining as to section 240.

Mr. MANN. Does not that apparently provide—I ask for information—that if a man has given special bail by deposit of money, and at the trial he appears in court in person, the bail is ordered returned to him?

Mr. BRYAN. It says, in line 17 of the section read by the gentleman from Illinois, "or be in any manner discharged."

Mr. MANN. That is in the alternative; that is, "or be in any manner discharged." But it reads before, "or shall surrender himself in open court or to the marshal." Now, when a man does surrender himself, is he not entitled to the return of the deposit?

Mr. BRYAN. I would not think that any court would surrender it. If convicted, he at once comes under the jurisdiction of the court. It is too late to surrender after conviction.

Mr. MANN. It is not too late to surrender if he is there.

Mr. BRYAN. After conviction he can not refuse to surrender. I think that that is only an appearance bond. I do not believe that it ought to be subject to the order of the court, at least when the money does not belong to the defendant.

Mr. WATKINS. Mr. Chairman, the next section is intended to cover and protect the very point that is made in the amendment, and it is entirely unnecessary to pass amendments and have them added to the bill when the bill already covers the points to which objection is raised. The next section, section 241, sufficiently and thoroughly covers that, and was intended to cover it. I do not think the amendment ought to prevail and have the bill loaded down with unnecessary amendments.

The CHAIRMAN. The question is on agreeing to the amendment.

The question was taken; and the Chairman announced that the ayes seemed to have it.

Mr. WATKINS. Mr. Chairman, I ask for a division.

The CHAIRMAN. A division is demanded.

The committee divided; and there were—ayes 2, noes 14.

So the amendment was rejected.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

SEC. 241. If money has been deposited instead of giving bail, and the defendant, at any time before the forfeiture thereof, shall give sufficient special bail, or shall surrender himself in open court or to the marshal, or be in any manner discharged, the court shall order a return of the deposit to the defendant.

Mr. BRYAN. Mr. Chairman, reserving a point of order on this section, if we can amend after the word "discharged." in that section, line 18, so as to make it read "or be in any manner discharged, or upon surrendering himself after conviction," that would cover the point that I want, and will make it plain that after conviction the bail money may be returned, so that

the Federal judge can not give an order that the bail money be held until the fine is paid and thereby make it harder for a man to get the bail that he seeks—if the gentleman will agree to that amendment, I think it will be an improvement to the section.

Mr. WATKINS. I do not like to load down the bill with unnecessary amendments. The language is so clear and overwhelming in its import that I do not think there can be any possible doubt about it. It says if he shall surrender himself in open court or to the marshal, or be in any manner discharged. The proposition submitted by the gentleman is intended to be covered by the language in section 241.

Mr. BRYAN. I think it is not covered. I think the gentleman is mistaken.

It seems plain to me that if the money is left with the court, to follow the order of the court, it ought not to be returnable only upon the discharge of the defendant.

The CHAIRMAN. Does the gentleman insist on his point of order?

Mr. BRYAN. I will not insist upon it if the gentleman who has charge of the bill thinks that the matter is sufficiently covered.

The CHAIRMAN. The gentleman from Washington withdraws his point of order.

Mr. HUMPHREY of Washington. Mr. Chairman, I move to strike out the last word. I simply call attention to the fact that something occurred a few moments ago that has not occurred since I have been a Member of this House, as far as I know. Just now there were only two Democrats present. I was wondering what had become of that distinguished patriot from Illinois, Mr. BUCHANAN, who had been saying that it was the duty of Members to be present and attend to business and making a point of no quorum every few minutes.

Mr. MURDOCK. Possibly he is resting up until to-morrow. [Laughter.]

Mr. HUMPHREY of Washington. And also that distinguished statesman from Connecticut, Mr. DONOVAN, I notice is absent.

Mr. TAYLOR of Colorado. My friend ought in the same connection to state how many Republicans there were on the floor.

Mr. HUMPHREY of Washington. There were about five times as many Republicans as there were Democrats, and there were more Progressives that there were Democrats.

Mr. TAYLOR of Colorado. There were only six or seven Republicans.

Mr. HUMPHREY of Washington. Oh, there were more than 10.

Mr. MURDOCK. Will the gentleman yield?

Mr. HUMPHREY of Washington. Certainly.

Mr. TAYLOR of Colorado. I should like to ask the gentleman from Washington how long he has been in the Hall?

Mr. HUMPHREY of Washington. Long enough to see that there were only two Democrats present.

Mr. TAYLOR of Colorado. The gentleman has not been here very long.

Mr. BRYAN. The gentleman from Illinois, Mr. BUCHANAN, told me he was going to New York to-day, and that he did not intend to make any trouble on Calendar Wednesday. So if his patriotism is along that line, he ought to get the credit of it.

Mr. HUMPHREY of Washington. Perhaps his patriotism has oozed out by this time.

Mr. MANN. I think the gentleman ought to have stated—although it is wholly unnecessary now—that the Progressive Party was represented on the floor by the same number of Members as the Democratic Party; but the two Members of the Progressive Party have shown that they are here, and I am not sure that the two Members of the Democratic Party have given any such oral demonstration of their presence. The gentleman from Colorado [Mr. TAYLOR] was not one of them.

Mr. TAYLOR of Colorado. Oh, yes; I was here.

Mr. MURDOCK. The gentleman from Illinois [Mr. MANN] will recognize that we are strong on percentages, at that.

Mr. MANN. Yes; I am complimenting you.

Mr. BRYAN. The gentleman, as usual, was discounting the Progressive Party at about 50 per cent of its real strength. We have three Members present—the gentleman from California [Mr. STEPHENS], the gentleman from Kansas [Mr. MURDOCK], and myself.

Mr. MANN. The gentleman from California has just come in. He has his hat in his hand.

Mr. BRYAN. If he has his hat in his hand, he counts for just that much more. That makes just that much more of him.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

SEC. 242. Any party charged with a criminal offense and admitted to bail may, in vacation, be arrested by his bail, and delivered to the marshal or his deputy, before any judge or other officer having power to commit for such offense; and at the request of such bail, the judge or other officer shall recommit the party so arrested to the custody of the marshal, and indorse on the recognizance, or certified copy thereof, the discharge and exoneratur of such bail; and the party so committed shall therefrom be held in custody until discharged by due course of law.

Mr. TOWNER. Mr. Chairman, I move to strike out the word "the" in line 22, page 130, and to insert in lieu thereof the words "any United States."

The CHAIRMAN. The gentleman from Iowa offers an amendment, which the Clerk will report.

The Clerk read as follows:

Page 130, line 22, strike out the word "the" and insert the words "any United States."

The CHAIRMAN. The question is on the amendment.

Mr. MANN. Mr. Chairman, I should like to ask the gentleman with reference to that. Under the existing law if a defendant's bail goes after him and captures him at some distant point, at whose expense is the defendant to be returned to the district where he is under indictment?

Mr. TOWNER. I can not answer that question; but the gentleman will see that the object of this is that the process may issue and the arrest may be made by any United States marshal in any part of the United States.

Mr. MANN. I do not so understand it. This says—

Any party charged with a criminal offense and admitted to bail may, in vacation, be arrested by his bail, and delivered to the marshal or his deputy.

Take the case of a man who is arrested in Texas and who furnishes bail to appear at the trial in Texas. Then he flees to Canada, and when he gets up in the State of Washington he is captured by his bail. Now, is it the duty of the United States to pay the expense of returning him, or is it the duty of his bail to return him?

Mr. TOWNER. It is true that the person who is thus arrested ought not to be placed or continued in the custody of an individual at whose instance he may be arrested and continue in the custody of that individual clear across the United States. The object of this is to put him in charge of any United States marshal that may be, for instance, in California and transport him to New York, where he is wanted.

Mr. MANN. It seems to me that it is merely a matter of expense. A man who has given bail to appear in Maine and who gets to California, if the surety can surrender him to the marshal in California, of course his bail has nothing more to do with it. The question is whether the giving of a bail bond in the first instance, guaranteeing to the Government the appearance of the man at the trial court at the proper time, shall be at the expense and risk of the bail, or whether the General Government takes the risk and expense. Because it is quite certain that while this would not require the bail to turn him over to any marshal, as a rule the bail would do that if he could avoid the expense of transporting the alleged criminal back where he was wanted.

Mr. TOWNER. I think the gentleman is correct in regard to that. The only question is whether it is not better in the administration of justice that he should be placed in the custody of the United States authority rather than continue in the custody of the individual. Mr. Chairman, I ask for a vote.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Iowa.

The question was taken, and the amendment was rejected.

The Clerk read as follows:

SEC. 244. When any recognizance in a criminal cause, taken for, or in, or returnable to, any court of the United States, or any money deposited with the clerk thereof, is forfeited by a breach of the condition thereof, such court may, in its discretion, remit the whole or a part of the penalty, whenever it appears to the court that there has been no willful default of the party, and that a trial can, notwithstanding, be had in the cause, and that public justice does not otherwise require the same penalty to be enforced.

Mr. TOWNER. Mr. Chairman, I offer an amendment, following the word "penalty," in line 19, by inserting the words "forfeiture or judgment therefor."

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Page 31, line 19, after the word "penalty," insert the words "forfeiture or judgment therefor."

The question was taken; and on a division (demanded by Mr. TOWNER) there were 6 ayes and 10 noes.

So the amendment was rejected.

Mr. TOWNER. Mr. Chairman, I offer another amendment, following the word "had,", in line 22, to insert "or has been

had," so that it will read "and that a trial can, notwithstanding, be had or has been had in the cause."

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Page 31, line 22, after the word "had," insert the words "or has been had."

Mr. MANN. Mr. Chairman, I would like to ask the gentleman a question.

Mr. TOWNER. Certainly.

Mr. MANN. The gentleman is authority in such matters, but the language is "and that a trial can notwithstanding be had in the cause," and if the amendment is adopted it will read "a trial can notwithstanding be had or has been had in the cause."

Mr. TOWNER. The language may not be in the best form, but the gentleman will see that it is for the purpose of making available the same rights upon judgment that has been had, as might exist on a judgment that was to be procured. I think this would be sufficient.

The CHAIRMAN. The question is on the amendment.

The question was taken; and on a division (demanded by Mr. TOWNER) there were 9 ayes and 12 noes.

So the amendment was lost.

The Clerk read as follows:

SEC. 245. All criminal prosecutions shall be in the name of the United States of America.

Mr. MANN. Mr. Chairman, I move to strike out the last word. Of course, I do not expect the few remarks I make to get to the attention of gentlemen who lie concealed in the catacombs of the House. A few moments ago somebody called attention to the very large attendance on the floor of the House, but whoever did so could not have seen through the walls and seen where the Democratic Party lies concealed.

However, I did not rise for the purpose of discussing that matter, humorous as it may be. It must strike anyone who visits the House as peculiar, where one gentleman in charge of the bill sits on the floor and votes "no," and a majority of those in their seats vote "aye," and the gentleman wiggles his thumb and out of the bowels of the earth a certain number of other distinguished gentlemen come in and vote as the gentleman in charge of the bill wiggles his thumb. I rose for the purpose of calling attention to another matter as an incident.

The bill provides that all criminal prosecutions shall be in the name of the United States of America. Somebody asked me recently, "What is the name of a citizen of the United States when you want to refer to him with an adjective?" We refer to a resident of Canada as a Canadian, to a resident of France as a Frenchman, to a resident of England as an Englishman, and to a resident of Germany as a German, and so forth, and so on. I think that ordinarily we refer to the citizens of the United States as Americans, although, of course, we are not the only Americans.

I took the matter up with the State Department for the purpose of ascertaining what the diplomatic usage was. While I believe they have not yet reached the point where an American is described as an American with the use of the word as a noun, they have reached the point where they use it as an adjective. A gentleman from the United States who is a citizen of the United States is referred to as an American gentleman, or an American woman, or an American lady, and I think no one takes any exception to that. Possibly in the course of time we will get to the point where everybody will acknowledge that we are entitled to use the word "American." I say "possibly," because if the present administration continues in power very long we will probably be called English, in view of the attitude of the administration where we have to ask England what we can do in our own local affairs.

Mr. WATKINS. Will the gentleman yield for a question?

Mr. MANN. I will.

Mr. WATKINS. Does the gentleman think that with Central America and South America it would be entirely acceptable to use language without saying "United States of America"?

Mr. MANN. I did not say "America." I said "American."

Mr. WATKINS. Either.

Mr. MANN. How would the gentleman, if he went to South America, describe himself?

Mr. WATKINS. I would say, "I am a citizen of the United States of America."

Mr. MANN. Oh, that is a very long phrase. Nobody in the world ever described people of a foreign country in that manner.

Mr. WATKINS. I have always been very proud of it.

Mr. MANN. "A citizen of the United States of America." Of course we are all proud of that; but the gentleman would not say "A United Statesman." If he were referring to a citizen of Brazil, he would say "Brazilian"; and if he were referring to a citizen of the Republic of Panama, he would say "A Panaman"; and if he were referring to himself, he would say he was an American. Short titles go everywhere in the world. They have to. If we do not give a short title to ourselves, some one else will.

Mr. BARTHOLDT. Mr. Chairman, will the gentleman yield?

Mr. MANN. Certainly.

Mr. BARTHOLDT. There is a movement on foot in the United States to eliminate the word "English" in connection with the language. That is, a great many people are in favor of designating the language which we speak not as the English language but as the American language. I want to ask my friend, the distinguished gentleman from Illinois, in whose judgment I have great confidence, whether such a change, which I believe everyone within the hearing of my voice would approve, could be made by the simple introduction of a bill and the passage of a law by the two Houses of Congress?

Mr. MANN. Mr. Chairman, there is a great deal of difference between the introduction of a bill and the passage of a law. It would be easy to introduce a bill on that subject, but I am quite confident nobody in our day will pass a law to change the title of the language which we speak.

Mr. BARTHOLDT. Does not the gentleman believe that there is enough American sentiment in the House and the Senate to simply say that henceforth the language which we speak shall be known as the American language rather than the English language?

Mr. MANN. Oh, I do not believe so; but if such a bill were passed, it would not make any change in it.

Mr. COOPER. Mr. Chairman, will the gentleman permit a suggestion?

Mr. MANN. Certainly.

Mr. COOPER. Would he want it to be known as the North American language or the South American language? There are two Americas.

Mr. MANN. Irrespective of that, we might name it ourselves; but that would not change what people would call it. It would be the English language everywhere else in the world. It would be like changing the weights and measures, which we did officially many years ago; and I dare say there is not a man in the House who can give the metric scale of weights and measures without examination.

The Clerk read as follows:

SEC. 248. The indictment or information must contain the title of the action, the name of the court in which the same is filed, the names of the parties, and a statement of the facts constituting the offense, in ordinary and concise language, and in such manner as to enable a person of common understanding to know what is intended. It may be substantially in the following form:

The United States of America against A. B. In the district court of the United States for the ——— division of the ——— district of ———, 19—. A. B. is accused by the grand jury of the ——— division of the ——— district of ——— by this indictment (or by the United States attorney of said district by this information) of the crime of (giving its legal appellation, such as murder, arson, or the like, or designating it as a felony or misdemeanor), committed as follows: The said A. B., on the ——— day of ———, 19—, at ——— in the said division (or the said district; or at ———, a place within the jurisdiction of the United States and in said division or district; or on board a certain vessel owned in whole or in part by the United States, or by a citizen of the United States, or by a corporation created under the laws of one of the States of the United States, called ———, out of the judisdiction of any particular State or district, said district being the district where the defendant was found, or in which he was first brought), did (here set forth the act or omission charged as an offense), contrary to the form of the act of Congress in such case made and provided, and against the peace and dignity of the United States of America.

Mr. TOWNER. Mr. Chairman, I have an amendment to offer, following the word "filed," in line 10, on page 32, to insert the words "the date of the offense," so that, among other things required in the indictment shall be the requisite that it shall state the date of the offense. I presume likely that has been omitted inadvertently. It certainly ought to be included.

Mr. WATKINS. Mr. Chairman, it was not omitted inadvertently. The general law covers the point, that any case stated within a year is all that is necessary. If it is a capital offense, no time limit runs against it. It is impossible in a great many crimes to name the date. Often in the case of murder it is a long time before people find the man is dead, and it is often impossible to name definitely when an offense was committed. If we should pass such an amendment it might hamper the court very much in requiring the specific date to be set up. Take the case of embezzlement or larceny or robbery or murder. Of course in robbery the date is ordinarily known, but there are other offenses where the dates are not absolutely known, and if it is proven any time within a year or six months, where there is a limit of six months, it is held in law to be sufficient.

Mr. TOWNER. Mr. Chairman, I did not suppose that anybody would seriously contend that an indictment could be complete or ought to be considered complete or that anybody ought to be placed on trial under an indictment that did not allege a date. It would be impossible to determine whether it was within the statute of limitations unless the date were alleged. Under the law as it now exists, and as it is interpreted by the courts, it is not necessary to confine the proof to the specific date that is alleged in the indictment, but certainly I never heard it before argued that an indictment might omit charging the date of the offense.

Mr. WATKINS. Mr. Chairman, will the gentleman yield?

Mr. TOWNER. Yes.

Mr. WATKINS. The gentleman will notice in the form prescribed there that the date in general is named. It does not mean the exact date on which the offense is committed, but there must be an open space; it must be committed on or about a certain date.

Mr. TOWNER. I intended to call the gentleman's attention to the fact that the allegation of the first part of the section 248 *did not conform* to the form that he himself has inserted later. It certainly seems to me that the date ought to be one of the things stated in the indictment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Iowa.

The question was taken, and the amendment was rejected.

Mr. TOWNER. Mr. Chairman, I offer the following amendment:

After the word "intended," in line 13, insert the words "and to identify the acts charged as a crime."

So that the language of the section will read that this statement of fact shall be in ordinary and concise language—

and in such manner as to enable a person of common understanding to know what it intended and to identify the acts charged as a crime.

Of course in every allegation of the commission of a crime it is not only necessary to specify that the defendant is charged with the crime, but it is also necessary in an indictment to state what the particular acts are that constitute the crime. It is omitted in this statement of the requisites of the indictment, and it should be at least sufficiently stated to identify the acts charged as a crime with the charge itself.

Mr. WATKINS. Mr. Chairman, we are now dealing with the form of indictment, the general outline of it, not in its specific or definite form, which is required in all indictments, but the outline, and in that outline the very idea intended to be conveyed by the gentleman is fully expressed. The gentleman will see it here in different parts of section 248. Now, in line 8, page 133, I want to call attention to another place that sets it forth very clearly, where it says, "here set forth the act or omission charged as an offense." We are still dealing with section 248, which the gentleman is seeking to amend. I think the gentleman's amendment is superfluous, tautological, and unnecessary.

Mr. TOWNER. Let me call the gentleman's attention to this fact that this part on page 133 of the section has reference to things that must be included in the indictment; that is the form of the indictment, whereas the same language is omitted in the statement of the substantive parts or requisites of the indictment. Ought not that to be included in order to make it conform to the other form made specific?

Mr. WATKINS. We are enacting a law, and one of the requirements of the law we are enacting is that the evidence must be substantively set forth in the indictment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Iowa.

The question was taken, and the amendment was rejected.

Mr. TOWNER. Mr. Chairman, on page 133, line 9, following the word "offense," insert the words, within the part which is included in the parentheses, "in the form of allegations of fact and not merely in the general language of the statute."

The object of that, Mr. Chairman, is to make it plain and clear that the facts are charged which it is alleged constitute the offense. It is true it says "here set forth the act or omission charged as an offense"; that might be done in the general language of the statute, but it should go further and specify what the particular acts are which constitute the offense in the general language that is used in the section of the statute. I think that is the general requirement, and it is necessary not only for the benefit of the defendant in order that he may know what the crime is with which he is charged, but it is necessary that the court should know it in order to pass upon a demurrer or other question that might arise as to the sufficiency of the indictment.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Page 133, line 9, after the word "offense," within the parentheses, insert the words "in the form of allegations of fact, and not merely in the general language of the statute."

The question was taken, and the amendment was rejected.

Mr. MANN. Mr. Chairman, I move to strike out the last word. I would like to ask the gentleman whether this section in reference to indictment and form of indictment is supposed to simplify criminal proceedings?

Mr. WATKINS. Yes; that is the object of it; one object of it. Another object is to enable the district attorneys who are very careless, or some few of them who may happen to be ignorant and do not know how to write an indictment so it will stand. It was thought best to give some general idea as to the form of the indictment, so that when a district attorney first entered upon the discharge of his duties, a new man coming into office, there will be some general idea about what the form of the indictment should be. Some district attorneys write them in a very loose way, and it is thought best to furnish an idea of the form, so that a case would not be dismissed on account of a laxity of the indictment.

Mr. MANN. What law gives the form of indictment now in United States courts?

Mr. WATKINS. There is no particular law which gives the form, except the law which designates what shall be incorporated in an indictment set forth in Blackstone and Archbold and other authors on criminal law. There are forms, however, submitted by various authors suggesting certain designated forms, but there is no law covering the proposition so far as I recall.

Mr. MANN. I believe they have printed forms.

Mr. WATKINS. Yes; they are used nearly everywhere.

Mr. MANN. I believe the Department of Justice has a man in its employ who used to be one of our district attorneys in Chicago who was supposed to be very expert in preparing these complicated indictments in some of the trust cases and such matters—I am not sure.

Mr. WATKINS. The district attorneys have forms already prepared. Some few do not, and those who do not are sometimes negligent in preparing indictments in proper form.

The Clerk read as follows:

SEC. 250. No indictment found and presented by a grand jury in any district or other court of the United States shall be deemed insufficient, nor shall the trial, judgment, or other proceeding thereon be affected by reason of any defect or imperfection in matter of form only, which shall not tend to the prejudice of the defendant.

Mr. TOWNER. Mr. Chairman, I move to insert a comma following the word "imperfection," line 24, so that the phrase "in matter of form only" shall be set forth, as it ought to be, grammatically.

Mr. WATKINS. Before that amendment is reported——

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Page 133, line 24, insert a comma after the word "imperfection."

Mr. WATKINS. I would like to have time to refer back to the original statute to see whether this is an innovation or whether it has been carried that way all the time. The statute was enacted in June, 1872, and it has stood the test since that time. I have not had an opportunity yet to concentrate my thoughts sufficiently on the question to know whether it makes any material difference or not, but in the hurry of the moment I prefer not to change the punctuation in the bill for fear it might make some material difference. Right on the spur of the moment, at first blush, I would say it would make no material difference; but the statute has stood the test since 1872, and I see no particular objection to it remaining as it is. I do not know the object of putting a comma here, and I do not see what practical purpose it would serve, and for that reason I shall object to it.

The question was taken, and the amendment was rejected.

The Clerk read as follows:

SEC. 269. Within five days after a plea of guilty or the rendition of a verdict of guilty by the jury, and during the same term of court, unless the defendant moves for a new trial or in arrest of judgment, and in that case within five days after the overruling of such motion, the court shall pronounce the judgment provided by law. And the court thereafter shall not suspend the sentence, or the execution thereof, except in such cases as are expressly provided for by the laws of the United States. A person sentenced to imprisonment, either in a jail or penitentiary, unless the execution of the sentence be suspended as hereinbefore provided, shall be ordered by the court into the custody of the marshal, who shall deliver him to the sheriff, jailer, warden, or other proper officer, in whose custody he shall remain in such jail or penitentiary until the term of his confinement expires or he is pardoned or otherwise legally discharged.

Mr. TOWNER. Mr. Chairman, I move to strike out in line 16, on page 140, the words "within five days"; and if that

shall be approved by the committee, I shall also move to strike out of lines 18, 19, and 20 the words "unless the defendant moves for a new trial, or in arrest of judgment, and in that case within five days after the overruling of such motion," so that the sentence will read:

After plea of guilty or the rendition of a verdict of guilty by the jury, and during the same term of court, the court shall pronounce the judgment provided by law.

I want consideration now only for the "five days."

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amend, page 140, line 16, by striking out the words "within five days."

Mr. TOWNER. That is a very serious innovation on the present law, and I think, Mr. Chairman, it will prove a dangerous one. There are many instances where it will be practically impossible for the court to render judgment in case of the sickness of the defendant or for other reasons of that character. Besides that, the judge himself will very frequently be required to make an investigation regarding the circumstances in order to enable him to properly perform his duty in the infliction of a sentence. He can not and ought not to be limited to five days in order to do this. If it shall be done at any time during the term of court that is a sufficient limitation. I can conceive of no reason why the arbitrary period, and especially the short period of five days, should be placed as a limitation in the infliction of a punishment. I do not think it is necessary for me to say anything else in regard to the matter. It seems to me it should appeal to anyone.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Iowa [Mr. TOWNER].

Mr. MANN. Mr. Chairman, I would like to ask the gentleman from Louisiana [Mr. WATKINS] where this notion of the five days came from, if I may?

Mr. WATKINS. That is simply suggested by the commission which was authorized to codify the law.

Mr. MANN. Take a case where a man pleads guilty, and under this, if sentence was not pronounced in five days, would he then be able to sue out a writ of habeas corpus on the ground that the court had lost jurisdiction to pronounce sentence?

Mr. WATKINS. I think not.

Mr. MANN. Why not?

Mr. WATKINS. I do not object to the 5 days being stricken out. It probably ought to be 10 days, or we might leave no time in. It is during that term of court.

Mr. MANN. During that term of court.

Mr. WATKINS. I think that is all right.

The CHAIRMAN. The question is on agreeing to the amendment of the gentleman from Iowa.

The question was taken, and the amendment was agreed to.

Mr. TOWNER. Now, Mr. Chairman, I would like to call the attention of the chairman to this further language. I am not yet sure just what ought to be done with that, and I will ask unanimous consent to return to this section for the purpose of changing that, if it may be deemed just to do so.

The CHAIRMAN. Does the gentleman offer an amendment?

Mr. TOWNER. No. I ask unanimous consent to return to this section in case I deem it necessary to offer an amendment to it. I refer to section 269.

The CHAIRMAN. The gentleman wants to ask unanimous consent to return to it hereafter?

Mr. TOWNER. Yes, sir.

Mr. WATKINS. Reserving the right to object, I will be very glad if the gentleman would give some reason for it. I would dislike very much to defer action unless there is some particular reason for it.

Mr. TOWNER. The reason is simply this, that I thought at first blush that the words in lines 18, 19, and 20 also ought to be stricken out, namely:

Unless the defendant moves for a new trial or in arrest of judgment, and in that case within five days after the overruling of such motion.

Mr. WATKINS. I do not think so.

Mr. BRYAN. I suggest to the gentleman that he modify his request that he may return to it sometime to-day, and if he does not return to it to-day it will be out of order to do it next Wednesday.

Mr. TOWNER. It occurs to me that the only language that ought to be retained here in section 269 is this:

After a plea of guilty or the rendition of a verdict of guilty by the jury and during the same term of court the court shall pronounce the judgment provided by law.

That is all, I think, as it appears to me now, that this provision ought to contain. Whether or not the motion for a new trial is made, it is proper, I think, that the judgment should be rendered at the same term of court. And I think that is the only requirement that ought to be made, and for that reason it occurs to me the language I have stated ought to be stricken out. In order to settle it, Mr. Chairman, I move to strike out the language from lines 18, 19, and 20:

Unless the defendant moves for a new trial or in arrest of judgment, and in that case within five days after the overruling of such motion.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amend, page 140, by striking out all of line 18 after the word "court" and all of line 19 and line 20 up to and including the word "motion."

The CHAIRMAN. The question is on agreeing to the amendment.

Mr. MANN. Mr. Chairman, the gentleman certainly does not want that amendment to go in that shape.

Mr. TOWNER. I think so.

Mr. MANN. That would require the court to render sentence although a motion for a new trial was still pending and undisposed of. The gentleman does not want to have the court sentence a prisoner who has a motion for a new trial undisposed of?

Mr. TOWNER. Yes; the court would, of course, dispose of it at the same term of court.

Mr. MANN. But the motion for a new trial may go over to another term of court.

Mr. TOWNER. It can not be so done now, as I understand it.

Mr. MANN. It certainly can be so done now, and it is frequently done. On motions, under that provision, the court could not do any business the last few days of a term of court. He can where he sits continuously, as they do in my city. But on the last day of a term of court, when motions for a new trial are made, a blanket order is issued continuing all these motions to the next term of court.

Mr. TOWNER. It might be done at the request of the defendant.

Mr. MANN. It is not done at the request of the defendant; it is a blanket order. Our local courts are in session all the time. That is not the case with the United States court. But the gentleman's amendment would leave it so that after a plea of guilty or a verdict the court must pronounce sentence during the term of court, although there might be a motion for a new trial pending and undisposed of.

Mr. TOWNER. Yes; it would require the court to pass upon the motion for a new trial at that term of court. I am aware of that fact. But the gentleman raises a question of which I am not very certain, and I shall ask for a vote on the amendment.

The CHAIRMAN. The question is on agreeing to the amendment.

Mr. WATKINS. Mr. Chairman, I could not hear distinctly everything that was said on that side, but as well as I could hear the gentleman from Illinois [Mr. MANN] expressed the correct view of the matter. It would not do at all to have this language stricken out. If there was a new trial granted, the case would have to be disposed of at that term of court, and that is not always practicable.

The CHAIRMAN. The question is on agreeing to the amendment.

The question was taken, and the amendment was rejected.

Mr. MANN. Mr. Chairman, I move to strike out the last word.

The CHAIRMAN. The gentleman from Illinois [Mr. MANN] moves to strike out the last word.

Mr. MANN. The section reads, commencing with line 21:

And the court thereafter shall not suspend the sentence, or the execution thereof, except in such cases as are expressly provided for by the laws of the United States. A person sentenced to imprisonment, either in a jail or penitentiary, unless the execution of the sentence be suspended as hereinbefore provided, shall be ordered by the court into the custody of the marshal, who shall deliver him to the sheriff, jailer, warden, or other proper officer, in whose custody he shall remain in such jail or penitentiary until the term of his confinement expires or he is pardoned or otherwise legally discharged.

Does the gentleman understand from that what I understand from it—that the court under this section must pronounce sentence on all defendants that are found guilty and can not suspend the sentence?

Mr. WATKINS. Yes; that is the principal object of the proposed law. The privilege had been so much abused that it became a scandal in many parts of the country where the courts have suspended sentence and allowed defendants who were convicted to tramp over the country and mix with the

citizenship of the country. It became a public scandal in some places, and it was thought best to put a stop to it.

Mr. MANN. Mr. Chairman, I propose to read to the House a suggestion made in reference to this matter by one of the distinguished judges on the Federal bench in New York City, and I do not see how anyone can favor the proposition in the bill after hearing this statement. I read:

SECTION 269.

This section takes away from the court the power of suspending sentence and is a distinct step backward in the administration of the criminal law.

Under this act it would be impossible to exercise proper mercy toward that class of offenders, peculiarly large, under the Federal statutes who have committed at most a breach of discipline—e. g., boys of 18 and 19 who have pilfered a trifle from some post office, navigators who have navigated their vessels in forbidden channels in contravention of a statute they never heard of, and so on. It will also be a great handicap to prosecuting officers who under the Federal statutes have long found an indictment for conspiracy the most serviceable method of reaching crime. Many conspirators are mere tools; they are guilty, but their moral status is utterly different from the main conspirators whom they serve. Hitherto prosecutors have been able to point out to such persons that if they tell the truth, the court will probably suspend sentence. But now they must be sentenced. It will be increasingly difficult to get information from them if a premium is put on perjury, and juries will often refuse to convict those who ought to be convicted because of knowledge that their frequent recommendations to mercy can not be sufficiently considered by the court to which they speak.

I feel very strongly on this subject. Personally I have sparingly exercised the power of suspension—never without requiring the convict to report to me, or to a designated person who would report to me, for a long time after conviction. Of course I have not always been successful, but I am sure that in almost every case the person whose sentence I suspended really lived a new life under the influence of the mercy extended to him.

Now, under this provision of the section a man who is legally guilty, though he may not be morally guilty, must be sentenced and must serve his sentence, unless pardoned. Well, a man can not be pardoned practically for a short sentence in jail.

Now, in a case where some person has violated the law unintentionally—of course, he is supposed to know what the law is, but he does not—and he is guilty of an unintentional infraction of the law, what is the use in saying that he must serve a sentence? I do not see the theory of it.

The fact that the power has been abused is no reason, to my mind, for taking the power entirely away from the court. No body and no man anywhere possesses power which they do not abuse. If they did, we would have reached perfection on the part of some one, and the mere fact that some judge lets off a criminal who ought to be sentenced and fined is not to me a sufficient reason for taking away from the court the power to suspend sentence in those many cases which come up of lads, for instance, who have committed some technical violation of the law. Under this provision they would not have the opportunity to have a sentence suspended.

I think the power, while it may have been abused, has been a great blessing on the whole because it has been exercised.

Mr. BARTLETT. Mr. Chairman, may I interrupt the gentleman?

Mr. MANN. Certainly.

Mr. BARTLETT. Does not the gentleman think it also has been an aid to the enforcement of the law? Because you suspend the sentence, it is held over a man as a guaranty of good behavior. He knows if he violates the law again in like particular he is liable to be taken up and made to undergo that sentence. In other words, it is a kind of reformatory measure.

Mr. MANN. Undoubtedly. I believe myself in enforcing the law. I think there is a good deal of delay in the law, but I never would, if I could avoid it, send an innocent or practically innocent young person to jail. I would rather take the chance, as a rule, of their being good citizens and having received sufficient punishment by indictment than to force them into jail acquaintances.

Mr. BARTLETT. Mr. Chairman, I suggest to the gentleman that we have this class of cases in my part of the country, of men indicted for violation of the internal-revenue laws and for not paying tax for the manufacture and sale of liquor, and things of that sort; cases where men are arrested—very often ignorant men—for working in a place not registered as a licensed distillery, and they are confined in jail.

The judge has in many such cases suspended sentence in order that they might go home and gather their crop, whereas to put them in jail and make them serve out a sentence then would bring starvation, almost, upon their families. Such cases have occurred of violation of the law by failure to pay the tax, or to register, or by working in an unregistered distillery, where the court has allowed the defendant to plead guilty, return home, and come back and serve out a jail sentence after he has done that which is absolutely necessary for him to do in order to sustain his family. This takes away all discretion from the judge and prohibits things of that sort being done.

Mr. MANN. Mr. Chairman, I move to strike out the language in lines 21 to 24:

And the court thereafter shall not suspend the sentence, or the execution thereof, except in such cases as are expressly provided for by the laws of the United States.

I move to strike out that sentence.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amend, page 140, by striking out, after the word "law," in line 21, the words "And the court thereafter shall not suspend the sentence, or the execution thereof, except in such cases as are expressly provided for by the laws of the United States."

Mr. BOOHER. Mr. Chairman, it seems to me the law as it is administered by the Federal courts takes the place of the parole laws of the several States, and I am in favor of a parole law. I am not in favor of this provision as it stands in the bill.

I agree thoroughly with the statement of the gentleman from Illinois [Mr. MANN]. I believe that the courts ought to have the right to suspend sentence, especially in the cases of young men and first offenders. Many a man, as has been well said, commits an offense, not knowing that he has violated a Federal law or some regulation of some department of the Government; and to force the court to impose a sentence and confine him in jail or in a penitentiary, it seems to me, is depriving the court of one of the greatest helps that they have.

They may abuse this in some sections of the country. I remember the time when the parole law was first passed in my State. Men opposed it, and suggested that the courts would not send anyone to the penitentiaries and jails, and that the juries and courts would not enforce the law. Yet we find, after years of experience with the parole law, that it is one of the best allies of the criminal statutes in our State. And I am decidedly in favor of extending it and not abridging it in any particular. I hope the chairman will accept the amendment offered by the gentleman from Illinois [Mr. MANN], so that we may still leave it in the power of these courts to extend paroles to those whom they believe ought to be favored.

Sending men to prison is not always the best way of enforcing the criminal statutes. Justice tempered with mercy may reform many men accused of violating the criminal laws. And for one I am not afraid to trust the courts along this line.

Mr. TOWNER. Mr. Chairman, I want to read what another United States judge says regarding this power. He says:

As I wrote you before, the general tendency in all jurisdictions now is to extend the power to suspend sentence and to redeem or assist criminals who may be saved or protected from bad associations. There has been considerable query raised by the Department of Justice with respect to the authority of the court to suspend sentence, and it has, up to the present time, depended upon the right of the court to allow a sentence to be postponed or to let the defendant be discharged without sentence until after the term has expired and the case has lapsed. I shall not attempt to argue the merits of the question, and I do not wish to be understood as desiring merely more authority than Congress may wish to give. I do, however, firmly believe that the power to suspend sentence is a useful provision, and it would be better to have the section expressly give the power than to leave it as at present, merely dependent upon implication or the lack of prohibition against the exercise of power.

Mr. Chairman, I entirely agree with what has been said by the gentleman from Illinois [Mr. MANN] and the gentleman from Missouri [Mr. BOOHER] regarding this power. Everyone who has had experience in the criminal courts, either as an attorney or as a judge, must know that in many cases the imposition of a sentence at all is not only not justified, but is an absolute, affirmative wrong.

The court ought to have the power, and ought to be perfectly free, not merely by implication but by the express language of a statute authorizing it, to use his judgment in such cases. There is very little danger of its abuse. I know that individual instances might be cited where perhaps this benign power had been used without justification, but in ninety-nine cases out of one hundred the use of it is beneficent rather than otherwise. As has been well said, if this provision becomes a law, it will turn the courts of the United States in a direction entirely contrary to the trend of public opinion all over the world with regard to the treatment of criminals. It is best that we should save a man rather than that we should punish him for the commission of a crime which, in some instances, when the act was committed he did not know was a crime. To send him to jail, to impose upon him what he must believe is unmerited punishment, puts him in such a frame of mind with regard to the law and the administration of justice and his relation to society that it is very apt to make him a criminal if he had not before intended to be such. So I sincerely hope that the committee will not leave this provision in the section, and I would be glad if, instead of that, the chairman would afterwards return to this

section, by unanimous consent, and insert in lieu of it a provision giving the courts of the United States the affirmative power to suspend sentences in their discretion, so that there shall be no question but that they may exercise that power.

Mr. WATKINS. Mr. Chairman, in corroboration of what I stated a few moments ago when answering the question of the gentleman from Illinois [Mr. MANN], I want to call attention to a statement which is found in House Report No. 566, second session, Fifty-first Congress, on the practice of certain United States district courts and other officers in criminal cases. It it not necessary to read the very long report, or even to go to the expense of having it incorporated in the RECORD, but just a few extracts from it will show to what extent this practice has been carried.

In the middle district of the same State—

Alabama—

commencing at the May term, 1885, and ending at the November term, 1889, there appear to have been 673 convictions and 333 suspended sentences. In other words, in more than half the cases the sentences were suspended.

Mr. BOOHER. What were those people convicted of?

Mr. WATKINS. I suppose they were convicted of misdemeanors very largely. We could very easily make an exception to cover cases of that kind.

Mr. BOOHER. What kind of misdemeanors?

Mr. WATKINS. I can not inform the gentleman as to that. I do not know whether they were selling intoxicating liquors, or violating the internal-revenue law in some way. It does not state here. I infer, however, that the cases must have been misdemeanors.

Mr. MANN. What is the report?

Mr. WATKINS. It is House Report No. 566, Fifty-first Congress, second session. It is a report from the Committee on the Judiciary.

Mr. MANN. On some bill?

Mr. WATKINS. It was on a resolution to investigate the practice of certain United States district courts and other officers in criminal cases.

Mr. MANN. Did they report a bill?

Mr. WATKINS. It does not seem from this report that they did.

Mr. MANN. It is a report in the Fifty-first Congress?

Mr. WATKINS. Yes.

Mr. MANN. More than 20 years ago.

Mr. WATKINS. Yes; but they have been doing just as bad ever since.

Mr. MANN. Did anybody ever propose a bill during all this time?

Mr. WATKINS. This report is based upon facts which were brought out in the investigation they had made. It comes from high authority, and I think it ought to have considerable weight. I was going to read some of the statements contained in the report, but as my time is limited I will simply say that there can be no objection in minor cases and misdemeanors for the judges to exercise this discretion, but to do it in all cases is carrying it too far. In many cases this right, as they call it, but which is a privilege they exercise, is carried to the most absurd extreme, and I think it is at least advisable that there should be some restriction of the authority that they exercise.

Mr. HOUSTON. Will the gentleman yield?

Mr. WATKINS. I will.

Mr. HOUSTON. I would like to ask the gentleman if he can tell us in what character of cases the language in lines 22 and 23 refer—"except in such cases as are expressly provided for by the laws of the United States"?

Mr. WATKINS. That means that if there are any laws prohibiting this leniency in a certain class of cases that would not conflict with this law. I must say that I do not know of any.

Mr. HOUSTON. The inference would be that there are some provisions of the statutes to that effect.

Mr. WATKINS. We can perfect the language in this section rather than to strike it out altogether.

Mr. BRYAN. Mr. Chairman, the whole idea of the present state of criminology is to give greater power to the courts in suspending sentence. The juvenile courts all over the country, to say nothing of Judge Lindsey, everywhere, take that as a basis. They suspend sentences and send the respondents to reformatory institutions. For instance, in the Navy judges do not think of sending defendants to Fort Leavenworth, but they provide that they may be put in a reformatory institution, in the disciplinary barracks, and with sentence suspended, and if he shows good conduct for a period of six months, or whatever it may be—a period much shorter than the sentence—he may be released. That is the whole tenor and tendency of this day and time, and I hope that we will not back up on that and make it impossible for a judge to suspend the sentence, but require him to put the defendant in the penitentiary. Not one judge in a thousand would suspend a sentence where the circumstances at the trial show that the man was guilty of a heinous offense and that he ought to be punished. Judges generally are associated more or less with the prosecuting attorney, and they work together, and I think they would rather increase a sentence than to decrease it, and I hope that the amendment of the gentleman from Illinois will carry.

Mr. BOOHER. Mr. Chairman, I believe if this report referred to by the chairman of the committee could be read carefully by every member of the committee present the amendment of the gentleman from Illinois would be unanimously adopted and the chairman of the committee would vote for it himself. These cases, or most of them, seem to have been worked up by deputy United States marshals for the purpose of getting the fees. That is one of the greatest vices of the fee system of the country. Now, take a case here. Here is a report signed by Albert Small, examiner for the Department of Justice:

In the case of William Meeks, the certificate of proceedings fixes the hearing on June 16, while his docket makes it June 19. The arrest was made by Deputy Marshal J. W. Lath, who was allowed $21.40; commissioner, $11.85; witnesses, $28; a total of $61.25.

Page after page of just such kind of suits were brought, and the court suspended sentence and sent the people home, and I think the court was exactly right in so doing. I trust the amendment offered by the gentleman from Illinois will be adopted.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois.

The question was taken, and the amendment was agreed to.

Mr. MANN. Now, Mr. Chairman, I move to strike out, line 1, page 141, the words "as hereinbefore provided."

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amend, page 141, line 1, by striking out the words "as hereinbefore provided."

The CHAIRMAN. The question is on the amendment.

The question was taken, and the amendment was agreed to.

The Clerk read as follows:

SEC. 270. The review by appeal, by writ of error, or otherwise, of final decisions in the district courts shall be had in the Supreme Court of the United States or in the circuit court of appeals; and the review by appeal, by writ of error, or otherwise, of decisions in cases in which they are not made final, shall be had in the Supreme Court of the United States in accordance with the provisions of this title.

Mr. BARTLETT. Mr. Chairman, I offer the following amendment.

The Clerk read as follows:

After the word "appeals," line 4, page 142, insert the following: "and appeals may be had in like manner by the defendant in cases of indirect or criminal contempt."

Mr. BARTLETT. Mr. Chairman, we have provided for trial by jury in indirect contempt cases in one of the sections of this bill. We provide in what is known as the bill to amend the antitrust act that passed the House the other day a like trial by jury in indirect contempt cases, and for appeal to the higher court on conviction in these cases.

This amendment but carries into this bill the right which has hitherto been denied under existing law, as construed by the courts, of trial by jury in indirect contempt cases and the right of appeal from the decision in the lower courts.

I believe the most noted case as an authority that the defendant has no right of appeal in indirect contempt cases is the Debs case, but it has been the rule and so held uniformly that when a judge decides a contempt case there is no appeal from it to a higher court.

As I have said on former occasions, it is rather shocking to my sense of correct trial, imbued as I am with the righteousness and propriety of a trial by jury in all disputed cases of facts, where a man's liberty or property is to be taken from him by way of punishment, that there should not be a trial by jury, and it is equally obnoxious to my idea as to what is the proper administration of law among Anglo-Saxon people, when a judgment in a criminal case, no matter how well tried it be, should be final, and that there should be no right of appeal, and therefore I have continued my efforts to amend the law in this section by providing for an appeal to a higher court in indirect contempt cases.

Mr. BRYAN. Mr. Chairman, will the gentleman yield?

Mr. BARTLETT. Yes.

Mr. BRYAN. Can the gentleman state for the information of the committee what is the maximum penalty the Federal judge may impose for indirect contempt?

Mr. BARTLETT. It has never been limited. I know in the case of the impeachment of Judge Peck the trial grew out of the fact that he imposed a penalty of $1,500 on the complainant

and put him in jail for six months, and that fact led to the impeachment of Judge Peck, although he was not convicted.

Mr. BRYAN. The judge can make it two or three years if he desires to?

Mr. BARTLETT. There is no limit to it.

The CHAIRMAN. The question is on agreeing to the amendment.

Mr. MANN. Mr. Chairman, I ask unanimous consent to have the amendment reported again.

The CHAIRMAN. Without objection the Clerk will again report the amendment.

There was no objection, and the Clerk again reported the amendment.

The CHAIRMAN. The question is on agreeing to the amendment.

The question was taken, and the amendment was agreed to.

Mr. MANN. Mr. Chairman, I move to strike out the last word for the purpose of asking a question. I do not profess to have much knowledge of the criminal law, but I am told by one of the judges that this chapter contains no definite provision as to bail *on appeal after* conviction under criminal law.

Mr. WATKINS. I believe it does not.

Mr. MANN. And, further, I am told that this is a very vexed subject, on which the practice in different parts of the United States varies greatly, and I ask whether or not it ought to contain some provision for bail on appeal?

Mr. WATKINS. It might, except in capital cases. I do not know of any objection to it except in capital cases.

Mr. MANN. This judge himself thinks that there ought to be no bail on appeal in a criminal case except when allowed by the appellate court.

Mr. WATKINS. I do not see the virtue of that, because the district judge who tries the case would know, in all probability, more about it than the appellate court.

Mr. MANN. I do not know anything about it myself.

Mr. PETERSON. Mr. Chairman, I desire to suggest that where you go to the court of appeals it would subject a man to being sent to the penitentiary before you get a hearing. I believe that was the experience in the dynamite case. They applied for bail to the court of appeals, and before the motion could be heard they were sent to the penitentiary, and then, as the gentleman will remember, they were brought out on appeal. They were put in jail while making their application.

Mr. MANN. I understand. Of course that is always the case where they sue out a writ of error. I call it to the attention of the gentleman, because it might be a matter that ought to be covered in this bill in some way.

I would like to make this suggestion. I have been watching this bill as well as I could, and, while I doubt very much whether it will ever become a law, I do not think that the work that we do on the bill is lost. I take it that if this bill itself should not become a law, that a committee in probably the next Congress would report a bill substantially as amended here, and probably make much more rapid progress with it the second time than was made the first, so that anything that can come in to straighten up the matter, I think, is desirable to have come into the bill.

The Clerk read as follows:

SEC. 271. No appeal or writ of error by which any order, judgment, or decree may be reviewed in the circuit court of appeals under the provisions of this title shall be taken or sued out except within six months after the entry of the order, judgment, or decree sought to be reviewed; and no appeal or writ of error by which any order, judgment, or decree may be reviewed in the Supreme Court under the provisions of this title shall be taken or sued out except within one year after the entry of the order, judgment, or decree sought to be reviewed: *Provided, however*, That in all cases in which a lesser time is by law limited for appeals or writs of error, such limits of time shall apply to appeals or writs of error in such cases, notwithstanding the provisions of this section: *And provided further*, That where a party entitled to prosecute a writ of error or to take an appeal is an infant, or non compos mentis, or imprisoned, such writ of error may be prosecuted, or such appeal may be taken within the time limited exclusive of the term of such disability.

Mr. BRYAN. Mr. Chairman, I move to amend by adding after the word "disability," in line 14, page 143, the following:

Bail may be allowed to defendants after conviction, upon appeal, in the discretion of the court.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Page 143, line 14, after the word "disability," insert "bail may be allowed to defendants after conviction, upon appeal, in the discretion of the court."

Mr. BRYAN. Mr. Chairman, it seems to me that all agree that some kind of amendment ought to be adopted, and if that does not suit the gentlemen on the committee of course we could go back to this later, but it seems to be unanimously agreed that a man who appeals from conviction for contempt, for instance, should be admitted to bail. The gentleman from Georgia has just provided an amendment that where a person is sentenced to jail for contempt he may appeal. If he can not get bail, his appeal does not do him any good.

The CHAIRMAN. The question is on agreeing to the amendment.

The question was taken, and the amendment was rejected.

The Clerk read as follows:

SEC. 273. Upon the appeal of any cause in equity, or of admiralty and maritime jurisdiction, or of prize or no prize, a transcript of the record, as directed by law to be made, and copies of the proofs, and of such entries and papers on file as may be necessary on the hearing of the appeal, or such an abstract or statement thereof as is provided for in the next ensuing section, shall be transmitted to the appellate court: *Provided*, That either the court below or the appellate court may order any original document or other evidence to be sent up, in addition to the copy of the record, or in lieu of a copy of a part thereof. On such appeals no new evidence shall be received in the appellate court, except in admiralty and prize causes.

Mr. LEWIS of Maryland. Mr. Chairman, I offer the following as an amendment to come in at the end of section 273 as a new section, which I send to the desk and ask to have read.

The Clerk read as follows:

Amend, page 144, by adding, at the end of section 273, the following as a new section:

"In all cases wherein the court of last resort of a State has decided a State statute to be in conflict with the Constitution of the United States or any statute or treaty thereof the same may be reviewed by writ of error to the Supreme Court of the United States in the same manner as is provided for writs of error to the Supreme Court of the United States in other cases."

Mr. LEWIS of Maryland. Mr. Chairman, the object of the amendment is to correct a condition with reference to the right of appeal to the Supreme Court, which has come under the attention, I think, of most lawyers who have had anything like a general practice.

In the Federal judiciary act of 1789 provision was made in regard to appeals to the Supreme Court restricting them to instances where a contention had been set up in the State courts under a Federal statute, the Constitution, or some treaty, and that contention had been unfavorably received by the United States court. It was felt in that case that the Supreme Court must enjoy jurisdiction in order to preserve the supremacy of the Federal laws. Now, as a matter of fact, it was felt at that time that the State courts, of course, would not show any particular leaning for Federal contentions, and that the restriction of appeals to negative decisions on such contentions would give the people full protection under the Federal Constitution and its laws. As a matter of fact, such have been the changes in history that State courts look upon State laws with no particular eye of favor as compared with Federal laws. In short, their effort is to impartially construe the Constitution; and it has happened, therefore, in a great number of cases that State statutes have been held unconstitutional by the State courts under the contention that they were violative of the Federal Constitution. In such instances no appeals could be taken to the Supreme Court of the United States. Now, it is true my attention has been called to this condition more especially in view of labor legislation in the respective States. I have in view two cases in my own State. In one case the State legislature endeavored to deal by prohibition with the so-called "company" or "pluck-me" store. That case went to our court of appeals, and the contention was set up that the "pluck-me" store State statute was violative of the fourteenth amendment to the Federal Constitution. That contention was sustained by our State court. No appeal could therefore be taken to the Supreme Court.

In another instance I have in mind a semimonthly pay law was held violative of the Federal Constitution by our court of appeals, and in that case, too, no appeal to the Supreme Court could be had. As a matter of fact, more recently the Supreme Court, in instances where the case could be appealed to, it has held the semimonthly pay law not to be violative of the Federal Constitution. Now, the object of this amendment is to give the State statute the same chance for its life, in its struggle for its validity, before the Supreme Court of the country that the Federal statutes may have. I may say, although I may not be able now to put my finger upon the page of the report, that the American Bar Association at one of its annual meetings made this a matter of recommendation, and suggested that such change be made. I believe those who are paying attention to the matter will find that there is no danger of unduly crowding the Supreme Court with cases, because the right of appeal is only extended to those few additional cases where State statutes have been held unconstitutional by the State courts on Federal grounds. I want to ask unanimous consent, and I ask the chairman's attention to the request, that we may go back to section 270 and consider the amendment as applicable to section

270 instead of section 273. I believe it would be more appropriate to section 270.

Mr. WATKINS. Mr. Chairman, I desire to say——

The CHAIRMAN. The gentleman from Maryland asks unanimous consent to return to section 270 for the purpose of offering this amendment.

Mr. WATKINS. Mr. Chairman, we are on this amendment now, and I do not believe we will stop in the middle of a discussion of this; but I have a suggestion to make which I think will eliminate that. When this amendment was first offered I did not raise the point of order against it, because I wanted it discussed, although I do not believe it is at all applicable to this section we have now under consideration, but in all probability we may finally agree to go back to the other section and discuss it. Now, my proposition is this, if it meets the approval of the gentleman from Maryland, to let this entire section go over until a subsequent meeting and let the committee investigate the question. I think it is of sufficient importance to let the committee from which this bill was reported investigate the question carefully before finally making any disposition of it; and in lieu of the request of the gentleman from Maryland I ask that the whole subject matter, including the section and all amendments thereto, be postponed until further consideration.

The CHAIRMAN. The gentleman from Louisiana asks unanimous consent that the further consideration of this section and all amendments to it be postponed until some future time.

Mr. LLOYD. I think, though, it may be understood this amendment is to come after section 270 instead of 272.

Mr. LEWIS of Maryland. The request of the gentleman from Louisiana will include that the amendment come after section 270.

Mr. WATKINS. Yes.

Mr. LEWIS of Maryland. Does the gentleman think it could be reached on next Wednesday?

Mr. WATKINS. Yes, sir.

The CHAIRMAN. Is there objection?

Mr. MANN. Mr. Chairman, reserving the right to object, I doubt whether this is the bill where this proposition belongs.

Mr. WATKINS. That is one thing we wish to consider.

Mr. MANN. I am inclined to believe it belongs in the judiciary title and the amendment should apply to that codification which we passed a few years ago. This proposition has been floating around Congress for a great many years. I believe it has been recommended once or twice by committees of the House. Most all lawyers would be in favor of it. Nearly all lawyers are in favor of anything which adds to the delay of cases or gives greater opportunity for appeals——

Mr. BRYAN. Will the gentleman yield?

Mr. MANN. That is the way they live. Is the gentleman a lawyer?

Mr. BRYAN. I am.

Mr. MANN. Yes; I yield.

Mr. BRYAN. If there is anything that will permit lots of legislation, it is to have 48 States say what the Federal Constitution is without any chance of getting uniformity of decision.

Mr. MANN. Oh, I thought the gentleman was going to speak about something that is pertinent to what I am saying.

Mr. BRYAN. It is pertinent to the amendment.

Mr. MANN. Now, we did provide years ago, where a State court upheld a State statute as against a Federal provision, that it should go to a Federal court for final determination. But, in the interest of getting business ended at some time, it was not allowed that they should take appeals from the decisions of the supreme court of a State where the supreme court held the State statute invalid. What gentlemen seek to do all the time is to centralize all government at Washington. It may be a good thing. Certainly we ought to be able in the different States to have the States determine, so far as they uphold their own position, without having the Federal Government reverse the policy of the State unless it is in conflict, as held by the State courts, with the Federal statutes. This everlasting desire for appeals is what bothers me. A few years ago we created the circuit court of appeals throughout the United States in order to lessen the work being done by the Supreme Court, and for a short time the Supreme Court made progress with its calendar and commenced to get a little nearer to the end of it. But now it is going backward again. It can not dispose of as many cases each year now as are brought before the court, and we must either in some way restrict the jurisdiction of Federal courts—nisi prius courts—or else restrict the appeals which can be taken from those and State supreme courts, or we will have our Supreme Court buried with business until it is almost impossible to get justice because of delay.

Mr. LEWIS of Maryland. Mr. Chairman, if the gentleman will allow a brief reply, I will call his attention to the fact that the theory of the amendment restricts the additional appeals to those instances where a State statute has been held as violative of the Federal Constitution. There could not in the nature of things be very many cases like that; but even if there were, it seems to me that a citizen living in a State is entitled to know his Federal rights. And if we have to make room for those cases let us make some provision to take away the railroad cases that are now engrossing the attention of the Supreme Court. But I do not think, while I recognize the grave importance——

Mr. MANN. We have, I will say to the gentleman, taken away the jurisdiction of the Supreme Court in almost all railroad cases. Instead of expanding it we are restricting it all the time.

Mr. LEWIS of Maryland. I think that a very good movement, because other courts perhaps can give that subject proper attention. But let me mention to the gentleman a subject now that is likely to become a very serious one. The States are passing a number of these accident compensation laws. Where they are going to be contested naturally the fourteenth amendment is going to be set up against them. If the State supreme court thinks that contention against their validity is good, the power of the legislature in that State to act even in a matter of such serious character is forever destroyed. Indeed, that very circumstance happened within the State of New York within the last three or four years and ought not to happen again. I do not believe that the Congress in 1789 would have drawn the distinction it did between decisions against and decisions favorable to Federal contentions in an age like ours. And I trust that the gentleman will not make any objections which will prevent the consideration of this matter at the next meeting, as proposed by the chairman of the committee.

Mr. MANN. Of course I shall not object, so far as that is concerned. This is a new matter with our friend from Maryland, and a new matter to others watching legislation in the House.

The CHAIRMAN. The question is on the motion of the gentleman from Maryland [Mr. LEWIS].

The question was taken, and the motion was agreed to.

Mr. CULLOP. Mr. Chairman, I offer an amendment as a new section.

The CHAIRMAN. The gentleman from Indiana offers an amendment, which the Clerk will report.

The Clerk read as follows:

To follow section 273 as a new section:

"In all cases wherein suit is brought to test the constitutionality of any State statute, before the Federal court shall have jurisdiction on such cases such a statute must be passed upon by the highest court of the State which enacted the statute."

Mr. WATKINS. Mr. Chairman, I make a point of order against that. It clearly does not belong to that part of the bill.

The CHAIRMAN. The gentleman from Louisiana makes a point of order against the amendment.

Mr. CULLOP. Mr. Chairman, I want to be heard on that. The same question was ruled on in the Clayton bill by Judge HULL, wherein a section was offered. The point of order was made that it was not germane at that place, but, it being a new section, it was held to be germane at any place in a bill where it might be offered, and especially where it was offered.

Mr. WATKINS. Mr. Chairman, in behalf of economy of time I withdraw the point of order.

The CHAIRMAN. The gentleman from Louisiana [Mr. WATKINS] withdraws the point of order, and the gentleman from Indiana is recognized.

Mr. CULLOP. Now, Mr. Chairman, I have offered this amendment to meet and overcome a very serious question which has arisen in nearly all of the States. Wherever suit has been brought to test the constitutionality of a State statute, usually they have gone to a Federal court and brought the suit first there, and then appealed to the Supreme Court of the United States, notably in the 2-cent fare statute enactments of the different States, and have delayed for years and years the settlement of that important question. Some of them that were brought three or four or five years ago have just recently been settled by the Supreme Court of the United States.

Now, it is a rule of statutory construction that the construction that the highest court of a State puts upon its statutes shall control in the Federal courts. Suits have been brought in the Federal courts ostensibly for the purpose of having the Federal court construe a State statute, but in reality to prevent the highest court of the State from construing its own statutes, having them set aside in the Federal court without first having the highest court of the State put its construction upon its own

statutes. And the reason for doing so has been that if the State court upheld the statute such ruling would be controlling in the Federal court. Suits have been brought in nearly every State where 2-cent or 2½-cent fare rate statutes have been passed regulating the transportation of passengers on the railroads, not in the State courts, where the highest court of the State could have the opportunity to pass upon the constitutionality of the statute, but they have been taken to the Federal courts for that purpose. This practice has been the source of much criticism.

Now, it is nothing more than fair and right to restrict the bringing of suits to test the constitutionality of State statutes to the courts of the States which enacted them, so that the opinion of the highest court of that State could first be had upon the validity of such enactment. There has been a very great demand for some Federal statute upon this subject by the people of the different States of the Union, and I have offered this amendment, which I hope will be adopted here, because it is germane at this place, to break up the evil that has been existing in a number of the States where statutes have been passed which corporations sought to have set aside. One of the most glaring illustrations is in the State of Missouri, where the legislature of that State enacted a 2-cent fare statute. The suit was not brought in the Missouri courts to test it, but it was brought in the Federal court. And the people of that State were driven to the Federal courts and to the Supreme Court of the United States for the purpose of sustaining the statute which their legislature had passed. That suit could have been brought in the State courts of Missouri, passed upon by the highest court in Missouri, and then the decision of that court would have been taken as a standard of the test of the validity of that statute unless it violated some Federal law.

Now, Mr. Chairman, I hope this amendment will be adopted, so that it will remedy the evil now existing in nearly every State in this Union, and require these to be first passed on by the State courts.

Mr. PETERSON. Mr. Chairman, will my colleague yield for a question?

Mr. CULLOP. With pleasure.

Mr. PETERSON. Do you not think the language of the amendment is a little unfortunate, where you say "in suits brought to contest"?

Mr. CULLOP. I do not say "contest." I said "test."

Mr. PETERSON. Well, to test; where you bring a suit to test the constitutionality of the law. Would it not be better to say "in cases where the constitutionality of the law is involved"? I am objecting only to the language.

Mr. CULLOP. Well, I think it is as broad as it is long, so far as that is concerned. The meaning is the same. Take it in the State of Indiana. Some time in the nineties they passed a bill regulating the fares on the street railways in the city of Indianapolis, which were then regarded as exorbitant.

The bondholders of that railway living outside of the State of Indiana came to the Federal court and brought a suit to test that statute, so that they could present a question of diverse citizenship. After it dragged its long, weary way for three or four or five years through the Federal courts, during all that time, until that long, weary, bitterly fought-out litigation, the railroad company was raking in its old fares, and the people were not having the remedy which their State legislature attempted to give them. Now, that suit could have been brought in a State court, equally as able and competent in every respect; but when it was passed upon by the Federal court it did not have the judgment as a precedent, as a guide, in determining the matter of the highest court in that State, but it was simply a new question, so far as the State courts of Indiana were concerned. That is true also of the Missouri statutes. It is true of every State statute which has been contested in this manner on this subject, and for this reason I want to call the attention of the committee to the fact that there has grown up a demand in nearly every State in the Union for some statute which would prevent the bringing of a suit in the first instance in a Federal court for such purpose before the State courts have had an opportunity to construe their own statutes.

Mr. Chairman, I hope the amendment will be adopted.

The CHAIRMAN. The time of the gentleman from Indiana has expired. The question is on agreeing to the amendment.

The question was taken, and the Chairman announced that the noes seemed to have it.

Mr. CULLOP. A division, Mr. Chairman.

The CHAIRMAN. A division is demanded.

The committee divided; and there were—ayes 5, noes 8.

So the amendment was rejected.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

SEC. 285. The Supreme Court may, at any time, in its discretion and upon such terms as it may deem just, allow an amendment of a writ of error, when there is a mistake in the teste of the writ, or a seal to the writ is wanting, or when the writ is made returnable on a day other than the day of the commencement of the term next ensuing the issue of the writ, or when the statement of the title of the action or parties thereto in the writ is defective, if the defect can be remedied by reference to the accompanying record, and in all other particulars of form: *Provided*, The defect has not prejudiced, and the amendment will not injure the defendant in error.

Mr. WATKINS. Mr. Chairman, if there is not an "m" in the word "amendment" on line 21, I would like to have one inserted.

The CHAIRMAN. Without objection, the missing "m" will be inserted in the word "amendment" on line 21.

There was no objection.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

SEC. 291. Whenever, on appeal or writ of error or otherwise, a case shall be reviewed and determined in the circuit court of appeals in which the decision of that court is final, or in which no appeal is taken within the time allowed by law, such case shall be remanded to the district court for further proceedings, to be there taken in pursuance of such determination.

Mr. WATKINS. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will report the amendment offered by the gentleman from Louisiana [Mr. WATKINS].

The Clerk read as follows:

Page 152, in line 1, after the word "final," strike out the words "or in which no appeal is taken within the time allowed by law."

The CHAIRMAN. The question is on agreeing to the amendment.

The amendment was agreed to.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

SEC. 295. In all cases of conviction of crime, the punishment of which is death, tried before any court of the United States, the final judgment of such court against the respondent shall, upon the application of the respondent, be reexamined, reversed, or affirmed by the Supreme Court of the United States upon a writ of error, under such rules and regulations as said court may prescribe. Every such writ of error shall be allowed as of right and without the requirement of any security for the prosecution of the same or for costs. Upon the allowance of every such writ of error it shall be the duty of the clerk of the court to which the writ of error shall be directed to forthwith transmit to the clerk of the Supreme Court of the United States a certified transcript of the record in such case, and it shall be the duty of the clerk of the Supreme Court of the United States to receive, file, and docket the same. Every such writ of error shall, during its pendency, operate as a stay of proceedings upon the judgment in respect of which it is sued out. Any such writ of error may be filed and docketed in said Supreme Court at any time in a term held prior to the term named in the citation, as well as at the term so named; and all such writs of error shall be advanced to a speedy hearing on motion of either party. When any such judgment shall be either reversed or affirmed, the cause shall be remanded to the court from whence it came for further proceedings in accordance with the decision of the Supreme Court, and the court to which such cause is so remanded shall have power to cause such judgment of the Supreme Court to be carried into execution. No such writ of error shall be sued out or granted unless a petition therefor shall be filed with the clerk of the court in which the trial shall have been had during the same term, or within such time, not exceeding 60 days next after the expiration of the term of the court at which the trial shall have been had, as the court may for cause allow by order entered of record.

Mr. WATKINS. Mr. Chairman, I offer a committee amendment.

The CHAIRMAN. The Clerk will report the committee amendment.

The Clerk read as follows:

Page 153, line 3, strike out section 295 and insert in lieu thereof the following:

"SEC. 295. In all cases of conviction of crime the punishment of which is death, tried before any district court of the United States, the final judgment of such court against the respondent shall, upon the application of the respondent, be reexamined, reversed, or affirmed by the supreme court or the appropriate circuit court of appeals in accordance with the provisions of sections 128 and 238 of the Judicial Code, upon writ of error under such rules and regulations as the appellate court may prescribe. Every such writ of error shall be allowed as of right and without the requirement of any security for the prosecution of the same or for costs. Upon the allowance of every such writ of error it shall be the duty of the clerk of the court to which the writ of error shall be directed to forthwith transmit to the clerk of the Supreme Court of the United States or of the circuit court of appeals a certified transcript of the record in such case, and it shall be the duty of the clerk of such appellate court to receive, file, and docket the same. Every such writ of error shall, during its pendency, operate as a stay of proceedings upon the judgment in respect of which it is sued out. Any such writ of error may be filed and docketed in said Supreme Court and in the circuit court of appeals at any time in a term prior to the term named in the citation, as well as at the term so named, and all such writs of error shall be advanced to a speedy hearing on motion of either party. When any such judgment shall be either reversed or affirmed the cause shall be remanded to the court from whence it came for further proceedings in accordance with the decision of the appellate court, and the court to which such cause is so remanded shall have power to cause such judgment of the appellate court to be carried into execution. No such writ of error shall be sued out or granted unless a petition therefor shall be filed with the clerk of the court in which

the trial shall have been had during the same term, or within such time, not exceeding 60 days next after the expiration of the term of the court at which the trial shall have been had, as the court may for cause allow by order entered of record."

Mr. GREEN of Iowa. Mr. Chairman, I simply wanted to ask the chairman a question. I did not quite catch the full effect of the amendment from the reading of it, and I would like to ask this question: Under the amendment what cases will go up by appeal to the circuit court of appeals and what ones to the Supreme Court of the United States? Or, perhaps, put it the other way: Will the gentleman state the difference in the practice under the amendment and as it stands in the bill?

Mr. WATKINS. There is virtually no difference, except in cases where the death penalty is inflicted—that is, a man sentenced to death may appeal to the circuit court of appeals, which is provided for by the Judicial Code of 1911, in section 128 and section 238—and it is simply to make it conform to that law which was enacted in 1911 that this amendment is offered. There is no change in the law.

Mr. GREEN of Iowa. Under the law as it stands then, will any further appeal be permitted from the circuit court of appeals in capital cases?

Mr. WATKINS. I do not have the Judicial Code before me at this time; but I will state to the gentleman that the jurisdiction of all the courts are defined in the Judicial Code. This particular class of cases with which we are now dealing must take the course as prescribed by sections 128 and 238 of the Judicial Code.

Mr. GREEN of Iowa. The reason I asked the question is because I doubt whether the amendment is in form, in case any such appeal could be taken from the circuit court of appeals to the Supreme Court of the United States.

Mr. WATKINS. Whether it is good law or bad law, it is in the codification as passed by Congress in 1911, and stands in that way. We are simply bringing that in its proper place in this bill.

Mr. MANN. I had occasion to look up this matter once in connection with the Panama proposition, and I am inclined to think that the Supreme Court still retains the power to issue a writ of error and bring a case before it whenever it sees fit to do so.

Mr. WATKINS. Doubtless that is true.

Mr. MANN. And there was not any specific right of appeal to the Supreme Court before.

Mr. WATKINS. I do not want to make a definite statement about that.

Mr. MANN. There may have been in some cases, but, as a rule, I think not.

The CHAIRMAN. The question is on the amendment.

The amendment was agreed to.

The Clerk read as follows:

SEC. 296. A writ of error may be taken by the United States from the district or circuit courts of appeals direct to the Supreme Court in all criminal cases in the following instances:

From a decision or judgment quashing or setting aside an indictment or any count thereof, or sustaining a demurrer thereto or to any count thereof, where such decision or judgment is based upon the invalidity or construction of the statute upon which the indictment or count thereof is founded.

From a decision sustaining a motion in arrest of judgment upon a verdict or finding of guilty, for the insufficiency of the indictment or of any count thereof, where such decision is based upon the invalidity or construction of the statute upon which the indictment or count thereof is founded.

From a decision or judgment sustaining a special plea in bar when the defendant has not been put in jeopardy.

The writ of error in all such cases shall be taken within 30 days after the decision or judgment has been rendered and shall be diligently prosecuted and shall have precedence over all other cases. Pending the prosecution and determination of the writ of error in the foregoing instances the defendant shall be released upon his own recognizance: *Provided*, That no writ of error shall be taken by or allowed the United States in any case where there has been a verdict in favor of the defendant.

Mr. WATKINS. Mr. Chairman, I have a committee amendment.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Page 154, in line 14, after the word "district," strike out the words "or circuit court of appeals" and insert in lieu thereof the word "courts."

The amendment was agreed to.

The Clerk read as follows:

SEC. 313. The bill of fees of the clerk, marshal, and attorney, and the amount paid printers and witnesses, and lawful fees for exemplifications and copies of papers necessarily obtained for use on trials in cases where by law costs are recoverable in favor of the prevailing party, shall be taxed by a judge or clerk of the court, and be included in and form a portion of a judgment or decree against the losing party. An itemized statement of all such fees and costs, together with all sums retained, allowed, or paid a referee, master, or other officer appointed by the court, shall be entered by the clerk upon the docket in which the case is entered or in such other book as the Attorney General may designate, and in such manner as he may from time to time prescribe.

Mr. MANN. I move to strike out the last word. I should like to ask the gentleman from Louisiana what is the occasion for the proposition that an itemized statement of all such fees, costs, and so forth, shall be entered by the clerk upon the docket in which the case is entered?

An itemized statement of cost is quite an extensive thing to enter up in every case.

Here is a memorandum on the subject by one of the ablest judges in the country, presiding over one of the busiest courts in the country:

The provision for entering in the docket or other book an "itemized statement" of fees and costs is a serious matter in a busy court. If by "itemized statement" is meant a differentiation between the amount paid and taxed for subpœnas and that for notary fees, there is a bill of costs filed every day in this court that would require a page of the docket for transcription. No such foolishness will ever be put in practice. An "itemized statement" will somehow lose what I think is its natural meaning.

I suppose that what the draftsman is after is to have on the files of the court and accessible to the public the amount of fees and costs. For that the present practice in a properly run court is sufficient, and if it is desired to translate that into a statute, the new matter in this section should read:

"An itemized statement of all such fees and costs, together with all sums retained, allowed, or paid to a referee, master, or other officer appointed by the court, shall be filed with the papers in the cause, and a summary or aggregate thereof entered by the clerk upon the docket in which the cause is entered."

Gentlemen can see that if, in addition to filing in the cause a paper showing an itemized statement, the same thing has to be entered upon the docket, it will require a great deal of labor, and it seems to me to be entirely unnecessary. I never heard of such a thing in my own practice, and I doubt whether anybody else ever has.

Mr. BRYAN. Is it not the practice in some of the State courts?

Mr. MANN. Not in any State, as far as my practice has gone. The items in a bill of costs are sometimes very numerous. What is the occasion for transcribing those onto the docket?

Mr. WATKINS. If the gentleman desires an answer——

Mr. MANN. That is what I am trying to get.

Mr. WATKINS. I will state the history of it. It seems from the best information I can obtain that some of the clerks are in the habit of making on sheets of paper memoranda of the itemized costs, and then putting the gross amount on some book that they have. Whether they call it a docket or not is immaterial. It has been very difficult to get at the items which made up the itemized bill of costs. So the Department of Justice, seeking to correct this evil, finally presented it in the form of a request to have these bills of costs made public by having them put in a book—you may call it a docket or by any other name, if you please, but put in a book—and let that book be open to inspection at all times, so that anybody can go to that book and see what these items of costs are. The report says:

This amendment, as stated by the commission in its report to Congress in 1906, was recommended by the accounting officers of the Department of Justice and is designed to compel a disclosure of all fees and costs charged not only in cases in which the Government is a party, but especially in cases in which private parties are litigants.

The idea is to prevent the clerk taking a piece of paper, making out an account on it, itemizing it on that paper, and condensing that itemized statement, and then putting the condensation on his book of record, but requiring him to put the itemized statement on his book, the same as a merchant does his accounts.

Mr. MANN. A merchant would not think of carrying on his ledger account or any other account an itemized statement of everything that he puts on a scratch pad.

Mr. BRYAN. He puts it somewhere. He makes a statement of each item somewhere.

Mr. MANN. They can put it in the files of the case. Of course the reason for this proposition will largely disappear when the clerks are paid fixed salaries. There was a suspicion before that clerks did not wish people to know how much the fees were. But if you put on the docket the total amount of the fees, there is no occasion for transcribing the whole bill of costs or fees into the book. As this judge says, in a busy court it amounts to something. They used to copy all the papers that were filed. That is not done any more. You do not go to the record book now to get a copy of a bill in equity or a declaration in a lawsuit. Those papers are in the files.

Mr. WATKINS. I will state to the gentleman that the reason is greater now than it was heretofore. Up to this time the clerks have been personally interested in the amount of the fees that they collected, and it was for their interest, because they got a salary based largely on the fees they earned. But the commission that codified the laws suggested the propriety of putting the clerks on a salary basis, and in connection with that they make the suggestion that the clerks' fees, which go into the United States Treasury, and which the clerks are not now

so much interested in—that they make such an accounting that any person may know what the account is and whether it is correct or incorrect. It seems important now that they should keep a public book in which the accounts shall be open, and the Department of Justice is thoroughly in favor of it and are anxious that this safeguard to protect the Government shall be had.

Mr. MANN. There are people in the Department of Justice who never were inside of a court room, in my judgment, and know nothing about the practical workings of a court. Mr. Chairman, I offer the following amendment, to strike out the language in lines 14 and 19 and insert in lieu thereof what I send to the desk.

The Clerk read as follows:

Page 162, strike out the language from lines 14 to 19, inclusive, and insert in lieu thereof the following:

"An itemized statement of all such fees and costs, together with all sums retained, allowed, or paid to a referee, master, or other officer appointed by the court, shall be filed with the papers in the cause, and a summary or aggregate thereof entered by the clerk on the docket in which the case is entered."

Mr. WATKINS. If the gentleman will add to that some provision by which these items may be open to the public it will be all right.

Mr. MANN. They are open to the public when placed in the files. It is a public record like any other file. A bill in equity is open to the public.

Mr. WATKINS. That is what the clerks have been doing——

Mr. MANN. No; there was no official requirement and they did not put them in the files.

Mr. WATKINS. They were not required to put them in the files, but they kept them on separate pieces of paper.

Mr. MANN. They kept a private memorandum book practically. This requires them to put the amount in the docket and an itemized statement in the files.

Mr. SELDOMRIDGE. The amount is on the docket, and the itemized statement is in the files.

Mr. GREEN of Iowa. Mr. Chairman, I think the amendment of the gentleman from Illinois covers all that is necessary. If an itemized statement is placed among the papers and the files it will be subject to inspection. Even if it should become lost or mislaid and should be specifically required, there could be an order of court for another paper to be substituted. Under this amendment the general summary is to be placed on the docket. It seems to me the docket itself ought not to be burdened with an itemized statement which might require additional pages for all the items to be copied therein. I think every safeguard for the public interest is subserved by this amendment. I can see no objection to adding to it a provision that it shall be subject to inspection, but I think that is unnecessary, because, in any event, it is open to inspection by the public.

Mr. STEPHENS of Texas. Will the gentleman yield?

Mr. GREEN of Iowa. Certainly.

Mr. STEPHENS of Texas. Does not the gentleman know that in almost every State court there is a docket kept, known as the fee docket, in which the clerk is required to enter each item charged up as a fee? That fee docket is required to be kept as a public record, open to inspection by any interested person. That is the law in my State and, as far as I know, of every other State. We keep what is known as a fee docket, containing a statement of the fees on every paper and returns which are charged up, so that when a man gets his bill of costs he can compare it with the charges made against him on the fee docket and see whether he has been overcharged.

Mr. GREEN of Iowa. So he would be able here to make a comparison by this method, because the items would be on the files and he could make the comparison. I think the gentleman is correct, but I do not see the necessity of keeping a record in that way, because it would make a duplication.

Mr. STEPHENS of Texas. From the filing of the declaration or petition in the courts of our State the clerk puts it on the fee book, and then, when a return is made on a paper, that is entered on the docket. We have a fee system which was passed by the legislature, and so it is very easy for a practicing attorney or a party litigant to see whether he has been overcharged, whether the fees are just and correct, and whether copies in the case and all the costs that must be paid by the plaintiff or the defendant are in accordance with the judgment of the court.

Mr. GREEN of Iowa. That is true in my State to a certain extent, but not to that extent which the gentleman from Texas states. There is a summary of the costs entered on the docket, but it is not necessary to insert every single item, no matter how small it may be.

Mr. STEPHENS of Texas. I will state that in my State it is equivalent to a blotter kept by business men. Every transaction is noted somewhere, and it ought to be, in case of a lawsuit. Whenever a paper is filed or a return made by an officer there should be some record of the fees charged. I think the Federal courts ought to follow the State courts in that matter.

Mr. GREEN of Iowa. There will be a record if this amendment is followed. Business houses of late have been modifying their rules with reference to bookkeeping and have discarded duplication as far as possible, and the purpose of this amendment is to avoid the keeping of double accounts.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois [Mr. MANN].

The question was taken, and the amendment was agreed to.

The Clerk read as follows:

SEC. 325. No person shall be imprisoned for debt in any State, on process issuing from a court of the United States, where, by the laws of such State, imprisonment for debt has been or shall be abolished. All modifications, conditions, and restrictions upon imprisonment for debt provided by the laws of any State shall be applicable to the process issuing from the courts of the United States to be executed therein; and the same course of proceedings shall be adopted therein as may be adopted in the courts of such State.

Mr. MANN. Mr. Chairman, I move to strike out the last word. Is imprisonment for debt any more allowed in any State?

Mr. WATKINS. Imprisonment in a sense is allowed for debt in all of the States of the United States, for the failure to pay where fines are assessed.

Mr. MANN. Of course imprisonment for debt is allowed in trespass cases in a great many of the courts. This leaves it according to the courts of the States. Is imprisonment for civil debt allowed in any State now?

Mr. WATKINS. Mr. Chairman, I hesitate a little to answer the gentleman's question, because it just so happens in my own State there are certain extreme cases in which a man may be imprisoned for debt, but it must be a very flagrant case; and in all States, even in the District of Columbia, men are right now in jail for failure to pay alimony.

Mr. BRYAN. But that is not imprisonment for debt. That is imprisonment for contempt of court.

Mr. MANN. I do not think that is what they call imprisonment for debt. It seems to me that the time has arrived when we ought not to be dependent on the legislature of a State to determine whether we will have imprisonment for debt in the ordinary sense of civil indebtedness.

Mr. WATKINS. I do not just now recall to my mind any State in the Union in which a person incurs an indebtedness in the ordinary course of business where he can be imprisoned, unless it is in some cases where it is the clear intention upon his part to defraud his creditors and is about to permanently leave the State.

Mr. MANN. I have no doubt that most of the States have some provision in reference to imprisonment in trespass cases, or in cases for fraud, and I think that is perfectly proper, but if there is no State where imprisonment for debt exists, as I had hopes there was none, in the ordinary sense, of course there would not be any harm in this section. In other words, I would like to see it amended, so that the United States, at least, should not permit an ordinary creditor to put his ordinary debtor in jail because he is unable to pay the indebtedness.

Mr. WATKINS. Mr. Chairman, I do not think there is any danger of its applying to that class of cases.

The CHAIRMAN. Without objection, the pro forma amendment will be withdrawn, and the Clerk will read.

The Clerk read as follows:

SEC. 329. All personal property sold under any order or decree of any court of the United States shall be sold as provided in the preceding section, unless in the opinion of the court rendering such order or decree it would be best to sell it in some other manner.

Mr. WATKINS. Mr. Chairman, I offer the following amendment which I send to the desk and ask to have read.

The Clerk read as follows:

Page 167, line 24, after the word "manner," strike out the period, insert a semicolon, and add the following: "In such cases the courts may by order direct the manner of conducting the sale."

The CHAIRMAN. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. MANN. Mr. Chairman, I move to strike out the first word. I would like to ask the gentleman in reference to the preceding section, which provides that all real estate sold under decree of the United States court shall be sold at public sale at the courthouse of the county, parish, or State in which the property, and so forth, is located; I suppose it is proper to make a sale at a Federal courthouse, is it not? It is certainly customary now to do that. I do not know just what the language of the existing statute is.

Mr. SELDOMRIDGE. Mr. Chairman, there are some cities and counties where there are no courthouses. There may be several cities in one county and the courthouse may be located in another city.

Mr. MANN. It would be the courthouse of the county, parish, or city, and if there was no courthouse in a city it would be the county courthouse, I suppose; but apparently this is what fixed the place of sale at the courthouse of the county, when it is certainly customary now to order a sale at the Government building where the Federal court is held. I suppose there is no intention to have that changed.

Mr. BRYAN. That is the same law.

Mr. GREEN of Iowa. Yes.

Mr. BRYAN. Most public sales are made by the county, and the parties buying are in the habit of going to the courthouse for those sales.

Mr. MANN. But people do not go to the county courthouse to attend a sale of the Federal court. They go to the Government courthouse.

Mr. BOOHER. Does not the gentleman think that real estate ought to be sold in the county in which it is situated, even by the Federal court?

Mr. MANN. Why should it be?

Mr. BOOHER. Take a district in the State of Missouri that holds court at Springfield, for instance, with some counties 125 miles away. Would you sell the land in that county that is so far away at the courthouse in Springfield?

Mr. MANN. I have no objection to that.

Mr. BOOHER. If you sell it in the county where the land is located, the ones who know the value can go there, and it will bring more money among the people who know it than among strangers.

Mr. MANN. But suppose it is sold in the city of St. Louis?

Mr. BOOHER. Then you would sell it at the courthouse door in the city of St. Louis.

Mr. MANN. At the county courthouse or the Federal building?

Mr. BOOHER. I think under this law it will be sold probably at the county courthouse or the city courthouse.

Mr. MANN. That may be the existing law; I do not know. I know I have bought real estate and got good title to it at the Federal building in Chicago, and on more than one occasion.

Mr. BOOHER. I presume the Federal court might put that construction upon it, but I think it might be amended so as to say in cities where there is a county courthouse and Government building it might be sold at the Government building; but in the country at large it ought to be sold at the county courthouse.

Mr. BRYAN. That is where the assessments are made and taxes collected.

Mr. MANN. If you should say the courthouse in the county, parish, or city in which the property is located, that might cover it.

Mr. BOOHER. Yes. If you put in county courthouse or Government building, it would be more specific. I am of the opinion that real estate should be sold in the county where it is located, and if there is no Federal courthouse in the county it should be sold at the county courthouse.

The Clerk read as follows:

SEC. 334. No money deposited as aforesaid shall be withdrawn except by order of the judge or judges of said court, respectively, in term or in vacation, to be signed by such judge or judges and to be entered and certified of record by the clerk; and every such order shall state the cause in or on account of which it is drawn.

In every case in which the right to withdraw money so deposited has been adjudicated or is not in dispute and such money has remained so deposited for at least five years unclaimed by the person entitled thereto, it shall be the duty of the judge or judges of said court, or its successor, to cause such money to be deposited in the Treasury of the United States, in the name and to the credit of the United States: *Provided*, That any person or persons or any corporation or company entitled to any such money may, on petition to the court from which the money was received, or its successor, and upon notice to the United States attorney and full proof of right thereto, obtain an order of court directing the payment of such money to the claimant, and the money deposited as aforesaid shall constitute and be a permanent appropriation for payments in obedience to such orders; and this act is applicable to all money deposited in the Treasury of the United States in accordance with section 996, Revised Statutes of the United States, as amended February 19, 1897.

Mr. MANN. Mr. Chairman, I move to strike out the last word. I do not recall just what this section 996 of the Revised Statutes as amended in 1911 covers. It makes a permanent appropriation of certain money.

Mr. WATKINS. What is the gentleman's question?

Mr. MANN. I said I did not recall just what that section was as amended.

Mr. WATKINS. Section 996 of the Revised Statutes reads that—

No money deposited as aforesaid—

Speaking where the marshals and other officers make deposits of money, where deposits are made of money and the court is regulating the manner of withdrawing moneys—

No money deposited as aforesaid shall be withdrawn except by order of the judge or judges of said courts, respectively, in term or on vacation, to be signed by such judge or judges, and to be entered and certified of record by the clerk; and every such order shall state the cause in or on account of which it is drawn.

Mr. MANN. I do not quite see the pertinency of this reference. This act is applicable to all money deposited in the Treasury of the United States in accordance with section 996 as amended. There is no provision under what the gentleman read in reference to the deposit of money. What is the act of February 19, 1897?

Mr. WATKINS. My attention has just been called to the amendment to section 996, and this amendment reads:

No money deposited as aforesaid shall be withdrawn except by the order of judge or judges of said courts, respectively, in term or on vacation, to be signed by such judge or judges, and to be entered and certified of record by the clerk; and every such order shall state the cause in or on account of which it is drawn—

And then follows—

in every case in which the right to withdraw money so deposited—

And so forth.

Mr. MANN. Well, I do not see how that provides for the deposit of any money in the Treasury.

Mr. WATKINS. This was passed March 3, 1911, this amendment to the Revised Statutes of the United States, and it is simply the existing law which is carried in the bill.

Mr. MANN. This says:

And this act is applicable to all money deposited in the Treasury of the United States in accordance with section 996.

But that does not seem to provide for the deposit of any money in the Treasury. However, I do not have any criticism of the gentleman for not knowing——

Mr. WATKINS. Whether the law is a good law or a bad law, it is the law. It was passed by Congress March 3, 1911. If the gentleman will refer to section 333 of this bill, he will note the authorization for the deposit of the moneys paid into court. Section 996 of the Revised Statutes relates to the withdrawal of the moneys authorized to be deposited in the preceding section.

The Clerk read as follows:

SEC. 340. No suit or prosecution for any penalty or forfeiture, pecuniary or otherwise, accruing under the laws of the United States, except customs revenue laws, shall be maintained, except in cases where it is otherwise specially provided, unless the same is commenced within five years from the time when the penalty or forfeiture accrued: *Provided*, That the person of the offender, or the property liable for such penalty or forfeiture, shall, within the same period, be found within the United States; so that the proper process therefor may be instituted and served against such person or property.

Mr. MANN. Mr. Chairman, I move to strike out the last word. What is the purpose of this insertion of an exception of this kind, "except customs-revenue laws"? You provide a limitation of five years for the trial of crimes arising under the customs laws.

Mr. WATKINS. They fall under another law, which regulates that section.

Mr. MANN. Where is that?

Mr. WATKINS. Section 22 of the act of June 22, 1874, making them amenable to the law, is the reason they are excepted in this particular law.

Mr. MANN. Yes; but where is the statute of limitation for suits for penalties for violation of customs and revenue laws?

Mr. WATKINS. I am now examining the commission's report on the section, and the report says:

In section 1047 of the Revised Statutes, from which this section of the bill is taken, the words "except customs-revenue laws" have been inserted, as another limitation is fixed for suits for penalties and forfeitures under those laws by section 22 of the act of June 22, 1874.

Mr. MANN. Why is not that carried in here, then?

Mr. GREEN of Iowa. It is carried in here.

Mr. MANN. That is what I want to get. I see there is carried in section 342 a limitation of three years.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

SEC. 346. The commissioners for the District of Alaska shall have power to grant writs of habeas corpus for the purpose of inquiring into the cause of restraint of liberty, which writs shall be made returnable before a district judge for said district; and like proceedings shall be had thereon as if the same had been granted by said judge under the general laws of the United States in such cases.

Mr. BOOHER. Mr. Chairman, I would like to ask the chairman of the committee having this bill in charge why it is

necessary to carry in section 346 the words "Commissioners of the District of Alaska":

The Commissioners of the District of Alaska shall have power to grant writs of habeas corpus.

We have now four United States courts up there.

Mr. WATKINS. Sometimes those courts are located far apart, and the United States commissioners no doubt are located more conveniently for the purpose of granting the writs. And then the Alaskan Code provides for that. There is no use of striking it out as I can see. There is no objection to it.

Mr. BOOHER. It is made returnable to a Federal judge, and the party has to appear before the Federal judge wherever he is.

Mr. WATKINS. Oh, well, this law applies to the Federal court.

Mr. BOOHER. Very well. I just asked the question for information.

Mr. GREEN of Iowa. Will the gentleman yield?

Mr. BOOHER. Yes.

Mr. GREEN of Iowa. I think in Alaska there are places where it would be a hundred miles to the judge.

Mr. BOOHER. There is no doubt about that, but I might call attention to the fact that it is issuable by the commissioner and returnable to the judge. The party has to go there anyhow.

Mr. GREEN of Iowa. That is found absolutely necessary, because the commissioner has no power to act under the statute, and that can not be avoided.

Mr. BOOHER. Well, the explanation of the chairman is satisfactory.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

SEC. 348. Application for a writ of habeas corpus shall be made to the court, or justice or judge, or in the district of Alaska to a judge or commissioner, authorized to issue the same, by petition in writing signed by the person for whose relief it is intended, setting forth the facts concerning the detention of the party restrained, in whose custody he is detained, and by virtue of what claim or authority, if known. The facts set forth in the petition shall be verified by the oath of the person making the application.

Mr. MANN. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The gentleman from Illinois offers an amendment which the Clerk will report.

The Clerk read as follows:

Page 177, line 15, after the word "intended," insert "or by any person showing to the court by competent evidence that he is authorized to act for said person for whose relief the writ is intended."

Mr. MANN. Mr. Chairman, the section reads:

Application for a writ of habeas corpus shall be made to the court, etc., authorized to issue the same, by petition in writing signed by the person for whose relief it is intended.

Well, the amendment I have offered is "by any person showing the court by competent evidence that he is authorized to act." Does the gentleman have any objection to that?

Mr. WATKINS. There ought to be some provision about who should make the affidavit, and if that can be done in such a way as to make it harmonious I think it would be all right.

Mr. MANN. It harmonizes all right. Anyone can file the petition under this provision who shows by competent evidence that he is authorized to act for the person for whose relief it is intended and he makes the affidavit. The person can not always sign the application for a writ of habeas corpus.

Mr. WATKINS. I do not think he ought to be required always to sign it, but I think he ought to be the one who is responsible for the affidavit.

Mr. MANN. He can not always be obtained to get the affidavit, even. At times they sue out a habeas corpus to have somebody produced who is hidden.

Mr. WATKINS. I think that is all right. I shall not interpose any objection to it.

Mr. BRYAN. They can go into court on property with an attorney. I do not see why they could not in a habeas corpus proceeding.

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from Illinois [Mr. MANN].

The amendment was agreed to.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

SEC. 357. From the decision of any court inferior to the Supreme Court, or of any justice or judge thereof, or of the Supreme Court of the Territory of Porto Rico, or the district courts of Alaska, Hawaii, or Porto Rico, or any justice or judge of said courts, upon an application for a writ of habeas corpus, or upon such writ when issued, an appeal may be taken to the Supreme Court of the United States:

1. In the case of any person alleged to be restrained of his liberty in violation of the Constitution or of any law or treaty of the United States;

2. In the case of any prisoner who, being a subject or citizen of a foreign State, and domiciled therein, is committed or confined, or in custody by or under the authority or law of the United States, or of any State, or process founded thereon, for or on account of any act done or omitted under any alleged right, title, authority, privilege, protection, or exemption, set up or claimed under the commission, order, or sanction of any foreign State or sovereignty, the validity and effect whereof depend upon the law of nations, or under color thereof.

Mr. MANN. Mr. Chairman, I move to strike out the last word.

The CHAIRMAN. The gentleman from Illinois moves to strike out the last word.

Mr. MANN. I would like to ask the gentleman from Louisiana whether he recalls, in preparing this bill, that there was taken into consideration the Panama Canal act and its provisions with reference to appeals from the courts on the Panama Canal Zone?

Mr. WATKINS. I can not state that there was in every particular, because the various organic acts providing for the government, and so forth, of the Territories and insular possessions were left to remain intact; but we have carried into this bill that part of the Panama Canal act dealing with extradition.

Mr. MANN. I am not sure whether some such provision ought to be in here or not. It is desirable, if it belongs here, to have it here. I am calling the gentleman's attention to it, so that if he has opportunity it may be looked up.

Mr. WATKINS. I thank the gentleman for doing so.

Mr. MANN. That is quite likely; but I have had a good deal to do with Panama Canal legislation, and it has occurred to me.

Mr. WATKINS. Then I will move to go back and find out about that, if it is necessary.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

SEC. 358. From the decision of any district court of the United States or of any judge of the circuit court of appeals or district court, or the district courts of Alaska, Hawaii, or Porto Rico, or any judge of said courts, upon an application for a writ of habeas corpus, or upon such writ when issued, an appeal may be taken to the circuit court of appeals in all cases, except as provided in the last preceding section, and a decision of such circuit court of appeals shall be final, excepting that in every such case the circuit court of appeals at any time may certify to the Supreme Court of the United States any question or proposition of law concerning which it desires the instruction of that court for its proper decision. And thereupon the Supreme Court may either give its instruction on the questions and propositions certified to it, which shall be binding upon the circuit court of appeals in such case, or it may require that the whole record and cause may be sent up to it for its consideration, and thereupon shall decide the whole matter in controversy in the same manner as if it had been brought there for review by writ of error or appeal. And excepting that it shall be competent for the Supreme Court in any case to require by certiorari or otherwise any decision of the circuit court of appeals to be certified to the Supreme Court for its review and determination with the same power and authority in the case as if it had been carried by appeal to the Supreme Court.

Mr. WATKINS. Mr. Chairman, the same statement that was made with reference to section 357 I also make with reference to section 358. I will ask permission, also, to go back to that for a similar purpose. I will reserve that right at this time.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

SEC. 360. Pending the proceedings on appeal in the cases mentioned in the three preceding sections, and until final judgment therein, and after final judgment of discharge, any proceeding against the person so imprisoned or confined or restrained of his liberty in any State court, or by or under the authority of any State, for any matter so heard and determined, or in process of being heard and determined under such writ of habeas corpus, shall be deemed null and void: *Provided*, That in any case where the petitioner is restrained of his liberty in pursuance of any final judgment or sentence of a State court, no such appeal shall be had or allowed after six months from the date of such judgment or sentence; but where it is claimed that such judgment or sentence is in excess of the punishment authorized by law, such period of six months shall not commence until the prisoner has performed so much of the judgment or served out so much of the sentence as it was within the power of the court to impose.

Mr. DONOVAN. Mr. Chairman, I would like to ask the chairman of the committee if he does not think he ought to move to rise, because there is only one member of the minority here, and it is wrong to take advantage of them and undertake to pass legislation in the absence of all the members of the minority. [Laughter.]

Mr. BRYAN. I want to call the gentleman's attention to the fact that there are some Progressives here.

Mr. MANN. I call attention to the fact that the statement of the gentleman from Connecticut is not true. He knew it was not true, although he himself has just come into the House.

Mr. BRYAN. There are two Progressive members here.

Mr. DONOVAN. I said "members of the minority party." Mr. Chairman, I will withdraw my observation.

Mr. MANN. There are a number of gentlemen here on this side who were here before the gentleman from Connecticut came in. The gentleman from Connecticut is here so little that he does not know the Members of the House from the employees. [Laughter.]

Mr. DONOVAN. There are so few here to know. That is the reason. [Laughter.]

Mr. MANN. They are not added to by the presence of the gentleman.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

SEC. 361. From a final decision by a court of the United States in a proceeding in habeas corpus where the detention complained of is by virtue of process issued out of a State court no appeal to the Supreme Court shall be allowed unless the United States court by which the final decision was rendered or a justice of the Supreme Court shall be of opinion that there exists probable cause for an appeal, in which event, on allowing the same, the said court or justice shall certify that there is probable cause for such allowance.

Mr. MANN. Mr. Chairman, I move to strike out the last word. I would like to call the attention of the gentleman from Louisiana [Mr. WATKINS] to the fact that this has been a rather warm day and it is now 5 o'clock. We have worked very hard and we have been very diligent to-day.

Mr. GARNER. How much of this bill is left? How many sections?

Mr. MANN. Only a few. I think we are on page 183, and there are about 198 pages.

Mr. BRYAN. Mr. Chairman, I do not think the gentleman from Illinois ought to object to continuing in session until 6 o'clock. We are very anxious to get this bill finished, so that we can get at Calendar Wednesday and consider some important bills that are on that calendar.

Mr. MANN. What is the gentleman from Washington four flushing for?

Mr. BRYAN. The gentleman from Illinois is five flushing. [Laughter.]

Mr. MANN. The gentleman from Washington, only a few minutes ago, was appealing to me to have the House quit.

Mr. BRYAN. Oh, no.

Mr. GARNER. Mr. Chairman, this is a new kind of a game, and I want to get into it. This is a "four flush" and a "five flush." Now, what does a "five flush" do? In my country a "five flush" is a pretty good hand.

Mr. MANN. That is what I am holding. [Laughter.]

Mr. BRYAN. I am not acquainted with these terms; otherwise I would not have used it.

Mr. MANN. I make the point of order, Mr. Chairman, if the gentleman insists upon it, that there is no quorum present.

Mr. WATKINS. Mr. Chairman, I move that the committee do now rise.

The motion was agreed to.

Accordingly the committee rose; and the Speaker having resumed the chair, Mr. RUSSELL, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill (H. R. 15578) to codify, revise, and amend the laws relating to the judiciary, and had come to no resolution thereon.

ADJOURNMENT.

Mr. WATKINS. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 4 minutes p. m.) the House adjourned until to-morrow, Thursday, June 11, 1914, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS.

Under clause 2 of Rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1. A letter from the Secretary of the Treasury, submitting estimates of appropriations for the acquisition of sites for public buildings at Chariton, Iowa; Farmville, Va.; and Mount Carmel, Ill. (H. Doc. No. 1026); to the Committee on Appropriations and ordered to be printed.

2. A letter from the Secretary of the Treasury, submitting item of amendment to the sundry civil appropriation bill for the removal of the wharf of the quarantine station at Honolulu, Hawaii, and its reerection (H. Doc. No. 1027); to the Committee on Appropriations and ordered to be printed.

3. A letter from the Secretary of War, transmitting the ninth annual report of the American National Red Cross, showing receipts and expenditures during the period January 1, 1913, to December 31, 1913 (H. Doc. No. 1028); to the Committee on Interstate and Foreign Commerce and ordered to be printed.

4. A letter from the Acting Secretary of War, transmitting with a letter from the Chief of Engineers reports on preliminary examination and survey of Fig Island, or Screven Ferry Cut, connecting the forks of the Savannah River, at Savannah, Ga. (H. Doc. No. 1029); to the Committee on Rivers and Harbors and ordered to be printed with illustrations.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, private bills and resolutions were severally reported from committees, delivered to the Clerk, and referred to the Committee of the Whole House, as follows:

Mr. HAYDEN, from the Committee on the Public Lands, to which was referred the bill (H. R. 10765) granting a patent to George N. Van Leuven for the northeast quarter of section 18, township 17 N., R. 19 E., Black Hills meridian, S. Dak., reported the same with amendment, accompanied by a report (No. 805), which said bill and report were referred to the Private Calendar.

Mr. RAKER, from the Committee on the Public Lands, to which was referred the bill (H. R. 1528) for the relief of T. A. Roseberry, reported the same without amendment, accompanied by a report (No. 803), which said bill and report were referred to the Private Calendar.

Mr. GARD, from the Committee on Military Affairs, to which was referred the bill (H. R. 15705) providing for the retirement of Col. David L. Brainard, Quartermaster Corps, United States Army, reported the same without amendment, accompanied by a report (No. 804), which said bill and report were referred to the Private Calendar.

Mr. LOBECK, from the Committee on War Claims, to which was referred the bill (H. R. 14699) to carry out the findings of the Court of Claims in the case of Guy C. Pierce, reported the same without amendment, accompanied by a report (No. 801), which said bill and report were referred to the Private Calendar.

Mr. UNDERHILL, from the Committee on War Claims, to which was referred the bill (H. R. 13338) authorizing payment for damage to township roads by United States troops while encamped at Camp Meade during the War with Spain, reported the same without amendment, accompanied by a report (No. 802), which said bill and report were referred to the Private Calendar.

CHANGE OF REFERENCE.

Under clause 2 of Rule XXII, the Committee on Pensions was discharged from the consideration of the bill (H. R. 10920) granting an increase of pension to Stringer White, and the same was referred to the Committee on Invalid Pensions.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials were introduced and severally referred as follows:

By Mr. HARRIS: A bill (H. R. 17168) to authorize the North Alabama Traction Co., its successors and assigns, to construct, maintain, and operate a bridge across the Tennessee River at Decatur, Ala.; to the Committee on Interstate and Foreign Commerce.

By Mr. GREEN of Iowa: A bill (H. R. 17169) to discontinue service on rural routes on Christmas Day; to the Committee on the Post Office and Post Roads.

By Mr. GARDNER: A memorial from the Legislature of Massachusetts, relative to the purchase of bunting for the manufacture of the United States flag; to the Committee on Naval Affairs.

By Mr. GREEN of Iowa: Resolution (H. Res. 539) for investigation into the removal from the Treasury Department of George H. Moritz; to the Committee on Rules.

By Mr. CARY: Joint resolution (H. J. Res. 278) relating to the awards and payments thereon in what is commonly known as the Plaza cases; to the Committee on Claims.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. ANDERSON: A bill (H. R. 17170) authorizing the health officer of the District of Columbia to issue a permit for the removal of the remains of the late Earl A. Bancroft from Glenwood Cemetery, District of Columbia, to Mantorville, Minn.; to the Committee on the District of Columbia.

By Mr. AUSTIN: A bill (H. R. 17171) granting an increase of pension to E. F. Calvahouse; to the Committee on Invalid Pensions.

By Mr. CAMPBELL: A bill (H. R. 17172) granting an increase of pension to Edgar Cross; to the Committee on Invalid Pensions.

By Mr. CARR: A bill (H. R. 17173) to correct the military record of William F. McGee; to the Committee on Military Affairs.

By Mr. COADY: A bill (H. R. 17174) to pay the claim of the American Towing & Lightering Co. for damages to its tug *Buccaneer;* to the Committee on Claims.

By Mr. CULLOP: A bill (H. R. 17175) granting a pension to Ruth Wilson; to the Committee on Invalid Pensions.

By Mr. FERRIS: A bill (H. R. 17176) granting an increase of pension to Edwin E. Trazzare; to the Committee on Pensions.

By Mr. GILLETT: A bill (H. R. 17177) granting an increase of pension to Nelson W. Haskell; to the Committee on Invalid Pensions.

Also, a bill (H. R. 17178) granting an increase of pension to Albert T. Chapin; to the Committee on Invalid Pensions.

By Mr. KENT: A bill (H. R. 17179) granting an increase of pension to William T. Lambert; to the Committee on Invalid Pensions.

By Mr. LEE of Pennsylvania: A bill (H. R. 17180) granting an increase of pension to John R. Munshower; to the Committee on Invalid Pensions.

By Mr. MOON: A bill (H. R. 17181) granting an increase of pension to Elijah N. Cronan; to the Committee on Invalid Pensions.

By Mr. MOSS of West Virginia: A bill (H. R. 17182) granting a pension to Samuel Wilson; to the Committee on Invalid Pensions.

By Mr. REILLY of Wisconsin: A bill (H. R. 17183) granting a pension to Kittie E. Farr; to the Committee on Invalid Pensions.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

By the SPEAKER (by request): Protest against the passage of prohibition measures, such as H. J. Res. 168, S. J. Res. 88, S. J. Res. 50, signed by Mr. Henry Hemmen, of St. Louis, Mo.; to the Committee on Rules.

Also (by request), resolutions of protest against the practice of polygamy in the United States, signed by the pastors of certain churches in the following cities: Alexandria, Pa.; Waseca, Minn.; Green Castle, Ind.; to the Committee on the Judiciary.

Also (by request), memorial of chambers of commerce of the United States of America, relative to Clayton antitrust bill; to the Committee on the Judiciary.

By Mr. AINEY: Petition of Sito Union Sunday School, Pleasant Valley Grange, of Dyberry, and citizens of Lebanon, all in the State of Pennsylvania, favoring national prohibition; to the Committee on Rules.

By Mr. AUSTIN: Petition of citizens of Norristown, Tenn., favoring an amendment abolishing practice of polygamy in the United States; to the Committee on Rules.

By Mr. BAILEY (by request): Petition of All Aboard Bible Class of the Park Avenue United Brethren Church, Johnstown, Pa., favoring national prohibition; to the Committee on Rules.

Also, petition of city council of Bradford, Pa., favoring Hamill civil-service retirement bill; to the Committee on Reform in the Civil Service.

By Mr. BAKER: Petition of 280 citizens of Mailton and citizens of New Jersey, favoring national prohibition; to the Committee on Rules.

By Mr. BALTZ. Petitions of citizens of Monroe County, Ill., against national prohibition; to the Committee on Rules.

By Mr. BRUCKNER: Petition of Tariff Reform Committee of the Reform Club, favoring repeal of canal-tolls exemption; to the Committee on Interstate and Foreign Commerce.

Also, petition of New York State Society of San Diego County, Cal., favoring passage of Kettner bill, H. R. 15733, providing for the participation by the United States in the Panama-California exposition; to the Committee on Industrial Arts and Expositions.

Also, petition of Carnes Artificial Limb Co., Kansas City, Mo., relative to prices of artificial arms and hands (H. R. 5174); to the Committee on Interstate and Foreign Commerce.

Also, petition of Executive Council of the American Federation of Labor, favoring the passage of the seamen's bill, S. 136; to the Committee on the Merchant Marine and Fisheries.

Also, petition of Federal Civil Service Society, State of New York, favoring passage of House bill 5322, employers' liability act; to the Committee on the Judiciary.

Also, petition of the Manufacturers and Dealers' League of New York, Moeller & Polls Co., London Wine & Spirit Co., the Francis Perot's Sons Malting Co., and J. H. Disier, all of New York City, protesting against national prohibition; to the Committee on Rules.

By Mr. CANTOR: Petitions of sundry citizens of New York City, protesting against national prohibition; to the Committee on Rules.

By Mr. CARY: Petition of churches representing 1,000 citizens of Milwaukee, Wis., favoring national prohibition; to the Committee on Rules.

By Mr. COLLIER: Petition of 990 citizens of Vicksburg and 50 of Flora, Miss., favoring national prohibition; to the Committee on Rules.

Also, petition of sundry voters of Vicksburg, Miss., protesting against national prohibition; to the Committee on Rules.

Also, petitions of citizens of Vicksburg, Miss., against national prohibition; to the Committee on Rules.

By Mr. CONNELLY of Kansas: Petitions for national constitutional prohibition of 9 persons of Burr Oak, 100 of Goodland, 60 of Esbon, 150 of Selden, 65 of Otego, 50 of Phillipsburg, 125 of Logan, 75 of Glade, 80 of Agra, 239 of Russell County, 102 of Russell City, 115 of Phillips County, 86 of Downs, 43 of Osborne County, 50 of Mitchell County, and 1,529 other residents of the sixth Kansas congressional district; to the Committee on Rules.

By Mr. COOPER: Petitions of Joseph M. Sibolds and others of Kenosha and sundry citizens of Rochester and Somers, all in the State of Wisconsin, protesting against national prohibition; to the Committee on Rules.

Also, petition of 200 clubs in the State of Wisconsin, indorsing the attitude of President Wilson with regard to acquiring land in conquest; to the Committee on Foreign Affairs.

Also, petitions of citizens of Waukesha, Wis., protesting against national prohibition; to the Committee on Rules.

By Mr. ESCH: Petition of 200 clubs of the State of Wisconsin, relative to indorsement by Congress of President Wilson's pledge that the United States shall never take a foot of land by conquest; to the Committee on Foreign Affairs.

Also, petition of Milwaukee Post Office Clerks' Union, No. 3, favoring passage of the Palmer bill, relative to night work in post offices; to the Committee on the Post Office and Post Roads.

By Mr. FITZGERALD: Petition of tariff reform committee of the Reform Club, New York City, favoring repeal of canal tolls exemption clause in Panama Canal bill; to the Committee on Interstate and Foreign Commerce.

Also, petitions of C. C. Bennett, E. F. Cunningham, William Matthews, J. A. Bedell, J. Carter, John Ledwith, John Wilder, S. N. Snyder, Joseph Jankonski, Frank Neary, Paul Behrends, B. F. Carrigan, M. Fitzgerald, Fred Pfalzgraf, William Nesel, Prince Edmonds, Dick de Rover, Daniel Flynn, John Rooney, F. Mack, Patrick Malley, C. C. Cully, Edw. Blackford, Patrick Feeley, H. Waacks, A. E. Cuenin, John Dresler, George Donnelly, R. L. Latimer, A. L. Reynolds, J. J. Hobbons, H. Colgan, Charles Quinn, S. Lundy, James Bush, Thomas McBride, P. F. Hynes, E. T. Hall, Thomas Morrissy, G. H. Sake, Louis Paschburg, Thomas Wynne, Robert Paschburg, Paul Sabile, I. H. Collins, F. A. Kelly, Peter Matthhews, T. P. Flynn, Thomas O'Donnell, and Charles Pickard, of Brooklyn, N. Y., against national prohibition; to the Committee on Rules.

Also, petition of independent retail merchants of Greater New York, favoring Stevens price bill; to the Committee on Interstate and Foreign Commerce.

Also, Petition of citizens of Brooklyn, N. Y., favoring national prohibition; to the Committee on Rules.

Also, petition of directors of the Swedish Hospital in Brooklyn, N. Y., favoring House bill 11648, to erect a memorial to John Ericsson; to the Committee on the Library.

Also, petition of Citizens' Democracy of New York; United Irish-American Societies of Greater New York; North Side Board of Trade, of New York; and citizens of New York, against repeal of the free-tolls provision of the Panama Canal act; to the Committee on Interstate and Foreign Commerce.

Also, petition of Central Federated Union of Greater New York; Eastern Saengerbund of America; United Societies for Local Self-Government, of Chicago, Ill.; National Association of Retail Grocers of the United States; and citizens of the seventh congressional district of New York, against national prohibition; to the Committee on Rules.

By Mr. GRAHAM of Pennsylvania: Petition of 28 women of Philadelphia, Pa., favoring national prohibition; to the Committee on Rules.

By Mr. HAWLEY: Petition of sundry citizens of the State of Oregon, favoring 1-cent letter postage; to the Committee on the Post Office and Post Roads.

By Mr. HOWELL: Petition of Murdock Grocery Co., John Rigby & Son, Western Cooperative Association, and 49 other merchants and business houses of Salt Lake City, Utah, in favor of House bill 13305, styled the Stevens bill; to the Committee on Interstate and Foreign Commerce.

Also, petitions from R. H. Bowen, L. E. Morris, and others, of Ogden, Utah, in favor of national prohibition; to the Committee on Rules.

By Mr. MOON: Papers to accompany bill for the relief of Elijah N. Cronan: to the Committee on Invalid Pensions.

By Mr. J. I. NOLAN: Protest of M. J. Leonard, San Francisco, Cal., and 32 other citizens of California, against the passage of the Hobson nation-wide prohibition resolution; to the Committee on Rules.

Also, protest of Herman H. Henning, San Francisco, Cal., and 44 other citizens of San Francisco, against the passage of the Hobson nation-wide prohibition resolution; to the Committee on Rules.

By Mr. O'LEARY: Petition of Herman Disch and other citizens of the second congressional district of New York, protesting against national prohibition; to the Committee on Rules.

By Mr. PATTEN of New York: Petitions of citizens of New York, against national prohibition; to the Committee on Rules.

By Mr. RAKER: Letters from Grace B. Reid and J. W. Wallace, of Long Beach, Cal., favoring national prohibition; to the Committee on Rules.

Also, letter from Chamber of Commerce, San Francisco, Cal., favoring an appropriation of $375,000 for the acquisition of a consular site in Shanghai, China; to the Committee on Foreign Affairs.

By Mr. ROBERTS of Nevada: Petitions of the members of Reno Central Trade and Labor Council, representing the unions of Washoe County, Nev., and sundry citizens of Carson City and Virginia City, Nev., protesting against national prohibition; to the Committee on Rules.

By Mr. J. M. C. SMITH: Papers to accompany H. R. 16984, providing pension for Lois Finney; to the Committee on Invalid Pensions.

By Mr. SPARKMAN: Petition of 570 citizens of the first congressional district of Florida, favoring national prohibition; to the Committee on Rules.

By Mr. STEPHENS of California: Petition of the Council of the City of Richmond, Cal., favoring Senate bill 3677, granting right of way to construct bridge across San Francisco Bay; to the Committee on Interstate and Foreign Commerce.

By Mr. TALCOTT of New York: Petition of the New York State Jewelers' Association, favoring Owen-Goeke bill, to eliminate time guarantees on gold-filled watches; to the Committee on Interstate and Foreign Commerce.

Also, petition of citizens of Utica and Ilion and voters of the thirty-third congressional district of the State of New York, protesting against national prohibition; to the Committee on Rules.

Also, petitions of Vernon Town Sunday School Association, members of the First Presbyterian Church of Vernon, and the Presbytery of Utica, all in the State of New York, favoring national prohibition; to the Committee on Rules.

By Mr. WILLIS: Petitions of Anna W. Sanderson and 59 other citizens of Delaware, Ohio; sundry citizens of St. Paris, Ohio; and R. H. Hampshire and 33 other citizens of Delaware, Ohio, all in favor of the adoption of House resolution 168, relative to national prohibition; to the Committee on Rules.

SENATE.

THURSDAY, *June 11, 1914.*

(Continuation of the legislative day of Friday, June 5, 1914.)

The Senate met at 11 o'clock a. m. on the expiration of the recess.

The PRESIDING OFFICER (Mr. SWANSON in the chair). The Senate resumes the consideration of House bill 14385, which is the unfinished business.

PANAMA CANAL TOLLS.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 14385) to amend section 5 of "An act to provide for the opening, maintenance, protection, and operation of the Panama Canal, and the sanitation of the Canal Zone," approved August 24, 1912.

The PRESIDING OFFICER. The bill is before the Senate as in Committee of the Whole.

Mr. SMITH of Georgia. The pending question is on the adoption of the amendment of the committee as amended.

The PRESIDING OFFICER. The question is on the amendment of the committee as amended.

Mr. MARTINE of New Jersey. Mr. President, I raise the point of no quorum.

The PRESIDING OFFICER. The Senator from New Jersey suggests the absence of a quorum. The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Ashurst	Goff	Nelson	Smith, S. C.
Borah	Gronna	Norris	Smoot
Brady	Hitchcock	O'Gorman	Sterling
Brandegee	Hollis	Overman	Sutherland
Bristow	James	Page	Swanson
Bryan	Johnson	Perkins	Thompson
Burleigh	Jones	Pittman	Thornton
Burton	Kenyon	Reed	Tillman
Carroll	Kern	Root	Townsend
Chamberlain	La Follette	Saulsbury	Vardaman
Chilton	Lane	Shafroth	Warren
Clapp	Lea, Tenn.	Sheppard	West
Colt	Lewis	Sherman	White
Crawford	McCumber	Shively	Williams
Culberson	McLean	Simmons	Works
Cummins	Martin, Va.	Smith, Ariz.	
Dillingham	Martine, N. J.	Smith, Ga.	
Fletcher	Myers	Smith, Md.	

Mr. CHILTON. I wish to announce for the day that the Senator from New Mexico [Mr. FALL] is necessarily absent, and that he is paired with me.

Mr. MYERS. I announce that my colleague [Mr. WALSH] is necessarily detained from the Chamber on official business.

Mr. KERN. I desire to announce the unavoidable absence of the senior Senator from Arkansas [Mr. CLARKE] and the junior Senator from Arkansas [Mr. ROBINSON], both of whom are paired. This announcement will stand for the day.

The PRESIDING OFFICER. Sixty-eight Senators have answered to their names. A quorum is present.

Mr. BRANDEGEE obtained the floor.

Mr. SUTHERLAND. Will the Senator from Connecticut yield to me for a moment?

Mr. BRANDEGEE. Certainly.

Mr. SUTHERLAND. On yesterday during the remarks of the Senator from Iowa [Mr. CUMMINS] and during a colloquy between the Senator from Mississippi [Mr. WILLIAMS] and the Senator from Iowa I stated to the Senator from Mississippi, on page 10166 of the RECORD:

> Mr. SUTHERLAND. Suppose the Senator from Mississippi had a lawsuit pending before a court. Of course the opinion of the Senator's lawyer that he did not have a good case, or his opinion that he had a doubtful case, would not be admissible, but would the Senator think it would tend to bring about a decision in his favor if his lawyer said he did not have any case or expressed doubt about it and that opinion got to the judge and the jury?

To this the Senator from Mississippi replied:

> Mr. WILLIAMS. That is again a different proposition. If in that case my lawyer proved untrue to me and let the jury and the judge know, or if my lawyer selected a judge who agreed with him and did not agree with me, his client, of course that would weaken the case very much indeed, probably lose it.

Then, I am reported as having said:

> Mr. SUTHERLAND. That is what I think the American people will do; they will change lawyers in this matter.

I understood the Senator from Mississippi to say that in the event supposed he would change lawyers, and it was in view of that statement which I understood the Senator from Mississippi to make that I said:

> That is what I think the American people will do; they will change lawyers in this matter.

As it reads in the RECORD it appears as though I had said that in response to the statement of the Senator from Mississippi, that he would probably lose the case. I did not intend to suggest anything of that sort. I do not think the American people will lose their case before any fair arbitration tribunal which may be organized; but, on the contrary, I think they will win the case. However, I think before we get through with this business the American people will change the officials who are now representing them in the matter.

Mr. DU PONT. Mr. President, I desire to state that I was necessarily absent yesterday when the vote was taken on the Simmons amendment and that had I been present I should have voted "nay."

Mr. BRANDEGEE. Mr. President, during my remarks I shall allude to some documents which I will not quote in full, but will insert in the RECORD, with the consent of the Senate, and I desire to proceed without interruption, if I may be allowed to do so.

Mr. President, the so-called Panama Canal act, being H. R. 21969, Sixty-second Congress, second session, which was approved August 24, 1912, passed the House of Representatives on May 23, 1912. It was reported by me as chairman of the Senate Committee on Interoceanic Canals on the 12th day of June, 1912.

On the 18th day of May, while the bill was under consideration in the House, Mr. DOREMUS offered an amendment, which appears on page 6770 of the CONGRESSIONAL RECORD of that session. It proposed to strike out section 5 of the bill as it had

been reported from the House committee and to substitute in lieu thereof a section containing the following provision, to wit:

No tolls shall be levied upon vessels engaged in the coastwise trade of the United States.

Five days later, to wit, on the 23d day of May, 1912, as appears on page 7019 of the RECORD, this Doremus amendment exempting our vessels engaged in the coastwise trade from the payment of tolls was adopted by a vote of 147 yeas to 128 nays. A majority of all the Democrats who voted voted against this amendment. Seventy-one Democrats voted for it and 91 Democrats voted against it.

On June 25, 1912, about a month after a majority of the Democrats voting in the House had voted against this amendment, the Democratic national convention met in Baltimore. At this time, and until after the adjournment of the Democratic convention, this Panama Canal bill had not been taken up for consideration by the Senate.

On July 2, 1912, the day of the adjournment of the Democratic national convention, 11 days before this bill had been taken up at all for consideration by the Senate, the convention adopted its platform of principles. Among other declarations it stated—

We favor the exemption from tolls of American ships engaged in coastwise trade passing through the Panama Canal.

That platform further declared—

our platform is one of principles which we believe to be essential to our national welfare. Our pledges are made to be kept when in office, as well as relied upon during the campaign, and we invite the cooperation of all citizens, regardless of party, who believe in maintaining unimpaired the institutions and traditions of our country.

These "principles" declared to be "essential to our national welfare," these "pledges made to be kept when in office, as well as relied upon during the campaign," were reported to the convention by the junior Senator from Indiana, the majority leader of the Senate, and received the enthusiastic and unanimous approval of the convention. And why should they not? They were deemed so vital and fundamental that the platform proceeded to extend a courteous invitation, not to say an appeal, to "all citizens, regardless of party, who believe in maintaining unimpaired the institutions and traditions of our country," to cooperate.

It thus appears that 11 days before the Senate had begun the consideration of the bill, every Democratic Senator had been bound by the platform declaration of his party to the exemption from tolls of American vessels engaged in coastwise trade. The Democratic Party was about to enter upon the nation-wide presidential campaign, and had just formulated and unanimously adopted its platform defining the issues, and forthwith every Democratic Senator, unless he was prepared to repudiate his platform upon the threshold of the campaign, was estopped from exercising any judgment, reason, or discretion in the consideration of this grave question of national policy and national good faith.

On August 7, 1912, as appears on page 10396 of the CONGRESSIONAL RECORD of that session, the senior Senator from Ohio [Mr. BURTON] offered an amendment to strike out from the bill this provision exempting our coastwise vessels from payment of tolls, and not a single Democrat voted for it. This shows how effectually the platform declaration in favor of this exemption bound Democratic Senators.

As heretofore stated, the RECORD shows that a month prior to the meeting of the Democratic convention the Democrats in the National House of Representatives had voted 91 to 71 against this specific exemption. Of course the Democratic national convention had given no consideration whatever to this important question. The matter was not even alluded to on the floor. No evidence was taken, nor was any discussion had. There was no debate or argument of any kind in reference to the question. The platform declaration in favor of this exemption was interjected toward the end of the platform, between a denunciation of bounties and subsidies from the Public Treasury and a conventional approval of pure food and quarantine. The present Secretary of State, Mr. Bryan, who was the chief architect of both the platform and the candidate who until after the election stood upon it, as soon as he had recovered from his dazed condition and freed from the anesthetic, began to appreciate the effect of the operation to which he had been subjected—I will not say "the joker" which had been slipped over on him—forthwith denounced his own work as self-contradictory, absurd, and destructive of fundamental and historic Democratic doctrine.

Can any one explain why the Democratic convention, equally free from the slightest knowledge of either the canal question or the treaty obligations involved in it, flatly reversed the record made by its own party within a month in the House of Representatives and bound and gagged its party in this Senate in advance of any consideration whatever of the bill by this body? Did this excited and worn body of political delegates think that they were better qualified to investigate with knowledge and to determine in a judicial frame of mind these complicated and weighty questions than was the Congress of the United States? How many of those delegates had ever even heard of the Hay-Pauncefote treaty? How many of those who had heard of it had ever read it? How many of them knew of the evidence before the committees of each branch of the Congress?

The Senator from Kentucky [Mr. JAMES], who presided over the convention, has stated on this floor that this platform provision was adopted for the purpose of "driving this exemption through this Senate." He has violated no confidence in making that charge. It was perfectly patent and well understood at the time. The agents of the ship-subsidy hunters flocked about that convention like a cloud of bats. Their swift, silent circlings in the shadows were not visible. Their leathery wings were clad in silence, but carried them into the secret corners and centers of power. They operated in the inner circle where the mighty sat. They knew exactly what they wanted and they got it, while the mass of the delegates was allowed to refresh itself with the various amusements provided for such occasions.

The Senator from Kentucky further charged that the convention did not even know that a majority of the Democrats voting in the House had voted against the exemption. I have no doubt that was true; and, if so, it shows the ignorance of the membership of that convention upon the entire question.

The convention, having thus reversed the House and throttled the Senate, is now in turn reversed and repudiated by its former master and its candidate for the Presidency, and, indeed, if the public prints are to be credited, the great majority of the delegates themselves have reported to the Senator from Oklahoma [Mr. GORE] that they take great pleasure in reversing and repudiating themselves and their own solemn platform declaration. Was there ever such a record of blundering and tergiversation in the history of political acrobatics since government by parties began?

The Democratic convention adjourned on July 2, after having adopted its platform of fundamental Democratic principles, and on July 13, 1912, as appears on page 8990 of the CONGRESSIONAL RECORD of that session of Congress, the Senate voted to proceed to the consideration of the Panama Canal bill. It thereby became the unfinished business of the Senate, and so continued until its passage by the Senate on August 9, 1912, when the bill as amended by the Senate was passed.

The conference report on the disagreeing action of the two Houses, including the exemption which the bill now under consideration proposes to repeal, was agreed to on August 16, 1912.

On July 13, 1912, being the same day upon which the Senate voted to proceed to the consideration of the Panama Canal bill, I put into the RECORD a communication addressed to me as the chairman of the Committee on Interoceanic Canals, from the then Secretary of State, Mr. P. C. Knox, which communication was dated July 12, 1912. This letter called attention to a communication dated July 8, 1912, which had just been received from the British chargé d'affaires in relation to various proposals for exempting American shipping from the payment of tolls on vessels passing through the Panama Canal. This letter from Mr. Knox gave a résumé of the communication from the British chargé. It appears on page 8990 of the RECORD, Sixty-second Congress, Second session. Secretary Knox stated in this communication that the communication stated that—

With respect to the proposal that exemption shall be given to vessels engaged in the coastwise trade, the communication states that it may be that no objection could be taken if the trade should be so regulated as to make it certain that only bona fide coastwise traffic, which is reserved for American vessels, would be benefited by this exemption; but that it appears to His Britannic Majesty's Government that it would be impossible to frame regulations which would prevent the exemption from resulting in a preference to American shipping and consequently in an infraction of the treaty.

The Senate was therefore put upon notice upon the very threshold of the consideration of this legislation, that it would be impossible, in the opinion of the British Government, to prevent the exemption from resulting in an infraction of the Hay-Pauncefote treaty.

Mr. President, in the period of more than two months during which the bill was before the Senate in 1912 I implored the Senate time and again not to commit the monumental folly of opening this canal upon a discriminatory basis. I had voted against this exemption in the committee of which at that time I was the chairman. I believed this attempt to adopt a policy of favoritism to a special interest was wrong in principle, a false economic policy, without justification or excuse, uncalled for, unwise, and not needed by the special interest sought to

be aided. I felt also that it was in violation of our national treaty obligations. Such additional information as I have obtained since that time and such study and reflection as I have been able to devote to the subject have confirmed me in both these opinions.

On July 18, 1912, at page 9222 of the RECORD of that session, I said:

Of course to those who want to bestow the right of free passage through the canal upon American ships, either those engaged exclusively in the coastwise trade or also those engaged in the foreign trade, the question involved in the treaties is essential. While I have views about the treaties, those views do not enter into the determination of the question with me, because I do not want to confer free passage upon American ships of any kind. I have never had that in mind, and I think the canal commission has never had it in mind, as will appear in the testimony of Col. Goethals given before various committees, both on the Isthmus and here in Washington. They have always based their estimates of the receipts of the canal upon the theory that we were to charge every vessel that went through there what was stated under the treaty to be a just and reasonable price for the work done. So that while I have views about the treaties, they are merely academic questions with me, so far as my vote is concerned.

I take the view of this canal that it is a great undertaking of an international character, the Clayton-Bulwer treaty providing that it should be the joint project of Great Britain and the United States, and the Hay-Pauncefote treaty eliminating Great Britain as a joint partner in the enterprise and giving us exclusive jurisdiction of the control of the canal. I regard it—it being, of course, admittedly the greatest work of human hands in any age of the world's history—as having, so to speak, moved the Straits of Magellan approximately 4,000 miles to the northward.

It seems to me that the saving to the coastwise, the port-to-port trade of this country, conducted by American vessels, to which by this expenditure of $400,000,000, together with its maintenance and armament and defense forever, the canal has been dedicated, a saving of 8,000 miles of travel and all the expense of fuel and maintenance and pay of crew involved in that shortening of time, is a sufficient favor to have been conferred by the General Government upon this particular interest, which already has the additional favor of an absolute monopoly in the coastwise trade.

When I stated as above, that while I had views about the treaties, they were merely academic questions with me, so far as my vote was concerned, of course I meant that inasmuch as I was opposed to exempting our vessels in the coastwise trade passing through the canal from tolls on economic grounds, that it was not necessary in the determination of my vote to consider the question of the treaty at all. The question as to whether we are prohibited by the treaty from exempting our vessels in the coastwise trade becomes material only when we propose to exempt them.

Subsequently, in the running debate during the passage of this Panama bill, I stated that it was my opinion, and I thought the opinion of most people whom I had heard discuss it, that all vessels ought to be charged, and I said:

The object of this legislation was to open the canal, start it running, charge all vessels alike, so much per ton, and, after a few years, basing action upon the experience of what will then have been the past, and what is now the prognostication for the future, have some firm facts under our feet upon which to stand and base our future course.

Again I said:

So I, from the beginning, have been in favor and still am in favor of making that canal as free of access to every vessel in the world as it may be. I am in favor of treating it as a great arm of the sea. I am in favor of giving it its broadest international significance, of administering it in a way not only to promote the commerce of the whole world and to induce more frequent coming to both our coasts by not only our own commerce but the whole world, but to administer it in a way, so far as possible, to secure the good will of the whole world and to avoid any international complications or animosities. I think that will be done if we shall proceed as I have indicated.

Later on I spoke as follows:

Mr. President, as I was saying some time ago, in view of these contending theories, in view of these differences of opinion about the treaties, in view of the fact that we can have no positive knowledge in advance of what is going to happen in the canal after it is open for business and business has gone on for a year or two, it seems to me the most sensible thing to do, the thing that certainly we could make no mistake about and never could be blamed for doing, would be to open the canal to all vessels that want to go through it and charge them all a just and reasonable price for the service we render to them in putting them through.

After operating the canal a year or two years and figuring up the amount of tolls received from the vessels, with some experience as to whether or not we might have to reduce the tolls to get the business as against our competitor, the Suez Canal, we would be in a better position to judge as to whether it was necessary to attempt to give—even if we could do so under the treaties—free tolls to American shipping or free tolls to American vessels engaged in the foreign trade, which, if we can give free tolls, need the free tolls and the help much more than the domestic shipping, which already has a monopoly of the market, secure from competition with foreigners, and is fairly prosperous at the present time.

On page 9232 of the RECORD of July 18, 1912, I put into the RECORD a quotation from page 26 of the hearings before the Senate Committee on Interoceanic Canals, being a part of the testimony of Dr. Emory R. Johnson, the President's special commissioner, who had made an exhaustive study of every question relating to the probable traffic through the canal, after access to all available statistics and information in relation to the movement of ships, and the experience and operation of all other canals of the world, with a view of advising the President and Congress what system of ship measurement should be adopted and what tolls should be imposed to secure the greatest trade and to make the canal as useful and profitable as possible. Dr. Johnson stated, among many other things:

The Panama Canal is a world highway; and certainly the use of that world highway by the shipping of other people than those of the United States should be charged for in proportion to the service rendered by the canal. When we come to American shipping there were two general problems involved. The canal will be the most expensive work that we have ever put through. The time has come, in my judgment, when we can not wisely continue indefinitely to finance such great public works as the Panama Canal out of the general budget, if revenues can be secured without limiting the usefulness of such a public work and without burdening the commerce that is benefited.

As I said in my introductory remarks, I do not believe a toll of 5 or 6 per cent of the freight rate will be burdensome or that it will restrict the use of the canal. It will be wise to adopt and adhere to business principles in our canal toll policy.

On August 6, 1912, at page 10296 of the RECORD, the Senator from Ohio [Mr. BURTON] offered an amendment proposing to strike from the bill the provision that—

No tolls shall be levied upon vessels engaged in the coastwise trade of the United States.

Upon this proposed amendment I stated:

Mr. President, of course that brings up the whole question whether coastwise trade shall be exempt from toll charges or not. That has been discussed a good deal by Senators in their general speeches on the bill.

I do not intend to take up more than one minute of the Senate's time.

I want to state that from the beginning I have been, and am now, in favor of the amendment proposed by the Senator from Ohio [Mr. BURTON]. I do not see any reason why a vessel engaged in the coastwise trade of this country that wants to get from the Atlantic to the Pacific Ocean, or the reverse, should have any right to come to that canal and say to the United States, which has already paid $400,000,000 for the construction of the canal: "Here, get to work. Burn up the coal you have bought with Treasury funds; maintain your operating force; transport me; not only give me the use of the waterway which you have provided at this enormous expense, as you would in the case of a harbor, but pay the expenses of transporting my vessel across the continent, and also insure her against any accident"—for, as the Senators who have read the bill know, it provides that the vessel must absolutely put itself in the hands of the operating force of the United States.

If any accident happens to it or damage results to it, the United States is responsible in damages for that vessel. I understand the claims that Senators make who believe the other way, but to me there is no moral claim whatever. Any shipping engaged in our coastwise trade, which already has a monopoly in the business, has bound the Government not only to spend the money collected in taxes from all the people in a special service to it, but also to guarantee it and insure it against damage if a vessel is injured. I am heartily in sympathy with the amendment of the Senator from Ohio.

Afterwards, replying to an inquiry of the Senator from North Carolina, I stated:

I will say that I do not consider this Panama Canal to be at all on a parity with our inland waterways. I see no analogy whatever between them but the fact that they are both waterways upon which ships sail. I do not regard it as a part of our coast line, as some Senators do. Two foreign countries intervene between our country and the canal. To my mind it is no more a part of our coast line than the Straits of Magellan would be. It is simply a question of degree as to the distance.

I continued:

The sole question with me is with what moral force does the appeal come to the Congress of the United States as representatives of our States here and the people from a private shipowner, who already has a monopoly of our coastwise trade, to appear from the Atlantic or Pacific Ocean and signal to the operatives of the canal upon which we have spent $400,000,000, the interest charge of which is some $11,000,000, the annual maintenance and operation of which is two and a half or three million dollars—with what right in equity does that man say to us: "You have saved me some 8,000 miles of travel around the Straits of Magellan, and you allow me to sail over this water as you would a harbor, but in addition to that I demand that you shall keep it equipped, that you shall go into the market and buy coal, that you shall carry it down there and burn it in running the machinery for my peculiar benefit, and I will keep the tolls, the amount of money which the service is worth to me."

Again I stated:

We had for years a Panama railroad down there, and it did, as far as it could, the same business that this canal is going to do, only the cargoes of ships had to be transferred from the ship to the railroad. We never put the cargoes of the ships through free on the railroad. On the contrary, we charged them for the service performed.

I stated further:

I have said upon a previous occasion that I do not think we can do it under the treaty. I am frank to say so. But, irrespective of the treaty, I do not think the proposition has any intrinsic merits of its own. If I were certain that we had the right to do it under the treaty, I should still be in favor of charging the ships for the people's money that we have burned up in putting them through. I think, even if I were willing to grant a ship subsidy, which this is to an extent, I would want it impartially distributed among our ships. If I were going to subsidize our coastwise trade, I should want a law so that any vessel in our coastwise trade could get its share; but if this be a subsidy, it is a subsidy which discriminates between that portion of our coastwise trade which goes through the Panama Canal and all the rest of it, and says that those vessels which go through the Panama Canal shall be subsidized and those which do not shall not.

Again I stated:

I never should have raised any treaty question at all, with the view that I entertain upon the subject. The fact that we had a note of a diplomatic character from Great Britain upon this question is absolutely immaterial and irrelevant to me, because, as I said, if Great Britain had never written such a note I would not be in favor of presenting this subsidy to these vessels.

There is another thing about this matter. I know we can have no trouble if we start in and charge every vessel for which we perform this special service. We can work on that theory for a year or two. If then Congress wants to remit the tolls, or is satisfied that it can lawfully give a preference to our domestic shipping, it can do it easily; but if it starts with free tolls, and it is desirable to put tolls on, it never will be possible to do it, in my opinion.

There is another thing I will say in passing. If it shall be the policy of Congress to grant free tolls to its ships in the coastwise trade, which have the monopoly of the market, I think it much more deserving to grant subsidies or free tolls to our shipping in the foreign trade, which has been almost wiped from the ocean, while our coastwise trade is profitable. I certainly would not permit that discrimination as between our two classes of shipping.

Later on, in a colloquy with the Senator from Massachusetts, I stated:

Article 3 of the Hay-Pauncefote treaty not only provides that it shall be on terms of entire equality as to tolls, but provides that—

"There shall be no discrimination against any nation, or its citizens or subjects, in respect to the conditions or charges of traffic or otherwise."

Now, it seems to me that if we are bound by that treaty, if the treaty applies to us, it is a discrimination for us to attempt to exempt our coastwise vessels from tolls in this sense: A British vessel, from Liverpool, via the canal to San Francisco, has to pay the tolls, while an American vessel, from San Francisco to New York, going via the canal, does not have to pay any tolls. If Great Britain has a market in San Francisco, we are able to have just that much preference in the retail prices or the wholesale prices there by the fact that our vessels go through the canal free, while theirs are charged, and it might result, if the margin was close enough, in transferring the trade from old England to New England.

Mr. President, so unalterably opposed was I to the discrimination in favor of American ships using the canal as against those of other nations that as has been seen from what I have quoted from the RECORD, I voted in favor of the amendment offered by the Senator from Ohio to strike from the bill that provision which exempted our vessels in the coastwise trade passing through the canal from the payment of tolls, and later on, as a member of the managers of the conference on the part of the Senate on the disagreeing action between the two Houses on the Panama Canal bill, I declined to sign the conference report, as did also Representative STEVENS of Minnesota, one of the managers on the part of the House. When the conference report was presented to the Senate, without my signature, I stated:

The country will be better off, in my judgment, if this conference report should not be accepted, but either recommitted or rejected. What would be quite sufficient to provide for all that we started to provide for in the opening and operation of this canal would be accomplished by a short resolution, which I send to the desk and ask the secretary to read.

This resolution was read by the secretary and appears on page 11062 of the RECORD, under date of August 16, 1912. The resolution was as follows:

Resolved, etc., That until Congress shall otherwise provide, the President is authorized, as the progress of work on the Panama Canal may seem to justify, to proceed with the organization and training of a competent force to man the locks and operate said canal when completed and ready to be opened for use and operation.

The President is also hereby authorized to establish facilities for the repair and supply of our own Government's vessels and such others as may use the canal, and to install wireless telegraphy, making such agreements with private wireless telegraph companies as may be necessary to secure freedom from interference, the cost of any of which may be paid from appropriations either for the construction or the maintenance and operation of the canal.

The President is further authorized to give public notice, by Executive order or proclamation, that the tolls to be charged vessels for passage through the Panama Canal shall not exceed $1.25 per ton, net registry measurement, or the equivalent thereof.

I then stated:

The only haste about this legislation or any of it was that involved in creating an operating force from the present skilled constructing force so that the services of the men engaged upon the work there now and familiar with it could be continued when the canal is opened and that they should not leave the Isthmus and the zone.

I stated further:

The only other feature that required immediate attention was the notification to the commercial world and those contemplating the construction of great ships, the completion of which will take about two years, that the tolls to be charged should not be beyond a certain sum, and upon that basis they could go ahead with their shipbuilding. The President in this resolution is authorized to notify them that the tolls shall not in any event be over a dollar and a quarter a ton, and then if it was anything less it would be to their advantage. Everybody would be safe. The canal could be completed, opened, and operated, and the community would be notified of the tolls. That is everything that was proposed to be contemplated in this legislation. The question of the revision of the courts down there and such minor questions can be determined at any time. In the meantime an investigation should be made of this whole subject of water and rail transportation, and justice could be done the subject by the Congress of the United States.

On August 16, 1912, the conference report by which this unfortunate legislation was enacted by Congress was agreed to by a vote of 48 to 18. Eighteen Senators on a yea-and-nay vote, as appears on page 11065 of the CONGRESSIONAL RECORD of that date, myself among the number, voted against the adoption of this conference report.

I will say there that I am not sure but that I was paired with the Senator from New York [Mr. O'GORMAN] against the bill. I was either paired against it or voted against it.

From what I have already said it is evident that I protested at the time this legislation was enacted to the best of my ability, over and over again, against its passage. I called attention to its economic folly, to its questionable legality, and to the international friction which it would probably engender. I prophesied the animosities which it would cause. I begged the Senate not to lift the lid of this Pandora's box of troubles, but all in vain. I gave warning that the path of exemption, discrimination, and favoritism was sown with dragons' teeth, both at home and abroad, but to no avail. Instead of confining itself to a bona fide disinterested attempt to ascertain the wisest economic policy and the true meaning and intent of our treaty obligations, Congress allowed itself to be overpersuaded by the pressure of the shipowners for special favors, by the importunities of commercial bodies in various sections of the country in their attempt to obtain unfair advantages from the use of the canal over other sections of the country, by the appeal to the hostility which exists in various quarters against the transcontinental railroads, and by the fact that the national convention of the Democratic Party was entrapped into a declaration upon this complicated subject upon which it was utterly ignorant. So much for the history of this legislation in the Sixty-second Congress.

On the 24th day of August, 1912, the day upon which this troublous bill was approved, Mr. SIMS of Tennessee, a Democrat in the House of Representatives, introduced in the House a bill which provided:

That so much of the act approved August 24, 1912, which reads as follows: "No tolls shall be levied upon vessels engaged in the coastwise trade of the United States," be, and the same is hereby, repealed.

And again, on March 9, 1914, the same Mr. SIMS introduced House bill 14385, the first section of which is identical with the bill which he had previously introduced, and the second section of which repeals another discrimination of the Panama Canal legislation. This bill was passed by the House on March 31, 1914, and is the bill now under consideration here, upon which a vote will soon be taken. I shall vote for this bill. It is in accordance with what I have always believed and advocated, both in the Committee on Interoceanic Canals and on the floor of the Senate and in the visits of inspection and investigation which I have made to the Isthmus of Panama and the Canal Zone.

The blunders of the Democratic convention and the swift changes of its membership upon this question, the various interpretations of its platform declarations, whether the Democratic Party has kept or betrayed its pledges to the people, whether the President of the United States meant what he said to his constituents in New Jersey and elsewhere while he was standing upon this platform, whether he has changed his mind, if he did believe what he said, whether he was right when he said what he did say or whether he is right now when he denies that what he said then was right, what the effect upon the Democratic Party of their varied and spectacular evolutions upon this question may be, whether the Democrats in the Senate who formerly voted to sustain their platform pledge and are now about to vote against it can explain their conduct satisfactorily to their constituents, what Democratic Senators now believe upon this question, whether any of them are about to change their votes without having changed their minds, or whether they had any opinions in the matter to change, are questions of entire indifference to me. My opinion and belief, conduct and record upon this entire question has been consistent from the beginning to the end. I believe now just as I believed in 1912, and it would make no difference whatever to me in casting my vote on this bill whether I stood with the majority or with the minority or alone. I may be mistaken in my belief about this question. I do not pretend to be infallible, but I do know when I have an opinion, and I must vote as I think. I am always ready to take whatever consequences may ensue upon having an opinion and expressing that opinion by my vote, and I am in this instance.

Mr. President, I am aware that this subject has been debated in both branches of Congress, in the press, in the magazines, and by eminent authorities all over the world; and I do not expect that much additional light can be thrown upon

the subject by further discussion. The time for action has nearly arrived. Before the final vote shall be taken I desire to say that a careful consideration of the debate which has been had on the treaty of November 18, 1901, commonly known as the Hay-Pauncefote treaty, and the diplomatic correspondence and other information supplied by the Department of State in reply to a resolution introduced by me and adopted by the Senate on April 14, 1914, and in reply to a resolution introduced by the Senator from Nebraska [Mr. HITCHCOCK] on the 20th of April, 1914, which information was printed by the Senate, entitled "Diplomatic History of the Panama Canal," and is known as Senate Document No. 474, Sixty-third Congress, second session, I am confirmed in my previous opinion that under the Hay-Pauncefote treaty the United States is not at liberty to discriminate in favor of the vessels owned by its citizens in respect of the conditions or charges of traffic or otherwise in the passage of said vessels through the Panama Canal.

The United States is an honest Nation. The vast majority of our citizens intends to keep its word. If this Nation has made a contract, the great majority of the people want to see the contract kept and not broken. I believe that the very interests who have demanded the exemption of our coastwise ships from the payment of tolls would not ask for this exemption if they thought it broke our contract. I do not believe that Senators here would vote to maintain this exemption if they thought it broke our contract. The question is, *Does* this exemption break our contract? To the ordinary person, who is not familiar with the way in which we obtained the authority to build the Panama Canal, it seems that we ought to be able to exempt our coastwise ships from tolls if we so desire. He is told that we are sovereign in the Panama Canal Zone; that we have an American canal there; that we have built it at an expense of over $400,000,000; that under the treaty we are, subject to the provisions of the present treaty, to have and enjoy all the rights incident to such construction, as well as the exclusive right of providing for the regulation and management of the canal. And then he is asked the question, sometimes in a blustering and indignant manner, which is supposed to indicate a superior kind of patriotism on the part of the gentleman who propounds the inquiry: "Do you mean to say that having spent $400,000,000 in the building of this American canal we are to be dictated to by any foreign Government as to whether we shall charge our own ships or not; shall we surrender our sovereignty to a foreign nation?" And then the argument is supposed to be closed and the person who from a full reading of the treaty and thoughtful consideration of it and of the circumstances and diplomatic history of the last century which led up to the making of the treaty thinks otherwise is supposed to be convicted of treason against the United States.

Of course those familiar with the history of the question know that prior to the Mexican War Great Britain had a much longer coast line in North America than the United States did. Her maritime interests were infinitely greater. Her interests in the neighborhood of the Isthmus of Panama were much greater. The entire California coast belonged to Mexico. Great Britain controlled both the Atlantic and the Pacific coasts of the Dominion of Canada. She had possessions in the West Indies. She had a settlement and claim in British Honduras. She made a claim to the Mosquito territory which controlled the mouth of one of the rivers where it was expected the canal might some day be built. She possessed Greytown. Both the United States and Great Britain were opposed to the exclusive control of any canal across the Isthmus by any nation except itself. There was contention, bad feeling, and various attempts to get exclusive rights in the location where it was supposed the canal might finally be constructed. Finally on April 19, 1850, the Clayton-Bulwer treaty was executed. This treaty read as follows:

The United States of America and Her Britannic Majesty, being desirous of consolidating the relations of amity which so happily subsist between them, by setting forth and fixing in a convention their views and intentions with reference to any means of communication by ship canal which may be constructed between the Atlantic and Pacific Oceans by the way of the river San Juan de Nicaragua and either or both of the lakes of Nicaragua or Managua, to any port or place on the Pacific Ocean, the President of the United States has conferred full powers on John M. Clayton, Secretary of State of the United States, and Her Britannic Majesty on the Right Honorable Sir Henry Lytton Bulwer, a member of Her Majesty's most honorable privy council, knight commander of the most honorable Order of the Bath, and envoy extraordinary and minister plenipotentiary of Her Britannic Majesty to the United States, for the aforesaid purpose; and the said plenipotentiaries having exchanged their full powers, which were found to be in proper form, have agreed to the following articles:

ARTICLE 1.

The Governments of the United States and Great Britain hereby declare that neither the one nor the other will ever obtain or maintain for itself any exclusive control over the said ship canal; agreeing that neither will ever erect or maintain any fortifications commanding the same or in the vicinity thereof, or occupy, or fortify, or colonize, or assume, or exercise any dominion over Nicaragua, Costa Rica, the Mosquito coast, or any part of Central America; nor will either make use of any protection which either affords or may afford, or any alliance which either has or may have to or with any state or people, for the purpose of erecting or maintaining any such fortifications, or of occupying, fortifying, or colonizing Nicaragua, Costa Rica, the Mosquito coast, or any part of Central America, or of assuming or exercising dominion over the same; nor will the United States or Great Britain take advantage of any intimacy, or use any alliance, connection, or influence that either may possess with any state or government through whose territory the said canal may pass, for the purpose of acquiring or holding, directly or indirectly, for the citizens or subjects of the one any rights or advantages in regard to commerce or navigation through the said canal which shall not be offered on the same terms to the citizens or subjects of the other.

ARTICLE 2.

Vessels of the United States or Great Britain traversing the said canal shall, in case of war between the contracting parties, be exempted from blockade, detention, or capture by either of the belligerents; and this provision shall extend to such a distance from the two ends of the said canal as may hereafter be found expedient to establish.

ARTICLE 3.

In order to secure the construction of the said canal, the contracting parties engage that if any such canal shall be undertaken upon fair and equitable terms by any parties having the authority of the local Government or Governments through whose territory the same may pass, then the persons employed in making the said canal, and their property used, or to be used, for that object, shall be protected, from the commencement of the said canal to its completion, by the Governments of the United States and Great Britain, from unjust detention, confiscation, seizure, or any violence whatsoever.

ARTICLE 4.

The contracting parties will use whatever influence they respectively exercise with any State, States, or Governments possessing or claiming to possess any jurisdiction or right over the territory which the said canal shall traverse, or which shall be near the waters applicable thereto, in order to induce such States or Governments to facilitate the construction of the said canal by every means in their power. And furthermore, the United States and Great Britain agree to use their good offices, wherever or however it may be most expedient, in order to procure the establishment of two free ports, one at each end of the said canal.

ARTICLE 5.

The contracting parties further engage, that when the said canal shall have been completed, they will protect it from interruption, seizure, or unjust confiscation, and that they will guarantee the neutrality thereof, so that the said canal may forever be open and free, and the capital invested therein secure. Nevertheless, the Governments of the United States and Great Britain, in according their protection to the construction of the said canal, and guaranteeing its neutrality and security when completed, always understand that this protection and guarantee are granted conditionally, and may be withdrawn by both Governments, or either Government, if both Governments, or either Government, should deem that the persons or company undertaking or managing the same adopt or establish such regulations concerning the traffic thereupon as are contrary to the spirit and intention of this convention, either by making unfair discriminations in favor of the commerce of one of the contracting parties over the commerce of the other, or by imposing oppressive exactions or unreasonable tolls upon the passengers, vessels, goods, wares, merchandise, or other articles. Neither party, however, shall withdraw the aforesaid protection and guarantee without first giving six months' notice to the other.

ARTICLE 6.

The contracting parties in this convention engage to invite every State with which both or either have friendly intercourse to enter into stipulations with them similar to those which they have entered into with each other, to the end that all other States may share in the honor and advantage of having contributed to a work of such general interest and importance as the canal herein contemplated. And the contracting parties likewise agree that each shall enter into treaty stipulations with such of the Central American States as they may deem advisable, for the purpose of more effectually carrying out the great design of this convention, namely, that of constructing and maintaining the said canal as a ship communication between the two oceans for the benefit of mankind, on equal terms to all, and of protecting the same; and they also agree, that the good offices of either shall be employed, when requested by the other, in aiding and assisting the negotiation of such treaty stipulations; and should any differences arise as to right or property over the territory through which the said canal shall pass between the States or Governments of Central America, and such differences should in any way impede or obstruct the execution of the said canal, the Governments of the United States and Great Britain will use their good offices to settle such differences in the manner best suited to promote the interests of the said canal, and to strengthen the bonds of friendship and alliance which exist between the contracting parties.

ARTICLE 7.

It being desirable that no time should be unnecessarily lost in commencing and constructing the said canal, the Governments of the United States and Great Britain determine to give their support and encouragement to such persons or company as may first offer to commence the same, with the necessary capital, the consent of the local authorities, and on such principles as accord with the spirit and intention of this convention; and if any persons or company should already have, with any State through which the proposed ship canal may pass, a contract for the construction of such a canal as that specified in this convention, to the stipulations of which contract neither of the contracting parties in this convention have any just cause to object, and the said persons or company shall moreover have made preparations, and expended time, money, and trouble, on the faith of such contract, it is hereby agreed that such persons or company shall have a priority of claim over every other person, persons, or company to the protection of the Governments of the United States and Great Britain, and be allowed a year from the date of the exchange of the ratifications of this convention for concluding their arrangements, and presenting evidence of sufficient capital subscribed to accomplish the contemplated undertaking; it being understood that if, at the expiration of the aforesaid period, such persons or company be not able to commence and carry out the proposed enterprise, then the Governments of the United States and Great Britain shall be free to afford their pro-

tection to any other persons or company that shall be prepared to commence and proceed with the construction of the canal in question.

ARTICLE 8.

The Governments of the United States and Great Britain having not only desired, in entering into this convention, to accomplish a particular object, but also to establish a general principle, they hereby agree to extend their protection, by treaty stipulations, to any other practicable communications, whether by canal or railway, across the isthmus which connects North and South America, and especially to the interoceanic communications, should the same prove to be practicable, whether by canal or railway, which are now proposed to be established by the way of Tehuantepec or Panama. In granting, however, their joint protection to any such canals or railways as are by this article specified, it is always understood by the United States and Great Britain that the parties constructing or owning the same shall impose no other charges or conditions of traffic thereupon than the aforesaid Governments shall approve of as just and equitable; and that the same canals or railways, being open to the citizens and subjects of the United States and Great Britain on equal terms, shall also be open on like terms to the citizens and subjects of every other State which is willing to grant thereto such protection as the United States and Great Britain engage to afford.

ARTICLE 9.

The ratifications of this convention shall be exchanged at Washington within six months from this day, or sooner if possible.

In faith whereof we, the respective plenipotentiaries, have signed this convention and have hereunto affixed our seals.

Done at Washington the 19th day of April, A. D. 1850.

JOHN M. CLAYTON. [L. S.]
HENRY LYTTON BULWER. [L. S.]

It was printed as Senate Document No. 85, Fifty-seventh Congress, first session.

It will be seen that the preamble of this treaty recites that the two powers—

being desirous of consolidating the relations of amity which so happily subsist between them, by setting forth and fixing in a convention their views and intentions with reference to any means of communication by ship canal which may be constructed between the Atlantic and Pacific Oceans by the way of the River San Juan de Nicaragua and either or both of the lakes of Nicaragua or Managua, to any port or place on the Pacific Ocean, * * * have agreed to the following articles.

It will be further noted that the first article agreed to declares that neither power will ever obtain or maintain for itself any exclusive control over the said ship canal, nor take advantage of any intimacy, or use any alliance, connection, or influence that either may possess with any State or Government through whose territory the said canal may pass, for the purpose of acquiring or holding, directly or indirectly, for the citizens or subjects of the one, any rights or advantages in regard to commerce or navigation through the said canal which shall not be offered on the same terms to the citizens or subjects of the other.

In article 5 it was provided that when the said canal shall have been completed they will protect it from interruption, seizure, or unjust confiscation, and that they will guarantee the neutrality thereof, so that the said canal may be forever open and free, and that both Governments always understand that this protection and guarantee is granted conditionally, and may be withdrawn by both Governments or either Government, if both Governments, or either Government, should deem that the persons or company undertaking or managing the same adopt or establish such regulations concerning the traffic thereupon as are contrary to the spirit and intention of this convention, either by making unfair discriminations in favor of the commerce of one of the contracting parties over the commerce of the other, or by imposing oppressive exactions or unreasonable tolls, and so forth.

By article 6 they agreed, among other things, as follows: And the contracting parties likewise agree that each shall enter into treaty stipulations with such of the Central American States as they may deem advisable, for the purpose of more effectually carrying out the great design of this convention—namely, that of constructing and maintaining the said canal as a ship communication between the two oceans *for the benefit of mankind, on equal terms to all*, and of protecting the same, and so forth.

Article 7, among other things, provides that the two Governments shall give their support and encouragement to such persons or company as may first offer to commence the same, and on such principles as accord with the spirit and intention of this convention.

Article 8 provides that the Governments of the United States and Great Britain, having not only desired, in entering into this convention, to accomplish a *particular object*, but also to *establish a general principle*, they agreed to extend their protection to any other practicable communication, whether by canal or railway, across the Isthmus, and especially to the interoceanic communications, whether by canal or railway, which are now proposed to be established by the way of Tehuantepec or Panama. It further provided that in granting their joint protection to any such canals or railways, it is always understood by the United States and Great Britain that the parties constructing or owning the same shall impose no other charges or conditions of traffic thereupon than the aforesaid Governments shall approve of as just and equitable, and—

that the same canals or railways being open to the citizens and subjects of the United States and Great Britain *on equal terms*, shall also be open *on like terms* to the *citizens and subjects* of every other State which is willing to grant thereto such protection as the United States and Great Britain engage to afford.

The attempt by the French company to construct the canal and its failure is a matter of history, but after the Spanish War the desire of the American people that the canal should be constructed, not only for commercial purposes, but for military purposes, became insistent. The length of time taken by our naval vessel, the *Oregon*, which was caught in the Pacific Ocean, in steaming around Cape Horn to the Atlantic coast, drew the attention of the country sharply to the value of a canal in the evolutions of our Navy.

Representations were made by the United States to Great Britain that it was the desire of this country that the canal should be constructed under the auspices of the Government of the United States, and on February 5, 1900, what is known as the first Hay-Pauncefote treaty was signed at Washington. The Senate advised and consented to this treaty with certain amendments, but as Great Britain declined to accept the treaty as amended by the Senate, ratifications were not exchanged, and the treaty was therefore inoperative. In its preamble this treaty provides that the high contracting parties being desirous to facilitate the construction of a ship canal to connect the Atlantic and Pacific Oceans, and to that end to remove any objection which may arise out of the convention of April 19, 1850, commonly called the Clayton-Bulwer treaty, to the construction of such canal under the auspices of the Government of the United States, without impairing the "general principle" of neutralization established in article 8 of that convention, have for that purpose appointed their plenipotentiaries.

Article 2 provides that—

the high contracting parties, desiring to preserve and maintain the "general principles" of neutralization established in articles 8 of the Clayton-Bulwer convention, adopt, as *the basis* of such neutralization, the following rules, substantially as embodied in the convention between Great Britain and certain other powers, signed at Constantinople October 29, 1888, for the free navigation of the Suez Maritime Canal, that is to say—

and then rules were provided similar to those provided in the existing Hay-Pauncefote treaty.

Finally the existing Hay-Pauncefote treaty, the interpretation of which is largely the subject of this debate, was signed November 18, 1901, at Washington, and is as follows:

The United States of America and His Majesty Edward the Seventh, of the United Kingdom of Great Britain and Ireland, and of the British Dominions beyond the Seas, King, and Emperor of India, being desirous to facilitate the construction of a ship canal to connect the Atlantic and Pacific Oceans, by whatever route may be considered expedient, and to that end to remove any objection which may arise out of the convention of the 19th April, 1850, commonly called the Clayton-Bulwer treaty, to the construction of such canal under the auspices of the Government of the United States, without impairing the "general principle" of neutralization established in article 8 of that convention, have for that purpose appointed as their plenipotentiaries:

The President of the United States, John Hay, Secretary of State of the United States of America;

And His Majesty Edward the Seventh, of the United Kingdom of Great Britain and Ireland, and of the British Dominions beyond the Seas, King, and Emperor of India, the Right Honorable Lord Pauncefote, G. C. B., G. C. M. G., His Majesty's ambassador extraordinary and plenipotentiary to the United States;

Who, having communicated to each other their full powers, which were found to be in due and proper form, have agreed upon the following articles:

ARTICLE 1.

The high contracting parties agree that the present treaty shall supersede the afore-mentioned convention of the 19th April, 1850.

ARTICLE 2.

It is agreed that the canal may be constructed under the auspices of the Government of the United States, either directly at its own cost or by gift or loan of money to individuals or corporations or through subscription to or purchase of stock or shares, and that, subject to the provisions of the present treaty, the said Government shall have and enjoy all the rights incident to such construction, as well as the exclusive right of providing for the regulation and management of the canal.

ARTICLE 3.

The United States adopts, as the basis of the neutralization of such ship canal, the following rules, substantially as embodied in the convention of Constantinople, signed the 29th of October, 1888, for the free navigation of the Suez Canal, that is to say:

1. The canal shall be free and open to the vessels of commerce and of war of all nations observing these rules, on terms of entire equality, so that there shall be no discrimination against any such nation, or its citizens or subjects, in respect of the conditions or charges of traffic or otherwise. Such conditions and charges of traffic shall be just and equitable.

2. The canal shall never be blockaded, nor shall any right of war be exercised nor any act of hostility be committed within it. The United States, however, shall be at liberty to maintain such military police along the canal as may be necessary to protect it against lawlessness and disorder.

3. Vessels of war of a belligerent shall not revictual nor take any stores in the canal except so far as may be strictly necessary; and the transit of such vessels through the canal shall be effected with the least possible delay in accordance with the regulations in force, and with only such intermission as may result from the necessities of the service.

Prizes shall be in all respects subject to the same rules as vessels of war of the belligerents.

4. No belligerent shall embark or disembark troops, munitions of war, or warlike materials in the canal, except in case of accidental hindrance of the transit, and in such case the transit shall be resumed with all possible dispatch.

5. The provisions of this article shall apply to waters adjacent to the canal, within 3 marine miles of either end. Vessels of war of a belligerent shall not remain in such waters longer than 24 hours at any one time, except in case of distress, and in such case shall depart as soon as possible; but a vessel of war of one belligerent shall not depart within 24 hours from the departure of a vessel of war of the other belligerent.

6. The plant, establishments, buildings, and all works necessary to the construction, maintenance, and operation of the canal shall be deemed to be part thereof, for the purposes of this treaty, and in time of war, as in time of peace, shall enjoy complete immunity from attack or injury by belligerents, and from acts calculated to impair their usefulness as part of the canal.

ARTICLE 4.

It is agreed that no change of territorial sovereignty or of international relations of the country or countries traversed by the beforementioned canal shall affect the general principle of neutralization or the obligation of the high contracting parties under the present treaty.

ARTICLE 5.

The present treaty shall be ratified by the President of the United States, by and with the advice and consent of the Senate thereof, and by His Britannic Majesty; and the ratifications shall be exchanged at Washington or at London at the earliest possible time within six months from the date hereof.

In faith whereof the respective plenipotentiaries have signed this treaty and hereunto affixed their seals.

Done in duplicate at Washington, the 18th day of November, A. D. 1901.

JOHN HAY. [SEAL.]
PAUNCEFOTE. [SEAL.]

It will be noted that the preamble of this treaty provides that the parties thereto, being desirous to facilitate the construction of a ship canal to connect the Atlantic and Pacific Oceans, by whatever route may be considered expedient, and to that end to remove any objection which may arise out of the convention of the 19th April, 1850, commonly called the Clayton-Bulwer treaty, to the construction of such canal under the auspices of the Government of the United States, without impairing the "general principle" of neutralization established in article 8 of that convention, have for that purpose appointed as their plenipotentiaries, and so forth.

Now it will be noted that the object of this existing Hay-Pauncefote treaty is stated in the preamble to be to facilitate the construction of the canal and to that end to remove any objection which may arise under the Clayton-Bulwer treaty to the construction of such canal *under the auspices* of the Government of the United States *without impairing the "general principle" of neutralization* established in article 8 of the Clayton-Bulwer treaty.

Article 8 of the Clayton-Bulwer treaty had stated that the two Governments in entering into that convention desired not only "to accomplish a *particular object* but also to *establish a general principle*" and that to accomplish these purposes they extended their protection to the interoceanic communications which might be constructed and that the canals or railways being open to the "citizens and subjects of the United States and Great Britain *on equal terms* shall also be open *on like terms* to the citizens and subjects of every other State which is willing to grant thereto such protection as the United States and Great Britain engage to afford."

The Hay-Pauncefote treaty having recited in its preamble that its object was to remove any objection which might exist under the Clayton-Bulwer treaty to the construction of the canal under the auspices of the Government of the United States, without impairing the "general principle" of neutralization established in article 8 of the Clayton-Bulwer treaty, it becomes necessary to inquire what the "general principle" of neutralization established in article 8 of the Clayton-Bulwer treaty was. It will be noted that the word "neutralization" is not used at all anywhere in article 8 of the Clayton-Bulwer treaty. The word "war" or "warlike proceedings" was not used anywhere in article 8 of the Clayton-Bulwer treaty. Article 8 states that the high contracting parties desired thereby not only to accomplish a particular object, which I suppose was the construction of the canal, but also to establish a *"general principle,"* and to that end they agreed to extend their protection to the canal, and it is provided further on in said article that no other charges or conditions of traffic shall be imposed upon the canal than shall be "just and equitable" and that the canal being open to the "citizens and subjects of the United States and Great Britain *on equal terms*, shall be open on like terms" to others, and so forth.

The "general principle" of neutralization established in article 8 of the Clayton-Bulwer treaty therefore has nothing whatever to do with neutrality in war. These words are not even mentioned in the article, and it is perfectly evident to me that the neutralization referred to in said article 8 refers to the charges and conditions of traffic as being just and equitable and that the canal shall be open on equal terms to all vessels.

The first article of the Hay-Pauncefote treaty provides that it shall supersede the Clayton-Bulwer treaty.

The third article provides that—

The United States adopts, as *the basis* of the neutralization of such ship canal the following rules, substantially as embodied in the convention of Constantinople signed the 29th October, 1888, for the free navigation of the Suez Canal, that is to say: (1) The canal shall be free and open to the vessels of commerce and of war of all nations observing these rules, on terms of entire equality, so that there shall be no discrimination against any such nation, or its citizens or subjects, in respect to the conditions or charges of traffic or otherwise. Such conditions and charges of traffic shall be just and equitable.

The agreements for the protection of the canal in the Clayton-Bulwer treaty were made in articles 3, 5, 6, and 7, as well as in article 8; but article 8 is the only one in the entire treaty which speaks of the intention and purpose of the two Governments in entering into this convention as being *"to establish a general principle,"* and, therefore, agreed to extend their protection to any other practicable communications across the Isthmus which connects North and South America by the way of Tehuantepec or Panama. It being—

Always understood that the same, being open to the citizens and subjects of the United States and Great Britain on *equal terms*, shall be open on like terms to the citizens and subjects of every other State—

And so forth.

When the Hay-Pauncefote treaty superseded the Clayton-Bulwer treaty, the joint protection was abolished and the United States assumed the sole protection of its own canal. When, therefore, the Hay-Pauncefote treaty was substituted for the Clayton-Bulwer treaty it stated in the preamble that its purpose was—

To remove any objection which may arise out of the convention of the 19th of April, 1850, commonly called the Clayton-Bulwer treaty, to the construction of such canal under the auspices of the Government of the United States without impairing the *"general principle"* of neutralization established in article 8 of that convention.

The general principle of neutralization which was not to be impaired could not by any possibility have referred to anything else except "just and equitable charges or conditions of traffic" and "equality of terms," for that was all that was left in article 8 of the Clayton-Bulwer treaty after the joint protection provided therein had ceased and sole protection had been assumed by the United States.

Article 4 of the Hay-Pauncefote treaty provides that no change of sovereignty of the country traversed by the canal shall affect the "general principle of neutralization" under the present treaty. Article 3 states "the United States adopts, as the *'basis'* of the neutralization of such ship canal the following rules," the first of which is:

The canal shall be free and open to the vessels of commerce and of war of all nations observing these rules, on terms of entire equality, so that there shall be no discrimination against any such nation, or its citizens or subjects, in respect of the conditions or charges of traffic or otherwise. Such conditions and charges of traffic shall be just and equitable.

Article 18 of our treaty with Panama, made just two years after our treaty with Great Britain, on November 18, 1903, being the sole basis of our right to construct any canal at all at the Isthmus of Panama, being our title deed so to speak, provides:

The canal, when constructed, and the entrances thereto shall be neutral in perpetuity, and shall be opened upon the terms provided for by section 1 of article 3 of, and in conformity with all the stipulations of, the treaty entered into by the Governments of the United States and Great Britain on November 18, 1901.

This treaty, the Hay-Bunau-Varilla treaty, was negotiated and signed by the same great Secretary of State, John Hay, who negotiated and signed the Hay-Pauncefort treaty. He knew what he intended, and he says we are bound by the rules we adopted in the treaty which he made with Great Britain. The first of these rules, which he himself wrote into the treaty, provides that the canal shall be—

open to the vessels of commerce and of war of all nations observing these rules, on terms of entire equality, so that there shall be no discrimination.

And so forth.

Now I read his letter to Senator Cullom, the chairman of the Senate Committee on Foreign Relations, at the time this very treaty was in that committee, and when Mr. Hay was explaining its meaning to the committee for the purpose of obtaining its recommendation to the Senate for favorable action. It is dated December 12, 1901, and is found beginning at page 53 of

Senate Document 474, Sixty-third Congress, second session, entitled "Diplomatic History of the Panama Canal":

[Personal—Not of record—Original not in department files.]

DEPARTMENT OF STATE,
Washington, December 12, 1901.

MY DEAR MR. CULLOM: The treaty with England in respect to the construction of a ship canal between the Atlantic and Pacific Oceans, which the President has sent to the Senate, is the result of careful negotiations conducted between the two Governments since the receipt of Lord Lansdowne's dispatch of the 22d of February last, whereby His Majesty's Government declined to accept, for the reasons therein stated, the former convention of February 5, 1900, as amended by the Senate on the 20th of January, 1901. Under the instructions of the President I have signed on behalf of the United States the treaty now prepared.

The Clayton-Bulwer treaty of 1850, which contemplated the construction of a canal under the joint auspices of the two Governments, to be controlled by them jointly, its neutrality and security to be guaranteed by both, was almost from the date of its ratification the subject of frequent discussion and occasional irritation between the two Governments. Nearly half a century elapsed without any step being taken by either toward carrying it into practical effect by the construction of a canal under its provisions. Instead of being, as was intended, an instrument for facilitating the construction of a canal it became a serious obstacle in the way of such construction. In the meantime the conditions which had existed at the time of its ratification had wholly changed. The commerce of the world had multiplied many fold. The growth of the United States in population, resources, and ability had been greater still. The occupation and development of its Pacific coast and its commercial necessities upon the Pacific Ocean created a state of things hardly dreamt of at the date of the treaty. At last the acquisition of the Hawaiian and the Philippine Islands rendered the construction of the canal a matter of imperative and absolute necessity to the Government and people of the United States, and a strong national feeling in favor of such construction arose, which grew with the progress of events into an irrevocable determination to accomplish that object at the earliest possible moment.

The incident of one of our great ships of war lying in the North Pacific, being ordered to join our fleet in the West Indies in time of actual war, and being obliged for that purpose to round Cape Horn, when through an isthmian canal she could in much less than half the time have reached the scene of action in which she was destined to take part, was an unanswerable illustration of the urgent and immediate need of such a canal for the protection and safety of the interests of the United States. But the Clayton-Bulwer treaty stood in the way. Great Britain did not manifest, and it is believed did not entertain, the remotest idea of joining or aiding in such a work. The United States was able to bear alone the entire cost of the canal, but was apparently prohibited by the existing treaty from undertaking the enterprise which, although carried out at its own expense, would redound to the benefit of the world's commerce quite as much as to its own advantage. The President, loyal to treaty obligations, was unwilling to countenance any demand, however widespread, for proceeding with the construction of the canal until he could obtain by friendly negotiation, on which he confidently relied, the consent of Great Britain to the abrogation of the Clayton-Bulwer treaty, or such a modification of its terms as would enable the United States untrammeled to enter upon the great work whose successful accomplishment was vitally necessary to its own security, and would benefit the people of all other nations according to their respective interests in the commerce of the world.

Such was the situation in which the negotiations for the supersession of the treaty were commenced and have been conducted, and we can not but recognize the fair and friendly spirit in which the successive overtures of the United States toward that end have been met by Great Britain. It has been my firm and constant hope throughout these negotiations that a solution of this difficult and important question between the two Governments would finally be reached which, instead of disturbing the amicable relations which have recently existed and ought always to exist between the United States and Great Britain, would make them more friendly still, and I believe that the treaty now presented, if finally established, will have this desired effect.

It is unnecessary to recall the discussions and negotiations which resulted in the making of the treaty of February 5, 1900, its deliberate consideration by the Senate, the amendments proposed by that body as a condition of its ratification by the United States, and its rejection as so amended by the British cabinet.

In rejecting the amended treaty, in the memorandum of February 22, 1901, Lord Lansdowne gave evidence of the sincere desire of His Majesty's Government to meet the views of the United States and earnestly deprecated any final failure to come to an understanding on this important subject.

Reciprocating these friendly intentions and determined, if possible, to devise a form of treaty which should reconcile the conflicting views which had proved fatal to that of 1900, I prepared and submitted to Lord Pauncefote in March last, for the consideration of his Government, a project for a treaty which, after long and careful consideration and negotiation, has been so perfected as to receive the approval both of the President and of the British Government in the form now presented.

The points on which there was failure to agree in the former treaty consisted of the amendments proposed by the Senate and were three in number:

First. The insertion of the clause relating to the Clayton-Bulwer treaty "superseding" the same.

Second. The addition of the clause providing that the stipulations and conditions of the first five clauses of the third article, as to the neutrality of the canal, should not "apply to measures which the United States may find it necessary to take for securing by its own forces the defense of the United States and the maintenance of public order"; and

Third. The omission of the invitation to other powers to adhere to the treaty when ratified.

Although on all three of these important points the opposing views of the Senate and of the British Government were most emphatic, I deemed it not impossible that a project might be framed which would satisfy both, without a sacrifice of any essential principle on either side, and that the supreme importance of the end in view would justify the attempt.

In the new draft of treaty the clause superseding the Clayton-Bulwer treaty was made the subject of a separate article and was submitted to the consideration of the British Government upon terms which would permanently secure the neutrality of the canal for the use of *all nations* on terms of *entire equality* and at the same time would relieve Great Britain of all responsibility and obligation to enforce the conditions which, by the former treaty, had been imposed upon or assumed by her jointly with the United States. And to this end, instead of that provision the United States alone adopted them and undertook the whole of that burden.

Second. No longer insisting upon the language of the amendment, which had in terms reserved to the United States express permission to disregard the rules of neutrality prescribed when necessary to secure its own defense—which the Senate had apparently deemed necessary because of the provision in rule 1 that the canal should be free and open "in time of war as in time of peace" to the vessels of all nations—it was considered that the omission of the words "in time of war as in time of peace" would dispense with the necessity of the amendment referred to, and that war between the contracting parties or between the United States and any other power would have the ordinary effect of war upon treaties and would remit both parties to their original and natural right of self-defense and give to the United States the clear right to close the canal against the other belligerent and to protect it by whatever means might be necessary.

Third. While omitting to invite other nations to adhere to the treaty when ratified, and so to acquire contract rights in the canal, it was thought that the provision that the canal should be free and open to all nations on terms of entire equality, now that Great Britain was relieved of all obligation to defend such neutrality, would practically meet the objection which had been made by Lord Lansdowne to the Senate's third amendment, viz, that Great Britain was thereby placed in a worse position than other nations in case of war.

Fourth. In view of the facts that the enormous cost of constructing the canal was to be borne by the United States alone; that when constructed the canal was to be the absolute property of the United States, and to be managed, controlled, and defended by it; and that now by the new project the whole burden of maintaining its neutrality and security was thrown upon the United States, it was deemed fair to omit the prohibition contained in the former treaty forbidding the fortification of the canal and the waters adjacent.

Fifth. The sixth clause of article 3 was retained, which provides that "in time of war as in time of peace" the canal itself shall enjoy complete immunity from attack or injury by belligerents, in the belief that such a provision was in the general interest of commerce and civilization, and that all nations should and would regard such a work as sacred under all circumstances.

With the exception of the changes above enumerated, which were made to reconcile conflicting views, care was taken to preserve in the new draft the exact language which had already passed the Senate without objection, and so far as known without criticism. The draft of the new treaty was transmitted by Lord Pauncefote to Lord Lansdowne, and its treatment by him manifested a most conciliatory spirit and an earnest desire to reach a conclusion which should be satisfactory to the United States, if this could be done without departing from the great principle of *neutrality*, including the use of the canal by *all nations* on *equal terms*, for which Great Britain had always contended.

After months of careful deliberation he announced the readiness of himself and his colleagues to approve the form and substance of the new treaty, with certain amendments hereinafter referred to. He recognized the important bearing upon all the questions involved of the change by which Great Britain was to be relieved of all the burden and responsibility of maintaining the neutrality and security of the canal, which were to be wholly assumed by the United States as the owner of this great work of public improvement built at its own cost. He considered that the abrogation of the Clayton-Bulwer treaty, which had been inserted by way of amendment in the former treaty without any previous opportunity for consideration of the matter by Great Britain, would not now be regarded as inadmissible if sufficient provision were made in the new treaty for anything in the Clayton-Bulwer treaty which it was any longer of material interest to Great Britain to preserve.

In this connection he referred to the fact that the new treaty contained no stipulation against the acquisition of sovereignty over the territory through which the canal should pass, and that, although the former treaty as approved by Great Britain before its amendment by the Senate had contained no such stipulation, it had left undisturbed that portion of article 1 of the Clayton-Bulwer treaty by which the two Governments agreed that neither would ever occupy, or fortify, or colonize, or assume, or exercise any dominion over Nicaragua, Costa Rica, the Mosquito Coast, or any part of Central America; and also to article 8 of the Clayton-Bulwer treaty, which is referred to in the preamble of the new treaty and in that of the original treaty of February 5, 1900, as amended by the Senate, as establishing the "general principle" of neutralization which was not to be thereby impaired.

It was claimed that if Great Britain were now to be called upon to surrender the interests and the principle thus secured by what remained of the Clayton-Bulwer treaty, there should be, in view of the character of the treaty now to be concluded and of the "general principle" of neutralization thus reaffirmed in the preamble, some clause inserted agreeing that no change of sovereignty or other change of circumstances in the territory through which the canal is intended to pass shall affect such "general principle" or release the parties, or either of them, from their obligations under this treaty, and that the rules adopted as the basis of neutralization shall govern so far as possible all interoceanic communication across the Isthmus. He therefore proposed, as an additional article, on the acceptance of which His Majesty's Government would probably be prepared to withdraw their objections to the formal abrogation of the Clayton-Bulwer treaty the following, viz:

"In view of the permanent character of this treaty, whereby the 'general principle' established by article 8 of the Clayton-Bulwer convention is reaffirmed, the high contracting parties hereby declare and agree that the rules laid down in the last preceding article shall, so far as they may be applicable, govern all interoceanic communication across the Isthmus which connects North and South America, and that no change of territorial sovereignty or other change of circumstances shall affect such general principle or the obligations of the high contracting parties under the present treaty."

The clause so proposed was regarded by the President as more far-reaching than the purpose demanded and as converting the vague and indefinite provisions of the eighth article of the Clayton-Bulwer treaty—which only contemplated future treaty stipulations to be entered into when any other route should prove to be practicable—into a very definite and certain present treaty which would fasten the crystallized rules of this treaty upon every other interoceanic communication across the Isthmus; and as perpetuating in a much stricter

and more definite and more extended form, by a revision and re-enactment of the eighth article, the mischievous effects of the Clayton-Bulwer treaty, of which it was the desire and hope of the United States to be relieved altogether.

The President considered that now that a canal between the two oceans was actually about to be built, it was sufficient for the treaty now to be concluded to provide for that alone; that there was hardly a possibility of more than this one canal ever being built between the two oceans—that in that remote and almost impossible contingency the rules and principles governing the use and status of the canal to be constructed under this treaty would be regarded as precedents for the consideration of the parties if they should be approved and sanctioned by experience and by the judgment of the commercial nations; but that for the present a convention for the building of one canal at the cost of the United States for the equal benefit of them all was all that could be wisely attempted. He not only was willing but earnestly desired that the "general principle" of neutralization referred to in the preamble of this treaty and in the eighth article of the Clayton-Bulwer treaty should be perpetually applied to this canal. This, in fact, had always been insisted upon by the United States. He recognized the entire justice and propriety of the demand of Great Britain that if she was asked to surrender the material interest secured by the first article of that treaty, which might result at some indefinite future time in a change of sovereignty in the territory traversed by the canal, the "general principle" of neutralization as applied to the canal should be absolutely secured, and that a clause should be added to the draft treaty by which the parties should agree that no change of sovereignty or of international relations of the territory traversed by the canal should affect this general principle or the obligations of the parties under this treaty.

These views were in substance submitted to Lord Lansdowne on the part of the United States, and after considerable discussion and deliberation the following additional clause, to be known as article 4 of the new treaty, was agreed upon as a substitute for that proposed by him:

"It is agreed that no change of territorial sovereignty, or of the international relations of the country or countries traversed by the before-mentioned canal, shall affect the general principle of neutralization or the obligations of the high contracting parties under the present treaty."

It transpired, in the course of the discussion already referred to, that although the draft of the new treaty mentioned no particular route which the canal should traverse, there was an apprehension that, as the canal had been so often referred to as the Nicaragua Canal, and the intended treaty as the Nicaragua Canal treaty, it might possibly be claimed that it would not apply to a canal by the Panama route or by any other route, if any such should be selected. But it had always been the purpose of the President that the treaty should apply to the canal which should be first built, by whichever or whatever route, and when this apprehension was communicated to the President, he declared such to be his purpose, and, to exclude all doubt, it was agreed that the preamble should be amended by inserting, after the word "oceans," the words "by whatsoever route may be considered expedient."

His Majesty's Government recognized the material importance of the changes from the former treaty as amended by the Senate, by the omission of the Senate amendment that the first five rules of neutrality should not apply to measures which "might be found necessary to take for securing by its own forces the defense of the United States," and by the omission, as an offset thereto, of the words "in time of war as in time of peace" from rule 1, and of the stipulation prohibiting the erection of fortifications commanding the canal or the waters adjacent. These changes, in the first place, removed what Lord Lansdowne had criticized as a dangerous ambiguity in the former treaty as amended, of which one clause permitted the adoption of defensive measures, while another prohibited the erection of fortifications.

The obvious effect of these changes is to reserve to the United States, when engaged in war, the right and power to protect the canal from all damage and injury at the hands of the enemy, to exclude the ships of such enemy from the use of the canal while the war lasts, and to defend itself in the waters adjacent to the canal, the same as in any other waters, without derogation in other respects from the principles of neutrality established by the treaty; and it was clearly recognized by His Majesty's Government "that contingencies may arise when, not only from a national point of view but on behalf of the commercial interests of the whole world, it might be of supreme importance to the United States that they should be free to adopt measures for the defense of the canal at a moment when they were themselves engaged in hostilities."

The omission of the words in the former treaty by which Great Britain was bound jointly with the United States to maintain the neutrality of the canal enabled His Majesty's Government to waive their former objection, insisted upon under the former treaty as amended by the Senate, to an agreement which permitted the United States in time of war or apprehended war to interfere with the canal or its use as its interests might require, while Great Britain alone, in spite of her vast commercial interests, was precluded from taking any measures to secure her interests in or near the canal. By the omission of the words "in time of war as in time of peace," in the event of the remote and well-nigh impossible contingency of a war between the United States and Great Britain, each party is remitted to its natural right of self-defense; but, even in that emergency, by force of the sixth clause of article 3—which is the only clause in the treaty by its terms expressly applying in time of war as in time of peace—the plant, establishment, buildings, and all works necessary to the construction, maintenance, and operation of the canal shall be deemed to be part thereof, and shall enjoy complete immunity from attack or injury by the enemy, and from acts calculated to impair their usefulness as part of the canal.

Finally, the absence from the draft treaty of any provision for the adherence of other powers was at first strenuously objected to by the British Government. It protested against being bound by stringent rules of neutral conduct not equally binding upon other powers, and to remedy this proposed the insertion in rule 1, after the word "nations," of the words "which shall agree to observe these rules," so as to make it read that "the canal shall be free and open to the vessels of commerce and of war of all nations who shall agree to observe these rules, on terms of entire equality, so that there shall be no discrimination against any nation so agreeing," etc.

But the President was apprehensive that such a provision would give to the other nations the footing of parties to the contract and give them a contract right to the use of the canal. And in view of the action of the Senate on the former treaty, striking out article 3, which provided for bringing the treaty, when ratified, to the notice of other powers and inviting them to adhere to it, which seemed to mean practically the same thing, he believed that the proposed provision would meet the same fate. This was represented to His Majesty's Government, and it was also insisted on the part of the United States that there was a strong national feeling among the people of the United States against giving to foreign powers a contract right to intervene in an affair so peculiarly American as this canal when constructed would be; that, notwithstanding the similar provision in the Clayton-Bulwer treaty, no foreign powers in the 50 years that had elapsed had effectively intimated a desire to participate in or contribute to the construction of the canal; that no other power had now any right in the premises, or anything to give up or part with as the consideration for acquiring such a contract right; that they must rely upon the good faith of the United States in its declaration to Great Britain in the treaty that it adopts the rules and principles of neutralization therein set forth, and that it was not quite correct to speak of the nations other than the United States as being bound by the rules of neutralization set forth in the treaty; that it was the United States which bound itself by them as a consideration for getting rid of the Clayton-Bulwer treaty, and that the only way in which they were bound by them was that they must comply with them if they would use the canal.

It was further insisted that the proposed provision was much more objectionable than the third article of the former treaty, which was struck out by the Senate, for that only invited the other powers to come in and become parties to the contract after ratification. But the proposed provision would rather compel the other powers to come in and agree in the first instance as a condition precedent to any use of the canal by them.

These views were appreciated, and a modification suggested on the part of the United States to Lord Lansdowne's proposed amendment was accepted which omits the words "which shall agree to observe" and substitutes for them the word "observing," and omits the words "so agreeing" and inserts the word "observing," and omits the words "so agreeing" and inserts "such," before "nations," in the next line, so as to make the provision read: "The canal shall be free and open to the vessels of commerce and of war of all nations observing these rules on terms of entire equality, so that there shall be no discrimination against any such nation," etc. Thus the whole idea of contract right disappears, and any nation whose ships refuse or fail to observe the rules will be deprived of the use of the canal.

The further amendment proposed by Lord Lansdowne, and taken from the eighth article of the Clayton-Bulwer treaty, that the conditions and charges of traffic on the canal shall be just and equitable, was so obviously reasonable that it was accepted by the President as soon as suggested.

I am, etc.,

JOHN HAY.

In this letter Mr. Hay distinctly states that other powers—

must rely upon the good faith of the United States in its declaration to Great Britain in the treaty that it adopts the rules and principles of neutralization therein set forth, and that it was not quite correct to speak of the nations other than the United States as being bound by the rules of neutralization set forth in the treaty; that it was the United States which bound itself by them as a consideration for getting rid of the Clayton-Bulwer treaty, and that the only way in which *they* [the other nations] were bound by them was that *they* must comply with them if they would use the canal.

I read also the letter of Mr. Joseph H. Choate to Secretary Hay, dated August 16, 1901, which appears in said Senate Document 474, beginning with page 31:

DEAR COL. HAY: I have your kind letter of the 5th [not on State Department files], and was much pleased to know that I correctly understood your views about your project of treaty, which you sent for my information in your private letter of April 27.

On Tuesday last I had from Lord Lansdowne's hands a copy (printed) of the private memorandum, without date, which has been sent to you by Lord Pauncefote. At our next interview, on the following day, he asked me if I had read it and what I thought of it. I told him that I admired the friendly spirit and evident desire to agree which were manifest on the face of the paper. But I told him there were two points which I apprehended you would regard as very debatable. First, his new article 3A is much more definite and certain than the eighth article of the Clayton-Bulwer treaty, and I should anticipate objection on our side on that account. I called his attention to the fact that while the preamble of the Clayton-Bulwer treaty limits the object and subject of the treaty to the Nicaragua route and the eighth article carefully avoids the use of the word "neutrality," but merely agrees to extend the "protection" of the two Governments to other routes, and that in granting such joint "protection" the understanding is that canals by another route shall be open on equal terms to the subjects and citizens of the two nations and of every other State which is willing to grant the same "protection." All of which was extremely vague and uncertain, and omitted the "guaranty of neutrality"; that wanting to get rid of the Clayton-Bulwer treaty altogether, we shouldn't want to make any part of it by a new covenant stronger than it was before. Whereas his new article 3A makes the eighth article a great deal stronger than it was before, and saying nothing about "protection," which is, of course, inapplicable to a canal wholly American, fastens the rules of neutrality of article 3, which he calls "stringent rules," upon all future routes. He said he thought article 8 of the Clayton-Bulwer treaty clearly inferred neutrality. But I said it was only an inference—the word used was "protection." (I know that the "general principle" referred to in the eighth article is recited in the preamble of the Hay-Pauncefote treaty and of your new "project" and of his amended draft as the "general principle" "of neutralization," but it seems to me there is no reason why we should make it any stronger than it was and define in advance the exact rules to be applied to any future canals. However, as no more than one canal will ever be built, you may not think it worth while to take any such point.)

Secondly, I told him that I thought his amendment of the first clause of the third article, insisting upon bringing in other nations as parties to the agreement after the Senate had struck out of the Hay-Pauncefote treaty the article inviting them to come in, would seem counter to the very strong conviction in the Senate, sustained, as I believe, by an equally strong and general popular conviction, that we ought not to accord to other nations any contract rights whatever in the canal which we were to build and own; that none of them, though invited, ever came in or offered to come in under the Clayton-Bulwer treaty; that at present they had no rights; that they must be content to rely on our national honor to keep the canal open to them, as declared in

this treaty with Great Britain. I told him that I thought he had no idea of the intensity of the feeling in the Senate and the Nation against the intervention of other nations in our affairs such as this, especially upon any footing of contract right, and that if you should conclude that this clause as amended by him does give them such a contract right, you could hardly be expected after the Senate's former action to accept it without modification.

I said to him that I supposed his mind was still open to conviction, and he said, oh, yes; of course—Mr. Hay's project was only tentative. He asked Lord Pauncefote to sound me, and I have made these suggestions in the hope of coming to an agreement, and herewith expect you to offer your counter suggestions. I don't really see why they insist on lugging in the other nations. The reason given by him that Great Britain objects to being bound to stringent rules of neutral conduct not equally binding upon other powers seems to me without substance. It is we that are bound by stringent rules. We accord to Great Britain clear contract rights to have these rules observed by us as owners of the canal; and the other nations can only use it under the same rules.

Great Britain has something to give us in exchange for this agreement with her—the relinquishment of her rights under the Clayton-Bulwer treaty—but the other nations part with us and no such consideration. I also told Lord Lansdowne, in respect to this clause 1 of article 3, that in one respect it was worse than the provision [art. 3] of the Hay-Pauncefote treaty which the Senate struck out. That only invited the other nations to come in and left it optional with them to stay out, as they did under the Clayton-Bulwer treaty, but this actually compels them to come in at the start. They can not use the canal, as I read it, unless they agree. The question is whether, if they agree as he proposes, they would become parties to the agreement in the sense in which they would have done under article 3 of the Hay-Pauncefote treaty, which the Senate vetoed. I've not had time to study this question carefully, but my present strong impression is that they would. Lord Lansdowne claims to desire only that the other nations parting with nothing should not be on a better footing with respect to the canal than Great Britain, who parts with so much, and that she shall not be bound by these "stringent" rules of neutrality, while the others are not so bound. I think they are practically all treated alike by the instrument as you have drawn it. I venture, however, to suggest, in view of his amendment of clause 1, article 3, that it might possibly meet the views both of the Senate and the British Cabinet if you should propose further to amend by striking out the words "agree" and "so agreeing," which I dislike so much, considering the previous action of the Senate, and make it read, "The canal shall be free and open to the vessels of commerce and war of all nations observing these rules," etc.

These are only my hasty suggestions after having Lord Lansdowne's papers in my hands for only two busy days. I told him what I thought because he wanted to know, and I give them to you for what they are worth. Perhaps you will not agree with them at all. If not, no harm will come; but if you and the Senators whom you may consult concur in this objection to his amendment of clause 1, article 3, Lord Lansdowne will be prepared to have you dissent.

I think it must be conceded that Lord Lansdowne has very gracefully yielded on the main point that was covered by the Davis amendment in subdivision 7, page 5, of his paper, where he seems to construe the new draft substantially, I think, as we do. He recognizes "our desire to reserve the power of taking measures to protect the canal at any time when we are engaged in war," that "contingencies may arise when it might be of supreme importance to the United States that they should be free to adopt measures for the defense of the canal at a moment when they were themselves engaged in hostilities," and "the necessity"—and, of course, the right—"of the United States to interfere temporarily with the free use of the canal by the shipping of another power." Whether, however, such other power would thereupon and ipso facto become liberated from the necessity of observing the rules laid down in the "war treaty" I am not yet prepared to say. It ought not even in war to be at liberty to violate clause 6 of article 5.

Upon the whole the prospect of a satisfactory settlement of this troublesome matter seems to me better than it has ever been before, and I am sure that you will appreciate the friendly tone of Lord Lansdowne's advances. I have not yet seen Lord Pauncefote, but have an appointment with him for Tuesday, after which I may write to you again.

Yours, very truly, JOSEPH H. CHOATE.

It will be observed that Mr. Choate states—

It is *we* that are bound by stringent rules. We accord to Great Britain clear contract rights to have these rules *observed by us* as owners of the canal; and the other nations can only use it under the same rules.

On August 20, 1901, Mr. Choate again wrote Mr. Hay from London the following letter, which appears in said Senate Document 474, beginning with page 34:

LONDON, *August 20, 1901.*

DEAR COL. HAY: Yesterday I had a most satisfactory interview with Lord Pauncefote about the canal business, with the result that I am still more encouraged to hope for and expect a final draft at your hands that will suit both Senate and British cabinet. I went over with him fully the two points which I had discussed with Lord Lansdowne and in my answer to you. He recognized the full force of what I had to say as to the inexpediency of inserting the words "which shall agree" and "so agreeing" in clause 1 of article 3, after the striking out by the Senate of article 3 in the Hay-Pauncefote treaty. He should emphatically favor omitting them, and thought his Government would assent to the omission, and he seemed to agree that making it read "all nations observing the rules," etc., would reach this object, which is that Great Britain and all other nations should be served alike and be on an equal footing as to obligation to observe the neutrality of the canal.

I also gathered from what he said that the new article 3A might be modified somewhat to meet my objection that it not only confirmed the general principle of article 8 of the Clayton-Bulwer treaty but made it a great deal stronger than it stands in that treaty.

Although naturally this point did not impress him as much as the other. But the more thought I give it the more substantial it seems. As article 8 stands in the Clayton-Bulwer treaty it undoubtedly contemplates further treaty stipulations—not "new" treaty stipulations, in case any other interoceanic route, either by land or by water, should "prove to be practicable," and it proceeds to state that the general principle to be applied is to be, viz, no other charges or conditions of traffic thereon "than are just and equitable," and that said "canals or railways" being open to the subjects and citizens of Great Britain and the United States on equal terms shall also be open on like terms to the subjects and citizens of other States, by which I believe to be the real general principle of neutralization (if you choose to call it so) intended to be asserted by this eighth article of the Clayton-Bulwer treaty. But under cover of reasserting this "general principle" this new article 3A instead of postponing the making of new treaty stipulations as to other routes until some other route by land or by water proves to be practicable immediately and for all time fastens these six crystallized rules of article 3 upon all interoceanic communications across the Isthmus as well as providing that no change of sovereignty or other change of circumstances shall affect such "general principle or the obligations of the high contracting parties under the present treaty," and I shall be surprised if objection is not encountered in the Senate to this result of making the old eighth article of the Clayton-Bulwer treaty so much more comprehensive, definite, and binding than it was before. The idea "change of sovereignty," of course, relates to the report of an intention on the part of the United States to acquire a strip of territory on each side of the canal, and "other change of circumstances" is aimed at the argument in some future epoch against the continuance of this treaty that has often been directed against the continued binding force of the Clayton-Bulwer treaty that "change of circumstance" since 1850 has put an end to it.

Lord Lansdowne's object in insisting upon article 3A is to be able to meet the objectors in Parliament by saying that although they have given up the Clayton-Bulwer treaty they have saved the "general principle," and have made it immediately effective and binding upon the United States as to all future routes, and have dispensed with future "treaty stipulations" by making it much stronger than it was before. I think his all-sufficient answer is that by giving up the Clayton-Bulwer treaty, which stood in the way of building any canal, he has insured the building of a canal for the benefit of Great Britain at the expense of the United States, relieved Great Britain of all responsibility about it now and forever, and imposed upon the United States stringent rules of neutrality as to Great Britain and all mankind.

Assuming that some such article must be retained, how would this do?

In view of the permanent character of this treaty, whereby the general principle established by article 8 of the Clayton-Bulwer treaty is reaffirmed, the United States hereby declares (and agrees) that it will impose no other charges or conditions of traffic upon any other canal that may be built across the Isthmus (or between the Atlantic and Pacific Oceans) than such as are just and equitable, and that such canals shall be open to the subjects and citizens of the United States and of all other nations on equal terms.

Lord Pauncefote's expectation is now that you will in due time answer Lord Lansdowne's paper, and that he and Lord Lansdowne will give full consideration to the matter in time to enable him to bring back an agreed instrument when he returns in October, which I sincerely hope may be the case.

Yours, very truly, JOSEPH H. CHOATE.

From this letter, and especially from the paragraph which I am about to repeat, it is perfectly evident that our ambassador to Great Britain, Mr. Choate, believed that the Hay-Pauncefote treaty was intended to apply to all other nations on equal terms with the United States. He suggests that the intention would be carried out if "the United States hereby declares (and agrees) that it will impose no other charges or conditions of traffic upon any other canal that may be built across the Isthmus (or between the Atlantic and Pacific Oceans) than such as are just and equitable, and that such canals shall be open to the subjects and citizens of the United States and of all other nations on equal terms."

I now read a letter contained in the same Senate Document 474, dated September 20, 1901, from Mr. Choate to Mr. Hay, marked "confidential," beginning at page 39:

[Confidential.]

AMERICAN EMBASSY,
London, September 20, 1901.
(Received 5.40 p. m.)

Have had long interview with British ambassador at Washington. British minister for foreign affairs still absent in Ireland. British ambassador at Washington thinks amendments of clause 1, article 3, striking out "which shall agree to observe" and substituting "observing" and striking out "so agreeing," will be acceptable. Assuming this, would you not consent to add to your article 4, in letter to British ambassador at Washington, if accepted as a substitute for 3A, these words:

"Or the freedom of the canal to the vessels of commerce and war of all nations on terms of entire equality and without discrimination, as provided by article 3."

He apprehends that without this addition your 4 might be regarded as limited to technical neutrality and as not including freedom of passage and equality of terms. I thought you had no such idea; that taking all your language in 4 you meant it include all that is in your telegram, adding that if not included in "general principles of neutralization," it certainly is in obligation of parties under treaty. With this addition he would approve and thinks could carry it through. Certainly this would get rid of all obnoxious features of eighth article, C B, and of British minister of foreign affairs, 3A, and put in their place substantially what you propose.

CHOATE.

From this letter it clearly appears that our ambassador, who, under the instructions of our Secretary of State, Mr. Hay, negotiated this treaty, understood that freedom of passage and equality of terms were included in the expression "general principles of neutralization," and was not limited to technical neutrality.

I now read another letter from Mr. Choate to Mr. Hay, dated September 21, 1901, marked "Private and confidential," which appears in said Senate Document 474, beginning at page 40:

[Private and confidential.]

SEPTEMBER 21, 1901.

DEAR COL. HAY: In re canal treaty. I regret to say that Lord Lansdowne, who left on the 17th for Ireland, has not as yet been acces-

sible for a conference, and I fear will not be until October. He was to have come on the 19th to attend the service at the abbey, but unfortunately he had another sharp attack of sciatica, which prevented. Both Lord Pauncefote and I had hoped that he would come and remain here a few days to enable us to advance, if not to dispose of, this important matter. But I have had a full discussion of the matter with Lord Pauncefote, which has, I think, materially advanced it and which resulted in my confidential cipher cable of yesterday, of which I inclose a copy. It is needless to say that I found Lord Pauncefote very reasonable. I pressed upon him your great desire, if possible, to restore clause 1 of article 3 to the form you originally proposed, eliminating Lord Lansdowne's amendment altogether, except the clause as to just and equitable charges and conditions. But he thought the idea of amending it had gone too far to dispense with it altogether. He had sent to Lord Lansdowne your letter to him of September 2, and both he and I thought that the best that could be done was what you there propose, viz, to strike out after "nations" the words "which shall agree to observe" and substituting therefor "observing," and in the next line to strike out the words "any nation so agreeing" and to substitute therefor "any such nation."

As to article 3A, proposed by Lord Lansdowne, Lord Pauncefote realizes, I think, the full force of our objections to it, as I stated them to him before and repeated to you in my former letter. I told him emphatically that meaning to get rid of the Clayton-Bulwer treaty altogether we did not want to have article 8 of that treaty fastened upon us forever in a more intensified form, and as to any and all future interoceanic communication, with these crystallized rules, dissenting with any future negotiation about the matter when it should arise at some distant day. I told him how you and President McKinley had raised the same objections on first reading Lord Lansdowne's paper, and without a word from me yet received. Rather to my surprise he yielded very readily on the point of the future canal or other interoceanic communication, which, to my mind, was the worst part of it. He said that the only two possible routes for a canal were, he was satisfied, the Panama route and the Nicaragua route; and that the Panama route was so hedged about by many treaties with several powers and that without their consent nothing in the direction of our wishes could be done, and that it was sufficient in this treaty to provide for the Nicaragua route. This I thought a decided advance. He no longer insisted upon the words "or other change of circumstances" not affecting the treaty, against my insistence that there might be changes of circumstances which would affect or even nullify a treaty; that there was such a principle of international law, which we can not let go; that what such change of circumstances might be is not determined, nor was it easy to foresee what change of circumstances might come upon the United States in the next hundred years. But he said they could not give up article 3A altogether; that it was quite obvious that we might in the future acquire all the territory on both sides of the canal; that we might then claim that a treaty providing for the neutrality of a canal running through a neutral country could no longer apply to a canal that ran through American territory only; and he again insisted, as Lord Lansdowne had insisted, that they must have something to satisfy Parliament and the British public that in giving up the Clayton-Bulwer treaty they had retained and reasserted the "general principle" of it, that the canal should be technically neutral and should be free to all nations on terms of equality, and especially that in the contingency supposed, of the territory on both sides of the canal becoming ours, the canal, its neutrality, its being free and open to all nations on equal terms should not be thereby affected; that without securing this they could not justify the treaty either to Parliament or the public; that the preamble which had already passed the Senate was not enough, although he recognized the full importance of the circumstance of its having so passed.

I then called his attention to your article 4 in your letter, which did seem to me to cover and secure all that he now claimed and insisted on. He said no; that it only preserved the principle of neutralization, which, it might be insisted on, did not include freedom of passage for all nations and equality of terms, and that without an explicit provision, which should leave that freed from doubt, he could not expect to sustain it before the Parliament and people. I insisted that those ideas were already included in your 4, i. e., within the words "the general principle of neutralization," especially in the light of that phrase as used in the preamble, where it is "neutralization established in article 8 of the Clayton-Bulwer treaty"; that if not included within that it certainly was in the phrase "obligations of the high contracting parties under this treaty," for what could be clearer than our obligation by article 3 to keep it open and on terms of equality as provided there, and what your 4 meant was that no change of territorial sovereignty should affect any of the obligations of the present treaty, including that. He still insisted that it should not be left to the construction of general clauses, but should be explicitly stated. Believing, as I do, that you had no thought of escaping from the obligations of article 3, clause 1, in any such contingency as change of territorial sovereignty, and that you had intended it to be included in your language in 4, I wrote down the words "or the freedom of passage of the canal to the vessels of commerce and of war of all nations on terms of entire equality and without discrimination, as provided by article 3," and asked him if those words were added to your 4 it would satisfy him as a substitute for Lord Lansdowne's 3A. He said it would, and that with those words added the treaty could, he thought, be sustained before Parliament and the British public; that he should approve it, and he thought Lord Lansdowne could and would, although it would have to be submitted to the cabinet or to a majority of its members. This seemed to bring the matter to a very satisfactory point so far as we could go, and I agreed to cable our result to you, in the hope of getting your approval before he submitted it to Lord Lansdowne. I did not give him the words I wrote on paper, but said I would cable them to you. (MEMO.—I observe that in the brevity of my cable I omitted the words "and without discrimination," but I don't see that the omission affects the meaning at all, as it is all included in the words "on terms of entire equality, as provided by article 3." But if on reading this you think it does make a difference, please cable me.) It still looks to me most propitious for a satisfactory conclusion being reached.

Yours, very truly,

JOSEPH H. CHOATE.

From this letter it is perfectly evident that Lord Lansdowne, with whom our ambassador, Mr. Choate, was negotiating, under instructions from our Secretary of State, Mr. Hay, insisted that he must have—

something to satisfy Parliament and the British public that in giving up the Clayton-Bulwer treaty they had retained and reasserted the "general principle" of it, that the canal should be technically neutral and should be free to all nations on terms of equality, and especially that in the contingency supposed, of the territory on both sides of the canal becoming ours, the canal, its neutrality, its being free and open to *all nations on equal terms* should not be thereby affected; that without securing this they could not justify the treaty either to Parliament or the public; that the preamble which had already passed the Senate was not enough, although he recognized the full importance of the circumstance of its having so passed.

Mr. Choate further describes how Lord Lansdowne, in objecting to article 4 as proposed by Mr. Hay, had stated that—

it only preserved the principle of neutralization, which, it might be insisted on, did not include freedom of passage for *all nations* and *equality of terms*, and that without an explicit provision, which should leave that freed from doubt, he could not expect to sustain it before the Parliament and people.

Mr. Choate states that, replying to Lord Lansdowne, he had insisted that those ideas were already included in Mr. Hay's article 4, that is—

within the words "the general principle of neutralization," especially in the light of that phrase as used in the preamble, where it is "neutralization established in article 8 of the Clayton-Bulwer treaty"; that if not included within that it certainly was in the phrase "obligations of the high contracting parties under this treaty," for what could be clearer than our obligation by article 3 to keep it open and on terms of equality as provided there, and what your 4 meant was that no change of territorial sovereignty should affect any of the obligations of the present treaty, including that. He still insisted that it should not be left to the construction of general clauses, but should be explicitly stated.

It is perfectly clear to any person who is trying to ascertain the true meaning of this treaty, as evidenced by the written statements of the negotiators at the time it was made, that all nations should use the canal upon terms of entire equality, and, in view of what has taken place recently, Lord Lansdowne was entirely justified in insisting that the treaty should specifically state that that equality was to apply to all nations, and he was also wise enough to anticipate that some person who wanted to get a special advantage for this country might claim that the general principle of neutralization, as described in article 8 of the Clayton-Bulwer treaty, meant only technical neutrality in the sense that the canal was not to be fortified or was to be neutral in time of war, and did not include what the negotiators clearly intended to include—to wit, equitable and equal terms to all.

Mr. Choate, on April 13, 1914, wrote to Senator O'GORMAN, the chairman of the Committee on Interoceanic Canals, a letter which appears on page 264 of the hearings before the Committee on Interoceanic Canals of the Senate, Sixty-third Congress, second session, entitled "Panama Canal Tolls," in relation to H. R. 14385. The letter is as follows:

DEAR SENATOR O'GORMAN: As I am unavoidably prevented from accepting the courteous invitation of your Interoceanic Canals Committee for to-morrow, I avail myself of your kind permission to submit anything of mine not already published that might throw light on the pending question.

I, accordingly, with the express permission of the Secretary of State, submit to your committee the inclosed copies of letters written by me to Secretary Hay between August 3 and October 12, 1901, giving step by step the negotiations between Lord Lansdowne and Lord Pauncefote and myself in regard to the Hay-Pauncefote treaty.

These, if carefully perused, will, I think, be found to confirm my view that the clause in the Panama Canal act, exempting our coastwise shipping from tolls, is a clear violation of the treaty.

With great respect, most truly yours,

JOSEPH H. CHOATE.

Hon. JAMES A. O'GORMAN, *Chairman*.

Mr. Choate was the man who negotiated the treaty and corresponded with the Secretary of State about what every word meant that he put into it, and he and Mr. Hay agreed that they intended that the United States should be bound by its own rules.

It will be remembered that article 3 of the Hay-Pauncefote treaty states that the bases of the neutralization of such ship canal are the following rules, substantially as embodied in the convention of Constantinople, signed the 29th of October, 1888, for the free navigation of the Suez Canal. Article 12 of the treaty of Constantinople, therein referred to, is as follows:

The high contracting parties, by application of the principle of *equality* as regards the free use of the canal, a *principle* which forms one of the *bases* of the present treaty, agree that none of them shall endeavor to obtain with respect to the canal territorial or commercial advantages or privileges in any international arrangements which may be concluded. Moreover, the rights of Turkey as the territorial power are reserved.

It appears, therefore, that the "principle of equality as regards the free use of the canal forms one of the bases" of the treaty of Constantinople for the free use of that canal.

The great chairman of the Senate Committee on Foreign Relations, Senator Cushman K. Davis, of Minnesota, in his report of the first Hay-Pauncefote treaty, which report was Senate Document 268, Fifty-sixth Congress, first session, gives his view of this principle of equality and of the treaty of Constantinople. He states:

No American statesman, speaking with official authority or responsibility, has ever intimated that the United States would attempt to control this canal for the exclusive benefit of our Government or people. They have all, with one accord, declared that the canal was to be neu-

tral ground in time of war, and always open, on terms of impartial equity, to the ships and commerce of the world.

Special treaties for the neutrality, impartiality, freedom, and innocent use of the two canals that are to be the eastern and western gateways of commerce between the great oceans—

He is referring to the Suez Canal and the Panama Canal—

are not in keeping with the magnitude and universality of the blessings they must confer upon mankind. The subject rather belongs to the domain of international law.

The leading powers of Europe recognized the importance of this subject in respect of the Suez Canal, and ordained a public international act for its neutralization that is an honor to the civilization of the age. It is the beneficent work of all Europe, and not of Great Britain alone. Whatever canal is built in the Isthmus of Darien will be, ultimately, made subject to the same law of freedom and neutrality as governs the Suez Canal, as a part of the laws of nations, and no single power will be able to resist its control.

The European powers gave to this subject the greatest consideration, and reached conclusions that are not open to criticism as being unjust to any nation in the world. Turkey and Egypt, the imperial and the local sovereigns of the canal, and Great Britain, a controlling stockholder in the Maritime Canal Co., had special interests in the rules for regulating the use of the canal, and they united in the convention which deprived them of exceptional privileges in its navigation, *in peace* and in war, for the sake of justice to all maritime nations and the peace and prosperity of the world.

No nation disapproves of this act or has had grounds of complaint against it. No *American* will ever be found to complain of it. It is right in its moral features, in its impartiality, and, above all, in its tendency to decrease the resort to war for the settlement of international quarrels, and it will have the cordial approval of the *American people*.

The United States can not take an attitude of opposition to the principles of the great act of October 29, 1888, without discrediting the official declarations of our Government for 50 years on the neutrality of an isthmian canal and its equal use by *all nations, without discrimination*.

It is claimed by some who are not familiar with the diplomatic negotiations and representations which have been conducted in relation to our acquisition of the right to construct and operate this canal in a foreign country, and who are unfamiliar with the technical terms such as "neutralization" and "the general principle of neutralization," and the meaning which those terms conveyed to the ears and the minds of the negotiators of these treaties, that we are not bound to apply the same measure to our ships engaged in our coastwise trade through the canal that we apply to the ships of other nations engaged in their coastwise trade passing through the canal, but such a notion is utterly inconsistent with equality without discrimination. Others claim that we are not bound to observe the rules which we ourselves have adopted for the regulation of the canal, and that the first rule under article 3, which provides for terms of "entire equality, so that there shall be no discrimination," does not mean that we are bound to treat vessels of the citizens of all nations on terms of equality with vessels owned by our own citizens, but they claim that we are only obligated to treat foreign vessels on an equality with each other. They claim that the treaty should be construed as if the word "other" was interpolated before the word "nations" in rule 1 of article 3. Let us, therefore, insert the word "other" where they say it ought to be, and then inspect the rule as it would look. If this interpolation were made, the rule would stand as follows:

The canal shall be free and open to the vessels of commerce and of war of all *other* nations observing these rules, on terms of entire equality, so that there shall be no discrimination against any such nation, or its citizens or subjects, in respect of the conditions or charges of traffic or otherwise.

This would intimate that it was not open to the vessels of our own Nation on such terms.

How absurd such a rule would appear, and if they meant that the rule should read that way, why did they not insert the word "other" in the place referred to? If the intention of the makers of the treaty was that the United States should have the right to discriminate in favor of its own vessels, Secretary Hay could have written into the treaty the following language:

But it is agreed that the United States may discriminate against other nations, their citizens and subjects, in respect of the conditions or charges of traffic or otherwise.

This is what the advocates of the right to exempt our coastwise vessels from tolls claim the treaty means as it stands. Of course this is preposterous, and John Hay would have been ashamed to write it into the treaty, and this great Nation would have blushed if he had done it, and Great Britain would have refused to have agreed to it, and we would have become the laughingstock of the civilized nations of the world if we had asked for such a right to discriminate. Yet this is exactly what the advocates of the right to exempt our ships in the coastwise trade claim that the treaty really does mean. Could we, as an enlightened nation stand for this construction for a moment? Could we maintain our self-respect in discriminating in the use of this world highway, this international public utility, this interoceanic common carrier, even if we had the unquestioned right to discriminate in our own favor?

Mr. President, we pass laws making it a crime punishable by imprisonment for our domestic common carriers to discriminate between persons, classifications, and localities. We prohibit free passes, favoritism, and secret advantages of all kinds on the part of our public utilities. Are we to celebrate the dedication of this triumphal national monument, this colossal symbol of the power and majesty, of the skill, brains, and resources of this great free and democratic Republic, this long-sought endowment of the commerce of the nations, this boon to mankind, by throwing open the gates of this great artery of international commerce on the basis of obtaining a devious advantage of rebate or rake-off for ourselves?

Mr. President, if ever a nation, by its professions, its state papers, its diplomatic representations, and accredited utterances by all its official spokesmen, was ever pledged to the great moral principle of equality of treatment, this Nation stands so pledged in its conduct of the Panama Canal. If we are not to be bound by the rule of equality prescribed by the rule agreed to in the treaty, why did we make any treaty at all? If the construction claimed by the advocates of exemption and special privilege is correct, the treaty ought to have provided as follows:

The United States adopts as a basis of neutralization for this canal the following rules, to be binding upon all nations except the United States, which alone, of all of the nations of the world, shall be exempt from them.

We are asked to construe this treaty and to legislate and regulate our conduct in relation to the canal as though we had made no treaty at all, but had built a canal on our own soil with which no other nation had ever had any relations and about which no international negotiations had ever been held.

Mr. President, when this treaty was being considered in executive session of the Senate, the then Senator from Georgia, Mr. Bacon, proposed the following amendments:

In the preamble strike out all after the words "United States," in the tenth line, down to and including the word "convention," in line 11.

Strike out from article 2, in line 10, the following words: "Subject to the provisions of the present treaty."

Strike out all of articles 3 and 4.

Mr. President, the question being on agreeing to the amendments proposed by Mr. Bacon it was determined in the negative—yeas 18, nays 60. That appears on page 24 of the document entitled "Canal Treaties," being Senate Document No. 456, Sixty-third Congress, second session.

I have taken the Hay-Pauncefote treaty, and I have struck out what Senator Bacon proposed to strike out by those amendments, and I will insert the treaty in the RECORD, so that it will read as Senator Bacon would have had it read.

The treaty, if it had been amended as indicated, would have read as follows:

The United States of America and His Majesty Edward the Seventh, of the United Kingdom of Great Britain and Ireland, and of the British Dominions beyond the Seas, King, and Emperor of India, being desirous to facilitate the construction of a ship canal to connect the Atlantic and Pacific Oceans, by whatever route may be considered expedient, and to that end to remove any objection which may arise out of the convention of the 19th April, 1850, commonly called the Clayton-Bulwer treaty, to the construction of such canal under the auspices of the Government of the United States, have for that purpose appointed as their plenipotentiaries.

The President of the United States, John Hay, Secretary of State of the United States of America;

And His Majesty Edward the Seventh, of the United Kingdom of Great Britain and Ireland, and of the British Dominions beyond the Seas, King, and Emperor of India, the Right Hon. Lord Pauncefote, G. C. B., G. C. M. G., His Majesty's ambassador extraordinary and plenipotentiary to the United States;

Who, having communicated to each other their full powers, which were found to be in due and proper form, have agreed upon the following articles:

ARTICLE 1.

The high contracting parties agree that the present treaty shall supersede the aforementioned convention of the 19th April, 1850.

ARTICLE 2.

It is agreed that the canal may be constructed under the auspices of the Government of the United States either directly at its own cost, or by gift or loan of money to individuals or corporations, or through subscription to or purchase of stock or shares, and that the said Government shall have and enjoy all the rights incident to such construction, as well as the exclusive right of providing for the regulation and management of the canal.

ARTICLE 3.

The present treaty shall be ratified by the President of the United States, by and with the advice and consent of the Senate thereof, and by His Britannic Majesty; and the ratifications shall be exchanged at Washington or at London at the earliest possible time within six months from the date hereof.

In faith whereof the respective plenipotentiaries have signed this treaty and hereunto affixed their seals.

Done in duplicate at Washington, the 18th day of November, in the year A. D. 1901.

JOHN HAY. [SEAL.]
PAUNCEFOTE. [SEAL.]

If the treaty had been amended in that way, Mr. President, you would have had exactly the kind of treaty that the advocates of exemption are claiming we have now. You would have had a treaty that superseded the Clayton-Bulwer treaty;

that authorized the United States to build the canal and to have exclusive control and jurisdiction over it, without being bound by any rules of equality, whether or not those rules were adopted substantially from the convention of Constantinople. Then the patriots could have raged through the country, beating their breasts with some consistency about "the canal being ours and paid for by the people's money, and we will do with it as we please, and if anybody objects we will fight Europe in arms." But the Senate voted down that construction by a vote of 60 to 18, because it was a proposition simply to hog the whole thing and afforded no basis whatever for any supercession of the Clayton-Bulwer treaty at all. It simply had the effect of wiping out the Clayton-Bulwer treaty and asserting our right to do as we please, as though we were the sovereign of the Isthmus of Panama. You must remember at the time we made the Hay-Pauncefote treaty we had no more right in Panama than Guinea in Africa had, because it belonged to Colombia, in South America. The Senator from Michigan [Mr. SMITH], who points the withering finger of scorn at Great Britain for hovering around and snooping around the Isthmus of Panama, as though she were engaged in some nefarious conspiracy, should remember that we were hovering and snooping around there just as much as Great Britain was. It was the hovering and snooping around of both of us and of other nations, trying to exact a rake-off, if you please, for themselves and acquire a strategic position between those two oceans, that was the cause of the making of the Clayton-Bulwer treaty by which both of us agreed, in spite of the mutual airy persiflage that was exchanged between the two nations at a safe distance across the ocean, neither one being actually itching to get up against the muzzles of the guns of the other, you know, if they could get what they wanted by making a treaty, providing that there should be no discrimination against either.

Mr. President, that construction which is so eagerly sought by those who want to open the Panama Canal on the basis of some privilege granted to themselves is a forced and erroneous construction of the treaty. If we had so desired, we could have denounced the Clayton-Bulwer treaty; we could have claimed that circumstances had changed, as indeed they had.

Mr. WILLIAMS. Mr. President, if the Senator will pardon me, I will state that just before that time a gentleman by the name of Cooney, from the State of Missouri, while the matter was being discussed in the House, did offer an amendment calling upon the Executive to denounce the Clayton-Bulwer treaty and to abrogate it.

Mr. BRANDEGEE. I never had the pleasure of Mr. Cooney's acquaintance; but I was curious about him, because I knew he must have been a great man, since the Senator from Michigan quoted him as an authority, so at the time he was alluding to the fracas that Mr. Cooney created in the House I sent for the Biographical Dictionary of Congress and looked him up. The poor man is dead now. He was a gentleman who had been judge of probate at home and had been also prosecuting attorney; and aside from the episode alluded to by the Senator from Mississippi——

Mr. WILLIAMS. I interrupt the Senator only for this reason: If I remember correctly what the Senator from Michigan said, I think he said the Clayton-Bulwer treaty was not mentioned in the discussion in the House. I may be mistaken, however, about that. He went on to say, however, that the treaty had been defunct and dead Heaven knows how long; that nobody was paying any attention to it. It was thought by this Representative, who confessed that it was in force, at any rate, of sufficient importance to introduce a resolution requesting its abrogation. In that same debate Representatives Mann of Illinois, Dolliver of Iowa, Burton of Ohio, and I, among others, asserted that it was in full force and effect.

Mr. BORAH. Mr. President, I wish to ask the Senator from Mississippi whether a yea-and-nay vote was taken on that question?

Mr. WILLIAMS. I do not remember. I think so. I can hunt it up later. I got the volume and laid it on my desk, but the Senator from Michigan needed it in preparing his remarks for publication, and I gave it to him.

[NOTE.—Mr. WILLIAMS later furnished stenographer a note to the effect that he had found on page 5002, volume 33, CONGRESSIONAL RECORD, Mr. Cooney's announcement of his motion, but could find no record of a vote.]

Mr. BRANDEGEE. This is a forced and erroneous construction of this treaty. If we had so desired, we could have denounced the Clayton-Bulwer treaty, could have claimed that circumstances had changed, and that inasmuch as no action had ever been taken under it, declined further to be bound by its provisions, and declared it, after the proper lapse of time under diplomatic usage, to be abrogated. We did no such thing, but we deliberately opened negotiations with Great Britain to supersede that treaty by another treaty, with the distinct, specific understanding and statement in the new treaty that "the general principle of neutralization, as contained in article 8 of the Clayton-Bulwer treaty, should not be impaired."

If we had denounced and abrogated the Clayton-Bulwer treaty, we and Great Britain would both have been at liberty to avail ourselves of our respective influence, arts, and diplomacy to obtain the exclusive right from the owners of the Isthmus to construct and operate the canal. If we had so desired, we could have opened the whole situation again as it had existed with all its troubles before we ever made the Clayton-Bulwer treaty, and as it has continued to exist and does exist now, owing to the disposition to try to get something of advantage to ourselves as against the rest of the commerce of the world. To be sure such a course and such a result would have undone the work of a half century, would have violated the ideals of the great statesmen of the world as to the free and equal use of this strategic Isthmus for the benefit of the commerce of mankind on equal terms.

Mr. BORAH. Mr. President——

The PRESIDING OFFICER. Does the Senator from Connecticut yield to the Senator from Idaho?

Mr. BRANDEGEE. Mr. President, I stated when I started that I preferred to proceed without interruption, and I hope the Senator will not insist upon interrupting at this time. I will gladly talk with the Senator later. I have only a little more to say.

Mr. BORAH. I supposed the Senator had suspended the rule.

Mr. BRANDEGEE. I do not want to make any distinction; and as the Senator from Mississippi did interrupt, I yield to the Senator from Idaho. That is the trouble about trying to be courteous in this body. If a Senator says he does not wish to be interrupted, and then a Senator does, in fact, interrupt, and he tolerates it, he is subject to interruptions from 96 Senators. I yield to the Senator from Idaho.

Mr. BORAH. No; I will not interrupt the Senator.

Mr. BRANDEGEE. I thank the Senator. I appreciate his action.

We could, if we had so desired, have returned to the monopolistic, selfish, and narrow view of this great marine international highway. Whether we would have been able, single handed against the world, to have maintained this monopoly, or to have managed it on terms which the rest of the world would have regarded unfair and discriminatory and characteristic of the arrogant medieval days, may well be doubted. But, thank God, we did not do this; we did not turn back the hands of progress; we did not attempt to convert the strategic figuration of this continent to the exclusive advantage of this Nation alone. Even though we had the physical power to conduct the canal on that barbaric conception, a decent regard for the respect of mankind would have prevented us from so doing. Other nations have other means of exercising influence than mere force of arms. We would soon have realized that we were ostracized by the civilized world—our trade, our commerce, our goods, wares, and merchandise would have been under a universal boycott.

Mr. President, in order to build, operate, and control this canal, and to free ourselves from anything in the Clayton-Bulwer treaty which prevented that ambition, we agreed to administer this canal on terms of equality to all. As will be seen, therefore, from the recital which I have made, the argument that because we built this canal and paid for it and own it, that we will therefore do with it as we please falls to the ground.

Nor can this great enlightened Nation say to other nations who disagree with us as to the meaning of our treaty agreements that we will be the exclusive judge of all our international contracts, and that if any nation does not like our construction, their only remedy is to precipitate a bloody war against us. We have an arbitration treaty under the terms of which we agree to submit to arbitration disagreements as to the meaning of treaties. It is said that we are not obliged to submit this question to arbitration under our agreement, because our treaty of arbitration provides that vital matters, matters of national honor, and matters affecting third parties, need not be submitted to arbitration.

Mr. President, it is not tenable, in my view, to claim that our desire to distribute a few million dollars among the owners of our coastwise ships falls within either of the three exceptions noted above. Neither the life nor the honor of this Republic depends upon the success of those who desire to subsidize indirectly that part of our coastwise trade which may use the Panama Canal. We should either arbitrate this question or repeal

this discriminating exemption, or both. Many of those who insist upon granting this veiled subsidy to a portion of our coastwise shipping could not be prevailed upon to pass a statute to take the money ut of the Treasury of the United States and give it to the owners of these ships. Many of them have voted against a subsidy to our ships engaged in the foreign trade, which have to compete under disadvantageous conditions, both as to the cost of their ships and the cost of their crews, with their competitors. The claim ingeniously devised, and urgently pressed, that under the practice in relation to treaties involving the ships or vessels of nations, that coastwise vessels were never contemplated to be included in the provisions of the treaty, has no application whatever to the provisions of this Hay-Pauncefote treaty, because the equality prescribed in the treaty is defined to be for the purpose of preventing "discrimination against any such nation, or its citizens or subjects, in respect of the conditions or charges of traffic or otherwise."

The whole intent of the treaty is to prevent discrimination of any kind against the citizens or nations or their trade or commerce *in the use* of the canal. The claim that other nations of the world, who are prohibited by our navigation laws from entering our coastwise trade, can not be discriminated against by the exemption of our coastwise trade is perfectly irrelevant. The treaty does not agree to put the ships of all nations upon an equality by giving them a right to enter our coastwise trade any more than it pretends to do away with discriminations against the vessels of other nations, or their commodities or commerce in our tariff laws. The only discriminations which the treaty forbids us to make and the only equality which the treaty compels us to grant are such as arise from the use of the Panama Canal and our administration thereof. Can anybody suppose that Great Britain, after her years of struggle to obtain the rights which she had under the Clayton-Bulwer treaty, which unquestionably provided for equality of treatment with the United States by the operators of the canal, having for more than 50 years been in the enjoyment of those rights under that treaty, would abandon them all in order to secure *inequality* of treatment and discrimination against herself? Is it conceivable that Lord Lansdowne and Lord Salisbury would have advocated before the British council the ratification of a treaty which allowed us to impose tolls upon all British shipping and the shipping of all other nations, and to exempt our own ships from charges for passing through the canal? Could either she or we have supposed at that time that anybody would or could place that construction upon the Hay-Pauncefote treaty? If they had thought that the treaty was susceptible of that construction, would they ever have had the hardihood to recommend its adoption by the greatest shipping power of the world, which at that time had a guaranty of absolute equality of treatment with us?

Mr. President, the equality prescribed in rule 1 is not capable of covering the special-privilege exemption in favor of one interest or any kind of direct or devious preference or advantage—they are the rules of the square deal and not of shifty evasion, sinuous subtlety, or slippery diplomacy. The parties to this treaty spoke the same language and used the same dictionaries, but there is not a word in this treaty which the ordinary, humble citizen would need to look up in a dictionary. The short Anglo-Saxon terms employed are those of plain, straightforward people, who knew exactly what they meant, and said it. They were all perfectly familiar with the history of events which led to the meeting of their minds; they reduced their ideas to the simplest forms of expression and affixed their seals and plighted their national good faith thereto. They promulgated their contract to the world and gave all the world equal rights in its benefits, and it was understood of all men. And now that the dream of 400 years is about to be realized, having invited the nations of the world to join with us in celebrating the grandeur of this vast enterprise and its triumphal completion, rejoicing in this enduring monument to the wealth, power, genius, integrity, and majesty of the American people, with the visiting flotillas of the brotherhood of nations almost embarked to participate in the festivities, while the flags are fluttering and the great guns are booming a welcome by this free Republic, are we to be discovered in the Senate of the United States taking counsel of one another by what possible specious device we may draw down something extra for ourselves?

May a decent respect for the opinion of mankind forbid that we shall desecrate this greatest wonder of the world by inscribing upon its enduring portals, "Special Privilege, Favoritism, Discrimination!" I appeal to you to join in helping this great Nation to cherish the loftier ideal and conception so eloquently portrayed and prophesied by the great Minnesota Senator, Mr. Davis, and to consecrate this great work, in which the French nation has had such a prominent part, to the grand principles which emancipated that nation—"Liberty, Fraternity, Equality!"

Mr. WORKS. Mr. President, some time ago I proposed an amendment to the pending bill in the form of a substitute for the amendment proposed by the committee. Subsequently and before the amendment had been offered a similar amendment was offered by the Senator from North Carolina [Mr. SIMMONS], and that amendment has been adopted by the Senate. I am now about to offer the substance of my proposed amendment as an amendment to the Simmons amendment, and before doing so I desire to explain not only my reasons for offering the amendment but what I understand will be its effect.

The Senator from Nebraska [Mr. NORRIS] has challenged any Member of this body to point out any right or interest of this Government that is not protected by the Simmons amendment. I accept that challenge. I maintain that the amendment that has been adopted by the Senate fails to protect any interest of this Government from the effects of anything that may be done by the Senate in dealing with the bill that is now before it. It is a sham.

It will be noticed that the only attempt to protect this Government is from the effect of the passage of this act. The passage of this act will have no effect whatever upon the right of this Government to exempt its own ships from the payment of tolls. That right is not vested in the United States by the Panama act, and therefore the repeal of that act can not take it away.

If we have any right to exempt our ships from the payment of tolls, it is not because of the act which Congress passed, but because of the fact that we own the canal. The Panama act, a clause of which is now sought to be repealed, did not give this Government any right to exempt its ships from the payment of tolls, or purport to do so. The act assumes, necessarily and properly assumes, that that right exists in the Government as an incident to its ownership of the canal, and the only object and purpose of the Panama Canal act in this respect is to determine who shall regulate and fix those rights, namely, the President of the United States. Section 5 of that act provides:

> That the President is hereby authorized to prescribe and from time to time change the tolls that shall be levied by the Government of the United States for the use of the Panama Canal.

There is no grant of right to this Government by virtue of that statute. It assumes, as I said, that the Government had that right, and it simply provided that the President of the United States should regulate those rates and how, with certain limitations:

> *Provided*, That no tolls, when prescribed as above, shall be changed, unless six months' notice thereof shall have been given by the President by proclamation. No tolls shall be levied upon vessels engaged in the coastwise trade of the United States.

If we owned the canal and had complete sovereignty over it, we had the right by reason of that single fact to exempt our own ships from the payment of tolls for the use of our own canal. This statement in the statute is simply a legislative declaration of a right that already existed by virtue of our ownership. It did not vest any new right in this Government, and if we repeal it we will not take away any right of the Government.

If it be true, as claimed by the Senator from Connecticut [Mr. BRANDEGEE] and other Members of this body, that this is a great international waterway, and that this Government has no right to control its use, but that every nation in the world has a right to use it upon equal terms with every other nation, then this Government could not by statute give itself the right to use it in any different way, and therefore the statute would have no effect upon the rights of the United States in the canal. But if, on the other hand, it is our canal, constructed with our money, over which we have complete sovereignty, then as a result of that fact we have a right to exempt our own ships from the payment of tolls.

So at last, Mr. President, we come back to the single question as to the effect upon that right of the Hay-Pauncefote treaty. I am not going to discuss that question. I have already done so in the earlier stages of this debate to the best of my ability, and the subject has been thoroughly and much more ably discussed by other Senators following me. But the point I am making is that we are attempting now by this amendment to protect ourselves from the effect of this bill, if it becomes a law, upon our right to exempt our ships, and that the statute sought to be repealed gives us no such right, and that therefore the repeal of it or any action taken in respect to it can not affect our right to exempt our ships, and therefore the amendment providing that the passage of it shall not affect our right

to exempt our ships is simply worthless as an effort to protect our rights.

There is one clause in the original act that does have some effect upon our rights. It limits the President as to the amount of tolls to be fixed and charged, namely, not more than $1.25 a ton nor less than 75 cents a ton. Coastwise trade of the United States was excepted from that provision. Therefore that provision has no effect upon the fixing of tolls as affecting our domestic trade; but with the statute as it then stood the President of the United States would have had a perfect right to charge $1.25 a ton as against foreign and 75 cents a ton against domestic trade. He could not under the limitations upon his power to fix the rates go either higher or lower than the amount fixed in the statute.

But the Senate must remember that that was merely a regulation imposed upon the President of the United States in fixing and controlling the rates and did not pretend to determine whether we had the right to exempt our ships or to give us any such right that we did not already have.

So we have been discussing the question for two months, whether we should repeal this exemption clause of the statute or not, when, in my judgment, it has no effect whatever upon the rights of the United States to exempt her ships.

But, Mr. President, this discussion has been important not because of the passage or defeat of this bill but because we have assumed here to determine what should be the construction placed upon the treaty that is intended to limit that right.

Now, again, the amendment of the Senator from North Carolina proposes to protect this Government from its rights under the Hay-Pauncefote treaty. That treaty gave this Government no right to exempt its ships. Certainly no one could claim that. The repeal of this statute could by no possibility affect the question as to the effect of that treaty upon our rights. If there never had been any Panama Canal statute passed at all, this Government would have had a right, independent of any such provision as that, to exempt its ships unless the position is maintained that this is an international highway, and our Government has no right to assume any preferred rights to itself.

In that view of it, if every other nation has a right to claim the same right to use the canal that we have, on account of its international rights, then the Hay-Pauncefote treaty, attempting to limit our rights, was entirely unnecessary, and is immaterial.

I take it for granted that the Senator from North Carolina and Senators who have voted for his amendment desire to protect us in the future from any action that we may take here bearing upon this question, whether it be the passage of the act or any votes that have been taken here or anything that has been said by Senators representing the Government as to the construction which should be placed upon this treaty. The statute has nothing to do with it whatever. The Government of Great Britain has made the claim that we have no right to pass our coastwise ships through the canal if they carry foreign goods. If by reason of the removal of this statute we proceed to levy a toll upon our own ships, then the Government of England may very well claim that we have estopped ourselves from claiming that we have the right in the future to exempt them, because under this protest we have actually charged our ships just the same as we charge theirs.

Mr. President, it is not the passage of this statute that is an offense against Great Britain, if we are proposing to violate the treaty by exempting our own ships, but it is the act itself of exemption. The position was correctly taken by our own Secretary of State that Great Britain had no cause of complaint until we had actually exempted ships that ought not to be exempted under the provisions of the treaty; and evidently the Government of Great Britain accepted that position, because she made no further protest, and the matter was left in that condition. Perhaps if later on we had allowed our ships to pass through without the payment of tolls and exacted tolls from the ships of Great Britain, a case would have arisen where she might have made her protest and called for arbitration; but that time has not arrived and that question is not affected by the statute. Therefore, to attempt to relieve ourselves from the effect of the statute or its repeal is a deception, unintentional, of course, and is absolutely misleading.

In order to meet what I think may be a danger resulting from what has been said and done here and what may be done in the way of actually exempting our ships from tolls, I propose to offer this amendment, to add at the end of the amendment the following:

Neither shall the passage of this act nor the imposition upon or collection of tolls from the ships of this country or its citizens for passing through the Panama Canal deprive the United States of any right, as owner of said canal, to exempt from the payment of such tolls any and all ships of the Government and its citizens at any future time, nor shall this act be construed as a waiver of such right or as an acceptance of or consent to such a construction of any treaty with a foreign country as will deny or abridge the same.

What is claimed here is that the treaty with Great Britain has limited the right that existed on the part of the Government of the United States to exempt our ships from tolls, and that has been argued here day after day in an attempt to determine whether we have the right to exempt our ships or not. The whole question turns upon the effect of the Hay-Pauncefote treaty, because without that treaty, as I maintain, we have the right as the owner of the canal to exempt our own ships.

I should like, if we are going to repeal this statute, and as there is an honest difference of opinion between us here as the representatives of the United States Government as to the effect of the treaty, that we should by some clause in this bill protect ourselves from any consequences growing out of our act that would prevent us in the future from asserting that right if it should be determined that we have it.

The amendment that I offer differs from that of the Senator from Nebraska [Mr. NORRIS] and that of the Senator from Iowa [Mr. CUMMINS] in that it does not assert the right on our part; it simply endeavors to protect us in the right that I think exists. Others do not think so. Therefore I think as the Senator from North Carolina [Mr. SIMMONS] has assumed to protect us from the consequences of the passage of this act that he and the Senators on the other side of the Chamber should be not only willing, but anxious, to make it so strong that our rights, if we should be determined to have any, may be protected from the consequences of what we are doing to-day.

Mr. President, I have no disposition to delay the Senate unnecessarily. I have endeavored briefly to call the attention of the Senate to the reasons why I think this additional amendment should be made and to point out the effect that I think may result from it. I am not prepared to say that this amendment is necessary. I doubt very much whether it is, because of my belief that the passage of this statute could by no possibility have any effect upon our rights in the future. But other Senators do not agree with me in that respect, and therefore I desire, out of a proper sense of caution, to ask the Senate to adopt the amendment that I now send to the desk.

The PRESIDING OFFICER. The Secretary will read the amendment for the information of the Senate.

The SECRETARY. Amend the amendment by adding at the end thereof the following:

Neither shall the passage of this act nor the imposition upon or collection of tolls from the ships of this country or its citizens for passing through the Panama Canal deprive the United States of any right, as owner of said canal, to exempt from the payment of such tolls any and all ships of the Government and its citizens at any future time, nor shall this act be construed as a waiver of such right or as an acceptance of or consent to such a construction of any treaty with a foreign country as will deny or abridge the same.

The PRESIDING OFFICER. The question is upon the amendment offered by the Senator of California to the amendment.

Mr. WORKS. I suggest the absence of a quorum.

The PRESIDING OFFICER. The Senator from California suggests the absence of a quorum. The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Ashurst	Hitchcock	O'Gorman	Stephenson
Brady	Hollis	Owen	Sterling
Brandegee	Hughes	Page	Stone
Burleigh	James	Perkins	Sutherland
Burton	Johnson	Poindexter	Swanson
Catron	Jones	Pomerene	Thomas
Chamberlain	Kenyon	Ransdell	Thompson
Chilton	Kern	Reed	Thornton
Clapp	La Follette	Root	Tillman
Clark, Wyo.	Lane	Saulsbury	Vardaman
Colt	Lea, Tenn.	Shafroth	Walsh
Crawford	Lewis	Sheppard	Warren
Cummins	Lodge	Sherman	Weeks
Dillingham	McCumber	Shively	West
du Pont	Martin, Va.	Simmons	White
Fletcher	Martine, N. J.	Smith, Ariz.	Williams
Gallinger	Myers	Smith, Ga.	Works
Goff	Nelson	Smith, Md.	
Gronna	Norris	Smoot	

The PRESIDING OFFICER. Seventy-four Senators have answered to their names. A quorum is present.

Mr. WORKS. As a number of Senators were out of the Chamber when the amendment was offered, I ask to have it reread.

The PRESIDING OFFICER. The Secretary will read the amendment for the information of the Senate.

The SECRETARY. Amend the amendment by adding at the end thereof the following:

Neither shall the passage of this act nor the imposition upon or collection of tolls from the ships of this country or its citizens for passing through the Panama Canal deprive the United States of any right, as owner of said canal, to exempt from the payment of such tolls any and all ships of the Government and its citizens at any future time, nor shall this act be construed as a waiver of such right or as an acceptance of or consent to such a construction of any treaty with a foreign country as will deny or abridge the same.

Mr. WORKS. I ask for the yeas and nays.

The yeas and nays were ordered, and the Secretary proceeded to call the roll.

Mr. CHILTON (when his name was called). I again announce my pair with the Senator from New Mexico [Mr. FALL]. In his absence I withhold my vote. If permitted to vote I should vote "nay."

Mr. McCUMBER (when his name was called). I have a pair on this particular amendment with the junior Senator from Pennsylvania [Mr. OLIVER]. The Senator from Utah [Mr. SUTHERLAND] has a pair with the senior Senator from Arkansas [Mr. CLARKE]. We have arranged to transfer those pairs in a manner so that we may both be permitted to vote. I therefore vote. I vote "nay."

Mr. SUTHERLAND (when his name was called). I have a pair with the Senator from Arkansas [Mr. CLARKE], but under the statement made by the Senator from North Dakota [Mr. McCUMBER], the Senator from Arkansas will stand paired with the Senator from Pennsylvania [Mr. OLIVER] and I will vote. I vote "yea."

Mr. WILLIAMS (when his name was called). Transferring my pair with the senior Senator from Pennsylvania [Mr. PENROSE] to the junior Senator from Arkansas [Mr. ROBINSON], I vote "nay."

The roll call having been concluded, the result was announced—yeas 36, nays 50, as follows:

YEAS—36.

Ashurst	Cummins	Lane	Smith, Mich.
Borah	Dillingham	Lippitt	Smoot
Brady	du Pont	Martine, N. J.	Sutherland
Bristow	Gallinger	O'Gorman	Townsend
Burleigh	Goff	Page	Vardaman
Catron	Hitchcock	Perkins	Walsh
Chamberlain	Jones	Poindexter	Warren
Clapp	Kenyon	Ransdell	Weeks
Clark, Wyo.	La Follette	Reed	Works

NAYS—50.

Bankhead	Kern	Pittman	Stephenson
Brandegee	Lea, Tenn.	Pomerene	Sterling
Bryan	Lee, Md.	Root	Stone
Burton	Lewis	Saulsbury	Swanson
Chilton	Lodge	Shafroth	Thomas
Colt	McCumber	Sheppard	Thompson
Fletcher	McLean	Sherman	Thornton
Gore	Martin, Va.	Shively	Tillman
Gronna	Myers	Simmons	West
Hollis	Nelson	Smith, Ariz.	White
Hughes	Norris	Smith, Ga.	Williams
James	Overman	Smith, Md.	
Johnson	Owen	Smith, S. C.	

NOT VOTING—9.

Clarke, Ark.	Fall	Oliver	Robinson
Crawford	Newlands	Penrose	Shields.
Culberson			

So the amendment of Mr. WORKS to the amendment was rejected.

ENROLLED BILL SIGNED.

A message from the House of Representatives, by J. C. South, its Chief Clerk, announced that the Speaker of the House had signed the enrolled bill (H. R. 11040) to carry out the findings of the Court of Claims in the case of James Harvey Dennis.

PETITIONS AND MEMORIALS.

Mr. TOWNSEND presented petitions of sundry citizens of Ingham County, Mich., praying for national prohibition, which were referred to the Committee on the Judiciary.

He also presented a memorial of Local Union No. 46, Cigar Makers' Union, of Grand Rapids, Mich., remonstrating against national prohibition, which was referred to the Committee on the Judiciary.

He also presented a petition of the Woman's League of Bronson, Mich., praying for an appropriation for the control and prevention of floods, which was referred to the Committee on Commerce.

Mr. CATRON presented a petition of sundry citizens of Lordsburg, N. Mex., praying for national prohibition, which was referred to the Committee on the Judiciary.

Mr. PAGE presented a petition of the congregation of the Congregational Church of Woodstock, Vt., praying for national prohibition, which was referred to the Committee on the Judiciary.

Mr. DU PONT presented petitions of sundry citizens of Wilmington, Del., praying for national prohibition, which were referred to the Committee on the Judiciary.

He also presented a memorial of sundry citizens of Sussex County, Del., remonstrating against an increase in the number of chaplains in the United States Navy, which was referred to the Committee on Naval Affairs.

He also presented a petition of the Maryland, Delaware, and Virginia Peninsula Retail Jewelers' Association, praying for the enactment of legislation eliminating the time guaranty on gold-filled watchcases, which was referred to the Committee on Interstate Commerce.

Mr. LODGE presented resolutions adopted by the City Council of Woburn, Mass., favoring the retirement of civil-service employees, which was referred to the Committee on Civil Service and Retrenchment.

Mr. ROOT presented petitions of sundry citizens of New York City, Haverstraw, Franklin, Fabius, Portageville, Reading Center, Victor, Beanville, Woodstock, and Hadley, all in the State of New York, praying for national prohibition, which were referred to the Committee on the Judiciary.

He also presented memorials of sundry citizens of New York City, Oneonta, Brooklyn, Scottsville, Troy, and Green Island, all in the State of New York, remonstrating against national prohibition, which were referred to the Committee on the Judiciary.

Mr. WEEKS presented a petition of the Woman's Christian Temperance Union of Melrose, Mass., praying for Federal supervision of motion-picture films, which was referred to the Committee on Education and Labor.

Mr. GALLINGER presented petitions of sundry citizens of Portsmouth, N. H., praying for the enactment of legislation to supplement existing laws against unlawful restraints and monopolies, and for other purposes, which were referred to the Committee on the Judiciary.

He also presented a petition of the Board of Trade of Concord, N. H., praying for the adoption of 1-cent letter postage, which was referred to the Committee on Post Offices and Post Roads.

Mr. McLEAN presented memorials of sundry citizens of Hartford and Stafford Springs; of the Central Labor Union of Danbury; and of Local Union No. 15, United Hatters of North America, of South Norwalk, all in the State of Connecticut, remonstrating against national prohibition, which were referred to the Committee on the Judiciary.

He also presented petitions of the Windham Association of Congregational Churches and Ministers, of Pomfret Center, and of the congregations of the Second Congregational Church of Putnam and the First Congregational Church of Pomfret, all in the State of Connecticut, praying for the establishment of an international tribunal for the adjudication of international differences, which were referred to the Committee on Foreign Relations.

He also presented a petition of Local Union No. 207, National Association of Civil Service Employees, of Hartford, Conn., praying for the enactment of legislation granting pensions to civil-service employees, which was referred to the Committee on Civil Service and Retrenchment.

Mr. CHAMBERLAIN presented a memorial of Rich Mountain Circle, No. 4, Ladies of the Grand Army of the Republic, of Eugene, Oreg., remonstrating against any change in the United States flag, which was referred to the Committee on the Judiciary.

He also presented a petition of sundry citizens of Oregon, praying for the adoption of a 1-cent letter postage, which was referred to the Committee on Post Offices and Post Roads.

Mr. CLARK of Wyoming presented petitions of sundry citizens of Cody, Powell, and Carpenter, all in the State of Wyoming, praying for national prohibition, which were referred to the Committee on the Judiciary.

Mr. SUTHERLAND. I present a letter, in the nature of a petition, signed by a large number of retail merchants of Salt Lake City, Utah. The letter is brief, and I ask that it may be printed in the RECORD, omitting the signatures with the exception of the first one.

There being no objection, the petition was referred to the Committee on Interstate Commerce and ordered to be printed in the RECORD, as follows:

SALT LAKE CITY, UTAH, *May 23, 1914.*

Hon. GEORGE SUTHERLAND,
United States Senator, Washington, D. C.

DEAR SIR: The undersigned retail merchants in Salt Lake City, State of Utah, hereby ask you to use your good offices in supporting the measure H. R. 13305, known as the Stevens bill. This measure is designed to protect the independent merchant in his legitimate busi-

ness, which is threatened with destruction by the insane practice that large corporations are adopting of price cutting.

The retailers desire the passage of this measure, because it will enable manufacturers to take advantage of its provisions and establish a uniform price of sale to all wholesalers, and also a uniform price of sale to all retailers. In other words, it affords a fair deal to all concerned, including the consumer. For these and other reasons the retailers are unanimously in favor of the passage of the Stevens bill.

Very respectfully,

MURDOCH GROCERY CO.
(And others).

JUDICIAL POWERS TO MINISTERS, ETC.

Mr. STONE, from the Committee on Foreign Relations, to which was referred the bill (S. 2877) to amend an act entitled "An act to carry into effect provisions of the treaties between the United States, China, Siam, and other countries, giving certain judicial powers to ministers and consuls or other functionaries of the United States in those countries, and for other purposes," approved June 22, 1860, reported it without amendment and submitted a report (No. 590) thereon.

BILLS INTRODUCED.

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. GRONNA:

A bill (S. 5802) to amend section 10 of the act entitled "An act to establish a Bureau of Immigration and Naturalization, and to provide for a uniform rule for the naturalization of aliens throughout the United States," approved June 29, 1906; to the Committee on Immigration.

By Mr. SHIVELY:

A bill (S. 5803) granting an increase of pension to Amos T. Phares (with accompanying papers); and

A bill (S. 5804) granting an increase of pension to Curtis B. Small; to the Committee on Pensions.

By Mr. SMITH of Maryland:

A bill (S. 5805) to confer additional power and authority on the National Forest Reservation Commission, and to provide for the acquisition of lands for a national forest or park in the general vicinity of the District of Columbia; to the Committee on Agriculture and Forestry.

By Mr. SMITH of Arizona:

A bill (S. 5806) authorizing the issuance of a patent to the city of Tempe of certain land in the county of Maricopa, State of Arizona; to the Committee on Public Lands.

By Mr. HUGHES:

A bill (S. 5807) granting a pension to Annie Wilson; to the Committee on Pensions.

By Mr. GORE:

A bill (S. 5808) to authorize the Secretary of the Interior to extend certain payments on public lands in Oklahoma; to the Committee on Indian Affairs.

By Mr. OWEN:

A bill (S. 5809) to terminate minority rule in the nomination and election of Senators and Representatives in Congress; and

A bill (S. 5810) to amend an act entitled "An act to provide for publicity of contributions made for the purpose of influencing elections at which Representatives in Congress are elected," also to amend an act amending the said act and "extending the same to candidates for nomination and election to the offices of Representative and Senator in the Congress of the United States and limiting the amount of campaign expenses," and extending both, first, by providing for publicity by all committees and individuals that shall expend $50 or more to influence the election of a Representative or Senator in Congress; second, by restricting all persons other than candidates for office from expending more than $1,000 to influence the election of a Representative or Senator in Congress; and third, by incorporating in an amended form the prohibition against corporations from making money contributions in connection with political elections; to the Committee on Privileges and Elections.

AMENDMENT TO INDIAN APPROPRIATION BILL.

Mr. GORE submitted an amendment authorizing the Secretary of the Interior to grant a further extension of extensions of time on the payments described in the act of April 27, 1912, etc., intended to be proposed by him to the Indian appropriation bill, which was ordered to lie on the table and be printed.

L. W. JONES.

Mr. TILLMAN submitted the following resolution (S. Res. 388), which was referred to the Committee to Audit and Control the Contingent Expenses of the Senate:

Resolved, That the Secretary of the Senate be, and he is hereby, authorized to pay out of the "contingent fund" of the Senate, the sum of $16 to L. W. Jones for services as assistant clerk to the Committee on Naval Affairs from June 1 to June 4, inclusive.

THE SHORT-BALLOT MOVEMENT.

Mr. OWEN. I have an article on the short-ballot movement by H. S. Gilbertson, executive secretary of the National Short Ballot Organization. I desire to have the article printed as a public document, and I ask that it be referred to the Committee on Printing with a view to its publication.

The PRESIDING OFFICER. Without objection, the matter will be referred to the Committee on Printing.

CREEK INDIANS OF OKLAHOMA.

Mr. GORE. I desire to have printed as a document a letter from R. C. Allen, national attorney for the Creek Nation of Indians, of Oklahoma, relative to certain provisions contained in the Indian appropriation bill affecting these Indians. I ask that the letter may be referred to the Committee on Printing with a view to its publication.

The PRESIDING OFFICER. Without objection, the letter will be referred to the Committee on Printing.

PANAMA CANAL TOLLS.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 14385) to amend section 5 of "An act to provide for the opening, maintenance, protection, and operation of the Panama Canal, and the sanitation of the Canal Zone," approved August 24, 1912.

Mr. WALSH. Mr. President, I send to the desk an amendment, and ask for its adoption.

The PRESIDING OFFICER. The amendment proposed by the Senator from Montana will be stated.

The SECRETARY. It is proposed to strike out all after the enacting clause of the bill and to insert:

That section 5 of the act entitled "An act to provide for the opening, maintenance, protection, and operation of the Panama Canal, and the sanitation and government of the Canal Zone," approved August 24, 1912, be, and the same hereby is, amended by the addition thereto of the following provision, namely:

That nothing contained in this act shall be deemed to repeal any provision of the Hay-Pauncefote treaty, or to affect the judicial construction thereof, or in anywise to impair any rights or privileges which have been or may be acquired by any foreign nation under the treaties of the United States relative to tolls or other charges for the passage of vessels through the Panama Canal, and that when any alien, whether natural person, partnership, company, or corporation, considers that the charging of tolls or the enforcement of any other regulation under and pursuant to the provisions of this act violates in any way any such treaty rights or privileges, such alien shall have the right to bring an action against the United States for a redress of the injury which he considers himself to have suffered, and the district courts of the United States are hereby given jurisdiction to hear and determine such cases and to decree the appropriate relief, and from the decision of such district courts there shall be an appeal by either party to the action to the Supreme Court of the United States.

Mr. WALSH. Mr. President, in the course of some remarks which I made upon this bill some time since I said all that I cared to say in advocacy of this amendment. The amendment was offered in the Committee on Interoceanic Canals, having the bill under consideration. It was rejected by that committee by a vote of 8 to 6. I am entitled to no credit for originating the idea which the amendment expresses. It was suggested by former President Taft at or about the time of the passage of the act to repeal an important provision of which the bill now before us is presented. Briefly, the amendment is intended to put the matter in such shape as that the question as to whether that part of the act exempting coastwise vessels from the payment of tolls for passing through the Panama Canal is or is not in violation of the Hay-Pauncefote treaty.

Mr. NORRIS. Mr. President, I desire to make a parliamentary inquiry.

The PRESIDING OFFICER. Does the Senator from Montana yield to the Senator from Nebraska?

Mr. WALSH. I do.

Mr. NORRIS. Is the amendment which the Senator from Montana now offers a substitute for the amendment now pending?

Mr. WALSH. The amendment is offered as a substitute for the bill as amended.

Mr. NORRIS. Mr. President, if that is true, I make the point of order against the amendment that until the committee amendment is disposed of a substitute for the bill would not be in order.

Mr. WALSH. I did not understand there was any amendment pending. I understood that the amendment proposed by the Senator from Nebraska had been adopted.

Mr. NORRIS. No; a vote was taken on making my amendment a substitute for the committee amendment, and that prevailed. Now that amendment is before the Senate as an amendment to the bill. Until it is disposed of, I take it that the Senator can not offer a substitute for the entire bill. Of course the Senator's amendment would be in order later.

Mr. WALSH. I assume that the Senator from Nebraska states the parliamentary situation correctly. I assumed that his amendment had become an integral part of the bill by the action heretofore taken.

The PRESIDING OFFICER. The Senate has not yet made the amendment a part of the bill; it has simply expressed a preference for the amendment offered by the Senator from North Carolina over all other amendments which have as yet been proposed. The vote has not yet been taken in the Senate making the amendment a part of the bill.

Mr. WALSH. I inquire of the Chair, then, whether a vote on the motion to adopt the amendment of the committee as amended by the amendment of the Senator from North Carolina is in order?

The PRESIDING OFFICER. It is now in order, and it is the question before the Senate.

Mr. WALSH. Upon the adoption of that amendment, would my amendment then be in order?

The PRESIDING OFFICER. It would be in order. The question before the Senate is on agreeing to the amendment proposed by the committee as amended by the amendment offered by the Senator from North Carolina.

Mr. WALSH. I desire to state, then, that if the Senate is prepared to vote on that motion, I shall be very glad to yield, and to resume what I have to say about the matter upon the conclusion of the vote.

The PRESIDING OFFICER. The Senator from Montana will be recognized.

Mr. BORAH. Mr. President, what is the question now before the Senate?

The PRESIDING OFFICER. The question before the Senate is the amendment of the committee as amended by the amendment offered by the Senator from North Carolina [Mr. SIMMONS].

Mr. SIMMONS obtained the floor.

Mr. CLAPP. Mr. President——

The PRESIDING OFFICER. Does the Senator from North Carolina yield to the Senator from Minnesota?

Mr. SIMMONS. I do.

Mr. CLAPP. Mr. President, before the vote is taken, as I expect to vote against the amendment and the bill, I desire to place in the RECORD my reasons for doing so.

I shall not at this time discuss at length the merits of the bill seeking to repeal the exemption clause of the Panama Canal act. I may refer to one or two reasons urged in favor of the bill; but so far as any treaty right is concerned, I shall not waste any time on that phase of the question, because I think now, outside of a very limited number, no one seriously contends that there are any treaty obligations standing in the way of our granting freedom from tolls either to our coastwise trade or to our over-seas trade.

My conclusion in that respect is borne out even by the position almost universally taken by those who in this debate have favored the repeal of free tolls and the complacency with which those who favor the tolls exemption accept the pending amendment. It is either the abandonment of all claims that the treaty interferes with free tolls or else it is evidence that the pending amendment is in the nature of a sham.

Dealing with the economic phase of this question, we find that some years ago we began the construction of the Panama Canal. I have voted for every appropriation that has been made for the canal. There was but one justification for our taking several hundred million dollars of the money of the American people to build this canal, and that was on the theory, wise or unwise, that the facilitation of water transportation is a general benefit in developing a factor in competition with the railroads. It is the same justification which we urge for annually taking millions of the people's money to develop our waterways, harbors, and canals, like the great "Soo" Canal, that such development may facilitate water transportation and result in the general cheapening of transportation.

Of course, I realize that the trip of the *Oregon* around Cape Horn developed a sentiment in favor of the canal, but I think everyone upon reflection realizes that every outpost which a nation holds, every over-sea coast or territory which a nation holds, is a liability and not an asset, for such over-sea coast requires protection, and in proof of this we are confronted today with the proposition that we are obliged to increase our Navy, not because the canal has or will prove a military advantage, but because we must have a greater Navy to protect it.

The fact is that, notwithstanding the sentiment, the people of this country, and especially the people of the great Middle West, had determined upon the building of the canal before the trip of the *Oregon*, because they believed that the canal would in a general way somewhat relieve them from the cost of transportation by making the coastwise water transportation through the canal a competitive factor, a principle that was emphasized in the speech made by President Wilson during the campaign. This purpose of the people had been thwarted and retarded by the railroad interests which, of course, feared such competition, and the trip of the *Oregon* doubtless developed a sentiment which made it possible for the people to begin sooner the construction of the canal, and they bore the burden of the construction in the belief that it would result in a benefit to the people in transportation, just as they bore the burden of the cost of developing other water transportation.

We went on and built the canal. It is almost ready to be used, and now we are asked to abandon the principle for which we built the canal and to make the great expenditure of no practical benefit in relieving the people of the burdens of transportation rates through competition.

Before the last Democratic convention was held at Baltimore free tolls to our coastwise trade had been the subject of consideration in the House, and a Democratic House had finally decided in favor of free tolls. The bill was pending in the Senate when the Democratic convention was held, and that convention declared, among other things, for free tolls for our coastwise trade. Subsequently the Senate passed the bill, largely by the aid of Democratic votes, and its passage through both Houses had been secured in spite of the opposition of the same interests which had so long delayed the building of the canal itself. It strikes me that it is a reflection upon the intelligence of the delegates to the Baltimore convention for the Senator from Connecticut [Mr. BRANDEGEE] to say that they knew nothing about the status of that matter.

Pending in that form, the Baltimore convention passed a resolution in favor of toll exemption; and now, at the demand of the President, we are confronted with the proposition of repealing the toll-exemption clause and repudiating that declaration in the Democratic platform; and to justify the repudiation of the solemn declaration in the platform, those who, obedient to the President's demand, are working to repeal the exemption shield themselves behind the cry of "ship subsidy," because the Democratic platform contains a plank opposed to ship subsidy, and they insist that the two planks are inconsistent. When men have no excuse they always give a poor one, and the character of the purpose can usually be easily seen in the character of the excuse. Now, upon this issue there are two distinct groups of Democratic Senators. One group repudiates the Baltimore platform as to free tolls but undertakes to justify such repudiation by quoting the Democratic platform against ship subsidy. This analysis of a platform, even if accurate, would leave each man, influenced as he might be by motives good, bad, or indifferent, to determine what part of a platform he might repudiate and what he should retain; but it goes further than that—it discredits the witness and the testimony. What a spectacle it is to see a man stand with the platform in his hand, one portion of which he is repudiating, and then, reading from the same platform, justifying his act of repudiation. Such testimony would hardly command attention in the court of a justice of the peace. It is true that the Democratic Party, from time immemorial, has stood against ship subsidy; but if the deepening of rivers, improving of harbors, and building of canals like the "Soo" Canal is to be classed as ship subsidy, then the attitude of the Democratic Party in accepting the benefits of such appropriations challenges the integrity of its repeated declarations against ship subsidy, and we all know that such appropriations never have been considered as within the purview of what is called "ship subsidy," although the benefits from such appropriation, in the first instance, go directly to the owners of the boats. But I have no time to discuss with a man what the balance of his platform means, when he selects one plank to repudiate and another plank on which to base his justification.

But there is another group of Democrats, who believe in standing by their party pledge, and to them I propose to address briefly some remarks upon this phase of this question. There is absolutely no inconsistency between the plank in the Democratic platform which denounces ship subsidy and the plank in the platform which declares for the continuation of toll exemption in the Panama Canal. There is absolutely nothing inconsistent in those two planks.

As pointed out so ably by the Senator from Missouri [Mr. REED] yesterday, the term "ship subsidy" came to have a distinct meaning in the American political vocabulary. It meant a direct bonus or gratuity to the owners of ships or to the owners of freight carried by ships. In that sense the Democratic Party has stood against ship subsidy almost from time immemorial, and in that sense the Democratic Party was justi-

fied in putting in its Baltimore platform a plank against ship subsidy.

But equally from time immemorial the Democratic Party as a party has stood for and shared in the fruits of the appropriations from the Federal Treasury to develop transportation facilities in this country. At every session, with scarce an exception, there comes into this body a bill from the House of Representatives appropriating millions of dollars from the Federal Treasury to deepen our waterways, to make canals of our rivers, and to improve our harbors, but all for the free use of the owners of the boats, based upon the theory that the water transportation so benefited by Federal appropriation finds a reflected benefit to the people in the cheapening of transportation, upon the principle that water transportation as a competitive factor is the surest and most efficient means of reducing transportation rates. If money appropriated by the General Government for improvements is to be designated as a subsidy because a few people, the owners of boats, get the first direct benefit of it, then the attitude of the Democratic Party in the past in securing such appropriations would challenge the integrity of that plank in their platform against subsidy. But this has never been recognized as a test by which to measure the definition of a subsidy, because every dollar of the hundreds of millions we have appropriated for the improvement of rivers and harbors, canals and locks has of course, in the first instance, been a direct benefit to the owners of the boats using these facilities, and yet no one has ever thought of characterizing these benefits as a subsidy, and no Democrat will be found opposing upon that ground the rivers and harbors bill now pending in the House.

There is already on its way from the House of Representatives to this Chamber—and perhaps it may have reached this Chamber—a bill appropriating almost a hundred million dollars to deepen the great waterways of this country, in order that the owners of boats may have without charge to them those facilities which, without this appropriation, they would not have. Are the Democrats who have stood on this floor and in the repudiation of their platform undertaken to shield themselves behind the false cry of subsidy, going to vote against that bill and its provisions simply because the benefits from that bill, if any, will accrue, first, directly to the few men or corporations who own and control those boats?

I think, if the record of bills for rivers and harbors were analyzed, it would be found that those sections of the country represented to-day by those Democrats who are seeking to raise the false cry of subsidy have been the beneficiaries of those appropriations equally with, if not in excess of, other sections of the United States, and when that bill comes before the Senate they will be asked as to the benefits given to their section, and whether or not they are to be regarded as subsidies.

When a Democrat who holds a discredited platform in his hand, then turns to the platform to prove the attitude and traditions of his party I have nothing to say; he stands here with his evidence, his own witness, discredited; but to the Democrat who comes here standing upon the platform of the Baltimore convention, I say there is absolutely no inconsistency between those two planks in that platform.

We have had some very novel arguments advanced in this debate. We have had a new rule laid down. In the first place, the President of the United States comes before Congress and asks Congress to repeal the tolls-exemption clause of the act of 1912. I would be the last man on earth to criticize the man who finds that he has been mistaken and wants to reverse his judgment, but I want to say that, in my humble opinion, while a man is not called upon to give a reason for his original position, when he is confronted with a reversal of that position it is due that he give a reason for the reversal, and so far there has been no reason assigned for this reversal.

If this had been a plank which had found its way into the platform disassociated from pending issues, without thought or consideration, and had been overlooked during the campaign, then it might, perhaps, be ignored now without assigning a reason; but that is not the history of this plank. This plank was developed at a time when the question of toll exemption had been fought out in a Democratic House, and was being fought out in a committee of the Senate. No one could say it was an obscure subject. The halls of this Capitol had been thronged with the representatives of interests which had first fought against building the canal, and then naturally fought against the insertion of the principle of toll exemption, and it was Democratic votes in the House and Democratic votes in this body that saved the toll-exemption clause in the law of 1912. Speaking now from memory, but I think it is accurate, every Democrat in this body who was present and voted voted in favor of free tolls.

Not only was that plank the subject of agitation in Congress, but, more than that, it was the plank singled out by the Democratic candidate for President of the United States, and a discussion and analysis of that plank was laid before the American people by him in public speech during the campaign as a reason why he ought to be elected President of this Republic. Do you call it inadvertence when the candidate for the high office of President of the United States singles out a plank of his platform and shows why that plank should be there, and then emphasizes the use of that plank with the assertion that a platform "is not molasses made to catch flies"? And yet some of those Democrats who seek to repudiate this plank in their platform, in view of its genesis, publicity and emphasis laid upon it by the President, still call it a "joker" inserted in their platform by some one not friendly to the party. We might well inquire of those who thus characterize this plank if they considered it was a "joker" when used by the President during the campaign, and was it then used as a "joker" by some one unfriendly to the party?

Suddenly, and almost without a moment's warning, we were confronted with the request of the President to repeal this provision of the law. And what reason does he give?

According to the statement of one of the oldest and most venerable Democrats of this body, it is no longer necessary for a President to give any reason for what he does, nor is it necessary for a Democratic Senator to inquire as to whether a reason exists. I want to refer to the speech of the distinguished senior Senator from South Carolina [Mr. TILLMAN], in which he used this somewhat remarkable expression in speaking of the President:

> I have felt that as the first Democrat in half a century—real Democrat, I mean, for I never regarded Cleveland as a Democrat—it is the duty of every man who claims to be a Democrat to support him in all his policies, wise or unwise.

I want to say to the Democratic Senators in this body that that is a novel definition of Democracy. You may ask yourselves mentally what interest I have in the welfare of the Democratic Party. I have this interest: No political party in power can make a mistake without hurting somebody besides that party. A political party in power has in its keeping the interests of the people of this country; and the Democratic Party, ever since its origin, has at least put forth the claim that it was the party of the people. Yet you have a man in the White House to-day who, if not in speech at least in attitude, claims that it is a question for the party to settle and that the party will be responsible for its own mistakes. It is true the party is liable for its own mistakes, and in that sense responsible; but a party can not escape responsibility to the entire people. While this is fairly deducible as the attitude of the President, time and again in the last few weeks Senators have gone further than that and have said, in terms, "This is our responsibility. If our party makes a mistake we will take the responsibility." I want to say to you that no party in power can, in that spirit, take the responsibility for mistakes. Mistakes are visited upon all the people of this country alike, and the man who takes that position flies in the very face of the traditional fundamental principles of Democracy and of the Democratic Party. You can not reconcile the declaration so often put forth by Democrats that theirs is the party of the people, the party of service to the people, with the declaration that it is your duty to follow a man whether he acts wisely or unwisely.

Much as I esteem President Wilson, I want to say to the Democratic Senators here that he is one of the last men in this country of whom any Democratic Senator should say, "I will follow him, whether he acts wisely or unwisely"; to whom any Democratic Senator should commit the keeping and care of his party policy, his party traditions, or the welfare of this country, which it has been so often asserted is inseparably interwoven in the welfare of the party itself. No man can read the earlier works of Mr. Wilson without reaching the conclusion that Mr. Wilson is no more of a Democrat in the broad sense of that term than is the distinguished senior Senator from New York [Mr. ROOT], the distinguished ex-President, Mr. Taft, or that great opponent of real democracy, Alexander Hamilton. Running through every line of his earlier works is a spirit and doctrine that can not be harmonized with the broad doctrine of government by the people. You take his later works, and here and there you find sentiments tending toward democracy, but even there you find a hesitation and halt that shows that he never has entirely broken away from the limitations of his earlier views, and, much as we may admire the man, we can not recognize in him an exponent of democracy as taught by Jefferson and others.

I want to say to you, Democratic Senators, that such a man, no matter how high his ideals, is not a safe leader, and you are rapidly going the same way that another party went because it, too, permitted one man to assume in effect to say, "I am the

party." That sentiment and spirit is foreign to the spirit of our Government, and it is especially foreign to the spirit and principles of the party to which you belong.

It spells misfortune for the party and for the man himself when any man who happens to be President assumes that he is bigger than all the rest of his party. It was this mistaken view that lay at the basis of Mr. Taft's misfortunes and the misfortunes of his party. It is this same mistaken view on the part of your President that has brought your party to the position where the evidence of his coming defeat is so plain that the reactionary element in the country is pressing its claim for political favor with a hand so bold that it has forgotten its cunning.

Turn to the President's message, and not a reason is given why the Democratic Party and the American people should be placed in the attitude of repudiating a great principle that every one of the three great parties, either in its platform or the declaration of its candidate, had declared a part and parcel of its party faith and party principle, except the simple declaration of repudiation of what had already been the subject of discussion and contest and exalted by the President himself in *public* speech as an argument why he should be elected, unless we accept as a reason his declaration that "it is necessary in support of a foreign policy." But that has already been repudiated by the Senators favoring the repeal in their acquiescence in an amendment which they would, at least, have the public believe and which they insist is a reservation of the right to allow free tolls, the assertion of which the President gives as his sole reason for repudiating the platform, which had been paraded before the public as a reason why he should be elected. Without in the least questioning his integrity, in fact, yielding to no man my respect for him as a man of ideals, it is not safe for Senators intrusted with the interests of the American people to say of such a man, "I believe we should follow him whether his policies are wise or unwise."

Some novel features have been introduced into this debate which have taxed the ingenuity of those who have introduced them and shows the folly of men trying to assert a reason for action when no reason exists.

One of these is found in the claim of the Democratic friends of repeal that to grant free passage to our coastwise ships would be favoring monopoly. This places them in a peculiar position. We have already passed a law which forbids the use of that canal to any ship "owned, chartered, operated, or controlled" by any person or company violating the antitrust law. The Democratic Party will be in power when this canal is opened, and the assertion that free tolls will go to monopoly is a serious reflection upon the purpose of the party with reference to the enforcement of the law referred to. Another is found in an incident which occurred last evening.

The distinguished Senator from Kentucky [Mr. JAMES] was advocating and seeking to justify the repudiation of the platform, and was interrupted by the senior Senator from Oklahoma [Mr. OWEN] with a question. The senior Senator from Oklahoma inquired:

> Is it not a fact that in not one of the 48 States had the Democratic Party expressed itself upon this plank before it was adopted at the Baltimore convention?

To which the Senator from Kentucky [Mr. JAMES] replied, with assurance, as though that settled the whole question:

> Not one.

That introduces a new rule in the study of platforms. If that rule is to obtain, then hereafter when a campaign speaker stands upon a platform and holds up to his audience the platform he *must* have proof that each plank in that platform was first authorized by some recognized authority from each State. The voter who in his humble home and by his fireside studies the platform will be unable to tell anything about what is to be observed and what is to be repudiated, because he will not have access to the information as to how many of the sovereign States have first authorized the incorporation of the plank in the platform.

Mr. REED. Mr. President——

The PRESIDING OFFICER (Mr. HOLLIS in the chair). Does the Senator from Minnesota yield to the Senator from Missouri?

Mr. CLAPP. With pleasure.

Mr. REED. Does not the Senator clearly see that that suggestion embodies a new application of the principle of initiative and referendum?

Mr. CLAPP. Yes. The Senator from Oklahoma and myself have believed for some time that this should be a government by the people; that political parties should be the instrumentalities and not the masters of the people; that public officers should be the servants and not the masters of the people; but I never yet in my wildest dreams concerning the initiative supposed it would be carried to the point of preceding the formation of a national political platform, and especially where there was no means by which the public could ascertain what particular planks the local organization had first agreed upon. Under my theory of the right of the people to pass upon these questions, the question would not be, "What has been said before the platform was adopted?" but "What has been said to the people after the platform was adopted, and what was their verdict upon the platform after it was laid before them, especially when explained and expounded by a presidential candidate?" That is the only true test. Think of justifying the repudiation of a platform on the suggestion that the various planks had not been submitted to State conventions before they were worked into a national platform!

The trouble is that whenever a man takes a pretended reason that has no foundation he gets deeper into the mire every time he turns around.

Another novel test of platforms has been introduced by the Senator who wrote to the various delegates to the Baltimore convention and asked them if they were willing to have the platform reversed as to free tolls. Now, the trouble is, those gentlemen finished their jurisdiction over the platform when they wrote it. It was submitted then to the people, explained and expounded by the presidential candidate, and the proper ones to ask as to what they think of the platform and whether it should be repudiated or not would not be the gentlemen who made it, but the voters who accepted it with the exposition and explanation of the candidate for President. Again is evidence given that when a man has no valid reason and flounders around to get one the more he flounders the deeper he sinks.

There is no reason yet advanced for the violation and repudiation of the Baltimore platform except that under this new theory of Democracy, where "I must follow the man, wise or unwise," the man to whom that authority is ascribed has said, "This law must be repealed."

I want to say to my Democratic friends that you can no more expect to maintain party supremacy under such leadership than could the Republican Party. There is no excuse for it on the part of the Democratic Party, for you had two object lessons before you—one the fate of the Republican Party, and the other a great disaster that has recently occurred in New England. I refer to the New Haven Railroad episode. A more pitiful spectacle was never presented than the sight of great business men coming up on the stand as directors of a great corporation, and facing the shame and disaster of that corporation with the miserable apology, "I left it all to Mr. Morgan." Men selected because of their supposed business acumen and sagacity faced that humiliation and shame because they abandoned their responsibility and left it all to some one else.

There never yet was a man so big but that there are some things in the world bigger than he. So far as a man is justified by his own attitude and opinion in passing criticism upon another, it seems to me that a Senator who says, "I know nothing about this; I have no opinion upon this; I will leave it all to the President," is as recreant to his public trust as the director of a great corporation who says, "I know nothing of this. I take no responsibility. I leave it all to the president of the corporation." Senators are elected because of their supposed familiarity with public questions. Each State has two Senators upon a theory that there should be developed a broad equation of purpose and judgment, that all should not be left to one man.

If there could be an instance where you have before your very eyes the danger involved in leaving to one man to say what shall be done in these great affairs, you have it to-day in the history of the New Haven Railroad. No man is big enough for such a responsibility. You were sent here that you might bring your experience and your judgment to bear upon these questions. What shall be said of a man who has spent his life in public service, and who then folds his hands and says of a man who never had any public experience except two years' service as governor of a State, "I believe it is my duty to follow him whether he acts wisely or unwisely"?

I must hasten along, as I have already extended my remarks beyond my original intention. What I now desire to speak of is the proposed amendment.

The Senate is divided upon the question of our rights in the canal into two divisions. There are in the Senate those who believe that the United States Government has a perfect right under these treaties, and notwithstanding these treaties, to allow its shipping, domestic or over sea, to go through the Panama Canal without the payment of tolls. There is another group in this body who believe that that right has been granted away in these treaties. The question whether or not the United States has the right to impose tolls, whether it has the right to regulate its own property, or whether, in an unguarded

moment, it has given away that right, is the fundamental question that should divide Senators upon this floor; not the question whether to-day or to-morrow we will deal with the economic question of exemption from tolls.

To-morrow, if we have made an economic mistake in granting exemption from tolls, we can reverse that policy; a year from now, if we believe we have made an economic mistake in granting exemption from tolls, we can reverse the policy; but if we make a mistake to-day with reference to the rights of this Republic in that canal we never can reverse that mistake without more or less serious complications and possible loss of honor. Then, while there is another division of those Senators who would repeal exemption from tolls upon an economic basis, and those who would repeal exemption from tolls because they believe we have no right to grant exemption from tolls, the line of division should not go between those Senators.

The line of division when the right of this country is questioned, as it is in this proceeding, should be the line that would separate those on the one hand who believe we have the right, and on the other hand those who believe we have given away the right. Then, if we have the right, and to-morrow or next year we should feel that it was an economic mistake to grant exemption from tolls, we could withdraw the exemption; but once you make a concession here that we have not this right you have made a concession that you never can withdraw without more or less national embarrassment. Then, I say that those Senators who believe that we have the right should be aligned on one side, and those who believe we have not the right should be aligned on the other side, that we might preserve the right and later deal with the economic question; but we find here the alignment neglecting and subordinating this fundamental principle of right or wrong to the mere temporary makeshift of whether to-day we will withdraw exemption from tolls, or whether we will do it to-morrow.

If exemption from tolls is an economic mistake, then I believe that no Senator who believes that we have a right to pass our ships through the canal free can justify himself in surrendering that right to gain the temporary advantage of to-day, repealing what he regards as an economic mistake by alignment with those who in the very bottom of their hearts believe that we have not the right to grant this favor to our own ships, if we so desire. Once again we find here a division, not on fundamental lines, but upon artificial and purely temporary lines.

If there had been nothing said; if Congress of its own motion, or the President of his own suggestion, influenced purely by economic considerations, had suggested the repeal of the exemption from tolls, I am not so certain but that in view of the vast cost of the canal I should be in favor of at least imposing some burden until we could ascertain by experiment what the relation of tolls to the maintenance of the canal might be; but we could do that any time. We are not, however, repealing the tolls exemption under those conditions. Now, contemplate the condition under which we are repealing the exemption, and see what is left of a mere suggestion—not the assertion of a claim, but the mere suggestion of a claim, of our right to use our own property as we may deem in the best interest of our people.

You have to read this amendment in the light of the history which precedes its adoption. What does that history disclose? It discloses a condition where there is alleged to be such an overmastering danger to this Republic that a great political party is forced to place itself in alignment, at least in the public mind, with the railroad interests of this country to secure the repeal of this tolls exemption, for in proportion as a burden is imposed upon shipping, shipping is, to that extent, less able to act as a factor in reducing rates. Not only is this situation presented, but that party is at the same time forced into the attitude of repudiation of this solemn pledge, made more solemn by its candidate for the Presidency pointing it out and calling attention to it. That is no ordinary condition, I want to remind the Senate, but a condition where to every outsider it must seem that the pressure for this repeal must have been simply terrific.

Every man in the Senate and every man in this land knows that certain great interests in the country fought the building of this canal. They fought exemption from tolls. You can not escape the judgment of the American people that consciously or unconsciously you are favoring the great transportation companies by repealing the exemption from tolls. You are also thrown in the attitude of repudiating your solemn platform pledge; and yet it is suggested that action taken under such pressure as that can be avoided in the mind of the world by a mere suggestion—not the claim of the right, but the suggestion that if there is any right that right still exists.

Not one of its supporters have dared to say that it amounts to the assertion of a claim of right. The Democratic Senators who favor it can not make such a claim, because it would be a most flagrant and uncalled-for criticism upon the President, almost amounting to an insult, for he has said that free tolls must be repealed in order to enable him to deal with a foreign policy. In other words, he has said, in effect, that free tolls must be repealed as a concession to some foreign Government. He does not say what one. To repeal free tolls and not make that concession would be little short of an affront to the President himself, and we can not imagine that those who so complacently follow his command would be guilty of such an affront, for surely he would not stand for an amendment to an act purporting to be a concession which in fact was not.

No. We do not act here to-day in our own right and capacity. We are acting for 90,000,000 people. It seems to me the man who feels that this right is still in the United States should be slow indeed to surrender that right; and yet that is what we do under the so-called Simmons amendment. Why, if this alignment of great interests and this repudiation of party platform is simply to correct an economic policy, it could be corrected some other day as well as now. No. The Simmons amendment is absolutely meaningless. It is simply a play upon words, part of those favoring repeal claiming one thing and the other part claiming something else, but neither insisting that it was an assertion of a right. That was proven last night out of the mouths of some of those who defended this amendment when it was asserted that the original amendment was a claim of right and the admission made that that claim could not and would not be accepted by those who believe that the free tolls should be repealed on account of treaty obligations, and that the amendment as now submitted was agreed upon as a compromise to get votes to repeal the tolls-exemption provision—it was necessary to abandon even a claim of right.

Paraphrasing the language of President Wilson in his New Jersey speech regarding the platform, and reversing the term when he said the Democratic platform was not "molasses to catch flies," the men in control of this measure are much more frank, for they admit by their excuse for its terms that this amendment is molasses with which to "catch flies" for the repeal of the tolls exemption. Here we have a situation where one form of amendment was, perhaps, asserting a right of the United States to exempt its coastwise trade, but that amendment was rejected by the leaders of the movement to repeal free tolls, by those who insist we have no right, and this proposed amendment has been modified so as to be acceptable to men who insist we have no right, and yet it will be insisted by some that it is a reservation. Thus is confusion worse confounded.

We have debated this question here for weeks. Why all this debate? Why all this difference of opinion? Simply because in the early history of this transaction we neglected to use language that would admit of but one construction.

I had hoped that these weeks of debate would teach us one thing. While they might not enlighten us in our views as to the right of the American people under this treaty, I thought they would at least teach us the necessity from now on of using terms and expressions in regard to which there can be no question as to what they mean.

Think of weeks of weary debate over the language of documents, and concluding the transaction with a document framed in language so ambiguous and so doubtful as to be the subject of dispute among those who are framing and placing it in legislation!

We are told in an undertone that foreign dangers demand that we surrender our honor and sovereignty. We may almost feel that we have reached that period of decadence where we are purchasing peace; and yet we propose to celebrate this year the one hundredth anniversary of a peace won by the valor of our ancestors. Amid the very scenes of this celebration we propose, forgetting their valor and their patriotism, to have peace from now on, not won by valor, but secured by the surrender of American honor and American sovereignty in the Canal Zone.

Let us, in this humiliating scene, in the closing hours of this great tragedy, if we are to attempt to reserve anything, at least once and for all put it so plain that no subsequent Senate can spend weeks in debating pro and con what we mean by the language we use. Vain indeed has been the lesson of the past if, with all this complication piled upon complication by the use of obscure language, we now pile another complication upon those already existing.

So I had hoped that in this instance we would at last reach a point where those who believed we had not given away our rights would make an assertion of our claim. There will be time enough afterwards to abandon a false economic policy if we have embarked upon one, but no time afterwards to correct,

without more or less humiliation and possible charge of want of integrity, the surrender of our rights if we surrender them at this time.

Talk about arbitration! What will there be left to arbitrate after this amendment is adopted? Imagine, if you can, a lawyer, a jurist, going before such a commission and presenting the claims of this Republic, being met by this pitiful address of the President, and the meaningless array of words in the form of this amendment, and nowhere, from start to finish, a plain assertion that we have a right left to arbitrate.

If we are to give this up, let us give it up once and for all, subject only to the power of Congress again, ignoring complications, ignoring embarrassments, to resume the right, because we will have the power to resume it; or, if we want the pathway of honor unembarrassed by complications and ambiguous positions, let us plant ourselves to-day upon a foundation so plain that no Senate can ever spend weeks again in debating what is meant by the language we employ.

Mr. BORAH. Mr. President, the Senator from Connecticut [Mr. BRANDEGEE] in his speech this morning referred again to the Clayton-Bulwer treaty and said that he had spent some time in trying to ascertain the antecedents of a gentleman who offered a resolution in the House some years ago to the effect that said treaty be abrogated. He discovered that that gentleman, now deceased, formerly resided in the State of Missouri, and had at one time been probate judge, afterwards prosecuting attorney, and left the inference that his claim to fame rested upon the proposition that he undertook to annul the Clayton-Bulwer treaty. In other words, the inference to be drawn from the statement of the Senator from Connecticut was that the Clayton-Bulwer treaty at the time we executed the Hay-Pauncefote treaty was regarded as a substantial, binding obligation upon this country, and that only one person could be found who would offer a resolution to the effect that it should be annulled. The Senator from Mississippi [Mr. WILLIAMS] said that that was overwhelmingly voted down in a few moments. That is now discovered to be a mistake and the Senator's memory was at fault. The Senator from Ohio [Mr. BURTON] a few days ago also referred to the fact that the Clayton-Bulwer treaty was a substantial consideration which went into the Hay-Pauncefote treaty, and that in consideration of England's yielding upon the Clayton-Bulwer treaty we had granted these rights which now to deny would be an act of bad faith.

Sir Edward Grey, in his note to Mr. Bryce, seems to have laid the foundation for this argument in a statement which I will take the time of the Senate to read:

> If the rules set out in the Hay-Pauncefote treaty secure to Great Britain no more than most-favored-nation treatment, the value of the consideration given for superseding the Clayton-Bulwer treaty is not apparent to His Majesty's Government.

The Clayton-Bulwer treaty was made in April, 1850. It was made with the view of immediate action for the building of this canal. It was contemplated that the provisions of that treaty would insure reasonable dispatch for the purpose of uniting the two oceans. This is fully developed in the correspondence of Mr. Blaine with Mr. Lowell, and the correspondence of Mr. Frelinghuysen later; also in documents which will be found among our public records. But during the 50 years which elapsed nothing whatever was done. Great Britain gave no encouragement in any direction. The treaty remained a dead letter so far as any action upon the part of any Government was concerned, and while it was not contemplated that either the United States or Great Britain should affirmatively build the canal, the treaty did provide for the encouragement of those nations which should show a disposition to go into the enterprise and that these two nations should protect them.

But 50 years passed and nothing was done. The Senate of the United States, through its committee, one of the strong committees of the Senate, spoke upon this subject, and as this, by men whose obscurity is not a subject for discussion or investigation upon the part of the Senator from Connecticut, I desire to read a portion of it. This report was made in 1891. They say:

> We think it can be justly affirmed that the convention of 1850 has become obsolete, for the convention was based upon the idea of an immediate prosecution of the enterprise of creating this great international water highway, and that neither Government would be found, so far as it regarded the particular question, apart from other considerations, to consider its stipulations as longer binding.
>
> Not only this consideration is to be taken into view, for the course of events in the enterprise and operations of nations has changed entirely the grand commercial situation of the world. The Suez Canal has been constructed and the Government of Great Britain has become, in substance and effect, its dominant and controlling proprietor, thus securing to that Government, in a very large degree, the control of the east-and-west commerce of the world between the southern and eastern shores of Asia and the whole of Europe, and to a considerable degree the eastern shores of the United States and the other American Republics.
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> We think it may be safely affirmed that had the Government of Great Britain in 1850 been in possession of the Suez Canal, the United States would never have consented that any canal across the American isthmus should be under the joint control of Great Britain and the United States, or under any other European control. In this respect, therefore, the immediate declarations and engagements of 1850 between the two Governments in regard to an isthmian canal have become entirely inapplicable, and justly entitle the United States to give its separate aid and encouragement to the construction of such a canal.

The Senate will observe the strong and forceful language of this report, and that is that the treaty had become obsolete, and that there was no longer any inhibition or obstacle standing in the way of the United States to engage separate and alone in the construction of this canal, and that was a number of years before the Hay-Pauncefote treaty was negotiated. For years before the Hay-Pauncefote treaty was concluded the Clayton-Bulwer treaty stood under condemnation by our ablest and most conservative men.

But that is not all—

Says the Senate report—

> One of the provisions of the convention of 1850 most important to the United States and to the preservation of the republican governments on this continent was that which declared that neither party to the convention should "occupy or fortify or colonize or assume to exercise any dominion over Nicaragua, Costa Rica, the Mosquito Coast, or any part of Central America."

I want the Senate to bear in mind that reading of the provisions from the Clayton-Bulwer treaty, because I am going to show in a few moments not only from this report but from undisputed historic facts, historic facts recorded not only by American historians but English historians, that upon three separate and distinct occasions England violated that provision of the treaty, and that she had notice of the fact that the United States, as a Government, regarded it as a violation upon her part long years before the Hay-Pauncefote treaty was made.

Indeed, sir, Stephen A. Douglas called the attention of this Government within three years after the making of the Clayton-Bulwer treaty to the fact that it had been violated and was then subject to abrogation and cancellation upon the part of this Government for disregard upon the part of England.

After quoting further facts they say:

> At that time the "settlement" of British subjects, as it was called, at the Belize, on the coast of Central America, was of the smallest dimensions, and had no substance or form of a territorial dominion. British woodcutters were there under an ancient Spanish license of timber cutting, and nothing more. These settlers in a country not belonging to the British Crown had, off and on, attempted to form a kind of local government for preserving order among themselves, and, after going through various phases, had reached the point in 1850 of some local magistrates and an imperial superintendent, merely and clearly for the purpose of preserving internal order among the English adventurers engaged in the lumber trade in that foreign country.
>
> This was substantially the condition of things when the convention of 1850 was entered into.
>
> The next step taken, after the convention of 1850, was in 1853, when a legislative assembly was constituted to manage the affairs of the settlement. This was followed by a convention between Great Britain and Guatemala in 1859 for the establishment of the boundaries between what the treaty chose to call "Her Britannic Majesty's settlement and possessions in the Bay of Honduras" and the territories of Guatemala. The country, or the largest part of it, belonged to Guatemala as the successor to all the sovereign territorial rights of Spain in that region; but by this treaty that which was before a licensed industrial establishment became instantly a possession of the British Crown.
>
> All this has taken place systematically and persistently notwithstanding the declaration of Her Majesty's Government that it should not "colonize or assume or exercise any dominion over * * * the Mosquito coast or any port of Central America."
>
> If these proceedings of her Majesty's Government, in respect of one of the most important subjects of the convention and in absolute opposition to it, do not discharge the United States from all and every of their declarations and engagements stated in that convention, it is impossible to conceive what could.

A treaty wholly obsolete, three times violated, it was quite proper for the committee of the Senate of the United States to say if that does not relieve us from its obligation it is impossible to conceive what would, and so they say:

> In view of all these considerations, the committee is of opinion that the United States is at present under no obligation, measured either by the terms of the convention, the principles of public law, or good morals to refrain from promoting, in any way that it may deem best for its just interests, the construction of this canal, without regard to anything contained in the convention of 1850.

Mr. POINDEXTER. I wish the Senator would state what was the committee and who were the Senators who made the report.

Mr. BORAH. I shall do so. I thank you.

Mr. REED. What is the book?

Mr. BORAH. It is from Senate Report No. 1944, Fifty-first Congress, second session, filed January 12, 1891.

Now, Mr. President, there is no mistake about that language. There is no mistake about what this report intended to do and the results which should follow. That was a solemn report of a committee of the Senate of the United States to the effect

that in morals and in public law and under the terms of the convention far back of 1901 we were absolutely relieved from the terms of the Clayton-Bulwer treaty.

Who was it who said it? John Sherman, chairman of the committee, not a radical, a Secretary of State afterwards, and of long experience, most conservative in his dealing with foreign powers, but always an American; George F. Edmunds, recognized in this country for 50 years not only as a most conservative statesman, but as one of the great constitutional lawyers and one of the leading authorities upon international law, and this was not said in debate or amid the intemperate environments which might color political gatherings, but to this document these men attach their signatures and plant it affirmatively in the chronicles of their country; William P. Frye, whom we all know; William M. Evarts, afterwards Secretary of State, a lawyer of international reputation; J. N. Dolph, not so well known as Mr. Evarts and Mr. Sherman, but those who did know J. N. Dolph know that he was one of the greatest lawyers of the Pacific coast; John T. Morgan, and who in the Senate could hesitate to take the name of John T. Morgan as to our treaty obligations where a question of national honor was involved or of nicety as to our obligations; Joseph E. Brown; H. B. Payne; J. B. Eustis.

That was a unanimous report, no party division, made by the distinguished members of the Foreign Relations Committee under an order of the Senate passed instructing them to investigate the conditions, and what, if any, embarrassment stood in the way of the United States engaging upon this enterprise of its own motion.

The Senator from Connecticut and those interested in this discussion need not go to the great State of Missouri to hunt out some gentleman more or less obscure who had the temerity, as they seem to insinuate, to offer a resolution for its abrogation. Behind him stood the authority of the greatest names in the Senate.

The Clayton-Bulwer treaty from that hour was not regarded in this country as of any real binding force or obligation; and if Great Britain had intimated to the United States that she would stand upon the Clayton-Bulwer treaty and the rights under it and would not consent to its abrogation or supersession we would have given the formal notice necessary to abrogate it within a short period and in a most decisive way.

I now call attention to the language of another distinguished citizen and Secretary of State. Mr. Blaine 10 years before this report of the treaty of 1901 had said:

> This convention was made more than 30 years ago, under exceptional and extraordinary conditions which have long since ceased to exist—conditions which at best were temporary in their nature, and which can never be reproduced.
>
> * * * * * * *
>
> A more comprehensive objection to the treaty is urged by this Government. Its provisions embody a misconception of the relative positions of Great Britain and the United States with respect to the interests of each Government in questions pertaining to this continent. The Government of the United States has no occasion to disavow an aggressive disposition. Its entire policy establishes its pacific character, and among its chief aims is to cultivate the most friendly and intimate relations with its neighbors, both independent and colonial. At the same time this Government, with respect to European States, will not consent to perpetuate any treaty that impeaches our right and long-established claim to priority on the American Continent.

No one need be unfamiliar with this letter of the brilliant Secretary, so long a leader in the political affairs of his country. This letter of Blaine found a ready response in the hearts of the American people.

Indeed, as early as 1857 Great Britain had full notice of our dissatisfaction with the treaty, as shown by Mr. Blaine's letter to Lowell under date of November 29, 1881, in which Mr. Blaine says, quoting from Lord Napier writing to Lord Clarendon under date of January 22, 1857:

> It is probable that if the pending discussion regarding Central America be not closed during the present summer, an attempt will be made in the next session of Congress to set aside the Clayton-Bulwer treaty. * * * There can be no doubt of the views of the President and Cabinet on this matter.

In 1880 Mr. Cox, from the Committee on Foreign Affairs of the House of Representatives, submitted a report recommending a general resolution directing the President to take steps for the formal and final abrogation of the Clayton-Bulwer treaty, it being recognized and claimed in said report that all that was necessary was formal notice; that the grounds for abrogation were substantial and sufficient.

Mr. Shackleford in 1900, upon the part of the minority of the House committee, made a report in which he said:

> The Clayton-Bulwer treaty as is so clearly shown by Mr. Hepburn long ago ceased to have any binding force by reason of the conduct of Great Britain. That being true, we should strictly adhere to the Monroe doctrine and stand by our traditional policy that Europe will not be permitted to intermeddle with cis-Atlantic affairs. It is to the Monroe doctrine that we as a Republic must look for safety. We should never under any circumstances even tacitly admit that Europe has the right to so much as interrogate us on American questions, much less to limit our action.

There is a vast amount of evidence to the same purport. I wish now to call attention to a foreign writer upon this subject. I am sure that will appeal to some of our friends:

> From the very moment of exchanging ratifications and for 10 years thereafter this treaty was a Pandora's box of difficulties and misunderstandings, many of which remained undetermined till the treaty was abrogated. It is notorious that Great Britain violated it. At one time, indeed, the United States declared that the treaty had outlived its purpose and was voidable at its pleasure, and in accordance with this view negotiated a treaty with Nicaragua (the Frelinghuysen-Zavala convention, dated December 1, 1884), in which the United States engaged to build the canal at its own cost and to enter into a "perpetual alliance" with Nicaragua. While the latter convention was pending in the Senate for its "advice and consent" the political complexion of the Government changed, and President Cleveland, without expressing any opinion as to the Clayton-Bulwer treaty, withdrew the Nicaragua convention from the Senate, principally on the ground that its provisions relating to an "alliance" offended against a long-standing policy of the United States. It was never resubmitted.
>
> Just how much of the Clayton-Bulwer treaty, if any, was in force at the time it was superseded in 1901, and what fragments of it, if any, had any practical application to the radically changed conditions is one of the riddles of diplomacy which some modern Œdipus may solve.

That is quoted from a discussion of this subject by Mr. Butte.

Now, Mr. President, I want to go briefly to another phase of this question, and that is to the violation of this treaty by Great Britain. As we observed a few moments ago in reading the Clayton-Bulwer treaty, or the excerpts from it, there was an express provision in it against Great Britain's acquiring any further possessions and territory upon what is known as the Mosquito Coast and in Central America. Early in the eighteenth century the people along the Mosquito Coast had rather withdrawn from the sovereignty and dominion of the Spanish Government and had brought themselves together upon what was afterwards called the Mosquito Coast. This continued until 1740, when the aggressions of Great Britain upon the coast had become so pronounced that it led to a war between Spain and Great Britain.

In 1763 that controversy was ended by a treaty, which treaty was afterwards supplemented in 1783 and 1785. In 1814 there was another treaty entered into between Great Britain and Spain, in which treaty it was especially provided that thereafter Great Britain should be prohibited from acquiring any rights or interest, possession or settlement upon the Mosquito Coast or the islands adjacent thereto.

That, Mr. President, was the exact condition of affairs in Central America at the time when President Monroe announced his policy on the 2d day of December, 1823. I assert without fear of successful contradiction that at the time President Monroe announced the Monroe doctrine on the 2d day of December, 1823, Great Britain did not have the color of a right or of a possession upon the Mosquito Coast of Central America. But, Mr. President, within a few hours after the treaty of Guadalupe Hidalgo was signed between this country and Mexico, by which we took over California and New Mexico and other territory, the English fleet set sail from Vera Cruz for the coast of Central America, entered the mouth of the San Juan River, took possession of San Juan City and changed its name to Greytown, and established what is called a protectorate upon the Mosquito Coast. That protectorate was a fraud, a flimsy, diaphanous fraud, established in violation of the Monroe doctrine and for the purpose of forcing the conditions which were afterwards brought about by the Clayton-Bulwer treaty. It has always been so considered, except by a few Englishmen on both sides of the ocean.

Mr. O'GORMAN. Mr. President——

The PRESIDING OFFICER. Does the Senator from Idaho yield to the Senator from New York?

Mr. BORAH. I yield.

Mr. O'GORMAN. With the Senator's permission, I should like to call attention at this time to a reference made by Sir Hans Sloane, a distinguished writer, to some of the circumstances attending the coronation of the first Mosquito Indian selected by the British Government for the high office of King of the Mosquito Kingdom. I read:

> One of the Mosquito chiefs had been taken to Jamaica for the purpose of having him place his country under the protection of England. Sir Hans Sloane has left an account of how, having escaped from his keepers, "he pulled off the European clothes his friends had put on and climbed to the top of a tree."

[Laughter.]

Mr. BORAH. Yes, Mr. President; they were not able to make the European clothes stick on him, but they did make the English sovereignty stick to him. That is the only sovereignty that Great Britain had when we executed the Clayton-Bulwer

treaty, in 1850, that which she had seized in violation of the Monroe doctrine upon hearing that we had entered into treaty with Mexico, by which we acquired this territory and thereby might have an advantage in the affairs of Central America.

Mr. President, another instance: When the Clayton-Bulwer treaty was concluded Great Britain was occupying the island of Roatan, one of the Bay Islands, off the coast of Honduras.

She was desirous of retaining this island because of its strategic advantage to the San Juan River.

So on the 17th of July, 1852, England erected the Roatan and adjacent islands, known as the Bay Islands, into a British colony in defiance of the Monroe doctrine and the Clayton-Bulwer treaty. She continued to hold these islands for years in defiance of the express terms of the Clayton-Bulwer treaty. British Honduras was first settled by some freebooters or pirates——

Mr. POINDEXTER. Buccaneers.

Mr. BORAH. Buccaneers. Spain sanctioned the British right for wood-cutting purposes, but Spain expressly reserved all sovereignty over the territory.

In 1821, upon the successful revolt from Spain of the Spanish colonies in Central America, the sovereignty over Belize passed from Spain, but did not pass to Great Britain. It passed to the Spanish colonies which had obtained their freedom. But Great Britain conducted her system of encroachment in violation of the Monroe doctrine.

In 1862, when this Republic was struggling for its life, dissevered and broken by its own warring factions, in violation of the Monroe doctrine and the express terms of the Clayton-Bulwer treaty Great Britain erected British Honduras, which had been in the beginning a mere freebooters' station, into a British colony. Thus, sir, the story runs—a story of broken faith and duplicity, and I challenge its contradiction.

Yet men will argue in plaintive tones and with apparent feeling that we must be regardful of the solemn obligations of the Clayton-Bulwer treaty, which was never respected from the hour it was signed by Great Britain.

Within 48 hours after that treaty had been signed a British vessel fired upon an American vessel to compel it to pay toll to this fraudulent Mosquito king, and it never has had any sanctity except in the minds of a few American statesmen.

Mr. President, let me call attention now to another English writer upon this subject. I do this in order to engage the attention of some of our friends who have been greatly interested in the English view of this matter. I quote from Dr. Baty:

> The treaty of 1850, in its practical clauses (1 to 7), deals with Central America, and with Central America only. American capitalists were contemplating a Nicaraguan canal. Palmerston stupidly blocked it by invoking the "rights" of an engaging tribe of savages whom he suddenly discovered (without a scintilla of evidence) to be allies of Great Britain, and who have long since been willingly abandoned to Nicaragua. For the modest quid pro quo implied in the removal of this block, Mr. Clayton conceded the self-denying clauses of the Clayton-Bulwer treaty of 1850.
>
> In exchange for Britain's disclaimer of her shadowy protectorate in Mosquito, the States gave up the right to acquire control in all Central America.

Mr. President, our records here are well supplied with ample evidence of the fact that the claim of Great Britain to a protectorate over the Mosquito coast consisted of nothing in the world except Great Britain's marvelous capacity to make use of nothing in a diplomatic encounter.

Stephen A. Douglas said:

> As late as 1850 a convention was entered into between the Government of the United States and Great Britain called the Clayton-Bulwer treaty, every article and provision of which is predicated upon a practical negation and repudiation of what is known as the Monroe doctrine, as I shall conclusively establish before I close these remarks.

Now, mind you, this was a speech of Mr. Douglas made in the Senate in 1853, within three years after the signing of the Clayton-Bulwer treaty.

He says:

> Since the ratification of that treaty and in defiance of its express stipulations, as well as of the Monroe declaration, Great Britain has planted a new colony in Central America known as the colony of the Bay Islands.

In another speech about this time Mr. Douglas said:

> England seizes every island in the sea and rock upon our coast where she can plant a gun to intimidate us or annoy our commerce. Her policy has been to sieze every military and naval station the world over. * * * New treaties of friendship, seizure of islands, and erection of new colonies in violation of her treaties seem to be the order of the day. In view of this state of things I am in favor of meeting England as we meet a rival; meet her boldly, treat her justly and fairly, but make no humiliating concessions even for the sake of peace. She has as much reason to make concessions to us as we have to make them to her. I would not willingly disturb the peace of the world, but, sir, the Bay Island colony must be discontinued. It violates the treaty.

Yes, Mr. President, treat her honorably and fairly, but make no concessions of any of our rights. That was good doctrine in the days of Douglas, and it will be found in future years that it would have been a better doctrine for these days than the one which we are adopting. The failure to follow Douglas's advice is what has brought us to our embarrassing situation. We ought never to have made the Clayton-Bulwer treaty in the first place, and we ought to have promptly given notice of its denunciation at its first violation. You will recall what James Buchanan said, which has come very near to being a prophecy. He declared, in effect, that if Bulwer succeeded in getting through the Clayton-Bulwer treaty it would entitle him to a peerage, and that in all probability it would involve the United States in war before we got rid of it.

President Pierce, in his message in 1856 to the Congress, said:

> It is with surprise and regret that the United States learned that a military expedition under the authority of the British Government had landed at San Juan del Norte, in the State of Nicaragua, and taken forcible possession of that port, the necessary terminus of any canal across the Isthmus within the territories of Nicaragua. It did not diminish to us the unwelcomeness of this act on the part of Great Britain to find that she assumed to justify on the ground of an alleged protectorship of a small and obscure band of uncivilized Indians, whose proper name had even been lost to history, who did not constitute a State capable of territorial sovereignty, either in fact or in right, and all political interest in whom and in the territory they occupied Great Britain had previously renounced by successive treaties with Spain when Spain was sovereign to the country, and subsequently with independent Spanish America.

Mr. President, John Sherman, in his Recollections, volume 2, page 1096, in speaking of the Clayton-Bulwer treaty, says:

> This treaty has given rise to much discussion and has ever since been a hindrance to the great work it proposed to advance. The British Government has repeatedly violated the treaty by extending its possessions and strengthening its influence in that part of the world.

What did Great Britain put into the Hay-Pauncefote treaty as a substantial consideration? What did she have to give to the United States for the signing of the Hay-Pauncefote treaty that the United States in return should cripple her sovereignty to deal with her internal commerce for the rest of her national existence? What was this great consideration which Great Britain transferred to us that we should do the unexampled and unheard-of thing of curtailing and circumscribing our sovereignty as a Government? The London Times, although it is a great advocate of this repeal, said a few days ago that it must be conceded in behalf of the United States that if the United States should ever indicate a desire to deal with the domestic commerce of Great Britain, it would be resented; and yet the question of keeping and preserving competition between the great transcontinental railways in the United States and the great waterways of the country—and a more vital question to its people does not exist—is to be hampered and compromised and circumscribed in consideration of what? The Clayton-Bulwer treaty which had lain obsolete for 50 years and had been repeatedly violated by the Government which was claiming its rights under it.

I am perfectly aware, Mr. President, and it is proper that I should say before leaving this point that Mr. Olney and others who came to deal with this question thought it unwise to wholly disregard the Clayton-Bulwer treaty, but purely as we do now with reference to so many things, not because there was any substantial right or vital force and effect in the treaty, but out of a fear of offending the English nation, or perhaps I should say out of our extreme desire at all times to retain the friendliest relation with that country.

Mr. President, concluding upon this proposition, I assert, as a matter of historic truth, that the Clayton-Bulwer treaty, in the first place, was founded upon a false claim, to wit, a protectorate over the Mosquito Coast Indians, which, in fact, did not exist; second, that it was founded upon a violation of the Monroe doctrine; third, that as a treaty it had been obsolete for 40 years; and, fourth, that it had been repeatedly violated by England. In the language of John Sherman, George F. Edmunds, John T. Morgan, and William M. Evarts, if that does not constitute a release from a treaty, how could a nation be relieved from a treaty?

I am aware that no formal notice of denunciation was ever given by the United States of the Clayton-Bulwer treaty. I am aware that, technically speaking, it can be contended that therefore it was still in effect. My answer to that is that we had a right to give the notice, that in substance and effect the treaty was void, that all that was necessary was a formal notice, for which there was just grounds and had been for years. And although it was technically in effect, it was in substance of no consideration and of no value and something which ought not to have been taken into consideration to the extent of waiving any substantial rights in the making of the Hay-Pauncefote treaty,

and in my opinion it was not taken into consideration for that effect, and no such effect was intended by the Hay-Pauncefote treaty.

Mr. Hall, a leading English authority on international law, says:

It is obviously an implied condition of the obligatory force of every international contract that it shall be observed by both the parties to it. In organized communities it is settled by municipal law whether a contract which has been broken shall be enforced or annulled; but internationally, as no superior coercive power exists and as enforcement is not always convenient or practicable to the injured party, the individual State must be allowed in all cases to enforce or annul for itself as it may choose. The general rule, then, is clear that a treaty which has been broken by one of the parties to it is not binding upon the other through the fact itself of the breach and without reference to any kind of tribunal. * * * There can be no question that the breach of a stipulation which is material to the main object, or if there are several to one of the main objects, liberates the party other than that committing the breach from the obligations of the contract.

It can not be contended that the breach of the covenant against acquiring more territory in Central America was not a breach of one of the main objects of the contract. It was violated in one of its essential and most important parts, and it was well within our right at any time during the last 20 years to have terminated it by the mere giving of notice. As a matter of morals and of conscience it was already terminated.

I have inquired as to what Great Britain put into the Hay-Pauncefote treaty in the way of consideration. Very briefly, I want to ask what she has taken out?

In the first place, Mr. President, let us observe how this canal unifies and makes compact and solidifies, as it were, the British Empire. I assert that this canal, even with its freedom from tolls to American vessels, is of infinitely more advantage to England than it can be to the United States as a commercial proposition. If the contention made here is the correct contention, it would have been much better for the United States if John Hay had gotten England to spend $400,000,000 to build the canal, $10,000,000 to pay for the right of way, and $250,000 every year thereafter for all eternity, and to have kept it up and maintained it, and given us what England takes out of it without spending anything. It would have been much better to have had the other end of the treaty for the United States.

This canal will shorten the distance between Liverpool and the ports on the west coast of the United States nearly 5,700 miles. Will some one undertake to estimate the advantage of that to Great Britain as she goes on in her imperious way taking control of the commerce of the world? Is it possible to measure the worth of that shortened route to England, dependent as she is for existence upon her capacity to carry on the commerce of the world?

Mr. O'GORMAN. Mr. President——

The PRESIDING OFFICER. Does the Senator from Idaho yield to the Senator from New York?

Mr. BORAH. I yield.

Mr. O'GORMAN. When the Senator from Idaho speaks of the distance being shortened through the Panama Canal by 5,000 miles, does he mean that it will be a saving of 10,000 miles in the round trip?

Mr. BORAH. That is my understanding of it.

Mr. O'GORMAN. That is the fact.

Mr. BORAH. Yes.

The reduction from Gibraltar is about 5,000 miles; between Liverpool and Honolulu the canal cuts off 4,400 miles; between Liverpool and ports on the west coast of South America the distance is shortened 5,000 miles. The distance from Great Britain to British Columbia is lessened about 6,000 miles as compared with the route by Cape Horn, and not less than 10,000 miles as compared with the route by China and Japan. The distance from Liverpool to Wellington and New Zealand is shortened by 1,564 miles. The approximate distance from Halifax, Nova Scotia, to Vancouver, by way of water, is lessened 7,000 miles. So this will reduce the cost of transportation from the eastern and western Provinces of Canada very considerably indeed.

Mr. President, those figures alone give Great Britain in this situation an advantage which it is impossible for the human mind to estimate. We know Great Britain's place in the industrial world to-day. She is the mistress of the seas; and it does seem as if our Republic is cowering about to provide that she shall continue to be the mistress of the seas. We have built here a canal without a cent of cost to Great Britain, without a dollar of expense in the way of finance, and without any political obligation, which is of more advantage to Great Britain than any single physical event happening in the last hundred years; and yet our friends here say that the United States in its struggle for the commerce of the future must handicap and circumscribe itself after having given Great Britain this tremendous advantage in the fight, without a dollar's compensation from her. If I am not mistaken, Mr. President, Great Britain sees it in just that way, and she would have been satisfied had we promptly—as we had a right to do—rejected her claim or contention. It will be a gold brick that we hand to the English nation if she gets a few dollars in the way of advantage in tolls, if she loses the favor and the friendship of the United States in the future, as she has sacrificed it and forfeited it several times in the past. This matter has aroused a sentiment in this country which England could ill afford to arouse. Our memories are short when dealing with one who would be a friend; but lying back in history are undisputed facts which will feed a rearoused feeling of antipathy. It was unwise for England, and it was unwise for those who would serve her on this side, to undertake or to bring about this sacrifice of our rights.

Mr. MARTINE of New Jersey. Mr. President——

The PRESIDING OFFICER. Does the Senator from Idaho yield to the Senator from New Jersey.

Mr. BORAH. I yield.

Mr. MARTINE of New Jersey. If the Senator will permit me, he just made some citations of distances without giving the authority. Now, I want to give the real, genuine article—the English authority. I have here a clipping which I cut from the London Times of date February 25, 1914. In this article the London Times says:

FUTURE DEVELOPMENTS.

With the opening of the Panama Canal and the inevitable changes in sea routes between the Atlantic and the Pacific, there will come, sooner or later, enormous developments and a practical revolution in commerce. Probably the developments will be greater, or at any rate more rapid and immediate, to the northward of the canal than to the southward, not because the countries to the north have in themselves greater natural wealth, but because they have a larger population and more money at their command; and perhaps most of all because of the character and initiative of the people of the United States and of Canada.

The United States, from the advantages of her position on the Atlantic side, will gain most in every way by the canal, and her advantages, if she is prepared to take them up, should begin with the opening. She will hold a commanding position for capturing the greatest share of the trade of the Pacific coast of South America. But the American foreign carrying mercantile marine is comparatively small, and it is fairly certain that, as in the case of the Suez Canal, British ships will outnumber those of any other nation using the Panama Canal for a good many years to come.

The canal will bring Callao 4,320 miles nearer Liverpool by steamer, reducing the distance from 10,230 miles to 5,910 miles, and saving about 14 days in time. To Valparaiso the shortening in distance will be 1,813 miles, making it 7,185 instead of 8,998 miles, and the saving in time will be about 6 days. But there will not necessarily be any saving of time for passengers, excepting so far as faster steamers may be put on south of Panama. To Valparaiso the fastest route for passengers will probably be still via Buenos Aires and the Cordillera. It is probable that in a few years the nitrate trade from Chile to Europe will be diverted through the canal instead of being carried on by sailing vessels round Cape Horn.

This is English testimony that our friends are so fond of favoring.

Mr. BORAH. I will quote from the same authority. The London Times, under date of December 31, 1913, says:

The canal will be a boon to Europe. While the United States has built it, and glories in it, its commercial importance to the United States is a bagatelle as compared to its importance to the world's foreign trade.

It says further:

The promise of the United States that it would build the canal as a contribution to the world's commerce may be fulfilled more literally than was intended.

This entire article, Mr. President, seems to have been written at a time when it was supposed that the tolls question was settled, and therefore those estimates were made in contemplation of tolls exemption to American ships.

Again the London Times says:

The new Panama Canal will shorten the distance from Great Britain to British Columbia by over 6,000 miles as compared with the route via Cape Horn, and no less than 10,000 miles as compared with the eastern route via China and Japan, while the ports on the west coast of South America will be nearer to Canada than the Argentine Republic. It can readily be judged from the above what tremendous advantage will accrue to Canada as a result of the opening of the Panama Canal.

Again the same authority says:

With the Panama Canal open to shipping the distance will not only be reduced to the ports of the United Kingdom and of Europe but new markets in the West Indies and the Latin republics of the east coast of South America will be opened up to Canadian products. Where the products of the British Columbia coast have been insufficient to supply vessels with return cargoes supplemented by some of the millions of bushels of grain from the middle west of Canada the export traffic is likely to be as good, if not better, than the import traffic.

And notice this particularly, rather significent, to my mind:

The Canadian Northern Transcontinental Line will, it is expected, be completed in 1914, the year before the Panama route is in full operation. The kinks will have been worked out of the line and it should be in excellent condition to afford grain shippers facilities to the markets of the world.

The Outlook, a publication in London, said a short time ago that upon the basis of the crop of 1912 the farmers of Alberta alone would receive an annual benefit of $200,000,000 by reason of the opening of the canal. It added these words:

> It is easy to see that it is not far hence when farmers of Alberta and Saskatchewan will receive a free gift from this canal of something in the neighborhood of $250,000,000 a year in foreign rates saved.

Will anyone argue against the advantage it would be to the western farmer of the United States to have free canal tolls that there might be kept alive and in full force and effect, as President Wilson said in his preelection speech, full competition between the railroads and waterways and the markets. I find no better language to express myself upon this subject than the exact language of the President:

> We do not want the railroads to compete with themselves, because we understand that kind of competition. We want water carriage to compete with land carriage, so as to be perfectly sure that you are going to get better rates around the canal than you would across the continent.

I would not violate the plain terms of a treaty to protect the farmers of the United States, and they would not ask it. But to sacrifice their rights and their interests under the terms of a treaty construed in our favor by some of the ablest minds of the age, to my mind, amounts very nearly to a crime.

Mr. President, it will be a signal triumph, indeed, for English diplomacy when this bill shall have become a law. It will complete another chapter—aggressive, far-seeing, and masterly—in the diplomatic history of that indomitable and far-seeing people. In that chapter it will be recorded, to begin with, how the English nation forced a strategic advantage on the coast of Central America in violation of the Monroe doctrine, and how we submitted to it.

It will be recorded how by sheer persistency and courage that nation circumvented the same policy, this boasted policy of our own people, by the terms of the Clayton-Bulwer treaty, every line of which was in contravention of the policy which lifted into exceptional and permanent fame the name of the fifth President of the United States, a policy which has been considered essential to our peace and to our supremacy on the Western Continent. It will be further disclosed in this chapter of diplomacy how a vigilant nation using as a base of action an obsolete and twice or thrice violated treaty secured a new treaty by the terms of which she steps from under all the expense and all the responsibility and retains all the advantages of this tremendous enterprise, tremendous not only in its cost in energy, health, and life, but tremendous in the responsibility which it imposes upon its builder and owner. And then it will be there further recorded how, taking advantage of a situation supposed to be somewhat strained between the United States and other countries and our own lassitude and drifting, our own want of a vigorous and well-defined foreign policy, it caused Presidents and Cabinets and political parties and Senators and Representatives and Congresses to change their views and their votes, caused a strong and puissant nation to accept the construction of a treaty by a foreign power, humiliatingly confessing our heretofore ill and rashly considered act, and finally ignominiously to consent to the imposing upon our own property, our own soil, a perpetual servitude and yield up no less than the sovereign power of controlling our domestic commerce. Is not this triumph enough for English diplomacy? Is not this the crowning glory of that long line of diplomatic statesmen from Woolsey to Grey, and is it not humiliation enough for us? Is there more to follow? Shall we expect England, following up her position and her irrefutable logic finally to say, "Your ships of war shall follow the degradation of your ships of commerce"?

The secret of all this triumph, Mr. President, is that an Englishman is always an Englishman. The power and prestige of his mighty nation are always close to his heart. While other people and nations talk of universal peace and the brotherhood of man this great power proceeds upon the theory that the best way to have peace is to have the prestige and the power which shall command it. While other nations talk of yielding in deference to a sentiment, she reaches out for advantage and pursues with remorseless logic every favoring incident to its final fruition.

Sir, they tell us that we must respect and abide by our treaty obligations. They warn us that we must be careful of our national honor; that we stand in peril of forfeiting our honor among the great nations of the world, whose long and devious histories are one continued story of treaties made and broken, of alliances formed and treacherously betrayed, of obligations assumed and selfishly denied, of broken pledges, wars, and dishonor.

Of course, Mr. President, if we have made a treaty that bound us to build the canal and then yield its partial control to others, there would be nothing left for us to do but to bow in humiliation and submit to the servitude of our folly. But we do not get anywhere by crying "National honor." For the whole question is, What is the treaty, and are we violating it? Are those who contend for free ships any less sensitive to American honor than those who contend for British advantage? Are those who believe that our treaty does not bind us to yield to a foreign power or the embarrassing of our domestic commerce any less men of honor, any less regardful of national honor, than those who believe that the treaty intended to give and does give vital control of the canal to other nations? Were the Pharisees the only keepers of decency and honor, of integrity and personal probity, simply because they exploited their virtues by praying while standing upon the street corners and by occupying high seats and doing much talking in the synagogue?

Mr. President, we are bound to observe our treaty obligations. But let it be known also that we are bound to protect our treaty rights. We have no more right to disregard the one than we have, through false and maudlin sentiment or baseless and cowardly fear, to surrender the other. We believe our rights under this treaty are as we have interpreted them to be by the law which we are now about to repeal. We believe these rights are vital to the welfare of the American people, and we believe the surrender of them is unjust, unnecessary, unprecedented, and un-American. You may force a surrender now, but you will restore these rights in time. Pressure may win the victory for an hour, but this issue will be settled at the bar of public opinion in the open forum, where all these great questions are to be ultimately settled when they are settled right, and where the millions of people will construe this treaty not in fear and trembling, but in honor and also in courage.

Mr. President, the American people had come to look upon this achievement as peculiarly and distinctly the achievement of American genius. It fed their pride and strengthened the sentiment of nationality. For centuries the scheme of uniting the two oceans had tormented the ambition of the civilized world. But the scheme had remained without fruition. England, with her vast wealth and commercial prowess, seemed wholly reluctant to engage in the task. The brilliant and resourceful people upon whom rested the glory of conceiving and constructing the Suez Canal essayed the task and failed. It was distinctly an American triumph. It stood out as a monument to her gigantic energy and a tribute to her immeasurable genius. Our people seemed to feel the pride of individual accomplishment; it seemed to them commensurate with and the culmination of that restless force and power which in a little over a century had subdued and cleared a continent and built upon it the only successful Republic yet appearing upon this earth. Yes; it was their triumph. They willingly and ungrudgingly paid the countless millions which it cost. It had stirred again the spirit of vastness which sometimes sleeps but never dies out of the American mind. And they cared nothing for expense of wealth or life in its building.

Our people felt it gave us a closer union commercially and a firmer and more compact Republic in the hour of peril. They felt it was theirs exclusively, entirely and alone theirs; that the title was in their Government and as inviolate as the fortifications which guard its entrances; and that its use by and dedication to the outside world rested alone in the broad principle that we would not pledge special friendship or cripple any nation's commerce through discrimination and favoritism. That it was not ours, with all the advantages and privileges incident to ownership; that it was not ours to be used for the augmenting and building up of our commercial supremacy; that it was not ours to the extent that it might further and advance the strength and powers of the Republic in the tremendous contest for the future commerce of the world never, sir, was entertained by the American people for a moment. They believed—and I assert that John Hay, scholar, statesman, diplomat, and patriot, believed—that no possible promise was out and no limitation upon our action save that as to all users and customers who should feel it advantageous to comply with the rules established, they should be treated with impartial and equal justice.

I look forward, sir, fifty and a hundred years hence, when every foot of our public lands will have long since been occupied, and when there will no longer be any outlet for the congested centers into which foreign nations will still pour their wan and hungry thousands. And I remember that the real test in the tendency among a people to establish classes begins with the exhaustion of public lands. I look forward to the time when this Republic will have to find relief and work for her crowded and complex population, for her energy, her industry, and for labor in extending our commerce and commanding the

business of the sea. The hiving millions upon the Atlantic seaboard will be reaching for the trade of the west coast of South America and for all the trade of the Pacific seas, and striving to hold our own for the increased appetites and wants of the rejuvenated and aroused millions of the Orient.

The Atlantic and the Pacific will commercially be neighbors then, and we will want no passageway with a clouded title upon it between us. We will in that day, sir, find ourselves in a close and deathlike grip with the mistress of the sea for the markets of the outside world, for the trade and commerce by which we can furnish business for our mills and work for our people, for there can be no such thing as a republic after the hour in which her working people fail to find employment at a living wage.

At that time the Panama Canal will be as vital as indispensable, its complete and unlimited use in our contest as essential as the arteries of trade which permeate our inland and overland business. It will bear no "limitation upon our freedom of action," in the language of Earl Grey, at that time. How puny and small will be the question of a subsidy at a time when we will be compelled to take care of our merchant marine. How vain and delusive will seem the dream of universal peace when, though cannons may not roar, the fight for markets and their loss will just as certainly and more certainly endanger the Republic.

I want this canal without a cloud upon its title, without a partner, without anything which will militate against its use to the advantage of our own commerce as against the world—leaving all other nations upon an equal footing as between themselves, but giving us all the advantage of ownership—I want to know that it is ours to be used as we would, so far as our individual interests are concerned. Yes, I repeat, ours to be used as we would, without let or hindrance in any way, shape, or form so long as all customers are put upon an equal footing. That, sir, was the spirit and purpose of John Hay, and those who construe his work otherwise, those who ignore his plain words:

> The canal is to be an entirely American canal. * * * When constructed it is to be exclusively the property of the United States, and it is to be managed, controlled, and defended by it—

but slander the illustrious dead; and that, sir, in the end will be the judgment of the American people.

I make no concealment, sir, not only of my great disappointment that this bill is to pass, but I make no concealment of my loathing for the manner in which it has been brought about—the forces through and by means of which this betrayal is to be encompassed and brought to pass. It had its origin in duplicity, in deception of the American electorate, and broken promises to those whose interests alone we are here to represent. After diplomacy had practically brought the matter to a final and favorable conclusion certain powerful and selfish interests which have fought the building of the canal from the beginning remained active and revived the fight, and for a time the forces are to win and all who assist shall share the glory of assisting in crippling and bartering away a portion of the sovereignty and supremacy of the Republic.

Mr. WILLIAMS. Mr. President, if "the Panama Canal has been given away"—and the Senator from Idaho [Mr. BORAH] asserts that it has been—it was given away by a Republican administration and a Republican Secretary of State. I do not think it has been given away; upon the contrary, I deny it; but the canal will not be given away by observing the conditions of an international compact with Great Britain, followed by another with Panama. If it has been given away at all, it was given away by entering into the conditions of the international compact in question. If the treaty be "a hard bargain," it is the entering into it and not the keeping of it that is reprehensible.

The idea that the canal was not ours to exploit in favor of our trade is our own idea, first broached by our own Government under a Republican administration; and the part of the international compact which makes the pledge not selfishly to exploit it was made upon the initiative of a Republican Secretary of State of the United States and in his language. The Senator from Idaho speaks of "slandering the illustrious dead" because we undertake to observe the conditions of a contract entered into by Secretary Hay, about whose meaning and intention the Senator makes some dispute. Secretary Hay, if slandered at all by the assertion that he intended to exact equal treatment to the commerce of all nations, including our own, is slandered from his own grave, out of his own mouth, for there has been read into the RECORD, not once but several times, a communication from Secretary Hay giving his own construction of the language here in dispute; and Secretary Hay in that letter said that it was intended that the ships and commerce of the citizens of all nations, including the United States, should be treated equally.

So much for that, Mr. President. All of that is a part of the rhetoric, the oratory, the linguistic dialectics contributed by the Senator from Idaho to the debate; and Senators themselves can not believe what they say, that others have "slandered" him, even if it were slander to attribute to him the intent which he attributed to himself. But it is not slander; it is high praise of his sense of justice. The Senator from Idaho knows as well as I know that if there has been any "foolish or hard contract" entered into, if we have "given away a great canal," which otherwise we might have constructed as our own in every sense, without limitation or restriction or condition, all that is not done when we observe the condition. It was done when we entered into the contract. It is only common honesty to keep the contract after we had plighted our faith.

The Senator looks forward to the day when one branch of the English-speaking race "shall be in a death-to-death grip" with another branch of the English-speaking race "for the commerce of the world." His Republican raising leads him to use that warlike figure of speech. Trade is not a matter of "death-to-death grip" at all. The richer the other nation is the richer yours is, because it argues only the more you can buy from them and the more you can sell to them to the profit of both. No nation on the surface of this earth ever was enriched by the poverty of another. These two great branches of the race "in the foremost file of time" will not be engaged in a death-to-death grapple. They will be engaged in generous emulation, trading with one another, and making money out of one another, as they have been doing ever since we became an independent sovereignty upon the surface of this earth.

Great Britain is not our enemy; she is our best customer. We are not her enemy; we are her best customer. All this warlike imagery when applied to trade and commerce came from the old, foolish mercantile system, inherited now chiefly by its modern representatives in America. It prefigures that trade is somehow a thing wherein one side or the other must lose, whereas, as a matter of truth, it is a thing wherein both sides gain. A man sells a thing because he wants the money more than the thing. He buys a thing because he wants the thing more than the money. In either event he is profited by the transaction; and the other man, actuated by precisely the opposite preferences, is also profited, for the same reason, by the same transaction.

The Senator from Idaho drew upon his rhetorical if not poetic imagination for a picture of a certain time which he had in his mind, and one sentence after another followed in the approved style of oratorical exclamation, each beginning, "At that time, I see, Mr. President," and "Mr. President, at that time I see." Now, what did he see? He saw nothing but a perpetuation of the old war of greed and the survival of the fittest for hostile conflict; that is all. He can not see beyond that. And he is not alone in that respect; "there are others" like him. When he draws a picture it is an emphasized picture, an accentuated picture, of the old evils of the old and dying past.

"At that time," he says, "we will be a Nation that will permit no limitation upon ourselves." If so, then we will be a barbarous Nation.

Mr. BORAH. The Senator misunderstood me. I said no limitation upon our actions with reference to this canal.

Mr. WILLIAMS. Oh, the Senator went further than that. After stating it as a desired goal, he went to the isles of the sea, and he went to South America, and he indulged in what Tom Reed called "geographical eloquence" of that sort to a very considerable extent. But whether in connection with the canal or in connection with our trade and commerce generally a people who look forward to "a time when" they will permit no limitations upon themselves are a barbarous people, and if they remain of that opinion until that time comes they will remain a barbarous people.

Civilization does not consist in saying to the world, "I permit no limitations upon my power in trade, or power in war, or power in the use of a public utility, or power anywhere else." It consists in saying, "In the interest of the world and of humanity and of my own people, I impose upon myself limitations." What are those limitations? The limitation of justice, the limitation of righteousness, the limitation of fairness, and, in so far as equality is necessary to constitute those limitations, the limitation of equality, too.

But to what purpose, with what intent did the Senator speak? What could have been the object of this long diatribe about various people who at various times thought the Clayton-Bulwer treaty was out of existence and obsolete? Can it be

possible that the Senator from Idaho does not know that no matter what private individuals expressed opinions to that effect, two Democratic administrations and two Republican administrations in this country have acted upon a different opinion? Has he no longer reverence for McKinley and for Roosevelt in his own party? I do not ask him to have any reverence for Cleveland or the Democratic Party; that would be, perhaps, drawing upon his generosity too much; but he stands here and argues, debates, indulges in flowers of speech, and indulges in denunciation, first fulminating cannon shots and then sticking in a poinard under somebody's shoulders, and all for what? To prove ostensibly, at any rate, that the Clayton-Bulwer treaty was obsolete and dead and amounted to nothing, when four American administrations have recognized it as in full force and effect, and when the very Hay-Pauncefote treaty, which is now in existence between us and Great Britain, in the very forefront of it where it is superseded, acknowledges that without the supersession it is still all in force and effect. And after supersession a part of it, the very part he is complaining of, is to continue as an abiding pledge for the two nations.

The Senator from Idaho knew, just as well as I know, and just as well as other Senators know, that there is only one way of putting an end to a treaty among nations, and that is by notice of abrogation. The Senator from Idaho knew, as well as anybody knew, or could know, or ever will know, that there never had been any notice of abrogation given in connection with the Clayton-Bulwer treaty. He knows that every time we have sought negotiations with either the Nicaraguan authorities or the Colombian authorities, even prior to the Panama Canal, we also entered into negotiations with Great Britain in order to change the conditions of the Clayton-Bulwer treaty. The Senator goes further than that, however. He not only knew all that, but he forgot that there are men equally as respectable as the men of whom he spoke who entertained a different view all the time.

I find here on page 4990 of the CONGRESSIONAL RECORD, volume 33, some utterances from a man whom I regard as a man of almost perfect intellectual integrity. He happens to be the leader of the minority in the other branch of the National Congress at this moment; a man whose weight and force I have felt, and whose character I have respected. What does he say? Speaking of the Clayton-Bulwer treaty upon May 2, 1900, he says:

> For ten years this [the treaty] was a source of constant friction and frequent communication between the two Governments, but finally, at the end of about 10 years, all sources of complaint in regard to the attitude and action of Great Britain in these matters were removed to the satisfaction of the administration of President Buchanan, who, in his message to Congress December 3, 1860, stated that—
>
> "The discordant constructions of the Clayton-Bulwer treaty between the two Governments, which at different periods of the discussion bore a threatening aspect, have resulted in a final settlement entirely satisfactory to this Government. In my last annual message I informed Congress that the British Government had not then 'completed treaty arrangements with the Republics of Honduras and Nicaragua in pursuance of the understanding between the two Governments. It is, nevertheless, confidently expected that this good work will ere long be accomplished.' This confident expectation has since been fulfilled. Her Britannic Majesty concluded a treaty with Honduras on the 28th November, 1859, and with Nicaragua on the 28th August, 1860, relinquishing the Mosquito protectorate. Besides, by the former the Bay Islands are recognized as a part of the Republic of Honduras."

Some time ago, meeting a man accidentally I called his attention to this fact, and he said, "Yes; but that was after we had a million of men under arms and a giant navy, and she no longer dared refuse." As a matter of fact, it was done, as Mr. MANN says, under Buchanan's administration, before the war.

Mr. MANN goes on in his language:

> In my opinion, it may therefore be fairly stated that while the action of Great Britain during the 10 years following the ratification of the Clayton-Bulwer treaty might have fully justified a notice on our part of the abrogation of that treaty because of its nonfulfillment by Great Britain, still when Great Britain finally yielded to our contention and gave up the possession about which we so strenuously complained, that cause of complaint was entirely removed, and we would have no right now to insist that the treaty is abrogated already or that it should be now abrogated because of the action of Great Britain immediately following the making of the treaty.

So much for Mr. MANN.

There sits to my left the senior Senator from Ohio [Mr. BURTON], at that time a Member of the House. I shall not praise him in his own presence. In the same debate, he says:

> I say we owe a degree of comity to England also in this great enterprise. We can not go ahead regardless of the rights of foreign powers or foreign peoples. An international canal is what it will be.

The Senator from Idaho is wrong also about Mr. Cooney, whose name has been brought into this debate. He seems to think that Mr. Cooney thought the treaty was abrogated. Mr. Cooney, on the contrary, made a long speech to the House in which he said the treaty was not abrogated, and ought to be abrogated, and therefore gave notice of the amendment to which I referred this morning.

By the way, while I am upon my feet I will say that when a man has been twenty-odd years in public life he ought not to trust his memory very much. I had a recollection, as I thought, of that proposition of Mr. Cooney's being voted down by an overwhelming vote. I must have gotten it from the fact that there was an overwhelming sentiment against it, and he therefore, after having it read and giving notice that he would offer it, did not offer it, because I have looked through the RECORD, and I have found no record vote at all upon the subject. Mr. Cooney, however, made a speech to the House in which he said that "the Clayton-Bulwer treaty is in full force and effect," and that we can not have a canal satisfactory to us without having England consulted about it; and he therefore gives notice that at the proper time he is going to offer an amendment for the purpose of abrogating it. Here is Mr. Cooney's language, a part of which the Senator from Michigan [Mr. SMITH] read the other day.

By the way, I want to say in this connection, that I knew Mr. Cooney. I knew him very well. He was a Representative from the State of Missouri, an Irishman by derivation, a man of good standing, of good character, and good sense.

Mr. Cooney said:

> There is a general opinion throughout the country that the Clayton-Bulwer treaty is as dead as Hector and that somehow Blaine was the Achilles that slew it and dragged it to pieces at his chariot wheels. If it is dead, its body has been kept in a mighty healthy state of preservation, for every politician fastens the same dead body to his rolling car and plays "the insulting victor" as a prelude to urging the Government to a hasty building of the canal. I can not believe that any Member of Congress regards the Clayton-Bulwer treaty as dead or that its provisions are less binding on this Government than they were when executed and confirmed 50 years ago.

In that connection Mr. Cooney read an article from the Washington Times newspaper, in which the Times newspaper said that "it would be unnecessary and vicious legislation" to abrogate the treaty, because it would be recognizing its validity; and then Mr. Cooney adds:

> It is just such vicious literature and false declarations that have caused the widespread opinion that the Clayton-Bulwer treaty is dead.

And so forth.

There was at that time in the House of Representatives the most remarkable catch-as-catch-can debater, except Thomas B. Reed, whom I ever personally knew. Thomas B. Reed was the most remarkable rough-and-ready debater that the English-speaking race has produced, except, possibly, Charles James Fox, of Great Britain. On page 5008, in this same discussion, I find what Mr. Grosvenor, the man to whom I refer, had to say. Mr. Grosvenor was the chosen confidant of Mr. McKinley upon the floor of the House of Representatives, as everybody then a Member of the House knew. Mr. Grosvenor says:

> Mr. Chairman, the discussion has taken so wide a range that I can not hope to cover in the five minutes I shall ask for all the phases presented. I want to emphasize a little strongly the remark made by the gentleman from Massachusetts [Mr. GILLETT].

Mr. GILLETT of Massachusetts was one of the most distinguished Republican members of the Foreign Affairs Committee of the House of Representatives—

> who said that the Clayton-Bulwer treaty was still obligatory upon the United States. I do not think there is any doubt about that, and I think that no man with ordinary intelligence—

The Senator talked about strong language this morning. I do not believe in strong language. I believe in fitting language, but old Grosvenor did now and then draw it a bit strong. He said:

> I think that no man with ordinary intelligence, whether he is a lawyer upon international lines or whether he is a man of ordinary common sense, will for one moment understand or attempt to argue that the Clayton-Bulwer treaty has been abrogated by the act of the United States or by that of England.

There served with me in the House, and with several of you, one of the most lovable men that ever lived—bright, variable of fancy, of poetic imagination, eloquent, and logical, all combined—Dolliver, of Iowa. Dolliver indulged in a statement which I shall read. I am quoting only from men who have since somehow made themselves distinguished. I am not quoting myself or 12 or 13 or 14 other men taking part in the debate who have never achieved any great place in the world. I am trying to confine myself to the men who afterwards carved out for themselves a place in the hearts of the American people, and that Dolliver did. He not only had the traits of which I have spoken, but he had great courage; and when he found out that he had been going in a direction that was wrong he faced himself clear about and went in a contrary direction, though he sacrificed many friends.

Here is what Dolliver said:

> I have read a good many of the treaties which we have with foreign countries—

He had, among other things, an exquisite sense of humor, as this first line or two shows:

I have read a good many of the treaties which we have with foreign countries, and about the only one of them I am able to thoroughly understand from the language of it is the Clayton-Bulwer treaty of 1850. I have read the opinions of statesmen and diplomatists about that treaty, and my judgment fully concurs with the judgment spoken here yesterday by the chairman of the Committee on Foreign Affairs.

Who was he at that time? Why, Mr. Hitt, of Illinois; and there never served in this body a man, in the old time or now, who had so completely at his finger ends the foreign relations of the United States as Mr. Hitt, of Illinois.

Dolliver said:

My judgment fully concurs with the judgment spoken here yesterday by the chairman of the Committee on Foreign Affairs [Mr. Hitt], that that treaty is in force and that no policy ought finally to be put into the form of law in this country which is not accompanied by a negotiation for the modification of that treaty.

That is pretty strong language, too. In the House the reporters put in parentheses the word "Applause" whenever the generous hearts of generous men give it; and the following is followed by a notation of the applause which Dolliver received:

I believe, also, that this canal ought not to express merely the military prowess of the American people. I cherish the hope and the conviction that the world's civilization has advanced beyond that. I would have this canal express the aspiration of our people for a larger commerce and for a permanent peace among the civilized nations of the world. I take no interest in and give no consent to that argument, which is based upon a narrow view of patriotic duty, which claims that we should own this canal and operate it mainly as an instrument of war. As such an instrument it is not worthy of this age nor this Nation. It is worthy of us only as it expresses the national aspiration for peace and for enlarged commerce which will reflect the progress and spirit of our age and of our civilization.

Most of that quotation from Dolliver is not pertinent to what I was saying; but I could not help reading it, because it is evident that Dolliver, too, had in his mind "some future time," a time that was not the time apostrophized by the Senator from Idaho [Mr. BORAH] in so many sentences beginning "At that time, Mr. President, I see."

Mr. BRANDEGEE. Mr. President, what was the date of that debate, if the Senator please?

Mr. WILLIAMS. This was on May 2, 1900.

But why all this "love's labor lost"? What is the object of this sort of contention by the Senator from Idaho? It is a familiar trick of the skilled dialectical as well as of the dueling fencer that when he sees he must give way in his tracks he changes the form of attack or the form of offense. The Senator from Idaho, knowing that he could not stand upon the ground that the Clayton-Bulwer treaty was not in effect at the time we entered into the Hay-Pauncefote treaty, and that it was, in part, continued in the latter treaty, which must control our action here; knowing that it had been recognized by every administration all the way down from when Buchanan said that our quarrels with Great Britain and our assertions of her violation of the treaty had been removed by her coming to our position and correcting her past misconduct; to when Secretary Olney, under Cleveland's administration, having been requested to look into the matter, and having looked into it and reported back that it was binding and in full force and effect; to the time when the great statesman who was the Secretary of State who negotiated the Hay-Pauncefote treaty so acknowledged it; knowing that McKinley and Roosevelt had so acknowledged it; that the Hay-Pauncefote treaty itself so acknowledged it; that the treaty with Panama so acknowledged it by making the Hay-Pauncefote treaty, containing a part of the Clayton-Bulwer treaty, a part of itself—knowing all this, or having lately learned it to his surprise, the Senator from Idaho comes into court at the eleventh hour to try to prove that, notwithstanding our conduct as a Nation, notwithstanding our solemn compacts recognizing it, notwithstanding the sanctity of treaties, the thing was obsolete and nonexistent, dead as a plantation mule of the vintage of 1800, because some Senate committee at some time reported that in their opinion it ought to be dead, and because a few other gentlemen here and there said that in their opinion it ought to be dead, "because it had been violated."

What was the object of this fencing? It was to change base in the presence of the enemy. McClellan found that that was about the most dangerous maneuver of warfare when he was advancing on Richmond. Gentlemen generally find it dangerous when they resort to it. Even if you are going to quote individuals, the mass of individual opinion is against the opinion of the gentleman quoted by the Senator from Idaho. But individual opinion is not the thing that you appeal to in a matter of this sort. You appeal to national action and national conduct and official utterances and international compact.

Now, one or two other things, Mr. President, and I shall take my seat. The Senator then goes at a considerable expenditure of time and words to demonstrate that Great Britain is going to get a whole lot of advantage out of this contract and that we are not going to get as many benefits out of this solemn international contract between the two greatest—at any rate, most civilized—nations on the surface of the earth, and that because we are not going to get as many benefits out of the contract therefore the contract ought not to be regarded. I once had a man come to me and enter into a contract for five years in connection with clearing up and putting under cultivation for crops to belong to him certain land. He came to me one day, after a year or so, and in a bland, honest-looking way, said, "John, I will have to 'rue back' on that contract." I said, "Why?" He said, "Because that contract is not profitable to me." I said, "Suppose it had turned out not to be profitable to me, would you have rued back?" "Oh, no," he said; "but I have got to rue back now." I said, "I do not see that." "Well," he said, "John, I have got to where you have got to let me. All I have got to do is to refuse to go on with it. All my property is in my wife's name, and you can not do anything with me." So I had to let him rue back. This was naive, but not honest.

What does the Senator mean by getting up here and arguing for 15 or 20 minutes that this compact will result in greater profit to Great Britain than to us unless he wants to appeal to the dishonest spirit of greed that exists in the hearts of too many men in the world, who regard a contract as sacred and inviolate only when it is profitable?

The Senator says that this contract as it exists to-day, as it was construed by Hay and by Choate, and as it will be construed by the Senate of the United States for the nonce—until it shall be admitted to arbitration for final decision at any rate—gives Great Britain more benefit than it does to the United States of America, and says that it would have been better for us if we had let Great Britain build the canal and give ships of our citizens an equal use with hers? But suppose that to be true. I am rather inclined to think that, in dollars and cents, it is true. I am rather inclined to say that if we had allowed the Government of Great Britain, or France, or Austria, or Germany to build it, and giving us equal rights to its use, equal charges, and all that, with just the same contract with either of them that Great Britain has with us, then, so far as mere money and mere commercial advantage is concerned, we would have gotten more out of it then than we are ever going to get out of it now. But why make that argument unless it be made with a view of producing a desire in greedy hearts to violate the contract because of that fact?

But the Senator must not forget this: We get, in addition to commercial advantages, military and naval advantages which Great Britain does not get. In the case of a war between ourselves and Great Britain we can use the canal in mobilizing our fleets and armies and Great Britain can not. That is agreed; it is disputed by nobody.

That is not all. In addition to the mere commercial advantages that are to flow to us, we get transportation advantages that, in their effect upon railway rates across the continent, will be beneficial to the entire people.

It is not a mere question of money, but, to take the Senator upon his own ground, suppose it were. If it were, then, of course, it would have been wiser for us to have permitted Great Britain to build the canal and to give us the right to its equal use. *But you would not have had any canal.* That is the answer to all that part of the Senator's argument. Great Britain would not have built it. She did not have the same strategic reason for building it that we had. She had no longer the same commanding commercial advantage, for she now owned the Suez Canal. She then entertained no idea of building it. There was no way whereby we could force her to build it.

The people of the United States generally, I think, would have preferred, though I am not sure of that, that the French had succeeded and built the canal. Under our arrangement with them we had equal use of that canal with all the nations of the world, commercially, after it was built. The only difference was that their canal was to be, from a military standpoint, absolutely neutral, and that in time of war we ourselves could not have used it. We therefore could not have mobilized our fleets from the Atlantic to the Pacific, and vice versa.

But the answer to the whole argument is this, and it is the only relevant answer; it is not whether the contract is profitable to us more than others or not; it is not whether "we ought to have made the compact" or not; it is not whether "we ought to have abrogated the Clayton-Bulwer treaty" and taken things in our own hands or not, no matter what the consequences of war might have been. The thing is, *What did we agree to do.* Under what restrictions, limitations, and conditions *did we undertake* to construct and operate the canal?

All the balance of the argument which has taken place between the Senator from Idaho and me this evening has been absolutely irrelevant to the issue. Whatsoever rights have we got under the deed of grant from Panama, those rights we shall assert. To assert anything less would be unmanly. To assert anything more would be barbarous and uncivilized and contemptible. Then in Heaven's name let us find out as soon as we can from some definite tribunal what those rights are.

Some Senator here proposed not long ago to leave the adjudication of the question to our own Supreme Court. Such is the contempt the American mind seems to entertain for the other sovereignities upon the surface of this earth—equal sovereigns with ourselves. If anybody had gone to that Senator and suggested that we should leave the interpretation of this treaty to the King's Bench in Great Britain or to the lord high chancellor there he would have jumped high enough to have gone through the skylight above our heads. We would not turn over to the judiciary branch of another Government the decision of an international dispute. And yet one of the fairest men and the best—such is the state of national egotism into which we fan ourselves by constant Fourth-of-July speeches—made perhaps what would have been perhaps the most unfair and most insulting proposition that has ever been suggested for the termination of a difference between one sovereign people and another.

Mr. BORAH. Mr. President, it is not my purpose to detain the Senate more than, at the outside, five minutes. The Senator from Mississippi has referred to the views of Hon. JAMES R. MANN, the distinguished Representative from Illinois, now leader of the minority in the House, a man of unquestioned capacity in public affairs, as to the final obligations of the Clayton-Bulwer treaty. I am quite willing to take Mr. MANN'S view of it, and I will read Mr. MANN'S view at the present day. Mr. MANN, in his speech in the House of Representatives March 31, 1914, in discussing the Panama Canal tolls bill, which is the bill we have before us, quotes approvingly this language:

> The Clayton-Bulwer treaty, as is so clearly shown by Mr. Hepburn, long ago ceased to have any binding force, by reason of the conduct of Great Britain. That being true, we should strictly adhere to the Monroe doctrine and stand by our traditional policy that Europe will not be permitted to intermeddle with cis-Atlantic affairs. It is to the Monroe doctrine that we as a Republic must look for safety. We should never, under any circumstances, even tacitly admit that Europe has the right to so much as interrogate us on American questions, much less to limit our action.

That was quoted by Mr. MANN from Mr. SHACKLEFORD'S report and approved by him in his speech upon the 31st of March.

Mr. WILLIAMS. What is the language approving it?

Mr. BORAH. I will read that in a minute. He also quotes from the report of the bill reported by Mr. Hepburn. He also quotes from the language of Secretary of State Frelinghuysen to the American ambassador to Great Britain, Mr. Lowell, dated May 8, 1882, in which Mr. Frelinghuysen called attention to the fact that the treaty had become obsolete. Now, Mr. MANN said:

> Could Great Britain refuse us? Could England decline to permit this Government on its own terms to construct what the world for 400 years had been hoping might be constructed? Could Great Britain say, "That which we want, that which is in the interest of our shipping, that which the world desires, that which you are willing to give out of the fullness of your heart and your treasure, we will not permit because of an antiquated, outgrown treaty of more than 50 years ago"? [Applause.] She could not, she did not dare refuse, and the Hay-Pauncefote treaty was negotiated.

Mr. MANN in his speech on the 31st of March, 1914, argues that the Clayton-Bulwer treaty, while it had not fallen upon notice for abrogation, was, in fact, obsolete and antiquated and outgrown, and that Great Britain did not dare to rely upon the Clayton-Bulwer treaty because of the fact that it was regarded as obsolete and no longer binding.

Mr. WILLIAMS. Will the Senator permit me to quote again from Mr. MANN his exact language at the time of which I spoke?

Mr. BORAH. The Senator quoted him a while ago.

Mr. TOWNSEND. The language of the Senator from Mississippi ought to be understood. He said that he regards the minority leader in the House as one of the most clearly intellectually honest men he has ever known.

Mr. WILLIAMS. I am not going to take that back. I have no idea of doing it. If Mr. MANN has changed his opinion, he has changed it because he thought he had reason to change it.

Mr. BORAH. I have no doubt about that.

Mr. WILLIAMS. But I think he was merely quoting other people and did not express his own opinion.

Mr. BORAH. He is quoting other people for the purpose of basing his conclusion thereon as to fact, as he says here that the treaty was "antiquated and outgrown." Now, Mr. President, I stated in my remarks a few moments ago that there had been no formal notice of the abrogation of the Clayton-Bulwer treaty. Before that there had not been any formal notice of the abrogation, and it is also true that that is the way to get rid of a treaty.

I perhaps was not clear and explicit in my expression, but the idea that I intended to convey to the Senate was that while it had not been formally noticed for abrogation, as a matter of fact it was obsolete; that, as a matter of fact, it was antiquated and outgrown, and, as a matter of fact, it had on three different occasions been violated by Great Britain, and the only thing that the United States had to do was to give the formal notice of abrogation.

In other words, Mr. President, the United States had the right to give the notice and there could have been no exception to the notice if it had been given; the Clayton-Bulwer treaty would have ended without a formal notice. The only reason why we did not give the notice, in my judgment, when you weigh the evidence upon the question, was simply out of the desire upon the part of the United States to retain at all times the friendliest relations with Great Britain. But I repeat, Great Britain never dared, as Mr. MANN says, to rely upon the Clayton-Bulwer treaty. Had Great Britain intimated that it was her purpose to do so, the formal notice of abrogation would undoubtedly have been given.

It is not a question of the technical condition of the treaty, but what was the substantial consideration which Great Britain put into the Hay-Pauncefote treaty for which Earl Grey said we should return the favor that is now claimed and charge vessels engaged in our coastwise trade in order that there may be equality between our vessels and those of Great Britain? Mr. President, I want to read again a few words from Mr. Hall, a leading authority upon international law, an English authority, in which he states:

> The principle which has been mentioned as being a sufficient test of the existence of obligatory force or of the voidability of a treaty at a given moment may be stated as follows: Neither party to a contract can make its binding effect dependent at his will upon conditions other than those contemplated at the moment when the contract was entered into; and, on the other hand, a contract ceases to be binding so soon as anything which formed an implied condition of its obligatory force at the time of its conclusion is essentially altered. If this be true, and it will scarcely be contradicted, it is only necessary to determine under what implied conditions an international agreement is made. When these are found, the reasons for which a treaty may be denounced or disregarded will also be found.
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> The general rule, then, is clear that a treaty which has been broken by one of the parties to it is not binding upon the other through the fact itself of the breach and without reference to any kind of tribunal.

That is the substance of what I intended to present to the Senate. As I said in my remarks, technically it had not been noticed for abrogation, but, as a matter of fact, it was an obsolete, antiquated, outgrown treaty which might have been noticed if the United States had seen fit to do it. It had a perfect right to give notice.

Mr. WILLIAMS. Has the Senator ever read Secretary Olney's statement in reference to the matter?

Mr. BORAH. I have.

Mr. WILLIAMS. If the Senator will pardon me, then, for calling his attention: Just a little more recently Secretary Olney said:

> This announcement of President Buchanan—

Which is the announcement which I read to you a moment ago, and I will not now repeat—

> was received by Congress without a symptom of dissent.

You remember that was the announcement—that, no matter what our earlier causes of complaint might be, Great Britain had made amends for them, and had entered into a treaty with Nicaragua which we asked her to enter into, and, with the other country—I think, Costa Rica—had given up the Mosquito Coast contention, and so forth, and that therefore we could no longer claim that she was doing us any international harm or was violating the treaty.

I will say that President Buchanan was not only President of the United States, but he had been one of our most distinguished diplomats, and very much more distinguished as a diplomat than as President. He had very little executive ability and very great diplomatic ability.

I read:

> This announcement of President Buchanan was received by Congress without a symptom of dissent.

I shall now read the language to which I want especially to call the attention of the Senator from Idaho, following the above:

> And since that time every administration, and, with a single exception, every Secretary of State has dealt with the Clayton-Bulwer treaty as a subsisting and binding instrument.

Now here is the exception:

In 1866 Mr. Seward, writing to our minister at St. James, queries whether, as the renunciatory clauses of the treaty relate to a proposed canal, they will operate forever if no canal should ever be begun. While thinking they would not, still the question being an open one, he declared that neither party could fairly do anything contrary to the spirit of the treaty, and he therefore instructed the American minister to quietly ascertain the disposition of the British Government to favor our acquiring coaling stations in Central America, notwithstanding the treaty.

So you see every American administration and every Secretary of State except one—and he only in this very qualified manner, merely querying and not asserting—has admitted the full force and effect of this treaty ever since Buchanan announced to Congress that Great Britain had accorded with our wishes, and that we had and could have no further cause of complaint against her.

The PRESIDING OFFICER. The question is on the amendment reported by the committee as amended by the amendment of the Senator from North Carolina [Mr. SIMMONS].

Mr. KERN. On that I ask for the yeas and nays.

The yeas and nays were ordered, and the Secretary proceeded to call the roll.

Mr. THOMAS (when his name was called). I have a general pair with the senior Senator from New York [Mr. ROOT]. As I understand that if present he would vote in accord with myself on this matter, I shall vote. I vote "yea."

Mr. WILLIAMS (when his name was called). Transferring my pair in accordance with my announcement on the last roll call, I vote "nay."

The roll call was concluded.

Mr. CHILTON. I have a general pair with the Senator from New Mexico [Mr. FALL], and in his absence I withhold my vote.

Mr. CHAMBERLAIN. I have a general pair with the junior Senator from Pennsylvania [Mr. OLIVER]. He has requested that I observe the pair on the Simmons amendment, which I shall do, and refrain from voting. If permitted to vote, I should vote "nay."

I desire to say in this connection that while the Senator from Pennsylvania desired to vote for the Simmons amendment, if present, he would vote against the bill on its final passage.

Mr. ROOT. I have been requested to announce the unavoidable absence from the city of the senior Senator from Massachusetts [Mr. LODGE] and that, if he were present, he would vote "yea" upon this amendment. He is paired with the Senator from New Hampshire [Mr. GALLINGER], who, I am informed, if present would vote "nay." For myself I vote "yea."

Mr. CHILTON. As I have stated, I have a pair with the Senator from New Mexico [Mr. FALL] and the Senator from Oregon [Mr. CHAMBERLAIN] has a pair with the Senator from Pennsylvania [Mr. OLIVER]. We have decided to transfer our pairs to those Senators so that we may both vote. I vote "yea."

Mr. CHAMBERLAIN. Transferring my pair with the Senator from Pennsylvania [Mr. OLIVER] to the Senator from New Mexico [Mr. FALL], I vote "nay."

The result was announced—yeas 57, nays 30, as follows:

YEAS—57.

Bankhead	James	Norris	Smith, Md.
Brandegee	Johnson	Overman	Smith, S. C.
Bryan	Jones	Owen	Stephenson
Chilton	Kenyon	Page	Sterling
Clarke, Ark.	Kern	Pittman	Stone
Colt	Lea, Tenn.	Poindexter	Swanson
Crawford	Lee, Md.	Pomerene	Thomas
Culberson	Lewis	Root	Thompson
Dillingham	Lippitt	Saulsbury	Thornton
Fletcher	McCumber	Shafroth	Tillman
Gore	McLean	Sheppard	West
Gronna	Martin, Va.	Shively	White
Hitchcock	Myers	Simmons	
Hollis	Nelson	Smith, Ariz.	
Hughes	Newlands	Smith, Ga.	

NAYS—30.

Ashurst	Clark, Wyo.	Perkins	Vardaman
Borah	Cummins	Ransdell	Walsh
Brady	du Pont	Reed	Warren
Bristow	Goff	Sherman	Weeks
Burleigh	La Follette	Smith, Mich.	Williams
Catron	Lane	Smoot	Works
Chamberlain	Martine, N. J.	Sutherland	
Clapp	O'Gorman	Townsend	

NOT VOTING—8.

Burton	Gallinger	Oliver	Robinson
Fall	Lodge	Penrose	Shields

So the amendment of the committee as amended was agreed to.

Mr. WALSH, Mr. NORRIS, and Mr. GORE addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. WALSH. I now reoffer the amendment offered by me this morning.

Mr. NORRIS. Mr. President, I rise to a parliamentary inquiry.

The PRESIDING OFFICER. Let the amendment offered by the Senator from Montana first be stated, and then the Chair will recognize the Senator from Nebraska.

Mr. NORRIS. I desire to submit a proposition, both to the Chair and to the Senator from Montana.

The PRESIDING OFFICER. The Chair will delay the reading of the amendment offered by the Senator from Montana, in order that the Senator from Nebraska may make his inquiry.

Mr. NORRIS. My parliamentary inquiry is this: Whether an amendment adding to the text of the bill now pending would not take precedence over the amendment offered by the Senator from Montana to strike out all the text of the bill and insert a new bill?

The PRESIDING OFFICER. The amendment proposed by the Senator from Nebraska [Mr. NORRIS], as stated last night or this morning, proposes to add to the text of the bill which it is proposed to strike out by the amendment of the Senator from Montana [Mr. WALSH]. The amendment of the Senator from Nebraska, therefore, would be first in order.

Mr. NORRIS. I desire, Mr. President, to offer that amendment. Of course the Senator from Montana understands that I do not wish to interfere with him, but his amendment, I think, would more properly come after my amendment has been voted on.

Mr. WALSH. I shall be obliged to leave the Chamber in the course of half an hour, and will not be able to be here again during this debate. I shall speak either upon my amendment or upon the amendment of the Senator from Nebraska.

Mr. NORRIS. I will say to the Senator that I do not expect to address the Senate on the amendment I shall offer, and, unless some other Senator speaks in opposition to it, I do not believe there will be any debate. I should like, however, to have a roll call on it.

Mr. WALSH. I do not desire to debate the question of parliamentary practice at this time; but I am unable to recall now any parliamentary rule that gives precedence to one amendment to a bill over another amendment to a bill.

Mr. NORRIS. To obviate any difficulty, since the Senator desires to leave, I will ask the Chair this question: If I waive the right which the Chair says I now have, will it be in order, after the disposition of the amendment of the Senator from Montana, assuming that it be defeated, to offer the amendment which I intend to propose?

The PRESIDING OFFICER. The Chair has stated that, where a motion is made to strike out the text of a bill and insert other matter, the friends of the text of the bill are entitled to have it perfected before the motion to strike out and insert is put to the Senate. That is the custom, as the Chair understands. If the question is put on the amendment of the Senator from Montana, then, of course, the text of the bill will still be open to amendment, as the bill is pending as in Committee of the Whole, and open to amendment.

Mr. NORRIS. In order to accommodate the Senator from Montana, who says he desires to leave, I will not insist on the right which I believe I am entitled to now, and I will not offer the amendment at this time.

Mr. SIMMONS. I understood the Senator from Montana to offer an amendment to strike out all of the bill after the enacting clause.

The PRESIDING OFFICER. The motion of the Senator from Montana, as the Chair understands, is to strike out all after the enacting clause and to insert his amendment.

Mr. SIMMONS. The Senator from Nebraska offers an amendment to the bill.

The PRESIDING OFFICER. The Senator from Nebraska has not offered an amendment, but he simply made a parliamentary inquiry of the Chair, whether, if he should offer an amendment to perfect the text which it is contemplated to strike out by the Senator from Montana, it would take precedence over the motion to strike out.

Mr. NORRIS. Simply as a matter of accommodation to the Senator from Montana, I do not offer my amendment now. I think I will have ample time to offer it after his amendment is disposed of.

Mr. SUTHERLAND. Mr. President, I rise to a parliamentary inquiry. The amendment of the Senator from Montana is to strike out all after the enacting clause and to insert certain language which he has presented. Rule XVIII specifically provides:

But pending a motion to strike out and insert, the part to be stricken out and the part to be inserted shall each be regarded for the purpose of amendment as a question; and motions to amend the part to be stricken out shall have precedence.

So that very clearly the amendment proposed by the Senator from Nebraska would be in order even after the Senator from Montana has presented his amendment.

The PRESIDING OFFICER. The Chair has so stated. The Senator from Nebraska does not now offer his amendment, as the Chair understands. The Senator from Montana is recognized.

Mr. WALSH. I offer the amendment which I send to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The SECRETARY. It is proposed to strike out all after the enacting clause and to insert the following:

That section 5 of the act entitled "An act to provide for the opening, maintenance, protection, and operation of the Panama Canal, and the sanitation and government of the Canal Zone," approved August 24, 1912, be, and the same hereby is, amended by the addition thereto of the following provision, namely:

That nothing contained in this act shall be deemed to repeal any provision of the Hay-Pauncefote treaty, or to affect the judicial construction thereof, or in anywise to impair any rights or privileges which have been or may be acquired by any foreign nation under the treaties of the United States relative to tolls or other charges for the passage of vessels through the Panama Canal, and that when any alien, whether natural person, partnership, company, or corporation, considers that the charging of tolls or the enforcement of any other regulation under and pursuant to the provisions of this act violates in any way any such treaty rights or privileges, such alien shall have the right to bring an action against the United States for a redress of the injury which he considers himself to have suffered, and the district courts of the United States are hereby given jurisdiction to hear and determine such cases and to decree the appropriate relief, and from the decision of such district courts there shall be an appeal by either party to the action to the Supreme Court of the United States.

Mr. WALSH. Mr. President, the purpose of the amendment offered by me is to secure from the Supreme Court of the United States a decision of the legal question so very stoutly debated upon this floor as to whether the exempting clause of the canal act is or is not in contravention of the Hay-Pauncefote treaty. If at the time this debate was entered upon such an adjudication had been made, everybody, as a matter of course, would feel happy in the enlightenment that came from the opinion of the Supreme Court upon this question.

If the decision should be to the effect that the act is in violation of the treaty, I apprehend that no one would rise in this body or in the other branch of Congress and urge the rejection of the act. Undoubtedly it would be repealed without further debate or further consideration. On the other hand, if the decision were otherwise and it was held that the act is not in contravention of the treaty, this question would be presented to this body solely as one of economic policy.

It must be regretted by every Member of the Senate that this important question of policy is resolved under the conditions which now confront us. There are certain Members of this body who are extremely desirous of giving expression to the policy reflected by the law as it now exists; but they will not vote to retain it on the statute books, being convinced that it is in violation of the treaty. On the other hand, there are those who do not believe in the economic policy of the question but are fearful that voting for the repeal will be an admission that we do not have rights, which they are anxious to assert.

If a decision were arrived at by the Supreme Court of the United States, it would be determined simply as a question of domestic policy; but if this bill passes, we abandon a policy which many Senators regard as a wise one.

The distinguished Senator from Mississippi [Mr. WILLIAMS], for whom I have the very greatest affection, suggested a few moments ago that by this amendment one party to this contract sought to impose upon the other and upon the world its own construction of the treaty. Why, that is not the purpose of this amendment at all, Mr. President and Senators. The Senator from Mississippi is exceedingly anxious to have this question submitted to arbitration. He wants to repeal the exemption clause, and thereafter he desires that the controversy existing in relation to the Hay-Pauncefote treaty may be submitted to some arbitral tribunal.

Why, Mr. President, what lawyer are you going to get to argue this case before an arbitral tribunal when he will be confronted with the arguments that have been advanced in this body throughout the course of this debate to the effect that we have no rights at all that are to be arbitrated? How will any man be able to stand up against the arguments that will be advanced upon the other side, utilizing the material furnished by the distinguished Senator from New York [Mr. ROOT] and the others who have followed him in his views concerning the construction of this treaty?

Mr. WILLIAMS. Mr. President, does the Senator think that any of that would be admitted as competent testimony before any court of arbitration in the world?

Mr. WALSH. Why, Mr. President, it is not a question of competency at all. It is not a question of testimony; it is a question of being answered by arguments out of the mouths of our own people. It is not a question of testimony; it is a question of how on earth you are going to make an impression upon a tribunal concerning the meaning of this treaty when you are confronted with the most powerful arguments out of the mouths of your own citizens and your own public officials. It does not involve questions of fact concerning which you have access to evidence. This question is one of law; it relates to the true interpretation of a written instrument. This question will be determined by adherence to certain well-known canons of construction.

But, Mr. President, if you shall adopt this amendment and the matter shall come before the Supreme Court of the United States, and that great tribunal—than which there is no greater ever constituted by the genius of man—shall resolve all of the doubts we have concerning this matter, and shall declare and publish to the world, and give their reasons for the faith that is in them, that this act is not in contravention of the treaty, then the counsel for the United States can stand before any tribunal of arbitration in the world and stoutly advance the cause of the United States; and that is the purpose of this amendment.

Mr. President, it is not for the purpose of imposing upon Great Britain or upon anybody else our contention concerning this matter. It is simply for the purpose of a guide to our action in the future to determine what shall be our internal policy in relation to the use of the canal—whether it is a wise public policy to allow our vessels to go through the canal free, or whether it is in truth, as it has been denounced here, an iniquitous subsidy. We should determine that problem upon its own merits. As it is now our decision means nothing.

The next advantage would be that if we do submit it to arbitration we would have something on which we could go before a tribunal in the hope, at least, of a favorable determination.

Another thing, Mr. President: There is nothing new at all about the character of legislation that the amendment suggested by me contemplates. We have a general statute imposing tonnage duties upon all vessels entering our ports from foreign shores, but we exempt our own coastwise vessels from those tonnage duties. It was suggested, no doubt, when this act was passed, that if we did that we should violate certain treaties which we have with foreign countries; and the Congress of the United States, not desiring that our great Nation should labor under any such imputation, simply added a clause to the act which reads as follows:

Section 4227 of the Revised Statutes:

"Nothing contained in this title shall be deemed in any wise to impair any rights and privileges which have been or may be acquired by any foreign nation under the laws and treaties of the United States relative to the duty on tonnage of vessels or any other duty on vessels."

So that if any nation shall contend that this act which exempts our coastwise vessels from the payment of tonnage duties, while it imposes those duties upon vessels engaged in the foreign trade, is in contravention of a treaty, it may have the matter determined in some court; and the Supreme Court of the United States will be called upon then to determine whether the act does, in fact, violate the treaty; and if it does, then the foreign vessel is entitled to exactly the same exemptions that are accorded to our coastwise shipping.

We followed the same precedent in this very Congress, because, when we passed the tariff act and provided that commodities carried in American ships entering our ports should be entitled to a 5 per cent advantage in the matter of customs duties, we also provided that that section was not to be deemed in violation of any treaty, the language being as follows:

SUBSECTION 7. That a discount of 5 per cent on all duties imposed by this act shall be allowed on such goods, wares, and merchandise as shall be imported in vessels admitted to registration under the laws of the United States: *Provided*, That nothing in this subsection shall be so construed as to abrogate or in any manner impair or affect the provisions of any treaty concluded between the United States and any foreign nation.

So it is open to any man importing goods into the United States in a vessel not of the United States to bring his proper proceeding, and insist, if he cares to do so, that this act is in contravention of the treaty, and have the adjudication accordingly; and steps are being taken to determine whether such conflict does or does not exist.

The amendment proposed by me is exactly in line with these examples of our legislation upon this subject, and simply adds a provision by which a review in the Supreme Court of the United States is assured and expedited.

Reference to this provision of the tariff act reminds me that although we have heard much about this exemption of our coastwise vessels passing through the Panama Canal as being a subsidy, the challenge which has been repeatedly made here on this floor to those who have undertaken thus to stigmatize that legislation, the challenge to tell why this advantage thus given to

American ships of 5 per cent in the matter of customs duties with respect to goods carried into our ports in American vessels is not equally a subsidy has not yet been answered. I have yet to hear anyone point out how there is any distinction between that and the exemption which we now seek to repeal, nor have I heard anybody endeavor to point out any difference between the two. If the one is a subsidy, the other is a subsidy.

Mr. President, I insist that the failure to tax is essentially different from a subsidy. Even the distinguished Senator from Kentucky [Mr. JAMES], who declaimed so eloquently the other night against this exemption as a subsidy, was silent upon the challenge that was made repeatedly here upon this floor as to why this is not a subsidy in exactly the same sense. And do you notice, Mr. President, that this measure was referred to the committee of which the distinguished Senator from the State of Kentucky was an honored and influential member? We all relied upon the scrutiny, upon the jealous care of the distinguished Senator from Kentucky, lest any provision imposing a subsidy upon the people of the United States should by any chance creep into that bill. It seems to have gotten there, nevertheless.

Mr. President, another challenge has been entirely unanswered, and that is that if this is a subsidy, so likewise is the exemption from tolls that has been enjoyed in reference to every canal in the United States.

We have asked the Senators to distinguish between the Panama Canal and the Soo Canal. We have insisted that if you are going to tax the vessels that go through the Panama Canal, because to allow them to go through free is to accord to them a subsidy, you must tax the vessels that go through the Soo Canal, because to allow them to go through free is to grant a subsidy. The system should be uniform.

My esteemed colleague, who has a justifiable horror of subsidies, sought to distinguish between the Panama Canal and the improved rivers and harbors of this country; and he pointed out, and very justly, indeed, that there is an essential difference between improving a natural waterway over which everybody has practically the natural right to travel, contributing only a little of the total value of it for the purposes of navigation, and a canal, an artificial highway, the whole value of which is given to it by the work of man.

I do not think the distinction is one of principle, but I recognize there is a distinction. I observe, however, that my distinguished colleague did not go further, as he might have done, and tell us how we can escape the obligation, if we are consistent in this matter, to impose duties and tolls upon the passage of vessels through the Soo Canal.

Mr. President, that canal is the outlet of our country to the commerce of the world for the surplus wheat we produce. I was down before the Interstate Commerce Commission this morning arguing the cause of the railroad commission of my State against the railroads operating there, asking for reduced freight rates upon the grain that we raise in our fields to feed the people of this country. Think of it. In 1909 we exported 100,000,000 bushels of wheat, and last year only 28,000,000; and the time is at hand when, unless our resources are developed to the very utmost, we must depend upon foreign fields for bread for our people.

We are trying to supply that bread. In 1909 we raised 6,000,000 bushels of wheat in Montana, and in 1912 we raised 20,000,000, and we can raise 100,000,000 bushels of wheat there if we could only get freight rates that would allow us to ship our product to market. That product passes through the Soo Canal in immense quantities. I should like to know whether it is to be the policy of the Democratic Party and this Congress to apply the principle that the exemption of tolls to vessels in passing through a canal is a subsidy to be rebuked and derided, and thus shut out the only possible way of utilizing our great fields and their products.

In 1906 the Commissioner of Commerce and Navigation told us:

> The canals of the United States still used for commercial purposes are stated by the New York World Almanac for 1905 as being 37 in number, with an aggregate length of 2,443 miles, the total cost of their construction being about $180,000,000. The most important of these, aside from that connecting the Great Lakes, of course, is the Erie Canal, 387 miles in length, with 72 locks and a depth of 7 feet. Next in length is the Ohio Canal, from Cleveland, Ohio, to Portsmouth, Ohio, 317 miles in length, with 150 locks and a depth of 4 feet. Next in length is the Miami and Erie Canal, from Cincinnati to Toledo, 274 miles in length, with 93 locks and a depth of 5½ feet.

I wonder, Mr. President, whether we are going to-day to lay down a principle that, followed to its logical conclusion, will compel us to put toll gates upon every one of these canals?

I read a word further, when speaking of the Soo Canal and about the tremendous tonnage of iron ore which passes through that great waterway. Mr. President, 72,000,000 tons of freight went through it during the year 1913 as against only 20,000,000 tons through the Suez Canal. In the same report we read as follows, after speaking of the tremendous tonnage of iron ore that goes through it:

> The most important part of the traffic through the Soo Canal, however, is not iron ore, but wheat and flour and other grains. The value of these items in the canal traffic is one and a half times that of the iron ore and equal to $84,000,000, or nearly a third of the valuation of the total commerce through the canal. In volume the traffic has grown from 3,500,000 bushels of wheat and 600,000 barrels of flour in 1881 to 63,250,000 bushels of wheat and nearly 9,000,000 barrels of flour in 1896. The last figures account for a large fraction of the 467,000,000 bushels of wheat raised in the United States in 1896, being, in fact, almost equal to that portion of the crop exported. The movement of wheat through the canal just about equals the total receipts at Buffalo and Erie.
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> It is not, however, possible to give the canal alone the credit for having developed this wheat trade. The production of the wheat was only made possible by the construction of railroads through Minnesota and the Dakotas, and these same railroads provide a means of getting the wheat via Chicago. But if all-rail rates had to be paid, Minnesota and Dakota wheat and flour could not compete so well with that from the country near the eastern markets as it does by having water rates from Duluth to Buffalo. It should also be borne in mind that railroad building in Dakota and Minnesota began on a large scale only after the enlargement of the canal, when it was seen that they could connect with a through direct water route to Buffalo. The canal has therefore been an important factor in developing wheat production in the country west of Lake Superior.
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> Besides wheat there has been a considerable traffic in other grain, but this first assumed large dimensions in the year 1896, when 27,000,000 bushels of grain other than wheat went through the canal, as against 8,000,000 bushels in the previous year.

Not only that, Mr. President, but the copper, the product of our smelters, the output of our mines, also finds its route to market through this great waterway.

Mr. President, this is called a subsidy simply for the purpose of deluding the mind and clouding the issue. It has no relevancy, as I think, to this debate or the real question involved in this discussion.

But, Mr. President, why should we not determine the economic advantage involved here upon its own merits, unembarrassed by the consideration whether it is or is not in violation of the treaty? In other words, is not the logical, the reasonable way to determine this question to submit this matter, in the first place, to the adjudication of a great tribunal that we have constituted for that purpose, and then act in accordance with the advice which it gives us?

Mr. MYERS. Mr. President, as my distinguished colleague necessarily has to leave the Chamber very soon, I wish to say at this time a very few words in reply to one phase of his remarks. My colleague in the course of his able remarks impliedly addressed a question to me as to why I do not consider the exemption of ships from the payment of tolls for passage through the Soo Canal as a subsidy. According to my understanding, through the provisions of a treaty we have with Great Britain, by permitting both our own as well as British ships to go through the Soo Canal free from tolls we gain the right of freedom from tolls for our ships through the Welland Canal, in Canada. We thereby get something in return for free passage through the Soo Canal, and it is not a gift outright to private beneficiaries. We get something for it. Therefore it is not a subsidy. We get a compensatory benefit or return.

Furthermore, the Soo Canal is an inland canal, an internal domestic waterway, and is not on the same footing with a great interoceanic international canal.

Furthermore, and as my last answer, if toll exemption through the Soo Canal be a subsidy, I see no reason for extending the subsidy. One subsidy does not justify another.

As to the provision of our tariff law which reduces the tariff rates of duty on certain classes of imported goods shipped in American bottoms, I will say here that I did not refer to it in my recent brief address before this body upon the pending bill because I did not deem it of any importance. I will say now, in relation thereto, that in theory and reason, as far as practicable, I am a free trader. I believe in admitting all imports free of tariff duties, except in so far as is necessary to raise revenue for the Government. If we admit some classes of goods with a less tariff duty than other classes, or even on some ships with a less duty than on other ships, I do not see that anybody is injured thereby. We are simply getting less revenue for our Government, and I do not see that anybody has a right to complain about that, because nobody has a natural right to get goods free into our country. It may only be done by the permission of our Government, which must look out for its revenues, and may raise them as it may please. If we choose to admit any class of goods free, it is our privilege.

As to subsidies, I wish to say that I believe giving an American shipowner two or three thousand dollars in the equivalent of cash by putting his ship through the Panama Canal free, without any return whatever, the actual outlay by us of that much money is giving a special class something for nothing at

the expense of the American people. I believe that conforms to the definition of a subsidy. It is the worst kind of subsidy—giving something for nothing.

That is all I will take the time to say now in my humble way in answer to the inquiry put to me by my colleague and by way of reply to his remarks on the subject of subsidies.

Mr. SIMMONS. Mr. President, I understand if the Senator's proposition is adopted it will be a substitute for the whole bill.

Mr. WALSH. Yes; that is correct.

Mr. SIMMONS. And there will be nothing left of the bill except a provision that any corporation or party who may claim to be injured by the imposition of tolls may bring suit in the Supreme Court of the United States to determine the right.

Mr. WALSH. He may bring it in the district court, and his appeal is to the higher court.

Mr. SIMMONS. Yes; he may carry it to the Supreme Court; but the result of all this discussion would be, if the Senator's amendment prevails, that we would simply give a foreign subject who might claim that he was wronged or injured as the result of this exemption a right to go into court and have the right determined.

Mr. WALSH. Undoubtedly.

The PRESIDING OFFICER. The question is on the amendment offered by the Senator from Montana [Mr. WALSH]. [Putting the question.] The noes seem to have it.

Mr. WALSH and Mr. LA FOLLETTE called for the yeas and nays, and they were ordered.

The Secretary proceeded to call the roll.

Mr. CHILTON (when his name was called). I have a general pair with the Senator from New Mexico [Mr. FALL]. The Senator from North Dakota [Mr. MCCUMBER] has a pair with the junior Senator from Pennsylvania [Mr. OLIVER]. We have arranged to transfer those pairs, so that we may both vote upon this question. I vote "nay."

Mr. ROOT (when Mr. LODGE's name was called). I again announce the necessary absence of the senior Senator from Massachusetts [Mr. LODGE], and state that he is paired with the Senator from New Hampshire [Mr. GALLINGER]. If the senior Senator from Massachusetts were here, he would vote "nay" upon this question. I believe the Senator from New Hampshire would vote "yea."

Mr. SMOOT. In this connection I desire to state that the senior Senator from New Hampshire [Mr. GALLINGER] is unavoidably detained from the Senate.

Mr. MCCUMBER (when his name was called). I have a general pair upon this proposition with the junior Senator from Pennsylvania [Mr. OLIVER], but in accordance with the transfer suggested by the Senator from West Virginia [Mr. CHILTON] I will vote. I vote "nay."

Mr. WILLIAMS (when his name was called). Repeating my last announcement and the transfer of my pair, I vote "nay."

The roll call having been concluded, the result was announced—yeas 34, nays 53, as follows:

YEAS—34.

Ashurst	Cummins	O'Gorman	Smoot
Brady	Dillingham	Page	Sutherland
Bristow	du Pont	Perkins	Townsend
Burleigh	Jones	Pittman	Walsh
Catron	La Follette	Poindexter	Warren
Chamberlain	Lane	Ransdell	Weeks
Clapp	Lippitt	Reed	Works
Clark, Wyo.	Martine, N. J.	Shields	
Crawford	Newlands	Smith, Mich.	

NAYS—53.

Bankhead	Hughes	Overman	Stephenson
Brandegee	James	Owen	Sterling
Bryan	Johnson	Pomerene	Stone
Burton	Kenyon	Root	Swanson
Chilton	Kern	Saulsbury	Thomas
Clarke, Ark.	Lea, Tenn.	Shafroth	Thompson
Colt	Lee, Md.	Sheppard	Thornton
Culberson	Lewis	Sherman	Tillman
Fletcher	McCumber	Shively	West
Goff	McLean	Simmons	White
Gore	Martin, Va.	Smith, Ariz.	Williams
Gronna	Myers	Smith, Ga.	
Hitchcock	Nelson	Smith, Md.	
Hollis	Norris	Smith, S. C.	

NOT VOTING—8.

Borah	Gallinger	Oliver	Robinson
Fall	Lodge	Penrose	Vardaman

So Mr. WALSH's amendment was rejected.

Mr. NORRIS. I send an amendment to the desk and ask to have it read.

The PRESIDING OFFICER. The amendment will be read.

The SECRETARY. After the amendment just adopted add the following:

The protest heretofore filed with the Government of the United States by the Government of Great Britain denying the right of the United States under said treaty with Great Britain to discriminate by exempting vessels of its citizens from the payment of tolls when passing through said canal is hereby recognized as presenting an international question suitable and proper for settlement by arbitration.

Mr. NORRIS. Mr. President, as I intimated a while ago, I do not care to discuss this amendment. The question has been, I think, rather fully debated, and unless there are some speeches made in opposition to it, I do not care to take up the time of the Senate now in debating it, but I will ask for the yeas and nays upon agreeing to the amendment.

Mr. BURTON. Mr. President, I yield to no one in the desire for the settlement of international controversies by arbitration. If this question had been left to an arbitral tribunal, it would have been an example for the world and would have given a great impetus to the cause of peace. But I am unable to vote for this amendment.

There were two ways in which to settle this question of the exemption of coastwise shipping from the payment of tolls. One was by arbitration and the other by legislation repealing the exemption provision in the act of 1912.

There are many Senators on this floor, and I count myself one, who would have preferred to settle this question by arbitration, but on investigation it was manifest that such a course was impracticable. It required two-thirds of the Senate, and that two-thirds was not available. Consequently the other method was chosen, of a bill to repeal the provision in the act of 1912. We have been proceeding along that line, and for one I desire that the bill be as free from collateral material, as free from complication, as possible.

I was unwilling to vote for what is called the Simmons amendment because I thought a succinct, clear declaration on the subject was best.

There is another point in this connection. The formulation of a proposition for arbitration belongs to the Executive department and the Senate. Suppose we adopt this amendment declaring this to be a subject for arbitration, what will be accomplished? It must come here to the Senate and the question then arises, Will two-thirds of the Senate agree to arbitration? I think it very doubtful whether that proportion can be obtained

Mr. CHAMBERLAIN. May I interrupt the Senator for a moment?

Mr. BURTON. Certainly.

Mr. CHAMBERLAIN. I will ask the Senator if it is not a fact that the Senate of the United States passed a general arbitration treaty here about two years ago and we never heard from Great Britain about it since.

Mr. BURTON. Not on this question. The request was made for arbitration by Sir Edward Grey, and in one of his——

Mr. CHAMBERLAIN. I do not mean with reference to this particular question, but a general arbitration treaty. We amended it, it is true, but it was adopted by the Senate and we never have heard from Great Britain since in reference to it.

Mr. BURTON. May I ask the Senator from Oregon if he speaks of what is called the Taft arbitration treaty?

Mr. CHAMBERLAIN. Yes.

Mr. BURTON. Those treaties have never been submitted, I take it. Our own Government does not want to submit them because they were so changed from their original form as not to carry out the purpose for which they were framed.

Whether at a future time this question ought not to be submitted to arbitration is another matter, but in this bill and at this time I think we should by the enactment of legislation make the declaration that we do not believe that coastwise shipping should be exempt from the payment of tolls; whether the argument be that it is contrary to the treaty or that it is a wrong economic policy does not matter. Either is sufficient.

That is all, Mr. President, that I care to say upon this subject.

Mr. BRISTOW. Mr. President, I am opposed to submitting this question to arbitration in any form. If the law as it stands to-day is in contravention of any treaty we have, then I believe that the executive departments should at once proceed to make new treaties to supersede those that we now have and settle through diplomatic channels whatever differences there may be as the result of this law.

To my mind this is a question relating to domestic commerce, and I would no more vote to submit this question to arbitration than I would to submit the question of freight rates that might be charged on the transcontinental railways or the question as to whether we should improve the Mississippi River and permit vessels to use that river, when thus improved, free of charge. It is purely a domestic question; it is of no concern to Great Britain any more than would be a tariff levied upon English goods or any other kind of a domestic question that we might deal with here in the American Congress.

I do not care to prolong the debate, but I want to add that this is an American policy, this is a question involving political and economic policies of our Government. Two years ago the American Congress and the Executive declared in favor of the policy of the free passage of American ships through the Panama Canal when it was completed, when those ships were engaged in our domestic trade. That policy was indorsed by every political party in the last campaign and by every candidate for President before the American people. Since the election the present administration has changed its policy; it has adopted another policy. The policy which it now promulgates by demanding this legislation will be a political question before the American people for years to come. It will be a subject of political controversy until another Congress is elected that will again deal with this question. I will not vote to complicate that political question in any manner whatever by submitting it to a court of arbitration. If a court of arbitration should declare against our right, I would not be in favor of recognizing its decree any more than I would be in favor of permitting a court of arbitration to determine whether or not we should construct a railroad in Alaska.

Believing as I do, I want to say, as it seems now this bill will pass from the American Senate to-day, that from this day forth there will be a controversy before the American people as to whether the tollgate shall be restored upon American highways. The tollgate is a relic of the past, only injected into this controversy for political expediency for some strange and unknown reason; but it is a relic of the past, and the people of the United States will not restore it. This Congress may do it temporarily by action brought about I believe through the intrigues of great railway corporations and those who are interested in their finances. The sagacious ways by which those corporations have obtained this victory through an administration pledged to stand by the people against predatory wealth—the diplomatic intrigues by which they have connected with this propaganda men who do not believe in the domination of our national interests by these corporate interests has been one of the interesting episodes in recent American politics.

Mr. MYERS. Mr. President, I should like to interrupt the Senator for a moment.

The PRESIDING OFFICER. Does the Senator from Kansas yield to the Senator from Montana?

Mr. BRISTOW. I do.

Mr. MYERS. The Senator from Kansas having declared that in his belief this movement for repeal of the toll-exemption law is brought about by the transcontinental railroads, I assume he does not share in the belief of some Senators on the other side of the Chamber that it was brought about by foreign conditions and the desire of the Chief Executive of the country to better some of our relations and dealings with foreign powers.

Mr. BRISTOW. Mr. President, it was stated by the distinguished junior Senator from Michigan a few days since in this debate that the lobbyist for these railroads, their representative, who appeared before the Committee on Interoceanic Canals two years ago and fought this provision, who remained in this Capital three months with the chief counsel for the Harriman interests and fought this measure—it was stated on this floor by the junior Senator from Michigan that after this bill was passed this lobbyist or representative of these railroads went to Canada and from Canada to London, and that soon after that visit this controversy was again precipitated in this body, and I believe that the Senator from Michigan knew what he was saying when he made that statement, and that he spoke accurately.

Holding these views, believing that this controversy is such as I have indicated, I do not propose to vote for the arbitration of a question that is of such vital concern to the domestic interests of the people of the United States.

Mr. STONE. Mr. President, I ask your indulgence for a few moments to state why I am against this amendment. The proposition stated in this amendment is to arbitrate whatever differences there may be between Great Britain and the United States with reference to the subject matter of this legislation. The Senator from Utah [Mr. SUTHERLAND] has proposed an amendment of the same general character, providing that the President shall enter upon negotiations with Great Britain to make an agreement for a special tribunal before which these questions of difference may be arbitrated. I am also opposed to that, or to any proposal to arbitrate our rights in and over the canal.

I have already stated, Mr. President, my firm opinion that the United States of right exercises absolute sovereignty over the Panama Canal and over everything connected with it. I have no doubt that the United States has an absolute right to govern, regulate, and control that canal. I regard the regulation of the canal as a purely domestic matter.

I am not voting to repeal that clause of the act of 1912 exempting coastwise vessels from tolls because I think that policy would be volative of our contractual obligations with Great Britain as embodied in the Hay-Pauncefote treaty. I have stated my position with respect to that question with sufficient elaboration on a former occasion during this debate. I merely say this much in reaffirmance.

I am voting to repeal the tolls-exemption clause of the Panama Canal act of two years ago because I am uncompromisingly opposed to the policy of allowing American coastwise vessels to pass through the canal without the payment of tolls, because I think the exemption of our coastwise vessels from the payment of tolls would be a subsidy granted to a monopoly; and I have stated the grounds of my convictions in this behalf on the occasion to which I have alluded.

Mr. President, holding the views I do with respect to all these matters covering this whole controversy, I can not consent to arbitration as proposed in the amendment offered by the Senator from Nebraska; I do not believe that the differences involved constitute an arbitrable question. Whether we shall allow preferential tolls to any class of American shipping, I regard as a question which belongs to us alone. I would as soon think of submitting any other domestic question that might be named to arbitration because Great Britain or some other nation might challenge our rights with respect to it. I would not, for example, consent to arbitrate a question involving our right to place limitations upon immigration from any country; but I would as soon think, Mr. President, of arbitrating that as of arbitrating the question as to whether the United States is the master, the landlord, the sovereign owner of this waterway, or to arbitrate our sovereign right to control this canal according to our own pleasure. I am not willing to vote now or hereafter to arbitrate any question of that kind.

My friend from Utah [Mr. SUTHERLAND] challenged me on yesterday, asking how I could vote against an amendment he had offered to the pending bill, making, as he thought and claimed, a broader assertion of the American right to do the things I claim we have the right to do. I answered him then that I thought that the amendment proposed by the Senator from North Carolina [Mr. SIMMONS], and agreed to by the Senate, was in all reason ample and sufficient to cover the ground the Senator sought to cover by his amendment to that amendment, and that I believed that the Senator from Utah, being hostile to this legislation, was seeking only to embarrass its passage. He denied that that was his immediate purpose in offering the amendment, but declared in the same breath that he was more than willing to do anything he could to imperil the enactment of this bill. And now I wish to say that it is a little strange to me that a Senator holding such pronounced views as does the Senator from Utah as to the title and right of this Government to do as it pleases with that canal, and to do it, I say, as a matter of absolute right, could consent to submit a question of that kind between this and a foreign Government to arbitration. I think I am a better friend than is the Senator from Utah to the doctrine of American sovereignty over and of the American right to dominate and control the Panama Canal. I will not vote for this amendment, nor any other like it.

Mr. BRANDEGEE. Mr. President, I shall be exceedingly brief in stating the reasons why I do not feel like supporting the amendment offered by the Senator from Nebraska at this time.

We are considering a bill, which has already passed the House, for the repeal of a statute. I regard the question of our right under the Hay-Pauncefote treaty to exempt our vessels passing through the canal from tolls, if the high contracting parties under the treaty differ about it, as presenting an arbitrable question under our arbitration treaties; but I say we are considering the repeal of a certain clause in a United States statute. The House has passed a bill accomplishing that purpose. The Senate proposes to concur in it with an amendment, I take it. The amendment proposed by the Senator from Nebraska [Mr. NORRIS] in effect states that in the opinion of the Senate a question presented by a certain diplomatic communication by the foreign office of Great Britain to our State Department raises a question for international arbitration. Whatever may be the merits of that, I do not think it wise for us to attach that kind of an amendment to this House bill.

Mr. WEST. Mr. President——

The PRESIDING OFFICER (Mr. SAULSBURY in the chair). Does the Senator from Connecticut yield to the Senator from Georgia?

Mr. BRANDEGEE. Certainly.

Mr. WEST. If a matter of arbitration were annexed to this bill, would it require a two-thirds vote of the Senate?

Mr. BRANDEGEE. No, Mr. President. This is proposed as an amendment, I take it, and if adopted would be adopted by a majority of the Senate; but it deals with a subject which, if it were here upon its merits and any effective action were to be had upon it, would require a two-thirds vote of the Senate.

If the Senate should adopt this amendment by a majority, we would stand in this position: That the Senate by a majority vote had declared that a matter was recognized by a majority of the Senators to be arbitrable, although two-thirds of the Senators declined to submit it to arbitration.

That, in my judgment, fairly represents the fact of the situation as it is within the view of those of us who talk with each other and know what the situation is.

While I think it is a commendable purpose that the Senator has, and I think the question of the right to exempt is an arbitrable question, and while I would vote to submit it to arbitration if the proposition were here, and would gladly constitute one of a two-thirds majority of the Senate, if it were procurable, to do it, I do not quite recognize the propriety or the necessity of attaching it to the simple repeal of a domestic statute.

Many Senators have given their individual opinions that the questions about this exemption which have been raised by Great Britain are arbitrable. If the statute which creates the exemption is repealed, I do not have the faculty of looking into the future so as to be sure that there will be any occasion for any arbitration at all, nor do I think it is necessary; and perhaps it may not be wise for us to attempt to express opinions by a majority vote that could not be carried by a majority vote into practice, nor to attempt to decide questions which are not before us. I think it is a wise practice, where it is observed, for a court to decide the question that is presented to it, but not by obiter dicta and sayings in passing to intimate anything about some question that is not pending before it.

Furthermore, to attach a question of this kind to the House bill is, in my opinion, to intermingle into a plain question of legislation a question possibly concerning a treaty or a diplomatic matter with which the Senate might have some concern in the future, but with which the House probably has no concern at all. Furthermore, it creates another matter of difference of opinion between the House and the Senate. We have no knowledge that the House will accept the amendment we have already put upon this bill, and to plunge the House, whose Members may not consider themselves so deeply versed in treaty matters and the functions that hitherto have been confined to the President and the Senate, into a discussion upon this question, which never has been before them, is, in my opinion, to enter upon a work of supererogation, and to attempt to explore some territory that it is not necessary to be acquainted with for the proper solution of the problem now before us.

Therefore, while expressing great friendliness to the general proposition of the Senator, I shall be compelled to vote against the proposed amendment at this time.

Mr. O'GORMAN. Mr. President, I shall not pretend to say that there will not remain a controversy for determination after this bill is enacted into law, and yet there might be much justification for the statement that the consummation of the work now contemplated by a majority of the Senate will leave nothing for arbitration.

In international relations Governments speak through their respective heads. The head of this Government has publicly declared that the contention of the British Government with respect to the interpretation of the Hay-Pauncefote treaty is the correct one. I do not think it fair to the present Executive, and I am sure it will be unfair to the people of the United States, to involve the President of the United States at this time in the proposed arbitration.

Do you expect him to stultify himself? The President of this Nation has told the world that the British contention with respect to this treaty is the correct one. Do you expect him to appoint arbitrators to show the error into which he has fallen?

If the embarrassing task were placed upon him of selecting arbitrators, who would be selected—those who share the view of the President or those who are opposed to it? And if he should select—as he would be justified in doing, if you provide for this arbitration at this time, with your knowledge of his attitude and his belief—three arbitrators sharing his opinion with respect to this disputed interpretation of the treaty, what would be their attitude in a court of arbitration? Could it be anything else than a confession and an admission that the British construction of this treaty is the correct one?

Why, Mr. President, if there ever should come a time when this controversy must be arbitrated, that time is not now. No matter how you conceal your proceedings with respect to the pending legislation, you are giving notice to the world that the American Congress is vindicating the judgment of the American President, who has declared that the British contention is the true one, and that we have been guilty, under another administration, of an act of base violation of international obligations.

No, Mr. President, do not embarrass the President of the United States at this time by requiring him to participate in your proposed arbitration; and, more than the embarrassment to the President, do not embarrass the 100,000,000 people of this country, whose rights, in my judgment, are being sacrificed by the legislation that the majority of this body proposes to-day to put through.

I shall vote against the proposal to arbitrate this question.

[Mr. NEWLANDS addressed the Senate. See Appendix.]

Mr. NORRIS. Mr. President, I will detain the Senate only a very few minutes. I want very briefly within that time to say why it seems to me that it was proper to offer this amendment on this particular bill.

The Senator from Connecticut [Mr. BRANDEGEE] has said that while he is in favor of arbitration as a general proposition, and I know he is, he is opposed to putting it on this bill because the treaty-making power consists of the Senate and the President, and this is a bill which must also be passed by the House of Representatives and can be passed by a majority of both Houses, while a treaty must have the affirmative vote of two-thirds of the Senate.

I confess that one of the reasons I offered this amendment to the bill in the way I did was because I feared that when a treaty of arbitration on this proposition came before the Senate it would be difficult to get two-thirds of the Senate to ratify such a treaty. In my judgment the placing of this amendment in the law would have a moral force to assist in securing this two-thirds vote on any treaty of arbitration made in pursuance of such a law. If we passed this law with this amendment added and it thereby became a law, having the approval of the House of Representatives and the signature of the President, it would be a great argument, a great moral force, toward securing the necessary two-thirds vote for the ratification of any treaty made in carrying out such a law. It is quite evident from what several Senators have said and what quite a large number have during the discussion privately said to me, men who are recognized as leaders in the great arbitration movement of the world, who are Members here of the Senate on both sides of the Chamber, that these men do not agree with me that it is proper to attach this amendment to the bill.

While I am firm in my own belief I can not help but recognize the fact that these men, many of whom have had more experience in the arbitration movement than I, some of whom have been leaders in the world in that movement, should be considered and that I ought to concede something to their judgment. I can see that the amendment will not get all of the votes even of its friends, and therefore the showing in its behalf might do harm rather than good. Besides I do not want to put the friends of arbitration in an embarrassing position, quite a number of whom feel it their duty to vote against the amendment because they believe it improper to put it on this bill.

I wish to say just a few words further in justification of my offer of the amendment. What is this dispute that I propose to declare by the amendment is a fit subject for international arbitration? It is stated in the amendment. It is the claim, on one side, of Great Britain that we have no right under the Hay-Pauncefote treaty to exempt the ships of American citizens from tolls when passing through the canal. On the part of the United States Government it is claimed that we have such a right. That is all there is to it. All of that dispute arises out of the treaty. There is nothing involved in it except whether, under that treaty, we have a right to make that exemption.

It is wrong to confound that question with the domestic question involved in this law. There is a domestic question—a question of national importance—connected with our economic policy involved in the bill, in addition to the international one. To my mind, I say, I know no reason why this amendment should not be adopted, and yet some Senators, who believe in the principle enunciated by the amendment, think that that is an objection to putting it on the bill. I think we ought to differentiate the two propositions before us. The repeal of this law involves, as I see it, two questions. One is that it is a proper economic policy for the Government of the United States to exempt its vessels from tolls when passing through the canal;

that is, regardless of the international question, assuming, for the sake of the argument, that there is no question but we have a right to do it, and assuming therefore that England has no right to be considered, and that neither has any other country of the civilized world any claim or right to be considered. But there is another question involved, and it is to that other question—the international question—that the amendment particularly applies. That is the question arising under the treaty—our right to exempt our vessels from tolls.

I have heard one Senator say here to-day that even though we submitted it to arbitration he would be opposed to abiding by the judgment of the tribunal that did it.

Of course I assume even that Senator, when he comes to deliberate, would take back that statement. I can not conceive how a citizen of the United States, when his Government has entered into a solemn treaty, would violate a judgment rendered on that treaty by an international tribunal which had been agreed to by our Government.

The Senator from Missouri says that he would no more arbitrate this question than he would arbitrate whether we should admit immigrants to our country from certain countries of the world. But we have no treaty with the balance of the world that immigrants shall be admitted. We have here an agreement with England, a contract put in writing. It is not a question now as to whether it is good or bad. Personally I do not believe there is anything in it that hurts us or that there is any danger in it for us. It seems to me that we can afford to take but one position, that after that international agreement it is our duty as representatives here of the people of the United States to see that there shall be no stain upon the honor of our country, and that we will abide honestly and honorably by every agreement into which we have entered.

Now, there are a great many Senators—I think practically all the Senators—who agree with me in that proposition, but for other reasons, some of which I have enumerated and some of which I have not, think that it is unwise to put this amendment on this bill.

I do not want to embarrass those Senators who conscientiously believe in arbitration. This amendment does embarrass some of them, because it will put them before the country and perhaps put the country before the world in a false light on this proposition.

I do not believe we can afford to decline to arbitrate this dispute between Great Britain and this country under the Hay-Pauncefote treaty. It is conceded that it is a dispute and that it is an honest dispute that honest men, of equal ability, of world-wide reputation, after giving it careful study, disagree as to just what the treaty means and as to whether or not we have the power to exempt our vessels from tolls.

It seems to me that we are assuming to ourselves something that no man and no nation has a right to assume, to say we will be alone the arbiters of the agreement which we enter into. We will decide them as best suits our fancy. It was said by another Senator here that it was compared to freight rates on transcontinental railways, and he said he would not submit that question to arbitration.

Of course nobody expects him to. Nobody has proposed to submit that to international arbitration, but as a matter of fact let us apply the principle. I believe that illustrates it. We have an arbitration tribunal to pass on transcontinental freight rates in this country, the Interstate Commerce Commission. It would not be right to say to the shipper, "You can fix a rate." It would not be right to say to the railroad companies, "You can fix them without appeal to any tribunal or to any court." We have found that out from experience, and so we have provided an arbitration tribunal. There is not a question between individuals in all the civilized world where men are so liable to disagree but what civilization has provided an arbitration tribunal. One great hindrance to international arbitration, in my judgment, is that there are not existing in advance courts and rules of courts to try and determine the disputes between nations as they arise.

Now, Mr. President, for the reasons that I have given it seems to me that it would be unwise to press this to a vote, and therefore for those reasons, Mr. President, I withdraw the amendment.

Mr. SUTHERLAND. I presume the amendment can not be withdrawn without unanimous consent.

Mr. NORRIS. I think I have a right to withdraw it, but I will withhold the withdrawal if the Senator wants to be heard on it.

Mr. SUTHERLAND. I do not rise for the purpose of objecting, although I think I have the right to object; but I want to say a word or two about the matter before it is disposed of.

I am personally very strongly in favor of arbitrating this question. I recognize, as the Senator from Nebraska [Mr. NORRIS] has so well said, that the situation in this Chamber just now is not of a character that will probably secure the favorable votes of several Senators who believe as heartily as I do in that proposition. I think it ought to go upon this bill, but a number of Senators who are very much in favor of the bill think that it would endanger it, and for that reason they do not intend to vote for it, although they believe in the principle.

I will say frankly that the fact that it might endanger the bill would not deter me from voting for the amendment. In fact, if there could be any circumstance which would commend it to me more strongly than it is commended, it would be the fact that it would endanger the bill.

Mr. BRANDEGEE. Is that the reason why the Senator favors arbitration?

Mr. SUTHERLAND. No; that is not the reason why I favor arbitration; but as strongly as I favor arbitration and as strongly as I favor this proposed amendment, I would favor it still more if I was quite certain its adoption would defeat this measure.

But, Mr. President, I am sincere in my advocacy of the principle of international arbitration. As much as I am opposed to this bill, I would not do anything that would throw the slightest obstacle in the way of the final accomplishment of the end in which I believe so strongly. I think there is a great deal in what the Senator from Nebraska says, that a vote upon this arbitration proposition now as an amendment to this bill would not receive a majority, and the attitude of many men who would vote against it would not be understood in the country, and in all probability a false notion would arise from that that the Senate is opposed to arbitration.

I think that would be a very unfortunate result. There will be an opportunity of voting upon this question. The Foreign Relations Committee of the Senate has reported the resolution which I introduced which requests the President to open diplomatic negotiations with a view of bringing about arbitration. So the opportunity will not be lost, even if the amendment is not put upon this bill.

The Senator from Missouri [Mr. STONE], in the course of the apology which he made a short time ago for voting against the amendment that I offered last night, rather insisted that I was inconsistent in supporting arbitration while I believe so strongly in the American side of this controversy. Why, Mr. President, that is exactly the situation that arises in every lawsuit. I insist as strongly as I know how that I am right in a controversy, and my adversary insists as strongly as he knows how that he is right, and we are both absolutely sincere. The only thing to do under such circumstances is to submit the controversy to arbitration. Of course, a controversy of that kind would go to one of the regularly established courts. Now, we are in exactly the same situation here. Senators and others, like myself, believe in the right of the Government of the United States to exempt the ships of its citizens from the payment of tolls for the use of the Panama Canal. Personally I have no doubt in my own mind about that at all; but the Senator from New York [Mr. ROOT], one of the ablest lawyers not only in the United States but in the world, takes the opposite view of the question. I respect his view; I respect his intellectual honesty; I know that if I can claim intellectual honesty for myself, I must accord intellectual honesty to him and to others who take the same view of the matter that he does. We have in that situation lawyers, present and former Presidents, former Secretaries of State, arrayed against one another upon this question; and there is presented the ideal case for arbitration.

Mr. President, we shall have to arbitrate this question one of these days or it will remain a thorn in our side for years and years to come. Let us not forget the trouble we had over the Clayton-Bulwer treaty, which dragged its slow length along for 50 years of continual bickerings and differences of opinion between the two countries, when there was in reality nothing of really serious importance about which to disagree. We have now a matter of great importance to disagree about. Does anybody imagine that the repeal of this tolls-exemption clause by this proposed law is going to end this controversy? Not at all. This discussion is going to be with us for 50 years to come, unless we settle it in some way. It will rise up from time to time as a disturbing difference between this country and Great Britain. I do not think those disturbing conditions ought to exist. I pray God that for all time to come these two great English-speaking nations will remain friendly and at peace with each other. I think there never has been a case presented in all the history of the world that so much

calls for arbitration as does this. I feel so strongly about it that I would not even in this situation do anything that I thought would throw the slightest impediment in the way of the final accomplishment of the thing which I hold so much at heart.

For that reason, Mr. President, while I should be glad to vote for the amendment proposed by the Senator from Nebraska [Mr. NORRIS], while I should be glad to offer my own amendment and have it voted upon for the reasons that I have stated, I shall not object to the withdrawal of the proposed amendment, and I shall not offer my own.

Mr. SMITH of Arizona. Mr. President, thus far in this long and sometimes interesting debate I have held my peace. If all had said less and thought more, a vote could have been had a month ago with not a change in the result. Let us hope—all of us, at least, who believe in full and free debate—that no such frequent repetition of this experience will occur, as to force a cloture rule on this body. My experience in the other House of Congress may be responsible for my impatience at the endlessness of talk here. When everybody except the orator is worn out some means will by and by be brought to bear that will silence him. I have listened to all this with credit to myself. [Laughter.] To some of it I have listened with profit and to much of it with interest.

Mr. President, I shall not go into the history of the treaties or even the terms of the treaty now existing between us on the one hand and England and the balance of the civilized world on the other. There is no need to do it here. The whole ground has been covered so often and so fully that I forbear to repeat the history of the negotiations. The whole question to my mind is so clear that I wonder at our differences. The Clayton-Bulwer treaty of 1850 was caused by our protest against English aggression on the east coast of Nicaragua and on her seizure of Tiger Island that blocked the east entrance to any canal across that Republic. The Monroe doctrine began to assert itself, and the United States was in a mood to sever peaceful relations with England. The treaty settled all differences. England afterwards gave up her claim of a protectorate over the Mosquito Coast and her claim to Tiger Island. Neither nation was ready to dig the canal. Neither ever contemplated that either would build it, but both, out of abundant caution, agreed that if the Nicaragua canal was built they each, and both together, would secure its neutrality against any effort otherwise by any nation on the earth. Nothing was said in this treaty nor in any of the negotiations leading up to it which in any way affected our coastwise trade, for at that time no purpose had been shown on our part to undertake such a mammoth enterprise. The great accomplishment was so remote that the insignificant question before us now was never in the contemplation of the high contracting parties. The clause in that treaty guaranteeing equality of "all nations" using the canal to be built probably thereafter by the combined efforts of several or many nations, or, as then contemplated, by a possible syndicate underwritten by the credit of several Governments, bears a very different meaning under largely different facts. I never could understand why the Hay-Pauncefote treaty was ever agreed to by the Senate, though abundant alleged reasons have been assigned in this debate. I find no satisfaction in those reasons, or conviction in their favor. But I see nothing in that treaty which leads me to believe that our coastwise trade was involved or even contemplated by the parties negotiating it.

Mr. President, the Hay-Pauncefote treaty was made in the light of and in clear view of our law regulating our coastwise trade, which had been in operation for near a hundred years. No intendment of its repeal by this extraordinary method can be reasonably indulged. Under that law no ship of any other nation could engage in that trade along any part of our American coast. There could be no discrimination where there could be no competition. As no one could compete, no one could complain. If there could thus be no ground of complaint against us by reason of excluding all other nations from this particular business, it is incredible that either of the high contracting parties, by using the term "ships of all nations," did not mean all *competing nations* and nothing more. The very rules laid down in the treaty for the government of the canal by the United States makes any other construction impossible to my mind. If our law was to be repealed, it would have been mentioned somewhere in the treaty or in the negotiations leading up to it. If England had intended to claim, or we to concede it, the words "including the ships engaged in the coastwise trade of the United States" would have been inserted. Common frankness required that a clear intent to repeal the laws of either nation should have been at least mentioned somewhere. There was no such intent. It was an afterthought with England. At the time the treaty was made England was only interested in seeing that in the deep-sea trade of the world, of which she was the unchallenged mistress, that no discrimination against her and in favor of any rival should at any time be possible in the use of the canal. She had no other care then. She should have less now, for outside of every expectation at that time, we bought and own the right of way across Panama. We made treaty with that Republic inconsistent with England's present claim, yet she made no protest. We almost doubled the capacity of her bottoms by shortening the pathway of the seas in her trade through the canal. We built the locks; we dug the canal; we fortified it at an expense of brain and energy and money that excite the wonder and deserves the gratitude of all the children of men. England, in her own behalf and as quasi trustee for all foreign maritime nations under this treaty, does herself scant justice in making objections which she has urged.

Mr. President, I do not believe, for reasons already stated, that the treaty involved in any way our coastwise trade. In this judgment I find myself opposed to many of the ablest minds and purest patriots in this country. There is a divergence of opinion in England on the question, in Germany, and France, and probably all other interested nations. The President believes that the term "all nations" used in the treaty applies to the ships engaged in the coastwise trade of the United States. So believing, he has had the courage to appeal to us to keep sacred our national promise and preserve our national honor from stain. Having this conviction, and seeing his duty under it—knowing the clamor it would cause and the false motive which would be assigned—he nevertheless, with high purpose and supreme courage, advised us to do what he believed was our great duty to do, and what he would have done if he had the power. For this he is denounced as being a tool of England—un-American in heart—by those having some purpose to injure him or the party of which he is the head. A man who would violate his conception of the obligations contained in a treaty would not hesitate to violate a private contract. There is no need of denunciation or abuse of high-minded, patriotic men who differ on the construction of language in a contract. I am, however, gratified to find myself in thorough accord with the President in his declaration that freedom from tolls of American-owned ships is a mistaken domestic policy. On that declaration every Democrat who feels as I do can heartily unite in suppressing the subsidy granting free passage through the canal of ships owned by certain Americans, while the balance of our citizens are taxed to pay for its upkeep. I would not vote for this repeal bill if by such vote I would concede England's contention that the treaty bound us to repeal it. I would not vote for this bill without an amendment saving every American right of ownership and sovereignty over the canal. I have said this much to many of my constituents, and said the same to the President in the early days of this debate.

I expressed my purpose to vote against the bill as it passed the House, and I would vote against it now except for the amendment, which leaves us free to do as we please as to the imposition or exemption of tolls. So firmly am I of the opinion that we are not bound in respect of our own shipping through our own canal that I do not see even a question of arbitration in the alleged dispute. I am not sustained in this attitude by many more able and experienced Senators, who now honor me with their attention. I accord to every one of them motives as pure, patriotism as large, and sincerity as great as I claim for myself. None of us here are un-American. No man on this floor, and, indeed, no American in any assembly anywhere, will do anything or say anything or feel within him anything that would surrender a national right to any prince or power on the earth. Our native-born and all true and worthy sons of our adoption share equally that sentiment. There never has been, there never will be, a President of these United States who will lower our banner in the face of any flag on earth. Partisan prejudice, for purposes of its own, may assail with calumny as brutal as that cast against Washington and Jefferson and Jackson, yet all of our Presidents will, as these great heroes did, rise triumphant in history, with no blot or stain or wound on their honor, integrity, or patriotism.

Mr. President, I have, without presenting the treaty and without any purpose to answer arguments from the opposing side in this controversy, rapidly given the reasons which direct my course in relation to it. The other and controlling question here involved merits brief attention. I refer to the plain, open, bare-faced subsidy in this exemption of tolls. A ship owned by an American corporation is no more an American ship than a locomotive engine on any of our railroads is an American engine. Each is private property, owned by private parties, and both are engaged in transporting persons and freight for private profit, and both will charge all the traffic

will bear, whether you do or do not subsidize the one by large money which the user of the canal should pay for its upkeep, land grants and the other by paying out of the Public Treasury Is this the expiring wail of the vigorous ship-subsidy sentiment so rampant in this Chamber when the Republicans were in power?

If this is the small burglar's jimmy by which you hope to break into the Treasury vaults for larger sums to be vainly applied in subsidies to our over-seas trade, you will find at last that no subsidy, however great, will ever restore to us a profitable merchant marine. A private business which takes its profits from the public Treasury is a parasite, not an industry. It is an obligation, not an asset. The county poorhouse equals such business as that, in producing prosperity. In fact, the poorhouse has the advantage in that public money reaches forth help to those who need it. Your subsidy doctrine fulfills the scripture curse, "To him that hath shall be given and from him that hath not shall be taken even that which he hath."

No, Mr. President, you can not be impoverishing the people in aid of any business make that business profitable to them. No amount of subsidy will keep our ships on the sea a day after the subsidy is withdrawn. England's present supremacy in the sea-carrying trade is natural. In no way is it due to the superiority of her seamanship or the courage of her sailors. Nor is it occasioned by her laws, any more than we can regain our former place in ocean trade by an edict of Congress. Burden that edict as grievously as you please with subsidies from the people's pocket, yet you will fail to "fret the sea with ships." The reason is obvious. Man is a land animal, and he never took to sea until forced into it by harder conditions on his soil. There never has been, and there never will be, a seafaring nation, carrying trade and exchanging products between the ends of the earth, that has not a crowded population at home, with land inadequate to produce subsistence for its people, where wages are low and no chance to live except by trading products with other people. Man will not leave home and family—abandon wife and children—to face the manifold perils of the sea, when a safer and easier competence meets his equal labor on land. No mighty continent with boundless resources such as ours, can ever hope to compete successfully with a landless people on the sea. With a business too profitable to neglect, with an easy market at home for the products of their labor, men would be fools to take to the sea for a living. These causes, these conditions, have driven our merchant marine out of business. A ship is a tool of commerce.

There was a time when along the inhospitable and unproductive coast of New England we made the cheapest and best ship in the world and manned it with the best sailors. For the time we held supremacy over the sea trade of the globe. The great middle and far West was undeveloped and scarcely known. The New Englander was forced to the sea, just as the first great sailors had been driven from the land in the days of Hiram, King of Tyre, when the landless and manufacturing Phœnicians, the Canaanites of Bible history, exchanged their wonderful cloths dyed in Tyrian scarlet and purple for the food, spices, and jewels of the East and the gold and silver of the Iberian coast. Like conditions to-day would on this continent produce like results. If we had no profitable land, we would be great sailors. If we had no homes, we would go to sea. Having both, we stay on land and let him carry for us who can do it cheaper than we. Subsidies are both wasteful and unavailing, as well as unjust and sinful, against the many forced to suffer extortion for the benefit of the few. Whenever an assault is designed on the taxpayer's pocket the predatory interest invariably wraps itself in the American flag and that proud emblem of the free represents in action a freedom to pilfer from those least able to contribute their means to the maintenance of such "patriotism." I for one will not cast a vote for any subsidy when I see it. If I erred in voting for free tolls, I should retrieve it at the first opportunity. My excuse for such vote, if any excuse can exist, was because the free-tolls provision was a plank in the Democratic platform, and little attention was called to the effect of such a plank. A promise to do an injury to a confiding people, even though contained in a party platform, is more honored in its breach than in its observance. A subsidy has no business in a Democratic platform.

If by some hook or crook or subterfuge or mistake such doctrine gets into it—a doctrine so violative of our party history and Democratic tradition—the beneficiaries may learn now that such a scheme can not avail to accomplish its purpose when the case is fully understood. I am blaming no man who thinks that he is bound by his party platform, no matter what a few delegates to the convention may have written in it, even though contradictory planks appear. I am finding fault with no man on this side for the view he takes of his obligation or the course pursued by him in effectuating it. I would concur with my Democratic friends in their vote for free tolls if I believed, as they declare, that a vote otherwise recognizes England's right under the treaty to demand that tolls shall be laid on our coastwise ships now, henceforth, and forever. I would go with them but for the amendment now adopted, which directly declares our sovereignty over the canal and our right to do as we please about the tolls question. It surrenders nothing to England's claims, but, on the contrary, asserts that we do not surrender any rights we have by collecting these tolls on all ships using the canal True, the President in his message to Congress said that the free-tolls statute was in plain contravention of the terms of the Hay-Pauncefote treaty. For reasons already stated, I find myself unable to agree with him in that conclusion. The President in the same message also said that free tolls to ships owned by citizens of the United States was a mistaken domestic policy. In that finding I fully concur, and that consideration alone directs my course and controls my vote. Discarding, as I do, all question of the treaty or its claimed relation to our right of free action, I am quite free to determine that the few shipowners using the canal for their own profit shall pay their part of its upkeep rather than that all the balance of the people shall be taxed to keep the canal in repair for them. Everybody knows that the canal will not be self-supporting. A large deficit, amounting to many millions, will annually occur. Somebody has to pay this. Is it fair to you, farmer, miner, artisan, mechanic, that the rich American shipowner can use your property without paying a cent for the use while you are forced to pay for its construction, for its upkeep, for its defense, and the wages of the men who lift and lower his vessels through the locks; pay the men working for the benefit of the Ship Trust, while no hope of any return to you is in sight except the usual unkept promise to give back to the people the money extorted from them by taxation.

No matter who advocated such a monstrous doctrine, no matter in what platform it was written, no man is wise enough, no man potent enough, no party great enough to redeem it from palpable wrong and flagrant injustice. That particular plank contradicts, as I have before said, not only the time-honored doctrine of the Democratic Party, but is itself directly contradicted by the same platform in which it occurs. Besides all this, that free-toll plank has been directly repudiated by three-fourths of the delegates who were serving in that convention, as shown by letters, over their own signatures, sent to a Member of this body. Not one in twenty of them ever knew, when voting for this platform, that such a plank was in it.

The claim is being urged by these taxgathering shipowners that the transcontinental railroads will be benefited by imposing tolls on these ships. We all know that the railroads have been so conducted as to leave the public mind prejudiced against them, and this fact accounts largely for such use of this prejudice by the shipowner to blind the people while he asks the public to pay his bills. Have we reached the point where prejudice against one robber is to be used as a shield favoring another attempting to rob? Can even a just prejudice against an old wrongdoer invite a new wrongdoer into the field of successful exploitation? I personally do not believe that free toll through the canal, by reason of the close corporation engaged in sea transportation, and also by the long distance in passage, and also by the certain freight-rate agreements that would otherwise be made between the ship and the railroad, will in any way, tolls or no tolls, very much affect, if it affects at all, the price which the consumer will pay for the products carried by either.

The railroads can no longer charge what they please. The Interstate Commerce Commission fixes its rates. They can no longer impose at will whatever burden the traffic will bear. The whole loud cry that this legislation is in aid of the railroad amounts at last to no more than an appeal for a subsidy—a plea that if you do not let us into your pocket the other fellow will steal from you. The one's aggression has been curbed by law. Shall we give another monopoly free rein? Our duty is to keep the hands of both out of the Public Treasury. It can easily be done by the Interstate Commerce Commission fixing just and fair rates for rail transportation, and the law requiring from sea transportation its fair and just share in the upkeep of our canal.

The free tolls will not, in my best judgment, aid the consumers in my State or in any other State similarly situated. I do not believe that free tolls will prove of much, if any, benefit, even to seaport cities; and even though such policy would help such cities, it certainly will not help them to the extent of the loss to all the people of the United States, which would be oc-

casioned by compelling them all to pay for the expense of keeping the canal in operation and repair, for the benefit of the users of the canal who pay nothing toward its support. The coastwise trade of the United States is a monopoly, made so by our law. It has no competition. It is fully protected. It needs no contribution from the people. The time for subsidies and special privileges is luckily passing. Let us hope it has passed for all time to come.

Mr. LANE. Mr. President, I should like to say, for the information of those who are not familiar with locks and canals, who do not live upon them, that in the State which I in part represent we have two systems—a lock and canal on which a toll is charged, and another which is conducted by the Government and is free and open to all that come to use it; so we are familiar with both. We see them day by day, every day in the year, and have seen them for years.

In one instance the locks were owned by a private corporation, and a toll was charged of 50 cents a ton, and it entirely killed all of the traffic upon the river. It died. It went into the hands of the railroad company which had a line of railway along the river. In the other instance it is free and open to all the steamers which come to it, and there is an independent line of steamers and a lower freight rate up and down that river in consequence of the freedom from tolls.

Mr. SIMMONS. Mr. President——

Mr. LANE. Of course, it is in the nature of a subsidy.

The PRESIDING OFFICER. Does the Senator from Oregon yield to the Senator from North Carolina?

Mr. LANE. I do.

Mr. SIMMONS. If the Senator will pardon me, I wish to make a parliamentary inquiry. What is before the Senate?

Mr. LANE. The tolls question, as I understand—Panama Canal tolls.

Mr. SIMMONS. Is there any amendment pending at this time?

The PRESIDING OFFICER. In answer to the inquiry of the Senator from North Carolina, the Chair will state that the Senator from Nebraska [Mr. NORRIS] asked leave to withdraw his amendment. As the amendment has not been amended, and the yeas and nays have not been ordered upon it, under Rule XXI of the Senate he is entitled to withdraw it. The amendment is not before the Senate for consideration. The question before the Senate is the bill itself.

Mr. SIMMONS. I beg the pardon of the Senator from Oregon. I did not mean to interrupt him. I simply wanted to find out whether the amendment is now pending or not.

Mr. LANE. I do not wish to occupy any of the time of the Senate. I wish to say to them, for their information, and without prejudice either for or against the question, that we have both systems. The one wherein a toll was charged has killed off the traffic on the river. In the other case, where there are no tolls, which I presume is in the nature of a subsidy, the same as the case of the Panama Canal, traffic on the river has been kept open and alive, and the freight rates have been lowered.

That is the result of the experience of the people who have tried the two plans.

Mr. RANSDELL. Mr. President, on the 2d of this month I introduced an amendment which I propose to offer at the proper time. I shall detain the Senate but a few moments to explain it before having it read. It provides that the passage of this act shall not be held to mean that the coastwise trade of the United States is affected by the Hay-Pauncefote treaty.

My purpose in offering this amendment is to show, if possible, that this country did not violate any pledge or obligation or contract of any kind when the tolls act was passed two years ago. Coastwise commerce is interstate commerce. It is domestic commerce. It is commerce in which England has no interest. Hence the treaty-making power, in making the Hay-Pauncefote treaty, had no right to include the coastwise commerce, if there was any attempt to include it; and my contention is that there was no such attempt.

Section 8 of Article I of the Constitution provides that Congress shall have power "to regulate commerce with foreign nations, and among the several States, and with the Indian tribes"—Congress, not the Executive and the Senate. Another article of the Constitution authorizes the President, by and with the advice and consent of the Senate, to make treaties between this Nation and a foreign nation. A treaty is a compact between two sovereignties concerning matters which relate to them, and it must be confined to matters of interest to those two sovereignties.

What interest has England in our purely domestic affairs? What interest has England in our rules and regulations concerning railway business between New York and Chicago, or St. Louis and Cincinnati, or New Orleans and Galveston? Those are purely domestic affairs.

What interest has England or any other foreign country in our copyright laws, our patent laws, our police and quarantine regulations? Absolutely none; and if the treaty-making power attempted to interfere in or regulate any of those matters it would be so clearly ultra vires that it would have no force or effect whatsoever.

COMMERCE FROM ONE AMERICAN PORT TO ANOTHER.

The commerce along our coast, which from the very beginning of this Republic has been confined to American vessels, is just as much a domestic, internal, interstate affair as police regulations, copyrights, patents, or railroad regulations—certainly just as much.

You may say that we are going to pass a law now in which the whole Congress is participating. Yes; we are; but many people expect to vote for this bill because they say we made a bargain with England and, hard bargain though it be, we must stand by it as honorable men. They say we are morally bound and obligated by the terms of the Hay-Pauncefote treaty to treat our coastwise vessels exactly the same as we do the vessels of foreign countries passing through the Panama Canal.

If I can demonstrate to you, as I believe I can, that the Hay-Pauncefote treaty could not in any way affect this interstate commerce, I will at least have shown that there is no moral obligation imposed upon us in this matter; and that would be a very important thing from my viewpoint, for I am one of those men who stand by a contract when I make it; and if our Government made a contract with Great Britain it ought to stand by it, no matter how hard it may be to do so.

I wish to read very briefly from an eminent authority on this subject, and will ask the careful attention of the Senators. I shall detain them but a few moments. I read from page 170 of volume 5 of the Digest on International Law, by Mr. John Bassett Moore. He says:

> That a treaty can not invade the constitutional prerogatives of the legislature is thus illustrated by a German author, who has given to the subject a degree of elaborate and extended exposition which it has received from no writer in our own tongue:
>
> "Congress has under the Constitution the right to lay taxes and imposts as well as to regulate foreign trade; but the President and Senate, if the 'treaty-making power' be regarded as absolute, would be able to evade this limitation by adopting treaties which would compel Congress to destroy its whole tariff system. According to the Constitution, Congress has the right to determine questions of naturalization, of patents, and of copyright. Yet, according to the view here contested, the President and Senate, by a treaty, could on these important questions utterly destroy the legislative capacity of the House of Representatives. The Constitution gives Congress the control of the Army. Participation in this control would be snatched from the House of Representatives by a treaty with a foreign power by which the United States would bind itself to keep in the field an army of a particular size. The Constitution gives Congress the right of declaring war; this right would be illusory if the President and Senate could by a treaty launch the country into a foreign war. The power of borrowing money on the credit of the United States resides in Congress; this power would cease to exist if the President and Senate could by treaty bind the country to the borrowing of foreign funds. By the Constitution 'no money shall be drawn from the Treasury, but in consequence of appropriations made by law'; but this limitation would cease to exist if by a treaty the United States could be bound to pay money to a foreign power. * * * Congress would cease to be the law-making power, as is prescribed by the Constitution; the law-making power would be the President and the Senate. Such a condition would become the more dangerous from the fact that treaties so adopted, being on this particular hypothesis superior to legislation, would continue in force until superseded by other treaties. Not only, therefore, would a Congress consisting of two Houses be made to give way to an oligarchy of President and Senate, but the decrees of this oligarchy, when once made, could only be changed by concurrence of President and of a Senatorial majority of two-thirds."

Mr. President, it is well established that the assent of the House of Representatives and the whole Congress is necessary to any legislation affecting appropriations or changing the revenue laws. It is preposterous, sir, to think that the President and the Senate can affect the revenue laws of this Nation. Yet if the construction which many have given to this provision be taken, the President and Senate have by treaty with Great Britain affected our revenue laws, because this is a revenue measure. We propose to raise revenue by imposing tolls on our coastwise commerce passing through that canal. That question came up in a very interesting way a great many years ago. President Washington had a controversy with Congress in regard to it, and the subject is so well expressed by a great Virginian, Mr. Henry St. George Tucker, in a letter to me under date of May 28 last, that I read from it because it conveys the idea much better than I can express it. He says:

> In the line of your argument let me call your attention to this fact: Under the Jay treaty, 1796, the House of Representatives, by vote of 63 to 36, asserted its prerogative to examine and deliberate upon all treaties that carried appropriations (or changed the revenue laws). President Washington, you will remember, denied the claim of the House. I have only finished an examination of this question in the

last two days, and find that every President from John Adams to McKinley (except William Henry Harrison) has sent one or more treaties to both Houses of Congress which contained either appropriations or changes in the revenue laws for their action, showing that the victory won by the House in the Jay treaty fight was complete, for none of the Presidents in the time named followed the example of Washington.

Mr. President, I do not wish to take the time of the Senate for any elaborate discussion of this matter. I simply wish to make it clear that the House of Representatives was not a party to the Hay-Pauncefote treaty; that it is a necessary party to any law, to any regulation affecting interstate, international, and domestic commerce, and as it is a necessary party that this treaty could not affect our domestic commerce without violating the Constitution. If that be true, then we have a perfectly moral and legal right to do as we please concerning the tolls, and at the same time, sir, the fair thing to do, the open, honorable thing, is for the Senate to go on record in asserting the well-known, well-established right of the House of Representatives to a participation in any such measure as this.

Bear in mind that the House of Representatives originated the great law that gave us the $400,000,000 to construct the Panama Canal, and that for 10 years it has originated the great appropriation bills under which we have carried on this colossal work. Bear in mind that the House of Representatives is very close to the people of this country, closer in many ways than the Senate. They were entitled to participate in the Hay-Pauncefote treaty if it was to affect our domestic commerce.

Mr. President, let me repeat that that treaty does not, it can not, under the plain terms of the Constitution and the law of the land affect in any way our coastwise commerce.

The PRESIDING OFFICER (Mr. SWANSON in the chair). The question is on the amendment offered by the Senator from Louisiana [Mr. RANSDELL] to the amendment.

The amendment to the amendment was rejected.

Mr. VARDAMAN. Mr. President, I offer an amendment, which I send to the Secretary's desk as a substitute for the bill. I will not ask that it be read. All Senators are familiar with it.

Mr. SIMMONS. It need not be read. Let it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The SECRETARY. The Senator from Mississippi [Mr. VARDAMAN] proposes to strike out all after the enacting clause and to insert:

That the second sentence in section 5 of the act entitled "An act to provide for the opening, maintenance, protection, and operation of the Panama Canal and the sanitation of the Canal Zone," approved August 24, 1912, which reads as follows: "No tolls shall be levied upon vessels engaged in the coastwise trade of the United States," shall be suspended and shall not take effect as a statute of the United States until July 1, 1915, on which date it shall have full force and effect as a statute law of the United States. It is further provided that the proper authorities operating said Panama Canal, who shall, prior to said date, collect tolls levied upon vessels engaged in the coastwise trade of the United States, are hereby directed to set apart all such tolls so collected and retain the same in a separate fund until July 1, 1915. On that date, or as soon thereafter as possible, such tolls so collected shall be returned to the parties from whom they were collected, provided no contrary disposition has been made by law prior to that time.

That so soon as practicable after the passage of this act the President of the United States is hereby authorized and directed to appoint a commission, consisting of not less than three nor more than five persons to be selected by him, for the purpose of meeting a like commission to be appointed by His Majesty the King of the United Kingdom of Great Britain and Ireland and of the British dominions beyond the Seas, in a diplomatic conference to be held at such time and place as His Britannic Majesty and the President of the United States may agree upon. The purpose of such diplomatic conference shall be to take into consideration the controversy now pending between Great Britain and the United States as to the proper construction of the Hay-Pauncefote treaty, so far as the provisions of the same involve the right of the latter to regulate by its own legislation the levying of tolls upon vessels engaged in its coastwise trade and passing through said Panama Canal. It shall be the duty of such diplomatic conference, acting in the light of the discussions that have already taken place, to seek, in an equitable and friendly spirit, some practical solution of the entire question now at issue, which will worthily round out a hundred years of peace and friendship by respecting and conserving the interests and honor of both nations. The conclusions reached by such diplomatic conference shall be reported at its close to the Governments of Great Britain and the United States by their respective commissioners; but such conclusions shall not be binding upon either Government until accepted by both, and duly ratified upon the part of the United States by the necessary and appropriate legislation.

That the expenses and compensation of the said commissioners to be appointed to attend said diplomatic conference upon the part of the United States shall be paid out of the contingent fund of the Department of State according to law.

Mr. VARDAMAN. Mr. President, I realize that the Senators are weary and I am not going to prolong the discussion of this question by an elaborate or exhaustive analysis of the amendment proposed by me. I am convinced that the edict has gone forth, the minds of the Senators are made up that certain things shall be done, and that those certain things will be done by the Senate I have not the slightest doubt.

Mr. President, whatever may be done I trust will redound to the honor and welfare of our common country. It is a source of some regret that my sense of public duty leads me to differ from the President and a majority of the Democrats on the question at issue. I am devoted to my party, because I think it stands for the best things in American politics. Its interests are not only of personal concern, but of national moment. I regret to differ from the President of the United States, for whom I entertain most cordial good will and for whose learning I have great admiration, and whose patriotism I have never questioned. But, Mr. President, I have a duty to perform. I have obligations to absolve which I can not neglect or ignore. I believe that the perpetuity of this Republic depends upon the honesty and intelligence of the individual voter, and the fidelity, patriotism, and intelligence of the representatives of the people in the performance of their respective functions.

It has been said in the public press that I have criticized the President of the United States; that my attack upon him was "bitter." It has also been said that I had taken a "lick at the Secretary of State, Mr. Bryan." Mr. President, there was and is no bitterness in my heart toward those gentlemen, and the statements that I have bitterly attacked them has not enough of the elements of truth in them to make a well-developed decent piece of fiction. There is no feeling save that which should animate the soul of every self-respecting, intellectually honest man in this Republic for these distinguished officeholders. That I have criticized them I do not deny. They are subjects of criticism. They ought to be criticized when they deserve it. When they say and do that which I disapprove, or from which I disagree, ordinary self-respect and fidelity to my constituents demands that I should say so. There is no intellectual progress possible without liberty of thought and freedom of speech.

> I honor the man who is willing to sink
> Half his present repute for the freedom to think:
> And after he has thought, be his cause strong or weak,
> Will sink t' other half for the privilege to speak.

But in doing it no man can truthfully say that I have done it in a spirit of hostility. Mr. President—

> I honor the man, born and taught,
> That serveth not another's will,
> Whose armor is his honest thought
> And simple truth his utmost skill.

I know the disposition of the supersycophantic, the servile swingers of the incense pot in which is burned every vestige of independence, intellectual self-respect, and political honesty of their dwarfed souls and meager intellects, in order to delight the olfactories of those in authority. I know men of that character will impute to me improper motives, or motives of hostility to the administration. But what they may say or what they think is of little consequence or concern to me. Their purpose or hope doubtless is to get closer to the throne. Their vicious vaporings will vanish as a bad odor—the effluvium of a decadent mentality and decrepit manhood—which will be remembered by me only with mingled emotions of pity and regret.

Mr. President, the disposition of some people to apotheosize the officeholder, to hedge him about with a divinity which negatives the idea of fallibility, can not be considered by me with any degree of tolerance. The President of the United States is but the hired man of the American people. He is not a ruler, as my learned, eloquent friend, the ornate Senator from Illinois [Mr. LEWIS] has characterized him. He has been chosen by the people to perform a definite function, to hold his office for a fixed, definite period of time. He is simply an employee of the Nation, whose acts are subject to proper and legitimate criticism, and to whom should be given advice and counsel by all lovers of the Republic. It is only by the exchange of experiences, the attrition of ideas, and the friction of suggestions that the eternal truth shall be evolved. The only ruler in this Republic, Mr. President, is the man or the woman who deposits the ballot.

The President of the United States occupies the greatest office within the gift of any people on earth. The office of a United States Senator is a great office. The office of governor of a State is a great office; that of Representative in Congress is a great office, but I repeat the greatest and most vital function performed by any citizen or any man in this country is that performed by the man or the woman who casts the ballot.

I want to say furthermore that all the people have more sense and their judgment is more to be relied upon than the wisest man on earth. I would rather trust the feeling of a people than the intellectual processes of some men. The President may make mistakes, Congress may make mistakes, the legislatures of States and governors of States may make mistakes, but the people in the performance of the supreme function of citizenship can correct those mistakes. They can wipe

them from the statute books just as a school-teacher will efface the sum that the pupil has worked upon the blackboard.

I want to say further in this connection that no reform in all the ages of the world has ever been effected that did not originate with the people. It is also true that issues grow out of the conditions of the people rather than originating in the brain of individual statesmen. Our Government has not passed the experimental stage yet. A century and a quarter is but a span in the life of a nation. Every election in the history of this Republic is a crisis. We to-day are writing history which few of us, I dare say none of us, understand the real meaning and significance of. We do not realize the consequences that will flow from our acts to-day. Some one has wisely said that the most striking thing that history teaches is the unmindfulness of what is taking place on the part of those who are prominent actors in what have proven to be the great turning points of time.

The country is safe as long as the individual citizen realizes his power and performs his function properly, and the servants of the people, the officeholders, the Representatives, the Senators, and the President, shall be faithful to the people. The only light which we have to guide us in the darkness of the future is the light which shines out from the experiences of the past.

No, Mr. President; I am not antagonistic to the President in the performance of his duty. I would have him guided by that spirit of patriotism, that love of country—I would have him imbued with that sublime spirit described by Markham when he said:

God give us the Cromwell fire to make us feel
The common burden and the public trust
To be a thing as sacred and august
As the white vigil where the angels kneel.
We need a faith to go the path untrod,
The power to be alone and vote with God.

No; I am not indulging in idle or unfriendly criticism, nor is it my desire to cause any friction in the Democratic ranks, because I realize that unanimity of sentiment, concert of action on the part of the Democracy of America means much, not only for the Republic to-day but in the years to come.

Mr. President, in the settlement of this controversy or this question I have proposed an amendment. The purpose of that amendment is to authorize the American and the British Governments to appoint commissioners who shall meet in the spirit of friendship to which we are committed by treaty and shall discuss the differences between the two nations on this question and if possible report to their respective Governments a satisfactory settlement.

Senators will remember that the last word of Secretary Knox to the English ambassador was, when the proposition was made to arbitrate this question, "We have not reached that point, and your suggestion is premature; we have not exhausted all diplomatic resources, and until that shall be done the suggestion of arbitration is not to be considered." Of course I do not quote Mr. Knox literally.

By this method the subject would be taken from the domain of partisan politics. It would enable the Democratic administration to solve the problem without violating pledges to the people. It would avoid the deleterious effect which must necessarily follow the repudiation of platform pledges. I know of nothing more regrettable, Mr. President, than for the plain, honest citizen to lose faith in the veracity, the honesty, and sincerity of the public servant.

Now I am not going to delay the vote upon this question by longer discussing all of the issues involved, but I have been somewhat amused and interested at the importance that has been ascribed to and the stress that has been placed upon the question of subsidy. I listened with great interest to the speech made by the junior Senator from Missouri [Mr. REED] on yesterday. His candor was refreshing; the affluence of his eloquence charming; his arguments were cogent; and I think he completely convinced every Senator who honored him with his ear that this subsidy argument is an afterthought; that it is an intellectual expedient, resorted to to justify the betrayal of platform promises.

Mr. JAMES. Mr. President, will the Senator from Mississippi yield to me?

The PRESIDING OFFICER (Mr. SAULSBURY in the chair). Does the Senator from Mississippi yield to the Senator from Kentucky?

Mr. VARDAMAN. With pleasure.

Mr. JAMES. The Senator from Mississippi has said that the question of subsidy was an afterthought.

Mr. VARDAMAN. The argument of subsidy, I said.

Mr. JAMES. How does the Senator make that statement comport with the memorandum which was written by President Taft at the time he signed the bill, a clause of which we are undertaking to repeal, and in which he very boldly and very plainly stated that it was a subsidy?

Mr. VARDAMAN. Because I know that the Senator from Kentucky would never have put the stamp of his approval on that platform if he had thought this exemption was a subsidy. He could not have done it and maintained his intellectual honesty and been true and faithful to his constituency.

Mr. JAMES. Oh, Mr. President, there are two declarations in that platform directly in opposition to that subsidy.

Mr. VARDAMAN. Did the Senator call attention to the conflict?

Mr. JAMES. No; I did not call attention to the conflict.

Mr. VARDAMAN. Did the Senator tell the people whom he asked to vote the Democratic ticket that we were double-dealing with them?

Mr. JAMES. There was no conflict and there is no conflict in the platform, so far as the Democratic Party is concerned. The Democratic House of Representatives itself cast a majority vote against the identical thing that the Senator is contending for.

Mr. VARDAMAN. I know of no man——

Mr. JAMES. Just a moment.

Mr. VARDAMAN. Who has insisted more strenuously and more eloquently and more earnestly than has the distinguished Senator from Kentucky upon the literal enforcement and observance of the Democratic platform.

Mr. JAMES. But did the Senator himself state to the convention or to the committee which had under consideration this platform that when they indorsed the act of the House of Representatives they were indorsing their vote in opposition to this subsidy for which the Senator is so eloquent in his speech?

Mr. VARDAMAN. No; I never thought it was a subsidy any more than I thought it was a subsidy to indorse the plank in the platform which I and Representative BROUSSARD wrote in favor of river improvements.

Mr. JAMES. Now, if the Senator did not think it was a subsidy, why did he say in the speech that he formerly made that after consultation with his people—he seemed to think that that was necessary—he would vote, or perhaps he might vote to make ships pay the expense of putting them through the canal.

Mr. VARDAMAN. Well, I will tell the Senator why. I do not know that it would be an injustice to make the ships that go down the Warrior River pay to the Government a slight tariff for the privilege of carrying coal to New Orleans—or the Mississippi River or the Ohio River or any other river. That is a mere economic question.

Mr. JAMES. Why, then, Mr. President, if the Senator will permit me, does not the Senator vote here as the representative of the great people of Mississippi to make this monopoly pay $2,000,000 a year into the Treasury rather than to put it upon the bending backs of the tillers of the soil of Mississippi?

Mr. VARDAMAN. I will tell you why I do not. It is because that is not the issue involved in this controversy. The President of the United States has made the issue; the President of the United States in his address to Congress made the issue. It was not a question of tolls.

Mr. JAMES. The President of the United States said that it was economically unsound.

Mr. VARDAMAN. Yes; and he said——

Mr. JAMES. And by that he meant that it was a subsidy.

Mr. VARDAMAN. If the President of the United States had felt that way, the President is too candid and honest a man to have left it in the form that he did.

Mr. JAMES. He stated that, and I do not know of anybody in this country who is more capable of expressing himself.

Mr. VARDAMAN. I do not think anybody ever read his speech that way except the Senator from Kentucky.

Mr. JAMES. Ah, the trouble with the Senator from Mississippi is that in his love for this monopoly he has lost sight of the real Democratic tendency and trend and faith.

Mr. VARDAMAN. Mr. President——

Mr. JAMES. The President of the United States said that it was economically unsound, and by that he meant that it was a subsidy.

Mr. VARDAMAN. The intimation that the Senator from Kentucky makes that I am in love with any trust or with any subsidy is absolutely without foundation in fact, and the Senator knows when he states it that he says that which is not true and that he makes an unjust charge against me.

Mr. JAMES. Oh, Mr. President, the Senator from Mississippi need not fret himself into such excitement about that.

Mr. VARDAMAN. The Senator from Mississippi is not going to permit the Senator from Kentucky to put words into his mouth or to impute to him an improper motive.

Mr. JAMES. I was not doing that, Mr. President, but I was stating what I believe to be the fact—that those who vote for this bill are voting a subsidy in the interest of a monopoly.

Mr. VARDAMAN. The Senator is in error when he states that.

The PRESIDING OFFICER. Senators should speak one at a time.

Mr. JAMES. I will state to the Senator that when he votes for this bill he votes to give a subsidy to a monopoly. I do not mean to ascribe to the distinguished Senator any unworthy motive. I mean that he, as a Senator from Mississippi, is casting a vote the purpose of which is to exempt this monopoly from the payment of tolls, and I say that is a subsidy.

Mr. VARDAMAN. Of course the Senator from Kentucky is entitled to his opinion. I trust he has one, and I hope it is not borrowed, and I hope also it is the result of his own intellectual processes.

I am not going to delay the vote upon this question longer by discussion of the subsidy feature of this debate; but I do resent any efforts on the part of any Senator, or on the part of anybody else, to put upon me or those who hold the views that I do the odium of supporting any form of trust or subsidy.

It is quite unfortunate, I think, Mr. President, that distinguished Senators would sacrifice what I believe to be candor, and would employ this questionable expedient in order that their fellow Senators may be put in a false light. It will not work; the American people can not be deceived.

Mr. HUGHES. Mr. President, will the Senator permit an interruption?

The PRESIDING OFFICER. Does the Senator from Mississippi yield to the Senator from New Jersey?

Mr. VARDAMAN. I yield to an interruption.

Mr. HUGHES. The Senator is criticizing other Senators for lack of candor and for incorrectness of statement, and yet the Senator himself said a while ago that the cry of subsidy was purely an expedient and an afterthought. I happen to be one of those men who voted against this proposition two years ago, before any question of American sovereignty was raised.

Mr. VARDAMAN. Did you call attention to it during the campaign?

Mr. HUGHES. My vote called attention to it.

Mr. VARDAMAN. Did you call attention to it during the campaign before the American people?

Mr. HUGHES. I am calling it to the attention of the Senator now, that as a Member of the House of Representatives I voted against this proposition before there was any question of sovereignty raised. I voted against it, and so did a majority of the Democrats of that body on the ground that it was a subsidy—I recognized a subsidy in its new guise. I had seen it under many guises. I simply say to the Senator that recklessness of statement is no more becoming in him than it is in others. He casts a reflection not only upon me, but he casts a reflection upon nearly the whole delegation of the State of Mississippi, for, if my recollection serves me aright, they voted as I did at that time.

Mr. VARDAMAN. I do not doubt it, and yet those same Representatives went before the American people upon this platform. They approved what the President had said; they approved the platform; and they did it, not believing it to be a subsidy, but because they thought, as the President had said, that it was going to facilitate commerce between the States. If they did not think that way about it, they should have declared themselves against it.

Mr. HUGHES. Now, Mr. President——

Mr. VARDAMAN. They thought, as the President said it would, that it was going to make cheaper rates for the farmer. That is the way they interpreted it. If the President of the United States had asked that the exemption clause be repealed because it was a subsidy, it would have put the matter in a very different light. The question before the Senate, however, is not whether it is a subsidy, but whether we shall maintain sovereignty over that canal. That is the paramount issue with me.

Mr. HUGHES and Mr. JAMES addressed the Chair.

The PRESIDING OFFICER. To which of the two Senators does the Senator from Mississippi yield?

Mr. HUGHES. If the Senator will permit me, I do not like to interrupt him, and there has been enough of this debate; yet I think perhaps it would be well for me at this time to call attention to the quoted declaration of the President of the United States on this subject. I happened to be the man who introduced him at the meeting where he made this declaration; it was I who caused him to make it; and the declaration that he made was not with reference to the exemption given to American vessels, but it was made, and anybody who reads the language can see that it was made, with reference to the action of the Senate and the House of Representatives in forbidding American railroad-owned ships from going through the canal.

Mr. VARDAMAN. Does the Senator mean to create the impression that the President did not intend to say to those farmers what he did say?

Mr. HUGHES. I say that the President said to those farmers exactly what he intended to say, which was that the Congress was wise in preventing railroad-owned and trust-controlled ships from going through that canal, because, in the nature of things, railroad-owned ships would not compete with the railroads; and the conditions brought about by the refusal of Congress to permit these particular ships to use that canal would result in competition and cheaper railroad rates. I was there and introduced him and listened to his speech and gave him the information.

Mr. VARDAMAN. The President was discussing the bill which permitted American coastwise vessels to go through the canal free of tolls.

Mr. HUGHES. The President was discussing the refusal of Congress to permit railroad-owned ships to go through that canal. I was there and heard him make the speech.

Mr. VARDAMAN. Then I suppose the reporter reported him incorrectly.

Mr. HUGHES. The reporter reported him absolutely correctly, according to my recollection; and no fair reading of the speech can support the construction which the Senator is endeavoring to put upon it.

Mr. VARDAMAN. Well, Mr. President, I am incapable of understanding the English language if it does not mean what I have said it means. The American people believe it means that; and of all the planks in the platform that was the one which the President stood upon to induce the farmers of the country to support the Democratic ticket. Its merits and virtue were most prominent.

Mr. JAMES. Mr. President——

The PRESIDING OFFICER (Mr. SWANSON in the chair). Does the Senator from Mississippi yield to the Senator from Kentucky?

Mr. VARDAMAN. Certainly.

Mr. JAMES. I understood the Senator a moment ago to complain that the President of the United States had not in his message to Congress, in asking for this repeal, placed himself upon the ground that tolls exemption was a subsidy. Now, what I should like to know is this: If the President had in his message taken the position that the exemption clause ought to have been repealed because it is a subsidy, whether or not the Senator from Mississippi would have supported the President?

Mr. VARDAMAN. I will tell you what, if I had been consulted about it, I should have advised. If the President felt that free tolls was economically incorrect, if the President had felt that it was violative of the treaty obligations of this country with Great Britain, I think it would have been his duty to have called the attention of Congress to that fact and to have stated to Congress that he had changed his opinion about it; that he had not during the campaign correctly interpreted the treaty——

Mr. JAMES. Mr. President——

Mr. VARDAMAN. Now, wait a moment, until I answer the question——

Mr. JAMES. Certainly; I just wanted to make a suggestion.

Mr. VARDAMAN. That he had not correctly interpreted the treaty, and that he was going to call the attention of Congress to it; and after they should have had an opportunity to consult with their masters, the people, at the November election, to ask them to repeal this clause, because he believed it was violative of our treaty obligations and was economically incorrect. I think that would have been all right. We would have then been able to have consulted with our masters and to do what he now asks us to do, if we think best, without violating party promises or betraying any trust. Now, I want to say in this connection——

Mr. JAMES. Just a moment——

Mr. VARDAMAN. I am no more in favor of special privileges than any other Senator upon this floor.

Mr. JAMES. Then, Mr. President, if I understand the Senator from Mississippi correctly, his reason for voting against repealing this subsidy is that, according to his judgment, the President in his message did not place before the Congress the proper reasons why it should be done.

Mr. VARDAMAN. No; that is not true. My reason for voting against it is that the issue is not the question of subsidy, but the question of sovereignty over the canal.

Mr. JAMES. But I asked the Senator this question: If the President had placed it upon the ground of subsidy, would the Senator then have voted for repeal?

Mr. VARDAMAN. Not at this time; no.

Mr. JAMES. I am not talking about this time; I am talking about any time.

Mr. VARDAMAN. No; not now. When we shall have made the proper declaration and announced to the world our sovereignty over the canal, then I am in favor of taking up and considering the economic question involved.

Now, Mr. President, in conclusion, when I contemplate this deviation from the paths of rectitude which the distinguished citizen from Nebraska, Hon. W. J. Bryan, now Secretary of State, has marked out for the faithful Democrats to follow, when I think of this repudiation of a solemn promise, when I consider this servile surrender of a sovereign right over the Panama Canal, without justification or excuse, I am reminded of the fiery words which came burning from the heart of the prophet of old, pleading with the faithless children of Israel, when he exclaimed:

The ox knoweth his owner and the ass his master's crib, but Israel doth not know, my people doth not consider.

Mr. WEST and Mr. WILLIAMS addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. WEST. Mr. President, I had not intended to say any more in the debate on the pending question before the Senate. I endeavored, however, a few days ago, when the junior Senator from Mississippi [Mr. VARDAMAN] delivered his speech, to obtain the floor to answer the strictures and criticisms made not only against the President of the United States, but against every Member of the Senate who may vote for the passage of the pending bill. What was the utterance of the Senator from Mississippi on that occasion, in spite of which he respects the high standing of the President and the Senators who see fit to oppose the position he here assumed? Here are his words:

I shall follow no man or body of men who carry the red flag of party infidelity, who will sanction the violation of a solemn platform promise.

That is the declaration he made on the floor here last week when he delivered that notable address. Is not that a charge of party infidelity, because they see fit to ask the repeal of this bill, that sanctions, in my judgment, the highest sort of subsidy?

Mr. VARDAMAN. Mr. President, will the Senator from Georgia pardon an interruption?

Mr. WEST. No, sir; I do not wish to be interrupted.

The PRESIDING OFFICER. The Senator refuses to be interrupted.

Mr. WEST. I want to make my short deliverance to the Senate. Now, let us see if the junior Senator from Mississippi, in assuming this position, is correct.

We remember—and I censure nobody who took different positions in those great campaigns—the days of free silver and sound money. In 1892 the Populist Party adopted a free-silver plank, and we, on the hustings and platforms of the country, were appealing to the people in favor of sound money. In 1896 the Democratic Party adopted free silver in its platform. What was the result of it? It resulted in splitting the Democratic Party in twain, and Palmer and Buckner were nominated on a sound-money platform. There were thousands of Democrats in this country who, notwithstanding they did not believe in 16 to 1, stood by their party organization. That was the result at that time.

Let us go further and see whether his accusation is founded in good party politics. What about Samuel J. Randall? He opposed the very central thought there was in the Democratic Party. The Democratic Party opposed protection for protection's sake; but Sam Randall was a protection Democrat. What did the Democratic Party do for him? In 1876 they elected him Speaker of the House of Representatives in spite of the position he took; and they not only elected him for that term but they elected him for three consecutive terms. Yet he opposed the very central idea there was in the platform. That was the situation.

Now, what is a platform, and how is it made up? It is made up in the time of excitement and of the different factions opposing each other in their party. It is nothing but concession; and I may say here, and I say it boldly and fearlessly, that no platform in its entirety is ever legislated into law.

Here is an apparent contradiction in the platform. A good many people—I, for one—have never agreed with that platform. I was in a foreign land when it was made, and I was absolutely astounded when I found out that this plank was incorporated in the Democratic platform, because it was in absolute contradiction to the policy that the Democratic Party had adopted for years.

There has been much criticism indulged in on this side. I have tried to be indulgent and to allow the Senators who occupied the opposite side of this question to view it as they saw fit. There has been charged here to the Carnegie Foundation the expenditure of $30,000. Who knows but that the shipping interests have spent a hundred thousand dollars in order to secure the defeat of this bill?

Mr. VARDAMAN. Have you been offered any?

Mr. WEST. Do not say that to me.

Mr. VARDAMAN. Well, you are making an intimation that somebody else has been influenced.

Mr. WEST. I did not say so. I said——

Mr. VARDAMAN. You said——

The PRESIDING OFFICER. Senators will please come to order. The Senators will please take their seats.

Mr. WEST. I did not say they had been bribed or otherwise.

The PRESIDING OFFICER. The Senators will please take their seats. The Sergeant at Arms will see that the two Senators are seated.

Mr. WEST. No; I am not going to sit down. I am not through.

Mr. VARDAMAN. The Senator can not make an intimation of that kind.

Mr. WEST. I did not intimate it.

Mr. JAMES. Mr. President, the Senator from Georgia made no intimation that there was any influence exerted on Senators.

Mr. WEST. I certainly did not make any.

The PRESIDING OFFICER. The two Senators must be seated. The Senator from Georgia will proceed. He is entitled to the floor.

Mr. JAMES. Mr. President, the Senator from Georgia has a right to go on.

Mr. VARDAMAN. Mr. President——

Mr. WEST. I did not even say that $100,000 had been spent. I said, Who knows but that $100,000 might have been spent in mailing out literature in attempting to mold sentiment, possibly? You all know it has been done in the past, and it will be done in the future. The charge has been made here, however, of party infidelity; that the President of the United States is guilty of party infidelity, and the Members who see fit to follow him in the support of this bill seeking the repeal of free tolls. Then Senators come here after saying "the red flag of party infidelity."

I never have been unfaithful to the Democratic Party. I have stood by the Democratic Party, though there have been things in the platform that I seriously objected to and that I would not support.

An illustrious representative from near me, Henry G. Turner, declined the nomination in 1896 because they required him to subscribe in that platform to free silver. There are many of you here who know that he was an illustrious gentleman, distinguished, honest, and fearless. I have charged no Senator, nor do I expect to charge any Senator upon this floor, with being bribed, and I am not going to charge anyone with party infidelity and failure to keep platform pledges. I myself do not stand for free silver, yet I did not separate myself from the Democratic Party.

Mr. WILLIAMS. Mr. President, it is a fortunate thing in the history of the United States Senate that, as a rule, debates here are carried on coolly and calmly and logically. It is a fortunate thing that this is an arena where men reason together, and do not simply shake their locks at one another.

Now, Mr. President, I make it a point to debate with Republicans. I do not publicly debate when I can help it with my party colleagues upon this side of the Chamber. I have been very glad to hear my colleague's speech this afternoon, because it has proven that possibly some of the things that he was reported to have said in the Washington Post in a public interview, all in quotation marks, were not true. My colleague said this evening that he "had uttered no word of bitterness" during this controversy, "had felt and feels none"; and he has intimated that if anybody did say he had uttered any word of bitterness the person saying it had uttered "a falsehood so diaphanous that it was not quite respectable fiction." I believe that was the language used by him. He added that the newspapers had attributed bitter expression to him, from which I infer he meant that they were "fictionists"—that, I take it, is another way of saying slanderers or liars.

I do not know whether my colleague always knows whether he is uttering words of bitterness or not. I have sometimes doubted if he was a measurer of his own language or if he knew precisely what his own utterances meant in English. As he illustrated just a moment ago, he is a very excitable man, with great intemperance of thought and of expression.

I am inclined to think that the Washington Post, in these quoted interviews which I hold in my hand—interviews in quotation marks—has uttered "untruths so diaphanous that

they are not worthy to be considered as ordinary, decent fiction." Certainly it, or its reporter has, if my colleague has "uttered no word of bitterness."

Mr. VARDAMAN. What is the Senator reading from?

Mr. WILLIAMS. I am going to read now from what purports to be your interview in quotation marks published in the Washington Post of Monday, March 30; and I want to ask my colleague as I go along whether this great sheet, which has represented here only one side of this controversy——

Mr. VARDAMAN. Mr. President——

The PRESIDING OFFICER. Does the senior Senator from Mississippi yield to the junior Senator from Mississippi?

Mr. WILLIAMS. I do.

Mr. VARDAMAN. I decline to answer any question the senior Senator from Mississippi may propound to me.

Mr. WILLIAMS. The Senator declines beforehand? Very well, then, Mr. President. I am not astonished, but I will say this: I am not to be thrown off of my guard, nor off of my temper, by any amount of bad feeling shown by that utterance. Of course there must be a great deal of bad feeling in the heart of a man who declines to answer any questions before the questions are asked merely because they are being asked by a given individual, who has a right to ask them in seeking the truth.

The PRESIDING OFFICER. The Chair desires to state, before the discussion proceeds further, that the rules of the Senate will not permit any reflection on any Senator.

Mr. WILLIAMS. Mr. President, if I know it, I have made none. The Chair will call my attention to it if I have made any——

Mr. WEST. Mr. President, if the Senator will yield for a moment, the junior Senator from Mississippi misunderstood me. I said——

Mr. WILLIAMS. Oh, well, I do not yield for that purpose.

Mr. WEST. Yes; but I want to state——

The PRESIDING OFFICER. Does the Senator from Mississippi yield to the Senator from Georgia?

Mr. WILLIAMS. I do not; not for that purpose.

The PRESIDING OFFICER. The Senator from Georgia has not been yielded to by the Senator from Mississippi. The Senator from Mississippi will proceed.

Mr. WILLIAMS. Mr. President, as I said a moment ago, I am delighted to know that this sheet, which has represented only one side of this controversy, which has reported the speeches of only one side of this controversy, which has been engaged as one of a chain of papers which has been doing that, which has given in full the speech of every man who was opposed to the repeal of this law, and which has said that the others on the Democratic side of the tolls question only "also spoke," has uttered falsehoods about my colleague so absolutely diaphanous that they are not even quite decent fiction, because my colleague has just said that he has indulged in no word of bitterness in this entire controversy, and if this interview, and a part of which was quoted the other day by the Senator from West Virginia [Mr. GOFF] in my colleague's presence with the view of ascertaining if he had uttered them, be true, then my colleague would have uttered many words of unprovoked bitterness. But as my colleague has said he has not uttered any word of bitterness, then these statements in this interview must be falsehoods; and I want to put upon record the falsehoods of this infamous interview, so that all men may know how it has slandered my colleague. I wanted to do this with the aid of my colleague's denial, but as he refuses to answer I can not have that great aid. The Washington Post quotes him as saying:

He deplored the position President Wilson has taken, and characterized Mr. Wilson's canal message to Congress as *an affront to the intelligence and patriotism of every Member of Congress.*

It is a bit bitter to say that a Democratic President's public address was so weak and so unpatriotic as to be an "affront to the intelligence and patriotism of Congress." This is an alleged quoted interview. I go on:

I have no more respect for the integrity of a man who will violate a pledge made in the performance of a public function than I have for a man who accepts a bribe to control his official conduct—

Declared the Mississippi Senator.

Now, remember that this is right after he is reported as having said that he deplored the position taken by the President and regarded it as an affront to the intelligence and patriotism of every Member of Congress. To whom was he referring if not to the President?

I agree with Mr. Bryan—

And by the way, Mr. President, I am a little glad that some of the extreme utterances of Mr. Bryan are coming home to roost. I know how political platforms are formed and shaped, and so does almost every man here. Upon the great, salient questions which have engaged the attention of the country and around which public sentiment has been crystallized they are carefully worked out. Every word almost is carefully chosen. The expressions are the result of the utmost deliberation. Then, when those are through with, a subcommittee of a subcommittee reports back to the main committee certain minor things of every description, and they are incorporated in the main document with very little attention, especially if represented or thought to be "vote getters." We all know that.

This paper says that my colleague said "that a man who would win office on a platform and then violate it after getting into office is an embezzler of power," quoting Mr. Bryan, "and guilty of a crime of as great moral turpitude as a soldier who would betray his country in time of war."

cratic platform. It can not be true that my colleague said that. Those would be bitter words, indeed, and bitterly dealt and received.

This is all in connection with the position of the President, which my colleague charges with being a violation of the Demo-

This alleged interview, under quotation marks, goes on:

"It is not that I love President Wilson less," said the Senator, "but that I love the people of the United States and my obligations more"—

And so forth.

Let me come to the next one. Here is the one:

"The President has made the issue squarely upon the right of the United States to control and manage its own property in the canal. The American people spent $400,000,000 to build that canal. It is constructed on property belonging to the United States Government. It is ours just as much as if it were cut through the territory across the continent from New York to San Francisco, and the American people are not going to be misled *by pusillanimous assaults made by certain pliant, sycophantic followers of the President.*

The italics are mine.

If his followers—Democratic Senators and Representatives—were guilty of "pusillanimity" and "sycophancy" in following the President, then he, of course, was guilty of "pusillanimity" and tyranny in having them follow him. But the interview, purporting to be in the words of my colleague, continues:

The American people are not going to be misled by pusillanimous assaults made by certain pliant, sycophantic followers of the President against Senators and Representatives who insist upon carrying out the party's platform pledges.

Then, there follows something that makes me certain that this sheet must have slandered and calumniated my colleague. It makes me certain that it did so, when it put these words of bitterness in his mouth, while he denies ever having uttered any word of bitterness, and thus, by his denial of ever having done so, gives the falsehood direct to this miserable interview.

Here follows the part of it that I say corroborates my colleague's general denial, though he fails to make a specific denial, either when interrogated by Senator GOFF the other day or by me now, because in the next part of the interview he "deplores any personalities."

Now, of course no man would have gone on and spoken about his colleagues in the Senate as "sycophantic followers," of cowardly or pusillanimous conduct, and "deplored personalities" right afterwards, because that would have indicated a desire to indulge in personalities himself but not stand them from anybody else, to have insulted others and then begged for mercy. That never could have happened and I know did not happen; it must not have happened.

Then I read again—all this is an alleged quoted interview:

The proposition to yield to the dictates of an European power in this matter is pitifully humiliating.

To say that a Democratic President or a Republican President or any President of the United States is "yielding to the dictation of an European power" is to accuse him of lack of patriotism and lack of courage both at the same time.

My colleague says he is indulging in no bitter utterances, and I know he is not if he says so, and therefore this last purported quotation from him must have been untrue:

I want to say in this connection—

So this alleged quotation from my colleague goes on—

that it is no justification for perfidious and sycophantic betrayal of them—the people—to say that the President of the United States advises it.

"A perfidious and sycophantic betrayal" advised by the President of the United States. This surely can not be true, because if my colleague had stated that he would have accused nearly all the Democratic Senators upon this floor and nearly all the Democratic Representatives in the House, besides some highly respected Republicans in both Houses, of "sycophantic and perfidious betrayal," and would have accused the President of

inviting it—"advising" it—instigating it. Betrayal is the lowest of vices.

Now, I want to get back to the point at issue. My colleague said this evening in his speech that "the edict has gone forth." He began that way. Mr. President, we are not obeying any "edict" of any man who ever wore breeches. We are as self-respecting American citizens as my colleague or any others in this country. It is a very common thing for men in a common party to go together, and in going together to concede differences in order that the team may pull the wagon together. Every man of common sense knows that there must be team work or else there can not be any good done for Government, and hence to accuse every man who concedes a preferential opinion of his own in order to secure a great party purpose of "obeying an edict" is not measuring one's language. Being persuaded by reason and influenced by loyalty is not "obeying an edict." Only slaves "obey edicts."

His speech this evening speaks of "servile surrender." Servile" means slavish—conduct befitting a slave. In a speech the other day he solemnly warned the President of the United States against "flatterers," and quoted the old prayer of Epictetus, I believe it was:

Guard me against flatterers and make me open my heart to those who would criticize me.

That is the sense of it, even if I have it not literally.

I am glad my colleague made this speech. I was glad when I heard him say to-day of the President that he was "a man whose patriotism he had never questioned." I knew when he said he was a man whose patriotism he never questioned he had not said what the Washington Post said he said, to wit, that he had advised a servile and pusillanimous and abject surrender at the dictation of a foreign power.

Now, Mr. President, about whether this is a subsidy or not, upon that question—

Let the galled jade wince; my withers are unwrung.

It is wonderful how they all do wince when the word "subsidy" is heard. Why? Because this exemption is a subsidy, it was a subsidy, and it always will be a subsidy, because it granted a special privilege to a special class; and even if you quarrel about the right to use the technical word "subsidy" in connection with it, it still violated the very fundamental keynote of the original Jeffersonian Democracy as announced in that political sermon on the mount, Jefferson's first inaugural address to the people of the United States, which declares against "special privilege to special classes." Every Senator here knows that when you exempt one class of vessels passing through the Panama Canal from the payment of tolls and you subject all other vessels to it, then you have "by legislation granted a special privilege to a special class," and that is an indirect, if not direct, subsidy.

Gentlemen have said, "What is the difference between that and letting the ships go through the Sault Ste. Marie Canal and go through the Lakes or the Ohio River or elsewhere?" The difference is too plain for a Democrat to need to discuss it. In the latter case all commerce was exempt from tolls, none of it subjected to it. Every ship and boat could go through and no tonnage was taxed. There was no special privilege t a special class; there was exemption for all. If to-morrow we would pass a law here relieving from tolls all ships passing through the Panama Canal there would be no subsidy there, because it would be equal treatment for all and special privileges to none.

Now, Mr. President, it has been a habit of mine all my life to do my debating with the other side. The time always comes when words that are uttered in bitterness will leave stings behind them that are not easily cured. Therefore I have uttered no words of bitterness this evening. I am glad to learn that the statements made by this sheet purporting to be a quoted interview with my colleague are untrue, or else that my colleague has since moderated his views. With either I am equally delighted.

Now, I want to say this much more: My colleague could not have said these things because every Representative in Congress from his own State of Mississippi except one voted with the Senator from New Jersey, then a Member of the House, against this exemption of shipping from tolls. They voted and argued against it because they regarded it as a subsidy. Therefore, my colleague could not have denounced the men who thought this was a subsidy as merely "raising a false issue," resorting to a "pretext," "an afterthought." Yet that is what I thought I heard him say this evening. He knew, as he knows now and as I know, that they are honest men of honest purposes.

I believe there was one exception, one Representative from Mississippi, one of the most honest and loyal and true Democrats, who voted the other way—my colleague's way. He was not actuated by any bad motive when he did it, and not one of the other seven was actuated by any bad motive when they voted my way and the President's way. I submit that none of them would carry a lie upon his lips or that he would go and denounce a thing as being, in his opinion, a subsidy when he did not think it was. A man may denounce a thing as a subsidy when it is not, but an honest man will not denounce a thing as a subsidy when he does not believe it is.

My sole desire is to see all Democrats, and especially all Mississippi Democrats, working in harmony with one another without words of bitterness of any description. I have been guilty of none; and I am glad to learn from his general denial that my colleague has been guilty of none.

Mr. VARDAMAN. Mr. President, I will not detain the Senate very long.

I wish to say to the junior Senator from Georgia [Mr. WEST] that when I asked the question of him I did it understanding that he had made the statement that $100,000 had been used to influence legislation in the interest of the Shipping Trust in the way he now explains it. I thought his remark a reflection upon me, and in a spirit of resentment I asked him if anybody had approached him. Since he did not say that or intend to say it, as a matter of course I have no desire to let it go into the RECORD as a reflection upon the integrity of a Senator or a man. I would not offend the Senator or wound his feelings.

So far as what has been said by the senior Senator from Mississippi [Mr. WILLIAMS], of course it is very well understood by the Senate, and the people of Mississippi particularly—and a great many of the people out of Mississippi—that it would be rather difficult for me to say or do anything that would meet his approval.

I want to say that I care absolutely nothing about his opinion of what I have said or may say, whether it pleases him or displeases him is a matter of supreme indifference to me. That is not what I am here for. My conduct is to be controlled by myself, without consultation with him and without any regard whatever of his opinion. I think I would prefer his disapproval. I should be more certain of the rectitude of my conduct.

Mr. WILLIAMS. Mr. President, I intended before I sat down to dwell for a moment upon the speech made by President Wilson, as quoted by a Senator. I want to read it with a view of bearing out just what the Senator from New Jersey [Mr. HUGHES] said, that the President was talking mainly, if not altogether, about that phase of the canal which deals with the proposition which referred to the refusal to let the railroad-owned ships pass through the canal. Here is his language:

One of the great objects in cutting that great ditch across the Isthmus of Panama is to allow farmers who are near the Atlantic to ship to the Pacific by way of the Atlantic ports; to allow all the farmers on what I may, standing here, call this part of the continent, to find an outlet at ports of the Gulf or the ports of the Atlantic seaboard.

Now, mark it—

and then have coastwise steamers carry their products down around through the canal and up the Pacific coast or down the coast or down the coast of South America.

Now, there are no ships to do that—

At present there are no ships to do that. The later context will show you why. Because the overwhelming majority of the ships are owned by the railroads.

Now, at present there are no ships to do that, and one of the bills pending—passed, I believe, yesterday by the Senate, as it had passed the House—provides for free tolls for American ships through that canal and prohibits any ship from passing through which is owned by any American railroad company.

He is not even referring to the platform; he is referring to the bill. Then he goes on:

You see the object of that, don't you? We don't want the railroads to compete with themselves—

You see the object of that, do you not?

We don't want the railroads to compete with themselves, because we understand that kind of competition. We want water carriage to compete with land carriage, so as to be perfectly sure that you are going to get better rates around the canal than you would across the continent.

Mr. SMOOT. May I ask the Senator to read just after what he has quoted.

Mr. WILLIAMS. I am sorry to say that his speech upon that subject is not further quoted.

Mr. SMOOT. Will the Senator allow me to read what he said following the very line that was last read by the Senator?

Mr. WILLIAMS. Have you the next sentence?

Mr. SMOOT. I have.

Mr. WILLIAMS. Does that begin "Our platform is not molasses to catch flies"?

Mr. SMOOT. No; that is not the next sentence.

Mr. WILLIAMS. I have not that part of it.

Mr. SMOOT. I have it here.

Mr. WILLIAMS. Very well; read it.

Mr. SMOOT. I will let the Senator read it.

Mr. WILLIAMS. Very well; hand it to me.

Mr. CHAMBERLAIN. I should like to know what page it is on.

Mr. WILLIAMS. The last is as follows:

You see the object of that, don't you? [Applause.] We don't want the railroads to compete with themselves, because we understand that kind of competition. We want water carriage to compete with land carriage, so as to be perfectly sure that you are going to get better rates around the canal than you would across the continent. Everything that is done in the interest of free transportation is done directly for the farmer as well as for other men. So that you ought not to grudge the millions poured out for the deepening and opening of old and new waterways.

Mr. SMOOT. That is it.

Mr. WILLIAMS. I did not have that before me, nor have I any other report of the speech, but the whole thing taken as a whole, even with that last language, shows that the chief thing that was dwelling in the President's mind and the chief thing he was trying to impress upon that audience was that he did not intend to have railroads competing with railroads by the pretext or under the guise of owning the coastwise ships. What he meant by free water transportation was "free to compete," "free from the monopolistic ownership of railroads," thus giving no "free" competition.

Mr. WEST. Mr. President, I shall detain the Senate but a few moments. I just want to explain to the Senate my intention in this matter. I intentionally reflect on no man. If I insult a man, I go to him with it; and when I declare here "Who knows but what there might have been a hundred thousand dollars spent in this matter in the cause of the shipping interests?" that did not charge any Senator with it. They might have spent it in correspondence, in telegrams, in a way. He had just as much right to suppose that $30,000 that was spent by the other side in sending out speeches was spent in influencing Senators on this floor or for the purpose of corrupting Senators. I did not say, either, that there was $100,000 spent. I said, "Who knows?" Now, nobody can say since I have been in this Chamber among these distinguished Members that I have offered the least insult to any Member, and I do not intend to.

Mr. PITTMAN. Mr. President, I do not intend to delay the Senate by any extended remarks upon the bill. This matter has not only been exhaustively discussed in a nonpartisan spirit, for it has not assumed a partisan complexion, but its importance has, I think, been greatly exaggerated. It certainly is now limited to a very small economic question by the amendment, which reserves every question of right under the treaty. I rise for the purpose of explaining my reason for not urging the adoption of an amendment which I have heretofore submitted which authorized the President of the United States to reduce tolls on coastwise vessels or to totally exempt such vessels from the payment of tolls, if such action, in his opinion, became necessary to prevent a discrimination against such coastwise trade.

Subsequent to the introduction of that amendment by me, the authors of the Simmons amendment accepted certain amendments to that amendment offered by other Senators and myself, which, in my opinion, excludes and reserves, in the passage of the bill, the question of the right of the United States to exempt the vessels of its citizens from the payment of tolls for the passage of its vessels through the Panama Canal.

I realize that the adoption of the amendment offered by me would be an assertion of the right of the United States to pass its coastwise vessels through the canal free of tolls; and, while I believe that such right exists, there are so many varying opinions with regard to the right of the United States under and by virtue of the treaty that it is apparent that the bill would not finally pass if encumbered with any such amendment.

There are those in this body, both of the Democratic and Republican Parties, who believe that we have the right to pass any of our vessels through the canal free of tolls; there are others who believe that we have the right to pass the vessels of our coastwise trade through the canal; there are others who believe that we have the right to pass the vessels of our citizens engaged in foreign commerce through the canal free of tolls; while there are others opposed to any exemption, on the ground that it is a subsidy.

The majority of the Senate, although they do not agree on any one of the propositions and could not pass any bill that bases the passage of the bill on any one of such grounds, can agree on the passage of the bill if they are not committed by their vote to any one of these particular reasons, but are permitted to vote for the bill on any ground that seems to them to justify its passage. For example, some of the Senators on both sides are in favor of the passage of the bill because they believe that the exemption is a violation of the treaty; others are in favor of the passage of the bill because they believe that the exemption is a subsidy and constitutes a special privilege for a special class; others are in favor of the passage of the bill because they are satisfied from the evidence given at the hearings that the railroads can not compete with the coastwise vessels passing through the canal, even with the payment of the full amount of the tolls, because the testimony of experts before the committee having in charge the bill was unanimous in the conclusion that the consumer would not get the benefit of any exemption and that it would simply constitute a donation to those engaged in the coastwise trade, which at the present time is controlled very largely by a monopoly. I am convinced from the testimony that these statements are correct. This testimony disclosed that at the present time freight can be shipped from the Pacific coast to the Isthmus of Panama and transported across by railroad to the Gulf of Mexico at a rate of $4 per ton for crossing the Isthmus, and can then be transported to Atlantic coast points for $3.50 per ton cheaper than it can be transported by rail from the Pacific to the Atlantic coast. The testimony further disclosed that the rate of tolls, measured by weight, would amount to only about 60 cents per ton. If the coaswise trade at the present time, by paying a transportation of $4 across the Isthmus, can transport freight from the Pacific to the Atlantic coast for $3.50 less per ton than the railroads can, then there can be no question that they can compete when they would only have to pay 60 cents a ton across the Isthmus instead of $4. I do not believe that the coastwise vessels require any such favoritism, and I do not believe that if they were granted such favor the people who are taxed for the upkeep of the canal would receive any benefit therefrom.

I want to take this occasion to state that to-day by mistake I voted for an amendment offered by the Senator from Montana [Mr. WALSH]. I was not in the Chamber when the amendment was offered and arrived just in time to vote. I did not know that his amendment was intended to strike out the Simmons amendment, but I believed that it was to be added as another section and in assistance to the amendment that I intended to offer. I did not discover the mistake until it was too late to change my vote. While there would have been no difference in the result and the matter is of no importance, I simply desire to correct the record.

The PRESIDING OFFICER. The question is on the amendment offered by the junior Senator from Mississippi [Mr. VARDAMAN].

Mr. VARDAMAN. Mr. President, I am not going to call for the yeas and nays on the amendment.

The amendment was rejected.

Mr. CUMMINS. Mr. President, I offer the amendment which I send to the desk.

The PRESIDING OFFICER. The amendment proposed by the Senator from Iowa will be stated.

The SECRETARY. It is proposed to amend section 2 by striking out from and including the word "when," in line 13, page 1, to and including the word "ton," in line 2, page 2, and by inserting in lieu thereof the following:

Until the further action of Congress the basis for the ascertainment of the tolls charged to foreign ships of commerce shall be their proportion of the estimated cost of the maintenance and operation of the canal, together with interest at the rate of 2 per cent annually upon the investment in the construction of the canal, taking into account the entire tonnage of the canal, not exceeding, however, $1.25 per net registered ton or the equivalent thereof.

Until the further action of Congress the basis for the ascertainment of the tolls charged to domestic ships of commerce shall be their proportion of one-half the estimated cost of the maintenance and operation of the canal, together with interest at the rate of 2 per cent annually upon one-half of the investment in the construction of the canal, taking into account the entire tonnage of the canal, not exceeding, however, 60 cents per net registered ton or the equivalent thereof: *Provided*, That vessels of every description owned and operated by the United States shall pass through the canal without the payment of tolls. The fourth sentence in said section 5 is hereby repealed.

Mr. CUMMINS. Mr. President, my chief purpose is to present my views upon the amendment I have just offered. I intend to do so with as much brevity as is consistent with a clear statement of what I propose, and the reasons for the conclusion to which I have come. I do not intend to consider the general construction of the treaty. Not long ago I reviewed the argument I made upon the construction of the treaty two years ago. Reflection has simply strengthened the conclusions which I then announced. The views I then entertained I entertain still. There is, however, one phase of this subject to which I shall invite the attention of the Senate for a very few minutes.

I recognize, Mr. President, the unwillingness of the Senate to listen to an argument at this stage of the matter. I do not censure Senators for reluctance in that respect. I feel the same reluctance when anyone else is speaking, and I am very charitable, therefore, with the attitude of those who are compelled to remain through unusual hours for the purpose of securing final disposition of this bill; but I intend through the heat of the night, and with some deliberation, to declare what is in my mind with regard to this subject.

I am one of those who entertain no doubt whatsoever that the United States has the right under its treaty with Great Britain to pass the ships of its citizens through the canal without charge, and that without respect to the character of the trade in which those ships may be engaged. In saying that I do not assert that the question is without doubt. The fact that eminent men throughout the country differ with regard to the proposition which I have just suggested would make it absurd for me to say that there is no doubt; but I repeat that I entertain no doubt at all with regard to our right to do this thing. At the same time, I have not been convinced that it is wise or defensible as an economic and domestic policy to allow our ships to pass through the canal free. If I could separate those questions and vote upon them under such conditions and circumstances as to permit my vote to voice my real conviction, I would be very glad to embrace that opportunity, but I have no such chance, and no one is more conscious of it than am I.

I believe that the vote that is about to be cast in this Senate is a vote that will be accepted by the country and by the world as a declaration that the United States has no right to discriminate in favor of its own ships.

While I do not say that there may not come a time when the United States will retake that which belongs to her by every principle of our sovereignty, belongs to her by the highest title that a nation can enjoy or hold any right she may be called upon to exercise, yet when the bill has passed, it will have been decreed by the United States as it is now represented in Congress and in the Executive office, that we can not so deal with our own, but must accept the British view with regard to the obligations of the treaty. I therefore find it impossible to vote for this bill.

There is but one thing that could be attached to this bill that would induce me to vote for it, and that is the assertion of our right to deal with our coastwise shipping, and I may add our foreign shipping as well, according to our judgment of the welfare and the interest of our people. I do not intend to deceive myself with regard to the effect of a vote cast for this bill. I know, and you all know, that when this bill passes, when every claim, and more than every claim that Great Britain has made against the United States has been conceded to her, until the people speak again, there will be no assertion of our right to deal with our own according to our judgment of the interest of our own.

I am not moved very much by the appeal to that just principle that denounces special privilege and declares against subsidy. "Subsidy" is a word that has come to be connected in the public mind with something wrong, with some Government help extended to some unworthy object, with some Government help extended where it is not necessary that it shall be extended.

I should like to consider for a moment what the word "subsidy" means in its broad sense. In that sense practically everything that the Government does is a subsidy—not everything, but practically everything. "Subsidy" means assistance given by organized society to one or more of its members; and in that sense the favor that we have shown to the coastwise shipping in the act of 1912 is a subsidy. Just so is the aid given to the agricultural interests of the country when we appropriate money for the suppression of the hog cholera, for the eradication of the boll weevil, and for the extermination of all the enemies to crops in the United States. All these appropriations are subsidies. They are, however, worthy subsidies. Why? Because in their expenditure not only is the particular interest toward which they go benefited, but the advantages are diffused and enjoyed by all the people of the country; and whenever the results of Government assistance are thus enjoyed by the people, the subsidy is not only defensible, but it is highly creditable.

I should like to know from some of my friends here who have so fiercely denounced subsidy whether they are opposed to all subsidies. If they are, then they must practically arrest the operations of the Government. The river and harbor bill, which I fear will shortly be passed by the votes of nearly all the Members of the Senate, is a subsidy from beginning to end, and there is a great deal in it, as I think, as it is now before the Senate, which is utterly without defense; but it is a subsidy, whether it is good or whether it is bad, for every penny that we expend in order to allow steamers to sail more securely over our rivers or ships to sail more readily into our harbors is a subsidy for those interests. If the money be wisely expended, the results will flow out in advantage to all the people of the country, and it is right. If the advantages are not thus enjoyed by all the people, or substantially all the people, then the expenditure is wrong.

Why, my fellow Senators, we never turn around in a governmental way but that we extend subsidy to some one. The Postmaster General—not the present one, I believe; I have not heard his report on the subject—but the Postmaster General has reported over and over again that the newspapers and the periodicals of the United States cost for their distribution by the Government three times as much as they are required to pay for that distribution. I remember that a former Postmaster General declared that the Government of the United States paid out 6 or 7 cents a pound for every pound of newspapers, magazines, and periodicals more than was received by the Government for their transportation or their distribution. That is as clear a subsidy as is the proposed use of the Panama Canal. I am not criticizing it; I believe in it, if the periodicals and newspaper publications are confined to legitimate productions. I believe in it. Why? Because it is for the common good. It is one of the aids of education. It is one of the instrumentalities for the training of our citizens. It is one of the mediums for the enlightenment of their minds, so that they can see more clearly their duty to their fellow men and their duty to organized society. In that way the aid that we thus extend, although a subsidy in the same sense as the free use of the Panama Canal, becomes one of the allies of good government, one of the effective plans for carrying on the affairs of a great country like ours.

Mr. BRISTOW. Mr. President——

The PRESIDING OFFICER. Does the Senator from Iowa yield to the Senator from Kansas?

Mr. CUMMINS. I do.

Mr. BRISTOW. I call the Senator's attention to the fact that the weekly newspapers are carried for nothing within the county where they are published.

Mr. CUMMINS. I recognize that. They are, and they are very properly carried for nothing. I can not conceive any expenditure which the Government can make that is more helpful to the great objects of civilization than the free distribution of newspapers within the communities in which they are published.

I am only suggesting these things in order to put the word "subsidy" in the category in which it belongs.

Why, Mr. President, every school in the United States that is supported by taxation receives a subsidy. Every dollar that we ourselves appropriate for the maintenance of our agricultural schools is a subsidy. Why? Because we are aiding the men and women who have boys and girls to train and educate. We are lifting some of the burdens which otherwise will rest upon them. It is, however, so wise and so worthy an object that the Government that refused to expend its money for the maintenance of schools would earn the contempt of all civilized mankind.

Every penny that we expend on roads is a subsidy to those who travel on the highways. We expend it because roads are necessary to the public welfare, and we know that the advantage of the aid we thus give, the contribution we thus make to the development of the community, will be felt by all the people of that community in substantially equal proportions.

Mr. MARTINE of New Jersey. Mr. President, will the Senator permit an interruption?

Mr. CUMMINS. Certainly.

Mr. MARTINE of New Jersey. Let me say, just here, that when you stop to think of it, only an infinitesimal number of the people own horses and vehicles, and yet the whole public are benefited by good roads, notwithstanding the man who owns a horse and vehicle gets the benefit of the good-roads system. No one would think of rebelling on that proposition, although there are an infinitesimal number of such men in comparison with the thousands who own no horses or vehicles.

Mr. CUMMINS. The Senator from New Jersey has very well illustrated my view of the matter. We ought not, we must not, be driven away from a sensible course by the mere use of the word "subsidy"; for I repeat that practically every effort that organized society makes to help its members is a subsidy.

The question is with all these subsidies, not "Is a subsidy abhorrent?" not "Is Government assistance indefensible, and unjust, and wrong?" but the question always is, or always ought to be: "Is the expenditure that results in the immediate profit of a single class one that will also result in the general advantage of the whole?" If it will, then the Government is

not only not censurable for giving it, but it would be censurable if it failed to give it.

That brings me to the consideration of the Panama Canal.

I am not sure that to allow the vessels of the United States to pass through the Panama Canal without charge will result to the general good of the whole country. I am not sure of that. It is, with me, a leap into the dark. I believe with the Senator from Missouri [Mr. REED] that we may be opening Pandora's box. I have always doubted whether the Panama Canal would confer upon the people of the United States the distinct commercial advantages which its proponents and its advocates have always proclaimed for it. The future alone can tell.

I am not convinced that we ought to allow these ships to pass through the Panama Canal free, although I am convinced that under the treaty we have as perfect a right to do it as we have to allow a steamer to sail upon the Mississippi River, or to allow a vessel to enter the harbor of New York. Therefore, I have not felt satisfied with the exemption from tolls in the act of 1912; but I would vastly rather allow these ships to pass through free than to put one little obstacle in the way of the United States asserting our complete and comprehensive sovereignty there. I would rather allow them to pass through free, even though it may be an economic mistake, than to say to the world that we have no right to allow them to pass through free; for the conditions at this time may in a year, may in a decade, may in a quarter of a century, so change that it will become not only right, but essential to the life of the American people that these ships shall pass through as directed by the Government controlling the canal.

There is one thing of which I am sure, however; and that is, that to charge our ships tolls as great as we impose upon the ships of foreign nations is a flagrant injustice; it is a hideous wrong; it is indefensible in the court of reason; and I will tell you why.

I think I have said that I agree in a general way with the argument of the Senator from Nebraska [Mr. NORRIS] that commerce ought to bear its own burdens. I think if it does bear its own just burdens, the wealth produced by the industry of our people will be more equitably distributed than though we were to attempt artificially to rearrange the channels of distribution. Therefore I not only agree but insist that commerce ought to bear its fair, just share of the burdens which are naturally involved in carrying it on.

Now, let us see. We built the Panama Canal for two reasons. I shall not attempt to rank these reasons. I assume there will be difference of opinion with regard to their rank; but no one will dispute that there were two great causes for the construction of the Panama Canal. One of these causes is in our national defense. The other of these causes will be found in our commercial life.

We constructed the canal because we believed that in so doing we would strengthen the national defense. I have much sympathy with the statement made this morning by the Senator from Minnesota [Mr. CLAPP] that we may have made a mistake with regard to that. It may be that it will not strengthen our national defense. Whether it does or not, however, we have built the canal in order that the passage of our fleet from one coast to the other might be speedier and less expensive. We built it because we believed that by so doing we could reduce our armament; that we could make one ship as effective as two would be without the canal; and when the *Oregon* steamed down one side of South America and up the other side of South America in order to take her place in the battle line of the Spanish War, the canal had been decreed. We built this canal, we have expended this money, in order to make the people of the country stronger than they were.

Is there a man here who will say that all the people of this country ought not to bear the expense, not only of construction, but of maintenance and operation, that is justly attributable to the national defense? The man who would assert that the burden of the national defense should be placed upon the commerce that passes through the Panama Canal is as unjust and as unfair as the man who, believing that commerce should bear its fair burden, should insist that the ships of commerce should pass through free. The truth—and if we are sensible people we will recognize it—is that all the people of this country, through taxation, ought to bear the share of the cost of construction and maintenance and operation of this canal that in good sense and good faith can be fairly imputed to the national armament, and that commerce should bear only that proportion which is not assumed by the people generally for their own protection.

I should like to know how any man can defend himself before the people of this country when he declares here by his vote that he intends to put the same charge upon our coastwise ships that he puts upon the foreign ships engaged in foreign commerce. It is right that the other nations of the world should bear their proportion of the entire expense. It is not proposed that one penny that should be assumed by the United States or by its traffic shall be inflicted upon the commerce of other nations. It is right that they should bear, if commercially they can and do business through the canal, the interest upon our investment, their share of the maintenance, and their share of the operation, and the United States and its people should bear the remainder. But tell me how you will defend the proposition that when you come to distribute in the United States that share which we ought to bear you should impose upon the traffic from one port of this country to another a tax in order to maintain the national defense. If I am asked just how much of that construction, maintenance, and operation ought to be charged to national defense, my answer is, I do not know. There is no way in which to divide it with mathematical precision. The two great objects stand before you and they must be compared, but I ask you, whether you think it is unfair to say that one-half of the cost of the investment shall be borne by the people of this country as a part of the national strength. We expended it for that purpose. Why should not the people who decreed it, who believed it to be essential to our welfare, bear that expense precisely as they bear the expense of building and operating a battleship, or building a fort, or building any other fortification or armament intended to strengthen the American defense.

Yet, what are you about to put upon American shipping, you Senators who believe that we have a right to discriminate? I am not addressing anybody else. The others are wedded to their idols. The others insist upon giving to Great Britain vastly more than she claims. The others insist that we shall surrender our sovereignty and shall take the humiliating, shameful attitude before the world of having accomplished the mightiest achievement of the age and then insisting upon sharing its ownership, its control, its direction, its advantages with all the people of the world.

Those Senators who believe that the treaty imposes that humiliating obligation upon them will, of course, vote for that construction of the treaty. They could not in conscience do otherwise, and I am not appealing to them. I leave them to reckon not with their own consciences—they have already reconciled themselves, I assume, with their consciences—but I leave them to reckon with what I believe to be an outraged people.

I am speaking to the other class of Senators. I am speaking now to Senators who have expressed views like the senior Senator from Missouri [Mr. STONE]. I am speaking to Senators upon this side who have said that they believe we have entered into no obligation that forecloses us from the exercise of our sovereignty. I am speaking to Senators who believe that it is unwise from a domestic standpoint to allow our ships to pass through this canal free and are intending to vote for this bill solely because the act of 1912 expresses an unsound domestic policy.

I agree for the moment with you. I agree with you, in fact, that it would be better not to do it. But entirely apart from the consequences of your votes and the construction which will be put upon them by the whole world, tell me this: How will you defend yourselves for imposing upon commerce a burden that belongs to the whole country, that belongs to it because we have constructed this canal? We will maintain the canal, we will operate the canal, in part in order to make our national defense more secure. Every penny that you extort from commerce in order to pay for the national defense is a penny wrongfully exacted from traffic, a penny that will make it still more difficult for the water commerce to compete with the land commerce of the United States.

My amendment, Mr. President, proposes a readjustment of the act of 1912. It proposes to establish, like the famous article 3 of the Hay-Pauncefote treaty did, or as it was claimed it did, a general principle.

The general principle is that foreign nations shall pay on the basis of 2 per cent upon the cost of construction and upon the cost of maintenance and operation as their share, each ship its share, without discrimination, without partiality, without favor, but that as to our own country the people will assume to care for one-half of the investment, one-half the maintenance, one-half the operation, because they determined that the canal should be built in order to glorify the Nation's name, in order to make the Nation's integrity more secure, in order to strengthen the national defense.

If my amendment were adopted, it would introduce a just and equitable plan. It would not be subject to the criticism

that it constituted a subsidy. It is not a subsidy to relieve our shipping from a portion of the expense of the maintenance and the operation of this canal. It is a contradiction in terms. It is a misconception of the whole subject to declare that an exemption of that kind constitutes a subsidy, for the Nation built the canal, it maintains the canal, operates the canal, or will do so, for the benefit of all the people, and they ought to bear that share of the expense, and they will bear it cheerfully, gladly, because they will know that they are bearing it in accordance with the laws of justice and of honor.

Moreover, the amendment which I have proposed will do one thing which I am very anxious to do, and that is to assert in the most emphatic way in which we can assert it that the United States has the right to make this discrimination, and if in years to come we find that we have not apportioned the expense accurately or fairly we will be in a position to rectify any mistake that we may make at the present time. When we are guided by the lamp of experience years hence, we will know then better than we know now how the expenditure ought to be apportioned.

But if we vote for this bill without some assertion of our right to do the thing which I believe a majority of the Senators in this Chamber are of the opinion we can justly do, I believe we have sealed our mouths practically for years and years to come. There will never be a suggestion of the assertion of this right until the people of this country, upon the issue being raised, command that we assert the right.

I approach the vote with more concern than I have ever felt in the passage of any measure before Congress. I have never before taken part in the passage of any bill that seemed to close the door of the future as this bill closes it. I have never participated in the consideration of any measure that seemed to shackle the hands of the men and the women of future generations as this bill shackles them. I shrink from the consequences of the thing we are about to do. As I pointed out the other day, what you are about to do is the equivalent of saying that the United States shall never pass a commercial ship through the canal. If when it is finished the United States desires to take the eight ships which now ply between New York and Colon and extend their journey to San Francisco or Portland, Oreg., you are about to give to Great Britain the weapon that can prevent that journey. You are about to say to Great Britain that never will the United States itself engage in commercial traffic through the Panama Canal.

Why? It is impossible for the ships of the United States, owned by the United States, operated by the United States, to pay anything for passing through the Panama Canal. It is unthinkable that the United States can pay itself. Whenever the United States attempts that venture—and I, for one, would like to see it attempted—if my influence could accomplish it, I would enact a statute that would require these ships, at least, the moment the canal is opened, to begin carrying the traffic of commerce of the people of the United States from our eastern coast to our western coast. I believe that that will be the sentiment of the people of this country ere long.

I have no doubt that the ownership and the operation of ocean-going steamers by the United States will be necessary to regulate properly the greed and the avarice of private ownership; yet the Senate dares to say that the United States shall never do that thing. Why, I repeat? Because the United States can not demand pay for its own ships. It can neither demand pay nor can the ships make the payment. The only result of the construction that we have no right to allow any ship to pass through this canal doing business between our two coasts without paying the same tolls paid by a foreign ship is that the United States must forego that further part of its sovereignty and forever retire from this efficient and helpful service to the people of the country.

In the face of this imminent necessity, and without being able to conceive what the future may hold for us, without being able to foretell just how and when the United States may require this right which is now to be denied, I marvel that you can do it. I would not marvel if you did it because you believe that these ships should pay a fair toll. But that is not what you are doing. You are not saying they shall pay a fair toll. You may say that with your lips, but that is not what your vote will mean.

There is a resolution for arbitration here suggested by the Senator from Utah [Mr. SUTHERLAND]. I have great regard for him; I know he is entirely sincere; but when he brings forward that resolution for arbitration it will be but a mockery and a farce. How are you going to pass a resolution for arbitration unless you are willing to assert that we have some claim that is denied by Great Britain? You can not pass that resolution without so asserting. You are just now declining to assert it. You are declining to assert it because the President of the United States has asked you to repeal the law, because he believes it to be in plain contravention of our treaty obligations. It may be that we will have force enough, virility enough, in the future to retake what we now surrender. We will take it again, as has been said more than once, but we will retake it with infinite difficulty; we will retake it under circumstances that might well frighten a peace-loving American citizen.

I know that we will retake it; but lift, if you will, for a moment the veil of the future and endeavor to conceive the circumstances that will confront its recapture. As it is now it is asserted by Great Britain as one of its rights. But Great Britain is not tenacious with respect to it. Great Britain is willing to submit it, so representatives of that great nation declare, to a board of arbitration. But when we take the step that we are about to take; when Great Britain holds this privilege not only by her own assertion but by our assent, by our declaration; when we come to take it again there is but one way that we can take it, and that is obvious to every Senator here. Great Britain would yield now. Especially would she yield to the conclusions of a board of arbitration. But when we vest her by the action of the American Congress and the declaration of the American President with the title to these privileges, then when we recapture them, when we restore to our own country these essential, vital rights, I fear that we will be compelled to take them at the point of the sword. It is that contingency that makes one shudder as he looks into the future.

But one word more. The Senator from New York [Mr. ROOT], in his very eloquent speech, said that he had no doubt whatsoever that we were precluded from exempting either our coastwise ships or our ocean-going ships, and that he had no doubt, either—that was just as clear to him as the former proposition—that at the very moment the money was paid by these ships to an officer of the Government, so that the title of the money had vested in the Government, that moment it could be returned to the ship paying it, and the ship could go on its way neither worse off nor better off than when it entered the canal. I do not agree with that, of course. To me that reduced the whole controversy to a miserable farce. To assert that the way of dishonor lies in exemption and that the way of honor lies in refunding—I can not understand the nicety of that reasoning. But I call your attention to one thing: If that be so, if we have a right to refund these tolls to our own ships, we have a right to refund them to the ships of any foreign nation. Our right to do as we please with this money, as the Senator from New York declares, is absolute and complete. No foreigner can question our disposition of our money when once it comes into the hands of an officer of the Government.

I should like to ask the Senator from New York, if he were here, I should like to ask any other Senator who takes that view of the matter, whether he believes that we can collect tolls from the ships of France at Colon and pay the tolls back to those ships as they leave the harbor of Balboa? Is that the equality of treatment which we vaunt so much and which we must preserve or be dishonored in the eyes of the whole world? These disciples of the Carnegie Peace Foundation, these men whose horizon seems to lie short of the great American interest, insist that we can take the money, that we must take the money, but we can do with the money whatsoever we desire. I should like to ask any one of them if he will answer me whether he thinks, believing that theory, that we could discriminate in favor of France in that way or in favor of Germany in that way, and what is there in the doctrine that would prevent our refunding such tolls to the ships of a foreign nation that will not prevent our refunding them to the ships of our own Nation? I am speaking now, of course, with regard to the construction of the treaty.

Mr. President, I submit the amendment which I have proposed; I submit it, believing that it expresses the real justice of this perplexing situation; I submit it, however, without the least hope that it will find favor in the Senate. All these matters have been already decided, and decided somewhere else than upon the Senate floor. I submit it not with the view of preventing what I believe to be the fatal mistake we are about to make, but I submit it to the people of my country, I submit it to the people of my State, firmly convinced that we have the moral and the legal right to do what the amendment proposes, firmly believing that it will fulfill not only the most sensitive standard of honor, but the highest interests and welfare of all the people.

The VICE PRESIDENT. The question is on the amendment proposed by the Senator from Iowa [Mr. CUMMINS] to the amendment of the committee.

Mr. MARTINE of New Jersey. I raise the point of no quorum.

The VICE PRESIDENT. The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Ashurst	Goff	Martine, N. J.	Shively
Borah	Gore	Myers	Simmons
Brady	Gronna	Nelson	Smith, Ariz.
Brandegee	Hitchcock	Newlands	Smith, Ga.
Bristow	Hollis	Norris	Smith, Md.
Bryan	Hughes	O'Gorman	Smith, S. C.
Burleigh	James	Overman	Smoot
Burton	Johnson	Owen	Sterling
Chamberlain	Jones	Page	Stone
Chilton	Kenyon	Perkins	Sutherland
Clapp	Kern	Poindexter	Swanson
Clark, Wyo.	La Follette	Pomerene	Thomas
Clarke, Ark.	Lane	Ransdell	Thompson
Colt	Lea, Tenn.	Reed	Vardaman
Crawford	Lee, Md.	Root	Warren
Culberson	Lewis	Saulsbury	Weeks
Cummins	Lippitt	Shafroth	West
Dillingham	McCumber	Sheppard	White
du Pont	McLean	Sherman	Williams
Fletcher	Martin, Va.	Shields	Works

Mr. SMOOT. Mr. President, I desire to announce the unavoidable absence of the senior Senator from New Hampshire [Mr. GALLINGER] and also of the senior Senator from Massachusetts [Mr. LODGE].

The VICE PRESIDENT. Eighty-two Senators have answered to the roll call. A quorum is present. The question is on the amendment offered by the Senator from Iowa [Mr. CUMMINS] to the amendment of the committee.

Mr. SMOOT. Mr. President, I ask that the amendment to the amendment be stated.

The VICE PRESIDENT. The Secretary will state the amendment to the amendment.

The SECRETARY. It is proposed to amend section 2 by striking out from and including the word "when," in line 3, page 2, to and including the word "ton," in line 5, page 2, and by inserting in lieu thereof the following:

Until the further action of Congress the basis for the ascertainment of the tolls charged to foreign ships of commerce shall be their proportion of the estimated cost of the maintenance and operation of the canal, together with interest at the rate of 2 per cent annually upon the investment in the construction of the canal, taking into account the entire tonnage of the canal, not exceeding, however, $1.25 per net registered to or the equivalent thereof.

Until the further action of Congress the basis for the ascertainment of the tolls charged to domestic ships of commerce shall be their proportion of one-half the estimated cost of the maintenance and operation of the canal, together with interest at the rate of 2 per cent annually upon one-half of the investment in the construction of the canal, taking into account the entire tonnage of the canal, not exceeding, however, 60 cents per net registered ton or the equivalent thereof: *Provided*, That vessels of every description owned and operated by the United States shall pass through the canal without the payment of tolls. The fourth sentence in said section 5 is hereby repealed.

The VICE PRESIDENT. The question is on agreeing to the amendment to the amendment.

Mr. CUMMINS. Mr. President, I do not intend to insist upon a roll call. I know what the outcome would be. It has been, I think, fairly shown what we believe about this matter, and I have no disposition to delay the final result by insisting upon a roll call, but I should like a vote upon it.

The VICE PRESIDENT. The question is on agreeing to the amendment to the amendment.

The amendment to the amendment was rejected.

The VICE PRESIDENT. The bill is still in the Senate, as in Committee of the Whole, and open to further amendment.

Mr. BORAH. Mr. President, I have an amendment pending to this measure, but it is not my purpose to urge it. I only want to say a word as to the reason why I do not do so. It is manifest by the votes which have been had that I could not hope to succeed in having it adopted. On the other hand, the nature of the amendment would not permit its being submitted to the Senate, it seems to me, without a presentation of the reasons for it, as the amendment is in the nature of a postponement of the time when we should have a final vote upon this measure. In view, Mr. President, of the undoubted outcome, because of the lateness of the hour, and as it is my desire not to submit it without accompanying it with an argument, I withdraw the amendment.

The VICE PRESIDENT. The bill is in the Senate, as in Committee of the Whole, and open to further amendment. If there be no further amendment——

Mr. REED. Mr. President, I offer the amendment which I send to the desk.

The VICE PRESIDENT. The Secretary will state the amendment.

The SECRETARY. It is proposed to strike out all after the enacting clause and to insert:

That an act entitled "An act to provide for the opening, maintenance, protection, and operation of the Panama Canal and the sanitation and government of the canal," approved August 24, 1912, and commonly known as "the Panama Canal act," be amended by striking out of section 5 the following words: "No tolls shall be levied upon vessels engaged in the coastwise trade of the United States," and by adding to said act a new section, to be known as section 15, in words and figures as follows:

"SEC. 15. Vessels other than vessels of the United States may enter the ports of the United States and engage in the coastwise trade of the United States to the same extent and under the restrictions imposed upon vessels of the United States. The President is hereby authorized to prescribe and from time to time to change the tolls that shall be charged by the Government of the United States for the use of the Panama Canal by vessels engaged in the coastwise trade. Such charges shall as nearly as possible equal the expense incurred by the Government in transporting said vessels through the canal without taking into account as a part of said charges the interest upon the investment of the United States in said canal."

SEC. 2. That section 4347 of the Revised Statutes of the United States and all other acts or parts of acts in so far as they are in conflict herewith are hereby repealed.

Mr. REED. Mr. President, if the Senate will indulge me I think I will conclude what I want to say in five minutes of time. I discussed this proposition at length two days ago, but some are present now who were then absent.

It has been charged on the floor by nearly every Senator who has spoken that the coastwise trade of the United States is in the control of a monopoly; that nearly all of the vessels capable of transporting goods through the canal are controlled by the railroads. If that is true, and in the main I believe it to be true, then the result of the hundred years of fostering care by our Government of the coastwise business has resulted in the creation of a monopoly that is largely controlled by the transcontinental railway lines. If we are to have cheap rates between the East and West, we must gain them through an actual, good-faith competition between boats, and an actual, good-faith competition between the boats and the transcontinental railroads.

I want to see railroad rates and boat rates reduced to the lowest possible point, by which, of course, I mean not below a living basis. If, after fostering the coastwise business for a hundred years, we are confronted by a monopoly, the way to destroy that monopoly most effectively is to put it into actual competition with the vessels of the world. I am not going to argue that. I state it as a proposition.

I state another proposition.

It has been well said here that if the Canadian coast towns and the Canadian railways reaching the coast have the benefit of the cheap rates which result from a world competition among the boats of the world, then those towns will have a tremendous advantage over the cities of the United States, because our cities will be compelled to transport their goods by the small number of American coastwise vessels, and those vessels, as is well known, charge rates greatly in excess of the rates charged where there is a world-wide competition. So, in order that we may place the cities of the eastern portion of this country and the western portion of this country, and also, in a less direct way, all of the vast interior of this country, upon an equal footing with the Canadian cities, if we are to place our farmers upon an equal footing with the Canadian farmers, I insist that we must open our ports to all vessels of all nations. That will destroy the shipping monopoly; that will give us lower rates; that will enable the farmers of the United States to ship to Europe as cheaply as the Canadian farmers; that will produce an actual competition with the railroads; and that will settle the question of any possible controversy between this and any other country over the terms of the canal treaty, because the vessels of all nations will then be treated alike.

Mr. President, in the march of events it has come to this, that the leading nations of the world are changing their policies with reference to coastwise business. England has opened her ports to the vessels of the world. Other nations, if they have not entirely opened their ports upon terms of equality, are giving more liberal terms than in the past. I should like to see this canal so used that the greatest possible benefit would result to our country. Hence, I would open our coastwise trade to the vessels of the world.

It is for these considerations that I have offered this amendment.

In view of the "line-up" on this bill and the rejection of all amendments except the one programmed to pass, and also in view of the statement of many Senators that they agree with the proposition in my amendment but do not want to vote for it at this particular time, I can hardly hope for its passage. Nevertheless, I offer it, and if it is defeated, shall press it in the future.

Let me say again that if the coastwise trade is controlled by a monopoly, then admission of the vessels of all nations to the coastwise trade will break that monopoly. A reduction of rates by water will result, and in turn a reduction in railroad rates will be forced.

If the coastwise trade is not in the control of a monopoly, as some assert, then a more active competition will result, and all parts of the United States will be benefited by a reduction of rates. So that in either case we will gain from free competition between carriers. The amendment I propose strikes at the ship monopoly, whether it be complete or partial. It strikes directly at railway-controlled boats. It breaks the hold of the transcontinental railways which they now have through boat-line ownership. At the same time, we escape from the enactment of this bill which I gravely fear will impair the rights of the United States to control the canal.

The question of tolls is one of minor importance. If that question were presented purely as an economic proposition, I should not be greatly concerned. But, as I stated in my remarks a few days since, I fear we can not pass this bill under the present circumstances without weakening our claim of the right to control the canal. It has been said that we should not permit the boats of a monopoly to use the canal free; that to do so is to feed the monopoly. The answer is that the canal bill specifically bars such vessels from the use of the canal. The result therefore must be the dissolution of the monopoly, because being refused the use of the canal the monopoly can not compete with the boats outside of the monopoly; especially will this be true if we open our coastwise trade to the boats of the world. Under such circumstances the monopoly could not exist for a day.

Men for whose opinions I entertain the greatest respect firmly believe that the Simmons amendment does preserve our rights unimpaired. Nevertheless I fear they are mistaken. I have therefore voted for amendments specifically asserting our complete sovereignty over the canal and our right to fix tolls on our own vessels as we may see fit. Had such an amendment been adopted I would have waived any other objections and voted for the bill. I hoped and, until the developments of to-day, believed that an amendment would be accepted embodying the principle I have just referred to. But the amendments have been defeated, and I am now forced, if the amendment I now offer is defeated, to choose between voting for the bill with the Simmons amendment or voting against it. Because I fear the Simmons amendment does not with the necessary certainty assert our rights I shall choose the latter course. I believe it to be the safer thing for the country. In this opinion I may be mistaken. I hope that time will prove that my fears are groundless.

I know that the President and the majority of my party associates who are supporting the bill believe that the Simmons amendment is ample. On the other hand, many able men in the party take a contrary view. I shall resolve the doubt in favor of what I regard as the safe side. I am sorry that all Democrats can not vote as a unit. But it must be remembered that the Democratic platform specifically declared for free tolls. Those who in this instance vote against this bill need no other justification than the plain words of the platform adopted by the Democratic Party at Baltimore.

Mr. LA FOLLETTE. Mr. President, I offer an amendment to the proposed amendment.

I move to add, after the words "United States," in line 3, page 2, after the period, the matter which I send to the desk.

The VICE PRESIDENT. The amendment to the amendment will be stated.

The SECRETARY. On page 2 of the printed amendment of the Senator from Missouri, in line 3, after the words "United States," the Senator from Wisconsin proposes to insert:

Provided, That foreign vessels engaging in such coastwise trade shall be subject to all the laws, regulations, and rules of the United States Government pertaining to vessels of the United States, in every respect as though such foreign vessels were vessels of the United States.

The VICE PRESIDENT. The question is on the amendment offered by the Senator from Wisconsin to the amendment of the Senator from Missouri.

Mr. REED. I accept the amendment.

The VICE PRESIDENT. The question, then, is on the amendmend as modified.

Mr. REED. I should like to have a record vote on that question.

The VICE PRESIDENT. Does the Senator from Missouri call for the yeas and nays?

Mr. REED. I do.

The yeas and nays were ordered, and the Secretary proceeded to call the roll.

Mr. CHAMBERLAIN (when his name was called). I have a general pair with the junior Senator from Pennsylvania [Mr. OLIVER]. I do not know how he would vote on this particular bill, and I therefore withhold my vote. If I were permitted to vote, I should vote "yea."

Mr. SMOOT (when Mr. GALLINGER's name was called). I desire to announce that the senior Senator from New Hampshire [Mr. GALLINGER] is unavoidably detained from the Senate. If he were here, he would vote "nay."

I also desire to announce the unavoidable absence of the senior Senator from Massachusetts [Mr. LODGE], and to say that if he were here he would vote "nay."

Mr. HOLLIS (when his name was called). On this question I am paired with the Senator from Montana [Mr. WALSH] and withhold my vote.

Mr. ROOT (when Mr. LODGE's name was called). I announce the necessary absence of the Senator from Massachusetts [Mr. LODGE]. He is paired with the Senator from New Hampshire [Mr. GALLINGER]. If the Senator from Massachusetts were present he would vote "nay."

Mr. O'GORMAN (when his name was called). I have a general pair with the senior Senator from New Hampshire [Mr. GALLINGER]. In his absence I withhold my vote.

Mr. WILLIAMS (when his name was called). Reannouncing the transfer of my pair with the senior Senator from Pennsylvania [Mr. PENROSE] to the junior Senator from Arkansas [Mr. ROBINSON], as on the last vote, I vote "nay."

The roll call was concluded.

Mr. CHILTON. I transfer my pair, as announced on the previous vote, to the Senator from South Carolina [Mr. TILLMAN] and vote "nay."

Mr. HOLLIS. I transfer my pair with the Senator from Montana [Mr. WALSH] to the junior Senator from Wisconsin [Mr. STEPHENSON] and vote "nay."

The result was announced—yeas 12, nays 67, as follows:

YEAS—12.

Ashurst	Cummins	Kenyon	Reed
Brady	Hitchcock	Lane	Thomas
Clapp	Jones	Martine, N. J.	Thompson

NAYS—67.

Bankhead	Gronna	Norris	Smith, Md.
Brandegee	Hollis	Overman	Smith, Mich.
Bristow	Hughes	Page	Smith, S. C.
Bryan	James	Perkins	Smoot
Burleigh	Johnson	Pittman	Sterling
Burton	Kern	Poindexter	Stone
Catron	La Follette	Pomerene	Sutherland
Chilton	Lea, Tenn.	Ransdell	Swanson
Clark, Wyo.	Lee, Md.	Root	Thornton
Clarke, Ark.	Lewis	Saulsbury	Townsend
Colt	Lippitt	Shafroth	Vardaman
Crawford	McCumber	Sheppard	Weeks
Culberson	McLean	Sherman	West
Dillingham	Martin, Va.	Shively	White
du Pont	Myers	Simmons	Williams
Fletcher	Nelson	Smith, Ariz.	Works
Goff	Newlands	Smith, Ga.	

NOT VOTING—16.

Borah	Gore	Owen	Stephenson
Chamberlain	Lodge	Penrose	Tillman
Fall	O'Gorman	Robinson	Walsh
Gallinger	Oliver	Shields	Warren

So Mr. REED's amendment was rejected.

The VICE PRESIDENT. The bill is still in Committee of the Whole and open to amendment. If there be no further amendment the bill will be reported to the Senate.

The bill was reported to the Senate as amended.

The VICE PRESIDENT. The question is on concurring in the amendment made as in Committee of the Whole.

Mr. O'GORMAN. In the amendment proposed by the Senator from North Carolina [Mr. SIMMONS] there are what I conceive to be two inaccurate references to the two treaties referred to with respect to the dates. The Hay-Pauncefote treaty is referred to as having been ratified on the 21st of February, 1902. I believe it was ratified on the 16th of December, 1901. The date of the ratification of the treaty with the Republic of Panama is given in the amendment February 26, 1904, when it should be February 23, 1904.

Mr. SIMMONS. I think the Senator is mistaken. I phoned to the State Department to ascertain the date the ratifications were exchanged of the Hay-Pauncefote treaty, and they advised me that they were exchanged on the 21st day of February, 1902. I have before me the Diplomatic History of the Panama Canal, which gives the following:

Signed at Washington November 18, 1901.
Ratified by the Senate December 16, 1901.
Ratified by the President December 26, 1901.
Ratified by Great Britain February 20, 1902.
Ratifications exchanged at Washington 21st of February, 1902.

Mr. O'GORMAN. The word "ratified" may be applicable to any one of the three or four dates. If it is intended to refer to the ratification of the two treaties by the Senate of the United State the first date ought to be December 16, 1901. When we speak in our laws of the ratification of a treaty, we have reference to the ratification by this body.

Mr. ROOT rose.

Mr. SIMMONS. I am advised by the State Department that the dates given were the dates of the exchange of ratifications. The Senator from New York [Mr. ROOT], however, is authority upon that subject, and he may suggest a change.

Mr. ROOT. The ratification is always the date of the formal exchange of the instruments of ratification. The Senate does not ratify a treaty; the Senate advises and consents to the ratification of the treaty. That is the language of the Constitution, and it is the invariable form of our action. We advise and consent to the ratification of a treaty, but the treaty may never be ratified, or it may not be ratified for a long period. The date of ratification is the date when the formal instruments of ratification are exchanged between the two countries.

Mr. SIMMONS. That is what I was advised by the department, and I put those dates in.

Mr. SUTHERLAND. Mr. President, in the Committee of the Whole I offered an amendment by the way of a substitute for the amendment proposed by the Senator from North Carolina. That amendment on motion of the Senator from Mississippi [Mr. WILLIAMS] was laid on the table. I think I am entitled to have a vote, at least I should like to have a vote upon the amendment itself. For that reason I offer the amendment now as a substitute for the amendment of the Senator from North Carolina. I shall not take any time to discuss it. I do not think it is necessary to read it. It is the same amendment, and I ask for the yeas and nays upon it.

Mr. O'GORMAN. With the permission of the Senator from Utah, if I may have the attention of the Senate for just a moment, we ought to have no uncertainty with respect to the description of these two treaties in the amendment or bill which is about being enacted. In the Senate document which has been distributed entitled "Canal Treaties," on page 55, we find that Lord Pauncefote telegraphed to the Marquis of Lansdowne, under date of December 16, 1901, stating that the canal treaty was ratified on that day. If, as my colleague suggests, it is appropriate to refer to the date of the exchange, and that is the equivalent of ratification, we would be employing more precise language if we referred to the dates the ratifications of these two treaties were exchanged rather than to the dates when ratified.

Mr. SUTHERLAND. I ask for the yeas and nays on my amendment.

The yeas and nays were ordered.

Mr. SIMMONS. I wish to ask: What is the parliamentary status of the amendment made as in Committee of the Whole? Has the amendment offered by myself, which was adopted in Committee of the Whole, been concurred in?

The VICE PRESIDENT. Not yet. The amendment of the Senator from Utah is proposed as a substitute.

Mr. SUTHERLAND'S amendment was to insert in lieu of the amendment made as in Committee of the Whole the following proviso:

Provided, That nothing herein shall be considered as denying or abridging the right of the United States to discriminate in favor of the ships of commerce of its citizens in respect of the conditions or charges of traffic which may be imposed for the use of the Panama Canal, but, on the contrary, such right is hereby reasserted.

The VICE PRESIDENT. The Secretary will call the roll on agreeing to the amendment proposed by the Senator from Utah [Mr. SUTHERLAND].

The Secretary proceeded to call the roll.

Mr. CHILTON (when his name was called). Making the same announcement as on the former vote, I vote "nay."

Mr. SMOOT (when Mr. GALLINGER'S name was called). Announcing the absence from the Senate of the Senator from New Hampshire [Mr. GALLINGER], I wish to state that he is paired upon this question with the Senator from Massachusetts [Mr. LODGE]. If the Senator from New Hampshire were here, he would vote "yea."

Mr. HOLLIS (when his name was called). I again announce my pair with the Senator from Montana [Mr. WALSH]. If I were at liberty to vote, I should vote "nay."

Mr. ROOT (when Mr. LODGE'S name was called). If the Senator from Massachusetts [Mr. LODGE] were present, he would vote "nay."

Mr. McCUMBER (when his name was called). I have a general pair on this amendment with the junior Senator from Pennsylvania [Mr. OLIVER]. I transfer that pair to the junior Senator from Wisconsin [Mr. STEVENSON] and vote "nay."

Mr. WILLIAMS (when his name was called). Repeating the previous announcement of the transfer of my pair with the Senator from Pennsylvania [Mr. PENROSE], I vote "nay."

The roll call was concluded.

Mr. HOLLIS. I transfer my pair previously announced to the junior Senator from New Jersey [Mr. HUGHES] and vote "nay."

The result was announced—yeas 33, nays 50, as follows:

YEAS—33.

Ashurst	Cummins	O'Gorman	Sutherland
Borah	Dillingham	Page	Townsend
Brady	du Pont	Perkins	Vardaman
Bristow	Goff	Poindexter	Warren
Burleigh	Jones	Ransdell	Weeks
Catron	Kenyon	Reed	Works
Chamberlain	La Follette	Shields	
Clapp	Lane	Smith, Mich.	
Clark, Wyo.	Martine, N. J.	Smoot	

NAYS—50.

Bankhead	Hollis	Norris	Smith, Md.
Brandegee	James	Overman	Smith, S. C.
Bryan	Johnson	Owen	Sterling
Burton	Kern	Pomerene	Stone
Chilton	Lea, Tenn.	Root	Swanson
Clarke, Ark.	Lee, Md.	Saulsbury	Thomas
Colt	Lewis	Shafroth	Thompson
Crawford	Lippitt	Sheppard	Thornton
Culberson	McCumber	Sherman	West
Fletcher	McLean	Shively	White
Gore	Martin, Va.	Simmons	Williams
Gronna	Myers	Smith, Ariz.	
Hitchcock	Nelson	Smith, Ga.	

NOT VOTING—12.

Fall	Lodge	Penrose	Stephenson
Gallinger	Newlands	Pittman	Tillman
Hughes	Oliver	Robinson	Walsh

So Mr. SUTHERLAND'S amendment was rejected.

The VICE PRESIDENT. The question is on concurring in the amendment made as in Committee of the Whole.

The amendment was concurred in.

The VICE PRESIDENT. The bill is in the Senate and open to amendment. If there be no further amendment, the question is, Shall the amendment be engrossed and the bill be read a third time?

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

The VICE PRESIDENT. The question is, Shall the bill pass?

Mr. BORAH, Mr. LA FOLLETTE, and Mr. O'GORMAN called for the yeas and nays, and they were ordered.

The Secretary proceeded to call the roll.

Mr. CHILTON (when his name was called). I announce my pair with the Senator from New Mexico [Mr. FALL], which I transfer to the senior Senator from South Carolina [Mr. TILLMAN], and vote. I vote "yea."

Mr. SMOOT (when Mr. GALLINGER'S name was called). Again announcing the absence of the senior Senator from New Hampshire [Mr. GALLINGER], I desire to state that he has a pair with the senior Senator from Massachusetts [Mr. LODGE]. If the Senator from New Hampshire were present, he would vote "nay."

Mr. HOLLIS (when his name was called). I again announce my pair with the Senator from Montana [Mr. WALSH]. If I were at liberty to vote, I would vote "yea."

Mr. ROOT (when Mr. LODGE'S name was called). The senior Senator from Massachusetts [Mr. LODGE] is paired with the senior Senator from New Hampshire [Mr. GALLINGER]. If the Senator from Massachusetts were present, he would vote "yea."

Mr. McCUMBER (when his name was called). I have a pair with the junior Senator from Pennsylvania [Mr. OLIVER]. Not being able to find a transfer of that pair, I withhold my vote. If I were at liberty to vote, I would vote "yea."

Mr. SMOOT (when Mr. PENROSE'S name was called). I desire to announce the unavoidable absence of the senior Senator from Pennsylvania [Mr. PENROSE]. If he were here he would vote "nay." He has a general pair with the senior Senator from Mississippi [Mr. WILLIAMS].

Mr. MYERS (when Mr. WALSH'S name was called). My colleague [Mr. WALSH] is necessarily absent. It is my understanding that if he were here he would vote "nay."

Mr. WILLIAMS (when his name was called). With the same explanation made upon the previous roll call and the transfer of my pair with the Senator from Pennsylvania [Mr. PENROSE], I vote "yea."

The roll call was concluded.

Mr. McCUMBER. I transfer my pair with the Senator from Pennsylvania [Mr. OLIVER] to the junior Senator from Wisconsin [Mr. STEPHENSON] and vote "yea."

The result was announced—yeas 50, nays 35, as follows:

YEAS—50.

Bankhead	Clarke, Ark.	Gore	Johnson
Brandegee	Colt	Gronna	Kenyon
Bryan	Crawford	Hitchcock	Kern
Burton	Culberson	Hughes	Lea, Tenn.
Chilton	Fletcher	James	Lee, Md.

Lewis	Owen	Shively	Swanson
McCumber	Pittman	Simmons	Thompson
McLean	Pomerene	Smith, Ariz.	Thornton
Martin, Va.	Root	Smith, Ga.	West
Myers	Saulsbury	Smith, Md.	White
Nelson	Shafroth	Smith, S. C.	Williams
Norris	Sheppard	Sterling	
Overman	Sherman	Stone	

NAYS—35.

Ashurst	Cummins	Newlands	Smoot
Borah	Dillingham	O'Gorman	Sutherland
Brady	du Pont	Page	Thomas
Bristow	Goff	Perkins	Townsend
Burleigh	Jones	Poindexter	Vardaman
Catron	La Follette	Ransdell	Warren
Chamberlain	Lane	Reed	Weeks
Clapp	Lippitt	Shields	Works
Clark, Wyo.	Martine, N. J.	Smith, Mich.	

NOT VOTING—10.

Fall	Lodge	Robinson	Walsh
Gallinger	Oliver	Stephenson	
Hollis	Penrose	Tillman	

So the bill was passed.

LEGISLATIVE, ETC., APPROPRIATIONS.

Mr. SMITH of South Carolina and Mr. MARTIN of Virginia addressed the Chair.

The VICE PRESIDENT. The Senator from South Carolina.

Mr. MARTIN of Virginia. I addressed the Chair before the Senator from South Carolina. I do not feel it is proper treatment that the rule should be ignored and another Senator recognized.

The VICE PRESIDENT. The Senator from South Carolina is recognized.

Mr. MARTIN of Virginia. In open defiance of the rule of the Senate?

Mr. SMITH of South Carolina. I move that the Senate proceed to the consideration of the bill (H. R. 6060) to regulate the immigration of aliens to and the residence of aliens in the United States.

Mr. MARTIN of Virginia. I desire to submit a motion which takes precedence over the motion submitted by the Senator from South Carolina. I move that the Senate proceed to the consideration of House bill 15279, the legislative, executive, and judicial appropriation bill.

The VICE PRESIDENT. The question is, Will the Senate proceed to the consideration of a bill, the title of which will be read.

The SECRETARY. A bill (H. R. 15279) making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1915, and for other purposes.

The VICE PRESIDENT. The question is on agreeing to the motion of the Senator from Virginia.

Mr. SMITH of South Carolina. On that motion I ask for the yeas and nays.

The yeas and nays were not ordered.

The VICE PRESIDENT. The question is on the motion of the Senator from Virginia.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. 15279) making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1915, and for other purposes.

Mr. KERN. I ask the Senator from Virginia if he will consent to have the bill laid aside temporarily that I may make a motion to adjourn.

Mr. MARTIN of Virginia. I consent that the bill may be temporarily laid aside for the motion which the Senator from Indiana desires to make.

Mr. KERN. I move that the Senate adjourn.

The motion was agreed to; and (at 10 o'clock and 18 minutes p. m., Thursday, June 11, 1914) the Senate adjourned until to-morrow, Friday, June 12, 1914, at 11 o'clock a. m.

HOUSE OF REPRESENTATIVES.

THURSDAY, *June 11, 1914.*

The House met at 12 o'clock noon.

Rev. Earle Wilfley, pastor of the Vermont Avenue Christian Church, Washington, D. C., offered the following prayer:

O Lord, our Lord, how excellent is Thy name in all the earth!

Before the mountains were brought forth, or ever Thou hadst formed the earth and the world, even from everlasting to everlasting, Thou art God.

We beseech Thee, heavenly Father, to hear us this morning as we pray for a better and a higher appreciation of Thy goodness. For what Thou art we praise Thee, and for what Thou wouldst have us become we pray Thee.

Bless our Nation. Bless those in authority. Bless those who to-day in these Halls shall make our laws. Lord, bless the deliberations of this hour. Bless word and deed and thought and purpose. And in it all may our country's good be the great motive and Thy honor the great incentive. Hear us we beg to-day, for Thy name's sake. Amen.

The Journal of the proceedings of yesterday was read and approved.

LEAVE TO EXTEND REMARKS.

Mr. WEAVER. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD on the subject of rural credits.

The SPEAKER. The gentleman from Oklahoma [Mr. WEAVER] asks unanimous consent to extend his remarks in the RECORD on the subject of rural credits. Is there objection?

There was no objection.

SPEAKER PRO TEMPORE FOR TO-MORROW.

The SPEAKER. The Chair designates the gentleman from Indiana [Mr. DIXON] to preside to-morrow. I am going to make a commencement address at the college of which I was president when I was a boy. [Applause.]

THE CALIFORNIA SHRINERS AND THE PRESIDENT.

Mr. KETTNER. Mr. Speaker, I ask unanimous consent to address the House for five minutes.

The SPEAKER. The gentleman from California [Mr. KETTNER] asks unanimous consent to address the House for five minutes. Is there objection?

Mr. MANN. What about.

Mr. KETTNER. About a newspaper article published in regard to the visit of the California Shriners to the city of Washington, wherein Mr. Tumulty is accused of turning down the Shriners and the assertion is made that I had phoned to Mr. Tumulty and requested that the President see them.

Mr. MANN. I have no objection.

The SPEAKER. Is there objection?

There was no objection.

The SPEAKER. The gentleman from California [Mr. KETTNER] is recognized for five minutes.

Mr. KETTNER. Mr. Speaker, I will ask the Clerk to read this article.

The Clerk read as follows:

[Dispatch to the Chronicle.]

PRESIDENT WILSON REFUSES TO MEET THE SHRINERS—VISITING CALIFORNIANS SNUBBED BY THE CHIEF EXECUTIVE AND HIS SECRETARY, TUMULTY.

WASHINGTON, *May 10.*

Despite the great reception they received here yesterday, the California Shriners did not leave Washington altogether pleased with their visit to the Capital.

The Shriners were much displeased because they were not received by President Wilson at the White House, which they expected. Though strenuous efforts were made by local Potentate Gibbs and the California Congressmen to arrange, through Secretary Tumulty, for the distinguished visitors to meet Wilson and see the famous White House, their efforts were "turned down" by Tumulty.

Representative KETTNER, when it was found that the President would not meet the Shriners, tried hard to get Tumulty to have Wilson at least come out on the White House portico and bow to the marching Shriners, but even this request was refused by Tumulty. The President preferred golf to meeting the Californians, and while the visitors were here Wilson was on the Chevy Chase links.

The refusal of Tumulty to have the Shriners received at the White House was learned to-day, and caused many biting comments among the visitors, practically none of whom had ever met the President, and all of whom had looked forward to at least shaking Wilson's hand.

These criticisms were not confined to the visitors, but are also voiced by many Members of Congress who are Shriners, and who entertained the visiting Temples. The Californians marched by the White House in their magnificent parade, but a look through the gates of the Mansion was as near as they got to the President.

Mr. KETTNER. Mr. Speaker, the only foundation for that article is a conversation I had the day before the Shriners were to appear here with my colleague from California [Mr. J. R. KNOWLAND]. I inquired of him whether any arrangement had been made for the Shriners to meet the President. He informed me that, so far as he knew, nothing had been done in this connection. I then told him I would take it upon myself to see if some arrangement could be made. That afternoon I telephoned to Mr. Brahany, and in the conversation he informed me that a great many such requests for interviews on Saturday had been turned down, and that there was another parade in the city that day, but that if I insisted upon it he would take it up with the President and see what could be done. I told him to call it off, understanding that Saturday was the only day that the President had for rest. I have made diligent inquiry, and, so far as I can find out, the California Shriners had not written to any Member from California stating that they wanted to meet the President.

I have been a member of the Masonic bodies in California for 20 years and an active worker. I belonged to Islam Temple in San Francisco for 14 years, and am now a member of Al

Bahr, of San Diego, being personally acquainted with the officers, and would be the first to resent any discourtesy to them. I am making this explanation because I am sure the California Shriners would not wish any injustice done to the President or to Mr. Tumulty, and I wish to state positively that I did not speak to Mr. Tumulty; that Mr. Brahany offered to make arrangements if I insisted upon it, and I told him under the circumstances I could not insist upon it.

LEAVE TO ADDRESS THE HOUSE.

Mr. DONOVAN. Mr. Speaker, I ask unanimous consent to speak for three minutes.

The SPEAKER. The gentleman from Connecticut asks unanimous consent to speak for three minutes. Is there objection?

Mr. FITZGERALD. About what?

Mr. DONOVAN. For the welfare of the minority leader.

Mr. FITZGERALD. Oh, well, I object. We have important business to transact to-day.

AGRICULTURAL APPROPRIATION BILL.

Mr. LEVER. Mr. Speaker, in looking over the Agricultural appropriation bill I notice that as it was passed by the Senate certain items in a paragraph were increased, but the totals in the bill were not increased correspondingly. I suppose the totals would not be in conference, and therefore I ask unanimous consent that the conferees of the House may be permitted to change the totals in accordance with the facts.

The SPEAKER. The gentleman from South Carolina asks unanimous consent that the conferees on the Agricultural appropriation bill be authorized to correct the totals. Is there objection?

Mr. MANN. Reserving the right to object, is it not possible to have any of these bills properly considered and amended in the distinguished body at the other end of this building? Yesterday morning we had a request of this kind as to the naval appropriation bill. Now, we have it on the Agricultural bill. The Agricultural bill is in conference, I believe, although the Senate has not insisted on its amendments, and the House has not disagreed to the Senate amendments. It does seem as though at some time we ought to get somebody able to conduct business in the usual and orderly manner.

Mr. FOSTER. Will the gentleman yield?

Mr. MANN. I yield.

Mr. FOSTER. From an editorial in the Washington Post this morning it would appear that this body does not give proper consideration, but has to depend upon the other body to give these and other bills due consideration and sufficient time for debate. In view of the gentleman's statement this morning. I judge that they did not give this matter proper attention.

Mr. MADDEN. Was the editorial in reply to Secretary Bryan's protest about unlimited debate in the Senate?

Mr. FOSTER. What?

Mr. MADDEN. The editorial.

Mr. FOSTER. Yes; it may have been.

Mr. HAMILTON of Michigan. Yes; it bore upon that matter.

Mr. DONOVAN. Mr. Speaker——

The SPEAKER. For what purpose does the gentleman from Connecticut rise?

Mr. DONOVAN. I rise to call these gentlemen to order. They are parliamentary sharks, and they know they can not get the floor except by way of the Speaker's chair. They ought to observe the rules of the House.

The SPEAKER. If that is a parliamentary inquiry, the Chair will answer that the gentleman from South Carolina [Mr. LEVER] made a request for unanimous consent. The gentleman from Illinois [Mr. MANN] was interrogating him under the guise of the right to object.

Mr. MANN. I have a good deal of sympathy for the difficulties that lie in the pathway of the gentleman from South Carolina [Mr. LEVER] and do not desire to interpose any further objection. So I will not object.

The SPEAKER. Is there objection to the request of the gentleman from South Carolina?

There was no objection.

TREATIES WITH THE INDIANS (H. DOC. NO. 1030).

Mr. STEPHENS of Texas. Mr. Speaker, I ask unanimous consent to have printed as a public document a letter from the Secretary of the Interior relating to the various treaties with the Indian tribes.

The SPEAKER. The gentleman from Texas asks unanimous consent to have printed as a public document a letter from the Secretary of the Interior relating to treaties with the Indians. Is there objection?

Mr. MANN. Reserving the right to object, what is this letter?

Mr. STEPHENS of Texas. It is only 23 pages in length. It is a letter giving a list of the existing treaties between the various Indian tribes and the United States. We need them in making up the estimates.

Mr. FITZGERALD. I thought there were two compilations of these various treaties.

Mr. STEPHENS of Texas. This gives the date when the treaties were made and when they expired. There are several expired treaties that are now being legislated for that should not be carried as treaty items. It is for that purpose we have had an examination of the office made, and this document shows what treaties have expired.

Mr. MURDOCK. Will the gentleman yield?

Mr. STEPHENS of Texas. Certainly.

Mr. MURDOCK. Are there not now two large volumes comprising the treaties with the Indians?

Mr. STEPHENS of Texas. Yes; but there is nothing to show what treaties have expired.

Mr. MADDEN. And this letter the gentleman speaks of does show that?

Mr. STEPHENS of Texas. It does.

Mr. MADDEN. Then I think it ought to be printed.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

THE SUNDRY CIVIL APPROPRIATION BILL.

Mr. FITZGERALD. Mr. Speaker, I move that the House resolve itself into Committee of the Whole House on the state of the Union for the further consideration of the bill H. R. 17041, the sundry civil appropriation bill.

The motion was agreed to.

Accordingly the House resolved itself into the Committee of the Whole House on the state of the Union, with Mr. GARRETT of Tennessee in the chair.

The CHAIRMAN. The House is now in Committee of the Whole House on the state of the Union for the consideration of the bill which the Clerk will read by title.

The Clerk read as follows:

A bill (H. R. 17041) making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1915, and for other purposes.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

PUBLIC HEALTH SERVICE.

For pay, allowance, and commutation of quarters for commissioned medical officers and pharmacists, $629,858; at least six of the assistant surgeons provided for hereunder shall be required to have had a special training in the diagnosis of insanity and mental defect for duty in connection with the examination of arriving aliens with special reference to the detection of mental defection;

For pay of acting assistant surgeons (noncommissioned medical officers), $200,000.

Mr. MANN. Mr. Chairman, I reserve a point of order on the paragraph. I would like to ask the gentleman, the chairman of the committee, if there is any necessity of continuing in this law a provision that "at least six of the assistant surgeons provided for hereunder shall be required to have had special training in the diagnosis of insanity and mental defect," and so forth? Why is not that a matter that can be properly regulated by the Public Health Service?

Mr. FITZGERALD. That was put in the current law in order to insure the obtaining of men who were specially qualified to detect mental defectives and prevent them from getting into the country. It was inserted with the approval of the Public Health Service so that it would necessitate the selection of men who had the special training which is necessary to enable them to more quickly and accurately detect mental defectives.

Mr. MANN. They have the authority, and what is the object of cumbering up the bill with this sort of a provision?

Mr. FITZGERALD. These assistant surgeons were for a special purpose, and this was to make certain that they would obtain men of that character. They have a large number of surgeons and assistant surgeons, but the complaint was that they had no one who had the special training that is required to detect these mental defectives among the immigrants.

Mr. MANN. I suppose in the first place it was inserted to give them authority to get six assistant surgeons who were what I believe they call psychiatrists.

Mr. FITZGERALD. We want to keep six men in the service with these qualifications. I think it is highly important; the State of New York is spending many million dollars per annum in support of alien insane.

Mr. MANN. They have the authority now; you might as well insert a provision that they should have some one capable of determining a whole lot of other diseases.

Mr. FITZGERALD. They asked for these assistant surgeons in order to obtain men who have these special qualifications, and the provision was inserted to insure getting them.

Mr. MANN. They have the men now?

Mr. FITZGERALD. I am not sure of that. They say they do not stay long.

Mr. MADDEN. Does the gentleman mean to insinuate that the authority heretofore conferred has been exercised in a way contrary to the authority, and that they have employed men of another class when they were authorized to employ this class?

Mr. FITZGERALD. No; this was carried the first time in the current law. The statement was made that they wanted men who by special training could very readily detect persons who are mental defectives. It seems that such persons develop peculiar facial characteristics, and men who are specially trained can segregate them almost at a glance. This board of assistant surgeons was increased so as to provide additional men to do this work, and it was thought advisable to insure the selection of men with these qualifications to provide that the additional number should have these qualifications.

Mr. GARNER. Are the salaries of these officials fixed by statute?

Mr. FITZGERALD. Yes.

Mr. GARNER. Is there any variation in the salaries?

Mr. FITZGERALD. They increase with the length of service.

Mr. GARNER. Does the same rule apply to the noncommissioned surgeons, for which you carry $200,000 in this paragraph?

Mr. FITZGERALD. The compensation varies. I am not certain that that compensation is fixed by statute.

Mr. MANN. The compensation of officers is fixed by statute.

Mr. GARNER. Does that include the noncommissioned assistant surgeons?

Mr. MANN. They are all commissioned, are they not?

Mr. GARNER. In the next section, or in this paragraph, it says "for pay of acting assistant surgeons (noncommissioned medical officers), $200,000." Can the Secretary fix their compensation at whatever sum he may think proper?

Mr. FITZGERALD. The highest pay of assistant surgeon is $2,400. That is given to a man under very peculiar conditions. He is stationed in the Hawaiian Islands; he is a specialist in plague and cholera work; and he is also an architect engineer and a very valuable man. Then the compensation runs down to $1,000.

Mr. GARNER. The compensation for regular medical officers?

Mr. FITZGERALD. The commissioned officers' pay is fixed by statute.

Mr. GARNER. What is the usual compensation?

Mr. FITZGERALD. I can give that information to the gentleman. Assistant surgeons general, of which there are 4, get $6,000 a year, 2 at $4,800, 1 surgeon at $5,400, 1 at $4,500, 23 at $4,000, and it runs down to $2,000. In 1913 there were 139 commissioned officers. In addition, there are 45 pharmacists, with a compensation averaging from $700 a year to $2,600.

Relative to the inquiry of the gentleman from Illinois [Mr. MANN], it is desired that these surgeons who are detailed for the examination of immigrants should be men who have special training to recognize mental defectives, and I think it is quite important that that should be the case. There was some doubt expressed this year as to whether they should select men with this special training or should attempt to train them themselves. Upon other occasions evidence was presented to the committee to demonstrate that unless the men did have this special training they were not effective in the particular work desired.

Mr. MANN. That is the case with all surgeons in reference to anything. If they do not have special training, they are no good.

Mr. FITZGERALD. The Public Health Service does not have any place in which to give them special training in these mental diseases.

Mr. FOSTER. Mr. Chairman, if the gentleman will permit, I beg to say to my colleague that I think this might insure that they should give these men special training for this work. I think this is a very important item.

Mr. MANN. I do not see how we are better able to judge of that than the Public Health Service.

Mr. FOSTER. We can not, if they will do it, but this makes it incumbent on the service to do that.

Mr. MANN. It is just as important to have somebody trained in reference to contagious diseases; yet that is not required.

Mr. FOSTER. There is not anything in it, except this calls special attention to it.

Mr. MANN. Oh, I suppose they wanted this inserted in the first place in order to give them authority to employ certain people that they have. They have the people anyway.

Mr. FITZGERALD. No; they did not ask to have that put in. This is put in by the committee. They stated they wanted additional men for this particular work, and the inquiry developed the purpose of the work. The lunacy commission of the State of New York presented figures that were very alarming as to the number of mental defectives who were passed by the immigration officials and who are now being cared for at the expense of the State of New York. The State of New York is spending several million dollars a year taking care of alien insane, and since additional employees were desired to detect these mental defectives the committee provided that the men selected should have the peculiar training to enable them to do so.

Mr. MANN. How did the committee arrive at the exact number of six out of the number of public-health surgeons on duty at the station?

Mr. FITZGERALD. They had requested six additional for that work, and they were given the six. The provision was made that six should have these qualifications, and as long as the number of surgeons was increased by six, the committee believed that at least six should have these peculiar qualifications. Otherwise they will be coming back requesting additional men, because none of the ones they have has the qualifications, and none of the surgeons they have in the service has the peculiar qualifications necessary to detect these mental defectives.

Mr. MURDOCK. These men are at Ellis Island?

Mr. FITZGERALD. They were at Ellis Island. They want additional men for Boston, Philadelphia, and some other places.

Mr. MOORE. Is it proposed to have these six men all stationed at Ellis Island?

Mr. FITZGERALD. Not that I recall. These men are already in the service.

Mr. MOORE. These are not new positions?

Mr. GARNER. No.

Mr. MOORE. Immigration is constantly increasing at the port of Philadelphia——

Mr. MANN. Where is Philadelphia? [Laughter.]

Mr. MOORE. Philadelphia is the first American city, on the greatest American river, in the Keystone State of the Union.

Mr. BUTLER. Who represents Philadelphia?

Mr. MOORE. It is represented by one of the best delegations that ever appeared in Congress. [Laughter.]

Mr. MANN. It has one of the greatest Representatives, at least.

Mr. MOORE. I want to know if these men are to be stationed at Ellis Island exclusively, or are they to be apportioned at the other stations?

Mr. FITZGERALD. That is a matter of administration. I can not say. They are to be assigned wherever the Surgeon General assigns them. There is no limitation on his authority in that respect.

Mr. STEPHENS of Texas. Mr. Chairman, will the gentleman yield?

Mr. FITZGERALD. Yes.

Mr. STEPHENS of Texas. I desire to ask the gentleman one question in regard to the language contained in lines 9 and 10, on page 41.

Mr. FITZGERALD. We have not yet reached that provision.

Mr. MANN. Mr. Chairman, I make the point of order on all that part of the paragraph which follows the figures in line 3.

The CHAIRMAN. The gentleman from Illinois makes the point of order. The Chair sustains the point of order.

Mr. AUSTIN. Mr. Chairman, I move to strike out the last word. Will the chairman of the committee having the bill in charge give an explanation of why the estimate of the Treasury Department for an increase in the salaried force of the Supervising Architect's Office was reduced $100,000?

Mr. FITZGERALD. We gave every dollar that was asked for the Supervising Architect's Office.

Mr. AUSTIN. Is the chairman certain of that?

Mr. FITZGERALD. Absolutely.

Mr. AUSTIN. How about the operating expenses covering public buildings?

Mr. FITZGERALD. The committee gave them $100,000 less than was requested.

Mr. AUSTIN. My understanding with Treasury Department officials——

Mr. FITZGERALD. I know that one of the assistant secretaries of the Treasury has been telling Members of Congress that this committee was curtailing the appropriations for op-

erating expenses and that they would be compelled to curtail the force instead of extending it. But neither the head of the department nor the assistant in charge of that particular work appeared before the committee. The committee gave $25,000 more than was given in the present year. For 1912 they had an unexpended balance of $226,000, and in 1913 they had an unexpended balance of $93,000. Based upon the experience which the members of the committee have acquired in the preparation of these bills, they believed that the $2,600,000 for operating expenses of public buildings was ample despite the assertion of those in charge to the contrary.

Mr. AUSTIN. In the report, on page 2, under the head of public buildings, operating force, the appropriation for 1914 was $2,575,000——

Mr. FITZGERALD. And for 1915 $2,600,000; that is what I stated.

Mr. AUSTIN. And the estimates for 1915 were $2,700,000. That is $100,000 short of the estimates.

Mr. FITZGERALD. I said it was $100,000 less than they requested, but in view of the fact that they had $226,000 unexpended in 1912 and $93,000 unexpended balance in 1913, based upon the experience and the knowledge acquired by the members of this committee in the preparation of this bill, it was believed that $2,600,000 would be ample for the proper conduct of the service.

Mr. GARNER. Will the gentleman yield?

Mr. FITZGERALD. I will.

Mr. GARNER. Does the gentleman believe that this will enable the architect's office to turn out any more plans and specifications——

Mr. FITZGERALD. It is not for that purpose at all. This is for the men in charge of the buildings that are in commission, the operating force of the buildings, maintenance of the plant, and so forth.

Mr. AUSTIN. For the present buildings and the new buildings to be opened.

Mr. FITZGERALD. I understand that. We think we have given ample. We may not have been so lavish as those in charge of the service would desire, but we have recommended sufficient to keep the buildings in that proper and economical manner which is expected under a Democratic administration. [Applause on the Democratic side.]

The CHAIRMAN. Without objection, the pro forma amendment will be considered as withdrawn.

There was no objection.

The Clerk read as follows:

For freight, transportation, and traveling expenses, including the expenses, except membership fees, of officers when officially detailed to attend meetings of associations for the promotion of public health, $30,000.

Mr. MURDOCK. Mr. Chairman, I move to strike out the last word for the purpose of directing an inquiry to the chairman of the committee.

Mr. FITZGERALD. What line?

Mr. MURDOCK. Line 14. I want to ask the gentleman this question: What is the meaning of the words "except membership fees"? What is the necessity for that?

Mr. FITZGERALD. It prohibits the payment out of this appropriation of the membership fees of officers of the Public Health Service in various medical and other associations.

Mr. MURDOCK. That is, that there are all over the country associations of doctors and——

Mr. FITZGERALD. A few years ago it was ascertained that there were all sorts of associations—auditors' associations, accountants' associations, medical associations, librarian associations—of which officials of the Government were members, and from various appropriations we were paying the traveling expenses of official delegates and their membership fees. For instance, we had a case where one official was a delegate to some convention and he was elected president of it. The annual dues were $10. He paid the annual dues and put in a voucher for his expenses, and the comptroller held that as he had been detailed to attend as a delegate by a superior officer, and as he could not act as delegate unless his membership fees were paid, that it was a proper charge.

Mr. MURDOCK. And this is to get around the ruling of the comptroller?

Mr. FITZGERALD. Not exactly. Congress passed a provision prohibiting the payment either of the traveling expenses or the expenses of attendance or the membership fees of any Government official in any one of these associations. Now, then, the Public Health Service has a relationship to some of these associations that is different from that occupied by, for instance, an auditor or an accountant to various associations. Its officials attend the annual meeting of medical societies and impart very valuable information, so we permit the payment of traveling expenses of the officer sent for that purpose, but still prohibit the payment of his dues as a member of the association.

Mr. GARNER. Will the gentleman yield?

Mr. FITZGERALD. Yes.

Mr. GARNER. In the language of this paragraph you have "and traveling expenses, including the expenses of officers when officially detailed." Is there any limit to the expenses which an officer may incur?

Mr. FITZGERALD. Yes; I think so.

Mr. GARNER. What is the limit?

Mr. FITZGERALD. We passed a law this session, which created a good deal of controversy, which limits the per diem expenses of any official traveling to $5 a day; they can not exceed $5 a day. Expenses mean not only traveling expenses but subsistence, but in regard to the Public Health Service we think the question is upon an entirely different footing. We have a number of men who are expert in a number of lines that the ordinary physician is not. It is a great benefit to have such experts attend these annual meetings and read their papers and discuss with the members of the associations important matters affecting the public health.

Mr. GARNER. And the question of detail is left to the particular chief of bureau.

Mr. FITZGERALD. In that particular bureau.

Mr. MURDOCK. Will the gentleman yield?

Mr. FITZGERALD. Yes.

Mr. MURDOCK. Do I understand the word "transportation" to mean by railroad—railroad fare of the individual?

Mr. FITZGERALD. No; transportation relates to an entirely different thing. It is transportation other than the railroad fare of individuals—express charges, and so forth.

Mr. MURDOCK. That is, transportation of something other than freight, but traveling expenses relate to railroad fare, and those expenses would be subsistence.

Mr. FITZGERALD. Yes.

The CHAIRMAN. Without objection, the pro forma amendment will be considered as withdrawn.

There was no objection.

The Clerk read as follows:

For maintenance of marine hospitals, including subsistence, and for all other necessary miscellaneous expenses which are not included under special heads, $245,000: *Provided*, That there may be admitted into said hospitals for study persons with infectious or other diseases affecting the public health, and not to exceed 10 cases in any one hospital at one time.

Mr. GARNER. Mr. Chairman, I move to strike out the last word, in order to ask the chairman a question. What is embraced in this language in this paragraph:

And for all other necessary miscellaneous expenses which are not included under special heads.

Is not that a rather broad expression to use, giving authority in the expenditure of a lump-sum appropriation of $245,000?

Mr. FITZGERALD. It is. It is for the maintenance of the marine hospitals, and it is very difficult to detail every specific expense attached to them. It takes care of laundry, telephones, repairs, rents, stationery, forage, toilet articles, and such items.

Mr. GARNER. This language here is broad enough to include almost any expenditure——

Mr. FITZGERALD. Yes.

Mr. GARNER. If the chief of the department should O. K. them; and is it not the custom of the chief of the bureau to O. K. and approve most any bills that are sent to him from the various places?

Mr. FITZGERALD. No; I think not. The appropriations for these hospitals are cut very close, and they have to be quite guarded all the time, so as to keep within the amount appropriated in order to keep them going.

Mr. GARNER. But this seems to be an unusual authorization.

Mr. FITZGERALD. And they all must be passed by the auditor, and there are pretty well defined rules as to what can or can not be allowed.

Mr. GARNER. This is an unusually broad authorization. I do not know of another item carrying this identical language. Of course, as the gentleman says, this may be necessary, but it is a rather large sum to absolutely turn over without any qualification whatever, to be expended for any purpose the department might see proper.

Mr. FITZGERALD. Well, when it is taken into consideration, in the first place, that there were 473,000 rations issued last year, which are paid for out of this appropriation, and then there are 23 marine hospitals maintained out of it, it does not give them very much leeway. If we were to appropriate specifically to cover every little thing, it would be very difficult to do so without a good deal of trouble. The appropriation has

never been such that they have been in a position to spend anything except what is absolutely essential.

The CHAIRMAN. Without objection, the pro forma amendment will be withdrawn, and the Clerk will read.

The Clerk read as follows:

Quarantine Service: For maintenance and ordinary expenses, exclusive of pay of officers and employees, of quarantine stations at Eastport and Portland, Me.; Providence, R. I.; Perth Amboy, N. J.; Delaware Breakwater; Reedy Island, and the Delaware Bay and River; Alexandria, Va.; Cape Charles and supplemental station thereto; Cape Fear, Newbern, and Washington, N. C.; Georgetown, Charleston, Beaufort, and Port Royal, S. C.; Savannah; South Atlantic; Brunswick; Cumberland Sound; St. Johns River; Biscayne Bay; Key West; Boca Grande; Tampa Bay; Port Inglis; Cedar Key; Puntarasa; St. Georges Sound (East and West Pass); St. Joseph; St. Andrews and Pensacola, Fla.; Mobile; New Orleans and supplemental stations thereto; Pascagoula; Gulf; Gulfport, Galveston, Laredo, Eagle Pass, and El Paso, Tex.; San Diego, San Pedro and adjoining ports, Santa Barbara, San Francisco, Monterey, and Port Harford, Cal.; Fort Bragg, Eureka, Columbia River, Florence, Newport, Coos Bay, and Gardner, Oreg.; Port Townsend and supplemental stations thereto; quarantine system of Alaska; quarantine system of the Hawaiian Islands, including the leprosy hospital; and the quarantine system of Porto Rico, and including not exceeding $500 for printing on account of the quarantine service at times when the exigencies of that service require immediate action, $155,000.

Mr. MANN. Mr. Chairman, I move to strike out the last word. Can the gentleman from New York tell us what is the cost of maintenance of the leprosy hospital in the Hawaiian Islands?

Mr. FITZGERALD. Originally there was an appropriation of $50,000 a year to maintain it, but it never cost that much annually, and the item was merged with other items. I will try to ascertain exactly how much it costs.

Mr. MANN. This leprosy hospital is maintained in connection with the leper colony of the Hawaiian Islands?

Mr. FITZGERALD. Yes. It is on the island of Molokai.

Mr. MANN. At whose expense is the colony maintained? The local government?

Mr. FITZGERALD. I am not certain. I am inclined to think the Territory of Hawaii maintains the colony and we maintain certain medical officers. Some of them are on duty at Honolulu and make the examinations of the lepers before they are committed to the institution. Others are stationed at the institution itself.

Mr. MANN. Has the gentleman made any inquiry as to whether the maintenance of this leprosy hospital has resulted in our acquiring any further information concerning the spread or cure of leprosy?

Mr. FITZGERALD. I do not know whether it has or not. One man, I believe, has become very expert. Just how much practical information has been gained I am unable to say.

Mr. MANN. Well, the gentleman knows that a few years ago the Public Health Service desired to have set aside some place in the United States, which place was to be in Arizona or New Mexico, a tract of land 10 miles or more square, for the purpose of having a leprosarium, if that is the proper name for a leper colony, in the United States, to which lepers might be transported. That failed, although the bill was reported favorably to that effect, on a vote in the House, owing to the opposition of the local people. Then we established this leprosy hospital for the purpose of seeing if we could get information which would show how to cure leprosy or prevent its spread. I do not remember just how long that hospital has been maintained, but I think it would be interesting to know if they had acquired any valuable information. I do not mean to criticize if they have not, because that is something very difficult to learn about.

Mr. FITZGERALD. Three years ago the committee made some inquiry, I think in 1910. I have sent for the hearing. They went into the matter very fully. In 1911, for the fiscal year 1912, the estimate was $33,000 for maintenance of the hospital. In 1911 the appropriation was $45,000. In 1910 we reappropriated the unexpended balance of $20,000 appropriated in 1909, and in 1909 they expended out of the $20,000, $11,815. The leprosarium had not been in full operation. It only went into full operation on the 1st of July, 1910, if I recall correctly. They were making investigations then both at Honolulu and Molokai. I may be able to find the information, but I am not certain whether——

The CHAIRMAN. The time of the gentleman from Illinois [Mr. MANN] has expired.

Mr. FITZGERALD. Mr. Chairman, I ask unanimous consent that the gentleman's time be extended.

The CHAIRMAN. The gentleman from New York asks unanimous consent that the time of the gentleman from Illinois be extended for five minutes. Is there objection?

There was no objection.

Mr. FITZGERALD. I think it was the 1st of July, 1909, when it was in full operation for the first time.

Mr. JOHNSON of Washington. If the gentleman from New York [Mr. FITZGERALD] will permit me, I desire to state that I happen to have in my hand now seven or eight pamphlets on the subject of leprosy, issued as the result of work carried on at the United States leprosy investigation station at Molokai, Hawaii. These bulletins have been issued under the direction of the director, Walter B. Brinkerhoff, M. D., and are most interesting.

Concerning the point which the gentleman from Illinois [Mr. MANN] has interrogated the chairman of the Appropriations Committee, let me say that with the acquisition of Hawaii by the United States leprosy became more than ever a national problem. Representations were made to Congress urging the establishment of a leper investigation station on the island of Molokai, in order that advantage might be taken of the excellent opportunities afforded by the leper settlement for scientific study of the disease. As a result, Congress passed an act, which was approved March 3, 1905, providing for the investigation of leprosy in Hawaii. In accordance with the provisions of this act a suitable tract of land was ceded by the Territory of Hawaii to the United States, and steps were taken to establish thereon a hospital station and laboratory of the Public Health and Marine-Hospital Service.

That station has been cared for in each succeeding appropriation bill, and the information contained in these pamphlets—seven in number, issued from 1908 to 1913, including two in 1910—contain the latest and most reliable information concerning leprosy, which has caused terror for 3,000 years, but which now, happily, is being considered in a more rational manner than heretofore.

Mr. Chairman, in 1899 there were known to be 278 well-authenticated cases of leprosy in 21 separate States and Territories of the United States. In the first American census of Hawaii, in 1901, the fact was disclosed that of 37,635 native Hawaiians, 1 in 40, or 25 per 1,000, were known lepers, while among 116,366 foreign-born persons in Hawaii there were but 63 known lepers. Leprosy seems to have had its greatest spread in Hawaii in 1863, and the Molokai colony was established in 1866. In the 40 years from 1866 to 1905, a total of 5,853 cases were sent to Molokai. Now the disease is decreasing there.

One of these pamphlets contains the leper law of the Territory of Hawaii, approved in April, 1909, and appropriating $40,000 for a leper hospital on the island of Oahu. Thus it appears that Hawaii is doing its part in this great work.

One pamphlet, issued by this same bureau, deals with leprosy in the United States of America, showing 139 known cases reported through the health authorities—50 in Louisiana, 20 in Florida, 20 in California, 16 in Minnesota, 12 in Texas, 8 in Massachusetts, and so on.

I notice the State of Washington is credited with one case at that date.

Mr. Chairman, the disease has increased in the United States since then, as the reports of the Surgeon General show.

On this subject I think it may be of interest to the House to know that the great danger and fear of leprosy, the reason why there has been such a determination on the part of various localities not to permit a leprosarium to be established, is on account of the slowness with which this disease seems to take hold.

Leprosy takes a long time to develop, and there are cases on record where 40 years have elapsed before the disease manifested itself, and instances of where from 15 to 18 years have passed by before the disease betrayed itself are frequently met with. As it is a bacillar disease, it may be communicated by physical contact. This renders it extremely dangerous to a community for a leper to be at large, while its insidious character and the length of time it takes to develop makes it exceedingly difficult of discovery until it reaches an advanced stage.

These reports tell of the case of a man named Keanu, a condemned murderer, who was given his life on condition that he be inoculated with the bacilli of leprosy. Dr. Edward Arming performed the inoculation September 30, 1884, and 14 months afterwards the bacilli were still in the wound without any symptoms of the disease developing, and 3 years elapsed before the leprosy showed itself.

One bulletin, No. 39 of the Public Health Bulletins, discusses flies and mosquitoes with relation to leprosy, and the author comes to the following conclusions:

Certain data, taken together with the well-known habits of certain of these flies, establish the truth of the following statements:

First. That given a bacilli-discharging leprous ulcer (and practically all leprous ulcers due to the breaking down of a leprous nodule do discharge bacilli), unprotected from the attacks of flies, these insects will convey the bacillus of leprosy to the skin of near-by healthy persons.

Second. That such insects will contaminate the foodstuffs of such persons with these organisms.

Third. That these insects deposit their feces on every conceivable surface, and such feces, becoming dry and pulverized, will in the form of "dust" convey the bacilli to the nasal mucosa of near-by persons.

That given such an unprotected ulcer, and the usual number of flies, this contamination of the skin and mucosa of near-by healthy persons will not be an unusual event, but will occur again and again, through an indefinite length of time, and the number of bacilli thus conveyed to healthy persons will be enormous.

This much the experiments show; but the below-mentioned points at once present themselves, and can not in our present state of knowledge be answered by laboratory data:

First. Is the skin (or abrasion of it), the mucosa of the digestive tract, or the nasal mucosa capable of being infected with leprosy?

Second. Are the bacilli that have been discharged from an ulcer and afterwards passed through a fly's digestive tract alive and capable of infecting man?

Third. Do epidemiological and clinical observations bear out the supposition that flies help to spread leprosy?

As to the first of these, we know that by some means lepra bacilli do gain entrance to the tissues of man. It is difficult to conceive how this is brought about, except that the bacilli penetrate one or more of the surfaces mentioned as being frequently contaminated, directly or indirectly, by the fecal contents of flies.

Mr. Chairman, in some other pamphlets I have read of an Irishman who, after 22 years' service in the Indian Army, returned home a fully developed leper, dying of the disease a year and a half later. During this time his brother slept in the same room with him, sharing his bed and wearing his clothes. This intimate intercourse was the most dangerous possible. Three years after the ex-soldier's death the brother, who had never been outside Ireland, developed leprosy. In that case it is possible the disease did not manifest itself for four and a half years after it was contracted.

You can gather from these examples how insidious and dangerous this disease is, while its being incurable and horrible in action renders it imperative that no effort should be spared or opportunity neglected not only to hold it in check but to stamp it out.

Mr. MANN. Did not the gentleman introduce a bill recently for the purpose of having a leper colony established?

Mr. JOHNSON of Washington. Yes; I did. I introduced two bills, one for a leprosarium to be built by the United States on some island, and the other one authorizing the Surgeon General to negotiate with the officials of Hawaii for the care of our lepers on one of the islands or at the colony there.

I have had talks with Surg. Gen. Blue, and he feels sure that wherever the United States undertakes to go and put such a sanitarium there will be objection. He hopes now it can be placed in the center of one of the largest forest reserves in some of the Western States.

Mr. MANN. Does the gentleman think that the people of his State would be willing to have such a colony located in Washington, where, I take it, it is almost impossible in that climate to transmit leprosy from one person to another?

Mr. JOHNSON of Washington. I feel very sure that they would not. The first report of a leper in the State of Washington is that of what appears to be a rather celebrated case, that of John R. Early, who was given money here in the District of Columbia and went to New York, and then bobbed up later in western Washington. That was some four years ago. Now, then, one year ago, in the center of the district that I have the honor to represent, a farmer developed leprosy, and, as I understand it, he had not been off his farm for several years.

It is that sort of development of the disease that has alarmed our people. In another locality in my district the case of a Japanese leper has turned up in the past two weeks, and there is a great hue and cry between the State quarantine and the Federal quarantine as to the question of jurisdiction. I hope that Congress will look into this leprosy problem. I hope that, in connection with the sad case that now exists on the outskirts of this city, it will do something. I hope Congress will provide for the care of those people.

Mr. SELDOMRIDGE. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. Does the gentleman from Washington yield to the gentleman from Colorado?

Mr. JOHNSON of Washington. Yes.

Mr. SELDOMRIDGE. Do the agents of the Public Health Service have the right to exercise police power in the matter of keeping lepers in custody?

Mr. JOHNSON of Washington. I understand they have.

Mr. SELDOMRIDGE. I do not understand that they have such power.

Mr. FOSTER. In traveling from one State to another the States have no control, but as to people living within the States the State boards of health have the power to take them in custody.

Mr. SELDOMRIDGE. I understand that the United States had no power to prevent the escape of this man Early—from Fishermans Island, I think it was.

Mr. JOHNSON of Washington. Fishermans Island is in Chesapeake Bay, I understand.

Mr. SELDOMRIDGE. I mean that island in the State of Washington. What is the name?

Mr. JOHNSON of Washington. Diamond Head Station, which is not an island. The quarantine regulations provide that a leper can not be moved into the States without the permission of the States themselves; and, so far as I know, the only State that has ever protested against the transmission or the transportation of a leper is the State of Colorado.

Mr. SELDOMRIDGE. It would make no difference, then, if the board of health had the power to keep those lepers in the place where they desired. As I understand, the Public Health Service has recognized the fact that they are without the police power to detain and prevent the escape of lepers when they are once placed in any sanitarium or location.

Mr. JOHNSON of Washington. Mr. Chairman, I have some conclusions reached by Surg. Gen. Blue, and I ask permission to place a small portion of that in the RECORD later, together with some comment and additional statements.

The CHAIRMAN. The gentleman asks unanimous consent to extend his remarks in the RECORD in the manner indicated. Is there objection? [After a pause.] The Chair hears none.

Mr. JOHNSON of Washington. It is a paper read before the American Medical Association in Minneapolis last June.

Mr. KAHN. Mr. Chairman, will the gentleman yield?

Mr. JOHNSON of Washington. Yes.

Mr. KAHN. Does the gentleman know that out in the Hawaiian Islands they object to lepers from other sections of the country being sent to their leper's settlement?

Mr. JOHNSON of Washington. I saw a notice to that effect in the papers only last night, and I understand that Dr. J. S. B. Platt, president of the Territorial board of health, will be here in a few days to register his protest and to attend a conference on the subject of leprosy.

Mr. KAHN. As a matter of fact, they do object to it, and yet the Public Health Service is doing a remarkable work in the leprosy colony in Hawaii. They have succeeded in discovering the germ of leprosy, and they are experimenting at the present time with a view to finding some remedy, some drug, that will destroy the germ. They are making wonderful progress, and it is within the range of possibility that Dr. Blue contributed his article to this medical journal to show just exactly what work they have done in order that the medical profession might learn the splendid results that are being attained by that service.

The CHAIRMAN. The pro forma amendment will be considered withdrawn. The Clerk will read.

The Clerk read as follows:

Prevention of epidemics: To enable the President, in case only of threatened or actual epidemic of cholera, typhus fever, yellow fever, smallpox, bubonic plague, Chinese plague or black death or trachoma, to aid State and local boards, or otherwise, in his discretion, in preventing and suppressing the spread of the same, and in such emergency in the execution of any quarantine laws which may be then in force, $200,000: *Provided*, That a detailed report of the expenditures hereunder shall annually hereafter be submitted to Congress.

Mr. GARNER. Mr. Chairman, I move to strike out the last word.

The CHAIRMAN. The gentleman from Texas [Mr. GARNER] moves to strike out the last word.

Mr. GARNER. I would like to ask the chairman if a detailed statement has been made of the expenditures under this appropriation in the last fiscal year; and if so, what are the leading items of expenditures in this fund?

Mr. FITZGERALD. The epidemic fund?

Mr. GARNER. Yes.

Mr. FITZGERALD. Well, this fund is being used largely to prevent the introduction and spread of the bubonic plague. They are spending this money largely on the Pacific coast in trying to kill the flea that infest the rat, as a result of which the bubonic plague is spread. It is estimated that it will cost $10,000 each year to maintain the plague laboratory at San Francisco. Then we have men who instruct the people of San Francisco, Tacoma, and Seattle how to fix their houses to keep out rats, and by keeping out the rats keep out the flea, and by keeping out the flea keep out the bubonic plague.

Mr. GARNER. Of course, that is rather an indefinite statement as to the details for which this money has been expended. If I understand the gentleman from New York, however, the principal part of this money appropriated a year ago for this fiscal year was spent in catching fleas that infest rats in California. I should like to know, if the gentleman has the information, just how many fleas have been caught with this $200,000?

Mr. FITZGERALD. We figured that out one time. We figured out how much it cost for each flea, and how much it cost for each rat.

Mr. GARNER. Has the gentleman a detailed statement, such as is required in this paragraph?

Mr. FITZGERALD. I think it cost $10,000 a rat, and it would depend on how many fleas there were to a rat as to how much it would cost per flea.

Mr. GARNER. But evidently the gentleman's committee contemplates that Congress shall receive a detailed statement, and I take it that that would mean an itemized statement of that expenditure, giving the leading items for which the expenditure has been made.

Mr. FITZGERALD. I can furnish that to the gentleman.

Mr. WATKINS. The wicked flea, when no man pursueth——

[Laughter.]

Mr. GARNER. If it costs $10,000 for each rat, is there any estimate of the number of rats out there which are infested?

Mr. FITZGERALD. No; and when it looked as if all the rats were likely to be exterminated, somebody discovered that these villainous fleas would go to the ground squirrels, and hence they are exterminating the ground squirrels. Where the fleas will go after the ground squirrels are exterminated I do not know.

Mr. GARNER. Does not the gentleman think their limitations are only circumscribed by the generosity of the Committee on Appropriations?

Mr. FITZGERALD. No; this is a very serious matter. This committee has been endeavoring to compel the State of California to do this work. This epidemic fund was a lump appropriation made some years ago at the disposal of the President in case of threatened epidemic in this country. It was ascertained by Congress a few years ago that in the Public Health Service they had built up a permanent organization under this appropriation. It could hardly be said to be peculiarly identified with the work of preventing or eradicating epidemics, and so the Committee on Appropriations took the force necessary to do the permanent work of the Public Health Service and provided for it in the proper place, and then attempted to control this appropriation. In 1910 the sum of $750,000 was appropriated for this fund. Then there was no further appropriation made until 1913, when $200,000 was appropriated. The estimate for that year was $500,000. For 1914, $200,000 was appropriated, when the estimate was $499,800. It was necessary to provide an additional $100,000 for the current year, because on bringing the people from Mexico it was ascertained that in some of the districts surrounding Tampico and Vera Cruz there were evidences of yellow fever. In addition, there were 12 cases of bubonic plague discovered in Habana, and it was necessary to provide additional precautions against the introduction of the plague by way of the Gulf and Atlantic coasts.

There has been a controversy between this committee and the service as to just how much the Federal Government should do of the work of eradicating the squirrels and rats in certain counties of California. The result of our efforts has been to compel the State of California to engage in this work more actively, and to bear some portion of the expense that it was refusing to bear at all. I remember that about two or three years ago the governor of the State of California vetoed a bill appropriating money provided at the request of the State medical officers to cooperate in this work. It is now expected that we will spend about $20,000 in this work.

The CHAIRMAN. The time of the gentleman has expired.

Mr. GARNER. I ask unanimous consent that the time be extended for five minutes. I want the opportunity to use a little of that time. I asked the gentleman a question, and he consumed the larger part of the five minutes in answering it.

The CHAIRMAN. The gentleman from Texas [Mr. GARNER] asks unanimous consent that the time be extended five minutes. Is there objection?

There was no objection.

Mr. GARNER. Will the gentleman yield now for a moment?

Mr. FITZGERALD. Certainly.

Mr. GARNER. What I am complaining about is the misleading of the Congress and the public, I think, in making this appropriation. It is made largely for the purpose of assisting the State of California in eradicating some rats and squirrels that are infected with a flea that is calculated to spread bubonic plague or other contagious diseases. Now, this Congress has been in session nearly continuously for the last five years, or at least the larger portion of the time, and at any time that the gentleman from New York will come into the House and ask an urgent appropriation for any such purpose as this Congress will always appropriate the money, as it did recently, when it appropriated $100,000 for emergencies at Galveston. But to continue to carry in the sundry civil appropriation bill an item which purports to authorize the President to fight a threatened or actual epidemic of cholera, typhus fever, yellow fever, smallpox, bubonic plague, Chinese plague or black death, or trachoma is misleading, when there is no threatened plague, and there is no actual plague, and you are simply assisting the State of California in its work. I do not object to assisting the State of California in eradicating these creatures which are supposed to spread disease, but I do think the appropriation ought to be carried for that specific purpose, and the State of California ought to contribute an equal amount to this fund. As far as this record shows, the State of California has not contributed a cent. I do think that it ought to pay its proportional part for eradicating these pests.

Mr. MANN. How about Galveston, Tex.? We just appropriated $100,000 to prevent the plague from coming in through Galveston.

Mr. FITZGERALD. This appropriation is not being carried under any misapprehension. It specifically provides that to enable the President in case only of threatened or actual epidemic of different diseases, including bubonic plague, the appropriation is available. The Public Health Service states that we are threatened with an epidemic of bubonic plague. It is a technical matter and I am not sufficiently informed to enable me to know whether we are or not. We are spending about $11,000 a month doing the work said to be necessary. We would be spending a great deal more than that if it had not been for the action of the Committee on Appropriations in taking the matter up so vigorously and having some things done that awakened the States on the Pacific coast to do their part of the work. We have cut down as much as possible the work that is being done by the Federal Government. Some things, in my opinion, do not belong within the proper functions of the Federal Government. The Public Health officials state that unless these things are done there is very grave danger of the introduction of a widespread epidemic of bubonic plague. I think there has as yet no remedy been found for it; persons infected with it die. We could not refuse to give the means required to do this work. We are doing everything we can to make California spend as much as we can. If other statements threatening to cut down the appropriation are made by others in addition to the gentleman from Texas, it will awaken the State of California to the fact that if they do not do their part Congress will do nothing. We are spending about $137,000 a year on bubonic plague.

Mr. KAHN. Mr. Chairman, the counties of California in which the affected rodents are found are all contributing for a portion of the work that is being done for the eradication of the squirrels and rats which carry the fleas that carry the infection known as bubonic plague.

Mr. GARNER. Will the gentleman yield?

Mr. KAHN. Certainly.

Mr. GARNER. Have you got any bubonic plague in the State of California?

Mr. KAHN. No.

Mr. GARNER. This provision is for actual bubonic plague—plague that actually exists—or the prospect of it.

Mr. KAHN. There is always a prospect of it on the Pacific coast.

Mr. GARNER. And there always will be as long as you have the squirrel and the rat in California.

Mr. KAHN. The gentleman is mistaken and his statement is unfair. As far as the State of California is concerned, she does as much as Texas does in appropriating for the eradication of the cattle tick and for the eradication of the boll weevil. Texas does not give a dollar, but the United States is called upon to do it all. Now, the counties of California certainly do contribute a great deal in cooperation with the Federal Government for the eradication of these squirrels and rats.

Mr. GARNER. Will the gentleman yield?

Mr. KAHN. I can not just now. As a matter of fact, the plague-infected squirrels are found occasionally; plague-infected rats are occasionally found. Ordinarily there would be no danger from that source; but in these days, with our railroad systems reaching all over the country, there is always danger that an infected rat will get into a freight car. That infected rat may be carried to some place 500 or 600 miles distant from the station at which the rat got in the car. The fleas which carry the plague might bite some individual, who would become afflicted with the bubonic plague. For that reason the Federal Government ought to make a liberal allowance to eradicate these vermin, because it is not alone the good health of the people of California or the Western States that we are looking out for, but the good health of the people of the entire country.

Mr. GARNER. Now will the gentleman yield?

Mr. KAHN. I will.

Mr. GARNER. If the gentleman from California had been in the Chamber when I made my statement, and the inquiry of the gentleman from New York——

Mr. KAHN. I was in the Chamber.

Mr. GARNER (continuing). He would not have criticized me as he has for criticizing the appropriation. I have not criticized the appropriation.

Mr. KAHN. The gentleman criticized the State of California.

Mr. GARNER. No; I have not criticized the State of California. I said that this appropriation ought to be carried in the name of the eradication of rats and squirrels in California, just as the appropriation is carried for the eradication of the boll weevil and the cattle tick in Texas. Instead of that, this appropriation is carried under a disguise that you are keeping out some bubonic plague that is likely to come in all over the United States, when it is well known that it is an appropriation to kill the rats and squirrels in California.

Mr. MANN. Did not we make an appropriation in the deficiency bill, in the very language of this bill, for the benefit of Texas, of $100,000?

Mr. GARNER. Yes; going to Galveston for that purpose; but I am speaking about this appropriation which is made every year under a disguise.

Mr. KAHN. I do not think it is under any disguise at all. As a matter of fact, the States on the Pacific coast are more liable to receive an infection of this kind than other sections of the Union. As I said, the rats carry it. Vessels come from the Orient, where this disease is ever present. These rats carry the infection. They are carried from Japan and China, and even from the Philippines, to the State of Oregon or the State of Washington, as well as the State of California. You can not keep the rats, when they are in the ships, from getting ashore.

Mr. SELDOMRIDGE. Will the gentleman yield?

Mr. KAHN. Yes.

Mr. SELDOMRIDGE. How long will it be after the Panama Canal is completed before the city of New York will be exposed to the same danger as now exists in the State of California?

Mr. KAHN. They will be exposed and they are exposed at the present time. It so happened that in California some six or seven years ago there was a very large number of vermin, of infected vermin, and there were a few cases of bubonic plague. That is what we were told by the doctors of the Public Health Service. The Government promptly undertook to suppress the plague, and started in on a crusade to kill off the rats and the squirrels. I venture the assertion that San Francisco to-day has fewer rats than any other city in the entire United States.

The CHAIRMAN. The time of the gentleman from California has expired.

Mr. KAHN. Mr. Chairman, I ask unanimous consent to proceed for five minutes more.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. GARNER. Is it not a fact that they are breeding cats out there for the purpose of eradicating the rats?

Mr. KAHN. Oh, no.

Mr. GARNER. The hearings do show that they are doing that very thing in Japan, and that the cat is immune from this flea, and it seems to me it is the best way to eradicate the rat.

Mr. KAHN. The gentleman spoke about the cost of this proposition to the people of California. When this propaganda was started every building in San Francisco was made rat proof. The house owners all were called upon to put in cement cellars and cement foundations, so as to keep the rats out of the buildings. More than a million dollars were expended for that purpose alone by the property holders of San Francisco.

Mr. FITZGERALD. If the gentleman owned a house in San Francisco, he would spend as much as he had to keep those flea-infected rats out of the house. That is not any credit; it is a matter of self-protection.

Mr. KAHN. I was simply saying that the people of San Francisco have done their share. I recall they subscribed liberally to a public fund that was raised to enable our local health board to cooperate with the Public Health Service. But, in addition to that, the county of San Francisco appropriated thousands of dollars for cooperation with the Federal Government in the extermination of these rats.

Mr. FITZGERALD. The State of California has nothing to boast about.

Mr. KAHN. I am not talking about the State of California, but I am talking about the counties of California. They certainly have done their share. They have done infinitely more than the people of Texas have done for the eradication and extermination of the plagues they have down there.

Mr. FITZGERALD. But the gentleman would not expect the people of Texas to do that.

Mr. MANN. Was there not an appropriation made last year or the year before by the State of California, which the governor of California vetoed, which was to carry on this desirable work?

Mr. KAHN. That is my recollection; but the governor vetoed it on the ground that the counties were making the necessary appropriations.

Mr. MANN. The State would not do it, in any event?

Mr. KAHN. The legislature tried to do it.

Mr. MANN. I know. Everyone was in favor of it except the Progressive governor.

Mr. KAHN. I want to say that an epidemic of this kind is just as apt to break out in the State of Texas as on the Pacific coast. And we on the Pacific coast who know the danger that lurks in these vermin will be anxious to help the gentleman from Texas if such a thing should happen. We will never criticize him for trying to get appropriations for trying to protect not only the people of his own State, but by protecting the people in his own State protect the people throughout the United States.

Mr. GARNER. Mr. Chairman, will the gentleman yield?

Mr. KAHN. Yes.

Mr. GARNER. I am most heartily in favor of any appropriation that goes in the direction of eradicating these rats and squirrels that are calculated to convey the bubonic plague; but I think the appropriation ought to be carried for the appropriation for which it is to be used and not under a misleading heading that you are likely to have bubonic plague brought into this country, and that it is only to be used in emergency, while this is an appropriation constantly being used for the eradication of rats, squirrels, and so on, and it ought to be carried under that head.

Mr. KAHN. It is being used for the prevention of epidemics, and you are preventing epidemics when you are destroying the source of the epidemics.

The CHAIRMAN. The time of the gentleman from California has again expired.

Mr. MONDELL. Mr. Chairman, this is an item that is used for the prevention of epidemics, with a view of preventing the recurrence of epidemics of various sorts and kinds. A comparatively small amount of it is used for the prevention of the bubonic plague. A part of it, but not all of it, used for that purpose is used in the State of California. This is not altogether a California matter. Dr. Rucker, who appeared before the committee, told us of some good work they were doing in Seattle. I asked him if he had ever heard of any cases of bubonic plague in Seattle, and he replied that they had had cases of plague rats there for some time. I again asked him if there had been any plague among human beings, and he replied not in recent years—not that he knew of. He was then asked how he discovered there were any plague rats, and he said there had been a case of bubonic plague there years ago, and they made investigations, and they did find some rats which they claimed were infected with bubonic plague.

If it is a fact that there are rats and squirrels adjacent to these great Pacific coast cities that are infected with bubonic plague, they ought to be killed and disposed of as far as possible. The trouble is that it is impossible to exterminate the rats. Dr. Rucker assured us of that fact. The best they can hope to do or that anyone can hope to do is to reduce their number and keep them down. A part of this money is expended for the purpose of encouraging the people of Seattle to build rat-proof structures and thus reduce the number of rats, or aid in the extermination of the rats by reducing the area of their hiding places.

Coming back to the California situation, we began by exterminating rats in and around San Francisco. We extended that to the extermination of squirrels. It was then discovered that after exterminating the squirrels in the vicinity of San Francisco the mountain squirrel wandered down and took the place of the squirrel that had been killed in the vicinity of San Francisco, and as the Public Health Service could not wander through the forest reserves killing squirrels, we transferred the appropriation to the Agricultural appropriation bill, where it has since been carried. This prevention work is very valuable.

It is very important—it is even more important to prevent these dreadful plagues and maladies than to attempt to check

them once they have started and are spreading, but work of that sort should be kept within bounds. There is always a danger that overenthusiastic public servants—and the best public servants are the most enthusiastic and sometimes the most overenthusiastic—there is always a danger that they will imagine that their particular work is the most important under the Government and that they will keep constantly extending it, and extending it to a point which is not justified or justifiable. I am rather inclined to think that out on the Pacific coast this work has been extended quite as far as it can be justified. I will not say that we have done anything more up to this time than we should have done.

The work of the Public Health Service in the matter of prevention should be largely the work of pointing out to the local people the ways and means of preventing rather than the taking up of the work of the actual extermination of these creatures. It is not an altogether dignified position for our Uncle Samuel to take to go around the country as a permanent professional rat catcher. It is the duty of the Federal Government to prevent the importation to our ports of these diseases. It is the duty of the localities, in the main, to take up and carry on the work necessary to prevent the spread of contagion.

The CHAIRMAN. The time of the gentleman has expired.

Mr. MONDELL. I ask that I may have one minute more.

The CHAIRMAN. The gentleman from Wyoming asks unanimous consent that he may proceed for one minute. Is there objection? [After a pause.] The Chair hears none.

Mr. MONDELL. I do not criticize the appropriations; I do not criticize the work that has been done under them, but I think it has the resulting danger of improperly extending Federal activities, extending them into a domain in which the localities themselves should accept the responsibility and defray the expense.

Mr. KAHN. Will the gentleman yield?

Mr. MONDELL. Yes.

Mr. KAHN. Does not the gentleman think that the Federal Government ought to do its share of the work of preventing the spread of disease?

Mr. MONDELL. Well, that depends upon what the gentleman refers to when he says the spread of disease. I doubt if it is the province of the Federal Government to go abroad over the land and hunt up all of the rodents that may be affected with some disease that may be transmitted. In the main, that is the work of the local authorities.

Mr. KAHN. As a matter of fact, when this work first started there was very little known in the United States about the bubonic plague. The officials of the Public Health Service and the doctors of that service seem to know more about it than the physicians throughout the country, and they found that through their correspondents in the Orient the flea was carrying the infection.

The CHAIRMAN. The time of the gentleman has again expired.

Mr. KAHN. Mr. Chairman, I ask that I may proceed for two minutes.

The CHAIRMAN. The gentleman from California asks unanimous consent that he may proceed for two minutes. Is there objection? [After a pause.] The Chair hears none.

Mr. KAHN. The moment the Federal authorities began to point out to the local health authorities in California how the work of the extermination of the rodents should be carried on they were immediately given every assistance on the part of the local health authorities. The counties of California, as I said, did a great deal of work in the effort of exterminating it. But I think my friend from Wyoming rather narrows the scope of the work when he says that it should all be done, after it has been pointed out by the Public Health Service, by the local authorities. As I said——

Mr. HAMILTON of Michigan. May I interrupt the gentleman?

Mr. KAHN. In a moment. As I said, it is a very easy thing nowadays to carry an infection like bubonic plague by reason of the great number of railroad trains that go everywhere, and the Federal Government has its responsibility in that regard. The local authorities ought not to be held to a strict accountability against the possible spread of an epidemic. They ought to have the assistance as well as the support of the Federal Government, so that the people in the other sections of the country can be protected. The Federal Government ought to do its share of the work in that regard.

Mr. MONDELL. Will the gentleman yield?

Mr. KAHN. Yes.

Mr. MONDELL. The gentleman does not think that the Federal Government ought to take up the work of attempting to exterminate all the wharf rats at all the ports in the United States, does he?

Mr. KAHN. The Federal Government is not attempting to do it, because there has been no bubonic plague reported in other ports. At the same time the Federal Government alone did not do it on the Pacific coast. They had the assistance and support of the local health authorities.

Mr. HUMPHREY of Washington. Will the gentleman yield?

Mr. KAHN. Certainly.

Mr. HUMPHREY of Washington. At Seattle for years the city authorities have carried on this work against the rat, by making regular appropriations and had regular men for that purpose, and they did that for several years——

Mr. KAHN. And the people of San Francisco do that to-day.

Mr. HUMPHREY of Washington. And spent thousands of dollars in that way.

Mr. KAHN. I yield to the gentleman from Michigan.

Mr. HAMILTON of Michigan. Does not this, as a matter of fact, come strictly under the police powers of the several States? And I will ask the gentleman whether the Federal appropriation ought not to be in the nature of an exception to the rule applicable to large seaports where there may be a spread of a dangerous disease?

Mr. KAHN. If I remember correctly, up to a few years ago the matter of preventing epidemics of disease was left largely in the hands of the local authorities of the various States; but, as I now recall, a few years ago, when there was an outbreak of yellow fever in the Southern States, application was made to Congress that we appropriate the necessary sums of money to enable the Public Health Service of the Federal Government to take hold of that work. If you will recall, men were patrolling the banks of the Mississippi with shotguns, to prevent people from crossing from one State into another. An appeal was made to the Federal Government at that time to take over the quarantine work, so the Federal Government, by the action of Congress, became committed to that kind of work.

The CHAIRMAN. The time of the gentleman has expired.

Mr. BRYAN. Mr. Chairman, I think there has been entirely too much attention paid to the Pacific coast on this proposition, and I want to impress that thought on the committee. The gentleman from Wyoming [Mr. MONDELL] has evidently the subject of rats on his mind. Now, this is not altogether a matter of rats. It is no more undignified for Uncle Sam to attempt to kill rats than it is for him to attempt to kill ticks or to attempt to kill mosquitoes or to attempt to kill the leprosy germ or anything that threatens the country at large with a disease or with infection.

I had in mind this yellow-fever proposition. It seems the gentleman from Texas [Mr. GARNER], or any gentleman from Texas, ought to be the very last to raise any such question as this here on this floor. I remember, not many years ago, when I lived in Louisiana, when I would wait for the Galveston News or the Houston Post on the morning train on the Southern Pacific, in order to see how many new cases of yellow fever were at Galveston. And I tell you the trouble on the Pacific coast with the bubonic plague compares with the trouble the country has had with yellow fever as a picayune compares to a hundred-dollar bill. The country has paid more money to eliminate mosquitoes in Cuba and Panama, in Mexico, and elsewhere on the border than has ever been dreamed of for the prevention of bubonic plague on the Pacific coast. According to the last reports, the city of Seattle, referred to by the gentleman from Wyoming [Mr. MONDELL] a moment ago, so that it brings it into this issue, is the healthiest city or has less deaths per thousand per year than any city in the United States, and that condition is brought about because we look after things out there involving health and sanitation and because of natural advantages.

Mr. MANN. You look out for appropriations.

Mr. GARNER. There has not been any yellow fever in Galveston since 1867. So the gentleman must have been reading of it before that date.

Mr. BRYAN. If the gentleman says there has been no yellow fever in Texas——

Mr. GARNER. I said in Galveston.

Mr. BRYAN. I did not. I said I was waiting for the Galveston paper in order to see how many new cases there were. And the gentleman's suggestion that there has been no yellow fever in Galveston since 1867 is a nightmare of his.

Mr. GARNER. Will the gentleman say that he knows there have been cases of yellow fever in Galveston since that date?

Mr. BRYAN. I can not give the data and the date, but I know it just as I know the gentleman is a Member of Congress.

Mr. GARNER. Now, the gentleman says it was a nightmare of mine, and the gentleman says that he knows it the same as he knows I am a Member of Congress.

Mr. MANN. Which does the gentleman think is the greatest scourge? [Laughter.]

Mr. GARNER. Has the gentleman seen anyone that had yellow fever in the city of Galveston since that date?

Mr. BRYAN. I admit I can not give the data, but there has been yellow fever in Galveston.

Mr. GARNER. I would like the gentleman to insert that in the RECORD. He will have plenty of time to get that data and the date.

Mr. BRYAN. I will do it. I will get the records from the library, and if I can not bring reports of yellow fever in Galveston since 1867, then I will have to admit I am greatly in error.

This not only affects bubonic plague but typhus fever, and that is not a matter local to the Pacific coast. We do not have typhoid there to amount to anything; certainly not as much as there is in New York and Texas. And if this appropriation is made it will be well spent. The bubonic plague, which comes across the ocean in a cargo of freight, is not a local charge and ought not to be a local charge, although our ports have borne the weight and burden of it to a great extent and have spent more money than the Federal Government to stop it at the ports and to save the people of the interior from the direful effects of that disease.

Mr. MONDELL. Mr. Chairman, I would like five minutes.

Mr. FITZGERALD. Mr. Chairman, I move that all debate on the pending paragraph and amendments thereto close in 10 minutes.

Mr. RAKER. Mr. Chairman, just a moment. I would like five minutes.

Mr. FITZGERALD. I will make it 15 minutes.

The CHAIRMAN. The gentleman from New York [Mr. FITZGERALD] moves that all debate on the pending paragraph and all amendments thereto close in 15 minutes.

The motion was agreed to.

The CHAIRMAN. The gentleman from Wyoming is recognized for five minutes.

Mr. MONDELL. Mr. Chairman, I think it rather unfortunate that this discussion should have developed into a comparison as to the prevalency of disease and the ability to secure appropriations as between Texas and the Pacific coast. We gentlemen who do not live in either part of the country take it for granted that both districts are generally healthy, and we know that both districts get all the appropriations they can. I do not criticize what has been done in the main on the Pacific coast, as I would not criticize what has been done elsewhere under this item. But I think it is one of the items, and that the work under it is of a character that it illustrates, without regard to where the money is used, certain tendencies which we all recognize in the Government service.

The men who have been engaged in this work on the Pacific coast have all of them been high class, enthusiastic gentlemen. They have done a great work, no doubt. I do not say that they have carried the work further than they should, either in California or in Seattle, but in both places they have, at least pretty nearly, reached the limit of proper Federal expenditures in the matter of prevention. We should keep the work up within due bounds, within the speed limit. The localities interested and affected should not be allowed to understand or get the idea that the Federal Government will relieve them from all responsibility.

Mr. HUMPHREY of Washington. Will the gentleman yield?

Mr. MONDELL. I will.

Mr. HUMPHREY of Washington. I happened to be out home some years ago when it was thought we were threatened with the bubonic plague, and so, personally, I am somewhat familiar with the conditions. As soon as that was known the health officer representing the Government immediately took charge of the work. He had had some experience. He was Dr. Bourne, as I recall, who had been in the Orient, and he took charge of the work there, and the local authorities furnished most of the money. And they have been doing that ever since. And they are working together. We have done everything we could to look after ourselves, and we appreciate what assistance we get from the Government, and we think it perfectly proper that the Government should have supervision of this work.

Mr. MONDELL. I think the gentleman is entirely right in his statement. The Government should have some supervision of all this work, but I question whether the Government should continue indefinitely in the business of exterminating these creatures and insects. The gentleman from Washington says it is just as proper and dignified for the Government to kill rats as it is to kill ticks. So it is; but the Government should not be permanently a professional rat killer or tick killer, either, except on its own property.

Mr. KAHN. The gentleman understands that in the Pacific Coast States there are large areas in the forest reserves. They are not a part of the land——

Mr. MONDELL. The gentlemen have taken care of that in the Agricultural appropriation bill, and for a number of years past they have been receiving $15,000 for the extermination of squirrels.

Mr. KAHN. That is true.

Mr. MONDELL. And the curious thing about that squirrel-extermination business is that until we secured an increase in the appropriation this year we never got a "look in," to use the language of the street, on that appropriation for the extermination of the rodents that were troubling us and destroying our crops, if they were not spreading disease.

I think it is entirely proper to extend that work and kill the squirrels, but that certainly was not a work for the extermination of disease. It was a work of extermination of squirrels in order to prevent them from destroying crops, perhaps also the big trees out there, I suppose.

Mr. KAHN. The gentleman is entirely mistaken. The squirrels were found to be infected with the bubonic plague.

Mr. MONDELL. The rats on the coast infected the squirrels and the squirrels infected the fleas and the fleas infected the people, and so it went on ad infinitum.

Mr. KAHN. Like the chain of events narrated in the "House that Jack built." [Laughter.]

Mr. MONDELL. Unless you put a limitation upon these activities there is no end to them. Let us act in a reasonable way. After the discussion that has been had in committee and elsewhere, I think the work will be carried on in a reasonable way. Officials should be reminded that, with all their enthusiasm for their branch of the public service—which is a good thing, of course—they must keep their work within reasonable bounds.

The CHAIRMAN. The time of the gentleman from Wyoming has expired.

Mr. RAKER. Mr. Chairman, this item in regard to the prevention of epidemics and the appropriation of funds for the extermination of the bubonic plague has been a matter of much concern to the West and to the United States generally, and has been presented fully to the various committees of this House and of Congress heretofore; and, to my mind, there is no more important matter that the Government is dealing in, when it deals with the health of its citizens, than this matter of the extermination of the bubonic plague.

Now, my friend apparently does not understand bubonic plague. Apparently he does not understand how it is propagated and how it gets from one place to another.

Mr. MONDELL. I do not live in a country where we have any.

Mr. RAKER. That disease was brought from the Orient. We have tried to keep it out, but it is here. The people of the West have done much to exterminate it. Those rats went on the public domain, went on the forest reserves, and there was no money by which those having charge of those reserves could exterminate them. Mr. Rat bites a squirrel, and Mr. Squirrel goes into a hole, and a little boy puts his hand in to get the squirrel and gets the bubonic plague. [Laughter.]

The squirrel on the private land gets the bubonic plague from the squirrel on the Government land. That fact is shown by the report of the Department of Public Health, which is now a matter of record—a report made last year or two years ago—and hence the appropriation of $15,000 to exterminate the squirrels, the rats, and all rodents. The people of California and the people of the West may have their homes sold if they do not exterminate these rats and squirrels, but on the forest reserves and on Government land no one has the right to go and do this work except the Government officials; and when this rat or squirrel goes from place to place, spreading this death-dealing disease among the people of this country, can there be any more important task than for the Government to protect its citizens, irrespective of whether they are on the Pacific coast or in the East or in the South or in the North?

You appropriate money for the purpose of exterminating the ticks on cattle, but when the cattle get ticks they are not carried to human beings, and those ticks do not cause human beings to die. But when the bubonic plague comes in and affects the rat and the rat affects the squirrel and the boy gets it from the squirrel, the boy is killed. When the boll weevil enters the cotton it destroys it, but it does not destroy humanity. It does not destroy people. There is no more important matter pending before this House that ought to be given consideration, not only

on the part of the Forest Service and on the part of those in charge of public lands and on the part of private individuals who hold private lands, than this matter of the extermination of this rodent that has been carrying the bubonic plague, upon which the people have expended so much money and from which so many lives have been lost.

I am astonished that the gentleman would hesitate one minute, knowing the extended and vast territory of the Government domain upon which we can not enter and control and upon which these rodents have been discovered for two years; I am surprised that he should for one instant say that the Government should not appropriate $200,000. It ought to be $400,000, so that there would be a sufficient number of people who are familiar and fully equipped with all the scientific knowledge they have for the purpose of destroying and eliminating this disease.

Mr. GARNER. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. Does the gentleman yield?

Mr. RAKER. I yield to the gentleman.

Mr. GARNER. My only objection is that it is not stated specifically what it is to be used for. I am perfectly willing to destroy the rats and squirrels which are the indirect means of destroying human life in California and those adjoining States, but I should object to covering up the purpose for which the appropriation is made.

Mr. RAKER. It says in unmistakable language "bubonic plague." If the bubonic plague affects 1 rat, it may affect 10,000, and if it takes the entire $200,000 appropriation to catch that 1 rat and exterminate the bubonic plague in any part of this country, you ought to exterminate it and not permit that situation to extend under circumstances and in any place.

The CHAIRMAN. The time of the gentleman from California has expired.

Mr. MANN. Mr. Chairman, one would be surprised, if he did not know my friend from California [Mr. RAKER], in hearing him make such a powerful speech in favor of attacking a disease which he called a "death-destroying disease." [Laughter.] I should have supposed that if we could find some disease which would destroy death——

Mr. RAKER. Will the gentleman yield right there?

Mr. MANN. We would be rather in favor of extending the disease instead of attacking it.

Mr. RAKER. I said death-dealing disease.

Mr. MANN. I can not yield. I did not interrupt the gentleman, and I have only five minutes.

The gentleman from California, having attacked a "death-destroying disease," then proceeded to attack one of the few strong friends which this item has in the House. The gentleman from Wyoming [Mr. MONDELL] had taken the floor twice in this debate for the purpose of defending the item in the bill for $200,000, and his reward for that was an attack upon him personally, made by the gentleman from California.

The truth is, Mr. Chairman, since we are asked to have the General Government go into a combat with fleas on the Pacific coast, with body lice at Galveston, and bed bugs at Vera Cruz, and now dogfish in the Atlantic Ocean, we have entered upon quite a wide scope of work. [Laughter.]

Mr. HAWLEY. We will have to do a lot of scratching. [Laughter.]

Mr. MANN. I do not know whether there is any connection between the catching of rats in San Francisco and the catching of dogfish in the Atlantic Ocean, but I suppose that we might in some way make them work in harmony, so as to escape a part of the expense.

But here is an appropriation carried annually to enable the President, in case only of threatened or actual epidemic, to do certain work with that money; not confided to the head of the Public Health Service, but to enable the President, in case of threatened or actual epidemic, to spend this money. Now, the gentleman from California [Mr. RAKER], with rare descriptive powers, told us how the boy tried to catch a rat, put his hand down in a hole, got fleas off the rat, and then the boy died. I would ask the gentleman from California [Mr. RAKER] whether he has ever known a boy in California to die from bubonic plague?

Mr. RAKER. Will the gentleman yield?

Mr. MANN. I will yield for an answer yes or no. I have not time for anything else. The gentleman either knows it or he does not.

Mr. RAKER. I got my information in a report from the——

Mr. MANN. The gentleman will not answer. I have not time to yield for a speech.

Mr. RAKER. Yes; and I would like to state the reason.

Mr. MANN. No; I do not want——

Mr. RAKER. I have a letter from the department, showing that two years ago——

Mr. MANN. I do not yield for a speech. If the gentleman says he has known of one boy on our Pacific coast dying from bubonic plague, I would like to ask if he has known of two?

Mr. RAKER. If the gentleman will permit——

Mr. MANN. I will permit an answer to the question.

Mr. RAKER. Oh, well——

Mr. MANN. But not a speech. Evidently the gentleman does not understand the English language.

Mr. RAKER. I understand some of it.

Mr. MANN. Then I will make use of it. I do not yield my time to the gentleman. What is it now? Is there an actual epidemic of bubonic plague on the Pacific coast? Will anyone here claim there is an actual epidemic out there? Will anyone claim there is an epidemic threatened next year, when the exposition is to be held? I should like to hear some distinguished gentleman from the Pacific coast assert that we are threatened with an epidemic plague on the Pacific coast now or next year.

And yet, notwithstanding the form of this item, which was so worded that there might be an emergency fund in the possession of the President when Congress was not in session, to combat these diseases if they came upon our shores, the Bureau of Public Health over here goes ahead and spends the money without any actual or threatened epidemic—spends it as a regular thing—until this year, when there was some danger coming from the body lice and bed bugs at Galveston, imported from Mexico, we had to make a special appropriation of $100,000 to furnish money to combat a threatened epidemic there, although we had an appropriation of $200,000, made last year for the purpose of having that fund in hand. The Public Health Service, which I usually defend, for which I have very high regard, absolutely pays no attention to the meaning of this paragraph in the appropriation bill. Of course, the auditor or comptroller can not determine whether an epidemic is threatened or not. That must be left to the head of the service, who certifies that there is, although it is not true, and there is not. We ought to have an emergency fund.

As far as I am concerned, I am perfectly willing to make an appropriation to kill off the rats on the Pacific coast and elsewhere, and to make an appropriation to kill off the bed bugs and the body lice down there where they may bring epidemic into the country. I have not fully determined in my own mind yet whether I am willing to start on a search of the whole Atlantic Ocean for the purpose of catching and tagging and killing the dog fish.

Mr. HUMPHREY of Washington. That has not extended to the Pacific coast.

The CHAIRMAN. The time of the gentleman has expired. If there be no objection, the pro forma amendment will be considered as withdrawn.

Mr. RAKER. Mr. Chairman, may I have permission to extend my remarks, to the end that I may answer a few of the questions submitted by the gentleman from Illinois [Mr. MANN] which I could not answer by reason of his objections?

The CHAIRMAN. The gentleman from California asks unanimous consent to extend his remarks in the RECORD. Is there objection?

Mr. MANN. If the gentleman is going to answer my remarks, I want him to answer them here.

Mr. RAKER. You would not give me time.

Mr. MANN. I do not propose to make comments in the running debate and then have the gentleman go and think it out, figure it all over, and then try to put something smart in the RECORD.

The CHAIRMAN. Does the gentleman from Illinois object?

Mr. MANN. I will not object, as long as I have got these remarks into the RECORD.

The CHAIRMAN. The Chair hears no objection.

Mr. RAKER. Mr. Chairman, after the remarks of the gentleman from Illinois I do not desire to insert my remarks in the RECORD without making them in the House in the presence of all the Members. I never have done what the gentleman says, and I never will. I tried to answer the gentleman, and to answer him just as the facts are now within my knowledge, from the telegrams and letters and reports that were sent from many places in California two years ago.

The CHAIRMAN. Debate on this item is exhausted.

Mr. RAKER. I move to strike out the last two words.

The CHAIRMAN. The gentleman can get an opportunity on the next paragraph.

Mr. MANN. I suggest to the gentleman that there is another paragraph.

The CHAIRMAN. Debate on this paragraph is closed.

Mr. RAKER. Very well.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

Field investigations of public health matters: For investigations of diseases of man and conditions influencing the propagation and spread thereof, including sanitation and sewage, and the pollution of navigable streams and lakes of the United States, including personal service, $200,000.

Mr. BAKER. I move to strike out the last word. In answer to the gentleman from Illinois [Mr. MANN] upon the bubonic-plague proposition, I wish to say that I always try to reply as courteously and in as few words as I can, and I would have done so if I had inserted a statement in the RECORD. I assure the gentleman from Illinois and the House that there would have been no improper language or anything smart from me.

Mr. MANN. I will admit that last statement.

Mr. RAKER. Well, that has two applications. Coming from the gentleman, it undoubtedly would be in both ways.

Mr. MANN. Oh, no.

Mr. RAKER. It is well to be pleasant as we go along and try to deal with matters as they come up.

Two years ago, when the appropriation was placed in a bill for the extermination of rats and other rodents in California, it was then a serious question, covering some 8 or 10 counties. Considerable correspondence was had between the various supervisors of these counties and the health officials and the official in charge of the Government station there, as well as with the department here.

I had the pleasure of calling on the past director and also on his successor. There were several specific cases, one particularly named and all the details given. And others had it and were cured. Now, the reason we say so little about the number and the reason we are disinclined to discuss the matter is that people do not like to send over the country the fact that there may be bubonic plague here and there. But on investigation by the best authorities of the land it did exist, and the question was how to exterminate it. If I knew now, unless it became absolutely necessary, that bubonic plague existed, I would not be willing to advertise the fact all over the country. The money that was appropriated two years ago, from my observation and inquiry since, has been well expended and good results have been attained by the department of health. They have gone out and wherever they have found any possible chance that the disease might exist they have put the best men in the field and have obtained results. But, as stated by the gentleman from Illinois, this appropriation is to be used only when there may be evidence of any dangerous contagious disease, and then the President and the department can use it for that purpose and not wait until some of our citizens have become infected with it and possibly have died. I trust this explanation, which would have been the same if I had extended my remarks in the RECORD, will be satisfactory, and that it answers the gentleman's question. I thank the House for this opportunity to make this statement. [Applause.]

Mr. MOORE. Mr. Chairman, I offer the following amendment, which I send to the desk.

The Clerk read as follows:

Page 44, line 3, after the word "including," insert the words "the investigation and eradication of the disease-carrying mosquito."

Mr. FITZGERALD. I reserve a point of order on that.

Mr. MOORE. Mr. Chairman, I question whether this is subject to a point of order.

Mr. FITZGERALD. Then let us have it disposed of.

Mr. MOORE. Did the gentleman reserve it or make it?

Mr. FITZGERALD. I will reserve it for five minutes.

Mr. MOORE. I thank the gentleman for having reserved it. Five minutes will be enough in which to state the situation. I do not know why the gentleman wants to raise a point of order against this amendment. It does not provide for any change in the appropriation. If adopted, it would simply be a direction to the Health Bureau to make an investigation of the disease-carrying mosquito. It seems to me there is no longer an excuse for the great Health Bureau of this Government to avoid making a study of this very annoying and serious pest.

Mr. GARNER. Will the gentleman yield?

Mr. MOORE. Yes.

Mr. GARNER. Did I understand the gentleman to say that the provision of the bill is not broad enough to include an investigation of the disease-carrying mosquito?

Mr. MOORE. I think it would be broad enough, but there is no evidence that the bureau makes any investigation of this kind.

Mr. GARNER. Is not that within the discretion of the bureau as to how they can best use the money appropriated by Congress for the benefit of humanity?

Mr. MOORE. I think that is true; but the bureau has not thus far exercised any discretion in the matter of the mosquito, and the adoption of this amendment would be a specific direction that at least would suggest to the bureau the propriety of instituting an investigation and study of the subject.

Mr. MANN. Will the gentleman yield?

Mr. MOORE. Certainly.

Mr. MANN. Without intending to discuss the question which the gentleman from Pennsylvania has raised, let me call his attention to the fact that this is an item which went into the bill last year for the first time. It is under the act which we passed a year or a year and a half ago, in the last Congress, extending the scope of the work of the Public Health Service, so that they probably have not had time, if they had the inclination, to go to any extent into the subject of infected mosquitoes that carry disease.

Mr. MOORE. That may be, and probably is, the fact. There are two places in the bill where this matter might be considered—in the present paragraph without making any change in the appropriation, and in the next paragraph providing for cooperation with the State and municipal health authorities in the prevention of the spread of contagious and infectious diseases in interstate traffic. But that provision only carries $15,000, and it is very improbable that they would be able to do anything with the mosquito question under that appropriation.

Now, if the gentleman from New York will bear with me a minute, I would like to call his attention to the chronic agitation of this question. During the discussion of recent Agricultural appropriation bills I raised it, and while the present Agricultural bill was in the House—the one that is now in conference—the chairman of the committee gave notice that he did not expect hereafter to ask for any appropriation covering the investigation of the mosquito, and would undertake to see that no appropriation hereafter was made in the Agricultural bill for that purpose. That means that the desultory investigations that were made by the Department of Agriculture in certain counties in South Carolina and Louisiana will be dispensed with, and that there will be no chance for anybody to inquire into the possibility of exterminating disease-carrying mosquitoes. We discuss all sorts of questions affecting nuisances as they relate to agriculture, and as they relate to live stock; but here, unconquered, is the greatest of all human pests, the mosquito. It does not belong to any one locality or any one section of the country more than another. I have felt as large and vicious mosquitoes on the Great Lakes as I have on the New Jersey coast. They certainly are not in the Southern States alone, and they certainly are not confined to any one State. It is said by some of the Panama officials, notably Col. Gorgas, that the mosquito does not carry very far, that is to say, it is not a migratory bird, that it exists in localites; but it is omnipresent, it is everywhere. Every man and woman has at times felt it, and everyone under his or her breath damns it for the nuisance that it is.

The CHAIRMAN. The time of the gentleman from Pennsylvania has expired.

Mr. MANN. Mr. Chairman, I ask unanimous consent that he be permitted to proceed for five minutes more.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. MOORE. Why we should not say to the Health Bureau that, amongst its other investigations, it should take up that of inquiring into the propagation as well as the extermination of the mosquito I do not understand. It is not an unreasonable thing, because every Member surely and every man in the country is familiar with the annoyance that this pest brings to everyone. It is a disease-carrying insect. I have here among the papers of the Health Bureau a statement in Bulletin No. 39 with respect to mosquitoes in relation to the transmission of leprosy, and it is fairly well shown that a mosquito, sucking the blood of a leper and then lighting upon some other person who has no leprosy, may inoculate that person. I think it is very clearly and well demonstrated in our own common knowledge, to say nothing of the scientific or medical expert knowledge, that in certain cases a mosquito that bites a person suffering from a fever, lighting upon a person who has no fever, will transmit that fever. Surely that has been the situation in Panama. It was the condition that prevailed in Texas. It has aided in the carrying of yellow fever, and while we are comparatively free from those diseases now, there is no reason why our Government, and particularly this important bureau of it, should not be on guard against the possibility of this insect further carrying disease.

Mr. MONDELL. Mr. Chairman, will the gentleman yield?

Mr. MOORE. Yes.

Mr. MONDELL. Just what class of investigation would the gentleman have carried on?

Mr. MOORE. Whereas the State of New Jersey makes annual appropriations for the purpose of investigating and eradicating the mosquito, whereas in Pennsylvania appropriations are made, certainly in the city of Philadelphia, for the eradication of the mosquito, and whereas the mosquito will easily get over the borders of either of those States into Delaware or Maryland or New York, it would seem to me that it would be proper for the health officials of the United States to cooperate with those local authorities in the States making the appropriation for the purpose of investigating and eradicating the mosquito, with a view of giving it some national influence. A great deal of good could be done in the matter of drainage, a systematic method of draining swamps, and a systematic method of getting rid of the rain-spout nuisance, tin cans, and that sort of thing. Of course, that is local; but only since Panama and the wonderful results that have resulted from Col. Gorgas's work there have we really known how to deal with the mosquito.

Mr. CAMPBELL. Mr. Chairman, will the gentleman yield?

Mr. MOORE. Yes.

Mr. CAMPBELL. Why not make the necessary appropriation to get rid of the mosquito? Everyone knows just how that is done and how it can be done, and everyone knows that the mosquito is a dangerous pest. Why this Government should waste its time and money in further investigating the subject is a matter that I can not understand.

Mr. MOORE. Mr. Chairman, answering the gentleman from Kansas, I question whether the Health Bureau of the United States has made thorough investigations of the mosquito and its effect on human life. Here is a treatise on the mosquito as it may carry leper bacilli.

The CHAIRMAN. The time of the gentleman from Pennsylvania has again expired.

Mr. FITZGERALD. Mr. Chairman, this language is wholly unnecessary. Investigations have been conducted by several branches of the Government relative to diseases of man, which have involved considerable investigation of the habits and evil propensities of mosquitoes. I do not just recall the number of various kinds of mosquitoes, but there are a great many thousand. The Public Health Service at present is making investigations and studies regarding malaria, and in that connection they make certain investigations and studies regarding mosquitoes. If I understand correctly, the purpose of the gentleman from Pennsylvania [Mr. MOORE] is to have the Federal Government eventually cooperate with States in the extermination of mosquitoes. I do not believe that is a function of the Federal Government. Certain scientific investigations are properly within the Federal function, but after the Federal Government furnishes the information on which action can be taken it is the duty of the States to take action to protect their citizens.

This appropriation in the bill is in the language of the organic act, or of an act extending the authority of the Public Health Service. The act of August 14, 1912, provides—and if the Chair will follow the item in the appropriation bill he will see that the appropriation is in practically the identical language—

> that the Public Health Service may study and investigate the diseases of man and conditions influencing the propagation and spread thereof, including the sanitation, sewage, and pollution, directly or indirectly, of the navigable streams and lakes of the United States, and it may from time to time issue information in the way of publications for the use of the public.

That gives the Public Health Service all of the authority necessary to conduct the investigation of diseases of man and the conditions influencing the propagation and spread thereof.

In the work that is being done now, and in the outline of the work for the next year, it has been pointed out by Dr. Kerr that the investigation and study of malaria has been going on since February, 1912, and by means of post cards and the sending out of little boxes with mycroscopic slides, and a little container for the mosquitoes and their larvæ, a great number of physicians in six or seven of the Southern States have been circularized, and the amount of information obtained and the amount of information furnished has been very considerable in the work of eliminating the particular types of mosquitoes that are responsible for certain diseases. The work of making that investigation is actually being conducted, so far as is desirable and necessary.

Mr. GARNER. Mr. Chairman, the language used in this appropriation is broad enough to authorize the chief of the bureau to conduct any kind of an investigation that he may see proper touching diseases of man.

Mr. FITZGERALD. Diseases of man and the conditions influencing the propagation and spread thereof.

Mr. GARNER. Can the gentleman from New York think of anything in the nature of a disease of man that it would not have authority under this appropriation to investigate?

Mr. FITZGERALD. Not without very great effort, and I do not wish to subject myself to great effort unnecessarily.

Mr. GARNER. Well, this item was put into this bill originally, in the very language of the bill creating it, in order to give the bureau a certain amount of money to use at its own discretion.

Mr. FITZGERALD. No; it was not.

Mr. GARNER. Well, it has that discretion anyway, whatever the object may have been.

Mr. FITZGERALD. It may have that discretion, but it was not put in there to enable it to use this money at its own discretion.

Mr. GARNER. How is the gentleman from New York going to control the manner in which it is to be used if there is authorization given them to use it within their discretion?

Mr. FITZGERALD. When the request was made for the $200,000 the Public Health Service outlined the specific work that they desired to undertake with that money. When the representatives of the Public Health Service came before the committee this year they were checked up and they were made to review the work that they had done up to that time with the appropriation that had been given to them, and it was found that they had worked along the lines that they had stated they would if the money were given. Then they were compelled to state the purposes for which they desired the money which was to be given them for the next fiscal year. The experience of the committee has been that when they make their plans and perfect their organization and are given the money to conduct a particular line of work for which they ask the money, that in good faith they so conduct it. Of course, they could under the authority engage in a different line of investigation, but they have not done so.

Mr. GARNER. Will the gentleman yield?

Mr. FITZGERALD. Yes.

Mr. GARNER. Under the tutelage of the gentleman from New York I have learned some very valuable lessons here with reference to confining appropriations to the purposes for which they were to be used, and that is that it is bad public policy to appropriate a lump sum when you can segregate it and designate it for the purpose for which it is to be used. Now, the gentleman from New York has said that they had a certain purpose for which this money was to be used the last fiscal year and this year and that they have checked up its use and find the money was used for the purpose for which it was intended. Now, I want to ask the gentleman this question: Why is it not good policy for the gentleman's committee to make these appropriations specific so that the Congress and the country may know the exact purposes for which it is to be used, and is not that in the interest of economy and good legislation rather than to make lump-sum appropriations and leave it entirely to the heads of the departments with unlimited power to use the money for whatever purpose they may see proper?

Mr. FITZGERALD. Well, sometimes it is and sometimes it is not.

Mr. GARNER. Is it merely because——

Mr. FITZGERALD. Let me finish. This is to conduct certain field investigations. It is not the same as if we had a permanent statutory force to do specific work, certain work with a certain expenditure more or less fixed. These field investigations are such that I have never been able to find out just how the money could be segregated. It may be possible, and I should welcome any assistance that could be given in that direction——

Mr. GARNER. Will the gentleman yield?

Mr. FITZGERALD. In a moment. But I never have been able to do that, and the committee has done the next best thing. Under that authority given by law they made the request for the money. The committee made the officials of the Public Health Service outline in great detail the manner in which the work was to be done and the particular character of the work to be done. They were unable, because they had never done that kind of work, to say how much would be expended for each particular item, but as nearly as they could they estimated the sum that it would take to conduct certain investigations, and then when they came back the committee made them state what they had used and checked it up, and that is as near as we could get it.

Mr. GARNER. Now, if this appropriation is to continue in this bill, if this item is to be carried from year to year and is to become a permanent part of the sundry civil appropriation bill, let me ask the gentleman if it would not be advisable for the gentleman's committee in making up the bill next year to

get the items for which it is to be used and then inform the Congress for what purpose this $200,000 is being used. I can see no reason—of course, if it is temporary, merely to go on for a year or two in order to ascertain certain information for the benefit of the State medical association or the medical people of the various States. I can realize why you should carry it in a lump-sum appropriation, but if it is to be a permanent matter, it ought to be itemized and the particular items put in for which we are appropriating.

Mr. FITZGERALD. There are some limitations upon what can be done in that respect. Here is one volume of the testimony taken on this bill. Here is another volume. Here is still another, more than 2,500 printed pages. It is utterly impossible to include the specific information in the details of the appropriation. The bill now consists of 183 pages of printed matter of an ordinary bill. The committee endeavors to obtain as complete information about all of these items as possibly can be obtained by the exercise of the utmost ingenuity, energy, and industry. All information is available to gentlemen who desire it and who will undertake to collect it from the hearings. I am expected at times to carry all this information in my head in such orderly and systematic manner that I can recite it offhand without any investigation whatever. I know how easy it is to propound questions either to those in charge of a particular service or those in charge of these bills as to the wisdom of doing something different from what is done. All I can say is that we do the best we can, and we welcome the assistance of any gentleman who will frame a paragraph to carry these appropriations in a manner that will make more effective the work of the Congress and make it more illuminative. Indeed, Mr. Chairman, if there is any possible way to so segregate these items that every Member of the House can see at a glance just what is proposed to be done with every dollar by looking at the appropriation itself, it would save those in charge of the bill interminable trouble and labor in making explanations when the bills are before the House.

We have adopted the plan that seems to be best under all the circumstances for this particular work. We find out what the money is required for. If we believe that the money is desired for work that is important and essential for the Federal Government to perform, we recommend the appropriation. When an extra request for appropriation is made we compel those in charge of the service to state what has been done with the money appropriated, checking up with their statements as to what use they put the money that was given, and then compel them to state the purposes to which they will put the additional money if it be given. The auditors and other accounting officials of the Government do their part in preventing the money being improperly expended. And that is about as near as we can come to safeguarding the expenditures of public moneys.

The CHAIRMAN. Does the gentleman from New York make the point of order?

Mr. FITZGERALD. I make the point of order.

Mr. MOORE. Mr. Chairman, I would like to be heard on the point of order.

The CHAIRMAN. The Chair will hear the gentleman.

Mr. MOORE. What is the point of order, if the gentleman pleases?

The CHAIRMAN. The gentleman from Pennsylvania [Mr. MOORE] asks the gentleman from New York [Mr. FITZGERALD] what the point of order is?

Mr. FITZGERALD. The gentleman proposes to limit the authority of the department by this language, appropriating in language conferring authority upon the department, and any attempt to limit the discretion of the department in such a way is subject to a point of order. Then, the language of the gentleman's amendment is to confer a power not given now, and it is legislation.

Mr. MOORE. I understood the gentleman to make the point of order originally that the language of the amendment was not necessary. I think that is the way he stated it. I question whether that would be subject to a point of order.

Mr. FITZGERALD. It was not necessary for certain purposes, and it was not desired to accomplish the prime object of the gentleman's amendment, which is to have the cooperation of the Federal Government with the States in the eradication of mosquitoes.

Mr. MOORE. Mr. Chairman, I think if the Chair will examine the amendment he will find it is not only germane to the paragraph, but it does not in any way affect the question of appropriation. It does not, I think, limit the power of the bureau. It rather directs the bureau in a manner which I think Congress has authority to do.

The CHAIRMAN. The amendment says "for the investigation and eradication of the disease-carrying mosquito." The paragraph to which it is offered seems to be an investigation paragraph, namely, "Field investigations of public health matters: For the investigation of diseases of man and conditions influencing the propagation and spread thereof."

Now, it would read, if the amendment of the gentleman be adopted, in addition, "Investigation and eradication of the mosquito." Does not that broaden very much the act, and in view of that, does it not go out on the point of germaneness?

Mr. MOORE. It may do it. In view of the statement of the Chair, I would ask unanimous consent to withdraw the words "and eradication."

The CHAIRMAN. The gentleman from Pennsylvania asks unanimous consent to withdraw the words "and eradication," as proposed in his amendment. Is there objection?

Mr. FITZGERALD. What does the gentleman ask?

Mr. MOORE. I ask to modify the amendment by striking out the words "and eradication," merely specifying "and investigation."

Mr. FITZGERALD. Well, let it be reported.

The CHAIRMAN. The gentleman from Pennsylvania asks unanimous consent to modify his amendment by striking out the words "and eradication" so that it will read "the investigation of the disease-carrying mosquito."

Mr. FITZGERALD. I make the point of order against the amendment, Mr. Chairman.

The CHAIRMAN. What is the point of order of the gentleman from New York on that? The Chair has indicated that he thought it was subject to a point of order so long as the words "and eradication" were included, because that was much broader than the question of investigation. But the gentleman has withdrawn that, there being no objection. The Chair is inclined to think it is not subject to a point of order now, but will hear the gentleman from New York [Mr. FITZGERALD].

Mr. FITZGERALD. Mr. Chairman, there may be disease-carrying mosquitoes which carry diseases that affect not only human beings but all kinds of animals. Of course, there is no authority for such an investigation. It broadens immensely the power of the Public Health Service.

Mr. MOORE. The question is whether that is not begging the question, Mr. Chairman.

The CHAIRMAN. The paragraph will read, if amended by the amendment as modified:

> For investigation of diseases of man and conditions influencing the propagation and spread thereof, including the investigation of the disease-carrying mosquito——

Mr. FOSTER. Mr. Chairman, that broadens the scope.

The CHAIRMAN. In what respect?

Mr. FOSTER. Because we may have disease-bearing mosquitoes that are not confined to human beings, and then this investigation of diseases and influencing propagation——

Mr. FITZGERALD. It may not be "influencing the propagation and spread thereof." Of course, if it does not broaden in any way the authority of the Public Health Service, it is in order. But I am not sufficiently learned in the scientific side of this matter to be able so to state. This appropriation is in the language of the law conferring authority upon the Public Health Service. If it does not broaden the authority, the gentleman would not desire it. If he wishes to give them an authority they do not now possess, then I can understand his anxiety to have the amendment adopted.

The CHAIRMAN. Then it is the opinion of the gentleman from New York that it would be a change of existing law? Does the Chair so understand the gentleman?

Mr. FITZGERALD. I will state frankly I am not sufficiently acquainted with the scientific aspects of the matter to know. But if it broadens the authority, it is a change of law; if it does not, there is no necessity for it.

The CHAIRMAN. Will the gentleman from New York permit the Chair to ask if he understands correctly if the language in this bill is the language of the act conferring the power?

Mr. MURDOCK. Mr. Chairman, there is in the original law, as read by the gentleman from Illinois, the words "directly or indirectly" after the word "pollution."

Mr. FITZGERALD. The law is:

> The Public Health Service may study or investigate the diseases of man and conditions influencing the propagation and spread thereof, including sanitation and sewage, and pollution, either directly or indirectly, of navigable streams and lakes of the United States.

Directly or indirectly, it refers to the pollution of navigable streams and lakes. The phrase "directly or indirectly" refers to the pollution of navigable streams and lakes.

Mr. MOORE. Does the gentleman contend that the bureau could not under this paragraph make an investigation as to the effect of the rat bite, for instance?

Mr. FITZGERALD. The what?

Mr. MOORE. The rat bite. I know the gentleman is not familiar with it, coming from his section of the country. But does he mean to say that the bureau would have the power to investigate the propagation and effect of any nuisance that related to the diseases of man?

Mr. FITZGERALD. That refers to the investigation of conditions influencing the propagation and spread of the diseases of man. They have that authority.

Mr. MOORE. Then the bureau would have power to investigate as to the effect of a bed bug?

Mr. FITZGERALD. I do not know. I make no admission now as to that.

Mr. MOORE. The gentleman was claiming for the paragraph and for the existing law that the bureau already had all necessary authority, and I asked the gentleman whether in any particular——

Mr. FITZGERALD. This is the language that confers the authority. If they have the authority to do what the gentleman desires, of course there is no reason why he should be particularly anxious to have his amendment adopted. But if he is trying to give them some authority they have not at present, then I can understand the gentleman's anxiety to have his amendment adopted. But we could not change the organic act by the insertion of certain language that was not included in it.

Mr. MOORE. This is the place to do it, I submit to the gentleman.

Mr. FITZGERALD. No; it is not. There is no authority to confer any additional power upon anyone in this appropriation bill. We are merely appropriating to carry out the service that is already authorized.

Mr. MOORE. May I ask the gentleman this—I tried to ask him twice while he had the time—whether the bureau has availed itself of the opportunity or the power that the gentleman contends it already has under this paragraph, to investigate the diseases of man and the conditions influencing the propagation and spread thereof, as that propagation and spread thereof may arise from the bite of a mosquito?

Mr. FITZGERALD. They have made some investigation of malaria.

Mr. MOORE. Apparently the bureau has not availed itself of the opportunity that the gentleman refers to.

Mr. FITZGERALD. It has. The gentleman will see to what extent if he will read the statement in the hearings.

Mr. MANN. Mr. Chairman, I hope the Chair will pardon me for making a statement in regard to this matter, but as I am the author of the law, I think I am justified in expressing an opinion in regard to it—not that I think that opinion is binding.

We have had long and continued hearings before the Committee on Interstate and Foreign Commerce in reference to the extension of the service now called the "Public Health Service." In the Sixty-first Congress I drew the language which is in the law, and which is practically repeated in this bill, and I had the support of the gentleman from Georgia [Mr. ADAMSON], who followed me as chairman of that committee, and introduced the same bill and secured its passage in the last Congress.

The intention was—and I think it is shown, or I would not say that was the intention—in general language to confer upon the Public Health Service the broadest power that the General Government has or could exercise in reference to diseases of man and the spread and propagation thereof, and also in reference to the pollution of water supply and the handling of sewage.

Now, I take it that it would be perfectly proper to appropriate for one of these items and not for all of them. It would be in order to make an appropriation for an investigation of the diseases of man, and stop there. It would be in order to make an investigation of the conditions influencing the propagation of the diseases of man, and stop there. It would be in order to make an investigation of sanitation or of sewage or of the pollution of navigable streams or of the pollution of lakes. It would be in order to make an investigation of a particular disease, I think, by a specific appropriation, and it is not unlikely that in the end, with more information, Congress may determine to differentiate the appropriations and make them for particular things, as suggested by the gentleman from Texas [Mr. GARNER], rather than in the form of a general appropriation.

If the Chairman will pardon me, I am interested in the investigation of the pollution of lake waters, and I recently introduced a bill, prepared by the Public Health Service, to forbid the dumping of sewage in the lakes anywhere until it had been in some way purified, and to require on board vessels the use of water which was sterilized in some way. Now, I think it would be quite within the power of the House to order an investigation of those particular matters if it wished to. It might order an investigation and make a specific appropriation for an investigation or the study of the effect of dumping sewage from vessels in lake transportation.

I myself think, therefore, while not remembering the exact form of the amendment of the gentleman from Pennsylvania [Mr. MOORE], that his amendment would be in order, although I think it is wholly unnecessary, and I shall not vote for it if it is submitted to the House, because up to date I do not think we can afford to divide up the appropriation. The Public Health Service has the power now, without the amendment proposed by the gentleman from Pennsylvania. They can use the appropriation for that purpose, and, so far, I think it has been the design of Congress to permit them to exercise, at least in the first instance and for the present, their judgment as to how the money should be expended for these different items for which we might appropriate and which they might expend.

The CHAIRMAN. After hearing the statement of the gentleman from Illinois [Mr. MANN], the Chair has this tentative view of the matter: The question of whether or not the object specified is necessary has nothing to do with the question whether or not it is in order. But it does seem to the Chair that, considering what we have in the statute, if the amendment does not broaden the statute, it is not necessary, and if it does broaden it, it is legislation on an appropriation bill, which is forbidden under the rule, and the Chair sustains the point of order.

Mr. MURDOCK and Mr. MOORE rose.

Mr. MOORE. I move, Mr. Chairman, to strike out the last word.

The CHAIRMAN. For what purpose does the gentleman from Kansas rise?

Mr. MURDOCK. I intended to do the same thing.

Mr. MOORE. Mr. Chairman, I do not intend to pursue this matter much further this afternoon, although, inasmuch as we are spending hundreds of thousands of dollars, possibly millions, for the investigation and eradication of animal diseases, I believe it is important that we should spend a little public money for cooperation with the States that are undertaking to inquire into and suppress the diseases that affect the life and health of man. We are prodigal in our generosity in taking care of the hogs and the cattle and the horses, all of which may be very good, and most of which I approve; but it does seem anomalous that when a specific direction is proposed in Congress instructing one of the Government's bureaus to inquire into and, if possible, to eradicate, or at least recommend means for the eradication of one of the greatest of all pests to human comfort and human life, we can not manage to make that direction or to make a specific appropriation for that purpose. Now, why should we not tell the Bureau of Health that, in view of the fact that they have $200,000 to spend for inquiries into certain diseases affecting the health and the life of man that a part of it shall be applied to an inquiry concerning one of the greatest of all the pests from which mankind and womankind suffer? That the Bureau of Health is not giving this matter specific attention is amply demonstrated. We have volumes of reports relating to inquiries into other matters. We have numerous brochures pertaining to the investigation of leprosy and to the investigation of trachoma and of fevers of one kind or another, but we can not get the bureau, under any direction of Congress, to make a specific inquiry into the matter of the mosquito, which perhaps carries as much disease as any other insect known. Why, around these very quarantine stations for which we are making appropriations in this bill, most of which are on waterways and along coast lines, they have these pests in their worst form. I know of several of them along the Atlantic seaboard where it is almost impossible for the physicians themselves to live in comfort, and yet we can not direct them to make an inquiry as to the suppression of this pest.

No one State can control this situation. New Jersey has been liberal in its appropriations to drain swamps and to clear up streams and to make the water flow and to make it sweet in order that the mosquito larvæ will not thrive. Pennsylvania makes similar appropriations; Delaware to a certain extent, I understand, does it. Maryland and all these States along the southern coast line are affected. They have them down along the coast of the Carolinas. In the Canadian wilds men are driven out of camps because of the mosquitoes. It is patent that a mosquito will carry disease from a diseased person to a well person. I happen to have before me one report, the only one I can now lay hands on, from the Bureau of Health itself, handed to me by the gentleman from Washington [Mr. JOHNSON], in which reference is made to the leprosy-carrying qualities of the mosquito. This pertains only to the carrying of the

leprosy bacilli. Not having time to go any further into this I will close by one quotation from this official report of the Government:

In the mosquito—

It says—

we have an insect that has a wide range of distribution and is often abundant. This insect feeds by puncturing the skin whenever uncovered, but more often on the face, and fills itself with blood. It later bites another person, who often mashes the blood-filled insect and thus smears the blood contained in the insect upon his own skin. This act is followed by rubbing and scratching such puncture.

That pertains to the carrying of leprosy bacilli. Now, how does it affect you or any one of your family who, having been bitten by a disease-carrying mosquito, which has bitten some infected person, rubs a stocking or some other garment into the bitten spot? There is a chance for blood poisoning, if nothing else. I have known of cases where scratching an infected or dirty garment into a skin punctured by a mosquito has resulted in blood poisoning and death. None of us escapes the irritation of the mosquito bite, it endangers the life of the individual because it tends to drive the disease germs into the system. Blood poisoning, yellow fever, malaria, or other diseases may result. I will not say bubonic plague, because it seems that that comes from the rat and the flea, but the mosquito carries its menace just as freely, and with a greater field to work in perhaps than any other one of the pests for the suppression of which we are making constant and large appropriations.

Mr. FITZGERALD. Mr. Chairman, the gentleman's remarks are a very emphatic argument in favor of the motto, "Don't scratch." [Laughter.]

Mr. MURDOCK. Will the gentleman yield?

Mr. FITZGERALD. Certainly.

Mr. MURDOCK. There is a very wide scope of activity under this paragraph, as I find from the hearings. They have investigated the matter of the effect of the mercury light upon the health of men and stock. I also notice in the hearings the statement that an investigation was made of polluted water. At some particular point in the South, but I do not remember at this time where, it was found that near a particularly thriving oyster bed there was a sewer. The local authorities knew that the oysters were infected with typhoid, and they prohibited the local sale of the oysters. An investigation was made by the Federal Public Health Bureau, colon bacilli were found, and it was found that these oysters were shipped from the place where their sale was prohibited to other places in other States for sale. Here is an appropriation of $200,000, and as a result of the expenditure of it a known evil is found. Now, what remedy follows the discovery of the condition which I have stated?

Mr. FITZGERALD. I think the publication of the information about the infection of these oysters on the Gulf has been pretty widely disseminated.

Mr. MURDOCK. Can the gentleman give me the practical application of that process? When these infected oyster beds were found, were bulletins issued and was the information given to the oyster trade?

Mr. FITZGERALD. I do not know.

Mr. MURDOCK. Ought not that to have been done by the Public Health Bureau?

Mr. FITZGERALD. I can not tell the gentleman just what they did about it. I had this experience a few years ago: There is a gentleman in New York who is one of the most successful hotel men over there, noted for the very high character of the table at the houses conducted by him. He stated that at one time there was some complaint about the flavor of the Lynn Haven oyster which he was serving in his hotel. He wrote to the Department of Agriculture, calling attention to the fact, and asked if they could give him any information. The Department of Agriculture sent a man who made an inspection.

Mr. MURDOCK. Under the pure-food law?

Mr. FITZGERALD. I think so. They found that the demand for Lynn Haven oysters was so great that the supply was inadequate, so that oystermen in that locality were bringing oysters from other places and planting them for a brief period, a week or two, and shipping them out as Lynn Haven oysters. That information was furnished to him, and very quickly spread among men who were interested in the purchasing of high-grade oysters, and I think it had the effect of stopping that practice.

An investigation of this kind is usually made the subject of a special report which is sent out. The public health authorities are keeping pretty close track of such matters.

Mr. MURDOCK. The gentleman agrees that it ought to have been done in that case?

Mr. FITZGERALD. The local authorities prohibited the sale of those oysters in the town, and as they could not sell them in the town they shipped them off to some other locality where apparently they had no knowledge of this condition.

Mr. MURDOCK. If that practice was continued and the sewage was not cleaned up——

Mr. FITZGERALD. I think under the pure-food law they would have ample authority to stop the shipment of any such infected oysters.

Mr. MURDOCK. Would there be cooperation between the Health Department and the Department of Agriculture in an instance of that kind?

Mr. FITZGERALD. I think there is cooperation.

Mr. LEVER. I think there is, without doubt.

Mr. FITZGERALD. I have no doubt that they cooperate and furnish whatever information they have freely.

Mr. MANN. The gentleman knows that the Agricultural Department has prosecuted a number of cases for shipping bad oysters?

Mr. MURDOCK. I knew of that, but I did not know whether the prosecutions arose out of investigations under this paragraph. I did not know whether the discovery was made by the Public Health Bureau under the provisions contained in this paragraph.

Mr. MANN. All they would have to do would be to communicate with the Department of Agriculture.

The Clerk read as follows:

Interstate quarantine service: For cooperation with State and municipal health authorities in the prevention of the spread of contagious and infectious diseases in interstate traffic, $15,000.

Mr. MOORE. Mr. Chairman, I offer the amendment which I send to the Clerk's desk.

The Clerk read as follows:

Page 44, line 9, after the word "traffic," insert "and the spread of the mosquito nuisance."

Mr. FITZGERALD. Mr. Chairman, I make a point of order against the amendment. This appropriation is contained in the language of section 3 of the act of February 15, 1893:

That the Surgeon General of the Marine Hospital Service shall * * * in the execution and enforcement of the rules and regulations made by the Secretary of the Treasury to prevent the introduction of contagious and infectious disease over the United States from foreign countries, and into one State or Territory or the District of Columbia from another State or Territory or the District of Columbia.

Mr. MOORE. Mr. Chairman, is that existing law, or is the gentleman reading from a report of the Treasury Department?

Mr. FITZGERALD. It is a provision of the law which is contained in the hearings taken by the committee last year. It is section 3 of the act of February 15, 1893, and is law.

Mr. MOORE. Mr. Chairman, I think the amendment is germane to the paragraph. I understood that the gentleman was reading from a ruling by the Secretary of the Treasury, but he states that he was reading from the law. There is nothing objectionable to the law in my amendment. The Chair ruled against my other amendment a moment ago, and it may be consistent to hold to that ruling, but it seems to me that it is germane and does not affect the existing law, so as to be subject to the point of order.

The CHAIRMAN. The Chair may have been in error in ruling on the amendment a few moments ago, but it occurred to the Chair that it was a dangerous precedent to begin to let into the organic law specific things. Next year there would be another, and next year another, and it seemed to the Chair as there was some doubt it ought to be resolved in favor of the maintenance of the organic act without additions. But, whether right or wrong, the Chair thinks this is clearly out of order because the paragraph refers to diseases in the quarantine service. The paragraph reads:

Interstate quarantine service: For cooperation with State and municipal health authorities in the prevention of the spread of contagious and infectious diseases in interstate traffic, $15,000—

and if the gentleman's amendment were adopted "and the spread of the mosquito nuisance." That would be without any reference as to whether it was a disease-carrying mosquito or simply a mosquito that is a common nuisance. The Chair sustains the point of order.

Mr. MOORE. Mr. Chairman, I move to strike out the figures "15,000," in line 9, page 44, and insert the figures "100,000."

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amend, page 44, line 9, by striking out "15,000" and inserting "100,000."

Mr. MOORE. Mr. Chairman, the paragraph reads:

For cooperation with State and municipal health authorities in the prevention of the spread of contagious and infectious diseases in interstate traffic.

Now, it is possible that under this paragraph the bureau would have the same power which the gentleman from New

York indicated it would have in the preceding paragraph, without specific direction as to any particular insect-breeding disease. If that is so, $15,000 would be a ridiculous amount with which to have the Government cooperate in the various States in the prevention of the spread of infectious diseases in interstate traffic, and so forth.

It might require some little stretch of the imagination, but I think it would not be necessary to do that to show that the mosquito, so far as carrying disease is concerned, is an interstate pest; that is to say, it could easily fly across the river or creek forming the boundary line of a State, and it could carry disease from one State to another and thus become interstate. In view of the fact that $15,000 would not be sufficient for the Bureau of Health to enter upon any inquiry of this kind, it seems to me that if the bureau exercised the authority which the gentleman from New York says they would have power to exercise under the preceding paragraph, they ought to have a little more money, and that is the purpose of my amendment.

Mr. FITZGERALD. Mr. Chairman, I hope the amendment will not prevail. The appropriation recommended in the item is the amount requested by the Public Health Service. The money is used for a purpose entirely foreign to the object in the amendment of the gentleman from Pennsylvania. This money is used for the purpose of securing proper and suitable drinking water and ice upon railroad trains and boats engaged in interstate traffic, and is being used also for the purpose of endeavoring to perfect some device by which facilities on railroad trains will be installed so as to prevent the scattering of fecal discharges and human waste over the tracks, but retain and remove it in a proper manner. This is what the Public Health Service desires, and this is all the money it could use. It could not use it for the purpose desired by the gentleman if the amount named in the gentleman's amendment should be agreed to. I hope the amendment will not prevail.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania.

The question was taken, and the amendment was rejected.

Mr. GILLETT. Mr. Chairman, I move to strike out the last word. From the time of Plutarch, and I presume earlier, down to the present time, one of the most interesting things to the student has been to compare historical characters and facts and to note how history repeats itself. Members of this House are at least students of political history, and in an humble way we are makers of political history, and so it seems to me it might be interesting in just a word to point out a precedent which was brought to my mind by the proceedings upon this bill a day or two ago. It brought back a speech which I read years ago and which, I thought, was in Benton's Thirty Years' View. Yesterday I used my leisure in looking all through that work, but could not find that speech. My recollection is that it was by John Randolph, about a century ago, and that what he said was much as follows: "Certain ingenious mechanics in Europe have been enabled to construct out of wood a little machine or toy which utters at intervals with excellent imitation of human speech the word 'cuckoo.' A gentleman of this House has imitated that wooden machine, and with the exercise of just about the same amount of intelligence has at intervals interrupted and delayed the business of this House by reiterating the parrotlike words, 'The previous question, Mr. Speaker.'"

I do not mean that this language of Mr. Randolph was at all an accurate analogy of what has happened here, but it struck me it was near enough to be interesting historically, as well as intrinsically amusing, and so I thought I would take a moment of the time of the House to recall it, with also the hope that some Member might authenticate my recollection and refer me to the exact quotation.

The CHAIRMAN. Without objection, the pro forma amendment will be withdrawn, and the Clerk will read.

The Clerk read as follows:

For equipping the tower telescope of the Astrophysical Observatory on Mount Wilson, Cal., including the necessary incidental expenses, to be immediately available, $2,000.

Mr. MANN. Mr. Chairman, I move to strike out the last word. I see this item is for the purpose of equipping the tower telescope of the Astrophysical Observatory on Mount Wilson, Cal. I had supposed that that was probably in connection with examinations of the sun and the sun spots, but this morning I was told that up to last night the registration in California by parties showed a Republican registration of something over 165,000 higher than the Democratic registration, which greatly exceeded, also, the Progressive registration, and I was not sure but that this telescope was for the purpose of seeing if one could discover by the aid of a powerful telescope any prospect for either the Democrats or the Progressives in California.

Mr. GARNER. Does not the gentleman know that they do not always vote the way they register?

Mr. FITZGERALD. I was under the impression that perhaps the telescope was used to ascertain whether by any possibility any of the occurrences depicted by the official "S. O. S.'s" of the Republican and Progressive Parties actually occurred, but the largest telescopes in existence in this country have disclosed no unusual or unseemly conditions.

Mr. MANN. But this telescope that is applied to this purpose will discover to an expectant Democratic country that the registration in California now shows that there are 165,000 more Republicans registered than there are Democrats, and really, you know, that is going some.

Mr. FITZGERALD. Mr. Chairman, let me suggest to the gentleman that he should not flatter himself too highly upon that. My personal experience in politics has demonstrated that the relation between the enrolled party vote and the vote for the party ticket is sometimes very painfully disappointing.

Mr. MANN. That is very often the case, especially when the registration has been a good while ahead; but this registration is down to date, and it is now going on. It is for the purpose of permitting the people who are registered to vote this fall, and while I can understand how some Democrats may prefer to register as Republicans, and how some Progressives may prefer to register as Republicans, so that they will not meet the contumely of being called Democrats or Progressives, still I imagine that the number of such would not be so very great in California.

Mr. FITZGERALD. My experience has been that it is always more profitable to discuss elections after the ballots are cast than before. Judging from the experience of the Republican Party in 1912, I should imagine that the gentleman from Illinois had reached the same conclusion.

Mr. MANN. Mr. Chairman, the gentleman may have found it more profitable to discuss elections after the election rather than before; but I have heard him discuss the elections before on more numerous occasions than I have after, and I expect to continue to enjoy the benefit of that in the future.

Mr. FITZGERALD. My practice has been to state the fundamental and inalienable truths upon which the Democratic Party invites the support and cooperation of the patriotic people of the country——

Mr. MANN. It will take a telescope to find them.

Mr. FITZGERALD. And then to accept with complete contentment and satisfaction the result, knowing that truth will prevail, virtue will triumph, and the Democratic Party be successful.

Mr. MONDELL. Mr. Chairman, while it is quite natural that the gentleman from Illinois [Mr. MANN], in view of the condition of the registration in California, should conclude that this equipment for the observatory at Mount Wilson was for the purpose of discovering the minute remainder of the Democratic and Progressive Parties, the fact is that the gentleman is mistaken. Mount Wilson is a dry climate, well above the clouds, and is equipped with a very high-powered telescope. It is hoped that with the equipment provided for in this paragraph, that telescope may be made powerful enough to discover a little of the increased prosperity which we have been promised under this Democratic administration. It is not visible to the naked eye from any point within the territory of the United States, and it is but natural that we should endeavor to equip the most powerful telescope in the world, most advantageously located to see a long distance and discover small objects, for the purpose of finding, if possible, some evidence, some small fragment, of this increase of prosperity which we were promised. It has been hoped also that we might catch a view, if only in a nebulous form, of some evidences of the new freedom other than psychological evidences of it. Of course almost all of us agree that it will probably be utterly impossible even with the aid of this powerful telescope, fully equipped and put in most perfect condition, to discover any particle of Democratic prosperity or of increased prosperity under this Democratic administration. Indeed we know it will reveal great voids and breaks in the prosperity which existed when our Democratic friends took charge of the ship of state, but still it is our duty to try and do so, and therefore the minority join with the majority in this appropriation.

Mr. MOORE. Does the gentleman think $2,000 for this telescope will be sufficient to reveal all the gentleman has in mind and also find the reduced cost of living that was promised the people by the Democratic administration?

Mr. MONDELL. Well, if that matter was discussed in the committee, I am sure there was not a member of the committee who had the slightest idea we could raise this item high enough or equip this telescope so powerfully as to be able

to discover the reduced cost of living. I think about everyone has concluded that it is nonexistent, and while this telescope will search out the most attenuated and nebulous thing in the world, and, therefore, it was hoped we would catch a glimpse of the beneficial effect of the new freedom or increased prosperity, no one, not even the optimistic Democratic chairman of the committee, believes we could hope to catch any sight or glimmer of the reduced cost of living.

Mr. TAGGART. Mr. Chairman, I move to strike out the last word. I have been very much astonished at the distinguished gentleman from Wyoming [Mr. MONDELL] and other gentlemen on that side of the House who seek to find comfort out of hard-luck stories. Is it possible that they would like to go into partnership with famine? Is it possible that news of misfortune is a comfort to them? Do ill winds blow good to gentlemen on the other side? I am astonished, as I said, especially when the gentlemen are speaking of long-distance views. In the Middle West, and especially in the great State of Kansas, the greatest prosperity that was ever known in the history of the whole region is at hand.

Mr. GARNER. Actually exists.

Mr. TAGGART. The harvest is ripening in Kansas, and 175,000,000 bushels of wheat is about to be gathered in.

Mr. MONDELL. Will the gentleman yield?

Mr. TAGGART. I will.

Mr. MONDELL. Does the gentleman take credit for his party for the splendid crop in Kansas?

Mr. TAGGART. No; I do not take any personal credit for it. I just was getting ready to rebuke the gentleman for claiming to be a part of Nature & Co. for 40 years. If you are telling the truth about that combination, I wish to advise you that the firm has been reorganized in Kansas and the Republican Party is not now a part of it. [Applause on the Democratic side.] The Midas touch of the harvest sun is turning its fields to gold, and the price is just as good as it was a year and two years ago, and the price is better than the average price has been for the past 10 years. If the whole United States Army were disbanded to-morrow in the wheat fields of Kansas, they would not supply the demand for labor. [Applause on the Democratic side.] Speaking of telescopes, the celebrated President Percival Lowell, of Harvard, who was the Mars professor at that great university, for a number of years studying the planet Mars, incidentally remarked in one of his magazine articles that if they had a telescope on Mars of the same power as the one at Flagstaff, Ariz., they could see the color come and go on the wheat fields of Kansas. [Applause on the Democratic side.] Talk about advertisements and prosperity and telescopes! I want to say Kansas has indeed reached the stars, if a telescope is there; but I am astonished that gentlemen would hear of bad luck and be glad of it; hear of misfortune and announce it as a prophecy of their success. Why, I should think the gentleman from Wyoming would be comforted. Wool has gone up. [Laughter.] The gentleman mourned a year ago as though he never would be comforted; but let him be of good cheer. I believe the shepherd on the plains of Wyoming has learned something, and it is this: Three or four years ago wool was worth 11 cents a pound and it had exactly 11 cents a pound tariff on it. He has learned the tariff was worth to him precisely the difference between 11 cents and 11 cents. [Laughter on the Democratic side.] The brilliant gentleman [Mr. MONDELL] will not tell us there is anything the matter with Wyoming. There is a city in Wyoming that has gone forward in the last two years, for the size of it, faster than any other city in the United States, and that is no place else but Casper, right in the heart of the gentleman's own State.

Mr. MONDELL. Well, the Democratic Party and its policies have not had anything to do with it.

Mr. TAGGART. Does the gentleman wish to vouch for how much the Republican Party has had to do with it? The gentleman's party certainly has not been performing miracles in the last 14 months, has it? [Applause on the Democratic side.] I thought you ceased to perform on or about the 5th day of March a year ago. Certainly you have not done anything for Casper lately in the Republican Party. I do not know we have done anything for that town in the Democratic Party, and I do want to say to you that nothing is the matter with Wyoming, and I am sorry to see the gentleman talk as if there were. There is nothing the matter with Kansas; it is all right; and whenever you see 3,000 or 4,000 men standing upon Pennsylvania Avenue in the city of Washington, watching the bulletins or something of that kind, either Johnson, of Kansas, is pitching, or Funston, of Kansas, is fighting. [Applause on the Democratic side.]

Mr. MANN. Or TAGGART, of Kansas, is talking.

Mr. TAGGART. And MANN, of Illinois, is troubled. [Applause on the Democratic side.]

Mr. MANN. Well, that is an unkind fling.

Mr. TAGGART. No; there is no hard-luck story from the Middle West. It has prospered as it never did before. If the wheat of Kansas was ground into flour, it would make 75 pounds of flour for every man, woman, and child in the United States and would keep all the people of the United States alive for 12 months if nothing else grew. Talk about prosperity—turn your telescope our way. [Applause on the Democratic side.]

The CHAIRMAN. Without objection, the pro forma amendment will be considered as withdrawn.

There was no objection.

The Clerk read as follows:

For continuing the preservation, exhibition, and increase of collections from the surveying and exploring expeditions of the Government, and from other sources, including salaries or compensation of all necessary employees, and all other necessary expenses, $300,000, of which sum $5,500 may be used for necessary drawings and illustrations for publications.

Mr. MONDELL. Mr. Chairman, this is an item providing for survey and exploring expeditions. It reminds me that the gentleman from Kansas has just been exploring all over the earth and as far as the planet Mars. The curious thing about the gentlemen on the other side is that whenever you refer to the effects of the present condition of the country they say we "are howling calamity."

It is unfortunate for us all that whenever one mentions conditions under Democratic administrations he mentions conditions so far as those conditions are affected by the policy of the party that are unfortunate, and to that extent it is calamity. That is not our fault. That is the fault of the party whose policies bring calamity, and they can not blame us if we call attention to the conditions which they have produced.

Now, the gentleman from Kansas [Mr. TAGGART] evidently did not listen to what I said, for he suggested that I was talking calamity, and he would give the House to understand that I talked about hard times in my own State. I have not discussed conditions in Wyoming at all, although it is an unfortunate fact that we have seen no new prosperity under this Democratic administration; we have lost some of the prosperity we had. There is not an industry in that State that is prosperous, except in the Casper district, to which the gentleman refers, where the Almighty has given us a great oil field.

Mr. GARNER. Will the gentleman yield?

Mr. MONDELL. And even the Democratic Party can not prevent these great wells of oil in the vicinity of Casper from bringing prosperity to us.

Mr. GARNER. Does the gentleman yield?

Mr. MONDELL. In just a moment. Our flockmasters last year took a loss of about 6 cents a pound on all their wool by reason of the threat of Democratic tariff legislation. There has been a slight increase over the extreme low price of last year, and that seems to be the only glimmer of light on the Democratic horizon, that the cost of living in the matter of wool has increased. Although they promised us a lower cost of living, they now make a virtue of the fact that the cost of living has increased.

Mr. GARNER. Now will the gentleman yield?

Mr. MONDELL. I will.

Mr. GARNER. I have always understood that the greatest industry in the gentleman's State is the stock industry?

Mr. MONDELL. It is.

Mr. GARNER. Including cattle, horses, and sheep. Now, if that information is correct, I can not understand how it is that the gentleman's State is not as prosperous, if not more so, now in that industry than at any time in the history of the State, because it is certainly so in Texas, where that industry predominates. We have the highest prices that we have had in the history of the country, the highest price for wool in 10 years, and the highest prices for horses and mules.

Mr. MANN. Angora sheep wool, you mean?

Mr. GARNER. No, sir. How it is that in the great State of Wyoming the industries of cattle and sheep raising can be depressed I can not understand.

Mr. MONDELL. It is true that the Democratic prophecy of a lower cost of living has not——

The CHAIRMAN. The time of the gentleman has expired.

Mr. MONDELL. Mr. Chairman, I ask unanimous consent that I may have five minutes more.

The CHAIRMAN. The gentleman from Wyoming asks unanimous consent to proceed for five minutes more. Is there objection? [After a pause.] The Chair hears none.

Mr. MONDELL. The Democratic prophecy of a lower cost of living has not been fulfilled. And all the gentlemen from the mid-West now are making a virtue of the fact that the prophecy has not been fulfilled. They promised the consumers of the country lower prices and cheaper living. They say that condi-

tion has not arrived as yet; that, as a matter of fact, the cost of living has not gone down; and that is supposed to be an excellent argument in the agricultural districts of the West. The fact is, referring again to wool, the wool producer of the country, whatever price he may be receiving, is receiving less by 5 or 6 cents a pound than he would receive if we had the duty that we had under the Payne bill. And that is evidenced by the fact that for a series of years under the Payne bill the price of wool in the country was from 5½ to 7½ cents a pound above the price of a like foreign product. In other words, the tariff on the fine wools gave us an increased price of from 5 to 6 cents. While it is true that foreign wools have increased in value, that our wool clip has decreased in quantity, and that those two things have increased the price above the very low price of last year, the fact still remains that wool is lower than it was on the average under Republican protection and very much lower than it would be to-day if it were protected.

But I did not originally rise to talk about hard conditions. I arose to call attention to the fact that we are so anxious to view the prosperous conditions which we have been promised and which the gentleman insists exist in Kansas that we are willing to still further improve the best telescope in the country for the purpose of getting a glimpse of it. Kansas wheat fields are yellow, ripening for the harvest. Even the Democratic administration, even Democratic policy, can not prevent the falling of the "former and the latter rain," and can not take from the fertility of the Kansas soil, thank God. Even Democratic policies can not wholly discourage the hardy flockmaster and herdsman of the mountain West, and so we are not spending our time bewailing the situation. I have not even referred to it so far as it affects my people locally, but we know what it is, and in November the people will record their judgment in that matter. [Applause on the Republican side.]

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

National Zoological Park: For continuing the construction of roads, walks, bridges, water supply, sewerage, and drainage; and for grading, planting, and otherwise improving the grounds; erecting and repairing buildings and inclosures; care, subsistence, purchase, and transportation of animals; including salaries or compensation of all necessary employees; and general incidental expenses not otherwise provided for, including purchase, maintenance, and driving of horses and vehicles required for official purposes, not exceeding $100 for the purchase of necessary books and periodicals, payment in advance for subscriptions, and exclusive of architect's fees or compensation, $100,000; one half of which sum shall be paid from the revenues of the District of Columbia and the other half from the Treasury of the United States.

Mr. MANN. Mr. Chairman, I move to strike out the last word. There is an incident that I do not think should be passed without some reference to it in the House. I remember some years ago a gentleman on the floor of this House denounced in unmeasured language Dr. Langley, then the Secretary of the Smithsonian Institution, for the improper and gross extravagance of expenditure of money in the effort to find a flying machine. It is said, though I do not vouch for the statement, that that speech really broke Dr. Langley's heart.

Mr. FITZGERALD. And he also sought to discredit the Committee on Appropriations for supporting Dr. Langley.

Mr. MANN. My recollection is that that committee was the Committee on Military Affairs, and that Dr. Langley had gotten his money from the Army.

Mr. FITZGERALD. That money was provided out of the appropriation for the Board of Ordnance experimental funds, carried in the fortifications bill.

Mr. MANN. Well, I am very glad to be corrected in that regard, because I had carried the impression that, it being a military appropriation, it came from the Committee on Military Affairs. To have done the work that Dr. Langley was doing, a rather tender and sensitive soul that he was, and then to be charged on the floor of the House of Representatives with this reprehensible use of the money was really too much for him, and it undoubtedly hastened his death. Some people outside of the House very often take too seriously statements of that kind which were made in the House.

However, I rose just now to call the attention of the House to the fact that the original flying machine constructed by Dr. Langley which when it made the effort to fly, through some mistake or accident in sending it off, fell into the river, was taken out and placed in the Smithsonian Institution or in the National Museum and under their control, and recently was turned over for experimental purposes, I believe, to Mr. Glenn H. Curtis, and he flew it. He flew with the original Langley machine. And in view of the fact that this expenditure of money was so bitterly denounced only a few years ago, after this flying machine at that time had not flown, it seemed to me proper to print in the RECORD also, for any curious and enterprising minds hereafter, the statement that it was said on the floor of the House in the course of time that the original machine of Dr. Langley had proved its efficiency by actually flying in the air.

Mr. MURDOCK. Mr. Chairman, will the gentleman yield?

Mr. MANN. Certainly.

Mr. MURDOCK. Is it not to the credit of Congress that Congress did appropriate the money, despite the protests, just as previously Congress had appropriated money to try out the electric telegraph?

Mr. MANN. I think really that Congress ought often to get credit where it gets denunciation, because we do constantly appropriate money for experimental and scientific purposes the results of which are of great benefit to the world. [Applause.]

The CHAIRMAN. Without objection, the pro forma amendment will be withdrawn. The Clerk will read.

Mr. MONDELL. Mr. Chairman, I move to strike out the last word.

The CHAIRMAN. The gentleman from Wyoming [Mr. MONDELL] moves to strike out the last word.

Mr. MONDELL. Mr. Chairman, I wish to emphasize what the gentleman from Illinois [Mr. MANN] has just said in regard to the Langley flying machine by calling attention to the fact that not only did that machine, in exactly the form in which Prof. Langley attempt a flight, fly successfully, but that it carried, in addition to the pilot, a weight of something like 300 pounds, I think it was, in the way of pontoons, it having been launched from the waters at Hammondsport, N. Y.; so that it was a much better machine than Prof. Langley ever hoped or believed it to be.

Mr. Chairman, I want in this connection to call attention to the fact that there was an estimate made for an appropriation of $50,000 to continue investigations along the line of aeronautics under the Smithsonian Institution. The committee did not see fit to grant that item. I shall not offer an amendment to insert it, but I think it would have been well if the committee had seen fit to insert language in the bill desired by the secretary of the Smithsonian Institution under which the President would have been authorized to direct the cooperation of the Departments of War, Navy, Agriculture, and Commerce in experimental work. The Director of the Smithsonian Institution was of the opinion that with authority given for that kind of cooperation some valuable results could be obtained. The committee did not see fit to insert either the appropriation or the language. I think it would have been well to have done so. I believe it is highly important that we should, in the near future, provide under some scientific bureau of the Government some means for further experiments and investigations with regard to heavier-than-air machines.

The CHAIRMAN. Without objection, the pro forma amendment will be withdrawn.

Mr. COOPER. Mr. Chairman, I move to strike out the last word.

The CHAIRMAN. The gentleman from Wisconsin [Mr. COOPER] moves to strike out the last word.

Mr. COOPER. Mr. Chairman, I want to say one word on this subject of the Langley flying machine. Of course, I do not wish to dispute—because I have not the facts at first knowledge to dispute—the claims now being put forth in the papers so frequently and with much earnestness that Prof. Langley invented a machine that would fly. Nevertheless it did not fly in his lifetime. We know that, and we also know that the man who is alleged recently to have made it fly was the enemy, at least in litigation, of the Wright brothers, who the world has always heretofore said were the inventors of the first successful flying machine.

I myself would have felt much more certain that a machine which would fly had been invented before the Wright brothers made their successful flight, if the model had not been given to Mr. Glenn Curtis, who had a bitterly contested lawsuit with the Wrights as to the invention of the flying machine. I would not detract from any honors due Prof. Langley, but I think that the living, the Wrights, who for 12 years labored, despite criticism and ridicule—some of it very bitter—of their efforts, should have the credit that is due them, rather than to have it now said that Mr. Glenn H. Curtis, who denied that the Wrights invented a machine, has flown a machine that failed during the lifetime of the man who made it.

I read recently in a newspaper that this Langley model had some few things done to it before it was flown by Mr. Curtis, but that these were not important. I do not know what they were. However, with no desire, as I have said, to detract at all from the honors justly due to any other persons, I do think that the Wright brothers ought to be protected in the claims which they have established in the courts as the inventors of the first successful flying machine.

The CHAIRMAN. The pro forma amendment is withdrawn. The Clerk will read.

The Clerk read as follows:

For all other authorized expenditures necessary in the execution of laws to regulate commerce, $910,000, of which sum there may be expended not exceeding $50,000 in the employment of counsel, not exceeding $3,000 for the purchase of necessary books, reports, and periodicals, not exceeding $1,500 for printing other than that done at the Government Printing Office, not exceeding $100 in the open market for the purchase of office furniture similar in class or kind to that listed in the general supply schedule, and not exceeding $65,000 may be expended for rent of buildings in the District of Columbia.

Mr. GARNER. Mr. Chairman, for the purpose of asking the chairman of the committee a question, I move to strike out the last word.

The CHAIRMAN. The gentleman from Texas moves to strike out the last word.

Mr. GARNER. Mr. Chairman, this is the only department of the Government of such proportions where the salaries of the officials and employees are not carried in the legislative, executive, and judicial appropriation bill. I wanted to ask the chairman of the committee if the committee had ever considered the question of carrying these salaries of clerks and other employees in this department, and the commissioners themselves, in the legislative appropriation bill, in the manner in which other departments of the Government are provided for?

Mr. FITZGERALD. To my knowledge it never has. It is not a Government department. When it was created it was at first carried in this bill, and it was thought desirable to keep the statutory salaries with the other expenditures in the same bill, so as to have them all under observation.

Mr. GARNER. I notice in this item, now, for instance, there is $910,000 carried. That is an unusually large sum to turn over to any department of the Government to be expended for employees. Now, it is a usual thing—and I call the gentleman's attention to the fact—that his committee reports each year appropriations for the various departments of the Government, itemizing the clerks in various classes and the heads of the various bureaus in the departments, and undertakes to advise Congress just exactly as to the number and character of the employees provided for.

Mr. FITZGERALD. All that information is contained in the Book of Estimates.

Mr. GARNER. That could be carried in the Book of Estimates for all the departments just as easily and the same answer could be made. I believe the gentleman will not deny the contention that it is better, wherever it can be done, for the Congress itself to make the direct appropriations for the places in the various departments.

Mr. FITZGERALD. That is my opinion. A good many disagree with me, however.

Mr. GARNER. Has the gentleman ever undertaken, or does the gentleman have any idea of carrying out what he believes to be the best policy of the Government with reference to the Interstate Commerce Commission?

Mr. FITZGERALD. I always carry out my ideas whenever I am permitted, but I am not the absolute Pooh-Bah that a great many people seem to imagine; so I do not always succeed.

Mr. GARNER. Has the gentleman undertaken to carry out his ideas in reference to this particular body—the Interstate Commerce Commission?

Mr. FITZGERALD. I am only one of 21 members of the committee. My power is very much exaggerated. I do not get a chance to vote unless there is a tie; so I really do not have as much power as an ordinary member of the committee; that is, under ordinary circumstances.

Mr. GARNER. I am very much surprised at the gentleman not having any more influence on the committee than he now would lead us to believe, because I have been——

Mr. FITZGERALD. I did not say "influence." I said "power."

Mr. GARNER. If a man has sufficient influence, he certainly has some power.

Mr. FITZGERALD. Sometimes when I think my influence is greatest I am most disappointed.

Mr. GARNER. That may apply with the heads of departments, but not so much with the Committee of the Whole House or the House of Representatives.

Mr. FITZGERALD. I will say to the gentleman that I suppose the making of this appropriation in this way, as a lump sum, is due somewhat to the peculiar character of the work of the Interstate Commerce Commission. Duties are added from time to time. The work is partly judicial and partly administrative, and probably the reason why no attempt has been made to segregate and specify more particularly the appropriations of the Interstate Commerce Commission is because of the fact, I think, that, unlike most of the departments of the Government, that commission has shown not only a disposition but an actual accomplishment in effecting economies in the conduct of their work. In this bill this item is $910,000. In 1912 and 1913 it was $1,000,000, and the reduction was made at the suggestion of the Interstate Commerce Commission.

Mr. GARNER. If the gentleman will yield, I did not mean to criticize the Interstate Commerce Commission in any way. I am simply drawing the attention of the committee to a kind of legislation that is growing up in this House——

Mr. FITZGERALD. This is not growing up. This has been going on since I have been in Congress, for 15 years.

Mr. GARNER. I understand that this particular thing is not growing up, but we have just passed by a part of the bill where some lump-sum appropriations are carried.

The CHAIRMAN. The time of the gentleman has expired.

Mr. GARNER. I ask unanimous consent to proceed for two minutes.

The CHAIRMAN. The gentleman from Texas asks unanimous consent to proceed for two minutes. Is there objection?

There was no objection.

Mr. GARNER. While I had the honor to serve as a member of the Committee on Foreign Affairs, and assisted in making up the diplomatic and consular appropriation bill, my attention was directed to the fact that different lump-sum appropriations were made. Abuses had grown up under them, and I think wherever it is possible for committees framing appropriation bills to designate the specific purpose for which an appropriation may be used it is advisable, in the interest of economy and good government, to do it; and I take advantage of this instance here to call attention to the fact of the immense lump-sum appropriation carried here, without designating particularly the purpose for which it is to be used.

I want to say in this connection, if the gentleman will permit me, that I believe if all the departments of the Government were run as efficiently and economically as the Interstate Commerce Commission we would have a little better service than we are getting.

Mr. JOHNSON of Kentucky. And for less money.

Mr. GARNER. And for less money.

Mr. FITZGERALD. I think the view which has been expressed by the gentleman from Texas is generally held by Members of Congress. Two or three years ago in an effort to find some means of keeping a proper check, without unduly cumbering the statutes, a provision was inserted in the sundry civil bill requiring detailed statements to be furnished with the estimates each year showing the employment and the rate of compensation for the fiscal year last ended and the proposed employment for the fiscal year for which the appropriation was to be made in all instances where the lump-sum appropriation was in excess of $250,000. That has worked out so satisfactorily that we have a provision in this bill that applies it to all lump-sum appropriations. The effect is that we have in the Book of Estimates these statements furnished in parallel columns, and by simply glancing at them it is possible to see the proposed changes. Now, it may be that it will be very desirable some time to include another provision prohibiting employments at any other compensation than those set forth in the notes and prohibiting increases of the number of employees beyond those stated in the notes.

Mr. GARNER. I was going to call the attention of the gentleman to that fact.

Mr. FITZGERALD. We are doing these things gradually, and if that can be brought about we will have a very salutary check. It would eliminate a great deal of detail from the annual appropriation bills and would at the same time furnish complete and accurate information and an absolute check upon the expenditures.

Mr. GARNER. I withdraw the pro forma amendment.

The Clerk read as follows:

For all other authorized expenditures necessary in the execution of laws to regulate commerce, $910,000, of which sum there may be expended not exceeding $50,000 in the employment of counsel, not exceeding $3,000 for the purchase of necessary books, reports, and periodicals, not exceeding $1,500 for printing other than that done at the Government Printing Office, not exceeding $100 in the open market for the purchase of office furniture similar in class or kind to that listed in the general supply schedule, and not exceeding $65,000 may be expended for rent of buildings in the District of Columbia.

Mr. MANN. I move to strike out the last word. I notice that the appropriation for the employment of counsel by the Interstate Commerce Commission is not increased in this bill over what it is in the existing law. I do not remember whether the existing law provides for a larger amount than has been paid currently heretofore. I was under the impression that the commission were using practically all of the $50,000 which was

permitted for counsel, and I wondered whether the increase in the salary of one of the counsel from $5,000 to $10,000 was at the expense of the number of counsel who were employed, or whether they made that up in some other way. Perhaps the gentleman can give the information.

Mr. FITZGERALD. There was no request to increase the amount to be expended for counsel. My information is that the counsel paid out of the $50,000 are not the ordinary counsel who are employed by the year. This is to permit the employment of counsel in special cases, and I do not think it has been availed of very often.

Mr. MANN. I think the gentleman is mistaken about that.

Mr. FITZGERALD. I think not.

Mr. MANN. Where is there any other appropriation for counsel except this item of $910,000? They have a long list of persons in their annual report who are listed as counsel. Possibly they have changed the title of some from counsel to examiner, or from counsel to clerk, in order to pay Mr. Folk $5,000 extra.

Mr. FOSTER. Will the gentleman yield?

Mr. MANN. Yes.

Mr. FOSTER. I will read from the hearings, where the chairman asked this question:

Is this $50,000 construed to apply to the employment merely of counsel in special cases or to your entire legal force?

And Mr. Clark replied:

Only to counsel in special cases.

Mr. MANN. Mr. Clark is mistaken; there is no other appropriation from which they could be paid.

Mr. FITZGERALD. I am correct, and this limitation of $50,000 is a limit upon the amount that can be used for the employment of special counsel in special cases, and it does not affect the amount that is utilized for legal assistance by the commission upon the annual roll.

Mr. MANN. Out of what fund is that paid?

Mr. FITZGERALD. Out of the $910,000.

Mr. MANN. Well, if that is what the Interstate Commerce Commission is doing, they ought to be impeached and prosecuted. Here is what it says:

Nine hundred and ten thousand dollars, of which sum there may be expended not exceeding $50,000 in the employment of counsel.

It does not say "special counsel in special cases"; it says "employment of counsel." That is plain enough language for anybody to understand.

Mr. FITZGERALD. That is how it has been construed and expended.

Mr. MANN. I do not think so.

Mr. GARNER. If the gentleman from Illinois will permit me, I think the gentleman from Illinois is absolutely correct in the construction of the language, but the chairman of the commission, Mr. Clark, in answering the question, said that this appropriation of $50,000 was to pay special counsel in special cases.

Mr. MANN. I do not question that Mr. Clark so stated, but I do question whether he had an understanding of what the fact is. I have read the annual reports of the commission.

Mr. FITZGERALD. I asked Mr. Clark this question:

The CHAIRMAN. Is that $50,000 construed to apply to employment merely of counsel in special cases or to your entire legal force?
Mr. CLARK. Only to counsel in special cases.
The CHAIRMAN. Then in addition to whoever you may employ in that way you have also a legal staff in the commission?
Mr. CLARK. Yes.

Then I asked him how much it cost, and he did not state, but I can tell the gentleman some of the people they have. They had a solicitor for the fiscal year 1913, at $5,000; a solicitor for six months, at $2,250; a chief attorney, at $3,900; an assistant for six months, at $1,950; and an attorney for two months for $650, and an attorney for the year, at $3,600, and about 18 or 20 additional attorneys. They have a regularly organized legal force. In addition they act upon the theory, and it is evidently approved by the auditor and controller, that they can employ special counsel in special cases to an extent not exceeding $50,000. I think the organic act creating the Interstate Commerce Commission authorized them to employ attorneys, examiners, etc.

Mr. GARNER. Will the gentleman yield?

Mr. FITZGERALD. Yes.

Mr. GARNER. Would it not be well to include this language in line 11, after the word "of," the word "special," so that it would read "special counsel"?

Mr. FITZGERALD. I do not think it is necessary.

Mr. GARNER. I agree with the gentleman from Illinois that where the committee puts a limitation on the amount of money they could spend for counsel it ought to include the legal counsel that they have. That looks like the real intention of Congress, or else they would have said "special counsel."

Mr. FITZGERALD. I do not know. All the time I have served on the Committee on Appropriations I have understood the $50,000 limitation to mean just what I have pointed out—that it was for the employment in special cases, and outside of that, as a part of the regular force, the Interstate Commerce Commission had a regularly organized law department.

Mr. GARNER. The gentleman from New York must have had some doubt about it, because, as the hearings show, he asked the chairman whether that included all the counsel or whether it meant special counsel. If the gentleman knew about it why did he ask the question over and over?

Mr. FITZGERALD. I can explain that. I had a gentleman before me during the session of Congress who has appeared before the committee for five or six years during which I have been a member of the subcommittee. I asked him a question about some item in the bill, and he looked at me and smiled and said, "You know all about this matter." I said to him that he seemed to forget that the purpose of the hearings was twofold, one to furnish information to the committee and the other to create a record to which other Members could be referred for information who did not have such information. Simply because I ask questions and get answers to them as they appear in the record does not always mean that I was seeking information for myself. Very frequently the questions are asked to get a record to which I can refer gentlemen who would not be satisfied, perhaps, with a statement made by myself.

Mr. MANN. Mr. Chairman, I move to strike out the last two words. The chairman of the Appropriation Committee having informed the House that this language, "not exceeding $50,000 in the employment of counsel," means special counsel in special cases, I am led to suspect that the following language, "not exceeding $3,000 for the purchase of necessary books, reports, and periodicals," means for the purchase of special necessary books and periodicals in special cases, and does not apply to the ordinary books and reports and periodicals. And, further, that this language—

not exceeding $1,500 for printing, other than that done at the Government Printing Office—

Does not apply to ordinary printing, but applies only to special printing in special cases. And, furthermore, that this language—

not exceeding $100 in the open market for the purchase of office furniture similar in class or kind to that listed in the general supply schedule—

Does not refer and is not a limitation upon the purchase of furniture generally, but is only a limitation upon the purchase of special furniture in special cases; and that this language—

and not exceeding $65,000 may be expended for rent of building in the District of Columbia—

Does not refer to the rent of buildings which the commission occupies, but refers only to special rents of special buildings in special cases. In other words, none of the language means what it says. If that be the case, which I do not admit. I would suggest that our distinguished Committee on Appropriations undertake a slight reform, either in the English language or in the use of it in the bill.

Mr. FITZGERALD. Mr. Chairman, this language has been carried for a great many years. It originated when the party of which the gentleman is a distinguished member was in control of the House.

Mr. MANN. Will the gentleman yield for a question?

Mr. FITZGERALD. Yes.

Mr. MANN. What earthly good is there in turning the Republicans out and putting the Democrats in if they only follow the bad precedents of the Republicans?

Mr. FOSTER. Oh, they get better men.

Mr. FITZGERALD. They do not follow the bad precedents. We have been reforming many evils in the public service since we came into power, but there are still more.

In the acts conferring certain powers on the Interstate Commerce Commission, largely reported by the gentleman from Illinois [Mr. MANN] when chairman of that committee or one of the active members upon it, certain powers were given to that commission and certain duties were imposed upon it. That commission was empowered to employ attorneys and agents and everything else, and the Interstate Commerce Commission has been for years employing attorneys and agents, and, when required, special counsel. There was never any criticism from the gentleman from Illinois. He has always been alert to defend and protect the Interstate Commerce Commission until it transpires that recently, in the exercise of their judgment, desiring to unearth some of the great frauds that had been committed and acquiesced in under Republican administrations in the con-

duct of the great trunk lines of the country, they employed a man who had acquired distinction and fame as a prosecuting attorney and placed him at the head of their local staff and put him to work unearthing iniquities in connection with railroads that had been conducted by men not only members and supporters of the Republican Party, but universally believed and known to have had a first and unpayable mortgage upon it.

Now that these men are being exposed, and these iniquities are coming to light, I do not think it is just the right thing for the gentleman from Illinois to attempt to lead the House to believe there has been some dereliction on the part of this committee, because we have not hog tied the Interstate Commerce Commission, so that it would have been impossible to secure the service of this distinguished gentleman who has unearthed these Republican iniquities. Certainly the Republicans had ample time and power and funds, everything but ample desire, to make the disclosures during the 16 years they were in complete and undisputed control of the Government. It was during those 16 years that all of the evil practices that have so plagued the country grew and flourished. The Democratic Party is now carrying out its promises to the people, and is bringing the light of publicity to bear on those iniquities, showing up the corrupt allegiance between big business and high finance and the Republican Party and those members of the Progressive Party who first attained distinction by service under the piratical flag of the Republican Party, and it hardly seems fair for the gentleman from Illinois to try and cover the whole thing by claiming that this committee is derelict, because it has not so hampered the Interstate Commerce Commission that it would have been impossible to do what it has recently done.

Mr. FOWLER. Mr. Chairman, I move to strike out the paragraph. The Interstate Commerce Commission occupies a very peculiar situation in the government of the country. It is one of those independent bodies that acts for itself. It has no strings upon it to be pulled from its duties either one way or the other. It is a blessing to every man, woman, and child in America. Everybody ought to be in favor of it except the guilty, and everybody ought to be standing for it who are in favor of investigating wrongs and bringing to light evil practices.

My colleague from Illinois [Mr. MANN] undoubtedly has no criticism to offer concerning the appropriations to carry on the great work of this wonderful body. Certainly he ought not to have any grievance against high salaries. He has been one of the strongest advocates of big salaries for big men during my short stay in this House, and on every occasion when I interposed a point of order against an unlawful increase of a salary, he or some of his allies have been among the first and most persistent in defending big salaries. I wondered, while the gentleman from Illinois was speaking, what could be his grievance in this case, and I could think of nothing that might answer my inquiry until I reasoned with myself and realized that in the gentleman's district is located some of the greatest corporations of the country, among which are the Pullman Co., the Illinois Steel Co., the shipbuilding company, the asphalt company. All, as I understand, are tripping merrily to the tune of trust tango. The selection by the administration of a man with a record of ability, a man of superb courage, who never has been known to shirk his duty, is to be commended, because the Interstate Commerce Commission will deal with questions where the metal of men will be tried.

I believe that if there is a man in America who has shown himself to be a prosecutor in the true sense of the word, the gentleman who has been selected by this administration, Gov. Joseph W. Folk, is that man. That to which my colleague from Illinois objects certainly can not be on account of Mr. Folk's ability to prosecute, or on account of his politics, but it must be because of his determination to go after the corporations violating the laws of the land, by whom my colleague from Illinois has steadfastly stood.

Now, it may be a grievance that this administration has selected a man who will, regardless of all other considerations, discharge his whole duty. He is already engaged in that business, and the thoroughness with which he is unearthing crime and shady conduct is amazing to the people and more amazing to the trusts, and it must be that my colleague from Illinois is chagrined not at the increase of his salary, but because of his ability and determination to expose the unlawful methods of high financing in big business, such as was recently revealed by his masterful probe into the management of the New Haven railroad. My colleague has many corporations in his district, whose interests he seeks to protect, regardless of their conduct. Oh, I know we should stand by the people of our own districts. I know we ought to be true to our constituency; but patriotism, loyalty, and love for one's country demands that the little coterie of interests in one's own district should be subordinate to the will and good of the masses, and I trust my colleague from Illinois will adapt himself to this broad and liberal rule.

The CHAIRMAN. The time of the gentleman has expired.

Mr. MANN. Mr. Chairman, I am sorry that my colleague refers to me as "his friend from Illinois." If the truth were as big as the Capitol Building and stood right in front of my colleague, in reference to matters of this sort he would be utterly unable to see it. That is sufficient reply to the various statements which the gentleman has just made.

Mr. MONDELL. Mr. Chairman, I am glad the gentleman from Illinois [Mr. FOWLER] has returned. We have missed him in connection with some——

Mr. FOWLER. Mr. Chairman, will the gentleman yield?

Mr. MONDELL. I will be glad to do so.

Mr. FOWLER. I do not want to let go unchallenged the statement that my presence has not always been in Congress since I became a Member.

Mr. MONDELL. Well, we have not had the pleasure of hearing from the gentleman for some days, and, unfortunately, I thought I had not the pleasure of seeing him; but he is here to-day undoubtedly, and, strangely enough, he is here in defense of an increase of salary. I have found it a little bit difficult to understand how the gentleman from Illinois differentiates between various increases. In connection with the other bills that have been discussed in days past he has interposed points of order against increases of $100, $200, $300, $400, and $500. I have not heard his voice raised in protest against the increase of $5,000 in the salary of an official. In the case of the other salaries in question they were in the main civil-service employees, and therefore they might be either Republicans or Democrats. Furthermore, those increases were made by a congressional committee after careful consideration. This increase was made by an independent governmental service out of a lump-sum appropriation and never referred to Congress, and it is not a civil-service appointment, but an appointment to which was called a very distinguished and very prominent Democrat, at one time governor of my native State of Missouri. No doubt this gentleman is competent, probably worth $10,000 a year, but it is extraordinary that the importance of that office should have so increased in so brief a period. I am delighted to have heard our friend from Illinois say that there was at least one man in the Democratic Party, and this is the man, who could be depended upon to do his duty for $10,000.

Mr. FOWLER. Will the gentleman yield?

Mr. MONDELL. In just a moment. If I have read the newspapers aright, the most important work, or at least the work that has attracted the most attention since the gentleman took this $10,000 job, is that of giving an immunity bath to the president of a great railway system, and whether that immunity bath has been extended to all the directors, I do not know, and I do not pretend to say that it is true, but I know that the newspapers have stated that there was very considerable friction between this $10,000 employee of the Interstate Commerce Commission and the Attorney General of the United States over the character of the immunity bath which was given to the ex-president of the New Haven Railroad.

Mr. FOWLER. Will the gentleman yield?

Mr. MONDELL. I do.

Mr. FOWLER. I desire to ask the gentleman if he does not believe—I was about to use a strong term, but I will use a milder one—if he does not believe that the gentlemanly conduct in handling the New Haven which has been revealed by this able prosecutor is not an index as to what has been going on for the last 16 or 18 years and which might have been shown up by his party while it was in power so long?

Mr. MONDELL. Oh, I do not know, Mr. Chairman, that there was anything specially new brought out in regard to the New Haven. We had a rehash of what those who were familiar with the situation knew in regard to the New Haven. We knew about the issues, we knew about the values, or at least the general understanding in regard to the issues and values, and about all that this distinguished gentleman has done——

The CHAIRMAN. The time of the gentleman has expired.

Mr. MONDELL. Mr. Chairman, I ask for five minutes more.

The CHAIRMAN. The gentleman from Wyoming asks unanimous consent to proceed for five minutes. Is there objection? [After a pause.] The Chair hears none.

Mr. MONDELL. About all the gentleman has done, so far as I have been able to grasp what has been done, is to give a distinguished gentleman an opportunity to lay the blame on a man who is dead and gone, and to give him an immunity bath which protects him from all future prosecutions.

Mr. FOWLER. Mr. Chairman, will the gentleman yield?

Mr. MONDELL. Now, if that is advantageous and helpful and useful, well and good; but I understand that the Attorney General of the United States has not been so minded. I understand that he had really intended a prosecution of the chiefs of the New Haven Railroad. Whereas what the distinguished attorney of the Interstate Commerce Commission has done is to give them an opportunity to make a statement in confession and avoidance and secure immunity for what they may have done.

Mr. FOWLER. Will the gentleman yield, Mr. Chairman?

Mr. MONDELL. That may have added somewhat to the sum of human knowledge, but I doubt it; but so far as punishing anyone for what they may have done, it not only has not accomplished that, but it has probably prevented these gentlemen from being punished for their misdeeds if they have been guilty of misdeeds.

Mr. FOWLER. The gentleman says that what has been unearthed in the New Haven recently by the able prosecutor is not new. Then he further says that what he has done is equivalent to an immunity bath. I desire to ask him if there has been guilt covering a period of 10 to 20 years why his party did not prosecute the guilty people before there was an opportunity to give an immunity bath?

Mr. MONDELL. We have been prosecuting offenders right along, but I suppose as long as the world stands there will be people charged with crime.

Mr. FOWLER. But that has been covering a period of 10 to 20 years.

Mr. MONDELL. If the gentleman will allow me to say a word or two in my own time, I will state that if the distinguished $10.000 employee of the Interstate Commerce Commission saw fit to give an immunity bath to a man who was under indictment by a Republican administration, it was not our fault. The gentleman should not charge us with it. The man had been indicted under a Republican administration. In due course of time he would have been tried. My understanding is that your Attorney General was proposing to try him. This gentleman, given this high-priced employment, proceeds to quiz him, with the result, as I understand, he is now entirely immune, and he has been given the opportunity to cast discredit upon a man some time since called to his reward. Why, it was even stated in the papers that this controversy between ex-Gov. Folk and the Attorney General was taken to the President. What position the President took in regard to it I do not know. But the fact remains no one ever suggested that the Interstate Commerce Commission was not well represented when its chief counsel received $5,000.

Mr. FOWLER. Do you object to the increase of the salary?

Mr. MONDELL. The only important work that has been done by this new employee at $10.000 is to give an immunity bath to a gentleman who by his own confession was guilty of acts that would have probably led to his conviction.

The CHAIRMAN. Without objection, the pro forma amendment will be withdrawn.

Mr. BUTLER. Mr. Chairman, a parliamentary inquiry. Is there an amendment pending offered by the gentleman from Illinois [Mr. FOWLER] that we strike this paragraph out?

Mr. FOWLER. I ask unanimous consent that it be withdrawn.

Mr. BUTLER. I object to its being withdrawn. We have talked for 15 minutes on it, and I object.

The CHAIRMAN. The question is on the amendment to strike out the paragraph.

The question was taken, and the amendment was rejected.

The Clerk read as follows:

Hereafter the Interstate Commerce Commission may exchange typewriters, adding machines, and other labor-saving devices in part payment for like articles.

Mr. BRYAN. Mr. Chairman, I move to strike out the last word. Awhile ago in debate here and in colloquy with the gentleman from Texas [Mr. GARNER], when some of the gentlemen were criticizing the Pacific coast on the bubonic plague score, I stated that I remembered a few years ago when I would wait for the Galveston News or the Houston Post on the morning train on the Southern Pacific, down at Lake Charles, La., to learn how many new cases of yellow fever there were at Galveston, Tex. The gentleman from Texas [Mr. GARNER] answered that—

There has not been any yellow fever in Galveston since 1867. So the gentleman must have been reading of it before that date.

I answered:

The gentleman's suggestion that there has been no yellow fever in Galveston since 1867 is a nightmare of his.

And the gentleman asked me, then, if I could find any such case to put it in the RECORD, and challenged me to do so.

Now, I want to say I am not making any attack on Texas or the gentleman at all, because I went to school in Texas for three years and have an A. B. degree from Baylor University at Waco, which I prize very highly, and I love Texas very much, and I have great admiration for the gentleman. But I accepted his challenge when he made it, and now I hold in my hand a book entitled "History of Yellow Fever," by George Augustin. This author gives the yellow fever record in Galveston and in many other places. As to Galveston, the record shows:

1867. Population, 22,000. First case, June 26; last case, November. No record of cases; deaths, 1,150.
1870. Several cases were reported, but exact statistics are lacking.

That is 1870. That, of course, would put the position of the gentleman out of commission. But let me finish:

1873. Population, 25,000. No record of cases; deaths, 7.
1882. No statistics.
1894. No records. * * *
1895. No records. * * *
1897. Cases, 12; deaths, 0. * * *
1905. One case on vessel in harbor.

The Medical Record of New York, January 12, 1907, contains an article, entitled "Study of a case of yellow fever," by A. E. Shayer, M. D., Galveston, Tex., professor of pathology, University of Texas, medical department, from which I read:

On December 26, 1905, a patient was admitted into the John Sealy Hospital at Galveston with the following history:
"P. F. Irish, 30 years old, single, worker in silver."

It tells where he lived and gives his record for two months previous, and the doctor diagnoses his case as yellow fever and reports sick stomach, black vomit, and then death.

Then there was yellow fever in other places in Texas. I hold in my hand a bulletin of the University of Texas, No. 64, medical series No. 3, under date of June 15, 1905, and the title is, "The 1903 epidemic of yellow fever in Texas, and the lesson to be learned from it." It is a lecture delivered before the medical department of the University of Texas at Galveston on January 6, 1905, by Dr. George R. Tabor, State health officer.

Mr. GARNER. That bulletin does not give any cases in Galveston, Tex.

Mr. BRYAN. It refers to cases in different sections and records some trouble with the disease out in Laredo, which, I understand, is in the gentleman's territory.

Mr. GARNER. Yes; that is my territory, and also Galveston. Let me say to the gentleman that my information was—I am not prepared to dispute the facts that the gentleman undertakes to convey with reference to the particular case at Galveston, but I know from what I have been able to extract from the newspapers and from what I know about Texas that Galveston has been clearer of yellow fever than any other port that I know of.

Mr. BRYAN. Yes; Galveston is a healthy city and has wonderful people and is ably represented here on this floor. [Applause.] There is no more danger of yellow fever there now than there is in the city of Washington.

Mr. GARNER. The gentleman says he went to school in Texas; and, if so, he ought to have absorbed some good things, and I am inclined to think he did, because he has a good disposition, and I am inclined to think that he got that down there in Texas. [Laughter.]

Mr. BRYAN. The question arose whether the Galveston News contained such reports or not, and I said that I had read such reports in the Galveston News, and the gentleman said there had been no yellow fever there since 1867, and he challenged me to get the facts and put them in the RECORD. Here is part of an article on "Yellow fever in Galveston," by H. A. West, M. D., of Galveston, Tex., from which I quote:

The startling announcement of the existence of yellow fever in Galveston, made on October 9, 1897, caused consternation and dismay in the city, closed the gates of commerce, and barred the doors of every house in almost every town and hamlet against all goods and persons from Galveston.

Now, does the gentleman think the Galveston News would have failed to record an item of news of that importance?

Mr. BUTLER. What has that to do with the item in the bill?

Mr. MADDEN. Mr. Chairman, I make the point of order that the gentleman from Washington is not confining himself to the amendment before the House.

The CHAIRMAN. The gentleman from Illinois [Mr. MADDEN] makes the point of order that the gentleman from Washington [Mr. BRYAN] is not confining himself to the amendment pending before the House.

Mr. BRYAN. Mr. Chairman, my amendment was to strike out the last word, which is the word "articles." It is a pretty broad question. [Laughter.] But I simply want to say that I have complied with the gentleman's challenge and put the data referred to in the RECORD. I repeat what I said in my former remarks, that the expense of the Government on account of

bubonic plague on the Pacific coast compares with the expense of the Government on account of yellow fever on the Gulf like a picayune compares with a hundred-dollar bill.

Mr. FITZGERALD. Mr. Chairman, I wish to say that I shall request for the rest of the day that the members of the committee confine themselves to the items under consideration. I think we have been fairly liberal to-day in the granting of time. Now let us try to make some progress on the bill.

The CHAIRMAN. Without objection, the pro forma amendment will be withdrawn.

Mr. DONOVAN. Mr. Chairman, I move to strike out the last two words.

The CHAIRMAN. The gentleman from Connecticut [Mr. DONOVAN] moves to strike out the last two words.

Mr. DONOVAN. Yesterday afternoon, about 5 o'clock, or two minutes before 5, I made this statement—appealing to the chairman of the committee having the bill in charge—that owing to the absence of all the Republicans but one, he ought to ask the committee to rise. The one Republican that was present rose from his seat, out of order, without addressing the Chair, and stated, according to this book, the RECORD, that the statement was not true and that the gentleman "knew it was not true." The statement was true when made, that not a Republican was in this Chamber but one.

Mr. MADDEN. Mr. Chairman, I demand the regular order.

Mr. BUTLER. He is talking on the subject of "like articles." [Laughter.]

Mr. MANN. The statement was true, and I can prove it.

The CHAIRMAN. The gentleman from Illinois [Mr. MADDEN] demands the regular order. The gentleman from Connecticut [Mr. DONOVAN] will proceed in order.

Mr. DONOVAN. Then, Mr. Chairman, I rise to a question of personal privilege.

Mr. FITZGERALD. That is not in order.

Mr. GARNER. You can not do that in committee.

Mr. DONOVAN. Let me proceed, Mr. Chairman, and take the ruling, whatever it may be. We have listened this day——

Mr. MANN. I ask unanimous consent that the gentleman may proceed for three minutes.

Mr. DONOVAN. I refuse to accept that.

Mr. MANN. I do not wonder after the statement which the gentleman has made.

The CHAIRMAN. The gentleman from Illinois [Mr. MADDEN] merely demanded the regular order. He did not make the point of order that the gentleman from Connecticut was not proceeding in order.

Mr. MADDEN. I make that point of order now, Mr. Chairman.

The CHAIRMAN. The Chair sustains the point of order. The gentleman will address himself to the amendment.

Mr. DONOVAN. I withdraw the pro forma amendment, Mr. Chairman.

The CHAIRMAN. If there be no objection, the pro forma amendment will be withdrawn.

Mr. DONOVAN. Now, Mr. Chairman, I make the point of order that there is no quorum present.

The CHAIRMAN. The gentleman from Connecticut makes the point of order that there is no quorum present. [After counting.] Sixty-eight Members are present—not a quorum. The Clerk will call the roll.

The Clerk proceeded to call the roll, when the following Members failed to answer to their names:

Aiken	Church	Goeke	Humphreys, Miss.
Ainey	Clancy	Goldfogle	Igoe
Allen	Coady	Gordon	Jacoway
Anderson	Copley	Goulden	Jones
Ansberry	Covington	Graham, Pa.	Keister
Anthony	Crisp	Greene, Mass.	Kelley, Mich.
Austin	Crosser	Gregg	Kelly, Pa.
Barchfeld	Cullop	Griest	Kennedy, R. I.
Barnhart	Dale	Griffin	Key, Ohio
Bartholdt	Danforth	Hamill	Kiess, Pa.
Borland	Davenport	Hamilton, N. Y.	Kinkead, N. J.
Brown, N. Y.	Decker	Hardwick	Kirkpatrick
Brown, W. Va.	Deitrick	Harrison	Kitchin
Browne, Wis.	Dent	Hart	Knowland, J. R.
Browning	Dies	Hay	Konop
Bruckner	Difenderfer	Hayes	Korbly
Brumbaugh	Dooling	Heflin	Kreider
Bulkley	Driscoll	Helgesen	Lafferty
Burke, Pa.	Dunn	Helm	Langham
Calder	Fairchild	Helvering	Langley
Callaway	Falconer	Henry	Lee, Ga.
Campbell	Fess	Hinds	L'Engle
Cantor	Francis	Hinebaugh	Levy
Cantrill	Gallagher	Hobson	Lewis, Md.
Carew	Gardner	Howard	Lewis, Pa.
Carlin	George	Hoxworth	Lieb
Cary	Gerry	Hughes, W. Va.	Lindbergh
Casey	Gittins	Hulings	Lindquist
Chandler	Godwin, N. C.	Humphrey, Wash.	Linthicum
Loft	Neely, W. Va.	Sabath	Townsend
McAndrews	Nelson	Scully	Tuttle
McClellan	Nolan, J. I.	Sells	Underwood
McDermott	Norton	Sharp	Vare
McGuire, Okla.	O'Brien	Sherley	Volstead
McLaughlin	Oglesby	Shreve	Wallin
Mahan	Palmer	Slayden	Walsh
Maher	Parker	Sloan	Walters
Manahan	Patten, N. Y.	Smith, Md.	Watson
Martin	Patton, Pa.	Smith, S. W.	Webb
Merritt	Payne	Smith, Minn.	Whitacre
Metz	Peters, Me.	Smith, N. Y.	White
Miller	Porter	Smith, Tex.	Willis
Mondell	Post	Sparkman	Wilson, Fla.
Montague	Pou	Stafford	Wilson, N. Y.
Morgan, La.	Powers	Stanley	Winslow
Morin	Ragsdale	Steenerson	Woods
Morrison	Riordan	Stout	Young, N. Dak.
Moss, W. Va.	Roberts, Mass.	Talbott, Md.	Young, Tex.
Mott	Rogers	Taylor, Ala.	
Murray, Mass.	Rothermel	Taylor, N. Y.	
Neeley, Kans.	Rucker	Temple	

The Clerk having called the roll once,

The CHAIRMAN. The Clerk will call the names of Members failing to respond on the first roll call.

Mr. BARTLETT. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. BARTLETT. By what authority does the Chair order a second roll call in Committee of the Whole for the purpose of ascertaining the presence of a quorum? I do not care to make the point now, Mr. Chairman, but it is a matter worthy of consideration. If the second roll call in Committee of the Whole could be dispensed with or not be permitted, or if it is not required by the rule, it would save about half the time consumed in calling the roll when the point of no quorum is made. According to my recollection—and I think I can sustain it by at least one precedent—there is a ruling by a former Speaker that the rule does not require the calling of the roll a second time in Committee of the Whole. However, I will not press the point for the present.

Mr. BURKE of South Dakota. Mr. Chairman, I believe the Chair will recall, and I think the gentleman from Georgia will also, that it is only within a few years that the roll has been called in Committee of the Whole.

Mr. BARTLETT. Called twice.

Mr. BURKE of South Dakota. Called at all. We did not have such a thing when we first came here. In the last few years we have had these roll calls when the point of no quorum was made in Committee of the Whole, and for a time the roll was called only once; but so many Members came down in front of the desk and asked to have their names recorded after the one roll call was completed that on a certain occasion the Chair stated that it would be easier to call the roll a second time, and since then the roll has been called twice, simply by consent. It has come to be understood that the roll will be called twice, and that has become the custom; and if we do not have a second roll call now there will be a great many Members in front of the desk clamoring to have their names recorded as being present, and they will have to be called out of alphabetical order, thereby causing more confusion and more delay than is required in calling the roll a second time.

Mr. BARTLETT. But, Mr. Chairman, if the first roll call discloses the fact that there is a quorum of the committee present, there is no necessity for calling the roll a second time, or for taking cognizance of the presence of anybody else.

Mr. BURKE of South Dakota. But, Mr. Chairman, I think a Member has the right to have his name recorded, so that his name will not appear in the list of absentees, so long as he is present before the committee rises, if he demands it.

Mr. BARTLETT. He has that right on a call of the House.

The CHAIRMAN. The gentleman from Georgia has raised a novel question and the Chair appeals to Members to be in order.

Mr. BARTLETT. Now, Mr. Chairman, the object of calling the roll in Committee of the Whole is to ascertain whether there are 100 Members present. I suggest that if the first roll call develops that there are 100 men present, and therefore a quorum, that the time of the House ought not to be wasted in calling the roll a second time, and that Members who are here should be noted as present. Therefore, I inquire whether if the first roll call develops the presence of 100 Members it is necessary to call the roll a second time?

Mr. BURKE of South Dakota. Mr. Chairman, I again submit that if a Member is present before the roll call is concluded, you can not preclude him from having his name recorded as being present; and if you do not call the roll a second time, then the Members will come to the Speaker's desk and demand that they have their names recorded as present. There can be no doubt about it, in my opinion. To hold otherwise would

result in the Chairman of the committee making a report to the House when the committee rose that would be untrue.

Mr. BRYAN. Mr. Chairman, a point of order. I make the point of order that you can not interrupt a roll call with a parliamentary inquiry. Now, if we have not finished the roll call, the gentleman from Georgia can not interrupt it.

The CHAIRMAN. The gentleman from Georgia has raised a novel and unique question. The first roll call has been completed. If the gentleman from Georgia is right in his contention that the roll call is not interrupted, the Chair thinks the gentleman from Georgia is in order in making the parliamentary inquiry.

Mr. BRYAN. But both gentlemen admit that those who have come in have the right to be entered as present, and if they have, the roll call is not finished.

The CHAIRMAN. The Chair will state to the gentleman from Washington that the Chair does not understand that the gentleman from Georgia admitted that Members had a right to have their names recorded except in the House.

Mr. SAUNDERS. Mr. Chairman, why does not the general rule relating to a roll call control the situation in the committee as well as in the House? The provision for a roll call in Committee of the Whole on a point of no quorum is provided by a rule of the House. This roll call is not distinguished from any other roll call. Section 748 specifically provides that on every roll call the names of the Members shall be called alphabetically, and that after the roll has been once called, the names of those not voting shall be called again in alphabetical order.

The CHAIRMAN. Will the gentleman read the language?

Mr. SAUNDERS. Section 748—

Upon every roll call the names of the Members shall be called alphabetically by surname, except when two or more have the same surname, in which case the name of the State shall be added; and if there be two such Members from the same State, the whole name shall be called; and after the roll has been once called, the Clerk shall call, in their alphabetical order, the names of those not voting; and thereafter the Speaker shall not entertain a request to record a vote or announce a pair unless the Member's name has been noted under clause 3 of this rule.

This is the general provision relating to a roll call. Rule 841 provides that when the Committee of the Whole finds itself without a quorum the Chairman shall cause the roll to be called. If a question is raised as to what is meant by calling the roll, we turn for the answer to section 748, which declares what shall be done on every roll call. Why should not this roll call in Committee of the Whole be controlled by the general provisions of section 748? It has been the uniform practice for years past to have the Clerk call the names of those not answering on the first call, as well in the Committee of the Whole as in the House. The practice is a good one and is supported by sufficient authority.

I will also state in this connection that rule 855 expressly provides that the rules of proceeding in the House shall be observed in Committee of the Whole, so far as they may be applicable. This being so, there is no reason why rule 748 should not determine what shall be done upon a roll call in the Committee of the Whole as well as in the House. This rule can not be said to be inapplicable to a roll call in Committee of the Whole. Rule 841 merely provides that the roll shall be called in the Committee of the Whole when it finds itself without a quorum. It does not determine what shall be done by the Clerk when a roll is called. That procedure is fixed by section 748. The authority for the second call in the Committee of the Whole is ample.

The CHAIRMAN. There is a ruling made by a former Speaker of this House, Speaker Crisp, which held that one roll call in Committee of the Whole is all that is necessary. The Chair has not had time to examine the ruling or the circumstances under which it was made nor the wording of the rules of the House at the time.

Mr. SAUNDERS. All of which would be very important.

The CHAIRMAN. The Chair dislikes very much to rule on this proposition at this particular time, at this particular moment. It has been the custom of the House and of the Committee of the Whole ever since the present occupant of the chair has been a Member of the House to call the roll twice in Committee of the Whole, and then give to the others who did not answer the call the opportunity to be recorded if a point of no quorum was made. The Chair prefers to follow that custom for this afternoon at least.

Mr. LENROOT. Mr. Chairman, the present occupant of the chair has been here longer than I have. It has only been within the last two years that the custom of calling the roll twice in Committee of the Whole has been followed.

The CHAIRMAN. The Chair, perhaps, may state that possibly he fell into an error about that because of the fact that within the last two or three years there have been more roll calls in committee than before in that time. Roll calls in committee during the first and second terms of service of the present occupant of the chair were very rare. In fact, the Chair does not remember any.

Mr. BARTLETT. Mr. Chairman, in order to answer the gentleman from South Dakota [Mr. BURKE], I desire to refer the Chair to the ruling that he has referred to. I refer the Chair to section 2967 of volume 4 of Hinds' Precedents:

On March 9, 1894, the Committee of the Whole having risen because of the failure of a quorum, Mr. Charles J. Boatner, of Louisiana, suggested that the roll of Members had only been called once in the committee, and that under the practice of the House it should have been called a second time. He therefore demanded that the Journal should show that he was present when the roll of the committee was called.

The Speaker held that when a Committee of the Whole finds itself without a quorum the rule requires the roll to be called but once, and that such had been the practice of the House.

However, Mr. Chairman, I do not make the point of order at this time.

The CHAIRMAN. The Chair understands that the gentleman from Georgia does not make the point of order?

Mr. BARTLETT. I do not; but it may be made at some time later.

The CHAIRMAN. The Chair desires to ask the gentleman from Georgia a question. Suppose on the first call of the roll a quorum of the committee does not develop, what would be the duty of the Chairman in such a case?

Mr. BARTLETT. The Chair could count those that came in afterwards and send for absentees by the Sergeant at Arms.

The CHAIRMAN. The Committee of the Whole has no power to send for absent Members.

Mr. BARTLETT. But the Committee of the Whole could report the fact to the House and the House would take steps to produce a quorum. That is the rule.

The CHAIRMAN. The Chair understands that the gentleman from Georgia does not press the point of order at this time?

Mr. BARTLETT. I do not.

Mr. FITZGERALD. Mr. Chairman, I wish to make a brief statement, if the Chair will indulge me.

The CHAIRMAN. The Chair will hear the gentleman from New York.

Mr. FITZGERALD. Mr. Chairman, early in my service in the House, I think about 12 or 13 years ago, the practice had been to call the roll in committee but once when the point of order of no quorum was made.

Mr. DONOVAN. Mr. Chairman, I demand the regular order. There is nothing before the House. The gentleman from New York has not made a point of order.

The CHAIRMAN. The Chair desires to hear the gentleman from New York.

Mr. DONOVAN. But, Mr. Chairman, the gentleman from New York can not hold up a roll call. No point of order has been made.

Mr. FITZGERALD. I will reserve the point of order for the present.

Mr. DONOVAN. Let the gentleman have his remarks inserted in the RECORD. [Laughter.]

Mr. FITZGERALD. Upon one occasion when the roll was called——

Mr. DONOVAN. Mr. Chairman, I make the point of order that the gentleman from New York is out of order.

Mr. FITZGERALD. I am not out of order.

The CHAIRMAN. The gentleman from New York, at the suggestion of the gentleman from Connecticut himself, reserved the point of order, and is now addressing himself to the point of order.

Mr. DONOVAN. But the gentleman from New York can not reserve the point of order. He must either make it or not.

Mr. FITZGERALD. Then, Mr. Chairman, I will make the point of order and discuss it.

The CHAIRMAN. The Chair will hear the gentleman from New York.

Mr. FITZGERALD. Mr. Chairman, on one occasion the roll was called but once, and a large number of Members, not having answered the roll when called, presented themselves at the bar of the House and requested to have their presence noted. That had been the practice, and the gentleman then occupying the chair, whom I do not now recall, made the statement that that happened so frequently, and so much time was taken and so much disorder accompanied the attempt to note the presence of those who were present, but who had not answered the roll when called, that he would order the roll to be called a second time so that Members could answer in an orderly manner; and that has been the practice of the House since that time, covering a period of 12 or 13 years.

I withdraw the point of order.

The CHAIRMAN. The Clerk will call the names of those who failed to answer on the first roll call.

The Clerk called the roll the second time.

The committee rose; and Mr. SAUNDERS having assumed the chair as Speaker pro tempore, Mr. GARRETT of Tennessee, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee finding itself without a quorum, he had directed the roll to be called, that 233 Members answered to their names—a quorum—and he reported herewith the list of absentees.

The committee resumed its session.

The Clerk read as follows:

It shall be the duty of every common carrier by railroad whose property is being valued under the act of March 1, 1913, to transport free of charge the engineers, field parties, and other employees of the United States who are actually engaged in making surveys and other examination of the physical property of said carrier necessary to execute said act, from point to point on said railroad as may be reasonably required by them in the actual discharge of their duties; and also, without charge, to move from point to point and store at such points as may be reasonably required, the cars of the United States which are being used to house and maintain said employees; and also to carry free of charge the supplies necessary to maintain said employees and the other property of the United States actually used on said railroad in said work of valuation. This free service shall be rendered under such forms and regulations, as to evidence of transportation, bills of lading, and so forth, as will insure an accurate record and account upon the part of the railroad which shall be furnished to the Interstate Commerce Commission by the carrier at such time and in such manner as it may require.

Mr. MANN. Mr. Chairman, I reserve a point of order upon the paragraph. While I sympathize with the Interstate Commerce Commission in its work, and believe it is doing very competent work under Judge Prouty, I question the desirability of a provision of this sort requiring the railroads to carry persons and freight free of charge.

Mr. FITZGERALD. Mr. Chairman, this provision was agreed upon by the Interstate Commerce Commission and the representatives of the great trunk lines whose properties are to be valued. It is not so much a question of cost as it is a question of supplying facilities. For instance, these field parties must be taken out or picked up at places along the line of the railroads at which there are not regular stopping places, and they must be sent out or taken up upon trains which do not under the regulations of the road carry passengers. The Interstate Commerce Commission says that the railroads can not carry their field parties or men engaged in the work of the physical valuation of the railroads upon trains upon which the railroads do not permit ordinary passengers to travel, or to stop for the field parties or persons connected with this work at places other than the regular station or stations where they are not scheduled to stop, if they do not stop for the ordinary passenger. To do so would be an instance of favoritism or discrimination of service to the men engaged in the service. The Interstate Commerce Commission had no desire to have a general provision to carry free of charge officials of the Interstate Commerce Commission. It is stated that the roads of the country themselves will expend probably from $15,000,000 to $20,000,000 in addition to what will be spent by the Government in the work of the physical valuation of railroads.

The Interstate Commerce Commission took the question of this provision up with the representatives of the various railroads, and eventually they worked out this proposition. The railroad people believe that it would be desirable to furnish the special facilities required. They are willing to carry the persons designated here free, but they believe that an additional provision should be inserted requiring the Interstate Commerce Commission to specify the form and manner in which the accounts should be kept of the service so furnished, so that the railroads might be able to tell and the public might be able to know exactly what the service costs the railroads. It was a matter of some doubt as to whether we should start a work compelling the railroads to carry any officials free, but this work seemed to be so peculiar, to be so connected with matters in which the railroads themselves were peculiarly interested, that the committee thought it wise to recommend the provision in accordance with the request of the commission. I do not think that the question of free carriage is so important as is the question of enabling the railroads or requiring them—which must be done under the law—to extend the special facilities. These men can ride on trains that will not carry passengers, or they can be afforded facilities that would not be afforded and could not be afforded to the traveling public generally. After going over the matter pretty carefully with Judge Prouty, who has been put in charge of the work, the committee believed that, perhaps, it was best to report this provision.

Mr. MANN. Mr. Chairman, I have a great deal of confidence in Judge Prouty and in his opinion, and I have no doubt that the railroads might properly carry these parties and their supplies free of charge; and I think they might properly be permitted to do so. I am not sure whether the antipass law would prevent the railroads from doing it if they wished to do so or not; but since the antipass law went into effect there have been a great many propositions, probably not made on paper but floating around Congress, for instance, to the effect that all the railroads should be compelled to carry all Members of Congress free of charge. I never have believed myself that the Government had that power, unless it were incorporated in contracts for the Post Office Department, nor do I believe it ought to be done. Now, here is a proposition which undertakes to say that the Government has the power to compel the railroads to carry passengers and freight free of charge. Well, I do not believe the Government has that power, and I believe it ought not to have that power.

Mr. FITZGERALD. Mr. Chairman, there were two communications from Judge Prouty after the matter was discussed, and under date of April 22 he wrote as follows, and it was because of the statement that the provision was agreed upon by the railroad representatives that it was incorporated in the bill:

WASHINGTON, *April 22, 1914.*

Hon. JOHN J. FITZGERALD,
House of Representatives, Washington, D. C.

DEAR SIR: On April 17 I wrote you suggesting the incorporation into the appropriation for the valuation work of this commission of a requirement for the free transportation of certain Government employees and supplies. Yesterday this matter came up for discussion between a committee representing a large part of the railroad mileage of the country and myself, at which the railroads agreed to the provision as sent you by me, but requested that the following addition might be made:

"This free service shall be rendered under such forms and regulations, as to evidence of transportation, bills of lading, etc., as will insure an accurate record and account upon the part of the railroad, which shall be furnished to the Interstate Commerce Commission by the carrier at such time and in such manner as it may require."

The idea of those who favored this addition seemed to be that the railroads were entitled to have it known exactly what free service they gave, and this seems reasonable.

Very truly, yours, C. A. PROUTY, *Director.*

The Interstate Commerce Commission said that they did not desire any general provision for the carrying free of employees of that commission, and they had this restriction so that it applied to the engineers, field parties, and other employees actually engaged in making surveys and other examination of the physical property of the railroads. The commission seems to be anxious that there should be no opening up of the prohibition against free transportation. This is a peculiar work that these men are engaged in. They are to make, first, preliminary surveys of the entire railroad mileage of the country. They will be engaged on different parts of the road, and it seemed so peculiar and different from any other situation that could possibly arise that it induced the committee to take the position they have.

Mr. MANN. My friend from New York is aware of the fact that the Post Office Committee, I believe, reported a bill providing for free transportation to be furnished by the railroads to all railway mail clerks all over the United States. And we have propositions to have Members of Congress carried free. The antipass law was a good thing. I was not enthusiastically in favor of the proposition before it became a law. I doubted the practicability of it, but I admit the practicability of it now, and I believe it was an exceedingly good thing. I would have no objection whatever to putting in a provision authorizing the Interstate Commerce Commission, under regulations which they might adopt, to accept free transportation for their engineering parties or others engaged in the physical valuation of railroads.

Mr. FITZGERALD. That was suggested, if I recall correctly, and the railroads take the position that they do not want to be put in a position where they can offer it. They want the law made mandatory, so no question can arise about whether they should or should not give it.

I think there was some question as to whether there was power in Congress to compel this to be done. The statement was made that if a mandatory provision were enacted the railroads would be glad to comply with it. They do not want to be put in a position to decline to offer to furnish any particular service to the Interstate Commerce Commission that can not be furnished to other parties, because the railroads seem to occupy the position that they do not wish to be put in an attitude of making a tender of anything in connection with the physical valuation of railroads. The expense to both the Government and the roads is to be so enormous that they want nothing done, want no situation to exist, that might give rise in the mind of anyone to the suggestion that in any way those connected with the work of valuation could possibly have been affected by the fact that the roads volunteered some service.

Mr. MANN. If they volunteered it under the law that permitted it, it would be all right.

Mr. FITZGERALD. They were willing to furnish the service if the provision were mandatory.

Mr. MANN. They were willing to furnish passes to Members of Congress, and they not only were willing to do so, but they did, and most Members of Congress and lots of other officials rode on them.

Mr. FITZGERALD. A great change has come over the spirit of Mammon since then.

Mr. MANN. I do not wish to see it come around again where we legislate to require the railroads to furnish free transportation to certain officials, possibly including ourselves in the end. I do not want that temptation placed before me, though I might be able to resist it. And if you commence on the assumption that you have the power to require railroads to furnish not merely transportation of persons but transportation of freight, free, without any recompense whatever, I do not know where it would stop, but I am very sure it would not stop with those engaged in the physical valuation of railroads. Everyone knows that when you make a precedent of this kind it is seized upon by everyone else who wants the privilege.

Mr. BARTLETT. May I interrupt the gentleman?

Mr. MANN. Certainly.

Mr. BARTLETT. The gentleman would be willing, as I understand it, to have a provision which would make it lawful for them to agree to carry them without charge?

Mr. MANN. So far as I am concerned, that would be entirely satisfactory.

Mr. BARTLETT. Suppose you would say that it shall be lawful for every common carrier or railroad whose property is being valued to agree to take them free of charge; in other words, to take them out from under that provision of the law which now makes it unlawful, and that it shall be lawful for any railroad whose property is being valued to agree to transport them?

Mr. FITZGERALD. That provision would not do. It is lawful for them now to carry these parties upon freight trains. They transport members of these parties on trains that do not carry passengers, and if they stop the passenger trains for those parties where they do not for anybody else, they would be compelled to do it for everybody else.

Mr. MANN. Oh, no.

Mr. FITZGERALD. Yes. The Interstate Commerce Commission said they would.

Mr. MANN. There would be nobody else carried free.

Mr. FITZGERALD. Free carriage is not the important part. The important part is to enable them to carry them on trains on which passengers are ordinarily not carried or stop trains at points not regularly scheduled in order to pick up or to drop these parties. If they were to consent now to stop to take up one of these parties at some point not scheduled as a regular stopping point on the railroad, any other passenger could compel them to do it. They are compelled to refuse to stop and pick up these parties except at scheduled places.

Mr. MANN. The point made by the gentleman from New York is not good at all, so far as this language is concerned.

Mr. FITZGERALD. I am not professing to be sufficiently familiar with the rights of the railroads to do these things, but that is a statement made by the representative of the Interstate Commerce Commission to the committee.

Mr. MANN. That is covered by the other language in the paragraph, where it provides that they carry from point to point; also without charge to move from point to point, and store at such points as may be reasonably required, and so on.

Mr. FITZGERALD. I suggest that we strike out the words "the duty of" and insert the words "lawful for."

Mr. MANN. That is all right.

Mr. FITZGERALD. Then I offer that amendment, Mr. Chairman, in line 1, page 50, to strike out the words "the duty of" duty of" and insert "lawful for."

Mr. MANN. I withdraw the point of order.

The CHAIRMAN. The gentleman from Illinois [Mr. MANN] withdraws the point of order. The gentleman from New York [Mr. FITZGERALD] offers an amendment. Will the gentleman from New York repeat his amendment?

Mr. FITZGERALD. Strike out, in line 1, the words "the duty of" and insert "lawful for."

The CHAIRMAN. The gentleman from New York offers an amendment, which the Clerk will report.

Mr. MONDELL. Let me suggest, Mr. Chairman, to the gentleman from New York to strike out the word "the."

The Clerk read as follows:

Page 50, line 1, strike out "the duty of" and insert "lawful for," so that the line will read "it shall be lawful for every common carrier," etc.

The CHAIRMAN. The question is on agreeing to the amendment.

Mr. MOORE. Mr. Chairman, I wish to speak in opposition to the amendment.

The difference that is proposed by the amendment is really the difference between "tweedledee" and "tweedledum," except that instead of making it obligatory on the railroad companies to give free passes, we are leaving it to their discretion, and it is opening up a danger point that has been avoided since the abolition of free passes.

I do not know of any section of the country where free passes prevail now by law except in the State of New Jersey, which is supposed to be the mother of all "reform" legislation, much of which legislation, I am inclined to think, Congress has been following in the last year or so.

Mr. MURDOCK. It is mandatory in the State of New Jersey, is it not?

Mr. MOORE. Yes; it is mandatory in the State of New Jersey; and I am frank to say that while I may have used passes years ago, I would be ashamed to offer one to-day in the State of New Jersey. The great mass of people there have to pay their fares, and they pay them willingly and cheerfully, and there is no discrimination, except that some one, who happens to be an officeholder, steps forward and offers his free ticket, which is viséed and carefully scrutinized by the conductor, but generally the man with the pass is a mark for the attention of everybody in the car. That is the public view of it.

Now, there is a private view of it which this House ought to consider. You are going to allow groups of men to step into a car because they are engaged in a Government service, for which ample appropriation is made, and take free the seats of passengers who have to pay their fares. I think you will find that when they come in groups and numbers, with their surveying instruments and all their general equipment, the ordinary fare-paying traveling public is going to be very greatly discommoded and inconvenienced.

That is the second view of it. Now, it seems to me that Congress did a good thing when it abolished passes. It relieved all men in public life from the criticism that arose by reason of this special privilege. If there ever was a special privilege which a public man could wield for the benefit of a few of his constituents, at the same time making enemies of hundreds and thousands of others, it was the pass business. Here you propose to open it up again, not under a mandate of the law with regard to Government employees, but leaving it to the discretion of the railroads that are to be investigated and doing it at the instance of the court that is to pass upon that investigation.

In my judgment you are making a mistake to open up the pass business at all. The Government is amply able to pay for the investigation it has ordered, and I am one of those inclined to think that the millions of dollars that are to be spent in this investigation will be substantially wasted by the time you get your reports. When you get your reports not one-tenth of the hundred million people of this country will attempt to read them or even to read the synopsis of them.

Mr. FITZGERALD. Nobody expects that. This information is to be acquired for the purpose of enabling the proper officials to determine whether the rates fixed by the railroads are proper or improper. This is not intended to be summer reading for a man to idle away his time on while off on his vacation. It is to report valuable information that nobody wants to study except those who are officially required to.

Mr. MOORE. It seems to be one of the happy faculties of the present administration to give us plenty of reading matter—plenty of suggestions——

Mr. FITZGERALD. And the gentleman would profit if he would spend time reading it.

Mr. MOORE. But keeping us in session and not giving us any vacation time in which to read them. One of the faults I have to find with your management is that you have been investigating and investigating, and you have been holding Congress here in session continually, until nobody can begin to read what you have been doing.

Mr. FITZGERALD. The trouble with the gentleman from Pennsylvania is that instead of reading these accurate statements of fact he continually calls upon that fertile and vivid imagination of his and pictures horrors and difficulties and conditions which did at one time exist under a Republican administration, but which have been dissipated like mists under the noonday sun by the Democratic administration. [Applause on the Democratic side.]

Mr. MOORE. My dear sir, no Republican administration ever attempted such futile investigations as have been conducted by the Democratic Party.

Mr. FITZGERALD. They did not dare. They knew what would be discovered. We believed we knew what would be discovered, and we have discovered it.

Mr. MOORE. The Republican administration never would have wasted the public money in the manner in which it has been wasted in useless and futile investigations under the direction of the distinguished chairman of the Appropriations Committee [Mr. FITZGERALD]. Money has been wasted, scattered, spent in investigations of every character, to disturb business, including the railroads, so that to-day there is such depression as makes every man upon the other side of this House scared out of his wits for fear he may not come back again.

But I am inclined to think this amendment ought not to pass, and that the paragraph itself ought to go out. There ought to be no understanding between the Interstate Commerce Commission and the railroads on a free-pass basis, with regard to an investigation which the Government is to make into the railroads.

Mr. FITZGERALD. Mr. Chairman, this is as far from a free-pass matter as anything possibly can be. Large numbers of these employees are to be carried in cars that will be specially provided by the Interstate Commerce Commission itself. These surveying parties will live in these cars along the routes which they are surveying. The railroads could not drop these cars off at different places without some special authority. I hope the amendment which I have offered will be agreed to.

The gentleman from Illinois [Mr. MANN] made a point of order against the paragraph. He withdrew the point of order upon the statement that this amendment would be offered. It seems to me that anybody who wished to antagonize the matter in good faith should have done so before any such agreement was made. The gentleman from Illinois [Mr. MANN] could have eliminated the entire provision from the bill on a point of order.

I have never been in the habit of getting a gentleman to give up some advantage which he has on the floor as the result of a statement that I made and then tried to take advantage of him and defeat the proposal under which he has surrendered his peculiar advantage. I think, as a matter of good faith, in the legislation of this House gentlemen who listen to such agreements ought to make their opposition known before points of order are withdrawn under such circumstances. I did my best to prevent the point of order being made and to have the original provision retained in the bill.

Mr. MURDOCK. You did it.

Mr. FITZGERALD. If the gentleman from Pennsylvania really desired to have this paragraph go out, he could have made the point of order. He had ample opportunity to do so; but to wait until the point of order is withdrawn and the amendment is proposed, and then to antagonize both the amendment and the original proposition is, I think, hardly worthy of the distinguished gentleman from Pennsylvania.

Mr. MOORE. Does the gentleman mean to say that under this paragraph an individual member of a surveying party, or a group of members of a surveying party, may not get on a regular train and pass from point to point?

Mr. FITZGERALD. Suppose a regular train is leaving Philadelphia and going to some obscure, unknown hamlet in the great State of Pennsylvania. These parties are bound from Philadelphia to that particular place, and suppose they were to go on a regular train; they would not wait for a milk train or a freight train. If the constituents of the gentleman from Philadelphia were compelled to travel in that particular train, I do not think they would be contaminated or demoralized or morally or physically affected in any way whatever because they were traveling on the same train and in the same car with the members of the surveying party. If the gentleman thinks it would affect his constituents, we might add a provision that these persons should not travel in any car occupied by the constituents of the gentleman from Pennsylvania.

Mr. MOORE. I would like to have the gentleman yield for a question, Mr. Chairman.

Mr. FITZGERALD. I will yield.

Mr. MOORE. Will the gentleman say what effect the passage of his amendment would have in a case like this? A State law forbids the issuance of passes and forbids anybody in the State to ride free.

Mr. FITZGERALD. It is easy to answer that question. A child could answer it. I am surprised that the gentleman should ask it. This is interstate business.

Mr. MOORE. However, if there was a branch of the interstate railroad wholly within the State I assume that it would be investigated. It would be subject to investigation by the commission.

Mr. FITZGERALD. I am not much more of a lawyer than is the gentleman from Pennsylvania, and he is no lawyer at all, and I can answer that question.

Mr. MOORE. I am glad sometimes that I am not a lawyer.

Mr. FITZGERALD. Oh, it would not hurt the gentleman if he had a little knowledge of law occasionally.

Mr. MOORE. The gentleman is so much endowed with legal knowledge and is so filled with information that he reminds me of the village schoolmaster—

> And still they gazed and still the wonder grew
> That one small head could carry all he knew.

Mr. FITZGERALD. My head is not as small as the gentleman thinks it is. He should see the size of my hat.

Mr. MONDELL. Mr. Chairman, realizing the desire of the gentleman from New York to expedite the bill I would not take up the time of the committee if I did not know that there was a serious misunderstanding between the gentleman from Pennsylvania and the gentleman from New York. I think the gentleman from New York takes the objections of the gentleman from Pennsylvania to this paragraph too seriously. The impression I obtained was that the gentleman from Pennsylvania voiced his doubts in regard to the wisdom of this provision very largely as a handle for some trite personal remarks as to the state of the Union. If the gentleman from Pennsylvania has any real doubts in regard to it, let me remind him that unless these companies have authority to stop all trains at any point between stations I do not think they can do so. Under the interstate commerce law that could not be done without authorization. That also involves the question of payment, because if a passenger is picked up between stations there is a question of the fare. The fare is ordinarily computed from station to station, so that at first there must be authorization to the companies to stop their trains, of all sorts, at any point where these parties may desire to be picked up and then it is to the advantage of the company to be allowed to waive the charge, because in some instances it would be difficult for the conductor to determine just what the fare would be in a given case where the party was picked up between stations.

Mr. MOORE. Would not the conductor know in the case of an ordinary passenger?

Mr. MONDELL. He would not stop.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York.

The question was taken, and the amendment was agreed to.

The Clerk read as follows:

For payment of all authorized expenditures under the provisions of the act of February 17, 1911, "To promote the safety of employees and travelers upon railroads by compelling common carriers engaged in interstate commerce to equip their locomotives with safe and suitable boilers and appurtenances thereto," including such stenographic and clerical help to the chief inspector and his two assistants as the Interstate Commerce Commission may deem necessary and allowances in lieu of subsistence while away from official headquarters to persons whose traveling expenses are authorized by said act to be paid at not to exceed $4 per day, $220,000.

Mr. MANN. Mr. Chairman, I move to strike out the last word. There will be some comment on the next item.

Mr. FITZGERALD. If the gentleman from Illinois is going to delay us on the next item, I will move that the committee do now rise.

The motion was agreed to.

The committee accordingly rose; and Mr. CANDLER of Mississippi having taken the chair as Speaker pro tempore, Mr. GARRETT of Tennessee, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill H. R. 17041, the sundry civil appropriation bill, and had come to no conclusion thereon.

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted as follows:

To Mr. JACOWAY, for one day, on account of sickness.

To Mr. L'ENGLE, indefinitely, on account of illness.

HOUR OF MEETING TO-MORROW.

Mr. FITZGERALD. Mr. Speaker, I ask unanimous consent that when the House adjourns to-day it adjourn to meet at 11 o'clock a. m. to-morrow.

The SPEAKER pro tempore. The gentleman from New York asks unanimous consent that when the House adjourns to-day it adjourn to meet at 11 o'clock a. m. to-morrow. Is there objection?

Mr. MANN. Reserving the right to object, does the gentleman from New York recollect that we have an evening session until 11 o'clock to-morrow?

Mr. FITZGERALD. Yes; but I meant meet in the morning at 11 o'clock.

Mr. MANN. That is all very well, because the gentleman from New York will not be here in the evening.

Mr. FITZGERALD. Oh, yes; I will be here in the evening.

Mr. MANN. If the gentleman is going to be here to-morrow evening, I do not wish to permit him to work himself to death, and I object.

ADJOURNMENT.

Mr. FITZGERALD. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 11 minutes p. m.) the House adjourned until to-morrow, Friday, June 12, 1914, at 12 o'clock m.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, bills and resolutions were severally reported from committees, delivered to the Clerk, and referred to the several calendars therein named, as follows:

Mr. JOHNSON of Utah, from the Committee on the Public Lands, to which was referred the bill (S. 4741) for the protection of the water supply of the city of Salt Lake City, Utah, reported the same with amendment, accompanied by a report (No. 808), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. RAKER, from the Committee on the Public Lands, to which was referred the bill (S. 1784) restoring to the public domain certain lands heretofore reserved for reservoir purposes at the headwaters of the Mississippi River and tributaries, reported the same with amendment, accompanied by a report (No. 809), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. SIMS, from the Committee on Interstate and Foreign Commerce, to which was referred the bill (H. R. 16679) to authorize Bryan and Alber Henry to construct a bridge across a slough, which is a part of the Tennessee River, near Guntersville, Ala., reported the same with amendment, accompanied by a report (No. 810), which said bill and report were referred to the House Calendar.

Mr. BARKLEY, from the Committee on Interstate and Foreign Commerce, to which was referred the bill (H. R. 17005) authorizing the fiscal court of Pike County, Ky., to construct a bridge across Tug Fork of the Big Sandy River at or near Williamson, W. Va., reported the same without amendment, accompanied by a report (No. 811), which said bill and report were referred to the House Calendar.

Mr. CHURCH, from the Committee on the Public Lands, to which was referred the bill (S. 5673) to amend an act entitled "An act to protect the locators in good faith of oil and gas lands who shall have effected an actual discovery of oil or gas on the public lands of the United States, or their successors in interest," approved March 2, 1911, reported the same with amendment, accompanied by a report (No. 814), which said bill and report were referrred to the Committee of the Whole House on the state of the Union.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, private bills and resolutions were severally reported from committees, delivered to the Clerk, and referred to the Committee of the Whole House, as follows:

Mr. FERRIS, from the Committee on the Public Lands, to which was referred the bill (H. R. 17045) for the relief of William L. Wallis, reported the same without amendment, accompanied by a report (No. 806), which said bill and report were referred to the Private Calendar.

Mr. SCOTT, from the Committee on Claims, to which was referred the bill (S. 1644) for the relief of May Stanley, and for other purposes, reported the same with amendment, accompanied by a report (No. 807), which said bill and report were referred to the Private Calendar.

Mr. GARD, from the Committee on Military Affairs, to which was referred the bill (H. R. 15414) for the relief of David Mowen, reported the same without amendment, accompanied by a report (No. 812), which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill (S. 3488) for the relief of Ernest C. Stahl, reported the same without amendment, accompanied by a report (No. 813), which said bill and report were referred to the Private Calendar.

CHANGE OF REFERENCE.

Under clause 2 of Rule XXII, committees were discharged from the consideration of the following bills, which were referred as follows:

A bill (H. R. 10808) granting a pension to Michael Grace; Committee on Invalid Pensions discharged and referred to the Committee on Pensions.

A bill (H. R. 15383) granting an increase of pension to Edward R. Turnbach; Committee on Invalid Pensions discharged and referred to the Committee on Pensions.

A bill (H. R. 15837) granting an increase of pension to Peter R. Matthew; Committee on Invalid Pensions discharged and referred to the Committee on Pensions.

A bill (H. R. 15921) granting an increase of pension to Elizabeth I. Pulsipher; Committee on Invalid Pensions discharged and referred to the Committee on Pensions.

A bill (H. R. 16851) granting an increase of pension to Michael Morris; Committee on Invalid Pensions discharged and referred to the Committee on Pensions.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials were introduced and severally referred as follows:

By Mr. WEAVER: A bill (H. R. 17184) providing for the purchase of a site and the erection of a public building thereon at Davis, Okla.; to the Committee on Public Buildings and Grounds.

Also, a bill (H. R. 17185) providing for the purchase of a site and the erection of a public building thereon at Edmond, Okla.; to the Committee on Public Buildings and Grounds.

Also, a bill (H. R. 17186) providing for the purchase of a site and the erection of a public building thereon at Wynnewood, Okla.; to the Committee on Public Buildings and Grounds.

Also, a bill (H. R. 17187) providing for the purchase of a site and the erection of a public building thereon at Stillwater, Okla.; to the Committee on Public Buildings and Grounds.

Also, a bill (H. R. 17188) providing for the purchase of a site and the erection of a public building thereon at Purcell, Okla.; to the Committee on Public Buildings and Grounds.

Also, a bill (H. R. 17189) providing for the purchase of a site and the erection of a public building thereon at Pauls Valley, Okla.; to the Committee on Public Buildings and Grounds.

Also, a bill (H. R. 17190) providing for the purchase of a site and the erection of a public building thereon at Norman, Okla.; to the Committee on Public Buildings and Grounds.

Also, a bill (H. R. 17191) providing for the purchase of a site and the erection of a public building thereon at Cushing, Okla.; to the Committee on Public Buildings and Grounds.

Also, a bill (H. R. 17192) providing for the purchase of a site and the erection of a public building thereon at Sulphur, Okla.; to the Committee on Public Buildings and Grounds.

Also, a bill (H. R. 17193) providing for the purchase of a site and the erection of a public building thereon at Lindsay, Okla.; to the Committee on Public Buildings and Grounds.

By Mr. GREEN of Iowa: A bill (H. R. 17194) to amend section 81 of the Judicial Code of the United States; to the Committee on the Judiciary.

By Mr. SMITH of Idaho: A bill (H. R. 17195) for the relief of the heirs of the Eastern Cherokee Indians; to the Committee on Indian Affairs.

By Mr. RUPLEY: A bill (H. R. 17196) authorizing the Secretary of the Interior to set aside certain lands to be used as a sanitarium by the Order of Owls; to the Committee on the Public Lands.

By Mr. FRENCH: A bill (H. R. 17197) appropriating the sum of $300,000 for the construction of a system of wagon roads on the Nez Perce Indian Reservation, in Nez Perce County, Idaho, and providing the manner in which said appropriation shall be expended; to the Committee on Indian Affairs.

By Mr. GARRETT of Tennessee: Resolution (H. Res. 540) providing for the consideration of H. R. 14866; to the Committee on Rules.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. ADAIR: A bill (H. R. 17198) granting an increase of pension to Curtis B. Small; to the Committee on Invalid Pensions.

By Mr. BURKE of Wisconsin: A bill (H. R. 17199) granting a pension to Joseph Baldewein; to the Committee on Pensions.

By Mr. CONNELLY of Kansas: A bill (H. R. 17200) granting an increase of pension to Henry Pearson; to the Committee on Invalid Pensions.

By Mr. CONNOLLY of Iowa: A bill (H. R. 17201) granting a pension to Jesse O. Burgess; to the Committee on Invalid Pensions.

Also, a bill (H. R. 17202) granting a pension to H. J. Kiebel; to the Committee on Invalid Pensions.

Also, a bill (H. R. 17203) granting a pension to Edwin A. Phinney; to the Committee on Invalid Pensions.

Also, a bill (H. R. 17204) granting a pension to Calvin Wheelock; to the Committee on Invalid Pensions.

By Mr. DECKER: A bill (H. R. 17205) granting an increase of pension to W. H. Jenkins; to the Committee on Invalid Pensions.

By Mr. DOOLITTLE: A bill (H. R. 17206) granting a pension to Isaac Adams; to the Committee on Invalid Pensions.

Also, a bill (H. R. 17207) granting a pension to Rosetta Cunningham; to the Committee on Invalid Pensions.

Also, a bill (H. R. 17208) granting an increase of pension to Noah C. Standiford; to the Committee on Invalid Pensions.

By Mr. EDWARDS: A bill (H. R. 17209) for the relief of J. J. Nease; to the Committee on War Claims.

Also, a bill (H. R. 17210) for the relief of J. B. Shearouse; to the Committee on War Claims.

Also, a bill (H. R. 17211) for the relief of the heirs of M. M. Wilson, deceased; to the Committee on War Claims.

Also, a bill (H. R. 17212) for the relief of the heirs of Frederick R. Wylly, deceased; to the Committee on War Claims.

Also, a bill (H. R. 17213) for the relief of the Jerusalem Evangelical Lutheran Church, Ebenezer, Ga.; to the Committee on War Claims.

By Mr. HILL: A bill (H. R. 17214) granting an increase of pension to Thomas Penwarden; to the Committee on Invalid Pensions.

By Mr. KEATING: A bill (H. R. 17215) granting an increase of pension to Edmond C. Kirk; to the Committee on Invalid Pensions.

Also, a bill (H. R. 17216) granting an increase of pension to Sarah E. Marsh; to the Committee on Invalid Pensions.

Also, a bill (H. R. 17217) granting an increase of pension to Abraham Rhodes; to the Committee on Invalid Pensions.

By Mr. KENNEDY of Connecticut: A bill (H. R. 17218) granting a pension to Bernard Mullan; to the Committee on Invalid Pensions.

Also, a bill (H. R. 17219) granting an increase of pension to Mary A. Hall; to the Committee on Invalid Pensions.

By Mr. LEE of Pennsylvania: A bill (H. R. 17220) granting an increase of pension to John Schmeltzer; to the Committee on Invalid Pensions.

By Mr. MURRAY of Massachusetts: A bill (H. R. 17221) providing for the refund of certain duties incorrectly collected on cutch; to the Committee on Claims.

By Mr. O'LEARY: A bill (H. R. 17222) granting a pension to Clarence Marshall; to the Committee on Invalid Pensions.

By Mr. RAUCH: A bill (H. R. 17223) granting an increase of pension to Thomas R. Cook; to the Committee on Invalid Pensions.

Also, a bill (H. R. 17224) granting an increase of pension to Robert E. Quivey; to the Committee on Invalid Pensions.

By Mr. SELLS: A bill (H. R. 17225) granting a pension to Thomas W. Maples; to the Committee on Pensions.

By Mr. SMITH of Idaho: A bill (H. R. 17226) granting a pension to Sarah Friedline; to the Committee on Invalid Pensions.

By Mr. TEMPLE: A bill (H. R. 17227) granting an increase of pension to Alexander Boyd; to the Committee on Invalid Pensions.

By Mr. TEN EYCK: A bill (H. R. 17228) granting an increase of pension to Samuel H. Bingham; to the Committee on Invalid Pensions.

Also, a bill (H. R. 17229) for the relief of James Birney, alias James Brady; to the Committee on Military Affairs.

By Mr. UNDERWOOD: A bill (H. R. 17230) granting a pension to Sarah E. Collins; to the Committee on Pensions.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

By the SPEAKER (by request): Resolutions signed by the pastors of certain churches in Belford, N. J., and Knoxville, Tenn., protesting against the practice of polygamy in the United States; to the Committee on the Judicary.

By Mr. ADAMSON: Petition of sundry citizens of Harris and Talbot Counties, Ga., favoring national prohibition; to the Committee on Rules.

By Mr. AIKEN: Petition of J. A. Marshall Meyer, of Greenwood, S. C., and others, protesting against Mormonism; to the Committee on the Judiciary.

By Mr. BAILEY: Petition of the Jewelers' Guild of Philadelphia, Pa., favoring the passage of the Owen-Goeke bill, relative to fraud in gold-filled watchcases; to the Committee on Interstate and Foreign Commerce.

By Mr. BRODBECK: Petition of 489 citizens of Gettysburg, Pa., favoring national prohibition; to the Committee on Rules.

Also, petition of the Council of Union Lutheran Church and the official board of the First Moravian Church, all of York, Pa., protesting against section 6 of House bill 12928; to the Committee on the Post Office and Post Roads.

By Mr. CARY: Memorial of Milwaukee Post Office Clerks' Union, No. 3, National Federation of Post Office Clerks, protesting against overtime work in post offices and indorsing the Palmer bill relative to night work; to the Committee on the Post Office and Post Roads.

Also, petition of 200 clubs in the State of Wisconsin, requesting Congress to indorse President Wilson's Mobile (Ala.) pledge relative to United States acquiring land by conquest; to the Committee on Foreign Affairs.

By Mr. CONNOLLY of Iowa: Affidavits in support of House bill 12493, a bill granting a pension to Carrie Stevens, widow of William A. Crandall; to the Committee on Invalid Pensions.

By Mr. DOOLITTLE: Petition of sundry citizens of Kansas, favoring House bill 11755, to establish a bureau of farm loans in the United States Treasury Department; to the Committee on Banking and Currency.

By Mr. DYER: Petition of G. M. Dinges, of St. Louis, Mo., favoring House bill 15986, the Federal false-statement bill; to the Committee on the Post Office and Post Roads.

Also, petition of G. M. Dinges, of St. Louis, Mo., favoring House bill 133, the Clayton procedure bill; to the Committee on the Judiciary.

Also, petition of the International Association of Machinists, District No. 9, of St. Louis, Mo., favoring Senate bill 5303, providing inspection of locomotives; to the Committee on Interstate and Foreign Commerce.

Also, petition of the Thread Agency, of St. Louis, Mo., favoring importation of Egyptian cotton; to the Committee on Ways and Means.

By Mr. GILMORE: Petition of sundry citizens of North Stoughton, Mass., favoring national prohibition; to the Committee on Rules.

By Mr. GRAHAM of Pennsylvania: Petition of the City Council of Bradford, Pa., favoring the passage of the Hamill bill, for pensions for aged employees of the Government; to the Committee on Reform in the Civil Service.

By Mr. HOBSON: Petition of the World-Wide Baraca and the Philathea Union, representing 1,000,000 people, favoring national prohibition; to the Committee on Rules.

By Mr. KENNEDY of Connecticut: Petition of the First Congregational Church, of Pomfret, Conn., and the Windham Association of Congregational Churches, at Windham, Conn., for international peace; to the Committee on Foreign Affairs.

By Mr. KENNEDY of Rhode Island: Memorial of the Providence (R. I.) Christian Endeavor Union, favoring passage of House bill 12325, relative to giving or selling intoxicating liquors to minors; to the Committee on Alcoholic Liquor Traffic.

By Mr. LEE of Pennsylvania: Petition of the City Council of Bradford, Pa., favoring the passage of the Hamill bill, relative to pensioning aged employees of the Government; to the Committee on Reform in the Civil Service.

Also, petition of the Jewelers' Guild, of Philadelphia, Pa., favoring the passage of the Owen-Goeke bill, relative to fraud in gold-filled watchcases; to the Committee on Interstate and Foreign Commerce.

By Mr. LONERGAN: Petition of the Windham Association of Congregational Churches and Ministers of Connecticut, favoring international peace; to the Committee on Foreign Affairs.

By Mr. McDERMOTT: Petition of James J. Mullen, M. H. Sheehan, James J. Moran, Patrick J. Barrett, John Riley, Daniel Russell, Charles Mooney, Charles Clerkin, James P. Sinon, William Dunn, C. Prendergast, William Gardner, and 35 other residents of the fourth congressional district of Illinois, protesting against the passage of the Hobson, Sheppard, and Works prohibition resolutions; to the Committee on Rules.

By Mr. MOORE: Memorial of the Jewelers' Guild, of Philadelphia, Pa., favoring the passage of the Owen-Goeke bill rela-

tive to fraud in gold-filled watchcases; to the Committee on Interstate and Foreign Commerce.

Also, memorial of the City Council of Bradford, Pa., favoring the passage of the Hamill bill for the retirement of civil-service employees; to the Committee on Reform in the Civil Service.

By Mr. MORIN (by request): Petitions of sundry citizens of Pittsburgh and Allegheny County, Pa., protesting against national prohibition; to the Committee on Rules.

Also, petition of sundry citizens of Erie, Pa., relative to antitrust legislation; to the Committee on the Judiciary.

Also, petition of sundry citizens of Erie County, Pa., relative to antitrust legislation; to the Committee on the Judiciary.

Also (by request), petition of sundry citizens of Pittsburgh, Pa., favoring the passage of the Hamill bill relative to pensioning civil-service employees; to the Committee on Reform in the Civil Service.

Also (by request), petition of sundry citizens of Philadelphia, Pa., protesting against passage of a bill to prohibit importations of Egyptian cotton; to the Committee on Agriculture.

Also (by request), petition of sundry citizens of Pittsburgh, Pa., favoring the passage of House bill 6282, the national anti-narcotic bill; to the Committee on Ways and Means.

Also (by request), petition of sundry citizens of Brooklyn, N. Y., favoring erection of monument to Capt. John Ericsson; to the Committee on the Library.

Also (by request), petition of the Pennsylvania Retail Jewelers' Association and sundry citizens of Philadelphia, Pa., favoring the passage of the Owen-Goeke bill relative to fraud in gold-filled watchcases; to the Committee on Interstate and Foreign Commerce.

Also (by request), petition of sundry citizens of Allegheny County, Pa., favoring the passage of House bill 2972; to the Committee on Interstate and Foreign Commerce.

Also (by request), petition of sundry citizens of Pittsburgh, Pa., favoring the passage of House bill 12292; to the Committee on Labor.

By Mr. O'LEARY: Petition of J. F. Garcia and other citizens of Aqueduct; Samuel Gadlucci and others, of Corona; Piano Makers' Union, Local No. 14, of New York; and Jacob Huth and other citizens of the second congressional district, all in the State of New York, protesting against national prohibition; to the Committee on Rules.

By Mr. O'SHAUNESSY: Petition of the Manhasset Manufacturing Co., of Providence, R. I., protesting against placing embargo on Egyptian cotton; to the Committee on Agriculture.

Also, petition of the Providence (R. I.) Christian Endeavor Union, favoring passage of House bill 12325, relative to giving or selling liquors to minors and Indians; to the Committee on Alcoholic Liquor Traffic.

By Mr. PAIGE of Massachusetts: Petition of sundry citizens of Fitchburg, Mass., favoring national prohibition; to the Committee on Rules.

By Mr. PLUMLEY: Petition of 31 citizens of Newbury, Vt., favoring national prohibition; to the Committee on Rules.

By Mr. REED: Petition of the Manchester (N. H.) Druggists' Association, headed by the John B. Hall Co., favoring the passage of House bill 13305, the Stevens price bill; to the Committee on Interstate and Foreign Commerce.

By Mr. REILLY of Connecticut: Memorial of the Second Congregational Church of Putnam, Conn., and the Windham Association of Congregational Churches and Ministers of Connecticut, relative to establishment of an international tribunal for settlement of international differences; to the Committee on Military Affairs.

By Mr. RUPLEY: Petition of the Philadelphia Clearing House Association, relative to House bill 15657, relating to interlocking directorates; to the Committee on the Judiciary.

Also, petition of the Jewelers' Guild of Philadelphia and the Pennsylvania Retail Jewelers' Association, favoring Owen-Goeke bill to eliminate time guaranty on gold-filled watchcases; to the Committee on Interstate and Foreign Commerce.

By Mr. J. M. C. SMITH: Resolution of the Woman's League of Bronson, Mich., favoring Senate bill 2739, the Newlands-Broussard river-regulation and flood-prevention bill; to the Committee on Rivers and Harbors.

Also, petitions of the commissioner of labor of Michigan; the legislative committee of Brooklyn, N. Y.; the Nautilus Magazine, of Holyoke, Mass.; the Council of Women for Home Missions, of New York City, N. Y.; the Illinois State Federation of Labor, of Springfield, Ill.; the American Association for Labor Legislation, of New York City, N. Y.; and Fuhrman's Drug Store, of Lawton, Mich., favoring establishment of a national employment bureau (Murdock bill, H. R. 16130); to the Committee on Labor.

By Mr. SMITH of Idaho: Memorial of the Providence (R. I.) Christian Endeavor Union, favoring the passage of House bill 12335, relative to selling liquor to minors; to the Committee on Alcoholic Liquor Traffic.

By Mr. SPARKMAN: Petition of sundry citizens of the State of Florida, favoring national prohibition; to the Committee on Rules.

By Mr. STEDMAN: Petition of sundry citizens of Forsythe, N. C., favoring national prohibition; to the Committee on Rules.

By Mr. STEPHENS of Texas: Petitions of 75 citizens of Alvord, 300 citizens of Bowie, and 465 citizens of Dallas, all in the State of Texas, favoring national prohibition; to the Committee on Rules.

By Mr. TALCOTT of New York: Petition of sundry citizens of Utica, N. Y., favoring national prohibition; to the Committee on Rules.

Also, petition of sundry citizens of Utica, N. Y., favoring passage of bill providing for a national motion-picture commission; to the Committee on Education.

By Mr. TAVENNER: Memorial of the Rock River Association of Congregational Churches of Illinois, favoring national prohibition; to the Committee on Rules.

Also, memorial of the Commercial Club of Bowen, Ill., protesting against the passage of bills for the regulation of business at this session; to the Committee on the Judiciary.

By Mr. TOWNSEND: Petition of the Common Council of Newark, N. J., favoring House bill 5139, the Hamill civil-service retirement bill; to the Committee on Reform in the Civil Service.

By Mr. VOLLMER: Petition of Woman's Relief Corps No. 171, of Marengo, Iowa, and John Dillon Post, No. 233, of Marengo, Iowa, protesting against any change or changes of our country's flag; to the Committee on Military Affairs.

By Mr. WEAVER: Petitions of M. E. Clark and many other citizens of Duncan; Charles L. Walker and others, of Pittsburg; Joel W. Green and others, of Cleveland; R. M. Kincaid and others, of Mulhall, all in the State of Oklahoma, favoring national prohibition; to the Committee on Rules.

SENATE.

FRIDAY, *June 12, 1914.*

The Senate met at 11 o'clock a. m.

The Chaplain, Rev. Forrest J. Prettyman, D. D., offered the following prayer:

Almighty God, we come before Thee dependent upon the mercies of Thy providence and grace from day to day. We lift our hearts for Thy blessing upon this new day. Grant us such conscious contact with God that the things spiritual may be real to us and that that which is related to the eternal may be the permanent concern of our hearts and minds and may lead us so wisely to discern the duties of this day as that their outcome will show Thy wisdom, Thy guidance, and Thy blessing. Hear us in our prayer. For Jesus's sake. Amen.

The Secretary proceeded to read the Journal of the proceedings of the legislative day of June 5, when, on request of Mr. SMOOT and by unanimous consent, the further reading was dispensed with and the Journal was approved.

ENROLLED BILLS AND JOINT RESOLUTION SIGNED.

The VICE PRESIDENT announced his signature to the following enrolled bills and joint resolution, which had heretofore been signed by the Speaker of the House of Representatives:

H. R. 11040. An act to carry out the findings of the Court of Claims in the case of James Harvey Dennis;

H. R. 14242. An act to increase the limit of cost for the erection and completion of the United States Federal building at Harrisburg, Pa.; and

S. J. Res. 148. Joint resolution authorizing the President to extend invitations to foreign Governments to participate, through their accredited diplomatic agents to the United States, in the National Star-Spangled Banner Centennial Celebration.

CONSULAR PREMISES AT SHANGHAI, CHINA.

The VICE PRESIDENT laid before the Senate a communication from the Secretary of the Treasury, transmitting a letter from the Secretary of State submitting an estimate of appropriation in the sum of $375,000 for the purchase of premises for the offices of the Government of the United States in Shanghai, China, which, with the accompanying paper, was referred to the Committee on Appropriations.

FRENCH SPOLIATION CLAIM.

The VICE PRESIDENT laid before the Senate a communication from the assistant clerk of the Court of Claims, trans-

mitting the findings of fact and conclusions of law filed under the act of January 20, 1885, in the French spoliation claims, set out in the annexed findings by the court relating to the schooner *Mary*, Thomas B. Covell, master, which, with the accompanying paper, was referred to the Committee on Claims.

PETITIONS AND MEMORIALS.

The VICE PRESIDENT presented petitions of sundry citizens of Washington, D. C., and Harrodsburg, Ky., praying for national prohibition, which were referred to the Committee on the Judiciary.

He also presented a memorial of Leo W. Myers Woman's Relief Corps, No. 118, Department of Illinois, remonstrating against any change in the American flag, which was referred to the Committee on the Judiciary.

He also presented petitions of sundry citizens of South Chicago, Sterling, and Carrollton, in the State of Illinois; of Clearfield, Stratford, and Ottumwa, in the State of Iowa; of Gregory, Howard, and White, in the State of South Dakota; of Colerain and Alexandria, in the State of Pennsylvania; of Belford and Laurel Springs, in the State of New Jersey; of Knoxville, Tenn.; of Waseca, Minn.; of Sterling, Kans.; of Rocklyn, Wash.; of Cloes Ferry, Va.; of Calcutta, Ohio; and of Greencastle, Ind., praying for the adoption of an amendment to the Constitution to prohibit polygamy, which were referred to the Committee on the Judiciary.

Mr. WORKS. Mr. President, I have a short resolution here from the Humboldt Chamber of Commerce bearing upon a question of great interest to the Senate and the country just now, and I ask that it may be read.

There being no objection, the resolution was read and referred to the Committee on the Judiciary, as follows:

Whereas there is now pending in the Congress of the United States of America a series of bills intended to carry out the recommendations of President Wilson as to antitrust legislation, as set out in his message to Congress of January 20, 1914; and

Whereas the legislation proposed in these bills, if enacted, will have a profound and far-reaching effect on the conduct of the commerce and industry of the Nation and on the welfare of all its people; and

Whereas undue haste in the enactment of important legislation such as is proposed in the new bills relating to "a trades commission," "interlocking directorates," and the "Sherman law definitions" is to be deprecated, as every opportunity should be afforded to all persons affected in all parts of the country to be fully heard on these important questions, to the end that their suggestions and recommendations may be considered by the Congress in the final framing of this legislation intended to promote the industrial and commercial welfare of the country, while at the same time conserving and safeguarding the rights and interests of all the people; and

Whereas to fully consult the judgment of the country and arrive at a clear and unmistakable understanding of its desires regarding the various features of the proposed legislation will require more time and consideration than is possible at the present session of Congress, and it would therefore seem to be the part of wisdom to postpone final action until the next session of Congress, utilizing the intervening time in ascertaining the sense of the country concerning the proposed legislation, which is undoubtedly the most important and far-reaching in its influence of any question that has come before Congress for decision in a long series of years: Now, therefore, be it

Resolved by the Humboldt Chamber of Commerce, representing the business and commercial interests of the City of Eureka and of the County of Humboldt, State of California, That the Congress of the United States of America is hereby earnestly requested to postpone final action upon the pending antitrust legislation until its next session, and that the intervening time be employed in ascertaining the sense of the people of the whole country toward the various features of the proposed laws, with a view to so perfecting them that a united and deliberate public sentiment shall stand firmly behind these measures, if enacted; and be it further

Resolved, That duly attested copies of these resolutions be forwarded to each of the Senators and Representatives in Congress from the State of California, and that they each be earnestly requested to advocate and work for the postponement of action petitioned for herein.

HUMBOLDT CHAMBER OF COMMERCE,
[SEAL.] By JOHN O'NEILL, *President*,
GEORGE A. KELLOGG, *Secretary*.

Dated at Eureka, Cal., this 25th day of May, 1914.

Mr. WORKS presented petitions of sundry citizens of California, praying for the adoption of an amendment to the Constitution to prohibit the manufacture, sale, and importation of intoxicating beverages, which were referred to the Committee on the Judiciary.

He also presented memorials of sundry citizens of Los Angeles, Cal., remonstrating against the adoption of an amendment to the Constitution to prohibit the manufacture, sale, and importation of intoxicating beverages, which were referred to the Committee on the Judiciary.

Mr. LEA of Tennessee presented a petition of sundry citizens of Tennessee, praying for the adoption of an amendment to the Constitution to prohibit polygamy, which was referred to the Committee on the Judiciary.

Mr. PERKINS presented a petition of the Arizona and California River Regulation Commission, praying for the acquisition of land in Mexico to place the Colorado River entirely within the boundaries of the United States, which was referred to the Committee on Irrigation and Reclamation of Arid Lands.

He also presented a petition of the Arizona and California River Regulation Commission, praying for an appropriation for a survey of the watershed of the Victor Valley, Cal., which was referred to the Committee on Irrigation and Reclamation of Arid Lands.

He also presented a petition of the Arizona and California River Regulation Commission, praying for the enactment of legislation to provide for the carrying out of the San Carlos Dam project, which was referred to the Committee on Irrigation and Reclamation of Arid Lands.

He also presented petitions of sundry citizens of California, praying for the adoption of an amendment to the Constitution to prohibit the manufacture, sale, and importation of intoxicating beverages, which were referred to the Committee on the Judiciary.

Mr. BRISTOW presented a petition of sundry citizens of Colony, Kans., praying for the adoption of a system of rural credits, which was referred to the Committee on Banking and Currency.

He also presented a petition of sundry citizens of Seneca, Kans., praying for the enactment of legislation making lawful certain agreements between employees and laborers and persons engaged in agriculture or horticulture, and to limit the issuing of injunctions in certain cases, which was referred to the Committee on the Judiciary.

He also presented petitions of sundry citizens of California, praying for the adoption of an amendment to the Constitution to prohibit the manufacture, sale, and importation of intoxicating beverages, which were referred to the Committee on the Judiciary.

Mr. BORAH presented a petition of the Homesteaders' Protective Association of the former Flathead Indian Reservation, praying for the immediate opening to entry of the unallotted lands in that reservation, which was referred to the Committee on Public Lands.

Mr. THOMPSON presented petitions of sundry citizens of Kansas, praying for the adoption of an amendment to the Constitution to prohibit the manufacture, sale, and importation of intoxicating beverages, which were referred to the Committee on the Judiciary.

He also presented petitions of sundry citizens of Bonner Springs and Atchison, and of inmates of the National Military Home, all in the State of Kansas, praying for the enactment of legislation extending the benefits of the pension act of May 11, 1912, which were referred to the Committee on Pensions.

He also presented a petition of sundry citizens of St. John, Kans., praying for the enactment of legislation to provide for Federal censorship of motion pictures, which was referred to the Committee on Education and Labor.

Mr. NELSON presented memorials of sundry citizens of Minnesota, remonstrating against the adoption of an amendment to the Constitution to prohibit the manufacture, sale, and importation of intoxicating beverages, which were referred to the Committee on the Judiciary.

Mr. POINDEXTER presented petitions of sundry citizens of Pittsburgh, Pa., praying for national recognition of the services of Dr. Cook in his polar explorations, which were referred to the Committee on the Library.

Mr. SMITH of Georgia presented petitions of sundry citizens of Georgia, praying for the adoption of an amendment to the Constitution to prohibit the manufacture, sale, and importation of intoxicating beverages, which were referred to the Committee on the Judiciary.

He also presented a memorial of sundry citizens of Macon, Ga., remonstrating against the adoption of an amendment to the Constitution granting the right of suffrage to women, which was ordered to lie on the table.

Mr. BURLEIGH presented a resolution adopted by the Sunday School Association of Somerset County, Me., favoring the adoption of an amendment to the Constitution to prohibit the manufacture, sale, and importation of intoxicating beverages, which was referred to the Committee on the Judiciary.

Mr. WARREN presented petitions of sundry citizens of Wyoming, praying for the adoption of an amendment to the Constitution to prohibit the manufacture, sale, and importation of intoxicating beverages, which were referred to the Committee on the Judiciary.

He also presented a memorial of the Italian Chamber of Commerce of New York, remonstrating against the adoption of an amendment to the Constitution to prohibit the manufacture, sale, and importation of intoxicating beverages, which was referred to the Committee on the Judiciary.

Mr. PAGE presented a petition of the congregation of the Methodist Episcopal Church of Waitsfield, Vt., praying for the

adoption of an amendment to the Constitution to prohibit the manufacture, sale, and importation of intoxicating beverages, which was referred to the Committee on the Judiciary.

REPORTS OF COMMITTEES.

Mr. OVERMAN. From the Committee on Appropriations I report back favorably with amendments the bill (H. R. 15762) making appropriations for the Diplomatic and Consular Service for the fiscal year ending June 30, 1915, and I submit a report (No. 592) thereon. I desire to give notice that I shall ask the Senate to take up the bill for consideration immediately after the legislative bill has been disposed of.

The VICE PRESIDENT. The bill will be placed on the calendar.

Mr. WEST, from the Committee on Military Affairs, to which were referred the following bills, reported them each with amendments and submitted reports thereon:

S. 728. A bill to correct the military record of Nathaniel Monroe (Rept. No. 593); and

S. 5210. A bill to correct the military record of Nelson T. Saunders (Rept. No. 594).

Mr. LEWIS, from the Committee on Indian Affairs, to which was referred the bill (S. 5674) confirming the title of Hannah Robinson to certain lands and authorizing and directing the issuance of patent therefor, reported it with amendments and submitted a report (No. 596) thereon.

Mr. SHIVELY, from the Committee on Pensions, submitted a report (No. 595) accompanied by a bill (S. 5843) granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent relatives of such soldiers and sailors, which was read twice by its title, the bill being a substitute for the following pension bills heretofore referred to that committee:

S. 299. Ruth A. Jackson.
S. 341. Anna R. Atwood.
S. 406. Josephina Soleau.
S. 447. Ellen M. Kilbourn.
S. 455. Josephine Rath.
S. 1133. Elizabeth McLaughlin.
S. 1288. Henry Fairley.
S. 1310. Henry M. Means.
S. 1816. Eveline Titus (now Watts).
S. 1827. Nellie E. Alfred.
S. 2076. Annie F. Merritt.
S. 2495. Eugenia Chaves de Montano.
S. 2652. Mary A. Pierce.
S. 2738. Julius C. Ward.
S. 3075. James B. Kendall.
S. 3162. Eliza K. Carpenter.
S. 3189. Josephine Moore.
S. 3305. William R. Downs.
S. 3444. Carrie A. Wells.
S. 3555. William H. Allen.
S. 3731. Isaiah Caplin.
S. 3786. Henry C. Doll.
S. 4028. Samuel Hill.
S. 4133. Willis Layton.
S. 4430. Samuel Deems.
S. 4490. Frances M. Robertson.
S. 4541. Eli Caldwell.
S. 4572. Isaac R. Rains.
S. 4584. Selena E. Noland.
S. 4665. John D. Sanders.
S. 4901. Harrison Stevens.
S. 4932. Sadie Winters.
S. 5133. Sarah J. Rugh.
S. 5165. George H. Erskine.
S. 5224. Helen M. Winchester.
S. 5269. John S. Bell.
S. 5373. John M. Mishler.
S. 5386. Bersheba Wood Logan.
S. 5482. John Collier.
S. 5486. Elizabeth C. Miller.
S. 5493. Francis M. Stults.
S. 5505. Josephine C. Sumner.
S. 5508. Martha G. Lee.
S. 5521. Maggie Daugherty.
S. 5528. John C. Hotchkiss.
S. 5531. Lurancy E. Rice.
S. 5545. Lizzie U. Ricker.
S. 5546. John L. Shields.
S. 5547. Anna B. Davis.
S. 5556. Simon W. Morgan.
S. 5565. Frances E. Porter.
S. 5568. Lorena M. Long.
S. 5569. Charles F. Roberts.
S. 5576. Florence B. Plate.
S. 5581. George L. Johnson.
S. 5582. Joanna A. Bevans.
S. 5587. Elizabeth A. Jones.
S. 5594. George M. Swango.
S. 5598. Christian C. Fleck.
S. 5609. Sarah J. Tillinghast.
S. 5611. Benjamin F. Neddo.
S. 5613. James D. Brooks.
S. 5620. Henry Goodwin.
S. 5623. Francis M. Drum.
S. 5624. Zachary S. Walker.
S. 5625. Matilda A. Cowgill.
S. 5626. Marquis L. Walts.
S. 5627. Moses P. Roberts.
S. 5628. Celia A. Davis.
S. 5633. Margaret A. Pepper.
S. 5639. Rhoda L. Goreham.
S. 5640. Miles G. Lee.
S. 5648. James Ohaver.
S. 5649. Theodore S. Payton.
S. 5651. Byron A. Hart.
S. 5653. William H. Sisson.
S. 5654. Eugene A. Rix.
S. 5655. Teney Stanton.
S. 5656. William Calkins.
S. 5660. James E. S. Pray.
S. 5676. William H. Sperry.
S. 5686. Nancy Matsel.
S. 5687. George Willis.
S. 5688. Eliza L. Johnsonbaugh.
S. 5690. Charles Brink.
S. 5691. George W. Sullivan.
S. 5699. Blanche L. Kuykendall.
S. 5702. William H. Rich.
S. 5708. Amelia Dingler.
S. 5716. Frank Snurpus.
S. 5717. Max Pracht, alias Maxwell Pratt.
S. 5719. Cary Otis.
S. 5723. Frederick D. Bailey.
S. 5727. Arthur E. Strimple.
S. 5728. Joseph S. Pray.
S. 5729. William Gehlbach.
S. 5730. Julia E. Robinson.
S. 5733. Thomas W. Eckert.
S. 5737. Samuel A. Leazer.
S. 5743. George W. Evans.
S. 5744. Jacob M. Stark.
S. 5745. Jennie C. Potter.
S. 5747. Margaretta B. Sayre.
S. 5804. Curtis B. Small.

SALARIES OF CAPITOL POLICE.

Mr. MARTIN of Virginia. From the Committee on Appropriations I report a joint resolution and ask for its immediate consideration.

The joint resolution (S. J. Res. 159) authorizing and directing the transfer of a certain unexpended balance in appropriations for salaries of Capitol police was read the first time by its title and the second time at length, as follows:

Resolved, etc., That the Secretary of the Treasury be, and he hereby is, authorized and directed to transfer any unexpended balance of the appropriation for "Salaries, Capitol police, House of Representatives," for the fiscal year 1914 remaining to the credit of the Clerk of the House of Representatives, to the Secretary of the Senate of the United States, and to be disbursed by him in payment of salaries of Capitol police.

The VICE PRESIDENT. The Senator from Virginia asks unanimous consent for the present consideration of the joint resolution. Is there objection?

There being no objection, the joint resolution was considered as in Committee of the Whole.

The joint resolution was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

STEAM LAUNCH "LOUISE."

Mr. ROOT. By direction of the Committee on Foreign Relations I report back favorably the bill (S. 5739) to present the steam launch *Louise*, now employed in the construction of the Panama Canal, to the French Government, and I submit a report (No. 591) thereon. I ask unanimous consent for the present consideration of the bill. When it has been read I will state the reasons for its passage.

The VICE PRESIDENT. The bill will be read.

The Secretary read the bill, as follows:

Be it enacted, etc., That, as a mark of appreciation of the sacrifices and services of the French people in the construction of the Panama Canal, the steam launch *Louise*, built in France in 1885, and employed

in the construction of the canal successively by the French Panama Canal Co. and by the United States, be put in good condition and presented to the French Government; and that, in the first formal or ceremonial opening or passage of the canal, the place of honor be accorded to the said steam launch, bearing the flag of the French Republic.

SEC. 2. That the sum of $6,000 is hereby appropriated, out of any money in the Treasury not otherwise appropriated, to pay the expense of executing this act, to be disbursed by the governor of the Canal Zone.

Mr. ROOT. Mr. President, the Secretary of War, the Secretary of State, the governor of the Canal Zone, and the French Government have all been consulted and expressed their entire approval of this act of courtesy, and the Committee on Foreign Relations reports the bill unanimously.

Mr. NORRIS. Mr. President, I wish to say that I am in hearty accord with the bill. I think it is very appropriate; but I notice one clause which provides that when this ship passes through in the place of honor when the canal is opened it shall bear the flag of the French Government. I have no objection. I will say, to its bearing the flag of the French Government; I think that also is very appropriate; but it seems to me there might possibly be a construction put upon it that no other flag should be borne. I wish to ask the Senator from New York if the expectation is that the American flag will not also be borne on the vessel?

Mr. ROOT. Certainly not. Each vessel sails under its own flag.

Mr. NORRIS. I should like to inquire of the Senator if he thinks it would be inappropriate for the flag of the French Government and also the flag of our Government to be unfurled on that ship?

Mr. ROOT. I think we can leave that to the French Government. I would not make conditions in doing an act of courtesy.

Mr. NORRIS. I would not make any condition; but when this vessel is going through, if that is to be the only flag on board, it does not seem to me to be quite proper. I want to accord to France all the honor—and a great deal is due her—on the occasion, and I think it very appropriate; I am very glad the committee have reported the bill to present this vessel to the French Government; but we ought not to belittle our own work in the Panama Canal, and the first vessel that goes through ought to bear the American flag as well as the French flag.

Mr. O'GORMAN. Mr. President——

The VICE PRESIDENT. Does the Senator from New York yield to his colleague?

Mr. ROOT. Certainly.

Mr. O'GORMAN. No more gracious compliment could be paid to the French Republic than to do what is proposed by the bill reported by my colleague. If this French vessel is accorded this honor, it should properly fly the flag of her own country. Whatever else may be done in giving place to our flag may be left to the courtesy of the French Nation. As my colleague suggests, it surely should not be imposed as a condition.

It is not necessary, in view of what was said by the Senator from Nebraska, to recite the reasons which prompt this act of courtesy on our part. The French made great sacrifices of men and treasure in the early days of the construction of the Panama Canal. In times past our flags have been united at critical stages in our national history. We need no assurance even by the commingling and unity of flags that a warm and cordial sentiment of fraternal affection exists between the two Republics. We can never forget the ancient friendship which led the French Nation to come to our rescue in the Revolution when we had no other friend in all the wide world.

I trust my friend, the distinguished Senator from Nebraska, who seems to appreciate this legislation as highly as any other Member of the Senate, will not insist upon modifying or altering the bill which has had the careful consideration of the Committee on Foreign Relations, and which is reported here with the unanimous recommendation of that committee.

Mr. NORRIS. I do not want any intimation to be made here that I am in any way opposed to the bill. I do not want anyone to gather from what the Senator from New York has said that I am opposed to any provision contained in it. On the other hand, I am most heartily in accord with it. I feel like congratulating the Committee on Foreign Relations for bringing in the bill.

The French people have made great sacrifices and this action is very appropriate, it seems to me; but I understood the senior Senator from New York to say in answer to my inquiry that it was the intention that there should be no other flag borne on the vessel.

While I am admitting the sacrifices made by the French Government in the construction of the canal and also the long friendship which has existed between our Government and France, and remembering also the assistance that we received from that Government in early days when we were sadly in need of it, and I do not want anyone to get the idea that I would put anything in the way of paying any tribute of honor and respect to the French Government; but at the same time I would not want to belittle our own Government or forget that we have made great sacrifices, and that after all the crowning glory of the Panama Canal is as much ours as that of any other people in the world. It seems to me it would be very appropriate that the French flag should be unfurled on this vessel when it is leading the procession of honor through the Panama Canal, but I would be sadly disappointed, and I believe the American citizens would, if our flag should be excluded.

Mr. WARREN. Mr. President, I appreciate fully the patriotic sentiment of my friend the Senator from Nebraska, but it seems to me that the situation is about like this: The French vessel goes through under the French flag, surrounded or followed by our ships under our flag. It is very much the same as if we were to entertain for the time being officers of the Army or Navy of another nation. We would hardly want to ask them to put on the shoulder straps and the insignia of our Army or Navy; they would be our guests and with their own decorations.

Of course I could not with the love I entertain for the United States flag, to which I have owed allegiance for many long years, see it in any way belittled, but I think in this case it would be enlarged in an act of courtesy, and generous courtesy, and it would be entirely in place to have the vessel itself carry the French flag. If those in charge of the vessel wish to also add the United States flag, all right, but we shall have our insignia there on the accompanying vessels of this country. Our vessels will float our flag.

It is true the French commenced this work and we have finished it, and the one French flag will be added to a number of those of the United States.

Mr. WORKS. Mr. President, I would suppose as the result of the passage of this bill and its execution that this vessel will have become the property of the French Republic when it passes through the canal. It seems to me it would be rather an indelicate thing for us to ask the French Government to carry our flag upon its vessels. I think, as the Senator from New York has suggested, that we might very well leave that question to the French Republic itself.

The VICE PRESIDENT. Is there objection to the prseent consideration of the bill?

There being no objection, the bill was considered as in Committee of the Whole.

Mr. BRADY. Mr. President, the Senator from Nebraska [Mr. NORRIS] said that we will extend every courtesy to the Government of France, which we are doing out of the goodness of our hearts, and I think it is only meet and proper that we should leave it to the good judgment of the French Government to return the courtesy. I do not think there is any question when the time comes that the French Government will even try to outdo us in honor to our Nation. So I think there is no reason why the matter should be mentioned in the bill.

Mr. JONES. Mr. President, I am heartily in favor of the bill, but I think we ought to have a quorum when it is considered, especially when we are meeting at 11 o'clock. I suggest the absence of a quorum.

The VICE PRESIDENT. The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Bankhead	Johnson	Page	Smoot
Borah	Jones	Perkins	Sterling
Brady	Kenyon	Poindexter	Sutherland
Bristow	Kern	Root	Swanson
Bryan	Lane	Shafroth	Thomas
Burleigh	Lea, Tenn.	Sheppard	Tillman
Burton	McCumber	Sherman	Townsend
Culberson	Martin, Va.	Shields	Vardaman
Dillingham	Martine, N. J.	Shively	Warren
Fletcher	Nelson	Simmons	West
Goff	Norris	Smith, Ga.	White
Gronna	O'Gorman	Smith, Md.	Williams
Hollis	Overman	Smith, S. C.	Works

Mr. LANE. I wish to announce that the senior Senator from Oregon [Mr. CHAMBERLAIN] is absent and that he is paired with the junior Senator from Pennsylvania [Mr. OLIVER].

Mr. TOWNSEND. I desire to announce that the senior Senator from Michigan [Mr. SMITH] is ill this morning.

Mr. BRANDEGEE. Mr. President, the members of the Committee on Interstate Commerce, which is now in session, have requested me to announce that they are engaged in consideration of public business, and hence have not appeared and answered to the roll call this morning.

The VICE PRESIDENT. Fifty-two Senators have answered to the roll call. There is a quorum present. The bill is before

the Senate, as in Committee of the Whole, and open to amendment.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

CRIMINAL PROCEDURE IN ENGLAND (S. DOC. NO. 495).

Mr. FLETCHER. On the 27th ultimo the Senator from Oklahoma [Mr. GORE] presented a pamphlet on Criminal Procedure in England, and it was referred to the Committee on Printing for action. I am directed by that committee to report a resolution, for which I ask present consideration.

There being no objection, the resolution (S. Res. 389) was read, considered by unanimous consent, and agreed to, as follows:

Resolved, That the pamphlet submitted by Mr. GORE on May 27, 1914, entitled "Criminal Procedure in England," a report of a special committee of the American Institute of Criminal Law and Criminology, be printed as a Senate document.

CONVICT-LABOR LAWS (S. DOC. NO. 494).

Mr. FLETCHER. On the 22d ultimo a communication was received by the Senate from the Secretary of Labor, transmitting, in response to a resolution of November 10, 1913, a compilation of all Federal and State laws relating to convict labor, and it was referred to the Committee on Printing for action. I am directed by that committee to report a resolution, for which I ask present consideration.

There being no objection, the resolution (S. Res. 390) was read, considered by unanimous consent, and agreed to, as follows:

Resolved, That the communication transmitted to the Senate on May 22, 1914, by the Secretary of Labor, in response to a resolution of November 10, 1913, the same being a compilation of all Federal and State laws relating to convict labor, be printed as a Senate document.

CREEK EQUALIZATION FUND (S. DOC. NO. 492).

Mr. FLETCHER. On yesterday the Senator from Oklahoma [Mr. GORE] presented certain manuscript relating to the equalization of Creek allotments and it was referred to the Committee on Printing for action. I am directed by that committee to report a resolution, for which I ask present consideration.

There being no objection, the resolution (S. Res. 391) was read, considered by unanimous consent, and agreed to, as follows:

Resolved, That the manuscript submitted by Mr. GORE on June 11, 1914, entitled "Equalizing Creek allotments," by R. C. Allen, national attorney for the Creek Nation, be printed as a Senate document.

RATES ON SUGAR (S. DOC. NO. 493).

Mr. SMOOT. On the 28th ultimo the chairman of the Interstate Commerce Commission transmitted to the Senate, in response to a resolution of May 26, 1914, a copy of the transcript of testimony taken before the commission with respect to rates on sugar, and it was referred to the Committee on Printing for action. I am directed by that committee to report a resolution, for which I ask present consideration.

There being no objection, the resolution (S. Res. 392) was read, considered by unanimous consent, and agreed to, as follows:

Resolved, That the communication transmitted to the Senate on May 28, 1914, by the Interstate Commerce Commission in response to a resolution of May 26, 1914, the same being a transcript of certain testimony taken before said commission with respect to rates on sugar, be printed as a Senate document.

DONIPHAN'S EXPEDITION.

Mr. CHILTON. On the 26th ultimo the Senator from Missouri [Mr. STONE] presented to the Senate an article giving an account of the celebrated expedition led by Gen. Doniphan from Missouri into New Mexico and on to Chihuahua, Old Mexico, and other points during the Mexican War, and it was referred to the Committee on Printing for action. I am directed by that committee to report a resolution (S. Res. 393), which I ask may be placed on the calendar.

The VICE PRESIDENT. The resolution will be placed on the calendar.

BILLS INTRODUCED.

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. WARREN:

A bill (S. 5811) to provide for the issuing of commissions to officers of the First, Second, and Third Regiments, United States Volunteer Cavalry, commanded, respectively, by Col. Leonard Wood, Col. Jay L. Torrey, and Col. M. Grigsby during the Spanish-American War; and

A bill (S. 5812) to provide for reenlisting the members of the Second United States Volunteer Cavalry, commanded by Col. Jay L. Torrey during the War with Spain, and for the appointment of the officers thereof; to the Committee on Military Affairs.

By Mr. McCUMBER:

A bill (S. 5813) granting an increase of pension to Jennie A. Tall (with accompanying papers); to the Committee on Pensions.

By Mr. BRISTOW:

A bill (S. 5814) to extend the benefits of the act of June 27, 1890, as amended by the act of May 9, 1900, granting pensions to soldiers and sailors who served in the military or naval forces of the United States, their widows, minor children, and dependent parents, and the act of May 11, 1912, granting pensions to certain enlisted men, soldiers and officers, who served in the Civil War and the War with Mexico;

A bill (S. 5815) granting a pension to Isaac Adams (with accompanying papers);

A bill (S. 5816) granting a pension to William H. Adams (with accompanying papers);

A bill (S. 5817) granting an increase of pension to James K. Clear (with accompanying papers);

A bill (S. 5818) granting a pension to William H. Hayes (with accompanying papers);

A bill (S. 5819) granting a pension to John R. Martin (with accompanying papers); and

A bill (S. 5820) granting an increase of pension to Robert G. Calhoun (with accompanying papers); to the Committee on Pensions.

By Mr. THOMPSON:

A bill (S. 5821) granting an increase of pension to Benjamin F. Bourne (with accompanying papers); and

A bill (S. 5822) granting an increase of pension to Robert S. Clark (with accompanying papers); to the Committee on Pensions.

By Mr. BANKHEAD:

A bill (S. 5823) to amend the postal and civil-service laws, and for other purposes; to the Committee on Post Offices and Post Roads.

By Mr. OVERMAN:

A bill (S. 5824) authorizing the Secretary of War to donate two condemned bronze or brass cannon or fieldpieces and a suitable outfit of cannon balls to the city of Kings Mountain, N. C.; to the Committee on Military Affairs.

A bill (S. 5825) for erecting a suitable memorial to Sir Walter Raleigh; to the Committee on the Library.

By Mr. BORAH:

A bill (S. 5826) to prevent the use of the stop watch or other time-measuring device on Government work and the payment of premium or bonus to Government employees, and for other purposes; to the Committee on Education and Labor.

(By request.) A bill (S. 5827) to open for immediate homestead entry all remaining Government lands within the former Flathead Indian Reservation in the State of Montana, opened to settlement under act of Congress of April 23, 1904; to the Committee on Public Lands.

A bill (S. 5828) granting a pension to Lucy Carey (with accompanying papers); to the Committee on Pensions.

By Mr. MARTINE of New Jersey:

A bill (S. 5829) granting a pension to Albert A. Lance (with accompanying papers); to the Committee on Pensions.

By Mr. WORKS:

A bill (S. 5830) authorizing a preliminary survey of the Mohave River watershed, and for other purposes; to the Committee on Irrigation and Reclamation of Arid Lands.

By Mr. POINDEXTER:

A bill (S. 5831) granting a pension to Frances Terry; to the Committee on Pensions.

By Mr. SHAFROTH:

A bill (S. 5832) granting an increase of pension to Bettie Dodge; to the Committee on Pensions.

By Mr. LEA of Tennessee:

A bill (S. 5833) to enjoin and abate houses of lewdness, assignation, and prostitution; to declare the same to be nuisances; to enjoin the person or persons who conduct or maintain the same, and the owner or agent of any building used for such purposes; and to assess a tax against the person maintaining said nuisance and against the building and owner thereof in the Territory of Hawaii; to the Committee on Pacific Islands and Porto Rico.

A bill (S. 5834) for the purpose of maintaining efficient postal service in rural and star-route delivery, and for other purposes; and

A bill (S. 5835) to relieve mail carriers in the Rural Delivery Service of the Post Office Department carrying separate mail bags or pouches for other carriers in the Rural Delivery Serv-

ice or for star-route carriers; to the Committee on Post Offices and Post Roads.

A bill (S. 5836) for the relief of the estate of William H. Fuqua, deceased;

A bill (S. 5837) for the relief of the heirs of Cynthia Millikan; and

A bill (S. 5838) for the relief of L. W. Culbreath; to the Committee on Claims.

A bill (S. 5839) granting an increase of pension to Louis M. Starring;

A bill (S. 5840) granting a pension to William H. Hart;

A bill (S. 5841) granting a pension to Henry Garfield Clemons; and

A bill (S. 5842) granting a pension to Tide Owens; to the Committee on Pensions.

By Mr. VARDAMAN:

A bill (S. 5844) reinstating Edgar N. Coffey to his former rank and grade in the United States Army; to the Committee on Military Affairs.

AMENDMENTS TO APPROPRIATION BILLS.

Mr. SMOOT submitted an amendment authorizing the Government exhibit board to determine the nature, character, and extent of the exhibits of the United States Government to be made at the Panama Pacific International Exposition, etc., intended to be proposed by him to the sundry civil appropriation bill, which was referred to the Committee on Appropriations and ordered to be printed.

Mr. SWANSON submitted an amendment proposing to appropriate $12,000 for the purchase by the Public Printer from the publisher of 100,000 copies of McBride's Copyright History of the Federal Elections, etc., intended to be proposed by him to the sundry civil appropriation bill, which was referred to the Committee on Printing and ordered to be printed.

Mr. POINDEXTER submitted an amendment intended to be proposed by him to the river and harbor appropriation bill, which was referred to the Committee on Commerce and ordered to be printed.

He also submitted an amendment proposing to appropriate $5,000 for the preparation of designs and estimates for the National Archives Building, Washington, D. C., etc., intended to be proposed by him to the sundry civil appropriation bill, which was referred to the Committee on Appropriations and ordered to be printed.

Mr. LEA of Tennessee submitted an amendment proposing to appropriate $50,000 to reimburse the National Conservation Exposition Co., of Knoxville, Tenn., for expenses incurred in transporting, installing, and maintaining, and other circumstances incidentally and connected with the Government exhibit at the National Conservation Exposition during the fall of 1913, etc., intended to be proposed by him to the sundry civil appropriation bill, which was referred to the Committee on Appropriations and ordered to be printed.

He also submitted an amendment proposing to appropriate $2,500 to remove the fence and wall around the Botanic Gardens, etc., intended to be proposed by him to the sundry civil appropriation bill, which was referred to the Committee on Appropriations and ordered to be printed.

DONATION OF CANNON.

Mr. THOMPSON submitted an amendment intended to be proposed by him to the bill (S. 5495) authorizing the Secretary of War to make certain donations of condemned cannon and cannon balls, which was ordered to lie on the table and be printed.

RADIUM-BEARING ORES.

Mr. BORAH submitted an amendment intended to be proposed by him to the bill (S. 4405) to provide for and encourage the prospecting, mining, and treatment of radium-bearing ores in lands belonging to the United States, for the purpose of securing an adequate supply of radium for Government and other hospitals in the United States, and for other purposes, which was ordered to lie on the table and be printed.

WITHDRAWAL OF PAPERS—FREDERICK MARSHALL.

On motion of Mr. WORKS, it was

Ordered, That the papers in the case of Frederick Marshall, S. 495, Sixty-third Congress, be withdrawn from the files of the Senate, no adverse report having been made thereon.

ADDRESS BY SENATOR CLAPP (S. DOC. NO. 491).

Mr. KENYON. I have a copy of an address delivered by the Senator from Minnesota [Mr. CLAPP] at Gettysburg, Pa., on the 30th of May last. I ask that the address may be printed in the RECORD and also as a Senate document.

There being no objection, the address was ordered to be printed as a Senate document and also to be printed in the RECORD, as follows:

"MEMORIAL DAY ADDRESS.

"ADDRESS DELIVERED BY HON. MOSES E. CLAPP AT GETTYSBURG, PA., MAY 30, 1914.

"Making due allowance for the manifest exaggeration of ancient history, the Civil War was without doubt the most gigantic struggle the world has ever witnessed. Viewed in the light of its relation to history, it stands without a parallel. Christianity brought into the current of human activities a force which, in the chain of sequence, was destined to sooner or later lead man to the goal of free government. But whether when this goal was reached there would be found in the association thus developed, in a case where the element of fear of a common enemy was wanting, that cohesive force necessary to resist the claim of the right of withdrawal from the association, when such claim was made by a large body of its citizens, was perhaps too problematical to class the result of the test as a link in the chain of historic sequence. That test was the fundamental involved in the Civil War, and in the light of that fact it may well be said that Gettysburg beyond question was the most important battle in the annals of warfare. It was the turning point in a struggle which in turn was the turning point in the life of a nation, and that nation undoubtedly is in turn destined to be the instrumentality through which, next to the transition from paganism to Christianity, the greatest transition in human history is to be accomplished, namely, the transfer of human energy involved in the transition from war to peace.

"For centuries war was the rule and peace the exception; wars waged in part to maintain the power of sovereignty, but more often waged in the spirit of conquest to add to its dominion. During those centuries that impersonal spirit which sought to dominate humanity for its own aggrandizement utilized the human force upon the field of battle, and as man approached the point where war was destined to be the exception and peace the rule this human energy which had been exploited in war naturally turned to the more peaceful field of industrial activities. But the spirit which had exploited mankind through the centuries in war did not itself cease to exist as peace came to be the rule and war the exception. We find it to-day seeking to establish in the activities of industrial life that dominion which it finally lost upon the battle field, and if this Republic has any mission in history more than to give to the world something of the radiated spirit of free government that mission is to meet this new condition and develop that industrial justice which must some day be the logical sequence of the political justice established by those who have gone before us, for somewhere and at some time it will be the mission of free government—that is, democracy—to develop industrial justice, for industrial justice is the natural sequence of political justice. Whether that result in the ultimate is the mission of this Republic time alone will tell, but that we have entered the initial stage of the struggle looking to that end is plain to anyone who studies the relation of cause and effect developed through the force of natural law related to human activities.

"The spirit of power and dominion which for so many centuries made the battle field the outlet for human energy and the graveyard of humanity, while its goal was political power, now, in its newer struggle, it makes the power of inordinate wealth its goal, and the unjust acquisition and unfair use of such wealth the instrumentalities of the struggle by which to reach the goal of its ambition.

"No nation can work 'out a great career without wealth. Wealth is essential to a nation's development. While this is true, it is equally true that the unjust acquisition of wealth and its unjust use constitute the real menace to the spirit of free institutions. In other words, as with most things, it depends upon whether it is made to serve common welfare or permitted to play the rôle of master.

"We can not too strongly emphasize the difference between wealth on the one hand and its improper acquisition and improper use on the other. One is the ally as well as the natural product of the development of free government, the other its deadliest foe; and the failure to emphasize this difference has led to much confusion and brought much unjust criticism upon those who have raised a warning voice but failed to make clear this difference—the difference between real service on the one hand and unjust dominion upon the other. The improper acquisition and improper use of wealth in some form lies behind every assault upon a people's welfare, whether that welfare is considered from the viewpoint of the material, moral, or political; and, in fact, in free government the material, moral, and political welfare of a people are so interwoven that

they may well be grouped under the general designation of 'welfare.'

"Under the old order of things the overlord, amid pomp and ceremony, received the tribute of his vassals, while the petit baron accomplished the same unjust result by descending upon the unwary traveler, the difference in the unjust imposition being rather in the pomp accompanying it than in the nature of the robbery itself. And so to-day, the difference between the man who has fattened upon special privilege and, so far as the unfair taking is concerned, has violated a moral if not a civil law, and who now uses the fruits of that violation to poison the source of information, to dwarf and divert the spirit emanating from institutions of learning, and to silence and appease the outraged sentiment by the gloved hand that conceals a curse but seeks to show forth in the form of a supposed benefaction, and the man of the underworld who thrives upon vice and with his ill-gotten gains pollutes, locally and at its source, the political activities which surround him, is largely the difference between the overlord and the petit baron of other days.

"This sinister force menaces free government at every point, and, like a beleaguering army, sends forth its sappers and miners to prepare the way for the assaulting columns. In the old struggle the weapons were the battle-ax and spear, and later the cannon and musket, the scaffold and dungeon; while in this new struggle are the glitter and glamour of wealth; its supposed power to withhold or bestow benefactions; its dwarfing of courage and enslavement of mind. Already we have in this country too many who feel that the few should sit around the banquet board heaped so high that some crumbs must fall, and the gathering of those crumbs be regarded as a privilege bestowed upon the masses. There are too many who, in fear and trembling, accept the crumbs, forgetful of the fact that wealth is the product of the activities of all, although its gathering may be the activities of the few; and that the activities of all, being the real source of the combined wealth of the country, to prevent an inequitable and unjust assembling and unjust use of wealth in the hands of the few, is the real problem, or, to paraphrase the expression of Lincoln, the real struggle of the ages is between those who create and those who assimilate.

"The so-called 'captain of industry' who unites existing activities and capitalizes the statutes, or who unites credit in the development of new activities, does not create wealth; that is created by the activities of all. Every overcapitalization, every combination, finds its stock-market value not alone in the wealth created or contributed by those who organize it, not alone in increased efficiency—for the crushing of competition and establishment of monopoly does not develop efficiency—but in their power to collect and the capacity of the people to pay the tolls it expects to impose upon the people for the privilege of using their own highway, the highway of industrial progress. We have too many who are forgetful of the fact that the mailed hand that shows forth its purpose is far less dangerous than the gloved hand which destroys while it conceals its purpose. And yet there is a bright side to this picture, for more and more the American people are awakening to a realization of their situation. More and more they fear that intellectual slavery which is designed to be and is the natural result of pretended benefactions which come not in the form of restitution but for the undoubted purpose of stifling sentiment, dwarfing and diverting judgment, and enslaving mentality. More and more the American people say: If we have not schools, libraries, and hospitals enough, it is better that we build them ourselves, that they may be ours; that in the sacrifice which their building and maintenance involves we may quicken the spirit of sacrifice and deepen the appreciation of its fruits, recognizing the spirit of gratitude to that composite citizenship, ever ready and willing to bear the burdens of a complex civilization, rather than in the building and maintenance by the individual we may see the loss of independence of spirit and a perverted sense of gratitude.

"Schools, libraries, and hospitals, when built by the people, are the visible marks of development, and the sacrifice involved serves as an inspiration; but when built by the individual they are the visible demonstration of the taking in excess of a fair equation, and afford just ground for suspicion, especially when made by those who seek to thwart and evade the progressive spirit that lies behind governmental control, or resisting the efforts of justice to enforce that spirit, that the pretended benefaction is but an ill-concealed effort to appease a just sense of resentment and to stifle that spirit which should control its activities, and if not to redistribute, at least to prevent in the future the taking of the excess. More and more the American people are awakening to the concept of the thought in their relation to this spirit that first unfairly takes and then unjustly uses, and to say to it, 'We do not want yours; we want ours.'

"The lesson of Gettysburg proves that a nation can survive civil strife, for standing here to-day we may see in shadowy squadrons the living hosts that met in battle here. We can see men marching down into the valley of death with a dauntless courage that makes mockery of fear; again we hear the moan of the dying, the shout of the living. We can hear again the sob of the widow and orphan, but we can not forget that back of that battling host there was a spirit of patriotism that subordinated self to the sense of service. While we all will agree to-day that upon one side there was a mistaken judgment, none will question but that both hosts were prompted by a spirit of unselfish sacrifice, and in the mourning homes of that day, North and South, the dark pall of grief that shadowed the heart of motherhood, widowhood, and childhood was pierced by one illuminating ray—the thought that the sacrifice was for humanity.

"Nations can survive the clash of arms where achievement leaves such a legacy of patriotic inspiration, but no nation can long survive such scenes as at Ludlow, where inordinate greed and desire for unlimited power subordinates everything to its purpose, and the struggle leaves, not a legacy of patriotic inspiration, but rather one of malignant hate and undying resentment.

"The spectacle of the great strike at Homestead a few years ago is a picture every American would gladly blot from the pages of our country's history; but the wreck and havoc then wrought by the hand of lawless force, deplorable as it was, is dwarfed almost beyond the reach of vision when compared with the wreckage of American independence of thought since wrought, through intellectual enslavement, by the use of the millions which a deluded public paid as a tribute to false sentiment of industrial supremacy, and the millions added through the questionable process of the capitalization of a commercial greed which, in the main, could only in the end be realized upon by the destruction of competition and establishment of monopoly.

"We have no apology for lawless force, although it must be borne in mind that every protest is related somewhere to the parent of protests, oppression. While lawless force should be deprecated, it is no such menace to the spirit of free government as lawless wealth, for lawless force weakens itself in the very opposition which it develops among the people, while with lawless wealth it is a part of its purpose, the logic of its use, that it destroy opposition by controlling activities, by diverting judgment and enslaving mentality. It is not the mailed hand but the gloved hand that in all ages has retarded human progress and is to-day the real menace to free government.

"It will not do for us as a people to content ourselves with the thought that the sole mission of this Republic is to see itself reflected in a rapidly developing republican spirit throughout the world. We may well rejoice that such has been the result of the establishment of this Republic, and every American may well feel a thrill of pride as he contemplates a world-wide tendency to a transition from monarchy to republic. But we can not develop, nor even preserve, the spirit of our own institutions by simply basking in the sunlight of a reflected effulgence, even though it may be traced to the influence radiating from the Republic which we have established.

"No nation ever fell before external forces until first weakened by internal forces. In all ages a favorite instrument in the hands of that power which enslaved and oppressed was the dazzling picture of foreign conquest, ever so effectively employed to deaden the sensibilities of a people to the wrong and oppression visited upon them. Proud of our influence in the world-wide sphere of thought, purpose, and development, as we have a right to be, let us not make the mistake of those who have gone before, but realize that our mission in the world and our duty to the world, broad, grand, and splendid as it may be, is secondary to our mission in the development of a true democracy at home and a duty to ourselves in preserving our institutions from that same foe to which can be traced the wreck and ruin of empire in the past. So, too, of our boasted world-wide industrial triumph. It may appeal to our pride to be told that the products of our industrial activity are to be found everywhere, indicating the early coming of a world-wide industrial supremacy, but such pride must not blind us to the deplorable condition prevailing at the great centers of industry, and must not blind us to the fact of the awful toll of life, misery, and human decadence such supremacy exacts. We can not still the voice of protest nor conceal the wreckage of humanity in the reflection only of a world-wide industrial supremacy.

"The first and all-important industrial triumph which we should achieve is the triumph of industrial justice at home, and in contemplating the reflected glory born of our republican

institutions we must not allow the sense of our mission to the world to blind us to a sense of our duty to America.

"In our struggle against this power, it will not do to yield to the very instrument which is used so effectively in its resistance to the growth of political rights. Chief among these was the force of tradition. At every step of human progress there has been a spirit of Toryism which appealed to the sanctity of the past. That same appeal is made to-day, the sacredness of tradition, and that, too, in spite of the patent fact that every step of human progress has been, and is, either the abandonment or the condemnation of that which went before. Another favorite instrument in the hands of wrong ever has been and is to-day an exhortation to revere what is held up as a false concept of law, because in proportion as man can be made to feel that there is some vague abstraction which is responsible for the burdens which he bears, he is, in a measure, reconciled to the burden, because he is unable to trace it to its real author.

"Of course, there are some rules of civil conduct so long established, so plain of purpose, relating to the intercourse of man with man, as to require no interpretation and have come to be recognized as fixed rules of conduct, but in that sphere of activities where the rights of a people are concerned; in that struggle to prevent the unjust acquisition through the unjust imposition of burdens upon all; in that struggle to establish a real democracy, political and industrial; in that eternal struggle between the past and present, involving as it does growth of power in government to meet the spirit which would subordinate government to the interests of the few; to assume that we have inherited an infallible abstraction known as the 'law,' is illogical. In the sense of such an abstraction, as a fixed law, governing the ever new and varied phases of the struggle, there can be no such thing as 'government by law.' Law for to-day may or may not be law for to-morrow. From the very nature of things, in this sense, government must be government by man, for in the sense that there is somewhere a force, an abstraction called 'law,' disassociated from man acting in the twilight zone of discretion, in the making and administration of rules, there never was and never will be such a thing as 'government by law.'

"From the moment when a legislative policy is a mere shadowy, undeveloped concept in the brain of some man until that policy has been wrought into legislation, and again worked out through judicial construction, and again through the activities of administrative function to the point where some one standing before the bar of justice is directed to go hence acquit or receives a sentence imposing a penalty, at every step it is the result of some man's decision, largely free to adopt one course or the other, and acting all the time within that twilight zone of discretion wherein at one extreme a court may solemnly read into a statute words which a legislature has just as solemnly refused to put in the statute to the other extreme where a mere bailiff can harden or soften the personal comfort of the individual committed to his care under sentence of the court.

"We must, therefore, realize that where there is a wrong, where there is an injustice, there is a human, not an abstract responsibility for such wrong or injustice. There is no slavery so abject as the slavery of fetichism, the blind worship of an abstraction. It was an abstraction, the claim of monarchy, of the divine right to rule, that so long held the human mind fettered and enslaved; and it was only as man began to unmask this fetich of royalty and saw the human, saw that there was nothing but a human exercising the power of wrong and oppression, that he grasped the broad concept of the relation of man to man and caught the vision of that equation of human rights which substitutes justice in behalf of all for the prestige of an abstraction, which has always been the weapon of the few. So we can not emphasize too strongly in this struggle the necessity for looking back and behind every wrong to discover the human force that is responsible for that wrong.

"We must, of course, have due regard for law and ever seek to cure its miscarriage through orderly methods; still, we must recognize that the principle of justice is the only abstraction to reverence, and for every wrong committed and every unjust burden imposed we must trace it to the human agency that is responsible for it, because it is only in proportion as we disillusionize the abstraction and see the human behind the injustice and wrong that we awaken to the sense of the imposition and seek a remedy for its abatement. Law there is and must be, but it is that law worked out through the will and purpose of fallible man acting, in the main, as a self-determining agent, and for a reverence for an abstraction we should substitute a reverence for the principle of justice, which, in turn, should be the guiding spirit of those intrusted, for the time being, with the making and enforcement of the rules of civil conduct, realizing that in free government man is the instrument through which we seek to place, against the injustice of the few, that broad spirit of justice that can only spring from an equally broad equation of humanity.

"Although, perhaps, not strictly germane to this argument, we should remember, on the other hand, that every benefaction which comes from what we call 'government' comes from that broad equation of humanity of which government is the visible evidence of the association, and that every material benefit involving appropriations must first come from the taxpayers themselves—the people—and a just appreciation of this fact would lessen an ofttimes thoughtless demand upon the resources of government, thoughtless because we fail to realize that every dollar expended must first be garnered from the taxpayers.

"Another instrument, or, rather, slogan, of the old struggle was the inhuman cry, 'The survival of the fittest.' This cry we still hear echoed to-day; but we must remember it is the law of the brute world and had its place where everything was subordinated to inordinate greed of power, and man was but the plaything of that brutal spirit personified by such power. The very fundamental of democracy is the right of all to exist. If all are to reap the benefits of the human association called 'government;' all must participate in the making and administration of its policies. If we are to lift ourselves above the level of animal life, if we are to recognize that one man has a right which another man must respect, we must abandon the cry which is the keynote of mere brute existence, 'The survival of the fittest.' It has no place in free government except so far as it relates to purely intellectual supremacy, and even in the sphere of intellectual supremacy we must sometimes protect the weak as against the strong. In the clash and conflict of thoughts and ideas, that which has been proved best by the only test this side of Divine judgment, the ripened verdict of a people, must triumph. Civilization can not adjust itself to a principle, when applied to the material world, to the right to the enjoyment of the comforts of life, an axiom that is the dominant law of brute life and found its only place in human activities while the brute instinct predominated.

"The remedy for industrial injustice must be found in the genesis of man's struggle for political justice. He first awakened to the thought that the glitter and glamour of royalty was unreal, and then to the thought that no man, no truly human being, was ever good enough to be the self-constituted guardian of the welfare of another; then to the thought which was the real mainspring of progress toward civil liberty, viz, that man was not made to be laid as a sacrifice on the altar of royal ambition; and then he grasped the thought that even the moat-protected parapet was powerless to stay God's eternal purpose of justice, wrought out through human sacrifice, and then it blossomed forth into free government in the realization that common welfare should be the goal of human association and that humanity, in the concrete, is able, under Divine guidance, to develop its own instrumentalities. And so in this new struggle to meet error we must uncover error. We must no longer be dazzled by the glamour of wealth; we must recognize that in this struggle it is man for man; we must recognize that no man is good enough to be permitted to constitute himself the guardian of public welfare; we must recognize that man was no more created to serve as a sacrifice to inordinate greed and unrestrained commercialism than he was created to serve as a sacrifice to royal pomp and ambition; we must recognize that buttressed wrong is to-day as powerless as granite parapet was in the past against the resistless purpose of a free people. For selfish greed we must substitute patriotism and then we will discover that man, in the concrete, is just as capable of establishing and maintaining industrial justice as he was in establishing and maintaining political justice; in other words, the establishment of real democracy.

"The opponents of democracy assert that for the evils of democracy we seek to apply more democracy. We should, however, distinguish between the evils of a system, if it has any, and those evils which are foreign to it, and find lodgment there only through the instrumentality of forces opposed to the system. The betrayal and perversion of democracy is not the test of democracy. There is a vast difference between democracy and hypocrisy, although the latter may seek to masquerade as democracy. Democracy means government by the people. Real democracy either contains within itself the elements of the solution of this problem or those who have laid down their lives in the effort to reach democracy have sacrificed in vain. We can not believe this sacrifice has been in vain, for back of the spirit of sacrifice planted in the breast of man there must have been a divine purpose to the fruition of which sacrifice was essential.

"Every great achievement has a dual existence. It lives related to those who achieved. It may also live related to

the great movements of humanity, but it has often happened in the past that the flower of a nation's manhood wrote into history some great achievement which, as their achievement, became immortal; but the fruit of the sacrifice was lost by those for whom it was made, and, aside from the achievement showing forth the valor and patriotism of those who wrought it, it has ceased to be of historic significance.

"Gettysburg, as related to those who burned its name into the page of history, will live forever. The achievement of those who, in their victory here, made Gettysburg the turning point in a struggle which involved a nation's life will remain immortal. That immortality you and your comrades, living and dead, secured. It is yours, sacredly yours, and no betrayal of this legacy which we have inherited can ever rob you of that crown of heroic valor, of unselfish patriotism, the luster of which will brighten as time goes on. No betrayal of the legacy which we have inherited can rob you of the immortality of your achievement. On the other hand, whether Gettysburg becomes immortal, as related to one of the greatest transitions in the history of the race, will depend upon whether the American Republic is destined to only serve as a medium from which man passed from monarchy to republic and from which mankind will project itself into a deeper and broader fruition of democracy; or whether this Republic, in itself, shall solve the problems born of the transition from the old to the new, and this depends upon us and those who are to follow. God grant that the American people, in preserving this legacy, may make Gettysburg as immortal in its relation to the story of humanity as those who battled here made it immortal in the annals of heroic achievement.

"For one I believe that the mission of our Republic is something more than to merely give to mankind as its contribution a world-wide extension of free government; that its real mission is deeper and broader than that, being the development of that real democracy that means industrial as well as political justice, and that our people will find the inspiration to this in recalling the achievements of yourselves and your departed comrades, for nowhere in history is there such inspiration. In all ages man has gone forth to battle, obedient to one of three conditions. He was inspired by the lust of conquest, or he went obedient to the conscript law, or the instinct of self-defense steeled his heart and strengthened his arm while he waged the warfare of defense. But in sixty-one there was no thought of conquest, you scarcely knew what the conscript law meant, and no instinct of self-defense born of imperiled fireside prompted you. But lifted to a plane where manhood had never stood before, you went forth to battle and to die that the spirit of free institutions might be preserved. As with the manhood of sixty-one, so with the womanhood of sixty-one. In all ages woman has cheered man when he has gone forth to battle; sometimes she has shared in the lust of conquest; again, she has yielded, with man, obedience to the conscription; and, again, she has shared with him in the instinct of defense, but the womanhood of sixty-one was lifted to a plane where womanhood had never stood before. There was no thought of conquest, scarcely a knowledge of conscript law, and no imperiled fireside; but the womanhood of sixty-one stood where she bade manhood go forth to battle and die for the spirit of free institutions. We must not forget that it is not man alone who sacrifices in war, for it detracts nothing from the meed of praise due you to say that you had the inspiration born of the comradeship of brave men, but the womanhood of sixty-one knew nothing of that. No waving banners, no martial music, no comradeship of brave men in camp and on battle line, but alone she kept her vigils and bore her burden as only woman can. Surely, inspired by the memory of the heroism and patriotism of that day, inspired by the mute eloquence of the graves of our heroic dead, the American people can not be recreant to that trust which your sacrifice committed to their care."

PENSIONS AND INCREASE OF PENSIONS.

The VICE PRESIDENT laid before the Senate the action of the House of Representatives disagreeing to the amendments of the Senate to the bill (H. R. 12045) granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent children of soldiers and sailors of said war, and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. SHIVELY. I move that the Senate insist upon its amendments, agree to the conference asked for by the House, the conferees on the part of the Senate to be appointed by the Chair.

The motion was agreed to; and the Vice President appointed Mr. SHIVELY, Mr. JOHNSON, and Mr. SMOOT conferees on the part of the Senate.

LABOR TROUBLES IN COLORADO.

The VICE PRESIDENT. The Chair lays before the Senate a joint resolution introduced on the 5th instant by the Senator from Oklahoma [Mr. OWEN], which the Secretary will read by title.

The SECRETARY. A joint resolution (S. J. Res. 158) providing for the appointment of a commission to settle the labor conditions in Colorado.

Mr. THOMAS. Mr. President, this joint resolution was introduced on the last legislative day, and at my request it was laid on the table under the rule. Its purpose is obvious and was evidently modeled after the procedure of President Roosevelt, who, it will be remembered, in 1901 appointed a commission, to which both of the contending sides in the anthracite coal strike of that year submitted their respective differences and which happily resulted in their adjustment, and I think there has been no serious disturbance in the locality affected by that controversy since that time.

Now, I hope—and I therefore shall not object to the reference of the joint resolution—that in the event of its passage its purpose will address itself to the good sense and the deliberate judgment of both sides to the unfortunate controversy which has made the State which I in part represent here so conspicuous during the last few months. Whether it will have such effect, of course, depends upon those in conflict in that State and upon a sound public opinion which should favor this or any other practical solution of the trouble. If they shall contribute to the attainment of a common understanding, as was done in the precedent which forms the basis of the joint resolution, they will, of course, benefit themselves, to say nothing of the noncombatants, who are always the chief sufferers in the situation.

I do not flatter myself, Mr. President, that since the announcement of those upon one side of this controversy they will immediately acquiesce in the jurisdiction of the commission which the President, in the event of the enactment of this joint resolution, will doubtless assign to the task contemplated by it.

Mr. KERN. Mr. President, will the Senator allow me to ask him a question?

The VICE PRESIDENT. Does the Senator from Colorado yield to the Senator from Indiana?

Mr. THOMAS. I do.

Mr. KERN. I ask the Senator from Colorado to which side he refers?

Mr. THOMAS. If the Senator will be patient, I will answer that question very soon.

And yet, as time passes, I indulge the hope that, in view of the grave importance of the controversy and the overwhelming need of its adjustment so that the people may pursue their usual avocations and the State may resume the discharge of its normal functions and the General Government be relieved of the duty of performing them, the contending parties may be able to agree to the plan as a satisfactory solution of the difficulty.

The Senator from Indiana inquired to which side I referred in my statement which was made at the time of his interruption. I referred to the operators, who, shortly after the events at Ludlow, exclusive of the Colorado Fuel & Iron Co., but which is in harmony with them, so declared in resolutions which were published in the Associated Press dispatches, and copies of which, I presume, were sent to the different Members of both Houses.

Of course, Mr. President, I do not indorse their conclusions, for the public interest is left out of the problem. It must, nevertheless, be remembered that the coal-mine operators in the State of Colorado, quite numerous and consisting of a number of independent concerns, some of them small in extent and all of them entirely legitimate enterprises and carrying on extensive operations, have been included within, and the popular mind has conceived of them as identical with, the greater concerns which dominate the situation. This is true of the time covered by the strike but not previous to that period. A great many of these coal operators have suffered very severely in consequence of these troubles, although not responsible for them, or, at least, not as much so as the others, thus illustrating the natural law that the consequences of men's misdeeds and lawless purposes fall far more heavily upon the innocent than upon the guilty.

I can well understand, Mr. President, how some of these people, smarting under the tremendous destruction of property which has befallen them, face to face with financial ruin, and with the not by any means remote possibility that their smaller properties may ultimately be gathered up into the greater organizations, feel that they have nothing to arbitrate with the

authors of their suffering and will not under any circumstances consider any proposition designed for the determination of the controversy of which they are among the victims and for which they feel that they were not responsible. We must make allowance for the operations of human nature, not only with the employed but with the employer; and as time passes it is becoming very apparent, at least to men who have been engaged in gathering information from all possible sources, that this, like all great controversies, has two sides, that wrongs and violations of law, and crime, if you please, have been committed by both sides of the controversy. We must also make allowance for the play of aroused passion which is inherent in human nature everywhere, and which, when usurping reason, makes the calm and just consideration of right and of wrong practically impossible until time shall have passed and sober reflection shall have enabled men to think and act with calmness.

Mr. President, as a typical instance of the attitude of some of the smaller operators in connection with this subject, and as giving some reasons for their announced determination, I may be pardoned for referring to a statement received not long ago from one of them, the Sunnyside Mining Co., of southern Colorado. I feel justified in vouching for it, because of my personal knowledge of and close acquaintance with those who compose the company.

This company is a small concern; it has been reasonably prosperous, and has had trouble with no one anywhere. This is the statement which the company makes, through its officers, of its attitude as one of the coal producers of southern Colorado, of the consequences which the strike has visited upon it, and its reasons for the conclusions which it has reached regarding arbitration.

This statement is signed by W. F. Oakes, the president of the company—a very upright and respected citizen of the city of Denver, and one who justly enjoys the confidence and respect of all who know him. He says:

The property of the Sunnyside Coal Mining Co. is situated in Huerfano County, Colo., 12½ miles northwest of Walsenburg.

The land operated comprises 480 acres, with three veins of bituminous coal, 5, 6½, and 7½ feet in thickness, respectively. Capacity is 700 tons daily.

The owners are W. F. Oakes, Ellen Terry Strong, and Milo W. Strong. The company is not affiliated with any outside interest. The executive head of the business is the president, W. F. Oakes, with general offices in the Gas & Electric Building.

The Sunnyside mines have worked for 10 years on the open-shop plan, making no distinction between union and nonunion labor, and selecting men best qualified to fill the various positions.

Prior to the strike call on September 23, 1913, not a single complaint had been made to the company by its employees, either collectively or individually, as to wages, hours, company store, company doctor, unsanitary conditions, or unsafe conditions in or about the mine—three men in 10 years killed. The few minor individual complaints were always promptly considered and adjusted.

The average wage in August, 1913, just prior to the strike, was $4.12½ per man per 8-hour day.

On Saturday, September 20, 1913, every man was paid off, and the president, W. F. Oakes, personally asked every man that stepped up to the pay window if he had any grievance against the company, and in every case the answer was "No." They simply responded to the strike call of the national organization for the "general cause" (whatever that was the men did not seem to know).

Early in November we reopened the mine with strictly nonunion labor, under a strong protection of the Colorado National Guard, and continued throughout the entire winter and until April 18, when we shut down temporarily for repairs.

A day or so later came the reports of the Ludlow trouble, and the "call to arms."

On Friday, April 24, 1914—

That was just four days after the Ludlow occurrence, Mr. President—

a wild mob of 250 armed strikers swooped down upon only 16 people left in our camp, and drove them into the hills. They continued in complete possession until May 6, 1914.

That is a period of 12 days.

The company store was completely wrecked (inside), the entire front broken in, the entire stock of general merchandise stolen ($15,000), the post office robbed of everything—money, stamps, letters, and parcel-post packages. The company boarding house was pillaged, the men's club rooms looted, and every building in the camp was entered and everything of value taken or destroyed, a total loss of $26,000.

I have here photographs of the company store, both exterior and interior, and of the post office, taken some time ago, together with photographs showing their condition after possession was reobtained; showing, among other things, that the company's safe had been dynamited, evidently for purposes of pillage and robbery, which no provocation can justify. These photographs are subject to examination by any Member of the Senate who desires to look at them.

Mr. Oakes continues:

The management of the Sunnyside mines prided themselves for years that they had established such favorable conditions at their mines that they were enabled to procure the very best element of labor in the field.

Our company boarding house, with a capacity of 100 men, was constructed entirely with a view to comfort. Every room in the house was provided with a hot-water radiator, the floors were always kept clean; in front of each bed was a rug; each bed had two sheets, two pillowcases, one woollen blanket, two cotton comforters. The entire building was lighted with electric lights.

In the dining room we served but one table, seating every man at once. We employed the best Jap cooks, and used only the very best materials for our table.

In the basement of this cement building we had bath arrangements, hot and cold running water into porcelain bowls, something unheard of in any mining camp in Colorado.

In addition to this, we established a reading room and supplied all of the papers and periodicals free. We also established a library containing 250 books, and furnished the men with free stationery and envelopes.

We also furnished a hot bath adjacent to the mine for those that desired it.

Our schoolhouse is owned and maintained by the company, and was supplied with every modern appliance.

We also established a miners' club room, to combat the evil of the ordinary camp saloon. A great deal of money was spent in making this a comfortable loafing place for the men, and the hours in which they could buy drinks were limited from 4.30 in the afternoon to 10.30 at night. These goods were sold to the men at a low figure, with a view only of securing sufficient profit to maintain a manager of the place.

This means that the company store here was not that typical company store of which so much complaint is very properly and very justly made, but one maintained for the convenience of the men, as well, perhaps, as for their economic benefit, since the extra charge in the way of profit upon goods sold was sufficient only to pay the expenses of its operation.

I turn to the manuscript:

During working hours of the mine these clubrooms remained closed, also on Sundays.

The miners' clubrooms were completely wrecked and all stock stolen, pictures taken from the walls, phonograph records, chess boards, the cloth on the billiard table ruined, the cues and balls stolen, the barber-shop equipment badly damaged.

In the reading room magazines and books were mutilated, thrown outside, and every condition that had been created for the comfort of our employees was wantonly disregarded.

Our experiments along these lines, after studying the socialogical conditions of miners for 23 years, proved beyond any question of doubt that our theories in regard to improving the social conditions and uplifting the social plane were mere vagaries.

Of course, it is understood that I do not assent to all the conclusions of this gentleman. That is one which, in my judgment, is erroneous. Humanity and the kindly consideration of the welfare of others never can be wasted or unavailing or all history is a delusion:

Our most earnest efforts were simply rewarded by our final destruction, and at the hands of those whom we endeavored to benefit.

The only apparently unanswerable obstacle to a settlement with these striking miners is the recognition of the union, as almost every other material difference between the operator and the miner is covered by the existing law.

There is no law compelling the operator to recognize the union nor to permit the employees to exact that recognition. The statute does provide, however, for the right of the employee to join a union, if he so desires, without coercion or interference. We do not deny the right of our men to organize, so long as they do not interfere with our prerogatives to employ nonunion labor when we so desire it.

We will never agree to any contract that will oblige us to discharge the nonunion men now in our employ.

Mr. President, there is an infinite difference between such a company and one with the history of a larger concern in the strike district, which, prior to its present organization, at least, was the dictator of the political and economic affairs of the two counties where it has operated. I am satisfied that to a very large degree the misfortunes of this small company, in their ultimate sociological causes, can be traced back to the larger concern to which I have just referred.

I do not propose, however, at this time to do more than present to the Senate the statement of Mr. Oakes, which I think is fairly typical of some of the operating companies. If we could for the time being put ourselves in their places, we can, I think, appreciate the reason for their announced attitude as to arbitration in the series of resolutions to which I have referred.

Nevertheless, as time passes and as the gravity of the situation becomes more obvious, as the requirements and the rights of the noncombatants are considered, together with the everlasting and eternal proposition that law and order must at all hazards be maintained in every well-organized society, and must be in operation at all times, and that every individual sacrifice essential to the preservation of law and order and to the establishment of justice in the truest sense of the term requires that private considerations shall yield to public ones, I am led to hope that this resolution, if it is reported favorably and adopted, will result well for the State which I in part here represent, and that contending bodies of men may, through its agency, reach a level of common understanding, and that duty and not selfishness may constitute the mainspring of their action.

While I am on my feet I wish to refer for a moment to another subject. I refer to the Colorado State National Guard, or, as it is called, the State militia.

The National Guard of the State of Colorado constitutes the only force which, in times of stress and of emergency, is subject to call for the maintenance of the established order of things and for the ultimate protection of life and property. The National Guard of every State is an absolute political necessity; and each State should maintain its militia in such wise that it shall at all times be absolutely independent of any influence militating against the impartial discharge by the executive of the duties of his office. That means, of course, that a military fund at all times available, and belonging to the people, should be in existence, to the end that it may be utilized when the exigency requiring it arises.

The State of Colorado, although as rich in material resources as any State in the Union, more wealthy than any other in its magnificent measures of coal, underlying, as they do, one-third, if not more than one-third, of the entire State, and populated by as intelligent, patriotic, and law-abiding a class of American citizens as can be found anywhere, is, from the standpoint of State revenue, one of the poor Commonwealths of the Union. It has sought to meet, and I think has met and solved, some of the insistent problems of the day, the recognition and enforcement of which always increases the expense of public administration. Our revenues have not increased in proportion as the necessities for their use have multiplied, and multiplied legitimately and necessarily. It has had no military fund. As a result, the mobilization of troops has necessitated the use of the State credit, to the end that the expense of equipment might be met promptly; and this, unfortunately, has created obligations that should not be imposed upon an executive at any time.

The militia of the State of Colorado, like that of every other State in the Union, is made up largely of what may be called the average man—the small business man, the clerk, the professional man of limited means, the general run of the youth of the land; and the same may be said of the officers. These, in general, are good citizens, educated, moral, and substantial. I am not prepared to admit, nor have I at any time, nor will I until the proof is absolutely irrefragable, that the National Guard of the State of Colorado as an institution so composed is lawless, cruel, or rapacious. That a considerable number of employees of the mine operators were incorporated into this guard is one of the established facts of the recent controversy, and I can well understand, as I do not hesitate to condemn, the consequences which such a method of recruiting must inevitably produce. That never should have been done. It is as inexcusable as would have been the recruiting of the guard from the other side. No emergency, in my mind, however great, unless it should be one involving the State and everything in it in political and social disaster and which could be averted in no other manner could justify that situation. Even then the enlistments should be mutual. What these men so recruited have done necessarily reflects upon the morale of the entire guard. That, of course, is unavoidable, and it is because of these conditions that the State militia as a body has been anathematized.

I do not condone, and I trust I never will condone or defend, the perversion of the military power of a State to an alliance, whether by way of recruiting or otherwise, with either side to an existing economic struggle. That is as foreign to the power of the commander as the denial to a man of the right either to join a labor organization or not as he may see fit or to work, if he can obtain work, anywhere for his subsistence.

I make these remarks, Mr. President, preliminary to the reminder that on the 29th day of last May the House inserted in the RECORD, by order of that date, the proceedings of a meeting at which the Colorado strike was discussed, and which was held in the city of Washington, I think, on the preceding Sabbath. That incident attracted a good deal of attention, and a general report of it was published throughout the country.

I think, Mr. President, without reference to that particular matter, the incorporation of correspondence and of the various occurrences of the day in the RECORD is reaching an extreme, and one which, unless some limitation be placed upon it, may make the RECORD a vehicle of almost everything that comes to the knowledge of Senators and Representatives rather than what it is designed to be—a record of the current happenings of the two bodies. But inasmuch as great circulation has been given through the columns of the RECORD to that meeting and to the statements there made, I think it is no more than right and just, in the interests of fair play, that the RECORD should also contain this statement to the governor of Colorado, entitled "The Military Occupation of the Coal Strike Zone of Colorado by the Colorado National Guard, 1913–14." This, I understand, is an official document, being a report to the governor by his direction. In connection with what I have said I ask unanimous consent to print it in the RECORD.

The VICE PRESIDENT. Without objection, it will be inserted in the RECORD.

Mr. THOMAS. I will modify my request for printing in the RECORD by limiting the request to the first half, or the first 66 pages of the document. The others contain orders and reports with which I will not burden the RECORD.

The matter referred to is as follows:

THE MILITARY OCCUPATION OF THE COAL STRIKE ZONE OF COLORADO BY THE COLORADO NATIONAL GUARD 1913–14.

[Report of the commanding general to the governor for the use of the congressional committee. Exhibiting an account of the military occupation to the time of the first withdrawal of the troops in April, 1914.]

FOREWORD.

I am directed to prefix to the report that follows a word of explanation.

A committee of the House of Representatives in the Sixty-third Congress investigated strike conditions in Colorado. They were not investigating the National Guard, but a mass of testimony was presented to the committee supporting a very bitter attack upon the State troops. To this attack and this testimony the National Guard paid little or no attention. At the conclusion of the committee's sittings in Colorado, his excellency, the governor and commander in chief, directed the commanding general to review the testimony presented to the congressional committee and to investigate and report the truth of all the charges and accusations made against the military arm of the State. The following report is the result of that order. It was prepared by the commanding general after careful investigation, and transmitted to the congressional committee by the governor for the purpose of aiding that body to arrive at a true and just estimate of the military situation. The governor's letter of transmittal accompanying the report to Washington precedes the report itself.

Inasmuch as this report exhibits a fairly detailed history of the military occupation almost to the time of the first withdrawal of the troops, and contains matter that can not fail of interest to all the people, it was directed to be printed in the present form for general public distribution.

EDWARD J. BOUGHTON,
Major and Judge Advocate of the Military District of Colorado.

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THE GOVERNOR'S LETTER TO THE CHAIRMAN OF THE HOUSE COMMITTEE ON MINES AND MINING OF THE SIXTY-THIRD CONGRESS.

APRIL 6, 1914.

Hon. M. D. FOSTER,
Chairman Mines and Mining Committee, Washington, D. C.

DEAR MR. FOSTER: By my direction Gen. John Chase, commanding the National Guard in the strike zone, has prepared a statement of the operations of the guard, and I herewith inclose it, pursuant to conversation I had with you at the time of your departure for Washington. I have looked over this statement and believe it to be a very fair and reliable presentation of the facts. I sincerely hope it will be of value to your committee in arriving at a true understanding of the situation in Colorado.

With best personal regards, I am,
Sincerely, yours,
E. M. AMMONS.

REPORT OF THE COMMANDING GENERAL TO THE GOVERNOR FOR THE USE OF THE CONGRESSIONAL COMMITTEE.

To the Hon. ELIAS M. AMMONS,
Governor of the State of Colorado.

YOUR EXCELLENCY: The Committee on Mines and Mining of the House of Representatives in the Sixty-third Congress, having been authorized to inquire of certain matters connected with the present strike in the coal fields of Colorado, and having in their investigations touched upon certain matters connected with the military occupation and the conduct of the Colorado National Guard, your excellency directed me to submit for the use of the committee a brief report of the peace conditions, military operations, conduct of the troops, and such information in my possession as might aid or interest the committee in the accomplishment of its errand under the House resolution.

Accordingly, and in obedience to your excellency's directions, I have made careful and, in most instances, personal investigation along the lines suggested, have accumulated and arranged the great mass of information that has come to me as commander of the State troops in the field, and beg leave to submit the following report.

For convenience of treatment, the report is divided into the following parts:

1. The general peace conditions existing in the disturbed region upon the calling out of the State troops.

2. A very brief outline of the principal incidents of the military occupation.

3. A succinct statement of certain military policies with respect to some matters inquired of or brought to the attention of the congressional committee.

4. A report upon some specific incidents in the conduct of the military brought to the attention of the congressional committee.

An appendix is added to the report, in which are collated and copied certain orders, reports, and other documents referred to herein.

I.—GENERAL CONDITIONS AT THE OUTSET.

In 1910 a strike was declared in Boulder County, Colo. This strike is still in existence. Deeds of violence have been committed by both sides to the controversy almost from the date of the strike to the present time. The operators in Boulder County repeatedly called upon the then governor of the State, Hon. JOHN F. SHAFROTH, for protection of their lives and property. Controversial correspondence was carried on between the governor, the sheriff of the county, and the mayors of the villages involved, with the strike leaders and with the operators in that county. At times the peace officers seemed able to control the violent individuals on both sides of the controversy, and at other times seemed wholly unable to do so. An utter contempt for legal processes and ordinary peace measures has for four years been exhibited in this section of the State. At one time a district judge incarcerated for a period of several months 16 strike leaders whom he adjudged to be in contempt of his court for flagrantly and defiantly violating an injunction against picketing. This judgment was made the occasion of a demon-

stration by the strikers in parading around the courthouse in great force, as an intimidation to the civil authority; and the doctrine was inculcated that allegiance should be paid to the union rather than to the State or country.

Because of the failure to effect a settlement between the parties to the controversy in the northern coal fields, a strike in the southern zone was precipitated in August, 1913. On account of threatened violence to the properties of the operators and the lives of the workmen about the mines, the sheriffs of Huerfano and Las Animas Counties, being appealed to by the owners of the mines, placed on duty a large number of deputy sheriffs. The strike leaders selected strategic points for the establishment of the tent colonies which were made necessary by the departure of strikers from their homes on the mine premises. Nearly every one of these tent colonies was so placed that it commanded ingress and egress to and from the mines located in the canyon near by. The location of the colonies was not an accident, and, in view of the statute regarding picketing, it would seem that it was a deliberate attempt, on the part of those responsible for the placing of the camps, to bring about a thorough system of picketing without apparently violating the law. The canvas for the tents had hardly been raised before deeds of violence were reported from the vicinity of nearly every one of the colonies. Additional mine guards were placed about the properties to secure the safety of such workmen as were passing the colonies to work. There is no question but that there were instances where the mine guards unnecessarily provoked the residents of the tent colonies. These latter, in turn, seemed honestly to believe that they and their families were in danger from the mine guards. They, therefore, armed themselves for protection. As instances of violence increased, the opposing parties to the controversy became violently aroused. For at least 10 days prior to the calling out of the National Guard a condition of absolute terror prevailed in the mining camps and in the tent colonies. At least four pitched battles occurred, and at least nine men were known to have been murdered and a large number wounded. The civil authorities seemed, and, indeed, represented to your excellency, that they were wholly unable to do anything for the preservation of peace. A large number of battles had taken place throughout the two counties. Anarchy reigned supreme. No attention was paid to the courts or the civil peace officers whatever. People were arrested and detained in the tent colonies, and the sheriff, armed with civil process, was frankly informed that he would not be permitted to serve it. With all the deputies at his command, the sheriff was unable to discharge his usual duties without battle. This awful state of affairs was represented to your excellency by all of the civil authorities charged with the preservation of the peace. The sheriffs of both counties, the judge of the district court, mayors, aldermen, county officers, and numerous citizens—sympathizers with each side of the industrial conflict—implored your excellency to use the power of the State to end the open defiance of the constitution and laws.

Accordingly, your excellency directed me by executive order to mobilize the national guard and to enforce the constitution and laws, acting either in conjunction with or independently of the civil authorities, doing all such things as in my judgment seemed necessary to conserve the peace and vindicate the dignity of the State. I proceeded with the national guard to Huerfano and Las Animas Counties on the 28th of October, 1913. I found the conditions even worse than had been described to your excellency. I found two bodies of men in large numbers, fully armed, with the intensest hatred of each other in their hearts, ready to fly at each other's throats. The thirst for blood was unmistakably evident, as were the signs of an habitual and long-continued disregard and contempt for all civil government. The mining camps and tent colonies, though very numerous, were detached and widely separated over two large counties, the district presenting a front of about 100 miles. The military problem entrusted to me was interesting. With the all too meager force at my command, I was able, without bloodshed, to occupy this territory, reestablish the constitution, and enforce a sullen peace. The problems that developed day by day have been difficult and often delicate, and when the time came that there was added to our other difficulties the burden of deliberate deceit and misrepresentation, widely promulgated through the press bureau of the unions, our cup of tribulation nearly overflowed. In the discharge of our duties to the State as citizens, this volunteer force has had to go on silently in the accomplishment of the patriotic errand entrusted to it, under abuse and frequent scurrilous attacks, without a press bureau for the dissemination of the truth, often being placed in false light and false position before the public. But at the end of all the mission has been accomplished, and the State may well feel proud of its national guard, whose members, uncomplainingly and at the cost of great personal sacrifice, have served the State so well in its hour of need.

II.—History of Operations.

Under this head no attempt is made to detail the daily occurrences and the daily and even hourly developments in the peace problem. Only a bare outline of the principal events can be undertaken.

Having moved the troops into the field and finding the situation in the disturbed counties as I have indicated above, my first effort was so to distribute the relatively meager forces at my command as to protect the entire line of 100 miles front. Bearing in mind that my sole and only object was to carry out the orders of your excellency and enforce peace and the observance of the constitution and laws of the State of Colorado, without reference to any incidental effect upon either side of the industrial conflict, my only desire was to accomplish my mission without bloodshed or the clash of arms, if possible. With two regiments of Infantry—not, however, fully recruited—three troops of Cavalry, one detachment of the Field Artillery, the Hospital Corps, and Signal Corps, we arrived in the disturbed region on the morning of the 29th of October, 1913.

I established one base camp upon the outskirts of the city of Trinidad, in Las Animas County, and another base camp at Walsenburg, in Huerfano County.

SOUTHWESTERN MINE AND POST-OFFICE ARSON.

While these necessary routine operations were progressing, and during the night of the 29th of October, our first day in the field, a conspiracy was formed among certain strikers at Aguilar, which resulted in a band of men going to the near-by Southwestern mine, pouring oil upon the tipple and mine buildings, setting fire thereto, and destroying that property, and, incidentally, the adjacent United States post office, with the mail contained therein. For a long time thereafter it was impossible to discover the perpetrators of this arson, but months later, through the efforts of the judge advocate's office and the military commission, the offenders were apprehended and turned over to the United States marshal, upon the request of the Department of Justice of the United States.

DISARMAMENT.

On the 31st day of October, the third day of the occupation, when the establishment of the military camps was well under way, I undertook, pursuant to your excellency's express directions, to disarm both sides of the conflict that I found raging upon my arrival. Realizing that in the event of the concealment of their weapons I would have great difficulty in disarming the combatants, I consulted the strike leaders, including John R. Lawson, and obtained from them, and especially from him, an assurance that if I first disarmed the mine guards employed through the Baldwin-Felts Detective Agency to guard the operators' properties, the strikers would then cheerfully surrender the arms in their possession. It must be remembered that upon our first coming into the field the National Guard had, at least, the ostensible welcome and apparent cordial cooperation of the striking miners. Relying upon the assurances given me by Mr. Lawson and the other strike leaders, I proceeded to disarm the mine guards upon the various properties, against whom the most bitter feeling of the strikers prevailed. In the disarmament of these mine guards I had no difficulty whatever. They were assembled by their employers, the operating companies, and promptly turned over the high-power rifles with which they had been supplied. This disarmament I carried on with respect to the mine guards and employees of the operating companies in every camp throughout the entire strike zone and speedily finished the complete disarmament of that side of the industrial conflict.

It was arranged, upon the completion of the disarmament of the operators, that the military receive the arms of the strikers; and accordingly, upon the 1st of November, 1913, by an agreement between myself and the strike leaders, a parade of the troops to the tent colony at Ludlow, by far the largest of the strikers' colonies, was arranged. From all appearances the very best feeling prevailed between the troops and the strikers. I paraded detachments of the troops of various arms within Las Animas County, at the Ludlow tent colony, upon the suggestion and invitation of the strike leaders, including Mr. Lawson. My object was not only to receive the arms of the strikers, as promised, but to occupy peaceably and with good feeling the strategic points in the canyons about Ludlow, which the presence of so large a body of armed men might have made difficult of accomplishment without bloodshed had my entrance been disputed.

The parade of the troops at the Ludlow tent colony was memorable. The road for a half mile or more between the point of detraining and the entrance to the colony was lined on either side by men, women, and children. Many of the men were in the strange costume of the Greek, Montenegrin, Servian, and Bulgarian armies, for the colony numbered among its inhabitants many returned veterans of the Balkan wars. The little children were dressed in white, as for a Sunday-school picnic. All carried small American flags and sang continually the Union songs. Through this line of men, women, and children the troops paraded—Infantry, Cavalry, and Field Artillery. Flags were waved in welcome and an improvised band of the strikers heralded our approach.

We passed by Ludlow, occupied the Berwind and Hastings Canyons, and then returned to the colony to receive the surrender of the hundreds of high-power rifles I knew the strikers to be possessed of. At this point occurred the first instance of bad faith on the part of the striking people. Expecting to receive hundreds, if not thousands, of arms, there were delivered into my possession some 20 or 30 weapons, many of them of obsolete pattern, the strikers topping off the humor of the situation by including in the delivery of arms a child's toy popgun. Since that time the recovery of the strikers' arms has been attended with the greatest difficulty; it has been a game of hide and seek; and, while I have been able to recover, a few at a time, a large number of high-power weapons belonging to the union from various hiding places, I will state that there are hundreds of guns still concealed and waiting occasion for use.

CORONADO RIOT.

In the meantime I had upon my hands a large number of the mine guards, whom I had disarmed, and who being defenseless in the presence of enemies thirsting for their blood, had to receive protection. These mine guards I undertook to ship out of the strike zone. For that purpose I assembled a number of them in Trinidad. On the evening of the 31st of October I had in the Coronado Hotel at Trinidad a number of mine guards who had been disarmed, and were awaiting a train to take them out of the country. Notwithstanding the representations made to me concerning the disarmament of the detested mine guards, and when I had rendered them helpless by disarming them, all of which was known to the striking miners, a great crowd gathered around the Coronado Hotel, in which these disarmed men were contained, for the avowed purpose of reeking condign vengeance upon their enemies, thus, as they supposed, delivered into their hands. Some five or six hundred men assembled around the Coronado Hotel with the express design of killing the disarmed and defenseless guards within. This is what is known as the Coronado Hotel riot. Notwithstanding all of the fair promises of Mr. Lawson and other strike leaders that induced me to disarm the mine guards first, they then rather gleefully assured me that they could not control their people, and that the feeling among the strikers, thirsting for the blood of the mine guards, was such as could not be stayed by any influence of the leaders. I found it necessary upon this occasion to assemble infantry and cavalry in the streets of Trinidad and to disperse the mob, thus bent upon wholesale murder, and to protect the disarmed mine guards until they could take the train out of the district. Fortunately I was able to quell this riot and prevent large loss of life without bloodshed or other serious consequences than a few arrests.

From this time forward, from the breach of faith concerning the disarmament until this day, the history of the strike leaders has been a record of bad faith, subterfuge, misrepresentation, and chicanery with the military forces of the State, who entered the field taking no sides, having no interest in the industrial conflict, intent only upon preserving the peace and guaranteeing the constitution, until by these methods the striking miners have come to look upon the National Guard as a foe, in league with their antagonist, and the guard has come to know that no faith can be placed and no honesty or integrity of purpose can be found in the strikers' camps as conducted by their present leaders. And I say this having no interest whatsoever in the industrial conflict still raging.

SHOOTING AT FORBES.

On the 5th of November the camp at Forbes was fired upon by the striking miners, and I found it necessary to send a company of infantry to that camp, which has received military protection ever since.

ARMIJO MURDER.

On the 8th of November one Pedro Armijo was murdered near the tent colony of Aguilar. Armijo was a nonunion workman, who upon that day was visiting relatives in Aguilar. This town, one of the largest in the district, was inhabited almost exclusively by union people. It has been the center and hotbed of disorder during the entire campaign. A committee of the Aguilar local union was sent to Armijo to urge *him to join* the union. This committee, comprising the president and treasurer of the union and one other, frankly told Armijo that it was highly dangerous for him to stay in Aguilar unless he took a union card. Armijo, however, was not to be intimidated, and flatly refused to join. While the committee was inside the house threatening Armijo a large crowd of men assembled in the street. The town marshal, a very radical union sympathizer, was then sent by the union committee to deport Armijo from the town. The marshal took him out of his relatives' house and, followed by the crowd, escorted him through the streets of Aguilar in the direction of the tent colony on the outskirts of the town. Before reaching the colony the marshal turned Armijo loose and sent him upon his way toward the camp of his enemies. The unfortunate man was thrust into the jaws of death. Passing along by the tent colony, and about an eighth of a mile from where the marshal left him, he was murdered in his tracks by a gunshot. Instantly both the crowd from town and the inhabitants of the tent colony surrounded the body. That the killing was planned and advertised there can be no doubt. The tent-colony people and the idle men from the town were upon the ground to see the fun. If the murder had been deliberately planned by the town marshal and the union committee, they could not have acted with greater care to insure its success. Upon the examination of these men before the military commission they were most reluctant and unreliable witnesses as to the occurrences of that morning, giving a decided impression that they knew much more than they were willing to tell.

SMITH ASSAULT.

On the same day, November 8, Herbert Smith, a mine clerk at the McLaughlin mine near Trinidad, was overtaken upon his road home by three or four striking miners, and very brutally and severely beaten, so that at one time there was a question of his recovery. No reason for the assault existed other than that Smith was at work, and was considered a scab. The guilty parties were apprehended, and, upon recommendation of the military commission, detained for a while and then turned over to the civil authorities.

LA VETA KILLING.

Also on November 8 occurred what has since been known as the La Veta killing, when three mine guards and the driver of their car were shot and killed without warning.

One John Flockhart, the local representative of the United Mine Workers at La Veta in Huerfano County, learning that William Gambling, a mine guard, was coming to La Veta to have dental work done, with the assistance of Charles Richards and Peter Rich, assembled a number of the strikers, supplied them with guns and ammunition from his private residence, intercepted Gambling by forcibly taking him from a hack, and then conducted him to Miners' Union Hall, where they undertook to make him join the union. Gambling was, however, permitted to telephone to the other mine guards on duty in the vicinity, who at once came to his rescue in an automobile. The armed party, under the leadership of Charles Richards, a professed expert shot, proceeded to the outskirts of the village and took up their position behind an embankment a few hundred yards from the county road, along which the mine guards must pass.

The guards passed into the village without molestation, took Gambling into their car, and quietly drove away within five minutes after their arrival. The party on returning from La Veta was composed of three mine guards, Gambling, and the chauffeur. When arrived at a turn in the road, about a half mile from La Veta, in full view of the detachment of strikers stationed behind the crown of the adjacent hill, a fusillade of shots was rained upon them. The guards tried to return the fire, but could see nothing of their assailants. Of those in the automobile four were shot and killed. Gambling, though wounded, was the only one of the party to escape the slaughter.

I at once sent a detachment to this locality to care for the dead and apprehend the murderers. As a result, Charles Richards, Charles Shepherd, Peter Rich, Sam St. John, and Jose Chavez were arrested Upon examination they acknowledged the shooting. These men are now held for trial on the charge of murder. Flockhart disappeared immediately after the killing, being given the necessary funds for transportation by the union at Walsenburg, and is still a fugitive from justice. It may be well to remark that a large number of the inhabitants of La Veta were apprised of the coming killing and witnessed it from points of advantage, their advance information emanating from Flockhart and other leaders.

PIEDMONT DYNAMITING.

On the 18th of November the house of one Domenik Peffello at Piedmont was destroyed by dynamite. Peffello had been an active union man, but had deserted the ranks of the strikers and returned to work.

BELCHER ASSASSINATION.

Two days later, on the evening of November 20, occurred the assassination of George Belcher in the streets of Trinidad. Belcher had been one of the leaders or foremen of the mine guards employed by the operators through the Baldwin-Felts Detective Agency. I have already described the feeling that existed on the part of the strikers toward these mine guards. This feeling was concentrated and centered in a deep hatred of their leader, Belcher. Rumors were afloat for many days before his murder that he and Belk, another mine-guard leader, were shortly to be assassinated. About half-past 7 in the evening, which in Trinidad is the busiest and most crowded hour of the day, on the main corner of the city, at the intersection of Main and Commercial Streets, beneath an arc light that hangs in the middle of the street, and in the presence of perhaps a hundred onlookers, Belcher was shot from behind as he was walking across the street, by a Tyrolean Italian named Louis Zancanelli.

Belcher fell instantly. His blood flooded the pavement and his brains protruded from the bullet wound through his head. He expired almost at once. It happened that I myself and the judge advocate were present in the immediate vicinity at the time of this occurrence and saw Belcher before he died. Zancanelli was taken on the spot, and within five minutes of the occurrence was interviewed by myself and the judge advocate at the city jail. For five days he sullenly denied any knowledge of the murder, at the end of which time he voluntarily sent for me, with the announcement that he had a confession to make. His confession was astounding, and was gratuitously offered, not as a result of any third-degree methods of examination or any promise of clemency. He was a psychological study, and he was treated with great kindness, for it was believed that only by such means could he be induced to tell what he knew. The result proved that to be the case. He stated to me and to the judge advocate, and later to the military commission, that he had been hired to kill Belcher and Belk by one Anthony B. McGary and one Sam Carter. These two men were, and perhaps are yet, international organizers of the United Mine Workers of America. Zancanelli's story proceeded as follows: That McGary and Carter had made several trips to Ludlow, where Zancanelli lived, to offer him this employment. They offered the job likewise to one Mario Zeni, his tent mate. Zancanelli at first declined, but Zeni accepted and came to Trinidad to do the deed. A week afterwards Zancanelli came likewise, and was told by Zeni that he had not had an opportunity to accomplish the murder. McGary and Carter met Zancanelli in Trinidad and played upon his feelings and pride, telling him that Zeni was no good, had no courage, but that he, Zancanelli, could do the job if he would. Thereupon Zancanelli undertook it. McGary and Carter told him that he would probably be arrested, but that the union was so strong and powerful that it would get him out of jail at once and protect him from the consequences. They told him also that if he succeeded the union would take care of him the rest of his life, so that he would not have to work. They promised him $1,000; that is to say, $500 for each murder. The four of them—Carter, McGary, Zancanelli, and Zeni—went from union headquarters across the street to a saloon, and there McGary cashed a check for $50, receiving the money in gold, and paid $25 each to Zancanelli and Zeni upon account—two $10 gold pieces and a $5 piece to each. Zancanelli then had Belcher pointed out to him, and followed him around and lay in wait for him. On the evening of the second day thereafter his opportunity came, and he stole up behind his victim and shot him with a revolver that McGary had furnished him for the purpose. This revolver had certain peculiarities by which it was identified readily by its owner. It had belonged to one Barulich, a chauffeur employed by the union to drive its car. Barulich stated that he carried the gun in his automobile when driving McGary and Carter around from camp to camp, and that it had disappeared a short time before, and that he supposed either McGary or Carter had taken it.

Upon this confession of Zancanelli's, effort was immediately made to arrest McGary and Carter, and it was then discovered that they had fled the State the day after the murder. This same Barulich stated that he was directed by McGary and Carter to take them in the car to the first railroad station east of Trinidad; that upon arrival there McGary and Carter had directed him to proceed further eastward, and that upon arriving at each town in their progress he received similar orders to drive further, until they reached Lamar, a town on the Santa Fe Railroad near the Kansas border. Upon arrival at Lamar an eastbound train was just pulling in. This train was boarded by McGary and Carter, who directed Barulich to return to Trinidad.

I personally offered a reward of $1,000 for the arrest and return of each of these two fugitives; but, notwithstanding the reward and all my efforts to discover them, their whereabouts are still unknown to any of the authorities.

Possibly there is no significance in the fact, but I have remarked that in the printed statement of the treasurer of the United Mine Workers, compiled at Indianapolis, in addition to the salary account paid McGary, there appears an item "A. B. McGary expense, $50.".

Zancanelli stated that he made this confession because McGary and Carter had not kept their word with him in getting him out of jail, and he felt that they had deserted him, and that they should bear as much of the blame as he. He was told, before he made the confession, that it would be used against him, and that he was under no compulsion to make it. He told his story circumstantially and minutely to a great many persons, but without feeling of remorse or regret. Zeni steadfastly denied all knowledge whatever. Later the grand jury indicted Zancanelli, Zeni, McGary, and Carter. Zancanelli was turned over to the civil authorities and is now held for murder. Zeni was turned over before the grand jury had indicted him, and the civil authorities released him. He stayed around long enough to make a very ridiculous affidavit, manifestly prompted by the strike leaders, concerning alleged cruelties to the military prisoners in the city jail, and then departed for parts unknown—another instance of the many affidavit men who can not be found after their affidavits have served their intended purpose. Zeni, like McGary and Carter, is now a fugitive from justice.

ALEXANDER MURDER.

On November 23 I discovered James Bicavuris in a hospital in Denver. I arrested him and took him to Trinidad, where his case was submitted to the military commission. The occasion was as follows:

During one of the battles between the strikers and mine guards in the Hastings and Berwind Canyons, one Alexander, a mine guard, was deliberately shot by the strikers. It seems that the mine guards at Hastings were not acquainted with the mine guards in the adjacent canyon at Berwind, and so they adopted the device of tying a handkerchief around their arms as a distinguishing mark, whereby they might recognize each other. Early one morning, before the troops arrived in the field, a group of mine guards from Hastings, expecting an attack from the strikers at Ludlow, were reconnoitering upon the hills adjacent to their camp. They were expecting to be reinforced by the mine guards from Berwind. In the dim light of breaking dawn the Hastings guards, of whom Alexander was one, encountered a tall man, with a heavy shock of red hair, with a handkerchief tied upon his arm. This man called to the party of guards, saying, "We are the Berwind guards; come on." By this ruse he led the Hastings men up the side of a hill, and, as they approached the crest, concealed strikers rose from their cover a few feet away, and delivered a fusillade of shots, killing Alexander. The man who had been used as a decoy was seen to approach and rob the body of Alexander after the latter was killed. In the doing of it, however, he was accidentally shot in the leg by a stray bullet from his own people. The wounded decoy disappeared, and when I found Bicuvaris in Denver, just recovered from a gunshot wound in the leg, and maintained in the hospital at the expense of the United Mine Workers of America, I caused to be introduced into the hospital ward Alexander's companions, who instantly picked him out of 20 or 30 patients, and identified him positively as the man who led Alexander to his death. This testimony being submitted to the military commission, Bicuvaris was detained, and later delivered to the civil authorities, in whose custody he now is, awaiting trial for murder. It appeared from the testimony before the military commission that the United Mine Workers had officially taken care of Bicuvaris, concealing him from the authorities, conducting him to Denver, and paying his hospital expenses during his recovery from his wound. Bicuvaris is a Greek, speaking English but imperfectly.

MILITARY COMMISSION.

About this time I instituted the military commission, whose purpose, functions, and service I have explained elsewhere in this report.

STRIKE BREAKERS.

About December 1 your excellency modified your instructions concerning strike breakers, and directed me to see that the law was strictly enforced; where workmen were desirous of entering the State to secure work in the mines to give them necessary protection and see that they knew in advance the conditions of employment and that a strike existed. The first workmen arrived about the 17th of December. I was very careful to ascertain whether they knew the conditions of their employment and the pendency of the strike, and in those instances where I was not satisfied that the law had been complied with in that respect the strike breakers were held for investigation. In other cases they were given safe conduct and protection to the camps where they had contracted to labor.

VACCINATION OF LUDLOW TENT COLONY.

On the 29th of December I found it necessary to insist upon the vaccination of the inhabitants of the Ludlow tent colony. This task was accomplished by the medical corps of the National Guard, under the directions of the surgeon general of the State, Col. Lingenfelter. It was not performed without much dissent and protest on the part of the strikers in the colony, but the vaccination was successful and a plague of smallpox, which had started, was successfully stamped out.

ROUTT COUNTY EXPEDITION.

On the 5th of January your excellency directed me to send a company of infantry to Routt County. Accordingly I sent Company G, First Infantry, Capt. Dorn commanding, together with the necessary staff and medical officers. The occasion for the occupation of Routt County was that the citizens at Oak Creek rose en masse and announced that the union leaders were a menace to society and would have to leave the county within 24 hours or the citizens, banded together for that purpose, would drive them out. The strikers themselves called upon your excellency for protection against the citizens of Routt County, and that protection was promptly afforded.

MOTHER JONES.

On the 11th of January Mary Jones, or Mary Harris, alias "Mother Jones," appeared in Trinidad in defiance of your excellency, with the avowed and proclaimed purpose of stirring up trouble. I have discussed this woman elsewhere in this report. By your excellency's directions I arrested Mother Jones, placed her in San Rafael Hospital, a church institution, giving her every comfort, but depriving her of being at large to carry out her incendiary purposes.

MOTHER JONES RIOT.

Ten days later there occurred a riot in the streets of Trinidad, known as the "Mother Jones riot." By this time the military forces had been able to enforce a sullen and unwilling peace in the disturbed region, and the strikers had evinced a disposition to cause disturbance and disorder through their womenfolk. They adopted as a device the plan of hiding behind their women's skirts, believing, as was indeed the case, that it would be more embarrassing for the military to deal with women than with men. Accordingly a parade of women was arranged as a demonstration to protest against the incarceration of Mother Jones. The leaders in the movement consulted me, asking permission to carry out the parade, and promising that the line of march would be confined to the down-town streets of Trinidad, and particularly that no effort would be made to march upon the hospital where Mother Jones was detained and which is adjacent to the military camp, about a mile from the center of the city. With that understanding I freely gave permission for the parade to occur. The parade of women was had as planned, but it was noticeable that the men, while not in the parade, were present in the immediate vicinity and available to participate in any riot that might occur. Contrary to the promise given me by the leaders, the hundreds of women in the parade, together with the hundreds of men upon the sidewalk, started toward the hospital and the military camp with loud shouts of their intention to liberate Mother Jones by force. I found it necessary to break up the parade and clear the streets, which was done promptly and effectually. So soon as the disorder commenced the men, quite evidently waiting for that to transpire, joined the crowd and participated in the mêlée. The strike leader, Diamond, who was then in charge of the union people of Trinidad, instead of using his efforts to dissuade his people from their unlawful intentions, I discovered to be calmly taking photographs, for use doubtless of the union press bureau and the congressional committee. I was compelled to make numerous arrests upon that occasion of persons who were later released or turned over to the civil authorities. The fact that the parade itself consisted of women has been made the subject of much flamboyant and untruthful comment by the union leaders, but the situation was a dangerous one, and I have to congratulate and commend the National Guard for the patience with which the crisis was handled. It was truly a miracle that no blood was shed, and the miracle is due alone to the self-restraint and patience of the National Guardsmen under the most provoking and trying circumstances. Sticks, stones, and other missiles were freely thrown by men and women alike at the soldiers, but the latter disregarded the blows they received and bore themselves well and manfully, intent alone upon clearing the streets and dispersing the mob.

WALSENBURG BOMB.

On the 27th of January a crude bomb was thrown into the military camp at Walsenburg. It did not explode. Whence it came was a mystery, and no arrests could be made on this account. The incident, however, shows to what lengths those opposed to the military will go and what precautions must necessarily be taken by the State's troops in sheer self-preservation. Had the bomb exploded, it would have killed a great portion of the soldiers about the headquarters of the camp.

HABEAS CORPUS.

On the 29th of January four habeas corpus cases were tried before the district court of Las Animas County involving the right of the military authorities to arrest and detain persons without accusations of specific offenses. After a lengthy argument between counsel for the United Mine Workers and the judge advocate the district judge vindicated the right of the military to arrest and imprison, following in that respect the judicial determinations of the same question by every State court in which the situation has arisen, and by the Supreme Court of the United States.

FREMONT COUNTY EXPEDITION.

On the 31st of January your excellency directed me to send troops into Fremont County, the occasion being an attack by armed strikers upon trains bearing strike breakers to the mines. Pursuant to those directions, I sent Maj. Kennedy with a company of infantry and a detachment of Cavalry to Florence, diminishing by this and the expedition to Routt County the all too meager force at my command wherewith to protect the citizens of Huerfano and Las Animas Counties.

By your excellency's orders, about the middle of February the troops were withdrawn, first from Fremont County and then from Routt County, the necessity for their presence, in your excellency's opinion, having passed.

MOTHER JONES'S HABEAS CORPUS SUITS.

Early in February counsel for the United Mine Workers made application to the Supreme Court of the State of Colorado for an original writ of habeas corpus in the case of Mother Jones. This application was denied by the supreme court.

On the 6th of March the habeas corpus petition in the case of Mother Jones, addressed to the district court of Las Animas County, was denied and Mother Jones remanded to my custody. During the arguments in court upon all of the habeas corpus cases the court room was packed on each occasion with a heterogeneous audience, the major portion of which neither spoke nor understood the English language. The crowd was very unusual and could not have been attracted by any desire to hear the proceedings which it could not understand. Without any doubt in the world these men—Greeks, Montenegrins, Italians, Servians, and other recent arrivals from the southern countries of Europe—were present for the one purpose of participating in any riot that might be started. On the last occasion—March 6—I discovered a conspiracy among certain Italians in the audience to kill myself, the judge advocate, who was presenting the argument, and the district judge, who had incurred the hatred of the strikers by his decisions. The conspiracy was not unusual, since I have had military information of just such plots over and over again; but upon a showing of this particular conspiracy the actual production of Mother Jones in court was waived by counsel for the United Mine Workers. On each of these occasions I found it necessary to surround the courthouse with soldiers. I have always been able to enforce order and prevent riot or disperse mobs, but with all the forces at my command I could not prevent secret assassination, and assassination was impending that day.

FORBES MURDER.

An episode has occurred since the visit of the congressional committee which has been given nation-wide publicity through the press bureau of the United Mine Workers of America. The incident is so typical of the falsehoods spread broadcast concerning the National Guard by the union leaders that I beg leave to acquaint your excellency and, through you, the congressional committee with the facts. A nonunion miner by the name of Neil Smith, working at Forbes, was murdered on the railroad tracks between Forbes and Suffield. The murder was particularly brutal. It was committed with large stones held in the hand, with which the victim was beaten to death. His skull was smashed in and his whole body so pounded and mutilated as to be almost beyond recognition. The blood-deluged stones and clubs used are in the possession of the coroner of Las Animas County. After being killed the victim's body was laid on the railroad track to be run over, as it was, by an approaching train. The train passed over the body at 7.40 in the evening. At 6 o'clock the deceased was seen walking briskly toward Suffield at a point not a quarter of a mile from where he was discovered dead. In an hour and 40 minutes, if the union's theory is correct, he had walked less than a quarter of a mile. The stones and sticks covered with hair embedded in the dried blood found beside the railroad track conclusively negative any theory other than murder. Three distinct sets of footprints led from the body where it lay on the railroad track across country by a devious route into the union tent colony at Forbes. The footprints were very distinct and were not lost once. It was known that by an incident of this kind the union people desired to strike terror into the hearts of those at work. There were two tent colonies at Forbes, known as the upper and the lower colony. In one are men, women, and children; in the other are men only. It was to the latter colony that the footprints of the murderers led.

All of the tent colonies in the disturbed region are so established strategically as to guard the mouth of the canon and by their presence terrorize and intimidate nonunion workmen. This was particularly true of the Forbes colony. It is so established that no workmen can leave the camp at Forbes without passing along or through it. Upon discovering these facts I arrested all of the inhabitants of this lower colony, numbering some 16 men. I then directed the removal of the tents, and they were taken down. In my judgment it was a military necessity. The colony was known to harbor the murderers of Smith and was a menace and continuing intimidation.

So soon as the tent colony was razed the strike leaders besieged your excellency with protests and sent to the President of the United States a message to the effect that I had destroyed the homes of the people and turned women and children—nay, infants in arms—out into a blinding blizzard, homeless and with unspeakable suffering. There was no blizzard; there were no women, children, or infants in the colony; and every inhabitant deprived of a home by the razing of the tents was furnished shelter in the jails of Trinidad. I have the statement of the president of the Forbes local union, made to the judge advocate, that there were no women or children in this colony and never had been since its inception. Accordingly, by your excellency's direction, I telegraphed the true facts to the President of the United States, a copy of which message I attach hereto. In this case it is interesting to note that the president of the local union, in answer to a question of the judge advocate, stated that the Forbes local comprised some 53 members, mosly English speaking, being Englishmen, Scotchmen, Irishmen, and Welshmen, and that of the number there were but three American citizens. The examination of the prisoners revealed over and over again English-speaking men who had been in this country between 20 and 30 years, yet had never attempted to become American citizens, but remained still subjects to the British Crown. These are the class of men who clamor most loudly about their constitutional rights.

WILLIAMS'S ATTEMPTED ASSASSINATION.

As I write this report another instance of outlawry has occurred. The other night the business men of Trinidad met and formulated a

joint telegram to your excellency, indorsing your excellency's policy and pleading for the protection that continuance of the State troops in Trinidad assures. One of the business men so joining in approval of your excellency and the military forces of the State was discovered the day before yesterday in a dying condition in his office, having been murderously beaten and left for dead. He was taken to San Rafael Hospital and, from the latest reports received, has not yet recovered consciousness.

III.—GENERAL POLICIES.

USE OF HORSES, MULES, AND AUTOMOBILES.

On entering the field the National Guard owned only 14 head of draft horses, a totally inadequate number for the quartermaster general's department, which is charged with the supplying of the troops with all manner of stores. Two hundred and seventy-nine head of horses were finally purchased for draft use and mounted troops. The commanding general very gladly accepted the offer made by ranchmen and some of the operators to take over horses and mules, to be used without charge to the State. In this way 21 head of saddle horses were in use without expense other than their feed, being drawn from the ranches in the vicinity of the strike zone, and 15 head of mules were secured from the various coal mines of the district.

In Huerfano and Las Animas Counties the troops were distributed over about 120 miles of territory, much of which was distant from railroad transportation. It became necessary to provide transportation other than horses, in order that the commanding general and certain officers of his staff might pay frequent visits to the detached posts. At various times six different automobiles have been used, four of which were private cars and two said to have been owned by the operators. Some complaint was urged by the strike leaders against the use of these cars, and request was promptly made of Mr. Lawson that he also furnish one or two cars for the use of the troops. This request he declined.

ENLISTMENT OF MINE GUARDS.

The enlisted personnel of the National Guard of Colorado is largely made up of small property owners, clerks, professional men, and farmers. It has always been the custom, upon mobilization of the troops for protracted service, to relieve from duty those soldiers whose presence at home is most greatly needed, enlisting in their places men who have served in the Regular Army, in the Marine Corps and Navy, and the National Guard of this and other States, great numbers of whom are usually available in the cities and towns of the State. Among the mine guards who were thrown out of employment by the presence of the troops in the field a few ex-soldiers were found whose discharge papers were of such a character that it seemed desirable to enlist them in the National Guard of Colorado. So far as it has been possible to ascertain, no Baldwin-Felts man ever offered himself for enlistment or became enrolled in the service. All men enlisted in the National Guard were given the pay of the rank in which they were serving as soldiers, and were subject to the same orders as other soldiers. A few of the men enlisted among the mine guards were paid for a time additional sums by the operators. This is a matter in which the commanding general has no interest, as it has been customary for business houses to continue the pay of employees who are serving the State under orders of the governor.

DISARMAMENT.

The governor, in his first letter of instruction, directed that all persons should be disarmed unless authorized to bear arms. In compliance with this order, weapons were taken from the peace officers of both counties, from the deputy sheriffs and mine guards found about the properties of the operators, from the tent colonies of the strikers, and from such homes and stores as were being used to the disturbance of law and order. In all, 1,872 guns and pistols have been gathered from the deputies and strikers, and about two tons of explosives. Directions were given, very soon after entering the strike zone, that the importation of arms and ammunition should cease, and that no guns, ammunition, or explosives should be sold without the permission of the commanding general. Many of the guns which were in transit at the time of the mobilization of troops were returned to the factories and wholesale dealers in the East. Where arms were voluntarily turned over to the soldiers a receipt, carrying a description of the gun, was given to the owner of the weapon. Where false statements have been made as to the presence of guns it has been customary to confiscate the weapons when found. The first weapons gathered in Huerfano County were taken from the sheriff and his deputies.

STRIKE BREAKERS AND STRIKE NOTICES.

In the governor's letter of instruction dated October 28, 1913, occurred the following order:

"To see that all persons desiring to return to work shall be permitted to do so, and to go and come when they will without molestation or interference of any kind whatsoever, and during the restoration of order or until further orders no strike breaker shall be shipped in.

"With these purposes in view you should have the fullest cooperation of every good citizen."

Every operator in the strike zone was promptly notified of this ruling, and was directed that any plans under consideration for the introduction of workmen from outside the State of Colorado should be withdrawn until such time as the governor lifted the prohibition for the introduction of workmen from without the State. One band of 12 Japanese was permitted to come in by a special permit of the governor, as they had previously worked in the strike zone and were fully cognizant of the fact that the strike was in progress. The governor directed by telephone that at any time when two or three former workmen desired to return to any of the mines they should be allowed to do it. The strike leaders repeatedly called the attention of the commanding general to alleged efforts to violate the order concerning the introduction of workmen. Each case was investigated by an officer detailed for the purpose, and in only one instance—that of the introduction of Mexicans at Gray Creek—was there even an appearance of an effort to evade the order of the governor.

Prior to the issuance of General Order No. 17, a copy of which is attached, the operators were informed that they would not be permitted to import to their mines any workman who had not previously been interrogated by an officer of the National Guard as to his knowledge of the strike and conditions of employment in the State of Colorado. Each officer of the National Guard was furnished with copies of General Order No. 17, and the order was printed in the local press. The first importation of workmen arrived from the East, passing through La Junta. In order to test the efficacy of the method adopted for interviewing workmen, Capt. Nickerson was sent to La Junta to meet the train bearing the workmen. Upon his recommendation that there was ample time after the arrival of workmen in the district to test their knowledge of the strike and labor conditions in Colorado, no other officer was sent out of the strike zone to intercept workmen. Upon several occasions complaints were made that workmen had been brought into the mines without a complete check being made. Officers were detailed to investigate, and their reports show that in each instance the check had been thoroughly made.

Prior to the promulgation of General Order No. 17 the operators were invited to a conference with the commanding general to devise a scheme of notification to the workmen entering the strike zone, which would give evidence of compliance with the law. At this time notices were drafted and printed in several languages, which were afterwards, as I am informed, supplied to each laborer imported. One of these printed notices is attached hereto.

UNITED STATES MAILS.

Nearly every mining camp in southern Colorado is located on land which, for purposes other than mining, is almost worthless. Such population as gathers about the mines is for purely mining purposes. This has necessitated the placing of post offices, for the convenience of the inhabitants, on mining property privately owned. One of the delicate situations requiring wise control on the part of the soldiers on duty in the strike region has been to permit all persons who were accustomed to receive mail at these mining post offices to proceed to the post office and at the same time insure against interference with persons or property connected with the other side of the industrial conflict. The condition referred to has been aggravated in several of the camps by the fact that county roads pass through the mining camp, and, as your excellency well knows, no highways in the strike zone are fenced. As an instance of the conditions referred to, of the care exercised by the officers and the good judgment exhibited by the enlisted men, the reports of the officers connected with the alleged interference of the mail at Rouse are herewith submitted.

ALLEGED PEONAGE.

Numerous inquiries have been made of the commanding general by the committee of the trades assemblies of Colorado by strike leaders and individuals among the strikers as to the restraint alleged to have been exercised by soldiers over workmen desiring to leave the various mining properties. It seems incredible that such a charge should be made against a soldier, for it is a well-known fact that the mine operators openly assert they want no man on the pay roll who has become dissatisfied with his work or who desires to leave. Therefore it is easy to understand that no request has ever been received by any officer or soldier of the National Guard of Colorado to prevent the departure of any workmen seeking to leave, nor has there been an instance known to the commanding general where an officer or enlisted man of the National Guard ever prevented the exit of any workman from a mine, unless all egress from a camp had been barred temporarily to investigate some alleged crime.

POLICE INFRACTIONS BY TROOPS.

Something over 2,000 different soldiers have been on duty in the strike zone of Colorado. The discipline of the men, the efficiency of the officers, and the quality of service rendered have been a constant surprise to such soldiers as have had the facts to judge from. No instance of disobedience or neglect of orders on the part of an officer has come to the attention of the commanding general. There have been fewer infractions than might have been expected from the nature of the service, which was peculiarly trying to disciplined soldiers. Every case of drunkenness or other irregularity was cared for by the proper military courts. The summary courts tried 424 cases and the general court-martial considered 30 cases.

THE MILITARY COMMISSION.

I feel it due to explain the purpose and functions of the military commission which was established by my order shortly after the assassination in the streets of Trinidad. I found that military prisoners were accumulating in the jails whose individual cases needed more thorough investigation than the commanding general had time or occasion to make. I therefore detached a board of officers which I designated the "military commission." This board or commission I constituted of officers of higher rank in the service of the State, known in their local communities as representative men of high ability, upright character, and irreproachable integrity. While the personnel of the commission was changed slightly from time to time as the necessities of the service required, still I aimed always to assign to this body officers in whom your excellency, the commanding general, and the people would have the greatest confidence. As originally established the commission comprised the inspector general and paymaster general of the State, Col. C. B. Carlile, who in civil life is a banker in Pueblo; the surgeon general of the State, Col. G. P. Lingenfelter, a distinguished Denver physician; Col. Edward Verdeckberg, commanding the First Regiment of Infantry and the central camp at Walsenburg, a manufacturer of Denver; Maj. A. H. Williams, adjutant general of the First Brigade, a Denver business man; Maj. A. F. Reeves, a real estate man of Montrose, who has since been appointed postmaster of that city by the President; Capt. A. D. Marshall, the secretary of the Sons of the American Revolution; and Lieut. W. A. Spangler, a Denver attorney. Afterwards, at different times, Maj. Lester, a Walsenburg physician; Capt. Dailey, clerk of the district court at Fort Morgan; Capt. Frost, an attorney of Colorado Springs; Capt. F. D. Bartlett, a professional man of Denver; and Capt. Downer, a merchant of Ordway, served upon the commission.

The purpose in view in establishing the military commission was to prevent the imposition of unnecessary hardship and imprisonment in cases where no reasonable grounds existed for detention, and to insure, by the collective judgment of such a board, wise and discriminating imprisonment of those who should be detained as a military necessity. While the board was advisory purely, I yet sought to substitute for the sole judgment of the commanding general the collective wisdom and painstaking results of these high-minded and patriotic gentlemen. The military commission was in no sense a court. It did not undertake to try anyone for criminal offenses or anything else. It was a kindly and humane device established for the sole purpose of minimizing the possibility of error in judgment attaching to the incarceration of civilians.

In the same order I established the office of the judge advocate of the military district, and designated Maj. Edward J. Boughton, an attorney of Denver and Cripple Creek, the judge advocate, assigning to his office as assistants Capt. William C. Danks, of Denver; Capt. Edward A. Smith, of Denver; Capt. Hildreth Frost, of Colorado Springs; and Capt. J. R. Charlesworth, of Delta; all practicing attorneys at law.

The purpose of the military commission and the judge advocate's office was accomplished even beyond my expectations. A very large number of arrests were made for various reasons. All of these cases were investigated, the evidence collected and submitted to the military

commission by the judge advocate, and recommendations either of release or continued detention were made by the commission to the commanding general, and acted upon promptly by him. In all, 172 cases were thus investigated and disposed of. It is interesting to note that 325 witnesses appeared before the commission. Of the prisoners, 141 were foreigners, 14 were Greeks, 46 Italians, 43 Mexicans, 24 Slavs, 14 other foreign nations. There were 31 Americans. The moral effect of the military commission was tremendous. It was able to ascertain the true facts in cases where the civil authorities had confessed themselves wholly unable to do anything. Whenever it was discovered that the prisoners were amenable to the civil law for specific criminal offences, they were turned over to the civil authorities, together with the evidence collected by the commission. The nature of the cases submitted may be summarized as follows: Murder, 29; assault, 42; disturbance, 20; rioting, 19; subverting military discipline, 17; arson, 20; drunkenness and disorderly conduct, 15; held as witnesses, 21; insanity, 1; picketing, 1; fugitive from justice, 1. No effort was, of course, made in that direction, but it so happened that the political complexion both of the military commission and the judge advocate's office was distributed very evenly among the recognized political parties in the State, even the Socialist Party being represented thereon.

"MOTHER JONES."

The person known as "Mother Jones" has occasioned considerable publicity and some embarrassment during the occupation. The embarrassment of her presence is not, however, confined to the military authorities by any means. It was at one time stated to me and the judge advocate by Mr. McLennan, one of the principal strike leaders, that Mother Jones was invaluable as an organizer in the early stages of the strike, because she excited the men, but had always proved very embarrassing to the union chiefs in the later stages, particularly when there was possibility of a compromise or adjustment. McLennan stated in that conversation that Mother Jones was a very headstrong old woman, who would not submit to guidance or suggestion of any kind, even from her own people, and that they had to suffer her to do as she wanted, oftentimes to the great annoyance of those in charge of the strike. She is an eccentric and peculiar figure. I make no mention of her personal history, with which we are not concerned. She seems, however, to have in an exceptional degree the faculty of stirring up and inciting the more ignorant and criminally disposed to deeds of violence and crime. Prior to the advent of the State's troops she made a series of speeches in the strike zone, of which I have authentic and verbatim reports. These speeches are couched in coarse, vulgar, and profane language, and address themselves to the lowest passions of mankind. I confidently believe that most of the murders and other acts of violent crime committed in the strike region have been inspired by this woman's incendiary utterances. The fact that she is a woman and advanced in years she uses as a shield, as well as a means of invoking popular sympathetic sentiment in case of her incarceration. She is undoubtedly a most dangerous factor in the peace problem. I am informed that she was so found in West Virginia and elsewhere that disturbance and anarchy held sway. She was held for murder in West Virginia, and I am advised that her police record is in the possession of the Pinkerton detective agency.

As your excellency is fully aware, she defied all government and all authority of the governor to your excellency. Every effort was made to induce her to remain away from the troubled district, and the cooperation in that respect of the strike leaders was invited. These latter, however, while evincing a disposition of keep Mother Jones out of the territory, frankly confessed their inability to do so. She came to Trinidad after publicly declaring her intention to incite trouble.

In view of her history in other places and the evident effects of her incendiary utterances in Colorado, your excellency deemed it wise, and even necessary, as a military measure, to restrain Mother Jones of her liberty so long as she persisted in remaining in the strike region. Accordingly, upon the day of her arrival in Trinidad, I arrested her and placed her in San Rafael Hospital, upon the outskirts of the city, where she was given every attention conducive to her comfort. She was advised that she was always at entire liberty to leave the disturbed parts of the State, but she pertinaciously and with great contumacy insisted on remaining in imprisonment. It was avowedly present in her mind to excite sympathy for the union cause by submitting to a continued incarceration, and with that in mind she was at first very angry that she had been so nicely restrained at the hospital, instead of being confined in a common jail, of which she felt she would be able to make more capital. After many weeks' confinement, however, she sought a confidential interview with Col. Davis, commanding the central camp at Trinidad, in which she discussed ways and means of bringing about her departure and at the same time saving her face. Being anxious only to get rid of the incendiary woman, her suggestion that she be permitted to go to Denver, ostensibly to see your excellency, and that if liberated at that place she would depart upon some excuse of her own, was readily adopted. Upon her own suggestion she was brought to Denver and liberated as suggested, but she promptly repudiated the rest of her proposal, and, after interviewing her attorney and strike leaders and remaining in Denver for three or four days, she returned to the strike district, where again, by your excellency's directions, I have had the unpleasant duty of detaining her. She was again notified that she was free to leave the district at any time she wished. She returned to the strike district, not for the transaction of any business, or for any other purpose than to defy the power of the State, and, as she stated in numerous interviews, "to establish her constitutional right to go where she pleased," and in open defiance of the power and authority vested in the chief executive.

IV.—SOME SPECIFIC INCIDENTS.

I come now to report upon specific incidents testified to before the congressional committee. In this connection, it should be remarked that considerable testimony was presented of complaints against the conduct of officers or soldiers of the National Guard. In a great many of these instances the witness could not, or at any rate did not, state facts from which either the identity of the men complained of or the incident referred to could be established. Such testimony has been painfully illusive, since it has afforded no means of checking the witness by investigation, and affords no opportunity to combat or refute the testimony. Another large class of testimony produced before the committee and attacking the National Guard does not appear to fall relevantly within any of the enumerated lines of inquiry authorized by the House resolution. Again, much was stated to the committee concerning minor police infractions by individual soldiers, whose offenses were properly disciplined in the usual way wherever known. In this connection it was very easily discernible that a disposition existed in the witnesses hostile to the National Guard, and in those individuals conducting the attack upon the guard, to keep secret from the proper military officers any misconduct on the part of soldiers, thus often preventing the disciplining of the offender or proper investigation of the charge at a time when the true facts were ascertainable. It seemed to be a settled purpose to treasure up known charges of alleged misconduct against soldiers to be used as testimony before the committee, great care being taken, wherever possible, not to acquaint the military authorities with the grounds of complaint against individual soldiers, so as to afford means of correction. With the large number of soldiers in the field, and scattered among some 36 detached posts over a territory 120 miles in extent, there have doubtless occurred instances of misconduct and disorder on the part of individual soldiers. It would, indeed, be very strange if such was not the case. But I can confidently assert that no very serious offenses have been committed, and that in every instance where infraction of the law or the moral misconduct of men has occurred, and where the military authorities had knowledge, or could by the exercise of the utmost diligence have obtained knowledge, the offenders have been promptly and severely disciplined and punished. Considering the size of the force, the necessity of such discipline and the occasions of such misconduct have been remarkably few; and, indeed, I have to commend the patience and good conduct of the men in the field as truly exceptional under a great strain and often under almost unbearable provocation.

So far, then, as I have been able to ascertain from the testimony produced before the committee what incidents and what men were referred to by the hostile witnesses, I have thoroughly and personally investigated the cases cited and am able to report the true facts of each.

EXCLUSION OF LABOR COMMISSIONERS.

It was testified by the witness, Eli Gross, that he and certain other representatives of Labor Commissioner Brake were sent to Delagua, Hastings, Tobasco, Berwind, and Forbes to discharge certain official duties, and that at the latter place they were prohibited from seeing the men in the mines, and escorted out of camp and excluded therefrom by Lieut. Olinger, of the National Guard. The facts are that Mr. Gross and his party were ostensibly visiting the properties for the purpose of examining the plant and machinery, as provided by the State inspection law. This they were permitted to do, as testified by Mr. Gross himself; but in the party at Delagua and Hastings was a certain Italian by the name of Mancini, likewise a deputy labor commissioner, who stated to Maj. Hamrock, in command of that district, that by express directions of Labor Commissioner Brake he accompanied the party for the purpose of talking to the employed and working nonunion miners in Italian, and that he had had express directions from his chief to persuade the workmen to quit work by every means, either of argument, cajolery, or intimidation. Colorado has a State law prohibiting such interference with workmen, making it criminal. To have permitted the State labor commissioner to violate the law through his Italian deputy would have increased the difficulty of maintaining peace. Upon this information being furnished by Maj. Hamrock, and observing that the labor commissioner's party desired not to inspect the machinery but to talk to and dissuade the workmen from their employment, as a peace measure, Lieut. Olinger was directed to exclude them from the camp. These orders were carried out by the lieutenant courteously and after entertaining the party at dinner as his guests.

THE LA JUNTA INCIDENT.

It was testified by some witness that, coming into the State as a strike breaker with a number of others, the train was boarded by guardsmen at La Junta, the soldiers guarding the front and rear platforms of the car and preventing any person from leaving it. The witness stated that a woman and child desired to go from one car to another, and were forcibly detained upon the platform for a long time, exposed to the cold. This incident simply did not occur. The only National Guardsman ever sent out of the district to meet an incoming train of strike breakers was Capt. Nickerson, who testified at the committee's request that upon one occasion he went alone to La Junta under instructions to ascertain whether the State law requiring knowledge of the strike conditions to be imparted to strike breakers had been complied with, and that he went through the car and ascertained that in each instance the law had been obeyed, and interfered with nobody.

THE VALENTI TESTIMONY.

A witness calling himself Salvatore Valenti testified that he was compelled by soldiers to remain at work in Delagua after he wished to quit; that, being refused permission to leave, he managed to escape by another way, and, being in Trinidad on the day of the "Mother" Jones riot, heard Gen. Chase says: "Go ahead and fight; kill all you want; kill all the people right away; chase the people out of the road; go ahead and chase these people out and kill them; kill all the people you want."

The latter part of this testimony ought not to be dignified by a denial, and, indeed, I should not have included so ridiculous a statement were it not for the fact that it affords quite a typical instance of much of the testimony that was offered against the soldiers. This witness, Valenti, during his examination stated that his name was Dominick Bonito; that, in giving the name Salvatore Valenti at first, he had forgotten for a moment what his own name was and so gave his uncle's name. He stated that he had served a full three-year's enlistment in the United States Army, being discharged on the 18th of February, 1912, and that he had served in the Philippines in 1910. He could not read or write, nor did he know the difference between a colonel, a captain, and a sergeant. He stated that he belonged to Troop B of the Thirty-sixth Cavalry, and that his colonel was Tom Shaeffer, a German. As a matter of fact, no man who can not read or write has been admitted to the United States Army in the last 25 years. There is no Thirty-sixth Regiment of Cavalry, and has not been. The name of Tom Shaeffer does not appear on the Army Register, either as colonel or anything else. The witness insisted he had his discharge papers in a trunk at Delagua. Upon the suggestion of the committee, it was arranged that the strike leaders should bring this witness to the evening train, and that the general, who happened to be returning to the district that night, should personally give him safe conduct to Delagua to find his trunk and his discharge papers. The general and the strike leaders were at the train, as agreed upon, but there was no Valenti. He has fled, and the strike leaders profess to the general that they do not know his whereabouts. He has no trunk and no discharge papers at Delagua, and the tale that he tells of enforced work and personal restraint by the soldiers is not true. Yet this is the class of witness that was often introduced to the committee as worthy of credit and belief, to attack the National Guard.

THE BARBED-WIRE EPISODE.

It was stated by the witness John Lawson and others that Lieut. Linderfelt had directed that some barbed wire be cut in small pieces and thrown into a well used by the inhabitants of the Ludlow tent

colony as a source of water supply, thus polluting the well. The self-constituted committee of labor organizations was at the time of this incident conducting what it was pleased to call an investigation of the militia. That committee had announced that it would make no report until it had completed its so-called investigation; but so appalling did this incident appear to it that the committee interrupted its work at once and telegraphed to your excellency about the matter as of serious and immediate import.

The telegram stated that upon the occasion of the occurrence Lieut. Linderfelt had brutally assaulted an inoffensive boy and grossly abused a man in no way connected with the strike, and unjustifiably arrested Louie Tikas, the headman of the Ludlow tent colony; adding that the lieutenant had a deliberate purpose to provoke the strikers to bloodshed, and asking for his removal.

By your excellency's directions I instigated a searching investigation of this incident at the time of its occurrence and learned, as I advised your excellency, that the facts were as follows: On the evening of December 30 a patrol of Lieut. Linderfelt's company was returning from Barnes, and when opposite the Ludlow tent colony in the county road Corpl. Cuthbertson's horse encountered a double strand of barbed wire which had been strung across the highway. The horse became entangled in the wire and unmanageable and severely injured his rider, the horse itself being severely cut by the barbs. Again, on the 7th day of January another wire entanglement was discovered in almost the same place and removed. Upon one occasion prior to the injury of Corpl. Cuthbertson another wire entanglement was discovered across the county road near the tent colony. After the injury to Cuthbertson, Lieut. Linderfelt directed his men to cut the wire into pieces, which they did, throwing it into a near-by well which was supposed to be abandoned, and I now find this well was at no time used by the strikers for water for drinking purposes. Lieut. Linderfelt then arrested Louie Tikas, together with another man who was pointed out to him as the person who had strung the wire. At first Tikas protested that he did not know the other man, but upon being sent to Maj. Kennedy for examination admitted that he had lied in that respect and that he knew him very well, but protested innocence of the wire entanglement. The inoffensive boy referred to in the labor committee's report denied that Lieut. Linderfelt had struck him, confirming the lieutenant's statement in that respect. This incident is reported in full as showing the lengths of falsehood, bias, and deliberate misconstruction to which those engaged in attacking the national guard have gone.

INTERRUPTED FUNERAL.

Witness Hall, an undertaker of Trinidad, whom the strikers employ exclusively, stated that a funeral procession conducted by him had been interfered with and broken up by a soldier driving an automobile. In this connection it should be explained that mobs and street processions have been prohibited in the strike zone for the very obvious reason that such demonstrations at a time like the present usually result in disorder and riot. Funeral processions have, however, always been allowed and never interfered with. The result is that the striking miners utilize a funeral for the purpose of making a parade through the streets. On such occasions there is very little funeral sentiment, but often considerable sociological demonstration. It matters not that the deceased was wholly unknown to those taking part in the procession, or whether the deceased had lived in the community 1 day or 10 years, the funeral is always made the occasion of a street parade in which flags and banners of the striking miners are carried and large numbers of men march to demonstrate strength. I feel this explanation is necessary to an understanding of what occurred in the incident referred to by Undertaker Hall. Pvt. Ward J. Watson was driving an automobile upon a military errand between the city of Trinidad and the military camp a mile away and overtook one of these funeral processions or parades. Reaching the rear of the procession a short way from the military camp and attempting to pass by without molesting it he slowed up to turn aside. The men in the procession turned about and began to abuse him, calling vile names, making threatening gestures, and climbing upon and over the sides of the automobile. Thereupon Pvt. Watson, guiding his car with one hand, drew his pistol and struck at one of the men attempting to board the car. In fear of what might follow, he being one against so many, he drove the car at full speed through the mass of men until he reached the buggies and cabs in the procession, when he swung to the side and went on to the military camp. Pvt. Watson insists that he felt it necessary to act thus as the only means of protecting himself against the demonstration made. It was really a flight.

THE PATTRUCCI INCIDENT.

A woman by the name of Pattrucci testified that soldiers arrested her husband, taking him to the guard tent at Ludlow, and then returned and offered her $2 to prostitute herself. The offer, she stated, was made in the rather ambiguous language: "Where can I spend these $2?" The witness placed her own interpretation upon it. I have no means of ascertaining whether such incident ever occurred, since the witness, though pressed, was unable to give any information as to who the men were. She said, however, that she complained of the incident to Maj. Kennedy, whom she knew, and that he had punished the men; and, in an effort to discover who the men were, the committee itself requested the presence of Maj. Kennedy, from whom it was hoped to obtain the names. Maj. Kennedy at the time was in command of the force in Fremont County, but upon the committee's request was brought all the way from Florence to Trinidad, and, being upon the stand, testified that he knew nothing of the incident; that none had been reported to him, nor was anyone punished; and that on the date of the alleged incident and conversation with him at Ludlow he was, in fact, over 100 miles away.

MRS. THOMAS.

Two incidents were testified to before the committee in connection with the Mother Jones riot—one by Mrs. Thomas, and the other by a young girl, Sarah Slator. Mrs. Thomas testified that she was shoved, pushed, jabbed in the back with a bayonet, arrested, and held in jail 11 days. The arrest and imprisonment are facts, but the rest of her testimony is largely fiction. She was a vociferous, belligerent, and abusive leader of the mob. She forcibly resisted orders to move on, responding only with highly abusive and, to say the least, unwomanly language. She attacked the troops with fists, feet, and umbrella. In her testimony she made much of the awfulness of treating a riotous woman in the same way as a riotous man. This woman has been under surveillance for a long time, and the truth is that not long before, upon the occasion of the arrest of her husband for knocking down a woman—an arrest directed by the union leader, Uhlich—this same Mrs. Thomas strenuously defended her spouse at Miners' Union Hall, with the argument that women who act the part of men must be treated as such. The next day she appeared at the newspaper office of the Trinidad Advertiser and professed her intention to kill the editor for having printed as a news item the incident concerning her husband, and returned a little later with a pistol to carry out her purpose; but, being excluded from the office, she remained for some time upon the sidewalk, attracting a crowd by her loud, vile, and boisterous denunciations. She is altogether a violent and, upon occasions like the Mother Jones riot, a dangerous woman. She claims to have lived in America a little less than a year. It was necessary to arrest her.

SARAH SLATOR.

This young girl testified that on the same occasion the commanding general dismounted for the purpose of kicking her in the breast. The absurdity of this statement will be apparent to all. The young girl, who was playing truant from school on that day, offered considerable resistance to the soldiers, positively refusing to move on or go home, and continually calling names and abetting the troubles occurring within her sight. Before night her father represented to me her age and irresponsibility, and, feeling that a jail was no place for a girl of tender years, she was released and delivered to her father's custody.

OVERWORKED TRAIN CREW.

A Colorado & Southern trakeman testified that on December 25, 1913, Lieut. Griffin compelled a train crew to work over the 16 hours out of 24, limited by Federal statute. The report of Lieut. Griffin, who had charge of the detachment upon an errand of safe-conduct of workmen, as well as the statement of Sergt. Goodell, who was with him at the time, show that the facts were these: A conversation occurred between the military officers and the train crew concerning the attitude of the National Guard toward the railroad trainmen and unions, and in this conversation members of the crew stated that all trainmen "had it in" for the military, as the military was always against the interests of the unions. It was noticed that a great delay in moving the train was occurring, and upon inquiry it was stated that the crew was "stalling," so that the 16-hour period would expire, leaving the military detachment in the yards. Whereupon the lieutenant told the conductor that he was placed in charge of the train to deliver workmen and return with his command to Trinidad, and that the lieutenant's orders were to see that he did it; at this the train was moved. If the 16-hour limit expired before the time the train reached Trinidad, a matter of which the lieutenant was in ignorance, it was because of the deliberate plot on the part of the train crew to bring that condition about.

PEONAGE.

There was some evidence introduced to the effect that men were forcibly prevented from quitting work and leaving the camps at Hastings and Delagua, and that this sort of peonage was enforced by the soldiers in charge. After a careful examination, I state that this testimony was in every instance false, so far, at least, as the same concerns the troops. The commanding officer in charge of the troops in the Hastings-Delagua Canyon states positively that all civilians who made application to leave the camps were at once given a pass, and that at no time was the military instrumental in detaining anyone desiring to quit work and leave the camp. That a man was killed in the mine in Delagua during December while trying to leave, and that the soldiers were present and participated, as mentioned in certain affidavits, and that the name of the man killed was Hayes, and that a man by the name of Davis witnessed the killing, is wholly false. No man was killed at this mine during December, and the records show that no man by the name of Hayes was employed at the mine, nor was there a man by the name of Davis employed or present, so far as can be discovered.

INSULTS AT STARKVILLE.

Two women of the lower classes, named Ramponi and Minardi, testified to certain vile and nasty insults by soldiers at Starkville. Upon the coming in of this testimony the individuals accused became highly indignant. They are young men of good families in Colorado Springs, who felt besmirched and humiliated by such false and scurrilous testimony. Acting through their captain, Hildreth Frost, the accused men submitted to me their sworn statements, together with the affidavits of several civilians who witnessed the incident referred to by the women, with a request that the same be handed to the committee as a matter of personal vindication. From these affidavits it appears that these women were continually hanging around the soldiers' camp and baiting them with the vilest kind of talk imaginable. These women, prior to the closing of the saloons in Starkville, used to tend bar at a place frequented by the rougher and lower element among the miners, and it would appear that, instead of the soldiers offering insult to them, they went out of their way daily to shout the most libidinous words at the troops. The language used can not find space here, but reference is made to the affidavits supplied by Capt. Frost's men.

JASSINSKY INCIDENT.

The incident of an alleged robbery testified to by the family named Jassinsky, of Suffield, was investigated by my express direction at the time it was said to have occurred. The report of Capt. Smith, who conducted an exhaustive investigation, wholly discredits the statements made. Capt. Smith testified before the committee concerning the matter, and it needs no further attention here.

GRAVE-DIGGING STORY.

A great deal has been said about a man being compelled to dig his own grave by a detachment of soldiers at Lester. One Andy Colnar has related in affidavits, speeches, and interviews with the press a horrible tale of his being told that a hole he was compelled to dig was intended for his own grave; that he was measured for it; that he was told in his own language that he was about to be shot and buried; and that he was so frightened that he fell fainting into the hole. His description of the torture is graphic and has been given the widest publicity. The tale is made of whole cloth. The incident never occurred.

It is perhaps well that the committee and the public know the facts, that they may judge of the methods used by the defamers of the National Guard. On or about the 28th of November, 1913, a letter was written by Andy Colnar, addressed to Paul Antovitch, the fire boss then working at the Prior mine. This letter, written upon the letterhead of the United Mine Workers of America, threatened violence to Antovitch if he did not instantly quit his job and join the union tent colony. The letter was delivered by one "Kink" True, who, as soon as Antovitch had read it, snatched it from Antovitch, saying that it was not necessary for the letter to remain in his hands. True then conducted Antovitch to a cut in the road, part way between Prior and the tent colony, where Andy Colnar and others were awaiting him. At this place Colnar threatened and intimidated the working miner, who

did not return to work, but felt it necessary to quit the mine. On this information Capt. Drake, in charge of the district, directed Lieut. Work to arrest and detain Colnar and True, and on the evening of November 28 both were taken and kept in separate apartments. True was placed in the upper part of the building with a sentry, and Colnar was given a bed in the assembly room and handcuffed with his hands in front of him from 11 o'clock p. m. until 6 o'clock the next morning. This was done to prevent escape, as there was not a sufficient number of soldiers to spare a sentry to guard Colnar. The next morning he was given a good breakfast and interviewed by Capt. Drake, who demanded of Colnar that he recompose the letter which he had written to Paul Antovitch. Colnar protested he could not remember it. The captain told him he would remain where he was until he did, and left him pencil and paper. During the day he sat in the assembly room near a comfortable fire. The captain, who had interviewed True, produced the original letter to Colnar. Antovitch was then sent for and identified the original letter as the one delivered to him by True. After a warning against carrying threatening letters and against intimidation, True was released, and Colnar was detained for further investigation. True is the president of the local union at Prior. The night of November 29 Colnar was placed in a comfortable bed in the town jail, and the next morning he was taken out under guard and set to digging a new latrine. The lieutenant had been reprimanded for the condition of the old latrine and, as was customary, utilized his prisoners for the purpose of digging a new one. While Colnar was thus engaged one of the soldiers, who speaks a little Slavish, passed the place and gave Colnar a "good morning" in the Slavish tongue. Colnar asked this soldier if what he was digging was a grave, but before the soldier answered him the drill call sounded, and the soldier replied, "I don't know," and ran hastily to where the detachment was assembling. During inspection that morning Colnar was placed in an interval in the center of the detachment, after which he requested to be permitted to telephone to his wife and babies, but the request was denied. He then said he felt sick, and was asked if he wished to go to the latrine, but his answer was unintelligible. He was taken out and put to work at the same place. About 11.30, after having his dinner, he was again interviewed by Capt. Drake, who stated that he understood that he had a wife and babies out on a ranch north of town, and that if he would promise to go and take care of them and abandon attempts to intimidate workmen he would discharge him and permit him to go home, but would keep him under surveillance. Colnar was exceedingly thankful, dropped to his knees, and invoked the Deity to witness that he would not transgress again. He said that if anybody at the tent colony wanted him to write threatening letters again they could murder him before he would do it. The captain told him to get to his feet and go to his wife. Colnar's thanks and expressions of gratitude were profuse, and tears streamed down his cheeks as he mentioned the good meals given him and the kind treatment accorded him while a prisoner. He was never measured for a grave; he was not told he was digging one; and he did not fall fainting into a hole nor anywhere else; neither was he told he was to be shot. Capt. Drake has still the letter of intimidation as originally written by Colnar. Upon Colnar's release he shortly imagined the weird tale that has earned him so much notoriety.

This campaign has not been a pleasure trip for the members of the National Guard, but a tour of duty, and the magnified stories circulated concerning alleged offenses or indiscretions on the part of soldiers while performing their duty can be assigned for no other reason than that of distracting the attention of the public from the real issues involved.

In concluding this report, I feel that I would be derelict in my obligations toward the officers and men of my command if I did not emphasize again the splendid conduct of the National Guard as a whole. These men are volunteer soldiers, who receive a mere pittance for their services as compared with their ordinary earning capacity in daily life. They have promptly and cheerfully responded to the State's call in the hour of danger, and their service has been attended in almost every instance with great personal sacrifice, and oftentimes downright suffering. The danger of destruction by assassination or otherwise has not been wanting. The errand was a patriotic one and occasioned by a quarrel wholly impersonal and void of interest to any one of them. The men of the guard have discharged their services well, faithfully, and patiently. For all the task has been a thankless one. The only visible return for the sacrificing citizenship displayed has been the heaping of reproach and opprobrium, falsehood and scurrility, upon the shoulders of the Commonwealth's defenders. It is hoped that a just and discriminating public will in the end come to realize the disinterested service of these champions of the State's integrity and honor, who for the present have only the consciousness of a stern and unpleasant duty well performed to console them.

All of which is very respectfully submitted.

JOHN CHASE,
Brigadier General, Commanding the Military District of Colorado.

Mr. THOMAS. I shall make no comment on either of these insertions. I merely insist that it is due to both sides of this controversy, if one is to have the benefit of the columns of the CONGRESSIONAL RECORD to any extent the other ought to have it to like extent. My remarks must not be construed as an indorsement of what appears in this document. I have the same reason for indorsing or condemning it that I have for indorsing or condemning the other. Allowance must be made on all sides for the excitement and passion and hysteria which have been engendered by this terrible and unfortunate tragedy. Time will sift the true from the false as nothing else can.

Mr. President, before the General Assembly of Colorado adjourned it voted bonds for military purposes or, to speak more accurately, for the purpose of preserving peace and aiding the Government in the execution of the laws. It voted a series of bonds aggregating $1,000,000, a great portion of the proceeds which, of course, will be required to meet the expenditures thus far sustained during the mobilization of the National Guard. There will be left, however, a very considerable sum—that is, a considerable sum for the State of Colorado—of between $300,000 and $400,000, which will be available for the uses of the State should any similar emergency occur in the future, which God forbid.

The legislature before adjourning appointed a committee consisting of members of both houses and representing the several political organizations of the State, and charged them with the duty of inquiring into and bringing about an adjustment of the difficulties between the miners and the mine operators. That committee has been in constant session ever since the legislative adjournment, which took place, as I recall, on Saturday, the 16th day of May. It has recently reported that the prospect for reaching a satisfactory conclusion is now very promising. It may be, therefore—and I hope it will be the fact—before this commission, if it shall be provided for and appointed and shall have gone to the expense of an investigation, that an adjustment will have been reached.

I am also informed that the Department of Labor, by the direction of the President, has detailed two of its best men especially charged with the duties of an investigation, and have for some time been engaged in the attempt to reach the same result.

I hope that the Committee on Interstate Commerce, to which committee I understand the resolution will be referred, will expedite the consideration of it and make a favorable report upon it as soon as possible.

The VICE PRESIDENT. The Chair inquires of the Senator from Colorado if the resolution ought not to go to the Committee on Education and Labor.

Mr. THOMAS. The request was made by the Senator from Oklahoma, when he introduced the resolution, that it go to that committee. I ask that it may go there, unless it belongs properly somewhere else; and that is one reason why I asked that it might lie on the table under the rule.

The VICE PRESIDENT. Bills and resolutions are referred on motion and not on the request of a Senator, if there is any objection.

Mr. THOMAS. The Chair asked me the question, and I was obliged to answer it as I did.

The VICE PRESIDENT. The Chair thinks it ought to go to the Committee on Education and Labor, and the Chair is going to refer it to the Committee on Education and Labor unless a motion is made to refer it to some other committee.

MISSOURI RIVER BRIDGE.

Mr. STONE. Mr. President, I have just come into the Chamber and I do not know what the Senate is engaged upon, but if it is in order I should like to ask unanimous consent to take from the calendar a bill for the construction of a bridge across the Missouri River. It is a House bill.

The VICE PRESIDENT. The morning business has not yet been closed, but by unanimous consent the bill may be considered.

Mr. STONE. It will not take more than a moment. I have some telegrams, I will say to the Senate, that are urging the importance of speedy action upon the bill. I ask the Senate to proceed to the consideration of the bill (H. R. 14189) to authorize the construction of a bridge across the Missouri River near Kansas City.

Mr. JONES. I am not going to object to the consideration of the bill, but I want to ask the Senator from Missouri, who is one of the leaders of the body, if he has any idea when we will be able to get started on the calendar and go through the calendar, and if we can count on his assistance to help us to get consideration of the calendar?

Mr. STONE. I am very anxious to get on the calendar. There are a number of measures on the calendar that ought to be disposed of, and undoubtedly many more important than the one that I now ask to have considered.

Mr. JONES. This bill is no doubt of importance locally, but I feel that if we let all matters of local importance get through we will not be able to get to the bills on the calendar. I am not going to object to the consideration of the Senator's bill; I want to have it passed; but I do hope he will help us to get started on the calendar very soon.

The VICE PRESIDENT. Is there objection to the bill indicated by the Senator from Missouri?

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

TRANSPORTATION OF PARCEL-POST PACKAGES.

The VICE PRESIDENT. The Chair lays before the Senate the following resolution coming over from a preceding day.

The SECRETARY. Senate resolution 363, submitted by Mr. SMITH of Georgia on May 14.

Mr. NORRIS. The Senator from Georgia not being present, I ask unanimous consent that the resolution may go over without prejudice.

The VICE PRESIDENT. The resolution will go over without prejudice. The morning business is closed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by J. C. South, its Chief Clerk, announced that the House agrees to the amendment of the Senate to the bill (H. R. 14385) to amend section 5 of an act to provide for the opening, maintenance, protection, and operation of the Panama Canal, and the sanitation and government of the Canal Zone, approved August 24, 1912.

LEGISLATIVE, ETC., APPROPRIATIONS.

Mr. MARTIN of Virginia. I ask that the Senate proceed to the consideration of House bill 15279, the legislative appropriation bill.

The VICE PRESIDENT. Is there objection?

Mr. KENYON. I object, Mr. President.

Mr. MARTIN of Virginia. I move that the Senate proceed to the consideration of the bill. I will say to the Senator from Iowa that this bill will come up as the regular order at 1 o'clock, and if there is any matter the Senate ought to proceed to consider that is of importance, I shall not insist on it now.

Mr. KENYON. I will state very frankly the reason for my objection. I gave notice on March 9 that I would as soon as possible move to take up a certain bill, and for reasons which are within the knowledge of everybody it has been impossible so to do. I thought, inasmuch as the bill the Senator has in charge will come up at 1 o'clock, the time from now until 1 o'clock might be devoted to the consideration of that bill.

Mr. MARTIN of Virginia. I ask the Senator what the bill refers to?

Mr. KENYON. It is the bill known as the volunteer officers' retired bill. It has been before Congress for a good many years. I know the Senator is not in favor of it, but I think it is entitled to a hearing.

Mr. MARTIN of Virginia. It is perfectly clear that it would be impossible to dispose of that bill in the time before 1 o'clock. It proposes to make a very large appropriation; $5,000,000 is, I understand, the amount involved.

Mr. KENYON. About that; but it is a very simple issue.

Mr. MARTIN of Virginia. It is a simple issue, but it is going to take a good deal of time. I am exceedingly anxious to get this appropriation bill through, but no more so than must be every other Senator. The summer is far advanced, and we ought to be disposing of some of the measures that we must act on before we adjourn.

Mr. KENYON. I am in accord with the Senator's idea as to the appropriation bill, but I want to say to the Senator if there is no merit in this bill of course it ought to be defeated, and if there is any merit it ought to receive consideration. I want to say to the Senator that of the committee—six officers of the Civil War—who presented this matter to the Military Committee, I understand three of them have already passed away. If we are ever going to do anything, it ought to be done at this session of Congress. Would the Senator have any objection to this kind of a motion, to make the bill a special order for some day next week? It would not take any of the time the Senator desires to devote to his bill; it would come up only during the morning hour.

Mr. MARTIN of Virginia. I have not that familiarity with the bill referred to that would justify me in agreeing to anything in relation to it to-day. I gravely doubt the wisdom of passing the bill at the present session of Congress. I certainly am not prepared to enter into any agreement, as far as I am personally concerned, in reference to it, because my course in respect to it is not determined.

Mr. KENYON. Of course the Senator has no objection to a hearing on the bill upon its merits?

Mr. MARTIN of Virginia. If an opportune occasion should arise, of course I would be glad to have it considered; but at present there is an important appropriation bill regularly before the Senate, and it ought to have precedence. I move that the Senate proceed to the consideration of House bill 15279.

The motion was agreed to, and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. 15279) making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1915, and for other purposes, which had been reported from the Committee on Appropriations with amendments.

Mr. KENYON. I move if it be now in order that Senate bill 392 be made the special order——

Mr. MARTIN of Virginia. I make the point of order that the appropriation bill is before the Senate.

Mr. KENYON. Let me make my motion, please. I move that the bill be made a special order for 12 o'clock June 15.

Mr. MARTIN of Virginia. The motion is out of order, Mr. President.

Mr. KENYON. I do not know whether it is or not. I am going to try to get the bill up on every possible occasion.

Mr. OVERMAN. The appropriation bill is pending before the Senate, and the motion is not in order.

The VICE PRESIDENT. The Chair is of the opinion that the motion can be entertained only by unanimous consent. The Senate has just voted to take up House bill 15279.

Mr. MARTIN of Virginia. I ask for the regular order, which is the consideration of that bill.

The VICE PRESIDENT. The Chair thinks, in justice to the Chair, a statement ought to be made now with reference to the unfortunate incident of last night between the Chair and the Senator from Virginia [Mr. MARTIN].

Mr. MARTIN of Virginia. Mr. President, if the presiding officer will permit me to say so, I think I was too hasty in the remark I made. I am sure the President of the Senate makes fewer mistakes than any Senator on the floor; and the disappointment to me at the time was such that, under the impulse of the moment, I made a comment which I immediately regretted, and which I wish to withdraw in the fullest and amplest and broadest sense.

The VICE PRESIDENT. It is not only for the Chair, because the Chair has no feeling about the matter, and he believes that the Senator from Virginia is a friend of the Chair, but the Chair desires to explain what really took place.

There is a rule of the Senate that a Senator shall rise and address the presiding officer and that the presiding officer shall recognize the first Senator who addresses the Chair; but there has grown up a custom in the Senate, which the Chair has been recognizing, of permitting Senators to send up requests to be recognized, both for the purpose of speaking and for the purpose of making motions. There is not any doubt at all that the Chair promised the Senator from Virginia [Mr. MARTIN] that he would recognize the Senator from Virginia; the Chair also promised the Senator from South Carolina [Mr. SMITH] that he would recognize the Senator from South Carolina; and the Chair also promised the Senator from Nevada [Mr. NEWLANDS] that he would recognize the Senator from Nevada immediately on the conclusion of the tolls-bill debate. So the Chair had three promises out to recognize three different Senators. The Chair had forgotten the promise to the Senator from Virginia; he managed a release from his arrangement with the Senator from Nevada, and recognized the Senator from South Carolina. Immediately, when the Senator from Virginia arose, the Chair remembered that he had two promises out; he also knew that the Senator from Virginia had the right of way under the rules; so the Chair stood by the recognition of the Senator from South Carolina. The Chair knows there is no feeling between the Senator from Virginia and the Chair, and hopes there is no feeling on the part of the Senate as to what the Chair did.

Mr. MARTIN of Virginia. Mr. President, I want to say that not only is there no feeling, but there is no sense of grievance—none whatever—on my part.

The VICE PRESIDENT. The Secretary will read the bill.

Mr. MARTIN of Virginia. I ask that the formal reading of the bill be dispensed with, that the bill be read for amendment, the committee amendments to be first considered.

The VICE PRESIDENT. Is there objection to the request of the Senator from Virginia? The Chair hears none. The formal reading of the bill will be dispensed with, and the Secretary will read the bill for committee amendments.

The Secretary proceeded to read the bill.

The first amendment of the Committee on Appropriations was, under the head of "Legislative," subhead "Senate," on page 2, after line 3, to strike out:

For actual traveling expenses incurred by Senators, including actual traveling expenses of immediate and dependent members of their families, incurred in going to and returning once from each session of Congress by the nearest route usually traveled, the same to be paid on certificates duly approved as in the manner heretofore prescribed for the payment of mileage, $25,500.

And in lieu thereof to insert:

For mileage of Senators, $51,000.

Mr. KENYON. Mr. President, I should like to ask the chairman of the Committee on Appropriations where the provision for mileage of Members of the House is contained in the bill?

Mr. MARTIN of Virginia. It will be found on page 18, but it is not necessary to turn to it now, because exactly the same provision is made for the House Members as is made for Senators. It restores the mileage law which has been in existence for years.

Mr. KENYON. Mr. President, there are many more Members of the House than there are of the Senate. As I understand the situation, the House has decided on a plan of mileage that shall cover actual expenses of Members in traveling to the seat of government and of the families immediately dependent upon them. Now, the House having so many more Members, it seems to me that the Senate in this matter ought to defer to the judgment of the House. I think at the time when I suggested an appropriation for the father of former Representative Pepper, who had died, the Senator from Virginia made an argument on the proposition to the effect that that was a matter entirely with the other House. The great bulk of this appropriation is going to the House, and it would seem to me that we ought not to interfere with it.

In the second place, it seems to me that the provision of the House in reference to the mileage proposition is a fair one. It embodies what was always the intention of mileage, to wit, to cover the actual traveling expenses, and this would do it. As the situation is now, a man with no family receives his mileage, and it is more than his actual expenses, while a man with a large family is compelled to bring them here, and the amount allowed for mileage does not cover the expense. For that reason I am very much in favor of the House provision.

Mr. MARTIN of Virginia. Mr. President, it is true that I have always insisted that each House should take care of its own expenditures, but this is a joint expenditure; this is not an expenditure exclusively appertaining to the other House. This is a provision for mileage for the membership of both Houses. The committee, after careful consideration, was of the opinion that the old flat rate of mileage was juster, and would in the end prove quite as economical as the mode now proposed by the other House.

In addition, Mr. President, we felt that it might be the subject of very great abuse under the language of the House provision, which is very vague. It reads:

> Traveling expenses of the immediate and dependent members of their families.

That is a very latitudinarian phrase. It is difficult to see where it would lead us. It does not fix the mode of travel. Are they all to have drawing-rooms? It is a very vague and unsatisfactory provision for the payment of mileage. The committee of the Senate did not think it was wise to make the change and reported an amendment accordingly. The matter will go to conference; and if there be any strenuous desire on the part of the other House to make this change, it will have due consideration; but the judgment of the Senate Committee on Appropriations is that there should be no change, or certainly not the change proposed by the other House.

Mr. LANE. Mr. President, I was under the impression that the change proposed by the House of Representatives was in the interest of economy, and that it would cut the mileage expense in half; and I observe that the sum appropriated in the bill amounts to only about half of the usual appropriation for the purpose. I think it would be a good idea to give this plan a trial. There is a great deal of dissatisfaction among the people throughout the country in relation to the matter of mileage.

I do not think that it pays the Members of the Senate or honors the Senate to accept mileage. If there is any other satisfactory way of having such expenses paid, I think we ought to substitute it for this. The payment of mileage has always caused reflections to be made upon the two Houses. I do not think this body can afford to continue the practice if there is any other method which they can adopt; and I support the House provision for that reason.

Mr. WARREN. Will the Senator from Oregon allow me to ask him a question?

Mr. LANE. Certainly.

Mr. WARREN. Mileage is by law a part of the compensation of Senators and Members of the other House, and always has been so regarded. Does not the Senator from Oregon believe that there is just as much talk against the increase of Senators' salaries as there is against the payment of mileage?

Mr. LANE. I do not know.

Mr. WARREN. It is all one under the law.

Mr. LANE. It may be, but it is under the law in a different light; and if you are going to increase the salary——

Mr. NORRIS. Will the Senator from Oregon yield to me?

Mr. LANE. I will.

Mr. NORRIS. I want to make a remark in reference to the suggestion of the Senator from Wyoming [Mr. WARREN], to the effect that mileage is a part of our compensation by law. I may be mistaken, of course, but I think the Senator from Wyoming is wrong about that.

Mr. WARREN. I invite the attention of my distinguished friend, who is a very able lawyer, to the statute; that is all that is necessary.

Mr. NORRIS. I will invite the attention of my distinguished friend to the opinion of the Court of Claims, where they have construed that law. As I remember—I have not looked at the opinion for a good while——

Mr. WARREN. As to the mileage of Senators? Oh, that is merely a technicality. It has been considered as compensation.

Mr. NORRIS. As to the mileage of the Members of the House of Representatives, which is the same thing.

Mr. KENYON. Did that decision have any relation to the income-tax law?

Mr. NORRIS. No.

Mr. KENYON. What was the case?

Mr. NORRIS. If the Senator from Oregon will yield, I think I can outline the case briefly. I speak of it from memory, but the case is accessible and can easily be obtained and read. It arose in this way: I think it was in the Fifty-eighth Congress, when one session of Congress merged into another, as it did at the last session, and a claim was made by a Member of the House of Representatives for mileage that had not been appropriated for. He claimed his mileage for the new session, on the ground that it was a part of his compensation. Of course, if it was a part of his compensation it made no difference whether or not he actually went home and came back. That case was taken to the Court of Claims. I believe there was a joint resolution of Congress passed authorizing the court to take jurisdiction of that case, although I may be mistaken about that; I was in the House at the time; but the case at least went to the Court of Claims, and that court passed on it.

Mr. JONES. Mr. President, I have not examined the decision of the Court of Claims, but I know that the contention was that it was different from the ordinary case, because one session was a special session, while the statute, I think, applies to mileage for regular sessions. I do not know whether the Court of Claims decided the case on that point or not.

Mr. NORRIS. No; I think the Court of Claims held that it was a regular session of the Congress, and that in law there was no difference; but they discussed the proposition of what mileage meant, and they decided it. As I remember, the opinion was contrary to the contention of the Senator from Wyoming, and held that the Member of the House was not entitled to mileage.

Mr. WARREN. If the Senator will review the case I think he will admit he is practically mistaken. The law as it has always stood has seemed to contemplate mileage as a part of the compensation. The law for some two or four years read that mileage should only be paid for two sessions of Congress, and, hence, if there was an extra session a Member of Congress could not, of course, draw mileage for that session. Then, at another period, the law read that "in no case shall constructive mileage be computed and paid," which would perhaps cover the case the Senator has mentioned, the mileage in that instance being constructive mileage, there not having been any lapse of time between the close of one session of Congress and the commencement of another, as the Senator has stated it.

Mr. SUTHERLAND. Will the Senator from Oregon yield to me for just a moment while we are on this subject?

Mr. LANE. I yield.

Mr. SUTHERLAND. This question has been up for discussion several times before. It seems to me that the statute is perfectly plain; that the mileage is no part of the compensation, but is something wholly outside of the compensation and in addition to it. The language of the statute is——

Mr. WARREN. Will the Senator let me call his attention to one thing?

Mr. SUTHERLAND. That is exactly what I had before me and was about to read. I have no objection, however, to the Senator reading it.

Mr. WARREN. Oh, no; the Senator may read it.

Mr. SUTHERLAND. Very well. The statute reads:

> The compensation of each Senator, Representative, and Delegate in Congress shall be $7,500 per annum—
>
> That is, the compensation—
>
> and in addition thereto mileage—
>
> Not compensation—
>
> in addition thereto—
>
> That is, in addition to compensation.

Mr. SMITH of Arizona. It is, then, compensation, is it not?

Mr. SUTHERLAND. Oh, no; it is "in addition thereto." What does "thereto" refer to? It refers to compensation. The compensation shall be so much, and "in addition

thereto"—that is, in addition to the compensation—there shall be allowed mileage.

Mr. SMITH of Arizona. That is, a Member of Congress may have compensation, and then additional compensation——

Mr. SUTHERLAND. No. In addition to the compensation there shall be mileage; not in addition to the compensation there shall be more compensation, but in addition to the compensation—

mileage at the rate of 20 cents a mile, to be estimated by the nearest route—

And so forth.

It seems to me the statute is perfectly clear that the mileage is a separate and distinct thing, and forms no part of the compensation. However, I do not see what that particularly has to do with the question of whether it should be allowed.

Mr. NORRIS. If the Senator from Oregon will allow me, I have here the opinion of the Court of Claims, to which I referred a while ago. It is No. 29799, decided March 29, 1910: John F. Wilson against The United States. I do not suppose, without taking time to carefully look it over, I ought to read at random from the opinion in the case, but I will see if I can find something near the close of it that gives the conclusion of the court.

Mr. McCUMBER. If I may ask the Senator one question, I will ask what practical difference does it make whether you call it "compensation" or "mileage," so far as the merits of the proposition are concerned?

Mr. NORRIS. That is the legal proposition in this case. As I remember the case, it was the question at issue whether or not mileage was part of the compensation. However, I did not raise that question here, but it was raised by the Senator from Wyoming [Mr. WARREN].

Mr. WARREN. Can the Senator point to the portion of the decision which makes that statement?

Mr. LANE. Mr. President, I shall merely make a brief observation, and then I shall be through. I desire to say that this is an unequal way of paying the traveling expenses of Members of the Senate. Some do not receive the amount which they should receive, while others receive more than they are actually entitled to. In my own case I receive 20 cents a mile on a mileage of some 3,200 miles. It amounts to twice the amount that I would be justly entitled to if it were merely the intention of the Government to pay the actual expenses of myself and my family. There are other cases of Senators who live in the eastern portion of the country, where the amount allowed does not pay their expenses, and they have to pay money out of their own pockets.

In a general way the people look upon mileage as a sort of baksheesh, a way of obtaining money indirectly, and for the sake of the Senate itself it would be better, in my opinion, for the Senate to adopt some other method and to slough off this one, which is not respected by the people of the country.

Mr. McCUMBER. Mr. President, I want to defend the people in just one word. The people are not picayunish at all. The people are not thinking about this mileage. You can not find one out of a million who is paying any attention whatever to it. They care nothing about it, except when some politician thinks he can make himself stronger by telling the people that they are losing a few pennies, or something of that kind. I do wish that we could consider these matters without all of us thinking the people are watching the pennies, while we are letting millions upon millions slip through our fingers, and the people are not paying a great deal of attention to it. The people are willing to pay a fair, honest amount, and they do not think anything about the salary; they are not inquiring about that; and they are not considering anything about the mileage paid, unless somebody calls their attention particularly to it, and then they have to have it explained.

Mr. LANE. Mr. President, I did not suppose that my remarks would harrow the feelings of any of the worthy brethren. I wish to say that the Senator is quite right in saying that the people do not care about what salary is paid; they are willing to pay a good salary; but they like to pay it openly. They do not like to have their Senators and Representatives in Congress receiving money with their hands out behind them like a policeman or a waiter taking a tip. That is a different proposition; and that is the basis of my objection. It is not an open method. If you wish to add the mileage to your salary and increase it to that amount and any Senator in the Senate has courage enough to make a motion to that effect, that is a different proposition. I have an idea that very few of them would make a motion to increase their salaries by the amount of the mileage paid. What I want is to keep the matter in the open.

Mr. SHEPPARD. Mr. President, I wish to ask the chairman of the committee what is the rate per mile of this mileage?

Mr. MARTIN of Virginia. It is 20 cents a mile each way.

Mr. SHEPPARD. When was this rate fixed?

Mr. MARTIN of Virginia. I can not give the date, but many years ago. Ever since I can remember that has been the rate.

Mr. SHEPPARD. It was fixed many years ago, when the expense of travel was much greater than it is now.

Mr. LANE. Undoubtedly.

Mr. SHEPPARD. It undoubtedly was fixed many years ago, when the expense of travel was much larger than it is now; and when it was fixed at some time before that I think it was a still larger amount, because travel was still more expensive then.

I think we ought to be honest in the matter. I think we ought to appropriate only an amount sufficient for the actual expense of travel. Therefore, as a substitute, I move to insert "$12,750," instead of "$51,000," which is 5 cents a mile.

Mr. MARTIN of Virginia. That does not change the rate. It simply makes that appropriation.

The matter is one of entire indifference to me, except that we ought to do what is right. We have considered it. There are few Senators in this body to whom individually the matter is of as little importance as to me, since I live so near Washington. I considered it on the plane of what was fair and right.

There is a great deal of travel that a Senator has to undergo besides one trip to Washington. When you get down to the real equities of the matter, the present rate does not compensate Senators for the actual travel that they have to undergo. Take the case of a Senator from the far West: He has to go home. The necessities and obligations upon him, both personal and official, are such that he can not get along with one trip a year. He is put to greater expense.

So, when you get at the real equities and real fairness and honesty of the transaction, I believe it is about as well disposed of under existing rules as it would be under any that could be applied. Certainly nothing has been proposed that is an improvement on the present rule. The committee felt that way, and we reported that way. It is for the Senate to determine. It is not a matter in which we have any pride of opinion or any peculiar interest. The only interest we have is to legislate justly and equitably. We have reported the bill as we think it ought to be. It is for the Senate to determine whether the amendment offered by the committee shall be rejected or adopted.

Mr. SMOOT. Mr. President, I care very little as to the amount of mileage the Senate agrees upon, but I am opposed to the House provision. If the House provision should become a law, then, in my opinion, there would be scandals, beginning with the first year, until the law is repealed.

Who is an immediate member of a family? Who is a dependent member of a family? When the Congressman or Senator decides that question for himself, is he going to travel in a special car, or in one stateroom, or will he take all the staterooms of the sleeper, or will he travel in a sleeper at all? If so, in an upper berth or a lower berth? Or will he travel in a day coach?

I do not believe the Senate should vote for the ambiguous honor provision. I have heard the present mileage rate criticized by Members of Congress and the Senate, but I have never heard a single person outside of Congress refer to the subject.

I want to say that there are many things to take into consideration in this matter. In the case of a Senator who lives on the Pacific coast it is true that it does not cost him as much to travel to Washington and back as his mileage amounts to. It is true, also, that Senators coming from places near Washington do not receive much more than actual expenses. The Senator who lives around Washington, however, can go home every week if he desires. He can attend to his business at home. He can see his business associates. His family, in many cases, can and does live at home; and he is not compelled to maintain two homes, as every Senator from the West must do. The Senators from the West have their homes in the far West which they are compelled to maintain all the time. They are also compelled to maintain a home while they are in Washington. They can not return weekly or monthly to attend to their business which needs their personal attention.

When we take everything into consideration, it seems to me the present mileage system is about as just a one as can be arrived at.

Mr. SHEPPARD. Mr. President, the proposition is not to change the present plan; it is to change the rate of mileage so as to conform to the expense of present-day travel. The rate

of 20 cents a mile was fixed at a time when that was the ordinary expense of travel. The prevailing railroad rate now is about 2 cents a mile, but in my amendment I have placed the amount at one which is equivalent to 5 cents a mile.

Mr. SMOOT. Mr. President, of course, as the Senator from Virginia says, the amendment will go into conference and it will be open for consideration between the conferees. If the Senate wants to vote against the amendment offered by the committee, well and good; but as far as I am personally concerned I wish to say now that in my judgment the present arrangement is as satisfactory and as just as any that can be arrived at, taking into consideration all the circumstances and conditions.

Mr. SHEPPARD. Does the Senator mean by "the present arrangement" the present rate also?

Mr. SMOOT. The present rate also. I want to say to the Senator that the amendment he has offered does not take into consideration the number of persons in a Senator's family. A Senator who comes to Washington, especially of late, and remains for 18 long months without even going home or having a chance to go home, is going to have his family with him. Not only that, I believe every Senator ought to have his family with him in Washington. It will cost to bring that family here sometimes more than his mileage amounts to, particularly when the Senator has a number of children.

Mr. SHEPPARD. The expense of bringing his family here ought to be paid out of the Senator's salary. The people ought not to be saddled with the expense of buying the railroad tickets and paying the other traveling expenses of his family.

Mr. SMOOT. I wish to say to the Senator from Texas, as I said before and as has been said, that no Senator has to draw any more of his mileage than he really feels he is justified in taking. I believe every man ought to take just what the law allows him. I do not believe the country is complaining of the amount that is paid for mileage to Senators and Congressmen. The only time the matter ever comes up, or the country ever thinks of it, is when we bring it up ourselves and try to make ourselves appear before the country as receivers of money not due us.

Mr. LANE. Mr. President, I do not see why it is not entirely fair to charge the actual expenses incurred in traveling. Nothing could be fairer than that, both to the Senator and to the Government.

Mr. SMOOT. Mr. President, the provision of the House bill says "traveling expenses of immediate and dependent members of their families." I will say to the Senator right now that if that should ever become the law, there would be a scandal within one year after its passage. There is not any question, in my mind, but that there would be. Why, every Senator and every Congressman would have to pass upon the question as to what a dependent of his family may be. Is a servant a dependent? Is a sick aunt one? Are relatives a Senator is providing for dependents? I might go on and ask other questions of a similar character.

Mr. LANE. I do not think he would make many mistakes of that sort. I think he would be cured of the habit.

Mr. NORRIS. Mr. President, while the discussion has been going on I have hurriedly examined the opinion of the Court of Claims, to which I have heretofore referred, and I find they have decided both of the questions in accordance with the suggestion I made to the Senator from Wyoming—first, that mileage is not part of the salary of a Member of Congress, and, second, that there is not any difference between a special session and a regular session of Congress. They are all regular sessions of Congress. The opinion gives, to some extent, a history of the legislation on this question. It seems to me it would be interesting for Members of the Senate, and also Members of the House, to read this opinion. I do not want to take up the time of the Senate now to read it, but I ask that it may be printed in the RECORD.

The VICE PRESIDENT. Is there any objection? The Chair hears none.

The matter referred to is as follows:

COURT OF CLAIMS OF THE UNITED STATES.

No. 29709.

(Decided Mar. 29, 1909.)

JOHN F. WILSON v. THE UNITED STATES.

Barney, J., delivered the opinion of the court.

This is a suit brought by Hon. John F. Wilson, who was a delegate to the Fifty-eighth Congress from the Territory of Arizona, for mileage claimed to be due him. Mr. Wilson attended the extraordinary session of the Fifty-eighth Congress which was convened by the proclamation of the President on November 9, 1903. This extraordinary session continued in session until December 7, 1903, the day appointed by the Constitution for the annual convening of Congress, and up to a few minutes before the annual constitutional session was called to order.

The Fifty-seventh Congress at its last regular session made an appropriation for the mileage of Senators, Members of the House of Representatives, and Delegates from the Territories for the fiscal year 1904 (32 Stat., 854, 858), and this appropriation was made available and authorized to be paid to the Senators, Members, and Delegates for attendance on the extraordinary session of Congress which convened November 9, 1903 (33 Stat., 1); and the claimant received the mileage due to him out of said appropriation. No further appropriation was ever made by Congress for the payment of mileage to Members of Congress and Delegates for attendance upon the session of Congress which convened pursuant to the Constitution December 7, 1903. It appears, therefore, from the petition, that none of the Members of the Fifty-eighth Congress ever received any mileage for attendance upon Congress at the extraordinary session of November 9, 1903, and the regular annual session of December 7, 1903, except the one mileage provided for and made available in the manner before stated.

The foregoing is a statement in substance of the facts set out in the petition in this case. To this petition the Government has demurred, stating two grounds of demurrer—(1) that this court has no jurisdiction of the subject matter of the petition, (2) that the petition does not state facts sufficient to constitute a cause of action; and the issue of law raised by this demurrer is now before this court for decision.

I. We can not agree with the contention of the attorney for the Government that this court is without jurisdiction in this suit. He has quoted section 6, Article I, of the Constitution, as sustaining this contention, as follows:

"The Senators and Representatives shall receive a compensation for their services, to be ascertained by law, and paid out of the Treasury of the United States. * * *"

This provision only places Members of Congress as to compensation upon the same footing with all other officers of the Government, i. e., their compensation is fixed by law of Congress (and not by a provision in the Constitution) and, more important still, is paid out of the Treasury of the United States. The reason for this provision in the Constitution is apparent and needs no discussion here, but reference for a treatment of the subject is made to Story on the Constitution, sections 851–858.

An argument is attempted to be made upon some statutes quoted that the salary and mileage of Representatives and Delegates in Congress is entirely dependent upon the certificate of the Speaker and that such certificate is conclusive upon that subject. We do not think any such conclusion can be made from the statutes called to our attention; and if it could, we do not think any such judicial power can be delegated to that officer.

By the first section of the Tucker Act this court has jurisdiction of all "claims founded upon any law of Congress." The claim in this case is founded upon a law of Congress enacted agreeably to the express words of the Constitution; hence our jurisdiction is beyond question.

II. Some discussion has been had as to whether there were two or three sessions of the Fifty-eighth Congress; in other words, whether the extraordinary session which convened November 9, 1903, by proclamation of the President, continued over the 7th day of December following, the date prescribed by the Constitution for the annual convening of Congress, thus constituting but one session. Without discussing the question at length here, we simply state that we are of the opinion that the extraordinary session closed when the time arrived for the convening of the session provided by the Constitution, thus making two sessions even if the meeting of the Members of that Congress from day to day had been continuous.

By thus holding we are confronted with the question, Whether the Members of the Fifty-eighth Congress are entitled to pay for mileage for each of these sessions? It appears from the petition that the claimant never returned to his home after the close of the extraordinary session and came back again to be present at the opening of the constitutional session; in fact, had no time to do so, unless he traveled upon the wings of lightning.

As the right of the claimant under the law to receive anything for mileage at either of the sessions of the Fifty-eighth Congress, except actual traveling expenses, has been questioned by Government counsel, we deem it proper at this point to give the history of legislation on this subject so far as it can be said to relate to this case.

The act of July 28, 1866 (14 Stat., 323), provided:

"That the compensation of each Senator, Representative, and Delegate in Congress shall be $5,000 per annum, to be computed from the first day of the present Congress, and, in addition thereto, mileage at the rate of 20 cents per mile, to be estimated by the nearest route usually traveled in going to and returning from each regular session."

This statute was in force until 1873, when it was superseded by the act of March 3, 1873 (17 Stat., 486), which provided:

"And Senators, Representatives, and Delegates in Congress, including Senators, Representatives, and Delegates in the Forty-second Congress holding such office at the passage of this act and whose claim to a seat has not been adversely decided, shall receive $7,500 per annum each, and this shall be in lieu of all pay and allowances, except actual individual traveling expenses from their homes to the seat of government and return, by the most direct route of usual travel, once for each session, of the House to which such Senator, Member, or Delegate belongs, to be certified to under his hand to the disbursing officer, and filed as a voucher."

This law was repealed the very next year by the act of January 20, 1874 (18 Stat., 4), which is as follows:

"That so much of the act of March 3, 1873, entitled 'An act making appropriations for legislative, executive, and judicial expenses of the Government for the year ending June 30, 1874,' as provides for the increase of the compensation of public officers and employees, whether Members of Congress, Delegates, or others, except the President of the United States and the justices of the Supreme Court, be, and the same is hereby, repealed, and the salaries, compensation, and allowances of all said persons, except as aforesaid, shall be as fixed by the laws in force at the time of the passage of said act."

It is insisted by the Government that the law of 1874 only repealed the law relating to the salary of Members of Congress, and never repealed the provision for mileage in the law of 1873. It is true that in the law of 1874 there was no repeal as to mileage in express terms, but after the repealing clause the section further provides that "the salaries, compensation, and allowances of all persons, except as aforesaid, shall be as fixed by the laws in force at the time of the passage of said act." The law in force at the time of the passage of the salary law of 1873 was the act of July 28, 1866, which was thus reenacted as to salaries, compensation, and allowances; and certainly mileage is either compensation or an allowance. Thus it will be seen that the law of 1866 as to the salary and mileage of Members of Con-

gress was in force during the Fifty-eighth Congress. If there was any doubt about this question, the fact that Congress has so construed the law for more than 30 years would be very persuasive at least.

3. It is contended on behalf of the claimant that the mileage provided for in the law of 1886 is a part of the salary of Members of Congress, and that they are entitled to receive it each session regardless of whether they perform any travel or not; while on the other side it is insisted that the provision for mileage is a recompense for travel actually performed, and that Members of Congress are only entitled to it when travel is necessary to attend upon the sessions of Congress whether extraordinary or the sessions which convene under the Constitution on the first Monday in December.

The statute of 1866 under consideration provides:

"That the compensation of each Senator, Representative, and Delegate in Congress shall be $5,000 per annum to be computed from the first day of the present Congress, and in addition thereto mileage at the rate of 20 cents per mile, to be estimated by the nearest route usually traveled in going to and returning from each regular session."

It is contended by the claimant that the mileage provided for is arbitrarily payable regardless of actual travel, because after providing for the $5,000 per annum the law says, "and in addition thereto mileage"; that is to say, as we understand the argument, the words "in addition thereto" couple the $5,000 provided for and the mileage so inseparably that they both together constitute the annual salary of Members of Congress.

We see no force in such a construction of those words. Mileage, in whatever terms provided for any public officer, is in addition to the per diem or annual compensation received—i. e., it is compensation allowed for traveling expenses, besides, together with or in addition to the compensation otherwise provided, and whichever of those terms is employed the signification is the same. Doubtless when a Member of Congress receives his allowance for mileage he puts it in the same pocket or the same bank to be added to his annual salary, but that fact does not deprive it of its quality as mileage. If only actual traveling expenses were allowed, as in the act of March 3, 1873, supra, the same language might well have been employed and its signification would have been the same as in the act of July 28, 1866. The separation of salary from mileage, in providing for the compensation of Members of Congress, is clearly indicated by the language used in the repealing act of January 20, 1874, supra. It says, "and the salaries, compensation, and allowances of all said persons, except as aforesaid, shall be as fixed by the laws in force at the time of the passage of said act" (i. e., act of July 28, 1866). Thus we see that this provision for mileage was regarded as an "allowance." While the term "allowance" has a very indefinite legal signification, it here certainly means something entirely separate from salary, and can only refer to mileage.

In the case of Sherburne *v.* United States (16 C. Cls. R., 491), in which the signification of the words "pay" and "allowances" was involved as applied to officers of the Army this court said:

"Pay is a fixed and direct amount given by law to persons in the military service in consideration of and as compensation for their personal service. Allowances, as they are now called, or emoluments, as they were formerly termed, are indirect or contingent remuneration, which may or may not be earned, and which is sometimes in the nature of compensation, and sometimes in the nature of reimbursement." (Id., 496.)

There was no provision in the law of 1866 for the payment of any money for "allowance" as distinguished from "salary" except the provision for mileage. This fact clearly indicates no intention of Congress in the acts of March 3, 1873, and January 20, 1874, to make the mileage provided for an inseparable part of the salary or compensation of Members.

It is also a fact of some significance in the discussion of this question that Congress, at least ever since 1874, in every legislative, executive, and judicial appropriation bill has appropriated for the salary and mileage of Members of Congress separately in the following language:

"For compensation of Senators, Members of the House of Representatives, and Delegates from Territories * * * dollars."

"For mileage * * * dollars." (18 Stat., 87, 345; 34 id., 392, 938.)

"Mileage" is defined in the Century Dictionary as payment allowed to a public functionary for the expenses of travel in the discharge of his duties, according to the number of miles passed over. Substantially the same definition is found in Bouvier's and other law dictionaries.

Smith v. United States (26 C. Cls., 568; 158 U. S., 346) was a suit brought by a United States district attorney for the Territory of New Mexico to recover mileage, which had been disallowed him by the accounting officers of the Treasury on the ground that such mileage was a part of his compensation provided by law. At that time United States district attorneys received the larger part of their compensation in fees, with a maximum limitation in the case of district attorneys from New Mexico of $3,500; and it appeared that the plaintiff in that case had already been allowed sufficient fees for the year in question to make up that sum.

The statute in fixing the fees of United States district attorneys, among other items, provided "For traveling from his place of abode to the place of holding any court of the United States in his district, or to the place of any examination before a judge or commissioner of a person charged with a crime, 10 cents a mile for going and 10 cents a mile for returning." (Sec. 824, R. S.)

The Supreme Court affirmed this court in deciding that the mileage thus provided for was not compensation for official services, but was an allowance by way of reimbursement for expenses incurred or presumed to have been incurred in traveling.

In its opinion the Supreme Court used the following language:

"While an allowance for travel fees or mileage is, by section 823, included in the fee bill, we think it was not intended as a compensation to a district attorney for services performed, but rather as a reimbursement for expenses incurred, or presumed to be incurred, in traveling from his residence to the place of holding court, or to the office of the judge or commissioner. The allowance of mileage to officers of the United States, particularly in the military and naval service, when traveling in the service of the Government, is fixed at an arbitrary sum, not only on account of the difficulty of auditing the petty items which constitute the bulk of traveling expenses, but for the reason that officers travel in different styles; and expenses which in one case might seem entirely reasonable might in another be deemed to be unreasonable. There are different standards of traveling as of living, and while the mileage in one case may more than cover the actual expenses, in another it may fall short of it. It would be obviously unjust to allow one officer a certain sum for traveling from New York to Chicago and another double that sum, and yet their actual expenses may differ as widely as that. The object of the statute is to fix a certain allowance, out of which the officer may make a saving or not, as he chooses or is able. And while in some cases it may operate as a compensation, it is not so intended, and is not a fee, charge, or emolument of his office within the meaning of section 834." (Id., 349.) The liberal allowance of mileage in the act of July 28, 1866, doubtless operates as a compensation, as was said by the court in the above case might sometimes occur, but that fact does not take from it its characteristic as mileage.

The act of February 22, 1875 (18 Stat., 333–334), was a statute to regulate the fees and costs of district attorneys, marshals, and clerks, and among other things it provided: "And from and after the 1st day of January, 1875, no such officer or person shall become entitled to any allowance for mileage or travel not actually and necessarily performed under the provisions of existing law."

In commenting upon this statute, in a case before him, the Attorney General said:

"That provision was intended to apply to cases in which no actual travel is performed in serving process, as, for instance, where the writ is sent through the mail to be served by a deputy at or near the place of service. It was well known to Congress that under the fee bill the practice of thus serving writs and charging mileage therefor as if travel had been actually performed to serve them, prevailed. The claim of an allowance for travel for such service—the travel being in fact constructive only—was regarded as an abuse. To remedy this and to confine the allowance of mileage to cases in which there has been actual travel it is believed the provision in the act of 1875 was enacted." (16 Op. Attys. Gen., 165–169.)

This opinion was cited by the Supreme Court with approval. (Harmon *v.* United States, 147 U. S., 268–280.)

In short, under all the authorities "mileage" means an allowance for actual travel about the public business, and mileage and travel are thus inseparably connected.

The language of the statute in question reenforces this interpretation, for it provides for "mileage at the rate of 20 cents per mile by the nearest route usually traveled in going to and returning from each regular session." This also seems to be the interpretation which Congress has given to the statute, for during the present session of the Sixtieth Congress a Member who, for reasons unnecessary to state, had not been in attendance at all, wrote to the Sergeant at Arms for his mileage (presumably for the purpose of "adding" it to his salary), and he was promptly informed by that official that as he had not attended the session no mileage was due him. (CONGRESSIONAL RECORD, 60th Cong., 2d sess., 1178.) This Member was paid his regular salary until he was declared to have vacated his office. If mileage is a part of the regular compensation of a Member of Congress under the law in question, there was no reason why this Member should not have received his mileage as well as his $7,500 per annum. Or if, under this law, this Member was not entitled to mileage because he did not come to Washington to attend upon the session of Congress, why should a Member of Congress receive mileage for a session beginning almost simultaneously with the closing of a session for which he had been paid his mileage?

If we look beyond the letter of the law and look at its spirit and reason, we must come to the same conclusion; for the construction asked for by the claimant would make the compensation of Members of Congress unequal. The compensation of a Member of Congress of the Fifty-eighth Congress from one of the Pacific States, would be more than a thousand dollars more than the compensation of a Member from any of the States in the vicinity of Washington, with no traveling having been made to justify this extra pay.

The act of July 28, 1866, provides for mileage for Members of Congress for attendance upon "each regular session." There is no distinction in the nomenclature of sessions of Congress in the Constitution, and we believe every session of Congress regularly called and convened is a "regular session." At least we so consider them for the purpose of deciding this case, and we hold that there were three sessions of the Fifty-eighth Congress—the extraordinary session, beginning November 9, 1903, and closing December 7, and the two regular annual sessions following.

The Fifty-seventh Congress made an appropriation for mileage of Members of Congress for the fiscal year 1904, and this was made available by the Fifty-eighth Congress as soon as it convened in extraordinary session, as before stated. It appears from the petition that but one travel was necessary to go to and return from both this extraordinary session and the December session, and for this travel the claimant had received his mileage.

It might not be out of place here to state that the House of Representatives of the Fifty-eighth Congress, while in Committee of the Whole House on the state of the Union, by a unanimous vote refused to make an appropriation for an extra mileage for these first two sessions. (CONGRESSIONAL RECORD, 58th Cong., 2d sess., 1419.) This is at least persuasive that that great body was of the opinion that the law did not authorize such an appropriation. We say this realizing, of course, that if the appropriation had been made that would have been the law regardless of what the act of July 26, 1866, provided.

We think the claimant has received all the mileage to which he is entitled under existing law, and the petition is dismissed.

The VICE PRESIDENT. The question is on the amendment proposed by the Senator from Texas to the amendment of the committee.

Mr. SHEPPARD. On that I ask for the yeas and nays.

Mr. NORRIS. I have not yielded the floor, Mr. President.

The VICE PRESIDENT. The Chair begs the pardon of the Senator from Nebraska.

Mr. NORRIS. I desire to make an inquiry about the very question that the Chair propounded. I supposed the amendment offered by the committee was before the Senate, and I wish to inquire whether the Senator from Texas has moved to amend the amendment of the committee. Is that the idea?

Mr. SHEPPARD. Yes.

Mr. NORRIS. In what respect?

Mr. SHEPPARD. I have moved to amend by substituting "$12,750" for "$51,000." The amount I propose is one-fourth of $51,000, or 5 cents a mile.

Mr. NORRIS. Is the Senator from Texas opposed to the text of the bill as it came from the House?

Mr. SHEPPARD. I am opposed to it as I view it at present. I think it is better to have a plain provision of a stated sum for mileage; to have a flat rate of mileage. Then there will be no scandal and no complication.

Mr. NORRIS. Mr. President, I confess that I was impressed with the provision of the bill as it came from the House. It seemed to me that it was a fair proposition. I know that for quite a number of years I served in Congress with two colleagues coming from adjoining districts, one of whom had a family consisting of 9 or 10 and I am not sure but 11 members, while the other Member, adjoining him, was a bachelor. The towns in which they lived were very close together, not more than 50 or 60 miles apart. The one with the large family did not get, under the law, enough mileage to pay his actual expenses, while the other one, without any family, got practically the same amount, an amount to which his expenses bore no relation whatever.

I think it is conceded by everybody that a man with a family ought to have his family with him, especially when he has to remain during the long sessions of Congress. I do not think there is any objection to paying the actual expenses. Now, I am not sure but that he would find difficulty in applying this provision practically. There may be something in that; but it seems to me there ought to be some other method devised than the one we have now, because that evidently is not fair. The effect of it is that some Members of Congress have their salaries increased a thousand or sometimes fifteen hundred dollars over the amount paid some other Members, while their actual and necessary expenses in coming to and going from the sessions of Congress may be less. It has always seemed to me that that was not fair, and that we ought to adopt some other method.

Mr. KENYON. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Nebraska yield to the Senator from Iowa?

Mr. NORRIS. In just a moment. It strikes me that the mileage ought to be so adjusted that it would do what it is intended to do, as the court says—pay the actual expense of the Member in coming here and going back.

I now yield to the Senator from Iowa.

Mr. KENYON. Mr. President, I thoroughly agree with the statement of the Senator. I rose to ask him a question, however. He suggested that there might be difficulties in the practical operation of the House provision, and the Senator from Utah made the same suggestion.

Mr. NORRIS. I think the Senator from Texas has that idea in his mind, too.

Mr. KENYON. That is really an indictment, is it not, of the honesty of Members of Congress, if they would abuse any privilege of that kind? The law would be reasonably clear. It says, "immediate and dependent members of their families."

Mr. NORRIS. I will say to the Senator from Iowa that of course there is a possibility of abuse of it, and occasionally that might happen; but it seems to me it would be more just than the present law.

Mr. KENYON. It would not happen a second time, would it?

Mr. NORRIS. I should not think so. I am not saying that it would happen. It strikes me that if you find out there is some abuse of it there may be a way to rectify it. At least the present system is not right, it is not fair, and it strikes me that the House provision, honestly and fairly enforced, would be fair.

The PRESIDENT pro tempore. The question is on the amendment offered by the Senator from Texas to the amendment of the committee.

Mr. SHEPPARD. Mr. President, when I come to examine the bill I do not think my amendment is in order on this particular paragraph. As I understand, the question now is, Shall the House provision be stricken out?

The PRESIDENT pro tempore. What is the suggestion of the Senator from Texas? The Chair does not quite understand it.

Mr. SHEPPARD. I wish to know whether my amendment is now in order, to substitute, on line 11, "$12,750" for "$51,000," or whether I should wait until we vote on the preceding paragraph?

Mr. OVERMAN. Mr. President——

The PRESIDENT pro tempore. The committee amendment is to strike out and insert. There is no proposition by the committee to amend the part stricken out; so a motion to amend the part to be inserted is in order. The Senator's amendment is in order.

Mr. SHEPPARD. My amendment is to amend the part to be inserted.

Mr. SUTHERLAND. Mr. President, I should like to ask the Senator from Texas a question. The motion of the Senator from Texas is to strike out "$51,000" and insert "$12,750," which would then make the appropriation read:

For mileage of Senators, $12,750.

That would be all there would be on the subject in the appropriation bill; but we have a general standing law which says that Members shall receive mileage at the rate of 20 cents a mile. Upon what authority will this $12,750 be divided up?

Mr. OVERMAN. Mr. President, a point of order.

The PRESIDENT pro tempore. The Senator from North Carolina will state the point of order.

Mr. OVERMAN. On lines 4 to 10, inclusive, the committee amendment proposes to strike out that language; and then, on line 11, to insert "$51,000." I submit that the question is whether or not the Senate will agree to the committee amendment proposing to strike out the House language. If we should strike out the House language, then I think the amendment of the Senator from Texas would be in order.

The PRESIDENT pro tempore. The motion to strike out and insert is in its earliest consideration two motions, and when put in the form of one motion the adoption of the committee amendment to insert $51,000 will have the effect of striking out the part of the text indicated; in other words, the House provision on the subject.

Mr. SMOOT. I did not quite understand what the Chair just said, but I take it for granted that the ruling of the Chair was that the amendment offered by the Senator from Texas is in order.

The PRESIDENT pro tempore. There is no doubt of that. That part has been settled.

Mr. SMOOT. There is no question about it at all.

Mr. SHEPPARD. In answer to the Senator from Utah [Mr. SUTHERLAND] I wish to submit my amendment in a modified form in order to relieve it of the objection. I will move to insert:

For mileage of Senators at 5 cents per mile, $12,750.

Mr. SUTHERLAND. How is the Senator to arrive at it? Who is to determine the mileage? The law now is quite specific. It says, "Mileage at the rate of 20 cents per mile, to be estimated by the nearest route usually traveled in going to and returning from each regular session," and it further provides that "mileage accounts of Senators shall be certified by the President of the Senate, and those of Representatives and Delegates by the Speaker of the House of Representatives." The Senator is not making a very complete law on the subject, as it seems to me.

Mr. WARREN. I make a point of order against the amendment.

The PRESIDENT pro tempore. The Senator from Wyoming will state his point of order.

Mr. WARREN. The point of order is that the amendment proposes to change existing law and without any estimate or without any recommendation of a committee.

The PRESIDENT pro tempore. The Chair is inclined to sustain the point of order, but there is some complication about it in view of the fact that the House sent here a provision which does change existing law.

Mr. WARREN. That is true, but the amendment to the amendment only alludes to the part which is the Senate committee amendment and does not refer to the text of the bill.

The PRESIDENT pro tempore. The Chair thinks the point of order is well taken. Of course the Senator from Texas can make a motion to amend the amount even though it might leave a deficiency under existing law to be provided for hereafter. A motion to reduce the amount appropriated is in order. The effect of its adoption would be to create a deficiency which would have to be taken care of hereafter.

Mr. SHEPPARD. My original amendment was simply to reduce the amount from $51,000 to $12,750.

The PRESIDENT pro tempore. The effect of the adoption of that amendment would be to create a deficiency. It would not change the rate a Senator or Representative is entitled to receive, and the disbursing officer would pay out $12,750 on the basis of 20 cents a mile as long as it lasted, and there would be a deficiency to be taken care of hereafter.

Mr. WARREN. The consequence would be that some Members would draw mileage and others would not.

The PRESIDENT pro tempore. That would, of course, follow.

Mr. WARREN. The amount is too small, as the Senator from Texas must know. In fact, the amount put in by the House committee is only a guess. They probably do not expect that it is enough, because it has developed already that in some families there are seven or eight children, not counting other dependents, and hence the proposed new way would be more expensive than the old. We would have to consult the Vice President and find out what his opinion might be as to what

our expenses are under the new proposition. So the Senator's amendment can not affect anything if he leaves the law as it is and appropriates only enough to pay a few of the Members.

Mr. SHEPPARD. In view of the situation as it has developed, I will withdraw my amendment and introduce an amendment to the general law.

The PRESIDENT pro tempore. The question is on the adoption of the amendment of the committee.

Mr. KENYON. I ask for the yeas and nays on agreeing to the amendment.

The yeas and nays were not ordered.

Mr. KENYON. I suggest the absence of a quorum.

The PRESIDENT pro tempore. The Senator from Iowa suggests the absence of a quorum. Let the Secretary call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Brady	Johnson	Owen	Stephenson
Bryan	Jones	Page	Sterling
Burton	Kenyon	Perkins	Stone
Catron	Kern	Ransdell	Sutherland
Clapp	Lane	Shafroth	Thomas
Clarke, Ark.	Lea, Tenn.	Sheppard	Thornton
Crawford	McCumber	Sherman	Tillman
Cummins	Martin, Va.	Shively	Warren
Fletcher	Martine, N. J.	Simmons	West
Goff	Nelson	Smith, Ariz.	White
Hollis	Norris	Smith, Md.	Williams
James	Overman	Smoot	

Mr. LANE. I wish to announce the unavoidable absence of my colleague [Mr. CHAMBERLAIN] and to state that he is paired with the Senator from Pennsylvania [Mr. OLIVER].

Mr. WARREN. I wish to announce the unavoidable absence of my colleague [Mr. CLARK of Wyoming]. He is paired with the Senator from Missouri [Mr. STONE]. I make this announcement to stand for the day.

The PRESIDENT pro tempore. The Sergeant at Arms will notify Senators in the cloak rooms that a call of the Senate is being made.

Mr. KERN. I suggest that the names of the absentees be called.

The PRESIDENT pro tempore. The Secretary will call the names of the absent Senators.

The Secretary called the names of the absentees, and Mr. HUGHES and Mr. SMITH of Georgia answered to their names when called.

Mr. KENYON. I desire to announce the necessary absence from the city of the Senator from Massachusetts [Mr. WEEKS]. That announcement I will let stand for the day.

Mr. MARTINE of New Jersey. I was requested to announce the unavoidable absence of the Senator from West Virginia [Mr. CHILTON]. He is paired with the Senator from New Mexico [Mr. FALL].

Mr. CATRON. I wish to announce the necessary absence of my colleague [Mr. FALL] from the city.

Mr. HOLLIS. I desire to announce the unavoidable absence of the junior Senator from Montana [Mr. WALSH]. He is paired with the senior Senator from Rhode Island [Mr. LIPPITT].

Mr. SMOOT. I desire to announce the unavoidable absence of the Senator from Maine [Mr. BURLEIGH]. I wish also to announce that the senior Senator from New Hampshire [Mr. GALLINGER] is unavoidably detained from the Senate.

The PRESIDENT pro tempore. Forty-nine Senators having answered to their names, a quorum of the Senate is present. The question is on the adoption of the amendment proposed by the Committee on Appropriations.

Mr. KENYON. With a larger attendance, I trust we can now secure a yea-and-nay vote. I ask for the yeas and nays.

The PRESIDENT pro tempore. Does the Senator know of any precedent for making a second call for the yeas and nays? The Chair is not advised of any. That call was made and put to the Senate and denied, and nothing has intervened. The Chair is disposed to be liberal about it, and if the Senator has any precedent that justifies it, he will be very glad to conform to it.

Mr. KENYON. I made the call for a quorum, and I again call for the yeas and nays.

The PRESIDENT pro tempore. The Chair is not disposed to make any ruling against it, but the Chair simply wants to know what the precedent has been. He has none that justifies a second call for the yeas and nays when the first call has been denied.

Mr. KENYON. Do I understand that the Chair declines to entertain the call?

The PRESIDENT pro tempore. The Chair is inclined to entertain it if the Senator can cite him to any precedent to justify it. He simply desires not to make a precedent when he does not find a precedent. In the absence of such a precedent the Chair can see very readily that the rule insisted upon by the Senator may be abused. The question is on the adoption of the amendment reported by the Committee on Appropriations to strike out the matter which appears on page 2, from line 4 to line 10, inclusive, and to insert "For mileage of Senators, $51,000." [Putting the question.] The ayes seem to have it. The ayes have it and the amendment is agreed to.

Mr. KENYON. I assume now that business has been transacted I can call for the yeas and nays.

The PRESIDENT pro tempore. The matter has been disposed of. The amendment has been adopted. There is now nothing upon which to call the yeas and nays.

Mr. KENYON. The Chair decided it so quickly that it was impossible to make the request before the Chair announced it.

The PRESIDENT pro tempore. That was the very question upon which the yeas and nays were called and the call was denied. A yea-and-nay vote was denied with reference to the amendment. It is not open to a Senator to call for a vote after the vote has been taken. The amendment has been adopted. The Secretary will continue the reading of the bill.

The Secretary resumed the reading of the bill.

The next amendment of the Committee on Appropriations was, on page 2, line 22, after "chief clerk, $3,250," to strike out "and $1,250 additional while the office is held by the present incumbent."

Mr. McCUMBER. I should like to have an explanation of the amendment. What is the reason for striking this out?

Mr. MARTIN of Virginia. The committee were of the opinion that the salary of $3,250 is a sufficient and adequate salary. In the next place, the committee were indisposed to the addition of $1,250 which was put in the bill when an incumbent of long service held the office. For myself I will say that I do not approve of supplements to salaries to hold simply during the tenure of a particular officer. I think the office ought to carry a salary, that none but competent men ought to be put in these positions, and when they are in those positions they ought to receive a salary which is sufficient for a competent man. The committee felt that $3,250 was a sufficient salary for a competent man, and it struck out those words in order to accomplish that purpose.

Mr. McCUMBER. Does the Senator think that the present incumbent holding the same position—I do not know who he is—is worth less and should be paid less than the other should have been paid? Is that it?

Mr. MARTIN of Virginia. I can not say. I have no doubt he is as competent a man, but through long association in that particular position the former incumbent was dealt with generously, more generously we think than the services rendered required. We feel that $3,250 is a sufficient salary for the position and we have reduced it for that reason to that sum.

Mr. McCUMBER. I confess I feel that the position ought to have a fixed salary and the salary ought not to be fixed according to the individual who may happen to hold it. It ought to be sufficient to pay a reasonable, a fair compensation. That compensation ought to be paid to whomsoever fills the official position, and whether he fills it 1 month or 20 years; it is the office, the official position that we are filling.

If the Senator from Virginia feels that the amount now proposed, $3,250, is proper and adequate, I shall make no objection, but I think it ought to have been the same, no matter who holds the position.

Mr. MARTIN of Virginia. It is the opinion of the committee that it is a sufficient and adequate salary.

Mr. SMOOT. I will simply say to the Senator from North Dakota that this position was held for many years by Mr. Gilfry and $1,250 additional was given to him on account of his long service in the position. He has been removed from that position and holds another of less importance, I suppose on account of his age. There has been appointed a chief clerk now at a salary of $3,250, and I understand he is capable and also satisfied with the salary named. It is for that reason that the additional amount named in the former appropriation acts has been stricken from the bill.

Mr. McCUMBER. It is the additional amount that I am particularly protesting against. There are Senators here who have served for a great many years and undoubtedly they are more valuable and better informed than those who have just arrived, at least they may be in some instances, but I do not think that would be any justification for making a difference in their salaries.

The PRESIDENT pro tempore. The question is on agreeing to the amendment of the committee.

The amendment was agreed to.

The next amendment of the Committee on Appropriations was, on page 3, line 3, after the word "clerk," where it occurs the first time, to strike out "2 clerks"; in the same line, after the word "and," to strike out "clerk compiling a history of revenue bills" and insert "3 clerks"; and in line 12, after the words "in all," to strike out "$96,730" and insert "$95,480," so as to make the clause read:

Office of Secretary: Secretary of the Senate, including compensation as disbursing officer of salaries of Senators and of the contingent fund of the Senate, $6,500; hire of horse and wagon for the Secretary's office, $420; assistant secretary, Henry M. Rose, $5,000; chief clerk, $3,250; financial clerk, $3,000 and $1,250 additional while the office is held by the present incumbent; minute and journal clerk, principal clerk, reading clerk, and enrolling clerk, at $3,000 each; executive clerk, and assistant financial clerk, at $2,750 each; librarian, file clerk, chief bookkeeper, assistant journal clerk, printing clerk, and 3 clerks, at $2,500 each; first assistant librarian, $2,400; keeper of stationery, $2,400; 4 clerks, at $2,220 each; 2 clerks, at $2,100 each; assistant librarian, $1,800; skilled laborer, $1,200; clerks—1 at $1,800, 2 at $1,600 each, 1 $1,440; assistant keeper of stationery, $2,000; assistant in stationery room, $1,200; messenger, $1,440; assistant messenger, $1,200; laborers—3 at $840 each, 3 at $720 each, 1 in stationery room $720; in all, $95,480.

The amendment was agreed to.

The next amendment was, on page 3, after line 15, to strike out:

Clerks and messengers to the following committees: Additional Accommodations for the Library of Congress—clerk, $2,220; messenger, $1,440. Agriculture and Forestry—clerk, $2,500; assistant clerk, $1,800; messenger, $1,440. Appropriations—clerk, $4,000; two assistant clerks at $2,500 each; two assistant clerks at $1,440 each; messenger, $1,440; laborer, $720. To Audit and Control the Contingent Expenses of the Senate—clerk, $2,500; messenger, $1,440; messenger, $1,200. Canadian Relations—clerk, $2,220; messenger, $1,440; messenger, $1,200. Census—clerk, $2,220; assistant clerk, $1,200; messenger, $1,440. Civil Service and Retrenchment—clerk, $2,220; messenger, $1,440; messenger, $1,200. Claims—clerk, $2,500; assistant clerk, $2,000; assistant clerk, $1,440; messenger, $1,200. Coast and Insular Survey—clerk, $2,220; messenger, $1,440. Coast Defenses—clerk, $2,220; assistant clerk, $1,440; messenger, $1,200. Commerce—clerk, $2,500; assistant clerk, $1,800; messenger, $1,440. Conference Minority of the Senate—clerk, $2,220; assistant clerk, $1,800; messenger, $1,200. Conservation of National Resources—clerk, $2,220; assistant clerk, $1,200; messenger, $1,440. Corporations Organized in the District of Columbia—clerk, $2,220; messenger, $1,440. Disposition of Useless Papers in the Executive Departments—clerk, $2,220; messenger, $1,440; District of Columbia—clerk, $2,500; assistant clerk, $1,800; messenger, $1,440. Education and Labor—clerk, $2,220; assistant clerk, $1,440; messenger, $1,200. Engrossed Bills—clerk, $2,220; messenger, $1,440. Enrolled Bills—clerk, $2,220; assistant clerk, $1,440. To Examine the Several Branches of the Civil Service—clerk, $2,220; messenger, $1,440. Expenditures in the Department of Agriculture—clerk, $2,220; messenger, $1,440. Expenditures in the Department of Commerce and Labor—clerk, $2,220; messenger, $1,440. Expenditures in the Interior Department—clerk, $2,220; messenger, $1,440; messenger, $1,200. Expenditures in the Department of Justice—clerk, $2,220; assistant clerk, $1,440; messenger, $1,440. Expenditures in the Navy Department—clerk, $2,220; messenger, $1,440; messenger, $1,200. Expenditures in the Post Office Department—clerk, $2,220; messenger, $1,440; messenger, $1,200. Expenditures in the Department of State—clerk, $2,220; messenger, $1,440. Expenditures in the Treasury Department—clerk, $2,220; messenger, $1,440; messenger, $1,200. Expenditures in the War Department—clerk, $2,220; messenger, $1,440; messenger, $1,200. Finance—clerk and stenographer, $3,000; assistant clerk, $2,220; assistant clerk, $1,600; assistant clerk, $1,440; messenger, $1,440. Fisheries—clerk, $2,220; assistant clerk, $1,440; messenger, $1,440. Five Civilized Tribes of Indians—clerk, $2,220; messenger, $1,440. Foreign Relations—clerk, $2,500; assistant clerk, $2,220; messenger, $1,440. Forest Reservations and Protection of Game—clerk, $2,220; messenger, $1,440. Geological Survey—clerk, $2,220; messenger, $1,440. Immigration—clerk, $2,220; assistant clerk, $1,800; messenger, $1,440. Indian Affairs—clerk, $2,500; assistant clerk, $1,440; messenger, $1,440. Indian Depredations—clerk, $2,220; messenger, $1,440. Industrial Expositions—clerk, $2,220; messenger, $1,440; messenger, $1,200. Interoceanic Canals—clerk, $2,220; assistant clerk, $1,440; messenger, $1,200. Interstate Commerce—clerk, $2,500; two assistant clerks at $1,800 each; messenger, $1,440. To Investigate Trespassers on Indian Lands—clerk, $2,220; messenger, $1,440. Irrigation and Reclamation of Arid Lands—clerk, $2,220; messenger, $1,440; messenger, $1,200. Judiciary—clerk, $2,500; assistant clerk, $2,220; two assistant clerks at $1,800 each; messenger, $1,440. Joint Committee on the Library—clerk, $2,500; assistant clerk, $1,440; messenger, $1,200. Manufactures—clerk, $2,500; assistant clerk, $1,440; messenger, $1,440. Military Affairs—clerk, $2,500; assistant clerk, $2,220; assistant clerk, $1,440; messenger, $1,200. Mines and Mining—clerk, $2,220; messenger, $1,440; messenger, $1,200. Mississippi River and Its Tributaries—clerk, $2,220; messenger, $1,440. National Banks—clerk, $2,220; messenger, $1,440. Naval Affairs—clerk, $2,500; assistant clerk, $1,440; messenger, $1,440. Pacific Islands and Porto Rico—clerk, $2,220; assistant clerk, $1,800; messenger, $1,440. Pacific Railroads—clerk, $2,220; messenger, $1,440. Patents—clerk, $2,220; messenger, $1,440; messenger, $1,200. Pensions—clerk, $2,500; assistant clerk, $1,800; three assistant clerks at $1,440 each; messenger, $1,440. Philippines—clerk, $2,220; assistant clerk, $1,800; messenger, $1,440. Post Offices and Post Roads—clerk, $2,500; three assistant clerks at $1,440 each; messenger, $1,440; clerk of printing records, $2,220; assistant clerk, $1,800; messenger, $1,440. Private Land Claims—clerk, $2,220; assistant clerk, $1,800. Privileges and Elections—clerk, $2,220; assistant clerk, $1,440; messenger, $1,440. Public Buildings and Grounds—clerk, $2,500; assistant clerk, $1,440; messenger, $1,440. Public Health and National Quarantine—clerk, $2,220; assistant clerk, $1,440. Public Lands—clerk, $2,500; assistant clerk, $1,800; messenger, $1,440. Railroads—clerk, $2,220; messenger, $1,440. Revolutionary Claims—clerk, $2,220; messenger, $1,440. Rules—clerk, $2,220; assistant clerk, $1,800; messenger, $1,440. Standards, Weights, and Measures—clerk, $2,220; messenger, $1,440. Territories—clerk, $2,220; assistant clerk, $1,440; messenger, $1,440. Transportation and Sale of Meat Products—clerk, $2,220; messenger, $1,440. Transportation Routes to the Seaboard—clerk, $2,220; messenger, $1,440. University of the United States—clerk, $2,220; messenger, $1,440. Woman Suffrage—clerk, $2,220; messenger, $1,440. In all, $364,640.

And to insert:

Clerks and messengers to the following committees: Additional Accommodations for the Library of Congress—clerk, $2,220; assistant clerk, $1,440; messenger, $1,200. Agriculture and Forestry—clerk, $2,500; assistant clerk, $1,800; messenger, $1,440. Appropriations—clerk, $4,000; 2 assistant clerks, at $2,500 each; 2 assistant clerks, at $1,440 each; messenger, $1,440; laborer, $720. To Audit and Control the Contingent Expenses of the Senate—clerk, $2,500; assistant clerk, $1,440; messenger, $1,200. Banking and Currency—clerk, $3,000; assistant clerk $1,440; messenger, $1,200. Canadian Relations—clerk, $2,220; assistant clerk, $1,400; messenger, $1,200. Census—clerk, $2,220; assistant clerk, $1,440; messenger, $1,200. Civil Service and Retrenchment—clerk $2,220; assistant clerk, $1,440; messenger, $1,200. Claims—clerk, $2,500; assistant clerk, $2,000; assistant clerk, $1,440; messenger, $1,440. Coast and Insular Survey—clerk, $2,220; assistant clerk, $1,440; messenger, $1,200 Coast Defenses—clerk, $2,220; assistant clerk, $1,440; messenger, $1,200. Commerce—clerk, $2,500; assistant clerk, $1,800; messenger, $1,440. Conference minority of the Senate—clerk, $2,220; assistant clerk, $1,800; 2 messengers, at $1,200 each. Conservation of National Resources—clerk, $2,220; assistant clerk, $1,440; messenger, $1,200. Corporations Organized in the District of Columbia—clerk, $2,220; assistant clerk, $1,440; messenger, $1,200. Disposition of Useless Papers in the Executive Departments—clerk, $2,220; assistant clerk, $1,440; messenger, $1,200. District of Columbia—clerk, $2,500; assistant clerk, $1,800; messenger, $1,440. Education and Labor—clerk, $2,220; assistant clerk, $1,440; messenger, $1,440. Engrossed Bills—clerk, $2,220; assistant clerk, $1,800; messenger, $1,200. Enrolled Bills—clerk, $2,220; assistant clerk, $1,440; messenger, $1,200. To Examine the Several Branches of the Civil Service—clerk, $2,220; assistant clerk, $1,440; messenger, $1,200. Expenditures in the Department of Agriculture—clerk, $2,220; assistant clerk, $1,440; messenger, $1,200. Expenditures in the Department of Commerce and Labor—clerk, $2,220; assistant clerk, $1,440; messenger, $1,200. Expenditures in the Interior Department—clerk, $2,220; assistant clerk, $1,800; messenger, $1,200. Expenditures in the Department of Justice—clerk, $2,220; assistant clerk, $1,440; messenger, $1,440. Expenditures in the Navy Department—clerk, $2,220; assistant clerk, $1,440; messenger, $1,200. Expenditures in the Post Office Department—clerk, $2,220; assistant clerk, $1,440; messenger, $1,200. Expenditures in the Department of State—clerk, $2,220; assistant clerk, $1,440; messenger, $1,200. Expenditures in the Treasury Department—clerk, $2,220; assistant clerk, $1,440; messenger, $1,200. Expenditures in the War Department—clerk, $2,220; assistant clerk, $1,440; messenger, $1,200. Finance—clerk, $3,000; assistant clerk, $2,220; assistant clerk, $1,600; assistant clerk, $1,440; messenger $1,440. Fisheries—clerk, $2,220; assistant clerk, $1,440; messenger, $1,440. Five Civilized Tribes of Indians—clerk, $2,220; assistant clerk, $1,440; messenger, $1,200. Foreign Relations—clerk, $2,500; assistant clerk, $2,220; messenger, $1,440. Forest Reservations and Protection of Game—clerk, $2,220; assistant clerk, $1,440; messenger, $1,200. Geological Survey—clerk, $2,220; assistant clerk, $1,440; messenger, $1,200. Immigration—clerk, $2,220; assistant clerk, $1,800; messenger, $1,440. Indian Affairs—clerk, $2,500; assistant clerk, $1,440; messenger, $1,440. Indian Depredations—clerk, $2,220; assistant clerk, $1,440; messenger, $1,200. Industrial Expositions—clerk, $2,220; assistant clerk, $1,440; messenger, $1,200. Interoceanic Canals—clerk, $2,220; assistant clerk, $1,800; messenger, $1,200. Interstate Commerce—clerk, $2,500; 2 assistant clerks, at $1,800 each; messenger, $1,440. To Investigate Trespassers on Indian Lands—clerk, $2,220; assistant clerk, $1,440; messenger, $1,200. Irrigation and Reclamation of Arid Lands—clerk, $2,220; assistant clerk, $1,440; messenger, $1,200. Judiciary—clerk, $2,500; assistant clerk, $2,220; 2 assistant clerks, at $1,800 each; messenger, $1,440. Joint Committee on the Library—clerk, $2,500; assistant clerk, $1,440; messenger, $1,200. Manufactures—clerk, $2,500; assistant clerk, $1,440; messenger, $1,440. Military Affairs—clerk, $2,500; assistant clerk, $2,220; assistant clerk, $1,440; messenger, $1,200. Mines and Mining—clerk, $2,220; assistant clerk, $1,440; messenger, $1,200. Mississippi River and Its Tributaries—clerk, $2,220; assistant clerk, $1,440; messenger, $1,200. National Banks—clerk, $2,220; assistant clerk, $1,440; messenger, $1,200. Naval Affairs—clerk, $2,500; assistant clerk, $1,800; assistant clerk, $1,440; messenger, $1,440. Pacific Islands and Porto Rico—clerk, $2,220; assistant clerk, $1,800; messenger, $1,440. Pacific Railroads—clerk, $2,220; assistant clerk, $1,440; messenger, $1,200. Patents—clerk $2,220; assistant clerk, $1,440; messenger, $1,200. Pensions—clerk, $2,500; assistant clerk, $1,800; 3 assistant clerks, at $1,440 each; messenger, $1,440. Philippines—clerk, $2,220; assistant clerk, $1,800; messenger, $1,440. Post Offices and Post Roads—clerk, $2,500; assistant clerk, $2,000; 2 assistant clerks, at $1,440 each; messenger, $1,440. Printing—clerk, $2,220; assistant clerk, $1,800; messenger, $1,440. Private Land Claims—clerk, $2,220; assistant clerk, $1,800; messenger, $1,200. Privileges and Elections—clerk, $2,220; assistant clerk, $1,440; messenger, $1,440. Public Buildings and Grounds—clerk, $2,500; assistant clerk, $1,440; messenger, $1,440; Public Health and National Quarantine—clerk, $2,220; assistant clerk, $1,440; messenger, $1,200. Public Lands—clerk, $2,500; assistant clerk, $1,800; messenger, $1,440. Railroads—clerk, $2,220; assistant clerk, $1,440; messenger, $1,200. Revolutionary Claims—clerk, $2,220; assistant clerk, $1,440; messenger, $1,200. Rules—clerk, $2,220; assistant clerk, $1,800; messenger, $1,440. Standards, Weights and Measures—clerk $2,220; assistant clerk, $1,440; messenger, $1,200. Territories—clerk, $2,220; assistant clerk, $1,440; messenger, $1,440. Transportation and Sale of Meat Products—clerk $2,220; assistant clerk, $1,440; messenger, $1,200 Transportation Routes to the Seaboard—clerk, $2,220; assistant clerk, $1,440; messenger, $1,200. University of the United States—clerk, $2,220; assistant clerk, $1,440; messenger, $1,200. Woman Suffrage—clerk $2,220; assistant clerk, $1,440; messenger, $1,200. In all, $407,800.

Mr. BRYAN. On behalf of the committee I offer an amendment to the amendment.

The PRESIDENT pro tempore. The amendment will be stated.

The SECRETARY. On page 8, line 16, after the numerals "$1,200," near the end of the line, amend the amendment of

the committee by inserting the following: "Cuban Relations—clerk, $2,220; assistant clerk, $1,440; messenger, $1,200."

Mr. BRYAN. Mr. President, the object of the amendment to the amendment is to provide for a committee created by a resolution of the Senate since the bill was considered originally by the committee. The Senate, by a resolution, created an additional committee, and this is designed to provide the necessary clerks.

The amendment to the amendment was agreed to.

Mr. KENYON. I should like to ask the Senator from Florida or some one in charge of the matter, why a distinction is made in the salaries paid messengers of these different committees. Why are some paid $1,440 and others $1,200? Why are some clerks of committees paid higher than clerks of other committees? A messenger does not do any different work.

Mr. BRYAN. I understand the messengers for the minority Senators who are not chairmen of committees receive $1,200, and the messengers of the committees receive $1,440.

Mr. KENYON. The messenger of a committee where one of the minority is chairman is paid $1,200, and where one is a majority chairman the messenger is paid $1,440. Is that the distinction?

Mr. BRYAN. I think so. That has always been the distinction.

Mr. KENYON. The work is the same, is it not? The messenger for the Committee on the Distribution of Useless Papers in Executve Departments does not work any more than some other messenger?

The amendment to the amendment was agreed to.

Mr. McCUMBER. I move to amend the amendment by striking out the words "messenger, $1,200" wherever they appear, and inserting in lieu thereof "messenger, $1,440."

The reason for this amendment, Mr. President, as we all know, is that the messengers in the committees of minor importance are doing the work of clerks; in other words, there is no Senator who has not enough work to do in his office to keep at least three clerks employed in clerical business, and to keep them all busy; and it is necessary that he should have those who are competent to do the business. He can not use what we would ordinarily understand to be a messenger only, but must have some one who is capable of assisting him in the clerical work. While Senators in the minority are not at the head of committees, they are all members of large and important committees, and are often put on subcommittees, to do work in which they must use the messengers for their clerks. If we are to consider them in the light of messengers only, then a messenger upon an important committee has no other or different character of work than a messenger upon an unimportant committee, and in important committees sufficient clerks have been provided to do the clerical business independent of the messenger. If it is necessary to use the messenger, as it often is—I am not complaining that you are paying him in every one of these instances $1,440 a year—in actual justice every one of the messengers who are used by a Senator to do his clerical work ought to receive at least $1,440. The amount involved would be a mere bagatelle; and yet it would put them all upon a standing in which they should be, and it would make their compensation correspond in some degree to the actual services that are rendered to the committees with which they are connected. For that reason, Mr. President, I urge the adoption of the amendment.

Mr. MARTIN of Virginia. Mr. President, no request has been made to the committee for the increase of salaries now suggested; no amendment has been offered for that purpose. These salaries were not fixed by the committee at this time, but they are the salaries which have been heretofore paid. There are very few, perhaps two or three, instances in this bill where the committee has increased the salaries of Senate committee employees, when Senators appeared before the committee and gave special reasons why increases should be made; but the proposition now presented is that the salaries shall be increased on a general idea of abstract justice. No such increase has been requested; the committee has not considered the increase; we can not say that it is right, and the Senate can not say that it is right.

In some of these positions on important committees, or with Senators who have a great deal of work, it may be that the messenger in such case should have $1,440 a year. There are other cases where the messengers are doing only the work which properly belongs technically to a messenger, and even the work of a laborer. When the work that is being done is compensated for at $1,200, we ought not to increase the compensation. We are not paying salaries according to the nomenclature of the service. As I have said, nobody has asked for these increases and nobody has stated to the committee any facts justifying them. Many of these messengers are doing merely nominal work. You must bear in mind that until recently each Senator only had two employees, unless he was a chairman of a committee. Then we were asked to give three employees to each Senator and to fix the salary of the third man at $1,200. I think it would lead to a very great increase in the expenses of the Government if we are to increase salaries on the abstract idea when nobody has explained the service which is being rendered or asked for the increase.

I am sure that the committee has been very liberal. Whenever it has been shown to the committee that a salary was too low, we have increased it; and I do protest against a wholesale increase without any explanation or without any facts to justify it.

Mr. McCUMBER. The Senator from Virginia says that no one has asked for this increase; that nobody has suggested it to the committee. Who would the Senator expect to make the suggestion, and who would be better qualified to make the suggestion than the Senators themselves, who employ, or who at least appoint, these messengers, who act as clerks, and the Senators who know what they are doing?

I believe there is not a Senator here who has one of these clerks—because that is what they are, although they are denominated messengers—who will not say that his messenger does exactly the same character of work that his clerks do; that he calls upon him to do the same clerical work that is performed by the others.

We do not need any great discussion, any hearings before the committee, on this matter, because every Senator knows just exactly what it means. It is for the Senator from Virginia to vote upon an amendment in the proper place just exactly what he thinks ought to be done. If he feels that I am in error in my statement that the messengers for all of these committees do clerical work, he would be justified in saying they ought not to receive as much as those denominated clerks—I mean the $1,440 clerks—but if he feels that they are performing, and he himself knows that he is using them to perform exactly the same service, then I certainly feel that he is justified in supporting this amendment to give them the same salary, which amounts to $240 per year more than the $1,200 salary now paid.

Mr. SHAFROTH. Mr. President, it seems to me that everyone knows that he has grades of clerks who really ought to have different compensations. That is true as to the chief clerk of every committee. He gets a higher salary than the first assistant, and the first assistant gets a higher salary than the messenger. The messenger, in many instances, is not a stenographer and does not perform the same character of duty as the other members of the Senator's staff. That being the case, it seems to me that the salary of $1,200 a year is amply sufficient to pay the messengers a fair compensation.

We know, as a matter of fact, that we can go down town here and get such services at a great deal less than $1,200 a year. I do not believe in absolutely cutting it down to the very salary which is paid in stores and in private offices, because one can get even stenographers at from $50 to $60 a month; but I believe in allowing a fair amount, and $1,200, it seems to me for that class of work, is a fair amount. This compensation has to be graded. We have to limit the governmental expenditures to some extent, and it seems to me, this being the custom, we should adhere to it.

Mr. McCUMBER. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Colorado yield to the Senator from North Dakota?

Mr. SHAFROTH. I do.

Mr. McCUMBER. May I ask the Senator what class of clerks he refers to when he says $1,200 is sufficient for that class of work?

Mr. SHAFROTH. I mean any assistant around an office. Every Senator knows that his chief clerk does a great deal of dictating which the Senator ordinarily would do, and he is supposed to command a higher salary than persons who simply take dictation from others. The second person who is employed generally assists in that particular to some extent, and is always a stenographer. The messenger is sometimes a stenographer and sometimes he is not. These places, however, are being sought at the present salaries. They are paid better compensation than clerks can get down in this city or in any other city in the United States. That being the case it seems to me that we are doing fair by them.

Mr. McCUMBER. If the position of the Senator is correct that the person called a messenger, for whom there is appropriated $1,200 a year, is a messenger only, and that he is used for that purpose alone, then I entirely agree with the Senator that this is good pay; but if, as a matter of fact, which I un-

derstand to be the fact—and I know it is the fact so far as my own office is concerned—the messenger does exactly the same kind of work as does the $1,440 clerk, and may be called upon to do exactly the same kind of work, and if that is practically universally so in all of the committees, then I believe that such messengers should be paid the same for doing the same kind of work.

If the Senator's position is correct, and that it is messenger service only that these persons are performing, then they are receiving a sufficient salary; but, as a matter of fact, that is not correct. Practically all of them are performing the work of a clerk and an assistant and doing good work. They are required to do that work, and they ought to be paid $1,440.

Mr. SHAFROTH. Mr. President, as I said before, every Senator has grades of work for his employees. The first man does the important work, dictating very largely in cases where the Senator ordinarily would do it, which directly relieves the Senator of work. He generally dictates to the second person, who is a stenographer; he is a person better skilled and more experienced, who would get more compensation in the open market if his services were demanded. The third is usually a helper, and does not take the important dictation that is required, even if he is a stenographer. Inasmuch as we find no person who is willing to resign these positions, for they all want them, as the class of employment is higher here in the way of compensation than the ordinary commercial salaries, it seems to me that these salaries should not be increased.

Mr. THOMAS. Mr. President, the last remark of my colleague [Mr. SHAFROTH] suggests a very important truth; and I venture to inquire of him whether, if there is going to be a change here for the purpose of equalizing the salaries of all messengers, it would not be better to strike out "$1,440," wherever it occurs, and to insert "$1,200"? If I have counted correctly, there are about 23 messengers who get $1,440 and 20 or 21 whose compensation is $1,200. It seems to me that that is ample when you consider the work that is required of these people and what they could command in the same position outside of public employment. It would be far better for the public service, in my judgment, and a move toward economy to take off the difference between $1,440 and $1,200, instead of adding the difference to the salary of the $1,200 clerks.

Mr. McCUMBER. I want to ask the junior Senator from Colorado, who has a messenger at $1,440, if that messenger only performs the service of a messenger, why he should not also be cut down to $1,200, the same as the other messengers?

Mr. SHAFROTH. Is that question directed to me?

Mr. McCUMBER. Yes. If the Senator's statement is correct that plenty of employees for this class of service can be obtained at $1,200, and that in every one of the committees, including the Senator's committee, messengers perform the character of work which might be called messenger work, then why should not, as suggested by the senior Senator from Colorado [Mr. THOMAS], the messenger employed by the junior Senator from Colorado be cut down to the $1,200 basis? I am assuming that some of the messengers are being paid $1,440 because in reality they are performing the work of clerks, and I am not complaining of that; I think they ought to have it; but if you pay them $1,440, why should you not pay all the others $1,440, and if the services of the others are not worth more than $1,200, why should a messenger in another committee be paid more than $1,200?

Mr. SHAFROTH. Mr. President, the salaries attached to the various employees assigned to the different committees were fixed some time ago. So far as my committee is concerned, the salaries of its employees were fixed before I was made chairman of the committee. I have heard of no change in their salaries, and I had no part in fixing them. I presume the salaries are fixed upon the basis of the importance of the committees, upon the theory that one committee has more work than another committee; and that, therefore, in the end really more work is required of some employees than of others. The employees designated as messengers do not perform exclusively messenger service; there is no doubt about that; they do help in every line of work in the office; there is no question of that; but the relative importance of the work always descends with the diminution of the responsibility and the amount of work required. That is true of all the committees, I think, and that is the reason I am not in accord with the position taken by the Senator.

Mr. McCUMBER. Mr. President, I want to state, in response to the Senator, that I think he is in error. I have been chairman of one of the larger committees during my term of service here, and I am free to say that the messenger of the larger committees does not perform the same amount of work nor the same grade of work as is required of the messenger of the smaller committees, because in the larger committees there is a sufficient number of competent clerks to do the work and the messenger has little to do, except what might be called purely messenger work. There is not a Senator here who does not really require three clerks to do his work; and, therefore, as a matter of fact, the messenger of a smaller committee or the messenger of a Senator, where he has only three employees, is really required to do a higher class of work and more important work than is the messenger of a larger committee.

Mr. KENYON. Mr. President, I do not want to object to any reasonable compensation for the employees of the Senate. I tried to find out from the Senator from Florida [Mr. BRYAN] why it was that certain messengers were paid $1,200 a year and others were paid $1,440 a year. He gave as the reason, as I understood him, that the chairmen of minority committees, Republican Senators holding chairmanships, were allotted messengers who were paid $1,200, while the messengers to majority committees were paid $1,440. I was not making any objection to that. Now, the Senator from Colorado gives as one of the reasons the difference in the importance of the committees. I want to call the attention of the Senator from Colorado to one or two items in this bill. I am merely insisting that these employees ought to be paid the same amount for the same kind of work.

Here is the Committee on Expenditures in the Department of State, of which the distinguished Senator from Illinois [Mr. LEWIS] is chairman. The messenger of that committee is paid $1,200 a year. The messenger of the Committee on Expenditures in the Treasury Department is paid $1,200 a year. Those are both what would be called majority committees. The messenger of the Committee on Expenditures in the Department of Justice, of which the distinguished Senator from Utah [Mr. SUTHERLAND] is chairman, is paid $1,440. The various committees on expenditures in the departments certainly rank about the same. I do not suppose any of those committees have ever had any meetings. Now, why is a messenger of a minority committee, whose chairman is a member of the minority side of the Chamber, paid a higher salary than is paid the messengers of the same class of committees on the majority side? I am not objecting to it, but I am wondering why it is.

Mr. SUTHERLAND. Mr. President——

Mr. KENYON. I am not through, but I will yield to the Senator.

Mr. SUTHERLAND. If the Senator will permit me, I should like to say a word.

The PRESIDENT pro tempore. Does the Senator from Iowa yield to the Senator from Utah?

Mr. KENYON. I yield to the Senator.

Mr. SUTHERLAND. The Senator has called attention to the committee of which I am chairman. I will say to the Senator that the salaries paid to the employees of that committee were already fixed when I was made chairman of that committee, and I had nothing to do with the fixing of the salaries. I will say very frankly to the Senator from Iowa that I think all messengers of committees ought to be paid the same amount. I think I am not entitled to a messenger at $1,440 a year while the messenger of the Senator from Iowa, who has as much work as I have and whose work is of the same character, is paid $1,200; it is not fair.

Mr. KENYON. That is the point I was making.

Mr. SUTHERLAND. I entirely agree with the Senator, and, while it would be a hardship upon the young man who is holding this position in my committee to cut his salary down, I would vote to make the salaries of all messengers of Senate committees $1,200 or to make them all $1,440. They ought to be the same; the Senator from Iowa is quite right about that.

Mr. KENYON. I want to call attention to one other matter.

Mr. OVERMAN. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Iowa yield to the Senator from North Carolina?

Mr. KENYON. I yield to the Senator.

Mr. OVERMAN. I want to say to the Senator that we have discussed this matter considerably heretofore, and I think there is a disposition to arrange it in some way so as to equalize conditions. This practice, however, has grown up and has been followed here for 20 years, and we have simply followed that practice, but we all feel that something ought to be done to remedy the existing situation, and it probably will be done in the near future.

Mr. JONES. I should like to ask the Senator from North Carolina a question.

Mr. KENYON. I desire to hold the floor, Mr. President.

The PRESIDENT pro tempore. The Senator from Iowa has the floor. Does he yield to the Senator from Washington?

Mr. KENYON. I yield.

Mr. JONES. I want to say to the Senator from North Carolina that I am endeavoring to prepare a plan of reorganization so far as the employees of committees of the Senate are concerned, and I want to ask the Senator if he will help me when we get a chance to vote on that proposition?

Mr. OVERMAN. The Senator from Washington appeared before the committee, and we all agreed that something ought to be done. As I have said, however, the practice has grown up here through a number of years, and it is time that conditions should be changed. Probably we ought to have a committee appointed to bring about a reorganization; and if the duty is assigned to the Committee on Rules, they will undertake it.

Mr. JONES. I am endeavoring to prepare a proposition which I should like to submit either to the Committee on Rules or to a special committee; and what I want to ask the Senator is, if he will not help me?

Mr. OVERMAN. I will be glad to help the Senator in adopting any plan that will bring about an equalization.

Mr. WARREN. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Iowa yield to the Senator from Wyoming?

Mr. KENYON. I yield to the Senator.

Mr. WARREN. Mr. President, I think there should be some explanation in regard to the minority committee referred to by the Senator from Iowa which has a messenger who is paid at the rate of $1,440 per year. The Senator from Utah [Mr. SUTHERLAND], who is chairman of that committee, has either forgotten or else he is too modest to state the fact that that committee was up to within a recent time a majority committee and not a minority committee; and, like many of the other old majority committees, its messenger was paid $1,440. I happen to be serving on the Committee on Committees, and so I am in a position to know something about the matter. After the committees had been tentatively made up—the Senator from Indiana [Mr. KERN] having charge of the Committee on Committees on the majority side—the Senator from Utah was assigned to the chairmanship of a committee different from that of which he is now the chairman. It was, I believe, Woman Suffrage. As I recall now, there came to us a direction or, perhaps it would be better to say, a request that we make changes in certain committees. The majority side wanted to take over the Committee on Woman Suffrage, of which the distinguished Senator from Colorado [Mr. THOMAS] is now chairman, from the minority and make it a majority committee, and in place of that and one other committee they gave us the Committee on Expenditures in the Interior Department and the Committee on Expenditures in the Department of Justice. The appropriation bill carrying the salaries of the employees of those committees had passed and was a law, and so the Senator from Utah, without knowing it himself, because I think I was the one who, later on, told him of it, fell heir to a committee to which was attached a messenger drawing $1,440 per annum.

As everyone knows, the distinguished Senator from Utah has been here a good while. He is a member of very important committees, and although the committee of which he is chairman may be a very small one and may have but little work, yet in other and larger committees of which he is a member he has hard work to do and has greater necessity of more and a better class of service than perhaps a Senator who has just come to the Senate and has not yet received the benefits that later follow in being assigned to the more important committees.

Mr. KENYON. Mr. President——

Mr. WARREN. Just a moment, please, and then I will be through. For that reason the committee did not cut down the salary of the messenger attached to the committee of which the Senator from Utah is chairman. I say this in justice to the Senator from Utah.

Mr. KENYON. Mr. President, to my mind there is nothing too good for the Senator from Utah [Mr. SUTHERLAND]. I am not raising any objection at all that the messenger to his committee is paid $1,440; it did not occur to me to object to that.

Mr. WARREN. I thought I should explain that it happened in that way in the exchange. The Senator can see how it came about.

Now, one word more. I have always, so long as I have served on the Committee on Appropriations, been a member of the subcommittee on this bill. I was always in favor of paying liberal salaries to employees of committees when we were in the majority, and when the minority asked for increases in the salaries of their employees I was always willing, if the minority were nearly a unit in the demand, to try to meet their demands. I recall now that two distinguished Senators, whom I see on the other side, approached me when I was chairman of the committee with requests to increase certain salaries of employees attached to their committees, but I think the distinguished Senator [Mr. CLARKE of Arkansas] who now occupies the chair was about to make a point of order if the change had been made at that time, and so the Senators did not follow it up, and it fell by the wayside.

I feel that we ought not when in the minority to ask any more of the majority than the minority asked and received of us when we were in the majority; in other words, "Turn about is fair play." There is something, to my mind, not in the committees alone, but, taken in connection with the personnel of the Senate, which must lead to some distinction between a Senator who is serving on various committees and who has a great deal of work to do and a new Senator who serves on committees, of course of distinction, but involving less labor.

Mr. KENYON. Mr. President, the Senator has sounded the exact keynote and has very frankly, I think, stated the reasons for the differences in this bill. It is the difference between Senators. Some are more distinguished and some have more committees and should have more help. It is right along that line.

Mr. WARREN. Mr. President, the Senator must not impute to me the idea that one Senator is more distinguished than another, but some have more work to do than have others.

Mr. KENYON. I am responsible for the statement that they are more distinguished. I want to call attention in that connection to the fact that under this bill the employees in the Committee on Expenditures in the Department of Commerce and Labor are paid as follows:

Clerk $2,200, assistant clerk $1,440, messenger $1,200.

The chairman of that committee is the Senator from Kansas [Mr. THOMPSON], of the majority. The next item of the bill reads:

Expenditures in the Interior Department—clerk $2,220, assistant clerk $1,800, messenger $1,200.

The chairman of that committee is the distinguished Senator from Utah [Mr. SMOOT]. Now, why should the assistant clerk of the distinguished Senator from Utah receive $1,800, the Senator from Utah being the chairman of a minority committee, while the assistant clerk of the committee of which the Senator from Kansas, a member of the majority, is chairman receives but $1,440? It seems to me that what the Senator from Wyoming has said is true, and, of course, if that is the way the clerks and messengers of committees are to be paid, it is well to know it.

Mr. MARTIN of Virginia. Mr. President, I will detain the Senate but a moment. I simply want to say to the Senator from Iowa particularly, and to all other Senators, that of the Senators who employ messengers at $1,200 a year—and there are between 25 and 30 of them, and some of the majority Senators have attached to their committees messengers who receive only $1,200 a year—not one of those Senators has appeared before the committee and said that he had a messenger in his employ receiving too little compensation. Not a single instance can be cited where the Senator employing a messenger has appeared before the committee and stated that his messenger was receiving too small compensation.

Mr. KENYON. May I ask the Senator from Virginia a question?

Mr. MARTIN of Virginia. Certainly.

Mr. KENYON. Why was the salary of the assistant clerk of the Committee on Expenditures in the Department of the Interior raised from $1,440 to $1,800?

Mr. MARTIN of Virginia. Who is chairman of that committee?

Mr. KENYON. The Senator from Utah [Mr. SMOOT].

Mr. MARTIN of Virginia. The Senator from Utah gave what the committee considered good reasons for that increase in the salary of the assistant clerk of his committee; and if the Senator from Iowa has a clerk or a messenger attached to his committee who he thinks is inadequately paid it does seem to me it is due, in fairness to the committee and in fairness to the Senate, that he should take it up in the orderly and systematic method of legislation and should appear before the committee preparing the appropriation bill and explain why his clerk or his assistant clerk or his messenger is not receiving the amount to which he is entitled.

Mr. KENYON. That is not at all my object in calling attention to that matter. The employees allotted to me are paid sufficient. I am not raising any objection to that. My messenger is paid $1,200 a year, and I use him as a stenographer; and that is sufficient compensation. I am simply objecting that one employee is paid differently from another employee who is doing the same kind of work.

Mr. MARTIN of Virginia. Mr. President, they do not all render exactly the same service; and Senators who think their messengers or their assistant clerks or their clerks are entitled to more money than they are receiving, in justice to themselves and in justice to their employees and in justice to the committee, ought to appear before the committee and state the facts, and the committe will give careful consideration to them.

The committee, I think, has been very liberal in the matter of paying the employees of Senators. It must be borne in mind—as the matter was referred to just now I reluctantly refer to it myself—that each of the minority Senators now has a third man to assist him in his work. When the Democrats were in the minority they had only two men. The Democrats have been more generous, or at least they have allowed a larger number of employees and better salaries than were allowed to them by the Republicans when the Republicans were in the majority.

I do not wish to claim any credit for this generosity. The work of Senators has increased, and we have met it. I do not think politics enters into it. We have endeavored to deal fairly by every Senator. No Senator has appeared at any time before the Committee on Appropriations and complained without his complaint having careful consideration, and redress when the committee could see its way clear to give him the redress. Not a single messenger nor a single Senator employing messengers has appeared before the committee to ask that these salaries be increased. They were fixed within the last 12 months, when these additional employees were given to the minority Senators, about 25 of them.

The minority asked for these employees. The majority thought the request was right and reasonable, and it provided for them and provided salaries that were satisfactory. No complaint has since been made of these salaries, until we hear it to-day on the floor of the Senate. I do not think that is a reasonable or fair or safe way to legislate. If these things are not right, the objections should be made to the committee, and the committee should have an opportunity to investigate thoroughly. I am sure the committee is open-minded in the matter and is ready to do what is just and right for all of these employees.

Mr. McCUMBER. Mr. President, I had supposed that one of the functions of the Senate as a body was the right to offer amendments, even though those amendments had not been offered before a committee. I think the Senator will agree with me that the Senate as a body now sitting here is better able to determine what ought to be done in justice in the matter of these clerks than anyone could do in appearing before the committee.

I have believed at all times that the salaries of these messengers should be above $1,200. When we were in the majority on this side I was just as earnest and ardent in my desire, and I think every year I made the motion to raise those salaries in every instance to the $1,440 figure. That always has been my view, and I still think it ought to be done. It is not a question of going before the committee beforehand, because every Senator knows about what service he is employing in his own committee. While the Senator from Iowa [Mr. KENYON] thinks the amount of $1,200 is a sufficient amount for the assistant he has, I am perfectly frank to say that the messenger I have is worth more than $1,200 a year, and ought to be paid $1,440; but I would not go before a committee and ask that one should be put on a different plane from the others. If they were all $1,200, I would say that they would have to be satisfied with that, although I should insist they were all worth more than $1,200. What I do claim is simply that there ought to be no difference in the salaries paid to messengers, and that all should be put on the $1,440 basis, according to my view.

Mr. MARTIN of Virginia. Mr. President, with the permission of the Senator, I simply desire to correct a statement I made just now. I said there were about 25 messengers. I had reference to the minority appointments. There are about 45 messengers in all, instead of 25, employed by the committees of the Senate, who are receiving only $1,200 each.

Mr. SHAFROTH. Mr. President, I want to say to the Senator from North Dakota that the minute you raise these salaries universally to $1,440 the assistant clerks will want $1,800, and they will be in here insisting upon it, because they will show you and show each one of us that their work is more important, that they are called upon to do work on more important occasions, and that it is a higher class of work than the messenger performs, even where the messenger is a stenographer and does relieve the assistant clerk of the committee.

The PRESIDENT pro tempore. The question is on the amendment offered by the Senator from North Dakota [Mr. McCUMBER] to strike out "$1,200" where it appears in connection with the salaries of the messengers named in the amendment proposed by the committee and to insert in lieu thereof "$1,440."

The amendment to the amendment was rejected.

The amendment as amended was agreed to.

The reading of the bill was resumed.

The next amendment of the Committee on Appropriations was, on page 12, after line 6, to insert:

All Senate resolutions passed prior to July 1, 1914, authorizing the payment for clerical and messenger services from the contingent fund of the Senate are hereby repealed.

Mr. SIMMONS. Mr. President, I move to amend the amendment of the committee by inserting, on page 12, line 10, after the word "Senate," the words "whose services are specifically provided for herein."

The PRESIDENT pro tempore. The Senator will send the amendment to the desk and let the Secretary state it.

The SECRETARY. On page 12, line 10, in the committee amendment, after the word "Senate," the Senator from North Carolina proposes to insert the words "whose services are specifically provided for herein."

Mr. SIMMONS. Mr. President, I will ask the Senator from Virginia if the committee will not accept that amendment.

Mr. SMOOT. I should like to have the amendment stated again.

The PRESIDENT pro tempore. The Senator from Utah asks that the amendment may be again stated to the Senate.

The Secretary again stated the amendment.

Mr. MARTIN of Virginia. Mr. President, as I understand, the Senator from North Carolina asks if I will accept that amendment for the committee. I can not do so. I am not authorized by the committee to do so, because the committee has not acted upon it.

Mr. SIMMONS. Then, I offer that amendment.

The Senator will observe that in the preceding section of the bill, beginning on page 7, line 17, it specifies various salaries for committee clerks and assistant clerks. The committee amendment now pendng repeals all resolutions passed by the Senate prior to July 1, 1914, authorizing the payment for clerical and messenger services from the contingent fund of the Senate. It is very well known that occasionally a resolution passes the Senate providing for extra service for certain committees. If this amendment should be adopted it would repeal all of those resolutions and abolish the right of the committee to appoint these extra men.

To illustrate, the Finance Committee, of which I have the honor to be the chairman, has been from time immemorial permitted by resolution of the Senate to employ an expert to assist the committee, and the committee has been allowed to fix his salary at a reasonable sum. I do not think there has been a time since I have been in the Senate, in the last 13 years, when a resolution of that kind has not been in force. In fact, it has been the custom before the adjournment of every Congress to pass a resolution of that kind with respect to this committee. My understanding is that there are probably other resolutions of a similar character; but these other resolutions, as I understand—I may be mistaken about it—are probably provided for in the preceding section.

The effect of this amendment will be largely to repeal a resolution providing for extra service for the Finance Committee. The majority has an expert and the minority has an expert. Heretofore, in addition to the expert, the minority and the majority, as I understand, have each had an additional man. We have cut off those men, and we are now only employing one expert each for the majority and the minority.

Personally, I should be very much embarrassed if this amendment should be agreed to without this qualification, because it would deprive me of the services of an expert in connection with the work of the Finance Committee, and I am seriously in need of him every day. There is scarcely a day, or certainly not many days at any time, when I have not inquiries about the tariff, the effect of its operation, and its meaning which require some investigation before being answered. I have not the time to do it, and I have had this gentleman to do that work for me. It requires an expert to do it. An ordinary clerk or secretary could not well do it.

Mr. SMOOT. Mr. President——

The PRESIDENT pro tempore. Does the Senator from North Carolina yield to the Senator from Utah?

Mr. SIMMONS. I do.

Mr. SMOOT. If I understand the amendment offered by the Senator, I do not believe it will accomplish what the Senator desires to accomplish.

Mr. SIMMONS. I think it will.

Mr. SMOOT. In that connection, I wish to say to the Senator that I am in full accord with the former practice of having an expert for the majority and an expert for the minority of the committee, but I do not believe it ought to go further than that.

Mr. SIMMONS. That is as far as it goes.

Mr. SMOOT. I say, it has gone further, but I do not think it ought to go further.

Mr. SIMMONS. It has; but we have abolished that.

Mr. SMOOT. I think it ought to be abolished. If the Senator's amendment is not agreed to, however, and the amendment of the committee is agreed to, all that it would be necessary for the Senator to do would be, on the 30th of June, to have a resolution passed, as we always have done in the past, providing for those two positions.

Mr. SIMMONS. Of course, I understand that; but I wish to avoid the necessity of having to secure the passage of such a resolution.

Mr. SMOOT. I was going to say to the Senator that if his amendment does accomplish what he desires to accomplish by it, then it is going to affect also a great number of others who are on the rolls to-day by virtue of special resolutions of the Senate, and that we do not want to do.

Mr. SIMMONS. No; I think the Senator is mistaken.

Mr. MARTIN of Virginia. Mr. President——

Mr. SMOOT. I will give way to the Senator from Virginia in just a minute. I will say to the Senator that all of the employees of committees are provided for now by being specifically named in the amendment that has just been adopted by the Senate. That being the case, we wanted to repeal all the resolutions that have been passed prior to July 1, because every messenger, clerk, and assistant clerk is provided for that we think ought to be provided for in the amendment that has already been adopted. I will say frankly, however, that the two positions of which the Senator speaks are not provided for; and they are the only two, I understand, that the Senator wants to reach.

Mr. SIMMONS. This amendment repeals all resolutions authorizing them.

Mr. SMOOT. Yes.

Mr. SIMMONS. I want to confine that repeal to the provisions of this particular section.

Mr. SMOOT. I will say to the Senator that if his amendment is put in here it will not repeal the many resolutions that have been passed by the Senate; and I believe that now would be a very good time to have everything cleared up, so that we will know just exactly where we are up to date, anyhow. That was the object of this amendment. I will say to the Senator that I believe the Senate would gladly pass on the 30th day of June a resolution providing for the two positions of which he speaks; but this amendment not only provides for those two, but it also prevents the repeal of the resolutions of last year.

Mr. MARTIN of Virginia. Mr. President, as we all know, a custom has grown up here of making appointments of persons to be paid for out of the contingent fund of the Senate. The committee found 30 of those appointees, and our object was to take in all of them. We felt that where employees were needed permanently they ought to be provided for by law and not by Senate resolution; that they ought to be paid out of the Treasury and not out of the contingent fund of the Senate.

I have before me a list of 30 employees that we took from the list of persons that were being paid out of the contingent fund of the Senate, and we have provided for them in this bill by appropriation. Having done that, we do not wish to have those same names stay on the pay roll, to be paid out of the contingent fund of the Senate, and our object was to prevent that duplication.

Mr. WARREN. If my colleague on the committee will permit me, was it not the object to get a perfect clean-up, and then, if extra men for extra seasons or for extra purposes were wanted, of course, it can be reached by resolution?

Mr. MARTIN of Virginia. That was the purpose of the committee. I will say for myself, and I think I can say for the committee, that none of us knew anything about, or certainly did not have in mind, the fact, if we ever heard of it—and I do not think I ever have, though I can readily see now how the practice arose—that the Finance Committee had some experts employed. Our object was, as the Senator from Wyoming says, to clean up this matter and put on the permanent roll all the employees that were needed and have them paid by law and not by Senate resolution.

Mr. WARREN. It ought to be freshened up by passing new resolutions.

Mr. MARTIN of Vriginia. It has now come to our knowledge, however, that in using general language, repealing all of these Senate resolutions, there are some few that we did not provide for in this bill that no doubt ought to be continued in the service of the committees. With a view of protecting such cases as that, I asked the clerk of the Committee on Appropriations to prepare an amendment, which is the amendment that has been offered by the Senator from North Carolina, and which limits the repeal to the cases where the employees have been put by this bill on the permanent roll, and does not repeal the resolutions where the persons paid by Senate resolutions out of the contingent fund have not been provided for by the pending bill.

Mr. SMOOT. Mr. President——

The PRESIDING OFFICER (Mr. POMERENE in the chair). Does the Senator from Virginia yield to the Senator from Utah?

Mr. MARTIN of Virginia. I do.

Mr. SMOOT. That is absolutely true if they are specifically provided for in the amendment that has just been adopted; but I call the Senator's attention to the fact that not only are there the two cases the Senator has undertaken to reach by his amendment, and which he has explained to the Senate, but, if the Senator will remember, there are a number of resolutions that have been passed here for temporary help.

Mr. MARTIN of Virginia. Mr. President, I will say to the Senator that if that is so this amendment protects them. This amendment repeals those resolutions only where the employees have been put in this bill and appropriated for.

Mr. SMOOT. That is true, but we wanted to go further than that. We wanted, as I understood—and being a member of the committee I thought the Senator understood it the same way I did—to go further than that. We wanted to adopt an amendment to the bill repealing all of the resolutions in regard to every employee that is not specifically provided for in the bill, just as the Senator from Wyoming [Mr. WARREN] stated. If there were only the two that the Senator from North Carolina has mentioned, then the amendment would be perfectly right; but I wish to say to the Senator that we have passed resolutions here for temporary employees whose employment does not cease at the end of the fiscal year, and if these words are put in this amendment now it will not repeal those particular resolutions.

Mr. MARTIN of Virginia. It will not.

Mr. SMOOT. I think they ought to be repealed.

Mr. MARTIN of Virginia. That is a question for the Senate to determine. I was simply explaining the attitude of the committee.

Mr. SIMMONS. Mr. President, does the Senator from Utah know of any case except that of the Finance Committee, and possibly the Committee on Interoceanic Canals? They were authorized to employ some extra service in connection with the bill just passed on yesterday. I think they are probably the only cases that are not included in the enumeration in the amendment of the committee.

Mr. MARTIN of Virginia. Mr. President, as I stated at the outset, as the committee had adopted this amendment I did not feel at liberty, for and in behalf of and in the name of the committee, to consent to the proposed change; but really, when it is stated that these assistants are necessary, it seems to me not of any great consequence whether they are paid for by law or out of the contingent fund. We certainly diminished this evil very much when we provided for 30 of these employees.

Mr. SMOOT. The Senator does not understand that I am objecting at all to taking care of those two men?

Mr. MARTIN of Virginia. No; I understand the Senator very well.

Mr. SIMMONS. I think the Senator will find that every clerk or employee who has been provided for by special resolution is taken care of in the preceding section, except the two cases I have cited. At least, that has been my understanding from conversations I have had with the officials of the Senate who pay these clerks.

Mr. SHAFROTH. Mr. President, as a member of the Committee to Audit and Control the Contingent Expenses of the Senate, I will state that we have had up for consideration before the committee several times the matter of help that was desired by the chairman of the Committee on Finance, as well as the ranking minority member of the Committee on Finance. The temporary employment, as I understand, which was authorized by the resolution and was payable out of the contingent fund of the Senate, consisted of three employees. They remained on the roll for a considerable length of time, until the committee felt that it ought not to——

Mr. SIMMONS. Three on the part of the majority and three on the part of the minority.

Mr. SHAFROTH. Yes, sir; three on the part of the majority and three on the part of the minority. We had the matter up

several months and we refused to audit for two of those persons for a while, and at last we would yield, until we came to the conclusion that we would audit for one for each—one additional employee over the regular help of the chairman and one to the ranking minority member.

We want to get rid of this very thing of paying salaries out of the contingent fund of the Senate, because we do not think it is the best way to do it. It ought to be provided by law.

I do not know what force the Senator has in his committee. He has a good-sized force. How many clerks, messengers, and so forth, are regularly provided in the Finance Committee?

Mr. SIMMONS. I have two assistant clerks.

Mr. SHAFROTH. Two assistant clerks? I thought the force was considerably larger than that.

Mr. SIMMONS. That is, in addition to the chief clerk.

Mr. SHAFROTH. The Senator has three altogether, then?

Mr. SIMMONS. Yes; and I have a messenger.

Mr. SHAFROTH. And a messenger; a total of four. I am perfectly willing to insert in this bill, if necessary, a specific provision for the one man that the Senator wants. Of course that would be perfectly satisfactory. How many are provided in this bill for the Finance Committee?

Mr. SIMMONS. Mr. President, I wish to call the Senator's attention to the fact that the minority have always been accorded the same number that the majority have, as far as that is concerned; and I would not want to claim for myself a right that I would not concede to the minority, in view of the practice in this matter from time immemorial.

Mr. SHAFROTH. Mr. President, here is a general provision that is sweeping in its effects, and which may affect a good many committees. We can not tell. Perhaps you can not point them out now; but it is not wise, it seems to me, to legislate in a general manner when you are attempting to get a specific thing. If the Senator wants this one expert, I am perfectly willing to vote for it; but it seems to me it ought to be done by a direct insertion in the bill, together with the salary which should be attached to the position.

Mr. SIMMONS. Mr. President, I think I can assure the Senator, from conversations I have had with an official of the Senate who has charge of the payment of these salaries, that nobody would be affected by the amendment I propose except the two assistants allowed the Finance Committee, one for the majority and one for the minority.

Mr. SHAFROTH. Why not make it specific, then, so that we can not have any difficulty about it?

Mr. SIMMONS. I shall not object if that is done, and two experts are provided for—one for the majority and one for the minority. I shall have no sort of objection to that.

Mr. SHAFROTH. What salaries have they been drawing?

Mr. SIMMONS. I think $2,000 each. That is my recollection.

Mr. SHAFROTH. My objection to this amendment, more particularly, is to avoid the difficulties we have had in the Committee to Audit and Control the Contingent Expenses of the Senate. It mixes up matters considerably. We do not know where we are in the way of salaries. We do not know what resolutions may be affected by this very provision. If the Senator will insert "two experts" or "one expert for the chairman, at a salary not exceeding $2,000," and the same for the minority, or for the exact amount of $2,000, if that is the salary—I want it exactly the same——

Mr. SIMMONS. I think that is the salary.

Mr. SHAFROTH. That would be perfectly satisfactory; but it seems to me it is unwise to put in a general clause here that may affect 30 committees, and that we would wake up and find that there were several cases covered by it that we did not intend to have covered.

Mr. MARTIN of Virginia. Mr. President, in order to save time I understand the Senator from North Carolina withdraws the amendment and will prepare an amendment providing for two experts, one for the majority and one for the minority.

Mr. SIMMONS. I ask the Senator if we can not agree to that right now as an amendment on page 9, line 19.

Mr. MARTIN of Virginia. Simply for the reason that unanimous consent has been given to dispose of the committee amendments first, and we have not finished with them. If the Senator will wait I am sure there will be no objection—I certainly have none—to his proviso for two experts.

Mr. SIMMONS. Very well.

Mr. KERN. In this connection I desire to inquire only for information as to if, when there are no tariff bills or other important measures pending before the Committee on Finance, it is necessary that they should keep in their employment these two experts? What purpose is to be served? What kind of work is to be done?

Mr. SIMMONS. I explained, probably before the Senator came into the Chamber, that ever since I have been here the Finance Committee has been allowed these experts, one for the majority and one for the minority, and then when a tariff bill has been up the committee has been allowed additional force. While we were considering the tariff bill the majority had three extra men and the minority had three extra men. In addition to that, I suppose we had in the employ of the committee at least 10 or 12 other persons and they were at work from morning until night and very frequently far into the night. After we finished the tariff bill in a short time I discharged all of my three men except one. Finally the Committee to Audit and Control the Contingent Expenses of the Senate decided that they would permit the majority to have one extra man and the minority to have one extra man.

Now, as to the need of this man, I stated before the Senator came in that ever since the passage of the tariff law—and I suppose that has been the experience all along—there are numerous inquiries of the chairman of the committee with reference to provisions of the tariff, its meaning and effect, the construction, and all those things, and a great deal of work has to be done in order to get up the necessary data to answer those inquiries. No one can do it except a man who has some knowledge of the tariff. I have found that the gentleman who has been on the roll as an expert for the majority has been about the hardest-worked man in my office. If I did not have him, I would have to do that work myself. It is no invasion of the ordinary custom. I do not think there is a Senator here who can name a time when the Finance Committee, whether a tariff bill was up or not, has not been allowed one extra man to help in the performance of this work. The Senator from Utah [Mr. SMOOT] has long been upon that committee, and I will ask him if my statement is not absolutely correct?

Mr. SMOOT. I will say in answer to the Senator that his statement is correct. I will also add to what the Senator has stated, and in answer to the Senator from Indiana, that when tariff bills were not before Congress in the past we have always kept the experts for this particular work. As the importations and exportations take place and the decisions of the customs court are given and also at the port of entry are made, he keeps track of all those. He is virtually a library for the committee, and when any question may be asked the committee from any part of the United States he is supposed to have the answer at hand. When a Senator asks a question upon the importation of goods or any other question affecting the tariff he is supposed to have the information at his fingers' ends. We keep those men for that purpose. They are just as busy, or should be just as busy nearly, when a tariff bill is not before Congress as when it is.

Mr. SIMMONS. Mr. President——

Mr. MARTIN of Virginia. If the Senator will yield, in order to save time, no one is disputing this, and if he will just give Senators an opportunity to vote on it, I think it will be disposed of.

Mr. KERN and Mr. LANE addressed the Chair.

The PRESIDING OFFICER. To whom does the Senator from North Carolina yield?

Mr. MARTIN of Virginia. If the Senator from North Carolina will yield to me, I offer this amendment.

The PRESIDING OFFICER. The Senator from Virginia offers an amendment, which will be stated.

The SECRETARY. On page 9, line 19, after the numerals "$1,440," insert:

Two experts, one for the majority and one for the minority, at $2,000 each.

Mr. SHAFROTH. Mr. President, I should like to ask the Senator from North Carolina a question.

The PRESIDING OFFICER. One moment. The Secretary advises the Chair that the amendment of the committee has already been agreed to.

Mr. MARTIN of Virginia. I ask that it be reconsidered.

The PRESIDING OFFICER. Is there objection to a reconsideration of the amendment of the committee? The Chair hears none, and it is reconsidered.

Mr. MARTIN of Virginia. I now offer the amendment to the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Virginia, which has just been read, to the amendment of the committee.

The amendment to the amendment was agreed to.

Mr. SHAFROTH. Mr. President, I wish to ask the Senator from North Carolina, so that the Committee on Contingent Expenses of the Senate will understand exactly where they are with relation to this matter. The bill provides that there shall be 1 clerk to the Finance Committee, at $3,000; 1 assistant clerk,

at $2,220; 1 assistant clerk, at $1,600; an assistant clerk, at $1,440; and a messenger, at $1,440. That makes 5. Under any resolution will there be any money that will be expended out of the contingent fund?

Mr. SIMMONS. Absolutely none.

Mr. SHAFROTH. None whatever?

Mr. SIMMONS. None.

Mr. SHAFROTH. That is, when these experts are added there will be nothing for the Committee on Contingent Expenses to allow for your committee.

Mr. SIMMONS. Absolutely nothing.

Mr. SHAFROTH. Very well.

Mr. SIMMONS. Unless we have another tariff bill coming up.

Mr. MARTIN of Virginia. Mr. President, the regular order.

The PRESIDING OFFICER The question is on agreeing to the amendment of the committee as amended.

The amendment as amended was agreed to.

The PRESIDING OFFICER. The question now is on the amendment offered on page 12. Without objection, it is agreed to.

Mr. LANE. Let it be reported, please.

The PRESIDING OFFICER. The amendment will be again read.

The SECRETARY. On page 12, after line 6, insert:

All Senate resolutions passed prior to July 1, 1914, authorizing the payment for clerical and messenger services from the contingent fund of the Senate are hereby repealed.

The amendment was agreed to.

Mr. McCUMBER. Before we proceed further I wish to reserve the right to offer, as soon as I can have it drawn, an amendment, following line 6, on page 12, which will provide for an extra month's salary for each of the employees of the Senate.

The PRESIDING OFFICER. The Chair takes it that that would properly come up after the committee amendments have been disposed of.

Mr. MARTIN of Virginia. Yes; after the committee amendments are completed.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the committee.

The amendment was agreed to.

Mr. MARTIN of Virginia. For fear that I may omit it, I will take occasion now to ask unanimous consent that the clerks shall be directed to change the totals so as to conform to all changes that the Senate is making.

The PRESIDING OFFICER. Without objection, it is so ordered. The next amendment of the committee will be stated.

The next amendment was, on page 12, line 12, after "$6,500," to strike out "horse and wagon for his use, $420, or so much thereof as may be necessary"; in line 16, after the word "each," to strike out "37" and insert "32"; in line 17, after the word "each," to insert "1 at $1,000"; in line 23, after the word "each," to strike out "1 at $900"; on page 13, line 4, after "$840," to insert "3 at $800 each"; in the same line, after the word "each," to strike out "27" and insert "32"; and in line 7, after the words "in all," to strike out "$133,220" and insert "$131,700," so as to make the clause read:

Office of Sergeant at Arms and Doorkeeper: Sergeant at Arms and Doorkeeper, $6,500; Assistant Sergeant at Arms, $2,500; Assistant Doorkeeper, $3,000; Acting Assistant Doorkeeper, $3,000; messengers—4 (acting as assistant doorkeepers) at $1,800 each, 32 at $1,440 each, 1 at $1,000, 2 on the floor of the Senate at $2,000 each, 1 at card door $1,600; clerk on Journal work for CONGRESSIONAL RECORD, to be selected by the official reporters, $2,000; storekeeper, $2,220; upholsterer and locksmith, $1,440; cabinetmaker, $1,200; 3 carpenters, at $1,080 each; janitor, $1,200; skilled laborers—4 at $1,000 each; laborer in charge of private passage, $840; 3 female attendants in charge of ladies' retiring room, at $720 each; telephone operators—chief at $1,200, 2 at $900 each, night operator, $720; telephone page, $720; press gallery—superintendent, $1,800, assistant superintendent, $1,400; laborers—1 $840, 3 at $880 each, 32 at $720 each; 16 pages for the Senate Chamber, at the rate of $2.50 per day each during the session, $4,600; in all, $131,700.

The amendment was agreed to.

The next amendment was, on page 13, after line 7, to strike out:

For the following for service of the Senate Chamber (heretofore paid from appropriation "Miscellaneous items on account of the Maltby Building"), namely: Messengers—4 at $1,440 each, 1 $1,000; laborers—3 at $800, 5 at $720 each; in all, $12,760.

The amendment was agreed to.

The next amendment was, on page 13, line 15, after "$1,200," to strike out "attendants in bathing rooms 1 in charge $1,800, 2 at $720 each; janitor, $720," and in line 20, after the words "in all," strike out "$10,620" and insert "$6,660," so as to make the clause read:

For the following for Senate Office Building under the Sergeant at Arms, namely: Stenographer in charge of furniture accounts and keeper of furniture records, $1,200; 3 attendants to women's toilet rooms, at $720 each; messengers—2 acting as mail carriers, at $1,200 each, 1 for service to the press correspondents $900; in all, $6,660.

The amendment was agreed to.

The next amendment was on page 14, after line 16, to strike out:

Clerks to Senators: For 30 annual clerks to Senators who are not chairmen of committees, at $2,000 each, $60,000.

The amendment was agreed to.

The next amendment was, on page 14, after line 19, to strike out:

Stenographers to Senators: For 23 stenographers to Senators who are not chairmen of committees, and 3 stenographers to the chairmen of the 3 minority committees, at $1,200 each, $31,200.

The amendment was agreed to.

The next amendment was on page 14, after line 23, to insert:

For assistance to Senators who are not chairmen of committees, as follows: Twenty-five clerks, at $2,000 each; 25 assistant clerks, at $1,200 each; and 25 messengers, at $1,200 each; in all, $110,000.

Mr. MARTIN of Virginia. I move to amend the committee amendment on page 14, line 25, by striking out "twenty-five" and inserting "twenty-four"; on page 15, line 2, before the words "assistant clerks," strike out "twenty-five" and insert "twenty-four," and in the same line, after the word "and," strike out "twenty-five" and insert "twenty-four," so as to read:

For assistance to Senators who are not chairmen of committees, as follows: Twenty-four clerks, at $2,000 each; 24 assistant clerks, at $1,200 each; and 24 messengers, at $1,200 each—

And so forth.

Mr. SMOOT. Mr. President——

Mr. MARTIN of Virginia. I will explain the amendment to the amendment. The provision made for the Committee on Cuban Relations made it proper to reduce the number here, as we added it there.

Mr. SMOOT. That is true, but I thought we were going to have a leeway of one or two.

Mr. MARTIN of Virginia. We have. We had it before. We still have it. The 25 being changed to 24 leaves exactly the same leeway which we had before.

Mr. SMOOT. The same leeway we had before?

Mr. MARTIN of Virginia. Exactly the same.

The amendment to the amendment was agreed to.

The amendment as amended was agreed to.

The next amendment was, on page 15, after line 5, to strike out:

For postage stamps for the office of the Secretary of the Senate, $200; for the office of the Sergeant at Arms, $150; in all, $350.

And to insert in lieu thereof:

For postage stamps for the office of the Secretary, $100; for the office of the Sergeant at Arms, $100; in all, $200.

Mr. MARTIN of Virginia. I am informed by the financial clerk of the Senate that the allowance for postage in his office is inadequate; that in the absence of Senators there is a great deal of correspondence, sending checks, and correspondence of one sort and another. He will not expend the additional amount unless it is necessary. I move that "$100," on line 9, be increased to "$200."

The SECRETARY. On page 15, line 9, strike out "$100" and insert "$200."

The amendment to the amendment was agreed to.

The amendment as amended was agreed to.

The next amendment was, on page 15, after line 10, to insert:

For the purchase of two automobiles, including the driving, maintenance, and care of same, one for the use of the Vice President and one for the use of the Speaker of the House of Representatives, $9,000; one half to be disbursed by the Secretary of the Senate and the other half to be disbursed by the Clerk of the House of Representatives.

Mr. KENYON. I think there are some Senators who desire to be present when this amendment is considered, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Borah	Lane	Ransdell	Smoot
Brady	McCumber	Robinson	Stephenson
Burton	Martin, Va.	Saulsbury	Sterling
Clarke, Ark.	Myers	Shafroth	Sutherland
Crawford	Nelson	Sheppard	Swanson
Cummins	Norris	Sherman	Thomas
Hollis	Overman	Shively	Thornton
Hughes	Owen	Simmons	Tillman
Jones	Page	Smith, Ariz.	Townsend
Kenyon	Pittman	Smith, Ga.	Warren
Kern	Pomerene	Smith, Md.	White

Mr. LANE. I wish to announce the absence of my colleague [Mr. CHAMBERLAIN]. He is paired with the Senator from Pennsylvania [Mr. OLIVER]. I should like this announcement to stand for the day.

Mr. SMOOT. I desire to announce the unavoidable absence of the junior Senator from Maine [Mr. BURLEIGH] and also of the senior Senator from New Hampshire [Mr. GALLINGER]. I will allow this announcement to stand for the day.

The PRESIDENT pro tempore. The Secretary will call the names of the absent Senators.

The Secretary called the names of the absentees, and Mr. CHILTON and Mr. JAMES answered to their names when called.

Mr. MARTINE of New Jersey and Mr. WILLIAMS entered the Chamber and answered to their names.

The PRESIDENT pro tempore. Forty-eight Senators having answered to their names, a quorum of the Senate is present. The pending amendment will be read.

The SECRETARY. On page 15, after line 10, insert:

For the purchase of two automobiles, including the driving, maintenance, and care of same, one for the use of the Vice President and one for the use of the Speaker of the House of Representatives, $9,000; one-half to be disbursed by the Secretary of the Senate and the other half to be disbursed by the Clerk of the House of Representatives.

Mr. McCUMBER. Mr. President, I simply want to give my reason for one vote against the amendment. I am perfectly willing to vote the Vice President $4,000 or $4,500 extra salary if it is necessary and if it can be shown in any way that it is necessary. I do not know but, considering the position that he occupies, he ought to have a greater salary than he is now being paid, and I shall most cheerfully agree to vote a proper salary, but I am unalterably opposed to any system whereby the Government begins to pay the family expenses of any officer, whether it be the Vice President or any other. It is a part of the old system of monarchy that we got rid of a great many years ago. I do not want to see it introduced again, but I do wish to see a salary paid to the high officers of the Government that will enable them to have their horses and carriages or automobiles and drivers, and I would suggest——

Mr. POMERENE. Mr. President——

The PRESIDENT pro tempore. Does the Senator from North Dakota yield to the Senator from Ohio?

Mr. McCUMBER. Certainly.

Mr. POMERENE. In view of the statement of the Senator with respect to automobiles, would he advise selling the White House?

Mr. McCUMBER. No, Mr. President; I would not advise selling the White House; I would not advise selling any building that we may have for our diplomats; but I would advise against paying the cook for the White House or paying any particular expenses connected with the White House. However, I am perfectly willing to pay a sufficient salary to enable the President to live as a President ought to live, and leave the matter of family expenses to be defrayed by him in accordance with the way he would desire to live. That is the only proper method. I think we all understand the reasons why it should be so. There is no use in making any argument about it, but I confess I do not believe any good reason can be given for picking out one item of the expenses of a family any more than to pay their board or any other particular item. We ought to give them a sufficient compensation, so that they can live as they ought to live in the city of Washington.

Mr. SAULSBURY. Mr. President, I want to say to the Senator from North Dakota that I have very earnestly, as far as I could, advocated and tried to accomplish a raise in the salary of the Vice President. I think the Vice President's salary ought to be at least $25,000. It is a high, dignified position, and the idea that he should be paid a mere pittance, such as is paid now, practically, to men on the reserve bank board, I think, is absolutely absurd, when you consider the dignity of the position and the necessities he has to uphold the dignity of the position.

I feel, however, that it is absolutely impossible, in the present temper of the Members of the Senate, as I have talked with them, to obtain that salary for the Vice President of the United States. I am therefore in favor of helping along toward the maintenance of his dignity and the necessities under which he lives in this city.

I shall certainly vote for this provision for an automobile. I would vote gladly to pay the rent of a house in this city, suitable to the dignity of the Vice President of this country, where he is engaged in the performance of his duty.

I sincerely hope that this small increase toward the payment of his necessary expenses will not be denied, as it appears to be the only thing at this time that we can get.

Mr. McCUMBER. Mr. President, I agree with the Senator from Delaware that the salary of the Vice President ought to be $25,000 a year, and I would gladly vote to afford him that extra salary. The duties incumbent upon him are such that he is compelled to keep up an establishment that requires certainly $25,000 to do it. He is in demand over the country to make addresses here and there, and I regard it as his duty to accept such invitations wherever it is possible for him to do so and get in full touch with the American people.

I can not understand why any Senator will say, "I am willing to vote the Vice President $4,500 extra for an automobile, and yet I am unwilling to vote him that much more salary and let him use it as he sees fit in the proper way that he sees fit." I can not imagine that there is any Member of the House or of the Senate who is so shortsighted that he would be willing to vote a particular item of expense and enumerate it, but on the other hand would not be willing to vote the same amount as an addition to his salary.

I sincerely hope that those on the other side who have the power will modify the bill, so as to put everything in the form of a salary, and let us avoid this very bad precedent of paying the family expenses of the officials of the Government.

Mr. OVERMAN. This is not a precedent. This item was put in an appropriation bill about six years ago giving the Vice President an automobile. The present Vice President has that automobile, and it is worn out; it has cost more to maintain it perhaps in the last two years than a new automobile would cost. If you would count the expense incurred for its upkeep, you would find that it would amount to enough to purchase a new automobile. This worn-out automobile is the property of the Government; it is continually breaking down. If we could afford to give the last Vice President an automobile, it seems to me we can afford to give the present occupant of that office an automobile.

Mr. KERN. Mr. President, the office of Vice President of the United States is the second office in dignity and in importance in this Government. Congress gives very ungrudgingly to the office of President a very large sum of money each year for the maintenance of that office, in order that the President may live decently and in a manner befitting the Chief Magistrate of a great Nation. Most Vice Presidents in recent years have been men of wealth, some of them of large wealth. The last distinguished Vice President from New York, Mr. Sherman, was a man of moderate circumstances, well to do. Members on this side of the Chamber cheerfully voted for an appropriation to provide an automobile for Vice President Sherman. That automobile has worn out. The present Vice President is a poor man; he has no independent means; and it seems to me to be very small economy to refuse now to permit him to have an automobile, as his predecessor had, and which was voted to him by the votes of Members on this side of the Chamber.

Mr. McCUMBER. If the Senator will yield, I hope he does not think that I would deprive the Vice President of what he ought to have—an automobile and a chauffeur.

Mr. KERN. I do not believe the Senator would desire to deprive him of that.

Mr. McCUMBER. But the point I am trying to make is that instead of taking up a particular item of expenditure we should take the same amount, which is $4,500, and vote it directly as an addition to the Vice President's salary. He can then use it to purchase an automobile or use it in any other way that he thinks it is for his best interest to use it.

Mr. KERN. That proposition does not meet the situation at all. As stated by the Senator from Delaware [Mr. SAULSBURY], it would be impossible at this time, as I think would be recognized by the Senator from North Dakota, to provide an addition to the salary of the Vice President.

The Senator speaks of this being a precedent. It is not a precedent at all. The vice presidential office had voted to it an automobile; it was in the possession, control, and use of the former Vice President, and it has been in the use of the present Vice President until now it can no longer be used. The question is, whether this automobile shall be replaced. If this were a precedent, it would be a different question; but, I repeat, it is not a precedent we are establishing at all. It is simply to give to the Vice President what he has already had and what his immediate predecessor has had.

Mr. McCUMBER. The voting of expenses in a particular line to different officers is a precedent. I will not say it begins here, but the time has been of very short duration since we began that system, and I should like to get out of that system as soon as we can, and pay our officers such a salary as they ought to receive. I want in good faith to ask the Senator from Indiana why anyone should oppose raising the salary of the Vice President by $5,000 who would vote to pay him $5,000 extra to be used in some particular manner?

Mr. KERN. For the same reason that Senators will refuse to raise the salaries of Members of this body, though a large number of us have no independent means; we have no independent source of income aside from our salaries, and are struggling along to make both ends meet here on the salary

which we receive. There is a sentiment, a prejudice, against the increase of salaries of public officers; but that prejudice and criticism would be unjust, and yet that situation prevails.

Mr. McCUMBER. Would there not be the same prejudice against voting a Senator $4,000 for an automobile as there would be against voting him $4,000 extra salary?

Mr. KERN. As a matter of first impression, I imagine there would; but that is not the question here at all. The question here is, whether or not an automobile that has been in the use of the Vice President, which was provided for a former Vice President, shall be replaced. It is introducing nothing new in the way of a precedent.

Mr. McCUMBER. Mr. President, I think I can bring this matter to a focus, at least in a better manner, if I offer as a substitute for this provision on page 15, line 11——

Mr. SHAFROTH. Will the Senator from North Dakota yield to me?

The PRESIDENT pro tempore. Does the Senator from North Dakota yield to the Senator from Colorado?

Mr. McCUMBER. I yield.

Mr. SHAFROTH. I want to say that there is a good deal of difference, in my judgment, between allowing those things that are necessary to the office and increasing the salary. I am opposed to increases of salary. I think every time you increase a salary in any particular case you offer an inducement to persons occupying other positions to make demands for similar increases. That does not always apply in the case of giving the things that are necessary to the proper carrying on of an office, and would not in the case of the President and the Vice President in giving them the things that are necessary for the use of the highest officials of the Government. Take, for instance, the increase of the salary of the President of the United States. It was advocated upon the theory, first, that there should be an increase because of the traveling expenses on the part of the President, and $25,000 was added on that account; yet two years had not elapsed—I do not think one year elapsed—until an additional $25,000 was appropriated for the expenses of the President in traveling.

Mr. WARREN. I think those increases were made the same year.

Mr. SHAFROTH. In the same year, then.

Mr. WARREN. An effort was made to fix the salary of the President at $100,000 per annum. The amount was reduced to $75,000. It was provided in another bill that thereafter $25,000, or so much thereof as might be necessary, should be appropriated each year for the traveling expenses of the President.

Mr. SHAFROTH. If we attempt to cover this item of expense by putting it in the form of an increase in salary, we shall find that it will not be long until Senators get up here and try to secure the appropriation of an additional amount for an automobile. Consequently, so far as the Government is concerned, that would be more expensive than to allow this item of $4,500 to the Vice President for an automobile.

Mr. President, it does seem to me that in connection with the position of Vice President of the United States there is a certain amount of entertaining that is absolutely necessary, and in order to have the office conducted in a manner commensurate with the dignity of the position the Vice President should have an automobile. On that account, it seems to me we ought to provide one. While the amount proposed to be appropriated is apparently large, it is not really so when you take into consideration that it provides for a chauffeur, for the upkeep of the automobile, and also for the expense of its running. So, altogether, $4,500 for that purpose is not an exorbitant amount. Of course, the Vice President should have a good car, not one that he would be ashamed of, or one that we would be ashamed to see him enter. For that reason, it seems to me that it would be far better for the Government that this appropriation, so requisite and so necessary to the position, should be made than it would be to increase the salary of the Vice President.

I believe that the influence of increasing salaries permeates every officer in the Government. I have always been opposed to increases of salaries. I have felt that whenever you increase a salary there will be a constant demand on the part of other officers of the Government who hold positions at least somewhere near to those as to whom increases have been made that their salaries also shall be increased. Thus the line of increases will be far greater than if you give to the proper officer such amount as it is now proposed to appropriate for an automobile for the Vice President,

Mr. McCUMBER. Mr. President, I want to say in reply to the Senator that the danger arising from an increase of salary is not nearly so vicious as that of adopting a system of taking care of the family expenses of Government officials. It is that system that I do not want to see inaugurated in this country.

I appreciate that it may be of little avail to offer any amendment against the recommendation of the committee, but I am going to offer an amendment so that I can at least give one vote for principle, and that vote will be in favor of a salary as against a vote for paying a like amount to defray some particular family expenses. I move, as a substitute for the amendment, from lines 11 to 16, inclusive, to insert:

For additional salary of the Vice President and Speaker of the House of Representatives, $5,000 each; total, $10,000.

Mr. BRYAN. Mr. President, I raise the point of order against the amendment proposed by the Senator from North Dakota that it has not been estimated for nor reported by a standing committee of the Senate.

The PRESIDENT pro tempore. It is a substitute for a provision already in the bill; it is not an independent proposition. The Chair thinks that the point of order is not well taken. The question is on the adoption of the substitute offered by the Senator from North Dakota.

Mr. WARREN. Mr. President, perhaps the President pro tempore has overlooked the fact that this refers to an annual salary.

The PRESIDENT pro tempore. It is an item of appropriation in the nature of compensation for the Vice President.

Mr. WARREN. It is for this one year, and part of it would go for the upkeep and part of it for the automobile.

The PRESIDENT pro tempore. The Chair has made the ruling. The Senator's remedy is open to him.

Mr. WARREN. I am not excepting to the ruling of the Chair, but I wish to make a few remarks, if the Chair will bear with me.

I want to say that I fully agree with the proposition that the salary of the Vice President ought to be increased, but we can hardly do it just now, at this late time, on an appropriation bill. On the other hand, the Senate when it was Republican in the majority, and likewise the other House, provided $6,000 each for automobiles for the Vice President and Speaker of the House, the minority making no objection. Under the circumstances, until such time as the salary may be raised, I think we ought to be as liberal as the other side then were and provide new automobiles. I do not object to the appropriation of $9,000, and should be glad if it were a little more. I hope it may carry, and carry ungrudgingly.

Mr. KENYON. Mr. President, I should like to ask the Senator from Wyoming a question. The Senator speaks of the appropriation for an automobile for the Vice President and the Speaker of the House of Representatives. Does the Senator from Wyoming know whether the Speaker of the House accepted that automobile?

Mr. WARREN. Why, certainly he did.

Mr. KENYON. There was a good deal of comment in the newspapers at the time that he had refused to accept an automobile at the expense of the Government.

Mr. WARREN. I think the Senator from Iowa is slightly mistaken as to dates. The automobiles mentioned were purchased when a Republican occupied the office of Speaker and when a Republican occupied the office of Vice President; and, as has been said by the Senator from Indiana [Mr. KERN], it was done ungrudgingly on the part of the minority. We furnished $6,000 apiece for automobiles for the Speaker of the House, Mr. Cannon, and for the Vice President, Mr. Sherman. Since that time I am unable to say what may have been said by the present Speaker. I never heard him say anything of the kind.

Mr. KENYON. I should like to ask the chairman of the committee, inasmuch as we are to vote on the proposition for an automobile for the Speaker, as well as for the Vice President, if the Speaker did not decline to accept an automobile at the expense of the Government last year or the year before last?

Mr. MARTIN of Virginia. I do not know whether or not the Speaker will accept one, but if he does not want it the item will go out in conference, so far as he is concerned. He has only to say so, and the amendment can be modified to suit his wishes. If he does not want an automobile, he need not accept one.

Mr. KENYON. He will not be compelled to take it?

Mr. MARTIN of Virginia. The bill can be changed to suit his pleasure when it goes to conference.

Mr. WILLIAMS. Mr. President, I do not know with that degree of certitude that would justify me in making the positive assertion, but I do remember when the provision was in a former appropriation bill that the newspapers, at any rate, published the purported fact that the Speaker of the House of Representatives refused to accept an automobile.

Mr. President, I agree substantially with what has been said by the Senator from North Dakota [Mr. McCUMBER]. I think that public officials ought to be paid proper salaries, and that their salaries ought not to be extended by perquisites of an

uncertain and varying character. I think that the Speaker of the House, who, in matter of influence, is perhaps the second most important officer under our Government, and the Vice President of the United States, who presides over this body and who is nominally the second officer of the Government, ought to receive higher salaries than they do receive. I know that one ex-Speaker, who attempted to keep up what he regarded as his social duties and provide a place where he could receive people in some decent number, had to pay $4,000 a year rent, and then had a house that was not by any means perfectly suited to the purpose. I know that the present Speaker had to live for a while in apartments, and had no way in which he could receive people in a proper way.

I do not take much stock in this business of receiving people as being a part of one's official duty; but, at the same time, the legislative branch of this Government ought to be able to compete in a social way to some extent, to a respectable extent, at least, with the executive branch of the Government. I therefore would vote very readily for an increase in the annual compensation of the Speaker and of the Vice President, but I would not be in favor of voting either one of them any perquisites in the shape of automobiles or anything else, and I hope that the motion, if I understood it correctly, to increase their salaries by $5,000 will prevail with the Senate. I believe that the people of the United States would justify it thoroughly.

Some years ago the President of the United States received an addition to his salary and also was allowed $25,000 a year for traveling expenses. He receives virtually everything else. He has a house which the Government furnishes him; the flowers around the house the Government furnishes him; every employee around the White House is upon the Government pay roll, I believe; and even the plate and the silver in the White House are those of the Nation and not those of the temporary incumbent, until his compensation amounts to a very considerable sum, the exact amount of which I have now forgotten; while these two other officers just below him in grade, one of them just below him in influence—and if he is a Speaker who controls the House of Representatives equal to him in influence—receive only $12,000 a year. It seems to me nothing is more right and proper than that the small increase of $5,000 a year should be made to these two officers of the Government.

Mr. TOWNSEND. Mr. President, the Senator from Mississippi [Mr. WILLIAMS] and the Senator from North Dakota [Mr. MCCUMBER] have expressed my views on this subject, but I feel as though I ought to state them, because, when this matter was before the other House some six years ago I opposed it there, as I did the provision at that time for granting a certain allowance to the President of the United States for traveling expenses.

I held the idea that we ought to increase the salaries of the Vice President and Speaker of the House of Representatives, and I am very much in favor of doing so. I am not unwilling to face the public in doing directly a thing of that kind. I do not think the people of the United States are opposed to paying the Vice President of the United States or the Speaker of the House of Representatives or any other prominent official what his services are reasonably worth and what he ought to receive, according to the position which he holds. So, it seems to me that we ought not to evade this proposition, but ought to vote directly upon it and increase the salary. That is the direct way to proceed, and I think we have votes in this body to carry it.

Let it be understood that we believe that these two positions are of sufficient importance to demand a salary of $15,000 a year, or whatever the salary would amount to if increased in accordance with the proposed amendment of the Senator from North Dakota. If it is not desired to increase it that much, the amount may be reduced. Because of the fact that the automobile appropriation would not need to be renewed for several years, perhaps it would not involve as great an annual expenditure as would the amendment proposed by the Senator from North Dakota, but still it would not relieve the situation so much. For instance, take the case of the Speaker of the House of Representatives, while I can not speak with authority, yet I am convinced that the Speaker of the House of Representatives does not care for an automobile of the kind contemplated. I take it, however, that, while he would not ask for an increase of salary, he would recognize the propriety of an increase, for he is not receiving a sufficient amount of money to properly conduct the office which he holds; and so, inasmuch as the point of order does not lie against this amendment, I sincerely trust that it may be adopted.

Mr. KERN. Mr. President, it is very apparent, I think, to everybody who knows anything about the situation at the other end of the Capitol that the proposition to increase the salary would not be agreed to. If Senators on the other side do not want to grant this automobile, if they do not want to treat the Democratic Vice President as the Republican Vice President was treated, and treated ungrudgingly and generously, let them say so, but do not undertake to sidetrack it through an amendment that you know will not be agreed to at the other end of the Capitol.

Mr. TOWNSEND. Will the Senator yield a moment?

Mr. KERN. Certainly.

Mr. TOWNSEND. I said a moment ago that I am perfectly willing to grant to the Democratic Vice President and to the Democratic Speaker what I have granted a Republican Vice President and a Republican Speaker. I am taking no different position, as the RECORD will show, in this instance from the one I occupied when this question originally arose in Congress.

Mr. SHAFROTH. Mr. President, I want to say to the Senator from Michigan that I do not agree with his statement that the people believe in large salaries. The history of the States demonstrates that the people will turn down nearly every proposition involving large increases in salary. The governor of the Senator's own State for years and years was only entitled under the constitution of the State to receive $1,000 a year, and his compensation has only been increased to $5,000 a year in recent times. Whenever propositions to increase salaries are submitted to the people, the Senator will find that three-fourths of them are turned down by the people, even in cases where it is only proposed to increase a salary above $5,000.

Mr. TOWNSEND. Mr. President, will the Senator yield?

Mr. SHAFROTH. Yes, sir.

Mr. TOWNSEND. Suppose, then, a proposition were submitted to the people of buying an automobile for an official?

Mr. SHAFROTH. I think, as a matter of fact, that they would prefer to provide an automobile as one of the necessary accessories in order that the office might have the dignity which it ought to have. I submit to the Senator that if the amendment of the Senator from North Dakota were adopted it would not be two years before there would be a motion here to give the Vice President an automobile in addition to the increase of salary. That is what will happen.

The system of a republican form of government does not take to big salaries; it never has taken to big salaries. The people have been opposed to them, and almost every increase of salary that has been authorized by Congress has met with the condemnation of the people when they have had an opportunity to express themselves in a concrete way with regard to it. When salaries of Members of Congress were increased from $5,000 to $7,500 in 1873, there is no question that the condemnation of the people followed, although there was perhaps another question involved, and nobody seemed to dare to present a motion or to offer an amendment to increase the salary of a Representative or of a Senator from that day until about six or seven years ago.

Mr. TOWNSEND. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Colorado yield to the Senator from Michigan?

Mr. SHAFROTH. I do.

Mr. TOWNSEND. I recognize the fact that there was a degree of cowardice on the part of a great many Congresses when they knew that the salary ought to be increased, but it finally was increased, and the people did not complain, and I heard no complaint when the salary of the President of the United States was increased.

I desire to say that I have not advocated big salaries; I simply advocate just and proper salaries, and I do not believe the people of the United States are opposed to paying proper salaries. They are opposed to paying big salaries, if by that the Senator means improper and unjust ones, but the proposition of the Senator from North Dakota can be justified.

Mr. SHAFROTH. Salaries of officials of the Government of the United States have been pretty largely increased. You must remember that John Marshall was the Chief Justice of the United States for 30 years at a salary of $3,500 a year. The Vice President and the Speaker of the House for years and years received a salary of only $8,000 a year, and it has only been within the last 10 or 12 years that their salaries have been increased to $12,000 a year. Now, if you add another $5,000, and next year grant an automobile, perhaps a mansion, and things of that kind, you will find that these offices will require twice the amount of money from the Public Treasury that they require now.

It seems to me, Mr. President, that when something is necessary to an office and goes with an office, it should be provided. The automobile appropriation which is contained in this bill is a proper appropriation, but the proposition to increase the salary of these offices is not good.

Mr. McCUMBER. Mr. President, I want to say just a word in answer to the suggestion made by the Senator from Indiana [Mr. KERN], that the amendment proposed by me could not be carried through the House, and that therefore it would defeat the proposition. I would be perfectly willing to leave the automobile provision in the bill if it were necessary, and offer my amendment in addition to that, and thus leave the matter in such shape that the House could accept my amendment without endangering the amendment reported by the committee.

I simply would like at some time this session to get back to the old Jeffersonian way of paying not emoluments and traveling expenses, but salaries that are just and fair.

I believe that the Senator from Indiana agrees with me that the Vice President of the United States ought to have a salary of at least $25,000 a year. The position demands it. And I believe that if Senators could vote for that directly, they would be glad to do so. I believe further that the American people would never make the slightest complaint against it. Most of the people that I have ever heard speak about the salary of the Vice President have, with one accord, agreed that the salary was insufficient for the position, and it is such a mere bagatelle in the expenses of this Government that it does seem to me that we ought to try to do justice and be brave enough to follow our own convictions.

The PRESIDENT pro tempore. The question is on agreeing to the amendment offered by the Senator from North Dakota [Mr. McCUMBER] as a substitute for the amendment reported by the committee.

The amendment to the amendment was rejected.

The PRESIDENT pro tempore. The question recurs on agreeing to the amendment proposed by the committee.

The amendment was agreed to.

The reading of the bill was resumed.

The next amendment of the Committee on Appropriations was, on page 15, line 17, after the word "equipping," to strike out "horses and mail wagons" and insert "motor vehicles," so as to make the clause read:

For expenses of maintaining and equipping motor vehicles for carrying the mails, $6,000, or so much thereof as may be necessary.

The amendment was agreed to.

The next amendment was, on page 15, line 22, after the words "per thousand," to strike out "$3,000" and insert "$8,000," so as to make the clause read:

For folding speeches and pamphlets, at a rate not exceeding $1 per thousand, $8,000.

The amendment was agreed to.

The next amendment was, on page 16, after line 5, to insert:

For rent of warehouse for storage of public documents for the Senate, $1,800.

The amendment was agreed to.

The next amendment was, on page 16, after line 7, to insert:

The Superintendent of the Capitol Building and Grounds is hereby authorized and directed to remove any unused documents and material now in the Capitol Building or Senate and House Office Buildings, and the Patent Office models now stored in the Senate and House Office Buildings, to some building or buildings located on Reservation No. 13, in the District of Columbia, and the Superintendent of the Capitol Building and Grounds is hereby made the custodian of the building or buildings so selected.

The amendment was agreed to.

The next amendment was, on page 16, line 23, after the words "printed page," to strike out "$25,000" and insert "$50,000," so as to make the clause read:

For expenses of inquiries and investigations ordered by the Senate, including compensation to stenographers to committees, at such rate as may be fixed by the Committee to Audit and Control the Contingent Expenses of the Senate, but not exceeding $1 per printed page, $50,000.

The amendment was agreed to.

The next amendment was, under the subhead "Capitol police," on page 17, line 2, before the word "lieutenants," to strike out "two" and insert "three"; and in line 3, before the words "special officers," to strike out "three" and insert "two," so as to make the clause read:

For captain, $1,800; 3 lieutenants, at $1,200 each; 2 special officers, at $1,200 each; 47 privates, at $1,050 each; one-half of said privates to be selected by the Sergeant at Arms of the Senate and one-half by the Sergeant at Arms of the House of Representatives; in all, $57,150, one-half to be disbursed by the Secretary of the Senate and the other half to be disbursed by the Clerk of the House of Representatives.

The amendment was agreed to.

The next amendment was, under the subhead "House of Representatives," on page 18, after line 4, to strike out:

For actual traveling expenses incurred by Representatives, Delegates, and Resident Commissioners, including actual traveling expenses of immediate and dependent members of their families, incurred in going to and returning once from each session of Congress by the nearest route usually traveled, the same to be paid on certificates duly approved and in the manner heretofore prescribed for the payment of mileage, $87,500.

The amendment was agreed to.

The next amendment was, on page 18, after line 12, to insert:

For mileage of Representatives and Delegates and expenses of Resident Commissioners, $175,000.

The amendment was agreed to.

The next amendment was, on page 24, line 14, after the word "adopted," to strike out "June 5, 1900," and insert "April 28, 1914," so as to make the clause read:

To continue employment of the person named in the resolution adopted April 28, 1914, as a laborer, $840.

The amendment was agreed to.

Mr. KENYON. Mr. President, I should like to ask if the amendment on page 18, relative to mileage, was adopted?

The PRESIDENT pro tempore. Yes; it was adopted when it was reached in the regular order.

Mr. KENYON. I had intended to try to get a yea-and-nay vote on that proposition, so that I could record my vote in favor of the House provision; but I see it has gone by.

Mr. MARTIN of Virginia. It is too late to call for the yeas and nays now.

The PRESIDENT pro tempore. The amendment will be under consideration again when the bill is reported to the Senate. It is now being considered as in Committee of the Whole.

Mr. KENYON. I should like to reserve that question before the Senate.

The PRESIDENT pro tempore. It has already been adopted. It can not be reserved at this time as in Committee of the Whole. Of course, it can come up in the Senate, and the Chair will take notice of the request made by the Senator from Iowa.

The reading of the bill was resumed.

The next amendment of the Committee on Appropriations was, on page 27, line 17, after the words "House of Representatives," to strike out "$75,000" and insert "$37,500," so as to make the clause read:

For miscellaneous items and expenses of special and select committees, exclusive of salaries and labor, unless specifically ordered by the House of Representatives, $37,500.

The amendment was agreed to.

The next amendment was, under the subhead "Library of Congress," on page 33, line 8, before the word "each," to strike out "$720" and insert "$900"; in line 15, after the word "each," to insert "two assistant wiremen, at $840 each"; in line 17, before the words "skilled laborers," to strike out "ten" and insert "eight," and, in the same line, after the words "in all," to strike out "$74,525" and insert "$77,645," so as to make the clause read:

Library building and grounds: Superintendent, $5,000; chief clerk, $2,000; clerks—1, $1,600; 1, $1,400; 1, $1,000; messenger; assistant messenger; telephone-switchboard operator; assistant telephone-switchboard operator; captain of watch, $1,400; lieutenant of watch, $1,000; 16 watchmen, at $900 each; carpenter, painter, and foreman of laborers, at $900 each; 14 laborers, at $540 each; two attendants in ladies' room, at $480 each; 4 check boys, at $360 each; mistress of charwomen, $425; assistant mistress of charwomen, $300; 52 charwomen; chief engineer, $1,500; assistant engineers—1, $1,200; 3 at $900 each; electrician, $1,500; machinists—1, $1,000; 1, $900; 2 wiremen, at $900 each; 2 assistant wiremen, at $840 each; plumber, $900; 3 elevator conductors, and 8 skilled laborers, at $720 each; in all, $77,645.

The amendment was agreed to.

Mr. JONES. Mr. President, as I understand, the bill is being read now merely for committee amendments?

Mr. MARTIN of Virginia. That is correct.

The PRESIDENT pro tempore. It is being read at this time for committee amendments.

Mr. JONES. It is being read first for committee amendments?

The PRESIDENT pro tempore. Yes.

The reading of the bill was resumed.

The next amendment of the Committee on Appropriations was, under the head of "Civil Service Commission," on page 35, line 18, after the words "chief examiner," to strike out "$3,000" and insert "$3,500," and on page 36, line 4, after the words "in all," to strike out "$261,830" and insert "$262,330," so as to make the clause read:

For commissioner, acting as president of the commission, $4,500; 2 commissioners, at $4,000 each; chief examiner, $3,500; secretary, $2,500; assistant chief examiner, $2,250; chiefs of division—3 at $2,000 each; examiners—1, $2,400; 3 at $2,000 each; 4 at $1,800 each; clerks—6 of class 4, 26 of class 3, 34 of class 2, 44 of class 1, 34 at $1,000 each; 22 at $900 each; messenger; assistant messenger; skilled laborer, $720; 4 messenger boys, at $360 each. Custodian force: Engineer, $840; general mechanic, $840; telephone-switchboard operator; 2 firemen; 2 watchmen; 2 elevator conductors, at $720 each; 3 laborers; 4 charwomen; in all, $262,330.

The amendment was agreed to.

The next amendment was, on page 36, line 23, after the words "efficiency ratings," to strike out "$15,000" and insert "$30,000," so as to make the clause read:

For the establishment and maintenance of system of efficiency ratings, $30,000.

The amendment was agreed to.

The next amendment was, on page 37, after line 18, to insert:

Examination of fourth-class postmasters: For necessary additional office employees, printing, stationery, travel, contingent, and other necessary expenses of examinations, $11,190, and the unexpended balance of the appropriation made for this purpose in the urgent deficiency act approved October 22, 1913, is hereby made available for the fiscal year 1915.

The amendment was agreed to.

The next amendment was, at the top of page 38, to insert:

For field examiners at the rate of $1,500 per annum each, for work in connection with members of local boards and other necessary work as directed by the commission, $5,700, and the unexpended balance of the appropriation made for this purpose in the urgent deficiency act approved October 22, 1913, is hereby made available for the fiscal year 1915.

The amendment was agreed to.

Mr. MARTIN of Virginia. I send to the desk an amendment, which I ask to have read.

The PRESIDENT pro tempore. The Senator from Virginia proposes an amendment, which will be reported to the Senate.

The SECRETARY. On page 38, line 12, after the word "each" and the semicolon, it is proposed to insert:

Assistant to the Secretary, to be appointed by the Secretary, $4,500.

The amendment was agreed to.

Mr. MARTIN of Virginia. I send to the desk another amendment, which I ask to have read.

The PRESIDENT pro tempore. The Senator from Virginia proposes an amendment, which will be reported to the Senate.

The SECRETARY. On page 39, on line 6, it is proposed to strike out "17" and insert in lieu thereof "19."

The amendment was agreed to.

The reading of the bill was resumed.

The next amendment of the Committee on Appropriations was, under the head of "Department of State," in the appropriation for the maintenance of the office of the Secretary of State, on page 39, line 8, after the words "telegraph operators," to strike out "18" and insert "36"; in line 9, after the word "each," to strike out "13, at $900 each"; and in line 13, after the words "in all," to strike out "$320,060" and insert "$321,860," so as to read:

Telegraph operators—36, at $1,000 each; chief messenger, $1,000; 5 messengers; 25 assistant messengers; messenger boy, $420; packer, $720; 4 laborers, at $600 each; telephone-switchboard operator; assistant telephone-switchboard operator; in all, $321,860.

The amendment was agreed to:

The next amendment was, under the head of "Treasury Department," on page 40, line 7, after the word "each," to insert "assistant to the Secretary, to be appointed by the Secretary, $4,500"; and, in line 9, after the word "Secretary," to strike out "$2,500" and insert "$3,000," so as to read:

Office of the Secretary: Secretary of the Treasury, $12,000; three Assistant Secretaries, at $5,000 each; assistant to the Secretary, to be appointed by the Secretary, $4,500; clerk to the Secretary, $3,000.

The amendment was agreed to.

Mr. MARTIN of Virginia. I send to the desk an amendment, which I ask to have read.

The PRESIDENT pro tempore. The Senator from Virginia proposes an amendment, which will be reported to the Senate.

The SECRETARY. On page 40, lines 9 and 10, it is proposed to strike out "executive clerk, $2,400," and to insert in lieu thereof "two executive clerks, at $2,400 each."

The amendment was agreed to.

The reading of the bill was resumed.

The next amendment of the Committee on Appropriations was, on page 40, line 12, after the word "Treasury," to strike out "$2,250" and insert "$2,500," so as to read:

Government actuary, under control of the Treasury, $2,500.

The amendment was agreed to.

The SECRETARY. On page 40, line 16, the committee proposes to strike out "$60,670" and insert "$68,320."

Mr. WARREN. Mr. President, I think the Secretary should alter the footings to accord with the amendments already adopted.

The PRESIDENT pro tempore. That is what is being done.

Mr. WARREN. But the Secretary read the old total.

The PRESIDENT pro tempore. No; the Secretary read the new footing, which was just sent up by the chairman of the committee.

The amendment was agreed to.

The reading of the bill was resumed.

The next amendment of the Committee on Appropriations was, on page 41, after line 22, to strike out:

General Supply Committee: Superintendent of supplies, $2,000; clerks—2 of class 2; in all, $4,800.

The amendment was agreed to.

The next amendment was, at the top of page 42, to insert:

General Supply Committee: Superintendent of supplies, $2,250; clerks—1 of class 4, 1 of class 3, 3 of class 2, 2 of class 1; 12 temporary clerks for 4 months, at $900 each; in all, $15,850.

Mr. LANE. Mr. President, I wish to inquire of the chairman of the committee what this new item is for. I refer to the new item for the General Supply Committee. It seems to be adding a number of new officials. There should be some explanation made of this new item, carrying fifteen or sixteen thousand dollars, out of courtesy to other Members of the Senate who are being held in part responsible for the provision.

Mr. MARTIN of Virginia. That is correct, and I am very glad to give the best explanation I can of this matter.

There are 17 new appointments. Twelve of them, however, are temporary clerks, whose employment will last only four months; 5 of them are permanent. These were regularly estimated by the Treasury Department. The Secretary of the Treasury appeared before the committee and insisted that without this provision the public business can not proceed. He said that it has increased so—and we all know it has increased—that it is impossible for him to conduct the business of the Treasury Department without this addition to his working force.

Mr. LANE. I do not want him to shut up shop, of course.

Mr. MARTIN of Virginia. He satisfied the committee. He went into more detail than I shall undertake to go into, and satisfied the committee that his contention should be respected.

I will say, however, not only for the benefit of the Senator from Oregon but for the benefit of others, that if the committee has made any mistake in the preparation of this bill it has been in cutting down too deeply and not allowing what the department chiefs insisted on. We have not put in this bill a single item that we were not satisfied was absolutely necessary, and we have omitted a great many items which the Secretaries insisted we ought to have allowed. I am sure this is a just appropriation.

The PRESIDENT pro tempore. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. MARTIN of Virginia. I send to the desk another amendment, which I ask to have read.

The PRESIDENT pro tempore. The Senator from Virginia suggests an amendment at this point, which will be reported to the Senate.

The SECRETARY. On page 42, line 25, it is proposed to strike out "$2,000" where it first occurs and in lieu thereof to insert "$2,250."

Mr. SMOOT. I will ask the Senator if that was agreed to by the committee?

Mr. MARTIN of Virginia. It was. When it was presented to the committee the committee did not at first allow it; but it was so insistently urged that the committee became satisfied that it ought to be allowed, and it was allowed by the full meeting of the committee.

Mr. SMOOT. Of course, it skipped my memory that that was done, but I remember very well that this question was discussed in the subcommittee, and we disagreed to it there.

Mr. MARTIN of Virginia. It was turned down at the first committee meeting, but the Secretary afterwards came and was so insistent on it when the second meeting of the committee took up the bill that this amendment was allowed.

The amendment was agreed to.

The reading of the bill was resumed.

The next amendment of the Committee on Appropriations was, on page 43, line 4, after the words "Surety Bond," to strike out "Division" and insert "Section," and in line 6, after the words "Surety Bond," to strike out "Division" and insert "Section," so as to read:

Division of Appointments: Chief of division, $3,000; assistant chief of division, $2,250; executive clerk, $2,000; clerks—1 of class 4 (2 transferred to Customs Division), 4 of class 3, 4 of class 2 (1 transferred to Customs Division), 2 of class 1 (1 transferred to Customs Division, 2 to Surety Bond Section, and 1 omitted), 2 at $1,000 each (1 transferred to Customs Division and 1 to Surety Bond Section).

The amendment was agreed to.

The SECRETARY. On page 43, line 8, the committee proposes to change the total to read "$27,910" instead of "$27,660."

The amendment was agreed to.

The reading of the bill was resumed.

The next amendment of the Committee on Appropriations was, on page 43, line 9, before the word "of," to strike out "Di-

vision" and insert "Section," and in the same line, after the word "of," where it occurs the second time, to strike out "division" and insert "section," so as to make the clause read:

Section of surety bonds: Chief of section, $2,000 (in lieu of law and bond clerk, transferred from Division of Appointments); clerks—2 of class 1 (transferred from Division of Appointments), 1 at $1,000 (transferred from Division of Appointments); 1 assistant messenger (transferred from office of Commissioner of Internal Revenue); in all, $6,120.

The amendment was agreed to.

Mr. MARTIN of Virginia. I send to the desk another committee amendment which I ask to have read.

The SECRETARY. On page 43, line 17, it is proposed to strike out "$2,000" and to insert in lieu thereof "$2,500."

The amendment was agreed to.

The SECRETARY. And in line 19 it is proposed to change the total to read "$30,260."

The amendment was agreed to.

Mr. SMOOT. Mr. President, just a moment. I should like to ask the Senator if he has changed all of the assistant chiefs of divisions to $2,500 all through the bill? Have you made them all $2,500?

Mr. MARTIN of Virginia. I think this is the only one. I do not recall any others than this one.

Mr. SMOOT. You will next time, then.

Mr. MARTIN of Virginia. Mr. President, on page 44, in line 8, the committee offers an amendment commencing at the word "and," on line 8, and rejecting the following words:

And $200 additional while the office is held by the present incumbent.

We ask that that amendment may be disagreed to.

The VICE PRESIDENT. The question is on agreeing to the amendment, on page 44, line 8, which will be stated.

The SECRETARY. On page 44, line 8, after "$1,800," it is proposed to strike out the words "and $200 additional while the office is held by the present incumbent."

The amendment was rejected.

The reading of the bill was resumed.

The next amendment of the Committee on Appropriations was, on page 44, line 11, after the word "all," to strike out "$27,800" and insert "$27,600."

The amendment was rejected.

The reading of the bill was resumed.

The next amendment of the Committee on Appropriations was, on page 44, line 26, before the words "of class 3," to strike out "three" and insert "four," so as to read:

Division of Printing and Stationery: Chief of division, $2,500; assistant chief of division, $2,000; clerks—4 of class 4, 4 of class 3.

The amendment was agreed to.

Mr. MARTIN of Virginia. I send to the desk an amendment which I ask to have read.

The VICE PRESIDENT. The amendment will be stated.

The SECRETARY. On page 45, line 1, it is proposed to strike out "$1,250" and to insert in lieu thereof "$1,400."

The amendment was agreed to.

The SECRETARY. On page 45, line 2, before the word "laborers," it is proposed to strike out "two" and insert "three."

The amendment was agreed to.

The SECRETARY. It is also proposed to amend the total, in line 3, so that it will read "$34,780."

The amendment was agreed to.

The reading of the bill was resumed.

The next amendment of the Committee on Appropriations was, on page 45, line 14, before the words "of class two," to strike out "three" and insert "two"; in the same line, after the words "of class one," to strike out "one at $1,000"; and in line 15, after the words "in all," to strike out "$21,790" and insert "$21,390," so as to make the clause read:

Office of disbursing clerk: Disbursing clerk, $3,000; deputy disbursing clerk, $2,750; clerks—3 of class 4, 2 of class 3, 2 of class 2, 2 of class 1, 1 at $1,000; messenger; in all, $21,390.

The amendment was agreed to.

The next amendment was, on page 46, after line 23, to insert:

For law books, to be expended under the direction of the Comptroller of the Treasury, $500.

The amendment was agreed to.

The next amendment was, on page 48, after line 5, to insert:

For compensation, to be fixed by the Secretary of the Treasury, of such number of employees as may be necessary to tabulate by the use of mechanical devices the accounts and vouchers of the Interior Department; for the purchase, exchange, or rental of the necessary mechanical devices, and for the purchase of such supplies, including tabulating cards printed in the course of manufacture, and the making of such repairs as may be necessary to their maintenance and operation, $14,000: *Provided*, That the Secretary of the Treasury may, during the fiscal year 1915, in his discretion, diminish the number of positions in the grades below that of clerk at $1,200 per annum in the Office of the Auditor for the Interior Department and use the unexpended balances of the appropriation for the positions so diminished as a fund to pay the compensation, as fixed by the Secretary of the Treasury, of such additional number of employees as may be necessary to tabulate by the use of mechanical devices the accounts and vouchers of the Interior Department.

Mr. BURTON. Mr. President, I should like to know whence these employees are obtained. Are they detailed from other departments, or from other bureaus of this department? I do not quite understand this provision. Why is a new provision necessary in regard to it?

Mr. MARTIN of Virginia. It is in connection with the introduction of tabulating machines and the use of tabulating machines. The inauguration of that work in the departments is a very expensive matter.

Mr. BURTON. Are these tabulating machines employed now for the first time?

Mr. MARTIN of Virginia. Some have been employed, but the use of the machines is increasing, and this provision seems to be absolutely necessary for that service. When they are fully inaugurated and at work, it will operate as a great saving to the Government; but the initial cost is very heavy.

Mr. BURTON. Do I understand that those who are detailed to perform this service are clerks or subordinates already in the department?

Mr. SMOOT. Mr. President, they may be in this department or they may be transferred temporarily from other departments to do this particular work.

Mr. BURTON. They do not go outside of the civil-service list to get them?

Mr. SMOOT. I asked that same question, and I was assured that they did not go out of the civil service.

Mr. MARTIN of Virginia. Oh, no; they are civil-service appointees. There is no doubt about that.

Mr. SMOOT. I think myself the proviso of this amendment is not a very good way to legislate, but the object of the amendment is a worthy one, and I think it will accomplish a saving not only in this department but in all the other departments, if carried out. It was for that reason that I did not object to the proviso. If, however, such a proviso were carried through all the departments of the Government, I think it would be a very dangerous way of granting power to the heads of departments.

The VICE PRESIDENT. The question is on agreeing to the amendment.

The amendment was agreed to.

The reading of the bill was resumed.

The next amendment of the Committee on Appropriations was, on page 49, line 22, after "$191,130," to insert: "*Provided*, That not exceeding $24,840 may be used for the payment of compensation to said employees absent on leave."

So as to make the clause read:

For compensation, to be fixed by the Secretary of the Treasury, of such number of employees as may be necessary to tabulate by the use of mechanical devices the accounts and vouchers of the Postal Service, $191,130: *Provided*, That not exceeding $24,840 may be used for the payment of compensation to said employees absent on leave.

The amendment was agreed to.

The next amendment was, at the top of page 50, to insert:

The Secretary of the Treasury may, during the fiscal year 1915, diminish, from time to time, as vacancies occur by death, resignation, or otherwise, the number of positions of the several grades below the grade of chief of division in the office of the Auditor for the Post Office Department and use the unexpended balances of the appropriations for the positions so diminished as a fund to pay the compensation, as fixed by the Secretary of the Treasury, of such number of employees as may be necessary to tabulate, by the use of mechanical devices, the accounts and vouchers of the Postal Service.

Mr. SMOOT. Mr. President, I simply wish to say in connection with this amendment that this being a new departure in the different departments, I am not going to object this year to this kind of legislation; but I will state again that it is very unwise legislation, taken as a general thing.

The VICE PRESIDENT. The question is on agreeing to the amendment.

The amendment was agreed to.

The reading of the bill was resumed.

The next amendment of the Committee on Appropriations was, on page 52, line 24, after "$1,800," to strike out "clerk, $900; in all, $2,700" and insert "clerk, $1,400; two clerks, at $900 each; in all, $5,000," so as to make the clause read:

Office of the assistant treasurer at San Francisco: Clerk, $1,800; clerk, $1,400; two clerks, at $900 each; in all, $5,000.

The amendment was agreed to.

The next amendment was, on page 52, line 26, after the word "subtreasuries," to strike out "$86,450" and insert "$88,750"; so as to make the clause read:

The total from subtreasuries, $88,750.

Mr. NELSON. Mr. President, it seems to me that all these appropriations for the maintenance and upkeep of subtreasuries

ought to be wholly unnecessary under the new system of banking and currency that has been adopted. Under that system the regional banks are to be made the depositories of the public funds, and the disbursements of the Government are to be made by checks upon these banks. Therefore the occasion that has heretofore existed for maintaining subtreasuries in the different parts of the country has ceased to exist, and provision ought to be made for their discontinuance under this new banking system, it seems to me. After we have changed our banking system, to keep them up as we have kept them up in the past is wholly unnecessary.

The new system contemplates that the revenues of the Government shall be paid into the regional banks, and that the disbursements shall be made by checks of the Government upon these banks. The purpose is that the money may be constantly in circulation, instead of, as heretofore, having the public moneys frequently tied up in the subtreasuries of the Government, causing, at times, a money stringency. I remember that during Cleveland's first administration there were between two and three hundred million dollars tied up in the subtreasuries of the Government, out of circulation.

In view of the fact that we have established these regional banks, and disbursements are to be made through them by checks upon them, it seems to me there is no occasion for perpetuating and continuing the subtreasury system.

Mr. SMOOT. I will say to the Senator that it is necessary at this time to continue them, because the new system will not be in operation by the 1st of July of this year.

Mr. NELSON. That may be so.

Mr. SMOOT. If it is in operation by the end of the year, we will say, or whenever it is, and there is no necessity for these subtreasury places, then, of course, the money will be paid out as the Senator states; but we do not know how soon it will be in operation, and they certainly will have to be provided for until that time arrives.

Mr. NELSON. Mr. President, I have called attention to this matter because it should be kept in mind when the next appropriation bill is prepared. I think perhaps our new system will not be entirely in operation by the end of the present fiscal year, and perhaps for the present it is necessary to maintain these offices; but after we have established the new system there is no occasion for maintaining these subtreasuries as they have been maintained heretofore.

Mr. SHAFROTH. Mr. President, the Senator is right in the statement that it is the hope that these moneys of the United States will be deposited in the Federal reserve banks; but I will remind the Senator of the fact that there is no requirement in the act that they shall be so deposited, and for that reason we have got to trust to what the policy of the administration will be with respect to that. It is our hope that they will be so deposited, and there was a provision in one of the preliminary drafts of the bill to the effect that the new organization should become the fiscal agent of the United States Government; but that is not in the bill as it passed. It is left discretionary with the Secretary of the Treasury as to where and when and to what extent he will deposit money in these banks. For that reason it seems to me we have to provide for the ordinary expenditures as heretofore, and rely upon the Treasury Department to cut them down when these moneys are deposited in the Federal reserve banks.

Mr. NELSON. The Senator from Colorado is partially correct, but not entirely so. When the currency bill came from the House it contained a provision, as passed by the House, requiring all public moneys to be deposited in these banks, and checks to be drawn upon the banks. But that was afterwards changed by the Senate committee, much against the wishes of many of the members of that committee, and we are now at the mercy of the Secretary of the Treasury. He can still, under this new system, as he sees fit, perpetuate the subtreasury system by refusing to deposit the money in these regional banks.

I sincerely hope that he will abandon that system and that he will have all the Government revenues deposited in these banks, and that the Government disbursements will be made by checks upon those banks. In that way, and in that way only, can you keep the currency of the country in active use and circulation and prevent the tying up of funds as we have had in years gone by.

Mr. SMOOT. I will say to the Senator, perhaps we have that in our hands, because if we do not next year appropriate for the office of the Assistant Treasurer then, of course, it will force the deposit into the regional banks.

Mr. NELSON. The Senator is entirely correct. If by the time the next appropriation bill is passed no provision is made for the continuance of these subtreasuries the Secretary will have to deposit in the regional banks.

Mr. BURTON. Mr. President, it seems to me that this is a very singular time to increase the appropriation for these subtreasuries. A year or two ago some pressure was brought to bear upon me for obtaining increased salaries and I believe also clerical service for the subtreasury at Cincinnati, but upon the adoption of the Federal reserve act I discouraged any attempt of that kind. The passage of the recent law is futile unless the subtreasuries are to be relieved of very much of the work that they now perform.

Mr. MARTIN of Virginia. Mr. President, I merely want to correct the Senator from Ohio. We have not increased the appropriation for the subtreasuries. This is simply transferring some people from San Francisco to Washington.

Mr. BURTON. Does the Senator say the appropriation for the office of the assistant treasurer at San Francisco, Cal.—"clerk, $1,400; 2 clerks, at $900 each; in all, $5,000"—is not an addition?

Mr. MARTIN of Virginia. If the Senator will turn to page 68 he will see that the reductions correspond there, and we have not increased the appropriation at all for the subtreasury.

Mr. BURTON. Do I understand it is an increase in the total expense of the whole subtreasury system?

Mr. MARTIN of Virginia. The Senate committee has not increased a dollar the appropriation for subtreasuries from the bill as it passed the House. This is a mere transfer of the force from San Francisco, and it is no increase whatever.

Mr. BURTON. Here is the House provision: "Clerk, $1,800; clerk, $900; in all, $2,700." As the committee reports the bill it reads, "Clerk, $1,400; 2 clerks, at $900 each; in all, $5,000."

Mr. SHAFROTH. If the Senator will turn to page 68, he will find, in line 25, "1, $1,400; 1, $900" stricken out.

Mr. BURTON. In the San Francisco Subtreasury?

Mr. SHAFROTH. Yes; in the office of the assistant treasurer at San Francisco.

Mr. BURTON. The San Francisco Subtreasury?

Mr. SHAFROTH. Yes.

Mr. MARTIN of Virginia. It is a transfer, and there is not an increase made in the appropriation for the Subtreasury.

Mr. BURTON. In an appropriation bill to place in different parts of the bill the provision for the same office is, to say the least, confusing. As it reads here, this is clearly an increase in the appropriation for the Subtreasury at San Francisco.

Mr. MARTIN of Virginia. Perhaps it might have been arranged more systematically, but if the Senator will examine it he will find that there is no increase whatever.

Mr. BURTON. Then I understand in another portion of the bill there is a decrease which meets this increase.

Mr. MARTIN of Virginia. Exactly.

Mr. SMOOT. I will simply say to the Senator from Ohio that the Treasurer appeared before the committee and he wanted the two clerks from the office of the assistant treasurer at San Francisco transferred here. That is found on page 52 of the bill. He claimed that that could be done here and the appropriation ought to be made direct.

Mr. BURTON. Certainly the bill could be made very much clearer by having a provision in one place for one office so that we can understand it.

I do not understand, Mr. President, that the subtreasuries are to be entirely abandoned, but their work and their responsibility will be diminished if the Federal reserve system is the success we expect it to be, and if the money of the country is to be kept in circulation as has been promised.

Mr. NELSON. Mr. President, I desire simply to say one word more. I wish to call the attention of the Committee on Appropriations to the fact that it appears in the bill that the total cost of the subtreasury system is $88,750, and this amount can be entirely saved if the Secretary of the Treasury will avail himself of the new currency system. We can get rid of all these subtreasuries and do all the Government business, and do it much better and more effectively through the new currency system.

The amendment was agreed to.

The next amendment was, on page 53, line 25, after the words "Treasurer of the United States" to strike out "$6,000" and insert "$10,000", so as to make the clause read:

For purchase of labor-saving machines and tabulating equipment, including exchange, repairs, miscellaneous expenses of installation, cards and filing devices, and for rental of tabulating and card-sorting machines, for use in the office of the Treasurer of the United States, $10,000.

The amendment was agreed to.

Mr. MARTIN of Virginia. On page 54 there are three amendments, one including a total, which the committee ask may be disagreed to.

The next amendment was, on page 54, line 2, after "$4,000" to strike out "assistant register, $2,500," and in line 9, after

the words "in all," to strike out the total, "$30,700, and insert "$28,200," so as to make the clause read:

Office of Register of the Treasury: Register, $4,000; chief of division, $2,000; clerks—2 of class 4 (1 transferred to Treasurer's office), 2 of class 3, 2 of class 2, 3 of class 1 (2 transferred to Treasurer's office), 3 at $1,000 each (1 transferred to Treasurer's office), 5 at $900 each (10 transferred to Treasurer's office and 3 to Loans and Currency Division); messenger; 1 laborer (1 transferred to Loans and Currency Division); in all, $28,200.

Mr. MARTIN of Virginia. I ask the Senate to disagree to the amendment.

The amendment was rejected.

The next amendment was, on page 54, after line 9, to insert:

The office of Assistant Register of the Treasury is hereby abolished.

Mr. MARTIN of Virginia. I ask that the amendment be disagreed to.

The amendment was rejected.

Mr. SMOOT. May I call the Senator's attention to just one thing in relation to the assistant register? Does the Senator believe that we ought to pay him more than the chief of that division? We pay the chief of the division $2,000 and the assistant register $2,500.

Mr. MARTIN of Virginia. We agreed on that in the committee, and I hope the Senator will not go into a discussion now against the action of the committee. There was no such action against it in the committee.

Mr. SMOOT. I am perfectly aware the majority of the committee agreed to it, and I have not stated otherwise.

Mr. MARTIN of Virginia. The Senator himself, I understood, agreed to it. He made no objection to it.

Mr. SMOOT. I objected to it at the time.

Mr. MARTIN of Virginia. I do not recall that.

Mr. SMOOT. I did and I want to say to the Senator that I do not believe, owing to the amount of work in that office, I will not say the lack of work, the assistant register ought to be paid more than the chief of that great division receives. I am perfectly willing——

Mr. MARTIN of Virginia. I understand that they are inaugurating changes there which will put more work on the Assistant Treasurer. The Assistant Treasurer, it seems to me, ought to receive more than the chief clerk.

Mr. SMOOT. Mr. President, we might just as well have five wheels to a wagon as to have the position, anyway. There is not any question about it.

Mr. OVERMAN. Then let us cut it out.

Mr. SMOOT. I want to give notice to the Senator right now, that if I am here next year when the appropriation bill carries this amount I am going to do all I can to see that it is cut out.

Mr. MARTIN of Virginia. We will reach that next year, and then we will take it up. I hope we will not discuss now what we are going to do next year.

Mr. SHAFROTH. Let me suggest to the chairman of the committee, would it not be well to add to line 11, on page 54, so as to make it read:

The office of Assistant Register of the Treasury is abolished after the term of the present occupant.

Mr. MARTIN of Virginia. That would be strange legislation. We should wait until the time comes to abolish it.

Mr. SHAFROTH. I would move the amendment because of the fact that we did abolish the office of assistant register in the committee and then we took it back.

Mr. MARTIN of Virginia. That is true, but I think the committee might well afford to stand by its final action on the matter. I am very anxious to get along with the bill.

Mr. SHAFROTH. Why would it not be well to put it in, then, for the term of the fiscal year?

Mr. OVERMAN. There will be another bill next year.

Mr. SHAFROTH. But let it end with the expiration of the fiscal year.

Mr. MARTIN of Virginia. I send to the desk another amendment which I offer on behalf of the committee. I am going to say what I said to the committee. I think this is right or I would not be willing to put it in. The man is a good old ex-Confederate soldier, but I would not give him the office if I did not think it right. I do not like to turn that old fellow out. He has just been appointed. He is very poor, and he is able to do the work, and I want him to have that salary.

Mr. SMOOT. I do not want the Senator to impute any motive in the matter of reducing this office because it is filled by an ex-Confederate soldier.

Mr. MARTIN of Virginia. I did not have a single thought of that in my mind; but in passing I will say the motion to retain the office was made by a good Union soldier, the Senator from Wyoming [Mr. WARREN].

Mr. SMOOT. I am not discussing the question as to what was the action of the committee. That is not it. I say now if the President of the United States was a Republican and he undertook to fill this office to-day, I would vote against it, and I say now that there is not any more use for the office than there is for a fifth wheel to a wagon.

The VICE PRESIDENT. The amendment will be stated.

The SECRETARY. On page 54, after line 21, the committee proposes to add the following paragraph:

To pay to Thomas P. Kane the difference between the compensation allowed by law for the Comptroller of the Currency and the compensation allowed by law for the Deputy Comptroller of the Currency for services as Acting Comptroller of the Currency from April 28, 1913, when the office of the Comptroller of the Currency was vacated, and continuing as long as the duties and responsibilities of said office of the Comptroller of the Currency shall devolve upon said Thomas P. Kane as Acting Comptroller of the Currency, such an amount as may be necessary, to be paid from the $5,000 appropriated for salary of the Comptroller of the Currency by the act of August 23, 1912 (37 Stat. L., 377), for such part of such services as may be rendered during the fiscal year ended June 30, 1913; and such amount as may be necessary to be paid from the $5,000 appropriated for salary of the Comptroller of the Currency by the act of March 4, 1913 (Stat. L, p. 756), for such part of such services as may be rendered during the fiscal year ending June 30, 1914.

Mr. SMOOT. I am going to ask the Senator to allow that amendment to be passed over at this time. I do not want to call a quorum, but before the amendment is adopted I want a vote of the Senate upon it, and I want a quorum here so that I can explain it.

Mr. MARTIN of Virginia. Let it be passed over for the present.

The VICE PRESIDENT. The amendment will be passed over.

The Secretary continued the reading of the bill.

The next amendment of the Committee on Appropriations was, on page 55, line 8, after the word "national," to strike out "$4,800" and insert "$8,000," so as to make the clause read:

For expenses of special examinations of national banks and bank plates, of keeping macerator in Treasury Building in repair, and for other incidental expenses attending the working of the macerator, and for procuring information relative to banks other than national, $8,000.

The amendment was agreed to.

The next amendment was, on page 55, line 10, after the word "Commissioner," to strike out "$6,000" and insert "$6,500," and in line 19, after the words "in all," to strike out "$359,270" and insert "$359,770," so as to make the clause read:

Office of Commissioner of Internal Revenue: Commissioner, $6,500; deputy commissioners—1 $4,000, 1 $3,600; chemists—chief $3,000, 1 $2,500; assistant chemists—2 at $1,800 each, 1 $1,600, 1 $1,400; heads of divisions—4 at $2,500 each, 5 at $2,250 each; superintendent of stamp vault, $2,000; private secretary, $1,800; clerks—3 at $2,000 each, 31 of class 4, 27 of class 3, 41 of class 2, 40 of class 1, 32 at $1,000 each, 42 at $900 each; 4 messengers; 20 assistant messengers (1 transferred to surety-bond section); 16 laborers; in all, $359,770.

The amendment was agreed to.

The next amendment was, on page 55, line 25, after "$4,000," to strike out "and $500 additional while the office is held by the present incumbent," so as to read:

Office of Life-Saving Service: General Superintendent, $4,000.

Mr. MARTIN of Virginia. I ask that the amendment be disagreed to.

The amendment was rejected.

The next amendment was, on page 56, line 4, in the items for the office of Life-Saving Service, after the words "civil engineer," to strike out "$1,800" and insert "$2,250."

The amendment was agreed to.

The next amendment was, on page 56, line 7, in the total, to strike out "$48,120" and insert "$48,070."

Mr. MARTIN of Virginia. I move to change the total so as to make the amount $48,570.

The amendment to the amendment was agreed to.

The amendment as amended was agreed to.

The next amendment of the Committee on Appropriations was, on page 57, line 12, after the words "in all," to strike out "$16,370" and insert "$16,120," so as to make the clause read:

Secret Service Division: Chief, $4,000; assistant chief, who shall discharge the duties of chief clerk, $3,000; clerks—1 of class 4; 1 of class 3; 2 of class 2; 1 of class 1; 1, $1,000; assistant messenger; in all $16,120.

The amendment was agreed to.

The next amendment was, on page 57, line 14, after "$5,000," to insert "examiner, $3,000." so as to read:

Office of Director of the Mint: Director, $5,000; examiner, $3,000; computer and adjuster of accounts, $2,500; assayer, $2,200; clerks—2 of class 4; 2 of class 3; 1 of class 1; private secretary, $1,400; messenger; assistant in laboratory, $1,200; assistant messenger; skilled laborer, $720; in all, $22,580.

Mr. BURTON. I should like to inquire whether that is a new office or not?

Mr. MARTIN of Virginia. It is not.

Mr. BURTON. Why was it omitted from the House bill, then?

Mr. MARTIN of Virginia. It was not in the House bill, but it is in the estimates. I do not think it is a new office.

Mr. SMOOT. I think the Senator is wrong. I think it is a new office; that is, as I understand it.

Mr. MARTIN of Virginia. It is in the current law, I am sure. The House just omitted to appropriate for it.

Mr. SMOOT. I may be mistaken, but I thought it was a new office.

Mr. MARTIN of Virginia. I find it in the current law.

Mr. BURTON. Then I understand it is an existing office.

Mr. MARTIN of Virginia. I think it is; and it was not appropriated for through some accident in the House.

Mr. BURTON. The House omitted to appropriate for it.

Mr. MARTIN of Virginia. It is simply to provide for an office already created—office of Director of the Mint. In the last bill, director, $5,000, and an examiner, $3,000.

The amendment was agreed to.

The next amendment was, on page 57, line 19, to change the total from $22,580 to $25,580.

The amendment was agreed to.

The next amendment was, on page 57, line 21, after the words "assay offices," to strike out "$10,000" and insert "$30,000," so as to make the clause read:

For freight on bullion and coin, by registered mail or otherwise, between mints and assay offices, $30,000.

Mr. BURTON. I should like to ask why there is so very large an addition as to require the increased appropriation. Is the appropriation made by the House, only a third of that named here, insufficient, or has something developed since the bill passed the House?

Mr. MARTIN of Virginia. It is for the transportation of bullion.

Mr. BURTON. I am aware of that.

Mr. MARTIN of Virginia. The assurance was made to us that it was absolutely impossible to perform the service with less than $30,000.

Mr. OVERMAN. There is always a fight with the House of Representatives about abolishing the mints. The Senate will not stand for it. The House cut down the appropriation and the Senate committee restored it. That is all there is of it.

Mr. SHAFROTH. Another thing, Mr. President, is that this is an amount that is to be expended for a specific purpose, and if it is not necessary to use it it will go back into the Treasury.

Mr. BURTON. That is true, more or less, of all appropriations.

Mr. SMOOT. Mr. President, of course the original appropriation of $10,000 was made upon the basis that all of the assay offices were going to be abolished; but the Senate has restored the assay offices, and having restored them we must provide the money for the transportation of the bullion.

The VICE PRESIDENT. Without objection, the amendment is agreed to

The reading of the bill was resumed.

The next amendment of the Committee on Appropriations was, on page 58, line 9, after the words "chief clerk," to strike out "$2,000" and insert "$2,250"; in line 13, before the words "of class one," to strike out "seven" and insert "eight"; in line 14, after the word "messengers," to insert "telephone operator, $720"; and, in line 15, after the words "in all," to strike out "$49,780" and insert "$51,950," so as to make the clause read:

Office of Surgeon General of Public Health Service: Surgeon General, $6,000; chief clerk, $2,250; private secretary to the Surgeon General, $1,800; assistant editor, $1,800; clerks—3 of class 4, 3 of class 3, 7 of class 2 (1 of whom shall be translator), 8 of class 1, 3 at $1,000 each, 3 at $900 each; messenger; 3 assistant messengers; telephone operator, $720; 2 laborers, at $540 each; in all, $51,950.

The amendment was agreed to.

The next amendment was, in the item of appropriation for the purchase of stationery for the Treasury Department and its several bureaus and offices, on page 59, line 6, after "$1,000," to strike out "operating supplies for public buildings, $3,500"; and, in line 7, after the words "public buildings," to strike out "$2,500" and insert "$6,000," so as to make the clause read:

Life-Saving Service, $1,000; general expenses of public buildings, $6,000; collecting the revenue from customs, $37,000; miscellaneous expenses of collecting internal revenue, $14,000; expenses of collecting the income tax, $10,000; and said sums so deducted shall be credited to and constitute, together with the first-named sum of $50,000, the total appropriation for stationery for the Treasury Department and its several bureaus and offices for the fiscal year 1915.

The amendment was agreed to.

The next amendment was, on page 59, line 21, after the word "clippings," to insert "financial journals," so as to make the clause read:

For newspaper clippings, financial journals, law books, city directories, and other books of reference relating to the business of the department, $1,000.

The amendment was agreed to

Mr. MARTIN of Virginia. I submit the amendment which I send to the Secretary's desk.

The VICE PRESIDENT. The amendment submitted by the Senator from Virginia will be stated.

The SECRETARY. On page 59, after line 25, it is proposed to insert the following:

For rent of building, $11,350.

Mr. SMOOT. Mr. President, I thought we had agreed to put that item in under the appropriation for rent of the Department of Labor.

Mr. MARTIN of Virginia. This is for rent for the purposes of the Treasury Department.

Mr. SMOOT. This is for extra rent that we have to pay on account of the removal of a portion of the employees of the Department of Labor?

Mr. MARTIN of Virginia. I do not think it relates to that.

Mr. SMOOT. I shall not object. I know there is an item of eleven thousand and some odd dollars for rent, for which we must provide.

Mr. MARTIN of Virginia. It is for the Treasury Department, and it seemed to be absolutely necessary. There were three items in the estimate. If I am not mistaken—such a long time has elapsed since the committee had the matter before it that I distrust myself a little—it included a stable, it included the storage of the photograhic apparatus and other material.

Mr. SMOOT. Mr. President, if it is for the Treasury Department, that sum of $11,350 is not correct, because we did supply the Treasury Department with money with which to pay rent for a stable, and we cut the amount down, as I think, to $4,700.

Mr. MARTIN of Virginia. The Senator from Utah was absent for some part of the time from the committee meetings. The committee considered the matter at one of its meetings, when this entire sum was allowed. We became thoroughly satisfied that the whole amount was necessary. The Secretary of the Treasury, or one of his assistants, appeared before the committee and made it very clear to us that it was absolutely necessary; otherwise, he said, he would have to throw this property of the Government into the street, as there would be no possible way for him to take care of it. Here is a letter which, if the Senator desires, I shall read.

Mr. SMOOT. The Senator had better read the letter, for I thought there was any amount of room for the purpose in the building in which the Bureau of Engraving and Printing was formerly located.

Mr. MARTIN of Virginia. On the 18th of May this letter was sent:

TREASURY DEPARTMENT,
Washington, May 18, 1914.

Hon. THOMAS S. MARTIN,
Chairman Committee on Appropriations, United States Senate.

SIR: I want to urge upon you the importance of securing, by means of amendment on the floor of the Senate, the sum of $11,350 for rent for the Treasury Department for the fiscal year 1915. Unless this appropriation can be secured the department will be obliged to ask for a deficiency covering the same.

This amount is needed to cover the rent for the Treasury stables; the Cox Building, which includes the photograph gallery for use in connection with public-building work; and the files building, at 920 E Street NW.

The rent appropriation for the current fiscal year is $47,000; the amount asked for now, $11,350, is absolutely necessary, and the department can not possibly get along without it.

Attached hereto is a memorandum from the chief clerk of the department setting forth in detail the amount of space required, etc.

Respectfully,

BYRON R. NEWTON,
Assistant Secretary.

Mr. NELSON. Mr. President——

The VICE PRESIDENT. Does the Senator from Virginia yield to the Senator from Minnesota?

Mr. MARTIN of Virginia. I do.

Mr. NELSON. I should be glad if the chairman of the Committee on Appropriations would inform me where these buildings are located which are to be rented. What buildings are they for which we are to pay a rental of $11,350?

Mr. MARTIN of Virginia. I will see if I can get at my memoranda. I do not carry in my memory where all these buildings are located.

Mr. NELSON. It is not the old car barn over here on Capitol Hill, is it?

Mr. MARTIN of Virginia. Oh, no; not at all.

Mr. NELSON. Or the old Globe Building?

Mr. MARTIN of Virginia. Here is the statement in regard to the matter:

	Floor space.	Yearly rental.
	Sq. feet.	
Cox Building, New York Avenue NW., between Seventeenth and Eighteenth Streets (first, second, and third floors occupied by files of the Auditor for the War Department; fourth floor by photograph gallery, Office of the Supervising Architect)	13,591	$2,150
Merchants Transfer & Storage Building, E Street NW., between Ninth and Tenth Streets (third, fourth, and back part of fifth floors rented; used for files). Light, janitor and elevator service included	26,736	8,000
Treasury Department stables, 400 Nineteenth Street NW	9,646	1,200

The Senator will observe that the items as to yearly rental make an aggregate of $11,350, the amount named in the amendment.

Mr. NELSON. Will the Senator from Virginia be kind enough to have that statement put into the RECORD?

Mr. MARTIN of Virginia. Having read the statement, it will, of course, appear in the RECORD. I also send to the desk, to be inserted in the RECORD, certain memoranda on the same subject.

The VICE PRESIDENT. In the absence of objection, permission to do so will be granted.

The matter referred to is as follows:

TREASURY DEPARTMENT,
OFFICE OF CHIEF CLERK AND SUPERINTENDENT,
Washington, May 18, 1914.

The Senate Appropriations Committee failed to include in the legislative bill any provision for rent for the Treasury Department. We are renting at present the following:

Building.	Square feet.	Cubic feet.
Treasury stables	9,646	
Cox Building (files and photograph gallery)	10,003	113,639
920 E Street	26,736	267,360

Total, 26,739 square feet, or 380,999 cubic feet, exclusive of the Treasury stables.

Vacant file space at old Bureau Building after moving the auditors and general supply committee into same:

	Square feet.	Cubic feet.
Subbasement	12,035	84,245
Attic	8,756	35,024

Total, 20,791 square feet, or 119,269 cubic feet.

It is contemplated to move into this vacant space in the old Bureau Building 59,060 cubic feet of files belonging to the Auditor for the State and Other Departments, which will leave a balance of space of 60,209 cubic feet which would be required by the various auditors to take care of their increase in files for the next year. The Supervising Architect recommended that no files be placed in the attic on account of danger from the weight.

In view of the foregoing, I earnestly recommend that this data be placed before Senator MARTIN, and that he be asked to amend the legislative bill by including on the floor of the Senate an item for $11,350 for rent for Treasury offices. Unless this is done we shall be obliged to go to Congress and ask for a deficiency in this amount.

Mr. SMOOT. I will say to the Senator from Virginia that after looking over the communication from the Treasury Department I withdraw my objection to the amendment inserting $11,350. I have not a copy of the hearings before me, but, as I remember, the committee had agreed upon $4,700 as the proper rental for the stable and one of the other buildings there which is absolutely necessary, and agreed that we would direct the Secretary to use the old building formerly occupied by the Bureau of Engraving and Printing.

Mr. MARTIN of Virginia. That was found to be entirely impracticable at another meeting of the committee. I think the Senator is mistaken in one thing. I believe the agreement was only for $1,200 instead of $4,700, but at a second hearing of the matter the amount was fixed as set out in the amendment.

The VICE PRESIDENT. Without objection, the amendment is agreed to.

The reading of the bill was resumed.

The next amendment of the Committee on Appropriations was, on page 60, line 8, after the word "said," to strike out "buildings" and insert "building," so as to make the clause read:

In addition to the offices of the four auditors of the Treasury required to be removed to the old building of the Bureau of Engraving and Printing, the General Supply Committee and offices of the Treasury now occupying rented quarters, and such other offices or parts of offices of the Treasury Department as the Secretary of the Treasury may determine, shall be removed thereto; and the Bureau of Engraving and Printing shall entirely vacate all of said building on or before June 1, 1914.

Mr. SMOOT. I think, owing to the adoption of the previous amendment, the word should be "buildings" instead of "building," because the change from two buildings to a single building was by reason of the fact that we cut down the rent.

Mr. MARTIN of Virginia. Yes; it should be "buildings."

Mr. SMOOT. Then we shall have to disagree to the committee amendment.

The VICE PRESIDENT. The question is on the amendment.

The amendment was rejected.

Mr. MARTIN of Virginia. I offer the amendment, which I send to the desk, to come in at the top of page 60.

The VICE PRESIDENT. The amendment proposed by the Senator from Virginia will be stated.

The SECRETARY. At the top of page 60 it is proposed to insert the following paragraph:

For investigation and experimentation and to secure better methods of administration, with a view to increased efficiency or to greater economy in the expenditure of public money, including necessary traveling expenses, in connection with special work, or obtaining of better administrative methods in any branch of the service within or under the Treasury Department, including the temporary employment of agents, stenographers, accountants, or other expert services, either within or without the District of Columbia, $20,000.

Mr. SMOOT. I will ask that that amendment be passed over.

Mr. MARTIN of Virginia. I am perfectly willing to have it passed over, if the Senator insists upon it, but I thought the question had been thrashed over so often that it was thoroughly understood. It is really a contingent fund for the Treasury Department.

Mr. SMOOT. I thought it had been thrashed over so often that it would never show its face in the Senate again. I thought the committee had disagreed to it.

Mr. MARTIN of Virginia. If the Senator does not attend the meetings of the committee he must blame himself, and not me.

Mr. SMOOT. Mr. President, the Senator ought not to say that.

Mr. MARTIN of Virginia. I am only saying that the amendment was before the committee, and if the Senator does not know it I do not know where he was.

Mr. SMOOT. The only time the Appropriations Committee has held a meeting at which I was not present was when I went to Kentucky to attend the funeral of the late Senator Bradley, and I do not know whether or not the committee held any meetings during that time. There has never been a meeting of the Appropriations Committee since I have been a member of it when I have not been present, with the exception of the instance I have mentioned.

Mr. MARTIN of Virginia. Except that sometimes the Senator would say, "I will have to be excused, as I am compelled to go somewhere else." That amendment was adopted at a meeting of the committee after a thorough investigation.

Mr. SMOOT. I ask that it go over.

The VICE PRESIDENT. The amendment will be passed over.

The reading of the bill was resumed.

The next amendment of the Committee on Appropriations was, on page 61, line 16, before the word "necessary," to strike out "absolutely," so as to read:

And for sales at public auction in Washington, D. C., of condemned property belonging to the Treasury Department, payment of auctioneer fees, and purchase of other necessary articles, $13,500.

The amendment was agreed to.

The next amendment was, under the subhead "Collecting internal revenue," on page 64, line 6, after the words "internal-revenue offices," to strike out "$2,150,000" and insert "$2,190,000," so as to make the clause read:

For salaries and expenses of collectors of internal revenue, deputy collectors, surveyors, clerks, messengers, and janitors in internal-revenue offices, $2,190,000: *Provided*, That no part of this amount be used in defraying the expenses of any officer, designated above, subpœnaed by the United States court to attend any trial before a United States court or preliminary examination before any United States commissioner, which expenses shall be paid from the appropriation for "Fees of witnesses, United States courts."

The amendment was agreed to.

The next amendment was, on page 64, after line 12, to insert:

On and after October 1, 1914, the whole number of collection districts for the collection of internal revenue and the whole number of collectors of internal revenue shall not exceed 64.

Mr. BURTON. Mr. President, I should like to know what the object of that provision is.

Mr. WARREN. The amendment reinstates one of the three collection districts which were discontinued. It has been found

that one of them was exceedingly important, and this provision is to reestablish it.

Mr. BURTON. Then there were 64.

Mr. WARREN. There were 66, but 3 were discontinued by act of Congress. It was found, however, in view of the increasing business, that there should be more districts, especially one more district in the State of Pennsylvania.

Mr. BURTON. Then, this is an increase of the present number?

Mr. WARREN. It increases the present number, but it will still be a decrease in the number prior to the number, say, four years ago.

Mr. SMOOT. Mr. President, I want to state——

Mr. BURTON. Just a moment. It seems to me, Mr. President, this is a very singular way of expressing that fact. This amendment proposes an increase in the number of collection districts for the collection of internal revenue. Now, let us read it:

On and after October 1, 1914, the whole number of collection districts for the collection of internal revenue and the whole number of collectors of internal revenue shall not exceed 64.

The natural inference from that language would be that there was a decrease. If you are reestablishing one or two districts or collectors, why not say so in plain language, so that anyone can understand it?

Mr. MARTIN of Virginia. There is no doubt about the fact whatever. The amendment simply employs the language that has heretofore been used in creating collection districts, and makes an increase of one district in Pennsylvania, where the district as at present formed comprises territory not contiguous, which is exceedingly disadvantageous to the business, and it is much opposed by the people there.

Mr. BURTON. In other words, you are increasing the number of districts from 63 to 64.

Mr. MARTIN of Virginia. Yes; an increase of one district.

Mr. BURTON. And you are adopting a very peculiar form of expression. Instead of saying "one additional internal-revenue collection district, with one additional collector of internal revenue, shall be created, making the number 64," this, to say the least, very ambiguous, roundabout expression is adopted of saying that "the number shall not exceed 64."

Mr. WARREN. That follows the language that was used in the legislation diminishing the number.

Mr. BURTON. Very naturally it would be used where the purpose was to diminish the number.

Mr. WARREN. It was used in the original legislation and also in the legislation diminishing the number of the districts.

The VICE PRESIDENT. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. MARTIN of Virginia. Mr. President, I offer the amendment which I send to the desk.

The VICE PRESIDENT. The amendment will be stated.

The SECRETARY. On page 65, line 1, before the word "including," it is proposed to insert the following:

Which act is hereby amended to authorize two chiefs of division at $3,500 and $2,500 per annum, respectively, in lieu of two chiefs of division at $2,500 each.

Mr. BURTON. I should like to ask whether those subordinate officials come under the civil service?

Mr. MARTIN of Virginia. I am sure that they do, but this position does not involve an appointment; it is merely an increase of salary. That is all the amendment provides for.

Mr. BURTON. There is no increase in officers——

Mr. MARTIN of Virginia. Not at all.

Mr. BURTON. But an increase of one man's salary?

Mr. MARTIN of Virginia. There are now two at $2,500, and the amendment proposes to increase the salary of one to $3,500, and to leave the other at $2,500. The collection of the income tax is an exceedingly complicated and difficult matter.

Mr. BURTON. They are existing officers whose salaries are raised?

Mr. MARTIN of Virginia. The salary of one of them is raised and the other remains where it is.

The VICE PRESIDENT. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. THOMAS. Mr. President, I should like to inquire of the chairman of the committee what was the estimate of the department for the enforcement of the income-tax law?

Mr. MARTIN of Virginia. I am very glad the question has been asked. The estimate was $1,500,000. The House appropriated a million dollars, and the result will be a deficiency. It is absolutely impossible for the department to get along with that amount. I talked with the Secretary to-day over the telephone. He was very much disturbed about the matter, and I told him that later on it could be taken up more deliberately than it could be now.

Mr. THOMAS. My reason for asking the question is that a similar statement was made to me by the commissioner, who said that the amount now carried by the bill is not enough for the proper enforcement of the income-tax law.

Mr. MARTIN of Virginia. It can not be done on the amount appropriated. The amount will have to be made a million and a half dollars.

Mr. SMOOT. Or more.

Mr. THOMAS. I move as an amendment that the figures "$1,000,000," at the end of line 5, on page 65, be stricken out and that "$1,250,000" be inserted.

Mr. MARTIN of Virginia. I suggest to the Senator to make it $1,500,000. Nothing less than that is going to suffice. Otherwise we shall have to provide for it in the deficiency bill.

The VICE PRESIDENT. Except by unanimous consent, the amendment is not now in order.

Mr. SMOOT. I want to say to the Senator from Colorado that, in my opinion, $500,000 additional will not be enough.

Mr. MARTIN of Virginia. That is my opinion.

Mr. SMOOT. If I thought that the amount suggested by the Senator from Colorado would be sufficient, I would gladly vote for it.

Mr. THOMAS. I have no desire whatever to place the amount at too small a figure, but it occurs to me that that sum might be acceptable in this bill.

Mr. MARTIN of Virginia. I hope the Senate by unanimous consent will make the amount $1,500,000. There is no use of making it less than that.

Mr. THOMAS. Very well; I will modify the amendment so as to insert "$1,500,000" in lieu of "$1,000,000."

Mr. SUTHERLAND. I make the point of order that the amendment is not now in order.

The VICE PRESIDENT. The Chair so rules.

Mr. MARTIN of Virginia. Very well; it can be provided for in the deficiency bill.

The reading of the bill was resumed.

The next amendment of the Committee on Appropriations was, under the subhead "Independent Treasury," on page 68, line 25, after "$1,500," to strike out "1, $1,400; 1, $900"; and in line 26, after the words "in all," to strike out "$27,020" and insert "$24,720," so as to make the clause read:

Office of Assistant Treasurer at San Francisco: Assistant treasurer, $4,500; cashier, who also acts as vault clerk, $3,000; bookkeeper, $2,000; paying teller, $2,400; receiving teller, $2,000; clerks—1, $2,000; 2, at $1,800 each; 1, $1,500; messenger, $840; 4 watchmen, at $720 each; in all, $24,720.

The amendment was agreed to.

The next amendment was, under the head of "Mints and assay offices," on page 69, line 9, after the words "private secretary," to strike out "$1,200" and insert "$1,400"; and in line 10, after the words "in all," to strike out "$47,200" and insert "$47,400"; so as to make the clause read:

Mint at Denver, Colo.: Superintendent, $4,500; assayer, $3,000; superintendent melting and refining department, $3,000; superintendent coining department, $2,500; chief clerk, $2,500; cashier, $2,500; deposit weigh clerk, $2,000; bookkeeper, $2,000; assistant assayer, $2,200; assayer's assistant, $2,000; assistant cashier, $1,800; clerks—2, at $2,000 each; 2, at $1,800 each; 4, at $1,600 each; 2, at $1,400 each; 1, $1,200; private secretary, $1,400; in all, $47,400.

The amendment was agreed to.

The next amendment was, on page 69, line 16, after the word "coin," to strike out "$35,000" and insert "$40,000," so as to make the clause read:

For incidental and contingent expenses, including new machinery and repairs, wastage in melting and refining department and coining department, and loss on sale of sweeps arising from the treatment of bullion and the manufacture of coin, $40,000.

The amendment was agreed to.

The next amendment was, on page 71, line 23, after "$1,700," to strike out "one $1,600" and insert "two at $1,600 each"; and in line 24, after the words "in all," to strike out "$11,450" and insert "$13,050"; so as to make the clause read:

Assay office at Seattle, Wash.: Assayer in charge, who shall also perform the duties of melter, $2,750; assistant assayer, $2,000; chief clerk, who shall also perform the duties of cashier, $2,000; clerks—1, $1,700; 2, at $1,600 each; 1, $1,400; in all, $13,050.

The amendment was agreed to.

The next amendment was, on page 72, line 1, after the word "employees," to strike out "$15,000" and insert "$17,000," so as to make the clause read:

For wages of workmen and other employees, $17,000.

The amendment was agreed to.

The next amendment was, on page 72, after line 4, to insert:

Mint at Carson, Nev.: Assayer in charge, who shall also perform the duties of melter, $2,000; assistant assayer, $1,500; chief clerk, $1,200; in all, $4,700.

For wages of workmen and other employees, $2,500.

For incidental and contingent expenses, $2,000.

Mr. NORRIS. Mr. President, I should like to inquire of the chairman of the committee, not only in regard to this item, but in regard to those referring to Salt Lake City; Helena, Mont.; Deadwood, S. Dak.; and Boise, Idaho. Were these mints and assay offices stricken out a year or two ago?

Mr. MARTIN of Virginia. They were not stricken out, but——

Mr. WARREN. The House struck them out, and the Senate put them back. The conference committee agreed on a reduction of some and doing away with one, and made its report to the Senate. The Senate sent the matter back to conference, and there was a very prolonged struggle when they were reinstated here. This year they were all estimated for.

Mr. NORRIS. Was any change made in the law?

Mr. WARREN. No.

Mr. NORRIS. Was there not some change in the law by which the President was authorized to reduce the number of these mints and assay offices?

Mr. WARREN. Not at all. It all stands as it did formerly. I think the Senator is thinking about revenue offices.

Mr. SMOOT. I will say to the Senator that a year ago there was a change in some of the salaries of the employees—that is, in the amounts. That is all the change that ever was made.

Mr. NORRIS. Why were these mints and assay offices omitted from the House bill? Why were not they provided for?

Mr. WARREN. It was because the subcommittee of the Committee on Appropriations, and later the Appropriations Committee itself, undertook to take that way of avoiding what I venture to think was their plain duty of carrying out the law and providing appropriations accordingly. The laws have provided that these various institutions be established; but the House committee did not report an appropriation for their maintenance, and the bill came to us with them left out. We reinstated them, and made appropriations for them under the law, as we felt it our duty to do. If these assay offices are to be abandoned, it should be by law, and not by failure to provide under existing law.

Mr. SHAFROTH. Mr. President, I will state to the Senator that there has been a controversy between the House and the Senate upon whether or not these assay offices should continue to exist. The controversy has existed for 20 years. It was in existence when I was in the House 18 years ago, and at every session there has been a fight upon the matter. I should like to state to the Senator why, in my judgment, these appropriations should remain.

These assay offices serve a great and a good purpose to the Government, and it seems to me the Government is damaging itself when it attempts to destroy them. The purpose that they serve is in supplying the Government with gold. We get gold at a certain price—$20.67 an ounce. We do not pay any more for it. If England raises its rate of discount, this Government still gets its gold at $20.67 an ounce. It can not get the gold in any other way than through its mints and through its assay offices. The miners deposit gold there. They have it refined there. They sell it to the Government. They do not have it coined into absolute dollars there. The result is that no matter what crisis is upon the Government, even in 1893, as much as the outflow of gold was from this country, it did not pay 1 per cent or one-tenth of 1 per cent premium upon gold.

These assay offices serve that purpose. They produce and give to the Government money at a certain fixed price. No corner, nor anything in the way of an attempt to increase the price of gold, nor the existence of a premium for exportation can change or does change the amount which the Government pays. That is a valuable service to the Government, and on that account, it seems to me, these assay offices ought to continue to exist.

I will say to the Senator that in my city—the city of Denver—we have a mint, and if these assay offices were destroyed more money would come to the mint at Denver; but it seems to me that the assay offices ought to be scattered. The Government ought to be able to take in the gold at various points and not require the miner to pay an additional amount of expressage in order to send the gold to the Denver mint or to the Philadelphia mint. The Government is getting this gold at a fixed price, exactly what it can transfer it for, and under no circumstances does it ever have to pay a premium for it. For that reason, it seems to me, these assay offices are of invaluable service to the Government.

Mr. SUTHERLAND. Mr. President, I should like to say to the Senator from Nebraska, in addition to what has been so well said by the Senator from Colorado [Mr. SHAFROTH], that these assay offices have been distributed all through the mining sections. They constitute a very great encouragement to the prospector, to the man who goes out into the mountains and discovers these mines containing the precious metal. They are a convenience to those men. In my judgment, it would be just as lacking in sense for the Government of the United States to abolish these assay offices as it would be for it to abolish a post office here and there because it does not happen to take in as much in the way of revenue as it pays out in the way of expense.

It is quite true with reference to all these assay offices that the expense of maintaining them is greater than their income, in one sense; but a vast quantity of gold is handled through them. Anywhere from a million to two or three million dollars per annum is brought to each of the various assay offices. As I say, it is a great convenience to the prospector and the miner to be able to do that. Otherwise he would have to take his little accumulation of gold dust, if he is a placer miner, or the bar of gold that has come from the mill, and send it to some remote point. It is a convenience in the same sense that a post office is a convenience.

Mr. NELSON. Mr. President, will the Senator yield to me?

Mr. SUTHERLAND. Yes, sir.

Mr. NORRIS. I will yield to the Senator.

Mr. NELSON. As I understand, these assay offices are public market places, where the miner brings his crude ore and gets pay for it?

Mr. SUTHERLAND. No; not the ore. He brings the metal.

Mr. NELSON. The crude metal, I mean.

Mr. SUTHERLAND. Yes.

Mr. NELSON. And the crude gold, before it is refined.

Mr. SUTHERLAND. Yes.

Mr. NELSON. He sells it there; the Government refines it, assays it, ascertains how much gold there is, and pays him a fixed rate?

Mr. SUTHERLAND. Precisely.

Mr. NELSON. It is a public market place for the miner?

Mr. SUTHERLAND. Yes. Now, let me say another thing to the Senator. If it had not been for these assay offices, particularly those near the Canadian border, a vast quantity of gold that came from the mines of the United States would have gone into British Columbia, because the people of British Columbia are alive to this situation just as we have been, and they have established assay offices along the Canadian border. If the miner in the near vicinity of the border were compelled to send his gold to Philadelphia or to Denver or to San Francisco, instead of doing that he would send it over to the nearest assay office in British Columbia. So this has been the means of keeping in the United States a vast deal of gold.

There is another thing to be said about it. These assay offices were established a great many years ago, and they were maintained, some of them, 15, 20, or 25 years ago, at a time when vastly less gold was brought to each of them than there is to-day. It was considered good policy in that day. If it was good policy then, with one-fourth the quantity of gold going through each of them that goes through them now, it certainly has not ceased to be good policy when three or four times, and in some cases ten times, as much is brought to the same offices now. It is not a large expenditure in the aggregate. There are perhaps 8 or 10 of the offices altogether, and the aggregate expense of maintaining them all is probably not $50,000.

Mr. NORRIS. Mr. President——

Mr. BRADY rose.

Mr. NORRIS. I yield to the Senator, if he desires to interrupt now.

Mr. BRADY. Mr. President, the statements made by the Senator from Colorado [Mr. SHAFROTH] and the Senator from Utah [Mr. SUTHERLAND] are along the same line of thought that I would have expressed; but I wish to say further with reference to the assay office at Boise, Idaho, that office has been established for over 45 years. It was established simply for the benefit of the small miner.

There are men who are bringing gold dust to the Boise assay office who have been going out to the hills, bringing it in, getting their small allowance for it, going back and working again and discovering more mines, for years and years. It is just simply a market for the product of their toil.

A great deal of the expense that is charged up to the assay office should be charged up to the mint, because they charge the assay office with the freight on the gold from the assay office to the mint; and in abandoning these assay offices, if you will notice, they only abandon the offices in the West, and they

appropriate $50,000 for an assay office at New York. They have lately, I understand, made a rule that they will not accept shipments of less than $500; and the miners have to club together in order to get shipments enough to justify them in sending them to the mint.

The abandonment of these offices will certainly work a very great hardship on the miners of the West. I know, from my knowledge of the sense of fairness of the Senator from Nebraska, that if he understood the conditions as we in the West understand them he would not only not object to this appropriation but he would use his best efforts to see that these small miners are permitted to have a market for their gold as they produce it without having to ship it to Denver or New York.

Mr. NORRIS. Mr. President of course I am not posted like the Senators are who have just been talking about these assay offices. In a general way only I knew that there was some sort of a controversy; and as I understood it, and as I still understand it, although I may be wrong, a great many of these assay offices are kept up, at an expense to the Government, where they do not do enough business to pay the expense of operating the offices. As I understand, that is true of several of them, at least.

I will ask the Senator from Idaho what the facts are in regard to Boise, in his State. Does it cost the Government more to keep up the office at Boise than the returns from the office yield?

Mr. BRADY. As a matter of bookkeeping, it does cost a small amount more than the actual receipts to maintain these offices—not only one, but all of them—but they require the assay office to pay the freight or express on the gold to the mint, while, as a matter of right, it should be charged to the mint.

Mr. NORRIS. Yes.

Mr. BRADY. If they did not do that, the result would be different, and the assay offices of the West would pay expenses.

Mr. NORRIS. Where do they send the gold from Boise?

Mr. BRADY. They send it to Denver, San Francisco, and New York. If they would charge that expense to the mint, where it should be charged, instead of charging it to the assay office, it would show a profit.

Mr. NORRIS. I suppose the assay office at Boise sends its gold to the mint at Denver, does it not?

Mr. BRADY. Yes; most of it to Denver.

Mr. NORRIS. Does the Senator from Idaho agree with the Senator from Utah that these assay offices are public market places where the miners can bring in their gold and have it assayed?

Mr. BRADY. Yes; there is no question about it.

Mr. NORRIS. And save the expense of shipping it?

Mr. BRADY. The expense of shipping is charged to the assay office, while we claim it should be charged to the mint, but it also saves time.

Mr. NORRIS. Then, will the Senator tell us why there should be an assay office at New York? Does anybody carry gold there?

Mr. BRADY. They are trying to compel them to do it, and they will do it if you abandon these assay offices. There are large shipments that should go to New York, but the local assay offices are necessary for the encouragement of the small miner.

Mr. NORRIS. We are appropriating here $51,000 for an assay office in New York.

Mr. BRADY. That is true, but if you abandon the assay offices in the West we will have to send all of our gold to New York, Denver, and the other mints, and it will put the small miner out of business.

Mr. NORRIS. The matter I wanted to bring particularly to the attention of the Senator was that if these assay offices are public market places, like post offices, where miners in the vicinity digging gold can bring it in, why is there any necessity for having one in New York City?

Mr. THOMAS. Mr. President——

The VICE PRESIDENT. Does the Senator from Nebraska yield to the Senator from Colorado?

Mr. NORRIS. Just as soon as I have finished with the Senator from Idaho.

Mr. BRADY. There should be one in New York for large shipments and also for foreign business, but the local miner can not afford to ship to New York. That is one reason why we say assay offices should be maintained in the West, where the gold is produced, rather than to compel the miner to ship the ore from the Western States to New York.

Mr. NORRIS. I am not trying to do away with the assay offices in one locality and keep them in another unless there is reason for doing it. I am trying to get at the facts. The reason given here for retaining these offices is that otherwise miners can not bring in their gold and have it assayed. If that is true, then there is not any necessity for keeping an assay office in a section of the country where there is no gold mined.

Mr. THOMAS. Mr. President——

The VICE PRESIDENT. The Chair has already inquired of the Senator from Nebraska whether he would yield to the Senator from Colorado, and the Senator from Nebraska has declined to yield at this time.

Mr. BRADY. I think probably it is necessary to have an assay office at New York, for the reason that some mines ship their gold to New York because it is a larger and a greater market; but, on the other hand, there is absolutely——

Mr. NORRIS. Where do they get the gold that they assay in New York? Where does it come from?

Mr. BRADY. From all over the United States and abroad.

Mr. THOMAS. Mr. President, if the Senator will permit me, I can answer that question.

Mr. NORRIS. I can not yield to two Senators at once. I will yield to the Senator from Colorado as soon as the Senator from Idaho gets through.

I did not hear the answer the Senator from Idaho made to my question.

Mr. BRADY. I say, there is a necessity for an assay office at New York, because there are people from all parts of the mining States who will choose to ship their gold to some of the large centers. In other words, New York is our greatest gold market. The Senator from Utah [Mr. SUTHERLAND] or the Senator from Colorado [Mr. SHAFROTH] will explain more fully why that is done, because they are engaged more closely in connection with the mining business; but New York has a large assay office. Gold is shipped there from all parts of the world as well as from the mining States; but at the same time the small miner, who only produces a small amount of gold, takes his gold to the local assay office and receives the cash for it at once. This is a great advantage to the miner and prospector, for they can not afford to wait for returns from New York or Denver.

Mr. NORRIS. Then, as I understand, the assay offices in the West are particularly beneficial to the small miner, while the large assay offices, like that in New York City, are utilized to accommodate the large miner?

Mr. BRADY. That is quite true. There is a large amount assayed in the western offices, and also large shipments made to New York and Denver. The Senator from Utah can give you a report showing more in detail relative to that, and I will ask him to do so. The reason why we want the assay offices maintained in the West, however, as they have been, is because they are already established. It is just as the Senator from Utah says about the post office. They have been there for years. The Government owns the land on which the assay offices are located. The miners of Idaho send their gold to the assay office at Boise City; the men near the assay office in Montana send theirs to that office; the men near the Salt Lake City assay office send their gold to that office; and in that way it gives a local market and encourages the mining business just exactly the same as we are encouraging agriculture; and there can be no good reason given why the western assay offices should be abandoned. The West produces the gold of this country, and the miner and prospector should have a home market for his gold, and should not have to wait for returns from Denver or New York.

Mr. NORRIS. Evidently that could not be wholly true or there would not be anybody sending any gold to the New York assay office.

Mr. BRADY. The Senator from Utah——

Mr. NORRIS. I promised first to yield to the Senator from Colorado, and I now yield to him.

Mr. THOMAS. The Senator from Nebraska asked the Senator from Idaho a question as to why it is necessary that the Government should maintain an assay office at New York, if I properly understood his question, because of the reasons which were given by the Senator from Idaho for the maintenance of these assay offices. The assay office in New York is a very large institution, and it is used by the Government perhaps as much for refining purposes as for assay purposes. The Senator probably knows that gold which is purchased by the Government at these assay offices and from the mines and the banks is not pure. It is almost always mixed with silver and frequently contains other metals which must be separated and for which allowance is made in the purchase price paid to the miner or to the owner. That work is done very largely at the assay office in New York, which is the oldest Government as-

say office in the country and now has assumed very large proportions.

Of course some of the refining is done at the mints, but a great deal of it is done in the city of New York. There also tests are made which are designed as a sort of check for the tests which are made at the points of purchase. Its functions, in other words, are possibly the same but very much larger than the assay offices which are the subject matter of this amendment.

Mr. SHAFROTH. I should like to supplement that——

Mr. NORRIS. Let me get through with the Senator's colleague first. I will be glad to yield later on.

Mr. SHAFROTH. All right.

Mr. NORRIS. I wish to ask the Senator from Colorado, who evidently is very well posted on this question, whether the operations carried on at an assay office complete the transaction or whether there must be an assay office and also a mint. The assay office does not coin the gold, I understand.

Mr. THOMAS. No; the assay office is a sort of annex to the mint.

Mr. NORRIS. After the gold is assayed and its value determined, it is sent to the mint, I understand, from the assay office.

Mr. THOMAS. Yes; although some of the mints, I think, are equipped with refining facilities as well.

Mr. NORRIS. I notice that in some of the places where they have assay offices they do not have mints. Now, I want to ask the Senator how the assay office in New York is kept busy.

Mr. THOMAS. It is kept busy in refining and determining the aliquot constituents of the metals which are sent there for that purpose. If the Senator has a gold mine and obtains from the ores a bar of gold, that bar will contain inevitably some silver, doubtless some lead, and probably some copper, or some one or more of these additional metals.

As I understand it, the great part of the Government's purchases of bullion is taken to New York and there the different elements that enter into the bar are separated. Of course, it also carries on a Government assay business, and I think at present it is very largely an annex of the Philadelphia Mint for those purposes. The Government also purchases a great deal of its gold bullion at that mint, which is sent there by banks. For example, the First National Bank of Denver may purchase from the Independence mine at Cripple Creek. It is sold to the bank instead of the mint, as is sometimes the case. That bank will in all probability send that consignment of gold to its correspondent in New York, New York being the great financial center of the country, and in that way it will reach the assay office there.

Mr. NORRIS. In that transaction the gold shipped to New York would not be in the form of coin?

Mr. THOMAS. No; it would be gold bullion.

Mr. NORRIS. Why would the banks in Denver prefer to send the gold in that shape to New York, rather than to take it to the mint in Denver?

Mr. THOMAS. Gold bars are used now perhaps for the purpose of settling exchanges very much more than gold coin. The use in that way is becoming more and more common.

Mr. NORRIS. This would be in the shape of gold bars.

Mr. THOMAS. In the shape of gold bars; and the amount of gold in them would be the result of the official test of the assay office in New York, and could be thus used and would be used in determining exchanges, as is very frequently done, instead of using the coined metal.

Mr. NORRIS. Would the bank in Denver send direct to the assay office in New York?

Mr. THOMAS. It would probably send to its own correspondent.

Mr. NORRIS. And then its correspondent would take it to the assay office?

Mr. THOMAS. Yes.

Mr. NORRIS. That would not be gold of the same grade as gold that would be entitled to coinage? There would be impurities in it?

Mr. THOMAS. In all probability there would not be. Generally speaking, the amount of alloy in gold bullion which is thus sold is less than the amount that is in the coined metal.

Mr. NORRIS. If that is one of the reasons for keeping up the assay office at New York, is the Government justified in maintaining an assay office in New York and doing this work for the purpose of assisting in financial transactions as in the case of a man who sells gold bars to a bank in Denver?

Mr. THOMAS. That is a proposition I would not attempt to discuss just now. In fact, I do not know that I would be competent to discuss it in all its phases, but I am satisfied if the Government were reduced to the necessity of choosing between assay offices it would select the one in New York in preference to all the others.

Mr. NORRIS. I will ask the Senator before he takes his seat, for the purpose of trying to get at the facts, what proportion of gold in the western assay offices is brought to the office in person by the miner?

Mr. THOMAS. Brought to New York?

Mr. NORRIS. No; not to New York. I do not suppose anyone will contend that the miner carries the gold to New York.

Mr. THOMAS. I do not know as to that. I do not think that is done, although probably it is.

Mr. NORRIS. I understood the Senator from Idaho to say, and I am not sure but the Senator from Utah said, that one of the reasons for retaining these western offices is to make a sort of public market place where the miner can carry his gold.

Mr. THOMAS. I think that is correct, but the Senator asked me about the proportion. I think the proportion of gold that reaches the assay office in New York is very much more than the proportion of gold that is sold to these assay offices, and that is why I answered as I did.

Mr. NORRIS. I was asking the Senator about the proportion of gold that is assayed in any western assay office with which he is familiar.

Mr. THOMAS. As to that the Senator from Utah and the Senator from Idaho can answer better than I, because none of the assay offices mentioned in this amendment are situated in the State of Colorado. We have a mint in the city of Denver that is a clearing house for that section of country.

Mr. NORRIS. The mint answers the purpose both of a mint and an assay office, does it not?

Mr. THOMAS. That mint does. We have had no Government assay office in Colorado since we have had a mint.

Mr. NORRIS. I yield now to the Senator from Utah [Mr. SUTHERLAND].

Mr. SUTHERLAND. The situation in the mining States, where these assay offices are located, is this: Some of the gold is in placer form. When that gold is picked up it is almost pure. It comes in the form sometimes of small nuggets, sometimes in very small grains like sand, but it is practically pure gold. There is some little foreign material in it. Gold of this character comes in small quantities. A prospector will get a little accumulation of it, $200 worth, perhaps, or less, and he takes it to an assay office.

Then another kind of gold is produced by what is called the cyanide process; that is, the gold occurs in certain forms where the rock is free, a term used by miners indicating that the gold is readily separated, not carrying base metals with it.

We have had in my own State a district where the gold was all separated by the cyanide process, and the product ran up to a million dollars a year at one time in that district, perhaps more. That gold comes in a reasonably pure state.

The greater portion of gold, however, is found associated with other metals. We find in our mines containing lead that there will be associated with the lead silver, gold, or copper, or two of these metals, or all three of them. Those ores are reduced and the whole metallic content is run in the form of a matte. You get a great pig of lead and call it "lead matte" because the lead predominates. If copper predominates it is called "copper matte." Associated with the copper or in the copper matte is not only copper but some gold. We have in the West no refining works where the gold is separated from that matte.

Mr. NORRIS. I ask the Senator is that a part of the work of an assay office?

Mr. SUTHERLAND. No; that material does not go to the local assay offices at all. Copper matte is produced in vast quantities. I have forgotten the figures and I would not undertake to give them, but we are producing in my own State a very large quantity of copper. All that copper matte contains some gold. It can not be separated there because we have no refining works, but it is all shipped to the vicinity of New York where the great refining works are. New York in that way becomes a great clearing house, so that the copper matte from Utah, the copper matte from Montana, the copper matte from other States, perhaps from Mexico, is shipped to these refining works.

When gold is separated in the refining works it is still not absolutely pure. It still contains some base material and perhaps some silver and has to be assayed in order to ascertain the gold content. That goes to the assay office in New York—a vast quantity of it—I think very much exceeding that which goes to these local offices.

Mr. NORRIS. I ask the Senator why that goes to New York? Why does it not go to an assay office in the vicinity?

Mr. SUTHERLAND. Because so small a portion is gold. There will be a great bar of copper and only an ounce or a few ounces of gold in it, and perhaps a few ounces of silver.

Mr. NORRIS. That has not been refined?

Mr. SUTHERLAND. It has not been refined, and there are no refining works in that vicinity where it can be refined.

Mr. NORRIS. The first thing to do would be to send it to a place where it could be refined.

Mr. SUTHERLAND. To the refining works in New Jersey.

Mr. NORRIS. It would go to the assay office in New York.

Mr. SUTHERLAND. Then when refined and the gold separated from the copper the gold is taken to the assay office. That is one way, of course. There can be another way——

Mr. NORRIS. Were the five assay offices that are included in this amendment and not included in the House bill included last year?

Mr. SUTHERLAND. No; they were excluded from the bill by the House.

Mr. NORRIS. I mean the bill as it finally became the law.

Mr. SUTHERLAND. No; they are in the law. I have here a copy of the law of last year.

Mr. NORRIS. They are in operation now?

Mr. SUTHERLAND. Yes.

Mr. NORRIS. I had the impression that in conference the Senate receded finally.

Mr. SUTHERLAND. No; they are in the law.

Let me say another thing to the Senator. Each of these assay offices has been created by a general law establishing the office, and the effort is being made not to repeal that law, which would be the direct way of doing it, but to let the law remain upon the books and strangle the offices by refusing appropriations. They have all the machinery there; they have their force of employees at work; and if we are to maintain the law upon the statute books, we ought to appropriate money to carry the law into operation, or if not, to repeal the law.

Mr. NORRIS. I yield to the Senator from Colorado.

Mr. SHAFROTH. Mr. President, the Senator has asked what is the necessity for an assay office at New York City. I will state to him what I understand are the necessities of that office. It arises from the fact that the United States has made gold the money of the United States and it is desirable for the United States to attract gold for the purpose of having a supply of it in the country. Therefore free coinage of gold has existed in the United States and exists in nearly every other country. There is a little inducement made by this opportunity to have gold assayed and the exact number of ounces and the purity of the same stamped on the bar.

New York City is a great import city. It gets shipments of everything from all over the world. There naturally comes there from all over the world some quantity of gold in some form, and the purpose is to get it assayed, that the Government may get hold of it. So the Government can buy it at the rate of $20.67 an ounce, and by reason of that never have to pay a premium on the gold.

New York is also a commercial center, where a great many things in the way of manufacturing gold take place. A great deal of old jewelry is brought in, I understand, for the purpose of being melted into bars—probably both silver and gold.

All that makes New York the one point in the East above all others where it is desirable to have an assay office. It is the gathering together of this metal which all nations are struggling for and want to induce shipments of in a manner that will get to the Government the cheapest and the greatest quantity of gold.

Mr. NORRIS. Does the Senator say that old jewelry and such gold as that is brought to the assay office in New York?

Mr. SHAFROTH. I so understand.

Mr. NORRIS. And then the Government officials melt that up into gold bars?

Mr. SHAFROTH. Yes; into gold bars, stamping on the bar the number of ounces and the purity of the bar, and that acts practically as a circulating medium between the banks.

Mr. NORRIS. So that anyone who wanted to buy it, including the Government, on going to the assay office would know from the stamp of the assay office exactly how much gold was contained in it?

Mr. SHAFROTH. Yes, sir.

Mr. NORRIS. They would buy that, and it would enter into the transactions of business?

Mr. SHAFROTH. Those bars are very largely owned by banks, and when the shipment is made to Europe the shipment is not in coin, because the abrasion is so great. There is a loss of $256 on every $1,000,000 of coin shipped between the United States and London.

Mr. NORRIS. And they ship these bars?

Mr. SHAFROTH. Yes, sir.

Mr. NORRIS. I suppose the stamp of the assay office is accepted everywhere in the civilized world?

Mr. SHAFROTH. Oh, yes; there is no doubt of it. The Government stamp imports absolute verity. For that reason New York is the proper place in the eastern part of the country to have an assay office.

Mr. NORRIS. Does the Senator think it is necessary for us to retain all these assay offices and mints?

Mr. SHAFROTH. I think so.

Mr. NORRIS. Let us take the mint at Carson City, for instance.

Mr. SHAFROTH. There is a great production of gold in Nevada. I think Nevada produces now somewhere near $14,000,000 or $15,000,000 of gold a year.

Mr. NORRIS. But there is a large portion of that that is shipped to the New York assay office and does not reach the Carson City Mint.

Mr. SHAFROTH. Most of it, I think, would go to the assay office at Carson City. Some of it drifts.

Mr. NORRIS. If it had to be refined, would it not have to go east, as the Senator from Utah [Mr. SUTHERLAND] has explained, to the refiner before it could reach the assay office?

Mr. SHAFROTH. No; because each one of these assay offices has a refinery.

Mr. NORRIS. In the West?

Mr. SHAFROTH. Yes.

Mr. NORRIS. I understood the Senator from Utah to say that one of the reasons why we ought to keep up the assay office in New York is because a great deal of gold comes East to be refined and is shipped back to the West.

Mr. SUTHERLAND. The Senator from Colorado does not mean a refinery in which the great bars of lead and copper and gold and silver are separated?

Mr. SHAFROTH. Oh, no; those are smelters. Those smelters produce gold bars, too, but they are not stamped, or their stamp would not be accepted by the banks.

Mr. NORRIS. I understand that; but those gold bars could be shipped to an assay office in the West just as well as to an assay office in the East.

As I understand the argument of the Senator from Utah, it is in favor of the New York assay office; that there is a large amount of gold of such a condition that it is not fit to be taken even to the assay office; that it is shipped to a refinery in New Jersey, and there it is refined and, although not absolutely pure, it is sent to the New York assay office. The Senator from Colorado, it seems to me, if his argument is good, absolutely contradicts that statement. He says that they do not refine that in the West in these various places.

Mr. SUTHERLAND. No; the statement of the Senator from Colorado does not differ from the statement which I have made. The Senator from Colorado was not referring to the refineries to which this copper matte and lead matte can be taken.

Mr. NORRIS. Copper matte and lead matte are just a conglomeration of various metals melted together. Is not that correct?

Mr. SUTHERLAND. Precisely.

Mr. NORRIS. They have to be refined.

Mr. SUTHERLAND. For example, in the Utah Copper Co.'s mines, which are among the greatest copper mines in the world, the ores carry less than 2 per cent copper. Those great reduction works handle, I think, now over 6,000 tons a day of the ore containing less than 2 per cent copper. The metallic content of that crude ore is run out through this process into bars. The bars are large, and they contain in the main copper. There will be in two or three hundred pounds of copper matte, as I have said, only a few ounces, perhaps only an ounce of gold. There are no facilities in the West for separating the gold from that kind of material.

Mr. NORRIS. That is the kind that goes to New York?

Mr. SUTHERLAND. That is the kind that goes to the refineries in New Jersey, or wherever they may be located.

Mr. NORRIS. It seems to me, although I know very little about it, that possibly we are maintaining too many assay offices and perhaps too many men. I do not believe there is anything in the argument that the assay offices ought to be retained because they have been in existence 40 years any more than that we should retain a post office that has been in existence for 40 years after it has ceased to be necessary and when it can be abandoned as a practical business proposition. I am not saying that the assay offices ought to be abandoned. I do not know enough about the matter to make that statement, but I do know that a great many men who have studied the ques-

tion think so, and I think perhaps the House of Representatives as a body believes that. Neither does it appeal to me from what has been developed here that the assay offices ought to be retained simply because they make headquarters where miners can bring their gold and have it assayed. If that is necessary, there ought to be a great many more assay offices. I do not suppose in any of the places where there are assay offices that there are sufficient mines to keep the assay offices going; but, as the Senator from Colorado has said, most of the gold that comes to them has to be shipped in there, anyway. It was only as a matter of economy, I think, that the House has cut out this appropriation, for I understand that the assay offices were put in at various times in the Senate, as I think it is claimed, attached to some appropriation bill.

Mr. WARREN. No, Mr. President, the Senator is mistaken. The assay offices were established by law, and if they are abolished by law then the provision for their maintenance would not appear in the appropriation bill, but the law creating them stands on the statute books.

Mr. NORRIS. I am speaking of the origin of the law. I do not suppose all of them were created in that way.

Mr. SUTHERLAND. They were created by an absolutely separate and distinct law. The law which created the assay office at Salt Lake City I myself introduced many years ago, when it was passed. It is a separate and distinct law upon the statute books and not a provision in an appropriation bill at all.

Mr. NORRIS. That may apply to the Salt Lake City assay office; and I should think Salt Lake City would be a very proper place for an assay office.

Mr. BRADY. Mr. President, I want to say a word relative to the five assay offices for which an appropriation is sought. They are in operation and have been in operation for many years. The Boise office has been in operation since 1869. Last year it handled $1,022,887.29 worth of gold. The fact of the matter is that this simply, as I said before, makes a local market for the gold produced by the miners. The law provides for every one of them. Appropriations have always been made for maintenance and operation, and the House has no right to try to destroy one of our greatest industries by refusing to maintain them; and I know the committee was justified in recommending this amendment, and I hope that it will prevail.

The VICE PRESIDENT. The question is on agreeing to the amendment relating to the mint at Carson City, Nev., on page 72.

The amendment was agreed to.

The reading of the bill was resumed.

The next amendment of the Committee on Appropriations was, on page 72, after line 9, to insert:

Assay office at Boise, Idaho: Assayer in charge, who shall also perform the duties of melter, $2,000; assistant assayer, $1,500; chief clerk, who shall also perform the duties of cashier, $1,200; in all, $4,700.
For wages of workmen and other employees, $3,000.
For incidental and contingent expenses, $2,000.

The amendment was agreed to.

The next amendment was, on page 72, after line 15, to insert:

Assay office at Deadwood, S. Dak.: Assayer in charge, who shall also perform the duties of melter, $2,000; assistant assayer, $1,500; clerk, $1,200; in all, $4,700.
For wages of workmen and other employees, $3,000.
For incidental and contingent expenses, new machinery, etc., $1,500.

The amendment was agreed to.

The next amendment was, on page 72, after line 22, to insert:

Assay office at Helena, Mont.: Assayer in charge, $2,000; chief clerk, who shall also perform the duties of cashier, $1,400; assistant assayer, $1,500; in all, $4,900.
For wages of workmen and other employees, $3,000.
For incidental and contingent expenses, $2,000.

The amendment was agreed to.

The next amendment was, on page 73, after line 1, to insert:

Assay office at Salt Lake City, Utah: Assayer in charge, who shall also perform the duties of melter, $2,000; assistant assayer, $1,500; chief clerk, who shall also perform the duties of cashier, $1,200; in all, $4,700.
For wages of workmen and other employees, $2,500.
For incidental and contingent expenses, $2,000.

Mr. SUTHERLAND. Mr. President, I desire to offer an amendment to the amendment. On page 73, line 4, I move to strike out the words "assistant assayer, $1,500"; in line 5, to strike out "$1,200" and insert "$1,600"; and to strike out the total, "$4,700," and insert "$3,600."

I offer that amendment for this reason: The committee amendment provides for three officials—assayer in charge, at a salary of $2,000; assistant assayer, at a salary of $1,500; and a chief clerk, at a salary of $1,200. The fact is that in that office the assayer in charge is himself a practical assayer and a very good one; the chief clerk at that office is also a practical assayer and a very good one; so at that particular office those two men can do the work, and an assistant assayer is not needed. The chief clerk heretofore has been receiving $1,600 per annum. His compensation by the committee amendment is cut to $1,200; so that by striking out the provision with reference to the assistant assayer and putting the salary of the chief clerk back where it was and where it ought to be, at $1,600, there would be a net saving of $1,100.

Mr. MARTIN of Virginia. I accept that amendment and shall be very glad to see it adopted.

The VICE PRESIDENT. The question is on the amendment of the Senator from Utah to the amendment reported by the committee.

The amendment to the amendment was agreed to.

The amendment as amended was agreed to.

Mr. STONE. Mr. President——

Mr. MARTIN of Virginia. Mr. President, I ask unanimous consent that the bill may be temporarily laid aside in order that the Senator from Missouri may make the motion which I know he contemplates making. In doing so, I desire to give notice that to-morrow morning after the conclusion of the morning business I will ask the Senate to take up this bill again, as I am exceedingly anxious to finish it to-morrow.

The VICE PRESIDENT. Without objection, the bill will be temporarily laid aside.

EXECUTIVE SESSION.

Mr. STONE. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to, and the Senate proceeded to the consideration of executive business. After 5 minutes spent in executive session the doors were reopened, and (at 5 o'clock and 35 minutes p. m.) the Senate adjourned until to-morrow, Saturday, June 13, 1914, at 11 o'clock a. m.

NOMINATIONS.

Executive nominations received by the Senate June 12, 1914.

AMBASSADOR TO FRANCE.

WILLIAM G. SHARP, of Elyria, Ohio, to be ambassador extraordinary and plenipotentiary of the United States of America to France, vice Myron T. Herrick, resigned.

REGISTERS OF THE LAND OFFICE.

Frank S. Heer, of Silver City, Idaho, to be register of the land office at Boise, Idaho, vice William Balderston, deceased.

John D. Roche, of Los Angeles, Cal., to be register of the land office at Los Angeles, Cal., vice Frank Buren, term expired.

RECEIVER OF PUBLIC MONEYS.

Alexander Mitchell, of Glendale, Cal., to be receiver of public moneys at Los Angeles, Cal., vice Oliver R. W. Robinson, term expired.

PROMOTIONS AND APPOINTMENT IN THE NAVY.

Lieut. Commander Edwin H. De Lany to be a commander in the Navy from the 10th day of March, 1914.

Lieut. Percy W. Foote to be a lieutenant commander in the Navy from the 9th day of April, 1914.

Lieut. (Junior Grade) Charles R. Clark to be a lieutenant in the Navy from the 9th day of April, 1914.

Julius F. Neuberger, a citizen of Oregon, to be an assistant surgeon in the Medical Reserve Corps of the Navy from the 4th day of June, 1914.

Asst. Surg. Luther Sheldon, jr., to be a passed assistant surgeon in the Navy from the 24th day of December, 1913.

Passed Asst. Paymaster John M. Hancock to be a paymaster in the Navy from the 20th day of August, 1913.

First Lieut. Edward B. Cole to be a captain in the Marine Corps from the 9th day of June, 1914.

Second Lieut. Adolph B. Miller to be a first lieutenant in the Marine Corps, to fill a vacancy occurring February 25, 1914, and to take rank from February 5, 1914.

CONFIRMATIONS.

Executive nominations confirmed by the Senate June 12, 1914.

POSTMASTERS.

OHIO.

William D. Caldwell, Canton.
William E. Warren, Leetonia.

VIRGINIA.

Robert T. Montgomery, Colonial Beach.

HOUSE OF REPRESENTATIVES.

FRIDAY, *June 12, 1914.*

The House met at 12 o'clock noon.

The House was called to order by the Speaker pro tempore, Mr. DIXON.

Rev. John T. Huddle, of St. Paul's Lutheran Church, Washington, D. C., offered the following prayer:

Our Father's God and ours, with reverence we come into Thy conscious presence, believing that Thou art and that Thou dost respond sympathetically to the appeals and aspirations of all those who diligently seek Thee. We rejoice that in Thee the God of love of law centers, and that back of the forces of nature the affairs of nations and the revolutions of generations Thou doth stand, keeping watch over the achievements of men and the changes of time, bending them all toward that far-off divine event toward which the whole creation moves.

We thank Thee for the close and intimate relationship that we sustain to Thee, being made in Thine image, a little lower than the angels, crowned with glory and honor and set over the works of Thy hand. Impress us deeply with the sense of consequent responsibility resting upon us. May we feel the noblesse oblige of exalted leadership, realizing that we came from God and go to God. May we lay aside every weight and give ourselves unreservedly to the tasks of life, inspired by the highest ideals and actuated by the purest motives. May we go forward to the duties of this day in Thy fear and for Thy glory, and as our day may our strength and our wisdom be, and when our work is finished and we are called to stand before Thee to give account of our stewardship, may we hear Thy welcome "Well done," and enter into the joy with which a useful and unselfish life rewards the faithful at evening time. And Thine shall be the praise, through Jesus Christ our Lord. Amen.

The Journal of the proceedings of yesterday was read and approved.

IMPEACHMENT OF JUDGE ALSTON G. DAYTON.

Mr. NEELY of West Virginia. Mr. Speaker, I rise to a question of the highest privilege. By virtue of my office as a Member of the House of Representatives, I impeach Alston G. Dayton, judge of the District Court of the United States for the Northern District of West Virginia, of high crimes and misdemeanors.

I charge him with having unlawfully conspired with certain corporations and individuals to bring about the removal of John J. Jackson as judge of the District Court of the United States for the Northern District of West Virginia, in order that he, the said Dayton, might be appointed to fill the vacancy in said office.

I charge him with showing marked favoritism to certain corporations having extensive litigation in his court.

I charge him with having had summoned on grand juries in practically every instance wherein grand juries have been impaneled by him persons connected with certain corporations, to which he has shown marked favoritism during his term of office, and with having summoned to serve on petit juries in his court the agents, servants, and representatives of said corporations.

I charge him with having assisted his son, Arthur Dayton, who is a young attorney practicing in his court, in the preparation of the defense and trial of numerous cases against certain corporations for which the said Arthur Dayton is attorney, which cases were tried before him, the said Alston G. Dayton, and I further charge him with unlawfully using his high office and influence in behalf of said corporations.

I charge him with abusing his power and influence as judge to further the interests of his son, Arthur Dayton, in this, that he, the said Alston G. Dayton, advises litigants in his court to discharge other lawyers representing such litigants, stating to such litigants that their lawyers will not be honest with them relative to their litigation, and that they ought to employ his son, Arthur Dayton, to represent them in such litigation pending in his court and other courts.

I charge him with using the funds of the United States for an improper purpose in this, that the stenographer and janitor employed in his office do the work for both him and the said Arthur Dayton, the Government paying the salaries therefor.

I charge him with having violated the acts of Congress regulating the selection of jurors.

I charge him with having actively engaged in politics and with having used his high office as judge to further the political ambitions and aspirations of his friends.

I charge him with lending his services, as judge, to the coal operators of West Virginia by improperly issuing injunctions to prevent the miners from exercising their just and legal rights under the laws of the State of West Virginia and of the United States, and further charge him with showing hatred and bitterness toward certain miners on trial in his court for alleged violation of injunctions awarded by him; and further charge him with using his office as judge to discourage and prevent said miners from exercising their lawful right to organize and peaceably assemble under the laws of the United States and the State of West Virginia.

I charge him with having wrongfully expressed his own opinions, in charging grand juries in his court, relative to politics and other matters not the subject of investigation before him.

I charge him with having conspired with certain corporations and individuals in the formation of a carbon trust, in flagrant violation of law, the object of which was to control the sale of practically all the carbon black manufactured in the United States, the said Dayton being largely interested in the manufacture of such product.

I charge him with having unlawfully had an order entered staying a certain proceeding, the object of which was the condemnation of a lot in Philippi, W. Va., for a site for a Federal building, in order that he might substitute a different location near his home and upon which he held an option.

I charge him with having publicly denounced the President of the United States from the bench and before a jury.

I charge him with having unlawfully used the funds of the United States Government for his own private use in this, that one Henry Wright, who has for many years been paid a salary by the Government for acting as a messenger for said court, has never performed the duties of his office, but has performed the services of a domestic in the home of said Dayton at Philippi, W. Va.

I charge him with having wrongfully collected from the Government money or funds as expenses not due or allowed to him under the statute which allows him his actual expenses while holding court away from his judicial residence.

I charge him with having wrongfully kept open the books of his court at Philippi, W. Va., while the court was ostensibly in session, but while no business or court matters were being transacted by him, for the sole purpose of enabling his court criers and bailiffs to draw pay.

I charge him with having, in open court and before a jury, accused witnesses of swearing falsely in cases then on trial before him.

I charge him with having directed the marshal of his district to refuse to pay the fees of witnesses whom he had accused of testifying falsely.

I charge him with having refused to enforce certain laws of the United States, stating from the bench that such laws are not right.

I charge him with having openly denounced and criticized from the bench and before a jury the United States Supreme Court for having adopted the rules of procedure now in force.

I charge him with having discharged jurors for rendering verdicts not agreeable to him.

I charge him with having openly stated that he would not permit the United Mine Workers of America to exist within the jurisdiction of his court.

I charge him with having refused to permit certain defendants in a case in his court to have an interpreter, so that they could defend themselves against the charge of violating an injunction.

I charge him with having stated in open court that the United Mine Workers of America are criminal conspirators.

I charge him with being so prejudiced as to unfit him temperamentally to hold a judicial office.

I charge him with being guilty of various other acts of personal and judicial misconduct for which he should be impeached.

Mr. Speaker, in accordance with the precedents of the House in like cases, I submit the following resolution, which I send to the Clerk's desk.

The SPEAKER pro tempore. The Clerk will report the resolution.

The Clerk read as follows:

House resolution 541.

Resolved, That the Committee on the Judiciary be directed to inquire and report whether the action of this House is necessary concerning the alleged official misconduct of Alston G. Dayton; whether he has unlawfully conspired with certain corporations and individuals to bring about the removal from office of the late John J. Jackson, judge of the District Court of the United States for the Northern District of West Virginia; whether he has shown marked favoritism to certain corporations having extensive litigation in his court; whether he has had summoned on juries in his court persons connected with certain corporations to which he has shown marked favoritism during his term of office; whether he has assisted his son, Arthur Dayton,

in the preparation of the defense and trial of numerous cases against certain corporations for which the said Arthur Dayton is attorney, which cases were tried before him, the said Alston G. Dayton, and whether he has unlawfully used his high office and influence in behalf of said corporations; whether he has abused his power and influence as judge to further the interests of his son, Arthur Dayton; whether he has used the funds of the United States for an improper purpose; whether he has violated the acts of Congress regulating the selection of jurors; whether he has actively engaged in politics and used his high office as judge to further the political ambitions and aspirations of his friends; whether he has lent his services as judge to the coal operators of West Virginia by improperly issuing injunctions; whether he has shown hatred and bitterness toward miners on trial in his court; whether he has used his office as judge to discourage and prevent said miners from exercising their lawful right to organize and peaceably assemble under the laws of the United States and the State of West Virginia; whether he has wrongfully expressed his own opinions in charging grand juries in his court; whether he has conspired with certain corporations and individuals in the formation of a carbon trust in violation of law; whether he has unlawfully had an order entered staying a proceeding the object of which was the condemnation of a lot in Philippi, W. Va., for a site for a Federal building; whether he has publicly denounced the President of the United States from the bench and before a jury; whether he has unlawfully used the funds of the United States Government for his own private use; whether he has wrongfully collected from the Government funds as expenses not due or allowed to him under the statute; whether he has wrongfully kept open the books of his court at Philippi, W. Va.; whether he has, in open court and before a jury, accused witnesses of swearing falsely in cases then on trial before him; whether he has directed the marshal of his district to refuse to pay the fees of witnesses whom he had accused of testifying falsely; whether he has refused to enforce certain laws of the United States; whether he has openly denounced and criticized the United States Supreme Court; whether he has discharged jurors for rendering verdicts not agreeable to him; whether he has openly stated that he would not permit the United Mine Workers of America to exist within the jurisdiction of his court; whether he has refused to permit certain defendants in a case in his court to have an interpreter; whether he has stated in open court that the United Mine Workers of America are criminal conspirators; whether he is so prejudiced as to unfit him temperamentally to hold a judicial office; and whether he has been guilty of various other acts of personal and judicial misconduct for which he should be impeached.

That this committee is hereby authorized and empowered to send for persons and papers, to administer oaths, to employ, if necessary, an additional clerk and stenographer, and to appoint and send a subcommittee whenever and wherever necessary to take testimony for the use of said subcommittee.

That the subcommittee shall have the same power in respect to obtaining testimony as is herein given to the said Committee on the Judiciary; that the Speaker shall have authority to sign and the Clerk to attest subpœnas for any witness or witnesses.

That the expenses incurred in this investigation shall be paid out of the contingent fund of the House.

Mr. NEELY of West Virginia. Mr. Speaker, I move that the resolution be referred to the Committee on the Judiciary without debate.

Mr. UNDERWOOD. Well, I suppose the gentleman desires to move the previous question on his motion to refer?

Mr. NEELY of West Virginia. Mr. Speaker, I do move the previous question on my motion to refer.

The SPEAKER pro tempore. The gentleman from West Virginia moves the previous question upon his motion to refer this resolution to the Committee on the Judiciary.

The question was taken, and the previous question was ordered.

The SPEAKER pro tempore. The question is upon the motion to refer the resolution to the Judiciary Committee.

The question was taken and the motion was agreed to.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. Tulley, one of its clerks, announced that the Senate had passed, with amendment, bill of the following title, in which the concurrence of the House of Representatives was requested:

H. R. 14385. An act to amend section 5 of "An act to provide for the opening, maintenance, protection, and operation of the Panama Canal, and the sanitation of the Canal Zone," approved August 24, 1912.

PANAMA CANAL TOLLS.

Mr. ADAMSON. Mr. Speaker, I ask that the bill just returned from the Senate, with an amendment, be laid before the House.

The SPEAKER pro tempore. The Chair lays before the House a House bill with Senate amendment, which the Clerk will report.

The Clerk read as follows:

IN THE SENATE OF THE UNITED STATES,
June 5 (calendar day June 11), 1914.

Resolved, That the bill from the House of Representatives (H. R. 14385) entitled "An act to amend section 5 of 'An act to provide for the opening, maintenance, protection, and operation of the Panama Canal and the sanitation of the Canal Zone,' approved August 24, 1912," do pass with the following

AMENDMENT:

Page 2, line 9, strike out the period and quotation marks and insert: ": *Provided*, That the passage of this act shall not be construed or held as a waiver or relinquishment of any right the United States may have under the treaty with Great Britain, ratified the 21st of February, 1902, or the treaty with the Republic of Panama, ratified February 26, 1904, or otherwise to discriminate in favor of its vessels by exempting the vessels of the United States or its citizens from the payment of tolls for passage through said canal, or as in any way waiving, impairing, or affecting any right of the United States under said treaties, or otherwise, with respect to the sovereignty over or the ownership, control, and management of said canal and the regulation of the conditions or charges of traffic through the same.

Mr. ADAMSON. Mr. Speaker, I move to concur in the Senate amendment, and I desire to ask gentlemen on the other side if there is any disposition for debate. As far as I am concerned, I am ready for a vote unless other gentlemen wish to speak; if so, I will help as far as I can.

Mr. UNDERWOOD. Mr. Speaker, I will say to the gentleman from Georgia I recognize the fact that the majority of the House is in favor of passing this bill, although I am not. I have no desire to delay the passage of the bill. I think the will of the majority should be written into the law whether it conforms to my views or not, but I do not think that this resolution should be passed without some debate. I will say to the gentleman from Georgia I do not know I will occupy all that time, but I desire about 20 minutes myself.

Mr. ADAMSON. I had hoped, Mr. Speaker, that we might be able to get through within an hour. Does the gentleman from Illinois desire time?

Mr. MANN. We should like a little debate over here.

Mr. ADAMSON. How much will suit the gentleman?

Mr. MANN. We will take half an hour on this side.

Mr. ADAMSON. That would not include the time of the gentleman from Alabama?

Mr. MANN. No.

Mr. MURDOCK. The gentleman wants 20 minutes.

Mr. ADAMSON. Then, Mr. Speaker, I ask unanimous consent that at the end of an hour and a half the previous question may be considered as ordered.

Mr. MANN. Better fix the control of the time.

Mr. UNDERWOOD. I suggest to the gentleman that I have control of 20 minutes and the gentleman from Illinois have control of 30 minutes——

Mr. ADAMSON. That makes 50 minutes. Can not you get along with 45 minutes and let me control 45 minutes?

Mr. UNDERWOOD. I see no reason in a matter of this importance why we should not have 50 minutes' debate; if gentlemen desire more time on that side of the question——

Mr. MANN. I will get along with 25 minutes.

Mr. ADAMSON. That is all right.

Mr. MURDOCK. I want five minutes.

Mr. ADAMSON. That does not include the gentleman from Kansas?

Mr. MANN. Yes.

Mr. ADAMSON. Mr. Speaker, I want all gentlemen to have all the time they want, but I was just trying to find out how much it is.

Mr. UNDERWOOD. I may not consume my 20 minutes.

Mr. ADAMSON. Then, Mr. Speaker, I will ask that there be 45 minutes controlled by myself, 20 minutes to go to the gentleman from Alabama, 5 minutes to the gentleman from Kansas, and 20 minutes to the gentleman from Illinois.

The SPEAKER pro tempore. Unanimous consent is asked by the gentleman from Georgia for one hour and half of debate, 45 minutes of that time to be controlled by himself, 20 minutes to be controlled by the gentleman from Alabama [Mr. UNDERWOOD], 20 minutes by the gentleman from Illinois [Mr. MANN], and 5 minutes by the gentleman from Kansas [Mr. MURDOCK], and at the end of that time the previous question shall be considered as ordered. Is there objection?

Mr. MANN. The gentleman would have the right to demand the previous question and somebody might want to offer an amendment. For instance, this is purely technical: The Senate amendment strikes out the period and quotation marks at the end of the bill and inserts an amendment which does not have any quotation marks at the end of it in the copy I have of it, which would leave the amended law with quotation marks at the beginning but not at the end, and that would undoubtedly prove troublesome to the clerks, and the gentleman might wish to correct that.

Mr. ADAMSON. I should think in enrolling the bill that the quotation marks might be disregarded.

Mr. MANN. But the enrolling clerk will not disregard anything of that kind, and can not.

The SPEAKER pro tempore. Is there objection to the request?

Mr. MANN. We might want to offer some real amendments.

Mr. ADAMSON. I will modify the request at the suggestion of the gentleman from Illinois and say that at the end of one hour and a half I may be recognized to move the previous question.

The SPEAKER pro tempore. Is there objection to the unanimous-consent request as modified by the gentleman from Georgia? [After a pause.] The Chair hears none.

Mr. ADAMSON. Mr. Speaker, I had intended to reserve enough time to conclude the debate. My own idea is that there is nothing wrong in this amendment, and if it is satisfactory to anyone who has opposed the bill it is to me.

Mr. FITZGERALD. Will the gentleman yield?

Mr. ADAMSON. With pleasure.

Mr. FITZGERALD. How does it differ from the provision in the motion to recommit which the gentleman voted against when the bill was under consideration?

Mr. ADAMSON. I think it differs substantially. I have not that motion before me now. I did not regard the amendment as at all necessary until charges and countercharges were made that we repudiated entirely, and it seems to me the friends of the bill simply deem it proper to put this in as a refutation of the charges they had made of the motives and intentions of the repealers—those who favored the bill.

I did not intend to make my speech at this time. I was going to yield to the gentleman from Tennessee [Mr. SIMS] five minutes, if he desired.

Mr. SIMS. Mr. Speaker, I do not desire to discuss this amendment at any great length. It does not seem to me that it changes the object and purpose of the bill, which is to repeal the exemption clause of the canal act relieving coastwise vessels from the payment of tolls for the use of the canal. That purpose is accomplished even with the Senate amendment attached, as not a word is changed in the House bill. Therefore, as the substantive and real purpose of the bill is accomplished, so far as I am concerned, I am satisfied. I hope those gentlemen who have so often alleged that we were surrendering our rights and interests in the canal to English domination will be satisfied with this amendment, that we are not directly or indirectly surrendering any rights that we have to any foreign country, but that the canal in all respects is just as much an American institution, just as much subject to American control, with the passage of this bill as it ever was.

Believing, as I do, that we never had any right, under our treaties, to discriminate in favor of the vessels of American citizens in the coastwise trade, I do not see how we can reserve a right that we never had, that we are surrendering anything that we never had to surrender. I think this bill places us before the world as a great people, who are willing to do right because it is right, and that in construing treaties after they have been made, we will not contend for a construction, after we have received all the substantial benefits arising from a treaty, so as to give it a meaning and effect that if contended for at the time of its negotiation would have prevented its making altogether. I have never believed for a moment, nor do I believe now, that the Hay-Pauncefote treaty would have been agreed to by Great Britain if it had contained a provision such as the Doremus amendment, which we are now repealing, exempting our coastwise vessels from payment of tolls. As far as I am concerned, I am delighted—too delighted to have a quarrel with one who may differ with me. I think it is as much our duty to repeal bad legislation as to enact good legislation. I think that in the repeal of the legislation creating the Commerce Court and that part of the canal act exempting the coastwise, monopoly-protected vessels of citizens of the United States from the payment of just and reasonable tolls for the use of the canal, we are doing a duty that is equally as high and imperative as in the passage of the tariff bill, the currency bill, or any other good bills that we have passed.

Therefore, Mr. Speaker, I am so exceedingly gratified with the passage of this repeal bill that I do not care to further discuss it, but prefer to vote. [Applause.]

Mr. MURDOCK. Mr. Speaker, viewing this transaction from the beginning to the end, and with my knowledge of his personality and his mental processes, I would not be surprised if, when this measure reaches the White House, President Wilson should veto it. His attitude upon the question from the start has been clear and without compromise. He held when he came before us on March 5 that Congress had done a grievous wrong, and he asked Congress in so many words to confess by passing a law repealing the former act that Congress had done a sinful thing. He asked Congress to confess, repent, and bring forth fruits meet for repentance. In answer to the President's demand, a majority of the House passed an act which repealed forthwith and in an entirely straightforward manner the former Doremus toll exemption law. That was what the President asked. He asked nothing more and nothing less. He asked that exactly. That the House did. The bill went to the Senate, and after long debate there has been added to it a compromising amendment. The addition of that amendment to the bill in the Senate robbed the measure of the very virtue which the President sought from Congress. For he asked Congress to grant him toll exemption repeal "in ungrudging measure." This amendment is not in ungrudging measure, for we will hear, are already hearing, from both sides of this contention different interpretations of this amendment.

Now, this is an international question and compromise should not enter if gentlemen take the President's view. The President held that the original Doremus Act was in violation of the Hay-Pauncefote treaty. There was but one thing, in his view, for Congress to do, and that was to repeal that act without any "ifs" or "ands" or "buts" about it. There can not be, with satisfaction to the President, dubiety here. But the Senate has attempted to add a doubt, by tacking to the bill an amendment which will be read both ways. It does not grant what the President asked. He declared that Congress should reverse its action "without raising the question whether we were right or wrong." The Senate does raise the question and muddles it. Therefore I would not be surprised if the country is treated to the spectacle of the President, who took the trouble to come to Congress personally to make a direct appeal to his party in control of the House—I would not be surprised, I repeat, if the country is treated to the spectacle of the President indignantly rejecting the amended act that will be sent to him.

I believe that the main necessity for the passage of the act as the President gave it to us has passed away. Whatever those "matters of greater delicacy or nearer consequence" were, we never found out. Whatever they were, they are no longer in this equation, so far as anyone knows.

I have never been for this act. I have been against it, as gentlemen know, from the beginning; but if I had been for it from the start, this morning I would be against the Senate amendment. If I were going to stand with the President of the United States for his demand, I would stand with him wholeheartedly or I would not stand with him at all.

I believe that this act will consummate a surrender of American sovereignty over the canal that the Nation will regret for centuries. But there is still another feature to which I desire to allude. This measure will pass here. If it is not vetoed by the President, we are at the end of a long, doleful chapter in this country. Right after the Civil War, after the construction of the transcontinental railroads, the larger railroads practically took possession of a good many States, politically. They dominated the governors, they were privy to legislation, and selfishly privy. They sought successfully to dictate the appointment of a goodly share of the judiciary, and they haunted these halls here in Washington for years, seeking and obtaining special privileges and special advantages against the interests of the people. When as a Nation we attempted to build the great Panama Canal, the chief opponents and antagonists to this great public work were the transcontinental railroads. They fought its construction because they did not want competitive rates over waterways between Atlantic and Pacific points and the lower rates which would follow in the interior of the country. By this act, if it become a law, you give victory to the transcontinental railroads, which have fought the public interests in this matter over a period of 40 years. [Applause.]

The SPEAKER pro tempore. The time of the gentleman from Kansas [Mr. MURDOCK] has expired.

Mr. ADAMSON. Mr. Speaker, does the gentleman from Alabama [Mr. UNDERWOOD] wish to use some time?

Mr. UNDERWOOD. Yes.

Mr. ADAMSON. I yield 20 minutes to the gentleman.

Mr. UNDERWOOD. Mr. Speaker, I regret exceedingly that it is necessary for me to make a speech on this resolution at this time. I would not do so if I did not feel that the passage of this bill is one of the most unfortunate legislative acts that has ever occurred in the history of our country. [Applause.]

I feel that the future rights, the future interests, and the future prosperity of more than a hundred millions of people are at stake and are being jeopardized by the passage of this resolution.

I am not going to resist the adoption of this amendment, because I regard the amendment as a declaration by the Senate of the United States of the principles that I believe in. But at the same time I recognize the fact that that declaration is not made effective, and it has not been attempted by those who passed it to make it effective, so as to protect the rights of the American people.

A resolution to recommit with instructions to bring in an amendment to this bill was offered in the House at the time of its passage, but that resolution and amendment, although conforming in a large respect to the language used in this amendment, was effective in its results, whereas the present amendment is attached to this bill merely to satisfy the con-

science and the fears of certain gentlemen who are not willing to go boldly before the American people and accomplish the result that the membership of this House was willing to accomplish without apology. The amendment offered in the House struck out the second clause of the bill, with what result? The second part of this resolution is the clause that amends the Panama Canal act, wherein that act provides that the President of the United States shall have the power in the future to grant free tolls to American ships in his discretion. The first clause in the act repealed the law giving free tolls to our coastwise ships. The second clause repealed the discretionary power of the President to grant it at any time he wished, and, then, with that repeal an amendment was proposed, declaring our sovereign rights in the canal.

In the first place, we protected and refused to repeal, if that amendment had been adopted, an active power rested in the Chief Executive of the Nation, with the privilege to exercise it at any time he saw fit, with a declaration of right that notwithstanding the fact that we may not charge the tolls at this time, we retain the right and declare the principle that the canal is an American canal over American territory, and that the American Government held and proclaimed the right to exercise complete sovereignty on the Canal Zone.

That was necessary in view of the position that was taken in presenting the resolution to the House. The committee presenting the resolution to the House had declared in their report that they recognized the canal as an international waterway, and that the Government of the United States did not exercise sovereignty over that Canal Zone.

Had the amendment offered in the House been adopted, it would have preserved those rights for the future. This bill not only repeals the free tolls to American shipping to-day that are granted under the law, but takes away from the President the future right to grant these tolls, or to proclaim the right of the United States to grant them in the future if it sees fit. So when the Senate, after two and one-half months' continuous consideration and long debates, sends this bill back to the House without changing the language of the original bill, and makes the declaration "That the passage of this act shall not be construed or held as a waiver or relinquishment of any right the United States may have under the treaty with Great Britain * * * or otherwise to discriminate in favor of its vessels by exempting the vessels of the United States or its citizens from the payment of tolls for passage through said canal, or in any way waiving, impairing, or affecting any right of the United States under said treaties or otherwise, with respect to the sovereignty over or the ownership, control, and management of said canal and the regulation of the conditions or charges of traffic through the same," what does it mean? Is not the original position occupied by the membership of the House that passed the resolution far more honest, far more manly, far more courageous when they refused to adopt a declaration of this kind and stood on the bald proposition of the committee that they did not believe that we had the right to discriminate in favor of our shipping, and that we would not proclaim our right to the sovereignty over the Canal Zone——

Mr. MADDEN. Mr. Speaker, will the gentleman yield for a question?

The SPEAKER pro tempore. Does the gentleman from Alabama yield to the gentleman from Illinois?

Mr. UNDERWOOD. Just in one moment. Rather than the position taken by the Senate, that concedes everything that was in the House bill, cuts off our rights in the Canal Zone without recall, and then, to satisfy their consciences or their fears, puts an apology in the bill as a proviso, throwing it out, possibly, as a sop to some of us who do not believe in the proposition, with the idea that we are sufficiently gullible to be attracted by a negative declaration of this kind?

The SPEAKER pro tempore. Does the gentleman from Alabama yield to the gentleman from Illinois?

Mr. UNDERWOOD. I do.

Mr. MADDEN. The gentleman stated, if I heard him aright a moment ago, that the House, in the bill when it passed the House, refused to enact such a declaration as the Senate has enacted. Was there any such declaration before the House, or was there before the House simply a stump speech contained in the motion to recommit?

Mr. UNDERWOOD. Oh, no. The gentleman should read the RECORD.

Mr. MADDEN. I have looked into the RECORD, and I was here.

Mr. UNDERWOOD. The motion to recommit the bill with instructions was offered, and the House voted on that motion to recommit. Of course, the gentleman may say that that proposition was not before the House, but the House had the opportunity to recommit by a vote on the question.

I do not propose to vote against this amendment. The declaration in this amendment is what I contended for when the bill was before the House. The declaration in this amendment, if it is correct in principle, should make the Congress pause and hesitate before it surrenders, by the repeal of the free-tolls provision of the Panama Canal act, the right of the people of the United States to exercise sovereignty on the Canal Zone. Of course, so far as I am concerned, I believe in a discrimination in favor of American ships to build up our merchant marine, but I regard that as much the less important of the questions involved here.

I said in the beginning, and I say now, that this question is of such momentous importance to the American people that it should never have been legislated on directly by the Congress. The rights of two nations are involved. The rights of our people against the peoples of the world are involved. It is not only a question of developing our own shipping, a question of discriminating by a few dollars of canal tolls in favor of our shipping, but the question presents itself to this country as to whether or not the concession that we are making in this bill may in the future embarrass us as to our rights in time of war. That is the serious question. Great Britain proposed to arbitrate the questions existing between the two countries. Although I am not in favor of the repeal, I recognize that the question is not a matter to be determined by war, but is a question that the diplomats of the two countries must reach an agreement about, either directly or through arbitration; and if we were going to make this change, if it was necessary to make this change, there was nothing that stood in the way of the Government of our country accepting a proposition to arbitrate; and if we had accepted arbitration instead of surrender—an un-American surrender at that—and the arbitrators had said that we had no right to remit tolls in going through this canal, then in that same diplomatic understanding and contract, or in that same arbitration, we could have had the rights of our warships established for all time to come, so that those questions might not arise to embarrass our country in the future, possibly in times of great stress and great peril to our country, as it is left in the enactment of this bill, without determination, without diplomatic understanding between the two countries involved in the Hay-Pauncefote treaty or the other nations of the world.

Therefore I regard the passage of this act as a matter of unwisdom on the part of the two Houses, as a dangerous surrender of American rights, as a proposition that ought never to be considered in these Houses, and that should be sent to the court of arbitration to-day. But recognizing the fact that I do not voice the sentiments of a majority of this House, and believing, as I always do, that the will of the majority should be written on the statute books, I do not propose to attempt to delay the passage of the act, nor shall I vote against this amendment that, as I said a while ago, makes a declaration of principle similar to the contentions that I made when the bill was before the House, but yet makes the declaration of principle in a negative way, so that it could not be effective in the future—could not be of benefit to us in a court of arbitration in the future—because our act in surrendering our rights will be the point that is weighed in the future in determining the interpretation of this act, and not the accompanying declaration as to why we passed the act. [Applause.]

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. ADAMSON. Does the gentleman from Minnesota [Mr. STEVENS] desire me to yield him time?

Mr. STEVENS of Minnesota. Yes; I should like five minutes.

Mr. ADAMSON. I yield to the gentleman from Minnesota five minutes.

Mr. STEVENS of Minnesota. Mr. Speaker, I can vote for this amendment without hesitation and without stuttering. When the original measure was before the Committee on Interstate and Foreign Commerce two years ago, some of us then stated that we did not desire to indorse this important matter, so with such a provision inserted in the measure for the repeal of free tolls, we will be very glad to support it. We did not desire that the United States should be precluded in any way or at any time from asserting any right which it may have under both of these treaties, where the welfare of our people in the future might be in question. We offered to do the same thing this time when the present bill was under consideration by the committee. That offer was refused. So that the matter comes before this House now practically in the same situation in which we have proposed it should come whenever the question has been presented to the Committee on Interstate and

Foreign Commerce. We did not desire to preclude or prejudge this question as to the rights of the United States under these treaties. My own views are clear and I have expressed them at length before this House. But I realize the great differences of opinion and the eminent men who differ with my judgment. So I am willing to leave the matter open, confident that my views as to the international, legal, and economic differences will be increasingly satisfactory to our people. We all realized that it was too important to be decided now for all future time, to settle or attempt to foreclose this question. It ought not to be done. We should not presume with a matter of such importance. The original bill did not do it. The amendment adopted by the Senate does not change the situation at all, but leaves the whole question wide open for future discussion and conclusions. The Senate amendment simply provides that nothing in this bill shall be construed to do either of two things: First, to settle or determine the right of the United States under these treaties to discriminate in favor of the vessels of its own citizens in the use of the canal; secondly, that nothing in this act shall be construed to limit or affect the sovereignty of the United States as acquired in the treaties in the use of the canal. Those are exactly the two propositions which I have outlined to the House twice before on bills of this kind. For my part, believe that the United States has a clear right to classify under the provisions of both of those treaties. We do classify vessels under the act as it stands, but the classification must be fair, just, natural, and reasonable. The treaties clearly state, to my mind, such an exemption as was contained in the act two years ago is not a fair classification, and was one we agreed should not be made. We can and probably will classify in the future, but that classification must not violate the express provisions of two international agreements which we have made, as has been so extensively debated in the last three months. I believe that the classification in the bill did violate the provisions of both of the treaties which concerned the canal, and if any nation attempts a similar course of action against us under a treaty with similar terms, we would bitterly and strongly resent it.

Again, those who believe in the passage of this act believe that the bill itself, as it passed the House and as it now stands, does not interfere in any way with the sovereign rights of the United States in the use, occupation, and control of the Panama Canal.

I wish to express my emphatic difference of opinion with the gentleman from Alabama in his statement—or almost offer—to arbitrate the use of that canal so far as our public and war vessels are concerned. I do not believe the United States ought ever to arbitrate the right to use its own territory or property wherever it has any sovereign interest, even though it be limited for a specific purpose as it is concerning this canal. We ought never to arbitrate the right to use our own domain for our own sovereign purposes. [Applause.] I believe that the bill as it left the House, and the bill as it now stands, gives the United States the right of perfect sovereignty, of perfect control, of perfect protection over the Panama Canal in war and peace for all purposes of constructive use and control and protection of the canal for such purposes. We can pass any sort of public vessels we see fit at any time and anywhere we see fit to do it without let or hindrance of anybody, and I am not willing, now or at any time in the future, to arbitrate that question. [Applause.] But I am willing to arbitrate the question under controversy as to whether it is our duty to grant to British and Panaman private vessels the same right and treatment which we do to our own private vessels of the same class. That is the question which can and may be arbitrated.

The SPEAKER pro tempore. The gentleman's time has expired.

Mr. STEVENS of Minnesota. Just one minute more.

Mr. ADAMSON. I yield to the gentleman one more minute.

Mr. STEVENS of Minnesota. The sole question for us to consider is, Is it best now to repeal that law creating a worse classification, clearly violating international and economic rights, with this waiver of any intention to affect all rights as to sovereignty and future action as to treatment of our vessels under the treaties? Its only effect, as I take it, as it stands before this House for present action, is to state that it is not wise to classify or determine at this time or have no intention now to finally construe our treaties as to what ought to be done in the future. My own judgment is clear, but I am willing to debate at some more auspicious time as to the proper course of action. For that reason I shall vote to concur in the amendment of the Senate. [Applause.]

Mr. TAGGART. Mr. Speaker, I said in my remarks on the tolls bill, when it was first presented to the House, that the serious question was not a question of revenue, or expediency, or an economic question. The form in which the bill was presented by the committee was such that it involved a construction of the Hay-Pauncefote treaty, which, in a measure, surrendered a share of the sovereignty of the Panama Canal to a foreign power. I could not vote for that, and I did not vote for it. With this amendment, however, it is converted solely into an economic question, and I stand with the President of the United States on any and all economic questions. It is right to charge everybody the same price for exactly the same use of the same property. There is no disputing the justice of that phase of it. [Applause.] The President, in his message, did not ask Congress to surrender any right of the United States to the Panama Canal. If the amendment that has been adopted by the Senate had been incorporated in the bill that was brought before the House there would have been no difficulty about the repeal of the tolls exemption. Simple repeal, without any qualification, would be such a solemn construction of the treaty by the Congress as would confirm the claim of the British Government to have a share in dictating the use that the United States should make of the canal with respect to ships owned by citizens of the United States. When it was first brought before the House a motion was made to recommit the bill, with directions to the committee to add an amendment that would include substantially the language contained in the amendment adopted by the Senate. I voted to order the committee to incorporate such an amendment in the bill. The House failed so to instruct the committee and the bill went to the Senate without any qualification. This is what caused the unprecedented debate in the Senate. The amendment as adopted by the Senate is as follows:

Provided, That the passage of this act shall not be construed or held as a waiver or relinquishment of any right the United States may have under the treaty with Great Britain, ratified February 21, 1902, or the treaty with the Republic of Panama, ratified February 26, 1904, or otherwise, to discriminate in favor of its vessels by exempting the vessels of the United States or its citizens from the payment of tolls or passage through said canal, or as in any way waiving, impairing, or affecting any right of the United States under said treaty, or otherwise, with the respect to the sovereignty over or the ownership, control, and management of said canal, and the regulation of the conditions or charges of traffic through the same.

The collection of tolls from coastwise vessels is really a comparatively small matter. The amount realized will not be great. I am wholly unable to agree with those who consider exemption from tolls as a subsidy to the owners of vessels. Congress has sole power to regulate commerce among the States; it can authorize the Interstate Commerce Commission to fix the rates charged for coastwise trade by the owners of American vessels, and in doing so the commission can and will take into consideration the cost of passing through the canal or the exemption from cost of passing through the canal. The benefit would really be derived by the people of the two coasts. The people in the middle portion of the United States have no interest in this matter at all, except the securing of whatever revenue may be derived from the tolls. Whether there are tolls or no tolls, it will not affect railroad freight rates that are fixed by the regulations of the Interstate Commerce Commission.

No one now seriously claims that the exemption law passed in 1912 violated the Hay-Pauncefote treaty. That position has been abandoned by the ablest men in the House and Senate. A moment's reflection would convince anyone who has read the Constitution that we could not by treaty delegate to any power any share of the right to regulate commerce among the States. Congress has that exclusive power of regulation, and when it is exercised by Congress even a State of the Union has no power over the subject whatsoever. A foreign nation claimed a right that a State of the Union could not assert, and no one in this Government can have authority to bargain away the right vested in Congress to regulate interstate commerce. When the treaty was made we did not have the sovereignty of the soil on which the canal is constructed. The treaty reads as if we were going to build a canal on territory not controlled by the United States. When we secured the territory the treaty had a new meaning, and that meaning is that the United States has quite as complete power over its domestic affairs in the Canal Zone as it has anywhere else under its jurisdiction.

I am glad to be able to agree with the majority of the Democrats in the House. Their judgment and the judgment of the President on all domestic and economic questions is sufficient for me, and it gives me great pleasure to know that we have not only provided the revenue that may be derived from charging tolls in the Panama Canal, but that we have jealously guarded the dignity and sovereignty of the United States by agreeing to the amendment that was adopted in the Senate. The language of this amendment is distinct and clear, and leaves no doubt in the mind of anyone that by changing the law with respect to the collection of tolls in the Panama Canal we have not sur-

rendered any right or claim of right on the part of the United States.

Mr. ADAMSON. I yield to the gentleman from South Dakota [Mr. DILLON].

Mr. DILLON. Mr. Speaker, in speaking upon this bill when it was pending in the House, I said:

If the advocates of the measure succeed in passing this bill, it will for all time foreclose the valuable rights we have in this great waterway. As an economic proposition, I would support this measure, and see no reason why the vessels engaged in coastwise trade should not pay just tolls for passing through the canal. But I am not willing to interpret this treaty in favor of the English contention, and thus for all time deprive the American people of making such regulations as they see fit for their vessels engaged in coastwise trade.

I was then, and am now, opposed to free tolls. I was then, and am now, opposed to the English interpretation of the treaty. The Senate amendment will preserve our sovereign rights in the great waterway. It gives us freedom for future action and it will leave open the interpretation of the treaty.

I stand for the rights of the American people in the $400,000,000 canal and against the surrender of our rights in our own property. I shall vote to require the coastwise vessels to pay their share of the expenses in maintaining the waterway. [Applause.]

Mr. ADAMSON. I yield to the gentleman from Illinois [Mr. GORMAN].

Mr. GORMAN. Mr. Speaker, when the bill to repeal the toll-exemption clause on the Panama Canal act was before the House in March an amendment was offered which, if adopted, would accomplish all that the Senate amendment accomplishes, but it would do so in clear, ringing, unequivocal terms. I voted for the amendment which was offered in the House, and on that amendment being rejected I voted against the bill. I believed then, as I believe now, that the exemption of ships engaged in the coastwise trade from payment of toll is an economic error.

The cost of maintaining the canal will in all probability far exceed the revenue derived therefrom for many years to come, and whatever deficiency accrues each year must be made up by the American people. For the purpose of making the burden of maintaining the canal as light as possible on the people of the United States every ship except the ships of war of the United States should pay toll for the use of the Panama Canal.

The repeal of the exemption was urged by the President and recommended by the Committee on Interstate and Foreign Commerce for the principal reason that the exemption of American coastwise ships from payment of toll was a clear violation of our treaty with Great Britain. I can not subscribe to this view. As I read the Hay-Pauncefote treaty, in the light of the history of the negotiations which preceded it, the conclusion has forced itself upon me that we have the right under that treaty to grant exemption from toll or to grant a preferential toll to the ships of commerce of the United States in passing through the Panama Canal.

The right to do this is one of the attributes of sovereignty. Our rights in the Panama Canal Zone are sovereign. Administrations which preceded the present one took the position that exemption of American shipping from payment of tolls was not a violation of the treaty, and in diplomatic negotiations with the British Government that attitude was maintained and a willingness to submit the question to arbitration was expressed.

Great Britain has the same right to interpret the treaty that our Government has; and when those interpretations do not agree, a submission of the disputed points to arbitration is the logical thing to do.

As I view it, if our treaty with Great Britain obligates us to charge tolls for American ships, the integrity of our sovereignty over the Panama Canal is to that extent impaired. If the repeal of the exemption clause as it passed the House was enacted into law without amendment, it would very properly be held to be an interpretation of the treaty by the American Government in harmony with the British view. The amendment adopted in the Senate negatives that view of our legislative act and preserves the question of the interpretation of the treaty for future diplomatic negotiation or arbitration.

While I believe a wise economic policy at this time requires that all American ships passing through the canal should pay tolls, there may come a time when this will not be so. Heretofore we have been exporters of raw materials, and our raw material is being carried in foreign ships to foreign shores, and there it is being manufactured into finished products and brought back in the same foreign ships and sold to American consumers or exchanged for more of the raw material from our mines, quarries, fields, and forests.

But the time is not far distant when we will cease to be the purveyors of raw materials. We must enter the domain of manufacture not only to supply our own needs, but we must enter the markets of the world with the finished products of American labor. Japan is now our vigorous commercial rival on the Pacific, and when China has thoroughly aroused from her sleep of centuries and enters vigorously, as she shortly will, into competition with Europe and America for her full share of world commerce, the question whether we can as a matter of sovereign right exempt our ships from payment of toll unhampered by treaty obligation will become a very important one. We must eventually build up an American merchant marine. The need for it is becoming more apparent every day. The time may come when American manufacturers and American shipowners will demand, and the American Government realize, an economic necessity for the exemption of American commerce from toll charges in passing through the canal.

World competition will, in my judgment, necessitate such a policy. The repeal act as it passed the House would preclude the adoption of such a policy at any time in the future. It would have the effect of foreclosing against ourselves the right to claim exemption to American shipping from toll charges, because such a policy would be in violation of our treaty obligations.

The amendment adopted in the Senate leaves the question of treaty interpretation open for future negotiations and preserves the right to assert at any time in the future what I conceive to be the American view of the treaty. For these reasons I shall cheerfully support the Senate amendment.

Mr. MANN. Mr. Speaker, I suggest to the gentleman from Georgia that he ask unanimous consent that all gentlemen have the privilege of extending remarks in the RECORD on this bill.

Mr. ADAMSON. I am perfectly willing to do that, and I ask unanimous consent that all gentlemen have leave to extend remarks on this subject for five legislative days.

The SPEAKER pro tempore. Unanimous consent is asked that all Members be given leave to print remarks on this subject for five legislative days. Is there objection?

There was no objection.

Mr. ADAMSON. Will the gentleman from Illinois proceed now to use some of his time?

Mr. MANN. Mr. Speaker, I will yield five minutes to the gentleman from Massachusetts [Mr. GARDNER].

Mr. GARDNER. Mr. Speaker, if the Lord Almighty could have foreseen all the talk that is being expended on this tolls question, He would have provided the canal himself when He made the world. The gentleman from Minnesota [Mr. STEVENS] says that he can vote for the amendment without stuttering. I should think any man, woman, or child in the United States could vote for it without stuttering, but I do not see how anybody could vote for it without smiling. The gentleman from Alabama [Mr. UNDERWOOD] says that it is a sop to Cerberus. Yes, it is a sop to Cerberus, but a counterfeit sop, for it means nothing whatever. It declares that we do not abandon any right which we do not abandon, that we hold on to everything which we hold on to. Everybody can agree to that—that we are not to be considered as having abandoned any right. Whether we adopt this amendment or not does not in the least affect our right at some future time to exempt coastwise vessels from the payment of tolls. If we have the right to discriminate now, this amendment does not add to it. If we have not the right to discriminate now, this amendment does not give it. I quite agree that this bill is not to be construed as abandoning something, but it is to be construed as repealing a law which violated a contract which we had made with Great Britain and which we were in honor bound to carry out. I admire the President of the United States for his courage in disregarding his party platform when his party platform indorsed a violation of our obligation. We made the bargain for better or for worse and we ought to stick to it. That is all there is in the question.

What ails us? Are we afraid that some demagogue will go out in the country and say that we are bought up by the railroads? Or that we are toadying to Great Britain? Is that what we are afraid of? Is that what sets our knees trembling, that we throw this sop to Cerberus? Why, anyone who knows anything about the question knows that any demagogue who says we are flunkys or are bought is a muckraker, and that any demagogue who believes it is a fit tenant for a lunatic asylum.

Mr. MANN. Mr. Speaker, I yield to the gentleman from West Virginia [Mr. HUGHES].

Mr. HUGHES of West Virginia. Mr. Speaker, when this bill was being voted on, March 31, I was paired with the gentleman from Alabama, Mr. TAYLOR. There has been some criticism of my vote of "present" on that occasion, and I want at this time to explain that vote. I voted "no" on the first roll call,

and my attention was called to my pair. I was unable to locate the gentleman, although I endeavored to do so by wire, so as to arrange with him to let me vote "no," and I had to recognize the pair under the rules and change my vote to "present." The RECORD did not show my first vote. It just shows that I voted "present." I was opposed to the bill all the time, and will vote against it, even with the Senate amendment now in it. [Applause.]

Mr. BURKE of South Dakota. Mr. Speaker, when the original canal act was considered in the House, in May, 1912, I was absent from Washington, detained on account of illness. If I had been present at the time the provision for free tolls, known as the Doremus amendment, was voted upon, I would have voted against it. One of the reasons that would have directed my action in so voting is because I am not in favor of allowing coastwise ships or any other ships to pass through the canal free. It has cost the United States nearly $400,000,000 to construct it, and it will cost a large sum annually to fortify, maintain, and operate it, and whoever uses the canal, built at the expense of all the people of this country, should be compelled to pay tolls. No commerce, whether coastwise or otherwise, ought to be exempted, in my opinion.

When the bill for the repeal of the free-tolls provision of the canal act was considered in the present Congress I regretted that the majority saw fit to adopt an ironclad and drastic rule so that no amendment could be offered to it, because I could not bring myself to vote for it in the form in which it was presented, for the reason that I did not wish to subscribe to the conclusion of the President, who declared in his message that he considered the free-tolls provision of the canal act in plain contravention of the treaty with Great Britain. If he had based his reasons for the repeal upon the other statement of his message, that he considered the exemption of coastwise shipping from the payment of tolls "a mistaken economic policy," I would have gladly voted for it without any amendment. It not being possible, by reason of the rule adopted, to even offer an amendment, I was compelled to vote against the passage of the bill, and I would do so again under the same circumstances. I did vote for the motion that was offered to recommit the bill with instructions to add the following amendment:

Strike out all of section 2 and insert in lieu thereof the following:

"SEC. 2. And Congress hereby declares that in its judgment the United States, which at enormous cost has built and fortified and owns the canal without any expectation of pecuniary profit to itself from its ownership, and which has the duty and expense of protecting the canal with its troops and warships and by proper sanitation, may, as the owner and defender of the canal and by virtue of its rights of sovereignty, rightfully provide preferential tolls or no tolls for its own war vessels and for vessels of commerce belonging to it or its citizens flying its flag, so long as the conditions and charges of traffic established by it for vessels of foreign nations are just and equitable, and may rightfully in time of war, as well as in time of peace, maintain its Army and Navy in the Canal Zone, including all necessary warlike materials, both for defense and offense, and may rightfully provide preferential tolls or no tolls for the vessels of the Republic of Panama, from which Republic the right to construct the canal was obtained, and as authorized in the act of June 28, 1902, providing for the construction of the canal."

If the motion to recommit had prevailed and the amendment had been incorporated in the bill, I would have voted for its passage. Now that the measure has been returned to the House with an amendment which, in effect, declares that the passage of the act will not be considered as precluding the United States from exercising absolute sovereignty over the canal and doing anything that it may wish to do with relation to allowing its own ships or the ships of its citizens to pass through it without the payment of any tolls, if it so desires, I am going to vote for the motion to concur made by the gentleman from Georgia [Mr. ADAMSON].

Mr. ADAMSON. Mr. Speaker, I desire to yield to the gentleman from Louisiana [Mr. DUPRÉ].

Mr. DUPRÉ. Mr. Speaker, I am in accord with the statement made by the gentleman from Alabama [Mr. UNDERWOOD]. I agree thoroughly with the characterization that he has made of the amendment, but I disagree with him as to the course that ought to be pursued. The logic of his argument drives me to a different conclusion. I shall vote not to concur in the Senate amendment. [Applause.]

Mr. MANN. I yield four minutes to the gentleman from Wyoming [Mr. MONDELL].

Mr. MONDELL. Mr. Speaker, from the standpoint of economic policy I have not been in favor of exempting American ships passing through the Panama Canal from the payment of tolls, and had the matter of repeal been presented to us simply as an economic proposition I should have voted for it. But the President of the United States, in demanding the repeal of the exemption clause, asked us to do it on the ground that it was in conflict with our treaty rights; that whether it was or not we should surrender without question; and that we should do it in an ungrudging measure in support of a foreign policy that no one clearly understands and no one attempts to defend.

The Democratic side of the House has been coerced, contrary to the will and view of a majority of the Members, who voted as the President desired them to do. In the Senate the provision now before us was adopted. It is not a compromise; it is a straddle, intentionally ambiguous, apparently intentionally so framed that any interpretation may be given to it that suits the time, the occasion, or the person interpreting the provision. If it had been a clear, ringing statement that we maintained our sovereignty and rights in the canal and that we repealed the free-tolls provision on economic grounds, then it could have received the support ungrudgingly of all of us who are against free tolls as a matter of policy.

As it is, the bill is better with this provision than as it passed the House, for at least it does pretend to preserve and reserve the question as to whether or not we may have the right to make and provide for preferential tolls. With this amendment, however, the act viewed in the light of the President's demand for repeal is a cowardly surrender of American rights. We have in this measure another illustration of how the Democratic majority bends to the arrogant and imperious will of the occupant of the White House, and how legislation in this Congress is not passed on the judgment of the majority in either branch, but under the mandate of the unbending will of the Executive. [Applause.]

Mr. ADAMSON. Mr. Speaker, I yield seven and a half minutes to the gentleman from New Jersey [Mr. BAKER].

Mr. BAKER. Mr. Speaker, does anybody here believe that the United States acquired any rights on the subject of free tolls by the passage of the act of 1912? If we did not acquire any rights by the passage of that act, then we waive or lose none by repealing the act. We are menaced here with the lurid statement that Great Britain is dictating to us our domestic policies. Most of us are skeptical as to that, for England is reputed to have gone out of the dictating business in American affairs 100 years ago come January next [applause], for reasons well emphasized on the marshes below the good city of New Orleans at a concert directed by that masterful patriot, Andrew Jackson, and those reasons have been growing stronger with the progress of events ever since that impressive day.

There is another good reason why England does not seek to dictate to her American cousins, and that reason is because she is extremely wise, so wise that she desires to be in good accord with the most potential and resourceful nation of modern times. [Applause.] England knows that the Americans can not be compelled to do anything, not even to drink tea, subject to a stamp tax. England has as good a right to interpret her conventions with us as we have to interpret our conventions with her, and if we can not agree upon our mutual conventions, either has the right to demand arbitration of the points upon which we differ. No sovereign people is under obligations to abide by the action of another sovereign people that it believes is acting in bad faith any more than a private individual is bound to stand by a contract in which the other party to that contract has committed a breach of the contract. This is a plain question with us. It is not a matter of foreign dictation. It is a matter of our rights as a business people, as between us and the Government of the United States. I hold, as I believe most here do, that this free-toll act is the hair of the same dog that bit us in the protective prohibitive tariff fad. It is sprung from the same bacillus, cultivated and fulminated in the same way, and as an economic measure it is the worst rot that ever infested our fiscal conceptions, and an outrage upon the rights of the men who earn their bread in the sweat of their face, and a reflection upon their intelligence to put up such a discriminating proposition as the free-tolls act. [Applause.]

Mr. ADAMSON. Mr. Speaker, I yield five minutes to the gentleman from Wisconsin [Mr. LENROOT].

Mr. LENROOT. Mr. Speaker, the adoption of this amendment will leave the construction of the Hay-Pauncefote treaty exactly where it was before the Panama Canal act was passed. It leaves the Congress of the United States absolutely free in the future to pass a bill exempting coastwise traffic from tolls if it may then see fit. The gentleman from Alabama [Mr. UNDERWOOD] has stated that while this amendment declares a principle it accomplishes nothing. Mr. Speaker, with this great difference of opinion that prevails with reference to the construction of the treaty, why should the Congress of the United States be compelled in the passage of this act to construe this treaty and forever bind the United States? A great many Members in both Houses favor the passage of this bill on economic grounds. Others favor it upon their construction of the treaty. Why should not those two groups join, and why should they bind the Government in the future with reference

to its construction? But the gentleman from Alabama says that notwithstanding the adoption of this amendment the bill does involve a surrender of our rights, and he says that is because section 2 still remains in the bill, which gave the President discretion to impose tolls or not, as he saw fit. Mr. Speaker, the right of the United States with reference to the construction of this treaty, with reference to tolls through the canal, with this amendment adopted, will unquestionably still remain with Congress to deal with as it sees fit. The gentleman from Alabama [Mr. UNDERWOOD] says it has taken away the discretionary power of the President of the United States to exempt our coastwise traffic from tolls. I am willing to admit that in one sense of the word the gentleman from Alabama is right, but in these Democratic days it has not even done that.

Instead of the President of the United States issuing an order and filing it with the proper department exempting these vessels from tolls, if he desires to do so, he will simply have to give an order to the Congress of the United States to exempt them, and it will exempt them if he orders it done. But while it may be true that taking away the power of the President with respect to this question takes away the power of Congress now, it will not always be so, Mr. Speaker, for the time will again come when the Congress of the United States will be independent of the Executive of the United States; and when that time comes this reservation may be of value, and I am glad of the opportunity of voting for this amendment, which will leave this question open, although I strongly believe that this exemption is a violation of the treaty. I believe it would be wise to leave that question open for the future, when the people of the United States have had time and opportunity to calmly and soberly reflect on this proposition, not swayed by passion and prejudice, as they have been during the past six months, and a future Congress of the United States will then be in much better position to render that deliberate judgment that will be based upon the actual merits of the case, and settle the question for all time.

Mr. MANN. Mr. Speaker, I yield three minutes to the gentleman from Washington [Mr. HUMPHREY].

Mr. HUMPHREY of Washington. Mr. Speaker, since this bill was before us for consideration we have been informed by the chairman of the Senate Committee on Foreign Affairs that no nation is protesting or has protested against the present law—the protests come alone from home—and as the transcontinental railroads are the only interests in this country that will be benefited by the repeal of this law, I do not think the people of the country will have great difficulty in finding the influence that persuaded the President to repudiate his platform and to change the position that he took when a candidate. I shall vote for this amendment because it contains some glimmer of patriotism. I shall vote for it because while it shows that Congress does the bidding of the President, yet it is not done ungrudgingly. I shall vote for it because it shows that this Congress still has some sense of shame in making this surrender. I shall vote for it because it will leave the matter open for future consideration as a political issue; because it will leave to the people the question of the future control of the canal. And on the 4th day of March, 1917, I predict that a Republican President will call a special session and that a Republican Congress will immediately proceed to wipe this un-American monstrosity from the statute books. [Applause on the Republican side.]

Mr. ADAMSON. Mr. Speaker, I yield two minutes to the gentleman from Pennsylvania [Mr. HULINGS].

Mr. HULINGS. Mr. Speaker, I regard this amendment as side-stepping the real question at issue—a mere excuse, a mere shield, by which men who feel obliged to obey the Executive mandate, and yet who feel in their hearts that the demand is a trespass upon the rights of America, seek in this amendment a shield and an excuse. I am opposed to this entire proposition. I believe it is a good time for Americans to stand up [applause], and, for my part, I should prefer to see the American Congress abrogate the Hay-Pauncefote treaty entirely, and that America should stand upon her rights as the builder and owner of the Panama Canal, giving notice to all the world that as sovereign she has the right to do with the canal as she pleases, and that, out of generosity and as a matter of grace, she would give the use of that canal to the vessels of any nation at peace with the United States on fair and equitable terms, so that in time of war she would control the great strategic position which the canal would be, and in time of peace it would aid her in building up her merchant marine by remission of tolls or otherwise, as she royally pleased. That is what that canal was built for. Except for those reasons, the canal never would have been built.

Whatever we may think of subsidies, England has no right to object to the remission of tolls by the United States so long as England subsidizes her ships. The great weight of the argument in the great debate for the last three months clearly shows that the exemption of tolls is no violation of the treaty; but, in order that the whole world might understand just where we are, I would abrogate that treaty, which was made under conditions not now existing and conditions to which the treaty does not equitably or rationally apply.

England gave up nothing in that treaty. All that England really sought for was that the United States, in building the canal and making the regulations for its use, should let all other countries use the canal on fair and equitable terms.

The plea that the remission of tolls is a subsidy to the shipping monopoly is the sheerest nonsense. In the first place, there is no shipping monopoly, for no person violating the antitrust law can send a ship through the canal, and no railroad-owned ship can pass through; and, in the second place, if the remission of tolls is a subsidy and, as such, such a frightful breach of Democratic traditions as to give the Democrats abdominal spasms, then every appropriation for the improvement of rivers and harbors is also a subsidy to the shipping interests; and what is the 5 per cent rebate on duties on goods imported in American ships which all the Democrats in the House voted into the recently-enacted tariff bill?

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. ADAMSON. Does the gentleman from Illinois wish to use some time?

Mr. MANN. I yield three minutes to the gentleman from California [Mr. KAHN].

Mr. KAHN. Mr. Speaker, I believe that this amendment is but the throwing of another apple of discord into the Panama Canal act. It is evident, after listening to the brief discussion thereon this morning on this floor, and after reading the debates thereon in the Senate, that there is a wide difference of opinion as to what the amendment really means or does. If at the time the Hay-Pauncefote treaty was ratified it could have been realized that there would have been so much difficulty about its exact construction, there is no doubt in my mind but that the Senate at that time would have made its language so clear and unequivocable that there could have been no question as to our right to exempt American vessels from the payment of tolls. To some minds there is a question as to our rights under that treaty as it stands. I prefer to resolve the doubt in favor of my own country. Mr. Speaker, it seems we have come upon a time in the history of our country when a weak and pliant Legislature is willing to carry out the behest of the Chief Executive, right or wrong. That, to my mind, is a serious condition of affairs. In the annals of nations we find that such a condition is destructive of republican government. No country can continue free where the legislature abdicates its authority and power and yields it to the head of the nation, right or wrong.

Mr. Speaker, history is repeating itself. The story of the digging of the Panama Canal and the incidents connected with its completion and opening to the commerce of the world are entirely on a parallel with the history of the digging and the incidents connected with the completion and opening of the Suez Canal. England did not put forth an iota of effort to complete the Suez Canal. On the contrary, she put every possible obstacle in the way of De Lesseps and his company so as to hinder and delay the work. Through her diplomats at Constantinople she succeeded in having the concession to the French company denied for a number of years. She induced the Viceroy of Egypt to withdraw the labor he had agreed to furnish the company. Subsequently Egypt had to pay the price in the shape of damages awarded to the canal company in the amount of about $16,000,000. From the first, however, England has been the principal beneficiary of the construction of the Suez Canal. A few years after its completion she acquired, by purchase, the stock of the Khedive, Ismail Pasha, and has dominated it ever since.

She did not exert an iota of effort or contribute a single dollar for the construction of the Panama Canal, and yet to-day she is demanding equal rights with us in that great waterway. Egypt contributed over $50,000,000 for the construction of the Suez Canal. Egypt alone of all nations to-day receives practically no benefit from the construction of that great waterway. English diplomacy was largely responsible for this great cost to the Government of Egypt. English diplomacy has reaped the reward for the people of Great Britain of that expenditure by Egypt of over $50,000,000; and now, in 1914, through English diplomacy, the United States, after the expenditure of practically $400,000,000 for the construction of the Panama Canal, is to receive no benefit whatever for her own vessels engaged in coastwise trade or in any other trade. Thus, on the two occasions of the changing of the world's routes of commerce by

reason of the construction of great artificial waterways, England, without taking a single chance, without a particle of effort or exertion on the part of her people in that construction, has reaped the largest rewards through the efforts and exertions of other nations. No wonder her diplomats are jubilant. No wonder her newspapers rejoice.

The people of the United States when given an opportunity to express their views upon this question will do so in such emphatic terms that the Democratic majority of this House will thoroughly realize the blunder they have committed in standing for this un-American repeal, right or wrong.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. ADAMSON. Mr. Speaker, how much time have I remaining?

The SPEAKER pro tempore. Eighteen minutes.

Mr. ADAMSON. How much has the other side?

The SPEAKER pro tempore. Seven minutes.

Mr. ADAMSON. I have one other speaker beside myself. I yield to the gentleman from Virginia [Mr. GLASS] seven and one-half minutes.

Mr. GLASS. Mr. Speaker, it would be manifestly impossible to discuss the issues involved in this proposition in the limited time assigned me by the chairman of the committee.

Mr. ADAMSON. I will give the gentleman the other half minute and make it eight minutes.

Mr. GLASS. I scarcely will require that much time, Mr. Speaker, for I simply want to ask permission to extend my remarks, if it is not already granted. I want to do that in order that I may put upon the record the resentment which I individually experience at the outrageous assaults that have been made upon the President of the United States by Members on the other side of the House, and in order that I may express the indignation which some of us feel against the leaders of this side of the House who have repeatedly aspersed their own colleagues because the latter would not follow them into the camp of the Republican Party in advocacy of a distinctive Republican doctrine. [Applause on the Democratic side.] I desire to make it plainly known that I stand with the President of the United States in his opinion that the act sought to be repealed is a violation of our treaty obligations; that I stand with the President of the United States in his contention that it is an economic wrong to exempt these vessels; that I stand with the President of the United States, and with the Democratic Party from its very foundation, in opposition to governmental subsidies and to special privileges of all descriptions. [Applause on the Democratic side.]

Moreover, I want to take this momentary opportunity to say briefly, but pointedly, to those leaders of the Democratic Party who feel that a solemn obligation rests upon them to contend against the President and their party in this matter that they should carry their opposition into the next elections, and I venture particularly to say to the distinguished leader from Alabama, who has not contented himself with opposing his party upon this floor, but has gone into hostile newspapers and aspersed his party colleagues, that if he will come to my district in Virginia I will cheerfully engage him upon the hustings and make it clear that I am not among those who have apologies to make for their attitude upon this question. [Applause on the Democratic side.] I invite him there to propagate and defend this totally vicious Republican dogma of ship subsidy and special privilege to a favored monopoly. [Applause on the Democratic side.]

Mr. Speaker, I think you will search the political records of this country without avail; you will pursue the beaten tracks of political procedure in vain to find such a spectacle as we have recently witnessed here on this canal-tolls issue—the leaders of the Democratic majority deserting their party and standing shoulder to shoulder with Republican leaders against a Democratic President. And yet, in the face of that spectacle, such was the instinctive patriotism and tested fidelity of the Democratic rank and file that, without visible leadership here, they marched to the firing line and whipped the whole outfit, including the leaders on both sides.

All of this talk of the gentleman from Nebraska about the President of the United States vetoing this bill amounts to nothing; the gentleman knows the President will do nothing of the kind.

Mr. MURDOCK. The gentleman ought not to refer to me as from Nebraska. Nebraska is a great State, but I am from Kansas.

Mr. GLASS. Well, I will apologize for the inadvertence.

Mr. MURDOCK. I want to say further to the gentleman from Virginia that he does not know what the President is going to do, and he will be in an awful fix if the President vetoes this bill.

Mr. GLASS. Yes; I do know what the President is going to do, because I have perception enough to understand that this Senate amendment does not conflict in any respect with the President's message to Congress or with the attitude of the President on the question of repeal.

Mr. MURDOCK. Is this amendment what the gentleman would call "ungrudging measure"?

Mr. GLASS. Oh, no; the proceeding on this bill has not been "ungrudging" either in this Chamber or the other. It has been contumacious in both. And I want to say right here that I think the next campaign in this country ought to be a propaganda to compel the Senate of the United States to legislate and to abandon its incorrigible habit of talking so much. [Applause.] This Senate amendment, Mr. Speaker, after seven weeks of polemics, does not amount to a thrip. It might as well have been adopted instantly. My understanding is that, while the President sees no use of it, he acquiesces in it. There is nothing in the Senate amendment that controverts the position first distinctly assumed by the President, nor that in any way takes issue with the original action of the House.

The gentleman from Alabama [Mr. UNDERWOOD] says the Senate amendment declares a principle. What principle does it declare? I fail to find that it declares anything, affirmatively or negatively, except that which everyone is willing to assert, and that is that if we have any rights under the Hay-Pauncefote treaty to exempt coastwise vessels, or to make any other discrimination, we do not intend that this repealing act shall be interpreted as surrendering those rights.

Mr. MURDOCK. The gentleman wants to be fair, and the gentleman has made a very plain statement; but he forgets that the President said we ought to reverse our action without raising the question whether we were right or wrong.

Mr. GLASS. And I agree with the President that we ought to reverse our action, whether it was right or wrong, when all the nations of the earth think we were wrong.

Mr. MURDOCK. And you have tied a string to it as big as a ship's cable.

Mr. GLASS. I did not vote for exemption in the first place, and I am voting to repeal exemption now. I think it is the familiar Republican dogma of special privilege. And when you ask me if I repudiate the Democratic platform on this particular question, I say yes; I repudiate the Democratic platform and I reprobate the men who silently put that Republican heresy in a Democratic platform. [Applause.] I stand to that other declaration in the same platform which pronounces against this sneaking departure from the party faith.

Mr. RAGSDALE. Will the gentleman permit an interruption?

Mr. GLASS. Yes.

Mr. RAGSDALE. Does the gentleman include in his repudiation the Secretary of State, who wrote the platform?

Mr. GLASS. I repudiate the political attitude of anybody who deliberately subscribes to this heresy. But the Secretary of State did not write it, and has not subscribed to it, unless he has changed his opinion since night before last. Yes; I repudiate the men who silently put this "joker" in the Democratic platform at Baltimore. I think they ought to be subjected to the plain censure of the American people for writing into a Democratic platform a heresy that is an affront to the traditional and immemorial declarations of party faith, and that is at variance with another declaration of the very same platform on the very same subject. [Applause.]

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. MANN. Mr. Speaker, I shall not undertake to answer in behalf of those Democrats who have been so roundly denounced by the gentleman from Virginia [Mr. GLASS], whom we all know, whether in caucus or the House, has for his principal asset bitter resentment and indignation, never speaking calmly on any subject, but always dealing in bitter denunciation of somebody, somewhere, and the nearer the person is the better it suits him.

Mr. Speaker, the canal-toll bill passed the House and it has passed the Senate. There is no vote now to be had in the House on the bill. That has gone beyond the point where either House can change it; but the Senate has proposed an amendment to be added to the bill, and that we are called upon to vote for or against. I shall vote for the Senate amendment. We have had a long debate upon this subject in the House and the Senate—I think that, in my experience, the greatest debate on any subject which has attracted the attention of either House of Congress. The debate in the main centered

around one proposition, and that was whether, under the Hay-Pauncefote treaty, we were permitted in honor to discriminate in favor of our own vessels passing through the canal in the payment of tolls. The economic side of the question was slightly discussed, but has not had any great effect. It was not that to which the President attracted our attention. The mere moral side of the question was not much discussed. In the main, the discussion has been as to the construction of the treaty.

Now, treaties, like laws, are construed by acts, and the passage of the toll-exemption bill by itself was in itself a construction of the treaty adverse to the claims of those of us who believed that the treaty did not require equal treatment. The Senate amendment, if agreed to by the House, makes the whole fight a draw. It is not decisive either one way or the other. It leaves the question open for future determination. It declares that the passage of the bill shall not be construed as a construction of the treaty; that we do not by repealing the exemption of tolls construe the Hay-Pauncefote treaty, but we merely announce our present economic policy. The treaty, therefore, under this amendment remains open for construction. It is for that reason I shall vote for the amendment. I am a Republican, but I honor both Democrats and Progressives as well as Republicans who have taken the American side of this issue, and I should prefer Democratic success or Progressive success in favor of the American principle rather than Republican success opposed to it [applause], because, while I am a Republican, I am, before being a partisan, an American through and through.

This issue will be carried to the polls in your districts and mine. There is no escape from the proposition that the people are called upon to construe the Hay-Pauncefote treaty. It is up to the people now to determine whether they will so construe this treaty that the rights of America for ages to come, for generations yet unborn, shall be preserved to them and to us, or whether we surrender our rights at the request of a foreign power. I believe that not only the material interests of the United States are involved but that in the end the very integrity of our Government is linked with this proposition, and unless we declare through the votes which the people will cast at the polls in favor of a construction of the treaty which allows the United States to govern the canal as her own, our children's children, if not our children and ourselves, will bitterly suffer the effects of our action to-day.

I vote for the amendment, leaving it to the American people to determine whether the Panama Canal belongs to the United States, which supports it, or to England, which uses it. [Applause.]

Mr. ADAMSON. Mr. Speaker, if I can have for a moment the attention of the gentleman from Illinois [Mr. MANN], I want to say that I realize that it is improper to have more than one speech in conclusion, but the gentleman from Alabama [Mr. BLACKMON] requests me to yield to him a minute. Is there any objection to my doing so? If not, I yield one minute to the gentleman from Alabama [Mr. BLACKMON].

The SPEAKER pro tempore. The gentleman from Alabama [Mr. BLACKMON] is recognized for one minute.

Mr. BLACKMON. Mr. Speaker, I have been with the chairman of the committee, Judge ADAMSON, of Georgia, on the matter of charging tolls on all ships that pass through the canal. I voted with him two years ago, and I still believe that he is right; and I agree with the President in the position he has taken, and expect to go with them to a finish. But it strikes me as entirely improper for certain Democrats to criticize the leadership of this House. The recognized leaders of this House pointed the way to success for the Democratic Party. These leaders honestly differ with the President on the question of repeal of free tolls. I resent any suggestion that the great Democratic leader in the House, from whatever source the criticism comes, is prompted by any improper motive. When anyone attempts to reflect, by insinuation or otherwise, against our present leader, it is clear that they have not at heart the interests of the Democratic Party or the great principles for which the party stands. By his wise and conservative counsel we have remained united and have enacted constructive legislation that will ultimately redound to the interest of the great masses of the people. The name of the great leader of the Democratic hosts will be loved and cherished when those who now criticize him, or attempt to do so, will long be forgotten.

Mr. ADAMSON. Mr. Speaker, how much time have I remaining?

The SPEAKER pro tempore. The gentleman has nine minutes.

Mr. ADAMSON. Mr. Speaker, I feel so good on the consummation of this righteous effort to correct a great iniquity that it is not in my heart to speak long or to indulge in any abuse or acrimonious remarks about anybody, especially since, from the remarks of gentlemen, it appears that their votes are going to be wiser than their reasons.

There appears to be such approximate unanimity as to the vote that I do not feel disposed to answer or resent all the different carping criticisms that have been indulged in against different people or to attempt to refute all the erroneous statements that have been made as an excuse for argument. I do not even intend to reply to the repeated insinuations of gentlemen that Members are driven by Executive orders. I do not intend to quit the righteous course because there came into power a President with patriotism and sense enough to understand that a subsidy was wrong, that violation of a treaty is wrong, and that the Government is entitled to collect the revenues to defray the expenses of operating the canal, instead of giving them to special interests and taxing the people to recoup the Treasury. [Applause.]

I would not even abandon the position on account of the accession to our ranks of the distinguished gentleman from Washington [Mr. HUMPHREY]. He has come over, and says he is going to vote with me for this amendment, notwithstanding the erroneous statements and the erroneous remarks that he makes.

Now, the truth about this situation is this: The amendment leaves the case exactly where your Committee on Interstate and Foreign Commerce found it and left it two years ago when they reported a bill for the operation of the canal. [Applause.] That committee had sense enough to know that special exemption was a violation of the treaty. That committee had sense enough to know that it was wrong to take half the revenues of that canal and give it to the shipping interest, which has lobbied with the country and with Congress ever since the canal started. That committee did not consider the political prospects which the gentlemen have carped about in their dying agonies. That committee had faith to believe that the people were for honesty and equality, and gentlemen who now console themselves in their dying agonies by making promises about the people rebuking the President and Congress for acting honestly guess without their host. Eighty-five per cent of the American people are with us on honesty and equality against the robbery of the Treasury for the enrichment of a special few, and the gentlemen will see it if ever the issue is made. [Applause.]

As I understand, this amendment was not a tub thrown to the whale. If it was, it was successful. It caught the gentleman from Washington [Mr. HUMPHREY] and the gentleman from Illinois [Mr. MANN]. [Laughter.] But, Mr. Chairman, I do not even admit that it was a sop to the consciences of men who did not have sense enough to understand the situation exactly and yet wanted to vote against a subsidy. I will tell you what it was. The country and the halls of Congress have resounded and the CONGRESSIONAL RECORD has been filled with false statements. This amendment at the proper time came along and refuted and denounced every one of them. The truth is there never was a question of sovereignty involved. The right to make a treaty is a sovereign attribute. The Government that can not make a treaty is not sovereign, and the Government that will not observe a treaty does not deserve to be sovereign, and it will not long remain so. [Applause.]

The opposition to the robbing of the Treasury and of the many for the few certainly is no justification to anybody for opposing this resolution or opposing the bill, nor will the people ever defeat any party for such action. Never was the question of sovereignty involved. Never did our committee propose to give away any right. Never was the question of the Government passing its own property and its battleships through the canal involved, and nobody outside of an insane asylum believed any such thing. [Applause.]

Now, Mr. Speaker, our committee, utterly setting aside the treaty question, reported a bill for the Government of the Canal Zone just as though there never had been a treaty. We pleaded for the opportunity to open the canal and see if it would pay expenses. We pleaded with these special interests to keep their hands off the throat of the enterprise, to see if it would pay expenses or not, so that in after years, if we saw a mint there, with money overflowing to give away, Congress could decide whether they were the most meritorious beneficiaries or not; and if we wanted to go into the business of "graft" and found a treaty in the way, then diplomacy could open the way to commit an iniquity. But I would not vote for this "graft," if it was in the treaty. I would have advocated arbitration or denunciation or abrogation, or some other kind of "gation," to get rid of the evil thing. That would be as bad as that bastard crack in the plank, put in the Democratic platform by men who got on the platform committee for that purpose, in order to snake the House bill through the Senate.

The amendment adopted by the Senate is acceptable to me, and should be acceptable to all advocates of uniform tolls. It may not have been necessary, because nothing that we could add to or omit from the bill could enlarge or diminish the rights of the parties under the treaties; but to my mind it is exceedingly appropriate that the statement contained in the amendment should be made and promulgated in connection with the repeal bill itself. It is nothing but the truth, proclaimed by us many times, fully set out in the report of the Committee on Interstate and Foreign Commerce in 1912, when that committee reported advocating uniform tolls. Substantially the same declaration has been made by us on the floor of the House and elsewhere.

The amendment wasn't made by the advocates of exemption. All of their propositions were voted down by overwhelming majorities, and were generally of a character, if adopted, to emasculate the repeal bill and increase the difficulties of the situation by provisions more unsatisfactory than that placed in the act by the Doremus amendment.

The amendment adopted by the Senate was designed not to affect our relations with other nations of the world, but to refute unwarranted accusations which had been made in both Houses of Congress and through the press of the country, unjustly and untruthfully charging that the advocates of the repeal exemption were yielding up something to other nations—"relinquishing sovereignty," "waiving rights" of the country—when the very opposite was true. The advocates of the repeal were taking care of the interests of the Treasury and of the people against the avaricious demands of special interest. The question of "sovereignty" was not involved and could not be. Sovereignty is intact and unquestioned. Complying with a contract does not derogate from sovereignty; refusing to rob the people to subsidize a special interest does not derogate from sovereignty; refusing to give the people's money to a shipping interest is no waiver of right nor relinquishment of power and prerogative as against foreign nations. No foreign nation would or could, by treaty or otherwise, compel us as a sovereign nation to rob the many to enrich the few.

The power to make treaties is an ancient and traditional element of sovereignty; without it sovereignty can not exist. The sacred observance of treaties and compliance therewith are essential to the maintenance of a nation's honor among the people of the world, and if disregarded would ultimately destroy sovereignty.

No friend of the Treasury and the people supporting our demand for uniform tolls has ever attempted to construe any treaty nor surrender nor waive any right of the United States. There has never been any question of sovereignty involved; there has never been any proposition to surrender anything to any other country nor to waive any right of this Government. All those things are mare's-nests, hobgoblins, and bugaboos conjured up and injected into the discussion by the advocates of special interest in the hope of befuddling the popular mind, confusing the subject, and securing a construction of the treaty going to the other extreme.

Having without interruption maintained an active and potential lobby from the beginning of canal legislation, the claimants of exemption demanded that legislation to open the canal must at the same time provide for exemption. They saw the necessity of securing the exemption before the people could become acquainted with the subject and discover the injustice of the subsidy. They freely admitted that, unless exemption was secured them, they could never secure it; they also realized the importance of "position" as constituting "nine points in law," and fully realized the advantage of a legalized status which they could claim as a vested right and object to reversal. They knew how hard it would be to repeal the exemption if once enacted, and their obstinate resistance to the repeal has verified their opinions in the matter. When the canal bill was being considered two years ago those demanding exemption protested that we should not construe the treaty in favor of uniformity, but they not only insisted on a construction of the treaty favoring their contention, but also demanded that we legislate the graft into the pockets of the special interest. Having secured the exemption, the beneficiaries have resorted to every known means and invented some new ones in their desperate efforts to defeat the will and interest of the people and further besmirch the honor and glory of our country by preventing the repeal of this iniquitous subsidy.

When the Senate committee considered the repeal bill the supporters of the measure designed a simple answer to the false charges, declaring that no rights were waived on the floor of the Senate. Another supporter of the measure, the Senator from Nebraska [Mr. NORRIS], went further, and offered an amendment denying the further charges that sovereignty was being sacrificed. But as the contest proceeded, and defeat of the special interest appeared more certain, their advocates, growing more desperate, became fiercer and louder in their denunciation of the people's champion and false accusations as to their motives and intentions. So the chairman of the Senate committee in charge of the bill, after conferring with other supporters of the repeal, including the Senator from Nebraska, prepared and had substituted the following amendment, which was adopted by the Senate:

Provided, That the passage of this act shall not be construed or held as a waiver or relinquishment of any right the United States may have under the treaty with Great Britain ratified the 21st of February, 1902, or the treaty with the Republic of Panama ratified February 26, 1904, or otherwise, to discriminate in favor of its vessels by exempting the vessels of the United States or its citizens from the payment of tolls for passage through said canal, or as in any way waiving, impairing, or affecting any right of the United States under said treaty, or otherwise, with respect to the sovereignty over the ownership, control, or management of said canal, the regulation of the condition or charges of traffic through the same.

That is a complete and full answer to every false charge made, and will give to the country and to the world in substantial reiteration the policy adopted by your Committee on Interstate and Foreign Commerce two years ago that the imposition and collection of tolls should proceed with a view to preserve fairness and honesty among all the patrons thereof, without regard to race or nationality, and enable the canal management to open and operate the canal successfully without exacting the cost thereof from the people by taxing them to reimburse the Treasury for money that the ships of commerce ought to pay.

It has been intimated that this amendment was in the nature of a "tub thrown to the whale," but the vote cast for the amendment and for the bill failed to substantiate that insinuation. The amendment, as well as the bill, was adopted by the advocates of repeal and opposed by the enemies of the repeal. If it was a "tub thrown to the whale," it proved an abortion, for the whale did not seem to be satisfied with the tub. In so far as the whale was satisfied with the tub he was easily satisfied and must have been joking or trying to fool himself about the cause and extent of his dissatisfaction. Possibly some Senators who did not understand the subject but took their statements on faith from some of their interested friends connected with the shipping business were induced to vote for the repeal by coupling with it this declaration. If such doubting Thomases could take comfort from it and bolster up their judgment and backbone to support the cause of the right I am glad it had that good effect.

In reporting the canal bill to the House March 16, 1912, the following language was used, clear and explicit:

While many members of our committee believe that by the terms of our treaties with Great Britain we are prevented from allowing preferential or free tolls to ships of American registry, either coastwise or foreign, the majority of the committee voting for uniform tolls authorize and request the statement, positive, plain, and unequivocal, that no language of this section was chosen or used for the purpose of foreclosing discussion and differing opinions on that question. They authorize the express affirmation that this provision is adopted for present use, disclaiming all intention to declare in this section any construction of the language of the treaty or to establish any precedent or permanent legislative policy or to bind any future Congress should it be deemed expedient or adjudged competent to adopt a different basis. This statement of the committee may be clearly understood by reference to the original and committee prints of the bill from which the committee adopting this section eliminated all reference to treaties. The language beginning on page 6 with the words "No preference shall be given," etc., which has been criticized as an attempt to construe the treaty and thereby estop us from future consideration of the question, was not quoted from the treaty at all, but was taken from bills introduced by advocates of free or preferential tolls. One containing the same language has been introduced by the leading champion and signer of the minority views. Not deeming it necessary at this time nor for this purpose to make a legislative declaration as to the construction of that part of the treaty the majority of the committee recommend uniform tolls for reasons which they regard as good and sufficient.

On May 21, 1912, it was insisted that because certain language in the bill referred to preference and discrimination as to vessels the bill was attempting to make a construction of the treaty against the United States in favor of other nations. As the committee denied the correctness of that charge and had no such intention in reporting the bill, the chairman offered a committee amendment, striking out the following language objected to:

No preference shall be given nor discrimination shown, directly or indirectly, to the vessels of any nation, its citizens or subjects, other than vessels belonging to the Government of the United States, including those belonging to the Panama Railroad Co., and the Government of the Republic of Panama, observing the rules and regulations of the Panama Canal—

and inserting the following language in lieu thereof:

The rate of toll shall be uniform upon all vessels, except the official vessels of the Governments of the United States and the Republic of Panama, but when based on different forms of tonnage for different classes of vessels the rate fixed in each case shall be substantially equivalent to the rate based on any different form of tonnage.

In support of this amendment the chairman of the Committee on Interstate and Foreign Commerce made the following remarks:

Mr. Chairman, in the majority report, while an argument is made for uniformity of tolls, with the exception of the official vessels of the United States and of the Republic of Panama, and while it is stated that the position of the majority of the committee is that the treaties require that sort of treatment and would forbid preferential tolls, it was expressly stated that the committee did not necessarily base its action upon that ground, but upon the ground that we needed the tolls in operating the canal; that we feared there would not be much foreign business during the first year; that the coastwise trade was amply protected from all the balance of the world as to competition; that it did not need the tolls; that there were plenty of them to do the business; and if we wanted to do anyhing for the coastwise trade, we ought to give it to all of them and not to the small percentage going through the Panama Canal.

As we were in perfect good faith, the majority of the committee thought we had stricken from the bill all mention of the treaty. Some of the gentlemen on the floor seemed to complain of that language, and I thought it was only in the interest of truth and justice and due the committee that I state again that it was the position of all the committee except one or two, and that it is offered here by instruction of the committee, in accordance with the majority report, as an amendment that the committee insist on now to open the canal and fix the tolls, *with the exception* of the ships named, and leave the future of the canal, if success or failure, to indicate or dictate to us if there ought to be any changes made. If it is necessary to negotiate with England about it, or if unnecessary, let the future of the canal determine it. We can not agree with the gentlemen who say, "We will take our position, and if the other nations of the world do not like it, then go to The Hague or some other tribunal to settle the question." That is not the course to pursue. They might say, "Go and litigate the claim of Colombia at The Hague." England might say, "We will just close the Welland Canal." We do not want to construe the treaty. We do not want to precipitate any lawsuits or any trouble, belligerent or otherwise, with any other nation. We have spent $400,000,000 down there, and we have a great enterprise. We want it to succeed. We want gentlemen to unite with us and forego their claims for special interests and let us open that great enterprise and see what its returns will be and what its success will be, and if we find it advisable to change our course we can change the plan.

The object is to strike out the language that the minority report insisted would construe the treaty and foreclose our future rights in the matter. We eschew all reference to the treaty. We do not mention the treaty. We strike out the sentence they objected to, because it was said it resembles something in the treaty. It simply provides for uniform tolls, without mentioning that there is a treaty in the world, because we think that economically we need all the tolls alike from everybody.

Now, if in future years Congress deems that it has the power under the treaty to make special exceptions in favor of particular vessels, and if statesmen here get their consent to shut their eyes to taking money out of the Treasury to give to special interests, and they say it is not a ship subsidy to take from the Treasury that owns it $5,000 every time a ship goes through the canal and give it to the special shipping interests, all of which are either owned or financed by the same small financial coterie, Congress may do it.

We want to free ourselves from the unjust imputation that gentlemen on the other side have cast upon us that we are trying to foreclose the treaty.

When gentlemen say "we" and "our" they get their grammar confused. Congress and the Government may be "we" in the sense that the canal is ours, but if they confuse any little handful of men conducting the greatest and longest and loudest lobby ever seen on earth to get special privileges as "we" they are mistaken, for they do not represent 1 per cent of the American people. There are 90,000,000 American people who represent the Treasury, and these people who want the special privileges want us to divert from the Treasury, on an average, $5,000 a month for a ship during the year. You divert from the Treasury for each ship $60,000 that belongs to your constituents, who are the American people, and give it to a lot of fellows who do not need it, do not care for it, do not care for the flag except when you give them special privilege, who can get along without it, and do not fight one another in the matter of competition.

The amendment was adopted and left the bill without any expression construing or referring to any treaty at all, but merely fixing uniform tolls. The character of the bill was changed a few minutes later by the Doremus amendment providing for exemption of coastwise ships and permitting preference to all ships belonging to citizens of the United States. The passage of this bill corrects that error—the amendment passed by the Senate in nowise nullifies it. If it did I would never feel disposed to agree to it.

Treaty rights can no more be affected by the amendment than could moral status be altered if we should declare "neither do we waive any right we may have to discriminate against the American people and the Treasury by diverting two or three millions of dollars a year of the people's money from the Treasury and giving it to special interest," because such a declaration would be practically meaningless. It would still leave open the question of moral integrity and political economy of whether Representatives are at liberty to vote in the interest of special privilege to give to the Coastwise Ship Trust half of the revenues of the canal and then tax the other 90,000,000 to recoup the robbery of the Treasury.

The Senate amendment declaring we are not waiving nor surrendering any right that we may have under a treaty leaves the question exactly where your committee two years ago first placed it and tried to leave it—that it was still an open question for future construction, and I rejoice in the triumph of the people, which has thus corrected a grievous wrong and provided for the opening of the canal on fair, equal, and honest terms that will enable the canal management to demonstrate its full and glorious success, not only as an engineering feat, but as a demonstration of what American genius can do after other nations have failed as to an enterprise requiring statecraft, engineering and executive ability, as well as financial wisdom and integrity.

When the conference report on the Panama Canal bill was agreed to by the House on August 17, 1912, I said:

Ably, eloquently, honestly, and patriotically he (Senator BURTON) pleaded for the imposition of uniform tolls in the interest of the Treasury, which needs the tolls to operate the canal, in the interest of all the people to whom the income from the canal belongs, and in maintenance of our national honor by inviolable and scrupulous regard for the treaty stipulating universal equality of treatment at the canal. Unfortunately circumstances and events can not obscure or cure the result of this mistake, as in case of our other two errors. The consequences will have to be met by additional legislation when diplomacy shall have pointed the way, which will not be long. Diplomatic and commercial war will soon convert the innocent instruments of our blunder and thwart the designs of the guilty instigators of our mistake. Let us hope that the lesson to be so soon and certainly learned will not prove too costly to our commerce and prosperity nor humiliate our pride nor tarnish our national honor.

The hope I then held out is about to be realized in glorious fruition by the action of Congress this day completed. The only possible objection to the Senate amendment would be that carping critics insinuate that it is in the nature of an excuse or apology to the prejudices of statesmen hesitating on the anxious bench of doubt. No excuse is necessary for doing right; no apology is in order for redressing a wrong. It seems to me that a shout of glorification would have been more consonant with the proprieties of the occasion and the eternal fitness of things than a collateral statement in the nature of an excuse. Lovers of the people, those who glory in the unparalleled success of the canal enterprise and those who are battling for the maintenance of national honor should rather partake of the spirit of Simeon of old, who was so happy after having seen the salvation of the Lord that he was then ready to go. But there is now peace in the family, all have come back to the original proposition of the committee, that we ought not to shackle the canal enterprise with the selfish claims of private interest, that it ought to be permitted to demonstrate the unrivaled success of the grand and glorious undertaking, and we can all glorify together with peans of triumph in the completion and operation of that stupendous creation which will stand as a monument to American skill, brains, and honesty until the stars shall fade, the sun shall die, and this world shall teem no longer with the busy sons of men.

I am ready for a vote.

Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD, and I move the previous question.

Mr. MOSS of West Virginia. Mr. Speaker, I offer a preferential motion.

Mr. ADAMSON. I have moved the previous question, Mr. Speaker.

The SPEAKER pro tempore. The gentleman from Georgia [Mr. ADAMSON] moves the previous question.

The previous question was ordered.

Mr. HULINGS. Mr. Speaker——

The SPEAKER pro tempore. For what purpose does the gentleman rise?

Mr. HULINGS. I rise to ask for a record vote.

Mr. MURDOCK. Mr. Speaker, a parliamentary inquiry.

Mr. GARNER. Mr. Speaker, has the previous question been ordered?

The SPEAKER pro tempore. It has.

Mr. FOSTER. Then, I ask, Mr. Speaker, for the yeas and nays on the amendment.

The SPEAKER pro tempore. Those in favor of taking this vote by yeas and nays will rise.

Mr. MURDOCK. Mr. Speaker, a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. MURDOCK. The gentleman from West Virginia [Mr. Moss] rose to his feet and offered what he says was a preferential motion. Has he not the right to have that submitted?

The SPEAKER pro tempore. The Chair had started to put the vote on the previous question.

Mr. MURDOCK. Mr. Speaker, the gentleman from Georgia [Mr. ADAMSON] had moved the previous question. The Speaker had not stated it when the gentleman from West Virginia offered what he says was a preferential motion.

Mr. ADAMSON. I had moved the previous question, and I was entitled to have that motion put, to cut off all other motions.

Mr. MANN. Oh, no. The motion to concur with an amendment was in order.

The SPEAKER pro tempore. If the Chair had not stated the motion of the gentleman from Georgia, the gentleman from West Virginia had a right to present his motion.

Mr. ADAMSON. I say that when I moved the previous question, I was entitled to have my motion put.

Mr. FITZGERALD. The motion to concur in the Senate amendment with an amendment is a preferential motion, and the gentleman from Georgia can not cut off a preferential motion simply by moving the previous question.

The SPEAKER pro tempore. The Clerk will report the motion of the gentleman from West Virginia [Mr. Moss].

The Clerk read as follows:

Mr. Moss of West Virginia moves to strike out the Senate amendment and substitute therefor the following:
"But it is hereby affirmatively declared——"

Mr. BARTLETT. Mr. Speaker, I make the point of order that that is not a preferential motion.

The SPEAKER pro tempore. The Clerk will finish reading it, and then the Chair will decide that question.

The Clerk read as follows:

Mr. Moss of West Virginia moves to strike out the Senate amendment and substitute therefor the following:
"But it is hereby affirmatively declared that the United States has the right to exempt from payment of tolls for passage through the canal its vessels of every kind and also those of its citizens, and the absolute sovereignty of the United States over that canal is hereby specifically and positively affirmed."

Mr. ADAMSON. The gentleman from West Virginia [Mr. Moss] may prefer that, but I do not think parliamentary law prefers it, and I deny it.

Mr. FITZGERALD. It is a motion to concur with an amendment, and as such has preference over the motion to concur. There is no question about it. The gentleman's motion is to concur with an amendment, to strike out the Senate amendment, and to insert the amendment as reported.

Mr. MOSS of West Virginia. Mr. Speaker, that is my motion, to concur in the Senate amendment with an amendment.

Mr. ADAMSON. I move the previous question on that.

Mr. STEVENS of Minnesota. Mr. Speaker, does not the RECORD show that unanimous consent was granted by the House that at the end of an hour and a half the gentleman from Georgia [Mr. ADAMSON] should be recognized to move the previous question? If so, should he not be recognized ahead of the motion of the gentleman from West Virginia?

The SPEAKER pro tempore. Merely asking for the previous question does not cut off a preferential motion.

Mr. ADAMSON. I move the previous question now.

Mr. MURDOCK. On the motion of the gentleman from West Virginia.

Mr. GARNER. Mr. Speaker, a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman from Texas will state it.

Mr. GARNER. Is the previous question on the motion of the gentleman from West Virginia and all other motions to the final conclusion?

The SPEAKER pro tempore. Yes. That was not the motion, but that is the effect of it.

Mr. ADAMSON. I want to move the previous question on everything.

The SPEAKER pro tempore. The question is on ordering the previous question on the motion of the gentleman from West Virginia [Mr. Moss].

The previous question was ordered.

The SPEAKER pro tempore. The question now is on the motion of the gentleman from West Virginia [Mr. Moss].

Mr. WINGO. I demand a division on the question.

Mr. ADAMSON. Oh, let it go.

Mr. WINGO. The motion is to concur in the Senate amendment with an amendment.

Mr. FITZGERALD. That motion is not divisible. The previous question has been ordered.

Mr. MANN. It is divisible.

Mr. FITZGERALD. It is not divisible at this time, the previous question having been ordered on the motion to concur with an amendment.

The SPEAKER pro tempore. The motion to concur with an amendment is not divisible.

Mr. MANN. The motion to concur with an amendment is divisible.

Mr. WINGO. Certainly, it is divisible. The Chair will remember that this very question arose on the conference report on the tariff bill, on the Senate amendment, and the concurrence therein with the substitute of the Underwood amendment. The very question arose at that time, and the Speaker ruled that the question was divisible.

The SPEAKER pro tempore. The question at that time was a question of receding and concurring.

Mr. WINGO. The parliamentary situation was just the same.

The SPEAKER pro tempore. This motion is different.

Mr. WINGO. Will the Chair hear me just a moment?

The SPEAKER pro tempore. The Chair will hear the gentleman.

Mr. WINGO. I will call the attention of the Chair to the fact that the reason for that rule is that anything that tends to bring the two Houses together takes precedence.

Mr. FITZGERALD. Not at this stage.

Mr. WINGO. Anything that tends to bring the two Houses together takes precedence. That is the basis of the rule. It makes no difference whether it is a motion to recede or whether it is a motion to concur. The basic reason is just the same, and the motion to concur with an amendment is divisible, and the motion to concur then becomes the preferential motion and should be voted on first.

Mr. FITZGERALD. The gentleman is mistaken. Until the stage of disagreement is reached the Senate amendment is open to amendment. Instead of offering merely an amendment to the Senate amendment, motions have been put in different forms, but such forms as are recognized in the House procedure—one motion to concur and one to concur with an amendment. The decisions have been uniform that when a motion to concur with an amendment is made, the stage of disagreement not having been reached, it is preferential to the motion to concur, and when the previous question is ordered the motion can not be divided. The House first determines whether it will concur with the amendment. If it declines to concur with the amendment, it then votes on the question whether it will concur in the amendment of the Senate. The stage of disagreement not being reached, there is nothing for the House to recede from, so that it is not a motion to recede and concur, which is divisible.

The SPEAKER pro tempore. The Chair holds that nothing is in order except to vote upon the preferential amendment.

Mr. MANN. A parliamentary inquiry then, Mr. Speaker.

The SPEAKER pro tempore. The gentleman will state it.

Mr. MANN. If the Chair holds that way, that is a division of the question. I just understood the Chair to rule that there was no division. Now what is the question?

The SPEAKER pro tempore. The decision of the Chair was that this motion is not divisible.

Mr. MANN. Then the question is not on the amendment, but on the motion to concur with an amendment.

The SPEAKER pro tempore. The question is on the motion to concur in the amendment of the gentleman from West Virginia.

Mr. MANN. That is not the question, Mr. Speaker.

The SPEAKER pro tempore. The question is on the motion to concur in the Senate amendment, with the amendment of the gentleman from West Virginia.

Mr. MOSS of West Virginia. Mr. Speaker, on that I demand the yeas and nays.

Mr. GUERNSEY. Mr. Speaker, I ask to have the amendment reported again.

The SPEAKER pro tempore. The Clerk will report the amendment again, if there be no objection.

The motion of Mr. Moss of West Virginia was again read by the Clerk.

The SPEAKER pro tempore. The gentleman demands the yeas and nays. All those in favor of taking the question by yeas and nays will rise. Evidently a sufficient number.

Mr. HAY. Mr. Speaker, I demand the other side.

The House divided; and there were 60 ayes and 84 noes.

So the yeas and nays were ordered.

The question was taken; and there were—yeas 108, nays 174, answered "present" 2, not voting 149, as follows:

YEAS—108.

Aiken	Drukker	Harrison	Lonergan
Anthony	Dunn	Hawley	McGuire, Okla.
Austin	Dupré	Hayden	MacDonald
Barton	Dyer	Hinebaugh	Mapes
Bell, Cal.	Edmonds	Howell	Mitchell
Brockson	Elder	Hughes, W. Va.	Mondell
Broussard	Estopinal	Hulings	Moore
Bryan	Falconer	Humphrey, Wash.	Morgan, Okla.
Burke, S. Dak.	Farr	Johnson, Utah	Morin
Burke, Wis.	Finley	Johnson, Wash.	Moss, W. Va.
Butler	Fitzgerald	Kahn	Mott
Campbell	Fordney	Kelley, Mich.	Murdock
Cary	Frear	Kelly, Pa.	Murray, Okla.
Conry	French	Kennedy, Iowa	O'Hair
Cramton	Gallivan	Kettner	O'Leary
Curry	Garner	Kinkaid, Nebr.	O'Shaunessy
Deitrick	Good	Kitchin	Patten, N. Y.
Dillon	Greene, Mass.	La Follette	Phelan
Donohoe	Greene, Vt.	Langley	Plumley
Doremus	Guernsey	Lee, Pa.	Ragsdale
Driscoll	Hamilton, N. Y.	Lindbergh	Raker

Reilly, Conn.	Sinnott	Tavenner	Vare
Roberts, Nev.	Slemp	Taylor, Colo.	Volstead
Rupley	Smith, Idaho	Temple	Walters
Scott	Stephens, Cal.	Towner	White
Sells	Sutherland	Treadway	Woodruff
Sherwood	Switzer	Underwood	Woods

NAYS—174.

Abercrombie	Cullop	Hill	Rauch
Adair	Davis	Holland	Rayburn
Adamson	Dent	Houston	Reed
Alexander	Dershem	Hughes, Ga.	Reilly, Wis.
Ashbrook	Dickinson	Hull	Rothermel
Aswell	Dixon	Jacoway	Rouse
Bailey	Donovan	Johnson, Ky.	Rubey
Baker	Doolittle	Johnson, S. C.	Rucker
Baltz	Doughton	Keating	Russell
Barkley	Eagan	Kent	Saunders
Bartholdt	Eagle	Kirkpatrick	Seldomridge
Bartlett	Edwards	Lazaro	Shackleford
Beakes	Esch	Lee, Ga.	Sims
Beall, Tex.	Evans	Lenroot	Sparkman
Bell, Ga.	Faison	Lesher	Stedman
Blackmon	Fergusson	Lever	Steenerson
Boober	Ferris	Lewis, Md.	Stephens, Miss.
Borchers	Fields	Linthicum	Stephens, Tex.
Bowdle	FitzHenry	Lloyd	Stevens, Minn.
Britten	Flood, Va.	Lobeck	Stone
Brodbeck	Floyd, Ark.	McCoy	Stout
Brumbaugh	Foster	McGillicuddy	Sumners
Buchanan, Ill.	Fowler	McKellar	Taggart
Buchanan, Tex.	Gard	McKenzie	Talbott, Md.
Bulkley	Gardner,	Madden	Talcott, N. Y.
Burgess	Garrett, Tenn.	Maguire, Nebr.	Taylor, Ark.
Burnett	Garrett, Tex.	Mann	Ten Eyck
Byrnes, S. C.	Gillett	Moon	Thacher
Byrns, Tenn.	Gittins	Morrison	Thompson, Okla.
Calder	Glass	Moss, Ind.	Thomson, Ill.
Candler, Miss.	Godwin, N. C.	Neely, W. Va.	Tribble
Caraway	Goodwin, Ark.	Oglesby	Underhill
Carr	Gorman	Oldfield	Vaughan
Carter	Graham, Ill.	Padgett	Vollmer
Church	Gray	Page, N. C.	Walker
Clancy	Green, Iowa	Park	Watkins
Clark, Fla.	Gudger	Peters, Mass.	Weaver
Claypool	Hamlin	Peterson	Webb
Cline	Hammond	Platt	Whaley
Collier	Hardy	Post	Williams
Connelly, Kans.	Harris	Pou	Wingo
Connolly, Iowa	Hay	Prouty	Witherspoon
Cox	Helgesen	Quin	
Crosser	Hensley	Rainey	

ANSWERED "PRESENT"—2.

Smith, J. M. C.	Thomas

NOT VOTING—149.

Ainey	George	Kreider	Roberts, Mass.
Allen	Gerry	Lafferty	Rogers
Anderson	Gilmore	Langham	Sabath
Ansberry	Goeke	L'Engle	Scully
Avis	Goldfogle	Levy	Sharp
Barchfeld	Gordon	Lewis, Pa.	Sherley
Barnhart	Goulden	Lieb	Shreve
Bathrick	Graham, Pa.	Lindquist	Sisson
Borland	Gregg	Loft	Slayden
Brown, N. Y.	Griest	Logue	Sloan
Brown, W. Va.	Griffin	McAndrews	Small
Browne, Wis.	Hamill	McClellan	Smith, Md.
Browning	Hamilton, Mich.	McDermott	Smith, Minn.
Bruckner	Hardwick	McLaughlin	Smith, N. Y.
Burke, Pa.	Hart	Mahan	Smith, Saml. W.
Callaway	Haugen	Maher	Smith, Tex.
Cantor	Hayes	Manahan	Stafford
Cantrill	Heflin	Martin	Stanley
Carew	Helm	Merritt	Stephens, Nebr.
Carlin	Helvering	Metz	Stevens, N. H.
Casey	Henry	Miller	Stringer
Chandler, N. Y.	Hinds	Montague	Taylor, Ala.
Coady	Hobson	Morgan, La.	Taylor, N. Y.
Cooper	Howard	Murray, Mass.	Townsend
Copley	Hoxworth	Neeley, Kans.	Tuttle
Covington	Humphreys, Miss.	Nelson	Wallin
Crisp	Igoe	Nolan, J. I.	Walsh
Dale	Jones	Norton	Watson
Danforth	Keister	O'Brien	Whitacre
Davenport	Kennedy, Conn.	Paige, Mass.	Willis
Decker	Kennedy, R. I.	Palmer	Wilson, Fla.
Dies	Key, Ohio	Parker	Wilson, N. Y.
Difenderfer	Kiess, Pa.	Patton, Pa.	Winslow
Dooling	Kindel	Payne	Young, N. Dak.
Fairchild	Kinkead, N. J.	Peters, Me.	Young, Tex.
Fess	Knowland, J. R.	Porter	
Francis	Konop	Powers	
Gallagher	Korbly	Riordan	

So the motion to concur with an amendment was rejected.

The following pairs were announced:

For the session:

Mr. METZ with Mr. WALLIN.

Mr. SCULLY with Mr. BROWNING.

Mr. HOBSON with Mr. FAIRCHILD.

Until further notice:

Mr. SISSON with Mr. PATTON of Pennsylvania.

Mr. SMALL with Mr. PORTER.

Mr. SMITH of Texas with Mr. ROGERS.

Mr. YOUNG of Texas with Mr. SHREVE.

Mr. WATSON with Mr. SAMUEL W. SMITH.

Mr. WILSON of Florida with Mr. YOUNG of North Dakota.

Mr. LEVY with Mr. POWERS.

Mr. HEFLIN with Mr. LANGHAM.

Mr. HELM with Mr. LAFFERTY.

Mr. HUMPHREYS of Mississippi with Mr. LINDQUIST.

Mr. TUTTLE with Mr. MCLAUGHLIN.

Mr. TOWNSEND with Mr. MANAHAN.

Mr. MCCLELLAN with Mr. J. I. NOLAN.

Mr. MONTAGUE with Mr. ROBERTS of Massachusetts.

Mr. NEELEY of Kansas with Mr. NORTON.

Mr. RIORDAN with Mr. PARKER.

Mr. BROWN of New York with Mr. AINEY.

Mr. CASEY with Mr. BROWNE of Wisconsin.

Mr. FRANCES with Mr. COPLEY.

Mr. GALLAGHER with Mr. DANFORTH.

Mr. GEORGE with Mr. GRAHAM of Pennsylvania.

Mr. GOEKE with Mr. HAYES.

Mr. GOLDFOGLE with Mr. KEISTER.

Mr. GORDON with Mr. KIESS of Pennsylvania.

Mr. GREGG with Mr. KREIDER.

Mr. HARDWICK with Mr. HAUGEN.

Mr. SHERLEY with Mr. WINSLOW.

Mr. ALLEN with Mr. FESS.

Mr. IGOE with Mr. ANDERSON.

Mr. DALE with Mr. MARTIN.

Mr. TAYLOR of Alabama with Mr. MILLER.

Mr. SLAYDEN with Mr. BURKE of Pennsylvania.

Mr. HENRY with Mr. HINDS.

Mr. CALLAWAY with Mr. MERRITT.

Mr. MURRAY of Massachusetts with Mr. PETERS of Maine.

Mr. THOMAS with Mr. HAMILTON of Michigan.

Mr. SABATH with Mr. J. R. KNOWLAND.

Mr. CLINE with Mr. SLOAN, ending one week from June 8.

Mr. COOPER with Mr. HOWARD.

On this vote:

Mr. CARLIN (against Moss amendment) with Mr. AVIS (for).

Mr. LEWIS of Pennsylvania (for Moss amendment) with Mr. BARNHART (against).

Mr. KENNEDY of Rhode Island (for Moss amendment) with Mr. KENNEDY of Connecticut (against).

Mr. CAREW (for Moss amendment) with Mr. HAMILL (against).

Mr. CANTRILL (against Moss amendment) with Mr. WILLIS (for).

Mr. GRIEST (for Moss amendment) with Mr. PALMER (against).

Mr. BARCHFELD (for Moss amendment) with Mr. COVINGTON (against).

Mr. GRIFFIN (for Moss amendment) with Mr. HART (against).

Mr. DOOLING (for Moss amendment) with Mr. KINKEAD of New Jersey (against).

Mr. DAVENPORT with Mr. J. M. C. SMITH, commencing morning of June 10, ending when both return. Not to apply to prohibition or rural credits and not to prohibit Mr. SMITH from voting on Dyer contest.

Mr. J. M. C. SMITH. Mr. Speaker, I desire to know if the gentleman from Oklahoma, Mr. DAVENPORT, is recorded?

The SPEAKER pro tempore. He is not recorded.

Mr. J. M. C. SMITH. I voted "aye." I wish to withdraw my vote and answer "present," as I have a pair with the gentleman.

The name of Mr. J. M. C. SMITH was called, and he answered "Present."

Mr. BATHRICK. Mr. Speaker, I desire to have my name recorded.

The SPEAKER pro tempore. Was the gentleman in the Hall listening when his name should have been called?

Mr. BATHRICK. Mr. Speaker, I am quite sure that I heard my name called as I came into the door.

The SPEAKER pro tempore. The gentleman was in the Hall then when his name was called?

Mr. MANN. Mr. Speaker, I do not think the gentleman from Ohio brings himself within the rule.

The SPEAKER pro tempore. Was the gentleman in the Hall listening when his name should have been called?

Mr. BATHRICK. Mr. Speaker, I came in at the door, and, as I have stated, I think at that instant I heard my name called. I was inside the door.

The SPEAKER pro tempore. Did the gentleman vote?

Mr. BATHRICK. No; I did not; for I was not sure enough.

Mr. MANN. Mr. Speaker, the gentleman can not vote unless he failed to hear his name called when it should have been called.

Mr. BATHRICK. Mr. Speaker, the gentleman from Illinois can not say that I did not.

Mr. MANN. I do not say anything about it. I take the gentleman's word.

The SPEAKER pro tempore. If the gentleman heard his name called and did not vote, he is not entitled to vote now.

Mr. BATHRICK. I was not absolutely certain of it, Mr. Speaker. I came in the door, hurrying over here from the Office Building when the bells were rung.

The SPEAKER pro tempore. The gentleman knows what the rule is. He is able to state whether or not he was in the Hall, listening, when his name should have been called.

Mr. BATHRICK. I think I was in the Hall, listening.

The SPEAKER pro tempore. It is for the gentleman to state.

Mr. BATHRICK. I think I was in the Hall, Mr. Speaker, and listening, certainly, if I was in the Hall.

The SPEAKER pro tempore. And the gentleman failed to hear his name called?

Mr. BATHRICK. Yes.

The SPEAKER pro tempore. And he asks to vote under the rule?

Mr. BATHRICK. Yes.

The SPEAKER pro tempore. On that statement the gentleman's name can be recorded; otherwise not.

Mr. BATHRICK. Mr. Speaker, I simply state that I think I heard my name called. I am not going to state positively that I did; but as I came in the door I thought I heard my name called. The B's were being called at that time.

Mr. MANN. Mr. Speaker, the gentleman plainly does not come within the rule.

The SPEAKER pro tempore. The Chair does not think the gentleman brings himself within the rule.

Mr. BATHRICK. Then, Mr. Speaker, I wish to state, since I am deprived of voting on the objection of the gentleman from Illinois, that if I were permitted to vote I would vote "no."

Mr. MANN. Mr. Speaker, I have no objection to the gentleman voting now.

Mr. BATHRICK. I think the gentleman from Illinois is the one who raised the objection.

Mr. MANN. Oh, that is entirely untrue.

The SPEAKER pro tempore. The gentleman fails to bring himself within the rule.

The result of the vote was announced, as above recorded.

Mr. ADAMSON. Mr. Speaker, if necessary, I again move the previous question on the motion to concur in the Senate amendment.

Mr. MANN. Oh, that has been already ordered.

The SPEAKER pro tempore. That has been ordered. The question is on the motion of the gentleman from Georgia to concur in the Senate amendments.

Mr. ADAMSON. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 216, nays 71, answered "present" 1, not voting 145, as follows:

YEAS—216.

Abercrombie	Connolly, Iowa	Gudger	Maguire, Nebr.
Adair	Cox	Hamilton, Mich.	Mann
Adamson	Crosser	Hamilton, N. Y.	Moon
Aiken	Cullop	Hamlin	Morgan, Okla.
Alexander	Davis	Hammond	Morrison
Aswell	Dent	Hardy	Moss, Ind.
Bailey	Dickinson	Harris	Murray, Okla.
Baker	Dillon	Haugen	Neely, W. Va.
Baltz	Dixon	Hay	Nelson
Barkley	Donovan	Hayden	Oglesby
Bartholdt	Doolittle	Helgesen	O'Hair
Bartlett	Doremus	Hensley	Oldfield
Barton	Doughton	Hill	Padgett
Bathrick	Eagan	Holland	Page, N. C.
Beakes	Eagle	Houston	Park
Beall, Tex.	Edwards	Hughes, Ga.	Peters, Mass.
Bell, Ga.	Elder	Hull	Peterson
Blackmon	Esch	Humphrey, Wash.	Platt
Booher	Faison	Jacoway	Plumley
Borchers	Fergusson	Johnson, Ky.	Post
Bowdle	Ferris	Johnson, S. C.	Pou
Britten	Fields	Johnson, Wash.	Prouty
Brumbaugh	Finley	Keating	Quin
Buchanan, Ill.	FitzHenry	Kent	Ragsdale
Buchanan, Tex.	Flood, Va.	Kettner	Rainey
Bulkley	Floyd, Ark.	Key, Ohio	Rauch
Burgess	Foster	Kinkaid, Nebr.	Rayburn
Burke, S. Dak.	Fowler	Kirkpatrick	Reed
Burke, Wis.	Frear	La Follette	Reilly, Wis.
Burnett	Gard	Lazaro	Rothermel
Butler	Gardner	Lee, Ga.	Rouse
Byrnes, S. C.	Garner	Lenroot	Rubey
Byrns, Tenn.	Garrett, Tenn.	Lesher	Rucker
Candler, Miss.	Garrett, Tex.	Lever	Rupley
Caraway	Gillett	Lewis, Md.	Russell
Carlin	Gittins	Lindbergh	Saunders
Carr	Glass	Linthicum	Seldomridge
Carter	Godwin, N. C.	Lloyd	Shackleford
Church	Good	Lobeck	Sherwood
Clancy	Goodwin, Ark.	Logue	Sims
Clark, Fla.	Gorman	McCoy	Sisson
Claypool	Graham, Ill.	McGillicuddy	Slemp
Cline	Gray	McKellar	Smith, Saml. W.
Collier	Green, Iowa	McKenzie	Sparkman
Connelly, Kans.	Greene, Vt.	Madden	Stedman
Steenerson	Sumners	Thacher	Walker
Stephens, Miss.	Sutherland	Thompson, Okla.	Watkins
Stephens, Nebr.	Taggart	Thomson, Ill.	Weaver
Stephens, Tex.	Talbott, Md.	Tribble	Webb
Stevens, Minn.	Talcott, N. Y.	Underhill	Whaley
Stevens, N. H.	Tavenner	Underwood	White
Stone	Taylor, Ark.	Vaughan	Williams
Stout	Taylor, Colo.	Vollmer	Wingo
Stringer	Ten Eyck	Volstead	Witherspoon

NAYS—71.

Anthony	Edmonds	Kelley, Mich.	Patten, N. Y.
Austin	Estopinal	Kelly, Pa.	Phelan
Bell, Cal.	Falconer	Kennedy, Iowa	Raker
Brockson	Farr	Kitchin	Reilly, Conn.
Broussard	Fitzgerald	Langley	Roberts, Nev.
Bryan	Fordney	Lee, Pa.	Scott
Campbell	French	McGuire, Okla.	Sells
Cary	Gallivan	MacDonald	Sinnott
Conry	Greene, Mass.	Mapes	Smith, Idaho
Cramton	Guernsey	Mitchell	Stephens, Cal.
Curry	Harrison	Mondell	Switzer
Deitrick	Hawley	Moore	Temple
Donohoe	Hinebaugh	Morin	Towner
Driscoll	Howell	Moss, W. Va.	Treadway
Drukker	Hughes, W. Va.	Mott	Vare
Dunn	Hulings	Murdock	Woodruff
Dupré	Johnson, Utah	O'Leary	Woods
Dyer	Kahn	O'Shaunessy	

ANSWERED "PRESENT"—1.

Smith, J. M. C.

NOT VOTING—145.

Ainey	Fairchild	Konop	Powers
Allen	Fess	Korbly	Riordan
Anderson	Francis	Kreider	Roberts, Mass.
Ansberry	Gallagher	Lafferty	Rogers
Ashbrook	George	Langham	Sabath
Avis	Gerry	L'Engle	Scully
Barchfeld	Gilmore	Levy	Sharp
Barnhart	Goeke	Lewis, Pa.	Sherley
Borland	Goldfogle	Lieb	Shreve
Brodbeck	Gordon	Lindquist	Slayden
Brown, N. Y.	Goulden	Loft	Sloan
Brown, W. Va.	Graham, Pa.	Lonergan	Small
Browne, Wis.	Gregg	McAndrews	Smith, Md.
Browning	Griest	McClellan	Smith, Minn.
Bruckner	Griffin	McDermott	Smith, N. Y.
Burke, Pa.	Hamill	McLaughlin	Smith, Tex.
Calder	Hardwick	Mahan	Stafford
Callaway	Hart	Maher	Stanley
Cantor	Hayes	Manahan	Taylor, Ala.
Cantrill	Heflin	Martin	Taylor, N. Y.
Carew	Helm	Merritt	Thomas
Casey	Helvering	Metz	Townsend
Chandler, N. Y.	Henry	Miller	Tuttle
Condy	Hinds	Montague	Wallin
Cooper	Hobson	Morgan, La.	Walsh
Copley	Howard	Murray, Mass.	Walters
Covington	Hoxworth	Neeley, Kans.	Watson
Crisp	Humphreys, Miss.	Nolan, J. I.	Whitacre
Dale	Igoe	Norton	Willis
Danforth	Jones	O'Brien	Wilson, Fla.
Davenport	Keister	Paige, Mass.	Wilson, N. Y.
Decker	Kennedy, Conn.	Palmer	Winslow
Dershem	Kennedy, R. I.	Parker	Young, N. Dak.
Dies	Kless, Pa.	Patton, Pa.	Young, Tex.
Difenderfer	Kindel	Payne	
Dooling	Kinkead, N. J.	Peters, Me.	
Evans	Knowland, J. R.	Porter	

So the motion to concur was agreed to.

The Clerk announced the following additional pairs:

On this vote:

Mr. BARNHART (for Senate amendment) with Mr. LEWIS of Pennsylvania (against).

Mr. KENNEDY of Connecticut (for Senate amendment) with Mr. KENNEDY of Rhode Island (against).

Mr. HAMILL (for Senate amendment) with Mr. CAREW (against).

Mr. PALMER (for Senate amendment) with Mr. GRIEST (against).

Mr. HOWARD (for Senate amendment) with Mr. COOPER (against).

Mr. HART (for Senate amendment) with Mr. GRIFFIN (against).

Mr. KINKEAD of New Jersey (for Senate amendment) with Mr. DOOLING (against).

Mr. GILMORE (for Senate amendment) with Mr. AVIS (against).

Mr. CANTRILL (for Senate amendment) with Mr. ROBERTS of Massachusetts (against).

Mr. DERSHEM (for Senate amendment) with Mr. WALTERS (against).

Mr. TUTTLE (for Senate amendment) with Mr. PAYNE (against).

Mr. BRODBECK (for motion to concur) with Mr. BARCHFELD (against).

Until further notice:

Mr. MCDERMOTT with Mr. WILLIS.

Mr. ASHBROOK with Mr. PATTON of Pennsylvania.

Mr. THOMAS with Mr. CALDER.
Mr. LIEB with Mr. MCLAUGHLIN.
Mr. J. M. C. SMITH. Mr. Speaker, I would like to inquire how the gentleman from Oklahoma, Mr. DAVENPORT, voted?
The SPEAKER pro tempore. The gentleman did not vote.
Mr. J. M. C. SMITH. I voted "no," and I wish to withdraw my vote and answer "present." I am paired with that gentleman.
The name of Mr. J. M. C. SMITH was called, and he answered "Present."
Mr. EVANS. Mr. Speaker, I desire to vote "aye."
The SPEAKER pro tempore. Was the gentleman in the Hall when his name was called?
Mr. EVANS. I do not think I was.
The SPEAKER pro tempore. The Chair does not think the gentleman is entitled to vote.
Mr. ASHBROOK. Mr. Speaker, I do not think I voted.
The SPEAKER pro tempore. Was the gentleman listening when his name was called?
Mr. ASHBROOK. I am not sure I was.
The SPEAKER pro tempore. Under that statement the gentleman probably would not be entitled to vote.
Mr. ASHBROOK. I would not say I was and I would not say I was not; I think I was.
The result of the vote was announced as above recorded.
On motion of Mr. ADAMSON, a motion to reconsider the vote by which the motion to concur was passed was laid on the table.

ORDER OF BUSINESS.

Mr. DONOVAN. Mr. Speaker, I ask unanimous consent to address the House for five minutes.
The SPEAKER pro tempore. The gentleman from Connecticut asks unanimous consent to address the House for five minutes. Is there objection? [After a pause.] The Chair hears none.
Mr. DONOVAN. Mr. Speaker [applause], I will read a sentence from a speech of the ranking member of the minority on the Committee on Appropriations, Mr. GILLETT, of Massachusetts. He said, on June 6, that the presence of a minority, he was willing to admit, had the power to prevent abuses. Having that in my mind on the 10th of June, I rose and addressed the Chair and appealed to the chairman of the committee having the codification bill in charge, and, as reported in the RECORD, I asked the chairman of the committee if he did not think he ought to move to rise, because there was only one member of the minority—Republican Party—present, for the purpose, Mr. Speaker, of having those in the opposition present. It is true there were three members of the Progressive Party present. Well, in the noise and commotion which is generally started when the gentleman from Illinois, the leader of the minority, rises from his seat, he stated, according to the RECORD, that the gentleman from Connecticut knew that the statement he made is not true, and he added that the statement was not true. The statement was true, Mr. Speaker, when made. I have no other stock in trade but the truth. [Applause.] I never make any statement in public that is not the truth. Just previous to that time, the gentleman from Washington having departed, the gentleman from Iowa [Mr. GREEN] had taken up his little bundle of papers and pamphlets and departed, and that great judicial Member from Wisconsin, who never rises on the floor of the House but that he is always fair, Mr. ESCH, had also departed, leaving only the leader of the minority. Now, we have in this country great manufacturing interests; we have in this country great financial interests; we have great commercial interests, and the people of the Republican Party, and especially the Members of Congress belonging to that party, claim to represent all those things. I want to call attention to how they attend to their business by leaving this Chamber during legislative proceedings.
The great State of Pennsylvania at that time had not a Republican Member upon this floor, except a Member of the Progressive Party. The great State of Ohio, the greatest manufacturing State, or one of them, in this country, not even had the presence of her college president; not a single member of the minority was present. In all New England not a member of the minority was present. Not one of the Republican Members from the South was present. [Laughter and applause.] Mr. Speaker, I repeat, not a single Republican Member from the Southern States, and there are not many of them; although they claim to be the most patriotic, they claim they get more out of the Treasury than any others—they were absent, too. [Laughter.] The great line on the Pacific coast, from the Arctic circle to the line of Mexico—not one was present, except the Progressive Member from Washington. That shingle shaver [laughter]—that shingle talker, who uses the RECORD more than any other Member in this Congress—abandoned that great interest of the country to the majority. [Applause.] And I appeal——
The SPEAKER pro tempore. The time of the gentleman has expired.
Mr. MOORE. I want the gentleman to finish his appeal.
Mr. MANN. Mr. Speaker, I ask for two minutes.
Mr. DONOVAN. I suggest the gentleman of the minority have five minutes. He needs that many minutes to explain his leadership and why they left him.
The SPEAKER pro tempore. The gentleman from Illinois asks unanimous consent for two minutes' time. Is there objection?
Mr. DONOVAN. I offered to make it five minutes.
The SPEAKER pro tempore. The Chair hears none.
Mr. MANN. Mr. Speaker, the statement made by the gentleman from Connecticut [Mr. DONOVAN] on Wednesday last that there was only one Member of the minority, referring to myself, present at the time, was not true when it was made, and it is no truer to-day when it is reiterated.
In plain sight of the gentleman from Connecticut [Mr. DONOVAN] and anybody else in the House, there stood right here the gentleman from Wisconsin [Mr. LENROOT] and the gentleman from Kansas [Mr. CAMPBELL]. Over to the right a number of Republican Members were present. And the two Members, I think, first referred to, at the time were discussing some subject—I do not know what—in private conversation with the gentleman from Kansas [Mr. MURDOCK], in plain sight of anybody who had sense enough to see. I do not know whether the gentleman from Connecticut [Mr. DONOVAN] gets so that he can not see at that time of the day or not.
Mr. DONOVAN. Will the gentleman allow an interruption?
Mr. MANN. I did not interrupt the gentleman.
The SPEAKER pro tempore. The gentleman from Illinois refuses to yield.
Mr. DONOVAN. Well, it is wise he did not do it. [Laughter.]
Mr. MANN. I think myself it is wise, because I never heard any wisdom imparted to the House when I did yield to the gentleman, and no one else ever did. The gentleman repeats a slander for the purpose of injuring Members of the House. He himself was hardly present at any time on Wednesday last, but came in to call attention to the absence of other gentlemen, and made a statement absolutely untrue, in fact, and which he must have known was untrue if he ever had had the use of his eyes.
Mr. DONOVAN. Mr. Speaker——
Mr. FITZGERALD. Mr. Speaker, I ask unanimous consent that when the House adjourn to-day it adjourn to meet at 11 o'clock to-morrow.
Mr. DONOVAN. I am going to object to that Mr. Speaker. In fact, I do object.

SUNDRY CIVIL APPROPRIATION BILL.

Mr. FITZGERALD. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the state of the Union for the further consideration of the sundry civil appropriation bill.
The motion was agreed to.
Accordingly the House resolved itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill (H. R. 17041) making appropriations for the sundry civil expenses of the Government for the fiscal year ending June 30, 1915, and for other purposes, with Mr. GARRETT of Tennessee in the chair.
The CHAIRMAN. The Clerk will read.
The Clerk proceeded to read.
Mr. DONOVAN. Mr. Chairman, I move to strike out the last word.
The CHAIRMAN. Let the Clerk finish the reading of the paragraph.
The Clerk completed the reading of the paragraph, as follows:

UNITED STATES BOARD OF MEDIATION AND CONCILIATION.

For commissioner, $7,500; assistant commissioner, $5,000; for necessary and proper expenses incurred in connection with any arbitration or with the carrying on of the work of mediation and conciliation, including traveling and other necessary expenses of members or employees of boards of arbitration, rent in the District of Columbia, not exceeding $2,280, furniture, office fixtures and supplies, books, salaries, traveling expenses, and other necessary expenses of members or employees of the board of mediation and conciliation, to be approved by the chairman of said board, $37,500; in all, $50,000.

Mr. MANN. Mr. Chairman, I move to strike out the last word.
Mr. DONOVAN. Mr. Chairman, I move to strike out the last word.
The CHAIRMAN. The gentleman from Connecticut——

Mr. MANN. I moved to strike out the last word, but I am perfectly willing to let the gentleman from Connecticut [Mr. DONOVAN] have that privilege.

The CHAIRMAN. The gentleman from Connecticut arose just as the reading of the paragraph was about ended and moved to strike out the last word and the Chair requested that he wait until the reading of the paragraph was concluded.

Mr. MANN. And when the paragraph was completed the gentleman from Connecticut remained on his feet until the Clerk started to read the next paragraph, and I arose and moved to strike out the last word. However, I am perfectly willing to yield to the gentleman from Connecticut.

Mr. DONOVAN. I do not want any favors. I want nothing but the regular procedure.

The CHAIRMAN. The Chair has recognized the gentleman from Connecticut. If he wants to move to strike out the last word, he may do it.

Mr. DONOVAN. In regard to what has taken place, not a single member of the minority has arisen and claimed that he was here——

Mr. FITZGERALD. Mr. Chairman, I make the point of order that the discussion is not germane, and I intend to make the same point of order during the rest of the day.

Mr. DONOVAN. I desire to be heard on that point of order, Mr. Chairman.

The CHAIRMAN. If the gentleman from Connecticut [Mr. DONOVAN] will pardon the Chair, it really is not necessary for him to be heard on that point of order. The gentleman knows the rules.

Mr. DONOVAN. The Chair will pardon me, we are not confined to debating the question of striking out the single word.

The CHAIRMAN. That was the motion offered by the gentleman from Connecticut.

Mr. DONOVAN. Exactly, but we are not confined to that under the rules. The Chair would not hold that I could not debate the subject matter in regard to an appropriation.

Mr. FITZGERALD. Mr. Chairman, I am objecting to such discussion.

Mr. DONOVAN. The Chair will not so hold, I think.

The CHAIRMAN. The gentleman from Connecticut [Mr. DONOVAN] may proceed in order.

Mr. DONOVAN. Yes, sir; I was about to say, Mr. Chairman, that the statement of the gentleman from Illinois just made is lacking in truth—every word and syllable of it.

Mr. FITZGERALD. I make the point of order, Mr. Chairman.

The CHAIRMAN. The point of order is sustained.

Mr. DONOVAN. Nobody has made any.

The CHAIRMAN. The gentleman from New York [Mr. FITZGERALD] made a point of order. Without objection, the pro forma amendment will be withdrawn, and the Clerk will read.

Mr. MURDOCK. A parliamentary inquiry, Mr. Chairman.

The CHAIRMAN. The gentleman will state it.

Mr. MURDOCK. When the motion is made to strike out the last word—and it is frequently made in the Committee of the Whole under the five-minute rule—how far afield can a speaker go on that proposition? Must he address himself to the subject matter of the paragraph?

The CHAIRMAN. He must address himself to the subject matter of the amendment.

Mr. MURDOCK. As the Chair knows, it would be practically impossible under the practices here to talk to a single word. I would just like to know what the rule is, if the gentleman from New York is going to hold the Committee of the Whole to that proposition.

Mr. FITZGERALD. I intend to insist on gentlemen discussing the particular paragraph under discussion in this bill for the rest of the day.

Mr. MURDOCK. Does the gentleman from New York mean that he is going to exclude a motion to strike out the last word?

Mr. FITZGERALD. If the gentleman wishes to discuss the paragraph in which that last word is, I shall not make the point of order.

Mr. MURDOCK. That is what I wanted to get from the Chair.

Mr. FITZGERALD. We have only two hours left to-day to consider this bill, and I want some progress made with it.

Mr. MURDOCK. The Chair refused to say just what the gentleman from New York [Mr. FITZGERALD] had moved.

The CHAIRMAN. If the gentleman from Kansas will pardon the Chair, the Chair could not state what the gentleman from New York [Mr. FITZGERALD] had in mind. The Chair could only state what the Chair could hold.

Mr. MURDOCK. I think it fair to have a ruling on that proposition.

The CHAIRMAN. If the point of order is made, the Chair will hold that the gentlemen must confine themselves to the amendment.

Mr. MURDOCK. And not to the paragraph?

Mr. MANN. I move to strike out the last two words. I notice that this paragraph includes traveling and other necessary expenses of members or employees of boards of arbitration and also the necessary expenses of members or employees of the board of mediation and conciliation.

I would like to ask the gentleman how far this language authorizes employments. The language here is "other necessary expenses of members or employees of boards of arbitration" and also "other necessary expenses of members or employees of the board of mediation and conciliation." I noticed in the public press the other day that this board had employed an attorney of very high standing in the United States to give some kind of an opinion, and had received from him a bill for $1,500, I presume for half a day's work, owing to the prominence of the attorney who was employed, and that there had been a dispute in reference to the payment of the bill.

Mr. DONOVAN. Mr. Chairman, I rise to a point of order.

The CHAIRMAN. The gentleman will state it.

Mr. DONOVAN. Under your ruling the gentleman, the minority leader, is not speaking now to his amendment of striking out the last two words.

Mr. MANN. Certainly I am. The last two words are "thousand dollars," and it is a very important thing to know whether we shall continue the appropriation of the thousands of dollars or whether there is any excuse offered, and I am discussing that very question. Anyone else in the House other than the gentleman from Connecticut would have known enough to know that it requires an explanation. [Laughter.]

Mr. DONOVAN. Mr. Chairman, I rise to make a point of order. The gentleman from Connecticut had nothing to do with striking out the last two words.

Mr. MANN. Then what is the gentleman interfering with it for if he had nothing to do with it?

The CHAIRMAN. The Chair will state to the gentleman from Illinois—and it is not necessary to state to him——

Mr. MANN. I am following the rule.

The CHAIRMAN. The gentleman could move to strike out the entire paragraph and then discuss the entire paragraph.

Mr. MANN. I am discussing the question of the expenditure of money, and I move to reduce the amount. I move to reduce the amount in this provision from $50,000 to $50. If one can not discuss the reasons for it, I do not know what one can discuss under such a motion.

It was stated in the press that they could not find any authority for the expenditure of this money except under the title of "necessary expenses." Now, this language is "necessary expenses of members or employees of the board." I would like to know whether the gentleman from New York [Mr. FITZGERALD] thinks that that means that the board itself may use all of this $50,000 in the employment of counsel or expert advice, or something of that sort, from people who are neither members nor employees of the board? Of course, I apprehend that there were political reasons for employing this distinguished lawyer. After a fierce battle at a primary or convention it might have been thought desirable that the present administration should gain the favor of Mr. Alton B. Parker and pay him $1,500 for looking wise. [Laughter.]

The CHAIRMAN. Without objection, the pro forma amendment will be withdrawn, and the Clerk will read.

The Clerk read as follows:

COMMISSION ON INDUSTRIAL RELATIONS.

For continuing the inquiries and investigations authorized by the act of August 23, 1912, entitled "An act to create a Commission on Industrial Relations," and to provide the expenses of such inquiries and investigations as are enumerated in section 2 of said act, $200,000.

Mr. MANN. Mr. Chairman, I move to strike out the last two words.

The CHAIRMAN. The gentleman from Illinois [Mr. MANN] moves to strike out the last two words.

Mr. MANN. Mr. Chairman, I would like to ask the gentleman from New York [Mr. FITZGERALD] if he can tell us how long these investigations of this Commission on Industrial Relations are likely to continue?

Mr. BARTLETT. Three years.

Mr. FITZGERALD. My recollection is that the chairman of the commission stated that they hoped to be able to complete the investigations within the time originally mentioned when the act creating the commission was under consideration by Congress.

Mr. MANN. This commission is conducting investigations so different from what I was led to anticipate would be the work carried on by them when the present Secretary of Labor had charge of the bill in the House that I thought it was a proper inquiry to make—to know how long the investigations were likely to continue.

Mr. FITZGERALD. Well, the work of the commission is very comprehensive. The committee went into the matter very fully. I do not believe that I can state within a brief time just what was the extent of the investigations to be made by this commission. It is about as comprehensive as could be devised.

The work was authorized and the commission decided upon a program. They have men expert in various lines relative to the relations between capital and labor. They laid out lines of investigation, four chief lines—division of public agencies, division of private agencies, division of industrial conditions, and the division of legal agencies—and they are inquiring into such subjects as the safety, sanitation, and hygiene of employees, vocational education, cooperative action, collective bargaining, seasonal occupations, and every other subject which is of keen interest to those desiring to improve the conditions of those compelled to live by the sweat of their faces, and involving the relations between employers and employees.

Evidently the commission seems to have a very comprehensive grasp of the work to be done. They have carefully studied the work of the Royal British Commission, which made a somewhat similar investigation a few years ago. The investigation that we make will not only cover these activities in this country but in order to obtain information that will enable the commission to make recommendations that will be of value to Congress they contemplate making certain investigations abroad, so that information of value, wherever it can be ascertained, will be collected, properly collated, systematically arranged, and sent to Congress for its information.

What was contemplated when the commission was created, I do not quite know. The commission began and carefully considered the fields and subjects that it should investigate and decided upon the lines of investigation which they intended to follow; and if they make any sort of an efficient investigation along the lines indicated, they can very easily expend $350,000 to $500,000. Congress overwhelmingly passed the bill creating the commission and seemed to be peculiarly anxious that these investigations should be made, and started the machinery. The only thing left is either to repeal the law creating the commission or to furnish them with the means to conduct the investigations which they desire to make.

Mr. MOORE. Mr .Chairman, will the gentleman yield?

The CHAIRMAN. Does the gentleman from New York yield to the gentleman from Pennsylvania?

Mr. FITZGERALD. Certainly.

Mr. MOORE. This commission has been meeting recently and taking testimony in the city of New York, has it not?

Mr. FITZGERALD. Well, I do not know. I can not keep track of the movements of the commission.

Mr. BARTLETT. They have sent out circulars, a copy of which the gentleman has probably received.

Mr. MOORE. I know the New York newspapers do not treat the gentleman fairly for his good work in Congress, which I think is a misfortune, but the gentleman ought to keep posted and read the New York newspapers once in a while.

Mr. FITZGERALD. I have not time. I am too busy.

Mr. MOORE. I know the gentleman is very much taken up with his volumes and tomes; but when this bill was up it passed with only a few negative votes, and it provides that the commission shall go out in three years. Is that right?

Mr. FITZGERALD. That is my recollection.

Mr. MOORE. The commission has no power to do anything but investigate? It has no power to settle disputes?

Mr. FITZGERALD. It is to obtain information that will enable us to discharge our duty intelligently in the enactment of legislation.

Mr. MOORE. The gentleman seemed to be somewhat hesitating in stating what the purposes of the commission were.

Mr. FITZGERALD. I do not hesitate to say that I know what the act provides. I stated that I did not think it would be possible for me to enumerate in a brief time and in a comprehensive manner the various lines of investigation that the commission proposes to make.

Mr. MOORE. The gentleman suggested that the commission might have to go to Europe to complete its investigations?

Mr. FITZGERALD. No. I said that the information was that the commission would probably make some investigations in Europe in order to obtain some information that it believed to be desirable on certain lines.

Mr. MOORE. Which lines were not clearly defined.

Mr. FITZGERALD. I think they were. I believe they are now investigating the smuggling of Asiatics into the United States.

Mr. MOORE. That is provided for in the law.

Mr. FITZGERALD. The Immigration Bureau had a very large appropriation, in which was merged an appropriation of $500,000 to prevent the smuggling of Asiatics into the United States The commission evidently intend to investigate to ascertain whether the immigration officials are efficient, and how they could improve their service, and what other steps might be taken to accomplish the exclusion of Asiatics. At any rate, the act creating the commission is so broad that they can do a great many things that I did not suppose they could do.

Mr. MOORE. In the matter of the Asiatics, is not this commission really trenching upon the ground already covered by the Immigration Commission, which cost this Government a million dollars?

Mr. FITZGERALD. They say not.

The CHAIRMAN. The time of the gentleman from New York has expired.

Mr. MOORE. I move to strike out the last two words.

I did not approve of the creation of this commission, and did not vote for the bill at the time it was before the House. I did not vote for it, because I believed that the commission would simply stir up trouble for business men and for workingmen all over the United States. At that time I believed that this commission would tend to create new offices, new expenditures on the part of the Government, and would offend the Democratic policy of economy.

The commission has no power to do anything except to investigate, and one of the things the chairman of the committee says it intends to investigate is that of Asiatic immigration. Now, the question of Asiatic immigration is fairly well understood by the Committee on Immigration and Naturalization, which has before it, as Congress has, over 40 volumes that were prepared at an expense of over a million dollars, which the people of this country paid, in order that the commission might investigate this very question, and it certainly was investigated.

Mr. Chairman, the bill creating this Commission on Industrial Relations appropriated $100,000 with which it might begin business, and that was after the expenditure of over $1,000,000 by the Immigration Commission to investigate the question of immigration and Asiatic conditions as they would affect this country.

Under section 3 of the act, this commission—

may report to the Congress its findings and recommendations, and submit the testimony taken from time to time, and shall make a final report, accompanied by the testimony not previously submitted, not later than three years after the date of the approval of this act, at which time the term of this commission shall expire, unless it shall have previously made final report; and in the latter case the term of the commission shall expire with the making of its final report; and the commission shall make at least one report to the Congress within one year from the time of its appointment, and a second report within two years from the time of its appointment.

Now, it is a temporary body, a sort of floating kidney, to stir up questions as between capital and labor, and to report, and to report, and to report to Congress, so that its reports may be very successfully buried after they reach Congress. It now asks for $100,000 to go on with its investigations and its reports. We have had the forty-odd volumes of the report of the Immigration Commission, and they are hidden in congressional offices, and many of them have gone into the scrap heap. A few of them have gone into libraries, where they may be perused by the specialists on the subject. But we are now to get volumes and volumes of testimony taken, not by a congressional commission but by an independent body created by Congress, all of which must be taken up subsequently and considered by committees of Congress, if it is ever considered at all.

Mr. BARTLETT. And we have 19 volumes and 1 index of a report of the Industrial Commission which reported six or eight years ago, as the gentleman will remember.

Mr. MOORE. That is true.

Mr. BARTLETT. That was some sort of a commission which went into all these various questions, and gathered up everything and presented it

Mr. MOORE. That is true.

Mr. BARTLETT. And Congressmen have been trying ever since to digest some of that information, before they got this additional pabulum.

Mr. MOORE. That is true.

Mr. BARTLETT. I voted against this particular proposition.

Mr. MOORE. I believe the gentleman did.

Mr. BARTLETT. Yes.

Mr. MOORE. And I believe the gentleman stood for real economy on his side of the House when he did so.

Mr. BARTLETT. Yes.

Mr. MOORE. But the pabulum that the gentleman refers to is coming to us in these volumes of testimony taken by a number of gentlemen who sit up as judges in New York, in Pittsburgh, in Chicago, in San Francisco, and possibly off yonder in Shanghai; testimony so voluminous that no Member of Congress can possibly read it, and few people on this earth will dare take the time to digest it. Yet we are criticized in this body for extravagance, while we permit these commissions that have no power to act but simply to dig out testimony and dig out more testimony and stir up more trouble, to go on ad libitum at the expense of the people of the United States.

Mr. BARTLETT. The gentleman realizes that the Committee on Appropriations finds itself face to face with the law, and the estimates submitted to it for this purpose.

Mr. MOORE. Yes.

Mr. BARTLETT. And it has either got to appropriate the money to carry out a purpose which Congress has directed shall be carried out or else the Congress ought to repeal the law. If the gentleman wants to strike out this appropriation, I will vote with him.

Mr. SELDOMRIDGE. Does not the gentleman believe that the constant creation of commissions and the continuous series of investigations that are being conducted on this subject and other subjects really interfere with the accomplishment of needed legislation on these subjects simply because the public mind is in a state of more or less uncertainty, created in that way?

Mr. MOORE. I certainly do; and I want to say to those wise old Democrats who still adhere a little bit to their right to legislate that they are gradually, step by step, giving away the power delegated to them by the people and transferring their authority to independent bodies, to whom they give the money merely to make more trouble for Congress and for the people. [Applause.]

The CHAIRMAN. If there be no objection, the pro forma amendment will be considered as withdrawn and the Clerk will read.

Mr. SELDOMRIDGE. I move to strike out the last word.

Mr. FITZGERALD. That motion has already been debated, and unless there is to be something germane, I shall have to object.

Mr. SELDOMRIDGE. I move to strike out the paragraph.

Mr. Chairman, I am somewhat in sympathy with the statement made by the gentleman from Pennsylvania [Mr. MOORE] with reference to the constant irritation which is being created by the program of investigation which seems to be under wa/ in all parts of the country, affecting so many lines of industry and commerce.

This House, early in the year, created committees to investigate labor troubles existing in Colorado and Michigan. We have also been informed through the press that the Department of Labor has recently sent out representatives to the State of Colorado to further investigate conditions there. The legislature has also appointed a committee to investigate the question. Various civil, fraternal, and commercial bodies have also appointed committees of inquiry, and I am credibly informed that this House will soon be asked to consider a resolution, which I will not oppose, creating a commission to be appointed by the President of the United States to further investigate this matter and if possible secure arbitration, a result which has long been desired.

From all of these investigations it is doubtful if we are to secure anything of a definite character that will prove to be remedial and salutary. There will be a mass of material presented to Congress which may or may not contribute to wise and needed legislation. I believe the country is in a mood at this time to expect legislation rather than investigation. There is abundant material available for legislators in all parts of the country. There is little that is new to be said on either side of these industrial problems, but there is an insistent demand from the country generally that legislators should now give their minds to the consideration of legislation that will make such investigations unnecessary.

If we will consider matters of legislation that will in some measure go to the root of these difficulties and make strikes and lockouts, boycotts and blacklists unnecessary and impossible by removing the causes for their existence, this will do more for the country than to provide liberal appropriations to create commissions without power and whose work is often barren of results.

While I am on my feet, I would like to ask permission to extend my remarks in the RECORD by inserting a statement made concerning the Colorado strike situation by ex-Senator Thomas M. Patterson, of our State. It is a lucid, clear, and unprejudiced presentation of this question along the line of definite legislative action. This statement was published in the Rocky Mountain Sentinel of June 6 last, and is as follows:

"QUESTIONS ARISING FROM COAL STRIKE—A JUST SETTLEMENT TO BOTH SIDES OF CONTROVERSY MUST EVENTUALLY COME—SOCIETY HAS CERTAIN RIGHTS THAT MUST BE OBSERVED—BOTH OPERATORS AND MINERS MUST CONSIDER OBLIGATION TO SOCIETY.

[By Thomas M. Patterson.]

"In this contribution I will only consider questions that grow out of the strike and about which a clearer view should be had at the present time.

"With the adjournment of the special legislative session there went glimmering every hope of the strike settlement except through either a mutual agreement between the parties or the utter exhaustion of the one side or the other. The most important measure for which the session was called—except the appropriation to meet the expenses occasioned by the strike—was for the submission of a constitutional amendment that would authorize legislation for a compulsory arbitration law. If such an amendment had been submitted, it would have placed Colorado in the forefront of States that seek to devise rational plans for the settlement of their great, devastating labor struggles, which every year seem more menacing. The only reason given for the failure is that both the operators and the strikers opposed it. I think that is very likely; but I submit that such is not a sufficient reason—for between those two combatants is society—the great body of the public whose wishes and interests lawmakers should have held uppermost in the legislative program. With public interests held paramount by the legislature, the real interests of labor and capital would have been best defended; progress would not have been retarded, nor would the stability of business been seriously disturbed.

"This failure by the legislature is, however, a pointer to the irreconcilable character of the dispute that is now disturbing the State. While a law under such an amendment might not be in time to settle the present strike—and yet it might—it would have been available for those of the future. Nevertheless, both sides opposed it. I can not understand why, except that probably each preferred to take its chances, backed by the power of their organizations, rather than leave the outcome to the calm judgment of the men whom the people would select to act as judges between them.

"But since the legislature refused its help to the public, what may the public expect now that it is thrown upon its own resources?

"When J. D. Rockefeller, jr., refused the rational request of President Wilson for cooperation in bringing about a settlement, and the national executive body of the miners resolved to give all needful help to the strike and declared that on the outcome depended the future of unionism and humanity, the continuation of a titantic, widespread struggle with Colorado to remain the battle ground seemed assured.

"It may be accepted that the National Government will not continue to do for Colorado what the State's plain duty is to do for itself—maintain peace and order within its borders—one day longer than may seem to be absolutely necessary. We must commence to contemplate the withdrawal of Federal soldiers from police duty in Colorado. They were sent in for an emergency and not to go into permanent barracks, and when they shall be withdrawn, what then? With both sides doggedly determined; with both sides believing that the struggle is no longer local, but national; with both sides provided with ample means to carry on the struggle indefinitely, the outlook is dark for the peace and welfare of the State.

"It is not necesary to discuss the merits of the strike, for it has been on now for more than half a year. The operators and miners have each gathered their partisans to their sides, and from the partisan standpoint the claims of each seem quite defensible.

"MINERS WILLING TO ARBITRATE.

"But the attitude of the two sides upon the question of a settlement is quite different. The strikers say we are willing to submit the differences to any reputable and disinterested body of men and abide the result. The operators say there is nothing to arbitrate and we will not negotiate for a settlement with the strike leaders nor submit any question to arbitration.

"The operators are at least consistent. That was the stand they took when the strike was first threatened and it is the stand they take to-day.

"The occurrences immediately before the troops were called out are significant in this connection:

"Three or four days before that occurred Gov. Ammons called upon and urged me to assist him in his efforts to bring about a settlement of the strike. Of course I readily assented.

I spent three days and most of the nights at the statehouse on that mission. Messrs. White, Lawson, Hayes, McClennon, and others of the National and State officials of the miners' union were in attendance practically all of that time. They didn't censure Gov. Ammons's declared purpose to call out the troops if his efforts for settlement failed; they appeared to realize that the strikers had at that time measurably gotten beyond their control, and that he was justified, as the chief executive, in calling out the troops to keep the strikers within the bounds of the law. These leaders were also very desirous of settling the strike, and I am now, as I was then, thoroughly convinced that if the operators would but hold a conference with these leaders the strike would have been settled.

"In our interviews with the strike leaders they frequently made such statements as this: 'If the operators will but grant us an interview, we are convinced this strike will be settled.' But the operators would not confer with them for any purpose whatsoever. Gov. Ammons and I urged the operators to consent to a conference. We told them the strike leaders had declared time and again that if they would but meet them they were certain they could end the trouble. The operators replied that to agree to a conference will be to recognize the union, which they would not do under any circumstances. We insisted that a mere conference could not be construed into a recognition of the union; that to hold a conference did not commit the operators to the acceptance of any single one of the miners' demands, and we believed that a settlement might be reached which would not include the recognition of the union. To this the operators replied that they would not confer with murderers and interlopers. To this we replied that they should not place the heads of the union organizations in the same category with murderers, neither should they regard them as interlopers, for the local unions owed allegiance to the national body, and it was the duty of the national officers to look after the welfare of the local unions; and it should be presumed that in coming to Colorado the national leaders were but doing what they conceived to be their duty to the local unions. But no plea on our part could change the determination of Messrs. Osgood, Brown, Welborn, and Perry, speaking for themselves and the rest of the operators, not to confer with the miners' representatives, whatever might be the outcome. At one time the operators declared if White, Hayes, Lawson, and others should come into the room they would leave it. At that very time White, Lawson, Hayes, and the others were in an adjoining room hoping to be admitted for a conference.

"MILITIA STARTS IN RIGHT.

"Finally, after midnight on Sunday, I think, Gov. Ammons, despairing of any settlement, called in Gen. Chase and signed the orders that placed the militia in the field.

"Just before these orders were signed and before Gen. Chase came in I suggested to Gov. Ammons that every care should be taken to prevent the troops being made partisans to either side; that they should hold the scales in absolute balance as between the operators and the strikers.

"It was in that connection that I suggested to Gov. Ammons that the operators should not be permitted to bring in strike breakers; but that he should instruct Gen. Chase to afford the fullest protection to all miners then at work, and announce that the fullest protection would be given to any of the strikers who wished to return to work; but, so long as the operators refused to confer with the officers of the union, not a strike breaker, as distinguished from miners then at work or that might desire to return to work, should be permitted to man the mines.

"Gov. Ammons approved of this suggestion with enthusiasm, and he so instructed Gen. Chase. He gave out an interview that night for the morning paper in which he affirmed this position. If I could judge from the manner of and statements made at the time by Messrs. White, Hayes, Lawson, and others, representing the miners, if they did not in terms approve the calling of the militia and the above instructions to Gen. Chase, they did not oppose it and were apparently relieved that it had been done.

"It is some satisfaction to know that the President, in his dealing with the strike, substantially affirms the advice I gave Gov. Ammons at the time the troops were called out, and he has even gone further in the interest of peace to maintain the status quo between the combatants.

"NO TROUBLE AT FIRST.

"It will be recalled that when the State troops first entered the strike territory they were received with enthusiasm by the strikers, and so long as the governor required Gen. Chase to observe the above instructions—for some two or three weeks—there was no violence. But with the change—what induced the governor to make the change I do not know—when the troops were used to install strike breakers in the mines, the serious trouble commenced, and they were never abated until the Federal troops took command of the situation.

"I keenly feel the humiliation of the resort to the Federal Government to preserve Colorado's peace. I joined with others in asking for the Federal troops, for without them it would have been impossible, unless, indeed, open war with consequential wholesale slaughter would have done it. But even had the policy of coercion been pursued at that time, such was the state of mind of the combatants and their sympathizers both within and without the State, that a genuine class war extending far beyond Colorado borders would in all likelihood have been the outcome.

"What is said in defense of the stand by the operators under this lamentable condition of things? That they are insisting only upon their legal rights. They insist that employers should enjoy the right to hire and discharge workmen at will, and that whoever wishes to work without belonging to a union should be given and protected in that right.

"I will not take issue with the operators in any of these positions. I have repeatedly said that in refusing to arbitrate and to confer the operators were clearly within their legal rights, and that their insistance that the State should protect them in manning their mines, even though it were with those called strike breakers, was in naked law well founded. But this is only so now, because public opinion on this subject has not yet crystallized into statute law. Whenever it does, and many believe that time is rapidly coming, that naked legal right may pass away.

"COAL OPERATORS SEEM BLIND.

"The coal operators seem quite blind to the march of public sentiment upon the issue of the unionizing of labor, and they appear to be equally blind to the progress that sentiment has made with other great corporations that employ working men en masse. There isn't a railroad in Colorado or in all the West, with one possible exception, that isn't operated throughout with union labor and that doesn't cheerfully confer with officers of these unions when serious differences arise. How is it with other employers who read this article? I venture there is hardly one who does not deal with unions, and in practice at least doesn't accept collective bargaining. The principle of collective bargaining between employers and the representatives of the mass of workmen is now so well established that very few employers any longer refuse to accept it.

"No one will deny that labor unions with all their offenses and mistakes, with all their tyrannies and injustices, have been great civilizing institutions. They have been the principal agencies in increasing wages, shortening hours, and improving the conditions under which labor is done. They have been in many cases merely coercive agencies, while in many others they have quickened the sluggard conscience of society which in turn has influenced the reforms. With all the sad conflicts that have accompanied the efforts of unions to better the conditions of their members, with the killings and arsons and boycotts and proscriptions, the balance of good, of permanent and necessary good, is on the side of the unions and the strikes for which they have been responsible.

"Do not misunderstand me. In no case do I either approve of or seek to condone lawlessness in any form. I hold it to be the duty of Government to suppress it and to afford the fullest protection to person and property. I hold that Gov. Ammons could not have done otherwise than call out the militia when he did, and had he but continued to act as commander in chief of the State's armed forces when in the field, as was his constitutional duty, instead of turning over that vast war power of his office to one who is a soldier only in times of trouble and who apparently knows no agency but that of unregulated force in dealing with strikers, and had he, instead of permitting this commander to flout the writ of habeas corpus, to hold such as he chose to arrest incommunicado for weeks and months, ultimately to turn them loose without a single charge being preferred against them, to disregard the commonest and most cherished rights of citizenship in the matter of personal liberty, ignoring local courts and their officers except as it suited his purpose, I believe all would have been well, and the great body of the violence that has pilloried the State in the face of the civilized world would never have occurred. The strike might not have been settled, for I have no reason to suppose that the operators would have changed their stubborn front even though the strike had been conducted on the lines of a Sunday-school picnic.

"Should not the operators change their attitude in deference to public opinion and the welfare of the State? I admit their legal right to refuse to arbitrate and even to confer, but the miners have the right to strike and to continue to strike as long

as they will. Neither side has the right to violate the law, and I hold it to be quite as reprehensible to violate law that provides for protection of workmen, that gives the right to unionize, that provides methods for measuring labor that the workingman may get his full earnings, as it is to injure property and person.

"It has cost the State already three-quarters of a million dollars to protect the property of the operators—and another quarter of a million has been provided in anticipation of need for further protection. It is not unlikely that yet another million will be spent to continue that protection, and even then the end may not be in sight. When the burdened taxpayer recalls that all of this vast expenditure might have been saved had the operators but consented to a conference; if they had but met the chosen representatives of the miners to learn whether an agreement that did not include recognition of the union might be reached; and that peace will immediately follow if they even now consent to arbitration at the hands of big, broad-minded national men to be appointed by the President of the United States with recognition excluded, can the taxpayer be blamed for growing restless and bitter against the side that blocks such settlement? The operators certainly do owe something to the great taxpaying public even though that something carries with it a wound to their pride and a recession from what is to-day a very questionable position, measuring it by obligations to society and the State.

"If this condition is to continue and the General Government refuses longer to perform police duty for the State, what then? The claim is made, and a delegation went to Washington to impress it upon the President, that the State would be involved in civil war should the militia be returned to the strike district, and that State-wide murder, rapine, and arson are certain to follow and be extended into other States should that occur. Frankly, I don't believe it. To be sure, if the militia should be returned, officered in whole, as it was, with former mine guards and members of private detective companies defiling its ranks, with its commander turned loose to use force without regard to law and in utter disregard of the most cherished rights of citizenship, serious trouble would most likely follow and the worst predictions might be verified. But I firmly believe that those interested in the welfare of the guards, as well as in their restoration to an efficient and dependable body of the State's defenders, will see to it that all improper persons are retired from its ranks. If certain officers who have lost public confidence and all former mine guards and employees of private detective agencies shall be excluded from the militia, and if the governor will but instruct the commander that efficiency must be retained and that all civil writs must be respected, and that those who are arrested shall have the right to consult with counsel and be turned over to the civil authorities, with the cause of their arrest, I believe that the State troops would be as efficient as the regular soldiers and as willingly obeyed as they have been in the past.

"STATE MILITIA SHOULD BE PURGED.

"And why should not this be done? The members of the State militia are not mercenary soldiers in any sense. They serve the State as patriots, confronting privations, sickness, and death from sense of duty and love of country. They naturally respect and expect discipline, and have all the fine sense of justice that move young men who thus devote themselves to State and duty. It is the more important that in our grave troubles which require their presence in the field that the high standard of the entire body of the State troops should be maintained. No hired members of detective agencies, nor those who owe their just duty to private employers who at the time are in conflict with their former workmen, are fit members of the State guards in such troubles as are now on. They contaminate the service, they degrade its morals, they naturally run to excesses against which all brave and honorable men revolt. Nor should militia officers whose course has been so questionable that courts-martial must be resorted to to officially determine whether they have been guilty of grave and even of heinous crimes, be continued as members of the body, except it might be in very, very rare and exceptional instances, which it is not now necessary to look for.

"And it should not be forgotten that what is denominated a labor war is not 'war' as between two foreign countries, nor even is it civil war. Those upon both sides in such struggles are usually either American citizens or they intend to become such as soon as the law will permit. They are not arrayed against the Government, nor is it their aim to subvert it. Strikes grow out of economic conditions in which the two sides believe interests are antagonized. The State intervenes only as it becomes necessary to enforce respect for law and the right of person and property.

"I mention this to enforce my claim that in no such conflict, severe as it has been and may yet be if wiser counsels do not prevail, is it necessary to set aside the constitutional safeguards of the citizen, to defy the writ of habeas corpus, and to hold prisoners arrested on mere suspicion or because the military head conceives that it is unwise to allow them to remain at large—incommunicado—denying them the right of counsel and of appeals to courts and the privilege of communicating with friends or family. The commanding officer who, in a State like Colorado, can not enforce the law without violating its most cherished safeguards is unfit to command. That the disregard of the civil rights of men and women and of the law intended to enforce them was the provocation for much of the worst violence that shocked the State, I have not the slightest doubt. To respect these rights might impose greater trouble upon those in authority, but the violence that such trouble would avoid would compensate for it ten times over. The Moyer case, under which all of this is defended, is bad law and bad morals and approaches more nearly to constitutional treason than any other happening in the State that I can now recall.

"ARBITRATION SHOULD BE PROVIDED.

"The only conclusion to which any dispassionate discussion of the question can lead is that our constitution should be so amended as to permit the State of Colorado to provide arbitration and to enforce the decrees. Arbitration may not always result in justice; neither do the judgments of our courts. It is impossible that any human tribunal can be always right; it is the average of results to which the public must look. A State board of arbitration wisely selected would, I am convinced, afford as satisfactory results in labor controversies as do our high courts in other disputes. At least since we must defer to human agencies whatever they may be to settle labor as well as all other serious conflicts, why not commit labor settlements to such a body; this at least until in the process of evolution a wiser plan can be worked out and adopted? Why should not a proper constitutional amendment be initiated and submitted to the State's voters at the coming election?

"I think a very grave injustice has been done the State in the exaggerations that have been indulged in in dealing with the deplorable conflicts of the strike. In the end the truth of it all will become fixed in the public mind. I felt at the time of the Ludlow tragedy that it was impossible that women and children could have been deliberately shot and burned even by the so-called gunmen. What occurred was bad enough, even when put into most favorable light, but our State's humanity has not been blackened with the indelible crime of having willfully shot down and herding women and children into pits, there to be smothered and burnt to death. It is deplorable that men and women should enter upon crusades throughout the rest of the country to fasten such a stain upon the State, though their pretext may be to force an end to the strike and to advance humanity and justice."

The CHAIRMAN. The gentleman from Colorado asks unanimous consent to extend his remarks in the RECORD. Is there objection?

There was no objection.

Mr. SELDOMRIDGE. I withdraw my amendment.

MESSAGE FROM THE SENATE.

The committee informally rose; and Mr. HOLLAND having taken the chair as Speaker pro tempore, a message from the Senate, by Mr. Tulley, one of its clerks, announced that the Senate had passed joint resolution and bill of the following titles, in which the concurrence of the House of Representatives was requested:

S. J. Res. 159. Joint resolution authorizing and directing the transfer of a certain unexpended balance in appropriations for salaries of Capitol police; and

S. 5739. An act to present the steam launch *Louise*, now employed in the construction of the Panama Canal, to the French Government.

The message also announced that the Senate had passed without amendment bill of the following title:

H. R. 14189. An act to authorize the construction of a bridge across the Missouri River near Kansas City.

SUNDRY CIVIL APPROPRIATION BILL.

The committee resumed its session.

The Clerk read as follows:

Frankford Arsenal, Philadelphia, Pa.:
For one high-explosive loading shop and its equipment, $32,000;
For magazine protection, $6,000;
For increasing facilities for fire protection, including the installation of a motor-driven pump and the construction of a building to contain the same, $19,000;
In all, $57,000.

Mr. DONOHOE. Mr. Chairman, I offer the following amendment.

The Clerk read as follows:

Amend, by adding after the line 17, page, 52, the following as a new paragraph:

"For the purchase or acquirement by condemnation proceedings of about 25 acres of land adjoining the arsenal grounds on the northeast side thereof, $100,000."

Mr. MANN. To that, Mr. Chairman, I reserve a point of order.

Mr. DONOHOE. Mr. Chairman, this is the last piece of land available for the further extension of the Frankford Arsenal at Philadelphia. The total area occupied by the arsenal is about 65 acres. The reservation is bounded on three sides by the Delaware River, the Frankford Creek, and some public streets. It is impossible to extend the arsenal grounds an inch unless we acquire this property, and it may not be available very long. We who have inspected the arsenal know that its needs in the way of new buildings for storage and other purposes are pressing. At the present time the Government is obliged to ship to the Picatinny Arsenal high explosive ammunition at a cost of $18,000 a year, which could be stored at Frankford Arsenal if we only had the room. Eighteen thousand dollars is the interest on $300,000, and this land will cost only $100,000.

Forty years ago a board of ordnance officers recommended the purchase of 75 acres for that purpose. A part of that land has since been taken up by manufacturing establishments, and 25 acres is all that remains. In 18 months Frankford Arsenal by its operations has saved the Government almost $2,000,000. The powder magazines are so close to the workshops that they are a positive menace to the employees of the place. The acquirement of this land would give 600 additional feet along the Delaware River, and is particularly desirable on that account.

Several prices for the land have been mentioned, but I am credibly informed by well-posted real estate men in that locality that we can secure it by condemnation proceedings for less than $100,000. The amount I have placed in the amendment would cover all costs incident to the acquirement of the ground. I hope the committee will accept the amendment in behalf of the most economical workshop that our Government has in this country.

Mr. VARE. Mr. Chairman, I am heartily in favor of the amendment offered by my colleague, Mr. DONOHOE. The purchase of this additional land was discussed by the Appropriation Committee some little time ago. At that time the chairman of the committee said that there were no requests from the Secretary of War, and that there was no recommendation from Gen. Crozier, the officer in charge. My information since then is that Secretary of War Garrison has recommended and has approved of the purchase of this additional land.

My knowledge of the surroundings are such as to say to this committee that this expenditure of money is justified in every particular. Frankford Arsenal has only 4 acres for 100 employees, as compared with some of the other arsenals where there are 20 or 22 acres for the same number of employees.

As has been stated by my colleague, we are spending $18,000 a year for the purpose of storage and transportation of the high explosives which are manufactured there. If this ground is purchased, it will be in line with a proper extension of this great plant, which is one of the most efficient and economic plants conducted by either private or Government enterprise, and I certainly hope that the chairman of the committee, having in mind the additional information that the Secretary of War has sent letters favoring this proposition, will be willing to accept the amendment offered by the gentleman from Pennsylvania.

Mr. LOGUE. Mr. Chairman, I just want to add a word to what has been said by my two colleagues, adding this additional thought: There is absolute necessity for an extension of the plant, an extension that has in view the safety of the employees. The very high explosive shops are located now immediately adjacent to large buildings where hundreds of employees are at work, and if we had no other thought in mind excepting that of safety of the employees by having offered to us a piece of ground where the high explosive shops could be placed, that should move us to a favorable consideration of the offer. The gentleman from Pennsylvania [Mr. CARR] has also visited this place and is fully familiar with the situation. It is an old governmental industry, if I may so term it, in Philadelphia. It has not received any great consideration in the way of extensions in the past. By reason of the peculiar condition, as has been stated, of the Delaware River being on one side and the Frankford Creek on the other, it makes it decidedly valuable for the establishment at that point of these shops, where they will do no harm to the workmen or to the adjacent property. I think the amendment as worded is proper. My colleague has carefully worded it by placing a limit on the amount of $100,000, providing that that should be expended for the ground, to be acquired either by condemnation proceedings or by purchase. The property is now in the hands of an estate for the benefit of the University of Pennsylvania, and I feel can be acquired, and I think the entire circumstances surrounding the holding of the land makes it possible for us to acquire it at this time, which is now necessary, and it may be impossible to get it in the future.

Mr. EDMONDS. Mr. Chairman, I am heartily in favor of the amendment offered by the gentleman from Pennsylvania [Mr. DONOHOE], and I wish to state in addition that I have a letter in my hand, dated April 14, 1914, from Secretary of War Garrison, to Hon. CLAUDE A. SWANSON, chairman of the Committee on Public Buildings and Grounds of the Senate. That letter is as follows:

WAR DEPARTMENT,
Washington, April 14, 1914.

Hon. CLAUDE A. SWANSON,
Chairman Committee on Public Buildings and Grounds,
United States Senate, Washington, D. C.

DEAR SENATOR: I return herewith the bill (S. 5055) to provide for the acquirement of about 25 acres of land adjoining the Frankford Arsenal, Philadelphia.

The principal reasons for the purchase of this property by the Govermnent are as follows:

1. To avoid the serious situation which would arise if this property should be purchased by parties who would desire to utilize it for dwellings or factory purposes, since there is no doubt that in case such buildings should be erected upon the property the occupants would object to the experimental firings and other tests involving the use of high explosives which are conducted at the Frankford Arsenal.

2. The utilization of the property for the storage of explosives so as to remove them a safe distance from the present shop buildings.

3. To utilize the property for the construction of certain storehouses and shop buildings which will undoubtedly be necessary in the expansion of the manufacturing plant at the Frankford Arsenal in the future and for which it would be impossible to secure grounds if this piece of property shall irrevocably pass to other uses.

The War Department has in the past submitted estimates for the purchase of this property, but I have not repeated the estimate, not because the purchase would not be advantageous and such as would be made by any efficient corporation in a similar position, but because other needs of the War Department have been so immediately pressing that I have been obliged to let this particular matter rest, although I recognize that in doing so the danger is incurred of the passage of the opportunity to make the purchase advantageously.

I believe that the land is now practically owned by the University of Pennsylvania, having been left to it as a part of an estate. I think a fair price would be somewhere between $140,000 to $150,000, so that the amount carried in the bill—$154,000—should be sufficient to include the cost of condemnation proceedings should such be necessary, as contemplated by the bill.

Sincerely, yours,

LINDLEY M. GARRISON,
Secretary of War.

The Secretary wrote that letter on April 14 and is very much in favor of the the purchase of the ground. I really think we ought to take advantage of the proposition at this time and purchase it.

Mr. CARR. Mr. Chairman, I had occasion to visit Philadelphia some time ago, and while there I went over the arsenal property mentioned in this amendment. I believe that if the Government of the United States is to continue this system of arsenals throughout the country, the acquirement of additional ground is absolutely necessary at this time. It is simply a question of whether we are going to purchase this ground and use it for arsenal purposes, or whether we are going to abandon the ground that we have there now. Some time ago I made some remarks touching the question of ammunition manufactured at these arsenals. We have it on reliable testimony before Congress, or at least before one of the committees, that if the arsenal at Philadelphia were given the contracts that are now turned over to private enterprise the Government would save in one year, by reason of the difference in the cost of the manufacture, approximately $500,000, or an amount sufficient for the purchase of this ground and the erection of the buildings needed at the Frankford Arsenal. This ground will pass out of the present ownership in all probability in a little while. It will be beyond the power of Congress to get hold of it, and it will be but a question of time when the work at this arsenal must of necessity stop. And it does seem to me, as a business proposition, aside from the pressing need of this property, that the Government ought to purchase it at this time, otherwise we will have to stop work at the Frankford Arsenal. That is the proposition and the only thing that I see in it. They have no adequate ground at Frankford for their rifle range, and the construction of new buildings is impossible. If the Government is to continue the policy of manufacturing ammunition and maintaining its arsenals, it becomes necessary that we acquire this ground at once, or that it sell the present site and purchase property elsewhere. I think it is a good proposition from every consideration, and in view of the attitude of the authorities who have examined the question, I think that the Congress would make no mistake in the adoption of this amendment.

Mr. MOORE. Mr. Chairman, I would like to say a word in behalf of this amendment. It is a timely amendment and it is one that ought to be adopted because of the actual necessity that exists at this arsenal. The arsenal is crowded. The workmen there manufacture all of the small-arms ammunition for the Army and Navy of the United States. Shipments of powder have to be made to that yard, and large quantities of it have to be stored there. High explosives are there in great abundance in a very narrow and restricted area. During recent years it has been the tendency of the Government to rather increase the working capacity of other arsenals than the Frankford Arsenal, which is the oldest and perhaps the most economically conducted of them all. I think the figures will bear out that statement. Rock Island, in particular, for which we have every good wish, has been especially favored during recent years, and I think during the last 10 years has attained by way of appropriation probably $975,000 or $1,000,000, as against $375,000 altogether assigned to the Frankford Arsenal. The policy of building up the Rock Island Arsenal is one against which we have no special complaint, nor have we any complaint about the building up of any other arsenal in the country, except that certain lines of small-arms ammunition are in particular made exclusively at the Frankford Arsenal by reason of labor conditions and cost of production, and by reason of the ability of that arsenal to successfully compete with private manufacturers. In the bill passed last year it was noticeable that the Frankford Arsenal did not receive any very great amount of consideration. The appropriation in the sundry civil bill for the Frankford Arsenal last year was $4,000 for the construction of a concrete sewer, and at that time $250,000 was given to the Rock Island Arsenal to increase the capacity of the plant. The total appropriated was $280,500.

Now, in the bill we have before us to which this amendment has been offered the Frankford Arsenal is given a little better consideration than heretofore in that some provision has been made for fire protection and for the erection of an explosive-loading shop, for which the people there have been asking for a long time, and it is absolutely necessary for the preservation and proper protection of life, of which some have been lost during this last year in explosions that occurred at that yard. Now, in this bill the total amount provided for the Frankford Arsenal is $57,000, and the policy of building up Rock Island is continued here in that Rock Island receives $127,322. I do not make these comparisons for the purpose of being invidious at all, because I presume all the Members of the Pennsylvania delegation wish Rock Island well. But we make small-arms ammunition there, and all there is made of it, and we have men packed in the buildings there almost like sardines. They have to make tests there, and they have such a small area in which they do so that much material has to be sent away over to other proving grounds in order that the work may be properly conducted. Now, to take over this piece of ground means that we would have a new testing ground and proper storage places segregated. We need more room for the various elements entering into the manufacturing of small-arms ammunition and the other materials that we make there so economically, and it would be for the protection of the lives of the employees, as well as in the interest of the Government generally, if this amendment should be passed. It has been recommended since 1875, and if favorably considered now would simply be an act of justice to one of the best yards belonging to the Government.

Mr. FITZGERALD. Mr. Chairman, this item may have been recommended back in 1875, but it has not been formally estimated for by the department since I have been a Member of the House, during the last 16 years, despite the statement of the Secretary of War made in his communication of April 14, 1914, to the chairman of the Committee on Public Buildings and Grounds in the Senate. This item first appeared to my knowledge in 1909 when a bill was introduced to appropriate $180,000 to purchase 35½ acres of upland and 2½ acres of land under water outside of the bulkhead. It was not estimated for, it was not recommended by the department. The following year a bill was introduced to appropriate $175,000 to buy the same land. This year a bill was introduced to appropriate $154,000, and it now appears that 12½ acres of the land have been taken up by some enterprising industrial establishment and that 25½ acres still remain undisposed of. It is suggested that it would be wise for the Government of the United States to acquire this property so that the University of Pennsylvania may rid itself of an unproductive property and permit the Government to attach it to the arsenal.

Mr. DONOHOE. Will the gentleman yield for a question there?

Mr. FITZGERALD. I will yield.

Mr. DONOHOE. The University does not desire to sell this to the Government and has not suggested it at all.

Mr. MADDEN. Does anybody know whether you can buy it for——

Mr. DONOVAN. Mr. Chairman, a point of order. The gentleman from Illinois can not interrupt the gentleman without addressing the Chair.

The CHAIRMAN. The point of order is well taken.

Mr. FITZGERALD. When certain gentlemen from Philadelphia, distinguished citizens, appeared before the committee they stated that they thought that the property was worth from $140,000 to $150,000; but one representative from that State thought it perhaps worth $130,000 to $135,000. The Secretary of War in his letter of April 14, 1914, says, which just shows how much he knows about the value of the land that he is recommending shall be purchased by Congress, "I think a fair price would be somewhere between $140,000 and $150,000; so that the amount carried in the bill, $154,000, should be sufficient to include the cost of condemnation proceedings should such be necessary, as contemplated in the bill." Under date of June 2, 1914, I have a letter from the gentleman from Pennsylvania [Mr. EDMONDS] in which he stated that in the previous week he had a talk with the president of the Pennsylvania Co., of Philadelphia, the corporation which is the executor of the estate of Charles Leddig, which estate owns the property, and he agreed to accept $125,000 for the property.

The pending amendment proposes to appropriate $100,000 for the property. Now, in view of this history——

Mr. MADDEN. Will the gentleman yield?

Mr. FITZGERALD. In just a minute—in view of the fact that here has been no anxiety shown on the part of the department to acquire this property, because it has not, at least in the 15 years I have been a Member of the House, made any formal request in the manner required by law to purchase the property, and in view of the fact that the price has steadily been dropping, dropping, dropping, from $180,000 to $100,000, it seems to me that in view of the fact there is no pressing necessity for acquiring the property, if we be a little patient, without very much difficulty we will acquire the property for a sum that perhaps will be commensurate with its value. I now yield to the gentleman from Illinois.

Mr. MADDEN. I was just going to ask the gentleman a question, which the gentleman has answered, and that is, namely, whether the gentleman objects to the fact that the price keeps on dropping?

Mr. FITZGERALD. No; I do not. I believe that with the patience that is sometimes commendable on the part of the Government when property is to be sold to it that if we are patient, in view of what has happened in five years, we may do much better in the very near future.

Mr. MOORE. Will the gentleman yield?

Mr. FITZGERALD. Yes.

Mr. MOORE. Has not Gen. Crozier appeared before the committee at some time or other and advocated the increase of the yard area at that station?

Mr. FITZGERALD. No; he did not.

Mr. MOORE. His position is well known, and I have had it from him personally on several occasions that he favored——

Mr. FITZGERALD. There is a manner in which officials should make their position known. If it were desirable, if it were deemed important, if it were imperative that the United States acquire this land at this arsenal or land at any other arsenal, it is the duty of the War Department to make that request in a formal estimate, transmit it properly to Congress, and not be going in roundabout ways attempting to obtain it by informal agitation. The real reason suggested for the acquisition of the property is not that there is any danger to employees at Frankford Arsenal because this land has not been acquired; but in the event some foolhardy persons should utilize this land, not for manufacturing purposes, for which it is only suited, but for residential purposes, they might object to the Government conducting its tests on its present range.

Therefore, to eliminate the possibility of objection on the part of those who might utilize this land for residential purposes, it is suggested that we should purchase the land, lying there unused these many years, and for which nobody seems to be able to find any particular use. The continual suggestion is made to sell it to the Government. It already has land adjacent to it.

The CHAIRMAN. The time of the gentleman from New York has expired.

Mr. FITZGERALD. I ask unanimous consent for two or three minutes more.

The CHAIRMAN. The gentleman from New York asks unanimous consent for three minutes more. Is there objection?

There was no objection.

Mr. DONOHOE. Does the gentleman state that there is available land adjacent to it?

Mr. FITZGERALD. I said the Government land is adjacent to this unused, unoccupied property about which these attempts have been made for many years to sell to the Government.

Mr. DONOHOE. You know that this tract was originally 75 acres, and it is all gone but 25 acres.

Mr. FITZGERALD. My first acquaintance with it showed that it was 35½ acres in 1899. In 40 years about 50 acres have been taken up.

Mr. Chairman, the gentleman says they are conducting a dangerous manufacturing work at this place. If that be true the proper and wise thing would not be to continue to enlarge the scope of operations of this character almost in the heart of the peaceful city of Philadelphia to the danger and hazard of the lives of those peaceful and God-fearing people. We have other arsenals so located that they are not near congested districts, and if necessary the desirable thing would be to build them up.

Mr. EDMONDS. Will the gentleman yield?

Mr. FITZGERALD. In just a moment. There is no need to enlarge the facilities of the Frankford Arsenal. There are ample facilities to do all of the things for which appropriations are made for the next year, or will be made for the next four or five years, and at the end of the four years the Government will have, by manufacturing at its own plants, acquired the full reserve of ammunition required, and instead of appropriating annually $4,200,000, as we have done for next year, the annual appropriation for such ammunition will not exceed $500,000 a year. The more we enlarge these plants the more idle plants we will have with idle capital invested in them. We have now facilities sufficient to manufacture the ammunition for which the appropriations are made next year, amounting to $4,200,000—$3,000,000 in the Army bill and $1,200,000 in the fortification bill. We need no extension of our facilities. Therefore it would be foolhardy to invest additional money to relieve somebody from the occupation of land for which they have no use and for which the Government will have very little use. I hope the amendment will not prevail.

The CHAIRMAN. The time of the gentleman has expired.

Mr. MOORE. Mr. Chairman, I ask that the gentleman have two minutes more.

The CHAIRMAN. The gentleman from Pennsylvania [Mr. MOORE] asks unanimous consent that the gentleman from New York be permitted to proceed for two minutes. Is there objection?

There was no objection.

Mr. MOORE. I want the gentleman to state the area of the arsenal at Rock Island.

Mr. FITZGERALD. I think it is fifty-odd acres. I have it here.

Mr. MOORE. Is it not nearer a thousand acres?

Mr. GOOD. It is between 800 and 900 acres.

Mr. MOORE. The gentleman from New York has the Frankford Arsenal figures.

Mr. FITZGERALD. I did not understand the gentleman's question. It is nearly 1,000 acres—about a section and a half, if I recall correctly.

Mr. MOORE. You have plenty of room there for expantion. That is the very point. There is no room for expansion in the present yard at Philadelphia.

Mr. FITZGERALD. Why should we buy land when we have unlimited land undeveloped, and where we have a water power which supplies power to us infinitely cheaper than at any other arsenal?

Mr. MOORE. The power at Rock Island costs you more than it does at Philadelphia. You are putting it in the dam and in the building of bridges.

Mr. FITZGERALD. When we purchase power from the local company, we consider it high when we pay a cent and a half a kilowatt hour, and when we develop it, it is so insignificant it is hard to compute.

Mr. MOORE. I think I can state offhand and be fairly accurate at that, that the power at Rock Island costs about $24,500 and at Philadelphia about $24,000.

Mr. FITZGERALD. That depends on the amount of power obtained.

Mr. MOORE. And the cost at Rock Island is due to the fact that every year you make an appropriation of $12,500 for the maintenance of the dam, which we do not have to have at Philadelphia.

Mr. FITZGERALD. We do not have to have it, because we get our power from the water power there.

Mr. MOORE. I know, but you have to pay it, and you pay for it in an appropriation that does not appear as pertaining to power.

Mr. FITZGERALD. The gentleman is mistaken. When we figure the cost of power we do not simply look at the appropriations made. We have the computation made by men whose duty it is to keep the cost account.

Mr. DONOHOE. I ask the gentleman's attention for a minute. Does the gentleman know that the manufacturing at Frankford Arsenal has been much more economically conducted than at any other similar Government plant?

Mr. FITZGERALD. No; I do not know that.

Mr. DONOHOE. The War Department says so.

Mr. FITZGERALD. I have never heard it.

Mr. DONOHOE. And I think we ought to extend that plant rather than to send the work to a place where it costs far more to produce. My idea is that we can give this work to the Government shops, and we are working the Frankford Arsenal three shifts a day in time of peace. I do not think that is the proper way to do it.

Mr. FITZGERALD. I was in error. We pay 1 cent a kilowatt hour when we have to purchase from the company at Rock Island, and at times when we have a surplus and they run down we sell it to them at the same rate. But we are not generating any power in any steam plant at any place in the Government service. It is 1 cent a kilowatt hour.

Mr. MOORE. I can give the gentleman the figures now. You pay every year $12,500 for the maintenance of the dam at Rock Island to generate power, and you pay about $12,000 for coal. That makes a total of $24,500. At Philadelphia coal costs $24,000, so that we are $500 to the good on a comparison.

Mr. FITZGERALD. If the gentleman will state the amount of power that is used at each plant, it will show that we are obtaining perhaps from four to ten times as much power for an equal expenditure of money at Rock Island as we are obtaining at the Frankford Arsenal, because we have at Rock Island a plant much more extensive than at Frankford, and it meets all of our requirements, lighting all the buildings on this 900-acre tract of land. After obtaining light and power for manufacturing purposes and all other purposes we are able to sell the surplus.

Mr. MADDEN. In one case it costs about $6 a horsepower and in the other case about $30.

Mr. MANN. Mr. Chairman, will the gentleman yield for a question?

Mr. FITZGERALD. Certainly.

Mr. MANN. Do we not sell power?

Mr. DONOVAN. Mr. Chairman, the gentleman from Illinois is not proceeding in order.

Mr. MANN. Mr. Chairman, I decline to be interrupted by the gentleman from Connecticut. I am proceeding in order.

The CHAIRMAN. Yes; the gentleman from Illinois is proceeding in order; but the time of the gentleman from New York [Mr. FITZGERALD] has expired.

Mr. FITZGERALD. I suggest to the gentleman from Illinois to take some time himself.

Mr. MANN. Mr. Chairman——

The CHAIRMAN. The gentleman from Illinois is recognized.

Mr. MANN. I will ask the gentleman if we do not sell our surplus at Rock Island at fourt-tenths of a cent per kilowatt hour?

Mr. DONOVAN. Mr. Chairman, I make the point of order that the gentleman from Illinois [Mr. MANN] is out of order. He did not ask for recognition.

The CHAIRMAN. The gentleman from Connecticut is mistaken. The gentleman from Illinois asked for recognition and obtained it.

Mr. DONOVAN. It is so seldom that he proceeds in order that I withdraw my point at this time. [Laughter.]

Mr. MANN. I am proceeding in order, and the gentleman from Connecticutt never proceeds in order. I trust that the Chair will protect Members of the House from the nuisance of continuous interruptions by the Member from Connecticut.

Mr. DONOVAN. Now, Mr. Chairman, a point of order.

The CHAIRMAN. The gentleman will state it.

Mr. DONOVAN. The gentleman is not addressing himself to the subject matter. [Laughter.]

The CHAIRMAN. The gentleman from Illinois was addressing himself to the subject matter. The Chair overrules the point of order.

Mr. MANN. I asked that question of the gentleman from New York.

Mr. FITZGERALD. The statement of Col. Babbit was that we have arranged with the power company for the sale of power. We are entitled to a certain percentage of the output. We have an arrangement with them by which we buy or sell, selling power to them after the hours during which the plant is in operation. The statement is that we pay 1 cent per kilowatt hour. I am under the impression that we sell for the same, but I am not certain. It may be that we sell for less.

Mr. MANN. My impression is that we pay 1 cent per kilowatt hour when we buy power produced by steam, but that we sell the surplus power for four-tenths of a cent per kilowatt hour if produced by water power, which would indicate that we are producing power there very cheaply.

Mr. FITZGERALD. We are indeed producing power there very cheaply. We have great water power there.

Mr. EDMONDS. Mr. Chairman, will the gentleman yield?

Mr. MANN. Yes.

Mr. EDMONDS. I would like to say to the gentleman that the Government made a contract with the party that owns the dam at Rock Island. Before the Government took over the property in order to get this power from the party the Government agreed to give one-fourth of the power free. The Government keeps up the repairs of the dam, and keeps everything in order, and give this party one-fourth for nothing.

Mr. MANN. Yes; and we have a lot of surplus power that is not used at all, and in addition to that we produce power there so cheaply that we sell it for four-tenths of a cent per kilowatt hour, which I think is probably as cheap as it is sold anywhere in the world.

The CHAIRMAN. Does the gentleman from Illinois insist upon his point of order?

Mr. MANN. It seems to me that the item is subject to a point of order, being for purchase or condemnation of land; but under the circumstances I shall not insist upon the point of order, and, so far as I am concerned, I will withdraw the point of order.

The CHAIRMAN. The point of order is withdrawn.

Mr. BARTLETT. Mr. Chairman, it ought not to go down that this is subject to a point of order necessarily, because the proposition is to acquire land adjoining that already owned by the Government.

The CHAIRMAN. The Chair made no ruling upon it. The Chair merely inquired if the gentleman withdrew his point of order.

Mr. MANN. To acquire by condemnation proceedings is legislation.

Mr. FITZGERALD. Mr. Chairman, I should like to be heard on the point of order.

The CHAIRMAN. The Chair will hear the gentleman from New York.

Mr. FITZGERALD. To acquire land by condemnation proceedings is legislation.

Mr. DONOHOE. Then I ask unanimous consent, Mr. Chairman, to amend the amendment by striking out the words "acquirement by condemnation proceedings."

The CHAIRMAN. The gentleman from Pennsylvania [Mr. DONOHOE] asks unanimous consent to modify his amendment. The Clerk will report it.

The Clerk read as follows:

Strike out the words "for acquirement by condemnation proceedings" and add, on line 17, page 52, the following as a new paragraph:
"For the purchase of about 25 acres of land adjoining the arsenal grounds on the northeast side thereof, $100,000."

The CHAIRMAN. Is there objection to the amendment being modified as requested by the gentleman from Pennsylvania?

There was no objection.

The CHAIRMAN. The question is on agreeing to the amendment.

The question was taken, and the Chairman announced that the ayes seemed to have it.

Mr. FITZGERALD. Mr. Chairman, I demand a division.

The committee divided; and there were—ayes 27, noes 32.

Accordingly the amendment was rejected.

Mr. DONOHOE. Mr. Chairman, I offer the following amendment.

The CHAIRMAN. The gentleman from Pennsylvania offers a further amendment, which the Clerk will report.

The Clerk read as follows:

Page 52, after line 17, insert the following:
"For one artillery ammunition storehouse, $17,500."

Mr. FITZGERALD. Mr. Chairman, I reserve a point of order on that amendment.

Mr. DONOHOE. Mr. Chairman, this is an item on which there can be no such contention as that which was raised against my first amendment, namely, that the department does not favor it. The department requested this item, put in an estimate for it, and, I understand, it was arbitrarily knocked out by the committee. I trust the committee will reconsider their view of the matter and let this small sum stand. It is very much needed. Some of the members of the committee will bear me out in this.

Mr. FITZGERALD. Mr. Chairman, estimates were submitted for various public works at different arsenals, and the committee endeavored to recommend such improvements at the various arsenals as would enable the work to be carried on properly and efficiently and provide them with the necessary facilities.

The total improvements requested for the Frankford Arsenal aggregated, I think, $74,000, and the committee recommended items aggregating $57,000 for various facilities, but did not recommend this particular project.

The statement made by Gen. Crozier did not seem to show there was any very great need for this storehouse. They have been manufacturing the artillery ammunition and storing the component parts in various places. The committee believed that in making at this time an appropriation for a high-explosive loading shop and its equipment, which was very important for the safety of the operations of the arsenal—for protection for the magazine, to prevent accidents in case of explosions; for increased facilities for fire protection, including motor-driven pump, costing $19,000—it had been liberal and had given the things that were really essential. The department requests many items year after year. It is absolutely impossible to grant everything that the departments ask, but what has been done in this bill is to select three or four items that seem to be pressing at this time and make provision for them, and defer until some other time those that do not seem to be imperative. I hope the amendment will not be agreed to.

The CHAIRMAN. Does the gentleman insist on the point of order?

Mr. FITZGERALD. Yes; I insist on it. There is no authority for it.

The CHAIRMAN. The Chair will hear the gentleman on the point of order.

Mr. FITZGERALD. It is not authorized.

Mr. MANN. It is for a new building.

Mr. DONOHOE. It is in continuation of a public work.

Mr. MANN. The rulings have always been that you could not appropriate for new buildings unless they were previously authorized.

The CHAIRMAN. The Chair has in mind a ruling made with reference to a building at the Military Academy.

Mr. MANN. That was a different proposition. The rulings have always been the other way.

The CHAIRMAN. The Chair thinks, under the precedents, it is subject to the point of order, and the Chair sustains the point of order.

Mr. DONOHOE. Mr. Chairman, I offer a further amendment.

The CHAIRMAN. The gentleman from Pennsylvania offers a further amendment, which the Clerk will report.

The Clerk read as follows:

Page 52, after line 17, insert the following:
"For extension of metal storehouse, $13,500."

Mr. DONOHOE. Mr. Chairman, this item was also recommended in the estimate submitted by the department, and it certainly is urgently needed at this time.

Mr. FITZGERALD. Mr. Chairman, the same statement can be made relative to this item as to the other. This is a proposition to extend a storehouse in which scraps are stored. It appeared to the committee that there were ample facilities for the storage of scraps used in the manufacturing processes of the arsenal, and there did not seem to be any particular necessity for the addition to the building.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania [Mr. DONOHOE].

The committee divided; and on a division (demanded by Mr. DONOHOE) there were—ayes 35, noes 31.

The CHAIRMAN. On this question the ayes are 35, the noes are 31. The amendment is agreed to.

Mr. MANN. I make the point of order that there is no quorum present.

Mr. MOORE. I offer the amendment which I send to the Clerk's desk.

The CHAIRMAN. The gentleman from Illinois [Mr. MANN] makes the point of order that there is no quorum present. The Chair will count. [After counting.] Eighty-three Members present, not a quorum. The Clerk will call the roll.

The Clerk called the roll, and the following Members failed to answer to their names:

Adamson	Flood	Langham	Sabath
Aiken	Floyd	Langley	Saunders
Ainey	Francis	L'Engle	Scully
Alexander	Gallagher	Levy	Sells
Allen	Gardner	Lewis, Md.	Sharp
Anderson	Garner	Lewis, Pa.	Sherley
Ansberry	George	Lieb	Shreve
Anthony	Gerry	Lindquist	Slayden
Avis	Gillett	Linthicum	Slemp
Barchfeld	Gilmore	Loft	Sloan
Barnhart	Goeke	Lonergan	Small
Bartholdt	Goldfogle	McAndrews	Smith, Idaho
Borland	Gordon	McClellan	Smith, Md.
Brodbeck	Gorman	McDermott	Smith, Minn.
Brown, N. Y.	Goulden	McGuire, Okla.	Smith, N. Y.
Brown, W. Va.	Graham, Pa.	Mahan	Smith, Tex.
Browne, Wis.	Gregg	Maher	Sparkman
Browning	Griest	Manahan	Stafford
Bruckner	Griffin	Martin	Stanley
Burke, Pa.	Guernsey	Merritt	Stephens, Nebr.
Calder	Hamill	Metz	Stephens, Tex.
Callaway	Hamilton, N. Y.	Miller	Stevens, Minn.
Campbell	Hardwick	Montague	Stevens, N. H.
Cantor	Harris	Moon	Stout
Cantrill	Harrison	Morgan, La.	Sumners
Carew	Hart	Mott	Taggart
Carlin	Hay	Murray, Mass.	Talbott, Md.
Cary	Hayes	Neeley, Kans.	Talcott, N. Y.
Casey	Heflin	Nolan, J. I.	Taylor, Ala.
Chandler	Helm	Norton	Taylor, Colo.
Clancy	Helvering	O'Brien	Taylor, N. Y.
Clark, Fla.	Henry	Ogleshy	Thacher
Coady	Hinds	O'Leary	Thomas
Collier	Hobson	O'Shaunessy	Towner
Conry	Holland	Paige, Mass.	Townsend
Cooper	Howard	Palmer	Treadway
Copley	Howell	Parker	Tuttle
Covington	Hoxworth	Patten, N. Y.	Vaughan
Crisp	Humphreys, Miss.	Patton, Pa.	Volstead
Dale	Igoe	Payne	Wallin
Danforth	Johnson, S. C.	Peters, Me.	Walsh
Davenport	Jones	Peters, Mass.	Walters
Decker	Keister	Peterson	Watson
Dershem	Kennedy, Conn.	Plumley	Whaley
Dies	Kennedy, R. I.	Porter	Whitacre
Difenderfer	Kent	Post	Willis
Dooling	Kiess, Pa.	Pou	Wilson, Fla.
Drukker	Kinkead, N. J.	Powers	Wilson, N. Y.
Elder	Kitchin	Prouty	Winslow
Esch	Knowland, J. R.	Reed	Young, N. Dak.
Fairchild	Konop	Riordan	Young, Tex.
Falconer	Korbly	Roberts, Mass.	
Fess	Kreider	Rogers	
Finley	Lafferty	Rucker	

The committee rose; and the Speaker pro tempore, Mr. DIXON, having resumed the chair, Mr. GARRETT of Tennessee, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the sundry civil appropriation bill, and, finding itself without a quorum, had caused the roll to be called, when 220 Members answered to their names, and he presented therewith a list of the absentees.

The committee resumed its session.

The CHAIRMAN. The Clerk will read.

Mr. MOORE. Mr. Chairman, I desire to offer an amendment to the paragraph.

Mr. MADDEN. Mr. Chairman, I make the point that there is an amendment pending. I make the point that the proceedings were set aside by the point of no quorum.

Mr. MOORE. Mr. Chairman, there is no amendment pending. The amendment that had been under consideration was passed by the committee and so announced by the Chair.

Mr. MADDEN. I desire to state, Mr. Chairman, that when the point of no quorum was made, that set aside the action of the committee.

Mr. MOORE. I contend that the point of order was made after the amendment had been considered, voted upon, and passed, and so announced by the Chair. The point of order was made subsequently and can have no effect on the amendment. I had already offered a new amendment and had been recognized by the Chair before the point of order was made.

The CHAIRMAN. The Chair will read from the notes of the reporter.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania [Mr. DONOHOE].

The committee divided, and on a division, demanded by Mr. DONOHOE, there were—ayes 35, noes 31.

The CHAIRMAN. On this question the ayes are 35, the noes 31. The amendment is agreed to.

Mr. MANN. I make the point of order that there is no quorum present.

Mr. MOORE. I offer the amendment which I send to the Clerk's desk.

The CHAIRMAN. The gentleman from Illinois [Mr. MANN] makes the point of order that there is no quorum present. The Chair will count. [After counting.] Eighty-three Members present, not a quorum. The Clerk will call the roll.

The question is whether under those circumstances the amendment proposed by the gentleman from Pennsylvania [Mr. DONOHOE] has been agreed to.

Mr. MADDEN. Mr. Chairman, I make the point that it has not, and that all action on that amendment was set aside when it was developed that no quorum was present. The mere fact that the challenge of a quorum was made gives evidence of the further fact that those present and making such a challenge believed that the action of the committee was void because of the lack of a quorum.

The CHAIRMAN. It seems from the notes of the reporter, however, that the point was not made until the Chair had not only announced the number of votes but had made the formal official announcement that the amendment was agreed to.

Mr. MADDEN. Mr. Chairman, I agree with the Chair to that extent; but no matter what the announcement of the Chair was, it can not be possible that the Chair by a mere announcement can legalize the action of a body not having a sufficient number of Members to transact business.

Mr. MOORE. That comes too late.

Mr. MADDEN. And the point of order of no quorum could not have been made until after the announcement of the vote, because it could not have been ascertained how many Members were present until the Chair made the announcement.

The CHAIRMAN. Of course, the usual custom of the present occupant of the chair and of all occupants of the chair is to pause after announcing the number voting. Whether the Chair did that in this instance the Chair does not now remember. Of course, tellers could have been demanded, and that was the next ordinary step, or the point of order of no quorum could have been made immediately after the announcement of the vote and before the Chair had announced that the amendment had been agreed to.

Mr. MOORE. Mr. Chairman, if the point of order made by the gentleman from Illinois [Mr. MADDEN] is sustained by the Chair, it would have the effect of invalidating perhaps three-fourths of the business conducted by Congress. It is constant that amendments are considered and passed when no quorum is present and it is evident to the Chair and to everyone that no quorum is present. Thus, by common consent, the business is transacted. This matter now arises by reason of the fact that an amendment was considered when no quorum was present and when, acting in the usual way and by common consent, the vote was taken and revealed that the amendment was agreed to. Upon the announcement of the Chair that the amendment was agreed to some one who was not in favor of the amendment protested against the proceedings, kicked over the bucket, and made the point of no quorum. If that is tolerated in the committee, and is sanctioned now by sustaining the point of order, we could perhaps prevent any business being done in this House under the ordinary method of procedure.

Mr. MADDEN. You could without a quorum.

Mr. MOORE. I contend, Mr. Chairman, that it comes with bad grace to make the point of order of no quorum after an amendment has been considered, debated by all those present, with notice to everyone, and after the result of the vote has been announced by the Chair, particularly when that point of order is made by a Member who has been a party to the discussion and who has been present during the proceedings. If that is sustained, then it will be easily within the power of any Member of this House, at any time, to block the business of the House and stop the work of these great appropriation committees, and put Congress practically at a standstill.

I contend, Mr. Chairman, that this point of order came entirely too late in the first instance, and that the point made by the gentleman from Illinois [Mr. MADDEN] is now too late, in view of the fact that the Chair, after the announcement that the amendment of the gentleman from Pennsylvania [Mr. DONOHOE] had been agreed to, then recognized the gentleman from Pennsylvania [Mr. MOORE] to offer another amendment, and that it was after that recognition of another Member upon an entirely different proposition that the point of order of no quorum was made.

The CHAIRMAN. The Chair will call the attention of the gentleman from Pennsylvania to the fact that he is in error about that. The recollection of the Chair was in accordance with the statement just made by the gentleman from Pennsylvania, but the official report, by which, of course, we are all bound, shows that the gentleman from Illinois [Mr. MANN] made the point of order immediately before the gentleman from Pennsylvania [Mr. MOORE] offered the amendment.

Mr. MOORE. As the Chair read the transcript of the shorthand notes a moment ago, it was clear to me that the gentleman from Pennsylvania rose and offered an amendment, and

that immediately after he offered the amendment the gentleman from Illinois made the point of order.

Mr. DONOHOE. The gentleman was on his feet, but had not made the statement.

Mr. MANN. The gentleman is as correct about that as he usually is.

Mr. MOORE. Mr. Chairman, I like to be rebuked by my leader about once every week. I am getting used to it now about twice a week, and some time I suppose I shall be rebuked, like others, about once a day; but I do hope that the time will come when we will find the leader of the minority in accord with the members of his party at times. I have not in any way interrupted the gentleman from Illinois [Mr. MANN] to-day unfairly, nor have I raised points of order against him, like the gentleman from Connecticut [Mr. DONOVAN] has.

I have been as kind and gentle and patient as I could be with my leader, and as subservient as a loyal member of the minority ought to be; but I do believe that at times I have a right, when the interests of my constituents are at stake, to question whether or not my leader is right when he attempts to obstruct, perhaps in the interest of an arsenal near his own district, the progress of an arsenal in the vicinity of mine.

Mr. MANN. Mr. Chairman——

The CHAIRMAN. Will the gentleman from Illinois permit the Chair before he begins?

Mr. MANN. Certainly.

The CHAIRMAN. The Chair desires to call attention to the fact that there is a special order for to-day, under which the House is to stand in recess from 5.30 until 8 o'clock, and it lacks only five minutes of that time.

Mr. MANN. I will take up but two minutes.

The CHAIRMAN. The Chair at this time will——

Mr. FITZGERALD. Mr. Chairman, in order to give the Chair an opportunity to examine the question, I move that the committee do now rise.

Mr. MANN. I want to be heard on the point of order; I have the floor.

The CHAIRMAN. The Chair was about to say that at 5.30 he will feel it is his duty to declare that the committee should rise and——

Mr. MANN. I hope the Chair will not occupy all the time between now and 5.30. I was about to remark that this is a very hot day, and the heat had evidently affected my friend from Philadelphia, the gentleman from Pennsylvania [Mr. MOORE].

Mr. MOORE. But I am sure not so much as it has my leader, the gentleman from Illinois [Mr. MANN].

Mr. MANN. It has caused him to read me a lecture which was not necessary——

Mr. MURDOCK. And unkind.

Mr. MANN. And to attach another one to it, and it seems to me the heat has gone to his head, that is all.

The CHAIRMAN. These things are interesting but they are not enlightening to the Chair at all. The Chair has also felt the heat himself.

Mr. MURDOCK. Another evidence of more trouble in the Republican Party.

The CHAIRMAN. The gentleman from New York moves that the committee do now rise.

The motion was agreed to.

Accordingly the committee rose; and Mr. DIXON, the Speaker pro tempore, having resumed the chair, Mr. GARRETT of Tennessee, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill H. R. 17041, the sundry civil appropriation bill, and had come to no resolution thereon.

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted as follows:

To Mr. THACHER, for 10 days, on account of important business.

To Mr. POWERS, indefinitely, on account of important business.

To Mr. THOMAS, indefinitely, on account of important business.

To Mr. MORGAN of Louisiana, for 10 days, on account of important business.

To Mr. REED, for two weeks, on account of business.

HOUR OF MEETING TO-MORROW.

Mr. FITZGERALD. Mr. Speaker, I ask unanimous consent that when the House adjourns to-day it adjourn to meet at 11 o'clock a. m. to-morrow.

The SPEAKER pro tempore. The gentleman from New York asks unanimous consent that when the House adjourns to-day it adjourn to meet at 11 o'clock a. m. to-morrow. Is there objection?

Mr. MANN. I object.

Mr. FITZGERALD. I want to say there is a conference report that must be acted upon.

Mr. MANN. I am glad of it.

The SPEAKER pro tempore. The gentleman from Illinois [Mr. MANN] objects.

SENATE BILL AND JOINT RESOLUTION REFERRED.

Under clause 2 of Rule XXIV, Senate bill and joint resolution were taken from the Speaker's table and referred to their appropriate committees, as indicated below:

S. 5739. An act to present the steam launch *Louise*, now employed in the construction of the Panama Canal, to the French Government; to the Committee on Interstate and Foreign Commerce.

S. J. Res. 159. Joint resolution authorizing and directing the transfer of a certain unexpended balance in appropriations for salaries of Capitol police; to the Committee on Appropriations.

ENROLLED BILLS PRESENTED TO THE PRESIDENT FOR HIS APPROVAL.

Mr. ASHBROOK, from the Committee on Enrolled Bills, reported that this day they had presented to the President of the United States, for his approval, the following bills:

H. R. 11040. An act to carry out the findings of the Court of Claims in the case of James Harvey Dennis; and

H. R. 14242. An act to increase the limit of cost for the erection and completion of the United States Federal building at Harrisburg, Pa.

EXTENSION OF REMARKS.

Mr. TAVENNER. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD on the subject of Philippine independence.

Mr. MANN. I can not hear the gentleman, and unless he speaks louder so that we can hear him, I will object.

The SPEAKER pro tempore. The gentleman from Illinois asks unanimous consent to extend his remarks in the RECORD on the subject of Philippine independence.

Mr. MANN. Mr. Speaker, I object.

Mr. BAILEY. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD on the subject of this bill in reference to taxation.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

Mr. MANN. In reference to what?

Mr. BAILEY. Taxation in reference to appropriations.

Mr. MANN. There is no taxation in regard to this bill.

The SPEAKER pro tempore. Is there objection?

Mr. MANN. I object.

Mr. FITZGERALD. The gentleman's request is in reference to these amendments and these particular appropriations.

Mr. MANN. I have no objection to that, but this bill does not carry anything in reference to taxation.

The SPEAKER pro tempore. Is there objection? [After a pause.] The Chair hears none.

Mr. BAILEY. Mr. Speaker, we are appropriating for the fiscal year 1915 on account of wars of the past or those anticipated the staggering sum of $500,000,000. Round figures are employed for the reason that the exact amounts are not yet known and can not be ascertained until all appropriation bills carrying provisions for Army, Navy, pensions, etc., have been finally acted upon, but the ultimate figures are more likely to exceed than to fall below the aggregate named. The economy we promised the people in the Baltimore platform is not being realized, in this respect at least. Our war budget exhausts half or perhaps more than half of all the taxes wrung from the people under the various forms still tolerated.

It has sometimes suggested itself to me what the American taxpayer, who is carrying this tremendous burden, would say were his Federal tax bill handed to him in some such simple form as that setting out his State, county, school, road, city, or municipal taxes. Most people seem to think that Uncle Sam is rich in his own right, and that the sums we appropriate here come from him and not from the pockets of the toilers. This is the evil, or at least one of the evils, of indirect taxation. Practically all the taxes paid for the support of the Federal Government are concealed taxes. They are fiscal sneakers. They slip up on the victim unawares. They rob him while his eyes are shut or when he is looking the other way. He knows he is hard up and in distress; that things are going ill with him; that somehow or other prosperity passes him by, but he rarely if ever connects the circumstances with the concealed tax.

Of course Uncle Sam is poor, as poor as Job's turkey. He has not a dollar that he has not first taken from John Smith or Bill Jones or Hank Brown. Smith and Jones and Brown do not know he has taken it. They are interested only in trying to get the dollar by some hook or crook, thus "putting money

into circulation." "Putting money into circulation" is really a great thing. But sometimes it is well to inquire whose money and how it is being put into circulation.

It is not my purpose here to dwell at length on the subject of indirect taxation and the multitude of evils which follow, and necessarily follow, in its train. My design in rising just now is to present a few figures showing how the burden falls in my own district and among my own people. Below I shall present a table based on the census of 1910. In this table the population of my district—the nineteenth of Pennsylvania, including the counties of Bedford, Blair, and Cambria—is shown by minor civil divisions. The total population of the district in 1910 was 313,868, of which 38,879 were in Bedford, 108,858 in Blair, and 166,131 in Cambria. Estimating expenditures for wars, past and anticipated, at the conservative figure of $4.10 a head, men, women, and children—and the per capita is higher than this rather than lower—it is found that the distributive share of Bedford County is $159,403.90; that of Blair, $446,317.80; and that of Cambria, $681,137.10. If a direct tax in an equal amount were levied in these counties a revolution would follow. Any party responsible for such a monstrous burden upon the toilers would be destroyed by the fury of the masses. Yet the burden is borne without a murmur, since the nature of it is not understood.

I want to carry this thing home to my people just as directly as this may be done, and that is the object of the appended table. It tells its own story convincingly in plain figures which will stand the acid test. For instance, take the little hamlet of Newry in Blair County, with a population in 1910 of 380, its proportion of the total burden being $1,558. Or take the little town of New Paris in Bedford County, with a population in 1910 of 194. What is the distributive share of this little cluster of people? Why, Mr. Chairman, it is $795.40. Or take the town of South Fork in my own county of Cambria, with a population of 4,592 in 1910. What does its share total up? I do not know how much South Fork pays in State, county, borough, and school taxes, but I feel reasonably sure that they do not exceed $4.10 per capita, and at this rate South Fork's distributive share of the burden for wars past or anticipated reaches the comfortable aggregate of $18,827.20. My own city of Johnstown, with a population of 55,482 in 1910, faces a little charge on this account of $227,476.20, while Altoona, with a population in 1910 of 52,127, must "come across" with $213,720.70. The cost in detail for the minor civil divisions in the nineteenth district is given in the following table:

	Population.	Amount.
BEDFORD COUNTY.		
Bedford	2,235	$9,163.50
Bedford Township	2,114	8,667.40
Bloomfield	673	2,759.30
Broad Top	3,752	15,383.20
Coaldale	311	1,275.10
Colerain	869	3,562.90
Cumberland Valley	995	4,083.60
East Providence	1,528	6,264.80
East St. Clair	1,122	4,600.20
Everett	1,725	7,072.50
Harrison	677	2,775.70
Hopewell	590	2,419.00
Hopewell Township	1,261	5,170.10
Hyndman	1,164	4,772.40
Juniata	1,040	4,264.00
Kimmell	792	3,247.20
King	706	2,894.60
Liberty	1,574	6,453.40
Lincoln	410	1,681.00
Londonderry	1,260	5,166.00
Mann	830	3,403.00
Manns Choice	341	1,398.10
Monroe	1,640	6,724.00
Napier	1,446	5,928.60
New Paris	194	795.40
Pleasantville	191	783.10
Rainsburg	203	832.30
St. Clairsville	101	414.10
Saxton	1,195	4,899.50
Schellsburg	314	1,287.40
Snake Spring	728	2,984.80
South Woodbury	1,667	6,834.70
Southampton	1,056	4,329.60
Union	491	2,013.10
West Providence	1,781	7,302.10
West St. Clair	838	3,435.80
Woodbury	255	1,045.50
Woodbury Township	809	3,316.90
BLAIR COUNTY.		
Allegheny	2,055	8,425.50
Altoona	52,127	213,720.70
Antis	2,658	10,897.80
Bellwood	2,277	9,335.70
Blair	1,134	4,649.40
Catharine	1,071	4,391.10
Duncansville	1,263	$5,178.30
Frankstown	1,939	7,949.90
Freedom	1,321	5,416.10
Gaysport	917	3,759.70
Greenfield	1,507	6,178.70
Hollidaysburg	3,734	15,309.40
Huston	1,056	4,329.60
Juniata	5,285	21,668.50
Juniata Township	587	2,406.70
Logan	9,730	39,893.00
Martinsburg	920	3,772.00
Newry	380	1,558.00
North Woodbury	1,337	5,481.70
Roaring Spring	1,903	7,802.30
Snyder	2,458	10,077.80
Taylor	1,315	5,391.50
Tyrone	7,176	29,421.60
Tyrone Township	1,053	4,319.30
Williamsburg	1,523	6,244.30
Woodbury	2,129	8,728.90
CAMBRIA COUNTY.		
Adams	4,126	16,916.60
Allegheny	1,088	4,460.80
Ashville	384	1,574.40
Barnesboro	3,535	14,493.50
Barr	2,586	10,602.60
Blacklick	3,190	13,079.00
Brownstown	1,300	5,330.00
Cambria	1,150	4,715.00
Carroll	4,946	20,278.60
Carrolltown	1,348	5,526.80
Cassandra	303	1,254.60
Chest	668	2,738.80
Chest Springs	174	713.40
Clearfield	1,182	4,846.20
Conemaugh	1,549	6,350.90
Cresson	1,470	6,027.00
Cresson Township	1,219	4,997.90
Croyle	3,375	13,841.60
Daisytown	382	1,566.20
Dale	2,285	9,368.50
Dean	599	2,455.90
East Conemaugh	5,046	20,688.60
East Taylor	1,040	4,264.00
Ebensburg	1,973	8,089.30
Elder	2,338	9,585.80
Ferndale	514	2,107.40
Franklin	2,102	8,618.20
Gallitzin	3,504	14,366.40
Gallitzin Township	1,644	6,740.40
Hastings	2,125	8,712.50
Jackson	2,492	10,217.20
Johnstown	55,482	227,476.20
Lilly	1,638	6,715.80
Loretto	246	1,008.60
Lower Yoder	2,761	11,320.10
Middle Taylor	426	1,746.60
Munster	405	1,660.50
Patton	3,907	16,018.70
Portage	2,954	12,111.40
Portage Township	4,614	18,917.40
Reade	3,033	12,435.30
Richland	2,101	8,614.10
Rosedale	419	1,717.90
Sankertown	687	2,816.70
Scalp Level	1,424	5,838.40
South Fork	4,592	18,827.20
Spangler	2,700	11,070.00
Stonycreek	2,293	9,401.30
Summerhill	863	3,538.30
Summerhill Township	3,842	15,752.20
Susquehanna	4,266	17,490.60
Tunnelhill	661	2,710.10
Upper Yoder	928	3,804.80
Vintondale	1,410	5,781.00
Washington	1,321	5,416.10
West Taylor	1,056	4,329.60
Westmont	1,468	6,018.80
White	599	2,455.90
Wilmore	314	1,287.40

RECESS.

The SPEAKER pro tempore. Under the special order the House will now stand in recess until 8 o'clock to-night.

Thereupon (at 5 o'clock and 30 minutes p. m.) the House stood in recess until 8 o'clock p. m. to-night.

EVENING SESSION.

The recess having expired, at 8 o'clock p. m. the House was called to order by the Speaker pro tempore, Mr. DIXON.

The SPEAKER pro tempore. The Clerk will read the special order under which business will be transacted to-night.

The Clerk read as follows:

On motion of Mr. POU, by unanimous consent,

Ordered, That on Friday, June 12, 1914, the House stand in recess from 5.30 o'clock p. m. until 8 o'clock p. m., and from which hour

until 11 o'clock p. m. bills on the Private Calendar, beginning with No. 132, and which are not objected to shall be taken up for consideration.

The SPEAKER pro tempore. The Clerk will report the first bill.

Mr. POU. Mr. Speaker, I want to make a suggestion to the effect that some of these bills will take quite a while to read, and if there is any gentleman who has determined to object to the consideration of a bill, a great deal of time can be saved if he will be good enough to interpose the objection immediately after the reading of the title. Some of these bills will take 10 minutes to read. If any gentleman intends to object anyhow, it would save a good deal of time and expedite the consideration of this calendar to a very considerable extent if he should pursue that course.

The SPEAKER pro tempore. Does the gentleman ask that that question be put?

Mr. POU. I will not ask unanimous consent that that course be pursued, because it might be considered that we were proceeding with undue haste in the consideration of this calendar here, but I merely cast it out as a suggestion that any gentleman can adopt, if he sees fit, in the interest of saving time.

The SPEAKER pro tempore. The Clerk will report the first bill.

JAMES T. M'KENNEY.

The first business in order on the Private Calendar was the bill (H. R. 6506) for the relief of James T. McKenney.

The SPEAKER pro tempore. Is there objection to the consideration of the bill?

Mr. MANN. Mr. Speaker, I object.

BOLOGNESI, HARTFIELD & CO.

The next business in order on the Private Calendar was the bill (H. R. 5859) for the relief of Bolognesi, Hartfield & Co.

The SPEAKER pro tempore. Is there objection to the consideration of the bill?

Mr. MANN. Mr. Speaker, I object.

CLAIM OF STATE OF RHODE ISLAND.

The next business in order on the Private Calendar was the bill (H. R. 4273) referring the claim of the State of Rhode Island to the Court of Claims for adjudication.

Mr. MANN. Mr. Speaker, I make the point of order that this is not a Private Calendar bill. I do not care whether that is disposed of now or not.

Mr. GARRETT of Tennessee. Mr. Speaker, I ask that the full bill be reported. Is it a long one?

The SPEAKER pro tempore. No. The Clerk will report the bill.

The Clerk read the bill in full.

The SPEAKER pro tempore. The bill is not properly on the Private Calendar, but by unanimous consent it can be considered.

Mr. MANN. I make the point of order. It should go to the Union Calendar.

The SPEAKER pro tempore. The point of order is sustained.

ELIZABETH BRUCE, DECEASED.

The next business in order on the Private Calendar was the bill (H. R. 13693) for the relief of the legal representatives and heirs of Elizabeth Bruce, widow of the late John H. Bruce.

The SPEAKER pro tempore. Is there objection to the consideration of the bill?

Mr. MANN. Mr. Speaker, I ask to have the bill read.

The SPEAKER pro tempore. The Clerk will report the bill.

The Clerk read as follows:

Be it enacted, etc., That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay, out of any money in the Treasury of the United States not otherwise appropriated, to the legal representatives and heirs of Elizabeth Bruce, deceased, widow of the late John H. Bruce, of Rowan County, Ky., the sum of $155, pay and bounty due said John H. Bruce for services rendered as a private in Company G, Twenty-second Regiment Kentucky Infantry.

The SPEAKER pro tempore. Is there objection to the consideration of the bill?

Mr. MANN. Mr. Speaker, reserving the right to object, I would like to say that in the urgent deficiency bill, the act of December 22, 1911, there was inserted a limitation providing that claims of this character might be submitted to the War Department on or before December 31, 1912. I wish to ask the gentlemen on the committee whether it was the policy of the committee, on claims of that sort, to pay no attention to this limitation? This bill, I will say to the gentlemen, is for pay and bounty due a soldier of the Twenty-second Regiment Kentucky Infantry. I judge that the man had had a claim for the pay and bounty. It is an old matter. Congress in 1911 reopened these cases and provided that they might be submitted to the War Department before the end of 1912. That was not done in this case. Whether it is the policy of the committee to pay no attention to a limitation of that sort, I do not know. I would like to know, because what is the use of putting in limitations if immediately when they expire the committee reports these bills?

Mr. JOHNSON of Washington. Mr. Speaker, I had the writing of the report in the Committee on War Claims, and, if I remember correctly, this is a case where the claim was acknowledged and the necessary blanks sent by mail. The letter was misdirected, or miscarried. The letter with the application blank was not received, which caused the claimant to lose his opportunity. For that reason the claim was considered to be a valid one, and the Committee on War Claims recommended a favorable report on it. There is a report here that explains that in detail. I do not think there is any need of going further into it. It is due entirely to the miscarriage of a letter in the mails just ahead of the time when the claim would have been legally allowed.

Mr. FOSTER. Do I understand an application was filed?

Mr. JOHNSON of Washington. Oh, yes; I think so. It was all in good order.

Mr. FOSTER. I did not understand that that law prohibited the completion of a claim that had been filed.

Mr. MANN. There was no application filed. On the contrary, on November 11, 1912, a letter was addressed to the claimant informing him that if he desired to complete the claim which was filed by his mother he should fill out and send back the blank form and application which were inclosed. This letter never reached the claimant, so that he paid no attention to it. There was a claim first filed by the mother on June 24, 1869, but it was never completed. She had no claim anyhow.

Mr. JOHNSON of Washington. This claim was presented, and in the committee it was apparently an orphan. It was acted upon strictly upon its merits. I think the bill is entitled to be passed.

Mr. MANN. As the gentleman will see, we reopened these claims and authorized them to be filed in the War Department, putting a limitation upon them.

Mr. GARRETT of Tennessee. Is this a Bowman Act case? Is this one that would come under the Bowman Act?

Mr. MANN. Oh, no. It was not a Bowman Act case at all. If the man had filed the claim, I think he would have had a claim.

The SPEAKER pro tempore. Is there objection to the present consideration of the bill?

There was no objection.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

REFERENCE OF CERTAIN CLAIMS TO THE COURT OF CLAIMS.

The next business in order on the Private Calendar was the resolution (H. Res. 451) referring certain claims to the Court of Claims for finding of facts and conclusions of law under section 151 of the act of March 3, 1911, entitled "An act to codify, revise, and amend the laws relating to the judiciary."

The title of the resolution was read.

Mr. MANN. Mr. Speaker, this would take considerable time, and I therefore object for the present.

The SPEAKER pro tempore. The gentleman from Illinois [Mr. MANN] objects. The Clerk will report the next one.

THOMAS HAYCOCK.

The next business in order on the Private Calendar was the bill (H. R. 2696) for the relief of Thomas Haycock.

The Clerk read the bill, as follows:

Be it enacted, etc., That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to Thomas Haycock the sum of $500, to reimburse him for the said sum paid by him to the Government in excess of the amount of the surety bond signed by him in behalf of the late postmaster at Tropic, Utah.

The SPEAKER pro tempore. Is there objection to the present consideration of the bill?

There was no objection.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

The SPEAKER pro tempore. The Clerk will report the next one.

MARY WELCH.

The next business in order on the Private Calendar was the bill (H. R. 12623) for the relief of Mary Welch.

The bill was read.

Mr. MANN. Mr. Speaker, I object.

The SPEAKER pro tempore. The gentleman from Illinois [Mr. MANN] objects. The Clerk will report the next one.

JOHN Q. ADAMS.

The next business in order on the Private Calendar was the bill (S. 2576) for the relief of John Q. Adams.

The Clerk read the bill, as follows:

Be it enacted, etc., That the homestead entry of John Q. Adams, made June 23, 1909, for farm unit A on the Bellefourche reclamation project, South Dakota, under the act of June 17, 1902, for lots 1 and 2, section 2, township 9 north, range 4 east, Black Hills meridian, be, and the same is hereby, validated, subject to future compliance with the law.

The SPEAKER pro tempore. Is there objection to the present consideration of this bill?

There was no objection.

The SPEAKER pro tempore. The question is on the third reading of the Senate bill.

The bill was ordered to be read a third time, was read the third time, and passed.

The SPEAKER pro tempore. The Clerk will report the next bill.

BAYARD T. GARRABRANT.

The next business in order on the Private Calendar was the bill (H. R. 9975) for the relief of Bayard T. Garrabrant.

The Clerk read the bill, as follows:

Be it enacted, etc., That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, the sum of $828.50 to Bayard T. Garrabrant, formerly first lieutenant in Company K, Second Regiment New Jersey Volunteer Infantry, to reimburse him for the same amount expended by him in payment for necessary care, medicines, and nourishment furnished him during his illness of typhoid fever, contracted at Jacksonville, Fla., while on detail duty, by Special Order No. 123, with said regiment in the year 1898, together with interest on said amount from the 1st day of January, 1898.

With committee amendments.

The SPEAKER pro tempore. Is there objection to the present consideration of the bill?

There was no objection.

The SPEAKER pro tempore. The Clerk will report the committee amendments.

The Clerk read as follows:

Amend, page 1, line 5, by striking out the figures "$828.50" and inserting in lieu thereof "$403."

The SPEAKER pro tempore. The question is on agreeing to the committee amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The Clerk will report the next committee amendment.

The Clerk read as follows:

Page 2, lines 2 and 3, strike out the words "together with interest on said amount from the 1st day of January, 1898."

The SPEAKER pro tempore. The question is on agreeing to the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill as amended.

The bill as amended was ordered to be engrossed and read a third time, was read the third time, and passed.

TRANQUILINO LUNA.

The next business in order on the Private Calendar was the bill (H. R. 5991) to authorize the payment of $2,000 to the widow of the late Tranquilino Luna, in full for his contest expenses in the contested-election case of Manzanares against Luna.

The bill was read.

The SPEAKER pro tempore. Is there objection to the present consideration of the bill?

Mr. FOSTER. I object.

The SPEAKER pro tempore. The gentleman from Illinois [Mr. FOSTER] objects. The Clerk will report the next one.

BERNARD CITROEN.

The next business in order on the Private Calendar was the bill H. R. 4310, concerning certain moneys collected from Bernard Citroen as customs duties and declared by the United States Supreme Court to have been illegally exacted.

The SPEAKER pro tempore. Is there objection?

Mr. MANN. Mr. Speaker, I object.

Mr. GOLDFOGLE. Mr. Speaker, will the gentleman from Illinois withhold his objection for a while?

Mr. MANN. Yes; I suggest, however, that the bill better be read.

The SPEAKER pro tempore. The Clerk will read the bill.

The Clerk read as follows:

Whereas Bernard Citroen, on the 6th day of April, 1907, deposited with the collector of customs at the port of New York, under protest, the sum of $110,335 to secure a release to him of certain pearls imported by him on June 11, 1906, and on which pearls he already had paid duty to said collector at the rate of 10 per cent ad valorem under a classification made by the said collector of customs, but which classification was subsequently, on or about the 28th day of June, 1906, changed by the said collector and the duty exacted thereon increased from 10 per cent to 60 per cent ad valorem; and

Whereas the Board of General Appraisers at the port of New York did, on the 14th day of June, 1907, sustain the importer's protest and reversed the collector and classified and assessed for duty said pearls at 10 per cent ad valorem instead of 60 per cent, as exacted and obtained from said importer by said collector; and

Whereas the decision of the Board of General Appraisers was, on or about the 13th day of July, 1908, reversed by the United States circuit court in and for the second circuit, but on appeal to the United States circuit court of appeals in and for the second circuit, and on or about the 22d day of January, 1909, the decision of the said Board of General Appraisers was affirmed and the decision of the said circuit court was reversed; and

Whereas the said decision of the said circuit court of appeals in and for the second circuit was affirmed at the October, 1911, term of the Supreme Court of the United States; and

Whereas the said Bernard Citroen had to pay interest on and lost the use of said sum of $110,335 for and during the period it was detained from him, against his protest, by the said collector from the 6th day of April, 1907, to the 6th day of April, 1912: Therefore

Be it enacted, etc., That the Secretary of the Treasury pay to Bernard Citroen, or his assigns, out of any money in the Treasury not otherwise appropriated, interest on said sum of $110,335 from the 6th day of April, 1907, to the 6th day of April, 1912, at the rate of 6 per cent per annum; and the payment of said interest shall be, and hereby is, declared to be in full settlement and discharge of all claims of said Bernard Citroen against the United States because of the withholding of said money.

The SPEAKER pro tempore. Is there objection to the present consideration of the bill?

Mr. MANN. Mr. Speaker, I reserve the right to object.

Mr. GOLDFOGLE. Mr. Speaker, the facts as they are recited in the bill are conceded by the Government. There is no question of fact in the matter. They may be briefly stated, and, lest from the reading of the bill some of the facts may have escaped the observation of the committee, I will allow myself at this moment to state the facts involved briefly.

Citroen is an importer. The firm is made up of citizens of the United States. Before the firm brought the pearls in question into this country they went to the collector of the port of New York and inquired what in the judgment of the collector would be the dutiable rate upon those pearls, or, in other words, under what classification of the then tariff the pearls would be entered. The collector said they were classified at 10 per cent, and upon that statement the price was fixed between the purchaser and the importer. The importer ascertained the price abroad, as stated in the bill—$223,000—and added to that the duty at the rate of 10 per cent, and then added to that his contemplated profit, and probably his insurance, and that, with perhaps some incidental charges, aggregated the purchase price agreed upon between the customer here and the importer. The pearls came in and 10 per cent was paid and accepted by the collector. They were then delivered to the customer by the importer, and the customer, as I understand, wore the pearls for some little time. The customer was then called upon by one of the customs officers, who informed her that he had been directed by the collector to take those pearls to the appraiser's office, inasmuch as it was then claimed by the collector that the pearls should have been classified at the rate of 60 per cent. The additional 50 per cent was demanded from the importer. The importer at first refused to pay that additional 50 per cent. Thereupon the importer was threatened with prosecution. It was claimed by the customs officers that unless additional 50 per cent, amounting to one hundred and ten thousand two hundred and odd dollars, was paid the pearls would be formally seized and prosecution begun in the Federal court.

The attention of the collector of the port was called to the fact that the 10 per cent had been originally fixed by him as the proper rate, and also to the fact that the 10 per cent had been paid and had been accepted. The customs officers would listen to nothing except that they wanted the $110,200 laid down in cash. They refused to accept a bond; they declined to accept any security for the money. Then the importers were compelled to raise the $110,200, and, having raised it at interest, paid it over to the collector under protest. An appeal was then taken by the importer to the Board of General Appraisers and that board reversed the action of the collector and decided in

favor of the importer. The Government still insisted that it was right in its demand for the additional 50 per cent, and took an appeal to the circuit court of the United States. The importer then asked to have the $110,200 and odd returned to him upon his giving adequate security. He stood ready to give any kind of security—surety bond, bonds of real-estate owners, bonds of business men, any kind of security—that should have been acceptable to the Government, yet the Treasury Department and the customs officers combined refused to take security and kept that large sum of money locked up in the Treasury. The appeal went on. A single judge sitting in the circuit court differed with the Board of General Appraisers and an appeal was then taken by the importers to the circuit court of appeals, where, after argument, and after considerable delay, that court reversed the action of the single judge and affirmed the judgment of the Board of General Appraisers.

That should have been the end of it for two reasons, first, because the court had unanimously determined that the 50 per cent exaction was unwarranted and unjustified; and, second, because there was ample judicial authority for holding, before ever the circuit court of appeals made the ruling in the Citroen case, that the amount should not have been exacted.

Mr. MANN. Mr. Speaker, will the gentleman yield for a question?

Mr. GOLDFOGLE. With pleasure; but I prefer to have the gentleman allow me to complete the statement.

Mr. MANN. I think it is hardly fair to the other bills on the calendar to go very far into it, and I would first like to ask the gentleman a question.

Mr. GOLDFOGLE. Certainly.

Mr. MANN. As I understand the bill, it is for the payment of interest at 6 per cent on money which was deposited at the demand of the customs officers under protest, and it was paid under protest. That is the case, is it not?

Mr. GOLDFOGLE. I understand this bill is for the payment of damages.

Mr. MANN. For the payment of interest.

Mr. GOLDFOGLE. Yes; but I will come to that proposition in a moment. I think I know what is probably in the gentleman's mind.

Mr. MANN. Now, let us see. The Government collects very large sums of money every year, which are paid under protest. This is for the payment of interest on one of those sums. Does the gentleman imagine that, on the Unanimous-Consent Calendar, without an opportunity to consider the question, he can get this House to set the precedent of paying interest on money collected under protest by a collector of customs?

Mr. GOLDFOGLE. The gentleman from Illinois always reads carefully pretty much every report that comes into the House——

Mr. MANN. I have read this one.

Mr. GOLDFOGLE. For which he is entitled to credit. He has undoubtedly seen, in the report of the Committee on Claims, the statement with regard to what Congress has done heretofore in other cases awarding interest.

Mr. MANN. Yes.

Mr. GOLDFOGLE. Notably in the Pennsylvania case, where the claim had been paid or liquidated in virtue of a bill passed by Congress to pay the principal sum; yet, years afterwards, this House—the gentleman from Illinois [Mr. MANN] and I voting—voted to pay interest upon the Pennsylvania claim.

Mr. MANN. I never voted for the payment of interest on any of these claims, and am not willing now——

Mr. GOLDFOGLE. The gentleman was in the House at the time.

Mr. MANN. And I am not willing now to set the precedent, when the House has really no opportunity of considering the question. Therefore I am compelled to object.

Mr. GOLDFOGLE. Mr. Speaker, if the gentleman will let me complete the statement of facts, then the gentleman can object. Why does he cut me off just as I reach stating the reversal in the circuit court of appeals?

Mr. MANN. If the other Members of the House are willing, I am quite content.

The SPEAKER pro tempore. The gentleman withholds his objection.

Mr. GARRETT of Tennessee. Mr. Speaker, will the gentleman from New York yield?

Mr. GOLDFOGLE. Yes.

Mr. GARRETT of Tennessee. Is it the purpose of the gentleman from Illinois to object to this bill finally?

Mr. MANN. Oh, I think everybody in the House will object to passing a bill of this character by unanimous consent.

Mr. GARRETT of Tennessee. Then I appeal to the gentleman from New York, in view of the fact that it is going to be objected to, not to stand in the way of other bills on the calendar.

Mr. GOLDFOGLE. I do not wish to stand in the way of other bills; but just as I was making a statement which would have taken me less than two and a half minutes to complete, merely to state the action of the Supreme Court of the United States, I was met with this objection. I want to say very frankly to this House that if I am to be cut off from a statement that would not take three minutes, I do not think it will serve the purposes of this House to-night.

Mr. GARRETT of Tennessee. Mr. Speaker, if the gentleman will permit, I have no bill on the calendar and have no interest in the bills——

Mr. GOLDFOGLE. I understand that.

Mr. GARRETT of Tennessee. Except to expediate the general work. Of course, I shall not object to the gentleman concluding his statement.

Mr. GOLDFOGLE. Mr. Speaker, after the circuit court of appeals reversed the court below and affirmed the Board of General Appraisers, the Government still insisted upon proceeding and took an appeal to the Supreme Court of the United States. Again the offer of security was made and again refused, and the money was still kept locked up in the Treasury. Then the Supreme Court of the United States, all the judges concurring, the opinion being written by Mr. Justice Hughes, held that the action of the collector was unwarranted; that it was improper to take that $110,200; that there was no warrant in law whatever for that exaction; and that that position was sustained by decisions that had been rendered before the collector demanded this very large sum of money from the importer. Now, the importer had to borrow that money which was thus wrongly exacted. Will the gentleman from Illinois, with his fairness, say that this is not to be likened to a case where the Government enters upon real estate, unwarrantably seizes it, takes possession of it without the slightest right, and damages are asked for the wrongful act of the Government? Will the gentleman say that interest is not to be awarded by way of damages for this very unjust action? The gentleman says we are not prepared to consider the case at this moment. I repeat that there is not a question of fact arising here. The statement which I made of the facts can not be possibly denied. If the gentleman from Illinois will say that the Government does not concede each and every fact recited in the bill, I will withdraw the bill.

Mr. MANN. I notice that there is no report on this bill from the Treasury Department.

Mr. GOLDFOGLE. The Supreme Court record declares the facts. The opinion of Mr. Justice Hughes states the facts as they are substantially in the bill.

Mr. O'SHAUNESSY. I would like to ask the gentleman if the fact, as originally stated by him as to the declaration of the collector, that 10 per cent was the rate to be imposed on the imports, is conceded by the Treasury officials?

Mr. GOLDFOGLE. That is in the record as it comes to the Supreme Court of the United States and as it comes down in its remittitur.

Mr. O'SHAUNESSY. Then that might differentiate it from the ordinary case of a protest, because the importer was relying on the knowledge of the Government official.

Mr. GOLDFOGLE. The gentleman from Rhode Island is correct. Now, I appeal to the gentleman from Illinois whether, in the face of the precedents, of the Pennsylvania case, the case where the Congress directed interest to be paid on a claim that had been paid to the claimant, and on the other case decided by the Comptroller of the Treasury, as stated in the report of the Committee on Claims, which is quite full—I appeal to the gentleman whether he ought now to object, whether he does not think that when the Government blunderbuss was held at the heads of these importers, when they were face to face with threats of prosecution, and through newspaper publications, perhaps, losing standing as business men, when they were compelled to pay this large sum of $110,000, without any law to sustain it, the importers who had to raise this money ought not to be reimbursed for the interest. They had to borrow the money. They certainly did not carry this amount around as loose change in their pockets. Are these men to go without a remedy for the wrong done them? Is that the way the citizens of the United States are to be handled by the Government? Is that the kind of Government we are living under? I hope the gentleman from Illinois will withdraw his objection.

The SPEAKER pro tempore. Is there objection?

Mr. MANN. I object.

Mr. GARRETT of Texas. Mr. Speaker, I want to ask the pardon of the House for making a suggestion. We have some bills here, many of us, far down on the calendar. Gentlemen who have their minds made up know whether or not they are going to object to certain bills being considered. I believe it would be nothing but fair and right for a Member to make his objection at once, without argument on the merits of the bill. If they are going to be objected to in the end, object to them in the beginning, so that we can get through and let us see who is going to fall by the wayside.

Mr. MANN. If the gentleman will pardon me, I objected to this bill at first, but the gentleman from New York asked me to reserve my objection, and I shall continue to do that unless some brave man of the House asks for the regular order, which is within the province of any gentleman.

Mr. GARRETT of Texas. The point I am making is that I do not see any great deal of generosity in reserving an objection which you expect to make in the end and killing the time.

Mr. POU. This evening session of the House was agreed to for the purpose of passing bills about which there was no debate and to which there was no objection. There will be opportunity at this session to discuss these matters. The mere fact that a bill is objected to does not mean that it is not going to pass. It merely means that we do not take time to consider it.

Mr. GOLDFOGLE. Will the gentleman yield?

Mr. POU. Certainly.

Mr. GOLDFOGLE. Is it not a fact that throughout this entire Congress no claim bills have had consideration except those not objected to?

Mr. POU. Up to this time that is true, but we are hoping to get time in the future.

LEON GREENBAUM.

The next bill on the Private Calendar was the bill (H. R. 10168) for the relief of Leon Greenbaum.

The Clerk read the bill, as follows:

Be it enacted, etc., That there be paid, out of any money in the Treasury not otherwise appropriated, the sum of $1,750 to Leon Greenbaum, of New York City, N. Y., to compensate him in full for all claims he may have against the United States arising out of injuries received by him while in the Government employ in the Brooklyn Navy Yard, Brooklyn, N. Y., in April, 1911.

The SPEAKER pro tempore. Is there objection to the present consideration of the bill?

There was no objection.

The Clerk read the committee amendment, as follows:

In line 4 strike out the figures 5,000 and insert in lieu thereof the figures 1,750.

Mr. POU. Mr. Speaker, by direction of the committee, I offer this amendment to the amendment, that the figures 1,750 be changed to $2,500. This man lost both legs, and the committee felt that $1,750 was too small an amount.

Mr. MANN. I hope the gentleman will not insist on that amendment. In the first place, there is no report from the Navy Department on the bill. In the second place, if the man had been entitled to anything under the compensation law he would not have received as much as $1,750.

Mr. POU. Mr. Speaker, I withdraw the amendment.

The committee amendment was agreed to.

The bill as amended was ordered to be engrossed and read a third time, was read the third time, and passed.

CYNTHA RAMEY.

The next business on the Private Calendar was the bill (H. R. 14609) for the relief of Cyntha Ramey.

The Clerk read as follows:

Be it enacted, etc., That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to Cyntha Ramey, of Praise, Pike County, Ky., widow of Marion Ramey, who, while in the discharge of his duties as a posseman, having been duly summoned by and acting with J. M. Potter, a deputy United States marshal, was murdered on April 4, 1913, by violators of the United States internal-revenue laws, the sum of $5,000, on account of the murder of her said husband.

The SPEAKER pro tempore. Is there objection to the present consideration of this bill? [After a pause.] The Chair hears none.

The committee amendment was read, as follows:

Page 1, line 11, strike out the figures "$5,000" and insert "$1,000."

The question was taken and the amendment was agreed to.

The bill as amended was ordered to be engrossed and read a third time, was read the third time, and passed.

ELLA SLONE.

The next business on the Private Calendar was the bill (H. R. 13950) for the relief of Ella Slone.

The Clerk read as follows:

Be it enacted, etc., That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to Ella Slone, of Pikeville, Pike County, Ky., widow of John Slone, who, while in the discharge of his duties as a posseman, having been duly summoned by and acting with J. M. Potter, a deputy United States marshal, was murdered on April 4, 1913, by violators of the United States internal-revenue laws, the sum of $5,000, on account of the murder of her said husband.

The committee amendment was read, as follows:

Page 2, line 2, strike out the figures "$5,000" and insert in lieu thereof the figures "$1,000."

The amendment was agreed to.

The bill as amended was ordered to be engrossed and read a third time, was read the third time, and passed.

ARTHUR E. RUMP.

The next business on the Private Calendar was the bill (H. R. 6609) for the relief of Arthur E. Rump.

The Clerk read as follows:

Be it enacted, etc., That there be paid, out of any money in the Treasury not otherwise appropriated, the sum of $10,000 to Arthur E. Rump, of St. Louis, Mo., to compensate him in full for all claims he may have against the United States arising out of injuries received by him while in the Government employ in the United States post office at St. Louis, Mo., in May, 1902.

The SPEAKER pro tempore. Is there objection to the present consideration of the bill? [After a pause.] The Chair hears none.

The committee amendment was read, as follows:

Page 1, line 4, strike out "$10,000" and insert "$2,000."

The amendment was agreed to.

The bill as amended was ordered to be engrossed and read a third time, was read the third time, and passed.

EMILY J. BYRD.

The next business on the Private Calendar was the bill (H. R. 14167) for the relief of Emily J. Byrd.

The Clerk read as follows:

Be it enacted, etc., That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay, out of any money in the Treasury of the United States not otherwise appropriated, to Emily J. Byrd, of Campton, Wolfe County, Ky., widow of William A. Byrd, the sum of $10,000 on account of the murder of her said husband while in the discharge of his duty as deputy United States marshal for the eastern district of Kentucky.

The SPEAKER pro tempore. Is there objection to the present consideration of the bill?

Mr. GOLDFOGLE. Mr. Speaker, I would like to have a fuller explanation of the bill than is afforded by the bill itself.

Mr. POU. Mr. Speaker, I will say to the gentleman from New York that this bill is one of two or three bills which were introduced to compensate the widows of certain men who were murdered while having been summoned to execute the United States internal-revenue laws. These men were killed——

Mr. GOLDFOGLE. What is the amount to be awarded by this bill?

Mr. POU. One thousand dollars.

Mr. LANGLEY. It is the amount which has been allowed in similar cases by the committee.

Mr. POU. There were three men killed, and we have allowed them $1,000 apiece.

Mr. GOLDFOGLE. I never can resist my friend LANGLEY.

The committee amendment was read, as follows:

Page 1, line 7, strike out the figures "$10,000" and insert "$1,000."

The amendment was agreed to.

The bill as amended was ordered to be engrossed and read a third time, was read the third time, and passed.

MARY ABEL.

The next business on the Private Calendar was the bill (H. R. 5079) for the relief of Mary Abel.

The bill and committee amendment were read in full.

The SPEAKER pro tempore. Is there objection to the present consideration of the bill?

Mr. GOLDFOGLE. Mr. Speaker, I object.

Mr. VOLLMER. Will the gentleman withhold his objection?

Mr. GOLDFOGLE. I will withhold it at the request of the gentleman.

Mr. VOLLMER. At our last night session a bill was passed by this House for the relief of the heirs of the only other party who was killed by the falling of this elevator, Mr O'Toole. This lady, Mary Abel, is the mother and sole heir of the young man who was killed by the falling of the elevator, without any negligence contributing to the injury on his part at all, but it was solely by reason of the defectiveness of this elevator at the Government arsenal, Illinois. Now, the amount has been reduced by the committee from $5,000 to $1,000. This old woman

earns her living by manual toil, and I do hope that the gentleman will not insist upon his objection in such a case as this.

Mr. GOLDFOGLE. Mr. Speaker, the difficulty is that this Congress has been proceeding along these lines: If a bill had merit to it and some one saw fit to object to the bill, that was the end of it. So favorites were being played in this House. And I observed, without now criticizing any gentleman in particular, that certain bills were enabled to escape the objection if they came from the other side of the Chamber. Now, I want to be more fair. I want this House to squarely consider claims bills just as well as they consider any other kind of bills. When a party comes forward and has a claim that is favorably reported by the Committee on Claims, who give careful attention to the facts always, then I would have this House consider the bill upon its merits. There is no earthly reason why a bill when it comes from the Committee on Claims with a unanimous report in its favor should, because of caprice on the part of a single Member, be objected to and other bills allowed to slip through. There is injustice somewhere. Now, I think fairness requires that this House shall consider bills upon their merits, that we should vote upon them, and that the majority vote of the House should control. I object to the bill.

The SPEAKER pro tempore. The gentleman from New York objects. The Clerk will report the next bill.

CHARLES L. HILL.

The next business in order on the Private Calendar was the bill (H. R. 7327) for the relief of Charles L. Hill.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to allow Charles L. Hill to enter, under the homestead laws, and subject to the terms, conditions, and limitations of the reclamation act and acts amendatory thereof, lot 1 of section 5, township 22 south, range 1 east, and lots 5, 6, 8, and 9 of section 32, township 21 south, range 1 east, Las Cruces, N. Mex., land district: *Provided*, That the entry and patent therefor shall expressly reserve to the United States or its successors the right to take or use, without compensation to entryman, patentee, or his assignees, any or all of the said lands which may be actually needed for or in connection with the construction, maintenance, and operation of the Rio Grande reclamation project.

The SPEAKER pro tempore. Is there objection to the present consideration of the bill?

There was no objection.

The SPEAKER pro tempore. The Clerk will report the committee amendment.

The Clerk read as follows:

Page 1, line 12, strike out the words "or its successors."

The SPEAKER pro tempore. The question is on agreeing to the committee amendment.

The committee amendment was agreed to.

The bill as amended was ordered to be engrossed and read a third time, was read the third time, and passed.

NATHANIEL F. CHEAIRS.

The next business in order on the Private Calendar was the bill (H. R. 8696) for the relief of Nathaniel F. Cheairs.

The SPEAKER pro tempore. Is there objection to the consideration of the bill?

Mr. MANN. I object.

Mr. PADGETT. Mr. Speaker, I want to ask the gentleman if I can prevail upon him not to object?

Mr. MANN. Well, this involves a new principle, and I think the House ought to have a chance to consider it.

Mr. PADGETT. It is a very meritorious case.

Mr. MANN. It involves an absolute departure from the previous policy of Congress in reference to such bills.

The SPEAKER pro tempore. The Clerk will report the next bill.

FRANCES L. SNELL.

The next business in order on the Private Calendar was the bill (H. R. 15681) for the relief of Frances L. Snell.

The SPEAKER pro tempore. Is there objection to the consideration of the bill?

Mr. MANN. Mr. Speaker, I object.

The SPEAKER pro tempore. The Clerk will report the next bill.

THOMAS R. MASON.

The next business in order on the Private Calendar was the bill (H. R. 3278) for the relief of Thomas R. Mason.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Treasury of the United States is hereby authorized and directed to pay to Thomas R. Mason, of Dexter, Mo., the sum of $169.45 for services in carrying the mail on route No. 9683, in Kentucky, from January 1, 1861, to June 30, 1861.

The SPEAKER pro tempore. Is there objection to the present consideration of the bill?

There was no objection.

The SPEAKER pro tempore. The Clerk will report the first committee amendment.

The Clerk read as follows:

Page 1, line 5, strike out the figures "$169.45" and insert in lieu thereof the figures "$128.24."

The SPEAKER pro tempore. The question is on agreeing to the committee amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The Clerk will report the next committee amendment.

The Clerk read as follows:

Page 1, line 8, strike out the words "June 30" and insert in lieu thereof the words "May 31."

The SPEAKER pro tempore. The question is on agreeing to the committee amendments.

The amendment was agreed to.

The bill as amended was ordered to be engrossed and read a third time, was read a third time, and passed.

MARY ABEL.

Mr. VOLLMER. Mr. Speaker, I ask unanimous consent to go back to the bill No. 164 on the Private Calendar, which is H. R. 5079, for the relief of Mary Abel. The gentleman from New York [Mr. GOLDFOGLE] has agreed to withdraw his objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Iowa? [After a pause.] The Chair hears none. The Clerk will report the bill.

The Clerk read as follows:

Be it enacted, etc., That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to Mary Abel, mother of August Abel, who was fatally injured by reason of a defective elevator while engaged in the employment of the United States Government at Rock Island Arsenal, in the State of Illinois, on the 24th day of February, 1912, and died the following day on account of said injury, the sum of $5,000.

The SPEAKER pro tempore. Is there objection to the consideration of the bill? [After a pause] The Chair hears none. The Clerk will report the committee amendment.

The Clerk read as follows:

Page 1, line 11, strike out the figures "$5,000" and insert in lieu thereof the figures "$1,000."

The SPEAKER pro tempore. The question is on agreeing to the committee amendment.

The amendment was agreed to.

Mr. MANN. Mr. Speaker, I move to strike out in line 10 the word "twelve" and insert the word "five." It is an error in the bill.

The SPEAKER pro tempore. The Clerk will report the amendment.

The Clerk read as follows:

Page 1, line 10, strike out the word "twelve" and insert in lieu thereof the word "five"

Mr. TAGGART. Then how will it read?

The SPEAKER pro tempore. The Clerk will report the line as it will read when amended.

The Clerk read as follows:

On the twenty-fourth day of February, nineteen hundred and five.

Mr. MANN. The accident occurred in 1905, and the bill reads as if it occurred in 1912.

The SPEAKER pro tempore. The question is on agreeing to the amendment.

The amendment was agreed to.

The bill as amended was ordered to be engrossed and read a third time, was read a third time, and passed.

CHARLES C. CROWELL.

The next business in order on the Private Calendar was the bill (S. 2590) to reimburse Charles C. Crowell for two months' extra pay in lieu of traveling expenses.

The Clerk read the bill, as follows:

Be it enacted, etc., That the Secretary of the Treasury be, and he is hereby, authorized to pay, out of any money in the Treasury not otherwise appropriated, the sum of $36, to reimburse Charles C. Crowell, late sergeant, Company B, Thirty-fifth Regiment United States Infantry, for two months' extra pay in lieu of traveling expenses.

The SPEAKER pro tempore. Is there objection to the present consideration of the bill?

There was no objection.

The SPEAKER pro tempore. The question is on the third reading of the Senate bill.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The SPEAKER pro tempore. The Clerk will report the next one.

H. R. DRAKE.

The next business in order on the Private Calendar was the bill (H. R. 14925) for the retirement of H. R. Drake.

The Clerk read the bill, as follows:

Be it enacted, etc., That the President of the United States is hereby authorized to promote H. R. Drake, formerly a sergeant in Troop A, Fifth Regiment United States Cavalry, to master signal electrician, and to place him on the retired list of the Army with full pay and allowance of said rank.

The SPEAKER pro tempore. Is there objection to the present consideration of the bill?

There was no objection.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

The SPEAKER pro tempore. The Clerk will report the next one.

OSCAR FROMMEL & BRO.

The next business in order on the Private Calendar was the bill (H. R. 1625) for the relief of Oscar Frommel & Bro.

The title of the bill was read.

Mr. MANN. I object, Mr. Speaker.

The SPEAKER pro tempore. The gentleman from Illinois [Mr. MANN] objects. The Clerk will report the next one.

ATLANTIC CANNING CO.

The next business in order on the Private Calendar was the bill (H. R. 5195) for the relief of the Atlantic Canning Co.

The Clerk read the bill, as follows:

Be it enacted, etc., That the Secretary of the Treasury be authorized and directed to pay, out of any money in the United States Treasury not otherwise appropriated, to the Atlantic Canning Co., of Atlantic, Iowa, the sum of $522.90, being the amount paid into the Treasury of the United States from the sale of 498 cases of canned corn sold under the decree of the United States court for the district of Colorado on the 28th day of August, 1912, in the matter of The United States against Five Hundred and Seventeen Cases of Canned Corn, libel No. 5975, which said decree was afterwards, and on the 30th day of October, 1912, by a subsequent decree rendered by said court, vacated and set aside.

The SPEAKER pro tempore. Is there objection to the present consideration of the bill?

Mr. MANN. Mr. Speaker, I move to strike out the last word. I notice in the report in this case that the chairman of the Committee on Claims wrote this letter to the Secretary of the Treasury:

MARCH 31, 1914.

The SECRETARY OF THE TREASURY,
Washington, D. C.

DEAR SIR: The Committee on Claims has agreed to a favorable report on H. R. 5195, for the relief of the Atlantic Canning Co., but before placing the same upon the calendar the committee kindly asks your opinion as to the merits of this case.

Yours, very truly,

E. W. POU, *Chairman.*

Now, I wondered whether it was the habit of the committee, when it was referring a bill to a proper department for a report upon it, to inform the department that they had already, without knowledge, agreed upon a favorable report upon it, but would like to have some communication that they could stick in the record to show that they had had a report from the department. I take it that that is not the usual practice of the committee, however.

Mr. POU. I will say to the gentleman from Illinois, Mr. Speaker, that this was in pursuance of the policy of the committee, to ask for the advice of the department on every bill with which a department is connected. That is the reason.

Mr. MANN. What value is it to refer a bill to a department for a report as to the facts and any recommendation that the department chooses to make when you inform the department, to begin with, that you have already ordered the bill to be favorably reported?

Mr. POU. It would be of no value at all. The only reason why any letter was addressed to the department was that it was believed that some gentleman might desire to know what the attitude of the department was, and we wanted to give them the fullest possible information.

The SPEAKER pro tempore. Is there objection to the present consideration of the bill?

There was no objection.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

The SPEAKER pro tempore. The Clerk will report the next one.

JOEL J. PARKER.

The next business in order on the Private Calendar was the bill (S. 2226) for the relief of Joel J. Parker.

The Clerk read the bill, as follows:

Be it enacted, etc., That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to Joel J. Parker, or his legal representatives, the sum of $400, as full compensation for permanent injuries received by the said Parker on the 24th day of July, 1909, at Fort Lawton, Wash., while in the performance of his duties as an employee of the United States transport service.

The SPEAKER pro tempore. Is there objection to the present consideration of the bill?

There was no objection.

The SPEAKER pro tempore. The question is on the third reading of the Senate bill.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The SPEAKER pro tempore. The Clerk will report the next one.

JACOB WIRTH.

The next business in order on the Private Calendar was the bill (S. 2069) for the reimbursement of Jacob Wirth for two horses lost while hired by the United States Geological Survey.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Treasury be, and is hereby, authorized and directed to pay to Jacob Wirth, of Poplar, Mont., the sum of $180, in compensation for two horses lost while hired by the United States Geological Survey.

The SPEAKER pro tempore. Is there objection to the present consideration of the bill?

There was no objection.

The bill was ordered to a third reading, and was accordingly read the third time and passed.

M'CLINTIC-MARSHALL CONSTRUCTION CO.

The next business in order on the Private Calendar was the bill (S. 5147) to authorize and direct Col. George W. Goethals, governor of the Canal Zone, and formerly chairman and chief engineer of the Isthmian Canal Commission, to investigate certain claims of the McClintic-Marshall Construction Co.

The bill was read, as follows:

Be it enacted, etc., That Col. George W. Goethals, governor of the Canal Zone, and formerly chairman and chief engineer of the Isthmian Canal Commission, is hereby authorized and directed to investigate the claims of the McClintic-Marshall Construction Co., a corporation of the State of Pennsylvania, having its principal office in the city of Pittsburgh, in said State, and to ascertain what amount, if any, is in justice, equity, and fairness due and owing to the said McClintic-Marshall Construction Co. from the Isthmian Canal Commission for work and labor done and materials furnished in connection with the construction and erection of lock gates and appurtenances for the Panama Canal, and in connection with or incidental to the doing of the work and furnishing of the materials provided for in a certain contract between the Isthmian Canal Commission and said McClintic-Marshall Construction Co., dated June 21, 1910, including the extra expense and cost resulting from the work being of an unprecedented nature and performed under conditions not known to either party at the time of the making of the contract and specifications, which caused delays and compelled the work to be done by the contractor under requirements as to character and finish not fairly within the meaning of the specifications, and under necessity for rapid completion without allowance of adequate additional time.

The said Col. George W. Goethals, governor of the Canal Zone, is further authorized and empowered, either personally or through such commission as he may appoint, to investigate such claims and the various items thereof in such manner as to him may seem best, and to adjudicate the same, and either personally or through such commission is hereby empowered to administer oaths and affirmations to witnesses, and to issue subpœnas and to compel the attendance of witnesses. He shall report in detail to the Congress of the United States his finding as to the amount, if any, due under the provisions of this act to the said McClintic-Marshall Construction Co.

The SPEAKER pro tempore. Is there objection to the present consideration of the bill?

Mr. MANN. Reserving the right to object, I should like to ask the gentleman from Pennsylvania [Mr. EDMONDS] a question. This bill as it stands seems to permit the Government on the one side to grant relief by this language:

Including the extra expense and cost resulting from the work being of an unprecedented nature and performed under conditions not known to either party at the time of the making of the contract and specifications, which caused delays and compelled the work to be done by the contractor under requirements as to character and finish not fairly within the meaning of the specifications, and under necessity for rapid completion without allowance of adequate additional time.

And the bill also authorizes Col. Goethals to adjudicate the case under certain conditions. I should like to ask the gentleman if he is willing to amend the bill so as to cut that out?

Mr. EDMONDS. Mr. Speaker, I have three amendments here which are accepted by the committee, and which will cover the point made by the gentleman from Illinois.

The SPEAKER pro tempore. The Clerk will report the amendments.

The Clerk read as follows:

On page 2, line 8, strike out the words "including the extra expense" and strike out lines 9 to 16, inclusive, and insert in lieu thereof the following:

"Taking into consideration the claim of the contractors that the work was done under requirements as to character and finish not fairly within the meaning of the specifications."

The amendment was agreed to.

The SPEAKER pro tempore. The Clerk will report the second amendment.

The Clerk read as follows:

Page 2, line 21, strike out the words "and to adjudicate," and in line 22 strike out the words "the same."

The amendment was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment.

The Clerk read as follows:

Page 3, strike out all after the word "finding," in line 1.

The amendment was agreed to.

Mr. MANN. That word "finding," in line 1, page 3, should be "findings."

Mr EDMONDS. Mr. Speaker, I move to change the word "finding," in line 1, page 3, to "findings."

The SPEAKER pro tempore. The Clerk will report the amendment.

The Clerk read as follows:

Page 3, line 1, strike out the word "finding" and insert the word "findings."

The amendment was agreed to.

The bill as amended was ordered to a third reading, and was accordingly read the third time and passed.

DANIEL HAMPTON.

The next business in order on the Private Calendar was the bill (S. 55) for the relief of Daniel Hampton.

The bill was read, as follows:

Be it enacted, etc., That in the administration of the pension laws and the laws governing the National Home for Disabled Volunteer Soldiers, or any branch thereof, Daniel Hampton, who was a member of Company D, Twenty-fourth Regiment Massachusetts Volunteer Infantry, and of Company G, Twenty-fourth Veteran Reserve Corps, shall hereafter be held and considered to have been discharged honorably from the military service of the United States as a member of the last-named organization on the 14th day of August, 1865: *Provided*, That no pension shall accrue prior to the passage of this act.

The SPEAKER pro tempore. Is there objection to the present consideration of the bill?

There was no objection.

The bill was ordered to a third reading, and was accordingly read the third time and passed.

JAMES W. M'GREEVEY.

The next bill in order on the Private Calendar was the bill (H. R. 12909) to correct the military record of James W. McGreevey.

The Clerk read the bill, as follows:

Be it enacted, etc., That the Secretary of War be, and he is hereby, authorized and directed to remove the charge of desertion from the record of James W. McGreevey, of Company A, Second Regiment United States Veteran Volunteers (Hancock's corps), and to issue to the said James McGreevey or his heirs an honorable discharge from said service as of June 12, 1865, in recognition of his previous faithful service of 13 years in the Marine Corps before the Civil War and of three years and three months in the Volunteer Army of the United States States during the Civil War.

The following committee amendment was read:

Strike out all after the enacting clause and insert:

"That in the administration of any laws conferring rights, privileges, and benefits upon honorably discharged soldiers, James W. McGreevey, who was a musician in Company A, Second United States Veteran Volunteer Infantry, shall hereafter be held and considered to have been discharged honorably from the military service of the United States as a mus'cian of said company and regiment on the 2d day of July, 1865."

The SPEAKER pro tempore. Is there objection to the present consideration of the bill?

There was no objection.

The committee amendment was agreed to.

The bill as amended was ordered to be engrossed and read a third time, was read the third time, and passed.

LUKE RATTIGAN.

The next bill in order on the Private Calendar was the bill (H. R. 1186) for the relief of Luke Rattigan.

The Clerk read the bill.

The SPEAKER pro tempore. Is there objection to the present consideration of the bill?

Mr. MANN. I object.

M. C. BURKE.

The next business in order on the Private Calendar was the bill (H. R. 57) making an appropriation to M. C. Burke for tax liens held by him on property acquired by the United States.

The Clerk read the bill, as follows:

Be it enacted, etc., That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to M. C. Burke, the sum of $732.51, with interest thereon at the rate of 6 per cent per annum from the 17th day of May, 1904, for taxes due and unpaid, for which said M. C. Burke holds tax liens on lots Nos. 1, 2, 3, 4, 5, and 6, in block No. 143, West Superior, fourth division, in the city of Superior, Douglas County, Wis., which said property is now owned by the United States, and upon which said tax liens were outstanding when it acquired the same.

The SPEAKER pro tempore. Is there objection to the present consideration of the bill?

Mr. MANN. Mr. Speaker, reserving the right to object, I would like to ask the gentleman from Wisconsin if he is willing to strike out the language in lines 6, 7, and 8, "with interest thereon at the rate of 6 per cent per annum from the 17th day of May, 1904"?

Mr. LENROOT. Well, rather than not get relief at all, I would; but under the law of Wisconsin this party is entitled to 15 per cent.

Mr. MANN. I am willing he should sue for it.

Mr. LENROOT. But he can not sue for it.

Mr. MANN. No; the Government has the property, and anything it pays is in the nature of a gratuity.

Mr. LENROOT. The man that has this claim did the work of paving in front of this property. It is not the ordinary claim where a man went into it on speculation. He is equitably entitled to interest.

Mr. MANN. I think he is equitably entitled to what he can get under the process of law.

Mr. LENROOT. He was a contractor.

Mr. MANN. But he has his tax claims.

Mr. LENROOT. Yes; but it represents this man's own work. I think the gentleman from Illinois ought to see the distinction. If he was a speculator——

Mr. MANN. If he was a speculator, I would object to the bill. I do not think we ought to pay interest on it.

Mr. LENROOT. I suggest to the gentleman that we give him 4 per cent interest.

Mr. MANN. No; there is no proper claim here for interest.

Mr. LENROOT. Under the circumstances, Mr. Speaker, I am constrained to accept an amendment striking out the provision for interest.

Mr. MANN. Mr. Speaker, I move to amend, in lines 6, 7, and 8, by striking out the language "with interest thereon at the rate of 6 per cent per annum from the 17th day of May, 1904."

The SPEAKER pro tempore. The Clerk will report the amendment.

The Clerk read as follows:

Page 1, lines 6, 7, and 8, strike out the following language: "with interest thereon at the rate of 6 per cent per annum from the 17th day of May, 1904."

The amendment was agreed to.

The bill as amended was ordered to be engrossed and read a third time, was read the third time, and passed.

JOHN BRODIE.

The next business in order on the Private Calendar was the bill (H. R. 1182) for the relief of John Brodie.

The Clerk read the bill, as follows:

Be it enacted, etc., That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay to John Brodie, of San Francisco, Cal., the sum of $5,000 on account of personal injuries received by him through the explosion of a box of percussion caps while loading the United States Army transport *Sherman* in San Francisco Harbor on the 22d day of September, 1899.

The SPEAKER pro tempore. Is there objection to the present consideration of the bill?

There was no objection.

The Clerk read the following committee amendment:

Strike out, in line 5, figures "$5,000" and insert in lieu thereof the figures "$1,000"; and in line 10, after the word "ninety-nine," insert the following:

"*Provided*, That no sum of money due or to become due to the said John Brodie under this act shall be liable to attachment, levy, or seizure by or under any legal or equitable processes whatever, but shall inure to the benefit of the said John Brodie."

The committee amendment was agreed to.

The bill as amended was ordered to be engrossed and read a third time, was read the third time, and passed.

JOHN M. GRAY.

The next business in order on the Private Calendar was the bill (H. R. 9270) to correct the military record of John M. Gray.

The Clerk read the bill, as follows:

Be it enacted, etc., That John M. Gray shall hereafter be held and considered to have been honorably discharged as a private in Company K, Eighty-sixth Regiment Ohio Volunteer Infantry, and the Secretary of War is hereby authorized to issue to the said John M. Gray a certificate of honorable discharge as of date December 9, 1863.

With the following committee amendment:

Strike out all after the enacting clause and insert the following:
"That in the administration of any laws, conferring rights, privileges, and benefits upon honorably discharged soldiers, John M. Gray, who was a private of Company K, Eighty-sixth Regiment Ohio Volunteer Infantry, shall hereafter be held and considered to have been discharged honorably from the military service of the United States as a private of said company and regiment on the 9th day of December, 1863."

The SPEAKER pro tempore. Is there objection to the present consideration of the bill?

There was no objection.

The committee amendment was agreed to.

The bill as amended was ordered to be engrossed and read a third time, was read the third time, and passed.

The title was amended.

FRANCIS GRAVES BONHAM.

The next business in order on the Private Calendar was the bill (H. R. 12826) to reinstate Francis Graves Bonham as a cadet at the United States Military Academy.

The Clerk read the bill, as follows:

Be it enacted, etc., That the President be, and he is hereby, authorized to reappoint as a cadet at the United States Military Academy, without regard to age or the existence of vacancies, Francis Graves Bonham.

The SPEAKER pro tempore. Is there objection?

There was no objection.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

H. S. HATHAWAY.

The next business in order on the Private Calendar was the bill (H. R. 7205) to correct the military record of H. S. Hathaway.

The Clerk read the bill, as follows:

Be it enacted, etc., That in the administration of the pension laws and the laws governing admission to soldiers' homes, H. S. Hathaway shall be held and considered to have been mustered into the United States service in December, 1864, as a private in Company F, Fourth Regiment Tennessee Mounted Volunteer Infantry, and to have been honorably discharged at the close of the war: *Provided*, That no pension shall accrue or become payable prior to the passage of this act.

The SPEAKER pro tempore. Is there objection to the consideration of the bill?

Mr. MANN. Mr. Speaker, reserving the right to object, there does not seem to be very much information in the report upon this bill.

Mr. VAUGHAN. Mr. Speaker, I will say to the gentleman from Illinois that I have with me the report of The Adjutant General, which, if the gentleman will permit me to read, I think will remove all doubt.

Mr. MANN. I hope the gentleman will not take the time to read it now, but I would be very glad to have him state what it is.

Mr. VAUGHAN. Very well. I will insert it as a part of my remarks. On June 27, 1892, Joseph H. Blackburn, aged 50 years, a resident of Dowelltown, Tenn., declared that he was the colonel of the Fourth Regiment Tennessee Mounted Infantry; that he was personally acquainted with H. S. Hathaway, who was a private of Company F of his regiment; that he served 10 months until the regiment was discharged, and did as good service as any member of the company.

Mr. MANN. What does The Adjutant General say about the bill?

Mr. VAUGHAN. He served, but he was not mustered into service.

Mr. MANN. How long did he serve?

Mr. VAUGHAN. Nearly a year. He went into the service on the 1st day of October, 1864.

Mr. LANGLEY. Mr. Speaker, I know of a case where a man served nearly three years and was not mustered in, and I can not get a favorable report on that sort of a case.

Mr. MANN. He probably did not serve.

Mr. LANGLEY. He did serve. The gentleman did not hear my statement.

Mr. MANN. Oh, yes, I did; but the gentleman is not old enough himself to know whether he served or not.

Mr. LANGLEY. And I suppose the gentleman from Illinois is, of course?

Mr. MANN. Yes; I am old enough myself to have served in the war.

The SPEAKER pro tempore. Is there objection to the present consideration of the bill?

There was no objection.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

Mr. VAUGHAN. Mr. Speaker, I append herewith the report of The Adjutant General:

WAR DEPARTMENT,
THE ADJUTANT GENERAL'S OFFICE,
January 26, 1911.

The honorable the SECRETARY OF WAR:

No record has been found of muster into service of a man named H. S. Hathaway as a member of Company F, Fourth Tennessee Mounted Infantry Volunteers, nor has this name been found on any of the rolls of that company.

However, the name Henry S. Hathaway (also borne as H. S. Hathaway), appears on the clothing book of said company with entries to the effect that the man who bore the name was enrolled at Liberty, Tenn., November 1, 1864, and that he drew clothing on January 15 and April 15, 1865.

Applying to this department for recognition as a member of the company and regiment mentioned, H. S. Hathaway, in an affidavit executed before the clerk of the county court of Dekalb County, Tenn., May 2, 1892, testified as follows:

"That on or about the 1st day of October, 1864, he enlisted in the United States service under Capt. William F. Hathaway in Company F, of the Fourth Regiment Tennessee Volunteer Mounted Infantry, and served 10 months, until the regiment was discharged; but he was not discharged or paid for the reason that he was never mustered in; that when the company was being mustered in he was sick when the first squad was mustered and could not go out, and was off on duty when the second squad was mustered, having been equipped and mounted; that he afterwards got them to appoint a day to muster him, and he met Col. Blackburn and Capt. Hathaway, but they refused to muster him, saying that it would be as much trouble to make out the papers for one man as for a company, and that it made no difference anyway; that he makes this statement and furnishes sustaining testimony in order to have himself mustered in and discharged from said service; that his name was called regular with the company and he was recognized as one of the company and done duty in good faith as any other soldier and expected to share alike the dangers and emoluments of war.

"That he was a soldier and thinks he ought to be recognized as such."

W. B. Cosby, aged 44 years, and William M. Moore, aged 48 years, residents of Smithfield, Tenn., in a joint affidavit dated May 2, 1892, made the following statement:

"That they were members of Capt. Bill Hathaway's company F, Fourth Regiment Tennessee Volunteer Mounted Infantry, in the late War of the Rebellion, and were well acquainted with H. S. Hathaway, who done service in the same company and regiment, and they regarded him as a soldier because he was with them all the time, answered regularly at roll call, and done as any of the company for the whole term of service of the regiment.

"That they believe he done as much and as good service as any member of the company. That they believe he ought to be yet mustered in and discharged if he never was, and they have no account of either. That they are not related to H. S. Hathaway and have no interest whatever in this matter."

On June 27, 1892, Joseph H. Blackburn, aged 50 years, a resident of Dowelltown, Tenn., declared as follows:

"That he was colonel of the Fourth Regiment Tennessee Mounted Infantry in the War of the Rebellion. That he was personally acquainted with H. S. Hathaway, who was a private in Company F of his regiment. That he served 10 months, or till the regiment was discharged, and done as good service as any member of said company. That he was never mustered into the service, and consequently never discharged. The reason he was never mustered was because he was not present on any regular muster day, being either sick or off on duty, and partly through neglect of his officers, not thinking it would ever be of use to him; and he was a good soldier without. That he believes him as much entitled to a discharge and the benefits of the pension laws as any member of said regiment."

James Robinson, aged 47 years, a resident of Dowelltown, Tenn., under date of June 28, 1892, testified as follows:

"He was third sergeant, Company F, Fourth Regiment Tennessee Mounted Infantry Volunteers, and knows the claimant served in Company F, Fourth Regiment Tennessee Mounted Infantry, and made a good soldier. Affiant says he has learned claimant was not mustered or discharged, and claimant was never present at the time to be mustered or discharged, as he was out on duty every time when the mustering officer came."

Joseph H. Blackburn was colonel of the Fourth Tennessee Mounted Infantry, and Cosby, Moore, and Robinson served as members thereof.

Application for the recognition of Hathaway as a member of Company F, Fourth Tennessee Mounted Infantry Volunteers, has been denied by this department, and now stands denied, as it has been uniformly held by the War Department that in the absence of record evidence of muster in or service the department can not accept testimony, no matter how strong or direct, as a basis upon which to establish a record of military service. The department is simply the custodian of the records of disbanded volunteer organizations, and if they fail to show that any particular person was in the military service the department has no authority to alter or amend them so as to make them show that such person was in service.

Respectfully submitted.

F. C. AINSWORTH,
The Adjutant General.

JAMES H. KELLY.

The next business in order on the Private Calendar was the bill (H. R. 9335) for the relief of James H. Kelly.

The Clerk read the bill, as follows:

Be it enacted, etc., That in the administration of the pension laws James H. Kelly, late of Company C, Fifth Regiment West Virginia Volunteer Infantry, shall hereafter be held and considered to have been honorably discharged from the military service of the United States as a member of said regiment on the 6th day of July, 1864.

The SPEAKER pro tempore. Is there objection?

There was no objection.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

Mr. MANN. Mr. Speaker, I think it is usual in these bills to put in a provision that no bounty, pay, pension, or other emoluments shall accrue prior to or by reason of the passage of this act.

Mr. HAY. Mr. Speaker, I will say to the gentleman that that is usual. The gentleman from Tennessee [Mr. MCKELLAR], who reported this bill, is generally so careful about that that I supposed it was in the bill. I am sure that he would agree to the amendment, if he were present, and I suggest that the bill be amended as the gentleman from Illinois suggests.

Mr. MANN. I see the gentleman from Tennessee has just come into the Chamber. I will ask him whether or not it is not customary in these bills to insert a provision that no bounty, pay, pension, or other emolument shall accrue prior to or by reason of the passage of the act.

Mr. MCKELLAR. It is. It ought to be inserted in the bill. It is an oversight if it is not. I will offer that as an amendment, and ask the clerk to report it.

The SPEAKER pro tempore. The Clerk will report the amendment.

The Clerk read as follows:

Page 1, line 8, after the word "sixty-four," insert the following: "*Provided*, That other than above set forth no bounty, pay, pension, or other emolument shall accrue prior to or by reason of the passage of this act."

The SPEAKER pro tempore. The question is on agreeing to the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill as amended.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

CHARLES A. COULSON.

The next business on the Private Calendar was the bill (H. R. 13698) to correct the military record of Charles A. Coulson.

The Clerk read as follows:

Be it enacted, etc. That the Secretary of War be, and he is hereby, authorized and directed to place the name of Charles A. Coulson, late a member of Company H, Twenty-first Regiment Missouri Volunteer Infantry, upon the muster-in roll of that company and regiment, and that a certificate of honorable discharge be issued to the said Charles A. Coulson, dating from the day said company was mustered out.

The committee amendment was read, as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

"That in the administration of any laws conferring any rights, privilliges, or benefits upon honorably discharged soldiers, Charles A. Coulson shall be held and considered to have been mustered as a private in Company H, Twenty-first Regiment Missouri Volunteer Infantry, on February 28, 1862, and to have been honorably discharged from the military service of the United States as a member of said company and regiment on the 1st day of October, 1862: *Provided*, That other than above set forth, no bounty, pay, pension, or other emolument shall accrue prior to or by reason of the passage of this act."

The SPEAKER pro tempore. Is there objection to the present consideration of the bill? [After a pause.] The Chair hears none.

Mr. MANN. Mr. Speaker, the gentleman from Tennessee informs me that the back-pay provision ought to be a little different from what it was agreed to in the former bill. What the Clerk read, the amendment which was agreed to, was taken out of this bill, and probably this ought to be changed, too, while it is under consideration. This reads "that other than above set forth, no bounty, pay, pension, or other emoluments shall accrue prior to or by reason of the passage of this act." I think the language probably should be "that other than above set forth, no back pay, bounty, pension, or other emoluments."

Mr. MCKELLAR. No; the word "pension" ought to be left out. The proper wording of it is, "provided that no back pay, bounty, or allowance shall be allowed by reason of this act."

Mr. MANN That is right. I move to amend the amendment to this bill by striking out "bounty, pay" and insert "back pay, bounty."

The SPEAKER pro tempore. The Clerk will report the amendment.

The Clerk read as follows:

Amend the amendment, page 2, line 8, by striking out the words "bounty, pay" and insert the words "back pay, bounty," so as the line as amended will read: "*Provided*, That other than above set forth no back pay, bounty, pension, or other emolument shall accrue prior to or by reason of the passage of this act."

The question was taken, and the amendment was agreed to.

The bill as amended was ordered to be engrossed and read a third time, was read the third time, and passed.

JAMES H. KELLY.

Mr. MCKELLAR. Mr. Speaker, I ask unanimous consent to return to bill (H. R. 9335) for the relief of James H. Kelly.

The SPEAKER pro tempore. The gentleman from Tennessee asks unanimous consent to return to a former bill. Is there objection? [After a pause.] The Chair hears none.

Mr. MCKELLAR. Now, Mr. Speaker, I move to strike out the proviso in the bill and insert the following:

Provided, That no back pay, bounty, pension, or allowance shall be allowed by reason of this act.

Mr. MANN. Mr. Speaker, the gentleman will have to ask unanimous consent to vacate the proceedings by which the amendment was agreed to and the bill passed.

Mr. MCKELLAR. Mr. Speaker, I expect that would be the proper way.

Mr. LANGLEY. Does not that deprive him of any pension at all.

Mr. MCKELLAR. No; it does not.

The SPEAKER pro tempore. The gentleman from Tennessee asks unanimous consent to vacate the proceedings by which the bill was passed. Is there objection? [After a pause.] The Chair hears none. The Clerk will report the amendment.

The Clerk read as follows:

Amend the amendment by inserting, page 1, line 8, after the word "sixty-four," the following proviso: "*Provided*, That no back pay, bounty, pension, or allowance shall accrue prior to or by reason of the passage of this act."

The question was taken, and the amendment was agreed to.

The bill as amended was ordered to be engrossed and read a third time, was read the third time, and passed.

THOMAS S. JOHNSON.

The next business on the Private Calendar was the bill (H. R. 9703) for the relief of Thomas S. Johnson.

The Clerk read as follows:

Be it enacted, etc., That the Secretary of the Treasury be, and he is hereby, authorized and directed, out of any money in the Treasury not otherwise appropriated, to pay to Thomas S. Johnson, of Beaver Dam, Wis., late chaplain One hundred and twenty-seventh Regiment United States Colored Volunteer Infantry, the pay and allowances of a chaplain of Infantry from November 4 to December 14, 1864, not to exceed $200.

The SPEAKER pro tempore. Is there objection to the present consideration of the bill? [After a pause.] The Chair hears none.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

LEGAL REPRESENTATIVES OF SARAH J. MONTGOMERY, DECEASED.

The next business on the Private Calendar was the bill (H. R. 14479) for the relief of the legal representatives of Sarah J. Montgomery, deceased.

Mr. MANN. Mr. Speaker, I object.

NELSON D. DILLON, EXECUTOR.

The next business on the Private Calendar was the bill (H. R. 4248) for the relief of Nelson D. Dillon, executor of Harriet A. Dillon, deceased, widow of Robert Dillon, deceased.

Mr. MANN. Mr. Speaker, I object.

JOSHUA NICHOLLS.

The next business on the Private Calendar was the resolution (H. Res. 498) for the relief of the heirs of Joshua Nicholls.

Mr. MANN. Mr. Speaker, I object.

JOSEPH P. LEITER.

The next business on the Private Calendar was the bill (H. R. 10719) to remove the charge of desertion from the military record of Joseph P. Leiter.

The Clerk read as follows:

Be it enacted, etc., That in the administration of the pension laws and the laws governing the National Home for Disabled Volunteer Soldiers, or any branch thereof, Joseph P. Leiter shall hereafter be held and considered to have been honorably discharged from the military service of the United States as a musician of Company A, Fiftieth Regiment Ohio Volunteer Infantry, on the 23d day of January, 1865: *Provided*, That no pension shall accrue prior to the passage of this act.

The SPEAKER pro tempore. Is there objection to the present consideration of the bill? [After a pause.] The Chair hears none.

Mr. FOSTER. I would suggest to the gentleman from Tennessee that this proviso is not in conformity with the other. Does the gentleman expect to move that no pension shall be allowed prior to the passage of this act?

Mr. McKELLAR. Mr. Speaker, I move to insert after the word "no," page 1, line 10, the words "back pay, bounty, allowance or."

The SPEAKER pro tempore. The Clerk will report the amendment.

The Clerk read as follows:

Page 1, line 10, insert after the word "no," the words "back pay, bounty, allowance or," so that the line will read, "*Provided*, That no back pay, bounty, allowance, or pension shall accrue prior to the passage of this act."

The question was taken, and the amendment was agreed to.

The bill as amended was ordered to be engrossed and read a third time; was read the third time and passed.

The title was amended so as to read, "A bill for the relief of Joseph P. Leiter."

FREDERICK CITY, MD.

The next business in order on the Private Calendar was the bill (H. R. 9628) to refund to the corporate authorities of Frederick City, Md., the sum of $200,000, exacted of them by the Confederate Army under Gen. Jubal Early, June 9, 1864, under penalty of burning said city.

The SPEAKER pro tempore. Is there objection to the consideration of the bill?

Mr. MANN. I object.

The SPEAKER pro tempore. The Clerk will report the next bill.

WILLIAM H. SHANNON.

The next business in order on the Private Calendar was the bill (H. R. 962) for the relief of William H. Shannon.

The bill was read as follows:

Be it enacted, etc., That the Secretary of War be, and he is hereby, authorized and directed to correct the military record of William H. Shannon, late of the Seventeenth Battery Indiana Light Artillery, and to grant him an honorable discharge as of the date of May 18, 1865: *Provided*, That no pay, bounty, or allowance shall be allowed by reason of this act.

The SPEAKER pro tempore. Is there objection to the present consideration of the bill?

Mr. MONDELL. Mr. Speaker, was it intended that this soldier should not be allowed to draw a pension?

Mr. McKELLAR. Not at all. It is simply intended he should not draw any back pay or pension prior to the passage of the act, or by reason of the passage of the act, which is the same thing.

Mr. MONDELL. Then the language used is unfortunate, because under this language the soldier could never get a pension.

Mr. McKELLAR. The gentleman is entirely mistaken about that. A great number of soldiers have been constantly receiving pensions under wording exactly like this.

Mr. MONDELL. What the gentleman desires to do is to provide that this soldier shall receive no back pay, no bounty, or allowance?

Mr. McKELLAR. By reason of the passage of this act.

Mr. MONDELL. By reason of the passage of this act, and——

Mr. McKELLAR. The only thing he does is to get a pension from now on.

Mr. MONDELL. If he gets a pension at all, he must receive a pension by reason of this act.

Mr. McKELLAR. Of course, but no back allowance.

Mr. MONDELL. That is what the language says. That is not the statement in the bill. That no back pay, no bounty——

Mr. McKELLAR. No back pay, or bounty, or allowance shall be allowed by reason of this act. It is perfectly plain. It has been construed time and again.

Mr. FOSTER. Does not the gentleman want in the words "back pension"?

Mr. McKELLAR. That means exactly the same thing. The Clerk has not read the committee amendment yet.

Mr. FOSTER. I thought it was always in that proviso.

Mr. MONDELL. Formerly the language used in all these cases was uniform. Apparently, the language now varies in every case. What is the reason for that?

Mr. McKELLAR. The gentleman is entirely mistaken about the language all being uniform. Several bills have passed this House and have come back here; have passed the Congress, and the Pension Office has held they were absolutely nugatory. Instead of being uniform they were not uniform at all. But this is a form of bill that has been handed to us by the War Department time and time again.

Mr. MONDELL. Several different forms have been proposed this evening on different bills. Has the committee no uniform language which it adopts?

Mr. McKELLAR. Not absolutely so. It never has been so.

Mr. MONDELL. Formerly the committee did have, I will say to the gentleman. I had the honor of serving on the Committee on Military Affairs for a number of years, and had the honor of reporting a number of bills of this kind. Formerly the language used was uniform, and there is no reason why it should not be so now.

Mr. McKELLAR. That was before I had the honor of serving in the House or on the committee.

Mr. MONDELL. The bills that have been passed upon this evening, some of them, had no provision at all of this sort. Some of them had this provision in one form and some in another. Would it not be better for the committee to adopt uniform language in cases of this kind?

Mr. HAY. I would call the attention of the gentleman from Wyoming to the fact that when he was a member of the committee the form of the bill was entirely different than it is now.

Mr. MONDELL. The gentleman is entirely mistaken.

Mr. HAY. And it was changed to the present form by reason of the fact that the President vetoed the bills on the ground that a record can not be corrected, and it was put in the present form about 1907.

Mr. MONDELL. It is not at all material to anyone, I suppose, whether or not bills of this form were reported while I was a member of the Military Committee, but the fact is that bills of this form were reported while I was a member of the Military Committee, many of them, and in every case a uniform statement was made with regard to back pay and bounty. I am somewhat surprised that the committee has departed from that excellent practice.

Mr. HAY. The committee has not departed from that excellent practice at all.

Mr. MONDELL. Why, in some of the bills that have been presented to-night for our consideration there has been no provision whatever with regard to back pay or bounty.

Mr. HAY. In only one case, and that was an oversight.

Mr. McKELLAR. And that has been amended here to conform to that rule.

Mr. MONDELL. It has been necessary for members of the committee to ask to have bills that have already been passed recalled and reconsidered.

Mr. McKELLAR. Why, of course; that is what we are here for, namely, to get them right and to correct the mistakes.

Mr. MONDELL. Would it not be well to have them right in the first instance?

Mr. McKELLAR. That might be so; but, unlike the gentleman from Wyoming, we are not absolutely perfect. [Laughter.]

Mr. MONDELL. That is unfortunate for the balance of you. [Laughter.]

Mr. McKELLAR. I know it is for us. Still there are some of us who, unfortunate as we are, are satisfied that we are not as the gentleman from Wyoming is. [Laughter.]

The SPEAKER pro tempore. Is there objection to the present consideration of the bill?

There was no objection.

The SPEAKER pro tempore. The Clerk will report the first committee amendment.

The Clerk read as follows:

Amend lines 3 and 4 by striking out the words "That the Secretary of War be, and he is hereby, authorized and directed to correct the military record of" and insert in lieu thereof the words "That in the administration of the pension laws."

The SPEAKER pro tempore. The question is on agreeing to the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The Clerk will report the next committee amendment.

The Clerk read as follows:

Amend line 7 by striking out the words "and to grant him an honorable discharge" and insert in lieu thereof the words "shall hereafter be held and considered to have been honorably discharged."

The SPEAKER pro tempore. The question is on agreeing to the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The Clerk will report the next committee amendment.

The Clerk read as follows:

Amend, line 10, after the word "no," by striking out the word "back."

The SPEAKER pro tempore. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. FOWLER. Mr. Speaker, it appears to me that in line 11, after the word "allowed," if the words "prior to the passage" were inserted and you were to strike out the words "by reason of," in line 11, there would be no ambiguity at all in the bill. The line then would read in this way:

That no back pay or allowance shall be allowed prior to the passage of this act.

Mr. McKELLAR. What bill is that?

Mr. FOWLER. That is H. R. 962, Private Calendar 203. One of the bills just passed contained that language, and it is apparent that if all these limitations are placed in that languge there will not be any doubt whatever.

The SPEAKER pro tempore. Does the gentleman present an amendment?

Mr. FOWLER. I offer an amendment to strike out the words "by reason of," in line 11, and insert in lieu thereof the words "prior to the passage of."

The SPEAKER pro tempore. The Clerk will report the amendment offered by the gentleman from Illinois [Mr. FOWLER].

The Clerk read as follows:

Amend, line 11, by striking out the words "by reason of" and inserting in lieu thereof the words "prior to the passage of."

Mr. MANN. Mr. Speaker, will my colleague yield?

Mr. FOWLER. Yes.

Mr. MANN. Of course no back pay, bounty, or allowance can be made prior to the passage of this act.

Mr. FOWLER. We have got the word "pension" in there, too.

Mr. MANN. Where you use the words "by reason of this act," you can not hereafter allow back pay or bounty, but if you take the language which my colleague suggests, they might file a claim for bounty or back pay. Of course it would not be allowed until the act passed.

Mr. FOWLER. I do not think anybody could construe this language to mean that at all.

Mr. MANN. I do not know what the Treasury Department or the War Department would do in the way of construing it, but it would be subject to that construction.

Mr. HAY. It is carried in the bill as it was prepared in the War Department.

Mr. MANN. I so understand.

Mr. McKELLAR. I hope the gentleman from Illinois [Mr. FOWLER] will withdraw his amendment and let the bill pass.

Mr. FOWLER. They might construe it that the soldier never would get any pension.

Mr. MANN. They construe it so that he will not receive any back pay or back allowance. The word "back" is not confined in its adjective meaning to pay.

Mr. HAMILTON of Michigan. The department has suggested this language?

Mr. McKELLAR. Yes.

Mr. TAGGART. Is it not a fact that under the present law no claim for bounty can be made since December, 1912?

Mr. MANN. I keep it in mind that bounty will be paid on claims filed since 1912.

Mr. TAGGART. That has not yet become a law.

Mr. FOWLER. Mr. Speaker, if the determination of the language has been perfected by the members of this committee, I do not insist upon my amendment, but I offered it for the purpose of making it sure that the soldier could draw a pension hereafter.

The SPEAKER pro tempore. Does the gentleman withdraw his amendment?

Mr. FOWLER. Yes. I ask unanimous consent to do so.

The SPEAKER pro tempore. Without objection, the amendment will be withdrawn.

There was no objection.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill as amended.

The bill as amended was ordered to be engrossed and read a third time, was read the third time and passed.

The SPEAKER pro tempore. The Clerk will report the next bill.

EDWARD WHITESIDE.

The next business in order on the Private Calendar was the bill (H. R. 10271) to remove the charge of desertion from the record of Edward Whiteside.

The bill was read as follows:

Be it enacted, etc., That the Secretary of War be, and he is hereby, authorized and directed to remove the charge of desertion from the record of Edward Whiteside, late musician, Company C, Fifth Regiment New York Volunteer Infantry, and grant him an honorable discharge.

With the following committee amendment:

Strike out all after the enacting clause and insert the following:

"That in the administration of any laws conferring rights, privileges, and benefits upon honorably discharged soldiers, Edward Whiteside, who was a musician in Company C, Fifth New York Infantry Volunteers, shall hereafter be held and considered to have been discharged honorably from the military service of the United States as a musician of said company and regiment on or about the 14th day of May, 1863.

The SPEAKER pro tempore. Is there objection to the present consideration of the bill?

There was no objection.

Mr. MANN. The proviso that was in the other bill ought to be inserted.

Mr. McKELLAR. Mr. Speaker, I move to amend the amendment by inserting, after the word "sixty-three," on page 2, in line 4, the words:

Provided, That no back pay, bounty, pension, or allowance shall be allowed by reason of this act.

The SPEAKER pro tempore. The Clerk will report the amendment.

The Clerk read as follows:

Page 2, line 4, after the word "sixty-three," insert the following: *Provided*, That no back pay, bounty, pension, or allowance shall be allowed by reason of this act.

The amendment to the amendment was agreed to.

The amendment as amended was agreed to.

The bill as amended was ordered to be engrossed and read a third time, and was accordingly read the third time and passed.

By unanimous consent, the title of the bill was amended so as to read: "A bill for the relief of Edward Whiteside."

ABRAHAM HOOVER.

The next business in order on the Private Calendar was the bill (H. R. 816) to correct the military record of Abraham Hoover.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of War be, and he is hereby, authorized and directed to correct the military record of Abraham Hoover, late of Company H, Seventh Regiment Pennsylvania Reserve Corps Volunteer Infantry, and grant him an honorable discharge.

With a committee amendment, as follows:

Strike out all after the enacting clause and insert the following:

"That in the administration of any laws conferring rights, privileges, and benefits upon honorably discharged soldiers, Abraham Hoover, who was a private in Company H, Seventh Regiment Pennsylvania Reserve Infantry Volunteers, shall hereafter be held and considered to have been discharged honorably from the military service of the United States as a private in said company and regiment on or about the 16th day of September, 1863."

The SPEAKER pro tempore. Is there objection to the present consideration of the bill?

There was no objection.

Mr. McKELLAR. Mr. Speaker, I move to amend the amendment by adding after the word "sixty-three," in line 4, on page 2, the following:

Provided That no back pay, pension, bounty, or allowance shall be allowed by reason of the passage of this act.

The SPEAKER pro tempore. The Clerk will report the amendment to the amendment.

The Clerk read as follows:

Page 2, line 4, after the word "sixty-three," insert the following: "*Provided*, That no back pay, pension, bounty, or allowance shall be allowed by reason of the passage of this act."

The amendment to the amendment was agreed to.

The amendment as amended was agreed to.

The bill as amended was ordered to be engrossed and read a third time, and was accordingly read the third time and passed.

By unanimous consent the title of the bill was amended so as to read: "A bill for the relief of Abraham Hoover."

PATRICK M'GEE, ALIAS PATRICK GALLAGHER.

The next business in order on the Private Calendar was the bill (H. R. 5474) to correct the military record of Patrick McGee, alias Patrick Gallagher.

The bill was read as follows:

Be it enacted, etc., That in the administration of the pension laws Patrick McGee, alias Patrick Gallagher, who served as a private in Company H, Tenth Regiment Ohio Volunteer Infantry, under the name of Patrick Gallagher, shall hereafter be held and considered to have been honorably discharged from the military service of the United States as a member of said company and regiment.

The SPEAKER pro tempore. Is there objection to the present consideration of the bill?

There was no objection.

Mr. McKELLAR. Mr. Speaker, I move to amend the bill by adding, after the word "regiment," in line 9 of page 1, the following:

Provided, That no back pay, bounty, pension, or allowance shall be allowed by reason of this act.

The SPEAKER pro tempore. The Clerk will report the amendment.

The Clerk read as follows:

Page 1, line 9, after the word "regiment," insert the following:
"*Provided*, That no back pay, bounty, pension, or allowance shall be allowed by reason of this act."

The amendment was agreed to.

The bill as amended was ordered to be engrossed and read a third time, and was accordingly read the third time and passed.

By unanimous consent the title of the bill was amended so as to read: "A bill for the relief of Patrick McGee, alias Patrick Gallagher."

BENJAMIN F. RICHARDSON.

The next business in order on the Private Calendar was the bill (H. R. 9615) correcting the military record of Benjamin F. Richardson.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of War be, and he is hereby, authorized and directed to correct the military record of Benjamin F. Richardson, late of Company B, Second Regiment Eastern Shore Maryland Volunteer Infantry, so that the period from June 11, 1862, to January 1, 1864, will form a part of his actual military service.

With the following committee amendment:

Strike out all after the enacting clause and insert the following:
"That in the administration of any laws conferring rights, privileges, and benefits upon honorably discharged soldiers, Benjamin F. Richardson shall hereafter be held and considered to have been in the military service of the United States as a member of Company B, Second Regiment Eastern Shore Maryland Volunteer Infantry, during the period between June 11, 1862, and January 1, 1864."

Mr. McKELLAR. Mr. Speaker, I move to amend the amendment by adding after the word "64," in line 5, page 2, the following:

Provided, That no back pay, bounty, pension, or allowance shall be allowed by reason of this act.

The SPEAKER pro tempore. The Clerk will report the amendment.

The Clerk read as follows:

Page 2, line 5, after the word "64," insert the following:
"*Provided*, That no back pay, bounty, pension, or allowance shall be allowed by reason of this act."

The amendment to the amendment was agreed to.

The amendment as amended was agreed to.

The bill as amended was ordered to be engrossed and read a third time, and was accordingly read the third time and passed.

By unanimous consent the title of the bill was amended so as to read "A bill for the relief of Benjamin F. Richardson."

ATLANTIC COAST LINE CO.

The next business on the Private Calendar in order was the bill (S. 4053) for the relief of the Atlantic Coast Line Railroad Co.

The Clerk read the bill as follows:

Be it enacted, etc., That the Secretary of the Treasury be, and he is hereby, authorized and directed to state and pay the claim, now barred by the statute of limitations, of the Atlantic Coast Line Railroad Co., as successor to the Savannah, Florida & Western Railway Co., arising out of underpayments for freight shipments by the War Department in 1898 from Columbia, Tenn., to Florida point, in accordance with the decision of the Court of Claims in case No. 29908 in said court; and for the purpose of this act a sufficient sum, not to exceed $400, is hereby appropriated out of any money in the Treasury of the United States not otherwise appropriated.

With the following committee amendment:

In line 1, page 2, strike out all of said line after the word "act" and substitute in lieu therefor the words "the sum of $292.45 is."

The SPEAKER pro tempore. Is there objection to the present consideration of the bill?

There was no objection.

The committee amendment was agreed to.

The bill as amended was ordered to be engrossed and read a third time, was read the third time, and passed.

SPENCER ROBERTS.

The next business on the Private Calendar in order was the bill (H. R. 12844) for the relief of Spencer Roberts, a member of the Metropolitan police force of the District of Columbia.

The Clerk read the bill, as follows:

Be it enacted, etc., That the Commissioners of the District of Columbia are hereby authorized and empowered to appoint and promote Spencer Roberts, now a member of the Metropolitan police force of said District in class 2, to the first vacancy that may exist in class 3 of said Metropolitan police force.

The SPEAKER pro tempore. Is there objection?

Mr. MANN. Reserving the right to object, I notice the commissioners in reporting on this bill think that it should not be construed to require them to promote Roberts to the first vacancy in class 3. Under the language of the bill, if they did not promote him to the first vacancy, they would not be able to promote him to any vacancy at all. They construe it that they would not be required to promote him to the first vacancy. Does not the gentleman think that, in order to prevent this bill coming before the House again, it having been considered once or twice, that he had better strike out the words "the first" and insert the word "any"?

Mr. O'SHAUNESSY. I see in the concluding paragraph of the report of the commissioners that they do not wish this to be a command to them, but merely a request to do so. I understand that they do not wish to be ordered to do anything, but they wish to be given discretionary power.

Mr. MANN. Suppose they did not promote him to the first vacancy for some very good reason, then they would not promote him at all.

Mr. O'SHAUNESSY. I think the suggestion of the gentleman is a very good one, and I accept it.

Mr. MANN. Mr. Speaker, I move to strike out the words "the first," in line 6, and insert the word "any."

The SPEAKER pro tempore. The Clerk will report the amendment.

The Clerk read as follows:

Page 1, line 6, strike out the words "the first" and insert the word "any."

The SPEAKER pro tempore. The question is on the committee amendment.

The committee amendment was agreed to.

The SPEAKER pro tempore. The question now is on the amendment offered by the gentleman from Illinois.

The question was taken, and the amendment was agreed to.

The bill as amended was ordered to be engrossed and read a third time, was read the third time, and passed.

CLIFFORD H. TATE.

The next business on the Private Calendar in order was the joint resolution (H. J. Res. 236) to authorize the appointment of Clifford H. Tate as a cadet in the United States Military Academy.

The Clerk read the House joint resolution.

The SPEAKER pro tempore. Is there objection?

Mr. MANN. I object.

ABRAHAM KAUFFMAN.

The next business on the Private Calendar in order was the bill (H. R. 16358) for the relief of Abraham Kauffman.

The Clerk read the bill, as follows:

Be it enacted, etc., That in the administration of any laws conferring rights, privileges, and benefits upon honorably discharged soldiers, Abraham Kauffman, late of Company A, Ninety-fourth Regiment Ohio Volunteer Infantry, and Company H, Eighth Regiment Ohio Volunteer Cavalry, shall hereafter be held and considered to have been discharged honorably from the military service of the United States in Company A, Ninety-fourth Regiment Ohio Volunteer Infantry, on or about the 18th day of February, 1863.

The SPEAKER pro tempore. Is there objection to the present consideration of the bill?

There was no objection.

Mr. McKELLAR. Mr. Speaker, in line 12, page 1, of the bill, I move, after the word "three," to insert the words "*Provided*, That no back pay, bounty, pension, or allowance shall be allowed by reason of this act."

The SPEAKER pro tempore. The Clerk will report the amendment.

The Clerk read as follows:

Page 1, line 12, after the word "three," insert the following:
"*Provided*, That no back pay, bounty, pension, or allowance shall be allowed by reason of this act."

The amendment was agreed to.

The bill as amended was ordered to be engrossed and read a third time, was read the third time, and passed.

HERMAN REHN.

The next business on the Private Calendar was the bill (H. R. 14687) to appropriate a sum of money to Herman Rehn for injuries sustained while in the employ of the naval authorities of the United States at the Naval Academy, Annapolis, Md.

The Clerk read the bill, as follows:

Whereas Herman Rehn was an employee in the electrical department of the United States Naval Academy, at Annapolis, Md., and while in a battery room removing a carboy filled with sulphuric acid, for which no proper machinery for handling had been provided, said carboy fell and broke and the acid splashed into his eyes, from which he has lost his sight in both eyes without any hope of recovering, the said accident having occurred on the 9th day of January, 1905; and
Whereas the said accident would not have occurred if proper machinery facilities had been provided by the United States naval authorities; and

Whereas, had the accident occurred while in the employ of a private individual or a corporation the said Herman Rehn might have maintained an action against such person or corporation and recovered damages for the injuries sustained by him; and

Whereas a private individual can not maintain an action against the United States for any injury received on account of negligence, but as an equitable consideration it is right and proper that the United States should treat its employees in the same way as if they had been working for private individuals or corporations: Therefore

Be it enacted, etc., That an appropriation of $2,500 be, and the same is hereby, made and appropriated to pay to Herman Rehn, of Anne Arundel County, Md., for permanent injuries sustained while in the employ of the United States naval authorities at the Naval Academy, Annapolis, Md.

SEC. 2. That immediately after the passage of this act the Treasurer of the United States is hereby required to pay the said sum to the said Herman Rehn, residing at Annapolis, Md.

The SPEAKER pro tempore. Is there objection?

Mr. MANN. Reserving the right to object, I will ask whoever has charge of the bill whether he is willing to reduce the amount carried by the bill, $2,500, to the amount the man would have received if he were covered in under the Government compensation act, which is about $400? He is not a man who is entitled to the benefit of existing law, but he wants to get in under it.

Mr. EDMONDS. Mr. Speaker, the committee went very thoroughly into this matter of the injury sustained by Mr. Rehn, and finding that he was totally blind from the accident, and that it was occasioned by the authorities not supplying proper facilities for handling the acid that fell, we thought he ought to receive compensation equal to the damage sustained by him. We therefore made the sum $2,500.

Mr. MANN. If he received full damages, he ought to have $25,000. Here is a man that is not covered by the law, but he wants to get the benefit of the law, and wants about six times what the law allows. I object.

ERSKINE R. HAYES.

The next business on the Private Calendar in order was the bill (H. R. 4535) for the relief of Erskine R. Hayes.

The Clerk read the bill.

The SPEAKER pro tempore. Is there objection?

Mr. MANN. I object.

CLYDE ODUM.

The next business in order on the Private Calendar was the bill (H. R. 5966) for the relief of Clyde Odum.

The Clerk read the bill, as follows:

Be it enacted, etc., That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to Clyde Odum, of Punta Gorda, Fla., the sum of $1,890, the said sum to be in full payment of all claims and demands growing out of or that may result from injuries received by the said Clyde Odum while in the employ of the United States on the dredge *Ajax* in December, 1907.

With the following committee amendments:

Line 6, strike out the figures "$1,890" and insert "$400."

Line 10, after the word "seven," strike out the period and insert in lieu thereof a colon and the following:

"*Provided*, That no sum of money due or to become due to the said Clyde Odum under this act shall be liable to attachment, levy, or seizure by or under any legal or equitable processes whatever, but shall inure to the benefit of the said Clyde Odum."

The SPEAKER pro tempore. Is there objection?

There was no objection.

The SPEAKER pro tempore. The question is on agreeing to the committee amendments.

The committee amendments were agreed to.

The SPEAKER pro tempore. The question now is on the engrossment and third reading of the bill as amended.

The bill as amended was ordered to be engrossed and read a third time, was read the third time, and passed.

AMANDA HONERT.

The next business in order on the Private Calendar was the bill (H. R. 1089) for the relief of Amanda Honert.

The SPEAKER pro tempore. Is there objection?

Mr. MANN. Mr. Speaker, I object.

JOSEPH HUNTER.

The next business in order on the Private Calendar was the bill (H. R. 2344) granting a pension claim to Joseph Hunter.

The SPEAKER pro tempore. Is there objection?

Mr. MANN. Mr. Speaker, I object.

PORT ANGELES CITY DOCK CO.

The next business in order on the Private Calendar was the bill (H. R. 7049) to reimburse the Port Angeles City Dock Co. for damage done to the dock of that company by the United States revenue-cutter *Snohomish*.

The Clerk read the bill, as follows:

Be it enacted, etc., That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay, out of any funds in the Treasury not otherwise appropriated, the sum of $100 to the Port Angeles City Dock Co., for damage done to the dock of that company in the city of Port Angeles, State of Washington, by the United States revenue-cutter *Snohomish*.

The SPEAKER pro tempore. Is there objection?

There was no objection.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

W. W. WALL.

The next business in order on the Private Calendar was the bill (H. R. 12681) for the relief of W. W. Wall.

The Clerk read the bill, as follows:

Be it enacted, etc., That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay to W. W. Wall, of Henry County, Mo., out of any money in the Treasury not otherwise appropriated, the sum of $226.31, being the amount stolen from said Wall while postmaster at Prairie Home, Mo., and thus lost by him without fault on his part, and thereafter by him paid to the Government out of his own funds.

The SPEAKER pro tempore. Is there objection?

There was no objection.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

JULIA KLAVINSKI.

The next business in order on the Private Calendar was the bill (H. R. 16065) for the relief of Julia Klavinski.

The Clerk read the bill, as follows:

Be it enacted, etc., That Julia Klavinski, mother of August F. Klavinski, late corporal One hundred and seventieth Company Coast Artillery, shall be regarded as the duly designated beneficiary of the late August F. Klavinski, under the act approved May 11, 1908, as amended by the act approved March 3, 1909.

The SPEAKER pro tempore. Is there objection to the consideration of the bill?

There was no objection.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

MAJ. GEORGE A. ARMES.

The next business in order on the Private Calendar was the bill (H. R. 15301) authorizing the appointment of Maj. George A. Armes, retired, to the rank and grade of brigadier general on the retired list of the Army without increase of pay.

The SPEAKER pro tempore. Is there objection?

Mr. MANN. Mr. Speaker, I object.

CHARLES A. MEYER.

The next business in order on the Private Calendar was the joint resolution (H. J. Res. 237) to authorize the appointment of Charles A. Meyer as a cadet in the United States Military Academy.

The SPEAKER pro tempore. Is there objection?

Mr. MANN. Mr. Speaker, I object.

RACHEL E. DANGERFIELD BOAST.

The next business in order on the Private Calendar was the bill (H. R. 16192) to authorize the issuance of patent to Rachel E. Dangerfield Boast for the southeast quarter of section 21 and the northeast quarter of section 28, township 1 south, range 57 west of the sixth principal meridian.

The Clerk read the bill, as follows:

Be it enacted, etc., That the Secretary of the Interior is hereby authorized and directed to cause to be issued to Rachel E. Dangerfield Boast a patent for the southeast quarter of section 21 and the northeast quarter of section 28, township 1 south, range 57 west of the sixth principal meridian.

The SPEAKER pro tempore. Is there objection?

Mr. MANN. Mr. Speaker, reserving the right to object, I would inquire of the gentleman from Colorado what objection there is to the substitute recommended by the department?

Mr. SELDOMRIDGE. There is no objection. The committee has adopted the substitute recommended by the department.

Mr. MANN. There is no such amendment reported in the bill at the Clerk's desk.

Mr. SELDOMRIDGE. Then, Mr. Speaker, I move to strike out all after the enacting clause and insert in lieu thereof the language on page 2 of the report, beginning with the words "That the Secretary," and so forth.

The SPEAKER pro tempore. The Clerk will report the amendment.

The Clerk read as follows:

Strike out all after the enacting clause and insert the following: "That the Secretary of the Interior is authorized and directed, in passing upon the proof heretofore submitted, or which may hereafter be submitted, by Rachel E. Dangerfield Boast on her homestead entry covering southeast quarter of section 21 and the northeast quarter of section 28, township 1 south, range 57 west of the sixth principal meridian, to disregard the fact that she has married an unnaturalized foreigner."

The SPEAKER pro tempore. The question is on agreeing to the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

R. G. ARRINGTON.

The next business on the Private Calendar was the bill (H. R. 11840) for the relief of R. G. Arrington.

The Clerk read as follows:

Be it enacted, etc., That the Secretary of the Interior is hereby authorized to cancel the abandoned entry of John P. Adams case, purchase No. 2067, Lawton serial No. 06454, for the southeast quarter of section 2, township 5 south, range 11 west, Guthrie land district, and sell the same to R. G. Arrington, the present occupant of the land, for the appraised price: *Provided*, That the permanent and valuable improvements placed thereon by the said R. G. Arrington are not to be considered in the appraisement, and that the said R. G. Arrington shall have preference right to purchase the same for 90 days from and after the date of notification of the appraised price of the land.

The committee amendment was read, as follows:

Strike out all after the enacting clause and insert the following: "That the Secretary of the Interior is hereby authorized and directed to cancel the abandoned homestead entry of John P. Adams for the southeast quarter of section 2, township 5 south, range 11 west, Indian meridian, Oklahoma, Guthrie land serial, and for a period of 90 days from and after the passage of this act, sell the same to R. G. Arrington, the present occupant of the land, for the original purchase price of $981.67, and issue a patent to him therefor."

The SPEAKER pro tempore. Is there objection to the present consideration of this bill?

Mr. MANN. Mr. Speaker, reserving the right to object, I would like to ask the gentleman from Oklahoma what is the object of this bill? Mr. Adams has lost all his rights, as I understand it, to this piece of property.

Mr. FERRIS. That is true.

Mr. MANN. Why should we give a patent or any other right to a man who has lost his right?

Mr. FERRIS. We do not give him anything. We merely give the man who has lived there for five or six years the right to the option the other man had, but which he failed to exercise.

Mr. MANN. He is not entitled to buy it.

Mr. FERRIS. Who?

Mr. MANN. Arrington.

Mr. FERRIS. No; he can not buy it; there is a dead entry, but if Adams's entry was out of the way he could buy it; and there was an amendment——

Mr. MANN. Adams's entry is out of the way.

Mr. FERRIS. It is not canceled.

Mr. MANN. Why?

Mr. FERRIS. It can not be without this proceeding. It is only 80 acres.

Mr. MANN. The gentleman does not mean to tell me Adams bought land and paid one-fifth cash and agreed to pay the balance within a certain time and never made any other payment——

Mr. FERRIS. That is true.

Mr. MANN. Does the gentleman mean to say under those circumstances Adams has any claim to the land?

Mr. FERRIS. Well, it is a long proceeding to cancel an entry.

Mr. MANN. If it is a long proceeding, I do not think we ought to pass a law authorizing entries hereafter——

Mr. FERRIS. The gentleman knows——

Mr. MANN. If a man can get a contract to purchase one of these pieces of land, and he makes a small payment on it and refuses to do anything else in the future, and thereby cloud the title to the land for years to come, we ought to have some general legislation from some committee curing that defect.

Mr. FERRIS. It is only due to the actual working of the law. The law is all right, but it takes a good deal of work for the local office to send out the inspector, and so forth, and it is only 80 acres of land.

Mr. MANN. This occurred in 1907, and that is seven years ago, and the man who purchased it paid one-fifth of the purchase price, and he paid no further attention to it and never intended to take it.

Mr. FERRIS. Yes; but the corner stones were out and he missed the tract.

Mr. MANN. The report shows he thought he was buying other land than that which he did buy?

Mr. FERRIS. The gentleman is right about that.

Mr. MANN. Then, when he discovered that, he paid no further attention to it, but let the money go. That is seven years ago. Now, is that to be a cloud upon the title that can not be remedied by the department?

Mr. FERRIS. It is like one of those dead railroad-grant surveys, where you have to cancel it. To show the gentleman how true that is I put an amendment on the Indian appropriation bill providing for the sale to the highest bidder of all these remnants of land, giving preference to those persons who occupied them. This poor fellow Arrington lived there five or six years, and the commissioner sent down Judge Whitten to tell this fellow that we can not sell the land, because there is a dead entry——

Mr. MANN. Why did not they cancel it?

Mr. FERRIS. I do not know; they had not the time——

Mr. MANN. The law authorizes it should be canceled. The law and the contract of sale provided that if a man did not comply with his payments he should forfeit what he paid; that was in the original law.

Mr. FERRIS. Well, I can only say——

Mr. MANN. I can not see the sense in asking Congress to take up its time on matters of this sort which the department can correct.

Mr. FERRIS. All right, let us assume that, but what are you going to do with this poor fellow who lived there for five or six years and who made these general improvements?

Mr. MANN. His life could not be used to better purpose than to demonstrate that the red tape of the department ought to be cut.

Mr. MONDELL. The efficiency of the department. Let me make this suggestion to the gentleman from Oklahoma: Does the gentleman think it a good thing to establish precedents of this sort? We have a very great many entries under the reclamation law where some payments have been made. Some of those entries will undoubtedly be lost. Is it going to be necessary to introduce a bill in every one of those cases and have the entry canceled by an act of Congress?

Mr. FERRIS. Not at all. And that is not the real purpose of this bill, as the gentleman knows. It does that, but the real purpose is to give this man relief, who can not get it in any other way, and the only relief we give him is to pay him the purchase price, which is nearly $1,000.

Mr. MONDELL. There can not be any reason on earth why the department can not cancel this entry.

Mr. FERRIS. If it does not give him relief. It would have to be put up under the rules and regulations and again sold, and this man would have no preference over any other man, and they would have to send an appraiser up there and have it reappraised.

Mr. MONDELL. Why did not the committee introduce a bill doing what the committee desires to do—simply to give the man this opportunity to do what he wants to do?

Mr. FERRIS. You can not do it with the entry there. They struck out this entry and did what the commissioner desired to do.

Mr. MONDELL. It strikes me it is establishing a bad precedent.

Mr. FERRIS. It does not. It merely helps out a poor fellow who wants to get the land.

Mr. RAKER. It can not be filed, and requires an act of Congress or some legislation to open up the filing.

Mr. MANN. It can be sold, but probably is worth two or three times the original price for it.

Mr. FERRIS. That land has no great value, because the other man absolutely walked off and left it. Of course it was worth more, because he had plowed it up, but no person ought to take it away from him.

The SPEAKER pro tempore. Is there objection to the present consideration of the bill? [After a pause.] The Chair hears none.

The question is on the committee amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

Mr. MONDELL. Mr. Speaker, let me call the attention of the gentleman from Oklahoma to the peculiar language of this bill.

Mr. FERRIS. Is the gentleman looking at the amendment or the bill itself?

Mr. MONDELL. The amendment.

Mr. FERRIS. That was drawn by the department, assuming it would do the business.

Mr. MONDELL. I want to ask the gentleman if he understands what it means when it says:

The Secretary of the Interior is hereby authorized and directed to cancel the abandoned homestead entry of John P. Adams for the southeast quarter of section 2, etc., and for a period of 90 days from and after the passage of this act sell the same, etc.

What they mean is that within a period of 90 days or give him an opportunity within a period of 90 days. You do not intend to authorize him to continue to sell it for 90 days to this man?

Mr. FERRIS. I have no pride in the language at all. The man wants to pay the price and get the land.

Mr. MONDELL. In passing a law it is well to use language that is understandable, is it not?

Mr. FERRIS. I think it is pretty plain. If the gentleman wants to offer an amendment to clear it up I have no objection.

Mr. MONDELL. The Secretary of the Interior is authorized to cancel for a period of 90 days and sell. What you want to do is to give this man a preference right to buy.

Mr. FERRIS. If the gentleman wishes to use language there that will accomplish it more effectively, I have no pride about it. I think they will understand what it means. If the gentleman wants to correct it, I have no objection.

Mr. MONDELL. If the word "for" were stricken out and the word "within" inserted, it would express the intent of the act much better than it is expressed now.

The SPEAKER pro tempore. The Clerk will report the amendment.

Mr. MONDELL. I move to strike out the word "for," in line 9, and insert in lieu thereof the word "within."

Mr. FERRIS. I think that is better, myself.

The SPEAKER pro tempore. The Clerk will report the amendment.

The Clerk read as follows:

Page 2, line 9, strike out the word "for" and insert in lieu thereof the word "within."

The SPEAKER pro tempore. The question is on agreeing to the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on agreeing to the amendment as amended.

The amendment as amended was agreed to.

The bill as amended was ordered to be engrossed and read a third time, was read the third time, and passed.

E. F. ANDERSON.

The next business in order on the Private Calendar was the bill (H. R. 14404) for the relief of E. F. Anderson.

The Clerk read the bill, as follows:

Be it enacted, etc., That the title of E. F. Anderson in and to the west half of the northwest quarter of section 30, township 15, range 17, Noxubee County, Miss., as assignee of the conveyance of She-uk-oh be, and the same is hereby, quieted and confirmed, and patent therefor shall issue to the said E. F. Anderson.

The SPEAKER pro tempore. Is there objection to the present consideration of the bill?

There was no objection.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

The SPEAKER pro tempore. The Clerk will report the next bill.

C. F. JACKSON.

The next business in order on the Private Calendar was the bill (H. R. 14405) for the relief of C. F. Jackson.

The Clerk read the bill, as follows:

Be it enacted, etc., That the title of C. F. Jackson in and to the northwest quarter of section 27, township 15, range 16, Noxubee County, Miss., as assignee of the conveyance by McKee Tolsom, be, and the same is hereby, quieted and confirmed, and patent therefor shall issue to the said C. F. Jackson.

With a committee amendment.

The SPEAKER pro tempore. Is there objection to the present consideration of the bill?

Mr. MANN. Reserving the right to object, I would like to ask the genial gentleman from Mississippi [Mr. CANDLER] whether this land is located near the Tombigbee?

Mr. CANDLER of Mississippi. It is.

Mr. MANN. It must be very valuable land.

Mr. CANDLER of Mississippi. It is; and it adds very greatly to the prosperity of that country, and that fact makes it all the more necessary that the land should be acquired. [Laughter.]

The SPEAKER pro tempore. The Clerk will report the committee amendment.

The Clerk read as follows:

Amend, line 6, by striking out the word "Tolsom" and inserting in lieu thereof the word "Folsom."

The SPEAKER pro tempore. The question is on agreeing to the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill as amended.

The bill as amended was ordered to be engrossed and read a third time, was read the third time, and passed.

Mr. LANGLEY. Mr. Speaker, I think this last bill is all right, but I think a mistake was made in passing the preceding bill, H. R. 14404, calendar No. 229. I think there was an error in that, and I ask unanimous consent to return to it for the purpose of correcting the error.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky [Mr. LANGLEY]?

Mr. McKELLAR. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is made. The Clerk will report the next bill.

R. B. WHITACRE & CO.

The next business in order on the Private Calendar was the bill (H. R. 9362) for the relief of R. B. Whitacre & Co.

The Clerk read the bill, as follows:

Be it enacted, etc., That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay, out of any funds in the Treasury not otherwise appropriated, to R. B. Whitacre & Co., of St. Paul, Minn., the sum of $942.97, in full payment for 742½ kegs of blasting powder, furnished and delivered by said claimant and used by the United States at and upon the public work at Bellefourche, S. Dak., between the 1st day of February, 1906, and the 4th day of September, 1907, and for which no payment has ever been made.

The SPEAKER pro tempore. Is there objection to the present consideration of the bill?

There was no objection.

Mr. MANN. Mr. Speaker, I move to insert, after the word "any," in line 4, the word "reclamation," so that it will read, "out of any reclamation funds."

The SPEAKER pro tempore. The Clerk will report the amendment offered by the gentleman from Illinois.

The Clerk read as follows:

Page 1, line 4, after the word "any," insert the word "reclamation."

Mr. POU. Mr. Speaker, I would like to inquire why the gentleman wishes to insert that amendment?

Mr. MANN. This is a payment to the persons who furnished the materials on the Bellefourche reclamation project in South Dakota. Now, the reclamation fund is a fund set aside for the purpose of constructing reclamation projects. Is there any reason, when we have something to pay on account of that, that we should pay it out of the general fund instead of out of the reclamation fund, where it is properly charged as an expense of the project?

Mr. FOSTER. It ought to come out of that particular fund.

Mr. FERRIS. Does the gentleman want it to come out of that particular project?

Mr. MANN. It will have to come out of that project. It shows what it is for. It will have to be charged up.

Mr. FERRIS. The point is that these reclamation people, when they have a project, have authority from time to time to make charges. In some of them, where I think they intend to have land estimated to cost about $40, sometimes it gets up to $60 or $70 per acre. This ought not to be added to that project.

Mr. MANN. I think they will do so, but that is not the material matter here.

Mr. FERRIS. It is material to me.

Mr. MANN. So far as this amount is concerned, I do not think it is material. I do not think we ought to commence to pay the expense of these projects out of the general fund when there is a certain fund segregated for that purpose.

Mr. FERRIS. I agree with that, but each project should stand on its own legs.

Mr. MANN. I have no doubt it will be charged up to some project.

Mr. FERRIS. It will not be done unless you say so. They will take it out of the lump sum.

Mr. MANN. They have to take it out of the lump-sum appropriation, because there is no other fund to take it out of; but when they pay it, I take it that it will be charged up to the Bellefourche project.

Mr. FERRIS. I should not believe it would, unless the gentleman said so. Let the amendment be reported again, Mr. Speaker.

Mr. MANN. I can state it to the gentleman better than to have the amendment reported. The language of the bill is:

That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay, out of any funds in the Treasury not otherwise appropriated—

I have offered an amendment to make it read:

Authorized and directed to pay out of any reclamation funds in the Treasury—

And I expected to offer an amendment to strike out the words:

Not otherwise appropriated.

Mr. FERRIS. Derived from the Bellefourche project.

Mr. MANN. But the money is not derived from the Bellefourche project. The money is derived from the sale of public lands.

Mr. FERRIS. That is the way they get it, and then that fund is finally reimbursed, when the settlers pay off their mortgages and get their title. If you pay that out of the general fund, I think you will find they will take it either out of the $20,000,000 bonds fund or out of the general reclamation fund. At all events, it will not be taken out of that project.

Mr. MANN. At least, it will be charged to the Reclamation Service in some way.

Mr. FERRIS. That may be, but it will not come back to that fund.

Mr. MANN. It ought to be charged up to the Bellefourche project, unless they have got to the point where they can charge it to private owners.

Mr. FERRIS. I do not think they have reached that blissful state.

Mr. MANN. I take it if they have not, it will be charged as an expense to the Bellefourche project.

Mr. FERRIS. Let us be sure about it. I move to amend the amendment——

Mr. MANN. That will come in later.

Mr. FERRIS. Let the amendment be reported again.

The SPEAKER pro tempore. If there be no objection, the Clerk will report the amendment.

The Clerk read as follows:

Page 1, line 4, after the word "any" insert the word "reclamation."

Mr. MONDELL. Mr. Speaker, I move to amend the amendment offered by the gentleman from Illinois by striking out the words in lines 4 and 5—

Any funds in the Treasury not otherwise appropriated—

And insert in lieu thereof the words—

Out of the reclamation fund, chargeable to the Bellefourche project.

Mr. FERRIS. That will get it.

Mr. MANN. I withdraw my amendment. That is not a substitute, but I am perfectly willing to withdraw my amendment.

The SPEAKER pro tempore. If there be no objection the amendment of the gentleman from Illinois will be withdrawn.

There was no objection.

The SPEAKER pro tempore. The question is on the amendment offered by the gentleman from Wyoming.

The amendment of Mr. MONDELL was agreed to.

The bill as amended was ordered to be engrossed and read a third time, and was accordingly read the third time and passed.

J. O. MODISETTE.

The next business in order on the Private Calendar was the bill (H. R. 12780) to provide for the payment of the claim of J. O. Modisette for services performed for the Chickasaw Indians of Oklahoma.

The bill was read as follows:

Be it enacted, etc., That the Commissioner of Indian Affairs is hereby authorized to investigate the claim of J. O. Modisette, of Jennings, La., amounting to $270, alleged to be due as tuition for instructing certain Chickasaw pupils, and, in his discretion, to pay such claim wholly or in part from funds on deposit in the Treasury of the United States to the credit of the Chickasaw Nation.

The SPEAKER pro tempore. Is there objection to the present consideration of the bill?

There was no objection.

The bill was ordered to be engrossed and read a third time, and was accordingly read the third time and passed.

J. H. SCHMIDT.

The next business on the Private Calendar was the bill (H. R. 10875) authorizing the Secretary of the Interior to pay J. H. Schmidt $75 damages for trespass of certain Indian school cattle at Rainey Mountain School in Oklahoma.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior is hereby authorized to pay to J. H. Schmidt, out of any balances of appropriations for the support and civilization of the Apache, Kiowa, and Comanche Indians, for the fiscal year 1911 or 1912, the sum of $75 in full compensation for damage sustained by him through trespass of cattle belonging to the Rainey Mountain Indian School.

With the following committee amendment:

Page 2, line 1, strike out the word "Rainey" and insert in lieu thereof the word "Rainy."

The amendment was agreed to.

The bill as amended was ordered to be engrossed and read a third time, and was accordingly read the third time and passed.

By unanimous consent the title was amended so as to read: "A bill authorizing the Secretary of the Interior to pay J. H. Schmidt $75 damages for trespass of certain Indian school cattle at Rainy Mountain School in Oklahoma."

IVY L. MERRILL.

The next business in order on the Private Calendar was the bill (H. R. 11384) for the relief of Ivy L. Merrill.

The Clerk read the bill, as follows:

Be it enacted, etc., That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay, out of any money in the Treasury of the United States belonging to the Pottawatomie Tribe of Indians in Oklahoma not otherwise appropriated, to Ivy L. Merrill, a quarter-blood Pottawatomie Indian, of Pottawatomie County, Okla., the sum of $1,100, in full compensation for permanent and lasting injuries received, without negligence on her part, while in the employ of the United States Government as a civil-service employee at the Shawnee Indian School in Pottawatomie County, Okla.

The SPEAKER pro tempore. Is there objection?

Mr. MANN. Reserving the right to object, would the gentleman from Oklahoma be satisfied if he could get this woman in so that she could get the benefit of the compensation act and get $500, which would be a little more than she would get under the compensation act and a little more than the department recommended?

Mr. FERRIS. In the first place the Federal Government does not have to pay this. It comes out of the tribal money.

Mr. MANN. That does not appeal to me.

Mr. FERRIS. And in the second place——

Mr. MANN. And in the third place, it is almost 11 o'clock, and I do not wish to take much time on this bill.

Mr. FERRIS. I really think that she ought to have more. This is a pitiable case. The girl is a pitiable sight.

Mr. MANN. And there are a thousand girls throughout the country who are pitiful sights. Mr. Speaker, I object.

FRANK E. EVANS.

The next business in order on the Private Calendar was the bill (H. R. 16514) to transfer Capt. Frank E. Evans from the retired list to the active list of the Marine Corps.

The Clerk read the bill.

The SPEAKER pro tempore. Is there objection?

Mr. MANN. I object.

CONSTANTINE MARRAST PERKINS.

The next business in order on the Private Calendar was the bill (S. 5148) for the reinstatement of Lieut. Col. Constantine Marrast Perkins to the active list of the Marine Corps.

The Clerk read the bill.

The SPEAKER pro tempore. Is there objection?

Mr. MANN. I object.

DAVENPORT FEMALE COLLEGE.

The next business in order on the Private Calendar was House resolution 524, referring the bill (H. R. 12070) for the relief of the trustees of the Davenport Female College to the Court of Claims.

The Clerk read the bill.

The SPEAKER pro tempore. Is there objection?

Mr. MANN. I object.

FRANK W. TUCKER.

The next business in order on the Private Calendar was the bill (H. R. 1405) for the relief of Frank W. Tucker.

The Clerk read the bill, as follows:

Be it enacted, etc., That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay, out of the Treasury of the United States, from any money not otherwise appropriated, to Frank W. Tucker, the sum of $95.36, being compensation for loss on May 31, 1902, of his personal effects, baggage, and clothing while en route from Mulanay to Bontoc, Philippine Islands, under military orders, as a corporal in Company K, Second Regiment United States Infantry.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

ARMISTEAD RUST.

The next business on the Private Calendar in order was the bill (H. R. 2319) to transfer Capt. Armistead Rust from the retired to the active list of the United States Navy.

The Clerk read the bill.

The SPEAKER pro tempore. Is there objection?

Mr. MANN. I object.

CHICAGO, MILWAUKEE & ST. PAUL RAILWAY CO.

The next business on the Private Calendar in order was the bill (H. R. 13) for payment to the Chicago, Milwaukee & St. Paul Railway Co. the $4,583.67 improperly collected under the act of August 5, 1909.

The Clerk read the bill, as follows:

Be it enacted, etc., That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay to the Chicago, Milwaukee & St. Paul Railway Co., a corporation organized and existing under the laws of the State of Wisconsin, of Milwaukee, Wis., out of any money in the Treasury not otherwise appropriated, the sum of $4,583.67, the amount of corporation tax improperly collected by the United States under the corporation-tax act of August 5, 1909, for the year ending December 31, 1909.

With the following committee amendment:

Strike out all after the enacting clause and insert in lieu thereof the following:

"That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay to the Chicago, Milwaukee & St. Paul Railway Co., a corporation, the amount of the corporation tax, if any, which has been excessively or improperly collected for the year ending December 31, 1909, by the United States, under the corporation-tax act of August 5, 1909, and the Commissioner of Internal Revenue, under the direction of the Secretary of the Treasury, is vested with full authority and power to determine the amount, if any, so excessively or improperly collected, notwithstanding the limitation contained in section 3228 of the Revised Statutes of the United States, and for the purpose of carrying into effect this act there is hereby appropriated, out of any money in the Treasury not otherwise appropriated, the sum of $4,583.67, or so much thereof as may be necessary to pay the amount due such corporation for the excessive tax so collected."

The SPEAKER pro tempore. Is there objection to the present consideration of the bill?

There was no objection.

The committee amendment was agreed to.

The bill as amended was ordered to be engrossed and read a third time, was read the third time, and passed.

FRED A. EMERSON.

The next business in order on the Private Calendar was the bill (H. R. 4630) for the relief of Fred A. Emerson.

The SPEAKER pro tempore. Is there objection?

Mr. MANN. Mr. Speaker, I object.

ROBERT T. LEGGE.

The next business in order on the Private Calendar was the bill (H. R. 1513) for the relief of Robert T. Legge.

The SPEAKER pro tempore. Is there objection?

Mr. MANN. Mr. Speaker, I object.

Mr. RAKER. Mr. Speaker, will not the gentleman withhold his objection for just a short statement from me in regard to this bill?

Mr. MANN. No; I will not withhold the objection.

The SPEAKER pro tempore. The Clerk will report the next bill.

JOHN R. NORRIS.

The next business in order on the Private Calendar was the bill (H. R. 1580) for the relief of John R. Norris.

The Clerk read the bill, as follows:

Be it enacted, etc., That John R. Norris be permitted to make an additional homestead entry for the southeast quarter of the southeast quarter of section 19, the northwest quarter of the northwest quarter of section 29, and the northeast quarter of the northeast quarter of section 30, all in township 161 north of range 33 west, in the State of Minnesota, upon the payment by him, at the time of entry, to the Government for the timber on the said northwest quarter of the northwest quarter at such price as may be fixed therefor by the Secretary of the Interior, in addition to the price of the land and the usual fees and commissions.

The SPEAKER pro tempore. Is there objection?

Mr. RAKER. Mr. Speaker, reserving the right to object, I would like to state in regard to this bill that is being considered and in regard to the bill just passed, here was a man who was without money and means, who was in the public service——

Mr. MANN. Mr. Speaker, I make the point of order that the gentleman is not in order.

The SPEAKER pro tempore. Is there objection to the present consideration of the bill?

Mr. RAKER. Mr. Speaker, a man has the right to reserve the right to object.

Mr. MANN. Mr. Speaker, I demand the regular order.

The SPEAKER pro tempore. Is there objection?

There was no objection.

The SPEAKER pro tempore. The Clerk will report the committee amendments.

The Clerk read as follows:

Page 1, lines 4 and 5, strike out the words "southeast quarter of the southeast quarter of section 19, the."

Lines 6 and 7, strike out the words, "and the northeast quarter of the northeast quarter of section 30, all."

The SPEAKER pro tempore. The question is on agreeing to the committee amendments.

The committee amendments were agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill as amended.

The bill as amended was ordered to be engrossed and read a third time, was read the third time and passed.

ADJOURNMENT.

Mr. POU. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 11 o'clock p. m.) the House adjourned until to-morrow, Saturday, June 13, 1914, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS.

Under clause 2 of Rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1. A letter from the Assistant Clerk of the Court of Claims, transmitting findings of fact and conclusions in the case of Esther Emmart *v.* The United States (H. Doc. No. 1031); to the Committee on War Claims.

2. A letter from the Assistant Clerk of the Court of Claims, transmitting findings of fact and conclusions in French spoliation claims, relating to the vessel *Mary* in the case of Mary E. Moore, administratrix of John Armistead *v.* The United States, and in other cases (H. Doc. No. 1032); to the Committee on Claims.

3. A letter from the Acting Secretary of Commerce, transmitting draft of a bill to authorize the Secretary of Commerce to make partial payments for work done under public contracts and providing for a lien on account of all payments made (H. Doc. No. 1033); to the Committee on Interstate and Foreign Commerce.

4. A letter from the Secretary of the Treasury, submitting an amendment to the sundry civil appropriation bill to permit the installation of mail-handling devices in the post-office building at Denver, Colo. (H. Doc. No. 1034); to the Committee on Appropriations and ordered to be printed.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, bills and resolutions were severally reported from committees, delivered to the Clerk, and referred to the several calendars therein named, as follows:

Mr. FLOOD of Virginia, from the Committee on Foreign Affairs, to which was referred the joint resolution (S. J. Res. 153) authorizing the President to accept an invitation to participate in an international congress on neurology, psychiatry, and psychology, reported the same with amendment accompanied by a report (No. 819), which said joint resolution and report were referred to the Committee of the Whole House on the state of the Union.

He also, from the same committee, to which was referred the joint resolution (S. J. Res. 152) authorizing the President to accept an invitation to participate in the International Congress on Occupational Diseases, reported the same with amendment, accompanied by a report (No. 820), which said joint resolution and report were referred to the Committee of the Whole House on the state of the Union.

He also, from the same committee, to which was referred the joint resolution (S. J. Res. 151) authorizing the President to accept an invitation to participate in an international exposition of sea-fishery industries, reported the same without amendment, accompanied by a report (No. 821), which said joint resolution and report were referred to the House Calendar.

He also, from the same committee, to which was referred the joint resolution (S. J. Res. 105) authorizing the President to accept an invitation to participate in the Sixth International Dental Congress, reported the same without amendment, accompanied by a report (No. 822), which said joint resolution and report were referred to the House Calendar.

Mr. PARK, from the Committee on Public Buildings and Grounds, to which was referred the bill (H. R. 13311) to cede a certain parcel of land to the county of Fulton, State of Georgia, reported the same with amendment, accompanied by a report (No. 823), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, private bills and resolutions were severally reported from committees, delivered to the Clerk, and referred to the Committee of the Whole House, as follows:

Mr. GREGG, from the Committee on War Claims, to which was referred the resolution (H. Res. 532) referring certain claims

to the Court of Claims for finding of facts and conclusions of law under section 151 of the act of March 3, 1911, entitled "An act to codify, revise, and amend the laws relating to the judiciary," reported the same with amendment, accompanied by a report (No. 815), which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill (H. R. 17103) for the relief of the heirs of George W. Croft, reported the same without amendment, accompanied by a report (No. 816), which said bill and report were referred to the Private Calendar.

Mr. TAYLOR of Arkansas, from the Committee on the Public Lands, to which was referred the bill (S. 3863) granting lands to the Grand Lodge, Ancient Free and Accepted Masons, grand jurisdiction of Arkansas, reported the same with amendment, accompanied by a report (No. 818), which said bill and report were referred to the Private Calendar.

CHANGE OF REFERENCE.

Under clause 2 of Rule XXII, the Committee on Military Affairs was discharged from the consideration of the bill (H. R. 8489) for the relief of Mason M. Maxon, and the same was referred to the Committee on Claims.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials were introduced and severally referred as follows:

By Mr. JOHNSON of Washington: A bill (H. R. 17231) relating to the use of the mails in effecting insurance on persons and property, and for other purposes; to the Committee on the Post Office and Post Roads.

By Mr. CULLOP: A bill (H. R. 17232) authorizing the Secretary of War to donate condemned cannon and cannon balls; to the Committee on Military Affairs.

By Mr. MOORE: A bill (H. R. 17233) to provide for the investigation and eradication of the disease-carrying mosquito; to the Committee on Interstate and Foreign Commerce.

By Mr. DRUKKER: A bill (H. R. 17234) to erect a post-office building in the city of Passaic, N. J.; to the Committee on Public Buildings and Grounds.

By Mr. MAHAN: A bill (H. R. 17235) to authorize the construction of a bell buoy to locate the passage entrance in Wicopesset Passage, at the easterly end of Fishers Island, N. Y.; to the Committee on Interstate and Foreign Commerce.

By Mr. MURRAY of Oklahoma: A bill (H. R. 17236) to reimburse the State of Oklahoma for the expense incurred by the State in the trial of the criminal cases transferred to the State courts after the passage of the enabling act; to the Committee on Claims.

Also, a bill (H. R. 17237) to reimburse the State of Oklahoma for the extra expense entailed in the making of the State constitution and the ratification of the same at the polls after the Federal appropriation had been exhausted; to the Committee on Claims.

Also, a bill (H. R. 17238) to reimburse the State of Oklahoma and the several counties thereof for the loss of taxes on Indian allotments in the Five Civilized Tribes and the Quapaw Agency; to the Committee on Claims.

By Mr. HAMILTON of Michigan: A bill (H. R. 17239) to authorize the establishment of a life-saving station at or near Saugatuck, Mich.; to the Committee on Interstate and Foreign Commerce.

By Mr. RAINEY: A bill (H. R. 17240) to require railroads to equip grade crossings with safety devices; to the Committee on Interstate and Foreign Commerce.

By Mr. EDWARDS: A bill (H. R. 17241) providing for the erection of a joint monument or memorial to Col. John Adam Treutlen, and to mark the settlement of the Salzburger colony at or near Ebenezer Church in Effingham County, Ga.; to the Committee on the Library.

Also, a bill (H. R. 17242) providing for an appropriation of $2,000 to collect, translate, and publish certain colonial records; to the Committee on the Library.

By Mr. NEELY of West Virginia: A bill (H. Res. 541) directing the Committee on the Judiciary to inquire and report whether the action of the House is necessary concerning the alleged official misconduct of Alston G. Dayton; to the Committee on the Judiciary.

By Mr. DEITRICK: Resolution (H. Res. 542) to amend the rules of the House of Representatives of the Congress of the United States; to the Committee on Rules.

Also, memorial from the Legislature of the State of Massachusetts, relative to the purchase of bunting for the manufacture of the United States flag; to the Committee on Naval Affairs.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BOWDLE: A bill (H. R. 17243) granting a pension to Henry S. Stansbury; to the Committee on Invalid Pensions.

By Mr. CRAMTON: A bill (H. R. 17244) granting a pension to Frances E. Dulmage; to the Committee on Invalid Pensions.

By Mr. EDWARDS: A bill (H. R. 17245) for the relief of the heirs of Joseph W. Dickey, deceased; to the Committee on War Claims.

By Mr. FORDNEY: A bill (H. R. 17246) granting a pension to Dell J. Harrington; to the Committee on Pensions.

By Mr. JOHNSON of Kentucky: A bill (H. R. 17247) granting an increase of pension to Mary J. Babbitt; to the Committee on Invalid Pensions.

By Mr. JOHNSON of Washington: A bill (H. R. 17248) to remove the charge of desertion from the military record of William McCutcheon; to the Committee on Military Affairs.

By Mr. MITCHELL: A bill (H. R. 17249) granting a pension to James Burke; to the Committee on Pensions.

Also, a bill (H. R. 17250) granting an increase of pension to John R. McCrillis; to the Committee on Invalid Pensions.

Also, a bill (H. R. 17251) granting a pension to Louis Toupin, alias Louis Baudet; to the Committee on Pensions.

Also, a bill (H. R. 17252) granting an increase of pension to Frederick D. Wellington; to the Committee on Invalid Pensions.

By Mr. OGLESBY: A bill (H. R. 17253) to correct the military record of Charles W. Johnson; to the Committee on Military Affairs.

By Mr. ROBERTS of Massachusetts: A bill (H. R. 17254) for the relief of Laban H. Davies; to the Committee on Claims.

By Mr. SMITH of Idaho: A bill (H. R. 17255) granting a pension to Edward Stanley; to the Committee on Pensions.

Also, a bill (H. R. 17256) granting an increase of pension to Lydia A. Lint; the Committee on Invalid Pensions.

By Mr. STEPHENS of California: A bill (H. R. 17257) granting a pension to Ella A. Mead; to the Committee on Invalid Pensions.

By Mr. WALKER: A bill (H. R. 17258) granting an increase of pension to Georgia A. Bowen; to the Committee on Pensions.

Also, a bill (H. R. 17259) granting an increase of pension to Joseph W. Lumpkin; to the Committee on Pensions.

Also, a bill (H. R. 17260) granting an increase of pension to William H. Mercer; to the Committee on Pensions.

Also, a bill (H. R. 17261) granting an increase of pension to W. F. Patten; to the Committee on Invalid Pensions.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

By the SPEAKER (by request): Resolutions unanimously adopted by a mass meeting of independent oil producers and citizens of Kansas, signed by C. J. Wrightsman, president of the Exeter Oil Co., of Tulsa, Okla., petitioning Congress that oil pipe-line companies be made common carriers, and that they be adequately divorced from oil-producing interests; to the Committee on Interstate and Foreign Commerce.

Also (by request), letter from Mrs. Florence Kelley, general secretary of the National Consumers' League of New York City, protesting against the substitution in the House for any measure for the La Follette bill, S. 136, in the name of the National Consumers' League; to the Committee on the Merchant Marine and Fisheries.

Also (by request), resolution signed by the adjutant of Irwin McDowell Post, No. 19, Department of Oklahoma, Grand Army of the Republic, petitioning Congress for the enactment of law making it unnecessary for an applicant for widow's pension to furnish proof of any marriage, if any such, prior to 50 years of undisputed legal marriage; to the Committee on Invalid Pensions.

Also (by request), resolutions signed by the pastors of certain churches in St. Paul, Minn.; Calcutta, Ohio; Sterling, Ill.; Howard, S. Dak.; Rocklyn, Wash.; Carrollton, Ill.; and Sterling, Kans., protesting against the practice of polygamy in the United States; to the Committee on the Judiciary.

Also (by request), petition of the Chamber of Commerce of the United States of America, relative to proposal to create an

interstate trade commission; to the Committee on Interstate and Foreign Commerce.

By Mr. BATHRICK: Petitions of sundry citizens of Summit County, Ohio, and the nineteenth congressional district of Ohio, protesting against national prohibition; to the Committee on Rules.

Also, petition of 200 citizens of Eagleville, Ohio, favoring national prohibition; to the Committee on Rules.

By Mr. BRUCKNER: Petition of the Law and Order Society of Philadelphia, Pa., favoring national prohibition; to the Committee on Rules.

Also, petition of the Lord's Day Alliance of the United States, protesting against section 6 of House bill 12928, relative to compensatory time for Sunday work in post offices; to the Committee on the Post Office and Post Roads.

Also, petition of the Forty-second Street Association of New York City, protesting against the passage of Senate bill 4941 and House bill 14895, as it hampers the moving-picture industry; to the Committee on Education.

Also, petition of the Medical Society of the State of New York, relative to providing for mental examination of arriving immigrants by physicians in the Public Health Service; to the Committee on Immigration and Naturalization.

Also, petition of Barber, Watson & Gibboney, of New York City, asking that the public utility holding companies be excepted from the holding-company provision of the Clayton bill; to the Committee on the Judiciary.

Also, petition of the National Association of Vicksburg Veterans, relative to holding reunion in Vicksburg National Military Park; to the Committee on Military Affairs.

Also, petition of the Central Federated Union, of New York City, favoring the passage of the seamen's bill; to the Committee on the Merchant Marine and Fisheries.

Also, petitions of the Precision Machine Co., mass meeting of independent retail merchants, and the committee for the promotion of the interests of retail merchants, all of New York City, favoring the passage of House bill 13305, the cut-price bill; to the Committee on Interstate and Foreign Commerce.

Also, petition of the Women's Political Union, of New York State, and the Congressional Union for Woman Suffrage, favoring the passage of the Bristow-Mondell resolution, enfranchising women; to the Committee on the Judiciary.

Also, petitions of Central Federated Union, Jos. Maack, Jacob Froehlich, E. La Montagna's Sons, The Waldorf-Astoria Importation Co., Blackford's Fulton Market, Arthur Radowski, Chas. W. Ratz, all of New York City, protesting against national prohibition; to the Committee on Rules.

By Mr. CARY: Petition of W. O. Hotchkiss, State geologist of Wisconsin, against House bill 13457, the Buchanan bill, relating to topographic work; to the Committee on Expenditures in the Interior Department.

Also, petition of National Association of Assistant Postmasters of the United States, relative to House bill 17042, to amend the postal laws; to the Committee on the Post Office and Post Roads.

By Mr. CRAMTON: Petitions of Rev. W. M. Ward and 26 other citizens of Romeo, Mich., and S. G. Gillette and 139 other ctizens of Bad Axe, Mich., in favor of national prohibition; to the Committee on Rules.

Also, petition of O. H. Frincke and 32 others, of Mount Clemens, Mich., against barring the Menace from the mails; to the Committee on the Post Office and Post Roads.

By Mr. DALE: Petition of National Association of Assistant Postmasters, protesting against passage of House bill 17042, relative to amending the postal laws; to the Committee on the Post Office and Post Roads.

Also, petition of Nathan Kohl and others, of Brooklyn, N. Y., protesting against national prohibition; to the Committee on Rules.

By Mr. EDMONDS: Petition of the Jewelers' Guild of Philadelphia, Pa., favoring passage of the Owen-Goeke bill; to the Committee on Interstate and Foreign Commerce.

By Mr. FRENCH: Petition of sundry citizens of Idaho, favoring House bill 5308, to tax mail-order houses; to the Committee on Ways and Means.

Also, petitions of sundry citizens of Wallace, Idaho, against national prohibition; to the Committee on Rules.

Also, petitions of sundry citizens of Coeur d'Alene, Idaho, favoring House bill 12928, to amend the postal laws; to the Committee on the Post Office and Post Roads.

Also, petition of sundry citizens of Coeur d'Alene, Idaho, against House bill 7826, the Sabbath-observance bill; to the Committee on the District of Columbia.

By Mr. GOODWIN of Arkansas: Petitions of sundry citizens of Amity, Ark., and 107 citizens of Camden, Ark., favoring national prohibition; to the Committee on Rules.

By Mr. GORMAN: Petitions of C. Wolf and 19 others, John Rathnan, Frank Kovalesky, Paul Kovalesky, August Klotz, and Theodore Klotz, all of the third congressional district of Illinois, against national prohibition; to the Committee on Rules.

By Mr. HAWLEY: Petition of O. F. Knight and others of Nehalem, Oreg., protesting against national prohibition; to the Committee on Rules.

By Mr. HINDS: Petition of Charles L. Thomas and 2 others of Harpswell, Cumberland County, Me., protesting against the passage of House joint resolution 168 and Senate joint resolution 88 and Senate joint resolution 50, for national constitutional prohibition amendments; to the Committee on Rules.

Also, petition of First Congregational Church of South Portland and Cape Elizabeth, Me., and 78 citizens of South Portland, Me., favoring national prohibition; to the Committee on Rules.

By Mr. JOHNSON of Washington: Petitions of sundry citizens of Aberdeen, Wash., protesting against national prohibition; to the Committee on Rules.

Also, petition of 34 citizens of Castle Rock and 983 citizens of Aberdeen, Wash., favoring national prohibition; to the Committee on Rules.

By Mr. KONOP: Petitions of Thomas Lee, Fred Sasman, and other citizens of Wisconsin, against national prohibition; to the Committee on Rules.

By Mr. LEVY: Petitions of Charles W. Leveridge (Inc.) and E. W. Rockafellon, of New York, favoring House bill 13305, the Stevens price bill; to the Committee on Interstate and Foreign Commerce.

Also, petitions of A. F. Motter, of New York; Piel Bros., of Brooklyn, N. Y.; the Italian Chamber of Commerce in New York; the National Association of Retail Grocers in the United States; also Steinbrenner & Mader, H. Gernau, and George Scroll, all in the city of New York, against national prohibition; to the Committee on Rules.

Also, petition of Fred Gernert, of Louisville, Ky., favoring House joint resolution 271, authorizing the President to appoint delegates to the Ninth International Purity Congress; to the Committee on Foreign Affairs.

Also, petitions of 45 voters of the fourteenth congressional district of New York, protesting against national prohibition; to the Committee on Rules.

By Mr. LOBECK: Petition of sundry citizens of the second congressional district of Nebraska, against national prohibition; to the Committee on Rules.

Also, petition of the Health Department of East Liverpool, Ohio, favoring Lobeck bill, relative to inspection of meats; to the Committee on Agriculture.

By Mr. McCLELLAN: Memorials of 22 citizens of Narrowsburg; James A. Davis, of Hortonville; 4 citizens of Kinderhook and Hudson; and 30 citizens of Yates County, all in the State of New York, protesting against national prohibition; to the Committee on Rules.

By Mr. McDERMOTT: Petition of the International Molders' Conference Board, of Chicago, Ill., protesting against national prohibition; to the Committee on Rules.

By Mr. MAPES: Petition of the Women's Auxiliary of Grace Church, of Grand Rapids, Mich., protesting against polygamy in the United States; to the Committee on the Judiciary.

Also, petition of 54 members of the Second Street Methodist Episcopal Church, of Grand Rapids, Mich., favoring national prohibition; to the Committee on Rules.

By Mr. MERRITT: Petitions of H. M. Barber and others, of New York City, protesting against national prohibition; to the Committee on Rules.

By Mr. NEELY of West Virginia: Papers relative to impeachment of Alston G. Dayton, judge of the United States District Court for the Northern District of West Virginia; to the Committee on the Judiciary.

By Mr. O'LEARY: Petitions of F. C. Haerlem and other citizens of Evergreen, N. Y., protesting against national prohibition; to the Committee on Rules.

Also, petition of Julius Offenbacher and other citizens of New York, protesting against national prohibition; to the Committee on Rules.

By Mr. PLATT: Petitions of 180 citizens of La Grangeville, 200 citizens of Hopewell, and 50 citizens of Highland Falls, all in the State of New York, favoring national prohibition; to the Committee on Rules.

By Mr. RAKER: Letter from J. C. Van Matre, of Minersville, Cal., favoring the placing of fourth-class postmasters on a

salary basis; to the Committee on the Post Office and Post Roads.

Also, letter from the National Association of Assistant Postmasters, protesting against House bill 17042, to amend the postal laws; to the Committee on the Post Office and Post Roads.

Also, letters from Howard Longhead, Samuel Crouch, and George Rockhold, of Long Beach, Cal., favoring national prohibition; to the Committee on Rules.

By Mr. SMITH of Idaho: Petition from business men of Coeur d'Alene, Plummer, Sandpoint, Burke, Wardner, Bonners Ferry, Ilo, Troy, Juliaetta, Mullan, St. Maries, and Grangeville, all in the State of Idaho, urging the enactment of legislation requiring mail-order houses to pay taxes in the local community in which they sell their goods; to the Committee on Ways and Means.

By Mr. STEPHENS of California: Individual petitions of Henry A. Darling and 27 other citizens of Los Angeles City and County, favoring the national constitutional prohibition amendment; to the Committee on Rules.

Also, petitions signed by Edward H. Martin and 434 other citizens of Los Angeles, Cal., protesting against national prohibition legislation; to the Committee on Rules.

Also, petitions of W. H. Buxton and four other citizens of Los Angeles, Cal., protesting against national constitutional prohibition amendment; to the Committee on Rules.

Also, resolution of the Hamilton Methodist Episcopal Church, of Los Angeles, Cal., favoring national constitutional prohibition amendment; to the Committee on Rules.

Also, resolution of the Vernon Avenue Congregational Church, of Los Angeles, Cal., favoring national constitutional prohibition amendment; to the Committee on Rules.

Also, resolution of the Olivet Congregational Church, of Los Angeles, Cal., favoring national constitutional prohibition amendment; to the Committee on Rules.

Also, petition of William M. Sanders, representing the Independent Order of Good Templars, of Santa Monica, Cal., favoring national prohibition amendment; to the Committee on Rules.

Also, resolution of the Edendale Methodist Episcopal Church, of Los Angeles, Cal., favoring national constitutional prohibition amendment; to the Committee on Rules.

Also, resolution of the Federal Civil Service Employees of San Francisco, indorsing House bill 12056; to the Committee on Labor.

Also, resolution of the San Francisco Labor Council, protesting against apparent cooperation between the Government and certain private hostile employers; to the Committee on Labor.

By Mr. TALCOTT of New York: Petition of Oneida County Woman's Christian Temperance Union, sundry citizens of Newport, Russia, and Camden, all in the State of New York, favoring national prohibition; to the Committee on Rules.

By Mr. UNDERHILL: Petition of sundry citizens of Atlanta, N. Y., favoring national prohibition; to the Committee on Rules.

Also, petition of the New York State Retail Jewelers' Association, favoring passage of the Owen-Goeke bill; to the Committee on Interstate and Foreign Commerce.

AUG 1 1935